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PROCEEDINGS AND DEBATES OF THE 93^{d} CONGRESS, FIRST SESSION

SENATE—*Friday, December 7, 1973*

The Senate met at 10 a.m. and was called to order by the Vice President.

PRAYER

Dr. C. Ralston Smith, special assistant to the Reverend Billy Graham, offered the following prayer:

Almighty and ever-blessed God, on this historic day we stand between the memories of yesteryear and our hopes for tomorrow.

We recall how, a generation ago, the acts of infamous men plunged our Nation into the holocaust of war. In our recollections of those times we acknowledge Thee as sovereign over all things. It was by Thy mighty arm that order was brought out of chaos, triumph issued out of tragedy, and righteousness prevailed over evil.

Now we look ahead in the confidence that You will direct and guide the deliberations of this Senate that its achievements might be in accordance with Thy will. We pray for each Member that he might be responsive to Thy purposes and promptings.

Especially do we ask Thy blessing upon our Vice President, GERALD FORD, as he undertakes the responsibility of presiding at these significant sessions. Endue him plentifully with wisdom and grace. May efficiency and understanding, joy and peace, be the badges of his leadership.

These things we ask in the name of Jesus Christ who calls us to follow Him in every vocation of our common life. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, December 6, 1973, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The VICE PRESIDENT. Without objection, it is so ordered.

BOSTON NATIONAL HISTORICAL PARK, MASS.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 577, S. 210.

The VICE PRESIDENT. The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 210, to authorize the establishment of the Boston National Historical Park in the Commonwealth of Massachusetts.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, after line 8, strike out "(3) The area identified as the Old North Church area, 193 Salem Street; Boston;"; at the beginning of line 11, strike out "(4)" and insert "(3)"; at the beginning of line 13, strike out "(5)" and insert "(4)"; at the beginning of line 14, strike out "(6)" and insert "(5)"; on page 3, line 12, after the word "Copp's" strike out "Hill." and insert "Hill; (6) Thomas Dillaway House; (7) The area identified as the Old North Church area, 193 Salem Street, Boston."; and on page 6, at the beginning of line 20, strike out "such sums as are necessary to carry out the purposes of this Act;" and insert "not to exceed $360,000 for land acquisition and $8,067,000 for development of the historic site;"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Boston National Historic Sites Act of 1972".

BOSTON NATIONAL HISTORICAL PARK

SEC. 2. (a) In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain historical structures and properties of outstanding national significance located in Boston, Massachusetts, and associated with the American Revolution and the founding and growth of the United States, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized, in accordance with the provisions of this Act, to acquire only with the consent of the current owner by donation or by purchase with donated or appropriated funds, and all lands and improvements thereon or interests therein comprising the following described areas:

(1) Faneuil Hall, located at Dock Square, Boston;

(2) Paul Revere House, 19 North Square, Boston;

(3) The Old State House, Washington and State Street, Boston;

(4) Bunker Hill, Breeds Hill, Boston; and

(5) Old South Meeting House, Milk and Washington Streets, Boston.

(b) At any such time as the Secretary determines that he has acquired sufficient lands, improvements, and interests therein or entered into cooperative agreements with sufficient numbers of private, municipal, or State owners as provided in section 3 of this Act, to provide an efficient administrative unit, he is authorized to establish such lands, improvements, and interests as the Boston National Historical Park by the publication of that fact in the Federal Register, together with a detailed map setting forth the boundaries thereof.

(c) In addition to the above described areas, the Secretary is authorized to study the following locations, and any others he deems appropriate for inclusion in the park, either by donation or by purchase with the consent of the owner with donated or appropriated funds, or by entering into cooperative agreements:

(1) Boston Common;

(2) Charlestown Navy Yard;

(3) Thomas Crease House (old Corner Book Store);

(4) Dorchester Heights;

(5) following burying grounds: King's Chapel, Granary, and Copp's Hill;

(6) Thomas Dillaway House;

(7) The area identified as the Old North Church area, 193 Salem Street, Boston.

(d) No site will be included in the park which has not been either acquired with the consent of the owner or the subject of a cooperative agreement as outlined in section 3.

COOPERATIVE AGREEMENTS

SEC. 3. In furtherance of the general purposes of this Act as prescribed in section 2 thereof, the Secretary is authorized to enter into cooperative agreements with the city of Boston, the Commonwealth of Massachusetts, and private organizations to assist in the preservation and interpretation of such of the properties listed in section 2, or portions thereof, which, in his opinion, would best be preserved in private, municipal, or State ownership, in connection with the Boston National Historical Park. Such agreements shall contain, but shall not be limited to, provisions that the Secretary, through the National Park Service, shall have right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public, that no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements, except that no limitation or control of any kind over the use of any such properties customarily used for church purposes shall be imposed by any agreement. The agreements may contain specific provisions which outline in detail the extent of the participation by the Secretary in the restoration, preservation, and maintenance of the historic site. Any historical properties not acquired by negotiated purchase, donation, or not the subject of a cooperative agreement may be excluded from the Boston National Historical Park.

ADDITIONAL AREAS

SEC. 4. The Secretary is authorized to accept donations of property of national historical interest and significance located in the city of Boston which he may deem proper for administration as part of the Boston National Historical Park. Upon such acceptance, such property shall be deemed part of such park. The Secretary may purchase with the consent of the owner or enter into a cooperative agreement with the owner of any additional historic sites which he deems appropriate for inclusion in the Boston National Historical Park.

ADVISORY COMMISSION

SEC. 5. The Secretary is authorized to establish a suitable advisory commission. The members of the advisory commission shall be appointed by the Secretary, with three members to be recommended by the Governor of Massachusetts, three by the mayor of the city of Boston, Massachusetts, and one each by the organizations with which the Secretary has concluded cooperative agreements pursuant to section 3 of this Act. The advisory commission shall render advice to the Secretary, from time to time, upon matters which he may refer to them for consideration.

HISTORICAL MARKERS

SEC. 6. The Secretary is hereby authorized to carry out a program of historical marking in the city of Boston, Massachusetts, and other municipalities within the Commonwealth of Massachusetts, to cover nationally significant sites of the colonial and Revolutionary periods of American history, and such sites as are related to any unit of the national park system within the Commonwealth of Massachusetts, through agreements with the owners of such sites.

VISITOR CENTER

SEC. 7. The Secretary with the consent of the advisory commission is authorized to construct on lands acquired by him in accordance with this Act or upon other lands that may be donated to him for such purpose, or make use of existing facilities with proper restoration, a suitable visitor center for the interpretation of the historical features of the Boston National Historical Park.

ADMINISTRATION

SEC. 8. The Boston National Historical Park shall be administered by the Secretary in accordance with the provisions of this Act, the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq). and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

AUTHORIZATION

SEC. 9. There are hereby authorized to be appropriated not to exceed $360,000 for land acquisition and $8,067,000 for development of the historic site; except that no such sums shall be used for the purchase of property owned by the Commonwealth of Massachusetts, or the city of Boston, Massachusetts.

Mr. KENNEDY. Mr. President, I am delighted that the Senate is now about to approve the important legislation which I introduced last January to establish the Boston National Historic Park. The bill authorizes $8 million to be appropriated for the preservation of major Revolutionary War sites in Boston.

The bill recommends the appropriation of funds for the following sites:

Visitor Center	$3,412,000
Bunker Hill	1,215,000
Old State House	1,550,000
Faneuil Hall	2,050,000
Old South Meeting House	200,000

In addition other sites will be studied for inclusion in the park:

Old North Church.
Boston Common.
Charlestown Navy Yard.
Old Corner Book Store.
Dorchester Heights.
Dilloway-Thomas House.
King's Chapel Burying Ground.
Granary Burying Ground.
Copp's Hill Burying Ground.

The outstanding feature of this National Historic Park in Boston is its dynamic concept—sites can be added to the park at any later time if cooperative agreements are reached between the site owners and the National Park Service. These cooperative agreements may range from the purchase of the site by the Park Service to simply the placing of markers and the retention of the site by the current owner. There will be absolutely no taking of any homes for this park. Those assurances which the residents of Boston have received since this legislation was introduced have been emphasized in the report filed by the Interior Committee.

On July 17, 1972, I met with community leaders in Boston to discuss the drafting of legislation to prevent the further deterioration of some of our Revolutionary War sites, the enhancement of others, and the costs of maintaining the sites, especially in light of the expected visitor influx for the bicentennial celebration. On September 20, 1972, I introduced the Boston National Historic Park bill which was largely the result of the work of historic preservation groups, site owners, city and State officials, and the residents of Boston, who have dedicated themselves for so long to caring for these sites.

Since that time there has been an enormous outpouring of support for this proposal. The Governor of the Commonwealth, the mayor of Boston, bicentennial officials, site owners, school groups, individual citizens—everyone has demonstrated through public statements and letters and phone calls that we have a unique proposal in the Boston National Historic Park.

I am delighted for the citizens of Boston who have cared for these historic treasures for so long without financial assistance from the Federal Government that they can now look forward to the kind of financial aid which will restore these sites for the families and schoolchildren of Boston. For 200 years dedicated men and women have devoted their time and efforts and schoolchildren have contributed their pennies to preserve the relics of the Revolution. Passage of the Boston National Historic Park by the Senate today is a recognition of that commitment to our history. I am hopeful that the House of Representatives will act quickly on companion legislation introduced by Congressman THOMAS P. O'NEILL so that the enormous task of restoration can begin early next year.

We have very little time left in Boston to prepare for the Bicentennial. Visitors will start coming to the Commonwealth in less than 15 months to begin the celebration of our 200th birthday.

The population of Masachusetts is 5½ million people. The lowest estimate of visitors to Massachusetts for the Bicentennial Celebration is 6 million people in 1 year. The highest estimate ranges to 12 million. The number of people in the Commonwealth for our 200th anniversary will double or triple in 1975 and 1976.

The city of Boston alone estimates that it will cost over $6 million to provide essential police and sanitary services during this period. The numbers of visitors to the landmarks of the American Revolution will obviously increase enormously. Last year 175,000 people visited Faneuil Hall; over 50,000 visited the Old State House.

The citizens of the Commonwealth of Massachusetts are grateful for the distinguished leadership of Senator ALAN BIBLE of Nevada, who came to Boston for public hearings on this legislation and through whose efforts this bill has passed the Senate. Again, I am hopeful that the House will act quickly to insure that citizens from all across this Nation will have the opportunity to visit Boston in 1975 and 1976 to step into our past by visiting these historic treasures. It will not be simply a history lesson. It will mark a recognition of the principles on which this Nation was founded.

Ben Franklin once said that he would like to return to America in 200 years to see if Americans still value their freedom. We do. And in Boston we now can continue to preserve the memory of the struggle to achieve that freedom.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ENROLLED BILLS SIGNED

The VICE PRESIDENT affixed his signature to the following enrolled bills previously signed by the Speaker of the House of Representatives:

S. 1747. An act to amend the International Travel Act of 1961 to authorize appropriations for fiscal years 1974, 1975, and 1976, and for other purposes; and

H.R. 8877. An Act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1974, and for other purposes.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, beginning with new reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The VICE PRESIDENT. The nominations on the Executive Calendar, beginning with new reports, will be stated.

U.S. AIR FORCE

The second assistant legislative clerk read the nominations in the U.S. Air Force, as follows:

Lt. Gen. Thomas K. McGehee (major general, Regular Air Force), to be a lieutenant general.

Maj. Gen. Royal N. Baker (major general, Regular Air Force), to be a lieutenant general.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The second assistant legislative clerk read the nominations in the U.S. Navy, as follows:

Rear Adm. Eli T. Reich, U.S. Navy, retired, to be vice admiral.

Adm. Richard G. Colbert, U.S. Navy, to be admiral.

Mr. MANSFIELD. Mr. President, I note that the first name on the list is Rear Adm. Eli T. Reich. I understand that he is head of the oil agency in a Department of the Interior. I should like to know whether he was occupying that position on an active or retired status. I raise the question rhetorically.

Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations are considered and confirmed en bloc.

U.S. MARINE CORPS

The second assistant legislative clerk read the nominations in the U.S. Marine Corps as follows:

Lt. Gen. Leo J. Dulacki, U.S. Marine Corps, to be lieutenant general.

Maj. Gen. Samuel Jaskilka, U.S. Marine Corps, to be lieutenant general.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force, the Army, and the Navy, which had been placed on the Secretary's desk.

The VICE PRESIDENT. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The VICE PRESIDENT. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The VICE PRESIDENT. Does the Senator from Pennsylvania desire to be heard?

Mr. HUGH SCOTT. Yes, Mr. President.

A NEW BASEBALL TEAM FOR WASHINGTON

Mr. HUGH SCOTT. Mr. President, I rise this morning to note that Washington has moved another giant step in the long route toward acquiring a professional baseball team. The patience that the leaders of this movment have demonstrated during this frustrating experience must go down in the books with that demonstrated by Job.

Mr. President, on behalf of the baseball fans in this area, may I take this opportunity to thank Mr. Joseph Danzansky and his associates for having this patience. May I also take this opportunity to point out that with the addition of a Washington National League baseball team—if all goes well—this will make Washington an all-sports city—professional basketball professional football, professional hockey, and once again professional baseball. Let us not forget that we have what we might call professional fans who support these teams.

Mr. President, I take particular note of the fact that my Philadelphia Phillies will open the season with the new Washington team which yet remains nameless. I, for one, see no reason why the team should not be named again the "Senators." That has a nice ring to it. In this Chamber I think we might have a unanimous vote for such a rechristening. Perhaps it might even inspire us in the Senate to win a few games.

ORDER OF BUSINESS

The VICE PRESIDENT. Under the previous order, the distinguished Senator from South Dakota (Mr. McGovern) is recognized for not to exceed 15 minutes.

(The remarks Senator McGovern made on the introduction of S. 2789, the Vietnam veterans GI bill, and the ensuing discussion are printed in the routine morning business section of the Record under Statements on Introduced Bills and Joint Resolutions.)

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. Clark). Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that a staff member of the Committee on Commerce, David Clinton, have the privilege of the floor during the consideration of S. 1283.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I do not know whether this order will be changed, but for the moment it is 10 a.m. on Monday.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALABAMA'S CRIMSON TIDE—NO. 1 FOOTBALL TEAM

Mr. ALLEN. Mr. President, as an Alabamian, as a representative of the people of Alabama in the U.S. Senate, as a follower of the football teams in Alabama, and as an alumnus of the University of Alabama, I am proud of Alabama's position as the No. 1 football team in the Nation.

The final regular season ratings for collegiate football have just been announced and to the surprise of no one—at least to those having a knowledge of intercollegiate athletics—the mighty Crimson Tide of the University of Alabama is ranked as the top football team in the Nation by the prestigious polls of United Press International and the Associated Press.

Coached by the fabulous Paul "Bear" Bryant, the 1973 edition of the Crimson Tide swept through a tough 11-game schedule in impressive fashion. Alabama completed regular season play undefeated and untied by defeating its arch cross-State rival, Auburn University, which is a great university in the State of Alabama, last Saturday, by a score of 35 to 0, before a nationwide television audience. On two other occasions this year, Alabama's Crimson Tide also graced the Nation's television screens by defeating the University of Tennessee and Louisiana State University whose teams were undefeated at the time.

En route to their undefeated season this year, the University of Alabama established an impressive array of new offensive records for intercollegiate football. These records are too numerous to mention here, although I would like to point out that in its game against Virginia Tech it set an alltime NCAA record for net rushing yards with 748 yards and a team single-game high of rushing and passing with 833 yards gained. These two national records are but an example of the awesome offensive strength which characterized Alabama's 1973 football 11 and made them the most feared football foe in all the land.

Winning national football championships is, of course, nothing new to Coach Bear Bryant. A legend in his own time, Bear Bryant coached national championship teams at Alabama in 1961, 1964, and 1965. Since returning to his alma mater in 1958, his teams have amassed 140 victories, lost just 30 times and tied 7 games. Coach Bryant has won seven Southeastern Conference titles at Alabama, plus one at the University of Kentucky for a total of eight conference crowns, more than any other coach in the history of the conference. All in all, Coach Bryant has seen his teams win 231 victories, more than any other active coach and he ranks fourth in the alltime victory list in the football coaching profession.

Mr. President, on New Year's Eve the University of Alabama will play in its 15th consecutive postseason bowl classic when the Crimson Tide meets the powerful undefeated and untied Fighting Irish of Notre Dame University in the Sugar Bowl at New Orleans. Considered from any viewpoint this contest is in truth the "dream game" of this or any other football season.

I congratulate Coach Bryant, his staff, and the splendid young men of the University of Alabama's football team on their magnificent accomplishments this year. The parents of these young men are also due recognition for rearing such fine sons and instilling in them the spirit of clean competitiveness which is one of the great qualities on which our great Nation was founded.

I am quite sure that when the smoke of battle clears in the Sugar Bowl shortly before the New Year is rung in, any doubt which may linger in the minds of a few regarding the No. 1 ranking of the Crimson Tide will be forever erased.

Mr. McCLELLAN. Mr. President, will the Senator yield to me briefly?

Mr. ALLEN. I yield.

Mr. McCLELLAN. As a footnote to the Senator's remarks, I would like to note that Coach Bear Bryant is from Arkansas.

Mr. ALLEN. Yes, we are proud of the contribution by Arkansas to the University of Alabama and we are proud of his Arkansas origins.

Mr. McCLELLAN. I thank the Senator very much.

Mr. ALLEN. Mr. President, I wish the distinguished Senator from Nebraska (Mr. Curtis) were in the Chamber at this time, because in the past a part of his wardrobe that he wore from time to time was a pin with the number "1" on it. I have noticed the absence of that pin in recent months, and since he has no occasion to use that pin any more, for a while at least, I would like to borrow the pin from him for use, certainly up until New Year's Day.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

Proposed Legislation by the Civil Aeronautics Board

A letter from the Chairman of the Civil Aeronautics Board transmitting a draft of proposed legislation to amend the Federal Aviation Act of 1958 to make it clear that the civil penalty provisions of the act are applicable to ticket agents who grant rebates, and to authorize the Civil Aeronautics Board to inspect the records of ticket agents (with accompanying papers). Referred to the Committee on Commerce.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with an amendment:

S. 2373. A bill to regulate commerce and protect consumers from adulterated food by requiring the establishment of surveillance regulations for the detection and prevention of adulterated food, and for other purposes (together with supplemental views) (Rept. No. 93–605). Referred to the Committee on Commerce.

S. 1745. A bill to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes (Rept. No. 93–606).

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs, with amendments:

H.R. 8547. An act to amend the Export Administration Act of 1969, to protect the domestic economy from the excessive drain of scarce materials and commodities and to reduce the serious inflationary impact of abnormal foreign demand (Rept. No. 93–607).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HUGH SCOTT:

S. 2788. A bill for the relief of Felicidad D. Medina. Referred to the Committee on the Judiciary.

By Mr. McGOVERN (for himself, Mr. Mathias, Mr. Dole, Mr. Inouye, Mr. Jackson, Mr. McGee, Mr. Abourezk, Mr. Metcalf, Mr. Hathaway, Mr. Taft, Mr. Church, Mr. Hugh Scott, Mr. Mondale, Mr. Gravel, and Mr. Ribicoff):

S. 2789. A bill to amend title 38 of the United States Code in order to increase the rates of educational assistance allowances; to provide for the payment of tuition, the extension of educational assistance entitlement, acceleration of payment of educational assistance allowances, and expansion of the work-study program; to establish a Vietnam Era Veterans Communication Center and a Vietnam Era Advisory Committee; and to otherwise improve the educational and training assistance program for veterans. Referred to the Committee on Veterans' Affairs.

By Mr. BURDICK:

S. 2790. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services. Referred to the Committee on Finance.

By Mr. GRAVEL:

S. 2791. A bill to provide cost-of-living allowances for officers and employees of the judicial branch of Government stationed outside the continental United States or in Alaska. Referred to the Committee on Post Office and Civil Service.

By Mr. HUMPHREY (for himself and Mr. McGovern):

S. 2792. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 to provide the United States with the flexibility with which to participate in efforts to alleviate the suffering and human misery of hunger and malnutrition. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McGOVERN (for himself, Mr. Mathias, Mr. Dole, Mr. Inouye, Mr. Jackson, Mr. McGee, Mr. Abourezk, Mr. Metcalf, Mr. Hathaway, Mr. Taft, Mr. Church, Mr. Hugh Scott, Mr. Mondale, Mr. Gravel, and Mr. Ribicoff):

S. 2789. A bill to amend title 38 of the United States Code in order to increase the rates of educational assistance allowances; to provide for the payment of tuition, the extension of educational assistance entitlement, accelecation of payment of educational assistance allowances, and expansion of the work-study program; to establish a Vietnam Era Veterans Communication Center and a Vietnam Era Advisory Committee; and to otherwise improve the educational and training assistance program for veterans. Referred to the Committee on Veterans' Affairs.

Vietnam Veterans GI Bill

Mr. McGOVERN. Mr. President, it was 32 years ago today that the Japanese attacked Pearl Harbor and forced the United States to become involved in World War II. Millions of young Americans of whom I was one left their homes and families to fight in that war. Many of them lost their lives, but most of them came home to a Nation eager to show its gratitude for the sacrifices they had made.

Part of that gratitude showed itself in the form of the GI bill. A study recently completed by the Educational Testing Service calls the World War II GI bill—

> One of the most important and effective pieces of social legislation Congress had ever enacted. It profoundly affected the fortunes of veterans and postwar society, and it transformed the nation's higher education system.

In addition to producing 450,000 engineers, 360,000 teachers, and hundreds of thousands of professionals in the fields of medicine, law, and science, the World War II GI bill helped pay for the education of 21 U.S. Senators and 65 Congressmen.

The same level of benefits is not available to veterans of the Vietnam era. When I used the GI bill after World War II, I received a monthly subsistence allowance and a tuition payment of up to $500 per year. Without it, I doubt that I could have completed my degree. At present, a veteran attending school receives only a monthly subsistence allowance. The ETS study shows that the allowance falls short of the financial needs of veterans attending 4-year public institutions by a considerable amount. Single veterans come up short an average of $628, married veterans lack $1,644, and married veterans with children are short $2,032.

The simple fact, Mr. President, is that in the past 25 years, the cost of a higher education has risen three times as much as GI educational assistance.

Thousands of our veterans are prisoners of peace. And so are we. We are prisoners of our own desperate desire to escape the past, to free mind and memory from what we have done to ourselves and others in dubious battle half a world away. But the veteran who is crippled or addicted or unemployed rebukes our flight from truth—and so we are tempted not to see him. We are tempted to put aside the wreckage of this war and the oppression it has brought in its wake. We are tempted to turn away, consigning the lessons and costs of Vietnam to the historians of another day. But unless we learn those lessons, we may again lose our way. We can make real a resolve of no more wars of that kind only if we understand what it was in our national character and leadership that created the conflict through which we have just come—and only if we face what it has done to several million Americans to whom we still owe a heavy obligation.

Mr. President, I am pleased to introduce on behalf of myself, Senators Mathias, Inouye, and Dole, the Comprehensive Vietnam Era Veterans and Educational Benefits Act of 1973. I am also pleased that, after only 1 day's notice, Senators Abourezk, McGee, Metcalf, Hugh Scott, Hathaway, Taft, Church, Mondale, Gravel, and Ribicoff have asked to be named as cosponsors.

This bill seeks to correct the inadequacies of the present GI bill and bring benefits up to a level comparable to what they were following World War II.

I ask unanimous consent that a summary of the bill be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

The Comprehensive Vietnam Era Veterans Educational Benefits Act of 1973

Inadequacies in the present GI bill deny the Vietnam veteran the assistance and opportunities that Congress intended they have. This is the conclusion of the Congressionally commissioned report published by the Educational Testing Service on educational assistance programs for veterans. Their findings are confirmed by independent hearings conducted by the National League of Cities, U.S. Conference of Mayors, and the American Association of Junior Colleges.

This bill is designed to overcome the specific inadequacies of the present GI bill and provide assistance and opportunities to veterans who are currently unable to use their benefits. It is also designed to meet the mandates of major veterans organizations in the most comprehensive, flexible, and effective manner possible.

MAJOR PROVISIONS

1. A tuition payment made to the veteran for tuition costs above $400 per school year. The ETS study showed $400 to be the average tuition cost at a 4 year public institution. The veteran would pay the first $400 himself and the V.A. would reimburse him for tuition costs up to a total of $1,000. Out of a total tuition cost of $1,000, the veteran would pay $400 and the V.A. $600. Any cost above $1,000 would have to be paid by the veteran.

This would enable veterans in states with high cost public education to use the GI benefits. The GI bill participation rates in Ohio, Pennsylvania, Indiana, New Jersey, and New York (states with public education costs averaging over $750) are half those of states with low cost public education (California, Texas, and Massachusetts). The inability of the veteran to make an initial tuition payment of $600 or $800 is the most formidable obstacle preventing participation in an education or training program.

2. An increase in the subsistence allowance paid to veterans in vocational rehabilitation and education programs of 13.6%. This is consistent with action already taken in the House of Representatives and covers the 8% inflation rate since the present rates were enacted.

3. An extension of the present 36 month entitlement period for up to 9 additional months subject to case by case approval by the V.A. This will allow veterans who are subject to special circumstances to complete the course of education they set out on. Specifically, it is intended for those who have lost credits because they have transferred from one school to another or because they lacked sufficient preparatory background and need additional courses to complete their program of instruction.

4. An increase from 8 to 10 years in the eligibility period. Presently veterans have eight years from date of discharge to complete their education with the help of GI assistance. Many veterans discharged in 1964, 1965, and 1966 were unable to use the benefits until 1970 when the subsistence rate was raised above $130. Others have attended on a part time basis and also face the prospect of losing part of their 36 month allotment when the eight years is up.

5. A provision allowing a veteran to draw his full 36 month entitlement in larger amounts over a shorter period of time. Present subsistence allowance for a single veteran is $220 per month. This provision would allow the veteran to draw up to $440 per month for only 18 months. This would enable veterans with prior education to complete their programs with a minimum of money worries. It would also enhance the prospects for those who may wish to attend medical or law school or a two year vocational objective.

6. The bill removes the restrictions of the work study program. This will enable the V.A. to untilize veterans to fulfill vitally needed outreach work while allowing them to earn money that will help defray their college costs.

7. Establishment of a Vietnam Era Veterans Communication Center and a Veterans Advisory Committee. The center would insure that the input, advise, experience, and knowledge of young veterans would be used in the coordination and implementation of programs effecting Vietnam era Veterans. The advisory task force would combine government and private efforts to make veterans programs more effective and more widely utilized.

COST

(A consensus reached after consulting the V.A., OMB and various private concerns.)

1. Tuition payment, $200 million.
2. Subsistence increase, $370 million.
3. Extension of entitlement, $15 million.
4. Extension of eligibility period, $20 million.
5. Accelerated subsistence, no new cost.
6. Expansion of work-study, $25 million (to be determined by VA and congressional authorization).
7. Communication Center, funded out of existing VA funds.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

Mr. DOLE. Mr. President, I am pleased to join my distinguished colleagues from Hawaii, Maryland, and South Dakota in introducing Comprehensive Vietnam Era Veterans Educational Benefits Act of 1973. It is appropriate that this bill should be introduced on the 32d anniversary of American involvement in World War II. The legislation we are presenting today is designed to bring current veterans education assistance up to a level comparable to those of the period after the last world war. This measure is long overdue. The benefactors of this bill are the Vietnam veterans of Kansas and every other State. However, it should not be overlooked that the people of Kansas and the people of our entire Nation stand to gain from this measure. The Vietnam Veterans Educational Benefits Act of 1973 is an investment in the future—the future of our veterans and the future of the whole country. We can look to the GI bill of post-World War II to see that this is true.

The benefits of the World War II GI bill are often taken for granted. The contributions veterans educated under the GI bill have made to our country and economy are immeasurable. It is a matter of record that 450,000 engineers and 360,000 teachers received their training under the World War II GI bill. Hundreds of thousands of professionals were educated in the fields of medicine, law and science. At least 65 Members of the House of Representatives and over 20 percent of my distinguished colleagues in the Senate, including three sponsors of this bill, received educational assistance from the Veterans' Administration. Over the past 25 years since the end of World War II, the GI bill of that period has come to fruition.

The enormous benefits to our country of the investment in educating veterans then is clearly evident now. In view of these benefits, it is only logical that the Vietnam era GI bill should be at least equivalent to the World War II assistance. The fact that current VA education benefits are not on the same level as assistance in the earlier period is substantiated constantly by Kansas veterans contacting my office. World War II veterans have shown me repeatedly in dollars and cents figures that they received greater assistance than their Vietnam veteran sons are getting. Studies mentioned by my fellow cosponsors further substantiate this fact.

What is the meaning of lower educational benefits for Vietnam veterans? In simple language, it means that fewer veterans are going to school and receiving professional training. In the short term, it means higher unemployment rates among Vietnam veterans. In the longer term, it means that the State of Kansas and every other State in the Union lose professional talent and leadership that could have been otherwise developed.

The GI bill is an investment in the future, but it is an investment that can only be made now. When discharged from the services, veterans usually make a choice of going to work or pursuing further education or training. If a vet cannot afford the expense of schooling, he is forced to seek employment. Once employed, the vet is likely to become involved in his job and the chance to obtain further training is probably lost forever. The time to make adequate educational benefits available is now. In fact, more adequate assistance for Vietnam vets is long overdue.

A much needed provision in the GI bill is tuition assistance. The claim that the current subsistence allowance is sufficient to cover tuition costs is simply not true in a vast number of cases. A major provision of this bill is designed to correct this deficiency. It provides that the Veterans' Administration will pay up to $600 per year in tuition costs after the veteran pays the first $400. Anything in excess of a total of $1,000 is paid by the veteran.

Tuition payments were a major portion of the World War II GI bill. Concern about tuition assistance for Vietnam veterans appears to be based on abuses of tuition payments after World War II. I would like to address this isuue for a moment.

First of all, the bill has several provisions to prevent abuses. It is specifically stated in the bill that "in no event shall veterans be charged amounts exceeding those charged by nonveterans for the same service." The national average of tuition costs is about $400. Therefore, in many cases, the veteran would pay the entire tuition expense himself. In private institutions with tuitions over $1,000 per year, the veteran would pay the additional increment. This way, most veterans would have a financial incentive to report cases of schools abusing the system of tuition payments.

Specifically omitted from the bill are provisions as to how tuition rates will be certified. This omission is so the VA can prescribe the certification by detailed regulations which should probably require the veteran and the school both to certify tuition rates.

In addition, books and materials are not paid by the VA under this legislation as they were after World War II. Cases of law students being required to buy microscopes, which reportedly occurred then, could not happen now.

The second difference between this measure and the GI Bill of the World War II era is that conditions are greatly changed. After the last world war, the VA was suddenly faced with hundreds of thousands of vets attending school. The organization was simply insufficiently staffed to adequately administer the program and prevent abuses of the system. Today, the VA has offices at the local level which are capable of checking tuition policies at every institution.

After World War II, up to 80 percent of the student population consisted of veterans. Since the majority of students were veterans, learning institutions could more easily raise tuition rates across the board. Today, the number of veterans going to school is less than 15 percent of the student population. This number is held down, I might add, by inadequate education assistance. But even if all Vietnam veterans were attending school, the number would be much less than after World War II. The possibility that schools would be able to discriminate against veterans and take advantage of tuition payments is greatly reduced.

Mr. President, the measures of this bill are expensive. The estimated cost of the tuition payment measure is about $250 million dollars. I advocate fiscal responsibility. In no way could I support the expenditure of taxpayer money for useless projects. But in my opinion, there is no more worthwhile endeavor than the education of our young veterans. It is an investment in the future, and the time to invest is now. Money spent for some Government programs, such as defense, accrues no future return. Funds spent for the education and training of veterans are doubled, over and over again, in following years in the increased economic and moral strength of our country. I strongly urge every Member of the Senate to support this measure now, when the need is great.

This bill includes several other important parts. Many Kansas veterans of the Vietnam war have contacted me to express the need for an extension of the eligibility period from 8 to 10 years. Due to the low assistance rates in earlier years, it was impossible for many veterans to attend college. These men should not be penalized for this condition which was beyond their control. The extension of the eligibility period will enable many of these individuals to complete their training.

The Vietnam Veterans Education Act provides for the extension of the 26-month entitlement period in individual cases for the completion of ongoing training programs. Recognizing the length of training programs and the level of education and specialization these days, this measure is only a logical step.

The creation of a Vietnam Era Veterans Communications Center can be an invaluable aid to veterans and the effort to find them a place in the economy and society. This organization would help translate skills learned in the military into civilian occupations. Such a measure would increase the usefulness of the $6.6 billion training program conducted by the Armed Forces every year. The Department of Defense estimates that over 75 percent of a veteran's learned skills are related to civilian skills. Veterans are graduates of some of the most demanding, challenging, and scientifically designed training the Nation has to offer. The Communication Center can assist in obtaining better utilization of this training and the skills gained in the service.

Another provision of this legislation expands the veteran's work-study program. There exists a critical need for veteran-to-veteran outreach assistance. This need was noted in the findings of the Educational Testing Service and verified by hearings held by the National League of Cities and U.S. Conference of Mayors. Many vets are unaware of the assistance they can obtain from the VA. Others may be apathetic about improving themselves or taking a greater role in society. Vietnam veterans are the most effective people to reach and motivate other Vietnam veterans. The work-study program can greatly relieve the unemployment and social problems related to the Vietnam conflict.

Mr. President, the measures of this bill are much needed by the veterans of the Vietnam conflict. The expenditures under this bill are an investment in the future strength and well-being of the whole country. The time to make this investment is now and we must not fail our veterans and our Nation by failing to act quickly on this legislation. I urge every Senator in the strongest possible terms to lend their immediate support to the Vietnam veterans education bill of 1973.

Mr. President, I ask unanimous consent a letter from the Veterans of Foreign Wars in support of the bill be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, D.C., December 6, 1973.
Hon. ROBERT J. DOLE,
U.S. Senate, Washington, D.C.

DEAR SENATOR DOLE: One of the Veterans of Foreign Wars Priority Legislative Goals for this year, as approved by Commander-in-Chief, Ray R. Soden, is comparable assistance for Vietnam veterans, as was provided veterans of previous wars.

In that regard, it is noted that you are proposing to introduce a comprehensive Vietnam Era veterans education benefits Act of 1973. This office has had the opportunity to review your proposed bill and note further that it carries out a number of the V.F.W. mandates approved by the delegates to our National Conventions.

Further, many of the provisions in your proposed bill will go a long way toward providing comparable GI Bill and readjustment assistance to Vietnam veterans, as was available to veterans of previous wars.

The V.F.W. supports for example, your proposal to increase GI Bill rates by 13.6%, or from $220 to $250 for a single veteran in fulltime training. Extension of the delimiting dates for GI Bill entitlement is also supported by the V.F.W., as is additional tuition assistance, as a step toward comparability.

In summary, the Veterans of Foreign Wars commends you and your co-sponsors, Senators Inouye, Mathias and McGovern, for introducing this most important bill at a crucial time for the returning Vietnam Era Veterans. The word "crucial" is used because the cost of education has skyrocketed much faster than the average cost of living. Most of these veterans are young and it is most important to not only their welfare but to the welfare of the Nation that they make a quick, successful readjustment upon their return to civil life.

Thank you for introducing this legislation which implements V.F.W. Priority Legislative Goals.

With kind personal regards, I am

Sincerely,

Francis W. Stover,

Director, National Legislative Service.

Mr. McGOVERN. Mr. President, the Senator from Kansas has made a superb statement of the purposes of the bill and a good analysis of what it attempts to accomplish. I appreciate the Senator's cosponsorship because, at the outset, we have broad bipartisan support for this legislation. As the Senator may have heard me say, since the original four Senators—the Senator from Maryland (Mr. Mathias), the Senator from Kansas (Mr. Beall), the Senator from Hawaii (Mr. Inouye), and I—joined in this measure, 11 other Senators have asked that their names be added as cosponsors, for a total of 15. So I am very pleased to join the Senator in the proposed legislation.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

Mr. DOLE. Mr. President, I commend the Senator from South Dakota for his leadership in this matter. I am very pleased, as one of the beneficiaries—as I am certain the Senator from South Dakota is—of the benefits we had following World War II, to be a cosponsor of this measure with the distinguished Senator from Hawaii. We served many months together in a hospital after World War II.

I think the Senator from South Dakota has underscored the very urgent need for the Comprehensive Vietnam Era Veterans Educational Benefits Act of 1973. I am pleased to join not only the Senator from South Dakota but also the Senator from Maryland, the Senator from Hawaii, and now the other Senators. There is broad support. It is not based on partisan consideration or philosophical consideration. To me, that underscores the strength of the proposal and the need for the proposal.

Mr. McGOVERN. I thank the Senator for his comments.

Mr. INOUYE. Mr. President, I am pleased to join my colleagues, Senators McGovern, Mathias, and Dole, in proposing the Comprehensive Vietnam Era Veterans Education Benefits Act of 1973. This legislation incorporates in a comprehensive form a number of previous legislative proposals designed to provide veterans of the Vietnam war assistance and opportunities they deserve.

Although Americans disagreed over the motives, methods and purpose of American involvement in the tragic Vietnam war, there is no disagreement over our Nation's responsibility to the brave young men who served in that conflict. Unfortunately, the inadequacy of our Federal programs to assist veterans have kept us from fulfilling our responsibility and from providing those soldiers with the kind of support they require as they reenter society.

These men served our country valiantly in a time of national emergency. Fifty thousand of their compatriots gave their lives. Twenty-five thousand of these men gave their limbs. They all gave up the comfort of peaceful homes and years of economic and educational advancement to answer a call to duty. Now hundreds of thousands of them are denied benefits or receive benefits not at all comparable to those received by veterans of World War II and Korea because our laws have not kept pace with present realities. The legislation we introduced today will, if enacted, reaffirm our commitment to help Vietnam veterans in the traditional readjustment from military to civilian life by providing monetary and training assistance to aid veterans in acquiring employment and educational progress.

I wish to address myself to two aspects of this legislation which have been of special concern to me. In the 92d session of Congress, I introduced legislation designed to extend the time period within which veterans may be entitled to educational assistance after their discharge or release from active duty. The legislation being introduced today will increase from 8 to 10 years the eligibility period for use of educational benefits.

This extension will allow some equity with more recently discharged veterans to veterans who were discharged in 1964, 1965, and 1966 and who are reaching the end of their 8-year delimiting period, yet who have not finished their education or training nor exhausted their total entitlement. The increase in 1970 to a $130 monthly subsistance allowance was entirely justified, as is the increase provided in this legislation. The extension of eligibility is equally justified on the basis of equity to all of those veterans who served in Vietnam during the years of 1964 through 1973.

Many of these veterans have returned from Vietnam to family obligations which have hindered their ability to utilize their benefits. With the responsibility for providing for children, holding a job, and with the increased importance of advanced education, many veterans have had to complete their educations at a slower pace than in previous times. The law should reflect this situation and provide veterans the time to complete their education without undue pressure.

This legislation also provides for an acceleration of entitlement payments to veterans to reflect specific needs of particular educational programs. Veterans with prior education and those wishing to attend graduate programs with higher tuition requirements and compressed terms of study, oftentimes are faced with excessive financial burdens. By accelerating the statutory entitlement period to allow a recipient to draw up to $440 per month for only 18 months rather than limiting the 36-month entitlement period at a maximum of $220 per month, this legislation will provide a way for a recipient to design an academic program which can maximize his or her eduational attainment and minimize money worries.

The bipartisan support for the liberalization of requirements and the increase in benefits to Vietnam veterans that are included in this bill reflects the nonpartisan spirit that has always been part of our efforts to aid the American veterans. It also reflects the realization that our present system of benefit programs for veterans is outmoded and inadequate.

Thirty-two years ago today, as I heard the sirens signal the beginning of World War II, I realized that my country must go to war.

I did not realize that my country would be at war in some corner of the world for most of the next three decades.

After the war, I was able as a result of the GI bill to attain the education that allowed me to prepare for my present vocation. I do not believe I would be in the Senate today without having been the beneficiary of that program. The other Senators who have had the same experience as I have had, including the cosponsors of this legislation, harbor the same gratitude for the national spirit of mutual sacrifice that generated the first GI benefits. That spirit remains today and I am hopeful that the Congress and the President will reflect that spirit and take expeditious and favorable action on this legislation.

By honoring those men who sacrificed years of their lives and who risked death because of their sense of duty to our country, we can place a landmark on the trail from war to a truly honorable peace. May we all pray that this will be the last time that Congress will have to consider legislation which provides benefits to war veterans, because Vietnam can be our last war.

LET US GIVE VETERANS A FAIR CHANCE

Mr. MATHIAS. Mr. President, I am pleased to join the Senator from Kansas (Mr. Dole), the Senator from South Dakota (Mr. McGovern), and the Senator from Hawaii (Mr. Inouye) in introducing the Comprehensive Vietnam Era Educational Benefits Act of 1973. The bill we have introduced today, on the 32d anniversary of the attack on Pearl Harbor which launched us into World War II, represents the culmination of a long effort to devise a fair, comprehensive and fiscally responsible program of educational benefits for Vietnam-era veterans.

For 3 years, Mr. President, I have been urging that our most recent generation of veterans has a right to expect an increase in educational benefits sufficient to make the GI bill a realistic package of support for those young men now wishing to pursue college or technical training which they had to forgo to serve in Vietnam.

To date, little has been done to provide these GI's with such educational opportunity, despite hundreds of articles and voluminous testimony devoted to their financial and emotional plight. The Vietnam veteran finds himself the political football of the men who watch the bottom line—although many of these same officials saw fit to devote some $30 billion a year to the war in which they fought.

In particular I should point out that past legislative efforts have been largely geared toward providing vitally needed subsistence increases to veterans already enrolled in education and training programs, but have done little to assist the millions of Vietnam-era veterans who are unable to take advantage of the GI bill at all. These are the veterans who need readjustment assistance the most: the educationally disadvantaged, the veteran in States with high-cost public education, minority veterans, veterans with families to support, and the veteran who simply cannot qualify for a full 4-year college program. We also seek to assist these same veterans with the bill we introduce today.

Nothing more clearly underscores the obstacles veterans now face than the series of events which took place between last fall—when Congress ordered the Veterans' Administration to produce an independent study of veterans' benefits—and the actual delivery of that study to Congress in September. Last year, I sponsored the amendment to the GI bill which required the Veterans' Administration to commission an independent study comparing today's GI bill benefits with the World War II and Korean GI bills. My amendment was enacted into law, and the study was subcontracted by the VA to the highly respected Educational Testing Service of Princeton. My own doubts of 3 years ago were confirmed by the findings and conclusions of that comprehensive study. For the first time, figures were made available on the actual value of today's benefits compared with the assistance I received to go to college after the Second World War. I doubt that I would be in Congress today without that chance.

The principal finding of the ETS report stated that—

> The actual value of the educational allowance available to veterans of World War II was greater than the current allowance being paid to veterans of Vietnam, when adjustments are made for the payment of tuition, fees, books and supplies.

In addition, the study concludes that with the elimination of the World War II method of paying tuition directly to colleges and universities for enrolled vets, there was a simultaneous elimination of equitable opportunity for resident and nonresident students. The most disturbing fact here is that the State in which today's veteran resides is the main determining factor as to whether or not he can afford to use the GI bill, depending on the availability of well-developed community college systems and relatively inexpensive State-supported colleges.

These and other conclusions have proved somewhat embarrassing to the Veterans' Administration, so much so that they mobilized their own in-house repudiation team to go before the House Veterans' Affairs Committee on September 25, defending the adequacy of current benefits and attacking the conclusions of their own study. One complaint by the VA was that the study went too far beyond its original objectives.

If the study went too far, it is only because it told the VA exactly why many Vietnam veterans are finding it extremely difficult to use their GI bill benefits, and still feed and house themselves; why use of the current GI bill is, by definition, inverse to need, allowing only those more affluent vets who can supplement benefits with considerable outside help to go to school; why the opportunity to use these benefits is often based on geography. We find here the very agency, which is supposed to be the veteran's advocate in the government, defending the adequacy of present benefits, despite the conclusions of its own study.

It is important to examine the significant differences both in dollars and distribution formulas between today's GI bill and that of 1948. After World War II, veterans received tuition, books and fees up to $500, paid directly to the colleges of their choice. Pertinent here is the fact that at that time this $500 was sufficient to cover not only tuition at nearly all four-year public colleges, but also at 89 percent of all private colleges in the United States. In addition, above and beyond tuition costs, each veteran received $75 per month for personal living expenses, which at that time represented 35 percent of average U.S. monthly earnings. This level of tuition, plus subsistence funds, combined with an abundance of part-time jobs and veteran housing subsidies, gave every World War II veteran a healthy opportunity to gain the education most relevant to his future career.

Today, I fear, the picture is comparatively bleak. The Vietnam veteran receives a lump sum of $220 per month, or $1,980 per academic year, out of which he must pay not only tuition, books, and fees, but all living expenses. The system of paying tuition and fees directly to the colleges has been eliminated, as have been any variable payments attempting to equalize out-of-State and in-State opportunities. Ironically, this $220 per month, which represents a total, all-inclusive payment, equals roughly 35 percent of U.S. average monthly earnings in 1972—the same proportion which the veteran of my generation had available after tuition was paid.

As for tuition, the average tuition for 2- and 4-year colleges in the United States at present is $400 per year. Keep in mind that this average lumps 2-year community colleges with 4-year schools. The VA claims that any veteran paying no more than this national average of $400 has parity in benefits with World War II veterans. That is all well and good, but in States with more expensive tuition charges or in one of the eight States which rely on private institutions for more than 40 percent of their higher education facilities, the Vietnam veteran is in real trouble. As his tuition increases above $400, he rapidly loses any parity he might have had with the World War II GI.

In my own State of Maryland, a veteran attending the University of Maryland, paying $698 per year for tuition and the national average of $216 for books and required fees, has $119 a month left out of which he must pay rent, buy food, and clothe himself. Now I do not know about my colleagues, but I would have a very difficult time as a student in 1973 trying to survive on $119 a month. And the University of Maryland is by no means alone in its high tuition cost. The major universities in California, Connecticut, Illinois, Indiana, Michigan, Minnesota, New Jersey, Ohio, Pennsylvania, and Rhode Island all charge more than $640 per year for tuition.

In sum, State colleges in many States such as Maryland are very nearly beyond the financial reach of too many of today's veterans, and private institutions are out of the question for most of them. The Vietnam veteran, without a benefactor other than the Nation he served, might just as well forget education altogether.

My question is simply this: If we have a commitment to today's veterans similar to our commitment to men who received a quality education after World War II, why should we not only price the Vietnam vet out of private colleges but head also toward pricing him out of major public universities? In addition, why should we deny readjustment assistance to the veterans who need it the most? Why should our programs deal largely with helping veterans already in school while neglecting the needs of those who cannot afford to pay the high costs required to get into school. Subsistence increases do no good for someone who cannot even afford tuition. Why should benefits be restricted to a 4-year period when the Nation needs technicians and vocational specialist training in 2-year programs and community colleges? Why should we deny veterans the opportunity to finish their education at a private school, to pursue graduate school in law or medicine, or to receive education and training that would enhance their present career by restricting them to a 4-year allotment of total benefit they have rightfully earned?

The bill we are introducing today, Mr. President, reflects the view that the answer to all these questions is that we should not. For if some effort is not made to address these inequities, I can only conclude that we are not fulfilling President Nixon's own claim in his last budget message, that veteran's education is a Federal responsibility. And it certainly might lead a veteran to believe that now that he has done the dirty work, he is to be discarded, with a token allowance to get him off the backs of the VA, the Congress, and the administration.

The time has never been more crucial for putting together a realistic and comprehensive educational package for these men—a program which not only alleviates the very serious geographical disparities, but which makes it possible for a veteran to choose education without also resigning himself to 4 years of near poverty. At present, veterans are hard-pressed to supplement benefits with part-time jobs, both because of the current job market and the drying up of EEA jobs, and because they are for the most part excluded from work-study jobs at universities, since GI bill benefits are often counted as sufficient income to disqualify them. Right now we are at the peak of educational demand by veterans, a peak which will shortly level off as the last of these young men are given their opportunity to enroll and graduate.

The comprehensive legislation we are introducing today, Mr. President, includes a number of important elements:

A realistic variable tuition payment program, up to a total of $600 above and beyond the $400 national average for tuition, with restrictions to discourage abuses by institutions which seek to milk qualifying veterans by inflating their charges;

An accelerated payment provision, similar to the one provided by the World War II GI bill, so that a veteran can compress the payments to which he is entitled into 2 years instead of 4, if he so chooses;

An increased subsistence payment to account for today's soaring cost of living;

An expansion of the work-study program;

Extension of the entitlement for veterans who would otherwise be unable to complete their courses of study; and

The creation of a task force to provide Vietnam-era veterans with direct access and input relating to public and private programs which affect them, as well as counseling to inform veterans of the full level of benefits available to them.

As my colleagues well know, Mr. President, our most recent war was not a popular one. Many young Americans who could afford to remain in college during the fighting, did so. Others, with no wealth and no influence, were drafted or enlisted. The men who fought deserve the opportunity given to so many of their peers. I hope my colleagues will join us in giving thousands of these young men their chance to pursue a productive program of education and training rather than relegating them to the role of bitter and disillusioned patriots. And I am pleased that the Senator from Pennsylvania (Mr. Scott), the Senator from Ohio (Mr. Taft), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from Idaho (Mr. Church), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. Abourezk), and the Senator from Washington (Mr. Jackson) have already joined us as cosponsors of this crucial legislation.

If we look back 32 years to this day, Mr. President, the attack on Pearl Harbor is a vivid reminder of the terrible suddenness with which we sometimes have to call on our young citizens to defend our Nation—and the sacrifices we ask of them. But when the conflict is over, let it not be said that we were unwilling or unable to remember their sacrifice, no matter how unpopular the war we asked them to fight.

By Mr. GRAVEL:

S. 2791. A bill to provide cost-of-living allowances for officers and employees of the judicial branch of Government stationed outside the continental United States or in Alaska. Referred to the Committee on Post Office and Civil Service.

Mr. GRAVEL. Mr. President, I introduce today a bill giving the judicial branch of the Government the authority to grant cost-of-living allowances to employees stationed outside the continental United States or in Alaska.

The need for this remedial legislation is indicated by the cost-of-living allowances given by the executive branch. For instance, executive branch employees in my State receive a 25-percent cost-of-living allowance. It is only fair and equitable that equal pay adjustments be made available to judicial employees.

I would like to point out that this bill does not stipulate how much of an adjustment this should be, or even that there must be an adjustment. What it does do is give the Judicial Conference of the United States the authority to make such determinations. Furthermore, I have included a provision stipulating that the maximum adjustment allowable is 25 percent, the same maximum that applies to civil service employees.

I ask unanimous consent, Mr. President, to include at this point in the Record the text of a letter I received from Mr. Rowland F. Kirks, Director of the Administrative Office of the U.S. Courts.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Washington, D.C., *October 20, 1972.*

Hon. Mike Gravel,
U.S. Senate,
Washington, D.C.

Dear Senator Gravel: This is in response to your letter of October 11, 1972, pointing out that in the interest of equity, federal judges and other judicial employees should receive the same consideration of a 25 percent cost-of-living allowance as do Executive Branch employees in Alaska.

I can assure you that this matter has been a concern of the Judicial Conference of the United States over a period of many years. Bills that have been introduced to achieve the same consideration for judicial employees as is given to Executive Branch employees have repeatedly been endorsed by the Judicial Conference. In addition, the Judicial Conference specifically recommended enactment of such legislation and sent a draft bill to the President of the Senate and the Speaker of the House to achieve this purpose in February 1965. Enclosed is a copy of a letter that was sent to Vice President Humphrey on February 2, 1965, enclosing a bill to provide cost-of-living allowances for judicial employees stationed outside the continental United States or in Alaska or Hawaii. Representatives of this office have likewise testified before congressional committees in behalf of such legislation.

In the 92d Congress a bill, S. 457, was introduced. In commenting favorably upon this proposal this office pointed out that S. 457 did not completely achieve the objectives of the Conference because it omitted two subsections previously recommended which are deemed essential because of the aggregate salary limitations imposed upon a judge and because of the question whether the Internal Revenue Code provision for an exclusion from gross income on amounts received by employees of the Government as cost-of-living allowances while stationed outside the United States applies to employees of the judiciary.

If this office can be of any assistance to you in connection with the objectives of this legislation, please feel free to call upon me.

Sincerely,

Rowland F. Kirks,
Director.

Mr. GRAVEL. Mr. President, in his letter, Mr. Kirks states that the Judicial Conference supports this concept and has commented favorably on similar bills. Mr. Kirks also points out what are considered two deficiencies in previous bills which I believe I have corrected in the bill I am introducing today.

I hope my colleagues will support my bill in order to provide equity to certain Government employees and to the judicial branch.

By Mr. HUMPHREY (for himself and Mr. McGovern):

S. 2792. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 to provide the United States with the flexibility with which to participate in efforts to alleviate the suffering and human misery of hunger and malnutrition. Referred to the Committee on Agriculture and Forestry.

Mr. HUMPHREY. Mr. President, during the consideration of the Foreign Assistance Act of 1973, I proposed an amendment which was designed to deal with the changed international commodity situation which has threatened the food security of millions throughout the world. The amendment requested the President to initiate a study of the world food situation so that our policymakers could have the benefit of better information with which to plan for the security of both this country and of the food deficit areas of the world.

The perspective of such a study should be that of world agriculture as a system. An attempt should be made to build a model of future world production-and-demand relationships which includes the role and interrelationship of such factors as the known or anticipated world availability of agricultural inputs such as fertilizer and fuel, the adequacy of transportation and distribution facilities, constraints on increased world agricultural productivity, and humanitarian food assistance needs of the less-developed world over the coming years.

Other issues which this study should address include the impact of chronic energy shortages on agricultural production, future sources of protein including the significance of the slowdown of world fish catches, and the role of national trade policies in facilitating and encouraging the productive capacities of world agriculture. The study should report on a spectrum of policy initiatives which the United States might pursue in regard to agriculture and trade policy including positions traditionally rejected by the United States in the past. The objective of this study shall be to report on policies both domestically and internationally which the United States should be considering to provide for assured supplies of food and fiber for the United States and the world through the end of this century. The report shall be forwarded to the Congress no later than December 31, 1974.

The amendment called for the cooperation of the President in working with international efforts to establish a plan providing for a minimum level of food security. Understanding that the willingness of the developing countries to respond to their own requirements to increase agricultural production will depend on the security of world markets, that the further expansion of world agricultural trade requires a greater degree of market and price stability, and that the swings in world production which has resulted from the increasing interrelationship of commodity markets threatens the food security of the citizens of the world and most seriously that of the food deficit regions of the world, the President shall take immediate steps to cooperate with the other nations of the world in their efforts to establish a mechanism to provide at least a minimum level of food security. One such mechanism would be an international system of strategic food reserves and the President should participate in any efforts to explore the feasability of such a system. It also called upon the President to instruct the Special Representative for Trade Negotiation to request the consideration of world food security mechanisms within the context of the next round of GATT negotiations. Any such system for world food security should provide for an equitable distribution of the direct and indirect costs between the producer and consumer nations. The amendment also requested the President to direct the Special Representative for Trade Negotiations to request the members of the GATT to address the issue of market access within the context of the next round of multilateral trade negotiations.

Finally, this measure intended to amend the Agricultural Trade Development and Assistance Act of 1954 to allow the Secretary of Agriculture greater flexibility in making determinations of the available supplies of agricultural commodities which could be used to meet emergency humanitarian food assistance requirements. Because of a jurisdictional question in regard to this last point the Foreign Assistance Act of 1973 was modified in conference to change the language of my amendment to "the sense of the Congress".

In testimony before the Subcommittee on Foreign Agricultural Policy which I have the privilege to chair, the administration has indicated the need for such flexibility. Certainly the problems in meeting food emergencies which we encountered over the last year suggest the need to review our policies in regard to humanitarian food assistance. Therefore, I would like to reintroduce my amendment in the form of a separate bill so that it may receive proper consideration within the respective Agriculture Committees which have jurisdictional responsibility over the legislation involved. I assure you that I will be urging the respective Agriculture Committees to act as promptly as possible on this legislation.

I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, The last sentence of Section 401 of the Agricultural Trade Development and Assistance Act of 1954 is amended by striking the period and inserting a comma and the following: "unless the Secretary determines that some part of the exportable supply should be used to carry out the national interest and humanitarian objectives of this Act."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 147

At the request of Mr. Inouye, the Senator from South Carolina (Mr. Hollings) a bill to extend the time period within which veterans may be entitled to educational assistance under such chapter after their discharge or release from active duty.

S. 1283

At the request of Mr. Jackson, the Senator from Hawaii (Mr. Fong) was added as a cosponsor of S. 1283, a bill to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; to establish development corporations to demonstrate technologies for shale oil development, coal gasification development, advanced power cycle development, geothermal steam development, and coal liquefaction development; to authorize and direct the Secretary of the Interior to make mineral resources of the public lands available for said development corporations, and for other purposes.

S. 1340

At the request of Mr. Jackson, the Senator from Alaska (Mr. Stevens) was added as a cosponsor of S. 1340, the Federal Employees Indian Tribal Organization Transfer Act.

S. 1687

At the request of Mr. Jackson, the Senator from North Dakota (Mr. Burdick) was added as a cosponsor of S. 1687, the Menominee Restoration Act.

S. 1745

At the request of Mr. Robert C. Byrd (for Mr. Mondale) the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 1745, a bill to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes.

S. 2373

At the request of Mr. Robert C. Byrd (for Mr. Magnuson), the Senator from Massachusetts (Mr. Kennedy), the Senator from New York (Mr. Javits), and the Senator from Iowa (Mr. Hughes) were added as cosponsors of S. 2373, a bill to regulate commerce and protect consumers from adulterated food by requiring the establishment of surveillance regulations for the detection and prevention of adulterated food, and for other purposes.

S. 2642

At the request of Mr. Taft, the Senator from Michigan (Mr. Griffin) was added as a cosponsor of S. 2642, a bill to establish an independent Special Prosecution office, and for other purposes.

SENATE RESOLUTION 213—SUBMISSION OF A RESOLUTION RELATING TO THE FISHERIES JURISDICTION OF THE UNITED STATES

(Referred to the Committee on Commerce.)

Mr. STEVENS. Mr. President, 32 years ago the Japanese won a battle but lost a war. It has been said that the raid on Pearl Harbor, devastating though it was, backfired on Japan because it so effectively united the American people in outrage and determination to fight.

Having learned their lesson, the Japanese today are engaged in a quiet offensive, which promises Japan rich returns in the natural resources she so desperately needs. My colleagues know better than I the extent of Japanese investment in their States. However, the impact is perhaps most obvious in Alaska where there is a richness of undeveloped resources—oil, natural gas, minerals, timber, and fish—and where exploration is more visible than in the more complex economies of the urban areas.

The most advanced element of the Japanese thrust into our economy could be the one directed against our North Pacific fisheries. Complete conquest is coming swiftly and without opposition. It is being accomplished in two ways.

First, because our Nation has a basic general policy of admitting and treating foreign capital equally with domestic capital—except from Communist China and North Korea—the Japanese, under present law are allowed to own controlling interests in U.S. fisheries corporations, including their fishing vessels. With the acquisition this year of Whitney-Fidalgo Seafood, Inc. by Kyokuyo Co., Ltd., a Japanese corporation, a substantial portion of the Alaska-based fisheries industry in the North Pacific and Bering Sea is now Japanese owned.

Second, by disregarding conservation practices necessary to sustain North Pacific and Bering Sea fish stocks, the Japanese are destroying the resource and running our fishermen off the seas. To illustrate this, allow me to recite the most recent ten-year experience of the Bering Sea halibut fishery. In 1963, 104 U.S. and Canadian vessels caught 11 million pounds of halibut in the Bering Sea. In 1973 the seven remaining United States and Canadian boats caught 167,-

000 pounds. U.S. authorities believe the major cause of that decline in halibut, which led to the 93 percent reduction in United States-Canadian effort, is the incidental catch of halibut by Japanese trawl fleets. This has amounted to 10 to 11 million pounds of halibut annually since 1971. In other words, the Japanese, during that period, caught more halibut accidentally while fishing for other species than our U.S. and Canadian fishermen did on purpose before they were forced out.

Halibut fishing is just one activity which has suffered. I spoke two weeks ago on the subject of fisheries negotiation. At that time I discussed the annual meeting of the International North Pacific Fisheries Commission, held this year at Tokyo. The discouraging results of that meeting are reported in a news release issued by the National Marine Fisheries Service this week. Mr. President, I ask unanimous consent that this news release be printed, at this point, in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

U.S. CONCERNED OVER LACK OF ACCORD WITH JAPAN ON FISHERIES

Claiming that the sockeye salmon resource in Bristol Bay (Alaska) has decreased so drastically during recent years as to jeopardize the traditionally abundant stock, and that halibut stocks in the eastern Bering Sea are on the brink of extinction as a commercial resource, National Marine Fisheries Service Director Robert W. Schoning today criticized the Japanese for their failure to respond adequately to the two crucial conservation problems.

Mr. Schoning's remarks were made following the November meeting of the INPFC (International North Pacific Fisheries Commission) held in Tokyo. He attended as a representative of the Commerce Department's National Oceanic and Atmospheric Administration, the parent organization of NMFS, and as an alternate Commissioner of the INPFC. Other Commissioner representatives on the U.S. delegation in Tokyo were Elmer E. Rasmuson, Donald L. McKernan, and Chairman Milton E. Brooding. Member nations consist of Canada, Japan, and the United States.

The U.S. delegation had five basic objectives in an effort to resolve urgent conservation problems confronting U.S. fishermen in the North Pacific:

To seek adequate protection for Bristol Bay sockeye salmon in 1974;

To substantially reduce the incidental catch of juvenile halibut by Japanese trawlers in the eastern Bering Sea;

To prevent Japanese violations under the treaty* and the Commission's conservation recommendations by more stringent enforcement efforts by Japan;

To encourage study by scientists of the three member countries of the vulnerability of western Alaska chinook salmon to Japan's high-seas salmon fisheries;

To expand INPFC studies to include all fisheries resources in the Bering Sea.

Describing the situation surrounding the Bristol Bay sockeye salmon as critical, Mr. Schoning said: "The expected run of five million sockeye salmon to Bristol Bay in 1974 is only about half our spawning requirement of nine million fish—and the State of Alaska contemplates no harvest in the major fisheries districts of Bristol Bay during the sockeye salmon season in 1974. In past years, these have been the largest sockeye salmon runs in the world."

He blamed adverse climatic conditions in recent winters for the 1973 "lowest return ever recorded of sockeye salmon to Bristol Bay," but added that small runs of the salmon *had* been predicted at the 1972 INPFC meeting and that the Japanese were aware of the need for cooperative conservation measures. At that time, Japan indicated it would operate its high-seas fishery with due concern for the Bristol Bay runs. Scientific information revealed at the recent Tokyo meeting clearly demonstrates, however, that Japan *increased* rather than decreased its fishing effort in 1973 in key areas where Bristol Bay sockeye salmon are vulnerable to capture during migration.

Mr. Schoning noted that evidence on hand shows clearly that any high-seas interception of Bristol Bay sockeye salmon in 1974 by the Japanese can have a strongly adverse effect on stock survival. As a preventive measure, the United States sought restrictions on salmon gillnetting in 1974 by the Japanese in high-seas areas when the Bristol Bay sockeye salmon is especially vulnerable to capture. The Japanese response, characterized by Mr. Schoning as "totally inadequate in view of the tremendous importance of Bristol Bay sockeye salmon to the livelihood of U.S. fishermen" merely noted an awareness of the problem but declined any assurance of positive action on the proposal that Japanese fishing practices be altered.

The drastic reduction in the abundance of halibut in the eastern Bering Sea is illustrated by data that show a massive decline in the North American setline fishery in the eastern Bering Sea, which dropped from a peak of 11 million pounds in 1963 to under 200,000 in 1973. Whereas 104 Canadian and U.S. vessels participated in the fishery in 1963, only 7 vessels fished in 1973—a 93 percent reduction in number of vessels. In contrast, in the same time frame, Japan increased its annual trawl catch in the same area by about 500 percent—to more than 4 billion pounds of fish in 1972—which in 1971 included 11 million pounds estimated as the "incidental" halibut catch.

Mr. Schoning stated that the major cause of the decline in halibut stocks is mortality associated with the high incidental catch of juvenile halibut by the large trawl fleets of Japan and the Soviet Union, which results in the destruction of fish that, if allowed to achieve their full growth potential, would permit maintenance of a viable setline fishery. He noted that the best cooperative efforts of Canada and the United States, working toward restoration of halibut stocks through the International Pacific Halibut Commission (on which Mr. Schoning serves as a U.S. Commissioner) for 50 years, have, therefore, been unsuccessful, despite stringent conservation regulations imposed on North American setline fishermen.

At the Tokyo meeting, Canada and the United States, with the concurrence of scientists from the three member nations, urged that the INPFC adopt minimum conservation proposals aimed at protecting juvenile halibut from capture by trawls. The proposed measures were intended to effectively prevent the commercial extinction of this important food fish, yet minimize disruption to Japan's trawl fisheries. The proposed restrictions would apply during periods when Japan's trawling effort is relatively low but coincides with periods when a high proportion (sometimes reaching 40 percent of total catch) of juvenile halibut is taken in trawl catches. Japan said, however, that it would not agree to the proposals because a substantial reduction in the halibut catch by trawlers also would result in a large decrease in trawl catches of other species.

Japan noted that it would take certain domestic actions to conserve the halibut resource, such as a continuation of the domestic size limit in the Bering Sea, maintenance of a large no-trawling area in the southeastern Bering Sea, and the placing of additional restrictions on trawling in specific periods and areas. Mr. Schoning said that the U.S. delegation views the domestic regulations proposed by Japan for 1974 as ineffective as a means of helping to restore the badly depleted halibut resource in the eastern Bering Sea.

He added: "The U.S. and Canadian delegations were extremely distressed by Japan's negative attitude toward their conservation proposals which in our view, would have caused only a 10 percent loss in Japan's total trawl catch in the eastern Bering Sea. Whereas the United States and Canadian halibut fisheries in the eastern Bering Sea have for all practical purposes, been eliminated, the Japanese appear to be fearful of the impact on their industry, which we look upon as minimal, particularly, in view of evidence that a reduction is needed in trawling to maintain all elements of the complex of groundfish species at high levels of productivity.

"We are talking in these exchanges of protecting a valuable resource which is in imminent danger of commercial extinction, not just sharing the catch. North America fishermen have suffered from severe restrictions imposed on them by the United States and Canada over a period of years in efforts to save the halibut resource. Many of the fish we have refrained from taking in our continuing conservation efforts have not however, accrued to either the resource or our fishermen, but rather have been taken by the expanding Japanese and Soviet trawl fisheries."

The INPFC meetings ended on a note of impasse with respect to the halibut issue inasmuch as a unanimous vote is a requisite to the adoption of new conservation measures. The United States and Canada may—as they have done in the past—adopt halibut conservation measures through the International Pacific Halibut Commission.

The U.S. delegation at the Tokyo meeting stressed its serious concern over continuing Japanese violations under the treaty. Clearly, some Japanese fishermen have been ignoring INPFC's conservation recommendations and Japan's domestic regulations as well. The Japanese delegation replied that violations of the treaty's salmon abstention provisions by Japanese nationals have been met with severe punishment. Japan promised that in 1974 it would increase patrols near the abstention line and would improve communications between patrol vessels and the salmon fleet. Mr. Schoning said he remains to be convinced, in view of previous assurances and unfavorable results as evidenced earlier this year when three Japanese vessels were caught fishing illegally for salmon in the Gulf of Alaska, 600 miles east of the abstention line.

Concerning halibut enforcement measures, the Japanese reported that they had increased substantially the number of inspectors aboard their trawl vessels in 1973; they said that in 1974 they would intensify enforcement of existing regulations with regard to halibut at ports of landing. The Japanese Government also agreed to permit U.S. scientific personnel aboard their trawl vessels in 1974 (as they did in 1972 and 1973), pending approval of such arrangements by the fishing companies, to observe the incidental catches of king and Tanner crabs, and halibut. Japanese spokesmen stated that they would adopt a law prohibiting the export of undersized halibut.

The NOAA-NMFS delegate, Mr. Schoning, said that preventing the export of undersized halibut—thus reducing the market incentive for capture—is helpful, but emphasized that the most effective action would be to put into effect strong measures to minimize the capture and resultant mortality of juvenile halibut taken by trawlers. To that suggestion Japan would not agree.

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* International Convention for the High Seas Fisheries of the North Pacific Ocean

The Japanese delegation, indicated a willingness to work with the United States and Canada in conducting research concerning the vulnerability of western Alaska chinook salmon to Japan's high-seas fishery in the central Bering Sea. The sharp increase in Japenese catches of chinook salmon, many believed to be from North American stocks, is of increasing concern to U.S. fisheries.

The NMFS Director said he was pleased that the Japanese delegation had reversed its 1972 position and agreed to accept the U.S. proposal that the Commission study all Bering Sea fisheries resources, whereas in the past the Commission had undertaken studies only on stocks taken in substantial quantities by more than one party. Of the three member nations of INPFC, only Japan carries on a substantial groundfishing effort in the Bering Sea. The United States is concerned about the total catches by foreign vessels in the area, and is determined to restore or maintain the various stocks—such as pollock, yellowfin sole, and shrimp—at an optimum level, though no extensive U.S. fishing effort is yet involved.

Ample evidence exists of an ecological inter-relationship among all stocks, which can be affected by an imbalance of populations of various species. In view of the tremendous expansion of total landings of all stocks in the Bering Sea (which have increased from about 28 million pounds in 1954 to nearly 5 billion pounds in 1971), the United States has criticized Japan because of its narrow interpretation of the treaty, which in the past permitted Commission studies in the Bering Sea only as they related to halibut. Some fish hitherto precluded from scientific study by the Commission have been severely reduced in numbers.

"We went to Tokyo expecting responsible and meaningful action by the Commission in addressing these issues. Now it is abundantly clear that the United States should seek other alternatives designed to protect halibut and salmon in these areas and the livelihood of our fishermen, and to conserve all living resources in the North Pacific—resources that have been maintained too long to risk losing them now because of Japan's failure to take appropriate action," Mr. Schoning said.

The NMFS Director expressed the hope that the forthcoming Law of the Sea Conference, scheduled for 1974, will lead to a meaningful solution to frustrating fisheries problems such as those experienced recently at the Tokyo conference.

Mr. STEVENS. Mr. President, acquisition of our industries by Japan must be stopped—and stopped as soon as possible. Meanwhile, we must adopt the procedure of first aid and attend to the most dangerous wound first. In the case at hand, the Japanese drain on our fish stocks is the severed artery which must be tied off immediately, before it is too late.

Long-term solutions to the problems of our commercial fisheries, hopefully, will evolve from next year's Law of the Sea Conference, and/or from interim legislation. Meanwhile, I am introducing today a resolution asking the President of the United States to extend the boundaries of U.S. fishing jurisdiction in the Bering Sea and North Pacific, and to impose therein a conservation moratorium on non-North American foreign fishing to be enforced by whatever military or economic resources necessary.

I ask unanimous consent to print the resolution at this point in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 213

Resolved, whereas The scientifically forecast return of Red Salmon to the Bristol Bay fisheries is only about half the spawning for maintenance of the stock, and

Whereas the volume of halibut caught by Japanese trawlers incidental to their groundfish catch is moving the Bering Sea halibut toward extinction; and

Whereas U.S. scientists predict that the continuing annual Japanese catch of billions of pounds of groundfish bodes eventual depletion of those species; and

Whereas the Japanese fishing fleets have so depleted the Bering Sea herring stock that recovery may not be possible; and

Whereas losses of the Tanner crab population incidental to groundfish catch exceeds permissible quotas; and

Whereas all efforts of the United States to gain voluntary constraints by the Japanese in their fisheries harvests, including those exerted through the twenty-year old International North Pacific Fisheries Convention and the fifty year old International Pacific Halibut Commission, have been unsuccessful despite stringent controls being imposed on North American fishermen; and

Whereas The resulting declines in the population of such fish threaten to destroy the commercial fishing industry of the North Pacific Ocean and Bering Sea;

Resolved: (1) It is the sense of the Senate that the President of the United States be requested to immediately, by Executive Order, declare U.S. fisheries jurisdiction beyond present territorial waters to include all waters of the North Pacific Ocean and Bering Sea lying within the boundaries established by the U.S.-Russian Convention of 1867. The Western limit would thereby be extended from a point in the Bering Strait on the parallel of sixty-five degrees, thirty minutes North latitude, between the Big Diomede Island and Little Diomede Island, proceeding thence in a course nearly Southwest so as to pass midway between the Northwest point of St. Lawrence Island and the Southeast point of Cape Choukotski, to the meridian of one-hundred-ninety-three degrees west longitude, so as to pass midway between the island of Attu and the Copper Island of the Kormandorski couplet or group in the North Pacific Ocean, to the meridian of one-hundred-ninety-three degrees west longitude, as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian.

(2) That the President is requested to impose, within the full areas of extended fisheries jurisdiction, a conservation moratorium on commercial fishing, other than U.S. and Canadian, until such time that conservation rules and regulations are worked out on a permanent basis with the nations involved, or, when it is determined that a particular fish is in no danger of commercial depletion.

(3) That the President be requested to mobilize whatever resources as may be necessary to enforce the moratorium.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 173

At the request of Mr. MCINTYRE, the Senator from Florida (Mr. GURNEY) was added as a cosponsor of Senate Resolution 173, directing the Securities and Exchange Commission to examine its rules and regulations and make such amendments as may be appropriate in order to reduce any unnecessary reporting burden on broker-dealers and help to assure the continued participation of small broker-dealers in the U.S. securities markets.

LEGAL SERVICES CORPORATION ACT—AMENDMENTS

AMENDMENTS NOS. 777 THROUGH 796

(Ordered to be printed and to lie on the table.)

Mr. BROCK submitted 20 amendments intended to be proposed by him to the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services Program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 767

At the request of Mr. BUCKLEY, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of amendment No. 767, intended to be proposed to the bill (S. 1283) to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development corporations to demonstrate technologies for shale oil development, coal gasification development, advanced power cycle development, geothermal steam development, and coal liquefaction development; to authorize and direct the Secretary of the Interior to make mineral resources of the public lands available for said development corporations, and for other purposes.

ANNOUNCEMENTS OF HEARINGS ON MILITARY ASSISTANCE TO ISRAEL

Mr. ROBERT C. BYRD. Mr. President, at the request of the chairman of the Committee on Foreign Relations, I wish to announce that hearings will be held by that Committee on December 13 on S. 2692, a bill to authorize military assistance to Israel. The hearings will begin at 10 a.m. in room 4221 of the Dirksen Senate Office Building when executive branch witnesses will be heard. Outside witnesses will be heard at the afternoon session beginning at 2:30 p.m.

NOTICE OF HEARING ON NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, at the request of Senator EASTLAND, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, December 13, 1973, at 10:30 a.m., in room 2228, Dirksen Office Building, on the following nominations:

Albert J. Engel, of Michigan, to be U.S. Circuit Judge for the Sixth Circuit, vice W. Wallace Kent, deceased; and

Russell James Harvey, of Michigan, to be U.S. district judge for the eastern district of Michigan, vice Ralph M. Freeman, retired.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND) chairman; the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from Nebraska (Mr. HRUSKA).

ANNOUNCEMENT OF HEARINGS BY THE DISTRICT OF COLUMBIA COMMITTEE

Mr. EAGLETON. Mr. President, the Senate Committee on the District of Columbia has scheduled a public hearing at 9:30 a.m., Wednesday, December 12, 1973, in room 6226, Dirksen Senate Office Building, on the following bills:

S. 1243, to permit the Capital Yacht Club of the District of Columbia to borrow money without regard to the usury laws of the District of Columbia;

S. 1986, to amend the Act of March 16, 1926 (relating to the Board of Public Welfare in the District of Columbia), to provide for an improved system of adoption of children in the District of Columbia;

S. 2262, to amend the District of Columbia Minimum Wage Act so as to enable airline employees to exchange days at regular rates of compensation, and for other purposes,

H.R. 6186, to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies, banks, and other savings institutions,

H.R. 6758, to amend chapter 33 of title 28 of the District of Columbia Code, relating to usury, and for other purposes,

H.R. 10806, to amend the District of Columbia Minimum Wage Act so as to enable airline employees to exchange days at regular rates of compensation, and for other purposes, and

H.R. 11238, to amend the Act of March 16, 1926 (relating to the Board of Public Welfare in the District of Columbia), to provide for an improved system of adoption of children in the District of Columbia, and for other purposes.

Persons wishing to present testimony on any of these bills should contact Mr. Robert Harris, staff director, Senate Committee on the District of Columbia, room 6222 Dirksen Senate Office Building, by the close of business on Monday, December 10, 1973.

ADDITIONAL STATEMENTS

ESTABLISHMENT OF THE LYNDON BAINES JOHNSON MEMORIAL GROVE

Mr. HUMPHREY. Mr. President, I am honored to be listed as a cosponsor of Senate Joint Resolution 178, with Senators BENTSEN, AIKEN, and GOLDWATER, introduced yesterday for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac.

The intent of this resolution is to establish a living memorial to the 36th President of the United States, under whom I was privileged to serve as Vice President and whom many of us in the Senate remember as a beloved colleague and an outstanding leader in the history of this legislative body.

The memorial grove would be developed within the area along the Potomac shoreline that has been designated as Lady Bird Johnson Park, in recognition of the well-known efforts by the widow of the late President, while she was First Lady and since, toward the beautification and enhancement of this Nation's environment.

As Mr. BENTSEN pointed out in introducing this resolution on Thursday, the memorial will not cost the public a cent. But I am sure it will give much in pleasure and enjoyment to the American people, by further enhancing the view of their Nation's Capital from the park.

Mr. President, Mrs. Johnson has approved the plan for this memorial, and I am sure that when it is completed it will reflect her fine esthetic tastes. I respectfully urge the support of my colleagues for this resolution, to permit prompt completion of the Lyndon Baines Johnson Memorial Grove.

I ask unanimous consent to have printed in the RECORD the text of the resolution.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 178

Whereas friends and admirers of the late President Lyndon Baines Johnson wish to pay tribute to him by developing a living memorial in the form of a Lyndon Baines Johnson Memorial Grove on the Potomac and have formed a Committee, in cooperation with The Society for a More Beautiful National Capital, Inc., a non-profit corporation established under the laws of the District of Columbia on April 21, 1965, to that end;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to cooperate with the Committee for a Lyndon Baines Johnson Memorial Grove on the Potomac and The Society for a More Beautiful National Capital, Inc., in developing an appropriate memorial in the form of a living grove of trees and related facilities to honor Lyndon Baines Johnson, the 36th President of the United States.

SEC. 2. The grove shall be located on a portion of the land designed by the Secretary of the Interior on November 12, 1968, as Lady Bird Johnson Park, Washington, D.C. The design of the grove shall be subject to the approval of the National Capital Planning Commission and the Commssion of Fine Arts.

U.S. SECURITY ISSUES IN EUROPE

Mr. MATHIAS. Mr. President, Senator STUART SYMINGTON, the chairman of the Foreign Relations Subcommittee on U.S. Security Agreements and Commitments Abroad, released an extraordinarily perceptive report on December 2, written by two members of his staff, James G. Lowenstein and Richard M. Moose. This report entitled "U.S. Security Issues in Europe: Burden Sharing and Offset, MBFR and Nuclear Weapons," is based on a 3-week investigation of our security commitments in Europe. NATO is our most important security commitment and the Symington-Moose-Lowenstein report is the best available assessment of the present state of the alliance. The report addresses three and perhaps the most crucial questions which face the United States and fellow members of the alliance. In my view, how the United States meets the questions of burden sharing, MBFR, and the future disposition of nuclear weapons in Europe will in large measure determine NATO's future role. Because of the importance of the report, I ask unanimous consent that the conclusions of the report and some press commentary on the report be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SECURITY ISSUES IN EUROPE: BURDEN SHARING AND OFFSET, MBFR, AND NUCLEAR WEAPONS

A staff report prepared for the Use of the Subcommittee on U.S. Security Agreements and Commitments Abroad, September 1973

LETTER OF TRANSMITTAL

NOVEMBER 26, 1973.

Hon. STUART SYMINGTON,
Chairman, Subcommittee on U.S. Security Agreements and Commitments Abroad, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The attached report was prepared after we returned on October 4 from three weeks in Europe where we examined, at the Subcommittee's request, questions relating to our security commitments to Europe. While there are obviously many such questions, we have concentrated in this report on three specific interrelated issues: burden sharing and offset negotiations, the negotiations on Mutual Balanced Force Reductions (MBFR) and nuclear weapons in Europe.

Before leaving we were briefed in the Departments of State and Defense and the Central Intelligence Agency. In Europe we met with the American Ambassadors to the European Economic Community, Belgium and Germany and the U.S. Permanent Representative to the North Atlantic Council, and members of their staffs; General Andrew Goodpaster, the Supreme Allied Commander in Europe and Commander in Chief of U.S. Forces in Europe, and members of the SHAPE staff; Joseph Luns, Secretary General of NATO; a number of other Ambassadors to NATO; Emile Noel, Secretary General of the European Economic Commission, Sir Christopher Soames, Vice President of the Commission and other Commission officials; members of the NATO Military Committee; the Deputy Commander of U.S. Forces in Europe, the Commanders of the U.S. Air Forces and Army in Europe, the Seventh U.S. Army Corps Commander in Germany, and members of their staffs; Belgian, German and French defense and foreign office officials; and various other knowledgeable American and foreign observers, including academicians and journalists.

Following completion of this report, which was originally classified, a review was begun on November 5 at your request in order to determine what deletions should be made for security reasons before the report was published. That review, in which officials of the Departments of State and Defense participated, was completed on November 26 and the deletions made are so indicated.

Sincerely yours,

JAMES G. LOWENSTEIN,
RICHARD MOOSE.

V. CONCLUSIONS

The negotiations on offset, burden sharing and MBFR test two current central assumptions of U.S. policy in Europe. Offset and burden sharing test the viability of the NATO commitment to collective defense. The MBFR negotiations test the reality of detente.

Offset negotiations with the German govment are, of course, nothing new. But this time the political context in which they are set is different. With the confidence their economic success and political achievements have brought, German officials are for the first time questioning U.S. cost figures. While apparently willing to do about what they have done in the past to defray some of the U.S. balance of payments costs incurred in their own country and to defer most of the remainder, they seem firm in their determination not to be pressured into going much further, and they appear to be approaching irritation over the multiple and continuous financial demands which they face from the United States. At the same time the Germans are acutely aware that U.S. sentiment is shifting more strongly in favor of U.S. force reductions.

The burden sharing negotiations call into question the willingness and ability of the allies, other than Germany, to absorb the cost of maintaining U.S. ground forces in Europe. The attempt to extract budgetary assistance from these NATO countries is being pursued by the United States but, given the perception of these governments of their own political and budgetary limitations, this attempt is unlikely to produce even the $130 million incremental budgetary cost involved in this fiscal year. The possibility that the allies other than Germany might be able to offset the military balance of payments deficit incurred by the United States in their own countries—a deficit in this fiscal year estimated at somewhere between $600 million and $1.4 billion—seems even more unlikely. Some of them, for example the British and the Belgians, already have military payments deficits as a result of the stationing of their own forces in Germany, and such devices as large arms purchases and loans which the Germans have used to provide offsets are not practical possibilities in their cases.

Furthermore, the allied governments find it difficult to take the attempt to share the incremental budgetary cost seriously on its economic merits because, first of all, they have for years heard the argument used in Congressional debates that it costs less for the United States to maintain forces in Europe than at home and, secondly, because even the $440 million incremental U.S. budgetary cost seems small in relation to the total U.S. defense budget. Nevertheless, the Europeans are concerned about the prospect of any significant reduction in U.S. forces, for they regard U.S. ground troops as the link to the American strategic deterrent as well as the factor which validates the argument they have used with their own publics that they should maintain forces, an argument which they fear could not be sustained were a significant and constant number of U.S. forces not present.

In both the offset and burden sharing negotiations, then, the ultimate concern of Europeans is that U.S. forces will be reduced unilaterally. To the extent that we emphasize this possibility in these negotiations, however, our position in the MBFR negotiations is weakened. Our position in the MBFR negotiations is also constrained by the fact that any result achieved must meet the full approval of our NATO allies or we will have failed to meet one of our basic objectives which is not to harm allied solidarity and confidence. But the allies generally are apprehensive about the negotiations, regarding them as a way for the U.S. Executive Branch to stave off Congressional pressures for troop reductions and therefore as negotiations which, from their point of view, do not necessarily have to produce a result. Hence they will only approve positions to be taken in the negotiations that the Soviets may well consider to be advantageous to the West and disadvantageous to them. The United States thus faces the difficult task of developing proposals that are both acceptable to the allies and negotiable with the Soviets.

To many in the United States, European willingness to make a greater contribution to the maintenance of U.S. forces in Europe is regarded as a primary index of the devotion of the European NATO countries to the principle of common defense. On the other hand, while they accept the necessity of some greater effort on their part, Europeans appear to believe that the United States must acknowledge that its own national interests are served by the maintenance of significant conventional forces in Europe regardless of what the Europeans do to support them. They also believe that the American willingness to acknowledge European concerns is, in turn, a measure of our willingness to make the alliance a true partnership and not only an instrument of U.S. policy.

Despite the apparent public desire in Europe to believe in detente, European leaders are highly dubious that long term Soviet intentions have changed or that the Soviets are entering the MBFR negotiations in good faith. Nevertheless, the possibility of stabilizing the central European military equation at lower levels of risk and expenditure has obvious appeal. Furthermore, if it is likely, as many European leaders believe, that the United States will in any event withdraw major forces within the next few years, it seems to them only sensible to seek compensatory reductions of Soviet forces, provided that this process can be accomplished without lowering the tactical nuclear threshold or undermining the credibility of the American strategic deterrent.

In connection with the last of these concerns, in almost every meeting we had with European officials, whether on offset and burden sharing or on MBFR, they emphasized the importance of maintaining the linkage between NATO's strategy of flexible response and the U.S. strategic deterrent, the attitude of Europeans, particularly the Germans, about the relationship of tactical nuclear weapons to flexible response continues to be highly ambivalent. As a means of lending credibility to the conventional deterrent, they accept tactical nuclear weapons as a theoretical concept and recognize that the ambiguity in NATO nuclear doctrine enhances the allied deterrent because potential adversaries do not know under what circumstances nuclear weapons would be used. But the thought that tactical nuclear weapons might actually be used in central Europe is far more difficult for them to accept. Hence the extreme German sensitivity regarding ADM's and mini-nukes.

In the United States more attention is devoted to the cost and size of U.S. ground forces in Europe than to the implications of the presence of U.S. nuclear weapons there, in part because of the lack of public knowledge. As a result public understanding or evaluation of such critical factors as the relationship between ground forces and nuclear weapons in Europe is severely inhibited. Yet the security of the United States itself is inextricably linked to nuclear weapons in Europe, first of all because the weapons are American, and secondly, because their use perhaps could, and more probably would, involve U.S. strategic nuclear forces and thus, in turn, inevitably produce a U.S.-Soviet nuclear exchange.

[From the New York Times, Sunday, Dec. 2, 1973]

UNITED STATES-NATO CLASH ON COSTS IS SEEN

(By David Binder)

WASHINGTON, December 1.—A high State Department official said today that he believes the United States is heading for a major clash with its North Atlantic allies over sharing the financial burden resulting from the stationing of American troops in Europe.

The official said that the balance of payments deficit, the difference between what the United States spends overseas and what it receives from imports, is expected to reach $600-million to $1.4-billion in 1974.

"I think we are moving toward the most serious confrontation the alliance has ever seen," the official said, "because the Administration is demanding full compensation for balance-of-payment losses resulting from having troops in Europe, and the Europeans simply are not going to pay it."

The official referred to estimates of the United States deficit released today in a Senate Foreign Relations subcommittee report on security commitments abroad.

WRITTEN BY CONSULTANTS

The report was written by two staff consultants, James G. Lowenstein and Richard M. Moose, after three weeks in Western Europe. The estimates of the deficit were reluctantly declassified by the State and Defense Departments.

Since June Secretary of Defense James R. Schlesinger has been telling North Atlantic Treaty Organization countries that the United States expects all its $2.5-billion deficit in outlays related to European defense to be covered by the Europeans.

Included in the $2.5-billion for 1974 is $440-million in increased costs, which Mr. Schlesinger is seeking the allies to pay directly. He is expected to take this up next week at the annual meeting of NATO ministers in Brussels.

NEW PRESSURE ON BONN

West Germany, traditionally the only European ally to make substantial contributions toward offsetting the deficit caused by the stationing of 309,000 American servicemen in Europe, is again being asked to pay heavily.

Bonn is negotiating an agreement with Washington, in which it expects to contribute more than $1-billion toward offsetting the American deficit. Washington also expects the West Germans to provide $310-million of the extra $440-million.

The remaining $130-million is supposed to come from the other Europeans, Mr. Schlesinger has said, although some of these allies have described this as a paltry demand from a country that spends $80-billion a year on its military establishment.

But even this projected easing of the American deficit leaves a huge gap, the Lowenstein-Moose report makes clear, and none of the proposals for additional assistance seem likely to fill it.

NEW PROPOSAL BY UNITED STATES

The State Department official predicted that the confrontation on the deficit would principally revolve around American demands that West Germany participate in a new alliance-wide plan for sharing costs that was proposed by Mr. Schlesinger.

Bonn has stiffened its resistance to these new demands, pointing out that besides paying the lion's share of such costs already, it has made additional sacrifices, including supporting the falling United States dollar in the form of revaluation of the mark, and acceptance of dollar devaluations. As a result, the Moose-Lowenstein report notes, German monetary reserves have decreased $10-billion since October, 1969.

[From the Washington Post, Dec. 2, 1973]

SENATE REPORT ANALYZES U.S. NUCLEAR FORCE IN EUROPE

(By Murrey Marder)

American nuclear warheads are stored in more than 100 special ammunition sites in Western Europe under heavy guard, floodlit at night, with some weapons always loaded for atomic blasts, a Senate staff study reported yesterday.

The attempt to make public the nuclear facts of life at the threshold of potential U.S.-Soviet nuclear war, in Europe, emerged in Swiss-cheese format, massively censored. Despite tantalizingly heavy deletions, however, the report is the fullest accounting so far officially cleared on the pervasive military, diplomatic and psychological implications resulting from the presence of about

7,000 American nuclear weapons in Europe for defense of the Atlantic Alliance.

About 11½ censored pages of nuclear weaponry survived in a 27-page report on U.S. security issues in Europe, made public by the Senate Foreign Relations subcommittee on security agreements and commitments abroad. It is based on a three-week study in Europe in September by staff members James G. Lowenstein and Richard M. Moose.

In issuing the report, subcommittee chairman Stuart Symington (D-Mo.) said, "The relationship of the United States with its European allies is presently under greater stress than at any time in the recent past." He recalled that on Oct. 25 the world suddenly found U.S. nuclear forces in Europe and throughout the world "placed on alert in response to Soviet moves in the Middle East—apparently with little notice to our allies."

Symington said neither his committee, nor the public, ever before has been given "any comprehensive picture of our nuclear deployments in Europe . . ." Despite heavy censorship, he said, the current report significantly helps break down past "arbitrary barriers to information."

The published account shows:

A 7,000 figure on U.S. nuclear warheads in Europe, first used by then Defense Secretary Robert S. McNamara in 1966, has varied up and down since, but is still the best public approximation available. The original figure covered only land-based tactical nuclear warheads in Europe, excluding warheads for bombers of the Strategic Air Command or warheads carried aboard ships at sea.

As of July 31, land-based nuclear warheads were "stored at over 100 special ammunition sites" in Western Europe. One-third of them are for use by American forces and two-thirds for allied forces, but all "are kept in the custody of the United States. . ."

In a typical North Atlantic Treaty Organization storage site, the warheads are in storage igloos or maintenance and assembly buildings. "The site is surrounded by a double perimeter fence which is floodlit at night." U.S. forces control entry to the storehouses, with the outer perimeter guarded by the user nation.

"Some weapons, both American and foreign, with nuclear warheads are kept loaded at all times on quick reaction alert (or 'QRA,' as they are known)." The number of aircraft, missiles and Polaris and Poseidon missile-firing submarines on armed alert depends on the force level being maintained.

At a site the Senate staff members visited, they asked whether the U.S. officers controlling release of allied plans armed with nuclear weapons "could prevent the allied pilot from dropping his nuclear bomb once his plane was airborne." The answer was censored from the report. (Other sources yesterday indicated that if necessary in emergency, such a plane could be ordered shot down.)

Although the United States first initiated the stockpiling of tactical nuclear weapons in Europe in 1957, it was not until 1967 that the United States "agreed to inform countries of the details of the nuclear weapons stockpiled in their territory or stockpiled elsewhere for the use of their forces."

Atomic demolition munitions (ADMs), to be used to block valleys, mountain passes, or other entry points to allied territory in Europe, are handled by teams of five or six men. West Germany, whose public is highly sensitive to the use of such explosives since controversy over them broke out a decade ago, permits no "prechambering" of holes to implant ADMs. But European nations have "chambers for conventional explosives" that can be used for atomic munitions, although they would result in greater fallout because they are shallower than special ADM chambers.

As previously known, in NATO there are "over 2,000 U.S. and other NATO forward-based nuclear capable aircraft." NATO countries also have, in addition to such aircraft, Honest John missiles, Pershing missiles, and 155-mm and eight-inch howitzers that can fire nuclear shells.

What the report underscored by its disclosures is what is widely known in Europe but realized by relatively few Americans: to a great degree. Europeans are hostages to American decisions for their defense, which means they are also hostages to the vagaries of American politics which determine who will make the decisions in the White House. This is a major reason why the Watergate scandals, while they registered late on European consciousness, have become a continuing sensation there.

The Senate report stated that basic NATO strategy for both conventional and nuclear warfare is set forth in a document known colloquially by its serial number as "14/3," dated Jan. 16, 1968. This establishes the doctrine of "nuclear deterrence, forward defense and flexible response," informally accepted several years earlier substituting for a strategy based on massive nuclear retaliation. The Kennedy administration first initiated the strategy shift.

If "deterrence" fails to prevent war, the present doctrine holds out three levels of military responses.

They are defined in the report as first, "direct defense—that is, defeating the enemy on the level at which he chooses to fight, a concept which includes the use of such available nuclear weapons as may be authorized either on a pre-planned or case-by-case-basis."

Second is "deliberate escalation which seeks to defeat the aggressor by deliberately raising, but where possible controlling, the scope and intensity of combat, making the cost and risk disproportionate to the aggressors' objectives and the threat of nuclear response progressively more imminent."

"The third kind of military response," the report relates, "is general nuclear response—that is, massive nuclear strikes against the total nuclear threat, other military targets and urban industrial targets. General nuclear response is considered to be the ultimate deterrent and, if used, the ultimate military response."

But a general nuclear response under NATO strategy, the report emphasizes, can be undertaken only in conjunction with the U.S. Joint Chiefs of Staff plan for the widespread synchronized use of U.S. nuclear weapons. This doubly emphasizes U.S. control of NATO's ultimate strategy.

A NATO nuclear planning group is drawn from all 15 NATO countries except France, Iceland, Portugal and Luxembourg—which are the nations where no U.S. nuclear stockpile exist. A request to use nuclear weapons, the report relates, goes to the broader defense planning committee, composed of all NATO nations except France, which took itself out of the NATO military system, but remains in the alliance.

"The release of nuclear weapons," the report relates, "can only be authorized by the President of the United States (or, for British weapons, the British prime minister). Before releasing or ordering the use of nuclear weapons in Europe, the President is bound to consult if time and circumstances permit."

The estimated interval in time of crisis to complete the consultation process and authorize the firing of nuclear weapons is deleted from the report.

In a section of the report discussing the British and French nuclear forces, based on "unofficial unclassified sources," the report notes that Britain's nuclear force has American strings on it because the United States "provides support for the British forces," including the fuel used in the nuclear propulsion plants of its four Polaris A-3 submarines. Britain also had a force of 56 nuclear-capable Vulcan bombers as of 1971, but they are being gradually phased out.

France's nuclear force, the report pointed out, "is far more diversified than the British and is not dependent on the United States." It includes two submarines, with three more due by 1979, a force of intermediate-range missiles capable of reaching Moscow, Mirage nuclear bomb-carrying aircraft and tactical guided missiles.

"In the last analysis," the study found, "the Germans and the other European governments place their greatest faith in the U.S. strategic deterrent—to which, in their view, the presence of U.S. ground forces provides the essential link—and they do not want any European arrangement which might loosen the link to the U.S. strategic deterrent."

[From the New York Times, Dec. 2, 1973]

EUROPE DEEPLY INSECURE OVER U.S. TROOP PLANS

(By John W. Finney)

WASHINGTON, December 1.—The North Atlantic Treaty allies have agreed upon a strategy providing that any large-scale use of nuclear weapons by forces within Europe should be accompanied by strikes by United States forces stationed outside Europe, a report by the staff of the Senate Foreign Relations Committee disclosed today.

A clear implication of this NATO strategy is that "a general nuclear response" by the tactical forces of the European allies would not be limited to Europe, but would include strikes against the Soviet Union by United States missiles and planes.

The strategy thus forges a direct link between the so-called tactical nuclear weapons that the United States has in Europe to deter a conventional Soviet attack and the strategic weapons deployed around the world to deter a nuclear war between the United States and the Soviet Union.

As a result, the staff report observed, "the security of the United States itself is inextricably linked to nuclear weapons in Europe, first of all because the weapons are American, and secondly because their use perhaps could, and more probably would, involve United States strategic forces and thus, in turn, inevitably produce a United States-Soviet nuclear exchange."

There had been persistent doubts in Europe that the United States would risk nuclear retaliation against its territory by attacking Soviet targets in the event of a Soviet attack on Europe. In recent months, the report observed, "this concern has been aggravated by the growing belief among Europeans that the United States is prepared to deal over their heads on security matters with the Soviet Union."

The nuclear strategy developed by the North Atlantic Treaty Organization was described in a staff report prepared by James G. Lowenstein and Richard M. Moose for Senator Stuart Symington, Chairman of the Senate Foreign Relations subcommittee on United States security agreements and commitments abroad. While heavily censored by the State and Defense Departments, the report provides probably the first official and public description of the options the allies have agreed upon for using nuclear weapons.

SOME DETAILS REVEALED

In an area in which, as Senator Symington said, only limited and fragmentary information has been given Congress and the American people, the report provided the following details about the American nuclear weapons that have been stockpiled in Europe for more than 15 years:

The weapons are stored at more than 100 sites in Europe guarded by American troops. About a third of the sites are for weapons to be used by United States forces, the remaining two-thirds for weapons to be used by allied forces in the event of war.

About 80 per cent of the more than 7,000 warheads can be used for offensive or defensive purposes, such as bombs for fighter-bombers, missile warheads or artillery shells. The remaining 20 per cent are purely defensive weapons, such as for surface-to-air missiles, demolition mines and antisubmarine devices.

Some allied aircraft on "quick-reaction alert" are loaded with atomic weapons supplied by the United States, supervised by American guards who are under orders not to permit the aircraft to move "unless a properly authenticated release order is given him." Deleted from the report was an examination of whether the United States has any form of positive control to prevent a foreign pilot from dropping a nuclear bomb once his aircraft is airborne.

The United States has atomic-demolition teams—each team with five or six men—in West Germany and Italy. The mission of the teams is to place atomic mines at critical points, such as mountain passes. But the report noted that such mines present "a particularly sensitive question" to the European allies, especially West Germany, "because their use would require an early decision to escalate to nuclear weapons and because they would presumably be used in friendly areas before the arrival of the enemy." The West German Government has refused permission for the digging of holes in which the mines could be implanted.

The European allies are not enthusiastic about the effort of the American military to deploy "mini-nukes"—a new series of tactical weapons with reduced yields and enhanced capability for killing by radiation. The European concern is that the deployment of the weapon would significantly lower the nuclear threshold and could lead to reduction of American conventional forces.

TWO DOCUMENTS STUDIED

The NATO nuclear strategy is spelled out in two documents, which are paraphrased at length in the Senate report.

One document is entitled "Over-all Strategic Concept for the Defense of the NATO Area," dated Jan. 16, 1968. It formalized the shift away from the strategy of massive retaliation to the doctrine of flexible response, in which the allies would have both conventional and nuclear capability to deal with a Soviet attack.

The alliance's nuclear policies are defined in a second document entitled "Concepts for the Role of Theater Nuclear Strike Forces in ACE (Allied Command Europe)," originally adopted by the North Atlantic Council in 1970 and revised in 1972.

On the basis of this document, the report says the NATO headquarters has drawn up what is called a general strike plan and lists of targets.

The general strike plan provides for two categories of nuclear warfare—selective use and general response.

Both levels of nuclear warfare require consultations among the allies as well as the approval of the President of the United States. But the report says that within the selective category the Supreme Allied Commander in Europe, who has always been an American general, has "the capability for deliberate escalation with which he can expand the scope or intensity of combat in order to strengthen his defensive effort or to insure the survival of his forces within the scope of the authority the President has authorized him to use."

The clear implication is that once the Supreme Allied Commander has been authorized by the President to make selective use of nuclear weapons, he has a certain discretionary authority to determine how broadly to use the weapons.

THREAT OF ESCALATION

According to the report, NATO strategy "specifies that selective employment would be used on a controlled or limited scale either for demonstrative or tactical purposes" to confront the aggressor with the risk of escalation so that he would halt the attack.

Under the selective concept, the nuclear weapons could be used in the immediate area of the attacking force or on a broader "theater" basis, with attacks on such targets as supply lines. "Theater nuclear warfare," as it is called, is the ultimate level of nuclear warfare that the Supreme Allied Commander would be authorized to conduct subject to Presidential approval, the report said.

Should selective warfare fail or be impractical, the report said, the general strike plan provides for "general nuclear response," which contemplates "massive nuclear strikes against targets [deleted by censors] in order to [deleted]."

COORDINATED ATTACK

Despite the heavy censorship in this phase of the report, it was apparent that the plans for general nuclear response call for a coordinated attack by the 2,000 allied tactical aircraft in Europe and the strategic forces of the United States.

"The general nuclear response would not be undertaken by theater nuclear strike forces alone but only in conjunction with the execution of the United States Joint Chiefs of Staff plan for the widespread synchronized use of United States nuclear weapons in an all-out war," the report said.

"Accordingly," the report continued, "responsibility for carrying out NATO's general nuclear response falls on United States strategic forces based outside Europe."

Furthermore, it said, the targets to be struck in a general nuclear response have been coordinated with the United States target list maintained by the Joint Strategic Targeting Center at Omaha, Neb.

[From the Washington Post, Dec. 2, 1973]

FURTHER STRAIN SEEN FOR NATO ALLIANCE

(By Dan Morgan)

A Senate staff study released yesterday foreshadows continued strains in the Atlantic alliance resulting from the costs of maintaining U.S. forces and installations in Europe.

The study also details for the first time the intricate link between this issue, which has plagued the alliance for a decade, and the East-West discussions on mutual force reductions.

While these East-West talks make the Europeans "apprehensive," the study reports that it is "unlikely" that they will come forward with any major new contributions to help the United States keep up its force levels.

The report estimates that the American balance-of-payments deficit caused by stationing forces in Europe will be between $600 million and $1.4 billion after various European offsetting financial and commercial deals are figured in.

The Europeans "appear to be approaching irritation over the multiple and continuous financial demands which they face from the United States," it declares.

While this may provoke new American calls for the Europeans to do more to share the Western defense load, the study spells out European arguments against this. In this respect, the study could buttress forces in Congress which, like the Europeans, are opposed to any unilateral American reductions on the Continent.

"Europeans appear to believe that the United States must acknowledge that its own national interests are served by the maintenance of significant conventional forces in Europe regardless of what the Europeans do to support them," it says.

The study notes that the additional annual costs the Defense Department incurs by stationing the forces in Europe rather than in the United States—an estimated $440 million—are "small in relation to the total U.S. defense budget."

Also, the report suggests that traditional methods for offsetting some of the American balance-of-payments drain—arms purchases and loans—are not as practical as they once were.

Even as the report was being released, top American officials were suggesting that the Europeans might do more. Defense Secretary James R. Schlesinger said Friday that while European support for NATO is increasing, "The European nations have been inclined to provide the minimum support necessary to maintain the United States commitment to the defense of Europe."

However, the Senate staff study suggests that there is resistance in Europe.

The allies "seem firm in their determination not to be pressured into going much further," it writes.

The study, written by James G. Lowenstein and Richard M. Moose for the Senate Subcommittee on U.S. Security Agreements and Commitments Abroad, was heavily censored before publication. The most heavily deleted section deals with the alliance's negotiations with the Soviet Union and its allies over reducing forces in East and West Europe.

However, it reveals that lengthy, secret negotiations with the allies preceded the negotiations with the Soviets.

The United States sent its allies two notes, on April 30 and July 27, setting down its position for the coming talks. On Sept. 13, NATO completed a document with a formal negotiating stand for the talks which began in Vienna in October.

Many European officials regard the East-West talks as a means for the U.S. government to stave off congressional pressures for troop reductions, the report says.

West Germany is mainly interested in a process that would enable it, in a second round, to cut back its own defense forces in line with Chancellor Willy Brandt's policy of relaxation in Central Europe.

Britain is most opposed to the negotiations, says the study. Having just made the difficult decision to associate itself more closely with Europe, it does not want to see Soviet influence increased on the Continent.

France feels the talks cast further doubt on the sincerity of the U.S. commitment to defend Europe. It has ruled out any reduction of its own forces, including the 50,000 troops it stations in West Germany.

Greece and Turkey are concerned that a thinning out of forces in the north would increase Soviet pressures in the south. Holland and Belgium, both of which station small numbers of troops in Germany, are interested in reducing their own forces in a second round.

The authors do not outline what they think may be the Soviet interest in the force reduction talks.

Analysts usually say that Soviet motives combine a desire to continue détente with the United States, reduce West German forces, increase dissension in NATO and secure a cutback of NATO's tactical air force units capable of striking the Soviet Union.

Frictions over financing the alliance long predate the latest flare-up between the United States and Europe over conflicting Middle East policy. The frictions persist even during the delicate negotiations with the Soviets on force reductions.

A new element has been added this year in the U.S. demands that the Europeans pay the extra costs this country incurs by stationing forces abroad instead of at home. West Germany is expected to cover all but $130 million of this.

The Senate staff study says there is "some chance" that the other NATO allies will pick up this remainder—implying that this issue is far from resolved and may yet cause more Atlantic frictions.

SUPPORT VOICED FOR NEW HAMPSHIRE LEGAL ASSISTANCE

Mr. McINTYRE. Mr. President, as the Senate prepares to consider the bill which would establish a National Legal

Services Corporation, I believe it is important to give my colleagues an indication of the widespread support the current legal services program has received in my State of New Hampshire.

New Hampshire legal assistance has been in existence since 1966, and in that period has represented a significant number of poor people in New Hampshire. Last year alone, NHLA handled more than 6,000 cases, ranging in subject matter from family problems to consumer cases to housing.

According to the program's 1972 annual report, NHLA has as its purpose "to seek social justice through the legal procedures and institutions of our society." This goal is achieved in two ways: By providing individual counsel on a case-by-case basis, and by attempting, through legal challenges connected with cases, to attack the problems that underlie the symptoms of poverty.

Of course, any challenge to the "establishment" or to the status quo brings complaints and hostility from some. But it is a credit to New Hampshire legal assistance that it has, in its 7 years of existence, built a solid reputation for providing competent legal representation and a high level of service to the people of the State.

In fact, the program has won well-deserved praise and support from the legal profession, members of the judicial branch and members of the legislature.

Supporters include the New Hampshire Bar Association, the Judicial Council of New Hampshire, bar associations of Sullivan and Merrimack Counties, the Manchester Bar Association, the Nashua Bar Association, Operation Low Income People.

Mr. President, I ask unanimous consent that a number of letters and resolutions expressing support for New Hampshire legal assistance be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEW HAMPSHIRE BAR ASSOCIATION—RESOLUTION*

Whereas, there is a continuing need for legal service for the poor in New Hampshire.

Whereas, there is a federally funded legal service program to meet this need in New Hampshire.

Whereas, this program is facing an expanding demand for legal services and also facing increased operating expenses.

Whereas, the funding for this program has not increased since 1970 is spite of the increase in demand and operating expenses.

Whereas, this Association continues to support the need for adequate legal services to the poor and the need for vital and independent programs to provide this representation.

Now therefore, It is resolved:

1. The United States government should increase the level of funding of New Hampshire Legal Assistance to enable it to provide adequate legal services to eligible clients and to prevent a serious deterioration of the quality and quantity of service because of increased expense and mounting caseload.

2. Governments at all levels and lawyers from both the public and private sectors should take every step necessary to insure that legal services lawyers remain independent from political pressures in the cause of representing clients.

3. The Congress of the United States should enact a legal service corporation of a design consistent with the foregoing principles and the need to maintain full and adequate legal services for the poor.

RESOLUTION OF THE JUDICIAL COUNCIL OF THE STATE OF NEW HAMPSHIRE

On motion of Judge Kenison, duly seconded, the following resolution was unanimously adopted:

Resolved: That the Judicial Council hereby records its continuing support of the work of New Hampshire Legal Assistance, declares that the services being rendered by New Hampshire Legal Assistance to the poor of this State are vital to realization of the ideal of equal justice, and, recognizing that providing legal representation to the poor is an obligation of society, urges that the work of New Hampshire Legal Assistance be more adequately funded by the Federal Government.

MERRIMACK COUNTY BAR ASSOCIATION RESOLUTION

Whereas the Board of Governors of the New Hampshire Bar Association unanimously resolved, on January 25, 1973, that:

"1. The United States government should increase the level of funding of New Hampshire Legal Assistance to enable them to provide adequate legal services to eligible clients and to prevent a serious deterioration of the quality and quantity of services because of increased expenses and mounting case loads.

2. Governments at all levels and lawyers from both public and private sectors should take every step necessary to insure that legal services lawyers remain independent from political pressures in the cause of representing clients.

3. The Congress of the United States should enact a legal services corporation of a design consistent with the program's principles and the need to maintain full and adequate legal services for the poor."

Now therefore be it resolved that the Merrimack County Bar Association endorses the resolution of the New Hampshire Bar Association, acknowledges that New Hampshire Legal Assistance has and continues to provide a necessary service for the indigent citizens of Merrimack County, and expresses its hope that New Hampshire Legal Assistance will continue serving Merrimack County.

MANCHESTER BAR ASSOCIATION RESOLUTION

Whereas, there is a continuing need for legal services for the poor in Greater Manchester.

Whereas, there is a federally funded legal service program, New Hampshire Legal Assistance to meet this need in Greater Manchester.

Whereas, this association continues to support the need for an independent program to provide adequate legal services to ensure that all receive equal justice under the law.

Now therefore, it is resolved:

1. Governments at all levels and lawyers from both the public and private sectors should take every step necessary to insure that the legal services program remains independent from political pressures in the cause of representing clients in any appropriate forum.

2. The United States Government and the State of New Hampshire should insure the continued funding of New Hampshire Legal Assistance to enable it to provide adequate legal services to eligible clients in the Greater Manchester area and to prevent a loss in the quality of service now being provided by said program.

3. The Manchester Bar Association recognizes and supports the vital necessity of New Hampshire Legal Assistance to continue providing legal services to the poor in this community.

NASHUA BAR ASSOCIATION RESOLUTION

Whereas the Board of Governors of the New Hampshire Bar Association unanimously resolved on January 25, 1973, that;

"1. The United States government should increase the level of funding of New Hampshire Legal Assistance to enable them to provide adequate legal services to eligible clients and to prevent a serious deterioration of the quality and quantity of services because of increased expenses and mounting case loads.

2. Governments at all levels and lawyers from both public and private sectors should take every step necessary to insure that legal services lawyers remain independent from political pressures in the cause of representing clients.

3. The Congress of the United States should enact a legal services corporation of a design consistent with the program's principles and the need to maintain full and adequate legal services for the poor."

Now therefore be it resolved that the Nashua Bar Association endorses the position of the New Hampshire Bar Association and expresses its support for the continuing efforts of New Hampshire Legal Assistance to provide representation for low-income people in Nashua.

As President of OLIP (Operation Low Income People), the only statewide poor peoples organization in New Hampshire, we wish to express our thoughts on the excellent record that New Hampshire Legal Assistance has demonstrated in serving New Hampshire's poor.

First, the state would be in a crisis if NHLA did not exist to aid the poor in solving their common problems. As the poor have no funds with which to retain an attorney, it would be a gerat loss to all if NHLA ceased.

Second, not only does NHLA help with individual cases but also broader issues on the state level. This has included important suits on behalf of low-income consumers, welfare recipients, prisoners, and disadvantaged tenants. To its credit, it has won many decisions which have bettered the lives of several thousands of the state's poor.

It is our understanding that NHLA is in the process of being refunded. It is imperative that not only NHLA continue in operation, but to be funded at an adequate level. We ask that you do everything in your power to insure that these two things happen.

FUEL

Mr. BROCK. Mr. President, reality is something which American's sometimes find very difficult to grasp. Our history tells us that America has faced numerous crisis, but generally, have solved them in the face of real adversity. Such a situation appears to be the energy crisis that we now face. Vermont Royster, writing in the Wall Street Journal, points out that 2 years ago, Congress was warned of an impending energy crisis. Mr. Royster also points out that President Nixon in April sent Congress several measures to work toward preventing a serious energy shortage. However, Congress, as we know so well, did nothing to help solve the problems which have now grown to monstrous proportions. Mr. Royster also points out that it is easy to place the blame for the crisis, but, to his credit, he concludes that to solve our problems, we have to go back to the age old problems solver, the marketplace itself, the law of supply and demand. I would ask unanimous consent that Mr. Royster's article be printed in the RECORD.

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*Passed unanimously by the Board of Governors of the New Hampshire Bar Association, January 25, 1973.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FROM WORSE, BETTER?

(By Vermont Royster)

One of the sad little rules of life seems to be that things have to get worse before they can get better.

We see it at work often in our private lives. It's a rare person who, feeling chipper, will harken to the doctor's advice to take off ten pounds, stop smoking, or change the diet; it takes those first twinges to promote better health measures. And since a democracy is people it's especially subject to the rule.

Examples abound. There are always a few who see the coming shadows—of war or inflation or whatever—and try to arouse the people to do something about it. Rarely will the many respond until the foreseen can be personally seen, and felt, in the painful present. Thus do we come to wars unprepared, or move against inflation only after it is rampant.

So it is now with the energy crisis. A great many people seem surprised that we have one, and cry out: Why didn't someone warn us? Why didn't somebody do something about it? Indeed, exactly those questions were put to President Nixon recently during his televised press conference with the newspaper editors. The implication was that the present crisis was allowed to sneak up on us all unheralded.

The facts are otherwise. For nearly two years the warnings have come repeatedly, not only from President Nixon but also from a few other prescient political leaders, including notably Senator Jackson, a leading Democrat. The trouble was that hardly anybody else paid attention.

As far back as the summer of 1971, for example, President Nixon sent a special message to Congress on the energy problem, the first such message, as he says, from any President. Re-read today his words have a phophetic ring.

"We cannot take our energy supply for granted any longer," the President began that message, citing the fact that even then soaring demand was outstripping the supply of oil. Hence, he concluded, "our efforts to expand the supply . . . must immediately be stepped up."

The measures he proposed then are familiar now to any newspaper reader. The development of nuclear power, expanding natural gas supplies, better use of coal, the development of oil resources in Alaska and the continental shelf, and a technological program to make other energy resources economically feasible, such as oil shale and geothermal energy.

Mr. Nixon returned to the subject in his State of the Union message last February and again in mid-April this year. The April warnings grew stronger: "If present trends continue unchecked, we could face a genuine energy crisis." He repeated his 1971 recommendations with an added plea for urgency on the Alaskan pipeline and added pleas for conservation in usage.

Mr. Nixon's voice was not the only one. In the private sector warnings came from the American Petroleum Institute. Across the political aisle in Congress Senator Jackson—this was in December, 1972—was saying, "I am convinced that development of a national energy policy is the most critical problem—domestic or international—facing the nation today." Several committees in both Houses began looking at the energy problem.

All this, note well, was before the Middle East war and the Arabian oil shut-off. Neither the President nor anyone else was prescient enough to anticipate that. But the turning off of the Middle East oil spigot, as everyone can now clearly see, was not the root cause of the problem. It dramatized the crisis, made it hit earlier; it would have come anyway.

That being so, why wasn't something done about it earlier?

One small incident may suggest the answer. In May of 1971 a proposal was before the House to create a select committee to investigate the energy problem. It was defeated not because those opposed denied the gravity of the problem but because such a committee would invade the territorial claims of other House committees, such as the Interstate and Foreign Commerce Committee and the Communications and Power subcommittee.

That is, in the absence of a sense of urgency to make action politically imperative the need of "business as usual" could not be dispelled. In a like manner, the Alaskan pipeline bill languished, despite presidential and other pleas, until the predicted crisis actually arrived. Then it was quickly passed by Congress.

It would be unfair, however, to castigate Congress alone for its sluggishness. Do you suppose that as late as last April, even with the coming crisis discernible, it would have been politically possible to cut speed limits to 50 miles an hour, cut home thermostats back to 68 degrees, de-control gas pipeline prices, allocate oil or do any of the other things that now will be done?

The public simply would not have put up with such things. Things had to get worse—enough worse so everybody could plainly see the extent of the problem—before much of anything could be done about it.

Now things are getting worse and we can give thanks to the Arabian oil princes. For out of the worse can come better.

To be sure, the "better" will be painful for a time. It requires a two-pronged effort to diminish the demand—which, let's face it, has included much waste—and to increase the supply.

This means, for one thing, higher prices; as Mr. Nixon said two years ago, energy has been a bargain in this country and now it must be priced on the basis of its "full cost to society." Higher prices will both decrease wasteful demand and spur new supplies as no system of rationing or allocation can. But for the immediate present we may have to have both—higher prices and allocation of a finite supply.

We must also change our minds about some of the trade-offs to get more energy, such as any environmental costs in coal strip-mining or offshore drilling. Also about the usage of nuclear energy. Also about our habits of using energy as if there were no limits to it.

But the point is that now we have perforce changed our minds and our attitudes. The arrival of reality has done what no amount of warnings could do—making things worse, no doubt, but making possible making things bettter.

ENERGY CRISIS RAISES HAVOC WITH GOVERNMENT BUDGETS

Mr. HUMPHREY. Mr. President, the fuel scarcity which we face this winter is having widespread and, in some cases, unanticipated effects throughout our economy. Some of these have been given little attention to date, despite their importance. One of these is the effect of fuel shortages on Government budgets.

The energy crisis will raise havoc with every Government budget in our Nation. The depressing effect of the fuel shortage on economic activity in the country, particularly during the first half of 1974, will result in unexpected shortfalls in revenue collections by all levels of government.

Recent estimates by the staff of the Joint Economic Committee, while admittedly speculative because of uncertainty regarding the duration of the Arab embargo on oil and regarding what steps the administration will be taking to deal with it, indicate that a decline in State revenues of from $1 to $2 billion and of up to $6 billion in Federal revenues in 1974, as a direct result of the additional economic slowdown attributable to fuel shortages, is a real possibility.

As the economy slows, corporate profits and personal income, the two principal sources of State and Federal revenues, stagnate, and, consequently, tax receipts fall. Most States are required by law to maintain a balanced budget and, therefore, these unanticipated revenue shortages will mean either immediate reductions on services to the public or immediate tax increases to make up for the tax-collection deficiencies. Of course, the Federal Government has the option of a larger budget deficit, but this would result in even more inflation.

Mr. President, because of the severe impact these revenue losses will have on our people and the great difficulty involved in correcting for them at a time when our economy is rapidly sliding toward a recession with high inflation at the same time, I have written to Secretary of the Treasury Shultz and asked him to provide me with the administration's estimates of the budgetary impact of the energy crisis and its plans for dealing with this grave budgetary problem.

APPOINTMENT OF A SPECIAL PROSECUTOR

Mr. BAKER. Mr. President, on Monday the Committee on the Judiciary reported, without recommendation, two bills calling for the appointment of a Special Prosecutor so as to insure a complete and uninterrupted investigation of the Watergate break-in and other matters related to the Presidential campaign of 1972. These two bills, which will be considered next week, are S. 2611 and S. 2642, providing for judicial appointment and Attorney General appointment of a Special Prosecutor, respectively.

While each of these bills has much to recommend it, I believe that the most viable approach for avoiding Constitutional uncertainties, while simultaneously providing for prosecutorial independence, is contained in S. 2734, a bill recently introduced by the distinguished Senator from Illinois (Mr. PERCY) and myself. S. 2734 provides for Presidential appointment of an independent Special Prosecutor and restricts the President's power to remove the Special Prosecutor to neglect of duty, malfeasance in office, or violation of the statute establishing the office. The Percy-Baker bill also provides that the President must provide the Congress with notice of dismissal of the Special Prosecutor 30 days before such dismissal becomes effective.

Certain Members of the Senate, however, have voiced doubts as to the constitutionality of imposing any restrictions upon the right of the President to dismiss a Special Prosecutor. This concern is cogently articulated in a brief inserted in the RECORD for November 28 by the distinguished Senator from Ohio (Mr. TAFT) and in a statement submitted by the distinguished Senator from Michigan (Mr. Hart) on December 4. While I congratulate Senator Taft and Senator Hart for their eloquence and their efforts in bringing the myriad issues involved to the attention of the Senate, I remain convinced that the removal provisions of S. 2734 are constitutional and wish to be associated with the legal memorandum substantiating the constitutionality of S. 2734 whch was inserted in the Record for November 30 by my distinguished cosponsor (Mr. Percy).

The constitutionality of S. 2734 recently has been reaffirmed by Prof. Norman Dorsen of the New York University School of Law. Professor Dorsen, who has served as professor of constitutional law at NYU for the past 12 years, is general counsel for the American Civil Liberties Union and has briefed and argued many cases for the U.S. Supreme Court. A graduate of Harvard Law School, Professor Dorsen was law clerk to Supreme Court Justice John Marshall Harlan in 1957–58, after having served as legal assistant to the general counsel to the Secretary of the Army during the McCarthy hearings.

In a letter to me, Professor Dorsen specifically evaluated the constitutional propriety of S. 2734, and concluded that:

> [T]he bill—and in particular, the removal provisions of Section 12—is constitutional and would be upheld by the Supreme Court if challenged.

In reaching this conclusion, Professor Dorsen considered the legal relevance of *Myers* v. *United States* (272 U.S. 52 (1926), the case most frequently discussed in connection with the constitutional permissibility of limiting the President's right to remove an employee of the executive branch. Noting that the statute at issue in Myers is not analogous to the removal section of S. 2734, Professor Dorsen determined that:

> In my judgment, the *Myers* case is not applicable to S. 2734, and in any event has been qualified by subsequent decisions of the Supreme Court. Accordingly, it does not stand as a bar to the validity of S. 2734.

Mr. President, I ask unanimous consent that Professor Dorsen's letter be printed in the Record.

There being no objection the letter was ordered to be printed in the Record, as follows:

New York University,
School of Law,
New York, N.Y., November 30, 1973.

Hon. Howard H. Baker,
U.S. Senate,
Washington, D.C.

Dear Senator Baker: Pursuant to your request, I have given consideration to the constitutionality of S. 2734, which provides for the appointment of a Special Prosecutor by the President with the advice and consent of the Senate. I have particularly considered Section 12 of the bill, which restricts the President's right to remove the Prosecutor to neglect of duty, malfeasance in office, or violation of the statute establishing the office.

In my opinion the bill—and in particular the removal provisions of Section 12—is constitutional, and would be upheld by the Supreme Court if challenged.

Article II of the Constitution vests "the executive power" in the President. Part of the executive power is to enforce the criminal laws of the United States, and to this and Presidents from the beginning have appointed officials of the Department of Justice and United States Attorneys. In this instance, the President is authorized to appoint a "Special Prosecutor" to assure that the laws are fully and fairly enforced against individuals for whose conduct he personally may have been responsible, and indeed against himself. In light of the findings contained in Section 2 of S. 2734 (see Communist Party v. U.S., 367 U.S. 1, on the importance and constitutionality of such findings), there seems no doubt that a congressional decision to entrust this delicate enforcement mission to a Special Prosecutor, and to restrict the grounds for his removal, is a "necessary and proper" law (see Article I, Section 8 of the Constitution) to carry out the President's power to execute the criminal laws.

The only constitutional question which is colorably difficult concerns the restriction on the President's removal power. Myers v. United States, 272 U.S. 52, held that a legislative provision that certain postmasters could not be removed by the President without the consent of the Senate was an unconstitutional restriction on the President's control over executive personnel.

In my judgment the Myers case is not applicable to S. 2734, and in any event has been qualified by subsequent decisions of the Supreme Court. Accordingly, it does not stand as a bar to the validity of S. 2734.

As others have pointed out, the statute in Myers did not provide that the President could remove the postmasters only for cause, but instead provided that the President could not remove those officers at all. Although the language of Chief Justice Taft in Myers is broad, the holding of the case is necessarily limited to the statute and the facts which gave rise to it. By contrast, S. 2734 permits the President to discharge the Special Prosecutor for cause and does not interpose a bar to the President's power to remove incompetent or even corrupt officials. The Congressional limitation on his removal power is therefore neither as broad as that in the Myers statute nor inconsistent with the holding in the case.

In at least two cases decided after Myers the Supreme Court retreated from that decision's broad pronouncements. Humphrey's Executor v. United States, 295 U.S. 602, upheld a statute that limited the President's power to remove a Federal Trade Commissioner for cause, and Wiener v. United States, 357 U.S. 349, held that the President lacked power to remove a member of the War Claims Commission even without an express statutory restriction on the President's removal power. The Court said that "no such power is given to the President directly by the Constitution, and none is impliedly conferred upon him by statute simply because Congress said nothing about it. The philosophy of Humphrey's Executor . . . precludes such a claim." 357 U.S. at 356.

It is true that in Humphrey's Executor the officer involved acted in a "quasi-legislative" capacity, and in Wiener the function of the officer had an "intrinsic judicial character." Both these later decisions nevertheless demonstrate that the unqualified language of the Myers opinion will not be read so broadly. I think the same result would follow if S. 2734 were to be challenged in court and that the law therefore would be upheld.

As I have discussed with your staff, other options are available to the Congress to provide for the appointment and removal of a Special Prosecutor. This letter is not intended to appraise the constitutionality of these alternative measures.

Sincerely,

Norman Dorsen,
Professor of Law.

FLOOD AND EROSION DANGER AROUND THE GREAT LAKES

Mr. STEVENSON. Mr. President, NOAA Week, an official publication of the Department of Commerce, National Oceanic and Atmospheric Administration, features a story entitled "NOAA Warns of Flood and Erosion Danger Around the Great Lakes." The story notes that continuing high water levels in the Great Lakes increase the threat of major damage from flooding and erosion during this winter storm season.

I ask unanimous consent that this article be printed in the Record so my colleagues can be apprised of the magnitude of this problem before the Senate considers the Water Resources Development Act of 1973.

There being no objection, the article was ordered to be printed in the Record, as follows:

NOAA Warns of Flood and Erosion Danger Around the Great Lakes

High water levels in most of the Great Lakes pose a threat of flooding and shore erosion as the region enters the peak of the winter storm season, NOAA has warned.

Flood danger is greatest in low-lying areas bordering Lake Erie, the Detroit River, Lake St. Clair, and Lake Huron's Saginaw Bay. Shores along the rest of Lake Huron, Lake Michigan, and Lake Superior could be seriously eroded.

The Lake Survey Center of the National Ocean Survey reports that the water level in all of the lakes except Ontario is well above the long term-average for November, although slightly lower than last year's record highs. Accelerated release of water from Lake Ontario through the St. Lawrence River has lowered its level to a point only three inches above the long-term November average.

The high water levels are not dangerous in themselves; it is the added ingredient of winter storms that brings the threat of flooding and erosion. Between September and April, winter storms approach the Great Lakes region from the central part of the country, with the greatest number occurring during November, December, and January. If the storm winds blow along the axis of a lake, the water is driven by the wind to the end of the lake. Piled-up waters flood into low-lying areas, and the wind-whipped waves beat at the shorelines, causing serious property losses. Just a year ago, on November 14, 1972, strong winds piled up Lake Erie's water at its western end, and the ensuing flood caused $22 million damage.

Great Lakes-area offices of the National Weather Service receive a continuous flow of lake-level observations from the Lake Survey Center. With this information, whenever there is a likelihood of strong, sustained winds over the lakes, forecasters are ready to provide computer-assisted predictions of storm surges in advance of the rising water. These Lake Shore Warnings, indicating that flooding or erosion is expected in a given area in six hours or less, are transmitted on Weather Service teletypewriter circuits for relay to the public through newspapers, radio, and television. NOAA's VHF radio weather broadcast facilities—located at Buffalo, Erie, Cleveland, Sandusky, Detroit, Chicago, and Milwaukee—carry the warnings on a round-the-clock basis on 162.55 or 162.40 megahertz.

Federal, state, and local agencies are continuing their cooperative preparedness programs to minimize death and destruction from Great Lakes flooding. The U.S. Army Corps of Engineers has invested $30 million this year for dikes and other temporary protective works, principally for Lakes Erie and St. Clair and also for Lakes Michigan and Ontario. Other Federal agencies involved, in addition to the NWS and LSC include the U.S. Coast Guard and the Department of Housing and Urban Development's Federal Disaster Assistance Administration, which will take over if the President declares an affected community a Federal disaster area.

During the coming months, shore residents along the Great Lakes should be alert for the NWS warnings, and be prepared to leave low-lying areas if local public-safety officials recommend doing so.

THE CASE AGAINST SECRECY

Mr. BROCK. Mr. President, earlier this week, the Senate Subcommittee on Intergovernmental Relations released the findings of a survey commissioned by the subcommittee on the evaluation of public confidence in government. Noted pollster Louis Harris conducted this survey, and after reading and rereading it, more is gained upon each reading. The greatest single finding of the survey is that a great majority of Americans still feel that our system of government can work. Later, David S. Broder, in an article in the Washington Post, states clearly another major point, that Americans will not tolerate any abuse of public trust by secretive manipulations. In view of the importance of this survey, I would ask unanimous consent that Mr. Broder's column be printed in the Record as an example of some of what can be gleaned from the survey.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Case Against Secrecy

(By David S. Broder)

It is a bit unusual for a congressional committee to spend $25,000 of the taxpayers' money to hire a private pollster to tell it what public opinion is. Congressmen are, like journalists, self-appointed experts on everything, and especially on public opinion. Such wisdom, it is believed, goes with the job.

But after reading the 300 page report pollster Lou Harris provided to Sen. Edmund S. Muskie's Intergovernmental Relations Subcommittee on the "citizens view of American government," the conclusion has to be that the legislators got their money's worth.

The headline-grabber in the study released earlier this week was the finding that the public has more faith in the competence of the people who run local trash collection than it does in those who control television or the press, the Supreme Court, Congress, state and local government or the White House—which finished dead last in the confidence race.

The news that the large and visible institutions of this country—government, the press, corporations, unions, churches and schools—are suffering from a hemorrhage of public confidence is not news at all in the autumn of 1973.

What is news, after years of deepening public cynicism, is that Americans are really not turned off on their "system," but have a clear perception of the changes that are needed to restore it to health.

To quote from Harris' conclusion, "Fundamentally, the American people in this survey are trying to articulate two profoundly held sentiments:

"1. That government secrecy no longer can be excused as an operational necessity, since it can exclude the participation of the people in their own government, and, indeed, can be used as a screen for subverting their freedom.

"2. That the key to any kind of successful future leadership must be iron bound integrity."

Harris argues that "once these preconditions of openness and integrity have been fulfilled, then the time may well come when the people can be approached to make the sacrifices necessary to solve the common problems of the country."

This hopeful conclusion rests on his finding that despite the growing disillusionment of recent years, the public continues to hold a view of government that is skeptical, shrewd, sophisticated—but essentially positive.

Asked if they believe with Jefferson that the less government, the better, most people say no. On the contrary, most approve the proposition that "we need a strong federal government to get this country moving again," perhaps because the rhetoric carries a Kennedyesque connotation of trustworthiness and high purpose.

However, on the question of the distribution of power in the federal system, large majorities say they want state and local government strengthened, while the portion of authority allotted to Washington is reduced.

What this means, essentially, is that despite the disillusionments of the past year, the voters have not forgotten or abandoned what they thought they were voting for in last year's election. That was a vigorous but not all-powerful President who was committed to a deliberate effort, through New Federalism programs like revenue sharing, to strengthen state and local government.

What they have also said, unmistakably, in this survey and in every other, is that they will not tolerate political leaders at any level who abuse the public trust by secretive manipulations.

If this finding were well understood by all political leaders—let alone the President—the survey might be of no great moment.

But when a cross-section of state and local officials were asked these same questions by Muskie's subcommittee staff, a majority of them rejected the view that secrecy in government is a serious problem. Harris concluded that "state and local leaders . . . neither sense nor advocate this public mood for opening up government at all levels. . . ."

That is damning news, because the lesson of this study for the officeholders of both parties may well be a lesson of political survival. Indifference to the moral and political imperative for "opening up government at all levels" could well cause the greatest house cleaning of incumbent politicians this country has seen in two generations.

The politicians cannot say they have not been warned. The warning is there in black and white—all $25,000 worth of it—and it is doubtful the taxpayers will spend much more money to "send them this message." Next come the votes.

GENETIC FIX

Mr. MONDALE. Mr. President, I wish to call the attention of the Senate to a remarkable new book, "Genetic Fix" by Dr. Amitai Etzioni, professor of sociology at Columbia University and director of the Center for Policy Research.

Few of us are fully aware of the incredible advances in the biological sciences which have been achieved over the past 50 years. Yet who would have thought 30 years ago that he would live to see the successful transplantation of a human heart—or delicate eye surgery performed by a beam of light.

And as impressive as the recent accomplishments of the health sciences have been, still greater accomplishments lie in the near future.

Advances in genetics and cell biology will give us the ability to affect—and perhaps ultimately to control—the genetic makeup of human beings.

Improvements in psychosurgery and drug therapy may give us the power to order human emotions—to call up fear, anger, anxiety, or indifference from human beings as we wish—to make fundamental, controlled changes in human personality.

Continuing improvements in medical practice combined with expanding knowledge of human biology may give us the power to expand human life—at least for a select few—far beyond its present span.

The revolution in medical science and technology presents profoundly new legal, moral, and ethical questions—questions which we must face now, before it is too late.

"Genetic Fix" explores these new issues with clarity and great sensitivity. I commend Dr. Etzioni's book to my colleagues, and to every American.

Mr. President, I ask unanimous consent that an article from the September issue of Society magazine, consisting of excerpts from "Genetic Fix," may be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Society magazine, Sept.-Oct., 1973]

Excerpts From "Genetic Fix"

(By Amitai Etzioni)

The Institute of Society, Ethic and Life Sciences, often referred to as the Hastings Institute issued a report in the *New England Journal of Medicine* (May 25, 1972) on the ethical and social issues raised by screening large numbers of people for genetic disease. Daniel Callahan, director of the Institute, explained that "the group who formulated the guidelines for mass screening was mostly opposed to the whole idea but favored a cautious and careful approach."

The report's most basic criterion for assessing the merits of genetic screening programs is that no system be set up before adequate testing procedures are available "to avoid the problems that occurred initially in PKU screening." (Mandatory screening for PKU [phenylketonurial], an inherited biochemical malady which, untreated, can result in severe mental retardation and shortened life span, was by 1971 required in 43 states, though the test is not 100 percent reliable. Many children were wrongly identified as having the disease, and quite a few who did have it passed the test as healthy.)

A hastily introduced program to test for the sickle cell trait (carried by about one out of every 500 black children) fails by the Hastings criteria. The program tests either schoolchildren, at an age when the illness very often has already struck, or newborns, a stage at which detection is difficult. Tests of couples considering having a child would make much more sense, although such programs are more difficult to administer than school programs, in which all students can be lined up at will.

Besides asking for safe tests, the Hastings group also called attention to a risk of possible psychological or social injury. The question is, How harmful will the "labeling" of persons be? As the result of mass screening tests, people will be labeled as carriers of sick genes, which may harm their social standing and their view of themselves. Social science standing and their view of themselves. Social science data leaves no doubt that at least in some areas, labeling (such as who is branded a criminal and who a law-abiding citizen) has rather serious consequences.

There is little doubt that if children are told that they have an XYY chromosome structure, which occurs in about one of every

1,000 males and which has been repeatedly reported as being associated with a predisposition toward seriously deviant behavior, they could easily begin to assume that a criminal destiny is inevitable. Moreover, parents who are told that their child carries the XYY gene may come to suspect normal assertive moves as being manifestations of their child's criminal potential; consequently, they push their child—whatever the influence of his genes—into an aggressive, ultimately criminal, personality and way of life.

Beyond parents, teachers and self-image, such labeling is likely to affect the attitudes of practically everyone who knows about a person's genetic test scores. This is no longer a hypothetical consideration. The undesirable consequences which the Hastings group warned were possible have already made themselves felt. In 1971 the state of Massachusetts, responding to the demands of black community leaders and their white supporters, passed a law requiring that all school-age children be tested for the sickle cell trait. A dozen states rushed to follow suit. The trait is harmless by itself, but when both parents have it, there is a one in four chance that their child will have sickle cell anemia, a horrible disease which first causes pain, then deterioration of major organs such as the liver and kidneys.

The results of the tests, presumably kept only on school records, have increasingly been used to brand carriers of the disease as poor employment and life insurance risks. Recently, many black people started wondering whether or not the undesirable consequences of the test outweighed its benefits, especially as there is, so far, no known cure for the illness.

Related questions must be asked about other genetic tests that are being increasingly used, promoted or sought. Screening programs for carriers of the gene for Tay-Sachs disease were started among Jews in Baltimore in 1971. A screening test for Cooley's anemia, most common among people of Mediterranean descent, is being developed, and a new genetic test which will predict people's susceptibility to emphysema, a degenerative lung disease, is being worked on. Tests for dysautomonia (a disease which affects chiefly Ashkenazi Jews) and cystic fibrosis (which hits one out of every 1,500 Caucasian babies) are being actively sought. Dozens of other tests are likely to follow. If they are to do more good than harm, there must be a mechanism for reviewing the programs before they are enacted.

The Hastings report also points out that it is necessary to accompany such a new program with carefully designed and executed public information programs. Experience shows that the public—even some doctors—confuse the sickle cell *trait*, quite harmless by itself, with the disease of sickle cell *anemia*, which is found only when *both* parents have the trait and then only in aproximately one out of four of their offspring.

The Hastings report also suggests other criteria for evaluating or designing mass genetic screening tests, including equal access, absence of compulsion and informed consent. The record shows that these recommendations have not often been followed in the past.

This particular Hastings report (other ones are being formulated) is not omprehensive. For instance, it does not deal with the question. How safe is safe?—an essential issue for new tests—or, How can safety be tested before tests are used en masse? In addition, because the report is based chiefly on deliberations and dialogue, it shows little benefit from empirical input to back up its points. Nevertheless, it is of immense value, if only because it provides all those who will listen with a detailed list of what must be taken into account before such programs are initiated. If similar efforts were undertaken by a national health ethics commission, composed of leading authorities in the respective fields, and representative members of the community backed up by congressional status and a staff, they would command an even greater following. Of course, even if such a national body were formed, private groups would still have to continue their deliberations. These issues must be as widely discussed as possible, for a continuous dialogue of many divergent viewpoints is essential if the bases for a new ethic as well as policy guidelines are to evolve. A national body would provide a much-needed focus for such private deliberations, but neither could it nor should it try to replace them.

PATIENT'S BILL OF RIGHTS

Another development illustrates how, without benefit of a review mechanism, the nation tries to cope with its need to review and form policy in the health and genetic field. The American Hospital Association first issued a bill of rights for patients in November 1972 and again in January 1973 to its 7,000 member hospitals. Formulated by a committee appointed by the trustees of the American Hospital Association, discussed by its regional advisory boards (which are composed of hospital administrators) and consumer representatives, the bill's 12-point protocol is summarized below:

1. The patient has the right to considerate and respectful care.
2. The patient has the right to obtain from his physician complete current information concerning his diagnosis, treatment and prognosis in terms the patient can reasonably be expected to understand.
3. The patient has the right to receive from his physician information necessary to give informed consent prior to the start of any procedure and/or treatment.
4. The patient has the right to refuse treatment to the extent permitted by law, and to be informed of the medical consequences of his action.
5. The patient has the right to every consideration of his privacy concerning his own medical care program.
6. The patient has the right to expect that all communications and records pertaining to his care should be treated as confidential.
7. The patient has the right to expect that within its capacity a hospital must make reasonable response to the request of a patient for services.
8. The patient has the right to obtain information as to any relationship of his hospital to other health care and educational institutions insofar as his care is concerned.
9. The patient has the right to be advised if the hospital proposes to engage in or perform human experimentation affecting his care or treatment.
10. The patient has the right to expect reasonable continuity of care.
11. The patient has the right to examine and receive an explanation of his bill regardless of source of payment.
12. The patient has the right to know what hospital rules and regulations apply to his conduct as a patient.

Several hospitals adopted the bill, and at least two (Boston's Beth Israel Hospital and New York's Martin Luther King Health Center) now provide their patients with their own version of it, but most hospitals did not embrace it. Yet, the charter is of great value. Both technological and social developments have rendered the existing hospital structure virtually obsolescent, and there is a particularly great need for a new definition of the relationship between the patient and the institution.

The fact that those who administer hospitals took the initiative in preparing this bill is hardly surprising, since there is no community-based body to assume such duties. However, it must also be noted that the charter, lacking public hearings of the kind a congressional committee would have generated, was not subject to wide discussion or involvement. It is no wonder, then, that the charter is easy to ignore. Moreover, the fact that it was formulated by a board composed chiefly of those in power will hardly reassure the more activist 'consumer" groups. (Dr. Willard Gaylin went so far as to indicate that the document "perpetuates the very paternalism that precipitated the abuses.") A more widely representative body would have given the bill more authority.

Like most documents formulated chiefly to express a sentiment and to affirm a position the charter is rather long on general statements, and somewhat short on specifics. For example, the statement, "The patient has the right to refuse treatment," is qualified by the phrase "to the extent permitted" by law," as though the law provided a clear guideline. Actually, if the patients themselves have the right to insist, for instance, that life-extending machines be turned off, they must be conscious when they so choose, but their action would be tantamount to suicide. On the other hand, if the patient has to be unconscious beyond recall before the machines can be turned off, the right to refuse service is not his. Who, then, exercises the right? one doctor? two? three? with or without consultation of the next of kin? under what medical conditions?

The Medical Society of the State of New York suggested adding the clause, "irrefutable evidence that biological death is inevitable," but such evidence may come long before a person loses consciousness. The society also suggested using the phrase, "is the decision of the patient and/or the immediate family with the approval of the family physician." But what if there is no family physician? Should not at least one other doctor, not as deeply involved, be consulted? Clearly the Patient's Bill of Rights leaves these and many other issues unresolved.

If the authors of the bill had expressed greater concern with procedure they would have been more aware of the need for local health ethics boards to review decisions made to "turn off" lives; the need for national and international boards to formulate guidelines; and the need for a research staff to study the actual results of various procedures in order to apply them in future deliberations. (There are review committees inside hospitals but these, with few exceptions, are limited to physicians associated with that hospital. Such insularity tends to limit their critical power.)

On January 22, 1973 the U.S. Supreme Court overruled all state laws that prohibit or restrict a woman's right to obtain an abortion during the first three months of pregnancy. It is now up to the woman and her physician to decide what course to follow. For the last six months of pregnancy, abortion can be "regulated" by the states to secure maternal health (for example, they can limit abortions to qualified facilities). Only in the last ten weeks of pregnancy, when the fetus is judged "viable," that is capable of surviving if born, may a state prohibit abortion.

This welcome act also turned a matter that was previously controlled by the government over to the individual choice. About 1.6 million American women undergo abortions each year. The risks are not trivial. While an abortion performed by a well-trained physician, during the first 12 weeks of pregnancy, is said to be safer than a tonsillectomy or an actual birth (out of 100,000 patients, the death rate for abortion is two; for tonsillectomy, 17; for pregnancy, delivery and postnatal period, 20) in the second trimester abortion complications are three to four times more likely to arise.

Arranging the public education campaign which must follow the court's ruling—for instance, advising those who either use no contraceptives or use an unreliable method not to rely on abortion for birth control, or cautioning those who need an abortion not to put it off—is the job of the Department of Health, Education and Welfare. But a public authority could go a long way to see to it that matters the Court leaves undone will be picked up by the appropriate executive agency, and with the desired vigor and scope. Such an authority could also develop and implement a systematic procedure through which the relevant medical data and considerations on this or any other matter are regularly brought before the Supreme Court before it makes a ruling.

Another highly relevant development came in October 1972, when Congress enacted a bill widely referred to as "H.R. 1," a large package of amendments to the Social Security Act. Among the numerous clauses of the bill is Section 249F, barely known to the general public. The amendment calls for setting up "professional standards review organizations" (PSROs) in order to subject hospitals and other health units to outside review, not only of proper use of funds—the typical accountability expected and required of anyone who uses public funds—but also of professional, that is, medical, matters. The main motive seems to be to reduce the number of poor and aged hospitalized charity patients. (The amendment calls for checking non-emergency cases with the PSRO before admission). At the same time, the provision opens the door, in principle, to outside or perhaps even public scrutiny of what doctors are doing.

The law is rather vague as to who is to provide these outside review boards. But the basic assumption is that doctors will oversee doctors. Even this is quite innovative because many doctors feel they need no overseer and that if review is to take place, it should be by their peers. Although peer reviews are often surprisingly strict, the PSROs, which are to be established throughout the United States by January 1, 1976, go one necessary step further, calling for outsiders to review insiders, acting as a kind of medical audit. Above all, it seems desirable that the PSROs should include not only doctors but also community representatives and "specialists" in societal and ethical matters to make sure that consumer, social and moral issues be taken into account, and to counteract any self-serving tendencies of doctors.

The PSROs represent an important spot at which to enter the closed professional system, because, unlike community advisory boards set up around hospitals or comprehensive health planning agencies, the PSROs will be able to control the main flow of taxpayers' funds to health units.

As the 93rd Congress got underway in early 1973, Senator Mondale reintroduced his 1971 biomedical technology study commission legislation, now numbered "Senate Resolution 71." The Senate may well approve it again, but no one can make any predictions as to what the House will do.

Early in 1973, Senator Edward Kennedy held extensive hearings on an issue that a health ethics commission, had it existed, would have dealt with: the conditions under which experimentation with human subjects can be tolerated. The press was again filled with gory reports about this or that ethical violation, but paid little attention to the more general questions concerning how such regulations could be implemented. Progress was made during the hearing—two expert witnesses called for the establishment of a more advanced, more potent, health ethics commission than the Mondale bill outlines. Dr. Bernard Barber testified before the Subcommittee on Health of the Senate Committee on Labor and Public Welfare that he favored ". . . the establishment of a National Board of Biomedical Research Ethics. As members of that board I would like to see not only members of the medical research profession, who are of course indispensable, but also people who are outsiders to the profession and who represent the public. These outsiders cannot be ordinary men-in-the-street or men given to absolute morals; they should be *informed outsiders*, lawyers or social scientists who have the expertise to deal with the fact that medical research ethics are also social and not just medical matters. . . . The Board could define goals, establish institutions and mechanisms, and provide necessary monitoring for standards and practices that are only what the profession rightly values and the public increasingly and rightly demands."

Jay Katz, adjunct professor of law and psychiatry at Yale University, suggested that a permanent body be established to regulate all federally supported research involving human subjects. Such a board, Katz said, should be independent from the government, since much experimentation that requires supervision is carried out in government-owned laboratories. He wanted the President to appoint the board, and suggested that "its members should come from many disciplines, including representatives from the public at large," and that the board should have "regulatory authority," that is, it should formulate policy and set up the needed regulations and mechanisms to promote them.

Note that the concern in the Kennedy hearings focused on those relatively few persons who are subjects in experiments. My feeling is that we are all "subjects"—the millions who take the Pill, the millions who do not receive genetic counseling, the millions exposed to food additives which may well be cancer-inducing and so forth. We need to develop a more effective review mechanism of all illness-producing and illness-preventing forces in our life. The focus on human subjects in laboratories should be the opening wedge, not just a conciliatory gesture that gives reprieve from much-needed nationwide, not just lab-wide scrutiny.

The reforms must not stop here. The efforts to form effective and responsive overview mechanisms cannot be advanced by a few senators and professors. Their future depends on the informed general public, led by active groups of citizens, taking on this issue, as they took on those for peace in Vietnam, civil rights and pollution control.

On the national level, Congress must be urged to set up a permanent national health ethics commission which includes members of a variety of disciplines, not just medicine, and representatives of the public, backed up by a research staff. Locally, each state, city and town needs a local review health ethics board—to oversee its hospitals and clinics, its medical healers and researchers. Individually, citizens and their leaders need to inform themselves about new medical and genetic developments and the public and private issues raised by their effects on matters of illness and health, life and death.

To reap the full benefits of the developments in genetics and medicine—and to be spared the many dangers—individual citizens must be both knowledgeable and aware of the implications of the new technology. A national health ethics commission plus local review health ethics boards would reveal problems and present possible solutions, furthering not only knowledge but also the physical and emotional well-being of the American people.

WAYNE SARGENT, PUBLISHER OF THE NASHVILLE BANNER

Mr. BROCK. Mr. President, Wayne Sargent is the publisher of the Nashville Banner, one of Tennessee's leading newspapers. Under his excellent leadership and the high caliber contributions of his writers and staff, the Banner has developed a reputation for forthright and honest reporting.

Mr. Sargent's personal contributions to this paper are frequent. Most of his readers learned long ago that anything bearing his byline was worth reading. But recently, Mr. Sargent wrote an article that is both cogent and compelling, not only for its timeliness, but for its effective articulation of a situation that many of us have felt instinctively was true. The fact that this article was written by an accomplished journalist and an outstanding publisher is in itself significant.

Mr. President, I submit this article by Mr. Sargent which appeared in the Monday, November 26, 1973, issue of the Nashville Banner, for the careful consideration of my colleagues. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Editorial Flip-Flop—Post, Times Once Favored Secret Presidential Papers

(By Wayne Sargent)

Consistency, for a chameleon, is to change color.

When one argues on behalf of consistency someone will quote Ralph Waldo Emerson: "Consistency is the hobgoblin of little minds."

Nonetheless, there seems to me to be an obligation for a newspaper to retain a consistency of principle in its arguments. Or confess that political expediency is its chief goal.

With that preface, I'd like to argue with the New York Times and the Washington Post, perhaps the most prestigious of American newspapers, increasingly the darlings of intellectual liberals and increasingly the scorned objects of intellectual conservatives.

May I set a scene? A U.S. Senate committee is investigating a matter of alleged government corruption. It has heard a volume of testimony, much of it contradictory. Many witnesses and most committee members believe the President of the United States has in his possession essential information. They urge him to submit evidence and testimony to the committee.

Then comes a surprise announcement that many Presidential conversations have been recorded. A demand is made for the recordings. The President, who at first implied full cooperation with the committee, now says no recordings will be released and that disclosure would be incompatible with the public good and the national security. Separation of executive and legislative authority is given as a reason for refusal.

I am indebted to Herschell Emery of Nashville for calling the aforegoing set of circumstances to my attention for they happened, not in 1972–73, but in the year 1954.

The President was Dwight Eisenhower. The Senate Subcommittee was headed by Joseph McCarthy of Wisconsin. A specific issue in those Army-McCarthy hearings was whether committee counsel Roy Cohn had acted improperly and with political pressure to gain advantage for his associate, Private G. David Schine.

Remember all those names—McCarthy, Cohn, Schine? McCarthy said Eisenhower's recordings of conversations and executive meetings would reveal that the Eisenhower administration had turned up the pressure to call off the Senate hearings. And would further disprove that Cohn had brought any pressure on behalf of Schine.

Now let that political situation sit there a minute while I switch over to the New York Times and the Washington Post.

Did they like McCarthy? No, they sure didn't. They fought him and won prizes for "exposing" McCarthy and his investigative and publicity techniques.

Do they like President Nixon now? No, they sure don't. And they've already won some prizes for reporting of Watergate.

H. L. Stevenson, Editor of United Press International, Edward Jay Epstein of the Los Angeles Times, John Quinn, President of the Associated Press Managing Editors, and others, are pretty much agreed that "the press" as a generic quantity has not done much one way or another about investigating the Watergate sequence.

The real activists have been only the Washington Post, the New York Times, plus Time and Newsweek and the Los Angeles Times. All of us who work in news are now being both cheered and vilified for our roles in the Watergate reporting. But the fact is the overwhelming majority have done nothing but recite information from government investigators and government committees.

A sidelight truism was written recently by Epstein: "A real dilemma is that almost all journalistic honors are awarded for making exclusive disclosures, not for resisting the publication of unproven allegations."

It is thus that the coveted Pulitizer prize has been given in the last three years to the Post, the Times and to columnist Jack Anderson, each time for what amounted to publication of stolen documents.

Now that I've attempted to establish the Post and the Times as political activists let me tie them back to the events of 1954 and show their inconsistent position.

In May, 1954, in the McCarthy-Eisenhower era, the New York Times editorialized:

"The question is whether the powers of investigation which Congress has assumed, and which it seemingly must have if it is to investigate intelligently, include the power to invade the deliberations of the President or his confidential representatives against his will, on any issue whatever."

"Congressional committees have been increasingly tempted into lines of inquiry which are, legally and morally, none of their business. A limit had to be reached some time. Maybe it has been reached."

"If a congressional investigating committee could subpoena Presidential advisers of cabinet rank or of confidential status to testify . . . the constitutional separation of powers would be seriously weakened."

But . . . in 1973, the Times editorialized:

"There can be no practical justification for failure to make this evidence (The Nixon Tapes) publicly available. In the interests of the American Presidency and Nixon himself, the sooner it comes out, the better."

In May, 1954, the Washington Post editorialized:

"The President's authority under the Constitution to withhold from Congress confidences, presidential information, the disclosure of which in his judgment would be incompatible with the public interest is altogether beyond question."

But in 1973 the Post editorialized:

"President Nixon's refusal to accede to the request of the Senate Watergate committee to make some presidential papers and certain tapes of his conversations available to the committee . . . precipitated a constitutional crisis for no real constitutional or legal reason."

There should be recognition that Watergate, however moral the tone of the investigations at the start, has become a highly intense political fight. Principles of constitutionality, separation of powers, invasion of privacy, right of free press—these and others are just the tools by which the politics is being fought.

The target of the Post and Times in 1954 was McCarthy. The target now is Nixon. The tools are double-bladed, convertible, interchangeable and flexible.

What conclusions may you draw from my argument with the Post and the Times?

1. Their editorial posturing is rooted more to personalities than clear-cut principles.

2. While the Watergate investigations started for the purpose of exposing wrongdoings, they now have entered a new phase. The contrasting editorial positions of 1954 and 1973 by the activist press show what a thinly-veiled Get-Nixon movement this really is.

3. The zeal of these editorial activists may border on McCarthyism in reverse. The Post and the Times helped expose the excesses of McCarthyism, but have adopted some similar techniques. It is not enough to argue that ultimate proof distinguishes the two—that McCarthy's charges were false and Post-Times charges are proving mostly true. Such a position means the end justifies the means, a position both newspapers argue against. The point is that at the time the newspapers have aired some charges the newspapers did not know the truth. They took risks in running unproven allegations.

4. Activist elements of the press would have the public believe that fundamental principles essential to the future of the country are at stake in the Watergate-Nixon controversy. Not so. This is a good old-fashioned political fight and so long as the public realizes that, the country will emerge as strong as ever.

OIL PRICE INCREASES COST CONSUMERS BILLIONS

Mr. HUMPHREY. Mr. President, this week we again have seen retail price increases for gasoline of 2 or 3 cents per gallon. This represents more than 5 to 7 percent in one step, and it follows numerous recent steps in the same direction. Judging from statements by Treasury Secretary Schultz and new energy "czar" Simon, there is no end in sight to this relentless upward march in prices for oil products. It looks as though our so-called "price controls" program should be renamed our "price increase" program.

I wish to call to the attention of my colleagues and the pubic that each penny's increase in gasoline prices, nationwide involves a transfer of about $1 billion from the pockets of gasoline purchasers to the coffers of the oil companies. Therefore, if a 2- or 3-cent increase takes place across the country, we are talking about siphoning off no less than $2 or $3 billion to the companies through this most recent price boost alone. Increases over the last year add up to over 6 cents per gallon or $6 billion. These figures are for gasoline only and do not include higher revenues from crude oil, heating oil, diesel fuel, aviation fuel, natural gas or other products.

On the subject of heating oil, today we have been informed that the Cost of Living Council has decided to restrain future wholesale gasoline price increases by one penny in exchange for a 2-cent boost in distillate oil prices. This is to encourage production of distillates. Again the consumer loses in this two-for-one deal in favor of the oil companies. While it may be desirable to realign the relative prices of gasoline and distillates, the move has been used as yet another occasion to raise the overall price level.

It should be made clear that this drain on the consumer's pocketbook of recent increases for gasoline and heating oils does not go to the service station operator, the heating oil dealer, or the independent wholesaler. It represents a penny-for-penny pass-through by them of higher wholesale prices charged by the oil companies. We are told that these increases are justified mainly by higher prices for imported crude oil and products, but we know that the companies are collecting their full share of those higher foreign prices in their role as producers in the exporting countries.

There is a limit to public tolerance of these increases. It may be that some price realinement is necessary to encourage importation of badly needed supplies or stimulate a shift in refinery output toward high-priority products. Continuing at a time of record oil company profits, however, these multi-billion dollar revenue increases raise an insistent question as to how far profits will be allowed to soar while the consumer's purchasing power is depleted in this fashion. While the subleties of economic policy may be served, it is simply not equitable to allow private interests to profit so greatly at public expense during this shortage.

It is time now, therefore, for Congress and the administration's oil policy makers to confront the question of how to constrain or reverse this massive shift in income and also the question of how the allowable profits can be channeled more into actions to relieve the present shortage—actions to expand immediate supply and to develop new sources of energy.

THE 27TH AMENDMENT

Mr. BROCK. Mr. President, we in the United States are hearing cries of "Impeach"—"Resign"—"Get the crook out of office." It would be very irresponsible on my part not to hear these cries and to understand from where they come, and what they mean. But, I have said repeatedly, and I will say again, to those who cry impeachment, either present evidence for the impeachment of the President of the United States, or shut up. It is really that simple. We cannot, indeed, we must not, impeach a duly elected President of the United States on innuendo and hearsay evidence. In fact, regardless of the man who holds the office, we must even go a step further in our considerations. Any person the least familiar with our history recognized that our Nation's fathers built the Constitution to escape some of the pit-falls of the parliamentary type of government to set up greater checks and balances. Now, those who cry "Resign" are asking the President to disregard the Constitution, and the way our Government was intended to be run. Columnist William Safire called attention to this very fact in an article recently, and I would ask unanimous consent that his essay be printed in the Record.

There being no objection, the essay was ordered to be printed in the Record, as follows:

THE 27TH AMENDMENT

(By William Safire)

Washington, November 7.—Because the President's popularity has nosedived in the public opinion polls, we are told, he has lost the ability to govern: On that eminently practical ground, some of our pragmatic editorialists insist, the wise and patriotic course would be for Richard Nixon to resign.

That would be the "easy way," and nothing would be more unwise or unpatriotic because it would radically alter the nature of our system of government.

In a parliamentary system, when a government becomes unpopular and loses a vote of confidence, it "falls" and a new election is held. That system is fine for Great Britain; what it loses in stability it gains in responsiveness; but it is not the system the United States has had for two centuries.

The American system provides several restraints on the wide swings of public opinion. For example, only one-third of the Senate comes up for election every two years, so that a popular surge at any one time cannot suddenly transform the ideological bent of the whole of that deliberative body.

More to the point, our "Founding Fathers"—that phrase was coined by Warren G. Harding, of all people—rejected the parliamentary system in favor of the election of a separately powerful President for a specific term, so that a President could, if he felt he must, make unpopular decisions without being thrown out of office immediately.

Those who now demand that this President resign because he has "lost the ability to govern" are calling for the most fundamental change—not just in a leader, but in the traditions that make up our governmental system.

They cannot escape the consequences of their demand, which would be a kind of 27th Amendment, written or unwritten, that would say: *"The President shall hold office for a term of four years, or until such time as his rating in the two leading national public opinion polls falls below 30 per cent for three consecutive months, at which time it can be assumed the President has lost the ability to govern and he must then resign."*

Nobody has actually proposed such an amendment, of course—why, that would be downright radical—yet that would be the inescapable result of any successful hounding-into-resignation of a President.

The enormous power of precedent that has helped keep Presidents from resigning under pressure through two centuries, thus stabilizing our system, would be flip-flopped by a Nixon resignation: The pressure of precedent in the future would be to force Presidents who lose popular favor to submit their necks to the pollsters' ax.

The consequences cannot be dismissed with a flip "Watergate is unique." Hard cases make bad law, and the precedents we set today will shape the system our grandchildren will be living with. The shrill keening for resignation will soon become muted for reasons as disparate as the situation is desperate:

First, a coup d'etat by forced resignation, by its nature, must be quick, but Mr. Nixon will not cooperate.

Second, Nixon-haters are already defecting from the quit-now ranks because they do not want to see him get off so easily—they want to nail their coonskin to the wall. And third, conservatives, no matter how angry or upset this week, will come to see the destabilizing effects of such a course, which is profoundly in opposition to conservative doctrine.

When Americans come to consider the real choice that the resigners have posed, they will see that the alternative is not Nixon and controversy versus somebody else and unity—but the continuity of the present system versus its replacement by the parliamentary system. The same people who claim our present situation to be unique, worthy of ditching 200 years of tradition, would—in all sincerity—find something uniquely disposable about next year's President. And the President in the year after that.

The legal overthrow of an elected leader is dirty work: people who demand that the President resign to avert impeachment are asking Mr. Nixon to do their dirty work for them. Is the prospect of the most extreme kind of struggle, followed by years of bitterness at what many will consider vindictive political usurpation, preferable to two years of a very careful Nixon Administration before the campaign of 1976 gets under way?

If Mr. Nixon's critics turn their accusation that he cannot govern into a self-fulfilling prophecy; if they make the cry of "Resign!" a part of the American political discourse, then we are likely to wind up with the kind of Constitution Lord Macauley accused Americans of having: "All sail and no anchor".

NATIONAL INSTITUTE ON BILINGUAL, BICULTURAL EDUCATION

Mr. HASKELL. Mr. President, this past week I had the opportunity to attend and participate in the National Bilingual, Bicultural Institute in the home State of my colleagues, Senators Joseph M. Montoya and Peter V. Domenici.

This important institute was sponsored by the National Education Task Force de la Raza and the National Education Association. It sought to give participants a view of the various aspects of bilingual, bicultural education in school settings with high concentrations of Mexican American students.

The over 400 teachers, administrators, college professors, and private citizens who attended were able to examine current programs and their influence on public education in the United States. Those fortunate enough to attend also acquired greater knowledge, skills, and expertise to enable them to influence the direction of bilingual, bicultural education.

I must say that the broad range of participation—over 26 States were represented—and the quality of the discussions and presentations given impressed me. I was most fortunate to have been invited and recommend such institutes to my colleagues as a fine method of acquiring a deeper understanding of the efforts of our educational institutions to implement programs and projects instituted by our legislative action.

An important part of the institute was the keynote address delivered by the senior Senator from New Mexico, Joseph M. Montoya. His personal knowledge of the history of our efforts to provide this important and necessary element in our educational efforts is remarkable. His comments were the most comprehensive and succinct I have heard on this subject and I commend his remarks to my fellow Senators.

Too often the abstract nature of the legislative process tends to overshadow the concrete efforts and results our actions have on the average citizen. Senator Montoya's deep and sincere interest in this bilingual, bicultural education permeates his address and provides us an opportunity to reacquaint ourselves with the fine programs established by title VII of the Elementary and Secondary Education Act.

Mr. President, I ask unanimous consent that the keynote address of Senator Montoya be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

NATIONAL INSTITUTE ON BILINGUAL BICULTURAL EDUCATION

(By Senator Joseph M. Montoya)

Tonight we are meeting to examine again an old problem and to renew a pledge we made eight years ago in Tucson, Arizona. Many of you were there when we pledged to recognize the educational inequality which faced millions of American children every day—and pledged to do something about it.

The National Education Association Symposium of 1966 was a challenge to those of us who lived in the Southwest, where the need was greatest for a change in the way we taught Mexican-American children.

It was a challenge for those of us who were Spanish-speaking Americans, because the majority of the children who needed that special kind of education we called "bilingual" were our children.

It was a challenge for those of us in government because it suggested that a real failure in our public school systems was causing the poverty and hardship which handicapped large numbers of our children.

It was a challenge for educators because it highlighted a need not being filled by America's teaching profession.

Maria Urguides has told us about that meeting in Tucson, and the sparks that were struck there. Most of us here tonight remember that it was there in Tucson that we first determined to build what we called "bridges of understanding" for the people in this country so that America would become the truly united nation it should be: a nation which valued its own variety and could speak and understand its own languages.

The realization that millions of children were waiting and that between us—the legislators and the educators—we might be able to produce a key for a new freedom for those children was exciting. We left that meeting determined to generate interest in new kinds of schools wherever language-minority children needed them. We wanted to generate new ideas in colleges and universities where teachers were preparing for the future. We wanted to generate concern in governments at every level.

That was what the National Education Association wanted to happen as a result of that meeting in Tucson—and it did happen.

Senator Yarborough and I returned to Washington with your words reinforcing our own awareness of the needs in our states and in the nation: The first Bilingual Education Act was the result.

That was eight years ago—a time when new and progressive ideas about education were welcome in Washington, and when many of us thought it was enough to spotlight a need, develop a program to meet that need, provide federal help to get things going—and then settle back to wait for the good results.

Well, that was naive, of course. Things didn't work out quite the way we planned. Our achievements under Title VII of the Elementary and Secondary Education Act—and in a small way in other pieces of legislation—are not what we dreamed they would be, or what you wanted them to be.

We have helped some children, produced some teachers, funded some programs—but somehow in these last eight years we have failed to do the job we pledged to do. We were not able to make the rest of America share our concerns or our priorities.

We have not been able to help the millions of students who entered our schools in those years since 1966—children who were poor and spoke a language other than English. We called them "bilingual" children—but they were not bilingual, of course. That was the problem. They were monolingual—but in the wrong language. Wrong for most Americans, that is. And we encouraged that "wrong" definition by calling them children of "Limited English-speaking ability." We offered them, at best, remedial education as a temporary measure—and we found that "remedial" education was expensive, difficult, and unpopular.

So, of course, in most places in the United States we did not create the kind of change we had envisioned for the children who needed it most.

They brought to their schools the language and culture of their homes, and in kindergarten or the first grade they were asked to forget all that they had learned in their first six years, to sacrifice their heritage, their individual worth, their unique talents, their pride in their communities and homes—all so they could be taught to think and read and write in English and lose that definition of being "limited."

At six or seven years of age they were asked to perform a kind of mental miracle—and when that miracle didn't happen those around them too often pretended it was the children's failure, instead of ours.

Of course, it was our failure, because we did not understand the value of the languages and cultures we were asking those children to leave behind. Most of the programs we offered did not have the goal of real bilingualism, but simply offered a change in the brand of monolingualism the children used. We tried to turn a child with "limited English-speaking" ability into a child with "limited Spanish-speaking" ability or "limited Indian language ability."

In all the years between that first meeting in Tucson and this one in Albuquerque, we have only managed to provide programs for a few hundred thousand children—a tiny two percent of those who needed our help. And most of the programs we offered were transitional programs designed to change one "limiting" handicap for another.

Even now, eight years later and seven years after the legislation which was supposed to solve the problem, the federal government is helping only 217 programs—in the whole United States! Some states have joined in the effort to help, and some local schools have begun to think about the problem—but very few places have faced the depth of the need or the realities of the problem.

I don't have to tell this audience that for most children who spoke a language other than English in 1966 the reality of the last eight years has been not bilingual or bicultural education but instead the gradual loss of learning potential, the frustration and indignity of falling further and further behind other children every year, the anger at a system which refused to provide skills in a language they understood and demanded instead conformity in a language they could not comprehend.

Those children who entered school in 1966, when we first pledged to provide a better kind of education for them, should be in the seventh grade today. For those who did not speak English we know statistically what has happened. Ten percent of them have dropped out of school already. Of those who are still in school, sixty-four percent are reading below grade level and ten percent are at least two years behind—in the fourth or fifth grades. And by the time they should be in twelfth grade—just four years from now—forty percent of those students will have dropped out of school. Only five percent of them will ever complete college.

What those statistics mean to the drop outs is painfully clear. They will always face the handicaps of higher unemployment, less income, less opportunity. All the fringe benefits of poverty will be theirs: more illness, harder and less rewarding work, an earlier death.

And fifteen years from now when their children are ready for school—will the bilingual and bicultural schools they need be ready?

The truth is that we failed those children who entered school in 1966—and we may be going to fail their children, too.

What went wrong?

We did pass the legislation—but we failed to make it live up to its promise. Other priorities were greater in Washington, and in 1968 we elected a President who did not share our belief in this new kind of education. By 1970 we heard the rumblings of discontent from the White House about money we were "wasting"—and finally this year we heard the request that no money at all be budgeted for Bilingual Education.

Every year since 1967 Congress has tried to increase the money appropriated. Every year I have offered amendments while the Legislation was in the Appropriations Committee to support increases over the amounts requested by the Administration. Last year, after approving $60 million and seeing that money vetoed, we were still able to provide $45 million in a continuing resolution. But the President still refused to spend more than $35 million. This year we have managed to raise that amount to $53 million—but we face a new veto, I am sure. The struggle to keep this kind of education program alive has kept us busy for five years—and we have never been able to do what we originally planned.

In addition to our failures in government, educators themselves were discovering that the problem was more complex than we thought. Even if the money and support had been available, you educators were not really ready. You did not have the teachers trained, the texbooks written, the testing materials and teaching techniques developed.

But all of us know more today than we did in 1966, and understand more. We know that we need not only bilingual but bicultural programs—and that one without the other is meaningless.

We know more than we did about the children who need our help—that their limitations are no different than the limitations of any child who speaks only one language.

We know more about what it is possible for us to do—that education should be a way to open minds and open lives, to increase skills for working and for living.

We know that not just Spanish-speaking children or Indian children or children who speak any language other than English, will benefit from bilingual and bicultural education. We know that all children would benefit from that kind of opportunity in our schools.

We know that kind of opportunity is missing today in most of our schools—and that they are instead places which can destroy the self-image of a child who speaks a minority-language and places which shut off avenues of learning for all children who want to learn about the many cultures and the multicultural history of their country.

When schools close minds and warp personalities they are not educating at all, and that is happening in too many schools in America.

We know that in the few places where bilingual education has been tried the results have been a sharp increase in achievement, not only for the child who speaks a language other than English, but for the English-speaking child who shares the program.

We know that literacy in two languages is better than literacy in one—and that if children are allowed to learn to read and write first in the language they know best, they can soon learn to read and write in a second language at a faster pace. They can become literate in the language they bring to school and in the language they find in school—instead of becoming illiterate and nonfunctioning in both.

We know now that the teachers for successful bilingual programs are not just people who speak Spanish or French or Chinese or Indian—but are people who are biliterate and have been trained to teach in two languages, not one. That is something special—and in the last eight years we have discovered that we have very few universities or colleges which are prepared to train that special kind of teacher.

That is why we do not have enough teachers even for the few programs in existence. A recent survey shows that only about one-fourth of the teachers listed as being "bilingual" actually are trained to teach bilingually.

We know that it will take us many years to produce the teachers in the numbers needed, or the books and histories, the testing materials, the counseling and administration for these new programs. We are not ready yet—and we know that.

Most important of all, we know now that bilingualism means more than just getting through the transition period from kindergarten to third grade—and then being transformed overnight into a "normal" student who works only in English, the language of the majority. It means instead learning in two languages steadily right on through high school and college—so that in the end the language you bring to school and the language you find in school are tools you can use all your life.

Most challenging of all, we know that there are still many American citizens who don't share our concern and don't understand the valuable resources that our multicultural population represents. In the crisis world of 1973, with inflation and shortages and world environmental problems pressing from every side, it is going to be even more difficult to make bilingual education a first priority program.

Many of you provided the stimulus and the guidance for the legislation which Senators Kennedy and Cranston and I have recently introduced. The amendments which are now being considered by the Education Committee will provide more money, more teacher-training, a greater emphasis on biculturalism, an expansion into adult and vocational education, better supervision and administration, research into innovative techniques, and cooperation with state and local governments and families and communities. The help of those of you who came to testify at the hearings in Washington this month was invaluable. You made it clear to the Committee that the most important change in this legislation is that it presents the bilingual child as "advantaged and not disadvantaged" and that it offers opportunities to the monolingual English-speaking child as well as to the child who is monolingual in another language.

Still, as a legislator, I know that the money we can honestly promise to appropriate will not be enough to do the job, not nearly enough. Before we can provide that kind of money from government at any level we are going to have to convince other Americans that bilingual education is not remedial or a program to help handicapped children.

We are going to have to make all Americans understand that this is resource education—that it will provide better education for children who come to school speaking a language other than English and it will provide better education for children who come to school speaking only English.

We must somehow make sure that our neighbors and friends who are handicapped by not being able to speak any language except English understand the great gift which children who speak another language bring to the schools—a gift they can share with all children if they are allowed to.

We must find a way to see that every child is allowed to learn about the many kinds of people who have written the history of America, and about the treasure of many cultures which are now ignored.

We must alert the tax-paying public of the United States to their great future loss if the multiple cultures and languages of America are destroyed—and their great future gain if those languages are developed and those cultures are encouraged to grow.

If, a hundred years ago, educators all over the United States had known what you here tonight know about teaching bilingually, think what a difference it might have made! We in America, more than any other nation in the world, had the opportunity to become rich in a variety of cultures. We could have been the nation which was ready first to communicate with the whole world about the problems we face today: world hunger, world energy problems, world environmental problems, world peace.

People from many nations came here to find freedom—and brought with them the stored knowledge of their many homelands. Today, as a result of that rich heritage, we should be the focal point of international understanding and progress.

Knowing that, and understanding the thousands of ways in which America would be better today if we had taught our children about the riches of history and language and culture which were present in the native Americans who were here first and in every group which came later, we can see now how foolish it was to try to melt people down into something homogeneous so that all Americans would be limited and identical.

I think the challenge we must take from this meeting is the challenge not only of increasing and improving bilingual education for minorities. We must also accept the challenge to provide for our country the multicultural knowledge which the twenty-first century will demand.

We must see that every citizen in the United States understands that when children are asked to forget their own identity and their own traditions they do not miraculously turn into something better—instead, they shrink inside and when that happens our whole nation shrinks too. These small citizens lose hope of education and opportunity and a future—and as each one of them is diminished so the opportunities and knowledge and future of this nation is diminished too. The dollar loss is monstrous. For every child who only graduates from the eighth grade when he could have graduated from high school the lifetime income loss is more than $100,000. Multiply that by the millions who drop out of the schools which are not providing the education they need, and the gross productivity loss to the nation is staggering.

But even more important to the average American must be the loss of education HIS child could have had, but missed—the chance to learn two languages instead of one, the chance to expand into many cultures instead of one, the opportunity to be ready for the many-cultured world of the twenty-first century instead of being forever handicapped by being both monolingual and monocultural.

Recently Norman Cousins wrote about the remarkable abilities of human beings to succeed in spite of earlier failures. Using the example of our final liberation from earth gravity, he said "What was most significant about the lunar voyage was not that men set foot on the moon, but that they set eye on the earth. . . . They enlarged the human horizon."

I think when we talk about bilingual education in the last ten years we have to say that in many ways we have failed. But I also think that in trying to solve the problem we have learned and we know enough now to be able to enlarge our own horizons and the horizons of every American.

If we can leave this meeting in Albuquerque understanding that opportunity we can more easily open the doors to rapid expansion of bilingual and bicultural education. But we will have done more—we will have started on the road to a multicultural America, a place of leadership in the multicultural world in which we must all learn to live harmoniously if we are to survive.

BUDGET REFORM

Mr. BROCK. Mr. President, during the month of November, an action was taken in Congress which did not receive great publicity, and probably received very little public attention. But, nonetheless, it was probably one of the most important actions taken by the Congress of the United States in many, many years. Committees in both the House and the Senate passed out measures which would put control of the Government's purse strings back with the Congress, making the process closer to the people. Additionally, these measures contained built-in controls which would give Congress, and the people, a tighter reign on the amount of money spent, and how it is spent. I refer, of course, to the budget reform measures. I firmly believe that this legislation is as important as any that has faced action by both Houses in this century.

We simply have to return responsibility of Government spending to the Congress, to find out what we are doing, and where we are going. Noted columnist James J. Kilpatrick took note of the budget control measures, and wrote an excellent article, calling for quick action on these measures. I entirely agree, and I ask unanimous consent that his article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Congress Seen Moving To Reclaim Fiscal Control

(By James J. Kilpatrick)

More than 50 years have passed since Congress adopted the Budget and Accounting Act of 1921. Since then, so far as congressional control of the purse is concerned, it has been downhill all the way. Now the real and hopeful possibility is emerging that the trend may be reversed. If the two chambers can agree on a major pending bill, Congress may be back in the saddle again.

The matter is of towering importance to the American people, but the issue lacks political pizazz. Not many observers are much interested in the companion House and Senate bills that are scheduled for consideration in December.

Yet if a workable bill can be passed, and if the two chambers thereafter abide by the spirit and the letter of this reform proposal, a new sense of order will be imposed on the present chaos of federal spending.

Details remain to be hammered out but these are the main features: The President will continue to send up his budget in January but it will cover a fiscal year beginning in October instead of in July. As soon as they are received the White House figures will be examined by a new Congressional Office of the Budget and by newly created budget committees in each chamber.

The idea at this point is for Congress itself, by joint resolution, to agree upon a single comprehensive ceiling on total prospective spending. The two chambers would debate national priorities, and undertake to fix recommended goals within the ceiling for major areas of spending.

Appropriations committees and subcommittees would then go to work, but no spending bill—and this is the key to the new structure—could become operative until all spending bills had been adjusted to a ceiling figure.

Within a few years, if all goes well, Congress might regain the one constitutional power that stands above all others—the power of the purse. It is an admirable goal, but seeing is believing. The proposed reforms demand that politicians turn into statesmen, and no alchemist yet has perfected that conversion.

Even so, a new spirit seems to be working on Capitol Hill. These bills, after all, have now emerged from committee. The problem in coming weeks is to get them through the floor, and to write some sensible controls into law.

THE TRADE REFORM BILL AS AN INSTRUMENT OF FOREIGN ECONOMIC POLICY

Mr. MONDALE. Mr. President, I wish to call to the attention of my colleagues a recent speech delivered by Robert N. Gardner, a professor of law at Columbia University and a former Deputy Assistant Secretary of State in the Kennedy administration, before the National Foreign Trade Convention in New York.

Professor Gardner, an authority on international trade, proposed that the Trade Reform Act of 1973 "be revised from top to bottom" in order to deal with the problem of export restrictions. He stated that the negotiating position in the upcoming trade talks would be strengthened "by some carefully drawn amendments to the trade bill that put the oil-producing nations and others on notice that they cannot wage economic war upon us with impunity."

Last week I introduced several amendments to the trade bill designed to broaden the scope of this legislation to deal with the problems which Professor Gardner so eloquently described.

As the oil embargo shows, we need new international procedures to deal responsibly with the problem of shortages. Since World War II, the international trading system has concentrated on the problem of access to markets. In an era of shortages and rapid inflation, we must update the rules of the international trade system to focus on access to supplies.

Mr. President, I ask unanimous consent that Professor Gardner's speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

The Trade Reform Bill as an Instrument of Foreign Economic Policy

(By Prof. Richard N. Gardner)

Considering the political and economic ills that currently afflict our country, the new trade bill as it has emerged from the House Ways and Means Committee can be regarded as a minor miracle. That the bill has so much good in it is a tribute to the Ways and Means Committee and to those in the Administration like Bill Eberle who have worked so hard over the last year on behalf of strong and liberal trade legislation.

If I am somewhat critical about some aspects of the bill, it is not out of a desire to be perfectionist. My assignment at this meeting is to discuss the bill as an instrument of U.S. foreign economic policy. To say that the bill is a remarkable achievement in the light of our domestic difficulties does not mean it is an ideal instrument for the promotion of our national interests.

So that no one will be misled about the analysis which follows, I should state at the outset that I speak as one who favors the maximum freedom of international trade and investment guaranteed by clear rules of international law and strong international institutions to apply and enforce them. In a world of widespread poverty, growing resource scarcity, and accelerating inflation, the free flow of goods, services and capital and the encouragement of productive efficiency are more necessary than ever. Those who disagree with this philosophy should tune out from this point on.

Let us start with what is good about the new trade bill in its current version. If the good things don't deserve three cheers, they deserve at least two and a half.

The bill gives the President the power to eliminate tariffs of 5% or less, to cut by 60% tariffs from 5% to 25%, and to cut by 75% tariffs which are over 25% (provided no rate over 25% is reduced below the level of 10%). In view of the bill's explicit objective of promoting open and non-discriminatory world trade—and its implicit aim of reducing to a minimum the common external tariff of the European economic community—it would have been better to have retained the zero tariff authority contained in the original Administration bill. The Senate, when it considers the legislation, would be well advised to put back zero tariff authority in some form—the formula of the Trade Expansion Act of 1962 authorizing the elimination of duties on products on which the Community and the United States account for 80% or more of world trade might be a good compromise. Nevertheless, the bill's tariff cutting authority is probably enough to give us adequate negotiating leverage, provided it is not cut back further in subsequent Congressional consideration.

The bill also gives the President the power to bargain away the whole range of U.S. non-tariff barriers (NTBs) on a mutually advantageous basis, subject only to the sensible requirement that Congress be given prior notification of NTB agreements and the right to veto them by a majority vote of either House within 90 days after they are concluded. The broad grant of authority coupled with the right of Congressional veto represents an excellent compromise between the requirements of effective international economic negotiation and the requirements of democratic control of foreign policy. This is the very formula recommended three years ago by the President's Commission on International Trade and Investment Policy, known as the Williams Commission, on which Tony Knoppers and I had the privilege to be members. Unfortunately, this board authority to negotiate on non-tariff barriers is seriously compromised by a new provision which I shall mention in a moment.

The bill provides for adjustment assistance to help workers and firms hurt by imports to move into new lines of production that can survive without the need for protection. One could wish that the adjustment provisions were even more generous, but what is proposed could nevertheless form the basis of a new policy by which developed countries as a group actively promote a more rational international division of labor by dealing with the very real human problems associated with change in their own societies.

The bill provides the President with authority to grant tariff preferences in the form of duty-free treatment to exports of developing countries—a measure that is long overdue. Unfortunately, limits have been placed on the amount of any one commodity that can come in under preference from any one country and key items like textiles are not now eligible for preferred treatment. Nevertheless, the preference provisions do represent an important first step. We should work to enlarge the U.S. and European preference arrangements into a bold policy of unlimited free trade for the exports of developing nations.

The bill gives the President authority to grant most-favored-nation treatment to the Soviet Union, China and other Communist countries. As we all know, the Jackson Amendment has now made the grant of "MWF" to Communist countries conditional on the granting of free emigration. Since the issues raised by the Jackson Amendment are extremely complex and have already been the subject to extensive public debate, I shall say no more about them except to note my own opinion that in its present form, the Jackson Amendment does not appear to be the best way of advancing its admirable human rights objectives.

Finally, the bill provides a strong statutory basis for the office of the Special Representative for Trade Negotiations, assuring his independence and his role as our chief representative in international trade negotiations and as our chief policy-maker on international trade matters. This is a well-deserved tribute and an valuable assist for Bill Eberle and for the other members of his extraordinarily able and dedicated them—Bill Pearce and Harald Malmgren, his two deputies, and John Jackson, his General Counsel.

Having noted those things that are good about the bill, let me now turn to three major shortcomings that I believe require serious reconsideration:

First, the House Ways and Means Committee has introduced the unprecedented requirement of sectoral reciprocity. In the vital area of non-tariff barriers the President must now use his powers to achieve, with respect to "each product sector of manufacturing" and with respect to the agricultural sector, "competitive opportunities" for U.S. exports to developed countries that are "equivalent" to the "competitive opportunities" afforded to these products in the U.S. In pursuit of this objective, he is required "to the extent feasible" to negotiate trade agreements on a sector by sector basis and to demonstrate with respect to each trade agreement submitted to Congress that equivalent access in each sector has been achieved. Although these provisions do not appear in the section of the bill covering the President's tariff-cutting powers, the report of the Ways and Means Committee states (on page 19) that the objective of sectoral reciprocity is also to be applied "to the extent feasible" in the tariff area as well.

It is earnestly to be hoped that these requirements of sectoral reciprocity will be removed from the bill when it reaches the Senate. In the forty years since the trade agreements program was inaugurated, we have conducted our trade negotiations on the basis of overall reciprocity, permitting concessions in one product sector to be reciprocated by concessions in another, subject only to the requirement that there be a balance of advantage in the total package. Trade-offs between product sectors have been and will continue to be necessary for the achievement of substantial progress in the reduction of trade barriers—particularly non-tariff barriers—because in individual product sectors we and our trading partners differ in trading interests, productive efficiency, and the type of trade barriers we employ. It might conceivably be appropriate to require that the President seek reciprocity within the manufacturing sector as a whole in order to prevent excessive concessions here on behalf of our agricultural and service exports—although even this kind of requirement would need careful examination. But requiring that reciprocity must henceforth be achieved in thirty or forty product sectors—which is apparently the way the legislation is being interpreted by the Ways and Means Committee and the Executive Branch—risks placing unsuperable handicaps on our negotiators before the negotiations even begin.

It is significant that the idea of sectoral reciprocity was carefully considered and firmly rejected by the Williams Commission when the idea was put forward by one of its members three years ago. I believe the reasons given by our Commission are as timely now as they were then:

"Reciprocity should be conceived in terms of the whole set of negotiations rather than as an objective to be achieved within self-contained compartments. . . . In some cases, of course, it may be possible to arrive at mutually advantageous solutions within specific industrial sectors, and efforts should be made to find such solutions. On the other hand, in many cases a country will have to give more than it gets in one sector or functional area, and recoup by securing an equivalent advantage in another."

Second, the bill is much too permissive in allowing U.S. industries to resort to tariff and other forms of protection in the face of import competition. True, the section on import relief does emphasize adjustment to import competition, provides more ample assistance for this purpose than ever before to workers and firms, and favors relief through tariffs and tariff quotas over quantitative limitations and orderly market agreements. But other innovations in the bill could substantially increase the number of successful applications for escape clause relief which will go from the Tariff Commission to the President.

For example, the existing requirement that imports be the "major" or principal cause of injury to a domestic industry is changed to a requirement that they be only a "substantial" cause—a cause defined as "important and not less than any other cause." Alongside the existing law's tight definition of "serious injury"—the significant idling of productive facilities, the inability to operate at a reasonable profit, significant unemployment, etc.—we have a new standard relating to a "threat" of serious injury on the basis of which relief can be granted. The "threat" can take the form of a decline in sales, a growing inventory, and a downward trend in production, profits and employment—obviously a much easier test to meet.

Those who are dedicated to the cause of freer trade might be reconciled to these new provisions if relief in the form of higher tariffs or other restrictions were clearly limited to a shot time period. Unfortunately, the legislation provides for a five-year period of protection renewable by an additional two years—with the opportunity to apply for yet another period of relief after a two-year interval. If the concept of the legislation is to grant temporary protection to permit industries to become more competitive or to change into another line of production, one seven-year period ought to be enough.

No less disturbing is the legislation's ambiguity on the key question of whether the more permissive standards for import relief are to constitute the exclusive mode of protecting domestic industries—or whether such industries will continue to have access to non-legislated methods such as the special international arrangements on textiles and steel. If we are going to set a new and easier standard by which industries are to get temporary relief from imports for the purpose of making competitive adjustment, should not these standards apply to everyone?

Some loosening of the current escape clause provisions is obviously necessary as the price for passing a trade bill, but I fear the loosening in the Ways and Means Committee has gone too far. The new provisions will mean more recommendations for trade restrictions by the Tariff Commission—and much more political pressure on the President under the escape clause than he has faced in recent years. It would be desirable to tighten up the escape clause when the bill gets to the Senate. And it is absolutely essential to retain the discretion the President has under existing law and in the proposed legislation to deny the application of an industry for new trade restrictions in the light of broader national and international considerations.

Third, the bill is entirely focused on the question of access to markets and is totally silent on access to supplies. In this respect, it has the appearance of a Rip van Winkle who has returned to the international trade arena after a long sleep unaware that the most serious current threat to the economy of our country and that of our allies is the withholding of oil by the Arab countries.

When Roosevelt and Churchill met on a destroyer off Newfoundland in 1941 to draft the Atlantic Charter, they proclaimed the postwar goal of "access, on equal terms, to the trade and raw materials of the world." In the first postwar decades, international trade negotiations focused almost entirely on access to markets and virtually ignored the problem of access to supplies. Now, however, we are moving into an era of resource scarcity and accelerated inflation—an era in which producing countries are increasingly tempted to withhold supplies for economic or political reasons. A few months ago the United States itself unilaterally cut off exports of soybeans and other agricultural products in order to deal with domestic inflation. Yet obviously we cannot expect the European community to phase out its agricultural protection and become dependent on our foodstuffs if we reserve the right to cut them off at any time.

I believe the new trade bill needs to be reviewed from top to bottom with a view to the new situation in which we find ourselves. For example, its statement of purposes should emphasize access to supplies as well as access to markets and its authorization to the President to deny our market to foreign countries which unreasonably do the same to us should be broadened to include the denial of U.S. exports and aid to countries that deny us vitally needed raw materials.

Let me make it clear that I am not proposing that we retaliate against the Arab oil-producing countries at this time. We should continue to work through quiet diplomacy for a fair Middle East settlement and the termination of the oil embargo. But the negotiating position of the Administration would be strengthened by some carefully drawn amendments to the trade bill which put the oil-producing nations and others on notice that they cannot wage economic war upon us with impunity. We and other OECD countries are dependent on the Arab countries for oil, but they are dependent on the U.S. and our OECD partners for food, medicines, industrial machinery and consumer goods. The Soviet bloc is not in a position to fill the gap completely if the OECD countries cut off supplies; in any event, countries like Saudi Arabia would think twice about becoming completely dependent on the Communist countries. Thus economic warfare is a game that all can play. Amendments of the trade bill should provide due notice of this fact of life.

Cordell Hull, the father of the trade agreements program, was a believer in the theory that "if goods can't cross borders, armies will." One of the central objectives of our trade policy since Hull's time has been to create the kind of non-discriminatory, secure access to markets and supplies that would remove the economic motives for the use of armed force.

Since the U.N. Charter, countries are no longer permitted to use force to back up their economic claims. Quite apart from legal prohibition, such actions now entail costs and risks that make them politically undesirable. But if the Atlantic Charter concept of equal access to raw materials cannot be guaranteed by the use of force, we need to consider guaranteeing it in some other way.

I have no easy solution to this problem, but I do suggest that we bend every effort to write some new rules of international law providing for equal access to raw materials into the GATT and into other international agreements and that we develop some multilateral sanctions against countries that violate these rules, whether they are parties to the agreements or not. If we can propose cutting off air services to countries that give refuge to hijackers, if we can contemplate denying port facilities to nations that pollute the oceans with their tankers, we should certainly explore the possibility of multilateral trade and aid embargoes on nations that withhold vital raw materials for political purposes.

Like many new ideas, this will be labelled "unthinkable" by some at the outset, but time often changes conventional opinion. Even if only two or three other countries were to indicate interest in the concept of "collective economic security," it might serve to promote new thinking in some key oil-producing nations.

As I close these comments, I must admit to a feeling of deep anxiety that the Arab oil embargo is going to do severe damage to the whole fabric of international economic cooperation that has been painfully put together since the Second World War. I say this more in sorrow than in anger as one who worked hard in the U.S. Government for the first U.N. Development Decade and as one who has consistently argued for more generous aid and trade policies on behalf of the developing countries.

For years the American people and the citizens of other developed nations have been lectured on the obligations of economic power and on the necessity of sharing our resources with those who are less fortunate. Now it appears that the concept of sharing is regarded by many as a one-way street—something which developed countries are expected to do but which developing countries are not expected to do when the resources are in their possession. Yet this policy of sharing through aid and trade was justified not only as morally right but as politically sound in order to assure the cooperation of developing countries who might otherwise deny their resources or markets to us. If the oil embargo continues indefinitely and the people of the United States and other developed countries begin to suffer, there will be some disagreeable second thoughts. Those whose houses are cold, whose movement is curtailed, whose fuel bills are prohibitive or whose very jobs may be threatened by the deliberate action of foreign governments are not likely to respond to old appeals on behalf of "interdependence" and "solidarity."

Let me be very specific. I wonder whether the American people can be expected to share their wheat and soybeans with the developing countries through the proposed "world food reserve" when some of these countries are refusing to sell us their oil. I wonder what is going to become of the Second Development Decade, of tariff preferences for developing countries, of multilateral aid appropriations, of the proposal to earmark SDRs for development, and of meaningful revenue-sharing from our exploration of the seabed.

It is curious and tragic that the non-oil producing developing countries, many of whom seem indifferent to our problems and some of whom are even cheering on the Arab countries in their oil embargo, do not seem to be asking themselves these questions. I hope and pray they begin to do so before it is too late.

THE OIL WEAPONS

Mr. BROCK. Mr. President, 6 months ago, these United States faced an energy problem. Slowly that problem grew larger and larger, until finally, from an energy crunch, we emerged into an energy crisis. One of the contributors to that crisis which is now upon us was the Arab oil boycott. Certainly, this cutoff of oil shipments has hurt, but it results in only a small percentage of the actual percentage of oil which we find ourselves in need of presently. Considering this fact, and considering the many other energy sources which we have available to us, which should immediately be pursued, I find it ridiculous that we might even consider bowing to an Arab oil boycott.

The Wall Street Journal, in its November 28, 1973, issue, contained an excellent editorial on the threat to the Nation in many other areas if we were to succumb to the Arab threats. I ask unanimous consent that this editorial be printed in the RECORD so that we should not forget the consequences of bowing to blackmail.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE OIL WEAPON

From what we can gather, Arab leaders at a "summit" conference outside Algiers this week are full of self-congratulation, and perhaps even some wonderment, over how effective the oil weapon has been in shaking the confidence of the world's major industrial powers.

Indeed it has shaken confidence. As Mr. Janssen observes on this page today, the impact of a continuing oil shortage on the NATO nations of Europe could be grim, both in economic and political terms. Japan, which is heavily dependent on Arab oil, responded with alacrity to Saudi Arabia's demand that it change its leaning from support to criticism of Israel's position in the Mideast dispute.

It should not be surprising that all this is a heady experience for leaders who mainly rule large acreages of sand. But some Arab leaders, Tunisia's wise Habib Bourguiba, for example, are making it clear at the conference that this sudden grip on immense power could prove to be a little too good to last. It is politically unnatural for small countries to be successful for very long in twisting the tails of major, industrial powers. Politics abhors romanticism in much the same way that nature abhors a vacuum.

We're not sure how this translates into a political scenario for the months just ahead. But we are convinced that the Arab leaders would be wise to listen to the cautionary advice they are getting from Mr. Bourguiba, who called the oil weapon a "double edged sword," and from Mahmoud Riad, secretary general of the Arab League, who urged them to be "judicious" in its use. Reports from Algiers yesterday that the Arabs will relax their shipment curbs to all European Community nations except Holland suggest that they may indeed heed that advice.

The U.S., for its part, has followed a correct policy in response to the Arab oil embargo. It has done its allies a great favor by not responding to suggestions—from the French, for example—that it join in appeasing the Arab states. Although they may not yet see it that way, it may well be doing the Arabs a great favor as well by warning them at the outset about the dangers of overreaching. Mr. Kissinger's threat of possible countermeasures against the Arab states if they become too persistent in wielding the oil weapon was entirely appropriate, given the gravity of the present situation.

However, Mr. Kissinger has made it clear all along that the U.S. wants to be a positive force in lending its good offices for Arab-Israeli peace talks. A situation of this seriousness demands leadership and constructive effort and it would be frightful to contemplate some of the possible consequences if the U.S. had proved to be too timid to take the kinds of initiatives that only it is capable of taking in the present world system of political and economic dynamics.

But it is a delicate situation at best. King Faisal sits on a lion's share of the world's oil. He has emerged as a more active champion of Arab claims against Israel. There is a wide gap separating Israel and the Arabs from reaching any kind of meaningful peace agreement.

But it is not any means a hopeless situation. By Middle Eastern standards, it is progress that Israeli and Egyptian military officers have been treating with each other, even though amid a great deal of tension. Peace talks arranged largely by the U.S. could begin as early as next month, barring some new explosion. There is every evidence that the Arab nations, particularly Saudi Arabia, are not eager to get into a situation where they would be forced to become clients of the Soviet Union. King Faisal is, after all, a religious leader and it is not easy to think of a country that has done more violence than the Soviet Union to Muslim shrines within its own borders, such as the great mosques at Bokhara.

If Mr. Kissinger is to play a firm, constructive role, he needs political support at home, such as that provided last week by eight leading American economists, Messrs. Samuelson, Arrow, Kuznets and Leontief, all Nobel laureates, and Messrs. Fisher, Solow, Galbraith and Peck. These eight urged the U.S. to resist "oil blackmail." Further urging along the same lines came on "Meet the Press" over the weekend from Walter J. Levy, one of the nation's foremost oil economists. It is particularly important that totally unrelated issues, such as Watergate, not be allowed to weaken the U.S. political stance.

A firm stand by the U.S. is vital at this juncture. And the Arab leaders in Algiers would be well advised to demonstrate some flexibility. We doubt that Western civilization is quite yet ready to be plunged into cold and darkness without uttering a peep in its own defense.

ENERGY CONSERVATION IN MAINE

Mr. MUSKIE. Mr. President, in recent weeks I have had numerous conversations with Maine citizens concerning the steps which they are taking individually to deal with the fuel shortage. I am constantly impressed with the degree of commitment and ingenuity which people are demonstrating in specific energy conservation measures applied to their daily activities.

I would like to share with my colleagues the steps being taken by one businessman, Mr. Arnold Sturtevant of Livermore Falls, Maine. As president of the Livermore Falls Trust Co., Mr. Sturtevant has instituted an energy conservation "bonus" plan for the bank's employees which I think others might wish to copy in their businesses and communities.

Mr. President, I ask unanimous consent that an article in the Livermore Falls Advertiser, describing the conservation plan, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

L. F. Trust To Initiate Energy-Saving Hours and Employees Bonus Plan

If you find Livermore Falls Trust a little darker and a little cooler—in temperature, not friendliness, that is—then you are experiencing the results of that bank's energy conservation program.

The bank has undertaken some rather unusual measures that it expects will result in substantial savings of fuel and electricity in the months ahead.

Turning back the thermostat, switching off lights and paying its employees an "energy bonus"— based on the actual savings that result—are just a few of the ways that this Maine banking institution hopes to do its part in conserving the nation's critically short energy supply.

The most unique aspect of the bank's program is its bonus plan. To arouse a greater awareness of the crisis—and to promote individual participation in helping to solve that crisis—the bank will pay its employees a bonus of $2.00 for every $1.00 of fuel and electrical costs saved. (The measure of savings will be determined by applying the unit costs for fuel and electricity to the actual kilowatt hours and gallons of fuel saved over normal operation. (Although energy conservation will thus end up costing the bank twice as much as the cost of energy, its management considers it a worthwhile contribution to the solving of a true national emergency; and it feels that this incentive to economize at work can't help but result in beneficial carryover to each employee's home life.

Arnold Sturtevant, president of the bank, reports that employees are enthusiastically participating in the incentive program—already having found ways to cut over 18,000 watts from the institution's normal illumination needs; and a 20 per cent cut in commuting mileage will present added opportunities for conservation of gasoline.

In addition, the bank has announced a new energy-saving schedule of operations. New hours will allow it to run its furnaces and lights less while, at the same time, providing just as many hours of service to the public. This savings will be accomplished by closing its main office lobby on Mondays and adding the normal hours that it is open on that day to the remaining days of the week.

Bank management states that it has been demonstrated that significant energy savings can be effected by closing its main office lobby for three consecutive days (Saturday through Monday).

Starting the first week of December, its main lobby will be open to the public from 9 a.m. to 5 p.m. each Tuesday, Wednesday, Thursday and Friday. (It has normally closed at 3 p.m. on Tuesday through Thursday.)

The bank's main office drive-ups and walk-up windows will continue to be open every weekday afternoon until 5 p.m. and Saturday morning from 9 a.m. until noon. However, to help compensate for the lost Monday hours in the main lobby, these facilities will extend their hours to include Monday mornings—operating 9 a.m. to 5 p.m. on that day. The bank felt this added service would be especially useful to those businesses that need bank services after each weekend. These drive-in and walk-up service facilities can be operated with little expenditure of fuel and electricity, as they are separately heated and are compact self-contained units.

Livermore Falls Trust's branches in Jay and Chisholm have been on a Tuesday through Saturday schedule for several years; and their hours will remain unchanged.

The bank's Family Finance Center, considered a part of the main office will now be closed on Monday; but, like the rest of the main office, it will be open from 9 a.m. until 5 p.m. on other weekdays— (expanding from its former hours). In addition, the Family Finance Center will continue its past practice of accepting appointments for Saturday mornings.

Sturtevant says that he is sure that these measures will result in significant energy savings, undertaken in voluntary compliance with the President's request for all Americans to make a sincere effort to conserve scarce resources; and he fully expects that many others—both businesses and individuals—will be increasingly involved in doing their part.

A DEBATE IN ISRAEL

Mr. McCLURE. Mr. President, an encouraging report has been issued from Tel Aviv, to the effect that the leaders of the Israeli Labor Party are prepared to compromise on their party platform. Instead of the previous position, calling for continued Israeli occupation of the Arab lands seized during the 1967 war, the Labor Party leaders are now proposing "defensive borders based on territorial compromise."

This new position does not show a willingness to withdraw from all occupied lands, in keeping with U.N. Resolution 242, but it does show a willingness to compromise. Considering previous stands taken by the party and its leaders, this signifies an important change in attitudes, which could lead to more fruitful negotiations and, ultimately, a lasting, just peace.

The question that we Americans should be asking ourselves is, "If the Israelis themselves can consider new positions, such as withdrawing from occupied Arab lands, why can't we?"

Mr. President, I ask unanimous consent that an article from the Washington Post of December 6, 1973, concerning this change in attitude, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Israeli Ruling Party Torn Over Arab Lands

Tel Aviv, Dec. 5.—In a marathon day and night debate the leaders of Israel's dominant Labor Party today subjected themselves to a grueling soul-searching over past mistakes and future policy on peace and territories.

At issue before the party's central committee was the proposed election platform calling for "defensive borders based on territorial compromise," meaning that in return for peace Israel would give up some but not all of its 1967 conquests.

Passage of the party platform for the Dec. 31 parliamentary election seemed assured since it was a delicate compromise drawn up by a crosssection of party leaders to satisfy both doves and hawks.

The debate was dominated by two key elements—the wisdom of Israel's post-1967 policies and Israel's future stance in dealing with the Arabs and particularly the Palestinians. The key figure, inevitably, was Defense Minister Moshe Dayan, both because the army was surprised by the October attack and because he symbolizes the policy of standing firm on the post-1967 borders until the Arabs are ready to talk peace.

Dayan, who warned that the Arabs still want to destroy Israel, was joined by three other Cabinet ministers in stressing the importance of "strategic depth," which can be achieved only by holding large sections of the conquered lands.

A leading dove, former Party Secretary Yitzhak Ben-Aharon, said Israel could only assure peace by sharing Palestine with a Palestinian Arab state. Dayan replied he would not serve in a government which accepted a separate Palestinian Arab nation because that would be the beginning of the end of Israel.

Deputy Prime Minister Yigal Allon, a moderate and long-time Dayan rival, said every cabinet member should submit his resignation to leave Prime Minister Golda Meir a free choice should the party form the next government.

Allon said the Cabinet had to bear collective responsibility for the October war, but, in an implied criticism of Dayan, added that some were more responsible than others. Dayan replied that he was ready to resign if Mrs. Meir wished that and said he had not asked to serve in the next government.

The debate which continued from morning until well after midnight was stormy and emotional and saw one speaker warn that, what with mutual recrimination, Israel was plunging itself into destructive masochism.

VOLUNTARY AND MANDATORY RATIONING OF GASOLINE AND FUEL OIL

Mr. MUSKIE. Mr. President, as the Congress and the President consider energy rationing proposals it is important that we examine the Nation's experience with both voluntary and mandatory rationing during World War II. At my request, the Library of Congress has completed a study evaluating the U.S. experience with rationing during that period.

I think two of the specific findings of the study deserve special attention as we consider whether to move to mandatory rationing.

First, that voluntary rationing programs did not work during World War II. Even the most ardent supporters of the programs agreed that they failed. They agreed as well that long delay and continuing Government vacillation made the problem of acceptance worse when finally the choice of mandatory rationing had to be made; and

Second, that mandatory rationing played an indispensable role in achieving necessary reductions and redirection of civilian demands—although gasoline production was up during the war, civilian use dropped by one-third, down from 1,706,000 barrels per day in 1941 to 1,219,000 per day in 1944, with the biggest bite in passenger car use.

Also of interest are certain recommendations made by the report for any future rationing programs based on the World War II experience.

First, the system must be nationwide and must apply to everyone;

Second, the public must understand the real severity of the shortage in order to insure compliance;

Third, rationing should be handled by one agency. The World War II scheme was severely handicapped by the existence of several rationing authorities; and

Fourth, some form of nationwide supplier limitation is necessary to effect proper end-use rationing.

I ask unanimous consent that this informative study be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

U.S. EXPERIENCE WITH VOLUNTARY AND MANDATORY RATIONING OF GASOLINE AND FUEL OIL DURING WORLD WAR II

I. A BRIEF BACKGROUND OVERVIEW

The United States engaged in both voluntary and mandatory rationing of gasoline and fuel oil during World War II, from May 1941 to the war's end in mid-August 1945.

It was an extraordinary period in our history, the only time the country was ever called upon so rapidly to convert its economy and whole life style so totally to a world wide war. Not only gasoline and fuel oil but eleven other important consumer products were rationed too: tires, automobiles, typewriters, sugar, bicycles, processed foods, meats, fats, oils and cheese, coffee, and shoes.

Because the energy emergency has now brought suggestions that mandatory consumer end-use gasoline and fuel oil rationing may need to be installed, it may be useful to review our own historical experience for lessons which could have some relevance today. This section briefly reviews some of the more general problems involved in that first U.S. experiment with rationing.

A. The problem of overlapping agencies

More than thirty new war agencies and commodity "czars" were created to cope with the critical materials and manpower tasks the war emergency produced. Among these, at least eight were charged with responsibilities which often overlapped and contradicted equally valid delegated authorities, in the areas of planning and executing various petroleum fuel rationing schemes:

The War Production Board (WPB) had to decide on and allot petroleum product quotas among highest priority military needs and competing essential civilian claims.

The Petroleum Administration for War (PAW) was responsible for assuring adequate supplies for the total war effort, for determining the time, area and quantity of petroleum products available for rationing, and for programming their delivery.

The Office of Defense Transportation (ODT) held responsibility for coordinating and maintaining all domestic transportation, including all rubber-borne passenger cars, buses, taxicabs and trucks.

The Office of the Rubber Director (ORD) was given authority to allot rubber, including for tires, and to claim gasoline and fuel oil as needed to further the rubber production program.

The Office of Price Administration (OPA), in addition to its price and rent control responsibility, was assigned authority with respect to rationing control over the sale of products at the retail level to persons acquiring products for the satisfaction of personal needs.

The War Food Administration (WFA) was a claimant agent for petroleum products essential to keep agricultural production at highest possible levels. Soon after nationwide rationing was installed, WFA became the agency certifying essential agricultural mileage and off-highway agricultural needs.

The Office of Civilian Requirements (OCR) had the same claimant rights as WFA for off-highway petroleum needs, for example, for stationary and industrial engines, construction equipment, boats and civilian aviation.

The Office of Economic Stabilization (OES) was designated as the higher level agency to handle any issues which could not be resolved among these agencies. Some of these issues were never resolved, despite the high level order issued in mid-1943.

It was a turbulent, chaotic, exciting extraordinary time.

B. Some rationing problems peculiar to World War II

Many of the critical petroleum supply problems which finally required mandatory consumer end-use rationing were solely due to demands peculiar to that world-wide war.

Chief of these was the fact that, at the outset, it was not lack of gasoline and fuel oil but lack of tanker transportation to supply the East Coast petroleum deficit area. Almost immediately, a drastic shortage of rubber also emerged, so severe as to threaten paralysis of the whole economy, heavily dependent on rubber-borne transport means.

In addition, wartime overseas demands required an unprecedented increase in volume of gasoline production and a striking redirection of total use, both as between war and civilian needs and as between essential and less essential categories of civilian needs. Fortunately, there was sufficient reserve production capacity from domestic oil fields so these priority demands could actually, almost miraculously, be filled. U.S. total gasoline production in 1945 was almost one-third above 1938, but over half the total output went to U.S. and Allied military and essential foreign civilian needs.

Furthermore, it should be kept in mind that end-use coupon rationing of consumer goods, including gasoline and fuel oil, was exercised in the context of a battery of direct and indirect economic controls designed to keep inflationary pressures in check. In addition to higher taxes on income and goods, and the promotion of war savings bonds, direct controls were imposed on prices, wages, credit and rents, reinforcing to a large degree the prospect for a successful consumer end-use ration scheme.

While these general factors were peculiar to that World War II frame, that early rationing experience still has a good deal of relevance to the present time.

All allocation programs will attract controversy. None are popular. There are still wide differences in regional production and demand for gasoline and heating fuel. Decisions on how to allocate scarce petroleum supplies for refining production schedules between estimated winter heating needs and the next summer's gasoline demands must still be made months in advance of retail sales. This makes any allocation scheme necessarily complex.

Since at least some sources of controversy are avoidable and some errors of administration need not occur it should be useful to review the history of our own precedent, and to identify, at least, any remediable mistakes.

C. Principal sources used

The background information and specific details included in this review have been drawn primarily from the following accounts:

The United States at War: Development and Administration of the War Program by the Federal Government, U.S. Bureau of the Budget, Committee on Records of War Administration, June 1946, Reprinted by Da Capo Press, New York, 1972, hereafter cited as BOB.

A Short History of OPA, by Harvey C. Mansfield and associates, Historical Reports on War Administration, Office of Price Administration, 1946, hereafter cited as OPA.

A History of the Petroleum Administration for War: 1941–1945, John W. Frey and H. Chandler Ide, editors, Office of the Petroleum Administration for War, U.S. Government Printing Office, Washington, D.C. 1946, hereafter cited as PAW.

An Analysis of Selected Rationing Programs in the U.S. During World War II, unpublished PHD thesis by Carolyn Shaw Solo, Harvard University, October 1950, Chapter Five, "Gasoline Rationing", hereafter cited as Solo.

Additional references are listed in the footnotes in the text.

II. U.S. EXPERIENCE WITH VOLUNTARY CONSUMER END-USE RATIONING: MAY 1941—DECEMBER 1942

Many different forms of petroleum allocation and distribution controls were practiced during World War II: voluntary and mandatory supplier limitation orders and voluntary and mandatory end-use consumer controls.

The scope of this report is limited to a comparison of World War II experience with voluntary and mandatory consumer end-use rationing and no attempt is made to evaluate the relative effectiveness of the various voluntary and mandatory supplier allocation schemes which were tried.

As indirect constraints on end-use consumption of gasoline and fuel supplier allocation schemes substitute for direct consumer end-use controls. During World War II, many of these limitation schemes, both voluntary and mandatory, were the main forms, other than petroleum conservation rhetoric, through which "voluntary" consumer end-use limitation was pursued.

Supplier limitation measures, in general, applied to any one who (a) produced or manufactured motor fuel, kerosene, range and heating oil or residual fuel oil; (b) imported such products from other areas for sale or resale and/or (c) distributed such products for retail sale. This included refiners, wholesale marketers, jobbers, intermediate distributors down to the service station or fuel oil dealer who transferred the fuel into the end-use consumer's oil or gasoline tank. "End-use" or "ultimate" consumers were considered to be the final consumer of the product, including a dealer or distributor who needs gasoline and heating oil for his own end-use.

The distinction between voluntary and mandatory measures was technically clear—mandatory controls carried stiff legal penalties for non-compliance and voluntary controls did not. There were widely differing consequences in actual practice, however, depending on the completeness of the compliance. An obvious example was the pleasure driving ban: the pleasure driving ban, which was unenforced and really unenforceable although "mandatory", was less effective in reducing pleasure driving than a voluntary gasoline station Sunday-closing rule in any area where nearly all gasoline stations compiled.

In any case, as the account below describes, if there were any possible variations on the mandatory-voluntary and supplier-consumer themes that could be tried, this country tried them then.

This section describes the measures tried between May 1941 and December 1942, when nationwide mandatory consumer end-use controls were finally introduced.

A. The opening scene

Energy requirements of World War II presented the United States as a whole, and the petroleum industry in particular, with production and distribution problems without precedent. To a far greater extent than in World War I, the outcome of the conflict depended on timely and adequate supplies of oil, delivered to supply and combat areas throughout the world.

Between December, 1941, and August, 1945, Allied requirements totaled seven billion barrels of crude petroleum, of which the United States supplied four-fifths.

The major challenge during this period for the Federal Government was to shift its policies from curtailment to promotion of oil production. From 1924 to 1939, efforts had been geared largely to restrict production and to maintain a semblance of stability in the industry. Now the war required new efficiencies in drilling and in the exploitation of new wells. By grants of subsidies and favorable tax provisions, and by careful allocation of scarce machinery and drilling supplies, Federal and state authorities were able to boost the nation's total oil output.

The achievement was possible only because there was cooperation between government and industry, a cooperation which included both suspension of anti-trust provisions to permit maximum pooling of supplies and distribution facilities and joint financing for new refineries. The Federal Government provided nearly two thirds of the billion dollars expended over four years in developing new petroleum facilities, including assistance to 43 aviation gasoline refineries and related installations.

Within a few months after its outbreak in September 1939, the European war caused fuel oil and gasoline shortages in the Northeastern United States. As German submarines cut down the flow of Allied tanker traffic in the Atlantic, crude oil shipments from California and the Gulf of Mexico region to the Northeast were seriously disrupted. Available rail and truck facilities to provide overland transportation were insufficient to move oil products needed in the large eastern cities. Pipelines connecting the Atlantic Coast with the midcontinent and Gulf oil regions were too small to take on the added load. The Atlantic Coast, which received 95 percent of its oil supply by sea, faced serious fuel oil and gasoline shortages during the fall of 1940 and again in the winter of 1941.

The country's response to such problems was slow and haphazard. Throughout 1939 and 1940, the President urged Congress to enact legislation that would empower the Secretary of the Interior to allocate oil production and distribution. In 1940, the House Committee on Commerce held lengthy hearings on a bill designed to confer broad powers on the Secretary of the Interior, Harold Ickes, to control production and distribution of oil. But Congress, distrusting Ickes, refused to enact the measure. In the meantime, the loan of fifty American tankers to Britain further aggravated the problem of East coast supply.

B. The Petroleum Administration for War (PAW)

Growing shortages led President Roosevelt to use his executive powers. Soon after the European war broke out, Roosevelt had delegated his authority to deal with many of the oil problems to Interior Secretary Ickes, including responsibility for trying to establish voluntary rationing programs for fuel oil and gasoline in the Northeast and for developing arrangements for alternate transport facilities.

In May 1941, the President designated Ickes as Petroleum Coordinator for National Defense and gave him as his main assignment the job of enlisting the full partnership of the oil industry in the war.

At this stage, his powers were to be largely advisory in promoting cooperation within the oil industry. As Coordinator, he was to make an inventory of available oil reserves and to facilitate pooling of scarce resources and equipment. He was also to organize advisory committees composed of industry representatives and to coordinate petroleum policies of various Federal agencies.

While this approach may seem reasonably sensible, at the time it was, in terms of Federal Government relations with the oil industry, unprecedented. Secretary Ickes, in particular, was greatly distrusted and with perhaps good reason since his views on what was wrong with the oil industry and how it should be brought to heel were widely documented. The feud had been running between them a full eight years when this new partnership tentatively began. As for coordinating Federal agencies, even before the dozens of new war agencies proliferated, there were already some thirty government offices with interests and activities in some aspect of oil.

Ickes' plans for closer cooperation within the oil industry were based in part on suspension of the antitrust laws. Obviously, close cooperation in the oil industry would be difficult if the Justice Department discouraged such "collusion," especially the formation of regional industry committees. In June, Attorney General Biddle acquiesced very reluctantly and only under White House pressure. Oil companies were allowed to enter upon voluntary agreements, including pooling of production and distribution of supplies.

The Department of Justice also agreed temporarily to suspend its antitrust suits against oil companies pending on appeal, although Biddle promised to keep the activities of the various petroleum corporations under close surveillance.

Thereafter, consolidation and coordination of federal agency policies and activities moved rapidly and concurrently with the consolidation and coordination within the oil industry itself.

Successive administrative reorganizations replaced the Petroleum Coordinator for National Defense, with the Office of the Petroleum Coordinator for War, and finally the Petroleum Administration for War, formally created December 2, 1942. However, the structure and policies and basic industry-government understandings under which the PAW operated throughout the war were in fact agreed to at this early stage and remained essentially unchanged. The official PAW history described the underlying concepts of organization which governed the war-time petroleum industry-government relationships in these terms:

1. So far as possible, all governmental activities and responsibilities relating to oil for war would be brought together and centralized in one effective agency.
2. The agency would be organized along functional lines paralleling the principal functions of the petroleum industry itself, would be staffed by men possessing practical experience in oil.
3. Industry committee organization would be created to advise and assist Government and the full resources of the industry would thus be enlisted on a cooperative basis; at the same time, orders and regulations would be kept to a minimum, and the greatest possible reliance placed upon voluntary compliance and support.

As a result, during the war the whole process of production allocation and ultimate distribution of supply of all petroleum products was so closely coordinated as to rate the description of the process as one single oil company operating nationwide.

While this close identification was often hotly criticized, far from being clandestine or undercover, it was, as the record clearly shows, deliberately, legally, openly intended, sought for and achieved.

C. Voluntary rationing of petroleum fuels: First phase, July 1941-December 1941

By June of 1941, the East Coast which has historically consumed a large share in total U.S. gasoline supplies—37 percent in 1939—was already feeling the pinch of the interruption of its sea borne supplies. The first effort to achieve voluntary reduction of consumption in an effort to alleviate the summer gasoline and the approaching winter fuel oil shortage was launched.

Throughout the summer of 1941, PAW and the oil industry tried to convince the gasoline-using public on the East Coast of the necessity for voluntary curtailment of their driving. PAW Recommendation 1, issued July 20, 1941, asked for a voluntary reduction in gasoline consumption by 33 percent. The larger Eastern oil companies footed the bill for a $250,000 advertising campaign featuring windshield stickers which announced "I'm Using One-Third Less Gas."

Additional conservation measures promoted by this campaign called for lower car speeds, proper care of tires, and organizing car pools.

Appeals were made to service station owners, too. Recommendation 3, issued August 5, 1941, asked for a curtailment in commercial delivery services. Recommendation 4, effective August 3, 1941, asked for the closing of service stations between 7 p.m. and 7 a.m.

When these failed to produce desired cutbacks in consumption, PAW sought to curtail the volume of use by a cutback in the supplies to the retail distributors. PAW Recommendation 6, of August 18, 1941, recommended to the East Coast oil companies that deliveries of gasoline to service stations and other outlets be restricted to 90 percent of deliveries during the previous month, and a week later lowered the recommendation for September to 85 percent.

Soon afterward, at PAW's request, this recommendation was replaced, on September 30, by a formal War Production Board limitation order, L–8, which as of October 1, restricted deliveries at all levels of distribution to suppliers according to a formula based on previous sales, with various provisions to adjust for inequities.

While consumption did in fact begin to drop with the first curtailment of deliveries to suppliers, the WPB order produced thousands of requests for adjustments as it applied to specific suppliers, jobbers, and service stations. Before the Marketing Division of PAW, with its small staff, could work its way through these adjustments, the continuance of the limitation of gasoline consumption was made temporarily unnecessary when more tankers became available for East Coast deliveries in October and November.

At the end of November 1941, these early limitation orders were all suspended for a while.

A major reason why the public failed to respond to these appeals was that they lacked credibility. The gasoline shortage, real as it was on the East Coast, was known to be regional. Gasoline stocks in other areas were in fact in surplus. To ask drivers in the East to curtail their gasoline consumption because the German submarines were sinking tankers in the Atlantic ocean seemed a non sequiter. The subsequent argument that all citizens should give up gasoline because rubber would be short made the public, for whom the war was still very far away, skeptical at best. Nor did the report of a Senate Special Committee to Investigate Gasoline and Fuel Oil Shortages, the Maloney Committee, increase PAW's credibility. The report concluded that: paradoxical as it sounds, the shortage as we see it, is a shortage of surplus—not a shortage of products or lack of transportation.

Not surprisingly, the public felt the claim of shortage was a "phoney" one.

In any event, this first effort to curtail consumption by voluntary methods did not succeed. Even the officials who were the strongest supports of voluntary means agreed it failed:

Voluntary rationing, although tried but for a short period, had proved something of a failure in its first test, and, even though there were many who believed it could have been made to work successfully, the fact remained that it had failed, and this colored official thinking about rationing and other consumer restrictions throughout the war.

D. Voluntary rationing of petroleum fuels: Second phase, December 1941 to May 1942

Even after the full scale entry into the war in December 1941 when the United States Naval Bases at Pearl Harbor were bombed by the Japanese, no formal action concerning the distribution of petroleum products was taken for about two months. Shortages of oil by industry or by consumers that were reported to PAW were handled on an individual ad hoc basis.

Despite a clearly deteriorating supply, leading East Coast members of the Petroleum Industry War Council on February 11, 1942, recommended only that, in addition to trying to increase overland movement of oil: Steps be taken to curtail the total east consumption of petroleum products to the extent of approximately 15 percent from current levels during the period February 15 to April 1. It is impossible to predict whether or not curtailment will be necessary beyond that date.

The industry group urged the restoration of service station curfews and Sunday closing, an appeal to the public for economy in their use of gasoline and heating oil, and concluded that, if these steps were not sufficient, "positive rationing will be necessary."

Simultaneously, starting in February 1942, an elaborate industry sponsored petroleum products conservation campaign was developed and carried out nationwide at a total direct cost of $6,050,000. Involving 94 oil companies and using all media forms then available, at least 10 separate conservation promotion programs were developed, including tire conservation, scrap rubber, farm-equipment maintenance, anti-black market, gasoline conservation and fuel oil conservation. The latter included the currently familiar recommendations:

Weather-stripping of windows and installation of storm doors and windows.

Cleaning and inspection of oil burners for maximum efficiency.

Closing off of unused rooms in homes and stores.

Holding thermostat control at 68 degrees in daytime.

Reducing heat at night by lowering thermostat to 50 degrees.

Cooperation with the oil supplier by consideration for his transportation problems, and by filling home oil tanks, during the summer months.

As further steps the PAW concluded two things had to be done: (1) Industry committees needed to be given authority to collect data and to use their knowledge and experience in planning how to arrange the distribution of products for maximum efficiency and to carry approved plans into effect; and (2) consumption needed to be limited by restricting deliveries and preventing the movement of products out of shortage areas. These were the original objectives of PAW Recommendation No. 33, issued February 6, 1942, and WPB limitation order L–70, which, when issued March 14, 1942, set deliveries of gasoline to distributors at about 20 percent less than normal gallonage. Less than a month later, on April 8, L–70 was amended to curtail deliveries to gasoline retail outlets by one-third.

Concurrently, the Office of Defense transportation tried to institute similar nonmandatory efforts with respect to the commercial transport vehicles for which that agency was responsible. In May of 1942, ODT had begun a program to secure more efficient commercial transport with the objective of reducing rubber consumption by commercial vehicles some forty percent. It issued orders (which lacked enforcement sanctions) restricting deliveries and requiring an increase in loads, and in July of 1942 issued General Order No. 17, which required (or requested) commercial vehicles to effect a twenty-five percent cut in mileage over the corresponding months in 1941. These had virtually no effect.

All during these first curtailments there were complaints from distributors in areas where burgeoning war plants expanded demands out of line with the historical demand pattern on which the limitations were based and from large groups of gasoline users who requested preferential status.

The distributors were directed to give preference to "essential users". Doctors, Government cars, truckers from war plants, workers traveling long distances to essential war production plants with no public transportation available obviously had to have enough gasoline to keep running. The individual service station operator found it almost impossible to do this selective rationing without laying himself open to the charge of favoritism, yet it was left up to him to decide who got the gasoline.

With supplies getting more limited every day, a third reduction in gasoline was ordered by WPB on May 13, 1942, this time down to 50 percent of normal, and some kind of consumer end-use rationing could no longer be postponed.

E. Stop-gap punch cards and east coast mandatory gasoline consumer end use rationing, but no nation-wide controls: May 15–December 1, 1942

On May 15, 1972, the Office of Price Administration (OPA) issued its first rationing order, limiting for the first time the actual consumption of gasoline by consumers.

The Office of Price Administration (and predecessor agencies) had been created and reorganized by a series of executive orders dating from April 11, 1941, with special responsibilities for price and rent control in addition to the task of assuring adequate supplies of essential consumer goods to the civilian sector. Its rationing authority derived from powers delegated by the Chairman of the War Production Board under Directive No. 1, issued January 24, 1942. This gave OPA full authority with respect to rationing control over retail sales to "ultimate consumers". (This term is described as meaning "a person acquiring products for the satisfaction of personal needs as distinguished from one acquiring products for industrial or other business purposes."

Like the area covered by WPB's L–70, the rationed area included all of Petroleum Administrative District 1, except 93 counties along the western edge of New York, Pennsylvania, Virginia, and West Virginia, where local gasoline manufacture was said to be sufficient to satisfy normal demands.

Under this plan of rationing, users were divided into five classes, who received their rations upon presentation of cards, like meal tickets, which the dealer was supposed to punch when he delivered the gasoline. This card system, containing no possible check and depending, as it did, entirely upon the conscientiousness of dealers and users, was merely a stopgap. It was replaced by the OPA consumer end-use coupon system on July 22, 1942.

The attempt to establish and hold a boundary line between rationed and unrationed areas along the East Coast proved untenable. Pittsburgh resisted rationing because Allegheny refineries could supply adequate amounts, if not siphoned off to deficit areas. Bristol, Tennessee, and Bristol, Virginia, were cut in two. Motorists from rationed Syracuse, New York, just drove next door to unrationed Rochester.

As for the prohibition against moving products out of District 1, this, too, ran into difficulties because certain Allegheny refiners had developed outlets in agricultural eastern Ohio for low octane gasoline which was not considered suitable for the steep grades of western Pennsylvania. Consequently, low octane gasoline was permitted to move into eastern Ohio. Florida constantly maintained that rationing was not necessary there and the fact that the boundary line was the Appalachicola River only complicated matters. The boundary location problem never was solved to the satisfaction of everyone. Adoption of a nationwide rationing system finally reduced the problems it has caused.

By the fall of 1942, the rubber shortage was so grave that the President appointed a committee, headed by Bernard Baruch, to investigate and make recommendations. The report of that committee, issued September 10, 1942, predicted disastrous consequences unless the use of existing rubber tires was limited, and recommended Nation-wide gasoline rationing as the most effective method of doing this.

The Baruch committee recommendations led to Nation-wide gasoline rationing, although more than 100 Congressmen, reflecting anguished protests from the West, staged a demonstration in November 1941, when Nation-wide gasoline rationing was formally announced.

On December 1, 1942, mandatory gasoline rationing through the consumer end-use coupon scheme began.

F. Early efforts to limit consumption of heating fuel oil: February 1942 to October 1942

Mandatory consumer coupon rationing of heating fuels did not begin until October 22, 1942, but the need for reduced consumption on the East Coast and in the Pacific Northwest was evident in the first months of the year. PAW Recommendation 33, on February 6, 1942, established a system of minimum deliveries to all types of consumers and distributors.

Later, March 14, WPB Order L–56 prohibited new installations of oil-burning equipment; called for fullest possible use of standby equipment and use of other fuels; and encouraged the conversion of heating equipment from oil to coal. Less than a month thereafter, on April 6, with fuel oil consumption still exceeding the supply in these areas, PAW asked the oil companies to cut deliveries of fuel oil to consumers in the East and Pacific Northwest to 50 percent of the deliveries during the same month of 1941.

However, despite the well organized campaign to promote voluntary conservation, neither advertising rhetoric nor the dealer delivery limitation to consumers worked any better with heating fuels than they did with gasoline. In the words of the official PAW history:

> It was too difficult a problem for the dealers. Consumer coupon rationing was a necessity and the WPB finally authorized OPA to introduce it.

III. NATIONWIDE MANDATORY GASOLINE AND FUEL OIL CONSUMER END USE RATIONING: DECEMBER 1942 TO AUGUST 1945

Eighteen months after the first alarming East Coast shortages, and one full year of war, but only after trying almost every possible variant of indirect controls to limit end use consumption, the United States at last reluctantly took on nation-wide mandatory consumer rationing through an end-use consumer coupon system for both fuel oil and gasoline. While technically fuel oil rationing was launched in October 1942, it took at least three months to shake down at all and for all practical purposes the coupon system for both products can be said to have been launched at the same time.

No one liked it. There were shortcomings in the basic management which, in retrospect, one would have thought remediable. There were black markets too. But for all its faults, it worked. The overall achievement, in gross quantitative terms is discussed later in this report. But first a look at the system as finally installed and operating nationwide.

The mandatory consumer end-use rationing system which was in force during the last eighteen months of the war had the following interacting features, some desirable, others not:

An end-use consumer coupon ration scheme, based on the principle of differential essential use, with rations issued through 5,600 local price and ration boards,

Multiple, overlapping ration authorizing agencies,

A nationwide supplier limitation control system, self imposed by the petroleum industry and PAW, and operating concurrently with the consumer end-use coupon control scheme,

A serious problem of program credibility, and

A black market, small in relation to the program's total size, but flourishing.

These are discussed, in turn, below.

A. The consumer end-use coupon ration scheme

The World War II gasoline coupon system provided for six different categories of rations, for all gasoline-using forms of transport plus some off-highway uses.

Four of these categories were designed to take care of private passenger transport need. All private cars (or motorcycles) were allowed basic rations fixed at a level sufficient to permit 5000 miles of travel a year, or a reduction in private gasoline consumption of about 50 percent. Supplementary rations to take care of any additional occupational or other special needs were issued on a case by case basis.

The other two categories provided essentially unlimited supplies for commercial and agricultural needs, the rationing system being used mainly as a means of recording amounts used, whatever they might turn out to be.

Local ration boards—5,600 of them, supplemented by commodity or functional price and ration panels and largely staffed by volunteers—had the final responsibility for actually issuing the various types of ration coupons or coupon books allowed in each ration class. A nationwide system of ration banking, enlisting 14,000 commercial banks, was set up to handle the very large total volume of surrendered consumer ration coupons.

The ration banking system was needed then because, in addition to the gasoline and fuel oil coupons, there were millions of coupons and rationed sales certificates from five of the other commodity ration programs which were managed by OPA, for which at least some kind of system to account for issued and used coupons was essential simply for coupon inventory control.

It was the intent of the OPA coupon ration program planners that the reflow of surrendered gasoline and fuel oil coupons would be not only a way to closely regulate consumption but would also be the only and sufficient control to govern changes in civilian consumer petroleum products supply and demand.

Termed the "coupon reflow" concept, the rationale was described by former Deputy Director Paul O'Leary in these terms:

"The over-all blanket delegation of authority to O.P.A. to exercise the priorities power on sales of consumers' goods at the retail level (Directive No. 1, W.P.B., January 24, 1942) was O.P.A.'s original charter of rationing authority. But it very quickly became clear that the rationing authority must extend back of the retail level, at least to the point in the distributive channel where the market was narrowest. At such "choke point" or "bottleneck," controls could be made most effective; in fact, unless some such narrow "bottleneck" could be found, it was very debatable whether any really tight rationing program could be enforced.

Where the number of distributive units was fewest would clearly be the best level at which to impose close auditing controls, and the strategic point at which to withdraw ration currency from the market as it flowed back upstream from retailer to his supplier, etc. Only by requiring that there be no flow of goods downstream toward the retailer unless he sent ration currency upstream to his supplier, could a rationing system be made anything but a loose "honor system." All O.P.A. rationing programs except the first, temporary East Coast gasoline program of May-June, 1942, were built upon the principle of a rigidly closed system in which goods could flow forward in the market only against coupons flowing back from the point of retail sale, the cutoff and auditing point being where the market was narrowest, that is, where sellers were fewest. Ordinarily, this would be at some processing or fabricating level. Thus, in the case of tires it was the tire manufacturer, in sugar it was the refinery, while in coffee it was the importer. The significant point is that it was always behind the retailer level. Consequently, O.P.A. had to insist that Directive No. 1 always be supplemented by additional delegations of power for each commodity rationed, these supplementary directives extending O.P.A.'s authority to exercise the priorities power as far back in the market as was necessary to enable it to "close the system."

The concept may have been reasonably sound administratively as a post sales audit technique but it was questionable on economic forward planning grounds.

While the flowback system presumed that distribution would (and should) be governed by the pattern of spending of customers using their coupons in the petroleum industry post sales indicators of demand shifts would come far too late to permit adequate advance planning. The exchangeable nature of petroleum heating fuel oil and gasoline refining requirement demands seasonal decisions on allocations to refineries many months ahead of estimated end use consumer sales. It seems at least questionable that the coupon reflow system could ever work as its designers thought it would and should.

In any event, it did not function in this intended way during World War II. As described in Section C below, this concept never really became operative, and therefore the details of the reflow system are not elaborated in this review.

1. Private passenger transport needs

Four types of rations—Class "A", Basic; Class "B" and "C", Supplementary; and Special rations—applied primarily to private passenger cars, including those needed for occupational use.

"A" rations provided a minimum basic allowance, permitting 150 miles of occupational driving a month plus 90 miles of essential personal driving (e.g., to the doctor, church, for groceries), calculated at a flat 15 miles per gallon, regardless of the fuel consumption rate of the car. Each of 48 coupons in the ration book was valued at four gallons in the beginning of the program, later lowered as gasoline supplies became shorter. Each "A" coupon was valid for a strictly limited period of time, initially two months, to help regularize take-off of gasoline and prevent hoarding of coupons. Motorcycles received similar mileage based allowances, "D" rations, calculated at 40 miles to the gallon.

"A" rations were awarded to all owners of licensed cars who asked for them. The decision to make an across-the-board allotment was mainly one of manageability: with some 27 million cars believed eligible for "A" rations, individual screening of each case would have delayed nationwide controls almost indefinitely. In January 1943, a month after the system was introduced, 25,000,000 cars had been issued "A" rations.

"B" and "C" rations provided additional occupational mileage for private vehicles, on a showing that no alternative means of transportation was available and that carpooling was being adopted as far as possible. "B" rations permitted additional gasoline sufficient to increase travel to 470 miles a month. "C" rations were issued to those who had occupational requirements of over 470 miles a month, and in addition fit the category of a "preferred user": Government officials using personal cars on official business, mail deliverers, public school teachers and officials, doctors and nurses, morticians, ministers, farmers, labor organizations, workers and travelling salesmen in occupations essential to the war effort. "B" and "C" rations were intended to be tailored to the individual application and need.

Special rations covered such cases of transport needs as taking voters to the polls, transport for candidates on campaign, scientific expeditions justified in times of national emergency, soldiers on furlough exceeding three days, and other special demands including motor boat uses not covered by other rations. These were intended to be one-time allowances issued for periods of not to exceed six months.

While the list of "preferred users" might appear to be so broad as to be almost infinitely expandable, comparatively few "C" rations were issued. In January 1943, 6,400,000 car owners (out of the 25,000,000 "A" ration holders) had been awarded "B" ration supplementals and only 3,600,000—about 15 percent—were awarded "C" rations.

2. Commercial and agriculture needs

The next category, Service rations ("S–1" and "S–2", later changed to "T" rations) was designed for commercial users, covering about 5,000,000 vehicles in 1943. These included the large number—about 3,500,000—of commercial buses and trucks transporting passengers and goods; about 250,000 official civilian government vehicles; public rental vehicles (80,000) including taxis and rent-a-cars; and over one million trucks owned by farmers. In general, all of these required Certificates of War Necessity, issued by the Office of Defense Transportation, before they qualified for gasoline along with other requirements such as tires, spare parts, replacements. Once these certifications of essential occupational use were received, gasoline coupons were issued by the local Ration Boards to these candidates in whatever amounts were requested.

Non-Highway rations (Classes "E" and "R"), which went primarily to owners of gasoline-using agricultural machinery, were also issued by local Ration Boards in any amount requested. These rations also covered stationary and industrial engines, construction equipment, boats and civil aviation needs.

The service categories provided, in effect, privileged unlimited ration use, in combined volume well in excess of that authorized under the "C" supplemental rations for preferred users.

Privileged, even unlimited, access to supplies is a concept not unusual in any rationing system based on differential essential use. While it may cause some serious inequities if the volume of rations authorized for preferred users uses up virtually all available supplies, this problem can at least be foreseen if the ration issuing agency knows ahead of time both its probable quota of supplies for the next ration period and the outstanding volume of probable consumer claims.

During World War II, this was not to be the case.

B. Multiple gasoline ration authorizing agencies

Perhaps the single greatest handicap in the gasoline rationing program during World War II was the fact that several agencies besides the OPA exercised authority over certifying essential end-use consumer gasoline needs.

There were, of course, also many jurisdictional disputes over policy and program control, and there were many rival claimants for scarce supplies. These are common to any program, though, and need not be belabored here. Not rival claims but the authorization for access to ration coupons in amounts greatly exceeding available supply was the key problem.

As mentioned earlier, the Local Ration Boards were assigned authority and responsibility for physically issuing all six types of consumer coupon gasoline rations. In practice, their control over deciding on and limiting the amounts to be issued was restricted to the four rations classes applying to private passenger vehicle use: "A", "B", "C" and Special, which amounted to less than half of the total civilian gasoline consumed.

The Office of Defense Transport had authority over issuance of "Certificates of War Necessity", needed to give any commercial truck or bus owner, including agricultural truck owners, preferential treatment in obtaining tires, spare parts, vehicle replacement and gasoline. Beginning November 15, 1942, under ODT General Order 21, ODT undertook to issue nearly 5,000,000 such "Certificates of War Necessity", accepting the claimant's estimate of mileage need as equivalent to justification and, at the offset, accepting virtually all commercial vehicles as being by definition essential to the war effort.

The administrative procedure adopted by ODT, which lacked a large field organization, was unfortunate. Descriptions and criticism of its operation make lively reading. A lengthy form of some 32 pages, requiring three year quarterly records of actual past mileage and gasoline consumption, was mailed out by one office located in Detroit, allegedly selected because the firm had a mailing list for all the owners of the 5,000,000 trucks and buses which would be involved. All forms were to be mailed back to this firm, to be reviewed there. Certificates of War Necessity authorizing access to scarce supplies, including gasoline, were then issued by ODT. These Certificates had longer periods of validity than the Service class coupons subsequently issued by the Local Ration Boards against the total rations authorized by the Certificates.

The complaints were deafening. In March of 1943, approximately 320,000 complaints had been received from 3,500,000 truck owners. Particularly outraged were the one million farmers owning trucks, unable and unwilling to separate commercial use from personal requirements and already accustomed to top priority treatment and award of gasoline on demand, even in the gas-short East Coast district 1.

Backed by the Department of Agriculture County War Boards, ODT backed down on farmer trucks. District offices of ODT which handled appeals on Certificates of War Necessity were instructed to accept the County War Board's recommendations for farmers' needs except in case of obvious error. The net result was to leave authorization of volume of gasoline ration needs for farm vehicles in the hands of the Department of Agriculture.

With Service rations issued in large amounts valid for twice the period of time allowed for basic "A" ration coupon holders, even ration boards familiar with the volume of available supplies had no way of knowing how many legitimately issued Service coupons were still outstanding at any point in time. Nor, in fact, did the OPA itself.

During the Maloney Committee investigations of gasoline and fuel oil shortages, the following exchange took place between the Chairman and the Director of the Automotive Supply Rationing Division of OPA:

The Chairman: But there could be twice as many coupons out as there are barrels of oil in the tanks?

Mr. Phillips: It is conceivable that is correct.

The Chairman: Does that give you any worry about a black market?

Mr. Phillips: If they were outstanding, I would be very definitely worried about that.

The Chairman: But they may be outstanding, so far as you know?

Mr. Phillips: The point is, we do not have records at this moment which would allow us to say one way or the other that that is correct.

Subsequently, the ODT reviewed its criteria for essential commercial users, found many of the initial applicants to be less essential than they had originally been certified to be and disqualified a large number of its original essential occupation categories.

The damage was, however, already done. Large numbers of not yet used Certificates, as well as Service coupons already legitimately issued, were outstanding at the time the initial Certificate of War Necessity criteria were changed.

Compounding the problem, was the fact that all coupons were issued for varying periods of time. Even in areas where the coupon issuance was not excessive or where there were no counterfeits or other black market, the coupons were good over a relatively long and varying period of time and could be cashed on the first day, or any other time in the period. Conequently, even if the total number of legitimate ration authorizations outstanding had been known, there was no way to adjust each day's changing supply to the day's actual demand.

The following table illustrates the variety of time periods or validity for the various coupon ration classes:

Type of ration coupons and time period of validity:

"A" Basic, Two months.

"B" Supplemental, From three to 12 months, depending on occupation and total mileage needs.

"C" Supplemental, Three months.

Special rations, Up to six months.

"D" Motorcycles, Two months.

Service: Commercial and Agricultural, Four months.

Non Highway Rations: mainly Agricultural, Six months.

Far from being the "closed system" contemplated by the OPA economists, from the beginning to the end of the gasoline consumer coupon ration program, there were always many more "legitimately" issued coupons outstanding than there were gallons of gasoline to be supplied. The initial major error could never be entirely reversed and this high volume of over-issued coupons—nearly all "legitimate" according to regulations governing the multiple authorizing authorities at the time—was a major source for the large black market in gasoline which quickly grew.

Given these great administrative gaps and fissures in the system, it is surprising that the rationing scheme could work at all. For a clue as to how it did, it may be useful to examine the next feature of the system: Continued supplier limitation controls.

C. Supplier limitation controls

While the overall administration of the mandatory consumer coupon rationing system involved many agencies, the two principal participants—and strong contenders for more power over redistribution of supply—were the PAW and OPA. A mid-1943 high level executive decision divided the task roughly between them, assigning PAW responsibility for controlling availability of supplies in each of the five districts. OPA was handed the responsibility for administering coupon rationing.

This did not stop the argument. As earlier described, the OPA contended that the pattern of demand reflected in surrendered gasoline coupon rations from consumer back to the original supplier—"coupon flowback"—should be sufficient to determine the continuing or changing pattern of petroleum supply and flow. PAW argued that it simply wouldn't work, because to have any chance of meeting estimated fuel oil and gasoline demands, allocations to refineries must be decided months ahead of end use sales.

Then, as now, the heated battles over supplier limitation methods vs. consumer rationing obscured a most important fact:

Some form of nation-wide supplier limitation was practiced throughout the war and was the reason consumer coupon rationing was possible at all. Although not sufficient in itself to curtail and redirect private civilian gasoline consumption to any considerable degree, supplier limitation was an indispensable component of that war-time coupon ration scheme.

Some kind of supplier allocation control, self-imposed and administered by the petroleum industry itself, has always been a part of the peacetime domestic petroleum distribution system, particularly during periods when supplies were plentiful but demand was low.

The need for this is reasonably clear: The nature of the petroleum production and distribution process, coupled with the great volume of demand which each year shifts seasonally between large amounts of gasoline and fuel oil, makes buffer storage stocks on any significant scale impractical. Hence the industry has regulated itself through various means, including regional industry committees and commissions, cutting back production at the well head, ordering shifts from gasoline to fuel oil as needed, essentially "storing" its gasoline and fuel oil as crude oil underground or in the distribution and refining "pipelines" along the way. In the case of East Coast requirements, future needs were "stored" in projected import orders scheduled to arrive in time for processing and delivery from refinery to consumer, with little or no time lost in inventory tanks.

Intelligent forward planning required that decisions on how much oil should be refined as heating fuel and how much as gasoline needed to be made at least six months ahead of ultimate consumer sales.

After nationwide rationing was installed in December 1942, the War Production Board revoked all former official supplier limitations and quotas, whether voluntary or mandatory, which had earlier been laid down, on the grounds that the OPA planned "flowback" of the consumer ration coupons would now govern petroleum flow. On the basis of shifts in demand revealed by such "reflow" patterns, the OPA would issue new directives changing amounts to be allowed for each class of ration coupons and for each coupon in each class.

Whatever else the rest of the government thought had been accomplished by the rescinding of the WPB controls, PAW and the petroleum industry ignored the revocation and continued practicing some form of supplier limitation throughout the war.

With few exceptions, the only place the ration coupon governed supply was at the consumer level. Any consumer with a coupon might call on any outlet to honor the coupon, and if the outlet had any of the product it was technically bound to supply the amounts authorized.

But from that point on, industry supplier limitation quotas governed petroleum flow. Under PAW Directive 59, issued September 25, 1942 and PAO-1, issued December 12, 1942, every original supplier in each of the five petroleum districts received his proportionate share of all available supplies in each of many zones within each of the five districts, based on his historical sales in that zone. Distribution of total supplies among the five districts was not based on that district's historical sales, however, but was adjusted to meet war-brought changes in demand.

Promising so far as possible a system of proportional allocations to suppliers and distributors in which the levels of reduction asked for still equitably preserved pre-war competitive status, PAW and the industry secured voluntary cooperation among the principal supplies in accepting and distributing reduced supplies.

The elaborate set of industry committees which had been set up within each district was continued, with supplier participation. Quarterly forecasts of supply and demand with seasonal adjustment were elicited from each original supplier. District 1 alone had more than 70 original suppliers to be placated, cajoled, enlisted and supplied. Inevitably, there had to be changes from the prewar historical pattern of deliveries, but these were also agreed upon and managed through the system of many regional and nationwide petroleum industry supply and distribution committees.

The essential interdependence of systems of supplier limitation and consumer coupon rationing in situations of severely reduced gasoline and fuel oil supplies was acknowledged by PAW and, at least by implication, by OPA.

By the end of 1942, PAW and the petroleum industry were urging consumer coupon rationing as protection for gasoline station owners and fuel oil dealers too, for whom the task of deciding equitably among regular consumers which were more essential than the others became impossible.

OPA, on its part, had never argued that *no* supplier limitation system would be needed, only that consumer coupon reflows through dealer, and distributor to the original supplier points—the "choke points" in the system—would provide a sufficient and early enough index on which to base its own changes in supplier allocation orders and force tight rationing controls. During World War II, it was not OPA but PAW and the industry who, through their continued system of supplier limitations, controlled the key "choke points."

As confused by partisan debate as the historical record is, a careful reading makes it very clear that while no equitable consumer rationing system can depend on supplier limitation efforts only, neither can it survive on consumer coupon rationing alone. Both are needed for successful control of any very scarce essential national consumer needs.

D. The credibility gap

It would be hard to overestimate the problem of achieving credibility which the World War II gasoline and fuel oil consumer rationing programs faced.

The skepticism with which the public viewed the appeals for gasoline rationing, based on shortages of entirely different natures—a shortage of tankers sunk by German submarines which interrupted East Coast supplies, not enough rubber for tires—has already been remarked.

In addition to these, however, the program faced both the public's negative reaction to overissuance of coupons against announced supplies, which has just been described, and two other impractical and unrealistic components of the consumer gasoline and fuel oil curtailment program attempts.

These were the fuel oil criteria exercise and the pleasure driving ban.

1. Fuel Oil Rationing Criteria

With so long a period of clear warning and with some experience under their belts, one might have thought that deciding on fuel oil use criteria would be a fairly simple task for OPA, particularly since the estimated fuel oil shortfalls was, by then, already calculated to be at least 25% during the 1942-43 winter heating period.

A straight line reduction along this basis, applicable to all previous consumers of record, with exceptions including new consumers, to be awarded on a case-by-case basis seemed by some to be a practicable approach.

As the Chairman of a Special Senate Committee to investigate the national defense program, the then Senator Harry Truman reported:

> Lack of confidence between business and Government wherever it arises is a serious handicap in our war effort. Lack of confidence by the people generally in the intelligence, reasonableness, or integrity of their Government can mean disaster.

In all except rare instances home owners knew or were able to ascertain how much fuel oil they used last year. Since it must be assumed that they did not desire to waste their own money by purchasing fuel oil they did not need, the Office of Price Administration should have assumed that they purchased it because they needed it. Consequently the committee is of the opinion that if the Office of Price Administration had concluded that a straight-line cut could be made without rendering the home uninhabitable, it should have proceeded in the first instance to make a flat percentage cut in each area with provision for application by individual home owners for more fuel oil where they could prove a necessity by reason of special circumstances and with provision for review by local boards of those situations where by reason of special circumstances less fuel oil would be sufficient.

Instead of doing that the Office of Price Administration, through its experts, has examined the temperature statistics for the last 43 years in each of the thousands of counties involved to ascertain an average temperature for each county; has then determined the number of square feet that its experts think should be allowed for each individual, which number differs with the number in the family, and then has determined the number of gallons of fuel oil which its experts have determined should be consumed in heating that many square feet to the temperature which the experts expect to have prevail in that particular county. All of these figures have been reduced to complicated tables which are consulted by volunteer clerical workers to determine the amount of fuel oil which each householder is to receive.

As he pointed out, these formulas ignored actual house size, differential insulation, wind exposure or window size.

In defense of OPA, logically these kinds of calculations would appear to be essential for any kind of really rational rationing plan. To award fuel oil deliveries solely, or primarily, on an across-the-board reduction from last year's use would be to penalize last year's efficient energy conserving user or the owner of an old and drafty house. In addition, if the prospect for a warmer winter can be pinned down, failure to allow for this might involve a disproportionate allocation of winter heating fuel at the expense of the following summer's essential and rising gasoline requirements.

Conceptually, the shortening of the approach would seem to be one of timing.

These kinds of calculations could very usefully have been made, not as criteria for use by Local Ration Boards in estimating an end-use consumer's 1942-43 personal household heating ration issue needs, but as a forward planning input to calculate the following year's probable and essential minimum civilian demand for heating oil. For this purpose, an estimate by U.S. geographical area based on actual floor space, fluctuations in winter temperature and number of persons in the families involved, would need to be provided well in advance, in time for crucial decisions to be made between how much oil should be allowed for refining gasoline after essential civilian heating and other winter fuel oil needs are covered.

In practice, the formulas proved less time-consuming or damaging to equitable distribution than they might have been because the Local Ration Boards' largely voluntary recruits developed their own rule-of-thumb calculations for initial allocations: So many gallons to a square foot of floor or "what did you use last year?" The following year, being a milder one, adjustments to the previous year ad hoc allotments were comparatively easy.

Nonetheless, the publicity which was, not surprisingly, profuse about the complicated fuel rationing criteria damaged the credibility of the whole mandatory consumer coupon ration allocation scheme.

2. The Gasoline Pleasure Driving Ban

A great deal has been written about the gasoline pleasure driving ban during World War II and why it failed. The OPA account is especially detailed on this subject.

The crux of all the narrative accounts is that the reason for the first imposition was that reduction in gasoline coupon values failed to bring gasoline consumption down in the East Coast District 1 to the allotted figures of supply. To correct this, a "pleasure driving ban" was announced January 7, 1943, then was revoked March 22, 1943, reinstated May 1943, relaxed July 14, 1943, and revoked entirely September 1, 1943.

None of the arguments appear to focus on the basic logical inconsistency, and therefore the large credibility gap, which contributed to its non-observance:

The original estimate in basic coupon "A" private passenger allowances for gasoline was made on the basis of an estimated essential use covering about 5,000 miles per private car per year. This cut the personal use of the average driver from 9600 to about 5400 miles a year.

Considering the fact that all the differential essential use criteria employed in the coupon ration system gave preferential allowances to both car pooling and public mass transportation uses, it was wholly inconsistent to try additionally to cut back on the use of the meager basic weekly gasoline allowance of the man who had extended its effectiveness by joining car pools and using mass transit.

Any public view of program credibility assumed that the overall 50% reduction in mileage of gasoline allowances for private civilian use was also based on an assumption that, however severely civilian use was reduced, supplies would at least be programed so as to be able to cover this drastically reduced level of basic civilian demand. Within this severe limitation, any one should be allowed to reprogram his personal uses of his ration, however drastically reduced.

Hence, the fundamental conceptual basis of the whole gasoline ration plan as conceived during World War II was undercut by the "pleasure driving ban."

During World War II, the American public, even though the majority complied with its inconveniences and stringencies, disliked the gasoline rationing system. However, they disliked even more the feeling they had been "had".

Any time gasoline and fuel oil shortages—however real—are thought to be contrived, or criteria for rationing allowances are considered to be illogical, public compliance with any kind of rationing regulation is likely to be poor.

E. Some comments on the World War II black market

No one disputes the fact that during World War II a flourishing black market in gasoline coupons took place. Some of the historical details are very well summarized in the previously cited "Highlights of Gasoline Rationing in World War II". According to that report, about 5% of rationed gasoline was misused as a result of "Counterfeit and stolen coupons."

Given the multiple ration issuing authorities, described in Section III–B above, which gave rise to a very large volume of legitimately authorized coupons outstanding in excess of supplies at any point in time, what is astonishing is that no more than 5% of the gasoline found its way into black market channels. It should also be remembered that during that period perhaps the only method of gasoline and fuel oil allocation control which was *not* tried was to allow prices for fuel to rise to a market equilibrium. Throughout the war, prices rose less than 1% after nationwide coupon rationing was installed, despite the very short civilian availabilities, another reason to be surprised that the black market got only 5%.

As to adequacy of enforcement personnel: During World War II, OPA's thinly spread enforcement personnel covered not only eleven different end use consumer rationing programs but also the nation wide rent and price control regulations, and their infringements, too.

Today, the energy crisis, great as it is, is a singular, peacetime challenge. To the degree that non-compliance with any of the prospective consumer end use restrictions may need extraordinary enforcement measures, the nation's regular enforcement agencies are already in place: Police, IRS and FBI. There may be no need for any separate enforcement cadre. If gasoline and fuel oil consumer end use controls are made mandatory, the ordinary regular policing agencies could well be adequate to cope with any practical rationing program. They could be expanded to the extent necessary.

IV. CONCLUSIONS

Consumer end use rationing during World War II had a stormy course throughout its life. Coupon values and their periods of validity were in almost constant flux, varied frequently in an attempt to match regional and seasonal shortages or just to keep on top of burgeoning and shifting war industry demand.

Some of the problems which plagued its history, in hindsight seem avoidable; many are inherent in any mandatory consumer end use ration scheme.

Nonetheless, despite coupon overissuance, the frictions of administrative overlap, the gap in program credibility, when the war ended eighteen months after the system was installed, one fact was clear. The system was working well enough to actually achieve its intended goals:

Petroleum supply had been redirected from surplus areas to the deficit East Coast in volume sufficient to meet rising military demand and basic civilian needs.

The pattern of overall civilian demand had been greatly changed to achieve redirection of supplies to the most essential civilian use.

A. The overall accomplishment

The redirection of supply to the East Coast was not so much a consequence of consumer end use rationing as it was of improved petroleum product transport systems and effectively applied supplier allocation controls. However, the consumer ration program reinforced these supplier limitation controls and was itself reinforced by them.

The redirection of civilian demand took place only after the nationwide end use consumer ration system was applied. While mandatory consumer end use rationing of fuel oil and gasoline was of course not the only factor in achieving this reduction and redirection of civilian demand, most observers of the time agree that it played an important—even indispensable—role.

While the total supply of fuel oil rose from 662,900,000 barrels in 1941, to 830,000,000 barrels in 1944, most of this went to war needs. Civilian supply was down 18% below the 1941 level and many households absorbed cuts of even more, to permit essential users such as hospitals to have additional supplies and to allow for the increased numbers of new homes, apartments and trailers using fuel oil.

Although total gasoline supplies also increased, gasoline for civilian use dropped sharply by almost one-third, down from 1,706,000 barrels per day in 1941 to 1,219,000 barrels per day in 1944, with the biggest bite in passenger car use.

Figure 1 shows the dramatic increase in total gasoline production during the four wartime years, also illustrates the significant reshaping of the pattern of civilian gasoline demand. When the offtake for military needs is subtracted from the chart, it is easier to see how sharp the drop was in personal passenger car use, enabling the increased allotments for agriculture and essential commercial use.

The record speaks well, too, for the automobile conservation effect of the stringent gasoline restrictions: At the end of 1944 there were still some 24,000,000 civilian passenger cars on the road, 10,000,000 of which were still being driven carefully on the same tires they had in 1941, creeping along at 35 miles an hour.

For all the errors and shortcomings of the system, awkwardly and painfully, most of them were either corrected or contained. For the War's last critical year, a gasoline and fuel oil end use consumer rationing system was in being that served the country's needs.

B. Some comments on the experience

Among the many options now being studied, even among those who agree that some system to limit use of both gasoline and fuel oil is unavoidable, the major issue still seems to be whether equitable distribution can be achieved without recourse to mandatory consumer end-use controls.

The lesson of the U.S. experience during World War II was that—for that emergency, at least—it could not be done. Voluntary and indirect controls on consumer's end use demands were tried. Even the most ardent partisans of voluntary means agreed they failed. They agree as well that long delay and continuing vacillation made the problem of acceptance worse when finally the choice of mandatory consumer end use rationing had to be made.

The question naturally arises as to whether, since the situation was so different, can anything be learned? Actually, there would appear to be more similarities in the two situations than might first meet the eye. There are several aspects of the current energy emergency—despite its peacetime matrix—that are almost the same:

There is a shortage of refineries.

The East Coast still depends on imports to augment its petroleum needs.

The East Coast still consumes most of the country's total petroleum supply.

Existing surpluses in some districts still give rise to the cry of "phoney" shortages, even after two winters in which many areas have felt the fuel oil pinch, and a summer when gasoline ran short and prices per gallon of gasoline in some cities soared up to a dollar.

A carefully balanced arrangement between the oil-rich Southern and Western sources of supply is managed through the industry's own internal distribution system which adjusts and allocates surpluses to deficit areas of great demand.

The nature of the storage problem has not changed. Storage capacity is still small in relation to the volume of demand.

And the current energy emergency's duration is seen by many as likely to extend into the future just about the same amount of time: Up to four years, and perhaps more.

It is also true, of course, that there are obvious differences today. There are four times as many passenger cars and much less domestic margin for increased production in relation to the extraordinary levels of demand. But because there is no worldwide war, many of the administrative problems need not be quite as chaotic as before.

Should a mandatory consumer rationing program appear necessary once again, the following general considerations drawn from our own experience may usefully be kept in mind:

1. The system was only effective when extended nationwide, suggesting that even if regional differentials are allowed, the system as a whole must apply to everyone.

2. Compliance was seriously eroded by the gap in credibility. To have a reasonable

chance of good compliance, the public must be persuaded that gasoline and oil shortages are not contrived, but really do exist.

3. The World War II ration scheme was severely handicapped by the existence of several ration allowance authorizing authorities. The ration issuing authority (OPA) never knew how many coupons were outstanding at any point in time. To fuel a black market with a large volume of "legitimately" overissued ration coupons seems an unnecessary complication to be imposed on any scheme.

4. The different categories of gasoline rations were issued for varying periods of time. The result was that even for the categories for which OPA controlled both authorization of amount and actual ration issuance, it could never be determined how many coupons were still outstanding in any region at any time. While this problem can never be completely overcome, it can be reduced in scale if all categories are issued as valid for a strictly limited period of time and for the same period of time. In addition to helping to regularize inventory control, it would permit periodic reviews of probable changes in supply and in demand, so the volume and the value of the ration currency can be more rationally adjusted from time to time.

5. Some form of nationwide supplier limitation was practised throughout the war and was the reason end-use consumer coupon rationing was possible to apply at all. Since petroelum product allocation decisions had to be made long before the point of sale, the supplier limitation scheme allowed the degree of forward program planning without which end-use consumer demand cannot equitably be served. Conversely, supplier limitation required end-use consumer rationing before consumer demand could be controlled.

Even with all its shortcomings and the extraordinary wartime problems peculiar to that time, the World War II mandatory end-use consumer ration program worked primarily because there was extremely close government-industry cooperation based on the understanding that it should.

Ideally, responsibility for planning and mobilizing petroleum supply and controlling all end-use demand should be vested in one agency which also has access to continuing feedback information on changes in demand and estimated future changes in supply. While at no time during World War II was this management ideal achieved, given all the handicaps, we came astonishingly close.

APPENDIX

EXHIBIT 15

WAR PRODUCTION BOARD,
Washington, D.C., July 1, 1943.

Hon. HAROLD L. ICKES,
Hon. PRENTISS M. BROWN,
Hon. JOSEPH B. EASTMAN.

GENTLEMEN: The purpose of this letter is to summarize our mutual understanding as to interagency relationships with respect to the problem of petroleum supply and distribution. It will be understood that existing arrangements are modified only to the extent specified in this letter. In all other respects, existing delegations of authority and the correspondence between Mr. Ickes and myself dated December 11, 1942, and January 7, 1943, will remain in effect. All provisions of existing Executive orders remain unaffected.

1. *Supply.*—The maintenance of an adequate supply of petroleum products in the amounts, and at the locations, necessary to meet rationed and other allocated demands will continue to be the primary responsibility of the Petroleum Administration for War. This responsibility shall extend not only to the production of petroleum but shall also include the distribution of petroleum within the industry, including retail outlets, up to the point of transfer and delivery to consumers. In setting the quotas for the various rationed areas, PAW will follow the pattern of the rationed demand as shown by returned coupons. Pursuant to Executive Order 9276, PAW's authority with respect to supply shall be exercised subject to the direction of the Chairman of the War Production Board. In addition, the authority described in this letter shall be exercised subject to the authority of the Office of Defense Transportation over transportation under existing Executive orders.

2. *Distribution procedures other than rationing.*—Pursuant to my letter to Mr. Ickes of January 7, all orders relating to the distribution of petroleum products other than rationing orders will be issued in the nature of, and administered by, the Petroleum Administrator, subject to the clearances, approvals, and other procedures specified in that letter.

3. *Requirements and allocations.*—The Petroleum Administrator or his nominee will serve as chairman of a Petroleum Requirements Committee, functioning within PAW. As chairman he will divide the available supply of petroleum products among the various claimant agencies, after obtaining the advice of the committee. The committee shall consist of representatives of each of the various claimant agencies having substantial requirements for petroleum, and in addition shall include one representative of OPA and one or more representatives of WPB.

The ODT representative on the Petroleum Requirements Committee will present all requirements for petroleum products for the Nation's transportation system, including passenger cars. The WPB representatives will present industrial and civilian requirements for other petroleum products.

All allocations shall be made as long in advance of the period covered as is practicable and shall be promptly transmitted in writing to each claimant agency and to the chairman of the WPB Requirements Committee.

In the event of a dissent, any agency may appeal to the Chairman of the WPB, through the WPB Requirements Committee. Pending such appeal, if requested by the dissenting agency, no action to put the decision into effect will be taken.

4. *Petroleum rationing.*—OPA, acting under existing delegations, shall have the primary responsibility for developing and executing petroleum rationing policies, plans, procedures, and operations. In particular, OPA will be responsible for devising and administering a system under which the rationed demand is kept within available supply.

Pursuant to Executive Order 9276, the Petroleum Administrator will "determine, after advising with the War Production Board, the areas and times within which such rationing should be effective and the amount of petroleum available for such purpose."

With respect to petroleum products needed for transportation, ODT will determine, within the quotas so established, in what relative volume such products should be distributed by classes of transport facilities, for example, passenger cars, trucks, busses, etc. In addition, present arrangements under which ODT determines the amount of gasoline to be rationed each operator of commercial vehicles and certifies such determinations to OPA will be continued. Such determinations shall be binding on OPA only if and when the total amounts thus certified by ODT are not in excess of the total gallonage allotted for this purpose. WPB will continue to determine the relative essentiality and priority of the various competing industrial and civilian uses of all petroleum products, including gasoline. OPA will promptly notify WPB if it believes any of such determinations to be impracticable from an operating or administrative standpoint.

In determining and revising the policies of rationing, OPA will operate with the advice of a Petroleum Rationing Policy Committee, consisting of representatives of OPA, ODT, WPB, WFA, and PAW. The Price Administrator, or his nominee, will be chairman of this committee, and all decisions on matters presented to the committee will be made by him after obtaining the advice of the committee. In the event of any dissent from his decision, the dissenting agency may appeal to the Chairman of the WPB. If requested by the appealing agency, no change in policy will be put into effect pursuant to the decision for 2 days, unless earlier action is permitted by the Chairman of the WPB.

5. *Public information.*—Because of the public confusion caused by the issuance of conflicting and duplicating information, the following decision by the Office of War Information is to be followed in handling information problems relating to petroleum supply and distribution.

(*a*) Information regarding petroleum supply will be issued in the name of the Petroleum Administration for War.

(*b*) Information regarding rationing policies, plans, and procedures will be issued in the name of the Office of Price Administration.

(*c*) Information regarding transportation aspects of the petroleum situation will be issued in the name of the Office of Defense Transportation to the extent that ODT bears the principal administrative responsibility for the matter with which the information is concerned.

(*d*) The Office of War Information will clear all government information relating to petroleum with the Petroleum Administrator.

(*e*) The Office of War Information will also make such cross clearances relating to petroleum information with other agencies involved as may be necessary to reflect their respective responsibilities and to effect a consistent, accurate presentation of petroleum facts and figures, so as to make public all information that can be issued within the limits of military security.

(*f*) All releases relating to petroleum will be cleared by and issued through the Office of War Information.

This decision by the Office of War Information is in accord with a directive letter issued by the Director of the Office of War Information on December 15, 1942. The intent of the foregoing statement is to see to it that the issuance of petroleum information is generally carried out in a way which will reflect the various administrative responsibilities involved.

I am requesting each of the agencies to indicate its acceptance of this outline of relationships by signing and returning to me the enclosed five copies of this letter. Duplicate originals will then be distributed to each of the agencies with the expectation that copies will be circulated among the operating staffs of all of the agencies.

Very truly yours,
DONALD M. NELSON.

Approved.
PETROLEUM ADMINISTRATION FOR WAR,
By HAROLD L. ICKES, *Administrator.*
OFFICE OF PRICE ADMINISTRATION,
By PRENTISS M. BROWN, *Administrator.*
OFFICE OF DEFENSE TRANSPORTATION,
By JOSEPH G. EASTMAN, *Director.*
Dated July 1, 1943.

PAYING RESPECTS—PEARL HARBOR DAY

Mr. BIDEN. Mr. President, this Friday, December 7, 1973, marks the 32d anniversary of a tragic event in American history, the attack on Pearl Harbor. On that fateful day, more than 2,100 men were killed and the United States was forced to enter a war that we had hoped to avoid. Members of my family, as well as most other American families, responded in force to the cause of liberty.

Although I was not born until the following year, World War II was not without impact on my family—one of my uncles was killed.

Accordingly, Mr. President, I wish to pay my respects to all those who sacrificed their lives, the many who were wounded, and for all those who have served and now serve in the Armed Forces.

THE GENOCIDE CONVENTION AND FREE SPEECH

Mr. PROXMIRE. Mr. President, some people who oppose the Genocide Convention do so because they believe that American ratification of this treaty will destroy free speech in the United States. They believe that article III of the convention will empower the Government to prevent citizens from exercising their constitutional right to speak as they please.

This argument is wrong on two counts. First, it conveniently overlooks the first amendment to the Constitution which specifically guarantees all Americans the right of free speech. Article VI says that the Constitution is the supreme law of the land. Acts of Congress and treaties are also the supreme law of the land when they conform to the Constitution. The U.S. Supreme Court and other Federal courts have consistently maintained that acts of Congress and treaties must conform to the Constitution, and where they do not they are null and void. Thus, the Genocide Convention cannot in any way abridge the freedom of speech guaranteed under the Constitution.

Second, the crime defined in article III(c) of the convention is "direct and public incitement to commit genocide." To prohibit public incitement to commit genocide would not be an abridgement of free speech. It has long been recognized that the first amendment does not give a person the right to say anything he wants. A person cannot say a libel. A person cannot give false evidence under oath. A person cannot incite others to commit any crime, whether murder, arson, riot, or, if this treaty is ratified and the implementing legislation enacted, genocide.

Mr. President, I call upon the Senate to ratify the Genocide Convention as soon as possible.

VETERANS' BENEFITS

Mr. McCLURE. Mr. President, it is my feeling that the men and women who faithfully gave their services to our country deserve a high priority. We should do all we can to meet the varying needs of our veterans.

As the needs of our country change and as the costs of preparing ourselves to meet these needs change, a reevaluation of educational and readjustment benefits that are provided for our veterans must occur.

The introduction yesterday, December 6, of legislation to improve upon present veterans' benefits will stimulate such a necessary reassessment. Following open hearings at which full disclosure of all facts and viewpoints can be aired, I feel we will be able to report for final passage an equitable bill designed to best meet the current needs of our veterans.

A TRIBUTE TO NICHOLAS JOHNSON

Mr. MUSKIE. Mr. President, this week marks the retirement of Nicholas Johnson as Commissioner of the Federal Communications Commission. His service to the public in Washington deserves tribute.

As an FCC Commissioner for the past 7 years, Nick Johnson has been a stalwart supporter of the consumer's interest in broadcasting. He has brought fresh meaning to the standard by which that industry is regulated: the "public interest." His formal opinions as FCC Commissioner, and his other writing both scholarly and informal, have been marked by imagination and independence. He has been a major force in support of public responsibility in broadcasting.

Predating his FCC service is Nick Johnson's record of achievement in the legal profession and in Government service. And I am certain that his accomplishments will grow in the years ahead.

Mr. President, in his service in Washington Nick Johnson has proved dedication to the motto of his native State of Iowa: "Our liberties we prize and our rights we will maintain." He has my best wishes for a continued career of distinction.

S. 2784 AND OTHER RECENT DEVELOPMENTS AFFECTING VETERANS EDUCATION PROGRAMS

Mr. CRANSTON. Mr. President, yesterday, I was pleased to join with the distinguished chairman of the Senate Veterans' Affairs Committee, Senator HARTKE, members of the committee, and Senator HOLLINGS, in cosponsoring the proposed "Vietnam-Era Veterans' Readjustment Assistance Act of 1973."

For many months now, I have been deeply concerned by reports I have received about the particular problems facing Vietnam-era veterans. The inflated economy, scarcity of jobs, and lack of adequate GI bill benefits until very recently have made it difficult for some veterans, especially those who must work to support a family, to finish their education within a fixed period of time.

Although Public Law 92–540, the Vietnam-Era Veterans' Readjustment Assistance Act of 1972, has resulted in substantial improvements and increases in benefits to GI bill trainees, it is clear that there remains much room for improvement in providing readjustment assistance to our Nation's Vietnam-era veterans. I believe that S. 2784, the proposed "Vietnam-Era Veterans' Readjustment Assistance Act of 1973," will considerably improve existing programs to insure Vietnam-era veterans of educational opportunities and readjustment assistance on a level more equitable with those benefits available to veterans of World War II and the Korean conflict.

Mr. President, the Senate bill, which we view as a starting point from which the committee will consider changes and alternatives following hearings to be held soon after the Congress reconvenes after the Christmas recess, expands, somewhat, the bill currently being considered and expected to be passed by the House, and I plan to recommend, in the weeks ahead, a number of amendments to the Senate bill.

The major provisions of the bill introduced yesterday include a 25 percent increase in the rate of GI bill assistance. This increase represents only an 8 percent increase over the rates of GI bill assistance that would have been made available had the full increase authorized by S. 2161, in the 92d Congress, gone into effect September 1. The rate for the single veteran, without dependents, studying full-time would have been $250 per month. Our calculations at that time indicated that this rate—an increase at that time from the then existing $175 rate—was required to provide comparability with the level of assistance provided under the Korean conflict GI bill, and to be generally equitable with reference to the World War II level of support. However, we were only able to convince the other body to accept an increase to the present rate of $220 per month for the single veteran, without dependents, studying full-time.

Mr. President, the increase in rates of educational assistance benefits we are proposing would mean that the full-time institutional rate for a veteran with no dependents would be increased from $220 to $270 per month. The bill also provides for an extension of the period of time—from 8 years to 10 years—during which educational assistance benefits are available to veterans. Additionally, S. 2784 would improve the employment opportunities available to veterans and, in some cases, their dependents, by improving and expanding the provisions governing the operation of the Veterans Employment Service and by providing again, as we did in the Senate version of S. 2161 a Federal Government action plan for the employment of disabled and Vietnam era veterans, a provision I authored in S. 2091 introduced in the 92d Congress 2½ years ago.

Mr. President, a number of provisions that I authored in Public Law 91–219, the Veterans Education and Training Amendments Act of 1970, and in Public Law 92–540, such as the tutorial assistance program, special programs for educationally disadvantaged veterans and servicemen, inclding PREP—predischarge education program—and the veteran-student services program, would be strengthened by S. 2784. I must, in fairness, note that I have some reservations as to whether we presently know enough to increase by 250 percent—as the bill proposes—the number of work-study hours which one veteran-student could work per school year under the veteran-student services program, and I plan to study this matter further in the weeks ahead. In general, I prefer spreading work-study jobs among many needy veteran students.

I am particularly hopeful that the educational loan provision of S. 2784 will be enacted into law in the months ahead. This program to provide for educational loans to veterans eligible for benefits under chapter 34 of title 38, was a provision I authored with Senator HARTKE in S. 2161 in the 92d Congress, but which was dropped in the House-Senate negotiations on the bill as a result of very strong objections voiced by the administration.

Mr. President, there is a great need for an educational loan program especially in view of the unresponsive and unimaginative manner in which the Veterans' Administration administers the educational assistance program. I am constantly receiving reports from veterans, not only from those having difficulty making ends meet because they have not received their educational assistance checks on time, but also from many student-veterans who would not receive checks at all without considerable efforts, including persistent phone calls, telegrams, letters, and the intervention of congressional offices.

Mr. President, in an effort to alleviate some of these problems, I authored the advance payment provision in Public Law 92-540. This provision was designed to ensure that the GI bill student-veteran would have his first check before he started his classes or training and not have to face the difficulties of waiting several months for checks to begin arriving. But there are numerous distressing reports that the VA's implementation of this provision has been disastrous. Some schools have some veterans receiving their checks, while other students, at the same school, are receiving neither their advance payments, nor regular educational assistance payments. Other schools have received large numbers of checks that belong to students at another school.

I am closely following this situation and have urged the VA to take corrective action. I am also requesting the General Accounting Office to make a thorough study of the VA's implementation of this new program—as well as the implementation of the tutorial program and the work-study program. Additionally, my staff is assisting with particular cases as they are brought to my attention.

Mr. President, the veterans cost-of-instruction—VCI—program was another provision, designed to meet the educational needs of our veterans, which I authored—this time in the Education Amendments of 1972, Public Law 92-318. This program was designed to provide incentives and supporting funds for colleges and universities to recruit actively the returning veterans and to establish the kinds of special programs and services necessary to assist many veterans in readjusting to an academc setting. Institutions which increased their enrollment of veterans by 10 percent over the previous year and who met other requirements of the legislation for special veterans programs were to be entitled to payments of up to $450 for each of certain categories of veterans enrolled in an undergraduate program on a full-time basis.

This program, however, was the special victim of the administration's refusal to release funds and issue program guidelines, a congressionally-rejected rescission order, and, most recently, an administration request for zero-funding for fiscal year 1974. I am gratified that, despite these administration actions, this program is finally underway in colleges and universities across the Nation—utilizing the full $25 million we were successful in appropriating and having expended—where it is providing a central focus for efforts to meet the needs of our student-veterans.

Mr. President, one of the problems that was brought to my attention in the initial stages of allocating funds for the VCI program was the fact that many schools were eliminated from eligibility for VCI funds as a result of the prerequisite of showing a 10-percent increase of GI bill trainees. Larger schools, which had already made very substantial progress in recruiting and enrolling large numbers of veterans, found it particularly difficult to meet the 10-percent increase requirement.

Accordingly, early this summer, I authored with Senator JAVITS of New York, an additional amendment to the VCI provisions to add an alternative prerequisite based on numbers of enrollees. Under this amendment, if a school did not meet the 10 percent GI bill trainee increase requirement, it could still become eligible if at least 10 percent of its current undergraduate student body were composed of GI bill trainees. This amendment passed the Senate as part of S. 896, but is still pending in the House Committee on Education and Labor.

Mr. President, I have also continued to urge full funding of the VCI program, and I submitted testimony to this effect to the Senate Appropriations Committee during its consideration of the fiscal year 1974 Labor-HEW appropriations bill. While the Senate committee and the Senate voted to request $50 million for the VCI program, this figure was cut back to the House figure of $25 million in the House-Senate conference report, now awaiting the President's signature.

I will continue to seek adequate funding for the VCI program in order to make the periodic installment payments required by law at the $147 million fiscal entitlement level, in addition to preparing further technical amendments to make eligibility requirements more equitable—in the event no action is taken on the earlier amendment in S. 896—and generally to make the program more cost-effective.

Mr. President, these are a few of the advances that have been made or are in the process of being made toward improving veterans' educational assistance programs. I am confident that additional important steps will be taken in the months ahead as we consider S. 2784 and other matters, and hopeful that educational assistance programs will become better able to meet the educational needs of Vietnam-era veterans.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

NATIONAL ENERGY RESEARCH AND DEVELOPMENT POLICY ACT OF 1973

The PRESIDING OFFICER (Mr. CLARK). Under the previous order, the Senate will now resume the consideration of S. 1283, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 1283) to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; to establish development corporations to demonstrate technologies for shale oil development, coal gasification development, advanced power cycle development, geothermal steam development, and coal liquefaction development; to authorize and direct the Secretary of the Interior to make mineral resources of the public lands available for said development corporations; and for other purposes.

The PRESIDING OFFICER. Under the previous order, the unfinished business, S. 1868, will be temporarily laid aside until the disposition of S. 1283 or the close of business today, whichever is earlier. Under the previous order, debate will begin on the Buckley amendment, with the vote to occur at not later than 3 p.m.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. BUCKLEY), for himself and others, proposes amendment No. 767.

The amendment is as follows:

At the end of the bill insert the following:

TITLE III—AMENDMENTS TO NATURAL GAS ACT

SEC. 301. This title may be cited as the "Natural Gas Act Amendments of 1973".

SEC. 302. Section 1(b) of the Natural Gas Act is amended by inserting before the period at the end thereof the following: "or to the sale of natural gas delivered for the first time in interstate commerce or sold in interstate commerce upon the expiration of an existing contract on or after the effective date of the Natural Gas Act Amendments of 1973, or produced from wells commenced on or after such date.".

SEC. 303. Section 2 of the Natural Gas Act is amended by adding at the end thereof the following:

"(10) 'affiliate' of another person means any person directly or indirectly controlling, controlled by, or under common control with, such other person".

SEC. 304. Section 5 of the Natural Gas Act is amended by inserting at the end thereof the following:

"(c) In any case where a natural gas company purchases natural gas from an affiliate the Commission may disallow any portion of a rate or charge by such company which is based on the amount paid for such purchase in excess of current prices paid for comparable gas to nonaffiliates.

"(d) The Commission shall not authorize any increased rate or charge for natural gas on the basis of the renegotiation of any contract for the sale of natural gas, being carried out before the effective date of the Natural Gas Act Amendments of 1973, prior to the date on which performance is completed under such contract in accordance with its terms: *Provided*, That the Commission may approve such renegotiation where adjustment in contract terms is required to assure optimum production from producing reservoirs.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on the Buckley amendment be under the control of the distinguished Senator from New York (Mr. BUCKLEY), or in his absence, the distinguished Republican leader or his designee, and on this side of the aisle, the Senator from Washington (Mr. JACKSON).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield 15 minutes on behalf of the Senator from Washington (Mr. JACKSON) to the distinguished Senator from Arkansas (Mr. MCCLELLAN), and I ask unanimous consent that the Senator from Arkansas may speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEFENSE OUTLAYS AND GOVERNMENT COSTS

Mr. McCLELLAN. Mr. President, within a few days, the Senate Committee on Appropriations will report to the Senate, H.R. 11575—one of the largest defense appropriations bills dollar-wise in the history of our Nation. It is not, however, the largest in terms of actual purchasing power.

On April 17 this year, shortly after the committee began work on the bill, I reported to this body that it was the intention of the Defense Appropriations Subcommittee, of which I am chairman, to make a cut of at least $3 billion in the President's defense budget request for fiscal 1974. This was a part of the committee's concentrated effort to reduce appropriations and to impose a ceiling on Federal expenditures.

In spite of inflation, in spite of the accelerating cost of the volunteer army, and in spite of the rapidly increasing costs of sophisticated weaponry, this pledge will be kept.

Of course, this cut will not satisfy everyone. There are many well-intentioned and patriotic Americans—some of them in this chamber—who are convinced that the defense budget can—and should—be cut much deeper in order to provide resources for current domestic programs and for other programs and governmental services that are being proposed.

It is an article of faith with some that so-called bloated defense budgets are the major cause of the high cost of the Federal Government. Those who believe this are grievously mistaken.

Military spending, it is contended, consumes a disproportionate share of national wealth and of the gross national product, while outlays for health, education, housing, and other domestic civic programs have been and are being greatly neglected and shortchanged in the Federal appropriations process in order to support exorbitant defense spending. But, Mr. President, that contention is completely refuted by the record.

An examination of Federal expenditures since fiscal 1964 clearly demonstrates that any such claim is premised on a grave misconception of the facts.

By any yardstick, spending on defense has been and is now substantially declining percentage-wise as related to the gross national product, as a share of the Federal budget, and most dramatically, as a percentage of all Federal spending. Defense outlays have not at all kept pace with the overall increase in Government spending—which has risen spectacularly within the past decade.

Mr. President, the cost of the Federal Government has increased from $118.6 billion in fiscal 1964 to $268.7 billion—the administration's budget—for fiscal 1974. This is an increase of $150 billion—or 127 percent.

Defense spending rose from $49.6 billion in fiscal 1964 to $78 billion in estimated outlays for fiscal 1974—an increase of only 57 percent.

Ten years ago, 42.8 percent of the total Federal expenditures was for the military. In 1968, at the height of the war in Vietnam, military costs rose to 43.6 percent of the total. Since then, the percentage of defense costs has markedly declined in relationship to total Federal expenditures. For fiscal 1974, it is estimated that only 29.4 percent of all Federal Government spending will be attributable to the military functions and military assistance programs of the Department of Defense.

In terms of the gross national product, defense programs accounted for 8.3 percent of the total in 1964, but it will only account for 6 percent in fiscal 1974.

When current defense expenditures are compared with those made two decades ago and the economic conditions that prevailed at that time, they take on even greater significance.

Twenty years ago, defense spending was nearly double the total of all other Federal expenses combined. Today, the other Federal departments and agencies spend a total of more than twice as much as we are spending for national defense.

In 1953, defense spending was $50.4 billion, while all the other agencies and departments of Government spent only $25.8 billion. In 1973, defense spending was $76.4 billion, while all the other agencies and departments spent a total $173.4 billion.

Twenty years ago, defense spending was nearly double that of all State and local governments combined. Today, State and local government spending is more than double what we are now spending for national defense. This is a complete reversal of trend in that brief period of time. In 1953, defense spending was $50.4 billion; all State and local government spending was $27 billion. In 1973, defense spending was $76.4 billion while State and local governments spent $183.1 billion.

Twenty years ago, total defense manpower was nearly equal to all other public employment—Federal, State, and local—combined. Today, such public employment exceeds that of defense manpower by nearly 4 to 1. In 1953, defense manpower totaled 4.9 million men and women—all other, 5.5 million. In 1973, defense manpower was 3.2 million—all other, 12.8 million.

Twenty years ago, about 49 cents out of every tax dollar—Federal, State, and local—went for defense. Today, this figure is estimated at 19 cents—a reduction of 30 cents out of each dollar, or 60 percent.

Mr. President, we hear much talk these days of the necessity for a massive reordering of national priorities. The plain truth is—as the facts I have related here clearly show—that such a reordering of priorities has already taken place. A great percentage of the funds which were formerly earmarked for national defense are now being spent on human resource programs. This truth cannot be challenged.

Since 1964, Federal outlays for human resource programs—education and manpower; health, including medicare and medicaid; income security, including social security; public assistance and unemployment insurance; and veterans' benefits—have increased from 28.9 to 46.7 percent of the total Federal budget. In dollar terms, this is an increase from $34.3 billion to $125.5 billion. This $125.5 billion is nearly half of all Federal expenditures.

While the percentage of our wealth now being spent on national defense is steadily receding, spending on human resource programs is steadily increasing—

From 1964 to 1974, Federal aid to education jumped 440 percent—from $1.1 billion to $6 billion;

From 1964 to 1974, public assistance rose 248 percent—from $3.1 billion to $10.7 billion;

From 1964 to 1974, social security increased 236 percent—from 16.2 billion to $54.3 billion; and

From 1964 to 1974, health care and medical services, including medicare and medicaid, climbed dramatically by 4,509 percent—from $393 million to $18.1 billion.

Just last week, the Senate voted to raise social security payments by another 7 percent, effective upon signing of the bill and by an additional 4 percent in June 1974. Benefits were also liberalized and medicare expanded for an estimated total of $6.9 billion annually.

And we have just adopted a conference report on H.R. 8877 this week that will appropriate $32.9 billion for the Labor and Health, Education, and Welfare Departments. This bill, alone, provides funds for more than 360 human resource programs. It contains more than 400 line item appropriations for human needs.

So, Mr. President, contrary to the misconceptions of many, the truth is that our Government is spending far, far less today to maintain our national security than it is spending for human needs in nondefense programs.

I wish to emphasize that I am not presenting this information just for the purpose of defending appropriations for the Department of Defense. But rather, I do so in order to place all Federal spending in proper perspective as we consider the defense appropriations bill.

During the course of the extensive hearings held by the Subcommittee on Defense Appropriations on the Pentagon's budget request, I repeatedly admonished Department officials that substantial reductions would be made. I admonished them to keep their requests at the very minimum consistent with our Nation's defense requirements and its overall fiscal responsibilities. And, I may say, Mr. President, that I feel the Defense Department has given our committee very good cooperation.

Mr. President, we hear much talk today of a détente with the Soviet Union. Of course, we are all in favor of any actions that lessen world tensions or which reduce the threat of war. So, we fervently hope that any détente we have with the Soviet Union will increase and strengthen—never diminish.

But, as of now, we are not reassured—we cannot be sure—this will happen. The recent near confrontation with the Soviet Union in the Middle East serves to remind us again that relations between the United States and the Soviet Union, although much improved during the past few years, still remain tenuous and uncertain.

Peace—lasting peace—in the light of world conditions today is still too fragile and insecure to warrant or permit the reduction or decline of our military strength below the level that an effective deterrent and a defense capability require and demand.

By this, I do not mean to say that war is imminent or that it is even probable. But I am saying that peace and national security cannot yet be taken for granted. Mr. President, the cost of military preparedness is high. However, it is a cost that we can neither escape nor fail to pay. For the price of liberty is still eternal vigilance.

Mr. President, my hope as we consider this Defense appropriations bill is that we will remember that we should not neglect the human resources needs of this Nation and that we could in our desire to be economical and conservative reduce the appropriations for national security, for national defense, and for military strength below a point that would leave us vulnerable to possible exposure and great danger.

Mr. President, I ask unanimous consent to have printed in the RECORD three charts. One is entitled "Budget Outlays by Function." Another is entitled "Outlays and Gross National Product." The other is entitled "History of Outlays for Military Functions of the Department of Defense and Human Resources."

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

TABLE 4.—BUDGET OUTLAYS BY FUNCTION

[Dollars in millions]

	Fiscal year 1964		Fiscal year 1974 (proposed)		
	Amount	Percent of total budget	Amount	Percent of total budget	Comment
Department of Defense	$49, 577	0. 42	$78, 000	0. 29	Up $28,423 or 57 percent.
Federal aid to education	1, 110	.009	5, 998	.02	Up $4,888 or 440 percent.
Public assistance	3, 085	.026	10, 728	.04	Up $7,643 or 248 percent.
Social security—Federal old-age survivors and disability trust fund	16, 203	.14	53, 366	.20	Up $38,163 or 236 percent.
Health services, medicare, medicaid, and others	393	.003	18, 114	.07	Up $17,721 or 4,509 percent.
Interest (net)	9, 810	.08	26, 072	.10	Up $16,262 or 166 percent.
Other	38, 406	.032	75, 393	.28	Up $36,987 or 96 percent.
Total	118, 584	100. 0	268, 71	100. 0	Up $150,087 or 127 percent.

	Fiscal year 1964		Fiscal year 1974		Increase	
	Amount	Percent of total budget	Amount	Percent of total budget	Amount	Percent
10-YEAR COMPARISON OF DEPARTMENT OF DEFENSE OUTLAYS TO TOTAL OUTLAYS						
Defense	$49, 577	0. 42	$78, 000	0. 29	+$28, 423	0. 19
Federal Government other than Defense	69, 007	.58	190, 671	.71	+121, 664	.81
Total	118, 584	100.	268, 671	100.	+150, 087	100.

TABLE 5.—OUTLAYS AND GROSS NATIONAL PRODUCT—UNIFIED BUDGET BASIS, FISCAL YEARS 1959–74

	Gross national product (billions)	Total Federal Government outlays		Total outlays all Government agencies[1] (billions)	DOD-military functions and military assistance outlays			
		Amount (millions)	Percent of of GNP		Amount (millions)	Percent of GNP	Percent of total Government	Percent of all Government agencies[1]
Fiscal year:								
1959	$469. 1	$92, 104	19. 6	$94, 349	$43, 703	9. 3	47. 4	46. 3
1960	495. 2	92, 223	18. 6	94, 520	43, 110	8. 7	46. 7	45. 6
1961	506. 5	97, 795	19. 3	100, 244	44, 643	8. 8	45. 6	44. 5
1962	542. 1	106, 813	19. 7	109, 326	48, 253	8. 9	45. 2	44. 1
1963	573. 4	111, 311	19. 4	113, 955	49, 549	8. 6	44. 5	43. 5
1964	612. 2	118, 584	19. 4	121, 461	50, 786	8. 3	42. 8	41. 8
1965	654. 2	118, 430	18. 1	121, 539	47, 098	7. 2	39. 8	38. 8
1966	721. 2	134, 652	18. 7	138, 016	55, 181	7. 7	41. 0	40. 0
1967	769. 8	158, 254	20. 6	162, 190	68, 315	8. 9	43. 2	42. 1
1968	827. 3	178, 833	21. 6	183, 332	78, 027	9. 4	43. 6	42. 6
1969	897. 7	184, 548	20. 6	189, 665	78, 666	8. 8	42. 6	41. 5
1970	956. 0	196, 588	20. 6	202, 968	77, 880	8. 1	39. 6	38. 4
1971	1, 008. 0	211, 425	21. 0	218, 801	75, 545	7. 5	35. 7	34. 5
1972	1, 096. 0	231, 876	21. 2	239, 733	75, 957	6. 9	32. 8	31. 7
1973 estimate	1, 208. 0	249, 796	20. 7	258, 177	74, 800	6. 2	29. 9	29. 0
1974 estimate	1, 313. 0	268, 665	20. 5	277, 796	79, 000	6. 0	29. 4	28. 4

[1] Under current budget concepts certain intragovernmental credits are not distributed by agency, with the result that total outlays for all Government agencies as shown in the budget document exceed total Government outlays. Data in this column reflect the exclusion of the undistributed intragovernmental credits.

Note: For explanation of conceptual differences between "administrative budget" and "unified budget," see special analysis A, page 464 of the budget of the U.S. Government, 1969.

Source: Department of Defense, OASD (Comptroller), Directorate for Program and Financial Control.

HISTORY OF OUTLAYS FOR MILITARY FUNCTIONS OF THE DEPARTMENT OF DEFENSE AND HUMAN RESOURCES, FISCAL YEARS 1964 THROUGH 1974

[Dollar amounts in billions]

Fiscal year	Total outlays	Outlays for military functions of DoD		[1] Outlays for human resources	
		Percentage of total outlays	Total	Total	Percentage of total outlays
1964	$118.6	41.8	$49.6	$34.3	28.9
1965	118.4	38.8	45.9	35.4	29.9
1966	134.7	40.2	54.2	41.7	31.0
1967	158.3	42.6	67.5	50.7	32.0
1968	178.8	43.3	77.4	57.3	32.0
1969	184.5	42.2	77.9	63.4	34.4
1970	196.6	39.3	77.2	72.7	37.0
1971	211.4	35.2	74.5	88.6	41.9
1972	231.9	32.4	75.2	102.5	44.2
1973 (estimate)	249.8	29.7	74.2	116.2	46.5
1974 (estimate)	268.7	29.1	78.2	125.5	46.7

[1] Includes outlays for education and manpower, health, income security, and veterans' services benefits.

Source: Tabulation prepared by William Woodroff. Footnote in budget for fiscal year 1974, p. 2.

NATIONAL ENERGY RESEARCH AND DEVELOPMENT POLICY ACT OF 1973

The Senate continued with the consideration of the bill (S. 1283) to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; to establish development corporations to demonstrate technologies for shale oil development, coal gasification development, advanced power cycle development, geothermal steam development, and coal liquefaction development; to authorize and direct the Secretary of the Interior to make mineral resources of the public lands available for said development corporations; and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged against both sides on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that during the consideration of the pending measure Mr. Greg Erickson and Mr. Tom Williams of the staff of the Senate Committee on Interior and Insular Affairs be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that Nick Miller and Lynn Sutcliffe, of the Committee on Commerce, be accorded the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senator from Hawaii (Mr. FONG) be made a cosponsor of S. 1283.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. DOLE. I send an unprinted amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. Is there a unanimous-consent request to take up this amendment at this time?

Mr. JACKSON. Mr. President, I ask unanimous consent that we temporarily lay aside the pending amendment, and that the amendment of the Senator from Kansas be in order at this time.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill add the following:

PRICE CONTROLS

SEC. 219. Section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(k) After the date of enactment of the National Energy Research and Development Policy Act of 1973, the authority conferred by this section may not be exercised with respect to price levels of tubular steel products of the types used in the production of crude oil or natural gas."

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. I yield 3 minutes to the Senator from Kansas.

OIL DRILLING SUPPLIES SHORTAGES

Mr. DOLE. Mr. President, in the face of our current energy crisis the vitally important domestic petroleum industry is being hampered in its efforts to discover and produce more crude oil supplies. So-called "oil country tubular goods" are in short supply throughout the country. These products, the steel casing, tubing and pipe used in oil well drilling operations, are absolutely essential to the exploration activities of those who are in the business of developing new petroleum reserves—particularly the independent producers who drill the bulk of America's new wells. Without these products, wells cannot be drilled, and without new wells our domestic petroleum supplies will continue to be inadequate in the face of the Arab oil boycott and rising demand.

As I pointed out in debate on the Senate floor last week, one reason for this tubular goods shortage is the fact that these products are being exported to the same Arab countries which are refusing to ship their oil to us. Such a situation is contrary to our Nation's best interests, and I was pleased that the Senate on November 30 adopted my amendment to stop such exports of our products to countries which refuse to sell us their oil.

But the problem is larger than the simple matter of exports of these tubular steel products going to Arab nations. Altogether exports to Arab states constitute only about 20 percent of the total, with the rest of the free world making up the remaining 80 percent. The total adds up to nearly $300 million or 30 percent of U.S. production for the first 9 months of this year. Now, obviously, we cannot impose an export control policy for these shipments to non-Arab nations without creating severe strains in our trade relationships and possibly bringing on strong reprisals for such policies. After all, the companies making these exports are only practicing the basic laws of the marketplace. Because these tubular steel goods are under price controls here at home, foreign markets are more attractive, and foreign buyers are able to outbid their competitors in the American market.

In addition the price controls have the effect of reducing the market incentives for steel companies to increase production of these tubular goods sufficiently, especially when cost pass-through on flat rolled steel is permitted by the Cost of Living Council. The companies have no good reason to increase production as much as necessary of a product whose price they cannot adjust for rising costs when they can sell another with their cost increases added on.

Thus, the pressures combine to reduce the availability of these tubular steel goods that are so critical to the effort to increase domestic energy supplies. This development comes at a time when exploratory activities have begun to show sizable increases in response to improved crude oil price structures, so the effects are being felt very directly. I know in Kansas the number of drilling rigs in operation were up 46 percent over the same month in 1972. But to maintain this rate of activity and to expand it further, the drillers must have the steel products they need.

Therefore, I am introducing an amendment to free these oil country tubular steel products from price controls, so increases in production costs can be recovered through the pricing structure. The effect of this amendment will be to reduce the attractiveness of these American products on the world market, thereby reducing the export drain on our production. It will also make it more attractive for American steel producers to expand their output of these products, since they will not be subject to artificial pricing restraints.

In this way American drillers—especially the independents who are being so severely hit by the current shortages—can continue to expand their exploration efforts to increase our domestic petroleum supplies.

Mr. President, I have discussed this amendment with the distinguished Senator from Washington and also with the distinguished ranking Republican Member, the Senator from Arizona I understand the problem it presents in the particular bill before us. I shall not press the amendment, but I do think it might be helpful if the distinguished Senator from Washington might comment on it. I believe we are all in sympathy with the purpose of the amendment, and hopefully we can have some response from the Cost of Living Council that would alleviate this situation.

Mr. JACKSON. Mr. President, I commend the Senator from Kansas for bringing this amendment to the attention of the Senate at this time. The problem that exists here is a very serious one, not only as it pertains to tubular steel products that are used in the production of oil and natural gas, but to other essential materials that are needed in the development and exploration of petroleum possibilities in this country.

I would point out that in the emergency energy bill which we passed in the Senate last month, and which I believe will be acted upon by the House Commerce Committee, authority is given to deal with this specific problem. In addition, in the authority for the new agency which will be headed by Mr. William Simon, there is an express provision which gives him authority to handle matters relating to the Cost of Living Council as they affect the situation in this particular area of energy.

The situation, therefore, is that there is ample authority to make adjustments in price in order to compensate for the shortages.

I believe that Mr. Simon will take the steps that are necessary to deal with this special problem. I therefore would suggest that, in the light of the authority contained in the emergency bill and that to be contained in the Federal Energy Administration Act which will be reported from the Government Operations Committee next week, it will not be necessary to address this item in this bill. I know the Senator is aware that there are other problems of material allocation priority which must be solved. That which the Senator from Kansas raises is covered by existing law. If we adopt this amendment, we must create legislative history that would cause a problem.

Therefore, I would hope, in the light of this colloquy, that the Senator from Kansas might be willing to withdraw the amendment.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. DOLE. I share the views expressed by the Senator from Washington. I think it has been disturbing to many domestic oil producers that a certain amount of tubular steel and other products, machines, and implements used in production of oil and gas are being shipped to Arab nations. This is particularly disquieting to those in Kansas and other oil- and gas-producing States.

I do understand that the authority is there, and more authority is coming, and I do agree that rather than single out one area, perhaps it might be best to wait.

So on that basis I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. JACKSON. Mr. President, I thank the Senator from Kansas for his cooperation in this matter.

I ask unanimous consent that Henry Littek, of the staff of the Commerce Committee, be granted the privilege of the floor during the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. JACKSON. Mr. President, I yield such time as he may require to the distinguished senior Senator from Nevada.

Mr. BIBLE. Mr. President, I rise in support of the pending bill and would like to say a few words about the legislation. Before I do so, I note that the new Vice President of the United States is now presiding over the Senate. As I did last evening I want to welcome him to the Senate. It is a pleasure to see him here. I am sure he will be a fair and impartial presiding officer, and he has my very best wishes.

Mr. President, I am a strong supporter of the pending bill, and I am highly honored to be associated as a cosponsor with the very distinguished chairman of our committee. Senator JACKSON is in every respect Mr. Energy himself, both personally and in his actions in moving to meet the Nation's problems.

This National Energy Research and Development Policy Act of 1973 is landmark legislation and I urge its passage by the Senate.

As the Senate knows, as a result of Senator JACKSON's vision and under his leadership the Committee on Interior and Insular Affairs has engaged in a comprehensive study of the Nation's fuels and energy resources problems. S. 1283 is an outgrowth of that study. It recognizes first and foremost a fact that hardly requires any elaboration. The Nation is in the throes of an unprecedented energy crisis brought about in large part by our dependence on foreign sources for oil and our regrettable failure to develop and exploit new domestic energy sources. There can be no questioning the urgent need for a clearly defined national strategy designed to bring about domestic self-sufficiency in environmentally acceptable energy resources within the next 10 years. Nor is there any question that the Nation must get on with the longer range energy research efforts that are needed to broaden our energy options in the future. I daresay that we all agree that there must be a major national effort—including whatever financial commitment may be required—to surmount the Nation's present energy problems and to insure that they do not recur in the years ahead. We owe no less to the generations of Americans yet to come. This bill marks the way. It is already long overdue.

A major weakness in the national response to the energy crisis has been the failure to formulate and mount a coordinated aggressive research and development strategy to demonstrate and harness our huge reserves of domestic coal, shale oil, and geothermal resources. And we have focused entirely too little of our research and development capabilities on the potentially enormous benefits that may be available from solar power and other unconventional energy sources.

Over the years the Federal Government has engaged in and supported an array of new energy research projects, but its necessary contribution has lacked effective central direction. Present responsibilities and budgets for energy research are dispersed throughout too many of the departments and agencies of the Government making it difficult to coordinate activities and to define and implement research priorities. The result has been only halting progress toward the Nation's clean energy goals.

Mr. President, it is time to stop merely bemoaning the energy crisis. It is time to reshape and strengthen the Federal Government's leadership in bringing about the research, development, and demonstration projects that are needed if we are to bring new energy sources on the line by the mid-1980's. A major restructuring of the Government's energy research activities is needed to reach that goal.

The present bill calls for just that kind of reorganized energy research effort. It would establish a high-level, independent "energy research management project" to review the full range of Federal and private industrial energy research activities. The project would be headed by a full-time chairman appointed by the President and an interagency coordinating group or "board of directors," if you will, composed of high officials drawn from departments and agencies currently involved in energy R. & D. The project's task would be to formulate a comprehensive energy research and development strategy for the Federal Government, including the definition of new energy R. & D. programs and activities. It would be authorized an annual budget of $800 million for fiscal years 1975 and 1976 for use in supplementing existing Federal programs and to support new R. & D. initiatives by Federal agencies, national laboratories, universities, nonprofit organizations, or private industry—based on their special competence for particular projects. The management project would also identify opportunities for Government-industry cooperation in the conduct of projects to demonstrate the technological and economic feasibility of bringing new energy sources into production.

Very importantly, S. 1283 specifies a definitive and prompt schedule for the work of the energy management project. Within 6 months from date of enactment, the project would be required to transmit to the Congress its recommendations concerning the strategy and priorities needed to achieve solutions to immediate and short-term energy supply problems, namely problems susceptible of solution by early in the 1980's. The project would also be required to recommend specific forms of programs and assistance to be undertaken by the Government to accelerate the commercial demonstration of technologies for producing: Low-sulfur fuel for boiler use, natural gas substitutes, including coal gasification, liquid petroleum products from coal, advanced power cycles for the generation of electricity from coal, geothermal energy, the production of syncrude from oil shale, improved methods for the extraction of our oil and coal resources, and to demonstrate the economics and commercial viability of solar energy conversion for residential and commercial applications.

Within 1 year, the project would be required to transmit recommendations for an aggressive strategy and system of priorities to solve middle-term—from the early 1980's to the year 2000—energy supply problems. Included would be programs to overcome problems in transporting and storing electric energy, commercial demonstration of advanced power cycles for the generation of power, commercial demonstrations of hot dry rock geothermal technologies and advanced solar energy technologies, to determine the economics and viability of hydrogen as a primary energy source, to commercially demonstrate the use of fuel cells for central station electric power generation, and to determine the economic feasibility for producing synthetic energy from agricultural products and waste.

Within 18 months, the project would recommend a strategy to improve the economics and cost-effectiveness of projects already recommended or underway and to bring about the commercial demonstration of nuclear fusion and hydrogen as energy sources.

Mr. President, it is one of the special attractions of this legislation that it does set forth a clearly defined timetable for the responses we need from the executive branch to enable the Congress to intelligently provide the wherewithal for an aggressive, properly targeted energy research effort. Too often we find ourselves in the position of not knowing with any certainty which agency is doing what on energy research; which agencies are duplicating the work of other agencies; how far along various research programs are; what is needed to assure timely progress; and without really knowing whether the funds provided are being spent to our best advantage. To many, the present energy research scene is a scene of confusion. If we are to bring order into the picture, we need an organization dedicated solely to identifying energy research priorities and in a position to give the national effort continuing and effective direction. The energy research management project now before the Senate is just such an organization, and the time frames spelled out in this legislation are well designed to move the necessary R. & D. and demonstration projects forward in an orderly way. This kind of reorganization for progress is long overdue.

S. 1283 also specifies a variety of forms of Federal assistance and participation to be considered by the management project in determining the best means of advancing particular research efforts. Consideration is to be given the use of joint Federal-industry corporations so that the special expertise of industry can be brought to bear on special problems, including the development and operation of pilot and demonstration plants and projects where that is appropriate. Contractual arrangements with non-Federal participation would be another device. Construction and operation of federally owned energy research and demonstration facilities—in connection with our military bases, for example—would be considered. And consideration would also be given to price guarantees and Federal loans that might be necessary to help cope with research and development risks industry is unable to assume alone.

I want to note especially that Federal financial assistance is particularly important in the field of geothermal energy. One of the principal problems in developing geothermal resources is the investment risks involved in moving forward with its development. Incentives such as the loan guarantees provided by this bill are needed to prime the free enterprise pump.

I believe the Senator from Arizona last evening commented about the geysers geothermal development at Geyserville, Calif. The Geysers powerplants are located in the Napa Valley, Calif., a great wine-producing country, incidently and are well worth a visit. The Geysers operation has tapped geothermal steam wells at various depths and have harnessed the natural heat of the Earth for the generation of electricity. I believe it now supplies approximately half of the electrical energy needs of the city of San Francisco. The Senator from Arizona will correct me if I am wrong.

Mr. FANNIN. The Senator is correct. Presently, they are developing approximately 400 megawatts of electricity at the Geysers field. It is estimated that the amount of electricity utilized for all sources in the city of San Francisco is 750 megawatts.

I am pleased that the Senator from Nevada has brought up this subject, because in northern California they are very optimistic there that by the end of 1976, they will be generating in excess of 1,000 megawatts, which will be equal to what the atomic energy plants and nuclear powerplants are producing now. The larger nuclear powerplants produce in the neighborhood of 1,100 megawatts. So this is of great substance.

While I have the opportunity, Mr. President, I wish to pay tribute to the distinguished Senator from Nevada for his work over a long period of time in this field of energy. He is one of the leaders, together with Senator Church, who is the floor manager of the bill at the present time, who have devoted a tremendous amount of time and effort to bringing forth the advantages of going forward with these programs. Senator Church was successful this year with a bill he sponsored—the Senator from Nevada is a supporter of the bill—which is being incorporated in S. 1283 as a section of the bill. So this is forward progress.

I am very pleased to have this opportunity to commend the Senators for their efforts in this respect. Certainly, the Senators have been responsible for the forward progress of the proposed legislation.

Mr. BIBLE. I appreciate the Senator's sentiments, and I thank him for expressing them. He comes from an area—as do I and the Senator from Idaho, the Senator from Oregon, and the Senator from Washington—that has great geothermal potential.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. BIBLE. I yield.

Mr. CHURCH. Mr. President, I simply want to express my appreciation to the distinguished Senator from Arizona for his generous comments. It should be pointed out that he has given great leadership to the effort to cause the Government to move forward in research and development in the geothermal field.

But I think Senator Fannin would agree with me that the pioneer in this effort has been the senior Senator from Nevada. I compliment Senator Bible for what I regard as a real breakthrough—the fact that the administration, for the first time, has come forward with a budget for geothermal development that is commensurate, or begins to be commensurate, with the needs.

Only yesterday, in reviewing the new figures, the Senator from Nevada (Mr. Bible) pointed out to me that the administration now plans to spend four times as much next year for research and development in the Western States, for making use of this great geothermal resource, than was programed for this year. The 5-year program now projected by the administration is 9 times larger than that contemplated at the beginning of this year.

So I think we owe a debt of gratitude to the Senator from Nevada for his pioneering work. I am happy to say that it has been a pleasure to be associated with him, as well as with the Senator from Arizona, in this effort.

Mr. BIBLE. Mr. President, I appreciate what the Senator from Idaho and the Senator from Arizona have said. I just hope that I live long enough to see that program come true.

The distinguished Senator from West Virginia, the majority whip, might very well say the same thing with respect to the project at Cresap, W. Va., as progress is made on what are highly promising projects for converting coal to gas and petroleum.

This is another area which has enormous potential. I can vouch for that first-hand, because I have personally experienced the constant drive by the distinguished majority whip for more dollars for coal research and development.

We have come a long way, and we have a long way yet to go. But by our joint efforts, I am sure we are going to succeed. By working together, we will press such matters forward as vigorously as we can.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BIBLE. I yield.

Mr. ROBERT C. BYRD. I thank the very distinguished senior Senator from Nevada (Mr. Bible) for his kind reference to my efforts in connection with the field of coal research. Having sat on the subcommittee on Department of the Interior Appropriations for several years now, I have always found the distinguished chairman of that subcommittee, (Mr. BIBLE), to be most understanding, considerate, and cooperative.

Whatever I have been able to do, what efforts I have made, I think they have been important on focusing attention on the potential before this country that may accrue from increased funding for coal research in the areas of coal gasification, coal liquefaction, and improved technology.

Whatever I have been able to accomplish has been made possible largely through the cooperation and understanding of the distinguished chairman of the subcommittee (Mr. BIBLE). Certainly without his strong support, the moneys I have been able to include in the bills by the Senate on so many occasions would not have been agreed to in conference with the other body. So I cannot express my appreciation adequately to the distinguished Senator from Nevada.

I believe that in the years to come the pennies that are being spent now for coal research will be returned to this country in dollars many, many fold and the country always will be indebted to the distinguished Senator from Nevada for his contributions, not only in the area of coal research, but also research in oil and gas, geothermal and other fields of energy. This is the main problem facing our country today and it is a problem that will be confronting our country for a long time. But for the efforts of the distinguished Senator from Nevada we would be further behind today than we are.

On behalf of the people of West Virginia, I express our gratitude to the able and distinguished Senator from Nevada (Mr. BIBLE).

Mr. BIBLE. I thank the Senator. I did not raise this matter so that bouquets could be passed around, but they have a pleasing ring. Since I am going to retire soon, I may have these encomiums framed and hand out copies to my grandchildren.

I think the dreams of those of us who have labored in the vineyard for so long with all the difficulties and setbacks we have encountered over the last 10 or 15 years will be rewarded by the final results. I am confident our efforts are going to be successful and, therefore, highly gratifying.

In other words, the bill properly makes an array of tools available to get the job done.

Mr. President, I am particularly pleased that the present legislation for advancing research and development and the commercial interest that already exists concerning the Nation's geothermal resources.

This Geothermal Energy Act of 1973 contained in title II of this bill is, in a sense, a sequel to the Geothermal Steam Act of 1970, which it was my privilege to author and shepherd through the Congress.

As Senators will recall, the 1970 act authorized the opening of the Federal lands throughout the West for geothermal exploration and development under a leasing program to be instituted by the Secretary of the Interior. Except, of course, lands withdrawn or set aside for parks, recreation, wildlife refuges and ranges, Indian lands, and other protected areas. The 1970 act removed previous legal barriers to the acquisition of geothermal rights on the public lands, subject to the provisions of that act and to leasing regulations to be promulgated by the Secretary of the Interior. Unfortunately—and this has been a source of great frustration to me—the geothermal leasing regulations have yet to be promulgated. Notwithstanding all the lipservice the administration has paid to the need to get on with the development of new clean energy sources for the production of electric power, it will soon be 3 years since the Congress authorized action—and the first geothermal energy lease has yet to be announced. To date, the administration's record on this is a sorry one, to say the least.

I want to say again that I think this Nation's geothermal energy resources represent a potentially vast clean energy potential for the generation of electric power in many of our Western States. Evidence of the resource abounds in Arizona, California, Idaho, New Mexico, Nevada, Oregon, and elsewhere. The challenge posed by the burgeoning energy crisis is to get on with the task of harnessing this natural energy. The authorized leasing program must be launched, the Federal Government must mount a concerted and coordinated research and development program to demonstrate the feasibility of harnessing geothermal power, and private industry must be encouraged to invest its own resources in geothermal exploration and development. In short, if the Nation is to receive the benefits of geothermal power within the next decade, Government and industry are going to have to join forces in a cooperative effort. The Government's lead role in research and development needs new direction and emphasis, and meaningful incentives must be provided to encourage private action and investment. That is the purpose of title II.

The proposed Geothermal Energy Act of 1973 represents a joint effort by my good friend from Arizona, Senator FANNIN, and myself, and I want to commend Senator FANNIN for his initiative and leadership not only in connection with this bill but in respect to geothermal resource matters generally. He has demonstrated his dedication to the task of making geothermal power a reality and in doing so he shares the great optimism I indulge for the future.

Title II of the bill is designed to encourage and facilitate private investment in geothermal exploration and development ventures. It establishes a loan guarantee program under which the Secretary of the Interior would be authorized to provide loan guarantees covering up to 75 percent of the aggregate cost of a project, subject to limitations described in the bill.

Title II also proposes to strengthen and coordinate the geothermal research and development programs of the Department of the Interior, the Atomic Energy Commission, and the National Aeronautics and Space Administration. The Department of the Interior would be assigned the primary responsibility for geothermal exploration, mapping and surveys, and other activities needed to define the Nation's geothermal resources inventory. NASA would be called upon to bring the benefits of satellite technology to bear on the exploration problem. The AEC would be assigned the primary basic and applied geothermal research and development task, with special emphasis on the need for cooperative undertakings with private industry to develop and test the technologies required to tap and harness geothermal energy. Special authority is included for pilot and demonstration projects designed to demonstrate the economic and technical feasibility of geothermal power production.

I think it is high time that the kind of emphatic program envisaged by this legislation is brought to bear on the Nation's geothermal energy resources.

Mr. FANNIN. Mr. President, I thank the distinguished Senator for the statements he has made this morning and I pay tribute to him for the great work he has done in this field.

I would like to elaborate a little further on the subject, but I want to be sure that the Senator from Nevada is given proper credit for the tremendous work he has done. I feel that in his announcement that he is going to retire, we have not lost a great leader because I feel no doubt we will be able to call upon him for advice and counsel and he will be here another year, and we hope much of this legislation will be behind us when that time comes. I hope he will be able to point with pride to this legislation and say he was the instrumentality for getting it approved. In a few years we will be able to look back on the success of his efforts.

Mr. BIBLE. I appreciate those sentiments.

Before I conclude my statement, Mr. President, I want to say a few words about another enormously promising and unlimited energy resource than has for too long escaped adequate national research and development. I refer to the boundless energy of the Sun.

The massive literature on the energy crisis—including innumerable Government reports and the volumes of testimony generated in congressional hearings—makes frequent mention of the possibility that solar energy may one day be effectively harnessed to heat and cool our homes and other buildings and to serve as a potentially vast source of electric power.

Nonetheless, I am sure that to the average citizen today—and to most Members of the Congress for that matter—references to solar power still conjure up thoughts of astronauts, skylabs, and orbiting satellites. Popular discussion of solar energy has dealt principally with the solar power technology of our space program, and few Americans have focused seriously on the prospects of harvesting the inexhaustible energy of the Sun to help meet the energy demands of everyday living here on Earth.

The situation would be otherwise if more of our people—and particularly if as many Members of the Congress as possible—could and would take the time to familiarize themselves with a remarkable demonstration of solar energy now underway just 2 hours away from Washington at the University of Delaware in Newark, Del. I had occasion to visit the university recently and want to share what was an educational and pleasant experience.

Mr. President, I am talking about "Solar One," a solar energy project of the Institute of Energy Conversion of the University of Delaware. Solar One is an attractive, fully furnished single-family house. It contains all the conveniences of modern living and compares favorably with the model homes we all know as part of new housing developments in every part of the country. It has a living room, dining room, fully equipped kitchen, two bedrooms and space for two more in an area that now houses experimental equipment, a full bathroom, and attached garage, and a full basement. It is a house ready to become a home.

The difference between Solar One and other model homes is that Solar One is, as I understand it, the first house equipped to directly convert sunlight into both heat, cooling, and electricity for domestic use. The experimental solar harvesting system built into the house is capable of providing up to 80 percent of its electrical needs. It also harvests the heat of the Sun to warm the house in the winter and includes an effective technique for cooling the house in the summer. Solar One was opened to the public last July. I understand that during the hottest days of August—when temperatures soared into the high 90's for days at a time—Solar One maintained a comfortable 73 degrees. And it did so without drawing electricity from the local power utility during its peak demand period when everyone else in the area was drawing down power to keep cool. In other words, Solar One did not contribute to the possibility of a power shortage or brown out during those hot days.

As a matter of fact, I understand the house even produces some electricity to spare that can be returned to the power company to help shave its peak demands. A tie-in with the local utility is maintained to assure a source of standby power.

How does it work? The house has an architecturally interesting peaked 45 degree roof, which is sited for maximum exposure to the Sun. I understand, however, that variations in siting are acceptable and that all houses in communities of this type structure would not have to maintain precisely the same orientation to the Sun. The roof encloses 24 panels, three of which consist of cadmium sulfide solar cells. The others are a variety of experimental heat-collecting materials. When the sunlight strikes the solar panels, direct current is generated by the solar cells and then converted into AC current. Wiring conducts the electricity from the roof to household appliances such as lights, stove, refrigerator, washer, and dryer, and so forth. The current not consumed continues on for storage in a series of 12-volt storage batteries.

A reciprocal arrangement exists between Solar One and the Delmarva Power & Light Co. which in conjunction with the university and the National Science Foundation helped fund the project. When the house produces surplus power, the design is to transmit that excess to the power company. By the same token, in times of protracted bad weather when Solar One needs power, the company would return the favor and supply that power. The potential of this kind of arrangement is enormous. Projected nationally, such a system might bring major relief to our already overburdened electrical utilities, not to mention the favorable effect on electric bills.

To warm the house, solar heat received through the collectors on the roof is carried via ductwork to a 6'x6'x6' storage area in the basement containing a special kind of chemical salt enclosed in tubes. The hot air passes over the salt, which melts at 120 degrees Fahrenheit. The salt absorbs the heat and stores it. During the evening and nighttime hours when the house cools down, the air within the house is circulated through the salt chamber—extracts the stored heat—and circulates it throughout the house. The process starts over again when the Sun begins to shine. When there is not sufficient sunshine to provide comfortable temperatures, a heat pump is used to amplify the heat and permits adequate heating even on cloudy days.

During the summer, an air-conditioner is operated during the night hours when more power is available from the power company. The cool air is passed over another body of chemical salts which absorbs and holds the coolness. When the temperature outside rises during the day, air is circulated through the salt—extracts the coolness—and is then circulated throughout the house. As I said a minute ago, the system was able to maintain a house temperature of 73 degrees throughout the hot spell we experienced last August.

Mr. President, Solar One is a remarkable demonstration of practical applications of solar energy. The system has been designed by a dedicated 100-man research team of Delaware University's Institute of Energy Conversion under the leadership of Dr. Karl W. Böer, a recognized expert in cadmium sulfide solar cell research. I had the pleasure of meeting Dr. Böer, and members of his team during my visit. I was highly impressed by both their obvious scientific know-how and their careful, commonsense approach to the practical problems of costs, mass production, marketing and the industrial involvement and cooperation that have to be solved before Solar One can move beyond the experimental stage. According to Dr. Böer, his major goal at this time is to interest the power utilities in his solar house system. He feels that when the point is reached where the utilities could undertake the installation and servicing of such a system—in much the same way as the Bell System now installs and services telephone equipment—the way will have been paved for a major harvesting of our solar energy.

I want to commend the institute and Dr. Böer for their achievement to date and for their vision of the future. They are making a very valuable contribution and I hope their work continues to go well.

I also highly recommend that all who can take the time to visit Solar One. It is only a short drive from Washington and will be a rewarding experience—particularly to Members of the Senate and House who are so deeply concerned with developing new initiatives to combat the energy crisis.

The bill now before the Senate has a place within it for a concerted—and I hope an "all-out"—desire to harness the energy of the Sun. I will expect that those who are charged with the responsibility will mount such an effort as soon as possible.

Mr. President, America's technological breakthroughs in her space program of the 1960's and in the field of the atom and nuclear energy came about because the Nation was willing to accept those challenges and applied the resources needed to do the job. The burgeoning energy crisis is without question one of the most formidable challenges facing the Nation today. The task we face is to bring to bear on these new clean energy prospects the full force of the kind of major financial and organizational commitments called for by this legislation.

Finally, Mr. President, I will conclude on a personal note. It looks like my involvement in geothermal and solar energy may follow me into retirement. After visiting the solar house in Delaware, my wife was so impressed that she has been pressing me to design a solar house as our retirement home in Reno. In addition, the area close to where I grew up has been demonstrated to have great potential for geothermal energy development, and my wife's further aim is to have another home there heated and cooled by geothermal energy. So we will look forward in our retirement years, to continuing our own new energy program and reducing our energy bills. And I do not quarrel with the possibility that these things may well come to pass.

Mr. President, I yield the floor.

Mr. FANNIN. Mr. President, to further emphasize what we are up against, as far as our energy shortage is concerned, and just where the troubles exist, I would like to discuss what happened to one of the utilities in Arizona that I am familiar with. This perhaps illustrates what is happening all over the Nation. I am very pleased to have this opportunity to speak this morning in the presence of our very distinguished new Vice President who is now presiding in the Senate. I wish to express my praise to him. I am very proud that he is with us and I know he will be of great assistance to us in carrying out the business of this body. In the other body we have pages of illustrations of his great work there. I commend him highly for his activities. Some of his very close associates come from my State of Arizona and they are very high in their praise of his great work.

Mr. President, with reference to what has taken place and to demonstrate what is illustrative of what is happening throughout the Nation, I refer to Tucson, Ariz., where we have a local, power-generating plant for the area, which is in the southern part of my State. I refer to a chart which shows what is happening so far as our shortage of natural gas is concerned and why it is so necessary for us to go on with the consideration of the matter being discussed this morning.

They have great potential in geothermal energy in my State. I have been very active in trying to help develop this potential.

I refer again to the Geyser Plant in northern California. It is to be the largest development program in the world in a very short time. It exceeds the older fields in other countries, specifically in Italy, which was the largest until the Geyser development. This field which has been underway for a few years demonstrates graphically the tremendous need for energy. As far as exploration and development of conventional fuels is concerned, we are running out of these fuels. But we still have many years supply left. Thus these fuels will be available to us as we go forward with the necessary procedures to develop them. I am talking about drilling at greater depths, secondary and tertiary recovery; I am talking about new programs that are now being utilized, placing explosive materials in certain areas of a well and producing both additional oil reserves and gas. This is so necessary because this utility in January 1972, for the production of electricity, was 91 percent gas and 9 percent oil. Then, we go to 1973 and we had the beginning of the shortage. It was becoming serious because we have the price limitation of the Federal Power Commission on interstate gas. So the utilities had to cut back and go to oil. So in January 1973 it was 18 percent gas and 82 percent oil.

As the months went along the trend continued. In 1974, it is estimated, and this is the basis on which they have been notified, the supply will be available—3 percent natural gas and they will be dependent 97 percent on oil, but they are also notified that they will be cut back 35 percent on oil. Thus, we must move forward to produce more energy.

How can they possibly go forward with a program where they have a cutback of this magnitude?

Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. On whose time?

Mr. FANNIN. On my time.

The VICE PRESIDENT. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded for the purpose of allowing the distinguished Senator from North Carolina (Mr. HELMS) to call up an amendment.

The VICE PRESIDENT. Without objection, the order for the quorum call will be rescinded.

Mr. HELMS. Mr. President, I thank the distinguished Senator from Idaho for his courtesy, and I ask unanimous consent that the Buckley amendment be set aside so that I can call up an unprinted amendment which is at the desk.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The clerk will report the amendment.

The legislative clerk read the amendment, as follows:

At the end of the bill add a new title as follows:

REPEAL OF THE PROHIBITION ON THE REMOVAL OF MOTOR VEHICLE EMISSION CONTROL DEVICES

42 USC 1857f-2(a)(3) is hereby repealed and 42 USC 1857f-4 is amended by deleting the reference to 42 USC 1857f-2(a)(3).

Mr. HELMS. Mr. President, I am offering this amendment which would repeal the current prohibition against the removal of pollution control devices from automobiles by either an automobile dealer or some other individual prior to the initial sale of a new automobile.

Many Americans may not realize it, but there is no law or penalty against the removal of these emission control devices either by the individual carowner or by a mechanic or service station attendant at the request of the carowner.

This amendment would allow a purchaser of a new car to request the removal of these gas-guzzling devices by the dealer or by the manufacturer prior to the purchase of a new car.

I think we all realize that our supply of gasoline and other fuels is extremely limited. Given this limited supply, we must make every effort to use the fuel that we have in the most efficient manner. There is no question that automobiles are more efficient without the emission control devices which have been required by Federal law in recent years. It would be fine to consider these pollution control devices in the abstract, but unfortunately, circumstances are such that we must weigh our priorities and adjust our lives according to the conditions which exist in the real world.

Those who wish to continue to operate their cars with the pollution control devices attached will still have that opportunity if this amendment is adopted. While those who cannot afford the luxury of pollution control devices will be given the opportunity to go to their dealer and have these devices removed or to insist that the devices are removed before they buy the car.

This Nation is being faced with a serious economic hardship because of the fuel shortage. Every practical step must be taken to insure that our productivity as a nation and our viability are given the chance to survive this crisis. I am proposing just such a step in this amendment.

Mr. ROBERT C. BYRD. Mr. President, can we have order in the Senate while the Senator is speaking?

The VICE PRESIDENT. The Senate will please be in order.

Mr. HELMS. In conclusion, I cannot justify penalizing those who need to use their automobiles and who need to get the most efficient use out of that automobile by continuing to insist that every new car sold in America contain emission control devices.

Mr. CHURCH. Mr. President, I raise the point of order that the amendment is not germane and therefore contrary to the unanimous-consent agreement.

The VICE PRESIDENT. The amendment is not germane. The Chair sustains the point of order.

Mr. HELMS. Mr. President, I thank both the Chair and the Parliamentarian, and I thank my distinguished colleague from Idaho. I frankly wanted to raise this question, and this amendment will be back.

USE OF FRANKING PRIVILEGE BY MEMBERS OF CONGRESS—MESSAGE FROM THE HOUSE

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield me 1 minute?

Mr. CHURCH. Mr. President, I yield 1 minute to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 3180.

The VICE PRESIDENT laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 3180) to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. McGEE, Mr. RANDOLPH, Mr. HOLLINGS, Mr. FONG, and Mr. STEVENS conferees on the part of the Senate.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. On whose time?

Mr. CHURCH. Mr. President, I ask unanimous consent that the time be equally divided between the two sides.

The VICE PRESIDENT. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CLARK). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BUCKLEY. Mr. President, I yield to the distinguished Senator from West Virginia.

REMOVAL OF CONFEREE ON HEALTH MAINTENANCE ORGANIZATION CONFERENCE

Mr. ROBERT C. BYRD. Mr. President, due to an error, the name of the Senator from Oregon (Mr. PACKWOOD) has been listed as a conferee on S. 14, the health maintenance organization conference. I have been requested to ask unanimous consent, and I do ask unanimous consent, that the name of the Senator from Oregon (Mr. PACKWOOD) be removed as a conferee on S. 14.

This action, I am told, has been cleared by both the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11459) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes; that the House had receded from its disagreement to the amendments of the Senate numbered 1 and 2 to the bill and concurred therein, each with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 11710) to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969, to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes.

The message further informed the Senate that, pursuant to the provisions of Public Law 92-342, the Legislative Branch Appropriation Act of 1973, the Speaker had appointed the gentleman from Arizona, Mr. RHODES, vice Mr. GERALD R. FORD, to serve with the Speaker and with the members of the Commission on Art and Antiquities of the U.S. Senate in supervising the restoration of the old Senate and Supreme Court Chambers in the Capitol.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. BIDEN) laid before the Senate messages from the President of the United States submitting sundry nominations and withdrawing the nomination of Helmut Sonnenfeldt, of Maryland, to be Under Secretary of the Treasury, which nominating messages were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

NATIONAL ENERGY RESEARCH AND DEVELOPMENT POLICY ACT OF 1973

The Senate continued with the consideration of the bill (S. 1283) to establish a national program for research, development, and demonstration in fuels and energy for the coordination and financial supplementation of Federal energy research and development; to establish development corporations to demonstrate technologies for shale oil development, coal gasification development, advanced power cycle development, geothermal steam development, and coal liquefaction development; to authorize and direct the Secretary of the Interior to make mineral resources of the public lands available for said development corporations; and for other purposes.

Mr. MANSFIELD. Mr. President, I want to commend the chairman, Mr. JACKSON; the ranking minority member, Mr. FANNIN; and the members of their committee for their hard work and care in preparing S. 1283. I am particularly pleased to see research which offers alternatives to the earlier proposals that gave undue emphasis to nuclear development.

As the chairman knows, my State of Montana and the adjoining States of Wyoming, North Dakota, and South Dakota contain more than 95 percent of the known low sulphur coal deposits of this country. Extreme pressures have been brought on the Federal and State governments to begin at once massive strip mining of these coal deposits. My concern during all this time has been the tearing up of eastern Montana without regard to the environment or the lives of its people. There could be a 20- to 40-year boom and then an economic bust after destruction of the land, depletion of water resources and wanton production of the coal deposits without regard to the final consequences.

I would like to ask the chairman whether it is the intent of the committee that the research and/or demonstration projects will determine the feasibility of converting coal processes such as gasification, liquefaction and electrical generation to other uses? Thus, as the coal is used, other industrial projects could be developed to lessen the adverse economic impact on the termination of coal-related developments.

Mr. JACKSON. I wish to thank the majority leader for his comments and support of S. 1283. Specifically, to answer the question, it is our intent that the long-range use and conversion possibilities will be considered and where possible be included in the research and demonstration projects.

There are two other provisions of the bill which relate to the distinguished majority leader's specific concerns about coal mining. First, section 104, which sets forth the duties of the management project, specifically requires that full consideration and adequate support be given to "improving the efficiency, conservation, and environmental effects of the conventional sources of energy." This requirement is included because the committee agrees wholeheartedly with the Senator that in the development of our coal deposits or other resources for our current energy needs we must not ignore the social consequences or the impact of today's action on the future. With particular reference to coal mining, section 106(a) calls for the demonstration of new and improved methods for the extraction of coal resources. I would envision the development of these new methods in such a way that the future production of this valuable energy source will be more efficient and more economical, but much less destructive than has been the coal mining of the past. Additionally, such research should also include improved reclamation techniques.

Mr. MANSFIELD. The research priorities in the bill are broken down to short term, middle term and long term—and of the eleven listed short term priorities, four are specifically aimed at coal—and three more are indirectly related to coal. The coal deposits of my State and the adjoining States are low in sulphur and btu and require different methods or processes for gassification and liquefaction. Does the Senator from Washington contemplate that a substantial portion of the four priorities will be used for research on these low sulphur low btu deposits?

Mr. JACKSON. I can assure the majority leader that it is the intention of the committee that a substantial portion of the short-term research will be directed to the conversion processes for coal of the type unique to the Upper Missouri Region States.

Mr. MANSFIELD. Will research be conducted by organizations from outside the production region or will there be an effort made to establish an institutional research capability within the region to ensure the technical capability being available within the coal deposit area?

Mr. JACKSON. I hope that this bill will provide the stimulant not only to develop a breakthrough in technology but also to create a research capability in those coal producing areas with the technological know-how to produce needed energy.

Mr. METCALF. Mr. President, I also wish to join my colleague in congratulating the Chairman. As a member of the committee, it has been a distinct pleasure to work with the distinguished Senator from Washington. As the chairman knows, I have for some time been interested in the MHD—Magnetohydrodynamics—process. We have discussed it in committee, but I would like to further clarify that it is the intent of this bill that we should build a demonstration MHD project; further, that there are great advantages to constructing it within a coal-producing region. I would like to see this plant built in Montana; however, if it is not in Montana, it should be built in the area of the low sulphur coal deposits. My intense interest in the MHD process stems in part from the fact that it uses only a small quantity of water, which is also a resource that is in short supply in our region, and MHD contributes a minimum of air pollutants.

Mr. JACKSON. I wish to thank the junior Senator from Montana (Mr. METCALF), who has been an effective and influential member of our committee. I would like to say that it is the intent of the bill that an MHD demonstration plant be built. The building of such a plant on a known coal deposit such as in Montana would seem most logical.

Mr. MANSFIELD. On pages 63 and 64 of S. 1283, provision is made for the designation of members of the management project. Item 8 provides for the President to appoint additional representatives from executive agencies which have a significant and continuing role in energy research and development. In these areas where research will be conducted on coal and oil shale, and where these deposits are geologically situated so that they cross State boundaries, the necessity for regional overview of the research is of prime importance. I recommend that, where appropriate, title V regional economic development commissions be added to participate in coal and oil shale research projects in these regions.

Mr. JACKSON. I agree with the majority leader. Those regional commissions in which the States are both geologically and geographically contiguous should be given consideration for selected membership on the management project to review, formulate, and approve research and demonstration projects in their respective regions.

Mr. MANSFIELD. Is it assumed that, under this act, demonstration and development projects, whether located on Federal, State, Indian, or private lands, will be built in full compliance with land use, utility siting, conservation and reclamation laws and regulations of the State within the boundaries of which the project is located?

Mr. JACKSON. The distinguished majority leader is correct. The purpose of this act is the development of a capability for energy self-sufficiency through the use of "socially and environmentally acceptable means." Both State and Federal laws of the type described by the Senator define that which has been legislatively determined to be socially and environmentally acceptable. There is no provision of this bill to supersede or set aside any of the laws to which he has referred.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that two members of my staff, Mr. William Schneider, Jr., and Michael Uhlmann, be given the privilege of the floor during the debate on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I call up my amendment No. 767.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the amendment is already pending. How much time does the Senator yield himself?

Mr. BUCKLEY. Mr. President, I yield myself such time as I shall use.

The PRESIDING OFFICER. The Senator from New York is recognized.

The amendment is as follows:

At the end of the bill insert the following:

TITLE III—AMENDMENTS TO NATURAL GAS ACT

SEC. 301. This title may be cited as the "Natural Gas Act Amendments of 1973".

SEC. 302. Section 1(b) of the Natural Gas Act is amended by inserting before the period at the end thereof the following: "or to the sale of natural gas delivered for the first time in interstate commerce or sold in interstate commerce upon the expiration of an existing contract on or after the effective date of the Natural Gas Act Amendments of 1973, or produced from wells commenced on or after such date.".

SEC. 303. Section 2 of hte Natural Gas Act is amended by adding at the end thereof the following:

"(10) 'affiliate' of another person means any person directly or indirectly controlling, controlled by, or under common control with, such other person".

SEC. 304. Section 5 of the Natural Gas Act is amended by inserting at the end thereof the following:

"(c) In any case where a natural gas company purchases natural gas from an affiliate the Commission may disallow any portion of a rate or charge by such company which is based on the amount paid for such purchase in excess of current prices paid for comparable gas to nonaffiliates.

"(d) The Commission shall not authorize any increased rate or charge for natural gas on the basis of the renegotiation of any contract for the sale of natural gas, being carried out before the effective date of the Natural Gas Act Amendments of 1973, prior to the date on which performance is completed under such contract in accordance with its terms: *Provided*, That the Commission may approve such renegotiation where adjustment in contract terms is required to assure optimum production from producing reservoirs.".

Mr. BUCKLEY. Mr. President, the purpose of my amendment is simple. It is to take immediate action to solve the problem of energy supplies. Thus far we have adopted a number of measures in connection with the energy crisis that have concentrated on the conservation of our scarce fuel resources.

The bill under pending consideration, and to which this amendment is offered, is one designed to stimulate research and development that will have an effect on energy supplies in the short term, in the intermediate term, and in the long term.

My amendment does not propose an across-the-board deregulation of natural gas. Rather, it takes into consideration the grave concern expressed by many in that Chamber and in the House of Representatives that if we lift the FPC controls on presently flowing gas and presently valid contracts, we will cause windfall profits to be realized by the gas-producing companies.

My amendment specially excludes all gas free flowing under contract.

In other words, it would liberate only new gas supplies that are not presently being put into interstate commerce.

Second, there has been a broadly expressed concern over the fact that some pipelines have affiliations with gas-producing companies, and that therefore there may be a presumption that gas sold by an affiliate in an interstate pipeline does not represent an arm's-length transaction of the type that would assure the ultimate consumer that the price reflected in his gas bill truly represents a competitive market price for that commodity.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. BUCKLEY. I yield.

Mr. LONG. Mr. President, that argument has been made down through the years, but it really is ridiculous when one looks at the facts of life that exist today. One could look, for example, at the city of Monroe, La., of which this Senator is painfully aware. That is one of the largest cities in Louisiana, perhaps not big by Washington, D.C., standards, but big by Louisiana standards. It is perhaps the largest city in the Fifth Congressional District of Louisiana.

It is a city which is sitting practically on top of a gasfield, once the largest gasfield in the State. The little mayor, who is a very nice fellow, and his city council cannot get gas to generate electricity for their citizens. He can even show that he can afford to pay $2 a thousand for gas, and it would still be to their advantage to do so rather than buy coal. His problem is trying to find someone who can deliver the gas to him.

He can find sellers who would be delighted to sell the gas for a lot less than $2. They would be tickled pink to get a dollar for the gas. But they have the difficulty that they do not have local pipelines from where they have the gas to his city, and if the gas goes into the existing pipelines, it will be intermingled with interstate gas, which is subject to regulation by the Federal Power Commission, and whoever buys that gas will be subject to the regulation as well.

When that happens, the Federal Power Commission will tell the people they can only get about 25 cents a thousand for the gas. The result is that they will not sell it.

Mr. BUCKLEY. I cannot blame them.

Mr. LONG. Why would anyone want to sell something for 25 cents a unit when he has buyers willing and able to pay a dollar? So the people in Louisiana now are undertaking to establish a purely intrastate network of pipelines to duplicate the existing system of interstate pipelines that flow through the State, which would mean a great deal of steel webbing in the State to move gas around to duplicate that which would otherwise be available with the existing pipelines.

Think how much better off we would be if we took that steel and put it into drilling more wells, and pushed the gas through the existing pipelines. But the people in Monroe have to struggle with this problem of a shortage of gas because they cannot move the gas from where the gas exists to their location.

How is anyone up in New York going to be able to buy that gas at 25 cents a thousand when you cannot buy it in Louisiana for 25 cents a thousand? We have plenty of buyers in Louisiana that will buy all you can deliver at 50 cents a thousand, and perhaps a higher price than that. Can the Senator explain to me how someone from New York coming to Louisiana as a complete stranger is going to be able to buy gas at a price of half or perhaps even a quarter of what the local citizens are willing to pay for it?

Mr. BUCKLEY. The Senator's point should be obvious to everyone, and demonstrates just how ridiculous, wasteful, and counterproductive these attempts to control the workings of the marketplace have been.

The people in New York are willing to pay substantially more than they are paying today for natural gas just to have available to them the most effective, efficient, and cleanest fuel that we have in this country. As a matter of fact, a statistic came to my attention just yesterday of a gas company in Boston which is now importing liquefied natural gas from Montreal, at a price between $1.20 and $1.80 per thousand delivered at the city gate, while gas in the pipeline from the Southwest is reaching the city gate at a price of about 60 cents per thousand.

Obviously, the people in Boston would rather pay another 40 or 50 cents to get the gas to the city gate by a far more efficient and effective means from the Southwest than pay still a higher price to a foreign country.

People in New York, in 150 industrial firms, are beginning to slow down production, putting people out of work in New York State, because they are running into shortages of natural gas. They are on interruptible rates, and the utility companies have been forced to interrupt the flow of natural gas. This is going to impose an increasing hardship on people of New York. Obviously the people would be willing to pay another few cents per thousand cubic feet in order to guarantee themselves a source of supply.

Every analyst who has gone into the matter from the academic and industrial world now admits the existence of an identifiable cause and effect. They admit that the most effective single step the Congress of the United States can take would be to liberate producers from the restraints of the Federal Power Commission controls over interstate gas sales.

There are a lot of people who say, "If you jumped the price of new gas from 25 cents, to, let us say, 65 cents, which is the price at which I understand gas is being sold in Oklahoma, it would cripple the consumer."

The fact is that that is nonsense. A careful study prepared by the American Petroleum Institute demonstrates that the roll-in factor, blending the new, higher cost gas with the older cost, would result, the first year, in only about a 6.8 percent increase to the housewife in New York City, and I think in the second year the increase would be about 4 percent. Over a period of about 5 years, I think the total cost increase would only be about $20 a year.

The difference to that housewife is not that she is spending $20 more for gas, but rather that she has gas. The alternative is that many homes in New York can no longer connect to an interstate pipeline, and even those already connected will have to use less.

So commonsense and a belief in what a free economy can do in channeling investment in order to meet demand dictate that we adopt my amendment.

Mr. LONG. Mr. President, if the Senator will yield further, one of the most sensible statements made by any witness testifying on this matter was by one who explained that if you want to create a shortage of something, all you have to do is sell it for a lot less than it is worth, and you will have a shortage in a hurry. When you have something for sale, and you are selling it for a lot less than it is worth on a competitive basis, it is not unusual to have someone say, "At that price I will take all you have. How much do you have? I will just take it all." Because it is worth a lot more than that.

That is what has happened, to a large degree, with gas. It is not being used in the most efficient fashion, because it is selling far below what it is worth, and of course the ridiculous thing is that people are still converting from coal over to gas when we ought to be doing it the other way around, because we have virtually unlimited reserves of coal in the country.

This thing of selling the gas for far below what it is worth has so increased the demand for it that the supply, which a few years ago was estimated to be a 23-year supply, is now down to where it is only a 10-year supply. In due course, we will have to pay enormous amounts of money to pay the cost of operating a pipeline that is not fully loaded.

Of course, as the Senator well knows, the overhead on a pipeline, for the investment, the pumping stations, and the management, is the same whether the pipeline is fully loaded or whether it is only half loaded. It still costs the same amount, the investment is the same; so one has to pay a great deal more for transportation if they are transporting a smaller unit.

It is as though we took an automobile and headed from where the Senator stands now in the Capitol to go to New York City. Most people really do not think it is using any more gas because we put two passengers in the automobile instead of one. We will use a little more gas, but the difference in consumption is so low we would have to carefully check it to be sure there was a difference. But the Senator and I know that if we have two passengers in an automobile instead of one, we will use a little more gas and perhaps a little more wear and tear on the automobile, but almost imperceptible. But the cost of carrying the extra passenger is hardly more than 1 percent of the cost of moving the driver and the automobile from here to New York.

The same principle applies when we operate a pipeline not fully loaded. If it is only half filled to capacity, the cost per unit of moving the gas is twice what it would be if we had the pipeline fully loaded.

The Senator knows that the cost of distribution within the city gates in New York, Washington, Philadelphia, or any other major city, greatly exceeds the cost of buying the gas from the field as well as the cost of moving it a thousand miles to get it here, or just the cost of pushing it through the smaller pipes into the households of consumers. So that when we take those factors into consideration, everything argues for making more gas available.

The reason more gas is not available is that people do not want to sell it at a price far below what it costs on a competitive basis. All the gas producers want is an opportunity to compete for a customer with the producers of oil and the producers of coal at the same unit price the other people are producing their energy for.

For the life of me, I cannot understand why one is permitted to do that with hydropower, made by falling water, and he is permitted to do that with atomic energy, he is permitted to do that with oil, he is permitted to do that with coal, but he is not permitted to do it with gas.

That is an utterly ridiculous conclusion to reach. If one is trying to find an immediate increase in gas, that is an area where he could find it. But to try to do it the way others would do it, to nationalize the industry or to seize all the gas, would run into one frustration after another.

First, we will be told that the people who will get the pipe are having difficulty, and then that they are having difficulty with the right-of-way across one's land to lay the pipe to the nearest pipeline. Then we will be told that the well is drying up so that they cannot afford to rework it. Then we shall come to the conclusion, if worse comes to worse, if in the end one finally succeeds in using all the power of the Federal Government to seize someone's gas which he is not willing to sell to interstate commerce, we will then be confronted with what the truckers are doing right now on our highways.

Mr. BUCKLEY. The Senator is entirely right. The Senator pointed to the effect on people who already have gas. Obviously, someone who has a commodity based on the Btu value in comparison with other fuel, is dramatically underpriced. Based on intrastate sales, interstate gas is dramatically underpriced and he is not willing to sell it or to have it regulated at the artificial price schedules.

The Senator from Louisiana brings up the fact that some people ignore that. Here and there there is gas said to be connected to the interstate pipelines that is not connected, so that the extra gas in Monroe, La., could be connected to an existing pipeline, if we removed the impediments.

This raises a point with some people who say there is no urgency to move for decontrol because it will take a matter of years before the industry can respond in terms of permitting more supplies into interstate pipelines. They are saying that if we raise prices—sure, we will create an additional incentive and more people will put together the money to drill the wells. But they may make a discovery only on the fourth or fifth well, and after that they will have to develop it and connect it up. So we do not have to move today, tomorrow, or next week, they say, because it will have this effect a couple of years from now.

Of course, that is nonsense.

In the first place, we will immediately appeal to those who have gas and who are unwilling to commit it at today's prices.

Secondly, there is exploration going on today in States like Louisiana, Texas, and Oklahoma, which is being explored in order to take advantage of intrastate markets. The moment we free up the interstate market, then the producer has the option of getting that gas, tomorrow, next week, or whenever he makes that discovery, into the interstate market.

Thirdly, there are a number of discoveries that have been made which are subeconomic at present prices, where there is fracturing work to be done, or some other technique has to be utilized to free up the formation, or perhaps the discoveries are too deep to enable commercial development of a field.

There is still another implication that people tend to ignore or to be unaware of, and that is for every thousand cubic feet of new gas we send into interstate commerce, we then free up an equivalent amount of energy in fuel oil and in clean coal to be used for other purposes.

In other words, that new gas goes into the entire pool of our energy supplies and thereby, instantly, to that extent, reduces our total shortages.

There is another pernicious effect that has resulted from past regulation that I believe Congress should be aware of. It is the artificial ceiling on natural gas in interstate pipelines that has done more than anything else to paralyze the development of our coal fields.

When a utility could find that it could buy *x* amount of Btu's at regulated subnormal prices for gas, naturally they converted from coal to natural gas. This has had the effect of closing down marginal coal mines and has had the effect of artificially lowering the price of coal. It has had that effect on the railroads because a number of railroads that had been dependent on the shipment of coal found themselves losing their principal source of support and have had to go into debt, which has contributed to the shambles we will be facing next week with the railroad legislation bill coming up.

Mr. LONG. As the Senator has so well pointed out, the reason the Penn Central is in bankruptcy is that the pipelines have displaced the gas that displaces the coal that would be moving from the Pennsylvania coal fields into the consuming areas, such as New York, so ably represented by Senator BUCKLEY.

If we had not priced the gas artificially low but had let it compete in unit price with coal, then presumably the Penn Central Railroad would still be moving very large amounts of coal into the industries that have converted to gas because the gas is cheaper.

Mr. BUCKLEY. Mr. President, the Senator from Louisiana has pointed out something that should be self-evident to anyone who will examine the facts. I have, I believe, 27 cosponsors of the amendment now and I have not begun to canvass the entire membership of the Senate. But I believe that the facts are so compelling that any objective study of the record would result in a majority of the Senate putting its name on this amendment.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. LONG. Do I correctly understand that the Senator would not provide any increased price to those who are presently selling gas under the existing contract? He is only saying, with regard to gas that can be obtained and added to the available supply, that gas should sell at the going market price?

Mr. BUCKLEY. That is right. I am saying that the gas that is committed under contract will continue to be committed for the life of that contract. Therefore, there will be no windfalls.

I go a step further. As the Senator from Louisiana is aware, a number of people feel that if we end up with a two-tier price system of gas committed to interstate pipelines, a producer will withhold new gas unless the pipeline agrees to renegotiate an existing contract. Thereby, in effect, he will increase the old as well as the new.

The amendment I have offered provides that there will be no renegotiations of an existing contract except under conditions where the FPC determines that an adjustment of terms is required in order to continue production from existing reservoirs at optimum rates.

As the Senator from Louisiana is aware, as a field goes into a declining curve, it is often necessary to undertake remedial measures. These remedial measures cost money. They will or will not be taken, depending on whether the producer can be assured of recovering the cost of the new equipment.

Mr. LONG. I thank the Senator for yielding to me in this matter. He is right on the general issue. I do not know whether he has had sufficient time to educate the Senate in this matter. I am convinced that once any person studies this matter long enough to separate the arguments that do not make sense from the arguments that do make sense, he will agree with the Senator from New York.

Mr. BUCKLEY. Mr. President, I am tremendously grateful to the Senator from Louisiana for his contribution for this discussion.

It should be pointed out that the Senator from Louisiana represents a producing State. The Senator from New York represents a consuming State. Too often in the past, there has been a kind of blind division of sentiment in Congress on the assumption that that which helps producers hurts consumers, but I think that the impediment toward moving forward is a psychological one, rather than a factual one.

I delivered a speech on the floor of the Senate on January 18 in which I tried to marshal the fact that led to the compelling conclusion that the interests of producing and consuming States are identical. Based on information I had just heard as a member of the Committee on Interior and Insular Affairs—from testimony as to where we might find alternative sources of natural gas in order to meet increasing demand—I reached the very simple conclusion that the cheapest alternative for the consumer would be to liberate the gas industry within the United States so that it could go about the business of marshalling the money to find that deeper gas, that more costly gas, which could nevertheless be delivered to New York City at prices far less, up to 50-percent less, than the prices at which alternatives could be delivered.

What is not recognized is the extent to which exploration declined after the FPC asserted jurisdiction, and where gas was nevertheless found, that gas, instead of being 90-percent committed to interstate markets, became committed 90 percent to intrastate markets. Studies of the Permian Basin demonstrate that this turnover took place in a period of just 3 years.

Somebody in New York City who wants the benefits of natural gas has only a few alternatives:

Natural gas produced within the 48 States, and we have already discussed what the price cost to the consumer might be there—a 6½-percent increase the first year, somewhat lesser the second year, and so on.

Or, we might await the several years it will take to build a pipeline from Alaska across Canada and to the 48 States. But even then, the gas will have had so much transportation cost tacked onto it that it will get to New York City at something like double the price of deregulated gas from Louisiana.

Or, we might rely on the Algerians to let us have liquified natural gas for which we have contracted and pay $1.25 or $1.50 at the city gate.

Or, we can invest the $7 billion or $8 billion, or whatever it is, in Siberia, relying on the good will of the Soviet Union to bring in their LNG at $1.80 per thousand cubic feet.

Or, we could await the liquefaction of coal at the Four Corners, a project that is going forward. That will be producing gas at the equivalent of about $1.50 per thousand cubic feet, and it still will have to be transported from the Southwest to New York.

Or, we can import naphtha and make synthetic natural gas, and again the price will be 2 or 3 times as much.

I am worried about the consumer in New York. I am worried about the factories that are shutting down in New York. I am worried about the extra cost to the householder that will come about by adding more of the overhead cost to a declining supply of gas, because I want to see the gas producers, wherever they may be in this country, free to find gas for my constituents. That is why there is no conflict between the producing and consuming States.

Mr. LONG. The height of idiocy, I think, has been demonstrated by what happened in Boston recently. As I understand it, those people wanted to get gas from Algeria and were willing to pay about $1.80 a thousand, which is about half of what it would cost them to buy gas in the Southwest and have it delivered through a pipeline to the city. The reason they are paying that price is that someone was trying to make them think that they could buy the gas in the Southwest for 25 cents a thousand, which of course they cannot. Who but an idiot is going to sell you something for 25 cents when his neighbor will pay a dollar for it? They then proceeded to sign the contract to buy the gas from Algeria at about $1.80 a thousand, which is about twice what it would cost to buy it in Louisiana or Texas.

After they did all this, a fight broke out between the Israelis and the Arabs, and the people of this country generally tend to sympathize with the Israelis. Now the Arabs are punishing the people in Boston by refusing to deliver the gas at the $1.80 price, which is twice the price the people in this country would be willing to sell the gas for, if they could buy it.

Eventually, it is going to occur to someone that they would be better off to have a reliable source of supply in this country, and have it delivered at a cheaper price, than to try to buy gas, to try to make somebody sell it, to make an unwilling seller produce something, for a far less price than his neighbors within his own State are willing to pay for it.

Mr. BUCKLEY. Does the Senator recall what happened when the Government tried to make beef producers sell at a price lower than they were willing to sell for? We had no beef.

Mr. LONG. Yes. We recall how those kinds of economics worked out recently when the Government tried to make the producers of chickens sell the chickens for less than the cost of the feed. Those producers disposed of all the little biddies; they ground them up into fertilizer and animal food because they were not able to sell the chickens at a price to equal the cost of the feed and grain that went into those chickens.

So that type economics merely defeats its own purpose and it causes politicians to scurry around the countryside, trying to blame someone else for their own folly.

It would seem to me that this decision was made in error by the court. It demonstrates something I have thought for a long time about those who are across the plaza from us. Judges are not good legislators. They were not picked for that purpose. They have little experience in the area. They feel compelled to be consistent and having made a mistake they do not like to reverse themselves.

That is something that we as legislators are supposed to be willing to do. We are supposed to be willing to admit we made a mistake and to vote for corrective measures.

Assuming the court in deciding an issue made a mistake, someone should correct it, and that should be the legislative branch. Recently I discussed this matter with one of the justices of the Supreme Court. He was not there when the decision was made, but he expressed regret that we find ourselves in this situation and he wishes the case was before the Court so he could record himself in favor of the position the Senator from New York has taken.

Mr. BUCKLEY. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. BUCKLEY. Mr. President, I ask unanimous consent that I may yield 2 minutes to the Senator from Minnesota (Mr. HUMPHREY) in order to call up an amendment, and that I may yield to him without surrendering my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 65, line 8, after the word "Act," insert the following: "provide Congress in this proposed strategy with a range of funding options for its consideration within each of the potential energy sources and technologies included as priorities in Section 106 (a) (b) and (c).".

Mr. HUMPHREY. Mr. President, I have discussed this amendment with the manager of the bill. I am concerned that the "comprehensive energy research and development strategy" called for in section 104(b) of this bill provide a range of options to the Congress in terms of levels of effort to support research on the various sources of energy.

I am concerned that the "management project" will provide Congress with fixed funding level proposals for each energy source and a rationale for these levels rather than a range of options within each element of the program from which Congress may choose.

The recent set of energy research and development funding recommendations to the President by the AEC heightens this concern.

The solar energy proposals, for example, are in my opinion totally inadequate, given the potential of this energy source and the recommended minimum viable program levels proposed by the Government's own top solar energy experts.

If Congress is to act responsibly in this area, it must make the final determination of level of support for the various energy sources. Of course, the technical advice of the "management project" and that of experts from outside of Government would weigh heavily in any decision by Congress.

The amendment which I am offering would simply require that the "comprehensive energy research and development strategy" provide funding options among the various energy sources and technologies included in the comprehensive strategy.

This amendment simply adds the words:

> provide Congress in this proposed strategy with a range of funding options for its consideration within each of the potential energy sources and technologies included as priorities in Section 106 (a), (b), and (c).

To section 104(b).

Mr. CHURCH. Mr. President, the able Senator from Minnesota makes a good argument for the amendment. I am prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. HUMPHREY. I thank the Senator from New York for his customary courtesy.

Mr. BUCKLEY. I am always delighted to yield to the Senator from Minnesota.

Mr. JACKSON. Mr. President, I ask unanimous consent that Patricia Starratt, of the staff of the Committee on Interior and Insular Affairs, be granted the privilege of the floor in connection with the pending matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. DOMENICI. Mr. President, I wish to state to my distinguished friend from New York that I intend later in the afternoon to ask for additional time to make a detailed statement, but I thought it appropriate as part of the discussion about the comparison of prices for domestic natural gas versus imported natural gas, in connection with the dialog the Senator was having with the distinguished senior Senator from Louisiana, to include a rather incredulous set of facts regarding Massachusetts versus gas from a little county in New Mexico.

For instance, I understand very well that the Senator's amendment will not have any effect on old, existing contracts; but I have just cited these facts to show the incredulous situation we have of natural gas being delivered from Roosevelt County, N. Mex., to the little city of Lowell, Mass., at—would Senators believe it?—6 cents per thousand cubic feet.

That same community is now receiving natural gas imported from Canada at $2.50 per thousand cubic feet, laid down at Lowell. Everyone can do arithmetic. It is almost incredulous that anyone would expect great enthusiasm in the county of Roosevelt, State of New Mexico, to continue exploration activities when that kind of disparity exists. We have gone through the kind of ridiculous regulation from which the amendment offered by the distinguished Senator from New York would, at least, keep us from in the future—that new kind of activity and new kind of natural gas.

I will say to the Senator from New York that later in the day I shall discuss this question in greater detail in supporting his amendment. But public officials in the State of New Mexico and the officials who are concerned about conservation have concluded that we must do this.

Officials who are in charge of employment in a State like New Mexico are concerned about why we are not taking immediate steps to alleviate the crisis, rather than doing so much for the long range. A little State like New Mexico can contribute millions and millions of cubic feet of natural gas, if we will just free it for exploration and development.

I thank the Senator from New York for offering his amendment. I am pleased to be a cosponsor. Later today, I shall offer detailed support for it.

Mr. BUCKLEY. I thank the distinguished Senator from New Mexico for his constructive contribution to the debate.

His positions are thoroughly grounded in fact. I had not been aware that a State that is so close to abundant sources of energy has been forced by Federal regulations to turn to our neighbor to the north—Canada—to get natural gas that is badly needed by the people in his area, gas for which they must pay $2 a cubic foot, when natural gas can be discovered in the United States if we will only liberate our economy in all its facets.

Mr. President, I should like to read from an article entitled "Why We Have An Energy Crisis," written by M. Stanton Evans, the distinguished editor of the Indianapolis News. The article is relevant to the discussion we are having now:

[From the Human Events, Dec. 8, 1973]

Why We Have an Energy Crisis

(By M. Stanton Evans)

Careful inventory of our energy reserves suggests two salient facts. One is that we have sufficient quantities of coal, oil and natural gas to last for several centuries, and of course we have only begun to tap the potential of nuclear power. The second is that every one of these energy sources, without exception, has been saddled with government regulation hampering efforts to use the energy in question.

Examples to prove the point are legion, and may be plucked at will from the burgeoning archives of industrial regulation and environmental extremism. Rather than running through a laundry list of excesses, however, let us focus on one specific example which illustrates the irrational character of federal intervention—the case of natural gas.

This fuel is American industry's most important source of energy, supplying 49 per cent of current needs. It also provides 60 per cent of the requirements of commercial enterprise, 52 per cent of residential needs, and 24 per cent of power requirements in the generation of electricity. Yet despite its enormous importance to our economy, this major energy source is in danger of almost total depletion. Of all the shortages we face, that of natural gas is by far the most critical.

Reasons for this calamity are not far to seek: Since 1955 the Federal Power Commission in its wisdom has regulated the price of natural gas at the wellhead, as an allegedly humane piece of political business. The artificially low price has encouraged the widespread consumption cited above, while depriving developers of capital and incentives to explore for new reserves. The result is that demand has far outstripped supply and chances for appreciable enlargement of our natural gas resources are virtually nil.

Such an outcome could have been predicted by any competent economist who understands the working of the price system, since it is precisely the function of rising or falling prices to clear the market and any effort to hold a price below its natural level will create a tendency toward shortage. Workings of this process in the case of natural gas were traced in detail two years ago by Paul Mac Avoy of the Massachusetts Institute of Technology. In a meticulous analysis for The Journal of Law and Economics, Mac Avoy demonstrated that ceiling prices for natural gas "have added to demand and reduced supplies of new reserves. . . ." He estimated that in the absence of controls new reserve findings would have been 40 per cent higher.

And that is only the beginning. This exercise in federal regulation has also contributed to the ruination of the coal business, since the ridiculously low price of natural gas made it more economic than coal and drove out the latter as a source of energy—adding to other regulatory miseries of the coal producers. A study by the Chase Manhattan Bank sums up the marketing situation as follows:

> ". . . the coal industry was dealt [a] devastating blow by the rapidly expanding invasion of its . . . markets by exceedingly low-priced natural gas. . . . Unable to compete in terms of price, the coal industry experienced a large-scale loss of markets. With declining markets and a very low price received for the coal it was still able to sell, the industry had neither the financial means nor the incentive to develop additional productive capacity. Indeed, it was not even able to maintain existing capacity, as it continued to encounter rising costs of operation"

The impending shortfall of natural gas has also accelerated our dependence on oil and will eventually raise our need for oil by some four million barrels a day beyond the level it would otherwise have reached. That extra usage mandated by federal interference is more than double the anticipated output from the North Slope of Alaska when we finally start receiving it. Thus the regulation of natural gas has fouled up not one energy resource, but three.

What is true of natural gas is true of other energy supplies as well. Indeed, it is difficult to think of a step which our government might have taken to create an energy shortage which has been omitted—blockage of the Alaska pipeline, slowdown on offshore drilling, reduction of the oil depletion allowance, environmental stoppage of oil refineries, development of electrical facilities, mining of coal and atomic power. No aspect of the energy supply has been forgotten, it seems, in the crusade for colder winters.

The most vivid fact emerging from the natural gas example, however, is the ability of the regulators to aggravate the problem from both ends: Not only do they curtail supply, they also pump up demand.

The identical pattern emerges in other aspects of the energy crisis, most notably motor fuel. Here we find the regulators dutifully inhibiting production even as anti-emission standards for automobiles and factories have created vehicles that consume more fuel and induced a number of industries to switch from coal to oil to get within the guidelines.

Or consider the effect of federal price controls. Here are the energy planners urging everyone to turn down thermostats, pondering the desirability of rationing, weighing national speed limits, and considering enormous taxes on motor fuel to tide us over the shortage. We are on a crisis footing, supposedly, to curtail the consumption of gasoline and other energy resources.

But while all this is going on, still other departments of the federal government, administering Phase IV, are doing their bit to *encourage* consumption of gasoline by holding its price below the market rate. The same dispatches that bring us news of all that feverish planning to conserve the use of motor fuel also tells us new ceiling prices on gas must be posted this month, adjusted only to allow for cost increases absorbed by retailers.

When one has encountered enough of these absurdities, it becomes apparent that the regulatory wizards in Washington don't have the faintest idea of what they are doing. The government planners having created the problem, there is no reason whatever to suppose they are capable of solving it. That task will be accompanied only by a systematic program of de-regulation.

Mr. BARTLETT. Mr. President, will the Senator yield for a question?

Mr. BUCKLEY. I gladly yield to the Senator from Oklahoma.

Mr. BARTLETT. I would like to ask the Senator from New York, is not the basic supply and demand economic equation set around the idea that when something is in short supply, the price tends to want to rise in a free market?

Mr BUCKLEY. That is right.

Mr. BARTLETT. This then leads to the consumer being more concerned about purchasing, more careful in the use of the product. There is a damping of demand. On the other side of the coin, the producer will be encouraged to produce more of the product that is in short supply.

Mr. BUCKLEY. That is the classic effect of allowing the marketplace to create incentives and disincentives. A free economy is sensitive to the needs of the consumer because it provides incentives to producers to increase the supply.

Mr. BARTLETT. Is there not another part of this which is very important, particularly now? Although I am very aware that the USGS says that there are ample supplies of undiscovered oil and gas in this country in the Outer Continental Shelf, we do know that we are dealing in oil and in gas with finite amounts.

Am I right that the other part of this question that is very important is that there is a strong encouragement to the producer to seek other products, to develop other ways of producing better fuels that would meet the requirements of this country? For example, some of the research and development programs that might be developed with the bill to which the Senator's amendment would be attached is development of shale oils, development of tar sands, liquefaction and gasification of coal. These are some of the processes that might develop more quickly if there were a free market and if there were this additional encouragement to go into other areas, other fields, to develop a product that would supplement, perhaps in some ways replace, oil and gas?

Mr. BUCKLEY. I think the Senator from Oklahoma has touched on one of the most important aspects of this whole energy problem. If we will allow the various forms of energy to attain their natural economic levels based on their benefit to the consumer, and as is inevitable—and we have our heads in the sand if we think it is not inevitable when now oil is being sold in the international market at $7 a barrel and higher—when the cost of one form of energy starts going up, it brings into line of economic feasibility all kinds of alternatives of the type the Senator has suggested. We are reaching a point where the market incentives will channel huge private resources, and the varied intelligence and expertise of hundreds of firms will put their focus into development and extraction of oil from oil shale, the liquefaction and gasification of coal, and the development of geothermal resources. But at the same time it will accomplish another result that is so vitally important to this country at this time and in the years ahead, and that is to encourage conservation.

We are wastrels when it comes to conservation. We leave the lights on just because the added cost of electricity is not meaningful to the average purchaser.

When one goes to Europe and into a modern apartment house, one has to push a button in the hall to turn the light on, because the light is off. We do not efficiently insulate our houses because it adds something to the cost of purchase, even though good insulation will repay itself in 3 or 4 years out of savings in the cost of energy. If energy costs increase, there will be that much greater incentive to insulate not only new houses but old houses as well.

So it goes. The greatest stimulants to overcoming our domestic problems of energy supply are the stimulants created by allowing the different forms of energy to reach their competitive price.

And so long as we try to hold the lid on these most important single sources of energy which we have right now—natural gas—to that extent we distort the entire supply picture. And the longer we wait, the greater will be the cost of the alternatives and the greater the dislocations when we finally confront reality of supply and demand.

Mr. President, it just came to my attention that 10 million barrels of Nigerian crude have just been sold in Europe at a price of $16.80 a barrel. If we act intelligently now and if we make sure that the research and development will be directly unleashed for the development of our own resources, we in this country will never have to pay such prices. But if we insist on trying to sit on the price of natural gas, even though there is no gas in the pipeline, in desperation people will have to turn to other alternatives at extraordinary prices.

Mr. BARTLETT. Mr. President, if the Senator will yield further, with the artificially low price of natural gas and with this competing against the other prominent fuels, oil, and gas, there has been a decrease in the price of those two products and also a lower supply of all three available. Has there not been less incentive to investigate other sources of energy and other refinements of energy.

I know that the Senator feels confident that the research and development bill will develop new sources of energy that will be suitable to our environment. However, that development would not be hastened with a clear market price.

I am very pleased that the staff of the Interior Committee under the leadership of Mr. Van Ness, Dr. Tussing, and Pat Starratt recently presented material.

I read the material, and we also had some in-house hearings. That material showed that one of the main reasons for the low supply of gas was the low price of the natural gas.

I believe it is fair to say that the paper clearly recognizes the need for higher prices for natural gas. It also concludes that the price should rise to the market level taking into account the environmental premium on natural gas and the other desirable factors it has.

However, is there not in this equation of supply and demand one other thing that is very important—and the Senator certainly touched on that—that the free market price, determined by thousands and thousands of individual transactions, tends to put the products to their best use so that natural gas would then be utilized because of its attractiveness and its environmental qualities, more in home use, and would be less used by industry where coal or some other fuel oil might be more desirable and hence make a much bigger contribution than it now makes to a clean environment.

I think I recall reading that Mr. Ruckelshaus said that in the city of New York, in the State of the Senator from New York, with a 3-percent increase in natural gas—which would not be a lot, but at least from the total amount available it would not be a huge amount—this would pretty much eliminate pollution. And so a vital part of the whole supply and demand equation that becomes very important to all citizens in our country is that various fuels are used to their highest use. Is that not correct?

Mr. BUCKLEY. The Senator is correct.

Mr. BARTLETT. Mr. President, one other thing that has disturbed me from the point of view of the consumer, the view of those consumers who are far from the source of supply, such as those in the State of New York, is the statement by Mr. Rush Moody, Jr., a member of the Federal Power Commission that they have been making some studies and have studied one particular pipeline to determine what effect a reduction in the amounts flowing through the pipeline of natural gas would be underpriced. And in this particular pipeline they selected—apparently each line would have its own characteristic—they determined that a 5-percent reduction in volume would increase the unit price of natural gas by 3 cents a thousand cubic feet.

So, if nothing is done to increase the volume of gas flowing into interstate commerce and hence available to the State of New York and to other Eastern States, then the continuation of the decrease in volume would be inevitable and there would be, because of the need to amortize that line and charge that line pro rata on all gas flowing through it, there would be the need to have a sharp increase on price. So, if there was a 25-percent reduction to the line, there would be a 15-cent increase per thousand cubic feet on natural gas.

Does the Senator not think that is something the consumer is unaware of and is something that would be a real blow to his future fuel bills?

Mr. BUCKLEY. The Senator is correct. There is a profound ignorance concerning the fuel industry and the economics of the producing industry. And if there were any understanding of the facts, we would see the last resistance to this proposal, and the supply of natural gas would increase.

Mr. President, how much time do I have remaining? Is the time equally divided?

The PRESIDING OFFICER. The time is equally divided. We have until 3 o'clock for the vote.

Mr. CHURCH. Mr. President, would the Senator from New York object if those Senators opposed to the amendment were to use some time?

Mr. BUCKLEY. Mr. President, I have no objection. However, I would like to know the time I have remaining.

The PRESIDING OFFICER. The Senator from New York has used 1 hour. The other side has used 45 minutes.

Mr. FANNIN. Mr. President, that includes the suggestion of the absence of a quorum.

Mr. BUCKLEY. Mr. President, I would like to know how much time I have remaining?

The PRESIDING OFFICER. The Chair is informed that that cannot be determined because other amendments may be offered and they would each have a half hour. All that the Chair can say is the amount of time the Senators have used and that the vote is set for 3 o'clock.

The Senator from New York used 1 hour. The Chair understands that the other side has used 45 minutes. The time is to be equally divided. It is impossible therefore to say how much time the Senator has remaining.

Mr. BUCKLEY. Mr. President, under those circumstances I will try to be my own scorekeeper.

Mr. President, I will be glad to yield to my friend, the Senator from Idaho, on his time.

Mr. CHURCH. I thank the Senator very much.

Mr. President, I have listened with some consternation to the arguments thus far, and I have wondered why we should be bleeding so over the present condition of the big oil and gas companies. One would think that they were being cruelly abused, and that immediate relief was in order. Otherwise, why should an amendment of such a sweeping nature be offered to a bill, the purpose of which is to encourage development and research?

The argument seems curiously ill-timed. In this morning's paper, for example, we learned from an article that appeared on the first page of the Washington Post, bylined by Mr. James L. Rowe, Jr., the following:

> Propelled by a huge surge in fuel prices, the nation's index of wholesale prices jumped 1.8 per cent last month, the government reported yesterday.
>
> A large, 3.2 per cent jump in industrial commodity prices more than offset a 1.5 per cent decline in farm products and processed foods.
>
> All figures are adjusted to account for normal seasonal variations.
>
> Herbert Stein, the chairman of the President's Council of Economic Advisers, said the big rise in fuel prices last month was "inevitable and necessary."
>
> He said about three-quarters of the increase in wholesale prices was accounted for by fuel price increases.
>
> Because of sharply rising world petroleum prices and an increasing shortage of oil and oil products here, plus the exemption of 25 per cent of the nation's domestically produced crude oil from price controls, observers expect a similarly large increase this month as well.
>
> The fuels portion of the wholesale price index rose 19.3 per cent during November. It was 47.7 per cent higher than a year ago, with about half the rise occurring last month.

Mr. President, for the sake of time, I ask unanimous consent that the entire text of the article to be printed in the RECORD at this point.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

Fuel Leads Wholesale Price Rise

(By James L. Rowe, Jr.)

Propelled by a huge surge in fuel prices, the nation's index of wholesale prices jumped 1.8 per cent last month, the government reported yesterday.

A large, 3.2 per cent jump in industrial commodity prices more than offset a 1.5 per cent decline in farm products and processed foods.

All figures are adjusted to account for normal seasonal variations.

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Because of sharply rising world petroleum prices and an increasing shortage of oil and oil products here, plus the exemption of 25 percent of the nation's domestically produced crude oil from price controls, observers expect a similarly large increase this month as well.

The fuels portion of the wholesale price index rose 19.3 percent during November. It was 47.7 percent higher than a year ago, with about half the rise occurring last month.

The 1.8 percent increase in wholesale prices would work out to a 21.6 percent increase for a year if prices rose as fast during the next 11 months as they did last month.

At 141.8, the wholesale price index means that products costing $100 in 1967 cost $141.80 last month, up from $139.50 in October. The index is 17.5 per cent higher than it was in November, 1972.

The index is a precursor of higher consumer prices in the months to come, although economists cannot predict the ultimate effect of a rise in wholesale prices on the prices consumers pay.

A special price index does correspond to the commodities portion of the consumer price index, and that rose 3.5 percent during November. The commodities portion accounts for about 62 percent of the consumer price index.

The Labor Department noted that of the major commodity groups measured by the index, 12 increased and three declined.

Large month-to-month increases were also registered by lumber and wood products, metals and metal products, pulp and paper products, and textiles and apparel.

Although farm products declined for the third month in a row, they are still 42.9 percent higher than they were a year ago.

Fuels, particularly petroleum and petroleum products, accounted for most of the price increases. "Refined petroleum prices averaged 34.7 percent higher," the Labor Department said. "Gasoline was responsible for more than half of the rise for refined products, and middle and light distillates contributed most of the remainder."

Wednesday, in an attempt to encourage refineries to produce more heating oil and less gasoline, the Cost of Living Council told refiners they could raise middle distillate prices by 2 cents a gallon but at the same time must reduce gasoline prices a penny.

The move will mean a 7 percent rise in retail heating oil prices on top of whatever other increases oil companies can justify because of other costs. The penny-a-gallon reduction in gasoline will not show up at the retail pump, council director, John T. Dunlop said. He said costs to refiners are far outrunning the 1 cent they must lower prices, so what the council's action means is that in January refineries will increase prices a penny less than they otherwise would.

Mr. CHURCH. Everyone knows by now that this country is in the grip of the most serious inflation in a quarter of a century. Who is suffering? Certainly not the oil companies. We are in the process of imposing all manner of controls upon the American people. Soon we will bind them to rationing. Yet, whatever adversity may lie ahead for the people of this country, obviously the oil companies are enjoying a bonanza of unprecedented proportions. Here are some figures, a few of which I would like to read into the RECORD. From an account in the Washington Star-News, appearing in the edition of October 24, 1973, from an article captioned "Ten Oil Firms' Profits Soar," let me just highlight what is happening:

Ten oil companies have reported hefty earnings increases this year, with three firms—Gulf, Cities Service and Standard of Ohio—showing profit gains of 55 to 60 percent.

Gulf Oil's nine-month net increased 60 percent to $570 million, or $2.88 a share vs. $356 million or $1.71 a share in the 1972 period. . . .

Cities Service net for the third quarter was up 61 percent, to $28.6 million or $1.09 a share vs. $17.8 million or 69 cents last year. . . .

Standard Oil of Indiana posted a 37 percent gain for the third quarter. . . .

Getty Oil earned $33.7 million, or $1.78 in the third quarter, up from $21.4 million, or $1.13 (per share last year).

Again for the purpose of saving time, Mr. President, I ask unanimous consent that the full text of the Washington Star-News story, plus a similar story that appeared in the October 25 edition of the Washington Post, be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 25, 1973]

Earnings Up Sharply, Four Big Oil Firms Say

Four large oil producers yesterday announced sharply higher third-quarter and nine-month earnings with the largest of the group, Mobil Oil Corp., reporting a 64.1 per cent boost in third-quarter profits.

Worldwide gains in operating volume, higher product prices and continued improvement in chemical operations more than offset increased taxes and operating expenses, Mobil said.

But Rawleigh Warner Jr., Mobil's chairman noted that the petroleum industry and consumers will be adversely affected to an unknown degree by boosts in tax and royalty payments recently announced by oil-exporting nations, and by production cuts and embargoes ordered by Arab nations that export oil.

Arab states' proposed cutbacks also were cited by Charles E. Spahr, chairman of the Standard Oil Co. (Ohio).

Mobil's third-quarter estimated earnings were $231.2 million ($2.27 a share) on revenues of $3.2 billion, up from 1972 third-quarter earnings of $140.9 million ($1.38) on revenues of $2.56 billion.

Nine-month earnings rose by 38.4 per cent from $412.7 million ($4.06) to $571.2 million ($5.61) and revenues rose from $7.56 billion to $8.96 billion.

Sohio's nine-month earnings before $15.3 million in extraordinary gains from the sale of oil properties and uranium interests rose by 55 per cent to $62.5 million ($3.40 a share) as revenues increased from $1.01 billion to $1.10 billion.

Third-quarter net income was $18 million (97 cents) compared with 1972 third-quarter net income of $15.8 million (87 cents).

Phillips Petroleum Co. third-quarter earnings rose from $37.59 million (50 cents a share) in 1972 to $53.85 million (71 cents) as revenues increased from $520 million to $738.3 million.

Nine-month net income rose from $110.3 million ($1.47) to $143.7 million ($1.90) as revenues increased from $1.90 billion to $2.11 billion, an 11 per cent gain.

"Virtually all segments of the company's operations outside the United States" and domestic chemical operations generated improved results over 1972 levels, according to W. F. Martin, Phillips president and chief executive officer.

Getty Oil Co. said its third-quarter net income was $33.7 million ($1.78 a share) on revenues of $436.2 million compared with 1972 third-quarter net income of $21.4 million ($1.13) on revenues of $388.2 million. Included are a 1973 special credit of $1.889 million and a 1972 special credit of $2.830 million.

Nine-month net income was $90.1 million ($4.76) on revenues of $1.243 billion compared with 1972 nine-month net income of $73.3 million ($3.85) on revenues of $1.155 billion. Included are a 1973 special credit of $7.658 million and a 1972 special credit of $21.644 million.

Destruction of an oil refinery in a fire cut production last year.

[From the Washington Star-News, Oct. 24, 1973]

Ten Oil Firms' Profits Soar

Ten oil companies have reported hefty earnings increases this year, with three firms—Gulf, Cities Service and Standard of Ohio—showing profit gains of 55 to 60 percent.

Gulf Oil's nine month net increased 60 percent to $570 million or $2.88 a share vs. $356 million or $1.71 in the 1972 period.

Gulf attributed the strong increase to higher sales of refined products, continued strengthening of prices, increased capacity of its crude oil tanker fleet, increased production, sales of plastics and chemicals plus elimination of unprofitable operations.

Cities Service net for the third quarter was up 61 percent, to $28.6 million or $1.09 a share vs. $17.8 million or 69 cents last year. Nine-month net was $105 million or $4.02 a share vs. $84 million or $3.26, a 25 percent increase. Results for the nine months include a special gain of $11.3 million or 43 cents a share reflecting a reduction of a provision made in 1972 for loss on sales of the agricultural chemicals business.

Standard Oil of Indiana posted a 37 percent gain for the third quarter, making the net $147 million or $2.11 a share compared with $107 million or $1.54 in the 1972 quarter. Nine months net totaled $390 million or $5.59 a share vs. $295 million or $4.24 in the 1972 period.

Getty Oil earned $33.7 million or $1.78 in the third quarter, up from $21.4 million or $1.13. For the nine months Getty's profit was $90 million or $4.76 vs. $73.3 million or $3.85. Special credits accounted for $7.6 million of the 1973 net and $21.6 million of 1972's.

Continental Oil third quarter net was $54 million of $1.07 a share vs. $39 million or 77 cents in the 1972 quarter. Nine month consolidated net was $153 million or $3.04 a share vs. $124 million or $2.45 in the 1972 period.

Standard Oil of Ohio earned $62.5 million, or $3.40 a share before special items in the nine months, a 55 percent increase. For the third quarter the profit was $18 million, or 97 cents a share, compared to $15.8 million or 87 cents. But the figures were released with a warning by the company that it may not be able to maintain refinery operations at scheduled rates because of a shortage of crude oil as Arab states curtail shipments.

Ashland Oil earned $24.4 million or 97 cents a share in the fourth quarter vs. $20.8 million or 81 cents in the 1972 quarter. For the year Ashland reported a net of $85 million or $3.37 a share vs. $68 million or $2.64 in 1972.

Commonwealth Oil nine month net totaled $19.1 million or $1.33 a share vs. $5.3 million or 28 cents in the 1972 period.

Clark Oil & Refining said their earnings for the third quarter and nine months more than doubled results in any other comparable period. Third quarter net was $9.2 million or $1.28 a share vs. $3.2 million or 45 cents last year. Nine month net was $22.4 million or $3.15 a share vs. $5 million or 70 cents in the 1972 period.

Barber Oil nine month net was $2.1 million or 76 cents a share vs. $1.9 million or 74 cents in nine months of 1972.

Meanwhile, Philip Morris reported a profit of $42.34 million, or $1.48 a share, in the third quarter, up from $34.56 million or $1.21. For the nine months the company earned $113 million or $4.12 vs. $93.8 million or $3.53.

Mr. CHURCH. In addition, Mr. President, the staff has provided a comprehensive list of oil and gas company profits by quarters, comparing their profits in the first and second quarters of this year with the comparable quarters of last year. This gives the whole picture, but there are some companies whose profits have risen so unbelievably that I would like to highlight what is happening by extracting some of the figures from this list; then I shall ask that the entire list be printed in the RECORD.

Clark Oil & Refining Co., for example, in the second quarter of this year, realized profits that were 773 percent greater than in the comparable period last year.

Commonwealth Refining Co. had profits that were 174 percent greater.

Murphy Oil Co. showed profits 645 percent greater.

Occidental Petroleum showed profits that were 566 percent greater.

All these figures relate to the comparable quarters of last year.

Mr. President, for the information of Senators, I think that the entire list should be printed in the RECORD, the lists for the second quarter and the first quarter of this year, as compared with last year, and I ask unanimous consent that these figures be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

OIL: CRUDE, INTEGRATED DOMESTIC, AND INTERNATIONAL

[Dollar amounts in millions]

Company	Sales: 1st quarter 1973	Sales: Change from 1972 (percent)	Profits: 1st quarter 1973	Profits: Change from 1972 (percent)
Amerada Hess	$405.2	10	$36.7	25
American Petrolina	73.6	12	4.7	105
Apco Oil	30.7	9	.9	−34
Ashland Oil (3)	439.0	9	15.9	41
Atlantic Richfield	997.6	5	50.3	52
Belco Petroleum	30.7	−3	3.0	25
Cities Service	521.8	10	34.4	17
Commonwealth Oil Refining	91.1	38	2.8	13
Continental Oil	931.2	9	47.5	12
Crown Central Petroleum	42.5	−2	.3	35
Exxon	5,674.0	13	508.0	43
Getty Oil	360.6	4	27.0	21
Gulf Oil	2,103.0	9	165.0	19
Kerr-McGee	174.8	8	11.9	20
Marathon Oil	354.9	17	24.2	50
Mississippi River	42.2	−2	3.7	13
Mobil Oil	2,790.0	13	155.8	10
Murphy Oil	$107.9	14	$6.5	58
Occidental Petroleum	681.4	2	9.6	70
Pennzoil	255.1	26	19.6	24
Phillips Petroleum	680.8	7	43.4	22
Quaker State Oil Refining	45.0	21	3.6	6
Shell Oil	1,089.5	12	80.2	49
Skelly Oil	153.4	5	10.0	3
Standard Oil (Indiana)	1,469.0	11	121.1	12
Standard Oil (Calif.)	1,608.4	17	152.8	24
Standard Oil (Ohio)	402.9	10	17.5	48
Suburban Propane Gas (3)	49.2	19	3.8	14
Tesoro Petroleum (3)	62.5	9	4.3	88
Texaco	2,495.0	14	264.0	15
Union Oil of California	636.9	10	38.3	28
Industry composite	24,799.9	14	1,866.8	27

OIL: CRUDE, INTEGRATED DOMESTIC, AND INTERNATIONAL

[Dollar amounts in millions]

Company	Sales: 2d quarter 1973	Sales: Change from 1972 (percent)	Sales: 6 mo. 1973	Sales: Change from 1972 (percent)	Profits: 2d quarter 1973	Profits: Change from 1972 (percent)
Amerada Hess	$393.7	27	$798.9	17	$33.3	66
American Petrotina	82.1	13	155.7	13	6.3	63
Apco Oil	32.5	3	63.3	3	1.5	0
Ashland Oil (3)	518.0	16	957.0	13	22.3	35
Atlantic Richfield	1,069.8	14	2,067.3	9	68.4	50
Cities Service	457.9	−2	979.7	4	30.5	23
Clark Oil & Refining	96.4	41	180.2	30	8.4	773
Commonwealth Oil Refining	99.2	34	190.3	36	7.1	174
Continental Oil	1,029.9	17	1,961.1	13	51.7	24
Crown Central Petroleum	43.1	−3	85.4	−3	.5	NM
Exxon	5,830.0	20	11,504.0	16	510.0	54
Getty Oil	364.8	5	725.4	4	23.6	120
Gulf Oil	2,397.0	27	4,500.0	18	195.0	82
Kerr-McGee Oil	190.4	0	365.2	3	19.0	22
Marathon Oil	363.0	24	717.9	20	27.6	66
Mississippi River	33.2	−5	76.1	−2	3.7	19
Mobil Oil	2,880.0	14	5,680.0	14	184.2	41
Murphy Oil	$114.4	30	$222.3	22	$9.2	645
Occidental Petroleum	810.3	21	1,491.7	11	28.9	566
Pennzoil	244.3	12	499.3	14	19.3	25
Phillips Petroleum	693.8	8	1,374.8	8	46.4	25
Quaker State Oil Refining	48.5	24	93.5	22	4.7	32
Shell Oil	1,211.9	19	2,008.4	15	89.5	54
Skelly Oil	157.8	8	311.3	8	9.0	25
Standard Oil (Indiana)	1,527.2	11	2,997.0	11	121.3	37
Standard Oil (Calif.)	1,817.2	28	3,425.7	22	181.7	42
Standard Oil (Ohio)	394.9	16	774.8	13	27.0	110
Suburban Propane Gas (3)	33.7	21	87.9	20	1.3	60
Sun Oil	532.2	21	1,041.1	15	48.4	41
Tesoro Petroleum (3)	76.2	37	137.2	23	4.4	24
Texaco	2,727.0	26	5,221.0	20	267.5	44
Union Oil of California	714.6	17	1,267.4	14	40.2	44
Industry composite	28,990.0	24	51,960.4	18	2,089.8	52

Mr. BUCKLEY. Mr. President, will the Senator yield for a question?

Mr. CHURCH. As soon as I have finished. I will be glad to yield.

I recognize, Mr. President, that an argument can be made that natural gas being sold in this country is being treated differently than other fuels. It is true that the posted price of oil in the Middle East is outside the jurisdictional control of the United States. We are being gouged to death by the Arab governments, but we have no control of that. Yet we continue to impose controls upon oil here at home by limiting the size of the passthrough the companies may charge.

They are not immune from domestic control at the present time, and therefore I think that it is illogical to argue that because we have no control over the wellhead price in the Middle East for oil, we should therefore lift controls over the price of natural gas in this country.

But who could foretell what the impact would be? We have not had hearings and we have not had testimony. Committees with proper jurisdiction have not made any responsible inquiries into the consequences of such a move; and therefore, it would be a very hasty and ill-considered step for the Senate to take at this time, to adopt an amendment that could have such wide-ranging consequences, one that would inevitably add a further stimulant to an inflation already out of control.

That is the principal objection we have reached at this time to the amendment. It is not really germane to the pending bill. As I mentioned before, S. 1283 is a research and development bill, while the purpose of the amendment of the Senator from New York (Mr. Buckley) is to deregulate the price of natural gas.

Mr. President, the Committee on Interior and Insular Affairs is currently in the process of preparing a report to the Senate and to the Commerce Committee next week. Moreover, I understand that the distinguished chairman of the Commerce Committee plans to report a bill on this subject before Christmas, a bill that comes from the committee with proper jurisdiction and one that will be based on competent testimony.

That is the orderly procedure to follow and that is the reason why I feel constrained to oppose the amendment, and to urge the Senator from New York to consider not pressing the amendment at this time. He will have the opportunity, along with others who propose to deregulate natural gas, to present his argument in the course of the upcoming hearings. The Senate will then be better informed by that regular process, when a recommended bill comes before us for action.

I would say, Mr. President, that if we were compelled to vote today, without the benefit of hearings, without the careful consideration that the committees of proper jurisdiction will give to such a measure, there are other amendments that will doubtless be offered.

An amendment, for example, to impose an excess profits tax on the producers of natural gas would seem in order, and I expect that such an amendment will be offered.

An amendment to require congressional review and approval of any rate increases is another we could expect to be offered if this decision is hastily forced upon us.

An amendment to make intrastate gas subject to FPC jurisdiction, might well be offered, along with an amendment to grant end-use control authority over all gas users to the Federal Power Commission.

I am told that an amendment to repeal the depletion allowance for natural gas producers and to mandate disclosure of reserves data are also being considered.

If the Senate is forced now, without the proper hearings and preparation, to vote on the pending amendment, it simply raises so many other questions of basic policy that in the aftermath of such a vote, it can be expected such amendments will then be brought up one by one for the consideration of the Senate.

So I am really pleading now for following the regular order, particularly in view of the fact that both the Interior and Insular Affairs and the Commerce Committees plan to take this question up in the very near future, with the expectation that a bill will be brought before the Senate before Christmas.

That is the way to proceed, Mr. President, in a matter that has such wide flung consequences as the decontrol of natural gas.

Mr. HANSEN. Mr. President, will the Senator from Idaho yield?

Mr. CHURCH. I yield.

Mr. HANSEN. The observations of the distinguished Senator from Idaho (Mr. Church) are quite accurate. I am not certain that he is aware, also, that there has been thought given to an amendment to provide the Tennessee Valley Authority with certain language; but first, Mr. President, I ask unanimous consent to have printed in the Record the text of the complete amendment.

There being no objection, the text of the amendment was ordered to be printed in the Record, as follows:

On page 107, after line 6, insert the following new title:

TITLE V—INTRASTATE NATURAL GAS REGULATION

Sec. 501. This title may be cited as the "Intrastate Regulation of Natural Gas Act".

Sec. 502. The Congress finds and declares that: (1) natural gas is an important national resource; (2) conservation and property utilization of natural gas supplies are in the national interest; (3) the intrastate market for natural gas has operated free of Federal wellhead price regulation; (4) this exemption has caused unfair and unreasonable discriminations to arise between different classes of consumers of natural gas; and (5) such discrimination has constituted and constitutes an undue burden on interstate commerce.

Sec. 503. Subsection (a) of section 1 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by striking out "of natural gas and the sale thereof in" and inserting in lieu thereof "or sale of natural gas which affects".

Sec. 504. Subsections (b) and (c) of section 1 of the Natural Gas Act (15 U.S.C. 717 (b)) are amended to read as follows:

"(b) Except as provided in subsection (c) hereof, the provisions of this Act shall apply to the transportation and sale of natural gas and to natural gas companies engaged in such transportation and sale."

"(c) The provisions of this title shall not apply to (1) production facilities and the construction of such facilities, or to the gathering of natural gas; and (2) the local distribution of natural gas and the facilities used for such distribution."

On page 107, after line 6 insert the following new title:

TITLE IV—FEDERAL PETROLEUM CORPORATION

Sec. 401. This title may be cited as the "Federal Petroleum Corporation Act."

Sec. 402. The Tennessee Valley Authority Act of 1933, as amended, (16 U.S.C. 831 et seq.) is amended by adding at the end thereof of the following five sections:

"Sec. 32. The Congress finds and declares that: (1) the Federal Government must become directly involved in securing and developing additional sources of petroleum to assure adequate supplies to American consumers at reasonable and competitive prices; (2) a Federal Corporation engaged in the development and sale of petroleum and petroleum products could help to assure adequate energy supplies; and (3) the Tennessee Valley Authority has since its creation provided a competent and expert example of government involvement in energy matters.

"Sec. 33. The Tennessee Valley Authority (hereinafter the 'Corporation') is authorized and directed, at any place in the world, without regard to any other provision of law relating to the places at which the Corporation may function, to explore for natural gas and oil on Federal, States, foreign, or private lands; to develop and sell natural gas and oil discoveries by exploration or otherwise obtained by sale, lease, purchase, exchange, or contract, and to build and operate all those facilities necessary for the development or sales of such resources; and to build, lease, purchase or otherwise obtain and operate facilities necessary for the sale, purchase, transportation or delivery of natural gas or oil.

"Sec. 34. The Corporation is authorized to incur debt for capital purposes to carry out its functions under this title. Payment of principal and interest on obligations issued by the Corporation under this title is guaranteed by the United States.

"Sec. 35. When the annual revenues of the Corporation, from the activities authorized by this title, exceed the amounts necessary to satisfy, in accordance with customary business practices, the obligations and expenses incurred by the Corporation and to maintain the financial reserves necessary for such activities the Corporation shall pay such excess revenues into the general fund of the Treasury of the United States.

"Sec. 36. There are hereby authorized to be appropriated to the Corporation for the fiscal year ending June 30, 1974, and for each of the next ten succeeding fiscal years, $50,000,000 for the Corporation to carry out its activities under this title. All funds appropriated pursuant to this title shall remain available until expended."

On page 107, after line 6 insert the following new title:

TITLE VI—NATURAL GAS CONSERVATION

Sec. 601. This title may be cited at the "Natural Gas Conservation Act".

Sec. 602. Section 1 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by adding the following new subsection:

"(d) Natural gas is a highly useful source of energy which is environmentally superior to alternative fossil fuels; natural gas supplies should be directed toward their highest and best uses, particularly direct residential consumption; natural gas is being wastefully used in large quantities during time of shortage under electric utility boilers that have available adequate substitute fuels meeting applicable requirements.

Sec. 603. Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended by adding the following new subsection:

"(i) The Federal Power Commission is authorized and directed to prohibit further consumption of natural gas by any electric utility subject to the jurisdiction of the Commission. Such natural gas consumption shall be prohibited by the Commission upon a determination after a hearing conducted pursuant to the provisions of section 556 of title 5, United States Code, that adequate time has elapsed to reasonably permit conversion to alternative fossil fuels and installation of emission control devices to assure compliance with applicable environmental requirements.

On page 107, after line 6 insert the following new title:

TITLE VII—EXCESS PROFITS TAX

Sec. 701. This title may be cited as the "Major Petroleum Corporation Excess Profits Tax Act".

Sec. 702. Congress finds and declares that the major petroleum corporations are enjoying record high profits at the same time that the Nation's consumers are suffering serious hardship as a result of shortages, price increases, and restrictions on the availability of petroleum products. Congress further finds and declares that such record high profits are massive windfalls that are of no benefit to American consumers.

SEC. 703. The Comptroller General of the United States is authorized and directed to establish a uniform system of accounts for all major petroleum corporations. Such a system of accounts shall require separate accounting for the following activities: (1) exploration, development and production; (2) transportation; (3) refining; and (4) marketing. As used in this title "major petroleum corporation" means any person subject to the jurisdiction of the United States who produced in any location or locations more than 10,000,000 barrels of oil during calendar year 1973 for consumption in the United States.

SEC. 704. The Commissioner of Internal Revenue is directed to impose and collect an excess profits tax of 50 per centum on the excess profits of all major petroleum corporations. As used in this title "excess profits" means rate of return, as determined in accordance with the uniform system of accounts established under section 703 of this title, in excess of the average annual rate of return of that major petroleum corporation during its fiscal years 1963 through 1973.

SEC. 705. Each major petroleum corporation subject to an excess profits tax under this title shall be disallowed deduction for depletion allowances on its foreign production activities and shall be further disallowed any U.S. tax credits for foreign taxes.

Mr. HANSEN. Mr. President, I want to read to the Senator from Idaho the excerpts concerning the TVA:

"SEC. 33. The Tennessee Valley Authority (hereinafter the 'Corporation') is authorized and directed, at any place in the world, without regard to any other provision of law relating to the places at which the Corporation may function, to explore for natural gas and oil on Federal, State, foreign, or private lands; to develop and sell natural gas and oil discovered by exploration or otherwise obtained by sale, lease, purchase, exchange, or contract, and to build and operate all those facilities necessary for the development or sales of such resources; and to build, lease, purchase or otherwise obtain and operate facilities necessary for the sale, purchase, transportation or delivery of natural gas or oil.

"SEC. 34. The Corporation is authorized to incur debt for capital purposes to carry out its functions under this title. Payment of principal and interest on obligations issued by the Corporation under this title is guaranteed by the United States.

"SEC. 35. When the annual revenues of the Corporation, from the activities authorized by this title, exceed the amounts necessary to satisfy, in accordance with customary business practices, the obligations and expenses incurred by the Corporation and to maintain the financial reserves necessary for such activities, the Corporation shall pay such excess revenues into the general fund of the Treasury of the United States.

"SEC. 36. There are hereby authorized to be appropriated to the Corporation for the fiscal year ending June 30, 1974, and for each of the next ten succeeding fiscal years, $50,000,000 for the Corporation to carry out its activities under this title. All funds appropriated pursuant to this title shall remain available until expended."

Mr. President, I would ask the distinguished Senator from Idaho if he is aware that this among other amendments that he has listed have been prepared.

Mr. CHURCH. The Senator reads the text of an amendment to me for the first time. I was not aware of it before. So far as I know, none of the amendments which I have referred to have been introduced. But if the Senate were suddenly to decide to take such a sweeping move as to deregulate the price of natural gas, then that would immediately give rise to a host of policy questions that would then become relevant. It was in an attempt to tick off some of the policy questions that I referred to possible amendments we might expect in the aftermath of such a decision.

The amendment to which the Senator from Wyoming has referred, from which he excerpted, is one with which I am not familiar.

Mr. TOWER. Mr. President, will the Senator from New York yield me some time?

The PRESIDING OFFICER (Mr. BIDEN). The Senator from Idaho has the floor and controls the time.

Mr. CHURCH. Mr. President, I had promised to yield to the distinguished Senator from West Virginia (Mr. RANDOLPH). I had also promised to yield to the distinguished Senator from Illinois (Mr. STEVENSON) who has been waiting here very patiently for some time. So, before I yield to other Senators, I would yield first to the Senator from West Virginia (Mr. RANDOLPH).

INCREASED NATURAL GAS PRICES NEEDED TO AVOID FUTURE SHORTAGES OF THE VITAL ENERGY SUPPLY

Mr. RANDOLPH. Mr. President, there is a generally recognized need for realistic price increases for domestic oil and gas supplies.

For the last 5 years, the U.S. domestic gas reserves have been declining at an alarming rate when compared to projected demand. The immediate consequence is a widespread shortage as natural gas pipeline operators curtail distributors and, in turn, their customers.

The current situation has all the signs of a natural gas shortage comparable to that now being experienced in petroleum products.

As of January 1973, the United States proved natural gas reserves in the lower 48 States were at their lowest level since 1957, and are continuing to decline. Proved oil reserves also were at their lowest in 20 years. This situation is the product of many factors—

Artificially low prices for natural gas which have stimulated consumption but inhibited exploration and development for replacement supplies;

Intermittent, and delayed, Federal offshore lease sales; and

The fact that the Federal Power Commission's regulatory authority is limited to interstate gas.

If new domestic gas supplies are to be developed prices must increase; however, economists are unable to tell us their price eleasticity—how much gas would be produced at a given higher price. The producers also cannot, or will not, indicate how much gas might be forthcoming at different price levels.

An added factor contributing to natural gas shortages is that unregulated intrastate customers are able to outbid regulated interstate pipelines—thus diverting what now are limited new supplies from existing interstate customers. This situation has contributed to shortages in many areas of the country such as the curtailment now occurring in my State of West Virginia and the Midwest.

At hearings of the Senate's national fuels and energy policy study on August 9, 1972, James Wilson, president of the American Association of Petroleum Geologists, estimated future potentially recoverable domestic oil and gas resources—probable and possible supplies—that can be found and produced with current and near-term technology.

These are some 141 billion barrels of domestic crude oil and 595 trillion cubic feet of natural gas. An obvious conclusion is the need for realistic price increases if domestic oil and gas supplies are to be brought to the marketplace. This is essential if the necessary funds are to be provided to promote the development of domestic energy supplies. For these resources are essential if we are to mitigate our projected heavy dependence on imported oil and gas.

In order to increase interstate natural gas supplies, the Federal Power Commission has initiated several actions allowing for higher prices. Nevertheless, I cannot understand how price increases by the Federal Power Commission for interstate natural gas, alone, will resolve the predicament. It seems to me that no matter how high the price for natural gas established by the FPC for sales to interstate pipelines, the intrastate buyers still will be able to bid slightly more, or offer other contractual inducements. Thus there will continue to be a potential for diversion of gas to users within the producer States.

Mr. President, I have long believed that the Congress must restore the balance between interstate and intrastate markets. Only the Congress can assure equitable treatment of both national and regional customers.

When the Federal Power Commission's authority was enacted concern was for unfair competition between producers at the well head. Today, the issue is competition between intrastate customers and federally regulated interstate customers, which, in turn, is contributing to natural gas shortages in regions which do not have sufficient resources to satisfy even present demands, such as West Virginia.

Mr. President, I understand the oil and gas industry in West Virginia. My father was an oil and gas producer, and I worked in the oil and gas fields in my youth. I understand their problems, and this understanding is the basis for my comments today.

But I also must withdraw my support for the amendment of Senator BUCKLEY—I think that legislation on this matter must come at a later time, on its own. Nevertheless, this is an appropriate time to express my feeling about the general subject of a price increase, which I think is merited for natural gas.

Mr. President, in my January 16, 1973, Senate remarks I proposed several actions to promote the development of domestic natural gas supplies to mitigate our dependence on oil and gas imports. These were—

First, to use the Federal Power Commission's existing authority to assure natural gas supplies on Outer Continental Shelf are placed in production and channeled into interstate markets;

Second, to provide for limited Federal decontrol of producer prices for new natural gas supplies under two comprehensive and complementary Federal initiatives;

Third, as the quid pro quo for eliminating wellhead price regulation as a determining factor in Federal Power Commission regulatory actions governing new gas sales, all other jurisdictional indices, or criteria, other than price should be extended to cover intrastate natural gas producer sales; and

Fourth, promulgate national guidelines for the curtailment of natural gas customers during periods of shortage, with authority for the Federal Power Commission to impose the established end-use priorities with regard to both direct and indirect natural gas sales.

When these recommendations were offered 11 months ago, I believed, and I still do believe, that higher prices are needed if natural gas supplies if they are to be stimulated to the point where they keep up with demand.

Mr. President, I also believe that we are at a point where natural gas shortages are so severe that prices alone can no longer be relied on as the determining factor in who gets available supplies. The diversion of natural gas supplies from inferior uses to higher priority uses may well be necessary if our country is to maintain national and regional economic, environmental, and societal well-being.

The United States needs a new national fuels policy for natural gas. I commend the Senator from New York (Mr. Buckley) for realizing that this is an urgent matter. But this must be a balanced and comprehensive energy policy which reflects all aspects of the problem.

Mr. President, the deregulation of new interstate natural gas sales is but one element of national natural gas policy.

Although I recognized this fact, I cosponsored Senator Buckley's amendment No. 767, because I agreed with it in principal. Nevertheless, because I believe Congress needs to formulate a comprehensive natural gas policy rather than simply deregulate the sale of new gas, I must withdraw my support of this amendment. I believe that the measure under consideration is the wrong vehicle for such legislation.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. BUCKLEY. Mr. President, I fully understand the thinking and reasoning of the Senator from West Virginia. I appreciate his support for my amendment in principle.

I happen to feel that, as a result of more than a year of hearings before the Committee on Interior and Insular Affairs, action is needed today.

Mr. RANDOLPH. I appreciate the comment of the Senator from New York.

The proposed legislation, Mr. President, provides for a national energy research and development policy for the United States. This measure recognizes in the priorities set forth in section 106 that the development of both high-Btu and low-Btu synthetic gas from coal offer a significant potential for supplementing domestic energy supplies and mitigating our energy crisis. At the same time, these potential new sources of supplies are inherently clean, also serving to enhance environmental quality.

By 1980, synthetic high-Btu coal gas, a supplemental supply for natural gas, can be produced at $.60 to $1 per 1,000 cubic feet or 1 million Btu's. This compared to imported liquefied natural gas at about $1.25 to $1.60 per 1,000 cubic feet.

But it must be recognized that these synthetic and imported substitutes for natural gas are very expensive compared to natural gas. While these technologies are needed for the United States to achieve the goal of energy self-sufficiency, there also is a commensurate need for increased natural gas supplies from traditional sources.

Mr. CHURCH. Mr. President, I yield to the able Senator from Illinois.

Mr. STEVENSON. Mr. President, my good friend, the distinguished Senator from New York (Mr. Buckley), said that any analysis of the record could lead to only one conclusion, a conclusion that would be supported by a majority of the members of this body; namely, that the price of new gas at the wellhead should be deregulated.

Mr. President, there is a record. It is now a lengthy record. It is a record on this subject in the Committee on Commerce. I have chaired most of the hearings which comprise that record, and can say, after chairing some 6 lengthy days of hearings and after many weeks of study of this subject, that the record does not support that conclusion. It does support a number of other conclusions: First, the regulatory status quo is unacceptable; it should be changed one way or another; regulation of the industry could be improved. Probably it would be improved by permitting some increases of gas prices at the wellhead.

I think, as does the Senator from West Virginia, that some increases in the price of natural gas are justified at this point and necessary to provide not only the incentives but also the financial resources with which to conduct further exploration and development of natural gas resources.

Mr. President, that record supports another conclusion. It is very easy to come to the floor of the Senate and say that we have to increase the supplies of natural gas. We can all agree on that. It is as easy to support as motherhood and apple pie. But, if there is anything the record supports, it is that this amendment would do nothing to increase the gas supply, and not one witness, not even the most ardent supporter of deregulation of natural gas, has contended that deregulation would increase the supply of natural gas in this country soon.

The administration witnesses, including the Secretary of Interior, testified it would take at least 3 or 5 years before deregulation would have any effect on the availability of natural gas in this country.

That record supports another conclusion that is alluded to by the distinguished Senator from Idaho. While deregulation of natural gas would not now increase supply, and I should add at this point that to the extent, if any, that deregulation would increase supplies of natural gas for the short term to help us through the emergency, the authority already exists in the Federal Power Commission to deregulate gas. The Chairman of the Federal Power Commission came before the Committee on Commerce and said he had all the necessary authority to act on an emergency basis if deregulation was indicated as a means of producing additional supplies of gas.

Deregulation probably would not increase the supply of gas. It might have the effect of diverting some intrastate gas to the interstate gas market.

No; the only short-term effect of deregulation, so-called, of natural gas prices at the wellhead would be on the revenue of producers and the price to the consumers. Revenues to oil and gas producers would increase between $6 and $8 billion. That $6 to $8 billion increase is the additional price to the consumers across the country. For the family with the home warmed by gas in New York City or in Chicago the annual gas bill would increase between 30 and 40 percent. As the Senator from Idaho also mentioned, that family is suffering now. It is hard-pressed now with the high cost of living. The real income of the average worker is declining under pressures from high prices and high taxes.

Deregulation of natural gas would only add to those pressures, and why? Is it because the oil and gas industry is suffering and in need of more subsidies from the Federal Government, more breaks?

The largest 23 oil and gas companies increased their profits in the first 9 months of this year over the same period in the preceding year by 63 percent. For the third quarter of 1973 the largest, Exxon, increased its profits over the same period last year by 80 percent, Gulf by 90 percent.

At the same time prices to the consumer were rising. The wholesale price for fuels has increased 48 percent so far this year. In 1 month it increased 19 percent.

Mr. President, deregulation now would not increase supplies now. All it would do would be to increase the profits of an industry already fattening on the energy crisis.

It is wrong to speak of "deregulation." There is no such thing. There is no way of deregulating the price of natural gas. The real question is: Who will regulate the price of natural gas: The industry, foreign governments?

The distinguished Senator from New York mentioned that oil had sold in Nigeria for $16.80 a barrel. The price of oil in Nigeria, like the price of oil in Saudia Arabia and Kuwait, is regulated; it is controlled by the governments of those countries or their trading companies. The governments of most foreign producing countries exercise control over pricing; indeed they have formed a cartel to jointly regulate the price of oil.

Explicit in all the arguments in favor of deregulation, so-called, is the suggestion, and it has been repeated again here today, that fuels are substitutable; that the price of natural gas should be permitted to rise naturally to the price of alternative fuel. The price of those alternative fuels is regulated. It is regulated in Nigeria. It is regulated by OPEC.

Mr. President, the question is not whether there will be regulation or deregulation of natural gas. If the assumption is correct—that the price of gas will rise to the price of alternative fuels—then the question is, Will the price of American gas be regulated by the American Government or of the Nigerian Government? Or will it be regulated by the industry?

Mark Twain said once that there is nothing so horrible as a beautiful myth being murdered by an ugly fact. The ugly fact is that there is no free enterprise system, no free market in the oil and gas industry. This is a heavily concentrated industry; it is a vertically integrated industry.

Competition does not exist between sellers. Competition does not exsit between buyers and sellers. Producers of oil and gas sell it to the pipelines that they control. The pipelines sell it to the refineries they control, and the refineries now sell it to the marketers and jobbers that they control. They contrived, not at a time of gasoline shortage, but at a time when gasoline inventories were higher than ever before, early this summer, to use an alleged gasoline shortage as an excuse for cutting off the supply of gasoline to the last remaining competition in the industry, the independent jobbers and dealers.

The 20 major oil companies control 86 percent of the Nation's refinery capacity. They control 70 percent of the Nation's oil production. They control 75 percent of the retail gasoline stations and 93 percent of the pipelines through which petroleum products move.

It is a heavily concentrated industry. It is a vertically integrated industry. It is becoming increasingly an industry that is integrated horizontally also. And it is also an industry with operations characterized by joint ventures, interlocking directorates, and exchange agreements. It acts in unison. I have never suggested that it acts conspiratorially. I do not believe it. It does not need to. It acts in the same way and responds in the same way to the same problems.

It would be bad enough if there were something approaching a balance between supply and demand in the industry, but that is not now the case. This industry operates at a time when demand far exceeds supply. Of a desperate consumer it can demand almost any price, or it could, barring the Cost of Living Council and Federal Power Commission controls.

It is not as if this industry made shoes. One can go without shoes, but we cannot in this Nation go without energy. It is the Nation's most vital industry. It is as vital as agriculture. Food cannot be produced without energy. Every home, farm, and industry in the country is dependent on it for energy.

Mr. President, the question is not one of regulation or deregulation; it is a question of who will regulate. It is very largely a question of whether we dare, in view of what has happened to us, permit every individual, every business, every farm to remain at the mercies of this highly concentrated, vertically integrated, vital industry. It is a question of whether regulation is going to be conducted by the industry itself or by the Government, and if so, what form it should take. It is a question of whether foreign governments by controlling the pricing of foreign energy should consequently control the prices of domestically produced energy.

It was said by the Senator from New York that his amendment would prevent windfall profits. It would not prevent windfall profits. It would give the Federal Power Commission the authority to permit the renegotiation of contracts for the sale of natural gas to "assure optimum production from producer reservoirs." That is a large loophole, and it gives the Federal Power Commission virtually no guidelines.

But that is not the main loophole in this amendment. Contracts for the sale of natural gas do not need to be renegotiated. They have been drawn in such way as to trigger increases in wellhead prices just as soon as Congress adopts the Buckley amendment. It is automatic. Prices will go up. The contracts trigger increases as soon as Congress takes that action.

Mr. JACKSON. Mr. President, will the Senator yield at that point?

Mr. STEVENSON. I yield.

Mr. JACKSON. I think it is important that the Senate fully understand how far-reaching the Buckley amendment would be, if approved. This is what the Senator from Illinois was about to refer to, and did, in part. The key provision here is that while it would appear that it applies only to new gas, the effect of the amendment would be to deregulate old gas as well. All gas would be deregulated. I have before me a standard provision in a contract that exists between a gas company and its customers. We were able to obtain the contract from the Federal Power Commission. Here is a typical clause:

> (d) If at any time during the term of this agreement the Federal Power Commission (or any successor agency having jurisdiction over the rates charged for gas sold hereunder) ceases to have jurisdiction over such matters or ceases to exercise price control over this agreement, the price to be charged after the cessation date shall be redetermined and the redetermined price shall be the average of the three (3) highest prices then being paid for gas or substantially the same quality and quantity under comparable terms and conditions produced and sold in interstate commerce within the South Louisiana and offshore area. Furthermore, the price shall be redetermined on the same basis each four (4) years from and after the aforesaid cessation date. However, in no event shall the price to be charged for any period be lower than the higher of the applicable step-scale price or the price in effect prior to the time the price was redetermined.

I have been reading from a Cities Service contract. This is language from a boiler-plate contract, is signed by the companies, and relates to the sale of natural gas. Therefore, the effect of the amendment, which is to be found specifically on page 2, section 302, would not be merely to deregulate the new gas, but it would be to deregulate the old gas. We are talking about old gas which was selling as low as 6 cents a thousand cubic feet, a lot of it around 12 cents, and a lot—or quite a bit—around 20 cents.

Obviously, current prices are, I think, around 60 cents or thereabouts based on some research of sale contracts. However, we are talking about as much as a 500-percent increase in the cost of natural gas.

Mr. President, I think I can look at this as objectively as anyone. I want to say that the pricing policy on natural gas has not been right. It has been wrong.

I thank the Senator from Illinois.

Mr. STEVENSON. Mr. President, the Senator is correct.

Mr. BUCKLEY. Mr. President, something has been read into my amendment that is not there. My amendment prohibits any modification on an existing contract controlling gas that is going into interstate pipelines.

I do not see how it can be stated that somehow it permits a change of price under the existing contract.

Mr. JACKSON. That is correct. But it is not a matter of being modified. They can be terminated. Contracts would be terminated.

I know that the Senator from New York wants to be fair. The Senator knows of the high regard which I have for him. I am simply reporting here what I understand to be the legal situation, that these contracts would be terminated. It is in the paragraph of the contract which I just read. That would reregulate the old gas.

Mr. President, I just want to complete my thought on the basic problem facing the Senate. As I say, the pricing policy has been wrong, fundamentally wrong. It has resulted in a situation in which we have not been using our natural gas for the best possible purposes and objectives. It has made it possible for large users of natural gas to buy it at a very low cost. I do not blame them for doing that, because it was available to them.

Second, it helps them insofar as environmental problems are concerned. It is the cleanest fuel and it has been the cheapest fuel.

I do believe this policy has resulted, without a doubt, in the loss of production. I feel that whatever other changes are made, we need to make adjustments in the price of natural gas that will more clearly reflect the true price of that product in economic terms.

It would appear that if we are going to achieve that objective in the very difficult climate we now find ourselves in, the answer is not deregulation, which could be psychologically as well as economically catastrophic.

I believe that what is needed is the right kind of formula that would provide for price adjustments that would encourage production, and permit a more proper relation of the price of gas to those of alternative fuels. All kinds of safeguards could be written in. We do not want to create a situation in which there can be unconscionable profits.

I am convinced, the more we look at this problem, that the more we will need to look at effective regulation. Unless we do that, I think we are going to have adverse attitude in this country on the part of the public that is already coming to the fore.

As far as providing the kind of encouragement that would bring about greater production of natural gas, as the Senate has been advised previously, the Senate Committee on Interior and Insular Affairs held extensive hearings. A number of studies—and in fact a special staff study—have been made in connection with the whole subject of natural gas.

Hopefully, we are down to the point now where we will be making a recommendation to the Commerce Committee, and specifically to the subcommittee headed by the able Senator from Illinois.

The Senate will have an opportunity to express its judgment on the whole subject of natural gas in an orderly way when this matter is presented to the Senate by the Senate Commerce Committee, which I understand will not be very long from now. Is that a fair statement and judgment?

Mr. STEVENSON. Mr. President, we hope and expect to report a bill on this subject by the middle of February.

Mr. JACKSON. Mr. President, I think it is important that we move as fast as possible. The Senate Committee on Interior and Insular Affairs pursuant to Senate Resolution 45 will be glad to help in every way possible to see that all points of view are expressed. There are many points of view in our committee on this subject.

I thank the Senator for yielding, and I appreciate the amount of time he has already put in on this rather complicated subject.

Mr. MAGNUSON. If the Senate is to consider natural gas amendments as a rider to the pending energy research and development legislation, the full range of options should be examined. Several other approaches would increase the supply of energy available to the consumer while maintaining reasonable prices. The Nation faces serious shortages and swift action is needed to increase supplies to assure that sufficient fuel is available to continue the American way of life, and maintain productivity and employment.

These other approaches would stimulate competition in the petroleum industry by establishing a Federal petroleum corporation. Such a Federal corporation would act as a yardstick of pricing and performance of the private sector of the industry, thereby helping to assure adequate supplies at reasonable prices.

Second, another concept would extend the jurisdiction of the Federal Power Commission to intrastate sales of natural gas. Natural gas is a national resource and currently anticompetitive distortions in the intrastate market have caused large diversions of gas to low priority uses such as utility boilers. If we are to have a workable and streamlined system of price regulation it must apply equally to all throughout the Nation.

Third, perhaps we should gradually phase out the use of natural gas for utility boiler fuel purposes. When natural gas is used to heat water to generate steam to drive a turbine, which turns a generator which generates electricity that is transmitted to consumers for heating their homes, this process requires up to three times as much natural gas than when natural gas is used directly by the ultimate consumer in his furnace. In fact, the energy content of the gas consumed by electric utilities in 1970 was more than enough to heat 10 times the number of electrically heated homes in the country. Thus, sufficient gas for heating American homes would be available if this gas was diverted from its use as a power plant fuel. Major utilities often have alternative fuel supplies to which they can convert readily. Therefore it is appropriate to have a gradual program to divert natural gas from low priority utility boiler fuel uses to higher priority residential uses. Such a switch would also permit the Nation to use the vast coal resources which are in abundant domestic supply in the Nation.

Fourth, an excess profit tax has been proposed. Although there are fuel shortages throughout the Nation the profits of the oil companies are at record levels. Such profits are occurring at a time when the Nation's consumers are suffering serious hardship as a result of shortages, price increases, and restrictions on the availability on petroleum products. The oil industry's record profits are massive windfalls that do not benefit American consumers. Therefore, if the Nation is to benefit by increased incentives for conservation, let the increased revenues flow to the people of the United States rather than the private coffers of the oil industry.

The consumer expects Congress to take a positive step to increase supplies without causing massive inflation and billions in windfall profits. These concepts must also be explored in conjunction with consideration of deregulation proposals.

The Commerce Committee is intensively considering all of these issues in a rational open fashion. Our hearing record exceeds 2,100 pages and more than 70 witnesses have appeared or submitted statements. We are working hard to reach agreement on a proposal that satisfies the valid objectives of all interested parties—consumers and producers. Thus, I hope that the Senate considers this complex and controversial issue with the benefit of the Commerce Committee's recommendation—a recommendation arrived at in an orderly, open process.

Mr. STEVENSON. Mr. President, I thank the Senator from Washington.

Certainly, no one has invested more time in this entire subject than has the distinguished Senator from Washington.

The Interior Committee has already devoted a great deal of time to the subject and its studies have been very valuable.

I also thank the Senator for making the point that I was trying to make about the effect of the Buckley amendment on the price of old gas.

The Senator from Washington read from a typical gas sales contract. He read from a contract I was referring to. It is typical. However, the point is still not clear in the Record.

The Buckley amendment would not terminate those contracts, nor would it permit in all cases renegotiation of the contract.

What it would do under the provisions referred to by the Senator from Washington would be simply to trigger an automatic increase under the contract in the price of gas. That increase could be as much as 500 percent. That is what it would do. It would not permit a renegotiation in all cases. It would not terminate the contract. It would simply trigger a drastic and immediate increase in the price of natural gas to consumers of natural gas throughout the country.

Mr. President, I have only one remaining point, and that has just been made by the distinguished Senator from Washington.

The Commerce Committee is conducting a very serious study of this subject. There are many regulatory possibilities, as well as the possibility of deregulation proposed by the Senator from New York. Hearings have been going on for a long while. They will continue. We do hope, on the basis of an exhaustive, balanced study to make some recommendations to the Senate and make them soon.

I do not know at this point what those regulations will be. There are many possibilities. One would be to deregulate the little producer or the independent producer. He is the one that goes out and explores for natural gas. It is not the large oil or gas corporation.

They are the ones who need the incentive and the money with which to continue increasingly expensive development and exploration operations. And they are the ones who compete.

We might recommend that of the 4200 natural gas producers in the country all but, say, the top 30 get deregulated, and that the top 30 not be deregulated because of the noncompetitive nature of their operations and because, again, of the enormous economic concentration in this industry.

The eight largest natural gas producers in the country control 74 percent of the Nation's natural gas reserves. The four largest control 51 percent.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. STEVENSON. Mr. President, I ask unanimous consent to have printed in the Record at the conclusion of my remarks a chart which sets out the percentages of uncommitted reserves controlled by the largest producers in the country in the various producing areas.

The PRESIDING OFFICER (Mr. Biden). Without objection, it is so ordered.

(See exhibit 1.)

EXHIBIT 1

TABLE 1.—CONCENTRATION OF THE AVAILABLE NEW GAS SUPPLIES AS OF DEC. 31, 1971 AND JUNE 30, 1972[1]

[Percentage of reported uncommitted reserves controlled by 4 and 8 largest producers][2]

Producing area	Dec. 31, 1971		June 30, 1972	
	4 largest	8 largest	4 largest	8 largest
Permian Basin	63.6	86.4	80.6	94.2
Hugoton Anadarko	76.6	94.5	62.6	83.3
Other southwest	93.3	98.6	94.4	99.3
South Louisiana:				
Onshore	96.9	99.6	92.3	98.4
Offshore (Fed.)	57.0	83.3	49.6	74.9
Offshore (State)	84.5	100.0	94.9	100.0
Texas gulf coast:				
Onshore	89.4	96.7	84.4	92.4
Offshore (Fed.)	98.5	100.0	100.0	100.0
Offshore (State)	100.0	100.0	100.0	100.0
Rocky Mountain	63.4	82.9	70.4	86.0
Appalachian	99.6	100.0	100.0	100.0
Unclassified:				
Michigan	100.0	100.0		
California	95.4	100.0	94.3	100.0
Miscellaneous	87.7	99.9	98.0	100.0
Alaska	93.9	99.9	93.9	99.9
Total, United States	51.4	75.9	51.0	73.9

[1] Concentration ratios are based on individual company reserve reports. To the extent that 2 or more companies report pro rata ownership shares of jointly held leases for which there is a single operation, the concentration ratios tend to underestimate the actual degree of seller concentration.

[2] Reports were obtained from 79 large producers. These producers provide most of the gas sold to interstate pipelines (e.g., in 1971 the top 22 supplied over 70 percent of all interestate gas). Nevertheless, to the extent that nonreporting small producers may have had significant volumes, the ratios reported here tend to slightly overstate actual market concentration.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield to the Senator from Oklahoma.

Mr. BARTLETT. The Senator from Illinois just made mention of the 30 top companies in size, and the fact that their nature was anticompetitive. Is it not correct, as to the number of wells drilled, that those 30 companies or totalities drill only about 20 percent of the total oil and gas wells drilled in this country?

Mr. STEVENSON. I take it that the Senator's point is that they do very little drilling. That was also my point. I was suggesting deregulating the independent producers because they do most of the drilling.

Mr. BARTLETT. Will the Senator yield further?

Mr. STEVENSON. I yield.

Mr. BARTLETT. The information I have—and according to the hearings we are having now in the Committee on Interior and Insular Affairs, in the special Committee on Vertical Integration—is that the competition among oil companies is moderate rather than heavy, and less than in many heavy industries such as steel, autos, and so forth.

My question is, if the Senator has information that the companies are not competitive, would he not then have information that they are in violation of the antitrust laws, and if so, why would he not pass that information on to the Justice Department, or suggest that there be a strengthening of the antitrust laws?

Mr. STEVENSON. Let me first inform the Senator that I have already advised the Justice Department of possible violations. From all indications thus far, this Justice Department is not enforcing the antitrust laws as it should be in the oil and gas industry. There has only been one antitrust action that I know of in the last year, involving only one exchange agreement, and exchange agreements are epidemic throughout the industry. It was conveniently settled just a few days ago.

But there is an independent agency of our Government which also has antitrust powers, and that independent agency has filed a complaint alleging anticompetitive behavior by the 8 largest companies in the industry. The Federal Trade Commission is taking action, but not the Attorney General of the Nixon administration. State attorneys general are also taking action; some 14, at the moment, are either considering or have already filed antitrust actions against corporations in this industry. And what is more, individuals are filing civil suits all across the country under the antitrust laws, and judgments are being entered against these companies.

Mr. BARTLETT. Mr. President, I ask unanimous consent to have printed in the RECORD documents which show the concentration ratios of various manufacturing industries.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

TABLE 5.—MANUFACTURING INDUSTRIES IN WHICH 4-FIRM CONCENTRATION RATIOS EXCEEDED 60 PERCENT IN 1960

SIC code	Industry	Concentration ratios	
		4 firm	8 firm
3717	Motor vehicles	79	83
	Steel:		
33121	Coke oven and blast furnace	68	76
33122	Steel ingot and semifinished shapes	70	84
33124	Hot rolled bars, shapes, etc	63	74
33126	Steel pipe and tubes	61	(3)
3571	Computing and related machines	63	78
3721	Aircraft	67	88
3011	Tires and inner tubes	71	90
3861	Photographic equipment	67	79
3352	Aluminum rolling	65	78
2111	Cigarettes	81	100
3411	Metal cans	71	83
2841	Soap and other detergents	72	80
2824	Organic fibers	85	95
3632	Household refrigerators	72	93
2032	Canned specialties	63	79
3661	Telephone apparatus	94	97
2141	Tobacco stemming	69	91
3694	Engine electrical equipment	72	81
2052	Biscuit crackers	59	68
2647	Sanitary paper products	64	80
3612	Transformers	66	80
2087	Flavorings	63	71
3633	Household laundry equipment	79	95
3229	Pressed and blown glass products	72	85
2823	Cellulose man-made fibers	85	100
3511	Steam engines and turbines	87	98
3672	Cathode ray tubes	89	(3)
2812	Alkalies and chlorine	63	88
2046	Corn milling	67	90
2043	Cereal preparations	87	(3)
3741	Locomotives	98	99
3211	Flat glass	96	99
3691	Storage batteries	60	80
2816	Inorganic pigments	64	83
2063	Beet sugar	68	97
2813	Industrial gases	72	88
3572	Typewriters	79	99
3313	Electrometallurgical	74	91

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. STEVENSON. I am not in control of the time in opposition to the amendment. I yield back to the Senator from Washington the remainder of my time.

Mr. BUCKLEY. Mr. President, can the Chair inform us as to where the time lies? I have a feeling that perhaps I can make some time available to the Senator from Washington.

Mr. JACKSON. That is a good point. Mr. President, how much time do we have on the respective sides?

The PRESIDING OFFICER. At this stage, the Senator from New York has at least an hour left, and the Senator from Washington—as it stands now, the Senator from New York has used approximately an hour and 10 minutes, and the Senator from Washington has used an hour and 50 minutes. There is approximately one hour and 5 minutes left on the amendment.

Mr. JACKSON. If I have used an hour and 50 minutes, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. When will I be out of time on the pending amendment?

The PRESIDING OFFICER. If there is to be equal time involved on this amendment, the Senator from Washington should be yielding over to the Senator from New York in about 10 minutes.

Mr. JACKSON. I appreciate the inquiry of the Senator from New York. As always, he is very decent about these things.

Very frankly, Mr. President, I do not plan to use any more time on our side. I think my senior colleague (Mr. MAGNUSON) would like about 2 minutes. I wonder if I could yield my friend from South Dakota 7 minutes.

Mr. ABOUREZK. That is fine.

Mr. JACKSON. That will take everything that is left.

Mr. ABOUREZK. Mr. President, the issue of natural gas price deregulation is of major concern to this Nation's consumers of natural gas, in particular, residential consumers. Those Senators who are suggesting that prices of natural gas will not rise significantly at the consumer level are either not informed of the facts, or are not being completely honest in their arguments. Economists at the Library of Congress and at the Federal Power Commission have stated that the impact on gas consumers of deregulation in terms of higher prices will be significant.

The price increases at the wellhead will be automatically passed through to the consumer. Most gas producers are predicting that the increase in the price of natural gas will be equal to the difference in the price of natural gas now being sold in interstate commerce and the price of alternative fuels, such as SNG, LNG, et cetera.

In short, we are talking about increases of anywhere from 75 cents to $1.25 per 1,000 cubic feet. It is important to keep in mind that just a 1-cent increase in the price of natural gas at the wellhead would cost the Nation's consumers an additional $220 million a year. And a 10-cent increase would cost a hefty $2.2 billion a year, while an increase of $1 would cost this Nation's citizens roughly $22 billion a year at current consumption levels. And this money will flow directly from the pockets of consumers into the bank accounts of the major oil companies. Furthermore, all the major oil companies, bar none, have admitted that there is no guarantee that higher prices will elicit all the gas that is needed. Secretary Wakefield has suggested that the Nation ought to "experiment" with deregulation and find out what happens. Unfortunately, that experiment comes at a most dangerous time. Under the threat of worsening shortages, this Congress is being intimidated by the Nation's major oil companies and the administration to the degree that unless Congress deregulates natural gas prices, the country's economic outlook will be very dim and uncertain.

This argument is as false as it is dangerous. Deregulation would have an enormous economic impact on our constituents. And as their representatives, it is our responsibility and duty to protect their welfare. We would be remiss in our duty if we voted on deregulation as an amendment to this research and development bill. It is our duty to debate the issue on its own merits, after the conclusion of full and complete hearings and after the Senate Commerce Committee reports out its bill on the matter. Most Senators, I am sure, have heard some discussion of deregulation. Many have not heard both sides of the issue and many are unaware of all the facts and arguments involved. Many Senators have been deeply involved in other issues of equal national importance, and have not as yet given serious consideration to the deregulatory scheme being advocated by those who wish to abandon the protection of consumers afforded by the Natural Gas Act, which Congress after long and arduous debate passed in 1938.

Consumers of this country and the natural gas producing industry, up until 1969 were well served by the provisions of that act. In 1968 there was no gas shortage. Ironically, the gas shortage coincided with the appointment of a new Federal Power Commission. Since 1969, the Nixon-appointed FPC has done everything it could to administratively deregulate the price of natural gas from increasing area rates to issuing its optional pricing procedure. The present commissioners, all of them, have called for deregulation, in effect, publicly advocating that the Commission give up its congressional mandate and function. It seems to me that intent of Congress was clearly interpreted by the Supreme Court in the Houe case; namely, that the purpose of the Natural Gas Act, its primary purpose, was to "protect consumers from exploitation by natural gas companies." The present commissioners, from their actions, appear to disagree with the intent of Congress and the Supreme Court.

The reason we are experiencing a gas shortage today is not because of regulation, but precisely because the present Commission has not properly regulated the nautral gas industry. When the President of the United States and his administration, and when the FPC itself, are clamoring for higher gas prices and deregulation, then producers, if they are good businessmen—and from seeing their recent profits, they obviously are—they would be foolish to sell their gas—a wasting asset—knowning that in a few days, weeks, or months, its price might double or even triple. The Nixon administration and the FPC have been raising the expectations of producers for higher prices. The producers have responded accordingly. Their sales of natural gas to the interstate market have dropped drastically; their additions to the Nation's reserves have followed suit and have not kept up with consumption. In anticipation of higher prices, there has been an increase in drilling activity, but no increase in supplies to the Nation, particularly in time of shortage, it would be a grave error to react out of panic or fear, and hope that a vote for re-regulation will somehow magically, solve our immediate, or even long-range energy problems. It will not.

One of the major problems, of which I am sure many of you are aware, have been analyzed by economists in both the Federal Power Commission and at the FTC. These economists have found a lack of workable competition in the natural gas producing industry. The Nation's major producers of natural gas are the major oil companies—against whom the Federal Trade Commission—by a 5 to 0 vote—has issued a complaint alleging that the structure of the petroleum industry is monopolistic and that the major companies cooperate rather than compete in the marketplace.

These are serious charges. And thus, I do not believe that we would be acting in the best interests of our citizens, if we moved too hastily, without all the facts, and voted for this amendment. By voting for deregulation, we might be voting to increase the concentration of economic power of a few major oil companies and thus place the future of our Nation's economy in the hands of a few corporations which are rapidly gaining control of all the Nation's energy resources—oil, natural gas, coal, uranium, oil shale, tar sands, et cetera.

Furthermore, serious questions have been raised by the Federal Trade Commission and Senator HART's Antitrust and Monopoly Subcommittee as to the validity and reliability of the Nation's gas reserves as reported by the gas producing industry. The FTC, after examining some of the internal papers of a number of major companies, found serious underreporting of reserves. How can we vote on an amendment to deregulate natural gas prices, when we do not even know the extent of our proven and probable reserves?

I strongly urge the Senate to vote against this amendment.

Mr. President, I yield back the remainder of my time.

Mr. BUCKLEY. Mr. President, before I yield to the Senator from Texas (Mr. TOWER), I should like to ask the Senator from Washington (Mr. JACKSON) if it is not true that the evidence before the Committee on Interior and Insular Affairs has indicated that the pricing by the FPC has been a deterrent to exploration?

Mr. JACKSON. Yes. I agree with that. It has been unrealistic. As I indicated, the old prices varied from as low as 5 or 6 cents per thousand cubic feet to up to 20 cents per thousand cubic feet. Also, we are bringing in gas from Algeria which is laid down in New York for I believe $1.25 a thousand cubic feet.

I would point out further that the talks and discussions with Soviet authorities regarding the development of natural gas in Siberia could lead to the importation of LNG that would be over $2 per thousand cubic feet. I think it makes no sense at all to support such program dependent upon a source that we have certainly learned by now will not always be reliable—I do not care what country is involved.

Mr. BUCKLEY. Would the Senator from Washington also agree with the language in the report on the Energy Conservation Act, page 18, which states:

> . . . where realistic pricing is inhibited by regulator constraints, as with the present controls on wellhead prices of natural gas, legislation will be necessary to allow marketplace factors to play their proper role.

Would the Senator agree with that statement?

Mr. JACKSON. In general, yes.

Mr. BUCKLEY. I am quoting from the Senator's report.

Mr. JACKSON. I understand. That report, of course, represents the consensus of the committee. The Chair does not always agree precisely with all the language put in. Certain passages reflect the views of our colleagues, as the Senator well knows.

The point I would make is that legally I think what is required is an amendment to the law. The Federal Power Commission, theoretically, now has the power to make adjustments in price up to and including that which would more accurately reflect the true market value in the marketplace. The long series of decisions by the FPC, and by precedent, have, I think, created a situation in which any move by the Federal Power Commission to make the adjustments in price might be subject to endless litigation, with the result that it would not bring about the optimum adjustment in price. Therefore, it would be my judgment that we will have to legislate if we are going to do something about it, and I do believe that legislation is necessary.

Mr. BUCKLEY. I am glad, Mr. President, that the Senator agrees we need this legislation in order to allow market factors to exercise their influence, because that is precisely what will be accomplished by the adoption of my amendment. That is its purpose, and I am glad to elicit this agreement from him.

Mr. JACKSON. I do not want the Senator's statement to be construed as meaning that I am supporting deregulation at this time—that is, the total restraints—removal of all on price insofar as natural gas is concerned. I am reserving my final judgment on this question until we have had an opportunity to work out the Interior Committee's recommendations to the Committee on Commerce.

Mr. BUCKLEY. Mr. President, I yield 7 minutes to the Senator from Texas.

Mr. TOWER. I thank the Senator from New York.

Mr. President, it is too bad that a number of people have gotten themselves rooted into archaic and outmoded arguments against the deregulation of natural gas. The argument against it has been going on for some years.

I recall that some years ago I said to my colleagues in this body that, some day, the time would come when the oil-producing countries of the Middle East would say to us, "You can have oil or Israel, but not both." That time has come.

Therefore, it is incumbent upon us to do what we can to develop our own domestic sources and to move as close to self-sufficiency—although we can never reach that happy state—as we can. It has been suggested that we in Congress would be turning our backs on a congressional mandate given the Federal Power Commission 40 years ago. The fact is that only 17 years ago, Congress passed legislation calling for the deregulation of natural gas. That is the latest expression of congressional intent. As everybody knows, that bill was vetoed by President Eisenhower because of the impropriety of a lobbyist.

There is a great deal of talk about big oil companies, about big profits, about abandoning the protection of the consumer. The big oil companies do not do the lion's share of the drilling in this country. It is done by independent drillers, many of whom have gone broke and out of business in the past 4 years. In my home town of Wichita Falls, Tex., oil geologists are working as shoe salesmen or used car salesmen because there is not enough business left for them to work at.

Let us look at the drilling figures. From 1956 to 1972, exploratory activity declined in terms of the number of wells from 16,207 to 7,587. That is the disastrous effect this thing has had. Eighty percent of the oil and gas resources in this country is found by the small independents, who take very high risks. You have to have profit in a high risk business in order to attract capital. People are not going to turn away from safe investments and invest in high-risk ventures if there is not some prospect of a good profit, if they are lucky enough to hit.

Far from abandoning the protection of the consumer, we are trying to protect the consumer in deregulating the price of gas. It does not make sense to say that we are protecting the consumer when we insist on paying $1.25 or $1.50 for Algerian fuel or gas generated from naphtha rather than allow that gas to be replaced by gas that might cost 70 to 75 cents from domestic sources. No one can tell me that it is better for the consumer to pay $1.50 per thousand cubic feet for his gas than to pay 75 cents. I do not see how anybody can make a case for the consumer on that basis.

The Washington Post has editorialized in favor of the proposal sponsored by the Senator from New York and others. They have editorialized more than once. I should like to read portions of an editorial in the Washington Post of last March. The editorial stated:

> The economics of natural gas has gone badly askew in this country. The latest illustration is the Washington Gas Light Company's plan to generate synthetic gas at Cockpit Point on the Potomac River. The company is, involuntarily, demonstrating that the federal government's misguided efforts to hold down the price of gas is going to cost the residential consumer a lot of money.
>
> In deference to an obsolete view of the consumers' interest, the Federal Power Commission holds the price of natural gas low.

Further, the article stated:

> Washington Gas Light gets its gas from the pipelines that carry it here from the southwest. A year ago one of the lines cut back on its deliveries. That was the point at which Washington Gas Light announced that it could accept no new customers. Now another line has warned the company to expect a further cut next year. In response, quite properly, Washington Gas Light has drawn up a proposal to protect itself and its customers by making synthetic gas at Cockpit Point from naptha.
>
> The numbers are illuminating. The average cost of natural gas at the well runs about 20 cents per thousand cubic feet. The pipelines sell it to Washington Gas Light for 55 cents a thousand cubic feet. The Cockpit Point plant will produce the synthetic gas at $1.50 a thousand cubic feet. Because the FPC holds the price of natural gas too low, there is a shortage, and because there is a shortage, we must buy a synthetic substitute that costs three times as much. Who is saving money for whom?

The Washington Post editorial concluded, as to deregulation:

> The solution is to deregulate the price of natural gas at the well. No one can forecast accurately how high the price might go if the regulation were lifted. Most specialists guess that it would go up to a level somewhere between twice and three times its present price—which is to say, between 40 and 60 cents a thousand cubic feet. Adding the cost of transporting that gas to Washington, the price would still be less than a dollar. It would still be one-third less than that of the synthetic gas produced at Cockpit Point.

Mr. President, let us not kid anybody. The amendment of the Senator from New York does not favor the major oil companies. Right now, the policy of the FPC favors the large companies, because the rate basis is formulated on an average cost basis, and the big companies can spread costs. The small producers cannot. With the price below replacement costs, producers are driven out of business. If you want more gas, you have to deregulate it.

Mr. BUCKLEY. I thank the Senator from Texas for providing the hard facts of the situation.

It seems to me, Mr. President, that we have been treated by the Senators from Idaho, South Dakota, and Illinois with glorious rhetoric, but it is rhetoric that is really irrelevant to the merits or demerits of my amendment.

We have heard all kinds of talk about the monopolistic hazards of oil companies, but that, I submit, has nothing to do with those companies that are engaged in the business of risking large sums in order to try to find natural gas that we in the East and the Northeast and throughout the country badly need.

We have heard about the widows and the little children who will be bludgeoned and be crucified by a handful of bloodless, heartless giants of industry, who will force prices to go through the ceiling. What are the facts? I do not believe that we can legislate without attention to facts, and we only become obscured by rhetoric.

First of all, insofar as there is any monopolistic hazard—and I do recognize that there may be a problem when you have producing affiliates of pipeline companies—my amendment copes with that problem. It provides the FPC with specific authority to disallow any pass-through of any portion of a price paid to an affiliate that cannot be justified by objective, external, free, competitive pricing standards in the area of production.

Mr. President, we are told, as I say, that the prices will be allowed to soar up and penalize widows, children, the poor, and the helpless. My amendment applies only to new gas, and if one decontrols new gas and allows it to reach its normal price measured by its importance in the economy, that new price will be rolled in with all other gas that will dominate the flow in the interstate pipeline for years to come.

What is the effect on the consumer, whom we are all anxious to protect? According to a study by the American Petroleum Institute, which was quoted in a staff memorandum published on November 20, 1973, by the Committee on Interior and Insular Affairs, the effect of my amendment on consumer prices would be a rise of 6.4 percent the first year, 3.8 percent the second year, 3 percent the third year, and so on. This is based on a 65 cent per mcf price for new gas.

The total effect of this on the average consumer would be an increase in the first year of $8.30 for natural gas. The total projected increase, if we were to deregulate now, would be an increase in the average cost to the consumer by 1980 of $33.06. Mr. President, $33.06 is a sum of money, but I submit that the average American would rather pay $33.06 for gas than to have no gas at all. That is what we are talking about.

What are the alternatives for the consumer if we do not restore the incentives required to cause people to risk money to find new gas for the interstate pipeline? They are going to have to pay two or three times as much for either liquefied natural gas brought in from insecure sources, or manufactured gas, or naphtha brought in from insecure sources, or degasification of coal, all of which are higher.

All the rhetoric on the record about the protection of the consumer is absolutely irrelevant to the problem facing this country today. We heard the distinguished Senator from Illinois argue that there is not a scintilla of evidence as to the immediate impact of the higher prices on discovery and production of new gas. Perhaps before his committee there was no such evidence, but certainly before the Committee on Interior and Insular Affairs, which has been conducting hearings on precisely this subject, there has been very clear evidence.

I have in my hand a chart that shows that in Blaine County and Hill County in Montana there was a decline in the rate of wells being drilled when the price was about 15.5 cents for 1,000 cubic feet.

When the price was raised to 23.5 cents in 1971, the number of wells drilled rose from a little over 100 to more than 300.

We also find the evidence that we see today in States like Oklahoma, where there is an intrastate market at prices three times what is allowed for export. We see enormous exploration going on, new gas being put in the stream. But none of that reaches consumers out of the State.

It is simple logic that if an interstate pipeline can compete for gas that is now about to be discovered, we in the Northeast, and those in the Midwest, will have an opportunity to purchase that gas. We also know that there is much gas that is known to exist but cannot be economically reproduced at the prices allowed by the Federal Power Commission. Upon the lifting of controls on new gas it would be immediately possible to do the engineering of those fields and to get it into the pipelines.

To say we might have a delay of a week or two, a month or two, or even a year or two between cause and effect is no reason whatever. We ought to begin now the chain of action and reaction to produce natural gas.

We have in this bill some very necessary proposals that are not designed to have a practical fallout until the year 2000, but we understand we have to begin working today if we are not to be high and dry by the year 2000.

I have other examples of the responsiveness of drilling operations to demand. In Sutton County, Tex., we see a quadrupling of drilling in response to even relatively small rises in price. The same thing is true in Weld County, Colo. The evidence is replete with such examples, but one does not have to go to the evidence to support what commonsense should dictate.

We had a vigorous natural gas industry exploring for natural gas and discovering gas faster than it was being consumed until the Federal Power Commission came along and began invoking authority. Then, we saw a drop in wildcat wells from 45,000 to 7,000.

We have heard rhetoric about the lack of competition in the field. I am worrying here today about big integrated companies, refineries, distribution of products, and so forth. My problem is with the production of natural gas, the discovery and development of natural gas reserves. I do not see how anyone could say that this particular facet of the overall industry is not competitive when the Federal Power Commission is regulating the production of over 3,700 producers at the present time. If 3,700 producers do not constitute competition I do not know what competition is.

Then, we have the hundreds of people operating in the intrastate market. We must not allow ourselves to be deflected from the pragmatic fact, about worrying about whether Gulf, Exxon, or some other company is earning more money this year than last year. It is irrelevant to the question of unshackling an industry, the natural gas industry, which is closed to thousands of small and intermediate operators whose task it is to try to discover the natural gas, which is the most important energy ingredient supporting the American economy today.

Mr. President, I shall offer some summation remarks later but we have Senators who have asked for an opportunity to be heard.

I would like to yield now to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank my friend, the Senator from New York (Mr. BUCKLEY), for yielding. I have a great deal to say but I think since the time is running late and we have been engaged in a very lengthy discourse about the propriety and fairness of the Senator's amendment that I shall just say that I am pleased to be a cosponsor of the amendment.

The Senator from New York is to be highly commended for the leadership he has provided in trying to enact this legislation, legislation we feel is in the best interest of all Americans regardless of where they live or how they make a living. Our belief in the truth of that statement is perhaps no better demonstrated than by the fact that Senator BUCKLEY, representing a populous, energy-hungry State in the Northeast, and I, representing a sparsely populated, energy-abundant State in the Southwest, agree that this amendment is not only good for the entire Nation and all its citizens, but is also good for both our States and all those citizens.

Senator BUCKLEY has spoken eloquently as to the reasons this legislation is good for the Nation including residents of the energy-dependent areas of this country. I associate myself with his remarks in that regard and would simply emphasize the following facts.

Fact No. 1—America is now in the midst of one of the most serious domestic crises of its history—a critical shortage of energy. Need I say more on such a painfully obvious fact?

Fact No. 2—It is beyond question that the artificially low price of natural gas delivered to interstate pipelines has resulted in expanding the demand for natural gas at the expense of other fuels while at the very same time discouraging exploration and increased production of natural gas. The disastrous effect of this unrealistic pricing policy is summed up very well by the objective and scholarly British Petroleum Press Service which, after analyzing the energy problem in the United States, concludes that:

> Because of apparently unlimited supplies of indigenous fuels, energy in the U.S.A. has always been cheap: indeed, a major factor in the nation's economic growth and prosperity. More recently however it is apparent that energy has been too cheap, leading to a certain degree of waste but more importantly to a lack of incentive in developing new resources to meet the very demand that low prices have created.

Fact No. 3—There is no shortage of natural gas in the ground. I say this because we have such vast "proven" reserves—that is those reserves which can be recovered with reasonable certainty. As of December 31, 1972, the Nation's proven reserves were estimated at 266.1 trillion cubic feet.

And this figure does not include "potential reserves"—that which is believed to be present in the earth. Those reserves are estimated to be in excess of 1,140 trillion cubic feet, more than 50 times the current annual production of natural gas in the United States. Of this potential, 28 trillion cubic feet is in New Mexico. But, that gas will never be utilized if our present policy of disincentives continues to prevail because it will not be marginally profitable to find and develop.

Fact No. 4—The main reason these vast amounts of natural gas have not been developed is the lack of development incentive. Mr. President, when American businessmen and investors see a situation where demand is zooming out of sight and when an energy crunch can be seen coming for years, why have not they taken advantage of that situation to make a little money? As incredible as it seems, the answer is that there has been no money to be made in developing and producing gas for interstate transactions.

The gas is there, we know it is there, but our pricing policies have favored development of substitutes and imports and discouraged development of these vast reserves by limiting producer prices at levels one-half of alternate sources. Consequently, investment money has quite naturally gone into something else. In the free enterprise system you cannot expect people to put money into a high-risk venture with a low rate of return, regardless of the fact that there would be continued increased demand for their product.

To dramatically illustrate this fact—an oilman from New Mexico points out to me that it is outrageous that in Roosevelt County, N. Mex., the going price is 6 cents per 1,000 cubic feet, while Canadian gas brings more than $2.50 per 1,000 cubic feet of liquefied petroleum gas laid down at Lowell, Mass. Give him part of that $2.50 and he will get out and with his own money and that of other New Mexicans and Americans, develop New Mexico's 12.3 trillion cubic feet of proven reserves—and he will do it now. But, if the conditions remain as they are now, he will bypass the dubious opportunity to produce an expensive dry hole in New Mexico and invest his money in liquefied petroleum gas production in Canada or somewhere else.

Additionally, there are many other problems for people looking for oil and natural gas, some of them created by Government. As an oilman from New Mexico summed it up recently:

> Money for the risky job of drilling is hard to find and expensive. We in the oil industry have difficulty in obtaining a rig to drill new exploratory wells. Steel pipe for these wells is almost unobtainable at any price. Cement is in short supply. Costs and problems seem to suffer daily explosions.

I have already mentioned that New Mexico has vast proven reserves and even greater potential reserves. This can only mean increased activity and corresponding economic benefit to the State and its residents. In 1972, the State of New Mexico produced almost 2 trillion cubic feet of natural gas—fourth highest in the Nation—with a value at the well head of $225 million, even at the low prices imposed by the FPC on interstate sales. In 1972 the number of people engaged in production of crude oil and natural gas was right at 7,000. So, Mr. President, New Mexico, which is one of the largest producing States of energy sources and has always been an exporter of raw petroleum products, holds much of the solution to our current energy crisis.

In summation, Mr. President, natural gas holds the key to increasing our total available energy, particularly in the short run. Both of the disastrous effects of unrealistic pricing policy—expanded demand and diminished exploration and development—can be reversed by removing the price constraints. I am firmly convinced that removal of price controls on all natural gas is the optimum solution and that it will eventually come about. This is not my conclusion alone. Many people who have analyzed this issue in great depth have reached the same conclusion.

In their summation of their recent Harvard Law Review article—April 1973—entitled "The Natural Gas Shortage and the Regulation of Natural Gas Producers," Stephen Breyer and Paul W. MacAvoy, experts at Harvard and MIT respectively, stated:

> In sum the arguments against the system of gas field market regulation are compelling. Price control is not needed to check monopoly power, and efforts to control rents require impossible calculations of producer costs and lead to arbitrary allocations of cheap gas supplies. In practice, regulation has led to a virtually inevitable gas shortage. It has brought about a variety of economically wasteful results, and has ended up hurting those whom it was designed to benefit. Thus, less, not more regulation is required.

For those reasons I am an original cosponsor of S. 371. I am also convinced that the removal of controls on field prices of "new gas" is a step we can take right now here today, and that it would make available more additional energy, more rapidly than any other action we could take. I say, "Let us get on with it."

Mr. President, I ask unanimous consent to have printed in the Record two telegrams, one from the commissioner of public lands for the State of New Mexico and the other from the director of our conservation commission, both of whom endorse the deregulation of natural gas, not from the parochial standpoint of New Mexico, but from the standpoint of what it would do for the energy crisis and the country.

Mr. President, I ask unanimous consent that the two telegrams that I referred to may be printed in the Record.

There being no objection, the telegrams were ordered to be printed in the Record, as follows:

Hon. Pete Dominici,
U.S. Senate, Capitol Hill, D.C.:

As commissioner of public lands in New Mexico I favor the de-regulation of natural gas prices. I feel that it would result in increased exploration and development and enhance future supplies for the whole country.

Alex J. Armijo,
Commissioner of Public Lands.

Hon. Pete Dominici,
U.S. Senate, Capitol Hill, D.C.:

As director of the New Mexico Oil Conservation Commission since 1956 I strongly support legislation that will deregulate the price of natural gas that is produced for interstate shipment.

A. L. Porter, Jr.,
Secretary-Director.

Mr. DOMENICI. Mr. President, let me, for the purpose of floor discussion, emphasize two rather distinctive periodicals which I think deserve further comment here; first of all, the distinguished and scholarly periodical known as the British Petroleum Press Service, which states, and I think it supports wholeheartedly from the international viewpoint what the distinguished Senator from New York has been saying these past few hours:

> Because of apparently unlimited supplies of indigenous fuels, energy in the USA has always been cheap; indeed, a major factor in the nation's economic growth and prosperity. More recently, however, it is apparent that energy has been too cheap, leading to a certain degree of waste, but more importantly, to a lack of incentive in developing new resources to meet the very demand that low prices have created.

One further periodical indicates probably better than anything else that the time has come for serious deliberation on this issue, and that is the Harvard Law Review for April 1973, in which Professors Breyer and MacAvoy said many things in recommending deregulation, but I would like to quote one paragraph:

> In sum, the arguments against the system of gas field market regulation are compelling. Price control is not needed to check monopoly power, and efforts to control rents require impossible calculations of producer costs and lead to arbitrary allocations of cheap gas supplies. In practice, regulation has led to a virtually inevitable gas shortage. It has brought about a variety of economically wasteful results, and has ended up hurting those whom it was designed to benefit. Thus, less, not more, regulation is required.

I commend the distinguished Senator from New York and his 25 cosponsors for bringing to the floor of the Senate and, hopefully, to the attention of the American people that, while it is appropriate to talk about long-term research and development, conservation, and the like, it is more appropriate than anything else to bring to the attention of the American people the most realistic immediate tool to assist this great country in the energy crisis, probably doing little, or no harm to anyone, but whose both long-term and short-term benefits are manifold. I hope in the not too distant future this proposal will become the law of the land. I agree that it will, more than anything else, begin to solve this serious crisis.

I thank the Senator for yielding.

Mr. BUCKLEY. Mr. President, as always, the Senator from New Mexico has brought a better perspective to the discussion, and I appreciate that he has done so.

I would now like to yield 1 minute to the Senator from Wyoming (Mr. Hansen).

Mr. HANSEN. Mr. President, I thank my distinguished colleague from New York for his courtesy.

PETROLEUM INDUSTRY PROFITS

Historically, the petroleum industry's profitability has been lower than the average for all manufacturing industries.

Based on comparative studies by the First National City Bank of New York,[1] over the last 10 years, 1963 through 1972, net income as a percent of net worth in the petroleum industry averaged 1.8 percent. For the same period, the ratio for all manufacturing industries in the bank's survey, averaged 12.2 percent. See table I, attached. For more than half of this period, 7 out of 10 years, the profitability of the petroleum industry was lower than the all-manufacturing average. Of particular significance for current analysis is the fact that the petroleum industry's rate of return has been on an almost uniform downtrend since 1968, dropping to a 10-year low in 1972. In that year, the petroleum industry's rate of return was 10.8 percent, as compared to a manufacturing average of 12.1 percent.

Turning to the more recent record, according to the latest Federal Trade Commission reports,[2] petroleum industry profits for the four quarters ending in June 1973, were 10.5 percent above the comparable year-earlier period. Over the same two annual periods, profits of all manufacturing corporations increased by 28.1 percent. See table II, attached.

In terms of the critical yardstick of profitability, petroleum industry profits as a percent of stockholders' equity has grown from 9.2 percent to 9.6 percent, between these two periods, an increase of 4.3 percent. Over the same time span, average manufacturing profits have risen from 10.0 percent to 11.8 percent, an increase of 18 percent.

These data make clear not only that the rate of return in the petroleum industry is substantially below that of the average for all manufacturing corporations, on an absolute basis, but that manufacturing corporations generally have increased their profitability, in the past 2 years, by more than four times the rate for petroleum refining.[3]

Assertions as to the growth of petroleum industry profits have been based on comparisons of individual quarterly results in 1973 and 1972. The fallacy underlying these comparisons is that petroleum profits were falling to a 10-year low in the 1972 base periods, while average manufacturing profits were rising. Hence, the ostensible quarterly growth in petroleum profits actually represents recovery from depressed profit levels rather than real profit trends.

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[1] First National City Bank, Monthly Letter, April of each year.

[2] Federal Trade Commission, "Quarterly Financial Report for Manufacturing Corporations", Washington, D.C.

[3] Profits in petroleum refining include the integrated profits of corporations engaged in refining and other phases of petroleum industry operations.

These misleading statements have frequently attributed the rise in petroleum profits to unwarranted increases in petroleum product prices. But such price increases as have been allowed by the Cost of Living Council have been based on fully documented increases in costs, particularly the sharply rising costs of imported crude oil and products. For example, in recent months the landed costs of imported crude oil have risen to more than $7 a barrel, while No. 2 home heating oil has ranged from 35 cents to 45 cents a gallon.

The damaging consequences of distorted allegations of high petroleum profits is that they divert attention from the large capital expenditures that are needed to assure the Nation of reasonable self-sufficiency in oil and gas resources. According to estimates by the Chase Manhattan Bank, the domestic capital requirements of the petroleum industry over the 15 years, 1970 to 1985, will total $220 billion.[4]

I ask unanimous consent to have printed in the RECORD the tables to which I have referred.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—NET INCOME AS A PERCENT OF NET WORTH: PETROLEUM, OTHER SELECTED INDUSTRY GROUPS, TOTAL MANUFACTURING AND TOTAL MINING 1963 THROUGH 1972

Industrial groups	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972[1]	10-year average 1963–72
Drugs and medicines	18.7	19.8	21.2	22.5	20.3	19.8	17.7	18.8	19.0	19.7	19.5
Soap and cosmetics	16.9	17.6	17.0	17.9	19.4	18.9	18.6	18.7	19.3	20.4	18.7
Instruments, photo goods, etc	13.4	16.6	19.2	21.2	20.3	19.2	18.7	15.8	15.4	16.8	17.6
Office equipment and computers	18.0	17.9	18.7	18.1	17.8	19.0	17.4	13.9	12.5	13.8	15.8
Autos and trucks	19.6	19.9	23.4	17.8	12.0	16.6	13.8	5.8	15.0	17.2	15.6
Tobacco products	14.0	13.4	13.3	13.9	14.8	14.6	14.6	16.4	16.6	16.2	14.9
Printing and publishing	12.4	14.6	16.9	17.9	15.4	14.9	14.8	12.5	12.6	13.7	14.3
Household appliances	12.8	14.1	15.0	15.0	14.7	14.0	13.5	11.9	12.1	15.4	13.8
Clothing and apparel	12.0	13.6	16.3	16.2	13.6	15.7	13.3	10.7	10.8	11.1	12.8
Electrical and electronic equipment	10.7	11.1	14.8	16.7	15.4	14.1	13.0	10.1	10.7	13.0	12.7
Dairy products	11.2	12.2	12.5	12.6	11.8	11.7	11.8	12.0	12.6	12.6	12.1
Chemical products	13.2	14.2	15.4	14.6	11.5	11.7	11.4	9.5	9.7	11.3	12.0
Automotive parts	11.4	12.2	13.4	14.0	11.4	12.6	13.0	8.9	10.4	13.1	11.9
Lumber and wood products	8.1	11.5	11.5	11.0	9.4	14.1	15.2	10.2	11.2	13.9	11.9
Petroleum production and refining	11.5	11.5	11.9	12.6	12.8	13.1	11.9	11.0	11.2	10.8	11.8
Glass products	11.6	12.1	13.5	12.7	11.1	11.9	12.2	9.0	11.1	12.5	11.7
Farm, construction equipment	9.4	13.7	14.4	14.7	10.9	8.4	10.4	9.3	8.8	12.1	11.1
Aerospace	11.7	13.1	15.4	15.7	13.4	13.9	11.4	6.7	6.3	8.8	11.0
Rubber and allied products	9.9	11.4	11.8	12.8	10.8	12.7	11.1	7.6	9.8	11.7	10.9
Nonferrous metals	7.1	9.2	11.8	15.7	11.4	11.1	12.5	10.6	5.0	7.2	10.0
Distilling	7.9	8.5	9.6	10.4	10.5	10.2	10.4	10.1	10.3	10.7	9.9
Building, heating and plumbing equipment	6.4	8.9	10.6	12.0	11.3	11.3	8.5	7.0	8.4	11.6	9.6
Paper and allied products	9.2	10.5	10.5	11.8	9.5	10.7	10.3	7.4	5.6	8.7	9.2
Textile products	7.1	8.9	11.6	12.3	8.8	9.8	8.8	6.4	6.6	7.8	8.7
Iron and steel	7.3	9.0	9.6	9.4	7.4	8.5	7.4	4.6	4.6	6.2	7.3
Total mining	9.1	10.4	12.1	13.9	16.2	15.0	12.6	11.7	8.5	9.6	11.7
Total manufacturing	11.6	12.6	13.9	14.2	12.6	13.3	12.4	10.1	10.8	12.1	12.2

[1] Preliminary.

Source: First National City Bank, Monthly Letter, April of each year. May 1973.

PROFITS

	Petroleum			Total manufacture		
	Actual	Number of companies	Percent change	Number of companies	Actual	Percent change
1963	3,920	115	+14	2,280	16,261	+10
1964	4,239	122	+7	2,328	18,774	+15
1965	4,638	109	+10	2,298	21,753	+17
1966	5,175	106	+12	2,279	24,074	+9
1967	5,696	107	+10	2,292	23,307	−5
1968	6,128	99	+8	2,250	26,067	+11
1969	6,087	91	0	2,068	26,650	+2
1970	5,892	97	−2	2,127	23,413	−12
1971	6,419	96	+8	2,319	26,971	+13
1972	6,525	108	+2	2,414	31,959	+19
Total increase		+66.5				+96.5

Source: First National City Bank.

TABLE II

	After-tax profits (million dollars)		Return on stockholders' equity (percent)	
	Petroleum refining	All manufacturing	Petroleum refining	All manufacturing
1971:				
III	1,508	7,538	10.6	9.3
IV	1,407	7,980	9.8	9.8
1972:				
I	1,287	7,934	8.8	9.5
II	1,095	9,633	7.4	11.3
Total	5,297	33,085	9.2	10.0
1972:				
III	1,296	8,776	8.7	10.1
IV	1,478	10,125	9.8	11.5
1973:				
I	1,406	10,506	9.2	11.6
II	1,671	12,972	10.7	14.0
Total	5,851	42,379	9.6	11.8
Percentage change:				
1971/III–1972/III			−14.1	+16.4
1971/IV–1972/IV			+5.0	+26.9
1972/I–1973/I			+9.2	+32.4
1972/II–1973/II			+52.6	+34.7
1971–72 to 1972–73			10.5	+28.1

Mr. HANSEN. Mr. President, I would like to ask the manager of the bill a couple or three questions, if I may. I have in my hand U.S. petroleum statistics for 1973, prepared by the Independent Petroleum Association of America. Comparing the year 1956 with the year 1972, it is my information, from reading the statistics for crew-months worked, total acres leased, and wildcat wells, that in 1956 there were crew-months worked of 7,857, total acres leased of 383,863, with a total number of wildcat wells drilled of 16,207.

Dropping down to the year 1971, the crew-months worked decreased to 2,760, the acres leased amounted to 332,647, and there was a total of 6,922 wildcat wells drilled.

I would just ask my distinguished colleague from Washington if I might conclude that there would be some relationship between the wellhead price of gas and these statistics. Would that, in his judgment, be a factor?

Mr. JACKSON. Is the Senator referring to natural gas or is he referring to petroleum?

Mr. HANSEN. These are the number of wells drilled.

Mr. JACKSON. These are gas or oil wells?

Mr. HANSEN. These are either oil or gas.

Perhaps it would be useful for me to go over to where the Senator is to show him these figures.

Mr. JACKSON. I will not need them. I am trying to differentiate what the Senator is saying.

Let me just comment that there is no question that, in the area of natural gas, with the price being static and not related to alternative sources of fuel, there has not been an incentive. I do not disagree with that, but let me observe, regarding oil drilling, the point that is lost here is that all during the period when the oil depletion allowance was 27.5 percent, when the major international oil companies had an opportunity to decide whether they would drill in the United States or abroad, they moved abroad.

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[4] The Chase Manhattan Bank, "Capital Investments of the World Petroleum Industry, 1971." New York, December 1972.

The reason is very obvious. When the companies went to Saudi Arabia for oil, they found the cost in Saudi Arabia was much lower. Or let us take Kuwait specifically. In Kuwait the cost was 6 cents per barrel. In Saudi Arabia it was 8 cents per barrel. In the United States it was $2.40 per barrel.

Mr. President, what happened was that the cash flow from the large companies—I am not talking about wildcatters—was used abroad, because obviously that is where the profit was. And despite a 27½-percent depletion allowance, it really was not used in the United States, because the companies had a more profitable alternative.

The result is that we now find ourselves, in large measure, in the situation of a short supply in the United States in relation to our needs.

I must say that the oil is here, especially in the Outer Continental Shelf, and I would hope that we can now recognize the fallacy of permitting such enormous operations abroad, to the detriment of drilling operations here at home.

Mr. HANSEN. I thank my colleague.

Mr. President, I ask unanimous consent that such information from the chart to which I was referring as I may submit may be included in the RECORD at an appropriate place.

There being no objection, the statistics were ordered to be printed in the RECORD, as follows:

EXPLORATION (GEOPHYSICAL CREW ACTIVITY, ACREAGE UNDER LEASE, WILDCAT WELLS DRILLED)

Year	Crew months worked	Total acres leased January 1 (thousands)	Wildcat wells		
			Total	Dry	Percent dry
1952	8,923	273,067	12,425	10,090	81.2
1953	8,675	(1)	13,313	10,633	79.9
1954	7,969	315,568	13,100	10,389	79.3
1955	8,240	(1)	14,942	11,832	79.2
1956	7,857	383,863	16,207	13,118	80.9
1957	7,242	(1)	14,714	11,904	80.9
1958	5,731	371,146	13,199	10,632	80.6
1959	5,696	382,607	13,191	10,577	80.2
1960	5,207	424,251	11,704	9,515	81.3
1961	5,024	416,871	10,992	9,022	82.1
1962	4,231	408,870	10,797	8,815	81.6
1963	4,174	387,457	10,664	8,686	81.5
1964	4,406	372,408	10,747	8,951	83.3
1965	4,471	375,306	9,466	8,005	84.6
1966	3,835	350,895	10,313	8,705	84.4
1967	3,496	333,858	8,878	7,360	82.9
1968	3,390	325,106	8,806	7,439	84.5
1969	3,259	332,005	9,701	8,001	82.5
1970	2,521	343,213	7,693	6,422	83.5
1971	2,760	332,647	6,922	5,834	84.3
1972	(1)	350,725	7,587	6,293	82.9

[1] Not available.

DRILLING (ROTARY RIGS ACTIVE AND TOTAL WELL COMPLETIONS)

Year	Rigs active	Total well completions				
		Oil	Gas	Dry	Service	Total
1953	2,613	25,762	3,806	18,449	1,262	49,279
1954	2,509	29,773	3,977	19,168	1,012	53,930
1955	2,687	31,567	3,613	20,742	760	56,682
1956	2,619	30,730	4,543	21,838	1,049	58,160
1957	2,429	28,612	4,626	20,983	1,409	55,024
1958	1,923	24,578	4,803	19,043	1,615	50,039
1959	2,074	25,800	5,029	19,265	1,670	51,764
1960	1,746	21,186	5,258	17,574	2,733	46,751
1961	1,763	21,101	5,664	17,106	3,091	46,962
1962	1,637	21,249	5,848	16,682	2,400	46,179
1963	1,501	20,288	4,751	16,347	2,267	43,653
1964	1,502	20,620	4,855	17,488	2,273	45,236
1965	1,388	18,761	4,724	16,025	1,922	41,432
1966	1,270	16,780	4,377	15,227	1,497	37,881
1967	1,134	15,329	3,659	13,246	1,584	33,818
1968	1,170	14,331	3,456	12,812	2,315	32,914
1969	1,195	14,368	4,083	13,736	1,866	34,053
1970	1,028	13,020	3,840	11,260	1,347	29,467
1971	975	11,858	3,830	10,163	1,449	27,300
1972	1,107	11,317	4,929	11,089	1,436	28,771

PROVED RESERVES (LIQUID HYDROCARBONS AND NATURAL GAS)

January 1	Liquid hydrocarbons (million barrels)			Natural gas (trillion cu. ft.)	Reserve/production ratio		
	Crude oil	Gas liquids	Total liquids		Crude oil	Total liquid	Natural gas
1953	27,961	4,997	32,958	198.6	12.4	13.1	23.1
1954	28,945	5,438	34,383	210.3	12.5	13.2	22.9
1955	29,561	5,244	34,805	210.6	13.1	13.6	22.5
1956	30,012	5,439	35,451	222.5	12.4	12.8	22.1
1957	30,435	5,902	36,337	236.5	11.9	12.5	21.8
1958	30,300	5,687	35,987	245.2	11.8	12.4	21.4
1959	30,536	6,204	36,740	252.8	12.9	13.5	22.1
1960	31,719	6,522	38,241	261.2	12.8	13.3	21.1
1961	31,613	6,816	38,429	262.3	12.8	13.2	20.1
1962	31,786	7,049	38,835	266.3	12.6	13.0	19.9
1963	31,389	7,312	38,701	272.3	12.3	12.8	20.0
1964	30,970	7,674	38,644	276.2	11.9	12.4	19.0
1965	30,991	7,747	38,738	281.3	11.7	12.2	18.3
1966	31,352	8,024	38,376	286.5	11.7	12.1	17.6
1967	31,452	8,329	39,781	289.3	11.0	11.5	16.5
1968	31,377	8,614	39,991	292.9	10.3	10.9	15.9
1969	30,707	8,598	39,305	287.4	9.8	10.3	14.8
1970	29,632	8,143	37,775	275.1	9.3	9.6	13.3
1971 [1]	29,401	7,703	37,104	264.7	8.8	9.1	12.1
1972 [1]	28,463	7,304	35,767	252.8	8.7	8.9	11.5

[1] Excludes 9,600,000,000 barrels of crude oil and 26,000,000,000,000 cubic feet of natural gas added for Alaskan North Slope.

Mr. HANSEN. Mr. President, I would just like to make one further observation. What the distinguished Senator from Washington has said is factual. It is very true that the oil companies went abroad. It just underscores again that industry goes where there is a reasonable expectation for profit, and it goes first where that expectation is the greatest. I think that is the whole thrust of the amendment proposed by the distinguished Senator from New York.

I would like to ask my colleague from New York if that is true.

Mr. BUCKLEY. Mr. President, that goes right to the heart of it. It is as simple as that. If there is the incentive, there will be an increase in the supply.

Mr. President, before I yield to the Senator from Oklahoma, I want to comment on one point made by the Senator from Illinois when he asked the rhetorical question, "Who regulates the price of natural gas? Is it the domestic government, foreign government, or industry?" He then said that last week Nigeria had sold 10 million barrels of Nigerian crude at $16.80 a barrel. And he said this is outrageous. We cannot allow that. We cannot allow a foreign government to dictate the price.

I thoroughly agree. I am not quite sure what we will do about that, as we have dispensed with gunboat diplomacy. I do not know what we can do about it unless we develop a policy that will liberate us from the unilaterally controlled price, unilaterally set by others abroad. We will not do that unless we find the supplies available here.

The Senator from Illinois failed to name a fourth regulator of price. And that is the regulator that regulates the price of just about everything in this country, at least before we imposed wage and price controls, namely, the marketplace.

If we are sure there are enough independent producers competing with each other in the marketplace, we are automatically assured of a sensitivity in the regulation of the price and a fairness in the price that is far more stimulating than anything the FPC or any board could come up with.

Mr. President, I yield for a question to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, there have been accusations made against those producing States that are interested in deregulation. It is a selfish one.

I would like to point out that we do have intragas in our own State that is not regulated. It is a free market. Because of this, we have an ample supply. If we were selfish about this, then we would not wish to have the interstate gas under the FPC regulations deregulated for new gas so that it would be available for interstate shipment.

I cite to the Senator from New York that there are industries from various parts of the country that are looking and have already looked at our State because of the ample supply of energy. Our interest is in sharing this gas with the other States and getting the same price which we pay for it ourselves.

I know that the Senator from New York is interested in having an ample supply of gas in the State of New York and in the other 49.

I am very much aware that a number of gas wells are shut in. I heard the Senator testify the other day before the Committee on Interior and Insular Affairs that in his State there were a number of small wells shut in because of the low price, so low that they were not able to operate them.

My concern, and my question, is that I know that there are many small gas wells, just as there are stripper wells where rising costs interfere with the marketability of the oil where there is sand that may have caved in or some process is needed to enhance production. However, there is not enough profitability in the price structure to warrant it.

Also, as a gas well becomes smaller and smaller, as they eventually do, and as the lesser pressure is insufficient to buck the line pressure of the gas company's gas line, there is a need of finding a compressor, which is very expensive.

Is there any relief in the Senator's amendment for the smaller producers, of which there are many thousands, and for the small wells, of which there are thousands and thousands, that would have the immediate result of enhanced production in the marginal wells?

Mr. BUCKLEY. There is no relief for small producers as such.

There is recognition of the fact that as a well gets depleted, a problem arises that could be cured by cracking, and so forth.

Under those circumstances, the Federal Power Commission is authorized to approve such adjustments in existing contracts as would be necessary to assure optimum production from the producing wells.

Mr. BARTLETT. Mr. President, I wish to congratulate the distinguished Senator from New York on his amendment, particularly for this provision, which I think will perpetuate or lengthen the production time and reserves of many gas wells throughout the country.

Mr. BUCKLEY. I thank the Senator from Oklahoma.

Mr. President, we are approaching the hour of 3 o'clock, when we shall have a vote on the passage of the bill.

Mr. McGEE. Mr. President, would the distinguished Senator from New York be willing to yield me a minute to submit a conference report?

Mr. BUCKLEY. I am glad to yield.

GOVERNMENT EMPLOYEES HEALTH BENEFITS—CONFERENCE REPORT

Mr. McGEE. Mr. President, I submit a report of the committee of conference on H.R. 9256, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Bartlett). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9256) to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report which reads as follows:

Conference Report (H. Rept. No. 93–706)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9256) to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6 and 7.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, and 8 and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 2 insert the following: "in 1974."

And the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3 and agree to the same with an amendment as follows: In the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 3 strike out "55" and insert in lieu thereof "60".

And the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 4 insert the following: "in 1975 and in each year thereafter."

And the Senate agree to the same.

Gale W. McGee,
Jennings Randolph,
Quentin Burdick,
Hiram L. Fong,
Ted Stevens,
Managers on the Part of the Senate.

T. J. Dulski,
David N. Henderson,
Jerome R. Waldie,
Lawrence J. Hogan,
Managers on the Part of the House.

Mr. McGEE. Mr. President, the ranking minority member of the committee, the distinguished Senator from Hawaii (Mr. Fong), and I have found no objections to agreeing to the conference report. We move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

ORDER OF BUSINESS

Mr. ALLEN. Mr. President, will the distinguished Senator from New York yield 2 minutes to me, that I might bring up a bill about which there is no contest?

Mr. BUCKLEY. I am glad to yield to the Senator from Alabama, without losing my right to the floor.

TUSKEGEE INSTITUTE NATIONAL HISTORICAL PARK

The Senate proceeded to consider the bill (S. 262) to provide for the establishment of the Tuskegee Institute National Historical Park, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, in line 2, after "National", strike out "Historical Park" and insert in lieu thereof "Historic Site", and at the end of line 2, strike out "park" and insert in lieu thereof "site".

On page 2, in line 10, strike out "park" and insert in lieu thereof "site".

On page 2, in line 15, strike out "park" and insert in lieu thereof "site".

On page 2, at the end of line 20, strike out "park" and insert in lieu thereof "site".

On page 2, in line 21, strike out "park" and insert in lieu thereof "site".

On page 3, beginning in line 1, strike out:

Sec. 4. The Secretary is authorized to render financial and technical assistance to the owners of real and personal property within the boundaries of the park to aid in the interpretation and preservation of the park's unique historical and cultural features.

On page 3, in line 6, strike out "5" and insert in lieu thereof "4".

On page 3, in line 11, strike out "park" and insert in lieu thereof "site".

On page 3, in line 12, strike out "6" and insert in lieu thereof "5"; and in the same line, strike out "park" and insert in lieu thereof "site".

On page 3, at the beginning of line 17, strike out "7" and insert in lieu thereof "6"; and at the end of the same line, strike out "sums necessary to carry out the purposes of this Act." and insert in lieu thereof "not to exceed $185,000 for land acquisition and $2,722,000 for development of the historic site."

On page 3, beginning in line 21, add the following language:

Sec. 7. Notwithstanding any other provision of law, the Secretary is authorized to construct roads on real property remaining in non-Federal ownership within the boundaries of the historic site. Any roads so constructed shall be controlled and maintained by the owners of the real property.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds Tuskegee Institute, Tuskegee, Alabama, to be of national importance in illustrating the advancement of education for black Americans under the leadership of such men as Booker T. Washington, its founder, and George Washington Carver, the noted agricultural scientist.

Therefore, in order to preserve and interpret to the public the historic properties at and near Tuskegee Institute, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish the Tuskegee Institute National Historic Site. The site shall be comprised of those lands and buildings on or adjacent to the Tuskegee Institute campus that the Secretary, in his discretion, deems to be of historical and cultural significance. The Secretary shall establish the site by publication of a notice to that effect in the Federal Register, when he deems it advisable.

Sec. 2. The Secretary is authorized to acquire lands and personal property within the boundaries of the site by donation, purchase with donated or appropriated funds, or exchange.

Sec. 3. The Secretary is authorized to enter into cooperative agreements with the owners of real and personal property within the boundaries of the site to assist in the interpretation and preservation of those properties. These agreements shall contain, but shall not be limited to, a provision that the Secretary, through the National Park Service, shall have right to access at all reasonable times to all public portions of the lands within the boundaries of the site for the purpose of interpreting the site to visitors, a provision that no substantive changes or alterations shall be made in the buildings and grounds except by mutual consent, and a provision that the subject matter and method of interpretation shall be determined by mutual consent.

Sec. 5. 4. The Secretary is authorized to construct on a portion of the land which he has acquired pursuant to his authority in section 2 of this Act those administrative facilities which he deems advisable and a visitors center for the interpretation of the historical and cultural features of the site.

Sec. 6. 5. The site shall be administered by the Secretary in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), as amended.

Sec. 7. 6. There are authorized to be appropriated not to exceed $185,000 for land acquisition and $2,722,000 for development of the historic site.

Sec. 7. 6. Notwithstanding any other provision of law, the Secretary is authorized to construct roads on real property remaining in non-Federal ownership within the boundaries of the historic site. Any roads so constructed shall be controlled and maintained by the owners of the real property.

Mr. ALLEN. Mr. President, the bill has been cleared by the leadership on both sides. It provides for the establishment of the Tuskegee Institute National Historical Park.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to provide for the establishment of the Tuskegee Institute National Historical Site, and for other purposes."

NATIONAL ENERGY RESEARCH AND DEVELOPMENT POLICY ACT OF 1973

The Senate continued with the consideration of the bill (S. 1283) to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; to establish development corporations to demonstrate technologies for shale oil development, coal gasification development, advanced power cycle development, geothermal steam development, and coal liquefaction development; to authorize and direct the Secretary of the Interior to make mineral resources of the public lands available for said development corporations; and for other purposes.

Mr. PASTORE. Mr. President, will the distinguished Senator from New York yield to me?

Mr. BUCKLEY. If I may do so without losing my right to the floor.

Mr. PASTORE. I wish to speak on the subject on which the Senator is addressing the Senate.

Mr. BUCKLEY. I shall be glad to yield for a question. How many minutes will the Senator take?

Mr. PASTORE. I shall not take very long; I may take a minute or two.

Mr. BUCKLEY. I am glad to yield to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The distinguished Senator from Rhode Island has 2 minutes.

Mr. PASTORE. I do not rise to harass the Senator from New York in any way. I think his motivations are sincere. I do not think he is a tool of the big oil or gas monopolies. But I think what he has said on the floor relates to the effects of the use of gas.

One thing that has particularly struck me in the whole debate is the fact that the woman in the kitchen, in history, is a captive customer. The question here is psychological and, in fact, relates to how we protect that captive customer against a proposition where certain individuals who are in business determine what the traffic can bear.

I realize that intrastate gas means a price higher than the price for interstate gas. But that is the fault of the Federal Power Commission. We have been regulated in a way that can create initiative in order to give us proper production.

What has happened to gas? All over the country, 5 or 10 years ago, the gas companies advertised, day in and day out, "Convert to gas. Throw away your coal stove. You can now buy the cheapest fuel and the cleanest fuel in the country."

And what did they do? They oversold it. They began to build refrigerators that would freeze by gas. Then they sold it for home heating, and they went on and on and on, and now they come along and say the American public has been on an energy binge.

Mr. President, the American public has not been on an energy binge. The producers and the big distributors of the gas have actually been on an advertising binge. That is the reason why we have the scarcity today.

But psychologically, we have to give protection to the consumer. We have to give protection to the captive customer; and the only way that we can do that is by making him realize that he has a governmental agent like the utility commissioner back home who is protecting his interests.

I am not saying anyone who does anything has got to lose money. I am not saying they are not entitled to a fair return on investment. I am not saying they should not have some tax incentives, to give them the initiative to explore for more gas. But what I am saying is, you take the protection away from the captive consumer and you will have a calamity in this country.

Mr. JACKSON. Mr. President, will the Senator yield me 30 seconds?

Mr. BUCKLEY. Thirty seconds only; time is running short.

Mr. JACKSON. Mr. President, I received just a few moments ago a letter dated December 7, 1973, from the general counsel, Karl E. Bakke, of the Department of Commerce, with reference to the patent amendment to this bill adopted yesterday.

I ask unanimous consent that the letter be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Washington, D.C.,
December 7, 1973.

Hon. Henry M. Jackson,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This is to supplement our letter of October 25, 1973, concerning S. 1283, the "National Energy Research and Development Policy Act of 1973."

The Department of Commerce is seriously concerned over section 112 of the bill as reported by your Committee on December 1, 1973 and amended by Senator Hart's amendment no. 766, passed by the Senate December 6, 1973. In addition, we have a comment in reference to section 103 of the bill.

This is a very serious issue and should be handled through the normal Congressional hearing process during which time our Department and other executive branch agencies will be happy to testify and present appropriate recommendations.

We oppose the taking of any hasty action, in the form of this floor amendment, as a means of addressing this problem.

We object to subsection 112(c) of the bill, which would authorize compulsory licensing of privately-owned United States patents covering energy-related technology. The protection to intellectual property which patents afford has been a key element in fostering and encouraging innovation. Indeed, that is the fundamental rationale for the recognition of a patent system in the Constitution of the United States. We are concerned that section 112(c) could perhaps diminish the incentives provided by our patent system to invent in the energy field. We are not aware of any basis for assuming that developers of essential energy technology would refuse to make it available for development in the public interest, and to propose such a departure from the fundamental premise upon which the concept of the patent grant is based seems both unnecessary and unwise.

Apart from the foregoing, the scope of coverage of section 112(c) is unclear. Assuming, however, that it is intended to cover the commercial utilization of patented inventions, as well as the use of the inventions in pilot projects, section 112(c) would be extremely broad in scope, effecting a major change in policy with respect to all patent rights held in a large area of technology. We note that the impact of section 112(c) and its continuing commercial implications would be vastly greater than the compulsory licensing provision that the Congress included in the Clean Air Amendments of 1970 (section 308, 84 Stat. 1708, 42 U.S.C. 1857h–6), the latter being explicitly limited to licensing of technology to a person who requires such technology in order to comply with the emission limitations imposed by the Act. Accordingly, the provision in question in the Clean Air Amendments of 1970 may not be a valid precedent for the proposal here under consideration.

The Department is opposed to section 112(c) even in the form in which it was reported by the Committee. Amendment no. 766 to section 112 further broadens the scope of the provision and liberalizes the conditions under which compulsory licenses could be granted. As amended, the bill permits the Chairman of the Energy Research Management Project, in his sole discretion, to make a value judgment between the virtues of the Project's own research and development efforts and the overall objectives of the patent system of adequately protecting public and private interests and stimulating technological advancements.

Section 112(a) of the bill as reported by the Committee made reference to the President's Statement of Government Patent Policy as the policy governing disposition of patent rights arising out of research under the bill. We agree with reliance on the Presidential policy statement, which contains provisions insuring protection of the public interest and providing a Government-wide approach to disposition of patent rights. However, section 112(a) as amended on December 6 omits the reference to the Presidential policy statement, and, in subsection (a) (2), requires non-exclusive licensing of Government patents in all cases. We believe this type of restriction could hinder the commercial utilization of inventions in those cases where exclusive rights may be necessary.

Subsection (a) (3) of section 112, as amended, requires a private participant in Government-sponsored research to make available its total background position of patents, trade secrets and proprietary information. Government agencies presently obtain such rights on a case-by-case basis where appropriate in the public interest. However, an across-the-board statutory requirement to obtain such rights in all situations might substantially reduce the cooperation of those companies having the greatest background positions.

We recommend the deletion of section 112 of the bill as amended by the substitute amendment offered by Senator Hart and the insertion in lieu thereof of the following language:

"Section 112. Patent policy:

"(a) The disposition of patent rights in inventions or discoveries arising out of research under this Act shall be governed by the President's Statement of Government Patent Policy issued on August 23, 1971 (36 F.R. 16887, August 26, 1971) and amended in September 1973 (38 F.R. 23782, September 4, 1973).

"(b) The Chairman is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or is useful to, the performance of functions vested in him—

"(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

"(2) licenses under copyrights, patents, and applications for patents; and

"(3) releases, before suit is brought, for past infringement of patents or copyrights."

The adoption of the above language would be consistent with the previously enunciated Administration position as provided for in S. 2135, the original DENR legislative proposal, and the more recent S. 2744, the Administration proposal providing for a separate Federal Energy Research and Development Administration. S. 2744 was introduced by Senator Ribicoff, after being previously coordinated with the Administration, on November 27, 1973.

Turning to section 103(a) (7) of the bill, it is proposed that the Energy Research Management Project shall include the Director of the National Bureau of Standards. This provision should be revised to designate the Secretary of Commerce rather than the Director of the National Bureau of Standards. Apart from the sweeping scope of the bill that goes beyond the parochial interests of the National Bureau of Standards, such a revision would make the proposal consistent with the Departmental Reorganization Plan No. 5 of 1950, which vests all authorities of the Department in the Secretary. The interests of the Department of Commerce in the program that would be established by the bill would extend to the activities of a number of the agencies within the Department.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

Karl E. Bakke,
General Counsel.

Mr. JACKSON. Having just received this letter, it is obvious that we cannot offer an amendment for the administration so that the Senate could consider it. We are within 8 minutes of voting on the bill. I am sorry that there was such a long delay by the Department. We will have to consider this matter in conference.

Mr. BUCKLEY. Mr. President, obviously we have to do something about the mail from downtown to the Capitol.

I ask unanimous consent that the name of the Senator from Texas (Mr. Bentsen) be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, as always, the Senator from Rhode Island speaks with enormous eloquence, and I appreciate the point he is making. Of course, it is precisely because the pipeline transmission business is a utility that there is regulation of the pipelines.

My concern is not with that, but rather with trying to make sure that the pipeline has gas to put in at one end and put out at the other. We regulate what an electrical utility charges because it does have State-granted monopolistic powers; but we do not regulate the price of the coal that it may purchase, we do not regulate the price of the oil that it may purchase, and I suggest that we do not regulate the price of the coal or the oil that so many——

Mr. PASTORE. If the Senator wants to pursue that, I can answer that, too.

Mr. BUCKLEY. Mr. President, I am afraid that I must retain what little time I have remaining.

What I am saying is that I want to see to it that the householder has the option of having gas, because that is the problem. We cannot, as the Senator from Illinois pointed out just a few minutes ago, dictate what Nigeria, Algeria, the Soviet Union, or Canada will allow to be charged for LNG shipped to this country. But unless we do something to unleash the industry and allow it to seek out the meaningful solutions that we in New England and New York need, most assuredly we will become dependent upon that far higher priced imported LNG, and we will be at the mercy of any arbitrary price raise that might be imposed.

Mr. President, this is a highly complex subject, and I recognize that many are not yet sufficiently informed to make a truly educated judgment. For that reason, I ask unanimous consent to have printed in the Record a convenient reference package of the following items:

First. My letter explaining this amendment to my colleagues under date of December 5, 1973;

Second. The factual portions of a staff memorandum on natural gas policy issues and options, prepared for the use of the national fuels and energy policy study, Committee on Interior and Insular Affairs, under date of November 20, 1973—a most useful compendium of existing information;

Third. An article entitled "The Natural Gas Shortage and the Regulation of Natural Gas Producers," written by Profs. Stephen Breyer and Paul W. MacAvoy, which was published in the Harvard Law Review; and

Fourth. Finally, I ask unanimous consent to have printed in the Record the text of a statement I made on this floor on January 18, 1973, in which I tried to marshal the facts from the perspective of the consumer States. Some of the figures in terms of current prices of natural gas delivered in New York City are obsolete, but the thrust continues to be accurate.

There being no objection, the items were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., December 5, 1973.

Dear Colleague: Later this week I will be introducing an amendment to S. 1283, the Energy R&D Bill, that is designed to increase deliveries of natural gas to interstate pipelines in the most effective way possible. It will do this by *restoring* normal marketplace incentives for the discovery and development of new reserves.

My amendment will remove the Federal Power Commission's existing authority to regulate the "wellhead" or field price of "new gas," i.e., natural gas that is not currently flowing under contract into interstate pipelines.

This amendment *will not* permit "windfall" profits because it will specifically prohibit the renegotiation of existing contracts for flowing gas. It will also protect the consumer against artificially high prices that could result from non-arm's length sales between a pipeline and an affiliated producer. The amendment specifically authorizes the FPC to refuse to allow a pipeline to pass through to consumers any portion of a price paid for natural gas to an affiliated producer that cannot be justified as reflecting the competitive market price for that gas.

It should be noted that the domestic gas producing industry is competitive. According to a memorandum prepared last month by the staff of the Senate National Fuels and Energy Policy Study Committee, the interstate sales of more than 3,750 producers are currently regulated by the FPC. Of these, only 47 represent producers with direct pipeline and distributor affiliates. At the present time there are many independent producers selling gas at unregulated prices to intrastate customers in such states as Oklahoma, Louisiana and Texas. A free and competitive market in natural gas in fact exists.

The elimination of price regulation on "new gas" will not result in a sharp increase in cost to the ultimate consumer. According to the same staff memorandum, "even if wellhead prices reached sixty-five cents per Mcf for new gas (approximately three times current regulated prices), the *average* field price would increase only gradually (to 51.45 cents per Mcf by 1980) according to a study conducted by the National Petroleum Institute. Under this assumption, consumer prices would rise 6.4 percent the first year, 3.8 percent the second year, 3.0 percent, 2.8 percent and 3.7 percent in succeeding years. At the 65.6 field market price, the initial effect would be an increase in the yearly gas bill of $8.30; the total projected increase by 1980 would be $33.06."

The alternatives to a rapid development of new domestic reserves of natural gas are far more costly to the consumer. To quote again from the staff memorandum, "supplemental gas sources are already two to three times as high as conventional natural gas at the city gate. Synthetic natural gas (S.N.G.), made from coal or made from imported liquid hydrocarbons, and imported liquified natural gas (LNG) are priced generally at $1.00 to $1.80 and up, per Mcf." To this must be added the cost of distributing that gas to the consumer, a cost that currently accounts for well over half the price to the consumer.

The evidence to support the need for this amendment is becoming increasingly visible as the shortfall in our energy supply becomes more conspicuous. In their introduction to a recent *Harvard Law Review* article (April 1973) entitled "The Natural Gas Shortage and the Regulation of Natural Gas Producers", Stephen Breyer and Paul W. MacAvoy, economists at the Brookings Institution, stated:

"Natural gas now supplies more than a third of America's energy needs and exists in the ground in sufficient quantities to forestall any danger in the foreseeable future of its extinction as a natural resource. Nevertheless, there is now, in the early 1970's, no lack of evidence that the United States is in the throes of a serious natural gas shortage. This article will show that shortage is a direct result of FPC regulation of producers' prices and that the shortage has been disproportionately borne by home consumers. Moreover, the article will show that the losses arising from the shortage have been so great that they cannot rationally be worth the pursuit of whatever valid purposes might be served by lower user prices."

My amendment provides for adequate safeguards against price increases that do not reflect ordinary supply and demand conditions in the market while providing the incentive to increase the supply to producers and a disincentive to inefficient use by many commercial, industrial, and utility users who should be using other forms of fuel.

I am enclosing a copy of my recent Senate remarks on natural gas deregulation. If you wish to cosponsor this legislation kindly contact Bill Schneider, X59560.

Sincerely,

JAMES L. BUCKLEY.

STAFF MEMORANDUM: NATURAL GAS POLICY ISSUES AND OPTIONS

(Prepared for the Use of National Fuels and Energy Policy Study, Committee on Interior and Insular Affairs, U.S Senate)

I. GENERAL BACKGROUND

A. Natural gas consumption and consumers

Natural gas accounted for 32.3 percent of domestic energy consumption in 1972 and was delivered to more than 43 million customers in the 49 continental states. Use of natural gas has more than doubled in the past fifteen years, rising from 10.1 trillion cubic feet (Tcf) in 1957 to 22.6 Tcf in 1972. During the period 1960 to 1968, the average annual rate of growth for natural gas was 5.6 percent, compared with the average annual growth rate of 4.3 percent for all sources of energy.

The West South Central states account for approximately 80 percent of the gas produced. Producing states account for one third of the natural gas consumed in the United States. The East North Central region is the second largest consuming area in the nation, and, as in the West South Central region, most of the gas consumed is used by industry and electric generating plants. New England accounts for the largest percentage of residential consumption of natural gas. The Bureau of Mines chart provides a complete regional breakdown on usage by class of customer.

REGIONAL U.S. PRODUCTION AND CONSUMPTION OF NATURAL GAS

[Millions of cubic feet]

			Volumes of gas consumed (percent)				
	Production[1]	Consumption[2]	Residential	Commercial	Industrial	Electric generation	Other
New England: (Connecticut, Maine, New Hampshire, Vermont, Rhode Island, Massachusetts)		254,912	52.2	20.2	18.7	5.1	3.8
Middle Atlantic: (New Jersey, New York, Pennsylvania)	78,653	1,810,365	44.2	15.2	30.2	8.2	1.9
East North Central: (Illinois, Indiana, Michigan, Ohio, Wisconsin)	106,600	4,005,921	38.5	15.8	37.9	6.9	.9
West North Central: (Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota)	922,526	1,852,386	28.4	15.4	29.8	23.0	3.4
South Atlantic: (Delaware, Florida, Georgia, Maryland, District of Columbia, North Carolina, South Carolina, Virginia)	237,763	1,489,655	23.7	11.7	39.6	22.7	2.3
East South Central: (Alabama, Kentucky, Mississippi, Tennessee)	191,972	1,021,695	22.1	12.7	49.5	13.7	1.9
West South Central: (Arkansas, Lousiana, Oklahoma, Texas)	18,489,026	5,796,153	7.6	3.4	55.5	32.0	1.5
Mountain: (Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming)	1,732,225	1,064,137	24.5	14.1	37.6	20.8	3.0
Pacific: (Alaska, California, Oregon, Washington)	734,247	2,341,988	29.6	11.4	33.7	24.4	.9
U.S. total	22,493,012	19,637,212	25.3	11.1	41.6	20.3	1.7

[1] Marketed production.

[2] Gas delivered to consumers. Includes imports. Does not include pipeline fuel, lease and plant fuel and extraction losses.

Mineral industry surveys, source; Bureau of Mines, Sept. 5, 1972.

B. The structure of the industry

Estimates of the total number of domestic oil and gas producers range up to 30,000. The interstate sales of more than 3,750 producers are regulated by the Federal Power Commission (FPC). The FPC-regulated producers with direct pipeline and distributor affiliates number 47. In 1971 the 22 largest producers individually sold over 100 billion cubic feet of natural gas in interstate commerce annually, thereby supplying 71 percent of the natural gas shipped through interstate pipelines.

The interstate distribution system includes 106 regulated interstate pipeline companies, 33 of which are considered major pipelines. Total natural gas pipelines nationwide (interstate and intrastate) number 137, and the number of local gas distributors exceeds 1,500.

C. The functioning and regulation of the industry

Natural gas exploration, development, and production is pursued directly and also occurs indirectly as a co-product of similar activities for oil. Most producers are engaged in both oil and gas production to some degree, although some producers operate in regions where only natural gas has been found (e.g., the natural gas fields in Oklahoma). In 1972, 78.9 percent of the natural gas produced came from gas wells; this gas was not in contact with or dissolved in crude oil in the geologic reservoir. The remaining 21.1 percent was found as a co-product with crude oil; such gas is known as "associated" gas.

The functioning of the gas industry can be traced as follows: Once gas has been produced, it may be used by the producer in the field, used by the producer outside the field (for example, in a refinery), sold to an industrial consumer in the field or made available to other potential purchasers. When gas is offered for sale, the potential buyers negotiate with the producer-seller for the new reserves. Prices realized by producers are known as "wellhead" or "field" prices. After the gas has been bought by a pipeline, it may be sold directly to industrial and commercial customers under "direct sales contracts" or to a distributor for resale to its customers.

The Natural Gas Act of 1939 gave the Federal Power Commission (FPC) jurisdiction over sales made by interstate pipelines to local distributors (sales for resale) and over the transportation of natural gas by interstate pipelines. In 1954, a divided Supreme Court interpreted an ambiguous sentence in the Natural Gas Act of 1938 to mean that producer sales to interstate pipelines also should be regulated by the FPC.

Thus, the following three transactions are not regulated by the FPC:

Producer sales to interstate pipelines;

Interstate pipeline sales to distributors; and

Interstate pipeline transportation for direct sales.

Exempted by statute from FPC jurisdiction (except where gas is imported or exported) are:

Producer sales and pipeline sales to buyers within the producing state;

Pipeline sales to direct customers[1]; and

Distributor sales to ultimate customers.

II. THE GAP BETWEEN DEMAND AND SUPPLY

A. Types of natural gas shortages

Three kinds of shortages can occur with respect to natural gas. First, when demand is exceptionally high (due to a sudden cold spell, for example), the quantities of natural gas being delivered by pipelines and the volumes of gas in local storage may be insufficient to meet these peak requirements. When this situation occurs, pipelines and distributors either reduce (curtail) deliveries to customers with "interruptible" contracts or try to meet the demand by injecting propane (a co-product of natural gas production) into their supply stream or borrowing supplies of natural gas from other pipelines or distributors with surpluses.

A second kind of shortage precludes gas pipelines or local distributors from increasing sales volumes to current customers or adding on new customers. In this situation, the pipeline or distributor simply has insufficient reserves or contracts to purchase the reserves required to increase its sales volumes. Thus potential customers are denied service and customers with contracts are denied increased supplies.

The third kind of shortage exists when pipelines and distributors are unable to maintain even current deliveries to gas customers at previously contracted-for volumes. This type of shortage is not due to peak demands, but rather to a depletion of reserves to such a point that producing wells are unable to meet contracted-for volumes. The required supplies are simply not available. In some instances, reserves may have been over-estimated where companies chose the high-side of geologists' estimates in order to be able to obtain long-term sales certificates from the FPC. It other cases, deliverable gas volumes declined sooner and to a greater degree than originally estimated.

B. Evidence of shortages

In recent years, signs of all three types of shortages have become evident to varying degrees in different regions of the nation. In an effort to meet peak winter demand, a gas distributor in the Boston area, for example, has been importing liquefied natural gas (LNG) overland from Montreal at prices equivalent to $1.13 and $1.58 per thousand cubic feet (Mcf) compared to the domestic gas price of 69 cents per Mcf, delivered in Boston.

In Washington, D.C., and in other cities, potential customers have been denied service. The waiting list in Chicago in 1971 included the following potential customers: 14,000 residences; 2,000 businesses; and 800 industrial users. By 1972, some potential gas customers were denied service in a least 21 states.

Further manifestations of a shortage in deliverable supplies are the increasing cutbacks in customer deliveries by pipelines. As indicated in the September 1973 FPC Staff Report "Firm Requirements and Curtailments of Major Interstate Pipeline Companies," the following curtailments have taken place or are projected to occur:

Period and volume

[Billion cubic feet]

Winter:	
November 1972–March 1973	423
November 1973–March 1974	509
Annual:	
April 1972–March 1973	825
April 1973–March 1974	1,250

The projected curtailment of firm volume commitments for the period April 1973–March 1974 is equivalent to six percent of total annual domestic production or 200 million barrels of oil. In the winter of 1973–74, two pipelines (United Gas Pipe Line Company and Trunkline Gas Company) are expected to curtail about one-third of their firm commitments, and three other pipeline companies are expected to curtail between 13 to 19 percent of their firm commitments. While the situation with regard to specific pipelines and regional curtailments differs, major curtailments are expected from November 1973 to March 1974 in the Appalachian, Great Lakes, New England and Northern Plains regions.

The FPC estimates that gas distribution companies and direct industrial users were only able to offset 15 percent of last winter's curtailed volumes with gas supplied from other sources. Natural gas curtailments are also beginning to be reported in the producing states (the intrastate market which is not regulated by the FPC). The state regulatory agency in Texas, like the FPC, is requiring that pipelines submit curtailment plans to ensure that high priority customers will be served, and has issued orders requiring curtailments.

C. Effects of shortages

Generally, only industrial sales (both firm and interruptible) are now being curtailed. In many cases, however, industrial consumers whose supplies may be curtailed do not presently have the capability built in to switch to other fuels such as low sulfur oil or coal. Some industrial users claim that they can not afford the high cost of converting their facilities to use an alternate fuel and would close if unable to continue to use natural gas. Others who have the built-in capability to use either natural gas or oil are apparently finding it difficult to obtain sufficient quantities of low sulfur oil to maintain operation of their plants. Those that could afford to install an alternate fuel capability are concerned also over the difficulty of obtaining sufficient quantities of low sulfur fuels.

With respect to oil, there is a domestic shortage, and low sulfur oil is in high demand at premium prices worldwide. The existing domestic refinery capacity shortage exacerbates the supply situation as well, creating problems in meeting gasoline demand in the summer which in turn adversely affects the ability to meet heating oil demands in the winter and industrial refined product demands year-round.

Similar comments can be made with respect to the availability of low sulfur coal. The National Academy of Sciences (NAS) and others indicate a limited capability for developing new low sulfur coal supplies sufficient to meet national requirements occurring as a result of implementation of the Federal Clean Air Amendments of 1970.

In addition, there is limited national capability to install sulfur oxide control technology. The National Academy of Sciences and an Environmental Protection Agency-contracted study with the Mitre Corporation indicate that this capability on a priority basis could amount to a maximum of 55 installations over the next five years. Thus the generally recognized issue is where to apply the above limited national capability to design and construct sulfur oxide control systems during the 5 to 10 year period of transition.

The natural gas shortage thus compounds and accelerates shortages in other areas, affecting both price and supply. In the two year period from 1970 to 1972, prices for domestic low sulfur oil and coal doubled. Currently natural gas utilities and large industrial consumers are multiplying their usual purchases of propane as a replacement for curtailed supplies of natural gas. Overall increased demands for limited propane supplies has created higher prices and spot shortages, expecially for its use in agriculture and transportation. Some crops in the Midwest and Louisiana were lost in 1972 because of the lack of sufficient propane supplies required by farmers for harvesting and processing wheat, corn, and sugar.

As a result of the natural gas shortages, gas consumers' prices are also rising. Whereas in past years, unregulated intrastate buyers generally outbid interstate buyers by only a small margin, in recent years, intrastate prices have gone up. Furthermore, where pipelines and distributors are unable to utilize their facilities fully, this increases the unit cost of transportation and thus results in higher consumer prices. Supplemental gas sources are already two to three times as high as conventional domestic gas at the city-gate. Synthetic natural gas (SNG) (made from coal or made from imported liquid hydrocarbons) and imported LNG are priced generally at $1.00 to $1.80, and up, per Mcf, compared to nationwide average gas prices (intra- and interstate) of 20.5 cents per Mcf at the well, delivered by pipeline to local distributors (for resale) at an average of 48 cents per Mcf.

D. The shortage in the future

The FPC's demand and supply projections indicate that such shortages will increase in volume and become more widespread. The FPC's Bureau of Natural Gas projects that demand for gas will exceed supply by 3.6 Tcf in 1973, 9.5, 13.7, and 17.1 Tcf in 1980, 1985, and 1990, respectively, despite the addition of gas supplements (22 Tcf is presently consumed nationwide). The FPC's projections are based on more moderate growth rates than were experienced in previous years.

To close this gap, an annual "finding rate" (annual additions to reserves) of approximately 37 Tcf would be required starting in 1973. This level of development represents a sustained level of annual new additions to reserves equal to that attained in 1970 when 26 Tcf of Alaskan gas were added to the reserve inventory. Put another way, the annual finding rate would have to equal one and one-half times the all time record for annual U. S. (non-Alaskan) reserve additions that was reached in 1956 of 24.7 Tcf, at the same time that supplemental sources are developed.

While demand projections may eventually prove unrealistic as economic factors change, in the past, both industry and governmental projections have erred on the low side in predicting demand for natural gas. Demand increases in the past appear to be attributable both to availability and price relative to other fuels. The effect of the Clean Air Act of 1970 has undoubtedly been to increase demand for natural gas even further. For the future, the demand for energy will be a demand for clean energy, and, where that demand is unmet by natural gas in the period prior to mid-1980's when newer forms of energy will be available, it will largely be transferred to oil, requiring a higher volume of oil imports than currently projected.

III. THE CAUSES OF THE SHORTAGE

A. Introduction

An inventory of natural gas reserves greatly in excess of current requirements was built up in the 1940's and 1950's largely as a result of oil exploration. Since that time, nationwide transmission networks and markets for natural gas have developed and the excess in reserves has been exhausted. To replace the reserves that are produced each year, therefore, new reserves must now be added to the inventory. Further growth in annual gas consumption, moreover, requires an increasing rate of reserve additions.

The American Gas Association (AGA) has been keeping records since 1946 that indicate changes in the natural gas reserves inventory, both in terms of reserve additions and depletions.[2] Using AGA figures for reserve addi-

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tions and depletions, two ratios are developed to indicate supply availability: (1) the ratio between the amount of new reserve additions ("findings") and the level of production (the F/P) ratio and (2) the ratio between total proved reserves and annual production at a given point in time (the R/P ratio). Both indicate fairly steadily declining trends in gas supply availability.[3] Between 1946 and 1970, new proved reserve additions increased by 63 percent while production increased by 344 percent. In the last five years, the *produced* volumes of natural gas have been twice as high as proved reserve additions to the inventory.

Since 1963, the FPC has been using pipeline company data to assess the physical capability to supply sources to continue to deliver gas. Over time, the production or "deliverability" (future capacity to deliver) of a well declines due either to physical conditions of the well (decreased pressure, for example), and/or to faster rates of production than originally anticipated. The combination of a high and steady increase in market demand plus insufficient new additions in the 1960's resulted in an accelerated depletion of reserves and falling deliverability rates. In December 1972, the FPC reported: "The composite 1971 estimates indicate that the presently owned and contracted for gas reserves can no longer sustain any increased market requirements . . .[4]."

In sum, the statistical data submitted by the industry for more than a decade to the FPC suggests that the reserve shortage is the result of declining trends in reserve additions at a time when overall production was escalating. In other words, total proved reserves have not only failed to keep up with demand, but have actually declined. The unprecedented and unforeseen growth in natural gas demand thus served to exacerbate further the already growing stress on limited reserves.

To the extent that the discovery of natural gas (even "non-associated" gas) has been a by-product of the search for oil, domestic oil prices may have affected gas reserve additions as much as did the demand for gas itself. For many years, state conservation regulation and the Federal Mandatory Oil Import Program resulted in domestic crude oil prices, higher than world market levels. This situation, in effect, "subsidized" the discovery and development of gas reserves, but since domestic oil prices declined in constant dollars in the 1960's, the proportion of domestic oil resources that appeared profitable to explore and develop was progressively reduced and with it the rate of associated gas reserve additions.

Another factor attributable to the supply shortage was the rate of federal lease offerings in prospective areas. The most promising domestic acreage for hydrocarbon discovery and production is now the Outer Continental Shelf (OCS). Yet the frequency and size of Federal lease sales on the OCS have been insufficient to offset the progressive development and depletion of the most productive onshore acreage.

Drilling and success rates in natural gas exploration and development reflect this combination of economic and geological factors. The number of oil wells drilled declined from the record high of 30,528 in 1956 to 11,306 in 1972, thereby affecting the magnitude of reserve increases of associated gas. Since 1961, when the number of gas wells completed peaked at 5,459, gas well drilling has generally declined through 1971 when 3,830 wells were completed. In 1972, however, a total of 4,928 gas wells were drilled.

There has been a sharp decline in all categories of drilling from relatively high levels achieved in 1957. Total new field wildcat wells drilled in 1971 were down 44 percent from the 1957 level. For the corresponding period, all other categories of wells drilled in known fields declined by 51 percent. Natural gas well completions resulting from exploratory drilling increased through 1959 but since then have been in a long-term decline. The success percentage for all exploratory drilling has declined from a high of 20 percent in 1959 to a low of about 15 to 16 percent.

The number of successful exploratory gas wells drilled declined from 1966 through 1972 in nearly every producing area. The average number of successful wells drilled in 1970–72 was 42 and 54 percent less than in 1966 in the Southern Louisiana and Permian Basin areas, respectively. Of all the producing regions, only the Rocky Mountain Area shows a definite upward trend in successful exploratory gas well drilling.[5]

B. Producer regulation and the shortage

1. Introduction

Beyond the factors described above, explanations for the natural gas shortage can be grouped, simply and broadly speaking, into two polar views which rest upon different interpretations of market structure and behavior in natural gas producing fields.

According to one view (as expressed in its most sweeping formulation), natural gas field markets are competitive and would be competitive in the absence of Federal regulation. This view implies that the shortage is a direct and inevitable result of low regulated ceilings on wellhead prices, which inflate demand and depress supply. The logical policy implication of this "Regulated Price Theory" is complete deregulation of all field prices for natural gas, with no Federal restraints.

In the opposing view at the other pole, vertical integration (affiliations between producers, pipelines and gas distributors), market concentration, and affiliations among producers are said to result in balkanized markets and collusive market behavior. Therefore, a competitive equilibrium price is unlikely ever to occur. This view suggests that the shortage has been created, at least in part, by the attempt of producers to influence or eliminate wellhead price regulations. The policy response to this "Market Power Theory" is a proposal to extend producer regulation nationwide and to impose an unambiguous return to public utility-type regulation of natural gas field prices.

There are a host of different emphases among different advocates of either theory, and a broad spectrum of possible positions in between. Moreover, the two views are not entirely mutually exclusive. It is reasonable to believe, for example, that there are significant structural imperfections in the field market for natural gas and, at the same time, to believe that low FPC price ceilings have been a major factor in the fall in reserve additions. It is useful, however, to review the two major and opposing theories in their simplified form.

2. The regulated price theory

Support for the Regulated Price Theory is generally based on the following arguments: Federal wellhead price regulation is the root of falling reserve additions and the supply shortage. The principal reason why interstate supply has not responded to past FPC increases in price ceilings is that the increases have been too small and too seldom to stimulate new exploration and development. The FPC's regulation from 1961 to 1971 imposed a veritable freeze on wellhead prices for gas sold interstate. The freeze served to depress prices in the entire field market for natural gas (and probably depressed prices of other fuels) until the inevitable natural gas shortage developed. Between 1960 and 1972, the price of natural gas to the residential consumer increased only 19 percent, compared to a 41 percent increase in the consumer price index. Price increases in natural gas also lagged behind price increases for all other fuels and increases in the wholesale price index. During the same period, the cost of drilling well reportedly rose 57 percent.

It is also alleged that there are a variety of factors inherent in the practice of wellhead price regulation that has kept prices below competitive levels:

The FPC's use of utility rate-making formulas to set field price ceilings are said to be inappropriate to the economic conditions of the natural gas producing industry. Cost-of-service can only be determined by arbitrary methods because a number of costs are jointly incurred. Even when nonassociated gas is discovered, the presence of natural gas liquids complicates cost analysis. The methods used and cost estimates chosen have reportedly understated true economic conditions, resulting in low prices.

Price ceilings based on FPC estimates of average cost imply that roughly half the gas currently being produced costs more to develop than producers are allowed to receive for it.

Differential pricing for so-called "old" gas as opposed to "new" gas has discouraged the more intensive development of old pools, some of which are subject to old contracts providing prices as low as 4, 5 and 6 cents per Mcf.

Forward-looking price ceilings for what is determined (by date of contract or well completion date) to be "new" gas are derived from the same body of data that was used to formulate prior price ceilings. Prospective costs for bringing forth incremental natural gas supplies are not considered.

Price ceilings limit exploration to those reserves that the producer feels will be economic to produce. To the extent that price ceilings remain low and price ceilings influence drilling, therefore, only 'low cost' reserves will be developed. Accordingly, price ceilings based on "cost" will remain low, reflecting the fact that only "low cost" wells are drilled because of anticipated low price ceilings. Thus, a "cost-price circularity" is built into the regulatory system.

Time lags are inherent in the regulatory process; subsequent to FPC decisions, cases are invariably taken through the courts. Seven years passed before the first major case (the Permian Area Rate Case) was completed. Even where the FPC has speeded the decision-making process, judicial delay usually involves years. By the time ceiling rates are approved by the courts, they are out of date: for example, the area rate in Southern Louisiana was set in 1971 at 26 cents per Mcf and, even though the FPC staff and other economists estimate current costs to be significantly higher, the original case may yet be taken to the Supreme Court.

On the issue of competition, the field market for natural gas is described by one school of analysis as workably competitive. Support for this view is drawn from the bid pattern in OCS lease sales, where producers put forth widely divergent bids on acreage dependent on their own company evaluations, from the pricing patterns in the intrastate market (which is unregulated by the FPC) and from the fact that prices in the intrastate market were relatively stable (though higher than in the interstate market) until the lack of available supply began to affect the intrastate market as well.

Data on the market structure also is utilized to support the view that producers are competitive. The possibility of joint bidding and joint ventures are said to facilitate ease of entry, and because new companies can with ease enter the supply market, prices cannot be set at "monopoly levels." Since there are over 200 pipelines and as many as 30,000 producers in the United States, approximately 3,750 of whom are regulated by the FPC the market power ascribed to any particular number of "largest" producers would be impossible to attain. In terms of meaningful concentration ratios, half of the industries in the United States are less com-

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petitive than the natural gas production industry. It is also said that, as measured by nationwide and regional concentration ratios for new sales of gas, pipeline still have twice the market power (monopsony power) as producers.

3. The market power theory

Support for the Market Power Theory is generally based on the following arguments: the largest gas producers are major oil companies whose market power is sufficient to enable them to create a shortage by restricting supply in order to raise prices. It is also alleged that the major producers can and do manipulate reserve estimates to create the illusion of a more serious shortage than actually exists. A corollary to this view is that even at low natural gas price ceilings, substantially greater gas supplies could be brought forth if the producers were not withholding these supplies in the hope of obtaining substantial price increases from the FPC or legislative deregulation.

Support for this theory depends largely on an interpretation of data on industry structure. Numerous examples of both horizontal affiliations (joint bidding, farmouts, and exchange agreements) and vertical integration (producer interests in intrastate and interstate pipelines, and pipeline and distributor interests in production) have been interpreted as presumptive evidence not only of a "community of interest" among the major producers but also of the major oil companies' monopoly power over the smaller producers and the transmission companies.

According to the proponents of this view, the relevant concentration ratios for indicating monopoly power are not those for all gas nationwide, but rather they are the concentration ratios for gas available for new sales in a particular market area and in a time frame of no more than a year. While the nationwide concentration ratio is relatively low, seller concentration ratios for new supplies in limited areas for limited time periods approach 100 percent in some cases.

Vertical affiliations, either direct or indirect, are seen as permitting the owners to receive monopoly profits in production which they are precluded from taking in transmission or distribution by public utility regulation at those market stages.

The view that the shortage is at last in part contrived is based on comparisons of recent individual company reserve data against (1) data submitted by pipeline and producing company geologists to the AGA as proved gas reserves and production, and (2) data submitted by pipelines to the FPC representing purchased gas reserves. Where discrepancies occur, extreme advocates of the Market Power Theory see this as evidence of data manipulation to promote deregulation.

Since most natural gas production is by oil companies and some producers also have interests in coal and uranium, the loss of natural gas markets through shortages or higher prices is alleged to be of little concern to the major producers.

It is further stated that supply has not responded significantly to price increases in the past. Recent FPC changes in the criteria used to determine appropriate price levels are viewed as supply-depressants. It is alleged that such regulatory action leads to price speculation, and to the withholding of reserves in anticipation of further price increases.

4. An intermediate view

The two main theories regarding the natural gas producing industry are at a virtual stalemate. Each side can assemble a powerful *prima facie* case for its theory, but the *critical* issues are not correctly posed in black and white terms, *viz.*, "Is the natural gas field market competitive or monopolistic? Do the supply and demand for natural gas respond in the appropriate direction to price changes?" Rather, it is clear (1) that the natural gas producing industry falls somewhere between pure monopoly (a single seller in any one market) and pure competition; (2) that the natural gas transmission industry falls somewhere between pure monopsony (a single buyer in any one market) and pure competition; (3) that affiliations between and among buyers and sellers act as disincentives to increased competition, but to an unknown degree; and (4) that both supply and demand are responsive to price and in the right direction (i.e., higher prices would increase supply and diminish demand) but, again, to an unknown degree.

The relevant issues, therefore, are where, in the spectrum between pure monopoly and pure competition, does the natural gas industry fall for *public policy purposes;* and are supply and/or demand *sufficiently* responsive to price that unregulated markets are the most efficient means of bringing them into balance?

It was pointed out previously that there is no logical contradication between the two competing theories of the natural gas shortage. It is an entirely reasonable middle position to hold, for example, that:

(1) Vertical integration may result in substantial structural and anti-competitive elements in natural gas field markets, and these elements would be strengthened by deregulation unless legislation providing for deregulation included provisions dealing with structural imperfections.

(2) FPC regulation has depressed interstate gas prices substantially below the levels that would have prevailed in competitive markets, hence helping to inflate demand and depress supply;

(3) Producers may or may not be postponing development programs or sales of gas, awaiting higher prices or deregulation, but, if they are, this kind of behavior is entirely rational and does *not* necessarily imply collusion or monopoly power. Even a purely competitive firm would be foolish to sell assets (natural gas reserves) which are expected to appreciate in value at a rate higher than the cost of holding them. (4) There are important elements in the structure and regulation of the natural gas industry, other than wellhead price ceilings, that undermine the ability of market forces to balance supply and demand, among them the long term of gas contracts, the practice of charging a single "rolled-in" price for both low and high cost gas, and preferential rates to industrial customers.

The implications of this position would neither be complete and immediate deregulation nor a return to the status quo *ante* 1972.[6] Such an intermediate view might imply that, should regulation be continued for any number of producers, the FPC should be permitted to consider market factors as well as "cost" in setting price ceilings, for the following reasons. First, the cost figures used by the FPC do not represent "in fact" costs. Some 40 percent of the expenditures associated with natural gas production are incurred jointly with production of other hydrocarbons. Even in gas reservoirs not associated with oil, the presence of liquid hydrocarbons (butane, propane, ethane and pentane) requires that arbitrary allocations be made. Moreover, there is no way that the EPC can be sure that the numbers it chooses are "right" in terms of balancing supply and demand until some future date.

Second, price ceilings based on past data limit the number and kind of ventures that will be undertaken in the future to those projects involving similar "costs" as those used to set the price ceiling. Since the cheapest gas is always developed first, where possible, the exploratory effort by producers will become continually more restricted over the long term. As stated by the FPC's Office of Economics in 1970 (Docket No. R-389-A):

"To induce producers to find more gas in the period ahead, the Commission must provide an economic incentive for them to explore a wider range of prospects and to be willing to incur higher exploration and development costs. This means that the price increases must precede the cost increase. It follows, therefore, that the use of test-year costs to justify the necessary price to elicit the required additional supply is destined to be self-defeating."

Since the supply, demand and price of natural gas affects the availability and price levels of other fuels, it would similarly appear important to consider market factors in setting price ceilings under a continued regulation option. Natural gas is part of the overall energy spectrum and should be considered within that context.

Such a middle position might lean toward eventual deregulation as the most efficient means of allocating resources and balancing supply and demand. It would likely include measures aimed at strengthening competitive field markets for natural gas, for example by eventually prohibiting producer interest in gas pipelines or distribution companies and *vice versa,* while, in the interim, discouraging such activity with cost-based regulation. Joint bidding by major producers in federal lease sales could also be prohibited.

2. Structure and performance in natural gas field markets

On the issue of deregulation, there is concern about the responsiveness of supply to price increases. There is a fear that higher prices paid by consumers would elicit only a small increase in drilling (and supply) over the long-term. This fear is based on (1) the fact that, prior to 1972, increases in price ceilings have not elicited significant drilling increases; and (2) the presumption that unless the expected rate of return for domestic gas development equals that expected from other investment opportunities, profits resulting from higher gas prices will not be reinvested in domestic gas exploration and development.

Studies on the "price elasticity of supply" have generally concluded that the elasticity of natural gas is about 0.5. This means that raising a wellhead price ceiling from 25 cents to 50 cents per Mcf would result in an increase of gas supply in the vicinity of 50 percent. Several prominent independent experts (e.g., Edward E. Erickson and Keith C. Brown) recently concluded, on the basis of their studies, that the long-run price elasticity of supply is more likely to be 1.0. In fact, most recent econometric studies generally indicate that supply will respond significantly to higher prices.[7]

Analyses of past and present drilling trends also appear to support the position that increases in price ceilings determined on the basis of (past) FPC cost estimates have been too low. Experts have also said that FPC price ceilings served also to depress field prices in the intrastate market until the shortage developed, and prices began to rise to competitive levels. (Some spot prices appear to be higher than the levels that several economists have suggested represent appropriate competitive levels today.[8]) Moreover, a number of economists have made the point that the return on investment for domestic petroleum activity need not equal the return on every other investment opportunity available in order for producers to make substantial investments in domestic natural gas exploration and development. So long as the domestic natural gas business is expected to be *profitable,* investment dollars will become available, provided that there is no scarcity of investment capital in the U.S. market.

Another concern in the debate over natural gas policy is the impact of rising field prices on residential consumers' prices. Department of Commerce statistics indicate that the average annual gas bill for all residential customers amounted to $155.73 in

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1972, and the "average" moderate-income family with a total budget of $9,000 annually spend about 1.7 percent of the family budget on natural gas service.

The residential consumer's bill includes transportation and distribution, and, in 1971 the wellhead cost of gas represented only 17 percent of residential natural gas expenditures. Although wellhead price increases under deregulation may be substantial, the percentage increase in rates to residential consumers would be much less. Yet, under current conditions where supply is insufficient even to meet firm contract commitments to industrial consumers, initial field price increases under deregulation are expected to be higher than competitive equilibrium prices, unless a price ceiling is imposed during an initial period when new wells are being developed.

FOOTNOTES

[1] Based on recent court action, it may be concluded that the Commission has continuing jurisdiction over the volume and price of gas to be included in direct sales made by interstate pipelines. This issue is currently being litigated.

[2] The reason for the continual revision of AGA "proved" reserve figures is that full knowledge of reserves is only known after an entire field has been developed and depleted. Reserve estimating begins with geologic theory, and estimates often vary widely. With seismic tests, knowledge improves. As wells are drilled, reserves that were formerly categorized as "speculative" move into the "potential' category, and as more experience is gained, "potential" reserves are classified as "probable" and then "proven." AGA estimates of "proved" reserves, unlike individual company estimates, must conform to the AGA definitional standard and are said to be the most firm in terms of information known about a field. Reserve figures are also reported on forms submitted by interstate pipelines to the FPC. These often represent categories other than "proved" reserves as pipelines purchase reserves that are categorized as "potential" as well as reserves known as "proved." The pipeline forms also indicate the degree of deliverability of wells in production. The pipeline's current inability to deliver contract volumes apparently relates to problems of deliverability of wells already in production.

[3] Beyond reflecting declining gas availability, the fall in the lower 48 R/P ratio from 20.1 in 1960 to 10.5 in 1972 reflects a growing efficiency in the use of producing capacity, completion of a national gas transmission system, authorization by the FPC of shorter term sales contracts and the diminishing restraints on the production of associated gas by state (oil) conservation authorities. Existence of an R/P ratio greater than 15 justifies a presumption that wasteful overdrilling has taken place and/or that there are uneconomic physical or institutional production restrictions. The optimum economic production rate of developed gas reserves may lie in the range of 8 to 14 percent per year (equivalent to R/P ratios of 7 to 13). Without substantial new reserve additions, however, the R/P ratio will fall below the optimum rate, and problems of deliverability will continue to worsen supply shortages.

[4] *The Gas Supplies of Interstate Natural Gas Pipeline Companies—1971*, Federal Power Commission, 1972, p. 102. The FPC was referring to pipeline supplies of the companies reporting on deliverability on Forms 15 and 15–A.

[5] Details on exploration and development trends are provided in the Appendix for (1) gas wells and dry hole drilling costs; (2) gas reserves added per foot drilled; (3) significant field discoveries; and (4) dry hole/productive well ratios in exploratory drilling.

[6] Strict observance of public utility cost-of-service regulation.

[7] A recent comprehensive study of supply, demand and price relationships under various policy options concluded that significant price increases will markedly affect both supply and demand. (Prior to the econometric study, the author conducted extensive research on field market behavior which led him to the conclusion that field market behavior is effectively competitive.) According to this study, a 50 percent increase in wholesale prices spread over a 7-year period would decrease total demand for production by 14 percent and additions to demand by 40 percent. The full impact of field price increases for new gas would not be felt until 1980 when total additions to reserves leveled off at 34 Tcf, an amount approximately 21 Tcf greater than the 13 Tcf realized before price increases. In the model, field prices for new gas rise 15 cents per Mcf from 1973 to 1974 (from 29.6 to 44.1 cents per Mcf) and increase 3.0 cents per Mcf per year through 1980. Despite the increasing sophistication of such econometric models, no study can, in fact, spell out the future with precise numbers. The experts generally agree, however, that supply is responsive to price and in the right direction. See "Alternative Regulatory Policies for Dealing with the Natural Gas Shortage," by Massachusetts Institute of Technology Professor Paul W. MacAvoy of Robert S. Pindyck (Bell Journal of Economics and Management Science, Vol. 4 No. 2, Autumn 1973).

[8] Spot prices as high as 70 cents per Mcf are being paid in the intrastate (unregulated) market today. On the basis of their work, Robert M. Spann and Edward W. Erickson stated that their best estimate of the market clearing price for recent years ranges between 37 to 50 cents per Mcf at the wellhead in South Louisiana. ("Joint Costs and Separability in Oil and Gas Exploration," *Energy Modeling*, Resources for the Future, Inc., Washington, D.C., March 1973). The current FPC price ceiling for Southern Louisianian is 26 cents per Mcf.

THE NATURAL GAS SHORTAGE AND THE REGULATION OF NATURAL GAS PRODUCERS †

(By Stephen Breyer * and Paul W. MacAvoy **)

(NOTE.—In an attack upon the current natural gas shortage, President Nixon has recently urged an end to much of the Federal Power Commission's regulation on the price of natural gas at the wellhead. From the perspectives of both the lawyer and the economist, Professors Breyer and MacAvoy lend support to a policy change in this direction. They show that regulation of gas wellhead prices raises problems substantially different from the regulation of traditional public utilities. They argue that the policies the Commission has pursued were almost inevitably bound to result in wellhead prices below the market level that would call forth supplies sufficient to meet demand, and through econometric analysis, they demonstrate the extent to which the Commission's pricing practices produced the shortage. While the Commission's policies were aimed at helping home consumers, data gathered by the authors indicate that regulation has brought about precisely the opposite result. The Commission's experience may well cast light on the wisdom of adopting regulatory techniques to redistribute income when serious economic efficiency losses are likely to arise.)

In 1954, somewhat to the Federal Power Commission's (FPC's) surprise, the Supreme Court held in *Phillips Petroleum Company* v. *Wisconsin* [1] that the Commission had authority to regulate the prices at which natural gas field producers sold gas to interstate pipeline companies.[2] In the past decade, the FPC has devoted much of its energy and about 30 percent of its budget to such regulation [3] and has been remarkably effective in holding down producers' selling prices.[4] Whether this regulation has benefited the nation or even the consumers it was designed to help, however, is another matter. It is the purpose of this article to evaluate the results of the Court's decision [5] and the FPC's ensuing regulatory effort. Such an evaluation is especially timely because President Nixon has recently proposed the discontinuance of much wellhead price regulation.[6]

Natural gas now supplies more than a third of America's energy needs [7] and exists in the ground in sufficient quantities to forestall any danger in the foreseeable future of its extinction as a natural resource.[8] Nevertheless, there is now, in the early 1970's, no lack of evidence that the United States is in the throes of a serious natural gas shortage.[9] This article will show that that shortage is a direct result of FPC regulation of producers' prices and that the shortage has been disproportionately borne by home consumers. Moreover, the article will show that the losses arising from the shortage have been so great that they cannot rationally be worth the pursuit of whatever valid purposes might be served by lower user prices. To explain how this state of affairs has come about, we shall explore the objectives of producer price regulation and the methods used by the FPC to achieve them. We shall then describe the results that FPC regulation has brought about. We shall conclude that the harms regulation has produced so far outweigh the benefits of lower price that gas price regulation at the wellhead should be substantially abandoned.

The article has another, more general purpose. It is becoming increasingly common to think of price and profit regulation as designed to achieve not simply economic efficiency, but also a more nearly equal income distribution.[10] Of course, these two objectives often peacefully coexist: to limit a monopolist's prices increases output and also redistributes income, probably towards equality. Sometimes, however, these goals directly conflict: to hold prices below the competitive level may lead to a more equal income distribution, but it may also wastefully create excess demand. When faced with such a conflict, some may argue that the "income distribution" objective should be favored over "economic efficiency."

This seemingly has been the view of the FPC in regulating producer gas prices. We shall argue, however, that the FPC's efforts to hold prices down for the residential gas consumer have not helped him; in fact, they have simply led to a gas shortage that has hurt him more. If redistribution of income is a proper regulatory goal, the FPC has failed to achieve it. Our discussion of the reasons for this failure shows the extreme practical difficulties that face an agency trying to use prices to pursue such a goal. And these practical difficulties should explain our grave doubts about whether generally such a goal is proper when serious efficiency losses are at stake.

Before turning to an assessment of FPC regulation of gas producer prices, a brief description of the field market for natural gas may be helpful.[11] Most producers search for gas by drilling wells on leased land. The gas is brought to the surface where it is sometimes "refined," producing liquid byproducts which can be sold separately. The gas itself may be sold directly to intrastate users and distributors, but most is sold to interstate pipeline companies.[12] These transmission companies transport the gas from the field and resell it either directly to industrial users or to distributing companies, which in turn resell to industry or to home consumers. Before World War II, gas was discovered and exploited mainly as a byproduct of the search for oil [13] and was sold at prices that had only to pay the ascertainable separate costs of gas production.[14] How-

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the income that low-cost producers would otherwise receive. It has been claimed that these rents are exceptionally high in the oil and gas industries, so that price control systems should be devised that would deprive producers of these excess returns and give them to consumers in the form of lower prices.[35]

Although no one has measured the amount of rent that gas producers would earn without regulation, there are reasons to believe that rents would be large compared to those earned in other industries. First, gas is a wasting resource, and its presence in the ground in commercial quantities is uncertain until exploration and development are complete. At that point, the value or price of gas is in theory set by the cost of marginal additional exploration and development (at least when demand for gas is increasing sharply as it has been in the last two decades[36]). The difference between this cost of marginal additional exploration and development and the exploration and development costs of, let us say, the "lucky" producer who may have paid little for his land may constitute a considerable windfall. Of course, windfalls of this sort go in part to landowners who do not themselves produce gas but who have the ownership rights to the ultimate scarce resource (the location or site of the in-ground reserves). Strict control of producer prices, however, would prevent producers from paying these windfalls over to the landholders. Second, the cost of finding and developing gas reserves has increased considerably over the past two decades.[37] Thus, gas found and sold to pipelines 15 years ago in reserve commitments, but still not delivered, would have lower overall production costs than new reserves; such "old gas" may have even been found accidentally as part of the search for oil.[38] If production prices for this "old gas" were set at currently prevailing long term marginal exploration and development costs, its owners would receive appreciable windfalls or rents.

To eliminate these windfalls without interfering with the amount of gas produced, regulation would have to hold down the price charged to pipelines for intramarginal volumes of gas while allowing marginal units to be sold at a price equal to long term exploration and development costs. In effect, regulation would set different prices for different units of supply. Of course, such regulation would produce excess demand for the lower-priced intramarginal units received by the pipelines. To "clear" such excess demand by having the pipelines auction off these volumes would simply give windfall rents to the pipelines taking the highest bids. Rationing, on the other hand, might pass the windfall along to the retail distributor and presumably ultimately to the consumer.

This "tier" type of regulation is unusual, but not unheard of. Differential regulated prices are most commonly found in housing; rent control may hold down the price of existing housing while allowing the price of new housing units to rise so as not to discourage new building and to clear the market of demand for new rental units. But it is extraordinarily difficult to bring about the transfer of excess profits without affecting output. With regard to regulation of gas field prices, this requires extensive knowledge of the location and shape of the supply curve for both established production and new reserves. Moreover, if the reduced prices for intramarginal gas bring about the expected increase in the quantity demanded, then the excess demand has to be limited by recourse to such rationing devices as classifying users and designating one or more classes as "inferior" for purposes of allocating the lower-priced gas. To make such classification without reference to users' "willingness to pay," as measured by prices bid by users for the low-cost gas, is difficult, to say the least. In short, tier price regulation requires extraordinary sensitivity to changes in supply in order to react with necessary price changes, and, even in the best of conditions, it requires also a complicated rationing procedure.

Neither the Federal Power Commission nor the courts have clearly distinguished the two separate regulatory objectives of controlling market power and transferring rents to consumers, and often write as if they were trying to achieve both of them at once. Still, in view of the lack of empirical support for the "monopoly power" theory, we shall assume that regulating producers' market power is not a sensible regulatory goal. In fact, the Commission's writings in the past few years suggest that it has not pursued this goal with much fervor and indicate that the concern for income distribution predominates. For one thing, the Commission[39] and the courts[40] have expressed the belief or fear that efforts to limit price have reduced, rather than increased, the supply of new reserves and the actual level of gas production. Lowering prices from "monopoly" to "competitive" levels should have had just the opposite effect. The Commission's continued efforts to regulate, while holding this belief, suggest that it no longer sees itself as basically trying to control monopoly power. For another thing, the Commission has set two price levels in the area rate proceedings[41]—higher prices on "new" gas, and lower price on "old" gas.[42] Its doing so, while at the same time expressing the hope that the new gas price would be high enough to cover the costs of producing new supplies,[43] indicates that limiting producer rents and windfalls is the more important concern underlying more recent regulations.[44] We shall assume that this is what the Commission has ultimately been trying to do.

II. ALTERNATIVE METHODS OF REGULATING FIELD PRICES

After the Supreme Court's decision in *Phillips Petroleum Co. v. Wisconsin*,[45] the Federal Power Commission began to struggle with the problem of *how* to regulate.[46] The first approach was to treat producers as individual public utilities and to set limits on each producer's prices individually according to his "costs of service." After this approach proved unwieldy, the Commission set area-wide ceiling prices, allowing all individual producers within each gas production area to charge no more than the area ceiling.

A. Regulating producers individually

In attempting to regulate each gas producer, the Commission followed the same procedure it used to set prices for each gas pipeline. It sought the producer's "costs of service" and allowed prices sufficient for the company to recover these costs, but no more. This approach seemed to promise that no producing company would earn more than a reasonable return on its capital; producers with unusually low costs would not receive windfalls, but, instead, would have to charge their customers lower prices. This method of regulation also seemed to avoid the risk of a serious gas shortage. If costs increased producers could raise their prices, and, as long as there was demand for the higher-cost (and higher-priced) reserves, regulation would not inhibit production.

However, this summary description of individual producer regulation hides enormous problems. Although individual producer regulation allowed producers with different costs to sell at different prices, it provided no way to determine which gas users should get the more expensive gas and which the cheaper. And, even setting aside the difficulty of rationing the lower-priced gas, regulation of individual producers proved unwieldy because of the immense administrative burden it placed on the Commission. Most important, there were basic conceptual deficiencies in the regulatory method. Cost-of-service regulation was based on the assumption that it was possible to obtain detailed, accurate information about producer costs. It presumed that the cost of finding gas could be determined from accounting records, as can the costs of, say, gas pipelines, electricity generating companies, and telephone companies. Moreover, in searching for a proper rate of return on investment, the Commission assumed that gas produers' cost of capital could be rationally determined. But, as the Commission discovered, determining the costs of gas production and a proper rate of return to gas producers raises issues far less easy to resolve here—issues which require considerably more use of the regulator's subjective judgment—than in the case of traditional public utilities.

The difficulties the Commission experienced with individual producer regulation are typically attributed to management failure. The administrative burden placed on the Commission arose from the vast number of natural gas producers. In 1954 there were more than 4,500 producers,[47] and by 1962 they had submitted more than 2,900 applications for increased prices.[48] The individual price or "rate" case approach to regulation required finding which of the joint costs of oil and gas exploration and development attributable to gas alone, a judgment about the fairness of a particular rate of return on investment, and a determination of the proper amount of investment (or "rate base") for each of the 2,900 applications. To accomplish these tasks would have taken an interminable amount of time. The first producer rate case undertaken—the *Phillips* case itself—took 82 hearing days, with testimony filling 10,626 pages and a record including 235 exhibits.[49] Although later cases might have been handled more quickly, differences from case to case in both levels of costs and degrees of risk (and therefore in allowable rates of return) were such as to require some individual attention to each application. By 1960, the Commission had completed only 10 of these cases.[50] The backlog led the Landis Commission, appointed by President Kennedy to study the regulatory agencies, to conclude that "[t]he Federal Power Commission without question represents the outstanding example in the federal government of the breakdown of the administrative process."[51]

Management failure alone, however, does not account for the Commission's difficulties, for the problems of individual producer regulation went much deeper. Even if the Commission had had ten times the staff, it would have encountered severe conceptual difficulties in trying to separate the costs of oil and gas production and in setting a proper rate of return.

Finding the cost of natural gas posed several extraordinary difficulties which arose from the fact that gas is often produced in conjunction with petroleum liquids. Money spent by petroleum companies on *exploration* leads to the discovery of some gas wells, some oil wells that produce gas too, some pure oil wells, and many dry holes. Expenditures on *separate development* of gas fields often yield gas together with petroleum liquids, and expenditures on *gas refining* produce both "dry" gas and saleable liquid. Expenditures such as these, which yield two products but which are equally necessary to produce either one, complicate a regulatory process based on costs because there is no logical way to decide whether, or to what extent, a specific dollar outlay should be considered part of the "cost of gas production," or part of the "cost of liquid production."

This problem of joint cost allocation is

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ever, the growth of pipelines capable of bringing gas from fields in Texas, Oklahoma, and Louisiana to coastal markets increased the demand for gas to the point where today less than 25 percent of all gas produced comes from oil wells; most comes from wells that produce only gas, found in the search for gas itself.[15]

I. THE OBJECTIVES OF PRODUCER PRICE REGULATION

In order to evaluate the FPC's policy of regulating natural gas prices at the wellhead, it is necessary first to determine what the objectives of such a policy could be. There are two conceptually distinct purposes that regulation of gas producers might serve: reduction of market power and redistribution of income. That neither the Commission nor the courts have made much effort to distinguish between these purposes makes the task of evaluating regulation more difficult.

A. Control of market power

Control of market power constitutes the traditional economic rationale for regulation. Stated in simple and direct fashion, where one firm, or possibly a small group of firms, produces the entire output of an industry, the industry's output tends to be less—and profits more—than that which would be provided by competitive suppliers. This is so because the monopoly (or oligopoly) firm will restrict its output in order to increase the market price of its products—so as to add to net revenues via a higher price-cost margin more than is lost by restricting output. The government may seek to reduce prices and increase output by attacking market power directly through antitrust actions designed to create competition in the industry. If, however, such a policy is too costly because economies of scale make production by more firms less efficient, the government may try to combat market power by regulation of industry prices. In either instance, a major motivating force of the government's initiatives is to achieve efficient resource allocation; the objectives in setting lower prices at the margin are to reduce profits and to expand output, allowing buyers willing to pay the cost of extra units of goods to receive those goods.

Such a market power theory was advanced by supporters of gas producer regulation. They asserted that gas production was concentrated in the hands of a few producing companies—so few that the largest producers could raise the price of gas to the interstate pipelines above the level that competition would otherwise dictate.[16] Unless market power at the wellhead was checked, pipeline regulation would not be wholly effective in protecting consumers from noncompetitive prices; consumers would still have to pay monopoly wellhead prices for gas, since these prices would be passed through to retail distributors as "costs" of the pipelines. In the words of the Supreme Court,[17] "the rates charged [by producers] may have a direct and substantial effect on the price paid by the ultimate consumers. Protection of consumers against exploitation at the hands of natural-gas companies was the primary aim of the Natural Gas Act."

Thus, the argument ran, the FPC should determine the price at which gas would be sold under competitive production conditions and should forbid producers to sell at higher prices.

However, while the question of market power played an important role in the early history of the debate over producer regulation, it has become less significant in more recent years as accumulated evidence has created a strong presumption that gas producers do not possess monopolistic or oligopolistic market power. As the U.S. Court of Appeals for the Fifth Circuit has recently said,[18] "[T]here seems to be general agreement that the [field] market is at least structurally competitive." Federal Power Commission statistics show that in the early 1960's the largest gas producer accounted for less than 10 percent, and the 15 largest for less than 50 percent, of national production.[19] Nor in general has production in more narrow geographic markets been highly concentrated; in the Permian Basin, for example, the five largest producers have accounted for somewhat less than 50 percent of production.[20] This degree of production concentration in the narrow market has been characterized as "lower than that in 75–85 percent of industries in manufactured products." [21] And, even if concentration were higher here than elsewhere, it has been shown that entry into the industry is so free that the largest producers would not be able systematically to charge higher than competitive prices.[22]

One rejoinder to this evidence of structural competitiveness is that ownership of *production* is not really relevant to the price of natural gas at the wellhead. Rather, the market relevant for field prices is that in the sale to pipelines of *rights* to take gas from *new reserves*. Petroleum companies sell gas under long term contracts which commit to pipelines 10 to 20 years worth of production from new reserves.[23] While such a contract typically contains a specified initial price, many used to have a "most favored nation" clause under which the actual price to be paid for the gas produced at any given time was pegged to the pipeline's then newest, most expensive contract.[24] Thus, once a production contract was signed, only the *level* of production was "locked in"; the *price* for gas produced under the contract would depend on the market for the sale and dedication of new reserves. Proponents of regulation have argued that ownership of uncommitted reserves was so concentrated that a few petroleum companies were able to raise the specified prices in new contracts by controlling the supply of available natural gas reserves.[25] These higher prices were then passed through by triggering "favored nation" clauses in existing contracts, resulting in comparable prices for gas produced from previously dedicated reserves.

This argument, however, has little basis in fact. The available evidence [26] shows, for example, that the four largest production companies provided only 37–44 percent of new reserve sales in the West Texas-New Mexico producing area, 26–28 percent in the Texas Gulf region, and less than 32 percent in the Midcontinent region—all in the 1950–54 period just before the *Phillips* decision. These levels of concentration on the supply side of the market for new reserves were all less than half the concentration on the demand side, accounted for by the four largest pipeline buyers in each of these regions. Power to control new contract prices probably did not exist on either side of the market, but if the scales tipped at all, then surely the balance lay with the pipeline companies rather than with the producers.

Of course one can still argue that despite its apparently competitive structure, the producing segment of the industry has *behaved* noncompetitively. Certain proponents of producer regulation [27] have pointed to the rapid rise in the field price of natural gas between 1950 and 1958 [28] as evidence of such noncompetitive performance. But economic studies of the markets for new contracts suggest that anticompetitive producer behavior did not cause this price increase.[29] During the early 1950's the presence of only one pipeline in many gas fields effectively allowed the setting of monopoly buyers' (monopsony) prices for new gas contracts, thus often depressing the field price below the competitive level. During the next few years, several pipelines sought new reserves in old field regions where previously there had been a such a single buyer. This new entry of buyers raised the field prices to a competitive level from the previously depressed monopsonistic level. In short, competition—not market power—accounted for much of the price spiral that has been claimed to show the need for regulation.

A further argument offered by those asserting the need to control the market power of gas producers was that producer competition was ineffective in bringing about competitive prices because the producers' customers—the pipelines—did not have enough incentive to bargain for low prices.[30] Since pipeline final sales prices were (and are) regulated on the basis of costs plus a fixed profit on capital, it was argued that the pipelines failed to resist producer price increases and simply passed them on as "costs" to be paid by the consumer.

This argument is theoretically suspect, however, for strict regulatory supervision should make the pipelines worry about whether they will be able to pass along producer price increases, and weak regulatory supervision might allow them to keep any extra profits they earn through hard bargaining with producers—at least until "regulatory lag" catches up with them. In either case they should wish to keep producers' prices low. More important, given some limit on price increases set by some combination of consumer demand and regulatory awareness, pipelines should prefer to keep fuel costs (on which they earn no return) low in favor of enhancement of capital costs (on which they earn a return).[31] Furthermore, the evidence available suggests that pipelines in fact bargained for minimum prices. In the 1950's pipelines pushed field prices below competitive levels wherever possible. When low prices threatened to drive producers out of exploration and development, the pipelines themselves went into the exploration business rather than allowing producers to raise their prices. The transmission companies selectively produced higher-cost gas while paying monopsony prices for the low-cost gas from petroleum companies, thus keeping payment of excess returns to producers to the minimum.[32] In sum, empirical study provides little evidence to support the theory that unregulated field prices were noncompetitive.[33]

If the view that unregulated producer markets were in fact competitive is correct, then to regulate as if firms had market power would in principle only cause trouble. The FPC, with the monopoly rationale in mind, would reduce prices below the level found in the unregulated market. But, since unregulated market prices were already the product of competition, any regulation would set prices below the competitive level. A lower than competitive price would stimulate demand, leading some buyers to use natural gas even though the economy could provide for their needs with other fuels at lower real costs. The lower price would also reduce the incentive of suppliers to provide new reserves and production, for the regulated price would not allow sufficient returns to producers at the margin. In short, the regulation-required price reduction would increase the quantity demanded and decrease the quantity supplied, thus causing a shortage.

B. Regulation to reduce rents and windfalls

Under certain special circumstances one might want to regulate prices even in a competitive market. One would do so not to correct resource misallocations, but in order to redistribute income.[34] In principle, price in a competitive market will equal the cost of producing marginal output—the last units that can be sold. Some producers can sell at that market price intramarginal units that are far less costly to produce, perhaps because the producer has special skill, knowledge, or expertise, or controls a resource that cannot easily be duplicated. Such producers realize "rents" or excess returns, and the objective of regulation in such circumstances would be to transfer to consumers some of

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distinctly a regulatory one. Without price controls and under competitive conditions, producers would recover marginal joint costs from the sale of gas and oil, with the relative amounts recouped from each varying from firm to firm.[52] If a regulatory agency controlled *both* oil and gas production, it might try to reproduce these competitive market results simply by requiring that the combined revenues from the sale of the two products be equal to their combined costs, including, of course, return to capital. Any combination of prices that would do no more than return total costs would meet this requirement.[53] The distinct regulatory problem in controlling field market prices for gas, however, was that liquid prices were not regulated by the FPC. Therefore, in order for the Commission to eliminate excess returns on gas production, it would have had either to find the "exact" costs of one of the joint products—something logically impossible to do—or to regulate indirectly the earnings on the unregulated sales of liquids—something it could not legally do.[54]

The Commission's efforts to overcome the joint cost problem in gas production in fact simply involved the application in various combinations of several traditional methods for allocating joint costs for accounting purposes.[55] But these methods only created the illusion that the joint costs of gas and oil production were separable and bore no particular relation to the problem of determining costs for rate setting. One method allocated joint costs according to the ratio of the separable cost of producing a barrel of oil to the separable cost of producing a thousand cubic feet (Mcf) of gas.[56] A second method allocated joint costs in proportion to the number of heating units (BTU's) contained respectively in the oil and gas produced.[57] A third method recognized that BTU's of oil and gas might not be of equal value in the marketplace, and therefore multiplied the BTU's by a factor representing relative value.[58]

None of the three procedures could yield either the long term costs of future gas production or the historical costs of past exploration and development. As methodology, they simply carried on a charade of implying separable costs when costs were joint and inseparable. In fact, if producers, in the absence of regulation, tended to recover most joint costs from oil revenues, and priced gas close to its ascertainable separate costs, the Commission's techniques, in allocating large shares of joint costs to gas, would force it to conclude that gas prices were too low. This fact may help to explain why the Commission held in the 10 pre-1960 individual producer rate cases that it completed that producers' proposed prices would not generate enough revenue to cover costs.[59] In short, as Justice Jackson said in a slightly different context: [60]

"The case before us demonstrates the lack of rational relationship between conventional rate-base formulas and natural gas production". . . .[61]

A second theoretical problem which the Commission had to confront in attempting to regulate gas producers individually was that of determining a proper rate of return for each of them. While such determinations are usually difficult, here the difficulties were of more than usual magnitude. For one thing, there was no simple process for choosing industries with comparable risks. To be sure, producing gas is probably riskier than running a telephone company; but is it as risky as mining copper or making steel? Arguably, the cost of capital can be determined directly by watching share prices fluctuate on an exchange (or, possibly, comparable risk can be measured in this way [62]); but few producers sold shares on exchanges, and those that did were obviously the larger firms which produced both gas and oil. Nor was it possible to determine costs of capital by looking to producers' debt, because gas producers had issued insignificant amounts of debt securities.[63] Finally, because of different degrees of expertise and different quality of land options, risks varied tremendously among gas producers themselves. To determine the rate of return needed to cover producers' opportunity costs of capital would have therefore required many highly subjective judgmental decisions about thousands of different producers. These problems were compounded by the fact that capital costs accounted for a high portion of total production costs,[64] and thus posed a problem at least as serious as allocation of joint costs for individual producer regulation.

The problems of determining the costs of production and the proper rate of return continued to plague the Commission as it turned to an administratively simpler regulatory method. And the Commission also continued to be plagued by the need to ration low-priced gas—as is any agency that tries to regulate competitive markets by setting different producer prices for sales of the same product at the same place and time.

B. Setting area rates

After regulation of individual producer prices proved unwieldy, the Commission embarked upon a policy of setting area-wide ceiling prices, allowing all individual producers within a given gas production area to charge up to, but not above, the area ceiling. In 1960, the major gas producing regions were divided into five geographical areas,[65] and hearings were begun to determine the legally binding ceiling prices for each. Because of statutory limitations on Commission authority,[66] the area rate proceedings could set limits on prices only prospectively, *i.e.*, from the time an area rate proceeding was completed. Therefore, to control producer prices during the many years that the proceedings would be in progress, the Commission worked out a legally complex, though operationally simple, procedure which set "interim ceiling prices" at the 1959–60 levels for new contracts.[67] During the 1960's rate proceedings were completed only for the Permian Basin and Southern Louisiana areas.[68] In these and the remaining production areas, contracts for new reserves were written throughout much of the entire decade as if economic conditions had not changed since the late 1950's.

In its area rate proceedings, the Commission sought to determine for each area two separate price ceilings: one for "new" gas from gas wells (new gas-well gas), and a second, lower ceiling that applied both to "old" gas from gas wells (old gas-well gas) and to all gas from oil wells. This two-tier area pricing system was designed to provide a fairly simple way to transfer rents from producers to consumers without seriously discouraging gas production and without imposing upon the Commission the administrative burdens of the multitier system of regulating producers individually. In embarking upon this new regulatory approach, the Commission assumed that gas found in conjunction with oil and old gas-well gas found several years before an area proceeding cost less to produce than new gas-well gas. It also assumed that the lower prices for old gas-well gas and gas found in conjunction with oil would not discourage their production, given that their supply was relatively fixed. Thus, lower prices for the old gas- and oil-well was would deprive producers of rents from the sale of these supplies to the benefit of the consumer, while higher prices for new gas-well gas would, at the same time, encourage enough additional gas production to meet total consumer demands.

Despite its apparent logic and simplicity, however, the two-tier pricing system contained potentially serious flaws. First, given that excess demand would be generated for the cheaper "old gas,[69] the FPC had to devise a way of rationing the available supply which would give it to those potential users who valued it most highly.[70] Home users, for example, value gas highly for cooking and heat, while industrial users may be nearly indifferent to the choice among gas, coal, and petroleum. An auction system, by allocating the old gas on the basis of willingness to pay, would insure that it went to those who placed the highest value upon it. But an auction system would quickly drive the price of the "old" gas up to "new" gas price levels. In fact, the methods of rationing chosen by the Commission—allocating the cheaper gas on an historical basis (old customers before new ones) [71] or on the basis of an FPC determination that some *end* uses of gas were "inferior" to others [72]—do not seem to reflect an attempt to make careful distinctions among users according to their potential willingness to pay higher prices for the low-priced gas. These choices are important, since preferences made by the allocation system according to economically inefficient criteria are likely to spill over and affect other areas of economic activity; for example, insofar as historically-based differential prices at the wellhead are reflected in different pipeline resale prices, they may distort competition among industrial customers (*e.g.*, two chemical companies paying different prices for identical gas) or choices as to plant location.

Second, the competitive conditions of the unregulated gas production market suggest the strong possibility that, in a two-tier system where prices at both levels were set by regulatory action, the price of the higher tier would be set too low.[73] If so, then exploration and development of new gas would be discouraged, and there would be excess demand for the new gas as well as the old.[74] Here, again, if regulation-induced shortages occurred, additional economic inefficiencies would arise from any allocation system based other than on users' willingness to pay.

Third, this potential for economic harm from the two-tier system created by the inevitable excess demand for the lower-priced product and the probable regulation-induced shortage of the higher-priced product, was compounded by jurisdictional limitations on the FPC's power to regulate field market prices. Although the Commission could regulate producers' interstate sales, it could not regulate the prices at which they sold gas intrastate in the production region.[75] Intrastate sales were made primarily to industrial purchasers [76] who would seemingly be relatively indifferent as among various fuel sources available at equal prices. In times of shortage, the gas that these industries purchased would likely be diverted from retail distributors willing but unable under regulation to pay a higher price. Thus, both the certain scarce supply of old gas and the potential scarce supply of new gas likely would be disproportionately given over to certain industrial users by default, since other users who valued the gas more highly would not be allowed to bid up its price.

While the Commission may have intended the price of new gas to be set at market-clearing levels, the methods it used for setting new gas area prices made it highly likely that a significant gas shortage would arise by virtue of the new gas price—the "high" price—being set below the long term costs of natural gas production.[77] The basic method first used by the Commission to find a ceiling price for new gas-well gas was to determine by survey for given base years the recent cost of finding and producing new gas.[78] In both of the area rate cases completed in the 1960's, the final new gas price ceilings established on the basis of these estimates of

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recent costs turned out to be roughly equal to the interim prices set in the early 1960's.[79]

Given this recent cost survey method of setting the final ceiling prices, their similarity to the old interim prices is not at all surprising (even though one might have expected costs to rise during the 1960's), for the interim price ceilings themselves strongly biased the effort to determine the recent cost of new production. Producers unable to sell gas at more than the interim price levels most likely developed only those reserves having marginal costs lower than such prices. Companies with higher costs would not be producing, while those with cheap, lucky finds would still be in business. Thus it is not surprising that the recent costs of new reserves were slightly lower than the Commission's interim price ceilings. Taken together, the interim ceiling and later cost survey constituted simply two elements of a self-fulfilling prophecy; using recent costs to set future prices may, in reality, have been using interim prices to set permanent ones. In short, given the interim ceiling, a survey of the costs of producing new gas in the early 1960's could not tell the Commission with any assurance what price would be needed to elicit additional production for growing demand in the late 1960's and early 1970's.

Quite apart from the existence of interim ceilings, the probability that regulation would induce a natural gas shortage was increased by the specific calculation the Commission made to determine the recent costs of new gas production. If the Commission were not to discourage future production, it should have been certain that the ceiling prices it was setting were as high as prospective development and extraction costs. One indicator of such prospective outlays would be the cost curve derived from the historical marginal production costs in each drilling region of a production area during the test years. Even these historical marginal costs would of course understate future production outlays, because of increases in drilling and other expenses. But the Commission further compounded the possibility of understating prospective development and extraction outlays by *averaging* the marginal costs of recent production across all the drilling regions of a production area. Given a wasting resource from a fixed stock of uncertain size, it is highly probable that the costs of producing the very final units of recent output were greater than the average costs of finding and developing new reserves during the test years.[80] The higher-cost producers most likely included not only the unlucky or less skillful, but also those forced to search farther afield or deeper underground after having exhausted their more promising leaseholds. Averaging their costs in with the new gas production costs of the more fortunate or unusually skillful producers would understate the likely costs of future new gas production and would therefore increase the probability that exploration and development of marginal reserves would not take place.

The Commission tried to take these problems into account by adding an "allowance for growth" to the historical average costs of finding new gas. In the *Permian Basin* proceedings, for example, the Commission added 1.11 cents per Mcf to the ceiling price in recognition that producing enough new gas in the future to meet growing demands would probably require the exploitation of more expensive reserve sources.[81] But it did not determine the size of this premium by analyzing producers' probable marginal costs. Rather, an expert appearing for the gas distributing companies presented this figure as a judgmental observation, and experts for the gas producing companies in turn concluded judgmentally that the proper figure was 2.15 cents per Mcf.[82] The Commission simply chose between these two judgments, and, by acceptance of the distributors' estimate of the proper growth allowance, made it likely that the Commission's choice would be on the low side. To be sure, trying to determine the marginal costs of future gas production would have to involve *some* guesswork. But the need to guess inevitably introduces the risk of error—error difficult to correct once prices are set. The Commission's determination of the proper "allowance for growth" did not reflect any guidelines of its own concerning the impact of such factors as increases in drilling costs, decreases in the probability of finding gas, and changes in the rate of return needed to attract speculative capital into future gas production. Of course, as indicated earlier, these matters are highly speculative. It is therefore perhaps understandable that a Commission interested in regulating producers' prices would, when given only the alternative of accepting the producers' own figures, accept the growth figure offered by those interested in keeping producers' prices low.[83] But, nevertheless, the Commission's acceptance of the distributors' estimate of the premiums needed to encourage marginal production, along with its own calculation of the historical average costs of new production, created a considerable risk that the "new gas" price would be too low and would engender a gas shortage of some scope.

Faced with the extraordinary difficulty of determining the costs of "new gas" at levels of production that would clear the market and with a new-found shortage of gas production in the late 1960's, the Commission has more recently shown greater reliance on a process of direct negotiations to set area prices. In the original *Southern Louisiana* case, representatives of the producers, distributors, and other customers bargained out a "settlement" which was presented to the Commission for approval. The Commission [84] and the appeals court [85] took the negotiation under advisement, however, along with a great deal of information on historical costs, and decided to set price ceilings slightly below the settlement figures. When the gas shortage in the late 1960's led the Commission to reopen the *Southern Louisiana* proceedings, once again the parties negotiated a settlement. This time the Commission adopted the settlement figures as its own, holding that they constituted reasonable ceiling prices.[86]

To be sure, one undeniable advantage of setting prices through such negotiation is administrative simplicity. The Commission need not spend as much time gathering evidence, the number of warring parties is reduced, and it is less likely that a disappointed party will convince a court to overturn a Commission decision. But to set ceiling prices in reliance upon industry settlements comes close to abandoning the Commission's espoused regulatory goals—whether they be to control market power or to eliminate windfall profits—and comes even closer to admitting an inability to achieve them. Negotiation among interested parties can hardly control monopoly power, for it bears little resemblance to the bargaining among buyers and sellers that takes place in a competitive market. Rather than competing individually for purchases or sales, the parties bargain in blocs—the buyers together in one bloc bargaining with producers in the other bloc. Whether the negotiated price ends up higher than, lower than, or equal to the competitive market price will vary depending on the skill of particular bargainers and the bargaining atmosphere surrounding the negotiation. The parties are likely to be constrained in the bargaining by their knowledge that the Commission and the courts must approve the result and may produce little more than what they perceive their regulators as wanting.[87] For these same reasons, negotiation is unlikely to provide "accurate" two-tier prices in an effort to drive out producer rents.

In sum, the difficulty of designing a two-tier system for regulating field prices for natural gas made it unlikely from the outset that the Commission would set the "high" price for new gas at a market-clearing level if that was what it intended to do. However, it is also possible that the Commission in fact *wanted* to set the "high," new gas price below competitive rates. Much new gas-well gas production as well as old gas- and oil-well gas production probably returns rents to its producers.[88] If the Commission wanted to return these rents to users, while setting a *single* area price for all new gas-well gas, it *had* to set the price below the marginal cost of new production in that area. The Commission may have felt that any necessarily resulting shortage would not be serious and would be worth the benefits of lower prices to consumers who could obtain the gas that would be made available. If this was the Commission's reasoning, though, it did not expressly state it. Moreover, even if Commission policy could be attributed to such a purpose, the wisdom of that policy would still depend upon the precise extent and impact of the gas shortage created by it. It is to that question that we now turn.

III. THE EXTENT AND IMPACT OF THE NATURAL GAS SHORTAGE

The expectation that FPC regulation of gas production was likely to produce a substantial gas shortage has been proven accurate by subsequent events. Thus, pipeline buyers have reported to the Commission instances during the summer and winter of 1971–72 in which their contracts obliged them to deliver gas but they lacked the necessary supply.[89] The FPC staff has shown deliveries falling short of gas demanded by 3.6 percent in 1971 and by 5.1 percent in 1972, and has predicted that production will fall short of demand by 12.1 percent in 1975.[90] Moreover, those feeling the pinch have tended to blame FPC regulations for the shortage.[91] And the FPC has not only acknowledged the existence of a substantial shortage,[92] but has also suggested that regulated prices are a cause.[93]

Production "shortfalls" alone, however, do not accurately describe the extent of the gas shortage, because gas is purchased by and sold to pipeline companies before the time of its actual production. Gas delivered during any given year is "backed up" by considerable volumes of reserves which are originally committed in long term contracts to pipeline companies demanding a guarantee as to future supplies. Obviously, pipelines will demand more than a few years of reserve backup, for only with a fairly long term supply guarantee is establishing a pipeline worthwhile. More importantly, retail distributors and industrial consumers normally demand that pipelines themselves guarantee a specific rate of delivery over time and therefore demand substantial reserve backing as security against default by the pipelines on their promised deliveries.[94] Thus, an inability of transmission companies to acquire sufficient supplies to meet contract delivery requirements in any given year should signal the earlier existence of a deficiency in the volume of backup reserves committed at the time the original production contracts were undertaken. If this view is correct, a shortage in production levels in the 1970's would have been prefaced by a deficiency of reserve commitments made to back up new production undertaken in the early and mid-1960's. The extent of this predicted reserve shortage in the 1960's should be measurable as the difference between an "optimal" level of reserves which would have been demanded by pipeline companies to back up new production undertaken in that period and the level of reserves actually supplied by regulated producers and acquired by the pipelines.

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Rough calculations previously made by one of these authors in fact show the shortage of reserve inventory of natural gas during the 1960's to have been substantial.[95] This conclusion was reached by first determining an approximate "optimal" volume of gas reserves, in terms of years of backup supply, which would be dedicated to secure new production commitments undertaken in any single year. The FPC has considered the proper amount of reserves to be 20 times initial production, so that regulated pipeline demands for new reserves have been based on "the assumption that each new market commitment is backed by a 20 year gas supply."[96] Similarly, pipelines' actual demands for reserves from 1957 to 1954—before the Commission had much influence on the field markets—were on an average equivalent to a 20-year backup of production, with the lowest backing in any single year equal to 14.5 times new production.[97] It was therefore concluded that, on the most conservative of assumptions, a simple, rough estimate of demands for reserve inventory under ceiling prices could be obtained by multiplying total new production—including all new contracts plus any renewals of expiring contracts—by 14.5 to obtain the "lowest" demands for reserve backing in the unregulated market. Alternatively, on more liberal assumptions, total new production could be multiplied by the FPC's suggested reserve ratio. These calculations were done for the years 1964 through 1968 to determine the volume of natural gas which would have been demanded by pipelines as reserves to back up new production under "optimal" conditions for that period. These high and low "optimal" volumes were then compared to the actual new-reserve-to-new-production ratio for the same years. Taking the 5-year period as a whole, it was found that the total demand for reserves was 1.5 to 2.2 times higher than the actual reserves acquired under FPC price ceilings; therefore, *excess* demand for reserves was 50 percent to 120 percent of realized levels of commitments.

In an attempt to determine whether this reserve shortage was the result of field price regulation, we shall construct a model of supply and demand for new reserves, based upon market clearing conditions in the 1950's. These conditions will then be extrapolated into the 1960's in order to predict what supply and demand behavior would have been like during that decade under competitive conditions and whether FPC ceiling prices were too low to clear the market.[98] Then we shall proceed to determine who received gas and who suffered the shortage. It will be shown that, in fact, as suggested earlier the home consumer suffered the brunt of an FPC-created reserve shortage, while the unregulated industrial consumer received a disproportionate share of the gas that was available.[99]

A. A supply and demand analysis of the insufficiency of FPC ceiling prices

The proposed model of supply and demand in the field markets for natural gas in the 1960's tries to assess more accurately the extent to which field price regulation caused the gas shortage. The model tests the fairly plausible view that, without regulation, field prices for natural gas would have increased substantially, producing correlative increases in the supply of and decreases in the demand for natural gas reserves. These higher prices would have called forth enough new supply to fill at least part of what has been shown to be the excess demand for reserve inventories. And, by more carefully rationing the available supply, the higher prices would have eliminated whatever additional excess demand would have still remained.

The proposed model applies to gas which is supplied by pipeline to the East Coast and Midwest.[100] To test the model's accuracy, we first construct supply and demand schedules to characterize unregulated market behavior in the latter half of the 1950's and use these schedules to predict market-clearing prices in that period. This is done by fitting 1950's data to the proposed supply and demand relations to predict the amount of reserves added in year "t" in producing district "j" ($\triangle_{tj}R_{tj}$) and the average new contract price at the same time and place (P_{tj}). The values of $\triangle R_{tj}$ and P_{tj} that "clear" this supply-demand system for the 1950's describe with considerable accuracy both the actual prices at which natural gas was sold and the actual amount of new reserves added in the test areas during that period. The model is then applied to the 1960's by inserting 1961–68 data into the supply and demand equations and then solving the system for market-clearing values $\triangle R^*_{tj}$ and P^*_{tj}. The model's values for the 1960's are then compared to the actual reserves added and prices existing during that period. The comparison shows regulated prices to be less than P^*_{tj} and actual reserves supplied to be less than one-third of $\triangle R^*_{tj}$. Most of the difference can be attributed to the FPC's regulatory efforts.

1. The Supply Equations.—As previously indicated, the supply of natural gas is measured both by the volume of new reserves *and* by the level of production added from new contracts each year.[101] Looking first at the supply functions for new gas reserves, the volume of new reserves discovered and developed in any given year depends on geological and technical factors, as well as economic ones. Thus, the supply equations of the proposed model relate observable data to the supply of new reserves on the following assumptions.

First, the volume of gas added to known reserves in a district depends quite plainly on the extent of hydrocarbon deposits in that district; gas discovery, in other words, cannot occur where the deposits are not present. Because of the relative permanence of geological characteristics, the most concrete determinant of general hydrocarbon availability in a district is the long term pattern of reserve discoveries there. Thus, it may be said that the supply of new reserves in year "t" in district 'j" ($\triangle R_{tj}$) is a function (f) of the geological characteristics of district 'j" itself. This relationship can be expressed by the equation $\triangle R_{tj}=f(j)$.[102]

The second condition of new reserve supply is that inputs are required—principally drilling inputs—to bring unknown hydrocarbons to the point of being producible reserves. The only available data on such inputs are the number of gas development wells sunk in the 1950's and 1960's, by drilling district. To be sure, such data are not indicative of all necessary inputs, but the wells do reflect the amount of capital invested in a hydrocarbon field and do provide producers with additional knowledge of surrounding geological conditions. Thus, the supply of new reserves in year "t" in district "j" ($\triangle R_{tj}$) is also a function of the number of development wells sunk in the same time and place (W_{tj}). In sum, the equation $\triangle R_{tj}=f(j, W_{tj})$ can be taken to indicate, even if somewhat imperfectly, a number of important "engineering" factors in the supply of new reserves.

Third, the supply of newly discovered reserves also depends upon economic factors. This relationship can be most immediately seen as a condition of the number of development wells sunk in a drilling district. Thus, as prices for new gas reserves increase, it can be expected that more gas drilling will occur, and this additional drilling of regions likely to contain gas will increase the amount of new gas reserves discovered. If average new reserve contract prices in year "t" in district "j" (P_{tj}) are good surrogates for the prices forecast by the drilling companies before development begins, then the amount of actual drilling (W_{tj}) will be a function of these prices. In addition, as noted previously, gas reserves may be discovered incidentally in the search for oil.[103] Oil price increases are likely to produce more drilling in areas likely to contain hydrocarbon deposits, and such drilling may produce gas, as well as oil, finds. Therefore, the number of development wells sunk (W_{tj}) may be said to be also a function of the level of the crude oil price throughout the Southwest (op_t). Thus, the response of drilling activity, and indirectly of new reserve supply,[104] to economic factors can be expressed by the equation $W_{tj}=f(P_{tj}, op_t)$.

Finally, the analysis of drilling, as well as that of reserves, should recognize that geological factors, as represented by the long term pattern of drilling in a region, are important. Thus, the drilling equation we have developed thus far, $W_t=f(P_{tj}, op_t)$, should include the geological characteristic j as well.

In sum, the supply functions for new gas reserves in each drilling region "j" supplying the East Coast and Midwest markets in year "t" within the late 1950's can be taken to be:

$$\begin{aligned}&\triangle R_{tj}=f(j,W_{jt}),\text{ where}\\&W_{tj}=f(P_{tj}, op_t, j).\end{aligned}$$

Turning to the supply of new production, as opposed to new reserves, the proposed model is based on the assumption that the quantity of additional production from new contracts signed in year "t" for gas in district "j" (ΔQ_{tj}) depends upon three factors. First, the quantity of additional production obviously is a function of the volume of newly discovered reserves at the same time and place ($\triangle R_{tj}$). Second, production depends upon the cost of production itself. These costs may be roughly represented by the current rate of interest (i_t), since the interest rate may be assumed to be a measure of capital costs for drilling. As these costs increase, the production rate out of new reserves should decrease. Third, the quantity of additional production from new contracts signed each year is a function of short term consumer demand for immediate gas delivery. One of the factors influencing short term consumer demand can be represented by the all fuels retail price index (fp_t). This index will indicate not only whether the price of substitute fuels is rising, thereby making gas more desirable, but perhaps also whether personal consumption of fuel generally is on the rise, increasing the demand for gas as one among a number of alternative fuel sources. In short, additional gas production from new purchase contracts signed each year ($\triangle Q_{tj}$) is taken roughly to be a function of the availability of new reserves ($\triangle R_{tj}$), production costs (i_t), and consumer demand (fp_t), and can be represented by the equation $\triangle Q_{tj}=f(\triangle R_{tj}, i_t, fp_t)$.

2. *The Demand Equation.*—Demand or "willingness to pay" is represented by the prices bid by pipelines to purchase new gas reserves. These bids are determined primarily by pipeline costs and the pipelines' opportunities for resale. Thus, the proposed model is based on the assumption that average new contract prices for gas reserves of district "j" in year "t" (P_{tj}) depend upon pipeline costs and the demand for gas in final consumer markets.

The price a pipeline is willing to offer for newly discovered gas is in part a function of the pipeline's transport costs. These costs depend both upon the volume of new reserves discovered in a district and the distance between the field and the point of resale to retail distributors. As the volume of new reserve discoveries in a district ($\triangle R_{tj}$) increases, companies will be able to install larger scale gathering lines, thereby reducing unit transport costs. On the other hand, costs will rise as the number of miles between the field and the point of resale to retail distributors (M_j) increases.[105] Thus, the relation between field prices in district "j" in year "t" (P_{tj}) and pipeline transport costs can be expressed by the equation $P_{tj}=f(\Delta R_{tj}, M_j)$.

A more important determinant of the price pipelines will bid, however, is final consumer demand. As pointed out earlier,[106] the index of all fuel retail prices (fp_t) pro-

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vides a rough measure of such user demand for gas; the prices which pipelines are willing to pay for producer gas are likely to increase directly with increases in this index. On the other hand, user demand will be limited by the total size of the final user market, and measurement of demand can be made more accurate by considering the extent of this market. The size of the market can be initially estimated by the capital stock of all gas-burning furnaces in the country (K_t). Moreover, since there are limits to the level of resales by pipeline companies, the prices which these companies are willing to pay in in any year will depend on the sum total of *all* new reserves that year ($\Sigma \triangle R_{tj}$). Thus, as the capital stock of gas burning furnaces (K_t) increases, so will the likely price bid by the pipelines; but as total new reserves offered in any year ($\Sigma \triangle R_{tj}$) increases, the likely price bid will decrease. Therefore, the relation between average new contract prices (P_{tj}) and the demand and size of final markets can be expressed by the equation $P_{tj} = f(fp_t, \Sigma \triangle R_{tj}, K_t)$.

In sum, putting together both the cost and user demand determinants of the prices pipelines are willing to pay, the proposed demand relation (for the same regions and time periods as for the supply functions) is: $P_{tj} = f(\triangle R_{tj}, M_j, fp_t, \Sigma \triangle R_{tj}, K_t)$.

3. *Application of the Model to the Field Market for Gas.*—The four equations of the proposed model together make up an equilibrium system that describes well the actual prices and supplies of new reserves in the late 1950's. Data from the period 1955–60 were used to fit "least squares" equations[107] to the structural relations explained above for new reserves ($\triangle R_{tj}$), wells sunk (W_{tj}), new production ($\triangle Q_{tj}$), and average contract price (P_{tj}).[108] The closeness with which the fitted equations describe reality is indicated by the accuracy with which equilibrium in the four-equation system reproduced the actual volumes of new reserves supplied and prices paid during the period.[109] The difference between the "simulated" (four equation equilibrium) price and the actual annual average price in any given year was at most 1.6 cents per Mcf and the average difference over the entire 6-year period was only 0.7 cent per Mcf.[110] Similarly, while the volumes of actual new reserves exceeded simulated new reserves by approximately 3 trillion cubic feet in both 1955 and 1957, the average difference over the 6-year period was less than ½ trillion cubic feet (or less than 0.7 percent of total new additions to actual reserves).[111] The model thus suggests that markets "cleared"—or operated at equilibrium—in the 1950's before producer price regulation.[112]

In order to test whether the gas shortage in the following decade developed from price controls, the model was then applied to the 1960's. The four equations were used, along with 1961–68 figures for the "outside" or exogenous variables,[113] to find the values for $\triangle R^*_{tj}$, $\triangle Q^*_{tj}$, W^*_{tj}, and P^*_{tj} which "solve" the equations—*i.e.*, the values which "clear" the gas market as if there were no price ceilings. These "unregulated" values are compared with the actual values in Table I.

TABLE I.—PRICES AND PRODUCTION OF GAS FOR THE EAST COAST AND THE MIDWEST, 1961–68

	Average price (cents per thousand cubic feet)		New production (billion cubic feet)		New reserves (billion cubic feet)	
Year	Actual	Simulated	Actual	Simulated	Actual	Simulated
1961	17.7	20.0	292	817	5,567	12,480
1962	19.0	21.1	230	755	5,805	12,858
1963	16.5	22.4	447	688	4,884	13,077
1964	16.7	22.9	200	814	5,512	13,221
1965	17.4	24.1	348	750	6,015	13,621
1966	17.2	25.5	347	627	4,204	14,147
1967	17.4	26.7	575	520	3,693	15,026
1968	18.0	27.8	434	548	951	15,572
8 yrs	17.5	23.8	2,873	5,519	36,631	110,002

The simulated or "unregulated" prices that would have cleared the reserve market were on the average 6 cents per Mcf higher than ceiling prices for the entire period, and more than 7 cents higher for the period following 1962, when the full effect of price ceilings seems to have taken hold in the test region. On the supply side, the higher prices—if they had been allowed—would have provided considerable incentive to add to the volume of new reserves. The level of simulated new reserves is more than three times the level of actual new reserves over both periods. Another indication of the impact of clearing prices on supply appears in the difference between actual and simulated new production. Actual new production is approximately one-half of simulated new production over the 8-year period. Given that higher unregulated prices would have brought forth a much higher level of new reserves, this higher level of simulated new production is not surprising. On the demand side, the higher simulated (market-clearing) price would have significantly reduced the amount of reserves sought. To be sure, the amounts which would actually have been demanded at various prices are not known, since only the new reserves both demanded *and* supplied are shown by the annual simulations. But that excess reserve demand would have been reduced is indicated by the fact that the total demand for new reserves proved to be elastic with respect to price.[114] Total new reserve demand was reduced by approximately 10 trillion cubic feet for each cent of price increase.[115]

As it was, a serious reserve shortage developed in the 1960's, which at that time revealed itself in the pipelines' reduction of their new-reserve-to-new-production ratio. This reduction in the security of service, shared by all those connected to interstate pipelines, was translated in the early 1970's into a more tangible actual production shortage; pipelines had to curtail deliveries in 1971 and 1972 because they could not take gas from their reserves fast enough to meet their contract commitments. This production shortage has been plainly visible. It followed directly from the earlier reserve shortage which in turn was a creature of FPC regulatory policy.

B. The impact of the shortage

At the same time that field price regulation has meant lower gas prices, it has also brought about a reserve—and now a production—shortage. Determining who has been helped and who has been hurt by this FPC regulatory policy is necessary in order to assess whether the lower prices were "worth" the shortage. Information is not yet available to allow a definitive finding on this issue. Nevertheless, there is enough evidence inferentially to support the view that the result of FPC policy in the 1960's was to deplete the gas reserves of interstate home consumers in favor of the demands of intrastate industrial customers to whom sales were unregulated.

First, the regulated pipelines—those selling interstate for resale to distributors for most home customers—did not obtain their proportionate share of new gas reserves in the late 1960's. In 1965 these lines possessed more than 70 percent of the nation's reserves. But between 1965 and 1971, the interstate pipelines obtained less than half the volume of the new reserves developed, and the overall percentage of reserves possessed by them fell to 67 percent.[116]

Second, as Table II shows, what variation there was in the division of total annual gas production between residential and industrial users indicates that over the course of the 1960's proportionately more went to industrial users. The percentage of gas sold by pipelines and distributors to residential users declined 1.6 percentage points between 1962 and 1968.[117] This decline was caused in large measure by a substantial increase in industrial sales by unregulated intrastate pipelines and by producers themselves. Between 1962 and 1968, total industrial consumption of natural gas increased 43.5 percent, while intrastate pipelines and distributors increased their industrial sales by almost 62 percent.[118] Moreover, of the increase in industrial consumption, more than half can be attributed to sales by intrastate pipelines and distributors, while less than 13 percent is accounted for by direct industrial sales of the interstate pipelines. The remaining 37 percent of the increase was the result of direct sales by the producers.

TABLE II.—NATURAL GAS SALES TO ULTIMATE USERS[1]

	1962		1968		
Class of service or seller	Quantity (million Mcf)[2]	Percent of total	Quantity (million Mcf)[2]	Percent of total	Percent increase
Sales by all pipelines and distributors:					
Residential and commercial	4,320	44.5	5,966	42.9	+38.2
Industrial and other	5,396	55.5	7,925	57.1	+46.9
Total	9,716	100.0	13,891	100.0	+43.0
Sales to industrial and other nonresidential consumers:					
Direct sales by interstate pipelines[3]	2,129	23.2	2,641	20.0	+24.0
Intrastate pipelines and distributors (estimate)[4]	3,267	35.5	5,284	40.0	+61.7
Producers[5]	3,809	41.3	5,284	40.0	+38.7
Total U.S. industrial consumption	9,205	100.0	13,209	100.0	+43.5

[1] Much of the data in the table is derived from American Gas Association, "Gas Facts 1971", at 82, 119 (1972).

[2] This figure was converted from million therms to million Mcf based on 1,031 Btu's per cubic foot of natural gas.

[3] See Federal Power Commission, "Statistics of Interstate Natural Gas Pipeline Companies 1962, at XXII (1963); Federal Power Commission, "Statistics of Interstate Natural Gas Pipeline Companies, 1968," at XV (1969).

[4] These figures are derived by subtracting "Direct sales by interstate pipelines" from the figures for "Industrial and other" sales by all pipelines and distributors.

[5] These figures are derived by subtracting "Direct sales by industrial and other" sales by all pipelines and distributors from the figures for "Total U.S. industrial consumption."

Third, that the reserve shortage hit most seriously the residential buyer supplied by a regulated pipeline becomes still more evident when certain particular gas regions are examined. The Permian Basin in West Texas, for example, accounted for about 2.5 percent of total U.S. gas reserves in the early 1960's. In the late 1960's, additional discoveries raised this figure to about 10.5 percent.[119] Six large interstate pipelines, two intrastate pipelines, and many direct industrial buyers bid for the new reserves.[120] From 1966 onwards, the intrastate lines and the direct industrial buyers obtained almost all of the uncommitted volumes available. In fact, interstate pipelines, which accounted for 80 percent of production from the new reserves in this area in 1966, accounted for only 9 percent in the first half of 1970.[121] The reason for the interstate pipelines' decline in reserve holdings is not difficult to find. Prices offered by intrastate buyers for the new gas in this area rose from 17 cents per Mcf in 1966 to 20.3 cents per Mcf in 1970, and toward the end of 1970, the intrastate pipelines bought more than 200 billion cubic feet of reserves at initial delivery prices of 26.5 cents per Mcf.[122] At the same time, prices paid by interstate pipelines could not exceed the regulatory ceiling and therefore remained between 16 and 17 cents per Mcf. The inescapable conclusion is that the interstate pipelines were simply outbid.

Footnotes at end of article.

In sum, as a result of regulation in the 1960's buyers for interstate consumption obtained fewer reserves than they wished. For the most part, those buyers were pipelines ultimately serving primarily residential consumers. The short reserve supplies were bid away from these buyers by intrastate gas users. This was a predictable result of FPC two-tier regulation of field gas markets in light of the Commission's jurisdictional limitations.

IV. THE COSTS OF REGULATION

Showing that ceiling prices created a substantial gas shortage and that this shortage was disproportionately borne by residential gas consumers is not enough by itself to condemn FPC regulatory policy. At the same time that FPC regulation of field markets created a shortage, it also reduced prices 6 cents per Mcf below what we have simulated market-clearing prices to be during the 1960's. To calculate the gains to consumers who actually received gas as a result of this regulatory policy, one might simply multiply average annual production of regulated gas from, say, 1962–68 (about 11 trillion cubic feet),[123] by 6 cents per Mcf and claim that regulation saved those consumers who received gas about $660 million annually. Of course, such a calculation contains heroic assumptions and oversimplifications. For one thing, it assumes that every cent of price reduction at the wellhead was passed through to ultimate consumers; in light of the fact that sales by retail distributors are intrastate and therefore subject only to state regulation, the assumption may not be valid.[124] For another thing, had producers received a higher price, at least some of their additional revenues would have been taxed away and, therefore, indirectly returned to consumers anyway. Nonetheless, even assuming that the entire 6 cents per Mcf was returned to consumers who actually received gas, we still doubt that this benefit outweighed the losses arising from regulation, even from the point of view of the consumer class itself.

In order to calculate the costs of wellhead price regulation to gas users, it must first be established that the behavior of pipelines in the field market is representative of consumers' interests. Table I[125] showed that the additional 6 cents per Mcf which pipelines would have paid for gas produced under unregulated conditions would have purchased a joint product: *both* additional production *and* additional reserves. These hypothesized purchases of additional supply by pipeline companies likely represent what the pipelines conceived to be final consumer demands for additional current deliveries and for additional insurance of future deliveries. Obviously, pipelines would not overstate demands for current production, since they clearly have no interest in purchasing gas which they cannot resell. Similarly, it is difficult to see why pipelines would deliberately overstate demand for reserves, given that the costs of dedicated reserves are not included in their rate base and demanding excessive reserves would increase contract prices and therefore ultimately reduce sales to consumers.[126]

If this assumption of the representative quality of the pipelines' field market demands is correct, then the cash returned to gas users by virtue of FPC regulation was probably less than the cash consumers were willing to give up for additional deliveries and reserve backing. First, the gains to those paying lower prices for gas they actually received must be offset by the losses to others who had to do without gas and find other sources of energy. Residential and commercial users unable to receive gas because distributors lacked supply—usually those consumers in new or growing population centers—were forced to use less desirable, or more expensive, fuels such as oil or electricity. The cost, in real terms, to these consumers of using such alternative energy sources can be roughly measured by the amount which they were willing to pay for additional gas. Therefore, the loss they suffered from regulation is the difference between what they *were willing to pay* for gas rather than go without it and *what they would have actually paid* under equilibrium conditions for the market-clearing level of gas deliveries. If this difference or "premium" which consumers suffering the shortage were willing to pay was on *average* 6 cents per Mcf, then the losses of those doing without gas were as great as the gains of others receiving gas at 6 cents per Mcf below market-clearing prices; this is so because the hypothesized *shortage* of new production (the difference between simulated and actual production out of new reserves in Table I) was approximately as large as *actual* new production.[127] In fact, it appears from the supply and demand model that consumers suffering that shortage would by 1967 or 1968 have been willing to pay an average premium of 6 cents per Mcf rather than do without gas entirely.[128] Therefore, the losses from the shortage (equal to what consumers in the aggregate were willing to pay to recover lost gas production) simply made too many consumers worse off to allow the conclusion to be drawn that reduction in prices was worth the shortage it created.[129]

Second, the argument that consumers who actually received gas obtained a 6 cents per Mcf saving as a result of FPC regulation is itself fallacious, because these consumers were, in fact, purchasing *less*—an inferior product—than they would have under unregulated conditions. As we have shown, the price which consumers pay for deliveries, when translated into the price pipelines pay for production at the wellhead, purchases not only current production, but also a reserve backing which provides a certain level of insurance of future deliveries. Since FPC price ceilings brought forth only a third of the new reserves which would have been developed under market-clearing conditions, those consumers who received gas at lower prices *gave up* a substantial amount of their guarantee of future service. To be sure, this loss was not observable by these consumers, since it took the form only of reduced backing for production which they were currently receiving. Nevertheless, it is likely that these reserves were worth a considerable amount to them. The man who makes a large investment in gas appliances, for example, obviously wants an assurance that he will not have to switch to oil or electricity for many years, if at all. Reserves promise him this and also provide him with security from possible temporary interruptions of service. On conservative assumptions, these buyers, as represented by the pipelines, wanted at least 14.5 years of reserve backup to provide them with a sufficient production guarantee.[130] Under unregulated conditions, this insurance would have been obtained by them; under FPC price ceilings, it was not.[131] The 6 additional cents per Mcf which consumers receiving gas would have had to pay in an unregulated market was, from the perspective of their interests, at least in part a premium for insurance which FPC price ceilings did not provide. For every 6 cents in cash which FPC regulation saved these consumers on actual deliveries, it took away reserves which they might well have desired at least as much as the money. In short, the extent to which FPC regulation actually helped even those receiving gas at lower prices is problematical; it simply gave them a short term windfall at the cost of long term insecurity.

These losses to both those who did not obtain gas and those who did, moreover, are not all the costs of the FPC's regulatory policy. For example, further costs probably resulted from the displacement of industry. Some industrial firms for whom energy costs were a large part of total costs moved to the producing states solely to obtain natural gas not available on the interstate market due to FPC price ceilings. Moreover, further distortion arose from competitors' paying different prices for their fuel sources, either because one had an intrastate gas supplier, or because of FPC policies for rationing the cheaper "old" gas. And the economic and administrative costs of litigation and delay from the price proceedings themselves have been substantial as well.[132]

Despite these strong indications of the failure of FPC regulation of field gas prices, some consumers' groups have argued that the Commission should deal with the problems that have arisen from its present regulatory efforts by introducing still more regulation. The Commission might, for example, seek to expand its jurisdiction over intrastate sales to end the "leakage of supply" to intrastate industrial users and then establish "end use" controls, specially allocating gas to particular individuals or classes of customers.[133] Such an approach, however, would not solve the problems raised here. Not only would it fail to reduce the aggregate shortage of gas, but it would require the Commission to determine on a larger scale than it now does which end uses of gas are "superior" and which "inferior." Such a task is difficult, to say the least, and there is little reason to believe that a Commission that was unable to set area prices in the field without creating massive shortages would find a "proper" solution to the still more complex problem of rationing on a grand scale. Once prices were abandoned as a measure of value, the number of claimants for special preferences, citing a variety of economic and social imperatives, would become large indeed. In all probability, the Commission would have to continue its past practices and simply arrange for a series of compromises among these various claimants. Such compromises would inevitably lead to continued excess demand for gas and to shortages in which, if the future resembles the past, those intended to benefit from gas regulation would still be injured.

Neither would it be completely satisfactory for the Commission to follow a partial policy of income redistribution by trying to squeeze rents only from old gas- and oil-well gas production while leaving new gas-well gas production unregulated.[134] To be sure, there would be little danger of shortage if the Commission set ceiling prices only on the production of gas *now* classified as "old," since there is *ex hypothesi* a fixed supply of these hydrocarbons. But such regulation would accomplish merely a temporary, minimal transfer of rents, because the supply of this "old" gas will run out in the next few years. In order to accomplish this temporary income transfer, the Commission would still have to solve the problems of determining the costs of producing old gas and of rationing the cheaper supplies. The administrative burden of solving these problems might not be worth the income redistribution which such a policy would bring about. On the other hand, if the Commission embarked upon a *permanent* policy of regulating "old" gas prices by continuously reclassifying further supplies as "old," it would not only have to develop a dynamic standard to separate "old" from "new" gas, but it would also be confronted with all the problems of the present regulatory system. Producers seeing that the prices of their new supplies would *eventually* be subject to ceilings would be likely to take these future price regulations into account. Therefore, while the prices of new reserves would not be directly regulated, further exploration and development would still be discouraged, and thus a shortage would still arise.

The alternative that we favor is eliminating field price regulation designed to trans-

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Footnotes at end of article.

fer producer rents. If income is to be redistributed, rents can be transferred from producers to consumers without regulation. For example, tax policy can be used to accomplish the same objectives. Indeed, much of the alleged justification for the depletion allowance [135] in this area—the need to encourage exploration and development—would seemingly vanish if producer prices were set competitively. In contrast to the tax system, area price ceilings cannot help but be an indiscriminate method of income redistribution. While it takes *some* income from those producers realizing excess profits, its impact falls most heavily on those producers without excess profits—those right at the margin, perhaps forcing them out of the market entirely. In contrast, redistribution through taxation aims more directly at those producers with excessive incomes. While we are aware that redistribution through tax policy has many problems of its own, we doubt that they could be as serious as those that have accompanied the effort to control field prices. In short, it is difficult to see the virtue of a price control system, particularly when, as was proven during the 1960's, it is likely that those consumers the system is designed to benefit will not be benefited at all. With the example of producer price regulation in mind, one might well question the advisability of using microeconomic methods—such as regulation of the firm—solely to accomplish macroeconomic objectives—such as income redistribution.

To be sure, elimination of regulation intended to redistribute income would effectively mean deregulation of much of the field market for natural gas, since the market structure of most, if not all, producing regions is decentralized and competitive. Deregulation of this sort, however, would not deprive the Commission of all power over producer rates in those regions where producers do possess monopoly power. At the same time that the Commission would allow prices in competitive regions to approach market-clearing levels, it could selectively regulate prices in those few producer regions where market power turns out to be present by using the prices in the competitive areas as benchmarks.

Of course, one potential obstacle to this proposed regulatory policy is that a court might hold that for the Commission to allow market forces to determine producer prices would be inconsistent with the mandate of the Natural Gas Act to regulate "sale[s] in interstate commerce of natural gas. . . ." [136] To be sure, in the *CATCO* case,[137] the Court held that the Commission could not license a producer to sell gas without conditioning the license on the producer's promise to charge a reasonable price. But the Court's decision in that case was predicated on the inadequacy of the Commission's findings respecting the need to issue an unconditional license, and on the harms to consumers which would attend the inordinate delay before the Commission on its own could determine a just and reasonable rate. Certainly, the case cannot be taken as precedent for disturbing Commission judgment that market forces can ordinarily be relied upon to set just and reasonable rates and that any attempt to interfere with market forces to transfer rents would do the consumer more harm than good. A decision to "deregulate" producer prices as proposed would be a determination that selective rather than pervasive interference with field market transactions was the most appropriate way to regulate this portion of the natural gas industry. Such a determination would seemingly comply with the fundamental purposes of the Natural Gas Act, and, being based upon 15 years of experience with different methods of regulation, it would almost certainly be supported by substantial evidence.[138] Nothing in the *Phillips Petroleum* decision [139] *requires* the FPC to set prices; the decision simply gives the Commission jurisdiction to do so. As the U.S. Court of Appeals for the Fifth Circuit has recently stated: [140]

"[T]he decisions of the Supreme Court definitely indicate the Commission has a responsibility to take the steps necessary to assure that wellhead prices are in the public interest. The Commission does not have to employ the area rate method or for that matter regulate prices directly at all, but it has chosen to fulfill its duty in that manner here."

In sum, the arguments against the present system of gas field market regulation are compelling. Price control is not needed to check monopoly power, and efforts to control rents require impossible calculations of producer costs and lead to arbitrary allocation of cheap gas supplies. In practice, regulation has led to a virtually inevitable gas shortage. It has brought about a variety of economically wasteful results, and it has ended up by hurting those whom it was designed to benefit. Thus, less, not more, regulation is required.

FOOTNOTES

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[1] 347 U.S. 672 (1954).

[2] Prior to this decision, FPC regulation of the natural gas industry extended only to the regulation of prices for the transporting of gas across state lines for the purposes of resale.

[3] MacAvoy, *The Effectiveness of the Federal Power Commission*, I Bell J. of Econ. & Management Sci. 271, 303 n. 22 (1970).

[4] *See* Table I, p. 975 *infra*.

[5] Although in debates over the wisdom of FPC regulatory policy the *Phillips* decision itself is often violently attacked, the Court's logic in that case was not wholly unreasonable, though neither was it totally satisfying. Whether the FPC should have jurisdiction over producer prices is not clear from the statutory language of the Natural Gas Act, 15 U.S.C. §§ 717–717w (1970). The Act states that [t]he provisions of this chapter shall apply to . . . the sale in interstate commerce of natural gas for resale . . . but shall not apply to . . . the production or gathering of natural gas.

15 U.S.C. § 717b (1970). To be sure, a field producer's sale to an interstate pipeline is "a sale in interstate commerce for resale." But whether the exemption for "production and gathering" applies to the physical production and gathering operations only *or* to those operations and also the *sale* of what what is gathered, is not clear.

While the legislative history of the Act has little to say about producer regulation, what is said seems to support the Court's decision. The House of Representatives Committee Report states that the words "production or gathering" are "not actually necessary, as the matters specified therein could not be said fairly to be covered by the language affirmatively stating the jurisdiction of the Commission. . . ." H.R. Rep. No. 709, 75th Cong., 1st Sess. 3 (1937). *See generally* Note, *Legislative History of the Natural Gas Act*, 44 Geo. L.J. 695 (1956). This statement suggests that Congress did not mean to exempt from regulation sales by producers to pipelines, for such sales surely could be said "to be covered by the language affirmatively stating the jurisdiction of the Commission" over sales for resale in interstate commerce. Moreover, although the FPC consistently refused before 1954 to regulate producers, at their urging Congress passed a bill granting a clear producer exemption—a bill that President Truman vetoed. Thus the producers, the Congress, and the President arguably acted as if the producers might be regulated by existing law. For an excellent discussion of this point, and of producer price regulation generally, see Kitch, *Regulation in the Field Market for Natural Gas by the Federa,l Power Commission*, 11 J. Law & Econ. 243, 254–55 (1968).

Despite this support for the Court's position, however, the *Phillips* decision can be criticized. The Court did not examine, more than superficially, the economic purposes that producer regulation might serve. Without such an examination, the Court could not tell what sense producer regulation made economically or whether it was consistent with a general regulatory policy which provides for the supervision of the prices of monopoly (or oligophy) gas transmission companies and of monopoly retail gas distributing companies. If producer regulation is not consistent with this general regulatory policy, then to assume a congressional intent to regulate producers in the face of ambiguous statutory language and a near-silent legislative history was not warranted, and produced bad law. To what extent the Court in 1954 could have been aware of the facts and arguments concerning the economic rationale for regulation, we leave to the reader to judge.

[6] N.Y. Times, April 19, 1973, at 1, col. 1; *see* note 134 *infra*.

[7] Southern Louisiana Area Rate Cases v. FPC, 428 F. 2d 407, 418 n. 10 (5th Cir.), *cert. denied*, 400 U.S. 950 (1970).

[8] Recent estimates place potential reserves in the U.S. at 1,227 trillion cubic feet in addition to the present proven reserve inventory of 275.1 trillion cubic feet. Federal Power Commission, 1970 Annual Report 52 (1971). Of course, much of the potential reserves exists in high-risk, high-cost areas. *Id.* at 52. But these figures for potential resources do not include the possibility of expansion by way of technological advances in obtaining gas from coal and in stimulating low-productivity gas reservoirs through the use of nuclear power. *Id.* at 53–54.

[9] *See* pp. 965–66.

[10] *See, e.g.*, Posner, *Taxation by Regulation*, 2 Bell J. of Econ. & Management Sci. 22 (1971).

[11] For general background on the production of natural gas, see J. Kornfeld, Natural Gas Economics (1950); S. Pirson, Oil Reservoir Engineering (1959); L. Uren, Petroleum Production Engineering (1934).

[12] *See* Table II, p. 978 *infra*.

[13] *See* P. MacAvoy, Price Formation in Natural Gas Fields chs. 5–7 (1962) [hereinafter cited as Price Formation].

[14] *See* pp. 954–57 *infra*.

[15] *See* C. Hawkins, The Field Price Regulation of Natural Gas 221 (1969) [hereinafter cited as Hawkins].

[16] *See, e.g.*, Douglas, *The Case for the Consumer of Natural Gas*, 44 Geo. L.J. 566, 589 (1955) ("Competition is limited by the domination of supply and reserves by a very few major companies . . . .").

[17] Phillips Petroleum Co. v. Wisconsin, 347 U.S. 672, 685 (1954).

[18] Southern Lousiaina Area Rate Cases, 428 F.2d 407, 416, n.10 (5th Cir.), *cert. denied*, 400 U.S. 950 (1970).

[19] Hawkins, 248.

[20] Permian Basin Area Rate Proceeding, 34 F.P.C. 159, 182 n.17 (1956), *aff'd in part and rev'd in part sub nom.* Skelly Oil Co. v. FPC. 375 F.2d (10th Cir. 1967), *aff'd in part and rev'd in part sub nom.* Permian Basin Area Rate Cases, 390 U.S. 747 (1968) (approving FPC decision in its entirety).

[21] P. MacAvoy, The Crisis of the Regulatory Commissions 156 (1970), quoting Champlin Oil & Refining Co., Docket No. G–9277, at 458 (FPC 1969) (testimony of Professor M.A. Adelman).

[22] *See* McKie, *Market Structure and Uncertainty in Oil and Gas Exploration*, 74 Quarterly J. of Econ. 453 (1960).

[23] *See* Hawkins 227; pp. 966–67 *infra*.

[24] *See* Price Formation 29–31.

[25] *Cf.* Champlin Oil & Refining Co., Docket No. G–9277, at 489 (FPC 1969) (testimony of Professor A. E. Kahn).

[26] *See* Price Formation 93–242.

[27] *See, e.g.*, Dirlam, *Natural Gas: Cost, Conservation, and Pricing*, 48 American Econ. Rev. 491 (No. 2, 1958); Douglas, *supra* note 16; Kahn, *Economic Issues in Regulating the Field Price of Natural Gas*, 50 American Econ. Rev. 506 (No. 2, 1960).

[28] Hawkins 223 (prices at the wellhead increased 83% during this period).

[29] *See* Price Formation 243–73.

[30] *See, e.g.*, Douglas, *supra* note 16; Spritzer, *Changing Elements in the Natural Gas Picture: Implications for the Regulatory Scheme*, in Regulation of the Natural Gas Producing Industry 118 (K. Brown ed. 1972).

[31] On this point, most of the economic theories of the regulated firm agree. *See, e.g.*, Averch & Johnson, *Behavior of the Firm Under Regulatory Constraint*, 52 American Econ. Rev. 1052 (No. I, 1962). *See also* Baumol & Klevorick, *Input Choices and Rate-of-Return Regulation: An Overveiw of the Discussion*, I Bell J. of Econ. Management Sci. 162 (1970).

[32] *See* Price Formation 93–145.

[33] Those favoring regulation have also pointed to producer profits as evidence of market power. To be sure, profits would appear to have been higher here than in some industries. Economic experts appearing for the distributing companies in the Permian Basin Area proceedings reported average returns on capital between 12 and 18% for oil and gas companies at a time when the average return in manufacturing was less than 8%. But such comparisons are not enough to suggest the presence of monopoly pricing, due to three special features of returns in the gas producing industry. First, without regulation, marginal producers must earn a return on their capital at least equal to what they could earn by investing elsewhere. But lower costs on more fortunate discoveries in a world of uncertainty might earn much more, and this "rent" earned by unusually efficient or fortunate producers would create an upward bias in industry average profit rates. Such "rent" is more likely to be prevalent in natural gas production than in most other industries because of the characteristics of discovery of an uncertain resource. *See* p. 950 *infra*. Second, the Permian Basin figures reflect profits only of firms still in business, not of those that have failed. The uncertainty in exploring and developing gas suggests that risks of failure have been unusually high. *See* Hawkins 222 (showing high percentage of exploratory wells which have been dry). Thus, measuring industry returns on the basis of those that are able to remain in it results in an upward bias. Third, profit figures in the Permian Basin proceedings overstated the true return to capital because of the accounting procedures used. The rate of return estimates were calculated simply by dividing total profits that producers reported they had received by the total capital that they reported they had invested. However, this method does not account for the extensive time lag in the industry before an investment begins to earn a return. The accounting return on a dollar invested must be far lower in real terms here than elsewhere simply because payment begins 5 years rather than 1 year, after the investment is made; the simple accounting profit rate must be adjusted to take the long lag between exploration and production into account. Producer witnesses in the Permian Basin case estimated that an "apparent yield" of 16 to 18% was due to the lag in production, equivalent to a "true yield" of about 10% Thus, not much can be concluded about market power from the profit figures alone.

[34] Of course, regulation designed to allocate resources efficiently and regulation directed at income redistribution are necessarily mutually exclusive policies. *See* p. 943 *supra*.

[35] *See, e.g.*, Kahn, *supra* note 27.

[36] *See* Tables I and II, pp. 975, 978 *infra*. *See also* Hawkins 220.

[37] Rising trends in costs of inputs and falling trends in productivity per unit of drilling are reported in National Petroleum Council, U.S. Energy Outlook ch. 6 (2d Interim Report 1971).

[38] *See* p. 944 *supra*.

[39] *See* Southern Louisiana Area Rate Proceeding, 46 F.P.C. 86, 110–11 (1971).

[40] *See* Southern Louisiana Area Rate Cases v. FPC, 428 F.2d 407, 426 (5th Cir.), *cert. denied*, 400 U.S. 950 (1970).

[41] *See* pp. 958–59 *infra*.

[42] This pattern appeared in the first complete area rate decision. Permian Basin Area Rate Proceeding, 34 F.P.C. 159 (1956), *aff'd in part and rev'd in part sub nom.* Skelly Oil Co. v. FPC, 375 F.2d 6 (roth Cir. 1967), *aff'd in part and rev'd in part sub. nom.* Permian Basin Area Rate Cases, 390 U.S. 747 (1968) (approving FPC decision in its entirety).

[43] *See* 34 F.P.C. at 188.

[44] Additionally, economists favoring regulation upon whom the Commission has closely relied have often rested their case upon a belief that the supply of gas is inelastic—that price has little effect on outputs. *See, e.g.*, Kahn, *supra* note 27, at 508–09. If regulation-induced price changes would not affect output, then the only reason to set price ceilings would be to transfer rents.

[45] 347 U.S. 672 (1954).

[46] Soon after the *Phillips* decision, Congress passed a bill exempting field sales of natural gas from regulation. The bill was vetoed, however, by President Eisenhower, not because he favored regulation, but because he disapproved of certain producer lobbying tactics. *See* Kitch, *supra* note 5, at 256.

[47] Hawkins 37.

[48] *Id.*

[49] *Id.* at 26.

[50] *Id.* at 78.

[51] Subcommittee on Administrative Practice and Procedure of the Senate Comm. on the Judiciary, 86th Cong., 2d Sess., Report on the Regulatory Agencies to the President-Elect 54 (Comm. Print 1960) (Landis report).

[52] Assume that to find and to produce a certain volume of gas and oil from a marginal well costs a certain producer $100,000. Assume further that of this cost, $70,000 is joint, $20,000 represents the ascertainable separate cost of extracting oil, and $10,000 the separate cost of extracting gas. The producer will develop this well and sell both gas and oil provided he can sell the oil for at least $20,000, the gas for at least $10,000, and the two together for at least $100,000. But he will not care whether the extra $70,000 comes entirely from gas sales, entirely from oil sales, or from some combination of the two. The source of the $70,000 will depend upon the relative strength of the demands of gas buyers and oil buyers for the producer's supplies—a factor which will depend upon supply and demand in each industry. *See, e.g.*, I. A. Kahn, The Economics of Regulation 79–83 (1970).

[53] Thus, the agency regulating the producer described in note 52, *supra*, would permit the well owner to recover $100,000, allowing him to set whatever combination of gas and oil prices would be necessary to obtain the revenue. Similarly, the regulator would allow the owner of an intermarginal well with, say, joint costs of $40,000, separate gas costs of $5,000, and separate oil costs of $10,000 to set whatever prices would obtain a total of $55,000. Since in the latter case total production could be sold for $100,000 in an unregulated market, the producer would lose $45,000 in rent, and gas and oil consumers *together* would pay $45,000 less than the free market price.

[54] The problem of trying to regulate one industry without regulating the other becomes clear if one considers the following procedure. Suppose the Commission were to require producers to submit prices that covered the costs of producing gas only, but which included (1) the ascertainable separate costs of gas extraction, plus (2) joint costs only insofar as they would not be covered by revenues received from the sale of petroleum. Thus, for example, a firm with joint costs of $70,000, separate oil costs of $20,000, and separate gas costs of $10,000, would be allowed to earn up to $80,000 from gas sales which would be calculated as the sum of $10,000 plus the difference between oil revenues (less $20,000 for covering *separate* oil costs) and $70,000. For every dollar less that it earned from oil sales, the company would be allowed to earn a dollar more from gas sales.

Considering the Commission's inability to regulate liquid sales, such a system for regulating gas production prices would have obvious drawbacks. First, it would require information on petroleum sales of the sort that is required of regulated sales. To ask the company to provide estimates of future oil prices would be to ask for exceptionally costly and uncertain information. Second, the Commission would have to regulate the price of oil eventually if it were to squeeze rents out of gas production. Under such a system, the producer would be indifferent as to whether he earned a dollar of rent from an oil or a gas sale. It is possible that he would try to cover as many of the well's costs as possible from gas sales, for if the Commission forced him to charge a lower gas price, he would not know whether he could cover a well's remaining joint costs from oil sales until the oil was sold, perhaps sometime in the future. He must therefore decide to maintain gas prices that included rents and reduce his oil prices, as a strategy to increase total sales or, perhaps, in order to allocate his low-priced oil arbitrarily on the basis of personal favors or otherwise.

[55] *See generally* Hawkins 44–74.

[56] If, for example, it costs $1.50 to produce a barrel of oil and $0.15 to produce an Mcf of gas, joint costs would be allocated according to the ratio: 10 × the number of barrels of oil/number of Mcf's of gas.

[57] Under this method, if a barrel of oil yielded one million BTU's and an Mcf of gas yielded ½ million, then a company's joint costs would be allocated according to the ratio: 2 × number of barrels of oil/ number of Mcf's of gas.

[58] Thus, if an oil BTU was worth four times a gas BTU, the ratio for allocating joint costs would be: 4 × number of barrels of oil/number of Mcf's of gas.

Note that this is a potentially circular method since "costs" are partly tied to existing prices. *See* Hawkins: 46–47.

[59] *See* Hawkins 78.

[60] FPC v. Hope Natural Gas C., 320 U.S. 591, 645 (1944).

[61] Since the number of joint wells has diminished to the point where gas output from them accounts for only about 25% of total gas production, *see* p. 944 *supra*, the problem of allocating joint costs became somewhat less important in the 1960's than it was in the 1950's. Nonetheless, joint expenditures were and are still sufficiently important to make a pricing system that allocates them via these accounting methods an exercise in the arbitrary.

[62] *See generally* W. Sharpe, Portfolio and Capital Markets (1970).

[63] Because of special tax incentives, much new investment by gas production companies is financed out of internally generated funds.

See, e.g., Int. Rev. Code of 1954, §§ 611–13 (depletion allowance).

[64] *See* National Petroleum Council, U.S. Energy Outlook 115 (1972) (showing exploration, development, and overhead costs to be $6.4 billion of $8.9 billion total outlay).

[65] The five areas were (1) The Permian Basin (Texas and part of New Mexico); (2) Southern Louisiana (including the offshore area in the Gulf of Mexico); (3) Hugoton-Anadarko (part of Oklahoma and Kansas); (4) Texas Gulf Coast; and (5) Other Southwest (Mississippi, Arkansas, and parts of Alabama, Texas, and Oklahoma).

[66] 15 U.S.C. § 717d (1970).

[67] With regard to increases in existing contracts, proposed price increases would take effect subject to an obligation of the producer to refund any excess above the "reasonable rate" which the area rate proceeding was eventually to find. Thus, producers tended not to ask for increases above the interim ceiling rate. With regard to new supply contracts, the Commission used its licensing power over producer entry, 15 U.S.C. § 717 (1970), to withhold certificates allowing production to begin unless the producer agreed to sell the gas at the interim ceilings proposed by the Commission as (provisionally) reasonable. While the Commission did not rigidly adhere to these interim guidelines, its object was to hold new gas prices "in line" with those charged in the late 1950's and in 1960. *See generally* FPC, Statement of General Policy, No. 61-1, 24, F.P.C. 818 (1960).

[68] Permian Basin Area Rate Proceeding, 34 F.P.C. 159 (1965), *aff'd in part and rev'd in part sub nom*, Skelly Oil Co. 1. FPC, 375 F.2d 6 (10th Cir. 1967), *aff'd in part and rev'd in part sub nom*. Permian Basin Area Rate Cases, 390 U.S. 747 (1968) (approving FPC decision in its entirety); Southern Louisiana Area Rate Proceeding, 40 F.P.C. 530 (1968), *aff'd*, Southern Louisiana Area Rate Case, 428 F.2d 407 (5th Cir.), *cert. denied*, 400 U.S. 950 (1970). The latter case was reopened to raise the ceiling by 25%. Southern Louisiana Area Rate Proceeding, 46 F.P.C. 86 (1971); *see* p. 964 *infra*.

[69] See p. 951 *supra*.

[70] The English have solved this problem by making the gas distributor a single nationalized company, with both monopoly and monopsony power. It can thus offer differential prices to producers based upon their production costs, including prices equal to marginal costs for producers at the margin. It can then ration the cheaper gas by selling to those consumers who bid the most. To be sure, the nationalized distribution company earns large rents, but these rents are simply transferred over to the treasury. *See generally* Dam, *The Pricing of North Sea Gas in Britain*, 13 J. Law & Econ. 11 (1970). Of course, allowing private pipeline or distributing companies in the United States to ration the cheaper "old" gas on the basis of consumers' willingness to pay would be undesirable, since producer rents would then be transferred to these private companies, rather than to consumers.

[71] The FPC has generally chosen to increase the reserve backing of existing pipeline customers when given the choice of certifying new pipeline construction with only marginal backing.

[72] *See, e.g.*, FPC v. Transcontinental Gas Pipe Line Corp., 365 U.S. 1 (1961) (upholding FPC decision to deny delivery of gas to utility company for use under boilers in place of coal, partially on ground that this was an "inferior" use); p. 984 *infra*.

[73] *See* pp. 948–49 *supra*.

[74] A deficiency in the supply of the new gas might still occur even if the Commission regulated the old gas only, so long as producers suspected that there would be *future* designations as "old" gas now "new." *See* pp. 984–85 *infra*.

[75] 15 U.S.C. § 717b (1970).

[76] *See* p. 997 & note 118 *infra*.

[77] Note that the discussion here is limited to the Commission's determination of prices for new *gas-well* gas, and that since no joint cost problem would be involved, it was unlikely the Commission would find the market price too low, as was the case in the former individual producer proceedings. *See* p. 957 *supra*.

[78] Thus in the Permian Basin Area Rate Proceeding, 34 F.P.C. 159 (1965), *aff'd in part and rev'd in part sub nom*. Skelly Oil Co. v. FPC, 375 F.2d 6 (10th Cir. 1967), *aff'd in part and rev'd in part sub nom*. Permian Basin Area Rate Cases, 390 U.S. 747 (1968) (approving FPC decision in its entirety), the Commission staff surveyed both major and minor producers to discover their annual total costs for producing new gas for the base year of 1960. Experts employed by the producers, and some employed by retail distributors, made similar surveys. Together they produced a range of estimates of exploration and development costs for each of several different years. See Hawkins 91–107. Similarly, in the Southern Louisiana Area Rate Proceedings, 40 F.P.C. 530 (1968), *aff'd*, Southern Louisiana Area Rate Cases v. FPC, 428 F.2d 407 (5th Cir.), *cert denied*, 400 U.S. 950 (1970), such analyses were undertaken for the base year 1963.

[79] In Permian Basin Area Rate Proceeding, 34 F.P.C. 159 (1965), the Commission set a new gas ceiling price of approximately 16.5¢ per Mcf. In Southern Louisiana Area Rate proceeding, 40 F.P.C. 530 (1968), it set a new gas ceiling price of 20.0¢ per Mcf. The interim ceilings had been 16.0¢ and 21.0¢ respectively.

[80] *See generally* P. Bradley, The Costs of Petroleum (1968).

[81] Permian Basin Area Rate Proceeding, 34 F.P.C. 159, 194 (1965).

[82] *See* Hawkins 106–07.

[83] *Cf.* p. 948 *supra*.

[84] Southern Louisiana Area Rate Proceeding, 40 F.P.C. 530, 543 (1968).

[85] Southern Louisiana Area Rate Cases v. FPC, 428 F.2d 407, 419 (5th Cir.), *cert. denied*, 400 U.S. 950 (1970).

[86] Southern Louisiana Area Rate Proceeding, 46 F.P.C. 86, 110 (1971); *see* Hugoton-Anadarko Area Rate Proceeding, 44 F.P.C. 761, 769–72 (1970) (ceiling price based on settlement). *But see* Texas Gulf Coast Area Rate Proceedings, 45 F.P.C. 674 (1971) (ceiling price based on independent FPC determination).

[87] Thus, for example, in the first *Southern Louisiana* case, the industry probably surmised that the Commission was unlikely to approve any price out of line with past prices or that departed too radically from average historical new gas production costs. It is therefore not surprising that the settlement offered in that case came very close to the "interim" ceiling price. *See* Southern Louisiana Rrea Rate Proceeding, 40 F.P.C. 530, 630 (1968). Once the Commission reopened the proceeding, however, and thereby indicated its willingness to raise the ceiling price to alleviate the gas shortage, the settlement offer produced a price 20–25% higher than the price previously allowed. Southern Louisiana Area Rate Proceeding, 46 F.P.C. 86, 110 (1971).

[88] *See* p. 950 *supra*.

[89] *See Proceedings on Curtailment of Gas Deliveries of Interstate Pipelines Before the Federal Power Commission* (1972).

[90] Federal Power Commission, Bureau of Natural Gas, National Gas Supply and Demand 1971–1990, at 123 (1972).

[91] *See* MacAvoy, *The Regulation-Induced Shortage of Natural Gas*, 14 J. Law & Econ. 167, 169–70 (1971) [hereinafter cited as *Regulation-Induced Shortage*].

[92] *See* Natural Gas Supply and Demand, *supra* note 90, at xi; Federal Power Commission, Bureau of Natural Gas, The Gas Supplies of Interstate Natural Gas Pipeline Companies 1968, at 34–39 (1970).

[93] *See* Southern Louisiana Area Rate Proceeding, 46 F.P.C. 86, 110–11 (1971).

[94] In theory at least, this demand for reserves should be reflected in higher contract prices to the pipelines, because a longer waiting period for production imposes higher costs on the supplier. This cost increase was not reflected in significantly higher prices on longer term contracts, however, during the period just before area rate regulation. *See* Price Formation 262–65.

[95] *Regulation-Induced Shortage* 171–75.

[96] Federal Power Commission, A Staff Report on National Gas Supply and Demand 18 (1969). Note that 20 years of reserve backing will support only 12 years of delivery at the full initial production rate, because the rate of delivery out of a reserve must fall as gas pressure falls. *See* Hawkins 42.

[97] *Regulation-Induced Shortage* 172.

[98] Obviously, the proposed model is fallible due to the many problems involved in acquiring data—problems that the Commission itself faced in trying to set prices. Yet we believe that such models should be used by policymakers as evidence that is probative, though not conclusive, of which policies ought to be followed.

[99] Ed.—Professor MacAvoy has previously published a supply and demand model intended to measure the extent to which field price regulation has caused the natural gas shortage. MacAvoy, *The Regulation-Induced Shortage of Natural Gas*, 14 J. Law & Econ. 167 (1971). Since that time, his thoughts on the subject have somewhat modified, and the model presented herein is a considerably revised and updated version of that previously published and yields different results.

For those familiar with Professor MacAvoy's earlier model, the revised version presented here specifically differs in the following respects. First, the long term pattern of reserve discoveries and wells sunk in a drilling region is taken to be a better indicator of the geological conditions of that region than is the pattern of discoveries and drilling the year before the test year. Second, the level of the crude oil price index replaces that of the all fuels price retail price index as a condition of drilling activity. Third, the capital stock of gas burning furnaces is taken to be a closer measurement of the size of the final market for natural gas than changes in per capita income and population.

In addition, the data used to examine the relative effects of the gas shortage on industrial and residential users has been developed more fully and separates intrastate from interstate production insofar as it is possible to do so.

[100] The test field market is delimited by the pipelines taking gas for resale along the East Coast and in the Middle Atlantic states. The area roughly comprises Texas Railroad Commission Districts 1–7 and 10, Louisiana, Kansas, and Oklahoma.

[101] *See* p. 966 *supra*.

[102] The actual values of "j" are determined for purposes of the supply and demand equations by treating it as a "dummy" variable. *See* note 109 *infra*.

[103] *See* p. 944 *supra*.

[104] The effect of these economic factors on new reserve supply arises, of course, because ΔR_{tj} is partly a function of W_{tj}.

[105] A diagrammatic exposition of this argument is presented in Price Formation 37–41.

[106] P. 971 *supra*.

[107] A "least squares" equation is a common statistical method which minimizes the sum of the squared differences between the actual observations and the estimates provided by the fitted equation.

[108] The market-clearing solutions for the endogenous variables ΔR_{tj}, ΔQ_{tj}, W_{tj}, and P_{tj} depend on the outside or "exogenous" variables j, op_t $\Delta\Sigma R_{tj}$, K_t, fp_t, M_j, and i_t. Data series for each of these variables were constructed for the preregulatory period in

the eleven drilling regions that provided gas on contracts to pipelines serving the East Coast and Midwest. The data used in the calculations were all obtained from publicly available sources. For the variables ΔR_{tj}, ΔQ_{tj}, W_{tj}, P_{tj}, fp_t, M_j, and i_t, the sources used are summarized in *Regulation Induced Shortage* 197–99. Data for the variables K_t and op_t were obtained from U.S. DEP'T OF COMMERCE, CURRENT BUSINESS STATISTICS, as accumulated over the period 1954–68. For the method of estimating the value of the "dummy" variable j, see note 109 *infra*.

These data were used to fit the supply and demand relations by first stage least squares equations for each of the endogenous variables separately given the exogenous variables, and then the fitted values ΔR_{tj}, ΔQ_{tj}, W_{tj}, and P_{tj} from the first stage were used to find the second stage least squares supply and demand equations. The fitted supply and demand equations were therefore four least squares regressions, one for the supply of new reserves, the second for the supply of wells, the third for new production, and the last for the demand for new reserves.

[109] The equations for the number of wells sunk and for the supply of new reserves for the 1955–60 period were as follows:

$$W_{tj}=-648.60+\underset{(1.73)}{11.46}\,\hat{P}_{tj}+\underset{(1.75)}{175.52}\,op_t+\sum_{1}^{10}a_iJ_i;\qquad R^2=0.734$$

$$\Delta R_{tj}=-5.41+\underset{(0.98)}{2.45}\,\hat{W}_{tj}+\sum_{1}^{10}b_iJ_i;\qquad R^2=0.831$$

The sets of variables $\Sigma a_i j_i$ and $\Sigma b_i j_i$ are district dummy variables taking the value "one" for observations from district j and "zero" otherwise. This method of treatment of the geological differences between districts follows from F. FISHER, SUPPLY COSTS IN THE U.S. PETROLEUM INDUSTRY (1964).

As these equations show, there were positive cumulative effects from well drilling, new gas contract prices, and the crude oil retail price index. The elasticity of reserve supply with respect to new contract gas prices was estimated to be equal to 0.51 at the average 1956 price and level of new reserves, so that a 10% price increase would lead to a general 5.1% increase in discovery of new reserves.

The equation for additional production was as follows:

$$\Delta Q_{tj}=-34.33+\underset{(2.89)}{0.015}\,\Delta\hat{R}_{tj}-\underset{(-2.27)}{27.49}\,i_t+\underset{(2.75)}{11.37}\,fp_t;\qquad R^2=0.693$$

This shows a positive production-reserve relation, a negative production-interest relation, and a positive production-fuel price relation. The elasticity of production with respect to reserves was approximately 0.40, and was quasi-statistically significant. The elasticity with respect to interest rates was negative, and with respect to the fuel price index was positive. Both coefficients were quasi-significant and had the expected effect on production: the higher the capital (i_t), the lower the production rate; and the higher the price of alternative fuels (fp_t), the higher the gas production rate.

The demand equation was also estimated in the second stage of two stage least squares as follows:

$$P_{tj}=\underset{(8.43)}{12.22}+\underset{(-1.12)}{0.0012}\,\Delta R_{tj}-0.00094\,\Sigma\Delta R_{tj}-\underset{(-1.95)}{0.0013}\,M_j+\underset{(0.99)}{0.088}\,fp_t+\underset{(5.02)}{0.00083}\,K_t;\qquad R^2=0.616$$

As the equation shows, there were positive coefficients for three variables and negative coefficients for two variables. The elasticity of gas prices with respect to the fuels price index was +0.02, and with respect to the "size" of the resale market (K_t) was +0.05. These values are low, indicating small responsiveness of bid prices to change in the values of these variables. However, the elasticity of demand was substantial; a small change in prices P_{tj} brought forth large changes in total new reserves demanded ($\Sigma\Delta R_{tj}$) so that this elasticity equalled at least —1.6. The other elasticities—for variables ΔR_{tj} and M_j differentiating the drilling regions—were as expected from the economics of pipeline costs and demand.

[110] The results for each of the test years in the late 1950's are as follows:

Average Price (cents per Mcf)

	Actual	*Simulated*
1955	15.5	16.6
1956	17.0	17.9
1957	18.1	18.4
1958	19.3	18.8
1959	19.1	19.7
1960	18.4	20.0
6-year	17.9	18.6

[111] The actual additions to reserves, and the simulated "unregulated" additions in the 1955–60 period, are as follows:

Reserves (billions cu. ft.)

	Actual	*Simulated*
1955	7,354	10,678
1956	14,439	10,935
1957	15,236	12,361
1958	13,604	12,578
1959	11,239	12,381
1960	10,036	12,481
6-year	71,908	71,414

The tendency seems to have been for more new reserves to have actually been provided in the earlier years than simulated by the model. This tendency was reversed in the later years. Anticipation of the approaching price controls—with consequent reductions in supply—could have had much to do with this trend.

[112] Three other equation sets were fitted to the data as well. One set used the pattern of reserve discoveries and drilling the year before the test year as an indictator of geological conditions; thus, lagged values of the dependent variables, *i.e.*, $R_{t-1,j}$ and $W_{t-1,j}$, were used in place of the district "dummy" variable "j." *See* note 109 *supra*. A second set was fitted in the logarithms of all variables, and the third was fitted in the logarithms of the demand variables only. Of the four systems, the one reported in the text and the previous footnotes simulates best the 1955–60 experience in reserves, production, and prices.

[113] *See* note 108 *supra*.

[114] *See* note 109 *supra*.

[115] It is interesting to use the data in Table I to try to compare roughly the extent of reserve backing for actual and simulated new production in the test region. Taking the 8-year period as a whole, simulated additional production is 5% of simulated new reserves, and during the period 1963–68, it is 5.2% of new reserves. This would seem to indicate approximately between 19 and 20 years reserve backing for new production under "unregulated" conditions. See pp. 996–67 *supra*.

However, this calculation really overstates the extent of reserve backing supplied to guarantee new production, because the production figures provided by the model are for *additional* production only—*i.e.*, the quantity of production in excess of production the previous year. The figures do not include the extent of new production in the test years which would have been supplied under "unregulated" conditions to *replace* production contracts expiring in those years. It has been previously estimated that such replacement demands equal 1/14 of *total* production in any one year, based upon the depletion rate of new reserves in 1947. *See Regulation-Induced Shortage* 173–74 & n. 15. Figures for the total production in the test region under "unregulated" conditions are not provided by the model, and therefore replacement production cannot be calculated from the data in Table I. To be sure, inclusion of replacement production would reduce the reserve-to-production ratio below the level of 20 years reserve backing for new production. But, since the model predicts conditions which would "clear" the "unregulated" market, the higher simulated prices would have reduced demand for new reserve backing down to the level of that supplied. And, given higher prices, replacement production is unlikely to be so high as to take reserve backing under "unregulated" conditions outside the range of 14.5 to 20 years considered "optimal" to guarantee future service. *See* pp. 966–67 *supra*.

The *actual* reserve backup provided for new production in the test years was far lower. For the 8-year period as a whole, actual *additional* productions was backed up by 12.8 years of reserves, and during the period 1963–68, reserve backup was only 10.7 years. Because of the necessity eventually to reduce the rate of production out of a reserve as a result of falling pressures, *see* note 96 *supra*, this means that reserves supplied during the latter period would support only about 6.4 years of production at the initial rate. And, of course, if the new-reserve-to-new-production ratio were decreased to reflect new *replacement* production, this figure would be even lower.

[116] *Hearings on Natural Gas Policy Issues Before the Senate Comm. on Interior & Insular Affairs*, 92d Cong., Sess., pt. I, at 192, 268, 270 (1972) Statement of FPC Chairman Nassikas).

[117] *See* P. BALESTRA, THE DEMAND FOR NATURAL GAS IN THE UNITED STATES: A DYNAMIC APPROACH FOR THE PRESIDENTIAL AND COMMERCIAL MARKET (1967). Balestra describes the period referred to in text as that in which gas sales were "reallocated" between classes of customers. He describes 1950–57 as an "innovating" period in which pipelines were built and service begun and 1957–62 as a "maturing" period in which more gas was sold to the same customers.

[118] The substantial increase in the category "Distributors and Intrastate Pipelines" came primarily from sales by unregulated transmission companies. This is demonstrated by data gathered by the authors which show that sales by regulated pipelines to distributors for resale to industry increased at a rate only slightly greater than the rate of increase for "Total U.S. Industrial Consumption." By compiling the interstate pipelines' Form 2 Reports to the FPC, state totals for all pipeline sales were obtained. The percentage of sales to industry in each state was obtained from BUREAU of MINES, ANNUAL REPORTS ON GAS CONSUMPTION and applied to those state totals to produce the figures, by state, for pipeline sales to distributors for industry. These sales increased by 50% from 1962 to 1968, significantly below the 62% increase registered for total industrial sales by "Intrastate Pipelines and Distributors" given in Table II.

[119] *See* AMERICAN PETROLEUM INSTITUTE, AMERICAN GAS ASSOCIATION, PROVED RESERVES OF OIL AND NATURAL GAS IN THE U.S. (Annual Volumes 1965–70).

[120] PRICE FORMATION ch. 5.

[121] *Hearings, supra* note 116, at 295, 298 (testimony of J. C. Swidler, Chairman, N.Y. Public Service Commission).

[122] Reply Submittal of the Office of Economics, Federal Power Commission, Initial Rates for Future Sales of Natural Gas for All Areas, Docket No. R–389A, at 12, 19 (Oct. 1970).

[123] *Hearings,* supra note 116, at 163, 192, 270 (Statement of FPC Chairman Nassikas).

[124] *Cf.* HAWKINS 212.

[125] *See* p. 975 *supra*.

[126] *See* p. 948 *supra*.

[127] The discussion in text describes in layman's terms what the economist calls "consumers' surplus." Consumers' surplus is defined as the excess over the price paid which consumers are willing to pay for a given amount of a product rather than do

without it. *See e.g.*, G. STIGLER, THE THEORY OF PRICE 78 (3d ed. 1966). When a market is at equilibrium, the market-clearing price equals what consumers are willing to pay for the last or marginal unit of output. Since consumers would normally be willing to pay more for intramarginal units of output, the equilibrium price affords them a savings or "surplus" on these intramarginal units. This savings which gas consumers suffering the shortage would have had under unregulated conditions is a measure of the cost to them of the FPC policy. It can be represented diagrammatically as follows on p. 982, note 127 *infra.*

At the level of production supplied under price ceilings (Q_{fpc}), consumers, as represented by the pipelines, were willing to pay a price for gas not only above the FPC ceiling (P_{fpc}), but considerably above the market-clearing price (P_{market}) as well. Moreover, for each unit of additional production up to market-clearing levels (Q_{market}), consumers were willing to pay more than the market-clearing price. Thus, the area of the triangle ABF is equal to the difference between what consumers doing without gas were willing to pay for additional production ($Q_{market}—Q_{fpc}$) and what they would have actually had to pay for it under market-clearing conditions (equivalent to the rectangle BFHG). This surplus which consumers who actually did without gas would have obtained under hypothesized market-clearing conditions represents the losses to them from FPC price ceilings.

These losses to consumers doing without gas can be compared to the gains by consumers who obtained new gas production. These gains are represented by the area of the rectangle CBED. This area is the difference between the market-clearing and FPC price ($P_{market}-P_{fpc}$) multiplied by the quantity of new gas production they received (Q_{fpc}). Thus, if the area of triangle ABF is at least equal to the area of rectangle CBED, then the gains to those who received gas were offset by the losses by those who had to do without.

[128] In other words, the length of line AB was, in fact, at least twice the length of line BE by the last years of the test period. Since the shortage of new production by 1967–68 exceeded the actual supply of new production, line BF was greater than line CB. Thus, the area of the triangle ABF was at least equal to the area of the rectangle CBED.

[129] Of course, this is somewhat of an overstatement, since the model shows consumer losses being at least equal to consumer gains only with regard to *additional* production during the test years. In reality, the 6 cents per Mcf reduction in price brought about by FPC ceilings was a gain realized by consumers on other gas as well—*i.e.*, the amount produced under old contracts which would have sold for higher prices when "favored nation" clauses were triggered. *See* p. 946 *supra.* This amount is unknown.

[130] *See* p. 967 *supra.*

[131] *See* note 115 *supra.*

[132] *See, e.g.*, Gerwig, *Natural Gas Production: A Study of Costs of Regulation*, 5 J. LAW & ECON. 69 (1962).

[133] *See Hearings, supra* note 116, at 302 (testimony of J. C. Swidler).

[134] President Nixon's recent proposal, *see* p. 942 *supra*, seems to contemplate adoption of this alternative.

[135] INT. REV. CODE of 1954, §§ 611–14.

[136] 15 U.S.C. § 717(b) (1970); *see* note 5 *supra.*

[137] Atlantic Refining Co. v. Public Service Comm'n of New York, 360 U.S. 378 (1954).

[138] Courts will normally review administrative decisions to see if they are in compliance with law and are supported by substantial evidence on the whole record. *See* Universal Camera Corp. v. NLRB, 340 U.S. 474 (1951).

[139] *See* p. 941 and note 5 *supra.*

[140] Southern Louisiana Area Rate Cases, 428 F. 2d 407, 416 n.9 (5th Cir.), *cert. denied,* 400 U.S. 950 (1970). *See also* Permian Basin Area Rate Cases, 390 U.S. 747, 766–67 (1968) (one who would overturn FPC finding of fact bears heavy burden of proof); Wisconsin v. FPC, 373 U.S. 294, 309 (1963) ("[i]t has repeatedly been stated that no single method need be followed by the Commission in considering the justness and reasonableness of rates"); FPC v. Hope Natural Gas Co., 320 U.S. 591, (1944) ("Under the statutory standard of 'just and reasonable' it is the result reached not the method employed which is controlling.")

[From the CONGRESSIONAL RECORD, Jan. 18, 1973]

THE ENERGY CRISIS

Mr. **BUCKLEY.** Mr. President, as a participant in the Senate's national fuels and energy study, it has been my privilege to attend a series of hearings and briefings which has served to sharpen my own understanding of the scope and long-term implications of what has come to be called our "energy crisis."

The facts now publicly available ought to speak for themselves. We are faced with a chronic and growing shortage of environmentally compatible domestic fuels which for the next 10 to 15 years will make us uncomfortably dependent on foreign sources in order to meet up to 25 percent and more of our projected energy needs by the year 1985.

The economic and security implications of these facts are serious enough. But I fear that if the full dimensions of the energy crisis are not understood by the public, we may find ourselves making the wrong policy decisions. Only a fully informed public will assure full support for the measures best designed to meet the energy crisis and assure our country of continuing supplies of reasonably priced fuels on a basis that will not place a catastrophic strain on our balances of payments or jeopardize our national security.

We are beginning to experience actual shortages in gas deliveries in various parts of the country. For the first time in many decades, our oil fields are producing at 100 percent of capacity while we are running short of fuel oil in various parts of the country. Yet I suspect that too many Americans may be writing off current congressional concerns as "scare talk" designed to justify special-interest legislation at the expense of the consuming public. To speak candidly, Mr. President, I believe this reaction may be encouraged by the fact that the current energy study is being conducted under the auspices of the Interior Committee which is traditionally associated with oil- and gas-producing States.

Let us remember that for over a decade, the citizens of our Northeastern States—myself included—have felt that they have been required, through the imposition of oil import quotas, to pay excessively high prices for petroleum products in order to maintain an artificial level of prices for the benefit of producers in our Southern and Western States. They have felt, as I do, that the security considerations advanced as an excuse for the original imposition of quotas were spurious. I recognize that the situation we face today is materially different from that which existed a decade or so ago. It has now become far more difficult and costly to find new oil. We no longer have a standby production capacity, and recent developments on the international scene threaten to create a dependence on foreign sources of energy which could prove dangerous. Consequently, I am persuaded that some mechanism to encourage the rapid discovery of new indigenous reserves of oil and gas is justified until such time as we can develop the necessary cushion in our domestic energy resources.

It is not my purpose today, however, to discuss the security aspects of the energy crisis. Rather, I wish to address myself to an examination of the interests of my constituents as consumers of energy. In recent years, New Yorkers have had more than their share of brownouts and shortages. Today there are areas of New York State where for the first time natural gas is now being rationed among pipeline customers. It is clear that New Yorkers and all other American consumers of energy have an interest in the outcome of the current national fuels and energy study which is every bit as immediate and every bit as urgent as that of the energy-producing States.

One thing which I hope will emerge from this study is a better understanding of where the consumer's interest really lies; for it seems clear from the evidence to date that we are witnessing a classic example of the harm done to the ultimate interests of the consumer by an excessive zeal in attempting to protect him, through Government intervention, from the hazards of the marketplace.

Perhaps the most objective summary of the U.S. energy problem I have read was published in a recent issue of the very scholarly British Petroleum Press Service. From their vantage point 3,500 miles from our east coast, this is what the authors had to say:

"Natural gas is in many ways the key to the U.S. energy problem, creating an imbalance because of the interchangeability of fuels in four of the major energy markets and the ease by which they could convert to gas. Its rapid growth over the last twenty years or so has been stimulated by artificially low prices, controlled by the Federal Power Commission on behalf of Congress. This might have been justified at a time when natural gas was virtually a by-product of oil exploration and production but hardly when demand had risen so high that gas was supplying about one-third of the total energy market, second only to oil. The result of low prices has been to discourage exploration for new reserves, which have shrunk to only twelve years' supply at current production rates. . . ."

The article concludes that—

"Because of apparently unlimited supplies of indigenous fuels, energy in the U.S.A. has always been cheap: indeed, a major factor in the nation's economic growth and prosperity. More recently however it is apparent that energy has been too cheap, leading to a certain degree of waste but more importantly to a lack of incentive in developing new resources to meet the very demand that low prices have created. The U.S.A. has always been cheap: indeed, * * * a shortage of cheap energy, caused by price distortions and a lack of understanding that environmental improvements must ultimately be paid for by the consumer."

Clearly, an important contributor to our present energy crisis was the decision of the Federal Power Commission a decade or so ago to regulate the wellhead price of gas delivered to interstate pipelines. This interference with market forces resulted in a diversion of risk capital from exploration to other investment opportunities, and of newly discovered gas into intrastate uses. At the same time, it created a rapidly expanding market for gas which resulted in the displacement of a substantial part of the market for oil and coal. Oil and coal could not complete with the lower cost of regulated gas. On a B.t.u. basis, gas has been selling for about one-half the price of oil, despite its superiority as a fuel. Thus the regulation of the wellhead price of gas has not only resulted in the rapid depletion of existing reserves, it has diverted too much of our natural gas away from its best use, and has destroyed the incentive to develop new gas for delivery into interstate pipelines.

This contention is amply supported by the statistics. In 1971, for example, there were 437 exploratory wells completed as gas discoveries in the United States as against 822 such discoveries in 1956, the year the FPC first proposed to control wellhead prices for gas. In 1971, 9.4 trillion cubic feet of gas were added to our national reserves as against 24.7 trillion cubic feet of gas in 1956.

The experience in the Permian Basin after 1965, when the FPC first moved to impose area controls on gas producers, offers a classic example of how FPC policies have served to channel new gas into intrastate markets with a consequent loss to interstate markets. Mr. President, I ask unanimous consent to have printed in the RECORD a table of figures showing how new gas found in the Permian Basin from 1966 through the first half of 1970 was committed.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

NEW GAS COMMITMENTS IN THE PERMIAN BASIN, 1966-70

Year	Percent committed		Total commitments (BCF)
	Intrastate market	Interstate market	
1966	16.3	83.7	178.0
1967	21.8	78.2	77.2
1968	87.2	12.8	156.1
1969	83.3	16.7	175.8
1970 (6 mo)	90.9	9.1	113.4

Source: From FPC data.

Mr. BUCKLEY. Mr. President, what the figures tell us is that while, in 1966, 83.7 percent of new Permian Basin gas was sold to interstate pipelines, by the end of the first 6 months of 1970 the proportion of new gas being committed to interstate as opposed to intrastate markets had been reversed. In the first 6 months of 1970, 90.9 percent of new Permian Basin gas was being sold to intrastate consumers while only 9.1 percent was connected to interstate pipelines. Interestingly enough, the most dramatic change in the pattern of gas commitment took place in 1968 following a Supreme Court decision affirming the FPC's Permian Basin area rate decision.

In plain English what all these statistics add up to is that when gas producers compare their increasing costs of exploring for and producing new gas to the regulated price at which they are allowed by the FPC to sell it, they tend to conclude that the possible rewards simply do not justify the investment of risk funds to find new gas for commitment to the interstate market. One does not have to be a Ph. D. in economics to understand why, under existing policy, the domestic oil and gas industry has not been moving mountains for the privilege of providing east coast consumers with a premium fuel at regulated prices.

Let us examine some of the realities of present and future supply which have resulted from Federal regulation.

Since the FPC began regulating the wellhead price of gas in a widespread basis, we have witnessed a rapid depletion of existing reserves from a 20-year supply in 1963 to less than an 11-year supply in 1971. Since 1968, our Nation has consumed approximately twice as much natural gas as it had discovered and added to present reserves.

According to testimony given at the energy study hearings last week by Chairman John N. Nassikas of the Federal Power Commission, the FPC's Bureau of Natural Gas has projected, on the basis of current rates of discovery:

An annual gas short fall of domestic supplies to anticipated demand [that] will range from about 10 [trillion cubic feet] in 1980 to about 18 Tcf in 1990.

To meet this excess of demand over supply, we will have to rely on five principal supplemental sources of gas. These are, first, pipeline imports—largely from Canada, including Alaskan gas transported by pipeline through Canada; second liquefied natural gas imports; third, gas derived from coal; fourth, synthetic natural gas derived from liquid hydrocarbons; and fifth, natural gas discovered in the United States above and beyond the rates of discovery projected on the basis of current policy. According to Mr. Nassikas, the first three supplementary sources "could reduce the annual projected gas deficit to about 10 Tcf in 1980 and 18 Tcf by 1990." These deficits, it should be noted, amount to approximately 27 percent of the 1980 demand and 37 percent of the 1990 demand.

What, then, are the alternatives facing the consumer interested in long-term supplies of energy at the most reasonable cost? There are three major alternatives available within the time frame of the next 10 to 15 years:

First. We can adopt conservation measures that will force a reduction in projected demand to meet the projected supply. While I believe, Mr. President, that it is highly important that we develop effective measures to encourage the conservation of energy, I think most of our colleagues would agree that it would be politically and economically unrealistic to believe that we could enforce measures so stringent as to achieve really dramatic short-term reductions in demand.

Second. We can meet the excess demand for gas by redirecting that demand to alternative fuels, such as oil, coal, and uranium. Given the fact, however, that natural gas is expected to meet approximately one-third of our total energy needs, any major diversion of demand to these other fuels would only serve to aggravate the supply and environmental problems which will be associated with each of them well into the 1980's.

Third. This leaves us with the third major alternative. We can take steps designed to accelerate the development of the supplementary sources of gas which I have already listed; to wit, pipeline imports, LNG imports, gas from coal, gas from liquid hydrocarbons, and an acceleration of the rate of discovery of new natural gas. Although we will undoubtedly have to encourage less waste in our use of energy, and although we should encourage some shift from the use of gas to other fuels, our major hope lies in finding new sources of our most desirable fuel.

The next question to be asked is which of these supplementary sources offers the consumer the best hope of meeting his projected needs at the lowest cost? Let us examine each in turn; but, first, by way of a bench mark, let us recall the current costs of regulated natural gas. In 1970, the average wellhead price of gas subject to FPC regulation was about 18 cents per Mcf, and it is in the vicinity of 20 cents now. The transported city gate price of that gas at New York City is about 51 to 52 cents. By the time the gas reaches the individual household, about another $1.18 for distribution costs, and so forth, will have been added.

First. Pipeline imports: The quantity of Canadian gas was which will be available for importation into the United States is, of course, highly dependent on Canada's own energy policies and on the rate at which Canada's exportable reserves can be increased. These are not factors over which American policymakers have any direct control. With respect to Alaskan gas, even if huge reserves are discovered on the Arctic Slope, it will take years before a pipeline can be completed from the fields to the border between Canada and "the lower forty-eight"; and because of the enormous projected cost of such a pipeline—between $3 to $5 billion—it is estimated that the cost of delivering pipeline gas from the Alaskan Arctic to the U.S. border would range upwards from 90 cents to $1.40 per Mcf. Thus there is little reason to believe that we can improve on the FPC's admittedly optimistic estimate that by 1985, net pipeline imports could satisfy as much as 4.8 percent of projected demand; and to the extent that these imports consist of Alaskan gas, the price will be several times higher than the current city gate price for U.S. pipeline gas in New York City.

Second. LNG imports: The cost of delivering Algerian LNG to the East Coast has been estimated at from 84 to 91 cents per Mcf. The estimated cost to produce and deliver a thousand cubic feet of gas under the proposals now being explored with the U.S.S.R. range from $1.25 to $1.50—over two of three times the delivered price of domestic gas at New York City.

Third. Gas from coal: Based on an application filed with the FPC, the estimated cost of a commercial project to produce gas from coal mined in the four corners region of New Mexico, is $1.21 per Mcf.—a "wellhead" price over twice the delivered price of natural gas at New York City.

Fourth. Synthetic natural gas produced from liquid hydrocarbons: Based on applications filed with the FPC, the cost of synthetic gas is estimated to range from $1.10 to $1.80 per Mcf.—two to more than three times the delivered price of natural gas at New York City.

Fifth. Natural gas discovered in the United States above and beyond current rates of discovery: There is no doubt that the gas is there to be discovered. The U.S. Geological Survey estimates that 2,100 trillion cubic feet of natural gas, recoverable under present technology, remain to be discovered within the United States, including the Outer Continental Shelf. This represents almost a hundred year supply at the 1971 rate of consumption. Estimates may vary as to how much of this potential may be available at costs comparable to those of alternative fuels, but it is safe to conclude that much domestic gas remains to be discovered if the industry is allowed the incentives to go out and find it.

The question to be asked, therefore, is what action is best designed to stimulate a resumption of large scale exploration for new gas for interstate markets, and what will be the probable effect of this action on the consumer? Only when we have the answers can we make a judgment as to which of the supplemental sources of gas offers the consumer the best prospect for meeting his future demands at a reasonable price.

Economists have concluded that if the wellhead price of new domestic gas is deregulated, domestic exploration and development will experience a substantial surge. The extent to which new gas supplies, free from continued price regulation, would be elastic to price is subject to debate as is any economic assessment of the future. I am nevertheless confident that supply would be responsive to price. I am also confident that so long as new gas remains regulated at the well-head, as it is today, we may expect the supply-demand gap to continue to expand.

I take this position because I believe that our basic near- and intermediate-term efforts to provide gas for American consumers should be centered around stepped-up domestic production. It is the least costly of the alternatives.

These conclusions are supported by the testimony of administration witnesses at the energy study hearings last week, who clearly stated that potential U.S. gas reserves were sufficiently high to warrant stepped up production under economic conditions conducive to development. They are also supported by a growing host of academic economists, and the press. The Washington Post, Fortune, Barron's, the Wall Street Journal, bank studies and other analyses, not to mention the industry's own calculations, all point to the need to stimulate domestic gas production by freeing the wellhead prices of new gas.

Such a policy will serve an additional purpose, and that is to provide a disincentive to waste. It will favor residential and commercial over uses which may be less related to human needs. In other words, some industries now relying on low-cost natural gas will probably switch to other fuels, thereby conserving gas, once the price of natural gas raises to a level at which other fuels such as oil and coal can compete with it.

But even though gas prices would rise under such a policy of deregulation, they would not rise as quickly as they would under a policy which discouraged conventional natural gas production and encouraged the development of the more costly supplemental sources.

Further, even with the freeing-up of new gas at the wellhead, the burden on consumers would not constitute a shock effect. Residential and commercial consumers in particular would be paying perhaps as little as 5 percent a year more for their gas. This is because the higher priced new gas would be rolled-in with the cheaper old gas that consumers are now burning, and which would continue to be produced under existing long-term contracts.

Based on all the facts, Mr. President, I think the conclusion is inescapable that the best interests of the energy consuming citizens of this country will best be served by freeing newly discovered gas to find its own level.

We have paid a very high price for our overzealous attempt to protect the consumer against the operations of the marketplace. I hope we will learn from this experience the ancient lesson that the one sure way to create a shortage in a given commodity is to try to hold its price below the level which justifies its production. There are certain economic laws which even the U.S. Congress cannot legislate out of existence.

Mr. BUCKLEY. Mr. President, in all sincerity I believe that this single action that this Congress can take in this session that would be best designed to alleviate our energy shortages is the adoption of this amendment. I have, as a member of the Committee on Interior and Insular Affairs, been privileged to listen to months of testimony from all parts of the economy, all knowledgeable sectors, on the questions of energy, and I have reached one conclusion: That the most significant bottleneck we have is the bottleneck on the incentives to find a new source of that energy that today supplies more than one-third of our total needs, namely, gas.

I believe that if we let economic forces go their natural course, we will do more to stimulate immediate research into such things as gas and other near-term alternatives than by any amount of Federal planning and Federal direction. I do not believe that we need more facts and more consideration, because the Interior Committee has gone into the subject exhaustively.

Mr. RANDOLPH. Mr. President, will the Senator yield at an appropriate time.

Mr. BUCKLEY. It is a question of time. As soon as I finish what I have to say, I will be pleased to yield.

Mr. President, there are 10 Members of this body who either are cosponsors of this amendment or have indicated that they will vote for it who are not here today, because of commitments they could not break. Under the circumstances, and in deference to the chairman of the committee, I hereby ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The amendment is withdrawn.

Mr. BUCKLEY. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, did I understand the Senator from New York is yielding to me for an observation?

Mr. BUCKLEY. That is correct.

Mr. RANDOLPH. How much time remains?

The PRESIDING OFFICER (Mr. BARTLETT). The Chair would observe that the Senator from West Virginia will have to ask unanimous consent to proceed, as the end of the time was triggered by the withdrawal of the amendment.

Mr. RANDOLPH. May I have 1 minute?

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senator from West Virginia, notwithstanding the unanimous-consent agreement, may proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I wish to express to my colleague from New York my appreciation. I know many of us share his position on natural gas, yet we disagree as to the timing; namely, the appropriateness of his measure as an amendment to the bill actually to be voted on at this time. Earlier I raised this point which perhaps has not been developed in the debate.

The Senator mentioned the uses for natural gas and the incentives needed to foster the stimulation of new supplies. I want the RECORD to indicate that there now exists technology by which old gas wells that have been plugged and are no longer productive can be reopened. Technologies are available now for fracturing wells that seem to be abandoned so that they can again be made productive. This must come into being.

There are Members of Congress, like me who are intensely interested along with the Senator from New York, in doing this job. We must see that a current program is brought into being, to do just this—to open the thousands of wells now nonproductive where the technology already exists to make natural gas available from these sources.

Does the Senator from New York agree?

Mr. BUCKLEY. I agree, if the price of that commodity is right.

Mr. RANDOLPH. Of course. The price should be right.

Mr. President, in a few minutes the Senate will vote. I express the hope that the Senate will make a commitment unanimously in this crucial hour of concern.

Mr. JACKSON. I want to commend the distinguished Senior Senator from Arizona (Mr. FANNIN) and all others members of the Interior Committee for their great assistance in developing S. 1283. Their efforts and cooperation have been invaluable, and future generations of Americans are in their debt.

Mr. FANNIN. Mr. President, the Senator from New York (Mr. BUCKLEY), is speaking on behalf of the million of citizens living in his State. He does not want them to freeze this winter for lack of natural gas. He has given careful study to his amendment. In fact, he was the first Senator in this body from a gas consuming State to recognize the necessity of deregulating new gas. As early as January of this year, following a year's careful research as a participant in the Senate's national fuels and energy study, the Senator from New York (Mr. BUCKLEY) in a major address delivered to this body urged his colleagues to deregulate new gas. Had his colleagues then listened to his wise and farsighted advice, we might not have been faced with a crisis this winter nearly as severe as the one we are facing. Had the Congress taken the action the Senator from New York called for regarding natural gas in January of this year, the Nation as a whole would be suffering much less in the way of a fuel shortage.

I know of what I speak because I too come from a consumer State.

I wish our chairman and floor leader (Mr. JACKSON) who also comes from a consumer State would begin to exhibit the wisdom that his colleague from New York was exhibited regarding natural gas policy. Our friend from Washington has exhibited great wisdom in dealing with long range supply problems as evidenced by this bill S. 1283, which he authored. I compliment him again for his work on this legislation. Several days ago I complimented him at length for his bipartisian work on this bill.

This legislation is evidence of the great work he can accomplish when he takes the time to study the facts.

We now hope, as he moves forward in his capacity as chairman of the Senate's national fuels and energy study to consider a recommendation on natural gas policy to the U.S. Senate, that he will set his agile mind to work by studying the facts and come to the same lucid and valid conclusions about the need to deregulate gas as has his fellow consumer State colleague from New York.

I believe that by exercising the type of reasoning, clear thinking, adherence to fact, and bipartisan leadership of which he is capable he cannot in all honesty and sincerity reach any conclusion other than to deregulate new gas. As the Senator from Washington states so often, "Let us be honest about this." When the Senator from Washington is honest about this, as I know he wants to be, I am confident that he will favor the deregulation of new gas. I know that he is capable of the clear vision in this matter that has already been ably exhibited today by his colleague from New York.

Mr. HANSEN. Mr. President, I rise to join my colleague from Arizona (Mr. FANNIN) in complimenting the Senator from New York (Mr. BUCKLEY). The Senator from New York was the first consumer State senator to recognize the need to deregulate natural gas. It was in the interest of the fuel consumers of his State and not the interest of oil and gas companies which lead him to the conclusion of the necessity to deregulate gas.

When the people of this country sit in cold homes, unemployed this winter my colleagues in opposition to the Buckley amendment should remember this occassion. They should remember that what the Senator from New York has advocated is in the best interest of their own constituents. They should realize that the Senator from New York is trying to insure that his people in New York and the people from other States will have an abundant supply of natural gas.

For this he deserves much credit and praise.

Mr. ROTH. Mr. President, today we are considering proposed legislation of utmost importance to the American people. The bill proposed by Senator JACKSON, S. 1283, calls for a massive energy research and development program to develop new alternative sources of energy and related technologies to protect our environment. I am voting in favor of S. 1283 because I believe it is absolutely essential to get a crash energy research effort off the ground, but I do so with grave reservations.

Congress should set up permanent and orderly governmental machinery to administer this research effort. Unfortunately, S. 1283 is designed as an interim measure. It would set up a new body—a management project—which would coordinate various research efforts now taking place in different Government agencies. I fear that the creation of such a new group would only add to the confusion and fragmentation of federally sponsored energy research programs and even set back what we all agree is vitally needed—a concerted energy research program. What we need is something more than an interim coordinating body—we need a permanent agency capable not just of coordinating but fully empowered to administer and implement a massive Government research and development program.

I strongly agree with the junior senator from Washington that we have to move forward as rapidly as possible. I have long felt that our energy problems have been neglected. As a Member of the House of Representatives in 1970, I introduced a bill to establish a National Commission on Fuels and Energy. At that time, I noted that there was general agreement among experts who had testified before a Senate subcommittee that we were facing "an energy crisis of unprecedented proportions." I urged that we must begin to "give serious consideration to setting up a mechanism for establishing a coordinated national energy and fuels policy."

Now, more than 3 years later, we have learned—and learned the hard way—how right those experts were. The time for study commissions has now passed; the time for prompt and decisive action is long overdue.

It is important, however, that in the current mood of crisis we set up effective and orderly machinery capable of administering what we all know is going to be a long-term effort. I believe that appropriate machinery has been created in S. 2744, which I am sponsoring, to set up on a permanent basis a Energy Research and Development Agency—ERDA—to oversee the entire Federal research and development effort. This Agency will bring together from the many different departments and agencies of the Federal Government, those parts which are actively engaged in energy and related environmental techonologies, including the Office of Coal Research in the Department of Interior, the RANN program in the National Science Foundation, and the research divisions of the Environmental Protection Agency and the Atomic Energy Commission. This fusion of overlapping research efforts is crucial if waste is to be avoided. I think the American people want something more sophisticated than simply throwing money at a problem; they want to be sure that their money will be wisely spent.

I see two principal dangers inherent in passing S. 1283 as interim legislation. The first danger is that in having passed it, Congress will tend to sit back and assume that enough has been done to get a strong, aggressive energy research and development program off the ground when in fact we have just begun. Too often we have seen interim, temporary measures become permanent. The second danger if Congress adopts back-to-back research and development legislation, massive confusion is going to be created as the executive branch first attempts to conform to one congressional mandate and then must turn around to conform to another. It is important for Congress to decide what it wants—to decide it quickly—and then see to it that it is implemented in an effective and responsible manner.

There is no reason that we cannot. The Energy Reorganization Act, S. 2744, is currently under active consideration in the Committee on Government Operations and hearings on its counterpart in the House of Representatives have already been completed. If we act promptly, I can see no reason why this legislation could not be adopted next week.

In short, I believe Congress must act with what might be called "all deliberate speed" to establish a massive research and development program. There are many alternative sources of energy that we have neglected—solar power, geothermal power, the winds and tides, coal gasification, the extraction of oil from tar sands, and many others. But it is imperative that this program be started. Last spring I told a group of Delaware high school students at the annual Youth Leadership Conference which I sponsor, that we must begin to work now on alternative energy sources "in a very serious way." I added:

> What we need is a technological break-through, and our chances of getting such a break-through, in time to avoid a much more severe energy crunch, are greatly enhanced the sooner we get down to work.

That was more than half a year ago and yet there is still no concerted Federal energy research and development program. Each passing day is another day of delay in solving our energy and environmental problems.

Mr. DOLE. Mr. President, I wish to express my support for S. 1283, the National Energy Research and Development Policy Act. The bill establishes a governmental structure and outlines in general terms the policy decisions which must be made if we are to attain the goal outlined in the bill—developing within 10 years the option and the capability for the United States to become energy self-sufficient through relying on domestic energy resources by means which are socially and environmentally acceptable.

All of the capabilities and programs of the Federal Government are to be coordinated in achieving this end through the energy research management project headed by a chairman who will be assisted by the directors of the various Federal agencies who will and should have an input into the energy program. Departments represented in the management project include the Department of the Interior, the Atomic Energy Commission, the Environmental Protection Agency, the Federal Power Commission, the National Science Foundation, and others. The management project is charged with the responsibility of formulating a comprehensive energy research and development strategy, taking into consideration ongoing efforts and capabilities in the private sector. Research is to be focused not only on programs that would enable a more efficient use and conservation of available energy supplies, but also on programs to expand the energy supplies through both conventional and unconventional sources. The chairman of the energy management would also develop various forms of Federal assistance and participation to spur research in these areas within the private sector.

The program and procedures outlined in the bill provide adequate coordination to assure that all our capabilities are directed at and focused immediately on the energy problem. Yet, the system is also sufficiently flexible to permit consideration of the myriad of factors that have contributed to the current energy crisis, and the adoption of a variety of solutions which may be needed. It recognizes that the crisis is particularly a result of past Government policies, and the economic incentives can assist in increasing production of energy supplies. It recognizes that the solution lies in better application of existing technology and applied research in addition to critical research on the unconventional fuel resources and methods of utilizing them.

I feel it is important to emphasize the less obvious and less dramatic contributions research can have in meeting the energy crisis while we work toward the long-range goals. It appears that applied research can improve significantly our immediate fuel supplies and should not be overlooked merely because exotic long-range fuel sources are more obvious and have greater public appeal. Research can help us meet our immediate needs as well as our long-range goals in the production of energy sources. S. 1283 recognizes this fact, and I am hopeful that in the administration of the law due consideration is given this point.

The bill recognizes and directs that separate research strategies be developed to solve our immediate and long-term energy needs. Within 6 months the management project is to lay out a research strategy to help us meet our immediate and short-term energy needs. These research efforts will be directed at those projects that can increase our domestic energy supplies before the early 1980's. Included among those areas to be given priority consideration is research to demonstrate new and improved methods for the extraction of petroleum resources, including secondary and tertiary recovery of crude oil.

I feel this research is important and could contribute greatly to increased domestic production of petroleum. Expanded utilization of secondary and tertiary recovery could increase domestic oil production almost immediately. It is estimated that only 20 percent of the domestic oil reserves which have been discovered have actually been removed for utilization. This means that 80 percent of the reserves remain underground. We know they are there, but it is either economically not feasible to bring them to the surface or else we are not yet able to apply the necessary technology. Research will help us improve methods of recovering this oil, and economic incentives can make it profitable for such recovery operations to be utilized.

If we can just begin recovering from the ground 40 percent rather than 20 percent of the oil we discover it would have a tremendous impact on domestic production, and I am told that impact could be felt within 6 months from the time the additional recovery operations begin to be implemented on a large scale. The wells are already drilled, the casing is set, the transmission lines are in place; all we need to do is provide the technological know-how and the economic incentives to get the recovery operations underway.

In Kansas alone, the impact of secondary and tertiary recovery operations would be almost unbelievable. Many of the older fields across the State could be revived. A large quantity of oil located in the southeastern part of the State could most likely be recovered through tertiary recovery operations. This oil lies at depths often less than 1,000 feet and is available in abundant quantities, however, in the past it could not be economically recovered from the land due to its high viscosity which prohibited recovery from primary and secondary operations.

Kansas could produce large quantities of oil through these additional recovery methods. The impact on the fuel crisis would be significant and the economic impact on the State of Kansas would also be considerable. I, therefore, am hopeful that research on secondary and tertiary recovery can begin immediately and intend to pursue the problem of adequate economic incentives in my capacity as the ranking minority member of the Finance Energy Subcommittee.

Of course, our domestic fossil fuel resources are limited, and in order to meet our long-range needs we must begin now to research and develop new energy sources. The bill provides the development of research strategy and priorities designed to achieve solutions to the energy supply problem during the last two decades in the 20th century. Potential energy resources which are to be researched for utilization during this time period include geothermal energy, solar energy, nuclear energy, among others. Research on these unconventional sources of energy could make it possible for items which we now do not even consider as possible fuel sources, to produce a significant portion of our energy needs 20 years from now. Two items of this nature which at my request are specifically mentioned in the bill are the utilization of grain alcohol made from wheat as a fuel additive and the use of methane obtained from feed lot wastes as an energy source.

Mr. President, the guidelines for energy research set out in the bill will enable an expansion of existing fuel supplies, the development of new fuel sources, and the conservation of energy in our everyday activities. Achievements on all three ends of the spectrum will blunt the immediate impact of the energy crisis and provide assurances of energy independence for the future. These are important goals, and I feel that S. 1283 provides a sound framework for our effort to solve all aspects of the energy crisis.

Mr. MONDALE. Mr. President, I rise to support S. 1283, as a vital measure in the movement to give us the capability to choose American energy self-sufficiency.

Recent events have clearly illustrated the powerful part that energy can play in influencing the economies and foreign policies of many nations. It is imperative that we in the United States take every step necessary to insure that our economy will remain strong and our foreign policy will remain independent—and that no foreign government can ever hope to either destroy our economy or purchase our foreign policy by use of its energy resources.

S. 1283, of which I am a cosponsor, is important in helping us reach that goal. I wish to commend the distinguished Senator from Washington (Mr. Jackson) for his vital work on this measure. It will provide us with the statement of goals for our energy research and development effort which has been lacking thus far. It will give us coordination of these research and development efforts and help us in our search for both near-term and long-term solutions to our energy problems.

These problems are bad today, and they will continue to get worse. Before the Arab embargo of oil began, we were importing over one-third of our petroleum needs from abroad. Much of that was from secure sources such as Canada and Venezuela. But increasingly, Middle Eastern imports were coming to play an ever more important role. With those exports now cut off, we have been forced to take stock of our position and move to implement measures to meet the severe anticipated shortages over the near term.

But our thinking cannot focus entirely on the next year or two. Instead, it must bring to bear the abilities of American science and technology to create the new energy sources for the next decades—sources which we can control and which cannot be used as weapons against us.

Whether we wish to achieve total energy self-sufficiency remains to be seen. It will be costly and may involve difficult international implications. But we must have the capacity to choose self-sufficiency if we desire it. And S. 1283 will move us further down this road over the years ahead.

The Nixon administration has failed to develop a constructive and comprehensive energy research and development strategy. Current research and development programs are scattered throughout the Federal Government, with little overall direction. We are without a comprehensive strategy for attacking energy research and development problems. And funding for energy R. & D. has been too little and too late.

S. 1283 gives both strategy and funding to this effort. In particular, I am very pleased that the bill as reported contains a greatly increased emphasis on energy conservation research and development.

On September 20, I introduced S. 2462, the Energy Conservation Research and Development Act of 1973, along with the distinguished Senators from Washington (Mr. Magnuson and Mr. Jackson). This legislation authorized creation of an independent corporation to undertake and to direct a major effort to develop new technologies to help us conserve our energy resources. The substance of this legislation was offered in committee by the distinguished Senator from Colorado (Mr. Haskell), to whom I am greatly indebted, and whose efforts are in large measure responsible for the increased role for energy conservation R. & D. in the committee-reported bill. Although the basic thrust of S. 1283 no longer emphasizes the concept of the independent corporation I am pleased to see the emphasis contained within the bill on energy conservation activities.

In particular, the bill directs the Chairman of the Management Project to recommend as part of his research strategy and priorities for the immediate and short-term "new and innovative energy conservation technologies." In addition, the Council on Environmental Quality is directed to carry out a continuing analysis of the conduct of the energy research and development. And, as part of that direction, the CEQ must give prominent attention to "the adequacy of attention to energy conservation methods." Finally, the CEQ is allocated 1 percent of the moneys appropriated for R. & D. activities for this oversight function.

We all now know that energy conservation is indeed a real necessity. However, what is needed along with an ethic of energy conservation is a vastly expanded conservation research and development effort to make energy conservation a full-fledged partner in the energy research and development field.

The potential for savings of energy resources through energy conservation is vast. A recent staff study undertaken by the Office of Emergency Preparedness stated:

> Energy conservation measures can reduce U.S. energy demand by 1980 by as much as the equivalent of 7.3 million barrels per day of oil (equal to about two-thirds of projected oil imports for that year).

There are many promising areas for energy conservation research and development. Among them are the following:

First, improvement in materials for and design of, buildings to conserve energy resources;

Second, urban area design which serves to reduce community energy needs;

Third, improvement in design of transportation vehicles and the power systems therefor, with emphasis on small cars and alternatives to the internal combustion engine;

Fourth, improvement in design of transportation systems so as to minimize transportation energy demands, consistent with goals of clean air and convenience in transportation services;

Fifth, improvement in the energy-utilization efficiency of industrial processes, with particular emphasis on those industries heavily dependent on use of energy resources for processing;

Sixth, research into decentralized energy systems for residential, commercial, and industrial uses, such as fuel cells, total energy systems, district heating systems, fuel from organic waste, and solar space conditioning;

Seventh, research on regulatory and taxation policies that would have the effect of curbing energy demand; and

Eighth, research on increasing the efficiency of electrical appliances, with particular emphasis on air-conditioning systems.

These are but some of the areas in which work is desperately needed, and which hopefully, will be accelerated by this bill.

Continued attention will be required, however, to insure that the more glamorous—and equally needed—technologies in the area of energy supply do not diminish the importance of the role for energy conservation research and development. In the past, energy conservation research and development has often been regarded as the poor stepchild in the general area of energy research and development. For example, in the President's fiscal year 1974 budget, only $9.2 million out of a total of $886 million was allocated to conservation R. & D. And in the recent Presidential request for $115 million in additional money, only $6.3 million of that amount would go to conservation R. & D.

We urgently need a comprehensive and well-managed energy research and development effort. S. 1283 will help greatly in achieving this end. But we must remember in this process that new technologies for conservation may in the long term be just as important as new technologies for improving supplies. I am pleased that the committee bill reflects the concern with this problem incorporated in S. 2462, and I trust the Senate will act quickly on this important measure.

Mr. FANNIN. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Kentucky.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Cook

This Nation needs natural gas.

It needs this natural gas now, and it needs it in volumes which are sufficiently large to meet the requirements of the people of this land to heat their homes, cook their food, operate their commercial establishments, and build their industry.

I would hope that throughout this debate we would keep this one thought uppermost in our minds. We need natural gas.

This shortage of natural gas is not a situation which may happen six months from now, but rather one which is happening today. If anyone of my colleagues does not believe that this shortage is real, I wish that he could have been in my office when 28 members of the community of Somerset, Ky., met with me to express their very real concern for the threatened loss of 3,000 jobs in their community which will materialize this fall if more natural gas is not made available now.

The tragedy here is that we have seen this problem coming for several years. We proposed legislation, held our hearings and came up with a dry hole.

When the Natural Gas Act was passed by Congress in 1936, it provided that the regulation imposed thereby would not relate to the producer of natural gas for sale in interstate commerce. In 1954, in a five-to-four decision, the Supreme Court ruled otherwise, and since that time an effort has been made by the Federal Power Commission to regulate the wellhead price of natural gas. In spite of the continuing efforts of that commission to regulate this wellhead price, the experiment has not been successful, and we have certainly had adequate time in nineteen years to see if such regulation would work.

When announcing my co-sponsorship in the 92nd Congress of S. 2467, the so-called sanctity of contract legislation, I questioned the logic of regulating and restricting the gas industry to a greater degree than we have other segments of the energy family. It did not seem reasonable to me then, nor does it seem reasonable to me now, to restrict natural gas from seeking its price in the marketplace in the same manner in which we permit oil or coal to seek their price levels.

Federal regulation of natural gas has resulted in maintaining the price of natural gas at an artificially low level. While the prices of other and less desirable fuels have increased with the price of other commodities, the price of gas has remained low: And, as a result, the demand skyrocketed and it has been used in the past and is being used today for many purposes that could have been satisfied with coal and other fuels. Likewise, the low price has discouraged the exploration for and development of new reserves since the cost of searching for such gas, particularly in offshore areas, has skyrocketed over the past many years.

History may well record that our own greatest contribution to our own energy crisis may have been our creation of this artificial price for natural gas.

If we can believe even our most pessimistic natural resource surveys, well hidden under the surface of our continent as well as our outer continental shelf are significant volumes of potential energy. If this is true, and I believe sincerely that it is true, then it's fair to ask why we don't explore for and produce this valuable natural resource. If I could answer this question with one word that word would be incentive.

The growth and power of this Nation's economy is founded in free enterprise. My son Webb mows a neighbor's lawn because he gets a couple of bucks for it. He's spurred on to find another lawn by the promise of additional dollars. I don't think this enthusiasm would continue if he were prevented from charging his customers enough to make the mowing worth his while. Webb's situation is not unlike the one in which the natural gas industry finds itself today. I believe that we must increase the incentive to explore for and produce more gas.

Others argue that incentive is not the real answer. One thing for certain, the issue is highly emotional. Nobody is neutral. Everyone has strong views.

There are those who seem to think the shortage is caused by the oil industry. Others place the whole blame on the Federal Power Commission. The truth probably lies somewhere in between.

I also have some firm views. I know, for example, that before the Federal Power Commission began regulating wellhead prices, drilling activity was on the upswing, the industry was finding more gas than the Nation was consuming, and there were adequate supplies for anyone fortunate enough to be close to an interstate pipeline.

Since the Federal Power Commission began setting wellhead prices, drilling has been depressed, we have consumed more gas than we have found and many consumers—including some in my own State—are having their natural gas service cut back.

One point on which most seem to agree is that the natural gas shortage is very genuine, but it is probably more severe than most Americans realize. I am also convinced that many of our other fuel problems—including shortages of propane and heating oil—are directly related to the shortages of natural gas. When people have their natural gas service restricted—which is becoming increasingly prevalent—they turn to propane and then to heating oil, thus causing a domino effect right down the line.

We must come to grips with the natural gas problem. We face the spectre of increasing dependence on foreign supplies and gloomy prospects of fuel shortages at home. We see plans for foreign gas coming into the United States at $1.25 Mcf and more. Yet we seem to be unable to decide whether the well-head rate for natural gas produced right here in our own country should be $.24 or $.26 Mcf.

The shame is that even as the Nation is threatened to go cold—and I don't think that statement is a bit too strong—people are still trying to find someone to blame.

Regardless of who else must share the blame, much of it belongs right here in Congress. We have too long condoned a regulatory process which just does not work. It must be measured by the record it has made. That record indicates the consumer and the country have not been served adequately.

We must take decisive action to remedy the situation. The dosage must be strong, it must be the right kind, and it must be given quickly. In the case of our total energy problem we are at one minute before midnight.

Mr. Chairman, my operating philosophy is quite simple. When something doesn't work, you don't expand it or extend it. You change it. I think this is what we must do in the case of well-head prices.

There are those who would characterize such action as being anti-consumer. As the ranking minority member of the consumer subcommittee of the Commerce committee, I have a particular responsibility to the consumer and I believe that price incentives would be in the consumer's interest. As we deny the consumer the product he needs we reduce his standard of living. As we curtail his industrial expansion we create economic loss. To me the reduction in living standards and the economic loss resultant from such curtailment is anti-consumer.

But it is important to weigh very carefully the impact that these increases will have on the consumer.

In August of this year The Foster Associates released a study concluding that if the field price of all natural gas *not* under contract immediately rose to 55 cents per thousand cubic feet, the average householder would pay only $8.30 more per year for his supply starting next January 1. This would be an increase of only 5.3 per cent on an average yearly bill of $155.73. By 1980, the price increase would amount to $33.06 annually. (The average price of natural gas now sold in interstate commerce is about 21 cents per thousand cubic feet.)

The study shows that price increases to the householder would be gradual and minor for two reasons:

—Most of the gas now being sold is under fixed price contracts, generally for periods of twenty years.

—Only seventeen per cent of the consumer's bill consists of the field price of natural gas. The rest goes to pipe line companies and local distributors.

The study also lists the increases the consumer might expect if the field price went to other assumed levels, either higher or lower than 55 cents per thousand cubic feet.

I am concerned that we solve the natural gas shortage. And I think this can best be done by relying more heavily on the forces of the private market system, than by relying on the forces of the regulatory process. I urge that the amendment be adopted.

Mr. BELLMON. Mr. President, while I recognize the weaknesses inherent in S. 1283, I am so concerned about the seriousness of the long-range energy supply situation this country faces, I feel I have no choice but to vote for this legislation. While, in my opinion, the bill is perhaps hopelessly encumbered with obstructions to effective action in the research and development field, it may prove helpful in some areas, and there is a possibility that the bill can be amended and improved, as weaknesses are proven.

Yesterday, I offered a series of amendments which were intended to streamline this bill and to provide for a direct line of decisionmaking. Because of the haste with which this legislation was brought to the floor, there was not adequate time to fully advise the Members of the Senate of what I was trying to do. Had there been more time to inform the Members, I feel that many who opposed my amendments would have seen merit in what I was trying to do. I am looking forward to the opportunity to make these changes in the future.

Also, yesterday, Mr. President, during the debate on my amendment No. 772, the Senator from the State of Washington characterized my amendment as a "giveaway" and indeed, as the "most incredible amendment that I have ever seen presented during my service in the Congress, House or Senate, regarding the public lands of the United States." I feel that I cannot allow that statement to go unchallenged.

One of my basic concerns with the committee bill is that it fails to meet the very problem which the committee bill recognizes in section 101(c) when it provides "The responsibilities of the Federal Government for conducting and assisting energy research, development, and demonstration projects are fragmented among many agencies and departments and have not been planned and managed in a rational and coordinated manner." It is to that "fragmentation" that my amendment addressed itself. For while the committee bill talks in terms of a $20,000,000,000 effort, and while it authorizes contracts to be entered into for demonstration projects which run into the millions, it fails to answer the question—What happens if the best qualified applicant gets a contract to construct a plant in the area of oil shale, geothermal steam, coal gasification, but is unable to obtain the land to construct, say, his geothermal or oil shale facilities or to obtain the mineral interest necessary in connection therewith? The committee amendment is silent on this point. My amendment was intended to make sure that a person who obtained a contract would not be in the situation of "all dressed up but no place to go."

Mr. President, let us look at my amendment No. 772. It states that—at the request of the chairman, the Secretary of the Interior or other appropriate head of a Federal agency shall, notwithstanding any other provision of law, make available, by lease or otherwise—that is to say, Mr. President, that the Secretary could use a contractual arrangement, he could use easements or any other type of agreement—such lands or interests therein, or mineral interests, or both, of the United States as may be necessary to enable any such person, corporation, or legal entity to carry out a contract entered into pursuant to subsection (a) of this section or other provision of this act.

Mr. President, that language merely says that the chairman—who, by the way, is appointed by the President, serves at his pleasure, is subject to Senate confirmation and is guided by representatives from the Department of the Interior, Commissioner of the Atomic Energy Commission, Commissioner of the Federal Power Commission, Director of the National Science Foundation, assistant Administrator of the Environmental Protection Agency and numerous others—may request the Secretary of the Interior to make available lands and interests, such as in the case of oil shale, geothermal steam, necessary to carry out any contract for research and development or pilot projects and, under subsection (a) of my amendment, commercial development in those areas where the technology is such that we can now proceed.

Mr. President, I think that the misconception of the distinguished Senator from Washington was caused because he stopped reading at this point because the very next sentence in my amendment states: "Such lands or interests may—please note, Mr. President, the discretionary 'may'—notwithstanding any other provision of law, be made available by lease or otherwise on a negotiable basis." It does not say that the Secretary can not require competitive bidding; it does not preclude him from using the terms of the mineral leasing laws. It states only that he must make the necessary lands and interests—such as oil shale lands—available if required in carrying out any such contract but he can, in his discretion, use a negotiated purchase rather than competitive leasing. Even now, under the Mineral Leasing Act, competitive bidding is not required in those lands which have not been proved. It makes no sense to me, Mr. President, to take the position that you are going to provide a contract to the best qualified applicant and then tell him to get the necessary land or other interest to locate his geothermal steam facilities in any way that he can.

That is what my amendment was intended to do and that is what, in my opinion, it does.

Mr. President, the Senate Interior Committee is to be commended for the rapidity with which we are belatedly considering energy-related legislation. However, in my opinion, we will not have met our responsibility until we take effective action to increase the supply. While it is necessary to provide for the allocation of limited quantities of fuel now available, and while it is essential to provide for research and development to provide for long-range needs, it is equally necessary and even more essential to provide the incentives and the material so that the private sector can go about the business of developing the abundant energy resources with which this country is blessed. Until and unless the Congress deals with the problems of supply, we will not have met our responsibility in the energy area.

Mr. FANNIN. Mr. President, we have an energy crisis and we are doing very little legislatively about it to increase the supplies. Committees involved in this legislation have an obligation to act and to do so at the earliest time possible consistent with proper considerations on the subject of increasing fuel supplies especially natural gas.

We have other committees that are obligated to consider the other subjects such as taxes, depletion allowances, antitrust or excess profits which may or may not need attention.

If we continue to vacillate we are going to worry ourselves into energy bankruptcy because our oil companies have increased profits which may or not be justifiable.

I am not defending the oil companies if they are making inequitable profits. The Senators today have used many figures but they have not given, to my knowledge, what return on the companies' investment is involved in those figures.

They have not mentioned the tremendous investments that will be needed if we are to develop offshore drilling, investments for instance in prospective drilling in waters in the Gulf of Alaska.

They have not mentioned that the oil companies have averaged over $4 billion a year outlays for exploration and development for the past 20 years.

They have not mentioned that during the past 20 years the rate of return of U.S. oil companies has been 10.2 percent compared to 10.8 percent for all manufacturing companies.

We are talking about running out of energy.

A major contributor to the national energy crisis has been the dramatic shortfall of natural gas supply. Oil, largely imported oil, has been called upon to fill the gap caused by the shortage of natural gas. The Arab cutoff of oil has limited the possibility of oil continuing to fill the gas gap. The question then becomes one of finding the best means to rapidly increase the supply of natural gas so as to reduce or eliminate the present gap.

In order to find such a means one must ask, what caused the natural gas shortage? The experts—including academic economists, the Federal Power Commission, and the natural gas industry—are in near unanimous agreement that the principal cause of the gas shortage has been the wellhead price regulation of natural gas producers selling to interstate pipelines, instituted by the FPC in the early 1960's pursuant to the U.S. Supreme Court decision in the Phillips case. Such regulation resulted in expanded consumer demand for "bargain rate" natural gas while dramatically dampening producers' efforts to find new gas supplies.

The following statistical information illustrates the results of wellhead price regulation of natural gas producers.

EXPLORATION EFFORTS TO FIND NEW GAS

The table below shows the decline of exploratory geophysical crew months worked; acres leased; and wildcat wells drilled. As can be seen, the 8,923 crew months worked in 1952 dropped to 2,760 in the succeeding 20 years. The 16,207 wildcat—exploratory—wells drilled in 1956 dropped to 7,587 by 1971.

EXPLORATION (GEOPHYSICAL CREW ACTIVITY, ACREAGE UNDER LEASE, WILDCAT WELLS DRILLED)

Year	Crew months worked	Total acres leased Jan. 1 (thousands)	Wildcat wells		
			Total	Dry	Percent dry
1952	8,923	273,067	12,425	10,090	81.2
1953	8,675	(1)	13,313	10,633	79.9
1954	7,969	315,568	13,100	10,389	79.3
1955	8,240	N.A.	14,942	11,832	79.2
1956	7,857	383,863	16,207	13,118	80.9
1957	7,242	(1)	14,714	11,904	80.9
1958	5,731	371,146	13,199	10,632	80.6
1959	5,696	382,607	13,191	10,577	80.2
1960	5,207	424,251	11,704	9,515	81.3
1961	5,024	416,871	10,992	9,022	82.1
1962	4,231	408,870	10,797	8,815	81.6
1963	4,174	387,457	10,664	8,686	81.5
1964	4,406	372,408	10,747	8,951	83.3
1965	4,471	375,306	9,466	8,005	84.6
1966	3,835	350,895	10,313	8,705	84.4
1967	3,496	333,858	8,878	7,360	82.9
1968	3,390	325,106	8,806	7,439	84.5
1969	3,259	332,005	9,701	8,001	82.5
1970	2,521	343,213	7,693	6,422	83.5
1971	2,760	332,647	6,922	5,834	84.3
1972	(1)	350,725	7,587	6,293	82.9

[1] Not available.

The result of the declining search for new gas is illustrated by the fact that in 1956 24.8 trillion cubic feet of new gas reserves were discovered while in 1969 the new discoveries dropped to 8.5 trillion cubic feet.

CONSUMPTION OF NATURAL GAS RELATIVE TO RESERVES

Following the Phillips decision the relationship of reserves to production—consumption—changed noticeably for the worse and has been getting worse nearly every year since then. In 1953 23.1 times as much gas reserves existed as was produced and consumed. In 1972, for example, natural gas reserves to production ratio had dropped to 11.5.

By analogy, we are drawing gas out of our bank account at a much faster rate than we are adding to it.

The table below illustrates this trend.

PROVED RESERVES (LIQUID HYDROCARBONS AND NATURAL GAS)

Jan. 1	Liquid hydrocarbons (million barrels)			Natural gas (trillion cubic feet)	Reserve/production ratio		
	Crude oil	Gas liquids	Total liquids		Crude oil	Total liquid	Natural gas
1953	27,961	4,997	32,958	198.6	12.4	13.1	23.1
1954	28,945	5,438	34,383	210.3	12.5	13.2	22.9
1955	29,561	5,244	34,805	210.6	13.1	13.6	22.5
1956	30,012	5,439	35,451	222.5	12.4	12.8	22.1
1957	30,435	5,902	36,337	236.5	11.9	12.5	21.8
1958	30,300	5,687	35,987	245.2	11.8	12.4	21.4
1959	30,536	6,204	36,740	252.8	12.9	13.5	22.1
1960	31,719	6,522	38,241	261.2	12.8	13.3	21.1
1961	31,613	6,816	38,429	262.3	12.8	13.2	20.1
1962	31,786	7,049	38,835	266.3	12.6	13.0	19.9
1963	31,389	7,312	38,701	272.3	12.3	12.8	20.0
1964	30,970	7,674	38,644	276.2	11.9	12.4	19.0
1965	30,991	7,747	38,738	281.3	11.7	12.2	18.3
1966	31,352	8,024	39,376	286.5	11.7	12.1	17.6
1967	31,452	8,329	39,781	289.3	11.0	11.5	16.5
1968	31,377	8,614	39,991	292.9	10.3	10.9	15.9
1969	30,707	8,598	39,305	287.4	9.8	10.3	14.8
1970	29,632	8,143	37,775	275.1	9.3	9.6	13.3
1971[1]	29,401	7,703	37,104	264.7	8.8	9.1	12.1
1972[1]	28,463	7,304	35,767	252.8	8.7	8.9	11.5

[1] Excludes 9,600,000,000 barrels of crude oil and 26,000,000,000,000 cubic feet of natural gas added for Alaskan North Slope.

The Federal Power Commission conducted a study which projects the natural gas shortfall if present trends continue. The FPC's demand and supply projections indicate that such shortages will increase in volume and become more widespread. The FPC's Bureau of Natural Gas projects that demand for gas will exceed supply by 3.6 Tcf in 1973, 9.5, 13.7, and 17.1 Tcf in 1980, 1985, and 1990, respectively, despite the addition of gas supplements (22 Tcf is presently consumed nationwide). The FPC's projections are based on more moderate growth rates than were experienced in previous years.

To close this gap, an annual "finding rate"—annual additions to reserves—of approximately 37 Tcf would be required starting in 1973. This level of development represents a sustained level of annual new additions to reserves equal to that attained in 1970 when 26 Tcf of Alaskan gas were added to the reserve inventory. Put another way, the annual finding rate would have to equal one and one-half times the all time record for annual U.S.-non-Alaskan-reserve additions that was reached in 1956 of 24.7 Tcf, at the same time that supplemental sources are developed.

A graphic representation of this analysis follows:

TABLE 1.—U.S. GAS SUPPLY DEMAND BALANCE ACTUAL 1966–70; PROJECTED 1971–90

[All volumes in trillions of cubic feet at 14.73 psia and 60 ° Fahrenheit]

Year	Annual demand[1]	Net pipeline imports	LNG imports	Gas from coal	Gas from Alaska	Gas from liquid hydrocarbons	Domestic production	Annual consumption	Unsatisfied demand	Reserve	Year-end Reserves	R/P Ratio
1966	17.9	0.4					17.5	17.9	0	19.2	286.4	16.4
1967	18.8	.5					18.4	18.3	0	21.1	289.3	15.8
1968	19.9	.6	(2)				19.3	19.9	0	12.0	282.1	14.6
1969	21.3	.7	(2)				20.6	21.3	0	8.3	269.9	13.1
1970	22.6	.8	(2)				21.8	22.6	0	11.1	259.6	11.9

Footnotes at end of table.

TABLE 1.—U.S. GAS SUPPLY DEMAND BALANCE ACTUAL 1966–70; PROJECTED 1971–90—Continued

[All volumes in trillions of cubic feet at 14.73 psia and 60° Fahrenheit]

Year	Annual demand [1]	Net pipeline imports	LNG imports	Gas from coal	Gas from Alaska	Gas from liquid hydrocarbons	Domestic production	Annual consumption	Unsatisfied demand	Reserve	Year-end Reserves	R/P Ratio
1971	24.6	.9	(2)				22.8	23.7	.9	12.0	248.8	10.4
1972	26.1	1.0	(2)			(3)	23.8	24.8	1.3	13.6	233.0	10.0
1973	27.7	1.1	(2)			(3)	24.7	26.8	1.9	24.6	223.3	9.2
1974	28.3	1.1	(2)			(3)	24.8	25.9	2.9	15.0	219.6	8.8
1975	29.8	1.2	.3			(3)	24.7	26.2	3.6	16.0	303.7	8.4
1980	34.5	1.6	2.0	.3	.7	(3)	20.4	26.0	9.5	17.0	186.1	9.1
1985	39.3	1.9	3.0	1.4	1.3	(3)	18.5	26.1	13.7	17.0	175.4	9.5
1990	46.4	1.0	4.0	3.3	2.3	(3)	17.6	29.3	17.1	17.0	170.4	9.9
1971 to 1990 total	707.6	31.1	38.0	17.3	20.6	(3)	414.2	526.2	186.4	325.0		

[1] Consignees 48 States.
[2] Very small volume.
[3] Insufficient data for quantitative projection. Unsatisfied demand will be reduced by the amount of gas produced.

The "unsatisfied demand" has been filled largely by oil. Inasmuch as domestic oil production has leveled out at approximately 11 million barrels a day and total U.S. consumption is in excess of 17 million barrels a day, the difference has been made up by imports. The imports have been used to satisfy normal increases in demand for oil as well as increases in demand attributable to filling the unsatisfied demand in natural gas. The committee staff paper, prepared by Miss Starratt, contains estimates that unsatisfied natural gas demand by 1975 in oil equivalent will range from 2.3 to 5.5 million barrels a day.

U.S. oil imports in 1970 of crude and product averaged 3.4 million barrels a day. By the first quarter of 1973 oil imports had nearly doubled to 6.2 million barrels a day of crude and product, or 35 percent of total U.S. oil supply.

The Arab oil cutoff of crude and product, according to a November 15 National Petroleum Council report, amounts to 2 million barrels a day of crude and product, and the cutoff will be increased to 3 million barrels a day. The report states that—

> On a conservative basis, the effect of a 2-million-barrel-per-day cutoff has been estimated to cause an annual loss of 48 billion dollars to the U.S. economy as measured by the Gross National Product. This slowdown in the economy would cause unemployment to increase from the current 4.5 to 5.0 percent level to over 6 percent. The projected 3-million-barrel-per-day cutoff would have an even greater impact and could push unemployment up to the 7.5 to 8.0 range.

IMPLICATIONS FOR NATURAL GAS SUPPLY

The upshot of the above detailed developments is that efforts must be made as soon as possible to encourage the development of domestic supplies of energy, particularly natural gas.

Thus, the question is what is the best means to rapidly increase the supply of natural gas.

Only deregulation of new gas only, is unsusceptible to reasonable criticisms.

It is also the option which is most favored by qualified academic economists who have no personal financial stake in its implementation.

It is the option preferred by Federal agencies responsible for energy policy.

It is the option which has precedent which has succeeded.

It is the only option which would eliminate uncertainty and regulatory delays.

It is an option likely to achieve a balance of supply and demand.

It is an option which can—based upon actual precedent—guarantee a significant increase of supply while affecting residential and commercial consumers with only gradual increases in gas bills.

It is an option which can promote an effective and workable industrial switch to other fuels than gas.

Mr. METCALF. Mr. President, as this debate on a long-term program for research and development of energy sources goes forward many people including President Nixon are trying to become a part of the act.

On the other hand there are pioneers in the field who have urged action to resolve the pending energy crisis for more than a decade. Such a one is Senator JENNINGS RANDOLPH of West Virginia. Senator RANDOLPH's contribution to our national understanding of the need for a national energy policy is no better epitomized than in an editorial from the Wheeling News-Register of Wheeling, W. Va. It is entitled "Senator Randolph the 'Prophet'." The chronicle of Senator RANDOLPH's efforts to alert the Nation is one that should be a part of this debate.

I add my personal congratulations to my colleague from West Virginia, and ask unanimous consent that the editorial from the Wheeling News-Register above mentioned be printed at this point in the RECORD as a part of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SENATOR RANDOLPH THE "PROPHET"

No more prophetic statement relating to the current energy crisis ever was uttered than that by West Virginia's perceptive United States Senator Jennings Randolph on June 12, 1961.

Testifying before the Senate Interior Committee on that date, Senator Randolph spoke these words:

"Every year that passes, in which we become more and more dependent on foreign oil to buttress our national economy and security, perhaps is one year nearer disaster. What makes this all the more tragic is that it is unnecessary. The United States of America, the richest country the world has ever known, is, by its own complacency, gradually placing itself at the mercy of those it should most diligently guard against. By neglecting to apprise ourselves of the true, unbiased, realistic picture of our own energy wealth and stability, we are gambling with our country's future.

"This nation has a foreign policy—a defense policy—a farm policy—and the beginnings of a transportation policy. All are necessary and of first importance. But not one of them is so basic to our national security and economy as would be a national policy in respect of those energy fuels that make all of them possible and without which, or lacking an abundant available supply of which, would render all other national policies impotent and would disarrange our country industrially, economically, and militarily."

Imagine that—12 years before the Nation suddenly discovered that it was faced with a critical energy problem, Senator Randolph spelled it all out. In fact even earlier on August 18, 1959 Senator Randolph introduced a resolution in the Senate calling for the creation of a Joint Committee on a National Fuels Policy. Ever since, he has persisted in trying to arouse successive administrations to the need for an overall energy policy to head off a fuel crunch which now has arrived.

It must be galling to Senator Randolph to hear the many warning statements by the "Johnnies-come-lately" to the energy scene these days, including President Nixon's attempt to blame the Congress for not facing up to the problem earlier.

As we noted last week it was the Nixon Administration that opposed Senator Randolph's move in July 1970 to create a National Commission on Fuels and Energy.

It is time that we heeded the advice of Sen. Randolph and set about formulating and establishing specific national energy goals and policy objectives. Whatever policy we have at the moment is the sum total of the product of more than 40 federal departments, agencies and regulatory commissions.

We find it difficult to forget the repeated denials by the Nixon Administration and the major oil companies that a petroleum shortage was looming, denials repudiated by last winter's mini-crisis in heating oil.

Then, last spring, the administration and the industry reluctantly acknowledged that further shortages might be expected, but shrugged these off as potentially no worse than a one or two per cent inconvenience.

It is not too late now for a full and frank disclosure of the facts surrounding our current energy predicament. Regardless of where President Nixon wants to assign blame we insist that the record show the efforts made by West Virginia's U.S. Senator Randolph to head off the troubles with which the nation now is confronted.

Mr. METCALF. Mr. President, next I want to pay tribute to a man, not a Member of Congress, who repeatedly warned the United States about its lack of an energy policy. That man is Adm. Hyman G. Rickover.

Mr. President, on December 3 Vice Adm. Hyman G. Rickover was officially promoted to full admiral. This honor was an appropriate recognition by Congress of Admiral Rickover's unique contribution of nuclear powered submarines to the Nation. I emphasize Congress recognition, for, as was the case in his promotion to rear admiral and vice admiral, it was through the efforts of Congress, not the Navy, that Admiral Rickover was given his promotion to full admiral.

On many occasions, his views have been ignored by the Pentagon brass. Fortunately, Congress has recognized Admiral Rickover's great foresight. Were it not for his persistence we would not have our nuclear Navy.

For years, the admiral has contributed his insight to another subject of national importance: Energy. As long ago as 1957, Admiral Rickover counseled energy conservation and warned us of the energy crisis that would come if we did not prepare for the future. For years he has advocated utility rate restructure, to encourage conservation of energy rather than its waste by large customers whose low rates are subsidized by high rates paid by low-income residential users and small business firms.

Unfortunately, few people paid attention to these warnings, or appreciated the admiral's vision of the energy problems. An excellent editorial in the Miami Herald and two articles by Bill Anderson in the Chicago Tribune recently appeared on this subject. I ask unanimous consent to print in the Record the editorial, "Admiral Rickover Was Right—Again," and the two articles, "Energy Woe May Create a 'New' United States," and "Rickover Scores as Energy Prophet."

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Miami Herald, Nov. 22, 1973]

Admiral Rickover Was Right—Again

The other day the Navy raised to the rank of full admiral crusty old Hyman G. Rickover, father to the same Navy's reluctant midwifery of the atomic submarine. We don't think that the ultimate in shoulder boards could rest on a finer American—and prophet.

Just as Admiral Rickover foresaw the future of national preservation underseas, so did he see the future above them which has come suddenly and shockingly. More than any man, perhaps, he foresaw the energy crisis.

In 1957, recalls Bill Anderson in The Chicago Tribune, the admiral put the matter to Congress in the framework of his own interest:

"High energy consumption has always been a prerequisite of political power. The tendency is for political power to be concentrated in an ever smaller number of countries. Ultimately, the nation which controls the largest energy resources will become dominant. If we give thought to the problem of energy resources we will become dominant. If we conserve what we have and prepare well for necessary future changes, we shall insure this dominant position for our country."

Once again, and for many years, the prophet was without honor in his own country. It is good that Admiral Rickover is still around, amply honored at last. Only last June he was pouring out advice to Congress again, and in specific terms. Those terms are in part today the basis of energy conservation bills before Congress.

[From the Chicago Tribune, Nov. 27, 1973]

Energy Woe May Create a "New" United States

(By Bill Anderson)

Washington.—As bad as the energy crisis may be, it could be a lot more serious. And, in the long term, a reduction in the huge amounts of fossil energy used by most Americans could not only change lifestyles, but aim the thrust of the nation and its economics in a new direction.

For many months now, one of the sources of this column on the energy question has been Adm. Hyman G. Rickover, a scientist and energy expert perhaps without peer. We recall a conversation with him last May, when he asked the question, "Is life today 24 times as good as it was in 1920?"

What he was getting at was the fact that Americans today use at least 24 times the amount of electrical energy that we did 53 years ago.

And he points out that "the next American baby will make 500 times more claims on the earth's resources than any child born in India, Chad, or Mongolia. This kind of progress demands little imagination and its likely outcome [if continued] may be a return to a more primitive time."

For perspective, we should report that Rickover was born to working parents 73 years ago and to this day is proud of the fact that he held down two or three jobs at a time to earn an education.

One of these jobs was as a Western Union messenger boy. He used human energy to get from place to place—a practice he still follows by walking whenever possible, shunning the free government cars driven by chauffeurs.

Rickover's own research further shows that since the beginning of the industrial revolution, the use of man's own energy—especially in the United States—has dropped from about 95 per cent of all energy put forth for all things to roughly one per cent. It is almost accurate to conclude that Americans now work 95 per cent less than our ancestors did.

The admiral's reaction is: "The American public has been brainwashed during recent decades into the belief that progress means introducing into our lives everything we know how to produce—an endless variety of food additives, ever more powerful automobiles, higher and higher buildings serviced by high-speed elevators, a senseless consumption of electricity to create a more artificial life."

In testimony to Congress last June, Rickover predicted: "Fortunately, the future will not be a magnified form of the present, for the simple reason that the absurdities of current trends are generating forces which will soon change the course of technological societies. Beyond certain limits of complexity, which may have already been reached, societies become increasingly vulnerable to accidents as well as sabotage."

He adds that "other self-limiting factors inherent in the technological enterprise are shortages of natural resources." As an example, Rickover notes there is now such a high use of copper, once thought to be abundant, that the element is rapidly approaching the status of a precious metal.

"Land is the ultimate source not only of our material wealth—plant, animal, and mineral—but of our human and spiritual wealth, too." Rickover said. "For men and women, as much as plants and animals, are the creatures of their environment and depend on its quality for the full development of their faculties and potentials. If that environment is unsatisfactory, is cramped, ugly, and debasing, it will affect their character and limit their spiritual and mental growth."

In sum, this is the admiral's view: "We have the responsibility to use our technology to preserve the environment, not to exploit it; we must change our objective from a material to a spiritual one. The increasing number of protests against present social trends is a warning that electronic gadgets, plastic knickknacks, and processed foodstuffs do not compensate for the degradation of nature into wastelands, of bright atmospheres into murky skies, of free behavior into regimented life. . . .

"In our times the most effective manifestation of the counterculture may be the widespread feeling in the establishment itself that the time has come to challenge the rationality of endless economic growth and to formulate new social and technological policies."

[From the Chicago Tribune, Nov. 20, 1973]

Rickover Scores as Energy Prophet

(By Bill Anderson)

Washington.—Now that the mass media have discovered the energy crisis, the subject has become as dear to politicians and commenators as motherhood. The cold weather will make even more strange bedfellows as the cries increase for smaller cars, mass transit systems, and lower temperatures to save oil.

Yet as far as Hyman G. Rickover is concerned, this is not only old stuff, but too little and perhaps even a bit too late for a world that has long been wasting and spending energy at rates it cannot afford—energy it cannot replace.

As readers of this column may remember Rickover has long been on record in warning citizens that drastic measures were needed to head off this current crisis and to prepare the nation for even leaner years ahead. For those who do not know Rickover, he is a blunt-talking admiral still on active duty at 72, and he is recognized by many as one of the world's foremost energy experts.

Ironically, while he is admired and respected by members of both political parties [and often hated in the Navy], Rickover has been largely ignored by official Washington in the field of energy. For example, we find Rickover on record before the Congress 16 years ago, saying:

"High energy consumption has always been a prerequisite of political power. The tendency is for political power to be concentrated in an ever smaller number of countries. Ultimately, the nation which controls the largest energy resources will become dominant. If we give thought to the problem of energy resources, if we act wisely and in time to conserve what we have and prepare well for necessary future changes, we shall insure this dominant position for our own country."

Diplomats tend to agree that Rickover's logic simply underscores the struggle for Middle East oil and the complications that have arisen as American allies in the North Atlantic Treaty Organization scramble to preserve their fuel supplies. His thoughts of 1957 are the heart of today's almost frantic moves toward national "self-sufficiency" in the area of energy.

The big problem with Rickover's thinking, as seen by some politicians, is that he has been too forthright [and right] in most of his predictions. "Hyman was exactly correct when he once told Congress he couldn't be elected dogcatcher," said one senator [and a friend].

In other words, Rickover makes waves when he proposes ways and means to live with the shortages. In his recommendations to Congress last June, Rickover's short list of things to do were:

"Take action to discontinue exporting energy resources we now possess."

"Change the price structure [presently] used by utilities wherein the unit cost decreases as consumption increases. We should be encouraging conservation, not consumption."

"Tax automobiles on the basis of weight and engine displacement, and possibly on the basis of fuel consumption, with maximum allowable limits on these factors."

"Prohibit utilities from either deducting for tax purposes or passing on to the consumer any expense incurred in efforts to expand their markets."

"Recognize that population expansion is inescapably part of the growth in energy demand, and consider providing tax incentives for smaller family sizes. This, like most other unpopular problems, will not just go away if it is not faced."

Many other Rickover recommendations are in the field of conservation. These include such things as more walking, more wearing of sweaters.

Rickover correctly points out that 210 million Americans, about 6 per cent of the people on this earth, already use about 40 per cent of the energy consumed each year. Our air conditioners alone consume more electrical energy than is used for all purposes by 200 million Chinese, he says.

In essence, Rickover also says that there is no reason Americans can't actually use less and enjoy life more. He says there is a "senseless consumption of electricity to create a more artificial life." But just to keep pace, Rickover also urges more research and development. The nuclear expert says he believes solar energy is an interesting alternative potential "for the simple reason that the sun's energy is the only essentially limitless resource available to us."

Mr. ROBERT C. BYRD. Mr. President, I support S. 1283, the National Energy Research and Development Policy Act of 1973. This is legislation, I believe, that can do a great deal to help us solve the energy problems that confront us.

I do not know, and no one else knows at this point, whether our Nation can become self-sufficient in energy, or how long it will take if we find that we can reach that desirable goal. But this bill, I believe, can do what now needs to be done to move us in the direction that we must go.

The conservation of energy is of critical importance to the Nation, but finding new sources of energy—sources over which our own country can exercise control—is of even greater importance. I believe the American people will go along with all reasonable proposals for saving energy. But, in view of the administration's indecisiveness, it is up to the Congress to provide the leadership and the programs that can bring about the increased supplies and the improved sources of energy that America's economy demands.

Others have noted, and I will not dwell on the point, that it has been amply demonstrated before that, when our country undertakes a concerted effort to solve a particular problem or to reach a particular goal, we generally succeed. In World War II, when our supplies of natural rubber were cut off, we undertook an all-out effort to produce synthetic rubber for tires and other purposes that freed us from dependence upon the natural product. In that same era, our scientists in an intensive, concerted effort unlocked the secret of producing an atomic bomb. And, more recently, our successful moon landings demonstrated once again that America can meet challenges through comprehensive, adequately funded efforts.

S. 1283, I think, provides the framework for the research and development effort that we must make if we are even to approach self-sufficiency in energy. This bill is needed, because we must make a comprehensive, coordinated, adequately funded national effort to undo the damage that our lack of planning and effort in the past have caused.

As desirable as are energy R. & D. programs in the private sector, only the Federal Government can really bring to bear the overall attack on the problem that is needed. Some excellent progress has already been made by private enterprise—in a number of instances working with agencies of Government—in energy research and development. But what is needed now is the total team effort that Americans working together are capable of undertaking. Joint action by Government and industry is needed.

The team effort can be achieved, I believe, through the provisions of the bill that would be set up, an energy research management project to bring together, as a unit, representatives of the Department of the Interior, the Atomic Energy Commission, the Federal Power Commission, the National Science Foundation, the Environmental Protection Agency, the National Aeronautics and Space Administration, the National Bureau of Standards, and other appropriate agencies of the Federal Government. This approach, it seems to me, is sound. The Congress, of course, will retain its oversight function.

Admittedly, this so-called crash program will be costly. But I consider it a cost that our Nation can avoid only at the risk of becoming a second-rate economic and military power. Had the voices of those of us in the Congress who anticipated the energy crisis been heeded in earlier years, we probably could have avoided a good portion of the cost, as well as the emergency nature, of the measures we are now considering. It is unfortunate that emergencies have historically so often been necessary to bring needed action.

Mr. President, if our Nation is to continue to grow and to prosper economically, we have need of all the energy we can produce. I believe that this bill is broad enough in its concept to enable us to move forward aggressively on a number of fronts as we seek to meet and overcome the energy crisis.

We need to push forward on one front especially—that involving coal. The production of coal is of vital interest to my State of West Virginia, but my interest in this matter is far from being merely parochial. Many other States in our Union also have large coal resources. The United States may have as much as half of the world's deposits of coal—enough of this versatile substance to supply our energy needs for several hundred years to come.

As a nation, we have been shortsighted in the extreme in neglecting the development of the technologies needed to extract from the coal seams beneath our hills, valleys, and plains the enormous energy and raw material potential they contain. My interest in the matter over the last two decades has been based on the fact that our country is blessed with coal reserves so extensive that research and development in this one area alone could go a long way toward solving our energy problems.

But S. 1283 goes well beyond proposals for better utilization of our coal reserves. It would establish development corporations to demonstrate technologies for shale oil development, advanced power cycle development, and geothermal steam development; and it would authorize the Secretary of the Interior to make mineral resources of the public lands available for these development corporations.

All in all, I find this measure to be a comprehensive one providing for many avenues of attack on our energy problems, and I commend the Committee on Interior and Insular Affairs, and its distinguished chairman, Senator JACKSON, for the dedicated and arduous work they have so obviously put into the task of bringing this bill to the floor.

Let me make one final comment with respect to S. 1283. We in the Congress have a responsibility for providing the mechanism needed for energy research and development aimed at making this country eventually self-sufficient. But we also have an additional responsibility. We must seek to provide for our country's energy needs while at the same time providing for the protection of its environment. An excellent start has been made toward cleaning up our air and water. Some temporary relaxation—and I stress the word temporary—will obviously be necessary in these programs as we seek to deal with the immediately critical aspects of our fuel shortages. But, for the long term, our goal and our guiding principle must be that we meet our energy requirements through environmentally acceptable means. This bill takes note of that necessity, I am glad to say.

Mr. FANNIN. Mr. President, the research and development legislation we have discussed here today will provide a major boost for solar energy development.

Two of the most knowledgeable persons in this field are Drs. Aden and Marjorie Meinel of the Optical Sciences Center at the University of Arizona in Tucson.

Arizona's most abundant resource is sunshine, and if we can develop solar energy our State will be a national goldmine.

The Meinels are exceptional scientists, and they have carried on their work even when there has been insufficient funds. They were advocates of solar energy before it was made glamorous in the space program and before it was made so necessary as a result of the energy crisis.

Mr. President, 2 weeks ago the Meinels filed a report concerning the status of solar research. This report puts the main thrust on using solar energy for heating rather than electrical power. The Meinels believe that a crash industrial effort could enable solar heating to replace a significant part of the load on natural gas and oil for commercial buildings within 2 years. I ask unanimous consent that this interesting and informative report be reprinted in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

SOLAR THERMAL APPLICATION STUDY: STATUS, ECONOMICS, AND PRIORITIES

(By Aden B. Meinel and Marjorie P. Meinel)

RECOMMENDATIONS

This statement summarizes our studies of photothermal power generation and other applications for solar heat. It represents a considerable change from early thoughts on the subject stated in articles and presentations by Aden and Marjorie Meinel in 1970–72. These changes are due to research progress and to recent events on the energy scene.

The priorities we recommend below refer to *industrialization* thrust, not necessarily to the research and development thrust.

Priority 1. Solar heating to replace natural gas and oil for heating: first for federal, state and commercial business buildings; subsequently for industry and lastly for homes; to reduce but not fully eliminate oil and gas demand by these customers. There are important practical and economic reasons for this order of use.

Priority 2. Solar heating and cooling for new construction of commercial buildings and homes; later for conversion of existing air conditioning units when appropriate for the customer.

Priority 3. Solar thermal electric power units for community-sized systems using low temperature technology, 300–400° F. Industrial evolution will lead to larger units and/or higher temperatures in a natural way as the industry matures.

Aden B. Meinel, Marjorie P. Meinel, Optical Sciences Center, University of Arizona, Tucson, Az 85721.

Robert E. Gerlach, Helio Associates, Inc., 8230 E. Broadway, Tucson, Az 85710.

James L. Knickerbocker, Tucson Gas & Electric Co., Tucson, Az 85701.

Due to the shortness of time for the preparation of this summary statement the recommendations herein represent the opinions of the authors and not necessarily those of the several organizations shown.

Our research was originally directed to large-scale solar electrical power production. We have recognized that current events have focussed attention on what solar energy can do to substitute for oil and natural gas in the immediate future. Our recommendations reflect this changing emphasis.

In the discussion below we re-trace our study of power generation and its extension into a gas augmentation program applicable to Arizona.

PROBLEM IDENTIFICATION

The major barriers to early utilization of solar photothermal heat and power by utilities are *cost* and the *interruptible* nature of the energy source.

The principal problems ahead are not in the area of science or technological innovation. Enough is now at hand to proceed. The problem is the industrialization of available technology and the economics that will follow industrialization. The National Science Foundation has set the scene for industrialization, but such a role seems to call for management by an action-oriented energy agency.

PROGRESS REVIEW

We have explored several approaches to solar thermal conversion. The first was via concentrating mirror or lens devices to produce temperatures in the range generally used for electrical power production (1000° F). We find that none offers a cost lower than 2000–3000 $/kwe.

Our experiments also show that concentrating devices are operationally limited by their intrinsic sensitivity to atmospheric haze and clouds. Projections based on total solar availability of 300 days in Arizona must be scaled down to under 200 days since only optically clear days can be used effectively. This larger number of interruptions for weather significantly reduces the desirability of solar power from mirror devices.

We cannot recommend any of the concentrating solar collector designs we have seen to date (with the possible exception of one) for further intensive development to the demonstration power unit phase.

We feel more optimistic in regard to power generation from lower temperature collecting devices (300–400° F). These temperatures can be obtained from advanced flat plate collectors using selective absorbing surfaces and selective windows. Such collectors require no sun tracking and utilize flux from cloudy and diffuse as well as clear skies. Their capital construction cost appears to be potentially between 500 and 1000 $/kwe. A prototype unit of this type might be funded by local utilities without waiting for a federal program to evolve.

We recommend intensive effort toward a low-temperature electrical power test bed to utilize the NSF-sponsored selective coating developments at the University of Arizona and Helio Associates. We do not share the NSF reservations (pre-crisis) about the timeliness of a test bed of this type. We think that answers from a test bed of sufficient size for credibility are urgently needed. Our reasons for optimism about this test bed are as follows:

(1) Stable selective coatings in flat plate collectors offer 40–60% energy extraction at 340°F. This temperature can use pressurized water as the heat transfer medium and provide inexpensive energy storage.

(2) Several western utilities under the lead of San Diego Power & Light Co. have developed an isobutane turbine system to use 340°F. geothermal waters. This application has encountered difficulty with the deposition of geothermal minerals in the heat exchanger. The entire turbine development, however, could be used unchanged with solar-heated water. This proposal maximizes current investments in development to facilitate an early test bed or demonstration unit in the 100 kwe to 10 Mwe range.

The first phase of the above solar demonstration system would be without a turbine subsystem, simply dumping the collected energy from storage through a dummy load. A budget prepared by Helio Associates for a 160 kwe unit, based on a conservative schedule to be utility funded, was 4.0 million dollars over 3 years. This program could be compressed into 2 years but at an increased cost due to parallel schedules.

We recommend early attention to the need for and design of an integrated manufacturing facility for solar power units. Such a specialized facility will be needed to effect maximum early cost reductions from those for the prototype systems.

The collector field has been clearly identified as the most expensive subsystem. Collectors must be manufactured and field installed at a cost between 1 and 3 $/ft^2. Another way of stating cost targets is that they must be produced and installed for approximately 1.00 $/lb. By way of comparison, the advertised sale cost of a Chevrolet Chevelle by dealers in Tucson is currently 0.74 $/lb. We think that a solar collector is a simpler device than an automobile and that a cost of less than 1.00 $/lb (1973) is a reasonable goal for U.S. industry.

SCALE OF APPLICATION

Solar photothermal power units appear feasible over a considerable range of size. Very small units (single family) are uneconomical and pose certain maintenance problems. Very large units (1000 Mwe class) are inefficient because of heat losses in transporting heat to a central location. Moreover, a large unit represents an immense investment. The associated risks with an early technology also argue strongly against large central power stations early in the history of solar power.

We recommend that early commercial solar power units be in the "community" or "sub-station" size range of 10 to 100 Mwe. The time scale for development can be reasonably short and the investment risk modest. Total-energy packages for shopping center and industrial plants as small as 1 Mwe may represent an easier avenue for penetration of the market for power.

PROGRAM ACCELERATION

We think that the development of the first 10 Mwe solar power unit can be compressed within a 5-year program. This accelerated program will depend on simultaneous parallel efforts in key program elements at corresponding costs. We will be glad to detail our program schedule at the appropriate time. We hesitate to quote a cost until the program has been better defined.

ECONOMICS

The cost of the first 10 commercial solar thermal power units will be higher than for fossil or nuclear power units, probably between 1000 and 2000 $/kwe. Co-mingling this expensive power within a region will not cause a significant cost increase to the consumer. Utilities will nevertheless be slow to act without significant fiscal encouragement from federal levels through direct participation or via indirect avenues.

It is too soon to pretend that costs can be estimated for solar thermal power. We agree with the analyses by ORNL, Aerospace Corp., Boeing and others that mirror and lens devices (including our early designs) are too expensive to warrant heavy expenditures. We think that flat plate collectors and development of manufacturing methods do warrant early and significant expenditures on test beds and demonstration units.

PRIORITIES

Thus far we have reviewed our studies in regard to power production. In the assignment of priorities for scarce federal resources one must look at the broader picture. We have in fact been examining how our technology can be applied to more immediate needs. In the section below we outline our recent studies in the context of the Arizona natural gas situation.

Arizona faces a critical shortage of natural gas and is apparently denied propane and/or naphtha as alternatives. It is clear that simple augmentation of natural gas is needed as soon as possible. We have started evaluation of a "Gas Augmentation Program" (GAP) with TGE to place simple solar collectors on commercial buildings to supply 50 to 80% of the space heating and hot water demand. The goal is a significant reduction in natural gas use in the area served within 2 years. The technology required to meet this simple need is at hand, but industrialization is the bottleneck.

Tucson does not have a power shortage, having large coal plants at hand in the 4-Corners area. As a consequence, refrigeration does not need immediate replacement by solar energy units since over 90% of the city load is via compressor refrigeration units. We do not need to wait for full "climate conditioning" units to be developed to address a need in Arizona. Space conditioning packages can affect the new construction market, but our studies identify conversions from natural gas to be an area where the earliest impact from solar energy can be felt. Since most commercial buildings have flat roofs there will be no visual impact from the installation of solar heating collectors. Home applications are not as simple.

Based upon the present thinking of TGE and Helio Associates the priority thrust of available local funding is in the GAP program, with the solar thermal electric program being of second priority. This does not mean that the 340°F. power test bed will be placed on the shelf until the GAP program is engineered and into production since resources will probably be found for *both* programs.

We have summarized our recommendations on national priorities regarding solar thermal applications at the front of this report. Priority 1 is for the gas and natural gas heating augmentation effort and uses the lowest technology. Priority 2 is for climate conditioning packages. We would be personally inclined to place low temperature power technology in this second position, but feel that since climate conditioning requires somewhat lower technology than power units it perhaps belongs in second position. Priority 3 is for community-sized power units using low-temperature technology.

SOLAR THERMAL POWER PROGRAM OPTIONS

Major program elements	Normal schedule[1] status at 5 yr.	Accelerated schedule[2] status at 5 yr.	Crash schedule[3] status at 5 yr.
1. Prototype collector with thermal storage (design, build, test).	Completed	Completed	Completed.
2. 100 Kw$_e$ test bed, without turbine subsystem (design, build, test).	do	do	Do.
3. Manufacturing facility (design, construct, operate)	Design complete, construction started	Construction completed in production	Construction completed, in production.
4. 1 Mw$_e$ pilot plant. (design, construct, operate)	Design complete, preliminary construction started.	Construction completed, initial operation	Omitted.
5. 10 Mw$_e$ demonstration plant (substation prototype)	Preliminary design, no construction	Construction started	Construction completed, test operation started.
6. 100 Mw$_e$ operational plant (central power unit)	No start	Preliminary design	Final design.

[1] Normal schedule: Low risk, sequential development.
[2] Accelerated schedule: Moderate risk, parallel development.
[3] Crash schedule: Larger calculated risks, intensive parallel development, some steps omitted.

ENERGY R. & D. BILL VITAL TO SECURITY AND PROSPERITY OF AMERICA

Mr. HUMPHREY. Mr. President, the legislation before us today, the "National Energy Research and Development Policy Act of 1973," is as important to the prosperity of our people and security and independence of our Nation as any legislation I can recall during my service in the Senate. I am pleased to have been an initial sponsor of this vital legislation.

It is only in recent months that most Americans have come to realize what energy shortage really means. It translates quite directly into higher unemployment, increased inflation, reduced production, shortsighted environmental policies, and reduced independence in foreign policy.

Obviously, a major research and development effort to provide our Nation with the capability of self-reliance for our energy needs is essential. We cannot allow the fate of our country to be placed in the hands of any other nation.

As chairman of the Consumer Economics Subcommittee of the Joint Economic Committee, I have held a series of hearings, beginning last May, on the "energy crisis" and steps that can be taken to alleviate it.

During the many hours of expert testimony on this problem, one theme was repeated over and over again. It was that regardless of what efforts we make today to deal with the immediate "energy crisis," we will be in an energy-scarce world for years to come. Therefore, the experts agree, a major research and development effort to provide for the long-term needs of our Nation must be mounted at once.

But energy self-sufficiency will require more than the appropriation of dollars and the creation of an organizational focus, although these are essential. To reach this long-term goal, the imagination of our people must be sparked and the creative genius of America mobilized. This is the real challenge of the energy crisis, the challenge to the will and talent of a great nation.

The bill we see today is the first and most significant response to this long-term challenge. Senator JACKSON and the other members of the Interior Committee deserve the gratitude of our Nation. They have acted swiftly and well to achieve our long-term goal of energy self-sufficiency.

The "National Energy Research and Development Policy Act of 1973" achieves two vital objectives. First, it authorizes a substantial increase, $800 million more each year and $20 billion total in the next 10 years, to provide our Nation with the capability of meeting all of its energy needs itself.

Second, it provides an organizational focus for all energy research and development and requires the preparation of a detailed energy research and development strategy for approval by the Congress in a realistic time frame.

Of course, this legislation was not intended to and does not establish levels of effort for alternative sources of energy. In the first instance, the "Energy Research Management Project" will be responsible for advising the Congress on the appropriate levels of effort in each case. However, I would like to make it clear that I for one will be giving their program recommendation very close scrutiny to assure that all potential sources of energy are being adequately funded, given their unique potentials.

This gross allocation of resources between energy alternatives is a policy question that the Congress can and must make after receiving the best technical advice possible. Concerns for the environment, cost of energy, foreign policy flexibility, employment generation, and the like are intimately tied to these basic allocation decisions. I will be watching them very closely.

DEREGULATION AND THE PROFITS OF OIL

Mr. McGOVERN. Mr. President, a generation ago, my predecessor in this body rose to tell of an attempt to influence his vote on legislation which would deregulate the price of natural gas at the wellhead.

The late Francis Case, a man of unimpeachable integrity, with his disclosure of a proffered campaign contribution, set in motion the forces that led to the ignominious end of an all-out campaign by the oil companies to deregulate natural gas prices.

In reading the remarks of my distinguished predecessor, I am moved by the integrity of this public servant. He was not of my party, and we may have disagreed on some issues. But no one who knew Francis Case, and no one who now reads his remarks of February 3, 1956, can dispute his integrity.

Senator Case described to the Senate how an individual who was not a South Dakotan, and whom he had not met, delivered to a friend of the Senator's an envelope containing 25 $100 bills, and said, "It's for his campaign."

Upon investigation, Senator Case said, he learned that the gentleman had been in his office some weeks before, and had told his staff of his interest in the enactment of deregulation.

My predecessor ordered that campaign contribution returned, and announced that he would vote against deregulation, not on the merits of the bill, but because advocacy of deregulation "is that of doing something so valuable to those interested in natural gas that they advance huge sums of money as a down payment, so to speak, on the profits they expect to harvest."

The issue before the Senate in 1956 is before us again today. And this time the administration is fully behind the deregulation of gas prices. The administration position may be sincere. But the uncomfortable fact remains that the oil interests gave hundreds of thousands of dollars to the Nixon campaign.

We know that deregulation is a major objective of this administration. And we know that, scarcely over a year ago, their campaign received over $1.5 million in contributions from executives of the petroleum industry, and at least three illegal contributions from big oil corporations themselves.

Mr. President, it raises again, as it did in 1956, this question: Why is deregulation so valuable to these companies as to justify such huge down payments?

The answer, I submit, is the enormity of profit which would be brought about by deregulation. And the windfall would go to companies whose profits are already swollen by the energy crisis.

The 31 largest oil companies, in the first 9 months of 1973, saw their profits increase by 47 percent over the comparable period in 1972. For the third quarter alone, their profits increased 63 percent over the same quarter a year ago.

There can be no argument with the fact that these companies would benefit handsomely from deregulation. The only argument is over whether consumers would benefit from increased gas supplies which deregulation allegedly would stimulate, and how the increased gas prices which follow would affect the consumer.

The administration, the giant oil companies, and the advocates of this legislation make a case for deregulation that is fragile, at best, but at worst almost unbelievable.

We should examine some of their arguments.

First, advocates of deregulation maintain that alleged "heavy-handed" price regulation has discouraged exploration for new gas, causing the present supply pinch in which we are found.

The fact is that this so-called "heavy-handed" regulation has allowed the oil and gas companies a price which covers whatever production costs they can demonstrate, including dry-hole costs, plus a profit of 15 percent. Mr. President, there are a number of small businessmen in South Dakota who would be delighted to expand their businesses if a Federal agency were to guarantee them a 15 percent profit.

Rather than blaming regulation for the present shortage of gas supply, I think we should look for the answer, as does the Bureau of Economics of the Federal Power Commission, in the anticipation of higher prices which deregulation would bring.

In addition, it defies logic to claim that regulation has caused shortages of natural gas when the prices of gasoline, home-heating oil, and diesel fuel have been exempt from regulation, and these too are now in short supply.

Second, advocates of deregulation claim that their approach would bring about exploration, increasing the supply of natural gas.

It is a claim, and no more. Higher prices, even vastly higher prices, cannot guarantee that there will be incentive for investment in gas exploration until the price rises high enough to provide a return greater than what might be provided by an alternative investment, say, in coal, uranium, or foreign exploration and refining.

No, Mr. President, there is not a shred of assurance in this amendment that it will provide a single additional cubic foot to provide the gas needed to heat our homes, move our industrial machine, and dry our crops.

The only assurance in this amendment is that the consumer price for natural gas will rise.

Third, the advocate claims that the price rise will be in pennies. I maintain that the price increase would be billions.

The American Petroleum Institute recently provided Members of Congress with summaries of a 150-page study by Foster Associates, Inc., a consulting firm, which held that the impact of deregulation on consumer prices would be minor.

I asked the Library of Congress to analyze that study, and I received that analysis some time ago. The Library of Congress finds serious fault with the industry study. Even by accepting, for purposes of argument, the assumption in the study that gas prices would rise from its present 25 cents per thousand cubic feet to 55 cents, the cost to the consumer would be more than $2 billion next year alone.

And it is easy to debunk the assumption that wellhead prices would rise only to 55 cents per million cubic feet. Buyers today are willing to pay to $1.25 per million cubic feet for synthetic and imported natural gas. It follows logically that wholesale gas prices could increase 5 times, and the added cost to the consumer could easily be $6 billion or $7 billion.

Potential increased profits of this magnitude seem to me to answer the question which Senator Case raised in 1956. For an investment of a few suitcases of $100 bills, a return in the billions, to say the least, is better than buying savings bonds.

There are alternatives which are far better for the consumer and the Nation. The Committee on Commerce, under the able leadership of Senator MAGNUSON and Senator STEVENSON, is exploring them on an accelerated schedule. Senator STEVENSON has proposed the best alternative—streamlining the regulatory system, and creating a Federal corporation to explore for and develop oil and gas reserves on the federally owned lands. These approaches hold the promise of stimulating the increased gas supplies the consumer requires, without extracting painful tribute.

Mr. President, I urge the Senate to reject the amendment, get on with the pending business, and allow the Committee on Commerce to proceed on a course which will be fair to all.

I ask unanimous consent to insert in the RECORD at this point the remarks of Senator CASE on the Senate floor on February 3, 1956, and a copy of my letter to the Library of Congress requesting an analysis of the Foster Associates study, and the reply which the Library provided to me.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Congressional Record, Feb. 3, 1956]

Mr. CASE of South Dakota. Mr. President, I rise to make a difficult speech. I had not expected to take part in the debate on the pending measure, the so-called natural-gas bill. I know very little about the economics in the collection and distribution of natural gas. I speak, therefore, only because one phase of the matter before us has presented itself to me in an unsought and now unavoidable manner.

By far, the overwhelming sentiment of the people of my State, as expressed in telegrams and letters during the past several weeks favors the passage of this bill. In the folders on my desk, 94 telegrams urge me to vote for the bill; only 11 telegrams oppose it. Of the letters received from South Dakota sources, 45 favor the bill, while 30 oppose it. Editorials in the State newspapers, both daily and weekly, are predominantly for the bill.

Among the senders of the telegrams are many of my very closest personal friends. Among the writers of the letters and resolutions are many officials and quasi-public bodies. A decent respect for these people who have expressed themselves in good faith on the evidence before them compels me to state in as clear a way as I can the reason or reasons why I cannot vote for the bill as it stands before the Senate today.

About a week ago, as I was signing out the day's mail, and talking at the same time to a couple of visitors, a long distance telephone call came in. I took it at once with the visitors present since it was after 5 o'clock, and I did not want to be late for other engagements by asking that the operator call back.

The voice at the other end of the line was that of a friend of mine in a South Dakota city who said that a caller had left an envelope with him that was to be given to me—a contribution for my forthcoming campaign. My friend said that he had opened the envelope and found it to contain hundred dollar bills, 25 of them in fact. He said, "What shall I do with it?"

I was a bit startled. That would be the largest single contribution I could remember for any campaign of mine. But, the visitors were present; I was short on time; so I suggested he might turn it over to another friend in the same city, who, it so happened, within the past month had been receiving a few voluntary contributions to help with the preliminary costs of my campaign for reelection. But I asked, "What did you say was in the envelope?" and, "Who did you say left it?"

My friend said the envelope had been left by a man who had been in Washington to see me recently. He gave his last name. It did not register with me at once, but with the visitors present and with time short, I did not prolong the conversation.

But once the visitors had left, I asked my secretary who was folding the mail that night, if she could remember any caller by the name given. She did not. Next day, I asked others in the office. None remembered him, but my legislative clerk was away all last week attending the funeral of her mother. So that morning, I telephoned my friend who had been receiving campaign contributions and told him that if an envelope with currency was turned over to him not to deposit the funds and not to mingle them with any other funds but to hold them in a safe until we learned more about them.

When my legislative clerk returned this week, she vaguely recalled that someone by the name mentioned had been in one day when I was at committee or otherwise tied up and that she had talked with him briefly. She thought he had made some inquiry about the natural-gas bill. Then it seemed to me that I recalled having received a letter earlier in which this man's name had been mentioned by a South Dakota correspondent.

We did not find the letter for a couple days because it was received early in December and had been put in the storeroom files for last year. The letter stated that "the other day a gentleman by the name of ——— from ——— another State—stopped in my office during which time we were visiting relative to the Harris bill which is coming up in the next session."

The visitor had inquired of my correspondent about my probable stand on the bill and my friend wrote to inquire. He stated his own opinion that a "lot of controls should come out of Washington and go to the States instead of more controls going to Washington."

My letter in reply said:

"Generally speaking, I think the purpose of the Harris bill is desirable, and unless it has some complicated issues, I would expect to vote for it when it comes up in the Senate. However, I should like to retain freedom of action should it appear upon analysis that it would have issues that would conflict with what I understand to be its main purpose in maintaining State control for intra-State development."

My legislative clerk has been unable to recall that when this visitor of a similar name did call that any specific question was asked as to my stand. She thinks he probably gained the impression that the correspondence coming to my office was predominantly in favor of the bill and that as far as anyone knew, I was likely to vote for the bill but that the letters we had written refrained from any final commitment, one way or the other. That is true. I refrained from making any final commitment, one way or the other.

I then asked a friend here in Washington from this man's State if he knew a person by that name. He did. He was an attorney by occupation. At once, I deduced that he was representing clients. I have not tried to find out if he is registered as a lobbyist.

As soon as it was thus determined that the out-of-state person who had left the envelope in South Dakota was interested in the passage of the pending bill, I knew of course that I could have nothing to do with its contents. No one need pin any halos on me for such a conclusion.

I knew that if the contribution were listed and reported that a contribution of that size would stick out like a sore thumb among the $5, $10, and $25 run of contributions in any list of mine. Reported, it would be instant meat for a columnist whose name I do not need to mention.

And, were I to take advantage of the fact that the contribution was in currency and not report it, I would be the prisoner for the rest of my legislative career of a man whom I had never met, whose restraint, if we wanted a vote some future day, no one was guaranteeing.

And, if no exposure ever took place, Mr. President, I come from a State which still cherishes a remark once made by a distinguished predecessor, Hon. William J. Bulow, who once in this Chamber, when he had to oppose a bill many friends wanted, said, "I have to walk with my conscience to the end of my days."

So pin no halos on me. With the identity of interests established, I promptly sent a telegram to the friend who was holding the envelope and told him that we could not accept the funds, and that if the real donor was not identifiable and return was impractical, I suggested they be turned over to the South Dakota Children's Home Society and that an appropriate receipt be taken.

I presume that some people may think the incident might well end at this point. Someone offered us a campaign contribution; handy as it would have been, we decline it. That is that. So what? I am free to vote on the bill as I please. Free to vote for free enterprise. Free to vote against more regulation and redtape. Free, Mr. President, except for one thing—and that is what this experience reveals as to the nature of the problem before us.

Consider for a moment, as I have had to consider for the past few days, what this experience reveals as to the interest which somebody somewhere has in the outcome of this legislation and the course that has been followed to influence one vote.

It is idle to pretend that there is nothing to it when a lawyer from another State whom I had never known would contact a mutual friend in my State and ask him about my stand back in December and then that this lawyer should come to Washington and identify himself as knowing my friend in South Dakota, and, failing to see me because I was tied up when he came, should visit with my legislative clerk about the pending bill and endeavor to get some idea of my probable attitude; and then should return to the West and go to South Dakota and there leave an envelope with 25 hundred dollar bills in it with this friend and say, "It's for his campaign."

It is idle to pretend, Mr. President, that there are not substantial profits in this bill for some person or persons to put up the money to employ the lawyer on that kind of enterprise. Bear in mind that I am not yet a party candidate; I have not been renominated. It is not a matter of establishing a majority in the Senate for a political party—it can only be an interest in what my vote might mean in the immediate future or present.

In the matter before us, one of the issues is the charge that the passage of this bill will be immensely profitable to the owners of gas reserves. I have heard it said, if my memory is correct, that the estimates of the windfall of increased values may be 1, 2, or 3 billions of dollars for the several trillion cubic feet of gas in proven reserves. We have heard it said that the consumers of natural gas over a period of years may pay these billions in additional charges. It has also been alleged that this bill will place a floor under the price of natural gas when it enters the interstate pipelines that will, in turn, shore up the price of competitive fuels, all adding to the ultimate costs paid by the consumer public, thereby adding greatly to the assets and profits of all who own the fuel reserves.

Mr. President, I have been impressed at times during the debate by many of the arguments advanced for the bill—the encouragement to exploration and development that it would give; the minimizing of Federal regulation; and the avoidance of governmental intrusion into borderline interstate and intrastate cases.

I do not accept the argument on federalism advanced by the able Senator from Oregon [Mr. Morse]. I do not think we should assert Federal control over every facet of commerce simply because the Constitution gave Congress the power to do so.

I do not object to the public's paying a fair price for its natural gas, a price that will compensate the producer and the distributor, a price that will, coupled with the existing 27½ percent depletion allowance, afford abundant encouragement for exploration and development.

The point at which I object, however, Mr. President, is that of doing something so valuable to those interested in natural gas that they advance huge sums of money as a down payment, so to speak, on the profits they expect to harvest.

The other day, the distinguished Senator from Missouri [Mr. Hennings] said on this floor:

"The concentrated money power of the great oil companies, wielded today to influence the decision of national Government by contributions to both parties in many parts of the United States is a menace to the proper functioning of free government within this country."

Free government, Mr. President, requires freedom for those who write the laws. If we pass a law that creates a huge endowment of future profits for holders of gas reserves, we might be mortgaging the issues of the future. Unrelated legislation could be influenced by the unregulated profits derived from monopoly prices paid by the captive customers at the end of the delivery line.

I see on the floor the distinguished Senator from Tennessee [Mr. Gore]. He will now understand why I asked him, at the conclusion of his remarks, for a clear definitive statement as to his conclusion on the question whether the consumer was a captive at the end of the delivery line.

Mr. President, the creation of a class who can seek to affect the choice of many States' representation in the Congress is a far greater danger to the country than a temporary shortage of gas. The people in the gas and oil business whom I have met are good, decent people. They are convinced that their ideas of good government are sound as any citizen's might be. None of them has ever told me I should vote so and so. But when the passage of a bill becomes so alluring that dollars are advanced to potential candidates even before primaries are held the warning signals go up, Mr. President.

I repeat, Mr. President, warning signals go up.

Government cannot remain free if those who write the laws are obligated to those who will get the extraordinary profits from laws enacted.

Mr. President, the incident that forced me to my personal position on this bill of course was individual to me. I specifically disclaim any suggestion that any other Member of Congress is in a similar situation. The House voted on this matter a year ago when party primaries were not imminent. Many Senators long ago publicly announced their stands. I respect them and whatever reasons led them to their position.

Had this incident not happened, I suppose that I would have followed the course recommended by the overwhelming majority of telegrams and letters from my State and voted for the bill. I want to see the oil and gas potentials of my State developed. The principle of maintaining free enterprise appeals to me. I do not like to see the long hand of the Federal Government reach down to primary production, but, Mr. President, I cannot vote to place upon the freedom of political thought chains that would be bought and paid for by the very people placed under bondage, not even if they ask for it, not when in my own experience there is this evidence of the way things can work.

So, Mr. President, I cannot vote for the bill as it stands before us. In the light of evidence personal to me that the bill has prospects of unusual monetary profit to some, and that with that profit would go the means for a continuing effort to influence the course of government for private gain, I must vote to maintain in people's Government the opportunity to control the profits from a monopoly product.

SEPTEMBER 5, 1973.

Mr. LESTER S. JAYSON,
Director, Congressional Research Service, Library of Congress, Washington, D.C.

DEAR MR. JAYSON: The American Petroleum Institute has furnished me and, apparently, other members of Congress with the enclosed news release which makes the statement that deregulation of natural gas prices at the wellhead would have a minor impact on consumers.

I would like to have your analysis of the claims made in the API statement, including, but not limited to, answers to those questions:

(1) Are the figures accurate, and is the methodology of this study based on valid assumptions?

(2) If the figures cited in the 5th paragraph are accurate ($8.30 more per year in 1974 and $33.06 more per year by 1980), what would be the total cost to all U.S. consumers of deregulation in 1974 and 1980?

(3) On what basis can an estimate of 55 cents per mcf be used in estimating wellhead prices if deregulation were permitted? Is there a more reasonable or accurate estimate?

(4) Are natural gas producers not presently compensated, under FIE ceiling prices in area rate cases, for all costs including exploratory costs, plus a fixed rate of return on investment? What is the rate of return? Would not the present area rate regulatory procedure provide a mechanism for full recovery of increased costs of exploration, plus a reasonable profit?

(5) Is the present lack of Federal regulation of wellhead prices for natural gas sold in intrastate commerce resulting in higher intrastate gas prices and causing more gas to flow in intrastate, rather than regulated interstate, commerce? Would Federal regulation of intrastate natural gas prices at the wellhead have the effect of making more gas available in interstate markets?

(6) What can you tell me about Foster Associates, the firm which did API's study? Which officers and directors of the firm are affiliated with the petroleum industry, and in what capacities? Has Foster Associates done previous work for the petroleum industry? Does the firm do work for other than petroleum industry interests? Please cite examples for the last two questions.

In addition to these questions and other information you may develop in analyzing the study, I would appreciate it if you would furnish me any other studies which the Congressional Research Service has made of the effect of deregulation of natural gas prices.

Thank you for your cooperation.

Sincerely,

GEORGE MCGOVERN.

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., Oct. 5, 1973.

To: The Honorable GEORGE MCGOVERN
From: John W. Jimison, Analyst Environmental Policy Division
Subject: Natural Gas Deregulation

This memo is written in response to your letter of September 5th to Mr. Lester S. Jayson, in which you requested that CRS analyze a study reported in an American Petroleum Institute press release concerning the economic effect of natural gas deregulation.

The study was performed by Foster Associates (a local consulting firm particularly experienced in natural gas matters, and the publishers of an authoritative newsletter for natural gas producers) for the American Petroleum Institute, which is the trade association of the major petroleum companies, all of whom are natural gas producers.

The analysis which follows will attempt to address the questions in your letter as they were asked. It is my own, and is based on my knowledge of the natural gas market and industry, on the Foster Associates

Study itself, and on other studies and documents dealing with natural gas deregulation.

* * * * *

The study shows that price increases to the householder would be gradual and minor for two reasons:

Most of the gas now being sold is under fixed price contracts, generally for periods of 20 years.

Only 17 per cent of the consumer's bill consists of the field price of natural gas. The rest goes to pipe line companies and local distributors.

The study also lists the increases the consumer might expect if the field price went to other assumed levels, either higher or lower than 55 cents per thousand cubic feet.

Under these various assumed levels, the increase in the householder's yearly bill would range from 4.2 per cent to 7.6 per cent. Also included in the study are data on the consumer impact at various assumed field price levels of alternate approaches, such as deregulation of only new gas sales and the deregulation of new gas sale prices coupled with a phaseout of controls over flowing gas.

According to the study, only 12 per cent of the natural gas now under contract is covered by contracts which permit price escalation to whatever may be the ultimate market price. By 1980, 27 per cent of the gas under pre-1973 contracts will be covered by such contracts.

The study cites data compiled by the U.S. Bureau of Labor Statistics showing that as of December, 1972, the cost of natural gas service for the average moderate income family accounted for only 1.20 per cent of total family expenses. By contrast, 2.10 per cent was spent on tobacco, 2.46 on alcoholic beverages and 1.33 per cent on household supplies.

The study points out that the price of natural gas to the residential consumer increased only 19 per cent between 1960 and 1972. By comparison, the overall Consumer Price Index during the same period rose 41 per cent.

At the same time, the study shows, the cost of drilling wells—a financially risky enterprise—rose from $171.60 per foot in 1961 to $27.63 in 1971, an increase of 57 per cent.

"This combination of artificially low prices and sharply rising producer costs," API President Ikard noted, "has resulted in a sharp decline in exploratory drilling. As a result, natural gas reserves have dwindled at a time when the number of housholds which use natural gas has increased by 30 per cent, and consumption per customer has risen 25 per cent."

The study contains no estimates of how much consumer costs would increase if Congress does not end government price-fixing on natural gas, but the study emphasizes that continued price-fixing "would have its own 'costs'."

It said that if present controlled price levels continue in the field "we may anticipate a continued decline in exploration and drilling for new gas supplies and a further dwindling of new supply additions to replace existing depleting reservoirs."

(From The Library of Congress, Congressional Research Service, Washington, D.C.)

ANALYSIS OF THE AMERICAN PETROLEUM-INSTITUTE-FOSTER ASSOCIATES STUDY OF THE IMPACT OF DEREGULATION ON NATURAL GAS PRICES

(By John W. Jimison, Analyst in Environmental Policy, Environmental Policy Division)

For the purposes of preparing this analysis, I have accepted at face value the raw data concerning the sizes and provisions of natural gas contracts presently in effect as reported by Foster Associates. I have also accepted as accurate their mathematical computations.

Finally, this analysis is not to be construed as representing any opinion of the Congressional Research Service or the Library of Congress on the issue of the propriety of regulation of natural gas or any other issue.

I am available to answer any questions or help further at 426–5872.

Question 1: Are the figures accurate, and is the methodology of this study based on valid assumptions?

The Foster Associates study is in large part an attempt to anticipate the impact on the average residential consumer of partial or total deregulation of natural gas prices. Foster has studied and summarized the provisions of contracts representing 70% of the current sales of natural gas in interstate commerce to determine the price effect of letting these sales be made according to their contractual terms, instead of at the price set by the Federal Power Commission. Foster has also estimated for a range of possible prices the quantity of new gas sales, and calculated the retail price effect of total and partial deregulation at each of these prices for a period of years ending with 1979.

The study represents a meticulous effort to determine precisely future effects which may not be amenable to precise determination. A great deal of useful work has gone into its preparation, and many of the results are both reliable and valuable to an understanding of the future natural gas market. Important factors are left unconsidered, however, and their absence in the calculations made by Foster Associates reduces the reliability of the final results.

As is necessarily the case with any predictive study of this sort, a number of assumptions must be made about future events and trends which could affect the accuracy of the specific predictions. The following are assumptions, stated and unstated, that have been made by the Foster Associates study. For each of them I will attempt to comment on its importance to the conclusions of the study, and the effect that would result if the assumption is not correct.

ASSUMPTIONS MADE IN THE FOSTER ASSOCIATES STUDY

A. That "total production (of natural gas at the wellhead) would be fairly stable through 1976, increasing thereafter by approximately two percent annually."

This supply assumption is maintained throughout the report. It is not varied up or down as a function of higher or lower prices, or recent or prospective changes in FPC price policies, or of changes in demand for gas. It is the supply factor used for all the postulated prices of gas if deregulation is permitted 45¢, 55¢, 65¢ or 75¢ per Mcf.

To change the supply projection for each of the several hypothetical prices would complicate the study somewhat. Yet ostensibly the actual supply situation would be different, depending on the price structure. The report itself presents evidence and concludes that gas supplies are price-responsive. To use a uniform supply projection throughout the study is inconsistent with this conclusion.

The basis of this uniform supply estimate is presented in Table 5 of Appendix A of the report (copy attached). The volumes of gas estimated to be delivered under existing contracts are accurately determinable from FPC files and must be accepted as reliable. It is the volume of gas estimated to be deliverable under new contracts that is the crux of the overall supply projection. By the end of the period under consideration, 1973–1979, 6,125 out of 14,333 billion cubic feet, or 42.7% are estimated to be the result of new contracts, i.e., contracts written after 1973. The basis for this calculation of new supplies is not given; apparently this total was arbitrarily arrived at. These projected volumes are multiplied in the study by the various projected unit prices after deregulation. The results are added to the revenues under existing contracts in formulating the total revenues to producers and, when the share paid by residential consumers is divided by the total number of residential customers, the price impact on them. To the extent that these figures for additional gas are inaccurate, the specific results of the study are inaccurate. Moreover, even if the general trend of new supplies closely parallels the projection of the estimate, it would presumably do so only for one of the price estimates used, and should be higher or lower for the higher and lower price estimates, respectively.

To base the study on a fixed supply projection regardless of gas price contradicts the supply-eliciting function of price which the report supports. Although the price and consumer impact estimates for succeeding years of current contracts may be assumed to be relatively accurate, the average future prices and consumer impacts under the deregulation assumptions may be unrealistic.

B. That under deregulation prices will reach and maintain a given level between 45¢ and 75¢.

For each of the assumed market price levels after deregulation the report projects revenues from deregulated existing contracts and individual consumer impacts for each of seven years. However, these projections are predicated on the deregulated gas price immediately attaining the given price level and subsequently remaining at that price through the remainder of the decade. This appears to be an unreasonable assumption.

The essence of an unregulated market is that price rises and falls as it mediates between supply and demand over time. All observers have forecast an increase in demand for gas that will outrun the supply projection employed by Foster Associates. Thus there will be a constant upward pressure on the gas prices. In addition, alternative fuels to gas such as distillate fuel oil and residual oil are in short supply. It seems probable that the upward spiral of fuel prices will lead to prices much in excess of 45 to 75c per Mcf. Already pipeline companies have begun to construct synthetic natural gas plants using naphtha for feedstock and are arranging to import liquified natural gas at prices to distributors of about $1.25 per Mcf. There is no reason to believe the beleaguered pipeline industry would be unwilling to bid as much for natural gas.

The Foster Associates report itself anticipates that costs of gas production will continue to rise substantially. To the extent that covering production costs is a determinant of prices, this will also add to the likelihood of prices higher than 75c per Mcf.

A realistic appraisal of the new gas market after deregulation necessarily should include a projection of rising prices. To predicate the precise price estimation of the future upon the gas market immediately reaching and then holding a price-plateau for six years is to build in a substantial margin of error that will increase toward the later projected years.

C. That the current area rates as set by the Federal Power Commission will not be revised upward.

The Foster Associates study anticipates the total revenues to producers by deregulation for their current contracts by analysing the provisions of current contracts and estimating how much the price of gas already flowing will increase. More than one-fourth of the gas sales are made under contracts providing for fixed prices with so-called "area rate clauses" which permit the price to rise if the area rate rises. The study anticipates no revenue to producers for the next six years from these contracts above what they are presently receiving under existing FPC ceilings.

Yet these ceilings are quite likely to be raised, and large sums of additional revenue will probably flow to producers from these contracts.

Already the FPC has begun to grant permission to producers to sell gas into interstate commerce at prices of 45¢ per Mcf. Yet current area rate ceilings are about 20¢ per Mcf less than that.

The FPC has proposed nationwide area rate determinations for both old and new gas, and has seen the raising of area rates as an appropriate means of putting into producers' hands promptly extra capital for additional exploration and production. It seems unlikely that the FPC would refuse to permit prices under these contracts to reach the levels that prices under other contracts have reached. Certainly those producers selling gas under such contracts would petition the FPC to amend the area rates to conform more closely with the market prices, and their arguments would be difficult to counter once deregulation makes the free market the arbiter of gas prices. Hence the conclusion of the Foster Associates report that additional producer revenues from this source will not be forthcoming appears to underestimate the probable situation.

D. That present contracts between pipelines and producers will not be renegotiated.

There is a substantial possibility that, in the event of deregulation of natural gas, many present contracts between producers and pipelines would be rescinded and renegotiated. The Foster Associates study assumes that no additional revenues will flow to producers after deregulation due to higher prices for gas flowing under contracts with fixed prices where the contract price is no higher than the FPC ceiling.

These contracts cover about one-third of the gas entering interstate commerce. The pipeline companies purchasing this gas apparently would be under no legal obligations to revise contractual terms to raise gas prices.

Neither, however, would there be regulatory obstacles to such a renegotiation if total deregulation were achieved. Moreover, given the present mimimal bargaining position of the pipeline during the current shortage, and their great need for additional supplies to service present and future customers, pipelines which have offered new gas on condition that old contracts be renegotiated might quickly capitulate. In the event of total deregulation, therefore, it seems unrealistic to assume that old contracts made under regulated prices would not be revised to reflect the market prices, even in the absence of clauses specifically requiring such amendments. This point is made by Mr. Lee White, former FPC Chairman, in a recent statement (enclosed). Such renegotiation of existing contracts could have an enormous impact on natural gas revenues received by producers, and hence on the individual consumer's own price.

E. That the total number of consumers will not increase.

There has been a regular growth of the number of residential customers served by the gas utility industry. Also, during the past two years of increasing gas shortages, the number of residential customers has increased. Yet the Foster Associates study apparently assumes no growth beyond the 1972 total of 39.4 million gas consumers. As the total number of customers grows, so does demand, forcing prices higher if supply cannot keep step. However, when the total revenue of producers is divided by a larger number of consumers, the price impact per residential user is lower. Although the failure of the study to assume further growth in the gas utility residential market may not cause an underestimation of the consumer costs of deregulation, it further jeopardizes the accuracy of the projected residential price figures.

F. That the relationship of the residential price of gas to the commercial and industrial prices of gas will change.

The price per unit of natural gas paid by industrial customers has consistently been less than half the price paid by residential consumers. Table I demonstrates the average nationwide price advantage enjoyed by industrial customers, due to rate schedules set to encourage large scale use:

TABLE I.—*Price per million Btu's*

(In cents)

Year:	Residential	Industrial
1969	101.3	35.8
1970	105.8	37.7
1971	111.8	41.3
1972	118.5	44.9

Prices for both groups of consumers are rising, reflecting a 14.9% rise in average wellhead prices over this period. Residential customer prices rose 15.3%, industrial customer prices, 20.2%. The disparity between the price structures is narrowing gradually. Industrial gas prices represented about 35.3% of residential prices in 1969; 35.6% in 1970; 36.9% in 1971; and 37.8% in 1972.

It seems clear that recent increments in gas prices due to wellhead price rises have been passed on to customers largely in proportion to current prices. Yet the Foster Associates study apparently calculates the price impact on the consumer under the assumption that the extra cost per unit of gas at the wellhead after deregulation would be passed through in equal amounts per unit of gas. Hence, if the average price of gas were to increase from 25c to 35c per Mcf, the study assumes that industrial prices per Mcf would rise from perhaps 45c to 55c, and residential prices would rise from perhaps $1.20 to $1.30. A more realistic assumption given a 10c per Mcf price rise at the wellhead would bc an industrial price rise from 45c to 50c and a residential price rise from $1.20 to $1.35.

If, as has been done in the past, producer price increases are passed on in proportion to the current price differential between industrial and residential consumers, and are not added directly to each unit of gas wherever sold, the consumer price impact of deregulation could be half again as much as the Foster Associates estimate.

This effect would be aggravated by the continued bulk sales of gas to industrial customers by the pipelines themselves at prices lower on the average than those of the utility sales prices to industry employed above. These so-called "direct-sales" are made under long term contracts which may or may not contain clauses for the adjustment of selling prices to reflect purchase price of gas.

G. That the present relative distribution of natural gas to residential, industrial and commercial consumers will be maintained.

Residential consumers in the United States purchase less than half the natural gas sold. The bulk of it is sold to industrial and commercial customers. The Foster Associates study apparently assumes that residential customers will continue to purchase the same percentage of gas they do at present.

In 1971, residential consumers purchased 30.2% of the gas sold by distributors in the United States, and 25.3% of all natural gas delivered to consumers. The percentage sold by distributors to consumers has declined from 34.3% in 1960, 33.3% in 1965, and 30.6% in 1970. If this declining trend continues, residential consumers will pay a smaller share of rising overall producer revenues.

The likelihood is, however, that the trend will be gradually reversed. The present shortage of natural gas has forced the FPC to implement priorities of service which dictate those classes of customers cut off first in the event of a shortage. Since residential consumers are the highest priority class, the percentage of all gas that they use rises in a time of shortages.

Continuing shortages of natural gas are widely anticipated. Until the absolute supply of gas increases, therefore, the percentage of residential use will never be lower.

Moreover, since there is projected the construction of many additional housing units in the next several years, and since gas is the most efficient fuel for most residential heating and appliance uses, it seems likely that, in view of an overall energy shortage, new residential gas consumers will be allowed to acquire service when new industrial and commercial users may not. This would tend to increase the residential share of all gas purchased

To the extent that the residential share of gas consumption increases, residential consumers will pay a larger share of the overall revenues to gas producers, and a larger share of the increment owing to any deregulation of prices. Hence it is a deficiency not to anticipate, in calculating the price impact of derregulation on the ultimate residential consumer, the likelihood of a change in the share of the gas market residential consumption represents.

In conclusion, the above unstated or stated assumptions apparently made by Foster Associates in order to determine the prices per Mcf after deregulation and the consumer impact of deregulation may have distorted the results of the study. Since most of these assumptions lead to a tendency to understate the impact of deregulation on the residential consumer, it is reasonable to expect that the actual consumer price impact would be somewhat higher than estimated by Foster Associates.

As was noted above, the mathematical calculations of the study have not been checked, and the formulae used in deriving them is not divulged by the report. A reasonable approximation of the basic formula for calculating individual consumer impact might be:

$$\text{Individual consumer impact} = \frac{[A_1(P_1-P_x)] + [A_2(P_2-P_y)]}{R}$$

Where P_1=price of deregulated gas from pre-1974 contracts during any given year N;

Where P_2=price of post-1973 deregulated gas during year N;

Where P_x=price of pre-1974 gas under current regulated contracts during year N;

Where P_y=price of post-1973 gas under continued regulation during year N;

Where A_1=amount of pre-1974 gas produced for residential consumption during year N;

Where A_2=amount of post-1973 gas produced for residential consumption during year N; and

Where R=the total number of residential consumers of gas.

The above-discussed assumptions of the Foster Associates report suggest that factors other than P_x and P_y may not be precisely known, which would lead inevitably to imprecision. Given such impossibility of precision in the estimation of its basic constituents, the impact on consumer prices cannot be precisely determined by use of the overall formula.

Hence, the answer to the first question is that the methodology employed by the study does not appear to include all likely situations and that the resulting figures may, therefore, be unrepresentative of the actual trends to be expected.

Question 2: If the figures cited in the 5th paragraph (of the API news release) are accurate ($8.30 more per year in 1974 and $33.06 more per year by 1980), what would be the total cost to all U.S. consumers of deregulation in 1974 and 1980?

The cited figures come from Table 9–B of Appendix A, and assumes a 55¢ per Mcf market price with 1¢ per year escalations. Under these conditions, the study reports (Table 2–B, Appendix A) that flowing gas deregulation alone will result in a 1974 revenue increase to producers of $629.3 million, and a 1980 addition to income of $879.1

million. To this must be added the amounts which will accrue to producers from any production of new gas under market prices. Although no projections of new gas total revenues are provided, the study's projection of new supply (Table 5, Appendix A) can be used along with its formula of 55¢ plus one cent per year to calculate revenues. The 1974 total bill for *all* consumers (not only residential consumers) for new gas alone would be $580 million. By 1980, new gas under the study's assumptions would cost the consumer $3.5 billion per year. Since there are no projections for the revenue from sales of old gas without deregulation or for new gas without deregulation, it is not possible to determine, using the study's own assumptions, what the total gas cost to the consumer or the total increment between regulated and deregulated costs to the consumer for either year. If one takes the total gas sold under existing contracts for both years, however, and calculates its value a liberal average of 22.5¢ per Mcf, the total gas sales in 1974 would be $4.15 billion. For 1979 the annual market would be $6.24 billion.

If one assumes as the study does that the same amount of new and old gas would be produced if there were no regulation and if FPC new gas ceilings remained at present area levels (about 26¢/Mcf) one can calculate the total cost of gas under the present regulatory controls at roughly $2.03 billion for 1974 and $3.47 billion by 1980. Subtracting the total cost without deregulation from the total cost with deregulation, therefore, yields the extra cost of gas attributable to deregulation in each year: $2.12 billion in 1974, and $2.77 billion for the year 1979. Once again, however, this assumes that the study's supply estimate will hold true regardless of field price or regulatory events.

Overall, the Foster Associates study is a useful first conceptual step in understanding the price impact of deregulation. Any statement, however, that the price results predicted in the study have been computed with cognizance of all major market factors, and can thus be seen as precise and reliable, is erroneous. It is not realistic to use the results of this study as firm evidence that deregulation of natural gas prices will have only minimal effect on consumer prices. Too many important factors and possible events are left unconsidered.

Question 3: On what basis can an estimate of 55¢ per Mcf be used in estimating wellhead prices if deregulation were permitted? Is there a more reasonable or accurate estimate?

As is mentioned above, the study assumes deregulation prices over a range of 45¢ to 75¢ per Mcf. As is also noted above, the actual price of new gas if deregulation were achieved would be at least 45¢ and possibly much higher than 75¢.

During the natural gas shortage, buyers will be willing to pay as much for natural gas as is necessary to obtain it, limited by the prices of available alternate fuels. At present and for the forseeable future, there will be shortages of fuel oils, the primary alternate fuel to natural gas, and coal will neither be available in adequate quantity or quality due to freight car shortages and sulfur contents. Moreover, the cost of switching to an alternate fuel would add to the buyers willingness to pay more for gas. In some cases gas is indispensable.

One Mcf of gas contains about one million Btu's of heat energy and costs 20.5¢ at the wellhead at present FPC prices. The equivalent amount of crude oil sells at present for approximately 67¢ per million Btu and the equivalent amount of coal is 29¢, based on $4.00 per barrel for oil and $7.66 per ton for coal. Thus in a free market, prices would be expected to rise at least until the average rolled-in cost of gas equalled that of coal. To achieve an immediate average price rise of 8.5¢ per million Btu's of gas would require, under the formula employed by the study, (.6¢ in the average price for each 5¢ in the market price) a price rise of 70¢, so that new gas prices might reach levels between 90¢ and $1.00 in 1974. To assign any likely market price, however, is highly speculative.

Question 4: Are natural gas producers not presently compensated, under FPC ceiling prices in area rate cases, for all costs including exploratory costs, plus a fixed rate of return on investment? What is the rate of return? Would not the present area rate regulatory procedure provide a mechanism for full recovery of increased costs of exploration, plus a reasonable profit?

The Area Rate method of regulation, begun by the FPC in 1960, attempted to assign average costs per unit of gas for the producing companies in various regions of the country. To these averages, which included allowance for exploratory expenses, dry hole costs, and all other calculated costs, were added a rate of return originally set at 12 percent of total cost but raised in later decisions to 15 percent. The total amount became the regulated price of gas.

Several problems were raised regarding area rates. Producers complained that the prices were set on historical cost evidence and that the proceeding was very slow; by the time the rate had been calculated, costs of production had risen enough to render it too low. Thus the area rates lagged behind the rate necessary to actually cover current cost and to allow the rate of return stipulated. In addition, since the chance of a successful well was only one in ten on the average for wildcat exploratory wells, and the rates took this success ratio into account, a company that failed to achieve a successful well every ten tries would not recover its drilling costs. This made it riskier for the smaller companies to drill: they could not count on reaching the average success ratio.

The area rate prices were tried to the cost of drilling, yet the demand for gas is tied to other factors such as the availability of alternate fuels and their prices. Hence the demand became greater in the late sixties than the supply the cost-based area rates could elicit, because the prices of other fuels rose greatly in the free market. Moreover, it was argued that the rates of return available to investors in other enterprises were higher.

The costs of gas production are rising per foot of well drilled, both as a result of common inflationary pressures and as a result of the necessity to drill deeper and in more inaccessible places such as the offshore continental shelves. Because of larger finds of gas at these levels, however, the cost per unit of gas has stayed about the same. When deciding to drill, gas producers claim that they consider primarily the cost per foot because they can not accurately anticipate the extent of the gas reserves to be discovered, if any. Area rates, based on the cost per unit of gas, thus according to the industry, did not provide the incentive to explore for additional gas supplies.

The basic problem appears to be that exploratory decisions are based on price, not the demand for gas. Producers will not supply enough gas to meet the interstate demand on the hope that their higher costs will be used to calculate a high enough price, after a lengthy area rate proceeding, to allow them what they deem a fair rate of return. They desire to obtain a price that will cover their cost and return them a profit immediately.

In conclusion, while area rates may be adequate to calculate retrospectively a price for gas covering the average producer's costs and allowing him a reasonable return, they may not sufficiently account for the peculiar circumstances of the gas industry to be relied on to encourage prospective exploration and production sufficient to meet all demand.

Question 5: Is the present lack of Federal regulation of wellhead prices for natural gas sold in interstate commerce resulting in higher intrastate gas prices and causing more gas to flow in intrastate, rather than regulated interstate, commerce? Would Federal regulation of intrastate natural gas prices at the wellhead have the effect of making more gas available in interstate markets?

Intrastate gas prices are considerably higher at present than interstate gas prices, averaging as much as 50¢ per Mcf for new gas. New gas discoveries onshore have been flowing almost exclusively into intrastate commerce for the last two or three years. Offshore gas is automatically governed by FPC regulation and is sold interstate.

Federal regulation of intrastate gas production would neutralize the ability of intrastate gas buyers to outbid interstate buyers, but only newly discovered reserves would be affected. To the extent that lower prices discourage exploration, intrastate exploration would be reduced and the amount of new gas dedicated from intrastate wells would be smaller overall, although more of it would enter interstate commerce.

One significant change that would occur as a result of the extension of FPC authority to the intrastate market would be the imposition on intrastate sales for resale of the FPC's curtailment priorities. The producing states have attracted great concentrations of industries with the promise of low-priced fuel. In Louisiana and Texas and other major producing states, which consume at least a third of all the gas produced each year, more than 80% is consumed by large industries. The FPC's curtailment policies would require cut off of deliveries to these industries, mostly low-priority uses according to the FPC, before cutting off higher priority users in non-producing states. Hence, paradoxically, a prolonged or serious gas shortage could have a more severe effect on the producing state economies than on the economies of states less dependent on gas. Equitable distribution of the available gas regardless of its origin may be thought the best policy in the event of a shortage, however.

Question 6: What can you tell me about Foster Associates, the firm which did API's study? Which officers and directors of the firm are affiliated with the petroleum industry, and in what capacities? Has Foster Associates done previous work for the petroleum industry? Does the firm do work for other than petroleum industry interests? Please cite examples for the last two questions.

I have requested and received from Foster Associates their descriptive pamphlet as well as a listing of their personnel and previous activities and clients. Copies of these materials are attached. I have also enclosed a number of press releases referring to the study.

REPRESENTATIVE CLIENTS

Government

Federal Government, U.S.

The President's Commission on Postal Organization.

The President's Council of Economic Advisers.

U.S. Department of Health, Education & Welfare.

U.S. Department of Commerce.

U.S. Department of the Interior.

U.S. Department of State, Agency for International Development.

International Bank for Reconstruction and Development.

Federal Government, Canada

Department of Northern Affairs and Natural Resources.

National Energy Board.

State, Provincial and Local

State of California.

State of New Jersey.

State of New Mexico.

State of Virginia.
Province of Alberta, Energy Resources Conservation Board.
National Capital Transportation Agency.
Cities of Elmira/Corning, New York.
City of El Paso, Texas.
City of Eugene, Oregon.
City of Goldsboro, North Carolina.
City of Houston, Texas.
City of Jamestown, New York.
City of Lewiston, Maine.
City of Sandusky, Ohio.
City of Tyler, Texas.

Industry

Petroleum and Gas

Alberta and Southern Gas Co. Ltd.
Alberta Gas Trunk Line Company Limited.
Amerada Hess Corporation.
American Petroleum Institute.
Amoco Production Company.
Ashland Oil & Refining Company.
Atlantic Richfield Company.
California Company.
Canadian Petroleum Association.
Chevron Standard Limited.
Cities Service Oil Company.
Continental Oil Company.
Dome Petroleum Limited.
Esso LNG, Inc.
Getty Oil Company.
Gulf Oil Canada Limited.
Gulf Oil Corporation.
Home Oil Company Limited.
Hudson Bay Oil and Gas Company Limited.
Humble Oil & Refining Company.
Hunt Oil Company.
Imperial Oil Limited.
Independent Natural Gas Association of America.
Independent Petroleum Association of Canada.
Kerr-McGee Corporation.
Marathon Oil Company.
Mid-Continent Oil & Gas Association.
Mobil Oil Corporation.
Murphy Oil Corporation.
Pacific Petroleums Ltd.
Phillips Petroleum Company.
Shell Oil Company.
Signal Oil & Gas Company.
Skelly Oil Company.
Standard Oil Company of California.
Standard Oil Company (Indiana).
Standard Oil Company (New Jersey).
Standard Oil Company (Ohio).
Sun Oil Company
Superior Oil Company.
Tenneco Oil Company.
Texaco Inc.
Union Oil Company of California.
Westcoast Transmission Company Limited.

Electric, Gas and Water Utilities

Alexandria Water Company.
Allegheny Power System.
American Electric Power Company Inc.
Arkansas Power and Light Company.
Atlantic Gas Light Company.
Baltimore Gas & Electric Company.
Calgary Power Ltd.
Canadian Utilities, Ltd.
Canadian Western Natural Gas Company Limited.
Central Maine Power Company.
Cleveland Electric Illuminating Company.
Columbia Gas System.
Columbus & Southern Ohio Electric Company.
Dayton Power & Light Company.
Illinois Power Company.
City of Jamestown Board of Public Utilities.
Middlesex Water Company.
New Orleans Public Service Inc.
Northern Indiana Public Service Company.
Northern Natural Gas Company.
Northern States Power Company.
Northland Utilities Limited.
Northwestern Utilities Ltd.
Ohio Water Service Company.
Pennsylvania Power & Light Company.
Peoples Gas Company.
Philadelphia Electric Company.
Potomac Edison Company.
Union Gas Company of Canada, Limited.
Yukon Electrical Co. Ltd.

Telephone and Communications

Advertising Research Foundation.
Alberta Government Telephone Commission.
American Telephone & Telegraph Company.
Bell Telephone Company of Pennsylvania.
Booth-American Company.
British Columbia Telephone Company.
Chesapeake & Potomac Telephone Company of D.C.
Chesapeake & Potomac Telephone Company of Maryland.
Chesapeake & Potomac Telephone Company of West Virginia.
Chillicothe Telephone Company.
Coaxial Systems, Inc.
Cowles Communications, Inc.
Diamond State Telephone Company.
FCB Cablevision.
Foote, Cone & Belding Communications.
General Cablevision.
General Telephone Company of California.
General Telephone Company of Florida.
General Telephone Company of the Northwest, Inc.
General Telephone Company of the Southeast.
General Telephone & Electronics Corporation.
Lin Broadcasting Corp.
Lorain Telephone Company.
Michigan Bell Telephone Company.
Mutual Telephone Company.
National Association of Radiotelephone Systems.
National Cable Television Association.
Newport Beach Cablevision.
New York State CATV Association.
New York Telephone Company.
Ohio Bell Telephone Company.
Peninsula TV Power.
Post-Newsweek Stations
Pueblo TV Power.
Robinson Television Company, Inc.
Seal Beach Cablevision.
Southern Bell Telephone & Telegraph Company.
The Outlet Company.
Triangle Broadcasting.
TV Power of North County.
United States Independent Telephone Association.
United Telephone Company of Ohio.
WEOK Cablevision.

Transportation

American Association of Railroads.
Braniff Airways, Inc.
Continental Air Lines, Inc.
Delta Air Lines, Inc.
Interprovincial Pipe Line Company.
Lake Head Pipeline Co., Inc.
National Air Lines Incorporated.
Northwest Airlines, Incorporated.
Pacific Far West Line, Inc.
Pennsylvania Railroad Company.
Seaboard Coastline Railroad Company.
Western Air Lines, Incorporated.

General

Arthur Andersen & Company.
Arthur Young & Company.
Booz, Allen & Hamilton, Incorporated.
Canadian Bechtel Limited.
Cresap, McCormick and Paget.
John Diebold, Incorporated.
Direct Mail Advertising Association.
Ernst & Ernst.
MacMillan Bloedel Limited.
Magazine Publishers Association.
Merrill Lynch, Pierce, Fenner & Smith.
National Association of Securities Dealers.
National Sugar Company.
Parcel Post Association.
Price Co. Ltd.
Tessell Patrick & Ostrau.

ESTIMATED ANNUAL VOLUMES OF GAS DELIVERIES UNDER EXISTING AND NEW INTERSTATE CONTRACTS

[Billions of cubic feet]

	Annual volume under new contracts each year	Total annual volume under new contracts	Existing contracts	Total, all interstate sales
1973	250	250	13,083	13,333
1974	800	1,050	12,256	13,306
1975	850	1,900	11,402	13,302
1976	950	2,850	10,567	13,417
1977	1,025	3,875	9,767	13,642
1978	1,100	4,975	8,972	13,947
1979	1,150	6,125	8,208	14,333

The PRESIDING OFFICER (Mr. BARTLETT). The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, the bill having been read the third time, Shall the bill pass?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Utah (Mr. MOSS), the Senator from Georgia (Mr. NUNN), and the Senator from Mississippi (Mr. EASTLAND) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Rhode Island (Mr. PELL) are absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. ERVIN), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Utah (Mr. MOSS), and the Senator from Texas (Mr. BENTSEN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Florida (Mr. GURNEY), the Senator from Oregon (Mr. HATFIELD), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent by leave of the Senate on official business.

The Senator from Kentucky (Mr. COOK) and the Senator from Oregon (Mr. PACKWOOD) are absent on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

(If present and voting, the Senator

from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 82, nays 0, as follows:

[No. 564 Leg.]

YEAS—82

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Fannin
Fong
Gravel
Griffin
Hansen
Hart
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Muskie
Nelson
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—18

Bennett
Bentsen
Cook
Cotton
Eastland
Ervin
Fulbright
Goldwater
Gurney
Hartke
Hatfield
Johnston
Moss
Nunn
Packwood
Pell
Saxbe
Symington

So the bill (S. 1283) was passed, as follows:

S. 1283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Energy Research and Development Policy Act of 1973".

TITLE I—COORDINATION AND AUGMENTATION OF FEDERAL SUPPORT FOR RESEARCH AND DEVELOPMENT OF FUELS AND ENERGY

STATEMENT OF FINDINGS

SEC. 101. The Congress hereby finds that—

(a) The United States is currently suffering a critical shortage of environmentally acceptable forms of energy.

(b) Compounding this energy shortage is our past and present failure to formulate a comprehensive and aggressive research and development strategy designed to make available to American consumers our large domestic energy reserves including fossil fuels, nuclear fuels, geothermal resources, solar energy, and other unconventional forms of energy. This failure is partially a result of economic factors which have inhibited the timely development of new energy technologies.

(c) The responsibilities of the Federal Government for conducting and assisting energy research, development, and demonstration projects are fragmented among many agencies and departments and have not been planned and managed in a rational and coordinated manner.

(d) Present inadequate organizational arrangements and levels of funding for energy research, development, and demonstration have limited the Nation's current and future options for dealing with domestic energy shortages.

(e) The urgency of the Nation's critical energy problems will require a commitment similar to those undertaken in the Manhattan and Apollo projects; it will require that the Nation undertake, at a minimum, a ten-year $20,000,000,000 research, development, and demonstration program.

STATEMENT OF POLICY

SEC. 102. The Congress declares as the purpose of this Act the development within ten years of the option and the capability for the United States to become energy self-sufficient through the use of domestic energy resources by socially and environmentally acceptable means. In the achievement of this national goal, it is hereby declared to be the policy of the Congress to establish and maintain a national program of basic and applied research and development in the discovery, production, transportation, distribution, and conversion of energy resources and fuels adequate to meet the following objectives—

(a) encourage the conservation of limited energy resources and maximize the efficient development, production, conversion, and use of nonrenewable and limited primary energy resources;

(b) insure adequate, reliable, economical, and environmentally acceptable energy supply systems necessary to support the goals and essential needs of modern society including the established social objectives of Federal, State, and local government;

(c) to foster the expeditious transfer of the results of research on new energy technologies into the commercial application by the private sector through Federal assistance and participation in the demonstration and improvement of energy technologies to determine the engineering and economic feasibility, including the societal, economic, and environmental costs and benefits of said energy technologies;

(d) to develop an aggressive research strategy and priorities for solutions to the short-term (to the early 1980's) energy supply system and associated environmental problems;

(e) to develop an aggressive Federal research strategy and priorities including the information base, to support the development of the widest possible range of energy supply system options for the utilization of domestic nonnuclear energy resources to satisfy middle-term (the early 1980's to 2000) and long-term (twenty-first century) United States energy needs consistent with environmental policies;

(f) establish within the Federal Government a central responsibility and institutional capability for maintaining continuing assessment and overview of the energy research, development, and conservation activities of the Federal Government, private industry, and nonprofit organizations pending agencies and activities to attain and support the objectives of this Act and a national energy policy; and

(g) to provide for a program of exchange to include, but not be limited to, a coordinated effort for the exchange of energy and energy-related foreign technologies in the areas of magnetohydrodynamics, coal mining, geothermal, and solar technologies.

It is the policy of the Congress that small business be given an opportunity to participate in this national program of basic and applied research and development and be given full access to the results thereof.

ENERGY RESEARCH MANAGEMENT PROJECT

SEC. 103. (a) There is hereby established an Energy Research Management Project (hereinafter referred to as the "Management Project") which shall be composed of—

(1) one Assistant Secretary of the Interior who shall be designated by the Secretary of the Interior;

(2) one Commissioner of the Atomic Energy Commission who shall be designated by the Chairman of the Commission;

(3) one Commissioner of the Federal Power Commission who shall be designated by the Chairman of the Commission;

(4) the Director of the National Sciences Foundation;

(5) one Assistant Administrator of the Environmental Protection Agency who shall be designated by the Administrator of the Agency;

(6) one Assistant Administrator of the National Aeronautics and Space Administration who shall be designated by the Administrator;

(7) the Director of the National Bureau of Standards; and

(8) such appropriate representatives of other executive agencies which the President finds have a significant and continuing role in energy research and development.

(b) The Management Project shall have a Chairman who shall also serve as the Staff Director. The Chairman shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. During his term of service, the Chairman shall not hold any other position as an officer or employee of the United States, except as a retired officer or retired civilian employee of the United States.

DUTIES

SEC. 104. The Management Project shall—

(a) review the full range of Federal activities in and financial support for fuels and energy research and development, giving consideration to research and development being conducted by industry and other non-Federal entities, to determine the capability of ongoing research efforts to carry out the policies established by this Act and other relevant Federal policies, particularly the National Environmental Policy Act of 1969 (83 Stat. 852);

(b) formulate a comprehensive energy research and development strategy for the Federal Government which will expeditiously advance the policies established by this Act, provide Congress in this proposed strategy with a range of funding options for its consideration within each of the potential energy sources and technologies included as priorities in section 107 (a), (b), and (c), and insure that full consideration and adequate support is given to:

(1) improving the efficiency, conservation, and environmental effects of the conventional sources of energy including discovery, production, conversion, transportation, use, and disposal of waste products;

(2) advancing energy research, development, and demonstration of unconventional energy sources and technologies including but not limited to—solar energy, geothermal energy, magnetohydrodynamics, fuel cells, low head hydroelectric power, use of agricultural products and wastes as energy sources, tidal power, ocean current and thermal gradient power, wind power, automated mining methods, in situ conversion of energy resources, cryogenic transmission of electric power, electrical energy storage methods, alternatives to internal combustion engines, solvent refined coal, utilization of waste products for fuels, direct conversion methods, utilization of hydrogen for fuel; and

(3) improving management techniques and the effectiveness of management of existing energy systems through quality control; application of systems analysis, communications, and computer techniques; and public information to improve the reliability and efficiency of energy supplies and encourage the conservation of energy resources.

(c) utilize the funds authorized by section 122(b) of this Act to advance the energy research and development strategies pursuant to this Act by—

(1) supplementing by fund transfers the ongoing energy research and development programs of Federal agencies; and

(2) initiating and maintaining, by fund transfers, grants, or contracts, new energy research and development programs or activities utilizing the facilities, capabilities, expertise, and experience of Federal agencies, national laboratories, universities, nonprofit organizations, and industrial entities which are appropriate to each type of research and development.

(d) in the exercise of its duties and responsibilities under this Act, establish procedures for periodic consultation with representatives of science, industry, environmental organizations, and such other groups who have special expertise in the areas of energy research, development, and technology.

ENERGY-RELATED INVENTIONS

SEC. 105. The National Science Foundation shall give particular attention to the evaluation of all promising energy-related inventions, particularly those submitted by individual inventors and small companies for the purpose of obtaining direct grants. The National Science Foundation is authorized to promulgate regulations in the furtherance of this section.

DEMONSTRATIONS

SEC. 106. The Chairman in consultation with the Management Project is authorized and directed to—

(a) identify opportunities to accelerate the commercial applications of new energy technologies by providing Federal assistance for or participation in pilot plants demonstrating technological advances and field demonstrations of new methods and procedures, and demonstrations of prototype commercial applications for the exploration, development, production, transportation, conversion, and utilization of energy resources; and

(b) conduct preliminary investigations and to explore potential cooperative agreements which may be entered into with non-Federal entities in order to develop recommendations for Federal participation or assistance in demonstrations of the technical feasibility and economic potential of energy technologies on a prototype or full-scale basis.

RESEARCH PRIORITIES

SEC. 107. Pursuant to the authority and directions of this Act, the Chairman shall transmit to the Congress—

(a) Within six months from the date of enactment of this Act, the Chairman's recommendations for an aggressive Federal research strategy and priorities designed to achieve solutions to immediate and short-term (to the early 1980's) energy supply system and associated environmental problems. Such recommendations shall include, but not be limited to, specific anticipated actions and proposals pursuant to sections 106 and 108 for the most effective approach, through Federal assistance—

(1) to accelerate the commercial demonstration of technologies for producing a low-sulfur fuel suitable for boiler use;

(2) to accelerate the commercial demonstration of technologies for producing subsitutes for natural gas, including coal gasification: *Provided,* That the Chairman shall invite proposals from potential participants based upon Federal assistance and participation in the form of a joint Federal-industry corporation, and recommendations pursuant to this clause shall be accompanied by a report on the vialibity of using this form of Federal assistance or participation;

(3) to accelerate the commercial demonstration of technologies for producing syncrude and liquid petroleum products from coal: *Provided,* That the Chairman shall invite proposals from potential participants based upon Federal assistance and participation through guaranteed prices or purchase of the products, and recommendations pursuant to this clause shall be accompanied by a report on the viability of using this form of Federal assistance or participation;

(4) to accelerate the commercial demonstration of advanced power cycles for the generation of electricity from coal, including technologies which employ the production of low British thermal unit gas from coal;

(5) in accordance with the program authorized by title II of this Act, to accelerate the commercial demonstration of geothermal energy technologies;

(6)(A) to accelerate the commercial demonstration of the production of syncrude from oil shale, and (B) to assist the research and development of in situ methtodologies for the production of syncrude from oil shale;

(7) to demonstrate new and improved methods for the extraction of petroleum resources, including secondary and tertiary recovery of crude oil;

(8) to demonstrate new and improved methods for the extraction of coal resources including, but not limited to, lignite, bituminous, and anthractic coal: *Provided,* That the Chairman shall invite proposals from potential participants in joint Government-industry operated mines for the purpose of demonstrating new and improved mining technologies and methods and of training the associated personnel;

(9) to demonstrate the economics and commercial viability of solar energy for residential and commercial energy supply applications;

(10) to accelerate the commercial demonstration of environmental control systems including particulate and sulfur oxides emission control systems, necessary for the timely implementation of air pollution standards and water pollution standards established pursuant to Federal or State law;

(11) to investigate the use of tidal power for supplying electrical energy; and

(12) to demonstrate new and innovative energy conservation technologies.

(b) Within one year from the date of enactment of this Act, the Chairman's recommendations for an aggressive Federal research strategy and priorities designed to achieve solutions to middle-term (the early 1980's to 2000) energy supply system and associated environmental problems. Such recommendations shall include, but not be limited to, specific anticipated actions and proposals for the most effective approach—

(1) to improve the economics and cost-effectiveness of the technologies set forth in the research strategy recommended pursuant to subsection (a);

(2) to advance improvements in the methods and technologies for transportation and shortage of electric energy;

(3) to commercially demonstrate advanced power cycles for the generation of electricity which represent significant improvements in the efficiency of conversion of energy resources to electricity;

(4) to commercially demonstrate hot dry rock geothermal energy technologies;

(5) to commercially demonstrate advanced solar energy technologies;

(6) to determine the economics and commercial viability of the use of hydrogen as a primary energy source;

(7) to commercially demonstrate the use of fuel cells for central station electric power generation;

(8) to determine the economics and commercial viability for producing synthetic energy supplies from agricultural products and wastes; and

(9) to determine the economics and commercial viability of the production and use of methane gas as an energy source.

(c) Within eighteen months from the date of enactment of this Act, the Chairman's recommendations for a Federal research strategy and priorities designed to achieve solutions to long-term (beyond 2000) energy supply systems and associated environmental problems. Such recommendations shall include, but not be limited to, specific anticipated actions and proposals—

(1) to further improve the economics and cost-effectiveness of the technologies set forth in the research strategy recommended pursuant to subsection (a) and (b);

(2) to commercially demonstrate nuclear fusion; and

(3) to commercially advance the use of hydrogen as a primary energy source.

FORMS OF FEDERAL ASSISTANCE

SEC. 108. (a) In developing proposals pursuant to section 106, the Chairman shall consider various forms of Federal assistance and participation which may include but are not limited to—

(1) joint Federal-industry corporations consistent with the provisions of section 109;

(2) contractual arrangements with non-Federal participants including corporations, consortia, universities, governmental entities, and nonprofit institutions;

(3) contracts for the construction and opreation of federally owned facilities;

(4) Federal purchases or guaranteed price of the products of demonstration plants or activities consistent with the provisions of section 110; and

(5) Federal loans to non-Federal entities conducting demonstrations of new technologies.

(b)(1) A financial award under this Act may be made only in the amount of the Federal share of the estimated total design and construction costs, plus operation and maintenance costs; and

(2) For the purposes of this Act the non-Federal share may be in any form, including, but not limited to, lands or interests therein needed for the project or personal property or services, the value of which shall be determined by the Chairman.

(c) The Chairman shall, within ninety days of enactment of this Act, promulgate regulations establishing procedures for submission of proposals to the Management Project for the purposes of this Act. Such regulations shall establish a procedure for selection of proposals which—

(A) provides that projects will be carried out under such conditions and varying circumstances as will assist in solving energy extraction, transportation, conversion, and end-use problems of various areas and regions, under representative geological, geographic, and environmental conditions; and

(B) provides time schedules for submission of, and action on proposal requests for the purposes of implementing the goals of objectives of this Act.

Such regulations also shall specify the types and form of the information, data, and support documentation that are to be contained in proposals for each form of Federal assistance or participation set forth in subsection (a): *Provided,* That such proposals to the extent possible shall include, but not be limited to—

(A) specification of technology;

(B) description of prior pilot plant operating experience with the technology;

(C) preliminary design of the demonstration plant;

(D) time tables containing proposed construction and operation plans;

(E) budget-type estimates of construction and operating costs;

(F) description and proof of title to land for proposed site, natural resources, electricity and water supply and logistical information related to access to raw materials to construct and operate plant and to dispose of saleable products produced from plant;

(G) analysis of environmental impact of the proposed plant and plans for disposal of wastes resulting from the operation of the plant;

(H) plans for commercial use of technology if demonstration is successful;

(I) plans for continued use of plant if demonstration is successful; and

(J) plans for dismantling of plant if demonstration is unsuccessful or otherwise abandoned.

(d) The Chairman shall from time to time review and, as appropriate, modify and repromulgate regulations issued pursuant to this section.

MODEL CORPORATION

SEC. 109. Joint Federal-industry corporations proposed pursuant to section 108 shall conform to the following guidelines:

(a) Each such corporation shall have the function to design, construct, operate, and maintain one or more full-scale, commercial-size facilities or other operations which will demonstrate the technical, environmental, and economic feasibility of a particular unconventional energy technology. In carrying out this function, the corporation shall be empowered, either directly or by contract, to utilize commercially available technologies, perform tests, or design, construct, and operate pilot plants as may be necessary for the design of the full-scale facility.

(b) Each corporation shall have—

(1) a Board of nine Directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the Board to serve as Chairman. The Board shall be empowered to adopt and amend bylaws. Five members of the Board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and four members of the Board shall be appointed by the President on the basis of recommendations received by him from any non-Federal entity or entities entering into contractual arrangements to participate in the corporation;

(2) a President and such other officers and employees as may be named and appointed by the Board (the rates of compensation of all officers and employees shall be fixed by the Board); and

(3) the usual power conferred upon corporations by the District of Columbia Business Corporation Act.

(c) An appropriate time interval, not to exceed twelve years, shall be established for the term of Federal participation in the corporation at the expiration of which the Board of Directors shall take such action as may be necessary to dissolve the corporation or otherwise terminate Federal participation and financial interests. In carrying out such dissolution, the Board of Directors shall dispose of all physical facilities of the corporation in such manner and subject to such terms and conditions as the Board determines are in the public interest, and a share of the appraised value of the corporate assets proportioned to the Federal participation in the corporation, including the proceeds from the disposition of such facilities, on the date of its dissolution, after satisfaction of all its legal obligations, shall be made available to the United States and deposited in the Treasury of the United States as miscellaneous receipts. All patent rights of the corporation shall, on such date of dissolution, be vested in the Administrator of General Services: *Provided*, That Federal participation may be terminated prior to the time established in the authorizing Act upon recommendation of the Board of Directors.

(d) Any commercially valuable product produced by demonstration facilities shall be disposed of in such manner and under such terms and conditions as the corporation shall prescribe. All revenues received by the corporation from the sale of such products shall be available to the corporation for use by it in defraying expenses incurred in connection with carrying out its functions under this title.

(e) The estimated Federal share of the construction, operation, and maintenance cost over the life of each corporation shall be determined to facilitate the congressional authorization of the full amount at the time of establishment of the corporation.

(f) The Federal share of the cost of each such corporation shall reflect (1) the technical and economic risk of the venture, (2) the probability of a financial return to the non-Federal participants arising from the venture, (3) the financial capability of the potential non-Federal participants, and (4) such other factors as the Chairman may set forth in proposing the corporation: *Provided*, That in no instance shall the Federal share exceed 90 per centum of the cost.

SUPPORT THROUGH PRICE GUARANTEES

SEC. 110. Competitive systems of price supports proposed pursuant to section 108 shall conform to the following guidelines:

(a) The Chairman shall determine the types and capacities of the desired full scale, commercial size facility or other operation which would demonstrate the technical, environmental, and economic feasibility of a particular energy technology.

(b) The Chairman may award planning grants for the purpose of financing a study of the full cycle economic and environmental costs associated with the demonstration facility selected pursuant to subsection (a) of this section. Such planning grants may be awarded to industrial entities, Federal agencies, national laboratories, universities, or nonprofit organizations. Such planning grants shall also be used by the grantee to prepare a detailed and comprehensive bid to construct the demonstration facility.

(c) Following the completion of the studies pursuant to the planning grants awarded under subsection (b) of this section, the Chairman shall invite bids from all interested parties to determine the minimum amount of Federal price support needed to construct the demonstration facility. The Chairman may designate one or more competing entities each to construct one commercial demonstration facility. Such designation shall be made on the basis of those entities' (1) commitment to construct the demonstration facility at the minimum level of Federal price supports, (2) detailed plan of environmental protection, and (3) proposed design and operation of the demonstration facility.

(d) The construction plans and actual construction of the demonstration facility, together with all related facilities, shall be monitored by the Administrator of the Environmental Protection Agency. The Administrator of the Environmental Protection Agency is authorized and directed to require the application of the best available pollution control technologies as determined pursuant to the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.) on all demonstration facilities constructed pursuant to this section. If such additional environmental requirements are imposed after the designation of the successful bidders and if such additional environmental requirements result in additional costs, the Chairman is authorized to renegotiate the support price to cover such added costs.

(e) The estimated amount of the Federal price supports of the demonstration facilities' product over the life of such facilities shall be determined by the Chairman to facilitate the congressional authorization of the full amount of such support amounts at the time of the designation of the successful bidders.

(f) There shall be established in the Treasury of the United States a Competitive Research and Development Price Support Fund which shall be available to the Chairman for carrying out the price-support program authorized by this Act, including the payment of administrative expenses incurred in connection therewith.

CONGRESSIONAL APPROVAL

SEC. 111. (a) For each proposal which is considered pursuant to section 106, and in which the potential Federal investment is estimated to exceed $10,000,000 the Chairman shall prepare and transmit to the Congress a report setting forth the following:

(1) the anticipated, research, development, and application objectives to be achieved by the activities or facilities proposed;

(2) the economic, environmental, and societal significance which a successful demonstration may have for the national fuels and energy system;

(3) the relationship of the proposal to the criteria of priority set forth in section 112;

(4) the availability of non-Federal participants to construct and operate the facilities or perform the activities associated with the proposal and to contribute the financing of the proposal;

(5) the total estimated cost and the probable time schedule;

(6) the proposed participants and the proposed financial contributions of the Federal Government and of the non-Federal participants; and

(7) the proposed cooperative arrangement, agreements among the participants, and form of management of the activities.

(b) If the total estimated amount of the Federal contribution to the proposal does not exceed $50,000,000 the Chairman is authorized to proceed with the negotiation of agreements and implementation of the proposal as set forth in the report subject to the availability of funds under the authorization of appropriations granted in section 122(b) of this Act: *Provided*, That if said Federal contribution exceeds $10,000,000 no funds may be expended for any proposal under the authority granted by this subsection prior to sixty calendar days (which sixty days, however, shall not include days on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which the Chairman's report is received by the Congress.

(c) Proposals for which the total estimated amount of the Federal contribution exceeds $50,000,000 shall be implemented by the Chairman only if the implementation and the necessary appropriations are specifically authorized by the Congress in subsequent legislation: *Provided, however*, That such proposal shall recommend whether an authorization is being sought for the total estimated amount of the Federal contribution in block or on an annual basis.

DETERMINATION OF NEED FOR FEDERAL PARTICIPATION IN RESEARCH AND DEVELOPMENT

SEC. 112. In evaluating proposed opportunities for particular research and development undertakings pursuant to this Act, the Chairman shall assign priority to those undertakings in which—

(1) the urgency of public need for the potential results of the research, development, or demonstration effort is high, and it is unlikely that similar results would be achieved in a timely manner in the absence of Federal assistance;

(2) the potential opportunities for non-Federal interests to recapture the investment in the undertaking through the normal commercial exploitation of proprietary knowledge appear inadequate to encourage timely results;

(3) the extent of the problems treated and the objectives sought by the undertaking are national or widespread in their significance;

(4) there are limited opportunities for regulatory actions and incentives other than direct Federal financial assistance, including, but not limited to, end-use controls, tax and price incentives, and public education, to induce non-Federal support of the undertaking;

(5) the degree of risk of loss of investment inherent in the research is high, and the availability of risk capital to the non-Federal entities which might otherwise engage in the field of the research is inadequate for the timely development of the technology; or

(6) the magnitude of the investment appears to exceed the financial capabilities of potential non-Federal participants in the research to support effective efforts.

PATENT POLICY AND MANDATORY LICENSING

SEC. 113. (a) (1) All research, development, demonstration, or projects contracted for, sponsored, or cosponsored by the Government pursuant to this Act, shall require as a condition of Federal participation that all information—whether patented or unpatented, in the form of trade secrets, know-how, proprietary information, or otherwise—resulting in whole or in part from federally assisted research shall be made available at the earliest possible date to the general public, including, but not limited to, nongovernmental United States interests capable of bringing about further development, utilization, and commercial applications of such results.

(2) The Chairman, in administering patents pursuant to this Act, shall make a determination, case by case, in an on-the-record proceeding conducted in accordance with the provisions of the Administrative Procedure Act, as to whether patent licenses shall be granted on a royalty-free basis or upon a basis of charges designed to recover part or all of the costs of the Federal research. He shall make Government patent rights and technological and scientific know-how available on nonexclusive and nondiscriminatory terms to qualified applicants.

(3) (A) Whenever a participant in any program, contract, or energy research and development project pursuant to this Act holds background patents, trade secrets, know-how, or proprietary information which will be employed in the proposed program, contract, or research and development project, the Chairman shall enter into an agreement which will provide equitable protection to the rights of the public and the participant: *Provided, however,* That any such agreement shall provide that when the program, contract, or energy research and development project reaches the stage of possible commercial application, any of the participant's previously developed background patents, trade secrets, know-how, or proprietary information reasonably necessary to possible commercial application of the energy process or system developed under this title will be made available to any qualified applicant on reasonable and nondiscriminatory license terms or in other forms which shall take into account that the commercial viability of the total energy process or system was achieved with the assistance of public funds.

(B) As employed herein, the term "background patent" means a United States patent owned or pending by a contractor, grantee, participant, or other party conducting research or development work, or both, pursuant to this Act for or under the sponsorship or cosponsorship of the chairman of a corporation established pursuant to this Act which would be infringed by the practice of any new technology developed under the research or development work, or both, contracted for, sponsored, or cosponsored pursuant to this Act, or any demonstration-type or commercial-size facility authorized by any corporation thereunder.

(b) (1) Any corporation established pursuant to this Act, and any other Government agency or instrumentality, shall receive a royalty-free unrestricted license to practice any invention or discovery made or employed in connection with any demonstration-type or commercial-size facility provided for hereinafter. Such license shall include the right to make, use, and sell. As used herein, the term "research" includes "development" within its scope.

(2) Any net royalty income from the licensing of patents shall accrue to such corporation during its existence for use by the corporation in the advancement of its purposes. On and after the dissolution of the corporation, the Administrator of General Services shall administer such patent and shall have the sole right to issue licenses thereunder, in accordance with the provisions of this section: *Provided,* That participants in the corporation shall receive a royalty-free license during and after the life of the corporation: *And provided further,* That the Chairman may recommend variations from this policy which he believes to be in the public interest for the consideration of the Congress when specific corporations are proposed for authorization.

(c) Whenever the Chairman determines that—

(1) (A) in the implementation of the requirements of this Act a right under any United States patent, which is not otherwise reasonably available, is reasonably necessary to the development or demonstration of an energy system or technology pursuant to this Act, and

(B) there are no reasonably equivalent methods to accomplish such purpose, and

(C) the unavailability of such right may result in a substantial lessening of competition or tendency to create a monopoly in any line of commerce in any section of the country,

the Chairman shall so certify to a district court of the United States, which shall review the Chairman's determination. If the district court upholds such determination, the court shall issue an order requiring the person who owns such patent, or rights thereunder, to license it on such reasonable and nondiscriminatory terms and conditions as the court, after hearing, may determine. Such certification may be made to the district court for the district court in which the person owning the patent resides, does business, or is found.

(d) The Chairman shall, in determining license terms, duly consider and give weight to the effects of such terms on competition and small business.

RELATIONSHIP TO ANTITRUST LAWS

SEC. 114. (a) Nothing in this Act shall be deemed to convey to any individual, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

PRESIDENTIAL REVIEW

SEC. 115. (a) The President shall—

(1) in connection with any reorganization plan which he has proposed or may propose which has significant impacts upon the agencies represented on the Management Project, or

(2) immediately upon the authorization by the Congress of any reorganization which has significant impact upon the agencies represented upon the Management Project.

make his recommendations to the Congress concerning the appropriate agency and organizational arrangements to perform the functions authorized by this title.

(b) Not later than two years from the date of this Act, unless a permanent reorganization of the energy research and development functions of the Federal Government has been accomplished in the interim, the President shall report to the Congress on his evaluation of the progress of fuels and energy research and development and his recommendation for further management of the Federal research and development programs, but not limited to—

(1) the necessity for continuing the Management Project,

(2) the appropriate membership of the Management Project if it is continued, and

(3) the appropriate agency to receive the duties, funding, and staff of the Management Project if it is to be terminated.

ADMINISTRATIVE PROVISIONS

SEC. 116. The Chairman shall be compensated at the rate provided for level II of the Executive Schedule Pay Rates (5 U.S.C. 5313).

POWERS

SEC. 117. (a) The Chairman may employ such officers and employees as may be necessary to carry out the functions of the Management Project under this title and may employ and fix the compensation of such experts and consultants as may be necessary, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof);

(b) The Management Projects may—

(1) acquire, furnish, and equip such office space as is necessary;

(2) use the United States mails in the same manner and upon the same conditions as other agencies of the United States;

(3) purchase, hire, operate, and maintain passenger motor vehicles;

(4) enter into contracts or agreements for studies and surveys with non-Federal public and private organizations and transfer funds to Federal agencies to carry out aspects of the Management Project's duties; and

(5) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

(c) The Chairman shall have the authority and be responsible for—

(1) the supervision of personnel;

(2) the assignment of duties and responsibilities among personnel; and

(3) the use and expenditure of funds.

COOPERATION OF FEDERAL AGENCIES

SEC. 118. (a) Upon request of the Chairman, the head of any Federal department or agency is authorized—

(1) to furnish the Management Project within the limits of available funds, including funds transferred for that purpose pursuant to section 117(b) of this Act, such information as may be necessary for carrying out its functions, and

(2) to detail to temporary duty with the Management Project on a reimbursable basis such personnel as it may require for carrying out its functions pursuant to this Act, each such detail to be without loss of seniority, pay, or other employee status.

(b) In carrying out his responsibilities under this Act, the Chairman shall consult with the Administrator of the Small Business Administration to assure that small businesses are given an opportunity to participate in research and development projects under this Act and are given access to the results of such projects.

CONGRESSIONAL ACCESS TO INFORMATION

SEC. 119. The Chairman shall keep the Congress fully and currently informed of all the Management Project's activities and shall submit to the Congress an annual report.

ENVIRONMENTAL EVALUATION

SEC. 120. (a) The Council on Environmental Quality established under the provisions of the National Environmental Policy Act (83 Stat. 852) is authorized and directed to carry out a continuing analysis of the conduct of research and development of energy technologies to evaluate—

(1) the adequacy of attention to energy conservation methods,

(2) the adequacy of attention to the probable environmental effects of the application of technology, and

(3) the adequacy of attention to environmental protection in connection with energy processes.

(b) The Council on Environmental Quality, in carrying out the provisions of this section, may employ consultants or contractors and may by fund transfer employ the services of other Federal agencies for the conduct of studies and investigations.

(c) The Council on Environmental Quality shall hold annual public hearings on the conduct of energy research and development and the probable environmental consequences of trends in the application of energy technology, and the transcript of the hearings shall be published and made available to the public.

(d) The Council on Environmental Quality shall make such reports to the President, the Chairman, and the Congress as it deems appropriate concerning the conduct of energy research and development, and the President as a part of the annual Environmental Policy Report required by section 201 of the National Environmental Policy Act (83 Stat. 854) shall set forth the findings of the Council on Environmental Quality concerning the conduct of energy research and development and the probable environmental consequences of trends in the application of energy technology.

ACQUISITION OF ESSENTIAL MATERIALS

SEC. 121. To achieve the purposes of this Act, the President is authorized to take such action as may be necessary to obtain or allocate materials which are or may be in critical supply and which are essential to the expeditious progress of energy research and development efforts.

APPROPRIATIONS

SEC. 122. (a) There are authorized to be appropriated to the Chairman to remain available until expended $2,000,000 for the fiscal year 1974 and $10,000,000 annually for fiscal years 1975 and 1976 for the expenses of the Management Project in administering this Act including such amounts as may be expended for consulting services and including funds transferred to other Federal agencies in compensation for personal services in assisting the Management Project with the administration of this Act.

(b) There are authorized to be appropriated to the Chairman to remain available until expended not to exceed $800,000,000 for each of the fiscal years ending June 30, 1974, and 1975, and such amounts as may be authorized by annual authorization Acts in fiscal year 1976 to carry out the provisions of sections 104(c), 106, 107, and 108 of this Act: *Provided*, That 1 per centum of such amounts as may be appropriated in each fiscal year under the authority of this subsection shall be made available by fund transfer to the Council on Environmental Quality for the purposes authorized and directed by section 120.

(c) The Chairman of the Management Project, in conjunction with his recommendations for annual appropriations pursuant to subsection (b) of this section, shall report to the Congress on the activities of the previous calendar year, the expenditure of funds, the new projects initiated, the projects which have been terminated, and any new contractual arrangements entered into, and the progress which has been made during that year toward attaining the capability of domestic energy self-sufficiency for the United States within ten years of the date of enactment of this Act. In each instance where delays in scheduled accomplishments are reported, the reasons for the delays shall be set forth along with recommendations for actions, including specific estimates of additional funding, or requirements for new legislative authority which would assist in regaining the schedule.

TITLE II—GEOTHERMAL ENERGY

SEC. 201. This title may be cited as the "Geothermal Energy Act of 1973".

LOAN GUARANTEE PROGRAM

SEC. 202. (a) The Congress, in consideration of the Federal responsibility for the general welfare, to facilitate commerce, to encourage productive harmony between man and his environment, and to protect the public interest, finds that the advancement of technology by private industry for the production of useful forms of energy from geothermal resources is important to all of those areas of responsibility. It is the policy of the Congress, therefore, to encourage and assist in the commercial development of practicable means to produce useful energy from geothermal resources with environmentally acceptable processes. Accordingly, it is the policy of the Congress to facilitate such commercial development by authorizing the Secretary of the Interior to guarantee loans for such purposes.

(b) In order to encourage the commercial production of energy from geothermal resources, the Secretary of the Interior, hereinafter referred to as the Secretary, is authorized to guarantee, and to enter into commitments to guarantee, banks or other financial institutions against loss of principal or interest on loans made by such institutions to qualified borrowers for the purposes of acquiring rights in geothermal resources and performing exploration, development, and construction and operation of facilities for the commercial production of energy from geothermal resources.

(c) Any guaranty under this title shall apply only to so much of the principal amount of any loan as does not exceed 75 per centum of the aggregate cost of the project with respect to which the loan is made.

(d) Loan guaranties under this title shall be on such terms and conditions as the Secretary determines: *Provided, however*, That a guaranty shall be made under this title only if—

(1) the loan involved is at a rate of interest which does not exceed the prevailing interest rates for conventional construction loans;

(2) the terms of such loans require full repayment within thirty years after the date thereof;

(3) in the judgment of the Secretary, the amount of the loan (when combined with amounts available to the qualified borrower from other sources) will be sufficient to carry out the project; or

(4) in the judgment of the Secretary, there is reasonable assurance of repayment of the loan by the qualified borrower of the guaranteed indebtedness.

(e) The Secretary shall not guarantee any loan for any project the amount of which exceeds $25,000,000, nor guarantee any combination of loans for any single qualified borrower in an amount exceeding $50,000,000.

SEC. 203. (a) With respect to any loan guaranteed pursuant to this title, the Secretary is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the interest charges which become due and payable on the unpaid balance of any such loan if the Secretary finds:

(1) that the borrower is unable to meet interest charges, and that it is in the public interest to permit the borrower to continue to pursue the purposes of his project, and that the probable net cost to the Government in paying such interest will be less than that which would result in the event of a default, and

(2) the amount of such interest charges which the Secretary is authorized to pay shall be no greater than an amount equal to the average prime interest rate for the preceding fiscal year as determined by the Secretary of the Treasury, plus one-half of 1 per centum.

(b) In the event of any default by a qualified borrower on a guaranteed loan, the Secretary is authorized to make payment in accordance with the guaranty, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments from such assets of the defaulting borrower as are associated with the project.

SEC. 204. No loan guaranties shall be made, or interest assistance contract entered into, pursuant to this title, after the expiration of the ten-calendar-year period following the date of enactment of this title.

SEC. 205. There is established in the Treasury of the United States a Geothermal Resources Development Fund (referred to in this title as the "fund"), which shall be available to the Secretary of the Interior for carrying out the loan guaranty and interest assistance program authorized by this title, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations shall be invested in bonds or other obligations of, or guaranteed by, the United States.

SEC. 206. There shall be paid into the fund the amounts appropriated pursuant to section 207 of this title and such amounts as may be returned to the United States pursuant to section 203(b) of this title, and the amounts in the fund shall remain available until expended: *Provided*, That after the expiration of the ten-year term established by section 204 of this title, such amounts in the fund which are not required to secure outstanding guaranty obligations shall be paid into the general fund of the Treasury.

SEC. 207. There are authorized to be appropriated (1) to the fund not to exceed $50,000,000 annually, and (2) such amounts as may be required for the administrative costs of carrying out the provisions of sections 201 through 206 of this title.

SEC. 208. Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Secretary annually upon the completion of an appropriate accounting period.

COORDINATION OF FEDERAL ACTIVITIES IN GEOTHERMAL ENERGY EXPLORATION, RESEARCH, AND DEVELOPMENT

SEC. 209. The Congress, in consideration of the Federal responsibility for the general welfare, to facilitate commerce, to encourage productive harmony between man and his environment, and to protect the public interest, finds that the advancement of technology with the cooperation of private industry for the production of useful forms of energy from geothermal resources is important to all of those areas of responsibility. It is the policy of the Congress, therefore, to encourage and assist private industry through Federal assistance for the development and demonstration of practicable means to produce useful energy from geothermal resources with environmentally acceptable processes. Such means shall accordingly include resource inventory, research, and financial and technical assistance in the construction of pilot plants and demonstration developments with the objective of reaching commercialization in the most timely and practicable manner.

SEC. 210. The Secretary, acting through the Geological Survey, is authorized and directed to:

(a) develop and carry out a general plan for the orderly inventorying of all forms of geothermal resources of the Federal lands and, where consistent with property rights and determined by the Secretary to be in the national interest, of non-Federal lands;

(b) conduct regional surveys, based upon such a general plan, using innovative geologic, geophysical, geochemical, and drilling techniques, which will lead to a national inventory of geothermal resources in the United States;

(c) publish and make available maps, reports, and other documents developed from such surveys to encourage and facilitate the commercial development of geothermal resources for beneficial use and consistent with the national interest;

(d) make such recommendations for legislation as may from time to time appear to be necessary to make Federal leasing policy for geothermal resources consistent with known inventories of various resources types, with the current state of technologies for geothermal energy development, and with current evaluations of the environmental impacts of such development; and

(e) participate with the Atomic Energy Commission, the National Aeronautics and Space Administration, and the National Science Foundation in research to develop, improve, and test technologies for the discovery and evaluation of all forms of geothermal resources, and conduct research into the principles controlling the location, occurrence, size, temperature, energy content, producibility, and economic lifetimes of geothermal reservoirs.

SEC. 211. The Secretary shall coordinate the development and implementation of the inventory authorized by section 210(a) and the applied research authorized by subsection 210(e) with the geothermal research and development program of the Atomic Energy Commission to insure that information is developed in a timely manner for the optimum progress of geothermal development.

SEC. 212. In preparing or implementing the resources inventory plan, the Secretary is authorized to:

(a) employ contractors and consultants;

(b) acquire by fund transfers the services of employees and facilities of other Federal agencies; and

(c) cooperate and enter into contracts with State, regional, and local governmental agencies and educational and research institutions.

SEC. 213. The Administrator of the National Aeronautics and Space Administration, hereinafter referred to as NASA, is authorized and directed to prepare and transmit to the Secretary within six months from the date of enactment of this title a proposal for the employment of space technologies and the services and facilities of NASA for inventorying and mapping of geothermal resources.

SEC. 214. The Secretary is authorized and directed to transmit to the President and the Congress, not later than one year from the date of enactment of this title, the general plan including a schedule and objectives, for inventory of, and applied research on, geothermal resources required by section 210, and each year thereafter a report on the status of activities authorized to be performed by the Secretary under the provisions of this title.

SEC. 215. (a) The Atomic Energy Commission in cooperation with private industry is authorized and directed to:

(1) conduct, encourage, and promote basic and applied scientific research to develop effective, economical, and environmentally acceptable processes and equipment for the purpose of utilizing all forms of geothermal resources for the production of useful energy forms;

(2) pursue the findings of research authorized by this title having potential applications in matters other than geothermal energy to the extent that such findings can be published in a form for utilization by others;

(3) conduct engineering and technical work including the design, construction, and testing of pilot plants to develop and improve geothermal energy processes and plant design concepts to the point of demonstration on a commercial scale;

(4) conduct laboratory and field experiments and tests of technologies necessary for the successful development of all forms of geothermal resources;

(5) study methods for the reduction and elimination of undesirable environmental impacts of geothermal development;

(6) study methods for the recovery and marketing of byproducts resulting from the production of energy from geothermal resources; and

(7) undertake engineering and economic studies to determine the potential for energy from geothermal resources to contribute to energy requirements on national and regional levels.

(b) The Commission shall coordinate the research and development activities authorized by this section with the activities of the Department of the Interior relating to geothermal resources research to insure the full utilization of expertise and information and to prevent duplication of efforts.

SEC. 216. (a) The Commission is authorized to investigate, negotiate, and enter into cooperative agreements with non-Federal utilities, industries, and governmental entities for the construction, operation, and maintenance of demonstration developments for the production of electric or heat energy, water supplies, or minerals from geothermal resources.

(b) No agreement shall be entered into under the authority granted by this section unless the Commission determines that:

(1) the nature of the resource, the geographical location, the scale and engineering design of the facilities, the techniques of production, or other significant factors of the proposal offer opportunities to make important contributions to the general knowledge of geothermal energy, the techniques of its development, or public confidence in the technology;

(2) the potential non-Federal cooperating entities are willing and capable to make contributions toward the capital cost of the development, to operate the facilities, and to provide a market for the energy produced;

(3) no benefits have been obtained through the loan guaranty provisions of this title and applied to development of any facility for which funding assistance pursuant to this section is proposed;

(4) the development or the practical benefits of the development as set forth in clause (1) of this subsection are unlikely to be accomplished without Federal assistance or through the assistance provided by this title; and

(5) the Federal investment in each such development project will not exceed $10,000,000.

(c) The Commission is authorized to investigate potential agreements for the cooperative development of major facilities to demonstrate the feasibility of the production of energy from geothermal resources and to submit engineering and financial proposals to the Congress for consideration of authorization to proceed with implementation of said proposals. The Commission may consider:

(1) cooperative agreements with non-Federal governmental entities and utilities for construction of facilities to produce energy for commercial disposal;

(2) cooperative agreements with other Federal agencies for the construction and operation of facilities to produce energy for direct Federal consumption.

(d) Before favorably considering proposals under subsection (c) of this section, the Commission must find that:

(1) the nature of the resource, the geographical location, the scale and engineering design of the facilities, the techniques of production, or other significant factor of the proposal offer opportunities to make important contributions to the general knowledge of geothermal energy, the techniques of its development, or public confidence in the technology;

(2) the development or the practical benefits as set forth in clause (1) of this subsection are unlikely to be accomplished without such cooperative development; and

(3) where non-Federal participants are involved, the proposal is not eligible for adequate Federal assistance under the loan guarantee provisions of this title.

SEC. 217. There are authorized to be appropriated to remain available until expended to carry out the purposes of sections 210 through 216:

(a) $10,000,000 for fiscal years 1974, 1975, and 1976 to the Secretary of the Interior;

(b) $35,000,000 for fiscal years 1974, 1975, and 1976 to the Atomic Energy Commission;

(c) such amounts as may be required in fiscal years 1974, 1975, and 1976 to NASA.

SEC. 218. As used in this title, the term—

(a) "geothermal resources" means (A) all products of geothermal processes, embracing indigenous steam, hot water, and brines; (B) steam and other gases, hot water, and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; and (C) any byproduct derived from them;

(b) "qualified borrower" means any public or private agency, institution, association, partnership, corporation, political subdivision, or other legal entity which the Secretary has determined has presented satisfactory evidence of a property interest in a geothermal resource identified, in a manner acceptable to the Secretary, as being of sufficient interest for research objectives or the development and production of energy, and which has the financial responsibility to establish and operate, utilizing such resource, a commercial facility;

(c) "pilot plant" means an experimental unit of small size used for early evaluation and development of new or improved processes and to obtain technical and engineering data;

(d) "demonstration development" means a complete facility which produces electricity or heat energy for commercial disposal from geothermal resources and which will make a significant contribution to the knowledge of full-sized technology, plant operation, and process economics.

The title was amended, so as to read: "A bill to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; and for other purposes."

Mr. JACKSON. Mr. President, I ask unanimous consent that S. 1283, be printed as passed by the Senate, and that an extra 1,000 copies be printed for the use of the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. I also ask unanimous consent that Secretary of the Senate be authorized to make any necessary technical and conforming changes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I would like to explain the thinking that went into my vote today on S. 1283, the National Energy Research and Development Policy Act of 1973.

I am in full accord with the purposes of this bill, to stimulate a full-scale effort on research and development of potential energy sources and to provide for adequate funding for such an effort. With a massive and sustained funding commitment, I believe we can achieve the President's goal of energy independence as a nation by 1980.

I commend the chairman, Senator JACKSON, the ranking minority member, Senator FANNIN, and the other members of the Interior Committee for the leadership and initiative in this vital area.

I am particularly interested in the development of gas and synthetic petroleum from coal, which is abundant in Illinois and throughout our Nation. I have sponsored and supported several promising coal gasification projects. I am also especially interested in shale oil development, because of the visionary commitment of my distinguished predecessor, Senator Paul Douglas, to that source of energy.

While I fully support the energy R & D strategy in S. 1283, I am very concerned about the organizational aspects of the bill. On December 5, I offered a motion that S. 1283 be referred to the Government Operations Committee for a brief period of time—7 days—to allow that committee, which has jurisdiction over executive reorganization, to examine the organizational structure in the bill. That effort failed, and as a result the bill, as passed, contained what I considered to be an energy R. & D. organization that should have been studied more carefully because of certain faults.

Under S. 1283, a project manager with a large staff, a huge responsibility over Government research and development, and massive funding resources, would be superimposed on the present governmental structure. This project manager would have control of all new energy R. & D. funds, yet the agencies carrying out the research and development would remain scattered throughout the Government. The present proliferation of energy agencies could be made even worse by the establishment of another pseudo-agency called the Energy Research Management project. There would be none of the consolidation and reform of organization that has long been recognized as needed. Instead of pulling the energy R. & D. agencies together under one jurisdiction, they would be more scattered than ever.

The Senate Government Operations Committee is presently considering a bill, which was urgently recommended by the President, which would provide the necessary consolidation and central focus for R. & D. in a single agency, the Energy Research and Development Administration—ERDA. This bill, S. 2744, has been sponsored by Senator Ribicoff and cosponsored by Senators Aiken, Brock, Ervin, Gurney, Jackson, Javits, Pastore, Roth, and myself, and has the full support of the administration. The House Government Operations Committee has reported out a bill to establish ERDA, and the House will probably pass that bill before the end of this session.

If S. 1283 could have been referred to the Government Operations Committee for a short time, we could have substituted ERDA for the unwieldy organizational structure in S. 1283. It would have made S. 1283 a much sounder bill, and would have enhanced its chances for its enactment before the end of this session of Congress.

Mr. President, I ask unanimous consent to insert in the Record at this point a letter just received from Dr. Dixy Lee Ray, Chairman of the Atomic Energy Administration, which expresses many of the same serious reservations as I have about the organizational aspects of S. 1283.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Atomic Energy Commission,
Washington, D.C.

Hon. Abraham A. Ribicoff,
Chairman, Subcommittee on Reorganization, Research, and International Organizations, Committee on Government Operations, U.S. Senate.

Dear Senator Ribicoff: On Tuesday, December 4, 1973, I testified before the Subcommittee on S. 2744, a bill "to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions." During the course of the hearing, I was asked to give the Subcommittee my views on S. 1283, a bill "to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; and for other purposes." (Calendar No. 567, Report No. 93-589.) I am pleased to furnish my views for the record.

My understanding of the principal provisions of S. 1283 is as follows:

Title I provides, among other things, for the establishment of an Energy Research Management Project, which would be comprised of representatives of a number of agencies concerned with energy, including one Commissioner of the Atomic Energy Commission. The project would: (1) review Federal activities in fuels and energy research and development to determine the capability of ongoing efforts to carry out the policies established by this Act and other relevant Federal policies, particularly that of the National Environmental Policy Act of 1969; (2) formulate a comprehensive energy research and development strategy for the Federal Government; (3) utilize the funds authorized to advance energy research and development; and (4) establish procedures for periodic consultation with groups which have special expertise in energy research and development. Forms of Federal assistance and participation would include, but not be limited to, joint Federal-industry corporations, contractual arrangements with non-Federal participants, contracts for the construction and operation of Federally-owned facilities, Federal purchases or guaranteed prices of the products of demonstration plants or activities, and Federal loans.

The Council on Environmental Quality would be authorized and directed to carry out a continuing analysis of the conduct of research and development of energy technologies to evaluate the adequacy of attention to (1) energy conservation methods, (2) probable environmental effects of application of technology, and (3) environmental protection in connection with energy processes.

Title II of the bill concerns geothermal energy and provides, among other things, that the Secretary of the Interior, acting through the Geological Survey, is authorized and directed to develop and carry out a general plan for the orderly inventorying of all forms of geothermal resources, and participate with AEC, NASA, and NSF in research related to geothermal resources.

The Atomic Energy Commission, in cooperation with private industry, is authorized and directed to conduct, encourage, and promote basic and scientific research related to geothermal resources.

In my opinion, S. 1283 would not provide a viable framework for accomplishing what I believe to be the joint goal of the Congress and the Administration; that is, the establishment of a Federal program which will assure the independent capability of the United States to meet its energy needs. The formation of a practicably achievable, organizationally sound Federal structure for energy research and development is a central element in accomplishing this goal.

As I testified before your Committee on S. 2744, it is of utmost importance that the Governmental structure be organized so as to consolidate most Federal energy R&D activities within a single agency which, on the one hand, would be responsible for meeting the Federal goal in the area of research and development, and, on the other hand, would have sufficient authority in the field of energy R&D to accomplish that goal. In my judgment, S. 1283 would accomplish neither of these objectives.

Contrary to one of the purposes stated in S. 1283, that bill, rather than centralizing responsibility for energy R&D, would further fragment and diffuse such responsibility. Energy R&D work presently being carried out by a number of Federal agencies would remain with those agencies. Grafted to the present structure would be an Energy Research Management Project responsible for the allocation of funds to advance funds for ongoing Federal agency R&D programs and by initiating and maintaining—by fund transfers, grants, or contracts—new energy R&D programs with private organizations. In addition, S. 1283 contemplates the establishment of Federal-industry corporations for the purpose of constructing and operating one or more full-scale, commercial-size facilities to demonstrate the technical, environmental, and economic feasibility of a particular unconventional energy technology. The result is a new Federal entity charged (1) to advance or carry out energy research and developments through existing Federal department or agency programs and to initiate new Federal energy R&D programs, and (2) to establish additional energy R&D entities empowered to conduct research and development programs through the creation of Federal-industry corporations.

This multilayered and disparate structuring of energy research and development activities will result, in my view, in further and counter-productive diffusion of responsibility and will dissipate the ability to control or direct energy R&D programs from both a fiscal and policy standpoint. The potential under S. 1283 for decentralization and fragmentation of energy research and development efforts would appear to compound the present deficiencies of the existing Federal structure.

In my opinion, the appropriate organizational path to follow to pursue effectively a broadly based energy research and development effort is one which is built upon greater centralization of responsibility, not less. I believe that S. 2744—which utilizes established research and development capabilities and proven organizational structures is better designed to achieve the goal sought by both bills.

Sincerely,

Dr. Dixy Lee Ray,
Chairman.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 7, 1973, he presented to the President of the United States the enrolled bill (S. 1747) to amend the International Travel Act of 1961 to authorize appropriations for fiscal years 1974, 1975, and 1976, and for other purposes.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The PRESIDING OFFICER (Mr. Bartlett). The Chair lays before the Senate the unfinished business, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

MILITARY CONSTRUCTION APPROPRIATIONS, 1974—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a report of the committee of conference on H.R. 11459, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Bartlett). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11459) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Congressional Record of Dec. 4, 1973, at pages 39318–39320.)

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, the conference committee agreed on an overall figure of $2,658,861,000 for military construction for fiscal year 1974. This is an amount of $49,771,000 over the amount approved by the House, $12,000,000 under the amount approved by the Senate, and $286,039,000 under the budget estimate of $2,944,900,000. The conferees agreed on the following amounts for the military services and the Department of Defense:

Army, $578,120,000;
Navy, $609,292,000;
Air Force, $247,277,000;
Army Reserve, $40,700,000;
Naval Reserve, $22,900,000;
Air Force Reserve, $10,000,000;
Army National Guard, $35,200,000;
Air National Guard, $20,000,000;
Family housing, Department of Defense, $1,188,539,000; and
Homeowners assistance fund, $7,000,000.

Mr. President, I wish to emphasize that the military construction bill this year is, indeed, an austere bill. The percentage of reduction from the budget estimate amounts to approximately 10 percent. However, I wish to point out that this bill provides for all the essential operating facilities needed by the military services and I wish to state categorically that there are no moneys in this bill for plush accommodations for the military services.

I do not intend to make a long and involved statement of the actions taken by the committee of conference. The conference report explains in a most succinct manner the complete actions.

Mr. President, this completes my statement. I believe that the conference committee has presented for the Senate's consideration a military construction bill that fits the stringent financial conditions in which this Government finds itself. I will be glad to answer any questions which individual Senators may have regarding construction projects in their States.

I ask unanimous consent that, at the conclusion of my remarks on this bill, a tabulation comprising a summary of the conference action on the military construction appropriation bill for fiscal year 1974 be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1973 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1974

Item	New budget (obligational) authority, fiscal year 1973	Budget estimates of new (obligational) authority, fiscal year 1974	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	New budget (obligational) authority recommended by conference action	Conference action compared with— New budget (obligational) authority, fiscal year 1973	Conference action compared with— Budget estimates of new (obligational) authority, fiscal year 1974	Conference action compared with— New budget (obligational) authority recommended in House bill	Conference action compared with— New budget (obligational) authority recommended in Senate bill
Military construction, Army	413,955,000	[1] 664,900,000	551,575,000	567,735,000	$578,120,000	+$164,165,000	−$86,780,000	+$26,545,000	+$10,385,000
Military construction, Navy	517,830,000	685,400,000	587,641,000	608,467,000	609,292,000	+91,462,000	−76,108,000	+21,651,000	+825,000
Military construction, Air Force	265,552,000	291,900,000	239,702,000	261,198,000	247,277,000	−18,275,000	−44,623,000	+7,575,000	−13,921,000
Military construction, Defense Agencies	36,704,000	19,100,000	0	12,000,000	0	−36,704,000	−19,100,000		−12,000,000
Transfer, not to exceed	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)				
Military construction, Army National Guard	40,000,000	35,200,000	35,200,000	35,200,000	35,200,000	−4,800,000			
Military construction, Air National Guard	16,100,000	20,000,000	20,000,000	20,000,000	20,000,000	+3,900,000			
Military construction, Army Reserve	38,200,000	40,700,000	40,700,000	40,700,000	40,700,000	+2,500,000			
Military construction, Naval Reserve			20,500,000	20,300,000	22,900,000	+2,400,000	+2,600,000		+2,600,000
Military construction, Air Force Reserve	7,000,000	10,000,000	10,000,000	10,000,000	10,000,000	+3,000,000			
Total, military construction	1,355,841,000	1,787,500,000	1,507,718,000	1,575,600,000	1,563,489,000	+207,648,000	−224,001,000	+55,771,000	−12,111,000
Family housing, defense	1,064,046,000	[2] 1,250,567,000	1,194,539,000	1,188,539,000	1,188,539,000	+124,493,000	−62,028,000	−6,000,000	
Portion applied to debt reduction	−96,666,000	−100,167,000	−100,167,000	−100,167,000	−100,167,000	−3,501,000			
Subtotal, family housing	967,380,000	1,150,400,000	1,094,372,000	1,088,372,000	1,088,372,000	+120,992,000	−62,028,000	−6,000,000	
Homeowners assistance fund, defense		[3] 7,000,000	7,000,000	7,000,000	7,000,000	+7,000,000			
Grand total, new budget (obligational) authority	2,323,221,000	2,944,900,000	2,609,090,000	2,670,972,000	2,658,861,000	+335,640,000	−286,039,000	+49,771,000	−12,111,000

[1] Due to lack of authorization, does not include additional $4,300,000 requested in House Document 93–155.

[2] Due to lack of authorization, does not include additional $31,100,000 requested in House Document 93–155.

[3] Includes $7,000,000 requested in House Document 93–155.

Mr. YOUNG. Mr. President, the Senate is fortunate in having the distinguished majority leader as chairman of the Subcommittee on Military Construction. I think all the essential needs of the military were taken care of under the bill, and with a minimum amount of money and at a cost savings.

Mr. President, I hope the conference report will be agreed to by the Senate.

Mr. SCHWEIKER. Mr. President, I join the distinguished ranking minority member of the committee in his remarks and I wish to say that as the ranking minority member of the subcommittee I concur strongly with the distinguished majority leader as well as the ranking minority member of my committee in saying this is a good bill, passed with a lot of give and take on both the House and the Senate positions. I strongly support it.

I yield 1 minute to the Senator from Texas.

Mr. TOWER. Mr. President, I wish to emphasize that this bill reflects the emphasis of Congress on personnel support assistance for the armed services. At a time when we are trying to attract an all-volunteer armed force in this country, it is incumbent upon us to do all we can to make living conditions as pleasant and safe as possible for our men and women in uniform.

I wish to point out that a large percentage of the money contained in the appropriation is for barracks, medical facilities, commissaries, and other things designed to make service life more comfortable and attractive.

PROGRAM FOR TODAY

Mr. YOUNG. Mr. President, I wish to ask the schedule for the remainder of the day.

Mr. MANSFIELD. Mr. President, after this we will take up three unobjected-to items on the calendar and then go back to the unfinished business, the so-called Rhodesian chrome bill, at which time a motion for cloture will be laid before the Senate which will make the measure eligible to be considered Tuesday 1 hour after the Senate convenes.

This will be the last vote today.

ORDER FOR ADJOURNMENT UNTIL MONDAY, DECEMBER 10, 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 12 o'clock meridian on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM FOR NEXT WEEK

Mr. MANSFIELD. Mr. President, on Monday it is expected that we will take up S. 2176, the bill to provide for a national fuels and energy conservation policy, and S. 2686, legal services for the Office of Economic Opportunity.

On Tuesday the Senate will consider S. 2767, the rail service bill, and H.R. 8449, the national flood insurance program. The vote on cloture will occur on Tuesday.

On Wednesday we will consider the measure relating to the independent Special Prosecutor, unless there is some chance we can get it up on Monday, which we are endeavoring to do at this time. If the Senate will allow the leadership a little flexibility, we will do our best in that regard and give Senators the picture.

We hope that the Committee on Appropriations will be able to report the defense appropriations bill around Tuesday and with the consent of the Senate we could take that up on Thursday and Friday. It will consume 2 days.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. YOUNG. I cannot speak for the chairman of the committee, but I think the supplemental will be ready ahead of the defense appropriation bill.

Mr. MANSFIELD. We will take them in order. I hope the Senate will not hold the leadership to the 3-day rule. We are trying to get out 2 weeks from today or tomorrow, at the latest.

As the Senator has indicated the supplemental bill will be reported this week. The defense appropriation bill will be reported this week. The foreign aid authorization should be reported this week, followed by the foreign aid appropriation bill. I do not know what is going to happen to the District of Columbia home rule or conference bill, which was agreed to some days ago but has to be considered in the House.

That is as far as I can go at this time.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the statement of the distinguished majority leader concerning the program for next week be printed in the Record today just prior to the motion to adjourn.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILITARY CONSTRUCTION APPROPRIATIONS, 1973—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on H.R. 11459, making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, I yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the adoption of the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from North Carolina (Mr. Ervin), the Senator from Arkansas (Mr. Fulbright), the Senator from Indiana (Mr. Hartke), the Senator from Utah (Mr. Moss), the Senator from Georgia (Mr. Nunn), the Senator from Mississippi (Mr. Eastland), and the Senator from Montana (Mr. Metcalf) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. Johnston), and the Senator from Rhode Island (Mr. Pell) are absent on official business.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

I further announce that, if present and voting, the Senator from Louisiana (Mr. Johnston), the Senator from Georgia (Mr. Nunn), the Senator from Missouri (Mr. Symington), and the Senator from Rhode Island (Mr. Pell) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Utah (Mr. Bennett), the Senator from Florida (Mr. Gurney), the Senator from Oregon (Mr. Hatfield), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

The Senator from Arizona (Mr. Goldwater) is absent by leave of the Senate on official business.

The Senator from Kentucky (Mr. Cook) and the Senator from Oregon (Mr. Packwood) are absent on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

If present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The result was announced—yeas 80, nays 0, as follows:

[No. 565 Leg.]

YEAS—80

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Fannin
Fong
Gravel
Griffin
Hansen
Hart
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Mondale
Montoya
Muskie
Nelson
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—20

Bellmon
Bennett
Bentsen
Cook
Cotton
Eastland
Ervin
Fulbright
Goldwater
Gurney
Hartke
Hatfield
Johnston
Metcalf
Moss
Nunn
Packwood
Pell
Saxbe
Symington

So the report was agreed to.

The PRESIDING OFFICER (Mr. Bartlett). The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$578,120,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$609,292,000".

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendments of the House to Senate amendments Nos. 1 and 2.

Mr. JAVITS. Mr. President, Mr. President, Mr. President.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I intend to vote against concurrence in the amendments. I would like to ask the manager of the conference report some questions.

Mr. President, one of the items in disagreement is amendment No. 1. Members can see this on page 3 of the explanatory statement of the conferees. It shows a figure in the House amendment which relates to the military ocean terminal at Bayonne, N.J. The amount involved will be noted as something in the neighborhood of $2.2 million.

This facility is located at Brooklyn, N.Y., at the present time. There has been a constant running back between the two Houses as well as the military authorities and the State and the city relating to the movement of this facility in the sense of substantiation as to why it should be moved and why money should be provided to move it.

It has been stalemated for a considerable period of time. My colleague, the junior Senator from New York (Mr. Buckley), and I are strongly opposed to the proposition on the ground that no adequate showing has been made of the need or desirability.

This was fought for very strongly in the conference by Representative Rooney of New York, and obviously without success notwithstanding his strong feeling on the matter and the fact that he is an important member of the Appropriations Committee in the other body.

Mr. President, another thing is important in this matter. I understand, and I have no reason to doubt the statement that has been made to me, that the money which involves a certain amount of loss of employment. I understand that this particular area has also lost a very considerable amount of money. In the Brooklyn Navy Yard an enormous amount of labor has been lost, as well as important credit to try to substitute some employment for the thousands of jobs lost when the navy yard was shut down.

Here again quite a fair number of jobs are involved, I understand something in the area of hundreds, without hopes as far as I can see that we can get approval of this amendment that is in technical disagreement, without any provision as to how this transition is to be made with some decent accommodation to the place where it is now and the loss to that place.

I would like to ask the manager of the conference report if he would tell us exactly what dictated this policy which is reflected by this particular appropriation and what consideration, if any, has been given to the need of this local area for some transition in respect of the facility which is in question here.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished senior Senator from New York, might I say that this is a matter which has been before the committee for the last 4 years and that during that period of time despite the fact that the Brooklyn Army Terminal has been closed, there was a certain amount of transiency in the process.

This project is required to provide administrative space for relocation of Headquarters, Eastern Area, Military Transportation Management and Terminal Service from Military Ocean Terminal, Brooklyn, N.Y. Brooklyn is excess to DOD requirements and is only partially utilized by DOD activities for administrative functions. The current annual cost of operation and maintenance of facilities under the present austere basis exceeds $1.8 million. If the DOD activities remain at Brooklyn, major rehabilitation of the utilities systems must be accomplished. Numerous power outages and waterline breaks have disrupted operations repeatedly. Consolidation of the activities in existing facilities at Bayonne will permit savings by reduction in civilian and military manpower spaces, equipment rental costs, and maintenance costs for unoccupied facilities.

This project—electric substation—is related to request for administrative facilities for Bayonne MOT, also requested in the fiscal year 1974 progam. The project provides a new 3,000 KVA substation to provide additional electrical capacity at Bayonne MOT. The work is necessary to improve the reliability of the present system to meet the additional load generated by new tenants, that is, the Headquarters Eastern Area, Military Transportation Management and Terminal Service. This organization is scheduled to relocate to Bayonne from Brooklyn MOT and will occupy the requested administrative facilities.

It is my further understanding, subject to correction, that some of the employees from Brooklyn have been transferred to Bayonne, N.J.

Mr. JAVITS. Mr. President, would the Senator be able to inform us whether the amount of savings contemplated are equal to or exceed the expense, which is not inconsiderable? There is $2.2 million appropriated here alone for that purpose.

Mr. MANSFIELD. The answer is in the affirmative.

Mr. JAVITS. May I also ask the Senator what assurance he can give us, as the city of New York is doing its best to fill up the gap—our experience is that not many employees, though I am sure some, transfer to another location—can the Senator give us any assurance that we will get some help from the committee or the department, so that a decent opportunity is provided to enable the transition to be made and enable the city of New York to find some other way to deal with the gap in employment which will be created?

Mr. MANSFIELD. Yes; to a degree. I understand the Post Office Department has taken over half of the facility, and that some of the people from the Army terminal have gone into the postal facility, plus the fact that additional employees are needed. So I think that Brooklyn will be more than compensated as far as employment is concerned, on the basis of the post office moving in.

Mr. JAVITS. And could we have some assurance that if additional time is needed, we will have sympathetic consideration, at least from the committee which is sponsoring this measure, to help us to get it if we have a good case for it?

Mr. MANSFIELD. The committee will give most sympathetic consideration to any request of the two Senators from New York.

Mr. JAVITS. I thank my colleague.

Mr. HUMPHREY. Mr. President, will the majority leader yield to me briefly?

Mr. MANSFIELD. Is it on the bill?

Mr. HUMPHREY. No, it is not.

Mr. JAVITS. Mr. President, if the Senator is not asking the majority leader to yield on this measure, I, too, have a small matter which we wanted to take up.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendments to the Senate amendments.

The motion was agreed to.

Mr. MANSFIELD. Mr. President, I yield first to the Senator from New York and then to the Senator from Minnesota.

LEGISLATIVE PROGRAM

Mr. JAVITS. Mr. President, Senator Cranston, Senator Mondale, and I were not in the Chamber because we were all engaged in a conference on manpower when the program was discussed, and one of the bills which the majority leader said he would put on for Monday was S. 2686, legal services.

We were not, because of our necessary preoccupation, privileged to participate in that discussion, and we would greatly appreciate it—I think I speak for my colleagues as well as myself—if the majority leader could, so that we might understand the situation, state whatever he informed the Senate about that particular bill, so that we might have our input into that situation.

Mr. MANSFIELD. Mr. President, let me repeat what I said to the Senate in response to a question raised by the distinguished senior Senator from North Dakota (Mr. Young) as to what the program would be for the remainder of the day, next week, and insofar as the rest of the session is concerned.

Tentatively—and some flexibility has to be allowed—on Monday the program will be S. 2176, national emergency policy, and S. 2688, legal services, OEO.

Tuesday, S. 2767, rail services; H.R. 8449, national flood insurance; and a vote on a cloture motion which I shall file shortly.

On Wednesday, there is the Special Prosecutor's measure.

Thursday and Friday, supplemental and Defense appropriation bills, and in the meantime we should have an authorization bill, or rather during the next week or shortly thereafter, on foreign aid out of the Foreign Relations Committee; and a foreign aid appropriation bill which is awaiting the disposition of the authorization proposal.

Then it is my understanding that some days ago agreement was reached on the D.C. home rule bill. What action will be I do not know, but action will be taken in the House of Representatives first.

What the leadership is endeavoring to do is to bring about an adjournment either 2 weeks from today or 2 weeks from tomorrow if at all possible.

That may well mean late sessions next week. I think we ought to conclude our work as soon as possible. Then we shall take a well-deserved rest, but on the basis of being subject to call at any time for emergencies with respect to energy, the Middle East, and so forth.

Mr. JAVITS. Mr. President, will the Senator further yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. This bill—the legal services bill, to which I refer—has been very much debated and very deeply considered, and has finally resulted in an understanding with the White House—a very unusual way. The understanding was in the form of a letter that, so far as the Senate bill was concerned, no effort would be made to frustrate it, but that the Senate bill would then be enabled to go to conference with some degree of celerity. In the conference, of course, the administration reserved every right to do what it could to get a bill. With that, we had a clear track ahead.

With the number of associations very strongly in back of the bill with which we were presented, we had hoped to get action. But I think we have made it clear, and wish to make it clear again, that if any effort is made to filibuster the matter, we are perfectly willing to face the issue of cloture at a very early time. This is not one of those bills as to which people need to be educated, particularly. This bill has been gone through from end to end and has been most thoroughly considered by all kinds of experts.

So I would appeal to the majority leader that this matter, at the very least, be put on a second track on Monday, and we will do our part by assuring the majority leader that we are ready to face the issue at any moment that he or the Senator from West Virginia (Mr. Robert C. Byrd) feels it is appropriate to consider the matter. I can assure the Senator that the bill can well be in conference, on a second track basis, at the end of next week.

Mr. CRANSTON. Mr. President, I thank the distinguished Senator from New York. We have been working, together with the Senator from Minnesota (Mr. Mondale), for a long time, first to work out a bill that was acceptable to the administration, a bill that would not be vetoed, and then to get it before the Senate. I think it is very important to get it there soon.

I am delighted that the majority leader has agreed to do everything he can to bring it before this body on Monday.

Mr. HELMS. Mr. President, I should like to have an understanding of what the Senator from New York was saying. As I understand, it was his judgment, however sincere he may have been—although I do not agree with him—that this matter should be given short shrift.

Mr. JAVITS. Not at all.

Mr. HELMS. At what point would the Senator apply cloture?

Mr. JAVITS. We cannot apply cloture without a vote of two-thirds of the Senate.

Mr. HELMS. I understand.

Mr. JAVITS. But it is our contention that this particular bill, this broad plan for a legal services corporation, has been so thoroughly debated and considered here, in committee, and by experts outside the Senate that we believe that within a matter of days, giving second-track attention to this matter, keeping in mind that we shall probably be sitting until late hours next week, that whenever the leadership calls up the bill, we could, in good faith, seek cloture.

Mr. HELMS. I will simply say to my good friend, whom I admire and respect, that I personally think this matter deserves a great deal of discussion, notwithstanding those who think a bill approaching perfection has been agreed upon. I would hope that nothing summary would be done to shut off debate on this matter, because there are those of us who do feel very strongly about it.

Mr. JAVITS. I will, myself, be the first to assess the good faith of those who oppose the bill. But we will have to, just as the Senator from North Carolina will have to, if the Senator is going to decide that he wants to debate it and Senators in opposition will want to debate it—we will have to decide when to test the Senate as to whether the Senate thinks the bill has been debated long enough. If we are wrong, we will be penalized and will lose. We have just as much risk as does the Senator from North Carolina.

Mr. HELMS. I appreciate the Senator's remarks. I just did not want to labor under a misapprehension that a warning was being sounded to those of us who disagree that cloture was forthcoming immediately because I do feel that this measure deserves great consideration and debate.

Mr. JAVITS. Senator Helms, we are too adult and we have too much respect for this body and our colleagues to make any threats or to issue any warnings around here.

Mr. HELMS. I thank the Senator from New York.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Minnesota (Mr. Humphrey).

Mr. McGEE. Mr. President——

The PRESIDING OFFICER (Mr. Bartlett). The Chair lays before the Senate the unfinished business which the clerk will state.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I first ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 579, 580, and 581.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. CAPITOL HISTORICAL SOCIETY STUDY

The Senate proceeded to consider the joint resolution (S.J. Res. 169), to provide for a feasibility study and to accept a gift from the U.S. Capitol Historical Society, which has been reported from the Committee on Interior and Insular Affairs with an amendment on page 2, in line 20, after "Representatives" strike out "and to the majority and minority leaders of the Senate" and insert in lieu thereof "and to the United States Senate Commission on Art and Antiquities," so as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the United States Capitol Historical Society is authorized, under direction of the Architect of the Capitol, to prepare a feasibility study to determine the desirability of installing within the United States Capitol Grounds, at the east front of the United States Capitol, all items of equipment and other facilities required for a sound and light performance, consisting of an interplay of light, music, narrative, and sound effects (without the use of live actors), which, when projected onto the imposing facade of the east front of the United States Capitol, will re-create the evolution of American history, based on a foundation of thorough historical research, subject to the following conditions:

(1) Such study and all expenditures connected therewith will be borne by the United States Capitol Historical Society.

(2) Upon completion of such study, the United States Capitol Historical Society, at its expense, will furnish the Architect of the Capitol a report detailing the results of such study, installations, and programs proposed, and estimates of cost required to implement such project without expense to the United States, including maintenance and operating expenses.

(3) The project may not be implemented, beyond the report stage, except as provided in section 2 hereof.

Sec. 2. The Architect of the Capitol shall review such report and submit the same, with his recommendations, to the Speaker and majority and minority leaders of the House of Representatives and to the United States Senate Commission on Art and Antiquities.

If the project, as presented, with or without modifications, meets with the approval of such House and Senate officials, the Architect of the Capitol, notwithstanding any other provision of law, is authorized after such approval—

(1) To accept in the name of the United States from the United States Capitol Historical Society, as a gift, such sum or sums as may be required to further implement such project, and such sum or sums when received, shall be credited as an addition to the appropriation account "Capitol Buildings, Architect of the Capitol".

(2) Subject to section 3 hereof, to expend such sum or sums for all items of equipment and other facilities required for the sound and light performance, and for any other items in connection therewith.

Sec. 3. The Architect of the Capitol, under the direction of the House and Senate officials designated in section 2 hereof, is authorized to enter into contracts and to incur such other obligations and make such expenditures as may be necessary to carry out the provisions of said section 2.

Sec. 4. Sums received under this joint resolution, when credited as an addition to the appropriation account "Capitol Buildings, Architect of the Capitol", shall be available for expenditure and shall remain available until expended. Following completion of the installation, such sums may thereafter be used by the Architect of the Capitol, in whole or part, to defray any expenses which he may incur for maintenance and operation.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Public Works Committee be discharged from further consideration of House Joint Resolution 736, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 736), to provide for a feasibility study and to accept a gift from the United States Capitol Historical Society.

Mr. MANSFIELD. Mr. President, I move to strike all after the resolving clause and insert the text of Senate Joint Resolution 169 as reported with amendments.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 736) was read the third time and passed.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that Senate Joint Resolution 169 be indefinitely postponed.

The PRESIDING OFFICER (Mr. MCCLURE). Without objection, it is so ordered.

CHOCTAW-CHICKASAW-CHEROKEE BOUNDARY DISPUTE ACT

The bill (H.R. 5089), to determine the rights and interests of the Choctaw Nation, and the Chickasaw Nation, and the Cherokee Nation in and to the bed of the Arkansas River below the Canadian Fork and to the eastern boundary of Oklahoma, was considered, ordered to a third reading, was read the third time, and passed.

MENOMINEE RESTORATION ACT

The Senate proceeded to consider the bill (H.R. 10717), to repeal the act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized, sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, in line 5, after "elected" strike out "at a general council meeting called by the Secretary pursuant to section 4(a) of this Act" and insert in lieu thereof "pursuant to subsections 4(a) and 4(b) of this Act."

On page 2, at the beginning of line 25, strike out "Nothing" and insert "Except as specifically provided in this Act, nothing."

On page 3, in line 17, after the period, insert:

> The Menominee Restoration Committee shall have full authority and capacity to be a party to receive such grants to make such contracts, and to bind the tribal governing body as the successor in interest to the Menominee Restoration Committee: *Provided, however*, That the Menominee Restoration Committee shall have no authority to bind the tribe for a period of more than six months after the date on which the tribal governing body takes office.

On page 3, in line 25, strike out "thirty" and insert in lieu thereof "fifteen".

On page 4, at the end of line 4, strike out "ninety" and insert in lieu thereof "thirty".

On page 4, in line 5, strike out "sixty" and insert in lieu thereof "forty-five".

On page 4, at the end of line 18, insert:

> The Menominee Restoration Committee shall have no power or authority under this Act after the time which the duly-elected tribal governing body takes office: *Provided, however*, That this provision shall in no way invalidate or affect grants or contracts made pursuant to the provisions of subsection 3(e) of this Act.

On page 5, at the end of line 16, strike out "Menominee Restoration Committee" and insert in lieu thereof "Secretary".

On page 5, in line 18, strike out "Secretary", and insert in lieu thereof "Menominee Restoration Committee".

On page 6, in line 12, strike out "initiated: *Provided*, That the time for making a final determination may be extended by mutual agreement of the Secretary and the appellant." and insert "initiated.".

On page 6, in line 21, after "within" strike out "one hundred and eighty days after enactment of this Act." and insert in lieu thereof "sixty days after final certification of the tribal roll."

On page 7, in line 4, strike out "Menominees" and insert in lieu thereof "Minominee".

On page 7, in line 14, after "officials" insert "as".

On page 7, in line 22, strike out "subsections (a) and (c)".

On page 8, beginning in line 4, insert "(e) The Time periods set forth in subsections 4(c), 5(a), and 5(c) may be changed by the written agreement of the Secretary and the Menominee Restoration Committee."

On page 8, in line 12, after the period, insert "The Secretary shall submit such plan to the Congress within one year from the date of the enactment of this Act."

On page 8, in line 15, after "(b)" strike out "The" and insert "If neither House of Congress shall have passed a resolution of disapproval of the plan within sixty days of the date the plan is submitted to Congress, the".

On page 9, at the beginning of line 9, strike out "his" and insert in lieu thereof "this".

The title was amended so as to read:

> An Act to repeal the Act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin; to reinstitute the Menominee Indian Tribe of Wisconsin as a federally recognized sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; and for other purposes.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, if the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) will allow me, I should like to yield at this time to the assistant majority leader for a unanimous-consent request or requests.

UNANIMOUS-CONSENT AGREEMENT ON S. 2611

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader.

Mr. President, I ask unanimous consent, at the request of the distinguished majority leader, this request having been cleared with the Senator from Nebraska (Mr. HRUSKA), with the assistant Republican leader, and with Senators KENNEDY, HART, TAFT, PERCY, and HOLLINGS, and other Senators, that at such time as S. 2611, a bill to establish an independent Special Prosecutor, is called up and made the pending business before the Senate, there be a time limitation for debate thereon of 4 hours, to be equally divided between the Senator from Nebraska (Mr. HRUSKA) and the Senator from Michigan (Mr. HART); that time on an amendment by the Senator from Ohio (Mr. TAFT) be limited to 2 hours; that time on an amendment to be designated the Percy-Baker amendment be limited to 2 hours; that time on any other amendment in the first degree be limited to 1 hour; that time on any amendment to an amendment be limited to 40 minutes; that time on any debatable motion or appeal be limited to 20 minutes; that no amendment not germane be in order; provided, however, that the two amendments identified as the Taft and the Percy-Baker amendments be in order regardless of germaneness; provided each of those two amendments pertains to the appointment of a Special Prosecutor; ordered further that the agreement be in the usual form with respect to the division and control of time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

UNANIMOUS-CONSENT AGREEMENT ON S. 1435

Mr. ROBERT C. BYRD. Mr. President, the following unanimous-consent request has been cleared with the distinguished manager of the conference report, the Senator from Missouri (Mr. EAGLETON), and the ranking member of the Subcommittee on Appropriations for the District of Columbia, the Senator from Maryland (Mr. MATHIAS):

> *Ordered*, That, during the consideration of the conference report on S. 1435, the so-called "District of Columbia Charter Act," debate thereon be limited to 1 hour, to be equally divided and controlled by the manager of the conference report and the Senator from Maryland, Mr. MATHIAS.
>
> *Ordered further*, That, debate on any motion or appeal relating to the conference report be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the conference report.
>
> *Ordered further*, That, should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 20 minutes to be equally divided and controlled by the manager of the conference report and the Senator from Maryland, Mr. Mathias, and should any motion be made to instruct the conferees before the conferees are named, any debate on any such motion shall be limited to 20 minutes to be equally divided and controlled by the mover of such and the manager of the conference report, and debate on any amendment to any such instructions shall be limited to 10 minutes to be equally divided and controlled by the mover of such and the manager of the conference report. *Provided*, That in all cases, when the manager of the conference report is in favor of any amendment, motion, or appeal, the time in opposition shall be under the control of the Minority Leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

RURAL WATER AND SEWER FUNDS IMPOUNDED BY ADMINISTRATION

Mr. HUMPHREY. Mr. President, a news report in the New York Times of December 6, 1973, charges that the Nixon administration has impounded a total of $550 million appropriated by Congress for Federal grants for water and sewer systems.

If this report is correct, I am incredulous over what amounts to a blatant disregard by the Nixon administration of an explicit directive by Congress early this year that these vitally needed funds be allocated without delay. These funds included $150 million for crucially important home and industrial development in rural areas. And our cities have stated emphatically time and again that the improvement of water and sewer systems, under a $400 million program administered by the Department of Housing and Urban Development, is one of their highest priorities.

Meanwhile, it is reported, only about one-third of the funds authorized by Congress for loan assistance for these systems have actually been obligated.

Mr. President, the issue of administration impoundments in violation of appropriations laws enacted by Congress must be forcefully addressed without further delay. It is expected that the Senate will take up major budget control legislation in January 1974. The House passed similar legislation yesterday, containing provisions requiring the release of impounded funds.

I firmly believe that Congress must now instruct the administration that it is not exempt from the law, but that its function is to faithfully uphold and effectively administer laws enacted by Congress and signed by the President. In a recent statement in the Senate, I strongly criticized an attempt by the White House to have set aside at one stroke lawsuits by States, communities, and organizations against the administration for the allocation of almost $1 billion in fiscal 1973 funds claimed to have been illegally impounded by the Office of Management and Budget. The conference report on H.R. 8877, providing for appropriations for the Departments of Labor and Health, Education, and Welfare, and recently adopted by both houses of Congress, rejected an amendment proposed by White House adviser Melvin R. Laird, which would have had this effect.

However, at the same time, six States have found it necessary to sue the Federal Government for the release of $2.7 billion in impounded highway construction funds—the latest in a series of some 36 lawsuits against the administration, on most of which lower courts have handed down favorable decisions.

Mr. President, I take this opportunity to inform the Senate that a letter is being sent to the President, jointly signed by myself, the chairman of the Senate Appropriations Subcommittee on Agriculture, Environmental and Consumer Protection (Mr. McGee), and the Senator from Wisconsin (Mr. Nelson). We are requesting the President to indicate the newspaper report on the withholding of rural water and sewer grant funds is accurate, and to provide a status report on the allocation of funds appropriated by Congress under the Agriculture, Environmental, and Consumer Protection Act for fiscal 1974. We have requested that this information be provided within 1 week.

Mr. President, there is an absolute necessity that these funds for water and sewer in rural areas be made available. There is nothing short of a major emergency in these areas for this kind of facility.

Mr. President, I ask unanimous consent that two articles on the impoundment of water and sewer funds, and appearing in the New York Times of December 7, 1973, be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, Dec. 6, 1973]

Administration Impounds Funds for Water and Sewer Systems

(By William Robbins)

Washington, December 6.—The Nixon Administration has quietly impounded $550-million voted this year for development of water and sewer systems despite a directive from Congress to spend the money.

The action, which included withholding of funds for a popular rural development program, is considered likely to increase pressure behind a bill that would allow Congress to force release of money it appropriates.

The rural program provided $150-million to promote home and industrial development, and thus aid distressed communities, through grants for construction of water and sewer systems.

The program had been "terminated" early this year by a Presidential impoundment action but revived by Congress, which also adopted an accompanying conference report directing the Administration to spend the money.

Representative Jamie Whitten, Democrat of Mississippi, the powerful chairman of the House appropriations subcommittee, reacted today with a thinly veiled warning, although he said:

"I don't want to be in a position of threatening the Administration."

Under present conditions, Congress lacks the power to force the Administration to spend the money, Mr. Whitten noted, but he added, "Next year, you can make them wish they had spent the money."

He observed that Congress has the power of the purse, enabling it to control funds for both the White House and the Office of Management and Budget, but added quickly that "the country cannot afford" a stalemate between the White House and Congress.

The impoundment issue has been a focal point of controversy between President Nixon and Congress since the current session began. A total of about $12-billion in appropriated funds had been withheld by the Administration at one point, but some of that has since been released and court suits have compelled the spending of additional money for several programs.

Both houses have passed bills giving Congress the power to review and override Presidential impoundment decisions, but they have never gone to conference.

Those bills would be superseded by a new budget control act, passed by the House yesterday, which contains a section giving either chamber the power to force release of impounded funds. The Senate is expected to act on a similar bill early next year.

President Nixon is considered likely to veto the bill if it reaches his desk with the anti-impoundment provision intact, but the withholding of rural funds disclosed today is expected to reinforce support for any attempt to override.

The $150-million was the rural counterpart of a water and sewer program administered by the Department of Housing and Urban Development, for which $400-million had been voted in the same Congressional appropriations measure.

The withholding of funds for the grants does not affect a loan program for the same purpose, for which $470-million has been authorized, and $110-million obligated this fiscal year, which ends next June 30.

Arthur C. Harmon Jr., the deputy administrator of the Farmers Home Administration, which supervises the rural program, said today that his agency and higher officials in the Administration considered the water and sewer grants "redundant" because a similar program was administered by the Environmental Protection Agency.

Mr. Whitten had argued during appropriation hearings, however, that the only relevant E.P.A. program was that funded under the Water Pollution Control Act. That act, he said, provided mainly for sewage treatment systems and, under allocation systems set by the states, little money filtered down to rural areas.

A staff aide at the House agricultural appropriations subcommittee noted today that, although it was possible to fund sewage-collection systems under the pollution act, those were normally given a low priority by the states, and there was no provision for development of water systems.

An official at the Environmental Protection Agency said rural sewer systems were not considered to be a primary objective of its program. He said that it was impossible to determine how much money might have gone to rural areas thus far.

In another action involving impounded funds, six states filed suit today seeking release of $2.7-billion in highway construction funds for all 50 states.

The suit was filed in United States District Court here by Louisiana, Washington, Nevada, Oklahoma, Pennsylvania and Texas. It names as defendants Secretary of Transportation Claude S. Brinegar, the Federal Highway Administrator, Norbert T. Tiemann and Roy L. Ash, director of the Office of Management and Budget.

[From the Washington Post, Dec. 7, 1973]

Water-Sewer Funds Are Impounded

(By Bernard Brenner)

Apparently ignoring a blunt directive from Congress, the White House Office of Management and Budget has quietly impounded all of the $150 million voted by the lawmakers for rural water and sewer grants.

No public announcement was made. But officials at the Agriculture Department, in reply to a query, said they had been told the OMB would not release the appropriation.

The action may revive an administration-Congress controversy that began early this year when the White House, after holding spending on the water-sewer grants below appropriated levels in past years, suspended the program altogether.

In reply, congressional leaders inserted the $150 million fund in the Agriculture appropriation bill and wrote in language directing revival of the grants and a similar grant program operated by the Department of Housing and Urban Development.

Reports accompanying bills do not have the force of law. But since they are considered to express the will of Congress, they are usually heeded by administrative officials.

SIX STATES SUE UNITED STATES TO GET ROAD FUNDS

Six states yesterday filed suit against the federal government seeking release of $2.7 billion in impounded federal highway construction funds.

The action, if successful, would benefit all 50 states, the District of Columbia and Puerto Rico for Fiscal 1973 and 1974.

The suit was filed in U.S. District Court here by Louisiana, Washington, Nevada, Oklahoma, Pennsylvania and Texas.

At least 65 such suits have been filed against the withholding of monies apportioned by Congress for various federal programs. Most of them have been successful in initial stages, but the government has continued the court battles to avoid distributing the money.

VACATION OF ORDER IN CONNECTION WITH THE NOMINATION OF HELMUT SONNENFELDT TO BE UNDER SECRETARY OF THE TREASURY

Mr. MANSFIELD. Mr. President, pursuant to the order of Tuesday, November 20, 1973, in executive session, there were to be 4 hours of debate on the nomination of Mr. Helmut Sonnenfeldt—2 hours to be allocated to the disinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), 30 minutes to be allocated to the distinguished Senator from North Carolina (Mr. HELMS), and 90 minutes to be allocated to the distinguished Senator from Louisiana (Mr. LONG); and this was to be done on Monday, December 10, 1973.

This afternoon—the Chair will correct me if I am wrong—the Senate received notice from the executive branch that the nomination of Mr. Sonnenfeldt was being withdrawn. Therefore, on that basis, as in executive session, I ask unanimous consent that the order previously granted be vacated.

The VICE PRESIDENT. As in executive session, without objection, it is so ordered.

Mr. MANSFIELD. It is my further understanding that another nomination concerning Mr. Sonnenfeldt has been sent up by the executive branch, for a position in the Department of State.

The VICE PRESIDENT. The Senator is correct.

REFERRAL OF S. 1541, THE BUDGET CONTROL ACT

Mr. PERCY. Mr. President, I ask unanimous consent that the previous order for referral of S. 1541 to the Committee on Rules and Administration with instructions to report by January 21 be vacated. I ask unanimous consent that S. 1541, the Federal act to control expenditures and to establish national priorities, otherwise known as the Budget Control Act, be referred to the Committee on Rules and Administration with instructions that the bill be reported to the Senate not later than February 1, 1974, provided, however, that the bill be automatically placed on the calendar at that time.

Mr. President, I have discussed this with the assistant majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD), with the assistant minority leader, the Senator from Michigan (Mr. GRIFFIN), and with the chairman of the Committee on Rules and Administration, the Senator from Nevada (Mr. CANNON). They are all in accordance with this.

I have not been able to discuss it with the Senator from Kentucky (Mr. COOK), the ranking minority member of the Committee on Rules and Administration as he is out of town necessarily on business. However, on the basis of my conversations with him I am lead to believe that he would be in agreement with the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET CONTROL—ORDER FOR H.R. 7130 TO BE PLACED ON THE CALENDAR

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the bill (H.R. 7130) which has to do with budget control go on the calendar, with the understanding that it remain on the calendar until such time as the Committee on Rules and Administration has reported out a companion bill (S. 1541), recently referred to the Rules Committee, at which time and following the action of the Senate on S. 1541, it is anticipated that all after the enacting clause of the House bill will be stricken and the Senate language, as amended, if amended, will be inserted in lieu thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. My request goes only to putting the House bill on the Senate calendar.

NATIONAL FUELS AND ENERGY CONSERVATION ACT OF 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the close of business today, the Chair lay before the Senate the bill (S. 2176) to provide for a national fuels and energy conservation policy.

The PRESIDING OFFICER (Mr. MCCLURE). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have asked that the bill be laid before the Senate at the direction of the distinguished majority leader, because he indicated earlier in his statement of the program for next week that on Monday the Senate would take up this bill (S. 2176), and hopefully dispose of it on Monday.

ORDER FOR RECOGNITION OF SENATORS MANSFIELD AND GRIFFIN ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday after the two leaders or their designees have been recognized under the standing order, the distinguished majority leader (Mr. MANSFIELD) be recognized for not to exceed 15 minutes, and that he be followed by the distinguished majority whip (Mr. GRIFFIN) for not to exceed 15 minutes, prior to the transaction of routine morning business on Monday, for which an order has already been entered providing for a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 11 A.M. ON MONDAY, DECEMBER 10, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The VICE PRESIDENT. The Chair lays before the Senate the unfinished business, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

Mr. MANSFIELD. Mr. President, will the Senator from Wyoming yield to me briefly?

Mr. McGEE. I am glad to yield.

CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I send to the desk a cloture motion and ask that it be read.

The VICE PRESIDENT. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

> CLOTURE MOTION
>
> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 1868), a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.
>
> Signed by 23 Members of the Senate.

Mr. McGEE. Mr. President, the pending business has been the pending business for some time——

Mr. ROBERT C. BYRD. Mr. President, the clerk did not read the names of the signers of the cloture motion.

The VICE PRESIDENT. The clerk will read the names on the cloture motion.

The assistant legislative clerk read as follows:

> Senators Mansfield, McGee, Pastore, Randolph, Case, Jackson, Brooke, Eagleton, Clark, Humphrey, Gravel, Hughes, Hart, Cranston, Metcalf, Mondale.

Mr. McGEE. Mr. President, there must be many candidates for President on here. The clerk cannot read their signatures. [Laughter.]

The assistant legislative clerk read as follows:

Muskie, Percy, Mondale.

Mr. HARRY F. BYRD, JR. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. HARRY F. BYRD, JR. Is such a motion valid, when we cannot read the signatures? [Laughter.]

The VICE PRESIDENT. The Chair notes that they are valid signatures.

The assistant legislative clerk read the names, as follows:

Mike Mansfield, Gale W. McGee, John O. Pastore, Quentin N. Burdick, Jennings Randolph, Clifford P. Case, Henry M. Jackson, Edward W. Brooke, Thomas F. Eagleton, Dick Clark, Hubert H. Humphrey, Mike Gravel, Harold E. Hughes, Philip A. Hart, Alan Cranston, Gaylord Nelson, Floyd K. Haskell, Jacob K. Javits, Edward M. Kennedy, Walter F. Mondale, Lee Metcalf, Edmund S. Muskie, Charles H. Percy.

Mr. McGEE. The action this afternoon which returns us once again to this bill simply serves as a reminder that it has been the pending business since before Thanksgiving. As a matter of fact, the Committee on Foreign Relations reported it after another round of hearings in late September. It was impossible, or at least it was ruled difficult, to bring it to the floor of the Senate and place it on the calendar because holds were placed on the bill at the time, for meritorious reasons, I am sure. The point is that, after all this delay, over ground that we have covered many times in the last 2 or 3 years, we are hopeful of bringing this measure to a vote.

The measure is simply designed to repeal what is commonly referred to as the Byrd amendment, the amendment of the distinguished senior Senator from Virginia. This was an amendment a couple of years ago that had the effect of taking the United States out of the United Nations embargo imposed by U.N. vote on the British Territory of Rhodesia, in Central Africa.

The reason why it became a problem was that a unilateral action in the name of the United States, taken by the U.S. Senate, initiated by the Senate, removed us from our commitment as one of the members of the United Nations. It was a United Nations sanction program that was the business. It was a unilateral action of the Government of the United States that withdrew from that action.

This has remained a matter of very deep concern ever since, not only because it has compounded our difficulties at the UN in developing votes for American issues at the UN, since no one issue has tended more to galvanize the votes and the unity of the some 39 or 40 African nations who have votes in the U.N. at the present time, but also because it was open to question in terms of its original intent, couched in terms of national security and the vitality of national interest in the requirement for importing chrome; and the companion suggestion that we were too dependent on the Soviet Union and should not be trading with the Soviets has been laid bare in the record at the time.

The Lord happened to endow the Soviets with superior chrome, for whatever judgments or misjudgments may have gone into that location. The Soviets are still selling chrome and, in fact, increased their sales of chrome after the embargo was lifted.

However, of greatest concern to many people at this time is the status of the American policy position under law. The American Bar Association has addressed itself to that particular point.

The concern is that as a Nation ourselves under law, an issue very much at stake at the present time in our domestic crisis, in which we are continually reminding each other that we are a nation under law and not under men, we find the United States now in the rather naked position of being guilty of having defected under law from a commitment to the United Nations.

The Charter of the United Nations was adopted overwhelmingly by this body and in doing so we took on a commitment to abide by the Charter of the United Nations which we had a great hand in drafting. Through the unilateral action I have described we have openly flouted our commentment under the United Nations Charter.

It was with these thoughts in mind that the American Bar Association House of Delegates passed a resolution a year ago relevant to this principle. The resolution calls upon Congress to put the United States back into compliance with the United Nations' sanctions against Rhodesia, noting, and I quote from the House of Delegates of the American Bar Association:

> The United States believes the good faith fulfillment of treaty obligations is central to the rule of law.

Mr. President, I ask unanimous consent to have printed in the RECORD the American Bar Association resolution.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

Whereas, The United States of America considers the rule of law to be the only alternative to the rule of force;

Whereas, The United States believes the good faith fulfillment of treaty obligations is central to the rule of law;

Whereas, All members of the United Nations have a solemn treaty commitment as parties to the Charter of the United Nations;

Whereas, Article 25 of the Charter of the United Nations provides that "The members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter";

Whereas, The Security Council of the United Nations has decided in accordance with the Charter to impose economic sanctions against Rhodesia prohibiting the import or export of goods from or to Rhodesia;

Whereas, The Administration of President Nixon has strongly and unequivocally expressed its view that (a) the United States is legally obligated under the Charter to comply with said decision of the Security Council and (b) neither economic nor national security considerations are sufficiently compelling to compensate for the adverse foreign policy consequences of a failure so to comply; and

Whereas, The Congress of the United States over the objections of the Administration has approved legislation which has become law and requires the United States to permit the importation of chrome and various materials from Rhodesia,

Therefore Be It Resolved, That the American Bar Association urges the Congress of the United States to repeal such legislation and thus permit the Administration to take all necessary steps to prohibit the importation of material from Rhodesia into the United States in conformity with its international obligations under the Charter of the United Nations.

Further resolved, That the President or his designee be authorized to appear before the appropriate committees of the Congress in support of such action.

Mr. McGEE. Mr. President, throughout the course of debate and discussion of our continued violation of United Nations sanctions against Southern Rhodesia, the opponents of our return to compliance with sanctions have argued that the United States does not stand in violation of international law.

As I noted on June 22, 1973, the U.S. Congress overwhelmingly passed the United Nations Participation Act of 1945, committing this Nation and its integrity to a treaty agreement. At that time, in order for our national interests to be protected, the United States, along with other members of the U.N. Security Council, were given the veto power, should any resolution be introduced which we determined to be unpalatable.

I noted, in my statement of June 22, that the action taken by this body the past 2 years, which allowed us to violate U.N. economic sanctions against Southern Rhodesia, has placed us in the position of breaking a duly constituted law of this Nation—a law which the Congress in its wisdom saw fit to give its approval.

As I also noted, our Government is sustained by a principle of faith, and it is for this reason that all of us in this body take our oath of office. In order for our Government to perpetuate itself, our system demands faith on the part of its participants. This does not mean that we can select and choose only those facets of our Constitution and our laws to which we, as individuals, have determined we owe our allegiance, and that somehow there is an authority higher than our Constitution which allows us to ignore those laws with which we do not agree. If we allowed this to happen, it would spell immediate disaster for our Nation. Chaos would reign supreme. It seems that if nothing else, Watergate should have taught us this lesson. I believe the Rhodesian chrome question, and the manner in which we have addressed ourselves to this issue, raises the same serious problems posed by the Watergate mess.

Mr. President, I am prepared to yield the floor to the distinguished chairman of the Subcommittee on African Affairs of the Committee on Foreign Relations. The Senator from Minnesota has been called to the telephone and I offered to fill in the time until that important call from his constituency could be handled.

Mr. HUMPHREY. Mr. President, what I seek more than anything else is a vote on the measure before us. It seems to me that if we can settle issues as complex as the energy policy, major defense appropriations, items that relate to health, education, and welfare, within reasonable time limitations, we should be able at least to arrive at decisions one way or another on legislation of the nature now pending before the Senate.

So once again I ask those in opposition to the measure if there is any chance whatever that we could agree, let us say, on 4 hours of debate, equally divided, or 6 hours, 8 hours, whatever amount of debate my colleagues might wish to have so that we could arrive at a decision?

I know we have had filed a cloture motion, but it seems to me a much better way to handle this matter is the way we have handled most controversial issues before this body; namely, time limitations mutually acceptable.

I notice that the distinguished Senator from Virginia, who is in opposition to the measure before us, and the distinguished Senator from Alabama, are in the Chamber. I wonder if either of them has given any more thought to the possibility of an agreement upon a time limitation. I would yield to the Senator from Virginia for any observation he would like to make on that matter.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator will yield, I have the calendar for November and December 1973. I note that this legislation was laid before the Senate and made the pending business at 12:39 p.m. on Tuesday, November 20. The next day was Wednesday, November 21. That was the day before Thanksgiving. By common consent the Senate adjourned early that day for the Thanksgiving recess.

The Senate was not in session on Thursday, November 22; the Senate was not in session on Friday, November 23; the Senate was not in session on Saturday, November 24; and, of course, the Senate was not in session on Sunday, November 25.

Now, we come to Monday, November 26, and the record shows that this legislation, because of the press of more important business, was not considered on that date. We come to Tuesday, November 27, and because of the press of more important business, the pending legislation was laid aside and not considered that day. We come to Wednesday, November 28, and the record shows it was not considered.

We come to Thursday, November 29, and the record shows it was not under consideration. We come to November 30, and the record shows it was not under consideration. We come to December 1, and the record shows it was not under consideration because of the press of more important matters. We come to December 2, and the record shows it was not under consideration.

Then the Senate had a very historic session on Sunday, December 3, and the record shows that the legislation, S. 1868 was not under consideration.

Then, we come to Monday, December 4, and we find the measure was laid aside because of the press of more important legislation. Then we come to Tuesday, December 5, the record shows that this measure was not under consideration. We come to Thursday, December 6, and the record shows it was laid aside because of the press of other business.

That brings us to the afternoon of Friday, December 7. The pending legislation became the pending legislation on December 7 at approximately 4:15 p.m.

During the past 2 weeks and during the next 2 weeks the Senate has had and will have very important legislation before it. Incidentally, the leadership is against the position which I take, but the leadership has been faced with very difficult problems in handling a vast amount of important legislation and it has to give priorities naturally, and this is the first opportunity since November 20 to have a discussion with the managers of this legislation. So I think that the importance of the legislation is such that it deserves thought and consideration on the part of the Senate because the legislation would repeal what the Senate did 2 years ago.

I might add, not only what the Senate did 2 years ago, but what the House of Representatives did 2 years ago, which legislation was signed by the President and upheld by the courts of the United States.

I think it is very significant, when we take the combined vote of the House and the Senate, that representatives from 46 of the 50 States supported the legislation that S. 1868 would repeal.

So I think before such action is taken to override what was done just 2 years ago, there should be thorough consideration of this problem.

Another reason why I think there should be a thorough discussion of this matter is that great stress has been laid on the assertion that the United States is in violation of international law. That is a very serious charge, of course, and before the Senate condemns itself as an outlaw—and that is what this legislation asks be done—as being in violation of international law, the Senate, I feel sure, would want to give very careful thought to it.

You know, Mr. President, the title of S. 1868 is a most interesting one, and I will read it. It sets forth the purpose of the bill:

> To amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and——

And this is the interesting part—

> to restore the United States to its position as a law-abiding member of the international community.

I do not believe that many of us want to vote to condemn ourselves as a law violator, to condemn the House of Representatives as a law violator, to condemn the President of the United States and the courts as law violators, without giving more than cursory consideration to the many problems involved.

And so, to answer the question raised by the distinguished Senator from Minnesota, the Senator from Virginia would not be in a position to enter into a unanimous-consent agreement.

Mr. McGEE. Mr. President——

The VICE PRESIDENT. The Senator from Wyoming.

Mr. McGEE. Mr. President, I appreciate the comments of my colleague from Virginia very much, and would say to him that the record tells us a little more than he has suggested with regard to the procedures on the bill.

The bill has been pending now officially on the calendar since the 20th of November. As the Senator suggests, we have been waiting and waiting and waiting for the opponents of the pending measure to unburden themselves and to explain what the opposition is. But, if I may go to the RECORD, we were ready on Wednesday, November 21, as the Senator reminds us, the day before Thanksgiving, but the Senator from Wyoming was willing to go through Thanksgiving, Friday, and Saturday, if that was necessary. But no one appeared to speak in opposition to the bill on the 21st of November. We had none of the critics here to share their wisdom with those of us who wanted to get the bill moving.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. McGEE. In just a minute, I will be glad to yield. I want to finish the sequence, which is so clearly spelled out, day by day.

Mr. HARRY F. BYRD, JR. I just wanted to correct an error, if the Senator will yield at that point.

Mr. McGEE. Let us correct all my errors when I get through. I am trying to follow the record from the Journal of the Senate.

The order of the day on Monday, November 26, when we returned after Thanksgiving, following our great American tradition of the Thanksgiving holiday in this body, was S. 1868. There were 90 minutes during which those of us who were here could not get anybody to say a word. Those of us who have introduced this measure, the chairman of the committee, the Senator from Minnesota (Mr. HUMPHREY), and I have joined as a cosponsor, and many other Senators, have no interest in further debate, after all the rhetoric that has been shared on this issue. We were ready to vote on Tuesday, November 20. We were ready to vote on Wednesday, November 21. And not a word, except the gentlemen's agreement that they did not particularly care to agree to have a time limit on the debate.

Well, that says only one thing to me—that they do not want to permit any action on the bill, up or down, so that the Senate, as an honorable body, can determine whether it is a government under law, can determine whether it wants to live up to our commitments under the United Nations, so it can make its judgment as to what that vote will be and will have a chance to declare itself. We do not know how it is going to come out. It may be that the opponents of the bill may know more than we know. For some reason, they do not seem to want to risk a vote on the bill.

I have to say that after two more tries on eliciting proper enlightment as to the reasons for the opposition to the bill, and thus failing that effort, recently and today, the chairman of the subcommittee has made a request for a time agreement. We could arrive at no time agreement. The Senator from Virginia made it clear he is not willing to agree to a time limit. I take it that other critics of the bill will not be disposed to agree to a time limit because it is such a horrendous bill. With all this important legislation that the Senator from Virginia has alluded to that has been acted upon in the gentlemanly way that we are capable of in the Senate, for some reason or other a bill that, at least it was suggested, was not as important as these other measures, we find of such priority as not to be able to agree to a time limit.

We are not asking you to change your vote. We do not want you to change your principles. We do not want you to vote for striking this blow for the integrity of the United Nations, if that is the way you want it. That is what grown men are supposed to do in the U.S. Senate. What we object to is the parliamentary maneuvering that prevents the opportunity for the Members of this body to express themselves. That is all.

We do not want to listen this afternoon to the substantive arguments, because we have read them upside down and inside out. We have had it out of both sides of our ears. We merely speak for the right of the Senate to express itself.

That leaves the Senate to take the only course left to it, if that indeed is the final judgment of my friend from Virginia; namely, that we simply have to try for cloture. Now, I do not know how that is going to proceed. Senators have been through this experience recently, and it may be that the Members of the Senate of the United States will abide by the decision of our colleagues. We would like to give it a chance. We think we owe it to a great many principles and to a great many people and to the Members of this body to be on record just where we stand on this measure.

And so I would say, with all due respect to my colleague from Virginia, that I was really hopeful that it might be possible, as gentlemen, to agree on whatever fantastic number of hours might be necessary in order to shed all the light on this question from all angles.

I am mildly disappointed that we could not arrive at an agreement. However, I understand. And so we are proceeding to proceed to a vote at any rate on Tuesday. I believe that is when it would come to a vote.

I will be glad to yield to the Senator from Virginia so that we might set the record straight.

Mr. HARRY F. BYRD, JR. Mr. President, first I would like to say that the Senator from Wyoming and the Senator from Minnesota are taking the appropriate course if they wish to shut off debate. They are taking the appropriate course that the rules of the Senate provide. Any 16 Senators who wish to shut off debate have the right to file a cloture motion, and the Senate will vote on the cloture motion and make a decision.

To get back to the point the Senator from Wyoming made, I do not like to refer to personal conversations in a debate. However, I think since the Senator from Wyoming brought the matter up that I should probably say that we discussed this matter privately on the floor of the Senate on the day before Thanksgiving.

It was then the judgment of both of us, I thought, that being the day before Thanksgiving, the Senate probably should have the opportunity for an early adjournment.

I was prepared to discuss the legislation. I had no place to go. I stayed here that night until about 8:30 working in my office. However, I do not like to bring up private conversations on the floor of the Senate. But I would think, since the Senator from Wyoming mentioned that time, that I should point out that we had an agreement among ourselves that that was the appropriate thing to do.

Mr. McGEE. Mr. President, I am glad the Senator mentioned that private conversation. I recall it, also. It was the kind of conversation that the Senator and I have frequently had on occasions when we disagreed. We respect each other in our procedures and beliefs.

The Senator will recall that as a part of the discussion, since it was the day before Thanksgiving, the motivation was not toward reaching an agreement on a time limitation. And since we were about the only two Senators hanging around here at the time, there was no particular point in proceeding, although we have great admiration for each other's speaking ability. There was no opportunity use in going through that again.

Mr. HARRY F. BYRD, JR. Mr. President, I wish I had one-half the speaking ability that the Senator from Wyoming has.

Mr. McGEE. Mr. President, I think it puts the matter in the proper context. The Senator from Virginia and I had no intention of agreeing to a voting time on the bill.

Since the Senator from Wyoming has nothing else to add for the enlightenment of mankind and since we have been over this so many times, I am ready to vote on it. And I stood ready to vote on it the day before Thanksgiving.

I stood ready to vote when it was the pending business on the 27th of November. I stand ready at any time the Senator will relax the hold he placed on the bill by failing to agree to a time limitation.

We ought to be candid with each other as we are very privately in our respect for each other in our exchanges with one another.

We are not trying to stop debate. We are trying to get it started. We have tried for 2 weeks. We cannot find anyone who wants to make a speech against the legislation.

That is why we want to do it at any hour on the hour. Let us have the matter considered so that people who have been interested in this matter for a long time have a chance to express themselves. It may be that no one has changed his mind. It may be that a good many have. However, it is an opportunity for men in this Senate not to obstruct the opportunity to have a vote at a time when we are being watched very closely in the country in terms of procedure in this Government. We have had constitutional issues taken up, and we are willing to talk about it and test it. However, on a matter such as this, on which there is a reluctance to even speak, the very least we should do in a public way is to exercise the responsibility of the Senate to at least declare ourselves on the record and let the record tell the story.

That is all I care to say at this time in response to my friend, the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I might say that I think this is the first time since the first day, on November 20, that the Senator from Virginia has had an opportunity to be on the floor jointly with the two principal sponsors of the legislation and has had an opportunity to discuss it with them.

The Senator from Virginia and the Senator from Minnesota did have a discussion on the first day, or rather the Senator from Minnesota had a very able and excellent statement to present from his point of view. And the Senator from Virginia then tried to make some remarks in connection therewith. However, except for that, I believe that this is the first time in which the able Senator from Minnesota and the able Senator from Virginia have been on the floor together to discuss the subject.

I have some comments that I want to make. I can make them at this time, or I can yield to the Senator from Minnesota. I have some questions that I would probably want to ask as we go along.

Mr. McGEE. Mr. President, I can likewise not leave that record unattended. In our confrontation, as one goes back through the CONGRESSIONAL RECORD for the past umpteen months, I think it will be discovered that the Senator from Virginia and I have exchanged views on this very question over a very protracted period of time. On some occasions it has not coincided with our presence here at that moment.

It is true that the Senator from Virginia did make some remarks or put them in the RECORD, whichever that occasion might require. And the Senator from Wyoming would at the time be in a committee meeting. He would then respond to the remarks of the Senator from Virginia. The Senator from Virginia would then in turn respond. So, we ran up the hill and down again in a manner that no Senators have done here for a good long time.

We kept up a good camaraderie in regard to our exchanges in this matter.

On the day under discussion when the Senator from Minnesota made a very full and in-depth presentation of a paper in regard to this matter, the Senator from Wyoming was likewise present at the time. And out of deference to the fact that the Senator from Virginia was interested in the colloquy and that I was involved in a conference between the House and the Senate on a committee on which I serve, I took the opportunity to place my remarks that day in the RECORD.

I dare say that is not the first time it has been done. That has been almost the rhythm of our exchanges on this matter for a long time.

Let us not strain the question about whether we have had various exchanges at times each one with the other. One way or the other, we have been over the ground until the ground is pretty well powdered from the way we have stomped around on it, all of us, including Senator McGEE.

It is important to talk about whether the Senators of the United States ought to have a right to express themselves on the issue. That is the only issue left now.

Mr. HARRY F. BYRD, JR. Mr. President, I expect to express myself on the record.

Mr. President, I find myself in a very undesirable and unenviable position, standing between the two most eloquent Members of the Senate, the Senator from Minnesota and the Senator from Wyoming. I want to be on the same side with them.

Mr. HUMPHREY. Welcome.

Mr. HARRY F. BYRD, JR. They have such eloquence and are so articulate that I do not like to be in opposition to them, because I realize that I am at a disadvantage. So for that reason I have to proceed a little more slowly than perhaps either the Senator from Minnesota or the Senator from Wyoming would proceed.

Mr. President, the Senate once again is considering the question of the importation of strategic commodities from Rhodesia. Three times in the past 2 years this body has gone on record in favor of permitting the importation of essential materials from Rhodesia. I think the issue has once again been put before the Senate.

Let us give a little background to this Rhodesian matter. Rhodesia declared her independence from Great Britain on November 11, 1965. When Rhodesia took that action, an action which the United States itself took in 1776, the British refused to recognize the government organized under Premier Ian Smith. At the behest of Great Britain, the United Nations condemned the declaration of independence.

What would have been the situation with regard to the United States if we had a United Nations in 1776, when the United States itself was trying to achieve independence from Great Britain?

I want to make clear from the outset that I do not pass judgment as to whether Rhodesia should be a colony of Great Britain or a dependency of Great Britain, or whether Rhodesia should be independent. I think that is a matter to be decided by Great Britain and Rhodesia. My objection is to the United States attempting to coerce Rhodesia by economic sanctions, to force her to remain a part of Great Britain, or not achieve the independence that she herself has sought.

On December 16, 1966, the United Nations Security Council voted sanctions against Rhodesia. The U.S. representative on the Security Council failed to veto those boycott resolutions. I think that was a great mistake on the part of our Government, but that is another matter. I intend to discuss that aspect at a later date.

In September of 1971, in connection with considerations of the military procurement bill of that year, the Senate voted to retain language in that legislation requiring that the President permit the importation of strategic materials from free world countries where such materials were also being imported from Communist countries.

Mr. President, I will point out to the distinguished sponsors of the measure before us, S. 1868, that the legislation is not necessary to accomplish what they want to accomplish. There are two procedures that the President can take if he wants to do what the sponsors claim should be done, to use their words, "put the United States in compliance with international law." It is not necessary to pass this legislation because the President can do it tonight, in one of two ways.

He can strike chrome from the strategic list and if that is done then the so-called Byrd amendment would not be operative and chrome could not be imported from Rhodesia.

The other way he could do it would be to prevent the importation of chrome from Russia. If he does that, the Byrd amendment would not be operative and the United States would then be what the Senator from Minnesota and the Senator from Wyoming feel would be in compliance with international law.

So the President has two ways that this matter can be handled. But the President signed the legislation. He knows that chrome is a strategic material. All of us know that. All of us know the vital importance of it.

So why not cease the importation of chrome from Russia, then?

If that is done, the Byrd amendment is inoperative and S. 1868 would not be necessary.

But the important thing to remember is that there are only three countries in the world that have any quantity of chrome—there are a few other countries that have a little bit here and there—but as a practical matter, all the chrome comes from Rhodesia, South Africa, or Russia. That is where the great chrome deposits lie.

We declared a boycott against Rhodesia. Some would declare a boycott against South Africa. So that would leave the United States completely at the mercy of Russia. I know there are many Members of Congress so involved in détente that that would be highly satisfactory to them. But it would not be satisfactory, let me say, to the Senator from Virginia.

To those who feel that Rhodesia should be boycotted, that sanctions should be applied against Rhodesia, I wonder whether they would be willing to indicate why sanctions should not also be applied against South Africa? The only difference between South Africa and Rhodesia is that Rhodesia is seeking her freedom and independence from Great Britain.

The argument has been made on the floor of the Senate that no, that is not the reason we are having sanctions against Rhodesia.

That is not the reason. It must be because of the racial policies. If it is because of racial policies, its racial polices are better than those of South Africa. If anyone wants to deny that, let him get up and deny it. So why do we not advocate sanctions against South Africa?

To show the hypocrisy of the whole thing, just recently a resolution was before the United Nations Security Council to impose sanctions against South Africa, and the United States Ambassador vetoed it. If we are embargoing trade with Rhodesia because of her racial policies, why do we not embargo trade with South Africa? It does not make much sense to me to say that we are going to embargo Rhodesia, but not South Africa, on grounds of the way she handles her racial problems. So I say again that that is an additional reason to assert that the main reason we are placing an embargo on Rhodesia is that she did exactly the same thing the United States did in 1776: She declared her independence from Great Britain.

The principal immediate effect of the so-called Byrd amendment, which was later passed by the House—it passed the Senate, passed the House, and was signed by the President—was to remove the ban on importation of chrome from Rhodesia.

Subsequent to the initial vote, the Senate has twice refused to reverse its position on this issue. Members of Congress from 46 of the 50 States, taking the two bodies together—the Senate and the House—have voted in support of legislation to permit the importing of strategic goods from Rhodesia.

The bill which the Senate has been called upon to consider this year is S. 1868. I stated before, the language of the legislation which sets forth the purpose, but I shall not read it again. This is what the Senate is being asked to vote for:

> A bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

Are Members of the Senate and Members of the House going to think that they have committed an illegal act? That is what they would be saying if they voted for this proposed legislation.

Members of the Senate are being called upon to pass legislation with the declared purpose of restoring the United States to its position as a law-abiding member of the international community. If there is any country in the world that has a record of being a peaceful, law-abiding country, it is the United States of America. If we accept the premise implicit in this language, then we are saying that whatever the United Nations Security Council directs us to do, and then if that direction is put into effect by the President of the United States, we are law-abiding; otherwise, we are outlaws.

Mr. HUMPHREY. Mr. President, will the Senator yield.

Mr. HARRY F. BYRD, JR. I am glad to yield to the Senator from Minnesota.

Mr. HUMPHREY. I understand that the Senator is concerned over the United Nations Participation Act; but the fact of the matter is that the United Nations Charter, as adopted by the Congress of the United States and ratified by the Senate, has the same standing as a provision of our Constitution. It is the supreme law of the land. That is how treaties are made. That is the historic way by which treaties are consummated.

I may say, further, that the United Nations Participation Act does provide that the President of the United States shall take action under the Participation Act as the law of the land. That was passed by Congress. We may disagree with that, but that is the law.

Mr. HARRY F. BYRD, JR. Does the Senator from Minnesota seriously contend that any action that the United Nations Security Council takes and then the President of the United States puts into effect becomes, in effect, a part of the Constitution of the United States?

Mr. HUMPHREY. The Senator from Minnesota contends that when we ratified the Charter of the United Nations, we ratified it as if it were a part of the Constitution of the United States. That is what treaties are. They are equivalent to the supreme law of the land, and the Senator from Virginia knows it as well as the Senator from Minnesota.

Article 25 of the U.N. Charter states:

> All member States are legally bound to comply with sanctions.

Section 5(a) of the United Nations Participation Act of 1945 gave the President express authority to implement sanctions when imposed by the United Nations.

The United States is thus in violation of international law and international treaty which we ratified and in its obligations to the United Nations in violating sanctions against Rhodesia.

I might add that the United States has a special obligation to observe decisions made by the Security Council, because we had the protective right, the power to veto any resolution that we did support. Both when limited sanctions were imposed on Rhodesia in 1966 and total sanctions were imposed in 1968, we fully supported these resolutions.

Therefore, the Senator can say, "I wish we had not ratified the Charter of the United Nations. I wish the United Nations Participation Act were not the law." I do not say it because I am glad we did ratify the Charter and did vote for the United Nations Participation Act. But once having done so, my knowledge of constitutional law—which is not great, but is sufficient for this purpose—is that we are obligated to abide by the law, just as if it were any other law that was passed by the Congress of the United States.

Mr. HARRY F. BYRD, JR. I will say to the able Senator from Minnesota that I certainly do not agree with him at all that the Members of the Senate of the United States and the Members of the House of Representatives of the United States are bound by any such action. So far as the Senator from Virginia is concerned, so long as I remain a Member of the United States Senate, the United Nations Security Council is not going to direct my action.

Mr. HUMPHREY. May I say, respectfully, to the Senator from Virginia that he may rail and rile against that and beat his breast and say he is not going to do it; but the fact is that once we have voted in the Security Council and have not used the right of veto to protect what we thought were our rights, we are obligated, under the Charter of the United Nations and the United Nations Participation Act, to abide by the law.

The Senator was not here to vote for that, nor was I; but treaties are as continuing in their effect as the Constitution itself.

Mr. HARRY F. BYRD, JR. I say to the Senator from Minnesota that this has been tested in the courts of the United States, and the courts do not agree with the Senator from Minnesota.

Mr. HUMPHREY. We can violate the law, which people do many times. But I refer to article 25 of the charter and section 5(a) of the United Nations Participation Act. First, article 25 binds the member states to comply with sanctions, and section 5(a) of the United Nations Participation Act gave the President of the United States express authority to implement sanctions that were imposed by the United Nations. Those are commitments on the part of our Government.

Mr. HARRY F. BYRD, JR. I say again to the Senator that a group of Congressmen took this matter to the U.S. courts, and the U.S. courts sustained the Byrd amendment, sustained the action of Congress, and did not sustain the position of those who said it was contrary to law.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that I may yield, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. I yield to the Senator from North Carolina.

Mr. HELMS. I should like to direct a question to the distinguished Senator from Minnesota, if I may, with reference to Secretary General Dag Hammarskjold.

Will the Senator from Minnesota say that the Secretary General was conversant with the intent of article 25?

Mr. HUMPHREY. I did not hear the Senator.

Mr. HELMS. I wonder whether the Senator is willing to say that Secretary General Dag Hammarskjold was conversant with the intent of article 25, to which the Senator just referred.

Mr. HUMPHREY. Was he reversed by it?

Mr. HELMS. No. The question is, Was he conversant with the intent?

Mr. HUMPHREY. I would imagine he would have been, yes.

Mr. HELMS. As a matter of fact, the Senator would be certain of it, would he not?

Mr. HUMPHREY. Yes.

Mr. HELMS. Let me read what the Secretary General said in 1961 about this very point:

> In spite of the delegated authority which the Council may be considered as exercising, and the condition that decisions must be agreed to by the permanent members, the experience of the Organization, as regards the implementation of Council decisions, is uneven and does not indicate full acceptance in practice of Article 25. In this case also, examples can be given of a tendency to regard decisions, even when taken under Chapter VII, as recommendations binding only to the extent that the party concerned has freely committed itself to carry them out; there is here a clear dichotomy between the aims of the Charter and the general political practice at its present stage of development. Such cases refer not only to Members outside the Council, or perhaps. Members inside the Council, who have not supported a specific decision, but also to Members within the Council who have cast their votes in favour of a decision, but who later on are found to reserve for themselves at least a right to interpret the decision in ways which seem to be at variance with the intentions of the Council. The ambiguity of this situation emerges with special force in cases where such attitudes have been taken by permanent members of the Council, who are considered to shoulder the responsibility for the maintenance of peace and security which is reflected in the special position they hold within the Council. Obviously, the problem whether the intended legal weight is given to decisions of the Secretary Council arises in practice not only in cases of non-compliance, but also in cases of a refusal to shoulder the financial consequences of a decision of the Council.

Mr. HUMPHREY. May I say that all he was saying was that some countries do not obey the law; that is all.

Mr. HELMS. I disagree. I think he makes clear that a country, as in the case of the United States, is justified in its right to enact legislation necessary to national security and economic stability, and this is precisely what the Senator from Virginia accomplished in the first place.

Mr. HUMPHREY. May I say on that point that that changes the whole venue here, the whole argument as to whether or not this is a national security matter. If that is the case, then we have it won fair and square, because the top national security officers of this Government, from the President on down, have said that the Byrd amendment ought to be repealed. They said it does not do anything for our national security and have pointed out that sanctions upon Rhodesia in no way injured our national security.

So on the national security argument, those we have entrusted with national security are openly and plainly on the side of the Senator from Wyoming and the Senator from Minnesota.

Mr. HELMS. The Senator from North Carolina will say to the Senator from Minnesota that he can say it changes the argument, if he wishes, but Congress decided otherwise.

PROGRAM FOR NEXT WEEK

Mr. MANSFIELD. Mr. President, on Monday it is expected that we will take up S. 2176, the bill to provide for a National Fuels and Energy Conservation Policy, and S. 2686, Legal Services for the Office of Economic Opportunity.

On Tuesday, the Senate will consider S. 2767, the rail service bill, and H.R. 8449, the national flood insurance program. The vote on cloture will occur on Tuesday.

On Wednesday, we will consider the measure relating to the independent special prosecutor, unless there is some chance we can get it up on Monday, which we are endeavoring to do at this time. If the Senate will allow the leadership a little flexibility, we will do our best in that regard and give Senators the picture.

We hope that the Committee on Appropriations will be able to report the defense appropriations bill around Tuesday and with the consent of the Senate, we could take that up on Thursday and Friday. It will consume 2 days.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. YOUNG. I cannot speak for the chairman of the committee, but I think the supplemental will be ready ahead of the defense appropriation bill.

Mr. MANSFIELD. We will take them in order. I hope the Senate will not hold the leadership to the 3-day rule. We are trying to get out 2 weeks from today or tomorrow, at the latest.

As the Senator has indicated, the supplemental bill will be reported this week. The defense appropriation bill will be reported this week. The foreign aid authorization should be reported this week, followed by the foreign aid appropriation bill. I do not know what is going to happen to the D.C. home rule or conference bill, which was agreed to some days ago but has to be considered in the House.

That is as far as I can go at this time.

(This marks the end of the statement of the program ordered to be printed at this point.)

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

Mr. HARRY F. BYRD, JR. I have some questions I should like to present to the Senator from Minnesota.

(At this point, Mr. HUMPHREY assumed the Chair.)

The PRESIDING OFFICER. (Mr. HUMPHREY). The Senator from Minnesota, the occupant of the chair, finds himself in a rather difficult position at this time because of the inability to find someone to preside in this body.

ADJOURNMENT TO 11 A.M., MONDAY, DECEMBER 10, 1973

Mr. HARRY F. BYRD, JR. Mr. President, that being the case, in accordance with the previous order——

(At this point Mr. HELMS assumed the Chair.)

Mr. HARRY F. BYRD, JR. I move that the Senate stand in adjournment until 11 a.m. on Monday next.

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate Calendar No. 494, S. 2176, the National Fuels and Energy Conservation Act of 1973; and, without objection, the motion to adjourn is agreed to.

Thereupon, at 5:19 p.m., the Senate adjourned until Monday, December 10, 1973, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate December 7, 1973:

DEPARTMENT OF STATE

David D. Newsom, of California, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

Helmut Sonnenfeldt, of Maryland, a Foreign Service officer of class 1, to be counselor of the Department of State.

EXPORT-IMPORT BANK OF THE UNITED STATES

William J. Casey, of New York, to be President of the Export-Import Bank of the United States, vice Henry Kearns, resigned.

THE JUDICIARY

Herbert J. Stern, of New Jersey, to be U.S. district judge for the district of New Jersey, vice Leonard I. Garth, elevated.

DEPARTMENT OF JUSTICE

Harry Connolly, of Oklahoma, to be U.S. marshal for the northern district of Oklahoma for the term of 4 years, reappointment.

Raymond J. Howard, of Wisconsin, to be U.S. marshal for the eastern district of Wisconsin for the term of 4 years, reappointment.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 7, 1973.

U.S. AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

To be lieutenant general

Lt. Gen. Thomas K. McGehee, [redacted] [redacted]FR, (major general, Regular Air Force) U.S. Air Force.

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Royal N. Baker, [redacted]FR (major general, Regular Air Force), U.S. Air Force.

U.S. NAVY

Adm. Richard G. Colbert, U.S. Navy, for appointment to the grade of admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

Rear Adm. Eli T. Reich, U.S. Navy, retired, for appointment to the grade of vice admiral on the retired list pursuant to title 10, United States Code, section 5233.

U.S. MARINE CORPS

Lt. Gen. Leo J. Dulacki, U.S. Marine Corps, for appointment to the grade of lieutenant general on the retired list in accordance with the provisions of title 10, United States Code, section 5233.

In accordance with the provisions of title 10, United States Code, section 5232, Maj. Gen. Samuel Jaskilka, U.S. Marine Corps, having been designated for commands and other duties determined by the President to be within the contemplation of said section for appointment to the grade of lieutenant general while so serving.

IN THE AIR FORCE

Air Force nominations beginning Maj. James E. Aiken, to be lieutenant colonel, and ending Maj. Duane F. Mabeus, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on November 9, 1973.

IN THE ARMY

The nomination of Barbara A. Schroeter for appointment in the Regular Army of the United States in the grade of captain, which nomination was received by the Senate and appeared in the Congressional Record on November 28, 1973.

IN THE NAVY

Navy nominations beginning Thomas H. Abernathy, to be lieutenant (j.g.), and ending John B. Montgomery, to be permanent grade of lieutenant (j.g.), which nominations were received by the Senate and appeared in the Congressional Record on November 26, 1973.

WITHDRAWAL

Executive nomination withdrawn from the Senate December 7, 1973:

DEPARTMENT OF THE TREASURY

Helmut Sonnenfeldt, of Maryland, to be Under Secretary of the Treasury, vice Edwin S. Cohen, resigned, which was sent to the Senate on April 10, 1973.

HOUSE OF REPRESENTATIVES—*Friday, December 7, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

I sought the Lord, and He heard me, and delivered me from all my fears.—Psalms 34: 4.

"Lift up our hearts, O King of Kings,
To brighter hopes and kindlier things,
To visions of a larger good,
And holier dreams of brotherhood.
Thy world is weary of its pain,
Of selfish greed and fruitless gain,
Of tarnished honor falsely strong,
And all its ancient deeds of wrong.
Almighty Father, who dost give
The gift of life to all who live,
Look down on all Earth's sin and strife
And lift us to a nobler life."

—JOHN H. B. MASTERMAN.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with an amendment a bill of the House of the following title:

H.R. 11710. An act to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969, to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3180) entitled "An act to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McGee, Mr. Randolph, Mr. Hollings, Mr. Fong, and Mr. Stevens to be the conferees on the part of the Senate.

The message also announced that Mr. Packwood be removed as a conferee on the bill (S. 14) entitled "An act to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes."

ELECTION OF JOHN J. RHODES AS MINORITY LEADER

(Mr. ANDERSON of Illinois asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ANDERSON of Illinois. Mr. Speaker, I am pleased to inform the House that at a meeting this morning of the House Republican caucus the distinguished gentleman from Arizona (Mr. Rhodes), was unanimously elected to fill the vacancy in the post of House minority leader caused by the resignation of our former colleague, the now Vice President of the United States, Mr. Gerald R. Ford.

I am sure all Members will join me in extending our best wishes to the gentleman from Arizona in his new capacity. It has been my privilege to know him for the past 13 years and to work with him as a member of the House Republican leadership. During all of that time he has been unfailingly gracious and cooperative. I look forward to our continued friendship and a beneficial relationship.

RESIGNATION FROM A COMMITTEE

The SPEAKER laid before the House the following resignation from a committee:

WASHINGTON, D.C.
December 7, 1973.

Hon. Carl Albert,
Speaker of the House,
Washington, D.C.

Dear Mr. Speaker: This morning at a meeting of the House Republican Conference it was my honor to be elected Minority Leader of the House of Representatives to fill the vacancy occasioned by the elevation of the Honorable Gerald R. Ford to the Vice Presidency of the United States.

It is with deep regret that I must therefore tender my resignation as a member of the House Committee on Appropriations. Service on this important Committee has been a rewarding and challenging experience. I extend to the Chairman, ranking Minority Member, the entire membership of the Committee and the staff my appreciation for their cooperation and friendship through the years.

Respectfully,
John J. Rhodes,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

PRESIDENT'S PROMISE TO COUNTRYSIDE

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, earlier this year in a message to the Congress President Nixon promised to support community development. He said:

> No element of our national well-being is more important than the health and well-being of our rural communities.

In June, Congress appropriated $150 million for rural water and sewer grants. In the conference report it specifically stated:

> The need is great for this type of assistance in rural areas. There are still many small towns, with insufficient tax base to raise the required revenues, that are in dire need of these facilities. (93-275, page 46)

Today, I received notice that these funds have been impounded by OMB.

As chairman of the House Subcommittee on Rural Development, I ask, Mr. President, is impoundment of money needed in dire circumstances the kind of commitment the people of the heartland of America can expect in fulfillment of your promise?

ROTC SCHOLARSHIPS FOR WOMEN

(Mr. FISHER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FISHER. Mr. Speaker, I am pleased to learn that the Department of Defense is changing regulations concerning the age at which a young woman is entitled to receive an ROTC scholarship. In the past the eligibility age for young women has been 18, while for men the age has been 17.

Those of us who are concerned with the ROTC program have on several occasions conferred with Department officials regarding the need to make women eligible for the ROTC scholarships at the age of 17, and decision has now been made to do that by administrative action. A copy of the Department's announcement, issued by Dr. M. Richard Rose, Deputy Assistant Secretary for Education, follows:

Office of the Assistant
Secretary of Defense,
Washington, D.C., November 30, 1973.

Subject: Minimum Age Requirement for Women Accepting ROTC Scholarships

In our memorandum of 12 May 1972, subject as above, the minimum age of 18 was established for the enrollment of women in the ROTC Scholarship Program.

The Office of General Counsel, OSD, has recently reviewed the minimum age requirement and states that it is legally permissible for women applicants to be awarded a ROTC scholarship at age 17. Therefore, we plan to establish 17 as the minimum age for women to be enrolled in the ROTC Scholarship Program in the forthcoming revision to DOD Directive 1215.8.

The purpose of this memorandum is to provide advance notice of this policy since it may affect the consideration of current scholarship applicants.

M. Richard Rose,
Deputy Assistant Secretary.

HOW NOT TO WIN FRIENDS AND INFLUENCE PEOPLE

(Mr. DULSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DULSKI. Mr. Speaker, this week we have witnessed a most unfortunate display of misdirected demonstrations, when some truck drivers blocked highways in several States to protest higher fuel prices and lowered speed limits.

The truckers have succeeded in calling attention to their very real problems, but just who has been hurt by the traffic jams? Not the administration officials who travel by plane or sit in their plush offices. Not the executives who can stay home and still collect their salaries.

The people who have been hurt by jammed roads are workers like the truckers themselves—people who also must travel the highways for a day's pay, those who have to take a bus because they cannot afford to fly, children whose schools had to close, the sick and injured in need of intercity ambulance service. Why deliberately punish partners in the pinch?

Mr. Speaker, I appeal to the teamsters union officials to take a firm stand in this matter. The union has been an effective organization for mediating truckers' grievances with the responsible parties, and they have an opportunity now to help resolve some justifiable complaints. The teamsters present "hands-off" attitude is at odds with their past record of reliable contributions to worthy charitable causes and professional gains.

The energy crisis is affecting all the country, and much needs to be done to assure equitable treatment for all segments of the economy. But all segments are going to have to do their part to find the solutions, and everyone needs to shoulder his part of the burden. Let us not have a repetition of this example of how not to win friends and influence people.

ENERGY DECISIONS

(Mr. JONES of Oklahoma asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. JONES of Oklahoma. Mr. Speaker, among the energy decisions we make in the near future may be the choice between gasoline rationing or imposition of a high tax on gasoline to reduce consumption. If this, indeed, is the choice, I hope that we vote for rationing.

Under the regressive tax approach which is being considered, wealthier citizens could go on about their business and their leisure, but the lower- and middle-income workers in America would bear the major burden of our energy shortage. It would be economic rationing of the worst kind.

I hope that this choice will not be necessary. I hope that voluntary conservation of energy will be effective. I hope that Congress will forthrightly deal with legislation to increase our domestic production and supply of energy instead of concentrating solely on spreading the shortages.

To date Congress has tried equitably to spread the energy deficits. If Government-mandated reductions in gasoline consumption are found to be necessary, surely the equitable approach would be rationing or a similar plan in which all citizens would share the burden, and not regressive taxes in which the backbone working force of America would assume most of the burden.

APPOINTMENT OF MR. RHODES AS A MEMBER OF THE HOUSE OFFICE BUILDING COMMISSION

The SPEAKER. Pursuant to the provisions of 40 United States Code 175–176, the Chair appoints the gentleman from Arizona, (Mr. RHODES) as a member of the House Office Building Commission to fill the existing vacancy thereon.

APPOINTMENT OF MR. RHODES TO THE COMMISSION ON ART AND ANTIQUITIES

The SPEAKER. Pursuant to the provisions of Public Law 92–342, the Legislative Branch Appropriation Act, 1973, the Chair appoints as a member to serve with the Speaker and with the members of the Commission on Art and Antiquities of the U.S. Senate in supervising the restoration of the Old Senate and Supreme Court Chambers in the Capitol the gentleman from Arizona (Mr. RHODES) to fill an existing vacancy thereon.

AN ACT TO INSURE COMPENSATION AND OTHER EMOLUMENTS ATTACHED TO THE OFFICE OF ATTORNEY GENERAL

Mr. DULSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11710) to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969, to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That the compensation and other emoluments attached to the Office of Attorney General shall be those which were in effect on January 1, 1969, notwithstanding the provisions of the salary recommendations for 1969 increases transmitted to the Congress on January 15, 1969, and notwithstanding any other provision of law, or provision which has the force and effect of law, which is enacted or becomes effective during the period from noon, January 3, 1969, through noon, January 2, 1975.

SEC. 2. (a) Any person aggrieved by an action of the Attorney General may bring a civil action in the appropriate district court to contest the constitutionality of the appointment and continuance in office of the Attorney General on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution. The United States district courts shall have exclusive jurisdiction, without regard to the sum or value of the matter in controversy, to determine the validity of such appointment and continuance in office.

(b) Any action brought under this section shall be heard and determined by a panel of three judges in accordance with the provisions of section 2284 of title 28, United States Code. Any appeal from the action of a court convened pursuant to such section shall lie to the Supreme Court.

(c) Any judge designated to hear any action brought under this section shall cause such action to be in every way expedited.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. GROSS. Mr. Speaker, reserving the right to object, and I will not object, but I want to make clear to the House that while I oppose as I did earlier this week, the provisions of this bill which seek to circumvent the clear language of the Constitution, I nevertheless am willing to allow the House to exercise its judgment in this matter.

The objections I have to this legislation were fully stated during debate on Monday of this week, and I only wish to reiterate a few of the points that I made at that time.

First of all, it is obvious that the only purpose of the bill is to do violence to the letter and spirit of our Constitution. The language in article I, section 6, paragraph 2, is clear and explicit and cannot be deviously construed as permitting Senator SAXBE to assume a civil office for which the emoluments were increased during his term as a Senator. Passage of this bill cannot erase history and take away the fact that the pay of the Attorney General was increased from $35,000 to $60,000 in 1969, while Senator SAXBE was serving in the Senate.

The bill which we have before us today has no other purpose except to attempt to qualify a particular Member of the Senate for an office for which he could not otherwise qualify. This bill, in my opinion, is in direct contradiction to the intent of our Founding Fathers in writing the Constitution, and I could not under any circumstances support its passage.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Senate amendment was concurred in.

The title was amended so as to read: "An act to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969."

A motion to reconsider was laid on the table.

PRISONERS OF CONSCIENCE

(Mr. FISH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FISH. Mr. Speaker, reports indicate that the Soviet Government is continuing to arrest and imprison its citizens on trumped-up charges. Of particular concern is the imprisonment of 43 Jewish "prisoners of conscience" who have been completely cut off from their families and the outside world.

The Soviet Government and the Red Crescent, the Soviets' counterpart to the Red Cross, have not responded to pleas made by the American National Red Cross and the International Committee of the Red Cross at Geneva urging humanitarian treatment for these prisoners.

A different result might be forthcoming if Members of Congress voice their concern and join in the effort to persuade the Soviet Union to permit the flow of clothing and food and mail to Jewish prisoners in labor camps. We have seen in the past that the force of world public opinion can have an effect on the internal policies of the Soviet Union.

On Tuesday, I joined with Congressman PEYSER in circulating a "Dear Colleague" letter asking all Members of the House to write to officials of the Red Crescent and the International Red Cross in Geneva, urging relaxation of Soviet restrictions on incoming packages to Jewish prisoners during the Hanukah-Christmas season. We seek information on the prisoners and assurances that mail and prayer books and other religious articles will be allowed to reach the prisoners. This is a modest request, but powerful, if it comes from Members of Congress.

A strong congressional initiative can make a difference and will result in improved conditions for these prisoners.

CONFERENCE REPORT ON H.R. 11459, MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1974

Mr. SIKES. Mr. Speaker, I call up the conference report on the bill (H.R. 11459) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 4, 1973.)

Mr. SIKES. Mr. Speaker, the conference action on the military construction appropriations bill which is before us represents both a prudent and an economical resolution of the many items under consideration in the military construction request for fiscal year 1974. The amount of the conference agreement, $2,658,861,000 in new budget authority, represents a reduction of $286,039,000 from the budget request which the Appropriations Committees considered for fiscal year 1974. This is a reduction of nearly 10 percent, and few appropriations bills will come to the House with comparable reductions or with any meaningful reduction. The conference agreement represents by far the greatest percentage reduction in any appropriations bill thus far passed by the House or approved by Congress for the fiscal year 1974.

The military construction appropriations bill is small, both with regard to other Defense appropriations and in relation to the objectives which it should accomplish. This bill provides for construction of facilities for the Army, Navy, Air Force, the Defense agencies, and the Reserve forces. The total provided for these essential programs is $1,563,489,000. The estimated deficit for these programs is $23.2 billion if all needed work were to be performed. The conference agreement carries $1,088,372,000 in new budget authority to provide the total cost for the construction, operation, and maintenance of military family housing both in the United States and overseas. There are 10,541 new units provided, whereas the estimated backlog of needed housing units is on the order of 212,000. Finally, the bill funds the homeowners assistance program which guards against excessive losses to Defense employees as a result of decreased values of their homes affected by base closures and reductions.

In other words, the program recommended in this bill is a modest program. Yet I hope that we have provided in this conference agreement an amount which balances our immediate needs in this area against the need to make savings which are possible.

The major increases over the amounts allowed by the House are $20,000,000 for a hospital at the U.S. Military Academy, West Point, N.Y., which had been deleted by the House and $12 million to provide for the relocation of portions of the Atlantic Fleet Weapons Range from the island of Culebra in the Commonwealth of Puerto Rico. The latter item was not considered by the House. A Defense Department request went to the Senate after the House had concluded its hearings.

In both of these cases, funds have been approved for fiscal year 1974 along with firm directions to the Department of Defense to plan for these activities in a manner which will insure that they effectively carry out their mission and avoid excessive expenditures by the Treasury. There have been a long series of disappointments with the construction program at the Military Academy. It has been difficult to ascertain the factors which keep the construction costs high at that location and cause them to increase so rapidly. I do not feel that this is a situation for which the Army is responsible or can control. In any case, a replacement for the current antiquated hospital at West Point is overdue.

When this bill passed the House, it contained none of the $25 million in funding which the Army had requested for this hospital in fiscal year 1974. It was felt that the facility proposed by the Army was too large and too expensive. Since then the Senate has reduced the scope and the cost to $20 million. We feel that, with the language contained in our conference report and the apparent willingness of the Army to do a thorough restudy of this project so as to reduce its scope and cost, we will be able to obtain a facility which will do the job required but not be goldplated. Furthermore, by providing the funds in this bill we will be able to avoid further delays which will escalate the cost of medical facilities which are constructed.

There was no request to the House for funding of the Atlantic Fleet Weapons Range relocation. This was brought out in the discussion of this project between the Delegate from Puerto Rico (Mr. BENITEZ) and myself at the time this bill passed the House. The Senate added $12 million at the Navy's request to fund this first portion of the relocation cost. We have included these funds at the urgent request by the Secretary of Defense with the understanding that the Committees on Appropriations will review the agreement between the Navy and the Government of Puerto Rico to insure that adequate range facilities will continue to be provided for our naval forces, that the land to be released will be used only for park purposes, and that decontamination costs will not be borne by the American taxpayer.

These two items account for $32 million of the $49,771,000 increase allowed over the House bill by the conference. In addition, there were other significant increases in other areas which account for the remaining $17,771,000 increase. They include $5 million for access roads; $4,250,000 for two commissaries, one at Fort Polk, La., and one at Bergstrom Air Force Base, Tex., which appear to have sufficient need to justify funding at this time; $4,006,000 for facilities at and relocation of the Military Sealift Command, Atlantic to the Military Ocean Terminal, Bayonne, N.J., which the services have strongly recommended for years; and $3,600,000 for an engineering building at the Naval Underwater Systems Center, New London Laboratory, Conn., for important studies in submarine warfare.

I strongly urge the adoption of the conference report and the proposed amendments to the two items which were brought back in technical disagreement.

History has taught again and again that military forces depend on many factors other than numbers of personnel and quantity of materiel. Morale and leadership are essential to military effectiveness. In the dangerous world in which we live today, we need a fully effective Military Establishment. It has long been recognized that a fully effective Military Establishment includes an adequate base structure with proper housing, proper training facilities, proper research facilities, and proper storage facilities. We need a base establishment which is compatible with the surroundings and which accepts the responsibilities for maintenance of a wholesome atmosphere with clean air and clean water. All of these we contribute to in this bill. The price is modest in comparison with the results which we believe will be achieved.

A table showing the comparative statement of new budget—obligational—authority for 1973 and budget estimates and amounts recommended in the bill for fiscal year 1974:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1973 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1974

						Conference action compared with—			
Item	New budget (obligational) authority, fiscal year 1973	Budget estimates of new (obligational) authority, fiscal year 1974	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	New budget (obligational) authority recommended by conference action	New budget (obligational) authority, fiscal year 1973	Budget estimates of new (obligational) authority, fiscal year 1974	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill
Military construction, Army	413,955,000	[1] 664,900,000	551,575,000	567,735,000	$578,120,000	+$164,165,000	−$86,780,000	+$26,545,000	+$10,385,000
Military construction, Navy	517,830,000	685,400,000	587,641,000	608,467,000	609,292,000	+91,462,000	−76,108,000	+21,651,000	+825,000
Military construction, Air Force	265,552,000	291,900,000	239,702,000	261,198,000	247,277,000	−18,275,000	−44,623,000	+7,575,000	−13,921,000
Military construction, Defense Agencies	36,704,000	19,100,000	0	12,000,000	0	−36,704,000	−19,100,000		−12,000,000
Transfer, not to exceed	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)				
Military construction, Army National Guard	40,000,000	35,200,000	35,200,000	35,200,000	35,200,000	−4,800,000			
Military construction, Air National Guard	16,100,000	20,000,000	20,000,000	20,000,000	20,000,000	+3,900,000			
Military construction, Army Reserve	38,200,000	40,700,000	40,700,000	40,700,000	40,700,000	+2,500,000			
Military construction, Naval Reserve	20,500,000	20,300,000	22,900,000	20,300,000	22,900,000	+2,400,000	+2,600,000		+2,600,000
Military construction, Air Force Reserve	7,000,000	10,000,000	10,000,000	10,000,000	10,000,000	+3,000,000			
Total, military construction	1,355,841,000	1,787,500,000	1,507,718,000	1,575,600,000	1,563,489,000	+207,648,000	−224,001,000	+55,771,000	−12,111,000
Family housing, defense	1,064,046,000	[2] 1,250,567,000	1,194,539,000	1,188,539,000	1,188,539,000	+124,493,000	−62,028,000	−6,000,000	
Portion applied to debt reduction	−96,666,000	−100,167,000	−100,167,000	−100,167,000	−100,167,000	−3,501,000			
Subtotal, family housing	967,380,000	1,150,400,000	1,094,372,00	1,088,372,000	1,088,372,000	+120,992,000	−62,028,000	−6,000,000	

See footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1973 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1974

Item	New budget (obligational) authority, fiscal year 1973	Budget estimates of new (obligational) authority, fiscal year 1974	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	New budget (obligational) authority recommended by conference action	Conference action compared with— New budget (obligational) authority, fiscal year 1973	Conference action compared with— Budget estimates of new (obligational) authority, fiscal year 1974	Conference action compared with— New budget (obligational) authority recommended in House bill	Conference action compared with— New budget (obligational) authority recommended in Senate bill
Homeowners assistance fund, defense		[3]7,000,000	7,000,000	7,000,000	7,000,000	+7,000,000			
Grand total, new budget (obligational) authority	2,323,221,000	2,944,900,000	2,609,090,000	2,670,972,000	2,658,861,000	+335,640,000	−286,039,000	+49,771,000	−12,111,000

[1] Due to lack of authorization, does not include additional $4,300,000 requested in H. Doc. 93-155.

[2] Due to lack of authorization, does not include additional $31,100,000 requested in H. D. 93-155.

[3] Includes $7,000,000 requested in H. Doc. 93-155.

Mr. DAVIS of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Wisconsin.

Mr. DAVIS of Wisconsin. Mr. Speaker, I did not sign this conference report. While I expect this report to be approved, I do consider that an explanation of my failure to sign it is in order. I do not expect and I did not expect that one individual's point of view can be determinative of a conference report; but I do believe that when a concept has been strongly endorsed in the committee, in the full committee and in the House by the passage of a bill without amendment, that principle should not be easily conceded in a conference report on a personal note or on a political basis.

Specifically, I refer to the House committee's position and the House position with respect to tax-funded commissary construction in the contiguous 48 States.

We have one commissary in Georgia that had been destroyed and, of course, funds were provided to replace that. That presented no problem to me.

We had one in Adak, Alaska. Of course, the isolation of that place made the tax-funded construction of that project no problem for me; but there were four in the continental United States, one in Georgia, one in Arizona, one in Texas, and one in Louisiana. I do not question that there is a need for these commissaries; but the needs are not new. They have been sort of a cumulative thing. Perhaps the same position could be urged in our other continental U.S. installations as well; but it was a concept adopted in our committee and by the House that in these areas we need to make it plain that construction in the future should be other than on a tax-funded basis.

I have the feeling that these new commissaries, and the others that will be coming down the line, are being constructed not just to serve our people in uniform, but on the basis of a dollar business volume, for a large number of people not in the armed services who are permitted under law to trade at these commissaries at cost prices about two-thirds the comparable commercial prices in the communities in which they are located; so our concept was abandoned in the conference, not on a defensible basis, but on other bases.

So that two of the commissaries were accepted for public funding and the other two went by the board.

There is one other provision in the conference report that bothers me, and that is the explanation of why two of these amendments have been brought back in disagreement. The total funds provided for Army and Navy military construction exceed the amounts that were provided in either the House bill or in the Senate bill. I think this is a bad habit for us to get into, and this was the second part of the conference report that was unacceptable to me.

There were some problems that were resolved much to my satisfaction, and so this explanation of why I expect this conference report to be approved. For instance, No. 1, we had a problem with respect to the new hospital up at West Point.

The House had provided no funds; the Senate had put in $20 million. The $20 million is in there, but if the Members will note the statement on the part of the managers, it does require some very definite revisions from the concept that had been submitted to our committee of a $25 million, 100-bed hospital designed to serve a great many other people and not primarily to serve the cadets and the permanent military force stationed at the West Point community.

We did provide military construction funds for certain installations in Iceland. The Senate committee deleted all of those funds. I think the nature of our tenure there, the negotiations that are now in progress, justified the inclusion of those funds in the conference report, but again with some very definitive language that limits the obligation of those funds until certain very practical considerations have been dealt with.

We had a briefing in our subcommittee with respect to our giving up the use of the island of Culebra off Puerto Rico. but we were not requested to provide funds. By the time the bill reached the Senate, that request had been made. We concurred in the necessity for providing those funds, but again because of some circumstances there that caused us concern, the statement of the managers contained some very definitive language with respect to these proposed funds.

The Senate committee had taken a $20 million swipe at our NATO infrastructure funds. There was no delineated explanation of this other than the feeling that we were perhaps doing too much in the way of prefinancing. I think we can all sympathize with their feelings in that regard, but we also need to keep in mind that there are some critical areas where, unless we do prefinancing and then go back at a later time for reimbursement from the NATO infrastructure program, some of the operational facilities for the U.S. forces are not going to be timely built

I think, generally speaking, that while this conference report does contain a rather sizable reduction from the budget, from the requests that were made, that we must give credit to the authorizing committee for the major share of the reductions—credit or otherwise, depending upon an individual point of view.

Mr. Speaker, I would say that this conference report, as submitted to the Members, does contain very few reductions in the amount that was authorized by the legislative committees.

So, Mr. Speaker, while I recognize that many significant problems have been very properly dealt with in their resolutions, for the two reasons which I have cited, I could not sign this conference report.

Mr. SIKES. Mr. Speaker, I find that the distinguished gentleman from Wisconsin (Mr. DAVIS), has made some useful comments on the conference report as a whole, and I want to thank him for his contributions and for his help in the preparation of the bill, just as I wish to thank other committee members and the staff.

It has been a great privilege to work with the members of this subcommittee and the staff in the preparation of the bill. While we have not agreed upon everything, we feel that a workable and a sound bill has been presented.

On the matter of commissaries, the only disagreement was in accepting two of the four within the United States that were in controversy. The Senate conferees and a substantial majority of the House conferees felt that we were on safer ground in including the two. But we are all in agreement that additional steps should be taken to reduce some of the dependence upon the taxpayers of the United States in the construction and operation of commissaries for service personnel. That is spelled out carefully on page 8 of the report which is before you.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SIKES. Mr. Speaker, I wish to yield first to the distinguished gentleman from Maryland, Mr. LONG, a member of the subcommittee, and then I shall yield to the gentleman from Iowa, Mr. GROSS.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I thank the gentleman for yielding.

As with Mr. DAVIS I did not sign the conference report, and I want to associate myself with the remarks of the gentleman from Wisconsin citing some of the same reasons.

I also felt strongly about the commissaries, because commissaries are heavily subsidized, to the extent of nearly $300 million a year in appropriated funds which go to pay the salaries of the employees who work in them.

The armed service has a proposal to allow the prices to go up 1 percent to pay for any new construction. Commissaries are already allowing a 30 percent cut in price below what stores in the neighborhood are charging.

No appropriated funds are needed to build any more commissaries.

In fact, the existing commissaries can be used for a while longer. I thought it was a great mistake on our part to yield in conference to give appropriated funds for commissaries. This goes against the principle of our legislation and, in any case, the commissaries could have soon been constructed by raising the surcharge a bit.

I also feel strongly that we should not give the Army $20 million for the West Point Hospital until sound plans are forthcoming. Instead, we are giving $20 million for a project for which there has been no valid economic analysis.

Mr. Speaker, I want to point out another item which was deleted in the committee bill for $3.5 million, but restored in conference, for a structure at the National Security Agency at Fort Meade to house a unit that was taken out of nearby Fort Holabird. This was also a great mistake.

Fort Holabird is standing there empty, and many, or most, of the buildings have been appraised by the Army as useful until 1994. And yet the Army proposes—because these buildings are not new and shiny and quite what they would like to have—to move to other areas where they can get the Congress to approve much newer and pleasanter buildings near Washington, D.C. and be closer to the "throne."

We deleted that structure in the bill then only to find it put back in in conference—again a project without a sound economic analysis.

One of the things that has bothered me about this committee—and I am very proud to be associated with my distinguished friend, the gentleman from Florida, and glad to be a member of the committee—is that we do an awful lot of hard work for nothing.

I probably have never put so much hard work into any committee in my entire time in Congress as I have this year.

We study each item line by line. We mark up a sound bill. Then we go to the conference and let the Senators put most of the projects back in. For years I have noticed that the conference figure is very much closer to the Senate figure than to the House figure, although it is pretty clear that the Senators are only there to get particular items for their States. They are not doing the work we are, and yet we yield to them. It is wrong in principle, and wrong in practice to develop a bill in committee, but really make the law in the conference. That is why I strongly protest this conference report, and the way it came out; and also why I did not sign it.

I hope in the future we will have the fortitude to stand on our own and come out with a bill that we can stand by in the conference with the Senate.

I thank the gentleman very much for yielding me this time.

Mr. SIKES. I now yield to the gentleman from Iowa.

Mr. GROSS. I wish the gentleman would yield some time to me so I might ask the gentleman from Wisconsin a question.

Mr. SIKES. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa.

Mr. GROSS. Do I understand the gentleman's contention is that the commissaries ought to be self-supporting or at least far more so than they are presently?

Mr. DAVIS of Wisconsin. That was the position which our entire subcommittee took. It boiled down to the question as to whether we could more effectively bring this about by leaving out all of the commissaries in the continental United States or whether, as was finally done here, to put the money for two of them in and then put some strong language into the report.

My view was that we put strong language into committee reports around here many, many times, and I was just as confident as I was sitting in that room that we will have before us in the 1975 military construction bill requests for some more tax-funded commissaries. That is the reason why I took the position that I took.

Mr. SIKES. Will the gentleman from Iowa yield to me?

Mr. GROSS. I yield to the gentleman.

Mr. SIKES. I think you will find, if you will look at the report language on page 8, it is quite strongly stated and it is straightforward. It is quite clear that we expect realistic action and consideration of the committee's position. This is shared by the Senate and House committees.

Mr. DAVIS of Wisconsin. Will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. DAVIS of Wisconsin. I just wish to make a comment on that. I do not differ basically with the gentleman from Florida, who is a great chairman, except to say that he has been on both this subcommittee and on the Defense Appropriation Subcommittee for a long time. I think he will agree with me that we have put some very strong language in both of those reports from time to time only to see those comments ignored by noncompliance. So the only difference that the chairman and I have is I felt the language is not going to do as much good as the chairman seems to have confidence it will.

Mr. GROSS. I fully agree with the gentleman from Wisconsin that except under the most exceptional situations these commissaries ought to be far more self-supporting if not totally so. I commend him for raising the issue here and for his statement.

I yield back whatever time I may have.

Mr. SIKES. Mr. Speaker, I now yield such time as he may require to the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, I do not wish to speak at length in connection with this conference report. It was a compromise, as conference reports always are. We did the best that could be done under the circumstances. I commend the gentleman from Florida (Mr. SIKES) for his able leadership and the entire subcommittee for the long weeks of effort to achieve the best bill possible.

Mr. GILMAN. Mr. Speaker, the inclusion of $20 million for the proposed new hospital at the U.S. Military Academy at West Point in this conference report is especially gratifying.

As a freshman Member of Congress and a Member of the Academy's board of visitors, the culmination of the necessary legislative approvals for this long overdue project is a most rewarding experience.

I commend the members of the Military Construction Subcommittees on Appropriations in both Houses whose concerns I share in making it possible for this project to finally become a reality after years of arduous planning and numerous frustrations.

To be sure, rapidly increasing construction costs in recent years is the most prominent of the frustrations. For this, however, the Academy is not singularly unique. That the Appropriations Committees in both Houses meticulously screened and pared the new hospital proposal attests to their concern of the taxpayers' interests.

Having visited the existing hospital and having carefully scrutinized the voluminous documentation of the Army pursuant to the proposed hospital, I am convinced of the increasingly urgent need for a modern medical facility of which this military institution, one of the finest in the world, is justifiably deserving.

The existing hospital, after serving the West Point community for more than 50 years, is ready to be retired for other less demanding, but nonetheless essential, uses in the Academy's on-going expansion program. This Congress has the opportunity of assuring that a first-rate medical facility will, within the forseeable future, be available to meet the medical and health care needs of the expanding Cadet Corps and the community it serves in the years to come.

I urge my colleagues to support the conference report in full recognition that while we might delay the benefits of a modern medical facility by failing to commence construction of a new hospital at the earliest possible date, we could not postpone further increased costs.

Mr. CAREY of New York. Mr. Speaker, the House will shortly vote on the Military Construction Appropriations Conference Report. This report on H.R. 11459 contains several items that I consider fiscally irresponsible, and wasteful, not only of Federal tax dollars, but wasteful of badly needed energy and fuels.

Originally, the House, on recommendation of the Appropriations Committee, declined to provide the over $4 million permitting construction of administrative facilities for the Military Ocean Terminal, and Military Sealift Command, plus an electric substation, which alone will cost over $400,000.

However, the House receded in conference with the Senate. It is my understanding that the House agreed to recede from their position of deleting construction in Bayonne, on the basis of figures supplied by the Army, outlining the fuel costs for servicing the facilities now operating in Brooklyn. These figures supplied to my office by the House Appropriations Committee, state that the facilities now in Brooklyn total 65,800,000 cubic feet, of which a total of 36,600,000 must be heated. This costs $256,000 per year in fuel. Unfortunately, costs of heating and servicing the largely empty Bayonne facilities now in existence, and those planned for the future are not available.

But clearly, Mr. Speaker, based on the above figures, it is even clearer that the Bayonne facilities should not be built at this time. The facilities presently used by these military transportation agencies are perfectly sufficient to their administrative needs. The facilities now used are more efficient—they burn only 12,000 gallons of oil daily, as opposed to the over 20,000 burnt daily by facilities already operating in Bayonne, N.J.—the site proposed for the relocation of these agencies. The facilities in Brooklyn are also sufficient in size to accommodate the total administrative and supply operations presently in Bayonne, at an obvious saving of 8,000 gallons of oil per day. Also included in this energy and fuel savings are the power, heat, and light that will be needed to service these newly constructed facilities. Also included should be the fuel and energy expended in building and finishing these new facilities, plus the additional fuel and costs involved in having thousands of workers drive daily from Brookly to Bayonne, in order to keep their jobs.

Mr. Speaker, this Nation is now facing an energy crisis and a fuel crisis, the proportions of which are still yet unknown. Projections have been made of a total fuel shortfall of between 16 and 30 percent, depending on the degree of the Arab oil embargo, weather conditions during the duration of the winter, and the success of conservation efforts throughout the Nation.

This Nation is also facing, because of administration economic mismanagement and administration-fostered inflation and shortage, a budget deficit in this fiscal year, of $1 to $3 billion. The budget deficit for next fiscal year should top $5 billion, and could go as high as $10 billion. And, parenthetically, I might mention here that because of the 7 and 8 percent inflation we have been experiencing over the past 2½ years, the Government is providing less and less service, at an increasing cost in continually inflated dollars.

In other words, administration-inflation, while seeming to increase Federal revenues, actually accrues no actual increase in purchasing power, and it further tempts the administration to try to balance the budget at a horrible human and social cost to the American people. Just a quick look at what the administration is trying to do to health, education, and welfare programs makes my point with a lamentable vengeance.

Mr. Speaker, we have discussed our Nation's critical condition in energy and finance. Energy arguments have been used by the Army in this case. Well, I think they should cut both ways. Energy arguments were used, somewhat mysteriously, in arguing for the shutdown of a facility employing about 2,000 in Brooklyn. Well, these same arguments should be applied across the military construction board. An immediate specific moratorium should be placed on the planned Brooklyn-Bayonne move until the GAO has completed a comprehensive, energy-impact study.

It is for these reasons, Mr. Speaker, that I am preparing legislation which will mandate a moratorium on military construction, during the remainder of the energy crisis and the fiscal deficit period we have been experiencing. I will be circulating a dear colleague letter and a draft of the bill in the early part of next week.

I think that the time for shortsighted thinking is past and urge my colleagues to make clear to the American people that everyone is going to have to tighten their energy belts, including the military.

I am aware of the fact that the Pentagon has ordered reductions in fuel used for training, and in selected operations. A few limousines have been mothballed, and the President has slowed Air Force One to under 500 miles per hour. But, Mr. Speaker, when you realize jobs are going to be sacrificed; homes go unheated; cars, buses, trucks, and the entire economy slowed and sacrificing, then I think we should take a little closer look at the sector of our energy-consuming economy that is presently siphoning about 10 million barrels a month from oil that should be going to serve our domestic and civilian needs.

The Military Establishment should take far more seriously the magnitude of this crisis and should voluntarily order a moratorium on all but that construction most clearly allied to the direct security interests of the United States. This moratorium should serve until the passage of legislation such as I propose.

Not only would we realize savings of several billions of dollars a year, thus erasing the projected deficit for this year, but we should, in the next year or so, be able to see just how well the military has been able to bear its fair share of the sacrifice demanded of each and every American. We will also see how well it has been able to make do with the facilities that have been in use serving the military so well in the past.

Mr. Speaker, I have recently been honored by appointment to the Ways and Means Committees Task Force on Energy. I have, thus, a special responsibility to help devise ways in which the Nation can move forward in meeting these crises in fuel, energy, and power. Part of this solution will be to encourage oil-consuming nations to join together in presenting common positions of solidarity to the oil-producing powers. Certainly a willingness on the part of the U.S. military, and its civilian leadership, to make significant sacrifices, during the remainder of these crises, would serve as one of the best bona fides we could take to expected world energy conferences.

Today, I call for just this kind of sacrifice by the military—a sacrifice in direct consumption of fuels needed to heat homes and preserve jobs, and further, in a moratorium in constructing new facilities that will take further energy sources to build and serve with heat, light, and power.

Mr. Speaker, we are not asking the military to do anything that the American people have not been asked to do.

Mr. SIKES. Mr. Speaker, by way of summation, let me point out that the result of the Congress' action on the authorization was to cut below the budget request by $221 million.

Then in addition to that, in the appropriation bill, the House initially cut $114 million. The conference action resulted in a cut of $65 million in appropriations for a total reduction below the budget of $286 million.

As I stated earlier the two principal items contributing significant increase to this agreement over the amount approved by the House were the $20 million for the hospital at West Point, and $12 million for relocation of bombing activities from the Island of Culebra, both of which were very strongly supported by the Department of Defense and by the Senate.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DELLENBACK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 329, nays 40, not voting 63, as follows:

[Roll No. 635]

YEAS—329

Adams
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Armstrong
Bafalis
Baker
Bauman
Bell
Bennett
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clay
Cleveland
Cohen
Collier
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dellenback
Dennis
Dent
Derwinski
Dickinson
Dingell

Donohue
Dorn
Downing
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Green, Oreg.
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harsha
Harvey
Hastings
Hébert
Heinz
Henderson
Hicks
Hinshaw
Hogan
Holifield
Holt
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kyros
Landgrebe
Landrum
Latta
Leggett
Lent
Litton
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKinney
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Milford
Miller
Mills, Ark.
Minish
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nelsen
Obey
O'Brien
O'Hara
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Railsback
Randall
Rarick
Rees
Regula
Rhodes
Riegle
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rostenkowski
Roush
Roy
Ruppe
Ruth
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Seiberling
Shoup
Shriver
Shuster
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stratton
Stubblefield
Stuckey
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion

NAYS—40

Abzug
Archer
Ashbrook
Ashley
Aspin
Barrett
Carey, N.Y.
Chisholm
Collins, Ill.
Davis, Wis.
Dellums
Devine
Drinan
Edwards, Calif.
Eilberg
Frenzel
Green, Pa.
Gross
Hawkins
Hechler, W. Va.
Heckler, Mass.
Helstoski
Holtzman
Kastenmeier
Long, Md.
Metcalfe
Moakley
Nix
Rangel
Reuss
Rosenthal
Roybal
Sebelius
Skubitz
Stark
Studds
Waldie
Wylie
Young, Ga.
Zwach

NOT VOTING—63

Abdnor
Addabbo
Badillo
Beard
Bergland
Blackburn
Blatnik
Brasco
Brinkley
Burke, Calif.
Camp
Clark
Clausen, Don H.
Clawson, Del
Cochran
Conlan
Conyers
Corman
Crane
Delaney
Denholm
Diggs
Esch
Fisher
Grasso
Gray
Griffiths
Gubser
Harrington
Hays
Hillis
Jordan
Keating
Kuykendall
Lehman
Long, La.
McEwen
McKay
McSpadden
Macdonald
Mitchell, Md.
Nedzi
Nichols
O'Neill
Podell
Price, Tex.
Quie
Quillen
Reid
Roberts
Rooney, N.Y.
Rousselot
Runnels
Sandman
Shipley
Stephens
Stokes
Symms
Ullman
Van Deerlin
Walsh
Wiggins
Williams

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Rooney of New York for, with Mr. Harrington against.

Mr. Addabbo for, with Mr. Conyers against.

Mr. O'Neill for, with Mr. Badillo against.

Mr. Brasco for, with Mr. Mitchell of Maryland against.

Until further notice:

Mr. Bergland with Mrs. Burke of California.
Mrs. Grasso with Mr. Gray.
Mr. Hays with Mrs. Griffiths.
Mr. Podell with Mr. Price of Texas.
Mr. Roberts with Mr. Quie.
Mr. Runnels with Mr. Crane.
Mr. Shipley with Mr. McEwen.
Mr. McSpadden with Mr. Esch.
Mr. Macdonald with Mr. Camp.
Mr. Lehman with Mr. Kuykendall.
Mr. Diggs with Mr. Van Deerlin.
Mr. Blatnik with Mr. Hillis.
Mr. Clark with Mr. Blackburn.
Mr. Corman with Mr. Del Clawson.
Mr. Delaney with Mr. Conlan.
Mr. Nichols with Mr. Beard.
Mr. Denholm with Mr. Gubser.
Mr. McKay with Mr. Don H. Clausen.
Mr. Nedzi with Mr. Abdnor.
Mr. Ullman with Mr. Cochran.
Mr. Stokes with Mr. Reid.
Mr. Brinkley with Mr. Quillen.
Mr. Fisher with Mr. Rousselot.
Miss Jordan with Mr. Sandman.
Mr. Long of Louisiana with Mr. Symms.
Mr. Stephens with Mr. Walsh.
Mr. Williams with Mr. Wiggins.

The result of the vote was announced as above recorded.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 1: Page 2, line 3, strike out "$551,575,000" and insert in lieu thereof "$567,735,000".

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$578,120,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 2: On page 2, line 13, strike out "$587,641,000" and insert in lieu thereof "$608,467,000".

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$609,292,000".

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

GENERAL LEAVE

Mr. SIKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the matter discussed in connection with the conference report on the military construction bill and to include statistical facts and tabular material.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON H.R. 9256, INCREASING CONTRIBUTION OF GOVERNMENT TO HEALTH BENEFITS FOR FEDERAL EMPLOYEES

Mr. DULSKI submitted the following conference report and statement on the bill (H.R. 9256) to increase the contribution of the Government to the cost of health benefits for Federal employees, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 93–706)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9256) to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6 and 7.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, and 8 and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 2 insert the following: "in 1974".

And the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3 and agree to the same with an amendment as follows: In the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 3 strike out "55" and insert in lieu thereof "60".

And the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 4 insert the following: "in 1975 and in each year thereafter."

And the Senate agree to the same.

T. J. Dulski,
David N. Henderson,
Jerome R. Waldie,
Lawrence J. Hogan,
Managers on the Part of the House.
Gale W. McGee,
Jennings Randolph,
Quentin Burdick,
H. L. Fong,
Ted Stevens,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9256) to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

GOVERNMENT HEALTH BENEFITS CONTRIBUTIONS

Amendments numbered 1, 2, 3, 4, and 5:

House bill

The first section of the House bill amended section 8906 of title 5, United States Code, to increase the Government's contribution for Federal employees' health benefits plans from 40 to 55 percent beginning in 1973, with an additional 5 percent increase in each subsequent year until 1977, when the Government's contribution would reach 75 percent for 1977 and each year thereafter. Under section 4 of the House bill, the initial increase from 40 to 55 percent would become effective at the beginning of the first applicable pay period which begins on or after the 30th day following the date of enactment. Each additional 5 percent increase would become effective in January of each subsequent year.

Senate amendments

Senate amendments numbered 1, 2, 3, 4, and 5 amended the above-discussed provisions of the House bill so as to provide, in aggregate effect, that the Government's contribution for Federal employees' health benefits plans shall be increased from 40 to 50 percent beginning in 1974 and from 50 to 55 percent beginning in 1975 and applicable in each year thereafter.

Conference agreement

Under section 8906 of title 5, United States Code, as modified by the conference agreement, the Government's contribution for Federal employees' health benefits plans is increased from 40 to 50 percent beginning in 1974 and from 50 to 60 percent beginning in 1975 and in each year thereafter. The latter increase of 50 to 60 percent was not contained in the House bill as proposed to be modified by Senate amendments numbered 1, 2, 3, 4, and 5, and is considerably less than the increases proposed by the House bill in the form in which it passed the House.

STUDENT CHILDREN

Amendment numbered 6:

House bill

The House bill, in the form in which it passed the House, contained no provisions relating to student children.

Senate amendment

Senate amendment numbered 6 proposed the insertion of a new section 4 in the House bill which amended section 8901(5) of title 5, United States Code, to extend health benefits coverage to an unmarried child, regardless of age, who is dependent upon the enrolled parent for more than half of his support and who is in regular full-time attendance at a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution.

Conference agreement

The conference agreement does not contain the student children provisions of section 4 as proposed by Senate amendment numbered 6.

TECHNICAL AMENDMENT

Amendment numbered 7:

Amendment numbered 7 is a purely technical amendment which renumbers section 4 of the House bill (in the form in which it passed the House) as section 5. This amendment is not necessary because of the omission by the conference agreement of the new section 4, relating to student children, as proposed by Senate amendment numbered 6. The Senate recedes.

BEGINNING DATE OF INCREASES IN GOVERNMENT HEALTH BENEFITS CONTRIBUTIONS

Amendment numbered 8:

House bill

Section 4 of the House bill, relating to the beginning date of the series of increases proposed in Government health benefits contributions, provided that the first section shall become effective on the first day of the first applicable pay period which begins on or after the thirtieth day after the date of enactment.

Senate amendment

Senate amendment numbered 8 provided that such first section shall become effective on the first day of the first applicable pay period which begins on or after January 1, 1974.

Conference agreement

Under the measure proposed by the conference agreement, the effective date of the first section, which provides the increases in Government health benefits contributions, is that proposed by Senate amendment numbered 8. This date is necessary to reflect the change from 1973 to 1974 made by the conference agreement in the calendar year in which the series of such increases is to commence. The House recedes.

T. J. Dulski,
David N. Henderson,
Jerome R. Waldie,
Lawrence J. Hogan,
Managers on the Part of the House.
Gale W. McGee,
Jennings Randolph,
Quentin Burdick,
H. L. Fong,
Ted Stevens,
Managers on the Part of the Senate.

PROVIDING INCREASES IN CERTAIN ANNUITIES UNDER CHAPTER 83 OF TITLE 5, UNITED STATES CODE

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 673 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 673

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9107) to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from California is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. Latta) pending which I yield myself such time as I may consume.

(Mr. SISK asked and was given permission to revise and extend his remarks.)

Mr. SISK. Mr. Speaker, House Resolution 673 provides for an open rule with 1 hour of general debate on H.R. 9107, a bill to provide for increases in certain annuities payable under chapter 83 of title 5, United States Code.

H.R. 9107 establishes a minimum civil service retirement annuity benefit equal to the minimum social security benefit. It also increases annuities based upon separations which occurred prior to October 20, 1969, by $300 in the case of a retiree and by $165 in the case of a surviving spouse.

The Committee on Post Office and Civil Service estimates that the minimum annuity provisions of the bill as they apply to future annuitants will increase the normal cost of the civil service retirement system by 0.05 percent of payroll. They also estimate that application of the minimum annuity provisions to present and future annuitants will create an additional unfunded liability of approximately $50 million and the flat dollar increases granted herein to pre-October 20, 1969, annuitants will result in a further unfunded liability of approximately $2.75 billion. The total $2.8 billion deficiency thus created would receive amortization by 30 equal annual appropriations of $172 million.

Mr. Speaker, I urge adoption of House Resolution 673 in order that we may discuss and debate H.R. 9107.

Mr. LATTA. Mr. Speaker, I urge the defeat of this rule for the very simple reason that this rule would make in order a bill that would change the real concept of civil service retirement. For the first time, we would have a minimum benefit regardless of the amount of money paid in under civil service retirement.

Everyone in this House knows that civil service retirement heretofore has been based on the length of service and salary levels of the individuals involved. It is not a welfare program, and never has been, and has not been based on need and has not been based on the amount of social security the person gets.

When we come to the bill today that this rule would make in order, we would be setting up for the first time a minimum of $85, regardless of the amount of money that a person has paid in. Checking this out fully, I have in my hand an analysis of some 23 low-income cases.

One of them that strikes me immediately is a case where the gross monthly annuity is $12 the average salary is $122, and the total employee contribution was the sum total of $27.11. This person separated from the service in 1944 has been drawing an annuity since 1959, and under this proposal, notwithstanding the fact that he has only paid in $122, would get $85 a month.

This is a raid on that fund that I do not think should be allowed.

I might point out also, Mr. Speaker, that this bill would cost the fund $170 million-plus every year for some 30 years. I think we have plenty of welfare programs at the Federal level to aid these people if they need aid. I do not think we ought to be coming to civil service retirement system for that type of aid.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I think it should be pointed out to Members of the House that the Federal employees retirement fund is actuarially in the red by nearly $60 billion, and this legislation would impose an unjustified added burden on that fund of more billions

Now, I agree with the gentleman. This rule ought to be defeated and this legislation scrapped right where it is.

Mr. LATTA. Mr. Speaker, I might add that the Civil Service Commission is opposed to this legislation, as is the administration.

Mr. Speaker, I yield 5 minutes to the gentleman from Nebraska (Mr. MARTIN).

Mr. MARTIN of Nebraska. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this bill that we have before us provides, first, for the establishment of a minimum civil service retirement annuity benefit which, as the gentleman has pointed out, would be in the amount of $85 per month, regardless of the length of time or the salary that the retiree has earned during his years of work for the civil service.

Second, it would increase annuities, based on separation occurring before October 20, 1969, by $300 a year—this is permanent—or $25 a month for the retiree, and by $165 a year for a surviving spouse.

This is not practical. This type of legislation is completely irresponsible.

Here is a person who conceivably can be drawing retirement benefits if he retired before 1969 who worked part time for the Civil Service, say, 2 hours a week. If he worked for 5 years, he is entitled to retirement benefits. He would not have earned very much during that 5-year period, and would have paid very little into the fund, and yet this legislation is going to set up a minimum of $85 a month retirement benefits for him. And that particular individual could have devoted his life to working in some other field and be receiving substantial benefits, retirement benefits, at the present time from his other endeavors and his other work, and it would not be a case of need or welfare or benefits to the gentleman or to the lady.

Mr. Speaker, this type of legislation is utterly ridiculous.

I would like to call the attention of the Members to the views of the majority in the report, pointing out that the cost of this legislation is going to unfund further the civil service retirement fund by $2.7 billion. It is proposed in the legislation that this would be repaid over an amortization period of 30 years, with an annual appropriation from the general fund of $172 million a year.

Mr. Speaker, that is a total of $5.1 billion, or a little better than that, to come out of the general treasury over the next 30 years in order to take care of this legislation which is so irresponsible.

I would like to call the attention of the House to the fact that on July 23 the House turned back the rule on the Educational and Cultural Act amendments by a vote of 180 to 202, and on July 30, the House turned down the rule on the Federal Salary Act amendments by a vote of 156 to 237, both of these having come from the same committee.

I hope, Mr. Speaker, that the House takes the same action on this rule today and rejects this rule. This is completely irresponsible. It should be rejected, and the Congress should be more fiscally responsible as to our actions in regard to these matters.

I hope that the rule is defeated.

Mr. LATTA. Mr. Speaker, I have no further requests for time at this moment.

Mr. Speaker, I ask unanimous consent to include with my remarks a chart showing a table of employee annuity cases by the Civil Service Commission.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., May 1, 1973.

Subject: Low-income annuitant cases referred by National Association of Retired Federal Employees.

From: Andrew E. Ruddock, Director, Bureau of Retirement, Insurance, and Occupational Health.

To: Mr. Anthony Raymond.

Recently the National Association of Retired Federal Employees referred to your attention 23 cases where the retired Federal employee was receiving a relatively small annuity. You asked us to look into these cases to determine the reason for the size of the annuity. I am attaching two summary sheets which show the key details of our findings. The summaries show clearly that nobody on the list spent anything like a full career in the Federal service.

As you will see from the summaries, the basic causes of the relatively small annuities in these cases are short service and low average salary. In addition, each case is affected by the fact that the applicable benefit computation formula derives from an earlier law less generous than the present law (e.g., computation based on high 5 average salary rather than high 3). Furthermore, in all but a few cases the annuity was deferred after separation, which meant that any cost-of-living adjustments made during the period of deferment could not apply.

I hope this information will be helpful.

ANALYSIS OF 23 LOW-INCOME EMPLOYEE-ANNUITANT CASES

[Each horizontal line contains information for a single case]

Gross monthly annuity	Creditable service (yrs, mos, days)	Average salary	Total employee contributions	Year of separation	Year annuity commenced	Type of retirement
1. $12	5-0-0	$122	$27.11	1944	1959	Involuntary, deferred.
2. $18	5-5-16	2,000	923.00	1947	1968	Do.
3. $25	6-11-17	2,000	604.00	1946	1972	Voluntary, deferred.
4. $27	6-7-9	2,169	654.58	1947	1953	Involuntary, deferred.
5. $32	5-9-5	2,100	849.68	1947	1957	Voluntary, deferred.
6. $34	7-2-9	2,200	1,226.28	1947	1967	Do.
7. $35	5-6-0	4,700	1,616.00	1960	1971	Do.
8. $38	6-0-21	3,188	818.00	1949	1968	Do.
9. $38	6-0-25	3,233	830.00	1949	1968	Involuntary, deferred.
10. $43	9-4-20	2,938	1,510.00	1944	1968	Voluntary, deferred.
11. $45	6-1-25	3,472	1,221.29	1960	1960	Voluntary, immediate.
12. $47	16-9-17	$1,836	$1,273.02	1947	1960	Involuntary, deferred.
13. $47	10-11-28	2,363	1,314.00	1962	1970	Voluntary, deferred.
14. $57	9-8-15	2,623	1,159.05	1953	1966	Involuntary, deferred.
15. $66	13-10-22	1,655	1,345.09	1944	1963	Voluntary, deferred.
16. $67	14-10-25	2,000	1,907.95	1946	1966	Do.
17. $68	11-2-2	3,703	1,655.00	1963	1970	Do.
18. $71	16-2-25	2,207	2,442.07	1946	1967	Do.
19. $73	6-11-25	2,374	1,087.94	1956	1958	Do.
20. $75	6-9-12	6,099	2,498.70	1965	1965	Disability.
21. $77	12-9-1	3,106	903.51	1948	1966	Voluntary, deferred.
22. $77	13-1-17	3,761	1,574.00	1963	1971	Do.
23. $77	9-4-11	5,255	2,804.00	1961	1970	Do.

Mr. SISK. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I regret that my two colleagues have seen fit to oppose this rule. They certainly have that privilege.

This is a piece of legislation that came out of committee with little opposition. Apparently they did not even have a record vote on it; it came out by voice vote.

This is a bill that has already passed the United States Senate by over a 3 to 1 majority. I understand there are some amendments which will be offered which will substantially change even what has been discussed this morning.

What I am seeking to do is to pass a resolution which will permit the merits or demerits of this legislation to be discussed.

I urge the House to do so in view of

the fact that the matter was substantially approved in the Committee on Rules and has been scheduled by the leadership. I urge that we do be given an opportunity to discuss the merits and demerits.

I think there are few Members who have had an opportunity to study this matter thoroughly, and they are entitled to know what is in it. The committee is entitled to make that presentation to them. I hope that they will be given the opportunity to do so.

Mr. LATTA. Will my friend yield to me?

Mr. SISK. Yes. I yield to the gentleman.

Mr. LATTA. The gentleman from California mentioned some amendments that will be offered to correct some of the defects he pointed out in this legislation. Are you prepared to tell us something about them?

Mr. SISK. Really I was not intending to take a lot of time on this at this point. I had hoped that we could adopt the rule and then let the members of the committee explain it.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. MARTIN).

Mr. MARTIN of Nebraska. I thank the gentleman for yielding.

Mr. Speaker, I would like to point out that the gentleman is really not cutting back on the amount of deficit that will occur in this retirement fund.

I would like to point out further that since 1962 civil service employees cost-of-living increases amounted to 51.7 percent. This does not take into account the 6.1 percent that they received last July 1 and another 5.5 percent increase which is going to occur on the 1st of January, that is, in 3 weeks. So we have had a considerable increase of almost 70 percent total, including the one to come on the 1st of January, in the increases in annuities paid to the civil service retirees since 1962.

This legislation, again, is completely unjustified, and is fiscally irresponsible.

Mr. SISK. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I appreciate and I have great respect for my colleague, the gentleman from Nebraska (Mr. MARTIN) but I do admit to a little concern when we start quibbling about paying a person $85 a month. I realize that we do need to cut expenses, and we do need to curb expenditures, and hopefully with the legislation we have recently passed Congress will begin to assert the courage to do some of the things necessary in our overall budgeting. But, as I have said, I regret to see an attempt made not to even permit the House to discuss legislation dealing with a group of the most poorly paid people in America.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I would ask the gentleman from California whether he is suggesting a guaranteed annual income?

Mr. SISK. The gentleman from Iowa of course knows his President's position as to an annual wage, but I have not been too convinced of that myself.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

Mr. SISK. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 295, nays 70, not voting 67, as follows:

[Roll No. 636]

YEAS—295

Abzug
Adams
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Bell
Bennett
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Clancy
Clay
Cleveland
Cohen
Collins, Ill.
Conte
Cotter
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dellenback
Dellums
Dent
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Ford, William D.
Fountain
Fraser
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Green, Oreg.
Green, Pa.
Gude
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Harsha
Harvey
Hastings
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hogan
Holifield
Holt
Holtzman
Horton
Howard
Hudnut
Hungate
Hunt
Ichord
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kemp
Koch
Kyros
Leggett
Lent
Litton
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKinney
Madden
Madigan
Mahon
Mailliard
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Miller
Mills, Ark.
Minish
Mink
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nix
Obey
O'Hara
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Poage
Preyer
Price, Ill.
Price, Tex.
Railsback
Randall
Rangel
Rees
Regula
Reid
Reuss
Riegle
Rinaldo
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stanton, James V.
Stark
Steed
Steele
Steiger, Wis.
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thone
Thornton
Tiernan
Udall
Vander Jagt
Vanik
Vigorito
Waldie
Wampler
Whalen
White
Whitehurst
Whitten
Widnall
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—70

Archer
Arends
Ashbrook
Broyhill, N.C.
Buchanan
Burgener
Cederberg
Chamberlain
Collier
Collins, Tex.
Conable
Coughlin
Davis, Wis.
Dennis
Derwinski
Devine
Dickinson
Eshleman
Flynt
Forsythe
Frelinghuysen
Frenzel
Goodling
Gross
Grover
Haley
Hinshaw
Hosmer
Huber
Hutchinson
Johnson, Colo.
Johnson, Pa.
Ketchum
King
Landgrebe
Latta
Mallary
Mann
Martin, Nebr.
Michel
Minshall, Ohio
Nelsen
O'Brien
Pike
Powell, Ohio
Pritchard
Rarick
Rhodes
Robinson, Va.
Robison, N.Y.
Ruth
Satterfield
Scherle
Schneebeli
Sebelius
Snyder
Stanton, J. William
Steiger, Ariz.
Stratton
Taylor, Mo.
Thomson, Wis.
Towell, Nev.
Treen
Veysey
Waggonner
Ware
Wylie
Wyman
Young, Ill.
Young, S.C.

NOT VOTING—67

Abdnor
Addabbo
Beard
Bergland
Blackburn
Blatnik
Brasco
Brinkley
Burke, Calif.
Camp
Chappell
Chisholm
Clark
Clausen, Don H.
Clawson, Del
Cochran
Conlan
Conyers
Corman
Crane
Delaney
Denholm
Diggs
Dorn
Erlenborn
Fisher
Grasso
Gray
Griffiths
Gubser
Hansen, Wash.
Harrington
Hays
Hébert
Hillis
Jordan
Keating
Kluczynski
Kuykendall
Landrum
Lehman
Long, La.
McEwen
McKay
McSpadden
Macdonald
Mitchell, Md.
Nedzi
Nichols
O'Neill
Podell
Quie
Quillen
Roberts
Rooney, N.Y.
Rousselot
Runnels
Sandman
Steelman
Stephens
Stokes
Symms
Ullman
Van Deerlin
Walsh
Wiggins
Williams

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Blatnik.

Mr. Rooney of New York with Mr. Denholm.

Mr. Clark with Mr. Kuykendall.

Mr. Podell with Mr. Walsh.

Mr. Lehman with Mr. Hillis.

Mr. Addabbo with Mrs. Hansen of Washington.

Mr. Bergland with Mr. Harrington.

Mr. Hébert with Mr. McEwen.

Mr. Brasco with Mrs. Burke of California.

Mr. Hays with Mr. Gubser.

Mr. Delaney with Mr. Del Clawson.

Mr. Roberts with Mr. Erlenborn.
Mrs. Chisholm with Mr. Gray.
Mr. Van Deerlin with Mr. Camp.
Mr. Diggs with Mr. Corman.
Mr. Runnels with Mr. Crane.
Mr. McKay with Mr. Conyers.
Mr. Ullman with Mr. Stokes.
Mr. Nichols with Mr. Quie.
Mr. Nedzi with Mr. Don H. Clausen.
Mr. Mitchell of Maryland with Mrs. Griffiths.
Mrs. Jordan with Mr. Sandman.
Mr. Kluczynski with Mr. Abdnor.
Mr. Chappell with Mr. Conlan.
Mr. Brinkley with Mr. Quillen.
Mr. Fisher with Mr. Beard.
Mr. Stephens with Mr. Rousselot.
Mr. McSpadden with Mr. Steelman.
Mr. Macdonald with Mr. Blackburn.
Mr. Landrum with Mr. Symms.
Mr. Long of Louisiana with Mr. Cochran.
Mrs. Grasso with Mr. Williams.
Mr. Dorn with Mr. Wiggins.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. WALDIE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9107) to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. WALDIE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9107, with Mr. EVANS of Colorado in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. WALDIE) will be recognized for 30 minutes, and the gentleman from Iowa (Mr. GROSS) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from California.

Mr. WALDIE. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of our committee, the gentleman from New York (Mr. DULSKI).

Mr. DULSKI. Mr. Chairman, first of all I would like to congratulate the chairman of the subcommittee for bringing this legislation to the floor of the House so that the Members may have an opportunity to vote upon it.

Mr. Chairman, I rise in support of H.R. 9107. One feature of this legislation will provide a more equitable relationship between the annuities of civil service employees who retired before, in comparison to those who retired after, the retirement amendments of 1969.

This legislation is designed to bring the retirement benefits of pre-October 20, 1969, retirees and survivor annuitants up to the standard applicable to present-day retiring employees.

The second feature of this legislation is to establish a minimum civil service retirement annuity which is not less than the minimum social security benefit. The minimum benefits it proposes will provide a limited measure of relief where the greatest need exists—in those cases where the beneficiary receives an annuity of less than $1,000 per year.

One of the purposes of the Older Americans Act was to "provide for an adequate income in retirement to correspond with the American way of living." While many programs have been initiated to benefit the elderly, only a very small portion of the large sums appropriated for such purposes has reached the people to whom this legislation is directed.

Mr. Chairman, I urge the adoption of H.R. 9107.

Mr. WALDIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 9107 is legislation designed to assist those retired civil service employees who are most in need. Essentially, the bill would do two things. It would set a minimum civil service annuity for all Federal retirees at the same level as the minimum social security benefit. Under the present law this would be $84.50 a month.

Second, it would increase the annuity paid to pre-October 20, 1959, civil service retirees. The first provision in the bill, that dealing with civil service retirees whose annuity is less than the minimum social security benefit, would equalize the civil service benefit and the social security minimum benefit. Skyrocketing prices have a terrible effect on persons living on relatively fixed incomes, and approximately 15 percent—15 percent of the current civil service annuitants who would be benefited by this provision in the bill not only are attempting to survive on fixed incomes, but are on disastrously low incomes.

By definition, Mr. Chairman, in order for an annuitant to be entitled to this minimum pension, the annuitant first must not be receiving any social security at all; and second, the annuitant must not be receiving any Federal pension of any kind that is more than or equal to $84.50 a month. So, the Members can see that, No. 1, we are dealing with a very small class of people. There are hardly any great numbers of retired Federal employees who are in that intolerable situation, and those numbers that there are, are disminishing because they are generally very elderly who were employed long ago by the Federal Government when wages were extremely low, or in a part-time position when wages were extremely low.

So, we are talking about a small group, a diminishing group and most desperately in need. This is a small provision of this bill, although a lot was made of that provision during the debate on the rule.

The major provision in the bill is the second, and that deals with the pre-October 20, 1969, retirees. That date was used because it is the date of enactment of the law which liberalized the civil service retirement system and otherwise improved the benefits of employees who retired after that date. Again, we are talking about the next least well-off class of beneficiaries or annuitants in the federal system.

So, the bill deals only with two classes of people, those that are in the least beneficial position as Federal annuitants and those that by definition, therefore, are damaged most severely by the raging inflation that damages everybody.

The major improvement in civil service retirement system that did not affect these people, was that a retiree's annuity was computed after October 20, 1969, on the basis of his or her average salary for the highest 3 years' earnings. The pre-October 20, 1969, retiree's annuity was computed on the basis of his or her highest 5 years of earnings.

Moreover, the provisions of the Pay Comparability Act of 1970 have substantially increased the salaries of civil service employees, thereby widening the gap even further between older and younger retirees. Consequently, individuals who retired before October 20, 1969, have generally received substantially lower annuities than those who worked in similar jobs in GS levels but who retired after that date.

Mr. Chairman, I believe it is also important to mention here that Federal retirees in general have not received increases near the percentage of increase in retirement benefits that social security beneficiaries have received over the past several years. This disparity, of course, hits the pre-October 1969, retirees the hardest. For example, civil service annuities were increased 4.8 percent in July 1972, but social security benefits were increased 20 percent in September of that year.

And while social security benefits were increased 20 percent in September of that year, civil service annuities were only subsequently increased 6.1 percent this past July and will be increased in January by 5.5 percent.

However, social security benefits will be increased next April by 7 percent and by next July by 4 percent.

All in all, by mid-1974 social security benefits will have increased 76 percent since 1960 while civil service annuities will have been increased, contrary to the figures the gentleman from Nebraska (Mr. MARTIN) alleged during the colloquy concerning the rule, not 70 percent, but only approximately 60 percent during that period of more than a decade.

I do not believe this to be fair, and the amended increase for 1969 retirees, which is included in this bill, together with the provisions which have been afforded are equal to the social security minimum benefits, will be an important step to close this unacceptable gap.

Mr. Chairman, I will say to the Members of the committee that I wish again to point out that we are dealing here with priorities, and we are dealing with how we in the Congress set those priorities.

We just concluded voting $2.6-plus billion for military expenses, and probably it is all warranted, although I must confess that I voted against it because I believed it is excessive.

But we are dealing here with a human need, and we are dealing with a human need which is probably as well defined and as great a human need, other than a social security benefit, as any human need each of us could possibly anticipate.

We are not giving anybody a bonanza from the taxpayer's moneys. To suggest that if we permit someone to have $84.50 a month to live on, we are wastrels and spendthrifts is really contrary to understanding, and to suggest that our civil service retirees are not entitled to equal treatment with other retirees in this country, or that we provide for them, though not adequately, better than we do for our own retirees, the social security recipients, is not a fair assessment of priorities. I would ask them, Mr. Chairman, for a favorable vote on this measure.

Mr. WYLIE. Mr. Chairman, will the gentleman yield for a question?

Mr. WALDIE. Yes, I would be pleased to yield, and I will in just a moment.

Before I yield, may I just add one other point which I neglected to mention.

I will introduce at an appropriate time amendments that will substantially conform this bill to the one passed by the Senate, and those amendments will deal with the pre-October 1969 beneficiaries and will reduce the expense of that provision in the bill by half a billion dollars.

So that if the amendments are adopted and if this bill is passed, it will be substantially the same as the bill which the Senate has already passed by a vote of 71 to 19.

At this point, Mr. Chairman, I will yield to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding.

Is it not a fact that this bill will primarily benefit those who have worked for the Federal Government for only a short period of time or, in the alternative, if a person makes Federal service a lifetime career, the provisions of this bill will not apply to that person? Is that correct?

Mr. WALDIE. There is no question about it. Anyone who works from now on, certainly, or anyone who has worked full time will not receive any benefits from this bill, because our pay schedules are so much higher now. Even those working part time, as many of these people who would be entitled under this bill, may not receive any benefits under this bill.

For example, I understand there might be a lamplighter, even that category, that is entitled under this bill. But a lamplighter, at today's salaries and today's wages, working part time, would not be entitled under this bill, because he or she would be qualified to receive an amount greater than $84.50—the present social security minimum monthly benefit.

Mr. Chairman, the gentleman is quite correct. This does apply to a lot of part-time employees. We do not know how many actually, but those who are entitled will include large numbers of part-time employees.

Mr. WYLIE. Mr. Chairman, viewed in this context, isn't this bill, when it is reduced to its basic terms, simply a welfare measure for short-term Federal employees?

Mr. WALDIE. I really think not, because we must narrow the class even further. First, it would apply only to a group that was involved in either very, very low-paid work or because they were employed many decades ago, and they were not receiving social security benefits. Or else they were employed for a long time when wages were lower and then were not employed anywhere else. Anyone drawing social security is not entitled to coverage under this bill. So the classes would be so small and would consist only of Federal employee retirees that I think it would be demeaning to them to suggest that we are putting them on welfare. I would rather construe it to be a responsible favor for dignified service rendered by people to this country.

Mr. WYLIE. Will the gentleman yield further?

Mr. WALDIE. Yes. I yield to the gentleman.

Mr. WYLIE. I am sure I understood the gentleman as to the provisions of the bill. Does it only apply to those persons who do not receive social security benefits or, in the alternative, suppose a person worked for the Federal Government for a period of 5 years and then went on to another job where he contributed into the social security system and now qualifies for social security payments. This bill would not apply to that person?

Mr. WALDIE. No. You see, if they are eligible for social security, they automatically receive a minimum amount and therefore would not benefit under this bill. We have told everyone in this Nation that works elsewhere and is covered under social security, that no matter how long he may work, if he is qualified, he will get $84.50 minimum. All we are saying to them here is that if they qualify to retire, which means that they did work for the Federal Government for a period of 5 years, we will guarantee that they will also get a minimum, just as we guaranteed it under the social security system. Then, if they draw social security, they are not entitled under this bill.

Furthermore, if they draw a veteran's pension that is $84.50, they have no entitlement under this bill. Also, if they draw any Federal pension of any kind that amounts to $84.50, they have no entitlement under this bill.

So, if I may suggest to the gentleman, if you are really concerned with the provision in the bill we are speaking of here, that is probably the least objectionable portion even to those who believe that no money should be spent on people at all. There is so little being spent on people in this provision of the bill that it hardly warrants objection.

The second provision of the bill perhaps is something more to your point.

Mr. WYLIE. Would the gentleman yield for a further question?

Mr. WALDIE. Yes.

Mr. WYLIE. What is the estimated cost of the bill? Is it not around $2.7 billion?

Mr. WALDIE. Well, it was in the original form, but with the amendments that I will submit and which will hopefully be adopted conforming the bill to the Senate version, half a billion dollars is cut off of that, so it is $2.2 billion of unfunded liability which will require a 30-year amortization.

Mr. WYLIE. Are these costs envisioned in the budget?

Mr. WALDIE. The cost I presume is not; I am sure it is not. You understand when we do a thing like this we do not increase the budget by $2.2 billion but, rather, increase it by one-thirtieth of that figure because it is amortized over a period of 30 years. So it will be increased by one-thirtieth of the unfunded cost of the bill.

You further understand that I think it is not included because the administration is opposed to the bill. So I would assume that the administration believes this expenditure is an unwarranted waste of Federal funds.

Mr. WYLIE. I thank the gentleman.

Mr. GROSS. Mr. Chairman, I yield myself such time as I may consume. I rise in opposition to the bill, H.R. 9107, and strongly recommend its rejection.

Mr. Chairman, I will take the time to make three brief points with respect to this bill and I commend to my colleagues the minority views contained in the report on the legislation for further reasons why the bill should be defeated.

First, of all, the bill completely violates the fundamental concept of the civil service retirement system, which bases the amount of an employee's annuity on the value of his services to the Government—that is, on the total number of years of his service and on the amount of his salary.

Any employee who devotes a career of service to the Federal Government is assured of receiving an adequate annuity. Almost without exception, those people who are today receiving relatively small annuities from the civil service retirement system had less than full careers of service—many as little as 5 years. Their annuities were never expected to provide more than a proportionate part of their total retirement incomes.

H.R. 9107 violates the "years of service—average salary" retirement formula and would guarantee an annuity equal to the minimum under social security so long as the employee had 5 years of service performed for the Government, and regardless of the salary he may have earned.

Second, if we were to agree that a minimum annuity under the civil service retirement system were desirable, it would be extremely unwise to tie the minimum to social security or to any other program outside the control of the civil service retirement system.

I frankly do not believe the sponsors of this bill have paused to consider the consequences of such a permanent relationship between two conceptually different pension systems.

For example, the committee report on H.R. 9107 makes a key point that the current social security minimum is $84.50 per month, and that is the basis on which the cost of the bill is calculated. But before the ink was dry on the report, efforts were underway to increase social security payments, and in all likelihood changes will soon be made in the social security law, which will measurably affect the cost of this bill. On November 15, as the Members know, the House passed H.R. 11333 to provide for a 7-percent increase in social security benefits beginning next March with an additional 4 percent increase next June.

This means that the provisions of H.R. 9107 will impose on the civil service retirement fund expenditures in addition to those of the reported bill, if the social security amendments become law. Instead of an $84.50 minimum, we are talking about $90.50 in March and $93.80 in June.

This, I assure you, will be the pattern ad infinitum, if H.R. 9107 is passed.

It makes no more sense to equate minimum civil service annuities to social security than it does to equate them to military retirement or the pension of the president of General Motors.

Since 1968, the cumulative increase in social security benefits has been 63.9 percent. And, I believe, we can expect this trend to continue in the future. Accordingly, each increase in social security benefits will thereby trigger an identical increase in the minimum benefit under the civil service retirement system.

Recently published projections on future social security benefits are astounding. Based on existing law and assuming normal increases in inflation and in salaries over the years ahead, by the year 2000, the monthly social security benefit for a worker and his wife at age 65 will be $1,523. By the year 2009, this monthly benefit will be $2,473. The smallest primary insurance amount can be expected to rise just as dramatically.

I submit that even if we were to ignore all the persuasive arguments against establishing a minimum annuity under the civil service retirement system in the first place—and if we go ahead and set a minimum, it most definitely should not be tied directly to the social security system.

The third, but certainly not the least important, point I would like to bring to your attention is the cost of this bill. H.R. 9107 will increase the unfunded liability of the civil service retirement fund by over $2.7 billion—requiring amortization by 30 equal annual appropriations of $172 million, for a total cost of $5.1 billion over the next 30 years.

Let me repeat at this point, what I mentioned previously, that the Federal Employees Retirement Fund, in which Members of Congress participate, is actuarially and approximately $60 billion in the red.

Mr. Chairman, I realize that it is sometimes difficult to convince Members of this body that $5 billion is a lot of money, but I believe the point must be made and must be emphasized. The bill as it stands will benefit a few and will dig into the pocket of the reliable American taxpayer to the tune of $5 billion over the next 30 years. There is no telling what the additional cost will be as social security benefits go up and up.

Mr. Chairman, H.R. 9107 is ill advised legislation, and I suggest that its prompt defeat would well serve the American public.

Mr. SMITH of New York. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from New York.

Mr. SMITH of New York. I should like to ask the gentleman a question. I understand that with increases in social security, the attempt is made by the Congress in each instance of each increase to increase the social security tax and the basic tax in order to finance the progressive increases in social security benefits. In this bill where will the additional $2.7 billion of additional benefits over the next 30 years come from?

Mr. GROSS. It will come right out of the pockets of the taxpayers—the unfunded liability.

Mr. SMITH of New York. Will there be any increase in the employees' contributions toward this fund carried in this bill?

Mr. GROSS. No; there will be no increase.

Mr. WALDIE. Mr. Chairman, will the gentleman yield on that point?

Mr. GROSS. I yield to the gentleman from California.

Mr. WALDIE. I thank the gentleman for yielding.

As the gentleman from Iowa knows, there need not be any increase in contribution of the employees because the employees are already contributing more than the cost of the system. In fact, they have already contributed $450 million more than the system has in fact put out. Their contribution was supposed to have been set by law to equal the expense of the system. Their contribution and the Government's contribution should equal the expense of the system. In fact, the system has never cost what they have charged the employees in the Government.

Mr. GROSS. There is legislation to change that; is there not?

Mr. WALDIE. There is, but the President vetoed that bill, as the gentleman well knows, so I do not know the answer to that. The fact of the matter is the contribution has been in excess of the cost, and has been since the beginning of the system. The system is not tottering on the verge of bankruptcy. The employees in effect have been ripped off by $450 million of their contribution over the years of existence of the system. The increased social security benefits come about because of inflation. We respond to the fluctuations in the economy. The increases in social security apply not to the big portion of the $2.2 billion, 30-year cost of this bill. It applies only to the very smallest portion, to that small group of people of years and years ago who, after 5 years of working for the Federal Goverment, did not accumulate enough contributions to receive $84.50 a month. They are the only ones who will benefit by increases in the social security. The rest of the $2.2 billion is not involved at all in social security increases.

The cost of this bill that is involved in social security increases is a diminishing cost. How much will it be—$50 million over 30 years, compared to $2.2 billion for the whole cost of the bill.

In that portion of the bill that everyone seems hung up on that somehow or other we are giving the people too much money who work for the Federal Government if we assure them they will make $84.50 a month, there is a $50 million cost over 30 years. The rest of the bill is a $2.2 billion cost over 30 years, and that has nothing to do with social security.

Mr. GROSS. Is the gentleman interested in the future of this country and will we not have to pay these mortgages we are laying on the backs of the generations to come?

Mr. WALDIE. Of course, I assure the gentleman I am interested in the future of the country. I would point out to the gentleman I believe that is an unfair way in which to pose the question.

Mr. GROSS. I will revise by remark to say I am sure the gentleman is interested even though this legislation which he sponsors does lay another heavy obligation on the backs of generations to come.

Mr. WALDIE. I suppose it would be fair to ask the gentleman, equally fair to ask the gentleman, is the gentleman interested in the elderly people in this country who are strangling because of inflation today and the fact that we are trying to assist them? That would probably be as unfair a question.

Mr. GROSS. Of course, but we should not try to take care of them in legislation of this type.

Mr. WALDIE. Probably in social security and if we take care of them in social security perhaps we will not need to have more legislation of this type.

Mr. GROSS. This is the wrong device for taking care of it.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding.

I am not sure I understand the cost of this bill.

The gentleman from California said it would cost $2.7 billion over a period of 30 years to fund this bill and the gentleman from Iowa (Mr. GROSS) used the figure $5.1 billion.

Mr. WALDIE. If the gentleman will yield, the gentleman from Iowa (Mr. GROSS) is adding interest to that. I am talking about the budgetary figures. The gentleman from Iowa (Mr. GROSS) is adding to that the interest that would be involved in an amortization schedule, but when we determine the budgetary appropriation we divide 30 into the $2.7 billion, although it is now $2.2 billion because our amendments will reduce it by a half billion.

Mr. WYLIE. In other words, the gentleman does not take into account the cost of borrowing the money to fund the provisions of this bill?

Mr. WALDIE. We have to take into account the cost of borrowing money, but with regard to the assertion the gentlemen from Iowa (Mr. GROSS) made with regard to the retirement fund, about a $5 billion cost, that is not so. The retirement fund is amortized at a $2.7 billion cost if this bill goes through.

Mr. WYLIE. What is the gentleman's estimate as to the annual cost?

Mr. WALDIE. It is $140 million a year.

Mr. WYLIE. If you divide $2.7 billion by 30, you get $90 million. If you divide

$5.1 billion by 30 it comes to about $171 million a year.

Mr. WALDIE. I am responding to the bill as amended.

Mr. WYLIE. After the gentleman's amendments are adopted, I see.

Mr. WALDIE. I am sorry I did not make that clear.

Mr. SMITH of New York. Mr. Chairman, will the gentleman from Iowa yield?

Mr. GROSS. I yield to the gentleman from New York.

Mr. SMITH of New York. I am a little confused and I would like to ask another question. The gentleman from California says that the civil service retireees or civil service employees have paid in $450 million into the civil service retirement fund more than they have been paid in benefits, but I heard the gentleman say the civil service retirement fund was $60 billion in the red. Can the gentleman explain that apparent conflict?

Mr. GROSS. I am sure the gentleman meant social security.

Mr. SMITH of New York. No, I meant civil service. But the gentleman from California said the civil service employess paid in $450 million more than they have taken out, but the gentleman from Iowa said the civil service retirement fund was $60 billion in the red. It sounds to me like an anomaly.

Mr. GROSS. That is the computation from the benefits they now receive.

Mr. SMITH of New York. But the fund is in the red by $60 billion?

Mr. GROSS. On an actuarial basis. On an actuarial basis the retirement fund is approximately $60 billion in the red.

Mr. SMITH of New York. And this bill will increase that figure by some $2 billion or more?

Mr. GROSS. Yes, in my opinion it would.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Maryland.

Mr. HOGAN. I think it should be pointed out to the gentleman from New York that the surplus has occurred only in the last couple of years after Congress responded to the chaos in the civil service retirement system. Since that time they have been paying in in excess of the pay out, but this could be a situation that is flexible and it changes. We have a bill that responds to that too.

Mr. GROSS. What we should understand is that the 7-percent contribution rate is too high in view of the takedown benefits each year, but that has nothing to do with the unfunded liability.

Mr. WALDIE. Mr. Chairman, I have no further requests for time.

Mr. GROSS. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Chairman, as a cosponsor of H.R. 9107, I rise in support of this legislation and urge its approval.

To me this is merely a humanitarian measure which extends moderate benefits to those retired Federal employees, surviving spouses and children who are most in need of the benefits this bill provides.

The bill proposes to provide to Federal employees the same minimum retirement benefit currently provided to retirees under the Social Security Retirement System. Presently this is $84.50 per month. The bill also provides a $300 per year increase to Federal annuitants who retired prior to October 20, 1969.

These minimum benefits, combined with safeguards which prevent windfalls, make it a sensible and timely piece of legislation. The concept contained in this legislation is really not new and has been advocated by many others previously. However, the Congress has taken far too long, in my estimation, in bringing this proposal into being.

I refer, Mr. Chairman, to the 1967 report issued by the President's Cabinet Committee on Federal staff retirement systems. This committee recommended seven specific principles on which a Federal retirement system should be established. One of the principles was as follows:

> Staff retirement benefits shall be fairly and directly related to length of service and preretirement basic earning rates, except that appropriate minimum benefits levels shall be maintained to (a) offset the effects of short service to disability, death, or special occupational requirements; (b) generally assure for civilian employees and their families a benefit (in combination with any social security benefit that may be available to them from employment covered by the social security system) at least equal to that which would be available had their Federal employment been covered by social security.

This is what we are really doing with this bill today.

H.R. 9107 properly reflects the view enunciated in this report. It is a recognition of those employees who worked for the Federal Government at a time when wages were considerably less than today. Accordingly, upon retirement, their annuities were small, but they did provide for a basic retirement benefit. However, since that time, inflation has placed these annuitants in financial straits with no relief.

Mr. Chairman, approximately 145,000 persons or 15 percent of the current Civil Service annuity beneficiaries are receiving less than $84.50 monthly, which is the minimum annuity under the social security retirement system.

I think it is high time that the Congress do something to show that we remember these "forgotten people."

Mr. GROSS. Mr. Chairman, I yield to the gentleman from Illinois, Mr. DERWINSKI.

Mr. DERWINSKI. Mr. Chairman, I am opposed to H.R. 9107, because it is another attempt to misuse the civil service retirement system. This proposal, if enacted, will grant to civil service annuitants a minimum retirement benefit which they have not earned through their service in the Federal Government.

To depart from the basic concept of the Federal retirement system—that is, the relationship of annuities to length of service and salary levels—would be a mistake.

Low annuities can only be attributed to the fact employees worked few years under Federal service, and worked at a low rate of pay usually based on part-time employment. Under the present procedure, those who earn less contribute less to the fund, and receive a lesser benefit in proportion, while those who earn more, contribute and receive more.

It must be kept in mind that the civil service retirement system covers various part-time categories, for instance, fourth-class postmasters who usually have another full-time occupation.

In testimony before our Subcommittee on Retirement and Employee Benefits, Andrew Ruddock, Director of the Bureau of Retirement, Insurance, and Occupational Health of the Civil Service Commission, commented on the proper role of the retirement system:

> Should it (the retirement system) provide benefits based on the needs of a former employee, or should it provide benefits based on the services rendered by the employee? We believe it is unrealistic and infeasible to expect any employer, including the Federal government, to be responsible for the future financial needs of employees no matter how brief their service or how limited their work contribution. Staff retirement systems are designed to provide benefits in direct relation to the value of services rendered, as measured typically by length of service and by former pay.

I concur in Mr. Ruddock's remarks. I believe it is wrong to ask employees to help assume the financial burdens of certain other individuals through their contributions to the retirement fund. This is a responsibility which properly should be borne by the society as a whole, not by the civil service retirement system.

This same concept of need is also embodied in the other provision of this bill, which grants an across-the-board increase of $300 to those employees who retired prior to October 20, 1969. To retroactively apply liberalizations in the retirement law to these retired employees is an unwise personnel policy.

Mr. Chairman, in addition to the arguments set forth above, the cost of this legislation makes it unwarranted. I urge rejection of this proposal.

Mr. Chairman, if I can momentarily have the attention of the gentleman from California (Mr. WALDIE). I could not help but observe earlier the three-way conversation between the gentleman from California, the gentleman from Iowa, and the gentleman from New York, and the discussion looking ahead to the future of the country and its stability and so forth.

I gather that the gentleman from California is a serious contender for the governorship of his State. In all probability, he may be residing in the Governor's mansion in Sacramento by January 1975. Naturally, as a Governor, he will be interested in revenue sharing and other Federal funds pouring back to California from the Federal Government.

I wonder if he is not being a bit inconsistent in passing these bills with their adverse effect on the Treasury, when a year from now he will want substantial support for his State from various Federal sources.

Is that a fair question to propose?

Mr. WALDIE. Yes, that is a fair question.

Mr. DERWINSKI. Would the gentleman appreciate the fact that when he is Governor of California, we would all be very interested in helping him bail out that State, and the gentleman will want a sympathetic hearing. We may not be as helpful as we may wish to be 18 months from now. I would like to make that point.

Mr. WALDIE. I was delighted the gentleman made it.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the gentleman from Maryland (Mr. HOGAN) made a very impressive argument today. He put his argument upon humanitarian grounds, and I think it is very easy for the gentleman from Maryland to do so, representing the county of Prince Georges, Md., in the Congress.

But, I am concerned, as is the gentleman from Illinois, about the impact upon Federal spending. The Members of Congress were supplied the other day with figures from the Library of Congress to the effect that in the last 4 years, we had spent $90 billion more than we took in, and since World War II, we have added better than $250 billions to the national debt.

Now, the gentleman from California (Mr. WALDIE) points out in his report that the bill will cost $172 million each year for the next 30 years. I am wondering what the total cost of the bill will be. I multiplied 30 by $172 million, and I get $5.2 billion over the next 30 years, but we also have to take into consideration the fact that we are spending money which we do not have. We have long ago started scraping the bottom of the barrel, so to speak, and I am wondering how much more than $5.2 billion that this bill would cost would be to the American taxpayer. We must add to the $5.2 billion interest which we will pay since we are spending money which we do not have.

Mr. DERWINSKI. Mr. Chairman, I think the gentleman's figures are correct. However, I think the gentleman from California would want me to point out that he has amendments that would, in effect, reduce the cost over that 30-year period by approximately 20 percent.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. GROSS. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, may I say to the gentleman from Missouri that I think he is emphasizing a very fundamental point which is of significance not only in this bill. The collective tendency of the Congress to keep adding with all good intentions to numerous programs without ever really thinking of the total cost, which of course runs contrary to the adoption just the other day of the new congressional budget control committee.

And here we see a classic reason as to why the budget is out of control and why Congress has not done an adequate job in that sense.

Now, the gentleman from Maryland very properly, effectively representing his special constituency has taken his position. I think that in itself is a good example of proper representation, but then those of us who have to detach ourselves from the necessity of that situation must look at it with constructive criticism. And the criticism is that in this case we are violating the basic principles on which any retirement program is based. We are obviously disregarding the overall budget impact, and I commend the gentleman from Missouri for emphasizing that.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the gentleman from Illinois used the figure of $4.2 billion as cost over the 30-year period. I multiplied 30 times 172, and I get $5.1 billion.

When the gentleman refers to the figure of $4.2 billion, is the gentleman taking into consideration the amendments that probably will be adopted?

Mr. DERWINSKI. The gentleman is correct. I am assuming that the amendments which will be offered by the gentleman from California (Mr. WALDIE) will be adopted, and they will conform with the Senate bill.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, I just wish to point out to my friend, the gentleman from Missouri, that the gentleman also represents a significant number of fine people from Montgomery County.

Mr. ICHORD. I well understand. Mr. Chairman, I did not mean my remarks to be critical of the gentleman from Maryland.

Mr. HILLIS. Mr. Chairman, the legislation, H.R. 9107, is a realistic response to the problem of providing financial assistance to Federal annuitants who, for the most part, earned annuities during past years of low salaried employment, with less liberal benefit levels, and who are now well advanced in age.

Today, these annuitants are trying to exist in an inflationary economy. The question is, how long can they hope to continue to withstand the inflationary pressures which are eroding the purchasing power of the dollar.

This situation applies to all annuitants who are living on fixed incomes, but it is especially critical to those annuitants receiving less than the minimum monthly social security benefit of $84.50. The Civil Service Commission tells us that approximately 145,000 beneficiaries are receiving less than this basic benefit. Included among this number of 65,000 retired employees, 75,000 surviving spouses—mostly widows—and 5,000 children.

This bill provides that a minimum monthly annuity rate be payable to a civil service retiree equal to the minimum social security benefit that may be paid from time to time.

Comparable minimum benefits would also be paid to a surviving spouse and to the surviving children of a deceased annuitant or employee.

However, this bill prohibits the monthly benefit of an annuitant, or surviving spouse or surviving children, from being increased to a minimum equal to that of the social security benefit, if they are receiving any other periodic payment from the United States, including but not limited to social security, other civilian or military retired pay, pension, or veterans compensation, and the monthly rate equals or exceeds the social security primary benefit.

This effectively removes those short-term employees who, upon leaving the Federal service, became eligible for coverage under any other Federal Government retirement program.

Since its inception, the social security retirement system has provided for a basic monthly benefit. It is currently $84.50. This is a fair policy. It is equally fair for the civil service retirement system to offer its employees the same benefit, which this legislation will do.

This legislation also provides a $300 increase to those Federal employees who retired prior to October 20, 1969. The flat dollar increase proposed by the bill for those annuitants will result in an aggregate average increase approximating 8 percent.

Civil service retirement benefits were liberalized on October 20, 1969, but only applied to those employees who retired on or after that date. This increase will close the percentage gap which presently exists between these two groups of annuitants.

Mr. Chairman, one of the responsibilities of any nation, especially a wealthy country such as ours, is to provide adequate retirement benefit levels for its employees. I strongly urge that this legislation be approved.

Mr. BIAGGI. Mr. Chairman, I rise in strong support of this bill H.R. 9107 to provide certain annuity increases for millions of retired Federal employees. If these Americans are to be equipped, at least in part with the means necessary to keep pace with the skyrocketing cost of living, it is imperative that we pass this legislation.

H.R. 9107 would serve two distinct purposes. First as of today, approximately 15 percent of current civil service annuity recipients are receiving less monthly benefits than what the minimum social security payment provides. This renders almost 145,000 Americans practically defenseless in their battle against inflation. Among these 145,000 Americans we include 75,000 surviving spouses of retired workers, as well as 5,000 children. For all of these people, it is fast becoming a struggle merely to survive.

This legislation today addresses itself directly to the desperate plight of these Americans. H.R. 9107 would provide a minimum Civil Service retirement annuity equal to the minimum monthly social security benefit. In addition, these annuities will be increased in the future to match any future changes registered in the smallest social security payments. This would include the 11 percent increase in social security benefits recently passed by the Congress.

The second major objective of this legislation is to correct a long standing inequity which has severely burdened those Federal retirees who separated from Government service prior to October 20, 1969. According to the provisions of legislation passed at that time, those employees who retired prior to that date were not accorded an 8 percent annuity benefit increase granted to those who retired after October 20. This meant that 80 percent of the present annuity roles have had an extra struggle over the last 4 years to keep up with inflation. H.R. 9107 would correct this injustice by providing a flat $300 annual increase for over 500,000 Government workers who retired prior to October 20, 1969, and a $165 annual increase for their 224,000 surviving spouses.

While I personally would like to see all these increases become effective immediately upon enactment, I am satisfied that this bill represents another in a long series of positive legislation which the 93d Congress has considered to relieve the desperate financial plight of our elderly citizens. The unprecedented inflationary expansion of our economy has had a particular devastating effect on our older, retired citizens, particularly Federal retirees. While we have been generous in providing social security recipients with increases, millions of retired Federal workers have not fared as well.

Like the elderly recipients of social security, these retired people are not seeking handouts from the Government. They too have worked many long years, and now are only seeking financial solace and security in their retired years. For far too many older Americans the dreams of retirement have been rudely transformed into nightmares due to the horrors of inflation.

Let us today continue our commitment toward improving the quality of life for all Americans. Millions of Federal retirees desperately need this legislation. I commend the committee for reporting out this excellent legislation, and I urge my colleagues to give it their overwhelming approval.

Mr. DOMINICK V. DANIELS. Mr. Chairman, as a cosponsor of H.R. 9107, I rise in support of its adoption.

Over the past quarter of a century, the Congress has enacted a variety of measures designed to cope with the problems faced by many retired civil servants being pressed between ever-increasing prices and relatively fixed retirement incomes.

While in recent years the automatic cost-of-living escalator feature of the Federal retirement system has proved to be more responsive to those needs than have our previous attempts, the benefit values of many annuitants have not kept pace with improvements made in other Government-sponsored programs, such as the Social Security and Railroad Retirement programs.

Public Law 91–93, enacted on October 20, 1969, liberalized the retirement benefits of the active workforce by providing for annuities to be computed on the three highest years of earnings—as compared to the 5 highest earning years of previous employees—and granted service credit for unused sick leave accruals. Those liberalizations improved benefit levels by approximately eight percent, while doing relatively little for persons separated prior to that date.

This legislation will eliminate the eight percent gap which currently exists between these two classes of annuitants, and more equitably maintain the purchasing power of their annuities.

Accordingly, Mr. Chairman, I urge its adoption.

Mr. GROSS. Mr. Chairman, I have no further requests for time.

Mr. WALDIE. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Under the rule, the Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8345 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) (1) Notwithstanding any other provision of this subchapter, other than this subsection, the monthly rate of annuity payable under subsection (a) of this section shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act.

"(2) Notwithstanding any other provision of this subchapter, other than this subsection, the monthly rate of annuity payable under subsection (a) of this section to a surviving child shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act, or three times such primary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

"(3) The provisions of this subsection shall not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States an annuity or retired pay under any other civilian or military retirement system, benefits under title II of the Social Security Act, a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof, is equal to or greater than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act".

SEC. 2. (a) An annuity payable from the Civil Service Retirement and Disability Fund to a former employee or member, which is based on a separation occurring prior to October 20, 1969, is increased by $300.

(b) In lieu of any increase based on an increase under subsection (a) of this section, an annuity payable from the Civil Service Retirement and Disability Fund to the surviving spouse of an employee, Member, or annuitant, which is based on a separation occurring prior to October 20, 1969, shall be increased by $165.

(c) The monthly rate of an annuity resulting from an increase under this section shall be considered as the monthly rate of annuity payable under section 8345(a) of title 5, United States Code, for purposes of computing the minimum annuity under section 8345 (f) of title 5, as added by the first section of this Act.

SEC. 3. This Act shall become effective on the date of enactment. Annuity increases under this Act shall apply to annuities which commence before, on, or after the date of enactment of this Act, but no increase in annuity shall be paid for any period prior to the first day of the first month which begins on or after the ninetieth day after the date of enactment of this Act, or the date on which the annuity commences, whichever is later.

Mr. WALDIE (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENTS OFFERED BY MR. WALDIE

Mr. WALDIE. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. WALDIE: On page 2, line 25, strike out "$300" and insert "$240" in lieu thereof.

On page 3, line 6, strike out "$165" and insert "$132" in lieu thereof.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I am not going to oppose these amendments.

It is obvious why they are being offered. They are offered to make the bill conform to the Senate bill and, therefore, they make it a matter of expediency.

The amendments make the bill just a little less objectionable, that is all.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I do not rise to voice any strong opposition, but merely to say to the gentleman from California (Mr. WALDIE) that I would not call his amendments ones that are 'based on expediency." "Clever legislative tactics," I think, is the proper term.

Mr. WALDIE. Mr. Chairman, if the gentleman from Iowa will yield, I will say that I appreciate the gentleman's comment.

The gentleman may call me anything he pleases as long as he votes for the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. WALDIE).

The amendments were agreed to.

The CHAIRMAN. Are there any further amendments? If not, under the rule, the committee rises.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. EVANS of Colorado, Chairman of the Committee on the Whole House on the State of the Union, reported that that committee having had under consideration the bill (H.R. 9107) to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes, pursuant to House Resolution 673, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr GROVER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 270, nays 95, not voting 67, as follows:

[Roll No. 637]

YEAS—270

Abzug
Adams
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Bell
Bennett
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bowen
Brademas
Bray
Breaux
Breckinridge
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Carney, Ohio
Carter
Casey, Tex.
Chappell
Chisholm
Clay
Cohen
Collins, Ill.
Conte
Cotter
Coughlin
Cronin
Culver
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dellenback
Dellums
Dent
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Flood
Flowers
Foley
Ford, William D.
Forsythe
Fraser
Frenzel
Frey
Froehlich
Fulton
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Green, Oreg.
Green, Pa.
Gude
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harsha
Harvey
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hogan
Holifield
Holt
Holtzman
Horton
Howard
Hungate
Hunt
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Ketchum
Koch
Kyros
Leggett
Lent
Litton
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKinney
Madden
Madigan
Mahon
Mailliard
Maraziti
Mathias, Calif.
Mathis, Ga.
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nix
Obey
O'Hara
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Poage
Price, Ill.
Pritchard
Railsback
Randall
Rangel
Rees
Reid
Reuss
Riegle
Rinaldo
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Schroeder
Seiberling
Shipley
Shoup
Shriver
Shuster
Sisk
Skubitz
Slack
Smith, Iowa
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Udall
Ullman
Vanik
Vigorito
Waldie
Ware
Whalen
White
Whitehurst
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—95

Archer
Arends
Armstrong
Ashbrook
Broyhill, N.C.
Burgener
Burleson, Tex.
Butler
Byron
Cederberg
Chamberlain
Collier
Collins, Tex.
Conable
Crane
Daniel, Dan
Davis, Wis.
Dennis
Derwinski
Devine
Dickinson
Erlenborn
Esch
Eshleman
Findley
Fish
Fisher
Flynt
Fountain
Frelinghuysen
Fuqua
Goldwater
Goodling
Gross
Grover
Haley
Hastings
Henderson
Hinshaw
Hosmer
Huber
Hudnut
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Kemp
King
Landgrebe
Latta
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mayne
Michel
Miller
Mitchell, N.Y.
Moorhead, Calif.
Nelsen
O'Brien
Pike
Powell, Ohio
Preyer
Price, Tex.
Quie
Rarick
Regula
Rhodes
Robinson, Va.
Robison, N.Y.
Rose
Ruppe
Ruth
Satterfield
Scherle
Schneebeli
Sebelius
Sikes
Smith, N.Y.
Snyder
Stratton
Taylor, Mo.
Taylor, N.C.
Towell, Nev.
Treen
Vander Jagt
Veysey
Waggonner
Whitten
Wylie
Young, Ill.
Young, S.C.

NOT VOTING—67

Abdnor
Addabbo
Alexander
Beard
Bergland
Blackburn
Blatnik
Bolling
Brasco
Brinkley
Buchanan
Burke, Calif.
Camp
Carey, N.Y.
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Conlan
Conyers
Corman
Delaney
Denholm
Diggs
Dorn
Grasso
Gray
Griffiths
Gubser
Harrington
Hays
Hébert
Hillis
Jordan
Keating
Kluczynski
Kuykendall
Landrum
Lehman
Long, La.
McEwen
McKay
McSpadden
Macdonald
Matsunaga
Mills, Ark.
Nedzi
Nichols
O'Neill
Podell
Quillen
Roberts
Rooney, N.Y.
Rousselot
Roybal
Runnels
Stephens
Stokes
Symms
Van Deerlin
Walsh
Wampler
Wiggins
Wyman
Yates

So the bill was passed.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Yates.
Mr. Rooney of New York with Mr. Van Deerlin.
Mr. Blatnik with Mr. Roybal.
Mrs. Grasso with Mr. Mills of Arkansas.
Mr. Hébert with Mr. Nichols.
Mr. Kluczynski with Mr. Wyman.
Mr. Roberts with Mr. Gubser.
Mr. Gray with Mr. Wiggins.
Mr. Bergland with Mr. Buchanan.
Mr. Addabbo with Mr. Camp.
Mr. Clark with Mr. McEwen.
Mr. Matsunaga with Mr. Wampler.
Mr. Long of Louisiana with Mr. Blackburn.
Mr. Stephens with Mr. Hillis.
Mr. Brasco with Mrs. Burke of California.
Mr. Delaney with Mr. Cleveland.
Mr. Harrington with Mr. Conyers.
Mr. Macdonald with Mr. Coughlin.
Mr. Carey of New York with Mr. Stokes.
Mr. McKay with Miss Jordan.
Mr. Brinkley with Mr. Keating.
Mr. Conlan with Mr. Beard.
Mr. Corman with Mr. Kuykendall.
Mr. Denholm with Mr. Diggs.
Mr. Dorn with Mr. Clancy.
Mrs. Griffiths with Mr. Abdnor.
Mr. Hays with Mr. Del Clawson.
Mr. Lehman with Mr. Quillen.
Mr. Nedzi with Mr. Rousselot.
Mr. McSpadden with Mr. Symms.
Mr. Podell with Mr. Don H. Clausen.
Mr. Runnels with Mr. Walsh.
Mr. Landrum with Mr. Alexander.

The vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WALDIE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill H.R. 9107, just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

ANNIVERSARY OF PEARL HARBOR

(Mr. WOLFF asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WOLFF. Mr. Speaker, 32 years ago, on December 7, 1941, the American base at Pearl Harbor, Hawaii, was the victim of a surprise air attack, an action which signaled the perfidious attack by the Japanese upon the United States. Our Nation was attacked because we did not believe that the war then underway would affect us; we had convinced ourselves that the expansionism of the Japanese and Nazi dictatorships was not related to the security cf the United States and the preservation of our way of life.

I have visited Hawaii and I have seen the U.S.S. *Arizona* and I have thought of the many brave men who sacrificed their lives in the defense of their country. December 7, 1941, was certainly a day of infamy, and Americans must always remember and honor not only the boys killed at Pearl Harbor, but all American soldiers who gallantly died so that our society might go on. And we must on this day each year reflect on the human costs of war to all societies, and vow never again to allow world politics to reach the stage where war replaces rational negotiation as an instrument of foreign policy for any nation.

LEGISLATIVE PROGRAM FOR WEEK OF DECEMBER 10, 1973

(Mr. ARENDS asked and was given permission to address the House for 1 minute.)

Mr. ARENDS. Mr. Speaker, I ask for

this opportunity to proceed for 1 minute for the purpose of asking the distinguished majority whip, the gentleman from California (Mr. McFall) if he will give us the program for the rest of the week, if any, and the schedule for next week?

Mr. McFALL. Mr. Speaker, I will respond to the inquiry of the gentleman that there is no further legislative business for today. Upon announcement of the program for next week, I will ask unanimous consent that we go over until Monday.

The program for the week of December 10 is as follows:

Monday is District day and there are no bills.

Then H.R. 10710, the Trade Reform Act, with a modified closed rule, with 7 hours of debate.

H.R. 11088, emergency security assistance to Israel and Cambodia, with an open rule and 1 hour of debate.

H.R. 11771, foreign aid appropriations, fiscal year 1974. If by some change the rule on the Trade Reform Act were defeated on Monday, then the Emergency Security Systems Act to Israel and Cambodia and the foreign aid appropriations would be taken up on Monday, I am informed by the Speaker.

For the rest of the week, H.R. 11401, the independent Special Prosecutor, with an open rule and 2 hours of debate.

S. 1435, District of Columbia self-government conference report, which is scheduled for December 12. Previously we had agreed to take that bill up at that time.

H.R. 11450, the National Emergency Energy Act, subject to a rule being granted.

H.R. 11510, Energy Research and Development Administration, subject to a rule being granted.

H.R. 5898, High Seas Oil Port Act, subject to a rule being granted.

We make the usual reservation that conference reports may be brought up at any time, and any further program will be announced later.

ADJOURNMENT TO MONDAY, DECEMBER 10, 1973

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. GROSS. Mr. Speaker, reserving the right to object, I wonder if the genial gentleman, the majority whip, could give us any information as to the probabilities for the Christmas week or whatever we are going to have by way of a recess?

Mr. McFALL. I can give this information. We are advised that in the Senate, the appropriation bill on Defense will probably come up on December 17. It is possible, according to the chairman of the Committee on Appropriations who has checked this out, that it could come up on the 14th, but probably on the 17th, which is Monday of that week, a week from this coming Monday.

Mr. Mansfield in his statement in the Senate on Wednesday—it can be found on page 21763 of the Senate portion of the Congressional Record—referred to the heavy workload and the number of bills that will be coming up and expressed the opinion that probably Congress could not adjourn until approximately the 21st. After we finish with these bills that have been scheduled for next week, we will have mostly conference reports, including the energy bill conference report, a conference report on the Foreign Aid appropriations bill, a conference report on the emergency security assistance to Israel and Cambodia, a conference report on the Defense Department appropriation bill and a conference report on supplemental appropriations.

I am advised by the gentleman from Pennsylvania (Mr. Flood) that just a few moments ago he has been advised that the President will sign the Labor-HEW appropriation bill, so that we do not have to worry about that one.

Under those circumstances, it would appear to me that we will not be able to adjourn until sometime around the 21st of December. It may be the 22d, or the 20th, depending upon how rapidly everything moves.

Mr. GROSS. Mr. Speaker, I hope the gentleman does not ponder too much or we may not have any Christmas recess. When the gentleman speaks of Saturday, December 22, I am sure that he is aware of the fact that it is pretty hard to arrange and then change air reservations these days. I wonder if sometime next week we could not have definite assurance of when we can make reservations.

The other body has started the practice of Sunday sessions except when it interferes with a football game. I wonder if they might not spend this coming Sunday in session since there is no football game in Washington and dispose of some of the backlog of business which is troubling Mr. Mansfield.

Mr. McFALL. Mr. Speaker, there is a football game, but it is in Dallas. The television does not start until 4 o'clock.

Mr. Speaker, I would make two comments to the gentleman. I am not sure what the other body could do that week with reference to getting out of here because that is a matter for the other body which it has to work out for itself. There is no way to know for certain how these matters will go in conference.

With reference to the airlines, hopefully we will have some assistance from the airline representatives to help Members get their reservations. We are working on that and hope to have that announcement for the Members very shortly.

Mr. GROSS. Mr. Speaker, there is little use of Members who live long distances from districts thinking about driving because they may not be able to get gasoline and the truckers may have the highways blocked.

Mr. McFALL. Mr. Speaker, the gentleman from Iowa has been here a long time. I would like to ask him whether or not he has got his reindeer all ready to go.

Mr. GROSS. The gentleman from Iowa does not have any hay to feed reindeer.

Mr. ARENDS. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the distinguished minority whip.

Mr. ARENDS. Mr. Speaker, it would appear to me that the gentleman is in trouble as to his vacation. He does not know when he is going or when he is coming back.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, I wonder if the gentleman from California could clarify whether the House can be expected to be in session Saturday, so that we could make plans?

Mr. McFALL. Mr. Speaker, if the gentleman will yield further, as of now I would say to the gentleman from Illinois, probably not. I would not anticipate it, but anything is possible. However, if the other body takes up the defense appropriations bill which I have described on the 17th, and surely not before the 14th, it would be almost impossible for us to get out of here Saturday night. That would be the only reason I would think of for working on Saturday, if we work on Saturday.

Mr. THOMPSON of New Jersey. Mr. Speaker, will the gentleman from Iowa yield?

Mr. GROSS. I yield to my friend, the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. Mr. Speaker, I sympathize completely with the gentleman's anticipation that there will not be gasoline and that there might be blockages on the roads. I also sympathize with the fact that he has no hay. Perhaps we can take up a collection for him.

Mr. GROSS. It would be appreciated.

Mr. THOMPSON of New Jersey. However, normally at this time of the year, the gentleman goes to some foreign country, is that correct?

Mr. GROSS. I beg the gentleman's pardon?

Mr. THOMPSON of New Jersey. Does not the gentleman from Iowa usually go abroad to some foreign country to survey the needs, such as the International Labor Organization or something like that?

Mr. GROSS. Mr. Speaker, I thought I had told the gentleman before that I made my junket abroad with the compliments of the Government in the spring of 1918.

Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule, be dispensed with on Wednesday of next week.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

EMERGENCY MORTGAGE MARKET ASSISTANCE ACT OF 1973

(Mr. WIDNALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WIDNALL. Mr. Speaker, I have today introduced the Emergency Mortgage Market Assistance Act of 1973. Congressman BEN BLACKBURN, Republican of Georgia, is joining in cosponsoring this bill.

In so doing, Mr. Speaker, we seek immediate assistance for homebuyers and sellers and those engaged in the various essential components of the real estate and homebuilding industry. The current financial dilemma which has virtually interrupted the entire housing market is not a new, unprecedented event. It is but one more in an unfortunate, and seemingly endless, series of crises that spell doom for the little man in the industry; higher costs for the homebuyer who is fortunate enough to find a lender; and the delay or destruction of dreams for those who are not.

Mr. Speaker, although this is a time of crisis for the industry and the public, the bill proposed today is not panic legislation in any sense of the word. Many special efforts have been initiated this year to restore the mortgage market to some reasonable capacity. Many legislative considerations are being studied at this time with the same purpose in mind. It has been acknowledged that an omnibus housing bill will not be forthcoming until sometime in 1974. That will be too late for many reasons. And yet, there are several proposals which have been thoroughly studied, and approved in committee which are urgently needed now. These are the proposals which have been assembled in this bill. They have been studied and they are supported by the industry and many members of the Housing Subcommittee in both legislative bodies. It is believed that these proposals can be readily accepted and quickly enacted.

I can add for those who share our concerns that this bill will not in any way dilute or deny the need for other similarly directed legislation. There will continue to be an urgent need to get on with an omnibus housing bill next year. There are admittedly other proposals that deserve to be studied and might be developed to additional advantage for the mortgage market. I have not included controversial provisions or provisions requiring further study, because the time remaining in this session simply does not permit prolonged study and debate.

I believe, Mr. Speaker, that my fellow Members will readily agree to the proposed bill as a direct, simple and effective means for giving immediate relief to the current very critical situation in our mortgage market.

A section-by-section summary of the Emergency Mortgage Assistance Act of 1973 follows:

SECTION-BY-SECTION SUMMARY OF EMERGENCY MORTGAGE MARKET ASSISTANCE ACT OF 1973

A bill to increase the availability of urgently needed credit.

TITLE I—DOWN PAYMENT REQUIREMENTS AND MAXIMUM MORTGAGE AMOUNTS UNDER FHA PROGRAMS

Section 101. The loan-to-value ratios (which determine downpayment schedules) for the FHA programs are changed as follows:

Section 203(b) single-family homes:

CURRENT

97% on the 1st $15,000

90% on amounts between $15,000 and $25,000

80% on amounts above $25,000

PROPOSED

97% on the 1st $20,000

90% on amounts between $20,000 and $35,000

80% on amounts over $35,000

The same loan-to-value ratios will apply to single family homes under the section 220 insurance program in urban renewal areas and the 234 program for mortgage insurance for condominium units.

Consistent with the above, the loan-to-value ratios are also changed for the section 222 program for mortgage insurance for servicemen.

Section 102. Increase in maximum mortgage amounts under FHA's 1 and 4 family mortgage insurance programs.

This section increases the maximum mortgage amounts for the section 203(b), the section 220(d), the section 222, and 234 programs from $33,000 to $45,000. Under the section 203(b) and 220(d) programs maximum limits for 2 and 3 family units are increased from $35,750 to $48,750, and for 4 family units from $41,250 to $56,000.

Section 103. Increase in maximum mortgage amounts under FHA's multifamily mortgage insurance programs.

The per-unit mortgage limits for multifamily structures under section 207, the regular FHA multifamily insurance program, the section 213 cooperative housing program, and the section 220(d) program for multifamily housing in urban renewal areas are increased as follows:

	Current	Proposed
Efficiency	$9,900	$13,000
1 bedroom	13,750	18,000
2 bedroom	16,500	21,500
3 bedroom	20,350	26,500
4 or more bedrooms	23,100	30,000

For elevator-type structures under these programs, the limits are increased as follows:

	Current	Proposed
Efficiency	$11,550	$15,000
1 bedroom	16,500	21,000
2 bedroom	19,800	25,750
3 bedroom	24,750	32,250
4 bedroom	28,050	36,465

For the section 221(d)(4) multifamily insurance program for modest income and displaced families, the per-unit increase is as follows:

	Current	Proposed
Efficiency	$9,200.00	$12,300
1 bedroom	12,937.50	17,188
2 bedroom	15,525.00	20,525
3 bedroom	19,550.00	24,700
4 or more bedrooms	22,137.50	29,038

For elevator-type structures under this program, the limits are increased as follows:

	Current	Proposed
Efficiency	$10,525.00	$13,975
1 bedroom	15,525.00	20,025
2 bedroom	18,400.00	24,350
3 bedroom	23,000.00	31,500
4 or more bedrooms	26,162.50	34,578

TITLE II—LENDING AND INVESTMENT POWERS FEDERAL SAVINGS AND LOAN ASSOCIATION

Section 201.—Construction loans: Federal savings and loan associations are unnecessarily hampered in making residential construction loans in that they are restricted in methods of payment and types of security that require a complicated, time-consuming and needless series of recordings. The amendment would permit federal associations to make line-of-credit loans to builders which would be generally limited to situations related to the financing of construction of primarily residential real property as distinguished from loans to finance non-residential commercial real estate. This new lending flexibility would help to create a more competitive construction loan market and would assist in reducing closing costs.

Section 202.—Single family dwelling limitations: This section would increase the present $45,000 limitation on the amount of the loan which a federal institution may make on a single family residence to $55,000. This is necessary if home lending is to take account of present day inflation. Real estate values have traditionally been on the ascent. Recent studies show that the cost of both existing and new housing has increased over 100% in the last 20 years. The cost of building materials, particularly lumber, has risen substantially over the last ten years. Accordingly, this amendment would conform the lending capacity of federal associations to the present housing market.

In addition, the amendment would allow an association to allocate only the excess over the limit to the 20% of assets requirement, where before the whole amount of the loan, including the amount under the limit, had to be counted.

TITLE III—MORTGAGE CORPORATIONS

Section 301(a)—FHLMC loan-to-value ratio: Would allow purchase of a conventional mortgage with the outstanding balance exceeding 80% of the value when the excess over 80% is insured by a qualified private insurer. Under existing law, such mortgages may be purchased only where the outstanding balance exceeding 75% of value is insured by a qualified private insurer.

(b) FHLMC percentage limitation on 1-year mortgages: Would remove a limitation now in the law limiting the purchase of conventional mortgages over the one year old at time of purchase to 10% of conventional portfolio. However, the seller would have to agree to relend such funds within 180 days after the date of purchase by FHLMC.

(c) Maximum principal amount: Provides that the limitation governing the maximum amount of a conventional mortgage purchased by FHLMC be comparable to the limitations contained in the first sentence of section 5(c) of the Home Owners' Loan Act of 1933 ($45,000 in the case of single-family dwellings and the dollar amounts contained in section 207 of the National Housing Act for multi-family housing), except that such limitations may be increased by 25% with respect to mortgages on property located in Alaska, Guam, and Hawaii. With the enactment of section 202 of this bill, the single-family limit would increase to $55,000.

Sections 302(a)-(e)—Investment in FHLMC obligations: These subsections make clear that national banks, state-chartered banks which are members of the Federeal

Reserve System, Federal Home Loan Banks, federal savings and loan associations, and federal credit unions have statutory power to purchase mortgages, obligations or other securities which are sold or ever have been sold by the Federal Home Loan Mortgage Corporation without regard to limitations which might be otherwise applicable to purchase of such mortgages, obligations or other securities.

Section 303(a)—FNMA loan-to-value ratio: Amends section 302 of the FNMA Charter Act to allow purchase of a conventional mortgage with the outstanding balance exceeding 80% of value when the excess over 80% is insured by a qualified private insurer. Under existing law such mortgages may be purchased only where the outstanding balance exceeding 75% of value is insured by a qualified private insurer.

Section 303(b)—Percentage limitation on 1-year mortgages: Removes the 10% limitation on purchase of conventional mortgages over 1 year old. However, the seller would have to agree to relend such funds within 180 days after the date of purchase by FHLMC.

Section 303(c)—Maximum principal amount: Amends such section 302 to provide that the maximum amount of conventional mortgages purchased by FNMA shall be comparable to the limitations contained in the first sentence of section 5(c) of the Home Owners' Loan Act of 1933 ($45,000 in the case of single-family dwellings and the dollar amounts contained in section 207 of the National Housing Act for multi-family housing), except that such limitations may be increased by 25% with respect to mortgages on property located in Alaska, Guam, and Hawaii. With the enactment of section 202 of this bill, the single-family limit would increase to $55,000.

Section 303(d): Amends section 309 of the FNMA Charter Act to provide that employees subject to the Civil Service retirement law who became employed by FNMA prior to January 31, 1972 may continue under such law.

Section 304—GNMA purchase limits: This amendment increases the maximum mortgage purchase limit for the Government National Mortgage Association from $22,000 to $33,000. This applies to GNMA's regular program as well as the Tandem Plan.

TITLE IV—NATIONAL BANKS

Section 401—Real estate loans by national banks: This section would extensively revise section 24 of the Federal Reserve Act to authorize broader lending and investment powers for national banks relative to real estate. Under this revision banks would be authorized to make real estate related loans as follows:

1. Make real estate loans secured by other than first liens provided said lien when added to prior liens does not exceed the applicable ratio of loan to value. Loans of this type would be limited to 20 percent of unimpaired capital and surplus.

2. Make loans against unimproved real estate up to 66⅔ percent of appraised value and if improved with off-site improvements up to 75 percent of appraised value.

3. Continue to make loans against improved real estate up to 90 percent of appraised value for a maximum term of thirty years, but with no required amortization on any type of real estate loan except when it exceeds 75 percent of appraised value or is improved with a dwelling for one to four families. Amortization, where required, would be based on a maximum of a thirty-year payout, with no requirement that the loan be fully amortized by maturity if the term is less than thirty years.

4. Classify all loans, insured under the National Housing Act or by the Secretary of Agriculture, or where guaranteed by HUD when the guarantee is backed by the full faith and credit of the U.S., or fully guaranteed by a state agency or instrumentality thereof or by a state authority for the payment of which the faith and credit of the state is pledged, or at least 20% of which is guaranteed by the Veterans Administration as non-real estate loans and not subject to any of the limitations of conventional loans or included in the aggregate amount of real estate loans that may be made or in the aggregate of subordinate liens that may be made.

5. Continue the practice, where loans are secured by real estate and other collateral, to subtract the value of the non-real estate collateral from the loan and consider the balance only as a loan against real estate.

6. Consider a loan secured by a lien on real property, where there is a firm take-out from a financially responsible party to advance the full amount of the loan within sixty months, as a non-real estate loan.

7. Continue to consider loans, with a maturity of not more than sixty months made against a building under construction secured by a firm take-out to advance the full amount of the loan and loans to finance the construction of residential and farm buildings for a term not in excess of sixty months, as commercial loans and limit such loans to 100 percent of unimpaired capital and surplus.

8. Make construction loans up to 75 percent of appraised value without the necessity of a firm take-out.

9. Continue to classify loans, where the lender looks to the borrower's general credit standing, or an assignment of rent where a mortgage is taken as a precaution against contingency or where the bank agrees to participate with the Small Business Administration, as commercial loans.

10. Permit up to 10 percent of the maximum amount that may be invested in real estate loans to be placed in loans secured by real estate without the necessity that said loans conform to any of the individual loan limitations of the revised section.

The Comptroller of the Currency would be authorized to prescribe by rule or regulation such additional conditions and limitations on real estate loans as he deemed necessary.

TITLE V—INSURED LOANS FOR FIRE SAFETY EQUIPMENT IN NURSING HOMES AND INTERMEDIATE CARE FACILITIES

Section 501.—This section would amend section 232: (Mortgage Insurance for Nursing Homes) of the National Housing Act by adding a new subsection (i) which would authorize the Secretary of Housing and Urban Development to insure loans made by private lenders for fire safety equipment necessary to meet expanded safety standards under Medicare, Medicaid and other programs. The amount, maturity and interest rate limits of loans would be determined by the Secretary and the program would be administered in a manner similar to the home improvement loan program under Sec. 220 of the National Housing Act.

TITLE VI—AUTHORIZATIONS FOR PUBLIC HOUSING PROGRAMS

Section 601. This section would provide $210 million additional contract authority for the public housing program for fiscal year 1974. Such authority would be in addition to the $140 million previously authorized and would be available for operating subsidies, modernization and the provision of new dwelling units. It is expected that the bulk of this authority will be utilized by the Administration in the procurement of additional dwelling units to be subsidized through the Section 23 Leasing program.

ELECTRIC UTILITIES IN STATE OF INDIANA ARE EXPERIENCING NO ELECTRIC POWER SHORTAGE

(Mr. BRAY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BRAY. Mr. Speaker, it has been customary to use the electric utilities as "whipping boys," but today the people of Indiana should be proud of the fact that despite the energy crisis, we have no electric power shortage in the State of Indiana. The reason for this sufficient supply of power is that most of the electric utilities in the State of Indiana have fought bravely to keep from being forced to convert from the use of coal to the use of oil or gas.

There are criminal citations pending against two power companies in Indiana for alleged violation of the Clean Air Act, although tests have shown there is no violation. Pressure by the Environmental Protection Agency throughout the country has been gradually forcing electric utilities to use oil or gas instead of coal in the production of electricity, despite the fact that, if all the electric power produced in our country today was by coal there would be no energy crisis. Courage and commonsense on the part of the electric utilities in Indiana is working to the tremendous benefit of Hoosiers and is setting an example for the rest of the Nation.

Great progress has been made and is being made in the cutting down of air pollution resulting in the use of coal in generating electricity, but demanding the impossible of powerplants is a major cause of our present energy crisis.

Electric utilities in many States have yielded to pressure and today are producing electricity by oil, oil which is now almost unobtainable, resulting in loss of jobs and lowering of our American standard of living.

It will take many years to rectify the damage that has already been done. Coal was the railroads' best customer and the curtailing of the use of coal has greatly injured the railroad system of this country. The reduction of the use of coal has also closed many coal mines and new miners are no longer being trained. It will take many years to get our mines back in shape and the railroads in a position to provide this needed coal.

But American ingenuity can rectify our errors of the past. Our country must never again allow itself to become hostages to oil or any other product. America must be as self-sufficient as possible.

NEW LOOK AT PUBLIC LANDS

(Mr. MELCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MELCHER. Mr. Speaker, I am today introducing a bill to obtain a quick inventory of Government-owned lands containing energy resources, and for a review of all present and potential uses of all Federal lands, to be done over a 3-year period. It calls for a report in 60 days on potential energy sources.

Additionally, it directs the Secretary of the Interior to encourage exploration and development of energy resources on public lands.

National parks, the wildlife system, wild and scenic rivers system, and the wilderness system are exempted from the review.

Unfortunately, solutions being offered to the energy crisis so far have been negative solutions; rationing, outrageously high fuel taxes, and so forth.

Conservation is needed, but so are diligent efforts to increase supplies to meet need, and my bill is aimed in that direction.

I am in hopes that hearings on this bill, as well as the report it directs, will point the way to expanding energy supplies reasonably promptly and lessen the need for undesirable and probably unworkable regulatory measures.

W. McNEIL LOWRY TO HEAD NEW PRIVATE FOUNDATION FOR THE ARTS

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, all who have made efforts over the years to expand and enrich the scope of cultural activities in the United States will be delighted at the news of the establishment of a new private foundation the purpose of which will be to promote the arts and humanities.

This news is doubly encouraging because the foundation is to be headed by Mr. W. McNeil Lowry, who has served so effectively since 1957 as Vice President of the Humanities and Arts Division of the Ford Foundation. Those of us who know Mr. Lowry and have heard him testify before congressional committees realize his great ability and will wish him well in this endeavor.

Mr. Speaker, I think it should also be noted that one of Mr. Lowry's associates in this significant new venture is our distinguished colleague, the Honorable FRANK THOMPSON, Jr. of New Jersey, who is one of the incorporating members of the foundation.

Congressman THOMPSON was principal sponsor of the legislation which created the National Foundation on the Arts and Humanities as well as of the measure creating the John F. Kennedy Center for the Performing Arts, and his experience and commitment to the arts will mean much to this historic new effort.

Mr. Speaker, I am pleased to insert at this point in the RECORD two articles, published in the New York Times and the Washington Post, which describe this important development for the future of the arts in the United States:

W. McNEIL LOWRY: BUILDING A FOUNDATION FOR ART'S SAKE

(By Stephen D. Isaacs)

NEW YORN.—W. McNeil "Mac" Lowry, perhaps the closest America has had to a czar of the arts, is planning to set up the country's first private foundation aimed solely at promoting the arts.

For 17 years, Lowry has been the Ford Foundation's dispenser of largesse to the arts and humanities, heading Ford's 27-man staff in that area.

Over that 17 years, he has given away around $306 million.

Lowry has kept the planning of the new foundation a secret and told his staff and Ford president McGeorge Bundy of the plans only at 4 p.m. yesterday.

Lowry steadfastly refuses to state or even estimate how much of an impact—fiscally or artistically—his new foundation will have. But from other sources it was ascertained that the new foundation—to be called the Foundation for the Humanities and the Arts—will in time be handing out more money in this area than Ford now does. Lowry would say only that the sums involved are likely ultimately to be "vast."

Lowry, now 60, will be leaving Ford roughly in June to spend fulltime on the new foundation and his new enterprise will have no ties with Ford.

But Lowry says he has a signed commitment from Bundy, and an affirmation and re-affirmation from Ford's trustees, that Ford will continue its present level of support for the arts and humanities for the next decade. Ford now spends between 7 and 10 per cent of its annual grants budget in this area.

His new foundation, Lowry insists, will in no way compete with Ford, or with any of the other private and public foundations that give some of their funds to the arts.

Lowry is proud of what he has done at and through Ford, and wants in no way to undermine that foundation's ground-breaking efforts in the arts and humanities. Lowry joined Ford 20 years ago and drew up the original proposals for Ford to start funding the arts, in time becoming Ford's vice president for arts and humanities.

Lowry said in an interview that people he comes into contact with regularly have been telling him over the last several years that some sort of private foundation for the arts was needed, and have asked him who might be an appropriate person to assemble such a foundation and then run it.

This year Ford instituted a new retirement-at-60 policy for its executive officers, although Lowry says he was specifically exempted and was offered a vice president for policy job through 1978.

Lowry said that many individuals who give heavily to the arts in many parts of the country are frustrated, in that they give to local causes but would have more to give if they felt their generosity would have an impact on a field of art in general and on its values rather than just on a particular museum or theater organization or workshop.

This is the kind of grant-making that Lowry developed for Ford, concentrating its largesse in specific areas of the arts—ballet, for instance—and making these fields viable economically and innovative artistically.

In addition, Lowry's matching-grant policy—offering money to organizations only if they raise equal amounts—has become a staple of the grant business. Lowry said that the new foundation also will adopt the matching-grant system. He expects to be making no grants until approximately mid-1975.

Lowry feels the new foundation is coming at a perfect time, with the "creative and performing arts depending very, very largely on private patronage." If so much is expected from the private sector, Lowry feels, at least the private sector's abilities ought to be harnessed and coordinated.

Lowry said that he had not fully realized until recently how much private money for the arts there was in America that was just sitting there waiting for someone to ask for it—if it could be used properly.

"There was a whole group of people, whom we've had a great deal of opportunity to identify for many years," said Lowry, "who individually in their own community or with a particular favorite thing in the arts give a great deal of money. I had thought they probably gave all that they could . . . (but) they obviously have more funds than they are giving locally."

He says that his new foundation will help the already-burgeoning regional arts centers that have developed in the past few years—by focusing more attention on them, by its grants, and by its own contributors.

"We expect them to give to the arts thing where they live," said Lowry of the expected contributors to the foundation.

Roger Stevens, director of the Kennedy Center for the Performing Arts in Washington, agrees with Lowry that much money for the arts is now untapped.

Reached in Los Angeles yesterday, Stevens said that "Mac is right. There is a lot of money that's available throughout the country and that's frustrated."

He said that "when I left the Arts Council, as a matter of fact, I was about to try the same thing, but I was a little early. There is money enough."

Stevens said he hopes Lowry will follow the same strategy he pursues at Ford, "where he's picked some things that he thought were good and then goes all out for them. I think that's a good policy, better than the scatter policy of small handouts. That has created some viable institutions."

Stevens said the impact of the 1969 tax reform law will make a good deal of money available. The law, enacted to prevent foundations from piling up assets and not spending, requires by the end of this year that 6 percent of a foundation's assets be dispensed each year.

"I could name foundation after foundation," said Stevens, "that's just really fiddling around. And now that there is pressure on them because of the law, I think they are looking for places and I think Mac is coming along at the right time . . . most of them do not have the staff to (disburse) it properly."

Lowry, however, said he had not considered the law's impact on the availability of grant money and reckons that most of his foundation's money will not come from "existing foundations."

Among his incorporators are some extremely wealthy patrons of the arts, as well as some people with renowned abilities for raising money for the arts. Lowry acknowledges, when pressed, that a recession could have an impact on the new foundation, but that a recession would likely hurt all foundations equally. In translation, that meant that some of the foundation's funds are already clearly committed.

One of Lowry's first steps, he said, will be a tour of the country with some of his fellow incorporators—in early 1975.

"We're not going to pretend that all wisdom was in the Ford Foundation or one man (for that, read Lowry). I'm going to re-stir all these issues and problems and policies and principles over again."

Lowry believes strongly in the idea of a national foundation devoted exclusively to the arts because he feels that many in America have given the backs of their hands, and wallets, to the arts—that the attention paid to the arts institutionally has been principally cosmetic.

The "original incorporators and members" of W. McNeil Lowry's new foundation are:

Betty Allen, a young black contralto; Mrs. Vincent Astor of the Astor fortune; Aaron Copland, the senior American composer; Phyllis Curtin, a coloratura soprano; Larry Deutsch, secretary-treasurer of Adolphs, Ltd., John Houseman, the director, producer and writer; C. Bernard Jackson, executive director of Los Angeles Inner City Cultural Center.

Philip Johnson, the architect; Lincoln Kirstein, general director of the New York City Ballet; Roy E. Larsen of Time, Inc., Sherman Lee of Cleveland's Museum of Fine Arts; Goddard Lieberson, president of C.B.S. Records; Robert Lowell, the poet; Lowry; Lloyd Rigler, president of Adolphs; Andrew Ritchie, retired curator of painting at the Museum of Modern Art.

Merrill Rueppel, director of Boston's Museum of Fine Arts; Madeleine Haas Russell, a prominent arts philanthropist in San Francisco; Stella Saltonstall, arts philanthropist in New York; Alan Schneider, a writer and director (who is currently an associate director of the Arena Stage in Washington), Rudolf Serkin, the pianist who is director of the Curtis Institute.

Laurence Sickman, director of the William Rockhill Nelson Gallery in Kansas City; Peter Smith, director of the new Hopkins Center at Dartmouth College; Rep. Frank Thompson (D-N.J.), second-ranking member on the House Education and Labor Committee; Virgil Thomson, the retired composer, critic and writer; June Wayne, the artist and founder of the Tamarind Lithography Workshop, and Harold L. Zellerbach of the Zellerbach Paper Corp.

First Private Foundation To Aid the Arts Is Set Up

(By Grace Glueck)

The first private foundation devoted solely to the arts and the humanities is now being incorporated by a group of arts patrons and professionals. To head it, W. McNeil Lowry will leave next June his post as vice president of the Ford Foundation's humanities and arts division, where since 1957 he has dispensed more than $306-million.

Aimed at fostering "creative talents and humanistic values," the multimillion dollar Foundation for the Humanities and the Arts will have, according to Mr. Lowry, "as major a presence as any foundation now existing in the private sector." Although Mr. Lowry refuses to give financial details, other sources in the field predict that the foundation's endowment, drawn solely from private patrons, will stand at several hundred million dollars in five to seven years.

The giant private foundations now existing, such as the Ford Foundation, the Rockefeller Foundation and the Andrew W. Mellon Foundation, give relatively modest budgetary shares to the arts in their broad spectrum of programs.

Ford, the largest private contributor in the arts, appropriates between 7 and 10 percent of its annual regular budget for them.

The only existing agencies that give money exclusively to the arts and the humanities are the Federally funded National Endowment for the Arts and the National Endowment for the Humanities. In fiscal 1973 the former gave $38-million to the arts, and next year will give over $60-million.

Mr. Lowry emphasizes, however, that it is private patrons—including foundations—that provide the major support for the arts, and says that the balance will not shift "during our lifetime" to Government funding. Because of its private commitments, he noted, the new foundation would be able to "concentrate on creative and humanistic values without the urgent and often vital pressures of short-term empirical goals."

Noting that he spoke for incorporating members of the new foundation, Mr. Lowry suggested that the formation of an exclusively arts-oriented agency was "a great symbolic move at this time, in view of an almost universal questioning of the American tradition and its moral and spiritual health."

NOT A SUBSTITUTE

The new foundation, according to Mr. Lowry, will not substitute for any resources now being invested in the humanities and the arts by national and local foundations, public tax programs or private arts patrons.

In fact, he noted, while not duplicating any other funds, it would cooperate with the Ford, Rockefeller, Mellon and other private foundations in the field, and with the National Endowments for the Arts and Humanities, as well as with state and municipal agencies. He said he felt that the new agency would actually stimulate other foundations to increase their arts appropriations.

That sentiment was echoed yesterday by McGeorge Bundy, president of the Ford Foundation, which made a commitment last year to continue its level of support of the arts for another decade. Mr. Bundy said he welcomed the prospect of the new foundation as "enlarging the resources going into the arts. We've always felt that one of the best things that can happen is pluralism—for others to take increasingly strong roles."

FOUNDING MEMBERS

The foundation's incorporating members, who will soon elect a board of trustees, include artistic, intellectual and public leaders. Among them are Robert Lowell, the poet; Mrs. Vincent Astor, the philanthropist; Lincoln Kirstein, ballet director, writer and critic; Rudolph Serkin, the pianist; the singer Betty Allen and Representative Frank Thompson Jr. of New Jersey, a supporter of the original legislation that established the National Endowments.

The idea for the foundation came to him, Mr. Lowry said, after he had been prodded during the last few years by a number of people "who wanted to know how to go about starting one. I finally realized I was being asked indirectly to do it myself."

At first doubtful over the financing of such a project, he came to feel that funds could be a reality, since people of wealth in various communities wanted a chance to participate in a national fund, "to influence a national value system."

Existing foundations did not allow for individual participation, he explained, and the new foundation would provide a "mechanism" through which donors could contribute what they wanted to local projects but also have "a national input." The majority of the board of trustees, he suggested, would be "strongly involved professionals," who would "surround" a small core of knowledgeable patrons of the arts.

Among the roles of the new foundation, Mr. Lowry said, would be that of giving "the widest currency to testaments of the importance of creative and humanistic values and resources throughout the American society, from a platform not encumbered by other critical, social, economic, educational and political issues."

Its activities might include:

Providing technical assistance for artistic and culturally oriented groups and institutions, embracing management, legal and fiscal goals, returns from investment and the building of audiences.

Afford "directly or indirectly opportunities for young humanists and talented creative or performing artists at key stages in their careers."

Supporting "experiments, demonstrations and studies that form pilots; opening new avenues in the creative arts so as to strengthen the humanistic tradition and set standards of quality and leadership."

Directly supporting "key artistic and humanistic groups or institutions on criteria of quality."

"Studying, collecting and disseminating throughout the United States the procedures and results of successful projects through which the arts have helped to give personal and social identity and goals to persons of all economic, ethnic and other particular cultural or social significance."

Mr. Lowry is 60 years old, an age when the Ford Foundation requires its executive officers to retire. He explained that although the foundation had nevertheless asked him to continue as a general executive officer until 1978, he had decided that "the new foundation has overriding importance."

The Kansas-born, ex-teacher of literature has spent 20 years on the staff of the Ford Foundation, serving as director of its education program, vice president for policy and planning and acting chief executive officer. In 1957, he set up the humanities and arts division, and has since served as its head.

During his tenure, the division has made such major grants as $80.2-million to assist 61 symphony orchestras, $7.7-million to eight ballet organizations, and extensive funding to theater and opera companies and other performing arts groups. A strong believer in private philanthropy, Mr. Lowry said that in his new job he would continue to work with Congress and the public in advancing the cause of organized private philanthropy "as one means of ensuring pluralism and diversity in choices made within the American system."

Yesterday Mr. Bundy said of Mr. Lowry, "We take an affirmative attitude toward Mac and any new projects of his. We warmly wish him success."

PLAY BALL

(Mr. MIZELL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MIZELL. Mr. Speaker, in the course of my remarks yesterday commending the nomination of Gerald Ford as the 40th Vice President of the United States, I mentioned three goals I had set early in my Washington career.

I said I hoped to see the Washington Senators win an American League baseball pennant; to see the Washington Redskins win a National Football League championship and to see Jerry Ford elected Speaker of the House.

Vice President Ford has, of course, done even better for himself, and the Redskins have won a National Football Conference championship, but the Senators, instead of winning an American League pennant, have moved to Texas and changed their name. They have still not won a pennant, however.

Now comes the news that the San Diego Padres are all but assured of a transfer to Washington for the 1974 season, and while that move was not among my original goals outlined a moment ago, it is still a cause for some rejoicing for the thousands of great baseball fans here in the Washington area.

Congratulations are certainly in order for Mr. Joseph Danzansky, who exhibited not only a great community spirit and a very generous nature, but also the patience of Job throughout these very protracted negotiations that finally brought the Padres to Washington.

Congratulations are also in order for some of our distinguished colleagues here in the House also. The gentleman from California (Mr. Sisk), the gentleman from New York (Mr. Horton) and other leaders of the congressional group who were so active in these negotiations all deserve the thanks of Washington's baseball fans.

I have always been partial to the National League, having spent so many years in that league myself, and so I am especially pleased that the National League will find a new home for one of its teams here in Washington.

So I join the many other baseball enthusiasts in the Nation's Capital in welcoming baseball back to Washington, and I hope RFK Stadium will be the site of Hammerin' Hank Aaron's 714th career homerun at the beginning of the 1974 season, and maybe his 715th as well.

INCREASE CIVIL SERVICE ANNUITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. LEHMAN) is recognized for 5 minutes.

Mr. LEHMAN. Mr. Speaker, I support the passage of H.R. 9107 to increase civil service annuities.

Last March, I introduced H.R. 5517, whose provisions were nearly identical to the legislation now before us. My intention was to provide badly needed assistance to the thousands of Federal retirees on fixed incomes who were being hardest hit by inflation.

The administration's Office of Management and Budget has expressed its opposition to this legislation, saying that its enactment "would not be in accord with the program of the President." Let me say that the enactment of H.R. 9107 becomes more vital every day as a direct consequence of the program of the President—a program which has brought us the worst inflation that we have seen in this country since the end of World War II. I, therefore, call upon the administration to withdraw its opposition and support H.R. 9107.

There are 145,000 persons today whose civil service retirement annuities come to less than the current minimum for social security benefits. This legislation will raise minimum annuities to $85 per month—a very small sum indeed. This minimum would increase automatically when the minimum social security payment was increased.

H.R. 9107 will also restore equitable treatment for civil service annuitants who retired from Government service prior to October 20, 1969. With the enactment of Public Law 91–93, Federal employees who had retired after that date received an increase in benefits of approximately 8 percent, leaving those who had retired earlier 8 percent behind. To correct this inequity, the annuity of a former civil servant who had retired before October 20, 1969, will be increased under H.R. 9107 by $25 a month or $300 a year. This represents an average increase of 7.4 percent. The annuity of a surviving spouse would be increased by $165 a year. These increases would be applied before further increasing a person's annuity to the social security minimum amount.

Mr. Speaker, as a member of the Post Office and Civil Service Committee I was pleased to vote in favor of H.R. 9107 in committee and am proud to support the passage of this legislation now before the House.

I believe that Congress is dutybound to provide fair and just compensation to those thousands of men and women who have dedicated their lives to Government service. The passage of H.R. 9107 is one step toward this goal.

CALIFORNIA TRANSPORTATION CONTROL PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HOLIFIELD) is recognized for 30 minutes.

Mr. HOLIFIELD. Mr. Speaker, I have been deeply disturbed by the drastic and unforeseen results of the Environmental Protection Agency's actions in implementing certain provisions of legislation passed by the Congress, particularly the Clean Air Act.

I supported the Clean Air Act and the subsequent Clean Air Act amendments. I also handled the Presidential reorganization plan in the House Committee on Government Operations which established the Environmental Protection Agency. I am beginning to regret those actions somewhat.

The peculiar air pollution problems of southern California have been with our people for several decades. We, in California, have pioneered in passing State laws and local ordinances to try to solve this vexing problem. We have also expended more public moneys in remedial research and development than any other State.

The EPA regulations, which the Agency claims to have a basis in statutory language, require rigid standards of air purity, and now threaten the economic life of more than 10 million people in the Los Angeles Basin. The economic and social welfare of millions more are threatened in other parts of the State, and in other States. We have studied the EPA directives and public statements and we have reluctantly concluded that they stem from the mandatory, inflexible provisions which were written into the basic statutes.

We, the more than 10 million people in southern California, find ourselves faced with an intolerable situation. Faced, as we are, with almost complete dependence on automotive transportation of people and goods, our economic and social structure cannot survive under the rigid requirements of the Clean Air Act, as amended, and the directives, rules, and regulations which the EPA has imposed upon us. It is not our purpose to present voluminous arguments and data to sustain the former statement. We know it is true, and the EPA knows it is true.

For these reasons, I am hopeful that the Interstate and Foreign Commerce Committee will review the Clean Air Act as soon as possible and amend it so that it will provide reasonable administrative flexibility to enable communities, such as ours, to exist under extraordinary and unique conditions.

We can prove that southern California does have a frequent, peculiar and unique temperature inversion situation. The thickly populated coastal plain is surrounded by a range of mountains with heights of to almost 9,000 feet on three sides. On the western side we have the Pacific Ocean. The prevailing breeze which usually begins in the afternoon from the Pacific is not strong enough to push the accumulated air pollutants—smog—over the semicircle of mountains. The clouds frequently are lower than the tops of the semicircle of mountains. The result is a temperature inversion lid which prevents upward dispersion of concentrated air pollutants until late evening or nighttime. Similar conditions prevail many times for consecutive days or weeks.

Let me again state that we are dependent on automotive transportation of people to and from their employment, their churches, educational, or other types of pursuits.

We do not have mass transit facilities and can foresee no present financial capability of constructing the maze of facilities that would be necessary to move the millions who live in Los Angeles County and its environs. The Department of Transportation has turned a deaf ear to our pleas for help.

If the financial resources were made available today, we would still be faced with a 10- to 20-year construction period.

I, therefore, urge as our only practical solution to the immediate problem, a complete and searching review of the Clean Air Act as amended. We must have amendments of the act's present rigid mandate to provide the reasonable administrative flexibility we need.

Great masses of people in California or in any other area must not be subjected to mandatory rigid standards and administrative actions that will bring economic and social chaos and misery. I am not speaking of mere inconvenience for a brief period and at minimal cost. I am speaking of huge economic dislocations of a permanent nature costing billions of dollars and causing real human hardship and deprivation.

In January of this year, when William Ruckelshaus was Director of the Environmental Protection Agency, he stated that the only way he could implement the Clean Air Act of 1970 in the southern California area was to ban 80 percent of automobile traffic. He then proposed to ration gasoline. If this statement is true, then it is imperative that the act be reviewed. We must modify some of the standards which have been formulated. I refer directly to section 1857f–1 of title 42 of the United States Code. I also refer to the provision which, as construed by the courts, prohibits the emission of pollutants anywhere—mountaintop—desert—offshore—which would deteriorate the quality of the ambient atmosphere.

The requirement of this latter provision is, in many instances, technologically impossible and/or economically prohibitive. The implementation of this section in areas where a temperature inversion exists, becomes discriminatory as compared to areas not affected by a temperature inversion. Southern California and its 10 million inhabitants suffer this discrimination because of their peculiar atmospheric situation. There must be flexibility in the law and its regulations to allow correction of this injustice.

Another glaring injustice is perpetrated when radical regulations are applied across the Nation where public or mass transit facilities are either woefully inadequate or nonexistent. This unfortunately is the situation in almost all of the California cities as well as many other cities throughout the Nation. It is useless and foolhardy to try to drastically restrict automobile use to force people to use public transportation when public transportation does not in fact exist in a specific area. In such a case the complete economy of California, a

State accounting for more than 10 percent of the Nation's gross national product, will go down the drain.

Absolutely clean air versus a sound economy was recently described by an eminent scientist, Dr. Chauncey Starr:

> Clean air is like good nutrition. We can have bad nutrition and still live, but if we insist on absolutely good nutrition and have nothing to eat, we will not survive.

I submit that we in California cannot survive economically if the foolhardy regulations now proposed by the EPA are implemented and enforced.

I refer to the most recent travesty upon the people of California—the California Transportation Control Plan—imposed by the EPA Administrator and published in the November 12 Federal Register. These regulations, in part, provide for an overall tax on both the consumer and retailer of $180 per parking space in 1974 and $450 per space in 1976.

If I am advised correctly, this tax cannot be added to the retailer's markup. In this case, we can expect bankruptcies by the thousands accompanied by high unemployment.

If the tax is passed on to the consumer or imposed upon the employee, yet another useless inflationary pressure will be added in higher food prices and pressure for higher wages.

This cynical regulation, which has the force of law, mocks the efforts of this Congress to help the disadvantaged, the poor black and Chicano, the aged and the unemployed. Worse than the infamous tea tax, the regulation strikes a blow at the entire economy of California. It will halt our construction industry, cripple our manufacturing industry, hamper commerce and render existing low cost housing projects useless by grossly and needlessly increasing costs.

The EPA plan completely ignores reality. In fact, this scheme could well have been put together through the joint efforts of the March Hare and the Mad Hatter.

At this point, I want to point out that California is not the only place affected by this type of ruinous administrative action. My fellow members from New York, Chicago, Baltimore, Cincinnati, Cleveland, and many other urban areas will be asked to explain similar edicts from the EPA to their constituents.

This is the type of thing that we Californians are now being asked to explain; we are being blamed for the situation—not the EPA. We are being asked for relief.

One small city, Maywood, Calif., owns some 965 parking spaces for which it must pay $434,200 in 1976. In contrast, that city will receive about $220,000 in "revenue sharing" money. Does this sound like "new federalism?" Total taxes on hospitals, churches, schools, and private businesses in Maywood will skim off $3,781,800 in 1976.

Another city in my District, Norwalk, will be taxed in excess of $1 million for the parking around its library and civic center alone.

The city of Whittier will have to pay in excess of $5 million per year.

Also, I have learned that a cemetery within my District will have to pay about $5 million each year because of the parking space provided for mourners. Presumably, the owner of this cemetery might escape the EPA's tax if he can somehow arrange for carpooling among the mourners.

Estimates I have received from knowledgeable persons in southern California indicate that the people in the Los Angeles area alone will be taxed $3 billion to $6 billion each year. This is on top of their high State and Federal income taxes, their high property and sales taxes, their high school taxes, and their increased social security taxes. The people are aware also that the administration wants to impose a very high tax on gasoline.

Now the EPA seeks to break the public's back in the name of clean air.

We Californians are being told that our disease is to be cured even if the cure kills us.

Our air is to be made as clean as the driven snow no matter what the cost in jobs, dollars, hardships, inconvenience or economic upheaval. I say that this is nonsense.

In fairness to EPA Administrator Russell Train and to his predecessor, Mr. Ruckelshaus, I know that they were and are under pressure from some Members of Congress, environmental zealots and the courts. I realize that the White House has asked that the clean air laws be amended to permit more flexibility in these situations, and I agree with that position. However, neither the law, nor commonsense demands a ruinous solution to the air pollution problem.

The question arises as to whether the EPA plan is an outlandish ploy to hold the people of California hostage in order to attain its objective—not to clean the air, but to change the law. If this is the case, it is the most asinine action by a Government agency that I have seen in 31 years of service in this House. If this is true, the administrator should resign.

The Clean Air Act contains authority for the Administrator to delay the implementation of plans where irreparable damage will result. It also provides for review of his actions to delay plans by the court. This is what should be done in this case while the Administrator seeks an orderly review of the law by the Congress.

The American people are not accustomed to having taxes imposed upon them by appointed administrative bureaucrats in Washington—bureaucrats who are elected by no constituency and who cannot be diselected. They are well aware that the Constitution provides that the Congress alone levies Federal taxes and that tax measures must originate in this House, which is closest to the people.

This House and this Congress did not abdicate its taxing power to the President or to any of his appointees under the terms of the Clean Air Act or any other law.

The EPA's ill-conceived plan goes further than the imposition of a tax on parking spaces. It also overrides all State and local land use and zoning laws—matters which have never been under Federal control.

After the EPA's new regulations go into effect, the EPA Administrator will become a virtual czar over all types of construction. No church, school, market, stadium, swimming pool, office building or even a "flea market" can be built without his express approval. He has the power to deny citizens of the full rights to their property without a hearing and without compensation.

I say that this is a very high price to pay even if the EPA regulations would actually result in clean air—which the EPA admits will not be the result.

There is yet another insidious feature in the EPA's regulation. This feature will add other billions of dollars to the cost of doing business, the cost of consumer goods, and even the cost of the employee going to work.

The EPA Administrator has told us that, beginning on July 1, 1974, all employers who maintain as many as 70 free parking spaces for their employees must charge their employees the going commercial parking rate plus $1. By July of 1976, the employer must charge the going commercial rate plus $2.50.

For example, if the commercial rate is $3.25—now about average—the employee must pay his employer $94.92 per month for a previously free parking space in 1974, and $128.42 for the same parking space in 1976.

In addition, the employer must institute a program to reimburse his employees for riding to work on mass transit facilities which, as I have said before, are woefully inadequate or nonexistent in most areas. Given the present resources and the attitude of the Department of Transportation toward our area of southern California there is not a prayer that adequate mass transit facilities can be made available by 1974, 1976, or by 1980 for that matter.

I submit that many employees will simply become welfare cases rather than work and suffer these huge losses from their paychecks. Others will, without doubt, strike for increased wages, and I cannot blame them.

The largest industry in my congressional district, an automobile assembly plant, may choose to close its doors and move elsewhere. Perhaps this is the intent of the EPA.

The transportation plan I have discussed is not the end of the EPA's grasp for power. I invite your attention to the Federal Register for October 30, 1973—volume 38, No. 208. Here, under the guise of regulation "indirect sources" of air pollution, the Administrator of the EPA will become the supreme zoning body for the entire United States. He will be able to tell any town, any city, any State, and any citizen where almost any facility may or may not be built.

I do not believe that the Congress intended to give an appointed bureaucrat the powers which the Administrator of the EPA has arrogated to himself. This is yet another reason why the Clean Air Act should be reviewed.

Most importantly, however, the law must be reviewed and amended to ease the economic pounding to which the country is being subjected in the name of pristine cleanliness. We tax the people for billions of dollars to clean up the environment. We cannot then deprive the people of a livelihood, deprive them of the use of their property, and impose ruinous taxes upon them also in the name of the environment.

Unless we return to the realm of the possible and the rule of reason, the backlash against all environmental legislation will overwhelm the entire movement. This, I would not want to happen.

There are many ways to solve the air pollution problem, but, as is the case with the energy problem, most methods will take a little time.

Zealots such as Ralph Nader have recommended the course now taken by the EPA many times. It is a simple solution to both problems. The reasoning goes this way: Since 70 percent of our energy is used in industry, and since most air pollution is caused by industry and workers in industry, simply get rid of industry, and presto, no more energy crisis and no more pollution.

I do not buy this solution and neither do my constituents.

Under the jurisdiction of the House Committee on Government Operations, we are charged with investigating the executive branch of Government with a view to determining their efficiency and economy of operations. The actions of the EPA are neither efficient or economical nor is it in accord with the general welfare of the people. I shall, therefore, start hearings on this matter at an early date.

LEGISLATION INTRODUCED TO TIGHTEN AUTHORITY FOR THE USE OF WIRETAPS IN INVESTIGATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, I have today introduced a bill to amend existing law to assure that all wiretaps and other interceptions of communications by the Government, authorized pursuant to law, have prior court approval

The bill is short in length but long in importance:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsections 2516(1) and 2516(2) of title 18 of the United States Code are amended in both instances—
>
> (1) by striking out "an order authorizing or approving" and inserting in lieu thereof "an order giving prior authorization to"; and
>
> (2) by striking out "when such interception may provide or has provided" and inserting in lieu thereof "when such interception may provide".

I believe, Mr. Speaker, that the enactment of this legislation would be in the national interest and an additional guarantee of this Congress commitment to the people to enhance further the right to privacy, the right to be let alone. Its enactment would be an important extension of our civil liberties—specifically, of the principle that government cannot intrude into the sanctity of the person and his dwelling without full compliance with the requirements of due process and law.

Why is this legislation desirable?

Chapter 119, Wire Interception and Interception of Oral Communications, of title 18 is the applicable Federal law governing the interception and disclosure of wire and oral communications. In short, this law prohibits such interceptions and disclosures, except in those specifically defined instances in which the Attorney General of the United States, or any Assistant Attorney General specifically designated for such purpose by him obtains authority, upon application to a Federal judge of competent jurisdiction and the granting of such an application, to make an interception.

Subsections (1) and (2) of section 2516, Authorization for Interception of Wire or Oral Communications, now read, as follows:

> The Attorney General, or any Assistant Attorney General specially designated by the Attorney General, may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant in conformity with section 2518 of this chapter an order authorizing or approving the interception of wire or oral communications by the Federal Bureau of Investigation, or a Federal agency having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of—
>
> (a) any offense punishable by death or by imprisonment for more than one year under sections 2274 through 2277 of title 42 of the United States Code (relating to the enforcement of the Atomic Energy Act of 1954), or under the following chapters of this title: chapter 37 (relating to espionage), chapter 105 (relating to sabotage), chapter 115 (relating to treason), or chapter 102 (relating to riots);
>
> (b) a violation of section 186 or section 501(c) of title 29, United States Code (dealing with restrictions on payments and loans to labor organizations), or any offense which involves murder, kidnapping, robbery, or extortion, and which is punishable under this title;
>
> (c) any offense which is punishable under the following sections of this title: section 201 (bribery of public officials and witnesses), section 224 (bribery in sporting contests), section 1084 (transmission of wagering information), section 1503 (influencing or injuring an officer, juror, or witness generally), section 1510 (obstruction of criminal investigations), section 1751 (Presidential assassinations, kidnapping, and assault), section 1951 (interference with commerce by threats or violence), section 1952 (interstate and foreign travel or transportation in aid of racketeering enterprises), section 1954 (offer, acceptance, or solicitation to influence operations of employee benefit plan), section 659 (theft from interstate shipment), section 664 (embezzlement from pension and welfare funds), or sections 2314 and 2315 (interstate transportation of stolen property);
>
> (d) any offense involving counterfeiting punishable under section 471, 472, or 473 of this title;
>
> (e) any offense involving bankruptcy fraud or the manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic drugs, marihuana, or other dangerous drugs, punishable under any law of the United States;
>
> (f) any offense including extortionate credit transactions under sections 892, 893, or 894 of this title; or
>
> (g) any conspiracy to commit any of the foregoing offenses.
>
> (2) The principal prosecuting attorney of any State, or the principal prosecuting attorney of any political subdivision thereof, if such attorney is authorized by a statute of that State to make application to a State court judge of competent jurisdiction for an order authorizing or approving the interception of wire or oral communications, may apply to such judge for, and such judge may grant in conformity with section 2518 of this chapter and with the applicable State statute an order authorizing, or approving the interception of wire or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of the commission of the offense of murder, kidnaping, gambling, robbery, bribery, extortion, or dealing in narcotic drugs, marihuana or other dangerous drugs, or other crime dangerous to life, limb, or property, and punishable by imprisonment for more than one year, designated in any applicable State statute authorizing such interception, or any conspiracy to commit any of the foregoing offenses.

There is a loophole or escape valve built into the present text in each instance, to wit: The language—"an order authorizing or approving" and "when such interception may provide or has provided"—allows a Federal agency, or State or local prosecutor, to first intercept, then get retroactive approval. Clearly, the language permits retroactive approval of wiretaps and other interceptions. I believe this to be contrary to the principles of due process inherent to a free people.

I must state, for the record, that I have no specific knowledge of particular instances of government wiretaps where subsequent approval, after the fact, was not obtained. But, it is not unreasonable to assume, since such retroactive approval is customarily sought when the government wishes to proceed in open court with the disclosure of information obtained through interception, that there might be some instances where, because information is not to be used in open court, the government does not obtain even retroactive approval thereby failing to disclose such intercept to a judge. It is further interesting to note that all of the disclosures made by the government on the extent of interceptions during the past few years have been couched in terms of court-approved interceptions.

The legislation which I have introduced today would require prior court approval in all circumstances, protecting thereby the rights of all citizens against intrusion and interference by government without exercising the procedures—and restraints which naturally arise therefrom—mandated by law and a sense of justice.

I have asked the chairman of the Committee on the Judiciary to ask for comments of the agencies on this legislation and to consider hearings thereon at the earliest possible opportunity.

TAX ON A TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, I am cosponsoring a bill today to stop the Internal Revenue Service from levying a "tax on a tax." In my own State of Alabama and in 16 other States and the District of Columbia, the IRS is requiring the telephone company to compute the Federal excise tax on the total of the State sales tax plus the cost of phone services instead of just on the cost of the phone services alone.

In other words, a citizen whose phone bill is $20, with a State sales tax of 5 percent, would pay a Federal excise tax on $21, rather than just on $20. Thus, the citizen is taxed by the State to the tune of $1, and then is hit again by IRS with a tax on the $1 in State taxes already levied. In my example, the 9-percent Federal excise tax results in another 9 cents per month in taxes out of the taxpayer's pocket.

Perhaps the individual saving is small, although certainly it adds up over several months time to the workingman trying to make ends meet. In addition, when you look at the savings this bill would bring over an entire State, they are considerable. In Alabama, for example, approximately $700,000 would be left in the taxpayers' pockets every year.

Mr. Speaker, rising prices, fuel shortages, and other scarcities are requiring our people to make sacrifices. The workingman who pays the taxes and keeps our country moving is finding it harder and harder to stretch his paycheck from payday to payday. It is up to the Congress to make certain that the taxpayer's effort is not made more difficult by the collection of unfair taxes.

I urge every Member of this body to support this legislation so that this unfair "tax on a tax" will be eliminated.

GASOLINE RATIONING FAVORED OVER HIGHER PRICES OR HIGHER TAXES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. DICKINSON) is recognized for 5 minutes.

Mr. DICKINSON. Mr. Speaker, higher prices, higher taxes, rationing—these are the energy czar's suggested methods to make our scarce fuel supply go further. While I oppose all three, if push comes to shove, if we are backed up against the wall with no place to go, then as a last resort, and as the lesser of three evils, I would have to choose rationing over higher prices or higher taxes.

Higher prices or higher taxes would have the greatest impact on the little man. Rationing, if fairly applied, should affect each of us equally.

With higher prices or higher taxes, the rich would continue to get gas no matter how high the price soared. On the other hand, the workingman, the man who makes less than $10,000 a year, would be hard pressed to be able to afford enough gas to commute to work, even if gas was available, which it might not be.

Higher prices would simply allow the oil companies to get richer. It appears that higher prices are already on the way though, no matter how vehemently the American public protests.

Higher taxes is not the answer. We fought the Revolutionary War partly because we believed "taxation without representation is tyranny." To impose an unduly high tax on gasoline without specific congressional approval—which I will not vote for and I do not believe a majority of my colleagues will support—seems to be in direct contradiction to the Constitution, the basis of representative democracy and the principles on which this great Nation was founded. In any event, higher gasoline taxes would only put the lower- or middle-income driver off the road, not the rich driver. Higher fuel taxes would only force the little man to lose his supply of heating oil, not the rich man. The same is true for other sources of energy. It is rather obvious that such an inequitable system must not be set up in this country.

Therefore, it appears that rationing and the installation of an excess profits tax on the oil companies is the only alternative available at this time. But, such a program should only be implemented after all other methods have been tried to assure an adequate fuel supply. All other methods, that is, except higher prices or higher taxes.

Rationing, even if it worked, would have innumerable inherent problems. It has been estimated that it might take 10,000 people and $100 million to set up and police a gas rationing system. Even then, the black market would flourish.

Other persons have suggested that the Government should nationalize the oil companies. I am definitely against this concept, even though the situation appears quite desperate.

Others have suggested that we should change our foreign policy and support the Arab cause in hopes that the Arabs would relent and once again supply this country with a portion of the Mideast oil. Even if the Arabs turned the valves on tomorrow, it would be more than 2 months before this oil would filter down to the local consumer.

We have been lucky so far. It has been a warm winter and energy consumption has not been as high as in the past. Driving 50 miles an hour has helped, as has reducing the temperatures in homes and offices and cutting out unnecessary trips. I believe that more measures of this sort are in order before we resort to rationing. But, it is becoming alarmingly clear that some sort of strong measures must be taken, and taken quickly. It is a sad thought, but perhaps rationing, as despicable as the idea is, is the least offensive and most equitable answer to the immediate problem.

RESOLUTION OF RESPECT TO THE LATE HONORABLE JOHN P. SAYLOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. FOLEY) is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, no man who has served in this House in modern times has been more devoted to the preservation and enhancement of our national parks than the late Honorable John P. Saylor of Pennsylvania. In 1971 Mr. Saylor, was appointed to the National Parks Centennial Commission, a Commission established to recognize the 100th anniversary of Yellowstone National Park and to perpetuate the conservation ethic established by this first national park, first both in this country and in the world.

Today, December 7, 1973, marks the final meeting of the National Parks Centennial Commission. On the motion of the Honorable Rogers C. B. Morton, Secretary of the Interior, the Commission adopted a resolution recognizing the great service of Mr. Saylor not only to the work of the National Parks Centennial Commission, but to the entire principle of preserving our national parks and the national heritage they represent.

I would like, on behalf of the Chairman of the National Parks Centennial Commission, Mr. Edmund Thornton, and on behalf of the Commission members of the House of Representatives on that Commission, who represent the House, the gentleman from Kansas (Mr. SKUBITZ), the gentleman from Montana (Mr. MELCHER), and myself, to include in the record at this point the text of a resolution of respect to the late Honorable John P. Saylor adopted by the Commission.

The text of the resolution of respect referred to above is as follows:

RESOLUTION OF RESPECT

THE LATE HONORABLE JOHN P. SAYLOR OF PENNSYLVANIA

Whereas, Congressman Saylor was a forceful and effective advocate of the conservation and preservation of the Nation's natural and cultural heritage and especially the National Park System, and

Whereas, Congressman Saylor was among the Nation's most distinguished supporters of the National Park concept as launched at the creation of Yellowstone National Park on March 1, 1872, and

Whereas, the National Parks Centennial Commission was established by Congress and the President of the United States to plan and execute a program to celebrate the 100th anniversary of Yellowstone National Park and to perpetuate the conservation ethic established by this first National Park in the World, and

Whereas, Congressman Saylor took great interest in the work of the Commission, was faithful and regular in his attendance of its meetings, and contributed creatively and forcefully in both developing and executing the plans of the Commission: Now therefore be it

Resolved, That the members of the National Parks Centennial Commission express their deep sorrow upon the death of the Honorable John P. Saylor, distinguished Member of Congress from the State of Pennsylvania and Member of the National Parks Centennial Commission, and be it further

Resolved, That this resolution adopted by the National Parks Centennial Commission at its final meeting, held in the city of Washington, D.C. on December 7, 1973, be made a part of the official record of the Commission, and that the Chairman be directed to transmit a copy thereof to the Saylor family and to make such public distribution thereof as the Chairman may deem appropriate.

NATIONAL PARKS CENTENNIAL COMMISSION.

WASHINGTON, D.C., *December 7, 1973.*

FUEL ALLOCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. McFall) is recognized for 5 minutes.

Mr. McFALL. Mr. Speaker, as an early advocate of a mandatory program to allocate petroleum products on a fair and equitable basis during this period of shortage, I have been greatly disturbed by the failure of the Nation's oil companies and the Office of Petroleum Allocation to carry out the present program for diesel fuel.

The Office of Petroleum Allocation has assigned priorities for three categories of diesel users during a 60-day period which began November 19. The priorities were established to assist farmers who are preparing land for next year and finishing current harvests in some areas of the country; for mass transit systems which must provide transportation for millions of passengers, and for producers of fossil fuel who face the task of increasing basic supplies of petroleum and coal.

Instructions went to all major oil companies at the time the November 19 program was announced.

Yet now, 3 weeks later, total chaos seems to reign.

In the central valley of California, where the bulk of the State's food crops originate, parent oil companies are not cooperating and the OPA seems to be totally ineffective in enforcing the regulations it enacted and instructions it issued to oil companies to make additional supplies of fuel available.

Complaints from farmers, haulers of food, and consumers have swamped my office and those of my colleagues in the valley.

Farmers do not know what they will plant next year, truckers are concerned that they cannot provide transportation of crops to market and consumers are beginning to wonder if they will be forced to pay inflated prices for food because of the bungled situation.

I appeal to the Office of Petroleum Allocation to put some teeth into its efforts.

To the oil companies which appear to be deliberately trying to sabotage this program, I make the following plea: Please allow your patriotism and love of country to surface and overcome your evident self-interest.

If the administration is unable to overcome this initial test of its ability to manage our scarce energy supplies, I shudder to think of what may happen when it must operate a broader allocation program that Congress has enacted. Of even greater concern is the thought of the chaos which may occur if it becomes necessary at a later time to impose a system of fuel rationing.

HOLIDAY ENERGY RESTRICTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Barrett) is recognized for 5 minutes.

Mr. BARRETT. Mr. Speaker, on Monday, December 3, I addressed a letter to the President urging that he ease the energy restrictions for the coming holiday season. This would enable the American people to celebrate the Christmas holiday in the traditions of the past.

I suggested a relaxation of the restrictions for 4 days prior to Christmas Day and to offset this demand on our energy supplies, he declare Monday, December 24, a Federal holiday, closing all Government offices. The savings in energy from the closing of Federal buildings for a 4-day period would more than offset the use of electrical energy by Christmas lights and decorations.

The reactions to the proposal coming from many sections of the country has been most favorable. I would like at this point to insert in the Record a letter received from Mrs. Elisabeth Watts, of Kansas City, Mo., which so eloquently expresses what the holiday, its decorations and trimmings, means to so many of our people:

December 4, 1973.

Representative William A. Barrett,
House of Representatives,
Washington, D.C.

Dear Honorable Representative Barrett: Please add my name to those who would like so very much to use their Christmas house lighting even for only a short period during the holiday.

Last year when the Hanoi bombing was accelerated on December 18, our son (who is in the Air Force) with the many others who had some form of activity to do with the B52 Bombers was called into the Viet Nam area, and due to Christmas mailing problems we did not know where he was during that season.

So, naturally, learning last month that he would be on leave this Christmas and be able to be home for a real Christmas, we were so happily starting out with the placement of the various decorations that to him has meant home and Christmas. To many it may mean only a pagan sort of affair, but to our family of two boys and parents, we have always had all these lightings and bakings as part of the celebration of Christmas since and before we had our two sons. They have created family ties and moments of thoughtful thankfulness for what we have and share. Both boys have married but their wives and children have become part of the same traditions.

My husband and I spent war time Christmas's alone during World War II and so the togetherness even if it is accentuated with man's decorations to emphasize the occasion is of great and lasting inspiration to all of us through the coming year.

Very truly yours,

Mrs. Elisabeth Watts.

WGN ROSE BOWL PARADE FLOAT TO CELEBRATE 50 YEARS OF SERVICE TO AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Annunzio) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, WGN Continental Broadcasting Co. will begin a grand year-long celebration of 50 years of outstanding public service next year with another magnificent float in the 1974 Tournament of Roses Parade. The float will depict the "Golden Anniversary" of WGN and will be the sole entry of Chicago and Illinois in that national pageant in Pasadena, Calif.

WGN is located in the 11th Congressional District which I am so proud to represent. Four hundred and seventy-five thousand people reside in the 11th District and of these 280,000 are registered voters—one of the largest voting districts in the entire United States.

The spectacular WGN float in the 1973 Tournament of Roses Parade, which represented all Chicagoans and symbolized the creative energy of the entire great Midwest, was the first time a Chicago firm had participated in the parade. This proud entry was a salute to the greatness of America, which WGN serves, utilizing the longest single piece of animation ever attempted in the parade's history.

Ward L. Quaal, the resourceful president of WGN, has again led the way in community service. I congratulate him for his magnificent achievement, WGN for its 50-year record of excellence, and the many hundreds of dedicated WGN employees for their inspirational service to Chicago and Illinois, as well as to the entire Nation.

Mr. Speaker, I include at this point in the Record a press release issued by WGN Broadcasting Co. describing WGN's float in the upcoming Rose Parade. The release follows:

"Golden Anniversary" Is Tournament of Roses Float Theme for WGN Continental Broadcasting Co.—Lawrence Welk and "Miss USA" To Ride Float

Chicago, Ill., November 28.—A record number of more than 30,000 yellow roses will be used to carry out the "Golden Anniversary" theme of WGN Continental Broadcasting Company's float entry in the 85th Annual Tournament of Roses Parade next New Year's Day. The theme was chosen by WGN President Ward L. Quaal as a kick-off for the year-long 50th anniversary of the company.

The float depicts a classic pergola setting with five animated couples in formal dress, waltzing on a terrace to the music of a completely animated orchestra.

More than 40,000 Vanda orchids from Hawaii form the lacy colonnade and eight varities of yellow roses—another Parade record—are used for the elegant chandelier over the bandstand, as well as cluster groupings around the outdoor garden. A five-tiered, live fountain graces the front section and a huge, twisted tree forms the rear.

The ever-young, ever-popular Lawrence Welk and Chicago's Amanda Jones, the reigning "Miss USA," will ride on the front terrace of the float, champagne glasses raised in an anniversary toast.

Both Welk and Ms. Jones are a part of WGN history; Welk's first national program service on radio began on WGN some thirty years ago from the old Trianon Ballroom. His announcer was Ward L. Quaal. Today, his weekly television program receives the highest ratings on WGN Television in Chicago.

Amanda, the 23-year-old beauty from the Chicago suburb of Evanston, has grown up with WGN. Her mother, Eloise Kummer, was a leading radio performer on WGN Radio and Amanda has appeared on both WGN Radio and WGN Television.

Since capturing her title last May and placing First Runner-Up in the "Miss Universe" contest held in Greece last July, her quick wit and eloquence on women's rights have garnered her appearances on some of the nation's top network television and radio programs.

The size of the WGN float will be the maximum allowed—16 feet high, 18 feet wide, and 50 feet long—and will have the front and rear sections cantilevered above the ground.

The intricate animation of the float is one of its highlights. The waltzing couples revolve and rotate around the terrace in an irregular pattern as the animated musicians "play" their instruments to taped waltz music of the Lawrence Welk orchestra. The fountain will also emit thousands of tiny bubbles . . . a Welk trademark.

In addition to the yellow roses and Vanda orchids, more than 50 other varieties of flowers will be used in a harmony of pastel colors. Among these are 10,000 pink roses, 6,000 white roses, and 1,000 Cattleya orchids. The grand total of flowers used will approach 100,000.

The WGN float still remains as the first and only entry from the more than 6,700 radio and television stations in the nation and also represents the sole participation from the Chicago area in the internationally-televised parade.

It was designed by Robert Stebbins, manager of Arts & Facilities for WGN Continental Group Stations, and is being built by the firm of C. E. Bent and Son, Inc., of Sierra Madre, California—one of the foremost float builders in the country.

The Tournament of Roses Parade theme for all 60 float entries this year is "Happiness is . . .," based on the phrase made famous by the "Peanuts" syndicated comic strip. Its creator, Charles M. Schulz, will be the Grand Marshal of the Parade. The theme marks the first time in the Tournament's history that each float entrant will be required to add to a statement to complete the theme.

"Happiness is . . . a Golden Anniversary" certainly belongs to WGN in 1974.

WHO GETS THE GASOLINE?

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 30 minutes.

Mr. DANIELSON. Mr. Speaker, we, the American people, are in for some rough times ahead in light of the current fuel shortage. Even if we were to find vast new sources of petroleum, they could not be drilled and the oil pumped, refined, and shipped in time to alleviate the fuel shortage which will fully take effect in early 1974. We cannot wish this crisis away. The cold, hard fact is that there will not be enough oil products to go around. You simply cannot supply people with something that does not exist, and oil does not exist, it is not available to the American people, in an amount sufficient to meet our demands.

Somebody once defined politics as the science of "who gets what, where, when, and how." Certainly nothing could be truer of the burden of Government with respect to the oil shortage. In the next month or so, we will have to decide who gets oil, when, where, and how.

Although the Nixon administration has yet to speak with a clear voice on this subject, it appears that they are considering a number of alternatives for allocating our limited fuel resources. One suggestion was to impose a heavy tax on gasoline, perhaps as much as 40 cents per gallon. The theory goes that if gasoline is high-priced, people will be reluctant to use gasoline, and will use it much more conservatively. Under that program, however, the "who" means the rich, the "when" is anytime they want it, the "where" is anywhere gasoline is sold, and the "how" is by simply paying the high prices, which does not represent much of a sacrifice for a rich person. The problem, obviously, is that a person's need for any necessity—and gasoline is a necessity—does not depend upon his ability to pay for it. In its simplest form, the high tax and high price approach to the energy crisis means that gasoline will be sold to the highest bidder. Nothing could be more unfair.

Another suggestion of the administration is to decontrol the price of gasoline completely, which would permit the per-gallon price to skyrocket and discourage consumption. This is subject to the same criticism as the high gas tax—it favors the rich and hurts the middle- and low-income person. It is worse, however, because instead of the money going into the Government Treasury, where everyone would get some benefit, the money would go to the oil companies which are already choking on record profits of billions of dollars. They say they need an incentive to search for new sources of oil, but that contention is false; the oil depletion allowance was designed for that purpose. If the depletion allowance tax loophole is not working, however, Congress should repeal it.

Another recommended approach is to permit gasoline filling stations to remain open only a few hours a day, or a few days a week. This simply means, however, that gasoline will go to whoever wins the race to the filling station, or to whoever is the closest friend of the dealer. Again it is not fair, and you do not need a very vivid imagination to visualize long lines of cars, stretched many times around the block, waiting to fill up. Such a chaotic solution should not be applied to a problem which requires foresight and planning, and will accomplish the goal of fair allocation with a minimum of redtape and as little interference with private lives as is possible.

We must take steps to see that the limited supplies of gasoline are allocated to everyone according to need. In the absence of such a program, it would not be long until commuters cannot get to work, thousands of motorists will be stranded on the highways, some that do not need gasoline will have it, and others that need it desperately would not be able to get it.

Accordingly, we must find a way to guarantee to each car owner as much gasoline as he may need, even though this may not be as much as he wants. The important thing is to protect everyone's right to receive his fair share. Every motorist must be guaranteed enough fuel to insure his livelihood. Perhaps he will not be able to drive to Las Vegas for a holiday, but he surely will be able to drive to and from work, and to his place of worship, and to stores to buy food and clothing and other goods or services necessary for a healthy and happy life.

The failure of the present administration to provide a fair and reasonable response to the fuel shortage is exceeded only by its failure to begin consideration of long-range solutions to the energy shortage. They did not even lift the quotas on oil imports until last April. Since the largest use of petroleum is represented by automobiles, I have proposed legislation to encourage the design and manufacture of more economical cars. If all the cars on American roads today were getting 20 or more miles per gallon, instead of 10 or 11 miles per gallon, then instead of an energy crisis, we would only have an energy problem. Coupled with fewer aircraft flights and a lowering of thermostats, smaller cars would result in no shortage at all, and we could still drive wherever we wanted to at normal speeds.

The American people do not want to live in a crisis atmosphere with all of the hardship and deprivation a crisis normally entails. They will not accept a program of energy conservation which favors some and places an intolerable burden on others. A gasoline guarantee will get us over the present crisis, but the duration of this crisis depends upon whether this administration is willing to stop mollycoddling giant oil industries and powerful financial interests, and take steps that will do the most good for the most people.

H.R. 10710—THE TRADE REFORM ACT OF 1973

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 30 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, this bill should be defeated. The Congress cannot afford to encourage further erosion of America's industries, further losses of American skills and jobs, further inflationary pressures from mismanaged trade policies. This bill would encourage the President to take almost any action he chooses to encourage manufactured imports. It does not provide effective restraint or congressional oversight provisions to assure America's economic health. The bill limits the President's authority to take effective realistic action to help American industries, firms, and workers threatened with further injury. The bill fails to repair past damage or to direct attention to the new problems facing the United States at home and abroad.

This is not a reform bill. This bill would deform the U.S. economy even more by modifying and enlarging past grants of power to the President. One section of the bill seems to grant new long-term authority or to restrict power, but another section makes the authority immediate or could render the restrictions ineffective. The most specific restrictions on Presidential power curb his ability to give protection to U.S. industry at home. Congressional responsibility under the Constitution is undermined.

This is not a bill for the seventies, but a patched-up version of the Trade Expansion Act of 1962 and other statutes. The bill ignores the changes of the 1960's, when the United States became a net importer of many manufactured products and parts of products. The bill ignores the changes of the 1970's when the United States found itself with more imports than exports—a $6.4 billion deficit in trade in 1972. In 1972 imports rose even more rapidly than in 1971—up 21.9 percent. In the first 6 months of 1973, imports shot up even faster especially from the lowest wage countries of the world. Yet this bill would merely encourage more imports of manufactured products and parts of manufactured products. The United States suddenly finds it necessary to bid for raw materials and energy supplies.

The United States now imports the automobiles, steel, radios, and TV sets it once sent to the rest of the world. Shoe imports and textile and apparel imports have been joined by inrushes of computer parts, calculators, aircraft engines, and parts, as well as other product lines. This change has eroded America's industrial strength and added costs to the economy in lost jobs and production of parts and whole products in almost every kind of manufacturing, from apparel to aerospace. These and other losses endanger service employment and the tax base of American communities and the American economy.

The United States now has a $100 billion balance-of-payments "overhang" held by foreigners and governments no longer anxious to use the American dollar for expansion. The U.S. Department of Commerce predicts a yearly $5 billion payments claim aside from imports and exports—deficits for tourism, investment, and other outflows of dollars.

The bill continues to follow the thinking of those who said a devalued dollar would "solve" America's problems. Now that the dollar has been under chronic attack and has been devalued many times, the inflationary results are clear to American consumers, producers, and employees. Imports cost more, but imports are often the only available choice for many manufactured products and parts. Imports of needed raw materials and energy cost more.

The dollar devaluation has also led to massive exports of American food and raw materials—scrap steel, cotton, logs, and so forth—which have pressed prices even higher for consumers in the grocery store and for business consumers in industrial markets for raw materials. The result has been to ask Americans to pay more and more and more to buy less and less—all in the name of "solving" problems.

Inflation now affects every level of American life, every type of industry. The international policies of the United States, fostered by this bill, would merely continue this destruction of the American standard of living. But this bill grants even more Presidential power to cause stop-and-go distortion of the U.S. economy at home—in the name of theoretical international economics or international benefits.

This is a bill that will weaken America's strength in technology and trade, in payments and prices, in commerce and consumerism.

The promises claimed for this bill are not borne out in its provisions. Imports from the lowest wage countries will be encouraged, while imports from developed countries also undercut U.S. production potentials. Endangered industries will have no assurance of repair of past injury or help to assure future strength. American communities will continue to suffer losses of needed payrolls. American workers get a hollow promise of a short-term dole when imports cost jobs, nothing when plants move out of the country.

The bill, in fact, does not even call attention to the real actors in the modern world of international trade and payments—the international banks and firms which dominate all international interchanges.

Each title of this bill deserves special dissent, because each title of this bill contains new hidden dangers for the United States.

Title I of the bill empowers the President to negotiate deeper tariff cuts than before. Cuts on high tariffs can be as high as 75 percent. America's tariffs are so low on the average that other nations have insisted on this approach. Thus the tariff-cutting authority is not for the interest of the United States, but for the interests of those who produce abroad.

The President may also raise tariffs to 50 percent above 1934 levels or 20 percent above present levels. But the bill's emphasis shows that this provision will not be used. The President need not listen to anyone's advice and the President's chief negotiator gets the power to advise the Congress and the President on all tariff and nontariff matters. The President may:

Negotiate on so-called nontariff barriers to trade among developed countries. Quotas, special tariff rules on chemicals and other products are at stake. But this new authority will also put American laws on safety and health, consumer protection and product standards, on the block whenever the President decides such negotiations are necessary. Congressional approval is required, but the restrictions are ineffective. Imports from the lowest wage, most highly protected countries of the world will therefore be encouraged;

Create chaos for American industry by immediate authority to regulate imports and exports for inflation and balance of payment reasons—not for other U.S. economic and social reasons. The grant of power to make changes for 150 days enables the President to have unplanned chaos in the name of fighting inflation: To flood the economy with imports or suddenly stop many imports;

Negotiate a new GATT, while spending more money to shore up the old GATT. Thus the negotiating authority is contradictory, unplanned and confusing. These provisions spell the abdication of congressional will and responsibility to the power of an unseen international negotiating clique.

These conflicting authorities—a stop-and-go power to regulate America from abroad for international economic reasons, regardless of the impact on the United States—add up to dangers for all Americans in 1973 and in the future.

Title II: These "import relief" provisions encourage imports, but discourage relief. These provisions restrict Presidential power to help American industries, firms, and workers injured by imports. The President is not required to provide help if imports are injuring U.S. industries. If the Tariff Commission finds that increased imports are a substantial cause of serious injury, the President may provide token "adjustment assistance," put on tariffs, quotas, tariff quotas, or negotiate orderly marketing agreements. But he need not take any specific helpful action. If he does decide to provide effective relief, he must explain his actions. If relief is granted it must be temporary and can be removed any time the President decides it is in the national interest to remove it. Adjustment assistance for workers is more difficult to get, because there must be a finding that the unemployment is "significant." There is a token dole for some workers, but the means of getting even this amount of help are full of technicalities. For firms, the promise of financial help is equally uncertain. But the promise to encourage more imports is made certain by requiring the President to phase out relief and prohibiting assurance of effective protection.

Title III: Existing laws against unfair competition are weakened. Unfair competition in the U.S. market is encouraged by limiting the President's power to retaliate against unfair restrictions abroad, and allowing the President 4-year authority to avoid any action on imports subsidized into the United States if he believes it will interfere with international negotiations. The provisions for U.S. action to prevent unfair competition are limited and weakened by this title. The President can avoid action on dumped, subsidized or otherwise assisted into the U.S. market. This title conflicts with titles I, IV, and V.

Title IV: Imports from the Soviet Union and other Communist countries will continue to rise rapidly under these provisions. While the bill restricts Presidential power to lower tariffs, it does not restrict Presidential power to extend loans to these countries to build factories behind their iron walls to produce for exports. Thus the American taxpayer will pay to build factories in Russia and other Communist countries.

Title V: The President would have power to decide which countries of the world—with certain specific exemptions—are "developing" countries and give them special privileges to export to the United States. He may set tariffs at zero for imports from those countries. There are restrictions on this power, but the President can decide it is in the national interest not to use them. These countries include the lowest wage countries of the world, with the highest barriers to trade. This provision will cause massive imports from the low-wage countries to increase even more rapidly. This provision contradicts the provisions which call for equal treatment for all countries and talk about an "open" world trading system. This title makes a mockery of provisions for "import relief," ending foreign trade and nontariff barriers, meeting "unfair" competition.

The 5-year grant of power to the President to negotiate new trade agreements regardless of the effect on the economy and social progress of the

United States is almost without effective limit in this bill. This extreme grant of power is not in keeping with the Constitution. Under this bill, negotiations on many nontrade laws will be secret and their implementation can take place without clear information or sufficient oversight by the Congress. This undermines the purpose of the Congress to make laws for the United States.

The immediate power granted to the President enables him to change the conditions of the economy for any reason he chooses—"anti-inflation," balance of payments, and future renegotiations with other countries. This immediate power granted to the President will encourage even more imports into the United States regardless of the effect on U.S. economy, and without clearly enforceable restraints on Presidential power to encourage imports.

Another reason which compels me to vote against this bill is the failure of the drafters to provide for a fair and equitable distribution of imported crude oil and other energy products. The refusal of the administration to even consider provisions providing for a meaningful energy related import program will be costly to the Northeast and the Midwest sectors of the country.

Most of all, this is a special interest bill. The special privileges are for those few Americans at the top and for anyone—American or foreign—whose production, investments, and other economic interests are outside the boundaries of the United States. Under this bill these special interests take precedence over the right of any American to have a business, a job, or buy a product labeled and priced under the American system in the United States. Foreign production and exports to the United States, therefore, get double protection: First, the protection of foreign governments including their many traditional trade barriers and new regulations that protect their markets and their economies; second, the protection of the U.S. Government which is encouraged to guarantee their rights from abroad and to remove even the few barriers remaining in the United States. The U.S. economy, businessman, industry, and worker will have no guarantee, only a token hope of short-term protection, no assurance of any right, except the right to "adjust" out of the country or into another line of work or to unemployment. This is a bill against the interests of the majority of the people of the United States. The Congress is elected to defend their interests. The Congress should defeat this bill.

DICK GREGORY DAY IN CHICAGO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Metcalfe), is recognized for 15 minutes.

Mr. METCALFE. Mr. Speaker, last Sunday, December 2, thousands of people were at Chicago's Orchestra Hall to pay tribute to a truly remarkable man. Dick Gregory—humorist and social activist—has done much for Chicago and for this country. From the hardships and degradation of growing up poor and black, he has risen to become one of the few symbols of honesty, integrity, and sincere social concern left in this country.

I have known and worked closely with Dick for many years. Dick has been deeply involved in the fight against racial injustice, not only in Chicago but also throughout the country. He has been in the forefront of the struggle for decent living conditions and adequate jobs for my constitutents and for all of Chicago's less fortunate citizens. He has given his time and talents to numerous Chicago organizations, including a benefit performance for my Third Ward Organization. Our relationship has been a warm and rewarding one, and I am deeply proud and honored to call him my friend.

Dick Gregory is a man who has never let love for money override his love for people. He is a man who has never become so successful that he has forgotten to work for the betterment of all people. In fact, he has sacrificed much of his career in order to demonstrate for social justice. Dick has the courage to stand up for his convictions. His 2½-year fast in protest against the Vietnam war is well known. He is also a noted nutritionist, having given up meat and becoming a strict fruitarian. Dick says that because of his fruitarian diet, he is healthier and happier than at any other time in his life. He told one reporter that his wife and 10 children are also on a diet of natural foods, saying proudly that:

> The children and I have no medicine in the medicine cabinet.

Dick Gregory has done much for many people in this country. He opened up the major nightclubs for other black humorists, who were finding it difficult to get over that section of the color barrier. He marched with Dr. Martin Luther King, Jr., in Chicago and was arrested with Dr. King in Selma, Ala. He has been active in the antiwar movement, and has sensitized us to the plight of Native Americans.

December 2 was Dick Gregory Day in Chicago. The following articles—one written by Mr. Herb McCann, a writer for the Chicago Defender and the Black X-Press and the other written by Mr. Earle Chisolm, a Chicago television announcer—describe some of Dick Gregory's sacrifices and contributions. They also express more fully the love and respect I have for this man:

Gregory and Human Rights

(By Earle Chisolm)

"Do not be under the illusion that humor will solve any social problem. The world did not laugh Hitler out of existence."—Dick Gregory.

In the early days of the civil rights movement, Dick Gregory was commanding $5,000 a week in the country's top night clubs. He could have concentrated solely on his career, became a rich man and made a major contribution to the struggle with his biting racial humor. ("Two college students burned their draft cards, and it took Congress two weeks to pass a law making it illegal to burn a draft card. We waited one hundred years for a law to make lynching illegal. The white system puts more value on two pieces of cardboard than on my mother's life.")

If Gregory had continued along the path he was treading, if he had remained solely an entertainer, he could now be hosting the Tonight show or his own TV show. But he put his money where his mouth was, stepped out of the night club into the streets and joined the demonstration lines.

Since that time he has been jailed across the land from San Francisco to Atlanta and other places in between such as Chicago, Pine Bluff, and Milwaukee. In August of this year he was arrested on the White House steps for praying for peace. ("You better believe if we had been praying for Richard Nixon's health they wouldn't have touched us.")

Dick Gregory threatened to disrupt the Kentucky Derby during a fight for open housing, marched with Father Groppi in Milwaukee and led a demonstration in front of the home of Chicago's Mayor Daley for which he was arrested. He was also arrested for illegal fishing in Washington state in support of Indian rights and fasted for 50 days while incarcerated there. The dedicated activist led protest marches during the turbulent 1968 Democratic Party convention in Chicago and was sentenced to five months in jail and a $1,400 fine for allegedly kicking and biting a policeman.

His write-in campaign for Mayor of Chicago in 1968 got him 20,775 votes and more than 47,000 people voted for him when he ran for President of the United States.

In this country, where cash is king, Dick Gregory has sacrificed millions for his beliefs. In this country, where obesity is a major problem, Dick Gregory has given up eating food to protest injustice. In this country, where public opinion is worshipped as a god, Dick Gregory has knowingly courted the hatred of many thousands. He is the epitome of courageous dedication.

Dick Gregory pays his own expenses and hires his own lawyers when he participates in demonstrations. Consequently, in 1964, he was forced to negotiate for a $100,000 loan. During the same year Gregory received the National Negro Publisher's Association's Russwurm Award for "outstanding achievement."

There are still wrongs to be righted, and Gregory is still in the struggle. "The one great shift in my life," he explains, "was when the civil rights movement converted into the human rights movement. Lucky for me I was able to make that switch. Human rights means everyone . . . Indians, Puerto Ricans, Blacks, Mexicans, poor people and women."

As for the future, Dick Gregory "plays it by ear." He is here today and hopes that he'll be here a few years from now. "I consider myself moral, ethical and honest. And I think that's beautiful . . . I can do that every day."

We also think "that's beautiful," and we close this . . . "To Gregory With Love."

Gregory the Performer

(By Herb McCann)

Early in the morning, on August 5, 1973, Richard Claxton Gregory sat on a stool in Paul's Mall night club in Boston, mike in hand, dispensing his unique brand of wit and humor. It was to be his last night club appearance. On that very significant night, Dick Gregory told his audience: "The reason I am leaving this part of my life, performing in night clubs, is that I know there is a universal force and one day it will balance out all of our ledgers. And it will ask not how much money did you make, were you funny, or did they like you, but, how much service did you give your fellow man?"

That was the end . . . but the brilliant humorist and tirelessly dedicated human rights activist could look back down the long road with justifiable pride.

Fifteen years earlier Dick Gregory had tipped the master of ceremonies at Chicago's old Esquire Show Lounge five dollars to permit him to present his routine. Gregory bought comedy records and joke books, watched Jack Paar, Ed Sullivan and old comedy movies and studied hard, all in training for his three night a week job.

Dick got better and better and the lines of people waiting to get into the Esquire to hear him got longer and longer. At the end of his first year Gregory asked the owners for a raise, threatening to quit if he didn't get it. He didn't get it.

Six months later, tired of wandering from night club to night club, filling in for various masters of ceremonies, Gregory borrowed money from friends and opened his own Club, The Apex, in Robbins, Illinois. He believed that with his own club he could do less blue material, and more topical routines which he preferred. Six months later, in the summer of 1959, he lost the Apex, but not all was lost. During this period, Gregory married Lillian Smith and their first child was on the way.

Of the eighteen months which followed, Gregory states in his biography "Nigger," . . . It was up and down, in and out, hustling and scuffling and pestering people to listen to me, hire me, pay me." To support his family, Gregory picked up money washing cars and doing odd jobs around Chicago.

By Christmas 1960, Gregory was broke. With his last dollar, Gregory bought three pounds of hamburger meat for his wife and daughter's Christmas dinner. He promised his family that it would be the last time that they would ever be poor on Christmas.

The better future Dick envisioned began on January 13, 1961 when an agent called and informed him that Irwin Corey had taken ill and a replacement was needed at the Playboy Club. Gregory had to borrow a quarter from his landlord to get there.

The audience was filled with southern businessmen in town for a frozen foods convention. The Playboy management didn't believe they would be his best audience.

"Good evening ladies and gentlemen," Gregory began "I understand there are a good many southerners in the room tonight. I know the south very well, I spent twenty years there one night." With that joke, Gregory began his rise to the comedy world. Hugh Hefner, the Playboy Club's owner caught his show that night and signed him to a six week contract at $250 a week.

Gregory describes what happened afterward like this: "I started to get press notices, the newspapers sent people to review my act, the columnists started to quote my jokes. Time magazine ran my picture and a rave review. I got a call to come to New York to do the Jack Paar show. Being on the Paar show made me in America."

Although Gregory's success opened the doors to white night clubs for black comedians, the same door soon began to close on him. As he rose to the top of the comedy world, he began to use his celebrity status to help and support the civil rights movement. And, as word got around about Gregory's civil rights involvement, his night club engagements became scarce.

Gregory then devoted himself to speaking to youth, lecturing at 300 colleges a year. He has become the most sought after speaker on the college lecture circuit.

Finally in the 1970's Gregory began to receive more offers for night club engagements. He accepted them only when they did not interfere with his college lectures.

Now, he has decided to give them up all together because, despite the money, they take up too much time from his fight for human rights . . .

BLACK PLEDGE OF SOLIDARITY WITH ISRAEL

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I have just received a copy of a statement which was prepared for placement as an advertisement in the news media signed by a number of elected black public officials from around the Nation. The statement was initially formulated by Manhattan Borough President Percy E. Sutton the third week of the Mid-East war and I am bringing it to the attention of my colleagues at this time as an indication of the support Israel has among black Americans.

The statement together with the list of signatories follows:

Black Pledge of Solidarity With Israel

We also know, as Black Americans, what it means to us personally, and to all the members of our community, to know that finally the people of Africa are becoming free and self governing. We are Americans, yes, but we understand fully and completely the powerful and pervading impact felt by the Jews all over the world in their support and zeal for the assurance of the continuation of a Jewish homeland. That homeland is Israel.

After the sufferings of the second World War and the holocaust which resulted in the slaughter of six million Jews; after Israel's struggle for independence; and after 25 years of crises, threats and attacks, we cannot and must not abandon Israel in her severe struggle for peace, security and tranquility.

We fervently believe and suggest that face to face negotiations between the warring factions, after a cease-fire, can resolve the question of ultimate territorial boundaries, the controversial question of Palestinian refugees and other unsettled issues.

There are many African nations and there will be more as the last vestiges of colonialism disappear. There is only one Jewish nation and that is Israel.

Israel has built up out of the barren desert sands a nation of greatness which has combined the ancient and rich tradition of the Jewish people with the development of the most advanced technology, and the fullest range of political democracy.

Israel has taken the desert and built an oasis. She has taken that oasis and built a powerful nation.

We solemnly pledge to do everything in our power to be a part of the moral force which assures the survival and continuation of the world's *only* Jewish state.

We appeal to the conscience of all Americans to join hands with us and other Blacks and Whites in supporting the people of Israel in their fight for survival.

We, the elected present and former public officials representing millions of Black and White Americans, firmly assert:

That as the Mideast War enters its third week, it is clear that the very existence of the State of Israel is at stake.

In this time of crisis, we strongly urge the U.S. Government to act in such a way as to maintain a full and absolute commitment to the survival of Israel. The United States must continue to give unstinting and overwhelming support to Israel.

We say that the existence and survival of the State of Israel is non-negotiable. All nations of the world, including the Arab nations must accept the reality that Israel's rights as a sovereign state cannot be abridged or weakened and it must have and maintain borders that are viable to assure its security.

Each of us has long been involved in the Civil Rights struggle here in America. Our people have organized, demonstrated, picketed, marched, sat-in and been jailed in protest against the denial of human rights in the cities and rural towns of the South, and in the ghettoes of the North.

Out of our background in the struggle for human rights, we of the Black Community, identify Israel's struggle for survival as a nation in the Mideast with our own fight for freedom here in America. Too, we see in Israel's struggle an identification with the struggle of the people of Black Africa for independence and nationhood.

We find, in the burden of history which we inherit as Blacks, cause for great solidarity with the people of Israel.

As Black Americans, we know what it means to look at one's own community as the most reliable source of support and sustenance. We know that while we demand equality for ourselves in all the ways that the law can guarantee, we will always continue to be set apart by virtue of race. And we know that to try to ignore the differences is to live a lie that often proves fatal. And we know that we share these conditions of life with the people of Israel.

Hon. Nathan Bates, Mayor, Richmond, California.

Hon. Tom Bradley, Mayor, City of Los Angeles.

Hon. Willie Brown, Assemblyman, San Francisco, California.

Hon. Charles Campbell, City Councilman, Honolulu, Hawaii.

Hon. George W. Collins, Congressman, 7th District, Chicago, Ill.

Hon. Jay Cooper, Mayor, Pritchard, Alabama.

Hon. Mervyn Dymally, State Senator, Los Angeles, California.

Hon. Fred D. Gray, State Representative, Tuskegee, Alabama.

Hon. William Hart, Mayor, East Orange, New Jersey.

Hon. Augustus Hawkins, Congressman, Los Angeles, California.

Rev. W. Hazaiale, City Councilman, Berkeley, California.

Hon. Leroy Johnson, State Senator, Atlanta, Georgia.

Hon. Ralph Metcalfe, Congressman, Chicago, Illinois.

Hon. Charles B. Rangel, Congressman, New York, New York.

Hon. William Smith, State Senator, Hartford, Conn.

Hon. Mark Southall, State Assemblyman, New York, New York.

Hon. G. J. Sutton, State Representative, San Antonio, Texas.

Hon. Percy E. Sutton, Borough President, New York, New York.

Hon. Safronia Thompson, State Representative, Houston, Texas.

We intentionally avoided the *Northeastern* and *New York State* Black Public Officials so as to get a more widespread National base.

THOUGHTS ON WATERGATE BY A 96-YEAR-OLD HOOSIER OBSERVER

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, evidence of the continuing concern and thoughtful reaction to the events of recent months in our Nation's Capital is the following poem.

It was written by Miss Marian Ames of South Bend, Ind., who describes her poem in the following words:

> Thoughts of a 96 year Old Maid who cannot see to read or write, but can think and listen to radio and TV.

Miss Ames' poem, dated November 14, 1973, follows:

Nixon and Agnew started out to win a race
With McGovern and Shriver it was a speedy chase.

Nixon with sixty million dollars donated by wealthy friends and kin,
It was never any question as to who would win.

Now when the Government gets the mansion at Key Biscayne and San Clemente done,
Nixon will be safer than when in Washington.

With his shot-proof barricade and a well protected pool,
He and his body guards should be able to keep cool.

Trips to his hide-a-way in a ten million dollar plane
With the expenditures of six hundred bucks an hour to maintain.

Thousands of dollars have been spent on runways so his planes can land,
Let's hope the water doesn't cover them with sand.

Camp David Maryland is within easy reach
Where his assistants can go to help him to write a speech.

His daughter being on a lecture tour on his behalf,
Simply adds another member to his staff.

Local trips are made in a fifty thousand dollar Ford limousine,
The elegant interior of which is seldom seen.

With Watergate confronting him, how is he to know
How his twenty-eight assistants will testify on this show.

If Watergate is ever settled, who in this world will decide
Which of his trusted friends on oath told the truth and which ones lied.

Democrats for Nixon should hang their heads in shame
When they think of all this scandal for which they should share the blame.

Vice President Agnew from his post did withdraw
And has gone home to Maryland to practice law.

As his replacement Gerald Ford of Michigan is Nixon's nominee,
Now it's up to Congress who will be our next VP.

OPERATION CANDOR

(Mr. BRADEMAS asked and ws given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, the Wall Street Journal of Friday, December 7, 1973, contains an excellent article by Fred L. Zimmerman on President Nixon's latest effort to regain his credibility, the so-called Operation Candor.

Mr. Zimmerman analyzes the various pronouncements and promises which have come out of the White House in recent weeks, but concludes that "nothing fundamental has changed," and that Operation Candor so far "mainly has been a public-relations exercise."

Mr. Speaker, in order that all of the Members may have the benefit of this informative article I include it at this point in the RECORD:

TAKING A LOOK AT "OPERATION CANDOR"

(By Fred L. Zimmerman)

WASHINGTON.—The gap between appearance and reality at the White House remains as wide as ever.

For weeks, President Nixon and his aides have been promising "full disclosure" of all Watergate material. In fact, nothing of substance has been disclosed.

For weeks, the President and his aides have been saying that the Watergate tapes eventually would establish "beyond question" that Mr. Nixon is innocent of wrongdoing. In fact, so much of them now turns out to be either blank or nonexistent that what's left has become practically worthless as a means of proving anything.

For months, the President and his aides have been saying that a new era of openness had dawned as a result of Watergate's excesses. In fact, this singularly traumatic episode in the history of the presidency hasn't produced any fundamental change at all in day-to-day operations of the Nixon White House.

The "full-disclosure" phase of Mr. Nixon's long-running Watergate counterattack began a few weeks ago with a series of private meetings with politicians. He's met with Republican governors and with both Republicans and friendly Democrats from Congress. The counterattack has included several public appearances before friendly crowds, in Washington and in the South, and a televised question-and-answer session with newspaper editors.

Politicians emerging from the private sessions have been generally enthusiastic about Mr. Nixon's presentations. Beyond that, they have told reporters of a variety of steps the President has promised them he would take to clear up Watergate. These have included making public a complete audit of his personal finances, releasing his income-tax returns, and making public the Watergate tapes.

Nevertheless, two facts stand out: As far as anyone knows, Mr. Nixon hasn't yet disclosed any new information of substance during "Operation Candor." Additionally, White House spokesmen have refused to confirm any of his reported promises to disclose specific material.

Meanwhile, despite Mr. Nixon's public pledge to cooperate fully with special Watergate prosecutor Leon Jaworski, the President still hasn't furnished to Mr. Jaworski several Watergate-related documents that have been requested repeatedly for months.

SOME LIMITED SUCCESS

From the President's standpoint, however, "Operation Candor" has had some limited success. For one thing, the private meetings he's been having have resulted in widespread expressions of public support from Republican politicians. Some of them simply may be flattered that the President—at long last—is inviting them to the White House and is seeming to take them into his confidence. Others may be genuinely convinced that the President does intend to lay all the Watergate evidence before the public.

In image terms, the beleaguered President also has been helped a bit by the friendly receptions he's had at some of his recent public appearances. While the cheering crowds looked good on television, however, they can hardly be considered representative of the public at large. Mr. Nixon is picking his audiences carefully, and White House advance men have worked hard at drumming up big shows of public support.

Beyond that, orchestrated expressions of support are of little help to Mr. Nixon in resolving the big issues of Watergate. One of these remains, as has been the case for months, the Watergate tapes. Originally, the question was whether the President would refuse to comply with a court order to turn over nine subpoenaed tapes. Following his decision to comply, events have shifted attention to an issue as potentially damaging to Mr. Nixon as his noncompliance would have been: Did somebody at the White House intentionally destroy some of the Watergate tapes?

The legal findings, of course, must be made by Judge John Sirica, who has been taking testimony for several days. But in political terms it seems evident by now that as a body of evidence the tapes have been so compromised, whether by accident or otherwise, that they can no longer be of much use to President Nixon in clearing himself. Even if what's left of the tapes lacks any evidence that he was involved in Watergate or its coverup, a large segment of the public presumably will always suspect that the missing conversations might have shown otherwise.

One of the oddest aspects of the Watergate affair has been its almost total lack of impact on the style or attitudes of Mr. Nixon and his top aides. When the Watergate dam burst last spring, there were some highly visible personnel changes, of course. The President got rid of his two top aides, H. R. Haldeman and John Ehrlichman, who for four years had blocked access to the Oval Office while tightly controlling much of the bureaucracy.

With a lot of hoopla and promise, Mr. Nixon then brought into the White House some savvy old pros, men with good political instincts and plenty of entree on Capitol Hill: Bryce Harlow, John Connally, Melvin Laird.

Back then, winds of wholesome change seemed to blow through the White House. Mistakes had been made, but lessons had been learned. A consensus suddenly seemed to emerge at the top: There had been too much secrecy and public deception, too little consultation with Congress, too much insulation of the President, too much arrogance and heavy-handedness in dealing with Congress and the bureaucracy. All that is going to change, aides promised; things are going to open up around here.

But months later it's clear that almost nothing fundamental has changed. There are some new players but the team is running the same old plays, and there's scant evidence that any lessons were learned after all.

Secrecy persists, about matters as important as the contents of the tapes to as trivial as the President's weekend travel plans. Deception continues. Numerous misleading statements can be found, for instance, in the President's hour-long session with newspaper editors. He said, for example, that the law on political donations had been changed and donors therefore weren't aware last year that corporate contributions were illegal; in fact, such contributions have been illegal since 1925. He said he had "voluntarily waived privilege" regarding the Watergate tapes, although what he actually did was turn them over to Judge Sirica in compliance with two court decisions, rather than appeal the matter to the Supreme Court.

There's been little, if any, additional consultation with Congress. Mr. Nixon's recent private sessions can't be considered as consultations, according to most accounts of them. Participants say he's delivered fairly pat speeches about his foreign policy achievements, the Middle East war and the energy crisis, and then has promised in vague terms that he was going to make "full disclosure" of Watergate material. Genuine give-and-take has been rare.

PRESIDENT STILL INSULATED

And certainly one feature of the pre-Watergate White House that hasn't changed is the insulation of the President. In the old days, Mr. Nixon rarely had face-to-face policy meetings with anyone other than three men: Henry Kissinger, H. R. Haldeman and John Ehrlichman. These days, it's still mainly three men: Henry Kissinger, Press Secretary Ronald Ziegler, and Chief of Staff Alexander Haig. Gone is John Connally, who reportedly had too much of a tendency to tell Mr. Nixon things he didn't like to hear. Still around but lacking much of a voice in key policy decisions are Bryce Harlow and Melvin Laird, both of whom are saying they're about to leave. It's questionable whether new Vice President Gerald Ford will have much of a policy-making role.

As well as anything, the continued presence of Ronald Ziegler on the White House staff, plus his changing role and stature, effectively symbolize the lack of meaningful change.

Mr. Ziegler was the President's daily spokesman throughout the Watergate affair, the man who originally dismissed it as a "third-rate burglary," the man who denied Watergate charges for months and branded newspaper stories revealing new scandals as "shabby journalism" and "character assassination." He also is the man who declared last April that all prior White House statements on Watergate were "inoperative."

Since then, however, he's been elevated to the rank of presidential assistant, spends as much time with the President as anyone, and can be seen just at the President's right nearly every time Mr. Nixon has appeared on television in recent months to assure the public that he wants "to get all the truth out" about Watergate. Strangely, Mr. Ziegler retains the title of Press Secretary—even though he hardly ever briefs the press any more and even refuses requests for interviews.

President Nixon presumably still has time to reverse course. He evidently intends in the next few weeks to issue detailed statements on various aspects of the scandal, and perhaps these will clear up questions rather than repeat old assertions or raise new questions. But so far, "Operation Candor" mainly has been a public-relations exercise, and one that comes at a time when the public is running out of patience with the White House PR.

CRIME AND THE FEAR OF CRIME

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on November 21 the Honorable Bernard L. Garmire, chief of police of the city of Miami, one of the outstanding police chiefs of the country, appeared before the Miami City Commission and presented an outstanding statement on the subject of crime and fear of crime. This is a part of a determined effort being made by mayor and members of the city commission of Miami in concert with Chief Garmire and the police department to reduce crime in Miami. Chief Garmire in his able statement presents some of the challenging problems crime presents. Since this is a problem common to all of the country I commend Chief Garmire's able remarks to my colleagues and to all interested in this critical problem:

CRIME AND THE FEAR OF CRIME

(By Bernard L. Garmire)

Nearly two generations ago, during a time when virtually every man and woman in the street was beset by anxiety and fear, we were reminded that the greatest thing we have to fear is fear itself. Crime in the streets, or more accurately fear of crime in the streets, is the issue before us today. My purpose in being here is to discuss with you, openly and frankly, the problem of crime in the City of Miami. Further, I am to lay before you a plan to combat that problem, and to identify those needs which must be addressed in the process. To this agenda I would add only one subject which I will address at the conclusion, policies: what policies are to guide the Police Department in its efforts to combat crime?

The goal to which the men and women of the Miami Police Department have always been committed has been succinctly re-affirmed in the past several days: "... to see that the parks, the streets, and the neighborhoods of Miami are safe for citizens to walk in once again."

That goal is both physical and psychological, in that we must equally contend with crime and the fear of crime itself. It will do us little good to substantially reduce the physical incidence of crime, if the psychological fear of crime is not likewise reduced. It should be noted that we are not speaking, I am sure, of the absolute elimination of crime for that is a task impossible to achieve in an imperfect world. Rather, we are talking about reducing both crime and the fear of crime to some level that meets the community's perception of what is endurable, if not necessarily desirable.

A community's perception of the fact of crime and the fear it produces is a powerful, driving force to which we in government must respond. We must first respond with programs to reduce the fact of his incidence of crime. Then we must respond with facts about the actual incidence of crime to reduce the fear of crime. To the person who has just been the victim of a crime, reactions of fear and outrage are natural and justified. To some extent it is also natural and justified for unaffected members of the community to vicariously experience a sense of fear and outrage when they learn of crime.

Too often we tend to criticize the news media for intensifying those vicarious feelings through reporting techniques. But, such criticism is in the main unfair. Editors must publish that which is newsworthy, and only they through their experience and professionalism are competent to judge what is, and is not, newsworthy—despite our occasional Monday morning editorship.

The editors know that the reporting of a crime, even when it is worthy of headlines, does not make of that crime, a crime wave; nor, do they intend that such be the interpretation. Newspapers do report in headlines that a girl has been brutally beaten, but they also report as in the November 19, 1973 Miami Herald, that "Quiet, Serenity Bring Them to Bayfront." In short, the news media report crime and the fear of crime; and, they report the improvement in the facts of crime and the lowering of the fear of crime.

Without indulging in statistics, may I point out the fact that crime in Miami had been sharply increasing over the years. In 1970, the Greater Miami area had the highest crime rate in the Nation, but this was not the first time. Some little remembered facts are these: in 1959, the Greater Miami area had the highest crime rate in the Country; and during the years 1959 through 1971, the Miami area had never been less than fifth in the Nation. A ranking of sixth was achieved only once in past fourteen years—last year, 1972. Miami's crime experience has paralleled that of the Country at large—sharply increasing rates of crime and then a peaking out. Miami too has peaked out—crime in 1972 was lower, and in 1973 will be lower, than the 1971 level.

In plain and simple language, Miami is reducing its rate of crime. The men and women of the Police Department, to the extent that police can affect the crime rate, are to be commended for what they have accomplished. This is not to say that crime could not, and should not, continue to be reduced; but, it is to say, loudly and clearly, that your police officers have attained a significant measure of success.

Crime both in Miami and in the Nation increased over a long span of years to unprecedented levels. Unfortunately, it will take a number of years to reduce crime to a level that is at least endurable in terms of community perception. It cannot be done over night because of several salient factors.

First, the police are but one component of the total criminal justice system and what the courts and corrections do, or fail to do, vitally affects the police in their attempt to control crime. Substantive and procedural criminal law have dramatically changed over the past fifteen years. In blunt, yet descriptive terms the police can no longer function as society's vacuum cleaner sweeping up and away from sight those who are undesirable or dangerous or both. Even the last or the worst among us must be treated with the strictest regard for his constitutional rights. Anything less will result in the case being thrown out of court or the police officer being sued or both.

The adult criminal who has been arrested, convicted, sentenced, and subsequently rehabilitated or deterred from future criminal activity, is literally the exception rather than the rule. Recidivists or repeaters among juvenile offenders are, if anything, even more of a problem. Few of us realize how demoralizing it is to police officers to arrest the same offenders over and over again. It has too often happened that the same offender has been arrested two or three times on felony charges in one week.

Second, Miami experiences, along with other core cities of large metropolitan areas, a number of severe socio-economic problems. The effect these problems have upon the origin level of crime has been amply documented and does not need to be repeated here.

Third, the Miami Police Department, like any other organization, is staffed by men and women, most of whom are police officers. My point is an obvious one: the largest and most important resource of the Department is its people, and this resource, like any other, must be carefully husbanded.

A crash, crime-fighting program is possible, but after the organization has burnt itself out in two, four, or six months, what then . . .? For this reason, it is imperative that a police organization, with this large human resource, pace itself for a long run effort, not a short run burst. Only with continuous replenishment of the human resource by the addition of new members, and the renewal of the energy, morale, skills, and leadership of current members, can depletion of this human resource be avoided.

Most of the human resources can be assigned to the line—in the case of the police, the street. But some must be concerned with direct support, with training and professional development, and with leadership. And, even those who are on the line must be returned to the classroom and the professional seminar if they are to be refreshed both in terms of skills and energy. Only in this way can an organization meet its primary goals in the short term, and at the same time sustain itself for the long term effort.

It is with these salient factors in mind—the interdependency of the criminal justice system; socio-economic problems; and the long term effectiveness of the Police Department—set against the community's perception of crime and the fear of crime, that the Department has considered its needs and plans.

At this moment, the long range plans of the Department are not the issue. They have been well-publicized and are proceeding. In fact, architectural design is under way for the new police building to be located in the downtown area of Miami. What is at issue are immediate and intermediate needs and plans. Therefore, I will lay out those needs and plans before you and the public in straightforward language:

1. The Police Department needs immediate implementation of the Public Service Aide Program (the employment of young, paraprofessionals funded through Law Enforcement Assistance Administrative (LEEA) and Revenue Sharing monies)—to accomplish our plan to relieve regular police officers of non-criminal duties thus releasing the officers for 9,000 additional man-hours of crime-fighting duty annually in those business and

residential areas where the need is greatest. If the Public Service Aide program is implemented now, within 15 weeks, it will have much impact.

2. The Police Department needs to implement a manpower release program by hiring civilians to release at least 28 police officers—to accomplish our plan to assign those officers to high crime areas. Additional funds needed: $290,000. If the manpower release program is initiated now, 28 officers can be released for street duty within 16 weeks.

3. The Police Department needs to immediately expand the three-wheel motorcycle program which is an excellent combination of the mobility of a vehicle and the personal contact of a walking beat officer—to accomplish our plan to increase the three-wheel motorcycle officers from 29 to 39 and to cover 22 instead of 13 beats in key business, residential, and park areas. Additional funds needed: $20,000. If the three-wheel motorcycle program expansion is initiated now, the expansion will be completed within 24 weeks.

4. The Police Department needs to begin hiring immediately 34 police officers to fill our vacancies in the sworn officers positions and needs to hire 7.4 officers each month of the year to meet our employee turnover rate—to accomplish our plan of getting completely up to authorized strength and staying there. Additional funds needed; $360,000. Initiation of this process now would provide 34 additional officers for street duty in high crime areas within 12 months since it takes about three months to recruit, screen, and hire a police officer; six months to train in the classroom; and three more months of field training under the Field Instructor Training Program before the recruit is even minimaly qualified to function as a police officer.

5. The Police Department will implement two burglary and robbery grants funded by $120,000 in LEAA monies which are specifically aimed at identifying and apprehending the most active burglars and robbers in Miami—to accomplish our plan to commit 39 police officers, 8 sergeants, 1 lieutenant, and 1 captain to a specialized, hard-core, crime fighting program. Full operation is expected in January, 1974.

Summary:

1. In 15 weeks, 9,000 police man-hours released for crime fighting. Cost borne by federal funds.

2. In 16 weeks, 28 police officers released for crime fighting. Cost $290,000.

3. In 24 weeks, 10 additional three wheel motorcycle officers assigned to cover 9 more beats. Cost $20,000.

4. In 12 months, 34 additional police officers hired and trained and sworn officer positions kept at authorized strength. Cost $360,000.

In a nutshell, those are the immediate and intermediate needs and plans of the Miami Police Department in straight language.

The ultimate purpose in stating these immediate and intermediate needs and plans is two-fold:

First, to bring before you for discussion what it is the Miami Police Department can do to reduce the actual incidence of cirme. I welcome today's opportunity, and will welcome such opportunities in the future, to engage in a meaningful dialogue where problems, issues, and concepts can be aired and discussed with reason and sensitivity.

Second, to lay before the public through reasoned discourse not only what the Miami Police Department proposes to do, but also what it has done so that the community perception of crime can be based on fact. When that perception is grounded in fact, the credibility of the police will be enhanced. But, more importantly the psychological fear of crime, which is so destructive of the quality of life in our community, will more closely match the physical reality of crime.

Finally, I would like to touch upon that which I alluded to previously—policies. Policy, of course, is the province of the City Commission; therefore, I believe it is appropriate to state here and now those policies which the Police Department has followed in the past and which have been stated before a previous City Commission, so that you may approve, modify, or disapprove.

Whether or not the Police Department's plans fail or succeed, whether or not crime and the fear of crime decrease, and unless I am directed to the contrary, I shall insist upon compliance with these policies in the conduct of police operations:

1. Police manpower shall be equitably distributed throughout the community on the basis of the proportional allocation of available manpower according to need as reflected by crime statistics and citizen calls for service. (Parenthetically it should be noted that 80% of these calls are non-criminal in nature, i.e. some type of social service is requested.)

2. The Police shall proceed within the limits of the laws which they are empowered to enforce, and within the limits of their authority as it relates to the constitutional rights of persons.

3. The Police shall proceed not through the intentional use of force but through the intentional use of lawful authority to perform their lawful mission. When force or violence must be employed, it shall be employed, but only as a last resort, and only to the minimum extent necessary.

4. The Police shall proceed not against whites or blacks, or latins, but against persons who have violated the law. What matters is not their color, only their conduct.

BENEFITS OF PUBLIC FINANCING OF POLITICAL CAMPAIGNS POINTED OUT

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on November 23 my friend and colleague, WILLIAM GUNTER, addressed the Downtown Kiwanis Club of Miami to explain legislation he and I are sponsoring to provide for public financing of Federal elections. Mr. GUNTER ably pointed out the evils of the present system of private financing of political campaigns and the cost that the taxpayers were actually having to pay whether they intended to or not under the present system. He pointed out the benefits which would derive to the public from public financing of Presidential and congressional campaigns. This is a subject which commands the attention of all who are concerned about the integrity of those who hold exalted public office. I commend our colleague's able address to all of my fellow Members and to the many who will read this RECORD:

"Public financing of elections," ABC television news commentator Howard K. Smith told the nation September 20, "is clearly an idea whose time has come.

One of the troubles with ideas whose time has come," he went on to say, "is that unless acted upon firmly and promptly, they soon become ideas whose time has gone."

Nine short years ago, Americans opposed public financing of presidential elections by the convincing margin of seventy-one to eleven percent.

The latest Gallup Poll, however, reveals an incredible turn-about . . . nearly two-thirds of those polled recently by Gallup said they favor public financing of Congressional, as well as presidential campaigns.

A lot of water has spilled over the gate in nine short years. The changing attitude of the American people in favor of public financing is reflected in recent newspaper editorials of conservative, moderate, and liberal persuasion.

"We must agree," wrote the Detroit Free Press in a September 24 editorial, "that the system of election financing does tend to corrupt me and that it must be changed."

"Sentiment in Congress appears to be counting to take elections out of the grip of the rich special interests and place them in the hands of the taxpayers," wrote the Portland, Oregon, Journal approvingly on September 20. And the Albuquerque Journal calls this the "season" for election reform.

This resolve to find a better method of electing our federal officeholders has been joined by a growing number of citizens' organizations, including Common Cause, Public Citizen, and the Center for Public Financing of Elections.

Mr. Agnew may not have intended it, but his farewell speech contained the elements of a strong and compelling case for public financing of election campaigns.

The former Vice President appeared as stunned by events as those he supported and who supported him. The charges of accepting cash contributions from state contractors were based, after all, he said, on common practices is politics as he knew them to be.

And there is more truth to what Mr. Agnew had to say than many would care to admit.

The fact is that as long as candidates for public office are dependent upon large private contributions for the financing of their campaigns, there will continue to be influence peddling and favors to the few at the expense of the general public.

But let us not put it all on the businessman, and on the contributor . . . for too many politicians themselves have been guilty of what amounts almost to outright extortion in their fundraising tactics and techniques.

We saw it aplenty last year.

The setting of $100,000 quotas by the Committee to Re-elect the President on a number of firms which had legal and other matters pending before federal regulatory agencies.

The assessment of individuals at one percent of net worth for campaign donations.

The outright shake-down of American Airlines and other businesses, the laundering of money through Mexico . . . tax loopholes which permit big donors to avoid gift taxes by breaking down large contributions into smaller donations, and distributing them to various committees supporting the same candidates.

Last year, the President and his supporters spent $60 million to stay in office. Senator McGovern and his supporters spent nearly $24 million in a losing effort to remove the President. Both of the amounts are staggering . . . and both carry the same disturbing implications.

A Senatorial campaign in many states can cost upward of $2 million per candidate and $200,000 spent in a race for the House of Representatives is not uncommon.

But these are only the obvious costs . . . the virtual tip of the iceberg.

Today, the American citizen is being made increasingly and painfully aware of what we might call the "hidden expenses" of election campaigns.

Hidden expenses are those increases you pay for milk at the grocery store and for oil at the gas pump because wealthy interests gave major contributions to a politician in a position to grant favors.

There was the matter of the $400,000 in campaign contributions by milk producers to the President's re-election efforts, followed closely in time by a healthy boost in federal price supports for milk.

Today, this is costing consumers between $500 and $700 million a year in higher prices . . . no less than three to five times the cost of financing every federal election last year, from President down to my own Fifth District Congressional seat in the state of Florida.

Then there was the half-million dollars donated in 1968 and tripled to $1.5 million in 1972 by the oil lobby to the Nixon campaigns for President. There are those who argue that there is a cause and effect between that munificent donation and the fact that despite a recommendation of his own cabinet task force, the President resisted lifting oil import quotas.

This cost of those import quotas to you and me is estimated at $5 billion a year—30 times the most expensive estimate of the biennial cost of public campaign financing of all federal elections.

"Should we publicly finance our election campaigns?" asked Jerry Landauer in the Wall Street Journal. "Don't kid yourself," he wrote, "we already do."

These are some examples of the hidden cost of financing elections under the present system. It is too high a price to pay.

But there are other problems as well with our present system . . . a system which allocates money to incumbents, to the so-called sure winners.

Most Americans would agree that we should have vigorously competitive elections. The truth is that most elections are decided virtually by defualt, since the incumbent has the tremendous advantage of office and the more ready access to the men with the money.

If, however, through public financing each candidate has equal access to campaign financing and incumbent and challenger alike are beholden to the voters in the purest meaning of the phrase . . . then, we just might revitalize politics in America.

You might see more of your elected representatives. And he, in turn, might pay a little more attention to what the ordinary voter has to say.

There are five major proposals pending before the U.S. Senate and a sixth in the House of Rpresentatives which advocate some form of public financing. I recently submitted a bill which proposed total public financing for all federal elections to include primary as well as general election campaigns.

My bill differs from the others in certain key respects. Most importantly, it precludes private contributions to individual candidates . . . this, in my opinion, is vital if public financing is to succeed.

It authorizes a unique petition procedure for a candidate to qualify for federal office . . . which also serves as a safeguard to prevent persons from receiving public funds for their candidacies who do not have and cannot demonstrate a reasonable base of support.

In the case of a primary election for the U.S. House of Representatives, for example, the signatures of 3,000 individuals who are eligible to vote would be necessary to qualify a candidate for disbursements from the public fund.

The sum per qualified candidate in this particular race would be $40,000. In the event of a runoff election, each candidate would receive $20,000 and the winner an additional $60,000 for the general election. Similar petition procedures involving greater numbers of eligible voters are provided for campaigns for the U.S. Senate and for the office of President and Vice President.

I have added several new features to H.R. 10899, including the creation of an office of Special Counsel to answer any and all questions about the election laws that any candidates may have. This will hopefully eliminate the confusion that was created in the application of the 1971 law.

About the costs involved.

With three times the number of qualified candidates as we had in 1972, under this formula, the total expenditure would be approximately $175 million annually . . . or just $1.25 per year, for each eligible voter.

Is it worth $1.25 a year to you to get a fair break at the supermarket . . . at the corner gasoline station?

Is it worth $1.25 a year to you to be comfortable in the knowledge that a new measure of fundamental integrity and fairness has returned to our elective democracy and the operations of government?

Is it worth $1.25 a year to you to make manifest that principle of democracy which we all were taught was so integral and essential to America?

That in America, every person is guaranteed a fair shake . . . and equality of opportunity . . . and that no one's vote, voice nor wealth shall be worth more than any other's on election day.

At a dollar and a quarter, it is probably the best bargain in America today.

Thank you.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

Mr. Long of Louisiana (at the request of Mr. O'Neill), for today, on account of official business—president of the Lower Mississippi Valley Flood Control Association and presiding officer at their annual meeting.

Mr. Corman, for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Holifield, for 30 minutes, today, to revise and extend his remarks and include extraneous material.

(The following Members (at the request of Mr. Treen) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 5 minutes, today.

Mr. Edwards of Alabama, for 5 minutes, today.

Mr. Dickinson, for 5 minutes, today.

(The following Members (at the request of Mr. Litton) to revise and extend their remarks and include extraneous matter:)

Mr. Gonzalez, for 5 minutes, today.

Mr. Foley, for 5 minutes, today.

Ms. Holtzman, for 5 minutes, today.

Mr. McFall, for 5 minutes, today.

Mr. Barrett, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Danielson, for 30 minutes, today.

Mr. Burke of Massachusetts, for 30 minutes, today.

Mr. Metcalfe, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Gross to include extraneous matter in his remarks on H.R. 11459.

(The following Members (at the request of Mr. Treen) and to include extraneous material:)

Mr. Hanrahan.

Mr. Conlan in five instances.

Mr. Kemp in two instances.

Mr. Cleveland.

Mr. Hastings.

Mr. Steiger of Arizona.

Mr. Brotzman.

Mr. Steiger of Wisconsin.

Mr. Thone.

Mr. Wyman in two instances.

Mr. Derwinski in two instances.

Mr. Bray in two instances.

Mr. Wydler.

Mr. Huber in three instances.

Mr. Steele.

(The following Members (at the request of Mr. Litton) and to revise and extend their remarks:)

Mr. Fraser in five instances.

Mr. Dingell in four instances.

Mr. Clay in 10 instances.

Mr. Leggett.

Mr. Blatnik.

Mr. Hungate.

Mr. Wolff in two instances.

Mr. Rooney of New York.

Mr. Harrington in three instances.

Mr. Studds.

Mr. Mahon.

Mr. Henderson.

Mr. Drinan.

Mr. Mollohan.

Mr. Donohue.

Mr. Anderson of California in three instances.

Mr. Zablocki in two instances.

ADJOURNMENT

Mr. LITTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 51 minutes p.m.), under its previous order, the House adjourned until Monday, December 10, 1973, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1615. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to authorize the Secretary of the Treasury to change the alloy and weight of the 1-cent piece; to the Committee on Banking and Currency.

1616. A letter from the First Vice President and Vice Chairman, Export-Import Bank of the United States, transmitting a quarterly report on the export expansion facility program for the period ended June 30, 1973, pursuant to Public Law 90–390; to the Committee on Banking and Currency.

1617. A letter from the Director of ACTION, transmitting the Peace Corps annual operations report for fiscal year 1973, pursuant to section 11 of the Peace Corps Act, as amended; to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOLIFIELD: Committee on Government Operations. Report of Farmers Home Administration (rural housing program operations) (Rept. No. 93–705). Referred to the

Committee of the Whole House on the State of the Union.

Mr. DULSKI: Committee of conference. Conference report on H.R. 9256 (Rept. 93-706). Ordered to be printed.

Mr. HOLIFIELD: Committee on Government Operations. H.R. 11510. A bill to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions; with amendment (Rept. No. 93-707). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROTZMAN:

H.R. 11833. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act, to expand the coverage of that act, and for other purposes; to the Committee on Education and Labor.

By Mr. DONOHUE:

H.R. 11834. A bill to provide that a State or political subdivision may levy a tax with respect to a federally assisted housing project which under Federal law is otherwise exempt from State and local taxes but is required to make payments in lieu of taxes, where such payments are less than the amount of the taxes from which it is so exempt; to the Committee on Banking and Currency.

By Mr. GINN:

H.R. 11835. A bill to authorize the Secretary of the Interior to assist in the commemoration of the Revolutionary War battle fought at Savannah, Ga., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HARSHA:

H.R. 11836. A bill to direct the President to halt all exports of gasoline, No. 2 fuel oil, and propane gas until he determines that no shortage of such fuels exists in the United States; to the Committee on Banking and Currency.

By Mr. KEMP:

H.R. 11837. A bill to prohibit common carriers in interstate commerce from charging elderly people more than half fare for their transportation during nonpeak periods of travel, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 11838. A bill to amend sections 2516 (1) and (2) of title 18 of the United States Code to assure that all wiretaps and other interceptions of communications which are authorized under that section have prior court approval; to the Committee on the Judiciary.

By Mr. McCORMACK (for himself, Mr. Teague of Texas, Mr. Mosher, Mr. Goldwater, Mr. Chappell, and Mr. Vander Jagt):

H.R. 11839. A bill to provide for the early commercial demonstration of the technology of solar heating by the National Aeronautics and Space Administration in cooperation with the National Bureau of Standards, the National Science Foundation, the Secretary of Housing and Urban Development, and other Federal agencies, and for the early development and commercial demonstration of technology for combined solar heating and cooling; to the Committee on Science and Astronautics.

By Mr. MELCHER:

H.R. 11840. A bill to review the present and prospective uses of the lands of the United States, and to stimulate the production of oil and gas from such lands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PATMAN (for himself, Mrs. Sullivan, Mr. Widnall, and Mr. Wylie):

H.R. 11841. A bill to authorize the Secretary of the Treasury to change the alloy and weight of the 1-cent piece; to the Committee on Banking and Currency.

By Mr. THORNTON:

H.R. 11842. A bill to amend the Small Business Act to provide for loans to small business concerns seriously affected by shortages of energy producing materials, and for other purposes; to the Committee on Banking and Currency.

By Mr. RANDALL:

H.R. 11843. A bill to prohibit the export of petroleum and petroleum products from the United States during the present energy crisis; to the Committee on Banking and Currency.

By Mr. RODINO:

H.R. 11844. A bill to enlarge the trial jurisdiction of U.S. magistrates to encompass additional misdemeanors; to the Committee on the Judiciary.

By Mr. ROGERS (for himself, Mr. Kyros, Mr. Preyer, Mr. Symington, Mr. Roy, Mr. Carter, Mr. Heinz, and Mr. Hudnut):

H.R. 11845. A bill to amend the Public Health Service Act and related laws to revise and extend programs of health revenue sharing and health delivery, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STEELE:

H.R. 11846. A bill to provide financial assistance to the States for improved educational services for exceptional children; to establish a National Clearinghouse on Exceptional Children; and for other purposes; to the Committee on Education and Labor.

By Mr. SYMINGTON:

H.R. 11847. A bill for the relief of certain fire districts and departments in the State of Missouri to compensate them for expenses relating to a fire on Federal property; to the Committee on the Judiciary.

By Mr. THONE:

H.R. 11848. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes; to the Committee on Ways and Means.

By Mr. TIERNAN (for himself, Ms. Chisholm, Mr. Corman, Mr. Duncan, Mr. Fascell, Mr. Fauntroy, Mr. Helstoski, Mr. Milford, Mr. Obey, and Mr. Rodino):

H.R. 11849. A bill to authorize the Secretary of Transportation to make grants and provide technical assistance to units of general local government to implement programs which are designed to increase the use of carpools by commuters; to the Committee on Interstate and Foreign Commerce.

By Mr. UDALL:

H.R. 11850. A bill to designate certain lands in the Saguaro National Monument in the State of Arizona as wilderness, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 11851. A bill to amend the Recreation and Public Purposes Act of 1926, as amended, to provide for the sale or transfer of public lands to State and local governments for public purposes; to the Committee on Interior and Insular Affairs.

By Mr. WIDNALL (for himself and Mr. Blackburn):

H.R. 11852. A bill to increase the availability of urgently needed mortgage credit for the financing of housing, and for other purposes; to the Committee on Banking and Currency.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COUGHLIN:

H.R. 11853. A bill for the relief of Produce Factors Corp.; to the Committee on the Judiciary.

By Mr. RIEGLE:

H.R. 11854. A bill for the relief of Dao Thi My Linh and Dao Thi Anh Thu; to the Committee on the Judiciary.

By Mr. STUBBLEFIELD:

H.R. 11855. A bill for the relief of Miguel Angel Cuadra; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

FEDERAL CIVILIAN EMPLOYMENT, OCTOBER 1973

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. MAHON. Mr. Speaker, I include a release highlighting the October 1973 civilian personnel report of the Joint Committee on Reduction of Federal Expenditures:

FEDERAL CIVILIAN EMPLOYMENT, OCTOBER 1973

Total civilian employment in the Executive, Legislative and Judicial Branches of the Federal Government in October was 2,779,068 as compared with 2,782,260 in the preceding month of September—a net decrease of 3,192. Total pay for September 1973, the latest month for which actual expenditures are available, was $2,748,088,000. These figures are from reports certified by the agencies as compiled by the Joint Committee on Reduction of Federal Expenditures.

EXECUTIVE BRANCH

Civilian employment in the Executive Branch in October, as compared with the preceding month of September and with October a year ago, follows:

	Full time in permanent positions	Change	Temporary, part time, etc.	Change	Total employment	Change
Current change:						
September 1973	2,403,496		335,779		2,739,275	
October 1973	2,413,221	+9,725	322,950	−12,829	2,736,171	−3,104
12-month change:						
October 1972	2,475,904		297,737		2,773,641	
October 1973	2,413,221	−62,683	322,950	+25,213	2,736,171	−37,470

Some highlights with respect to Executive Branch employment for the month of October are:

Total employment of Executive agencies shows a decrease of 3,104 during the month of October to a total of 2,736,171. Major decreases were in Agriculture with 1,938, Interior with 1,781 and HEW with 1,582, partially offset by an increase of 1,418 in Defense.

The 3,104 decrease in total Executive agency employment reflects a usual decline in regular seasonal employment and temporary summer employment in federal opportunity programs for the disadvantaged.

In October there were 23,923 youths employed in federal opportunity programs for the disadvantaged. This is a decrease of 8,546 from last month. Employment under this program reached its peak in the month of July when 63,331 youths were reported in temporary and part-time positions.

The full-time permanent employment level of 2,413,221 reported for the month of October shows an increase of 9,725 as compared with the previous month of September and it is 62,683 under the total reported a year ago. Of the 9,725 increase during October major increases were reported by Postal Service with 3,786, Defense with 3,115 and Treasury with 1,068.

During the first four months of fiscal year 1974 there was a net decrease of 8,486 employees in full-time permanent positions. This represents an increase of 1,758 among the civilian agencies and a decrease of 10,244 in Defense agencies.

A comparison of total employment among the civilian and military agencies follows:

	October	September	Change
Civilian agencies	1,707,313	1,711,835	−4,522
Military agencies	1,028,858	1,027,440	+1,418
Total, civilian employment	2,736,171	2,739,275	−3,104

LEGISLATIVE AND JUDICIAL BRANCHES

Employment in the Legislative Branch in October totaled 34,030, a decrease of 93 as compared with the preceding month of September, while employment in the Judicial Branch totaled 8,867, an increase of 5 since September.

UNIFORMED MILITARY PERSONNEL

In the Department of Defense uniformed military personnel totaled 2,226,822 for the month of October and civilian employment totaled 1,028,858.

In addition, Mr. Speaker, I would like to include a tabulation excerpted from the joint committee report, on personnel employed full time in permanent positions by executive branch agencies during October 1973, showing comparisons with June 1972, June 1973, and the budget estimates for June 1974:

FULL-TIME PERMANENT EMPLOYMENT

	June 1972	June 1973	October 1973	Estimated June 30, 1974
Agriculture	82,511	81,715	78,991	78,800
Commerce	28,412	28,300	27,846	28,400
Defense:				
Civil functions	30,585	29,971	28,516	[1] 30,800
Military functions	1,009,548	957,310	948,521	956,000
Health, Education, and Welfare	105,764	114,307	118,396	[2] 101,800
Housing and Urban Development	15,200	15,820	15,412	[2] 13,900
Interior	56,892	56,771	55,907	56,900
Justice	45,446	45,496	46,911	47,100
Labor	12,339	12,468	12,260	12,400
State	22,699	22,578	22,461	23,400
Agency for International Development	11,719	10,108	9,685	9,900
Transportation	67,232	67,885	67,349	69,400
Treasury	95,728	98,087	100,000	104,000
Atomic Energy Commission	6,836	7,145	7,271	7,400
Civil Service Commission	5,260	5,911	6,017	6,000
Environmental Protection Agency	7,835	8,270	8,346	9,200
General Services Administration	36,002	35,721	35,332	37,800
National Aeornautics and Space Administration	27,428	25,955	25,844	25,000
Panama Canal	13,777	13,680	13,662	14,000
Selective Service System	5,791	4,607	3,492	4,900
Small Business Administration	3,916	4,050	3,982	4,100
Tennessee Valley Authority	14,001	13,995	13,631	14,000
U.S. Information Agency	9,255	9,048	8,917	9,100
Veterans Administration	163,179	170,616	171,522	170,000
All other agencies	33,499	34,610	34,117	35,800
Contingencies				5,000
Subtotal	1,910,854	1,874,424	1,864,389	1,874,100
U.S. Postal Service	594,834	547,283	548,832	564,500
Total[3]	2,505,688	2,421,707	2,413,221	[1][2] 2,438,600

[1] Excludes increase of 31,000 for civilianization program.

[2] Excludes increase of approximately 15,000 in adult welfare categories to be transferred to the Federal Government under Public Law 92-603.

[3] October figure excludes 1,062 disadvantaged persons in public service careers programs as compared with 1,175 in September.

Source: As projected in 1974 budget document. It should be noted that the President has ordered reductions in the projected 1974 level, but information is not yet available.

FOR NEW ECONOMIC PLANS

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. ZABLOCKI. Mr. Speaker, innovative and progressive steps are needed to be taken by the administration and the Congress if we will be successful in resolving the major domestic and international economic problems confronting our Nation.

With that objective in mind, I would like to insert the article "For New Economic Plans," by our colleague, Representative HENRY S. REUSS, which appeared in the November 27 issue of the St. Louis Post-Dispatch.

By calling the article to the attention of our colleagues, Mr. Speaker, I am hopeful that Representative REUSS' views will contribute to a better understanding of some of the constructive steps needed to restore the economic viability of our country:

FOR NEW ECONOMIC PLANS

(By Representative HENRY S. REUSS)

Full employment without inflation; an improved distribution of income and wealth; an international economic policy that will be the servant rather than the master of domestic needs—these are the economic problems of the years ahead. And 1974 is the year for constructive first steps toward their solution by the Democratic congressional majority if its party is not to go the way of the Whigs.

As with all changes of Administration, the Republicans in 1968 inherited a mess. But today, after three years of stagnation and unemployment, a few months of sunshine, and more than a year of inflationary misery, the mess is much worse.

Here is an attempt at Democratic diagnosis and cure. A bill of particulars against the Administration would go something like this:

(1) Unemployment and Poverty. For its first three years, the Administration attempted to fight inflation with unduly restrictive fiscal and monetary policies. These policies succeeded in almost doubling the number of unemployed, and in forcing many families into poverty, increasing the welfare rolls, interrupting the growth of family income and of business profits.

In 1972, on the other hand, the Administration, alerted by the upcoming election to the damage it had wrought, swung the pendulum too far the other way. A sudden surge of federal spending, and an 8.3 per cent increase in the supply of new money, intensified already serious inflationary pressures. Today, a swing back to tight money has produced the threat of a new period of stagnation and unemployment.

(2) Inflation and Shortages. Prior to Aug. 15, 1971, the Administration refused to use the power to impose price-wage restraints provided by a Democratic Congress. The freeze of Aug. 15, 1971 worked tolerably for a few months. But the history of Nixon price-wage controls shows almost a death wish that they not succeed.

Instead of the social contract that was needed, labor was excluded from the original formulation of controls. Wages have consistently been subjected to unfairly tighter controls than prices. In the last year, for example, the weekly buying power of labor has actually declined by $3.15. Salaries and bonuses of corporate executives were allowed to skyrocket.

Price-wage controls can work only as a supplement to sound fiscal and monetary policies. As was said above, the Federal Government went on a 1972 election-year spending and money-creating binge. A consumer buying spree was allowed to run unchecked because of the Administration's failure to use the power Congress had given it to impose controls over consumer credit. Worse, Administration tax policies still stoke the inflationary fires where they are hottest. The investment tax credit and depreciation are continuing to produce inflationary bottlenecking in business plant and equipment.

Off-again-on-again controls have compounded the problem.

The highest-flying item in 1973's runaway cost of living is food. For this, a large part of the blame must fall on the Department of Agriculture and its 1972 performance. The

Department kept restricting the production of meat, grain and poultry. Then, lulled by its own bad forecasting, it engineered the Russian wheat deal that helped exacerbate our own shortages.

In many other commodities, the Administration's shortage policies contributed to the inflation. Mr. Nixon's veto of the measure to increase medical education has helped to make health bills higher today. Mr. Nixon's retention of oil import quotas has helped not only to raise the price of gasoline and heating oil, but to retard the building of vitally needed refinery capacity in the United States.

The inflationary problem has been heightened by what the Administration calls the dollar's "undervaluation" since last March—the extra depreciation of the dollar created by international lack of confidence in the Nixon Administration.

At the moment, most economists are predicting a slowdown for 1974—a slowdown produced by chillingly high prices and interest rates, a sharp drop in home construction, a tapering off of the consumer buying spree, an energy shortage and a worldwide economic slowdown that will hurt our export sales. A slowdown means that unemployment will go up again, with cruel repercussions on those it hits first—blacks and other minorities, young people and women.

What is to be done? In my view, the task ahead for the Democrats is along these lines:

(1) The public sector. The public squalor of today must give way to a new sense of public responsibility. High on the list of national priorities should be a public service employment program to banish the scourge of unemployment, perform useful services, and eliminate the temptation toward inflationary across-the-board overspending; an adequate minimum welfare payment for all who cannot work (combining allowances for dependency, food stamps, medicaid, housing); comprehensive national health insurance; block grants for housing and community development; expanded programs in education, public health, the environment, mass transit; research and development in new forms of clean energy.

At noninflationary full employment, the expenditures of government at all levels should be balanced by equivalent revenues. At the federal level, this should be achieved partly by a reordering of priorities (away from excessive military expenditures and unnecessary subsidies, as for private aviation and large corporate farms); partly from the growth in revenues to be obtained by full employment.

(2) Tax reform. Tax reform should be promptly and comprehensively undertaken, to achieve equity, to augment the revenues and to counter economic inefficiency (for instance, the present exemption from taxation of capital gains at death induces security holders to overhold; the exemption of unrepatriated foreign income of American multinational corporations encourages overinvestment and discourages exports, all to the damage of our balance of payments). Tax reform should aim to improve the revenues by 15-20 billion dollars annually, and to permit some effective tax reduction for moderate-income taxpayers, as by shifting some of the burden of the social security tax to general revenues.

(3) Inflation control. Phase IV is far too imperfect and stifling to be tolerated indefinitely. But it must not be simply abandoned. Rather it should be replaced by:

(a) a permanent price-wage review board, to examine and, if needed, to set ceilings on prices (and on wages where the increase would compel a price increase) in the cost-push, administered-price sectors of the economy, such as steel, automobiles, rubber, oil and aluminum;

(b) an independent price ombudsman to represent the consumer—in increasing supply and opposing Governmental agencies such as the Interstate Commerce Commission, which themselves inhibit competition.

(4) International economics. Rather than get ourselves into another bind by going back to fixed exchange rates for the United States, we should continue to float, with internationally agreed rules for intervention. Democrats should and will support the main outlines of the Administration's trade bill. To fend off a balance of payments deficit that has damaged us immeasurably abroad, and to keep the dollar from depreciating further in the face of our expected greater import outlays for oil and raw materials, we must eliminate the biggest single red-ink item in our payments deficits—military expenditures abroad.

EXPORTS OF PETROLEUM AND PETROLEUM PRODUCTS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. DINGELL. Mr. Speaker, in regard to the current energy crisis, I believe it would be beneficial for my colleagues in the House to be aware of a letter which I have today sent to the Honorable William E. Simon, Director of the Federal Energy Administration, in reference to reports of continued exports of petroleum and petroleum products during this time of critical domestic shortage.

I insert the text of this letter at this point in the RECORD:

WASHINGTON, D.C., *December 7, 1973.*

Hon. WILLIAM E. SIMON,
Director, Federal Energy Administration, Washington, D.C.

DEAR MR. SIMON: I am increasingly disturbed by reports of continued exports of petroleum and petroleum products during this period of critical domestic shortage. This raises a number of serious issues.

On November 27, 1973, the Congress passed Public Law 93–159, the "Emergency Petroleum Allocation Act of 1973." Section 4 of that bill prohibits the exportation of petroleum:

"d. The regulation under subsection (a) shall require that crude oil, residual fuel oil, and all refined petroleum products which are produced or refined within the United States shall be totally allocated for use by ultimate users within the United States, to the extent practicable and necessary to accomplish the objectives of subsection (b)."

My staff, in talking to officials in the Office of Export Administration, Department of Commerce, which has jurisdiction over the enforcement of export control programs and the Customs Bureau, which collects the data on exports, learned that both agencies are unaware of this recently passed law and are obviously not enforcing it.

My staff further found that even if the Office of Export Administration were told to move forward with this authority, the Office would have no capability for enforcing the program. I was shocked to find that for the range of export control programs the Office is responsible for enforcing, the Office has only five commodity inspectors to cover the entire country. Two of these inspectors are permanently stationed at John F. Kennedy Airport.

Therefore, are there only three inspectors to enforce the program at the hundreds of airports, ship terminals, border crossings, and other such terminals in the United States?

This, of course, raises a serious question as to whether we can believe the petroleum export figures that the Administration and its agencies are reporting. The way these export numbers are gathered appears to be a joke.

Please bear with me a moment: (a) the ship loads up with oil at a terminal; (b) exporting oil does not require a license or other documentation; (c) the customs official at the port has no authority to check the actual cargo but is merely a paper collector; (d) the shipper is required to file an export declaration identifying the cargo within four days after the ship has left port; (e) if a question is raised as to the reliability of the export declaration, the ship is long gone; (f) these export declarations are then passed on to the Census Bureau which then publishes these completely unverified figures.

As you know, there is a growing incentive to export oil and bring it back into the United States to circumvent the Phase IV price controls. For example, earlier this week, No. 2 home heating oil was being offered in the New York area for $.67 a gallon which is three times the allowed price under Phase IV. We thought at first there was a black market operating, but it turned out to be imported oil that can be sold at any price. Now, that is what I call an incentive to export either overtly or covertly!

I am finding it easier to believe the rumors circulating about the surreptitious shipping of oil outside the country and either having it refined abroad and shipping the petroleum product back in as imported product or merely falsifying ship documents and transporting the product directly back in as an import.

I think it is an outrage that the Administration has not appreciated this incentive to surreptitiously export petroleum and have not added staff or increased the number of authorized staff inspections to protect against this potential fraud.

What is the Administration's justification for not designating petroleum as a strategic commodity and banning the export entirely?

It is very difficult to explain to my constituents that oil companies are still free to export petroleum, as it is not a strategic commodity, while at the same the Administration and the Department of Defense are taking 19.7 million barrels away from the domestic consumers of America by invoking the Defense Production Act.

I believe this should be stopped.

As I am a Member of House Interstate and Foreign Commerce Committee actively engaged in preparing the National Energy Emergency Act legislation for full Congressional consideration, I would appreciate receiving at your earliest opportunity a full report along with your comments and recommendations which you might plan to suggest.

Thank you for your attention to my request.

Sincerely yours,
JOHN D. DINGELL,
Member of Congress.

WORDS TO HEED ON GREECE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. HARRINGTON. Mr. Speaker, Mr. George Anastaplo is a lecturer at the University of Chicago. He has sent me two letters to editors recently concerning the recent coup in Greece and the similarity between our own country and the situation in Greece a few years ago when the monarchy was overthrown. I do not know Mr. Anastaplo personally, but his warnings deserve the attention of each Member of Congress. Therefore, I would like to insert his two letters in the RECORD at this time:

ATHENS AND WATERGATE: A MORAL?

DEAR SIR: It might well be instructive, in order to assess soberly what is going on in Washington these days, to recollect what has happened in Athens in recent years.

In April 1967, a clique of colonels betrayed their oaths and their king by seizing the government of Greece. They have held it ever since as a military dictatorship with civilian trappings. Much of the responsibility for this violent usurpation lay with the leaders of the principal political parties in Greece. That is, a constitutional crisis had been permitted by them to fester for two years—so much so that desperate measures could then be exploited by unprincipled soldiers who saw their chance to take over.

Greece has suffered ever since—in long-term economic distortions, in a damaging alienation from the European community, and in a corruption of political morale which is likely to endure a long time. Chance will have far too much to say about whether the Greeks can return to normal constitutional life without first plunging into a debilitating civil conflict.

The trials of the Greek people are ultimately the responsibility of the leaders (including a then young and inexperienced king) who self-righteously refused, before April 1967, to come to terms with one another. Had these leaders preserved their sense of proportion, the self-serving colonels would never have found an opportunity to make their long-planned move. Politics were quite exciting in Athens those days—but also quite irresponsible and, ultimately, quite destructive of orderly political life.

In Washington, too, politics have been quite exciting the past year.

Respectfully yours,

GEORGE ANASTAPLO,
Lecturer in the Liberal Arts, the University of Chicago; Professor of Political Science, Rosary College.

THE KARAMANLIS SOLUTION FOR GREECE

To the Editor:

The crisis which has toppled the bloody Papadopoulos dictatorship in Athens cannot be resolved, or even smothered, by recourse to still another military strong man. This crisis is rooted in the incompetence and arrogance of colonels who cannot be expected to handle intelligently the complex social and economic problems of Greece. Such usurpers cannot enlist the necessary services and good will of the better professionals, politicians and military officers of that country for the great work of reconciliation and austerity which Greece so desperately needs.

The shortsighted role played by our government since the colonels first took over in 1967 has already (and perhaps even permanently) compromised, in the eyes of the resentful Greek people, our legitimate interests in that country and hence in the Middle East. Among our mistakes of the past six years has been that of publicly backing the wrong men in Greece. I have found, in my visits at the State Department and the Pentagon during this period, that our policymakers have been remarkably unequipped to consider seriously the long-range consequences of the policies they were pursuing in Greece.

We should, before still another dictator becomes consolidated in Athens, try to redeem somewhat our good name by using our remaining influence in Greece and NATO to help the Greek people recover control of their own affairs. This can best be done, it seems to me, by vigorously encouraging the colonels to step aside for Constantine Karamanlis, the man whose prestige as a former conservative prime minister still recommends him to the Greek people as the best way to avoid the even bloodier crises which now threaten their country.

Greece may be the only country in the world today where the genuine popular alternative to domestic tyranny is so moderate and so experienced a politician as Mr. Karamanlis. What more can the Greeks or the United States hope for? Dare we or they risk further deterioration in Greece and in American-Greek relations?

GEORGE ANASTAPLO,
Lecturer in the Liberal Arts, the University of Chicago; Professor of Political Science, Rosary College.

P.S. You may use as much as you like of the above identification as well as of the following information: I have, in recent years, published a number of articles in this country on current Greek affairs. Because of these articles I was declared *persona non grata* by the Greek government in 1970.

EDUCATION FOR EXCEPTIONAL CHILDREN ACT

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. STEELE. Mr. Speaker, I am today introducing legislation to provide a quantum jump in the number and quality of special education programs available to "exceptional children," that is, our gifted and our handicapped youngsters. This legislation mandates that government at all levels has a basic responsibility to provide each such child with a free, public education suited to his or her special needs. And it provides the tools to do so: increased Federal funding, major teaching training programs, intensified research into the field.

Ours is a fast moving country. Yet certain things have remained constant throughout our history. One is the deep belief in the importance of education in our national life.

The traditional measure of progress in education has been growth. The number of students enrolled, the number of schools in existence, the amount of money spent—these have been the ways we gauge how effectively we have educated our children.

And on that basis we have had remarkable success.

Between 1955 and 1965, the number of high school graduates increased more than 85 percent; the number of those graduates going on to college increased 110 percent. Today more than half our young people enter college, while only 20 years ago the number was less than 25 percent.

In the last 2 decades, the total number of institutions of higher education has increased from 1,850 to nearly 2,500 and the average enrollment in these schools has doubled.

Total education outlays, public and private, have been increasing at 2½ times the rate of the gross national product—which itself has grown nearly fourfold since 1950.

Indeed, this is remarkable growth—growth which must be nurtured until every young American has the opportunity for 4 free years of higher education or training. And I have proposed a program for funding such an endeavor based on the Federal Government issuing bicentennial bonds to finance the program at no cost to the taxpayer.

We must recognize, however, that access to schools does not automatically reveal a successful education. It measures only the exposure of a particular age group to whatever educational institutions exist, not the quality of the experience they will find there.

The simple fact is that we are not providing quality free public education to all of our Nation's children. In many cases, we are not providing free public education at all. Nor has our educational system been particularly subtle in whom it excludes—in a word, they are the exceptional children, the handicapped, and gifted.

While most State constitutions guarantee free education as a basic right, all the States—with the exception of Mississippi—which has no compulsory education law—have statutory provisions which authorize school authorities to exclude certain children from public schools.

Originally, these exclusion provisions were intended to exempt children from compulsory education laws if their parents felt they were not physically or mentally capable of attending regular school. But regardliess of the reasons for such provisions in the past, the results are not patently clear: Thousands of handicapped children are being denied their right to an education.

There are some 7 million handicapped children in the United States. Close to 60 percent of these children are being denied the educational programs they need to have full equality of opportunity. One million of them have been excluded from public schools entirely.

For most of these children, educational services are something they will receive only through the perseverance and sacrifice—often at prohibitive cost—of their parents. Tragically, the education they are likely to receive will in no way prepare them for full, useful, and rewarding lives.

During the 1971–72 school year, there were seven States in which less than 20 percent of the population of handicapped children were provided educational services. In 19 States, 31 percent or less of the handicapped population was served. Only 17 States served more than 50 percent of all handicapped children.

And if we examine this by disability group, the disparity is all the more striking. In 1971, only 57 percent of all trainable mentally retarded children; 52 percent of all speech impaired children; 45 percent of all crippled or orthopedically handicapped children; 13 percent of all serious emotionally disturbed children; and only 26 percent of all children with multiple handicaps received an education.

Take, for example, the nationwide situation as it relates to children who are deaf or are hearing impaired. The Bureau of Education for the Handicapped in the Federal Government's Department of Health, Education, and Welfare has estimated that there are some 348,-

600 children under the age of 19 who are hard of hearing, yet only 49,315 of these youngsters are being served by special education. And of the 52,300 deaf children in the same age bracket, only 35,624 are receiving such educational services. In other words, despite the successes of our educational system in some areas, 321,161 deaf and hard of hearing children nationwide are not receiving the kind of education they so desperately need and deserve. This is unacceptable.

We, in Connecticut, are more fortunate than those in most other parts of the country. Some 55,000 to 57,000 schoolchildren—or about 8 percent of all Connecticut's public school pupils—are presently being served by State special education programs. Almost 40,000 of these children receiving special education are youngsters with learning disabilities or are neurologically impaired youngsters, speech impaired youngsters or children who are emotionally disturbed.

But despite the inroads we have been able to make in Connecticut, we still need to do more. It is estimated that as much as 12 percent of the school age population—between 3 years 8 months and 21 years—could be in need of special education.

And it is important to remember that Connecticut is not typical of the rest of the Nation.

It is impossible to justify our nationwide situation. The blunt truth is that for far too long Government has been willing to condemn generation after generation of handicapped youngsters to lives without hope and without help.

That is not to say that we have not made any progress. In 1971, some 799 bills were introduced in State legislatures which sought to provide educational services for handicapped children; 237 of these bills were passed. We have increased Federal assistance to the States for this purpose from a mere $45 million 5 years ago to $215 million in the 1972 fiscal year. But this has been a token expenditure.

The progress we have made is simply not enough.

It is time for us to recognize that handicapped children are, above all, children. They have the same rights as any other child to live, to learn, to be free. Last August, this view was affirmed by a U.S. District Court which declared that all handicapped children have a constitutional right to full, free, public education. It is up to us to assure that that right is a reality.

We must not lose sight of the fact that we are talking about human beings. An all too common failing of government is that it forgets that what is at stake in issues such as this is the well-being of people.

There is no better—nor more tragic—example of this than the recent bureaucratic bungling of the Federal Office of Education—bungling that has adversely affected the education and lives of thousands of children with learning disabilities.

Last year, the Office of Education got behind schedule in processing grants and contracts for the 1972 fiscal year—grants that had to be made by June 30, 1972, or the funds had to revert back to the Treasury. Because of bureaucratic redtape, the Office of Education was unable to make these awards in time, so rather than lose the funding, it backdated the contracts and grants.

There are several things wrong with this procedure—one of them is that it is illegal.

The Congress—struggling to regain control over the budget—forced the Department of Health, Education, and Welfare—which oversees the Office of Education—to redate these forms accurately. But the result was to throw the expenditures for them into the 1973 fiscal year. And so to stay within its spending limits for that year, HEW slashed the funds that had been originally budgeted for special education programs.

This is not just a matter of Government accounting procedures. These are funds which should have reached children—children with learning disabilities which make them unable to take full advantage of our public schools without special help.

Now those children may not get the money.

The Congress has provided some $26 million in additional funds to aid these youngsters. But the Department of Health, Education, and Welfare is refusing to spend $12.5 million of this.

It is this kind of callous indifference to the welfare of our children that has prevented us from meeting our obligation to provide each and every one of them with a full opportunity for a meaningful life.

Concerned citizens have taken this particular matter to court, in an attempt to force HEW to spend those funds as the Congress directed. Hopefully, we will soon have a final ruling in this matter which will insure that these funds reach the children who need them so much.

But it is not enough to rely on individual court rulings to provide quality educational programs for exceptional children. What is needed is a full-scale national effort to assure all children of a free, appropriate public education which will allow them to develop to their full individual capabilities.

But the handicapped are not the only children who are not receiving the kind of educational experience which they need and deserve. Ironically, those who have been termed our most precious resource, have likewise been overlooked—our gifted youngsters.

In the past, the existence of gifted children has scarcely been acknowledged by our formal institutions of education. And even when their presence has been recognized, their needs have been neglected.

There are at least 2 million children who should be considered as gifted—yet even the most generous estimates claim that only 80,000 of these youngsters are now receiving appropriate education. Only 10 States—including Connecticut—have a full-time person responsible for gifted and talented education. Only 22 States have laws to provide funds for their education. And many of these States have never appropriated funds.

This situation is best summed up in a 1971 Office of Education report that concluded that education of the gifted was of so little concern to Federal, State, and most local governments that it best could be described as "nonexistent on the national agenda."

Much of the reason for this is that we have been inhibited by the feeling that any special attention to the gifted is somehow alien to the true purposes of education in a democratic society—that gifted youngsters can do it on their own. But a bright mind will not always make its own way. Intellectual and creative talent cannot survive educational neglect and apathy.

Education must meet the needs of students. All students.

In today's schools, gifted children are locked in by structural and administrative restrictions that inhibit their development. They are denied access to the kinds of advanced materials that will allow them to truly use their minds. They are unsatisfied in their intellectual pursuits.

Some American educators have become more responsive to individual differences among students. However, the degree of this falls far short of the requirements of the gifted child. As former U.S. Commissioner of Education, Sydney Marland, has noted,

> Rearranging desks in a circle rather than in straight rows may help free a teacher, but it is not enough in schools that number among their pupils potential poets, philosophers, scientists and social leaders.

What is needed is a national effort to assure the gifted and talented child of an education which will allow him to fully develop all his abilities.

We are making a beginning.

Last year a Federal Office of Gifted and Talented Education was established in the Bureau of Education for the handicapped. But the Federal task at this point is limited to awakening interest in education for the gifted—funds are virtually nonexistent. I believe that we can do better. I believe that we can bring quality education to every gifted student by 1976. I believe we must.

Nor can we deny full educational opportunity to any other child, regardless of his potential for making contributions to our society. Education is the right of all.

That is why I am today introducing legislation to provide a quantum jump in the number and quality of special education programs available to exceptional children.

This legislation provides a basic entitlement to each State to aid them in expanding their efforts in educating these children; it provides grants for the training of teachers and supervisors to help guide these youngsters. It establishes a national clearinghouse to facilitate the interchange of information and ideas relating to this area of education It sets stringent guidelines to assure that exceptional children receive the best education possible. And it mandates—as a matter of congressional policy—that each and every youngster in this country is entitled to a free, appropriate public education.

Our present educational system has tended to neglect, and even exclude, exceptional children—children with unusal learning needs, the gifted, the handicapped. They must not be neglected any longer.

Our challenge is to provide each and every one of them with a quality education.

I believe that we can meet that challenge.

PUBLIC PERSONNEL SYSTEMS IN EFFECTIVE GOVERNMENT

HON. DAVID N. HENDERSON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. **HENDERSON.** Mr. Speaker, in these days when people are concerned about the effectiveness of their Government, because of the crisis in confidence at this particular time which makes them distrustful and very doubtful of the credibility of their Government, it is refreshing to find a forthright statement by one of our top career civil servants, Mr. Bernard Rosen, Executive Director, U.S. Civil Service Commission. His address on November 27, 1973, to the International Conference on Personnel Administration in Miami, Fla., summarized some of the reasons for the people's lack of confidence in effective government and suggests courses of action which can be taken by our public administrators to restore such confidence.

Our Subcommittee on Manpower and Civil Service is deeply concerned with providing the American public with the most effective government services possible. May I take this occasion to commend the many dedicated career public servants, both managers and rank and file employees, for their outstanding contribution toward this objective.

Because of the vital importance of this matter, I believe that Mr. Rosen's remarks warrant wide circulation.

Mr. Speaker, for this reason I include the full text as part of my remarks:

Address by Bernard Rosen, Executive Director, U.S. Civil Service Commission at the 1973 International Conference on Personnel Administration, Miami, Fla., November 27, 1973

It is very appropriate that the oldest and most prestigious organization of public personnel professionals should be considering merit principles and effective government at this conference.

Principles and effectiveness are two words of particularly high concern at this time.

People are concerned about principles and effectiveness in their government because they know that government decisions affect them in important ways. A May 1973 Lou Harris Poll indicated that more than 80 percent—four out of every five persons—thought that decisions made by the government at the State, local, and national level were important to them.

People are concerned about principles and effectiveness in their government because government is costly. Payroll costs alone, exclusive of fringe benefits, for all three levels of government in the United States come to about $9 billion for an average month. At the State and local level, payroll costs, exclusive of fringe benefits, are running close to 50c of every dollar spent.

People are concerned about principles and effectiveness in their government because of a crisis in confidence in our time which makes people distrustful and very doubtful of the credibility of their government.

For these reasons alone, it is important that we go back to basic principles—such as the merit principles in public employment—in an attempt to increase confidence in our public institutions and to improve delivery of services.

What do I mean when I talk about merit principles? I mean those six fundamental principles of sound personnel management set forth in the Intergovernmental Personnel Act (IPA) that provided for:

1. Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills;
2. Equitable and adequate compensation;
3. Training employees as needed to assure high-quality performance;
4. Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance and separating employees whose poor performance cannot be corrected;
5. Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex or religious creed, and with proper regard for their privacy and constitutional rights as citizens; and
6. Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

There is nothing negative about these principles. They should make perfect sense to personnel professionals. They should be embraced as the essence of fairness and common sense by public managers. They provide a blueprint for sound personnel management and a keystone to effective government.

If this is true, and I believe it is, why do we hear so much criticism of public personnel administration?

The Pendleton Act became law for our National Government 90 years ago, and similar laws at the State and local level have been enacted since that time. The primary thrust of these early laws was toward more integrity in government, better performance in government, and continuity in government.

Over the years, however, the basic relationship between merit principles and effective government has become blurred. There is insufficient understanding or acceptance by the public, by politicians, by managers, and yes, by too many personnel professionals, that merit principles, faithfully followed, are a great guarantee for good government—that is: honest and effective government.

It is an unfortunate fact that merit systems are viewed by many people as essentially negative and restrictive—they see merit principles as a series of "thou shalt nots." Too often this view from the outside is reflected and perpetuated from the inside—even by personnel practitioners who know better, or at least should. There is a tendency to translate merit principles into so-called merit systems which emphasize the negative, restrictive, and the protective aspects of personnel administration. Often overlooked are the flexibilities and the positive values of merit principles to the people being served, to administrators, and to employees.

Some public officials view the personnel procedures established to assure conformity with the "merit system" as restrictions and limitations on their own judgment and freedom to do their jobs.

Managers who are of necessity forced to be results-oriented, bridle under delays and so called "red tape" associated with many "merit system" operations. For example, they simply cannot understand why it requires six weeks to two months, on the average, to fill a vacancy.

As you know, there is some substance to these views, especially where defenders of merit confuse archaic trappings and procedures with the merit principles themselves. Unnecessarily restrictive and ineffective personnel administration has resulted in a serious lack of integrity in many personnel systems. We all know what I am referring to.

It centers around the widespread view that merit requirements are something to "get around." Not only is "beating the system" widely practiced—many seem to pride themselves on their ability to do so. And, in some instances, they are aided and abetted by personnel officers. When these efforts are directed against procedural requirements which have nothing to do with merit principles, or may even be contrary to them, criticism of the violators will have little support. This is true even when the violations also impact on the basic merit principles. Yet it is an entirely different matter when some managers or personnel practitioners sacrifice principles to expediency.

What such persons fail to recognize is that when they bend the merit principles to "beat the system"—they may also be violating the law and they are reflecting seriously on the credibility of the merit concept and the effective, fair operation of our democratic government.

Here is the naked truth: When declinations are solicited to bring a favored candidate within reach on a certificate of eligibles, the solicitor is breaking the law.

When a job description is tailored to the qualifications of an individual in order to *minimize* competition for the *real duties* of the job, the perpetrator is breaking the law.

When a position description is deliberately overblown to raise the grade of a job—and thus the pay—the supervisor involved is breaking the law.

All of these illustrate illegal acts, and they are often analogous to stealing from the pocket of the taxpayer. Representatives of a personnel office or Civil Service Commission who condone such practices are party not only to falsification of official documents but are guilty of a much greater offense. Their conduct undermines personnel management principles which are not only sound and workable but essential to honest and effective government!

Failures to take appropriate disciplinary action under merit principles are also serious infractions. Take the case of the supervisor or manager who fails to correct inadequate performance of a subordinate. Not only is he being unfair by not helping the employee to improve performance; if he tolerates inadequate performance, he is cheating the taxpayers who are not getting the performance their tax dollars pay for.

You can run through the range of personnel operations and find many other examples—failing to promote the best qualified . . . providing training opportunities for personal favorites who may not be the ones who should be given the training.

Each is a violation of merit principles. Each is unfair to taxpayers and employees. And inevitably the question arises: Should not the offenders be punished? When the offense is very serious, should not the penalty be severe?

Responsible public administrators would not run the risk of violating rules and laws regulating financial matters. When dealing with money matters, they religiously conform to requirements because they know that violations can bring dismissal and even imprisonment.

We need to help managers recognize that in personnel operations, public trust and public funds are involved every bit as much as in contracting—and that violations of personnel laws can bring severe penalties.

But it is not enough to play policeman and enforcer to insure integrity and accountability in public personnel management. We need to do much more than maintain vigilance for violations—we need to prevent them. To truly prevent them we need to make sure the personnel system is effective and that public managers understand and appreciate how they can benefit by following merit principles. We need to make them aware of the flexibilities legitimately available and, in fact, inherent in merit principles.

Certainly, the "shalt nots" of merit principles are important to help insure integrity and accountabliity in public personnel management. But that is only one side of the coin.

We need somehow to strike a balance—one that makes clear, on the one hand, that the maintenance of merit principles is essential to assure integrity and accountability in public personnel management; and on the other, one that broadcasts the message, and demonstrates convincingly by our actions, that adherence to merit principles by managers will bring positive benefits in terms of operational effectiveness and accomplishment of mission.

So those of us with primary responsibility for preserving merit principles and ensuring that we have effective public personnel systems have a vital operational, educational, and interpretive job to do.

We need to demonstrate and emphasize that the application of merit principles goes hand-in-hand with the basic objective of every responsible manager—to get his organization's work done as efficiently and effectively as possible.

And if we do our job well, we will no longer have:

Inappropriate selection criteria, such as lack of valid tests or educational and experience requirements still being widely used with the result that those best qualified for the work are not the first to be hired.

We will no longer have:

Competition for employment unnecessarily restricted by such devices as unreasonable physical and residency requirements.

We will no longer have:

Full-blown patronage hiring systems—some complete with assessments for regular political party contributions with the result that the employes' loyalty is not completely and solely to the public interest.

We will no longer have:

These and many more practices, policies, or procedures inconsistent with merit principles and plainly working against good government.

If we want to change such practices, establish and maintain integrity in personnel administration, and demonstrate the validity of merit principles, we need to take a hard look at such procedures masquerading as essential elements in merit systems—and we must make needed changes.

I am heartened by our experience under the Intergovernmental Personnel Act. We see needed changes being made at all levels of government. For example, many State and local governments have undertaken studies to validate tests and assure job relatedness, so that the best qualified can be identified.

Others have established or instituted studies of position classification and pay systems to provide a base for modern personnel systems, including equal pay for equal work.

A number have made progress in job restructuring and upward mobility to harmonize organizational needs and employee aspirations.

In some localities, personnel systems founded on merit principles have been established for the first time.

And a wide array of actions have been taken under the Emergency Employment Act to remove artificial barriers to the employment and advancement of the disadvantaged.

Proponents of sound public management can be further encouraged by the report of the advisory council on Intergovernmental Personnel Policy which recommended that Chief Executives of States and localities develop comprehensive merit personnel systems for all of their programs.

Within the Federal Government we are taking actions to update and strengthen basic aspects of personnel administration. Perhaps one of the most significant things we are doing at the national level is installing and refining a system of management by objectives—a concept which has been defined as concentrating first on doing the right things and then doing things right. The purpose is to establish goals and objectives in the personnel management area which will facilitate the accomplishment of our national program priorities. We need to show our program managers how effective merit-based personnel management systems will help them accomplish their program objectives. When we have done that we will be more secure in their managerial scheme of things.

One of our basic objectives is to make a fundamental effort to reach the Federal manager, to convince him that his objectives can best be achieved through an effective, merit-based personnel system. For example, we are redirecting and intensifying our training for managers, to improve management of government programs by improving managers. In the process, more managers will be made aware of the importance of effective personnel management as part of their overall management responsibilities. And they will focus on the merit of adhering to merit principles.

We are also working with top management in Federal agencies to improve their systems for personnel management evaluation. Here, we are stressing the linkage between evaluation of personnel management and organizational effectiveness and productivity.

And we are taking other actions to assure that managers are aware of their responsibilities for maintaining merit principles as well as the benefits that will accrue to them in the process.

We commend some of these approaches for consideration in other jurisdictions, and we would welcome suggestions from your vantage point that we might use in the Federal civil service.

Although merit principles and effective government may not be generally accepted as synonymous, my view is that they can and should be. I firmly believe that merit principles faithfully followed *are* our best guarantee of honest and effective government.

But, it is clear that we, as public personnel practitioners, have a big improvement and educational job to do to gain awareness and appreciation of this truth. It is also apparent that the message must be made loud and clear to those inside our systems before we can make believers of those outside.

There has always been a tendency to overlook "the people" side of the public service, but the plain fact of the matter is that people do make the difference. The work force determines how well governments do their job! Their ability and dedication can and does make the difference between success and failure.

When the Intergovernmental Personnel Act was signed into law in January of 1971 full recognition was given to this people factor by the enunciation of a national policy:

That effective State and local government institutions are essential in the maintenance and development of the Federal system in an increasingly complex and inter-dependent society.

That a national interest does exist in a high caliber of public service in State and local governments.

And that the quality of public service at all levels of government can be improved by the development of merit-based personnel systems.

Our work is already underway, but to paraphrase Mr. Frost:

> "The woods are lovely, dark and deep.
> But we have promises to keep
> And miles to go before we sleep."

It is a worthy cause we serve and it does warrant our best efforts!

CANADIAN SAYS "LET'S STOP CRITICIZING AMERICA"

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. STEIGER of Arizona. Mr. Speaker, I would like to call to the attention of my colleagues an address delivered recently in Montreal, Canada, by Geoff Stirling, chairman of the board of Maisonneuve Broadcasting Co. Mr. Stirling is a winter resident of Wickenburg, Ariz., and his address was reprinted in the November 15 edition of the Wickenburg Sun. The address follows:

LET'S STOP CRITICIZING AMERICA AND REALIZE ITS BEAUTY AND ITS NOBILITY

During the past months it has become the sophistry of the moment to make fun of the Watergate hearings and the corruption they are demonstrating by taking an anti-American position on the part of many foreigners, who find it easy to forget the greatness that is the United States of America. All of us are free today because of that greatness.

The American Constitution and the Declaration of Independence are probably the most enlightened documents on the face of this earth. They, more than anything else, represent the true American character, which is unbelievable generosity, a willingness to admit mistakes and to strive constantly for greatness.

Those of us who love America, know in our hearts that God truly blessed that great country, which is now publicly displaying its own purification process, just as it has always openly and courageously faced every crisis since George Washington declared the United States of America. The United States will emerge from the present crisis stronger and more glorious than ever. It has the vitality and strength to solve any problem, but it now needs from its friends the encouragement of faith. Let us therefore put behind us the temptation to criticize and feel self righteous.

I lived, for ten years, in a little town called Wickenburg, in the middle of Arizona, a town of 2,700 beautiful, courageous and generous Americans, representing all of the States of America, indeed a microcosm of that beautiful nation. I know how generous Americans are, and how forgiving and how basically honest they are.

I have a little girl who was born in Wickenburg. She radiates the purity and beauty of America. She is a constant reminder to me of how much they have taught us and how much we owe them. I am tired of hearing them condemned because of the greedy handful of politicians who are acting just like politicians act in any other place in the world, but who do not represent America, any more than any individual man who has lost his conscience represents the nation he happened to be born in.

Who in the world can fail to be impressed with the courage they are now demonstrating in this troubled time. Who can fail to be inspired by their honesty and by their determination to correct whatever needs correcting. Who can fail to applaud their tenacity and their soul searching. Who can stand up and cast the first stone?

Let us pour our hearts out to these great people. Let us demonstrate our appreciation for what they have done for all of us, for the Marshall plan that re-built Europe, for the aid and lack of malice that, 25 years later, has made their wartime enemy, who bombed them without warning, now their strongest economic competitors.

The United States has always, in my mind and heart, been the light that symbolizes the individual freedom so articulately expressed in their American Constitution. The light that has inspired millions throughout the world to seek the same freedom that each individual American enjoys.

Let us put aside our criticism and extend our love to this great nation and to each citizen of that nation, who collectively represent the beauty and dedication which is the American character, and we may have no doubts that they will emerge from the present crisis victorious, once again, before an astounded world, demonstrating that God indeed does bless America and will keep her perpetually free through her own integrity and purification processes which are the essence of life, liberty and the pursuit of happiness.

BUTZ BLAMED FOR FLYING FOOD PRICES

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. BROOKS. Mr. Speaker, some of the problems our farmers are experiencing were explained by the following column, "The Washington Merry-Go-Round" from the Washington Post of November 28, 1973, by Jack Anderson.

The Secretary of Agriculture is making every effort now to destroy the rice industry in the United States by encouraging new producers to plant outside of the national program. This, of course, would be to the serious detriment of the existing producers—from Mississippi to California, and from Texas and Louisiana to Arkansas.

While it is to be hoped that under his leadership the Agriculture Department will continue the fine program within the rice industry that has brought opportunity to rice producers and millers and other related operations, I believe the record of Mr. Butz bodes serious trouble for rice people—producers and consumers.

The text of the article expressing my own judgment of the Secretary of Agriculture follows:

Flying Food Prices Blamed on Butz

(By Jack Anderson)

Many factors have combined to send prices skyrocketing in the supermarkets. But the biggest blame falls upon Agriculture Secretary Earl Butz, who has handled the delicate farm controls like the operator of an erratic tractor crashing through a corn field.

This is the whispered view of Agriculture Department economists, who speak privately of his farm failures as "Butz's bungles." These range from the Russian wheat deal to faulty crop estimates, which have had disastrous results.

The tragedy is that the poor are paying the most for Butz' follies. Buried in his files are grim statistics, which show that supermarket inflation has affected basic necessities far more than the luxury items only the affluent can now afford. Many poor families face the prospect of meatless holiday tables during the Christmas season.

Hamburger prices, for example, shot up 41 per cent while sirloin steak rose only 18 per cent. The low-budget meats and poultry jumped a dramatic 50 per cent during the past year. A year ago, chicken cost about 42 cents a pound. Now the price is closer to 72 cents a pound, a staggering 71 per cent increase.

Hot dogs have gone up 49 per cent, bologna 36 per cent. Bacon, once a common item, is now a luxury on many breakfast tables. It has shot up 67 per cent. Substitutes like fish have also been priced beyond the pocketbooks of the poor. Perch fillet has gone up 36 per cent.

In startling contrast, the meats favored by the affluent have risen only an average 25 per cent in price. Fancy cheeses have drifted up 11 per cent. Porterhouse steak has risen 17 per cent. Lobster tail prices have gone up only slightly.

Other staples have registered sharp price increases. Flour is up 36 per cent, potatoes 32 per cent, rice 30 per cent.

A comparison of 13 items reveals that economy foods jumped an average of 31 per cent from September, 1972, to September, 1973, compared to an average gain of 21 per cent for their luxury counterparts. While margarine increased 24 per cent, for example, the markup for the "high-priced spread" was only 15 per cent.

The reasons for the price rocketing, of course, are complex. But economists who work for Butz lay the heaviest blame on his inept handling of the agriculture economy.

All year long, for example, the Agriculture Department has put out inflated crop estimates. The economists suspect the faulty estimates have been influenced by the administration's eagerness for good news.

But the eventual result has been bad news. The high estimates caused prices to drop briefly. Then the low prices increased the demand. By the time the Agriculture Department got around to straightening out the figures, prices would zoom back up to even greater heights.

This happened with cattle, corn and pigs. Butz predicted a 6 per cent increase in pig production. Instead, there was a 2 per cent decline.

Similarly, a staggering five million head of cattle, which Butz had mistakenly counted, never made it to market. An anticipated increase in dairy production also never materialized. All these miscalculations helped to drive up prices.

Butz's biggest bungle, of course, was the Russian wheat deal. His poor appraisal of world demand for wheat led him to sell one-quarter of the U.S. crop to Russia for $1.63 a bushel. By the time the last bushels had squeezed through the clogged transportation system, the price had soared to nearly $4 a bushel.

The vacillating farm policies also had an inflationary impact upon prices. Rumors that price regulations would be implemented at the farm level discouraged production, and the resulting cutbacks sent prices up.

When controls were slapped on beef prices, livestock producers withheld their beef from the market and caused a price rise. The administration also threatened to curb exports, then decided against it, all to the detriment of consumer prices.

The failure to do anything about the bogged transportation system, which slows down the delivery of food, also had an effect on the market. The administration also refused to control the wild speculation in commodities, which helped to drive up prices.

The results were predictable; higher prices for supermarket shoppers, particularly the poor. Some low-income families and elderly people on fixed incomes have been reduced to buying dog food for their dinner tables. For these people. Butz's bungles will bring a bleak holiday season.

Footnote: An official spokesman denied that Butz had mismanaged agricultural affairs. The spokesman contended that price controls, rather than overestimated crop reports, had caused dislocations on the farm. The wrong estimates, he urged, had "a minimal effect" on production and prices. He blamed the rise in food price on inflation, pointing out that nonfood prices had risen, too. He defended higher food prices, saying it was time the farmers got their fair share of the food dollar. He declined to be drawn into a discussion of whether food processors and packagers, rather than the farmers, were getting the biggest benefits from price increases.

BIG THICKET BIOLOGICAL PRESERVE

HON. ALAN STEELMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1973

Mr. STEELMAN. Mr. Speaker, I would like to commend the House of Representatives for its foresight in passing H.R. 11546, to establish the Big Thicket Biological Reserve. This bill's administrative innovations, as well as the biological uniqueness of this addition to our parks system, will result in passage of this legislation being recorded as one of the environmental highlights of the 93d Congress.

For the past year I have had the pleasure of working with environmentalists and educators throughout Texas in developing a Big Thicket Biological Preserve bill. Through this work and a personal, onsite inspection, I have concluded that the proposed Big Thicket Biological Preserve is indeed the biological crossroads of North America that deserves incorporation into the National Parks System.

Its plant and animal life are made up of species found in the western and eastern sections of the United States, both temperate and tropical. As Dr. Thomas Eisner, professor of biological science, Cornell University, told the National Parks and Recreation Subcommittee:

> The Big Thicket is from an ecological standpoint better deserving of preservation than any existing National Park in the United States, with the possible exception of the Florida Everglades. Nowhere else in North America is there found such a diversity of plant and animal species; nowhere else is there such a unique combination of habitat, northern temperate and subtropical, arid western and humid south-eastern, freshwater and saltwater, forest and prairie, calcareous and acid. Though preservation of rare species such as the Texas Red Wolf and Ivory-billed woodpecker might in itself

> justify creation of a wildlife refuge, it is the incomparable ecological diversity of the Big Thicket which renders the region of such priceless biological value.

Its inclusion into the Parks System also signals a significant change in the previous concept of that system to stress now the scientific and educational aspects of land that deserves to be set aside for students as well as conservationists. I hope this is the beginning of a trend.

I hasten to point out that this bill emphasizes that development of the area is to be kept minimal, so as to assure the maintenance of the ecological integrity of the natural resources which the preserve is established to protect. Facilities development are to tread lightly, particularly due to the small size of many of the units. The Big Thicket Preserve presents an ideal opportunity for the National Park Service to display in its development plans an approach of minimizing development within and providing for most of the visitor service needs to be satisfied outside the preserve boundaries.

This is not to deny the varied recreational aspects that will be enjoyed in the Thicket as evidenced by the committee's wise inclusion of hiking trails and bridle paths as well as many, varied opportunities for canoeing.

Administratively we tried to direct our attention to many new aspects of guidance for the National Parks Service in determining the utilization of the Big Thicket and similar preserves. Streamside corridors are wisely included to insure water quality so essential in maintaining the delicate balance of plant life that has made the Thicket unique. Also we have addressed management and developmental objectives in a manner that further defines congressional intent for this unique addition to our parks system. At the same time provisions were included to be certain no permanent homes would be taken if at all possible, and recreation is included.

I think that the committee's wisdom in the inclusion of a legislative taking section should be commended. This is the second time this year that the committee has directed a legislative taking—the Big Cypress Preserve included a similar provision—and it will allow property owners to be aware of the disposition of their holdings within 6 months. Also there will be a considerable savings to the Federal Government by reducing the inflationary costs that have plagued our National Parks system in protracted negotiations for land. Only 100 years ago the Big Thicket covered more than 3 million acres. Now we must move with utmost haste to insure that the 84,000 acres compromised upon by the Texas delegation remains intact. Legislative taking will provide the vehicle to accomplish that end.

Mr. Speaker, I strongly support this bill, but I only make this point to show how shortsighted we continue to be in always acting too late with too little. We spend millions and billions of dollars in this country for many programs which turn out to be very wasteful and ill-advised, but when it comes down to allotting sufficient financial resources for preserving a few tangible resources so that they can be retained and enjoyed in their natural beauty for many generations to come, we too often falter and act too late with too little.

Preservation of the biological uniqueness of the Big Thicket area of Texas is overdue. We owe it to the people of this country, to protect the remainder of the Thicket.

ACTION'S NEW VOLUNTEER PROGRAM SEEKS INCREASED COMMUNITY PARTICIPATION

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. STEIGER of Wisconsin. Mr. Speaker, one of the most important pieces of legislation enacted during this session was the Domestic Volunteer Services Act, which authorizes ACTION to administer all of our domestic volunteer programs and the development of new programs and new ways to tap the spirit of voluntarism that exists in our country.

Under this authority, ACTION, the Federal agency for voluntary service, has launched a new national volunteer effort aimed at increasing community participation in solving local problems. The program—ACTION cooperative volunteers—already is operating in 13 States with nearly 50 volunteers. And, by July 1974, about 300 are expected to be serving.

The program allows community groups to sponsor volunteers for 1 year by sharing the overall costs with ACTION. In this way, ACTION may place more of the thousands of highly educated and motivated people willing to serve.

Started as an experiment in volunteer cost-sharing with State and local governments, other Federal agencies and private and public nonprofit organizations, ACTION cooperative volunteers has placed 48 nationally and locally-recruited volunteers with local private and public nonprofit organizations. The volunteers are supplementing community efforts to tackle problems related to poverty and environment.

ACTION volunteers in ACTION cooperative volunteers—ACV—are now in New Jersey, New York, Ohio, Nebraska, Nevada, Washington, Montana, Delaware, Minnesota, Louisiana, Hawaii, Maryland, and Oregon.

The program already is showing signs of success. In Nebraska, for example, 11 volunteers in an adult basic education program are showing teachers how to redesign curriculums for low-level achievers, making course work more relevant and producing recognizable results. In addition, they are recruiting and training volunteer tutors, setting up a summer education program, and helping establish a training center for Indians.

Leonard Hill, director of the Nebraska program, said:

> Our ACTION volunteers have been of such value that we've opened a new vista of opportunity for giving under-educated adults new leases on life.
>
> They really have revitalized our program. They are exploring innovative areas and doing things we had no money to do before.

ACTION volunteers in adult basic education programs in Nebraska, as well as Ohio and New Jersey, are cosponsored by the Office of Education, U.S. Department of Health, Education, and Welfare—HEW. HEW is granting the States funds for the ACTION program as a test to evaluate the effectiveness of ACTION volunteers.

While ACTION assists the sponsor in defining program objectives and in planning the training and supervision of volunteers, the sponsor is ultimately responsible for training and supervising the volunteer in his work. This is a key element of the program. The sponsoring agencies have more authority and flexibility in the ACTION cooperative volunteers program than in other ACTION volunteer programs.

During the volunteer selection process, ACTION tentatively identifies candidates whose qualifications meet those required by the sponsor. The volunteers are invited to a staging—an indepth interview lasting several days where they are interviewed by ACTION staff, community members, supervisors, doctors, and where they get a complete picture of what the program is like—at which they are matched with a position.

Through this program, which emphasizes community participation, ACTION provides volunteers who have a strong interest in solving human and social problems. At the same time, ACTION offers a flexible means of meeting many kinds of sponsor needs.

Volunteers in programs throughout the country are demonstrating this versatility. For example, Montana's State traffic safety division has three volunteers helping to rehabilitate habitual traffic offenders.

The State library for the blind and physically handicapped in Hawaii is using four volunteers to improve its services; and, in Wilmington, Del., six volunteers are working in environmental planning, economic development, communications liaison, and home management for the city's housing authority.

Vincent Fausto, assistant director for adult basic education program for New Jersey and director for the ACTION cooperative volunteers effort in the State, points to his first ACV volunteer, Judy Klikun, of Chicago, as an example of the great contribution ACTION volunteers can make to community programs.

Miss Klikun is one of seven volunteers in the program. She holds a bachelor's degree in education from Chicago State University, and has taught for 3 years in Illinois schools.

Since she joined the program at its Jersey City State College resource center, she has assisted the State director for the work incentive program—WIN—in setting up—in 6 months—a completely new, individualized curriculum for grades 0–12.

In her spare time, Judy has done considerable research in adult reading problems, the use of supplementary materials, the design of a teaching program and the development of teacher model materials.

She has been granted a graduate assistantship at Jersey State Teachers College to study adult basic education. Miss Klikun said:

> We are all examples of what can be done. Adult education is ripe for this kind of program. And I'm sure other types of community efforts are in the same position . . . money is tight and many things are not being done because organizations can't afford to do them.

Other ACTION volunteer programs are Volunteers in Service to America—VISTA, University Year for ACTION, retired senior volunteer program—RSVP, foster grandparent program—FGP, service corps of retired executives—SCORE, active corps of executives—ACE—and the Peace Corps.

COURT-APPOINTED SPECIAL PROSECUTOR IS A MUST

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. HUNGATE. Mr. Speaker, a court-appointed Watergate Special Prosecutor is a must. Some time next week the House will be considering important legislation reported by the Committee on the Judiciary to provide for the appointment of an independent Watergate Special Prosecutor who can be assured of being able to aggressively conduct his office without executive branch interference or harassment. I would hope the committee bill, H.R. 11401, will be well supported by our colleagues.

The St. Louis Post-Dispatch and the New York Times have recently given editorial support to this legislation as being necessary and constitutional.

The editorials follow:

[From the St. Louis Post-Dispatch, Nov. 20, 1973]

JUDICIAL THREAT TO PROSECUTOR

Despite the general respect that U.S. District Judge John L. Sirica has won for his handling of the Watergate cases, members of Congress should not allow themselves to be swayed by his opposition to legislation providing for a court-appointed special prosecutor independent of the Executive Branch. In suggesting that judicial appointment of a special prosecutor might compromise the neutrality of the courts and undermine the prevailing doctrine that prosecution is an executive function, Judge Sirica was ignoring both the constitutional provision that would authorize a court-appointed prosecutor and the special provision of the pending bill that would preserve the court's neutrality. He was also ignoring the peculiar circumstances of the Nixon Administration scandals that would cast doubt on the ability of any presidentially-appointed prosecutor to pursue a trail of crimes that might lead into the office of the President.

Besides Chief Judge Sirica, whose comments were in response to a letter of inquiry from Chairman Eastland of the Senate Judiciary Committee, Judge Gerhard Gesell of the same District of Columbia court also alluded adversely to the special prosecutor legislation in the course of an opinion declaring the dismissal of Special Prosecutor Archibald Cox illegal (but not granting any remedy for the dismissal). We hope that Representative William Hungate of Missouri, chairman of the House Judiciary subcommittee which drafted the special prosecutor bill, was being overly pessimistic when he said the judicial remarks had hurt the bill's chances.

In any event, Mr. Hungate has answered the judges' reservations by pointing out that the House bill would authorize a three-judge panel of the district court to appoint the prosecutor, after which these judges would not hear any of the cases brought by him. This procedure would divorce the appointing judges even more from the prosecutorial function than is already the case when federal judges appoint interim U.S. attorneys; judges, incidentally, have also been empowered to appoint defense attorneys.

The need for an independent special prosecutor has been made clearer than ever by reports that White House special counsel J. Fred Buzhardt lobbied Mr. Cox to try to prevent indictments of Mr. Nixon's closest associates.

The Constitution clearly permits such a congressionally-established prosecutor when it says "Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments." The House and Senate should proceed forthwith to provide for such an officer to take the Watergate cases out of the hands of the Administration which has already done so much to obstruct justice.

[From the New York Times, Dec. 4, 1973]

TRULY INDEPENDENT

In reporting out its bill to provide for a court-appointed Watergate prosecutor, the House Judiciary Committee declared that "the only way to assure that the American people will have complete trust and confidence in the aggressiveness and independence of the special prosecutor is to make him truly independent of the Executive, give him tenure, and legislate limited grounds for his removal."

The bill meets those essential requirements. A three-judge panel of the United States District Court for the District of Columbia would appoint the special prosecutor for a term of three years. The three judges would have the sole power of removal and only on grounds of gross impropriety, gross dereliction of duty, or physical or mental incapacity.

At present, the post of special Watergate prosecutor is occupied by Leon Jaworski. He has a distinguished record as a corporate attorney in Texas and as former president of the American Bar Association. But the most convincing testament to Mr. Jaworski's independence and determination to do the job lies not in his own protestations but in the fact that he has retained the entire staff of his dismissed predecessor, Archibald Cox. In a sense, Mr. Jaworski is hostage to his own subordinates. Nevertheless, the President's power to fire him, though somewhat hedged about, is still real.

Many legal scholars have agreed that a court-appointed special prosecutor is constitutional. Such an appointment would help restore public confidence in the special prosecutor's independence, particularly as the White House has begun the same sniping at Mr. Jaworski that it had leveled against Mr. Cox. Congress has already delayed unduly long in enacting this essential statute.

PERFECT CHRISTMAS TREES

HON. CHARLES THONE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. THONE. Mr. Speaker, for many years there has been admirable cooperation between researchers for the University of Nebraska College of Agriculture and those of the U.S. Forestry Service.

Recently, I was privileged to attend the dedication of a new Forestry Service laboratory that is located immediately adjacent to the campus where the Nebraska College of Agriculture is located. I am certain that with this new facility, much more good for America can be achieved by these scientists.

Already, the institutions working in tandem have accomplished much. An article in the Wall Street Journal, written by David Brand, attests to their good work in seeking perfect Christmas trees. With your permission, I will place the article in the CONGRESSIONAL RECORD:

MEAD, NEBR.—David Van Haverbeke kneels in the mud and biting wind of a Nebraska winter day and encircles the young green branches with his arms. "Isn't it just beautiful?" he asks. "Isn't the shape just perfect?"

Mr. Van Haverbeke is a U.S. Forest Service researcher who gets particularly emotional around this time of year. For his mission is to juggle with the sex life of the Scotch pine in an effort to produce the perfect Christmas tree.

On 10 acres of sparse land at Mead, which is 25 miles northeast of Lincoln, Mr. Van Haverbeke has planted nearly 1,000 carefully selected trees. Year by year he is nurturing the young pines until, five to 10 years from now, the trees will begin to cross-pollinate and produce the first seeds of what Mr. Van Haverbeke says will be the first generation of aristocratic Christmas trees.

The Mead seed orchard represents 11 years of complex, costly work by researchers at the Forest Service and the University of Nebraska. All this effort is being devoted to Christmas trees because foresters want to give known parents to Scotch pines in the U.S. They've been unknown until now because the tree isn't a U.S. native but was brought here in Colonial times.

"In the past we haven't had the foggiest idea where our Scotch pines came from," says Ralph Read, the Forest Service's chief forester at Lincoln. These so-called wild seeds, he says, often produce scraggly, unromantic trees that are easily attacked by disease or such nasty bugs as the turpentine beetle.

This is an annual headache for Christmas tree growers, and it's estimated that only one out of every three trees planted actually makes it into the living room. Last year, Americans brought 35 million live trees, and, says a man at the National Christmas Tree Growers Association, "They'd have bought another one million if they'd been available."

The Scotch pine, which over the past few years has become the most popular Christmas tree in the U.S., also has a particularly unseasonal habit: It tends to turn yellow in the fall. This sends growers running around their plantations spraying yellowing needles with green vegetable dye.

The growers can't control what they grow because they get their young trees, or seedlings, from nurseries who in turn get their seeds from collectors around the world. The collectors find their seeds by climbing trees or even uncovering cone piles hoarded by squirrels.

So it isn't surprising, says Henry Gerhold, a Pennsylvania State University forestry professor, that U.S. growers often end up growing trees from a region of the world quite unsuited to the local soil and climate. The Scotch pine, he says, is the most widespread forest tree of Europe and Asia, and varieties can be found from the arctic to the Mediterranean.

Because of this, the Nebraska researchers chose seeds from 36 regions, from Spain to Siberia, when they began their planting project in 1962. Nearly 1,000 seedlings, about 28 from each region, were planted at the university's research farm at Plattsmouth, 20 miles south of Omaha.

In 1969, when the trees were Christmas-tree size, Mr. Van Haverbeke selected what he considered to be the most perfect trees from among the 1,000, judging such features as "density, balance, color and shape." His role as an arbiter of taste still fills him with anxiety. "I often wonder if I made the right choices," he confesses.

Reproducing these 40 trees (which come from 18 regions all close to the Mediterranean) in the seed orchard has been a laborious task because the Scotch pine is an unhelpful plant: A cutting will rarely take root when planted. So instead, the cuttings have had to be grafted onto seedlings grown from wild seeds. The grafted part fuses with the seedling, resulting in a new tree identical to the selected tree.

There will be 1,000 grafted trees in the orchard by next spring, and pollination among them will be carefully controlled. When they produce seeds the name of each "mother" tree will be recorded so the seeds' "pedigree" can be state-certified.

Mr. Van Haverbeke soon will start yet another plantation. Should any group of seven seeds from one tree grow into scraggly offspring they will have doomed their mother. And this unfortunate mother tree will be removed from the Mead seed orchard.

Next year the state of Nebraska will take over the orchard, which has cost hundreds of thousands of dollars to develop, and in time will sell the new trees at cost to growers. "To tell the truth no one has even thought about making a profit," a state forestry official says. "The only thought has been to get a better Christmas tree."

THE FAIR LABOR STANDARDS ACT

HON. DONALD G. BROTZMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. BROTZMAN. Mr. Speaker, inflation has substantially reduced the benefits which resulted from the increase in the minimum wage established by the 1966 amendments to the Fair Labor Standards Act. The process has come full circle and we are now faced with the need for minimum wage increases commensurate with the rising cost of living.

Earlier this year, the House and Senate passed legislation which subsequently earned a Presidential veto. The bill failed to address the issue of separate minimum wage rates for young people. For several years now, youth unemployment rates have been disproportionately high. Statistics indicate the teenage unemployment rate has risen relative to that of adults each time the minimum wage rate has been increased during the post war period. Moreover, the disparity became even greater when a large number of service and retail employees were brought under the Fair Labor Standards Act. These industries traditionally employ inexperienced young people.

Accordingly, I am today introducing legislation that would remedy these deficiencies. My bill would increase the minimum wage to $2 an hour on the first day of the second full month after its enactment. Thereafter, that rate for nonagricultural employees covered prior to 1966 is increased to $2.10 an hour 11 months after enactment and successively to $2.20 and $2.30 an hour on dates at 1-year intervals after the effective date of the $2.10 rate. Similarly, employees covered after 1966 would be increased to $1.80 with increases thereafter to $2, $2.20, and $2.30 at the same intervals. For employees in agriculture the rate would start at $1.60 with increases to $1.80, $2.20, and $2.30 at the same intervals.

Second, my bill provides a mechanism for moving young people into the employment pipeline—a youth differential. Youngsters, notably high school dropouts, are at a serious disadvantage in the job marketplace. Even in Colorado, which has had the Nation's lowest unemployment rate, teenagers are without jobs twice as often as the work force generally.

Hiring new personnel requires a considerable investment on the part of the employer: initial enrollment is costly, training expenses are sometimes high, and early work inefficiency can take its toll in a business where profits are marginal. A youth differential, or reduced minimum wage rate, will serve as an incentive to employers to hire the inexperienced young person.

To safeguard against the callous treatment of young people, this reduced rate is limited to a period of 13 weeks for each individual. Thus, having proven his ability to perform the skills necessary for employment, the young person joins his colleagues at the full minimum wage rate. The youth differential, then, literally supplies a bridge for the transition between formal schooling and the job market for those least able to compete.

Further, employers would only be permitted to hire six employees or 12 percent of their total number of employees, whichever is higher, at the lower wage. To protect against the displacement of adults, the bill requires employers to certify that such employment will not create a substantial probability that other full-time employment would not be reduced. Also, such employment must have the approval of the Secretary of Labor.

Finally, Mr. Speaker, my bill contains several provisions that go a long way toward rectifying past inequities. State and local government employees would be covered for the purposes of the minimum wage. Domestic workers, who are regularly employed for 24 or more hours per week, would be covered by the Fair Labor Standards Act. The bill would retain the $250,000 establishment sales test for those in the retail and service industries.

TOM PELLY OF WASHINGTON: A FISHERMAN FOR ALL SEASONS

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. LEGGETT. Mr. Speaker, last week the bell tolled for our recently retired colleague Tom Pelly.

Fortunately, Tom was singularly honored during this time last year on the occasion of his retirement from 18 years in the Halls of the U.S. Congress. He was hailed by Republicans and Democrats, the entire membership of our Merchant Marine and Fisheries Committee. He was liked and respected by business and labor for his continuous and meaningful input to environment, oceanographic and fisheries legislation for many years.

I had the occasion to chair hearings at one time in Tom's hometown when Russian fishing vessels were invading the west coast waters. Tom promised action and the people got action.

Tom Pelly is a fisherman for all seasons. He has made his mark. His wife, Mary and family are joined by the Nation in their mourning.

PERSPECTIVE ON THE ENERGY CRISIS

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. ROGERS. Mr. Speaker, the effect of the Arab oil embargo and suggestions for countering it have been the topics of much debate lately, and these are indeed problems we must soon answer if we are to effectively deal with the "energy crisis." In a recent editorial, Mr. Bill Mullen of the Fort Lauderdale Sun-Sentinel addressed these problems. I would like to insert Mr. Mullen's editorial in the RECORD at this point, for the consideration of my colleagues in the House:

WHY IS THE UNITED STATES HURTING OVER A 6-PERCENT OIL CUTBACK?

For reasons we don't believe have been explicitly explained still, we suddenly are confronted with a petroleum crisis because Arab states that supply about six per cent of our daily needs have reduced their daily production in reprisal for our support of Israel in the Middle East.

We are told that American wells are in a steady output decline—we should say existing domestic wells. We know there is a vast reservoir in Alaska that can be made available to the American consumer if the opposition of ecologists can be overcome and the transmission pipeline is constructed.

We know there is oil available to us from Venezuela.

We know, too, that domestic producers ship out some 53.3 million gallons, mostly to the Netherlands Antilles and to Mexico but, according to the American Petroleum Institute, the amount is one-tenth of one per cent of our production and a portion of it is returned processed.

There are other realities, including a continuing spiral in automobile production, more production, more miles driven per year, higher speeds on superhighways and the federally required attachment of anti-pollution equipment to the higher number of automobiles being driven more each year and enjoying less mileage because of the exhaust devices.

Add to these the frightening discovery that the United States, as an industrial giant, faces the grim prospect of being handicapped by fuel shortages that will curtail production of steel, plastics, petrochemicals, manufactured products, and the efficient distribution of some diesel locomotives and gasoline or diesel powered trucks.

If the reduction of the six per cent quantity of our daily needs produced by the Arab states can so impair us as an industrial nation and as a military power relying heavily upon petroleum products there are, then, many other things we should know.

Let us be told, for example, how many tons of food we are supplying to the Arab states, including Egypt, which once told us to go jump in the Mediterranean while continuing to gobble up our handouts under the Food For Peace program.

Or how about a review of our foreign aid, including military assistance to the Arabian oil producers.

And after a cold look at some of these figures, how about a series of talks with oil consumers in the Free World to explore possible sanctions against the Arabian states to make it clear they cannot hold an economic gun having immense military potential to their respective heads.

As we said, we are perplexed that the sudden disruption of six per cent of our petroleum needs can virtually overnight throw us into a fuel crisis.

If this is a fact of life and not a wave of hysteria and an eagerness to climb aboard a bandwagon gaining in popularity, then we had better take a look at the situation from another angle.

Up to now, the emphasis has been upon inconvenience for the public, such as possible gasoline rationing, lower turnpike speed limits and cutbacks in home heating fuels.

In the true dimension of a fuel shortage, as it thus has been told, the factual presentation should stress the potential effects upon us economically, militarily and diplomatically.

When that impact is realized there will be a more ready response to fuel conservation. There will be an outcry for retaliation against those turning the valve on the fuel production line. And there will be a justified demand to know who allowed us to get into the untenable position, as it appears, in the first place.

THE FORGOTTEN VETERAN

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. DRINAN. Mr. Speaker, in the recent past, the Subcommittee on Education and Training of the Veterans' Affairs Committee has published a proposal which if adopted would greatly update the present educational benefits program. The proposal would provide incentive for use of these benefits by increasing the benefit allowance and by extending the time period in which educational benefits can be used.

Studies by two independent groups, the Educational Testing Service of Princeton, N.J. and the U.S. Conference of Mayors indicate that the present educational benefits program is inadequate in meeting today's high cost of education and in providing incentive to the 6.7 million Vietnam era veterans in seeking further education and training.

I strongly feel that adoption of the subcommittee's proposal is a constructive and much needed step. I commend to my colleagues the following editorial from the Boston Globe, which provides further indication of the need for legislative action in this area.

THE FORGOTTEN VETERAN

There was no hero's welcome for the 6.7 million Americans who served in the military during the Vietnam era that began for the government's legal purposes on Aug. 4, 1964, (Tonkin Gulf). And there has been little in the way of hope or help for them since.

According to the Labor Department this week, of the 4.6 million Vietnam veterans now between the ages of 20 and 29, a whopping number are unemployed, with the rate for minority 20-to-24-year olds a staggering 13.2 per cent in the third quarter of 1973.

Another 1.4 million, or about one-fifth of those eligible over the whole period, are currently "in training" according to a spokesman for the House Committee on Veterans Affairs. This spokesman, whose committee is working on legislation to increase GI Bill benefits, compares the educational participation during the first 78 months of three postwar programs to present a sanguine view of what is happening to the Vietnam vets.

Oliver Meadows points out that 47 percent of the veterans of World War II used the GI Bill for postwar training. The figure for Korean War veterans was 41.2 percent. The figure for Vietnam vets in the comparable period was 43.7 and rising, he maintains. And his figures for college enrollment under the Federal program show that 23.4 percent of the Vietnam vets are in an academic program as compared to 13.8 percent after World War II and 20.8 percent after the Korean War. "It just isn't true that the Vietnam veterans aren't going to college," says Mr. Meadows.

But which colleges are these? And how are the veterans making it on a stipend that ignores discrepanies between state tuitions, that compels them to match study to jobs in an economy where jobs are increasingly scarce, and that assumes that veterans have the same financial obligations as new high school graduates?

Because the draft exempted people who were married or in college for most of the period, the veterans of the Vietnam War—unlike those in World War II or the Korean conflict—are largely the poor and undereducated who most need educational help if they are to participate in civilian life. What they are getting is a cut-rate offer that proponents say is designed to give everyone the same purse with which to get into the race.

And one suspects that, because the Vietnam war was unpopular, because the Vietnam veterans do not include the sons of the rich, the powerful and the articulate, because the veterans of this war have been unwilling or unable to organize on their own behalf, nobody cares.

At this moment a battle is gearing up for next year between Congress and the Administration over enlargement of the GI Bill from a flat payment of $220 a month (which works out to less than $10 a day) to $250 a month (still less than $10 a day) to cover up to 36 months of education or job training, including books, fees, and living expenses.

The House bill, cosponsored by Rep. Margaret Heckler of Massachusetts and Rep. Henry Helstoski of New Jersey, would also extend the period within which the grant can be used from eight to 10 years. The Administration has opposed the time extension and has said it would not approve an increase above $238 a month.

For a government that willingly poured $25 billion a year into the pursuit of an undeclared war half way around the world, and that last year spent $2.6 billion in foreign aid to the Thieu regime, this haggle over a $38 to $50 individual increase in a $2.5 billion program for young and frequently alienated Americans at home is absurd and outrageous.

The heyday for veterans was the post-World War II period when the 14 million who came out of the military could enroll for up to 48 months in any institution for which they could qualify. The government footed the bill and paid the veteran an additional $75 a month in living expenses. This offer was good for nine years, provided the program was undertaken within four years after discharge from the service.

That day of glory, which allowed veterans from all walks of life to compete for and win places at the top Ivy League universities, revitalizing those institutions in the process and enriching society immeasurably as a whole, was closed out after the Korean War in 1951 when the system changed to a standard payment that limits those who have no other resources to the most inexpensive public education they can find.

The result is that Harvard, which had a veteran enrollment of 59 percent after World War II, now has an enrollment of 992 veterans or four percent of its total, and only 98 of these are undergraduates. Basic tuition at the college is $3200. At the business school it is $3600 for the academic year.

At the University of Massachusetts at Amherst, where tuition and required fees for in-state students add up to $600 (the median for state universities), veterans make up only 12 percent of the total. Even at UMass Boston, where tuition and fees come to $360 a year, veterans make up a small 17 percent of the student body. This may be because the real cost, on which scholarship aid is based, is $2620 at Amherst and $2330 at Boston, both well above the veteran's nine-month stipend of $1980.

Rep. Silvio Conte of Massachusetts, who chaired an eight-month study for the National League of Cities and the U.S. Conference of Mayors believes the GI Bill should pay 80 percent of all tuition and fees at both public and private institutions, with the present stipend of $220 a month going entirely for living expenses, if we are to give today's veterans the same benefits their fathers had.

We wish that such legislation were in view. Even if an expanded GI Bill cost more than the $19 billion spent on educating seven million veterans in the 1940s, it would be a valid investment in this country's future, both in moral and in economic terms.

Last March the President said, "Words of thanks are not enough." But what could be a national opportunity is currently being treated as a bargain-basement payoff. And it has the serious potential to backfire in bitterness and resentment.

FOREIGN MONEY

HON. BILL GUNTER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. GUNTER. Mr. Speaker, I called to the attention of my colleagues recently the large amounts of foreign money that has been sent to American universities in the past few months. At that time I indicated that I planned to continue my search to learn the sources of all foreign money and what that money is being used for.

It has come to my attention that Dean Edmund Gullion, of the Tufts School of Diplomacy, has recently returned from a successful fundraising trip to the Mideast. I include in the RECORD a copy of the letter I recently sent to Dean Gullion:

November 20, 1973.

Dean Edmund A. Gullion,
Fletcher School of Diplomacy, Tufts University, Medford, Mass.

Dear Dean Gullion: It has come to my attention in recent days that you have just returned from a successful fundraising trip to Kuwait and other Arab nations. While I applaud your ingenuity and resourcefulness in securing funds for your fine University, this has raised the question in my mind as to the need for public knowledge of such contributions.

Certainly the heightened increase in economic activity by foreign individuals and corporations in the United States raises serious questions about our nation's economic future. At the same time, contributions to our leading colleges and universities from foreign sources may open the door to future opportunities as well as abuses by those foreign contributors.

I would be very interested and I am sure my colleagues in the Congress would be, to learn the extent of the contributions made by the Arab governments, as well as foreign private corporations and individuals to Tufts University. At the same time, if you have any knowledge of other contributions to Tufts or any other universities throughout this country, I would also find such information useful. It is my contention that contributions to our nation's colleges and universities from any foreign source should be public information.

I believe that it is essential that this information be made available to all the American people so that when future decisions requiring educational funding are made, we will have the benefit of knowing how much foreign money is supporting programs in our nation's colleges.

I feel confident of your willingness to cooperate with me on this project, and hope to hear from you in the immediate future, so that any report on your trip will have the benefit of your assessment. As a member of the House Energy Subcommittee, I am very concerned with the influence of Arab nations on our country and its educational institutions. I plan to insert a copy of this letter and a copy of your response in the Congressional Record.

Best personal regards,

Bill Gunter.

FORCED BUSING MADNESS TO CONTINUE TILL SCHOOLS CLOSE?

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. HUBER. Mr. Speaker, as I have pointed out on a previous occasion, millions of gallons of gasoline could be saved if we could somehow stop forced busing to schools over the country. Richmond, Va., is one of the many localities forced to carry on this practice against the will of the majority. As the following editorial from the Richmond Times-Dispatch of December 4, 1973, indicates, the court order will be obeyed until the schools have to be closed for lack of gasoline. Historians in later years will surely speak of this insanity. The article follows:

No Buses, No School?

In the face of this nation's worst fuel shortage since World War II, those perspicacious people who run the Richmond public schools believe they have no alternative but to continue to burn 530,000 gallons of gasoline a year to bus schoolchildren from one end of the city to the other.

And if all those yellow buses guzzle all their gasoline and can get no more, what then? Why, the city would just have to close down its public schools, a ranking administrator has said.

Such nonsense! Prior to 1970, the city managed to make public schooling available to all without the aid of a costly bus fleet or 55,000 gallons of gasoline a month. Most students walked to their neighborhood schools and the remainder rode Virginia Transit Co. buses. Even a moderate snowfall usually failed to close the city schools in the walk-in days. Remember? To assert now that the school system would have to lock its doors for lack of fuel for buses is to exhibit either an acute case of tunnel vision or amnesia.

But why consume all that fuel in the first place? Citizens are being asked to exert extra effort and make personal sacrifices to conserve gasoline and oil in order to protect jobs and the economy. At a minimum, the Richmond School Board ought to be able to bestir itself sufficiently to walk down to U.S. District Court and ask Judge Robert R. Merhige Jr. to release the system from its busing plan. Adoption of a new pupil assignment system minimizing busing ought to be done now, in time for the start of the second semester in January.

It will be said that to transfer pupils in the middle of a school year would be "disruptive" and there would be problems no doubt. But can anyone honestly argue that returning to neighborhood schools would be more disruptive than continuing a plan that (a) has chased some 10,000 pupils from the city schools and substantially resegregated the system, and (b) every day drains thousands of gallons of gasoline that could otherwise be used for critical enterprises?

The school board cannot defy a federal court order. However, the board's contention that it has no choice but to continue large-scale busing until the tanks run dry is unpersuasive, because the board has not even tried to have the court order dropped or modified. And the argument that a return to neighborhood schools is unfeasible because some schools could not accommodate all the children in their neighborhoods is baseless. Where crowding did occur, students could go to the next closest school. Some might still have to have transportation. But the net gasoline savings nevertheless would be substantial.

Busing isn't working for its intended purpose—creating racial balances—in the first place. But when citizens are being asked to shiver in their homes and offices and to leave their automobiles in the driveway, the frivolous busing of thousands of children who could walk to school becomes doubly absurd.

PEKAO CORP. MARKS 25 YEARS OF SERVICE

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. HELSTOSKI. Mr. Speaker, throughout the United States several million Americans of Polish descent still maintain cordial relations with families and friends in Poland. Often, many also have contacts with Polish organizations of a charitable, educational, cultural, religious, touristic, or athletic nature.

Such ties, almost of necessity, include financial transactions in the form of material aid, gifts, holiday parcels, money transfers, payments for travel, the opening of savings accounts in Poland for imminent repatriates, and donations.

This year, marking its 25th year of service to the American-Polish community in these regards is the PEKAO Corp.

During its quarter century of service, PEKAO has serviced over 3 million orders, making it the largest firm of its kind in the country. One reason for that success is the broad network of authorized dealers throughout America.

PEKAO orders are delivered in Poland through the cooperation of Bank Polsha Kasa Opieki, S. A. in Warsaw. Founded in 1929 for the purpose of serving Polish emigrants abroad in their financial transactions, the bank still operates in that capacity today but, in addition, also operates a delivery service for parcels en route from the United States.

In 1973, the newest service of PEKAO, the transfer of currency and the issuance of PEKAO checks, became available.

PEKAO service has been a boon to Americans of Polish extraction since the service enabled them to assist their relatives and friends in Poland to obtain the necessary means of maintaining their livelihood, without which their standard of living would be much lower than it is.

ENVIRONMENTALISTS COUNTER ADMINISTRATION ENERGY PROGRAMS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. ROSENTHAL. Mr. Speaker, the seriousness of the current energy crisis cannot be denied. The United States, with only 6 percent of the world's population, cannot continue to consume more than 30 percent of the world's energy.

Several environmental and citizen groups, however, have criticized the Nixon administration's energy proposals, labeling them "antienvironment and anticonsumer." The groups—while saying they support several of the President's programs—charged that the overall thrust of the proposals is a capitulation to long-sought-after corporate goals.

The environmentalists argue that the major responsibility for reducing energy usage cannot be placed on individual consumers, as the Nixon administration proposals do. It must instead be placed, they contend, on the corporate sector.

I believe my colleagues will profit by reading portions of the "energy counter message" of the environmentalists which present their own program of priorities during the energy crisis. I am also including a reprint of a recent editorial in the Washington Star-News which reminds Congress and the administration, in their haste to solve the energy crisis, not to forget the interests of the consuming public.

The items follow:

ORGANIZATIONS SPONSORING THE COUNTER MESSAGE

Center for Science in the Public Interest.
Ellen Berman, Consumer Federation of America.
Marsha Curran, Common Cause.
Environmental Action.
Friends of the Earth.
Highway Action Coalition.
Movement for Economic Justice.
Metropolitan Washington Coalition for Clean Air.
National Clean Air Coalition.
National Consumers League.
National Intervenors.
Byron Kennard, Public Interest Economics Center.
James Ridgeway.
The America the Beautiful Fund.

ENVIRONMENTAL "COUNTER MESSAGE" ON ENERGY

There can be no doubt that the United States faces a serious energy shortage. We share the President's concern that the U.S., with only 6 percent of the world's population, consumes over 30 percent of the world's energy. It is commendable that the Administration has expressed its desire to reduce the nation's spiraling usage of energy. We believe, however, that its basic approach is an attempt to delude the American public.

The major responsibility for reducing energy usage cannot be placed, as Administration proposals do, on individual consumers. Although environmentalists and consumerists support lowering thermostats, reducing auto speeds, and reducing unnecessary lighting and other superfluous uses of energy, we believe such an appeal to consumer sacrifice is being used as a pretext to avoid making hard decisions regarding corporate practices and structure.

We offer this energy "counter program" of principles and actions on which a sound energy policy should be based.

A major responsibility for alleviating the energy shortage must be placed on the corporate sector. By penetrating government at every key decision making level, industry has amassed enormous unbalanced political power in the energy area. It is in this political and economic problem, and not in environmental restrictions or even in consumer demand that the present crisis has its prime roots.

Strategies now being proposed or implemented by the Administration—the Trans-Alaskan pipeline, lax regulation of surface mining, offshore oil drilling, oil shale development, relaxation of air quality standards—rather than altering these patterns of unconstrained power, worsen them by capitulating to long-sought-after corporate goals. These goals are now being transformed, under a climate of energy hysteria, into specific government actions and policies.

To thus release industry from its responsibility will have severe consequences; it will: reverse progress made in safeguarding the environment, alter the nation's democratic political structure, and discriminate against those with low and moderate incomes.

It cannot be convincingly argued, as the Administration message implies, that existing environmental controls have contributed in any significant degree to present energy shortages. The Trans-Alaskan pipeline, for example, which has been delayed until now because of inadequate environmental planning, would not have been completed to supply oil at the present time even if there had been no delay. Nor can it be convincingly argued that environmentally destructive programs to alleviate the energy crisis—such as relaxing air quality standards and speeding up licensing of nuclear plants—will have more than a marginal effect in the near future. Speeding up nuclear plant licensing, in fact, may well drain off more energy than a speed up would supply.

The recent Senate action on relaxing clean air requirements, before it attempted any measures to conserve energy, was precipitous and irresponsible.

Besides being environmentally detrimental, the Administration's strategies threaten to alter our Nation's basic political structure. Control over energy is equivalent to control over the entire economy of our country; the possessor of that control wields enormous power. Too much power should not be placed in a single individual, the President of the United States. Similarly, one-man control at the State and local levels runs counter to the democratic process. Eliminating public hearings on nuclear power plants and other projects would seriously limit democratic participation. Even in this time of energy crisis, decisions must be made by democratic consensus, not by executive decree.

In reaching consensus, those lower down on the economic ladder must receive special consideration. The majority (70 percent) of the population falls into the moderate to low income category. Measures should be taken to ensure that all people will be allowed to share in the available supplies of heating fuels and not be discriminated against by "client shopping," dealers as is now being done, especially in rural areas. If the work week is shortened, those employees who are not on a salary basis must be protected against losses in total income. More jobs should be created which are low in energy consumption (such as those in social programs. Such measures will provide jobs for persons displaced from high energy consumption jobs and will help serve a vital function in transforming our economy from a growth economy to a more steady-state economy. Middle and low income consumers should not be charged high prices and taxes to subsidize and insulate industry from the effects of the energy crisis.

SHORT AND MEDIUM RANGE STRATEGIES TO CONSERVE ENERGY

Many of the Administration's proposals for conserving energy are commendable but they omit many measures which would save considerable quantities of energy resources that are presently wasted:

Equalize utility rates for small and large users, in order to encourage more efficient energy use, revamp all utility rate structures in the interest of energy conservation (American industry uses 40 percent of the Nation's energy, much of it wasted, but the large users pay only ⅓ to ½ the rate charged the small residential and commercial users. This backwards rate structure encourages waste).

Support the concept of a national power grid.

Utilize low cost loans or tax deductions to homes and commercial establishments for improving insulation.

Take measures to phase out the use of natural gas as a boiler fuel just as the Administration proposed electric generating plants switch from oil to coal, and at the minimum make those plants which use natural gas as boiler fuel pay the same rate as small users.

Make mandatory auto and appliance efficiency standards.

Outlaw gas lamps and develop more efficient gas range starters than present pilot lights.

Limit advertising of high energy consuming and luxury products.

Promote through excise taxes or other means small and lower fuel-use automobiles.

Shift from truck freight to rail and barge freight.

Utilize wastes for heating fuel.

Encourage more efficient industrial plants and practices.

LONG RANGE STRATEGIES

Base energy strategies on a more realistic energy budget and develop environmentally sound energy supplies such as solar power and nuclear fusion.

Curtail use of non-recycled consumer and industrial products.

Provide mass transit operating subsidies from the highway trust fund.

Grant air pollution variances only as a last resort if energy conservation measures fail.

Expand deep mining rather than surface mining of coal.

Do not speed up licensing of nuclear power plants.

Expedite anti-trust action against the major oil companies.

CURTAIL USE OF THROWAWAY CONSUMER AND INDUSTRIAL PRODUCTS

According to the Council on Environmental Quality (CEQ), technology is available to recover materials from wastes, yet the percentage of recycled versus total materials used is still declining. A CEQ analysis indicates that use of recycled materials instead of virgin materials can significantly reduce energy consumption. Presently, it costs the U.S. $6 billion annually to discard materials, much of which could be recycled or converted to energy use. The Environmental Protection Agency estimates that energy recovery practiced in urban areas could meet 2 per cent of the nation's energy requirements.

PROVIDE MASS TRANSIT OPERATING SUBSIDIES FROM THE HIGHWAY TRUST FUND

Between 1960 and 1970 the U.S. population increased by 13 per cent. During the same period, however, the number of registered automobiles increased by 46 per cent and the amount of fuel they consumed increased by 59 per cent.

A significant amount of this increased auto use has been prompted by increased highway construction. Engineers have learned that increased expressway mileage induces motorists to drive more than they would without the expressways. Studies in Baltimore also found that since the end of World War II, the average trip length has increased 20 per cent, most of which engineers attribute to increased expressway mileage.

Expanded use of mass transit could greatly reduce the 30 per cent of U.S. petroleum that is now devoted to automobile travel. Buses and trains use approximately 1/3 to 1/4 the energy per passenger mile that autos use. It makes little sense to continue to overfinance energy-wasting highways while energy-conserving mass transit systems lose ridership because of a lack of sufficient operating funds.

GRANT AIR POLLUTION VARIANCES ONLY AS A LAST RESORT IF ENERGY CONSERVATION MEASURES FAIL

The relaxation of clean air standards must be viewed only as a last resort; reduction of our extravagant uses of the world's energy resources should be first priority.

Ambient air standards established pursuant to the Clean Air Act were based on the incidence of mortality and hospital admissions for circulatory and respiratory diseases during periods of high air pollution. A relaxation of these clean air goals will most assuredly be coupled with a corresponding increase in major adverse health effects. For this reason, among others, easing of air pollution controls must not be viewed as a primary means to deal with the energy crisis.

In some areas, low sulfur fuel will be unavailable this winter, and industries and utilities which have lately converted from coal will have to return to it. If energy conservation measures fail, variances may be granted on a case by case basis, for a fixed period of a year or less. But the return should be temporary, and every effort should be made to use high sulfur fuel only in those areas where sulfur oxide, particulate, and sulfate levels are low—so that adverse health effects are prevented or minimized.

EXPEDITE ANTITRUST ACTION AGAINST THE MAJOR OIL COMPANIES

Twenty oil companies (8 major and 12 smaller) presently control, directly or indirectly, the supplies of oil, natural gas, coal and uranium (and the development of oil shale, tar sands and geothermal steam) in the United States. According to the House Subcommittee on Special Small Business Problems:

The major oil companies account for approximately 84 percent of the U.S. refining capacity; about 72 percent of the natural gas production and reserve ownership; 30 percent of domestic coal reserves and over 20 percent of domestic coal production capacity; over 50 percent of uranium reserves and 25 percent of the uranium milling capacity. Further, the major oil companies are acquiring oil shale and tar sands as well as water rights in many areas of the country.

Testifying before the Senate Antitrust and Monopoly Subcommittee, former FPC economist Dr. John Wilson stated.

The top 14 natural gas producers in 1970 were also among the top 15 oil and liquids producers and among the top 17 petroleum refiners. These 14 leading gas producers were also among the largest sellers of gasoline and other refined petroleum products and among the 17 largest sellers of natural gas to interstate pipelines.

Besides this direct control of energy sources, there is also substantial evidence of mutual interdependence between virtually all of the major firms in the petroleum industry. This interdependence includes joint lease acquisition (bidding combines), banking interlocks, joint ownership of pipelines and gathering systems, joint ownership and production from oil and gas leases, international joint ventures and vertical relationships between the producing, transporting, processing, and marketing sectors of the industry.

DO NOT SPEED UP LICENSING OF NUCLEAR POWER PLANTS

The Administration is pressing the Atomic Energy Commission to accelerate the licensing and construction of nuclear power plants in order to bring them on line within six years instead of the current ten. This would be accomplished by, among other things, eliminating public hearings for up to 18 months.

The Administration's plan, however, overlooks several recent trends in AEC activity. Licenses which have already been issued are now being modified by the AEC and, in some cases, even taken away as a result of the discovery of unsuspected safety problems.

The AEC is also in the process of reviewing proposed safety standards which would govern emergency core cooling systems. The standards being recommended by AEC's staff will require broad restrictions on nuclear power plant operation. Moreover, the major safety system, the emergency core cooling system, has been examined at numerous, lengthy public hearing sponsored by the AEC. There exists a great deal of disagreement and controversy over the ability of the system to prevent a release of radiation in the event of a loss-of-coolant accident.

Many problems are already posed by the operation of the nation's existing nuclear power plants, including the existence of real possibilities of sabotage and theft, the accumulation of radioactive wastes which last for tens of hundreds of thousands of years, and the danger of adverse health effects resulting from low-level radiation. Increasing the number of nuclear plants, especially through a crash construction program, will serve only to worsen these difficulties. Nothing will be gained by ushering in a radioactivity crisis to replace the current energy crisis.

This trend toward concentration has increased and has, in fact, been encouraged by the energy, tax, and foreign policies of the Administration. According to a Federal Trade Commission staff study:

The industry operates much like a cartel with 15 to 20 integrated firms being the beneficiaries of much federal and state policy. Thus, the federal and state governments with the force of law do for the major oil companies that which would be illegal for the companies to do themselves . . .

The resulting system endangers existing independents, makes new entry difficult or impossible, and yields serious economic losses to American consumers.

Diversity means strength and the capacity to respond to change with minimum disruption. There can be little doubt that the progressive elimination of competition in the energy field has contributed to the present energy crisis.

BASE ENERGY STRATEGIES ON A MORE REALISTIC ENERGY BUDGET AS WELL AS SEEK ENVIRONMENTALLY SOUND ENERGY SOURCES SUCH AS SOLAR POWER AND NUCLEAR FUSION

Despite the panic of government and industry, there is plenty of energy available if is is used properly. Using it properly, though, requires an energy budget that is much more detailed than what is presently available. Beyond the gross figures on amounts of energy used in various industries and for various residential purposes, there linger serious information gaps: the amount of net energy available from various reserves (coal that takes more energy to mine that it yields is a net energy loss while remaining a gross energy gain), increased costs that accrue as extraction of fuels becomes more difficult, the extent to which fossil fuels subsidize more recent and marginal fuel sources (how coal or oil, for example, are used to mine and process nuclear fuels, develop costly plants, store wastes, operate complex safety systems, and so forth), the relationships between urban patterns and natural and man-controlled energy budgets.

There is also little known about the long range possibilities of solar power, nuclear fusion, and other forms of environmentally sound power. If these forms of power are practical, programs to employ them should be accelerated to the maximum extent possible.

THE CONSUMERS' STAKE

There isn't time for fooling around in trying to solve the energy crisis. But in the haste to get conservation and exploration measures on the books and in operation, Congress and the administration ought not forget whom they're doing it for: the consuming public.

The National Consumers Congress was right the other day to caution that "hurry up solutions" could well lead to greater crises, both economic and environmental. There may have to be some temporary relaxation of environmental standards, but there should be no going overboard in permitting the fouling of our habitat in the name of energy. Nor should the giant energy combines be allowed to benefit unduly from the crisis. One consumer organization expressed the fear, not altogether unjustified, that the energy program may be "turned over to oil company executives."

The Consumers Congress made several recommendations aimed at protecting the consumer interest: Guarantee active participation of consumers in the formulation and operation of a national energy program; make all pertinent information available to the people so they can understand what's going on; set specific time limits on suspension or relaxation of environmental standards; brook no relaxation of enforcement of anti-trust laws; probe the possible role of monopolies in reducing supplies, raising prices and exacerbating shortages.

We think these are worthy suggestions for the Congress and the administration.

DISTRICT OF COLUMBIA HOME RULE CONFERENCE REPORT

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. DIGGS. Mr. Speaker, the Members of the House may be interested in the major provisions which will be in the conference report on S. 1435 (H.R. 9682), the District of Columbia Self-Government and Governmental Reorganization Act which will be voted on by the House on Wednesday, December 12. This legislation is a reasonable and rational accommodation of the interests of all Americans in their Nation's Capital with the basic principle that government should be responsible to the governed. For nearly 100 years, the residents of the District of Columbia have not been able to elect their local officials to decide those matters purely local in nature. This legislation would restore that privilege and responsibility.

I want to stress that the conference report retains the key provisions of the House bill and continues to accomplish the objectives of the House passed bill including the following:

First, reserves the right of Congress to legislate for the District at any time on any subject;

Second, retains in Congress the authority to review and appropriate the entire District budget;

Third, authorizes audits of the accounts and operations of the District Government by the General Accounting Office;

Fourth, preserves the court system established by the Congress in the 1970 crime bill;

Fifth, insures that all planning done by the local government may be vetoed by the Federal planning agency—NCPC—if it adversely affects the Federal interest;

Sixth, prohibits the local Council from, among others, enacting a tax on nonresidents, increasing the height limitation on buildings, affecting the functions or property of the United States, regulating U.S. courts, U.S. attorney's office and office of the U.S. marshal's office in the District of Columbia, or increasing the Council's authority over the Washington Aqueduct, the National Guard, the National Zoological Park, or any Federal agency;

Seventh, establishes a National Capital Service Area—enclave—and continues the efficacy of the Federal and local laws within this prescribed area;

Eighth, authorizes emergency control of the police by the President;

Ninth, preserves Presidential appointment of the judges;

Tenth, provides that all charter amendments be approved by both Houses of Congress within 35 days; and

Eleventh, provides for a 30-day layover for congressional disapproval of all council acts.

AGENCY TRANSFERS

The conference report adopts the House provision and transfers the following agencies to the local government:

REDEVELOPMENT LAND ARENCY (RLA)

RLA is established as an instrumentality of the District government with a board of five members appointed by the Mayor, subject to Council approval. While the transfer of the Agency takes effect on July 1, 1974, the appointment authority shall not become effective until January 2, 1975. The conference adopted the House provisions with an amendment which would allow the newly elected Council to adopt the following proposals:

First, to assure uniform procedures relating to the disposition of complaints and claims involving RLA;

Second, providing that all planning, designing, construction and supervision of public facilities contributed to any redevelopment area be carried out by an appropriate D.C. agency;

Third, providing that any occupied rental property owned by RLA shall be maintained in a safe and sanitary condition;

Fourth, providing that the Mayor may waive special assessments, as for cost of sewers, streets, curbs, and so forth, where the cost therefor can be applied as noncash local grants-in-aid. Of course, this provision does not prohibit the Council from taking action regarding RLA's activities.

D.C. MANPOWER ADMINISTRATION

All functions of the Secretary of Labor with respect to public employment services for the District are transferred to the District, which is made eligible to participate in apprenticeship programs operated by the Secretary of Labor.

Also, all District employees workmen's compensation processes are transferred to the District on the date the District establishes an independent personnel system or systems.

NATIONAL CAPITAL HOUSING AUTHORITY (NCHA)

The NCHA is transferred to the District government and the Mayor is vested with all functions, powers, and duties presently vested in the President under the Alley Dwelling Act.

PUBLIC SERVICE COMMISSION

The Commission is maintained to insure that every public utility doing business within the District is required to furnish service and facilities reasonably safe and adequate and in all respects just and reasonable.

The Commission shall be composed of three Commissioners appointed by the Mayor, with Council approval.

ARMORY BOARD

The composition of the Board is amended to consist of the Commanding General, D.C. Militia, and two other members appointed by the Mayor for 4-year terms, subject to council approval.

BOARD OF EDUCATION

The present board of 11 members is retained with the mayor and council given authority to establish the maximum amount of funds appropriated to the board, but prohibiting them from specifying the purposes for which such funds might be expended by the board.

Since the present board is made a part of the District Charter all changes in the structure shall be made according to the charter amending procedure.

NATIONAL CAPITAL PLANNING COMMISSION

The Mayor is established as the central planning agency for the District, and is responsible for D.C. planning and preparation of the local elements of the comprehensive plan. The conference report adopts, in essence, the provisions approved by the House, with amendments in the procedural requirements and time allowed the Commission for review of District elements, and with requirements that the mayor submit his multiyear capital improvements plan to the commission for review and comment. Neither the commission nor the mayor has any power over the U.S. Capitol Building and Grounds, or over any other buildings under the control of the Architect of the Capitol.

With respect to provisions for the District of Columbia Zoning Commission, the conference report adopts the major provisions of both the House amendment and the Senate bill, including the continuance of the five-member Zoning Commission which shall consist of the Architect of the Capitol, the Director of the National Park Service, and three citizens appointed by the Mayor for 4-year terms. Other provisions adopted by the conference report include a requirement that all zoning maps, regulations, and amendments not be inconsistent with the comprehensive plan; a requirement for public hearings; and a requirement for a 30-day period for NCPC review and comment on proposed zoning amendments.

CITY COUNCIL

The conference report provides for a Council composed of 13 members, 8 elected from single member wards, 5 elected at-large including a separate office of Chairman, each to serve for 4-year terms elected on a staggered basis in partisan elections. Of the 5 at-large members, not more than 3 may be nominated by any one political party.

The Chairman and members must be D.C. residents for 1 year and are compensated at a rate equal to the highest level of a GS-12 ($22,705) with the Chairman to receive an additional $10,000.

D.C. COUNCIL—LEGISLATIVE POWER AND LIMITATIONS

The conference report grants general legislative powers to the Council which shall include:

First, authority to pass acts consistent with this Act;

Second, authority to pass taxing measures;

Third, authority to reorganize, abolish or establish agencies and departments of the D.C. Government; and

Fourth, authority to establish an independent personnel system or systems within 5 years.

The Council may not change the building height limitations nor legislate with respect to the Commission on Mental Health. Congress retains authority over the District of Columbia criminal laws until January 2, 1977. During this period I shall actively support the revision of the D.C. Criminal Code. After this time such authority shall be vested in the D.C. Council but shall be subject to a veto by either House for 30 legislative days. We have also provided that any member may bring a disapproving resolution to the Floor if the District Committee fails to report such disapproving resolution over Council changes in the Criminal Code. Also, the President may, within 30 days, sustain the Mayor's veto over Council acts.

MAYOR

The conference report provides for a partisan election of a Mayor for a 4-year term who is required to be a D.C. resident for 1 year. The Mayor is established as the Chief Executive Officer of the District and is vested with basic executive authority including the following:

First, file a financial report by November 1 each year;

Second, establish, reorganize and abolish agencies, subject to Council approval; and

Third, appoint a city administrator.

In the event of a vacancy, the Chairman of the Council becomes Acting Mayor until a special election is held within 114 days.

JUDICIARY

Appointment of judges for a 15-year term would be made by the President from a list of three nominees submitted to him by the Judicial Nomination Commission.

Congress retains authority over the composition, structure, and jurisdiction of the D.C. courts.

Under the Court Reorganization Act of 1970 which established the Superior Court as the court of general trial jurisdiction and the D.C. Court of Appeals as the court of general appellate review jurisdiction, the President of the United States has complete discretion as the appointing authority for judges of the District of Columbia courts. The Senate of course must confirm all nominations. There are, however, no strictures on what inputs the President must consider for judicial nominees with the exception of those general ones provided in the D.C. Code. This type of nomination procedure is not consistent with the ever-expanding concept of merit selection of local judges.

The judicial nomination procedure as encompassed in the conference report provides for an admixture to reflect both the Federal interest in local judicial nominees and the need for a merit selection process for these nominees.

The report establishes a new Judicial Nomination Commission. The purpose of this Commission is to recommend qualified persons to the President of the United States to fill vacancies on either of the District of Columbia local courts. The composition of the Commission reflects both the need for community input and representation of the Federal interest in the consideration of nominees for judgeships. The Commission will consist of seven members to serve staggered 6-year terms. The members will be appointed as follows:

First, two will be appointed by the Board of Governors of the Unified Bar of the District of Columbia;

Second, two will be appointed by the elected Mayor, one of whom shall be a nonlawyer;

Third, one shall be appointed by the Council who shall be a nonlawyer;

Fourth, one shall be appointed by the Chief Judge of the U.S. District Court for the District of Columbia who shall be an active or retired Federal judge serving in the District; and

Fifth, one appointed by the President of the United States.

This composition reflects the many facets of interest which it was felt should be represented. The local bar who will have to practice before a judge clearly has an interest. The local government in expanding the concept of home rule has an interest which is especially reflected in the requirement that two of the appointees be nonlawyers. The Federal interest is represented by the Federal judicial appointee and by the President of the United States having an appointee.

This Commission is to submit three names to the President of the United States. The President shall appoint with the advice and consent of the Senate one of these nominees. Under this procedure the President retains the appointing authority, but is circumscribed in the execution of that authority in that he must appoint one of the persons the Commission recommends. In cases where the President does not select within 60 days one of the 3 names submited by the Judicial Nomination Commission, the Nomination Commission shall then select one of these three names and transmit the selection to the Senate for confirmation.

There is a District of Columbia Commission on Judicial Disabilities and Tenure. The members of that Commission will be appointed under the home rule bill in exactly the same way as the members of the Nomination Commission. The Tenure Commission has been given a new responsibility—to evaluate candidates for reappointment. Under the new scheme a judge who is a candidate for reappointment declares himself to be such. The Tenure Commission then evaluates his performance and rates him as either "exceptionally well-qualified," "well qualified," "qualified," or "not qualified." The evaluation is then submitted to the appointing authority. The Tenure Commission was selected for this evaluation task because it is the Commission which will deal with the day-to-day complaints about particular judges. If a judge is deemed to be exceptionally well-qualified or well qualified, the Commission of the setting judge is automatically extended for another 15-year term. If the judge is deemed to be qualified, the appointing authority may reappoint him with the advice and consent of the Senate. If the judge is deemed to be not qualified, he may not be reappointed.

This special procedure for renomination of judges was added to provide security of tenure for potential candidates for the bench. The reasoning behind this is that in order to attract qualified members of the bar to the bench, some security should be provided. For example, a practicing attorney might be reluctant to leave his practice in mid-career to take a position on the bench if he were not fairly certain that he would be reappointed, assuming good performance as a judge. The reappointment procedure we have established assures that those attorneys who do decide to leave the private practice for the bench will do so with the knowledge that they may continue in that service and not be excluded from reappointment for reasons that do not reflect upon their judicial temperament and qualifications.

D.C. BUDGET AND APPROPRIATIONS

The conference report retains a sound financial management system for all the District of Columbia government operations as provided in the House passed bill. Financial management in the District of Columbia is unusually complex because of the District's unique relationship with the Federal Government and its responsibility for a combination of State, county, and municipal functions. The financial provisions of the conference report preserve Congresses complete role in the review and appropriation of the entire District budget, and mandates improvements in the budgets formulation, approval and execution.

First, the report retains a comprehensive program budget system for both operating and capital outlay activities of the new city government. The Mayor is responsible for the preparation and submission to the Council of a balanced budget consisting of seven documents.

First, a detailed budget for the next fiscal year which provides the basis for revenue measures and appropriations;

Second, a budget message and supporting financial and statistical material;

Third, a multiyear plan which places annual expenditure and revenue plans in the context of past experience and future plans and requires analysis of major program changes, anticipated revenue gaps, salary increases, pension plans, and debt service requirements;

Fourth, a multiyear capital improvement plan which identifies all projects on a full funding basis, requires coordination with land use plans, and assures that capital projects which are funded will not result in financial burdens in excess of the debt ceiling imposed by Congress;

Fifth, a program performance report which compares actual performance against budget plans and includes status, of efforts to comply with the reports of the District of Columbia Auditor and the Comptroller General of the United States;

Sixth, an issue analysis statement providing in depth consideration of issues identified during budget deliberations of the previous year; and

Seventh, a summary to be distributed to the general public.

Taken together these documents and the planning required to produce them will provide the District of Columbia, the President and the Congress with an excellent budgeting system which identifies both broad program analysis and detailed line-item expenditures. A sound budgeting system cannot, of course, guarantee good decisions. But a sound system, especially one which provides for full public disclosure of information, increases substantially the probability of good decisions.

The report also retains very definite standards to assure soundness of the budget execution process. Since more than 60 percent of the District of Columbia's operating expenditures are for employee salaries and benefits, a most important standard contained in section 447 requires the Mayor to maintain consistency between the budget, accounting, and personnel systems. Employees can only be hired according to allotments in balanced budgets approved by the Council.

Legal and proper expenditure of all District funds is also safeguarded through three separate audits in the House-passed version and retained in Conference. First, the Mayor's office conducts an internal audit of all accounts, operations and agency records to verify that bills paid are in fact legal transactions. Second, there is created an Office of the District of Columbia Auditor. The Auditor is selected and approved by the Council and conducts on an ongoing basis a thorough review of all the city's accounts and operations. The Auditor/Council relationship is modeled after the GAO/Congress relationship. Third, the report authorizes an independent annual audit by the General Accounting Office of the accounts and operations of the District to determine if programs are being conducted in an efficient and effective manner and in line with the purposes for which the moneys were appropriated. Such an audit by GAO would, of course, include the proper expenditure of the Federal payment to the District. GAO will submit its audit reports to the Congress, the Mayor, and the Council and the Mayor is required within a 90-day time limit to respond to this report. In the program performance statement of the budget the Mayor is also required annually to indicate progress being made to comply with audit reports.

FEDERAL PAYMENT

The conference report retains complete congressional approval over the Federal payment. Let me stress that there is nothing automatic about the Federal payment process authorized in the conference substitute. A full and complete annual review and recommendation by the President, the Office of Management and Budget, the House and Senate Appropriations Committees, and Congress is required under section 603.

The report retains a meaningful and logical method for establishing and maintaining an adequate, equitable Federal payment level. We retained those provisions in the House bill identifying nine key elements to be used in determining the costs and benefits to the District in its role as the Nation's Capital. These elements, which include such factors as the relative tax burden on District of Columbia residents, shall be taken into consideration by the Mayor in requesting a Federal payment amount. The Mayor must submit the request to the Council for its approval or modification. In accordance with the Budget and Accounting Act, the Mayor then must submit this request to the President for review and revision and the President transmits it to Congress.

The conference substitute authorizes the Federal payment at the following levels: $230 million in fiscal year 1975, $254 million in 1976, $280 million in 1977, and $300 million in 1978 and each year thereafter. These amounts reflect a compromise between the House bill authorized amount and the amount that would have been generated under the Senate provisions.

DISTRICT'S BORROWING AUTHORITY

The conference report retains provisions authorizing the District to borrow on a long-term basis to pay for congressionally approved capital projects, to meet cash-flow emergencies, and to issue revenue bonds for projects which would be self-financing. There are five points I believe essential to sound borrowing legislation which are preserved in the conference report.

First, no municipality should be allowed to accrue debts beyond its capability to repay these debts. The substitute retains a strict but workable limit on the District's borrowings, requiring that the principal and interest to be paid out in any one year on all outstanding bonds plus those bonds proposed to be issued cannot exceed 14 percent of the estimated current year revenues of the city. RLA, NCHA, and D.C. Stadium bonds are not included. The procedure for calculating the limitation is explicitly set forth step-by-step in the report. We have been advised that the 14-percent limitation will be sufficient to finance all of the city's capital improvement projects and is comparable to borrowing revenue ratios in other municipalities.

Second, procedures should be established to assure that a city can repay those bonds which it is legally permitted to issue. The conference report guarantees such repayment. The full faith and credit of the District is pledged to pay the principal and interest on both bonds and notes. The District is authorized when necessary to levy a special tax which, together with other District revenues available for this purpose is sufficient to retire the bonds as they come due. These moneys are set aside in a separate fund audited by GAO. As a final safeguard, if the sinking fund is insufficient, the annual Federal payment to the District must first be used to make up the deficit. I want to point out that nothing in the borrowing provisions or in any part of the Conference Report eliminates the city's responsibility to repay all outstanding loans from the U.S. Treasury.

Third, an optional referendum by the voters of the city on the issuance of such bonds is provided.

Fourth, bonds should be issued at a reasonable cost to the taxpayers, and should not have to be sold at unduly high interest rates. We have assured that District bonds, like bonds of other municipalities are exempt for Federal and D.C. tax purposes. The tax status of municipal bonds greatly affects both their salability and long-term costs.

Finally, capital improvement projects which can be self-financing, should not be financed by bonds paid from general tax revenues. To avoid this, the conference adopted the House provision authorizing the District to issue revenue bonds to finance construction and rehabilitation in the areas of housing, health, education, recreation, commercial, and industrial development. These bonds, are self-financing, that is the revenues from the buildings and activities so financed are sufficient to pay the costs of the borrowings and do not constitute a debt of the city.

ADVISORY NEIGHBORHOOD COUNCILS

The conference report provides that a public referendum shall be held at the time of the Charter referendum to determine if procedures should be established to set up Advisory Neighborhood Councils. If the referendum measure is adopted, the Council is required to divide the District into areas for Neighborhood Councils, to advise the Council on planning, streets, recreation, social services, health, safety, sanitation, and review zoning changes and licenses. Expenses of such Neighborhood Councils are to be paid by a levy of 1 cent per $100 of assessed valuation of real property in the District.

NATIONAL CAPITAL SERVICE AREA

The conference report adopts the House provision with amendments to insure, among others, that all Federal and District laws applicable to the area would continue in force and effect and that such laws are amendable by the appropriate authorities. We have also provided that citizens who live in the area can continue to vote in the local elections. Additionally, the report makes certain that all private property and District government buildings and parking lots are excluded from the service area.

I want to stress that the new service director's duties are designed to supplement and not supplant existing structures and officials.

It is our view that he would act to supply services only in those cases where existing police, fire, sanitation, and streets maintenance services are inadequate in the service area.

HOLDING OFFICE IN THE DISTRICT

The conference also adopted the provision which provides that no person otherwise qualified to hold the office of Mayor or member of the Council shall be disqualified from being a candidate for such office because of employment in the competitive or excepted service of the United States. I hastily add that this is a terribly limited and circumscribed provision. It would only authorize an exemption during the specific period that an employee is a candidate. Clearly, it would not authorize U.S. employees to engage in political participation and management in support of a candidate for these local offices.

BOARD OF ELECTIONS

The House provision is adopted to provide that no more than two of the three members of the Board of Elections, all of whom are appointed by the Mayor with Council consent, shall be of the same political party.

PUBLIC MEETINGS

Also retained was the House provision requiring all District of Columbia government meetings and hearings in which official action is to be taken shall be open to the public with transcripts made available at a reasonable cost.

As chairman of the conference committee, I wish to commend the conferees and staff who exhibited not only judgment and patience in determining the best provisions of the House and Senate versions of this bill, but also dedication to the principles behind this bill.

During the course of the conference, questions have been advanced regarding whether the present Office of Commissioner of the District of Columbia comes within the purview of the Hatch Act. It is my view and the view of the conferees that under section 732(d)(4) of title 5 of the United States Code, the Hatch Act does not apply to Commissioners of the District of Columbia or their successsors under Reorganization Plan No. 3 of 1967. Specifically, the Office of Commissioner of the District of Columbia would not be under the scope of the Hatch Act.

With Senate and House action on the conference report expected on December 12, I feel confident that this historic legislation will become law by the end of this year.

DOES CONGRESS REALLY DO WHAT THE PEOPLE WANT?

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. WYMAN. Mr. Speaker, a lot of people these days claim Congress does not really do the public bidding. In fact they contend Congress is insensitive to what the people really want.

I do not think this is the case—provided Congress is informed as to what a majority of people in the varying congressional districts around the Nation, really want. If Congress is sure, there is only a question of how long the legislative process requires.

One thing the people of this country really want is an end to the requirement that seat belts in the 1974 cars must be fastened before the car owner and operator can start his car. This is not only a darned nuisance, but it is downright dangerous in so many demonstrable ways that people wonder what kind of a government they have that can impose such a ridiculous requirement on them.

It is said that Congress gave the Department of Transportation the authority to impose such a thing is some kind of an enabling act. This is arguable. But whether it gave the power or not it is a cinch that Congress itself would never have imposed such a requirement on the motoring public.

It is past time Congress proved to the people that it is truly responsive to public wishes, and it can do this in the case of the so-called electronic seat-belt-ignition interlock by promptly passing my bill that would merely stop DOT from continuing such a nuisance. This has nothing to do with whether or not seat belts should be mandatory. This question is for State legislatures and it will be handled by them.

But seat belts should not be tied into automobile ignition systems. This is not only costly but it is dangerous as well.

In this connection I urge a careful reading of columnist Vic Gold's interesting writing in yesterday's Washington Star-News:

BUCKLED IN THE SEAT BY BIG MOTHER

It was a scene out of a Three Stooges two-reeler, as co-produced by Ralph Nader and Big Mother, who operates under the name of the National Safety Belt Usage Conference: Three grown men scrambling around, across and over the front seat of one of those dangerous 1974 model horseless carriages, futilely wrestling with a network of elusive buckles and straps.

Laugh, I could have died. Except that I was one of the stooges and in a hurry to get someplace. Sure, I appreciated Big Mother's solicitous concern for my safety. Put your galoshes on, Son, you may catch cold. Fasten your safety belt, Son, you may get killed. But there's a limit.

Well, anyway, Curley and Moe were frantically trying to match two odd buckles with one odd strap. And come to think of it, I was the klutz with two straps and one buckle, hanging from the ceiling. The strap, not me. Whatever, there was no end of sight-and-sound gags. The light on the dash-board glared red. The buzzer hummed. And—biggest gag of all—Moe, the rental car expert sent in to solve our problem, was no more adept at unraveling Big Mother's buckle-and-belt puzzle than were his frustrated customers.

By now, Curley and I were running late for the appointment that had brought us to town in the first place. One hour to fly 300 miles, 20 minutes trying to move a rented car out of the terminal. With an older model we could have just taken off with the buzzer humming. Not now, though. This year, Big Mother has arranged a super-improved model guaranteed to make you wear those galoshes.

Priorities, priorities. While the country was literally running out of gas, Congress was concerned with the question of how we kids took care of ourselves on highways which, it turns out, we're hardly going to be traveling anyway. Capitol Hill's answer, we know, was the Big Mother Safety Belt Act, the full force of which is just being realized.

Now, in case you haven't yet slipped behind the wheel of one of Big Mother's newest 1974 models, prepare yourself for a shock. Well, not quite a shock. They haven't gone that far yet. Though I have little doubt, the way things are moving, that in celebration of our 200th anniversary of freedom all 1976 models will be equipped to send voltage into the naughty hand that dares turn an ignition key without first strapping its owner into his vehicle, like a member of the 101st Airborne preparing for a drop over wartime France.

As of now, however, prepare yourself only for (1) that hum; (2) that dashboard reminder; and, oh, yes, (3) the car won't start. That's right, brother. No belt, no go.

Ah, you're saying to yourself, but I'll find a way. I'll beat the system by fastening the belts to the cushions, just as I've done in past years. You think so, Curley? Well, think again.

Because the National Safety Belt Usage Conference met here in Washington last week—along about the same hour I was wrestling with those two belts. And what do you know? Big Mother is devising ways to make what's already mandatory under federal law even more mandatory under state law. How? By making non-usage of her safety-belts an act subject to criminal penalty.

Now understand, despite my mechanical klutzery, I'm not unmindful of the carnage brought on by misuse of those dangerous horseless carriages over the years. My argument certainly isn't with highway safety. Or even some form of safety-belting for those who want it.

But if I'm any judge of my fellow American non-stooges, Big Motherism in the safety-belt field has now gone too far. If state legislatures follow Big Mother's advice on those criminal penalties, it will make for the biggest nation of lawbreakers since Al Capone was ensconced in his beltless black limo. In any event, however, given the 1974 models, a revolt against Big Mother's mandate is probable anyway.

Indeed, I predict we can look forward to a boom in bootleg used-car sales. Everyone looking for those vintage pre-'74 models. You remember, the kind that would actually start.

Oh, as for the last reel of that Three Stooges comedy. We finally worked it out. Gave the rental car back and took a cab, arriving only 10 minutes late. But don't laugh, brother. You could be next. Ask not for whom that buzzer hums. It hums for thee.

GERALD R. FORD

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. STUDDS. Mr. Speaker, yesterday, during the debate on the confirmation of Mr. Ford, I took the House floor to release the results of a question on the Vice Presidency from a special newsletter questionnaire that I mailed to every home in the 12th Congressional District of Massachusetts. Today I include the results of the entire questionnaire on the crisis concerning the Presidency and Vice Presidency in the Record at this point so my colleagues might see the response of nearly 34,000 of my constituents.

It might be of interest to the Members to know that the 12th Massachusetts District is the only one in the State carried by the President in 1972.

The material follows:

[In percent]

Question	South Shore	Cape and islands	Greater New Bedford	District total
THE PRESIDENCY				
1. With which of the following 3 statements do you closely agree?				
(a) There is no doubt in my mind that the President is guilty of "high crimes and misdemeanors;" he should be impeached at once	40.9	31.3	41.2	37.1
(b) I am not certain whether or not the President is guilty of "high crimes and misdemeanors," but sufficient questions have been raised to justify an inquiry by the House of Representatives	39.4	35.6	36.1	37.0
(c) I believe the President has been unfairly maligned, and I see no reason for an inquiry by the House of Representatives	19.7	33.1	22.7	25.9
2. With which of the following 3 statements do you most closely agree?				
(a) I believe that the Congress ought to establish a Special Prosecutor of the executive branch	75.9	61.7	73.1	69.4
(b) I believe that a Special Prosecutor appointed by the President can do the job that has to be done	13.3	22.5	14.2	17.2
(c) I see no need for a Special Prosecutor at all	10.8	15.8	12.7	13.4
3. In my opinion President Nixon is doing:				
(a) An excellent job	11.4	20.1	13.0	15.3
(b) A good job	13.0	20.1	14.7	16.3
(c) A fair job	16.1	13.3	15.4	14.8
(d) A poor job	59.5	46.5	56.9	53.6
4. The President has my respect and trust:				
Agree	25.5	39.8	28.9	32.1
Disagree	74.5	60.2	71.1	67.9
5. President Nixon no longer commands the respect and trust of the American people and should therefore resign.				
(a) Agree	64.8	50.6	63.0	58.7
(b) Disagree	35.2	49.4	37.0	41.3
THE VICE PRESIDENCY				
1. Which of the following is closer to your view?				
(a) I believe that the Congress should take no action on Mr. Ford's nomination until President Nixon has either been found innocent or has been removed from office	30.9	21.0	32.1	27.3
(b) I believe the Congress should proceed as rapidly as possible, to vote on the nomination of Mr. Ford	69.1	79.0	67.9	72.7
2. If the vote were taken today, I would like you, as my Congressman, to vote:				
(a) For Mr. Ford	69.9	80.7	71.5	74.7
(b) Against Mr. Ford	30.1	19.3	28.5	25.3
Percentage of questionnaires mailed by region	35.3	33.5	31.2	100
Percentage of responses received by region	33.0	39.6	27.4	100
Total responses: 33,721.				

COMPOSITION OF DISTRICT BY REGIONS

South Shore: Towns of Cohasset, Weymouth, Carver, Duxbury, Hanover, Hingham, Hull, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, and Scituate.

Cape Cod and the islands: Counties of Barnstable, Dukes and Nantucket.

Greater New Bedford: The City of New Bedford and the Towns of Acushnet, Dartmouth, Fairhaven, Marion, Mattapoisett, Rochester and Wareham.

WAR POWERS ACT DOES NOT GRANT PRESIDENT AUTHORITY FOR REINTERVENTION IN INDOCHINA

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. ZABLOCKI. Mr. Speaker, it was reassuring to hear Secretary of State Henry Kissinger note in his press conference yesterday the results of a legal review which concluded that the War Powers Act does not supersede existing legislation thereby allegedly providing the President with a legal basis for ordering a resumption of bombing in Indochina. His remarks were in reference to recent media reports of an administration review on the question. It is interesting to note that these reports were attributed, as usual, to those faceless men known in the press as "authoritative administration sources."

What they contended, in short, was that the War Powers Act, of which I was pleased to be chief sponsor in the House, may have paved the way for possible U.S. reinvolvement in Indochina by "fuzzing" the legal mandate of the Church-Case amendment to the recently passed military procurement bill. In effect, they argued that the War Powers Act may be interpreted to permit circumvention of the prohibition on all military action in Indochina prescribed by the Church-Case provision of Public Law 93-50.

Such a contention is absurd and patently false. One need only reread the President's own veto message of the War Powers resolution to see how this line of reasoning represents a complete turnaround. In the veto message the President argued that:

> The legislation would take away, by a mere legislative act, authorities which the President has properly exercised under the Constitution for almost 200 years.

If, as alleged only 1 month ago, it would strip the President of power, how could it now be interpreted as giving him power?

Further, before being deflated by Dr. Kissinger, this administration trial balloon seemed to suggest that the War Powers measure in some way "repealed" or modified by implication the earlier-enacted Church-Case amendment.

The added absurdity of that view—and others—is demonstrated in a report which I requested on this matter from the American Law Division of the Library of Congress, a copy of which I wish to make a part of these remarks.

Mr. Speaker, the language of the act itself, as well as a complete and specific legislative history on the point, clearly denies any implication that the act would expand Presidential authority previously limited. I refer, of course, to section 8(d)(2) which states specifically that nothing in the resolution "shall be construed as granting any authority to the President."

Further, as our colleague the gentleman from Ohio (Mr. WHALEN) pointed out the other day during the discussion of the conference report on S. 1443, the Foreign Assistance Act of 1973, section 30 prohibits the use of funds authorized or appropriated under the act or any other law to finance military or paramilitary operations by the United States in or over Vietnam, Laos, or Cambodia.

Therefore I submit, Mr. Speaker, the administration's suggestion that it has "back door" authority to resume bombing in Cambodia as a result of the enactment of the War Powers Act is wishful thinking.

The record is clear: the President does not have authority to resume bombing over Cambodia or to resume military activity in or over Vietnam, Laos, and Cambodia.

In support of this position I include and recommend to the careful reading of my colleagues the memorandum on this question from the American Law Division of the Library of Congress together with a related article from the New York Times of November 30:

From: American Law Division.

Subject: War Powers Resolution Interpretation.

This is in response to your request for evaluation of the statements recently attributed to persons in the executive branch to the effect that in enacting the War Powers Resolution, H.J. Res. 542, Congress may well have removed the limitations imposed on the President's discretion by prior amendments to appropriations acts, P.L. 93-50 and 93-52, prohibiting action in Indochina. The thought presumably is that the War Powers Resolution by recognizing the legality of presidential actions for 60 days in the absence of congressional action modifies the specific restriction of the earlier amendments to appropriations acts.

For three reasons, it can be said that the contention is without merit.

First, the ordinary rules of statutory construction do not favor repeals or modifications by implications. Conflicts must be direct and unavoidable so that the two laws are impossible of complementary construction. That conflict is lacking if the War Powers Resolution and the Indochina amendments are compared, but this point need not be pursued in light of the other two reasons.

Second, Congress has reenacted the earlier amendments by legislation passed concurrently with the overriding of the veto of the War Powers Resolution. Thus, P.L. 93-155, which became law November 16, nine days after the War Powers Resolution became law, provides in sec. 806: "Notwithstanding any other provision of law, upon enactment of this Act, no funds heretofore or hereafter appropriated may be obligated or expended to finance the involvement of United States military forces in hostilities in or over or from off the shores of North Vietnam, South Vietnam, Laos, or Cambodia, unless specifically authorized hereafter by the Congress."

Third, the War Powers Resolution itself specifically denies any implication that its enactment would expand presidential authority previously limited. In sec. 8(d), it is provided:

* * * * *

(2) shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

JOHNNY H. KILLIAN,
Assistant Chief,
American Law Division.

A NEW BOMBING QUESTION IS STUDIED

(By Leslie H. Gelb)

WASHINGTON, Nov. 29.—The State Department has been examining whether President Nixon could legally order a resumption of United States bombing in Indochina should North Vietnam begin a major offensive in violation of the Vietnam cease-fire agreement.

Several Administration sources said that this review had led them to believe that the President might be able to invoke the recently enacted war-powers legislation, which gives him authority to deploy United States forces in combat abroad for 60 days without Congressional authorization, to circumvent other legislation that forbids all American military action in Indochina.

That measure referring to Indochina is an amendment sponsored by Senators Frank Church, Democrat of Idaho, and Clifford P. Case, Republican of New Jersey, attached to a recently passed military procurement authorization bill.

Meanwhile, for more than a month, the Administration has been quietly alerting members of Congress to what it has described as the likelihood of a new North Vietnamese attack. In hand also at the Pentagon are contingency plans providing for air support to South Vietnamese forces and the bombing of targets in North Vietnam.

While these moves could be viewed as precautionary measures, a high State Department source hinted that they might be part of a strategy designed to deter any North Vietnamese attack. Certain key members of the Nixon Administration, he said, want Hanoi's leaders to "think twice" before flagrantly violating the cease-fire accord.

FULBRIGHT ASKS OF RUMORS

Administration sources have pointed to some legal ironies in the war-powers situation.

The Congress that passed the war-powers bill Nov. 7 over the President's veto, they say, may have paved the way for reinvolvement in Vietnam itself. The President who vetoed the measure as an encroachment on his Constitutional prerogatives as Commander in Chief may have been granted, in their view, the legal basis for reintervention otherwise denied to him.

The issue was raised today by Senator J. W. Fulbright, Democrat of Arkansas and chairman of the Senate Foreign Relations Committee, in the confirmations hearings of Robert S. Ingersoll as Assistant Secretary of State for East Asia and Pacific Affairs.

Mr. Fulbright asked whether rumors he had heard were true that the Administration might feel free despite Congressional restrictions to resume bombing in Indochina. Mr. Ingersoll, who is Ambassador to Japan, replied that he was not clear on the legal points and then added:

"My own feeling is that, should there be an attack, we would have to reassess our position and discuss it with the Congress."

Several Senators intimately involved in these issues agreed, when asked in interviews, that the war-powers bill might have fuzzed the legal mandate of the Church-Case Amendment prohibiting all military action in Indochina.

Those interviewed—Senators Fulbright, Church, Case and Jacob K. Javits, Republican of New York—said they felt, * * * ban on reinvolvement would stand up in the courts and that political imperatives would make it almost impossible for the President to order reintervention without Senate approval.

"FIVE ON THE BLACK HAND SIDE"—A MOVIE MIRROR ON THE HUMAN EXPERIENCE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. RANGEL. Mr. Speaker, last Tuesday at the American Film Institute Theater at the Kennedy Center I had a unique movie experience. I had the pleasure of seeing the new "Five On The Black Hand Side" which is based on the off-Broadway hit of the same title by Charlie Russel, who also wrote the screenplay of the film.

"Five On The Black Hand Side," directed by Oscar Williams and coproduced by Brock Peters and Michael Tolan, is the story of a black family with problems—simply that. The family is composed of human beings trying to cope with life, not superheroes or drug fiends, or revolutionaries, or other of the black stereotypes we have come to expect in the new group of films produced largely, it seems, to make money from the large segment of the movie-going public that is black.

A lot of us have been staying home, however, because these exploitation films offer little for the soul. Now, with "Five On The Black Hand Side," it is time to return to the movies for a moving, realistic experience.

"Five On The Black Hand Side" is a movie that offers a warm and humorous portrayal of a black, urban, middle-class family whose principal concerns are such basic, contemporary problems as the generation gap, women's lib, and ethnic consciousness. You do not have to be black to enjoy the film, but as a black you will recognize a great deal that is a part of you and a part of the black experience. Yet, ultimately, the film addresses the human experience. While some of the situations in the film may have a special racial significance, most of its drama, humor, and conflicts have a universal relevance and one can empathize with the characters, regardless of race.

This is a film for the entire family. It first presents, and then seeks to resolve, some of the most urgent problems of the modern family. In addressing these problems, Charlie Russell uses wit and humor without abdicating his deep concern for people involved in the daily struggle for urban survival.

"Five On The Black Hand Side" is a story that has the power to restore a little of one's faith in the ability of human beings to work out the knottiest of conflicts with understanding and love. In fact, the power of love is undoubtedly the film's central theme; that and beauty, the beauty of life as revealed by the self-realization one experiences as one views the film.

IMPEACHMENT: MUCH HEAT, LITTLE LIGHT, ON THE QUESTIONS CONCERNED

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. BRAY. Mr. Speaker, as did many other Members recently, I received a large amount of mail, phone calls, and wires taking one side or the other on impeachment of the President.

In November I wrote a special newsletter trying to bring out some facts and observations that had been ignored or overlooked, and putting the matter into its proper perspective.

The report follows:

(NOTE: I have never given so much space to a regular newsletter but the topic this time simply demands extensive treatment to a degree that could not be covered with a shorter version.)

"The President should be impeached." "The President should resign." "Ford's nomination should be withdrawn, the President should resign, and a special election held."

As of this date those are the three most prevalent and popular recommendations; there are some others, but they are relatively minor and do not deserve mention here. Now, what I intend to go into is not the defense of the President as a man, or of what he did. After all, what he is charged with and accused is basically a matter for our legal process to determine. I have always felt an elected Federal official had no business at all injecting himself into something that may well wind up before the bench. Granted, it would be up to the House to vote impeachment, and the Senate to try it. But, regardless of the clamor from certain quarters, I can say with certainty right now that this prospect is so far away from the Congress as to be, for all practical purposes, totally nil. And I will go into the "why" of this later on.

Voices of reason—we do have them—to date the best capsule comment I have seen was in a column called "The Instant Hysteria Syndrome" written by Ben Cole, long-time Washington correspondent for the Indianapolis Star, which appeared on the editorial page of that paper on October 31, 1973. From Ben Cole's column:

"The four-day hubbub over President Nixon's shakeup of the Justice Department ought to inspire some reflections on the instant hysteria syndrome in modern America . . . what is important is the suddenness with which the obviously tempestuous White House action stirred national emotions—and the manner in which they were aroused. . . . Without taking up the merits of the President's actions, it is possible to see a great danger in the abruptness of the reaction. It was as though the whole United States with its teeming millions were a little town. All at once there ran a report that a dire crime had been committed. Who's the culprit? Then word spread that it was the mysterious person living alone on the edge of town.

"All it took was one resonant voice crying, 'The rope!' and off galloped the townsmen, no longer possessed of reason but transformed into a mob . . ."

The initial flood of letters into my office immediately after the Cox-Richardson-Ruckelshaus affair, admittedly, were about 15 to 1 for impeachment of the President, or, at the very least, urging me to demand he resign. I've seen this phenomenon before; I can well understand how it upset a lot of people, for a lot of reasons, and I am not impugning anyone's motives for writing what they did. After all, that's what I'm here for: to get the views of the constituents.

But I've also noted, before, that the initial reaction, regardless of the percentage demanding this, that, or t'other, is invariably bound to be turned, slowly but surely, to, as I write, a bit over half against impeachment against resignation, and—this is significant—saying, wearily, and with some desperation: "Let's get on with making this country work!" And the percentage against resignation or impeachment is steadily rising.

First, let's take up the calls for resignation. They are based on the thesis that the President has lost his credibility with the country and he can no longer govern.

Oh, can't he? He has so far (as of November 7, 1973) vetoed nine measures; eight of them were sustained; on November 7 he lost, by a very narrow margin, his veto of the war powers bill (I voted to sustain his veto). Now, we are talking about resignation, but this bit about sustension of vetoes shades over into impeachment. The American Civil Liberties Union has started beating the impeachment drums but no less than Senator George McGovern himself lectured one of their meetings, telling them bluntly (and truthfully) that if Congress would not override his vetoes it was ridiculous to talk about impeachment. Very true; with a score of eight out of nine sustained, it is still true.

Well the White House is now working on a new budget, which must be submitted in January. As this is written, Secretary of State Kissinger is on a sweeping, world-wide tour to try and hold together the shaky Middle East cease-fire, which has great promise.

This last calls up one very good reason indeed why Richard Nixon should remain in the White House. He is, indisputably, a world leader, with the respect (if not affection or anything else) of the heads of state of the major powers with which we must deal. I do not say this is derogation of anyone who might succeed him under circumstances of resignation, nor of impeachment, but they simply would not have the same holds. Indeed, the circumstances under which they took office (again, no fault imputed to them; it would not be of their doing) would work against them. We would find ourselves with some problems that, difficult as they are, would be much more so. This country *must* deal with the major powers—the Soviet Union and Communist China in particular. A new President, coming in if his predecessor left under a cloud, would be looked upon as fair game. This is simply the way power politics works.

Richard Wilson, writing in the Washington, D.C. Star/News of November 7, 1973, arguing against a Nixon resignation, closed his column with these words:

"Certain circumstances can be imagined in which the President might find it impossible to continue. If the Republican leadership demanded his resignation, of which there is no sign, he would be hard pressed.

"But the demand for his resignation from hostile partisan sources and from publications he does not respect—and in the ferocious terms which have been used—merely serves to bring home to him that resignation would be equal to acknowledgement of a guilt which he denies."

Incidentally, Wilson noted earlier that "The case against Nixon has not yet been made on a legal basis."

And the Indianapolis, Indiana, NEWS, on November 9, 1973:

". . . We find this concerted demand for resignation not only curious but preposterous. It is true that the Watergate mess is bad, though we may doubt the suggestion of TIME that it is incomparably the worst thing that has ever happened in American political history. . . .

". . . The critics don't like Nixon, but their chances of impeaching him are problematical at best. An orchestrated demand for his resignation avoids the legal difficulty and gets the job done anyway. . . .

"Under our political process, Nixon's critics have the right to push for impeachment if they wish—though on the state of evidence we doubt that they can get it. The 'resignation' uproar is an effort to shove him out of office without the bother of proving that he should go."

The idea about a special election (provided for in the Constitution, incidentally, Article II, Sec. 1, *if* there is a vacancy in both President and Vice President categories) belongs in some cloud-cuckoo-land, surrounded with heavy quantities of boo-smoke, and concocted with much heat and very little light. That is so far removed from reality that it isn't even worth considering.

"Impeachment" is a term being very carelessly used, with, except for a few remote voices, practically no consideration given to what it means in its historical context, what the Founding Fathers thought of it, their own reservations, how it has been utilized in the past, and what it could possibly do to the country.

The House impeaches; it takes a majority vote. The Senate holds the trial and needs a ⅔ vote to convict; the Chief Justice presides. Article I, Section 3, clause 7 of the Constitution:

"Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States; but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law."

Article II, Section 4:

"The President, Vice President and all civil Officers of the United States shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors."

A bit of amplification is in order: the first quote merely means that whomever is convicted by the Senate is kicked out of office. He is still subject to action by the courts. But Article II—"all civil Officers"—this means diplomats, Cabinet members, Federal judges, District Attorneys—Congressional Quarterly, the authoritative but unofficial weekly, says it is "a political action, couched in legal terminology, directed against a ranking official of the Federal Government."

CQ goes on to note that since 1789 there have only been around 50 impeachment attempts made in the House. Of these only 12 were voted, and got to the Senate. Of these 12, two were tossed out for lack of jurisdiction (one Senator, in 1799; Senators and Representatives are not subject to impeachment) and one Secretary of War, in 1876; he was acquitted primarily because the Senate questioned its authority to try him, as he had resigned from office several months before the trial.) There were six acquittals and four convictions; all the convictions were of Federal judges. Indeed, 33 of the almost 50 cases going to the House concerned Federal judges.

Now, there have been, in our almost two hundred years as a Republic, quite literally thousands of civil officials eligible to be impeached. The fact that only ten have been impeached, eight tried, and four convicted, brings us to a very, very low percentage. It is impossible to estimate, but it is so low as to make it almost negligible, as far as the process getting through Congress is concerned, unless the evidence (and I mean evidence, not partisan political charges or sometimes stirred by emotions or disappointment or disgust over what may have been questionable decisions when it comes to judgment and timing) is overwhelming.

Judgment and timing. In making decisions. As Hamlet would say, "Ah, there's the rub!"

I have served in the U.S. House of Representatives under five Presidents, including Richard M. Nixon, and have had occasion (as has a large part of the country) to question their judgment and timing. Truman: seizure of the steel industry (held unconstitutional by the Supreme Court) plus some aspects of his conduct of the Korean War. Eisenhower: the U–2 incident, and his "apology" to Khrushchev. Kennedy: Berlin Crisis and Bay of Pigs—both brought us close to war. Let me interject a brief footnote here; to indicate the political boobery floating around today, the charge that Nixon instigated the Middle East conflict to take attention away from his domestic problems was probably one of the most senseless I have heard in years. It was denounced by no less than the House Democratic Majority Leader, Congressman "Tip" O'Neill, of Massachusetts. (For that matter, after Fort Sumter was fired upon in 1861, William Seward, Lincoln's Secretary of State, wanted to declare war on France and Spain to weld the Union together again!) Lyndon Johnson: his conduct of the Vietnam War, lack of full commitment, and hedging on taking firm measures which very probably could have ended it much sooner. Richard Nixon: at the time of the Richardson-Ruckelshaus-Cox affair, I said the President had a perfect right to fire anyone at any time, for his own reason. This is true; it cannot be disputed. But I did say there was a question of judgment and timing.

I do not see, in any of the above, grounds for impeachment of any of those Presidents.

The argument still goes on over Andrew Johnson. A recent book argues that Johnson actually deserved to be impeached. This runs, of course, quite counter to the other side (the author of the new book is, probably, a minority of one) but it just illustrates my point: the whole topic is, basically, quite nebulous. You can make almost whatever you want to out of it.

Just what did the Founding Fathers of our Nation think? They were admittedly, not always right, but considering we have existed as a Republic for two hundred years, there must have been some pretty good thinking and advice emanating from them.

For openers, Alexander Hamilton, in No. 65 of *The Federalist Papers*, which appeared in the New York *Packet*, Friday, March 7, 1788. Hamilton and John Jay and James Madison, arguing for adoption of the Constitution, were the authors of what we know as *The Federalist Papers*. Time has shown they were not always right in what they said, but they did leave some very worthwhile eternal truths and cautions. Hamilton on impeachment is a good example; he foresaw some real dangers and warned about them:

"The prosecution (of impeachable offenses) . . . will seldom fail to agitate the passions of the whole community, and to divide it into parties more or less friendly or inimical to the accused. In many cases it will connect itself with the pre-existing factions, and will enlist all their animosities, partialities, influence, and interest on one side or the other; and in such cases there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties, than by the real demonstrations of innocence or guilt.

"The delicacy and magnitude of a trust which so deeply concerns the political reputation and existence of every man engaged in the administration of public affairs speak for themselves. The difficulty of placing it rightly, in a government resting entirely on the basis of periodical elections, will as readily be perceived, when it is considered that the most conspicuous characters in it will, from that circumstance, be too often the leaders or the tools of the most cunning or the most numerous faction, and on this account, can hardly be expected to possess the requisite neutrality towards those whose conduct may be the subject of scrutiny. . . ."

Thomas Jefferson, when Vice President, pointed out that ". . . history show, that in England, impeachment has been an engine more of passion than of justice."

Raoul Berger, Professor at Harvard Law School, notes in his book *Impeachment: The Constitutional Problems* (the newest and best on the topic) that "From the text of the Constitution there emerges a leading purpose: partisan passions should no longer give rise to political executions."

Mary Clarke, in her *Parliamentary Privilege in the American Colonies* (cited often by Berger in his book) says: impeachment was: ". . . essentially a political weapon" going back to 1386.

Berger, again: ". . . Johnson's (Andrew Johnson's) trial serves as a frightening reminder that in the hands of a passion-driven Congress the process may bring down the very pillars of our constitutional system. To one who considers that impeachment may yet have an important role to play, the record is a sobering admonition against lighthearted resort to removal of the President. . . ."

Kelly and Harbison, in their *The American Constitution: Its Origin and Development* (also cited by Berger): Many analysts "have concluded that had impeachment proved successful as a weapon to remove a politically inacceptable President, the precedent would have been established for the removal of any President refusing persistently to cooperate with Congress. . . ."

Again, to repeat, it is not a simple thing: James Bryce, in his *The American Commonwealth:* "It is like a hundred-ton gun which needs complex machinery to bring it into position, an enormous charge of powder to fire it, and a large mark to aim at."

Woodrow Wilson, in *Congressional Government:* "it requires something like passion to set them agoing; and nothing short of the grossest offenses against the plain law of the land will suffice to give them speed and effectiveness. . . ."

How about the time element? In the First Congress, John Vining, noting that in England the impeachment trial of Warren Hastings was then taking place, had this to say: impeachment is "insufficient to secure the public safety . . . With what difficulty was that prosecution carried on! What a length of time did it take to determine!" In this, Madison, Elias Boudinot, Thomas Hartley and Peter Sylvester, all delegates to the First Congress, concurred. Vining went on to note that impeachment was "circuitous," "dilatory and inefficient," "what delays and uncertainties. . . ."

When Federal District Judge Halsted Ritter was tried by the Senate in 1936, Congressman Chauncey W. Reed said that Senators should not "be required to set aside their legislative duties, paralyzing for weeks the law-making function. . . ." And, in an edition of the Texas Law Review of 1942, Professor J. W. Moore wrote (speaking of impeachment of judges; the argument holds good for anyone): "it is absurd to think that large national interests during the war . . . must wait upon the trial of Judge X."

Again, during Judge Ritter's trial in 1936: Congressman John Robison: "Anyone who has been a Member of that body knows it is humanly impossible to have all the Senators present all the time for a period of 10 days, 2 weeks or more, sitting as a jury. If they did, momentous and pressing interests of the Nation . . . would suffer."

Congressman Reed, quoted above, also said: "The Senate is composed of busy men who cannot and will not divest themselves of the time they must necessarily devote to their lawmaking activities and concentrate, analyze and digest the intricate testimony. . ."

There is also the nagging question of double jeopardy, which is specifically prohibited in the Fifth Amendment to the Constitution: ". . . nor shall any person be subject to the same offense to be twice put in jeopardy of life or limb. . . ."

Does this, possibly, conflict with Article I, Section 3, Clause 7? What would the courts say? To date, in our history, no one impeached and removed from office has been indicted and tried in court for the offenses that led to his impeachment and removal. Would this, indeed, be double jeopardy—as unconstitutional as anything any President has ever done, or even been accused of?

Let's also keep something in mind. When we talk about impeachment of a President, we talk not only of a man but of an institution that, undeniably, has a certain mystique for the great majority of our citizens. At the time of Andrew Johnson's impeachment, Senator William P. Fessenden, of Maine (who voted to acquit) made this observation:

"In the case of an elective Chief Magistrate of a great and powerful people, living under a written Constitution, there is much more at stake in such a proceeding than the fate of the individual. The office of President is one of the great coordinate branches of the government. . . . Anything which conduces to weaken its hold upon the respect of the people, to break down the barriers which surround it, to make it the more sport of temporary majorities, tends to the great injury of our government, and inflicts a wound upon constitutional liberty. It is evident, then . . . that the offence for which a Chief Magistrate is removed from office, and the power intrusted to him by the people transferred to other hands . . . should be of such a character to commend itself at once to the minds of all right thinking men as, beyond all question, an adequate cause. It should be free from the taint of party; leave no reasonable ground of suspicion upon the motives of those who inflict the penalty, and address itself to the country and the civilized world as a measure justly called for by the gravity of the crime and the necessity for its punishment. Anything less than this . . . would . . . shake the faith of the friends of constitutional liberty in the permanency of our free institutions and the capacity of man for self-government. . . ."

Words to be pondered, as well as these, from James Bryce's *The American Commonwealth*, written in 1888, Bryce was English, but historians regard him as one of the best and keenest observers of our national scene and character: this comes from the chapter "National Characteristics as Moulding Public Opinion".

"(Americans) are proud of their history and of their Constitution . . . they do not seek change for the sake of change, because the nations that do this exist only in the fancy of alarmist philosophers. . . Americans . . . are no doubt ready to listen to suggestions from any quarter. They do not consider that an institution is justified by its existence, but admit everything to be matter for criticism. ... Americans ... are like a tree whose pendulous shoots quiver and rustle with the lightest breeze, while its roots enfold the rock with a grasp which storms cannot loosen. . . ."

The President has been accused—but not by due process of law as we know it in this country. The President has been indicted—but not by due process of law as we know it in this country. The President has been tried—but not by due process of law as we know it in this country. The President has been found guilty—but not by due process of law as we know it in this country. The President has been convicted—but not by due process of law as we know it in this country.

My oath as a Member of the House of Representatives binds me "to support this Constitution." Under the Constitution, there is "due process of law," and a man is innocent until proven guilty.

Even Presidents have that right.

EULOGY ON JOSEPH MURTAUGH

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. ROGERS. Mr. Speaker, it is my sad duty to inform my colleagues of the death earlier this week of Joe Murtaugh, a man who dedicated his life to his country through public service for nearly 40 years.

Most of my colleagues who know Joe Murtaugh realize his contributions in the area of health, both from inside and outside the Government.

Mr. Murtaugh entered the Federal service in 1935 as a junior statistician in the Works Progress Administration. Subsequently, he served as chief of the operating states program of the National Youth Administration. During the war, he served in the Office of the Surgeon General of the Army developing data on the utilization of Army medical facilities in the Zone of the Interior.

After a brief postwar service in the United Nations Relief and Rehabilitation Administration, Mr. Murtaugh joined the Public Health Service in 1947 as Director of Statistical Analysis and Special Studies in the Bureau of Medical Services. He was later appointed Assistant Director Officer of the Bureau and received an outstanding performance citation for his role in the transfer of the Indian health program from the Department of the Interior to the Public Health Service.

Early in 1956, Mr. Murtaugh was appointed to the staff of the Office of the Director of the National Institute of Health initially as Assistant Chief of the Office of Research Planning. In 1961, Mr. Murtaugh was appointed Director of Planning at NIH in which post he served until his retirement from Federal service in 1968.

During his 12 years at NIH, Mr. Murtaugh contributed significantly to the major administrative decisions and policy development associated with the emergence of NIH as the Nation's, if not the world's, greatest medical research institution. For his service at NIH, Mr. Murtaugh was awarded both the Superior Service and Distinguished Service Awards of the Department of Health, Education, and Welfare. Upon retirement from the Federal Government, Mr. Murtaugh was appointed Executive Secretary of the Board of Medicine of the National Academy of Sciences and participated in resolving the issues surrounding the creation of the Institute of Medicine, now the principal instrument of the NAS dealing with medical and health related policy matters.

In March 1970, Mr. Murtaugh was appointed the first Director of the Department of Planning and Policy Development of the Association of American Medical Colleges. In that capacity he was instrumental in developing programs aimed at expanding the national commitment to increase medical educational opportunities to meet the health needs of the American people.

It has been my pleasure and privilege to work with Joe Murtaugh for many years. Those who knew him will miss him. And many thousands of Americans who did not have that opportunity will miss his leadership. My wife and I extend our sympathy to Mrs. Murtaugh and his family.

THE RUSSIANS ARE COMING

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. ASHBROOK. Mr. Speaker, the rush to the Soviet Union by American businessmen with the encouragement of the U.S. Government has been gaining momentum. I have been discussing some of these "deals" in the Congress and speeches throughout the country.

Unknown to many is that the Soviet Union has plans to sell a larger amount of goods in the United States. American labor organizations have long held a position of opposition toward trade with the Soviet Union due to a number of reasons. One of these is the total lack of any right to organize into free unions in the Soviet Union. Unions are completely creatures of the state who serve as organizations to keep the workers in line. For the Soviet commissar the labor union is simply one more device to maintain total Communist control.

In addition, the Soviets rely on slave labor to make many things. The House Internal Security Committee has held extensive hearings on such slave labor. In many of his works Solzhenitsyn has also graphically portrayed the evils of the Soviet slave labor.

With the above in mind, the following item from the Weekly Labor Forecast and Review takes on added significance:

THE RUSSIANS ARE COMING—WITH TRACTORS

American farmers may soon be plowing ground with Russian-built tractors for the growing of American wheat to sell to the Russians. This likelihood of Soviet-manufactured products further displacing U.S. manufactured products at home is to take place regardless of the current trade bill's special benefits to the Russians.

A company in Canada which sells tractors imported from Russia is planning to move into the U.S. market next year. The company, Belarus Sales, is American-owned. In partnership with Belarus Equipment of Canada, which is Soviet-owned, it already is selling Russian-built tractors in Canada. Belarus Sales figures that its planned move to Milwaukee in 1974 will put it within reach of the bulk of the $8.5 billion U.S. market for farm machinery.

Belarus is not the only company with the idea of selling tractors made by Communist bloc countries in the U.S. Auto-Tractor, which is a Rumanian product, is joining with the Canadian province of Saskatchewan to build a tractor assembly plant there from which it hopes to invade the U.S. tractor market.

NASA ENGINEERS TURN TO WINDMILLS IN CRISIS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. TEAGUE of Texas. Mr. Speaker, the Cleveland Press of Thursday, November 15, 1973, carries a significant article on the contributions of the National Aeronautics and Space Administration in investigating the problems of our energy crisis. This informative article by aviation writer Charles Tracy outlines the significant work being done at the NASA Lewis Research Center to harness solar energy and develop a prototype windmill to provide pollution-free power.

Because of the significance of this article, I am including it in the record for the benefit of my colleagues and the general public:

NASA ENGINEERS TURN TO WINDMILLS IN CRISIS

(By Charles Tracy)

Water warmed by the sun and windmills turned by the wind are systems being studied today by Cleveland space engineers to solve the electrical energy crisis facing the nation.

They've been busy developing the best ways to use these energy producing ideas for more than a year at NASA's Lewis Research Center here and predict that practical, economical systems for home and commercial use are in sight.

In test cells used to develop spaceships they have assembled an ingenious collection of electric lights to simulate the brightness and power of the sun.

"We can make sunrise, high noon, a hot day in Arizona or a typical Cleveland cloudy day in November," said Robert Ragsdale, assistant chief in the power applications branch headed by Lloyd Shure.

Into the solar intensity created in the laboratory are put various solar collectors, which are flat sheets of metal covered by glass and containing small tubes with water flowing through them.

The water heated to several hundred degrees, would then be circulated through baseboard radiators of a home to provide heat or used to operate a gas refrigerator for air conditioning.

"Solar energy is very promising. If we used only 7% of the land area in the U.S. for such solar collectors, we could produce enough electric power to meet the national needs of 1985," said another NASA engineer.

The greatest thing about it, he added, is that no fuel of any kind is burned and therefore absolutely no air pollution is created.

In Japan such solar water heaters are installed on the roofs of many homes of labor-class Japanese in the outskirts of Tokyo.

What do the people do when there's no sun?

"The idea is to store hot water in big underground tanks when there's lot of sun to make it hot, then use it on the days there is no sun," said Ragsdale.

His studies indicate water can be stored for six days without sun.

"There's no question about the solar energy business. It works. We're trying to develop greater efficiency and cut the cost to make it an economical, practical system," he said.

Right now a solar collector is 30% efficient, cost $5 to $20 a square foot. The Lewis goal is 50% efficiency at $2 a square foot.

One engineer said big windmills may be built around the country to operate power plants. They also would be 100% pollution free.

A prototype windmill is being designed at Lewis and will be built during the next year at Plum Brook near Sandusky to apply new technology of a machine that has been around for centuries. It will be a one megawatt size.

The $250,000 research program is being shared by NASA and the National Science Foundation.

The government of Puerto Rico requested design of a windmill for power generation on the island, NASA engineers said.

Solar cells like those on Skylab now in Earth orbit, are very expensive to make, they said. Such cells also are only 12% to 14% efficient and could not be improved for economic use in commercial applications, they said.

A TRIBUTE TO THE HONORABLE THOMAS A. PELLY

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. ROONEY of New York. Mr. Speaker, I am sure that all of the Members of the House of Representatives were as shocked and as deeply grieved as I was to learn of the recent passing of former Representative Thomas M. Pelly of Washington State. Since Tom Pelly finished his long and successful political career at the end of the last Congress, I am sure that most of the Members of the present House had the honor and privilege both to know and to serve with him.

Tom Pelly was a dedicated man who heeded the call of public service after completing a very successful first career in business. In his first career Tom rose from messenger to assistant trust officer with a Seattle bank. He then became manager and later president of a large stationery and book concern where he remained until his election to the Congress in 1952. As president of the concern he became the first person to win the national stationers Charles Garvin Award for a treatise on budget accounting.

He was also well known in the Seattle area for his civic mindedness. He was president of the Seattle Chamber of Commerce from 1949 to 1951 and had served as president of the Seattle Symphony and as a member of the board of the Seattle Art Museum. He was also active in the Washington Committee on State Government and the Washington State Development Association.

Mr. Speaker, Tom's passing was a loss to all of us. He will long be remembered by all those who knew, respected, and admired him both as a Congressman and public servant and as a good and trusted friend. To his lovely wife and family the Rooneys extend their deepest sympathy during this hour of their great loss and sorrow.

TAKING A LOOK AT "OPERATION CANDOR"

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. YOUNG of Georgia. Mr. Speaker, in the Wall Street Journal for December 7, White House correspondent Fred L. Zimmerman looks closely at the President's "Operation Candor," the slogan designed to reassure the Nation that there will be "full disclosure" of all Watergate scandal material.

Mr. Zimmerman concludes that "Operation Candor" so far "mainly has been a public-relations exercise." He writes that Richard Nixon has not yet disclosed any new information of substance, that White House spokesmen have refused to confirm Mr. Nixon's reported promises to disclose specific material, and that the special Watergate prosecutor, Leon Jaworski, has not been able to get several Watergate-related documents that have been requested repeatedly.

As Mr. Zimmerman observes, there is a wide gap between the appearance of "Operation Candor" and the reality of continuing secrecy and deception at the White House.

The article follows:

TAKING A LOOK AT "OPERATION CANDOR"

(By Fred L. Zimmerman)

WASHINGTON.—The gap between appearance and reality at the White House remains as wide as ever.

For weeks, President Nixon and his aides have been promising "full disclosure" of all Watergate material. In fact, nothing of substance has been disclosed.

For weeks, the President and his aides have been saying that the Watergate tapes eventually would establish "beyond question" that Mr. Nixon is innocent of wrongdoing. In fact, so much of them now turns out to be either blank or nonexistent that what's left has become practically worthless as a means of proving anything.

For months, the President and his aides have been saying that a new era of openness has dawned as a result of Watergate's excesses. In fact, this singularly traumatic episode in the history of the presidency hasn't produced any fundamental change at all in day-to-day operations of the Nixon White House.

The "full-disclosure" phase of Mr. Nixon's long-running Watergate counterattack began a few weeks ago with a series of private meetings with politicians. He's met with Republican governors and with both Republicans and friendly Democrats from Congress. The counterattack has included several public appearances before friendly crowds, in Washington and in the South, and a televised question-and-answer session with newspaper editors.

Politicians emerging from the private sessions have been generally enthusiastic about Mr. Nixon's presentations. Beyond that, they have told reporters of a variety of steps the President has promised them he would take to clear up Watergate. These have included making public a complete audit of his personal finances, releasing his income-tax returns, and making public the Watergate tapes.

Nevertheless, two facts stand out: As far as anyone knows, Mr. Nixon hasn't yet disclosed any new information of substance during "Operation Candor." Additionally, White House spokesmen have refused to confirm any of his reported promises to disclose specific material!

Meanwhile, despite Mr. Nixon's public pledge to cooperate fully with special Watergate prosecutor Leon Jaworski, the President still hasn't furnished to Mr. Jaworski several Watergate-related documents that have been requested repeatedly for months.

SOME LIMITED SUCCESS

From the President's standpoint, however, "Operation Candor" has had some limited success. For one thing, the private meetings he's been having have resulted in widespread expressions of public support from Republican politicians. Some of them simply may be flattered that the President—at long last—is inviting them to the White House and is seeming to take them into his confidence. Others may be genuinely convinced that the President does intend to lay all the Watergate evidence before the public.

In image terms, the beleaguered President also has been helped a bit by the friendly receptions he's had at some of his recent public appearances. While the cheering crowds looked good on television, however, they can hardly be considered representative of the public at large. Mr. Nixon is picking his audiences carefully, and White House advance men have worked hard at drumming up big shows of public support.

Beyond that, orchestrated expressions of support are of little help to Mr. Nixon in resolving the big issues of Watergate. One of these remains, as has been the case for months, the Watergate tapes. Originally, the question was whether the President would refuse to comply with a court order to turn over nine subpoenaed tapes. Following his decision to comply, events have shifted attention to an issue as potentially damaging to Mr. Nixon as his noncompliance would have been: Did somebody at the White House intentionally destroy some of the Watergate tapes?

The legal findings, of course, must be made by Judge John Sirica, who has been taking testimony for several days. But in political terms it seems evident by now that as a body of evidence the tapes have been so compromised, whether by accident or otherwise, that they can no longer be of much use to President Nixon in clearing himself. Even if what's left of the tapes lacks any evidence that he was involved in Watergate or its coverup, a large segment of the public presumably will always suspect that the missing conversations might have shown otherwise.

One of the oddest aspects of the Watergate affair has been its almost total lack of impact on the style or attitudes of Mr. Nixon and his top aides. When the Watergate dam burst last spring, there were some highly visible personnel changes, of course. The President got rid of his two top aides, H. R. Haldeman and John Ehrlichman, who for four years had blocked access to the Oval Office while tightly controlling much of the bureaucracy.

With a lot of hoopla and promise, Mr. Nixon then brought into the White House some savvy old pros, men with good political instincts and plenty of entree on Capitol Hill: Bryce Harlow, John Connally, Melvin Laird.

Back then, winds of wholesome change seemed to blow through the White House. Mistakes had been made, but lessons had been learned. A consensus suddenly seemed to emerge at the top: There had been too much secrecy and public deception, too little consultation with Congress, too much insulation of the President, too much arrogance and heavy-handedness in dealing with Congress and the bureaucracy. All that is going to change, aides promised; things are going to open up around here.

But months later it's clear that almost nothing fundamental has changed. There are some new players but the team is running the same old plays, and there's scant evidence that any lessons were learned after all.

Secrecy persists, about matters as important as the contents of the tapes to as trivial as the President's weekend travel plans. Deception continues. Numerous misleading statements can be found, for instance, in the President's hour-long session with newspaper editors. He said, for example, that the law on political donations had been changed and donors therefore weren't aware last year that corporate contributions were illegal; in fact, such contributions have been illegal since 1925. He said he had "voluntarily waived privilege" regarding the Watergate tapes, although what he actually did was turn them over to Judge Sirica in compliance with two court decisions, rather than appeal the matter to the Supreme Court.

There's been little, if any, additional consultation with Congress. Mr. Nixon's recent private sessions can't be considered as consultations according to most accounts of them. Participants say he's delivered fairly pat speeches about his foreign policy achievements, the Middle East war and the energy crisis, and then has promised in vague terms that he was going to make "full disclosure" of Watergate material. Genuine give-and-take has been rare.

PRESIDENT STILL INSULATED

And certainly one feature of the pre-Watergate White House that hasn't changed is the insulation of the President. In the old days, Mr. Nixon rarely had face-to-face policy meetings with anyone other than three men: Henry Kissinger, H. R. Haldeman and John Ehrlichman. These days, it's still mainly three men: Henry Kissinger, Press Secretary Ronald Ziegler, and Chief of Staff Alexander Haig. Gone is John Connally, who reportedly had too much of a tendency to tell Mr. Nixon things he didn't like to hear. Still around but lacking much of a voice in key policy decisions are Bryce Harlow and Melvin Laird, both of whom are saying they're about to leave. It's questionable whether new Vice President Gerald Ford will have much of a policy-making role.

As well as anything, the continued presence of Ronald Ziegler on the White House staff, plus his changing role and stature, effectively symbolize the lack of meaningful change.

Mr. Ziegler was the President's daily spokesman throughout the Watergate affair, the man who originally dismissed it as a "third-rate burglary," the man who denied Watergate charges for months and branded newspaper stories revealing new scandals as "shabby journalism" and "character assassination." He also is the man who declared last April that all prior White House statements on Watergate were "inoperative."

Since then, however, he's been elevated to the rank of presidential assistant, spends as much time with the President as anyone, and can be seen just at the President's right nearly every time Mr. Nixon has appeared on television in recent months to assure the public that he wants "to get all the truth out" about Watergate. Strangely, Mr. Ziegler retains the title of Press Secretary—even though he hardly ever briefs the press any more and even refuses requests for interviews.

President Nixon presumably still has time to reverse course. He evidently intends in the next few weeks to issue detailed statements on various aspects of the scandal, and perhaps these will clear up questions rather than repeat old assertions or raise new questions. But so far, "Operation Candor" mainly has been a public-relations exercise, and one that comes at a time when the public is running out of patience with White House PR.

WANTED: A PUBLIC WORKS PROGRAM TO REDUCE UNEMPLOYMENT CAUSED BY ENERGY CRISIS

HON. JOHN A. BLATNIK

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. BLATNIK. Mr. Speaker, on Wednesday of this week Arthur Burns, Chairman of the Federal Reserve Board, testified before the House Banking and Currency Committee. The basic thrust of this testimony was that "the economic outlook has worsened and become clouded" as a result of the energy crisis.

Dr. Burns further pointed out that there is little the Federal Reserve Board can do to soften the blow of unemployment because "the shortage we have is a shortage of oil, not a shortage of money. Therefore, monetary devices can have a very limited usefulness in this situation."

The Washington Post report on Dr. Burns' testimony then went on to state that:

> Fed (sic) officials are known to believe that the Nixon Administration should be planning measures to cope with a probable rise in unemployment, including the development of a shelf of public works projects.

Mr. Speaker, it is almost grimly ironic to recall that legislation to build this shelf of job-producing public works projects was vetoed by the President in 1971 and 1972. It is even more disheartening to see the administration proceeding with their plans to terminate this year the only program we have to provide employment quickly to communities hurt by sudden loss of jobs. I am referring, of course, to the special impact aid made available through the programs of the Economic Development Administration.

Mr. Speaker, recent House Public Works Committee hearings and studies strongly support the Federal Reserve Board's conclusion, although regrettably there is no evidence that the administration has even begun to consider the use of public works projects to help provide employment for the people who will surely lose their jobs because of fuel shortages in the coming months. There is nothing even to suggest that studies are underway to provide good information on the industries or regions of the country that will be most affected.

A few days ago, for example, there was a prediction from a University of Connecticut labor expert that 150,000 people would lose their jobs in New England in the next 6 months as a result of the energy crisis. Nationally, forecasts of unemployment next summer range all the way from 5 percent to 14.7 percent, but no one can be confident about any of these predictions until definitive administration fuel allocation policies are developed.

In his 1971 veto of the Accelerated Public Works Act the President stated:

> I agree that our present economic development programs should be extended while the Congress is considering my revenue-sharing proposals. But most importantly, the

Congress must act immediately to insure that there is no gap in service to the people of Appalachia and in the economically depressed areas served by EDA.

These words of 2 years ago have a peculiarly hollow ring now. We know that no replacements for the Economic Development Administration programs are yet in operation. The result is that the administration is neither proposing nor even considering any measures to help communities adjust to the enormous problems of dwindling energy supplies or jobs through permanent, long-range national investments in the public facilities that are essential to orderly growth and development. The hearings of the House Public Works Committee in 1971 found that it is possible to put people to work on public works projects within 3 months. The record shows that this approach is a most effective way of alleviating the hardships caused by rising unemployment—far more productive than sharply increasing welfare payments, and unemployment benefits.

The articles follow:

[From the Washington Post, Dec. 6, 1973]

FED CAN'T EASE CRISIS, BURNS TELLS CONGRESS

(By Hobart Rowen)

Federal Reserve Chairman Arthur F. Burns told a congressional committee yesterday that "the economic outlook has worsened and become clouded" as a result of the energy crisis, but that there is little that the central bank can do to soften the blow.

In testimony before the House banking and currency subcommittee on international finance, Burns said that "the situation in which we find ourselves is obviously very difficult, but I believe it is manageable."

Reminded by Rep. Andrew Young (D-Ga.) that the Fed "normally" would relax a tight money policy to deal with the threat of unemployment, Burns responded:

"The shortage we have is a shortage of oil, not a shortage of money. Therefore, monetary devices can have a very limited usefulness in this situation."

Fed officials are known to believe that the Nixon administration should be planning measures to cope with a probable rise in unemployment, including the development of a shelf of public works projects.

In other aspects of wideranging testimony on international and domestic economic affairs, Burns also:

Revealed for the first time that the "basic" U.S. balance of payments—the total of all current international transactions and long-term capital flows—was in large surplus for the third quarter, the first such surplus since 1969. The dollar once again is "a respected currency in financial circles," the Fed chairman added.

Predicted that "in time," U.S. citizens will be allowed once again to own and hold gold, but only after higher priorities in monetary reform had been accomplished. Decisions on gold sales by the U.S. and other governments, he added, will be made "in due course."

Warned against "unrealistic expectations" on monetary reform, which he said would be an evolutionary process, not one "to be implemented in its entirety some morning" after a final meeting of key ministers.

Promised that the U.S. might find it "feasible" because of the dollar's strength "to move forward over the coming months with an orderly reduction" of restraints on capital outflows.

On the domestic side, Burns stressed the reality that passenger car use of gasoline and home heating oil requirements would have to be reduced to avoid a serious economic crisis.

"At best," he said, "a prolonged economic embargo on Arabian oil shipments to the United States will result in some economic dislocation next year."

He termed the overall situation "manageable," with a gradual shift to non-oil energy resources, and with the help of "other adjustments to be made in the thousands by ingenious businessmen across the land."

At the same time, the Fed chairman insisted, inflation remains a great danger, posing an "extremely difficult task" for economic policy. The nation, he said, must still work toward "regaining price stability, while at the same time minimizing the risks of any extensive weakening in economic activity."

In response to questions by Rep. Henry S. Reuss (D-Wisc.), Burns denied that any agreement had been made by the U.S. at a meeting of finance ministers in the French Loire Valley two weeks ago to "peg" the dollar rate around the level set by the February devaluation.

He acknowledged that "at one time or another," various ministers have suggested that the February rates were fair. "But there is a general willingness in view of oil uncertainties," he volunteered, "to test the markets, rather than characterizing this or that set of rates as equilibrating rates."

But he said the time had come for countries holding $70 billion in dollar reserves to sell some of them, at a gradual pace, inasmuch as the dollar has become stronger.

Later on, asked to state his position on "floating" vs. fixed currency relationships, Burns said:

"I would look forward to a return to a par value system for most countries, with floating as an option, and wider margins than those set by Bretton Woods. I think in the long run, parities with wider margins would serve the world better than floating rates, especially if there is a decline in world economic activity. If there is a decline, floating will cause some difficulties and political problems."

Burns declined to make any specific forecast for economic growth next year, but Fed staff projections are reported to be fairly close to administration estimates, which predict about 1 per cent real growth after allowing for the impact of energy shortages. In 1973, the economy is growing at a 6 per cent rate.

Burns pointed out that rising gas and oil prices would not only increase the inflationary problem at home, but would affect short-term prospects for the balance of payments.

Thus, even if the Arab boycott cuts imports by 3 million barrels of oil a day, he said, the spectacular boost in prices would mean that payments for 1974 oil imports "would probably exceed by a wide margin the $8 billion paid in 1973." Some of this outflow, however, would find its way back to the U.S.

HIGHWAY BUDGET

SACRAMENTO.—The energy crisis may force the cutback of as much as $250 million in California's $930 million annual highway budget.

James A. Moe, head of the state's transportation department, said that reduced revenues because of the energy crisis and slashed federal funding may force cuts of as many as 3,500 persons in the department's 17,600-member staff.

JOB LOSS OF 150,000 SEEN

BOSTON, Dec. 4.—About 150,000 persons will lose their jobs in New England in the next six months as a result of the energy crisis, a University of Connecticut labor expert said today.

NICHOLAS JOHNSON, ON LEAVING FEDERAL SERVICE AFTER 10 YEARS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. DINGELL. Mr. Speaker, on December 5, 1973, Nicholas Johnson will be leaving the Federal Government after more than 10 years of dedicated staunchly independent and committed service to his country. Beginning at the remarkably young age of 29, Nick was appointed Maritime Administrator by Lyndon Johnson. He served with distinction in that capacity until 1966 when he was appointed to the Federal Communications Commission where he has served for the past 7½ years.

Rarely has a Federal administrative official shown such undiminished zeal and independence over a 10-year span of Government service. Rarely has a Federal Commissioner so consistently and intelligently articulated the needs and interests of the public. Rarely has an official of Government so frequently shunned the cloaks of self-protective secrecy to bare the weaknesses and inadequacies of the Federal bureaucracy. Rarely has a Federal employee spoken with such revealing candor to House and Senate investigative and legislative committees.

In this age of turmoil when the integrity, independence, and commitment of public servants is so often questioned, the governmental life and times of Nicholas Johnson serve as a reminder that, with courage, government officials can be responsive to the commonweal.

A brief outline of Nick's life and accomplishments follows:

Nick was born in Iowa where he was involved in virtually every school sport and activity. He organized a student council in fourth grade; lobbied his city council for a swimming pool in junior high; was the only student elected student body president as a junior—and then reelected. The Iowa Bar Association voted him a citizenship prize. His fellow students elected him president of the Iowa Association of Student Councils. He served a 3-year term as national president of the 500,000-member YMCA high school organization—Hi-Y—the youngest member of the national YMCA board of directors, and its representative to National Council of Churches organizations.

In college, at the University of Texas, Nick earned his Phi Beta Kappa key, and was an editor of his law review—while holding down part-time jobs to pay his way, and serving as a Democratic precinct chairman.

After graduating from law school, Nick held two of the law's most prestigious jobs: Clerkships with U.S. Supreme Court Justice Hugo L. Black and U.S. Court of Appeals Chief Judge John R. Brown. Then, as a member of the University of California's outstanding law faculty, he took leave for experience with Dean Acheson's Washington law firm, Covington & Burling.

Nick was one of President Lyndon B. Johnson's first administrative appointments. At 29, Nick was the youngest Maritime Administrator since President Kennedy's father, Joseph P. Kennedy, in 1936. He had responsibility for about $500 million a year in merchant shipping and shipbuilding programs, worldwide offices, and 2,500 employees. In addition, he had responsibility as Director of the War Shipping Administration, and carried three-star admiral rank—as he was also Commandant of the Maritime Service and responsible for the 4-year Merchant Marine Academy at Kings Point.

At Maritime he also served the country well in foreign affairs. Nick was Chairman of the powerful NATO Planning Board for Ocean Shipping. He worked with the 83-nation international communications satellite organization Intelsat. He directed the international tour of the world's only nuclear-powered merchant ship, touring the Kings of the Scandinavian nations about the ship as a part of our atoms for peace program. As the Vietnam war widened in 1966, Nick left the FMA.

At the Federal Communications Commission, many of Nick's views of the public interest, as contained in carefully drawn and blistering dissents, in testimony before congressional committees and in speeches, articles, and books he has written, have consistently been adopted by the courts and are now the laws of the land. Nick has fought for lower telephone rates and improved service, for domestic satellite development, for cable television, for public broadcasting, for responsible commercial practices, for less violent and more constructive children's programing, for more public service broadcasts, for employment practices in the broadcast industry which conform to equal employment opportunity laws, and for the needs and interests of women, minorities, and all persons throughout the country who rely upon broadcast services as their major source of news and information.

During his tenure on the Commission Nick authored two successful books—"How To Talk Back to Your Television Set" and "Test Pattern for Living"—which set forth many of his views about broadcasting, Federal regulatory agencies, governments, life, and the times.

In 1967 the U.S. Jaycees selected the Ten Outstanding Young Men of America. One was FCC Commissioner Nick Johnson.

Later the New York Times reported college students were turning away from folk heroes like Jerry Rubin and Abbie Hoffman to more solid young leaders. One was Nick Johnson. Then the New Republic selected him as one of the first winners of its coveted Public Defender Award.

Newsweek did a study of the persons most often sought for university presidencies. One who ranked high was Nick Johnson.

PETROCRATS, ADVISORY COMMITTEES AND THE PUBLIC INTEREST

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. OBEY. Mr. Speaker, in testifying last week at the Federal advisory committee oversight hearings being conducted by Senator Metcalf's Subcommittee on Budgeting, Management and Expenditures, I suggested that the open-meeting requirement of the Federal Advisory Committee Act takes on added importance now that we find ourselves confronting an energy crisis.

Over the months ahead, advisory committees composed of industry representatives, scientists and others will be making recommendations to the Federal Government about the steps it should take to resolve the crisis. Unless these panels hold open meetings, neither the press nor the public will have any idea what kind of advice is being offered. And if they do not know, consumer and public interest groups could well be deprived of a chance to respond before the Government makes final decisions based on that advice.

The basis for this suggestion was the number of industry-oriented advisory committees already in existence—the National Petroleum Council, with more than 100 members drawn from the oil and gas industries, the Emergency Petroleum Supply Committee, and so on—and Senator Metcalf's disclosures 2 days earlier, on November 27, about what he called "oil's shadow government."

Referring to White House plans to partially activate the Emergency Petroleum and Gas Administration Executive Reserve and utilize approximately 250 oil and gas industry executives to assist in planning and administering emergency programs, Senator Metcalf revealed that:

> The EPGA has been a shadow government agency which, through Interior's Office of Oil and Gas, was maintained in standby readiness to mobilize and direct the Nation's petroleum and gas industries in the event of a national emergency.
>
> The EPGA is composed principally of oil company officials. Its plan of action was developed by the National Petroleum Council, an industry advisory committee, and other oil company entities.
>
> I believe it is important that we all know as much as possible about persons who conduct the affairs of Government. In this instance the administrators, for the most part, are not public officials seasoned by experience in civilian government. They are part of the oil industry. They will function with military officials who are also being brought into the program.

Mr. Speaker, the Senator was alerting us to the impending creation of a new class of Government officials I think we could properly characterize as "petrocrats." With petrocrats manning key Government posts and industry-oriented advisory committees commanding Government's ear, we would have the prospect of industry carrying out its own advice.

Perhaps the prospect will not materialize. At any rate, the Federal Energy Office announced today in the Federal Register that it is establishing five new advisory committees to help it deal with the energy crisis, and it did so in a way that could set a tenor for openness.

The FEO published charters not only for a new Petroleum Industry Advisory Committee—Independent Sector—but for agriculture, business, consumer and environmental advisory committees as well. Each will meet about four times a year, and the latter four panels will draw their support services not from FEO but from other Federal agencies.

Mr. Speaker, depending on who is appointed to these panels, and assuming that they will hold open meetings in accordance with the Federal Advisory Committee Act, these new committees could serve the public interest as the Federal Government comes to grips with the energy crisis. I hope they will be constituted and administered in a way that maximizes their public interest potential.

The material from the Federal Register follows:

FEDERAL ENERGY OFFICE

ADVISORY COMMITTEES

Notice of establishment

This notice is published in accordance with the provisions of section 9(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463). Following consultation with the Office of Management and Budget, notice is hereby given that it is in the public interest to establish the following advisory committees. A description of the nature and purpose of these committees is contained in their charters which are published below.

Dated: December 5, 1973.

W. E. Simon,
Administrator.

CHARTER—PETROLEUM INDUSTRY ADVISORY COMMITTEE (INDEPENDENT SECTOR)

1. *Objectives and scope of activities.* The objectives of the Petroleum Industry Advisory Committee (Independent Sector) are to advise the Administrator, Federal Energy Office (FEO) with respect to general petroleum aspects of interests and problems related to the policy and implementation of programs to meet the current national energy crisis.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue beyond the foreseeable future. However, its continuation will be subject, to biennial review and renewed as required by section 14 of Pub. L. 92–463.

3. *Official to whom committee reports.* The Committee will report to the Administrator, Federal Energy Office.

4. *Support services.* Necessary support for the Committee will be furnished by the Federal Energy Office.

5. *Committee duties.* The duties of the Committee are solely advisory and are stated in paragraph 1 above.

6. *Estimated annual cost.* The estimated annual operating costs for the Committee are $20,000 and involve approximately one-half man-years of staff support.

7. *Meetings.* The Committee will meet approximately four times a year.

8. *Termination date.* The Committee will terminate two years from date of this Charter, unless prior to that date renewal

action is taken by the Administrator, FEO, as described in paragraph 2 above.

9. *Determination.* Establishment of this Committee is determined to be in the public interest in connection with the performance of duties imposed on the Federal Energy Office by Executive Order No. 11748, dated December 4, 1973, which delegated to the Administrator, FEO, authority vested in the President by the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159); section 203(a)(3) of the Economic Stabilization Act of 1970 (Pub. L. 91-379) as amended; and specified authorities under the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq), as amended.

CHARTER—AGRICULTURE ADVISORY COMMITTEE

1. *Objectives and scope of activities.* The objectives of the Agriculture Advisory Committee are to advise the Administrator, Federal Energy Office (FEO) with respect to general agricultural aspects of interests and problems related to the policy and implementation of programs to meet the current national energy crisis.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue beyond the foreseeable future. However, its continuation will be subject to biennial review and renewed as required by section 14 of Pub. L. 92-463.

3. *Official to whom Committee reports.* The Committee will report to the Administrator, Federal Energy Office.

4. *Support services.* Necessary support for the Committee will be furnished by the Department of Agriculture.

5. *Committee duties.* The duties of the Committee are solely advisory and are stated in paragraph 1 above.

6. *Estimated annual cost.* The estimated annual operating costs for the Committee are $20,000 and involve approximately one-half man-years of staff support.

7. *Meetings.* The Committee will meet approximately four times a year.

8. *Termination date.* The Committee will terminate two years from date of this Charter, unless prior to that date renewal action is taken by the Administrator, FEO, as described in paragraph 2 above.

9. *Determination.* Establishment of this Committee is determined to be in the public interest in connection with the performance of duties imposed on the Federal Energy Office by Executive Order No. 11748, dated December 4, 1973, which delegated to the Administrator, FEO, authority vested in the President by the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159); section 203(a)(3) of the Economic Stabilization Act of 1970 (Pub. L. 91-379) as amended; and specified authorities under the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), as amended.

CHARTER—BUSINESS ADVISORY COMMITTEE

1. *Objectives and scope of activities.* The objectives of the Business Advisory Committee are to advise the Administrator, Federal Energy Office (FEO) with respect to general business aspects of interests and problems related to the policy and implementation of programs to meet the current national energy crisis.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue beyond the foreseeable future. However, its continuation will be subject to biennial review and renewed as required by section 14 of Pub. L. 92-463.

3. *Official to whom Committee reports.* The Committee will report to the Administrator, Federal Energy Office.

4. *Support services.* Necessary support for the Committee will be furnished by the Department of Commerce and the Small Business Administration.

5. *Committee duties.* The duties of the Committee are solely advisory and are stated in paragraph 1 above.

6. *Estimated annual cost.* The estimated annual operating costs for the Committee are $20,000 and involve approximately one-half man-years of staff support.

7. *Meetings.* The Committee will meet approximately four times a year.

8. *Termination date.* The Committee will terminate two years from date of this Charter, unless prior to that date renewal action is taken by the Administrator, FEO, as described in paragraph 2 above.

9. *Determination.* Establishment of this Committee is determined to be in the public interest in connection with the performance of duties imposed on the Federal Energy Office by Executive Order No. 11748, dated December 4, 1973, which delegated to the Administrator, FEO, authority vested in the President by the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159); section 203(a)(3) of the Economic Stabilization Act of 1970 (Pub. L. 91-379) as amended; and specified authorities under the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq), as amended.

CHARTER—CONSUMER ADVISORY COMMITTEE

1. *Objectives and scope of activities.* The objectives of the Consumer Advisory Committee are to advise the Administrator, Federal Energy Office (FEO) with respect to general consumer aspects of interests and problems related to the policy and implementation of programs to meet the current national energy crisis.

2. *Committee Tenure.* In view of the goals and purposes of the Committee, it will be expected to continue beyond the foreseeable future. However, its continuation will be subject to biennial review and renewed as required by section 14 of Pub. L. 92-463.

3. *Official to whom committee reports.* The Committee will report to the Administrator, Federal Energy Office.

4. *Support services.* Necessary support for the Committee will be furnished by the Department of Health, Education, and Welfare.

5. *Committee duties.* The duties of the Committee are solely advisory and are stated in paragraph 1 above.

6. *Estimated annual cost.* The estimated annual operating costs for the Committee are $20,000 and involve approximately one-half man-years of staff support.

7. *Meetings.* The Committee will meet approximately four times a year.

8. *Termination date.* The Committee will terminate two years from date of this Charter, unless prior to that date renewal action is taken by the Administrator, FEO, as described in paragraph 2 above.

9. *Determination.* Establishment of this Committee is determined to be in the public interest in connection with the performance of duties imposed on the Federal Energy Office by Executive Order No. 11748, dated December 4, 1973, which delegated to the Administrator, FEO, authority vested in the President by the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159); section 203(a)(3) of the Economic Stabilization Act of 1970 (Pub. L. 91-379) as amended; and specified authorities under the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), as amended.

CHARTER—ENVIRONMENTAL ADVISORY COMMITTEE

1. *Objectives and scope of activities.* The objectives of the Environmental Advisory Committee are to advise the Administrator, Federal Energy Office (FEO) with respect to general environmental aspects of interests and problems related to the policy and implementation of programs to meet the current national energy crisis.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue beyond the foreseeable future. However, its continuation will be subject to biennial review and renewed as required by section 14 of Pub. L. 92-463.

3. *Official to whom committee reports.* The Committee will report to the Administrator, Federal Energy Office.

4. *Support services.* Necessary support for the Committee will be furnished by the Environmental Protection Agency and the Council on Environmental Quality.

5. *Committee duties.* The duties of the Committee are solely advisory and are stated in paragraph 1 above.

6. *Estimated annual cost.* The estimated annual operating costs for the Committee are $20,000 and involve approximately one-half man-years of staff support.

7. *Meetings.* The Committee will meet approximately four times a year.

8. *Termination date.* The Committee will terminate two years from date of this Charter, unless prior to that date renewal action is taken by the Administrator, FEO, as described in paragraph 2 above.

9. *Determination.* Establishment of this Committee is determined to be in the public interest in connection with the performance of duties imposed on the Federal Energy Office by Executive Order No. 11748, dated December 4, 1973, which delegated to the Administrator, FEO, authority vested in the President by the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159); section 203(a)(3) of the Economic Stabilization Act of 1970 (Pub. L. 91-379) as amended; and specified authorities under the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), as amended.

[FR Doc. 73-26168 Filed 12-6-73; 10:24 am]

BILL KEATING—WISE AND CONSCIENTIOUS LEADER

HON. JAMES F. HASTINGS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. HASTINGS. Mr. Speaker, come January, there will be a vacant seat in the House, which I know will be most difficult to fill.

I am speaking of the seat occupied so ably by Congressman WILLIAM J. KEATING, who is leaving our ranks at the end of this session to take up new responsibilities as president and chief executive officer of the Cincinnati Enquirer.

BILL KEATING came to the Congress in 1971 after an illustrious public career as a jurist and lawmaker in his home town of Cincinnati.

In the brief time he has spent in the Congress, his service has been marked by a dedication and distinction which pointed to a lofty future had he chosen to remain here.

But, BILL has heeded an equally important call and will now be serving the people as the leader of one of the Nation's influential newspapers with a readership of more than 200,000 daily.

I know he will bring to his new duties the same wisdom, judgment, and tireless energies which characterized his work in the Congress.

It has been my pleasure to serve with BILL on the House Task Forces on Drug

Abuse and Election Reform. On countless occasions his counsel and guidance steered us in the proper direction.

Bill was in the vanguard of election reform. I know one of his proudest achievements was the establishment in 1972 of the Election Information Clearinghouse to conduct studies on ways to improve the functioning and the integrity of the Federal electioneering process.

As a member of the House Judiciary Committee and the Select Committee on Crime, he has made many valuable contributions in the development of legislation.

I know Members from both sides of the aisle in the House regret Bill's departure. We will all remember and miss his quiet dignity, his wry humor, his conscientiousness, and his warm friendliness.

Along with my colleagues, I wish him and his family an abundance of success.

COMMONSENSE JUDGMENT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. DERWINSKI. Mr. Speaker, I believe that the House Interstate and Foreign Commerce Committee has exercised commonsense judgment in very thoroughly scrutinizing legislation inspired by the energy crisis. I trust that we will not enact and pass unwise legislation which will grant excess authority to the executive branch.

A very practical editorial commentary was carried by WGN Continental Broadcasting Co. of Chicago on November 29, on this subject. I believe that it reflects commonsense thinking.

The editorial comment follows:

[WGN editorial, Thursday, Nov. 29, 1973]

The Energy Crisis—No. 5

President Nixon has again called on the little people to do their share to conserve short oil supplies. In what White House spokesmen said was only the first in a series of continuing announcements, the President set forth a 10-point plan to narrow the petroleum gap.

Individuals will begin to feel the crunch within the next few weeks. Under authority the President will have when Congress passes emergency legislation, speed limits on highways will drop to 50 miles per hour for automobiles, 55 miles per hour for heavy trucks and buses. There will be a ban on Sunday sales of gasoline. And, outside residential ornamental lighting will be banned. Then on January first, supplies of home-heating oil will be reduced 15 per cent from 1972 levels.

To be sure, industry will also feel the pinch. Among other things, there will be a reduction in supplies of heating oil, cutbacks in jet-fuel allocations, and a curb on promotional lighting for businesses.

The President has called on each of us to voluntarily reduce energy consumption until he has the power to make reductions mandatory. Judging by those who have reduced their speed limit to 50 miles per hour, there has been little cooperation so far. We'd like to see more. We'd also like to see the President set an example, by limiting his air travel as much as is possible for our nation's leader.

There has been a lot of grumbling, grumbling that the oil companies are reaping giant profits, while the rest of us suffer. At this point, however there has been no substantial proof that the oil shortage is contrived. Despite a credibility gap existing between the President and the people, this is one area where we must rely on Mr. Nixon's knowledge and the knowledge of his energy advisors, to steer the country out of what could be a national energy and economic catastrophe.

GERALD FORD

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. COLLINS of Texas. Mr. Speaker, last night when we all joined in welcoming Gerald Ford as our new Vice President, we saw a unanimity of the spirit that we have not seen for a long time in these United States. Sitting on my Republican side of the aisle, it was heartwarming to see the enthusiasm and the sincerity of the welcome extended by my Democrat friends on the other side of the aisle. It meant so much to all of us to see one of our own Members move up to become the Vice President of the United States.

But it is more than the fact that he is one of our Members. The great strength of Gerald Ford lies in the fact that he has a strong feeling for and understanding of America. Where many Members spend much too much time in Washington, Jerry Ford is always visiting throughout the country. He has been time and again in most every city and State of this country. He knows the problems of the farmer. He understands what it takes to keep industry rolling. He knows the problems of the trucker, the man in a blue shirt, a white-collar worker, or an employee in a department store. In Congress today we realize more and more that what we are concerned with is more than laws. We are concerned with people, and we are concerned with the best way to build a greater America for the future.

When President Nixon was called on to name a new Vice President, he had many outstanding men from whom to choose. He had many great women to whom he could have turned. But when he made his final selection, God was looking over his shoulder when he suggested Gerald Ford. The strong support that has been evidenced in the Senate and the House is confirmation of the high regard and confidence that we all have in Gerald Ford.

We are going to find the Senate and the House working more closely together. We are going to find better and more effective legislation when Gerald Ford teams up with House Speaker Carl Albert, for the best in this congressional term lies ahead.

As I was leaving the ceremony last night, I heard a fine old lady with tears in her eyes say, "God bless Jerry Ford." And to this I would like to add: God bless Jerry Ford, and God bless America, because I believe God blessed America when we named Jerry Ford as our Vice President.

MORE ON "U.S.A. IN MINIATURE"

HON. STANFORD E. PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. PARRIS. Mr. Speaker, my constituent, Mr. John R. Kanline, of Alexandria, is continuing in his efforts for the acceptance and approval of a project entitled "U.S.A. in Miniature." Mr. Kanline has been extremely diligent in this matter, and I applaud him for his efforts to make the Bicentennial celebration more enjoyable for all the visitors to our Nation's Capital. Under my leave to extend my remarks, I include Mr. Kanline's most recent correspondence in the Record:

November 25, 1973.

Hon. Stanford E. Parris,
U.S. House of Representatives,
Washington, D.C.

Dear Congressman Parris: You have been most encouraging in support of a Bicentennial proposal, "USA in Miniature", by including your helpful remarks and my descriptive material in the Congressional Record, both on August 3, p. E5356, and October 24, 1973, p. E6725. Your support is deeply appreciated in moving this proposal to acceptance and eventual accomplishment.

Please include this letter along with your appropriate remarks in order to keep the history and record of this project complete and to further the proposal.

Since your last remarks in the Record, the Washington Post has interviewed me and published an article on November 15, 1973, as follows:

America, Scaled Down, Urged for Bicentennial

(By Adam Shaw)

John Kanline admits he is a dreamer, and one of his recurring dreams is the creation of a "park depicting, in miniature form, America's greatest sights and achievements" to help celebrate the country's 200th birthday in 1976.

"Things like a mini-Statue of Liberty, a small Golden Gate bridge, the Grand Canyon, Mt. Rushmore, a great steel mill . . . things like that," Kanline says.

A recently retired State Department official, Kanline, 55, is also a realist. Almost.

"I don't know if I can bring it about. I've been working on getting people interested for a year. I still don't have all that much of a response," he says. "But sooner or later it will be done."

The idea for the park, which he says ought to be in Washington "because this is the nation's capital," came from a trip to Holland during which he saw Madurodam, a four-acre miniature park outside the Hague that highlights the Netherland's past and present in miniature.

"The bicentennial is a good thing on which to hang the park project," which he says, would provide tourists with "a chance to see most of America's wonders all in one place before going out and seeing some of them for real."

Kanline says he thinks big businesses should provide most of the funding, with the government and philanthropic organizations kicking in the rest.

His own investment in trying to get his minipark underway has consisted of "a year of my time, postage stamps, and two long-distance telephone calls. I can't afford more than that," he says.

"It's a great opportunity for industry to advertise, tastefully," he says, adding that he has contacted 117 of the country's largest corporations, suggesting his idea.

"We're investigating it," said a spokesman for U.S. Steel.

"Never heard of him," said one for Coca-Cola.*

"Interesting idea," said Gulf Oil's man. "But financially right now, we're not interested."

"The bicentennial people have pushed me away," Kanline complained.

"We get ideas by the bushel," said Jane Shay, senior program officer for Festival U.S.A., the national bicentennial organization, for "almost every suggested project."

"We just don't have the money," she added. "If someone comes to us and says here's the money and here's the data to back it up, we'll look at it."

Kanline knows he's fighting an uphill struggle, writing letters and making telephone calls from his kitchen table in Alexandria.

"But it's something America should have. Not an amusement park, but a historical, entertaining and educational thing all put together," he says. Madurodam, he says, has working windmills, airports, oil ports, a castle and historical scenes. "And it's a profit-making thing."

Kanline says he has drawn up no plans, built no models, and done no cost estimates because "I'm not qualified. I just want to spark the idea, and hope someone will pick up the ball and run with it."

"I've spent a year trying to get the idea across to the big corporations, the government and the media," he says. "Maybe it hasn't worked, but I don't want to believe that. Anyhow, I've got the time to keep trying."

"I'm still something of a boy," he adds, smiling from under a gray crew-cut. "Miniaturization fascinates me, as it has, I think, a lot of people. Look at Disney World, at the way men play with their sons' toy trains . . .

"There's no money in it for me. I'd just like to look at life and say I've contributed something more than this," he says pointing at a retirement plaque from the State Department.

In addition, the Alexandria Gazette has sent a reporter to my home for a description of the proposal. Your interest and assistance has brought the media to my door and I hope with good results. I believe it to now be the most talked about Bicentennial proposal for the area.

What I fail to understand after a year's effort, and media and Congressional cooperation is why:

1. The Bicentennial Commission has not called in the Park Service, the U.S. Travel Service at Commerce, or the Smithsonian to discuss the proposal and its feasibility;

2. The U.S. Chamber of Commerce or the National Association of Manufacturers and other industry and agricultural associations have not brought this proposal to the attention of their memberships;

3. The philanthropic organizations have had no exchange on this proposal.

Since November, 1972, I have made 3 rounds of telephone calls to 125 major U.S. industries and associations and in most cases the response was enthusiastic. The media and the Congress have been receptive and helpful. To me, this is a test of what one small voice can accomplish in a democratic capitalistic society using the only available media at his command. Could the Park Service donate a small parcel of land? I believe that if each industry paid for its exhibit, the cost could be minimal, and would afford "tasteful advertising."

I firmly believe that a small 4 or 5 acre park depicting the major sights (modern and historical, industrial and agricultural) of this great Nation with operating miniature railroads, ships, ports and plants and refineries would be entertaining and educational for adults and children. This could be a national monument dedicated to some worthwhile individual or cause.

With the vast wealth and resources of this great Nation, with its knowhow in industry and with outfits like Disney and Marriott, who have experience in creating dream parks, I am hopeful that USA in Miniature can be created in limited form with a few exhibits by our 200th birthday, and with additions from its own revenues in the years to follow.

Your interest and support continue to be deeply appreciated.

Sincerely,

JOHN R. KANLINE.

CRIME CONTROL NO. 13

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. LANDGREBE. Mr. Speaker, the 1973 Convention of the Young Women's Christian Association passed the following resolution on gun control:

> That the YWCA of the USA support: Federal legislation providing for the licensing of all gun purchasers, users and owners and the registration of all firearms, including ammunition and all other of their component parts; and for the banning of the domestic production, sale and possession of all hand guns not suitable for such purposes as law enforcement, military and licensed guard use, sport shooting and hunting.

Mr. Speaker, I am quite surprised at this action of the YWCA simply because I should think that the members of this organization would be among the first to favor private ownership of guns simply because this organization represents one of the sections of the population that is most threatened by the criminal element in the country. But there is also another surprising thing about the passage of this resolution.

The YWCA is classified as a charity and receives money collected by the United Fund Campaigns. The YWCA has, by its resolution, made it clear that its energies and the money collected as charitable donations are going to be directed toward achievement of its goals of gun control. Thus anyone who contributes to a United Fund Campaign is thereby contributing to the political campaign of the YWCA favoring Government monopolization of guns. If a business operated in the same way that the YWCA is operating, its officers would be prosecuted for violations of numberless statutes against fraud and deceptive advertising. But apparently if an organization is labeled a charity it is not expected to conform to such a rigid code of ethics, which is rather peculiar for an organization that bears the title Christian.

I suggest that anyone who is concerned about gun control laws should stop contributing to both the United Fund and the YWCA until the YWCA reverses its position on gun control.

Continued support of organizations which advocate such unconstitutional laws can only lead to a demise of our constitutional Republic.

EYES ON THE FIGLEAF

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. WOLFF. Mr. Speaker, next week the House will be considering the critically important Emergency Security Assistance Act, providing $2.2 billion in military assistance to Israel. To those who are concerned about the effect of this aid to Israel upon our current energy crisis, I recommend the following Wall Street Journal editorial which gives a very sober analysis of the Arabs' real interest in boycotting the U.S. I refer them specifically to the Journal's parting comment:

> The idea that to crush Israel (the Arabs) would ignore their economic interests, or would turn charitable if Israel were sacrificed, strikes us as a view tinged with the romanticism which has so often forged the Western view of the Middle East.

The entire text of the editorial follows:

[From the Wall Street Journal,
August 21, 1973]

EYES ON THE FIGLEAF

With the voluminous talk of the "energy crisis" and the eternal tension in the Middle East, a great deal of attention has been focused on the possibility that the U.S. may have to back away from its support of Israel because of its need for Arab oil. We often wonder whether the West isn't more obsessed with Israel than the Arabs are.

Some Arab nations have long made rhetoric about oil and Israel, of course, and the current concern arises because Saudi Arabia has started to join in. Lobbying for a more pro-Arab U.S. policy by Mobil and Standard Oil of California, two of the partners in Saudi Arabia's main oil consortium, apparently results from something King Faisal said to their executives. But we wonder just what the king said, and what he meant by it. Similar well-publicized remarks by his oil minister, Sheik Ahmed Zaki Yamani, seemed on close examination to peter out into remarkably vague and mild statements. We wonder whether the whole issue is being kept in perspective.

Take, for example, the "energy crisis," which in fact is America's adjustment to becoming a larger-scale importer of oil like other industrial nations. Saudi Arabia, which sits on some 28 percent of the world's proven oil reserves, is of course a key factor in meeting future world demand. And the United States will need some Middle Eastern oil to meet its increasing demands. But even 10 years from now about half of American needs will be met domestically, and nearly half of the rest from elsewhere in the Western Hemisphere. Some of the remaining 25 percent to 30 percent will come from non-Arab lands such as Iran. Up to now, for instance, our largest supplier from the Eastern Hemisphere has been Nigeria.

As far as the Arab world is concerned, a renewed war with Israel would indeed endanger the flow of Persian Gulf oil. But this possibility seems to have blinded American opinion to the even more serious Middle East trouble spots that border directly on the oil fields. As an immediate source of an oil crisis, Arab-Israeli conflict ranks somewhere below Kurdish nationalism, the Iraqi-Kuwait confrontation over the islands of Babiyan and Warba, the Iraqui-Iranian dispute over the Shatt al Arab waterway, the Saudi tension with Abu Dhabi over the Buraimi Oasis, and the ethnic rebellion in the Dhofar province of Oman.

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*Coca-Cola since recalls the contact of the writer.

Arab politics might not even be as monolithic on Israel as many in the West seem to think. In spite of King Faisal's fear of the Jews, the Saudis have not forgotten that the 1967 war forced Egypt to withdraw its expeditionary force from the Yemen, from which it occasionally dropped gas bombs on Saudi border villages.

Rhetoric about Israel in fact often seems to be a "figleaf," as one Middle East bureaucrat puts it, for more pressing economic objectives. Saudi reluctance to increase oil production has its real origin in problems of absorbing oil revenues in a near-feudal economy. Yet the London-based International Institute for Strategic Studies says the answer favored by the Saudis and other Arabs is "a dream of transforming themselves from mere reservoirs into industrialized states, exploiting a combination of surplus capital and cheap energy in order to process oil and other goods for the world market." This dream needs cooperation from America, both as an outlet for investment money and for help creating a local petrochemical industry; the IISS remarks that industrialization depends on "assured export markets for oil products and other manufactures."

While Saudi Arabia may suffer pressure from more militant Arab lands, the militants themselves have their own economic interests. We hear reports that Iraq's oil boycott plan, for instance, would give Iraq an increased share of the market. Libya has nationalized American properties ostensibly over Israel, but it has nationalized British properties ostensibly over the Persian Gulf islands of Abu Musa, Greater Tunb and Lesser Tunb. It recently put production limits on Standard Oil of California despite California Standard's pro-Arab lobbying, suggesting that the real targets of the campaign are the oil companies that have not yet agreed to Libya's economic demands.

Egypt's President Anwar Sadat saluted one of Libya's nationalizations in a militant speech about beginning the battle against American interests in the Arab world. Two weeks before, he was inviting Exxon to explore for oil under a 30-year contract. Two weeks later, he was soliciting American bids for construction of a $300 million Suez-Mediterranean pipeline.

The Arabs no doubt are tough customers to deal with, as are the Norwegians, the Ecuadorians, the Alaskans and almost anybody else who sits on oil. There may be serious troubles ahead if the Arab decide to foresake their development plans and sit on the oil instead. But the idea that to crush Israel they would ignore their economic interests, or would turn charitable if Israel were sacrificed, strikes us as a view tinged with the romanticism which has so often fogged the Western view of the Middle East.

BAN THE HANDGUN—IX

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. BINGHAM. Mr. Speaker, the absence of strict national gun controls, in my opinion, is responsible for the influx of out-of-State arsenals used by criminals to terrorize our streets.

The editorial printed below which appeared in the December 3 edition of the New York Post ably argues that the time for a major offensive against the gun racket is long overdue:

GUNS OVER NEW YORK

New and deadly evidence confirms earlier reports that this city has been invaded by rings of gun runners selling thousands of cheaply made cast-metal pistols—"Saturday night specials"—in a fluorishing black market.

The latest bad news is contained in a study by the Treasury Dept.'s Bureau of Alcohol, Tobacco and Firearms which reveals that one gun ring alone transported 3600 such weapons into this area between February and October of last year. And that was one of many such operations.

Local police statistics show a direct correlation between these out-of-state arsenals and a high percentage of the pistols seized in New York crime episodes.

Access to illegally transported firearms is not the exclusive cause of crime in this city. But it is obviously a major contributing factor, and it is one about which something can be done swiftly and decisively.

As Mayor Lindsay and police officials have repeatedly pointed out, the illicit traffic is a product of the lax or nonexistent gun laws prevailing in large parts of the country; 31 states require no permit or license of any kind of purchase a handgun.

The effectiveness of New York City's stringent statute is grimly undermined by the national loopholes. Only drastic federal legislation offers a real answer. But President Nixon and most of the Congressional leadership continue to capitulate to the gun lobby even while periodically waging a rhetorical "war on crime." A major offensive against the gun racket is overdue.

HELP FOR CIVIL SERVICE RETIREES

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. CHAPPELL. Mr. Speaker, at the beginning of this session, I introduced a bill to provide for continual application of current basic pay scales to Federal civil service annuities. This bill provided a more substantial increase than does H.R. 9107 for our older retirees in that it equalized annuities for past retirees based on current pay scales. Although the committee did not report the bill which I introduced, by reporting H.R. 9107 they did affirm the need for action in this area.

Liberalization of civil service retirement laws and increases in Federal salaries in recent years have strengthened civil service retirement benefits. However, corresponding increases have not been reflected substantially in the annuities of our earlier retires. The majority of these retirees do not have social security coverage and will not benefit from recent social security increases. The fact remains that many of these retirees are feeling the full impact of today's inflationary economy and are in dire need of a general annuity increase simply to meet daily living costs. In some cases, the annuity received by civil service retirees is much less than the minimum received by those covered by social security, and the colleration remains that the older the retiree, the lower the income.

Mr. Speaker, I urge the Members of this House to consider carefully the situation of many of our elder citizens on fixed incomes who must also try to some way meet the cost of living today. H.R. 9107 will be a great step toward equalizing earlier benefits with those received by today's retirees, and will be a great help to these senior citizens.

I urge its passage.

SENATOR JENNINGS RANDOLPH: A REAL PROPHET

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. MOLLOHAN. Mr. Speaker, there is a man in our midst in the Congress today who for nearly 15 years has been urging the adoption of a national energy policy. On August 18, 1959, this distinguished Member of the Senate introduced a resolution calling for creation of a Joint Committee on a National Fuels Policy.

On June 12, 1961, this same perceptive gentleman testified before the Senate Interior Committee and urged America to retain its self-sufficiency in meetin ever-growing energy needs. He said, in part:

> The United States of America, the richest country the world has ever known, is, by its own complacency, gradually placing itself at the mercy of those it should most diligently guard against. By neglecting to apprise ourselves of the true, unbiased, realistic picture of our own energy wealth and stability, we are gambling with our country's future.

These prophetic words were spoken in the Halls of this very Capitol more than 12 years ago by my good friend and able collegue JENNINGS RANDOLPH, and the senior Senator from West Virginia.

Senator RANDOLPH, as we all know, is a highly capable veteran Member of the Senate who never ceases in his efforts to pursue legislation that will benefit America and all of her citizens. This country has profited many, many times from the persistent and decisive leadership.

The Wheeling News-Register, a paper in my district, recently documented Senator RANDOLPH's untiring efforts to steer this country toward a self-sufficient energy policy. The editorial, which follows, is a well-deserved tribute to a wise and forthright legislator. I am certain each of my colleagues will agree with the Wheeling News-Register that this Nation can no longer afford to ignore the wisdom of JENNINGS RANDOLPH.

The editorial follows:

SENATOR RANDOLPH THE "PROPHET"

No more prophetic statement relating to the current energy crisis ever was uttered than that by West Virginia's perceptive United States Senator Jennings Randolph on June 12, 1961.

Testifying before the Senate Interior Committee on that date, Senator Randolph spoke these words:

"Every year that passes, in which we become more and more dependent on foreign oil to butress our national economy and security perhaps is one year nearer disaster. What makes this all the more tragic is that it is unnecessary. The United States of America, the richest country the world has ever known, is by its own complacency gradually placing itself at the mercy of those it should most diligently guard against. By neglecting to apprise ourselves of the true, unbiased, realistic picture of our own energy wealth and stability, we are gambling with our country's future.

"This nation has a foreign policy—a defense policy—a farm policy—and the beginnings of a transportation policy. All are necessary and of first importance. But not one of them is so basic to our national security and economy as would be a national policy in respect of those energy fuels that make all of them possible and without which, or lacking an abundant available supply of which, would render all other national policies impotent and would disarrange our country industrially, economically, and militarily."

Imagine that—12 years before the Nation suddenly discovered that it was faced with a critical energy problem, Senator Randolph spelled it all out. In fact even earlier on August 18, 1959 Senator Randolph introduced a resolution in the Senate calling for the creation of a Joint Committee on a National Fuels Policy. Ever since, he has persisted in trying to arouse successive administrations to the need for an overall energy policy to head off a fuel crunch which now has arrived.

It must be galling to Senator Randolph to hear the many warning statements by the "Johnnies-come-lately" to the energy scene these days, including President Nixon's attempt to blame the Congress for not facing up to the problem earlier.

As we noted last week it was the Nixon Administration that opposed Senator Randolph's move in July 1970 to create a National Commission on Fuels and Energy.

It is time that we heeded the advice of Sen. Randolph and set about formulating and establishing specific national energy goals and policy objectives. Whatever policy we have at the moment is the sum total of the product of more than 40 federal departments, agencies and regulatory commissions.

We find it difficult to forget the repeated denials by the Nixon Administration and the major oil companies that a petroleum shortage was looming, denials repudiated by last winter's mini-crisis in heating oil.

Then, last spring, the administration and the industry reluctantly acknowledged that further shortages might be expected, but shrugged these off as potentially no worse than a one or two per cent inconvenience.

It is not too late now for a full and frank disclosure of the facts surrounding our current energy predicament. Regardless of where President Nixon wants to assign blame we insist that the record show the efforts made by West Virginia's U.S. Senator Randolph to head off the troubles with which the nation now is confronted.

THOMAS M. PELLY

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. WYDLER. Mr. Speaker, I had the great pleasure of knowing Tom Pelly in the years that I have served in the Congress. In the early days, he was a great opponent of something called backdoor spending, but what caught my eye was the manner in which he presented his case, which was always received with great respect by his fellow Members in the House.

I had the further pleasure of serving with Tom on the Science and Astronautics Committee and watching him in operation there. He was always most effective. Most important, of course, was the type of man that Tom Pelly was, and I can only say that he added much to the life of our country, and made my own life more pleasurable.

I will miss him.

TEENAGERS: AWARE, LESS PERMISSIVE

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 7, 1973

Mr. HANRAHAN. Mr. Speaker, anyone who has become weary of hearing about the "long-haired, spaced-out" youth of today should find refreshment in this interesting and enlightening article from the Christian Science Monitor. Aside from changing music and clothing fads, I do not think the current generation of youth is much different from any other generation; but if there is a difference, I believe the youth of today is more aware of our Nation's problems than any generation preceding. I am very proud of our young Americans, and I would like to submit the following article for the benefit of my colleagues:

[From the Christian Science Monitor, Dec. 4, 1973]

TEENAGERS: AWARE, LESS PERMISSIVE

CHICAGO.—U.S. teen-agers:

A radical group of unruly, agnostic longhairs who like yoga and get high on pills? No, says a new poll of high school student leaders.

Instead, today's youth is politically and socially minded; they rate the economy and the environment as the two most pressing national problems; the majority favors traditional marriage; three-fourths say they have never used drugs, including marijuana.

A full 95 percent state they get along with their families, and most indicate they think they can communicate with adults, including their parents.

The poll of 26,000 high-school juniors and seniors, the largest independent poll ever taken of high-school leaders, was conducted this summer between June and August by Who's Who among American High School Students, a publication in Northfield, Ill.

PLANS FOR COLLEGE

The total of 153,000 teen-agers was listed in the 7th annual edition of Who's Who, and was selected for leadership in the fields of academics, school activities, community service, and athletics.

The opinions do not reflect the average student, since nearly all the participants have a "B" average or better and plan to go on to college.

In the political arena student leaders gave President Nixon a high rating for improved relations with China and the Soviet Union. They considered ending the Vietnam war and withdrawal of troops a major accomplishment, but 52 percent thought the settlement could have been reached earlier.

Watergate: Although the poll was taken in mid-summer, just after the Ervin committee hearings got under way in the Senate, 7 out of 10 saw loss of public confidence in the President and weaknesses in our political structure.

SUBPOENAS FAVORED

Forty-five percent of the youth, at that time, thought the president should be subpoenaed to testify in court; 40 percent thought he should continue in office unimpeded; 4 percent favored impeachment; 4 percent thought he should be censured; and 7 percent had no opinion.

Showing a general disillusionment with government, one-half the students surveyed thought elected government officials were not living up to acceptable standards. A scant 19 percent considered elected officials persons of honor and integrity—an about-face from results of a similar poll in 1971.

A majority favored limiting individual and corporate campaign contributions to $1,000 or less, while most thought all public officials should be required to disclose their sources of income.

With the prospect of fuel shortages for the winter already apparent, 6 out of 10 students felt the energy crisis could be attributed to poor government management of natural resources, producers holding back on fuel supplies to boost prices, and the public's overuse of energy resources.

PROBLEMS RECOGNIZED

Although they recognized the energy problems, only 43 percent said they would be willing to drive their cars less or to take other energy conservation steps. Two years ago in a similar poll, nearly twice as many students said they would be willing to make necessary sacrifices.

While attitudes toward women and their role in marriage are changing, students' opinions do not reflect radical changes regarding the institution of marriage. A full 83 percent favored the traditional form of marriage the same number indicated a definite interest in practicing birth control and stabilizing population levels.

Today's youth appear to be less permissive than students questioned four years ago. Seventy-two percent say they have never participated in sexual intercourse; only 60 percent replied similarly in 1970. Forty-one percent stated they did not approve of premarital intercourse under any circumstances, while 24 percent indicated they approved only if the couple intended to marry.

The incidence of drug use reported by the student leaders is infrequent, but the use of alcohol is increasing when compared to previous surveys.

Surprisingly, 72 percent reported they had never used marijuana, and over 91 percent of the students surveyed said they had never used any hard drugs. Only 3 percent said they approved of the use of hard drugs—heroin, LSD, speed, cocaine—and only 35 percent approved of the use of marijuana. However, a large majority said drugs were readily available in their high schools.

Only 27 percent said they had never used beer (compared to 34 percent two years ago). Some 38 percent responded that they had wine occasionally and 9 percent indicated they drank it regularly. The response for hard liquor: 29 percent occasionally, 5 percent regularly; for beer: 32 percent occasionally, 15 percent regularly.

The home still is an important bastion to teen-agers: One-half of the students discuss most of their close problems with family members; 68 percent indicated they intended to raise their own children in much the same way their parents brought them up.

SENATE—*Monday, December 10, 1973*

The Senate met at 11 a.m. and was called to order by the Vice President.

PRAYER

Rev. Edward G. Latch, D.D., Chaplain, U.S. House of Representatives, offered the following prayer:

As we continue our journey toward Christmas—grant unto us, O Lord, the royalty of an inward happiness and the serenity of mind which comes from living close to Thee. Daily renew in us the sense of joy and let Thine eternal spirit dwell in us, filling every corner of our hearts with light and grace, so that, bearing about with us the infection of a good courage, we may be diffusers of life and may meet all ills and accidents with a gallant and high-hearted happiness, giving Thee thanks for all things; through Jesus Christ our Lord. Amen.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its secretaries, announced that the House had passed the bill (H.R. 9107) to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes, in which it requests the concurrence of the Senate.

The message also announced that the Speaker had appointed Mr. Eckhardt as a manager on the part of the House in the conference on the disagreeing votes of the two Houses thereon to the bill (H.R. 11324) to provide for daylight saving time on a year-round basis for a 2-year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise, vice Mr. Stuckey, excused.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 5089. An act to determine the rights and interests of the Choctaw Nation, the Chickasaw Nation, and the Cherokee Nation in and to the bed of the Arkansas River below the Canadian Fork and to the eastern boundary of Oklahoma;

H.R. 11459. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes; and

H.R. 11710. An act to insure that the compensation and other emoluments attached to the office of Attorney General are those which were in effect on January 1, 1969.

The enrolled bills were subsequently signed by the Vice President.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. McIntyre) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, December 7, 1973, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rule VIII, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The VICE PRESIDENT. Without objection, it is so ordered.

PRESIDENT NIXON'S FINANCIAL DISCLOSURES

Mr. GRIFFIN. Mr. President, this morning, on the NBC "Today Show," Frank McGee, in conducting an interview with Washington news correspondents, suggested that there are many people who feel that no matter what the President does "he is not going to be able to satisfy these wolves in the Washington press corps who are forever at his door." Mr. McGee was referring to the release by the President over the weekend of details concerning his personal finances.

Frankly, I was surprised by Mr. McGee's use of the term "wolves" in referring to some in the Washington press corps. Certainly, no one in public office would dare refer to the press in those terms.

But the statement by Mr. McGee does serve to point up a difficulty that President Nixon has.

If his critics wanted full disclosure, surely it seems to me that they have gotten it with respect to President Nixon's personal finances. In so doing, President Nixon has made clear that some of the charges which were so widely publicized are obviously false.

I refer, for example, to the widely publicized charge that his daughter, Tricia, did not pay a tax on a capital gain involving the sale of some real estate.

I would hope that instead of nitpicking, we would now see some credit given to President Nixon for taking this unprecedented step. Certainly no President in history has ever bared his financial life to the extent that this President has.

This unprecedented step should help significantly to shore up needed public confidence—and that would be good, I suggest, not only for the President but also for the country.

Mr. President, I ask unanimous consent that a copy of the text of a statement made by the President in connection with the release of his finances be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by the President

With the documents and papers released today, I am making a full disclosure of my financial affairs as President of the United States. No previous President, to my knowledge, has ever made so comprehensive and exhaustive a disclosure as I am making today, with regard to assets and liabilities, expenses and income, during his tenure of office.

The purpose of my release of these papers is to answer questions that have arisen, to remove doubts that have been raised and to correct misinformation that currently exists about what I have earned, and what I own.

To the open-minded, the papers and documents provided today, the facts they contain and the figures they reveal, will lay to rest such false rumors as that campaign contributions were converted to my personal use, that campaign funds were used in the purchase of my home in San Clemente, that I have hidden away a secret $1 million investment portfolio, that I sheltered the income on which my daughter, Tricia, should have paid taxes, and that $10 million in Federal funds was spent on my homes in Key Biscayne and San Clemente.

In conducting my private affairs in public office, I have proceeded in a manner I thought both prudent and in the best interests of my family. And even though both American law and tradition protect the privacy of the papers I am releasing today, these documents are being made public—because the confidentiality of my private finances is far less important to me than the confidence of the American people in the integrity of the President.

Questions and controversies may continue as a consequence of those disclosures. Even the men who have advised me in these matters and who have prepared my financial records, statements, and tax returns have disagreements of professional opinion among themselves. But most of the questions outstanding in the public mind today should be put to rest with the publication of these documents.

With regard to my tax returns—the contents of which will be made public today—the accountants who prepared them listed all of the deductions to which they believe I was entitled, and only those deductions—as any accountant would and should do on behalf of his client.

The following are among the papers being released today:

The figures from the Federal income tax returns which my wife and I filed for the years 1969, 1970, 1971 and 1972.

An independent audit of my private financial affairs, since January 1, 1969, conducted by one of the nation's largest and most respected accounting firms, Coopers & Lybrand of New York City.

The significant documents relating to the major financial transactions since my first Inauguration, including the purchase of my home in San Clemente, and the sale of stock and real estate owned at the time I became President.

TAX REVIEW BY CONGRESSIONAL COMMITTEE

Even with these disclosures, there may continue to be public questions about the tax consequences of two of the transactions shown. One is the gift of my papers to the United States Government in 1969. As permitted by the Internal Revenue Code, I have taken tax deductions for the value of that gift, but some have asked whether the procedures used to make the donation met the technical requirements of the gift law. The second transaction was the sale in 1970 of a large portion of the beneficial interest my wife and I held in our property at San Clemente. No capital gain was declared on that sale for tax purposes, and there has been speculation in the press that the transaction was inaccurately reported.

The tax lawyers and accountants who assisted me in the preparation of my Federal Income tax returns advised me that both of these items were correctly reported to the Internal Revenue Service. My tax attorneys today are giving me similar advice. Furthermore, when it conducted an examination of my tax returns for 1971 and 1972, the Internal Revenue Service reviewed both items and advised me that they were correctly reported.

Nevertheless, questions will continue on these matters and because they are complex transactions, it will not be easy to resolve public doubts without an independent review. For that reason, I have asked the members of the Joint Congressional Committee on Internal Revenue Taxation to examine the procedures relating to both matters and to decide whether, in their judgment, my tax returns should have shown different results. I will abide by the Committee's judgment.

GOVERNMENT SPENDING AT SAN CLEMENTE

Another concern of mine has been the degree of public misunderstanding about Government expenditures at my home in San Clemente.

The perception is now widespread that the Government spent anywhere from $6 million to $10 million on improvements at my home. One myth breeds another, so many observers also believe that the Government improvements have vastly enriched me personally.

Those views are grossly inaccurate. More than 20,000 manhours have now been expended by the General Services Administration to track down every penny of spending. Their findings establish three points:

Total GSA spending on my San Clemente home was $68,000. That money was spent almost entirely on fire and smoke detection systems, interior electrical systems for protection and security, and the installation of an electric heating system that the Secret Service thought necessary for safety purposes.

The GSA spent approximately $635,000 on the grounds surrounding my home. That work consisted largely of the installation of lighting and alarm systems for security purposes, construction of walls and guard posts, and extensive re-landscaping to restore areas torn up when the protective devices were installed.

By comparison, almost $6 million has been spent by the military services to construct and maintain the Western White House Office complex. That complex is not on my property, but on Government property, and when it is not in use for the White House staff, it is frequently employed as a conference center for public and civic groups.

Unfortunately, the American people have been misled into believing that the funds for the office complex were spent on my home. The fact that the total spent on my home was $68,000 has been ignored; the fact that my wife and I spent ourselves three times as much as that, $187,977 out of our own funds, for real improvements to our homes, has been lost altogether. I trust that with the release of these documents the impressions can be erased and the truth of this matter firmly established.

FUTURE OF THE WESTERN WHITE HOUSE

As public misunderstandings over San Clemente expenditures pass away in the future, we should recognize that the Western White House complex will continue to be a valuable asset for the Nation.

I have always been concerned that over the course of a single man's eight years in office, the country probably will not derive from that complex benefits proportional to the Government investment there. The office facility would, of course, remain available for public use after my term ends, but the usefulness of San Clemente as a conference center, guest facility for visiting foreign dignitaries, and working base for future Presidents would be far greater in the coming decades if what is now my private residence, La Casa Pacifica, could also be part of that complex.

Accordingly, at the time of my death or that of my wife, which ever is later, we intend to make a gift to the people of the United States of my home at San Clemente.

I have directed my attorneys to take the necessary steps to accomplish this, so that future Administrations and future generations can take advantage of this beautiful Western setting to help maintain a truly national perspective for the Presidency.

Mr. MANSFIELD. Mr. President, I was interested in the remarks just made by the distinguished acting Republican leader. The release of the President's statement is unprecedented, and I commend him for laying all the facts before the press and the public. As far as I am concerned, it is my belief that what he has done in the payment of his taxes to the Federal Government has been legal. But I think questions will be raised on the basis of appearances relative to the amount of taxes which the President paid during the last 3 years, and there will also be questions about the lack of payment of income taxes to California, Florida, or the District of Columbia. I would assume they would be called State income taxes. But those questions are bound to be raised, and it is well to lay them on the record.

I have every confidence that the Joint Committee on Internal Revenue Taxation will go into this matter, as was requested by the President; that they will conduct a thorough survey; and that they will come up with a conclusion which should lay all doubts, at this time apparent, at that time at rest.

ORDER OF BUSINESS

The VICE PRESIDENT. Does the Senator from Montana wish to reserve the remainder of his 15 minutes?

Mr. MANSFIELD. Mr. President, I yield back the remainder of my time.

The VICE PRESIDENT. Under the previous order, the Senator from Michigan (Mr. Griffin) is recognized for not to exceed 15 minutes.

Mr. GRIFFIN. Mr. President, the Senator from Oklahoma (Mr. Bartlett) is on his way to the floor of the Senate. When he arrives, I will yield to him such portion of my time as he may require. In the meantime, I suggest the absence of a quorum, with the time to be charged against my time.

Mr. President, the majority leader suggests that the time be charged to the time that was available to him.

The VICE PRESIDENT. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may have returned to me the time previously allotted to me, which was turned back.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I yield 5 minutes to the distinguished Senator from Virginia (Mr. Harry F. Byrd, Jr.).

WASTE OF GASOLINE TO BUS SCHOOLCHILDREN

Mr. HARRY F. BYRD, JR. Mr. President, the Richmond Times-Dispatch of Tuesday, December 4, published a most interesting article captioned "No Buses, No School." The editorial points out that 530,000 gallons of gasoline a year will be required to bus schoolchildren from one end of the city to the other. This is a part of the compulsory busing of children to achieve an artificial racial balance.

In view of the serious situation in this country in regard to the consumption of gasoline, here is a complete waste of 530,000 gallons of gasoline in this one city of our Nation.

I think it is unfortunate that the Senate did not adopt the proposal offered by the distinguished Senator from North Carolina (Mr. Helms) as an amendment to the energy bill which was before the Senate recently. That proposal would have done away with the compulsory busing of schoolchildren for the purpose of creating an artificial racial balance.

This editorial goes on to point out that if the gasoline is not available in the city of Richmond, the problem that the city will be faced with will be to close down the schools, rather than to go back to the old system, or the system that existed until just recently, whereby the children in those communities could walk to their closest neighborhood schools.

It seems to me that this is a very foolish program, this compulsory busing, and I am disappointed that the Senate has refused—that Congress has refused—to take action to eliminate it.

Mr. President, I ask unanimous consent that the editorial in the Richmond Times-Dispatch be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Richmond Times-Dispatch, Dec. 4, 1973]

No Buses, No School?

In the face of this nation's worst fuel shortage since World War II, those perspicacious people who run the Richmond public schools believe they have no alternative but to continue to burn 530,000 gallons of gasoline a year to bus schoolchildren from one end of the city to the other.

And if all those yellow buses guzzle all their gasoline and can get no more, what then? Why, the city would just have to close down its public schools, a ranking administrator has said.

Such nonsense! Prior to 1970, the city managed to make public schooling available to all without the aid of a costly bus fleet or 55,000 gallons of gasoline a month. Most students walked to their neighborhood schools and the remainder rode Virginia Transit Co. buses. Even a moderate snowfall usually failed to close the city schools in the walk-in days. Remember? To assert now that the school system would have to lock its doors for lack of fuel for buses is to exhibit either an acute case of tunnel vision or amnesia.

But why consume all that fuel in the first place? Citizens are being asked to exert extra effort and make personal sacrifices to conserve gasoline and oil in order to protect jobs and the economy. At a minimum, the Richmond School Board ought to be able to bestir itself sufficiently to walk down to U.S. District Court and ask Judge Robert R. Merhige Jr. to release the system from its busing plan. Adoption of a new pupil assignment system minimizing busing ought to be done now, in time for the start of the second semester in January.

It will be said that to transfer pupils in the middle of a school year would be "disruptive," and there would be problems no doubt. But can anyone honestly argue that returning to neighborhood schools would be more disruptive than continuing a plan that (a) has chased some 10,000 pupils from the city schools and substantially resegregated the system, and (b) every day drains thousands of gallons of gasoline that could otherwise be used for critical enterprises?

The school board cannot defy a federal court order. However, the board's contention that it has no choice but to continue large-scale busing until the tanks run dry is unpersuasive, because the board has not even tried to have the court order dropped or modified. And the argument that a return to neighborhood schools is unfeasible because some schools could not accommodate all the children in their neighborhoods is baseless. Where crowding did occur, students could go to the next closest school. Some might still have to have transportation. But the net gasoline savings nevertheless would be substantial.

Busing isn't working for its intended purpose—creating racial balances—in the first place. But when citizens are being asked to shiver in their homes and offices and to leave their automobiles in the driveway, the frivolous busing of thousands of children who could walk to school becomes doubly absurd.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be taken out of my time.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, while continuing to reserve whatever time may remain under the special order for the distinguished majority leader, I ask unanimous consent at this time that I may yield such part of my special order as he may require to the distinguished Senator from Oklahoma.

The VICE PRESIDENT. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from Michigan for making the time available.

REMOVAL OF PRICE CONTROLS ON NATURAL GAS AND CRUDE OIL

Mr. BARTLETT. Mr. President, on October 5, I asked both integrated and independent companies engaged in the production of domestic oil and gas to answer the following question:

> Assuming that sufficient new acreage will be available in the United States for the exploration for new reserves of oil and natural gas and that price controls on either or both commodities are lifted, what percent of the additional cash flow resulting from the removal of existing price controls on natural gas or crude oil or both, would you invest in the exploration for and development of new domestic petroleum and natural gas reserves including domestic oil and gas pipelines, domestic refineries, and domestic natural gas processing plants?

I requested that the responses to this question be sent to me and the appropriate committees of Congress and to the appropriate departments of the Cabinet.

I promised that I would make the data submitted to me available to all my colleagues and that I would insert a summary of the data into the Record for all to see.

Mr. President, as I said in my remarks of October 5, 1973, I have spoken freely many times concerning our Nation's energy situation. I have given more than a dozen and a half speeches on energy on the Senate floor, and have spoken about energy on numerous other occasions before interested groups. In most of those speeches, in the interest of achieving adequate domestic supplies of energy, I have urged that all price controls on natural gas and crude oil be removed. I have said specifically that there needs to be increased economic incentive, that there must be considerably more capital available, and that the consumers must assume part of the responsibility by paying higher prices if adequate supplies of energy are to be developed.

Most people agree that a free market will increase our supplies more rapidly than a controlled market—even a controlled market which provides for price increases for natural gas and crude oil.

But many wonder if the petroleum industry would invest the increased cash flow resulting from decontrol of prices into areas that will help to solve our domestic energy shortage.

Even though I have no doubts that the great majority of increased profits will be used to increase the supplies of domestic energy, I thought that the question deserved a response to clear the doubts raised by some individuals. The people and the Government have a right to be informed and need to be assured that the price of decontrol is worth it—and today I will summarize the replies of those petroleum companies and independent producers of petroleum in America to show that it will be worth it.

I asked over 400 integrated and independent companies engaged in the production of domestic oil and gas to answer the question I read earlier.

My office has received replies from 115 integrated and independent companies. Not one of those replies gave any indication that a large portion of the additional cash flow resulting from the removal of existing price controls would not be used to increase domestic energy capabilities.

On the contrary, 93 of the companies responded by saying that "virtually all or 100 percent of their increased cash flow would be so utilized." The remaining few companies, although they did not say that they would reinvest virtually all the additional cash flow, did imply that they would reinvest significant amounts such as "90 percent, a minimum of 90 percent, or a minimum of 75 percent."

It makes sense that these companies, as they have indicated to me, would continue to invest in that industry which they know best, especially when the opportunity for a reasonable rate of return is improved by price decontrol.

Mr. President, it was interesting to note that all of the 8 largest major oil companies replied to the question and 16 of the top 20 producing companies responded.

Mr. President, I ask unanimous consent to have printed in the Record a chart showing a breakdown of the 115 companies based on 1972 oil production.

The PRESIDING OFFICER (Mr. Harry F. Byrd, Jr.). Without objection it is so ordered.

The material, ordered to be printed in the Record, is as follows:

THE FOLLOWING IS A BREAKDOWN OF THE 115 COMPANIES BASED ON 1972 OIL PRODUCTION

1972 daily average oil production (barrels per day)	Number of companies responding	Total oil production (barrels per day)	Total gas production (million cubic feet per day)
1,000 or less	22	9,430	86,452
1,000 to 10,000	47	161,071	1,380,121
10,000 to 55,000	12	352,944	2,281,592
55,000 and up	16	6,556,535	28,751,662
Letters without production figures	18		
Total	115	7,079,980	32,499,827

Mr. BARTLETT. Mr. President, the replies received represent 7,079,980 barbels per day of crude oil and natural gas liquids and 32,499,827 million cubic feet of natural gas per day. That is 60 percent of 1972's daily average crude oil and natural gas liquids production and over 50 percent of the daily average gas production.

The small fellow—the independent producer—almost without exception said unequivocally that he would invest all additional profits back into the petroleum industry.

Common phrases used by the small producers were—

> I would expect to invest every additional dollar of cash flow generated in new domestic oil and gas exploration.

And—

> Any additional monies received because of decontrol of above products would likewise be

> invested in exploration for new energy reserves.

And—

> Any increase in our cash flow resulting from higher crude oil and gas prices would be immediately reinvested in a search for, and development of, more reserves.

Exxon Co., U.S.A., the largest domestic producer with 1,114,000 barrels per day of crude oil and natural gas liquids in 1972 and 5,952,000 million cubic feet of natural gas per day stated—

> We would anticipate investing all of the incremental cash flow resulting from decontrol of prices in the domestic energy operations after providing for royalties, taxes and dividends.

Mr. President, I ask unanimous consent to have printed in the Record at the conclusion of my remarks a copy of the letter from Exxon Co., U.S.A., to which I have just referred and also copies of the letters to which I will make further reference.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BARTLETT. Mr. President, Texaco, Inc., pointed out the difficulty encountered when a major oil company tries to forecast investments under hypothetical circumstances. Texaco said—

> While the exact amount of increase in cash flow which would result from lifting of controls is impossible to quantify, we believe, nevertheless, that Texaco's investment performance in the past provides a realistic view of how our company would employ any additional cash flow resulting from deregulation.

Texaco also said—

> You may be assured that the lifting of price controls on oil and natural gas would be of significant assistance in helping to meet the enormous capital investment required for the exploration and development of additional domestic petroleum and natural gas reserves and associated downstream facilities.

Gulf Oil Corp. directed attention to its capital expenditures in relation to net income. In no year from 1968 thru 1972 did Gulf have as much income as it had capital expenditures. Gulf said:

> To help finance these programs, corporate debt increased almost 50 percent, or from 1.31 billion dollars to 1.94 billion dollars. The increasing need to resort to debt financing put a restraint on these programs.

Shell Oil Co., in its response said—

> A unique answer to your question depends on difficult estimates, including the method of timing of new acreage awards, the fraction of increased revenue actually available for investment, and the effects of many constraints, such as availability of steel and other materials. . . . We also believe that greatly expanded offerings of acreage could result in logistical problems in such areas as exploration and drilling equipment, ship yards, and steel.

Mr. President, I would like to call attention to my statements on this floor of November 29 and December 3, 1973, addressing these problems to which Shell has referred.

Standard Oil Co. of California estimated that about "90 percent of any additional cash would be so reinvested."

Atlantic Richfield Co., proposed that—

> Not only would essentially all such increases be reinvested in the domestic oil industry, except for that portion of the after-tax book profit that is generally distributed in the form of dividends to the millions of company stockholders.

But also that—

> Increased profits have a multiplying effect on the borrowing capacity of the company. This generates additional funds for investment in the domestic industry.

This is an important point that should not be forgotten—that increased cash flow increases the ability of companies to obtain additional financing.

Standard Oil Co. (Indiana) demonstrated the effects of the 1969 decrease in the depletion allowance in their investments. They said:

> Our exploratory expenditures in 1969 were 56% above 1968, but in 1970 exploratory spending was reduced 68% below 1969. This significant decrease clearly was related to the cut in the depletion allowance of 1969.

And to show further the effect of higher prices Standard Oil Co. (Indiana) said:

> In contrast, our exploration budget for 1974 will be increased by a substantial margin over 1973, due principally to higher oil and gas prices that will justify exploratory activities previously judged to be uneconomic.

Mobil Oil Corp., pointed out that much of the additional spending by the petroleum industry has been paid to the Federal Government. Mobil said:

> Over the last five years Mobil has been consistently increasing its domestic capital in exploration expenses as a percentage of its total net income. I should point out, however, much of the increase in spending levels have resulted from higher lease bonuses paid, principally to the Federal Government. To this extent, the increased spending flows directly back to the consumer through the Federal government.

Mobil's chairman of the board, Rawleigh Warner, Jr., made an important observation when he said:

> To the extent that prices of new supplies of natural gas are decontrolled we will have a direct test of the value of such action, since the higher price will not be paid unless the new supplies are forthcoming.

Getty Oil Co. noted that it anticipated that a smaller part of its future discretionary corporate cash flow will be invested in domestic programs than historically. The reasons:

> This is primarily the result of current unavailability of attractive domestic acreage and projections of a very low rate of return on future domestic investments due to present pricing restrictions and high capital investment requirements.

Mr. President, this statement by Getty Oil Co. serves to indicate the need to remove the "present pricing restrictions."

Sun Oil Co., in its response, made an important observation as to why it is difficult for a company to quantify the percentage of additional cash flow that would be reinvested for the purposes that I had indicated in my question. Sun said:

> Investment decisions depend upon a rather precise knowledge of a substantial number of facts current at the time the decision is made, coupled with judgments related to the future. Forecasting the facts is beyond our ability; the judgments alone are difficult enough, and prove often enough to have been incorrect. Unless someone can guarantee the future levels of supply, demand, price, cost of materials and wages, interest rates, trends in these factors at different time intervals, decisions to be made by competitors that will affect opportunities for Sun, new discoveries to be made that open unexpected provinces, etc. Attempts to calculate additional cash flow are hypothetical.

Marathon Oil Co.'s reply carried the competitive spirit of the oil industry when it said:

> It is marathon's intention to continue to grow, and in doing so, we hope to at least maintain the company's share of the Nation's output of liquid and gaseous hydrocarbons. These objectives can only be accomplished by expanding the company's outlays for exploration and development. Accordingly, we can assure you that the great bulk of any increase in cash flow would be plowed back into our activities.

Continental Oil Co. anticipated that—

> Conoco would invest 100% of the additional cash flow so generated into the operations described above. Further, if a healthy capital and stock market is available, Conoco would probably secure additional financing, either debt or equity, and likewise invest these funds.

Phillips Petroleum Co., as background for the decontrol of prices, called attention to the fact that:

> In 1972 Phillips Petroleum Company had approximately 1.7 billion dollars of total assets employed in the United States in exploring for, producing, pipelining, refining and marketing crude oil, natural gas and petroleum products. The rate of return in 1972 on this investment was 6.3%, which reflects a decline from 7.9% in 1967. Our rate of return on these operations for the first nine months of 1973 has declined further to 5.3% compared to 5.8% on oil-wide assets. This continuing decline in our rate of return vividly illustrates the need for improved earnings if this segment of our national economy is to be able to compete for new capital to invest in supplying energy to the Nation's consumers.

Phillips went on to point out that—

> When compared with rates of return in excess of 8% authorized to relative risk-free interstate transmission companies by the Federal Power Commission, it becomes obvious that Phillips' rate of return has not kept pace, and contrary to apparent public misconceptions our investment in domestic oil and gas activities at present price levels is far from a bonanza.

Cities Service Co. itemized important limitations that must be removed if new supplies of energy are to be forthcoming within the United States. Cities Service said:

> Our ability to carry out our dedication to expand our energy producing activities depends on the following assumptions about the future: (1) That new prospective exploration acreage is available and that sites for building new processing facilities can be located in economically advantageous areas. (2) That the market place will be free of direct Government intervention in the form of price controls and allocations affecting supply and demand of alternative energy forms. (3) That a prospective rate of return on the resources so dedicated will be sufficient to justify the risk. (4) That sufficient numbers of qualified geologists, engineers, and other technicians will be available to get the job done. (5) That a healthy and vigorous infrastructure will be available upon which

> the industry counts heavily for: supply of materials; the design and construction of facilities; providing trained rig crews; financial market to provide both equity and borrowed funds, etc.

Skelly Oil Co. replied that—

> If a substantial relaxing of price controls does not occur, it is certain that we will spend substantially less than we are now forecasting in domestic areas, perhaps even less than during the last five year period. In other words, a substantial increase in the selling prices is necessary to justify this increased investment we are planning. We believe that with the proper incentive from higher prices, we will commit to domestic expenditures for oil and gas exploration, production or related facilities virtually all of the additional cash flow that results from removal of price controls.

The Louisiana Land and Exploration Co., in response to my question said:

> The answer is emphatically "yes" provided that prospective areas which can be reasonably expected to produce are available in the U.S. In the past we have been able to find such areas and we expect to be able to do so in the future if governmental policies including those of the environmentalists will permit us to do so.

Mr. President, these short excerpts which I have just read are from the responses received from 16 of the largest 20 producing companies in the United States. They represented 6,556,535 barrels per day of crude oil and natural gas liquids production in 1972. They represented 28,751,662 million cubic feet of natural gas production per day in 1972. That amounts to approximately half of the total domestic production in both instances.

Mr. President, I submit that these major companies and a large number of smaller companies are unquestionably willing to invest all or a major portion of any additional cash flow that might accrue because of the deregulation of the price paid for natural gas and crude oil into the domestic petroleum industry—to make our domestic energy industry stronger.

It makes no sense to me to pay American dollars to foreigners for additional foreign oil—if and when this foreign oil is available—instead of paying American dollars to Americans to help the American economy, to give Americans jobs, to improve America's national security, to increase American energy supplies so that the American people will not have to sacrifice because the Federal Government for several sessions of Congress and through several administrations has failed to recognize the importance of the free market's ability to solicit ample energy supplies.

Higher prices of conventional fuels will not only encourage producers to increase their output of these fuels but also to use other techniques as they become commercial—such as degasification and liquifaction of coal and extracting of oil from shale and tar sands—and further to undertake research on geothermal, solar, nuclear fusion, and other sources of energy.

Mr. President, the obstacles and uncertainties created by Government regulation must be minimized and eliminated in all those areas where the free market can operate effectively to increase energy supplies.

EXHIBIT 1

EXXON CO.,
Houston, Tex., November 28, 1973.

Hon. DEWEY F. BARTLETT,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR BARTLETT: Your letter of October 5, 1973, to Mr. J. K. Jamieson, was referred to Exxon Company, U.S.A. because we are the principal domestic operating affiliate of Exxon Corporation.

You questioned what percent of the incremental cash flow arising from the removal of price controls would be invested in domestic petroleum exploration, production, gas plants, refineries and pipelines. We would anticipate investing all of the incremental cash flow resulting from decontrol of prices in domestic energy operations after providing for royalties, taxes and dividends. This assumes state or federal regulations or environmental restrictions do not impede our investment activities.

In our view, allowing oil and gas prices to reflect their true commodity value is necessary if the industry is to make its planned investments, maintain a reasonable financial equity position, and provide an adequate return to the stockholders. Studies indicate that, even if the incremental cash flow resulting from price decontrol is available, our Company, as well as the rest of the industry, will require substantial outside borrowing or new equity offerings to meet investment plans.

In answer to your second question, Exxon Company, U.S.A.'s average gross daily production of crude oil and natural gas liquids for 1972 was 1,114,000 barrels. Our natural gas sales were 5,952 million cubic feet daily.

We appreciate your interest and constructive action in assisting the domestic petroleum industry in its efforts to serve the energy needs of the United States.

Sincerely,

——— ———.

TEXACO INC., *October 30, 1973.*

Hon. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: Your letter of October 5, 1973 requested that Texaco furnish you with its average daily domestic oil and gas production rates for 1972, and that it reply to the following question:

"Assuming that sufficient new acreage will be available in the United States for the exploration for new reserves of oil and natural gas and that price controls on either or both commodities are lifted, what per cent of the additional cash flow resulting from removal of existing price controls on natural gas or crude oil or both would you invest in exploration for and development of additional new petroleum and natural gas reserves, including domestic oil and gas pipelines, domestic refineries and domestic natural gas processing plants?"

You may be assured that the lifting of price controls on oil and natural gas would be of significant assistance in helping meet the enormous capital investment required for exploration and development of additional domestic petroleum and natural gas reserves and associated downstream facilities. Huge capital expenditures of the past must be increased even to maintain present levels of production. Removal of price controls imposed by the Government would provide a portion of the additional capital required for the massive effort needed to improve our domestic supplies.

While the exact amount of increase in cash flow which would result from the lifting of controls is impossible to quantify, we believe, nevertheless, that Texaco's investment performance in the past provides a realistic view of how our Company would employ any additional cash flow resulting from deregulation.

During the past five years, capital and exploratory expenditures for Texaco and its subsidiaries on a worldwide basis averaged more than $1 billion per year. These annual expenditures represented, on average, about 81% of Texaco's annual cash flow. For 1972 these expenditures were equivalent to more than 90% of cash flow. Historically, more than 60% of all Texaco's capital and exploratory expenditures, world-wide, have been made for producing operations; and during the last three years approximately 75% of such expenditures made in producing operations have been for domestic producing operations.

Texaco's domestic gross production during 1972 averaged 916,000 barrels per day of crude oil and natural gas liquids and natural gas sales volumes averaged 4,453 MMCFD.

We solicit and urge your continued efforts toward passage of deregulation legislation which will permit the most rapid and complete return to the free marketplace.

As you requested, I have forwarded a copy of this letter to all those indicated on your list.

Sincerely yours,

MAURICE F. GRANVILLE.

GULF OIL CORP.,
October 26, 1973.

Hon. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: Thanks for your inquiry concerning the possible effect of removal of price controls on natural gas and crude oil on Gulf's investment plans and programs.

The most accurate answer that we can give in reply to your question is that a very high percentage of any increased income accruing to Gulf through the removal of price controls would be reinvested in the exploration for, production of and processing of fuels. Actually, the resulting increase in such expenditures on the part of Gulf could well exceed the increase in income.

Tabulated below are the corporate capital expenditures and income after tax but before extraordinary deductions, for the past five years. These capital expenditures were made chiefly for the exploration and production of oil, gas, uranium and coal, in facilities for processing those materials to usable fuels, and in facilities for their transport.

[In millions of dollars]

	1972	1971	1970	1969	1968
Capital expenditures	718	983	958	1,033	936
Income	447	561	550	611	626

To help finance these programs, corporate debt increased almost 50%, or from $1.31 billion to $1.94 billion. The increasing need to resort to debt financing put a restraint on these programs. The declining profitability of the industry and Gulf (Gulf's return on shareholders' equity, before extraordinary item, fell from 13.7% in 1968 to 8.2% in 1972) also put a restraint on these programs.

Today, uncertainty in regard to future foreign supplies is an additional and growing hindrance. Environmental restrictions are not only holding up domestic development but are siphoning funds (however well intentioned) from the available investment pool.

The profitability of the industry has improved in 1973, but this profitability is fragile because of rapidly increasing raw material, operating and investment costs. Further, the industry is facing unprecedented needs for capital to find and refine new domestic crude oil supplies and to develop shale oil, coal gasification and coal liquefaction on a significant commercial scale.

In the long run, freedom from price restraints is the surest means for bringing about the efficient use of energy through conservation and of allocating limited energy supplies to the most desired use.

You are correct in your assessment that increased profitability and a climate of confidence in the industry must be restored if the industry is to attract the funds required to meet our nation's energy requirements.

A copy of Gulf's energy statement is attached. It covers many of the above points, but in greater detail.

Very truly yours,

GULF OIL CORP.,
W. L. HENRY.

SHELL OIL CO.,
Washington, D.C., November 16, 1973.
Hon. DEWEY F. BARTLETT,
U. S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR BARTLETT: This letter is in response to your inquiry of October 5, 1973, which Mr. G. A. Wagner forwarded to us for reply. We regret the delay, however, we have been engaged in a concerted effort to derive a specific, quantified answer. Unfortunately, we have been unsuccessful and I would like to explain why we have been unable to be as specific as we would like.

A unique answer depends on difficult estimates, including the method and timing of new acreage awards, the fraction of increased revenue actually available for investment, and the effects of many constraints, such as the availability of steel and other materials.

Conventional exploration and production activities are most expandable in Alaska and the offshore of the conterminus 48 states where it is likely that large, but undetermined, portions of the increased revenue would revert to State and Federal governments in the form of increased lease bids, royalties, and production and income taxes.

We also believe that greatly expanded offerings of acreage could result in logistical problems in such areas as exploration and drilling equipment, shipyards, and steel. It could take a number of years to scale up these activities to the required level.

Despite our concern with the foregoing uncertainties which would make any quantified forecast more of a guess than an estimate, we can assure you that our highest priority for future investments will continue to be given to conventional domestic opportunities. If these opportunities are not sufficient to absorb an increased income, then investments would be increased in domestc nonconventional energy activities and foreign ventures. Such domestic, nonconventional activities are the development of coal, oil shale, and geothermal sources of energy.

Once again, we are sorry we could not be more specific in replying to your inquiry. However, we hope that these observations are of some value.

Sincerely,

J. CARTER PERKINS.

STANDARD OIL CO. OF CALIFORNIA,
San Francisco, Calif., October 18, 1973.
Hon. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: Thank you for your letter of October 5, 1973 concerning decontrol of natural gas and crude oil prices. This is of vital importance to our nation and our industry, and I appreciate the opportunity to answer your two quetsions.

Your first question has to do with the percentage of any additional cash flow resulting from removal of price controls that would be reinvested in exploration for and development of new reserves and production, transportation, processing, and marketing facilities. Based on an analysis of our past and anticipated capital and exploratory expenditure requirements, we estimate that about 90% of any additional cash would be so reinvested.

As to the second question, our 1972 net production was 462,000 barrels per day of domestic crude oil and natural gas liquids and 1,454,000 MCF per day of domestic natural gas.

Your interest in this very critical problem is greatly appreciated.

Sincerely,

O. N. MILLER.

LITCHFIELD CO.,
Los Angeles, Calif., November 2, 1973.
Hon. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: In your letter of October 5 to Mr. Robert O. Anderson, you asked what percentage of additional cash flow resulting from removal of existing price controls on natural gas or crude oil would Atlantic Richfield invest in exploration for and development of additional new petroleum and natural gas reserves, including domestic oil and gas pipelines, domestic refineries and domestic natural gas processing plants. It would be quite difficult to answer your specific question directly because it would require a mutual understanding of future world energy prices and tanker rates. Let me answer your question in an indirect but hopefully satisfactory manner.

Judging from our most recent five year plan review, I would say that essentially all such increases would be reinvested in the domestic oil industry except for that portion of the after tax book profit that is generally distributed in the form of dividends to the millions of company stockholders. The dividend payment percentage is likely to reduce versus historical payment ratios due to capital requirements facing the oil industry, particularly if attractive investment opportunities are available in the petroleum industry. Increased profits have a multiplying effect on the borrowing capacity of the company. This generates additional funds for investment in the domestic industry.

For the purposes of our five year plan, we assumed fairly quick decontrol of new natural gas prices and no Federal government control on crude oil prices. With these assumptions and the then existing price and cost expectations, our company was looking at net outside financing requirements of well over $1.5 billion for domestic energy development through 1977 when we expect Prudhoe Bay to come on production. These financing requirements would be fulfilled by both direct and indirect financing arrangements. As you well know, oil and gas prices have recently been increased rapidly spurred on by foreign crude oil price increases, but at the same time it has become apparent that many of our costs will be substantially greater than previously anticipated, such as the recent announcement by Atlantic Richfield that the trans-Alaska pipeline total cost would be $500 million to $1 billion more in cost than anticipated only several months ago.

In view of these factors and our determination to be leaders in the exploration for conventional reserves as new areas are opened and the development of synthetic oil and gas from tar sands, shale oil and coal, we have little doubt that any additional revenue received from price increases can be effectively plowed back into our business which is developing energy resources for the country.

In your letter you also requested Atlantic Richfield's average daily production of domestic oil and gas in 1972. The net domestic crude oil and NGL production was 400,569 barrels per day. The gas produced and sold was 1,945,744 thousands of cubic feet.

We appreciate your efforts on behalf of the consuming public to increase the supply of domestic energy. If we can be of further help, please do not hesitate to call upon us.

Sincerely,

E. M. BENSON, Jr.

STANDARD OIL CO. OF INDIANA,
Chicago, Ill., October 16, 1973.
Hon. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: Your letter of October 5 solicited comments and advice regarding the extent to which any additional cash flow accruing to Standard of Indiana from decontrol of oil and/or gas prices would be invested in exploratory efforts to increase oil and gas reserves. I am pleased to offer the remarks hereafter in response to your inquiry.

I concur fully with your belief that greater economic incentive through free market activity is needed before oil and gas producers will intensify their efforts to find new reserves of domestic oil and gas. As you know, burdensome price restrictions imposed for many years on the industry have prevented natural gas prices from attaining levels commensurate with that commodity's true worth in the energy market. The extent of the damage from excessive control of gas prices is illustrated by a recent FPC report that domestic gas reserves committed to interstate pipelines have declined for the fifth consecutive year.

The industry knows that there must be a substantial improvement in economic incentives through higher gas prices before a reversal will occur in the gas discovery record. It is not unreasonable, however, for the consuming public to question whether higher oil and gas prices would be translated into greater exploratory effort so that the nation's petroleum supply would be increased.

While it is not possible to indicate precisely the amount of any incremental funds that would be channeled into the joint search for new oil and gas, we are aware in Standard of Indiana that our past budgets for exploration usually have reflected both favorable and unfavorable changes which affected earnings. For example, our exploratory expenditures in 1959 were 56 percent above 1968, but in 1970 exploratory spending was reduced 68 percent below 1969. This significant decrease clearly was related to the cut in the depletion allowance in 1969. In contrast, our exploration budget for 1974 will be increased by a substantial margin over 1973, due principally to higher oil and gas prices that will justify exploratory activities previously judged to be uneconomic.

Our company will always channel maximum available funds into exploration for oil and gas whenever an adequate return is foreseen. Certain high risk areas such as in the Arctic, deep water offshore operations, or very deep onshore penetrations, especially require adequate incentives or exploration cannot be attempted. Similarly, higher prices are needed to increase drilling activity in marginal areas which otherwise would be unattractive, e.g., the Anadarko Basin in Oklahoma, and the Hugoton gas field in Kansas and Oklahoma.

When we consider the fact that oil and gas production historically has offered a higher rate of return, on average, than the other phases of petroleum operations, it follows that any cash flow increase resulting from better prices will be directed into exploration and development work. This has been the experience in Standard of Indiana, and historical data show that exploratory activity by the industry likewise corresponds closely to the long term trends of oil and gas prices. Such a correlation between prices and exploratory drilling activity is well illustrated on the attached graph prepared by the independent Petroleum Association of America. If data were available to extend the graph to include 1973, a significant upturn in exploration would accompany the higher oil and gas prices of that year. Such a turnabout is suggested by API statistics which show that during the first six months of this year total gas well completions were up 29.6 percent over the like period in 1972, while exploratory gas wells alone increased 21.7 percent

Certain groups express concern that increased funds resulting from higher oil and gas prices will be diverted into foreign activities or chemical operations to the exclusion of domestic exploration, thereby failing to add anything to U.S. reserves. Such diversion will not occur with Standard of Indiana, as we are well able to finance our requirements for foreign capital with foreign-source funds, while our chemical activities are of a self-sustaining nature.

Your letter also asked for our daily production of domestic oil and gas in 1972. Crude oil and natural gas liquids production in the U.S. for Standard of Indiana was 487,000 barrels daily in 1972, while natural gas production was 3,118 million cubic feet per day.

I trust that the information above will respond adequately to your questions. At your request a copy of this letter is being sent to interested Congressmen and officials in the government.

Sincerely yours,

J. E. Swearingen.

Mobil Oil Corp.,
October 18, 1973.

Hon. Dewey F. Bartlett,
U.S. Senate,
Committee on Interior and Insular Affairs,
Washington, D.C.

Dear Senator Bartlett: In response to your letter of October 5, I am attaching a schedule showing average daily production of domestic oil and gas in 1972 and the previous four years.

The question you pose regarding the amount of new exploration which could be attributed to higher gas and oil prices is a difficult one to quantify. As I am sure you know, our decision to invest in new exploration activity depends not only on available cash, but upon the relative attractiveness of the prospects we have available to us. While the opening of large areas presently unexplored in the United States (particularly offshore) would certainly enhance the attractiveness of the prospects available to us, it is exceedingly difficult to forecast the particular mix of expenditures that would result as we try to select the best projects among those available. Moreover, no one can, with certainty, predict the success level that is likely to result from an expanded program, except to say that expanded exploration in new areas has the potential for very substantial new discoveries. By the same token, expanded exploration in the mature areas onshore will result in somewhat higher dry hole ratios as we drill higher risk prospects.

Over the last five years Mobil has been consistently increasing its domestic capital and exploration expense as a percentage of its total net income. I should point out, however, that much of the increase in spending levels has resulted from higher lease bonuses paid, principally to the federal government. To this extent, the increased spending flows directly back to the consumer through the federal government.

In your remarks on the floor of the Senate you said, "The people and the Government have a right to be informed and need to be assured that the price of decontrol is worth it." In this connection, I would say that to the extent that prices of *new* supplies of natural gas are decontrolled we will have a direct test of the value of such action, since the higher price will not be paid unless the new supplies are forthcoming. While I would certainly not want to imply any endorsement of the past inequities in the pricing of natural gas, I do not think it is worthwhile for any of us to engage in fruitless speculation as to the effect on exploration expenditures of decontrolling presently flowing gas. To the extent that such a debate would delay the decontrol of new quantities, we clearly will have worked a disservice to the nation. The inequities of the past must inevitably be eliminated, but I for one would prefer that that question be examined separately, with an eye to eliminating those inequities rather than on the basis of a promise—which I think no responsible explorationist can give—that decontrol of presently flowing quantities will inevitably result in some stated increase in future exploration activity.

With respect to the decontrol of crude oil prices; we are faced with the need to deal with the realities of the supply situation while, at the same time, respecting the efficacy of the free enterprise system to direct the economy in the most efficient use of our resources. So long as we continue to experience a tightness or shortage of worldwide crude oil supply in relation to demand, I do not believe it is practical to contemplate the total decontrol of wholesale and consumer prices of petroleum products. If you agree with me on that premise, it seems then to follow that we must temper our enthusiasm for the free working of the market place in respect of crude oil prices.

Clearly, there must be adequate profitability at all levels of the industry if we are to have the necessary investment in refinery and distribution facilities. It seems to me that the U.S. consumer should appropriately pay world market values for the crude oil. So long as present tight supply conditions continue, I do not believe he should pay more than that amount. Under the present circumstances of spot shortages in this country, there are already situations in which so-called "new" oil is moving very substantially above world market prices levels. Consequently, in fairness both to the producer and the consumer during this—hopefully—temporary time of shortage, we must be prepared to accept some control over crude oil prices both for presently flowing quantities and for quantities from new exploration.

You may make whatever use of this letter which you think appropriate. I have not provided copies to any other individual or group.

Sincerely,

Rawleigh Warner, Jr.

Getty Oil Co.,
Los Angeles, Calif., October 17, 1973.

Hon. Dewey F. Bartlett,
U.S. Senate,
Washington, D.C.

Dear Senator Bartlett: This is in reply to your letter of October 5, 1973, to Mr. J. Paul Getty, regarding Getty Oil Company's utilization of additional cash flow in the event price controls on crude oil and natural gas are lifted.

Over the five years 1969–73, Getty Oil Company has invested approximately 76% of its total discretionary corporate cash flow (domestic and foreign) in domestic petroleum exploration and production, refineries, pipelines and gas processing plants. Based on current long-range planning studies it is estimated that over the next five years about 55% of discretionary corporate cash flow will be expended on similar domestic investments.

You will note that we anticipate that a smaller part (approximately 21% less) of future discretionary corporate cash flow will be invested in domestic programs than historically. This is primarily the result of current unavailability of attractive domestic acreage and projections of a very low rate of return on future domestic investments due to present pricing restrictions and high capital investment requirements. This contrasts with an expected increase in our foreign E&P expenditures from 7% to 14%. The domestic-foreign split is, of course, based on the availability of attractive acreage as well as our evaluation of the relative economic merit of domestic versus foreign E&P investments. Should attractive domestic acreage become available in sufficient quantities and if additional cash flow is generated by removal of price controls, Getty Oil Company would expect to invest its historical average (76%) of such incremental cash flow in domestic exploration and production and related programs and depending on the quality of the acreage, possibly a higher percentage.

Getty Oil Company's 1972 average daily domestic production was 232,700 bbls. of liquids and 743,700 MCF of natural gas. These figures do not include production of our subsidiary, Skelly Oil Company.

Respectfully yours,

J. Earle Gray.

Sun Oil Co.
St. Davids, Pa. October 15, 1973.

Hon. Dewey F. Bartlett,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

My Dear Senator Bartlett: Your position with respect to the development of domestic oil and gas resources is one that I share not only as an executive of a petroleum company, but as a citizen. You have identified why it is important, and what must be done if it is to be accomplished. Your question in your letter to me dated October 5 is pertinent and understandable.

There is quite obviously a suspicion that the removal of price controls from natural gas and crude oil would result mainly in the enrichment of those who have invested their savings in petroleum companies, and thus little additional effort would be devoted to the expansion of oil and gas supplies for the benefit of the public. To some extent, such suspicions result from lack of knowledge. In many cases, unfortunately, they reflect a basic mistrust and I doubt there is anything that could be said that would bring about a change in attitude. However, even knowing that any percentage figure I gave you in response to your question about reinvestment of additional cash flow resulting from the removal of price controls would be subject to derision and attack, I wish I could give you a figure. The fact is that I cannot, and I want to explain later in this letter why this is so.

A more persuasive indicator of future action than any promise or prediction I might make, it seems to me, can be found in examining what we have done with our cash flow in the past.

Over the last five years, for every dollar of total cash flow, Sun Oil Company has reinvested, in the U.S., 80 cents in exploration and production of crude oil and natural gas and the construction, expansion or modernization of processing and delivery facilities for crude oil, natural gas and petroleum products. In addition, for every dollar of cash flow, Sun reinvested nearly 1.5 cents in similar endeavors in Canada, it being our belief that investment in North American resources and facilities afforded a degree of security that past events indicated could not be anticipated with comparable certainty elsewhere.

In addition to annual reinvestments of cash flow in the U.S. and Canada ranging from $255,131,000 to $323,916,000 during the 1968–1972 period, annual expenditures ranging from $39,247,000 to $54,898,000 were made to develop new proved reserves of oil and gas.

During the same period, the company found it necessary as a part of its efforts to expand oil and gas supplies to borrow $398,-344,000, raising the level of its long-term debt to $568,941,000 at the end of 1972.

To believe, given these facts, that the management of this company would ignore the needs of the business should the cash flow improve as a result of price decontrol, is truly to ascribe the worst of motives and judgment to it.

The basic reason I cannot tell you what percentage of any additional cash flow would be reinvested for the purposes you specify is that investment decisions depend upon a rather precise knowledge of a substantial number of facts current at the time the decision is made, coupled with judgments related to the future. Forecasting the facts is beyond our ability; the judgments alone are difficult enough, and prove often enough to have been incorrect. Unless someone can guarantee future levels of supply, demand, price, costs of materials and wages, interest rates, trends in these factors at different time intervals, decisions to be made by competitors that will affect opportunities for Sun, new discoveries to be made that may open unexpected provinces, etc., any attempt on our part to calculate what percentage of any additional cash flow would be reinvested in the future for any particular undertaking would be meaningless.

In your letter, you asked that we provide you with Sun's daily average production of domestic oil and gas in 1972. In the U.S., our production of crude oil and condensate averaged 235,723 barrels daily, processed natural gas liquids production averaged 44,748 barrels daily, and natural gas sales averaged 1,412 million CF daily. Similar figures for Canada were 65,708 barrels daily of crude oil, of which 50,859 was synthetic, 409 B/D processed liquids and 41 million CF of natural gas sales.

As you requested, copies of this letter will be sent to the individuals identified on the attachment to your letter.

Thank you for your concern, and for your efforts to develop a better understanding within government and among the voters of the facts of the nation's energy situation.

Sincerely yours,

Robert G. Dunlop.

Marathon Oil Co.,
Finday, Ohio, October 29, 1973.

Hon. Dewey F. Bartlett,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

Dear Senator Bartlett: Your letter of October 5. 1973 to J. C. Donnell II, Chairman of this company, was referred to me. You ask what Marathon's investment plans would be for any additional cash flow that might result from decontrol of wellhead prices for crude oil and natural gas. Specifically, you inquire as to what portion of the incremental cash flow would Marathon commit to the search for and development of domestic petroleum hydrocarbons and to downstream facilities. This is a perplexing question—perhaps even impossible for an integrated oil company to answer directly. Nevertheless, we would like to be helpful.

First, the basic question presupposes that the added cost of natural gas and crude oil input could be passed along in the form of higher prices to the ultimate user. Otherwise, most integrated refiners—such as Marathon—having some degree of crude deficiency, would suffer higher costs, and thus cash flow would actually be reduced.

With respect to a commitment to future investment of available funds, these are usually based on a current evaluation of many factors, including economic conditions, obligations to shareholders and corporate goals. Since all of these and many other factors are continually fluctuating, future investments cannot be guaranteed in advance.

Marathon's 1972 domestic production of crude oil and natural gas liquids averaged almost 181,000 barrels per day—about 1.6 percent of the U.S. total. Its production of natural gas in the same period averaged about 424,000 MCF daily—about 0.7 percent of the U.S. total. In 1972, also, the company refined more than 230,000 barrels per day of crude oil in its three domestic refineries. This was about 1.97 percent of U.S. crude runs to stills.

It is Marathon's intention to continue to grow, and in doing so, we hope to at least maintain the company's share of the nation's output of liquid and gaseous hydrocarbons. These objectives can only be accomplished by expanding the company's outlays for exploration and development. Since the company also has a basic policy of maintaining a reasonable balance between its various operations, greater investments would also be needed in downstream functions—particularly for refining capacity. Accordingly, we can assure you that the great bulk of any increase in cash flow would be plowed back into our activities.

We would like to point out, however, that the company's directors also have obligations to the company's shareholders. During the past four years, the company's rising capital outlays have contributed to an increase in debt despite rising cash flow. The company therefore has not increased its dividend even though shareholders' equity has increased. It follows, therefore, that some of the improved cash flow could, in all prudence, be used to reduce the company's debt position, and in all equity an increase in dividend payout should be considered.

We hope the foregoing provides you with the information you need in your investigations. Should you need any clarification or additional information, we would, of course, be happy to meet with you and discuss these matters at greater length.

Sincerely yours,

M. G. Dumbros.

Continental Oil Co.,
Stamford, Conn., October 22, 1973.

Hon. Dewey F. Bartlett,
Senate Committee on Interior and Insular Affairs, Senate Office Building, Washington, D.C.

Dear Senator Bartlett: In the temporary absence of Mr. John G. McLean, I am responding to your letter of October 5, 1973.

In this letter, you asked that Conoco respond to the question, "Assuming that sufficient new acreage will be available in the United States for the exploration for new reserves of oil and natural gas and that price controls on either or both commodities are lifted, what percent of the additional cash flow resulting from removal of existing price controls on natural gas or crude oil or both would you invest in exploration for and development of additional new petroleum and natural gas reserves including domestic oil and gas pipelines, domestic refineries and domestic natural gas processing plants?" Although neither your statement nor your question specifically so states, I assume you also propose simultaneous removal of regulation of all finished product prices to permit the added costs to be passed forward to the eventual consumers of energy. If this is, in fact, your proposal, then I anticipate that for a moderate period of time, say five years, Conoco would invest 100 per cent of the additional cash flow so generated into the operations described above. Further, if a healthy capital and stock market is available, Conoco probably would secure additional financing, either debt or equity, and likewise invest these funds. Finally, beyond the next five years, we can assure you that Conoco will welcome the opportunity to develop new indigenous energy supplies so long as a favorable investment climate prevails.

In response to your last question, Conoco's domestic oil and gas production data for 1972 are:

Net Crude Oil and Condensate:
U. S. Onshore, 150,000 B/D.
U. S. Offshore, 41,000 B/D.
Natural Gas Liquids, U. S., 29,000 B/D.
Natural Gas Deliveries, U. S., 907,000 MCFD.

Very truly yours,

Howard W. Blauvelt.

Phillips Petroleum Co.,
Bartlesville, Okla., October 26, 1973.

Hon. Dewey F. Bartlett,
U.S. Senate, Interior and Insular Affairs, Senate Office Building, Washington, D.C.

Dear Dewey: By your letter to me of October 5, 1973, you asked for a response to the following questions: "Assuming that sufficient new acreage will be available in the United States for the exploration for new reserves of oil and natural gas and that price controls on either or both commodities are lifted, what percent of the additional cash flow resulting from removal of existing price controls on natural gas or crude oil or both would you invest in exploration for and development of additional new petroleum and natural gas reserves including domestic oil and gas pipelines, domestic refineries and domestic natural gas processing plants?" You also asked that we respond to the following request: "Also, please indicate your average daily production of domestic oil and gas in 1972." I am sure you realize that to encourage construction of new refinery capacity, it will also be necessary to remove the price controls on petroleum products.

If you are successful in convincing the Congress to encourage the development of domestic energy supplies by the removal of price controls and the offering of new federally owned acreage for exploration and development, it would be reasonable to assume that Phillips would allocate a substantial part of additional cash flow resulting therefrom for exploration, development and processing of oil and gas in the United States, and in all probability, most all of such additional cash flow would be so invested. Obviously the expenditures for pipelines, refineries and processing plants will depend on the success of the expanded exploratory and development efforts. We repeat, however, that price controls must be removed not only on oil and gas, but also on the petroleum products that are manufactured therefrom.

In response to your second question, the domestic production of Phillips in 1972 averaged 130,200 barrels per day of oil and 1,534,000 Mcfd of gas. These volumes were supplemented by purchases to meet our domestic requirements.

As background for the need for the decontrol of prices, we would like to call attention to the fact that in 1972 Phillips Petroleum Company had approximately 1.7 billion dollars of total assets employed in the United States in exploring for, producing, pipelining, refining and marketing crude oil, natural gas and petroleum products. Our rate of return in 1972 on this investment was 6.3%, which reflects a decline from 7.9% return in 1967. Our rate of return on these operations for the first nine months of 1973 has declined further to 5.3% compared to 5.8% on worldwide assets. This continuing decline in our rate of return vividly illustrates the need for improved earnings if this segment of our national economy is to be able to compete for new capital to invest in supplying energy to the nation's consumers. When compared with rates of return in excess of 8% authorized to relatively risk-free interstate transmission companies by the Federal Power Commission, it becomes obvious that Phillips' rate of return has not kept pace, and contrary to apparent public misconceptions, our investment in domestic oil and gas activities at present price levels is far from a bonanza.

As you have so correctly pointed out from time to time, the worsening energy crisis in the United States has been largely caused by several unwise governmental policies starting with the Supreme Court's decision in 1954 that caused regulation of the wellhead prices for gas sold into interstate commerce. The low gas prices regulated by the Federal Power Commission since 1954 have unduly increased the demand for gas, discouraged exploration for new gas reserves, and inhibited the normal development of supplies of coal, oil and alternate forms of energy.

Further, such direct and indirect government controls have not only served to dull the incentives for high-risk exploratory activities, but have also severely limited the availability of cash required for any substantial expansion of exploratory efforts. At existing crude oil and product prices, there is no possibility of the industry generating the cash necessary for the greatly expanded program of lease acquisition, exploration and development known to be necessary if we are to meet the growing energy needs of this country.

Sincerely,

W. F. MARTIN.

CITIES SERVICE CO.,
Sixty Wall Tower, N.Y., October 24, 1973.
Hon. DEWEY F. BARTLETT,
Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR BARTLETT: In your letter of October 5, you asked what Cities Service would commit to increased U.S. exploration, production, transportation and production facilities from its increased cash flow that would result from improved prices for oil and gas. You also asked for our 1972 production of oil and gas. These figures along with reserve estimates are set out on page 4 of the enclosed Annual Report.

I am sure that you recognize that our answer must be conditioned on a number of factors including those which you mentioned in your inquiry. An increase in revenue of one dollar resulting from improved price will result in increased profit and cash flow of approximately fifty cents after local, state, and federal taxes. This amount of increased cash flow can support substantially greater increments of capital investment given the proper business climate. The best evidence of our commitment to employ increased cash flow is our recent performance. During the five years 1969–1973, the Company generated from its oil and gas operations estimated cash production of $819 million* and will have spent an estimated total of $822 million* during the same period for exploration, production, transportation and processing facilities. These figures are particularly significant in that there was no investment for new refining facilities during the period because of the wholly inadequate current and expected returns from such investments.

Cities Service is primarily a domestic oil company. We desire to remain so and intend to continue to concentrate our efforts in this area as long as we have economically viable investment opportunities. Other important limitations on future investment to develop and upgrade new supplies of energy within the U.S. must also be overcome. Our ability to carry out our dedication to expand our energy producing activities depends on the following assumptions about the future:

1. That new prospective exploration acreage in the United States is available to Cities Service on a consistent year by year basis that warrants the dedication of its limited resources and that sites for building new processing facilities can be located in economically advantageous areas.

Note: Cities Service spent approximately $150 million acquiring new exploration acreage at the December 1972 and June 1973 offshore lease sales.

2. That the market place will be free of direct government intervention in the form of price controls and allocations affecting supply and demand of alternative energy forms. We believe that the market place is the most efficient allocator of our nation's resources. However, we recognize that government has a role to play in ensuring that the balance of power among the various segments of society that meet in the market place is maintained. Direct intervention swings the delicate balance and has been a major contributing factor causing the dislocations with which we are dealing.

3. That a prospective rate of return on the resources so dedicated will be sufficient to justify the risks. Management has the responsibility to all sectors of society to employ the limited resources placed in its trust in the most effective and efficient manner in keeping with the needs of society. These needs are communicated and balanced everyday by the market place.

4. That sufficient numbers of qualified geologists, engineers, and other technicans will be available to get the job done. We find that for a variety of reasons our young people are not choosing to enter into the professions necessary to support finding solutions to our energy problems. A concentrated effort will be required on the part of responsible people in industry and government to hold up to the future's problem solvers the challenges, needs and opportunities to work within the system to bring about the changes necessary to get the job done.

5. That a healthy and vigorous infrastructure will be available upon which the industry counts heavily for: supply of materials (chemicals, pipe, drilling rigs, etc.); the design and construction of facilities; providing trained rig crews; a financial market to provide both equity and borrowed funds, etc.

As previously stated Cities Service has during the last five years invested all of its cash produced from oil and gas operations back into oil and gas facilities. In addition to capital investments, Cities Service has other cash requirements, such as the payment of a reasonable rate of return on equity capital in the form of dividends, debt repayment, and working capital needs. These cash needs have required Cities Service to add substantially to its debt over the five year period. This has been done because the need was recognized and was based upon the assumption that prices must be allowed to move to levels reflecting increased cost and supply/demand conditions in the energy markets. However, Cities Service is approaching the limits of its financial constraints to continue pursuing a policy of deficit financing.

Of course, Cities Service cannot speak for any other company or individual in the industry. However, we suggest that our posture is typical. The attached reports prepared by the First National City Bank and the Chase Manhattan Bank show that over a long period the industry has reinvested almost all of the cash generated from operations in new facilities to meet the growing energy demand and in recent years has had to resort to increasing its debt load to meet all of its obligations. As these reports make clear, it is certain that this trend cannot continue. Available opportunities, improved prices, increased cash flow and adequate prospective returns are the *sine qua non* for the increased expenditures essential for solving the nation's energy supply problems.

Cities Service is and has been maximizing its efforts within the real world constraints to find solutions to the energy problems confronting us today and anticipated in the future and we pledge that we will continue to do so to the fullest extent of our capabilities and resources. We are grateful for your interest in these problems and their solutions.

Sincerely,

ROBERT V. SELLERS,
Chairman of the Board.

SKELLY OIL CO.,
Tulsa, Okla., October 26, 1973.
Hon. DEWEY F. BARTLETT,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR SENATOR BARTLETT: This is in reply to your letter of October 5, 1973, in which you have made inquiry of us with regard to the proposal to decontrol the prices of natural gas and crude oil. Specifically, you have asked us to respond to the following question:

"Assuming that sufficient new acreage will be available in the United States for the exploration for new reserves of oil and natural gas and that price controls on either or both commodities are lifted, what percent of the additional cash flow resulting from removal of existing price controls on natural gas or crude oil or both would you invest in exploration for and development of additional new petroleum and natural gas reserves including domestic oil and gas pipelines, domestic refineries and domestic natural gas processing plants?"

In the five-year period from 1968–1972 our domestic capital expenditures of the type described have averaged approximately $60 million per year. Our forecasts for the next five years from 1974–1978 indicate an average annual expenditure of almost double that amount. In projecting this substantial increase in capital investments, our company has assumed that prices of oil and gas will increase, through either complete or partial decontrol of prices. It appears totally illogical that domestic prices can continue to be artificially held at levels much lower than the price from foreign sources.

If a substantial relaxing of price controls does not occur, it is certain that we will spend substantially less than we are now forecasting in domestic areas, perhaps even less than during the last five-year period. In other words, a substantial increase in selling prices is necessary to justify this increased investment we are planning. We believe that with the proper incentive from the higher prices, we will commit to domestic expenditures for oil and gas exploration, production or related facilities virtually all of the additional cash flow that results from removal of price controls.

An important assumption contained in your statement is that sufficient new acreage will be available for exploration purposes and that such acreage will have economical potential for oil and/or gas. Decontrol of prices will not only improve cash flow to permit more spending but will also enhance the potential of marginal or noneconomic programs viewed in the light of today's prices.

You may be aware that Skelly's exploration efforts have been impeded in at least two areas, namely, the East Coast Offshore Area and the State of Alaska, by environmental objection to exploration for oil and gas. While we are heartily in accord with the principle of protecting our environment, we believe that the rule of reason must be observed and that the country cannot afford to have a repetition of the lengthy delay that has been experienced in the construction of the Alaska pipeline.

Skelly's 1972 average daily domestic production of crude oil was 72,000 barrels and production of natural gas was 510 million cubic feet daily.

Very truly yours,

HAROLD E. BERG.

THE LOUISIANA LAND AND EXPLORATION CO.,
New Orleans, La., October 17, 1973.
Hon. DEWEY F. BARTLETT,
U.S. Senate, Committee on Interior and Insular Affairs, Washington, D.C.

DEAR SENATOR BARTLETT: Sorry about the delay in answering your letter of October 5th, but I have just returned to my office.

The Louisiana Land and Exploration Company is primarily a domestic oil and gas U.S. producing entity. Our net production during 1972 averaged 78,735 barrels of oil and 390 million cubic feet of gas per day. Over 98% of the oil and 100% of the gas was produced from properties in the U.S.

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* The above figures are taken from the Company's public reports for the years 1969 through 1972 adjusted to include estimates for the year 1973 and to reflect certain allocations based on the published reports. The numbers cover North American operations, U.S. and Canada. The Canadian operations were minor compared to U.S.

During a five-year period, 1969–73, for wells, leases and other associated drilling costs, this company expended $174,730,000 in the U.S.

Your question directed to me asks whether we would be willing to take the additional cash flow resulting from the removal of existing price controls on natural gas and crude oil in further domestic exploration? The answer is emphatically "YES" provided that prospective areas which can be reasonably expected to produce are available in the U.S. I specifically am saying, if the Federal Government has both an onshore and offshore leasing policy that allows development of new areas.

In the past we have been able to find such areas and we expect to be able to do so in the future if governmental policies including those of the environmentalists will permit us to do so.

The U.S. is experiencing a declining reserve/production index. We will do more than our part in additional exploration if the price ceilings on natural gas and oil are lifted.

Sincerely,

Ford M. Graham.

UNANIMOUS-CONSENT AGREEMENT ON H.R. 8449, TO EXPAND THE NATIONAL FLOOD INSURANCE PROGRAM

Mr. MANSFIELD. Mr. President, with the concurrence of the distinguished Republican leader, I am about to make a unanimous-consent request relative to calendar 559, H.R. 8449, to expand the national flood insurance program.

I ask unanimous consent that when that bill is called up, there be an hour on the bill itself, 1 hour on the Johnston amendment, 1 hour on the Taft amendment, 30 minutes on all other amendments, 20 minutes on amendments to amendments, appeals, or motions, and that it be done under the regular form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I yield back the remainder of my time.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

Is there further morning business?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHURCH, from the Special Committee on Aging:

S. Res. 214. An original resolution authorizing supplemental expenditures by the Committee on Aging for inquiries and investigations (Rept. No. 93–608). Referred to the Committee on Rules and Administration.

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 3733. An act to authorize the American Battle Monuments Commission to assume control of overseas war memorials erected by private persons and non-Federal and Foreign agencies and to demolish such war memorials in certain instances (Rept. No. 93–609).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CURTIS:

S. 2793. A bill to amend the Clean Air Act in order to provide that no grant shall be made under such act for a State vehicle emission device testing program if such program provides a penalty for the removal or rendering inoperative of such device by or at the request of the purchaser of the vehicle. Referred to the Committee on Public Works.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2513

At the request of Mr. Ribicoff, the Senator from North Dakota (Mr. Burdick) was added as a cosponsor of S. 2513, the Catastrophic Health Insurance and Medical Assistance Reform Act of 1973.

S. 2664

At the request of Mr. Domenici, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 2664, a bill to designate the Miners' Hospital in Raton, N. Mex., as a Public Health Service hospital to be known as the "Miners' Rehabilitation and Medical Hospital."

S. 2761, S. 2762, AND S. 2763

At the request of Mr. Rificoff, the Senator from Florida (Mr. Chiles) was added as a cosponsor of S. 2761, a bill to deny a credit or deduction for taxes paid or accrued on income attributable to oil and gas wells located in countries restricting exports of oil and gas to the United States, and to treat the taxes so paid or accrued as royalty payments; S. 2762, a bill to deny the deduction of intangible drilling and development costs in the case of oil and gas wells located in countries restricting exports of oil and gas to the United States; and S. 2763, a bill to deny percentage depletion in the case of oil and gas wells located in countries restricting exports of oil and gas to the United States.

SENATE CONCURRENT RESOLUTION 60—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO A REDUCTION OF THE CONSUMPTION OF FUELS BY THE FEDERAL GOVERNMENT

(Referred to the Committee on Government Operations.)

Mr. ROTH (for himself, Mr. Abourezk, Mr. Allen, Mr. Baker, Mr. Bartlett, Mr. Bayh, Mr. Beall, Mr. Bellmon, Mr. Biden, Mr. Brock, Mr. Brooke, Mr. Buckley, Mr. Case, Mr. Chiles, Mr. Church, Mr. Clark, Mr. Cotton, Mr. Cranston, Mr. Dole, Mr. Domenici, Mr. Fannin, Mr. Gurney, Mr. Hansen, Mr. Hart, Mr. Hatfield, Mr. Hathaway, Mr. Helms, Mr. Hollings, Mr. Hruska, Mr. Huddleston, Mr. Humphrey, Mr. Johnston, Mr. Kennedy, Mr. McClure, Mr. McGee, Mr. McIntyre, Mr. Metcalf, Mr. Mondale, Mr. Muskie, Mr. Nunn, Mr. Percy, Mr. Proxmire, Mr. Ribicoff, Mr. Saxbe, Mr. Schweiker, Mr. Stafford, Mr. Stevenson, Mr. Taft, Mr. Tower, Mr. Tunney, Mr. Weicker, Mr. Williams, and Mr. Young) submitted the following concurrent resolution:

S. Con. Res. 60

Whereas the Congress of the United States of America has declared that there exists a shortage of crude oil, residual fuel oil, and refined petroleum products; and

Whereas such shortages have created or may create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of public services; and

Whereas interruptions of energy supplies will require emergency measures to reduce energy consumption; and

Whereas the Federal Government is a significant consumer of energy, 60 per centum of which is consumed by vehicles and equipment; and

Whereas, in times of crisis the American people look to their Federal, State, and local governments for direction and leadership;

Resolved by the Senate (the House of Representatives concurring) that it is the sense of the Congress, That—

(a) the President should determine and take immediate steps to reduce Federal Government consumption of fuels by a third; and

(b) the President should initiate a program within the Federal Government to immediately reduce nonessential uses of all Government vehicles and equipment, and commercial and mass transportation should be utilized whenever practical in the conduct of government business; and

(c) the President should allot Federal Government departments and agencies a fixed quantity of fuel for a fixed period for essential purposes only, and critical national security activities and other vital services may be exempted on a case-by-case basis; and

(d) the Secretary of Defense should immediately initiate innovative measures to reduce the amount of fuels used for defense activities; and

(e) the President should immediately urge State, local, and other public authorities to adopt similar measures.

SENATE RESOLUTION 214—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON AGING

(Referred to the Committee on Rules and Administration.)

Mr. CHURCH, from the Committee on Aging, reported the following resolution:

S. Res. 214

Resolved, That section 4 of Senate Resolution 51, 93d Congress, agreed to February 22, 1973, is amended by striking out "$375,000" and inserting in lieu thereof "$411,000".

LEGAL SERVICES CORPORATION ACT—AMENDMENTS

AMENDMENTS NOS. 797 THROUGH 818

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted 22 amendments intended to be proposed by him to the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

AMENDMENTS NOS. 825 THROUGH 841

(Ordered to be printed and to lie on the table.)

Mr. FANNIN submitted 17 amendments intended to be proposed by him to the bill (S. 2686), supra.

AMENDMENTS NOS. 842 THROUGH 849

(Ordered to be printed and to lie on the table.)

Mr. McCLURE submitted eight amendments intended to be proposed by him to the bill (S. 2686), supra.

RAIL SERVICES ACT OF 1973—AMENDMENT

AMENDMENT NO. 819

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY (for himself, Mr. MONDALE, Mr. CLARK, and Mr. SCHWEIKER) submitted an amendment intended to be proposed by them jointly to the bill (S. 2767) to authorize and direct the maintenance of adequate and efficient rail services in the Midwest and Northeast regions of the United States, and for other purposes.

AMENDMENTS NOS. 820, 821, AND 822

(Ordered to be printed and to lie on the table.)

Mr. JAVITS submitted three amendments intended to be proposed by him to the bill (S. 2767), supra.

AMENDMENT NO. 823

(Ordered to be printed and to lie on the table.)

Mr. BEALL submitted an amendment intended to be proposed by him to the bill (S. 2767), supra.

AMENDMENT NO. 824

(Ordered to be printed and to lie on the table.)

EXPANSION OF AMTRAK SERVICE

Mr. HATFIELD. Mr. President, the current energy crisis offers an opportunity to consider seriously ways to increase rail passenger service. I plan to call up an amendment to S. 2767 tomorrow calling for a study by the Department of Transportation and Amtrak of what routes could be added to provide better service.

My thoughts on this are set out in a "dear colleague" letter, and I ask that the text of this letter, followed by the language of the amendment, be printed at this point in the RECORD.

There being no objection, the letter and amendment were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C.

DEAR COLLEAGUE: Today's energy crisis has focused renewed attention on our rail passenger system. In some areas of the country, curtailment of air service because of fuel shortages has created greater demands for rail passenger service. The problems of adequate automobile gas supplies will continue to grow.

In my opinion, we should consider expansion of Amtrak routes in view of the serious energy shortages we face, and the expected potential for expanded use. Ridership on existing routes has risen in recent weeks as the impact of reduced amounts of fuel is felt in alternate means of travel.

I plan to offer an amendment to S. 2767, the rail services legislation to be considered by the Senate Tuesday. I am soliciting your cosponsorship of this amendment.

The amendment calls for a report by the Secretary of Transportation and Amtrak officials to the appropriate Congressional committees within 180 days that would review potential routes for expansion of the basic Amtrak system. The report would consider the impact of the energy crisis, curtailment of alternate modes of travel, the economic feasibility of various expansion routes, the availability of fuel for passenger trains, the availability of new passenger equipment, and such related matters.

Congress should consider all possible means to ease the impact of the energy crisis. As automobile travel is curtailed and air service is cut, we should see if expanded rail passenger service can provide an alternative.

If you would like to cosponsor this amendment, please have your legislative assistant call Walt Evans (X.8311 or 3753).

Sincerely,

MARK O. HATFIELD.

On page 21, lines 5 and 6, insert a new subsection:

"(d) RAIL PASSENGER TRANSPORTATION.—within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to Congress a comprehensive report on the feasibility and desirability of expanding service by the National Railroad Passenger Corporation. The report shall consider the current and projected shortage of refined petroleum products, curtailment of alternative modes of travel, availability of additional equipment for the provision of rail passenger service (whether domestic or foreign), the economic feasibility of additional service on existing routes and expansion of service to new routes, and such other matters as the Secretary deems relevant. The National Railroad Passenger Corporation shall cooperate fully with the Secretary in the preparation of this report.

On page 51, line 21, change "$15,000,000" to "$15,100,000".

INDEPENDENT SPECIAL PROSECUTOR ACT OF 1973 (S. 2642)—AMENDMENT

AMENDMENT NO. 850

(Ordered to be printed and to lie on the table.)

Mr. PERCY (for himself and Mr. BAKER) submitted an amendment intended to be proposed by them jointly to the bill (S. 2642) to establish an Independent Special Prosecution Office, and for other purposes.

INDEPENDENT SPECIAL PROSECUTOR ACT OF 1973 (S. 2611)—AMENDMENT

AMENDMENT NO. 851

(Ordered to be printed and to lie on the table.)

Mr. PERCY (for himself and Mr. BAKER) submitted an amendment intended to be proposed by them jointly to the bill (S. 2611) to insure the enforcement of the criminal laws and the due administration of justice; establish an independent Special Prosecutor.

Mr. PERCY. Mr. President, over the weekend some question was raised as to whether the Percy-Baker Special Prosecutor bill might actually limit the powers of the Special Prosecutor and prohibit him from investigating matters such as the "plumbers." The implication, in a news story, was that, at the behest of the White House, we were trying to slip something by the Congress.

This, of course, is patently untrue. The truth of the matter is that the intent as well as the effect of the Percy-Baker bill is exactly the same as the Hart-Bayh Special Prosecutor bill. What evidently caused this concern was a clause in section 5(a) of the bill which authorizes the Special Prosecutor to investigate and prosecute certain offenses. Subsection 3 refers to "offenses alleged to have been committed by the President, Presidential appointees, or members of the White House staff in relation to the 1972 Presidential campaign and election." The fear was expressed that the phrase, "in relation to the 1972 Presidential campaign and election" would restrict the Special Prosecutor in his investigation of the "plumbers." However, the next subsection refers to "all other matters heretofore referred to the former Special Prosecutor pursuant to regulations of the Attorney General (28 C.F.R., sections 0.37, 0.38 rescinded October 24, 1973)." Referring back to the original Cox charter, which was the language of 28 C.F.R., sections 0.37, 0.38 it is clear that the "plumbers" activity is indeed covered in our legislation. That charter gives the Special Prosecutor full authority to investigate and prosecute "allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters which he consents to have assigned to him by the Attorney General."

Under this charter, the Special Prosecutor's office was and still is investigating the "plumbers" as well as a host of other allegations of criminal activity. Thus, the Percy-Baker bill, contrary to assertions to the contrary, would indeed authorize continued investigation and prosecution of the "plumbers."

I am somewhat surprised that this particular point was seized upon as being some type of fatal defect in our legislation. If there is any ambiguity, it can easily be cleared up, as Senator BAKER and I are doing today. Rather than get into a semantic debate on this issue, we are prepared to delete the words "in relation to the 1972 Presidential campaign and election" from section 5(a)(3) of S. 2734. We are doing this so that no one can attempt to cloud the issues which are before the Congress. The powers granted by both the Hart-Bayh bill and the Percy-Baker bill are the same.

Further, we are adding additional language which makes absolutely clear that the Special Prosecutor alone has the discretion to determine what actions to take or not to take, and that should a situation arise where the President issued an order to the Special Prosecutor—an act which would be inappropriate under this act—which the Special Prosecutor decided not to obey, that disobedience cannot be construed as being grounds for dismissal under the act. Since it was just such a situation which gave rise to the dismissal of Mr. Cox, we feel that the legislation could be improved by specifically addressing this point.

Mr. President, I send to the desk two amendments for myself and Senator BAKER, and ask that they be printed and lie on the table.

The VICE PRESIDENT. The amendments will be received and printed, and will lie on the table.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME—AMENDMENTS

AMENDMENTS NOS. 852 AND 853

(Ordered to be printed and to lie on the table.)

Mr. HARRY F. BYRD, JR., submitted two amendments intended to be proposed by him to the bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

FLOOD DISASTER PROTECTION ACT OF 1973—AMENDMENT

AMENDMENT NO. 854

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill (H.R. 8449) to expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Anthony E. Rozman, of Michigan, to be U.S. marshal for the eastern district of Michigan for the term of 4 years—reappointment.

At the direction of Mr. EASTLAND, chairman, and on behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, December 17, 1973, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

INTERESTING TIMES FOR NATIONALIST CHINA

Mr. HANSEN. Mr. President, earlier this year, I called to the attention of Senators a comprehensive article from the February Marine Corps Gazette by Col. Angus M. Fraser, outlining some of the legal and moral obligations of the United States to the Republic of China.

The November issue of Seapower, in an article by its editor-in-chief, James D. Hessman, makes reference to Colonel Fraser's observations, and discusses the national interest of the United States in the alliance with the Republic of China. I ask unanimous consent that Mr. Hessman's brief analysis be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INTERESTING TIMES FOR NATIONALIST CHINA

(By James D. Hessman)

Somewhat like West Berlin, somewhat like Israel, somewhat like Great Britain, Taiwan—also variously known as Formosa, as the Republic of China (ROC), and as Nationalist or Free China—sits, a lonely and beleaguered holdout against the tide of communism which has swept through (or currently threatens) most of the rest of Asia in the traumatic generation since World War II.

Like West Berlin, Taiwan is all but surrounded by a hostile and much more powerful government ruled by the one-time countrymen and erstwhile comrades-in-arms of those who govern Taiwan itself. Like Israel, as events of recent weeks have borne out, Taiwan, under persistent attack from its sworn enemies, is often trapped by a flow of world events beyond its control and now finds itself, except for the United States, without friends among the major powers. And, like Great Britain and other countries of the United Kingdom, Taiwan, an island nation competing with virtually an entire continent, lacks sufficient material resources of its own and has had to base its struggle for economic viability—and, therefore, for independence—on trade, on the remarkable industry and intelligence of its own people, and on its indisputable "special relationship" with the United States.

Also—here, once again, like West Berlin and Israel, in any case—Taiwan's long and continuing fight for freedom has in large part depended and will continue to depend upon the good will of the American people and the willingness and determination of the United States to live up to its legal and moral commitments.

THE CHINESE CURSE

There is an old Chinese curse which says "May you live in interesting times." Even by 20th century standards, however, the recent past has been, for the Republican of China, too interesting for comfort. Red or Communist China—now, in a period of uneasy rapprochement, more politely called Mainland China or the People's Republic of China (PRC)—has replaced Nationalist China in the United Nations. Taiwan also has been expelled, in favor of Communist China, from both the International Labor Organization and the General Agreement on Tariffs and Trades. Over 80 nations have established relations with Peking and, in a large number of cases, severed their previous ties with Taipei to do so. The Executive Committee of the Asian Games Federation on September 18, at the urging of Japan, Iran, and Pakistan, voted to oust Nationalist China in favor of the PRC.

Numerous other embarrassments and hurts could be recorded. Undoubtedly the most ominous change, however from a ROC viewpoint, was the decision—understood in Taipei if not 100 per cent appreciated there—by the Nixon Administration to begin normalization of relations with Mainland China. Despite repeated pledges by President Nixon that the United States will still honor its commitments to Taiwan, ROC leaders could take little comfort from the U.S./PRC Shanghai communique of February 27, 1972 (during the Nixon visit to China), affirming that the "ultimate" U.S. objective is "withdrawal of all U.S. forces and military installations from Taiwan," and promising, as an extra measure of good faith on the American part, that "In the [unspecified] meantime it [the United States] will progressively reduce its forces and military installations on Taiwan as the tension in the area diminishes."

It seemed that policy was being put into practice earlier this year when, on September 3, Admiral Noel Gayler, U.S. Commander-in-Chief, Pacific, announced, according to news reports, that "with the reduction of U.S. involvement and hostilities in Southeast Asia and with the lessening of tensions in the area" some 3,000 personnel of the 374th Tactical Airlift Wing, or about one-third of all U.S. military forces on Taiwan, would be returned to the United States. The "lessening of tensions" Gaylor referred to was not particularly noticeable on Taiwan itself, where relations with the mainland continue on a level of cordial distrust.

Not helping the situation has been the changed attitude of some members of Congress and a certain segment of the American press, newly enamored of Mainland China and willing, in some cases, to write Taiwan off as an obsolete relic of the Cold War. In the past it was fashionable in some quarters to speak disparagingly of the "China lobby." Now it may perhaps be more accurate to term it the "anti-China lobby." Some members of that unofficial but probably well intentioned organization undoubtedly believe the prospect, however slight, of better relations with a nation of 750 million Chinese is worth more than the actuality of proven good relations with a less powerful and certainly less threatening nation of "only" 15 million Chinese. Others, enveloped in the euphoria of rapprochement, optimistically believe, or at least fervently want to believe, that the Cold War in Asia is, in fact, coming to an end and think that the United States should be willing to do almost anything, even betray a friend (that is not the word used, of course), to promote that happy prospect.

Still others, genuinely disillusioned with foreign affairs either because of the Vietnam experience or because of their overriding concern about U.S. domestic problems, have become neo-isolationist and want to cut back on *all* U.S. commitments abroad, including but not limited to those involving Taiwan.

TIME OF THE TROUBLES

Providing at least partial moral respectability to those who would abandon Taiwan in favor of Red China is a lingering residue of resentment toward the regime of Chiang Kai-shek, which, pushed off the mainland by the Communists in 1949, fled to Taiwan, where it set up its government-in-exile for all of China—a government, however, from which the native Taiwanese themselves were conspicuously excluded. Because of the harsh rule of the immediate post-1949 years (when, it should be remembered, the Chiang government was fighting for its very existence), because native Taiwanese are still underrepresented in the government, and because Taiwan still is much less than a perfect democracy (although much closer to it than most Asian regimes), there are some, including a number of overseas Chinese, who oppose Nationalist China and Communist China both and who favor the third alternative of an independent Taiwan belonging to neither the ROC nor the PRC.

Those who espouse such an apparently idealistic cause are ignoring both recent history and present reality, however. Because the fact is that, for at least two and a half centuries (1644–1895), Taiwan was an integral part of China. Some 84 per cent of Taiwan's population—the pre-1949 or "native" Taiwanese—are of more ancient Chinese stock, about 14 per cent are the mainlanders who came over in 1949, and only about 2 per cent, eight tribes of aborigines, of non-Chinese origin.

Japan took Taiwan from China in 1895 and administered the island for the next half century, returning it in 1945 in accordance with the Cairo and Potsdam Declarations. The 1945–49 period was a particularly difficult one for mainlanders and native Taiwanese alike. The former were preoccupied with Mao's forces, leaving administration of Taiwan to officials who were in many cases venal and corrupt; the latter, World War II collaborators with the Japanese, were in a state of almost constant revolt (partly, it is believed, as a result of communist machinations against the central government). The results were repression, a reported 10,000 native Taiwanese killed by government troops, and an enduring animosity that still somewhat infects the Taiwan body politic.

But time heals all wounds, in the Orient as elsewhere. And time has done much to ameliorate the former tensions between native and newcomer Taiwanese. For one thing, while mainlanders have held political power, the natives have held most of the money—but all segments of the population have benefited greatly from a general prosperity which has made Taiwan's standard of living the highest in all of China's 5,000-year history.

Martial law likely will continue until, if and when, there is an easing of tensions with Mainland China, but the stability thus afforded by a strong central government provides for the population at large some side benefits (very little juvenile delinquency, and an extremely low crime rate, for example) which the citizens of the great Western democracies would envy.

Most important from an American point of view, perhaps, has been the evolution—gradual at first, but accelerating rapidly in recent years—of a more traditionally participatory government which has managed the economy with remarkable effectiveness for the benefit of all ROC citizens and which has, in the process, implemented some truly progressive political changes.

Land reform, the first step, has helped some 700,000 small farmers and made them agricultural capitalists of sorts. The result has been: (1) for the people, a diet which is Asia's highest in calories (2,680 per day, including 69.2 grams of protein, versus, for example, only 1,780 calories and 30 grams of protein daily for the Chinese Communists); and (2) for the economy, an agricultural surplus for export—despite the world's highest population density per square mile of arable land area. Of particuar importance, noted Harry B. Ellis in a *Christian Science Monitor* article ("Taiwanese Success Story") of November 16, 1972, is that "Taipei accomplished land reform without disruptive strain, by confiscating Japanese-owned industry and giving it to wealthy landlords, in return for their parceled-out land. 'No one suffered,' commented an expert, 'except the Japanese.' "

Education has been encouraged with almost fanatical zeal. Over one-fourth of the population goes to school. By law no less than 15 per cent of the national budget, 25 per cent of the provincial budgets, and 35 per cent of county and city budgets (percentages usually exceeded, incidentally) must go to education—to support the country's 2,300 elementary schools, 923 high schools, almost 100 colleges and universities, and hundreds of professional institutes. Education is free and compulsory through the ninth grade, and admission to public high school and college is on merit, through competitive examination. Here the result has been a literacy rate of almost 85 per cent, compared to 25 per cent for the PRC (according to a CIA estimate in the "People's Republic of China Atlas" published in November 1971 by the U.S. Government Printing Office).

An extensive public health program has also been vigorously promoted. Such former Asiatic scourges as malaria, encephalitis, smallpox, and plague have been virtually eliminated. The infant mortality rate, an appalling 155.36 per thousand in 1931 (statistics for all of China), was down to 15.50 on Taiwan in 1971. Free medical care and hospitalization are available to the poor, but much of the population, some five million people, is covered by an extremely comprehensive (and cheap) health insurance program for which the employer pays 65 per cent of the premiums. There is one hospital or clinic for every 13,000 persons (versus one per 110,000 on the mainland). Medical care is good. Western medicine is practiced for the most part, but Chinese acupuncture, "discovered" by the Western press after the Nixon visit to Peking, is also available.

MEDIA VERDICT

Improvements in personal freedoms, in the expanding right to dissent, and in increased political participation by native Taiwanese have been noted by such disparate, respected, and exceedingly democratic publications as the Washington Post, New York Times, Reader's Digest, and Wall Street Journal.

Among numerous progressive changes instituted by Chiang Ching-kuo, elder son of Chiang Kai-shek, who succeeded his father as Premier on June 1, 1972, have been "a crackdown on corruption and favoritism in the government bureaucracy," "appointment of younger native Taiwanese officials to important posts," and, "a concerted effort to boost the incomes . . . of Taiwan's farmers" (Stephen W. Harmer in the Washington Post, September 5, 1973).

Some nominees of the governing Nationalist Party were defeated in the national elections of December 23, 1972, "my critics of the government running as independents." Moreover, "With few exceptions," most candidates, "both from the Nationalist, of Kuomintang, side and the independents, were Taiwan-born and many were young men" (New York Times, December 23, 1972).

"The urgent problem everywhere is how to narrow the gap between rich and poor. Communism accomplishes this, but only by removing the rich and reducing the poor to a low common denominator. In most developing countries the gap grows wider as population soars, so increase in unemployment outweighs the gain in GNP. Compare the median income of the top fifth of the population with the bottom fifth: In . . . Mexico between 1950 and 1969, the gap widened from 10–1 to 16–1. But in Taiwan, between 1953 and 1969, it narrowed from 15–1 to 3.5–1" (Noel F. Busch in the Reader's Digest, December 1972).

The Nationalist government has "tried to erode the barrier between refugees and native-born Taiwanese. Today, the majority of the island's college students are native-born, [and] the mayors of the island's principal cities are Taiwanese, as are most delegates to the provincial assembly." Taiwan "is not a civics book example of a model Western-style democracy. But it is moving in that direction, and this at a time when democracy in other Asian nations—South Korea and the Philippines, for example—has been steadily losing ground" (Wall Street Journal editorial, January 15, 1973).

In addition to contested elections and the universal education drive, which inevitably teaches people to think for themselves—the two sine qua nons of a truly participatory government—there are many other evidences that Taiwan has been evolving toward a society much more open (particularly by Asiatic standards) and much closer to the Western concept of the democratic ideal.

News media outlets are numerous and highly competitive. There are 32 independently published daily newspapers, over 1,600 other publications (weeklies, monthlies, bimonthlies, and quarterlies), three commercial TV networks (American shows are often featured) as well as a government-sponsored educational TV station, and 80 radio stations. Overseas editions of leading foreign newspapers and magazines are readily available—to Chinese readers as well as to foreigners—at most major hotels and newsstands.

Contact with foreigners and, therefore, with foreign ideas and ideologies is inevitable, if only because of the staggering increase in tourism—from 40,000 visitors in all of 1954 to a rate of approximately 70,000 per month in 1973. The reasons for the increase are obvious: the scenery is magnificent, the Chinese cuisine, particularly in Taipei, unexcelled, and the business investment opportunities extremely alluring. Taiwan is also, for American tourists, particularly, one of the world's few remaining bargain spots. (The weather in the summer months is hot and atrociously humid, however.)

A military museum on the ROC-held island of Kinmen (Quemoy)—within loudspeaker distance of the mainland—has on display a variety of balloons, leaflets, radio transcripts, and other propaganda messages—those transmitted from the mainland to Kinmen as well as those sent from Kinmen to the mainland. The museum is open to Chinese and foreign visitors alike. There is, in contrast, no indication yet, however, that the Communist Chinese freely permit citizens of the People's Republic to read ROC propaganda.

JUDGE US BY RESULTS

But it is in the field of economics, the open marketplace, that Taiwan has achieved the most spectacular progress. A handful of examples, from hundreds available:

Average family income in 1972 was $1,200—admittedly modest by U.S. standards, but four times that of Communist China.

Taiwan's gross national product grew at an average annual rate of 8.7 per cent during the years 1953–71. Industrial production increased an average 14.7 per cent annually during the same period.

The agriculture/industry imbalance which plagues so many developing nations has been successfully rectified. In 1953 agriculture accounted for 35.7 per cent of Taiwan's GNP, industry 17.9 per cent. In 1972 agriculture accounted for only 15.7 per cent, industry for 36.6 per cent.

Foreign trade has increased at an almost incredible rate. In 1971 the ROC and PRC foreign trade totals were about equal. By the end of 1973 Taiwan's two-way foreign trade will top $8 billion, about 50 per cent more than the mainland, according to current estimates.

ROC ARMED FORCES

U.S. foreign aid to the Maryland-sized island ceased in 1965, since which time Taiwan has itself been providing aid to lesser developed nations. It is partly for this reason, and partly because of the booming ROC economy, that Taiwan is often referred to as "an American showcase."

Similarly, the ROC armed forces, largely equipped with American-made weapons (now purchased, not given), are sometimes cited by naval and military observers as the best current example of "the Nixon Doctrine in action." Mindful, in fact, of the ancient Chinese proverb that says "The more you sweat in peace, the less you bleed in war," ROC political and naval/military leaders long ago strived for the indigenous military self-sufficiency which is the essential basis of the Nixon Doctrine. Taiwan has more of its population, per capita, in uniform than any other nation in the world except Israel. The approximately 600,000 men and women on active duty (including 60,000 Navy/Marine Corps and 80,000 Air Force personnel) are backed up by another 1.8 million in the Reserve Forces.

Military service is compulsory for all male citizens—who normally serve two years in the Army or three years in the Navy or Air Force. A five-year Reserve obligation follows discharge from active duty, with all Reservists organized into "Area Reserve Units" subject to one month's refresher training each year. Shorter duration call-ups follow for the next three years, after which each member is still "available for any national emergency" until reaching 45 years of age.

Among the American-made weapons used by the ROC forces are Hawk and Nike-Hercules missiles, medium tanks, 155mm howitzers, renovated U.S. Navy destroyers, F–100, F–104, and F–5A fighter aircraft, C–119 transports, and a variety of trucks, rifles and other small arms, and various support equipments. Like the Israelis, the Taiwanese armed forces have been repeatedly tested under fire—six times on and around Kinmen, for example. And they have met the challenge each time—once, in a bloody battle on October 27, 1949, by successful driving off from that tiny island a two-division ChiCom force which had made a forced landing two days earlier and was occupying several of the island's strategic strongpoints.

Despite previous ROC combat successes, Taiwan's leaders and the people they govern know Nationalist China's continued viability as a free nation is still and for the foreseeable future will be dependent on the continuing friendship of the United States, and particularly on the comforting offshore presence of the U.S. Seventh Fleet—because the sea forces are of primary importance in the area, the Commander of the U.S. Taiwan Defense Command, currently Vice Admiral Philip A. Beshany, USN, is always a Navyman.

WHAT'S IN IT FOR US?

The dependence is in many respects mutual, however. Longtime China-watchers, particularly the wall-eyed breed which keeps simultaneous book on Peking and Taipei both, vary in their assessments but generally give four principal reasons why it would not be to the advantage of the United States to let Taiwan shift for itself.

Strategically, there is nothing to be gained. There is, in fact, much that could be lost. Taiwan is an integral (although not completely indispensable) element in the chain of U.S. western Pacific island bases ringing the eastern and southern shores of the continent of Asia. An important American staging area during the Vietnam conflict, it might never again have to be used by U.S. forces in combat, but its potential remains. Those who advocate U.S. pullout as a unilateral concession to Communist China ignore the fact, moreover, that there is no guarantee the successors of Mao and Chou will continue the current rapprochement. Until a new regime is in power on the mainland, therefore, any irreversible U.S. move in this direction would be premature, at the very least.

Economically, despite the gossamer prospects of "750 million customers" on the mainland, Nationalist China is much more important to the United States, and will continue to be for a long time to come. Last year, based on foreign trade settlements, the United States and Taiwan had a two-way trade total of slightly over $2 billion, making Nationalist China America's 12th leading trade partner (in a field of 145 nations). If current trends continue Taiwan will move to seventh place on the list within the next two or three years. Red China's total two-way trade with all countries of the world combined, in contrast, was less than $4.3 billion in 1970. Western economists do not see that total growing very rapidly in the near or distant future, nor do they see the United States capturing much more than its current almost infinitesimal share of the ChiCom market.

Politically, Taiwan is a symbol: (1) to the Free World at large, of U.S. credibility—if the United States fails to live up to its commitments to Nationalist China, then Israel, West Berlin, and U.S. allies in NATO and elsewhere will have to make an agonizing reappraisal of their own positions; and (2) to the 750 million human beings on the mainland itself, who see Taiwan, whatever its faults, as a China which might have been for themselves and which, given the passage of time and the changing and mellowing of current regimes, might yet be. To the Taiwan Chinese, who have a still strong identification with the Middle Kingdom, this is a most important point, unlikely though current prospects are for such a utopian ending to the current situation.

Morally—the argument that should have the most appeal to most Americans—U.S. withdrawal from Taiwan would gain nothing for the people on the mainland (although it would please their rulers), but it could have cataclysmic consequences for the people on Taiwan—native-born and mainlanders alike. It is not diplomatic, perhaps, but it is realistic to remember that a study published in 1971 by the Senate Internal Security Subcommittee estimates that, as of then, anywhere from 32 million to 61 million people (estimates vary widely because of the extremely closed nature of Communist society) had been killed by the Mao regime or had died in slave labor camps since the PRC came to power. This is anywhere from six to 10 times the number of Jews slaughtered by the Nazis during World War II. The blunt trust must be faced, therefore, that, based on past performance, U.S. withdrawal from Taiwan at the present time might well be followed shortly thereafter by the slaughter and/or enslavement of another 15 million people. (The appealing "third alternative" of an "independent Taiwan" is apparently not possible; the one thing on which Nationalist China and Communist China agree is that there is only one China, and that Taiwan is part of it.)

There are many Americans antipathetic to the Chiang Kai-shek regime who believe the United States should never have become involved in China's "internal problems" in the first place. Their point is perhaps debatable, but it is also irrelevant—applicable to 1949 realities, but not to today's. The fact is that the United States did, rightly or wrongly, become involved in 1940 and has remained involved ever since.

In an admirably comprehensive article in the February 1973 Marine Corps Gazette, Colonel Angus M. Fraser, USMC (Ret.), a leading Sinologist, recognizes this fact and sums up the dilemma now facing U.S. decisionmakers as follows: "No matter how much this nation wants to reduce its military presence and to see an end to trouble in Asia, we must remember that American support, freely and massively given, put the people on Taiwan . . . in their present position. It would be morally indefensible now to abandon them to a fate not of their own choosing."

HYDROGEN FUEL

Mr. MOSS. Mr. President, a fuel made from water and whose product of combustion is water is very attractive from an environmental standpoint. If we add to this an energy content per pound much higher than most other commercially available fuels and indications that costs might be competitive with other fuels in the future, hydrogen becomes extremely interesting.

A report entitled "A Hydroenergy Carrier" was just released. This report considers the use of hydrogen as a fuel source. The report also considers the feasibility of a hydrogen economy in which hydrogen replaces hydrocarbons as an energy medium.

The report was the result of 11 weeks of effort by participants in the 1973 summer program sponsored by the National Aeronautics and Space Administration in cooperation with the American Society for Engineering Education. This program, entitled the NASA/ASEE Engineering Systems Design Institute, is conducted annually at the Johnson Space Center, and is jointly administered by the University of Houston, Rice University, and JSC.

The systems design team was composed of 18 faculty members representing 14 universities. The team was multidisciplinary and included 16 professors in various fields of engineering, one political scientist and one lawyer. Group composition was designed to enhance the engineering systems concept by incorporating relevant social, legal, political, environmental, economic, and safety factors in the final systems design.

The report is of such national interest that I request unanimous consent to print its summary in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD as follows:

SUMMARY

Hydrogen as an energy carrier is almost ideal from an environmental viewpoint. It is made from water and its product of combustion is water. Hydrogen can be used as a fuel in all conventional areas of energy use, including industrial chemical, industrial fuel, electric power generation, residential and commercial, and transportation. A primary source of energy such as fossil fuel, nuclear energy or solar energy must be used to produce hydrogen. The cost of hydrogen will depend on the cost of the primary source of energy and the efficiency of the process used to produce the hydrogen. Projected costs of gaseous hydrogen at the producing plant range from $1.00 to $3.00 per million Btu. Pipeline transmission of gaseous hydrogen will add only a few cents per million Btu to the cost of hydrogen fuel delivered to the customer.

Initial large scale methods of production of hydrogen will be from the gasification of coal with costs forecast to drop from over $1.50 per million Btu to as low as $1.00 as the technology develops.

Coal, by far the greatest domestic energy reserve, can be gasified to produce substantial amounts of hydrogen for many years. Coal will also be used to produce synthetic natural gas and synthetic crude oil. Because of the potentially high demand for coal by these competing forms of fuel, nuclear energy will also be used to produce hydrogen. The established process is by electrolysis of water but the overall efficiency is low. Depending on the cost of electric power, the cost of hydrogen gas produced by electrolysis will range from $1.00 to $5.00 per million Btu. There is very little cheap power available, even at off-peak periods and the cost of most of the hydrogen produced by electrolysis will be from $3.00 to $5.00 per million Btu.

If the needed technology is developed, direct thermal decomposition of water or thermo-chemical decomposition of water to produce hydrogen, using nuclear heat rather than electricity, will produce hydrogen at a cost of $1.00 to $1.50 per million Btu. These processes are not expected to be operational before 1985. For the period after the year 2000, solar energy may replace nuclear energy for the production of hydrogen from water, but the cost is forecast to be in the range of $2.00 to $3.00 per million Btu.

Hydrogen can be transported most economically by pipeline. Special attention must be directed to designing the pipeline to avoid conditions which may cause hydrogen environment embrittlement. This can be done.

There are no non-technical aspects of the hydrogen economy which cannot be met. Safety problems with hydrogen are similar to and probably no worse than safety problems with other hazardous fuels. Environmental, social, legal, economic and political factors have been examined. No insurmountable problems are anticipated in converting to a hydrogen economy.

Implementation of hydrogen as an energy carrier into our energy system must be by integrated steps. Although large tonnages of hydrogen are used in the chemical industry, there is no established market for hydrogen as a fuel, except in the space program. We believe that direct experience in the production, pipeline transportation, and use of hydrogen as an energy carrier is needed to demonstrate its feasiblity for use in the nation's energy system. Our concept is that a demonstration project is needed to establish the technology of producing hydrogen by one of the proposed methods and transporting it by pipeline to a consumer located in a high pollution area where it would be advantageous to burn a clean fuel. A Ford foundation grant or government subsidy to pay the difference between the cost of a conventional fuel would be needed to give the successful bidder a guaranteed market for several years. During this time he would be permitted and encouraged to develop other markets. In order to get maximum involvement by industry, no other government participation would be needed for this "Hyplex" project.

Subsequent projects might be a new city (Hycity), operation on hydrogen fuel, or even an entire island such as Hawaii. Final integration of hydrogen fuel into the energy system would be the result of economic and environmental advantages.

THE EARTH RESOURCES TECHNOLOGY SATELLITE

Mr. STEVENS. Mr. President, I want to call attention to a problem which I feel requires immediate attention by the Congress.

The specific situation about which I'm concerned is NASA's Earth Resources Technology Satellite—an extremely advanced satellite capable of cataloging our natural resources from 500 miles in space. The first ERTS is currently circling the Earth 14 times a day, taking pictures and sending back immense quantities of computer data telling scientists in 17 countries things never before known about our Earth: Facts about oceans, land masses, winds and resources.

Realizing the increasing importance of understanding, managing and protecting our environment, NASA undertook the ERTS program to determine if a satellite would provide the type and quantity of data needed for this. With just over a year of operation, ERTS has surpassed the expectations of even its staunchest supporters.

ERTS sees things not possible with conventional methods of cataloging and observing the Earth—such as aircraft and field study. First, ERTS collects more data faster and more accurately than any conventional means. Second, ERTS has provided data on remote and isolated areas—such as my State of Alaska—where terrain, time and money previously made exploration and mapping nearly impossible. Third, ERTS has the capability, by virtue of its position in space and path of orbit, to monitor ongoing and isolated phenomenon on the Earth's surface; for example, the changes of seasons, volcanic eruptions, floods, ice and water flow patterns.

In hearings in both the Senate and House Space Committees, NASA officials, officials from Agriculture, Interior, Commerce, EPA, the Navy, Corps of Engineers and several State, local and university scientists and planners detailed the benefits of ERTS. There is no doubt in the mind of anyone interested in inventorying, monitoring and preserving our environment that ERTS is the answer.

But time is running out for ERTS–1. It has already exceeded its design lifetime by several months, and could—according to NASA—die any day.

NASA had considered moving the launch of the second ERTS, ERTS–B, from its original date in 1974 to 1976. But, after the hearings, NASA got a mandate from Congress to continue the ERTS program as previously scheduled.

So, NASA took the successful record of ERTS–1, support from the United States and foreign countries, and the mandate from Congress to the Office of Management and Budget. NASA said:

> ERTS is needed, it is wanted, we are planning for it.

This, then, is where the fate of the valuable Earth satellite now lies—in the Office of Management and Budget.

In all but the rarest instance, it is cheaper to do something now, rather than 2 years from now. The technology is in the satellite, launch facilities are on standby, data collection and analysis centers are operating and resource teams for utilizing the data are assembled and working. The amount of data already amassed will keep investigators busy until late next year—and that is when ERTS–B could start sending new data if the 1974 launch date were kept. If the launch is delayed until 1976, it will undoubtedly cost more; also, researchers, universities, institutions and facilities will, by then, be redirected toward other projects. The machinery, both human and hardware, will be extremely costly—if indeed it were possible at all—to reassemble.

Therefore, I urge OMB to carefully assess the case for ERTS–B in 1974—to look ahead to the long-range benefits of knowing and understanding more about the Earth on which we live.

Concern for the environment has almost become a cliche—but as with most cliches, there is an immense amount of truth behind it. "We've got only one Earth—let's keep it"—to paraphrase a motto of the ecology movement. ERTS can be a major tool in the quest for sound environmental policy.

We are well on our way, but we have got a long way to go. The Office of Management and Budget must realize that to jeopardize ERTS–B now is to jeopardize the environment needlessly. Ignoring the need to spend money for the future would not make the future needs go away.

I urge OMB to respond to the future of the Planet Earth by approving NASA's plan for launching ERTS–B next year.

TO PROTECT 29 MILLION SOCIAL SECURITY BENEFICIARIES

Mr. CHURCH. Mr. President, on November 30 the Senate passed, with my strong support, legislation to provide a two-stage, 11-percent increase in social security benefits. An interim 7-percent raise would become effective the month of enactment. This would be a partial advancement on a permanent 11-percent increase effective this coming June.

The need for this bill, it seems to me, is especially compelling.

During the past year alone, prices have increased at an 8 percent level. But even more significant, some items—especially those with the greatest impact upon individuals struggling on fixed incomes—have soared upwards at a near record breaking pace. The classic example, of course, is the cost of food, which has increased by a staggering 19 percent.

As a consequence, many older Americans have been forced to cut back on food. Some have even sought out substitutes, such as dog food. And far too many have just done without.

On top of all this, the elderly are certain to be victimized by the energy crisis. As fuel prices continue to shoot ominously upward, their limited budgets will be squeezed even further.

For many, timely increases in their social security checks can mean the critical difference between a warmer winter with food on the table or a cold, bleak winter in deprivation.

Consequently, I am hopeful that House and Senate conferees will be able to act quickly on this urgently needed social security legislation.

No measure deserves a higher priority in Congress now, nor is more important to the elderly than this proposal.

As the original sponsor of the interim 7-percent raise, I was especially gratified that this measure was approved with such overwhelming bipartisan support in the House and Senate.

A recent letter to the New York Times by Mr. Nelson Cruikshank, president of the National Council of Senior Citizens, describes very clearly and succinctly the situation of millions of older Americans throughout the Nation.

His comments are worthy of the attention of the Senate. Moreover, his remarks provide persuasive reasons for early action on the social security legislation.

Mr. President, I commend Nelson Cruikshank's letter to the Senate, and ask unanimous consent that it be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

To Protect 29 Million Older Americans

To the Editor:

On behalf of the National Council of Senior Citizens, a nonpartisan, nationwide organization of older people's clubs, I wish to express disagreement with your Nov. 13 editorial on a pending cost-of-living increase in Social Security cash benefits.

The editorial ignores the overwhelming consensus in Congress that a cost-of-living increase is necessary to protect the 29 million Social Security beneficiaries from the ravages of skyrocketing inflation.

The central issue of the dispute concerned the timing of the increase, not the amount.

The Nixon Administration and some conservative lawmakers wanted to delay the cost-of-living increase until July 1974, the next fiscal year, to maintain the fiction of a more nearly balanced "paper" Federal budget, which uses the earmarked Social Security funds to offset deficit spending in other areas.

However, an overwhelming majority of the Congress realized the urgent need for the increase to be effective as soon as possible and rejected the Administration's misleading argument on the House floor by 391 to 20.

The National Council of Senior Citizens strongly supports the concept of an automatic cost-of-living escalator for Social Security cash benefits. When this provision was enacted in July 1972, to provide automatic increases beginning two and one-half years later, inflation was reasonably under control. However, the unprecedented increases in the cost of living this year and the prospect of a hard winter make remedial action by the Congress necessary now if older Americans living on fixed retirement incomes are to avoid further poverty and deprivation.

The two-stage, 1 per cent increase in Social Security cash benefits is nothing more than an "installment" on the automatic increase which was due in January 1975.

Your editorial refers to past increases in terms of percentages and ignores dollar amounts. To evaluate improvements in Social Security benefits properly, it must be remembered that percentage increases have been applied to what were very low payment levels. For example, the average monthly benefit in 1969, the base year in your computation, was only $100 for a retired worker and $170 for an aged couple.

Despite the recent increases, the average monthly benefit for a retired worker is now only $162, and $277 for an aged couple. Thus, while an 11 per cent increase may seem a great deal, it would only increase monthly payments by $18 for a retiree and $31 for a couple.

Clearly, this is an inadequate income level for older Americans largely dependent on Social Security for their economic subsistence.

NELSON H. CRUIKSHANK,
President, National Council of Senior Citizens.
WASHINGTON, *November 20, 1973.*

TAX FOUNDATION AWARD GOES TO SENATOR HARRY F. BYRD, JR.

Mr. HELMS. Mr. President, all too often Members of the Senate receive high honors which, because of their modesty, are allowed to pass virtually unnoticed, like ships in the night.

This happened last week, Mr. President, in the instance of our distinguished colleague from Virginia (Mr. HARRY F. BYRD, JR.). On the evening of December 5, Senator BYRD was honored at a dinner in New York by Tax Foundation, Inc., which selected the respected senior Senator from Virginia to receive its Distinguished Public Service Award.

Needless to say, Mr. President, the major news media ignored this award which went so deservedly to our distinguished colleague. After all, Mr. President, Tax Foundation, Inc., is dedicated to saving the taxpayers' money—not promoting a more extravagant and wasteful spending of it. If it were the other way around, Mr. President; if the event in New York last Wednesday had been one involving a liberal oragnization and a liberal recipient of an award, there no doubt would have been a great flurry of publicity.

So I suppose it speaks well for both Tax Foundation, Inc., and Senator BYRD that the event last week was ignored by the major media. Moreover, Mr. President, the hard-working, heavily taxed citizens of this country owe a debt of gratitude to both Senator BYRD and Tax Foundation, Inc. Both are engaged in the same noble battle—a battle which must be won if this Republic is to survive in economic stability. Both are fighting to bring this country to its senses, by making the people aware of how their Federal tax dollars are being wasted.

So it was entirely appropriate that Tax Foundation, Inc., should honor the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.). Every Senator is aware of Senator BYRD's untiring efforts on behalf of fiscal integrity. This was a case of a splendid organization honoring a splendid public servant.

The text of the Tax Foundation's citation to Senator BYRD reads as follows:

> Presented to the Honorable Harry Flood Byrd, Jr., United States Senator from Virginia, Member, Virginia Senate, 1947–1965, Editor, Winchester Evening Star, in recognition of his distinguished service to his state and nation, his independence in thought and action and his leadership in the cause of economical and efficient government.
>
> By the Tax Foundation, New York, December 5, 1973.

I congratulate both Tax Foundation, Inc., and Senator BYRD.

WEATHER SATELLITES

Mr. MOSS. Mr. President, just over a month ago, I called to the attention of the Senate, and the public, secret consideration in the executive branch of a shift of responsibility for weather satellites.

For several months now, the Office of Management and Budget, the Department of Defense, the National Oceanic and Atmospheric Administration—NOAA, the National Aeronautics and Space Administration—NASA, the President's Science Adviser, and perhaps others, have been considering consolidation of the miiltary and civilian weather satellite systems into one system operated by the Air Force.

The Congress has not been consulted about this ominous potential departure from the practice of the last 15 years.

Two prestigious committees of the National Academy of Sciences—the Committee on Atmospheric Sciences and the Committee for the Global Atmospheric Research Program—have reviewed this proposal. Both have voiced strong misgivings.

Dr. Philip Handler, president of the National Academy of Sciences, has now forwarded to me a letter on this subject from Dr. Louis J. Battan, chairman of the Atmospheric Sciences Committee. Dr. Battan is also the director of the Institute of Atmospheric Physics in Tucson.

So that my colleagues can be informed of the views of the scientific community on this matter, I ask unanimous consent that the letters be placed in the RECORD at the conclusion of my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL ACADEMY OF SCIENCES,
Washington, D.C., December 7, 1973.

Hon. FRANK E. MOSS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOSS: I have recently received the enclosed letter from the chairman of our Committee on Atmospheric Sciences. As the matter which he addresses is of interest to you and the members of your committee, I am pleased to make it available to you as an expression of the views of Professor Battan and the other members of his Committee on Atmospheric Sciences.

Sincerely yours,
PHILIP HANDLER,
President.

NATIONAL ACADEMY OF SCIENCES,
Washington, D.C., December 7, 1937.

Dr. PHILIP HANDLER,
President, National Academy of Sciences,
Washington, D.C.

DEAR DR. HANDLER: On November 7, 1973, Senator Moss released a news item expressing his concerns regarding present considerations being given by the Executive Branch of our Government to the possibility of transferring to the Department of Defense authority for the management of the U.S. satellite program.

This Committee fully concurs with the fiew of Senator Moss that this matter requires "serious reflection." The Committee believes, furthermore, that the potential implications of such a policy decision could have both a far-reaching and a lasting detrimental impact on national and international programs of interest and concern to the United States.

Perhaps of most immediate concern is the need to be quite certain that the present scientific and technical programs and plans for the Global Atmospheric Research Program do not become compromised. International participation in the Global Atmospheric Research Program is essential. This participation is currently extensive, and includes provision by other nations of sensing and interrogation devices for installation on U.S. satellites.

In regard to long-range national programs in the atmospheric and related geophysical sciences (for which both polar-orbiting and geostationary meteorological satellites now have critical roles) we believe that the broad responsibilities of the Federal Government to the American public can most properly be met under the guidance and direction of civilian authorities.

We are fully aware of the significant role that was served by the military services in the atmospheric sciences during the immediate years following World War II. But during the past twenty years this role has been largely transferred to civilian agencies. We firmly believe that this is as it should be. The separation of any part of the operational satellite program from the civilian agencies which have research and development responsibilities for these satellites, does carry a risk for separation of the research and development effort from the operational aspects, which together have been a major contributing factor to the success and progress that has occurred in this program to date. Also, we are convinced that to do so jeopardizes the success of certain important international cooperative programs from which the United States hopes to gain substantial benefits.

The Committee on Atmospheric Sciences sincerely hopes that Senator Moss and his colleagues can persuade the Executive Branch of our Government that a penetrating examination of the consequences of such a major change of policy is essential. The

Committee stands willing to assist in any appropriate manner that you believe may be useful.

Sincerely yours,

Louis J. Battan,
Chairman.

AD HOC ADVISORY GROUP ON PUERTO RICO

Mr. COOK. Mr. President, as you know, I have the honor of being the cochairman of the newly created Ad Hoc Advisory Group on Puerto Rico. This group was appointed by President Nixon to explore the further development of the relation between the Commonwealth of Puerto Rico and the United States. Specifically, the committee is and will be considering revision of the statutes relating to Puerto Rico, and the extent to which certain laws of the United States will apply to the island of Puerto Rico.

During the past weekend the Ad Hoc Advisory Group held 2 days of public hearings in San Juan. A total of 27 witnesses appeared, representing all of the political parties on the island and their respective points of view. The subjects discussed ranged from the very specific areas of television programing and minimum wage requirements to the more general question of the ultimate political status of Puerto Rico.

The group met from 9:30 a.m. to 7 p.m. on Saturday, December 8, and from 9:30 a.m. to 12:30 p.m. on Sunday, December 9, in addition, members of the advisory group met privately with several government officials and private citizens to discuss similar problems relating to United States-Puerto Rican affairs.

For your information, Senators Buckley and Johnston join me on the group, as well as Congressman Don H. Clausen of California, and Congressman Thomas S. Foley of Washington. In addition the U.S. delegation includes former Gov. Richard Ogilvie of Illinois and Mr. Paul Howell of Houston, Tex. The next meeting of the advisory group is scheduled for early February.

If any of my colleagues desires any information regarding the activities of the group or wish to discuss any matter concerning Puerto Rico, my staff and I would be most pleased to cooperate with you. I will continue to provide these summaries of the activities of the advisory group as they develop.

UNNOTICED FAMINE IN ETHIOPIA

Mr. KENNEDY. Mr. President, as I indicated to the Senate on November 27, recent field reports from Ethiopia have told of the disastrous impact 3 years of severe drought has had on many rural areas in northern Ethiopia creating famine conditions for millions of people.

Yesterday, the Washington Post carried a London Observer report of some days earlier on the crisis in Ethiopia, and rightly headlined it: "Unnoticed Ethiopia Drought Takes 50,000 to 100,000 Lives."

But, as so often in the past, this humanitarian crisis has not gone unnoticed by the voluntary agencies or international relief organizations. Since last summer it has been their cry of anguish over the long-neglected food needs of Ethiopia that finally served to alert the news media as well as officialdom in Addis Ababa and Washington, as to the seriousness of the problem.

One of the most disturbing of these reports was prepared by the United Nations Development Program representative, and reveals what many in Government have apparently been unwilling to recognize to date: That the effects of the drought have been "catastrophic." American voluntary agencies have also told our Government and the international community of the increasingly serious health conditions, urging some months ago that greater efforts were needed to stave off thousands of deaths from malnutrition and disease.

Peace Corps volunteers, working in the drought affected areas, have also told our Embassy in Addis Ababa, as well as Ethiopia officials, of the deteriorating situation in many areas. Sent out to administer smallpox vaccinations to villagers dying of malnutrition has caused some of these volunteers to resign in frustration—frustration over the seeming inability to meet the simple life or death nutritional needs of these people.

It was for these reasons, Mr. President, that I drew the Senate's attention to these reports, particularly the U.N. report, and addressed a letter of concern to the Department of State. I hope to receive a reply to this inquiry as to our Government's evaluation of these reports and our assessment of food needs in Ethiopia over the coming months. There is much more that we and the international community must do to help Ethiopia to avert even greater human tragedy.

Mr. President, I ask unanimous consent that yesterday's report from the Washington Post, as well as other recent press reports on the situation in Ethiopia, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 9, 1973]

Unnoticed Ethiopian Drought Takes 50,000 to 100,000 Lives

(By David Martin)

Dessie, Ethiopia.—Sprawled on his back on a stone road half a mile from the destitutes' shelter at Haik lay the body of an old, gray-bearded man. Flies crawled over his mouth and nose as passers-by skirted the corpse with barely a glance.

In Ethiopia's Wollo province little enough can be done for the living, and the dead are ignored.

The old man was one among hundreds of victims of the drought which passed unnoticed for months outside Ethiopia.

For over 250 miles from Addis Ababa, the now-crumbling road built by the Italians during their occupation in the 1930s winds through Mussolini Pass and across the fertile mountainous landscape to Dessie, capital of Wollo Province.

Fields of corn, wheat and peas, turning brown as the harvest approaches, cloak the reality of a disaster which, the United Nations estimates, has cost 50,000 to 100,000 lives.

The old man's body ended the illusion of rugged beauty which distinguishes this part of Ethiopia.

He had been too weak to make the Haik shelter. Many who reach the camp do not survive. Just before I arrived, a 12-year-old girl died in one of the squalid galvanized shelters where the destitutes huddle together covered in dirty rags with only rush mats between them and the earth floor.

Almost 18,000 people are still in Wollo's 13 shelters. At the peak in June, July and August they were dying at the rate of 100 a day. Emergency feeding had reduced this to about 20 daily now, but disease still threatens them, for they are vulnerable because of malnutrition.

Now there are few beggars on Haik's main street. "You should have been here two months ago. Then there were thousands, and trucks took away 20 to 30 bodies every day," a man in the town's main hotel said.

The full scale of the catastrophe is not yet known, but it is such that this nation, which once mourned its dead with public wailing and weeping, has now lost its voice.

Argashe Abate, 30, in a listless *monotone*, said she had buried her husband and four eldest children in eight days. When the crops failed last December and the rains in March, her husband, Hassan, sold their six acres of land and took a job as a farm laborer, but he was so weakened by malnutrition that he became sick and died.

The family had no food, and within a week her son Mohamed, 9, and daughters Nurie, 5, Ergoye, 3, and Fatima, 2, were all dead. Argashe with her year-old surviving daughter, walked for three days to reach the Haik shelter, but there the last child died.

Getawa Fantew is a nine-year-old orphan.

For months his family was short of food and when they left their village in April about six people were dying each day. In Haik he watched his parents die on the street and then begged and stole to live.

Abraham Kasa, 32, was comparatively wealthy, but in the past four years he had to sell three of his four plots of land to buy food. Then, early this year, five of his cattle died and he sold the remaining five. Finally, in April, he sold his last plot of land for $29, half the normal price.

A few days later his wife died. Then his older sons. With his last child, an eight-year-old girl, he walked for two weeks to reach Haik, and they now serve other people, having recovered their health on protein concentrate diet.

The cases of Abraham and Argashe illustrate one of the most revolting aspects of the disaster. Wherever there is death the vultures gather, and here there are many.

Starving peasants have been forced to sell their lands, cows, oxen and the crop due in December at half the normal price to survive. Officials have sold emergency feeding cards which should be distributed free, and merchants have doubled grain prices in their shops. A number of officials have been arrested.

In mid-June, Emperor Haile Selassie removed the Wollo acting-governor general, Sololeman Abraham. Six students were shot dead and an unknown number wounded during a demonstration against the provincial administration.

Officials at Dessie firmly believe the bulk of the disaster could have been averted if reports coming in from sub-district governors had been acted upon and sent to the government in Addis Ababa.

It was not until March when destitutes reached the capital from Wollo that it was realized in Addis Ababa that people were starving. The provincial administration failed to respond to inquiries, and a team from five ministries was sent to investigate. Six days later they reported back, and within 48 hours a relief committee had been set up. But by then it was too late.

The emperor has ordered an inquiry into the Wollo administration. In mid-July he appointed a tough minister of state, Legesse Bezou, as the province's new acting governor general.

The New administration and the relief agencies have now turned the tide of starvation and for this great credit must go to an Irish priest, Father Kevin Doheny, head of the Catholic relief services here.

When the churches were called in last May, Father Doheny sent out world-wide appeals for aid and mobilized the Oxford Committee for Famine Relief (Oxfam) whose team of doctors and nurses have done much to cut the death toll.

Nonetheless those in the camps, as well as the 220,000 or more who have returned to their lands, are still weak and vulnerable to diseases such as cholera, typhus, malaria, dysentery and gastroenteritis. Epidemics have killed hundreds in the shelters and urban centers.

At the Kombulcha shelter near Dessie, two British volunteer nurses have spent the last month feeding the undernourished. Only those whose bodyweight is less the 75 per cent of normal receive the emergency protein concentrates. The rest are getting grain supplied by the government.

The shelters are depressing and frustrating. But Zena Chaddick, 26, feels it has been rewarding.

"Morale has improved" she said. "When we first came to Kombulcha there was no laughter and the children were just lying around with the adults. Now morale has improved and the children are smiling. They look a little bit brighter, their hair is shining and basically we feel they are more happy and lively."

I watched one man at Haik, his face etched deep with despair, bring his two surviving children for emergency food. One boy, about 3, had to be hand fed, and he was dead the next day.

The other was 10 and covered in a white shroud to protect him from the sun. His legs were like matchsticks, ribs protruding, face gaunt and apathetic and eyes dulled. He also is expected to die.

People's heads are shaved, but even so lice are common, carrying with them the threat of outbreaks of typhus. Measles has just started at Kombulcha, and as the sick cannot be isolated it is likely to sweep through the 1,400 destitutes there, bringing further deaths.

If the past is grim then the future is also bleak. There are hundreds of orphans and widows. Even those with somewhere to go back to have no seed to plant and no oxen to plow.

The government plans to distribute seed and oxen on credit, but few of the people in the rural areas can withstand another serious drought.

Of the 283,000 destitutes registered in the urban centers, 220,000 have made their way back to the land. People who bought land at a pittance at the height of the famine will be repaid the money by the government and forced to return it.

[From the London Sunday Times, Nov. 25, 1973]

A FAMINE THAT LEFT THE RICH RICHER AND THE POOR POORER

(By Martin Meredith, Addis Ababa)

Not far from the battleground at Magdala, where 100 years ago a British expeditionary force defeated the army of one of Ethiopia's more eccentric emperors, a British Army engineer was last week clambering up and down the rugged mountains of central Ethiopia to survey the possibility of building roads in the area.

The travels of Colonel Richard Holland are of more than passing interest. He is one of the few outsiders to have ventuerd into the interior of Ethiopia's drought-stricken Wollo province, where thousands have died of famine and disease this year, and his foot-slogging survey could play a big part in preventing future disasters there.

Colonel Holland's scrambles could clearly help to solve two problems:

1, a lack of facts. One of the most striking aspects of the famine in Wollo is that, while relief workers have now managed to control the crowds of starving, dying refugees who limped down from the mountains earlier this year, nobody really knows what is happening back in the mountains.

Even less is known of the Danakil Desert beyond the mountains, where the death toll among the nomadic Afar tribesmen could be staggeringly high.

2, a lack of roads. This contributed significantly to the scale of the disaster, for it blocked the chance of sending any food up into the mountains.

By contrast, in the neighbouring province of Tigre, where the drought was equally serious, the energetic governor had spent the past 10 years building feeder roads into the interior and was able to distribute some food, thus keeping the hillsmen from flocking to the disease-ridden camps on the main road.

COMBINATION OF CIRCUMSTANCES

The road problem, however, was just one factor in a fatal combination of circumstances which produced this monumental tragedy. The human responsibility for the size of the disaster, which one United Nations report suggested could have killed 50,000 to 100,000 people, extends far and wide.

It was not until November 12, months after the first victims had died, that people in Addis Ababa were officially told on television that people had died of hunger.

Government action on relief work was almost slow, and the blame for this delay is now being partly attributed to the former governor of Wollo province, Sololeman Abraham, who was sacked in June. An old aristocratic figure, he claims he sent reports to the central government but this is denied in Addis Ababa. The Government says it had no idea of the problem until a special team visited the area in April.

The total amount of grain delivered to the drought areas of Wollo and Tigre by Government, Church and private sources between May and late August—in the middle of a famine which hardened relief workers described as worse than Biafra—was no more than 1,400 tons.

By November the total grain delivered was 9,000 tons. One relief worker estimated that this figure would have been needed each month to halt the starvation. Even the Government's own planning commission concluded in May that 46,000 tons a month would be required.

While the Government was asking foreign countries discreetly for food it made no mention of the need for medical personnel or relief workers. So the brunt of the relief effort fell on local churches and voluntary groups. Their efforts were brave but their resources pitifully inadequate. Help was channelled through the Christian Famine Relief Committee, set up in May and run by an Irish priest, Father Kevin Doheny.

But it was noticeable that the powerful Ethiopian Orthodox Church, which owns 20 per cent of the country's arable land, made no contribution to the relief effort beyond sending a group of volunteers to the drought areas as late as September. Oxfam provided funds as early as May, but no medical teams arrived in the country until October.

The combination of inadequate food and lack of medical personnel was catastrophic. In July a cholera epidemic raged though relief officials were obliged to call the disease "dysentery" for fear of incurring Government displeasure.

A few cases of local corruption and food profiteering added to the misery, but eventually Emperor Haile Selassie woke up to the disaster and ordered Government action. Then in August a deliberately provocative Unicef report inspired world wide attention.

This attention is now being focused on the long-term causes and problems of the famine—and also on the deeper injustices of Ethiopian society. For, startling as it may seem, some Ethiopians have benefited substantially from the disaster.

SELLING FOR A PITTANCE

Wealthy landlords and village chiefs, able to withstand the effects of the drought, have taken the opportunity to buy land and cattle from destitute peasants only too eager to sell their property for a pittance to buy food.

So the famine has made the rich richer and the poor poorer, in a land which was in any case a land of powerful barons and landless peasants reminiscent of medieval England. One recent survey showed that one single Ethiopian owned more than two million acres, while thousands of peasants throughout the country rent land by paying anything between a third and three-quarters of their produce to landowners.

These tenant farmers have no interest in improving the land, or of raising their output beyond subsistence level. In bad years there is little to fall back on.

The Government owns vast tracts of land but most of it is granted to gentry, civil servants, military and police officials as a reward for loyalty and service.

As much as 25 million acres of arable government land (about 12 per cent of the total arable land) is available for grants to individuals. But between 1942 and 1970, of the total registered government land distributed, 95 per cent was given to officials and other elite and only five per cent to peasants. Of unregistered government land, 75 per cent went to officials and 25 per cent to peasants.

[In a study of land problems in Ethiopia, published by the Royal African Society in London last month, John Cohen of the University of Colorado commented: "A primary reason for grants of government land to the elite is to reduce opposition and secure loyalty to the political system."]

For five years the Ethiopian Parliament has been considering land reforms but the great majority of its members are landowners whose interest would suffer should any reforms get through.

Thus the Ethiopian famine has wide implications. The travels of Colonel Holland may well have an impact on the people of Wollo, but ultimately their welfare depends on greater considerations.

[From Time magazine, Dec. 17, 1973]

AFRICA: A DEADLY NEW YEAR

(The wrinkled old Tuareg looked out across the windblown desert surrounding the squalid refugee camp near the Niger capital of Niamey, where he and 5,000 others now live. "This year," he said, "it was the animals that died. Most of us managed to survive. But next year, unless Allah is most merciful, it will be our turn to die.")

Sadly, there is very little likelihood that Allah will be any more merciful next year than he has been throughout 1973. Mohammed Ibrahim may be alive, but starvation and disease on the three-month trek from drought-ravaged Mali to Niger cost him all his cattle and camels and a third of his family. Now he is destitute, living in a stark hut made of hides. The Niger Red Cross manages to provide him with 150 grams of food per day, which, according to U.N. officials, can only sustain life for a short time.

Despite massive international relief efforts, the worst drought in recorded African history has thus far claimed perhaps as many as 100,000 lives in northern Nigeria and in the "Sahel," or sub-Saharan, nations of Mauritania, Senegal, Mali, Upper Volta, Niger and Chad. More than 1,000,000 hungry nomads are roaming the Sahel, surrounding its cities in a futile search for food. Nomads in Chad have been forced to eat leaves and bark to stay alive. In Nigeria's parched Northeast, villagers pillage anthills to get at grain kernels that the ants have stored away.

The drought area stretches across the entire waist of Africa, from Mauritania in the west to Ethiopia in the east. In Ethiopia, more than 50,000 have died of starvation. Many mothers have had to sacrifice their weakest children by drawing emergency food rations for them and then using the food to feed the others. So great is the catastrophe, says one local priest, that the traditional public weeping and wailing for the dead has been abandoned; the people have lost the will to cry.

Ethiopia's case is the saddest of all because many of the deaths could have been avoided. Last January, when officials brought word of imminent starvation among peasants to one provincial governor, he disciplined them for their "negative attitude." He also refused to press Addis Ababa for aid, for fear of embarrassing a government that was pushing tourism. The result was widespread starvation and an initial reductance on the part of international agencies to send food; U.N. officials assumed that Ethiopia was suffering far less than the Sahel states.

SWOLLEN STOMACHS

The prognosis for Ethiopia and the sub-Saharan countries is for an equally grim and dry new year. The little rain that did fall this year came late and ended early, preventing a full fall harvest of millet and sorghum that might have saved some lives. Relief efforts are continuing, and in Ethiopia some food is belatedly getting to the impoverished northern provinces. But in the refugee camps thousands of children with matchstick legs, portruding ribs and swollen stomachs continue to die of malnutrition. A new woe was added last week when swarms of locusts began eating their way through much of Chad and northern Nigeria, reducing the meager supply of food still further.

[From the Washington Star-News, Nov. 8, 1973]

Famine in Ethiopia

In the first year of the drought, such meager food reserves as existed were eaten. In the second year, the seed grain and the livestock were eaten. And when the "small rains" of April failed in the third year, the people began to die by the thousands. So the famine that has afflicted Sahel countries of West and Central Africa has come now to Ethiopia. Perhaps 100,000 people already are dead in the provinces of Hararge, Tigre, Wollo and Shoa.

The Ethiopians are a proud people and Addis Ababa is said initially to have tried to conceal the fact of the famine rather than appeal for international charity, a charge which Emperor Haile Selassie's government denies. At any rate, the United Nations, the United States, Sweden, UNICEF, the International Red Cross and other voluntary agencies now are doing what they can to alleviate the worst effects of the disaster.

While it will not help this year's victims, one thing the Ethiopian government could do to help prevent future tragedies is to pass—and enforce—a reasonable land reform law. Many of the victims of the famine are landless tenants who are forced, sometimes illegally, to surrender up to 75 percent of each year's crop to their landlords. This makes it impossible for the peasantry to accumulate even the small reserves necessary to stave off a short famine.

In a parliament in which landlords are in a majority, the passage of a law guaranteeing security of tenure and a limitation on rents is no easy matter. Nor in areas where communications are rudimentary and a tradition of fuedal independence exists is the imperial writ always fully observed.

Ethiopia, which is a good friend of the United States, deserves all the help we can give. But a comprehensive and effective land reform act is a necessity if causes rather than symptoms are to be treated.

ACCURACY—AND HONESTY—IN MEDIA: PART II

Mr. BUCKLEY. Mr. President, on December 4, 1973, I placed in the Record articles originally published in the Wall Street Journal. These articles were critical of the reporting of the revolution in Chile and particularly critical of Newsweek's coverage of that event. In the course of my remarks I said:

> . . . I also do not know if the Newsweek reporter has answered the charges of unprofessionalism leveled against him by the Wall Street Journal's analyses. But surely given the thoughtful and informed comments made by . . . the columns of the Wall Street Journal, we can do without the sanctimonious arrogance with which so many in the media react to honest and well-documented criticism.

It has been brought to my attention that Newsweek's executive editor Kenneth Auchincloss has indeed responded to the criticism leveled against his magazine. On November 15, 1973, he responded at length and in detail and I want to take this opportunity, in the interest of fairness, to place his reply in the Record. I want, at the same time, to congratulate the Wall Street Journal for what I feel is a fine example of fairness in presenting a controversial story. The original critical article on Newsweek's report contained a quotation from Mr. Auchincloss, showing that the Wall Street Journal at least bothered to inform Newsweek of the charges leveled against it and gave that magazine an opportunity to reply on the critical article. Mr. Auchincloss was then given an opportunity to reply to the criticisms at approximately the same length as the original article. I hope that the television networks and other newspapers are willing to learn from the Wall Street Journal's excellent demonstration of fairness and accuracy.

Mr. President, I ask unanimous consent that the following article, "Newsweek Replies on Chile," Kenneth Auchincloss, the Wall Street Journal, November 15, 1973, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Newsweek Replies on Chile

(By Kenneth Auchincloss)

On November 2, The Wall Street Journal devoted a major part of its editorial page to an attempt to discredit Newsweek's account of the killings that took place in Chile after the military coup of September 11. In an editorial and two lengthy articles—one by its Latin American correspondent Everett G. Martin (a former Newsweek correspondent) and the other by Chilean journalist Pablo Huneeus—the Journal suggested that a report by Newsweek correspondent John Barnes in the magazine's October 8 issue was "grossly exaggerated" and "based on events which didn't happen and figures that were misinterpreted." These are serious charges—in my view, utterly unfounded and untrue. Let's examine them, one by one.

1. Mr. Huneeus accuses Newsweek of something called "journalistic imperialism." To cover the Chilean coup, he says, the magazine "sends from London a British correspondent" who "makes no effort to understand what is really going on here." The implication—that Mr. Barnes is a complete stranger to Chile whose reporting was based on a few days' acquaintance with Chilean affairs—is totally false, Mr. Huneeus knows full well. Mr. Barnes was Newsweek's Latin American correspondent from 1970 (the year Salvador Allende was elected president of Chile) until January of this year, when he transferred to the London bureau. He has spent considerable time in Chile and contributed to a number of major Newsweek stories on the Allende regime. It was because of this familiarity with the Chilean scene that Newsweek sent him in. In the course of his previous reporting, incidentally, he has occasionally had harsh things to say about Allende's government; on an earlier assignment in Latin America, he once spent three weeks in one of Fidel Castro's jails. Mr. Barnes has emphatically not shown any special favor or sympathy to Marxist regimes.

Now a look at Mr. Huneeus' credentials. He is a skillful, perceptive journalist and a patriotic Chilean, but he is also a committed anti-Allendist on the right of the Christian Democratic Party. The Journal correctly reports that he has assisted Newsweek correspondents. In the second week after the coup, Mr. Barnes himself interviewed Mr. Huneeus to get the views of a wealthy, sophisticated Chilean who was well-known as an opponent of the regime. In his own piece in the Journal, Mr. Huneeus wrote: "The military intervention is the logical outcome of a Marxist regime." I have no doubt of Mr. Huneeus' professional integrity, but it is a long stretch to call him, as the Journal does, "objective and independent."

2. Mr. Huneeus seeks to discredit Mr. Barnes' account of his visit to the Santiago morgue by quoting morgue staffers who say there are inaccuracies in his physical description of the place and who speculate that, if he did get inside, he fell victim to what a morgue pathologist calls "perception shock": "when exposed to a couple of bodies," he explained, "the shock alters perception capabilities" (Mr. Huneeus evidently suffers from "syntax shock"). Mr. Barnes reports that he was indeed shocked to see 70 or so corpses lined in the corridor—but no more so than in his other encounters with violent death while covering stories in the Dominican Republic, Nigeria and Northern Ireland. In weighing remarks by the morgue staff, one ought to remember that the authorities are presumably unhappy that Mr. Barnes was allowed to get in, and that therefore the staff had good reason to suggest that it was all a fabrication.

MR. BARNES' ACCOUNT

To suggest that Barnes simply made up his report on the morgue seems to me a desperate and grotesque charge against an experienced, first-rate journalist. In fact he was in the morgue four times. Here is Barnes' full account of that experience:

"It all began by accident. On the morning of September 24, a photographer colleague had been at the city cemetery, across the street from the morgue, taking pictures of grieving peasant families burying their dead in the 'potters field' section of the cemetery. As she was leaving, she saw a truck drive through the gates into the courtyard of the morgue. In the back were piled naked corpses—ten, perhaps fifteen. She rushed over to take a picture. A soldier promptly stopped her. A morgue official came over and told her to leave. 'It's hard to get in here at the best of times,' he said. 'These are very difficult times. You had better leave quickly.'

"I was having lunch at the Hotel Carrera Sheraton when she came back and told me what she had seen. It suddenly dawned on me what was going on: the junta was being so bureaucratic (and the Chileans are the most bureaucratic people in South America) that they were processing their victims instead of digging a hole and getting rid of them.

"I went to the morgue that afternoon. There was no hope of getting in the main entrance. But there was a small side staff door, near where the lists of names of several hundred bodies were posted along with other lists that simply read one after another 'cadaver—unidentified male,' or 'cadaver—unidentified female.' A large crowd of silent Chileans, all of the working class, stood around silently looking at the lists. There was a darkened window over the center of the door. I tapped on it and held up my junta-signed press pass. The door was opened by an elderly, fat little man wearing a white coat. I walked right past him, up a flight of steps, and turned left along a corridor, not knowing where I was going. At an intersection, where the corridor divided, I turned right, I pushed through some swinging doors.

"There were the corpses, lying stretched out naked, side by side, packed tight together, their heads—or what remained of them in most instances—leaning upward against the wall, staring silently out in front of them. I don't know about 'perception shock,' but I was shaking from head to foot. I walked out, back down the corridor, down the stairs, and out into the open. I returned with a Chilean friend so that I would have a witness if only just to tell me that I had seen what I had seen. We stood there looking. I remember at the end of the line there was a young kid with blonde hair, perhaps in his late teens, so unlike the others with their black hair and high cheek bones. I asked my friend why the bodies looked so white and soft for people with such obvious peasant features. He suggested it was because they had already bled. But he didn't really know.

"The next day, we decided we had to go back and try to get some pictures. We figured that at about 1:30 the morgue workers would be at their lunch. It was a different man on the door. But the same flashing of my pass worked again. I was wearing a blue polo-necked sweater with a white linen jacket with my camera tucked inside it. My photographer colleague had already set an estimated light reading. When we reached the swing door, my friend pushed it open with his elbow, looked in, and then nodded to me. I walked quickly through. I saw it was a different lot of bodies, more of them. I stared at them for a second. In place of the blonde kid, there was an old man, with the bottom front of his face gone, up to the upper lip.

"As I went to the camera, a man in a white jacket carrying a sheet of paper walked through the swinging doors at the far end of the corridor. I turned and crashed my way through the door behind me. We left at a walking run. But no one had followed us as we stood panting for air out in the sunlight. Five minutes later, when we had stopped shaking, I said I was going to have one last go.

"We got halfway down the corridor that led to the swing doors when a man came around the corner. I don't know whether it was the same one; he went past us but then turned and asked, 'Where are you going?' We said in unison 'To the bathroom.' He said, 'You had better follow me.' As we walked behind him back down the corridor, we both must have been thinking that things wouldn't go too well with us, what with the camera and those bodies in the corridor. As we reached the short flight of stairs that led down to the side door, the two of us peeled off as though in formation, and we were out of the door in a shot and into the crowd of women."

Skeptics may ask what independent evidence exists that Barnes was telling the truth. He was not able to take a photograph for the reasons he has described. He cannot identify the person who accompanied him because of the obvious likelihood of reprisals against the man. But as it happens, there is another witness to the scene in the Santiago morgue during the period following the coup. On September 19, eight days after the coup and five days before Barnes' visit, a United Nations official spent over an hour and a half at the morgue and counted some 188 bodies.

Luis I. Ramallo, a Spaniard who is a member of UNESCO and the former Acting Secretary General of the Latin American Faculty of Social Sciences, went to the morgue to search for the body of a young Bolivian, Jorge Rios, who had been studying in Chile under a UNESCO-created program. Rios had been seized on September 12 by a military patrol at his home, in front of his wife and two children. Here is Ramallo's description of what he saw in the morgue:

"I went to the morgue on September 19th at about noon. When you went up the stairs, you would turn left and walk along a passageway. I asked a passing attendant in a white coat for help. A girl took me to a records room. She looked through the alphabetized loose-leaf book and said, 'Yes, Jorge Rios is registered. His wife was here a half an hour ago and identified the body.' I asked to see it. The woman gave me a small piece of paper with her signature and the number of the body and told me to go out the same door I came in and that I would see a gate, which was an ambulance entrance that led into a courtyard and the main building where the bodies were. I showed the pass to a man who took us to a large non-airconditioned room that certainly did not appear to me to be a morgue. The room was filled with bodies.

"There were four rows of them and the people were so close together that it appeared as if their arms were linked. We were jumping over the bodies which were obviously in some sort of numerical order. But we could not find the one corresponding to our number. The man was upset and said, 'Well, I don't know what happened, you'll have to look for him yourself.' So then, really, we spent almost one hour in there going from body to body seeing if we could find Jorge. I was looking at body after body, one after another. I counted 184 (the list posted on the door outside numbered only 130).

"I saw four or five children, two girls and three boys 7 or 9 years old. Most of the bodies were of working class people. There were some student types. They were totally naked, some with clothes piled up on them. They all had papers identifying them or saying 'NN,' which means unknown or unidentified. A few bodies had neat bullet holes, others had gaping wounds. Some had parts of their skulls missing or huge holes or mangled arms—all really bad wounds. My first impression was that they had been executed by mortar fire.

"The bodies were still tender, rigor mortis had not set in. While I was there, more bodies were being brought in. I asked a doctor if there were autopsies being performed and he replied, 'Well, we do what we can—for some yes, for others, we just do a report on how they look.'

"Since we couldn't find Jorge, we went into another office where they kept records. Finally, one said, 'Oh, yes, he must have been brought in by the Tacna Regiment (one of several army garrisons in Santiago). We went back, climbed over the bodies, and went into another room that looked like a typical morgue. There were four bodies on metal stretchers (I didn't get to see how many bodies were in refrigerated drawers). One body was of Jorge. It was bullet-ridden with two large gaping wounds in his chest and leg.

"I went back to the records office and read his autopsy report which said he was 'wounded in the street.' Later, Enrique Carvallo, the Under Secretary for Foreign Affairs, told me that he heard that Rios had 'tried to escape.' "

3. Mr. Huneeus says that the dead amputee pictured in Newsweek was killed before the coup in a traffic accident. The photographer, Mr. Guillermo Gomez Mora, reports that the man was killed during the height of the violence in Santiago after the coup. But because Mr. Gomez Mora was not present when the man died, he cannot be sure whether he was killed by gunfire or a truck.

THE BODY COUNT

4. How many people have been killed in the aftermath of the coup? Mr. Barnes quoted the daughter of a morgue staff member as saying that by the fourteenth day after the coup, the morgue had received 2,796 bodies. Mr. Huneeus says this is the morgue's body count for the entire year up to that time. Jonathan Kandell of The New York Times, quoting official sources in the morgue, reports the same version as Mr. Huneeus. But Marlise Simons of The Washington Post talked with a European ambassador in Santiago who said he had been to the morgue and that during the first week after the coup, 2,500 bodies had been processed.

What is beyond dispute is that there was a gigantic surge in the morgue's business after the coup. Time magazine reporter Rudolph Rauch wrote that he had seen on the morgue wall, the same week that Barnes was there, "a list of 300 people whose bodies were to be claimed by relatives. Next day the list was gone, along with a later list of 120 names that had been tacked up and then hurriedly pulled down at army order. According to an official of the morgue, it normally handled about 12 corpses a week." That would make roughly 450 bodies in 1973 up to the day of the coup. The morgue, even by its own calculations, processed a vast number of bodies in the period following the military takeover.

And other recent estimates bear out Mr. Barnes on the magnitude of the killing. In testimony before a congressional committee on October 11, CIA director William E. Colby said "we would estimate it is between 2,000 and 3,000 killed during the struggles." In a New York Times dispatch from Santiago datelined November 4, Kandell reported: "At least 2,000 people have lost their lives—most of them victims of unannounced executions carried out after the resistance to the armed forces had ended." And on September 25, Admiral Jose Merino, a member of the Chilean military junta, gave an interview to a Dutch television station in which he said that 3,500 persons had been killed in the violence. One could go on reciting the details of executions and shootings that have come to light since Mr. Barnes's story. Newsweek is proud to have been one of the first publications to report these tragic facts.

Mr. Auchincloss is executive editor of Newsweek.

EDITOR'S NOTE

No one disputes that there were many deaths in the Chilean coup. The Wall Street Journal's initial dispatch, printed on Sept. 17, quoted estimates of from 1,000 to 5,000 deaths in the fighting. On Sept. 25, another dispatch reported the occurrence of summary executions, but said that civilian deaths throughout the country were estimated at fewer than 500.

The Newsweek story talked of "mass executions" and said "the reign of terror has already gone much further than most people thought." In citing the 2,796 figure for corpses handled by the Santiago morgue alone, it added that "no one knows how many have been disposed of elsewhere" and that "the presumption is that the executions have followed a similar pattern in other cities."

On the basis of our own correspondent's reporting during the coup, and reports by Mr. Huneeus and others since, we agree with Mr. Auchincloss that the figures quoted in the last paragraph of his article are reasonable estimates of the total casualties, from both combat and executions, throughout Chile. Whether they confirm Mr. Barnes' original report we leave to the reader to judge.

PARLEY RIGBY

Mr. CHURCH. Mr. President, on November 22, a grand old man of Idaho passed away at age 81.

Parley Rigby, of Idaho Falls, was the kind of civic leader every community should have. His activities were legion, and when he took up a cause, he did not let go until the matter had been resolved.

The Post-Register of Idaho Falls summed up his career succinctly in a few words:

> Parley Rigby was one of East Idaho's first ombudsmen, an often fiery foe of the status quo who left his hot weld on the disparities he determinedly tackled.

Mr. President, I am saddened at the loss of a friend, but grateful that I had the opportunity to know him. I ask unanimous consent that an article that appeared in the Post-Register of November 23, together with an editorial from the November 26 issue of that newspaper, be printed in the RECORD.

There being no objection, the article and editorial were ordered to be printed in the RECORD, as follows:

HIS BATTLE STARS

Parley Rigby was one of East Idaho's first ombudsmen, an often fiery foe of the status quo who left his hot weld on the disparities he determinedly tackled.

A crusader at heart, the community was quickly aware that this former pastmaster had taken up the cudgel for cause. Like an English bulldog, Parley simply never let go of a problem until he was satisfied it was either solved, or solved as much as it could be. Knowing the sensitivities of those in public or private places who Mr. Rigby felt should be changing their attitudes on a particular problem, he would marshal his fusillades in the press like a General Patton about to smash the Belgian bulge. His long and arduous fight to focus attention on maltreatment of patients at the Idaho State Mental Institution at Blackfoot, was a characteristic Rigby crusade. It led to his appointment to a state investigation board which changed policies at the Blackfoot institution many years ago.

His life, in fact, was a compendium of assorted causes and pitched battles. It was the sheer force of his personality that installed the March of Dimes with such prominence in the community because Parley Rigby fought for the polio-stricken of those days with such incandescent temerity. As both a member of the Idaho Falls City Council and a director of the local Chamber of Commerce, he loved to shoot down the occasional balloons of complacency he encountered . . . or, more properly, uncovered.

He cared little if those about him agreed or disagreed with him. The combative Rigby loved a free-swinging exchange. Debate was a process of profiling a community decision with him . . . just like the founding fathers of this nation, he would quite correctly say. He was ferociously relentless when he smelled the over-ripeness of a problem or was defending some cherished position.

An unusual blend of a personality, he was both cause-finder and a shrewd businessman.

When Parley Rigby died last week, it is fitting that many of the other community leaders of his times remembered him fondly and warmly for his battle stars. In the twists and turns of a community's history, he was always a glowing point of reference.

PARLEY RIGBY, CIVIC LEADER, DIES

Parley Rigby, former postmaster and Idaho Falls civic leader, 81, died Thursday morning in a local hospital following a stroke. He lived with his wife, Margaret, at 238 E. 18th St.

Mr. Rigby served as Idaho Falls postmaster for 25 years, retiring in 1959. Since that time he had remained in Idaho Falls and remained active in various business interests. He entered the hospital three weeks ago.

Mr. Rigby was born in Logan, Utah, March 20, 1892, son of William F. and Elizabeth Eckersley Rigby. His early education was at Newton, Utah. From 1910 to 1914, he attended Utah State Agricultural College where he was a member of Pi Kappa Alpha fraternity.

In 1914, he went to Rexburg as fieldman for a grain company. He lived there until 1917 when he enlisted in the U.S. Army and served for 17 months, a year of which was overseas, in the 315th Field Signal Battalion, 90th Division.

On his return from the service, Rigby came to Idaho Falls in August of 1919, to manage a grain company in which he continued until 1934 when he was appointed postmaster here. On June 20, 1923, he married Margaret Moseley of Idaho Falls.

Active civically, Mr. Rigby was a charter member of Bonneville Post 56 of the American Legion which he joined when it was formed here in 1919; serving as its commander in 1932. Also a charter member of the Kiwanis Club, he served as its president in 1926. He was elected exalted ruler of the Idaho Falls Elks Lodge 1087, in 1928, Mr. Rigby presided over the first lodge session in the original lodge building on Shoup Ave.

In 1926, he was elected to the Idaho Constitutional convention that repealed prohibition. From 1934 to 1945 he was the driving force of the American Legion's War Bonnet Roundup, serving as its chairman for all those years.

Mr. Rigby also helped to direct the affairs of the Idaho Falls municipal government, serving as a member of the City Council from 1927 to 1931, and of the Chamber of Commerce on whose board of directors he served from 1925 to 1927 and from 1946 to 1948. He had since that time received a life membership in the Chamber of Commerce.

He was a charter member of the Idaho Falls Community Chest and two years ago was given a life membership by that organization. He was a charter member of the Idaho Falls Men's Golf Assn.

Actively concerned over the administration of affairs at Idaho State Hospital South at Blackfoot, Rigby served in 1945 on an investigating committee appointed by then Idaho Gov. C. C. Gossett, to probe conditions at the hospital. In 1946–1947 he was a member of the Charitable Institutions Commission appointed by then Gov. Arnold Williams.

As chairman of the National Foundation for Infantile Paralysis from 1938 to 1949, he took a personal interest in the welfare of hundreds of polio stricken children.

Mr. Rigby was active in receiving the charter for the Bank of Eastern Idaho of 1947, and was one of its first stockholders. In 1939 he served as president of the Idaho Chapter of the National Association of Postmasters. In 1953, he was elected first commander of the Idaho Falls Barracks 1252 of the Veterans of World War I. Since his retirement he had been active in the National Association of Retired Civil Service Employes.

In addition to his widow, he is survived by two children, William F. Rigby and Mrs. Martha Pond, both of Idaho Falls, seven grandchildren and one sister, Mrs. Letha Griffin of Logan, Utah.

Funeral services will be conducted Monday at 1 p.m. at the Wood Chapel of the Pines with Bishop Robert Crowley of the 2nd LDS Ward Bishopric, officiating. Interment will be in the Rose Hill Cemetery.

Friends may call at the Wood Funeral Home.

Friends who wish to do so are asked to contribute to Mr. Rigby's favorite charities including Gem State Blind Assn., Harbor House and March of Dimes.

LET'S HEAR IT! FOR UNITED STATES

Mr. BEALL. Mr. President, at a time when we seem to be preoccupied with the negative aspects of life in these United States, it is necessary, I think, that we occasionally take time to contemplate the positive virtues of American life. In their November 19, 1973, issue, U.S. News & World Report reprinted an editorial presented by Mr. Gordon Sinclair, a noted Canadian radio and television commentator, entitled "Let's Hear It! for U.S." I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LET'S HEAR IT! FOR UNITED STATES

This Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people on all the earth. . . .

Germany, Japan and, to a lesser extent, Britain and Italy were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts. None of these countries is today paying even the interest on its remaining debts to the United States.

When the franc was in danger of collapsing in 1956, it was the Americans who propped it up, and their reward was to be insulted and swindled on the streets of Paris.

I was there. I saw it.

When distant cities are hit by earthquakes, it is the United States that hurries in to help. . . . This spring, 59 American communities [were] flattened by tornadoes. Nobody helped.

The Marshall Plan and the Truman Policy pumped billions upon billions of dollars into discouraged countries. Now newspapers in those countries are writing about the decadent, warmongering Americans.

I'd like to see just one of those countries that is gloating over the erosion of the United States dollar build its own airplanes.

Come on, let's hear it!

Does any other country in the world have a plane to equal the Boeing Jumbo Jet, the Lockheed Tristar or the Douglas 10?

If so, why don't they fly them? Why do all the international lines except Russia fly American planes?

Why does no other land on earth even consider putting a man or woman on the moon?

You talk about Japanese technocracy, and you get radios. You talk about German technocracy, and you get automobiles.

You talk about American technocracy, and you find men on the moon—not once but several times—and safely home again.

You talk about scandals, and the Americans put theirs right in the store window for everybody to look at.

Even their draft-dodgers are not pursued and hounded. They are here on our streets, and most of them—unless they are breaking Canadian laws—are getting American dollars from Ma and Pa at home to spend here. . . .

When the railways of France, Germany, and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are still broke.

I can name you 5,000 times when the Americans raced to the help of other people in trouble. Can you name me even one time when someone else raced to the Americans in trouble?

I don't think there was outside help even during the San Francisco earthquake.

Our neighbors have faced it alone, and I'm one Canadian who is damned tired of hearing them kicked around.

They will come out of this thing with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over their present troubles.

I hope Canada is not one of these.

DEAN RUSK LOOKS AT THE KENNEDY YEARS

Mr. FULBRIGHT. Mr. President, on November 26, former Secretary of State Dean Rusk appeared on a special television program entitled "Dean Rusk Looks at the Kennedy Years" on WAGA, channel 5 in Atlanta.

During the course of the program, Mr. Rusk was asked about the 1962 Cuban missile crisis by the interviewer, Paul Shields. I would like to quote from the transcript of the program:

> SHIELDS. "And we didn't have that amount of time with the Cuban Missile Crisis, though, did we?"
>
> RUSK. "The one thing that President Kennedy had in mind was that in a nuclear world if you back a man into a corner from which he cannot escape he might elect to play the role of Sampson and pull the temple down around himself and everyone else at the same time. So despite the advice of Senator Fulbright, Senator Russell, Mr. Dean Acheson to start with all-out bombing of Cuba . . ."
>
> (Rusk stopped, and Shields continued.)
>
> SHIELDS. "Those men recommended that?"
>
> RUSK. "Yes, very strongly and President Kennedy went to special pains to give Chairman Khrushchev a few days to take the missiles out by peaceful means rather than move the matter immediately to a much higher level of action or confrontation."

Since Mr. Rusk made mention of me in the interview and stated that along with Senator Russell and former Secretary of State Dean Acheson I strongly advised President Kennedy to "start with all-out bombing of Cuba," I feel compelled to make some comments which I hope will set the record straight.

SETTING THE SCENE

First, it is important to set the scene. On October 22, 1962, I was summoned back to Washington from Arkansas, where I was campaigning for reelection, and was asked to attend a meeting at the White House, along with other congressional leaders.

As I have stated on a number of previous occasions, the President and his advisers had apparently already determined their course of action and the meeting with Members of Congress was essentially a formality. President Kennedy's purpose in calling the meeting was to inform Congress of his plans rather than to seek advice. It was not a consultation so much as it was a briefing.

The meeting was scheduled to begin at 5 p.m., and last only an hour. The President was to make a national television address at 7 p.m.

It is also important to recall that the President and his immediate advisers had been considering this matter for more than a week, with intensive discussion of alternatives. These discussions have subsequently been reported in a number of articles and books.

The first meeting of what was to become known as the Executive Committee of the National Security Council or Ex-Comm was on October 15. Later, Presidential Counsel Ted Sorensen was to refer to "the exhaustive and exhausting deliberations of that long October week."

Stewart Alsop and Charles Bartlett, in a widely discussed article in the Saturday Evening Post, December 8, 1962, reported in great detail on the deliberations that took place. I believe that article may have been responsible for the popularization of the terms "hawks" and "doves." For the record, according to that article, the hawks favored an air strike, either with or without warning. This group was reportedly made up of John McCone, Director of the Central Intelligence Agency; Douglas Dillon, Secretary of Treasury; Dean Acheson, former Secretary of State; Maxwell Taylor, Chairman of the Joint Chiefs of Staff; McGeorge Bundy, Special Adviser on National Security Affairs. The "doves," who reportedly favored a blockade, included Defense Secretary Robert McNamara; Attorney General Robert Kennedy; Robert Lovett, former Secretary of Defense, and Llewellyn Thompson, former Ambassador to Russia. Secretary of State Rusk was, according to the article, a "dawk or a hove."

Sorensen wrote:

> The President . . . could not wait for unanimity among all his advisers or for a special Congressional session . . .

Pierre Salinger, in his book, "With Kennedy," wrote:

> Over the next 7 days, the White House was the scene of almost continuous E—COM meetings, with and without the President.

Describing that period in his book, "The U.S. Intelligence Community," Lyman B. Kirkpatrick, Jr., writes:

> In 13 days the chief decision-makers of the Government reviewed a virtual encyclopedia of action-reaction possibilities involving not just what Russia would do and how the United States would react, and vice versa, but what the reactions of many other nations would be. A study was made of possible Soviet reaction against Berlin, already the scene of a serious confrontation between the United States and Russia, or against the American Jupiter missiles in Turkey and Iran. The support of the Organization of American States was considered important to the "legalistic-minded decision makers in the Kremlin," according to former Ambassador Llewellyn Thompson. The President asked Secretary of State Rusk to prepare a list of all possible allied reactions, which was presented to ExCom on the second day.

According to Kirkpatrick, the intelligence community operated on a 24-hour-day basis during the crisis:

> Starting on August 27, a daily situation report on Cuba was circulated to top federal officials. On October 16 the USIB commenced daily meetings to approve national estimates for presentation to the ExCom at its morning meeting. The photointerpreters, who already had been working extra shifts, put in exhausting hours to cope with the miles of film arriving each day. Every agency's collectors, especially the CIA's watched Soviet activity throughout the world, with particular concentration on crisis spots such as Berlin, Turkey and Iran. Not only were all moves by Russian diplomats studied but those of Soviet intelligence personnel were followed even more intently than usual (if that was possible).
>
> At the height of the crisis, the Russians used the KGB *Rezident* in Washington . . . to contact John Scali, an ABC–TV correspondent covering the State Department, to ascertain "unofficially" U.S. intentions. Scali immediately advised the State Department and was given the official American position, as communicated to Moscow, to give to Fomin. There was valuable guidance in this action for U.S. intelligence.

In his book, "A Thousand Days," Arthur M. Schlesinger, Jr., details the debates within the executive committee between the supporters of an air strike and those who favored a blockade. Schlesinger wrote:

> The supporters of the air strike marshalled their arguments against the blockade. They said that it would not neutralize the weapons already within Cuba, that it could not possibly bring enough pressure on Khrushchev to remove those weapons, that it would permit work to go ahead on the bases and that it would mean another Munich. The act of stopping and searching ships would engage us with Russians instead of Cubans. The obvious retort to our blockade of Cuba would be a Soviet blockade of Berlin.

At a later meeting of the group, according to Schlesinger:

> The balance of opinion clearly swung back to the blockade (though, since a blockade was technically an act of war, it was thought better to refer to it as a quarantine.) In retrospect most participants regarded Robert Kennedy's speech as the turning point. The case was strengthened too when the military representatives conceded that a quarantine now would not exclude a strike later.

In the final debate of the executive committee, Schlesinger reports:

> McNamara impressively presented the case for the blockade. The military with some civilian support argued for the strike. Stevenson spoke with force about the importance of a political program, the President agreeing in principle but disagreeing with his specific proposals. A straw vote indicated eleven for the quarantine, six for the strike. The President observed that everyone should hope his plan was not adopted; there was not a clearcut answer.

Roger Hilsman, in his book, "To Move a Nation," offered a similar description of developments in consideration of alternatives.

> The discussions on Wednesday, October 17, examined the whole range of alternatives, but sentiment seemed to be strongest for an air strike or a *coup de main* by parachute forces, a "surgical operation" to eliminate the bases in a sudden, surprise attack.
>
> The ExComm met almost continuously Wednesday, Thursday, and Friday, October 17, 18, and 19. On Thursday, the "surgical operation" to take the missiles out in a single blow by an air strike began to look less and less inviting. Even if it were successful, the United States would be left with a moral stigma as the Attorney General said, and the Soviets would have solid evidence to support their propaganda that the United States would someday begin World War III by launching a surprise attack on the Soviet Union. The only way of lessening the moral stigma would be to give advance warning, and this would permit preparations and defensive measures that would make the attack less likely to succeed. . . .
>
> The idea of an invasion alone was also discussed. But exactly the same criticisms

> that applied to an air strike also applied to an invasion. In addition, it would be extraordinarily difficult to keep the preparations for an invasion secret, and the element of surprise would probably be lacking. There would also be a delay, which meant that the missiles might become operational, for it would take time to assemble the necessary forces.
>
> Thus by Thursday evening a consensus began to develop around the idea of a blockade against offensive weapons as a first step—in McNamara's phrase, maintaining the "options" of raising the level of the blockade, of launching an air strike, or of mounting an invasion as progressive increases in the level of force to be used if increases proved necessary. Before the day was over, the President had indicated his own preference for blockade.

On October 22 Salinger took down the following direct quote from the President in a discussion prior to Salinger's press briefing:

> We chose a quarantine over an air strike because there is no certainty of hitting all the targets. We are also uncertain how many of the sites are operational. While we were hitting one, another might launch its missiles against us. A quarantine is far less likely to provoke a nuclear response.

All of these references are cited in order to point out that extensive deliberations had taken place in advance of the President's meeting with congressional leaders, and that a variety of different proposals had been considered in detail. As the President had reportedly said of the various options:

> There just was not a clearcut answer.

THE WHITE HOUSE MEETING

Now let me turn to the meeting at 5 p.m. on October 22. As I previously stated, the President had determined his course of action prior to the meeting and, in fact, already set it into motion.

He did, however, indicate to us the alternatives which had been considered.

Senator RUSSELL and I indicated that we thought an invasion of Cuba by American forces might be a wiser course of action. My reason for expressing this view was that a blockade, involving as it might, a direct, forcible confrontation with Russian ships, would be more likely to provoke a nuclear war than an invasion which would pit American soldiers against Cuban soldiers and allow the Russians to stand aside.

Hilsman described the meeting this way in "To Move a Nation":

> The congressional meeting began with an intelligence briefing. After McCone and an aide had finished, the President began to talk. He explained why an air strike or an invasion would be unwise, emphasizing that the quarantine was only the first step. An invasion might soon become necessary, but it would take still another week to assemble the force and in the meantime it was essential to stop the Soviets from bringing in more equipment to make the missile bases fully operational. Senator Richard B. Russell of Georgia, Chairman of the Senate Armed Services Committee, urged an immediate invasion. A quarantine would take time and thus increase the risk. As for warning and striking the first blow, President Kennedy's speeches and the congressional resolution putting the Soviets on notice that the United States would not tolerate offensive bases in Cuba were ample warning. It was the Soviets who had struck the first blow by putting the missiles in Cuba. Surprisingly, J. William Fulbright, Chairman of the Senate Foreign Relations Committee, who had opposed the Bay of Pigs landings and who, a year earlier, in June 1961, had noted the possibility of Soviet missiles someday appearing in Cuba and had said that he doubted they would alter the balance of power in the world, supported Russell. It seemed to him that intercepting Soviet ships at sea was just as risky as taking out the bases themselves.
>
> The President listened politely.

Pierre Salinger offered this account of the meeting:

> At 5:00 p.m., the congressional leaders were taken into his office, shown the aerial photographs and told of the quarantine announcement that would come only two hours later. Senator Richard B. Russell, chairman of the Armed Services Committee, argued instead for an invasion, and had support from J. William Fulbright. The President heard them out, but said he would not change his strategy.

Mr. Sorensen, in his book, "Kennedy," wrote of that meeting:

> Reacting to a McNamara-Rusk-McCone picture briefing the same way most of us originally did, many called the blockade irrelevant and indecisively slow, certain to irritate our friends but doing nothing about the missiles. An invasion of the island was urged instead by such powerful and diverse Democratic Senators as Russell and Fulbright (who had strongly opposed the 1961 Cuban invasion). Charles Halleck said he would support the President but wanted the record to show that he had been informed at the last minute, not consulted.

Sorensen reports President Kennedy as having said later:

> My feeling is that if they had gone through the five-day period we had gone through—in looking at the various alternatives, advantages and disadvantages . . . they would have come out the same way that we did.

The important point here is that we had not gone through the days of considering various alternatives, advantages and disadvantages, "and as Mr. Sorensen has noted, most of us initially reacted to the information we were given in the same manner as did those in the Executive Committee."

As I have subsequently stated, had I been able to formulate my views on the basis of facts since made public rather than on a guess as to the nature of the situation, I might have made a different recommendation. In any case, the recommendation which I made represented my best judgment at the time and I thought it my duty to offer it, although Mr. Sorensen, in his book, refers to the temerity of those of us from the Congress who expressed opinions at the White House meeting as "the only sour note" in all of the decisionmaking related to the crisis.

President Kennedy's actions proved to be effective and responsible. Nonetheless the episode served to underline the inadequacy of executive "consultation" with the legislative branch during crisis situations, a problem that was greatly heightened during the following years and persists to this time.

Having reviewed the history of the missile crisis decisionmaking, I want to turn again to the remarks made by Secretary Rusk during the Altanta television interview. He stated that Senator Russell, Mr. Acheson and I strongly advised all-out bombing of Cuba.

Insofar as I know, no one advocated "all-out" bombing of Cuba. However, I should add that I do not know what Mr. Acheson's views were. At the time of the meeting I attended, he had already been dispatched to Europe by President Kennedy to brief President De Gaulle and other European leaders.

As most accounts of the meetings have indicated, what Senator Russell and I suggested was an invasion. The possibility of a surgical air strike against the missile sites was also discussed. As I indicated earlier, I viewed an invasion as less provocative than a blockade and less likely to lead to nuclear war.

To my knowledge, there was no consideration of "all-out bombing." I have not seen this referred to in any of the numerous accounts of the missile crisis. Robert Kennedy, in his memorandum, first published in McCalls of November, 1968, and later printed as a book, "Thirteen Days," wrote that Senator Russell "felt the President should take more forceful action, a military attack or invasion," and that I also advised military action.

Certainly it was not my position that we should engage in all-out bombings, and I want the record to be clear on this point. I have learned from past experience that it is best not to let a remark such as this go unchallenged, because such comments seem inevitably to become a part of accepted history.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Atlanta Constitution of November 26 about the Rusk interview entitled, "Advisers Told JFK To Bomb Cuba," and an article from the Hot Springs, Ark., Sentinel-Record of October 30, 1962.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

McCLELLAN, FULBRIGHT BACK KENNEDY ON CUBA CRISIS

WASHINGTON.—Arkansas' two U.S. senators—each a power in the Senate—are strongly back of President Kennedy's stand in the Cuban crisis.

Sen. J. William Fulbright, chairman of the Senate Foreign Relations Committee, was one of the congressional leaders summoned to Washington by the President for consultation before he announced the arms blockade of Cuba.

The Soviet arms buildup in Cuba, Fulbright said, presented an intolerable situation which required action by the United States. The President took action "and I support the President," Fulbright said.

Fulbright said the Congressional leaders weren't consulted in advance of the decision made by the President, that the meeting was for the purpose of telling them, not asking them. There was a little discussion and few views were expressed, he said, but most of the group listened and then said "we're back of you Mr. President."

McClellan voiced his support for the President's action early the next morning after Kennedy's Monday night talk.

[From the Atlanta Constitution, Nov. 26, 1973]

RUSK SAYS IN INTERVIEW ADVISERS TOLD JFK TO BOMB CUBA

(By Paul Jones)

At the height of the Cuban missile crisis in the early 1960s, three highly influential leaders in Washington—the late Sen. Richard Russell of Georgia, Sen. William Fulbright of Arkansas and former Secretary of State Dean Acheson—urged President Kennedy to "start with all-out bombing of Cuba," former Secretary of State Dean Rusk will disclose in a special interview Monday night.

Making a rare appearance in an interview taped in Athens, where he is now professor of international law at the University of Georgia Law School, Dean Rusk discusses, with great candor, the Kennedy years and the many crises which confronted his administration.

Rusk, in the interview, which will be broadcast in prime time at 9:30 p.m. on Channel 5, says that President Kennedy's cool thinking prevented a nuclear war during the Cuban missile crisis.

He tells Paul Shields, a member of the Channel 5 news team who conducted the interview, "The one thing that President Kennedy had in mind was that in a nuclear world if you back a man into a corner from which he cannot escape, he might elect to play the role of Samson and pull the temple down around himself and everyone else at the same time.

"So despite the advice of Sen. Fulbright, Sen. Russell, Mr. Dean Acheson to start with all-out bombing of Cuba. . ."

"Those men recommended that?" Shields interjected.

"Yes, very strongly," said Rusk, who spent his boyhood in rural Georgia. "And President Kennedy went to special pains to give Chairman Khrushchev a few days to take the missiles out by peaceful means rather than move the matter immediately to a much higher level of action or confrontation."

Rusk states in the interview that the Cuban affair had a sobering effect for both sides.

"I think both sides had a chance to look down the cannon's mouth and they did not like what they saw," he says.

Rusk says such confrontations ought not be repeated because humans being what they are, they might one day come up with the right answers.

He says that summit diplomacy in which the President of the United States meets with leaders of other great powers could be dangerous. He suggests that officials on the ambassadorial or foreign minister level ought to thrash out important matters.

"I'm not convinced that summit is a good idea," he says in the interview, one of few he has given since returning to Georgia.

Rusk tells Shields that a lot of the stories which attempted to depict the relationship between President Kennedy and the then Vice President Johnson as something less than friendly were hokum.

There are other surprise comments, particularly about the funeral following the assassination in 1963.

"I have been greatly saddened by some of the things I've read about that (reported animosity) following Kennedy's death," Rusk says. "I was necessarily very much involved with both families and President Johnson in handling the arrangements of all the distinguished people who came from all over the world . . . and my impression was one of great consideration of both sides to each other. . ."

Rusk praises President Johnson for directing a smooth transition between governments. And he, likewise, praises President Kennedy for giving Vice President Johnson opportunities outside the responsibilities other vice presidents enjoyed.

Rusk says President Kennedy would have pooh-poohed the Camelot idea.

"I think he would have rejected sentiments that have gone together to be called Camelot.

"We're now getting anti-Camelot literature. I think both are somewhat beside the point because this was not JFK. He was a very 'down-to-earth' fellow and would not have embraced sentiment of that sort. . .," he says in the interview, which will preempt the Dick Van Dyke Show this one night only.

REPORT ON IRAN OIL PRODUCTION

Mr. GOLDWATER. Mr. President, on November 28 I asked unanimous consent of the Senate to absent myself for 1 week for the purpose of accepting an invitation from his Imperial Majesty Mohammed Reza Pahlavi Aryamehr, Shahanshah of Iran. The Senate voiced no objection, and having completed that journey, I desire to submit a report to my colleagues. A more complete discussion will follow my introductory remarks, and if any of my colleagues have any questions, I will be happy to discuss them.

To begin with, there is no question that his Majesty, the Shah, and the country of Iran are friends of the United States, and there is no question in my mind but what we should do everything in our power to strengthen that friendship and to help them as they prepare to defend that vital portion of the world against possible inroads by the Soviets. Accounts of the inroads that I refer to appeared in the Pakistan Times on April 3 of this year, but I have seen nothing of it in the American press. However, I could have overlooked it. My reference is to the concern of Iran that the Soviets may be making either direct or indirect efforts to gain access to the Indian Ocean by land routes through Afghanistan and Pakistan.

I share the attitude of the military and the Shah in being concerned about this, for once the Soviets control the Indian Ocean, and therefore, control the Straits of Malacca, they would pretty well be able to curb any international trade in which we might be engaged.

I found their air force to be exceptionally prepared, well equipped with what is, in my opinion, the ability to perform as well as our own Air Force against any enemy. I was very much impressed with the extent to which they have proceeded with the manufacturing of most of their own ammunition, rifles, machine guns, et cetera. In fact, their achievements here are something we should be proud of as they are doing them themselves. Their navy is small but it is growing and is well equipped with both United States and British ships. In this field, I think we can be of greater aid than we have in the past.

Iran is not only greatly improving her base at Bandar-E Abbas which is the entrance to the Persian Gulf, but she is proceeding with the construction of an even larger one at Chahbahar, which would protect the Gulf of Oman and that portion of the Indian Ocean.

We were shown in great detail the entirety of their oil industry which has grown from discovery in 1908 to one of the world's great producers and shippers of today. They are servicing tankers in the Persian Gulf that are so large we can handle them at only one or two places in the United States. And it is this latter realization that causes me to suggest that we proceed immediately with the construction of offshore, unloading docks connected directly with refineries in every State with access to ocean so that transport deliveries can be handled from the largest tankers in existence. The trend in tanker construction is all towards larger ships. In fact, the Iranians are prepared to service 500,000-ton ships at the present time.

From the stress I have placed on the material things in Iran, one might believe that she is only making progress in that general area. While it is true that her gross national product is increasing and the per capita income will go up by 100 percent within the next few years, Iran is also concentrating on mass education. Schools are being built everywhere, illiteracy is being attacked and wiped out. Of course, the spark plug behind much of the social and educational progress is Her Imperial Highness who exerts a very strong hand in anything involving youth and particularly education.

I have had an unusual opportunity to watch the growth of this country from the days of World War II when I was chief pilot of an airline run from Cairo to Caracas and then on into China which required refueling both ways at Abadan. This interest grew as Iran's first pilots came to Williams and Luke Air Force Bases in Arizona for their training, and I have since that time maintained a continuing interest in the splendid growth of their air force and air bases. I have visited Tehran three times starting back in the World War II days and its growth exceeds anything that I have seen in this country, even though my State of Arizona has the fastest growing population in the Nation. I think I am safe in saying that within 10 years Iran will prove to be the fastest growing economic unit in the world, even outstripping other countries which are now ahead of her.

In making this more detailed report on observations in the Persian Gulf areas, I will of necessity discuss some of the other States because their positions, strengths and futures have a direct bearing on Iran and her position.

The energy crisis that the world is now suffering from will, naturally, have a tremendous impact on the entire area of what we call the Middle East, extending from the Mediterranean to the eastern boundaries of Iran. It is necessary, therefore, to think of this area as a particular part of the world far from isolated and, in my opinion, the most important of all at the present time.

Market trends in Iran and the Persian Gulf area indicate new business opportunities and more intense competition for America. In making realistic forecasts of business opportunities, a decisive factor is the current world energy crisis and its probable impact on the Persian Gulf area.

The energy crisis will result in vast sums of additional money pouring into the area of the Persian Gulf. In spite of the logical argument that a nation can effectively use only such equipment as it can absorb into its defense system—Egyptian pilots crashed four of Lybia's 18 Mirages within a few weeks, according to a news report, leading Lybia to second thoughts about the simple transfer of equipment—most nations here think their capacity larger than it may in fact be.

There is little doubt Israel has given certain aircraft the glamor of victory—notably the Phantom and the Mirage—and what most Arab States want is equipment that has as much glamor as that of Israel's—as good, or better. Equipment that can beat Soviet aircraft is of concern to Iran and to Pakistan—because of Iraq on the one side and India on the other, each with Soviet ordnance. Yet, of primary concern to the Arabs is not the Soviet ordnance of Iraq and Egypt—but of Israel—and it might as well be faced—Iran. In a sense, looking at the Arabs, what may be wanted above all is a counterdeterrent to U.S. equipment sold by the United States itself.

Iran maintains strong, friendly relations with the United States. It is in fact one of the very few positively friendly nations in the whole of Southwest Asia and the Middle East. These relations have recently taken an upturn. The Shah's ambition to become the superpower, both military and economic, of Southwest Asia, is pinned to strong U.S. support. Iran is concerned over Soviet arms deliveries to Iraq and to India—that is to say, with a 1,000-mile border with the Soviet Union to the north, Iraq to the west and India to the east, Iran is virtually surrounded by Soviet ordnance. Nevertheless, Iran pursues an independent foreign policy.

Iran is part of the CENTO group of nations, along with Turkey and Pakistan. This in the early cold war period of attempted Soviet containment, was the strategic northern tier, composed of the non-Arab Middle East. This tended to sharply divide the region into Arab and non-Arab—and with U.S. support for Israel the divisions have been further developed. It has to be overcome.

The CENTO alliance has some continuing life in the loose, largely ineffective economic community which is called RCD. While very little trade passes across the borders—the machinery for cooperation exists in RCD, and IACI must constantly scrutinize the business opportunities this may afford—particularly through creative attention to the agenda of the periodic joint ministerial meetings. In fact, well presented, a service organization such as IACI has a better chance for regional cooperation than many other projects—such as export of potatoes or oranges—because regional service is an integral part of what IACI is designed for. Turkey, which now has a national income lower than Iran for the first time, may find itself now looking more closely to Iran for the first time, but Turkey is a study in itself. It is Pakistan, having a special relationship with Iran, that is basically more interesting for an Iranian headquartered firm. The "richer" Iran becomes in arms, the more it will offer to extend its defensive umbrella to Pakistan. Geographically, Iran bestrides Southwest Asia. A country with a population of 30 million in a land area of 628,000 square miles, it blocks the Soviet Union's access to the warm water ports of the Persian Gulf. Relations with the Soviet Union are not easy, but consolidated with strong economic ties including massive natural gas deliveries in exchange for economic aid which has taken the form of a steel mill and other heavy industry, in fact, the Soviet Union has a greater economic stake in Iran than in Egypt.

The Shah has opted for this course, preferring a limited Russian presence than a completely frustrated superpower along a 1,000-mile shared border to the north. But one of the Shah's strongest fears is Soviet encirclement. The closer the Soviet Union's relations with Iraq, the closer Iran moves to the United States. But for Iran, more important is its border with Pakistan. The Shah's major fear in this area is that Pakistan may go through further upheavals, which might, either through India, or through a Pakistani successionist movement in Baluchistan, lead to a new Soviet presence on the eastern border. This would indeed be an encirclement—something to be avoided by Iran at virtually all costs.

The meeting of Pakistan President Bhutto with the Shah in Tehran this May, underlined the special relationship of the two countries—a meeting in which defense ministers played an important part—leading to policy statements that strongly suggested joint-defense arrangements. The results of this meeting are worth looking into deeply. Not the least reason being that it has probably led to increased Indian anxiety over the massive Iranian military buildup.

In this context, India is worth a note. Both India and Iran's bitterest enemy, Iraq, signed treaties of friendship with the Soviet Union in April, 1972, each tied to Soviet military aid. If Iraq is Iran's bitterest enemy and India is Pakistan's bitterest enemy—India and Iraq become natural allies. Arabs who may fear Iran's military power, but who cannot come to terms with Iraq for political reasons, might look at India in a new light. There is no question that India is banking on this as she now approaches the oil rich Arab States of the Persian Gulf littoral for special deals, as India will undoubtably suffer greatly from the current energy crisis.

As indicated, Iran does not have the best possible relations with the Arabs as a whole. There are many reasons for it. One simple reason is that the Iranians do not generally like the Arabs, man to man, and the whole of Iranian history during the Islamic period shows very little evidence of friendship, finally culminating in a different sect of Islam becoming the Iranian national religion. There is, of course, the thorny issue of Iran's de facto recognition of Israel, and Iran's aloof stance from the Arab struggles with Israel. There are additionally a number of semantic issues which add up to what many Arabs believe is an insufferable "big brother" attitude on the part of the Iranians: One is Iran's insistence of itself as the heir to the Persian empire which once included almost every bit of Arab territory, the Shah retaining the style of imperial grandeur, which is to say, His Imperial Majesty, the Imperial Iranian Air Force et cetera, at a time when "imperialism" is one of the dirty words in the modern third-world vocabulary, and "imperialism" is precisely what they fear from Iran.

But more germane is the emotive issue of the Persian Gulf or the Arabian Gulf by expressing one name or the other you have already taken sides—that is, by saying Persian Gulf, you can already be considered anti-Arab—each side, in a sense claiming sovereignity over the waters by a name. A more substantial issue is Iran's lightning occupation of three islands in the Persian Gulf—Abu Mussa, and the two Tumbs. This for many thoughtful Arabs is the sign of far worse to come, and promptly leading to the very excuse the militant opposition forces required, as they instantly coalesced under the banner of a striking new name—PFLOAG. It stands for: Popular Front for the Liberation of the Occupied Arabian Gulf.

Nevertheless, Iran does have friends in the area, and some are quite substantial friends. To some extent, Iraq has created friends for Iran—so much so, perhaps, that if Iraq did not exist, it would have to be invented. Iraq, which now has about 10 million population and plenty of oil, is a police state run by the Baathists, and ultra-nationalistic, left-wing, pan-Arab group. It shares a border with Jordan. Thus, Jordan looks to Iran on its east, and there is a personal friendship between the Shah and King Hussein, with Iran providing limited aid to Jordan. Favorable Iranian relations with Saudi Arabia are good, based as they are on mutual self-interest in the Persian Gulf region, that is, countering the threat of subversion headquartered in Iraq and containing the influence of the Soviet Union.

Relations with Kuwait are improving, having recently taken an upturn due to the Kuwait-Iraqi dispute in which Iran offered full military support to Kuwait against Iraq if so requested. In this dispute, this April, Saudi Arabia deployed armored units along two fronts of its border with Kuwait in anticipation of a possible Iraqi attack. The incident was the Iraqi demand for two islands in the Persian Gulf off the border of and belonging to Kuwait—the waterless, unoccupied islands of Bubiyan and Warba. The islands would be of undoubted strategic importance to Iraq, as they control the approaches to the oil port of Um-Al-Kasser, recently built with Soviet help—the terminal of the nationalized North Rumilia oilfield which is being developed with Soviet participation—its output largely designed for the Soviet Union—and to which a new generation of Soviet supertankers are slated to call.

Iraq which owns only a 40-miles strip of the Persian Gulf littoral, can easily be blockaded by Iran, its flow of oil cut to the Soviet Union. During this dispute, Admiral Sergi Gorshikov, commander of the Soviet Navy, arrived in Baghdad at the head of a delegation—with the purpose of building up the Iraqi fleet. But Iraq did not get the islands, neither by force nor by lease. It is interesting to contrast the fact that Iran took what it wanted against mild, mostly pro forma protest of the Arab States, while Iraq could not get what it wanted.

To analyze the above, the determining force was not Iran's military strength in a possible movement against Iraq, but the fact that Iraq was utterly isolated in the Arab world—due to the special position of Kuwait. Herein there was a lesson for the other Arab States. Since the last Arab-Israeli war in 1967, Kuwait has paid out over $1 billion in aid to Egypt and Jordan, plus large additional sums to Syria, and undisclosed sums to militant Palestinian organizations. Kuwait stated it would be unable to continue its subsidy payments and should this happen, the Arab confrontation plan against Israel would collapse. Thus, money was Kuwait's most effective weapon. Pressure from all over the Arab world was immediately applied to Iraq, forcing it to withdraw.

Thus, while Kuwait may thank Iran, it did not look to Iran in the first instance as a "big brother," and in fact continues to cooperate with militant Arab States, many of whom have undoubtedly turned their eyes to the immense additional wealth the Persian Gulf States will generate, possibly with the movement of more militants into the area—the clearest target being the Union of Arab Emirates.

The UAE is a union of the seven trucial sheikdoms near the mouth of the Persian Gulf—which include Abu Dhabi—shortly to be as oil-rich as Kuwait, and Dubai—which is the commercial capital of the UAE. Before the oilboom in the 1960's, they had village-size urban populations and a few Bedouin. Almost their entire population has been recent immigrants. Thus, today more than 75 percent of the people are not native, and this may shortly rise to over 90 percent, if the experience of Kuwait is a guide. The UAE today has a total population of 200,000, while Kuwait has about 850,000—in other words, there is the likely possibility of a four fold population increase as the big money starts to roll in, and the UAE begins to count its wealth in multiple billions of dollars.

Iran's relations with the UAE are good, but better with Dubai than Abu Dhabi. Relations are also good with Qatar and with Bahrain. Iran is currently negotiating a naval base on Bahrain where the United States also maintain small naval facilities.

Relations with Oman are good. Most Omanis are Shi'as, which is to say, of the same sect which is the national religion of Iran.

Throughout the region, the major oil producing states are royalist, with the exception of Iraq. Most have rightist governments, again, with the exception of Iraq. Thus, while militant Arabs may claim that Iran is another Israel, a tool of Americans, the Shah also has his supporters. As a resolute royalist leader of great strength and determination, he has a distinct appeal to many of the royalist Arab governments in the Persian Gulf region. The normalization of Iranian relations with Egypt has further helped in reducing tensions in the area.

Much of the answer to this depends on a clear assessment of the current energy crisis.

To see the impact of the energy crisis in some depth, it is important to see this problem in its world-wide perspective.

On the simplest level, the energy crisis means the United States is no longer self-sufficient in oil. Oil will have to be imported. Very large quantities of oil.

The consequences are dramatic. The virtual unlimited supplies of the United States determined the price structure of oil in international markets, and provided a strategic reserve for the free world. Now, the United States can no longer supply itself, much less the free world. For at least a decade, the oil producing states will have a potent political and economic weapon.

In the United States, every man, woman and child consumes the energy equivalent of one barrel of oil per week. If industrial growth is to be sustained, this will rise over the coming decade to about two barrels of energy per week—and the rest of the industrialized world will not be far behind.

Today, the U.S. produces about 11 million barrels per day and consumes 17. By 1980, U.S. consumption is expected to rise to about 25 million barrels per day. Only by an almost disastrous rise in the price level of oil will the United States be able to put marginal reserves of oil into production. The clear prospect before the United States in the immediate future is the import of at least half U.S. oil requirements.

Just as the United States will require 25 million barrels per day in 1980, Europe will require between 25 and 30, and Japan 15—the remainder of the world another 25. By this calculation, about 90 million barrels per day will be required.

There is only one area of the world where there is a large surplus of oil in the ground and where it can be extracted and exported at relatively cheap prices. That is the Persian Gulf.

More than 60 percent of the world's proven oil reserves lie under the gulf, or, in the oilfields of its immediate hinterland.

At this time it is academic to speak of other major areas of potential world supply or to discuss developing new energy technologies. Much may be done, and done quickly, an Apollo-type crash energy program funded at $20 billion or more by the United States, a counterreaction against the environmentalists and the opening of off-shore U.S. areas to exploration and development, much can be done in the way of end-user energy conservation, but as far as we can see today, the coming decade of world energy supply belongs to the Persian Gulf.

From the Persian Gulf will come about three-quarters of all the oil moving in international trade. About 80 percent of the world's shipping tonnage will pass the 900 miles from the heart of the Middle East through the Straits of Hormuz at the mouth of the Persian Gulf, out to the Gulf of Oman and the Arabian Sea. To block the flow of oil at any point along this length, in the Persian Gulf itself or at its approaches, would be to cut the jugular vein of the West.

Whoever manages to control this waterway, will have great power.

Iran has decided to take up this task, the Shah becoming the "guardian of the jugular vein." As he recently stated to "Newsweek," the United States is solidly behind him "as it has no other choice".

The oil-producing states of the Persian Gulf will become incredibly rich. So suddenly rich, in fact, that there is no precedent for it in history. Today the monetary reserves of states like Saudi Arabia or Kuwait exceed those not only of India, but of Scandinavia. Yet, this is only the beginning. Saudi financial reserves which are about $3 billion today are expected to increase more than twenty fold in 10 years—which is to say, well over $60 billion.

By the 1980's, the respected British magazine, the Economist, has projected that about one-third of the entire monetary reserves of the world will be controlled by the Persian Gulf States.

In 1970, the United States paid $2.1 billion for oil imports. The cost will rise to $13 billion by 1975. It is expected to top $32 billion annually by 1985. At the Chase Manhattan Bank they are currently talking of a leveling out as a mere $20 billion a year for the United States—and in this they are much more optimistic than many other qualified observers. There is serious question as to whether or not the American currency can stand this trade imbalance—or more fundamentally, whether or not the United States can spend such vast sums simply for basic energy and still remain a world power.

At best, the shift to new power realities will be difficult for many people to swallow. A tension may build up that may have dire consequences for the peace of the region. If this has caught many nations in the world by surprise, it has also caught, by its extraordinary magnitude, the Persian Gulf States also by surprise. In 1970, oil passed from a buyer's to a seller's market—a market so extraordinary that it boggles the imagination even of the sellers. It has given an additional dimension to all the development plans made by the Persian Gulf States—making all their plans developed during the period 1960–72 virtually obsolete.

The following examples will prove the point. The state national reserves of Kuwait are now approximately $3 billion. Yet, careful observers estimate that more than $3.5 billion in additional money is in private Kuwaiti hands—which is to say that in Kuwait there are oil billionaires. Over the next years to 1980, it is projected that Kuwaiti State reserves will probably arrive at $10 billion. If private income also moves at the same rate, there will be extraordinary financial power in private hands. But similar activity will grow elsewhere on the Persian Gulf as well. Little Abu Dhabi will build up monetary reserves of about $8 billion in circumstances not dissimilar to that of Kuwait. Qatar will build up $2 billion, and Saudi Arabia is expected to have reserves ranging from $60 to $75 billion. There have certainly been some Texas oil millionaires, but the Persian Gulf oil boom will produce some individuals who will make them look like paupers.

It was only between $6 to $8 billion that forced the latest devaluation of the dollar. It is estimated that of this speculative money, only $1.5 billion came from this area. The point is that Arab money is going to be influential—not only state money upon which all the comment is being made around the world, but private money that can buy out whole companies of almost any size.

While the oil journals are taking the lead in counting Saudi Arabia's new wealth and key position as energy supplier to the world, there may in fact be a slightly different scenario played out.

Saudi's projected annual income of $25 billion or more is predicated on production of 20 million barrels per day—all of which is today controlled by American companies, and thus a large part of which will be destined to supply the United States.

But it is not clear Saudi Arabia wants to go to 20 million barrels per day.

From the Saudi point of view they recognize they have the oil reserves to produce this much, but in doing so they may be creating problems for themselves they do not need. What is the use of an astronomical number of billions of dollars in banks? The oil in the ground may be worth just as much if not more. There is serious thought in Saudi that they should make only as much money as they can effectively use in Saudi economic development and in carefully considered investments abroad. Thus, there is a movement in Saudi that production of 12 million barrels per day might be best for Saudi Arabia.

This is not idle speculation. Lybia has cut back. Kuwait has decided that although they can easily produce 5 million barrels per day, they will level at 3. Abu Dhabi, which will also be able to produce 5, is taking the same attitude, and is expected to level at 3. This will have the effect of forcing prices up and making the oil in the ground still more valuable.

Then there is also the American point of view. Is it wise to be so wholly dependent on only Arab oil? Would it not be better to have a counterbalancing productive capacity in Iran—at least to the extent possible?

Iran, contrary to the Arabs, is prepared to empty its oil wells for cash immediately.

The Shah has indicated a number of times that he does not believe that oil in the ground to be of any great value. Its real value comes only when it is marketed. With this thought in mind, I believe he will continue to produce oil at an increasing rate.

I find myself in ageement with his philosophy here because the energy crisis, particularly as it has affected the United States will cause this country to greatly accelerate and expand its efforts to produce new sources of power and I am convinced that we will be successful. The world cannot depend on oil forever. Someone must develop other types of power and we are that someone. I believe the Shah realizes this. I believe that this factor is probably the motivating one in his wise decision to continue to produce and sell compared to the unwise decision of Arab States to hold back. What I am trying to say is that in my opinion, we are not too many years away from the time when oil will find its value in the petrochemical fields and we will find other power with which to turn our wheels.

When I say Iran will empty her wells, I mean it is prepared to do so without asking for a change of U.S. policy in the Middle East. It is prepared to continue supplying oil in the event of another Arab war with Israel at a time when King Faisal has stated on three recent occasions that Saudi Arabia "would join other Arab States in consolidating with Egypt" in an oil boycott to the United States.

Iran is counting on the United States to see Iran as its only chance of a possible alternate source of supply—and thus to encourage to the highest extent possible the development of Iran's oil production and delivery capacity.

This Iranian policy is not new. It has been carefully cultivated over many years, and its latest catchword is "secondary recovery."

What secondary recovery techniques mean to Iran is an extra $100 billion in revenue—for it boils down to using methods that will raise Iran's recoverable reserves of oil by about 60 percent.

Without such techniques, Iran would have to level off with a production of about 7 to 8 million barrels per day. What Iran wants is to bring production up to between 10 and 12.

To give this Iranian policy of emptying its oilfields more drama, the Shah will install atomic energy reactors at three sites in Iran as soon as possible, probably within the next 3 years. One he will place at Bandar Abbas at the very mouth of the Persian Gulf as the most visible evidence of Iran's intentions—indicating on the one hand that he is far in advance of the technology of the region—and serving notice that Iran is already preparing for the end of the oil era.

To what extent will this Iranian strategy pay off? Should Iran go to the very maximum possible production—say 12 million per day—and should Saudi Arabia opt to level at 12—then there would be production parity between the two.

Would it help the world? Probably not. Estimated needs are too great. The shortfall would lead to a very high jump in prices—and this would ultimately work against the Arabs, for it would solve the energy crisis through the price mechanism, opening vast, hitherto too expensive, additional energy reserves for the world. This would greatly raise the price of all manufactured goods.

The above has been indicated as a possible alternate scenario—should Saudi Arabia not drive ahead and produce 20 million barrels per day and more. Below are the range of projections:

[Production million barrels per day]

	1973	1980
Saudi Arabia	7.3	12–20+
Iran	6.1	10–12
Kuwait	3.0	3–5
Abu Dhabi	1.3	3–5
Qatar	.6	1.8
Total	18.9	28–44

It is clear from the figures above that Saudi Arabia plays a crucial role. It can out-produce all the other Arab States both in the Persian Gulf and elsewhere. It can in fact out-produce Iran and all the other Arab States in the world taken together. If it decides to go all the way and produce as much as is needed at relatively cheap prices—it offers a solution to the energy crisis. If not—in the troubled period ahead, there will be an added dimension of trouble. Either way, Iran will probably get what it wants—maximum possible production, with an oil income above $10 billion per year by 1978.

PERSIAN GULF TROUBLE SPOTS

The Arab-Israeli conflict will come to the Persian Gulf in a new manner through Arab oil politics and the very potent economic weapon the Arabs now possess. It may not simply come through the States themselves, but through the pressure of militant oil workers. There are tens of thousands of Palestinians in the Arab oilfields of the Persian Gulf, along with Egyptians, Syrians and Iraqis. Some may be open to the influence of subversive elements.

Subversion is the major fear in the Persian Gulf.

The major current trouble spot of this type is in Oman on the approaches to the Persian Gulf. It is the home base for the revolutionary PFLOAG, operating in Oman's southern province of Dhafar, but encouraging active subversion in other Arab States. The PFLOAG obtains support from Iraq and has a branch office in Algeria. British troops, seconded to the Sultan of Oman, are involved in the struggle against the PFLOAG. Iranian troops are also involved. Prime Minister Hoveyda has admitted in an interview to Iran having a force of 300 paratroopers supported by helicopters and C–130 transports, there at the request of the Sultan.

Thus, there is Iraq at the headwaters of the Gulf, and the PFLOAG on the eastern bend of the Arabian Peninsular at the approach to the Gulf.

There is also the Baluchi successionist movement in Pakistan, supported by arms deliveries from Iraq, which has been recently foiled. Baluchistan is on the approaches to the Gulf, opposite Oman.

Within the Gulf area itself there are six armies—Iran, Iraq, Kuwait, Saudi Arabia, Qatar, and the UAE.

Iran is the overwhelmingly powerful force. Nevertheless, Iraq can make considerable short-range trouble by a lunatic lightning attack designed to knock out major oil installations, some of which can be reached by a strong arm throwing a handgrenade, not to speak of missile launches and strike aircraft. Iraq is now in the process of building a small, Soviet sponsored navy. Iraq is capable of taking over Kuwait in a morning, and knocking out Abadan before lunch, but by suppertime, Iraq would be dead. Only the most desperate gamble by Iraq would lead to such a move.

Both Iran and Saudi Arabia have purchased aircraft, for air superiority over Iraqi MIG's, and both are establishing elaborate radar and missile screens over their territories. Both are building navies, Saudi Arabia so far only a small navy, while Iran has large ambitions.

Iran's ambitions are so large, in fact, that they must be reviewed not only in the light of the Persian Gulf, but on a world power scale. It is clear that the Shah sees the Persian Gulf as the strategic center of a very broad area, encompassing India on the one side and Egypt on the other. He is apparently seeking military parity not with any single Arab power, but with Israel and the Arab powers taken all together.

In his remarks to Newsweek in May of this year, he discounted the fact that he has more Phantoms than Israel, by combining the number of aircraft of both Israel and the Arabs, attempting to show that he still had room for additional expansion. Expansion to what? The answer is superpower status in Southwest Asia.

He claimed he will be able to put into the air a strike capability of more than 300 fighter-bombers, helicopters, and gunships by the hundreds, and enough troop and materiel air transport to move an army anywhere within a wide-ranging region. He talked of a naval build-up of imposing size. Iran has the world's largest missile-carrying hovercraft fleet. He has ordered a destroyer and four SOAM Class MK5 fast frigates for delivery this summer. Meanwhile he has negotiated a naval base on Mauritius, deep in the Indian Ocean, and has announced plans to build at Charbahar, the Iranian Baluchi Port, the largest land, air and naval base in the Indian Ocean. The Iranian army is being equipped with no less than 1,700 tanks, by the Shah's count, each equipped with the latest night vision firing devices. The Shah also acknowledged that he is receiving the U.S.'s new "smart bombs"—in fact, anything and everything nonatomic in the U.S. ordnance.

Assuming he achieves the most formidable military force in the Middle East within 5 years—then what?

This is what is bothering the Saudi Arabians. Their reaction to the massive Iranian buildup is not one of complete sympathy. The Saudis are not convinced the major danger lies in the attack of an outside force. They discount the power of anyone to do so—with the exception of Iran itself.

Which is to say, Iran's defensive power is becoming so overwhelming that it does not need much shift of emphasis to become a potent offensive power. It would not only be able to hold Saudi Arabia to ransom but also be in a position to stop the oil flow to the West itself. The Saudis tend to see the major immediate threat from subversion within the Arab States, and the massive Iranian buildup inflaming radical Arab elements and thus feeding and quickening what they fear most, the radical overthrow of the conservative governments—new regimes using the billions in oil revenue to buy arms wherever they can get them.

The area is fragmented, there are many trouble spots and much rivalry and huge sums of money at stake. There is no doubt that King Faisal wants hegemony over the entire Arabian peninsula. He would like at once to be the spiritual center of Islam, the financial center of Islam, and the protector of Islam. Kuwait would contest him on the second of these assumptions, and Shaikh Zayed of Abu Dhabi mistrusts him on the third assumption. Shaikh Zayed believes King Faisal would like to swallow him up, just as he in turn would like to swallow up the whole of the UAE. To protect himself, he now boasts a personal army of 10,000 men, has a squadron of Hunters and a squadron of Mirages on the way. He also has a few billion dollars a year to play with.

THE ECONOMIC DEVELOPMENT PROGRAMS OF IRAN AND THE PERSIAN GULF STATES

Today, every Persian Gulf ruler is committed to programs of economic development which includes roads, harbors, airports, schools, hospitals, irrigation schemes and the establishment of industry.

The financing of these projects do not present major problems in the Arab emirates. The real question is precisely how much infrastructure they can absorb without attaining a saturation point. Their citizens will soon become among the very richest in the world, with per capita incomes far in excess of the United States. They will be tempted toward vast, showy, prestige projects, especially glamorous visual symbols.

Unlike its southern Arab neighbors, Iran does not have a high per capita income. Instead it has population. Hands, with some money, may prove more potent than money and no hands. The current per capita income in Iran is $513. Within 5 years it is hoped to raise this to $907, through a spectacular annual economic growth rate of 11.4 percent. Should this be achieved, and it will take a minimum expenditure of $56.9 billion over the 5-year period, Iran will have emerged from a developing country to the threshold of a diversified industrial economy capable of sustained economic growth, sharply lessening dependence on oil income.

This is the economic goal. The political goal is increased national unity through more democratic distribution of income and social opportunity. The military goal is to have the predominant military strength in Southwest Asia.

The goal that can be most quickly achieved is the last—and little will stand in the way of the Shah in achieving military superiority in the region.

Over the coming 5 years as much as $15 billion will be spent by Iran on its massive military build-up. The actual figure may rise as high as $30 billion. The Shah has stated he will spend 20 percent of his national budget on arms, but this is conservative. There is probably no existing market anywhere in the world as promising or as difficult as the Iranian defense market.

These are heady figures. There is the possibility of a $30 billion defense expenditure by a developing nation of 30 million people over a 5-year period. This is of course a maximum magnitude of expenditure. The safe and conservative course is to assume about $15 billion.

Some of the items that are being bought under defense are: 108 F-4 Phantoms to add to the 72 he has now—at a total cost of $720 million; 141 F-5E fighters—$300 million; 10 KC-135 jet tankers—$70 million; 700 helicopters—$500 million; 800 British Chieftain tanks—approximately $480 million; 8 destroyers, 4 frigates, 12 high-speed gunboats and 2 repair ships—about $300 million; 14 new Hovercraft to add to what is already the world's largest operational Hovercraft fleet—$30 million; and 2 new air-sea bases—$1 billion.

The new hardware will give Iran truly awesome firepower. Already, the Shah's Hovercraft fleet—led by the big British-made BH-7 which can carry up to 150 marines at 70 knots—has the capability to land a battalion of troops on the other side of the gulf in only 2 hours.

The Iranians do not yet control all the traffic in the gulf—but they are certainly moving in that direction. From their new naval-gun emplacements on Abu Musa and Greater Tumb Islands—which they seized from the United Arab Emirates 17 months ago—they make spot radio checks of passing vessels. And they are even expanding their foothold in the Gulf of Oman and the Indian Ocean—thus making Iran a potential South Asian as well as Mideastern power. Mauritius recently agreed to give Iran port facilities in exchange for an undisclosed amount of aid from Tehran. And in a plateau overlooking Chah Bahar Bay in Iranian Baluchistan, American contractors have deployed 250 giant earth movers to construct a $600 million army, navy and air force base—the largest of its kind in all the Indian Ocean. The Shah insists that the mammoth project be completed in 2 years, but contractors estimate that it will take at least 3 and possibly 4 years to finish. Turning to nonmilitary development details, the plan gives priority to agriculture, social welfare, and neglected regions.

There is another major exception and this is in the oil industry itself. Iran will invest $1 billion in this industry and charge it off in higher prices to the consortium of oil majors which purchase more than 90 percent of Iran's oil output. This also makes a great deal of economic sense. Iranian wells produce about 25 percent of the oil that exists in the oilfield. This they do very effectively and very cheaply. But in the United States techniques of secondary oil recovery have been developed enabling oilmen to obtain as much as 45 percent of the oil in an oilfield. These techniques applied to Iran, aimed at a 40-percent recovery, would raise Iranian oil reserves by an extraordinary 60 percent. Such a move, at current world price, is worth well over $100 billion in Iranian oil income. This move is critical to Iran's plans to raise oil production to 10 to 12 million barrels per day.

There will be vast housing programs. But here also, two-thirds of the outlay is to come from private sources. Although there will be an extraordinary $1 billion military bases construction program undertaken by the Government, parallel to worker's homes in key industries being subsidized, while in key areas some low-cost land made available.

Agricultural production is forecast to rise by 5 percent per year, a target which has become urgent in order to hold down rising food prices.

It is believed that 1.8 million new jobs can be created, assuring full employment for all school leavers, and providing scope for the upgrading of unskilled labor to skilled labor. Meanwhile, a serious attempt will be made to control population increase from one of the highest birth rates in the world, bringing population increase down from 3.2 percent to 2.9 percent.

The above assumptions project full employment in dynamic economy on the road toward democratizing income distribution, raising skills and industrial output and leading to a rise in per capita income from the current $513 to $907 by 1978.

On a sectoral basis in the economic affairs section of the fifth plan, the following is to be spent by the public sector:

[In million rials ($2,350M)]

Agriculture and cattle breeding	208,000
Water resources development	108,000
Power supply	53,500
Industrial development	183,900
Oil industry development	130,700
Gas industry development	29,000
Mining	46,500
Transport and communications	174,500
PTT	21,200
Tourism	7,700

Let us take the category transport and communications and detail it:

[In million rials]

Main roads (construction)	54,000
Secondary roads (construction)	32,000
Road maintenance	10,000
Railway expansion	29,000
Ports development	24,000
Airport development and const.	19,100
Civil aviation	5,400
Shipping	1,000
Urban telephone communications	7,600
Telecommunication trunk channels	8,560
Secondary telecommunication lines	230
International telecommunications	490
Telegraphy	800
Postal services	12,890
PTT research and studies	630

We can look a bit further into airport development and construction:

[In million rials]

Completion of unfinished 4th plan projects	2,300
Expansion of existing airports	7,200
Construction of new airports	
Tehran international airport	6,000
Other airports	1,200
Construction of small local airfields	1,000
Major repairs to airports	600
Purchase of Concordes aircraft	5,400
Studies and research	800

Unfinished airport construction refers specifically to the Isfahan airport and the expansion of Mehrabad airport. Expansion of existing airports refers specifically to improvements of runways and terminal buildings due to increased military and commercial aviation activity. Aside from the new international airport, other new airports are specifically on the Caspian, Babolsar, Gorgan and Nowshahr, foreseeing an expansion of Iran air domestic routes. The smaller airports are an attempt to connect agricultural market centers with industrial centers and will be utilized by Pars Air Service as a private sector airline investment.

Looking further at telecommunications in the fifth plan, the following are the major objectives:

Want to arrive at 33 telephones per 1,000 population;

Want to extend direct distance dialing internationally;

Want to expand direct distance dialing domestically;

Want to become an international switching center for the region;

Want the Iran telecommunications company to meet its current expenses own revenue and loans;

Want more reasonable rates to increase traffic volume and turnover;

Make all government agencies pay for the use of telecommunications so that the Iran Telecommunications Co. can operate viably;

Spur the creation of an electronics industry by stepping up demand for domestic production through more rapid expansion of facilities;

Expand TV coverage from 20 percent to 50 percent of the population;

Raise automatic dialing from 430,000 telephones currently to 1,330,000 by 1978, and towns with automatic systems from 44 to 95. And long distance direct dialing to 69 cities and towns;

Increase the microwave telecommunications channels by 50 percent of original capacity, while putting in the second earth satellite antenna; and

Establishment of a troposcatter circuit between Iran and Bahrain, and improve circuitry with Afghanistan.

HOUSING

The fifth plan projects 964,000 new housing units for Iran of which 775,000 will be by the public sector, 189,000 by the private sector—involving a total expenditure of about $6 billion.

INDUSTRY STIMULATED BY THE MILITARY BUILD-UP:

Perhaps the best way of studying this question is to use the examples of the United States and Europe from which parameters for possible projects can be isolated.

On the simplest level, it has stimulated the cement industry—imports moving in from all over the east to make up for an extraordinary shortage. On another level, it has stimulated agro industry, as the military becomes a huge bulk buyer of foodstuffs. It has stimulated the transport industry as many of the new military sites are distant from the center of the country. It has certainly stimulated the communications industry, of which it is a prime example.

On the very specific level, it has stimulated the growth of IACI into what may be a very promising future, if all goes well.

It has stimulated an ordinance industry at Mis, the former headquarters of the oil industry, where a tank center has been established to deal with the modification of about 1,200 tanks and other equipment.

It has stimulated an avionics industry in Shiraz—an electro-optical industry to be set up by the Iranian Government in collaboration with Hughes and Westinghouse. It is believed this facility will be capable of assembling complete systems, including the next generation of laser-guided missile systems, within about 10 years.

But, this is only the beginning. Any industries necesssary for a country to become a military superpower would be considered by Iran.

In summation, Mr. President, the attitude of Iran toward its responsibilities to peace in the world is the attitude which, in my mind, will preserve peace. The strength of its leader, his understanding of his Nation's problems, his burning desire to solve them are the marks of good leadership and the results, in my opinion, will be spectacular.

WITHDRAWAL AND RENOMINATION OF HELMUT SONNENFELDT

Mr. HELMS. Mr. President, as the distinguished majority leader announced on Friday, the time for the debate on the nomination of Mr. Helmut Sonnenfeldt to the post of Under Secretary of the Treasury has been vacated. The Secretary of State has announced that Mr. Sonnenfeldt has been renominated to the post of State Department Counselor.

The withdrawal of this nomination is a timely one. As the Members of this body are aware, the nomination was to have been voted on today under a unanimous-consent agreement. Until the moment when I learned of the withdrawal of the Treasury nomination, there was grave doubt in my mind that the nomination after pending for 7 months was in fact still bona fide. When Mr. Sonnenfeldt appeared before the Senate Finance Committee on October 1, he confirmed that there have been discussions with him about his going to the State Department after being confirmed in the Treasury post. Numerous newspaper articles have since appeared alleging that it was not Mr. Sonnenfeldt's desire to go to Treasury at all, but only to secure a pro forma confirmation by the Senate.

These persistent allegations cast doubt upon the integrity of the confirmation process, and, had they been borne out by events, would have held the Senate up to ridicule. We had had enough criticism about the actions of our Government not being in accord fundamentally with what they seem to be on the surface. This nomination has become an embarrassment to the Senate. Clearly, if a nominee has no intention to assume the duties for which he is to be confirmed, then the honorable thing to do is to withdraw. That appears to be what has happened, and I am gratified that there will be no mockery of Senate procedures.

Nevertheless, none of the substantive issues have been settled with regard to the longstanding allegations against the character and fitness of the nominee in question. The hearing record of the Committee on Finance contains sworn statements by reputable witnesses which are in complete contradiction to the testimony of the nominee. For the most part this is not hearsay evidence, but eyewitness testimony of those who participated in the events or security review of the nominee. Moreover, witnesses who can corroborate this testimony with direct and material evidence have been named and are available. I would suggest that any future Senate confirmation procedure would necessarily seek to resolve these contradictions.

It has been frequently asserted that the charges against Mr. Sonnenfeldt have been dismissed and discredited. I think it would be more correct to say that they have been simply disregarded, without regard to their truth or falsity. Unfortunately, the charges are serious enough and the available evidence so strong as to constitute an indictment of the man's fitness for high office. I am not a one-man investigating team, nor is it my intention to defame the character of any man. Yet the facts already upon the committee record are such that it is neither fair to the man nor to the country to confirm him to high public office without substantial refutation.

I will attempt to state the facts as they are upon the record, but first I want to indicate that, despite the persistent accusations of security violations throughout his career, he has never been accused of disloyalty to his country. Nor do I impugn his loyalty. Under Government personnel regulations, however, the concept of security includes both loyalty and suitability for the job intended. It is his suitability that has been questioned and continues to be questioned. And his suitability is questioned precisely because there is much evidence that he has repeatedly disregarded the regulations governing the use of classified information available to sensitive positions. The breach of security regulations is serious in itself, but the fact that he appears to have been less than candid about these problems in his career in his statements to the committee impugns his fitness for office. Moreover, it cannot help but raise doubts in the minds of foreign diplomats with whom he deals as to the integrity of diplomatic correspondence and negotiation.

Mr. Sonnenfeldt has sugested in his testimony that the fact of his continuous advancement in his career is proof enough of the falsity of the charges against him. An alternative view is that his advancement indicates the deterioration of personnel security practices in the face of an onslaught of political favoritism and manipulation of outside channels. It is also unusual that records of investigations of Mr. Sonnenfeldt, including investigations he has admitted to, seem to have disappeared without a trace.

The hearing record also shows that Mr. Sonnenfeldt repeatedly responded to questioning with evasive and nongermane answers in areas not associated with the security questions, as though he wished to shift responsibility for or participation in imprudent policy decisions. Some of this was undoubtedly due to his lack of expertise in financial areas, as the senior Senator from Virginia, Mr. BYRD, has mentioned several times on this floor. But in other examples, I suggest that it stems from the same lack of candor that he displayed in discussing his security problems. Now that he has been nominated to the post of State Department Counselor, his foreign policy concepts are more relevant.

For example, when he was asked whether as the chief Soviet expert in State he had written an official intelligence estimate discounting the view that the Soviets were planning to put missiles in Cuba, Mr. Sonnenfeldt first tried to spread the responsibility throughout the group of intelligence experts which he headed, and then explained:

> My own view, as I recall it now, was that there was a possibility of this occurring. I had not considered this a strong likelihood because I thought that the outcome of the Soviets doing this would be, as indeed it was, namely, that they would be forced to withdraw their missiles by our counteraction, and for that reason, my judgment was that, while the possibility existed, that when the Soviets calculated the risk, that they would probably in the end not do it.

When all of the bobbing and weaving has been removed, this is a remarkable statement, that is especially relevant to foreign policy considerations today. For it expresses the belief that Soviet policy is based upon the same rational calculations as we ourselves might make, and that the Soviets would be deterred from rash actions by the sure knowledge that we would respond.

Now hindsight is easier than foresight, and anyone can make an error of professional judgment. I do not fault him for a mistake. Yet it is pertinent to inquire whether his view of Soviet policy calculations has been tempered since then. In his role as a senior adviser on Soviet policy in the National Security Council his view was doubtless important in the SALT negotiation policy, and we know as a fact that he played a key role in the United States-Soviet trade agreement. His role in the disastrous wheat deal is also important.

Before the Senate Finance Committee, Mr. Sonnenfeldt insisted that he "was not directly involved" in the negotiation of the wheat deal, but only "peripherally involved." He continued to minimize his participation throughout the lengthy questioning. Yet the conclusion that he played a policy role is inescapable. For example, when the NSC directives of January and February 1972 were read to him calling upon the Department of Agriculture to begin immediately to set up a program for handling grain sales to the Soviet Union, Mr. Sonnenfeldt replied:

> I would guess that those were connected with some early soundings beginning during former Secretary of Commerce Stans' mission to Moscow in November-December of 1971, about the possibility of selling some grain to the Soviet Union, again against the background of our trying to move some of our surpluses, and from what you have read, the first one seems to be saying that if this happens, the Secretary of Agriculture should take the lead.

Mr. Sonnenfeldt in his response did not associate himself with Secretary Stans' mission to Moscow, yet a photograph on page 1 of the Washington Post of November 25, 1971, identified Secretary Stans and Mr. Sonnenfeldt together in Moscow. Since the Secretary made no pretensions to being an expert on the Soviet Union, and Mr. Sonnenfeldt was the senior adviser in this field, it is hard to escape the conclusion that Mr. Sonnenfeldt did, indeed, have a major role in developing the policy guidelines on the wheat deal. This conclusion again brings into question his professional judgment about Soviet policy calculations.

His professional judgment is called into question because the hearing record shows he did not anticipate the tactics which the Soviets would use in their attack upon our grain markets, including the technique of parallel secret negotiations with Government negotiators and grain market traders and the cumulative purchase of separate bids. When asked whether any consideration had been given to the impact of the deal upon the American economy and the American consumer prior to the consummation of the deal, Mr. Sonnenfeldt replied:

> I don't believe anybody felt that it would have any noticeable impact on domestic prices at all because we were dealing with surpluses. So that—in that deal—had that been consummated, had that been the totality of Soviet purchases, there would not have been any impact.
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> * * * * *
>
> But I am not aware that any review was made of the probable impact on domestic prices of the Government deal which, as I say, was one spread out over three years, connected with surpluses, related to surpluses, and not likely to have any impact on American domestic prices.

What we have here is a senior policy adviser who is apparently aware neither of the probable Soviet responses to a policy decision, nor of the impact of that policy decision upon the United States, and does not even ask for a study of that impact. I need not point out that this is a policy decision that has resulted in the Soviets strengthening their food position and their economic position at the expense of U.S. prestige and the American consumer's pocketbook.

Since Mr. Sonnenfeldt freely admits that he played a major role in the negotiation of United States-Soviet trade agreement, I suggest that the consequences of that agreement be examined with a skeptical eye.

But let us now turn to some general considerations about the nature of the evidence which weighs not against his professional judgment, but against his suitability for a high office where he might be handling sensitive information. It has been suggested that this evidence consists of hearsay and of one man's word against another. There is considerably more to it than that.

The first type of evidence consists of sworn statements before the Finance Committee by individuals who had eyewitness knowledge of security violations or who interrogated him in the official course of their duty.

The second type of evidence consists of sworn statements concerning the contents of investigatory materials compiled by other State departmental officials.

The third type of evidence consists of tape recordings and transcripts of wiretap surveillance over extended periods of time on widely separated occasions.

Unfortunately, only two such witnesses were called before the Finance Committee in impromptu fashion. At least five or six more such witnesses, who had official contact with the nominee in the course of their duties, are reportedly available to corroborate the testimony already given, if subpoenaed.

The distinguished chairman of the Finance Committee indicated on the floor on December 5 that he had requested the indicated tape recordings or transcripts from the administration and had been denied access on grounds of executive privilege.

Although I do not agree with all the denunciations of executive privilege which have been made in some quarters, I certainly see no excuse whatsoever for executive privilege to be invoked in this case. No personal records or correspondence of the President or the President's Office are involved. Most of the evidence requested involves only lower level bureaucrats in the State Department and the time is several administrations back. The President, in his letter to the Watergate Committee of July 25, 1973, indicated that he would not invoke executive privilege except for personal records, and even that has been modified. I would respectfully suggest that this is no time to invoke executive privilege to protect a bureaucrat.

I would also point out that the integrity of the witnesses who have come forward is of exceptionally high caliber. Mr. Otto Otepka is well known as a State Department security expert who laid his own career on the line to stand by the impartiality of his work and its nonpolitical character, and risked character assassination and loss of income when he was subpenaed by a Senate committee to tell the truth. His many hours of testimony on previous occasions have stood the test of veracity and integrity, and he was appointed to a high post in this administration and confirmed by the U.S. Senate.

Mr. Stephen Koczak, who is an eyewitness to security violations, was for many years a distinguished Foreign Service officer, and is now research director of the American Federation of Government Employees. In that capacity, he has appeared before Senate and House committees more than 100 times.

Both of these witnesses are obviously aware of the importance of accuracy and truthfulness of sworn testimony and cognizant of the solemn responsibilities of such testimony.

I would respectfully suggest that the Foreign Relations Committee should call Mr. Otepka and Mr. Koczak and allow them to supplement their testimony under oath, as they indicated they were willing to do before the Finance Committee.

I would also suggest that the following witnesses be called under oath to testify to any direct and material evidence which they have with regard to the security violations under discussion:

Mr. Francis Niland, Chief, Intelligence Analysis Unit, Department of Justice;

Mr. Herbert Lampe, Division of Investigations, Office of Security, Department of State;

Mr. Donald Daley, Assistant Chief of Investigations, Office of Security, Department of State;

Mr. Robert Berry, former Chief of Division of Investigations, Office of Security, Department of State;

Mrs. Eunice Powers, former stenographer in the Division of Investigations, Office of Security, Department of State;

Mr. John Hemenway, former employee of Bureau of Intelligence and Research, Department of State.

Let us now turn to the facts as known today.

1. THE 1954–55 LEAKS

In 1954 and 1955, Mr. Sonnenfeldt was investigated for leaking classified information to several journalists, including Mr. John Scali, now U.S. Ambassador to the U.N., and Mr. Marvin Kalb, of CBS. In sworn testimony before the Finance Committee, Mr. Otto Otepka, a former State Department security officer, stated under oath that during a security investigation of Mr. Sonnenfeldt he dealt with summaries of the traffic on wiretap surveillance of the nominee. The surveillance established conclusively that Mr. Sonnenfeldt had, indeed, given the classified information to the journalists, but the State Department would not allow the evidence to be used because of the way in which it was obtained. The name of State Department electronics expert who conducted the surveillance for a period of over a year, Mr. Herbert Lampe was not called to testify.

2. THE 1958 INCIDENT

Mr. Koczak's testimony states that in 1958 Mr. Sonnenfeldt was observed giving highly classified information to foreign nationals having to do with U.S. troop movements and the composition of the government of a third nation. Although the leaking of classified material is now considered to be more fashionable, the actions described by Mr. Koczak were extremely serious, for the following reasons:

First. Mr. Sonnenfeldt was an employee of the Bureau of Intelligence and Research of the Department of State, which receives raw data from agents abroad. The information was thus not something stamped secret by some bureaucrat to hide his mistakes from the public; it was intelligence of the most sensitive kind that could jeopardize the lives of foreign officials, the work of agents in place, and even the success of U.S. policy.

Second. The time of the incident was the height of the Lebanon crisis.

Third. The location was a social function honoring an Israeli diplomat who was returning home. Thus with a broad cross-section of people present there was no way to be sure that the setting had not been penetrated by agents of other nations.

Fourth. All employees of the Bureau of Intelligence and Research were under orders to secure prior permission and subsequently report any such meetings with foreign nationals. Mr. Koczak had served in Israel and had numerous Israeli friends and was given permission to attend the function. Mr. Sonnenfeldt had never served abroad, and, according to Mr. Koczak, did not seek permission, nor did he report afterwards.

Fifth. The information given over consisted of the contents of telegrams analyzing the makeup of the Lebanese Government, and relating to the U.S. troop landings at that time. Mr. Koczak had seen an earlier Israel Government undermined by the breach of diplomatic cable traffic, and reported the incident to his superiors, giving the identification numbers of the telegrams compromised.

Sixth. On its own initiative, the FBI sent an agent to see Mr. Koczak about the Sonnenfeldt case. The agent was reportedly concerned because there was evidence of continuing contact with Israeli intelligence agents over a long period of time. The FBI, in a letter to Representative JOHN ASHBROOK, has confirmed that an FBI agent visited Mr. Koczak on the Sonnenfeldt matter and has identified him.

Seventh. The Secretary of the Treasury, Mr. Shultz, in listing the review of security investigations of Mr. Sonnenfeldt, made no mention of the 1958 investigation. The distinguished chairman of the Finance Committee said that he found no adverse security information in the nominee's file. Since the FBI has admitted that there was an investigation, the question arises as to whether or not the file was purged of adverse information.

Mr. Sonnenfeldt's response under oath to these allegations was vague and general, asserting that he was first confronted with them in a security investigation 2 years later.

3. THE 1960 LEAKS

In 1960, at the height of the political campaign between John F. Kennedy and Richard Nixon, Mr. Sonnenfeldt came under investigation because of evidence that he was leaking classified information to the Democratic campaign. Accord to Mr. Otepka, who conducted the interrogation, Mr. Sonnenfeldt's telephone was tapped over a long period of time, and he was placed under personal surveillance. Among the events included in this investigation was an occasion in which he was observed during working hours leaving the home of the late Marguerite Higgins, the journalist, with the late Robert F. Kennedy, who at that time was working in the Presidential campaign. Mr. Otepka's secretary, Mrs. Eunice Powers, was engaged in the transcribing of the wiretap traffic on Mr. Sonnenfeldt. According to Mr. Otepka, the available evidence positively established that Mr. Sonnenfeldt was communicating evidence to persons with whom he had no authority to deal in connection with his official duties at the State Department.

Mr. Sonnenfeldt admits that he was interrogated at this time, but denies that he knew anything about the allegations. Thus, although both sides in the controversy admit there was an investigation at this time—and an investigation of some thoroughness and expense—no record of it appears to remain in the nominee's file. Like the 1958 investigation, the 1960 investigation is not mentioned in the review of investigations confirmed by the Secretary of the Treasury.

Nor is either investigation mentioned in the security investigations index maintained by the Civil Service Commission. Under the Federal personnel security program, which is still in force under Executive Order 10450, all security investigations must be reported to the central file kept by the Civil Service Commission, so that any subsequent investigation can review the earlier evidence. This further raises the question of whether or not the nominee's file was purged of adverse information.

4. TRANSFER TO ACDA

In 1960, the nominee applied for the job of Deputy Director of the Soviet International Affairs Division of the Bureau of Intelligence and Research of the State Department. But, according to Mr. Otepka, the Director of that office, Mr. Hugh Cumming, determined, in the light of the ongoing investigations of the nominee, in political activity, that he could not continue in his duties at the Bureau where he would have constant access to the communications intelligence traffic of the United States. After the election, Mr. Sonnenfeldt then transferred to the Arms Control Agency of the State Department—now Arms Control and Disarmament Agency—where he could be cleared for activity of lower sensitivity.

5. TRANSFER BACK TO INR

Early in 1962, the nominee came back to the Bureau of Intelligence and Research as head of the Soviet International Affairs Division. Thus the nominee had been rejected as Deputy Director because of doubts that he could maintain the necessary security standards and was sent to ACDA in a less sensitive position; but within a year, he came back to be Director of the same highly sensitive office.

The question then arises as to whether or not the leaking of classified data to a Presidential candidate helps or hinders a man if that candidate wins the election. Unquestionably, the security standards were applied in a different way to his case when the new administration was in full swing. It is highly significant that evidence of the 1960–61 investigation seems to have disappeared from his file, although the nominee admits that an investigation took place.

It should also be noted that the deterioration of the whole State Department security program advanced markedly in 1961, as has been shown in the voluminous hearings of the Internal Security Subcommittee of the Judiciary Committee.

6. FAVORITISM IN PROMOTION

In 1969, Mr. Sonnenfeldt was chosen to join the National Security Council as an associate of Dr. Kissinger. Up to this time, he had been classified as a Foreign Service Reserve officer. Mr. Sonnenfeldt transferred into this position in 1965 from civil service, thereby becoming eligible for a higher pay scale. Technically he was classified as Foreign Service Reserve officer—maximum U.S. duty—FSRO–MUSD. By maximum U.S. duty was meant that he would enjoy the privileges of the Foreign Service, but would never have to serve outside of the United States. In 1967 he was promoted to FSRO–I, still maximum U.S. duty.

In 1969, when Mr. Sonnenfeldt learned that he was going to a prestige appointment with the National Security Council, he applied for a lateral transfer from the Reserve to the regular Foreign Service officer classification—from FSRO I to FSO I. This is an appointment that is the highest rank a Foreign Service officer can attain, aside from the rank of Career Minister and Career Ambassador, and is usually reserved for a handful of the most distinguished men of the corps. It is a rank that usually comes only after many years service abroad.

This lateral transfer caused consternation among the Foreign Service because it came at a time that there was a reduction in force in the Foreign Service of about 10 percent. Thus while meritorious candidates were being riffed, Mr. Sonnenfeldt's position at the NSC enabled him to move into a coveted spot, at that time, the first FSO–I lateral appointment in nearly a year.

The question then is whether political favoritism played a role in this appointment, and whether the security investigations of 1958 to 1960–61 were considered in the appointment.

Mr. President, these matters of possible favoritism were gone into thoroughly at the time of his appointment by the distinguished senior Senator from South Carolina, Mr. THURMOND, and I ask uanimous consent that his remarks of March 26, 1970, on the Senate floor be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, is is so ordered.

7. THE 1969–71 WIRETAPS

Mr. HELMS. In 1969 and subsequently, the President and Dr. Kissinger became concerned over the alarming leaks of highly sensitive information from the National Security Council, and, as is now well known, telephone taps were put on several employees of the National Security Council and newsmen with whom they are alleged to be in communication.

Two of these taps were put on Mr. Sonnenfeldt and Mr. Marvin Kalb of CBS, both of whom had been wiretapped in connection with previous investigations.

Dr. Kissinger has indicated that nothing came of these wiretaps.

In view of the close association between Dr. Kissinger and Mr. Sonnenfeldt, the question arises as to whether or not Mr. Sonnenfeldt or Mr. Kalb received advance information that their phones were being tapped. Such information would have enabled those under surveillance to establish a record of innocent conversations while the leaking could have been done through other means.

At the very least, the transcripts of these tapes should be made available to the proper committees under relevant safeguards so as to determine the substantive content.

8. THE MOLLENHOFF INVESTIGATION

During the same period as the NSC investigation, Mr. Clark Mollenhoff, then a special counsel to the President, attempted several times to conduct an investigation into the Sonnenfeldt case, but failed to get cooperation from Dr. Kissinger. Mr. Mollenhoff's statement before the Finance Committee was as follows:

> My contact with this was simply passing on information when I was special counsel to the White House to Dr. Kissinger and through General Haig relative to this matter, and I viewed it seriously at the time but made no value judgment. I passed it to them and they exhibited great concern, indicated they were going to do something at some point but I could never get a satisfactory explanation back over a period of time and I just dropped it.

9. CONCLUSION

Mr. President, the facts on the public record indicate a recurring pattern in this case of allegations impugning the security suitability of Mr. Sonnenfeldt throughout his career. Yet not only the facts developed in those security investigations and the resolution of those investigations, but even the fact that the investigations were held seems to have disappeared from the nominee's personnel records. The question is not resolved as to whether favoritism in high places has served to cover up unfavorable aspects of the nominee's personnel history.

Fortunately, the uncertainties in this case should not be difficult to resolve. The Foreign Relations Committee can call the relevant witnesses and check out the contradictions that already appear under oath. Or if the committee prefers, the question could be referred to the Senate Internal Security Subcommittee which has demonstrated much expertise and objectivity over the years in developing information on State Department security practices.

Finally, Mr. President, I repeat that I have not desired to cast any reflection upon the loyalty and suitability, and either one alone might make a person ineligible for high office. If a person has a repeated history of leaking sensitive information over the years, he is certainly not suitable for a sensitive post. For example, if it can be established that Mr. Sonnenfeldt has a history of leaking classified information to Israeli diplomats, how could the Soviets trust him in dealing with the Middle East crisis? Whatever his intentions, the suspicions would remain.

I submit, Mr. President, that Mr. Sonnenfeldt's nomination, even to his new post, does not resolve the situation, and that his name should receive the closest possible scrutiny.

The remarks of Senator THURMOND follow:

THE STRANGE NOMINATION OF MR. SONNENFELDT

Mr. President, on March 11 the list of nominations received by the Senate included the name of one Helmut Sonnenfeldt of Maryland for appointment as a Foreign Service officer of class I.

This is a most unusual appointment. The Foreign Service is supposed to be composed of career diplomats who have served their country around the world and have their special status recognized through the Foreign Service rating system. The rating of FSO I is normally the highest rank which a career diplomat can achieve aside from the exceptional positions of Career Minister and Career Ambassador, reserved for a handful of the most distinguished members of the corps. Thus, it appears that we have Mr. Sonnenfeldt entering the Foreign Service at the highest rank normally achieved by others after years of service abroad. Thus, this unusual appointment threatens the status and achievement of the many dedicated Foreign

Service officers who have served with distinction. It is an affront to the career system and a threat to the stability of impartial ratings and of the morale of those who have worked their way up through the ranks to achieve their present positions.

Mr. Sonnenfeldt's appointment is especially outrageous in view of the fact that at the present time, due to the economy measures being taken throughout the Government, the Foreign Service Corps is currently affected by a reduction in force of approximately 10 percent. This means that about one out of 10 of every career Foreign Service officer reviewed for promotion is "selected out"—that is, severed from the Service. So at the very time when many Foreign Service officers are being severed from the Service because of the high rate compelled by the reduction in force, Mr. Sonnenfeldt, who has never served abroad, is entering into the Foreign Service Corps at the highest possible level.

Mr. President, as I have pointed out, this is a highly unusual situation. In fact, it is a unique situation. I am informed that in the fiscal year of 1970—that is, since June of last year—only three men have made lateral entry into the Foreign Service; two of them at the relatively low class III level and only one at the class I level. That sole individual is Mr. Sonnenfeldt.

We can see, therefore, that Mr. Sonnenfeld is an exceptional case who is given special treatment at a time when many others are losing their jobs.

I have mentioned that Mr. Sonnenfeldt has never been abroad. I have received information concerning Mr. Sonnenfeldt's personnel history. Originally, he was in civil service status—and in 1965 he was converted from a GS-15 to Foreign Service Reserve Officer II—maximum U.S. duty.

The FSRO was originally conceived by Congress as a means for the temporary use abroad of persons who were particularly qualified in one aspect or another and whose qualifications filled a need for a particular job overseas.

At this period, Mr. William Crockett, who was then Deputy Under Secretary for Administration in the State Department, began to use this wise provision of the law as a means for enlarging his domestic staff without specific congressional authorization. He invented the category of FSRO—maximum U.S. duty—meaning a Foreign Service officer would never be assigned to foreign service. Those who accepted such a service would enjoy a higher pay scale than in civil service, without having the burden of serving abroad. On Mr. Crockett's part, it relieved him of observing civil service regulations with regard to job rights and categories.

Mr. Sonnenfeldt thus entered the Reserve Officer Corps under this highly unusual situation as a FSRO class II—maximum U.S. duty. I am told that in 1967 he was promoted to the rank of FSRO I—maximum U.S. duty—by a special panel dealing only with officers of this unusual category. The same panel recommended that he be converted from FSRO I to FSO I; that is, to permanent status. But the board of examiners reportedly refused to do so because he had not personally applied for the job, and there was no certificate from the Director of the Foreign Service that he was needed for it. It is significant that, if he had personally applied, then he would have been liable for duty overseas.

Under these circumstances, he was appointed to the National Security Council staff in 1969 in what is essentially a political policymaking position. From the prestige status of this political appointment, he applied for conversion to FSO I in September 1969. He is, in effect, starting at the top. It is hard to escape the assumption that questions of political influence have overshadowed the merit system of the FSO.

It is particularly interesting that Mr. Sonnenfeldt received this special treatment, despite the fact that his wife is known as an antagonist to the present administration. I find it very disturbing that a top assistant in the National Security Council staff, responsible for formulating and advising on our international policy, should be chosen from a milieu which is antagonistic to the work of the President. I do not question the right of Mrs. Sonnenfeldt to engage in political activity, but the question arises whether she acted with the approval or at the direction of her husband. Under the Hatch Act, no Government employee may do indirectly what he is forbidden to do directly. In any event, I find it particularly strange that a top policy adviser is picked from such a political context and, on top of that, given preferential and unusual treatment which threatens the justice and fair workings of the Foreign Service Corps.

IMPORTANT BOOK BY FRANK MANKIEWICZ

Mr. McGOVERN. Mr. President, my friend and recent campaign ally, Frank Mankiewicz, has recently published a volume described by the respected Washington Star journalist Frank Getlein as "an important book."

Entitled "Perfectly Clear: Nixon From Whittier to Watergate," Mr. Mankiewicz's book was published by Quadrangle Press—a subsidiary of the New York Times.

In the words of Mr. Getlein:

> The book provides what has so far been lacking in our apprehension of Watergate, an organizing, analytical intelligence taking the overview and adding up all the details into an appalling perspective.

This is, indeed, a well-timed, carefully constructed historical account of the mentality and values which set the stage for the worst scandals in our political history.

I ask unanimous consent that Mr. Getlein's review in the December 10, 1973, issue of the Washington Star-News be printed at this point in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE FIRST OF THE WATERGATE FLOOD

(By Frank Getlein)

Frank Mankiewicz has written an important book. At the moment it is the only important book about the overriding domestic issue facing this country, namely Watergate and the future of Richard Nixon as President.

Mankiewicz was, of course, press secretary to Democratic presidential candidates Robert Kennedy and George McGovern, and his own political sympathies are in no doubt whatever. But before he attained the national prominence he reached in those jobs, Mankiewicz was a journalist and a practicing lawyer, and it is out of the experience of those roles rather than out of partisan political affiliation that the book has been written.

His journalistic and legal skills in combination are what make the book as good as it is. Journalist Mankiewicz writes a hard-hitting, straight-forward prose that almost, not quite, suppresses the irony of which he is a master. Lawyer Mankiewicz has drawn up a brief and cited the evidence against Nixon in a devastating case.

"Perfectly Clear" should be the handbook for everyone trying to follow the Watergate affair as it erupts in a series of court cases here, in New York, and in California; in the resumed investigations of the Senate and the Justice Department, and—inevitably, in Mankiewicz's view—in impeachment proceedings in the House and the Senate.

The center of the book—which probably ought to be reprinted as a pamphlet for television watchers in the months ahead—is a detailed examination of charge after charge after charge in the framework suggested by Sen. Baker, which Mankiewicz correctly says is inadequate: "What did the President know?" and "When did he know it?"

Mankiewicz leads us through, as he might a grand jury, the whole sordid story from the forged cables implicating John Kennedy in the death of Diem to the use of the CIA in the coverup to the Ellsberg burglary, the Watergate burglary itself, the Cambodian bombing, the San Clemente realty deals, the income-tax shenanigans and, in toto, everything you always wanted to know about Watergate but couldn't figure out because there was just too damn much.

At the end of the exhausting list, Mankiewicz seems a little like Paul Muni playing Zola, triumphant in the wreckage of the Dreyfus case and still crying, J'Accuse!

Except for the occasional box score in *Time* or the papers, this is the first effort to bring it all together, and it all adds up to a staggering bit of American history, one that will take more refutation than "Operation Candor" has managed so far.

Mankiewicz goes well beyond this central service of his book. He takes the story back to what he calls the "California Proving Ground" to make the case that Nixon has never won an election in which there wasn't a certain amount of crucial dishonesty on his behalf. The Voorhis and Douglas cases have recently returned to the light of day, but Mankiewicz's treatment of them is useful. He adds the generally forgotten or unknown conviction of Nixon campaign workers for various forms of fraud in the 1962 campaign for the California governorship.

The author's solicited letter from Albert Speer, the Nazi architect and slave-labor manager, on the *Fuhrerprinzip* in its original application is perhaps a touch too much—although either frightening or amusing or both at once, depending on how you see Watergate. But his analysis of the Watergate crimes in terms of standard intelligence procedure and his description of the "Miami ambiente" are valuable contributions to our understanding of how it all happened.

There is also one magnificent *tour de force*. Mankiewicz writes the speech that Nixon could have used early in the game to get himself off the hook and does a good job as a volunteer ghost, ending, of course, with the reasons why the speech wasn't made and won't be made.

The book provides what has so far been lacking in our apprehension of Watergate, an organizing, analytical intelligence taking the overview and adding up all the details into an appalling perspective.

SOUTH KOREA

Mr. PERCY. Mr. President. I was pleased to see recent reports indicating that the South Korean Government may be easing its repressive policies in reaction to public and opposition pressures. Surely democratic reforms in South Korea and certain other Asian nations are long overdue.

In my report "Economic and Political Developments in the Far East," published by the Committee on Foreign Relations on March 30, 1973, I stated:

> The revival of democracy in the area would require the restoration of the integrity of the legislative process, the abjuring of the use of martial law for political objectives, and real efforts to close the economic gap between

the very rich and the very poor, to strengthen education at all levels and to combat corruption in government.

I also noted that the press in South Korea is completely controlled. On other occasions, at hearings of the Committee on Foreign Relations, I have mentioned the chilling effect on the Korean body politic of the extremely repressive activities of the Korean Central Intelligence Agency which is an all-pervasive domestic security apparatus.

I ask unanimous consent to have printed in the RECORD an article on this subject from the New York Times of December 4, 1973.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SEOUL CABINET CHANGE MAY SIGNAL EASING OF RULE

SEOUL, SOUTH KOREA, December 3.—A sweeping Cabinet shuffle today was being interpreted in political quarters as a signal that President Park Chung Hee might be easing his repressive rule in the face of a growing anti-Government movement among university students, intellectuals, churches and journalists.

Particularly significant in the replacement of 10 of the 20 ministers, it was thought, was the ouster of Lee Hu Rak as the chief of the powerful Central Intelligence Agency, whose activities had been vigorously protested by opposition politicians and students.

It was also considered significant that the changes came a day after the National Assembly adopted a resolution at the initiative of the opposition New Democratic party, urging the Government to carry out "democratic" reforms to wipe out corruption and establish a "free and disciplined society."

The resolutions also called on the Government to promote a free press and a "democratic as well as productive" Parliament, and to resolve the student unrest "with generosity."

DEMONSTRATIONS CONTINUE

The Cabinet shift, however, failed to stop demonstrations immediately. Some 3,500 students took to the streets or held campus rallies today in Seoul and two provincial cities, Taegu and Chonju, demanding the restoration of Democratic freedoms and the release of arrested students.

Among the Cabinet members retained by Mr. Park was Premier Kim Jong Pil. Kim Dong Jo, the Ambassador in Washington, was appointed Foreign Minister. Justice Minister Shin Jik Sot was appointed the new director of the Central Intelligency Agency.

The ousted director, a retired army major general, also resigned as the chief South Korean negotiator in the suspended political talks with North Korea. Chang Key Young, the deputy chief negotiator, became the acting chief delegate.

The changes were announced after the Premier and his Cabinet resigned this morning, saying they "assumed responsibility for a series of events that have taken place recently."

The opposition partly had been pressing for the Cabinet's resignation in connection with the abduction of Kim Dae Jung, the party's presidential candidate in 1971, from a self-imposed exile in Tokyo to Seoul in August.

The Japanese police said that the abduction had been carried out by the South Korean Central Intelligence Agency. It touched off the anti-Government student demonstrations. Along with the cabinet shuffle, the first major one since last December, the Ambassador to Japan, Lee Ho, was called home and the National Unification Minister, Kim Young Sun, was named to succeed him.

The Cabinet shuffle and the ambassadorial shifts were interpreted by diplomatic sources here as a conciliatory move toward Japan in connection with the kidnapping case. The changes, it was noted, took place about two weeks before an economic conference to be held in Tokyo to discuss new Japanese aid to Seoul.

Four of the new ministers are retired army generals, including Defense Minister Suh Jong, Chul.

Hahm Byung Choon, a special presidential assistant for international politics, was named the new ambassador to the United States.

In the continuing demonstrations, about 500 women students demonstrated briefly in the Seoul city hall plaza while 1,700 students at four institutions adopted anti-Government resolutions at separate campus rallies. A group of 150 nursing students at Seoul National University's Medical College started a 48-hour strike in a classroom.

More than 200 reporters at Don-A Ilbo, Seoul's largest-circulation national daily, held a meeting in the paper's editorial room and adopted a resolution to "fight to the last for the restoration of the freedom of the press."

Their action followed a one-day strike of reporters at the Joong-ang Ilbo last Friday.

THE GOOD OLD DAYS

Mr. HUMPHREY. Mr. President, how many times have you heard people drift into a conversation about "the good ole days?" Why, back in the good ole days you could get a cup of coffee for a nickle—a pound of hamburger sold for about 65 cents a pound—a quart of milk was 22 cents—and how about penny candy?

Well, I hope most Americans have been paying attention, because those good ole days have come and gone. For the past 20 years Americans have basked in luxurious affluence, taking advantage of stable food and fiber prices while their standard of living was increasing substantially year after year.

Mr. President, everyone in this country has the desire for cheap food, but many of these same people may still be in the dark about the policies which reduce supplies and increase costs. I ask unanimous consent to have printed in the RECORD an editorial by Earl W. McMunn, editor of the Ohio Farmer, entitled "Let Us Reason Together If Consumers Are To Have Cheap Food."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LET US REASON TOGETHER IF CONSUMERS ARE TO HAVE CHEAP FOOD

(By Earl W. McMunn)

Consumers of this country want cheap food. That is what they have had, although many are not aware of the fact. Rising prices of the past year threw many into a panic. Some ill-informed politicians, labor leaders, newsmen and others screamed that "people couldn't afford to eat!" This, in spite of the fact that in 1973 the average person is spending less than 17 percent of his income for food. That is still a real bargain when compared with other nations of the world, or for most other times in the history of this nation.

We have cheap food because of a combination of circumstances. Mostly it is the result of an abundance of technical information, use of commercial inputs, and freedom to operate under a profit-oriented economic system. Cripple any of these forces and food will become more expensive. This is a fact of economic life. But the sad truth is that too many governmental decisions are made by people who don't understand economics. Recent efforts to help consumers by controlling livestock prices are but one example.

The forces which provide our cheap food have been building up for at least half a century. We have had an abundance of land, a surplus of farm labor, and plenty of people who wanted to farm. Commercial suppliers provided the machinery, the chemicals and the other inputs. Our know-how was improved by a steady flow of information from both public and private sources.

During this same period, our economy was expanding and people were becoming more affluent. This made it easier for them to buy food with a smaller share of their total incomes. For instance, in the 20 years between 1952 and 1972, wages and incomes rose by an average of seven percent a year. Farm prices rose less than one percent. This is why many consumers developed the idea that they should get a raise every year, but they shouldn't pay more for food. That was the way it had been during most of their lifetimes.

All this has changed during the past year. Now it is becoming clear that food prices must rise when everything else in the economy is on the upswing. People must pay more if they expect to be well fed. And, there is ample evidence that eating is a habit which no one wants to give up. There is little reason to believe customers will need to make any real changes in their eating habits. At least, not so long as economic forces are permitted to operate. The trouble comes when we try to make economic decisions on the basis of politics.

Here may be our greatest danger. Some of the most critical decisions may be made without real understanding of the problem. This is an ever-present threat where agriculture is involved. It is a fact of life that most members of Congress and the regulatory agencies no longer have a farm background. Too few have even an understanding of agricultural matters. How can they be expected to know, for instance, that a decision which hampers the oil business may cut farm production and add to the cost of food?

As a nation, we haven't yet faced up to the fact that there's a difference between necessities and luxuries. Or, that necessities must come first when hard decisions must be made. We've been sold on the idea that we must have the luxuries, then we'll pay for the necessities if there's anything left over in the budget. This has been true for much of our nation planning, just as it has been in many a private household.

What is the value of aimless joy riding when fuel is needed to grow crops, transport them to market, and keep the nation's factories in operation? Look at the traffic clogging our highways during non-working periods and it's easy to see where billions of barrels of fuel could be saved.

But, our system has offered little incentive for savings. Most of our policies have been in the opposite direction. Regulatory agencies attempt to impose arbitrary restraints upon retail prices. These work like a two-edged sword—and in the wrong direction! They discourage exploratory drilling, investment in refineries and everything else that is required to boost production. At the same time, low prices encourage consumers to use fuel for many purposes which are both foolish and wasteful.

Price may not be the most popular rationing tool, but a more effective method has not yet been invented.

Modern farming depends largely upon the use of commercial inputs. Anything which interferes with their availability is harmful to food production. Every farmer knows this, but it is not understood by many others.

Recent estimates indicate we are now using commercial inputs at the rate of $50 billion per year. No longer is any farm self-sufficient as in the days of the pioneers.

High crop yields depend upon the use of chemical fertilizers, herbicides and pesticides. We must have fuel to cultivate land and dry the crops. Our rapid increase in labor efficiency is largely the result of abundant use of machinery and equipment. Modern farming would be impossible without vast amounts of capital.

We look to agribusiness for a wide array of production inputs. Other segments of agribusiness process crops into forms that are acceptable to consumers. How long has it been since you saw a consumer carrying a live hen home from market? Now, it's a tender, juicy broiler which is killed, plucked, cut-up, packaged and perhaps cooked in golden batter. The consumer never had it like this in the "good old days!"

And, if we're honest, who in agriculture would like to go back to those good old days? They were the days when wood was cut to heat the house, you turned the soil with a two-horse walking plow, and you killed potato bugs by knocking them into a can of kerosene. No wonder that almost everyone knew something about farming. With the back-breaking work of those "good old days" most people of the nation were needed on farms just to get the farming done!

Consumerism is a popular cause. But some self-styled consumer advocates ignore the fundamentals of sound economics. All they accomplish is to make conditions more difficult for the very people they claim to help. You're not helping anyone when you tear down the agribusiness complex which has provided Americans with the best living ever enjoyed by any people in the history of the world.

Uninformed consumerists are fond of using "profits" as a dirty word. They would squeeze or eliminate profits while implying this helps consumers. What they don't understand is that profits are essential if consumers are to get the products—and this includes food.

No one goes into business expecting to take a loss. There must be a profit incentive before you buy land, build a plant or employ help. Without the profit incentive there is only one other way. This is the Communist method where the production assets are owned by the government and people are told what to do. But, compared with our system, that method has a poor track record!

So it is clear that some things are necessary if we are to retain our ability to produce an abundance of food and at reasonable cost.

Basic to everything else is that we retain the incentive pricing system. It is the governor which signals for more production when demand is great and a slowing off when demand is weak. Price ceilings are a signal to produce less—not more.

We must have adequate supplies of machinery, parts, fertilizer, fuel, chemicals and other commercial inputs. Already we have seen how farm production suffers when any of these is in short supply.

Unwise environmental regulations can seriously hamper our ability to produce. Some environmentalists would ban almost all insecticides, herbicides, antibiotics and fertilizer. They don't know, or refuse to admit what this would do to the food supply. We in agriculture shouldn't be forced to defend against these irresponsible attacks. The people who will really suffer are consumers who want an adequate supply of wholesome food and at reasonable cost. This is what they have been getting. Ill-informed environmentalists should be their problem, not ours! The sooner they understand this fact, the better off we all will be.

Fuel and transportation place other limits on our ability to produce. If added acreage is farmed in 1974 it will take more gasoline and other forms of fuel. Extra rail and truck transportation will be needed to get the crops to market.

Adequate food supplies will require greater investments in research. Surpluses of recent years led some people to conclude that public research was no longer needed. At the same time, private research was discouraged by watch-dog agencies of government which made it increasingly difficult to bring a new product to market. Now we are learning the hard way that there is need for more research—not less.

It all boils down to one simple fact. If Consumers want cheap food, they must support policies which make cheap food possible.

SALE OF HEARING AIDS IN FLORIDA

Mr. GURNEY. Mr. President, recently, the Senate Special Committee on Aging, on which I serve, held hearings relative to the sale of hearing aids to the elderly.

One of the points made at this set of hearings was that the elderly are often victimized by hearing-aid salesmen, anxious to make a buck, who sell vastly overpriced and often unnecessary hearing aids to unsuspecting elderly people.

Florida, however, has been largely exempt from this practice. The reason? Hearing aids are practically a prescription item. In Florida, eligible fitters and sellers of hearing aids are registered by the State. The Florida Division of Health examines and registers hearing aid salesmen and fitters, receives and investigates complaints, and inspects places of business. I might add that there were only 30 consumer complaints filed against Florida hearing aid dealers last year. Considering Florida's huge number of senior citizens—many of whom wear hearing aids—I certainly think this speaks well of the profession, as well as the administration of the Florida laws in this regard.

Because my colleagues may be interested in some information regarding the sale of hearing aids in Florida, I request unanimous consent that the following information be printed in the Record at the end of my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

Jacksonville, Fla.,
September 14, 1973.

Hon. Edward Gurney,
U.S. Senator, Senate Office Building, Washington, D.C.

Dear Senator Gurney: I have been requested to forward to you a copy of a letter and other supportive materials that were sent to Mr. Joseph Lucke of Miami by Mr. John Nafis, who is the Chairman of the Advisory Council to the Division of Health on the Fitting and Selling of Hearing Aids. This is the same material that was recently presented in hearings before Senator Church's Committee relative to hearing aids.

The Division of Health administers the Hearings Aid Program in Florida by authority of Chapter 468 Part III, Florida Statutes. The Division has legal authority to examine and register fitters and sellers of hearing aids, to supervise the training program, to receive and investigate complaints and to inspect places of business of the registrants, to hold administrative hearings and to revoke licenses.

We believe that the program of licensure is working well in Florida.

If you have any questions, please contact this office.

Sincerely,
James E. Fulghum, M.D.,
Chief, Bureau of Adult Health and Chronic Diseases.

Jacksonville, Fla.,
August 31, 1973.

Joseph C. Lucke,
Past President, National Hearing Aid Society, Miami, Fla.

Dear Mr. Lucke: As you know, the Florida Licensing Law was passed by the State Legislature in 1967 and became effective January 1, 1968. The Chapter 468, Part III, Florida Statutes (Enclosure 1) is administered by the Florida Division of Health with the assistance of a five-man advisory council of which I am the Acting Chairman (Enclosure 2). The Advisory Council meets regularly twice a year and the meetings are open to the public.

Rules of the State of Florida, Chapter 10D-48, apply to the Fitting and Selling of Hearing Aids in Florida. A copy is attached as enclosure (3). Copies of the Law and the Rules are distributed to the fitters and sellers of hearing aids on regular and special occasions.

The examination is given to prospective registrants twice each year, April and October. The Division of Health who has responsibility for the examination, has a Board of Examiners who assist the Division with the examination. The examination consists of 100 multiple-choice questions and a practical part. Recommended Readings, or study course for the examination, are attached as Enclosure (4).

The primary activities of the Hearing Aid Program during 1972 were as follows:

(1) The issuance of 395 certificates of registration to eligible fitters and sellers of hearing aids.

(2) The issuance of 212 trainee temporary certificates of registration to individuals working under the apprenticeship training program.

(3) The administration of qualifying examinations to 78 applicants. Fifty-three (53) individuals, or 68 percent, passed the examinations, while 25, or 32 percent failed. Included in the number taking the examinations were 72 trainees who qualified under a training program as provided by the law. Forty-nine (49), or 68 percent of the trainees successfully passed the qualifying examinations and were issued certificates of registration.

(4) The investigation of 52 complaints relating to the sale of hearing aids. Consumers filed 30 complaints against hearing aid dealers, while 22 complaints were dealer complaints against other hearing aid dealers. Legal action was taken against four hearing aid dealers and resulted in the revocation of their licenses. Thirty-seven (37) complaints were resolved without legal action and eleven are pending. Approximately $1088.00 was refunded to consumers who had filed complaints against hearing aid dealers.

(5) The mailing of approximately 6000 pieces of correspondence, memoranda, trainee kits and miscellaneous items.

(6) The conduction of two meetings with the Board of Examiners and three meetings with the Advisory Council on fitting and selling of hearing aids, the minutes of which were prepared and distributed to the proper authorities.

(7) The preparation, publication and distribution of a directory of all licensed fitters and sellers of hearing aids as required by law.

(8) The routine inspections of equipment and facilities of 48 hearing aid dealers. During inspection, a total of 71 audiometers and 48 testing rooms were checked to determine

if they met state standards. Consultation was given these dealers as to procedures for correcting deficiencies.

One area of activity has been that of consumer education. Consumers are cautioned to do business only with fitters and sellers of hearing aids, a) who are registered with the Division of Health, b) who carry and present proper identification and c) who have a place of business open during normal working hours that is convenient to the consumer. The consumers are urged to investigate before they invest in a hearing aid and are advised to read and understand contracts before they are signed.

An active role of consumer protection has been implemented by the Division of Health under the authority of Chapter 468, Part III, Florida Statutes. The places of business and the equipment of fitters and sellers are inspected. The advertising of hearing aids is carefully monitored to insure that it is not misleading to the public. Advertisements of hearing aids found to be misleading or untrue are called to the attention of the responsible individual for correction.

Information regarding complaints are tabulated as follows: (See enclosed tabulation.)

Presently there are 380 fitters and sellers of hearing aids that are licensed in Florida. There are 130 trainees who are given temporary license at this time. Recent amendment to the rules has strengthened the responsibilities of the sponsor in the supervision of training for the trainee. See Enclosure 2, Chapter 10D-48.08, Trainee Requirements, Rules of Florida.

In summary, then it is the concensus of opinion of the Division of Health, the members of the Advisory Council to the Division of Health, and the fitters and sellers of hearing aids in Florida that the licensure law has gone far in clearing up the misleading advertising and the "fly by night" salesmen who sold out of the back of their car and then could no longer be found. One of the outstanding benefits has been the upgrading of the business offices and the quality of services rendered to the hard of hearing public.

If I can be of further assistance to you, please feel free to contact me.

Sincerely,

JOHN B. NAFIS,
Chairman, Advisory Council to the Division of Health on the Fitting and Selling of Hearing Aids.

PART III—FITTING AND SELLING OF HEARING AIDS

468.120 Short title of part III of this chapter.
468.121 Purpose.
468.122 Definitions; corporations, etc.; not prohibited, conditions.
468.123 Powers and duties of the division.
468.124 Advisory council.
468.125 Oath of members of council.
468.126 Qualifications of applicants for registration.
468.127 Trainee requirements.
468.128 Fees for registration.
468.1281 Disposition of fees.
468.129 Refusal to issue or renew a certificate of registration.

468.120 Short title of part III of this chapter.—This part III may be cited as the "Fitting and Selling of Hearing Aids Act."

History.—§ 2, ch. 67-423.

468.121 Purpose.—Part III of this chapter requires registration for protection of the public of any person engaged in the fitting or selling of hearing aids, to encourage better educational training programs for such persons to provide against unethical and improper conduct and for the enforcement of this part, and to provide penalties for its violation.

History.—§ 1. ch. 67-423. § 1 ch. 71-223.

468.122 Definitions; corporations, etc.; not prohibited, conditions.—

(1) "Division" means the division of health of the department of health and rehabilitative services.

468.130 Unethical conduct defined.
468.131 Procedure for revocation, suspension, etc.
468.132 Conduct of hearing, witnesses, evidence, etc.
468.133 Review of orders of the division by the circuit courts; procedure and venue.
468.134 Application for certificates, etc.
468.135 Minimal procedures and equipment.
468.136 Receipt required to be furnished to person supplied with hearing aid.
468.137 Part III of this chapter not applicable to persons in certain professions.
468.138 Penalty.

(2) "Hearing aid" means any instrument or device worn on the human body represented as aiding or improving defective human hearing and any attachments or accessories of such instrument or device, except batteries and cords.

(3) "Registrant" means a person who is engaged in the fitting and selling of hearing aids. A registrant shall be responsible for the acts of all employees or trainees supervised by him in connection with fitting, selling and/or servicing hearing aids.

(4) "Council" means advisory council to the division of health, on hearing aids.

(5) "Trainee" means a person who has not, for the purpose of this part, been engaged as a registrant prior to the effective date of this part, but who desires to become a registrant. Said trainee shall be provided a temporary training certificate of registration upon payment of fee with application, as hereinafter prescribed.

(6) (a) "Fitting" means not only the physical acts of adjusting the hearing aid to the individual, taking audiographs, and making of earmolds, but also counseling, advising, audiograph interpretation, and assisting the purchaser in the selection of a suitable hearing aid. The holder of a certificate of registration granted under part III of this chapter shall be entitled to make such measurements of the dimensions of human hearing, by means of an audiometer or by other means approved by the division of health, as are consistent with the practices, procedures, and instrumentation currently employed by the hearing aid industry.

(b) "Selling" means all acts and agreements pertaining to the selling, renting, leasing, pricing, delivering, and guaranteeing of a hearing aid and other services not related to fitting, as outlined in this part.

(7) "Certificate of registration" shall be synonymous with "license"; "registrant" shall be synonymous with licensee."

Nothing in this part shall prohibit a corporation, partnership, trust, association or other like organization from engaging in the business of fitting and selling or offering for sale hearing aids at retail without a certificate of registration if it employs registered natural persons in the direct fitting and selling of such products. Such corporations, partnerships, trusts, associations or other like organizations shall also file with the division a statement, on a form approved by the division, that it submits itself to the rules and regulations of the division and the provisions of this part which the division shall deem applicable to it.

History.—§ 3, ch. 67-423; §§ 19, 35, ch. 69-106; §§ 2, 3, ch. 71-223; § 173, ch. 71-377.

468.123 Powers and duties of the division.—In addition to those prescribed by law the powers and duties of the division under this part are as follows:

(1) To authorize all disbursements necessary to carry out the provisions of this part and to receive and account for all fees.

(2) To supervise and administer qualifying examinations to test the knowledge and proficiency of applicants for registration.

(3) To register persons who apply to the division and who are qualified to practice the fitting of hearing aids.

(4) To purchase and maintain, rent or acquire, audiometric equipment and facilities necessary to carry out the examination of applicants for registration.

(5) To issue and renew certificates of registration and certificates of endorsement to qualified persons.

(6) To suspend or revoke certificates of registration and certificates of endorsement pursuant to this part.

(7) To appoint representatives to conduct or supervise the examination of applicants for registration.

(8) To designate the time and place for examining applicants for certificates of registration.

(9) To make, publish, and enforce rules and regulations not inconsistent with the laws of this state which are necessary to carry out the provisions of this part.

(10) To require the periodic inspection of audiometric testing equipment and to carry out the periodic inspection of facilities of persons who practice the fitting of hearing aids.

(11) To delegate such ministerial duties to the advisory council as the division in its discretion shall deem proper.

(12) To conduct investigations into the business and ethical background of any person who makes application for license in order to determine the applicant's qualification for a certificate of registration.

History.—§ 4, ch. 67-423; §§ 19, 35, ch. 69-106; § 4, ch. 71-223.

468.124 Advisory council.—

(1) An advisory council to the division of health is created to consist of five members, who shall be residents of this state. Three members shall be persons who have been actively engaged in fitting and selling of hearing aids in the state for at least five years prior to appointment. In addition, after the enactment of this part, appointees must hold an unrevoked, unsuspended certificate of registration under this part. One member shall be a diplomat or be eligible for qualification by the American Board of Otolaryngology. One member shall be a person eligible for the certificate of clinical competence in audiology from the American Speech and Hearing Association and actively engaged in the field of audiology in this state. The term of office for members shall be three years, or until their successors are appointed and qualify, except that of the members first appointed, one shall be appointed for one year, two for two years, and two for three years. Members of the council shall be geographically representative of the state, appointed by the governor, and shall act in an advisory capacity to the division.

(2) Each member of the council shall be entitled to reimbursement as provided in § 112.061.

(3) The council shall:

(a) Meet within thirty days after their appointment and elect a chairman from their own number and elect or appoint a secretary who need not be a member of the council, each of whom shall hold office for one year and thereafter until his successor is elected and qualified.

(b) Hold an annual meeting each year and hold other meetings at such times and places as the division or the chairman of the council may direct.

(c) Keep a record of its proceedings, a register of persons whose certificates of registration have been revoked. The books and records of the council shall be prima facie evidence of all matters reported therein and shall be open to inspection by the division at all times.

(d) Recommend to the division examination procedures for applicants, minimum requirements for the testing equipment and procedures necessary in fitting and selling of hearing aids, a code of ethics for the betterment and improvement of the standard of services and procedures to be followed in the fitting and selling of hearing aids and the protection of the public, and do all in its power to encourage the establishment of a specialized educational course of training for all persons wishing to become registered. The council shall be guided by the Federal Trade Commission Trade Practice Rules for the Hearing Aid Industry and by the minimal procedures as herein defined, and shall investigate alleged irregularities in the fitting and selling of hearing aids, and make recommendations to the division with respect thereto.

(e) Make a report each year to the division and the governor of all its official acts during the preceding year.

(f) Upon the request of any person, furnish a list of persons registered under the provisions of this part.

History.—§ 5, ch. 67–423; §§ 19, 35, ch. 69–106; § 5, ch. 71–223.

468.125 Oath of members of council.—Immediately and before entering upon the duties of said office, the members of the council shall take the constitutional oath of office and shall file same with the department of state which shall issue to said member a certificate of his appointment.

History.—§ 6, ch. 67–423; §§ 10, 35, ch. 69–106.

468.126 Qualifications of applicants for registration.—

(1) Any person engaged in fitting or selling of hearing aids from an established place of business at a permanent address in the state, open for service during usual business hours for at least two years prior to the enactment of this part, shall, upon application to the division, be entitled to a certificate of registration qualifying him as a registrant, provided that he must pass the qualifying examination within a period of two years after the enactment of this part. Said application shall be made to the division on the forms prescribed by it. Any person who becomes a legal resident of the state and who shall produce evidence that he has had one year's experience in fitting or selling hearing aids can make application to the division for examination and upon passing the exmination, and being otherwise qualified as provided in this part, shall be granted a certificate of registration.

(2) Any dealer or salesman in business in this state at the time of the enactment of this part, but who shall not have fulfilled the requirements in subsection (1) of this section, shall be entitled to a certificate of registration upon application to the division, but must pass the qualifying examination within a period of two years after the enactment of this part.

(3) (a) Any person desiring registration who is not qualified otherwise shall be issued a trainee temporary certificate of registration by the division only if he is of good moral character, over the age of twenty-one years and is a graduate of an accredited high school or secondary school. However, any person under twenty-one years of age, who marries or has his disabilities of nonage lawfully removed and who successfully completes an approved academic course in fitting and selling hearing aids and who is otherwise legally qualified may be issued a trainee temporary certificate of registration.

(b) Trainee apprenticeship period shall be for six months as follows:

1. Stage I—The trainee shall work for thirty days under the direct control of a registrant. He cannot in any way fit or test the customer.

2. Stage II—This training stage lasts for sixty days. During this period the trainee may do testing necessary for the proper selection and fitting of a hearing aid and make ear impressions. During this period the trainee may not make delivery or final fitting.

3. Stage III—The trainee may engage in all activities of a registered person. He must, however, work under and be responsible to a registrant for the following ninety days.

(c) The above stages must be completed with no interim time lapse between stages. In the event the trainee leaves his place of training without approval of his employer, he loses seniority and must revert to stage I. This ruling is subject to appeal to the division.

(d) After such period has passed, trainee shall take the qualifying examination given by the division for a certificate of registration and upon successfully passing said examination, may obtain a certificate of registration.

(4) If a person who holds a trainee temporary certificate of registration issued under this section takes and fails to pass the qualifying examination, the division may, upon receiving payment of the stipulated temporary certificate of registration fee, renew the temporary certificate of registration for a period ending ten days after the date of the next qualifying examination. A fee of twenty-five dollars shall be paid at the time the qualifying examination is repeated. A trainee temporary certificate of registration may be renewed only once and during this period, the trainee shall continue in stage III of the trainee apprenticeship period.

(5) At such time as a course in fitting and selling of hearing aids, as approved by the division, shall be established in the state, satisfactory completion of this course shall be considered equivalent to stages I and II of the trainee period.

(6) Any person who shall hold an unsuspended or unrevoked certificate or license to fit or sell hearing aids in another state may make application to the division for examination in lieu of any trainee period, provided he becomes a legal resident of this state and is otherwise qualified as provided in this part.

(7) No person shall be issued a certificate of registration to fit and sell hearing aids unless he shall show that he has an established place of business at a permanent address in this state open for business during normal business hours or that he is employed by a person who meets these requirements.

History.—§ 7, ch. 67–423; §§ 19, 35, ch. 69–106; §§ 6–8, ch. 71–223.

468.127. Trainee requirements.—All trainees are required to satisfactorily complete and pass an examination as prescribed by the division. The examination shall be such that it will establish knowledge or proficiency in each of the following:

(1) Basic physics of sound.

(2) Structure and functions of the hearing mechanism.

(3) Counseling of the hard of hearing.

(4) Structure and functions of hearing aids.

(5) Pure tone audiometry, air and bone conduction.

(6) Live voice or recorded speech audiometry including speech reception, threshold testing and speech discrimination testing.

(7) Masking.

(8) Interpretation of audiograms and speech scores to determine hearing aid candidacy.

(9) Selection and adaptation of hearing aids and evaluation of hearing aid performance.

(10) Taking ear mold impressions.

History.—§8, 67–423; §§ 19, 35, ch. 60–106.

468.128 Fees for registration.—

(1) The certificate of registration fee shall be $50.

(2) The certificate of trainee registration fee shall be $25.

(3) The annual renewal of registration fee shall be $50.

(4) The fee for each examination shall be $25.

(5) The delinquency fee as hereinafter provided shall be $25.

History.—§ 9, ch. 67–423; §§ 19, 35, ch. 69–106; §9, ch. 71–223.

468.1281 Disposition of fees.—All fees collected under the provisions of this part shall be paid to the director of the division, who shall depsoit said funds with the state treasurer to the credit of the hearing aids and devices trust fund. The cost of administration of this part, including the activities of the advisory council, shall be paid from the moneys collected under the provisions of this part.

History.—§14, ch. 71–223.

468.129 Refusal to issue or renew a certificate of registration.—The division may refuse to issue or to renew or may suspend or revoke any certificate of registration after proper public hearing for any of the following causes:

(1) The conviction of a felony or a misdemeanor involving moral turpitude.

(2) When a certificate of registration has been secured by fraud or deceit practiced upon the division.

(3) For unethical conduct or for gross malpractice in the fitting of selling of hearing aids.

(4) Violation of any of the provisions of this part or of any rules or regulations promulgated pursuant to the authority delegated in this part.

(5) Altering a license with fraudulent intent.

(6) Willfully making a false statement in an application for a certificate of registration or application for renewal of a certificate of registration.

History.—§ 10, ch. 67–423; §§ 19, 35, ch. 69–106; §10, ch. 71–223.

468.130 Unethical conduct defined.—Unethical conduct shall include:

(1) The obtaining of any fee or the making of any sale by fraud or misrepresentation.

(2) Employing directly or indirectly any suspended or unregistered person to perform any work covered by this part.

(3) Using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or any other representation, however disseminated or published, which is misleading, deceiving or untruthful.

(4) Advertising or offering for sale a particular model, type or kind of hearing aid when the offer is not a bona fide effort to sell the product so offered as advertised and at the advertised price. In determining whether there has been a violation of this rule, consideration will be given to actions or practices indicating that the offer was not made in good faith for the purpose of selling the advertised product, but was made for the purpose of contacting prospective purchasers and selling them a product or products other than the product offered. Among actions or procedures which will be considered in making that determination are the following:

(a) The creation, through the initial offer or advertisement, of a false impression of the product offered in any material respect.

(b) The refusal to show, demonstrate or sell the product offered in accordance with the terms of the offer.

(c) The disparagement, by actions or words, of the product offered or the disparagement of the guarantee, credit terms, availability of service, repairs or parts or in any other respect, in connection with it.

(d) The showing, demonstrating, and in the event of sale, the delivery of a product which is unusable or impractical for the purpose represented or implied in the offer.

(e) The refusal, in the event of sale of the product offered, to deliver such product to the buyer within a reasonable time thereafter.

(f) The failure to have access to a quantity of the advertised product at the advertised price sufficient to meet reasonably anticipated demands.

(5) Representing that the professional services or advice of a physician or audiologist will be used or made available in the selling, fitting, adjustment, maintenance or repair of hearing aids when that is not true, or using the words "doctor," "clinic," "clinical," "medical, clinical and/or research audiologist," "audiologic" or any other like words, abbreviations or symbols which tend to connote audiological or professional services when such use is not accurate.

(6) Permitting another to use the certificate of registration.

(7) Representing, advertising or implying that the hearing aid or repair is guaranteed without a clear and concise disclosure of the identity of the guarantor, the nature and extent of the guarantee and any conditions or limitations imposed.

(8) Failure to properly and reasonably accept responsibility for the actions of the registered trainee.

(9) Using any advertisement or other representation which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers into the belief that any hearing aid or device, or part or accessory thereof, is a new invention or involves a new mechanical or scientific principle, when such is not the fact.

(10) Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features such as the absence of anything in the ear, or leading to the ear, or the like, without disclosing clearly and conspicuously that the instrument operates on the bone conduction principle and that in many cases of hearing loss this type of instrument may not be suitable.

(11) Making any predictions or prognostications as to the future course of a hearing impairment, either in general terms or with reference to an individual person.

(12) Stating or implying that the use of any hearing aid will improve or preserve hearing, prevent or retard progression of a hearing impairment, or that it will have any similar or opposite effect.

(13) Making any statement regarding the cure of the cause of a hearing impairment by the use of a hearing aid.

(14) Representing or implying that a hearing aid is or will be custom made, "made to order," "prescription made," or in any other sense specially fabricated for an individual person when such is not the case.

History.—§ 11, ch. 67–423; § 11, ch. 71–223.

468.131 Procedure for revocation, suspension, etc.—

(1) No certificate of registration shall be denied, revoked, or suspended expect after written notice by registered mail to the applicant or registrant setting forth the particular reasons for the proposed actions and the right to a hearing if demanded by the applicant or registrant.

(2) Any applicant or registrant who desires a hearing shall, within twenty days after service of notice, request a hearing in writing by registered mail, said request to be delivered to the director of the division.

(3) When an applicant or registrant requests a hearing, he shall be notified, either personally or by registered mail, as to the time and place at least thirty days before the time fixed for the hearing.

(4) If no request for hearing is duly made, the director of the division shall deny, revoke, or suspend the certificate without hearing.

(5) If a hearing is requested, it shall be conducted pursuant to the applicable provisions of chapter 120, part II, and § 468.132.

History.—§ 12, ch. 67–423; §§ 19, 35, ch. 69–106; § 12, ch. 71–223. cf.—§ 1.01 Defines registered mail to include certified mail.

468.132 Conduct of hearing, witnesses, evidence, etc.—

(1) For the purpose of such hearing, the division shall have the power to require the production of books, papers or other documents and may issue subpoenas to compel the defendants or witnesses to testify and produce such books, papers or other documents in their possession as may be, in the opinion of the division, relevant to any hearing before it, said subpoenas to be served by the sheriff of the county where the witness resides or may be found. Such witnesses shall be entitled to the same per diem and mileage as witnesses appearing in the circuit court of the state, which shall be paid by said division from the fees collected under this part. The division may administer oaths or affirmation to witnesses appearing before it. Subpoenas may be so issued for and in behalf of the defendant at his expense.

(2) If any person shall refuse to obey any subpoenas so issued or shall refuse to testify or produce books, papers or other documents required by the division, the division may present its petition to the circuit court of the county where any such person is served with the subpoena or where he resides, setting forth the facts, and shall deposit with said court, when such subpoena is issued in its behalf, the per diem and mileage to secure the attendance of such witness (the defendant may make like deposits), whereupon said court shall issue its rule nisi to such person requiring him to obey forthwith the subpoena issued by the division or show cause why he fails to obey the same, and unless the said person shows sufficient cause for failing to obey the said subpoena, the court shall forthwith direct such person to obey the same, and upon his refusal to comply, he shall be adjudged in contempt of court and shall be punished as the court may direct. The division may delegate to a hearing examiner, or examiners, authority to conduct hearings, and the hearing examiner shall make recommendations to the division.

(3) If the division shall be satisfied, from the evidence and proofs submitted, that the accused has been guilty of any of the charges mentioned in § 468.129, it shall thereupon without further notice take such action upon the charges and impose such penalties as it may be advised under said § 468.129. The records of the division shall reflect the action of the division upon the charges.

(4) The division shall preserve a record of such proceedings in a similar manner as records in court proceedings are kept and preserved in the circuit courts of this state.

History.—§ 13, ch. 67–423; §§ 19, 35 ch. 69–106.

468.133 Review of orders of the division by the circuit courts; procedure and venue.—

(1) The final order of the division in proceedings for the suspension or revocation of certificates of registration shall be subject to review by the Circuit Court of Leon County, or the county wherein the registrant has recorded his certification of registration and has his principal place of business, or of the county wherein the books and records of the division are kept.

(2) All other final orders of the division, under this part, shall be subject to review in the same courts.

(3) All such reviews shall be obtained by filing a petition for the issuance of a writ of certiorari with the appropriate circuit court in the manner provided by the Florida Appellate Rules.

(4) Any interested party may appeal from the decision of the circuit court to the district court of appeal having appellate review over said circuit court and in the manner and within the time provided by the Florida Appellate Rules.

History.—§ 14, ch. 67–423; §§ 19, 35, ch. 69–106.

468.134 Application for certificates, etc.—

(1) No person shall fit or sell hearing aids in this state unless such person has complied with the requirements hereof as to registration and licensing. Every person now lawfully engaged in fitting or selling of hearing aids and every person hereafter duly registered to fit or sell hearing aids shall, on or before January 1 of each year, apply to the division for a certificate of registration upon a blank form to be furnished by the division, and shall pay at such time the regular annual renewal fee. The certificate of registration of any person fails or neglects to register by January 1 of any year, as required herein, shall be suspended automatically after a thirty-day grace period until such time as such person shall register and shall pay the regular annual fee, plus a delinquency fee of twenty-five dollars for each year or fraction thereof that he failed to register.

(2) A person in making his first registration hereunder shall write or cause to be written upon the application blank so furnished by the division his full name, post office and residence address, the date and number of his certificate of registration and such other facts for identification of the applicant as may be deemed necessary, and shall duly execute and verify the same before an officer authorized to take acknowledgments of deeds and shall file the same with the division. Registration subsequent to the first registration need not be upon sworn application unless the division, in a particular case for reasons satisfactory to it, may require the application be under oath.

(3) The division on or before October 1 of each year after the first registration shall mail or cause to be mailed to each registered person a blank form of application for registration addressed to the last known post office address of such person. The form of such application shall be such as to contain space for the insertion by the applicant of the information required by the provisions of this part.

(4) The division shall issue to any duly registered person fitting and selling hearing aids in this state, upon his application therefor in accordance with the provisions hereof, a certificate of registration under the seal of the division for the year ensuing and ending December 31.

(5) Each registered person shall conspicuously display his proper registration certificate in his place of business at all times.

History.—§ 15, ch. 67–423; §§ 19, 35, ch. 69–106; § 13, ch. 71–223.

468.135 Minimal procedures and equipment.—The following minimal procedures and equipment shall be used in the fitting and selling of hearing aids:

(1) Pure tone audiometric testing by air and bone to determine the degrees and type of hearing deficiency. Effective masking.

(2) Appropriate testing to determine speech reception threshold, speech discrimination, most comfortable sound tolerance level and selection of the best ear for maximum hearing aid benefit. Selection of an instrument that will best compensate for the degree of loss and tolerance level and provide a frequency amplification curve that will give the best speech discrimination possible.

(3) Equipment:

(a) Pure tone audiometer which shall meet with the American Standards Association specifications for diagnostic audiometers.

(b) Speech audiometer or a master hearing aid in order to determine most comfortable listening level and speech discrimination.

(4) Final fitting insuring physical and operational comfort of the aid.

(5) Medical clearance: If, upon inspection of the ear canal with an otoscope, in the common procedure of a hearing aid fitter, and upon interrogation of the client, there is any recent history of infection or any observable anomaly, the client shall be instructed to see a physician, and a hearing aid shall not be fitted until medical clearance is obtained for the condition noted. Any person with a significant difference between bone conduction and air conduction hearing must be informed of the possibility of medical correction.

(6) A hearing aid office will have available or access to a selection of hearing aid models, hearing aid supplies and services complete enough to accommodate the various needs of the hearing aid wearers, such as:

(a) An adequate stock of hearing aids including an appropriate selection of receivers.

(b) An adequate selection of accessories.

(c) Maintain, or have access to, facilities for making ear molds.

(7) The division shall have the power to prescribe minimum procedures and the equipment which shall be used in fitting and selling of hearing aids which may be different than that which is provided herein in order to utilize devices and equipment which may hereafter be adopted by the division as more efficient procedures and equipment.

History—§ 16, ch. 67–423; §§ 19, 35, ch. 69–106.

468.136 Receipt required to be furnished to person supplied with hearing aid.—Every person who fits and sells hearing aids shall deliver to each person there supplied with a hearing aid a receipt which shall contain his signature and show the address of the regular place of business and the number of his certificate of registration, together with the brand, model and serial number of the hearing aid furnished and amount charged therefor. Said receipt shall also specify whether the hearing aid is new, used or rebuilt, and the length of time of the guarantee and by whom guaranteed.

History.—§ 17, ch. 67–423.

468.137 Part III of this chapter not applicable to persons in certain professions.—

(1) This part III shall not apply to a person while he is engaged in the practice of recommending hearing aids if his practice is part of the academic curriculum of an accredited institution of higher education or part of a program conducted by a public, charitable institution or nonprofit organization which is primarily supported by voluntary contribution, provided this organization does not dispense or sell hearing aids or accessories.

(2) This part shall not apply to any physician licensed to practice in the State of Florida.

(3) On the selling and fitting of hearing aids located in the temples of glasses, the lens portion or frame front shall not be fitted, adjusted or sold by a registrant or licensee under this part, unless the registrant or licensee is otherwise qualified to do so.

(4) This part does not apply to an audiologist who does not sell or repair hearing aids.

History.—§ 18, ch. 67–423.

468.138 Penalty.—Any action in violation of any provision of Part III of this chapter shall constitute a misdemeanor of the second degree, punishable as provided in § 775.082 or § 775.083.

History.—§ 19, ch. 67–423; § 408, ch. 71–136.

Rules—State of Florida, Department of Health and Rehabilitative Services, Division of Health Drugs, Cosmetics, and Devices, Chapter 10D–48—Fitting and Selling of Hearing Aids

10D–48.01 Definitions
10D–48.02 Administrative Support
10D–48.03 Registration Procedures
10D–48.04 Examination Procedures
10D–48.05 Certificates
10D–48.06 Ethics
10D–48.07 FTC Rules
10D–48.08 Trainee Requirements
10D–48.09 Procedures and Equipment

10D–48.01 Definitions. In addition to the definitions in Section 468.122 FS, the following terms shall mean:

(1) Certificate Replica—the duplication of certificates produced by the Division of Health, Department of Health and Rehabilitative Services, by photo copy, from the file copy of certificates issued under the hearing aid program.

(2) Fitting—not only the physical acts of adjusting the hearing aid to the individual, taking audiograms, making of ear molds, but also counseling, advising, audiograph interpretation and assisting the purchaser in the selection of a suitable hearing aid.

(3) Place of business—an established address where the client can have personal contact and counsel with the fitter and seller of hearing aids and obtain services during normal business hours.

(4) Normal business hours—no less than any published schedule of two working week days, and shall include a minimum of eight hours per week.

(5) Selling—all acts and agreements pertaining to the pricing, delivery, guarantees and services and other matters not related to fitting as outlined in these regulations.

General Authority 468.123(9) FS, Law implemented 468.123(10) FS. History—New 6–8–69.

10D–48.02 Administrative Support. In addition to those duties listed under Section 468.123 FS, the Division of Health will provide administrative support to the Advisory Council on Fitting and Selling of Hearing Aids, consistent with that furnished to other similar advisory councils to the Division of Health, maintaining such files and registries and providing such clerical assistance necessary to the program.

General Authority 468.123(9) FS. Law Implemented 468.123(10) FS. History—New 6–8–69.

10D–48.03 Registration Procedures. The Division of Health and all applicants for registration under this program shall adhere to the following rules:

(1) The Division of Health may require letters of reference, physicians statement of applicant's good health, verification of age or other supportive documents as may be required.

(2) Applicants for the Trainee Apprenticeship shall be considered registered with the Division of Health from the date of acceptance of his completed application by the Division of Health and the length of his training period shall be computed from said date.

(a) All registrants and trainees will be responsible for keeping the Division of Health informed of their current mailing address and their current business address.

General Authority 468.123(9) FS. Law Implemented 468.123(2)(3),(9) FS. History—New 6–8–69. Amended 3–22–73.

10D–48.04 Examination Procedures. The Division of Health will administer a qualifying examination to all persons to fit and sell hearing aids in Florida pursuant to Section 468.125 FS. The following rules will govern the presentation of the qualifying examination:

(1) The examination will be given at the time and place as designated by the Division of Health.

(2) The Division of Health may appoint a board of examiners to assist the Division of Health with the preparation of the examination.

(3) The examination will be conducted by the staff members of the hearing aid program at the appointed time and place with the advice and assistance of the board of examiners when required.

(4) Application for examination will be upon forms provided and in the manner prescribed by the Division of Health.

(5) Applications for examination shall be in the hands of the Division of Health thirty (30) days prior to the examination date, and must be accompanied by any required fees or supporting documents.

(6) A Certificate of Examination will be issued by the Division of Health to those persons who successfully pass the qualifying examination. Those persons who fail the examination will be so advised in writing.

(7) The examination will be in the form as determined from time to time by the Division of Health and its board of examiners and will cover the basic subjects listed under Section 468.127 FS.

(8) A trainee shall take the first scheduled qualifying examination that the trainee becomes eligible for, except he may be allowed to take a later examination, if he shows the required proof that illness or death in the family prevented him from taking the scheduled examination.

General Authority 468.123(9) FS. Law Implemented 468.123(2), (7), 468.126(3)(d), 468.127 FS. History—New 6–8–69. Amended 3–22–73.

10D–48.05. Certificates. The Division of Health will issue to the registrant or applicant only one "original" certificate whether it be an annual Certificate of Registration, a Temporary Trainee Certificate or a Certificate of Examination.

(1) Certificate Replica—or duplicate certificate will be issued only if the original is lost or destroyed as follows:

(a) A replica of the original as determined by the Division of Health will be furnished.

(b) Request for replica must be supported by sworn statement, signed by the certificate holder stating the reason for replacement.

(c) The certificate holder is solely responsible to the Division of Health to insure certificate replicas are not for fraudulent or improper uses.

(2) Trainee Certificate—No Trainee Certificate of Registration shall be issued by the Division of Health unless the applicant shows to the satisfaction of the Division of Health that he is or will be employed, supervised and trained by a person who holds a current valid Certificate of Registration issued under this act; and further, that said trainee shall be acceptable to the Division of Health as to ethics and morals.

General Authority 468.123(9) FS. Law Implemented 468.123(5), 468.126(3) FS. History—New 6–8–69.

10D–48.06 Ethics.

(1) It is unethical to use, or cause or promote the use of, any trade promotional literature, advertising matter, testimonial, guarantee, warranty, mark, insignia, depiction, brand, label, designation, or representation, however disseminated or published, which has the effect of misleading or deceiving purchasers or prospective purchasers:

(a) wtih respect to the characteristics and terms of sales of his products;

(b) with respect to any services offered or promised by such member in connection with his products;

(c) with respect to limitations concerning the use or efficient application of his products.

(2) It is unethical to use, or cause to be used, any guarantee or warranty which is false, misleading, deceptive, or unfair to the purchasing or consuming public, whether in respect to the quality, construction, serviceability, performance, or method of manufacture of any hearing aid product, or the terms and conditions of refund or purchase price thereof, or in any other respect.

The foregoing inhibitions of this rule are to be considered as applicable with respect to any guarantee or warranty in which the terms and conditions relating to the obligation of the guarantor or warrantor are impractical of fulfillment; and is also applicable to the use of any guarantee or warranty in respect to which the guarantor or warrantor fails or refuses to observe scrupulously his obligations hereunder.

(3) Any guarantee or warranty made by the dealer or vendor which is not back up by the manufacturer must clearly state that the guarantee is offered by the dealer or vendor only.

(4) It is unethical to advertise a particular model or kind of hearing aid for sale when purchasers or prospective purchasers responding to such advertisements cannot have it demonstrated to them or cannot purchase the advertised model or kind from the industry member and the purpose of the advertisement is to obtain prospects for the sale of a different model or kind of hearing aid than that advertised;

(5) It is unethical to advertise or represent an installment sales contract as a lease or rental plan;

(6) It is unethical to advertise or offer as an aid to hearing a device which has less than 18 decibels of amplification as averaged at 500, 1,000 and 2,000 cycles per second (as determined by Hearing Aid Industry Council standards):

(7) It is unethical:

(a) to use in advertising the name or trademark of a manufacturer in such a way as to imply a relationship with the registrant or trainee which does not exist;

(b) to use in advertising the name or trademark or model name of a manufacturer or displays on the premises the name or trademark of a manufacturer in such away as to imply a relationship which does not exist, or whose products are neither in stock nor arranged to stock;

(c) to advertise services and/or accessories in such a manner as to imply a relationship with a manufacturer that does not exist.

(8) It is unethical to advertise a hearing aid utilizing bond conduction as having no cord, no tube, no ear mold, no buttons, or receivers without disclosing the instrument utilizes bone condition;

(9) It is unethical to advertise that no buttons, wires, or cords are attached to an instrument unless there is disclosed in the same advertisement and in reasonable proximity to such statement the fact that a tube runs from the instrument to the ear, if such is the fact;

(10) It is unethical to use or cause, or promote any advertising material which shall show only a single part, accessory, or component of the hearing aid such as a battery on the finger, or a transistor held in the hand, where such has the effect of misleading or deceiving purchasers or prospective purchaser into believing that said parts are all that need be worn or carried, when such is not the fact.

(11) It is unethical to make or publish, or cause to be made or published, any advertisement, offer, statement, or other form of representation which directly or by implication is false, misleading, or deceptive:

(a) concerning the salary, commission, income, earnings, or other remuneration which a registrant or trainee receives or may receive; or

(b) concerning any conditions or contingencies affecting such remuneration or the opportunities therefor.

(12) It is unethical for any registrant or trainee to represent, directly or indirectly, through the use of any word or term in his corporate or trade name, in his advertising or otherwise, that he is a manufacturer of hearing aids, or of batteries or other parts or accessories therefor, or that he is the owner or operator of a factory or producing company manufacturing them, or that he owns or maintains an acoustical research laboratory devoted to hearing aid research or development, when such is not the fact, or in any other manner to misrepresent the character, extent, or type of his business.

(13) (a) It is unethical to represent or imply that the services or advice of a doctor have been used in the designing or manufacturing of a hearing aid product, or will be used or made available in the selecting, testing, or adjusting of hearing aid products to the individual needs of consumer purchasers, when such is not the fact;

(b) The inhibitions of the above rule are applicable to the use of such terms as doctor, physician, otologist, specialist, audiologist, or certified hearing aid audiologist and to any abbreviation of such terms, and are also applicable to the use of any symbol or depiction which connotes the medical profession;

(14) It is unethical to use terms in hearing aid advertising that have medical connotations, such as clinic, and so forth;

(15) It is unethical to use such terms as "Hearing Center", "Hearing Institute", "Hearing Bureau", "Hearing Clinic", and the like, that can cause confusion between a commercial hearing aid establishment and a governmental or non-profit medical, educational or research institution. "Hearing Center" is not acceptable although "Hearing Air Center" is acceptable. Any public hearing aid center or medical clinic or practitioner which might undertake to sell hearing aids should identify its commercial interest plainly by the words "Hearing Aid Dealer."

(16) It is unethical to engage in fee-splitting or kickback arrangements with any physician, optometrist, clinical audiologist, or other professional or scientific practitioner.

(17) It is unethical to advertise or offer as an aid to hearing, medicines, ear oils, drugs, vitamins, or remedies of any kind, or treatment, rehabilitation by machine, vibrations, sound "treatment", or surgery. Medicine and surgery are the province of the physician and may in no way be offered or advertised.

(18) It is unethical to represent that any hearing aid or part thereof is concealed or unrecognizable as a hearing aid when worn by any user if, for practical purposes, such is not the fact.

(19) It is unethical, in the sale, offering for sale, or distribution of hearing aid products, to use any advertisement or other representation which misleads or deceives purchasers or prospective purchasers into the belief that any such product, or part or accessory thereof, is a new invention or involves a new mechanical or scientific principle, when such is not the fact.

(20) It is unethical to represent, directly or indirectly, that any hearing aid product or part thereof is new, unused, or rebuilt, when such is not the fact.

(21) In the marketing of hearing aid products which are second-hand or rebuilt, or which contain second-hand or rebuilt parts, it is unethical to fail to make full and nondeceptive disclosure in writing to the purchaser and by a conspicuous tag or label firmly attached to the product, and in all advertising and promotional literature relating thereto, of the fact—

(a) that such products are second-hand, rebuilt, or contain second-hand or rebuilt parts, as the case may be, or

(b) that the rebuilding of rebuilt products was done by other than the original manufacturer, when such is the case.

(22) It is unethical, in the sale, distribution, or promotion of hearing aids—

(a) to represent, or to use any seals, emblems, shields, or other insignia which represent or imply in any manner, that a hearing aid or related product has been tested, accepted, or approved by an individual, concern, organization, group, or association, unless such hearing aid has in fact been tested in such manner as reasonably to insure the quality and performance of the instrument in relation to the intended usage thereof and the fulfillment of any material claims made, implied, or intended to be supported by such representation or insignia; or

(b) to represent that a hearing aid or other related product tested, accepted, or approved by any individual, concern, organization, group, or association has been subjected to tests based on more severe standards of performance, workmanship, quality than is in fact true; or

(c) to make any false, misleading or deceptive representation respecting the testing, acceptance, or approval of a hearing aid by any individual, concern, organization, group or association.

(23) It is unethical to advertise that a certain individual, organization, or institution:

(a) endorses, uses or recommends his hearing aids or other hearing aid products when such is not the case; or

(b) personally wears a particular model, type, or kind of hearing aid when such is not the case.

(24) It is unethical to defame competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations; or the false disparagement of the products or competitors in any respect, or their business methods, selling prices, values, credit terms, policies, or services.

(25) It is unethical to:

(a) display the products of a competitor in a window, shop or advertising in such manner as to convey a false comparison of the products, thereby resulting in a false disparagement of the competitor's product. (This shall not prevent one from displaying or advertising in such manner as to convey a true and accurate comparison of competitive products, and shall not prevent one from making specific or generalized truthful comparisons to point out the features and superiorities of his product).

(b) represent, without substantial and specific grounds for such representation, that competitors are unreliable whereas the person making such representation is not;

(c) quote prices of competitive devices when such are not the true current prices, or to show, demonstrate or discuss competitive models as current models.

(26) It shall be considered unethical to attempt to foster an unfavorable impression of a competitor with the medical profession, hearing societies, clinics, or public groups by falsely disparaging his motives, his methods, his products, and his prices with such groups.

General Authority 468.123(9) FS. Law Implemented 468.123(9) FS. History—New 6-8-69.

10D-48.07 FTC Rules. The Federal Trade Commission Trade Practice Rules for the Hearing Aid industry shall be a guide for the council, the Division of Health the fitters and sellers of hearing aids of the State.

General Authority 468-123(9) FS. Law Implemented 468.123(9) FS. History—New 6-8-69.

10D-48.08 Trainee Requirements.

(1) During Stage I of the Trainee Apprenticeship Period, the trainee shall train in the same physical location with his sponsor, or other registrants designated by his sponsor, during the published normal business hours. The sponsor shall provide the trainee with a written schedule of assignments that are to be accomplished during each trainee stage and shall include reading assignments from the recommended reference list, and instructions in each of the ten subjects as stipulated in F.S. 468.127. The sponsor must keep on file a copy of the trainee schedule of assignments and provide a copy to the Division of Health upon request.

(2) During Stage II of the Trainee Apprenticeship Period, the trainee shall train in the

same physical location with his sponsor, or other registrants designated by his sponsor, during the published normal business hours. The trainee, while under the direct supervision of his sponsor, or other registrants designated by his sponsor, shall practice each of the tests and procedures as stipulated in F.S. 468.127 in a sufficient number that he becomes skillful in the procedures and techniques for proper fitting and selection of a hearing aid.

(3) During Stage III of the Trainee Apprenticeship Period, the trainee shall train in the same physical location with his sponsor, or other registrants designated by his sponsor, during published normal business hours. The trainee shall fit a sufficient number of hearing aids to assure that adequate training has been accomplished in all subjects as stipulated in F.S. 468.127.

(4) The trainee's sponsor shall make periodic evaluations during each training stage to determine if the trainee has accomplished the assignments. The sponsor and the trainee shall notify the Division of Health at the satisfactory completion of each training stage within seven (7) days after completion date of each stage.

General Authority 468.123(9) FS. Law Implemented 468.126(3)(b) FS. History—New 3-22-73.

10D-48.09 Procedures and Equipment. Audiometric examinations shall be made in a testing room that has been certified by the Division of Health not to exceed the following sound-pressure levels at the specified frequencies: 125 Hz—40 db; 250 Hz—40 db; 500 Hz—40 db; 750 Hz—40 db; 1000 Hz—40 db; 1500 Hz—42 db; 2000 Hz—47 db; 3000 Hz—52 db; 4000 Hz—57 db; 6000 Hz—62 db; 8000 Hz—67 db.

General Authority 468.123(9) FS. Law Implemented 468.135 FS. History—New 3-22-73.

PROGRESS IN ULSTER

Mr. KENNEDY. Mr. President, yesterday's historic agreement to establish a Council of Ireland is a magnificent milestone on the road to peace in Northern Ireland, and I commend the leaders of all three sides—Britain, Ireland and Ulster—whose wisdom, understanding and compassion have made this achievement possible.

In a sense, the new agreement marks the culmination of a remarkable series of positive developments that began in Ulster nine months ago when Britain promulgated its White Paper for Northern Ireland, outlining the hopefor steps that have now been achieved in fact.

Slowly, week by week, since March, events have unfolded to bring Ulster to its hopeful status today. The border poll, the dramatic elections for the new Northern Ireland Assembly, the excruciating but successful negotiations for power sharing and the new Ulster Executive, and now the dramatic creation of the Council of Ireland, have been among the truly significant political developments in Ulster—progress that brought both sides to the realization that it was humanly possible to reach the essential compromises that were necessary to end the reign of bombs and bullets in Ulster and let Protestants and Catholics live in peace.

To be sure, any cause for optimism must be tempered by the continuing inflammatory statements and violence of the extremists on both sides in Ulster who would wreck the new agreements. But slowly, over the past nine months, these men of violence and total resistance to compromise are being increasingly isolated. Surely now, with the fruit of peace so close, the great majority of decent Protestant and Catholic citizens in Ulster will be even less inclined to offer support or encouragement to those who would destroy the progress that has been made.

To paraphrase Winston Churchhill in 1942, Northern Ireland has now reached the end of the beginning, and the many leaders who have participated in this remarkable achievement deserve the highest praise.

But above all, I would single out William Whitelaw. The almost unbelievable insight, perseverance and painstaking genius he brought to his task, as Britain's Secretary of State for Northern Ireland, was the guiding factor in reconciling the interests and passions of the parties in Northern Ireland that made this progress possible.

Perhaps, with so many troubled areas in the world, there will be others in other strife-torn lands who will achieve a comparable success, but for now, I can think of no one whose towering service in the cause of peace is more deserving of the Nobel Peace Prize than Mr. Whitelaw.

Mr. President, I ask unanimous consent that the following articles on these developments may be printed in the Record: the article by Bernard D. Nossiter from this morning's Washington Post; the article by Richard Eder from this morning's New York Times; and two recent columns analyzing Mr. Whitelaw's role, one by Simon Hoggart in the Manchester Guardian of November 23, and the other by Robert Fisk in the London Times of December 3.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 10, 1973]

Irish Council Set Up

(By Bernard D. Nossiter)

London, Dec. 9.—Political leaders from Britain, the Irish Republic and Ulster tonight agreed to set up a Council of Ireland, a brave new form of joint government designed to end centuries of antagonism.

The historic accord was reached after four days and nights of marathon talks at a heavily guarded civil service college outside London. The negotiations were led by Prime Minister Edward Heath of Britain, Premier Liam Cosgrave of Ireland and Brian Faulkner, the chief executive in Ulster's new Protestant-Catholic coalition government.

The pioneering venture will bring together in a continuing body representatives from the independent republic in the south of Ireland and from Ulster, the northern province that is part of the United Kingdom.

Heath, his eyes red rimmed and his voice hoarse from talks that at one point went on continuously for 23 hours, called the accord "a success . . . a very considerable achievement."

"It can mean a better future," he said, "not only for Northern Ireland but for Ireland north and south."

The heart of the new arrangement is its Council of Ministers, seven from the Dublin government in the south and seven from the new Protestant-Catholic executive in the north.

This body is charged with determining how best to utilize Ireland's scarce resources and to seek ways of cooperating, rather than competing in agriculture and industry. Most important, in view of the terrorists, Protestant and Catholic, who still plague Ulster, the new council will have a voice in selecting police directors, north and south.

To reassure Ulster's Protestants, a majority in the north but a minority in the island as a whole, the council can act only when its 14 members agree unanimously.

The key to tonight's agreement hung on allaying Protestant fears over two points. Ulster's majority has been worried that it would be railroaded into a united, independent Ireland in which it would become a minority. The Ulster Protestants have also been suspicious of the Dublin government's willingness to act against Irish Republican Army terrorists who flee across the border to the south.

On the first point, the Irish government "solemnly declared that there could be no change in the status of Northern Ireland (as British) until a majority of the people in the province desired a change." This declaration appears to make a dead letter of a provision in the constitution of the Irish Republic which claims sovereignty over Ulster, a provision that has long fueled Protestant suspicion.

On the second point, all sides of the tripartite talks agreed that persons accused of violence anywhere in Ireland, regardless of motive, should be tried. More specifically, the Irish government promised to change its laws so that anyone charged with murder in Northern Ireland will be brought to trial.

Some IRA terrorists, accused of murder in the north, have found sanctuary in the south by claiming that their deeds were politically motivated. This defense has often spared them from extradition. The new Dublin pledge should close this escape route.

Another central issue in the drawn-out talks was an effort by Ulster and Dublin Catholics to give the joint council power over Ulster's police. Catholics in the north have complained for the 52 years of the province's existence that police there have dealt harshly with their community and protected Protestant thugs.

This issue was compromised. The new council will be consulted when men are appointed to the Northern Ireland Police Authority, the principal policy body. For the sake of balance, the Dublin government will create a police authority and its nominees will also be named after the council is consulted.

Despite the agreement of the three sides, the new accord will be attacked bitterly by both the IRA and the Protestant hardliners in the north. The IRA is expected to complain that it blocks a united Ireland; the Protestant opponents will insist that it forces a united Ireland.

[In Belfast, militant Protestant leaders and both wings of the Irish Republican Army denounced the agreement. A spokesman for the IRA's Official wing said, "It simply gives Britain a further grip on Irish affairs and will be resisted in the streets." The Rev. Martin Smyth, head of the Protestant militant Orange Order, said Faulkner and his colleagues" will get a welcome home in Northern Ireland similar to that given Chamberlain when he returned from Munich."]

Both groups denounced the deal reached last month that divides power between Catholics and Protestants in Ulster. The killings and bombings have continued and there is no reason to think that they will end.

But if the Dublin government is seen to be carrying out its pledges and if Catholics and Protestants in Ulster visibly share power under the new arrangement, terrorists from both sects will find it increasingly harder to operate. The new Council of Ireland could indeed lead to a unified and independent Ireland, but one achieved by agreement and not by force.

Britain continues to subsidize Ulster's depressed economy and provides the soldiers that enforce what law and order exists. So tonight's agreement provides that London's interest in finance and security will be protected in any council decisions. Just how this will be accomplished was not spelled out.

Apart from the council of 14 ministers, the new Irish body will contain a consultative assembly. The assembly will have only the power to give advice and consist of 60 representatives, evenly divided between the Dublin and Belfast governments.

Chairmanship of the Council of Ministers will rotate between Dublin and Belfast. This body will be served by a permanent secretariat led by a secretary general. That gives it the shape of a confederation rather than a talk shop.

As a further concession to Ulster's Catholics, the British government promised to release before Christmas some of the suspected terrorists whom London is holding without charge or trial. There are nearly 700 of these "detainees" and most are Catholics.

Cosgrave, the Dublin premier, said that the path-breaking agreement was reached "because we have not allowed ourselves to be intimidated by past prejudices."

"We have worked out a settlement which under God could provide a new basis for understanding in Anglo-Irish relations," he said.

[From the New York Times, Dec. 10, 1973]

ACCORD ON ULSTER REACHED AT TALKS BY THREE PARTIES

(By Richard Eder)

LONDON, Dec. 9.—Britain, the Irish Republic and the moderate Protestant and Roman Catholic leadership of Northern Ireland agreed tonight on sweeping proposals for the future of Ulster.

The agreement, announced after 50 hours of talks including two all-night sessions, left some important issues unresolved. But it included major concessions from both sides, and it cleared the way for a Protestant-Catholic coalition to take office in the North for the first time, probably early in January.

When the weary delegates emerged from the talks, held at a civil service college in Berkshire, 27 miles from here, they were clearly delighted. Price Minister Heath called the agreement "a very considerable achievement." John Hume, a leader of the Northern Catholic delegation, said: "I am very happy."

PLEDGES ON NORTH'S STATUS

Prime Minister Liam Cosgrave of the Irish Republic said that he believed a package had been agreed on "which can respond to the needs of the present situation." Mr. Cosgrave is a careful man with his words, and his guarded comment did not hide his satisfaction.

Perhaps the most dramatic point of the historic agreement was the decision that the Governments of both the Republic of Ireland and Britain would make solemn pledges about the status of Northern Ireland and deposit them at the United Nations. The pledges will thus be given international status and their observance will come under jurisdiction of the International Court of Justice.

Dublin will pledge its recognition that the present status of the North, with its link to Britain, cannot be changed except when a majority in the North so decide. This is the first such statement by the Government of the Irish Republic, whose Constitution still contains a claim to jurisdiction over the whole island.

The suspicion by the northern Protestants that the Republic seeks to force them into a united Ireland is one of the deepest obstacles to the political accord. It remains to be seen whether today's declaration will neutralize the growing Protestant opposition to an accord. This opposition seriously threatens the moderate Protestant leadership of Brian Faulkner.

For her part, Britain has now pledged that should a majority in the North decide some day to join a united Ireland, she will put no obstacles in the way.

The conference agreed to set up a Council of Ireland, a body that will act as a link between the Government of the republic and the Northern Ireland executive body. The Council will consist of seven members of the Dublin Government and seven members of the Ulster executive body, and it will have its own secretariat.

It will be assisted by a consultative body comprising 30 members of the republic's Parliament and 30 members of the Ulster Assembly.

A SYMBOL OF UNITY

The functions of the Council of Ireland remain vague, and this was one area in which the conference failed to make more than partial progress. The Dublin delegation and the Northern Catholics did win a concession from Mr. Faulkner that the council would have some "executive" functions. These were not defined, but they may include tourism, power development and some aspects of trade.

As the symbol of possible Irish unity, the Council of Ireland is an institution that the northern Catholics want to make an impressive and the Protestants an innocuous as possible. Mr. Faulkner had hoped to keep the council purely consultative and without "executive powers," but he avoided further concessions on the issue by leaving the definition of such powers for the future.

The conference agreed that those accused of armed violence would be brought to justice wherever they were apprehended. One of the main grievances of the Protestant majority in the North has been that members of the Irish Republican Army who flee south have often been able to avoid extradition.

Prime Minister Cosgrave did not agree to change the extradition laws; sentiment in the republic would probably not permit that. What is being worked toward, however, is some kind of common code of law enforcement in which, for example, southern courts would be able to try those accused of crimes in the North, and vice versa.

The details of this will be left for further discussion.

On the issue of the police, another deeply divisive issue, Mr. Faulkner succeeded in upholding most of the Protestant position. Because the Catholic community in the North is suspicious of the mainly Protestant Royal Ulster Constabulary, both the Catholic representatives and the Dublin Government had hoped to give the Council of Ireland some authority over both the northern constabulary and the police in the South.

The Protestants, however, would regard such a major change as another link in what they regard as an intolerable chain of surrender to Catholic pressures.

The conference tonight decided that the northern and southern police forces would be left intact. The republic, however, would set up a police authority that, like the one that already exists in the North, would have a general supervisory and policy role.

The Council of Ireland would be consulted in the appointment of members of the southern police authority. It would also be consulted, indirectly, in the appointment of new members to the northern authority.

The agreement on the police was apparently one of the hardest to reach and a principal factor in extending what was to be a two-day meeting into one that lasted four days.

If Dublin and the Catholic representatives from the North failed to win very much on this issue, they apparently recognized that Mr. Faulkner could not concede more. If his position slips much further among his Protestant constituents, that could produce a new Protestant leadership unwilling to make the agreements work.

With the Council of Ireland basically agreed upon, the way is clear for the coalition executive body filled last month to begin to operate in the North.

[From the Manchester Guardian, Nov. 23, 1973]

WHITELAW'S VELVET GLOVE

(By Simon Hoggart)

Mr. Whitelaw began his Northern Ireland tour badly enough. He arrived at Aldergrove Airport to give a press conference, and it soon became clear that he knew virtually nothing about the situation. Irish reporters kept pressing him to take legal action against Mr. Craig's then embryonic Vanguard movement whose members had been parading about in preposterous Germanic paramilitary uniforms, in a fairly evident breach of the law.

Mr. Whitelaw had obviously not been briefed on this, but the reporters persisted until the new Secretary of State said firmly: "It is a great mistake ever to prejudge the past."

It was a remark of stupefying meaninglessness, but in a sense it is part of the key to his success. In a land where every side has reams of conflicting demands, he has always known which issues to duck, where to bend with the wind, and how to avoid ever committing himself to something which might be embarrassing later.

For example, his rule began with a considerable easing of the pressure on Catholic areas. Against great opposition from Ulster's Protestants and from Tories at Westminster, he allowed the IRA to establish its no-go areas, which he knew perfectly well would be used as bases for the bombing and shooting campaign. He persisted, even when liberal reporters began to challenge the policy, and privately poured scorn on the people who demanded it. "If I listened to the right-wing of the Conservative Party," he once remarked, "I would behave exactly like the Russians in Czechoslovakia."

The policy undoubtedly made the security situation worse in the short term. In the long term it built up a reservoir of goodwill from Catholics which has never been completely eroded, and there is no doubt whatever that this week's momentous agreement would never have been possible without it. To achieve it he had to avoid daily challenges from virtually everyone with power or influence in Ulster in a masterful display of simply shutting his ears to anything he did not want to hear.

Part of the trick comes from his negotiating and discussion style. A civil servant who has worked closely with him, and attended many meetings, described it: "He'll be expecting a delegation from the Shankill Loyalist Women's Defense League, or some such body, who are coming to demnad that one Catholic in 10 is executed until the troubles end. He'll groan about these awful people, but just before they come he'll clear his desk and spread out a lot of impressive-looking files. When these harpies arrive, he'll greet them warmly—'So glad you could come, how good to see you'—and make them feel he's been waiting anxiously for their advice all day. Then he'll say: 'What an interesting idea, how interesting. I don't really think I shall be able to get that through the House of Commons, you do understand, but how good of you to come. . . .'

"The women go away thinking that he's listened attentively and may even do something about it. By the time they realise that he won't, it's too late, and the goodwill remains."

This goodwill can be seen all over Ulster. A Sinn Fein woman checking reporters who were to cover an anti-Whitelaw march which ended in rioting earlier this year, asked if Mr. Whitelaw was leaving soon. She said she hoped not, because he was a good man, but she realised he deserved a rest.

The late Mr. Tommy Herron, shortly after he declared war on the British Army, was abusing Whitelaw for some imagined switch of policy. "I don't mean it personal, like I say, he's a grand wee man," he added. Perhaps it is partly his television image. The air of deep if puzzled concern, the atmosphere of self-doubt he manages to evoke, are a refreshing change from the thick-headed dogmatism that traditionally characterises Northern Ireland politicians in public.

When historians look back at Mr. Whitelaw's last 20 months, they may well decide that his greatest achievement was not the formation of the Executive—even if it succeeds—but the splitting of the Unionist Party. If his reign had any continuing overall policy aim, this was it—the breaking of the monolithic structure which bound two thirds of the Province's population together, and provided the Protestants with a power of total veto.

He wrecked this by the most delicate means and through a series of decisions which at the time looked mistaken. For example, he postponed the tougher action against Protestants terrorists to an almost irresponsible extent yet the mass of working class Protestants remained fairly quiescent. This in turn enabled the Faulknerites to condemn the extreme Loyalists far more openly than they would have been able to do in the midst of a community war similar to the one in Catholic areas. He refused to make attacks on Mr. Faulkner, even while the Unionist leader was subjecting him to fierce personal abuse. He had an instinctive feeling about when to shut up and when to do nothing, which ultimately to ignore, which demands to shrug aside. Bit by bit he managed to split the Protestants right down the middle, and the fact that Mr. Faulkner is now closer to John Hume than to William Craig is a measure of this extraordinary operation.

If and when he leaves Ulster, it will be interesting to see how the Province manages without him. The slight air of panic that gripped the Unionists and SDLP when the rumours of his departure began to circulate is an indication that he may have been the strongest binding force in the Province, the final court of appeal, the father figure to whom they could all turn. It will take a great deal of maturity to carry on without him even now. If Ulster's politicians manage that trick it will perhaps be Mr. Whitelaw's finest monument.

[From the London Times, Dec. 3, 1973]

Mr. Whitelaw's Fine Balance Between Political and Military Expediency

(By Robert Fisk)

On top of the marble mantelpiece in his office at Stormont Castle Mr. William Whitelaw always kept a cartoon of himself. It had appeared in a Belfast newspaper a month after his arrival and, sensing how appropriate it was, a personal adviser bought the original for him as a gift. The drawing showed a pensive, deeply worried Mr. Whitelaw, brows jutting, mouth sloping to the left and shoulders hunched in a mixture of innocence and despair. On his right hand perched a diminutive and rather tatty dove, holding in its claw a sprig of myrtle. Looking up at Mr. Whitelaw's face, it was saying: "Know summthin'?—I believe I've forgotten how to fly."

The cartoon was a fair one. When Mr. Whitelaw flew into Aldergrove in March last year, he had scarcely any idea how to stabilize the situation in Northern Ireland let alone how to change it. It was less than two months after Bloody Sunday and only days after the suspension of Stormont and the new Secretary of State was met with distrust by Catholics and outright hostility by Protestants. The Loyalists dubbed him a dictator—"Outlaw Whitelaw", their posters used to say—and the Unionist *News Letter* greeted the new epoch by reporting, wrongly, that Mr. Whitelaw was a Catholic. He turned up for his first press conference in a dingy RAF officers' mess, desperately sincere but painfully confused. He did not realize, for instance, that folk in Belfast could be prosecuted for reading "subversive" literature and he countered questions about Bloody Sunday with one of the most glorious sentences ever uttered by a politician in Ulster. "I do not intend", he said, stiffening in his chair, "to pre-judge the past."

But those politicians who tried to take advantage of this naivety—and there were plenty of them in the early days—were eventually forced to discard their illusions. For Mr. Whitelaw's career in Ulster was that of a man who grew tougher and shrewder almost by the hour. Wrapped up inside the affable and at times bumbling exterior, behind all that smiling, tolerant exasperation, Protestants and Catholics, generals and civil servants alike, found an immense amount of steel. And he was able to apply this quality to short-term and long-term objectives with equal skill. He changed course, altered military tactics, played for time, made mistakes but never lost sight of the Government's ultimate desire that Northern Ireland should be persuaded to work out its own salvation.

There was not much steel showing at first. Mr. Whitelaw tried to win support and respect by making concessions; he lifted the ban on parades, announced huge grants to large (and mainly Protestant) industries, and began to release the internees. He flew to London that Easter to tell Mr. Heath he had decided to start opening the gates of Long Kesh and then ordered the first 74 releases immediately he returned, actually signing the papers at Aldergrove.

In a sense the anger which this engendered among Protestants was understandable for people began to let Mr. Whitelaw down (they were to do that again and again during his stay in Northern Ireland—the Social Democratic and Labour Party, the largest group of Catholic politicians, refused to go to the Darlington Conference when Whitelaw could no longer release the remaining internees). When Mr. Whitelaw went to Londonderry, a middle-aged woman, Mrs. McSheffrey, approached him in the street and in front of the television cameras begged him to release her husband, promising to ensure that he went straight. Mr. McSheffrey was released—and went straight back to the Provisionals. It was also becoming embarrassingly obvious that many of the internees who had been freed were returning without a thought to their IRA battalions.

Mr. Whitelaw's unease rarely showed itself in public and he only became visibly angry over irritating, less important matters. When a gaggle of Loyalist ladies, led by an uncompromising woman called Williamson, began to shout their demands to the Secretary of State at Stormont, he virtually bowled them out of the Cabinet room, slamming his heavy fist on the table as he did so. They left—hurriedly—followed by an apologetic civil servant and Mr. Whitelaw instantly regretted his impetuosity. But it probably did some good. When he reacted in a similar fashion to a tirade by Loyalist businessmen in Londonderry they sat in silence and never complained so loudly again.

The political talks, at Stormont and elsewhere, were one of the few constant features of the past two years. At the beginning, any would-be politician or town councilor would be allowed to talk to Mr. Whitelaw and there were some strange customers among them. One man walked into the Cabinet room at Stormont, peered conspiratorially out of the door as he closed it, and then, in a hushed whisper, said to Mr. Whitelaw: "I'm not here." Another even more incongruous figure, a council representative, walked up to Mr. Whitelaw in his office and announced that, since their conversation had to be confidential, he would speak in French. This he proceeded to do for 15 minutes, at the end of which Mr. Whitelaw smiled and the stranger departed.

Mr. Whitelaw cannot speak a word of French and so, as he remarked afterwards, the conversation was indeed confidential.

When the political parties first travelled to Stormont, Mr. Whitelaw received them all cordially, suppressing his deeper feelings as the Unionist—the SDLP were not talking at this stage—pressed on him their demands for yet more military action in Catholic areas. Mr. Faulkner, the Unionist leader, could scarcely bring himself to speak to Mr. Whitelaw at this stage. Publicly Mr. Whitelaw remained unperturbed. But one night he was found watching Mr. Faulkner on television, silently mouthing oaths at the same time.

Yet when political life began to re-emerge, it was principally Mr. Whitelaw who brought Catholic and Protestant politicians together. He insisted—it was the steel beginnings to show through—that elections and the referendum should go ahead. Then, when the parties who chose to attend the Darlington Conference began to argue among themselves, he neatly defused the issues by suggesting that they were redefined. It was to become an old Whitelaw trick. When Mr. Faulkner demanded control of security, Mr. Whitelaw asked what security really meant and what public participation in security matters represented. When the SDLP demanded police reform, Mr. Whitelaw showed that there could be administrative changes but questioned—in the light of cross-border cooperation—what "reform" really meant. Ulster politicians have never thought in this way before.

By the autumn of 1973, Mr. Whitelaw was presiding over an unprecedented series of meetings between Catholic and Protestant politicians, both finally pledged to work together in government. It had been a steady job of careful timing and courage to bring it about—ironically he used a similar tactic to counter Protestant (though not IRA) violence. When the UDA was threatening a civil war, their leadership, masks and all, were invited up to Stormont Castle. Peaceful barricades were generally allowed but when the UDA massed 6,000 men in west Belfast and threatened to create a no-go area inside which there were Catholic homes, it seemed that the issue at last would have to be faced.

Mr. Whitelaw was at a lively but unimportant dinner in Belfast that night when he was called to the telephone. It was General Ford, asking for an answer to the question: should his men shoot at the UDA if they broke through the Army's barrier? Mr. Whitelaw told him he could shoot, then returned to meal looking, according to his colleagues, very sick. But the timing was perfect, the UDA gave way and by the time Mr. Whitelaw left Northern Ireland the Protestant private armies had virtually fallen apart.

But if Mr. Whitelaw's high point came this autumn his moment of despair occurred in the summer of 1972 when the IRA, after their truce had ended, revealed that they had met him secretly in London. The morning before he faced Parliament, Mr. Whitelaw talked privately of resigning. When he got through the ordeal unscathed he was bouncing with enthusiasm again.

One of the by-products of the IRA truce was the political status which Mr. Whitelaw granted to prisoners who had been convicted for their part in the troubles. It conferred upon men who had shot soldiers, privileges which were not granted to a common thief.

In months, perhaps years, to come, politicians in Ulster may live to regret this political expedient. Mr. Whitelaw regarded it as his greatest mistake.

Mr. Whitelaw discovered a fine balance between political and military expediency. Several times he found himself arguing with the Army. When the GOC was preparing to invade the "no-go" areas, for instance, Mr. Whitelaw insisted on warning the public six hours in advance in order to avoid casualties. Many senior officers disapproved of his decision for by morning the Provisionals had flown. The security men woke Mr. Whitelaw at four a.m. at Stormone and said that he thought the casualties were light. It was, Mr. Whitelaw was to recall later, the best wakening he could remember. Only two men died.

By the autumn, violence had fallen to a reasonably "acceptable" level and the appalling vacuum was being filled. The dove had been tought how to fly again.

Mr. Whitelaw left Northern Ireland with the respect of most Catholics, the grudging admiration of Protestants, and a tentative—almost unbelievable—coalition Government in the making. He may or may not have defused the problem of Ulster—probably no single man can achieve that. But he is the only English politician since the Earl of Essex to be thrown into the Irish bog and to emerge from it not only with credit but with a shining reputation.

GASOLINE RATIONING

Mr. FANNIN. Mr. President, time dims our memory of painful experiences in the past. In fact, the suffering and inequities of the past often become the "good old days."

Our energy crisis has caused some people to recall World War II gas rationing as "the good old days." Those of us who can remember that time in our history know better. World War II rationing was imposed under the best of circumstances; that is, the best of circumstances to make a rationing system work. Our Nation was united in a life-and-death struggle with fascism. People who were not patriotic not only were looked down upon but could be in physical danger.

So it was our patriotic duty to abide by the rationing system.

Yet many people did not and, when it became obvious that the Allies would win the war in a matter of time, the system began to crumble. From personal experience, I can tell you that the system was inequitable; some people who did not need gasoline had access to unlimited supply, others who did need it found themselves cut off except for the black market.

Other factors should have made World War II rationing successful. For one, no new cars were manufactured during the war, so there was no increase in the number of personally owned cars. Tires were difficult, next to impossible, for the average person to buy legitimately.

Gas rationing today would not be instituted under such "desirable" circumstances. We are not at war, cars are increasing in number, tires and all parts are readily available.

Some people have forecast that it will take very strong police-state tactics to make rationing effective. It certainly will take a large bureaucracy and stringent enforcement. Here we are talking only about effectiveness; that is, cutting down on gasoline consumption. There is no way, in my estimation, that we can make rationing equitable in today's society.

Mr. President, Government policy, as dictated both by the Congress and the administrations over the past two decades, have restricted incentives for the development of our resources to meet the needs of our society. What we do now must be designed to increase our economic system's ability to produce the energy that we need. Rationing would not accomplish anything in this direction; it could result in prolonging the crisis, making our current shortages chronic.

These considerations must be weighed carefully. Rationing is the politically expedient way out because we would be creating a large bureaucracy, shuffling a lot of paper, issuing orders, and distributing coupons. There would be, as there always is in a Government program, a great deal of sound and fury, but the only effect would be to create an illusion of action. We would be doing nothing to reach the cause of our problem.

Mr. President, columnist John D. Lofton, Jr., has written an excellent column pointing to some of the problems which were encountered during World War II rationing. I believe that all members of Congress would benefit by reading this article, and I request that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BLACK MARKET AND BOOTLEGGING: GAS RATIONING IS NOT THE ANSWER

(By John D. Lofton, Jr.)

Having been born in 1941, my means of transportation during the war years were mainly by baby carriage and tricycle. Thus I did not directly experience the problems resulting from gasoline rationing.

But I have been reading about rationing during that era and it seems that those who are proposing such action now are advocating a solution which would cause problems more severe than the one rationing is ostensibly designed to solve.

Joe M. Dawson, in an article in the April 24, 1943, *Saturday Evening Post* titled "Life on a Ration Board," wrote:

"Much of the friction in rationing stems from the complexity of the forms and regulations. Obviously, in the ramifications of such a gargantuan program as wartime rationing there inevitably must be some complications and ambiguities.

"It is not too surprising that there are such apparent paradoxes as the fact that you can get extra gasoline to remove a dead dog 'for processing,' but none to take the carcass to a burying place; that preferred gasoline rations are permitted vermin exterminators, but not for diaper laundries.

"Such seeming contradictions may be unavoidable, or make sense after all; but sometimes it seems to me that lawyers who write the regulations and forms down in Washington make a cult of obscurantism."

Dawson, a member of the Manhattan rationing board, writes that despite attending six two-hour lectures by experts, spending 15 hours sitting as an observer with experienced boards and boning up during an entire weekend for an examination, there were still a number of points about rationing he did not understand.

Dawson was inclined to attribute this to his own stupidity, he says, until he discovered that his fellow board members—all highly successful and professional men—found it just as hard to grasp the regulations.

In addition to the incomprehensible, ambiguous regulations making up the rationing program and the accompanying inequity of treatment of those being rationed, there is also the problem of the black market and counterfeiting.

Writing in the July 30, 1944, issue of the New York *Times Magazine*, the administrator of the Office of Price Administration, Chester Bowles, reported on a survey taken in March of this year which showed 2.5 million gallons of gas a day being sold on the black market.

Speaking of the racketeers, former bootleggers, drug peddlers and numbers operators who ran the black market, Bowles pointed out that there were no hidden stills cooking up bootleg gas. "Every gallon of black market gas is diverted from legitimate users," he declared.

Another big problem with rationing was the theft of gas coupons from local board offices. "Gangsters who had been concentrating on counterfeiting money, safe-cracking, bootlegging, and even murder, turned to the more lucrative and easier-to-handle gasoline coupon racket," says Bowles.

Just how widespread the bootlegging of gas was under the World War II program is illustrated by an article in the Oct. 2, 1943, issue of *Collier's* magazine. Titled "Border to Border on Bootleg Gas," reporter Mark Miller tells how he traveled 2,000 miles from the Mexican border at Brownsville, Tex., to the Canadian boundary at International Falls, Minn., without giving up a single gas ration coupon.

The trip was made with one gallon of legitimate gas and no coupon of any kind. Miller writes that "within 10 blocks of the starting point, I got my first tank of bootleg gas at usual prices. Not at any point on the trip was a higher price asked for gas without coupons."

During the gas-rationing period of the early 1940s, Shad Polier, the OPA's chief enforcement officer for gasoline, had in his office what he called the "map of shame." Dark color ran down the entire eastern seaboard. The Pacific coast states, the eastern shore of the Mississippi river, and the Gulf coast were similarly shaded.

OPA agents believed that all this area was under the control of a nationwide ring of gas black marketeers made up of ex-bootleggers, ex-white slavers, clever counterfeiters, thieves and other underworld regulars.

I do not understand why people like Senators Mike Mansfield, Henry Jackson, William Proxmire, Chase Manhattan Bank President David Rockefeller, Interior Secretary Rogers Morton and presidential energy czar John Love want to bring back the bad old days of rationing.

Certainly it would seem that, rather than gasoline at this point, a preferable solution is the one suggested by the chairman of the President's Council on Economic Arvisers, Herbert Stein, that is: through the working of the free market allow gas prices to rise to allocate the scarce supply and in the process introduce more production.

President Nixon is absolutely correct when he says gas should be rationed only as a last resort. Even then, I cringe at the thought.

NANTUCKET SOUND ISLANDS TRUST LEGISLATION

Mr. KENNEDY. Mr. President, on May 25 of this year, I introduced S. 1929, the Nantucket Sound islands trust bill. This revised legislation represented hundreds of man-hours of work by local residents on the islands of Martha's Vineyard and

Nantucket off the coast of Cape Cod, Mass., in an effort to find a unique solution to the problems of unplanned and unchecked development of these islands.

On July 16, the Senate Interior Subcommittee under the distinguished leadership of Senator ALAN BIBLE of Nevada conducted public hearings on the islands to give residents an opportunity to comment on the trust proposal. Overwhelming support for the legislation was obvious on the island of Nantucket in hours of testimony from elected officials, construction workers, planners, and conservation experts.

On the island of Martha's Vineyard there were several hours of testimony both in support of the island trust bill and in opposition to it. At that time I asked the officials and residents of Martha's Vineyard if they could work together on a proposal which they would find acceptable and submit it to me for consideration.

I would like to insert in the RECORD at the close of my remarks, a discussion paper prepared by the Dukes County Planning and Economic Development Commission in response to that challenge. The planning commission has been the focal point of a coordinated effort to solicit island views and comments on both Federal and State legislation to preserve and protect Martha's Vineyard for the residents of Martha's Vineyard. They have hosted meetings and discussion groups to work out draft proposal and they have continually circulated their suggestions to groups and individuals with varying views on how best to assist the vineyard. They have spent countless hours in the tedious and time-consuming work of putting ideas into legislative language. And they have submitted to me the discussion paper which I insert into the RECORD today.

I will be meeting in the very near future with other elected officials concerned with the island trust bill to coordinate State and Federal efforts to preserve the vineyard and to resolve those areas in both the State and Federal legislation which still need refining. The discussion paper presented by the planning commission is a perfect starting point for those discussions as it reflects the views of so many directly affected by the bills. The Dukes County Planning and Economic Development Commission emphasizes that this document is a draft paper for discussion only. And it will be discussed. I want the other Members of the Senate to have an opportunity to review the paper and to see the enormous amount of effort and work that the citizens of Martha's Vineyard have accomplished for their island and its future.

Mr. President, I ask unanimous consent that the paper referred to be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

NOVEMBER 16, 1973.

DRAFT FOR DISCUSSION ONLY: MARTHA'S VINEYARD RESOURCE MANAGEMENT FUND

Section 1: Findings and Statements Policy.
Section 2: Martha's Vineyard Resource Management Fund.
Section 3: Intergovernmental Cooperation.
Section 5: Classification of Fund Area Lands.
Section 6: Assignment of Fund Area Lands.
Section 7: Acquisition of Lands.
Section 8: Administrative Provisions.
Section 9: Transportation and General Uses.
Section 10: Pollution.
Section 11: New Employment Opportunities.
Section 12: Appropriations.

MARTHA'S VINEYARD RESOURCE MANAGEMENT FUND

A bill to establish the Martha's Vineyard Resource Management Fund in the Commonwealth of Massachusetts, to declare certain national policies essential to the preservation and conservation of the lands and waters in the Resource Management Fund area, and for other purposes

FINDINGS AND STATEMENTS OF POLICY

SEC. 1. The Congress finds that—

(a) Martha's Vineyard Island in the Commonwealth of Massachusetts, possesses unique natural, scenic, ecological, scientific, cultural, historic, and other values;

(b) There is a national interest in preserving and conserving these values for the present and future well-being of the Nation and for present and future generations;

(c) These values are being irretrievably damaged and lost through ill-planned development;

(d) Present state and local institutional arrangements for planning and regulating land and water uses to preserve and conserve these values are inadequate;

(e) The key to more effective preservation and conservation of the values of Martha's Vineyard Island is a program encouraging coordinatte action by Federal, State and local governments in partnership with private individuals, groups, organizations and associations for the purpose of administering sound policies and guidelines regulating ill-planned development.

(f) Such a program can protect the natural character and scenic beauty of Martha's Vineyard Island consistent with maintenance of sound local economies and private property values; and

(g) Because expanded access to the Island would be in contravention to the purposes of this Act, it shall be the national policy that no bridge, causeway, tunnel or other direct vehicular access be constructed from the mainland to the Island.

MARTHA'S VINEYARD RESOURCE MANAGEMENT FUND

SEC. 2. In order to provide for the preservation and conservation of the unique natural scenic, ecological, scientific, cultural, historic, and other values of Martha's Vineyard Island there is established for the Commonwealth of Massachusetts a Martha's Vineyard Resource Management Fund (hereinafter referred to as the "Fund"). This Fund shall be administered as hereinafter described through programs and policies designed to achieve wise use of the land and water resources of the area, giving full consideration to protection of the values of the area as well as to needs for sound local economies.

INTERGOVERNMENTAL COOPERATION

SEC. 3. (a) The Secretary of Interior is hereby authorized and directed to enter into contractual agreements with the Martha's Vineyard Commission (established by the General Court of the Commonwealth of Massachusetts in Chapter ——— of the Acts of 1974) (hereinafter referred to as the "Commission") for the purposes of developing programs aimed at satisfying the intent and purpose of this Act.

(b) All contractual arrangements shall include provisions which ensure that—

(1) All expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act shall be provided for;

(2) The Commission shall publish and make available to the Secretary and to the public an annual report reviewing matters relating to the Fund, including acquisition of lands, progress towards accomplishment of the purposes of this Act, and administration, and shall make such recommendations thereto as they deem appropriate to the Secretary, the Governor, and the towns;

(3) The Commission shall have an Executive Director and such other permanent or part-time professional, clerical, or other personnel as it finds are required, and may engage such other professional services as they may reasonably require:

(4) The Commission shall have an office and a mailing address at a central location in the area of its jurisdiction, and such office shall be where its ordinary business is conducted and its maps and records kept;

(5) The Commission shall have the authority to appoint Advisory Committees at its discretion;

(6) All Commission members shall provide disclosures of ownership interest in Fund area lands.

FUND AREA

SEC. 4. (a) The area served by the Fund shall encompass the lands and waters in the Commonwealth of Massachusetts known generally as Martha's Vineyard Island, and the various islands appurtenant to it.

(b) The area served by the Fund may be changed only by an amendment to this Act adopted by the Congress and signed by the President, and only upon petition therefore by the Commission with the concurrency of:

(1) The town or towns affected by vote of a town meeting or meetings;

(2) The Governor; and

(3) The Secretary.

CLASSIFICATION OF FUND AREA LANDS

SEC. 5. (a) Within one year of the initial contractual agreement between the Secretary and the Commission, the Commission shall prepare a plan and program for classifying all the land within its jurisdiction. In preparing such plan and program the Commission shall delineate them in appropriate documents and maps:

(1) Land where no development should take place;

(2) Land where extraordinary or innovative controls should be introduced;

(3) Land where normal but improved control is applicable.

(b) In the process of establishing such policies and plans for land classification, the Commission shall consider all relevant ecological, economic and sociological considerations and shall have developed whatever pertinent data is necessary and currently unavailable and shall aggregate such data into a documentary body of written proceedings which shall constitute the official, testificatory record of the Commission's land and water classification actions.

ASSIGNMENT OF FUND AREA LANDS

SEC. 6 (a) Assignment of lands and waters within the Fund area to the classification established by Section 5 herein shall be as depicted on official maps of the Commission and shall be available for public inspection in:

(1) The offices of the National Park Service, Department of the Interior;

(2) The offices of the towns within the Fund area; and

(3) The offices of the Commission.

(b) Changes to the plans and policies adopted within one year of the execution of the original contractual agreement between the Secretary and the Commission shall be made only after all affected individuals and property owners are appropriately notified and after at least one public hearing is held.

ACQUISITION OF LANDS

SEC. 7(a) General Provisions

(1) Within the area of the Fund, the Secretary is authorized to provide funds to the Commission for the purchase of lands in

interest therein at a fair market value for the purposes of this Act.

(2) With respect to that property which the Commission is authorized to acquire without the consent of the owner under the terms of this Act, the Commission shall initiate no proceedings therefor until after it has made every reasonable effort to acquire such property or interest therein by negotiation and purchase at the fair market value.

(3) In exercising its authority to acquire property under the terms of this Act, the Commission shall give immediate and special consideration to any offer to sell made by an owner or owners of land which has been designated as land where no development should take place. An owner or owners may notify the Commission that the continued ownership of those lands would result in hardship to such owner or owners, and the Commission shall immediately consider such evidence and shall within six months following the submission of such notice, and subject to the then current availability of funds, purchase the lands offered at the fair market value;

(4) In exercising authority to acquire property under the terms of this Act, the Commission shall conform to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601);

(5) Nothing in this Act shall be construed to prohibit the use of eminent domain as a means of acquiring a clear and marketable title, free of any and all encumbrances;

(6) In exercising their authority to acquire property by exchange, the Commission may accept title to any non-Federal property located within such area and convey any federally owned property under the jurisdiction of the Commission within such area. The properties so exchanged shall be approximately equal in fair market value: Provided, that the Commission may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged;

(7) Any property or interests therein, owned by the Commonwealth of Massachusetts or any political subdivisions thereof, may be acquired only by donation. Notwithstanding any other provision of law, any property owned by the United States located within the Fund area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Commission for use by it in carrying out this Act.

(b) Transfer to Towns;

(1) Upon acquisition of any land or interests therein, the Commission shall concurrently or as soon as is practicable thereafter without consideration an undivided one half interest therein to the Town within whose jurisdiction lies;

(2) Thereafter, such land or interest therein shall be held by the Commission and the appropriate Towns in a public trust;

(3) The lands or interests therein so held in trust shall be administered as described in this Act, and the Commission and Towns may exchange any such lands or interests so held in trust pursuant to the provisions of this section.

(c) Taxation;

(1) Nothing in this Act shall be construed to exempt any real property or interest therein held by the Commission and Towns under this Act from taxation by the Commonwealth of Massachusetts or any political subdivision thereof to the same extent, according to its value, as other real property is taxed;

(2) Nothing contained in this Act shall be construed as prohibiting any governmental jurisdiction in the Commonwealth of Massachusetts from assessing taxes upon any interest in real estate retained under the provisions of this Act to the nonexempt owner or owners of such interests, nor from establishing and collecting fees in lieu of taxes upon any nongovernmental use of lands acquired pursuant to this Act.

ADMINISTRATIVE PROVISIONS

SEC. 8. (a) The Fund shall be administered and protected by the Commission with the primary aim of preserving the natural resources located within it and preserving the area in as nearly its natural state and condition as possible. No development will be funded through the Fund which would be incompatible with the overall life-style of residents of the area, with generally accepted ecological principles, with the preservation of the physiographic conditions now prevailing, or with the preservation of historic sites or structures.

(b) The Secretary shall be responsible for developing guidelines for the use of funds and administration thereof in accordance with the provisions of this Act and the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented except that the Secretary may utilize any other statutory authority available to him for the conservation, preservation and management of natural resources to the extent he finds such authority will further the purposes of this Act.

(c) The Commission shall coordinate its administrative activities with those of other Federal, State, and local government authorities and agencies operating in the Fund area.

TRANSPORTATION AND GENERAL USES

SEC. 9. (a) The Commission together with the Governor and the Secretary, shall make an immediate survey of public and private water and air access to land in the Fund area, including that by the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority and by other public and private water and air carriers, shall make such recommendations to the appropriate body or bodies for legislative or administrative action as they deem consistent with the preservation and conservation purposes of this Act. Such recommendations shall include specific measures to limit the number of motor vehicles and passengers such carriers might otherwise transport to Martha's Vineyard Island. Thereafter regular and frequent surveys of such access shall be made, and such recommendations shall be made, as are deemed appropriate to maintain the unique values of lands and waters in the Fund area.

(b) No development or plan for the convenience of visitors to Fund lands or waters shall be undertaken which would be incompatible with the preservation and conservation of the unique values thereof; provided, that the Commission, the Governor, and the Secretary may provide for the public enjoyment and understanding of the values of Martha's Vineyard Island by establishing such public transportation systems, trails, bicycle paths, observation points and exhibits, and by providing such services as they may deem desirable for such public enjoyment and understanding, consistent with the preservation and conservation of such values.

(c) In any such provision for public enjoyment or understanding, the Commission, the Governor, and the Secretary shall not unreasonably disminish for its owners or occupants the value or enjoyment of any improved property within the Fund area.

POLLUTION

SEC. 10. The Commission, together with the Governor and the Secretary, shall cooperate with the appropriate Federal, State and local agencies to provide safeguards against pollution of the waters in and around the Fund area. Such safeguards shall include an immediate survey of the quality of ground water conditions of Martha's Vineyard, and the necessary funds therefor may be drawn from the appropriations authorized by section 12 herein.

NEW EMPLOYMENT OPPORTUNITIES

SEC. 11 (a) The Commission is authorized to expend funds to examine opportunities to experiment with, and to encourage development of, aquaculture of all kinds, including but not limited to, fish and shellfish and other associated activities; and to examine other new employment opportunities of any kind appropriate to the purposes of the Act. Funds appropriated to the Department of Interior, Commerce and Labor under the authority of this or other laws of the United States may be used for this purpose without restriction;

(b) The Commission, the Governor and the Secretary shall to as great an extent as possible in the development of any regulations pursuant to the provisions of this Act encourage the maintenance and commencement of agricultural uses of Fund area lands;

(c) The Commission, in consultation and cooperation with the Secretary of Labor, shall investigate, and where appropriate establish, training and retraining programs suitable for residents of Fund area lands.

APPROPRIATIONS

SEC. 12 There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act; not to exceed, however, $20,000,000 for the acquisition of land and interests therein, and not to exceed $5,000,000 for the development for the first three years of the operation of the Fund.

TECHNOLOGY AND THE ENVIRONMENT

Mr. BELLMON. Mr. President, the current energy crisis is properly causing Members of the Senate and American citizens to review recently held conclusions and actions relating to the environment and energy conservation measures.

There are many who feel that efforts to expand energy production and to delay attainment of environmental objectives may prove to be permanently damaging to the health of present and future generations.

Because I share in this concern I was greatly pleased and encouraged to come across a copy of a speech to the Commonwealth Club and the Commercial Club of Cincinnati, Ohio on November 15, 1973, by Dr. A. L. Jones, senior research associate for Standard Oil Co. Ohio.

Mr. President, I believe other Members will benefit by having the factual information contained in Dr. Jones' speech, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

TECHNOLOGY AND THE ENVIRONMENT

(By Dr. A L. Jones)

These are days when people have genuine concerns for the future welfare of mankind. Many fear that our technology has gotten the best of us because some think we have passed the "point of no return". It is extensively believed that we are likely to die in our own polluted soup and that we will be lucky to make it to the year 2000. A spirit of mistrust has risen amongst us. The credibility of practically everybody is being seriously questioned.

Three years ago I started to evaluate the premises upon which some of our major environmental concerns are based. The evidence that I have been able to find has proved to be quite encouraging to me. My findings have changed my attitude from one of pessimism for the future of mankind to one of confidence that we can solve our major environmental problems if we are willing to use rational approaches and pay the cost. This is what I want to talk to you about.

I wish to make it quite clear that I am speaking to you as a scientist and not as an emotional supporter of any particular "side" of ecology. I would like to remind you that useful science is based on reproducible evidence or principles that can be repeated and verified by others. As scientists we must work in terms of what we know rather than what we do not know. Unless the pronouncements we make are verifiable by others, they are worthless. Our job is to seek the truth. Our success as scientists depends on finding the truth and relating it to the needs and interests of man.

Some of the facts I present today may surprise many of you. I can assure you my conclusions are supported by evidence that is difficult to interpret in any other way. They can be verified by anyone who wishes to do so.

My first surprise concerns the air we breathe. Throughout my formal education I have been taught that the oxygen in our atmosphere is supplied by green plants using the process of photosynthesis. It is known that plants take in carbon dioxide and, through activation by sunlight, combine it with water to make starches and cecculose and give off oxygen. In this way the whole chain of plant and animal life is sustained by energy from the sun. When the vegetable or animal materials thus produced are eaten, burned, or allowed to decay they combine with oxygen and return to the carbon dioxide and water from which they came. We all know this. What is the surprise?

The surprise is that most of the oxygen in the atmosphere doesn't come from photosynthesis. The evidence is now overwhelming that photosynthesis is quite inadequate to have produced the amount of oxygen that is present in our atmosphere. The reason is that the amount of oxygen produced by photosynthesis is just exactly enough to convert the plant tissue back to the carbon dioxide and water from which it came. In other words, the net gain in oxygen due to photosynthesis is extremely small. The oxygen of the atmosphere had to come from another source. A most likely possibility involves the photodissociation of water vapor in the upper atmosphere by high energy rays from the sun and by cosmic rays. This process alone could have produced, over the history of the earth (4.5 x 10^9), about seven times the present mass of oxygen in the atmosphere. Two important articles on this subject have been published in *Science* within the last 18 months by Professors Leigh Van Valen of the University of Chicago and W. S. Broecker of Columbia University.

Other scientists predict that man is bringing disaster upon himself by depleting atmospheric oxygen by burning fossil fuels and poisoning the phytoplankton of the oceans by pesticides. Dr. Paul Ehrlich of Stanford predicts an oxygen shortage by 1979. Fortunately, accurate measurements of the oxygen content of the air have been made and recorded routinely since 1910. The National Bureau of Standards has made an abundance of measurements over the years. In 1910, the oxygen content of the air was found to be 20.946% by volume. In 1973, the percentage of oxygen is still 20.946%. There is no change, even in the third decimal place. Dr. R. C. Robbins of the Stanford Research Institute has found that ancient trapped air samples from ice cores removed from the Antarctic ice cap and Greenland glaciers, dating back to 500 BC, show no change from modern air samples. This is direct evidence that the industrial activities of man have produced no measurable change in the oxygen content of the atmosphere.

The significance of this information is that the supply of oxygen in the atmosphere is virtually unlimited. It is not threatened by by man's activities in any significant way either now or in the unforeseeable future. If all of the organic material on earth were oxidized it would reduce the atmospheric concentration of oxygen by less than 1 percent. We can forget the depletion of oxygen of the atmosphere and get on with the solution of more serious problems.

We have heard much in recent years about the death of Lake Erie. It is true that the beaches are no longer swimmable in the Cleveland area and that the oxygen content of the bottom of the lake is decreasing. This is called eutrophication. Heavy blame has been placed on phosphates as the cause of this situation. Housewives have been urged to curb their use of phosphate detergents. The State of New York has signed into law a measure to forbid the sale of detergents containing phosphates by 1973. Many other areas of the country have similar regulations.

The scientific evidence I have been able to acquire on this subject shows that the cause of the eutrophication of Lake Erie has not been properly defined. This evidence suggests that if we totally stopped using phosphate detergents it would have no effect whatever on the eutrophication of Lake Erie. Many experiments have now been carried out which show that it is the organic carbon content from sewage that is using up the oxygen in the lake and not the phosphate in detergents. The reason the Cleveland area beaches are not swimmable is that the coliform bacterial count, from feces, is too high, not that there is too much detergent in the water. Enlarged and improved sewage treatment facilities by Detroit, Toledo, and Cleveland will be required to correct this situation. Our garbage disposal units do far more to pollute Lake Erie than do the phosphate detergents. If we put in the proper sewage treatment facilities, the lake will sparkle blue again in a very few years.

As many of you know, the most toxic component of automobile exhaust is carbon monoxide. Each year mankind adds over two hundred million tons of carbon monoxide to the atmosphere. Most of this comes from automobiles. Until recently I had been concerned about the accumulation of this toxic material because I use it daily in my research and know that it has a life in dry air of about 3 years in the laboratory.

For the past several years, monitoring stations on land and sea have been measuring the carbon monoxide content of the atmosphere. Since the ratio of automobiles in the northern and southern hemispheres is 9:1 respectively, it was expected that the northern hemisphere would have a much higher concentration of atmospheric CO. Measurements show that there is no difference in CO amounts between the hemispheres and that the overall concentration in the air is not increasing at all.

Early in 1971, scientists at the Stanford Research Institute in Palo Alto disclosed that they had run some experiments in smog chambers containing soil. They reported that carbon monoxide rapidly disappeared from the chamber. They next sterilized the soil and found that now the carbon monoxide did not disappear. They quickly identified the organisms responsible for CO removal to be fungi of the aspergillus (bread mold) and penicillium types. These organisms, on a world wide basis, are using all of the 200 million tons of CO made by man for their own metabolism, thus enriching the soils of the forests and the fields. More recently, scientists at Queens University in Canada have found that green plants, such as beans, use CO in their metabolism and that they consume as much atmospheric CO as do the fungi in the soils.

This does not say that carbon monoxide is any less toxic to man. It does say that, in spite of man's activities, this material will never build up in the atmosphere to dangerous levels except on a localized basis. To put things in perspective, let me point out that the average concentration of carbon monoxide in the open air is less than 1 part per million. In downtown Cleveland, in heavy traffic, it sometimes builds up to 15 to 20 ppm. In Los Angeles it gets to be 35 ppm. In parking garages and tunnels it is sometimes 50 parts per million. These are the worst conditions.

Here is another surprise for many of you. Do you know that the carbon monoxide content of cigarette smoke is 42,000 parts per million? The CO concentration in practically any smoke filled room grossly exceeds the safety standards we permit in our laboratories (10 ppm). I do not mean to imply that 35 or 50 ppm of carbon monoxide should be ignored. I do mean to say that many of us subject ourselves to CO concentrations voluntarily (and involuntarily) that are greater than those of our worst polluted cities, including those in the Holland Tunnel in New York, without any catastrophic effects. It is not at all unusual for CO concentrations to reach the 100–200 ppm range in poorly ventilated smoke filled rooms. If a heavy smoker spends several hours without smoking in polluted city air containing 35 ppm of CO, the concentration of CO in his blood will actually decrease! In the broad expanse of our natural air, CO levels are totally safe for human beings.

No one in his right mind would condone air pollution. But we must think of things in their proper perspective. We need to ask the question about whether the air in our living rooms presents a greater hazard to health than does the outside city air. I think we should strive to clean up both of them.

The general public has been led to believe that there is a serious health hazard resulting from increased dispersion of lead into the biosphere by man. The principal sources of lead in the atmosphere are the combustion of gasoline and the burning of coal. The contributions from both of these sources are now of the same order of magnitude but in the past, the greater contribution was from coal. During the past 100 years, over one hundred million tons of lead have been dispersed by man into the biosphere.

Careful studies of possible health effects of airborne lead have been carried out by the National Academy of Sciences, the World Health Organization (WHO) and the American Medical Association (AMA). They have found no evidence of a single case of lead poisoning that can be attributed to breathing ambient air polluted with lead. The WHO reports that "there has been no increase in lead levels in the population in the last two decades". Other studies show that there has been no increase in lead concentration in either blood or urine in the U.S. population during the last 50 years. The lead levels in the blood of New Guinea aborigines are higher than those in the blood of either urban or rural Californians. The lead levels in the bones of present day man are not significantly different from those found in human bones from the third century.

Scientists at Michigan Technological University have reported in *Science* that analyses of human hair for lead show that in the period from 1871–1923 (when lead tetraethyl was introduced into gasoline) the lead in the hair was 10 times greater than in the period from 1923–1971. They attribute the higher amount in the earlier period to the ingestion of lead from collection of water from lead roofing, storage of water in leaded jugs, lead glazed earthenware, pewter utensils, leaded paints and cosmetics.

It is hard to imagine that airborne lead is not a serious hazard to human health but the evidence is overwhelming that the lead levels in the population have not increased in recent years, in spite of increased dispersion of airborne lead. It would appear that the most important reason for removing lead from gasoline at this time is that lead poisons the catalysts in catalytic afterburners for automotive exhaust emission control. The AMA reports "subtle and unrecognized or 'unrecognizable' changes are not occurring in the general population as a result of its exposure to environmental lead". There is such a thing as lead poisoning but people usually get it by swallowing rather than breathing lead particulate matter.

One of the problems of considerable international interest concerns the use of the pesticide DDT. I find that DDT has had a miraculous impact on arresting insect borne diseases and increasing grain production from fields once ravaged by insects. According to the World Health Organization, malaria fatalities alone dropped from 4 milion a year in the 1930's to less than 1 million per year in 1968. Other insect borne diseases such as encephalitis, yellow fever and typhus fever showed similar declines. It has been estimated that 100 million human beings who would have died of these afflictions are alive today because of DDT.

DDT and other chlorinated compounds are supposedly endangering bird species by thinning of the egg shells. I am not sure this is true. The experiences I found concerning this were not conducted in such a manner that positive conclusions could be drawn from them. (The evidence is that Dieldrin, PCB, and other pesticides are more likely responsible for it, not DDT). Even if it is true, I believe that the desirable properties of DDT so greatly outnumber the undesirable ones that it might prove to be a serious mistake to ban entirely this remarkable chemical.

The United States has banned the use of DDT as of the beginning of 1973. This is a clear-cut example of a modern day decision based more on fear than it is on knowledge. We know that DDT has saved the lives of 100 million people. We know that food production is increased in both quantity and quality through the use of DDT. We know that there is not a single fatality of man that can be attributed to DDT in the food chain. We know that no effective substitute has been discovered for DDT.

DDT was banned because we fear that, in spite of not having done so after 28 years of use, we may find that "man may be exposing himself to a substance that may ultimately have a serious influence on his health". Can a modern society afford to use fear and speculation rather than knowledge as a sound basis for decision making on matters that will affect the lives and welfare of millions?

Many people feel that mankind is responsible for the disappearance of anmal species. I find that in some instances man may hasten the disappearance of certain species. However, the abundance of evidence indicates that he has little to do with it. About 50 species became extinct last century and the century before that. Dr. T. H. Jukes of the University of California points out that about 100 million species of animal life have become extinct since life began on this planet about 3 billion years ago. Animals come and animals disappear. This is the essence of evolution as Mr. Darwin pointed out many years ago. Mankind is a relatively recent visitor here. He has had nothing to do with the disappearance of millions of species that preceded him.

It is of interest to note that man has not been successful in eliminating a single insect species, in spite of his all-out war on certain undesirable ones in recent years. He also has not felt kindly towards snakes and rats, but no species of them have disappeared to my knowledge.

The world supply of fossil fuels (oil, gas, coal) is limited. Fossil fuels are composed primarily of hydrocarbons. Each year the activities of man result in 27 million tons of hydrocarbons escaping into the atmosphere. The sources of most of this escape are partially burned fossil fuels and the direct evaporation of fuels and solvents. For the most part, it is advantageous to minimize this loss for reasons of efficiency, fuel conservation and reduction of air pollution.

It is well established that in sunny places, where the air is stagnant, certain hydrocarbons, when oxidized, produce photochemical smog. This results in the growth of aerosol particles which produce a haze. The color and odor of the haze is influenced by the kind of hydrocarbon involved.

It is not so well known that, on a global basis, nature releases at least 5 times more volatile hydrocarbons into the air than man does. Practically all types of forest trees emit substantial quantities of terpene hydrocarbons. In addition to pine trees, from which hydrocarbon turpentine is obtained, trees such as aspen, locust, cottonwood, willow, oak, sweetgum, sycamore, yellowwood, mulberry, buckthorn, and Oregon grape emit substantial quantities of isoprene and ethylene. The Blue Ridge and Smoky mountains of the eastern U.S. are so named because of the characteristic haze generated by photochemical reactions involving hydrocarbons emitted by the trees. Nature releases an estimated 175 million tons of hydrocarbons each year in this way.

In addition to volatile ones, practically all plants contain hydrocarbons such as waxes and resins that do not evaporate. Did you know the red color in watermelons, tomatoes and pink grapefruit is a non-volatile hydrocarbon? The wax in your ears is also.

In the middle-east there is a bush, with the botanical name of Dictamnus Fraxinella, which gives off so much terpene hydrocabons that explosive mixtures are generated in the air surrounding the plant. This plant is believed by some to be the burning bush which Moses saw. Man has been accused of being a major polluter of the air and the water with hydrocarbons but we must also recognize the greater amounts emitted by nature.

For those who wish to return to the "good old days" when we didn't have dirty industries and automobiles to pollute the air, let's consider what life was really like in America before the Civil War. For one thing, life was very brief. The life expectancy for males was less than 40 years. Those 40 years were exhaustive, back-breaking years. The work week was 72 hours. The average pay was $300 per year. The life of a woman was far from "women's lib." They worked 98 hours a week, scrubbing floors, making and washing clothes by hand, bringing in firewood, cooking in heavy iron pots and fighting off insects without screens or pesticides. Most of the clothes were very inferior by present day standards. There were no fresh vegetables in winter. Vitamin deficiency diseases were prevalent. Homes were cold in winter and sweltering in summer.

Every year an epidemic could be expected and chances were high that it would carry off someone in your immediate family. If you think that water pollution is bad now, it was more deadly then. In 1873, one person in every five in the city of Philadelphia died in a single epidemic of typhoid fever as a result of polluted water. I wonder how many informed people want to return to the "paradise" of the good old ante-bellum days. Perhaps the simple life is not so simple.

Many of us are alarmed by the dire announcement made by technically untrained people and by scientists who have not bothered to check their assumptions against the evidence. These alarms have made us go off half-cocked with expensive measures in some cases to solve problems that are sometimes more imaginary than real. For example, the construction of some nuclear power plants has been held up because of the fear of thermal pollution by the effluent cooling water. In some cases, multimillion dollar cooling towers have been required before construction could proceed. The evidence I can find is that when the plants are located on large bodies of water, such as Lake Erie, cooling towers represent expensive monuments to misinformation. The public will have to pay for these and will receive no measurable benefit from the expenditure.

My investigation of the thermal pollution problem reveals that, beyond any question of doubt, the sun is by far the greatest thermal polluter of Lake Erie. Governor Gilligan of Ohio announced that he would "back legislation making it unlawful to increase the temperature of the (effluent) water by more than one degree over the natural temperature." As we all know, the natural temperature of the lake is changed by the sun more than 40°F every year between winter (33°) and summer (75+°). The natural life in the lake accommodates this drastic change in great fashion, as it has for many thousands of years.

I have determined that if we could store up all of the electricity produced in Ohio in a whole year and use it exclusively for heating Lake Erie all at one time, it would heat the entire lake less than three tenths of one degree (0.3°F).

In terms of localized heating, we must remember that we already have many hundreds of power plants pouring warm water into streams and lakes. Twenty-five of these are nuclear power plants. Evaluation of the effect of these from an ecological point of view is that "thermal pollution" is a less descriptive and lesss appropriate term than is "thermal enrichment." There are no species disappearing. No ecological catastrophes or problems have appeared. Some of the best fishing locations in the country are near the warm water outlets of power plants. An excellent scientific report on this subject may be found in the March 1972 issue of Environmental Science and Technology.

In every age we have people practicing witchcraft in one form or another. I used to think that the people of New England were particularly irrational in accusing certain women of being witches without evidence to prove it. Suppose someone accused you of being a witch. How could you prove you were not? It is impossible to prove negative evidence. Yet this very tactic is being used to deter the construction of nuclear power plants. The opponents are saying, in effect, that these plants are witches and it is up to the builders to prove that they are not.

The positive scientific evidence is that the nuclear power plants, constructed to this date, are the cleanest and least polluting devices for generating electricity so far developed by man. Lightning and snakebite have proven to be greater hazards to the health and safety of the public than nuclear power plants. The amount of radiation escaping from a well designed nuclear plant is less than that from the cosmic rays to which I was exposed on the jet aircraft flight to this conference. Carelessness and irresponsibility are inexcusable in potentially hazardous operations. I can find no evidence of any such behavior in our industrial nuclear operations.

The energy crisis in the United States is quite real. If w are to maintain our standard of living and avoid a rapidly increasing deficit in our balance of payments, because of greater oil imports, we must construct nuclear power plants with the greatest of urgency. They are the only demonstrated and economically feasible alternative we have for electric power generation. We cannot afford to let fear and superstition impede the attainment of the improved quality of living which we can achieve.

From what we read and hear it would seem that we are on the edge of impending doom. A scientific evaluation of the evidence does not support this conclusion. We clearly have some undesirable problems attributed to technological activities. The solution of these problems will require a technical understanding of their nature. The problems cannot be solved unless they are properly identified. This will require more technically trained people, not less. These problems cannot be solved by legislation unless the legislators understand the technical nature of the problems.

In my estimation, the most serious problem we face is the rapidly increasing human population on a world-wide basis. The pollution of our natural waters with sewage and chemicals is perhaps the second most serious one. Nothing good has been found for either sulfur oxides or particulate matter in our air. Hydrocarbon emissions from our automobiles can be hazardous, especially in poorly ventilated locations. I have not been able to identify any problems that we do not already know how to solve. It is strictly a question of economics. The back to nature approach of withdrawing from reality will accomplish nothing.

I believe, as Thomas Jefferson did, that if the public is properly informed, the people will make wise decisions. I know that the public has not been getting all of the scientific facts on many matters relating to ecology. That is why I am speaking out on this subject today as a scientist and as a citizen. Some of the information I have given you may be contrary to the things you are being led to believe but I am willing to support my conclusions on evidence good enough for me to urge any of you to evaluate it for yourselves. I have no fear of staking my reputation on what I have presented to you.

We are all familiar with the Aesop fable about the shepherd boy and the wolf. The moral for the fable is: those who are found to misrepresent facts are not believed even when they speak the truth.

In recent months, we have heard cries of wolf with respect to our oxygen supply, the build-up of carbon monoxide, the disappearance of species, DDT, phosphates in the lake, thermal pollution, radiation effects on health from nuclear power plants, the Amchitka nuclear tests, lead in gasoline, and mercury in fish, to name a few. For the most part, these cries have not been malicious but have been based largely on fear, ignorance, or misinformation. The people have listened to these cries and have come running to the rescue but they are not finding many wolves.

Let us not cry wolf until we are reasonably certain that we have done enough homework to know what a wolf looks like. Otherwise we may undermine our credibility and not be believed by the pople when we warn them of the real wolves that do exist. We cannot solve our recognized problems unless we attack them on the basis of what we know rather than what we don't know. We must use our knowledge and not our fears to solve the real problems of our environment. Our future can be better than most of our past if we choose it so.

BOSTON TEA PARTY

Mr. KENNEDY. Mr. President, it is particularly fitting that the Senate approved last Friday legislation which I introduced to preserve the Revolutionary War Sites in Boston; for this weekend in Boston we will begin the Bicentennial celebration.

December 16 is the anniversary of the Boston Tea Party and next Sunday that historic event will be reenacted in Boston.

I ask unanimous consent to print in the RECORD an article that appeared in Parade magazine yesterday outlining the celebration Boston will host to commemorate the Tea Party. And I would like to print a brief history of that historic day along with a schedule of events in Boston prepared by Boston 200, the outstanding bicentennial group for the city of Boston directed by Kathy Kane, an enormously talented and committed community leader.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BICENTENNIAL KICKOFF—IT'S TEA TIME AGAIN IN BOSTON

(By Herbert Kupferberg)

BOSTON, MASS.—Back in 1776, John Adams, contemplating America's first Independence Day, wrote: "I am apt to believe that it will be celebrated by succeeding generations. . . . It ought to be solemnized with pomp and parade, with shows, games, sports, guns, bells, bonfires, and illuminations, from one end of this continent to the other, from this time forward, forevermore."

Now, two centuries later, Adams' prediction is coming true more spectacularly than ever. Next Sunday a reenactment of the Boston Tea Party of Dec. 16, 1773, will launch the American Bicentennial, which will reach its climax on July 4th, 1976, the 200th anniversary of the Declaration of Independence.

Observance of the Bicentennial was originally supposed to be built around a giant exposition in Philadelphia. But plans for that fell through, and in 1972 the American Revolution Bicentennial Commission in Washington urged that celebrations be held instead throughout the land, with each locality running its own.

"Boston started it then, and we're starting it now," says Katharine Kane, director of Boston 200, a project launched by Mayor Kevin H. White to coordinate all Bicentennial activities in the Massachusetts capital.

Boston 200 is making its first big splash with the Tea Party re-enactment. The plan is for a party of some 200, mostly members of the Massachusetts National Guard and Chralestown Militia, but also including about 10 professional actors, to act out the famous tea-dumping aboard a ship in Boston Harbor next Sunday.

Certain historical liberties will be taken. Instead of gathering in Old South Meeting House, as they did in 1773, the tea-partyers will assemble in a handy parking lot. They'll perform their act not under cover of night, but at 2 in the afternoon, when a festive crowd of onlookers can conveniently watch them. Since Griffin's Wharf, where the event actually took place, is now covered by the Southeast Expressway, a major traffic artery, the celebration will be held at the nearby Congress St. Bridge. And, in the most drastic departure of all from the original, no tea will be thrown overboard.

"Boston Harbor doesn't need to be polluted any further," says Mrs. Kane firmly.

On the other hand, a note of realism will be provided by the presence of a real ship, a replica of the brig Beaver, one of the three British tea-bearing vessels actually in the harbor that famous night. And while the despoilers of the cargo won't be wearing war paint and feathers, they'll have bright-colored blankets over their heads, to indicate that they're disguised as Indians, as were the band of Bostonians who swept down to the harbor in the historic protest against King George's tea tax.

CHANGED ROUTE

The quarter-mile route taken by the 1773 tea party mob, along what is now Milk St. and Pearl St., would be unrecognizable to them today, leading as it does through the heart of Boston's financial district to a commemorative plaque on the Sheraton Office Building, the nearest structure to the traffic-jammed expressway.

But the Old South Meeting House, from which the crowd sallied forth, still looks pretty much as it did back in 1773, with its benches arranged in square pews, and the lofty pulpit from which Samuel Adams uttered the words: "This meeting can do nothing more to save the country"—which historians regard as a code signal that sent the colonists racing for the wharf to dump the tea.

"There were about 7000 people in and around the hall that night," says Massachusetts State Archivist Richard Hale. "The Governor's House was just across the street then, and one of the advantages of meeting in Old South was that if you yelled like hell, the Governor could hear you. However, Gov. Hutchinson, who was a law, order and justice man, wasn't there that night. He thought it was a nice time to go out to his place in Milton."

A TRADITION

Dr. Hale says that New Englanders still feel kinship with the perpetrators of the tea party. In fact, he refers to both generations as "we."

"We have a tradition of direct, constitutional democracy here," he says. "The tea party was just one example. It was a period of idealism. There were 340 chests of tea on those ships, and they spilled every one—they didn't take any home and drink it. Somebody tried to pinch a little, and was roughly handled. Most unfortunately, a padlock was broken in the process of getting at the tea. So the next morning we gave them back a new padlock. The Boston Tea Party was a calculated use of force to protect constitutional rights. It was unconstitutional for us to pay the duty on tea and it was unconstional for us to break the padlock."

More than history will be involved in the Boston Bicentennial observation. As befits a 20th-century American festivity, it will also have touches of commercialism, tourism, cultural activity, and urban revitalization. The replica of the tea-ship, Beaver II, built in Denmark by a private corporation called Tea Party Ship, Inc., will become a permanent, admission-charging exhibit in Boston Harbor. A number of tea organizations, the India Tea Board, Red Rose Tea, Salada Tea, and the Davison Newman Co. Ltd., are lending support to various aspects of the celebration. According to reports, Thomas J. Lipton, Inc., originally offered to sponsor the entire event—a proposal that was rejected. A local concern, Shreve, Crump & Low, is marketing a Boston 200 souvenir teaspoon for $6.50.

The Boston aspect of the Bicentennial is also being observed with such manifestations as a Tea-Party Stamp issued by the U.S. Postal Service, a poster contest with a $1000 first prize put up by the Massachusetts Council on the Arts and Humanities, an essay competition for schoolchildren, various forums, lectures, concerts and receptions, and, of course, a giant tea party, to run all day next Saturday in a tent outside the Old South Meeting House.

But essentially, Katherine Kane and her Boston 200 colleagues view the Bicentennial as an event that will bring permanent benefit to the entire city. "We're not building a fairgrounds," she says, "the whole city will be the celebration.

To the present "Freedom Trail," which marks out the route of historical happenings in Boston, the city now plans to add Literacy, Medical, Religion and Black Heritage Trails, setting forth its contributions in other areas of human activity. It also aims at physical and environmental improvements in the center core and outer neighborhoods, paid for both by public and private funding. Boston 200 is also working closely with similar commissions in three other cities that expect to mount major Bicentennial programs—Philadelphia, New York, and Washington.

The Boston Tea Party is only the beginning—just as in 1773.

THE BOSTON TEA PARTY

(By Benjamin W. Labaree) *

On the night of December 16, 1773, a small group of Bostonians climbed abroad three vessels moored at Griffin's Wharf and threw their cargo of tea into the harbor. The Boston Tea Party, as it has been called, is one of the most famous episodes in American history not only because it was so dramatic but also because it had such momentous consequences. For the Boston Tea Party, more than any other single event, precipitated the outbreak of the American Revolution.

In the years following the French and Indian War Great Britain expected the American colonists to help pay for the troops needed to protect the frontier. To raise the money the British ministry decided for the first time to tax the colonists. In 1765, Parliament passed the Stamp Act, which levied an excise tax on newspapers, legal documents, and other items. Almost immediately the colonists objected to what they called "taxation without representation." Some turned to violence. In Boston a mob wrecked the office of the stamp distributor and then gutted the fine home of Lieutenant Governor Thomas Hutchinson. He would not forget this act of vandalism. American merchants threatened to boycott all English goods. The next year Parliament repealed the Stamp Act, but in 1767 it placed new taxes on various commodities imported into America including tea, which had become a very popular drink among the colonists. Again Americans objected to being taxed without their consent, and again they boycotted English goods. Parliament repealed most of the duties, but it retained the one on tea to maintain its "right" to tax colonists. This decision would prove to be a serious mistake.

Boston's relations with the mother country grew steadily worse. In 1768 British troops were moved in to quell disturbances along the waterfront but instead of restoring order they brought greater disorder. In March 1770 an unruly crowd taunted a platoon of soldiers into opening fire; five men fell dead in what was called the Boston Massacre. Tension eased somewhat thereafter until the spring of 1773, when Governor Hutchinson got into a serious quarrel with the Massachusetts legislature. The House formally asked King George III to recall him. From then on Hutchinson was in no mood to compromise with Sam Adams and his fellow patriots.

Meanwhile, the English East India Company fell into financial difficulties. To help out Parliament allowed the Company to export some of its tea directly to America but decided not to repeal the tax. One skeptic predicted "if you don't take off the duty, they won't take the tea." He was dead right. In September 1773 the East India Company shipped 600,000 pounds of tea to four American ports, including Boston, where it was consigned to several merchants including Thomas and Elisha Hutchinson, sons of the unpopular governor.

On November 28 the first tea vessel, the ship *Dartmouth*, arrived in Boston, followed thereafter by the ship *Eleanor* and the brig *Beaver*. Under the law the duties had to be paid within twenty days (by December 17th) or else the customs officers could seize and land the tea themselves. Once that happened, the patriots feared, those Bostonians whose thirst was stronger than their political principles would willingly purchase the tea, dutied or not, thereby recognizing Parliament's right to tax Americans. The only way to avoid such a surrender was to prevent the tea from landing. Mass meetings at the end of November demanded that the owners send their vessels back to London with the tea, but without official clearance, the vessels could not leave the harbor. As the deadline approached the owners were told that their ships could not be cleared until the tea duties were paid; only the governor could make an exception. On the final day, December 16, thousands of inhabitants gathered at Old South Meeting House to demand that the owners seek a special clearance. But Governor Hutchinson was now on the verge of a great triumph over his longtime adversaries, for he knew that on the morrow the officials would seize the tea. He therefore flatly refused to issue a clearance. But the morrow never came.

The patriots had prepared for Hutchinson's decision. They poured out of Old South into the evening darkness midst cries of "On to Griffin's Wharf!" and "Boston harbor a teapot tonight!" When they reached the waterfront, bands of twenty men or so, roughly disguised as Indians to avoid recognition, climbed aboard each of the vessels. They hoisted the heavy chests of tea out of the holds, smashed them open, and dumped the contents into the harbor. Hundreds of spectators looked on in silent approval. Altogether 340 chests of tea worth nearly £10,000 were destroyed that night in Boston harbor.

When officials in London learned of the Tea Party, they were furious. Boston was in their view one of the most disreputable communities in the empire; this most recent act of defiance could not be brushed aside. Unable to discover the actual participants, the ministry decided instead to punish the entire town.

In March 1774, therefore, Parliament voted to close the port of Boston to all shipping until the town paid for the tea. Other measures designed to put a tight rein on Massachusetts altered the governmental charter, stiffened the administration of justice, and authorized the garrisoning of troops among the people. Together these measures became known as the "Coercive Acts." British authorities assumed that other Americans would waste little pity on the fractious Bostonians. But again they were wrong.

When Bostonians learned of their fate, they called upon colonies elsewhere for sympathy and assistance, and they got both. Towns and counties throughout America sent food and adopted resolutions condemning the Coercive Acts. They realized that Great Britain could at its whim punish them as well. By the summer of 1774 Boston's cause had become the cause of all. In September delegates met at a Continental Congress in Philadelphia. There they agreed to boycott English goods and to petition the king for a redress of grievances. But it was now too late for compromise. George III himself declared that "blows must decide whether they (the New England colonies) are subject to this country or independent." In April 1775 British troops stationed in Boston marched out to capture munitions stockpiled at Concord, but their way was blocked by the colonial militia. Then and there the War for American Independence began.

By their violent opposition to Parliamentary taxation Bostonians goaded the British into a serious blunder. The Coercive Acts brought about the one result they hoped to avoid—colonial unity. For by standing together the Americans successfully defied British efforts to assert unlimited sovereignty over them.

THE BOSTON TEA PARTY—1773–1973

Two hundred years ago, a Tea Party in Boston Harbor helped usher in the American Revolution. This December, as the first major event of America's bicentennial celebration, the Mayor's Office of the Boston Bicentennial is planning a commemorative weekend in honor of the 200th anniversary of the Boston Tea Party.

The most spectacular event of the weekend, December 14–16, will be a mimed re-enactment of the Tea Party aboard the brig Beaver II, a replica of one of the three original Tea Party ships, currently being sailed from England.

Other events include a Tea Party Ball; a Tea Party Tent Festival; an 18th century music concert; a Tea Party Forum; a special service at Boston's Old South Church; an exchange of proclamations with other "Tea Party" cities (who followed Boston's lead in disposing of English tea); and dedication of the U.S. Custom House at Boston as an historic building.

The Tea Party Weekend is the first major event of Boston 200 and the first commemorative event of Festival American, one of five major planning areas outlined by the Office of the Boston Bicentennial—developer of the Boston 200 program. Festival American will include all commemorative, cultural, and community celebrations during the bicentennial years, developed in cooperation with the Mayor's Office of Cultural Affairs and Boston's Metropolitan Cultural Alliance.

Other planning areas for the bicentennial in Boston include Physical and Environmental Improvements (planned through the Boston Redevelopment Authority), Visitor Services, Economic Development, and Citygame—a network of trails, paths and walking tours designed to exhibit the city to residents and visitors alike.

During the fall of 1973, a program of forums, lectures, and literary and artistic competitions is planned to increase public awareness of the Boston Tea Party and its political and historic significance—just as meetings and forums in 1773 kindled the spirit for the original Tea Party. The Boston Center for Adult Education will hold a course on the Tea Party. An essay contest has been developed for Boston junior and senior high school students on the significance of the Boston Tea Party. With the cooperation of Junior Scholastic Magazine, children in elementary schools across the country are being asked to design posters depicting the events that led to the night of December 16, 1773, and a slide show will be prepared from their art work.

The Massachusetts Council on the Arts and Humanities has contributed a $1,000 prize to a Boston artist for the winning design of a poster competition to commemorate the Tea Party. This will be the first in a series of Boston 200 posters. The judges' selections will be exhibited through the auspices of the Office of Cultural Affairs at City Hall in December.

The Museum of the American China Trade in Milton, in cooperation with the Massachusetts Horticultural Society, will join the activities in October—and will present an exhibit on the Teas of China, to last through May, 1974.

In mid-fall, the brig Beaver II, a 75′ x 22′ two masted wooden vessel, will sail into Boston harbor from England to be moored near the Congress Street Bridge in the Fort Point Channel. Beaver II, developed and privately financed as an educational and historical exhibit, is the first bicentennial exhibit to

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be recognized by Boston 200. The total exhibit will include a museum (sponsored by Salada Foods, Inc.) and a gift shop, which will be located in the former bridgekeeper's home adjacent to the bridge site.

On Wednesday, November 14, Boston's famous Shreve, Crimp and Low, specialists in fine jewelry, will host a tea party at which a special Boston 200 teaspoon will be introduced.

The official Tea Party Weekend begins Friday, December 14 at 2 p.m. with the dedication of the Boston Custom House as an historic custom house on the site at 2 India Street. At 8 p.m., a group of noted historians, including Professors Benjamin Lebaree of Williams College, Hillard Zobel of Boston College, and Pauline Mayer of the University of Massachusetts will discuss the significance of the Tea Party in a forum at Faneuil Hall. Immediately following, a reception will be held in the Ancient and Honorable Hall, Faneuil Hall, for the Tea Party Forum speakers and winners of the Tea Party essay contest held during the fall.

Saturday, December 15, a Tea Party Tent Festival will be held in front of the Old South Meeting House, Boston, from 10 a.m. to 6 p.m. where tea will be served continuously all day. The tent will also contain the Tea Party pictures submitted during the fall by elementary school students across the country, and a slide presentation of Boston 200 will be shown.

At 2 p.m., an eighteenth-century music concert will be performed in the Old South Meeting House by students from the New England Conservatory of Music. That evening, the Tea Party Ball—a benefit for Boston 200 to be attended by some 3,000 people—will be held at the Boston Center for the Arts, 539 Tremont Street. Activities will include eighteenth century and contemporary dancing; the world premiere of The Boston Tea Party, a revue by Allan Albert, creator of *The Proposition*, Boston's and New York's improvisational theater; music of British and colonial fife and drum corps; displays of 18th century crafts at which guests can try their hand; and popular food and drink of the Revolutionary Period. Admission cost is $5 per person.

At 10 a.m. on December 16, the Old South Church, Boston, will hold an ecumenical service, with the sermon developed from themes brought out in the fall forums.

In the afternoon the Massachusetts National Guard with the help of the Charlestown Militia and other Greater Boston militia companies, will participate in a mimed re-enactment of the Boston Tea Party on the brig Beaver II. Rather than further polluting Boston Harbor by again dumping tea, Boston 200, in cooperation with the Sierra Club, will present an exhibit on ways in which America's waterways can be saved.

Preceding the re-enactment, an exchange of proclamations will take place with cities along the eastern seaboard who also had Tea Parties after Boston's—Philadelphia, Penn., New York, Charleston, South Carolina, and Annapolis, Maryland.

Other events in Boston December 14–16 include the annual Christmas festival and lights on Boston Common produced by the Office of Cultural Affairs and the Parks and Recreation Department; The Boston Ballet's production of *The Nutcracker;* Christmas exhibits at the Museum of Science, The Children's Museum, and the New England Aquarium, Boston; and on December 14, a performance by Pianist Rudolph Serkin at Boston's Symphony Hall. Other Christmas concerts will be held at various locations throughout the city.

THE ENERGY CRISIS AND THE DEVELOPING WORLD

Mr. BROOKE. Mr. President, the energy crisis and its linkage to the present Arab employment of oil diplomacy is of central concern to both the United States and its allies in the developed world. Western Europe, some 73- to 80-percent dependent on external sources for its oil needs; and Japan, over 90 percent dependent on external oil sources, have been the main focal points of attention in the immediate crisis now being faced.

While the main emphasis has been on the effects of the Arab boycott on the developed portion of the world, there has been far too little recognition of the debilitating effects of the energy crisis, and especially of rising costs of oil, on the developing countries.

In a recent issue of the Economist, there appeared an article summarizing what was termed "the calamitous effect of dearer oil on many of the struggling economies of the third world." I commend this article to my colleagues.

As the article points out:

> The rise in the underdeveloped countries' oil bill will just about wipe out the whole official aid effort of the United States, equal to 25 per cent of the foreign currency that the rich world now hands to the poor. Most of the underdevelopeds have backed the Arab cause politically, yet they are going to be at least 1.7 billion a year poorer in consequence.

It goes on to state:

> Much of the world aid programme has been eradicated at a stroke.

This assessment, of course, oversimplifies the problem. American aid is not given on a basis that makes it amenable for use as the recipient country sees fit. It is oriented toward funding of specific projects. Nevertheless, the general weakening of the economies of the LDC's brought on by the escalating prices of oil and its derivatives, will certainly have a debilitating effect on development programs throughout the Third World.

Saudi Arabia's oil minister, Sheikh Ahmed Yamani, sensitive to the effect that the so-called oil diplomacy may have on the Arab's Third World supporters, has suggested a possible two-tier pricing system that would mitigate the negative consequences of increased oil prices for the LDC's. However, there is no evidence as yet that such a system is in the offing. Moreover, non-Arab oil producers such as Nigeria or Venezuela, are likely to oppose any two-tier system that might cut into the growth in profits they are now experiencing.

Should the negative effects predicted in this article actually occur, the hopes and aspirations of a great number of earth's underprivileged peoples will be seriously eroded. In the long run, this would be one of the most tragic consequences to stem from the use of energy resources as a political weapon.

I ask unanimous consent that the Economist article entitled "Kicking the Poor," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KICKING THE POOR

The rise in the underdeveloped countries' oil bill will just about wipe out the whole official aid effort of the United States, equal to 25 per cent of the foreign currency that the rich world now hands to the poor. Most of the underdevelopeds have backed the Arab cause politically, yet they are going to be at least £1.7 billion a year poorer in consequence. Some of them must wonder what would have happened if they had supported Israel instead. This sudden new strain on their balance of payments will stop a great deal of development in its tracks, as money that should be going into technical assistance will be diverted into the oil producers' bank accounts. Much of the world aid programme has been eradicated at a stroke. If the price of oil doubles in the next two or three years, which is more than likely, the underdeveloped will be twice as badly off.

The setback has come just when things were looking up for much of the third world. The terms of trade have shifted in favour of the primary-producing nations for the first time for many years. In the past year the prices of commodity exports have outpaced those of manufactured goods, swelling the exchange reserves of the developing world at an unforeseen and unprecedented rate. The value of the commodity exports has grown around 30 per cent this year. The third world has actually notched up a balance of trade surplus, and its reserves have almost doubled in the past two years. That progress will now be whittled away.

The 70 per cent rise in oil prices is putting the bite on the purses of Arab sympathisers in Africa and south-east Asia in such a way that Saudi Arabia's oil minister, Sheikh Ahmed Yamani, has mentioned a possible two-tier pricing system to give the poorer oil on preferential terms. But nothing has been done so far.

WHERE THERE ARE FEW LUXURIES

The third world is not a great consumer of oil. Its imports of crude scarcely amount to one-fifth of what is used by the industrialised nations, but most of it is bought for essential purposes, and imports would have been expected to rise with any rise in gnp. There is little cushion of luxury consumption, like central heating, air conditioning or motoring for pleasure that can be reduced without directly affecting industrial output. India's extra oil bill push import costs up by nearly 6 per cent, double what the new prices will add to Britain's imports. Brazil will have to pay out £100m in hard currency and so even will Moslem Pakistan £15m.

The poor nations will have more reason to resent the Arabs' tactics when the recession looming over the west causes commodity prices to slump. It is only in the unprecedented boom of the past year that commodity prices have come back to what they were in the early 1950s during the Korean war. Although base metal prices are still pushing through new highs daily, a recession in the industrialised nations would send them sliding back, robbing the third world of the foreign currency needed to pay for its oil.

Coming at the end of the commodity boom, the new oil prices have widened the economic gaps between different countries of the third world. The 25 least-developed are falling further behind, having few exportable commodities to set against the extra oil costs. Others have been putting up star-performances: Zambia, Zaire, Chile and Peru could stand to make an extra £1 billion this year with the copper price now over £1,000 a ton, more than double the average 1972 price. Malaysia, with £150m added on to its tin and rubber exports, has pushed its way to near the top of the development league, so that the gap between it and the industrialised west is closing as it leaves the other poor nations lagging further behind. Brazil, Cameroon, Colombia and Ghana have all got more out of the recent surge in coffee and cocoa prices than out of all of their official aid receipts.

But because no commodity price will survive a world recession the primary producers ought to be the countries that should now be most strongly lobbying the Arabs. Most commodity prices are fixed by the value of marginal supply. Prices are high now because of the immediate shortages of stock after the industrial boom of the past year (and partly because at times of uncertainty people rush to hoard), but they cannot continue at their present peaks. These are already distorted by delivery problems. A high commodity price without oil to let the stuff be shipped is of no use to the developing world.

The new tycoons of the third world are, of course, the oil producers. Nigeria will be making an extra £320m a year and Indonesia £150m. Because these two countries have large populations of 60m and 120m respectively they, unlike some Middle East producers, have ready uses for their new earnings. While Arab money could go on lying in European banks (some of it actually in Holland), Nigeria and Indonesia will have the opportunity to become the major economic and political powers of Africa and southeast Asia, with large markets and money to satisfy them.

These new producers are unlikely to sympathise with any Arab plans for a two-tier system, or let their neighbours have oil on preferential terms. Nigeria told Ghana and other west African countries last week that they would not only have to wait their turn in the queue but pay the full price, black brothers or not. Indonesia, which exports much of its crude to be refined in Singapore, Thailand and the Philippines, is increasingly anxious to use its political weight in southeast Asia.

THE RICHER POOR . . . AND POOREST POOR

	Commodities as percent of exports	GNP per head	New oil prices
Venezuela	96	£426	+£625m
Nigeria	93	£55	+£320m
Indonesia	53	£34	+£150m
Zambia	90	£175	−£5m
Malaysia	53	£175	−£20m
Philippines	58	£90	−£45m
India	22	£48	−£50m
Brazil	33	£183	−£100m

Note: GNP under £40 per head: Afghanistan, Burundi, Ethiopia, Mali, Pakistan, Tanzania, Bangladesh, Chad, Haiti, Nepal, Rwanda, Upper Volta, Burma, Dahomey, Malawi, Niger, Somalia, and Yemen.

THE GENOCIDE CONVENTION: UNDERSTANDING ON MENTAL HARM

Mr. PROXMIRE. Mr. President, one argument often raised against ratification of the Genocide Convention is the purported vagueness of the phrase "serious mental harm" as used in article II of the convention. Article II includes as an act which constitutes genocide "causing serious mental harm" to members of a national, ethnical, racial, or religious group with intent to destroy the group, as such, in whole or in part.

The second understanding to the Genocide Convention recommended by the Committee on Foreign Relations refines the concept of serious mental harm. Although the committee reported that it "had no particular problem with the meaning of these words," it recommended that the words "mental harm" be construed to mean "permanent impairment of mental faculties."

This understanding refutes the charges of those who believe that a liberal construction of the language of the convention could allow a hostile foreign power to dream up supposed examples of American foreign involvement which somehow was culturally disadvantageous for a national group and, therefore, caused them "serious mental harm." It should be made clear again, then, that such fears on the part of opponents of the convention are unfounded.

The Genocide Convention has nothing to do with such questions as discrimination, religious intolerance, or harassment of minority groups—even though such acts are themselves reprehensible.

What the Genocide Convention does is to outlaw actions which are part of a deliberate policy to destroy, in whole or in part, a national, ethnical, racial, or religious group.

Mr. President, we must reaffirm our commitment to the principles of the Genocide Convention by ratifying it promptly.

AUTO EMISSIONS LEGISLATION

Mr. BAKER. Mr. President, the Senate Public Works Committee earlier this week filed its report on S. 2772, a bill to amend the Clean Air Act. S. 2772 is a responsible and balanced measure. I support it. This legislation would continue for 1 additional year the 1975 interim standards for controlling automobile emissions. That means that the statutory deadline for attending a 90-percent reduction from 1970 levels of hydrocarbons and carbon monoxide emissions would be postponed from model year 1976 to model year 1977. I am satisfied that S. 2772 insures continued progress toward the goal of clean air, while accommodating our current national need to maximize energy efficiency.

The 1975 interim standards require a reduction, in comparison with the 1974 models now on sale, of 50 percent in hydrocarbons—HC—emissions and 46 percent on carbon monoxide—CO—emissions. This would be the most significant advance in pollution reduction since passage of the 1970 act.

Holding the interim requirements for two model years means that the auto companies will not need to employ catalytic converters to meet standards on many models. Rather, manufacturers will retain considerable flexibility, gaining experience with catalyst-equipped cars while continuing to develop and experiment with alternative types of engines.

The automakers agree that, in the short run, the catalyst system appears to be the only technology available to achieve major reductions in emissions. Time is needed to determine if the catalyst will be a dependable, long-term solution or if alternative approaches—particularly some form of the stratified charge engine—would be superior. S. 2772 provides a period of stability that we sincerely hope will result in further development of both catalyst and alternative systems. And it will simultaneously assure to the public the significant reduction in auto emissions which each of the auto companies acknowledges can be achieved in their 1975 models.

Many members of the committee expressed concern about possible health hazards due to sulfates and sulfuric acid emitted from catalyst-equipped cars. In hearings on November 5 and 6, witnesses told committee members that there was the possibility of irritating or hazardous levels of these pollutants in certain localized areas under certain conditions. Data on the problem was sketchy and inconclusive. The available evidence and informed opinion—supported in testimony by EPA Administrator Train and others—suggests that such hazardous concentrations would be unlikely. And if a problem should develop, courses of action other than eliminating the catalytic converter are available. In short, I and the other committee members believe the prospect of harmful emissions from catalyst-equipped cars—emissions which can be controlled should the need arise—does not justify a halt in our journey down the road toward cleaner, healthier air.

I want to point out that the committee did concentrate on questions relating to the energy consumption of the various standards. There had been suggestions that the Congress postpone implementation of the 1975 interim standards, retaining the 1974 levels—perhaps the worst choice for fuel economy. While there is some uncertainty over what effect the use of catalysts will have on total crude oil and gasoline consumption, the evidence indicates that, at a minimum, there will be a modest improvement in fuel economy through adherence to the 1975 interim standards.

That gain should be enhanced if the Congress allows the industry to use the 1975 interim standard as its yardstick for its 1976 models. Such an extension will provide the auto manufacturers with the experience needed to further improve and tune their 1976 engines for greater fuel efficiency.

In its decision to retain the 1975 interim emissions standard for an additional year, the committee made no decision on ultimate permissible emission levels for oxides of nitrogen. The committee is aware that the auto companies need a decision on this issue as soon as reasonably possible so they can focus their research and development programs toward alternative engines.

Nevertheless, we also recognized that many questions remain unanswered about possible health effects as a result of any relaxation of the existing statutory standard for NOx. As outlined in the committee report, we intend to bring together all available information on this question through hearings very early in the next session. This should give the committee and the Senate the information to act knowledgeably and expeditiously.

Mr. President, even before the current energy shortage impelled us to reexamine a wide range of existing laws and practices, members of the Public Works Committee had committed themselves to a timely review of all the requirements of the Clean Air Act, including the auto emissions standards. We recognize that early resolution of these issues, especially those involving deadlines for compliance with national standards, holds great importance for our Nation. The committee has set for itself a schedule to allow careful examination of these questions, and we intend to present our recommendations to the Senate before the States, communities, and industries must make final commitments to any particular course of action required by the 1970 act.

S. 2772 is the committee's third response to the pledge to reexamine the Clean Air Act. The committee has contracted with the National Academy of Sciences for a review of many of the bases of the act. Then, last month, the Senate passed the committee's proposal to provide adjustments to meet the current energy shortage by including title IV in the Energy Emergency Act.

Mr. President, I urge the Senate to support S. 2772 when it is called up, for I consider it a responsible approach planned by the Public Works Committee toward the whole issue of assuring cleaner air without undue sacrifice of our national goals.

SPECIAL PROSECUTOR

Mr. CRANSTON. Mr. President, this week the Senate will begin consideration of the Special Prosecutor legislation which has been reported from the Committee on the Judiciary.

In attempting to compare the competing proposals I have noted some areas of agreement and some areas of disagreement, in particular on the most important question of all—the scope of authority of the Special Prosecutor.

Specifically, the question is this: Will we preserve the existing authority of the Special Prosecutor to investigate fully all offenses alleged to have been committed by the President, his appointees and members of the White House staff?

Or, will the Senate restrict the power of the Special Prosecutor to investigate only allegations of wrongdoing within the White House related to the 1972 Presidential campaign?

The real issue before the Senate is not only the constitutionality of legislation establishing the Special Prosecutor's Office, but whether the prosecutor will have the full power to investigate and prosecute all wrongdoing linked to the White House.

The Hart-Bayh bill (S. 2611) which I have cosponsored, preserves the original jurisdiction of the Special Prosecutor as established in regulations issued by Attorney General Richardson and reissued by Actng Attorney General Bork.

The Percy and Hruska-Taft proposals (S. 2734 and S. 2642), on the other hand, severely limit the Special Prosecutor's area of responsibility.

A major purpose of any special prosecutor legislation must be to preserve in statute form the existing powers of the Special Prosecutor against attempts by the Executive to limit the exercise of his powers or the scope of his inquiries.

I believe it would be a serious mistake to enact legislation to protect the incumbency of the Special Prosecutor while at the same time reducing his power and authority.

The public believe that we are acting to preserve the Special Prosecutor's powers, not to diminish them, and that we are acting to protect him against possible White House threats to his jurisdiction, not to restrict his jurisdiction.

I have the impression that this substantive issue has been overlooked during the arguments about the relative constitutional merits of the competing proposals. There has been very little discussion in the Senate so far about the scope of authority we should give the Special Prosecutor. Instead, the emphasis has been upon excellent legal memoranda on the constitutional and procedural aspects of the bills with respect to appointment and removal. The two reports submitted by the Committee on the Judiciary thoroughly discuss the constitutional arguments, but make little mention of the substantive differences in jurisdiction as set forth in S. 2611 and S. 2642.

There is a very real danger that we can end up with a constitutionally safe Special Prosecutor who will have severely limited powers. In fact under S. 2642 and 2734, he would have less authority than Mr. Jaworski has at the present time.

The key provision on which the three major proposals differ is in regard to the so-called third head of jurisdiction as originally stated in the regulations issued by Attorney General Richardson and reissued by Acting Attorney General Bork. That provision, as set forth in the regulations, reads in full as follows:

> The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate, all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters which he consents to have assigned to him by the Attorney General.

The point at issue lies in the clauses:

> The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of . . . allegations involving the President, members of the White House staff, or Presidential appointees . . .

S. 2642 limits the jurisdiction this way:

> Sec. 5(a) (3) offenses alleged to have been committed by the President, Presidential appointees, or members of the White House staff in relation to the 1972 Presidential campaign and election; . . .

S. 2734 states the authority of the Special Prosecutor in the same way.

The effect of the limiting language in these jurisdictional provisions of S. 2642 and S. 2734 is to prevent the Special Prosecutor from investigating fully the activities of the plumbers, alleged improprieties contained in the so-called Domestic Intelligence Plan of 1970 which was drafted by White House aide Tom Houston, and other existing or future allegations involving the President, White House staff and Presidential appointees. The distinguished Senator from Arizona (Mr. GOLDWATER) and I took steps to insure that the original Special Prosecutor would specifically have authority to investigate activities of the plumbers related to the Ellsberg break-in.

It is clear that the language of these provisions restricts the special prosecutor to less authority than he presently possesses under the regulations creating his office.

S. 2611, the Hart-Bayh bill, however, retains the full jurisdiction of the Special Prosecutor. The bill gives the Special Prosecutor the power to investigate and prosecute "offenses alleged to have been committed by the President, Presidential appointees, or members of the White House staff—section 3(b) (3).

This section is virtually word for word the same as the regulations currently giving the Special Prosecutor his powers.

The proponents of S. 2642 suggest in their report that the purpose of limiting the authority of the Special Prosecutor to investigate activities of the White House personnel solely in connection with the 1972 Presidential campaign is to put some reasonable restraint on the Special Prosecutor who, they suggest, might be asked to look into the improprieties of virtually anyone, including a small town postmaster.

Neither Mr. Cox nor Mr. Jaworski has done any such thing and it is not likely any other special prosecution will either.

I do not think that any proposal which cuts back on the existing jurisdiction of the Special Prosecutor will be acceptable to the American people. If we cannot enact authority into law, then we would do better to enact no law at all.

COMMUNITY DEVELOPMENT ASSISTANCE ACT

Mr. HUGH SCOTT. Mr. President, the Senate Committee on Banking, Housing and Urban Affairs is presently considering S. 1744, the proposed Community Development Assistance Act of 1973. This measure is designed to bring about a consolidation of existing community development programs into a single block-grant program.

When the Senate considered this proposal, as part of another bill in 1972, I supported it. In retrospect, however, one deficiency is apparent—and that deals with the basic entitlement for urban counties. Under S. 1744, as introduced, counties having in excess of 200,000 residents—excluding metropolitan cities within the county—are not entitled to block-grant funds.

The absence of this provision in S. 1744 causes me great concern since 11 Pennsylvania counties, out of 85 nationwide, would be eligible for Federal moneys if it were in the bill. I am pleased that Senator JOHN SPARKMAN, author of this bill and chairman of the committee, has indicated his willingness to include such a provision in the bill.

In my view, there is great merit in giving urban counties a share of Federal funds. One county in Pennsylvania which could benefit is York County, and the president of its board of commissioners, Charles Stein, wrote of the importance in so doing:

> We, the county officials who are responsible for the management of urban counties, feel that our cause is justified in seeking to have

urban counties included as eligible recipients for community development block-grants. In many cases our state legislatures and you, the federal government, have mandated to us to perform functions and provide services which require the financial assistance of programs such as S. 1744. In other cases, the fact that people are migrating from the center cities to outlying areas, supports our premise that many of the services and problems which are found in the cities are now being transposed upon us.

The distinguished senior Senator from California (Mr. CRANSTON), who is a member of the committee, has proposed an amendment to S. 1744 to provide for the inclusion of urban counties in the bill's coverage. Nearly 75 million people in this country would benefit from continued funding, through block-grants, of programs relating to neighborhood development, open space, water and sewer, urban renewal, model cities and neighborhood facilities and rehabilitation loans. Urban counties must be allowed to participate in these vital programs.

The 11 counties in Pennsylvania which would qualify for block-grant funding are: Allegheny, Berks, Bucks, Chester, Delaware, Lancaster, Luzerne, Montgomery, Washington, Westmoreland, and York.

As I am not a member of the committee and will not have an opportunity to take part in any markup of the bill, I am today advising Senator CRANSTON of my full support for his amendment. I intend to work for its passage on the Senate floor when S. 1744 is considered.

NORTHEAST UTILITIES' TREASURE HUNT

Mr. RIBICOFF. Mr. President, of all the sectors of our economy hit by the energy shortage, among the hardest hit are the electric utilities. The significance of this for the general public is clear: if the utilities run out of fuel, the people run out of electricity.

The problem is most serious in those areas of the Nation where the utilities are located farthest from coal mines and oil and gas wells. My home State of Connecticut and the New England region are especially hard hit.

An article in yesterday's financial section of the New York Times reports that New England's largest supplier of electricity, Northeast Utilities, based in Berlin, Conn., is reducing voltage by 5 percent every 4 hours to save on fuel. The article details how Northeast Utilities has been scrambling to locate enough fuel to keep New England homes lighted and heated this winter—a treasure hunt in which I have been actively involved. I and my staff have been working closely with Leland F. Sillin, Jr., chairman and president of Northeast Utilities, to assure that Federal allocation programs treat New England fairly and that the major producers make as much fuel available as possible for power generation in the region.

I ask unanimous consent that the complete article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ELECTRIC UTILITIES HUNTING SEASON

THEY LOOK FOR BOTH FINANCING AND FUEL

(By Gene Smith)

BERLIN, CONN.—With the specter of power cutbacks looming ever larger, electric utilities are finding many obstacles in trying to give their customers the service they need. Already New England voltage is being reduced 5 per cent for four hours every day as a fuel-saving measure.

As if having to join the search for fuel weren't enough, the utilities must also pursue their perennial search for investors' money. And these problems are aggravated by the pressures of clean-air standards and rate regulation.

Although the threat of fuel shortages is a momentous challenge, Leland F. Sillin Jr., chairman and president of Northeast Utilities, feels that his industry's most critical issue now is "the maintenance of financial viability." Meanwhile, his company (the largest supplier of electric energy in New England) is down to a four- or five-week supply of coal.

All of the nation's electric utilities are taking steps to meet the growing problems of these days. They are trying to make sure of their fuel supplies while trying to find the billions of dollars required for their never-ending capital needs.

The search for fuel is particularly difficult for utilities remote from coal mines and oil and gas wells. The power companies are also hunting for substitute fuels to tide them over if normal supplies run short. That means they have to seek temporary relaxation of clean-air standards.

Northeast Utilities, which switched largely to oil a few years back, has found that coal (if it could be found in the open market) now costs about twice as much per ton as it did only 60 or 90 days ago. And the boiler fuel the company can obtain now costs about 80 percent a barrel more than it did last January.

And, always, the need for investment capital persists. In a recent speech, Mr. Sillin declared that Northeast Utilities "must expend in the next six years more than $2.3-billion for new facilities." This will more than double the system's total investment at the end of 1972, he added.

"As much as 75 per cent of this amount will have to be financed by new debt and equity issues," Mr. Sillin said. "With this high level of capital requirement, a fundamental challenge will be to maintain the earnings growth and interest coverage essential to attract the investment capital constantly required.

"Competitive money markets are impersonal, and no one has found a way of rationing the available investment capital other than by meeting the rigorous demands of the market for appropriate interest and dividend rates."

The major operating companies in the Northeast Utilities system are the Connecticut Light and Power Company, the Hartford Electric Light Company and the Western Massachusetts Electric Company. Last year they sought a total of $38,610,000 in electric rate increases and were granted $23,475,000. This year the system asked for $26,996,000 more and has received $6,589,000.

"To avoid aggravating already critical energy supplies, we and our regulators and our consumers must find ways to assure the capability of the utility industry in an orderly way to pursue financing of energy facilities," Mr. Sillin said. "The alternative would be an inevitable deterioration in providing its role in supplying these vital energy supplies."

The stability of this power system is vital to New England, particularly in this time of tight fuel supplies. Northeast Utilities provides electricity for 968,500 customers in Connecticut and western Massachusetts through its three major operating companies and the Holyoke Water Power Company.

The system itself represents about 30 per cent of the six-state region's total generating capability as a participant in the New England Power Pool, which is the generating and transmission planning and coordinating agency for all major New England utilities.

For the four weeks ending Jan. 2, Northeast Utilities has on hand or committed for its seven major fossil-fueled generating plants some 3,340,000 barrels of "legally conforming low-sulphur oil"—0.5 per cent to 1.25 per cent sulphur content in Connecticut and 1 per cent to 2.2 per cent in Massachusetts. This is 64 per cent of the system's storage capacity and represents about a 22-day supply at the present rate of demand.

Northeast Utilities also has received commitments for an additional 21-day supply of 1,105,000 barrels of conforming low-sulphur oil and 975,000 barrels of oil containing 1.2 per cent sulphur.

The utility system has been granted a variance by the Connecticut Department of Environmental Protection that will allow it to burn oil not to exceed 1.25 per cent sulphur content and coal not to exceed 2 per cent for 120 days from Dec. 1. Massachusetts issued an interim order permitting up to 2.2 per cent sulphur content.

Since the embargo of Middle Eastern oil began, Northeastern Utilities and the other members of the New England power pool have considered what to do in case legally conforming low-sulphur fuels run out or are placed under allocation quotas.

This means that operating companies must decide which plants could be converted to coal in the shortest time. Most plants were changed from coal to oil in the late nineteen-sixties because of the higher transportation cost for coal and because of the adoption of state air quality standards.

The Environmental Protection Agency has sent East Coast Governors a list of 41 power plants that "potentially could be converted to coal within 60 days." Northeast Utilities estimated that, although some on the list would take only one to three weeks to convert, two of them—its Devon and Norwalk Harbor plants—would take five weeks to two months.

Meanwhile, Northeast Utilities has been trying to find coal supplies.

The New England Power Exchange, which directs daily operations of the New England grid, reported that, as of Dec. 5, "current fuel inventories and expected fuel receipts" for the 28 days ending Jan. 2 show "a projected supply for only 30 days [and] total fuel inventories have dropped approximately 6½ days since the original weekly survey of Nov. 12."

The forecast of electricity demands have been lowered by 4 per cent, reflecting conservation programs in the six states of New England. Such efforts represent an estimated saving of more than 400,000 barrels of oil a month.

No one will estimate how much of the saving is due to the unseasonable weather that has prevailed. The weather bureau at Hartford reported that November was 20 per cent warmer than a year ago.

The total capability of the Northeast Utilities power network is 5,857,050 of which 2,846,150 kilowatts comes from oil- and gas-fired plants. An additional 643,500 kilowatts is from gas turbines, jet engines and diesel units that burn distillate oils.

Also, 1,100,400 kilowatts comes from the system's nuclear power plants.

"Two years ago, when I was asked what should be done to meet fuel problems, I urged a speedup in nuclear," Mr. Sillin said. "That constitutes one of the nation's principal energy options for meeting increasingly short petroleum supplies.

"Our studies have repeatedly concerned not only the safety of this technology but also its being environmetally our best alternative. Our goal is obviously to have safe and improved reliability.

"By 1981 at Northeast we're planning to have about 60 per cent of our base load capacity in nuclear power facilities. This would mean that, after more than doubling our energy responsibilities, we would actually be using some 16 per cent less fossil fuels than we did back in 1971."

The company's Northfield Mountain pumped-storage plant, in western Massachusetts above the Connecticut River, is "particularly precious right now," a company spokesman said.

When the New England grid began its daily 5 percent voltage reductions on Nov. 26, he said, a television camera crew barely noticed a change in meters on the control panel. At almost the same moment, a 300,000-kilowatt unit in Massachusetts failed, and the pumped-storage plant took up the slack automatically as it was designed to do.

"That was more significant than the planned voltage reduction," the spokesman said "Again no one, except our operators, even noticed the action."

But Mr. Sillin was strongly opposed, particularly by environmentalists, when he identified three potential pumped storage sites for future development. These have since been narrowed down to two—one in northwestern Connecticut and one in southwestern Massachusetts.

Since 1969, the Northeast Utilities system has phased out all electrical selling and promotional activities in Connecticut and Massachusetts.

It has also reorganized its former sales group into an energy consulting services department to assist customers in conserving all forms of energy. The new department took on Northeast Utilities itself as the first customer to help.

SUPPORT FOR S. 1868

Mr. McGEE. Mr. President, as the Senate prepares for a cloture vote tomorrow—Tuesday, December 11—to end debate on S. 1868, it would behoove all Members of this body to give close consideration to an article appearing in this morning's Washington Post.

The article, written by David B. Ottaway, discusses Nigeria's emergence as the leading African nation on that continent. Mr. Ottaway's observations are particularly noteworthy as the Senate prepares to reverse this country's violation of U.N. sanctions against Southern Rhodesia.

Throughout the course of debate on this issue, I have continually pointed out that the United States could very well be denied access to critical raw materials in black Africa and potential export markets unless we altered our Southern African policies. The easiest and most positive manner in which we could demonstrate our concern for the sensitivities and needs of black African nations would be for the Senate to pass S. 1868.

The stakes are high for the United States relative to this issue. Mr. Ottaway makes the following points which I hope will not be lost on Members of this body. He notes:

> There is little appreciation here for what Nigerians regard as an American policy of strong support for white-rule southern Africa and Portugal's colonial African wars.
>
> With Nigeria now taking on a leadership role, chances for a more open clash between the two countries seem good and Nigeria is not without the means to pressure Washington over its African policy.
>
> American business has a $1 billion investment here already, mainly in the oil industry. The amount is likely to double over the next few years, making Nigeria more important to U.S. investors than South Africa.
>
> In addition, American industry, homes and cars are now getting over 700,000 barrels of Nigerian oil (daily) directly or through the Caribbean, establishing this country as a major source of fuel supplies for the United States.

Secretary of State, Dr. Henry Kissinger, noted the importance of Nigeria to U.S. interests when on October 3, 1973, he urged the Congress to vote to restore this country to compliance with U.N. sanctions against Rhodesia.

Secretary Kissinger noted:

> The Byrd Provision has impaired our ability to obtain the understanding and support of many countries including such important African nations as Nigeria, a significant source of petroleum and a country where we have investments of nearly $1 billion.

In essence, the issue with which this Nation could be confronted is whether we would rather have Rhodesian chrome or Nigerian oil. In light of the present energy crisis and the embargo the Arabs have already placed on oil exports to this country, our economic capacity would be critically impaired should the 700,000 barrels of Nigerian oil be cut off from us at this time. It would not only work a tremendous hardship on the people of this Nation, it would seriously impair our security.

I believe if the American people had to vote on this question, they would overwhelmingly agree that Nigerian oil is much more important to our economic health and national security than Rhodesian chrome.

I ask unanimous consent that the Washington Post article and Secretary Kissinger's letter be printed in the RECORD.

There being no objection, the article and letter were ordered to be printed in the RECORD, as follows:

NIGERIA EMERGES AS AFRICAN LEADER

(By David B. Ottaway)

LAGOS, NIGERIA.—Only four years after a devastating civil war ended here, Nigeria is emerging as the preponderant power of black Africa.

With oil revenues of at least $4 billion next year, an army of 250,000 and a population of 70 million exceeding any country on the continent, Nigeria seems to have the prerequisites for becoming a regional superpower.

The country's growing might is all the more astonishing so soon after ethnic infighting tore apart the then federal government system in 1966 and led to a 32-month, abortive war of succession by the eastern Ibo people.

Since the end of the war in January 1970, Nigeria seems to have achieved a remarkable degree of reconciliation and stability, allowing the military regime of Gen. Yaflubu Gowon, which came to power on the eve of the civil war, to begin turning more attention to foreign policy.

Although aware of its growing economic muscle and increasingly self-confident, Nigeria is not throwing its weight around or agressively bidding for the leadership of Africa, according to Western diplomats here.

"There is a sense of manifest destiny about Nigerian foreign policy," remarked one diplomat. "Nigerians feel they don't have to go looking for a leadership role because it will come to them in due course of time anyway."

Nigeria is also still weighed down by enormous social and economic problems, particularly in its mushrooming cities where urban blight is markedly evident. The problems are likely to absorb much of the government's energies and attention in the next few years. Nigeria is already engrossed in debate over its future political institutions, with a return to civilian rule promised in 1976.

But almost in spite of itself, Nigeria's expanding influence and prestige in and outside of Africa have been particularly noticeable this year.

Lagos served as host to the second All African Sports Festival in January, spending $60 million on the event. It has been chosen as the site for the second World Black and African Festival of Arts and Culture in November 1975, which will probably cost the government close to $100 million for facilities to accommodate 100,000 participants and spectators.

Gen. Gowon, the country's popular leader, is currently chairman of the Organization of African Unity. The Nigerian oil minister, Ali Shettima Monguno, is head of the powerful Organization of Petroleum Exporting Countries.

In addition, the Nigerian trade minister, Wenike Briggs, has been named the official spokseman for Africa (excluding the white-ruled countries) in initial trade negotiations with the European Economic Community in Brussels.

The fact that Nigeria is leading these talks is significant, for it has been championing the cause of free duties for African goods entering the EEC without reverse preferences for European products coming into African countries. This position is opposed by some of the leading French-speaking West African nations, which have been arguing in favor of reciprocal preferences such as now exist between them and France.

The Nigerian proposal has so far not met with much success. It faces stiff opposition from Senegal's Leopold Senghor and Ivory coast, Felix Houphouet-Biogny, who are seeking to counter it by forming their own exclusive West African French-speaking economic community.

The Nigerians do not seem to be pushing their plan very hard, reportedly because they are confident the French-speaking nations will ultimately discover they need Nigeria to produce any viable West African economic community.

"The Nigerian feeling is that it will come to pass in the course of time. They don't need to push it. They don't need it. The others do," remarked one analyst of Nigerian foreign policy.

The Nigerians regard reverse trade preferences as a hangover from colonial times that must be done away with. But underlying the issue is the rivalry between the respective leaders of French- and English-speaking Africa.

The rivalry has been heightened this year by a Nigerian proposal to form a 14-nation West African economic community that would include both English- and French-speaking nations.

The plan, Nigeria's first major initiative in African diplomacy, is regarded among Western diplomats here as only a vaguely disguised Nigerian bid to wean the French-speaking nations away from France and form an economic bloc independent of all the former colonial powers, yet under Nigerian influence.

In the meantime Nigeria is trying to lure the small French-speaking West African states over to its side by offering them grants and loans. Although hard hit by drought itself, the Nigerian government has given money to the six drought-stricken Sahelian states.

It has also given an interest free $3 million loan to neighboring Dahomey and built a 15-mile stretch of road in that country. Smaller loans have gone to Chad and Niger.

The big powers are also beginning to take notice of Nigeria and are courting Lagos for its oil, gas and extensive commercial markets. The Nigerians are keeping all suitors at arms length, according to Western diplomats.

"They are very cautious and pragmatic," said one diplomat. "They are self-satisfied, self-confident, and self-sufficient. This may be irritating but basically they are right."

Thus, the Nigerians do not show much interest in bilateral aid programs and are extremely sensitive to outside criticism about the way they go about doing or not doing things.

Although the United States has given more nonmilitary assistance to Nigeria than to any other African country, about $450 million since the mid-1950s, and still maintains one of its largest bilateral African grant and aid programs here, American-Nigerian relations seems only correct, not close.

Nor are the prospects for an improvement in U.S. ties with Nigeria particularly bright. There is little appreciation here for what Nigerians regard as an American policy of strong support for white-ruled southern Africa and Portugal's colonial African wars.

With Nigeria now taking on a leadership role, the chances for a more open clash between the two countries seem good and Nigeria is not without the means to pressure Washington over its African policy.

American business has a $1 billion investment here already, mainly in the oil industry. The amount is likely to double over the next few years, making Nigeria more important to U.S. investors than South Africa.

In addition, American industry, homes and cars are now getting over 700,000 barrels of Nigerian oil directly or through the Caribbean, establishing this country as a major source of fuel supplies for the United States.

Economic Union Plan Pushed by Nigerians

Lagos, Dec. 9.—Nigeria will have a 14-man delegation at the meeting of 14 West African states beginning in Lome, the capital of Togo, Monday to discuss the establishment of an economic community of both French and English-speaking African countries.

A statement issued here yesterday said the proposal made jointly by Nigeria and Togo is for a community "which will cut across language and other barriers."

The Nigerian team will be headed by Adebayo Adedeji, economic development and reconstruction commissioner, the statement said. Nigeria and Togo have completed much preparatory work including a tour of 12 other West African states to explain the plan and test reactions.

Ivory Coast, Upper Volta, Mali, Mauritania, Niger and Senegal set up a French-speaking West African economic community last May, with headquarters in the Upper Voltan capital of Ouagadougou.

The Secretary of State,
Washington, D.C., October 3, 1973.

Hon. Charles C. Diggs, Jr.,
Chairman, Subcommittee on Africa, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

Dear Mr. Chairman: Thank you for your letter of October 1, also signed by Congressman Fraser, concerning H.R. 8005, a bill to restore the United States to full adherence to the United Nations' Rhodesian sanctions program.

I am pleased with this occasion to reiterate the assurance I gave in my confirmation hearings before the Senate Foreign Relations Committee September 7, that the Administration supports efforts in Congress to repeal that portion of the Military Procurement Act of 1971 commonly known as the Byrd Provision. Moreover, in a letter of August 2 to Chairman Morgan, Assistant Secretary of State for Congressional Relations Marshall Wright expressed the Administration's strong backing for the enactment of S. 1868/H.R. 8005. You may be interested to know that various agencies within the government were given the opportunity to review that letter prior to its dispatch, and that I had personally approved it as Assistant to the President for National Security Affairs. I am convinced now, as I was then, that the Byrd provision is not essential to our national security, brings us no real economic advantage, and is detrimental to the conduct of foreign relations.

You are, of course, familiar with the evidence that imports of Rhodesian chrome and nickel are no longer necessary for strategic reasons and that a request is currently before the Congress to eliminate our stockpile of nickel and to reduce greatly our stockpile of metallurgical grade chromite. It is also pertinent to note that contrary to the intention of the Byrd Provision, the percentage of imports of chrome from the USSR actually increased during the last two years.

On the other hand, the Byrd Provisions has impaired our ability to obtain the understanding and support of many countries including such important African nations as Nigeria, a significant source of petroleum and a country where we have investments of nearly $1 billion.

Thus, I believe the enactment of H.R. 8005 is in the interest of the nation, and accordingly I support your efforts to secure its passage. Thank you for this opportunity to restate my views. I am also sending a reply to Congressman Fraser.

Sincerely,

Henry A. Kissinger.

RHODESIAN CHROME

Mr. CANNON. For the third time in 3 years, the Senate is debating the issue of Rhodesian chrome. The issue is the same now as it was last year and in 1971 when the Congress first adopted the Byrd amendment, which permits the importation of strategic and critical materials from Rhodesia as long as they can also be imported from Communist-controlled countries.

The issue is obscure and remote from the lives of most Americans. It is also complex, involving our national need for supplies of critical materials which are not produced in the United States or even in all of North America, and involving our relationships with the United Nations. It is an issue which needs careful and thoughtful discussion, rather than flights of oratory. My aim today, therefore, is to provide a careful, measured outline of my reasons for continuing to support the Byrd amendment and opposing the enactment of S. 1868 which would repeal it.

The principal commodity affected by the Byrd amendment is chrome ore, specifically metallurgical chrome ore, because in Rhodesia are located the free world's largest deposits of high-grade metallurgical chrome ore. Other types of chrome ore, including chemical grade and refractory grade, are found elsewhere in the world, but the metallurgical grade is by far the most important kind in terms of both economics and national security. The importance of metallurgical chrome is heightened because the world's other major sources are the Soviet Union and South Africa, although much smaller quantities are found in Turkey, Iran, and India.

Metallurgical chromite in the form of ore as it comes from the mine cannot be employed by the steel industry or by other industrial users. It must first be converted into one of several types of ferrochromium by a high-temperature smelting and reduction process. This process is carried out by the ferroalloys industry—which also converts manganese ore and silicon ore into various types of ferromanganese and ferrosilicon for use by steel producers and the aluminum industry.

METALLURGICAL CHROME AND THE NATIONAL SECURITY

Chromium is one of the most important and indispensable industrial metals. Current United States consumption of metallurgical chrome ore totals about 700,000 tons per year. None is mined in the United States or in North America.

Ferrochromium is irreplaceable for the production of stainless steel and other type of high-performance steels and superalloys, where the chromium imparts vital resistance to heat and corrosion. About 10 percent of domestic production of these steels goes directly to military and defense applications. Modern jet airplanes, nuclear submarines and warships, for instance, cannot be built without metallurgical chrome; 85 percent of stainless steel is devoted to other essential uses, such as oil refineries, hospital equipment, food processing machinery and chemical plants. Only about 5 percent of U.S. chrome usage goes to household appliances and kitchen tools.

When the United States began to designate strategic materials for stockpiling and defense purposes in 1939, chromium was one of the first four commodities to be listed. The stockpile consists of metallurgical grade chromite and of several types of ferrochromium.

THE STOCKPILE AND NATIONAL EMERGENCY NEEDS

It is appropriate to review the stockpile supply situation, especially in view of the contention of critics of the Byrd amendment that the supply is large enough to satisfy U.S. needs for many years, and last the defense industries for 24 years in the event of a conventional war.

In testimony to the House Armed Services Committee in June 1972, officials of the Office of Emergency Preparedness declared that the U.S. requirements for metallurgical chrome for a 3-year wartime national emergency would total 4,315,000 tons—or 1,438,000 tons per year. This is more than the current peacetime usage. This estimate of U.S. emergency requirements was set in 1970 by the Office of Emergency Preparedness with the assistance of the Departments of State, Defense, Commerce, and Interior. They analyzed the expected supply and requirements during a projected future emergency. Estimates of supply for the projected mobilization period are based upon readily available capacity and normal resources in the United States and upon other countries which are considered accessible by the National Security Council.

To meet national emergency needs, the current inventory of chrome in the national and supplemental stockpiles is about 5,300,000 tons. This amount includes more than 900,000 tons of excess chrome, the disposal of which already has been authorized by Congress. This 900,000 tons, however, is very low grade, low quality domestic ore. And the bulk of it is stored in Montana, 50 miles from the nearest railroad. It has little economic value today.

In March 1970, the Office of Emergency Preparedness reduced the stockpile objective for metallurgical chrome to 3,100,000 tons, and in 1971 requested legislation (S. 773) authorizing the disposal of 1,313,600 tons of metallurgical chrome and ferrochrome. In trying to explain how the United States could meet its wartime needs for 4,315,000 tons of chrome from a stockpile of only 3,100,000 tons, the OEP witness told the House Armed Services Committee—

> We estimate we can obtain from sources such as Rhodesia and the Republic of South Africa 923,000 tons during the next 3 years.

Members of the committee were unable to get satisfactory answers to their questions as to what would happen if Rhodesian ore were fully committed to customers elsewhere in the world or unavailable because of the U.N. sanctions, and the committee did not approve the bill.

In April 1973, President Nixon proposed a new stockpile disposal legislation based on stockpiling essential needs for a 1-year period. In the case of chrome, the stockpile objective would be reduced to 445,000 tons. The legislation is pending before the Armed Services Committee, but no hearings have been held.

Mr. President, with the press of other business before the Armed Services Committee this year, the Subcommittee on the National Stockpile and Naval Petroleum Reserves, which I have the honor of chairing, has not had an opportunity to schedule hearings on the President's proposals for considerably revising our stockpile objectives and policies.

Until we have rather thorough and complete hearings on the entire subject, and until the subcommittee and the full committee can give careful attention to the entire matter, I cannot say to the Senate that we do not need the present stockpile of metallurgical chrome and ferrochrome. I do not know what levels of supply we need in our stockpile in the interests of this Nation's security and, obviously, this is not a decision which the committee or the Senate should make without adequate hearings and careful deliberation.

If we use up the stockpile today for reasons of economic, political, or social policy, it will be done and it will not be available to meet the needs of national security should a real emergency occur.

Until we examine our stockpile reserves and measure them against our national security requirements in a careful, thoughtful fashion, it would be seriously irresponsible to contend that we can cut ourselves off from foreign sources of chrome and use up the stockpile.

Furthermore, we cannot ignore the fact that our principal source for metallurgical chrome ore is still the Soviet Union. Fifty-three percent of our imports of metallurgical chrome ore in the first 7 months of this year have come from Russia. There is no reason to cut off this supply, or to turn our back on it. But our interest in "détente" with the Soviet Union certainly does not mean that we can count on them as a continuing source of one of our most critical materials in every circumstance. We would be foolhardy to accept that kind of a bear hug.

PRICES OF METALLURGICAL CHROME

The prohibition against importation of chrome from Rhodesia in the 1967–71 period produced a marked increase in the price of Russian chrome. The U.S. Bureau of Mines Mineral Yearbook for 1970 states:

> Metallurgical grade chromite prices rose for the fourth successive year, continuing the trend initiated in 1967, primarily as a result of continued United Nations economic sanctions against Southern Rhodesia.

The price of Russian chrome dropped sharply after the enactment of the Byrd amendment in 1972.

Its repeal is likely to result in a substantial increase. When repeal of the Byrd amendment was under consideration in 1972, suppliers of chrome forecast an immediate 20 percent price increase if imports from Rhodesia were banned again. If history repeats itself, repeal of the Byrd amendments in 1973 would also result in a 20-percent increase in the price of Russian and Turkish chrome ore.

EFFECTS OF BYRD AMENDMENT ON THE FERROCHROME INDUSTRY

By producing a reduction in the price of metallurgical chrome ore, the adoption of the Byrd amendment has directly and usefully benefited the domestic producers of ferrochrome. It has reduced the cost of their essential raw material—whether obtained from Russia, Rhodesia, Turkey, or elsewhere—and made them more competitive. Even if there has been no price reductions, the availability of alternate sources of ore is beneficial.

However, the U.S. ferroalloy industry has faced severe competition from imports of ferrochrome and ferromanganese for more than 15 years. Lower-cost imports from foreign countries have put, and are continuing to put, increasing pressure on the domestic industry. There are a number of causes for this import competition. Among them:

First. The natural desire in many mineral-rich countries of the world to upgrade their products as much as possible. The ore-producing countries, including those who produce both chrome and manganese ore, seek to upgrade their products into ferroalloys and retain for themselves the economic benefits of such processing. Rhodesia and South Africa are doing this. Russia, too, must also be thinking of such moves. It may be further encouraged to do so if the Congress agrees to "most favored nation" tariff treatment for Russian goods. Such a move would reduce the duty on Russian ferrochrome by 75 percent.

Second. Forward integration efforts such as these by mineral-rich countries are spurred by specific savings that can be realized in transportation costs which may, in the case of chrome, account for 25 percent or more of total costs. It takes 2½ tons of chrome ore to produce 1 ton of ferrochrome; the transportation rate per ton, however, is the same for the ferroalloy as it is for the ore. The ferroalloy producer who is located where the ore is found thus has a 50 percent or greater saving on his ocean freight costs.

Third. Electric power costs account for somewhere between 10 and 20 percent of the production costs for ferroalloys. The energy crisis in the United States is an important fact of life to the entire domestic ferroalloy industry which is power intensive and requires large quantities of electric energy. Rising costs of fossil fuels, the imposition of air pollution requirements on electric generating stations, and other factors are producing strong upward pressures on the costs of electric energy in the United States. In many of the producing countries today, the cost of electric power is significantly less than that in the United States.

Labor costs are, in contrast, not a very significant factor. For ferrochrome labor costs account for only about 10 percent of the production costs. While U.S. wage rates are much higher than those elsewhere in the world, U.S. productivity is much higher. Therefore, foreign ferroalloy producers do not have a significant labor cost advantage.

Imports of ferroalloys have accounted for somewhere between 20 and 40 percent of the domestic consumption of ferrochrome and ferromanganese over the past decade.

Lower-priced ferroalloy imports put a severe squeeze on the earnings of the domestic producers and denies them the funds needed for modernization and expansion. This reality has made it all the more difficult for the domestic industry to respond to the current requirements for air pollution control and to meet the rising levels of electric energy costs.

These problems existed for some years before the Rhodesian sanctions were imposed but the imposition of sanctions in 1967 significantly aggravated the situation for the domestic producers of ferrochrome. The sanctions deprived them of the best source of lower cost chrome ore and made them depend instead on higher cost Russian or Turkish ore. Their competitive position and economic health suffered correspondingly. Adoption of the Byrd amendment benefited the industry—but not enough to reverse these trends.

None of this is particularly new and the fact that imports of ferrochrome are a serious problem for domestic producers can hardly come as a surprise to anyone familiar with the industry or to those in the Government with responsibilities in this area. As early as 1963, the domestic ferroalloys industry petitioned for governmental relief and assistance under the National Security Provisions of the Trade Expansion Act. This petition and a subsequent one were both denied.

Another major factor which has affected the domestic ferrochrome industry was the increase in imports of stainless steel from Japan and elsewhere, which produced a significant and serious drop in the domestic production of stainless steel during the 1967–71 period and a corresponding drop in ferrochrome demand.

Caught between increasing imports and a declining market, profits of the U.S. ferrochrome industry were seriously eroded to the point where, in some cases, production is no longer economically feasible.

Air pollution controls are also an important direct factor in the cost and competitiveness of domestic ferroalloys production. The uncontrolled production of ferrochrome and all ferroalloys results in the emission of very large quantities of particulate matter into the atmosphere and air pollution abatement in the industry is difficult and costly.

The cost of air pollution control is an especially important factor with respect to older, smaller and less efficient production facilities in the industry where the capital cost of air pollution abatement equipment and the high operating cost of such equipment can be enough to push a marginal facility into the red.

It is a combination of these factors which apparently has led to the decision of several domestic ferroalloy producers to announce plans to shut down some of their production facilities.

Prospective closing announcements have been publicly made with respect to five domestic ferroalloy plants by three different companies. All of these plants are small and old. All face the necessity for heavy investments for air pollution control. They are scheduled to be shut down by the end of this year or next year. However, none has been shut down as yet and there are indications that the decisions, in some cases, may be changed or deferred because of changing market conditions or the issuance of waivers with respect to air pollution requirements. Only one of these plants produces ferrochrome and its principal product is low-carbon ferrochrome, which is also a product under heavy pressure from imports, and that plant, apparently, will not be shut down at all.

THE STAINLESS STEEL AND SPECIALITY STEEL INDUSTRIES

The price and competitive availability of chrome—specifically, ferrochrome—are of critical importance to the stainless and speciality steel industry of the United States. Stainless steel has a chrome content of 18 percent. Some special steels contain much higher amounts than that. Obviously, then, the cost of chrome is a significant factor in production of these steels.

Its importance is heightened if foreign steel producers, who have freely evaded the U.N. sanctions against Rhodesia since 1967, are again able to procure their raw materials for as much as 30 percent below the cost to American steelmakers. Although chromium accounts for an average of only 16 percent of stainless steel content, it represents fully 25 percent of the raw material cost for stainless production. Reimposition of the embargo would give foreign producers an automatic 6 percent of cost advantage over American steelmakers. The penetration of foreign speciality steel into the American market would almost inevitably increase. Furthermore, Rhodesian chromium would enter this country, undetectable, in the form of stainless steel—as it did before enactment of the Byrd amendment, nullifying whatever effect the sanctions may have had.

SANCTIONS AGAINST RHODESIA ARE NOT PRODUCTIVE

The concept of general economic sanctions to achieve political goals has historically met with mixed success. Napoleon's effort to isolate England was a classic failure. The League of Nations' sanctions against Italy were a model of futility.

Prior to the sanctions resolution, Rhodesia relied upon agricultural products—primarily tobacco—for foreign exchange earnings. Manufactured goods were largely imported. Immediately following imposition of the embargo, the Rhodesian Government initiated a policy of self-sufficiency. Sanctions required extensive diversification of industry, but also granted a captive market to domestic suppliers. The results have been dramatic.

Since independence, Rhodesia's gross domestic product has sustained a growth rate of 10 percent a year. In 1971, manufacturing recorded a 15-percent advance to R$684 million, as textiles, nonmetallic minerals, foodstuffs, metals, transport equipment, and machinery registered gains of better than 10 percent. Between 1964 and 1971, Rhodesia's total industrial output increased 70 percent, while the value of new construction doubled. Even the mining sector, one of the prime targets of the embargo, has been growing at a record pace. The value of mining output grew 6.7 percent in 1972 alone and topped 1967 production levels by over 95 percent.

If the sanctions did not appreciably injure Rhodesia's economy or political system, they did have some deleterious effects on the very group they were intended to assist: The indigenous black population. In the agricultural sector particularly, black labor has previously been the backbone of the economy. When the embargo was imposed, the government's industrialization edict diverted capital from the farms to manufacturers, causing black workers to lose their jobs.

When cutbacks came, laborers were the first to be fired—the executives remained. The capital—and government subsidy—which was available for tobacco production benefited the ruling minority managers—often at the expense of the black workers. Almost half the allocated budgets for education for blacks was diverted into agricultural and industrial subsidization programs.

However callous these actions may appear, it is evident the intended beneficiaries of the embargo in fact became its victims. Despite, or even because of the sanctions the Rhodesian economy is stronger than ever, the ruling minority shows no apparent signs of falling, and black Rhodesians have suffered from whatever ill effects the embargo has caused.

How was Rhodesia able to accomplish what approaches an "economic miracle" in the face of a stiff worldwide economic embargo? The reaction of the Rhodesians to the sanctions is a model of propriety compared with the cynicism of other countries.

Since imposition of the sanctions, over a hundred cases of evasion have been reported to the United Nations by Great Britain. These represent only the tip of the iceberg; sanction-busting continues to occur on a monumental scale.

South Africa and Portugal ignored the embargo from the outset. They were soon followed by Eastern European countries and parts of the Middle East. Finally, Western Europe and Japan entered the Rhodesian market with a vengeance. West Germans, Dutch, Italian, Japanese, and Swiss companies have been blithely ignoring the embargo since 1968.

Despite the sanctions, therefore, this country of only 6 million inhabitants exported over a quarter of a billion dollars' worth of goods last year.

The sanctions have been so flagrantly violated, few knowledgeable people seriously argue its effectiveness.

When U.S. Ambassador to the United Nations, Christopher Phillips, charged widespread sanctions violations by several countries, none even bothered to respond.

It was with this perspective that President Nixon recently noted:

> The United States takes seriously its obligations under the United Nations Charter. Except for imports of small quantities of certain strategic materials exempted by U.S. public law—accounting for no more than a minute percentage of Rhodesia's exports—the United States, unlike many others, adheres strictly to the U.N. program of sanctions against Rhodesia. Many in the United Nations challenged our observance of the sanctions. But there should not be a double standard which ignores the widespread substantial—but unavowed—non-observance of sanctions by others.

AMERICAN OBLIGATION TOWARD RHODESIAN BLACKS

If the moral justification for the sanctions resolution was to gain political and economic power for the black Rhodesian majority, the embargo has backfired. Rhodesian blacks are no closer to self-government today than 6 years ago, and may have actually lost ground in their struggle for economic equality. This observation, however, begs the question: What can the United States do to improve the lot of Rhodesia's black majority?

The most practical method for Americans to assist the social and political aspirations of Rhodesian blacks is to provide more rather than less jobs to the black majority.

It is to become more involved in the Rhodesian social structure rather than allow the Smith regime rule by default.

These goals cannot be met by isolating America from the Rhodesian blacks. If progressive change is to come, it cannot be stimulated by hamstringing American influence in that country. Reimposition of the embargo would defeat the very goals the United States has attempted to achieve.

The events of the past few weeks in the Middle East have added a new dimension to our concern about the availability of critical raw materials, and given us new lessons on the dangers of relying on a limited number of sources for them. Chrome is not as widely used as oil, or as important to our national economy, but it is nonetheless vital to the functioning of a modern industrial society like ours.

As a nation we have no realistic choice but to secure chrome from those areas of the world where it is found. It is an unfortunate, but inescapable, fact of geography and geology that the world's important sources of metallurgical chrome ore are located in countries with which many of us have important moral and political differences. We do not endorse the policies of South Africa or Rhodesia toward blacks. We do not support the attitude of the Soviet Union toward Jewish immigration, nor its treatment of other minorities. Our Nation's purchase of essential raw materials—like chrome—from them in no way indicates the support of the American people or the U.S. Government for these policies or practices, and it should not be so interpreted.

The United States, to put it plainly, would cut off its nose to spite its face if we refused to buy chrome produced in countries whose policies we do not agree with. We certainly do not refuse to buy from the Soviets in spite of their harassment of the Jews in Russia.

State Department officials have hinted in the past that the British and Rhodesians are going to make up and then we could go ahead and resume full trade with Rhodesia.

Let us go back, though. Remember, the State Department also insists that we are duty bound to any declarations or mandates of the United Nations Security Council.

Even if the British and the Rhodesians do settle their long dispute—and that, I might add, is not an immediate likelihood, it would still take an affirmative action by the United Nations Security Council to repeal the current anti-Rhodesian sanctions. I do not believe that such action will be taken—because the Soviet Union is in a position where it could very easily veto any such proposed end to the U.N.'s sanctions. It would veto it—first to curry favor with the black African nations who are Rhodesia's most bitter enemies and second to preserve a very advantageous position in which the Soviet Union finds itself today as a result of the sanctions—economically and strategically speaking—a situation in which the United States is heavily dependent upon the Soviet Union for a material which is vital to the defense of the United States—chrome ore.

The only excuse for the sanctions against Rhodesia was an official disapproval of the policies of its government. But we hardly approve of the policies of the Soviet Union either. What is wrong with buying what we need where we can get the best price and an adequate supply? Nearly everybody else does. My motive in supporting Rhodesian chrome importing is to protect the national security of the United States. I am unable to determine if the Russian prejudice toward Jews is more defensible than the Smith government's toward Africans.

Neither am I too happy about the resumption of the October Mideast war which was made possible by the Soviet Union quietly and consistently sending tanks, arms, and aircraft to the Arab Nations and, I might add, some of its most modern and sophisticated equipment. The individual shipments were not large enough to alarm the West, but the over-all flow of arms was steady and accumulated over the months to make the Arab strike possible. And we now have a resultant oil embargo and associated energy crisis and yet there are those who want the United States to once again become dependent upon the Soviet Union for chrome.

We cannot afford to have our economic strength used as a pawn in political or social contests, and we should not restrict our access to essential raw materials for reasons like that.

I shall vote against S. 1868 for all those reasons.

REVIVING OUR COMMITMENT TO EQUAL OPPORTUNITY

Mr. CRANSTON. Mr. President, in the early 1960's the American people, led by President Kennedy, vowed to end discrimination and to abolsh the rank poverty that exists amid general prosperity. Many millions of us set out to make real the basic American goal of equal justice and equal opportunity for all.

But because of its drain on our energies and our resources, the Vietnam war sadly diverted our Nation from pursuit of that goal.

Ten years after the death of John Kennedy, millions of Americans still face discrimination in employment—poor schools—slums—street crime—inadequate housing—improper health care—and injustices in our courts and before our administrative bodies.

The shortages of fuels and energy further threaten to deepen the gulf between the poor and the more well to do. Some of the "solutions" to the energy crisis I have heard would undoubtedly move us headlong toward a society of energy "haves" and energy "have nots," a society in which the rich would get richer and the poor would go without transportation, heat or jobs.

There has been some progress in recent years, most strikingly in politics. The election of Tom Bradley as mayor of Los Angeles is a national symbol of triumph over race fear and race prejudice. Many other cities in California and elsewhere, including the South, have elected officials from the ranks of the blacks, Chicanos, Asians and other minorities.

I believe the new political power that minority groups have properly gained must be translated into further economic and social gains—gains to be made not on the basis of artificial quota systems but on the truly democratic basis of equal opportunity.

Equal opportunity is the key—the operative concept—for economic and social progress in a free society.

The Federal Government, with its massive resources and the prestige and power of its national institutions, must exercise the moral leadership in bringing about equal opportunity for all. But all levels of government, and all private institutions, also have a responsibility to root out inequality and discrimination wherever they appear.

Elsewhere in this newsletter, I have outlined some of the areas of equal opportunity in which the Congress and the administration have been active; what we are doing and not doing, and where I think we need more emphasis. But here, in summary, are some of the things we have been working on in Washington:

WAR ON POVERTY

The Nation's major effort to fight poverty through the Office of Economic Opportunity—OEO—was a strong, positive step toward giving the poor the legal, educational and organizational tools they needed to claim the rights and advantages that were justly theirs. But the Vietnam war intervened, and in recent years the war on poverty has slowed down and, in some areas, was abandoned altogether.

I believe some major elements of the war on poverty have been eminently successful and must be saved. I especially have in mind the community action programs—CAPs. Involvement by the community is an absolute must for the success of any government antipoverty effort.

HEADSTART

This program of preschool nursery, kindergarten, health and nutritional services for poor children is one of the best run, most effective programs of the Federal Government. It is alive and well today because I and many others in Congress fought very hard to keep it alive.

LEGAL SERVICES

Every person, regardless of means, deserves equal treatment in the eyes of the law. This program has done that for thousands of individuals. A new bill to create a national legal services program independent of political domination now is moving through Congress.

JOB DISCRIMINATION

The Federal Government has made real progress—at the insistence of Congress—in opening up opportunities for minorities. But the sad fact remains: If you are black, Chicano or a member of a minority group, it is harder to find a job in private or public employment and it is harder to advance once you find a job. All of us have a long way to go in overcoming this injustice.

HOUSING

Some people say we have gone backwards in housing opportunities. Certainly slums seem to be worse. There is more concentration of minorities in central cities, fewer housing programs and less money.

EDUCATION

Some improvement — particularly through the Headstart program—but, as in jobs and housing, still a long way to go.

I, for one, have not lost faith in the good will of Americans and their desire to pursue the goals of equal justice and equal opportunity. I believe that "the dream" is attainable, and that progress toward it can, and should, be made right now.

It is time we got back on the track toward making those guarantees to all Americans. We owe it to ourselves.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

NATIONAL FUELS AND ENERGY CONSERVATION ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 494, S. 2176, that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

Calendar No. 494 (S. 2176) a bill to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Accordingly, the Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs with an amendment in the nature of a substitute and from the Committee on Commerce with amendments.

(See text of bill (Calendar No. 494, Rept. No. 93-409) as reported by the Committee on Interior and Insular Affairs and the Committee on Commerce.)

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that during the consideration of the pending measure, Mr. William Van Ness, Mr. Steven Quarles, Mr. Grenville Garside, Mr. Richard Grundy, Miss Lucille Langlois, and Mr. Jim Barnes of the staff of the Committee on Interior and Insular Affairs; and Lynn Sutcliffe, Henry Lippek, Barry Hyman, Kay McKeough, Nicholas Miller, Mike Brownlee, and Dave Clanton of the staff of the Commerce Committee; and Barry Meyer, Philip Cummings, Leon Billings, and Rick Herod of the Public Works Committee, be accorded the privilege of the floor during the consideration of S. 2176.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I ask unanimous consent that the following staff members be given the privilege of the floor during the debate and votes on the pending business: Harrison Loesch, Dave Stang, Roma Skeen, Brent Coombs, Knowland McKean, Ron Frank, and Carol Scoggins.

Mr. HANSEN. Mr. President, I ask unanimous consent that Margaret Lane and Jackee Schaffer be given the privilege of the floor during the debate on the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the committee amendments to S. 2176 be agreed to en bloc and that the bill as thus amended be treated as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JACKSON. Mr. President, I offer an amendment in the nature of a substitute for the bill and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to read the amendment.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "National Fuels and Energy Conservation Act of 1973".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title.
Sec. 2. Statement of purposes, findings, and policy.
Sec. 3. Council on Energy Policy.
Sec. 4. Office of Energy Conservation.
Sec. 5. Research and development.
Sec. 6. Federal building and procurement policies.
Sec. 7. Building standards.
Sec. 8. Truth in energy.

Amendments to the Federal Trade Commission Act

Sec. 18. Findings and purposes.
Sec. 19. Definitions.
Sec. 20. Estimates of annual operating costs.
Sec. 21. Labeling and advertising.
Sec. 22. Prohibited acts and enforcement.
Sec. 23. Preemption.
Sec. 24. Report, termination, and authorization.
Sec. 9. Automotive fuel economy standards.

Amendments to the Motor Vehicle Cost Savings and Information Act

Sec. 501. Short title.
Sec. 502. Declaration of policy.
Sec. 503. Definitions.
Sec. 504 Minimum standards and long-range plan.
Sec. 505. Duties and powers of the Secretary.
Sec. 506. Labeling and advertising.
Sec. 507. Prohibited conduct.
Sec. 508. Enforcement.
Sec. 509. Relationship to State law.
Sec. 510. Authorization of appropriations.
Sec. 10. Utility energy conservation reports.
Sec. 11. Federal Government energy rate studies.
Sec. 12. Transportation studies.
Sec. 13. Automotive research and development.

Amendments to the Motor Vehicle Cost Savings and Information Act

Sec. 601. Short title.
Sec. 602. Findings and purposes.
Sec. 603. Definitions.
Sec. 604. Duties of the Secretary.
Sec. 605. Powers of the Secretary.
Sec. 606. Grants.
Sec. 607. Loan guarantees.
Sec. 608. Testing and certification.
Sec. 609. Proprietary information and patents.
Sec. 610. Records, audit, and examination.
Sec. 611. Reports.
Sec. 612. Government procurement.
Sec. 613. Authorization for appropriation.
Sec. 614. Relationship to antitrust laws.
Sec. 14. Transportation energy conservation demonstrations.
Sec. 15. Carpool incentive projects.
Sec. 16. Energy conservation tax incentives study.
Sec. 17. Products imported and exported.
Sec. 18. Authorization of appropriations.

STATEMENT OF PURPOSES, FINDINGS, AND POLICY

SEC. 2. (a) The purposes of this Act are: to declare a national policy of conserving fuels and energy resources through more efficient conversion and use; to make energy conservation an intergral part of all ongoing programs and activities of the Federal Government; to establish a Council on Energy Policy in the Executive Office of the President and an Office of Energy Conservation in the Department of the Interior; to promote energy conservation efforts through specific directives to agencies of the Federal Government and sectors of private industry; to encourage greater private energy conservation efforts through purchasing policies of the various agencies of the Federal Government; to encourage the allocation of energy resources to their most efficient economic use; and to provide for the development of additional energy conservation programs pursuant to the policy set forth in this Act.

(b) The Congress recognizes that (i) adequate supplies of energy at reasonable cost are essential to the growth of the United States economy and the maintenance of a high standard of living; (ii) the availability of low-cost energy has stimulated energy consumption and waste through inefficient use; (iii) expanding increases in energy consumption in the United States, which already uses almost one-third of the world's energy with only one-sixteenth of its population, raise serious policy issues; (iv) the finite nature of energy resources and diminishing reserves of fuels pose major questions of domestic and international policy; (v) increasing dependence on energy supplies imported from foreign sources has created serious economic and national security problems; (vi) a continuation of the present expansion of demand for energy in all forms will have serious adverse social, economic, political, and environmental impacts; (vii) the adoption at all levels of government of laws, policies, programs, and procedures to conserve energy and fuels could have an immediate and substantial effect in reducing the rate of growth of energy demand and minimizing such adverse impacts; and (viii) realistic pricing of energy in all forms will have a major effect in reducing energy consumption and waste.

(c) The Congress hereby declares that it is in the national interest for, and shall be the continuing policy of, the Federal Government to foster and promote comprehensive national fuels and energy conservation programs and practices in order to better assure adequate supplies of energy and fuels to consumers, reduce energy waste, conserve natural resources, and protect the environment.

(d) Every agency of the Federal Government shall have the continuing responsibility of implementing the policy and purposes set forth in this Act. Each agency shall review its statutory authority, policies, and programs in order to determine what changes may be required to assure conformity with the policy and purposes of this Act and shall report the results of its review, together with recommendations for necessary changes, to the President and the Congress within one year from the date of enactment of this Act.

COUNCIL ON ENERGY POLICY

SEC. 3. (a) The Congress finds and declares that—

(1) there are many Federal agencies, created at different times and for different purposes to handle specialized problems, all directly or indirectly involved in the establishment of energy policy;

(2) there is no comprehensive national energy policy but instead Federal energy activities consist of a myriad of laws, regulations, actions and inactions resulting in nar-

row, short range, and often conflicting decisionmaking by individual agencies without adequate consideration of the impact on the overall energy policy nor future national energy needs; and

(3) as a consequence of not having a comprehensive national energy policy, the Nation faces mismanagement of energy resources, unacceptably high adverse environmental impacts, inadequate incentives for efficient utilization and conservation of energy resources, shortages of supply, and soaring energy prices.

(b) Therefore, it is declared to be the purpose of the Congress to protect and promote the interest of the people of the United States as energy users by establishing a Council on Energy Policy to serve as a focal point for—

(1) the collection, analysis, and interpretation of energy statistics and data necessary to formulate policies for wise energy management and conservation and to anticipate social, environmental, and economic problems associated with existing and emerging energy technologies;

(2) the coordination of all energy activities of the Federal Government, and provision of leadership to State and local governments and other persons involved in energy activities; and

(3) the preparation, after consultation with other interested organizations and agencies, of a long-range comprehensive plan (hereinafter referred to as the "Energy Plan") for energy development, utilization and conservation to foster improvement in the efficiency of energy production and utilization, reduction of the adverse environmental impacts of energy production and utilization, conservation of energy resources for the use of future generations, reduction of excessive energy demands, and development of new technologies to produce clean energy.

(c) (1) The policies, regulations, and public laws of the United States shall be interpreted and administered to the fullest extent possible in accordance with the policies set forth in this section; and

(2) All agencies of the Federal Government shall to the fullest extent possible—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of both physical and social sciences in producing, conserving, and utilizing the Nation's energy resources;

(B) submit, prior to the review process established pursuant to the Budget and Accounting Act of 1972, as amended, to the Council on Energy Policy established by this section for comment all legislative recommendations and reports, to the extent that such recommendations and reports deal with or have a bearing on energy matters;

(C) gather data and information pursuant to guidelines promulgated by the Council on Energy Policy; develop analytical techniques for the management, conservation, use, and development of energy resources, and make such data available to the Council on Energy Policy; and

(D) recognize the worldwide and long-range character of energy concerns and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to foster international cooperation in anticipating and resolving energy-related problems.

(d) There shall be established in the Executive Office of the President a Council on Energy Policy (hereinafter referred to as the Council). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure by and with the advice and consent of the Senate. The President shall at the time of nomination designate one of the members of the Council to serve as Chairman. Each member shall be a person, who as a result of his training, experience, and attainment, is well qualified to analyze and interpret energy trends and information of all kinds; to appraise programs and activities of the Federal Government in light of the energy needs of the Nation; to be conscious of and responsive to the environmental, social, cultural, economic, scientific, and esthetic needs and interests of the Nation; and to formulate an Energy Plan and recommend national policies with respect to wise energy management.

(e) (1) The Council shall serve as the principal adviser to the President on energy policy and shall exercise leadership in the formulation of Government policy concerning domestic and international issues relating to energy.

(2) The Council shall make recommendations to the President and the Congress for resolving conflicts between the policies relating to energy of different Federal agencies.

(3) The Council shall develop within eighteen months after the date of enactment of this Act and thereafter shall annually update an Energy Plan for energy development, utilization, and conservation in the United States to carry out the purposes as stated in subsection (b) of this section. Copies of such Energy Plans shall be distributed on January 1 of each year to the President, to the Congress, and to all Federal and State agencies concerned with energy, and upon request to local agencies and nongovernmental entities.

(4) The Council shall promptly review all legislative recommendations and reports sent to Congress, to the extent that such recommendations and reports have a bearing on energy matters, and it shall send to the President and the involved Federal agency a statement in writing of its position and the reasons therefor.

(5) The Council shall keep Congress fully and currently informed of all of its activities. Neither the Council nor its employees may refuse to testify before or submit information to Congress or any duly authorized committee thereof.

(6) The Council shall conduct annual public hearings on the Energy Plan and may hold public hearings when there is substantial public interest in other pending matters.

(7) In carrying out its collection, analysis, and interpretation of energy statistics function, the Council shall, as quickly as possible and after appropriate study, promulgate guidelines for the collection and initial analysis of energy data by other Federal agencies, after published notice in the Federal Register and opportunity for comment. Such guidelines shall be designed to make such data compatible, useful, and comprehensive. Where relevant data is not now available or reliable and is beyond the authority of other agencies to collect, then the Council shall recommend to the Congress the enactment of appropriate legislation. Pending congressional consideration, the Council may gather such data directly. The Council shall have the power to require by special or general orders any person to submit in writing such energy data as the Council may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as the Council may direct.

(f) (1) In exercising its powers, functions, and duties, the Council shall—

(A) consult with representatives of science, industry, agriculture, labor, conservation organizations, State and local governments, and other groups, as it deems advisable; and

(B) employ a competent, independent staff which shall utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, to avoid duplication of effort and expense, thus assuring that the Council's activities will not unnecessarily overlay or conflict with similar activities authorized by law and performed by other agencies.

(2) Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for the level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

(3) The Council may employ such officers and employees as may be necessary to carry out its functions. The Council may also employ and fix the compensation of such experts, consultants, or contractors to conduct detailed studies as may be necessary for the carrying out of its functions to the same extent as is authorized under section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

(g) The Council shall prepare and submit to the President and the Congress on or before January 1, 1974, and annually thereafter, an energy report to accompany the Energy Plan. This report shall include—

(1) an estimate of energy needs of the United States for the ensuing ten-year period to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation;

(2) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social environmental, economic, and other requirements of the Nation;

(4) a catalog of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices; and recommendations for developing technology capable of increasing efficiency and protecting employee health and safety in energy industries;

(5) recommendations for improving the energy data and information available to the Federal agencies by improving monitoring systems, standardizing data, and securing additional needed information;

(6) a review and appraisal of the adequacy and appropriateness or technologies, procedures, and practices (including competitive and regulatory practices), employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this section; and

(7) recommendations concerning the level of funding for the development and application of new technologies, as well as new procedures and practices which the Council may determine to be required to achieve the purposes of this section and improve energy management and conservation together with recommendations for additional legislation.

(h) (1) Copies of any communications, documents, reports, or information received or sent by any members of the Council shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released under the terms of paragraph (2) of this subsection.

(2) The Council or any officer or employee of the Council shall not disclose information obtained under this section which concerns or relates to a trade secret referred to in sec-

tion 1905 of title 18, United States Code, except that such information may be disclosed in a manner designed to preserve its confidentiality—

(A) to other Federal Government departments, agencies, and officials for official use upon request;

(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

(C) to a court in any judicial proceeding under court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

(D) to the public in order to protect their health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to whom the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health and safety).

In no event shall the names or other means of identification of injured persons be made public without their express written consent. Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(i)(1) The Comptroller General of the United States shall continuously monitor and evaluate the operations of the Council including its reporting requirements. Upon his own initiative or upon the request of a committee of the Congress or, to the extent personnel are available, upon the request of a Member of the Congress, the Comptroller General shall (A) conduct studies of existing statutes and regulations governing Federal energy programs, (B) review the policies and practices of Federal agencies administering such programs, (C) review and evaluate the procedures followed by such agencies, in gathering, analyzing, and interpreting energy statistics, data, and information related to the management and conservation of energy, including but not limited to data to energy costs, demand, industry structure, environmental impacts and research and development, and (D) evaluate particular projects or programs. The Comptroller General shall have access to such data from any public or private source whatever, notwithstanding the provisions of any other law, as is necessary to carry out his responsibilities under this section and shall report to the Congress at such times as he deems appropriate with respect to Federal energy programs, including his recommendations for such modifications in existing laws, regulations, procedures, and practices as will, in his judgment, best serve the Congress in the formulation of a national energy policy.

(2) In carrying out his responsibilities as provided in paragraph (1) of this subsection, the Comptroller General shall give particular attention to the need for improved coordination of the work of the Federal Government related to energy policies and programs and the attendant need for a central source of energy statistics and information.

(3) The Comptroller General or any of his authorized representatives in carrying out his responsibilities under this section shall have access to any books, documents, papers, statistics, data, information, and records of any private organization relating to the management and conservation of energy, including but not limited to energy costs, demand, supply, reserves, industry structure, environmental impacts, and research and development. The Comptroller General may require any private organization to submit in writing such energy data as he may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as he may direct.

(4) To assist in carrying out his responsibilities, the Comptroller General may sign and issue subpenas requiring the production of the books, documents, papers, statistics data information, and records referred to in paragraph (3) of this subsection.

(5) In case of contumacy, or refusal to obey a subpena of the Comptroller General issued under this section, by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Comptroller General, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by such court as a contempt of court.

(6) Reports submitted by the Comptroller General to the Congress shall be available to the public at reasonable cost and upon identifiable request, except that the Comptroller General may not disclose to the public any information which could not be disclosed to the public by the Council under the provisions of subsection (h)(2) if the information were held by the Council.

(j)(1) There are authorized to be appropriated to carry out the provisions of this section not to exceed $1,000,000 for fiscal year ending June 30, 1974, $2,000,000 for fiscal year ending June 30 1975, and $4,000,000 for each fiscal year thereafter.

(2) All sums appropriated under this section shall remain available for obligation or expenditure in the fiscal year for which appropriated and in the fiscal year next following.

OFFICE OF ENERGY CONSERVATION

SEC. 4. (a) There is hereby established in the Department of the Interior the Office of Energy Conservation.

(b) The Office of Energy Conservation shall have a Director who shall be appointed by the President by and with the advice and consent of the Senate and such other officers and employees as may be required: *Provided*, That any incumbent Director occupying the office upon the date of enactment of this Act shall not be subject to the advice and consent of the Senate. The Director shall have such duties and responsibilities as the Secretary of the Interior may assign and shall be compensated at the rate provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5315).

(c) The Secretary of the Interior, acting through the Office of Energy Conservation, shall—

(1) work with the Council on Environmental Quality in developing new energy conservation initiatives for the Federal Government;

(2) cooperate with private industry in developing energy conservation programs in industry;

(3) provide assistance to State governments in the development of State energy conservation programs;

(4) conduct and promote educational programs to foster public awareness of energy conservation needs and opportunities;

(5) conduct a continuing study of, and maintain current statistics on, patterns of energy consumption; and

(6) prepare an annual report to the President and the Congress on his activities and the activities of other Federal agencies in implementing the policy and purposes of this Act. The report shall also review progress in energy conservation for major categories of energy use, and recommend additional energy conservation measures for each such category.

RESEARCH AND DEVELOPMENT

SEC. 5. (a) The Director of the National Science Foundation shall coordinate the energy conservation research and development programs of the Federal Government, identify energy conservation research and development opportunities, and make recommendations to the President and the Congress for additional research and development programs necessary to achieve the policy and purposes of this Act.

(b) The Secretary of Commerce is authorized to establish within the National Bureau of Standards an energy conservation research and development program to stimulate, through process testing, field demonstrations, and other means, new or improved manufacturing and industrial processes; better building construction, materials, and techniques; and new or improved residential and non-residential appliances and equipment; and to foster more efficient methods of managing energy use.

(c) The Secretary of the Interior is authorized to establish, using existing facilities of the Federal Government for the production and transmission of electrical energy, one or more electrical equipment testing and development centers for the purpose of developing and testing more efficient methods and equipment for the production and transmission of electric energy.

(d) The research programs authorized by this section shall be coordinated to the fullest extent possible with existing governmental and industrial research and development programs.

(e) For the purpose of subsections (b) and (c) of this section, there are authorized to be appropriated $8,000,000 and $4,000,000, respectively, for each of the first three fiscal years following the enactment of this Act.

FEDERAL BUILDING AND PROCUREMENT POLICIES

SEC. 6. (a) (1) The Congress hereby finds—

(A) that federally owned and federally assisted facilities have a significant impact on the Nation's consumption of energy;

(B) that energy conservation practices adopted for the design, construction, and utilization of these facilities will have a beneficial effect on the Nation's overall supply of energy;

(C) that the cost of the energy consumed by these facilities over the life of the facilities must be considered, in addition to the initial cost of constructing such facilities; and

(D) that the cost of energy is significant and facility designs must be based on the lowest total life cycle cost, including (i) the initial construction cost, and (ii) the cost, over the economic life of the facility, of the energy consumed, and of operation and maintenance of the facility as it affects energy consumption.

(2) The Congress declares that it is the policy of the United States to insure that energy conservation practices are employed in the design of Federal and federally assisted facilities. To this end the Congress encourages Federal agencies to analyze the cost of the energy consumption of each facility constructed or each major facility constructed or renovated, over its economic life, in addition to the initial construction for renovation cost.

(b) For purposes of this section:

(1) The term "Federal agency" means an executive agency (as defined in section 105 of title 5, United States Code) and includes the United States Postal Service.

(2) The term "facility" means any building on which construction is initiated six months or more after the date of enactment of this Act.

(3) The term "major facility" means any building of fifty thousand or more square feet of usable floor space on which construction or renovation is initiated six months or more after the date of enactment of this Act.

(4) The term "Federal facility" or "major Federal facility" means a facility constructed, or a major facility constructed or renovated, by a Federal agency.

(5) The term "federally assisted facility" or "major federally assisted facility" means a facility constructed, or major facility constructed or renovated, in whole or in part

with Federal funds or with funds guaranteed or insured by a Federal agency.

(6) The term "initial cost" means the required cost necessary to construct a facility or construct or renovate a major facility.

(7) The term "economic life" means the projected or anticipated useful life of a facility.

(8) The term "life-cycle cost" means the cost of a facility including (i) its initial cost, and (ii) the cost, over the economic life of the facility, of the energy consumed and of operation and maintenance of the facility as it affects energy consumption.

(9) The term "energy consumption analysis" means the evaluation of all energy consuming systems and components by demand and type of energy, including the internal energy load imposed on a facility by its occupants, equipment and components, and the external energy load imposed on the facility by climatic conditions.

(c) (1) The Congress authorizes and directs that Federal agencies shall carry out the construction of Federal facilities, and the construction and renovation of major Federal facilities, under their jurisdiction or programs for the construction of federally assisted facilities and the construction and renovation of major federally assisted facilities in such a manner as to further the policy declared in paragraph (a) (2) of this section, insuring that energy conservation practices are employed in new Federal and federally assisted facilities and in new or renovated major Federal and federally assisted facilities.

(2) Each Federal agency having jurisdiction over any Federal or federally assisted facilities construction program shall require the preparation of a complete life-cycle cost analysis for each major facility (exceeding fifty thousand square feet of usable floor space), for the expected life of the major facility.

(3) This life-cycle cost analysis shall include but not be limited to such elements as:

(A) the coordination and positioning of the major facility on its physical site;

(B) the amount and type of fenestration employed in the major facility;

(C) the amount of insulation incorporated into the facility design;

(D) the variable occupancy and operating conditions of the major facility, including illumination levels; and

(E) an energy consumption analysis of the major facility's heating, ventilating, and air-conditioning system, lighting system, and all other energy-consuming systems. The energy consumption analysis of the operation of energy-consuming systems in the major facility should include but not be limited to:

(i) the comparison of two or more system alternatives;

(ii) the simulation of each system over the entire range of operation of the major facility for a year's operating period; and

(iii) the evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

(4) The life-cycle cost analysis performed for each major facility shall provide but not be limited to the following information:

(A) the initial cost of each energy-consuming system being compared and evaluated;

(B) the annual cost of all utilities;

(C) the annual cost of maintaining each energy-consuming system; and

(D) the average replacement cost for each system expressed in annual terms for the economic life of the major facility.

(5) Selection of the optimum system or combination of systems to be incorporated into the design of the major facility shall be based on the life-cycle cost analysis of the economic life of the major facility.

(6) In the selection of locations for new Federal and federally assisted facilities consideration shall be given to proximity to existing or planned mass transit facilities.

(d) The life-cycle cost analysis and consideration of energy conservation practices required by subsection (c) of this section shall be included by the Administrator of the General Services Administration in any prospectus submitted to the Committees on Public Works of the Senate and the House of Representatives under section 7 of the Public Buildings Act of 1959, as amended.

(e) The Administrator of the General Services Administration shall prepare and submit biennial reports to the President and the Congress on the results of the program established pursuant to subsections (c) and (d) of this section. Such report shall include a description of equipment, methods of construction, and operating practices used to achieve energy conservation, including comparisons of energy consumption and costs for facilities in which such equipment, methods, or policies are and are not used.

(f) The Administrator of the General Services Administration is authorized and directed to develop, publish, and implement energy conservation guidelines for all Federal procurement. These guidelines shall be designed to assure that efficient energy use becomes a major consideration in all Federal procurement and shall be followed by all Federal agencies.

(g) The provisions of subsection (c) and subsection (f) of this section shall apply to all the construction and procurement policies of the Department of Defense, except where the Secretary of Defense finds that combat or other specific, critical military needs require otherwise.

BUILDING STANDARDS

SEC. 7. (a) The Secretary of Housing and Urban Development is authorized and directed to develop, in cooperation with the National Bureau of Standards and the General Services Administration, improved general performance standards and specific design, lighting, and insulation standards to promote efficient energy use in residential, commercial, and industrial buildings.

(b) The Secretary, in cooperation with the National Bureau of Standards and the General Services Administration, is authorized and directed to prepare the most practicable standards possible for efficient energy use for different types and classes of buildings, in differing regional environments. Such standards for energy use shall, to the extent possible, specify the energy conservation which may be achieved by adopting the practices recommended therein. The standards should be designed so that they may readily be incorporated in all currently available model building codes and such new model building codes as may be developed by the Bureau or any other entity.

(c) Within six months from the date of enactment of this Act, the Secretary shall review and revise the existing minimum property standards of the Federal Housing Administration to incorporate therein the most advanced practicable standards for efficient energy use, including the most advanced practicable space conditioning and major appilance standards. Such standards shall thereafter be reviewed and where necessary revised not less than once every three years to include new or improved techniques for more efficient energy use.

TRUTH IN ENERGY

S53. 8. (a) The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by—

(1) striking out section 18 thereof in its entirety;

(2) amending section 1 thereof by inserting at the beginning of the first sentence thereof the following: "(b)";

(3) inserting a new section 1(a) thereof as follows:

"(a) This Act may be cited as the 'Federal Trade Commission Act'."; and

(4) adding at the end thereof the following new sections:

"SEC. 18. FINDINGS AND PURPOSE.—(a) The Congress finds and declares that—

"(1) The Nation is facing an energy shortage of acute proportions in the decade following the date of enactment of this section. The problem has already manifested itself in different geographical areas in the form of power blackouts and brownouts, school closings because of a scarcity of fuel, and shortages of gasoline for automobiles and fuel for farm equipment.

"(2) A significant easing of the energy problem can be achieved by elimination of wasteful uses of energy, promotion of more effective uses of energy, and education of consumers as to the importance of conserving energy.

"(3) Climate conditioning systems and household products such as water heaters, room air-conditioners, refrigerators, freezers, stoves, and clothes dryers use significant quantities of energy. Substantial reductions are possible in the energy consumption of many of these systems and products if more attention is paid to energy usage in their design and in their use by consumers.

"(4) Many owners of major energy-consuming products and climate conditioning systems do not know nor can they readily discover prior to purchase how much each such product or system will cost each year to operate (in terms of energy charges) nor are they able to compare, in terms of operating cost, competing products or systems using different energy sources.

"(b) Since informed consumers are essential to the fair working of the free enterprise system and to the maintenance of balance between the supply of and the demand for energy, it is hereby declared to be the intent of Congress to assure, through a uniform national system, noncompliance with which shall be an unfair or deceptive act or practice, meaningful disclosure of the annual operating cost of certain products and systems, so that consumers can readily compare them and thereby avoid purchasing those which unnecessarily waste energy.

"SEC. 19. DEFINITIONS.—As used in sections 18 through 24 of this Act—

"(1) 'Annual operating cost' means, with respect to a major energy-consuming household product or climate conditioning system, the estimated cost of electricity or fuel needed for normal usage during a calendar year as determined in accordance with the provisions of section 20 of this Act.

"(2) 'Climate conditioning system' means any system which is designed to be installed or is installed in a previously occupied building for the purpose of artificially controlling temperature of humidity levels within such building or portion thereof. Such a system is characterized as being composed of a number of components (such as piping, ducting, furnaces, boilers, fans, heaters, compressors, pumps, controls, and working fluids, such as air, other gases, water, steam, oils, and refrigerants) which are not designed for or are incapable of controlling temperature or humidity levels within such building until and unless they are connected or combined together.

"(3) 'Communications medium' means any printed or electronic means of communication which reaches significant numbers of people including, but not limited to, newspapers, journals, periodicals, publications radios, televisions, films, or theater.

"(4) 'Fuel' means butane, coal, diesel oil, fuel oil, gasoline, natural gas, propane, or steam obtained from a central source; or any other substance which, when utilized, is capable of powering a major energy-consuming household product or climate conditioning system.

"(5) 'Major energy consuming household product' means a product which: (A) is sold or intended to be sold for use in a residence; (B) is utilized or intended to be utilized for a major residential end use of energy; (C) function when connected to a readily available source of energy external to the product; and (D) requires, based on average patterns of usage as determined in accordance with section 20 of this Act, more than 200 kilowatt-hours per year or in the case of a product powered by fuel, more than 2,000,000 British thermal units per year.

"(6) 'Major residential end use of energy' means one of the following residential uses of energy: (A) space heatings; (B) water heating; (C) cooking; (D) clothes drying; (E) refrigeration; (F) air-conditioning; and (G) any other residential use of energy that the Commission, in cooperation with the National Bureau of Standards, determines, by a proceeding pursuant to section 20(j) of this Act, to be included to meet the purposes of sections 18 through 24 of this Act.

"(7) 'Supplier' means any manufacturer, importer, wholesaler, direct sale merchandiser, distributor, or retailer of any new major energy consuming household product, or any engineer or contractor who is designing a climate conditioning system for use in a previously occupied building.

"Sec. 20. Estimates of Annual Operating Costs.—(a) The Commission, in cooperation with the National Bureau of Standards, within 3 months after the date of enactment of this section, in a proceeding pursuant to section 553 of title 5, United States Code, shall identify those products which are major energy consuming household products.

"(b) The Commission, in cooperation with the National Bureau of Standards, beginning 12 months after the date of enactment of this section shall establish priority ranking of major energy consuming household products, based on the extent to which such products contribute to residential energy consumption; and shall, in a proceeding pursuant to section 553 of title 5, United States Code, adopt interim procedures for determining and disclosing annual operating costs of major energy consuming household products. Such interim procedures shall be adopted in the order of such priority ranking and shall remain in effect until the effective date of the procedures promulgated in accordance with subsections (c) through (i) of this section.

"(c) For each major energy consuming household product identified under subsection (a) of this section, the Commission, in cooperation with the National Bureau of Standards, within 18 months after the date of enactment of this section, in a proceeding pursuant to subsection (j) of this section, shall define an average-use cycle, and devise a procedure for testing or for calculations based upon tests by which an average-use cycle of a product may be simulated and the energy utilized during such cycle measured. In developing such definition and procedures, the Commission shall consult with appropriate professional engineering societies, and organizations representing the manufacturers of major energy consuming household products in order to enable the Commission to make the best possible utilization of appropriate existing testing procedures and professional expertise.

"(d) The Commission shall direct each manufacturer and importer of each major energy consuming household product identified under subsection (a) of this section to conduct tests on all applicable models of such products in accordance with the procedures established under subsection (c) of this section. Beginning 30 months after the date of enactment of this section, such manufacturers and importers shall furnish the results of such tests, in the form of energy utilized per average-use cycle, to the Commission and shall include such results as part of the information shipped with each such product to all the suppliers who carry such product.

"(e) The Commission, in cooperation with the National Bureau of Standards, within 18 months after the date of enactment of this section, in a proceeding pursuant to subsection (j) of this section, shall develop and maintain, on a regional, national, or other basis which the Commission finds appropriate in such proceeding, information on the estimated (1) number of average-use cycles performed annually by each major energy consuming household product identified under subsection (a) of this section; and (2) average unit cost of energy for those circumstances under which such products are expected to be utilized. Such costs shall be computed on the basis of energy cost figures which shall be supplied to the Commission by the Federal Power Commission and the Secretary of the Interior.

"(f)(1) The Commission shall, beginning 18 months after the date of enactment of this section and on an annual basis thereafter, disseminate to all manufacturers and importers of major energy consuming household products the information developed under subsection (e) of this section. Such information shall be accompanied by instructions and computational aids for determining the annual operating cost of a given major energy consuming household product in accordance with the procedure established under subsection (g) of this section.

"(2) If, for any particular major energy consuming household product, the Commission develops such information on a national basis, the determination of the annual operating cost shall be made by the manufacturers or importers, and the annual operating cost figures shall be included by the manufacturers or importers as part of the material shipped with each such product to all the suppliers who carry such product.

"(3) For major energy consuming household products, other than those referred to in paragraph (2), the manufacturers and importers shall forward such information, instructions and computational aids to all the suppliers who carry such product. Suppliers engaged in the business of selling new major energy consuming household products for purposes other than resale shall make the determination of the annual operating costs.

"(4) Within 36 months after the date of enactment of this section, and periodically thereafter when a revision is deemed necessary or appropriate, a compilation of information provided to or developed by the Commission under subsections (d) and (e) of this section shall be published by the Commission in a public document to be placed on sale at the Government Printing Office. The Commission shall take steps to encourage the widest possible distribution of such document and any revision thereof.

"(g) The annual operating cost of any major energy consuming household product shall be determined by multiplying the energy utilized per average-use cycle, as determined under subsection (d) of this section, by the number of average-use cycles per annum multiplied by the average unit cost of energy, as determined under subsection (e) of this section.

"(h) Within 18 months after the date of enactment of this section, in a proceeding pursuant to subsection (j) of this section, the Commission, in cooperation with the National Bureau of Standards, shall establish model calculation procedures for use by suppliers in determining the annual operating costs of climate conditioning systems. In developing such procedures, the Commission shall consult with appropriate professional engineering societies, and organizations representing the climate conditioning industry so as to allow the best possible utilization by the Commission of the appropriate existing calculation procedures and professional expertise. The model calculation procedures developed under this subsection shall be distributed or otherwise made available by the Commission at reasonable cost to all applicable suppliers and other interested persons.

(i) The annual operating cost shall be determined at the time the price is stated or advertised upon the basis of the most recent information provided the supplier in accordance with subsections (d) and (f) of this section.

"(j) Except as elsewhere provided in this section, a proceeding shall be conducted in accordance with the provisions of section 553 of title 5, United States Code, except notice and a public hearing are required, and a record of the proceeding shall be maintained. Interested persons shall also be given an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submission. A transcript shall be kept of any oral presentation.

"Sec. 21. Labeling and Advertising.—(a) Beginning 6 months after the date of adoption of procedures for determining and disclosing annual operating costs in accordance with section 20 of this Act, it shall be unlawful for any supplier to sell or offer for sale in commerce for purposes other than resale any new major energy consuming household product or climate conditioning system for which such procedure has been adopted, unless the annual operating cost of such product or system is disclosed by the supplier prior to any such sale. Such disclosure shall appear on the same label, tag, shelf, display case, counter, contract, estimate, proposal, direct-mail statement, or any other place on which the purchase price or acquisition cost of such product or system is stated, in accordance with rules established by the Commission: *Provided*, That if annual operating costs are significantly different in different sections of the country, communications covering more than one such section in the form of mail-order literature, catalogs, brochures, or other media which contain price data shall include national average values of annual operating costs, and shall disclose clearly and conspicuously that the annual operating costs of such products for any specific section of the country may be obtained from the supplier.

"(b) Beginning 6 months after the date of adoption of procedures for determining and disclosing annual operating costs in accordance with section 20 of this Act it shall be unlawful for any supplier to advertise or cause to be advertised in commerce through any communications medium any new major energy consuming household product for which such procedure has been adopted, if such advertisement states the purchase price or acquisition cost of such product, unless the advertisement includes a statement of the annual operating cost of such product in accordance with rules established by the Commission: *Provided*, That if annual operating costs as determined in accordance with section 20(g) of this Act are significantly different in different sections of the country, price advertising covering more than one such section shall include national average values of annual operating costs, and shall disclose clearly and conspicuously that the annual operating costs of such products for any specific section of the country may be obtained from the supplier.

"(c) It shall be unlawful for any supplier to give false or misleading information to the Commission or any prospective purchaser with respect to the annual operating cost of any new major energy consuming household product or climate conditioning system or, in the case of a manufacturer or importer, with respect to tests conducted in accordance with section 20(d) of this Act.

"(d) It shall be unlawful for any supplier to fail to comply with any requirement imposed by any rule or regulation issued under this section or section 20 of this Act.

"(e)(1) No requirement with respect to disclosure of the annual operating cost of a new major energy consuming household product shall be applicable to any such product which is shipped in commerce by a manufacturer or importer prior to the date of applicability of any requirement with respect to disclosure of the annual operating cost of such product.

"(2) The Commission may by rule prohibit a supplier from stockpiling any new major energy consuming household product prior to the date of applicability, under paragraph (1) of this subsection, of any requirement with respect to disclosure of the annual operating cost of such product. For the purposes of this paragraph, 'stockpiling' means shipping a new major energy consuming household product between the date of promulgation of a testing procedure for such product and 15 months after the date of enactment of this section at a rate which is significantly greater (as determined under the rule under this paragraph) than the rate at which such product was shipped during a base period (prescribed in the rule under this paragraph) ending before the date of promulgation of the testing procedure.

"(f) Nothing in this section shall be construed to give rise to a cause of action for rescission of any contract or for damages, unless the supplier fraudulently or knowingly gave the client or purchaser false information on annual operating costs, and such client or purchaser reasonably relied thereon to his detriment in entering upon such contract.

"(g) Nothing in this section shall be deemed to prohibit a supplier or an advertiser from representing orally or in writing that the annual operating costs required to be disclosed by this section are based on average patterns of usage and should not be construed as a precise calculation of annual operating costs to be experienced by an individual purchaser.

"SEC. 22. (a) PROHIBITED ACTS AND ENFORCEMENT.—(a) Violation of any disclosure provision of section 20 or 21 of this Act shall constitute an unfair or deceptive act or practice under section 5 of this Act and shall be subjected to proceedings thereunder.

"(b) The district courts of the United States shall have jurisdiction without regard to the amount in controversy or the citizenship of the parties to restrain any violation of section 20 or 21 of this Act. Such actions may be brought by the Commission in any district court of the United States for a judicial district in which the defendant resides, is found, or transacts business or in which the alleged violation occurred. In any such action, process may be served in any judicial district in which a defendant resides or is found.

"(c)(1) Any person may commence a civil action on his own behalf against (A) any supplier who is alleged to be in violation of any provision of section 20 or 21 of this Act or any regulation thereunder; or (B) the Commission where there is an alleged failure of the Commission to perform any act or duty under such sections which is not discretionary. The district courts of the United States shall have jurisdiction without regard to amount in controversy or citizenship of the parties to grant mandatory or prohibitive injunctive relief or interim equitable relief to enforce such provisions with respect to any supplier or to order the Commission to perform any such act or duty. Such court, in issuing any final order in an action brought under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate. No action may be commenced under this subsection prior to 60 days after the plaintiff has given notice of the alleged violation to the appropriate supplier and the Commission.

"(2) In any action under this subsection, the Commission, if not a party, may intervene as a matter of right.

"(3) Nothing in this subsection shall restrict any right which any person or class of persons may have under any other statute or at common law to seek enforcement of any provision of sections 18 through 24 of this Act or regulation thereunder or any other relief.

"SEC. 23. PREEMPTION.—(a) It is hereby declared to be the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof insofar as they may now or hereafter provide for the disclosure of energy consumption, energy efficiency, efficiency ratio, or annual operating cost of any new major energy consuming household product or climate conditioning system if there is in effect and applicable a Federal disclosure requirement with respect to such product or system.

"(b) Upon petition by any State, or political subdivision thereof, the Commission may, by rule, after notice and opportunity for presentation of views, exempt from the provisions of this subsection, under such conditions as it may impose, any State or local requirement that (1) affords protection to consumers greater than that provided in the applicable Commission rule; (2) is required by compelling local conditions; and (3) does not unduly burden commerce. The Commission shall maintain continuing jurisdiction with respect to those States or political subdivisions thereof which are specifically exempted under this subsection. Any such exemption granted by the Commission may be withdrawn by it whenever it is determined that the State or political subdivision thereof is not efficiently enforcing its requirements or that such exemption is no longer in the public interest.

"SEC. 24. REPORT, TERMINATION, AND AUTHORIZATION.—(a) On July 1 of the year following the year in which this Act is enacted and every year thereafter as part of its annual report, the Commission shall report to the Congress and to the President on the progress made in carrying out the purposes of sections 18 through 24 of this Act.

"(b) The provisions of sections 18 through 24 of this Act shall terminate upon the adoption of a concurrent resolution by the Congress with a determination that the findings set forth in section 18(a) of this Act are no longer applicable.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 18 through 24 of this Act, not to exceed $2,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976."

AUTOMOBILE FUEL ECONOMY STANDARDS

SEC. 9. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—FUEL ECONOMY

"SHORT TITLE

"SEC. 501. This title may be cited as the 'Automobile Fuel Economy Act'.

"DECLARATION OF POLICY

"SEC. 502. (a) FINDINGS.—The Congress finds and declares that—

"(1) A serious shortage of refined petroleum products is emerging in the United States.

"(2) The need to import petroleum from foreign nations is causing the Nation substantial international trade deficits in fuels.

"(3) This shortage and trade deficit necessitate reducing wasteful and unnecessary use of petroleum and petroleum products.

"(4) Automobiles are a major user of petroleum products.

"(5) The low fuel economy of many automobiles today is unnecessary since significant increases in fuel economy can be achieved without sacrificing environmental or safety standards and without restricting travel patterns.

"(b) PURPOSES.—Therefore, it is hereby declared to be the purpose of the Congress to—

"(1) encourage the development, manufacture, and sale of automobiles which are more economical to operate in terms of the amount of fuel consumed per mile traveled;

"(2) increase the industrywide average fuel economy for new automobiles by at least 50 per centum by 1984 in comparison to the industrywide average fuel economy for new automobiles in 1974, so that the contribution made by the automobile to the rate of growth of the total annual consumption of petroleum products in the United States will be minimized;

"(3) make the Nation self-sufficient in fuel supplies for automobile transportation; and

"(4) promote and encourage new technologies which may aid in further realization of the foregoing objectives.

"DEFINITIONS

"SEC. 503. As used in this title—

"(1) 'Automobile' means a four-wheeled vehicle propelled by fuel which is manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails, and which has as its primary intended function the transportation of not more than ten individuals. The term 'automobile' includes a light duty truck rated at 6,000 pounds gross vehicle weight or less, and a multipurpose passenger vehicle which has as its primary intended function the transportation of not more than ten individuals, other than a motor home constructed on a truck chassis, truck chassiscab, or special chassis, or constructed through utilizing a truck or similar van.

"(2) 'Commerce' means commerce among the several States or with foreign nations or in any State or between any State and foreign nation.

"(3) 'Dealer' means any person engaged in the business of selling new automobiles to purchasers who buy for purposes other than resale.

"(4) 'Fuel' means any material or substance capable of propelling an automobile, including, but not limited to, regular and high-octane gasoline, diesel oil, kerosene, natural gas, and propane.

"(5) 'Fuel economy' refers to the average number of miles (kilometers) traveled by an automobile per unit of fuel consumed, as determined in accordance with test procedures established by the Environmental Protection Agency pursuant to the Clean Air Act, as amended.

"(6) 'Industrywide average fuel economy' means the average fuel economy of all new automobiles sold or expected to be sold in all States in a given model year, which may or may not be weighed in accordance with regulations of the Secretary.

"(7) 'Manufacturer' means any person engaged in manufacturing, importing, or assembling automobiles.

"(8) 'Model' means an automobile of particular brand name, body dimensions, style, engine, and drive train.

"(8) 'Model year' means the period that runs from the date a model is introduced in commerce or first offered for sale to purchasers for purposes other than resale, to no later than December 31 of the next calendar year.

"(10) 'Secretary' means the Secretary of Transportation.

"(11) 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"MINIMUM STANDARD AND LONG-RANGE PLAN

"Sec. 504. (a) Establishment.—The Secretary shall, within eighteen months after the date of enactment of this title, establish by rule pursuant to section 553 of title 5, United States Code, a minimum fuel economy standard for new automobiles introduced into commerce during and after the 1978 model year.

"(b) Factors.—In establishing the standard under subsection (a) of this section, the Secretary shall take into consideration the results of the studies conducted pursuant to section 12 of the National Fuels and Energy Conservation Act of 1973. Such standard shall be set at a level which, in the judgment of the Secretary, represents, to the extent that is technologically and economically feasible, the first step in an orderly progression toward achievement of the national purpose stated in section 502(b) of this Act.

"(c) Long-Range Plan.—The Secretary shall submit to Congress, no later than 18 months after the date of enactment of this title, a plan (which may include proposed minimum fuel economy standards for new automobiles introduced into commerce during model years subsequent to 1978, and recommendations for new legislation) for achieving the national purpose stated in section 502(b) of this Act. In the development of such plan, the Secretary shall consider the results of the studies conducted pursuant to section 12 of the National Fuels and Energy Conservation Act of 1973. Any proposed minimum standards for fuel economy included in such plan shall be technologically and economically feasible and shall be promulgated by the Secretary pursuant to section 553 of title 5, United States Code, unless either House of Congress, between the date of transmittal of such plan and the end of a 60-day period following such transmittal date, passes a resolution stating in substance that it disapproves of such plan.

"(d) Amendment.—The Secretary may from time to time, upon the basis of new information, amend, modify, or revise any standard or plan established under subsection (a) or (c) of this section. Any amended standard shall be technologically and economically feasible and shall be issued at least 18 months prior to the commencement of the model year for which such amendment is to be applicable.

"(e) Exceptions.—Standards established in subsection (a) or (c) of this section shall not apply to any automobile which is intended solely for export (and is so labeled or tagged on the vehicle itself and on the outside of the container, if any) and which is exported.

"(f) Judicial Review.—

"(1) General.—Any person who may be adversely affected by any rule promulgated under this section may at any time prior to 60 days after such rule is promulgated file a petition in the United States Court of Appeals for the District of Columbia, or any circuit wherein such person resides or has his principal place of business, for judicial review of such rule. A copy of the petition shall be forthwith transmitted by the clerk of such court to the Secretary. The Secretary shall thereupon cause to be filed in such court the record of the proceedings upon which the rule which is under review was based, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter.

"(2) Additional Evidence.—If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced in a hearing, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his finding as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his rule, with the return of such additional evidence.

"(3) Further Review.—The judgment of the court affirming or setting aside, in whole or in part, any such rule of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(4) Other Remedies Unimpaired.—The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

"DUTIES AND POWERS OF THE SECRETARY

"Sec. 505. (a) General.—(1) For the purpose of carrying out the provisions of this title, the Secretary, or his duly designated agent, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, or such agent, deems advisable. The Secretary, or his duly designated agent, shall at all reasonable times have access to, and for the purpose of examination, the right to copy any documentary evidence of any person having materials or information relevant to any function of the Secretary under this title. The Secretary is authorized to require, by general or special orders, any person to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this title. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary within such reasonable period as he may prescribe.

"(2) Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpena or order of the Secretary, or his duly designated agent, issued under paragraph (1) of this subsection, issue an order requiring compliance with such subpena or order. Any failure to obey such an order of the court may be punished by such court as a contempt thereof.

"(3) Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(b) Inspection.—(1) Every manufacturer shall establish and maintain such records, make such reports, conduct such tests, and provide such items and information as the Secretary may reasonably require to enable the Secretary to carry out his duties under this title and under any rules or regulations promulgated pursuant to this title. A manufacturer shall, upon request of a duly designated agent of the Secretary, permit such agent to inspect finished automobiles and appropriate books, papers, records, and documents. A manufacturer shall make available all such items and information in accordance with such reasonable rules as the Secretary may prescribe.

"(2) Any of the district courts of the United States within the jurisdiction of which an inspection is carried out or requested may, in the case of contumacy or refusal by any manufacturer to accede to any reasonable requirement or request of the Secretary, or his duly designated agent, issued or made under paragraph (1) of this subsection, issue an order requiring compliance with such requirement or request. Any failure to obey such an order of the court may be punished by such court as a contempt thereof.

"(c) Public Disclosure of Information.—The Secretary is authorized and directed to disclose as much of any information obtained under this section to the public as he determines will assist in carrying out the purposes of this title, except that any information reported to or otherwise obtained by him which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, which if disclosed would result in significant competitive damage, shall not be disclosed to the public (other than officers or employees concerned with carrying out this title), unless such information is relevant to any proceeding under this title. Nothing in this subsection shall authorize the withholding of information by the Secretary or any officer or employee under his control from any committee of the Congress.

(d) Representation—Notwithstanding any other provision of law, in any action under this section, the Secretary may direct attorneys employed by him to appear and represent him.

"LABELING AND ADVERTISING

"Sec. 506. (a) Sticker.—Beginning no later than 90 days after the enactment of this title, each manufacturer shall cause to be affixed and each dealer shall cause to be maintained on each new automobile, in a prominent place, a sticker indicating the fuel economy which a prospective purchaser can expect from such automobile, and the estimated average annual fuel costs associated with the operation of such automobile. The form and content of such sticker shall be determined by the Federal Trade Commission, pursuant to section 553 of title 5, United States Code.

"(b) Disclaimer.—Nothing in this section shall be deemed to prohibit a manufacturer or dealer from representing orally or in writing that the fuel economy or estimated average annual fuel costs required to be disclosed by this section are based on representative driving cycles as determined by the Administrator of the Environmental Protection Agency and should not be construed as a precise calculation of fuel economy or estimated average annual fuel costs to be experienced by an individual purchaser.

"(c) Advertising.—The Federal Trade Commission shall by rule, pursuant to section 553 of title 5, United States Code, direct that the information regarding fuel economy and average annual fuel costs which is required under subsection (a) of this section be a conspicuous part of any advertisement for new automobiles which mentions purchase price or acquisition cost of such automobile.

"(d) Conforming Amendments.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by striking out in the first paragraph 'disclosing the following information concerning' and inserting in lieu thereof 'disclosing the information required by the Automobile Fuel Economy Act together with the following information concerning'.

"PROHIBITED CONDUCT

"Sec. 507. The following conduct is prohibited—

"(a) the failure to comply with any provisions of this title or any standard, rule, regulation, or order issued by the Secretary or Commission pursuant to this title;

"(b) the failure to provide information as required in accordance with this title;

"(c) the failure to permit inspection pursuant to this title;

"(d) the manufacture, processing, sale, distribution, or importation into the United States of any automobile whenever such manufacture, assembly, sale, distribution, or importation is known to be or should have been known to be for use in violation of this title or any standard, rule, regulation, or order issued under this title. Each such act constitutes a separate violation of this section.

"ENFORCEMENT

"Sec. 508. (a) Unfair Trade Practice.—It shall be unlawful and a violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any person subject to the provisions of section 506 of this Act to fail to comply with any requirement imposed on such person by or pursuant to such section.

"(b) Equitable Remedy.—The district courts of the United States shall have jurisdiction over any action brought by the Secretary or any attorney designated by the Secretary for such purpose, for a mandatory or prohibitive injunction to enforce any provision of this title or any standard, rule, regulation, or order thereunder or for equitable relief to redress a violation by any person of any provision of section 507 of this Act. The courts shall have jurisdiction to grant such relief as the equities of the case may require. Upon a proper showing, and after notice to the defendant, a temporary restraining order or preliminary injunction shall be granted without bond: *Provided*, That if a complaint is not filed within such period as may be specified by the court after the issuance of the restraining order or preliminary injunction, the order or injunction may, upon motion, be dissolved. Whenever it appears to the court that the interests of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the judicial district in which the court is held, and to that end process may be served in any district. Upon the request of the Secretary, the Attorney General is authorized and directed to bring and maintain an action under this subsection.

"(c) Criminal Violation.—Any person who willfully violates any provision of section 507 of this Act shall, on conviction, be fined not more than $25,000 for each violation, or be imprisoned for not more than one year, or both.

"(d) Civil Violation.—(1) Any person who violates any provision of section 507 of this Act other than willfully shall be liable to the United States for a civil penalty in an amount which is not greater than $25,000 for each violation: *Provided*, That the amount of such civil penalty shall not exceed such person's ability to pay. The amount of such civil penalty shall be assessed by the Secretary after notice and an opportunity for an adjudicative hearing conducted in accordance with section 554 of title 5, United States Code, and after he has considered the nature, circumstances, and extent of such violation, the practicability of compliance with the provisions violated, and any good-faith efforts to comply with the provision violated.

"(2) Upon the failure of the offending party to pay such civil penalty, the Secretary may commence an action in the appropriate district court of the United States for such relief as may be appropriate or he may request the Attorney General to commence such an action.

"RELATIONSHIP TO STATE LAW

"Sec. 509. After the effective date of any standard, regulation or requirement under this title relating to fuel economy or fuel economy labeling of automobiles, no State or political subdivision thereof may adopt or enforce any standard, regulation or requirement relating to such matters, except that a State or political subdivision may adopt and enforce controls and regulations governing the use or operation of automobiles such as speed limit controls designed to conserve the use of fuel.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 510. There is hereby authorized to be appropriated for the purposes of carrying out the provisions of this Act such sums as are necessary, not to exceed $1,000,000 for the fiscal year ending June 30, 1974, and not to exceed $3,000,000 annually for the fiscal years ending June 30, 1975, and June 30, 1976.".

UTILITY ENERGY CONSERVATION REPORTS

Sec. 10. (a) Within six months from the date of enactment of this Act, the Federal Power Commission shall, by rule on the record after opportunity for a public hearing, promulgate regulations requiring electric and gas public utilities to submit to the Commission annual reports on energy conservation policies. The Commission shall make such reports readily available for public inspection.

(b) Each such report shall include—

(1) a statement of the problems the utility is encountering in implementing an energy conservation program, such as regulatory or rate restrictions;

(2) a description of the utility's research effort directed toward the conservation of energy;

(3) an evaluation of the role of the utility's wholesale and retail rate srtuctures in achieving conservation of energy;

(4) disclosure of system inefficiencies, including energy loss during transmission and distribution; and

(5) such other relevant information as the Commission may require.

FEDERAL GOVERNMENT ENERGY RATE STUDIES

Sec. 11. (a) Each agency of the Federal Government which produces or sells electrical energy or which certificates or licenses any person to produce electrical energy for sale is authorized and directed to prepare and submit to the Congress within twelve months from the date of enactment of this Act a comprehensive study of the impact of the rate structure and the policies of such agency on the efficiency of generation and on the consumption and conservation of energy. Each such study shall evaluate all relevant factors, including, but not limited to—

(1) an identification of subsidies and other incentives which promote inefficient generation and unnecessary and wasteful energy consumption;

(2) an indication of how various rate structures, rate changes, and methods of pricing might affect the efficiency of generation and consumption within the regions studied. Such methods shall include fuel cost adjustments, marginal cost pricing, and other pricing measures which may encourage increased efficiency of generation or decreased consumption of electrical energy;

(3) an exploration of the price elasticity of electrical energy consumption within each region studied;

(4) an analysis of the rate structure within each region studied, including its effect on design and use of less efficient power generation equipment;

(5) an indication of whether metering or other measures might be improved or instituted to inform purchasers of electrical energy of their cost and of peak demand responsibilities;

(6) an estimate of the impact various rate changes might have on regional consumption and efficiency of generation; and

(7) recommendations for legislative, executive, and administrative actions in furtherance of the national policy declared in section 2 of this Act.

(b) The Council on Energy Policy established pursuant to section 3 of this Act, upon reviewing reports prepared pursuant to section 10 and subsection (a) of this section and in consultation with Federal and State agencies which establish or regulate rates for or prices, production, or importation of electricity or other forms of energy, shall prepare and submit to the Congress within two years of the date of enactment of this Act a study of the impact of such rates and energy prices generally on the consumption and conservation of energy. Such study shall discuss the factors set forth in subsection (a) of this section and any other factors deemed appropriate by the Secretary, and shall contain such recommendations for legislative and administrative action as the Secretary deems necessary.

TRANSPORTATION STUDIES

Sec. 12. (a) The Secretary of Transportation is authorized and directed to prepare and submit to Congress, within nine months from the date of enactment of this Act, a report evaluating the potential for energy conservation in the transportation sector. Such report shall include the results of—

(1) a comprehensive study of motor vehicle characteristics and their effects on and the relationships between fuel economy, safety, reliability, damage resistance, materials used in construction, and cost to motor vehicle purchasers. Such study shall include but not be limited to the cost benefit aspects of the foregoing factors, both to the individual motor vehicle owner and to the Nation, and shall identify combinations of such factors which provide for optimum motor vehicle characteristics;

(2) a study of automobile usage in the United States in relation to other transportation modes and systems. The study shall include, but not be limited to, consideration of travel patterns and ways to better integrate the automobile into urban and intercity transportation systems, including the prospects for dual mode transportation systems, and the extent to which a need exists for public assistance for research and development with respect to transportation modes other than the automobile;

(3) an investigation of the advisability of limiting maximum achievable speeds of motor vehicles and of imposing lower maximum speed limits on various types of roads in various parts of the country;

(4) an evaluation of the impact on fuel consumption of national and regional systems of freight transportation and, to the extent relevant studies do not already exist or are in preparation, commercial passenger transportation. Such study shall include—

(A) an evaluation of the relationship between existing patterns of freight and commercial passenger transportation and energy use;

(B) an evaluation of the role of Federal, State, and local government transportation policies in creating and maintaining existing patterns of freight and commercial passenger transportation;

(C) an evaluation of the role of Federal rate regulation in encouraging freight and commercial passenger transportation practices which are inefficient in terms of fuel use; and

(D) an evaluation of the technological and economic feasibility of achieving at least a 50 percentum improvement within ten years of the industry-wide average fuel economy for transportation vehicles, including airplanes, automobiles, buses, motorcycles, recreational vehicles, trains, trucks, and vessels. At the time of submission of the plan required under section 504 of the Motor Vehicle Information and Cost Savings Act, the Secretary shall also submit to Congress a plan (including recommendations for new legislation) for achieving such improvement.

(b) The Secretary of Transportation shall solicit the views of the Secretary of the Interior, the Administrator of the Environmental Protection Agency and other officers and agencies of the Federal Government during the course of such studies; and his report shall include their views and recommendations, if any, for legislation needed to establish the policies and programs identified in such report.

AUTOMOTIVE RESEARCH AND DEVELOPMENT

SEC. 13. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) as amended by Section 9 of this Act, is further amended by adding at the end thereof the following new title:

"TITLE VI—RESEARCH AND DEVELOPMENT

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Automotive Transport Research and Development Act of 1973'.

"FINDINGS AND PURPOSES

"SEC. 602 (a) FINDINGS.—The Congress finds that—

"(1) Existing automobiles are inadequate to meet all of the long-term goals of this Nation with respect to providing safety, to protecting the environment, and to conserving energy.

"(2) With additional research and development, several advanced alternatives to existing automobiles have the potential to be mass produced at a reasonable cost with significantly less environmental degradation and fuel consumption than existing automobiles while remaining compatible with other requirements of Federal law.

"(3) Insufficient resources are being devoted to research and development of advanced automobiles and automobile components both by the Federal Government and the private sector.

"(4) An expanded research and development effort into advanced automobiles and automobile components by the Federal Government is needed to increase such efforts by the private sector and encourage automobile manufacturers to seriously consider such advanced automobiles and automobile components as alternatives to existing automobiles and automobile components.

"(5) Because of the urgency of the energy, safety, and environmental problems, such advanced automobiles and components should be developed, tested, and prepared for manufacture within four years from the date of enactment of this title.

"(b) PURPOSES.—Therefore, it is the purpose of this title: (1) to make grants for, and support through loan guarantees, research and development leading to production prototypes of an advanced automobile or automobiles within four years from the date of enactment of this title and to secure the certification after testing of those prototypes which are likely to meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives; and (2) to interpret and carry out this title to preserve, enhance and facilitate competition in research, development, and production of existing and alternative automobiles and automobile components.

"DEFINITIONS

"SEC. 603. As used in this title—

"(1) 'Advanced automobile' means a personal use transportation vehicle propelled by fuel, which is energy-efficient, safe, damage-resistant, and environmentally sound and which—

"(A) presents, consistent with environmental requirements, the least total amount of energy consumption with respect to the amount of fuel consumed, the type of fuel consumed, or the production, use and disposal of such automobile, and represents a substantial improvement over existing automobiles with respect to such factors;

"(B) can be mass produced at the lowest possible cost consistent with the requirements of this title;

"(C) operates safely and with sufficient performance with respect to acceleration, cold weather starting, cruising speed, and other performance factors;

"(D) to the extent practicable, is capable of intermodal adaptability; and

"(E) at a minimum, can be produced, distributed, operated, and disposed of in compliance with any requirement of Federal law, including, but not limited to, requirements with respect to fuel economy, exhaust emissions, noise control, safety, and damage resistance.

"(2) 'Damage resistance' refers to the susceptibility to physical damage of an automobile when involved in an accident.

"(3) 'Developer' means any person engaged in whole or in part in research or other efforts directed toward the development of production prototypes of an advanced automobile or automobiles.

"(4) 'Fuel' means any energy source capable of propelling an automobile.

"(5) 'Fuel economy' refers to the average number of miles (kilometers) traveled by an automobile per unit of fuel consumed, as determined in accordance with title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.).

"(6) 'Intermodal adaptability' refers to any characteristic of an automobile which enables it to be operated or carried, or which facilitates such operation or carriage, by or on an alternate mode or other system of transportation.

"(7) 'Low-Emission Vehicle Certification Board' means the Low-Emission Vehicle Certification Board established pursuant to section 212 of the Clean Air Act (42 U.S.C. 1857f–6e).

"(8) 'Production prototype' means an automobile which is in its final stage of development and is capable of being placed into production for sale at retail in quantities exceeding ten thousand automobiles per year.

"(9) 'Reliability' refers to the ease of diagnosis and repair of an automobile and its systems and parts which fail during use or are damaged in an accident and the average time and distance that proper operation can be expected without repair or replacement.

"(10) 'Safety' refers to the performance of an automobile or automobile equipment in such a manner that the public is protected against unreasonable risk or accident and against unreasonable risk of death or bodily injury in case of accident.

"(11) 'Secretary' means the Secretary of Transportation.

"(12) 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

"DUTIES OF THE SECRETARY

"SEC. 604. The Secretary is authorized and directed to insure the development of one or more production prototypes of an advanced automobile within four years after the date of enactment of this title. The Secretary and the Administrator of the Environmental Protection Agency shall to the fullest extent practicable coordinate motor vehicle research programs and the Administrator is directed to give careful consideration to any request, on a reimbursable basis or otherwise, for such assistance as the Secretary deems necessary to promote such development. In furtherance of the purposes of this title and to promote such development by private interests, the Secretary is further authorized and directed to—

"(a) make grants for research and development efforts likely to lead or contribute to the development of an advanced automobile or automobiles, in accordance with the provisions of section 606 of this title;

"(b) make loan guarantees for research and development efforts which show promise of leading or contributing to the development of an advanced automobile or automobiles, in accordance with the provisions of section 607 of this title;

"(c) conduct and accelerate research and development programs within the Department of Transportation for the purpose of contributing to the research and development of a production prototype of an advanced automobile or automobiles;

"(d) test or direct the testing of production prototypes and secure certification as advanced automobiles those which meet the applicable requirements, in accordance with section 608 of this title;

"(e) collect, analyze, and disseminate to developers information, data, and materials relevant to the development of an advanced automobile or automobiles;

"(f) prepare and submit studies as required under section 611 of this title; and

"(g) receive and evaluate any reasonable new technology, a description of which is submitted to him in writing, which could lead to the development of an advanced automobile.

"POWERS OF THE SECRETARY

"SEC. 605. In addition to the powers specifically enumerated in any provision of this title, the Secretary is authorized to—

"(a) appoint such attorneys, employees, agents, consultants, and other personnel as he deems necessary, define the duties of such personnel, determine the amount of compensation and other benefits for the services of such personnel and pay them accordingly;

"(b) procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code, but at rates not to exceed $150 a day for qualified experts;

"(c) obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise, identifying the assistance he deems necessary to carry out his duties under this title, including, but not limited to, transfer of personnel with their consent and without prejudice to their position and rating;

"(d) enter into, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his duties under this title, with any government agency or any person; and

"(e) purchase, lease, or otherwise acquire, improve, use, or deal in and with any property; sell, mortgage, lease, exchange, or otherwise dispose of any property or other assets; accept gifts or donations of any property or services in aid of any purpose of this title.

"GRANTS

"SEC. 606. (a) GENERAL.—(1) The Secretary shall provide funds by grant or contract to initiate, continue, supplement, and maintain research and development programs or activities which, in his judgment, appear likely to lead to the development, in production prototype form, of an advanced automobile or automobiles.

"(2) The Secretary is authorized to make such grants, and contracts with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

"(b) CONSULTATION.—The Secretary, in the exercise of his duties and responsibilities under this section, shall consult with the Administrator of the Environmental Protection Agency and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the areas of automobile research, development, and technology. The Secretary may establish an advisory panel or panels to review and make recommendations to him on applications for funding under this section.

"(c) PROCEDURE.—Each grant under this section shall be made in accordance with such rules and regulations as the Secretary shall prescribe in accordance with the provisions of this section and of section 602 of this title. Each application for funding shall be made in writing in such form and with such content and other submissions as the Secretary shall require.

"LOAN GUARANTEES

"SEC. 607. (a) GENERAL.—(1) The Secretary is authorized, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, to guarantee and to make commitments to guarantee the payment of interest on, and the principal balance of, an obligation to initiate, continue, supplement, and maintain research and development programs or activities which, in his judgment, appear likely to lead to the development, in production prototype form, of an advanced automobile or automobiles. Each application for such a loan guarantee shall be made to the Secretary in such form and with such content and other submissions as the Secretary shall prescribe to reasonably protect the interests of the United States. Each guarantee and commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Secretary deems appropriate. Each guarantee and commitment to guarantee shall inure to the benefit of the holder of the obligation to which such guarantee or commitment applies. The Secretary is authorized to approve any modification of any provision of a guarantee or a commitment to guarantee such an obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms or conditions, upon a finding by the Secretary that such modification is equitable, not prejudicial to the interests of the United States, and has been consented to by the holder of such obligation.

"(2) The Secretary is authorized to so guarantee and to make such commitments to any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

"(b) EXCEPTION.—No obligation shall be guaranteed by the Secretary under subsection (a) of this section unless he finds that no other reasonable means of financing or refinancing is reasonably available to the applicant.

"(c) CHARGES.—(1) The Secretary shall charge and collect such amounts as he may deem reasonable for the investigation of applicants for a guarantee, for the appraisal of properties offered as security for a guarantee, or for the isuance of commmitments.

"(2) The Secretary shall set a premium charge of not more than 1 per centum per annum for a loan or other obligation guaranteed under this section.

"(d) VALIDITY.—No guarantee or commitment to guarantee an obligation entered into by the Secretary shall be terminated, canceled, or otherwise revoked, except in accordance with reasonable terms and conditions prescribed by the Secretary. Such a guarantee or commitment to guarantee shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder as of the date the Secretary entered into the contract of guarantee or commitment to guarantee, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

"(e) DEFAULT AND RECOVERY.—(1) If there is a default in any payment by the obligor of interest or principal due under an obligation guaranteed by the Secretary under this section and such default has continued for sixty days, the holder of such obligation or his agents have the right to demand payment by the Secretary of such unpaid amount. Within such period as may be specified in the guarantee or related agreements, but not later than forty-five days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid interest on and unpaid principal of the obligation guaranteed by the Secretary as to which the obligor has defaulted, unless the Secretary finds that there was no default by the obligor in the payment of interest or principal or that such default has been remedied.

"(2) If the Secretary makes a payment under paragraph (1) of this subsection, he shall have all rights specified in the guarantee or related agreements with respect to any security which he held with respect to the guarantee of such obligation, including, but not limited to, the authority to complete, maintain, operate, sell, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements.

"(3) If there is a default under any guarantee or commitment to guarantee an obligation, the Secretary shall notify the Attorney General who shall take such action against the obligor or any other parties liable thereunder as is, in his discretion, necessary to protect the interests of the United States. The holder of such obligation shall make available to the United States all records and evidence necessary to prosecute any such suit.

"(f) AUTHORIZATION FOR APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary not to exceed $200,000,000 to pay the interest on, and the principal balance of, any obligation guaranteed by the Secretary as to which the obligor has defaulted: *Provided*, That the outstanding indebtedness guaranteed under this section shall not exceed $200,000,000.

"TESTING AND CERTIFICATION

"SEC. 608. (a) ADMINISTRATOR.—The Administrator of the Environmental Protection Agency shall test, or cause to be tested in a facility subject to his supervision, each production prototype of an automobile developed in whole or in part with Federal financial assistance under this Act, or referred to him for such purpose by the Secretary to determine whether such production prototype complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901), or any other provision of Federal law administered by him. The Administrator shall submit all test data and the results of such tests to the Low-Emission Vehicle Certification Board.

"(b) SECRETARY.—The Secretary shall test, or cause to be tested in an independent facility subject to his supervision, all new production prototypes of automobiles which he or a developer may submit to the Low-Emission Vehicle Certification Board for certification under subsection (c) of this section. Such tests shall be conducted, according to testing procedures to be developed by the Secretary to determine whether each such automobile complies with any standards promulgated as of the date of such testing or reasonably expected to be promulgated prior to sale at retail of such automobile under any provision of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381), the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) as amended by section 9 of this Act, the Automobile Information Disclosure Act (15 U.S.C. 1232), and any other statute enacted by Congress and applicable to automobiles. The Secretary shall also refer any such automobile to the Administrator of the Environmental Protection Agency for testing pursuant to the provisions of subsection (a) of this section. All new automobiles may be submitted to the Secretary for testing under this subsection, including vehicles developed without any Federal financial assistance under this title. The Secretary shall submit all test data and the results of all tests conducted by him or subject to his supervision to the Low-Emission Vehicle Certification Board together with his conclusions and reasons therefor as to whether the automobile tested merits certification as an advanced automobile. The Secretary, or the Administrator of the Environmental Protection Agency, if appropriate, shall conduct, or cause to be conducted, any additional tests which are requested by the Low-Emission Vehicle Certification Board and shall furnish to such Board any other information which it requests or which he deems necessary or appropriate.

"(c) BOARD.—The Low-Emission Vehicle Certification Board, shall, upon application by a developer or by the Secretary and the receipt of test data and test results submitted pursuant to subsections (a) and (b) of this section, issue or deny certification as an advanced automobile. Each determination as to certification shall be made in accordance with such rules and regulations as such Board shall prescribe in accordance with this title. Each application for certification shall be made to the Board in writing in such form and with such content and other submissions as the Board shall require.

"PROPRIETARY INFORMATION AND PATENTS

"SEC. 609. (a) AVAILABILITY.—(1) All research and development contracted for, sponsored, or cosponsored by the Secretary pursuant to this title, shall require, as a condition of Federal participation, that all information—whether patented or unpatented in the form of trade secrets, know-how, proprietary information, or otherwise—resulting from federally assisted research shall be made available at the earliest practicable date to the general public, including nongovernmental United States interests capable of bringing about further development, utilization, and commercial applications of such results.

"(2) The Secretary, in administering patents pursuant to this title, shall make a determination, in a proceeding conducted in accordance with the provisions of section 553 of title 5, United States Code, as to whether patent licenses shall be granted on a royalty-free basis of charges designed to recover part or all the costs of the Federal research. The Secretary, in administering patents pursuant to this title, shall make government patent rights available on nonexclusive, reasonable and nondiscriminatory terms to qualified applicants unless he finds in writing on a case by case basis that making such rights available on such terms is contrary to the public interest and the purposes of this title.

"(3) (A) Where a participant in an advanced automobile development project holds background patents, trade secrets, know-how, or proprietary information which will be employed in and are requisite to the proposed development project, the Secretary shall enter an agreement which will provide equitable protection to the participant's rights: *Provided*, That any such agreement must provide that when the advanced automobile development project reaches the stage of possible commercial application any of the participant's previously developed background patents, trade secrets, know-how, or proprietary information necessary to possible commercial production of an advanced automobile developed under this title, will be made available to any qualified applicant on reasonable nondiscriminatory license terms including suitable confidentiality agreements, reasonable royalties, and such other conditions as may be applicable, which shall take into account that the commercial viability of the advanced automobile was achieved with the assistance of public funds.

"(B) As employed herein, the term 'background patent' means a United States patent owned or pending by a contractor, grantee, participant, or other party conducting research or development work, or both, pursuant to this title for or under the sponsorship or cosponsorship of the Secretary which would be infringed by the practice of any new technology developed under the research or development work, or both, contracted for, sponsored, or cosponsored pursuant to this title.

"(b) PROTECTION OF RIGHTS.—Whenever the Secretary determines that—

"(1)(A) in the implementation of the requirements of this title a right under any United States letters patent, which is not otherwise reasonably available, is reasonably necessary to the development of an advanced automobile pursuant to this title, and

"(B) there are no reasonable alternative methods to accomplish such purpose, and

"(2) that the unavailability of such right may result in a substantial lessening of competition or tendency to create a monopoly in any line of commerce in any section of the country,

the Secretary shall so certify to a district court of the United States, which shall review the Secretary's determination and, if the district court upholds such determination, shall issue an order requiring the person who owns such patent to license it on such reasonable and nondiscriminatory terms and conditions as the court, after hearing, may determine. Such certification may be made to the district court for the district court in which the person owning the patent resides, does business, or is found.

"RECORDS, AUDIT, AND EXAMINATION

"SEC. 610. (a) RECORDS.—Each recipient of financial assistance or guarantees under this title, whether in the form of grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) AUDIT AND EXAMINATION.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements referred to in such subsection.

"REPORTS

"SEC. 611. On or before August 1 of each year, the Secretary shall submit to Congress an annual report of activities under this title. Such report shall include an account of the state of automobile research and development in the United States, including the number of grants made, and number of loans or other obligations guaranteed, and the progress made in developing production prototypes of advanced automobiles within four years after the date of enactment of this title; and suggestions for improvements in automobile research and development, including recommendations for legislation.

"GOVERNMENT PROCUREMENT

"SEC. 612. The Administrator of General Services shall consult with the Low-Emission Vehicle Certification Board periodically to determine the earliest date at which production prototypes of an advanced automobile will be available. When the Low-Emission Vehicle Certification Board determines that an advanced automobile may soon be available, it shall propose a system of guidelines recommending to any Federal agency using and procuring automobiles the procurement of such automobiles. After a production prototype has been certified by such Board as an advanced automobile, the Board is authorized and directed to prescribe such regulations as are necessary requiring all Federal agencies to procure and to use such advanced automobile to the maximum extent feasible.

"AUTHORIZATION FOR APPROPRIATION

"SEC. 613. (a) AUTHORIZATION.—There is hereby authorized to be appropriated to carry out the purposes of this title other than section 607 of this title not to exceed $30,000,000 for the fiscal year ending June 30, 1974, not to exceed $50,000,000 for the fiscal year ending June 30, 1975, and not to exceed $60,000,000 for the fiscal year ending June 30, 1976.

"(b)(1) RATIO NOT REDUCED.—Funds expended for each fiscal year for the purposes of this title and funds expended for such fiscal year for all energy research, development, and demonstration activities shall be in the same ratio as the funds appropriated for such fiscal year pursuant to this title bear to funds appropriated for such fiscal year for all energy research, development, and demonstration activities of the Federal Government.

"(2) For the purposes of this subsection, the term 'energy research, development, and demonstration activities of the Federal Government' includes, but is not limited to—

"(A) the planning, management, and coordination of the energy research, development, and demonstration activities of the Federal Government;

"(B) research, development, and demonstration of coal as an energy source including coal gasification, coal liquefaction, and improved mining techniques;

"(C) research, development, and demonstration of oil shale as an energy source;

"(D) research development, and demonstration of unconventional energy sources including solar energy, geothermal energy, magnetohydrodynamics, fuel cells, low-head hydroelectric power, the use of agricultural products for energy, tidal power, ocean current and thermal gradient power, wind power, electric energy storage methods, solvent refined coal, utilization of waste products for fuels, and direct conversion methods; and

"(E) research, development, and demonstration of new methods of converting fossil fuels into electrical energy.

"RELATIONSHIP TO ANTITRUST LAWS

"SEC. 614. (a) DISCLAIMER.—Nothing herein shall be deemed to convey to any individual, corporation, or other business organization immunity from civil or criminal liability or to create defenses to actions under the antitrust laws.

"(b) ANTITRUST LAWS DEFINED.—As used in this section, the term 'antitrust laws' includes the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730) as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; the Act of June 19, 1936 (ch. 592, 49 Stat. 1526), as amended."

TRANSPORTATION ENERGY CONSERVATION DEMONSTRATIONS

SEC. 14. (a) GENERAL.—The Secretary of Transportation is authorized and directed to enter into such contracts or other arrangements as may be necessary or appropriate for research and the development, establishment, and operation of demonstration projects to determine the feasibility of programs to conserve energy utilized in the transportation of individuals, including fare-free urban mass transportation systems; low-fare urban mass transportation systems; and arrangements such as reduced fees for multipassenger automobiles on toll highways, bridges, and tunnels.

(b) FEDERAL SHARE.—Federal grants or payments for the purpose of assisting projects pursuant to subsection (a) of this section shall cover not to exceed 80 per centum of the cost of the project involved, including operating costs and the amortization of capital costs, if any, for any fiscal year as to which such contract or other arrangement is in effect.

(c) CRITERIA.—The Secretary of Transportation shall select cities or metropolitan areas for projects assistance under this section upon the basis of applications in writing in such form and with such content as he shall require and in accordance with the following criteria:

(1) to the extent practicable, such cities or metropolitan areas shall have a failing or nonexistent transit system, a decaying central city, automobile-caused air pollution problems, or an immobile central city population;

(2) projects shall be selected from cities or metropolitan areas of differing size and characteristics, including population density and distribution;

(3) preference shall be given to projects that will introduce a high level of innovative transportation service to such cities or metropolitan areas consistent with the needs of residents for convenient access to employment, shopping, and recreation; and

(4) to the extent practicable, projects utilizing different techniques, methods, and modes of transportation energy conservation shall be approved. Recipients of project assistance under this section shall make periodic reports and evaluations of each such project to the Secretary of Transportation in such form and with such content as the Secretary shall require.

(d) EVALUATION.—The Secretary of Transportation shall study transportation energy conservation methods and systems assisted under this section to determine—

(1) the effects of such methods or systems on energy and fuel conservation;

(2) the effects of such methods or systems on motor vehicle traffic and attendant air pollution, congestion, and noise; the mobility of urban residents; and the economic viability of central city business establishments;

(3) the techniques, methods, and modes of mass transportation that can best meet desired national objectives; and

(4) in the case of fare-free or low-fare systems, the extent to which frivolous ridership increases; the extent to which such systems may reduce the need for urban highways; and the best means of financing such systems on a continuing basis.

(e) ANNUAL REPORT.—The Secretary of Transportation shall make annual reports to the Congress on the information gathered pursuant to this section and shall make a final report, including recommendations for legislation, not later than June 30, 1976.

(f) ADVISORY COMMITTEES.—In carrying out the provisions of this section, the Secretary of Transportation may provide for advisory participation by interested State and local government authorities, mass transportation systems management personnel, computerized data processing experts, employee representatives, commuters, and such other persons as he deems necessary or appropriate.

(g) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to carry out the provisions of this section not to exceed $20,000,000 for fare-free demonstrations, and $10,000,000 to effect the other purpose of this section, for each of the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively.

CARPOOL INCENTIVE PROJECTS

SEC. 15. Chapter I of Title 23 of the United States Code is amended by adding the following new section 154:

"CARPOOL INCENTIVE PROJECTS

"SEC. 154. (a) (1) To conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary shall approve projects designed to encourage the use of carpools in urban areas throughout the country while not adversely affecting bus and other mass transportation ridership in such areas.

"(2) Proposals shall be originated by local officials and submitted by the State in accordance with the provisions of subsection (d) of section 105 of this title. The Secretary shall approve for funding those projects which offer reasonable prospects of achieving the objectives stated in subsection (a) (1).

"(3) A project may include, but not be limited to, such measures as systems for locating potential riders and informing them of convenient carpool opportunities; preferential carpool highway lanes or shared bus and carpool lanes; and preferential parking for carpools.

"(4) A project under this section shall be carried out in accordance with procedures of law and regulations applicable to urban area traffic operations improvement projects pursuant to section 135 of this title, except that the Federal share of the cost of such work shall be 90 per centum, and that the Federal share shall not exceed $1,000,000 for any single project.

"(b) The Secretary shall conduct a full investigation of the effectiveness of measures employed in the demonstration projects authorized by subsection (a) of this section. In addition, he shall, in cooperation with the Internal Revenue Service, the Environmental Protection Agency, and other appropriate Federal and State agencies, study other measures, including but not limited to tax and other economic incentives, which might lead to significant increases in carpool ridership in urban areas throughout the country, and shall identify any institutional or legal barriers to such measures and the costs and benefits of such measures. He shall report to the Congress not later than December 31, 1974, his findings, conclusions, and recommendations resulting from such investigation and study. Funds authorized to carry out section 307 of this title are authorized to be used to carry out the investigation and study authorized by this subsection."

ENERGY CONSERVATION TAX INCENTIVES STUDY

SEC. 16. (a) The Secretary of the Treasury shall undertake a study of the feasibility and the costs and benefits of employing modifications in the Federal tax structure to encourage energy conservation, including, but not limited to, a study of—

(1) a progressive tax on increments of electricity consumed in excess of basic or ordinary residential and commercial use;

(2) measures to encourage the manufacture and purchase of energy-efficient automobiles;

(3) measures to encourage the use of efficient insulation in new structures and the installation of improved insulation in existing structures;

(4) measures to encourage research and development on technology for the removal of sulfur from fuels; and

(5) measures to encourage the installation of stack gas cleaning and other continuous emission reduction systems for the control of sulfur oxide emissions in fuel burning stationary sources.

(b) The Secretary shall submit to Congress a report of this study, together with any legislative recommendations he deems appropriate, no later than two years from the date of enactment of this Act.

PRODUCTS IMPORTED AND EXPORTED

SEC. 17. (a) Any product offered for import into the United States shall, as a condition of such importation, meet the applicable requirements of this Act.

(b) Any person importing into the United States any products to which the requirements of this Act are applicable shall be subject to the imposition of appropriate fees to defray expenses incurred in assuring compliance with such requirements.

(c) The requirements of section 8 of this Act shall not apply to any major energy consuming household product which is intended solely for export and which is exported.

AUTHORIZATION OF APPROPRIATIONS

SEC. 18. In addition to the sums authorized to be appropriated by specific sections of this Act to implement certain provisions of this Act, there are authorized to be appropriated each fiscal year such sums as may be necessary to carry out other provisions of this Act.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

Mr. JACKSON. Mr. President, the Senate today considers S. 2176, the National Fuels and Energy Conservation Act of 1973. This is the first comprehensive energy conservation measure to be considered by Congress. It lays the foundations for a serious, long-term effort to reduce energy waste and promote efficient energy use.

In reality, this bill is the joint product of the three Senate committees participating in the National Fuels and Energy study authorized by the 92d Congress. It represents many hours of hearings, executive sessions, and hard work by the staffs and members of the Commerce, Interior, and Public Works Committees. I want to thank the distinguished chairmen of these committees, Senators MAGNUSON and RANDOLPH, for their cooperation and contributions to this joint effort. The legislation in its present form also includes the substance of legislative proposals made by Senators BUCKLEY, DOMENICI, HART, HOLLINGS, MOSS, TUNNEY, and RANDOLPH.

S. 2176, which I introduced on July 13 of this year, has been cosponsored by 35 Senators. After the bill was reported by the Interior Committee on September 13, it was rereferred simultaneously to the Commerce and Public Works Committees for consideration of the provisions of S. 2176 within their respective jurisdictions. As a result of amendments proposed either by these committees or individual Senators, the bill before the Senate now is, I believe, more comprehensive and more effective than the original legislation.

The amendment in the nature of a substitute which I have submitted with Senators MAGNUSON and RANDOLPH includes some of the provisions of my original bill, with major additions proposed by the Commerce Committee on such subjects as appliance labeling, automobile fuel economy standards, and the development of more energy-efficient vehicles. The Commerce Committee has also incorporated a modified version of the Senator from South Carolina (Mr. HOLLINGS) bill to create a Council on Energy Policy which passed the Senate last spring.

The substitute amendment also includes modified provisions of S. 2479, legislation proposed by the Senator from West Virginia (Mr. RANDOLPH) to insure that energy conservation practices are employed in the design of Federal and federally assisted facilities. Senator RANDOLPH'S proposals enlarge and strengthen the original provisions of my bill on this subject.

Mr. President, when I first proposed this legislation last February, I discussed the urgent need for a sustained national effort to end our reckless waste of energy and stop the soaring growth in our energy consumption. I argued that the time had come to start questioning the legitimacy of energy demand: To ask whether we must ravage hills in Appalachia to air-condition sealed glass towers in New York—to ask whether we must put ourselves in hock to Middle East sheikdoms in order to keep our roads clogged with gas-hungry vehicles. And I urged that the time had come to make "conservation" and "efficiency" an integral part of national energy policy, with Congress taking the initiative in directing a broad range of actions by the executive branch to achieve this end.

Events of the past few months have made these arguments more valid than ever. We are now confronted with fuel shortages unprecedented in our history. In the absence of effective emergency measures, we could face shortages equal to 25 percent of the demand for petroleum products in the first quarter of 1974. And stringent energy conservation measures offer the single most important option we have for minimizing the economic impact of these shortages.

The Senate has, of course, already authorized a number of short-term conservation measures in the Energy Emergency Act passed last month. That legislation is designed to achieve immediate savings through such emergency conservation programs as limitations on nonessential uses and restrictions on the energy consumption of commercial establishments.

The conservation measure before us today is, on the other hand, designed to achieve fundamental changes in our traditional approach to energy use, and thereby slow the relentless increase in energy demand we have experienced in recent years. It is that demand for energy which, after all, is the root cause of our energy emergency today. As Senators are well aware, the United States has the highest per capita energy consumption in the world. Between 1940 and 1970, annual per capita energy consumption rose from the equivalent of 33 barrels of oil to 60 barrels of oil.

In the 10-year period between 1962 and 1972, consumption of gasoline in the United States rose 49.7 percent; consumption of heating oil rose 18.4 percent; consumption of natural gas rose 65.1 percent and consumption of electricity rose 104.6 percent.

The annual growth of energy consumption during the past decade has averaged 4.3 percent, double the growth rate in the immediate postwar period. Electricity consumption has been increasing at a rate of 7 percent a year.

Gasoline consumption is now increasing at a rate of 5 percent each year. If this rate of increase were to continue, we would be using 350 billion gallons of gasoline annually by the year 2000, an intolerable level of consumption by any standard. We have simply failed to recognize and anticipate the consequences of exponential growth in energy consumption.

Historically, energy in this country has been consumed free of restraints on supply, without questioning the legitimacy of the demand or the efficiency of the use of nonrenewable energy resources. Government policies have been directed to the satisfaction of energy needs through increased supplies. A series of Federal programs ranging from leasing of public lands to hydroelectric power projects have as their unquestioned purpose the satisfaction of energy demands. Federal policy has never focused on the nature and merits of those burgeoning energy demands, including their long-term economic social and environmental consequences.

The National Fuels and Energy Conservation Act is designed to change this traditional Federal policy toward energy demand. It does this by setting forth a congressional declaration of national policy that the Federal Government shall "foster and promote comprehensive national fuels and energy conservation programs and practices in order to better assure adequate supplies of energy and fuels to consumers, reduce energy waste, conserve natural resources and protect the environment."

The act makes energy conservation the responsibility of every Federal agency, requiring them to propose changes in their policies and programs to assure conformity with the act. It provides a statutory base and specifies certain functions for the Office of Energy Conservation in the Interior Department. It requires that efficient energy use become a major consideration in all Federal procurement.

The act authorizes specific energy conservation research programs to develop new or improved industrial processes, better building construction, and more efficient production and transmission of electrical energy.

The act also directs the preparation of several significant studies to lay the groundwork for future congressional action. These include studies of utility rate structures, methods of freight transportation, and a significant study of possible tax incentives for energy conservation proposed by the Senator from New York (Mr. BUCKLEY).

The provisions of the act added or strengthened by the Commerce Committee include the requirement that estimated annual operating costs of major energy consuming appliances be disclosed to prospective purchasers and the requirement that minimum fuel economy standards be developed in order to achieve the goal of improving industry-wide fuel economy for new automobiles by at least 50 percent over a 10-year period.

Mr. President, it should be noted that the executive branch is already beginning to act on some of the programs authorized by this legislation. For example, some research is already being done in the energy conservation area. Federal building policies are beginning to reflect energy conservation needs. A voluntary appliance-labeling program has been proposed. And an Office of Energy Conservation has been created by Executive order. But despite these modest beginnings, there has been little evidence of a basic commitment to a serious, long-range conservation effort by this administration.

The fact is, Mr. President, that energy conservation must become a keystone of national energy policy for the next generation. Voluntarism alone will not do the job that must be done to reduce energy demand. And major programs and policies affecting every Federal agency for years to come should not be established by Executive order. Congress must assume responsibility for declaring a national energy conservation policy and detailing a program to support it.

Mr. President, the conservation objectives of S. 2176 cannot be achieved overnight. But the policies and programs set in motion by this act can, if effectively administered, help reduce our energy needs to manageable proportions in the next decade.

It is too late to forestall the energy shortages that will plague us in the 1970's. But it is not too late to build a national energy policy that restores us to energy self-sufficiency. The National Energy Research and Development Policy Act passed by the Senate last week is a vital first step in that direction. But we cannot hope to achieve any real degree of self-sufficiency merely by working to satisfy energy demands. We must also seek to change the wasteful and ill-considered policies and practices which lead us to consume one-third of the world's energy. That is why Congress must take the initiative to make energy conservation a national imperative by adopting the National Fuels and Energy Conservation Act before the Senate today.

Mr. President, I ask unanimous consent to have placed in the RECORD a brief summary on a section-by-section basis of the pending amendment in the nature of a substitute.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OUTLINE OF AMENDMENT 757 TO S. 2176

Section 2. Statement of Purposes, Findings and Policy.

Establishes a national policy of energy conservation and directs all Federal agencies to review their policies and programs and to recommend changes needed to assure conformity with this Act.

Section 3. Council on Energy Policy.

Establishes a three man Council on Energy Policy to coordinate all Federal activities dealing with energy. This section is similar to S. 70, which passed the Senate earlier this year. The three man Council on Energy Policy would play a role similar to the Council on Environmental Quality or the Council of Economic Advisers. The Federal Energy Administration proposed by the President is a day-to-day operating agency and its relationship to the proposed Council on Energy Policy is analogous to the relationship between the Environmental Protection Agency and the Council on Environmental Quality. One of the primary tasks of the Council on Energy Policy will be to prepare a long-range Energy Plan.

Section 4. Office of Energy Conservation.

This section gives statutory authority to the Office of Energy Conservation in the Department of the Interior.

Section 5. Research and Development.

Establishes a $12 million R & D program on energy conservation, involving the Bureau of Standards and the Department of the Interior, and giving overall coordination of Federal R & D program in energy conservation to the National Science Foundation.

Section 6. Federal Building and Procurement Policies.

All Federal agencies are directed to utilize energy conservation practices in the design of Federal and federally assisted building facilities, and require a life cycle cost analysis to be performed for new Federal or federally assisted facilities exceeding 50,000 square feet of usable floor space. It also directs that GSA give major consideration to efficient energy use in all Federal procurement policies.

Section 7. Buildings Standards.

This section calls for HUD, GSA, and the Bureau of Standards to develop standards for efficient energy use in buildings. Also called for is a review and a revision of the minimum property standards of the FHA.

Section 8. Truth in Energy.

This section is in the form of amendments to the Federal Trade Commission Act. Under this section, the estimated annual operating costs of major energy consuming household products and air conditioning and heating systems will be required to be disclosed to customers prior to purchase. Only those household products which consume on the average more than 200 kilowatt hours per year are covered. This essentially limits coverage of the bill to refrigerators, air conditioners, ranges, freezers, water heaters, and clothes dryers. Also covered by section 8 are central air conditioning and heating systems being installed in a previously occupied building. The administration of this program is given to the Federal Trade Commission; with assistance from the National Bureau of Standards in the development of the technical aspects of the testing and calculation procedures. Labels based on interim procedures will start to appear 18 months after date of enactment on the most energy intensive household products. These interim procedures will be phased out as more sophisticated testing and calculation procedures are developed over a thirty-six month period. The estimated annual operating costs would also be included in all advertisements which mention purchase price of the affected products. Enforcement provisions of section 8 include declaration of unfair deceptive trade practices, injunctions, and civil penalties. Section 8 also pre-empts any state or municipality laws dealing with energy efficiency or operating cost disclosure of major household energy consumer products.

Section 9. Automobile Fuel Economy Standards.

This section, in the form of amendments to the Motor Vehicle Information and Cost Disclosure Act, establishes a goal for improving the industrywide fuel economy for new automobiles by at least 50% over a ten year period. In order to achieve that goal the Secretary of Transportation is directed to establish as a first step, a single minimum fuel economy standard for the 1978 model year. The Secretary is further directed to develop a plan for achieving the congressionally established goal. If such a plan includes additional minimum standards of fuel economy, such standards would be promulgated according to a rule making procedure unless either house of Congress specifically disapproves of the plan. In addition to establishment of minimum standards, the bill requires fuel economy information to be displayed on a show sticker and in advertisements which mention price. The use of the words "at least" a 50% improvement reflects the intent that the maximum improvement which is technologically and economically feasible is expected. Enforcement of the provisions of section 9 is civil and criminal penalties. Automobiles not meeting the minimum standard could not be sold.

Section 10. Utility Energy Conservation Reports.

Every gas and electric public utility is directed to submit annual reports on energy conservation policies to the FPC.

Section 11. Federal Government Energy Rate Studies.

Each agency of the federal government which is involved in the production of electrical energy is to prepare a study of the effect of their various policies on the consumption and conservation of energy.

Section 12. Transportation Studies.

This section calls for a series of studies examining the potential for energy conservation in the transportation sector.

Section 13. Automotive Research and Development.

This section, in the form of amendments to the Motor Vehicle Information and Cost Savings Act, establishes a $140 million federally funded research and development program leading to production of prototypes of advanced technology automobiles. The emphasis is on utilizing new engine concepts which promise to provide significant gains in reducing exhaust emissions and fuel consumption. The provision also establishes a system of loan guarantees to those companies who need financial assistance to get these prototypes into mass production.

Section 14. Transportation Energy Conservation Demonstration.

This section establishes a $30 million program to finance demonstration projects in urban areas involving fare-free and low-fare urban mass transit systems.

Section 15. Carpool Incentive Projects.

This is an amendment to the Federal Highway Act which permits use of certain highway monies for the development and promotion of carpool incentive programs in urban areas.

Section 16. Energy Conservation Tax Incentives Study.

This section directs the Secretary of the Treasury to conduct a comprehensive study of possible modifications in the Federal tax structure designed to encourage energy conservation.

Section 17. Products Imported and Exported.

All products imported into this country must meet applicable requirements of this Act; products intended solely for export are not required to meet such requirements.

Section 18. Authorization of Appropriations.

Authorized to be appropriated such funds may be necessary in addition to specific appropriations made in individual sections of the Act.

Mr. FANNIN. Mr. President, I commend the distinguished Senators from Washington and South Carolina for their work on this legislation. Their goal is commendable.

While I feel keenly about this legislation and its need, at the same time, I am vitally concerned about some of the provisions which are perhaps duplicative or which are not in line with the goals we seek. I sometimes wonder whether providing for tough and punitive regulations to the extent of some of these stipulations is necessary to accomplish the objective we all have in mind, which is to help meet the energy crisis, and certainly to provide protection to the consumer.

Mr. President, the Committee on Interior and Insular Affairs has worked very hard developing legislation to meet the energy problems our Nation now faces. Under the leadership of the distinguished Senator from Washington this body has passed in this session the emergency petroleum allocation bill (S. 1570), the National Energy Emergency Act (S. 2589), the Federal Lands Right-of-Way Act (S. 1081), and the National Energy Research and Development Policy Act (S. 1283). Other committees of the Senate are presently handling the Federal Energy Administration bill and the administration's energy research and development bill.

A large part of the contents of S. 2176, the National Fuels and Energy Conservation Act is encompassed by one or other of these bills which are now in the legislative pipeline. Those parts of S. 2176 which are not covered by these specific energy bills appear in their own right in independent legislation. In short, we will simply confuse both the energy picture and the organizational necessities of the executive branch by passage of S. 2176 at this time.

I, therefore, oppose S. 2176 and urge the Senate to reject it pending more mature consideration.

Taking the major provisions of S. 2176 as they appear in the bill, it appears that establishment of the proposed Council on Energy Policy—section 3 will not only conflict with and complicate the efforts of the Federal Energy Administration but will perpetuate in the energy field the more severe problems which the establishment of the Council on Environmentaltal Policy has caused in environmental fields. As for the Office of Energy Conservation—section 4—its establishment is already a fact, it will be folded into FEA and locking it in statutorily can only result in a loss of the flexibility necessary to properly administer in the energy field.

The amendments to the Federal Trade Commission Act—section 8—and to the Motor Vehicle Cost Savings and Information Act—sections 9 and 13—should receive full and free debate in the Senate as independent legislation and should not be hurried through under the guise of emergency legislation in the closing days of an already hectic session.

In these days of energy shortage with an urgency to solve the energy problems facing us, any bill carrying an energy conservation title receives a knee jerk favorable reaction. I urge my colleagues not to be stamped by this reaction but to consider whether S. 2176 does not in fact negate delay, and confuse the attainment of the goals to which our other energy legislation are directed.

Mr. President, once more I commend the distinguished Senator from Washington for the great effort he has put forth in carrying forward these pieces of legislation. I am concerned that we are not giving proper consideration to integrating legislation and integrating it into a common goal in order best to achieve what we all have in mind.

Now there are other parts of this legislation which I could discuss this morning but I realize it is very complex and lengthy. As the day proceeds, I hope that we can discuss many of the provisions of the legislation.

Mr. President, I yield the floor.

Mr. BAYH. Mr. President, I ask unanimous consent that Howard Paster of my staff be permitted access to the floor during debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, the effect of the energy crisis on the American consumer has been multiplied by the administration's mishandling and outright bungling. It is therefore, indeed heartening to have S. 2176, as amended, before the Senate today. This bill, representing another significant step forward by Congress to develop a rational, long-range energy policy for this country, is the product of joint efforts by members of the Committees on Commerce, Interior, and Public Works. The legislation began to take shape in early spring of this year and has moved forward in a rational and deliberate manner, with inputs coming from a broad spectrum of interested groups, including industry, environmentalists, and consumer groups. The bill has evolved after extensive hearings, markup sessions, and subsequent agreement by members of the three committees. It represents the results of many months of discussion and compromise.

Many of us in the Senate realized, long before the administration did, that energy conservation had to become a national policy, and we have worked long and hard to develop S. 2176 as the cornerstone of a comprehensive energy conservation policy. It is particularly important to note that our deliberations did not take place in a crisis atmosphere. On the contrary, S. 2176 represents the results of carefully thought out and reasoned proposals. There is an obvious contrast between these efforts and the administration's helter-skelter attempts to develop an energy conservation policy. As S. 2176 was being developed earlier this year by the three committees, its various provisions were being opposed by the administration. At the same time, the administration was trying to figure out what they should be doing about this matter. I am reminded of the famous baseball double play combination from Tinkers to Evers to Chance. This year we have seen the administration put its consumer combination into action—from Schultz to Love to Simon. The administration has not only made three errors in one inning, but they have struck out and bobbled the energy conservation ball.

The thrust of the administration's proposals is for the American consumer to make sacrifices—to turn down his thermostat, to slow down on the highways, to modify his travel plans, to pay more for heating oil, and to give up his Christmas tree ornaments. There is no doubt that such efforts can lead to savings in energy, and we all need to cooperate, but the biggest users of energy need to do their share to. Businesses and industries which consume energy in their manufacturing processes, and manufacture energy consuming products, must take the responsibility to improve their processes and to design their products and systems to make the most efficient utilization of energy that is technologically and economically feasible.

Industry uses over 40 percent of the country's energy. Many expert analyses have demonstrated that a significant portion of energy consumption in the commercial and industrial sectors is a result of wastage, and that major savings in energy consumption can be achieved without reducing production, productivity, or increasing cost. Our investigations have shown that major improvements in energy utilization can be made in buildings, household appliances, factories, and transportation vehicles. The thrust of the long-range energy conservation proposals contained in S. 2176 is that the technological resources of the Federal Government and American industry be utilized to the fullest extent possible to eliminate such shamefully wasteful uses of energy. As a result of S. 2176, we will see in the years to come, major reductions in the energy requirements of buildings, electric generating facilities, automobiles, household appliances, and transportation systems.

Energy conservation, contrary to what the administration would have us believe does not mean a lowering of the quality of life, or the hampering of the mobility of American consumers.

Many Senators have made major contributions to this legislation. I would particularly like to praise several members of the Commerce Committee—Senator HOLLINGS, Senator TUNNEY, Senator HART, and Senator MOSS who played key roles in the development of S. 2176.

Mr. MUSKIE. Mr. President, the Senate has placed before it today a very important measure designed to make significant changes in the way our country consumes energy. S. 2176 addresses very important issues. The theme of this bill is that conservation of energy—one of our limited, scarce resources—must be the first step in the campaign needed to adjust our lifestyles and societal practices to the energy crisis now upon us. Waste of energy in our society has been large. Of the energy we consume, only 40 percent actually ends up turning wheels, heating homes, producing electricity, and providing the other end uses intended. The other 60 percent is lost as waste.

This legislation shows that broad issues overlapping committee jurisdictions can be handled rapidly yet with care by those committees involved. This legislation is the result of extensive committee deliberations on the part of the Senate Committees on Interior, Public Works, and Commerce. The cooperative attitude displayed should be useful for future legislation in this area.

A new substitute amendment, No. 757, was introduced Tuesday, December 4, by the principal sponsors of the bill, Senators JACKSON, MAGNUSON, and RANDOLPH.

This substitute amendment contained substantial changes from S. 2176 as reported by the Commerce Committee on November 15. A legislative history clarifying the changes made by the introduction of this substitute package needs to be stated.

I would particularly like to point out the improvements that have occurred in title 6, the Automotive Transport Research and Development Act of 1973. Amendment 757 relates this title in a coherent and coordinated fashion with ongoing programs presently in process in the Environmental Protection Agency. The earlier version of S. 2176 called for an elimination of EPA's Advanced Automotive Power Systems program. This activity was to be transferred to the new Department of Transportation program authorized under title 6 of S. 2176. The new substitute amendment completely revises this action. Instead of transferring any programs, title 6 now leaves the AAPS program within the Environmental Protection Agency. Cooperation replaces transfer: "The Administrator of the Environmental Protection Agency is directed to give careful consideration to any request, on a reimbursable basis or otherwise, for such assistance as the Secretary deems necessary to promote such development." (sec. 604).

This is the result of the agreement of the committees involved that regulatory activities establishing exhaust emission standards necessitate a program within EPA that will provide the in-house expertise necessary to judge independently the technical basis of improved automotive design suggestions. It is anticipated that as the AAPS program in EPA uncovers new automotive engine systems or important new breakthroughs in design of present engines, this new information will be conveyed rapidly to the Department of Transportation's program.

Another item in the legislative history of S. 2176 needs clarification. Pages 75–76 of Senate Report 93–526, which accompanied the earlier version of this legislation, gives the impression that a slowdown has occurred in research and development programs for alternative engine systems by private automobiles companies, and that the Clean Air Amendments of 1970 are a substantial part of the cause.

While I deplore the low amount of funds devoted to such research by Detroit, the errors in this report must be corrected. Since the passage of the 1970 act, expenditures for research and development of alternative power systems have more than tripled.

The Clean Air Act of 1970 has stimulated such research, not blocked it. The Act has also forced new expenditures of a greater magnitude for changes in the internal combustion engine, but in both cases, the act helped bring about needed increases in research and development programs.

I have been informed that the Commerce Committee did not intend to create the impression that pages 75–76 of their report may convey to some regarding the role of the Clean Air Act. I think it is important to make that correction now and to specifically repudiate any possible impression that the failures of the auto industry might in some way be blamed on a law which has forced that industry to perform in the public interest.

The concept of the U.S. Government independently creating an advanced automobile designed to improve fuel economy, safety, reliability, and damage resistance, consistent with environmental regulations established under present pollution control statutes, is a very worthwhile endeavor.

Those of us who have attempted to require rapid improvements in American automobiles have frequently been frustrated by the monopoly of information held by private automobile manufacturers. The advanced automobile power systems program authorized by section 104 of the Clean Air Amendments of 1970 was the first step in establishing an independent capability in the Government to analyze automotive technology. A complementary program directed toward other important aspects of automobile construction and design, which this bill authorizes the Department of Transportation to commence, is a very worthwhile addition.

Many other important changes have occurred in the revised version of S. 2176 contained in substitute amendment No. 757. These have been discussed by the floor managers of the bill and other Members here on the floor today, so I will not mention them further.

This bill is a first step in turning this country around on the subject of energy use. It will make us mindful of the very obvious ways available to us for conserving energy resources.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I wish to focus attention on one particular section of the bill now before the Senate. I refer to section 9, which directs the Secretray of Transportation to establish fuel economy standards for automobiles.

The Secretary of Transportation would be required, under the proposed legislation, to set a minimum standard for fuel economy for 1978 model cars and to develop a plan for improving fuel economy by 50 percent during the next decade.

However, before setting a standard and developing the plan, the Secretary must consider the impact of other Federal regulatory actions affecting the automobile, as well as technological and economic feasibility.

Any further regulation by the Federal Government carries with it a certain amount of concern and apprehension as to what its effect will be. But I also want to point out quickly that those who live in my State and in other States that produce auomobiles are also interested in doing whatever can be done to improve fuel economy, so far as automobiles are concerned.

I think one of the most remarkable features of section 9 is what it does not do. It does not mandate the implementation of unproven technology by legislative fiat. Under normal circumstances, it is quite appropriate and rather unremarkable for Congress to establish broad goals, leaving the details to be fashioned by administrative action.

But in the wake of the economic brinksmanship displayed when Congress wrote stringent mandatory auto emission standards into the 1970 Clean Air Act, it is, frankly, a welcome relief to know that Congress is at least recognizing in this legislation that it may not be infallible.

If a more prudent course of action had been followed in 1970, for example, it is very likely that Congress would not be in the embarrassing position today of having to postpone the inflexible standards which were engraved in the 1970 act.

Although no one can argue with the need for cleaner auto emissions, it should not be forgotten that Federal standards have increased oil consumption in this country by nearly one million barrels per day—approximately one-third of the shortfall expected this winter. An additional million barrels of oil per day may be required if the nitrogen oxides standard for 1977 cars is not changed.

I think the Committee on Commerce is to be commended for developing section 9 of the proposed legislation because it does not play roulette with the jobs of millions of working men and women. The committee wisely recognizes that specific standards should not be set in concrete in the law itself, and that efforts to improve fuel economy cannot be divorced from efforts to improve safety, emissions, damageability, and other factors. I shall read a statement from the report of the Committee on Commerce which is instructive.

> The timetable for the implementation of section 9 is carefully structured so that the controversy surrounding the emission standards established by the Clean Air Act Amendments of 1970 hopefully will have been settled by the time that the first standard . . . is to go into effect. The Secretary of Transportation is given 18 months after the date of enactment of the Act to issue the first standard for fuel economy. This standard will not go into effect until the 1978 model year. In addition, section 12 of the bill directs the Secretary to conduct a comprehensive study of the various Federal regulations affecting fuel economy, emission levels, safety, noise, and damageability. Thus, more than adequate lead time is provided for the gathering of data to determine the level at which the standards should be set, and for determining the interaction of this section with other existing and proposed Federal regulations.

Mr. President, while automobiles use a great amount of fuel, especially in view of the fact that there are an estimated 100 million of them in operation, other modes of transportation must share in the consideration of methods to improve fuel economy. As the Commerce Committee report points out, "both recreational vessels and commercial aircraft are less efficient than automobiles," even after taking into consideration passenger loads.

A recent Department of Transportation research report estimated that by 1985, aircraft would use up approximately 35 percent of the fuel consumed by transportation, compared with 40 percent for automobiles. At the present time, aircraft use only 14 percent of all transportation fuel, while autos consume 47 percent.

Thus, there is need for a long-range program to increase the fuel efficiency of all types of transportation, not just automobiles. For this reason, I am pleased that the Commerce Committee adopted my amendment, which I offered in committee, to require the Secretary of Transportation to develop a plan for increasing the fuel economy of all transportation vehicles, including aircraft, recreational vehicles, trains, and vessels, by 50 percent in the next 10 years. This plan would have to be submitted to Congress within 18 months after enactment of S. 2176.

The point is that unless each mode of transportation is required to achieve the maximum energy efficiency feasible, competition will be affected and jobs will be lost unfairly and inequitably. This bill makes a small, but first, step in applying a sensible and reasonable rule with respect to the development of fuel economy standards; a sensible and reasonable approach which, unfortunately, was not embodied in the 1970 Clean Air Act.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Robert C. Byrd). Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, within the last few weeks the Senate has enacted two major comprehensive energy bills. On November 20, the Senate passed S. 2589, the National Energy Emergency Act of 1973. Last Friday, the Senate unanimously passed S. 1283, the National Energy Research and Development Policy Act of 1973. Both of these bills represented broad coordinated approaches to deal with two aspects of the energy crisis.

S. 2583 provides for emergency measures to deal with events during the next year, while S. 1283 lays the groundwork for a long term research and development program to meet our energy requirements in the decades to come.

The PRESIDING OFFICER (Mr. Robert C. Byrd). Will the Senator withhold his statement until the Senate is in order? The Chair regrets having to interrupt the Senator. The Senate will be in order.

The Senator may proceed.

Mr. HOLLINGS. This morning we have before us, S. 2176, the National Fuels and Energy Conservation Act of 1973. This bill deals with the midterm problem; that of establishing those energy conservation policies which will be needed to carry the Nation forward until the fruits of the research and development on new forms of energy have proved themselves and can be relied upon.

S. 2176 follows the examples of S. 2589 and S. 1283, in that it encompasses a broad spectrum of energy conservation efforts, with each individual energy conservation program serving as part of the foundation for a comprehensive national energy conservation policy. S. 2176 also follows the examples of the previous bills in being the product of a coordinated joint effort of many individual Senators. S. 2176 was introduced on July 13 by Senator Jackson. It now has 34 cosponsors. Many refinements have been made in the bill since its introduction to reflect the inputs of the Committees on Commerce, Interior and Insular Affairs, and Public Works. On behalf of the three Committees, Senators Jackson, Magnuson, and Randolph introduced amendment 757, an amendment in the nature of a substitute, on December 4.

The purpose of the bill is to declare a national policy of conserving energy resources, to make energy conservation an integral part of all programs of the Federal Government, and to encourage an energy conservation ethic among American industry and consuming public. The legislation proposes to achieve this in several ways.

At the Federal level, each agency of the Federal Government is directed to adopt energy conservation policies and practices. A new Federal agency, the Council on Energy Policy, is established to coordinate all Federal activities dealing with energy. Specific directives are given to the General Services Administration to utilize construction, management, and leasing policies which make the most efficient use of energy in the design, construction, and operation of all Federal buildings; to the Department of Housing and Urban Development and the National Bureau of Standards to develop performance standards that would promote efficient energy use in residential, commercial, and industrial buildings; to the Federal Power Commission and other Federal agencies, to conduct studies and submit reports to the Congress on methods for conserving energy in the generation, transmission, and distribution of electricity; and to the Department of Transportation to conduct a series of studies and to submit recommendations for implementing methods of energy conservation in the automotive and commercial passenger and freight transportation systems.

Supplementing these efforts to modify existing Federal Government policies and practices are several provisions of the bill which are intended to improve the energy efficiency of major household appliances, central heating and airconditioning systems, automobiles and other forms of transportation, while at the same time creating consumer awareness regarding the potential for saving energy and money by more informed purchase decisions and use habits. These provisions include a requirement for the disclosure of estimated annual operating costs of major energy consuming household products, central heating and air-conditioning systems, and automobiles, as well as the establishment of minimum fuel economy standards for automobiles. In addition, provision is made for a large-scale Federal commitment to the development of prototypes of advanced automobiles which are highly efficient and low-polluting; and a program for the establishment of demonstration projects in urban areas designed to encourage people to use mass transportation and carpools for much of their work-related trips.

Mr. President, S. 2176 is a fitting partner to S. 1283 and S. 2589. It rounds out a comprehensive energy program and establishes policies that can guide our Nation for many years into an era of energy sufficiency and prosperity. I urge all my colleagues to vote for this measure.

I would like now to allude particularly to section 3 of S. 2176, which incorporates the language of S. 70, the Energy Policy Act of 1973, which passed the Senate on May 10, 1973. Section 3 would establish a three member Council on Energy Policy to centralize the collection and analysis of energy information, coordinate the energy activities of the Federal Government and prepare a long-range comprehensive plan for energy development, utilization, and conservation. This proposal would provide a single place for Congress and the President to seek energy information and policy recommendations. It assures us a single entity would have responsibility for examining the overall energy picture.

The introduction of S. 2776, the Federal Energy Administration Act, proposes the establishment of a new, line agency principally to administer the fuel allocation and rationing programs designed to meet the current energy emergency. My proposal to establish a Council on Energy Policy is fully compatible with the establishment of a Federal Energy Administration.

The administration will be primarily concerned with the day-to-day operations of a highly complex and important energy allocation program. Because of the hardships and dislocations that will occur as a result of fuel shortages, the administration of such programs will consume virtually all of the resources and talent of the Energy Administration. The Energy Administration is an essentially temporary effort to put together an entity that can run the emergency programs necessary to alleviate the current shortages. Such an agency will have little time to devote to long-range planning, and the development of a comprehensive and credible system of energy statistics. Its energies will be consumed trying to answer the millions of complaints and attempting to secure fuel supplies to maintain productivity and employment.

For this reason it is imperative that we establish a permanent ongoing Council to focus on providing sophisticated policy analysis and designing a national energy plan that will provide guidance to all agencies of the Federal Government and the private sector.

The Council on Energy Policy parallels in the energy area the successful organizational structure of the Council of Economic Advisers and the Council on Environmental Quality. Energy, like economics and the environment, cuts across the responsibilities and operations of virtually every department and agency of the Federal Government. For example, major opportunities exist for energy conservation depending upon the Department of Housing and Urban Development's building and installation standards. If the Department of Transportation encourages mass transit instead of highway construction or rail shipments instead of truck or air shipments, major energy savings can occur, yet HUD and DOT are not part of the Federal Energy Administration. Tax incentives administered by the Treasury Department, such as depletion allowances, foreign investment tax credits, and intangible drilling expense deductions all have a very significant impact on energy production, yet of course the Department of Treasury cannot be transferred to the Federal Energy Administration. The foreign policy of the Nation is very much inmeshed with energy because imports are an important share of our energy supply. But the Department of State is not part of the Federal Energy Administration. Last week on December 7, the Senate passed the National Energy Research and Development Policy Act of 1973. The direction and funding of energy research and development can play a critical role in the Nation satisfying its energy requirements in the future but the energy research management project, which would direct these efforts, is not part of the Federal Energy Administration. Yet all of these important energy functions in virtually every agency and department of the Federal Government must be effectively coordinated and a rational energy plan must be established. This task cannot be performed by a Federal Energy Administration that will have its hands full trying to run the allocation and other emergency programs designed to cope with the immediate shortages of energy.

Therefore, I urge for prompt enactment of these provisions to establish an agency to be responsible for energy policy—a single place to provide information, make policy recommendations and engage in long-range planning. Let us not waste another day attempting to reach energy policy decisions in the dark.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. McINTYRE). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, the bill before us contains two sections to which I should like to address myself. One is the truth in energy provisions, and the other is the automotive research and development provisions. Both sections incorporate bills which I introduced earlier this year, and for which we had many days of hearings in the Committee on Commerce.

Section 8—the Truth in Energy Act—has evolved from S. 1327, a bill which I introduced on March 22 of this year. It is an energy conservation measure and a consumer education measure at the same time. This legislation will require that the estimated annual operating costs of major energy consuming household products be disclosed to consumers prior to purchase.

The response of Americans to the current energy crisis is heartening. The vast majority of people have responded to appeals to lower their thermostats a few degrees. There are other ways to conserve energy in daily household activities. If Americans were energy conscious as well as cost conscious in their selection of new refrigerators, air-conditioners, and other major household products, significant savings in energy would be realized. The problem is that it is extremely difficult for a consumer to determine the energy characteristics of any particular appliance and to compare various brands and models against each other in terms of their energy consumption. Section 8 would provide that this information on the energy characteristics of major household products would be available to shoppers at a glance, in the form of estimated annual operating costs displayed on the price tag. The cost data will be developed on the basis of information supplied by the Federal Government and the appliance manufacturers, and will be presented in a form that will be useful to consumers for comparison shopping purposes.

Providing this information to consumers is in the best tradition of the free enterprise system, and I am sure that American consumers will use this information to make wise purchase decisions; decisions which would foster energy conservation practices as well as resulting in financial savings to the individual consumer.

Two days of hearings were held on S. 1327 in July and I have been working closely with many interested parties in the development and refinement of the language. We have received input from consumer groups, representatives of appliance manufacturers and retailers, and engineering experts. I am grateful for the widespread support we have had on this legislation and I am particularly pleased that it has been incorporated as section 8 of Senator JACKSON's omnibus energy conservation bill, S. 2176. In developing the language of S. 2176 we were particularly concerned that any procedure for calculating annual operating costs does not impose a burden on small retailers. We have been very careful to give the responsibility to the Federal Government and the manufacturers—where the capabilities and the resources for making the calculations are available. If a retailer is required to make any calculations, he will be provided with an easy to use chart, table, or other computational aid which will allow him to combine his local cost of energy with the information provided by the manufacturer to make the determination of operating cost. The calculation will be no more complicated than that made by retailers in their computation of their sales tax.

It is also important to realize that the purpose of this bill is to provide the information to the consumer at the point of sale. If a retailer has cartons of appliances stored in the back room or in a separate warehouse, and the purchase decision is made by the consumer on the basis of a display model, obviously the only place where the operating costs would have to be disclosed is on the display model.

We have also taken precautions to assure that this legislation applies only to the major energy consuming household products, by establishing a threshold value of at least 200 kilowatt hours per year in average usage in order for a product to qualify for coverage. There is no way that this program could be interpreted to apply to small household products such as tooth brushes, electric can openers and other similar products. It should also be quite clear that retailers will have to display annual operating costs information on labels only for those products which were shipped to them after the manufacturers have completed their testing and energy consumption calculations, and have included the results of the calculations in the shipment.

Mr. President, I am convinced that section 8 will be a major step forward in the creation of consumer awareness regarding the importance of energy conservation.

I particularly want to thank my colleagues on the Committee on Commerce, the Committee on Public Works, and the Committee on Interior and Insular Affairs for their assistance and cooperation in the development of this legislation.

I would like to point out in addition, Mr. President, that I think that the energy crisis we are facing could be used, if we are not very careful, as a means of establishing governmental control over the private initiative that we have known in this country throughout its history in peacetime. We are all familiar with controls over the economy in wartime, such as existed in World War II. But I am fearful that if we are not very careful we may establish a central Federal control over the individual in business and the operation of the free enterprise system which would be very difficult to discard at some later time when we do not have an energy crisis.

I think that the value of this Truth in Energy Act is that it will allow the free market to operate in a way so that the consumer will be able to choose for himself the product he considers to be most energy efficient, which will mean that we will have a cutback in the amount of energy used as a result of a free market decision and not as a result of Government control.

There are a number of ways we could have gone about establishing more energy efficiency in appliances other than utilizing free market forces. We could have required that manufacturers meet a certain standard of energy efficiency for each product. That would mean more Government control over the decision-making process on the part of businessmen as to how they would manufacture their products.

We went the other route. We gave the consumer the option to buy the most efficient product. We think that the supply and demand market will take care of the problem of those manufacturers who would be inclined to produce a cheaper but more energy consumptive product because those products simply would not be bought.

Mr. President, S. 2176, the National Fuels and Energy Conservation Act as amended by amendment No. 757, sets as its purpose to declare a national policy of conserving energy resources and to make energy conservation an integral part of our lives. Section 13 would help to achieve this goal by encouraging, through Government action, the means to develop an alternative to the internal combustion engine that will be energy efficient and yet will be able to meet the clean air standards as established by law in 1970.

Mr. President, S. 2176, the National Fuels and Energy Conservation Act of 1973 is a crucial step in changing the energy policies of the United States. It sets as its purpose to declare a national policy of conserving energy resources and to make energy conservation an integral part of our lives by encouraging through Government action an energy conservation ethic among American industry and the consuming public.

In fostering such a program it is only natural that a spotlight of concern has fallen on the automobile. Approximately 25 percent of all energy used in this country is attributable to transportation, and the automobile is responsible for the largest part of this consumption.

Yet extensive Commerce Committee hearings have led to the inescapable conclusion that current efforts within the private sector and the Federal Government to develop an energy-efficient, low-polluting automobile are totally inadequate. It was for this reason that it was determined to be absolutely essential that the Federal Government immediately commit itself to a national research and development program to develop the technology for a motor vehicle that is clean, quiet, economical, energy-efficient, safe, and durable. Only by such quick consolidation of our national scientific and industrial resources, can we avoid being placed in an either-or situation where we must choose between clean air and our energy needs or abandonment of automobile transportation.

The automobile has been the centerpiece of our national transportation system, often determining where we lived, worked, and how we spent much of our time and money. It has offered the individual unparalleled freedom of movement, but it is abundantly clear that we can no longer afford its benefits at the cost of polluted air, wasted energy resources, and outrageously high prices for the average driver.

We can have clean air while providing all our citizens with energy efficient and economical cars. But to reach these goals we can no longer depend solely on the major American auto-manufacturers, who have billions of dollars invested in perpetuation of the status quo. We must not allow these few powerful manufacturers to dictate our approach to solving this problem. Presently, the American auto industry is heading inexorably toward total reliance on the catalytic convertor to solve our air pollution problems. Yet, even Detroit concedes that their devices are troublesome and unreliable—and will not meet our long term transportation goals, while at the same time utterly failing to make the all-out effort necessary to develop adequate alternatives.

Today the Senate can take the critical steps to affirm as an essential national priority that we quickly develop a clean and energy-efficient car. The provisions of the legislation now before us will commit the Nation to this goal, and it sets strict and reasonable time limits for attainment. At the same time, adequate authorization of funding—$140 million in grants and $200 million in guaranteed loans—are provided. These provisions set forth coherent requirements to assure that, as we continue to strive to meet our clean air goals through development of alternatives to the present internal combustion engine, our energy, economy, safety, noise, and other related goals are met as well. Furthermore, once this legislation is approved and money is appropriated for the program there are built-in safeguards in this legislation to insure against crippling impoundment of these funds by the administration.

The Commerce Committee has worked closely with the Senate Public Works and Interior Committees to assure that this legislation is coordinated with the Clean Air Act of 1970 and other environmental and related legislation. Now it is time for the Senate to place its imprimatur on this crucial goal.

Mr. HOLLINGS. Mr. President, section 9 of S. 2176 is an outgrowth of S. 1903. I introduced S. 1903, the Automobile Fuel Economy Act, on May 31 of this year. Three days of hearings were held in June and additional comments were received from many sources subsequent to the hearings.

Developments in the past few months have made it clear that the automobile industry was caught totally unprepared for the energy shortages. Within the next few months, we will see that this Nation's reliance on the automobile for a major portion of its mobility will lead to many inconveniences as a result of the shortage of gasoline. The situation will not go away. It will be necessary that the Nation develop long-range plans for the improvement of the fuel economy of automobiles. This is precisely what section 9 does, in declaring as a national goal that over a 10-year period the industry-wide fuel economy for new automobiles is to be improved by at least 50 percent. The only constraint on the magnitude of the improvement required is that it must be technologically and economically feasible.

Many experts, from within the automobile industry, from Government agencies, and from the engineering profession, provided input which convinced us that a 50-percent improvement over the next 10 years is the absolute minimum that should be called for. Almost all of this improvement can be achieved utilizing technology which is currently on the market. All it takes is a commitment by the automobile industry to utilize this technology. The information available to us also indicates that such improvements in fuel economy can be achieved with little or no increase in the sales price of automobiles.

Up until a few months ago, it was projected that by 1985 his country would be importing over 11 million barrels of crude oil per day from the Middle East and Africa. If the minimum goal established in section 9 is met, it will permit the United States to reduce our petroleum requirements by 5.6 million barrels of crude oil per day. Thus this single measure represents a giant step forward in reducing this country's dependence upon foreign oil over the next decade. This savings can be achieved without any sacrifice on the part of American consumers. Not only is this an energy conservation measure, but it will save billions of dollars in balance of payments.

Since the onset of the energy crisis we have heard many calls for saving energy, by the increased use of mass transit and carpools, and decreased highway speed. While these measures make a contribution to the short-term energy conservation effort, several studies have shown that by far the most effective step that could be taken to save gasoline is to improve the fuel economy of automobiles. Section 9 establishes such an effort as a national goal, and establishes the framework of a long-range national plan for its achievement. Section 9 was developed in coordination with other sections of S. 2176 which are devoted to saving energy in other components of the transportation sector of our economy.

We cannot afford to be caught unprepared again. The Congress must move now to preserve the mobility of the American people, and to conserve our precious fuel resources.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On p. 37, line 13, omit the words "section 20" and insert in lieu thereof, the words "either subsection (b) or subsections (c) through (i) of section 20"

Mr. TUNNEY. Mr. President, this is a technical amendment that is being offered to clarify what could be an ambiguity in the language of section 8.

Section 8 provides that, beginning 6 months after the date of adoption of procedures for determining and disclosing annual operating costs, the retailers will have to label their major household appliances, giving those annual costs on the label.

However, section 20 of the act has two different sets of procedures for establishing annual operating costs. One set of procedures is contained in section 20(b), which provides that, beginning 12 months after the date of enactment of the bill, interim procedures have to be developed for disclosing annual operating costs of major household products. Then, sections (c) through (i) provide for a 30-month period in which the manufacturers must develop test results for establishing annual operating costs of major household appliances.

The 12-month period relates to interim procedures; the 30-month period relates to more permanent procedures. So what we do in this technical amendment is to make very clear that the labeling provisions of this act will apply 6 months after both the 12-month interim procedures are announced by the Commission; and the 30-month period for determination of test results by the manufacturers in accordance with the permanent procedures announced by the Commission. It is a technical amendment. It just clarifies the language of the proposed legislation, and it is supported by the Committee on Commerce.

The PRESIDING OFFICER. Who yields time?

Mr. HASKELL. Mr. President, this seems to be an appropriate amendment, and the floor manager of the bill will accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. STEVENS. Mr. President, is the time under control?

The PRESIDING OFFICER. No.

Mr. STEVENS. I should like to ask the Senator from California some questions.

As I understand this amendment, which is in the nature of a substitute, the burden is on the supplier rather than on the manufacturer of a product to disclose to the consumer the energy consuming information that is required by the amendment.

Mr. TUNNEY. That is correct.

Mr. STEVENS. Is the manufacturer of the product at all responsible, under the Senator's amendment?

Mr. TUNNEY. The manufacturer is responsible for supplying the information to the supplier, which information will be placed on the label and will be available to the consuming public when they go in to purchase the product.

I might point out that there are two sets of information that the manufacturer can supply. If the Commission decides that the cost of energy should be determined on a national average basis, the manufacturer would be able to supply the information himself to the supplier, as to the annual operating cost of the appliance, and could actually make up a label which then could be used by the supplier.

If, on the other hand, the Commission feels that there are sufficient regional differences in energy cost, the manufacturer would supply to the retailer the information as to the number of average use cycles the appliances would use a year, the amount of energy the particular appliance used in each use cycle, and the supplier would then have to make a determination, on the basis of energy costs in his particular region, of what the cost of operating that appliance for a year would be.

It would be a simple mathematical computation, similar to determining what the sales tax is; but in that case, the supplier would have to make up the label.

Mr. STEVENS. Mr. President, as I note the provisions of section 20(f), the burden is on the manufacturers to determine the energy use and to provide the information to suppliers. It then gets down to the point that, as I understand this, if a small hardware store in Fairbanks wants to put an ad on a local television station, advertising products in general, and shows one of these energy-consuming appliances, it is going to be a crime, in terms of advertising that product, unless the advertisement states the annual operating cost of the product in accordance with the rules established by the Commission.

Am I correct in that?

Mr. TUNNEY. Yes. But there is a proviso:

That if annual operating costs are significantly different in different sections of the country, communications covering more than one such section in the form of mail-order literature, catalogs, brochures, or other media which contain price data shall

> include national average values of annual operating costs, and shall disclose clearly and conspicuously that the annual operating costs of such products for any specific section of the country may be obtained from the supplier.

In other words, in that particular case the advertisement would indicate the detail as to the cost in that particular region of the country and the annual operating cost would be supplied by the supplier for the particular area upon the request of the consumer.

Mr. STEVENS. I must state to the Senator from California that it was my understanding we were going to place this burden on the manufacturer. It seems to me that to place this burden on the supplier, particularly in the event of an advertisement, is placing the burden in the wrong place. The person or the entity that has the information available is the manufacturer. To have the supplier subject to criminal action or injunctive process seems to me to be wrong.

I do not know about the Senator from California but I have seen many advertisements on our local television stations where they take the camera into a hardware store or a department store, and they go through those stores and show all the things available. As I understand it, every time they come across a range or coffee pot they would say, "This costs so much a year for energy; this coffee pot costs so much."

Mr. TUNNEY. Mr. President, will the Senator yield?

Mr. STEVENS. I shall yield in just a moment. I wish to finish my train of thought, first.

It is my opinion that the burden should be on the manufacturer to supply that information on the item he manufactures—the cost of the item and the amount of energy it will use. To place the burden on the supplier up in Fairbanks, to have some consumer advocate come in and take him to court because he had a television show that did not show that information, is placing the burden in the wrong place.

Think of the multiplicity of suits involved in one manufactured item. For instance, let us take coffeepots.

Mr. TUNNEY. Coffeepots are not covered. It covers only major household appliances.

Mr. STEVENS. Very well. Take a GE range. I do not know how many suppliers there are in the country. The burden should be on GE and not the supplier to carry this information to the consumer. I am against attacking these small businessmen and harassing them in terms of paperwork and putting them in court on the concept that they are the ones violating the law. They do not have the ability to do this.

My people up in Alaska with their small appliance stores just barely survive. They cannot take on this burden; the manufacturer should take on the burden.

Mr. TUNNEY. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. TUNNEY. Where is the additional cost?

Mr. STEVENS. The additional cost is in complying with this act.

Mr. TUNNEY. What is the cost of complying with the act?

Mr. STEVENS. On page 37 it is stated:

> Such disclosure shall appear on the label, tag, shelf, display case, counter, contract, estimate, proposal direct mail statement, or any other place on which the purchase price or acquisition cost of such product or system is stated in accordance with rules established by the Commission.

How are all of our small appliance dealers going to learn about these rules published in the Federal Register? This should be done by the manufacturer and not the small businessman.

Mr. TUNNEY. As it will be. Apparently the Senator misreads the legislation. What the requirement does is to develop a simple label as to cost and that information is supplied to the retailer by the manufacturer. All of the information is supplied by the manufacturer. All that is required is a simple mathematical computation by the supplier, which is no more difficult than determining the sales tax and pasting it on the particular major household appliance. There is no cost involved except perhaps a few seconds of time in making a mathematical computation that would be involved anyway. So that when the Senator talks about cost, there are no significant costs involved.

A supplier does not have to develop or obtain any of this information. That information has to be supplied by the manufacturer.

Mr. STEVENS. Then the manufacturer ought to be responsible. On page 41, the person against whom a civil action may be commenced is "any supplier." Notification is to be given to the supplier. Why should it not go against the manufacturer? Why should it go against the supplier?

Mr. TUNNEY. A manufacturer is a supplier, as stated in the legislation. A manufacturer is a supplier as much as a retailer. Both are included.

Mr. STEVENS. I just would not support a bill that places this kind of burden on a local retailer as a supplier of appliances that he acquires through a wholesale process and then proceeds to retail. I think it is placing a fantastic burden on the small appliance dealers.

I think the proposed legislation should be limited to imposing on the manufacturer of these products a requirement to state the energy consumption. Let him figure out the normal cost of the electricity or energy. Energy costs a great deal more up my way than it does in California. I do not think suppliers should have placed on them the burden that this bill proposes. Not one single household appliance could be sold without figuring out the local rate for energy. It would have to be figured differently in every city of my State.

Mr. TUNNEY. Only larger appliances are covered. Only if an appliance con- yield back his time on the amendment. sumes 200 kilowatts per annum will it be covered, by definition that means stoves, clothes dryers, washing machines, and the like. The mathematical computation that has to be made is no more difficult than a determination of what the sales tax is.

I suppose the Senator would like to enter into an argument that the sales tax computation puts a tremendous burden on the retailer; that it is unfair for him to figure out what the sales tax is. This proposal is no more a burden on the retailer than to figure out what the sales tax is. If there is a requirement to charge a consumer for the sales tax, the seller has to figure it out. I suggest that this proposal imposes no unnecessary burden on the retailer. To say that it does is just not correct; it is unfair.

Mr. STEVENS. I am sorry to disagree with the Senator from California, but I still say that if a store is going to have an advertisement on local television stations to advertise dryers, washers, refrigerators, and freezers, and he knows that all the things that would be involved in the household advertisement may take a minute, he would have to show these costs—so such to operate this, so much to operate that, so much operate the other thing. That, to me, is not proper.

Many of my people buy these things in Anchorage and have to take them to Kenai or Seward, where there are small electric companies. They are going to ask, "What is your rate?" It is not the same as the retail rate in the big cities.

I think that the information ought to be in a little booklet which shows how much the electricity would cost to run a refrigerator or a milker. Why put this burden on the retail operator, someone who is running a mom-and-pop store? That burden ought to be on the manufacturer, not on the small businessman.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. FANNIN. I would like to have the Senator from California repeat his amendment. I believe perhaps it is misunderstood. I agree wholeheartedly with the Senator from Alaska that this bill does exactly what he is talking about. I am opposed to the legislation. But concerning the amendment that the Senator from California is offering, the opposition of the Senator is not covered exactly.

Mr. TUNNEY. The amendment I am offering is a technical amendment. It has nothing to do with the point covered in the colloquy of the Senator from Alaska.

Mr. STEVENS. I thought the Senator was putting together sections 21 and 22.

Mr. TUNNEY. No; we are introducing a technical amendment.

Mr. STEVENS. Then I have no objection.

Mr. TUNNEY. I would be happy to engage in a further colloquy with the Senator from Alaska. Perhaps we can get the amendment acted on first. It is a technical amendment. I am glad to yield back my time on the amendment, if the manager of the bill is prepared to

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California to the amendment in the nature of a substitute.

The amendment to the amendment was agreed to.

Mr. TUNNEY. Mr. President, will the Senator from Colorado yield me about 2 minutes to reply to the Senator from Alaska?

Mr. HASKELL. Mr. President, I yield any amount of time necessary to the Senator from California.

Mr. TUNNEY. Mr. President, one thing I would like to say to the Senator from Alaska, when he talks about a television camera panning various products on the shelf and requiring the supplier to tell what the annual operating cost of the product will be, is that he misstates the case. What is required is a statement of annual operating cost only if the price of the appliance is advertised. So, if the price of a stove is advertised at $250, the answer would have to be that the annual operating cost, for example, is $30 a year. It is that simple. And if the supplier wants to advertise what the cost of an appliance is, there is no reason why he should not tell the consumer what the operating cost is going to be, considering that today in Massachusetts and in New York we have appliance bills which have passed—the laws are on the books—and other jurisdictions are beginning to pass laws that relate to appliance labeling.

The major manufacturers have to comply with those laws, and with the local ordinances and laws as they apply to appliance labeling.

We have a preemption clause in this measure, and I can assure the Senator that the major manufacturers are happy about that, because they do not want to have to comply with a different law in Massachusetts, a different law in New York, a different law in California, and other areas are also beginning to put legislation on their books as they pertain to appliance labeling and energy consumption.

This bill simply creates a national standard. There is nothing wrong with that, especially when we consider the difficulty there is in trying to meet 50 different State laws, and there could be an additional 50 other local jurisdictions that could pass legislation as it relates to this subject matter.

Mr. STEVENS. Let me tell my good friend from California that I am not arguing for any manufacturer. I am talking about the small businessman and his relationship to the consumer. It would seem to me there is a good way to apply this law—legislate for the national manufacturer and then Alaska will legislate for the distributing system. This legislation may make sense in New York City and Los Angeles, but in rural Alaska it does not make sense.

The information the Senator seeks I applaud. The concept he seeks, I applaud. But to extend national legislation down to the level of the retailer and call him a supplier, along with the manufacturer, importer, wholesaler, and so forth, makes no sense. On page 31 of the proposal it states:

> "Supplier" means any manufacturer, importer, wholesaler, direct sale merchandiser, distributor, or retailer of any new major energy-consuming household product.

As far as I am concerned, putting a retailer in that category is entirely wrong. I believe there is still an area for State legislation, and that in dealing with the local retailers the local jurisdictions will know. My people will know the burdens that the local retailer can take on in addition to those the proponents want to put on the manufacturer.

If my colleagues want to do this to help the manufacturer so they will not run into one law in Idaho, another law in Alaska, another law in California, I applaud that, but that does not mean that we have to put this burden on the small businessman. He is the one who is going to sell appliances to the consumer. He is the one who should not have to go to court.

Mr. TUNNEY. As I understand the Senator's objection, he bases it on the postulate that this is going to be a tremendous burden on the retailer. I would like to ask the Senator how many retailers he has talked to, because the Committee has talked to many retailers, retailers associations, and associations representing merchandising chains, and they say there is no burden on the retailer. I would like to ask the Senator to tell the Senate how many retailers he has talked to when he talks about this horrendous burden.

Mr. STEVENS. I ask the Senator from California how many rural retailers he has talked to. He has been talking to all these national people. How many rural retailers has he talked to? How does he know what goes on in the small television stations when they have to advertise for the small department stores or local appliance stores? I happen to know what goes on there. They go on television when they go on sale.

The Senator says that when they mention the sale price, they also must mention the cost of operating the appliance. That information ought to be on the appliance, and I support his amendment to that extent, but it should not be a burden on the retailer to be included as a supplier, and be included as GE and Westinghouse are. The Senator is saying that Westinghouse must do that. I agree. They can print that information on a card with their dryer or refrigerator, or whatever appliance it is. The local supplier cannot do that. He has to get the information that comes from the manufacturer. He has to put a tag on it. If he does not do it, he is not going to comply with the Federal law. I think it is too much of a burden to pass on to the local retailer.

Again, when we discussed this matter in committee, I thought we were talking about manufacturers, wholesalers, distributors, people who have the wherewithal to meet the requirements such as these on a national scale.

Mr. TUNNEY. I would like to refer the Senator to the legislation, which makes it very clear that the retailer does not have to provide this information himself. The information is provided by the manufacturer. All he has to do is go through the simple mathematical computation of putting it on the label. The information is provided by the manufacturer. On page 33 of amendment No. 757, which is section 20(d), it states:

> Beginning 30 months after the date of enactment of this section, such manufacturers and importers shall furnish the results of such tests, in the form of energy utilized per average-use cycle, to the Commission and shall include such results as part of the information shipped with each such product to all the suppliers who carry such product.

All the information is supplied to the retailer by the manufacturer. The retailer is not asked to do anything except multiply, and he has to make a very simple mathematical computation that is no more difficult than figuring out what the sales tax is.

Mr. STEVENS. Mr. President, I could continue this debate for some time. I do not agree that retailers should be included with suppliers on national legislation of this type. I think the duties of the local retailers can be adequately set forth by State legislation. To include this in this legislation at this time, it seemes to me, is wrong.

It would seem to me that the least that could be done would be to delete retailers from the definition of suppliers as it appears in section 19, subparagraph (7) on page 32 so that it would not contain this type of activity.

I have seen a lot of things in the appliance field that have been supplied by manufacturers. They are complying with the Federal law in terms of the concept of fair trade and in terms of the concept on financing.

I do not see any reason why this burden should not be met at the level of the manufacturers. I seriously question whether wholesalers should be responsible.

Do I correctly understand that if a wholesaler supplies deep freezers in Alaska, he has to supply this information after it moves from the wholesaler to the retailer?

Mr. TUNNEY. Mr. President, as to the wholesaler, all that he would have to do is transmit to the retailer the operating cost information that is supplied by the manufacturer. That is all.

Mr. STEVENS. Mr. President, I wonder what that accomplishes. The buyer is in, say, Seattle. The man selling it does not know where it is going to go. If it is going to go, say, to a distributor in the State of Alaska, then it will be spread out over an area that is one-fifth of the area of the United States. Why should not the manufacturer have this responsibility? He is the one creating the device and he puts on a label required by the Federal law. He puts on a little tag and gives the various criteria.

Why is that not the place to put it? It would say that this machine uses X number of units of energy per hour or per month.

Mr. TUNNEY. It would put a substantial burden on the manufacturer. Energy costs in different parts of the country are different. If a manufacturer placed a label on a stove destined for the Seattle market, it would have an annual operating cost there of $20, perhaps. If the manufacturer might decide that instead of sending it to the Seattle market, he had a call for such a stove in the New York market and wanted to ship it there, he would then have to stop the shipment until the label had been removed, and a New York label put on. That puts too much of a burden on him.

There is no reason why each manufacturer cannot supply all the computation aids. Then, if the retailer uses it, he will not even have to go through any additional subtraction or multiplication to put it on.

It seems to me that we are not asking too much of the retailers in asking that they put that label on when all of the information is supplied. That would mean that the manufacturer would have the ability to move the product in commerce to the different markets at will without having to be concerned about placing on another label.

Mr. MAGNUSON. Mr. President, will the Senator yield at that point?

Mr. TUNNEY. I yield.

Mr. MAGNUSON. Mr. President, I think that we are missing one point there. The manufacturer is to be responsible for saying that this stove, or whatever it may be, consumes so many kilowatts per hour or per month. He cannot say how much that would cost a year. If it went to one market, it might cost more than in another market. It might be cheaper elsewhere. Somewhere along the line, they have to take into consideration the cost of kilowatts in a given area.

If a person were to buy a stove, he would say, "Yes, I understand that consumes so many kilowatts per hour. However, how much is that in terms of the cost of kilowatts in a particular area?" It might be up to $30 a month in one area and cheaper in another area, perhaps $20 a month. The manufacturer cannot figure that out.

There are probably 5,000 or 6,000 different kilowatt costs in the United States. That varies. As the Senator has said, the information has to be given according to the cost of the kilowatts.

Mr. TUNNEY. Mr. President, the Senator is correct. I could not agree more with the Senator from Washington.

Mr. MAGNUSON. Mr. President, if we are going to have a labeling program, we have to have someone at the end of the line who knows the price of kilowatts in that area. If it were to consume in average use, 200 kilowatts a month, the retailer would add in the cost of electricity and tell the customer the operating cost.

I think the average buyer is going to say, "Yes, I know that the GE stove is going to consume so many kilowatts." A typical customer might say, "Yes; but how much is that in terms of this area." It is a different cost if it is sold in Seattle than if sold in Alaska. Those are very important figures.

The man selling the product is in a position to know those figures. He has to know them, because he uses kilowatts himself.

I do not know. I thought at one time in the committee that we ought to exempt certain retailers that have a small gross or a very small gross. However, how we arrive at that figure, their annual sales, or something else, I do not know. I do not know where we should cut it off or put it on.

If there is a small retailer in Alaska or some other place, he would have to know the price of a kilowatt. And if it consumes 20 kilowatts or 200 kilowatts, or whatever the manufacturer says, he could use that figure and get the costs.

A housewife wants to know the cost. She does not understand what the cost will be when a man says it will consume 20 kilowatts or 200 kilowatts. The woman wants to know how much this would cost her for an average use per month, per kilowatt hour.

I think that the average retailer would be glad to furnish that information to show that he has the best product and that it consumes less kilowatts. He does not have to make a comparison between the products of competitors. He merely says to the housewife, "This is what this product will cost to operate."

The woman then goes to another store, if there is one, and asks what the competing product would cost to operate. She can then make a choice. However, that can only be done in the local electric area where the price of kilowatts is the same.

The cost of kilowatts vary all over the United States.

Mr. TUNNEY. Mr. President, I agree completely with the Senator from Washington. I think that the points he is making are very cogent.

Mr. MAGNUSON. Mr. President, they may not vary too much, but it is enough that the housewife should be able to find out the cost.

Mr. TUNNEY. Mr. President, there is a great deal of difference between the cost of power generated by Grand Coulee Dam and power generated by oil on the East Coast.

Mr. MAGNUSON. The housewife has to be able to find out the cost, and she should be able to discover that the use of this product would cost so much an hour.

Mr. TUNNEY. Mr. President, in the hearings we developed information with regard to air-conditioners—and this would not apply in Alaska—that there is a 60-percent variation in the annual operating cost, and over a period of 8 or 10 years, which is the average life of an air-conditioner, this could be a very major additional cost if the housewife were to purchase an air-conditioner that consumed more energy.

After all, we are talking about trying to save some energy. We hope that the housewife would be in a position to purchase an appliance that consumes less energy.

Mr. MAGNUSON. It gives them a little clue. It was hard to develop this. If a family with five children purchased a refrigerator, it will cost more to operate that refrigerator because the kids open the door every 15 minutes, whereas for a family that has one child or no children at all it is a different cost. But the manufacturer tries to give them a pretty good clue, and that has to be combined with the cost of a kilowatt in the area where it is being sold.

Mr. TUNNEY. That is right. And we are talking about a lot of energy consumption here. When we talk about climatic conditioning systems and the major household appliances such as stoves, water heaters, and clothes dryers, we are talking about a high percentage of the total energy consumed in the country. That is not insignificant. If we can have a significant saving in this area, it is going to mean a lot insofar as our energy resources are concerned.

Mr. MAGNUSON. I understand also, and I should have mentioned it, that the retailer is told, upon a simple query, the cost per kilowatt by the Federal Trade Commission on an average regional, national, or other basis.

Mr. TUNNEY. It does not even require a query. It is supplied to him without a query.

Mr. MAGNUSON. He does not even have to get the information himself. I suppose the retailer can write a letter to the Federal Trade Commission and get all the figures.

Mr. TUNNEY. He does not even have to write a letter. I would point out to my distinguished chairman that the information is provided to him whether he asks for it or not. It comes with the product.

Mr. MAGNUSON. Yes; the manufacturer puts it on.

Mr. TUNNEY. Yes; it comes with the information on it.

Mr. STEVENS. Mr. President, will the Senator from California permit me to get involved here?

Mr. TUNNEY. I yield.

Mr. STEVENS. I think what we really want to do is disclose, on every appliance, the energy use per hour. My good friend here has just reminded me of the differences in washers. I recall the day when we had five children under 5, and that washer ran 24 hours a day. Is the Senator trying to tell me that my wife, under those circumstances, could go down and get an annual operating cost on a new washer, and it would be relevant to her? How are you going to get an annual operating cost on a new washer for someone who has five little children, as compared with someone who is single? It has to be in terms of a cost per unit. My wife would say, "I ran the thing almost 24 hours a day back in those days." That would be a different matter from telling the customer it would cost $20 per month. In those terms, it would probably have cost her $80 a month.

I would like to get this in a position where it would be meaningful throughout the country to look at an appliance and be able to say," This takes so much energy per hour of use."

As the Senator from Washington says, if you have a refrigerator and those teenagers are opening it up every 3 minutes, you know it will cost you a lot more to run that refrigerator than if you are a single bachelor opening it up once in the morning and once at night.

But beyond that, I come back to the statement in every advertisement of the annual operating cost of every one of those appliances. That, to me, again is a burden I do not think the Senator from California recognizes in terms of the local television stations dealing with local retailers and trying to advertise a product in a minimum amount of time. I think we ought to change it and make it apply to manufacturers, and make the requirement, instead of an annual operating cost, an hourly energy consumption figure.

Mr. TUNNEY. Well, to discuss first the value of having an annual operating cost on the label: What we are talking about here is comparative shopping. If you know that an appliance, say a stove, with one brand name is going to cost you $30 a year to operate, on an average basis, and a stove of another brand name is going to cost you $50 a year to operate on an average basis, it is clear that the stove that costs $30 is cheaper to operate no matter how much or how little you use it. It is for comparison purposes that the annual operating cost is a significant factor.

Mr. STEVENS. Let me suggest that some of the discount houses I have seen in Los Angeles and elsewhere, those things that look like warehouses to me, or like a hangar when you walk into them, those people could make the comparison. I want my consumers to have some protection. But I think we ought to do it by a provision where the manufacturer states on each one of these appliances the energy use, and a retailer who does less than a million dollars business per year can rely on that information, and it is the manufacturer who has to answer to the consumer if it is not reliable.

I think we ought to consider the implication of the Senator's definition as far as an individual is concerned. As I understand this measure, if a young serviceman from California goes up to one of our military bases in Alaska, and decides to sell his household appliances when he leaves, he has to make the computation.

Mr. TUNNEY. No.

Mr. STEVENS. Tell me where the Senator's definition excludes it. I do not see any individual or resale exclusions.

Mr. TUNNEY. The point, of course, is that it applies only to the sale of a new appliance. I call the Senator's attention to section 21, page 37, beginning on line 13:

> it shall be unlawful for any supplier to sell or offer for sale in commerce for purposes other than resale any new major energy consuming household product

It does not apply to the man or the woman who wants to resell an appliance.

Mr. STEVENS. I thank the Senator from California. I had not noticed that. Does that apply to the other sections as well as section 21?

Mr. TUNNEY. Yes, that is correct. Is it the suggestion of the Senator from Alaska that he would like to offer some kind of an amendment with respect to the amount of dollar volume that a retailer would have to have in order to be included under the provisions of this act, exempting, for instance, retailers which are very small, and putting the burden on the manufacturers for those small retailers?

Mr. STEVENS. The Senator from Alaska would like to redefine the term "supplier" as the definition appears on page 31 to mean any manufacturer, importer, or wholesaler, and leave the retail distributors out.

Mr. TUNNEY. I do not accept that, because the hearings have clearly shown that the burden ought to be on that individual who sells the product, who is in an area where energy costs may vary from an adjacent area. It would be an undue burden on the manufacturer to require him to label, at the place of manufacture, every household appliance, when it may very well be he would want to be able to move an appliance from the Seattle market, for instance, to the New York or Los Angeles market, and would not be able, with any degree of facility, to change the label prior to the time that that particular product or appliance was sent out, or arrived at the end destination. I just think that puts too much of a burden on the manufacturer.

Mr. STEVENS. The Senator from Alaska would also like to change the annual operating cost to hourly operating cost, and to put the burden on the manufacturer instead of the supplier in terms of advertisements stating the hourly operating costs of such products. Then I could support the bill.

Mr. TUNNEY. If we put it on an hourly basis, that would make it far more complicated. It would become so complicated that it would kill the system. Everyone would recognize it was something out of Alice in Wonderland, and it would be defeated over on the House side.

Mr. STEVENS. As to the question of a yardstick, we could measure the hourly use on an individual appliance much easier than the annual use. I point out that we do not use a deep freeze as long as you do every year. On the other hand I do know of people that have airconditioners in Alaska and they do not use them as much as you do here every year. So what relevancy to an annual rate of operation would there be in those circumstances? It is the hourly cost that is important. On a daily basis, that might be, too, but in terms of a washer the relevancy would be on the hourly use to the housewife and not on the annual operating use.

Mr. TUNNEY. If washer A costs $10 a year to operate and washer B costs $20 a year to operate, no matter what the cost of the power, washer A is cheaper than washer B for comparative purposes. The housewife is able to see clearly that washer A is cheaper. You start getting into the hourly cost of energy and you are dealing with mills and not even a cent. I dare say that the average housewife has no way to decipher what the cost would be to her of operating a washing machine for a year if you are talking about the cost of energy per hour. That would complicate the thing so badly that the effect would be to kill the legislation because you would have hearings on the House side and it would make it clear that the thing was put together out of whole cloth. No one would accept it. The voluntary program that is now being conducted by the Federal Government talks about the annual operating cost. It does not talk about the mills or the cost per kilowatt hour. How relevant are mills per kilowatt hour to the housewife? How relevant is the cost?

Mr. STEVENS. I will tell the Senator how relevant the hourly cost is. Take your washer, one has an 18-pound load and the other has a 12-pound load. It will cost twice as much to run as the other. The 18-pound will cost twice as much as the 12-pound, but I think the average housewife would prefer to have the 18-pound washer and pay the extra cost because she can get the job done in half the time. The housewife does have the ability to compare the cubic footage of her deep freezes and refrigerators. They compare them. She compares the speed of sewing machines, one against the other. There are many other things the housewife is able to compare. I think that here we are giving them something which is entirely irrelevant to the comparisons because it is on an annual basis. It will only be relevant to those who plug something in and leave it on all year. They will use up energy all year. Then you have something relevant, but there is no relevance in an appliance that one can turn on and off. I believe the Senator has the wrong concept here dealing with the operating cost on an annual basis which will put the supplier and the local retailer in the position of carrying that burden. It will not give the housewife something relevant in terms of her actual usage of an appliance.

Mr. TUNNEY. I suppose there are two sides to every story, but the State laws are based on annual operating costs and so is the Commerce Department voluntary program based on an annual operating cost. Hearings were held, which I chaired, which made it clear that the annual operating cost is the simplest computation to make. We did not have any information available that mills per kilowatt hour would be relevant to the housewife and therefore I think we should stick to the bill as written.

Mr. HASKELL. Mr. President, I send to the desk an amendment which I ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 61, line 24, omit the word "Secretary" and insert in lieu thereof, the word "Council".
>
> On page 62, line 2, omit the word "Secretary" and insert in lieu thereof, the word "Council".

Mr. HASKELL. Mr. President, this is a purely technical amendment. When the Council on Energy Policy was put in the bill, the appropriate change was made on page 61, line 13. But conforming changes were not made on page 61, line 24, and page 62, line 2.

Mr. HANSEN. Mr. President, there is no objection on this side of the aisle to the adoption of the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. BARTLETT. Mr. President, I have an amendment at the desk which I ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The assistant legislative clerk read as follows:

AMENDMENT No. 757

On page 17, after line 10, of amendment No. 757, amend section 4c by adding a new subsection as follows:

"(7) provide assistance to the Congress in the preparation of energy conservation materials, including booklets and bumper stickers, for distribution to constituent groups.

Mr. BARTLETT. Mr. President, this amendment is designed to supplement the thrust of S. 2176 by making available various kinds of material that could be distributed through field offices and other Senate offices to constituents. It directs the Office of Energy Conservation in the Interior Department to produce appropriate material which will help educate the American people to conserve energy. It can take many different forms. In my case, our office received considerable inquiries for such material which we did not have available. I believe that this will help educate and bring to the attention of our citizens the critical nature of the energy crisis. I believe that this amendment is acceptable to the majority.

Mr. HASKELL. It is indeed.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

The bill is open to further amendment.

Mr. HASKELL. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. HART. Mr. President, I send an amendment to the desk.

The VICE PRESIDENT. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 80, line 3, strike everything commencing with the word "PROPRIETARY", through and including the word "found.", on page 82, line 25, and insert in lieu thereof the following:

"PROPRIETARY INFORMATION AND PATENTS

"SEC. 609. (a) AVAILABILITY.—(1) All research and development contracted for, sponsored, or cosponsored by the Secretary pursuant to this title, shall require, as a condition of Federal participation, that all information—whether patented or unpatented in the form of trade secrets, know-how, proprietary information, or otherwise—resulting in whole or part from federally assisted research shall be made available at the earliest possible date to the general public, including but not limited to nongovernmental United States interests capable of bringing about further development, utilization, and commercial applications of such results.

"(2) The Secretary, in administering patents pursuant to this title, shall make a determination, in a proceeding conducted in accordance with the provisions of section 553 of title 5, United States Code, as to whether patent licenses shall be granted on a royalty-free basis or upon a basis of charges designed to recover part or all of the costs of the Federal research. The Secretary shall make government patent rights and technological and scientific know-how available on nonexclusive and nondiscriminatory terms to qualified applicants.

"(3)(A) Whenever a participant in an advanced automobile development project holds background patents, trade secrets, know-how, or proprietary information which will be employed in the proposed development project, the Secretary shall enter into an agreement which will provide equitable protection to the rights of the public and the participant: *Provided*, That any such agreement shall provide that when the advanced automobile development project reaches the stage of possible commercial application, any of the participant's previously developed background patents, trade secrets, know-how, or proprietary information reasonably necessary to possible commercial production of an advanced automobile developed under this title will be made available to any qualified applicant on reasonable and nondiscriminatory license terms or in forms which shall take into account that the commercial viability of the advanced automobile was achieved with the assistance of public funds.

"(D) As employed herein, the term 'background patent' means a United States patent owned or pending by a contractor, grantee, participant, or other party conducting research or development work, or both, pursuant to this title for or under the sponsorship or cosponsorship of the Secretary which would be infringed by the practice of any new technology developed under the research or development work, or both, contracted for, sponsored, or cosponsored pursuant to this title.

"(b) PROTECTION OF RIGHTS.—Whenever the Secretary determines that—

"(1)(A) in the implementation of the requirements of this title a right under any United States patent, which is not otherwise reasonably available, is reasonably necessary to the development of an advanced automobile pursuant to this title, and

"(B) there are no reasonably equivalent methods to accomplish such purpose, and

"(2) the unavailability of such right may result in a substantial lessening of competition or tendency to create a monopoly in any line of commerce in any section of the country,

the Secretary shall so certify to a district court of the United States, which shall review the Secretary's determination. If the district court upholds such determination, the court shall issue an order requiring the person who owns such patent, or rights thereunder, to license it on such reasonable and nondiscriminatory terms and conditions as the court, after hearing, may determine. Such certification may be made to the district court for the district court in which the person owning the patent resides, does business, or is found.

"(c) COMPETITION AND SMALL BUSINESS.—The Secretary shall, in determining license terms, duly consider and give weight to the effects of such terms on competition and small business.

Mr. HART. Mr. President, this amendment is offered on behalf of Senator LONG and myself.

This amendment, in large part, of a technical and conforming nature. It conforms the patent provisions of this bill to the patent provisions adopted December 6 by this body to the energy research and development bill (S. 1283).

Section 609 of this bill contains the basic patent principles adopted by the Senate last week in S. 1283. This amendment conforms the language and makes the intent explicit. It seeks to make clear that patents and know-how arising out of government-funded research and development are made available at the earliest possible date to the general public on nonexclusive and nondiscriminatory terms.

Mr. President, I am pleased to report that this amendment is supported in all respects by the Department of Justice. The Department's analysis of the policy issues are quite perceptive, and I ask unanimous consent that the Department's letter, together with several attachments, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
Washington, D.C., December 10, 1973.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This report is to set forth the views of the Department of Justice on section 112 ("Patent Policy and Mandatory Licensing") of S. 1283, the "National Energy Research and Development Policy Act of 1973," as amended by Amendment 766 (Hart-Long-Nelson). It is understood that similar provisions are under consideration in connection with S. 2176, the "National Fuels and Energy Conservation Act of 1973," where they would comprise section 609. For purposes of convenience, reference will be made throughout this report to section 112 of S. 1283, in the form that bill passed the United States Senate on December 7, 1973.

I. SUMMARY OF SECTION 112

Subsection (a) provides for the administration of patent rights and other technology in connection with government research contracts and demonstration projects under the Act. Paragraph (1) is a statement of policy that technological information developed under the Act shall promptly be made available for utilization by the public. Paragraph (2) requires the head of the government agency overseeing such projects to make such technology available to all qualified applicants on nonexclusive and nondiscriminatory terms; in doing so, he is to determine on a case-by-case basis whether to grant licenses for this purpose on a royalty-free or royalty-bearing basis. Paragraph (3) requires the agency head to insure, in such research and development contracts into which he enters, that the equitable rights of the public and the private contractor be protected; in this connection, background technology reasonably necessary to the commercial utilization of the technology developed under the contract is to be made available to all qualified applicants on reasonable and nondiscriminatory terms.

Subsection (b) defines procedures and rights in respect to technology relating to projects conducted by the joint Federal-industry corporations to be established pursuant to the Act. Such corporations, participants therein, and other Government agencies or instrumentalities, are to receive royalty-free, unrestricted licenses to practice any invention or discovery employed in any demonstration project or commercial facility provided for by the Act. Such corporations are to receive any royalty income generated through the licensing of patents.

Subsection (c) provides that if the head of the government agency overseeing the project determines that mandatory patent licensing is necessary to implement the Act, he is to certify the matter to an appropriate district court of the United States. If the district court upholds this determination, the court is then to issue an order to the patentee requiring licensing on reasonable and nondiscriminatory terms.

Subsection (d) is a statement of policy that the head of the agency overseeing the project, in determining license terms, is to "give weight" to the effects of such terms on competition and small business.

II. EXISTING LAW AND POLICY AFFECTED BY SECTION 112

Section 112 involves acquisition of title to and disposition of government-financed inventions and technology, as well as access to "background" patents and technology reasonably necessary to permit commercial utilization of such government-financed inventions and technology; and mandatory licensing of patents reasonably necessary to the utilization of energy systems to be developed pursuant to the Act.

A

As to the first point, to the extent that the Congress has acted in the past, it has provided, in a number of specific circumstances, that whenever the government finances the research work of an inventor, then the government is entitled to any patent arising from such research (and, in some circumstances, to a license to any background patents, as well, needed for utilization of the first patent). See, e.g., 42 U.S.C. 1959d(d) and 3253(c), 30 U.S.C. 666 and 951(c), 22 U.SC 2572

The rationale for these provisions, apparently, has been based on several considerations: First, if the government hires a contractor to perform certain research work for it, it is said that the government should receive and take title to what it has bought. Having bought the technology at tax-payer expense, the government should then disseminate the technological information as widely as possible to benefit whoever can use it. It has been deemed unfair to the public to give the private contractor whom the government has hired private monopoly privileges in the subject matter of his publicly-funded government contract. In this connection, it has been suggested that the normal incentive toward research supplied by the patent system is inapplicable, for the government has underwritten the process and risk of the whole venture. E.g., "Economic and Legal Problems of Government Patent Policies," Report for the Subcommittee on Monopoly, Senate Select Committee on Small Business, June 15, 1963; Hearings on Patent Policies of Departments and Agencies of the Federal Government before the Senate Select Committee on Small Business, December 8–10, 1959.

Although such statutory provisions occur in several specific areas of government-funded research, there is at present no general such legislation in respect to government-funded activity. Absent more general legislation dealing with the acquisition and disposition of government-sponsored technology, President Nixon issued a Statement of Government Patent Policy, on August 23, 1971. This policy statement is necessarily very general, for it deals with a variety of federal agencies having widely different patent programs. It provides that for patents involving "the public health, public safety, or public welfare" the government "shall normally acquire" exclusive rights to any inventions made in the course of a government contract. If the government does not acquire such exclusive rights, however, the policy statement permits the contractor to obtain them after the invention has been identified under certain circumstances. The policy statement also permits the contractor to acquire "greater rights than a nonexclusive license" to potential, but unidentified, inventions arising from contracted-for, but not yet performed, research in "exceptional circumstances.

To implement the Presidential Policy Statement, the General Services Administration has issued two sets of regulations. The first set ("Federal Property Management Regulations—Patents," 38 F.R. 3328, Feb. 5, 1973) became effective on May 7, 1973. These regulations prescribe the procedures for licensing patents already owned by the government. The second set of regulations ("Federal Procurement Regulations—Patents, Data, and Copyrights," 38 F.R. 23782, Sept. 4, 1973) has not yet taken effect (and is due to come into effect on March 4, 1974), and is now in the process of being commented upon by a number of interested parties. These regulations involve the proposed allocation to contractors of rights to government-sponsored inventions, both before and after these inventions are identified. The comments concerning this second set of regulations indicate that further change may be necessary in them. For example, by a November 8, 1973, letter to the General Services Administration, the Department of Justice commented on these regulations:

"[I]t is possible that the courts could find that, in absence of an agency's having statutory authorization, there would be an unconstitutional disposition of government property under the amendment's implementation of the Presidential Statement's provisions . . ."

This position was also expressed earlier to the General Services Administration in an August 23, 1973, letter by Attorney General Richardson, which urged "a careful examination of the amendments to assure that any Constitutional deficiencies are eliminated."

B

As to the other point—mandatory licensing of necessary patents—Congress has already similarly acted in several closely related areas. A very broad or general such provision is section 1498 of the Judicial Code (28 U.S.C. 1498), which provides, in effect, for a mandatory license whenever a patented invention is used by or manufactured by or for the United States. Under this provision, a patentee has no right to exclude or secure an injunction against such use; there is automatically a mandatory license to the government and its contractors. The patentee has a claim for just compensation, however, which may be brought before the Court of Claims. The predecessor of section 1498 was enacted by Congress in 1910, and, with amendments, has remained a part of the statutory law to the present time. The original reason for this statute, and one that retains vitality today, is that the government retains the right to undertake and carry out work involving the national defense and security, or other such public necessities, without being blocked from doing so by the patent system, although it should pay reasonable compensation for the use of the patented invention. Unlike section 112(c) of this Act, however, there is no case-by-case balancing of equities in section 1498; instead, the mandatory licenses to the government and its contractors is automatic and cuts across all fields of technological development.

There are also other more specific statutory provisions by which Congress has expressly provided for mandatory licensing of patents touching on public health, safety, and welfare. See, 42 U.S.C. 1857h–6 and 2183; 7 U.S.C. 2404.

III. DISCUSSION

The United States Senate has declared that energy shortages constitute "a threat to the public health, safety, and welfare", "pose a serious risk to national security" and the "economic well-being, and health and welfare of the American people"; and "require emergency measures." See S. 2589, § 101 passed by the Senate, Nov. 19, 1973. The present legislation is designed to help meet the "nationwide energy emergency" (*ibid.*) through developing and funding (at $20 billion over ten years) an aggressive federal research effort to make the United States self-sufficient through domestic energy resources.

The legislation of which section 112 is a part contemplates direct federal contracting to conduct research into energy problems, and the creation of "joint Federal-industry corporations" to demonstrate or operate particular forms of unconventional energy technology. Federal participation—in no instance to exceed 90% of the costs—is to end within an established time limit, so that the newly created energy corporations will ultimately become part of the private sector of the economy. Section 112 deals with the significant public interest in the ownership and utilization of government-sponsored technology. This Department supports the purpose of section 112 and recommends its enactment, in the form it passed the Senate on December 7, 1973.

Section 112(a)(1) provides that any unclassified technological information bought or developed by the government pursuant to the Act should be "made available at the earliest possible date to the general public." Paragraph (2) of this subsection provides that the head of the agency overseeing the project is to make government-sponsored technology available to qualified applicants on nonexclusive and nondiscriminatory terms. Since the purpose of the Act is to bring forth new energy technology that will be of general use to the economy, it would appear highly desirable that all those conducting energy research should have full and unhindered access to the work being carried out under the Act, so that all researchers will be able to build upon, further improve, and fully utilize the latest advances in the art.

The policy decision that the government should take title to any invention developed in the course of its contracted-for research appears to be implicit in paragraphs (1) and (2) of subsection (a). That has, at least, been the settled administrative interpretation of similar language in other Acts of Congress. There seem to be two principal bases supporting this decision. The first—the more general one—is that the government should take title to what it has bought. See p. 3, *supra*. The second basis arises from the particular needs of this Act. For the government to assure full and prompt disclosure of energy technology, as required by subsection (a)(1), it will first have to obtain through ownership the ability to disseminate it.

It has been suggested that, instead, the government should give contractors the right to title in any future inventions that may be developed under government energy research contracts. The justification urged in favor of this position is that failure to give away such rights to contractors could hinder the commercial utilization of inventions in some cases. It is wholly unexplained, however, in the circumstances of this Act, how any such effect would result—and it would seem that it is most unlikely that it would in fact occur, given the present financial incentives to such exploitation. For these reasons, it would appear that the only clearly discernible effect of giving away such rights to private parties would be to confer a substantial private benefit without compensating public gain. Moreover, because this proposal would contemplate giving away title to future, as yet unknown and undeterminable inventions, there would be no way to calculate the value of the technology that the government would be giving away—so that the Congress could not safely anticipate that ordinary considerations of prudence in the disposition of government property would properly be applied.

It has also been suggested that, instead of following the pattern of such statutes as 42 U.S.C. (1959d(d), this portion of section 112 should simply incorporate by reference the Presidential Policy Statement dealing with government patents, generally, and part, but not all, of the proposed GSA patent regulations now under comment (see p. 4, *supra*). As the preceding discussion of the Policy Statement indicates, however, the Statement deals in general terms with all types of government patents, and does not deal with the specific concerns that are peculiar to the new energy technology to be developed to meet the present emergency. Moreover, one portion of the Policy Statement—section 1 (a)(2), the "public welfare" section—is more apposite to the present case than the remainder of the Statement, and this section is consistent with section 112(a) in its present form. In addition, given the amount of money involved, the amount and value of the new technology that is hoped to be produced, and the crucial national purposes which this technology is to serve, it is most proper that this Act specifically address the many specific issues raised by the ownership of patents and technology, and offer specific policy guidance on these issues.

For similar reasons, reference to the very general proposed GSA regulations would be an inadequate substitute for the specifics of section 112(a). In addition, these proposed regulations are still undergoing technical review, and they may well be changed and improved further.* If it is decided, however, in any reconsideration of section 112—which we do not believe necessary—that general regulations be referred to, then both sets of regulations implementing the Presidential Policy Statement should be cited.

Section 112(a)(3) provides that any participant in any program or contract is to agree, as a condition of being a contractor, that background technology used in the proposed energy program is to "be made available to any qualified applicant on reasonable and nondiscriminatory terms" or in some other form—the latter presumably being actual products that embody such background technology. This provision, as a safeguard to the contractor, also requires that "equitable protection" be given the contractor. It would appear that, if the government has for the benefit of the public financed a significant improvement in energy technology, then it would not be proper or fair for the contractor to be able to block the public from utilizing the fruits of that public investment, through the control of background technology. Paragraph (3) of this subsection would therefore seem a necessary measure to insure that the public will be benefited by the research and technological development to be brought forth by the Act.

Subsection (b) assures the joint Federal-industry corporations to be set up by this Act royalty-free unrestricted licenses to practice inventions employed in the demonstration projects or commercial facilities provided by the Act. This approach is preferable to the alternative some have proposed of requiring these corporations to purchase this government-sponsored technology from each other or from the federal government. The possibility of purchase, or grant of authority to make purchases, does not guarantee access to the technology, if the owner does not wish to sell or demands a prohibitive price. Moreover, interagency purchases are an unnecessary and wasteful process.

Subsection (c) provides for the mandatory licensing of certain patents. The possible patents involved are those "reasonably necessary to the development or demonstration of an energy system or technology pursuant to this Act." If, to implement the Act, the head of the government agency overseeing the energy project determines that a patent should be subject to mandatory patent licensing, he is to certify the matter to an appropriate federal district court. The subsection provides, as a precondition for such a certification, that the agency head make four determinations: (1) that such utilization of the patent right is "reasonably necessary" to "the development or demonstration of an energy system or technology" pursuant to the Act, (2) that this right is "not otherwise reasonably available," (3) that "there are no reasonably equivalent methods to accomplish such purpose," and (4) that the unavailability of this right may tend to lessen competition. If the district court upholds this determination, presumably on the basis of Administrative Procedure Act standards, then the patent becomes subject to mandatory licensing on reasonable and nondiscriminatory terms and conditions. This provision is substantially equivalent to section 308 of the Clean Air Act (42 U.S.C. 1857h-6), on which it appears to be patterned.

In certain cases, the conduct of a private patent holder could interfere with the efficient and expeditious implementation of the requirements of this Act. As a matter of economics, a private party, holding a critical patent on energy technology, would rationally maximize his economic profits by restricting production and output to gain a maximum monopoly surcharge (or "economic rent"). The purpose of the present energy legislation, however, is to maximize the output and production of energy-related technology. There may thus be a conflict between the purposes and objectives of the legislation and the most rational economic behavior of a monopolist.

A public policy favoring maximization of output is already recognized and embodied in 28 U.S.C. 1498, which permits use of patents for governmental purposes, subject to just compensation therefor. To the extent that section 1498 would already provide the corporations to be set up by this Act, or any contractors under this Act, access to any patented United States technology, present law is thoroughly consistent with the objectives of section 112(c). The added thrust of section 112(c), therefore, is quite limited—it would appear that it is to permit possible private competitors of these government-supported corporations or contractors to have access to critical energy technology on equal terms with such government corporations or contractors, while providing the patent owner reasonable compensation for the use of his invention. Section 112(c) would therefore appear to be designed as a safeguard to ensure equitable and nondiscriminatory treatment to all researchers and industries involved in this national effort.

There is a further consideration that applies to S. 2176, the "National Fuels and Energy Conservation Act of 1973," that may be inapplicable to S. 1283. In S. 2176, there is a more specific need for mandatory patent licensing provisions. Section 9 of that proposed bill would require the Secretary of Transportation to set minimum standards for fuel consumption by automobiles. If an invention were made that significantly reduced automobile fuel consumption, the Secretary of Transportation would presumably set standards for fuel consumption based on the invention, that would therefore effectively require utilization of that invention in automobile engine design. To make this possible, however, it is necessary to empower the Secretary to make the invention generally available on a reasonable basis, if the owner will not otherwise do so. This is the same reasoning that justified having mandatory patent licensing provisions (42 U.S.C. 1857h-6) included in the Clean Air Act, which sets maximum standards for emissions of pollutants.

Some have speculated that mandatory patent licensing in the field of government-sponsored energy systems and technology is unjust or even may undercut the incentives to produce new energy technology—incentives that S. 1283 is intended to provide. We do not agree with this assertion.

The ordinary mechanisms of the patent system are an important means to spur the growth of technology, but not the only method used in this country to do so. In 1972, for example, the federal government provided 54% of the funds expended for the national research and development effort (National Science Foundation publication, NSF 72-300), and this funding rather than strictly private incentives motivated a major portion of the country's scientific and inventive advances. If a policy decision is to be made that our energy crisis requires a major national effort, major federal funding, and the mobilization of all our national resources to make this nation self-sufficient in energy by 1980—and that decision appears to have been made—then a system based on providing incentives through grants of private monopoly may well require, or properly be subject to, some degree of adjustment, in the narrow area affected by the legislation proposed, in order to be accommodated to this national effort.

Moreover, given the great impetus to research that can be expected to follow from the massive influx of federal spending, and the guaranteed demand and nationwide market for any significant advance in this area, it is extremely unlikely that mandatory licensing would effect any serious disincentive to research in this area. The same argument has been made about compulsory licensing of air pollution technology, and proved groundless. On June 4, 1971, the Environmental Protection Agency observed, about language similar to section 112(c), that had been incorporated into the Clean Air Act—

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* We would also note, as a matter of drafting, that it is not appropriate to refer to these regulations as amending the Presidential Policy Statements. They only implement this Statement, and should be drafted in conformity with it.

"Since enactment of the [Mandatory licensing] provision in December 1970, we know of no cutback in air pollution control research nor do we know of any lessening of interest in entering the field on the part of the business community."

IV. CONCLUSION

The Department of Justice recommends enactment of section 112, in the form passed by the Senate on December 7, 1973, and incorporation of a provision in S. 2176, modeled on that section. However, this is an important and complex matter, and one upon which the Congress might well choose to hold hearings prior to enactment.

Sincerely yours,

Thomas E. Kauper,
Assistant Attorney General Antitrust Division.

August 23, 1973.

Mr. A. H. Helvestine,
Chairman, Implementation Subcommittee, Committee on Government Patent Policy, Federal Council on Science and Technology, U.S. Department of Commerce Building, Washington, D.C.

Dear Mr. Helvestine: This is in response to your letter of June 20, 1973, concerning the enclosed opinion memorandum written by the former Assistant Attorney General for the Office of Legal Counsel, Roger C. Cranton, dated October 10, 1972.

That memorandum considered, among other things, the legality of a clause in a Government contract, granting to a private contractor incheats patent rights which in the absence of the clause would belong to the Government. The opinion memorandum concluded that such a grant probably constitutes a "disposal" of Government property within the meaning of Article IV, Section 3, Clause 2, of the United States Constitution. Since that constitutional provision grants to Congress the exclusive authority to dispose of Government property, such disposal of patent rights through a Government contract would be Constitutionally suspect unless such disposal were based on valid statutory authority.

The views expressed in the memorandum do reflect the official position of the Department of Justice. In view of the seriousness of the Constitutional issue which is raised, and the high probability that the proposed amendments to the Federal Procurement Regulations would be challenged in court (similar provisions already having been challenged, in still-pending litigation), this Department favors a careful examination of the amendments to assure that any Constitutional deficiencies are eliminated.

Contrary to your suggestion, the opinion memorandum is not inconsistent with the 1971 Presidential Statement of Patent Policy. That Statement refers to the granting of "greater rights than a nonexclusive license" or "principal or exclusive rights in an invention" to government contractors, under certain conditions. The form of such licensing is not dealt with, nor would it be appropriate to do so, in the Presidential Statement. The question of form is one to be addressed in drafting regulations that will implement the policies outlined in such a Statement and be consistent with the other requirements of law. The opinion memorandum simply indicates that the form of such exclusive licensing should conform to the requirements of law and the various procedures adopted for the licensing of Government-owned patents (modified appropriately to deal with specific problems raised by procurement contracts).

Sincerely,

Elliot Richardson,
Attorney General.

Enclosure

Federal Council for Science
and Technology,
Washington, D.C., June 20, 1973.

Hon. Elliot L. Richardson,
Attorney General,
Washington, D.C.

Dear Attorney General: Enclosed is a copy of the Memorandum and Statement of Government Patent Policy issued by President Nixon on August 23, 1971. Basically, the Statement relates to the allocation of invention rights between the Government and its contractors in those situations where the invention results from research funded by the Government.

Among other things, the Policy Statement provides that the Federal Council for Science and Technology shall continue to "develop by mutual consultation and coordination with the agencies common guidelines for implementation of this policy, consistent with existing statutes". It also states that a Committee on Government Patent Policy shall assist the Federal Council in performing its functions under the Statement.

One of the standing Subcommittees established under the Committee is the Implementation Subcommittee charged with the responsibility for reviewing and determining conformance of agency contract patent regulations with the Presidential Statement.

In late 1971, the Implementation Subcommittee undertook the drafting of an amendment to the Federal Procurement Regulations (FPR) which for the first time would provide standard patent rights clauses for Government-wide use. This task, intended to uniformly and promptly implement the 1971 Presidential statement of Government Patent Policy, was undertaken in cooperation with the General Services Administration (GSA). In keeping with the provisions of the Presidential Statement, the use of the prescribed patent rights clauses set forth in the proposed amendment to the FPR are subject to statutory requirements. Ultimately, the amendment is to be issued by the Administrator of General Services.

On May 9, 1972, GSA circulated to the Government agencies, industry and the Patent Bar the draft proposed amendment to the FPR for comment. Thereafter, the Implementation subcommittee considered the comments received by GSA, including those of the Department of Justice, and it revised the proposed amendment as appropriate. A copy of the proposed amendment to the FPR as approved by the Implementation Subcommittee during its May 29, 1973 meeting is enclosed. It is noted that much effort was made to draft the proposed amendment to the FPR so that it would mirror the guidance and maintain the agency flexibility provided by the Presidential Statement.

In November 1972, in my capacity as Chairman of the Implementation Subcommittee, I received a copy of the enclosed internal memorandum of the Department of Justice dated October 10, 1972, which raises some legal questions concerning the constitutionality of the proposed amendment to the FPR and therefore the Presidential Statement itself.

The Implementation Subcommittee has taken no action with respect to this internal memorandum of the Department of Justice since it does not recognize it to be the official position of the Attorney General, nor is the Implementation Subcommittee in a position to entertain questions concerning the constitutionality of the Presidential Statement.

While the merits of the internal memorandum have not been formally considered, it appears at first blush that a basic premise of contract law has been violated in the arguments presented.

The memorandum states that the Government may not properly dispose of Government property, i.e., invention rights, without express Congressional authority, and if it were to do so would violate Article IV, Section 3, Clause 2 of the Constitution. I agree with this statement, yet it is also true that the Government cannot dispose of something it does not own.

The contract between the Government and the contractor sets forth the method and total basis for determining rights to inventions resulting under the contract. The proposed patent rights clauses, which implement the "greater rights" provisions of the 1971 Presidential Statement, when incorporated in a contract specifically provide the method in which the rights are to be allocated. The clauses permit the contractor to enter into the contract knowing that he will be permitted to retain the patent rights to resulting inventions under certain conditions, and the Government in effect agrees at the time of contracting that the allocation of the invention rights will be made in accordance with the contractual agreement. The terms of the contract therefore provide the basis for ownership in the contractor or in the Government depending on the circumstances.

Accordingly, in those contractual situations where it is determined under the terms of the contract that the contractor is entitled to retain title or ownership in the inventions under the "greater rights" provision of the contract patent rights clause, the Government never acquires title or ownership. In these situations, it also follows that the Government cannot dispose of property it never owned.

It is noted that similar "greater rights" provisions were a part of the 1963 Statement of Government Patent Policy issued by President Kennedy and that the Department of Justice never raised any legal questions heretofore concerning these provisions, nor did the Department raise such questions recently prior to the issuance of the 1971 Nixon Statement.

In closing, if the views expressed in the internal memorandum represent the views of the Attorney General, such views should more properly be directed to President Nixon so that he may amend the Presidential Statement as may be necessary.

Sincerely,

A. H. Helvestine,
Chairman,
Implementation Subcommittee.

U.S. Government,
Department of Justice,
October 10, 1972.

To: Mr. Bruce B. Wilson, Deputy Assistant Attorney General, Antitrust Division.
From: Roger C. Cramton, Assistant Attorney General, Office of Legal Counsel.
Subject: Constitutionality of Proposed Regulations Granting Contractors Greater or Principal Rights in Patents Arising Out of Government Research and Development Contracts.

You have requested the opinion of this Office on a question concerning the constitutionality of proposed Government-wide regulations controlling the assignment of rights to inventions developed under Government-financed research and development contracts. More precisely, the question is whether the assignment to the contractor of "greater rights" or "principal rights" in such inventions would violate Article IV, section 3, clause 2, of the Constitution, which grants to Congress the exclusive authority to dispose of Government property. You have also requested our views on whether existing Government contract law could be interpreted as authorizing a disposal of invention-rights as added consideration for services performed under a Government contract.

It is our conclusion that application of the proposed regulations could, in certain circumstances, result in an assignment of rights to the contractor constituting an unauthorized disposal of property. At the same time, it is our view that this deficiency can be corrected without major modifications and without abandoning the major policy objectives which the drafters of the regulations have sought to attain.

I. THE REGULATIONS

President Nixon's policy statement of August 23, 1971, 36 Fed. Reg. 16887, prescribed certain guidelines for the disposition of patent rights on inventions made by contractors in work arising out of Government research and development contracts. For the most part, these guidelines simply clarified and expanded the principles set forth in an earlier statement issued by President Kennedy, 28 Fed. 10943 (1963). The proposed GSA regulations, which are a responsibility of the Committee on Government Patent Policy of the Federal Council on Science and Technology, are intended to provide uniform Government-wide procedures in compliance with the Presidential policy.

In the form approved by the Implementation Subcommittee on April 17, 1972, the regulations set forth specific factual circumstances (probably encompassing the largest percentage of inventions made as the result of Government research and development contracts) under which the Government would normally acquire the principal or exclusive rights to inventions arising out of the contracts. § 1–9.107–3(a). However, the contractor may be permitted to obtain "greater rights than a nonexclusive license" where exceptional circumstances are shown and the government agency certifies that this will best serve the public interest. *Id.* In addition, where the contractor has an established technical competence, "demonstrated by factors such as know-how, experience, and patent position", the contractor would normally acquire "principal or exclusive rights throughout the world in and to any resulting inventions". § 1–9.107–3(b). Pursuant to Section 1–9.107–4(b), the contracting agency must record the basis for any decision under the above provisions. No hearing on the record is required.[1]

The regulations do not define the phrase "greater rights than a nonexclusive license". Presumably, this language is intended to permit the issuance of some sort of exclusive license to the contractor. Section 1–9.107–4 (a) (3) and 1–9.107–5(b) indicate that where "principal or exclusive" rights are granted to the contractor, he is to receive the "entire right, title, and interest" subject to certain rights reserved to the Government. These minimum Government rights include the power to force the contractor to license his patent on a nonexclusive or exclusive basis to others if the contractor does not take proper steps to utilize the patent within the allotted time, or if public use of the invention is required, and the right to retain a nonexclusive, nontransferable, paid-up license to make, use and sell the invention by or on behalf of federal, state and local governments. §§ 1–9.107–3(e); (1–9.107–5(a).

II. THE CONSTITUTIONAL ISSUE

The question under discussion here is whether the provisions of the proposed regulations summarized above violate Article IV, section 3, clause 2 of the Constitution. This clause provides that "Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; . . . ." The federal courts have interpreted the clause to mean that the Executive cannot relinquish Government property, by sale or otherwise, without Congressional authorization. *Royal Indemnity Co.* v. *United States,* 313 U.S. 289, 294, (1941); *United States* v. *City and County of San Francisco,* 112 F. Supp. 451, 453 (N.D. Calif. 1953), *aff'd,* 223 F.2d 737 (9th Cir. 1955), *cert. denied,* 350 U.S. 903. In determining whether an Executive assignment of patent rights pursuant to the proposed regulations is permitted, the precise meaning of the words "property" and "dispose", within the context of the constitutional clause, must be ascertained. If the Government interest in future patents does not constitute property, or if the assignment of these interests to a contractor is not a disposal, application of the regulations would not violate the clause.

There has been much discussion of Government patent management from policy perspectives, none of it bearing on the legal issue of concern here.[2] The constitutional problem needs to be faced squarely at this time.

III. THE NATURE OF GOVERNMENT RIGHTS IN RESEARCH AND DEVELOPMENT INVENTIONS

Before turning to the basic question of whether Government rights or legal interests in future inventions developed under research and development contracts are in fact property, it is necessary to determine the nature and extent of these Government rights.

Under established case law, where no contracts or statutes override, an employee who is specifically hired to develop an invention can be required to assign title to patents resulting from such inventions to his employer. See *Standard Parts Co.* v. *Peck,* 264 U.S. 52 (1923). While the employment contract in the *Standard Parts* case apparently did not contain an assignment clause, the Court concluded that this result was required by the nature of the employment relationship. However, where the employee was not specifically assigned to develop the invention in question, the employer may be entitled only to a "shop-right", a nonexclusive license to make and market the product. *United States* v. *Dubilier Condenser Corp.,* 289 U.S. 178, 188, 192 (1933). Similarly, where the employee conceives the invention on his own time and at his own expense, the employer loses any equitable claim to title. *Lambert Tire & Rubber Co.* v. *Brubaker Tire Co.,* 5 F.2d 414 (6th Cir. 1925).

Cases in which the United States was the employer appear to have been decided on the same principles as the cases involving private employers. See *Dubilier, supra; Gill* v. *United States,* 160 U.S. 426 (1896).

There are relatively few decisions dealing with the ownership of patent rights between the Government and non-Governmental entities with which it has contracted (as distinguished from Government employees). The reported cases indicate that the same principles will be applied to a contractor as have been applied to an employee. In *Ordnance Engineering Corp.* v. *United States,* 68 Ct. Cls. 301 (1929), *cert denied,* 302 U.S. 703 (1937), the plaintiff-inventor sued the Government for infringement of patents on illuminating shells developed for the Navy. Since development of the shells occurred under a Government research contract, the Government was held to have an implied license to use inventions resulting therefrom. Id. at 353. The Court of Claims reached a similar result in *Mine Safety Appliances Co.* v. *United States,* 364 F. 2d 385 (Ct. Cls. 1966), where the plaintiff had developed a crash helmet under research contracts involving the Government. A contract provision provided that the Government be granted a nonexclusive license, but the court ruled that even in the absence of such a provision, the United States would receive an implied license. *Id.* at 392.

There are apparently no reported cases in which the Government has sought assignment of full title against a contractor. However, in *Polaroid Corp.* v. *Horner,* 197 F. Supp. 950 (D.D.C. 1961), the Government successfully defended title to a patent in the name of two Government employees against the claims of a private contractor who had agreed with the Department of the Navy to develop the invention. Following the reasoning in an earlier decision of the Board of Patent Interferences involving the same dispute, the court held that while Polaroid was a contractor and not strictly speaking an employee of the United States, on the facts of this case, the rules governing disposition of patents rights between employee and employer would apply. *Id.* at 955–956. The court apparently accepted the Board's view that Polaroid could not claim title because the corporation acted in an employee capacity in undertaking to design the invention in accordance with specifications previously drawn up by the Government. *Id.* at 952–953.

In light of the above cases, it would appear that the Government can claim title to patented inventions developed pursuant to specific contractual obligations. This same conclusion was reached in a 1947 Justice Department study of Government patent policies. Department of Justice, Investigation of Government Patent Practices and Policies, V. III, at 158–160 (1947).[3]

The extent of Government interests in the patents developed in the course of research and development contracts may be summed up as follows: Absent an overriding contract or statutory provision, the Government is entitled to a nonexclusive license to use all inventions arising out of research and development work contracted for by the Government. Moreover, where the contract calls for development of specific products or processes, the Government probably is entitled to an outright assignment of all patents on such products or processes developed in the course of contract work unless the contractor has made a major independent contribution to the inventions through expenditure of his own time and resources.

IV. PATENT RIGHTS ARISING OUT OF R & D CONTRACTS ARE PROPERTY

The phrase "Territory or other Property" in Art. IV, sec. 3, *of the Constitution* has been applied to a wide variety of property interests. In *Royal Indemnity Co.* v. *United States,* 313 U.S. 289 (1941), the Supreme Court ruled that a collector of Internal Revenue had no authority to release a surety from its obligation on a taxpayer's bond. Here the property interests of the United States was its right to enforce the tax obligation against the surety. The Court stated:

> "Power to release or otherwise dispose of the rights and property of the United States is lodged in the Congress by the Constitution. Art. IV, sec. 3, cl. 2. Subordinate officers of the United States are without that power, save only as it has been conferred upon them by Act of Congress or is to be implied from other powers so granted." *Id.* at 294.

Another case involving an intangible property right was *United States* v. *City and County of San Francisco,* 112 F. Supp. 451 (N.D. Calif. 1953), *aff'd,* 223 F. 2d 737 (9th Cir. 1955), *cert. denied,* 350 U.S. 903, where it was held that the Secretary of the Interior could not waive the right of the United States (set forth in a legislative grant) to have the city pay the cost of maintaining certain roads in a national park. Of course, the constitutional clause has also been applied to more tangible property forms such as movable

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Footnotes at end of article.

chattels (dispute over ownership of army helicopter), *Kern Copters, Inc.* v. *Allied Helicopter Service*, 277 F.2d 308 (9th Cir. 1960), and real property (easement), *United States* v. *Caylor*, 159 F. Supp. 410 (E.D. Tenn. 1958).

Apparently there are no reported cases in which Article IV, section 3 has been applied to a contingent property interest. However, in a 1957 opinion, the Attorney General concluded that this provision would apply to a reversionary interest in real property, despite the fact that the interest would vest only upon occurrence of an uncertain event. 41 Op. A.G. 311 (1957).

Congress has declared that patents are a form of personal property. 35 U.S.C. § 261 (1970). This was apparently also the view of Attorney General Stone in his 1924 opinion on the Executive's power to issue exclusive licenses. The opinion assumed that there was a property interest in patents which could not be conveyed without Congressional authorization. 34 Op. A.G. 320, 329. See also, 31 Op. A.G. 463, 466 (1919). There appears to be no substantial question that, at least as to certain of the rights accompanying ownership of a patent, the term "property" as used in Art. IV, sec. 3 is applicable.

Under the proposed regulations, the rights in question are not patents, but rights to claim patent interests in future inventions. The regulations provide that a decision as to the disposition of rights in inventions is made either (1) at the time of contracting, or (2) after an invention developed in the course of contract work has been identified. In both cases the rights are necessarily of an inchoate or contingent nature, either because of the uncertainty that any inventions will be developed, or because, even after identification of an invention, there is no certainty that it meets the requirements for obtaining a patent. Nonetheless, in view of the Attorney General's opinion regarding a contingent real property interest (41 Op. A.G. 311, *supra*), it would appear that such inchoate or contingent rights are subject to Art. IV, sec. 3 of the Constitution. This conclusion is buttressed by the numerous cases in which the courts have applied the provision to a wide variety of "property" interests of a real, personal, tangible, or intangible nature.[4]

V. IS AN ASSIGNMENT OF RIGHTS IN FUTURE INVENTIONS A DISPOSAL?

In a memorandum dated September 18, 1967, from former Assistant Attorney General Wozencraft of this Office to then Assistant Attorney General Turner of the Antitrust Division,[5] the meaning of the word "dispose" was discussed in the context of resolving the issue of Executive authority to issue limited exclusive licenses on Government-owned patents. It was concluded that the Executive would be empowered to grant a limited form of exclusive license since such a grant would amount to a utilization rather than a disposal of patent rights, at least where a policy of granting nonexclusive licenses failed to bring about development of the invention. But both the Wozencraft memorandum and the 1924 opinion of Attorney General Stone dealing with the power to issue nonexclusive licenses, 34 Op. A.G. 320, 330, *supra*, clearly suggest that an outright assignment of title to a patent, or even the granting of an unlimited and irrevocable exclusive license, would constitute a disposal requiring Congressional authorization.

This was also the conclusion reached by the court in *Houghton* v. *United States*, 23 F. 2d 386 (4th Cir. 1928), where the Government's ownership of a patent was upheld against the challenge of the employee-inventor. In response to the employee's argument that the Government had agreed that he should retain title, the court indicated that the patent was Government property not subject to conveyance without authorization.

"No official of the government was authorized to give away any interest in it, and no subsequent recognition of a right in defendant, not even a conveyance to defendant, could have conferred any right upon him or been binding upon the government." *Id.* at 391.

Under the proposed regulations, a grant of "principal rights" or "greater rights" to the contractor does not deprive the Government of certain minimal rights. As we have noted earlier, these rights include the power of the Government to compel a contractor to license his patent to others where steps to utilize the patent are not taken within the allotted time, and its option to retain a nonexclusive, nontransferable, paid-up license to make, use and sell the invention by or on behalf of federal, state and local governments. However, these retained rights are substantially less than those which would be retained under the licensing procedure discussed in the Wozencraft memorandum. This procedure would require, for example, that the exclusive rights granted to the licensee be for a period less than the duration of the patent. While the Wozencraft memorandum concluded that such a licensing procedure would involve a use rather than an unauthorized disposal of Government property, the theory has, of course, never been tested in a court of law. Thus, at least some degree of uncertainty as to its constitutional validity must remain. In our view, an argument that the even less restrictive grants of "greater" or "principal rights" to the contractor pursuant to the new regulations are a use rather than a disposal of Government property is probably untenable. Thus, unless there is some other basis for distinguishing such grants from the licensing procedure involved in the Wozencraft Memorandum, it would appear that the regulations would permit an unauthorized disposal of Government property.

The issue of Executive power to provide for the assignment of patent rights in research and development contracts can be distinguished from the question of Executive authority to issue licenses on patents already owned by the United States. First, it can be argued that the contingent or inchoate nature of the Government's rights being dealt with in a research and development contract contrasts with its vested rights in a Government-owned patent. However, as indicated earlier, contingent as well as vested property interests are apparently subject to the constitutional limitation on disposal. Thus, we are unable to envisage any solid basis for asserting that an assignment by the Government of its contingent right to obtain title is any less a disposal than its assignment of the patent itself.

A second distinction between the licensing policy on Government-owned patents and contract clauses controlling patent rights in future inventions is that in the case of Government-owned patents, there has been no general practice of issuing exclusive licenses absent specific authorizing legislation. In contrast, where rights in future inventions are concerned, the Department of Defense and certain other major Government agencies have long followed a practice of granting private contractors title to most inventions developed in the course of research and development work, reserving only a nonexclusive license to the Government, despite the total absence of authorizing legislation. See Department of Justice, *Investigation of Government Patent Practices and Policies*, V. I, 78–86 (1947); U.S. Congress, Economic and Legal Problems of Government Patent Policies, Report Prepared for the Subcommittee on Monopoly, U.S. Senate (1963). It could be argued that because Congress has not acted to overturn this practice, it has in effect acquiesced.

There are a number of considerations which indicate that Congress has not acquiesced in the practice of granting title to future inventions to the contractors. First, there is no evidence that Congress has even considered the constitutional issue of disposal in this area. Thus, it is difficult to argue any conscious congressional acquiescence. Second, in those instances where Congress has acted to establish an invention policy with respect to a Government agency, it has often inserted provisions to protect Government interests in research and development patents. See, *e.g.*, 42 U.S.C. §§ 2182, 2189 (AEC); 41 U.S.C. § 2457 (NASA).[6] Thus, arguments that Congress would in all circumstances favor or approve a disposal of Government rights in such inventions are negated. Finally, at least since President Kennedy's Policy Statement on Patents in 1963, the Defense Department has been on notice that the Executive as well as the Legislative branch have doubts concerning the wisdom of a policy permitting the contractor to obtain title in all cases. Far from acquiescing in the Defense Department practice, the trend of developments appears to indicate that Congress as well as the Executive is moving away from a practice of relinquishing title to the contractor. In short, we do not find persuasive arguments that Congress has acquiesced in any agency's patent policy, in particular in a policy which would grant title to the contractor in all or most cases.

It is our conclusion that any distinction between the contingent rights which the Government has in inventions made under research and development contract work and the vested rights which it has in Government-owned patents does not go to the issue of disposal. Thus, where the Government has the right under existing case law to claim title or exclusive rights on patents arising out of such contract work, relinquishment of such rights to the contractor would be a "disposal" subject to Article IV, sec. 3 of the Constitution.

VI. IMPLIED AUTHORITY TO DISPOSE OF PATENT RIGHTS UNDER EXISTING STATUTES APPLICABLE TO GOVERNMENT CONTRACTS

In view of our conclusion that the assignment of Government rights in inventions developed in the course of research and development contracts could constitute a disposal in violation of the Constitution, you have asked whether existing Government contract statutes might authorize such a disposal. Specifically, the question is whether the patent rights could be granted to the contractors as additional consideration for services performed under the contract.

We are unaware of any statutory provisions expressly authorizing the assignment by the Government of patent rights as consideration for a contract or purchase. Indeed, such an assignment would appear to run counter to the principle that funds or other consideration allotted for payment of Government contract obligations must be appropriated or otherwise authorized by Congress. Subsection 11(a) of Title 41 provides in pertinent part:

> No contract or purchase on behalf of the United States shall be made, unless the same is authorized by law or is under an appropriation adequate to its fulfillment . . . [except for certain acquisitions by the Army, Navy, and Air Force].

In two cases decided by the Supreme Court, it was held that the Secretary of the Navy did not have the statutory authority to pay a lessee for its construction of pipelines, storage and transfer facilities, and for fuel oil by a grant to the lessee of the right to oil and gas found on lands subject to Navy administration. *Mammoth Oil Co.* v. *United States*, 275 U.S. 13 (1927); *Pan American Petroleum and Transport Co.* v. *United States*, 273 U.S. 456 (1926). In both cases,

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Footnotes at end of article.

the Court reached its result despite statutory language which gave the Secretary of the Navy authority to "take possession of all properties within the naval petroleum reserves . . . to conserve, develop, use, and operate the same in his discretion, directly or by contract, lease, or otherwise, and to use, store, exchange, or sell the oil and gas products thereof, and those from all royalty oil from lands in the naval reserves, for the benefit of the United States . . ." Act of June 4, 1920, ch. 228, 41 Stat. 812, 813. It was held that the word "exchange" in the statute authorized the Secretary to make only certain limited exchanges of crude oil from the reserves in return for fuel oil suitable for use by the Navy. *Pan American, supra,* at 503. The Court expressed itself in terms strictly limiting the discretion of the Secretary with respect to Government property:

"And it has long been its [Congress] policy to prohibit the making of contracts of purchase or for construction work in the absence of express authority and adequate appropriations therefor. [41 U.S.C. 11, 12.] The Secretary was not authorized to use money received from the sale of gas products. All such sums are required to be paid into the Treasury. [31 U.S.C. 484, 487.]" *Id.,* at 501, 502; see similar language in *Mammoth, supra,* at 34.

Unlike the transfer of property in the *Pan American* and *Mammoth* decisions, where allegedly fraudulent behavior by the Secretary of the Interior was involved, the transfer of patent rights arising out of research and development contracts has a long history in the Department of Defense and certain other agencies. Thus, arguably, the failure of Congress to act to prevent such transfers indicates an acquiescence to them. However, as we noted earlier in connection with the "disposal" discussion (see V., *supra*), the acquiescence theory is weakened by the diverse and possibly even conflicting policies followed by the various executive agencies in dealing with patents developed under research and development contracts. In any event, congressional acquiescence merely by silence probably would be a weak basis for sustaining a disposal of Government property rights. In light of the language in the *Mammoth* and *Pan American* decisions, it would appear that only a clear grant of authority by Congress would ensure that a disposal could withstand a challenge to Executive authority in the courts.

VII. LEGAL CONCLUSIONS

It is our conclusion that the Government's contingent interests in patents arising out of research and development contracts are property rights subject to Article IV, section 3 of the Constitution. Where these Government interests encompass the right to obtain title to a patent, any contract granting the contractor title or largely unlimited exclusive rights would be a "disposition" of Government property within the meaning of the constitutional provision. We are not aware of any congressional enactment authorizing such a "disposition". In our view, Government contracting statutes do not provide an adequate basis for establishing an implied authority in the Executive to dispose of property as added consideration for a Government contract. Thus, in light of the above, we conclude that the proposed regulations, in the form in which they now stand, would permit action by the Executive branch which in certain instances are constitutionally suspect.

IX. DEFICIENCIES OF THE PROPOSED REGULATIONS

The proposed regulations guarantee the Government the right to receive a nonexclusive license on all inventions arising out of research and development work (para. 107–3 (e) (1)). This Government right is sufficient to ensure that there has been no unauthorized disposal of property in all cases where, absent the contract clause, the Government would be assured only an irrevocable nonexclusive license under the "shop right" doctrine. Difficulties may arise, however, in cases where the Government would have an equitable right to an assignment of a patent. In such cases, if the contractor is granted "greater rights than a nonexclusive license" (presumably some form of exclusive license) as provided under section 1–9.107–3(a) or 1–9.107–3(c), or if he is granted the "principal or exclusive" rights to the invention under section 1–9.107.3(b), a court could find that there has been an unlawful disposition of Government property.

In our view, the regulations can be brought within constitutional limits without abandoning the major policy objectives on which they are based. The most substantial change required would be the addition of a provision providing that in no event shall the contractor obtain principal or exclusive patent rights than a nonexclusive license" available tor was employed specifically for the purpose of making or developing the invention and the contractor made no substantial independent contribution to the invention process. Moreover, in the case of such inventions, it should be provided that the "greater rights that a nonexclusive license" available to the contractor under the regulations shall in no event include any form of exclusive licensing except under the procedures providing for licensing of Government-owned patents (*i.e.,* under the guidelines of the Wozencraft Memorandum).[7]

FOOTNOTES

[1] In our view, inclusion of a provision in the regulations requiring a hearing on the record would not directly bear on the constitutional issue of disposal. Consequently, this matter is not discussed in this memorandum.

[2] See, *e.g.,* U.S. Congress, Senate, Government Patent Policy, Hearings Before the Subcommittee on Patents, Trademarks and Copyrights of the Committee on the Judiciary, 89th Cong., 1st Sess., 2 pts. (1965); Symposium on Patents, Copyrights, and Trademarks, 25 Fed. Bar J. 1 (1965); Stedman, The U.S. Patent System and Its Current Problems, 42 Texas L. Rev. 450 (1964); U.S. Congress, Senate, Economic and Legal Problems of Government Patent Policies, Report Prepared for the Subcommittee on Monopoly of the Select Committee on Small Business (1963); Symposium on Government Contract Policy, 21 Fed. Bar J. 3 (1961); Forman, *Patents, Their Ownership and Administration by the United States Government* (1957); Department of Justice, *Investigation of Government Patent Practices and Policies,* 3 Vols. (1947).

[3] See, also, Kreeger, The Control of Patents Resulting From Federal Research, 12 Law & Contemp. Prob. 714, 734 (1947).

[4] See the cases cited, *supra.*

[5] The memorandum is reproduced at page 120 of the Annual Report on Government Patent Policy (1969–1970).

[6] Also of significance here is the fact that various proposals for Government-wide regulation, some of which would generally reserve title to the Government, have been discussed and debated by the Legislative branch. *See, e.g.,* U.S. Congress, Senate Federal Inventions Act of 1966, Report No. 1427, 89th Cong., 2d Sess. (1966); U.S. Congress, Senate, Government Patent Policy, Hearings Before the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, Pts. 1 and 2, 89th Cong., 1st Sess. (1965).

[7] These procedures might be modified to give the contractor certain added consideration in the competition for a limited exclusive license based on the degree of his contribution to the invention. However, as provided in the Wozencraft Memo, exclusive licensing would be permitted only where a policy of nonexclusive licensing failed to result in development of the invention.

November 8, 1973.

Hon. Arthur F. Sampson,
Administrator, General Services Administration, Washington, D.C.
Attention: General Services Administration (AMC).

Dear Mr. Sampson: This is in response to the request for comments appearing in the Federal Register September 4, 1973, regarding the amendment of the Federal Procurement Regulations to prescribe policies, procedures, and appropriate contract clauses relating to allocation of rights in inventions under federally-funded research and development contracts. The views below restate the comments I submitted to you in my letter of August 23, prior to GSA's published request for comments.

Addressing the amendment generally, it is possible that the courts could find that, in absence of an agency's having statutory authorization, there would be an unconstitutional disposition of government property under the amendment's implementation of the Presidential Statement's provisions for principal or exclusive rights in the contractor, in situations where the Government would have an equitable right to an assignment of a patent. These situations would occur when the contractors are retained specifically to conceive the inventions in question. Unlawfulness could be found should the courts conclude that the Government has an inchoate or contingent property right to claim patent interests in any invention which may result or in any invention which, after identification, may be patentable. We are enclosing a copy of a legal memorandum on this point and also a copy of a letter related to the memorandum.

Also speaking generally, there is an absence of criteria or examples for agency action in situations where inclusion no doubt would be helpful to the agencies. However, I realize that agency regulations implementing the GSA amendment may meet this situation without injury to the goals of consistency and uniformity among agency practices.

Because much of the language of the President's Statement of Government Patent Policy is employed verbatim in the amendment, we wonder if departure therefrom by resort to the language of the Memorandum accompanying the Statement may not raise future questions of interpretation. For example, it might be advisable to use the Statement's terms "exceptional circumstances" and "special situations" in § 1–9.107–1(a) rather than "equitable circumstances" as a standard for allocation of greater rights than a non-exclusive license to the contractor. No doubt "exceptional circumstances" and "special situations" are embraced by "equitable circumstances," but it also would seem that use of the latter could introduce additional concepts which may be a source of difficulty in agency implementation of the amendment.

Section 1–9.107–1(c) states that the provisions of the amendment are not mandatorily applicable to co-sponsored, cost-sharing, or joint-venture research when the agency determines that in the course of the work under the contract the contractor will be required to make a substantial contribution of funds, facilities, or equipment to the principal purpose of the contract. Is this provision surplusage? The "exceptional circumstances" language of § 1–9.107–3(a) (4) (ii) would seem to allow the same result.

In passing, it is suggested that for clarity in § 1–9.107–3(a) (4) (ii) it may be desirable to set forth in a separate paragraph everything after the first period.

While much of § 1–9.107–3 tracks the language of the President's Statement of Government Patent Policy, subsection (d) goes beyond the corresponding provision in the

Presidential Statement. The relevant provision in the Presidential Statement observes that willingness to grant the Government principal or exclusive rights in resulting inventions will be an additional factor in the evaluation of proposals of equal merit in deferred determination situations and in those situations where the contractor would normally acquire principal or exclusive rights. But to this the amendment would add that in no event will contractors be asked to state their willingness to grant such rights prior to a determination that proposals of equal merit have been presented. This addition, not required by the Statement, confers a gratuitous benefit upon contractors and may disadvantage the public interest. The effect could be to render less likely the granting of principal or exclusive rights to the Government under circumstances which in the contemplation of the Statement would result in the Government's receiving such rights.

Because § 1–9.107–3 follows the content and language of the Presidential Statement to a large extent, the omission of subsections (e), (f) and (g) of Section 1 of the Presidential Statement is conspicuous. Subsections (e), (f) and (g) relate to situations where principal or exclusive rights are held by the contractor. Subsection (e) relates to the contractor's reporting obligation on the commercial use being made, or intended to be made of inventions made under Government contracts. Subsection (f) provides that the Government shall have the right to require the granting of a license or licenses by the contractor, unless he, his licensee, or his assignee have taken effective steps within three years after a patent issues on the invention to bring the invention to the point of practical application or has made it available for licensing royalty-free or on reasonable terms, or can show cause why he should retain principal or exclusive rights longer. Subsection (g) provides that the Government shall have the right to require the contractor to grant a license or licenses on reasonable terms to the extent the invention is required for public use by Government regulations, or as may be necessary to fulfill health or safety needs, or for other public purposes stipulated in the contract.

It would appear essential to include subsections (e), (f), and (g) in § 1–9.107–3 to maintain the integrity and balance of the amendment as an implementation of the Presidential Policy Statement.

Sincerely yours,

Thomas E. Kauper,
Assistant Attorney General,
Antitrust Division.

Mr. HART. Mr. President, I hope the amendment is adopted.

Mr. FANNIN. Mr. President, the Department of Commerce has objected to this amendment, as they did in the case of the similar amendment offered on S. 1283. I will refer to the letter, because it is essential that their objections be placed before the Senate. I read from their letter:

> We object to subsection 112(c) of the bill, which would authorize compulsory licensing of privately-owned United States patents covering energy-related technology. The protection of intellectual property which patents afford has been a key element in fostering and encouraging innovation. Indeed, that is the fundamental rationale for the recognition of a patent system in the Constitution of the United States. We are concerned that section 112(c) could perhaps diminish the incentives provided by our patent system to invent in the energy field.

In other words, Mr. President, they feel that this would be detrimental rather than beneficial, from the standpoint of encouraging scientists, businesses and enterprises involved in patents and in activities for improved technology available to the energy program. Consequently, they oppose it.

The letter continues:

> We are not aware of any basis for assuming that developers of essential energy technology would refuse to make it available for development in the public interest, and to propose such a departure from the fundamental premise upon which the concept of the patent grant is based seems both unnecessary and unwise.

In other words, Mr. President, they do not feel that this amendment is needed. In fact, as I stated, they feel that it would be derogatory. They cite several other reasons for their opposition, with which the distinguished Senator from Michigan is familiar, because he has been furnished with a copy of the letter. They recommend that this proposal not be accepted.

Mr. President, I oppose the amendment.

Mr. HART. Mr. President, I think it is useful that the Senator from Arizona has placed in the Record the comments of the Department of Commerce as to the amendment. I believe that one interested in the subject can find useful the balance of views presented by the Commerce Department statement and the Justice Department statement.

Mr. President, I conclude by suggesting, however, that as far as Congress is concerned we have taken a clear course in the recent past, and on a number of occasions I believe we have adopted the approach which the Department of Justice supports in this case. Clearly, however, it is still an area where debate continues.

Mr. FANNIN. Mr. President, I understand the Department of Justice has given approval on this particular amendment from the standpoint of legality and of operational benefits that they feel might be involved, but the Department of Commerce approached it from the standpoint of this legislation. This is a bill for the conservation of energy. Consequently they feel it should be approached on that basis.

I ask unanimous consent that the Department of Commerce letter may be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Washington, D.C.,
December 10, 1973.

Hon. Henry M. Jackson,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: It has come to our attention that the provision affecting patent rights in S. 2176, the "National Fuels and Energy Conservation Act of 1973," is similar to section 112 of S. 1283, the energy research and development bill passed by the Senate on December 7, 1973.

Attached is a copy of our letter of December 7 explaining the Administration's objections to section 112 of S. 1283. The objections are equally applicable to section 609 of S. 2176. Accordingly, we recommend deletion of section 609 in favor of the language suggested at the top of page 3 of our letter concerning S. 1283.

Sincerely,

Karl E. Bakke,
General Counsel.

Washington, D.C.,
December 7, 1973.

Hon. Henry M. Jackson,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This is to supplement our letter of October 25, 1973 concerning S. 1283, the "National Energy Research and Development Policy Act of 1973."

The Department of Commerce is seriously concerned over section 112 of the bill as reported by your Committee on December 1, 1973 and amended by Senator Hart's amendment No. 766, passed by the Senate December 6, 1973. In addition, we have a comment in reference to section 103 of the bill.

This is a very serious issue and should be handled through the normal Congressional hearing process during which time our Department and other executive branch agencies will be happy to testify and present appropriate recommendations.

We oppose the taking of any hasty action, in the form of this floor amendment, as a means of addressing this problem.

We object to subsection 112(c) of the bill, which would authorize compulsory licensing of privately-owned United States patents covering energy-related technology. The protection to intellectual property which patents afford has been a key element in fostering and encouraging innovation. Indeed, that is the fundamental rationale for the recognition of a patent system in the Constitution of the United States. We are concerned that section 112(c) could perhaps diminish the incentives provided by our patent system to invent in the energy field. We are not aware of any basis for assuming that developers of essential energy technology would refuse to make it available for development in the public interest, and to propose such a departure from the fundamental premise upon which the concept of the patent grant is based seems both unnecessary and unwise.

Apart from the foregoing, the scope of coverage of section 112(c) is unclear. Assuming, however, that it is intended to cover the commercial utilization of patented inventions, as well as the use of the inventions in pilot projects, section 112(c) would be extremely broad in scope, effecting a major change in policy with respect to all patent rights held in a large area of technology. We note that the impact of section 112(c) and its continuing commercial implications would be vastly greater than the compulsory licensing provision that the Congress included in the Clean Air Amendments of 1970 (section 308, 84 Stat. 1708, 42 U.S.C. 1857h–6), the latter being explicitly limited to licensing of technology to a person who requires such technology in order to comply with the emission limitations imposed by the Act. Accordingly, the provision in question in the Clean Air Amendments of 1970 may not be a valid precedent for the proposal here under consideration.

The Department is opposed to section 112 (c) even in the form in which it was reported by the Committee. Amendment no. 766 to section 112 further broadens the scope of the provision and liberalizes the conditions under which compulsory licenses could be granted. As amended, the bill permits the Chairman of the Energy Research Management Project, in his sole discretion, to make a value judgment between the virtues of the Project's own research and development efforts and the overall objectives of the patent system of adequately protecting public and private interests and stimulating technological advancements.

Section 112(a) of the bill as reported by the Committee made reference to the President's Statement of Government Patent Policy as the policy governing disposition of patent rights arising out of research under the bill. We agree with reliance on the Presidential policy statement, which contains provisions insuring protection of the public interest and providing a Government-wide approach to disposition of patent rights. However, section 112(a) as amended on December 6 omits the reference to the Presidential policy statement, and, in subsection (a)(2), requires non-exclusive licensing of Government patents in all cases. We believe this type of restriction could hinder the commercial utilization of inventions in those cases where exclusive rights may be necessary.

Subsection (a)(3) of section 112, as amended, requires a private participant in Government-sponsored research to make available its total background position of patents, trade secrets and proprietary information. Government agencies presently obtain such rights on a case-by-case basis where appropriate in the public interest. However, an across-the-board statutory requirement to obtain such rights in all situations might substantially reduce the cooperation of those companies having the greatest background positions.

We recommend the deletion of section 112 of the bill as amended by the substitute amendment offered by Senator Hart and the insertion in lieu thereof of the following language:

"Section 112. Patent Policy

"(a) The disposition of patent rights in inventions or discoveries arising out of research under this Act shall be governed by the President's Statement of Government Patent Policy issued on August 23, 1971 (36 F.R. 16887, August 26, 1971) and amended in September 1973 (38 F.R. 23782, September 4, 1973).

"(b) The Chairman is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or is useful to, the performance of functions vested in him—

"'(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

"'(2) licenses under copyrights, patents, and applications for patents; and

"'(3) releases, before suit is brought, for past infringement of patents or copyrights.'"

The adoption of the above language would be consistent with the previously enunciated Administration position as provided for in S. 2135, the original DENR legislative proposal, and the more recent S. 2744, the Administration proposal providing for a separate Federal Energy Research and Development Administration. S. 2744 was introduced by Senator Ribicoff, after being previously coordinated with the Administration, on November 27, 1973.

Turning to section 103(a)(7) of the bill, it is proposed that the Energy Research Management Project shall include the Director of the National Bureau of Standards. This provision should be revised to designate the Secretary of Commerce rather than the Director of the National Bureau of Standards. Apart from the sweeping scope of the bill that goes beyond the parochial interests of the National Bureau of Standards, such a revision would make the proposal consistent with the Departmental Reorganization Plan No. 5 of 1950, which vests all authorities of the Department in the Secretary. The interests of the Department of Commerce in the program that would be established by the bill would extend to the activities of a number of the agencies within the Department.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,
General Counsel.

Mr. HOLLINGS. Mr. President, speaking on behalf of the distinguished Senator from Washington, who is the manager of the bill, we accept the amendment. As clearly pointed out by our colleague from Michigan, the amendment simply makes consistent those patent provisions in S. 2176 with those in the research and development bill just passed by the Senate.

In the concluding paragraph of the letter dated December 10 the Antitrust Division said that the Department of Justice recommends the enactment of section 112 in the form passed by the Senate on December 7, 1973, and the incorporation of a provision in S. 2176 modeled on that section.

That is what the amendment does. On that basis, on behalf of the manager of the bill, we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

Mr. HOLLINGS. I move to reconsider the vote by which the amendment was agreed to.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMINICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BARTLETT). Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the end, add the following new title:

AUTOMOBILE FUEL CONSUMPTION TAX

SECTION 1. Amend the Internal Revenue Code of 1954 to provide for a tax on every new automobile with respect to its fuel consumption rate, so as to encourage the development, manufacture, and importation of automobiles which efficiently consume fuel, to increase revenues which could be devoted to energy research or other vital national needs, and to stimulate the conservation of energy.

SEC. 2. (a) Part I of subchapter A of chapter 36 of the Internal Revenue Code of 1954 (relating to motor vehicle excise taxes) is amended by adding at the end thereof the following new section:

"SEC. 4064. AUTOMOBILE FUEL CONSUMPTION TAX

"(a) IMPOSITION OF TAX.—There is hereby imposed upon every new automobile manufactured, produced, or imported a tax at whichever of the following rates is applicable with respect to the fuel consumption rate (as determined under subsection (b)) of such automobile:

"(1) for the period beginning July 1, 1975, and ending June 30, 1976:

"If the consumption rate (in miles per gallon) is:	The tax is:
Over 20	0
Over 19 but not over 20	$23
Over 18 but not over 19	43
Over 17 but not over 18	70
Over 16 but not over 17	98
Over 15 but not over 16	133
Over 14 but not over 15	164
Over 13 but not over 14	211
Over 12 but not over 13	274
Over 11 but not over 12	313
Over 10 but not over 11	392
Over 9 but not over 10	478
Over 8 but not over 9	587
Over 7 but not over 8	728
Over 6 but not over 7	913
Over 5 but not over 6	1,175
Not over 5	1,568

"(2) for the period beginning July 1, 1976, and ending June 30, 1977:

"If the consumption rate (in miles per gallon) is:	The tax is:
Over 20	0
Over 19 but not over 20	$47
Over 18 but not over 19	86
Over 17 but not over 18	141
Over 16 but not over 17	196
Over 15 but not over 16	266
Over 14 but not over 15	329

"If the consumption rate (in miles per gallon) is:	The tax is:
Over 13 but not over 14	$423
Over 12 but not over 13	548
Over 11 but not over 12	627
Over 10 but not over 11	783
Over 9 but not over 10	956
Over 8 but not over 9	1,175
Over 7 but not over 8	1,457
Over 6 but not over 7	1,827
Over 5 but not over 6	2,350
Not over 5	3,133

"(3) for the period after July 1, 1977:

"If the consumption rate (in miles per gallon) is:	The tax is:
Over 20	0
Over 19 but not over 20	$70
Over 18 but not over 19	129
Over 17 but not over 18	211
Over 16 but not over 17	294
Over 15 but not over 16	399
Over 14 but not over 15	493
Over 13 but not over 14	634
Over 12 but not over 13	822
Over 11 but not over 12	940
Over 10 but not over 11	1,175
Over 9 but not over 10	1,433
Over 8 but not over 9	1,762
Over 7 but not over 8	2,185
Over 6 but not over 7	2,740
Over 5 but not over 6	3,525
Not over 5	4,700

"(b) DETERMINATION OF FUEL CONSUMPTION RATE.—The fuel consumption rate of new automobiles taxable under subsection (a) will apply only to gasoline-powered automobiles and shall be determined solely on the basis of the Automobile Fuel Consumpton Schedule prepared by the Administrator of the Environmental Protection Agency.

"(c) Liability for Payment.—The tax imposed by this section shall be paid by the manufacturer, producer, or importer at such time and in such manner as the Secretary of the Treasury shall prescribe.

"(d) Definitions.—For the purposes of this section—

"(1) the term 'new automobile' means every internal combustion engine powered vehicle designed for use on the highway which has never been transferred to the ultimate purchaser, and

"(2) the term 'ultimate purchaser' means with respect to any new automobile, the first person who in good faith purchases such automobile for purposes other than resale.".

(b) The table of sections for such part I is amended by adding at the end thereof the following new item:

"Sec. 4064. Automobile fuel consumption tax.".

(c) The amendments made by this section shall take effect on July 1, 1975.

Sec. 3. (a) The Administrator of the Environmental Protection Agency shall, from time to time, study and investigate the fuel consumption rates of automobiles which are subject, or may be subject, to the tax imposed by section 4064 of the Internal Revenue Code of 1954 (relating to automobile fuel consumption taxes).

(b) The studies and investigations conducted under subsection (a) shall include tests—

(1) of each automobile model subject to such tax equipped—

(A) with each available engine size (measured by horsepower); and

(B) without optional accessories;

(2) which shall be conducted—

(A) under driving conditions representative of an average composite of urban and nonurban driving speeds and circumstances,

(B) with the fuel used being of the quality normally recommended for use in such automobile, and

(C) with such automobile carrying the average weight load for which it was designed.

(c) Based upon the studies and investigations conducted under subsection (b), the Administrator shall determine the fuel consumption rate of each such automobile model without optional accessories and with each available engine size. The Administrator shall, not later than June 1, 1975, and each year thereafter, prepare and transmit to the Secretary of the Treasury schedule of all such rates to be known as the Automobile Fuel Consumption Schedule (interim revisions of which are to be made by the Administrator as he deems appropriate). The Automobile Fuel Consumption Schedule shall be made available for sale as a public document.

Sec. 4. Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by inserting "(a)" after "Sec. 3." and by adding at the end thereof the following:

"(b) Every label required to be affixed under subsection (a) shall include, in the case of any automobile on which a tax was imposed by section 4064 of the Internal Revenue Code of 1954 (relating to automobile fuel economy taxes)—

"(1) the fuel consumption rate determined to be applicable for such automobile, and

"(2) the tax paid under such section 4064.".

Mr. DOMINICK. Mr. President, I am happy to explain the amendment. Some time ago, on October 18, 1973, I introduced a bill which would have provided for the taxation of automobiles that get less than 20 miles on a gallon of gasoline. I want to hasten to assure every one that I am neither talking about a tax on existing automobiles nor talking about a tax on the consumer. I am talking about a tax on the manufacturer of new automobiles at a rate based, I believe it was, on $235 for each gallon of gas in excess of 5 that automobiles need to drive 100 miles.

Under briefings which we had some months ago we were told in no uncertain terms that the major users of fuel were transportation facilities and that the engines which we were using with environmental controls on them were highly inefficient. It is estimated that we were getting less than 50 percent utilization for the energy used, and has been going down considerably.

The bill we are considering today would be a perfect vehicle for this type of situation. I call to the attention of my colleagues title V. I wish to ask the manager of the bill if my understanding is correct that the amendment of the Senator from Washington (Mr. Jackson) in the nature of a substitute has been adopted.

Mr. HOLLINGS. It has been adopted for the purpose of further amendment. The Senator is correct.

Mr. DOMINICK. That is my understanding.

In title V of this bill we go into many findings of fact that we have a serious shortage, which we already know, and under subsection (4) of section 502(a) there is a finding that automobiles are a major user of petroleum products, which we all know. In subsection (5) it states that the low fuel economy in many automobiles today is unnecessary since significant increases in fuel economy can be achieved without sacrificing the environment or safety standards. That is a finding with which I also agree.

It goes on in section 502(b) to say it is the purpose of Congress to encourage the manufacture, development, and sale of automobiles which are more economic to operate in terms of the amount of fuel consumed per mile traveled and that we would increase the industrywide average fuel economy for new automobiles at least 50 percent by 1984.

Well, 1984 is 10 years away, and although I agree with our purposes and although I agree with our findings, I do not think 1984 is a realistic situation in which to try to cure the very poor fuel economy which we now have in Detroit automobiles.

On page 66, which is the research section, under the purposes in the bill it says:

> Therefore, it is the purpose of this title: (1) to make grants for, and support through loan guarantees, research and development leading to production prototypes of an advanced automobile or automobiles within four years from the date of enactment of this title and to secure the certification after testing of those prototypes. . .

Well, that is still 4 years away. It is better than "1984," but it is still 4 years. No matter how you look at this bill, it will be 18 months, at the very earliest, before the Secretary will develop standards through which we will try to get Detroit to make some of the advances which are readily available right now.

Let me give an example, if I may. One of the first things which the foreign automobile manufacturers started long ago was to put fuel injection systems in their cars. Fuel injection, not only gives more efficient fuel distribution to the cylinders, but also cuts fuel consumption.

So here is something which is readily available now, under license, or whatever invention arrangement may be had, which Detroit could put into automobiles to save 25 percent of the fuel which too many cars now use like real guzzling animals.

One can hardly get some automobiles to go from one gasoline station to another without running out of gas, even when all the operators were going full steam ahead. It is even more of a problem now.

All one has to do to figure that out is to go to an automobile dealer and see what kind of a deal they will give you on a large automobile. They will give you almost nothing to get it off your hands, and they do not even want one traded in. So, as I say, here is something Detroit can do immediately.

The news media, bless their souls, unfortunately printed my proposal in a way that many in my State and many other areas thought I was talking about a tax on consumers on existing automobiles. Not at all. What I am trying to do is develop a method through which Detroit, through sheer economics, will be forced to put the inlay of capital needed in order to transfer their systems so they can put into new automobiles the type of equipment and investment which is already available.

What else can they do? They can supply cars with steel-belted radial tires as original equipment. We see them advertised in almost every advertisement on tires. That, again, will save gallons of gasoline. It is surprising, but it will.

A third thing they can do easily is to start using fiberglass or other types of material for the bodies, which would be far more economical and far better than what they are using now, in terms of weight to power in the engine.

The proposal I had made requires that any car which utilizes more than 1 gallon for every 20 miles would be taxed, based on a multiple of $235. So, if the car gets 10 miles to a gallon, it is obviously going to be a pretty heavy car and a pretty inefficient one. There is also going to be a pretty heavy tax on it.

The net result would be, I am absolutely positive, that Detroit would start changing some of their production models so they would be able to look into a much more efficient automobile than we now have.

I would like to relate some personal experience. I have had a 1966 Oldsmobile stationwagon, with which I am getting 17 miles a gallon. In Colorado I bought a 1972 Chevy Nova, a small Chevy, four-door sedan, and over a trip which I took in May of this year we averaged 8.3 miles per gallon. That is still better than a Cadillac or a Lincoln Continental, but not much. Again, 8.4 miles a gallon in this type of car was utter nonsense. What was the cause? First, Detroit refuses to use some of the energy-saving techniques which we have available. Second, antipollution devices were adjusted at what they will do at sea level, without considering at all what they will do at 5,000 feet or higher. Consequently, with the antipollution devices in, which the dealers or service stations were not changing under the law which we passed, we were not only reducing the amount of miles per gallon we got, but we were also polluting the air more than we did before.

It seems obvious to me, having been a pilot for a long period of time, that as one gets more altitude he has to cut down on his fuel mixture; otherwise the engine will be flooded and he will not get anything going at all. But our pollution control system did not provide for that at all. Consequently, when we bought a car which was satisfactory on emissions stands at sea level, where they were tested—all perfectly legal—it did not operate efficiently at 5,000 feet or above.

Our ground level is 5,000 feet. We have 61 mountains over 14,000 feet. Most of our passes are 11,000 feet at one place or another. Obviously, one is going to use a whale of a lot more gasoline in that type of atmosphere with those types of controls than if one were allowed to adjust his carburetor or if he had fuel injection, which would automatically change its ratio of fuel to air in accordance with the atmospheric conditions.

Fuel injection is a reliable way to handle this problem. There are many other ways. As I said, that alone would act to substantially reduce the consumption of gasoline by automobiles.

When we are talking about a time of potential rationing, when we are talking about a number of other actions of this kind, it seems to me ridiculous that Detroit does not make changes at this point. I recognize that it is going to take a capital investment of some cost as far as Detroit is concerned.

Low friction tires, steel belted radial tires, lighter weights, fiberglass, overdrive, body shell design with fiberglass, and a few other things of this nature, which are not new and "way out" technology, would all help. General Motors, Ford, Chrysler, or American Motors—although American Motors has done far better than most of them—simply have not done enough. They have been losing a great deal of their market to foreign imports, which, considering our trade inbalance is bad. Unfortunately they have been sitting there, hoping, for some reason or other, to sell gas guzzlers with a high profit ratio, as far as they are concerned, but with a high impact on fuel consumption as far as the American public is concerned.

It would seem to me that this type of bill would fit right into the structure of the legislation which we are considering today. I realize that there have been no hearings on this bill. There have been no hearings, not, I am sure, by intent or by any deliberate position taken insofar as the committee is concerned, but simply because there has not been time in view of the other business which the committee has had to handle.

Consequently, I have been unable to get any appreciable progress on the matter. I do not think that the committee would be willing to consider this particular bill at this time.

If I am wrong, I would be delighted in finding out, because I would love nothing better than to have them accept this as a proposal which could at least be brought into the conference and generate action insofar as Detroit is concerned.

We can figure a tax imposed on them of over $2,200 on some of the automobiles they are now showing. They are bound to make some changes to get a decent gas consumption from the automobiles they make now.

If we are to come to rationing or allocation of uses, or all of the others things that we have been talking about on the floor today, which I think will happen, the first group who will be hurt, and hurt badly, will be the Detroit manufacturers.

It would seem to me to be in their best interests, if we decide to do all of this, to give them an extra nudge so that we would be able to try to get automobiles that the ordinary citizens would use, and they would be more efficient and could get at least 20 miles to a gallon.

By 1980 by doing this we could get more automobiles that would have at least a consumption of 20 miles to the gallon and we would save 1 million barrels of oil a day.

There are changes we could make today. This bill was not dreamed up out of a hat by me or or by my staff. We discussed it with Treasury, we worked with Commerce, we talked with aides downtown to see what would be the most fruitful way of creating a tax on gas-consuming automobiles which would provide an incentive for the Detroit manufacturer of automobiles.

This is the one which has a tax schedule that is probably the best and the fairest. The amount of tax on manufacturers is the amount that would be needed in order to push them in their own self-interest.

It would be my hope, if I may say so, that we would be able to take this to conference with the House.

I would ask the distinguished manager of the bill if he has any comments to make on this matter.

Mr. HASKELL. Mr. President, I would be very pleased to comment on the very excellent suggestion of my senior colleague from Colorado. I think the idea is extremely meritorious. I would hope that Congress would be able to adopt legislation along the lines suggested by my distinguished senior colleague.

However, it does not seem desirable to add this idea as an amendment to this particular bill. For one thing, assuming that the amendment is put on this bill, that would then split the jurisdiction in the House of Representatives. It would have to go to the Ways and Means Committee because of the taxing provision, and it would have to go to the House committees which are counterparts to the committees which worked on S. 2176 in the Senate, possibly to the Commerce Committee or to the Interior Committee.

There have been no hearings. So we do not have perhaps the solid evidence behind it that we should.

The bill certainly does deal with automobiles. It certainly does attempt to set maximum automobile fuel consumption standards. And to that degree, the proposal of my distinguished senior colleague is germane and in point. However, for the reasons that I have suggested, I do not think it is appropriate on this particular bill.

I would be glad, however, to state that I would be very pleased to work with my senior colleague in introducing original legislation and cosponsoring a proposal along the lines he has suggested.

Mr. DOMINICK. Mr. President, I thank my distinguished colleague from Colorado.

Mr. HOLLINGS. I am glad that the Senator from Colorado has raised the question of taxes on fuel consumption of automobiles. When I first introduced this measure in the form of S. 1903 last May, it had a tax or penalty fee feature to it. I and my colleagues on the Commerce, Public Works, and Interior Committees have given considerable thought to the relevant merits of minimum standards and taxation on excess fuel consumption. There are several reasons why we have decided to utilize the standard mechanism at this time:

First. As this energy crisis develops, many burdens are being placed on the American consumer. He is being asked to slow down on the highways, turn his thermostat down, adjust his travel plans, and pay higher prices for many goods—including gasoline. The automobile industry and the Federal Government must make their contribution to the cause of energy conservation since there is no question about the fact that the industry is capable of manufacturing highly efficient automobiles—it manufactures thousands of them now. It is proper that we require them to design automobiles that are energy efficient to the extent feasible and consistent with other design requirements. Many of the experts we have talked to stated that major improvements in fuel economy can be built into automobiles with little or no increase in the purchase price of the car. Since this capability exists, it should be the obligation of the automobile industry to utilize it to the fullest extent possible, before imposing an extra tax burden on the American consumer.

Second. Section 9 establishes an objective to be reached over a 10-year period. In order to be able to continuously monitor and adjust the rate at which this goal is being achieved, so that we remain on target, a flexible approach is needed. Standards are flexible because they can be modified by the Secretary of Transportation through a rulemaking procedure. Taxation levels can only be established by an act of Congress.

Third. It has been argued by some that a tax on excess fuel consumption of automobiles is in a sense a license to the people who can afford to waste energy. This position has some merit and I would want to think carefully before devising a system that would permit the rich to continue driving around in their gas guzzlers, wasting fuel which could otherwise be utilized for heating homes or generating electricity.

This is not to say that some form of tax measures related to fuel economy of automobiles is inconsistent with the provisions of section 9. In fact, an automobile taxing measure could very well compliment the provisions of section 9. Section 9 calls for the Secretary of Transportation to develop a long-range plan for achieving these objectives and in the long-range plan, the secretary might very well choose to propose some sort of taxation measure.

Mr. DOMINICK. Mr. President, I do think that the amendment has merit. I do think that it belongs on this bill. However, I would say that the objections which my distinguished colleague brought up are perfectly valid.

It is my hope that we can get hearings on this type of legislation before very long. For that reason, I hereby withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HASKELL. Mr. President, I appreciate the attitude of my senior colleague. I repeat that I will be glad to join with him in original legislation along those lines.

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of amendment No. 757 add the following:

It is the sense of the Congress that—

(a) the President should determine and take immediate steps to reduce Federal Government consumption of fuels by a third; and

(b) the President should initiate a program within the Federal Government to immediately reduce non-essential uses of all Government vehicles and equipment, and commercial and mass transportation should be utilized whenever practical in the conduct of government business; and

(c) the President should allot Federal Government departments and agencies a fixed quantity of fuel for a fixed period for essential purposes only, and critical national security activities and other vital services may be exempted on a case-by-case basis; and

(d) the Secretary of Defense should immediately initiate innovative measures to reduce the amount of fuels used for defense activities; and

(e) the President should immediately urge State, local, and other public authorities to adopt similar measures.

Mr. ROTH. Mr. President, on behalf of 52 other Senators and myself, I am submitting an amendment calling on the Federal Government to immediately take steps to reduce the amount of fuel it consumes.

The cosponsors are:

LIST OF COSPONSORS

James Abourezk of South Dakota.
James B. Allen, of Alabama.
Howard H. Baker, Jr., of Tennessee.
Dewey Bartlett, of Oklahoma.
Birch Bayh, of Indiana.
J. Glenn Beall, Jr., of Maryland.
Henry Bellmon, of Oklahoma.
Joseph R. Biden, Jr., of Delaware.
Bill Brock, of Tennessee.
Edward W. Brooke, of Massachusetts.
James L. Buckley, of New York.
Clifford P. Case, of New Jersey.
Lawton Chiles, of Florida.
Frank Church, of Idaho.
Dick Clark, of Iowa.
Norris Cotton, of New Hampshire.
Alan Cranston, of California.
Robert Dole, of Kansas.
Pete V. Domenici, of New Mexico.
Paul J. Fannin, of Arizona.
Edward J. Gurney, of Florida.
Clifford P. Hensen, of Wyoming.
Philip A. Hart, of Michigan.
Mark O. Hatfield, of Oregon.
William D. Hathaway, of Maine.
Jesse Helms, of North Carolina.
Ernest F. Hollings, of South Carolina.
Roman L. Hruska, of Nebraska.
Walter D. Huddleston, of Kentucky.
Hubert H. Humphrey, of Minnesota.
J. Bennett Johnston, Jr., of Louisiana.
Edward M. Kennedy, of Massachusetts.
James A. McClure, of Idaho.
Gale W. McGee, of Wyoming.
Thomas J. McIntyre, of New Hampshire.
Lee Metcalf, of Montana.
Walter F. Mondale, of Minnesota.
Edmund S. Muskie, of Maine.
Sam Nunn, of Georgia.
Charles H. Percy, of Illinois.
William Proxmire, of Wisconsin.
Abraham Ribicoff, of Connecticut.
William B. Saxbe, of Ohio.
Richard S. Schweiker, of Pennsylvania.
Robert T. Stafford, of Vermont.
Adlai E. Stevenson III, of Illinois.
Robert Taft, Jr., of Ohio.
John Tower, of Texas.
John V. Tunney, of California.
Lowell P. Weicker, Jr., of Connecticut.
Harrison A. Williams, Jr., of New Jersey.
Milton R. Young, of North Dakota.

Mr. President, such a move would not only set an example for the concerned people of this Nation, it would provide additional fuels that could be reallocated to the private sector of the economy and save thousands of jobs.

Last Friday, Senators BROOKE, BUCKLEY, CASE, STAFFORD, TAFT, and I sent a letter to President Nixon stating the Federal Government had not done enough to conserve fuels and that it was imperative that the Federal Government exhibit leadership by example and take immediate steps to significantly reduce the amount of fuel it consumes. We recommended a target reduction of one-third. It is our view that in a time of crisis when sacrifices have to be made, the Government must set the example.

Mr. President, I ask unanimous consent that a copy of the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 30, 1973.

The Honorable RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: It is imperative that the Federal government exhibit leadership by example and take immediate and stringent steps to significantly reduce the amount of fuel it consumes. We urge that government consumption be reduced by a full one-third.

Private citizens have already begun to feel the harsh effects of the energy shortage—one of those being unemployment. Already airlines have released employees; industries are planning for employee cutbacks, layoffs, and temporary closings.

While energy shortages will mean inconvenience and more business by telephone for government employees, they mean a loss of jobs and production for those in the private sector. It is important for us in government to recognize this and to do all we can to avoid unemployment. To minimize the economic repercussions of the shortage, the government should develop plans immediately to reduce its consumption by one-third. Frankly, the Federal government's effort has been inadequate.

Because vehicles and equipment account for 60% of the total Federal consumption, we urge you to initiate a strict rationing program for all government vehicles and equipment, including aircraft and vessels.

To reduce consumption to this level, we propose the following steps:

1. Allot departments and agencies a fixed quantity of fuel for a fixed period for essential transportation purposes *only*. Each department or agency would then be responsible for the determination of the distribution and utilization of its allotment. Commercial and mass transportation should be utilized whenever practical in the conduct of government business. Likewise, telephone conference calls, local and long distance, or other means of communication should be used whenever possible.

2. Exempt critical national security activities and other vital services on a case-by-case basis. Security exemptions should be approved by the National Security Council and vital civilian exemptions should be subject to the approval of the Office of Energy. These exemptions should be reported quarterly to the appropriate Congressional committee. Since the Department of Defense is the primary user of fuels, it is imperative that innovative measures be used to stretch its fuel supplies for training and noncritical defense activities.

3. Urge state, local, and other public authorities to adopt similar measures.

A one-third reduction on the part of the Federal Government would save roughly 5 million barrels of gasoline, 21 million barrels of diesel fuel, and 55 million barrels of aviation fuel in a year, based on the most recent data from the Office of Energy Conservation. By siphoning this fuel into the private sector, thousands of jobs may be saved.

Mr. President, these are admittedly very stringent steps, but they are no harsher than those being imposed in the private sector. We urge you to make the Federal Government responsive to this critical shortage and set the example for the American people by inaugurating these or similar steps.

Sincerely,

CLIFFORD P. CASE.
EDWARD W. BROOKE.
ROBERT T. STAFFORD.
WILLIAM V. ROTH, Jr.
JAMES L. BUCKLEY.
ROBERT TAFT, Jr.

Mr. ROTH. Mr. President, our primary concern, however, was that private citizens are already being affected adversely by the fuel shortage—that layoffs have already occurred and that more are planned.

Obviously, when industry cannot obtain the fuels necessary to produce, and production is reduced, employees are also reduced. A one-third reduction in Federal consumption would free a signficant amount of fuel for other uses. A one-third reduction would be almost 1 percent of the Nation's energy demand. A one-third reduction could mean a savings of thousands of jobs.

Although the President has already taken steps to reduce Federal consumption of heating oil and electricity, we believe these steps, while well intended, have been insufficient. Therefore, we are offering this resolution urging the President to set a goal of reducing Federal consumption by a third.

To achieve this goal, the amendment begins by recommending an immediate reduction in nonessential uses of all Government vehicles and equipment. This was chosen after carefully researching and discovering that 60 percent of all fuel consumed by the Federal Government is consumed by vehicles and equipment. A one-third reduction in fuel consumption for Federal vehicles and equipment alone would save roughly 5 million barrels of gasoline, 21 million barrels of diesel fuel, and 55 million barrels of aviation fuel. Reallocated to the private economy, it would save countless jobs.

Rather than using Federal vehicles, we have recommended utilizing available commercial and mass transportation. Reductions in travel could be achieved by using the telephone, teletype, and other modern means of communication.

Second, the amendment recommends that the President allot a fixed quantity of fuel for a fixed period of time to each agency and department, similar to the petroleum allocations used in the private sector. Allotments would be based on essential usage of vehicles and equipment.

I recommend that exemptions be made on a case-by-case basis for critical national security activities and other vital services with regular reporting of these exemptions to Congress. This would most likely be administered through the National Security Council and the new Federal Energy Administration.

Our research also indicated that the Department of Defense consumed approximately 85 percent of all the Government fuels. Therefore, we have recommended that the Secretary of Defense develop innovative measures to reduce the amount of fuels consumed for defense activities.

Some may say that these are drastic measures—too drastic for the Government to undertake. We should appreciate, however, that this is exactly what we are expecting the American people to accept. We understand the severity of this cut, but at the same time, a goal must be set that will demonstrate to the American people that this Government is serious in its efforts to conserve fuel, to save jobs, and to lead this country through a very trying period.

Mr. President, I urge the adoption of the amendment.

Mr. JACKSON. Mr. President, as understand the amendment offered by the distinguished Senator from Delaware, it would, in effect, call upon the departments in the executive branch to make a target cut of 33⅓ percent in the use of energy. The amendment further stipulates that exceptions can be made in certain critical areas, including national security and areas that, in the judgment of the President, would work hardships.

Mr. ROTH. That is correct.

Mr. JACKSON. I see no objection to the amendment, and I commend the Senator. I would only say that I have a serious question in my mind whether 33⅓ percent is a viable target. I suppose the answer is that maybe if we shoot high, they will hit 25 percent or 20 percent.

I do believe that it is a helpful amendment, and I am prepared to accept it.

Mr. FANNIN. Mr. President, I am very pleased to support and cosponsor the amendment of the Senator from Delaware. It is a worthwhile amendment. It represents a goal, and I feel that the Federal Government certainly should set the path to be followed throughout this Nation. I commend the Senator for offering this amendment, which would do just that.

I feel that if we do not try for the utmost, very little will be gained; and in some areas this amount is feasible and practicable. In other areas, as the Senator from Washington has stated, it would not be attainable, nor would the Senator from Delaware desire it to be attained if it would work a hardship upon those involved.

I am very pleased to support the amendment.

Mr. ROTH. Mr. President, I thank both the Senator from Arizona and the Senator from Washington for their support. They correctly state that what we are attempting to do here is provide a goal, a reachable goal, we believe, if some serious thought is put behind it.

We tried to develop the amendment in such a form that it will not necessarily handicap those activities that must continue.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I call up an amendment which I have at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 32, line 1, after the word "retailer" insert the following: ", which has an annual gross volume of business in excess of one million dollars,".

Mr. STEVENS. Mr. President, this amendment would take care of a portion of the objection I have previously raised to the definition of "supplier." I am hopeful that the managers of the bill will accept the amendment as being one which would take an unnecessary burden off the very small retailers.

As I understand the bill, it would still place the manufacturer, the wholesaler, the distributor, and the direct mail sales outlet in a position of having to comply with the act. As I understand it, there would not be an appliance that would go through a small retailer's store that did not disclose the information, but it would take off the small retailer the burden of making that disclosure himself, and also the burden of being the person taken to court if the disclosure was not complete as required by this law.

I support the disclosure, and I support the concept of setting forth the energy use of appliances, but I feel there are too many small businesses that do not have the capacity to take on this extra burden in terms of handling sales, because, as I undertsand it, it would require them to list the average annual cost on the price tag, on the contract of sale, or on an advertisement; if they put a notice in their window that they had refrigerators for sale, they would have to list the average annual cost on the notice. Every single activity would be added to by this bill as far as the burdens of the small retailer are concerned.

I would hope we would exempt small retailers from the burdens of this bill.

The PRESIDING OFFICER (Mr. Bartlett). The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. BAYH. Mr. President, I send an amendment to the bill as reported to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that the amendment be considered as read.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the Record.

Mr. BAYH's amendment is as follows:

On page 66, line 1, delete "1984" and insert in lieu thereof: "1980 and by 75 per centum by 1984".

On page 6, line 1, delete "1984" and insert in lieu thereof: "12".

On page 63 line 15, delete "1978" and insert in lieu thereof: "1977".

On page 69, line 6, delete "1978" and insert in lieu thereof: "1977".

Mr. BAYH. Mr. President, I shall take just a very short period of time to discuss the impact of this measure. I am not a member of the committee, so I have not had a chance to hear all the testimony, but I am concerned when I read in a Treasury Department report that with the adoption of off-the-shelf technology presently available, fuel savings amounting to 75 percent could be effected without considering engine changes.

It seems to me if we are establishing a standard in which we are really trying to effect the maximum improvement possible, we ought to shoot above the 50 percent improvement mark. So the amendment which I have submitted for consideration of the Senate would do three things:

First. It would shorten from 10 to 6 years the maximum time period in which automobile manufacturers would be required to effect a 50-percent improvement in average automobile mileage;

Second. It would establish the goal of a 75 percent improvement in average automobile mileage by 1984, instead of the 50 percent goal in the bill; and

Third. It would move forward from the 1978 model year to the 1977 model year the earliest date for the promulgation of fuel economy standards by the Secretary of Transportation.

The fact is, while I applaud the purposes of this bill, and, indeed, am privileged to be a cosponsor of this legislation, section 9 simply does not deal strongly enough with the compelling need to improve significantly overall auto mileage.

My amendment, by speeding up the time frame for dealing with this problem and setting a higher 10-year goal, is more responsive to the necessity of ending one of our greatest wastes of energy. There can be no over-emphasis of the role automobile use is playing in our serious and growing energy crisis. Automobiles consume 40 percent of the petroleum used in this country annually and 14.3 percent of all the energy used in this nation every year.

Some would respond to these facts by suggesting a radical change in the American lifestyle, keyed to a serious lessening of the role of private automobiles. And while improved mass transit and other constructive approaches to the energy problem may, in fact, dimenish certain requirements for private automobile use, it is unrealistic to suggest that the American people can easily undergo a total change in the role automobiles play in American life.

The automobile is, in many respects, the cornerstone of the American economy. Not only are millions of Americans employed in the manufacture of automobiles and in related industries, but the mobility afforded most American families by their automobiles strengthens our economy in a wide range of areas from the resort industry to suburban shopping centers. Suffice it to say, there are tens of millions of Americans who could not get to their jobs nor buy the necessities of life without the use of their cars.

The fact that petroleum to power those autos is in short supply worldwide, however, makes it imperative that the efficiency of automobiles be improved significantly—and as soon as possible. Given the imperative of action to improve automobile efficiency, I find myself in complete agreement with Fred L. Hartley, president of Union Oil Co., quoted on page 54 of the report accompanying this legislation:

> I believe this bill is too lenient in setting the industrywide average fuel economy for the 1984 model year at 50 percent greater than the average for the 1974 model year.

There is ample evidence in studies cited in the report of the Commerce Committee and elsewhere that a 50-percent improvement in average automobile mileage in 10 years is an inadequate objective.

We all know foreign made automobiles comparable to U.S. produced automobiles in size and price get significantly better mileage than those manufactured in the United States. For example, Environmental Protection Agency figures show that a Mercedes Benz gets almost 25 percent better mileage than a comparable Cadillac; a Datsun gets more than 30 percent better mileage than a Ford Maverick; and a Peugeot gets more than 40 percent better mileage than a comparable Plymouth.

It should be little wonder that a 1972 Federal report concluded:

> In the near term, within the next few years, it appears possible to demonstrate as much as a 30 percent reduction in fuel consumption by standard automobiles with 1976 emissions controls without substantially affecting performance of losing the gains made in controlling emissions.

This relationship between automobile efficiency and emissions requirements is quite important. It is a popular, all too easy game to blame poor mileage on Federal emission standards, yet those foreign-made autos with far better mileage meet U.S. air pollution standards. Indeed, clean air requirements have an average effect of decreasing efficiency by only 7 percent.

The goal of improving mileage by 50 percent within 6 years and by 75 percent within 10 years, as proposed in this amendment, is actually quite feasible. A Treasury Department study lists several "immediately available solutions which could greatly increase automobile efficiency." They include: Use of low friction tires, 10 percent improvement; body shell design, 5 percent improvement; redesign of power train, 10 to 15 percent improvement; weight reduction, up to a 25 percent improvement. These approaches alone could improve average automobile efficiency by more than 50 percent, and all are well within the state of the science—without lessening the quality of our environment.

And this is by no means a complete list of already available techniques for improving automobile efficiency.

Indeed, the goal of an average 50 percent reduction by 1980, as proposed in this amendment, is quite lenient and an average 75 percent improvement in mileage within 10 years entirely feasible. Moreover, there is no need to wait beyond the 1977 model to begin to require constructive steps to improve automobile efficiency since even so basic a step as making a different kind of tire standard equipment will help in this effort.

Moreover, there is another compelling reason not to be satisfied with the bill's objective of an average 50 percent improvement in mileage in 10 years.

Apart from any improvement in mileage by redesign of automobiles, their equipment and their engines, there will be an improvement in average automobile mileage due to the steady switch of consumers to foreign-made autos and to compact and subcompact American autos. It is difficult to know exactly what percentage of the market will be captured by these more efficient autos in the years ahead. But these three categories increased their share of the new car market in the past year alone from 35.6 to 39.9 percent, an increase of 4.3 percent of the new car market.

With the price of gasoline rising on a sharp scale, it is safe to assume that these more efficient autos will continue to capture a larger share of the market. And, it is important to note that U.S.-manufactured autos accounted for more than two-thirds of the gain realized in these categories. Detroit can produce efficient autos, and the American people are showing a growing preference for those home-grown, better mileage cars. This amendment, therefore, would in no way give an unfair competitive position to foreign products.

Now, Mr. President, since the goal of this legislation is an improvement in average mileage for all new cars, we will realize a substantial improvement in that average without anything more than a continued increase in the share of the market captured by more efficient autos. In other words, without even so much as a single design improvement in Detroit, market forces will by themselves improve average auto efficiency.

Yet we do want to realize design improvements to increase mileage, so it is necessary to set a higher goal than that proposed in the bill. Otherwise we cannot be certain that there will be an adequate push for improved mileage across the entire spectrum of new autos, from the luxury classes to the subcompacts.

There is no need to let larger automobiles escape the push for increased efficiency. Indeed, the Treasury Department study concludes that the automobile industry "can produce large cars which yield close to 20 miles per gallon using existing technology without sacrificing comfort, styling, or exhaust emission standards." In many cases this would mean not a 50 percent improvement, nor a 75 percent improvement, but a 100 percent improvement, or a doubling in the efficiency of larger autos.

Since existing technology can effect a significant improvement in automobile mileage, and since more efficient automobiles are already capturing a larger share of the market, the goal of 50 percent improvement in average mileage over 10 years, as suggested by the bill, may not be an adequate spur to improving the technology in this area. On the other hand, by moving the 50 percent goal up to 6 years and setting the higher goal of 75 percent for the 10 year period we may be able to spur the desired technological improvements that, in the long run, can maximize fuel savings.

Why settle for less efficiency than is possible?

Why not respond to the long-term need to reduce as much as possible the percentage of energy consumed in automobiles?

This amendment sets higher goals than the bill. But they are goals which are feasible and desirable. Indeed, they are goals which we can ill afford not to meet, lest we perpetuate today's energy crisis into the 1980's and beyond.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment of the Senator from Indiana.

Mr. **HOLLINGS**. Mr. President, in behalf of the committee and the managers of the bill, we most to oppose this amendment.

We oppose it on the basis that after comprehensive hearings earlier this year and the work of the other several committees, we arrived at a 50 percent fuel economy improvement goal on the basis of all the testimony submitted. The original amendment and the original thrust was not to change American technology but, rather, was to point to the automotive industry in America in the direction of effectuating an improvement in fuel economy. We did not want to have legislation on forcing the premature introduction of new technology. On the contrary, we did our best not to pass laws but to let the law of supply and demand, the law of plenty and paucity, operate. In large measure, that is what took place since we first considered this amendment early in the year—we had no idea that by Christmas the automotive industry would be closing down its manufacture of large cars and would be attempting to greatly increase production of its smaller models, and that we would have gasoline rationing imminent by the first of the year.

We think the hearings on section 9 of the bill had a salutary effect in that they pointed Detroit in the direction of better fuel economy. We are not trying to legislate an absolute standard. We could not in legislation establish a particular standard on the basis of the committee hearings and studies made. On every particular witness' testimony, we talked in terms of a particular percentage, what was feasible, not only economically feasible, but also technologically feasible, in order to get the support of the industry or at least its acquiescence—although they do not openly support it. In order to obtain their acquiescence, we put in the one admonition or caveat that the fuel economy standards would be economically and technically feasible.

What happened?

We are proposing to do exactly what we did when the Clean Air Act exhaust emission standards came to the floor. In that measure the committee first reported maximum emission standards to the floor of the Senate and we on the floor doubled it, just because one particular report or one distinguished Member had studies by his staff and otherwise that showed that more could be done.

Well, we all obviously want to do more—50 percent—75 percent—100 percent. We could revise the percentages on the floor but we could come up with a grievous error, particularly since the objectives of section 9 were adopted by the Commerce Committee before a maximum effort was launched by Detroit to improve fuel economy in the base year—1974.

So if we changed the objective of 50 percent on the floor after all the evidence and all the reports and agreements made among the Public Works, Interior, and Commerce Committees and those who studied this particular problem, we may actually be lessening the attainment of the 50-percent improvement because it might prove to be extremely difficult.

In that light, I would strongly urge that this amendment be rejected on the basis of the careful Commerce Committee study where we now know that we are basing the goal on a percentage that is reasonable and attainable. All we have is one Treasury Department report with the prefacing statement that technologically possibly when we add it all up, we can get a 75-percent fuel economy. The main thrust of the bill is not necessarily to effectuate a technological change. On the contrary, it was with the introduction of presently known technology that we contemplated that the automobile manufacturers could meet the standards.

Very interestingly, the automotive industry when this bill was first proposed said that they could not meet its fuel economy goals, but now they have come in and have given strong evidence and statements to the effect that they can meet the 50-percent goal. More than anything else, they are turned in the direction of improved fuel economy and we can travel forward together. Their reason for acquiescence now is political.

In many State legislatures there are bills being proposed, the effect of which will be to prohibit the licensing of new cars unless they meet certain fuel economy standards. What the automotive industry said, rather than having the several States, and the hiatus set mileage standards, that they would comply with the spirit and letter of section 9 of S. 2176, and go along with the 50-percent goal.

The key language is that "at least" a 50-percent improvement shall be effectuated. It is not the maximum. The Secretary could establish standards to meet a 75-percent improvement if that is achievable.

Now with the American consumer completely attuned to the fuel consumption of cars, when he is buying a car, or if he is buying one for his wife at Christmas, his first question will be, "How many miles to a gallon will this car give?" That is quite a change from last June when we originally considered the amendment.

On that basis, I would urge that the Senate reject the amendment.

Mr. BAYH. Mr. President, I will not proceed with this debate and detain the Senate very long.

I do appreciate the intense feelings and the dedication of the Senator from South Carolina (Mr. Hollings).

The only thing I would say in this argument, as a noncommittee member, on reading the report, is that the Treasury Department talks about off-the-shelf technology, which I assume is the phraseology for technology that presently exists. So we do not have to use new technology to accomplish a 50-percent fuel savings. There is also one additional important feature.

On page 50 of the committee report, it talks about the present trend in the product mix. In other words, that the movement toward smaller cars continues. The fuel economy achieved by the changing product mix could accomplish a 50 percent change without improving the technology or having to make cars more efficient. That is why the Senator from Indiana, without at all derogating the fine work the committee has done, feels that if we are going to do something to convince the American people we are serious, we should require a higher standard. I am talking about little more than that which the report said can be accomplished without any major change in technology. That is my reason for presenting the amendment. I appreciate that there is a difference of opinion on this.

Mr. HOLLINGS. Mr. President, I appreciate the sincerity and the deep thought which has been given to this matter by the distinguished Senator from Indiana. I emphasize that the present measure as constituted, section 9 of the bill, does not prohibit the Senator from Indiana's goal if a 75-percent improvement can be had. But we want to make certain that the goal in the statute will be attainable with respect to the technology. There are all kinds of technology available today—in the aircraft industry and in the space industry. But whether it is economically available to produce savings in half a dozen cars and save 75 percent or even 100 percent or 200 percent, that is one thing, but when you go to making ten million automobiles then it has to be not only technologically feasible but economically feasible as well.

On that basis, I would ask that the amendment be rejected.

The PRESIDING OFFICER (Mr. Bartlett). The question is on agreeing to the amendment of the Senator from Indiana (Mr. Bayh).

The amendment was rejected.

Mr. MATHIAS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, further reading of the amendment is dispensed with, and the amendment will be printed in the Record.

The text of the amendment is as follows:

AMENDMENT TO AMENDMENT NO. 757

On page 32, line 9, delete "section 553 of title 5, U.S. Code" and insert "subsection (j) of this section."

On page 32, line 18, delete "section 553 of title 5, U.S. Code" and insert "subsection (j) of this section."

On page 37, lines 1-9, delete the text of subsection (j) and insert in its stead the language of section 20(i) of S. 2176 as reported on October 16, 1973, as follows:

"(j) Except as provided in this subsection, a proceeding shall be conducted in accordance with the provisions of section 553 of title 5, United States Code. Notice and a public hearing are required, and a record of the proceeding shall be maintained. The proceeding shall be structured to proceeded as expeditiously as possible, while permitting all interested persons an opportunity to present their views. Participants shall be given a right to cross-examine on matters directly related to the proposed rule, and the Commission may set such conditions and limitations on cross-examination as are deemed necessary to assure fair and expeditious consideration of the contested issues. All testimony shall be presented by affidavit or orally under oath, pursuant to regulations issued by the Commission; where appropriate, persons with the same or similar interests may be required to appear together by a single representative. Each rule issued by the Commission shall be based on substantial evidence in the record taken as a whole and at the conclusion of a proceeding pursuant to this subsection shall be published forthwith in the Federal Register."

Mr. MATHIAS. Mr. President, this amendment, a copy of which has been given to the managers of the bill, is proposed in order to restore the former section, 20(i) of S. 2176 as it was reviewed by the Commerce Committee and reported favorably on October 16.

What it simply does is to allow proceedings at public hearings, with an opportunity for all interested and affected parties to present thier views and be given the right of cross-examination, upon such conditions as to assure a fair and expeditious consideration of the contested issues.

It really provides due process to those who will be regulated by this bill, and it will give them the opportunity to obtain full and complete data, so that any rule that is promulgated to implement the provisions of the act can be based upon the complete record and thereby, hopefully, will provide a more workable rule, and will fulfill the objective of conserving energy. That is all the amendment does. It is a due process amendment. It gives those who are about to be regulated the right to know what is in the regulations and perhaps to provide a more substantial and a more accurate base for the regulations, if the original concept of the regulations turns out to be in error in any way.

Those who have raised questions against this amendment say that it would prolong proceedings. I respectfully suggest that this amendment is so couched that it will not prolong proceedings, because it authorizes cross-examination under such conditions as may be prescribed by the Secretary of the Commission, and that would include consolidation of various interests.

We are all aware of the famous peanut butter cases that went on forever and ever. That could not happen under this amendment, because this amendment provides for the Secretary of the Commission to consolidate interests and to provide reasonable conditions under which the right of cross-examination would be pursued.

So I believe that this is purely a due process amendment. It is one which will be of assistance to those to be regulated. It will be useful and valuable for all the people whose interests are to be protected by the bill.

I hope the Senate will adopt the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. TUNNEY. Mr. President, I have to object to this amendment, on behalf of the Committee on Commerce.

I should like to point out that the Federal Trade Commission, on December 6, 1973, wrote a letter to Chairman Magnuson, and I read from the letter:

> This is in response to your request for the Commission's views on Sections 8 and 9 of Amendment No. 757 to S. 2176, 93d Congress, 1st Session, a bill "to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior; and for other purposes." The Commission supports enactment of this legislation.

The letter then goes on to say that the Commission feels very strongly that the objectives of the proposed legislation, as written, are in the public interest, and it endorses enactment of the law.

On December 7, 1973, Senator JACKSON, Senator MAGNUSON, and Senator RANDOLPH, the chairmen of the three committees that have considered the proposed legislation, sent a letter—a "dear colleague" letter—in which they addressed the question of the rulemaking procedure, and I read what they said:

> The rule making process for the development of testing procedures, calculation procedures, and rules governing the disclosure of annual operating costs follows the traditional section 553 of Title V, U.S.C., rule making process that has been historically relied on by the FTC in many of its activities regarding labels and other consumer education matters. Since the labeling provisions for appliances and automobiles are consumer education measures, as opposed to measures which call for the establishment of minimum standards, or for the banning of certain products from the marketplace, it would be anomalous to develop a rule making procedure which is more formal than has traditionally been used by government agencies in similar rule making procedures.

Clearly, the thrust of this letter from the chairmen of the appropriate committees is that they feel that we should not deviate from the traditional language of section 553 insofar as the labeling bill is concerned.

I feel it is clear that if there was a right of cross-examination in a matter of this kind, lawyers in this city and elsewhere in the country would be able to tie up for months, if not for years, the rulemaking process of the Commission. What we want is quick action, not action which is going to violate the rights of individuals who are affected, anymore than would be affected traditionally by section 553.

Mr. MATHIAS. Mr. President, will the Senator yield on that point?

Mr. TUNNEY. I yield.

Mr. MATHIAS. The amendment provides on its face for cross-examination to take place only under such conditions as may be prescribed by the Secretary of the Commission. Therefore, they cannot have one of the protracted, long, drawn out, lengthy proceedings which admittedly have occurred on some other occasions in the past. It is drawn to prevent that very circumstance.

Mr. TUNNEY. What is clear here is that we would be establishing a precedent which I really do not think is needed. Why should a different rule apply here than is traditional with consumer education measures?

Mr. MATHIAS. If the Senator is asking me, I would say that we should have the right of cross-examination in many areas. I do not think we should carve out more jurisdiction for the committee abridging the right of due process in a very critical area, abridging the right of the public to information, and say that we are doing it in this case because it seems less critical than in some other very important cases. I think it is very important in all cases, and we ought to rework this whole area; but I cannot think of a better place to start than the pending bill.

Mr. TUNNEY. I point out that under the Product Safety Act, in which the Product Safety Commission has the right to take products off the market—which is an important weapon that the Product Safety Commission has under that act—there is no right of cross-examination. Yet, one would think that, under that set of circumstances, one should have a greater need for cross-examination than in the pending measure.

I do not think that, with a floor amendment, we should move into an area which would have precedential value, without having had hearings on the matter.

I can understand the Senator offering an amendment that in all proceedings before the Commission, as it relates to this act, as it relates to the Product Safety Act, or any other act, there should be the right of cross-examination and that we should hold hearings and have an opportunity to weigh the equities on both sides. But it seems to me that a floor amendment, without hearings, to apply more stringent standards on this consumer education bill than we have with the Product Safety Act and other acts, really does not make much sense.

I think we might very well find ourselves moving into a position in which we would not want to find ourselves.

Mr. MATHIAS. I would be prepared to strengthen the due process features of some of the other acts already on the books.

Mr. TUNNEY. The Senator is aware of the fact that the Federal Trade Commission can always allow cross-examination under section 553, if they want to, if they feel it would be important to the public interest to allow it. But it does not give it as a matter of right because they felt it would be more important in the public interest to have expeditious consideration of these regulations.

I would be perfectly willing, if the Senator wants to offer this legislation that would guarantee cross-examination for the FTC under all circumstances, to sit as a member of the committee to help to decide that it should be brought before the Senate. But it does not seem to me that in a floor amendment we should take this major step when we have not had a chance to hear the arguments on both sides in the hearing process which is prescribed for all legislation.

Mr. MATHIAS. This was heard in committee, as a matter of fact. This restores the language of S. 2176, which was reported favorably last October 16. This language has been reviewed by the committee and reported favorably to the Senate. We are just restoring the language. This has been given careful consideration by the committee.

Mr. TUNNEY. But the fact is that the major thrust of the hearing was on the overall act. We did not have specific hearings on this provision. Whatever testimony we had from the Federal Trade Commission made it clear they felt it would tie them up for months and even years. That is why we made the change. We did not hold specific hearings on this specific amendment. As a matter of fact, it was considered by the committee in an ancillary fashion and what we did consider made it clear to us we should return to the law as it is written in section 553, and that is why we made this legislation conform with the existing procedures.

If the Senator wants a major change of this kind in section 553 of title 5 he should offer specific legislation to that effect and have it apply across the board and have it apply to the Product Safety Act. The Product Safety Act grants clear powers to the Product Safety Commission because they can take products off the market and for the manufacturer that represents a more stringent impact on his business affairs than the legislation before us today.

Therefore, I would have to object to the amendment. I would point out that Senators Jackson, Magnuson, and Randolph in a letter they sent to Senators noted they felt the rulemaking procedure should remain as it is under section 553 and should not be changed.

The PRESIDING OFFICER. The question is on agreeing to the amendment (putting the question).

The Chair is in doubt.

Mr. TUNNEY. I think under the circumstances we ought to have the yeas and nays. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. Chiles), the Senator from Mississippi (Mr. Eastland), the Senator from North Carolina (Mr. Ervin), the Senator from Indiana (Mr. Hartke), the Senator from Maine (Mr. Hathaway), the Senator from Kentucky (Mr. Huddleston), and the Senator from West Virginia (Mr. Randolph) are necessarily absent.

I further announce that the Senator from Georgia (Mr. Talmadge) is absent on official business.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Texas (Mr. Tower) is necessarily absent.

The result was announced—yeas 48, nays 42, as follows:

[No. 566 Leg.]

YEAS—48

Aiken
Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Biden
Brock
Brooke
Buckley
Case
Clark
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Helms
Hollings
Hruska
Javits
Mathias
McClure
Nunn
Packwood
Pearson
Percy
Proxmire
Roth
Saxbe
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stevens
Taft
Thurmond
Weicker
Young

NAYS—42

Abourezk
Bayh
Bible
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Church
Cranston
Eagleton
Fulbright
Gravel
Hart
Haskell
Hatfield
Hughes
Humphrey
Inouye
Jackson
Johnston
Kennedy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Ribicoff
Sparkman
Stennis
Stevenson
Tunney
Williams

NOT VOTING—10

Chiles
Eastland
Ervin
Hartke
Hathaway
Huddleston
Randolph
Symington
Talmadge
Tower

So Mr. Mathias' amendment was agreed to.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HANSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I have an unprinted amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 20, after line 9, insert the following:

"(d) The Secretary of Agriculture is authorized to establish within the Agricultural Research Service a food and fiber energy conservation and efficiency program to be conducted through selected Land Grant Colleges in cooperation with the Agricultural Extension Service. The objectives of such program shall include, but not be limited to, research and development of new energy sources, technologies and techniques applicable to the production, processing and distribution of food and fiber in the United States and the dissemination of information relating to fuel conservation and increased efficiency in energy utilization in agricultural operations and processes."

On page 20, line 10, renumber subsection "(d)" as "(e)".

On page 20, line 14, renumber subsection "(e)" as "(f)".

On page 20, line 14, insert in lieu of renumbered subsection (f) the following:

"For the purposes of subsections (b), (c) and (d) of this section, there are authorized to be appropriated $8,000,000, $4,000,000 and $5,000,000 respectively, for each of the first three fiscal years following enactment of this Act."

Mr. DOLE. Mr. President, let me say at the outset that my amendment was discussed with the distinguished Senator from Washington and with the distinguished Senator from Arizona. It is my understanding that there is no objection to the amendment.

Let me explain very briefly that the amendment simply authorizes the Agricultural Research Service in cooperation with the Land Grant Colleges and the Extension Service to research and develop new energy sources and methods for conserving fuel with reference to agriculture. This would have application to all kinds of equipment, all types of processes and all aspects of agricultural operations.

The PRESIDING OFFICER. The Senator will please suspend. The Senator is entitled to be heard. He cannot be heard. Will Senators who wish to talk please retire from the Chamber.

The Senator from Kansas may proceed.

Mr. DOLE. Mr. President, this program would be established at the very time our farmers are being asked to increase production, in the face of possible serious fuel shortages. We must take every possible step to see that adequate fuel supplies are available, and conservation efforts are very important to making certain that necessary fuels are provided. In other legislation we have dealt with allocation and rationing. But this bill deals with conserving the fuels that are supplied. So it is crucial to see—especially in agriculture—that every bit of fuel is put to maximum use so our domestic needs will be met and our export markets can be tapped.

My amendment will establish a 3-year, $15 million research and development program to be undertaken by America's Land Grant colleges. This program would be directed toward developing new energy sources, technologies and techniques to conserve energy in agricultural operations and make them more efficient. The findings and results of the research program would be made available by the Agricultural Extension Service to farmers, processors and others involved in the production of food and fiber in America.

Hopefully, this program will point the way to new, better and more efficient farming techniques. It may lead to the harnessing of nuclear, solar and other energy forms for agricultural processing operations. A whole range of energy-saving shortcuts may be identified throughout the agricultural sector.

Just as one example of a possible area for study, we have had one suggestion from a Kansan who believes there are ways to conserve some 40 percent of the fuel used in the operation of an alfalfa plant. So I would hope the Senate will recognize the special need to focus on this particular area in the way established by my amendment.

Mr. JACKSON. Mr. President, I thank the distinguished Senator from Kansas. I think this is a helpful amendment. It opens up an additional area for conservation.

I am very pleased to accept the amendment.

Mr. FANNIN. Mr. President, I thank the Senator from Kansas for offering his amendment. Agriculture is a basic industry, and in the past they have set examples in conservation.

I believe the amendment is very appropriate, and think we should accept it. This proposal will be a very fine addition to the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas (putting the question).

The amendment was agreed to.

Mr. HANSEN. Mr. President, I call up my unprinted amendment and ask that the clerk report the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. HANSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 63, line 19, strike the semicolon and insert in lieu thereof a period and insert thereafter the following new language:

"Such evaluation shall, in particular, consider changes in Federal and State policies and laws relating to motorized transport on the interstate highway system which would result in significant savings of fuel;"

Renumber existing clauses in subsection 12(a)(4).

Mr. HANSEN. Mr. President, I have discussed this amendment with the manager of this bill. It simply calls for a study and an evaluation of laws and regulations relating to motorized transport on interstate highways systems which would result in significant savings of fuel.

I ask the distinguished manager of the bill if he would be willing to accept the amendment.

Mr. JACKSON. Mr. President, I certainly think that this is an area in which there could be a great opportunity and in which there should be a great opportunity for the savings of fuel. Certainly a study of this area could be useful.

I support the amendment and urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming. [Putting the question.]

The motion was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I have an unprinted amendment at the desk. I ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> Add a new section at the end of the amendment (No. 757) as follows:
>
> "To conserve fuel, decrease traffic congestion during rush hours, improve air quality and enhance the use of existing highways, the Secretary of HEW shall encourage limitations on the transportation of students in schools operated by local or State educational agencies, as defined in sections 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, in order that students may walk to school insofar as possible without public transportation, or be transported through public means of conveyance no further than to the appropriate school nearest their residence."

Mr. HELMS. Mr. President, through this bill, the Senate is proposing a broad range of energy conservation programs and practices. I am offering an amendment which conforms to the spirit of this bill by requiring the Secretary of HEW to encourage local school systems to allow their students to walk or be transported to the schools nearest their homes.

While the Senate has considered many worthwhile suggestions in order to encourage the conservation of fuel, I think the opportunity to eliminate a great deal of the unnecessary busing which has resulted from court orders and HEW plans would demonstrate to the country that this body is serious about fuel conservation.

On the one hand, Congress is adopting policy to encourage Americans to save fuel through carpools and other inconveniences, while at the same time, we are allowing substantial amounts of fuel to be wasted in compulsory busing.

From time to time, note has been taken of the serious financial impact which the introduction of busing has had upon U.S. education. But the impact upon our energy supply has gone unnoticed. The implication has been always that energy was available in unlimited supply, and that we could be as extravagant in its use as we have been with the taxpayers' dollar. The courts, in fashioning their orders on pupil assignment, have been as heedless of the energy drain created by busing as of the other burdens which they have imposed upon American society.

As a result, children have been denied the right to walk to school in neighborhoods where thousands of children have walked to school in previous generations. From kindergarten age on up, they are now being conditioned to accept vehicular transportation as the normal and expected mode of getting from one point to another. They are being denied the experience of walking, and the opportunity of forming healthful habits which would persist throughout their lives. They are, on the contrary, forming an unhealthy attitude toward the prudent use of our energy resources in the future. These children are growing up in an age when they will be faced with chronic energy shortages at least over the next few decades. We should be educating them to live in the world of today and tomorrow, not the world of yesterday when we had all the gasoline we wanted. Instead, we are training them to accept the idea that it is normal for healthy individuals to have free transportation to their destinations, even when they could and should walk.

Much of the busing today is completely unneeded therefore, and detrimental to the formation of sound attitudes necessary to life in a democracy. We can no longer afford the luxury of training our children to waste our energy supplies.

Nor are the amounts of energy involved insignificant. Based upon a study of gasoline used for busing in the major metropolitan areas of the State of North Carolina, I would estimate that the use of gasoline for busing schoolchildren has at least tripled in the past 4 years wherever the widespread use of busing has been introduced under pressure from HEW guidelines or court orders.

Let me give some examples.

In 1969–70, my hometown, the city of Raleigh, had 25 buses which used 26,145 gallons of gasoline to travel 134,654 miles. In 1972–73, the city of Raleigh had 111 buses which used 197,344 gallons to go 750,670 miles.

Think of that, Mr. President. That is an increase of nearly eight times in only 4 years.

The city of Greensboro, in 1970–71 had 107 buses which used 131,817 gallons of gasoline. In 1972–73, the city of Greensboro had 212 buses which used 288,239 gallons of gasoline. That is more than double the use of gasoline in only 1 year.

The city of Winston-Salem, Forsyth County, school district used 307,168 gallons of gasoline in 1969–70, the last year before widespread busing was introduced. In 1972–73, the school district used 711,065 gallons. Again, that is more than double the usage of gasoline.

The city of Charlotte-Mecklenburg County system used 478,343 gallons of gasoline in 1968–69 to travel 1,908,842 miles. Then in April of 1971, the Supreme Court affirmed a busing plan in the famous case known as Swann versus Charlotte/Mecklenburg County Board of Education. In 1971–72, Charlotte used 865,733 gallons of gasoline to travel 3,914,215 miles. And that is not even the whole story. The Charlotte figures do not reflect the miles traveled or the gas used by the City Coach service which is chartered to bus a substantial number of students.

Only a few weeks ago, I discussed in this body a case in the Charlotte-Mecklenberg school system where a single bus is assigned to transport 1 student to West Charlotte High School. This student must arise at 5:30 in the morning, wait for his bus, be transported a distance of 22 miles to school, and then return a distance of 22 miles at night. He is the only student on the bus. The reason for this is that Federal Judge James B. McMillan ordered that 600 students selected for busing to West Charlotte High be chosen by lottery, and this student drew one of what might be called the lucky numbers. His lucky or unlucky number is costing the North Carolina taxpayer more than $3,700 a year to transport one student to school.

Nor is the cost in fuel or dollars the only cost.

In the long rides, children grow restless and boisterous. Last week a young black student leaned out of a bus window for a better look, and his head was struck off when the bus passed a power pole on the curb. Such accidents could happen anytime, but the more children are on buses, the more likely such incidents will take place. He was the second child to be killed on school buses in Charlotte this year.

Mr. President, we have a critical shortage of fuel which is affecting all phases of American life both public and private. The very bill which I am proposing to amend declares that we are in a situation of national emergency, with regard to the usage of fuel. In an emergency an adjustment must be made to accommodate those services which are most essential and which require the least consumption of fuel.

Indeed, the suggestion has been made by some Governors and mayors that it will be necessary to close down our public schools because of scarce energy supplies. This would certainly be a tragedy, especially in view of the fact that substantial amounts of fuel are now being diverted from essential use in connection with public education and used for the purpose of transporting students beyond the schools nearest to their residences.

In examining the figures on gasoline usage which I quoted above. I do not believe anyone could argue that this amazing jump in volume is essential to the operation of public education. This is not a natural growth, it is an unnatural growth. It is wasteful growth. The examples I have given all come from predominantly urbanized areas. They do not represent rural areas where the distances are naturally long and busing has long been accepted. The only reason why children in urban areas need busing is because they have been assigned to schools beyond their home neighborhoods.

My amendment simply says that in setting our priorities we must realize that it is more important to keep the schools open then it is to divert that fuel to a purpose which is frustrating the availability of public education at this time.

At the time when many of these busing plans were ordered put in effect, the availability of fuel was not a factor in their consideration. The Supreme Court said, given the available facts and circumstances at the time such rulings were being made, that busing was a tool available to the courts in shaping what each court considered an equitable remedy to guarantee the equal protection of the law. I submit that those circumstances have drastically changed since that time.

We have reached a point where the various uses of busing must be ranked on a priority scale. Busing is only needed where the distances are too long for a child to walk. But when these distances are artificially created, then each artificial busing can no longer be considered essential. In short, we do not have the fuel left to transport pupils beyond the nearest possible school. Massive busing is no longer available as a reasonable tool for courts to use in shaping their so-called remedies. It is certainly proper for the President to set up energy conservation guidelines to cut energy consumption by limiting unnecessary busing.

Mr. President, it would be foolish to insist upon using our scarce energy resources for nonessential busing when that waste of energy even threatens the continued operation of the schools themselves. I urge every Senator to support this amendment.

Mr. CASE. Mr. President, is the Senator going to ask for the yeas and nays?

Mr. HELMS. That depends on whether the manager is willing to accept the amendment.

Mr. President, I urge the Senate to adopt the amendment.

Mr. JACKSON. Mr. President, this is the so-called busing amendment. I have some personal views on this subject of busing schoolchildren on racial grounds. Anyone who had looked at the law would know that it could only be handled through a constitutional amendment.

We have a whole series of court orders based on constitutional grounds directing school boards to provide busing for schoolchildren or be held in contempt.

Obviously, we cannot by statute address ourselves to this problem. We can pass all the statutes in the world. However, when we deal with a constitutional issue, it can only be handled by a constitutional amendment.

I want to emphasize this point. I realize that this is not mandatory language. However, we are just fooling the public and all of those who are deeply concerned with this problem——

Mr. HELMS. Mr. President, may we have order? I cannot hear the Senator.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Washington may proceed.

Mr. JACKSON. Mr. President, I will repeat that this matter can only be handled by a constitutional amendment. While it is true that this amendment is simply a recommendation, it will not accomplish anything. The court orders which direct school districts to provide the necessary busing and provide the necessary transportation cannot be changed by a measure such as this.

There is no point in passing this amendment. It purports to say that something is being done in this matter when in truth and in fact it cannot be done except by constitutional amendment.

Mr. HELMS. Mr. President, I would say to my friend, the Senator from Washington, that I am not purporting to do anything. I am being as forthright as I can. If we are really serious in this body in trying to conserve fuel, let us say to the HEW that they should use some good sense in the matter of forced busing of schoolchildren.

Now, I can cite some figures——

Mr. JACKSON. Let me ask the Senator, how can it have meaning, if HEW turns around and tells the school district not to comply with an order of the courts? I am not much of a lawyer, but there are certain elementary rules of law you do not forget. If you aid and abet such an action in opposition to an order of the court, you will find yourself in the pokey.

Mr. HELMS. Mr. President, I admire and respect the Senator, but I do not see how he can get that construction out of this language.

Mr. JACKSON. I would say that an official of HEW, in a case where the courts have ordered a school district to provide buses, if an official of HEW attempts to encourage that school district not to comply with the order of the court—and that is what it would be, under this amendment—my judgment is that that person could be cited for contempt.

Mr. HELMS. Let the record show that that is not the intent of the amendment, and I do not think the amendment says that.

Mr. JACKSON. I am just trying to be as objective as I can about it. I just point out that if this amendment is to mean anything, it would be used in those situations where the court has ordered the school board to take the necessary action. It says:

> To conserve fuel, decrease traffic congestion during rush hours, improve air quality and enhance the use of existing highways, the Secretary of H.E.W. shall encourage limitations on the transportation of students in schools operated by local or State educational agencies, as defined in sections 801 (f) and 801(k) of the Elementary and Secondary Education Act of 1965, in order that students may walk to school insofar as possible without public transportation, or be transported through public means of conveyance no further than to the appropriate school nearest their residence.

Going back, it says:

> The Secretary of HEW shall encourage limitations on the transportation.

I say that if that is to be meaningful, to carry out what the Senator has in mind, it would run counter to an order of the court. Any attempt of an individual to implement this would place that individual in a position where he could be cited for contempt.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. HELMS. I yield to the distinguished Senator from Arizona.

Mr. FANNIN. I support the amendment. The provision is not mandatory; it is when it is the best judgment of the administrator that these things be done.

Here we are, talking about closing down schools for certain periods of time, so that perhaps we will have school in the summertime and close them down for parts of December and January. It may be challenged that that could not be done within the requirements of the school year. I feel that this is the same type of application. All the Senator is trying to do is save energy, and this, it seems to me, is a sound basis for doing it. It is not in any way in violation, as far as I can see, of the intent of this amendment, or in violation of rulings of the court.

It does not say that where they have been mandated to do it, they shall discontinue doing it. I imagine there are many thousands of youngsters being bused throughout the Nation, not because of being mandated, but because school boards have adopted certain local regulations. No doubt some of them would like to make changes in their handling of the transportation of students, both as a conservation measure and for other reasons.

Mr. JACKSON. Mr. President, as Senators know, my children are attending the Horace Mann Public School here in the District of Columbia. Children are bused in there, and the enrollment is one-third black. I believe strongly in integration, but I have strong personal feelings about busing children solely for a racial objective.

The Brown case held that you should not bus children solely and exclusively for racial purposes. I believe in busing to achieve quality education. I have tried to practice what I preached, and my children are in a fully integrated school in the District of Columbia, a public school. I am not the kind who gets up and wails for busing, and then you find that he has his children all in private, nonintegrated schools.

Mr. HELMS. The Senator is to be commended for his consistency, many others may not be similarly consistent.

Mr. JACKSON. I want to be intellectually honest by saying that nothing can be done about this problem—I speak now as a lawyer—except by constitutional amendment. I, therefore, am not going to support a proposal that will not be effective in trying to resolve it.

I fully appreciate the position of the Senator from North Carolina. He certainly has a right to make this proposal. I am just giving him my opinion for what it may be worth.

Mr. HELMS. I appreciate the Senator's comments.

Let me say, Mr. President, that all the amendment would do is say to Federal judges and HEW officials, "Take a look at the situation involving forced busing of schoolchildren, and see if there is any foolishness involved."

I happen to know at least one situation where there is, indeed, foolishness. In the Charlotte-Mecklenburg school district of my State, we have an instance of one child being bused all by himself on one bus, 22 miles to school each morning, and 22 miles back.

If we could stop that, it would be a notable achievement to put an end to that sort of foolishness. Here is one bus being used for one child all day long, a bus and a driver.

I can cite figures, as I have cited them in this body before, of the survey we made in just four school districts out of 151 school districts in North Carolina, where 1,100,000 gallons of gasoline could be saved by eliminating forced busing of schoolchildren. If we are really serious about cutting down fuel consumption, we can at least accept this watered-down version of the amendment I proposed some time back.

I am not saying to make it mandatory. I am just saying to the judges, the bureaucrats, and all the rest, "Take a look at it."

Mr. President, I ask for the yeas and nays.

Mr. JAVITS. Mr. President, I move to lay the amendment on the table.

Mr. PASTORE. I ask for the yeas and nays on the motion of the Senator from New York.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. Bartlett). The question is on agreeing to the motion of the Senator from New York to lay on the table the amendment of the Senator from North Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. Chiles), the Senator from North Carolina (Mr. Ervin), the Senator from Indiana (Mr. Hartke), the Senator from Maine (Mr. Hathaway), the Senator from Kentucky (Mr. Huddleston), and the Senator from Alaska (Mr. Gravel) are necessarily absent.

I further announce that the Senator from Georgia (Mr. Talmadge) is absent on official business.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

I further announce that, if present and voting, the Senator from Georgia (Mr. Talmadge) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Texas (Mr. Tower) is necessarily absent.

The result was announced—yeas 46, nays 45, as follows:

[No. 567 Leg.]

YEAS—46

Abourezk
Bayh
Bellmon
Biden
Brooke
Burdick
Case
Church
Clark
Cranston
Eagleton
Hart
Hatfield
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Saxbe
Schweiker
Scott, Hugh
Stafford
Stevenson
Taft
Tunney
Weicker
Williams

NAYS—45

Aiken
Allen
Baker
Bartlett
Beall
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Haskell
Helms
Hollings
Hruska
Johnston
Long
McClellan
McClure
Metcalf
Nunn
Proxmire
Roth
Scott, William L.
Sparkman
Stennis
Stevens
Thurmond
Young

NOT VOTING—9

Chiles
Ervin
Gravel
Hartke
Hathaway
Huddleston
Symington
Talmadge
Tower

So the motion to table Mr. Helms' amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. FANNIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Washington (Mr. Jackson), for himself and others, in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HUMPHREY. Mr. President, as an original cosponsor, I am particularly pleased to support the "National Fuels and Energy Conservation Act of 1973" and urge its prompt passage. It is certainly needed.

The mandate provided the Office of Energy Conservation and the new Council on Energy Policy will result in a much greater degree of coordination on energy matters within the Federal Government. Hearings on "Energy Conservation," held before my Consumer Economics Subcommittee last month, reinforced my conviction that a greater effort to coordinate all the energy saving efforts of the Government is a must.

The measures called for in this legislation will be important in helping our people adapt, with least hardship, to the fuel scarcity which our Nation will continue to face for years to come. The steps recommended, and the research to be undertaken, will result in a significant reduction in the unnecessary use of scarce energy resources.

Mr. President, I am particularly pleased to see that a provision to promote an expanded use of car pools by our citizens is included in the bill before us. In terms of energy savings, environmental protection and traffic congestion, more car pools make good sense.

On November 19, the Senate passed my carpool promotion amendment to the "National Energy Emergency Act of 1973." It authorizes a $25 million 2-year car pool promotion program. I am hopeful that this amendment will be retained in conference and that the full funding of this program will be provided in the relevant appropriations legislation. We need a substantial program of this nature with the fuel support of Congress.

The car pool promotion provision of the pending legislation is quite complementary to my proposal. It directs the Department of Transportation to move forward now with funds already available to mount an aggressive car pooling effort. I fully support the need for both of these initiatives and hope that the Department of Transportation will respond to the car pooling mandate in the legislation before us today.

COUNCIL ON ENERGY POLICY

Mr. PERCY. Mr. President, while I support nearly all of S. 2176, there is one section that I believe is most unwise. That is section 3, which would establish a 3-member Council on Energy Policy. On May 10, 1973, I voted against a similar Council proposal when it was first brought before the Senate as S. 70, and I believe the Senate has even more reason to reject the Council idea now than it did then.

This very week, the Committee on Government Operations is marking up a bill, urgently requested by the President, to establish a Federal Energy Administration. That bill, S. 2776, was sponsored by Senator Jackson and cosponsored by myself and Senators Ribicoff, Ervin, Javits, Randolph, Fannin, and Nunn.

In considering the Federal Energy Administration proposal this week, the Government Operations Committee, which is the committee of jurisdiction in matters of executive reorganization, is facing the very question addressed by this proposal. We are working with the administration to assure that the function of coordinating overall energy policy is placed organizationally in the position of greatest influence. In contrast, section 3 of the pending bill seeks to force a 3-member Council on Energy Policy upon the President when he has indicated no desire or need to have such an advisory council in the Executive Office of the President.

The success of advisory councils and other policy offices in the White House has been mixed at best. None of these entities has ever been successful that did not enjoy the confidence of the President. In this period of energy emergency, it would be irresponsible for the Congress to try to force upon the President a Council which would not have his complete confidence.

On June 29 of this year, the President established the Office of Energy Policy in the Executive Office of the President, to coordinate all energy matters in the executive branch. He appointed Gov. John Love as his chief energy adviser and Director of the Office of Energy Policy. Senators Jackson, Ribicoff, and I sponsored an amendment to make that Office a statutory body.

Now Governor Love has unfortunately gone back to Colorado, and the Federal Government has lost the services of this highly respected public figure. Governor Love's departure has only demonstrated once again that White House advisers can only be as effective as the President wants them to be. For this reason, a three-member Council on Energy Policy could not be effective in the White House today.

The President has now designated Deputy Secretary of the Treasury William Simon as his chief energy adviser, and head of the Federal Energy Office in the Executive Office of the President. This is the Office which would become the independent Federal Energy Administration if the Congress approves the legislation now before the Government Operations Committee.

Mr. President, I hope that the idea of a Council on Energy Policy, which the House of Representatives has totally ignored since it passed the Senate as S. 70 last May will ultimately be rejected. The Senate should give the Government Operations Committee time to complete its work on the Federal Energy Administration bill, which I expect will be reported out later this week. Let the proper committee, in consultation with the administration, make the proper judgment as to where to place this all-important energy policy function. We must create the organizational structure that will make the function most effective in meeting the energy emergency which confronts our Nation. A Council on Energy Policy will not accomplish that purpose.

CARPOOLING PROVISION CONTAINED IN S. 2176—A STEP IN THE RIGHT DIRECTION

Mr. DOMENICI. Mr. President, I am pleased that the substitute to S. 2176, the National Fuels and Energy Conservation Act of 1973, which passed the Senate today contains a section devoted to carpooling as a means of conserving fuel.

This section would amend chapter 1 of title 23 of the United States Code to provide authority for carpooling projects that would conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities without detracting from the use of mass transit facilities.

These projects would be originated by local officials, submitted through the State for approval by the Secretary of Transportation. Upon approval, the projects could be funded up to 90 percent with Federal funds already available as part of the Urban System Highway funds authorized by the Federal Aid Highway Act. There would be a limit of $1 million on the Federal share of any single project.

In addition, the Secretary of Transportation would be directed to conduct a full investigation of the effectiveness of the measures employed in these projects and, in conjunction with other Federal agencies, he will study other methods to increase the use of and effectiveness of carpool programs. The results of these studies are to be reported to the Congress not later than December 31, 1974.

Mr. President, I remain convinced that carpooling represents one of the most practical, most effective and most promising means we have to deal with our current fuel shortage, particularly in the short run. Given the other benefits of lowered air pollution, decreased traffic congestion and more efficient and effective utilization of this Nation's urban highways, I am indeed pleased that this provision, which I introduced in the Public Works Committee, has been passed by the Senate. I feel that it will be extremely beneficial in conserving energy while improving the quality of life for commuters and residents in urban areas and represents a step in the right direction.

HOW TO INCREASE THE OIL SUPPLY BY 17 PERCENT

Mr. McGOVERN. Mr. President, the Senate is considering S. 2176, the energy conservation bill, which was originally introduced in July of this year by the chairmen of the three relevant Senate committees on behalf of a number of Senators, including myself.

In many respects, this bill is the single most important piece of energy legislation we will be considering this year. For it represents the first comprehensive effort to control America's gluttonous appetite for energy and thus substantially reduce our need for foreign oil in the years ahead.

It is perhaps a sign of the times that this proposal is a congressional, rather than an administration, initiative.

For some reason, this bill has received relatively little public attention despite the dramatic effect it can have on the energy shortage. Most Americans are familiar with President Nixon's proposals to temporarily reduce demand by lowering thermostats and speed limits. But few Americans are aware of the permanent energy savings that are possible under our bill—three to four times as great as the President's stopgap measures.

I would like to take a few moments to comment on the section of the bill which I regard as the most important—the section dealing with fuel consumption standards for motor vehicles drafted by Senator HOLLINGS and championed by the chairman of the Commerce Committee, Senator MAGNUSON.

Under the provisions of the bill, the Secretary of Transportation would be required to promulgate minimum standards for the number of miles motor vehicles can get for a gallon of fuel. Those standards are to be such as to increase the industrywide average fuel economy for new vehicles by at least 50 percent over the next 10 years. In other words, the present average of 13½ miles per gallon would have to be improved to over 20 miles per gallon.

The standards would go into effect by the 1978 model year and new vehicles which did not meet those standards could not be bought or sold.

According to figures developed by the Department of Transportation and the EPA, the proper implementation of those standards could result in reducing the demand for oil by as much as 17 percent—the entire amount of the shortage the President projects for this year.

While this substantial saving cannot be achieved overnight, the important point is that it can be done with existing technology. Smaller, lighter cars today average nearly twice as many miles per gallon as the large ones. And modified powerplants can achieve the same objective for large cars. For example, the same piston engine Mercedes which averages 13 miles per gallon average 25 with a diesel engine.

So, the only thing which is necessary is for the auto manufacturers to start converting their plants and marketing the cars which would replace the gas guzzlers now on the road over a 6 to 7 year period.

These are the facts. In 1972, motor vehicles consumed more than 105 billion gallons of fuel—42 percent of the total U.S. petroleum consumption. The automobile's share of the 1.27 trillion passenger miles traveled was 91 percent, and 54 percent of travel was on 16 percent of roads in urban areas.

America's 97 million cars consumed an average of 755 gallons per year—14.5 gallons per week—and averaged 13.49 miles per gallon.

But our 62 million standard and large cars averaged only 11.4 miles per gallon. Our 34.6 million small and economy cars did nearly twice as well, averaging 21.7 miles per gallon.

The lesson of those figures is clear. Based on existing technology, we can reduce by half the amount of fuel that two-thirds of our cars consume by simply phasing out the gas guzzling monsters and replacing them with more economical cars. Assuming the other variables remain constant, this would reduce the demand for gasoline by approximately one-third.

Stated differently, this simple change would be equivalent to increasing today's supply of oil by approximately 17 percent, substantially more than the planned output of the Alaskan pipeline.

In terms of the 1985 projections, the savings would be equal to at least 50 percent of projected eastern hemisphere imports. Improved technology could result in even more substantial savings.

The question of how rapidly we can reach this goal depends upon the willingness of the automakers to proceed in this direction. The period of time needed to physically accomplish the conversion is between 2 and 3 years. But it is conceivable that the carmakers may engage in the same kind of dilatory tactics and bootstrap arguments we saw over emission standards.

On the other hand, the public trend toward smaller, more economical cars is clear. As the following chart shows, the market share for new, large cars has declined by more than 23 percent over the last 7 years, while the share of small cars has increased by the same amount:

CAR MARKET SHARES

[In percent]

	1967	1972	1973
Cadillac class	2.9	2.7	2.4
Pontiac class	17.8	14.5	12.7
Ford class	28.6	19.3	16.3
Total large	49.3	35.5	31.4
Sports (Mustang) class	12.8	8.2	9.9
Intermediate (Torino) class	21.8	19.2	18.8
Total 8 cylinder	83.9	64.6	60.1
Compact	6.7	12.9	14.4
Subcompact		8.2	9.6
Foreign	9.3	14.5	15.9
Total 4 and 6 cylinder	16.0	35.6	39.9

Note: According to the Wall Street Journal, this trend has become even more pronounced in recent weeks—car sales are off by 10 percent, large car sales by 25 percent. And part of the reason for the overall decline in sales may be a shortage of small cars.

Source: Treasury Department.

So, in a sense, converting to cars with greater fuel economy is really in the best interests of the auto industry. Their reluctance to rapid conversion, however, is bound to be strong because of the tremendous investment they have made in large and wasteful cars.

One way out of this dilemma may be for the Government to provide a partial tax writeoff for equipment made obsolete by the new regulations. This would avoid enormous potential losses and help insure that the price the consumer will pay for new, more economical cars remains at a level the average person can afford.

While I in general oppose special tax treatment for the corporate sector, this particular case is one where the benefits to society would far outweigh the cost. The modest loss of revenue would be limited to the conversion period and would result in increasing the 1985 energy supply by a projected 43 billion gallons of gas—the equivalent of 5.6 million barrels of crude oil per day. Moreover, unless some assistance is provided the carmakers will be forced to up the price of cars to recover their lost investment in obsolete equipment.

In conclusion, Mr. President, I would like to stress one interesting by-product of converting to smaller more economical cars. According to recent EPA tests, most 1974 small cars meet the 1976 Clean Air Standards except for nitrogen oxide emissions. And the NO standard can be met by installing the Honda modified Chevy engine or some variant. So, converting to smaller cars will be as good for our health as it is for the economy.

Mr. President, I ask unanimous consent that a fact sheet on gas consumption and the results of the EPA tests of 1973 models under urban driving conditions be printed at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

Auto Gas Consumption

(Fact Sheet—Source: Department of Transportation)

I. VEHICLES

Number of cars registered: 1972, 96.9 million; 1973, 101 million.

Average annual increase, 4–5%.

Average annual purchase: foreign 12–15%; domestic 85–88%; 11–12 million.

II. FUEL CONSUMPTION—1972

Total gas consumed, 105 billion gallons.

Passenger cars, 73 billion gallons.

Commercial, 29 billion gallons.

Agriculture, aviation and recreation 3 billion gallons.

Number of cars, 96.9 million.

Vehicle miles traveled, 986.4 billion.

Average miles per year, 10,184.

Average gallons per year (all motor vehicles) 838.

III. PASSENGER CARS

Average gallons per year, 755.

Average gallons per week, 14.5.

Average miles per gallon, 13.49.

Standard cars (8 cylinder), 62 million.

Average miles per gallon, 11.4.

Small care, 34.6 million.

Average miles per gallon, 21.7.

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines—Federal Certification Test Results for 1973 Model Year

Section 206(e) of the Clean Air Act, as amended (42 U.S.C. 1857f–5(e)), directs the Administrator of the Environmental Protection Agency to announce in the *Federal Register* the results of certification tests conducted on new motor vehicles and new motor vehicle engines to determine conformity with Federal standards for the control of air pollution caused by motor vehicles.

FEDERAL EMISSION STANDARDS

The regulations that apply to the control of emissions from 1973 model year vehicles, appearing at 40 CFR Part 85, set maximum allowable emission levels for new gasoline-fueled heavy duty engines (for use in trucks and buses), and gasoline-fueled light duty vehicles (automobiles and light trucks). Heavy duty gasoline-fueled engines are required to meet emission standards of 275 parts per million (p.p.m.) for hydrocarbons (unburned gasoline) and 1.5 percent for carbon monoxide (a poisonous gas). Heavy duty Diesel engines must meet Federal smoke emission standards of 40 percent opacity during acceleration and 20 percent opacity during lugging. These opacity standards limit the darkness of the exhaust smoke to a light gray haze.

The standards for automobiles prohibit all crankcase emissions, and limit allowable evaporative emissions from the fuel system and exhaust emissions from the tailpipe. The exhaust standards allow 1973 automobiles to emit no more than 3.4 grams per mile of hydrocarbons, 39 grams per mile of carbon monoxide, and 3.0 grams per mile of oxides of nitrogen from the tailpipe. The 1973 evaporative emission standard limits the loss of gasoline by evaporation from the carburetor and the fuel tank to no more than 2.0 grams per test.

FEDERAL CERTIFICATION PROCEDURES

Under the provisions of the Clean Air Act, it is unlawful to offer for sale new motor vehicles which are not in conformity with Federal regulations. Prior to the beginning of each model year, automobile manufacturers apply to the Administrator of the Environmental Protection Agency for a Certificate of Conformity for each model they wish to produce for that model year. The Federal regulations prescribe a number of requirements which a manufacturer must meet before the Administrator will grant certification.

In advance of production, the manufacturers are required to provide the Administrator with extensive test data demonstrating the effectiveness of the vehicle's emission control and the ability of the emission control system to remain effective over the useful life of a vehicle (50,000 miles). In addition to the submission of test data on the prototype test vehicles, the manufacturers are required to deliver the test vehicles to the Federal Testing Laboratory at Ann Arbor, Michigan. At this facility, the vehicles are retested by Federal engineers to assure conformity with the regulations. The Federal emission test procedure for light duty vehicles is designed to simulate an average trip of 7.5 miles in an urban area and consists of cold-engine startup and vehicle operation on a chassis dynamometer through a specified driving schedule.

The regulations require a manufacturer to test a selection of prototype vehicles, as designated by the Administrator, which will represent the models to be sold to the public. These vehicles are grouped into two separate fleets. One fleet, known as the emission-data fleet, consists of new prototype vehicles which are driven for 4,000 miles and then tested. The purpose of the emission-data fleet is to determine the stabilized emission levels of new motor vehicles. The second fleet, known as the durability fleet, is made up of new prototype vehicles which are driven for 50,000 miles and tested every 4,000 miles. The durability fleet is used to establish "deterioration factors" which are adjustments that account for the decrease in an emission control system's efficiency over its expected useful life. The deterioration factors enable the Administrator to predict a motor vehicle's emission levels at 50,000 miles based upon its measured levels at 4,000 miles. The test data from the two fleets are then combined, in accordance with the procedures specified in the regulations, to determine whether the vehicle is in compliance with emission standards over the expected useful life of the vehicle. If all the motor vehicles in an engine family so tested are found to conform with the regulations, the manufacturer is granted a Certificate of Conformity.

The same procedure is applicable to heavy duty engines, except that emission-data engines accumulate 125 hours of service on an engine dynamometer before the emission test and gasoline-fueled durability engines and Diesel durability engines accumulate 1500 and 1000 hours of service, respectively. The heavy duty engine test is designed to simulate on an engine dynamometer a truck driving pattern in a metropolitan area.

FEDERAL CERTIFICATION DATA

Listed below are the emission levels of each light duty emission data vehicle and heavy duty emission data engine, as adjusted by the deterioration factors discussed above. The vehicles and engines listed represent all of the models and configurations certified as of March 23, 1973 for the 1973 model year. A supplemental listing will be published when the manufacturers whose certification is presently pending complete their test programs.

The emission and fuel economy data listed below was obtained from the original emission data vehicles and engines. In some cases, manufacturers have submitted requests to perform "running changes" on already certified configurations. EPA has authorized manufacturers to make such running changes if the review of the test data and technological information has shown that the proposed modifications do not cause the vehicles or engines to exceed the standards. The data listed below does not indicate the effect of running changes on certified emission levels.

Included in the light duty vehicle section is a column labeled "Fuel Economy." The values in this column represent the calculated fuel economy for each emission data vehicle as it was operated according to the Federal emission test procedure at the EPA laboratory. The expression used to calculate fuel economy based upon analysis of the exhaust gas is:

Fuel Economy: $2423/(0.866)(HC)+(0.429)(CO)+(0.273)(CO_2)$

Where:

Fuel Economy = Fuel economy in miles per gallon

HC = Hydrocarbon mass emissions expressed in grams per mile

CO = Carbon monoxide mass emissions expressed in grams per mile

CO_2 = Carbon dioxide mass emissions expressed in grams per mile

Note that the HC, CO, and CO_2 emission values used in the relation are actual 4,000 mile emission test results and not the certification values which include the deterioration factor adjustment.

EPA must caution against attempting to compare these published fuel economy values with other values obtained under different conditions or by different techniques. Fuel economy is affected by a wide range of factors including the manner in which the vehicle is driven, type of route and terrain traveled, speeds at which the vehicle is driven, frequency of cold-starts, use of power-absorbing accessories, vehicle weight, axle ratio, ambient conditions and many others. However, these published figures are valid and useful for comparing vehicle performance on the Federal emission test procedure. Description of this general method of calculating fuel economy and discussion of the many factors which affect fuel economy are included in the EPA report *Fuel Economy and Emission Control*, published in November 1972, and available from the EPA Office of Public Affairs.

This listing should not be construed as an endorsement by the Environmental Protection Agency of any manufacturer's vehicles or engines.

William D. Ruckelshaus,
Administrator.

1973 MODEL YEAR LIGHT DUTY VEHICLES

	Engine family		Test vehicle						Certification levels			
									Exhaust emissions (grams mile)			Evaporative emissions (gms/test)
Manufacturer (models)	Displacement (cubic inches)	Family designation	Model	Engine displacement and carburetor venturis	Trans.	Inertia weight class (lbs.)	Axle ratio	Fuel economy (miles per gallon)	Hydrocarbons	Carbon monoxide	Oxides of nitrogen	hydrocarbons
Alfa Romeo S.p.A.: 115.00 Berlina (sedan), 115.01 GTV (coupe), 115.02 Spyder (roadster).	119.7	01500	115.01 GTV	119.7-FI	M4	2,500	4.55	19.1	2.8	28	2.3	0
			115.01 GTV	119.7-FI	M4	2,500	4.55	18.0	3.0	35	2.2	0
AM General Corp.:												
Utility vehicles, ambulance, 106 mm rifle mount			M151 A2	141.5-1	M4	3,000	4.86	19.1	3.0	22	2.5	0
DJ-56, FJ-8A	232-258	I	DJ-56	232-1	A3	3,000	3.07	16.0	1.7	16	2.9	.1
			FJ-8A	232-1	A3	4,000	3.73	14.4	2.1	25	2.7	0
American Motors Corp.: Gremlin Sedan, Gremlin X Sedan, Hornet sedan, Hornet Hatchback sedan, Hornet Sportabout wagon, Javelin hardtop, Matador Hardtop, Matador sedan, Matador wagon, Jeep Universal CJ-5, Jeep Universal CJ-6, Jeep Universal DJ-6, Jeep Commando Roadster Jeep Commando wagon, Jeep Commando pick-up, Ambassador Brougham hardtop, Ambassador Brougham sedan, Ambassador Brougham wagon, Jeep Wagoneer standard, Jeep Wagoneer custom, Gladiator jeep truck J-2500, Gladiator Jeep truck J-2600, Gladiator Jeep truck J-4500, Gladiator Jeep truck J-4600.	232-258	I	Hornet	232-1	A3	3,000	2.73	18.9	1.4	15	2.7	.4
			Gremlin	232-1	M3	3,000	2.73	18.0	2.7	32	2.5	.7
			Javelin	232-1	M3	3,000	3.58	14.3	1.7	18	2.5	.2
			Jeepster	232-1	M3	3,500	4.27	13.3	2.4	24	3.0	0
			Matador	258-1	M3	3,500	3.54	13.1	2.1	20	2.4	.1
			Gladiator	258-1	A3	4,500	4.88	13.7	1.8	18	2.4	0
			Universal	258-1	M4	3,000	4.27	13.7	1.0	12	2.2	0
American Motors Corp.:												
Gremlin sedan, Gremlin X sedan, Hornet sedan, Hornet hatchback sedan, Hornet Sportabout wagon, Javelin hardtop, Javelin AMX hardtop, Matador hardtop, Madador sedan, Matador wagon, Ambassador Brougham, hardtop, Ambassador Brougham sedan, Ambassador Brougham wagon, Jeep Universal CJ-5, Jeep Universal CJ-6, Jeep Commando roadster, Jeep Commando pick-up.	304	II	Matador	304-2	A3	4,000	3.15	12.2	2.8	36	2.1	.5
			Javelin	304-2	A3	3,500	2.87	12.6	2.9	20	1.7	1.8
			Ambassador wagon.	304-2	A3	4,500	3.54	12.4	2.9	20	2.3	.2
			Jeepster	304-2	M3	3,500	4.27	12.3	2.8	19	2.3	.5
			Javelin	304-2	M3	3,500	3.91	12.6	3.4	29	2.0	.6
			Javelin	304-2	M3	3,500	3.91	13.6	2.8	20	2.4	.9
Hornet sedan, Hornet hatchback sedan, Hornet sportabout wagon, Javelin hardtop, Javelin AMX hardtop, Matador hardtop, Matador sedan, Matador wagon, Ambassador Brougham hardtop, Ambassador Brougham sedan, Ambassador Brougham wagon, Jeep Wagoneer standard, Jeep Wagoneer Custom, Gladiator Jeep truck J-2500, Gladiator Jeep truck J-2600, Gladiator Jeep truck J-4500, Gladiator Jeep truck J-4600.	360-401	III	Javelin	360-2	M4	3,500	3.91	10.0	2.9	33	1.8	1.5
			Ambassador wagon.	360-2	A3	4,500	3.15	10.9	2.8	30	2.2	1.8
			Ambassador	360-2	A3	4,000	3.15	11.2	2.4	17	2.0	.1
			Gladiator	360-4	M4	4,500	4.88	9.8	2.7	18	2.4	.2
			Matador wagon.	401-4	A3	4,500	3.91	11.1	2.4	30	2.3	.2
			Ambassador wagon.	401-4	A3	4,500	3.91	9.8	3.3	28	2.5	.1
Avanti: Avanti II	400	GM-104	Avanti II	400-2	A3	4,000	3.31	11.0	1.9	22	2.3	0
Audi: Audi 100, 100LS, 100GL	114.5	100	Audi 100	114.5-2	A3	3,000	2.94	14.2	2.9	17	2.3	0
			do.	114.5-2	A3	3,000	3.91	13.9	2.6	20	2.4	0
			do.	114.5-2	M4	3,000	4.11	14.3	2.5	22	2.7	0
Bayerische Motoren Werke AG:												
BMW Bavaria, BMW 3.0CS	182	130	Bavaria	182.0-2	A3	3,500	3.64	14.8	2.6	23	1.8	.3
			do.	182.0-2	M4	3,500	3.64	13.0	2.8	23	1.7	.8
BMW 2002, BMW 2002tii	121.3	121	2002	121.3-2	A3	2,500	3.64	21.8	2.1	27	1.5	0
			2002	121.3-2	M4	2,500	3.64	21.4	1.9	22	1.9	0
			2002tii	121.3-FI	M4	2,500	3.64	22.0	2.4	23	1.7	0
			2002tii	121.3-FI	M4	2,500	3.64	22.5	2.9	24	1.1	0
British Leyland Motor Corp. (Austin-Morris):												
MG Midget	77.9	A series	MG Midget	77.9-2	M4	2,000	3.90	22.1	2.6	31	1.2	0
			do.	77.9-2	M4	2,000	3.90	22.0	3.0	35	1.3	0
Austin Marina, MGB Sports, MGB GT	109.6	B series	Austin Marina.	109.6-1	A3	2,500	3.64	19.2	1.6	29	2.2	.3
			MGB Sports	109.6-2	M4	2,500	3.90	18.7	1.8	27	1.7	0
			MGB GT	109.6-2	M4	3,000	3.90	16.3	2.6	34	2.2	.3
Triumph:												
Stag	183.0	TA	Stag	183.0-2	A3	3,000	3.70	16.1	2.8	31	2.7	.2
			do.	183.0-2	M4	3,000	3.70	16.6	3.1	24	2.6	.2
TR6, GT6	122-152	TB	GT6	122.0-2	M4	2,250	3.27	19.7	2.2	25	2.1	.3
			GT6	122.0-2	M4	2,250	3.89	19.1	2.0	28	2.1	.8
			TR6	152.0-2	M4	2,750	3.70	17.8	2.3	29	2.4	.6
			TR6	152.0-2	M4	2,750	3.70	18.1	2.1	20	2.8	.2
Triumph, Spitfire	91.0	TC	Spitfire	91.0-1	M4	2,000	3.89	24.9	2.3	29.	1.8	0
			do.	91.0-1	M4	2,000	3.89	23.8	2.6	37	1.5	.4
Rover, Ltd., 88" Land Rover	139.5	139.5, 4 cyl.	88" Land Rover.	139.5-1	M4	3,500	4.70	18.6	1.7	18	1.0	.1
			do.	139.5-1	M4	3,500	4.70	10.6	2.6	31	1.8	.1
Jaguar:												
XJ6	258	4.2L	XJ6 sedan	25.-2	A3	4,000	3.54	9.7	1.3	35	2.4	0
			do.	258-2	A3	4,000	3.54	11.6	1.9	29	2.5	0
XJ12 sedan, E type	326	V12	XJ12 sedan	326-4	A3	4,000	3.31	7.5	2.9	37	2.5	0
			E type	326-4	A3	3,500	3.31	7.6	2.1	23	2.9	.3
			E type	326-4	M4	3,500	3.54	9.7	2.8	21	2.7	0
Checker:												
A-11 taxicab, A-11E taxicab, A-12 Marathon, A-12E Marathon, A-12W Marathon.	250	GM-102	A-11	250-1	A3	4,000	3.31	12.4	2.0	19	3.0	.1
A-11 taxicab, A-11E taxicab, A-12 Marathon, A-12E Marathon, A-12W Marathon, A-12W8 Aerobus.	350	GM-104	A-12	350-2	A3	4,500	3.31	11.6	2.2	28	2.5	0
			A-12W8	350-4	A3	5,500	3.54	9.7	3.0	29	2.5	.3
Chrysler Corp.:												
Valiant, Valiant-Duster, Valiant-Scamp, Valiant-Scamp Special, Dart, Dart-Custom, Dart-Swinger, Dart-Sport, Dart-Swinger Special, Satellite, Satellite Sebring, Satellite-Custom, Satellite-Police, Satellite-Taxi. Coronet, Coronet-Custom, Coronet-Police, Coronet-Taxi, Dodge-Taxi, Charger, Charger Coupe, Fury I, Fury II, Fury III, Fury-Police. Fury-Taxi, Polara, Polara-Special, Polara-Taxi, B100 Van-Tradesman, B100 Sportsman, B100 Custom Sportsman, B100 Royal Sportsman, B200 Van-Tradesman, B200 Sportsman, B200 Custom Sportsman, B200 Royal Sportsman, B300 Sportsman, B300 Custom Sportsman, B300 Royal Sportsman, D100 Adventurer, D100 Adventurer-Sport, D100 Adventurer SE, D100 Club Cab, W100 Adventurer, W100 Adventurer-Sport, W100 Custom.	198-225	RG	Valiant	198-1	M3	3,500	3.55	17.9	2.6	27	2.0	.5
			do.	225-1	A3	3,500	2.76	15.9	2.4	28	2.1	.1
			do.	225-1	A3	3,500	2.76	17.9	2.4	17	2.3	0
			W1-Truck	225-1	M3	4,500	3.91	13.8	2.0	24	2.4	.4
			Valiant	225-1	A3	3,500	3.23	14.5	1.8	28	2.2	.2
			WI-Truck	225-1	A3	4,500	3.91	13.6	2.1	23	2.0	1.9
			B1-Sport	225-1	M3	4,000	4.10	14.5	3.1	24	2.2	0

	Engine family		Test vehicle						Certification levels			
									Exhaust emissions (grams mile)			Evaporative emissions (gms/test)
Manufacturer (models)	Displacement (cubic inches)	Family designation	Model	Engine displacement and carburetor venturis	Trans.	Inertia weight class (lbs.)	Axle ratio	Fuel economy (miles per gallon)	Hydrocarbons	Carbon monoxide	Oxides of nitrogen	hydrocarbons
Valiant, Valiant-Duster Valiant-Scamp, Valiant Scamp Special, Dart Dart-Custom, Dart Swinger, Dart-Sport Dart-Swinger Special Satellite, Satellite Sebring, Satellite Custom, Satellite-police Satellite-taxi, Coronet Coronet-Custom, Coronet Police, Coronet-taxi Dodge-taxi, Charger Charger Coupe, Fury I Fury II, Fury III, Fury Police, Fury-taxi, Polara Polara-special, Polara Taxi, B100 Van-Tradesman B100 Sportsman, B100 Custom Sportsman, B100 Royal Sportsman, B200 Van-Tradesman B200 Sportsman, B200 Custom Sportsman, B200 Royal Sportsman, B300 Sportsman B300 Custom Sportsman B300 Royal Sportsman D100 Adventurer, D100 Adventurer-Sport, D100 Adventurer SE D100 Club Cab W100 Adventurer W100 Adventurer-Sport W100 Custom	198–225	RG	Valiant	198	MC3	3,500	3.55	17.9	2.6	27	2.0	0.5
			do	225	A3	3,500	2.76	15.9	2.4	28	2.1	.1
			do	225	A3	3,500	2.76	17.9	2.4	17	2.3	0
			W1-Truck	225	M3	4,500	3.91	13.8	2.0	24	2.4	.4
			Valiant	225	A3	3,500	3.23	14.5	1.8	28	2.2	.2
			W1-Truck	225	A3	4,500	3.91	13.6	2.1	23	2.0	1.9
			B1-Sport	225	M3	4,000	4.10	14.5	3.1	24	2.2	0
Valiant, Valiant-Duster, Valiant-Scamp Special, Dart, Dart-Swinger, Dart-Sport, Dart-Custom, Dart-Swinger Special, Barracuda, Challenger, Satellite, Satellite-Sebring, Satellite-Sebring Plus, Satellite-Custom, Satellite-Regent, Road Runner, Satellite-Police, Satellite-Taxi, Coronet, Coronet-Custom, Coronet-Crestwood, Coronet-Police, Coronet-Taxi, Dodge Taxi, Charger, Charger SE, Fury I, Fury II, Fury III, Fury-Gran Coupe, Fury, Gran Sedan, Fury-Police, Fury-Taxi, Suburban, Custom Surban, Sport Suburban, Polara, Polara-Custom, Polara-Special, Polara-Police, Polara-Taxi, Monaco, B100 Van-Tradesman, B100 Sportsman, B100 Custom Sportsman, B100 Royal Sportsman, B200 Van-Tradesman, B200 Sportsman, B200 Custom Sportsman, B200 Royal Sportsman, B300 Sportsman, B300 Custom Sportsman, B300 Royal Sportsman, D100 Custom, D100 Adventurer, D100 Adventurer-Sport, D100 Adventurer-SE, D100 Club Cab, W100 Adventurer, W100 Adventurer-Sport, Valiant-Duster 340, Dart-Sport 340, Barracuda-Cuda.	318-340-360	LA	Charger	381–2	A3	4,000	2.71	12.2	2.4	25	2.3	.4
			Dodge	318–2	A3	4,500	3.55	10.5	2.8	34	2.6	.4
			B-300 Wagon	318–2	M3	4,500	4.10	11.0	3.2	20	1.8	.4
			Sate lite	340–4	A3	4,500	3.55	9.4	1.4	15	2.8	.6
			Dart	340–4	M4	4,000	3.55	10.6	2.7	20	2.3	.6
			Fury	360–2	A3	4,500	2.71	9.7	2.6	38	2.4	.3
Satellite, Satellite-Custom, Satellite-Sebring, Satellite-Sebring Plus, Satellite-Regent, Satellite-Police, Road Runner, Coronet, Coronet-Custom, Coronet-Crestwood, Coronet-Police, Charger, Charger SE, Fury I, Fury II, Fury III, Fury-Gran Coupe, Fury-Gran Sedan, Fury-Police, Suburban, Custom Suburban, Sport Suburban, Polara, Polara-Custom, Polara-Special, Polara-Police, Monaco, D100 Custom, D100 Adventurer, D100 Adventurer-Sport, D100 Adventurer-SE, D100 Club Cab, Chrysler-Newport, Chrysler-Newport Custom.	400	B	Chrysler	400–2	A3	5,000	2.71	10.6	2.5	27	2.2	.7
			do	400–2	A3	5,000	2.71	10.3	2.4	38	2.1	.8
			Chrysler Wagon.	400–2	A3	5,500	3.23	9.4	2.7	29	2.9	.4
			Fury wagon	400–2	A3	5,500	3.23	9.6	3.4	33	2.3	1.1
			Satellite	400–4	M4	4,500	3.55	7.9	2.1	25	3.0	1.9
			D1-truck	400–2	A3	4,500	3.23	9.4	2.2	22	2.1	.8
Fury I, Fury II, Fury III, Fury-Gran Coupe, Fury-Gran Sedan, Fury-Police, Suburban, Custom-Suburban, Sport Suburban, Chysler-Newport, Chrysler-Newport Custom, Chrysler-New Yorker, Chrysler-Town & Country, Chrysler-New Yorker Brougham, Chrysler Imperial-LeBaron, Satellite, Satellite-Custom, Satellite-Sebring, Satellite-Police, Road Runner, Coronet, Coronet-Custom, Coronet-Police, Charger, Charger SE, Polara, Polara-Custom, Polara-Special, Polara-Police, Monaco.	440	RB	Chrysler	440–4	A3	5,000	2.76	9.3	2.5	31	2.4	.5
			do	440–4	A3	5,000	2.76	9.4	2.7	25	2.1	.6
			Chrysler Wagon.	440–4	A3	5,500	2.76	9.7	2.6	35	2.4	.4
			Imperial	440–4	A3	5,500	3.23	9.2	1.3	29	2.5	1.0
			Fury	440–4	A3	5,000	3.23	8.7	2.3	32	2.1	.5
			Charger	440–4	A3	4,500	3.55	9.8	2.4	23	3.0	.3
Chrysler United Kingdom, Ltd.: Cricket Sedan, Cricket Wagon.	91.41	91	Cricket Sedan.	91.41–1	M4	2,250	3.89	18.4	2.9	35	2.2	0
			do	91.41–1	A3	2,250	3.89	23.2	2.2	19	1.7	0
			Cricket Wagon.	91.41–2	M4	2,250	3.89	20.1	3.2	37	2.1	0
Jensen Motors, Ltd.: Interceptor III	440	RB	Interceptor III.	440–4	A3	4,500	3.55	10.4	3.0	32	2.6	.3
Citroen: Citroen SM	181	S	Citroen SM	181–6	M5	3,500	4.37	11.2	2.6	19	2.9	.6
			do	181–6	A4	3,500	4.37	11.9	2.1	32	1.9	.2
Ferrari:												
Dino 246GT Berlinetta, Dino 246GT Spyder	147.55	LDV–1	Dino 246GT	147–6	M5	3,000	4.21	10.0	1.6	17	1.0	.1
			do	147–6	M5	3,000	4.21	9.2	1.5	16	1.1	0
365GTB.4, 365GTB.4 Berlinetta, 365GTB.4 Spyder	268	LDV–2	365GTB.4	268–12	M5	4,000	3.30	6.5	2.5	33	.7	0
			do	268–12	M5	4,000	3.30	6.3	1.0	27	.8	0
Fiat S.p.A.:												
850 Sport Spider	55	100	850 Sport Spider.	55–2	M4	2,000	4.88	21.7	2.8	23	1.9	.4
			do	55–2	M4	2,000	4.88	24.1	3.0	20	2.3	.4
128 Sedan, 128 Sedan 2-Door, 128 Sedan Station Wagon, 128 Sedan 1300, 128 Sedan 1300 2-Door, 128 Sedan Wagon 1300, 128 Coupe 1300.	68	128	128 Sedan 2-Door.	68–1	M4	2,250	4.07	20.6	1.7	20	1.9	1.0
			128 Sedan	68–1	M4	2,250	4.07	20.2	2.1	20	2.4	.1
			128 Coupe 1300.	78–1	M4	2,250	4.07	22.0	1.5	20	2.0	.1
			do	78–1	M4	2,250	4.07	20.4	1.6	21	2.0	.1

1973 MODEL YEAR LIGHT DUTY VEHICLES—Continued

	Engine family		Test vehicle						Certification levels			
									Exhaust emissions (grams mile)			Evaporative emissions (gms/test)
Manufacturer (models)	Displacement (cubic inches)	Family designation	Model	Engine displacement and carburetor venturis	Trans.	Inertia weight class (lbs.)	Axle ratio	Fuel economy (miles per gallon)	Hydrocarbons	Carbon monoxide	Oxides of nitrogen	hydrocarbons
124 Special Sedan, 124 Special Station Wagon	87	124	124 Special Sedan.	87-2	M4	2,250	4.10	20.7	2.3	23	2.2	0.4
			124 Special Station Wagon.	87-2	M4	2,500	4.30	19.1	1.9	25	2.1	.2
124 Sport Spider 1600, 124 Sport Coupe 1600	98	125	124 Special Sedan.	87-2	A3	2,500	4.10	18.2	2.1	28	2.4	.3
			124 Sport Spider 1600.	98-2	M5	2,500	4.30	18.5	2.3	23	2.4	0
			124 Sport Coupe 1600.	98-2	M5	2,500	4.30	23.5	2.2	29	2.7	0
124 Sport Spider 1600, 124 Sport Coupe 1600	97	132	124 Sport Spider.	97-2	M5	2,500	4.30	19.9	2.5	34	2.3	0
			124 Sport Coupe.	97-2	M5	2,500	4.30	18.9	2.2	25	2.2	.6
Ford Motor Co.:												
Pinto, sedan	98	1.6L	Pinto	98-1	M4	2,500	3.55	21.4	2.7	32	2.3	.4
Runabout			do	98-1	M4	2,500	3.55	20.8	2.0	27	2.3	.3
Ford, Ltd.:												
Capri, 2-door sport, coupe base, 2-door sport coupe decor option. Cortina, 2-door sedan L, 2-door sedan GT, 4-door sedan L.	122	2.0L	Capri	122-2	M4	2,750	3.44	21.6	1.7	34	1.9	0
			do	122-2	M4	2,750	3.44	20.4	1.5	30	2.1	.1
			Cortina	122-2	M4	2,750	3.75	19.5	1.5	32	1.9	0
			Capri	122-2	A3	2,750	3.44	18.6	1.7	38	2.4	.2
Capri, 2-door sport coupe, 2-door sport coupe decor option.	154	2.6L	do	154-2	M4	2,750	3.22	18.6	2.5	30	2.8	.2
			do	154-2	M4	2,750	3.22	18.4	2.4	33	2.8	1.3
			do	154-2	A3	2,750	3.22	15.4	2.7	38	2.8	.3
Ford Motor Co.:												
Pinto, 2-door sedan, 3-door runabout, 2-door wagon.	122	2.0L	Pinto	122-2	A3	2,750	3.40	18.4	1.1	31	1.8	0
			do	122-2	A3	2,750	3.40	17.9	1.5	22	2.0	0
			do	122-2	M4	2,750	3.40	21.2	2.2	36	2.5	.4
Maverick, 2-door, 4-door Grabber. Comet—2-door, 4-door, GT.	200	200	Maverick	200-1	A3	3,000	2.79	15.1	2.3	15	2.4	.2
			do	200-1	A3	3,000	2.79	14.7	2.3	21	1.8	.2
			do	200-1	M3	3,000	3.00	16.3	2.3	28	1.4	.1
Econoline E-100 and E-200, Cargo Van, Window Van, Display Van, Club Wagon, Custom Club Wagon, Chateau Club Wagon. Econoline E-300, Club Wagon, Window Van, Display Van. F-100 4x2 styleside and chassis/cab—Custom. Ranger, Ranger XLT. F-100 4x2 Flareside Custom.	240	240	F-100	240-1	M3	4,000	3.70	10.3	1.4	20	2.3	.2
			F-100	240-1	M3	4,000	3.70	10.4	1.5	20	2.4	.2
			Econoline	240-1	M3	4,000	3.70	10.5	1.3	24	2.4	0
			do	240-1	A3	5,000	4.10	9.6	2.4	25	2.9	.2
			E-200 C.W	200-4	A3	4,500	4.11	10.4	2.2	25	2.5	.5
Mustang—Hard top, grande, sports roof, convertible. Maverick—2-dr. sedan, 4-dr. sedan, grabber. Comet—2-dr. sedan, 4-dr. sedan, GT. Torino—Torino, Gran Torino, Ranchero, Ranchero Squire. Montego—Montego, MX, MX Brougham.	250	250	Maverick	250-1	A3	3,000	2.79	12.2	1.9	32	1.6	1.2
			do	250-1	A3	3,000	2.79	13.2	1.9	23	1.7	.8
			do	250-1	A3	3,500	3.00	13.3	1.9	22	1.9	.3
			Torino	250-1	M3	4,000	3.25	17.9	2.4	36	1.7	1.0
			Montego	250-1	A3	4,000	3.00	14.1	1.9	27	2.2	0
Maverick—2-dr. sedan, 4-dr. sedan, GT. Comet—2-dr. sedan, 4-dr. sedan, GT. Torino—Torino, Gran Torino, Gran Torino sport, Ranchero, ranchero squire, ranchero GT, Torino wagon, Gran Torino wagon, Gran Torino squire.	302	302	Torino	9302-2	A3	4,000	2.79	8.5	1.2	21	2.2	.3
			F-100	302-2	A3	4,000	3.25	9.9	2.2	29	2.3	.2
			Comet	302-2	M3	3,500	2.79	10.6	1.6	24	2.1	.2
			Econoline	302-2	M3	4,000	3.25	9.1	1.8	32	2.1	.9
Montego—Montego, Montego MX, Montego MX Brougham, Montego GT, Montego MX wagon, Montego Villager.			Bronco	302-2	M3	4,000	4.11	10.4	2.5	23	2.7	1.5
			Econoline	302-2	M3	5,000	4.10	9.1	1.8	36	2.3	.2
Mustang—Hard top, Grande, sports roof, Mach I, convertible. Bronco—pickup, wagon, Econoline E-100 and E-200, cargo van, window van, display van, club wagon, Custom club wagon, Chateau club wagon. E-300—club wagon, Custom club wagon, Chateau club wagon. F-100 4 x 2 styleside and chassis/cab—Custom, Ranger, Ranger XLT. F-100 4 x 2 Flareside Custom.	302	302										
Mercury Monterey. Torino—Torino, Gran Torino, Gran Torino Sport, Torino wagon, Gran Torino wagon, Gran Torino Squire, Ranchero, Ranchero Squire, Ranchero GT. Montego—Montego, Montego MX, Montego MX Brougham, Montego GT, Montego MX wagon, Montego Villager. Ford—Custom, Galaxie 500, LTD, LTD Brougham, Ranch wagon, Country sedan, Squire. Mustang—hard top, Grande, sports roof, Mach I, convertible.	351	351C	Torino	351-2	A3	4,500	2.75	9.6	1.9	38	2.0	.2
			do	351-2	A3	4,500	2.75	8.2	1.6	31	2.2	.4
			Cougar	351-4	A3	4,500	3.50	7.9	1.7	36	2.5	1.8
			do	351-4	M4	4,500	3.50	8.7	2.4	29	2.5	.9
			Torino	351-2	A3	5,000	3.25	9.2	2.7	36	2.0	.2
			Pantera	351-4	MS	3,500	4.22	10.4	1.9	24	1.8	.2
Cougar—Hard Top, XR-7 Hard Top, GT, Convertible, XR-7 Convertible. Pantera.	351	351C										
Torino—Torino, Gran Torino, Gran Torino Sport. Montego—Montego, Montego MX, Montego MX Brougham, Montego GT. Ford—Custom, Galaxie 500, LTD, LTD Brougham, Ranch Wagon, Country Sedan, Squire.	351	351W	Ford	351-2	A3	4,500	2.75	9.1	1.6	20	2.4	.1
			do	351-2	A3	4,500	2.75	9.3	1.6	23	1.8	.1
			Torino	351-2	A3	4,500	3.25	9.0	1.0	18	2.0	.3
			Ford	351-2	A3	4,500	3.25	8.7	1.3	21	2.2	.3
			Ford S.W	351-2	A3	5,000	3.25	10.1	2.0	19	2.2	.1
			do	351-2	A3	5,000	3.25	8.7	1.9	28	2.3	.1
F-100 Styleside and Chassis/Cab—Custom, Ranger, Ranger XLT (4x2, 4x4). F-100 Flareside—Custom (4x2, 4x4).	360	360-390	F-100	360-2	A3	4,000	3.00	9.0	1.9	29	2.7	0
			F-100	360-2	A3	4,500	3.00	9.0	2.0	23	2.2	1.6
			F-100	360-2	A3	5,000	4.11	8.1	1.3	25	2.6	.1
			F-100	360-2	M3	4,500	4.11	9.9	2.2	26	2.0	.2
F-100 Styleside and Chassis/Cab—Custom Ranger, Ranger XLT (4x2). F-100 Flareside Custom (4x2).	390	360-390	F-100	390-2	A3	4,500	3.50	9.5	2.0	21	2.5	0
			F-100	390-2	A3	4,000	3.25	9.3	1.8	20	2.0	.1
Ford—Custom, Galaxie 500, LTD, LTD Brougham, Ranch Wagon, Country Sedan, Squire, Torino, Gran Torino, Gran Torino Sport, Torino Wagon, Gran Torino Wagon, Gran Torino Squire, Ranchero Squire, Ranchero GT, Ranchero. Mercury—Monterey, Monterey Custom, Monterey Wagon, Marquis Wagon, Colony Park, Montego, Montego MX, Montego MX Brougham, Montego GT, Montego MX Wagon, Montego Villager.	400	400	Ford	400-2	A3	5,000	2.75	7.9	1.4	14	2.1	.2
			do	400-2	A3	5,000	2.75	8.8	1.5	23	2.5	.0
			Ford S. W	400-2	A3	5,500	3.25	7.6	1.5	20	2.3	.0
			Ford	400-2	A3	5,000	2.75	10.1	1.8	19	2.3	.0
			Mercury	400-2	A3	5,000	3.25	7.9	2.4	20	2.3	.9

Manufacturer (models)	Engine family		Test vehicle						Certification levels			
									Exhaust emissions (grams mile)			Evaporative emissions (gms/test) hydrocarbons
	Displacement (cubic inches)	Family designation	Model	Engine displacement and carburetor venturis	Trans.	Inertia weight class (lbs.)	Axle ratio	Fuel economy (miles per gallon)	Hydrocarbons	Carbon monoxide	Oxides of nitrogen	
Ford Motor Co.—Continued												
Ford—Custom, Galaxie 500, LTD, LTD, Brougham, Ranch Wagon, Country Sedan, Squire, Thunderbird, Torino, Gran Torino, Gran Torino Sport, Ranchero, Ranchero Squire, Rancho GT, Torino wagon, Gran Torino wagon, Gran Torino Squire. Mercury—Monterey, Monterey Custom, Marquis, Marquis Brougham, Monterey wagon, Marquis wagon, Colony Park, Montego, Montego GT Montego MX, Montego MX Brougham, Montego MX wagon, Montego Villager.	429	429-460	Ford S.W.	429-4	A3	5,500	3.25	8.7	3.0	38	2.9	0.2
			Mercury	429-4	A3	5,000	2.75	7.7	1.5	23	2.3	0
			Montego	429-4	A3	5,000	3.25	8.8	2.8	31	3.0	0
Ford—Custom, Galaxie 500, LTD, LTD Brougham, Country Sedan, Ranch Wagon, Squire, Thunderbird 2-dr. Hard Top, Custom P.I., Galaxie 500 P.I., Torino P.I.	460	429-460	Torino P.I.	460-4	A3	5,000	3.00	7.7	2.0	31	2.0	0
Mercury—Monterey, Monterey Custom, Marquis, Marquis Brougham, Monterey wagon, Marquis wagon, Colony Park, Monterey P.I., Monterey Custom P.I., Montego P.I., Montego MX P.I. Lincoln—2 dr. Coupe, 2-dr. Town Car, 4-dr. Town Car, 4-dr. Pillared hard top, Mark IV 2-dr. hard top.	460	429-460	Mercury S.W.	460-4	A3	5,500	3.25	8.5	2.4	23	2.5	0
			Lincoln	460-4	A3	5,500	2.75	8.9	2.0	32	2.4	.6
Fuji Heavy Industries:												
Subaru A22L, Subaru A62L	83.1	Subaru A6	Subaru	83.1-2	M4	2,250	3.89	21.1	1.9	17	1.8	.2
			do	83.1-2	M4	2,250	3.89	21.8	2.4	16	1.9	.2
General Motors Corp.:												
Chevrolet—Vega 2300	140	GM-101	Vega	140-1	A3	2,750	2.92	18.9	1.5	18	2.1	.2
			do	140-1	M4	2,750	2.92	21.5	2.1	23	2.0	0
			do	140-2	A2	2,750	3.36	18.9	1.5	15	1.9	0
			do	140-2	M4	2,750	3.36	18.0	2.0	18	1.9	0
			do	140-2	M3	2,750	2.92	19.7	2.0	23	2.1	0
			do	140-2	A3	2,750	3.36	19.5	2.1	24	1.7	.6
Chevrolet—Bel Air, Impala, Chevelle Deluxe, Malibu, Laguna, El Camino, El Camino Custom, Nova, Nova Custom, Camaro, P-10 Step Van, P-10 Forward Control Chassis, G-10 Chevy Van and Sport-Van, G-20 Chevy Van and Sportvan, G-30 Sportvan, C-10 Blazer, C-10 Fleetside and Stepside Truck, C-10 Suburban, K-10 Blazer, K-10 Fleetside and Stepside Truck, K-10 Suburban.	250	GM-102	Nova	250-1	A2	3,500	3.08	12.7	1.4	20	1.7	.5
			do	250-1	A2	3,500	3.08	12.8	1.7	22	2.1	.1
			Sportvan	250-1	A3	4,500	4.56	10.4	1.3	38	2.6	.1
			Chevelle	250-1	M3	4,500	3.42	11.8	2.4	21	2.8	.1
			Suburban	250-1	M4	4,500	4.11	11.0	2.2	21	2.5	1.5
			do	250-1	A3	4,500	4.11	11.5	1.7	24	2.6	.1
Oldsmobile—Omega. Pontiac—Ventura, Lemans, Firebird.												
Buick—Apollo, Apollo Custom												
GMC—Sprint, Sprint Custom, P-10 Value Van, P-10 Forward Control Chassis, G-10 Van Dura and Rally Wagon, G-20 Van Dura and Rally Wagon, G-30 Rally Wagon, C-10 Jimmy, C-10 Fenderside and Wideside Truck, C-10 Carryall, K-10 Jimmy. K-10 Fenderside and Wideside Truck, K-10 Carryall.												
Chevrolet—Bel Air, Impala, Caprice Classic, Caprice Estate, Chevelle Deluxe, Malibu, Laguna, Laguna Estate, El Camino, El Camino Custom, Monte Carlo, Nova, Nova Custom, Camaro, Camaro Type LT, Corvette, G-10 Chevy Van, Sportvan and Beauville, G-20 Chevy Van, Sportvan and Beauville, G-30 Sportvan and Beauville, C-10 Blazer, C-10 Chassis Cab, C-10 Stepside and Fleetside Truck, C-10 Suburban, C-20 Suburban, K-10 Blazer K-10 Stepside and Fleetside Truck, K-10 Suburban, K-20 Suburban.	307-350-400.	GM-104	Impala	350-2	A3	4,500	2.73	12.0	2.7	20	2.4	0
			Chevelle	307-2	A3	4,000	3.08	12.8	2.4	20	1.8	0
			Bel Air Wagon	350-2	A3	5,500	3.42	10.0	2.0	20	2.4	1
			Suburban	350-4	M4	5,000	4.56	7.2	2.6	30	2.5	0
			Corvette	350-4	M4	4,000	4.11	9.9	1.6	24	1.4	0
			ImpalaWagon	400-2	A3	5,500	3.42	8.6	2.7	22	2.3	1
GMC—Sprint, Sprint Custom, G-10 Van Dura, Rally Wagon, Rally STX, G-20, Van Dura, Rally Wagon, Rally STX, G-30 Rally Wagon and Rally STX, C-10 Jimmy, C-10 Chassis Cab, C-10 Fenderside and Wideside Truck, C-10 Carryall, C-20 Carryall, K-10 Jimmy, K-10 Fenderside and Wideside Truck, K-10 Carryall, K-20 Carryall. Pontiac—Ventura.												
Chevrolet—Bel Air, Impala, Caprice Classic, Caprice Estate, Deluxe Chevelle, Malibu, Laguna, Laguna Estate, El Camino, El Camino Custom, Monte Carlo, Corvette, C-10 Pickup, C-10 Chassis Cab, C-10 Suburban, C-20 Suburban. GMC—Sprint, Sprint Custom, C-10 Pickup, C-10 Chassis Cab, C-10 Carryall, C-20 Carryall.	454	GM-105	Impala	454-4	A3	5,000	2.73	10.1	2.3	19	2.2	.1
			El Camino	454-4	A3	4,500	2.73	10.4	2.0	15	2.0	.3
			Corvette	454-4	M4	4,000	3.55	8.1	2.0	21	1.8	.1
			Bel Air Wagon.	454-4	A3	5,500	3.42	9.2	2.7	17	2.3	.5
			Chevelle	454-4	M4	4,500	3.42	8.1	1.5	23	1.3	.2
			Suburban	454-4	A3	5,500	4.10	7.8	1.5	17	2.3	.1
Pontiac—Luxury, Lemans, Lemans Sport Coupe, Lemans Deluxe Safari, Lemans Safari, Lemans, Catalina, Ventura, Ventura Hatchback, Ventura Custom, Ventura Sprint, Firebird, Esprit Formula, Catalina Safari, Bonneville, Grand AM.	350-400	GM-201	Catalina	400-2	A3	5,000	2.93	10.0	2.8	18	2.8	.2
			Lemans	350-2	A3	4,500	2.73	9.9	2.8	18	2.7	0
			Catalina	350-2	A3	5,000	3.23	8.1	2.7	14	2.7	0
			Lemans Wagon.	400-2	A3	5,000	3.08	10.0	2.9	26	3.0	.5
			Catalina Safari.	400-2	A3	5,500	3.23	8.8	2.7	36	2.8	0
			Firebird	350-2	M4	4,000	3.42	9.0	3.1	24	2.2	0
Pontiac—Grand AM, Luxury Lemans, Lemans Sport Coupe, Lemans Delux Safari, Lemans Safari, GTO, Lemans, Grand Prix, Grand Prix SJ, Catalina, Bonneville, Catalina Safari, Grand Ville, Grand Safari, Formula, Trans AM.	400-455	GM-202	Grand Prix	400-4	A3	4,500	2.93	10.6	3.0	19	2.6	0
			Bonneville	455-4	A3	5,000	2.93	8.6	2.8	20	2.3	0
			GTO	400-4	M4	4,500	3.42	9.1	2.9	27	2.8	.2
			Lemans Wagon.	400-4	A3	5,000	3.42	9.2	2.9	23	2.8	.1
			Catalina Safari.	455-4	A3	5,500	3.23	9.7	2.9	19	2.3	.2

1973 MODEL YEAR LIGHT DUTY VEHICLES—Continued

	Engine family		Test vehicle						Certification levels			
									Exhaust emissions (grams mile)			Evaporative emissions (gms/test)
Manufacturer (models)	Displacement (cubic inches)	Family designation	Model	Engine displacement and carburetor venturis	Trans.	Inertia weight class (lbs.)	Axle ratio	Fuel economy (miles per gallon)	Hydrocarbons	Carbon monoxide	Oxides of nitrogen	hydrocarbons
			Trans AM	455-4	M4	4,000	3.42	8.5	2.3	24	2.2	0
Oldsmobile—Omega, Cutlass, Cutlass S, Cutlass Supreme, Cutlass Salon, Cutlass Supreme Vista Cruiser, Delta 88, Delta 88 Royale.	350	GM-301	Delta 88	350-2	A3	5,000	3.08	9.9	2.6	24	2.6	.1
			Cutlass	350-4	A3	4,500	2.73	10.8	2.7	19	2.5	.1
			Cutlass Supreme Vista Cruiser.	350-4	A3	5,000	3.23	9.4	2.0	17	2.2	.1
			Cutlass	350-4	M4	4,500	3.23	8 3	1.9	29	2.7	.1
			Cutlass Supreme Vista Cruiser.	350-4	M3	5,000	3.23	9.9	2.4	29	2.4	.1
Oldsmobile—Cutlass, Cutlass S, Cutlass Supreme, Cutlass Salon, Cutlass Supreme Vista Cruiser, Delta 88, Delta 88 Royale, Delta 88 Custom Cruiser, Ninety Eight, Toronado.	455	GM-302	Ninety Eight	455-4	A3	5,500	2.73	8.9	1.8	28	2.6	.2
			Delta 88	455-4	A3	5,000	2.73	10.2	1.9	30	2.8	0
			Delta 88 Station Wagon.	455-4	A3	5,500	3.23	8.9	1.4	18	2.7	0
			Cutlass	455-4	M4	4,500	3.42	7.5	1.7	25	2.2	.4
			Toronado	455-4	A3	5,500	3.07	7.9	2.0	18	2.5	0
Buick—Apollo, Apollo Custom, Century, Century 350, Century Luxus, Regal, Gran Sport 350, LeSabre, LeSabre Custom, Centurian.	350	GM-401	Century	350-2	A3	4,500	2.73	10.2	2.7	25	2.8	1.3
			LeSabre	350-4	A3	5,000	3.08	10.5	2.8	23	2.4	0
			Century	350-4	A3	4,500	3.42	10.5	2.9	28	1.8	.2
			Gran Sport	350-4	M4	4,500	3.42	10.0	3.1	23	1.8	.1
Buick—Century, Century Luxus, Century Regal, Gran Sport 455, LeSabre, Centurian, Estate Wagon, Electra, Riviera, Riviera GS.	455	GM-402	Electra	455-4	A3	5,500	2.73	8.2	2.0	19	2.2	.3
			do	455-4	A3	5,500	2.73	8.7	2.4	29	2.3	.1
			Gran Sport 455.	455-4	M4	4,500	3.42	8.7	2.1	26	1.6	0
			do	455-4	A3	4,500	3.42	9.8	2.5	18	2.5	0
Cadillac—Calais, Deville, Fleetwood Sedan, Fleetwood Limousine, Eldorado.	472-500	GM-501	Calais	472-4	A3	5,500	2.93	8.5	2.2	25	1.7	.3
			do	472-4	A3	5,500	2.93	8.8	1.7	26	1.8	.2
			do	472-4	A3	5,500	3.15	8.8	1.8	13	1.8	.5
			Eldorado	500-4	A3	5,500	3.07	8.1	1.9	19	2.4	.4
Opel—1900, GT, Manta, Manta Rallye, Manta Luxus.	115.8	GM-601	Opel 1900	115.8-2	M4	2,500	3.44	23.8	2.4	30	1.9	0
			do	115.8-2	M4	2,500	3.67	21.4	2.9	22	1.6	.1
			do	115.8-2	A3	2,500	3.44	20.0	2.5	34	2.1	
Glassic Industries: Phaeton, Roadster	302	302	Phaeton	302-2	A3	2,750	3.00	12.3	2.2	36	1.0	.2
Honda:												
SB1 2-door sedan	71	EB	Honda	71-2	M4	1,750	4.93	23.6	2.1	23	1.7	0
SB1 3-door sedan			do	71-2	M2	1,750	4.12	25.8	1.8	15	1.7	0
International Harvester:												
Scout 4x2, Scout 4x4, 1010 Pickup, 1010 Travelall, 1110 Pickup 4x2, 1110 Pickup 4x4, 1110 Travelall 4x2, 1110 Travelall 4x4, 1210 Travelall 4x2, 1210 Travelall 4x4.	258	6-258	Scout	258-1	M3	4,000	3.73	13.1	1.0	26	2.0	.1
			1110 Pickup	258-1	M3	4,000	3.73	12.9	1.7	28	2.6	.4
			do	258-1	A3	5,000	3.54	10.6	1.1	25	2.9	.1
			do	258-1	M3	5,000	4.56	10.5	2.2	34	2.1	0
Scout 4x2, Scout 4x4, 1010 Pickup, 1010 Travelall, 1110 Pickup 4x2, 1110 Pickup 4x4, 1110 Travelall 4x2, 1110 Travelall 4x4, 1210 Travelall 4x2, 1210 Travelall 4x4.	304	V-304	do	304-2	M3	4,500	3.54	10.2	3.1	35	2.2	0
			Scout 4x4	304-2	M3	4,000	3.73	12.0	2.4	27	1.6	.3
			1010 Travelall	304-2	A3	5,000	4.10	10.4	2.4	25	2.7	.1
			1210 Travelall	304-2	M4	5,000	4.56	9.8	2.1	36	2.1	.2
Scout 4x2, Scout 4x4, 1010 Pickup, 1010 Travelall, 1110 Pickup 4x2, 1110 Pickup 4x4, 1110 Travelall 4x2, 1110 Travelall 4x4, 1210 Travelall 4x2, 1210 Travelall 4x4.	345	V-345	1010 Travelall	345-2	A3	5,000	3.54	9.2	2.3	20	2.8	0
			Scout	345-2	M4	4,500	3.73	8.2	2.6	28	1.4	.3
			1210 Travelall	345-2	M3	5,500	4.56	8.2	1.8	23	2.3	.1
			1110 Travelall	345-2	A3	5,000	3.07	9.9	2.9	28	2.7	.1
1010 Pickup, 1010 Travelall, 1110 Pickup 4x2, 1110 Pickup 4x4, 1110 Travelall 4x2, 1110 Travelall 4x4, 1210 Travelall 4x2, 1020 Travelall 4x4.	392	V-392	1210 Travelall	392-4	A3	5,500	3.73	9.0	2.9	34	2.7	1.7
			1010 Travelall	392-4	A3	5,500	3.54	7.3	2.0	32	2.9	0
			1210 Travelall	392-4	M4	5,500	4.56	7.8	1.7	27	2.8	0
1010 Pickup, 1010 Travelall	401	V-400	1010 Pickup	401-2	A3	5,000	3.54	9.6	2.2	24	2.0	1.2
			1010 Travelall	401-2	A3	5,000	3.54	9.8	2.4	27	2.0	.8
			do	401-2	A3	5,000	3.07	10.1	4.2	23	2.1	1.8
Isuzu: Luv	110.8	G180	Luv	110.8-2	M4	2,750	4.56	16.6	1.9	27	2.7	.5
			Luv	110.8-2	M4	2,750	4.56	17.1	2.1	23	2.8	.3
Jensen Motors, Ltd.: Jensen Healey I	120.5	907	Jensen Healey I.	120.5-2	M5	2,500	3.73	19.7	2.8	27	2.8	.3
			do	120.5-2	M5	2,500	3.73	22.1	2.8	16	2.8	.1
Lamborghini: Espada 400GT, Jarama 400GT	239.7	L-403	Espada 400GT	239.7-12	M5	4,000	4.50	7.2	1.3	20	.8	0
			Jarama 400GT	239.7-12	M5	4,000	4.50	7.3	1.8	17	.8	0
Maserati: Maserati Bora, Maserati 120	301	107/49	Bora	301-8	M5	4,000	3.77	9.0	.4	15	1.1	0
			120	301-8	M5	4,000	3.77	7.9	1.1	25	1.3	0
Mercedes-Benz:												
MB 220: diesel—25 m.p.g.	134	I	MB220	134-1	A4	3,500	3.92	13.2	1.7	19	2.2	0
			MB220	134-1	M4	3,500	3.92	16.2	1.7	13	1.8	0
MB 280/280C	167.5	II	MB280/280C	167-5-4	A4	3,500	3.92	13.0	2.8	34	1.9	0
			do	167.5-4	A4	3,500	3.92	13.1	2.0	26	2.5	0
MB280SE/1-4.5, MB280SEL/1-4.5, MB300SEL/1-4.5, MB107(350SL-4.5).	276	III	MB107	276-FI	A4	4,000	3.07	13.1	2.6	31	2.7	.2
			MB280SEL/1-4.5	276-FI	A4	4,000	3.23	12.7	2.6	29	2.7	.2
Mitsubishi Motors: Dodge Colt	97.5	4G3SEM-02	Dodge Colt	97.5-2	A3	2,500	3.88	22.7	1.7	30	1.8	.2
			do	97.5-2	M4	2,500	3.88	22.5	2.5	26	2.1	.3
Nissan Motor Co.:												
KLB110U, LB110TRU, KLB110AU	71.5	Nissan-1 A-12.	KLB110U	71.5-2	M4	2,000	3.90	27.8	1.7	16	1.7	0
			LB110TRU	71.5-2	M4	2,000	3.90	28.7	1.7	14	1.4	0
			KLB110AU	71.5-2	A3	2,000	3.90	27.0	1.5	19	1.5	0
PL620TU, RPL510STU, RPL510STAU	97.4	Nissan-2 L16.	PL620TU	97.4-2	M4	2,500	4.37	23.1	1.7	13	1.3	0
			RPL510STU	97.4-2	M4	2,500	4.37	20.7	1.8	16	1.4	.1
			RPL510STAU	97.4-2	A3	2,500	4.11	20.7	2.1	20	1.6	0
HLS30U, HLS30AU	146	Nissan-3 L24.	HLS30U	146-1	A3	2,750	3.54	13.9	2.9	20	1.8	.5
			HLS30U	146-1	M4	2,750	3.36	15.8	2.8	14	1.5	0
			HLS30AU	146-1	M4	2,750	3.36	15.0	2.5	13	1.4	0
WPL610TU, PL610TU, WPL610ATU	108	Nissan-4 L18.	WPL610TU	108	M4	2,750	3.89	18.1	1.5	19	1.7	.7
			PL610TU	108	M4	2,500	3.90	18.3	1.9	27	1.7	.2
			WPL610ATU	108	A3	2,750	3.89	20.9	1.6	15	1.5	.2
Peugeot:												
504 sedan, 504 station wagon	120	XNI	504XNI	120-2	A3	3,000	3.78	17.0	.6	25	1.3	.2
			504XN1	120-2	M4	3,000	3.78	16.8	1.3	14	1.0	0
Porsche:												
911T, 911E, 911S, 914/6(T), 914/6(E), 914/6(S)	142.4	1	911T	142.4-FI	M4	2,750	4.43	16.8	2.3	18	2.2	0
			911T	142.4-FI	M5	2,750	4.43	15.8	2.7	7	1.8	0
			911T	142.4-FI	(1)	2,750	3.86	13.8	2.7	16	3.0	0
			911S	142.4-FI	M5	2,750	4.43	14.3	3.0	18	1.9	0
911T	142.8	III	911T	142.8-FI	M5	2,750	4.43	18.8	2.4	25	2.2	0
			911T	142.8-FI	M4	2,750	4.43	18.2	2.3	36	2.0	0

	Engine family		Test vehicle						Certification levels			
									Exhaust emissions (grams mile)			Evaporative emissions (gms/test)
Manufacturer (models)	Displacement (cubic inches)	Family designation	Model	Engine displacement and carburetor venturis	Trans.	Inertia weight class (lbs.)	Axle ratio	Fuel economy (miles per gallon)	Hydrocarbons	Carbon monoxide	Oxides of nitrogen	hydrocarbons
Renault:												
17	99.5	807	17	99.5-FI	M4	2,750	3.77	18.4	2.4	15	2.6	0
			17	99.5-FI	M4	2,750	3.77	19.0	2.6	22	2.5	0
12	100.5	841	12	100.5-2	M4	2,500	3.77	19.7	1.7	31	1.9	0.1
			12	100.5-2	A3	2,500	3.55	18.9	.9	34	2.0	.1
			12	100.5-2	M4	2,500	3.77	20.6	2.0	27	2.6	.1
			12	100.5-2	A3	2,500	3.55	19.7	1.1	35	2.4	0
Rolls-Royce:												
Silver Shadow, Corniche, Corniche Mark II, Bentley "T" Series, Bentley Corniche.	412	-1	Silver Shadow.	412-2-	A3	5,000	3.07	9.2	2.7	33	2.2	.1
			do	412-4	A3	5,000	3.07	8.0	2.6	38	2.8	.1
SAAB, USA:												
Saab 95, Saab 96, Saab 97 Sonett	103.5	P	Saab 95	103.5-1	M4	2,500	4.88	18.8	2.4	30	2.5	.5
			Saab 97 Sonett.	103.5-1	M4	2,250	4.66	21.7	1.9	18	2.1	7
			do	103.5-1	M4	2,250	4.66	20.3	2.3	37	2.2	00
Saab 99L, Saab 99 LE and EMS, Saab 99LE Automatic.	121	B20	Saab 99	121-1	M4	2,750	3.89	18.8	1.7	23	2.2	
			do	121-FI	M4	2,750	4.22	18.6	2.7	26	2.0	.4
			do	121-FI	A3	2,750	3.89	17.8	1.8	23	2.4	.4
S. S. Auto:												
Excalibur Phaeton, Excalibur Roadster	454	GM-105	Excalibur Phaeton.	454-4	A3	4,000	3.08	10.1	1.9	13	2.5	.1
Toyo Kogyo Co., Ltd.:												
Mazda 808—SN3A Sedan, SN3A Coupe, SN3AV Station Wagon. Mazda B1600-BNA61 Pickup.	96.82	Toyo-1	808 Sta. Wagon.	96.82-2	M4	2,500	3.70	23.4	2.8	22	1.5	.1
			do	96.82-2	A3	2,500	4.11	19.0	2.0	26	2.1	.1
			B1600 Pickup	96.82-2	M4	2,750	4.37	23.7	2.4	19	1.7	.2
			do	96.82-2	M4	2,750	4.37	19.9	2.3	19	1.6	.1
Toyo Kogyo Co. Ltd.:												
Mazda 618—SV2A sedan, SV2A coupe. Mazda B1800—BVD61 Pickup Courier—SGTA Pickup.	109.6	Toyo-2	618 coupe	109.6-2	M4	2,500	3.90	19.6	2.3	25	1.7	.1
			do	109-6.2	A3	2,500	4.11	18.3	1.3	31	1.6	.2
			B1800 Courier	109.6-2	M4	2,750	4.11	15.9	2.5	25	1.6	.3
			do	109.6-2	M4	2,750	4.11	18.8	2.4	17	2.1	.1
Mazda RX-3—S124A sedan, S124A coupe, S124W station wagon. Mazda RX-2—S122A sedan, S122A coupe. Mazada RX-4—S125A sedan, S125A coupe.	[9]35.0×2	Toyo-3	RX-3 coupe	35.0×2-4	M5	2,500	3.78	13.5	2.4	20	.9	0
			RX-2 coupe	35.0×2-4	M4	2,750	3.90	12.4	1.9	18	1.0	0
			do	35.0×2-4	A3	2,750	3.90	12.3	2.0	16	1.1	0
Toyota Motor Co.:												
Corolla-1 sedan, Corolla-1 coupe	71	3K-C	Corolla-1	71-2	M4	2,000	4.22	24.8	1.9	21	1.4	.2
			do	71-2	M4	2,000	4.22	27.1	2.0	17	1.4	.4
Corolla-2 sedan, Corolla-2 coupe, Corolla-2 station wagon, Carina sedan.	97	2T-C	Corolla-2	97-2	A2	2,250	4.11	22.6	2.5	25	1.4	.2
			do	97-2	M4	2,250	3.90	20.8	2.3	27	1.7	.2
			Carina	97-2	M5	2,500	4.30	20.4	2.3	23	1.7	.2
			do	97-2	A3	2,500	4.30	19.9	2.4	28	1.8	.1
Celica Hard Top, Corona sedan, Corona station wagon, Corona ½-ton pickup.	120	18R-C	Corona	120-2	A3	2,500	3.90	18.5	1.2	21	2.0	0
			do	120-2	M4	2,750	3.90	17.2	1.3	21	1.9	.1
			do	120-2	A3	2,750	3.90	17.6	1.6	22	1.3	.3
				120-2	M4	2,750	4.11	17.2	2.2	27	1.2	.1
Toyota Motor Co.:												
Corona Mk. II Sedan, Corona Mk. II Hardtop, Corona Mk. II Station Wagon, Crown Sedan, Crown Hardtop, Crown Station Wagon.	156	4M	Corona Mk. II.	156-2	A3	3,000	3.90	15.4	2.2	21	2.1	.1
			do	156-2	M4	3,000	3.90	15.2	2.0	20	1.9	.1
			Crown	156-2	M4	3,500	4.11	13.7	2.5	22	2.4	0
			do	156-2	A3	3,500	4.38	14.7	2.8	23	2.4	.3
Land Cruiser Hardtop, Land Cruiser Softtop, Land Cruiser Station Wagon.	236	F	Land Cruiser	236-2	M3	4,000	4.11	12.6	2.1	24	1.7	.2
			do	236-2	M3	4,000	4.11	11.9	1.5	16	1.8	.2
TVR: 2500M	152	TB	2500M	152-2	M4	2,750	3.70	17.8	2.3	29	2.3	.5
			do	152-2	M4	2,750	3.70	18.1	2.1	20	2.8	.2
Volkswagen AG:												
Deluxe Sedan 11, convertible 15, Fastback sedan 31, Squareback Sedan 36, Karmann Ghia 14.	96.6	1	Sedan 11	96.6-1	M4	2,250	4.13	21.7	3.1	37	3.0	0
			do	96.6-1	M4	2,250	4.13	23.6	3.3	36	2.4	0
			do	96.6-1	M4	2,250	4.13	22.0	3.4	34	1.6	0
			do	96.6-1	SA	2,250	3.88	21.3	2.1	29	2.6	0
			Squareback 36.	96.6FI	M4	2,500	4.13	21.0	2.5	16	2.7	.1
			do	96.6FI	A3	2,500	3.67	21.2	1.8	16	2.1	.1
Station Wagon 22/24, Combi 23, Campmobile 23, panel truck 21, Pickup 26, Pickup Double Cabin 26, Sedan 41/42, Squareback Sedan 46, Roadster 914/4.	102.5	2	Combi 23	102.5-2	M4	3,500	5.38	15.2	2.4	33	3.0	0
			do	102.5-2	A3	3,500	4.45	18.3	2.2	33	2.9	0
			do	102.5-2	M4	3,500	5.38	15.5	1.6	24	3.0	0
			do	102-5.2	A3	3,500	4.45	16.8	2.5	39	2.8	0
			Squareback 46.	102.5FI	M4	2,750	3.91	18.8	3.1	20	2.5	0
			do	102.5FI	A3	2,500	3.91	21.9	2.0	14	2.8	.2
			Roadster 914/4.	102.5FI	M5	2,500	4.43	19.6	3.4	26	2.7	0
			do	102.5FI	M5	2,500	4.43	17.3	3.1	29	3.0	0
Roadster 914/4	120	3	do	120FI	M5	2,250	4.43	19.5	3.1	26	2.0	0
			do	120FI	M5	2,250	4.43	19.3	2.5	26	1.9	0
Volvo:												
142, 144, 145, 183	121	B20F	145	121-FI	M4	3,000	4.10	17.7	3.2	30	1.7	.3
			145	121-FI	A3	3,500	4.10	15.3	2.0	22	2.4	.4
			183	121-FI	M5	3,000	4.30	17.0	1.8	16	2.1	.2
164	182	B30F	164	182-FI	M5	3,500	3.73	13.4	3.0	28	2.6	0
			164	182-FI	A3	3,500	3.31	14.5	2.4	13	2.3	0
			164	182-FI	A3	3,500	3.31	15.0	3.1	16	2.3	0
142, 144, 145	121	B20B	145	121-2	M4	3,000	4.30	18.4	3.3	29	2.5	0
			145	121-2	A3	3,500	4.30	20.3	2.3	24	2.7	0

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[3] Sptom.

[9] Wankel.

1973 MODEL YEAR HEAVY DUTY GASOLINE ENGINES

Manufacturer	Engine family: Displacement (cubic inches)	Engine family: Family designation	Test engine displacement (cubic inches)	Certification levels (exhaust emissions): Hydrocarbons (parts per million)	Certification levels (exhaust emissions): Carbon monoxide (percent)
Chrysler Corp	225	RG	225	178	0.83
			225	81	.31
			225	152	1.01
	318	LA	318	145	.93
			318	116	.66
	360	LA	360	171	.52
			360	134	.69
	361	LB	361	126	.36
			361	224	.64
			361	146	.53
			361	175	.57
	400	B	400	112	.25
	413	RB	413	83	.59
			413	119	.37
			413	127	.77
	440	RBM	440	122	.60
			440	106	.57
			440	110	.49
Diamond Reo	331	I-6	331	172	.60
			331	198	1.30
	400	I-6	400	129	.47
	468	V-8	468	97	.53
Ford Motor Co	240	240-300	300	96	.41
	300		300	161	.48
	302	302	302	161	.24
	330	330-361-391	(MD) 330	199	1.06
	361		(HD) 330	160	.59
	391		361	120	.25
			391	170	.80
	360	360-390	360	207	0.74
	390		390	239	.44
	401	401-477-534	401	129	.30
	477		477	102	.29
	534		534	123	.43
General Motors Corp	250	GM-111	250	130	.59
			250	94	.43
	292	GM-112	292	106	.43
			292	63	.46
			292	42	.31
	307	GM-113	307	139	.92
	350		350	100	.71
			350	109	1.25
			350	161	.99
	366	GM-114	366	114	.36
	427		366	77	.49
			427	121	.57
			427	62	.46
	454	GM-115	454	110	.59
			454	70	.36
	455	GM-202	455	163	1.06
	455	GM-312	455	79	.53
	472	GM-501	472	170	.43
	379	GM-811	379	221	1.09
	432		379	92	.41
	478		432	161	1.09
			478	76	.57
	637	GM-312	637	115	1.13
	305	GM-813	305	186	1.12
Jeep Corp	360	III	360	84	.41

1973 MODEL YEAR HEAVY DUTY DIESEL ENGINES

Manufacturer (models)	Engine family: Engine air aspiration	Engine family: Family designation	Test engines: Model	Test engines: Rated horsepower	Test engines: Maximum torque	Smoke emissions: Acceleration mode (percent opacity)	Smoke emissions: Lug-down mode (percent opacity)
AB Scania Vabis:							
END475	Natural	No. 2	END475	155	385	5.6	9.1
			END475	155	385	7.2	6.7
ENDT475	Turbocharged	No. 1	ENDT475	190	470	12.5	4.4
			ENDT475	190	470	7.1	
Allis Chalmers:							
21000	do	21000	21000	375	1,055	26.5	18.7
			21000	375	1,055	24.9	13.5
25000	do	25000	25000	450	1,250	30.9	9.6
			25000	450	1,250	25.5	6.9
3500	do	3500	3500	175	428	23.5	14.3
			3500	175	428	24.0	15.4
Caterpillar Tractor Co.:							
1140, 1145	Naturally aspirated	1	1145	160	326	20.7	10.6
			1145	160	326	20.2	11.1
1150	do	2	1150	185	403	23.9	11.4
			1150	185	403	26.4	13.4
1160	do	3	1160	210	474	20.8	12.1
			1160	210	474	19.8	7.1
1673C, D333	Turbocharged	4	1673C	250	690	18.5	4.0
			1673C	250	690	12.0	3.0
Caterpillar Tractor Co.:							
1674	Turbocharged/aftercooled	5	1674	300	805	16.7	2.0
			1674	300	805	21.2	2.5
1693	Turbocharged	6	1693	325	1,055	26.0	3.5
			1693	325	1,055	22.0	3.5
1693	Turbocharged/aftercooled	7	1693	425	1,275	33.5	3.0
			1693	425	1,275	28.5	2.5
Cummins Engine Co.:							
927-TC-350	Turbocharged	182	350	350	1,002	14.8	5.4
			350	350	1,002	10.9	4.0
NTA-927-400	Turbocharged/aftercooled	183	400	400	1,200	18.0	9.2
			400	400	1,200	15.6	8.6
NTF-365	Turbocharged	092	365	365	930	12.6	3.9
			365	365	930	20.6	5.0
NTA-414	Turbocharged/aftercooled	093	414	414	1,200	28.2	9.4
			414	414	1,200	35.6	9.7
V-903-C320	Naturally aspirated	171	320	307	707	17.0	18.1
			320	307	707	17.6	16.6
NHF-240	do	091	240	240	658	11.9	13.7
			240	240	658	10.9	12.9
V-378	do	201	155	149	290	8.6	5.5
			155	149	290	12.3	9.7
V-504	do	211	210	202	387	10.4	10.1
			210	202	387	10.7	11.4
Cummins Engine Co.:							
V-555	Naturally aspirated	221	230	230	425	9.3	11.0
			230	230	425	14.8	16.8
VT-1510	Turbocharged	152	635	635	1,790	11.7	3.8
			635	635	1,790	11.0	3.0
Super 250/270	Naturally aspirated	181	260	260	720	14.4	13.0
			260	260	720	16.0	16.2
VT-903 w/o aneroid	Turbocharged	172	320	320	775	9.2	1.9
			320	320	775	10.8	1.2
VT-903 w/aneroid	do	172	350	350	848	12.7	3.4
			350	350	848	13.2	6.4
VT-555 w/aneroid	do	222	240	240	447	12.4	3.1
			240	240	447	16.6	5.0

Manufacturer (models)	Engine family		Test engines			Smoke emissions	
	Engine air aspiration	Family designation	Model	Rated horsepower	Maximum torque	Acceleration mode (percent opacity)	Lug-down mode (percent opacity)
General Motors Corp.:							
3L-53N	Naturally aspirated	L-53N	4L-53N	136	282	5.0	4.4
4L-53N			4L-53N	136	282	5.0	3.5
6V-53N	Naturally aspirated	V-53N	8V-53N	275	577	12.1	4.6
8V-53N			8V-53N	275	577	9.9	5.3
3L-71N(4V)	Naturally aspirated	L-71N(4V)	6L-71N(4V)	250	610	11.5	4.0
4L-71N(4V)			6L-71N(4V)	250	610	6.1	2.0
6L-71N(4V)							
6V-71N(4V)	Naturally aspirated	V-71N(4V)	12V-71N(4V)	500	1,220	8.5	3.8
8V-71N(4V)			12V-71N(4V)	500	1,220	5.8	4.1
12V-71N(4V)							
6V-71N(4V)	Naturally aspirated	V-71N(4V)	8V-71N(4V)	262	730	1.4	1.3
8V-71N(4V)		Coach	8V-71N(4V)	262	730	1.2	1.3
6V-71N(2V)	Naturally aspirated	V-71N(2V)	6V-71N(2V)	184	528	3.9	3.7
		Coach	6V-71N(2V)	184	528	3.6	3.2
6L-71T	Turbocharged	L-71T	6L-71T	262	725	8.9	2.0
			6L-71T	262	725	13.4	1.7
6V-71T	Turbocharged	V-71T	12V-71T	525	1,450	12.4	2.5
8V-71T			12V-71T	525	1,450	11.0	2.8
12V-71T			12V-71T (military)	600	1,470	13.3	12.1
12V-71T (military)			do	600	1,470	12.4	6.2
DH-478 (truck)	Naturally aspirated	DH	DH-478 (truck)	165	337	10.8	12.7
DH-478 (coach)			do	165	337	9.6	12.2
White Motor Corp.: Hercules—LDT-465-1C	Turbocharged	LDT465	LDT-465-1C	140	335	22.6	11.2
			LDT-465-1C	140	335	20.4	11.4
Hino: EB300	Naturally aspirated	EB	EB300	165	435	5.7	5.7
			EB300	165	435	9.4	11.2
Mack Trucks, Inc.:							
END673E	do	No. 1	END673E	180	540	5.2	4.5
			END673E	180	540	4.4	3.0
END707	do	No. 2	END707	200	557	5.3	6.1
			END707	200	557	3.6	3.9
ENDT673, ENDT673Mil, ENDT673A, ENDT673B, ENDT673C, ENDT675, ENDF673, ENDTF673C.	Turbocharged	No. 3	ENDT675	235	906	16.8	6.8
			ENDT675	235	906	17.2	3.7
END864C	Naturally aspirated	No. 4	END864C	270	673	6.9	11.9
			END864B	270	673	5.6	7.9
ENDT864	Turbocharged	No. 5	ENDT864	300	792	8.5	5.9
			ENDT864	300	792	6.7	5.0
ENDT865, ENDDT865, ENDTB865, ENDDTB865, ENDT866, ENDTB866.	do	No. 6	ENDT865	322	1,100	35.4	15.2
			ENDT865	322	1,100	31.6	9.2
Perkins Engine Co.:							
NA 80	Naturally aspirated	No. 1	NA 80	79	185	7.6	6.3
			NA 80	79	185	7.6	8.0
NA 120	do	No. 2	NA 120	116	270	10.9	14.1
			NA 120	116	270	11.7	9.5
NA 180	do	No. 3	NA 180	174	382	16.5	14.1
			NA 180	174	382	9.0	7.3
Teledyne Continental Motors: LED-500	Turbocharged	LED-500	LED-500/200	200	434	12.6	4.8
			LED-500/200	200	434	12.6	3.4

SENATOR RANDOLPH BELIEVES MAJOR ENERGY SAVINGS WILL COME THROUGH CAR POOLING AND IMPROVED BUILDING DESIGN—URGES APPROVAL OF S. 2176

Mr. RANDOLPH. Mr. President, historically, as a Nation, we have been accustomed to abundant, low-priced energy. In recent months, however, there has been considerable discussion of the full societal consequences of our projected energy growth for national security and environmental quality.

Yet, growth has been inherent in the American psyche and fundamental to the viability of our economic system. As I have stated repeatedly, the cumulative effect of all these factors is a disturbing picture. It reveals our country, and numerous others, as embarked on a gigantic gamble that reliable and abundant production of crude oil, natural gas, and coal from all sources—domestic and foreign—will ensue.

It is startling to note that in 1960 our energy demands, when stated in terms of oil or a so-called oil equivalent, were 21 million barrels of oil per day. In 1970 this figure had reached 34 million barrels per day and is projected to increase to 48 million barrels by 1980.

Even more revealing is the per capita energy demand in oil equivalent. In 1960 it was 44 barrels per person per year; in 1970 it was 60 barrels; and for 1980, according to current estimates, it will be 77 barrels of oil per person per year.

The basic fact is that our country's appetite for fuel is enormous. Yet recent energy supply shortages raise questions regarding our capability to sustain past growth in demand. Events have transformed our Nation's domestic fuel supplies into one large deficit.

The time is long overdue to put into effect a comprehensive national program of energy conservation, designed to accommodate as much as possible of our future growth in energy consumption through the more efficient conversion and consumption of energy. The potential is reportedly there for a 30- to 40-percent increase in the amount of usable energy from the same quantity of basic resources we are using today. By 1980, energy savings could amount to as much as 7.3 million barrels of oil a day.

Federal energy conservation initiatives designed to achieve this objective can serve to both mitigate our dependence on oil imports as well as stabilize our total consumption of basic energy resources. Several possibilities were outlined in my January 16, 1973, Senate remarks. At that time, I proposed to—

Upgrade the 1971 FHA home insulation standard;

Establish Federal guidelines for the incorporation of energy conservation practices in new buildings—mandatory for new Federal and Federally insured buildings and homes;

Establish a national program of consumer education to foster more efficient use of energy in our daily lives;

Develop and publish Federal guidelines for the labeling of electrical equipment to reflect efficiency of energy utilization; and

Initiate comprehensive national review of the potential for energy conservation within the transportation sector of our economy, hopefully, to lead to the adoption of Federal policies for fostering energy conservation in this end use.

These alternatives for fostering energy conservation, and other significant opportunities, are addressed in S. 2176, the National Fuels and Energy Conservation Act of 1973. This measure is a product of the Senate's national fuels and energy policy study and was ordered reported by the Committee on Interior and Insular Affairs on September 13, 1973.

Mr. President, the ultimate success of energy conservation policies must rely on the cooperation of all sectors of our society who produce and consume energy, from the mining and petroleum recovery interests to industry, to commerce, and to the individual consumer.

Affected are all aspects of our personal lives and our means of livelihood. Thus, conservation must be on the list of top priorities if the United States is not to experience continuing shortages in energy supplies. Many examples can be selected from our present uses of energy that are inexcusably wasteful in the light of this country's, and the world's, projected energy plight.

Since the end of World War II, virtually every city in the United States—and throughout the world—has experienced an unprecedented building boom. In response to escalating costs of construction over the years, architects and structural engineers often have taken shortcuts in building design in an effort to economize on construction costs. Thus, the conventional masonry-faced high-rise building, with movable window sash, has given way to the curtain wall and modular construction. Glass areas now are composed of tinted, solar-reducing, reflective, or double glazing.

The resultant heat gains during the summer and the radiation losses during the winter are large. Consequently, large heating and cooling systems also must be installed which consume fuel and electric power to reduce or replenish—depending upon the season—the heat energy acquired from, or dissipated to, the great outdoors.

During summer hot spells, the central air-conditioning system must work overtime to lower the interior temperatures produced by a blazing sun heating the conducting glass and curtain walls. During winter freezes, the heating system must operate at its capacity. And, improper or insufficient insulating materials incorporated into the architectural design further militate against economies in heating and cooling.

In the past, one of the primary reasons for lack of adequate insulation has been that energy has been both cheap and plentiful. Capital costs also were considered more important than energy savings over the long haul. Our fuel shortages, however, require a reassessment of such cost-benefit priorities. It is imperative that public policy demand higher standards of energy use and efficiency at the risk of rising construction and materials costs.

The New York State Public Services Commission has calculated that if all new buildings were properly insulated as well as electrically heated, the superior insulation alone would save roughly 40 percent in the new energy demand resulting from this construction. By 1980, this savings alone could amount to 5 to 6 percent of our total national oil requirements.

At the present time, Mr. President, the Federal Government owns and operates about 410,000 buildings within the United States. In addition, there are some 7,123 hospitals; 114,287 schools; and about 20 million multifamily dwelling units. A substantial portion of these have been constructed with federally insured funds.

In 1974 alone, it is forecast that there will be constructed an additional 205 million square feet of office space at a cost of $6 billion; some 145 million square feet of educational buildings at a cost of $5 billion; about 85 million square feet of hospital and health areas at a cost of $3.8 billion; and some 750 million square feet of apartments at a cost of $13 billion. A substantial portion of this space will be either for Federal purposes or will be constructed under federally insured grants.

Looking beyond next year to the next two decades, the expansion of building in the United States is likely to be quite substantial. And a large portion of the expected 25 million dwelling units by 1990 will be either federally financed or insured structures. At the same time, on the commercial side, it is expected that there will be an additional 13 billion square feet of office space.

The information I have gathered on this matter has impressed me quite dramatically. Through the proper choice of energy systems for the extensive new construction I have mentioned, there is a very substantial potential for saving in both natural energy resources and dollars.

Thermal insulation in homes is hardly a new concept; it has been employed for more than half a century to improve heating economy and reduce outside cold-wall effects in winter. Rock wool was one of the earliest materials used in walls and between attic roof rafters. However, in recent years, central heating and cooling systems have demanded improved insulating materials to increase the efficiency of these systems. These improved materials are reflected in the Federal Housing Administration—FHA—Minimum Property Standards for single and multifamily housing units.

The potential energy savings through improved insulation in homes indicate that if the June 1971, FHA insulation standards were followed, energy savings could amount to 29 percent for a home heated with gas and 19 percent where heated by electricity. Electrically heated homes already require more insulation. By upgrading the 1971 FHA standard, the energy savings for a gas heated home could approach 50 percent. For the home owner, this could amount to an annual savings of as much as $155 at today's natural gas prices and even larger savings at anticipated future prices.

In fact, a National Mineral Wool Association study indicated that "8200 trillion Btu's—24000 x 10^8 kWh—could be saved in the next decade if 75 percent of new housing units are constructed in compliance with new FHA standards." This savings represents slightly more than the present total annual consumption of all fossil fuels.

Heating, ventilation, and air conditioning systems in many buildings operate constantly, whether or not interior spaces are occupied by personnel. But advanced-type control systems similar to those in New York's World Trade Center and other large building projects, are being employed to monitor space conditioning system operation for optimum use efficiency by making corrective adjustments. Such centers can also control lighting systems and the programing of elevator operations.

To prevent the unnecessary waste of energy in building design, a primary consideration in conservation is the optimization of the various subsystems. There is statistical evidence available to prove that institutional buildings, such as schools, have saved as much as 50 percent of their electric lighting bills by the use of automatic controls and daylight.

Accordingly, on September 24, 1973, I introduced legislation that would direct all Federal agencies to consider energy conservation in the construction of Federal facilities and federally insured facilities to the fullest extent consistent with their existing authorities. This measure, S. 2479, the Facilities Construction Energy Conservation Act of 1973, is incorporated in the measure before us as section 6.

The policy set forth in the provision is that each agency of the Federal Government would be required, for all new facilities exceeding 50,000 square feet, to prepare complete life cycle cost analysis. This energy consumption analysis would have to consider the facilities' heating, ventilating, air-conditioning and lighting systems, in addition to other consumer systems. At this time, there is no way to estimate how much of this will be Federal office space, or how much of these finances will be underwritten by the Federal Government. Regardless of this, if the Federal Government takes the lead in requiring a complete life cycle cost analysis, the rest of the U.S. construction industry will tend to follow our lead.

The choice of energy systems for each particular building will differ as a result of the numerous variables to be considered.

Mr. President, as pointed out earlier, savings of up to 50 percent can be achieved in the selection of one system over another for a particular building. As we are all aware, this energy consumption has not been a major concern in building construction. In fact, I am sure many of the buildings under construction at this time will have systems using more energy than identical buildings with a different energy system.

During the early planning stages of a proposed hospital in Los Angeles, four common energy systems were compared using a life cycle analysis such as I have proposed. The energy consumption of the system selected required approximately 30 percent of the energy that would have been required by one of the alternate systems evaluated.

As defined in this section the term "life-cycle costs" means the total cost of the facility including its initial or construction cost and all annual costs for maintenance, repairs, utilities—energy sources—and replacement necessary for continued operation of the facility.

As part of a life cycle analysis of this type, the orientation, insulation, types of windows, types of equipment, usage profiles, et cetera, will be experimented with to determine the optimum combination with regard to energy consumption. In other words, optimum combinations will differ because of architectural design and functional differences.

This measure has received support from many sectors. The General Services Administration has endorsed the measure stating:

> Over the past three years GSA has vigorously promoted the conservation of energy in the design of new Federal office buildings. We wholeheartedly concur with the purpose of Chairman Randolph's bill. We currently have a number of projects and studies underway which will lead to the development of more meaningful performance

specifications for energy conservation in Federal office buildings.

The American Gas Association also wrote me expressing their support, commenting that:

> The concept of an energy-oriented life cycle cost analysis has great potential with respect to energy resources and operating dollar savings. I can also see significant initial construction savings that may accrue as a result of being able to predict environmental factors and thereby avoid overdesign.
>
> There are features of the bill which closely parallel recommendations for a computerized energy analysis model that we have been promoting for several years; and while the bill is aimed at Federal, or Federally insured, construction, the techniques that develop are certain to become standard for the industry.
>
> I cannot think of a recent piece of legislation that has more interesting, positive ramifications and benefits for a large segment of our population.
>
> Again, we at A.G.A. strongly support your fine bill and urge swift passage by the Senate.

Mr. President, in addition to energy conservation, I would like to make the following observation about the potential savings which we can expect to derive from the effective implementation of this bill. Not only would we build in our country structures which utilize scientifically optimum heating and cooling plants, but there would be a long-term reduction in their operating costs. By completing in advance preliminary analyses on each major structure we should, in many instances, be able to take advantage of favorable environmental factors and to avoid overdesign. In the process, great savings are possible in initial costs.

As the methodologies for life-cycle energy analysis are refined, their costs will be minimal when compared to the dollar savings generated and the energy resources conserved.

It is mandatory that measures be taken at this time to insure minimum energy consumption of the new structures I have mentioned. For this reason, the Facilities Construction Energy Conservation Act of 1973 is an amendment to S. 2176. This measure will help us make substantial progress toward achieving this objective.

Mr. President, the shortage of gasoline and its impact on individual mobility is probably the most widely felt effect of the energy shortage. It is all but inevitable that the gasoline shortage will become increasingly severe in the months immediately ahead.

Motor vehicles in the United States are now burning fuel at the rate of 115 billion gallons a year. Obviously, even a modest reduction in this demand can have a substantial impact on our fuel supply situation.

There are several practical methods that can be instituted in a relatively short time to reduce gasoline consumption. In many States speed limit reductions have already been put into effect to save gasoline. Another method is the reduction of car use by carpooling. The spread of private car use has been so great that the average car taking people to work carries only 1.4 persons. Nearly three-quarters of these cars transport only the driver. Merely by increasing this average to 2.3 persons would result in the saving of 200,000 barrels of fuel daily, according to Treasury Department studies.

The urban sprawl which has overtaken our country in the past two decades has separated millions of Americans widely from their places of employment. Any hopes for substantial and successful carpooling will require systems to bring potential riders together. In addition, carpools must be made attractive in other ways, including preferential parking and exclusive or preferential highway lanes.

Mr. President, section 15 of this bill authorizes the Secretary of Transportation to sponsor projects to encourage formulation and use of car pools. The provisions of chapter 15 are similar to those contained in S. 2589, which was introduced on October 18 by Senator DOMENICI, with the cosponsorship of myself and 12 other Senators. Up to $1 million in Federal funds can be spent on any individual project to facilitate and encourage the use of carpools.

Although we have in recent years committed large sums to assist in the expansion of urban transit systems, most of them are still inadequate to accommodate a sudden large influx of new passengers. The gap between the shortage of gasoline for public cars and the expansion of public transportation can be alleviated immediately by carpool operations. The provisions of section 15 provide an adequate and proper commitment to carpooling and the Senator from New Mexico (Mr. DOMENICI) is to be commended for the leadership role he has taken in bringing this measure before us.

Mr. President, the bill before us originated in the Committee on Interior and Insular Affairs last summer at a time when we anticipated an energy shortage but did not anticipate events which would bring the crisis to us in its present proportions. In the form in which we consider it today, the bill also represents substantial input by the Committee on Public Works and the Committee on Commerce, which share with the Committee on Interior and Insular Affairs jurisdiction over the subject matter of this measure. The bill, therefore, is a comprehensive measure addressing a wide variety of energy measures.

Though this legislation was expedited, it is not hastily drawn. It is not a measure proposed in panic under the threat of a substantial energy shortage this winter. Its provisions are intended to alleviate hardship and to provide the long-range tools we need to accommodate our national life to an energy supply less readily available and far more expensive than that to which we have been accustomed. This adjustment will not be easy. It will be, in fact, painful in some instances to people who in the past have not had to worry about energy supplies. I am confident, however, that we have the ability as a nation and the resilience as individuals to adjust to the new realities and from this adjustment to maintain a strong and vigorous nation.

Senator HENRY JACKSON, chairman of the Committee on Interior and Insular Affairs, and Senator WARREN MAGNUSON, chairman of the Committee on Commerce, have provided the leadership and their customary cooperative spirit that enabled us to bring a bill of this nature to the Senate.

Mr. President, the National Fuels and Energy Conservation Act of 1973 deserves the support of the Senate. I urge its adoption.

Mr. ROBERT C. BYRD. Mr. President, I wish to express my strong support for S. 2176, the National Fuels and Energy Conservation Act of 1973, which was reported by the Senate Commerce Committee on November 15, and by the Senate Interior Committee on September 27. From all indications, the energy crisis which we are facing will not measurably improve in the immediate future but will, instead, generate wider repercussions and shortages in industries such as the petrochemical and plastics industries. This winter we will begin to fully appreciate the seriousness of an energy shortage and realize the widespread implications of it. The Middle East crisis has very vividly shown us the need for developing and maintaining a reliable domestic source of energy to meet our own requirements, and the need to conserve and use wisely the energy we do have available.

Even though we can ameliorate our current energy shortage through the imposition of many temporary emergency measures, we will still need to enter into some long-term and permanent policies which will curtail our spiraling energy consumption and make our Nation independent in the energy field. The recent interruption of our oil supplies from the Middle East made it all too apparent that our heavy energy usage, even without this crisis, would indicate the need for some type of remedial action to reduce our heavy per capita usage of energy. The United States has the highest per capita energy consumption in the world. Even more amazing is the fact that, although we comprise only one-sixteenth of the world's population, we consume one-third of the world's energy supplies. For example, gas consumption in the United States has increased 49.7 percent in the 10-year period between 1962 and 1972. During the same period, consumption of heating oil rose 18.4 percent; consumption of natural gas rose 65.1 percent, and consumption of electricity rose 104.6 percent.

Historically, our Government has always responded to our ever-increasing energy needs by increasing the supply by whatever means were available, without questioning the legitimacy of the increase. Our Government has always attempted to satisfy this need by increasing supplies rather than taking, or even considering, any action to curtail energy usage.

We are now in the position of having to take a closer look at these past policies, and since we do not have the domestic supplies available to meet our current needs, much less our projected increases, we have to face the fact that energy conservation has gone from a desirable objective to an absolute necessity.

It is obvious to anyone that when a country like the United States wastes more energy than most countries consume, there is much room for improvement.

S. 2176 declares it to be a national policy of conserving energy resources through more efficient conversion and use; it makes energy conservation an integral part of all programs of the Federal Government; and it encourages an energy conservation ethic among American industry and the consuming public.

I believe S. 2176 will go a long way toward accomplishing these desirable and necessary objectives. And that is why I support this measure.

ORDER FOR CONSIDERATION OF S. 2686, LEGAL SERVICES CORPORATION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the pending business is disposed of, the Senate proceed to the consideration of Calendar No. 471, S. 2686, the Legal Services Corporation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FANNIN. Mr. President, I ask the majority leader what the schedule is for the remainder of today.

Mr. MANSFIELD. Mr. President, for the information of the Senate, first thing tomorrow morning we will take up the railroad legislation affecting the Midwest and the Northeast, to be followed by the OEO legal services measure.

On Wednesday, we will take up the Special Prosecutor measure, to be followed, on a second track, by some other piece of legislation.

On Thursday and Friday, it is hoped that we will be able to take up and dispose of the supplemental and defense appropriation bills.

It is very likely that we will be in on Saturday, so I would urge all Members with Saturday engagements at this time to keep possible cancellations in mind. It is my understanding that it is going to be very difficult to get reservations west after the 19th. We will try to finish by the 20th or 21st, but it will all depend on the degree of cooperation extended by the Senate. May I say that it has been of a very high degree up to this time.

I would hope that it would be possible to get the foreign aid authorization bill out of the Committee on Foreign Relations earlier than Tuesday, at which time hearings are scheduled, because the House has passed the authorization and the appropriation bills. The important factor is to dispose of the appropriation bills before we adjourn.

We have a difficult schedule ahead of us. We will do the best we can to adjourn by the 21st or 22d, earlier if possible. So I would hope that the cooperation, which has been forthcoming up to this time, will continue, with the idea in mind that, if so, it might be possible to adjourn sine die a day or two earlier.

Mr. FANNIN. I thank the majority leader for that very complete report, as I share his concern that if we continue after the 19th, it will be very difficult to get reservations. I have had a report that it is almost impossible to do so. I hope we can finish our business by the 19th or before.

NATIONAL FUELS AND ENERGY CONSERVATION ACT OF 1973

The Senate continued with the consideration of the bill—S. 2176—to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes.

Mr. FANNIN. Mr. President, while I support the concept of energy conservation, I must vote against this bill. Several months ago the Interior and Insular Affairs Committee reported out a conservation bill, S. 2176. which made good sense. The Jackson amendment in the form of a substitute bears little resemblance to the reported bill. It is in conflict with the administration's Federal Energy Administration legislation. It follows the usual pattern of regulate first, and ask questions later. The bill creates more problems than it solves.

Mr. HANSEN. Mr. President, I would like to associate myself with the remarks of the Senator from Arizona. I support the principle of conservation, but cannot in good conscience vote for this bill.

Mr. BARTLETT. Mr. President, I would like to associate myself with the remarks of the Senators from Arizona and Wyoming. Although I support conservation in principle, I cannot support this bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Florida (Mr. CHILES) and the Senator from Georgia (Mr. TALMADGE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 75, nays 15, as follows:

[No. 568 Leg.]

YEAS—75

Abourezk
Baker
Bayh
Beall
Bennett
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Dole
Domenici
Dominick
Eagleton
Eastland
Fong
Fulbright
Griffin
Gurney
Hart
Haskell
Hatfield
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Tunney
Weicker
Williams
Young

NAYS—15

Aiken
Allen
Bartlett
Bellmon
Buckley
Cook
Cotton
Curtis
Fannin
Goldwater
Hansen
Helms
Hruska
Scott, William L.
Thurmond

NOT VOTING—10

Brock
Chiles
Ervin
Gravel
Hartke
Hathaway
Huddleston
Symington
Talmadge
Tower

So the bill (S. 2176) was passed, as follows:

S. 2176

An act to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "National Fuels and Energy Conservation Act of 1973".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title.
Sec. 2. Statement of purposes, findings, and policy.
Sec. 3. Council of Energy Policy.
Sec. 4. Office of Energy Conservation.
Sec. 5. Research and development.
Sec. 6. Federal building and procurement policies.
Sec. 7. Building standards.
Sec. 8. Truth in energy.

Amendments to the Federal Trade Commission Act:

Sec. 18. Findings and purpose.
Sec. 19. Definitions.

Sec. 20. Estimates of annual operating costs.
Sec. 21. Labeling and advertising.
Sec. 22. Prohibited acts and enforcement.
Sec. 23. Preemption.
Sec. 24. Report, termination, and authorizations.
Sec. 9. Automobile fuel economy standards.

Amendments to the Motor Vehicle Cost Savings and Information Act:
Sec. 501. Short title.
Sec. 502. Declaration of policy.
Sec. 503. Definitions.
Sec. 504. Minimum standards and long-range plan.
Sec. 505. Duties and powers of the Secretary.
Sec. 506. Labeling and advertising.
Sec. 507. Prohibited conduct.
Sec. 508. Enforcement.
Sec. 509. Relationship to State law.
Sec. 510. Authorization of appropriations.
Sec. 10. Utility energy conservation reports.
Sec. 11. Federal Government energy rate studies.
Sec. 12. Transportation studies.
Sec. 13. Automotive research and development.

Amendments to the Motor Vehicle Cost Savings and Information Act:
Sec. 601. Short title.
Sec. 602. Findings and purposes.
Sec. 603. Definitions.
Sec. 604. Duties of the Secretary.
Sec. 605. Powers of the Secretary.
Sec. 606. Grants.
Sec. 607. Loan guarantees.
Sec. 608. Testing and certification.
Sec. 609. Proprietary information and patents
Sec. 610. Records, audit, and examination.
Sec. 611. Reports.
Sec. 612. Government procurement.
Sec. 613. Authorization for appropriations.
Sec. 614. Relationship to antitrust laws.
Sec. 14. Transportation energy conservation demonstrations.
Sec. 15. Carpool incentive projects.
Sec. 16. Energy conservation tax incentives study.
Sec. 17. Products imported and exported.
Sec. 18. Authorization of appropriations.
Sec. 19. Reduction of Federal Government fuel consumption.

STATEMENT OF PURPOSES, FINDINGS, AND POLICY

Sec. B. (a) The purposes of this Act are: to declare a national policy of conserving fuels and energy resources through more efficient conversion and use; to make energy conservation an intergral part of all ongoing programs and activities of the Federal Government; to establish a Council on Energy Policy in the Executive Office of the President and an Office of Energy Conservation in the Department of the Interior; to promote energy conservation efforts through specific directives to agencies of the Federal Government and sectors of private industry; to encourage greater private energy conservation efforts through purchasing policies of the various agencies of the Federal Government; to encourage the allocation of energy resources to their most efficient economic use; and to provide for the development of additional energy conservation programs pursuant to the policy set forth in this Act.

(b) The Congress recognizes that: (i) adequate supplies of energy at reasonable cost are essential to the growth of the United States economy and the maintenance of a high standard of living; (ii) the availability of low-cost energy has stimulated energy consumption and waste through inefficient use; (iii) expanding increases in energy consumption in the United States, which already uses almost one-third of the world's energy with only one-sixteenth of its population, raise serious policy issues; (iv) the finite nature of energy resources and diminishing reserves of fuels pose major questions of domestic and international policy; (v) increasing dependence on energy supplies imported from foreign sources has created serious economic and national security problems; (vi) a continuation of the present expansion of demand for energy in all forms will have serious adverse social, economic, political, and environmental impacts; (vii) the adoption at all levels of government of laws, policies, programs, and procedures to conserve energy and fuels could have an immediate and substantial effect in reducing the rate of growth of energy demand and minimizing such adverse impacts; and (viii) realistic pricing of energy in all forms will have a major effect in reducing energy consumption and waste.

(c) The Congress hereby declares that it is in the national interest for, and shall be the continuing policy of, the Federal Government to foster and promote comprehensive national fuels and energy conservation programs and practices in order to better assure adequate supplies of energy and fuels to consumers, reduce energy waste, conserve natural resources, and protect the environment.

(d) Every agency of the Federal Government shall have the continuing responsibility of implementing the policy and purposes set forth in this Act. Each agency shall review its statutory authority, policies, and programs in order to determine what changes may be required to assure conformity with the policy and purposes of this Act and shall report the results of its review, together with recommendations for necessary changes, to the President and the Congress within one year from the date of enactment of this Act.

COUNCIL ON ENERGY POLICY

Sec. 3. (a) The Congress finds and declares that—

(1) there are many Federal agencies, created at different times and for different purposes to handle specialized problems, all directly or indirectly involved in the establishment of energy policy;

(2) there is no comprehensive national energy policy but instead Federal energy activities consist of a myriad of laws, regulations, actions and inactions resulting in narrow, short range, and often conflicting decisionmaking by individual agencies without adequate consideration of the impact on the overall energy policy nor future national energy needs; and

(3) as a consequence of not having a comprehensive national energy policy, the Nation faces mismanagement of energy resources, unacceptably high adverse environmental impacts, inadequate incentives for efficient utilization and conservation of energy resources, shortages of supply, and soaring energy prices.

(b) Therefore, it is declared to be the purpose of the Congress to protect and promote the interest of the people of the United States as energy users by establishing a Council on Energy Policy to serve as a focal point for—

(1) the collection, analysis, and interpretation of energy statistics and data necessary to formulate policies for wise energy management and conservation and to anticipate social, environmental, and economic problems associated with existing and emerging energy technologies;

(2) the coordination of all energy activities of the Federal Government, and provision of leadership to State and local governments and other persons involved in energy activities; and

(3) the preparation after consultation with other interested organizations and agencies, of a long-range comprehensive plan (hereinafter referred to as the "Energy Plan") for energy development, utilization and conservation to foster improvement in the efficiency of energy production and utilization, reduction of the adverse environmental impacts of energy production and utilization, conservation of energy resources for the use of future generations, reduction of excessive energy demands, and development of new technologies to produce clean energy.

(c) (1) The policies, regulations, and public laws of the United States shall be interpreted and administered to the fullest extent possible in accordance with the policies set forth in this section; and

(2) All agencies of the Federal Government shall to the fullest extent possible—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of both physical and social sciences in producing, conserving, and utilizing the Nation's energy resources;

(B) submit, prior to the review process established pursuant to the Budget and Accounting Act of 1972, as amended, to the Council on Energy Policy established by this section for comment all legislative recommendations and reports, to the extent that such recommendations and reports deal with or have a bearing on energy matters;

(C) gather data and information pursuant to guidelines promulgated by the Council on Energy Policy; develop analytical techniques for the management, conservation, use, and development of energy resources, and make such data available to the Council on Energy Policy; and

(D) recognize the worldwide and long-range character of energy concerns and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to foster international cooperation in anticipating and resolving energy-related problems.

(d) There shall be established in the Executive Office of the President a Council on Energy Policy (hereinafter referred to as the Council). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure by and with the advice and consent of the Senate. The President shall at the time of nomination designate one of the members of the Council to serve as Chairman. Each member shall be a person, who as a result of his training, experience, and attainment, is well qualified to analyze and interpret energy trends and information of all kinds; to appraise programs and activities of the Federal Government in light of the energy needs of the Nation; to be conscious of and responsive to the environmental, social, cultural, economic, scientific and esthetic needs and interests of the Nation; and to formulate an Energy Plan and recommend national policies with respect to wise energy management.

(e) (1) The Council shall serve as the principal adviser to the President on energy policy and shall exercise leadership in the formulation of Government policy concerning domestic and international issues relating to energy.

(2) The Council shall make recommendations to the President and the Congress for resolving conflicts between the policies relating to energy of different Federal agencies.

(3) The Council shall develop within eighteen months after the date of enactment of this Act and thereafter shall annually update an Energy Plan for development, utilization, and conservation in the United States to carry out the purposes as stated in subsection (b) of this section. Copies of such Energy Plans shall be distributed on January 1 of each year to the President, to the Congress, and to all Federal and State agencies concerned with energy, and upon request to local agencies and nongovernmental entities.

(4) The Council shall promptly review all legislative recommendations and reports sent to Congress, to the extent that such recommendations and reports have a bearing on

energy matters, and it shall send to the President and the involved Federal agency a statement in writing of its position and the reasons therefor.

(5) The Council shall keep Congress fully and currently informed of all of its activities. Neither the Council nor its employees may refuse to testify before or submit information to Congress or any duly authorized committee thereof.

(6) The Council shall conduct annual public hearings on the Energy Plan and may hold public hearings when there is substantial public interest in other pending matters.

(7) In carrying out its collection, analysis, and interpretation of energy statistics function, the Council shall, as quickly as possible and after appropriate study, promulgate guidelines for the collection and initial analysis of energy data by other Federal agencies, after published notice in the Federal Register and opportunity for comment. Such guidelines shall be designed to make such data compatible, useful, and comprehensive. Where relevant data is not now available or reliable and is beyond the authority of other agencies to collect, then the Council shall recommend to the Congress the enactment of appropriate legislation. Pending congressional consideration, the Council may gather such data directly. The Council shall have the power to require by special or general orders any person to submit in writing such energy data as the Council may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as the Council may direct.

(f)(1) In exercising its power, functions, and duties, the Council shall—

(A) consult with representatives of science, industry, agriculture, labor, conservation organizations, State and local governments, and other groups, as it deems advisable; and

(B) employ a competent, independent staff which shall utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, to avoid duplication of effort and expense, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by other agencies.

(2) Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

(3) The Council may employ such officers and employees as may be necessary to carry out its functions. The Council may also employ and fix the compensation of such experts, consultants, or contractors to conduct detailed studies as may be necessary for the carrying out of its functions to the same extent as is authorized under section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

(g) The Council shall prepare and submit to the President and the Congress on or before January 1, 1974, and annually thereafter, an energy report to accompany the Energy Plan. This report shall include—

(1) an estimate of energy needs of the United States for the ensuing ten-year period to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation;

(2) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social environmental, economic, and other requirements of the Nation;

(4) a catalog of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling and to encourage conservation practices; and recommendations for developing technology capable of increasing efficiency and protecting employee health and safety in energy industries;

(5) recommendations for improving the energy data and information available to the Federal agencies by improving monitoring systems, standardizing data, and securing additional needed information;

(6) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices), employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this section; and

(7) recommendations concerning the level of funding for the development and application of new technologies, as well as new procedures and practices which the Council may determine to be required to achieve the purposes of this section and improve energy management and conservation together with recommendations for additional legislation.

(h)(1) Copies of any communications, documents, reports, or information received or sent by any members of the Council shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released under the terms of paragraph (2) of this subsection.

(2) The Council or any officer or employee of the Council shall not disclose information obtained under this section which concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed in a manner designed to preserve its confidentiality—

(A) to other Federal Government departments, agencies, and officials for official use upon request;

(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

(C) to a court in any judicial proceeding under court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

(D) to the public in order to protect their health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to whom the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health and safety).

In no event shall the names or other means of identification of injured persons be made public without their express written consent. Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(i)(1) The Comptroller General of the United States shall continuously monitor and evaluate the operations of the Council including its reporting requirements. Upon his own initiative or upon the request of a committee of the Congress or, to the extent personnel are available, upon the request of a Member of the Congress, the Comptroller General shall (A) conduct studies of existing statutes and regulations governing Federal energy programs, (B) review the policies and practices of Federal agencies administering such programs, (C) review and evaluate the procedures followed by such agencies, in gathering, analyzing, and interpreting energy statistics, data, and information related to the management and conservation of energy, including but not limited to data related to energy costs, demand, industry structure, environmental impacts and research and development, and (D) evaluate particular projects or programs. The Comptroller General shall have access to such data from any public or private source whatever, notwithstanding the provisions of any other law, as is necessary to carry out his responsibilities under this section and shall report to the Congress at such times as he deems appropriate with respect to Federal energy programs, including his recommendations for such modifications in existing laws, regulations, procedures, and practices as will, in his judgment, best serve the Congress in the formulation of a national energy policy.

(2) In carrying out his responsibilities as provided in paragraph (1) of this subsection, the Comptroller General shall give particular attention to the need for improved coordination of the work of the Federal Government related to energy policies and programs and the attendant need for a central source of energy statistics and information.

(3) The Comptroller General or any of his authorized representatives in carrying out his responsibilities under this section shall have access to any books, documents, papers, statistics, data, information, and records of any private organization relating to the management and conservation of energy, including but not limited to energy costs, demand, supply, reserves, industry structure, environmental impacts, and research and development. The Comptroller General may require any private organization to submit in writing such energy data as he may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as he may direct.

(4) To assist in carrying out his responsibilities, the Comptroller General may sign and issue subpenas requiring the production of the books, documents, papers, statistics, data, information, and records referred to in paragraph (3) of this subsection.

(5) In case of contumacy, or refusal to obey a subpena of the Comptroller General issued under this section, by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Comptroller General, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by such court as a contempt of court.

(6) Reports submitted by the Comptroller General to the Congress shall be available to the public at reasonable cost and upon identifiable request, except that the Comptroller General may not disclose to the public any information which could not be disclosed to the public by the Council under the provisions of subsection (h)(2) if the information were held by the Council.

(j)(1) There are authorized to be appropriated to carry out the provisions of this section not to exceed $1,000,000 for fiscal year ending June 30, 1974, $2,000,000 for fiscal year ending June 30, 1975, and $4,000,000 for each fiscal year thereafter.

(2) All sums appropriated under this section shall remain available for obligation or expenditure in the fiscal year for which appropriated and in the fiscal year next following.

OFFICE OF ENERGY CONSERVATION

SEC. 4. (a) There is hereby established in the Department of the Interior the Office of Energy Conservation.

(b) The Office of Energy Conservation shall have a Director who shall be appointed by the President by and with the advice and consent of the Senate and such other officers and employees as may be required: *Provided*, That any incumbent Director occupying the office upon the date of enactment of this Act shall not be subject to the advice and consent of the Senate. The Director shall have such duties and responsibilities as the Secretary of the Interior may assign and shall be compensated at the rate provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5315).

(c) The Secretary of the Interior, acting through the Office of Energy Conservation, shall—

(1) work with the Council on Environmental Quality in developing new energy conservation initiatives for the Federal Government;

(2) cooperate with private industry in developing energy conservation programs in industry;

(3) provide assistance to State governments in the development of State energy conservation programs;

(4) conduct and promote educational programs to foster public awareness of energy conservation needs and opportunities;

(5) conduct a continuing body of, and maintain current statistics on, patterns of energy consumption;

(6) prepare an annual report to the President and the Congress on his activities and the activities of other Federal agencies in implementing the policy and purposes of this Act. The report shall also review progress in energy conservation for major categories of energy use, and recommend additional energy conservation measures for each such category, and

(7) provide assistance to the Congress in the preparation of energy conservation materials, including booklets and bumper stickers, for distribution to constituent groups.

RESEARCH AND DEVELOPMENT

SEC. 5. (a) The Director of the National Science Foundation shall coordinate the energy conservation research and development programs of the Federal Government, identify energy conservation research and development opportunities, and make recommendations to the President and the Congress for additional research and development programs necessary to achieve the policy and purposes of this Act.

(b) The Secretary of Commerce is authorized to establish within the National Bureau of Standards an energy conservation research and development program to stimulate, through process testing, field demonstrations, and other means, new or improved manufacturing and industrial processes; better building construction, materials, and techniques; and new or improved residential and non-residential appliances and equipment; and to foster more efficient methods of managing energy use.

(c) The Secretary of the Interior is authorized to establish, using existing facilities of the Federal Government for the production and transmission of electrical energy, one or more electrical equipment testing and development centers for the purpose of developing and testing more efficient methods and equipment for the production and transmission of electric energy.

(d) The Secretary of Agriculture is authorized to establish within the Agricultural Research Service a food and fiber energy conservation and efficiency program to be conducted through selected land grant colleges in cooperation with the Agricultural Extension Service. The objectives of such program shall include, but not be limited to, research and development of new energy sources, technologies and techniques applicable to the production, processing and distribution of food and fiber in the United States and the dissemination of information relating to fuel conservation and increased efficiency in energy utilization in agricultural operations and processes.

(e) The research programs authorized by this section shall be coordinated to the fullest extent possible with existing governmental and industrial research and development programs.

(f) For the purposes of subsections (b), (c) and (d) of this section, there are authorized to be appropriated $8,000,000, $4,000,000 and $5,000,000 respectively, for each of the first three fiscal years following enactment of this Act.

FEDERAL BUILDING AND PROCUREMENT POLICIES

SEC. 6. (a) (1) The Congress hereby finds—

(A) that federally owned and federally assisted facilities have a significant impact on the Nation's consumption of energy;

(B) that energy conservation practices adopted for the design, construction, and utilization of these facilities will have a beneficial effect on the Nation's overall supply of energy;

(C) that the cost of the energy consumed by these facilities over the life of the facilities must be considered, in addition to the initial cost of constructing such facilities; and

(D) that the cost of energy is significant and facility designs must be based on the lowest total life cycle cost, including (i) the initial construction cost, and (ii) the cost, over the economic life of the facility, of the energy consumed, and of operation and maintenance of the facility as it affects energy consumption.

(2) The Congress declares that is the policy of the United States to insure that energy conservation practices are employed in the design of Federal and federally assisted facilities. To this end the Congress encourages Federal agencies to analyze the cost of the energy consumption of each facility constructed or each major facility constructed or renovated, over its economic life, in addition to the initial construction for renovation cost.

(b) For purposes of this section:

(1) The term "Federal agency" means an executive agency (as defined in section 105 of title 5, United States Code) and includes of United States Postal Service.

(2) The term "facility" means any building on which construction is initiated six months or more after the date of enactment of this Act.

(3) The term "major facility" means any building of fifty thousand or more square feet of usable floor space on which construction or renovation is initiated six months or more after the date of enactment of this Act.

(4) The term "Federal facility" or "major Federal facility" means a facility constructed, or a major facility constructed or renovated, by a Federal agency.

(5) The term "federally assisted facility" or "major facility constructed or renovated, in whole or in part with Federal funds or with funds guaranteed or insured by a Federal agency.

(6) The term "initial cost" means the required cost necessary to construct a facility or construct or renovate a major facility.

(7) The term "economic life" means the projected or anticipated useful life of a facility.

(8) The term "life-cycle cost" means the cost of a facility including (i) its initial cost, and (ii) the cost, over the economic life of the facility, of the energy consumed and of operation and maintenance of the facility as it affects energy consumption.

(9) The term "energy consumption analysis" means the evaluation of all energy consuming systems and components by demand and type of energy, including the internal energy load imposed on a facility by its occupants, equipment and components, and the external energy load imposed on the facility by climatic conditions.

(c) (1) The Congress authorizes and directs that Federal agencies shall carry out the construction of Federal facilities, and the construction and renovation of major Federal facilities, under their jurisdiction or programs for the construction of federally assisted facilities and the construction and renovation of major federally assisted facilities in such a manner as to further the policy declared in paragraph (a) (2) of this section, insuring that energy conservation practices are employed in new Federal and federally assisted facilities and in new or renovated major Federal and federally assisted facilities.

(2) Each Federal agency having jurisdiction over any Federal or federally assisted facilities construction program shall require the preparation of a complete life-cycle cost analysis for each major facility (exceeding fifty thousand square feet of usable floor space), for the expected life of the major facility.

(3) This life-cycle cost analysis shall include but not be limited to such elements as:

(A) the coordination and positioning of the major facility on its physical site;

(B) the amount and type of fenestration employed in the major facility;

(C) the amount of insulation incorporated into the facility design;

(D) the variable occupancy and operating conditions of the major facility, including illumination levels; and

(E) an energy consumption analysis of the major facility's heating, ventilating, and air-conditioning system, lighting system, and all other energy-consuming systems. The energy consumption analysis of the operation of energy-consuming systems in the major facility should include but not be limited to:

(i) the comparison of two or more system alternatives;

(ii) the simulation of each system over the entire range of operation of the major facility for a year's operating period; and

(iii) the evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

(4) The life-cycle cost analysis performed for each major facility shall provide but not be limited to the following information:

(A) the initial cost of each energy-consuming system being compared and evaluated;

(B) the annual cost of all utilities;

(C) the annual cost of maintaining each energy consuming system; and

(D) the average replacement cost for each system expressed in annual terms for the economic life of the major facility.

(5) Selection of the optimum system or combination of systems to be incorporated into the design of the major facility shall be based on the life-cycle cost analysis of the economic life of the major facility.

(6) In the selection of locations for new Federal and federally assisted facilities consideration shall be given to proximity to existing or planned mass transit facilities.

(d) The life-cycle cost analysis and consideration of energy conservation practices required by subsection (c) of this section shall be included by the Administrator of the General Services Administration in any prospectus submitted to the Committees on Public Works of the Senate and the House of Representatives under section 7 of the Public Buildings Act of 1959, as amended.

(e) The Administrator of the General Services Administration shall prepare and submit biennial reports to the President and the Congress on the results of the program established pursuant to subsections (c) and (d) of this section. Such report shall include a description of equipment, methods of construction, and operating practices used to achieve energy conservation, including comparisons of energy consumption and costs for facilities in which such equipment, methods, or policies are and are not used.

(f) The Administrator of the General Services Administration is authorized and directed to develop, publish, and implement energy conservation guidelines for all Federal procurement. These guidelines shall be designed to assure that efficient energy use becomes a major consideration in all Federal procurement and shall be followed by all Federal agencies.

(g) The provisions of subsection (c) and subsection (f) of this section shall apply to all the construction and procurement policies of the Department of Defense, except where the Secretary of Defense finds that combat or other specific, critical military needs require otherwise.

BUILDING STANDARDS

SEC. 7. (a) The Secretary of Housing and Urban Development is authorized and directed to develop, in cooperation with the National Bureau of Standards and the General Services Administration, improved general performance standards and specific design, lighting, and insulation standards to promote efficient energy use in residential, commercial, and industrial buildings.

(b) The Secretary, in cooperation with the National Bureau of Standards and the General Services Administration, is authorized and directed to prepare the most practicable standards possible for efficient energy use for different types and classes of buildings, in differing regional environments. Such standards for energy use shall, to the extent possible, specify the energy conservation which may be achieved by adopting the practices recommended therein. The standards should be designed so that they may readily be incorporated in all currently available model building codes and such new model building codes as may be developed by the Bureau or any other entity.

(c) Within six months from the date of enactment of this Act, the Secretary shall review and revise the existing minimum property standards of the Federal Housing Administration to incorporate therein the most advanced practicable standards for efficient energy use, including the most advanced practicable space conditioning and major appliance standards. Such standards shall thereafter be reviewed and where necessary revised not less than once every three years to include new or improved techniques for more efficient energy use.

TRUTH IN ENERGY

SEC. 8. (a) The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by—

(1) striking out section 18 thereof in its entirety;

(2) amending section 1 thereof by inserting at the beginning of the first sentence thereof the following: "(b)";

(3) inserting a new section 1(a) thereof as follows:

"(a) This Act may be cited as the 'Federal Trade Commission Act'."; and

(4) adding at the end thereof the following new sections:

"SEC. 18. FINDINGS AND PURPOSE.—(a) The Congress finds and declares that—

"(1) The Nation is facing an energy shortage of acute proportions in the decade following the date of enactment of this section. The problem has already manifested itself in different geographical areas in the form of power blackouts and brownouts, school closings because of a scarcity of fuel, and shortages of gasoline for automobiles and fuel for farm equipment.

"(2) A significant casing of the energy problem can be achieved by elimination of wasteful uses of energy, promotion of more effective uses of energy, and education of consumers as to the importance of conserving energy.

"(3) Climate conditioning systems and household products such as water heaters, room air-conditioners, refrigerators, freezers, stoves, and clothes dryers use significant quantities of energy. Substantial reductions are possible in the energy consumption of many of these systems and products if more attention is paid to energy usage in their design and in their use by consumers.

"(4) Many owners of major energy-consuming products and climate conditioning systems do not know nor can they readily discovered prior to purchase how much each such product or system will cost each year to operate (in terms of energy charges) nor are they able to compare in terms of operating cost, competing products or systems using different energy sources.

"(b) Since informed consumers are essential to the fair working of the free enterprise system and to the maintenance of balance between the supply of and the demand for energy, it is hereby declared to be the intent of Congress to assure, through a uniform national system, noncompliance with which shall be an unfair or deceptive act or practice, meaningful disclosure of the annual operating cost of certain products and systems, so that consumers can readily compare them and thereby avoid purchasing those which unnecessarily waste energy.

"SEC. 19. DEFINITIONS.—As used in sections 18 through 24 of this Act—

"(1) 'Annual operating cost' means, with respect to a major energy-consuming household product or climate conditioning system, the estimated cost of electricity or fuel needed for normal usage during a calendar year as determined in accordance with the provisions of section 20 of this Act.

"(2) 'Climate conditioning system' means any system which is designed to be installed or is installed in a previously occupied building for the purpose of artificially controlling temperature or humidity levels within such building or portion thereof. Such a system is characterized as being composed of a number of components (such as piping, ducting, furnaces, boilers, fans, heaters, compressors, pumps, controls, and working fluids, such as air, other gases, water, steam, oils, and refrigerants) which are not designed for or are incapable of controlling temperature or humidity levels within such building until and unless they are connected or combined together.

"(3) 'Communications medium' means any printed or electronic means of communication which reaches significant numbers of people including, but not limited to, newspapers, journals, periodicals, publications, radios, televisions, films, or theater.

"(4) 'Fuel' means butane, coal, diesel oil, fuel oil, gasoline, natural gas, propane, or steam obtained from a central source; or any other substance which, when utilized, is capable of powering a major energy-consuming household product or climate conditioning system.

"(5) 'Major energy consuming household product' means a product which: (A) is sold or intended to be sold for use in a residence; (B) is utilized or intended to be utilized for a major residential end use of energy; (C) functions when connected to a readily available source of energy external to the product; and (D) requires, based on average patterns of usage as determined in accordance with section 20 of this Act, more than 200 kilowatt hours per year or in the case of a product powered by fuel, more than 2,000,000 British thermal units per year.

"(6) 'Major residential end use of energy' means one of the following residential uses of energy: (A) space heating; (B) water heating; (C) cooking; (D) clothes drying; (E) refrigeration; (F) air-conditioning; and (G) any other residential use of energy that the Commission, in cooperation with the National Bureau of Standards, determines, by a proceeding pursuant to section 20(j) of this Act, to be included to meet the purposes of sections 18 through 24 of this Act.

"(7) 'Supplier' means any manufacturer, importer, wholesaler, direct sale merchandiser, distributor, or retailer which has an annual gross volume of business in excess of $1,000,000 of any new major energy consuming household product, or any engineer or contractor who is designing a climate conditioning system for use in a previously occupied building.

"SEC. 20. ESTIMATES OF ANNUAL OPERATING COSTS.—(a) The Commission, in cooperation with the National Bureau of Standards, within 3 months after the date of enactment of this section, in a proceeding pursuant to subsection (j) of this section, shall identify those products which are major energy consuming household products.

"(b) The Commission, in cooperation with the National Bureau of Standards, beginning 12 months after the date of enactment of this section shall establish priority ranking of major energy consuming household products, based on the extent to which such products contribute to residential energy consumption; and shall, in a proceeding pursuant to subsection (j) of this section, adopt interim procedures for determining and disclosing annual operating costs of major energy consuming household products. Such interim procedures shall be adopted in the order of such priority ranking and shall remain in effect until the effective date of the procedures promulgated in accordance with subsections (c) through (i) of this section.

"(c) For each major energy consuming household product identified under subsection (a) of this section, the Commission, in cooperation with the National Bureau of Standards, within 18 months after the date of enactment of this section, in a proceeding pursuant to subsection (j) of this section, shall define an average-use cycle, and devise a procedure for testing or for calculations based upon tests by which an average-use cycle of a product may be simulated and the energy utilized during such cycle measured. In developing such definition and procedures, the Commission shall consult with appropriate professional engineering societies, and organizations representing the manufacturers of major energy consuming household products in order to enable the Commission to make the best possible utilization of appropriate existing testing procedures and professional expertise.

"(d) The Commission shall direct each manufacturer and importer of each major energy consuming household product identified under subsection (a) of this section to conduct tests on all applicable models of such products in accordance with the procedures established under subsection (c) of this section. Beginning 30 months after the date of enactment of this section, such manufacturers and importers shall furnish the results of such tests, in the form of energy utilized per average-use cycle, to the Commission and shall include such results as part of the information shipped with each such product to all the suppliers who carry such product.

"(e) The Commission, in cooperation with the National Bureau of Standards, within 18 months after the date of enactment of this section, in a proceeding pursuant to subsection (j) of this section, shall develop and maintain, on a regional, national, or other basis which the Commission finds appropriate in such proceeding, information on the estimated (1) number of average-use cycles performed annually by each major energy consuming household product identified under subsection (a) of this section; and (2) average unit cost of energy for those circumstances under which such products are expected to be utilized. Such costs shall be computed on the basis of energy cost figures which shall be supplied to the Commission by the Federal Power Commission and the Secretary of the Interior.

"(f)(1) The Commission shall, beginning 18 months after the date of enactment of this section and on an annual basis thereafter, disseminate to all manufacturers and importers of major energy consuming household products the information developed under subsection (e) of this section. Such information shall be accompanied by instructions and computational aids for determining the annual operating cost of a given major energy consuming household product in accordance with the procedure established under subsection (g) of this section.

"(2) If, for any particular major energy consuming household product, the Commission develops such information on a national basis, the determination of the annual operating cost shall be made by the manufacturers or importers, and the annual operating cost figures shall be included by the manufacturers or importers as part of the material shipped with each such product to all the suppliers who carry such product.

"(3) For major energy consuming household products, other than those referred to in paragraph (2), the manufacturers and importers shall forward such information, instructions and computational aids to all the suppliers who carry such product. Suppliers engaged in the business of selling new major energy consuming household products for purposes other than resale shall make the determination of the annual operating costs.

"(4) Within 36 months after the date of enactment of this section, and periodically thereafter when a revision is deemed necessary or appropriate, a compilation of information provided to or developed by the Commission under subsections (d) and (e) of this section shal be published by the Commission in a public document to be placed on sale at the Government Printing Office. The Commission shall take steps to encourage the widest possible distribution of such document and any revision thereof.

"(g) The annual operating cost of any major energy consuming household product shall be determined by multiplying the energy utilized per average-use cycle, as determined under subsection (d) of this section, by the number of average-use cycles per annum multiplied by the average unit cost of energy, as determined under subsection (e) of this section.

"(h) Within 18 months after the date of enactment of this section, in a proceeding pursuant to subsection (j) of this section, the Commission, in cooperation with the National Bureau of Standards, shall establish model calculation procedures for use by suppliers in determining the annual operating costs of climate conditioning systems. In developing such procedures, the Commission shall consult with appropriate professional engineering societies, and organizations representing the climate conditioning industry so as to allow the best possible utilization by the Commission of appropriate existing calculation procedures and professional expertise. The model calculation procedures developed under this subsection shall be distributed or otherwise made available by the Commission at reasonable cost to all applicable suppliers and other interested persons.

"(i) The annual operating cost shall be determined at the time the price is stated or advertised upon the basis of the most recent information provided the supplier in accordance with subsections (d) and (f) of this section.

"(j) Except as provided in this subsection, a proceeding shall be conducted in accordance with the provisions of section 553 of title 5, United States Code. Notice and a public hearing are required, and a record of the proceeding shall be maintained. The proceeding shall be structured to proceed as expeditiously as possible, while permitting all interested persons an opportunity to present their views. Participants shall be given a right to cross-examine on matters directly related to the proposed rule, and the Secretary of the Commission may set such conditions and limitations on cross-examination as are deemed necessary to assure fair and expeditious consideration of the contested issues. All testimony shall be presented by affidavit or orally under oath, pursuant to regulations issued by the Secretary or the Commission; where appropriate, persons with the same or similar interests may be required to appear together by a single representative. Each rule issued by the Secretary or the Commission shall be based on substantial evidence in the record taken as a whole and at the conclusion of a proeceding pursuant to this subsection shall be published forthwith in the Federal Register.

"Sec. 21. Labeling and Advertising.—(a) Beginning 6 months after the date of adoption of procedures for determining and disclosing annual operating costs in accordance with either subsection (b) or subsections (c) through (i) of section 20 of this Act, it shall be unlawful for any supplier to sell or offer for sale in commerce for purposes other than resale any new major energy consuming household product or climate conditioning system for which such procedure has been adopted, unless the annual operating cost of such product or system is disclosed by the supplier prior to any such sale. Such disclosure shall appear on the same label, tag, shelf, display case, counter, contract, estimate, proposal, direct-mail statement, or any other place on which the purchase price or acquisition cost of such product or system is stated, in accordance with rules established by the Commission: *Provided*, That if annual operating costs are significantly different in different sections of the country, communications covering more than one such section in the form of mail-order literature, catalogs, brochures, or other media which contain price data shall include national average values of annual operating costs, and shall disclose clearly and conspicuously that the annual operating costs of such products for any specific section of the country may be obtained from the supplier.

"(b) Beginning 6 months after the date of adoption of procedures for determining and disclosing annual operating costs in accordance with section 20 of this Act it shall be unlawful for any supplier to advertise or cause to be advertised in commerce through any communications medium any new major energy consuming household product for which such procedure has been adopted, if such advertisement states the purchase price or acquisition cost of such product, unless the advertisement includes a statement of the annual operating cost of such product in accordance with rules established by the Commission: *Provided*, That if annual operating costs as determined in accordance with section 20(g) of this Act are significantly different in different sections of the country, price advertising covering more than one such section shall include national average values of annual operating costs, and shall disclose clearly and conspicuously that the annual operating costs of such products for any specific section of the country may be obtained from the supplier.

"(c) It shall be unlawful for any supplier to give false or misleading information to the Commission or any prospective purchaser with respect to the annual operating cost of any new major energy consuming household product or climate conditioning system or, in the case of a manufacturer or importer, with respect to tests conducted in accordance with section 20(d) of this Act.

"(d) It shall be unlawful for any supplier to fail to comply with any requirement imposed by any rule or regulation issued under this section or section 20 of this Act.

"(e)(1) No requirement with respect to disclosure of the annual operating cost of a new major energy consuming household product shall be applicable to any such product which is shipped in commerce by a manufacturer or importer prior to the date of applicability of any requirement with respect to disclosure of the annual operating cost of such product.

"(1) The Commission may by rule prohibit a supplier from stockpiling any new major energy consuming household product prior to the date of applicability, under paragraph (1) of this subsection, of any requirement with respect to disclosure of the annual operating cost of such product. For the purposes of this paragraph, 'stockpiling' means shipping a new major energy consuming household product between the date of promulgation of a testing procedure for such product and 15 months after the date of enactment of this section at a rate which is significantly greater (as determined under the rule under this paragraph) than the rate at which such product was shipped during a base period (prescribed in the rule under this paragraph) ending before the date of promulgation of the testing procedure.

"(f) Nothing in this section shall be construed to give rise to a cause of action for rescission of any contract or for damages, unless the supplier fraudulently or knowingly gave the client or purchaser false information on annual operating costs, and such client or purchaser reasonably relied thereon to his detriment in entering upon such contract.

"(g) Nothing in this section shall be deemed to prohibit a supplier or an advertiser from representing orally or in writing that the annual operating costs required to be disclosed by this section are based on average patterns of usage and should not be construed as a precise calculation of annual operating costs to be experienced by an individual purchaser.

"Sec. 22. (a) Prohibited Acts and Enforcement.—(a) Violation of any disclosure provision of section 20 or 21 of this Act shall constitute an unfair or deceptive act or practice under section 5 of this Act and shall be subject to proceedings thereunder.

"(b) The district courts of the United States shall have jurisdiction without regard to the amount in controversy or the citizenship of the parties to restrain any violation of section 20 or 21 of this Act. Such actions may be brought by the Commission in any district court of the United States for a judicial district in which the defendant resides, is found, or transacts business or in which the alleged violation occurred. In any such action, process may be served in any judicial district in which a defendant resides or is found.

"(c)(1) Any person may commence a civil action on his own behalf against (A) any supplier who is alleged to be in violation of any provision of section 20 or 21 of this Act or any regulation thereunder; or (B) or the Commission where there is an alleged failure of the Commission to perform any act or duty under such sections which is not discretionary. The district courts of the United States shall have jurisdiction without regard to amount in controversy or citizenship of the parties to grant mandatory or prohibitive injunctive relief or interim equitable relief to enforce such provisions with respect to any supplier or to order the Commission to perform any such act or duty. Such court, in issuing any final order in an action brought under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate. No action may be commenced under this subsection prior to 60 days after the plaintiff has given notice of the alleged violation to the appropriate supplier and the Commission.

"(2) In any action under this subsection, the Commission, if not a party, may intervene as a matter of right.

"(3) Nothing in this subsection shall restrict any right which any person or class of persons may have under any other statute or at common law to seek enforcement of any provision of sections 18 through 24 of this Act or regulation thereunder or any other relief.

"SEC. 23. PREEMPTION.—(a) It is hereby declared to be the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof insofar as they may now or hereafter provide for the disclosure of energy consumption, energy efficiency, efficiency ratio, or annual operating cost of any new major energy consuming household product or climate conditioning system if there is in effect and applicable a Federal disclosure requirement with respect to such product or system.

"(b) Upon petition by any State, or political subdivision thereof, the Commission may, by rule, after notice and opportunity for presentation of views, exempt from the provisions of this subsection, under such conditions as it may impose, any State or local requirement that (1) affords protection to consumers greater than that provided in the applicable Commission rule; (2) is required by compelling local conditions; and (3) does not unduly burden commerce. The Commission shall maintain continuing jurisdiction with respect to those States or political subdivisions thereof which are specifically exempted under this subsection. Any such exemption granted by the Commission may be withdrawn by it whenever it is determined that the State or political subdivision thereof is not efficiently enforcing its requirements or that such exemption is no longer in the public interest.

"SEC. 24. REPORT, TERMINATION, AND AUTHORIZATION.—(a) On July 1 of the year following the year in which this Act is enacted and every year thereafter as part of its annual report, the Commission shall report to the Congress and to the President on the progress made in carrying out the purposes of sections 18 through 24 of this Act.

"(b) The provisions of sections 18 through 24 of this Act shall terminate upon the adoption of a concurrent resolution by the Congress with a determination that the findings set forth in section 18(a) of this Act are no longer applicable.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 18 through 24 of this Act, not to exceed $2,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976."

AUTOMOBILE FUEL ECONOMY STANDARDS

SEC. 9. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—FUEL ECONOMY

"SHORT TITLE

"SEC. 501. This title may be cited as the 'Automobile Fuel Economy Act'.

"DECLARATION OF POLICY

"SEC. 502. (a) FINDINGS.—The Congress finds and declares that—

"(1) A serious shortage of refined petroleum products is emerging in the United States.

"(2) The need to import petroleum from foreign nations is causing the Nation substantial international trade deficits in fuels.

"(3) This shortage and trade deficit necessitate reducing wasteful and unnecessary use of petroleum and petroleum products.

"(4) Automobiles are a major user of petroleum products.

"(5) The low fuel economy of many automobiles today is unnecessary since significant increases in fuel economy can be achieved without sacrificing environmental or safety standards and without restricting travel patterns.

"(b) PURPOSES.—Therefore, it is hereby declared to be the purpose of the Congress to—

"(1) encourage the development, manufacture, and sale of automobiles which are more economical to operate in terms of the amount of fuel consumed per mile traveled;

"(2) increase the industrywide average fuel economy for new automobiles by at least 50 per centum by 1984 in comparison to the industrywide average fuel economy for new automobiles in 1974, so that the contribution made by the automobile to the rate of growth of the total annual consumption of petroleum products in the United States will be minimized;

"(3) make the Nation self-sufficient in fuel supplies for automobile transportation; and

"(4) promote and encourage new technologies which may aid in further realization of the foregoing objectives.

"DEFINITIONS

"SEC. 503. As used in this title—

"(1) 'Automobile' means a four-wheeled vehicle propelled by fuel which is manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails, and which has as its primary intended function the transportation of not more than ten individuals. The term 'automobile' includes a light duty truck rated at 6,000 pounds gross vehicle weight or less, and a multipurpose passenger vehicle which has as its primary intended function the transportation of not more than ten individuals, other than a motor home constructed on a truck chassis, truck chassiscab, or special chassis, or constructed through utilizing a truck or similar van.

"(2) 'Commerce' means commerce among the several States or with foreign nations or in any State or between any State and foreign nation.

"(3) 'Dealer' means any person engaged in the business of selling new automobiles to purchasers who buy for purposes other than resale.

"(4) 'Fuel' means any material or substance capable of propelling an automobile, including, but not limited to, regular and high-octane gasoline, diesel oil, kerosene, natural gas, and propane.

"(5) 'Fuel economy' refers to the average number of miles (kilometers) traveled by an autombile per unit of fuel consumed, as determined in accordance with test procedures established by the Environmental Protection Agency pursuant to the Clean Air Act, as amended.

"(6) 'Industrywide average fuel economy' means the average fuel economy of all new automobiles sold or expected to be sold in all States in a given model year, which may or may not be weighted in accordance with regulations of the Secretary.

"(7) 'Manufacturer' means any person engaged in manufacturing, importing, or assembling automobiles.

"(8) 'Model' means an automobile of particular brand name, body dimensions, style, engine, and drive train.

"(9) 'Model year' means the period that runs from the date a model is introduced in commerce or first offered for sale to purchasers for purposes other than resale, to no later than December 31 of the next calendar year.

"(10) Secretary' means the Secretary of Transportation.

"(11) 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"MINIMUM STANDARD AND LONG-RANGE PLAN

"SEC. 504. (a) ESTABLISHMENT.—The Secretary shall, within eighteen months after the date of enactment of this title, establish by rule pursuant to section 553 of title 5, United States Code, a minimum fuel economy standard for new automobiles introduced into commerce during and after the 1978 model year.

"(b) FACTORS.—In establishing the standard under subsection (a) of this section, the Secretary shall take into consideration the results of the studies conducted pursuant to section 12 of the National Fuels and Energy Conservation Act of 1973. Such standard shall be set at a level which, in the judgment of the Secretary, represents, to the extent that is technologically and economically feasible, the first step in an orderly progression toward achievement of the national purpose stated in section 502(b) of this Act.

"(c) LONG-RANGE PLAN.—The Secretary shall submit to Congress, no later than 18 months after the date of enactment of this title, a plan (which may include proposed minimum fuel economy standards for new automobiles introduced into commerce during model years subsequent to 1978, and recommendations for new legislation) for achieving the national purpose stated in section 502(b) of this Act. In the development of such plan, the Secretary shall consider the results of the studies conducted pursuant to section 12 of the National Fuels and Energy Conservation Act of 1973. Any proposed minimum standard for fuel economy included in such plan shall be technologically and economically feasible and shall be promulgated by the Secretary pursuant to section 553 of title 5, United States Code, unless either House of Congress, between the date of transmittal of such plan and the end of a 60-day period following such transmittal date, passes a resolution stating in substance that it disapproves of such plan.

"(d) AMENDMENT.—The Secretary may from time to time, upon the basis of new information, amend, modify, or revise any standard or plan established under subsection (a) or (c) of this section. Any amended standard shall be technologically and economically feasible and shall be issued at least 18 months prior to the commencement of the model year for which such amendment is to be applicable.

"(e) EXCEPTIONS.—Standards established in subsection (a) or (c) of this section shall not apply to any automobile which is intended solely for export (and is so labeled or tagged on the vehicle itself and on the outside of the container, if any) and which is exported.

"(f) JUDICIAL REVIEW.—

"(1) GENERAL.—Any person who may be adversely affected by any rule promulgated under this section may at any time prior to 60 days after such rule is promulgated file a petition in the United States Court of Appeals for the District of Columbia, or any circuit wherein such person resides or has his principal place of business, for judicial review of such rule. A copy of the petition shall be forthwith transmitted by the clerk of such court to the Secretary. The Secretary shall thereupon cause to be filed in such court the record of the proceedings upon which the rule which is under review was based, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter.

"(2) Additional Evidence.—If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceedings before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced in a hearing, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his finding as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his rule, with the return of such additional evidence.

"(3) Fourth Review.—The judgment of the court affirming or setting aside, in whole or part, any such rule of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(4) Other Remedies Unimpaired.—The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

"DUTIES AND POWERS OF THE SECRETARY

"Sec. 505. (a) General.—(1) For the purpose of carrying out the provisions of this title, the Secretary, or his duly designated agent, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, or such agent, deems advisable. The Secretary, or his duly designated agent, shall at all reasonable times have access to, and for the purpose of examination, the right to copy any documentary evidence of any person having materials or information relevant to any function of the Secretary under this title. The Secretary is authorized to require, by general or special orders, any person to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this title. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary within such reasonable period as he may prescribe.

"(2) Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpena or order of the Secretary, or his duly designated agent, issued under paragraph (1) of this subsection, issue an order requiring compliance with such subpena or order. Any failure to obey such an order of the court may be punished by such courts as a contempt thereof.

"(3) Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(b) Inspection.—(1) Every manufacturer shall establish and maintain such records, make such reports, conduct such tests, and provide such items and information as the Secretary may reasonably require to enable the Secretary to carry out his duties under this title and under any rules or regulations promulgated pursuant to this title. A manufacturer shall, upon request of a duly designated agent of the Secretary, permit such agent to inspect finished automobiles and appropriate books, papers, records, and documents. A manufacturer shall make available all such items and information in accordance with such reasonable rules as the Secretary may prescribe.

"(2) Any of the district courts of the United States within the jurisdiction of which an inspection is carried out or requested may, in the case of contumacy or refusal by any manufacturer to accede to any reasonable requirement or request of the Secretary, or his duly designated agent, issued or made under paragraph (1) of this subsection, issue an order requiring compliance with such requirement or request. Any failure to obey such an order of the court may be punished by such court as a contempt thereof.

"(c) Public Disclosure of Information.—The Secretary is authorized and directed to disclose as much of any information obtained under this section to the public as he determines will assist in carrying out the purposes of this title, except that any information reported to or otherwise obtained by him which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, which if disclosed would result in significant competitive damage, shall not be disclosed to the public (other than officers or employees concerned with carrying out this title), unless such information is relevant to any proceeding under this title. Nothing in this subsection shall authorize the withholding of information by the Secretary or any officer or employee under his control from any committee of the Congress.

"(d) Representation.—Notwithstanding any other provision of law, in any action under this section, the Secretary may direct attorneys employed by him to appear and represent him.

"LABELING AND ADVERTISING

"Sec. 506. (a) Sticker.—Beginning no later than 90 days after the enactment of this title, each manufacturer shall cause to be fixed and each dealer shall cause to be maintained on each new automobile, in a prominent place, a sticker indicating the fuel economy which a prospective purchaser can expect from such automobile, and the estimated average annual fuel costs associated with the operation of such automobile. The form and content of such sticker shall be determined by the Federal Trade Commission, pursuant to section 553 of title 5, United States Code.

"(b) Disclaimer.—Nothing in this section shall be deemed to prohibit a manufacturer or dealer from representing orally or in writing that the fuel economy or estimated average annual fuel costs required to be disclosed by this section are based on representative driving cycles as determined by the Administrator of the Environmental Protection Agency and should not be construed as a precise calculation of fuel economy or estimated average annual fuel costs to be experienced by an individual purchaser.

"(c) Advertising.—The Federal Trade Commission shall by rule, pursuant to section 553 of title 5, United States Code, direct that the information regarding fuel economy and average annual fuel costs which is required under subsection (a) of this section be a conspicuous part of any advertisement for new automobiles which mentions purchase price or acquisition cost of such automobile.

"(d) Conforming Amendments.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by striking out in the first paragraph 'disclosing the following information concerning' and inserting in lieu thereof 'disclosing the information required by the Automobile Fuel Economy Act together with the following information concerning'.

"PROHIBITED CONDUCT

"Sec. 507. The following conduct is prohibited—

"(a) the failure to comply with any provisions of this title or any standard, rule, regulation, or order issued by the Secretary or Commission pursuant to this title;

"(b) the failure to provide information as required in accordance with this title;

"(c) the failure to permit inspection pursuant to this title;

"(d) the manufacture, processing, sale, distribution, or importation into the United States of any automobile whenever such manufacture, assembly, sale, distribution, or importation is known to be or should have been known to be for use in violation of this title or any standard, rule, regulation, or order issued under this title. Each such act constitutes a separate violation of this section.

"ENFORCEMENT

"Sec. 508. (a) Unfair Trade Practice.—It shall be unlawful and a violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any person subject to the provisions of section 506 of this Act to fail to comply with any requirement imposed on such person by or pursuant to such section.

"(b) Equitable Remedy.—The district courts of the United States shall have jurisdiction over any action brought by the Secretary or any attorney designated by the Secretary for such purpose, for a mandatory or prohibitive injunction to enforce any provision of this title or any standard, rule, regulation, or order thereunder or for equitable relief to redress a violation by any person of any provision of section 507 of this Act. The courts shall have jurisdiction to grant such relief as the equities of the case may require. Upon a proper showing, and after notice to the defendant, a temporary restraining order or preliminary injunction shall be granted without bond: *Provided*, That if a complaint is not filed within such period as may be specified by the court after the issuance of the restraining order or preliminary injunction, the order or injunction may, upon motion, be dissolved. Whenever it appears to the court that the interests of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the judicial district in which the court is held, and to that end process may be served in any district. Upon the request of the Secretary, the Attorney General is authorized and directed to bring and maintain an action under this subsection.

"(c) Criminal Violation.—Any person who willfully violates any provision of section 407 of this Act shall, on conviction, be fined not more than $25,000 for each violation, or be imprisoned for not more than one year, or both.

"(d) Civil Violation.—(1) Any person who violates any provision of section 507 of this Act other than willfully shall be liable to the United States for a civil penalty in an amount which is not greater than $25,000 for each violation: *Provided*, That the amount of such civil penalty shall not exceed such person's ability to pay. The amount of such civil penalty shall be assessed by the Secretary after notice and an opportunity for an adjudicative hearing conducted in accordance with section 554 of title

5, United States Code, and after he has considered the nature, circumstances, and extent of such violation, the practicability of compliance with the provisions violated, and any good-faith efforts to comply with the provision violated.

"(2) Upon the failure of the offending party to pay such civil penalty, the Secretary may commence an action in the appropriate district court of the United States for such relief as may be appropriate or he may request the Attorney General to commence such an action.

"RELATIONSHIP TO STATE LAW

"Sec. 509. After the effective date of any standard, regulation or requirement under this title relating to fuel economy or fuel economy labeling of automobiles, no State or political subdivision thereof may adopt or enforce any standard, regulation or requirement relating to such matters, except that a State or political subdivision may adopt and enforce controls and regulations governing the use or operation of automobiles such as speed limit controls designed to conserve the use of fuel.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 510. There is hereby authorized to be appropriated for the purposes of carrying out the provisions of this Act such sums as are necessary, not to exceed $1,000,000 for the fiscal year ending June 30, 1974, and not to exceed $3,000,000 annually for the fiscal years ending June 30, 1975, and June 30, 1976.".

UTILITY ENERGY CONSERVATION REPORTS

Sec. 10. (a) Within six months from the date of enactment of this Act, the Federal Power Commission shall, by rule on the record after opportunity for a public hearing, promulgate regulations requiring electric and gas public utilities to submit to the Commission annual reports on energy conservation policies. The Commission shall make such reports readily available for public inspection.

(b) Each such report shall include—

(1) a statement of the problems the utility is encountering in implementing an energy conservation program, such as regulatory or rate restrictions;

(2) a description of the utility's research effort directed toward the conservation of energy;

(3) an evaluation of the role of the utility's wholesale and retail rate structures in achieving conservation of energy;

(4) disclosure of system inefficiencies, including energy loss during transmission and distribution; and

(5) such other relevant information as the Commission may require.

FEDERAL GOVERNMENT ENERGY RATE STUDIES

Sec. 11. (a) Each agency of the Federal Government which produces or sells electrical energy or which certificates or licenses any person to produce electrical energy for sale is authorized and directed to prepare and submit to the Congress within twelve months from the date of enactment of this Act a comprehensive study of the impact of the rate structure and the policies of such agency on the efficiency of generation and on the consumption and conservation of energy. Each such study shall evaluate all relevant factors, including, but not limited to—

(1) an identification of subsidies and other incentives which promote inefficient generation and unnecessary and wasteful energy consumption;

(2) an indication of how various rate structures, rate changes, and methods of pricing might affect the efficiency of generation and consumption within the regions studied. Such methods shall include fuel cost adjustments, marginal cost pricing, and other pricing measures which may encourage increased efficiency of generation or decreased consumption of electrical energy;

(3) an exploration of the price elasticity of electrical energy consumption within each region studied;

(4) an analysis of the rate structure within each region studied, including its effect on design and use of less efficient power generation equipment;

(5) an indication of whether metering or other measures might be improved or instituted to inform purchasers of electrical energy of their cost and of peak demand responsibilities;

(6) an estimate of the impact various rate changes might have on regional consumption and efficiency of generation; and

(7) recommendations for legislative, executive, and administrative actions in furtherance of the national policy declared in section 2 of this Act.

(b) The Council on Energy Policy established pursuant to section 3 of this Act, upon reviewing reports prepared pursuant to section 10 and subsection (a) of this section and in consultation with Federal and State agencies which establish or regulate rates for or prices, production, or importation of electricity or other forms of energy, shall prepare and submit to the Congress within two years of the date of enactment of this Act a study of the impact of such rates and energy prices generally on the consumption and conservation of energy. Such study shall discuss the factors set forth in subsection (a) of this section and any other factors deemed appropriate by the Council, and shall contain such recommendations for legislative and administrative action as the Council deems necessary.

TRANSPORTATION STUDIES

Sec. 12. (a) The Secretary of Transportation is authorized and directed to prepare and submit to Congress, within nine months from the date of enactment of this Act, a report evaluating the potential for energy conservation in the transportation sector. Such report shall include the results of—

(1) a comprehensive study of motor vehicle characteristics and their effects on and the relationships between fuel economy, safety, reliability, damage resistance, materials used in construction, and cost to motor vehicle purchasers. Such study shall include but not be limited to the cost benefit aspects of the foregoing factors, both to the individual motor vehicle owner and to the Nation, and shall identify combinations of such factors which provide for optimum motor vehicle characteristics;

(2) a study of automobile usage in the United States in relation to other transportation modes and systems. The study shall include, but not be limited to, consideration of travel patterns and ways to better integrate the automobile into urban and intercity transportation systems, including the prospects for dual mode transportation systems, and the extent to which a need exists for public assistance for research and development with respect to transportation modes other than the automobile;

(3) an investigation of the advisability of limiting maximum achievable speeds of motor vehicles and of imposing lower maximum speed limits on various types of roads in various parts of the country;

(4) an evaluation of the impact on fuel consumption of national and regional systems of freight transportation and, to the extent relevant studies do not already exist or are in preparation, commercial passenger transportation. Such study shall include—

(A) an evaluation of the relationship between existing patterns of freight and commercial passenger transportation and energy use;

(B) an evaluation of the role of Federal, State, and local government transportation policies in creating and maintaining existing patterns of freight and commercial passenger transportation. Such evaluation shall, in particular, consider changes in Federal and States policies and laws relating to motorized transport on the interstate highway system which would result in significant savings of fuel;

(C) an evaluation of the role of Federal rate regulation in encouraging freight and commercial passenger transportation practices which are inefficient in terms of fuel use; and

(D) An evaluation of the technological and economic feasibility of achieving at least a 50 per centum improvement within ten years of the industry-wide average fuel economy for transportation vehicles, including airplanes, automobiles, buses, motorcycles, recreational vehicles, trains, trucks, and vessels. At the time of submission of the plan required under section 504 of the Motor Vehicle Information and Cost Savings Act, the Secretary shall also submit to Congress a plan (including recommendations for new legislation) for achieving such improvement.

(b) The Secretary of Transportation shall solicit the views of the Secretary of the Interior, the Administrator of the Environmental Protection Agency and other officers and agencies of the Federal Government during the course of such studies; and his report shall include their views and recommendations, if any, for legislation needed to establish the policies and programs identified in such report.

AUTOMOTIVE RESEARCH AND DEVELOPMENT

Sec. 13. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) as amended by section 9 of this Act, is further amended by adding at the end thereof the following new title:

"TITLE VI—RESEARCH AND DEVELOPMENT

"SHORT TITLE

"Sec. 601. This title may be cited as the 'Automotive Transport Research and Development Act of 1973'.

"FINDINGS AND PURPOSES

"Sec. 602. (a) Findings.—The Congress finds that—

"(1) Existing automobiles are inadequate to meet all of the long-term goals of this Nation with respect to providing safety, to protecting the environment, and to conserving energy.

"(2) With additional research and development, several advanced alternatives to existing automobiles have the potential to be mass produced at a reasonable cost with significantly less environmental degradation and fuel consumption than existing automobiles while remaining compatible with other requirements of Federal law.

"(3) Insufficient resources are being devoted to research and development of advanced automobiles and automobile components both by the Federal Government and the private sector.

"(4) An expanded research and development effort into advanced automobiles and automobile components by the Federal Government is needed to increase such efforts by the private sector and encourage automobile manufacturers to seriously consider such advanced automobiles and automobile components as alternatives to existing automobiles and automobile components.

"(5) Because of the urgency of the energy, safety, and environmental problems, such advanced automobiles and components should be developed, tested, and prepared for manufacture within four years from the date of enactment of this title.

"(b) PURPOSES.—Therefore, it is the purpose of this title: (1) to make grants for, and support through loan guarantees, research and development leading to production prototypes of an advanced automobile or automobiles within four years from the date of enactment of this title and to secure the certification after testing of those prototypes which are likely to meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives; and (2) to interpret and carry out this title to preserve, enhance and facilitate competition in research, development, and production of existing and alternative automobiles and automobile components.

"DEFINITIONS

"SEC. 603. As used in this title—

"(1) 'Advanced automobile' means a personal use transportation vehicle propelled by fuel, which is energy-efficient, safe, damage-resistant, and environmentally sound and which—

"(A) presents, consistent with environmental requirements, the least total amount of energy consumption with respect to the amount of fuel consumed, the type of fuel consumed, or the production, use and disposal of such automobile, and represents a substantial improvement over existing automobiles with respect to such factors;

"(B) can be mass produced at the lowest possible cost consistent with the requirements of this title;

"(C) operates safely and with sufficient performance with respect to acceleration, cold weather starting, cruising speed, and other performance factors;

"(D) to the extent practicable, is capable of intermodal adaptability; and

"(E) at a minimum, can be produced, distributed, operated, and disposed of in compliance with any requirement of Federal law, including, but not limited to, requirements with respect to fuel economy, exhaust emissions, noise control, safety, and damage resistance.

"(2) 'Damage resistance' refers to the susceptibility to physical damage of an automobile when involved in an accident.

"(3) 'Developer' means any person engaged in whole or in part in research or other efforts directed toward the development of production protoyopes of an advanced automobile or automobiles.

"(4) 'Fuel' means any energy source capable of propelling an automobile.

"(5) 'Fuel economy' refers to the average number of miles (kilometers) traveled by an automobile per unit of fuel consumed, as determined in accordance with title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.).

"(6) 'Intermodal adaptability' refers to any characteristic of an automobile which enables it to be operated or carried, or which facilitates such operation or carriage, by or on an alternate mode or other system of transportation.

"(7) 'Low-Emission Vehicle Certification Board' means the Low-Emission Vehicle Certification Board established pursuant to section 212 of the Clean Air Act (42 U.S.C. 1857f–6e).

"(8) 'Production prototype' means an automobile which is in its final stage of development and is capable of being placed into production for sale at retail in quantities exceeding ten thousand automobiles per year.

"(9) 'Reliability' refers to the ease of diagnosis and repair of an automobile and its systems and parts which fail during use or are damaged in an accident and the average time and distance that proper operation can be expected without repair or replacement.

"(10) 'Safety' refers to the performance of an automobile or automobile equipment in such a manner that the public is protected against unreasonable risk or accident and against unreasonable risk of death or bodily injury in case of accident.

"(11) 'Secretary' means the Secretary of Transportation.

"(12) 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

"DUTIES OF THE SECRETARY

"SEC. 604. The Secretary is authorized and directed to insure the development of one or more production prototypes of an advanced automobile within four years after the date of enactment of this title. The Secretary and the Administrator of the Environmental Protection Agency shall to the fullest extent practicable coordinate motor vehicle research programs and the Administrator is directed to give careful consideration to any request, on a reimbursable basis or otherwise, for such assistance as the Secretary deems necessary to promote such development. In furtherance of the purposes of this title and to promote such development by private interests, the Secretary is further authorized and directed to—

"(a) make grants for research and development efforts likely to lead or contribute to the development of an advanced automobile or automobiles, in accordance with the provisions of section 606 of this title;

"(b) make loan guarantees for research and development efforts which show promise of leading or contributing to the development of an advanced automobile or automobiles, in accordance with the provisions of section 607 of this title;

"(c) conduct and accelerate research and development programs within the Department of Transportation for the purpose of contributing to the research and development of a production prototype of an advanced automobile or automobiles;

"(d) test or direct the testing of production prototypes and secure certification as advanced automobiles those which meet the applicable requirements, in accordance with section 608 of this title;

"(e) collect, analyze, and disseminate to developers information, data, and materials relevant to the development of an advanced automobile or automobiles;

"(f) prepare and submit studies as required under section 611 of this title; and

"(g) receive and evaluate any reasonable new technology, a description of which is submitted to him in writing, which could lead to the development of an advanced automobile.

"POWERS OF THE SECRETARY

"SEC. 605. In addition to the powers specifically enumerated in any provision of this title, the Secretary is authorized to—

"(a) appoint such attorneys, employees, agents, consultants, and other personnel as he deems necessary, define the duties of such personnel, determine the amount of compensation and other benefits for the services of such personnel and pay them accordingly;

"(b) procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code, but at rates not to exceed $150 a day for qualified experts;

"(c) obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise, identifying the assistance he deems necessary to carry out his duties under this title, including, but not limited to, tranfer of personnel with their consent and without prejudice to their position and rating;

"(d) enter into, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his duties under this title, with any government agency or any person; and

"purchase, lease, or otherwise acquire, improve, use, or deal in and with any property; sell, mortgage, lease, exchange, or otherwise dispose of any property or other assets; accept gifts or donations of any property or services in aid of any purpose of this title.

"GRANTS

"SEC. 606. (a) GENERAL.—(1) The Secretary shall provide funds by grant or contract to initiate, continue, supplement, and maintain research and development programs or activities which, in his judgment, appear likely to lead to the development, in production prototype form, of an advanced automobile or automobiles.

"(2) The Secretary is authorized to make such grants, and contracts with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

"(b) CONSULTATION.—The Secretary, in the exercise of his duties and responsibilities under this section, shall consult with the Administrator of the Environmental Protection Agency and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the areas of automobile research, development, and technology. The Secretary may establish an advisory panel or panels to review and make recommendations to him on applications for funding under this section.

"(c) PROCEDURE.—Each grant under this section shall be made in accordance with such rules and regulations as the Secretary shall prescribe in accordance with the provisions of this section and of section 602 of this title. Each application for funding shall be made in writing in such form and with such content and other submissions as the Secretary shall require.

"LOAN GUARANTEES

"SEC. 607. (a) GENERAL.—(1) The Secretary is authorized, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, to guarantee and to make commitments to guarantee the payment of interest on, and the principal balance of, an obligation to initiate, continue, supplement, and maintain research and development programs or activities which, in his judgment, appear likely to lead to the development, in production prototype form, of an advanced automobile or automobiles. Each application for such a loan guarantee shall be made in writing to the Secretary in such form and with such content and other submissions as the Secretary shall prescribe to reasonably protect the interests of the United States. Each guarantee and commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Secretary deems appropriate. Each guarantee and commitment to guarantee shall inure to the benefit of the holder of the obligation to which such guarantee or commitment applies. The Secretary is authorized to approve any modification of any provision of a guarantee or a commitment to guarantee such an obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms or conditions, upon a finding by the Secretary that such modification is equitable, not prejudicial to the interests of the United States, and has been consented to by the holder of such obligation.

"(2) The Secretary is authorized to so guarantee and to make such commitments to any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

"(b) Exception.—No obligation shall be guaranteed by the Secretary under subsection (a) of this section unless he finds that no other reasonable means of financing or refinancing is reasonably available to the applicant.

"(c) Charges.—(1) The Secretary shall charge and collect such amounts as he may deem reasonable for the investigation of applications for a guarantee, for the appraisal of properties offered as security for a guarantee, or for the issuance of commitments.

"(2) The Secretary shall set a premium charge of not more than 1 per centum per annum for a loan or other obligation guaranteed under this section.

"(d) Validity.—No guarantee or commitment to guarantee an obligation entered into by the Secretary shall be terminated, canceled, or otherwise revoked, except in accordance with reasonable terms and conditions prescribed by the Secretary. Such a guarantee or commitment to guarantee shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder as of the date when the Secretary entered into the contract of guarantee or commitment to guarantee, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

"(e) Default and Recovery.—(1) If there is a default in any payment by the obligor of interest or principal due under an obligation guaranteed by the Secretary under this section and such default has continued for sixty days, the holder of such obligation or his agents have the right to demand payment by the Secretary of such unpaid amount. Within such period as may be specified in the guarantee or related agreements, but not later than forty-five days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid interest on and unpaid principal of the obligation guaranteed by the Secretary as to which the obligor has defaulted, unless the Secretary finds that there was no default by the obligor in the payment of interest or principal or that such default has been remedied.

"(2) If the Secretary makes a payment under paragraph (1) of this subsection, he shall have all rights specified in the guarantee or related agreements with respect to any security which he held with respect to the guarantee of such obligation, including, but not limited to, the authority to complete, maintain, operate, lease, sell, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements.

"(3) If there is a default under any guarantee or commitment to guarantee an obligation, the Secretary shall notify the Attorney General who shall take such action against the obligor or any other parties liable thereunder as is, in his discretion, necessary to protect the interests of the United States. The holder of such obligation shall make available to the United States all records and evidence necessary to prosecute any such suit.

"(f) Authorization for Appropriations.—There are hereby authorized to be appropriated to the Secretary not to exceed $200,000,000 to pay the interest on, and the principal balance of, any obligation guaranteed by the Secretary as to which the obligor has defaulted: *Provided,* That the outstanding indebtedness guaranteed under this section shall not exceed $200,000,000.

"TESTING AND CERTIFICATION

"Sec. 608. (a) Administrator.—The Administrator of the Environmental Protection Agency shall test, or cause to be tested in a facility subject to his supervision, each production prototype of an automobile developed in whole or in part with Federal financial assistance under this Act, or referred to him for such purpose by the Secretary to determine whether such production prototype complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901), or any other provision of Federal law administered by him. The Administrator shall submit all test data and the results of such tests to the Low-Emission Vehicle Certification Board.

"(b) Secretary.—The Secretary shall test, or cause to be tested in an independent facility subject to his supervision, all new production prototypes of automobiles which he or a developer may submit to the Low-Emission Vehicle Certification Board for certification under subsection (c) of this section. Such tests shall be conducted, according to testing procedures to be developed by the Secretary to determine whether each such automobile complies with any standards promulgated as of the date of such testing or reasonably expected to be promulgated prior to sale at retail of such automobile under any provision of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381), the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) as amended by section 9 of this Act, the Automobile Information Disclosure Act (15 U.S.C. 1232), and any other statute enacted by Congress and applicable to automobiles. The Secretary shall also refer any such automobile to the Administrator of the Environmental Protection Agency for testing pursuant to the provisions of subsection (a) of this section. All new automobiles may be submitted to the Secretary for testing under this subsection, including vehicles developed without any Federal financial assistance under this title. The Secretary shall submit all test data and the results of all tests conducted by him or subject to his supervision to the Low-Emission Vehicle Certification Board together with his conclusions and reasons therefor as to whether the automobile tested merits certification as an advanced automobile. The Secretary, or the Administrator of the Environmental Protection Agency, if appropriate, shall conduct, or cause to be conducted, any additional tests which are requested by the Low-Emission Vehicle Certification Board and shall furnish to such Board any other information which it requests or which he deems necessary or appropriate.

"(c) Board.—The Low-Emission Vehicle Certification Board, shall, upon application by a developer or by the Secretary and the receipt of test data and test results submitted pursuant to subsections (a) and (b) of this section, issue or deny certification as an advanced automobile. Each determination as to certification shall be made in accordance with such rules and regulations as such Board shall prescribe in accordance with this title. Each application for certification shall be made to the Board in writing in such form and with such content and other submissions as the Board shall require.

"PROPRIETARY INFORMATION AND PATENTS

"Sec. 609. (a) Availability.—(1) All research and development contracted for, sponsored, or cosponsored by the Secretary pursuant to this title, shall require, as a condition of Federal participation, that all information—whether patented or unpatented in the form of trade secrets, know-how, proprietary information, or otherwise—resulting in whole or part from federally assisted research shall be made available at the earliest possible date to the general public, including but not limited to nongovernmental United States interests capable of bringing about further development, utilization, and commercial applications of such results.

"(2) The Secretary, in administering patents pursuant to this title, shall make a determination, in a proceeding conducted in accordance with the provisions of section 553 of title 5, United States Code, as to whether patent licenses shall be granted on a royalty-free basis or upon a basis of charges designed to recover part or all of the costs of the Federal research. The Secretary shall make government patent rights and technological and scientific know-how available on nonexclusive and nondiscriminatory terms to qualified applicants.

"(3) (A) Whenever a participant in an advanced automobile development project holds background patents, trade secrets, know-how, or proprietary information which will be employed in the proposed development project, the Secretary shall enter into an agreement which will provide equitable protection to the rights of the public and the participant: *Provided,* That any such agreement shall provide that when the advanced automobile development project reaches the stage of possible commercial application, any of the participant's previously developed background patents, trade secrets, know-how, or proprietary information reasonably necessary to possible commercial production of an advanced automobile developed under this title will be made available to any qualified applicant on reasonable and nondiscriminatory license terms or in other forms which shall take into account that the commercial viability of the advanced automobile was achieved with the assistance of public funds.

"(B) As employed herein, the term 'background patent' means a United States patent owned or pending by a contractor, grantee, participant, or other party conducting research or development work, or both, pursuant to this title for or under the sponsorship or cosponsorship of the Secretary which would be infringed by the practice of any new technology developed under the research or development work, or both, contracted for, sponsored, or cosponsored pursuant to this title.

(b) Protection of Rights.—Whenever the Secretary determines that—

"(1) (A) in the implementation of the requirements of this title a right under any United States patent, which is not otherwise reasonably available, is reasonably necessary to the development of an advanced automobile pursuant to this title, and

"(B) there are no reasonably equivalent methods to accomplish such purpose, and

"(2) the unavailability of such right may result in a substantial lessening of competition or tendency to create a monopoly in any line of commerce in any section of the country,

the Secretary shall so certify to a district court of the United States, which shall review the Secretary's determination. If the district court upholds such determination, the court shall issue an order requiring the person who owns such patent, or rights thereunder, to license it on such reasonable and nondiscriminatory terms and conditions as the court, after hearing, may determine. Such certificaton may be made to the district court in which the person owning the patent resides, does business, or is found.

"(c) COMPETITION AND SMALL BUSINESS.—The Secretary shall, in determining license terms, duly consider and give weight to the effects of such terms on competition and small business.

"RECORDS, AUDIT, AND EXAMINATION

"SEC. 610. (a) RECORDS.—Each recipient of financial assistance or guarantees under this title, whether in the form of grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) AUDIT AND EXAMINATION.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements referred to in such subsection.

"REPORTS

"SEC. 611. On or before August 1 of each year, the Secretary shall submit to Congress an annual report of activities under this title. Such report shall include an account of the state of automobile research and development in the United States, including the number of grants made, and number of loans or other obligations guaranteed, and the progress made in developing production prototypes of advanced automobiles within four years after the date of enactment of this title; and suggestions for improvements in automobile research and development, including recommendations for legislation.

"GOVERNMENT PROCUREMENT

"SEC. 612. The Administrator of General Services shall consult with the Low-Emission Vehicle Certification Board periodically to determine the earliest date at which production prototypes of an advanced automobile will be available. When the Low-Emission Vehicle Certification Board determines that an advanced automobile may soon be available, it shall propose a system of guidelines recommending to any Federal agency using and procuring automobiles the procurement of such automobiles. After a production prototype has been certified by such Board as an advanced automobile, the Board is authorized and directed to prescribe such regulations as are necessary requiring all Federal agencies to procure and to use such advanced automobile to the maximum extent feasible.

"AUTHORIZATION FOR APPROPRIATION

"SEC. 613. (a) AUTHORIZATION.—There is hereby authorized to be appropriated to carry out the purposes of this title other than section 607 of this title not to exceed $30,000,000 for the fiscal year ending June 30, 1974, not to exceed $50,000,000 for the fiscal year ending June 30, 1975, and not to exceed $60,000,000 for the fiscal year ending June 30, 1976.

"(b)(1) RATIO NOT REDUCED.—Funds expended for each fiscal year for the purposes of this title and funds expended for such fiscal year for all energy research, development, and demonstration activities shall be in the same ratio as the funds appropriated for such fiscal year pursuant to this title bear to funds appropriated for such fiscal year for all energy research, development, and demonstration activities of the Federal Government.

"(2) For the purposes of this subsection, the term 'energy research, development, and demonstration activities of the Federal Government' includes, but is not limited to—

"(A) the planning, management, and coordination of the energy research, development, and demonstration activities of the Federal Government;

"(B) research, development, and demonstration of coal as an energy source including coal gasification, coal liquefaction, and improved mining techniques;

"(C) research, development, and demonstration of oil shale as an energy source;

"(D) research, development, and demonstration of unconventional energy sources including solar energy, geothermal energy, magnetohydrodynamics, fuel cells, low-head hydroelectric power, the use of agricultural products for energy, tidal power, ocean current and thermal gradient power, wind power, electric energy storage methods, solvent refined coal, utilization of waste products for fuels, and direct conversion methods; and

"(E) research, development, and demonstration of new methods of converting fossil fuels into electrical energy.

"RELATIONSHIP TO ANTITRUST LAWS

"SEC. 614. (a) DISCLAIMER.—Nothing herein shall be deemed to convey to any individual, corporation, or other business organization immunity from civil or criminal liability or to create defenses to actions under the antitrust laws.

"(b) ANTITRUST LAWS DEFINED.—As used in this section, the term 'antitrust laws' includes the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730) as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; the Act of June 19, 1936 (ch. 592, 49 Stat. 1526), as amended."

TRANSPORTATION ENERGY CONSERVATION DEMONSTRATIONS

SEC. 14. (a) GENERAL.—The Secretary of Transportation is authorized and directed to enter into such contracts or other arrangements as may be necessary or appropriate for research and the development, establishment, and operation of demonstration projects to determine the feasibility of programs to conserve energy utilized in the transportation of individuals, including fare-free urban mass transportation systems; low-fare urban mass transportation systems; and arrangements such as reduced fees for multipassenger automobiles on toll highways, bridges, and tunnels.

(b) FEDERAL SHARE.—Federal grants or payments for the purpose of assisting projects pursuant to subsection (a) of this section shall cover not to exceed 80 per centum of the cost of the project involved, including operating costs and the amortization of capital costs, if any, for any fiscal year as to which such contract or other arrangement is in effect.

(c) CRITERIA.—The Secretary of Transportation shall select cities or metropolitan areas for projects assistance under this section upon the basis of applications in writing in such form and with such content as he shall require and in accordance with the following criteria:

(1) to the extent practicable, such cities or metropolitan areas shall have a failing or nonexistent transit system, a decaying central city, automobile-caused air pollution problems, or an immobile central city population;

(2) projects shall be selected from cities or metropolitan areas of differing size and characteristics, including population density and distribution;

(3) preference shall be given to projects that will introduce a high level of innovative transportation service to such cities or metropolitan areas consistent with the needs of residents for convenient access to employment, shopping, and recreation; and

(4) to the extent practicable, projects utilizing different techniques, methods, and modes of transportation energy conservation shall be approved.

Recipients of project assistance under this section shall make periodic reports and evaluations of each such project to the Secretary of Transportation in such form and with such content as the Secretary shall require.

(d) EVALUATION.—The Secretary of Transportation shall study transportation energy conservation methods and systems assisted under this section to determine—

(1) the effects of such methods or systems on energy and fuel conservation;

(2) the effects of such methods or systems on motor vehicle traffic and attendant air pollution, congestion, and noise; the mobility of urban residents; and the economic viability of central city business establishments;

(3) the techniques, methods, and modes of mass transportation that can best meet desired national objectives; and

(4) in the case of fare-free or low-fare systems, the extent to which frivolous ridership increases; the extent to which systems may reduce the need for urban highways; and the best means of financing such systems on a continuing basis.

(e) ANNUAL REPORT.—The Secretary of Transportation shall make annual reports to the Congress on the information gathered pursuant to this section and shall make a final report, including recommendations for legislation, not later than June 30, 1976.

(f) ADVISORY COMMITTEES.—In carrying out the provisions of this section, the Secretary of Transportation may provide for advisory participation by interested State and local government authorities, mass transportation systems management personnel, computerized data processing experts, employee representatives, commuters, and such other persons as he deems necessary or appropriate.

(g) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to carry out the provisions of this section not to exceed $20,000,000 for fare-free demonstrations, and $10,000,000 to effect the other purpose of this section, for each of the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively.

CARPOOL INCENTIVE PROJECTS

SEC. 15. Chapter I of Title 23 of the United States Code is amended by adding the following new section 154:

"CARPOOL INCENTIVE PROJECTS

"SEC. 154. (a)(1) To conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary shall approve projects designed to encourage the use of carpools in urban areas throughout the country while not adversely affecting bus and other mass transportation ridership in such areas.

"(2) Proposals shall be originated by local officials and submitted by the State in accordance with the provisions of subsection (d) of section 105 of this title. The Secretary shall approve for funding those projects which offer reasonable prospects of achieving the objectives stated in subsection (a) (1).

"(3) A project may include, but not be limited to, such measures as systems for locating potential riders and informing them of convenient carpool opportunities; preferential carpool highway lanes or shared bus and carpool lanes; and preferential parking for carpools.

"(4) A project under this section shall be carried out in accordance with procedures of law and regulations applicable to urban area traffic operations improvement projects pursuant to section 135 of this title, except that the Federal share of the cost of such work shall be 90 per centum, and that the Federal share shall not exceed $1,000,000 for any single project.

"(b) The Secretary shall conduct a full investigation of the effectiveness of measures employed in the demonstration projects authorized by subsection (a) of this section. In addition, he shall, in cooperation with the Internal Revenue Service, the Environmental Protection Agency, and other appropriate Federal and State agencies, study other measures, including but not limited to tax and other economic incentives, which might lead to significant increases in carpool ridership in urban areas throughout the country, and shall identify any institutional or legal barriers to such measures and the costs and benefits of such measures. He shall report to the Congress not later than December 31, 1974, his findings, conclusions, and recommendations resulting from such investigation and study. Funds authorized to carry out section 307 of this title are authorized to be used to carry out the investigation and study authorized by this subsection."

ENERGY CONSERVATION TAX INCENTIVES STUDY

SEC. 16. (a) The Secretary of the Treasury shall undertake a study of the feasibility and the costs and benefits of employing modifications in the Federal tax structure to encourage energy conservation, including, but not limited to, a study of—

(1) a progressive tax on increments of electricity consumed in excess of basic or ordinary residential and commercial use;

(2) measures to encourage the manufacture and purchase of energy-efficient automobiles;

(3) measures to encourage the use of efficient insulation in new structures and the installation of improved insulation in existing structures;

(4) measures to encourage research and development on technology for the removal of sulfur from fuels; and

(5) measures to encourage the installation of stack gas cleaning and other continuous emission reduction systems for the control of sulfur oxide emissions in fuel burning stationary sources.

(b) The Secretary shall submit to Congress a report of this study, together with any legislative recommendations he deems appropriate, no later than two years from the date of enactment of this Act.

PRODUCTS IMPORTED AND EXPORTED

SEC. 17. (a) Any product offered for import into the United States shall, as a condition of such importation, meet the applicable requirements of this Act.

(b) Any person importing into the United States any products to which the requirements of this Act are applicable shall be subject to the imposition of appropriate fees to defray expenses incurred in assuring compliance with such requirements.

(c) The requirements of section 8 of this Act shall not apply to any major energy consuming household product which is intended solely for export and which is exported.

AUTHORIZATION OF APPROPRIATIONS

SEC. 18. In addition to the sums authorized to be appropriated by specific sections of this Act to implement certain provisions of this Act, there are authorized to be appropriated each fiscal year such sums as may be necessary to carry out other provisions of this Act.

REDUCTION OF FEDERAL GOVERNMENT FUEL CONSUMPTION

SEC. 19. It is the sense of the Congress that—

(a) the President should determine and take immediate steps to reduce Federal Government consumption of fuels by a third; and

(b) the President should initiate a program within the Federal Government to immediately reduce non-essential uses of all Government vehicles and equipment, and commercial and mass transportation should be utilized whenever practical in the conduct of Government business; and

(c) the President should allot Federal Government departments and agencies a fixed quantity of fuel for a fixed period for essential purposes only, and critical national security activities and other vital services may be exempted on a case-by-case basis; and

(d) the Secretary of Defense should immediately initiate innovative measures to reduce the amount of fuels used for defense activities; and

(e) the President should immediately urge State, local, and other public authorities to adopt similar measures.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD and Mr. JAVITS moved to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make necessary conforming changes in S. 2176, the bill which just passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PRINT S. 2176 AS PASSED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2176 be printed as passed by the Senate and that an extra 500 copies be printed for the use of the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR JACKSON AND OTHER SENATORS

Mr. MANSFIELD. Mr. President, I rise to commend the distinguished Senator from Washington (Mr. JACKSON). Thanks to his strong initiative and foresight, the Senate has been able to act swiftly and decisively with respect to measures designed to ease the Nation's energy crisis. Thanks to the strong and effective advocacy of Senator JACKSON, the Senate has been able to compile a record on energy proposals unequaled by other institutions, within Government and without.

Indeed, the Senate is deeply indebted to Senator JACKSON for his efforts on this issue. The massive energy research bill disposed of last week, followed today by the energy conservation proposal have served to demonstrate beyond a doubt the devotion of this body to resolving this most pressing matter.

I wish to single out as well the efforts of the Senator from Arizona for his assistance on these measures. As the ranking minority member of the Interior Committee, his support was indispensable to these achievements.

And to other Senators goes equal praise. The Senator from Washington (Mr. MAGNUSON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from North Carolina (Mr. HELMS), and many others joined to assure that the Senate record on such a vital issue is one of which all Senators may be justly proud.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. BARTLETT) laid before the Senate a message from the President of the United States submitting the nomination of WILLIAM B. SAXBE, of Ohio, to be Attorney General, which was referred to the Committee on the Judiciary.

ORDER FOR DEBATE ON CLOTURE TO BEGIN AT 1 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, at the direction of the distinguished majority leader, I ask unanimous consent that the 1 hour for debate under rule XXII on the cloture motion begin running tomorrow at 1 o'clock p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate Calendar No. 471, S. 2686, which the clerk will state by title.

The assistant legislative clerk read the bill by title as follows:

> A bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services Program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Stanley

Hackett, a member of the staff of the Committee on the Judiciary, be permitted on the floor during the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I wonder if the distinguished Senator from North Carolina (Mr. HELMS), with his associates who are interested in this legislation, would consider the possibility of a time limitation on the pending business, in view of the limiting factors which affect the Senate this week and the next.

Mr. HELMS. Mr. President, I will say to my friend from Montana, the distinguished majority leader, that it would be my hope that this legislation could be carried over until after the first of the year, inasmuch as no hearings have been held this year, inasmuch as there are many Senators in this Chamber who are opposed to it, and I could see that there might be a considerable delay in Senators returning to their homes for the yuletide.

I see no pressing urgency for consideration of the measure at this time. As a matter of fact, I think it would only delay the Senate, and I do not want to be a party to that if I can at all escape it.

Mr. MANSFIELD. Mr. President, the message is clear, and I appreciate the candor of the distinguished Senator.

Mr. HELMS. I thank the Senator.

Mr. NELSON. Mr. President, I ask unanimous consent that the following staff members be permitted the privileges of the floor during the course of the debate on this legislation and on the voting:

Richard Johnson, Larry Gage, and Bill Spring, of the subcommittee staff; John Scales, minority counsel; Jeff Dorrance, of the full committee; Roger King, Roger Kolloff, Jon Steinberg, Angus King, Mark Schneider, and Pam Duffy be permitted the privileges of the floor during the course of the debate and during the voting.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. NELSON. Mr. President, I yield to the Senator from Minnesota without losing my right to the floor.

Mr. MONDALE. Mr. President, I rise to support the committee reported bill and urge its speedy adoption.

I would like to commend the leadership of the distinguished Senator from Wisconsin (Mr. NELSON) in reporting a bill which truly represents a product of constructive compromise.

For over 2 years, the distinguished Senator from Wisconsin (Mr. NELSON) has shown outstanding leadership in dealing with one of the most complex and delicate pieces of legislation with which I have ever been associated. His efforts are appreciated by us all.

In addition, I would like to commend the distinguished Senator from New York (Mr. JAVITS) for the tireless effort which he has expended in bringing about a legal services bill which meets the standards of professional integrity required of all in the legal profession.

Finally, I wish to commend the distinguished Senator from California (Mr. CRANSTON) for the many hours which he has devoted over the course of more than 2 years to bring about an effective and professionally responsible legal services corporation.

Mr. President, the pending measure tries once again to establish a Legal Services Corporation and to establish the Legal Services Program in that Corporation on a sound, continuing, ethical basis.

The OEO Legal Services program has been one of the most successful, if not the most successful, of all the poverty programs despite the fact that it has been modestly funded and despite the fact that, largely because of its success, there have been mammoth and widespread, continuing efforts to destroy it.

I consider it especially ironic that this program which seeks only to assert the constitutional and legal rights of American citizens should have been singled out above all as the poverty program to be destroyed.

Once again we are obviously being faced by a filibuster, this time a filibuster by amendments. And it is my opinion that this program is being opposed, not because it has been a failure, but because it has been a success.

This program is designed to assert the rights of the poor under the Constitution and under the law before the courts of the land. It is undeniable that those whom it serves, the Nation's poor, have often been denied many adequate opportunities to assert their legal rights before the courts and under the law of the land.

There has been an attempt now for some months, led by Mr. Howard Phillips and others, to destroy this program through subterfuge and to deny the right to bring essential lawsuits on behalf of the poor, and to deny an opportunity for the establishment of a Legal Services Corporation which would assure that the ethical requirements of the bar are met.

Once again we are faced by this assault. However, I am very hopeful, this time, especially in light of the fact that many compromises have been made and now, unlike in the other debates, we are enjoying the support of the White House at this point, I am sure that we will shortly have introduced into the RECORD a letter from Mr. Laird showing the support of the White House for passage of this measure in the Senate.

Now we have a measure that is completely supported by every member of the Committeee on Labor and Public Welfare, Republican and Democrat alike, the White House, the American Bar Association, and the vast majority of attorneys in this country regardless of political background. And if there ever was a chance to establish this program on a basis that assures its continuation on a proper basis, it is now.

Mr. President, as we debate the future of the legal services program, we stand in the midst of the most shattering crisis of confidence ever to confront our Nation's system of justice. For months, the American public has watched with horror as violations of law and political morality at the highest levels of government have been revealed—often, with seemingly little remorse on the part of those who undertook the wrongdoing.

Public officials at the highest levels have resigned or been forced out of office. Public confidence in our governmental institutions has reached new lows. And our Nation's system of justice has been tested as never before.

In this context, the debate today, which will help determine the future of the Legal Services program takes on added significance.

No group within our society has historically had more contact with and distrust for the law than our Nation's poor. Until recent decades, the massive legal problems facing the Nation's poor were simply disregarded by Government. Yet, as our society became increasingly complex, the legal needs of the poor continued to mount.

Then, in 1965, the Federal Government embarked on an experiment to insure equal justice to low-income Americans.

That program—the OEO Legal Services program—in the 9 years since its establishment has proven its effectiveness, and now must be given the security it requires through an independent and professionally responsible Legal Services Corporation.

During the years of its existence, the program has served millions of clients, dealing with a wide variety of problems. Yet throughout these years, the legal services program has been subjected to a constant series of political assaults. These attacks have occurred at every level of government, from those who would prefer to see the poor provided only with second-class legal assistance. Despite these attacks, however, the program has continued to operate effectively. Despite the overblown rhetoric of the opponents of the legal services program—culminating in the illegal attempts by Howard Phillips to destroy through subterfuge what could not be undone by law—legal services lawyers around the country have continued to provide the type of legal assistance which aids the cause of justice.

The Legal Services program has served well over 1 million clients annually, at a cost of only about $50 per case. Quite simply, it is one of the most cost-effective programs in Government today. And, contrary to the claims of those who argue that legal services lawyers have improperly sought out litigation, recent figures show that 83 percent of the matters handled by Legal Services attorneys have been disposed of without litigation and 85 percent of those matters on which litigation proved necessary have been won for their clients by Legal Services attorneys.

This is the type of record of which any group of lawyers should be proud. And figures from the General Accounting Office reveal that Legal Services attorneys, in providing this type of effective service, have concentrated their attention on the day-to-day problems of poor clients. For example, 42 percent of matters dealt with domestic relations, 18 percent with consumer and job-related problems, and 20 percent with housing and welfare problems. And that small proportion of time which has been spent by Legal Services attorneys in attempting to win collective rights for the poor has resulted in hundreds of millions of dollars, as well as expanded human rights—to which the poor were legally entitled—from Federal, State, and local governments which had been violating the law.

The activities of the Legal Services program, without doubt, have been controversial in some respects. But this controversy has been created by attempts to redress grievances within the legal system, rather than outside of it. The Legal Services program has helped extend the Federal school lunch program, prevented unlawful reductions in welfare payments, aided State efforts to get strong lead-paint poisoning protection legislation passed, and participated in many other important efforts to enhance the rights of the Nation's poor. It has attracted dedicated, motivated, able lawyers to its programs in a manner which has strengthened our ability to achieve peaceful change with the American legal system.

Using any standard, this unique program has been an outstanding success. And perhaps the most significant proof of that success has been the fact that the organized bar throughout the country has led the fight to preserve an independent and effective legal services program.

Without this leadership by the bar and by the heads of the organized bar, this program would have been dead long ago.

Yet the sad truth is that despite the success of the program, it has been subjected from its inception to attacks from those who believe that lawyers should not be too aggressive—nor too effective—in defining the rights of their clients.

No one who has had contact with the legal services program would deny that there have been some abuses in that program over the past 9 years. In fact, no one who has maintained any association with any Federal program operating over that period of time could deny that such a program would have some abuses of its own.

Yet the overwhelming record of achievement which the legal services program has realized in a short period of time is difficult to refute. And to ensure the continued effectiveness of the program and to remove it from the constant political harassment to which it has been subjected, there is a pressing need to establish an independent legal services corporation.

Over 2 years ago, in March of 1971, I—along with 22 of my fellow Senators—offered legislation to create an independent Legal Services Corporation. In introducing that legislation, I stated that it was designed "to insulate this vital program from political interference—and in so doing, to insure its integrity and independence."

This remains our goal today. But we should all recognize that over the past 2 years a process of compromise has made achieving this goal more difficult. Over this period of time the principal point of disagreement between the Congress and the President in achieving enactment of a Legal Services Corporation has been the appointment power to the Board of Directors of the Corporation.

For over 2 years, those of us who believe strongly in the legal services program have been insistent that there be some checks on the President's discretionary appointment power to the Legal Services Corporation Board of Directors. In the legislation which I introduced over 2 years ago this check would have been provided by allowing those groups most intimately involved with the legal services program—the legal profession, legal education, clients and project attorneys—to have an important voice in choosing Board members.

In the committee-reported bill, the President has complete discretion in his appointments to the Board, subject only to Senatorial advice and consent. This represents a major concession on the part of those favoring a strong, independent legal services corporation. It also represents a strong reason for insuring in the legislation creating such a Corporation, that the Board's powers are not so broad as to enable them to transgress the boundaries of professional ethics, as spelled out by the American Bar Association's canons of ethics and code of professional responsibility.

Quite frankly, this bill is not the bill which those of us on the committee who strongly support a strong legal services program would have preferred to see adopted to insure the political independence of the Legal Services Corporation. Under the present circumstances, however, it is the product of constructive compromise, and the Senator from Wisconsin (Mr. NELSON) and the Senator from New York (Mr. JAVITS) are to be congratulated for their efforts in achieving this compromise.

Because this bill is the product of compromise, however, there is little room for additional movement which might further imperil the independence of the Corporation. In many respects, this bill comes perilously close to invading the professional responsibility of attorneys—all attorneys—mandated by the ABA's canons and code.

The important place of the canons and code is well known to all attorneys, and enabling legal services attorneys to operate independently on behalf of their clients is not a special privilege for attorneys serving the poor. It is required by the standards of the profession.

Disciplinary rule 5–107(b) states: A lawyer shall not permit a person who recommends, employs or pays him to render legal services for another to direct his professional judgment in rendering such legal services.

And ethical consideration EC 5–23 makes clear the same concerns:

> Since a lawyer must always be free to exercise his professional judgment without regard to the interest or motives of a third person, the lawyer who is employed by one to represent another must constantly guard against erosion of his professional freedom.

These standards reflect the fact that our system of justice is based on the adversary process—which in turn depends upon effective advocacy. A dilution of the lawyer's independence threatens this adversary process. As former Chief Justice Warren has stated:

> A right without an advocate is as useless as a blueprint without a builder or materials.

No attorney can meet his professional responsibilities to a client if there are outside restraints on the types of cases in which he can participate or the kinds of issues he can raise. No large corporation would tolerate outside interference with their retained attorneys. Certainly the poor should not be expected to tolerate such interference.

This Corporation will not and should not be free of controversy. No method of resolving conflict is without controversy—except total suppression.

The conference with the House will not be easy. I, and many other supporters of the legal services program, have on many occasions indicated our complete dissatisfaction with the legal services bill passed by the House.

That bill cannot be the basis for an effective and independent legal services program. And this type of program—housed in an independent corporation, free from outside political interference—must be our goal in the weeks ahead, as we attempt to bring a new sense of independence and security to a program desperately in need of our continued support.

Mr. President, I am very hopeful that the Senate will move quickly to adopt this bill and that it can quickly be sent to the President. And I am very hopeful that before we adjourn, this simple act, this simple act of justice, will have been taken.

I thank the Senator for yielding.

Several Senators addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Massachusetts is recognized.

Mr. **KENNEDY**. Mr. President, I rise in support of the legislation that we are considering here today, the Legal Services Corporation Act. I urge the Senate to support this proposal.

It was really in the early part of the 1960's that the Supreme Court made an historic ruling in the Gideon case to the effect that even the poorest Americans were entitled to full representation in our courts of law. It was in 1965 under the poverty program that an effort was made in the development of a legal services program to really say that the poor people in this country should have as a matter of right the same kind of access to quality legal services that those who are affluent ask for and do have in this Nation.

Under the OEO program of 1965, we saw an effort to begin to provide quality health care to the poor, with the development of the neighborhood health centers, and that program has set the model for meeting the health care needs of the poor.

It was recognized in those days that we were committed as a people and a country to try to provide decent health care for people in this Nation at prices they could afford to pay.

We were attempting to do the same thing with education, and developed the Headstart program. We are attempting to do the same in the area of legal services, with this legislation to build on the record of the legal services program, and establish an independent legal services corporation.

I think the program has been a success, and a remarkable success, in providing such services to millions of Americans who otherwise would not be able to participate in the judicial system of this country.

The statistics, if we were to use them as a standard, would indicate that of the cases that actually have been tried by the legal services lawyers, they have been successful in over 85 percent of those cases, which must indicate that in the cases which are actually brought to trial and brought to the judicial system, the merits were on the side of the poor.

Legal services attorneys annually serve some 500,000 poor clients and resolve some 1.5 million legal disputes.

We have seen a very substantial number of cases that have been settled outside of the court system, and those have been overwhelmingly in favor, again, of the poor and the indigent. So this record has been one of success, and it is one that has won the overwhelming support of the American Bar Association and of bar associations all over this country. We have heard the president of the American Bar Association speak in favor of it, and we have witnessed the votes that have taken place in the Houses of Delegates of the American Bar Associations and in its governing board. Each and every time this issue has been put to the legal profession in this country, the response has been an overwhelming endorsement for this program.

Mr. President, one of the bitterest ironies of this debate as it now begins, and as we have seen the list of dilatory amendments which have been introduced, is the fact that so many of these amendments are coming from Members of the Senate who, time and again, have spoken about law and order in this country, and have been the leading advocates of resolving conflicts through legal processes.

Here we find, perhaps, the most obvious legislation that we might consider to provide a system by which those who have been excluded from the legal and judicial systems of this country may have access to them, through access to attorneys and legal advice, so that they will not feel their only option is to take the law into their own hands. We hear the counsel of reason to urge individuals to follow this procedure; but now we find that those who are speaking about law and order so loudly are refusing to provide the opportunity for the indigent and the poor to participate in the legal and judicial system.

Mr. President, this bill is not all that I would like to see in the way of Legal Services legislation. I have outlined in a formal statement the areas of my principal concern and the areas which I had hoped might be included in the legislation. But it does represent a compromise—a compromise between those within the administration, primarily in the White House, and those who felt that the Legal Services program should be much more independent of the White House and much more flexible in its opportunity to respond to particular needs of the poor in this country.

It represents a compromise, and therefore it received the unanimous support of the members of the Committee on Labor and Public Welfare and is now before the Senate. I am hopeful that we will have an opportunity to act on this measure quickly and expeditiously.

Mr. President, I think the members of the committee have traveled a substantial distance to accommodate the objections which were raised in the President's Legal Service veto in the preceding Congress. I disagree with that veto and continue to believe it contrary to the interests of the Nation. However, the most important need before us is to assure the continuation of the Legal Services program. With that overriding objection, we have attempted to find a middle road beween the views of the Congress and the administration.

It is uncommon for a piece of legislation concerned with a highly controversial program to emerge from committee with a unanimous report. It is indeed uncommon for a unanimous committe and the White House both to reach basic agreement on the wording of a bill. I think White House spokesmen and the committee members have achieved a reasonable compromise.

There are of course, some things in the bill with which I am not entirely satisfied. I am concerned that the bill as drawn may not isolate the program from political interference to the extent that it should. I would like to see the members of the Board chosen from among those who have worked with professional organizations of the bar, who have some professional qualifications and experiences with the actual problems connected with delivering legal services to poor people, or who are themselves poor and have been recognized by other people as their spokesmen.

As the bill now stands, the only control over who will sit on the board of this corporation is this body's power to withhold consent from Presidential appointments. No qualifications for membership are spelled out. The White House demanded that, and the committee felt that it had to accommodate itself to the demand.

But those of us who consider ourselves to be supporters of the Legal Services program, and those of us from States with a number of Legal Services projects, have reason to be concerned over how seriously the White House takes its obligation to see that legal services are provided to poor people in an orderly, professional manner totally free of partisan political concerns.

During the first 9 months of this year, we have seen the legal services program subjected to an extraordinary amount of unnecessary harassment. We have seen projects with excellent professional records placed on month-to-month funding. In Massachusetts, we are proud to have two of the national backup centers: the center on law and education at Harvard and the national consumer law center which has been associated with Boston University. Both of these programs have earned repeated praise from lawyers, legislators, and program evaluators alike. For months they were subjected to the burden of never knowing from one week to the next whether they would have funds sufficient to meet salaries and outstanding obligations. They were unable to sponsor training conferences for legal services attorneys. They were unable to make commitments of personnel and time to assist with solutions to the problems faced by local attorneys. They were unable to offer employment to new personnel. And all of this was because of harassment from Washington apparently done not because there were valid criticisms that could be offered of the substantive work done by these centers. It was done simply because the Acting Director of OEO was personally opposed to the notion of poor people having access to Government-paid lawyers to sue for the enforcement of their constitutional rights, and he was opposed to the consumer center's having drafted the National Consumer Act, an act which had been adopted by the Wisconsin State Legislature.

All over the country we saw local legal services projects that were being forced to close their doors for want of funds, turning away clients, disrupting court dockets, disappointing State legislators, and dissipating professional staffs that had been painstakingly assembled and trained. And this was not being done because these legal services projects had violated the law, misused funds, or exceeded program guidelines. It was being done for ideological reasons that were sometimes plainly stated.

The prestigious National Advisory Council of the Legal Services program, which included representatives from the American Bar Association, the National Legal Aid and Defender Association, the National Bar Association, the Poor People's Clients Council and other groups was suddenly abolished.

These experiences constituted disturbing evidence of the need to insulate the corporation directors from political influence.

I would like to believe that the power of appointment will be exercised wisely. I would like to believe that none of those who associated themselves with the shameful, and in some cases openly political, activities of the first part of this year will be considered for membership on the Board of the new Corporation. I would hope that the White House would take the problems of the poor seriously. I would hope that they would take their own obligation to deal with those problems seriously and give the most careful consideration to the professional qualifications, the experience, the aptitude, and the nonpartisan spirit which will be necessary if this corporation is going to do its job well. Their support for this legislation now is a strong indication that they are willing to look with greater compassion to the problems of the poor.

The Corporation is going to face many

grave problems. The present distribution of local Legal Services projects around the Nation is far from adequate. Many areas are as yet unserved; and even those which are served the best are not receiving truly adequate legal services for their poor citizens. This is primarily a function of money. The Legal Services program does not have a particularly large budget if we realize that what we are talking about is providing service to more than 25 million Americans and what we are paying is $71.5 million. The dollar figure for the program has been frozen for the last 3 fiscal years, and with the rise in the cost of living over that period of time, the rise in rental expenses, in the cost of equipment, salaries, and utilities, the program has actually suffered a substantial reduction in its ability to purchase goods and services. Added to this burden have been two others: the decision by the GSA that Legal Services offices would no longer be able to purchase equipment and supplies through the Government or to obtain the Government discount, and the decision that Legal Services' projects would no longer be able to obtain long distance telephone service through the Government rented WATS lines.

As a consequence, local projects all over the country are in very severe financial shape. They cannot match the entering salaries offered to young lawyers by private law firms, district attorneys' offices, the public defenders, or the Federal Government. In my home State of Massachusetts, the Boston Legal Assistance project has been held to the same dollar budget for 4 years, as a result of which they now have six staff vacancies which they are not in a position to fill.

I would have liked to see this administration exercise a little bit more generosity in its funding for the Corporation. But in a spirit of compromise, the committee accepted the administration's authorization figure even though we have have been asking the local Legal Services' lawyers to subsidize the Nation's drive to provide equal justice under law by accepting low salaries and few benefits. Few people are aware of how generously these lawyers have done so. Currently 2,500 attorneys are employed by the program. Out of its total budget of $71.5 million, the program not only has to pay these lawyers, but it also has to pick up the cost of investigators, secretaries, office rental, supplies, equipment, publishing, printing, training, backup services, and the Federal apparatus of a national office of Legal Services and 10 regional offices. The total cost to the Federal Government for recruiting, paying, and supporting an attorney on the line, has been $28,400 a year, the average salary each lawyer has received is $11,500; a truly remarkable bargain. But we cannot expect to continue getting first-rate service and dedicated work if we continue to shortchange the local projects.

What amazes me is that underfunded and understaffed as most local projects are, they still have managed to accomplish some remarkable things.

In Massachusetts, the Boston Legal Assistance project has shown what "law reform," as the Legal Services program uses that term, is all about, whether they were suing to establish a new right, defending a Government policy that benefits the poor, helping low-income clients to secure the passage of legislation that affects the poor specifically, or to secure legislation that affects the poor and others as well. Let me give some examples.

In Massachusetts, all local police departments draw their recruits from one central pool of applicants who have passed the civil service entrance test. Boston Legal Assistance represented a group of black and Spanish-surnamed applicants who had been rejected on the basis of a written test. In the landmark decision of Castro against Beecher the U.S. Court of Appeals for the First Circuit ruled that the test was clearly biased and had no apparent relationship to the ability of a recruit to perform the job as a police officer. As a result, the court threw out the test and local police departments around the State now for the first time have access to a much larger pool of black and other minority men and women from whom to choose their officers. It is estimated that in the next year or so local departments in Massachusetts, both urban and suburban will be able to add an additional 250 minority members to their forces, and that most of these will be men and women who have come from low-income backgrounds.

Legal Services lawyers in Massachusetts have, over the course of years, come to work closely with the State legislature. Earlier this year, they helped secure for their clients passage of a statute which requires that the maximum rental in any State supported public housing for the poor be no higher than 25 percent of the family's monthly income. The act also provided retroactive benefits of some $200 to $300 thousand for low-income families living in public housing. I consider that to be an exemplary instance of law reform and an exemplary demonstration of why representation before the legislature can be of tremendous importance to low-income people.

But law reform efforts carried out for poor clients at the legislative level can often have spillover effects that benefit the entire community. Massachusetts now has one of the strongest consumer protection acts in the country. Much of the work in securing the passage of that act was done by Legal Services attorneys who work for the Massachusetts Law Reform Institute, a statewide back-up center, and by the Boston Legal Assistance project. The act not only makes it a crime to knowingly engage in deceptive practices in the sale of goods and services, but it also extends to the rental and sale of housing. It not only makes it a crime, but it also permits the wronged party to sue for treble damages. It is a fine act. I think it is a model for the Nation. And I think the Legal Services lawyers who worked on it for their clients are to be commended.

If such work is to continue, the Corporation must be careful to see to it that politics and ideological disputes do not again come to dominate the program the way they did earlier this year. And we, here in Congress, must see to it that the Corporation receives adequate funds to provide legal services of a high quality throughout the entire country. The Legal Services program in America is unique. There is no other country that has anything even remotely approaching it, either in terms of comprehensiveness, nor in terms of success. We have something to be proud of. The attorneys who have done such dedicated work have something to be proud of. I support the bill in the confident expectation that the pride of all of us will continue to grow, and that the establishment of the Corporation will mark a new, sincere, nonpartisan dedication to the provision of equal access to justice for all our citizens.

Mr. President. I also would like to comment on the benefits provided by the Legal Services backup centers.

LEGAL SERVICES BACKUP CENTERS

The legislation before the Senate to create a National Legal Services Corporation deserves support and speedy action to insure the continuation of the nearly 900 local legal services offices and over 2,200 full-time attorneys who have dedicated their professional lives to the indigent of our country. I know we all want the Legal Services program to continue to serve the poor as efficiently and effectively as possible. I am therefore pleased to note that the bill authorizes the continued functioning of the national and statewide support or "backup" centers which provide local legal services attorneys with specialized assistance, essential to a modern and efficient law practice, in areas relevant to the needs of the indigent.

Because these support centers have come in for criticism, I would like to take a few minutes to review the method of operation and past performance of these programs. In doing so, I shall draw upon the recent series of evaluations conducted by the American Technical Assistance Corporation, under contract to the Office of Economic Opportunity. In the spring of 1973, the Evaluation Division of the OEO Office of Legal Services ordered an extraordinary evaluation of all the national support centers. The evaluators, who were specifically approved by the Director of Evaluations, a man openly hostile to backup centers, found that the centers were providing excellent support, performing with a high degree of professional competence, and responding rapidly and thoroughly to thousands of requests for service from local legal services attorneys. The centers were found to be operating completely within their grant guidelines and succeeding in their mission to effectively back up local legal services programs.

Why are backup centers needed? I think the answer is simple. Most neighborhood offices carry a huge caseload because there are far too few attorneys to meet the demand for services. The local attorneys' time is largely spent appearing in court and interviewing clients and witnesses. Little time is available for complex research or to give comprehensive consideration to all potential client claims. Moreover, many programs are unable, because of caseload pressures and a small staff, to respond adequately to a complicated or unfamiliar problem or to a case which requires substantial manpower, resources and expertise to litigate or appeal. How these backup centers help local attorneys serve their clients more fully and effectively is illustrated by the following examples:

1. TRAINING OF LOCAL ATTORNEYS

The Migrant Legal Action program helped the Toledo Legal Aid program establish an Ohio migrant program and helped Michigan Legal Services establish a Michigan migrant program by training staff and providing extensive onsite assistance during the migrant season on numerous matters requiring specialized expertise, such as enforcement of Federal health and sanitation codes and the Fair Labor Standards Act, and implementation of the Federal food programs for migrants.

The Center on Social Welfare Policy and Law, the Center on Law and Education, and the National Employment Law Project have conducted training programs for lawyers specializing in their areas of expertise, both at the office site of the center and in the field with attorneys.

Almost all of the centers have prepared substantial manuals and materials on the subject area of the center's activity. These manuals are distributed to all Legal Services offices and are widely sought by others. The manuals prepared by the National Housing and Economic Development Law project, for example, were described by the evaluators as "very thorough, almost too thorough" and as "likely to provide the basis for future legal scholarship within many areas of the housing sector."

2. COMPLEX OR TECHNICAL LITIGATION

Litigation surrounding the enforcement of the Hill-Burton Act mandate that local hospitals provide a reasonable volume of services to the indigent is extremely complex and requires substantial resources. The National Health Law project has assisted seven Legal Services programs in seven different States in conducting litigation on this issue. The trials of these cases often run for 3 to 4 weeks and involve extensive discovery and litigation experience.

The Wayne County Jail—Detroit—case and litigation involving the Suffolk County Jail—Boston—both of which resulted in landmark court decisions ordering the jails closed, were dependent upon the expertise, resources, manpower and litigation experience of the statewide backup centers in the respective states, Michigan and Massachusetts. The Wayne County case, for example, required the work of three attorneys to handle a 5-week trial and 7 weeks of hearings on plans to implement court orders.

Several Legal Services programs, with the assistance of the Center on Social Welfare Policy and Law, New York, have sued to implement provisions of the National School Lunch Act requiring school districts to institute school lunch programs in all schools with a large number of poor children and to provide the poor with free or reduced-price lunches. The specialized expertise of the Center and the litigation resources which it could provide were essential to the development and success of these cases. As a Detroit legal services attorney explained to members of the House Subcommittee on Equal Opportunities:

> My research disclosed the following: the suit would have to be brought in federal court and would involve the local and state school boards and possibly the Department of Agriculture (which administers the school lunch program); there was no case interpreting the School Lunch Act though the statutory arguments were viable; and to provide competent representation, I would have to acquaint myself with large sections of legislative history, obtain extensive knowledge of the intricate and complicated financing arrangements of the school lunch programs (which were financed under four different statutory sections) and have the testimony of national experts on nutrition and school financing.
>
> Because of the large intake and hundreds of requests for service with which I was faced, it was clear that I could not take the time to properly develop the case without adversely affecting my other clients. No one else in the entire program had any knowledge of this specialized area and there was no other research source available in Michigan.
>
> Fortunately, I became aware that the Center on Social Welfare Policy and Law had begun to develop the background of the Act, explore the possible remedies and amass information about the operation of the school lunch program. I knew, too, that they had the resources and time to develop the case properly. Thus, I turned to them for assistance in order to provide my clients and others like them in Michigan with representation.

Without this litigation, thousands of children in Michigan and Detroit would today be without the free and reduced-price school lunches the Congress mandated when it enacted the National School Lunch Act.

As these examples indicate, elimination of the backup centers would deprive local lawyers of the expertise and resources to properly handle complex problems which their clients face. As the evaluators of the Youth Law Western States project concluded:

> The principle of litigation backup centers is a valid one. . . . Major litigation with its concomitant research, discovery, etc., is just too time-consuming and requires backup assistance.

3. ENFORCING RIGHTS CREATED BY STATUTE OR REGULATION

These centers do not set national policy, as some have charged. Rather, working in conjunction with local programs, they have been remarkably successful in enforcing present rights and entitlements accorded by Federal, State, and local statutes, ordinances and regulations on behalf of indigent clients. Several examples illustrate the point.

The National Employment Law project, located in New York, has assisted clients and local legal services programs in enforcing the Emergency Employment Act which provides funds for training and employment of unemployed and underemployed persons in needed public service jobs. In one instance, this center responded to a request by the Genesee County legal aid program and helped represent several indigent clients in securing enforcement of the act, which the court found the city of Flint to be deliberately violating.

The Center on Social Welfare Policy and Law, another New York backup center, participated as cocounsel in administrative and litigative efforts on behalf of welfare recipients to enforce mandatory provisions of HEW regulations. These efforts have produced a more efficiently administered and far superior hearing system for welfare recipients in New York State.

It is interesting to note that the Center on Social Welfare Policy and Law was described by the evaluators as follows:

> They stand ready to litigate but are willing to and often initiate negotiations with the admirable purpose of avoiding litigation if it is possible to do so while, at the same time, serving the best interests of the clients.

The National Health Law project and the Youth Law Center, both located in California, have been active in efforts to implement the Early and Periodic Screening, Diagnosis and Treatment—EPSDT—program, a mandatory Federal program providing preventive health screening and dental care for indigent children. Both centers have not only worked with HEW in its enforcement efforts, but have also joined with local programs, including Greater Lansing Legal Aid and San Francisco Neighborhood Legal Services, in litigation on behalf of indigent clients denied benefits under the program.

As the evaluators for the Indian Law backup center noted:

> In contrast to so-called "law reform" . . . cases, thees cases more properly should be described as raising questions about enforcement of laws which have been neglected for many decades.

4. DEVELOPMENT OF LEGISLATION RESPONDING TO CLIENT NEEDS

Local legal services programs do not often have the time, expertise or capability to work on complex legislative solutions to client needs. Law revision commissions and uniform State law commissions, both fertile sources of new legislation, generally do not make provision for securing participation by the poor or their attorneys. Backup centers perform this inavailable role. For example, upon request, the National Consumer Law Center presented testimony and expert advice to the Commission on the Bankruptcy Laws of the United States; many of its suggestions were ultimately adopted by the Commission. Additionally, the National Housing and Economic Development Law project has participated with the Conference of Commissioners in Uniform State Laws and the American Bar Association in developing the Uniform Residential Landlord-Tenant Act. It then helped enact the act in several States.

The Michigan backup center participated with the Michigan Law Revision Commission in its development of the new State housing and construction code and a legislative package revising the Michigan commercial codes. Both were introduced by the Governor and have been or will shortly be enacted.

Backup centers do not seek to foment social change, but to assure that the interests of the poor are heard in the process of drafting changes in the law. Their actions are rational and professional and should be supported by this Congress.

5. ASSURING PROTECTION OF CLIENT RIGHTS BY FEDERAL AGENCIES

Another reason to retain the national backup centers in the new Legal Services Corporation is the important role they play in assuring that the rights of the indigent are properly protected by Federal agencies.

No local program could hope to develop the staff and expertise to monitor Federal agencies, nor work to develop Federal regulations to meet the needs of its clients. The national backup centers have represented clients before the Federal agencies, and have assured that their interests are protected in administrative regulations being drafted for their benefit. Indeed, Federal agencies often seek the assistance of backup center staffs.

One of the best examples is seen by the work done by the national housing and economic development law project. It participated in the HUD task force which developed the model lease and grievance procedures for use in public housing and helped assure effective enforcement of the HUD regulations once they were issued by representing tenants as intervening defendants in litigation which was unsuccessfully brought to invalidate the procedures. The role of the housing project is best illustrated by two letters sent to the director of the project, Al Hirshen, from HUD officials. David Maxwell, of the General Counsel's office, wrote:

> This letter is to express the appreciation of the Department of Housing and Urban Development . . . for your assistance in the case of *The Housing Authority of the City of Omaha, Nebraska, et al.* v. *The United States Housing Authority, et al.* Your participation in this litigation, especially your involvement in the negotiations with the plaintiffs, as well as your excellent briefs and oral presentations, materially contributed to the successful outcome before the Court of Appeals for the Eighth Circuit.

Norman V. Watson, former Assistant Secretary of HUD, wrote:

> As you know, I am leaving the Department on January 20, 1973, and wanted to personally thank you for the efforts in assisting the Department over the past four years. More particularly, the advice and counsel given HUD during the negotiations between HUD, NAHRO and NTO on developing the lease and grievance procedure which resulted in the Department issuing a policy agreeable to two very volatile national organizations.

6. RESPONDING TO REQUESTS

Each backup center responds to requests for information or guidance from lawyers in local programs on a wide variety of matters. The larger backup centers review, and respond to, at least 1,000 or 2,000 such requests each year. The evaluation teams concluded that this work was being performed in a capable and comprehensive manner:

> "Insofar as the quality of the support given Legal Services programs is concerned, the latter report overwhelming approval of the work product." (Indian Law Back-up Center.) "The [National Consumer Law Center] responds well to the needs of Legal Services attorneys in the field." "The customers of [the Legal Action Support Project] generally praise it and are very happy with the work they do receive."
>
> The National Employment Law Project "prepares prompt and thorough responses to specific requests for legal advice and assistance from legal services programs. . . ." After three days of intensive interviewing and perhaps as many as 60 telephone contacts with offices in the field, the team was faced with only positive reactions." (Center on Social Welfare Policy and Law). "The [National Housing and Economic Development Law Project] seems to be staffed with talented individuals who are performing an exceptional role in servicing the needs of Legal Services attorneys throughout the United States."

In addition, the National Senior Citizens Law Center has achieved a remarkable record, even though it has been sorely underfunded. It has provided the special research and technical assistance to legal service projects across the country to enable them to more effectively serve the elderly poor.

In sum, it is clear that the backup centers are an invaluable resource to the local legal services offices. The dedication and expertise of their staffs is remarkable, and is commented on again by the evaluation teams. The action by the House in eliminating provision for these programs was, I believe, precipitated by certain sensational charges made late in the day. I am confident that the board of directors, nominated by the President and confirmed by the Senate, will assure that no grantee, local program, or backup center, will be permitted long to act in a manner contrary to the interests of the legal services program. I am pleased to add my support to a legal services bill that provides for the continuation of good, strong programs, including the backup centers.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

ACTIVITY REPORT: NATIONAL SENIOR CITIZENS LAW CENTER, JANUARY 1, 1973 TO JUNE 30, 1973

(This report does not include the activities of CRLA/NSCLC)

The following report summarizes the work accomplished by the National Senior Citizens Law Center (NSCLC) during the first six months of 1973. To show the relationship of all activities to the Center's primary goal of increasing the delivery of legal assistance to the nation's elderly poor, the report is divided into three sections: (1) efforts to expand such Legal Services, (2) substantive areas of litigative and legislative activity, and (3) internal administrative operation.

I. EXPANSION OF LEGAL SERVICES TO ELDERLY POOR

A. Increased visibility of need

In the past, the needs of the elderly poor have frequently not been clearly articulated to the individuals, organizations and agencies most able to assist in framing meaningful remedies. Therefore, NSCLC has attempted to use every vehicle possible to make these needs visible and challenging to Legal Services attorneys, as well as to governmental agencies, public and private organizations, legislative bodies, and the public in general.

1. *Publications.*—Four articles on legal problems of the elderly poor were prepared by NSCLC staff and published in *Clearinghouse Review*. These were:

Receipt of Cash Assistance Suspends Certain Benefits Under the Social Security Act (January, 1 page).

Litigation as a Tool for Private Pension Reform (February, 19 pages).

State Supplementation of Benefits Under the Supplemental Security Income Program (March, 6 pages).

Legislation for the Elderly (June, 2 pages).

Four papers on substantive issues were prepared and distributed to Legal Services attorneys and other interested parties. These were:

Model Statute for State Supplementation
Overview of SSI
Two papers on Medicaid

Nine issues of *Seniors in Sacramento* were published to inform Legal Services attorneys, and other concerned, about California legislation affecting the elderly poor, and to serve as a model for similar newsletters in other states. Arrangements were made with various groups to distribute similar information through their organizational newsletters. Work continued with the law firm of O'Melveny & Myers on a manual for senior citizens on estate planning and will drafting, with emphasis on how to avoid probate. The groundwork was laid for the early publication of an elderly law newsletter for all Legal Services programs throughout the nation.

2. *Speeches and Conference Participation.*—Presentations were made to a number of organizational meetings and conferences These included: U.S. Commission on Aging; Gerontological Conference of the U.S. Gerontological Society; 19th Annual Meeting of the Western Gerontological Society; Conference on Law and the Aging at Syracuse University; Black Caucus on Aging in Philadelphia; Interfaith Conference on Aging sponsored by the Southern California Interfaith Coalition on Aging and the USC Gerontology Center; USC Gerontology Center's Summer Institute for the Study of Gerontology; California Attorney General's Conference for Elderly Consumers (three sessions); California State Crime Prevention Division; Food Advocates' Western Region Conference on Nutrition for the Elderly; Contra Costa County's Tri-City Project on Aging; Bi-County Senior Citizens Planning Commission in Yuba City; Los Angeles Bar Association Consumer Law Conference; and Los Angeles County Department of Senior Affairs.

Subject matter of these speeches and presentations included: age discrimination; public housing problems; legal services and the elderly; NSCLC and the involvement of the elderly in prosecuting their own claims; general consumer matters affecting the elderly; pre-need funeral plans; and pension plans from the standpoint of the indigent individual plan participant.

3. *News Media.*—NSCLC attorneys were requested to appear on a number of radio and television programs to discuss substantive legal issues which affect senior citizens. News stories on the activities of the Center appeared in a variety of publications, including major metropolitan dailies, legal newspapers and senior citizen papers. Among these were a feature story on the problems of the elderly poor in the March 6 issue of the *Los Angeles Times;* and extensive coverage of the filing of a pension lawsuit which resulted in a flood of inquiries from attorneys concerned with similar problems.

4. *Testimony.*—Testimony was requested and given before various legislative bodies on matters of special importance to elderly Legal Services clients in which NSCLC has particular expertise. These included the Labor Subcommittee of the U.S. Senate Labor and Public Welfare Committee, the Labor Subcommittee of the House Education and Labor Committee, hearings by Senator Adlai Stevenson III on the termination of the Elgin pension plan, the California State Senate Committee on Business and Professions, the California State Assembly Retirement Committee, and the California Legislative Commission on the Status of Women.

5. *Workshops for Seniors.*—A series of four lectures were held, in collaboration with the USC Community Center Department of Senior Affairs, for seniors in the Los Angeles area in June and July to alert them to the legal aspects of issues with special impact on their lives, and to emphasize that eligible individuals should utilize their local Legal Services Offices. Substantive areas presented were: income maintenance, health care, housing and employment discrimination and consumer matters. This series, which will serve as a model for similar sessions in other parts of the country, had a combined attendance of 300 persons.

B. Training of Legal Services personnel

1. *Attorney Training.*—As noted above, substantive training materials on problems of the low-income elderly were prepared and appeared in the *Clearinghouse Review,* and special papers on issues of concern to the elderly poor were also prepared and distributed to Legal Services attorneys. A probate manual is being prepared in cooperation with the private bar. A 125-page bibliography on legal problems and concerns of low-income senior citizens was prepared and mailed to all back-up centers. Arrangements were made for Legal Services attorneys in the western region to attend the "Law and Elderly" Institute portion of the 19th Annual Meeting of the Western Gerontological Society free of charge, and attorneys were so notified. Plans were laid for participation in the Reginald Heber Smith Community Lawyer Fellowship Program this fall, as was done last year.

All major national legislation of interest to the low-income elderly was monitored, and interested Legal Services attorneys were provided with information regarding the status of the bills. A legislative reference service was maintained in Washington, D.C. and Sacramento, and attorneys were provided with information on issues of concern to Legal Services clients.

A proposal was submitted to the Office of Economic Opportunity for a National Training Program on Legal Problems of the Elderly Poor.

Although this has not yet been funded, NSCLC laid plans for five regional training seminars to be held in the North, South, Atlantic States, Midwest and Far West in the fall. Approximately 75 Legal Services programs which had expressed an interest in problems of the elderly were contacted by mail to provide the name of their elderly law specialist who would be invited to attend the sessions.

The Legal Aid Society of Pima County (Tucson, Arizona) was assisted in planning a series of training sessions to be held in September for lawyers wishing to specialize in problems of the elderly poor. NSCLC will assist specifically with the probate, conservatorship, involuntary commitment and housing sections of the training sessions.

2. *Paraprofessional Training.*—Plans were laid for a demonstration paralegal project in Los Angeles to begin in July. Volunteers were sought from the senior citizen community to be trained to act as legal interviewers at existing senior centers. Arrangements were made with Legal Services programs and the private bar to accept cases resulting from these interviews. Approximately 70 senior citizens will be participating in this pilot project, which, it is anticipated, will be replicated across the country.

3. *On-site Training.*—Requests were received for litigation assistance from many Legal Services attorneys throughout the Nation. Some of these will be discussed in detail in the following sections. However, the educational aspects of such requests for assistance are important, since assistance provided by NSCLC is slowly building up a cadre of Legal Services elderly law specialists throughout the Nation, who, in turn, will be able to offer training to their coworkers.

C. Amplification of legal assistance

1. *Proposals for Model Legal Clinics.*—In late 1972, OSO Legal Services indicated the availability of $107,500 for special demonstration projects on behalf of the elderly poor. NSCLC solicited proposals for innovative projects from Legal Services offices in areas with heavy concentrations of elderly persons and received responses from Indiana, Georgia, California, Washington State, Colorado, Arizona, Maryland. Florida, Washington, D.C. and Pennsylvania. Of the 11 proposals received, nine are presently under consideration, and negotiations are under way with OEO on the final selection of those to be funded.

2. *Elderly Law School Curriculum Project.*—Together with the U.S. Gerontological Society and the ABA Family Law Section, NSCLC participated in a project to develop a law curriculum on the problems of the elderly poor for law schools across the country. NSCLC is also giving technical assistance in the preparation of a textbook which will be developed for the courses. It is anticipated that these courses will provide more elderly law specialists in the future. They will also serve to disseminate knowledge of the problems of the elderly poor, and as a catalyst to bring the resources of the law schools together with the needs of individual poor elderly clients in neighborhoods surrounding the schools.

3. *Law School Resources.*—Arrangements were made for NSCLC's participation in the UCLA Law School Quarter Away Program through which students spend one academic quarter working in a law office outside the law school. At least one, and possibly two of these students, will be working with NSCLC full time in the fall. To further increase awareness of problems of the low-income elderly at the law schools, negotiations were also initiated wth Northeastern Law School in Boston for a student from its cooperative program to work with one of NSCLC's offices. Data were compiled and disseminated to USC Law Center regarding transportation needs, problems and proposals for low-income seniors.

4. *Revenue Sharing and Other Available Funding.*—A memorandum was prepared at the request of the Sacramento County Counsel for the Office of the California Attorney General on the subject of whether revenue sharing funds can lawfully be used to develop Legal Services programs for the elderly poor in the state. A prior Attorney General's opinion raised questions as to the legality of using revenue sharing funds for this purpose, although such funds had been offered by the County to the Legal Aid Society of Sacramento County. A mailing is being prepared to all Legal Services programs to explain how revenue sharing has helped the elderly poor in Sacramento and how they can utilize these resources in their areas. National legislation to amend the Revenue Sharing Act was also monitored in a further effort to tie Legal Services programs into these resources.

A position paper was prepared on California A.B. 311, which would create a state-funded Legal Services program for the elderly poor. The paper, together with a redrafted form of the bill, was sent to the Assembly Committee on Ways and Means.

Research was conducted on private foundations which might be willing to fund legal projects for the low-income elderly, and approximately 25 were approached by letter to explore their interest. At their request, the San Diego Department of Human Resources was provided with information on possible funding sources for a senior citizens project.

Legal materials on probate were obtained from the Judge Advocate General's Corps to the U.S. Army and were transmitted to the private bar for use in the preparation of the probate manual for elderly Legal Services clients.

II. SUBSTANTIVE LITIGATIVE AND LEGISLATIVE ASSISTANCE

NSCLC received, and responded to, a large number of requests for technical assistance from Legal Services offices all over the nation. This assistance included not only the services already mentioned but also basic legal research into problems of individual elderly clients and the preparation of memoranda on a wide variety of substantive issues. In addition to this on-going service, NSCLC was involved in depth on the following substantive litigative and legislative matters.

A. Income adequacy and maintenance

1. *State Supplemental Income Program under H.R. 1.*—The new federal adult assistance program, SSI, which replaces the former state-by-state old age assistance programs, has generated far-reaching and complex problems. NSCLC worked closely with many Legal Services attorneys throughout the nation, who had been stimulated by its papers on SSI, on issues which arose from the legislation's implementation, as they were relevant to client needs in particular state jurisdictions. The Center also served as a respected national technical resource on the subject for private senior organizations, administrators, at the Social Security Administration and members of Congress. In addition, it provided technical assistance to other concerned organizations, including labor unions, gerontologists, welfare workers and commissions on aging throughout the nation. In California, many bills were introduced in this area, and NSCLC and the CRLA/NSCLC office were available for testimony before committees of the Legislature, and responded to numerous requests for information from citizens groups and state organizations.

2. *Private Pension Plans.*—NSCLC has been able to provide a unique input into pen-

sion matters since it is the only national legal program considering this issue from the perspective of the elderly poor. All pension cases in which it is involved are of first impression and have far-reaching significance.

Harrison and Lynch v. Crowell, et al., a case challenging the conditions of eligibility for pension benefits under the Construction Laborers Pension Trust for Southern California, was filed on June 20. The complaint attacks the requirement that a construction worker's employment be continuous if he is to qualify for a pension, and that the period of this continuous service total at least 15 years. These requirements are based on actuarial assumptions which NSCLC believes fail to take into account the hazardous nature of construction work which results in a high instance of disabling injuries, and the frequency with which construction workers are required to move from region to region and state to state in order to find work. NSCLC hopes to prove that as a consequence of these inaccurate assumptions the challenged eligibility conditions effectively exclude most workers covered by the trust from receiving retirement or disability pensions.

It is believed that *Harrison* is the first lawsuit filed in the U.S. to assert a duty on the part of administrators of a pension fund to employ actuarial assumptions which accurately reflect the employment patterns of workers covered by the fund, and to challenge the legality of the requirement that a worker complete a specified period of consecutive service in order to become entitled to even minimal pension benefits. The suit is based on Section 302(c) (5) of the Taft-Hartley Act which requires that all pension funds which are jointly held by union and management trustees be administered for the "sole and exclusive benefit of their participants and beneficiaries." Plaintiffs are clients of the Legal Aid Foundation of Los Angeles and the Santa Maria office of California Rural Legal Assistance.

The Legal Aid Society of Alameda County is being assisted on behalf of a client who was refused a disability pension (at age 57) by the Pension Fund of the East Bay Restaurant and Tavern Unions and Employers because her disability was incurred more than six months from the time for which an employer contribution was made on her behalf, although she is vested under the plan (which requires more years of credit than a usual disability benefit). The client has paid her union dues continuously, and the plan nowhere indicates that "disability" must be incurred in covered employment. Thus, although the client is eligible for a larger pension at age 65, she is now unable to work and has no income or disability pension at age 57.

The San Fernando Valley Neighborhood Legal Services Program is being assisted in pending litigation challenging the right of the International Association of Machinists Pension Fund to terminate pensions of retired workers whose former employers discontinue contributions into the pension fund after their retirement.

Other anticipated litigation involves a challenge to the Maritime Union Pension Plan's continuous service requirement (with the Legal Aid Office of Savannah, Georgia; and the Legal Services for the Elderly Poor, New York); a challenge to a similar provision of the West Coast Conference of Teamsters Plan (with Legal Aid Foundation of Los Angeles); and a challenge to Kaiser Steel's punitive refusal to reemploy a worker following his recovery from a temporary disability, thereby causing him to forfeit all pension credits.

A proposal was prepared in cooperation with the Industrial Relations Department at UCLA for a research grant from the National Science Foundation to study alternative pension schemes and labor mobility, including portable pension schemes.

At the request of the Labor Subcommittee of the U.S. Senate Labor and Public Welfare Committee, an analysis of the constitutionality of the retrospective features of S. 4, the Javits/Williams pension reform bill, was prepared. Testimony was also presented before the House Labor Subcommittee of the Education and Labor Committee, and hearings by Senator Adlai Stevenson III on the termination of the Elgin pension plan. A bill to reform the California Retirement Systems Disclosure Act was drafted, and materials and testimony in support of its enactment were prepared on behalf of clients. The bill passed the California Assembly and will be heard by the Retirement Committee of the State Senate in August.

A detailed analysis of a broad pension reform bill offered in the State Assembly was also prepared, and testimony was presented on it before the Assembly Retirement Committee. Testimony was presented to the California Senate Committee on Business and Professions on funding, reinsurance and fiduciary responsibility problems. Model legislative provisions on fiduciary responsibility and methods of enforcing pension legislation, as well as case histories of pension plan abuses, were provided at the request of a State Senator. All of the above testimony has been presented at the request of clients and legislators, and in all of these instances NSCLC has been the only voice raised on behalf of its clients, the indigent pension plan participants.

3. *Social Security.*—The Community Legal Assistance Center in Los Angeles is being assisted in representing a Social Security recipient whose Old Age benefits were summarily suspended by the Social Security Administration because of alleged excess earnings beyond those permitted by the retirement test. The case challenges the legality of the Administration's recoupment of these earnings out of benefits for months in which the plaintiff had no income other than Social Security. The case is presently in the Social Security appeals process, but because of the long delays involved in this process, the inadequacy of the notice and statement of reasons given the plaintiff when her benefits were terminated, as well as the failure of the process to afford any kind of prior hearing before the suspension of benefits, NSCLC is considering a challenge to its constitutional adequacy through an action in Federal District Court. Statistics have also been collected on the delays between requests for hearings before Social Security administrative law judges and the actual provision of such hearings.

4. *Mandatory Retirement Policies.*—At the request of the Legal Services Organization of Indianapolis, NSCLC has participated in a pending suit which challenges the constitutionality of mandatory retirement policies which affect public employees and has also assisted in obtaining expert witnesses. Model pleadings and briefs covering the subject have also been provided to the Legal Services Center of Seattle and the San Fernando Valley Neighborhood Legal Services.

B. Health and nutrition

The recently enacted Social Security Act Amendments and the SSI Program have affected both the Medicare and Medicaid programs. NSCLC has provided assistance to Legal Services attorneys from outside the Washington, D.C. area by representing their clients at the Bureau of Hearings and Appeals in Virginia. It has also provided Legal Services attorneys, Medical Services Administration and the Assistance Payments Administration with technical assistance relevant to changes in the law as new policy has been formed.

At the request of the San Fernando Valley Neighborhood Legal Services, NSCLC is investigating the possibility of filing a civil suit for a client denied Medicare coverage. The problem involves getting the court to review new evidence, and not make its determination on the basis of evidence presented in the past to the fiscal intermediary and the Appeals Council.

In Los Angeles County, NSCLC has monitored the enforcement of the order in *Dils* v *Geduldig* (a CRLA/NSCLC case) which upheld the right of recipients of last fall"s 20 percent increase in Social Security benefits to remain eligible for "categorical" Medi-Cal benefits despite the fact that the increase rendered them ineligible for Old Age Security payments. The County's implementation of *Dils* has been slow and uncertain, and NSCLC has received requests for assistance from many dissatisfied Medi-Cal clients.

For example, the *Dils* order required that all affected persons be promptly provided with permanent Medi-Cal cards by the State. Four months after the decision, Los Angeles County members of the *Dils* class were still receiving temporary monthly cards. Through a series of telephone calls to the Department of Public Social Services, NSCLC determined that the County's computer had been incorrectly programmed and was rejecting all efforts by social workers to trigger the issuance of permanent cards. Once this error was brought to the attention of the appropriate County official the computer was reprogrammed, and permanent cards are now being issued.

In the field of nutrition, federal legislation was monitored and technical assistance was provided to the U.S. Senate Committee on Nutrition and Human Needs, to the Administration on Aging, and to the Department of Agriculture, as well as to individual Legal Services attorneys.

C. Housing

In California, a body of housing legislation of special importance to the low-income elderly has been closely monitored and reported in the Sacramento newsletter. This legislation includes public housing, landlord-tenant law, and home ownership problems.

Preliminary research and factual investigation has been undertaken at the request of the Legal Aid Society of Pima County (Tucson, Arizona) on a prospective suit which will challenge a sale by FHA of a low-income elderly housing project, following foreclosure, to a private firm. The sale will result in vastly increased rentals.

D. Consumer

At the request of the Tri-County Legal Services, Lancaster, Pennsylvania, NSCLC drafted a memo of points and authorities regarding the reduction of public utilities rates for senior citizens.

Data were accumulated and recommendations drafted for the California Director of Consumer Affairs regarding the need for the "print out" of generic names for 50 drugs most commonly used by senior citizens, as well as base price information. NSCLC also participated in a conference with the California Assistant Attorney General and the Director of Consumer Affairs regarding revision of statutes relating to blood transfusions.

Negotiations were begun on behalf of two 80-year old women who had complaints arising from the purchase of pre-need funeral plans. In both instances, the clients had paid for plans which were to provide for complete funeral services but were later approached by a salesman for additional money because of inflation (with Community Legal Assistance Center, Los Angeles).

E. Institutionalization

NSCLC is investigating the citation system employed for board and care homes in California. At present, citations are not published, which appears to violate the California Public Records Act, and neither are they prosecuted. There has also been an effort to call attention to the inadequacy of attendant care services provided to the elderly, which is often a contributing factor to their being placed in custodial care.

F. Guardianship and conservatorship

At the request of the Legal Services Program of Ft. Wayne, Indiana, NSCLC has assisted in the preparation of pleadings on a case still pending in Superior Court which challenges on procedural due process grounds the Indiana statutory scheme for holding incompetency hearings in guardianship proceedings. The Community Legal Assistance Center in Los Angeles was also assisted in investigating a case involving a public ward who was declared incompetent at a hearing where she went unrepresented by appointed counsel although she was financially unable to retain a lawyer.

G. Miscellaneous

The Older American Act Amendments were enacted into law as P.L. 93–29 this spring, and in anticipation of the early appearance of regulations supportive of the law NSCLC is monitoring this area closely. Requests have already been received from Legal Services attorneys for information and assistance in interpreting the effects of the new amendments on their clients.

The new Social Services regulations are also being monitored, and NSCLC is answering technical assistance requests on them from Legal Services attorneys, Congressmen, administrators and interested organizations. The original effective date of July 1, 1973, has been postponed by legislation until November 1, 1973, and the Act still awaits the President's signature.

NSCLC has also provided legal input into the USC Gerontology Center's "Gatekeeper's Study," a project being conducted under a National Science Foundation research grant. The purpose of the study is to examine concepts used by persons controlling access of the elderly to available scarce resources and to make suggestions for social policy and legislation in the field of aging. NSCLC has been able to utilize the study to produce answers to many of its questions on behalf of the elderly poor.

III. ADMINISTRATION

A. NSCLC refunding

NSCLC's 1973–1974 refunding proposal was submitted to the Office of Economic Opportunity on April 17, 1973. In early May, the program was evaluated by a six-man team from OEO, and word of its six-months refunding (July 1–December 31, 1973) was received on July 2. During these months, a substantial amount of staff time was spent in providing OEO and the NSCLC Governing Committee with materials relative to the program's activities, and in consultations with OEO personnel and others concerned with the refunding process.

B. Governing committee meetings

A meeting of the NSCLC Governing Committee was held in Washington, D.C. on March 27; and meetings of the Executive Committee were held in Los Angeles on February 24 and May 31. In these meetings the Governing Committee deliberated concerning the current and future activities of the program, and continued to exercise its close supervision of all projects.

C. Staff meeting

A two-day meeting of the entire professional staff of NSCLC was held in Santa Monica, July 9–10, for the purpose of acquainting staff members with each other's expertise as a means of promoting communication and increasing the effectiveness of the total staff. Members of the CRLA/NSCLC office were also present. It was the consensus of those attending the meeting that it served a valuable purpose and that additional meetings should be held in the future.

IV. SUMMARY

NSCLC has already begun to fulfill its obligation to provide and stimulate the best possible legal representation for the nation's aged poor: by focusing public attention on their plight; by assuring that it has a prominent place among the issues addressed by the nation's courts, legislatures and legal aid attorneys; and by providing technical assistance to attorneys representing individual elderly poor clients. However, much time and effort must still be devoted over the next period of years if, what we may call a successful project which has achieved its goal of providing complete legal representation to the nation's elderly poor.

Mr. KENNEDY. I hope that every Member of this body will express a viewpoint in support of the proposed legislation. I hope that the overwhelming majority of the Members of this body will support the program. I feel that the legislation is urgently needed, and I urge Senators to take this into consideration.

A final point I would mention is that it is interesting that the major companies and corporations of the country can obtain legal advice and use it to protect their corporate interests and, in some cases, even their individual interests as corporate officials. They can take the cost of such advice as a tax deduction under business expenses. In other words, they are being subsidized by the taxpayers because of the tax deduction by which most individual taxes are reduced. Therefore, those taxes have to be made up by someone else. So the major companies of the country, in many instances effectively, wipe out millions of dollars. They are legally advised and those expenses are subsidized by the American taxpayer.

Yet we find individual Senators who refuse to permit a very modest program to be developed and supported, in the amount of some $71 million, to represent the poor of the country. That is a bitter irony, indeed. I hope that those who will speak in opposition to the program will be able to explain this irony to the American people.

Mr. NELSON. Mr. President, the point was made by the distinguished Senator from North Carolina (Mr. HELMS) that no hearings have been held this year on the bill. That is correct. The reason is that we have exhausted all discussions and analyses of viewpoints that have been expressed on the proposed legislation, which has been under consideration since 1969. The bill has passed both Houses of Congress twice. So there is absolutely no point in holding further hearings. If the bill were to be postponed until next year, there would not be any hearings necessary. There is nothing further to be heard on the bill. We are in agreement with the administration on the bill. The administration is supporting the bill in the Senate. The President is asking that it be passed.

Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum which gives the history of the legal services legislation.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

HEARING ON LEGAL SERVICES BILL

The bill considered by the Senate Committee involved the same issues as the Legal Services Corporation legislation that was passed in 1971 and then again in 1972 by both Houses of Congress. The language of the legislation is derived from earlier bills, and its framework and essential provisions have been thoroughly considered by the Committee through hearings and oversight activities over the course of the past three years.

During the 91st and 92d Congresses, the Poverty Subcommittee held 8 days of hearings specifically devoted to legal services. In addition, many witnesses have testified concerning legal services at hearings on Economic Opportunity Act programs in general, both in Washington and at field hearings around the nation this year.

The Committee was not requested to hold new hearings this session by the Administration or by any Senator.

On the part of all concerned—the majority and minority on the Committee—there was agreement for moving ahead on the legislation itself. When the President's message came up on May 15, the Subcommittee on Employment, Poverty, and Migratory Labor was in the midst of its consideration of manpower legislation—including manpower revenue sharing along the lines of the Administration's proposals in that area. Consideration in Subcommittee, full Committee and the floor took place throughout June and July. When the Senate returned in September, most of the members of the Labor and Public Welfare Committee were occupied with the Pension legislation. As soon as the consideration of this legislation ended, we scheduled mark-up session of the Subcommittee on October 3 and 10. The bill was ordered reported at that time.

It seems clear to me that all the issues regarding the Legal Services Corporation have been aired. If we are to get legislation enacted into law, the Senate must proceed as expeditiously as we can to resolve the issues in a manner satisfactory to a majority of the Senate, a majority of the House, and the Administration.

Mr. NELSON. Mr. President, the Legal Services Corporation Act we consider today is as important to the poor people of America as any other single piece of legislation we will pass this year. It is therefore imperative that this body move as expeditiously as possible, given the current uncertain situation at the Office of Economic Opportunity, if we are to insure the continued provision of high quality legal assistance to those who have long been unable to afford it.

In May of this year, President Nixon asked Congress to enact legislation establishing a Legal Services Corporation in order to—

> Provide a mechanism to overcome economic barriers to adequate legal assistance.

The bill reported by the Labor and Public Welfare Committee is based upon the administration's bill and meets the principles set forth in the President's message last May in all essential respects.

The committee-reported bill, to use the words of that message—

> Merits the support of all who believe in a legal services program which gives the poor the help they need, which is free and independent of political pressures and which includes safeguards to ensure that it operates in a responsible manner.

BACKGROUND

In the 9 years since passage of the Economic Opportunity Act of 1964, the issue of legal assistance for the poor has provoked nearly as much hysterical reaction, at each end of the ideological spectrum as any other domestic issue before Congress. Alarmists of all persuasions have bruised and battered one another over real and imagined abuses of, by, or to legal services programs. When those alleged abuses are examined, however, they are usually found to be more illusory than either the critics or the defenders would care to admit. What we have come to realize is that significant legislation simply cannot be written and enacted and executed in an atmosphere of charges and counter charges, especially when hard-won remedies for a few of the immense problems of the poor are at stake.

Too many people, in the heat of this battle, seem even to have forgotten that it is the poor we are supposed to be assisting—the poor, and not the beleaguered bureaucrat, not the State Governor and his agencies, and not even the eager and committed recent law school graduate who is the typical legal services attorney. Reason and sensibility are called for as we consider the institutions we create for dealing with social problems, and I think reason and sensibility are the tools with which the bill to be debated today has been crafted.

The Legal Services Corporation Act that we are now considering is a well-traveled piece of legislation. Since 1971 legislation for a national Legal Services Corporation has appeared on a number of occasions on the agendas of both Houses of Congress, as well as on the President's desk. Similar bills were enacted in 1971 by the House and Senate and a conference report passed by both, only to succumb to a Presidential veto. Legislation to establish a Legal Services Corporation was enacted again in 1972 by both Houses of Congress only to run aground in joint conference for lack of an agreement on the issue of whether the President was to have unfettered discretion to make all appointments to the Corporation's Board. Extensive hearings have been held in the last 2 years in both Houses of Congress, and a considerable body of information adduced, on legislative proposals to establish a National Legal Services Corporation similar to that which the Committee on Labor and Public Welfare has considered in this session. Indeed, I think it is safe to say that the differences between the legislation before us today and the bills of the previous 2 years are only differences in degrees of compromise. The provisions of the legislation before us today have been honed and modified to the point that they are now acceptable to a unanimous Committee on Labor and Public Welfare; they are now acceptable to the administration; and they are now acceptable to the major bar groups and other participants in the struggle to perpetuate a vital legal services program completely independent of political pressures.

Mr. President, at this point, let me read a letter I have received from Melvin R. Laird, Counselor to the President for Domestic Affairs, written on October 4, 1973, which reads as follows:

> DEAR GAYLORD: We are pleased that the Subcommittee on Employment, Poverty and Migratory Labor has completed action on legislation to create an independent National Legal Services Corporation.
>
> While we differ with some of the specific provisions of the bill as reported, we believe it does include essential principles proposed in the Administration's bill such as independence and accountability of the Corporation, freedom of the attorney to represent his client, and maintenance of a vital program.
>
> Therefore, we urge that final action be taken on the bill in this general form by the full Committee and by the Senate followed by an expeditious reconciliation of issues with the House passed bill so that the best possible measure may result and a National Legal Services Corporation may be implemented at the earliest opportunity.
>
> Sincerely,
>
> MELVIN R. LAIRD,
> *Counselor to the President for Domestic Affairs.*

DESCRIPTION OF BILL'S MAJOR PROVISIONS

Mr. President, the National Legal Services Corporation Act would establish a private nonprofit corporation "for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance." The Corporation would be directed by an 11 member board whose members would be appointed entirely by the President, with the advice and consent of the Senate. The Board will have sole responsibility for issuing the rules, regulations and guidelines by which the Corporation fulfills its mandate, and will appoint a Corporation president with whom it will share responsibility for providing financial assistance to those programs which will actually provide legal assistance to eligible clients.

The corporation is empowered to exercise considerable flexibility in insuring the provision of high quality legal assistance to eligible clients. It may contract, where necessary, with individuals, partnerships, firms and nonprofit organizations and corporations. The Board is authorized to contract with State and local governments, upon special application by a State or local agency or institution where nongovernmental alternatives would not be adequate to carry out a proposed supplemental legal assistance project. In addition, the Corporation has the authority to provide, either directly or by grant or contract, for the research, clearinghouse, and other important backup functions considered so essential to the program's continued vitality.

In order to provide a more efficient means of monitoring the activities of the legal services staff attorneys, the reported bill provides for the appointment of nine member State Advisory Councils in each State, whose members are to be appointed by the Governor after considering recommendations of the State Bar Association. The State Advisory Councils will be charged with notifying the Corporation of any apparent violation of the provisions of the act. In addition, a National Advisory Council shall be established to consult with the Corporation regarding its activities, including the promulgation of rules, regulations, and guidelines. Its members are to be appointed by the Board and are to be representative of the organized bar, legal education, legal services project attorneys, eligible clients, and the general public.

In order to avoid a number of possible abuses which might occur, the legislation also contains restrictions and safeguards concerned with focusing all the resources of the Corporation squarely on the provision of legal assistance to eligible clients.

Specific restrictions written into the act would prevent legal services attorneys from involving themselves in nonclient oriented activities while they are on the job. The staff attorney may not, while engaged in legal services activities, engage in picketing, boycotts, strikes, or public demonstrations, nor may they encourage others to engage in them. They may not at any time engage in rioting or civil disobedience, or violate a court injunction, or engage in any other illegal activity.

Legal services attorneys may not attempt to influence legislation before Congress or before any State or local legislative body, except as necessary to the provision of legal advice and representation for eligible clients. This provision would prohibit indiscriminate, nonclient-oriented lobbying, and would more beneficially channel the legal efforts of the attorney—whose primary duty is to provide the best possible legal assistance to the eligible poor. It does not prohibit necessary legal advice and representation because to do so would set up an artificial double standard prohibiting a legal services attorney for a poor person from doing what any other private attorney could do. No attorney shall be forced to violate the canons of ethics by providing less than the full range of legal services to eligible clients.

Legal services attorneys would also be prohibited from engaging in political activities by application of Hatch Act provisions generally applicable to employees in Federal assistance programs.

The legislation prohibits funding any training program for the purposes of advocating or encouraging political "causes" or policies, or labor or antilabor activities, or any illegal boycotts, picketing, strikes and demonstrations. In addition, all legal services personnel are prohibited from organizing groups for any purpose whatsoever. Only in the course of rendering legal advice and representation as an attorney for eligible clients will the legal services attorney be permitted to provide legal assistance in connection with such activities, and then only with respect to such clients' legal rights and responsibilities.

Additional restrictions and safeguards found in this act include the requirement that at least one-half of the members of the governing board of any legal services program receiving financial assistance be members of the bar of the State in which the assistance is to be provided.

They include provision for advance notification and solicitation of comments and recommendations from the Governor and State bar association regarding any proposed project or contract within a given State.

They include the requirement that the Corporation monitor and evaluate and provide for independent evaluations of legal services programs and grantees sponsored under this act.

And they include a positive mandate to the Corporation to provide for an experimental evaluation, through demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients. Such methods would include a close examination of such proposals as judicare, vouchers, prepaid legal insurance, and contracts with law firms. Moreover, the bill sets a deadline of 2 years for the transmission of results and recommendations to the President and Congress.

OPERATION OF LEGAL SERVICES PROGRAM

The federally funded legal services program had its modest inception in 1965 as a $600,000 adjunct to the community action program under title II of the Economic Opportunity Act of 1964. By 1973, it has grown into a $71.5 million program with 256 local programs which have more than 900 neighborhood branch offices. The legal services program currently employs approximately 2,200 full-time lawyers. It is estimated that in 1973 those lawyers will serve 500,000 clients and handle upward of 1,500,000 separate legal problems. By comparison, only $5,375,000 was expended on civil legal aid in the United States in 1965 before the Federal Government entered the picture. It is interesting to note, however, that 40 percent of all current legal services grantees are legal aid organizations that were in existence even in those prefederally funded days.

Local projects in the legal services program are organized around the neighborhood law office, whose attorneys have as their function the provision of legal assistance to eligible clients in the entire range of civil legal problems encountered by the poor. Since the poor have been largely bypassed in the dispensation of civil legal assistance in this country, those problems are often overwhelming in their proportions. This has led the more creative local attorneys, as well as the less individual-oriented attorneys of main project offices and back-up centers, to attempt to discover legal means broader than individual litigation to solve some of the problems. It has unfortunately also led to a certain amount of friction between legal services attorneys and the Federal, State, and local institutions that have found their policies challenged as a result of the efforts at broader reform.

Victories won on behalf of groups of eligible clients against bureaucratic regulations which contravene the constitutional and statutory rights of poor persons have angered critics and inflamed passions against legal services. Needless to say, neither a local housing authority nor Federal agencies like the Department of Agriculture are happy when lawsuits succeed in requiring them to change their regulations, even though the result is to remove obstacles to better low-income housing or to improve nutrition programs for poor children. But those whose passions have been so inflamed should be reminded that the legal process in this country, by which the people govern themselves, is never uncontroversial in the best of circumstances. It was in recognition of the need for this controversy, indeed, that the former Director of OEO Frank Carlucci reminded us, when this legislation was first proposed, that——

> It is an act of great self-confidence for a government to make resources available for testing the legality of government practices. We have written laws and created government agencies that provide food for people who are hungry, homes for people who are homeless, and jobs for people who are unemployed.
>
> Consequently, a lawyer who is going to represent poor people is inevitably going to be an advocate for them against governmental agencies. It is to shield legal services from the repercussions generated by suits of this kind as well as those generated by action against private interests that the President proposes creation of an independent legal services corporation.

Thus, while it is possible to point up a few real and potential abuses in the legal services process, it is far more important that this process continue than that it be shut off as a result of the few minuscule abuses that are perhaps inevitable in a 2,200 member law firm. President Nixon himself reminded us this past summer, in another context, that—

> It would be a tragedy if we allowed the mistakes of a few to obscure the virtues of most.

It is perhaps unfortunate that we are not today a nation possessed of a perfect foresight, and consequently a perfect set of laws and regulations. One of the great benefits of our system of government lies in the continued growth and development of our legal system. It lies in the fact that previously established legal precedents and processes can be changed to meet society's changing needs, subject only to the greater dictates of the Constitution. It was Thomas Jefferson himself who once said—

> Laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times.

A most graphic example of the lack of foresight that must often be corrected in laws that deal with the poor occurred quite recently in my home State of Wisconsin. When the reservation status of the Menominee Indian Tribe was terminated, the enrolled membership of the tribe was, in effect, "paid" for their tribal lands with special Menominee Enterprise Bonds, not redeemable until the year 2000. Since the unredeemable bonds did little to alter the poverty status of most of the Menominee Indians, they proceeded to apply to the State for public assistance—only to discover that their bonds would be subject to seizure before they could become eligible under existing laws. The disadvantaged Menominees were faced with a cruel dilemma: The bonds represented their tribal lands, which had been given up only in hopes that a long-range experiment with private enterprise would alleviate the poverty of the tribe. They would be forced either to forfeit those bonds to the State or forego badly needed public assistance in order to retain this last vestige of their pride, of their tribal heritage. It was only through the intervention of a legal services attorney, making representations to the State legislature on behalf of his eligible clients—the Indians in need of public assistance—that a corrective measure was passed which alleviated the problem.

It would be possible to rest the defense of legal services here, with only the additional demonstration of the widespread support of legal services programs that exists among Members of both parties, all major national and State bar associations, and the vast majority of State and Federal judges. I feel it is helpful to go further, however, because a closer analysis of current legal services priorities would indicate that, despite the successes of the sort of larger scale legal services advocacy represented by the Menominee Indian example, it really only comprises a tiny percentage of the program's overall work. By all estimates, more than 95 percent of staff attorney time and effort is spent, not on class actions, not on broad policy implication "law reform" projects—but on day-to-day problems involving housing, domestic relations, employment, consumer problems, and so forth.

Former OEO Director Frank Carlucci has noted national legal services statistics which show that 18 percent of the overall caseload has been in the consumer area, 9 percent has been concerned with administrative problems, 11 percent with housing problems, 42 percent with family problems, and the remaining 20 percent dealt with miscellaneous problems such as torts, juvenile problems, et cetera. He added—

> We estimate that less than 1% of the cases that actually reach litigation are class action cases. So the idea that legal services lawyers are always engaged in class action is very misleading.

In addition, OEO statistics have demonstrated that fully 83 percent of the matters proceeded by legal services attorneys have been disposed of without any litigation, a fact which is perfectly understandable when you realize that 85 percent of the cases that have actually been taken to a court proceeding have been won.

Why, then, do some people persist in exaggerated criticisms of a program that has time and time again demonstrated its effectiveness and efficiency in a way matched by few other programs in the entire Federal Government? Perhaps the real reason is not alleged abuses by legal services lawyers. More likely it is the remarkable success of the program itself in our courts of law—before local, State, and Federal judges—in winning 85 percent of their cases that irritates the program's critics. It is time to stop playing games, gentlemen, when so important and so successful a program for peaceful solution of domestic problems is at stake.

Few of us will soon forget the desperation of our Nation's poor during the long hot summers of the sixties. It has been our poverty programs, with a vigorous if overburdened legal services effort as one spearhead, that have made the few small steps in the direction of alleviating that desperation, the terrible panic of being poor and thinking nobody cares. But we all know the end of this particular tunnel is as yet nowhere in sight. It would be sheer folly for us to do anything but strengthen and expand the successful efforts of the last few years in the legislations we are considering today.

President Nixon himself has assured us that—

> To preserve the strength of the legal services program it must be insulated from political pressures.

And he has also emphasized that—

> Providing legal assistance to those who face an economic barrier . . . serves justice far better and more rationally than leaving them with recourse only to less peaceful means.

I am convinced, Mr. President, that the legislation before us today achieves as much of the goal of equal justice as is feasible at the present time.

I am convinced that this administration is committed to a truly Independent Legal Services Corporation. I am convinced that the President will send up nominees for the Board of Directors who can be confirmed by the Senate and who are unbound by any antipoor, antilegal services ideology. I am convinced that the Corporation will be independent and free of political pressures.

I am convinced that the restrictions we impose on the legal services project attorneys will ultimately benefit the entire program, by permitting them to concentrate all of their efforts on the provision of legal assistance to the eligible poor. At the same time, I am convinced that there is nothing in the pending legislation that will force a legal services attorney to violate the canons of ethics; there is nothing in this bill that will restrict him in his right and duty as an attorney to avail himself of the full range of tools that should be available to any attorney in the representation of his client. For, make no mistake about this: the poor people of this country are entitled to a whole lawyer, not half a lawyer.

Time and time again we state our belief in one of the basic principles on which this Republic was founded: that we are most assuredly a nations of laws, not of men. As such, we have assumed the unique obligation to ensure that all people have access to the full benefit of those laws—even if, in the process, some of the men who administer them are upset or discomfited. Just a few short years ago, this country hit upon a truly innovative concept in the provision of free legal assistance to the poor in civil proceedings. Let us not be forced to tell the rest of the free world that we are emasculating that concept today.

Mr. President, I ask unanimous consent that the section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

The first section of the bill amends the Economic Opportunity Act of 1964 by adding a new title X as follows:

LEGAL SERVICES CORPORATION ACT

Section 1000. Short title

This section provides that the new title X may be cited as the "Legal Services Corporation Act".

Section 1001. Statement of findings and purpose

This section sets forth the Congressional findings and declaration of purpose: to provide equal access to our system of justice, to provide quality legal assistance to those unable to afford adequate legal counsel and continue the present vital legal services program, to preserve the strength of the legal services program by insulating it from political pressures, and that legal services lawyers must have full freedom to protect the best interests of their clients in accord with the Canons of Ethics and the high standards of the legal profession.

Section 1002. Definitions

This section sets forth definitions for these terms: State, Governor, legal assistance and staff attorney.

Section 1003. Establishment of Corporation

This section provides for establishing the Legal Services Corporation as a private nonmembership nonprofit corporation for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance (referred to throughout the title as "eligible clients").

Section 1004. Governing body

Subsection (a) of this section provides that the Corporation shall have a Board of Directors, consisting of eleven voting members appointed by the President, after confirmation by the Senate. No more than six of such members shall be of the same political party, a majority of the Board shall be members of the bar, and none shall be full-time employee of the United States Government.

Subsection (b) provides for three-year terms for members of the Board. No member shall be reappointed after three consecutive terms.

Subsection (c) provides that members of the Board shall not be deemed officers or employees of the United States Government.

Subsection (d) provides that the President shall select from among the initial voting members of the Board an initial chairman to serve for a three-year term. Subsequent chairmen would thereafter be elected annually by the Board from among its voting members.

Subsection (e) provides for removal of a Board member by a vote of seven members for malfeasance in office or for persistent neglect of or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause.

Subsection (f) provides that, within six months after the first meeting of the Board, the Board shall request the Governor of each State to appoint a nine-member advisory council for the State. The members of the advisory council shall be appointed, after receiving recommendations of the State bar association, from among lawyers admitted to practice in the State. If ninety days have elapsed without an advisory council appointed by the Governor, the Board has the authority to appoint such council, after receiving the State bar association's recommendations, the advisory council shall be charged with notifying the Corporation of any apparent violation of this law and applicable rules and regulations.

Subsection (g) provides for meetings of the Board to be open to the public unless two-thirds of the Board members vote for a specific session to be closed.

Subsection (h) provides for the Board to meet a minimum of four times annually.

Subsection (i) provides for a National Advisory Council to consult, on a continuing basis, with the Board and the president of the Corporation regarding its activities. The Council is to consist of fifteen members appointed by the Board for three-year terms who shall be representative of the organized bar, legal education, legal services project attorneys, the population of eligible clients, and the general public.

Section 1005. Officers and employees

Subsection (a) of this section provides for the Board to appoint the president of the Corporation and other corporate officers required by law.

Subsection (b) vests in the president of the Corporation the authority to appoint and remove employees of the Corporation, subject to general policies established by the Corporation.

Subsection (c) provides that no Board member may participate in any decision on any matter directly benefiting such member or pertaining to any firm or organization with which that member is then associated.

Subsection (d) provides that officers and employees of the Corporation shall be compensated at rates determined by the Board. No such pay rate may exceed level V of the Executive Schedule.

Subsection (e) provides that officers and employees and the Corporation itself are not to be considered part of the Federal Government, except as specifically provided in this title.

Subsection (f) provides specifically that officers and employees of the Corporation are Federal employees for purposes of eligibility for compensation for work injuries, civil service retirement, life insurance, and health insurance under title 5, United States Code, and provides for the Corporation to make appropriate transfers of funds in accordance with the provisions of such ttile.

Section 1006. Powers, duties, and limitations

Subsection (a) of this section provides that the Corporation shall have authority to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and to contract with individuals, partnerships, firms, and nonprofit organizations and corporations, and State and local governments, on such terms and conditions as insure the protection of professional responsibilities of attorneys.

Grants and contracts with State and local governments may be made only upon application by a State or local agency or institution and upon a special determination by the Board that the arrangements to be made by such agency or institution will provide supplemental assistance which cannot be adequately provided through nongovernmental arrangements and in a manner not inconsistent with attorneys' professional responsibilities.

The Corporation is also authorized to provide, either directly or by grant or contract, for research, recruitment, training, and information clearinghouse activities, and for appropriate technical assistance activities.

The Corporation shall exercise the powers conferred upon nonprofit corporations by the District of Columbia Nonprofit Corporation Act, to the extent consistent with the provisions of the new title.

Subsection (b)(1) provides that the Corporation shall promulgate regulations to insure the compliance of recipients and their employees with the provisions of this title and rules, regulations, and guidelines thereunder, including provisions for termination of financial support in accordance with due process procedures described in section 1011.

Subsection (b)(2) provides that a recipient which finds a violation on the part of any employee shall take appropriate remedial or disciplinary action in accordance with due process procedures described in section 1011.

Subsection (b)(3) provides that the Corporation shall not interfere with attorneys' professional responsibilities.

Subsection (b)(4) provides that no attorney shall be compensated for the provision of legal assistance under this title unless such attorney is admitted or otherwise authorized by law, rule, or regulation to practice law or provide legal assistance in the jurisdiction where such assistance is initiated.

Subsection (b)(5) provides that the Corporation shall insure that no employee of the Corporation or of any recipient shall (except as permitted by law in connection with such person's own employment situation), while carrying out legal assistance activities under this title, engage in or encourage others to engage in any public demonstration or picketing, boycott, or strike. No such employee shall, at any time, engage in or encourage others to engage in any rioting or civil disturbance, any activity which is in violation of a court injunction, any other illegal activity, or any intentional identification of the Corporation or any recipient with any political activity prohibited by section 1007 (a)(6) of this Act.

Subsection (b)(6) provides that, in areas where significant numbers of eligible clients speak as their predominant language a language other than English, or are bilingual, the Corporation shall insure that their predominant language is used in the provision of legal assistance to them.

Subsection (c) provides that the Corporation shall not participate in litigation on behalf of clients other than the Corporation or undertake to influence the passage or defeat of any legislation by Congress or by any State or local legislative bodies, except that personnel of the Corporation may testify or make other appropriate communication when formally requested by a legislative body, a committee, or a member of such body, or in connection with legislation or appropriations directly affecting the Corporation.

Subsection (d)(1) provides that the Corporation shall have no power to issue stock or declare dividends.

Subsection (d)(2) provides that no part of the income or assets of the Corporation shall insure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

Subsection (d)(3) provides that the Corporation and recipients shall not contribute or make available corporate funds or program personnel or equipment to any political party or the campaign of any candidate for public or party office.

Subsection (d)(4) provides that the Corporation and recipients shall not contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing ballot measures, initiatives, or referendums, except as necessary to the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities.

Section 1007. Grants and contracts

Subsection (a)(1) of this section provides that the Corporation shall insure the maintenance of the highest quality of service and professional standards, the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients.

Subsection (a)(2) provides for the Corporation to establish, in consultation with the Director of the Office of Management and Budget, maximum income levels for eligible clients, and to establish guidelines to insure that eligibility of clients will be determined by recipients on the basis of financial inability to afford legal assistance, which may take into account, among other considerations and to the extent consistent with the provisions of the new title, evidence of a prior final determination that a lack of income results from a refusal, without good cause, to seek or accept an employment situation commensurate with an individual's health, age, education, and ability. (Application of the foregoing criteria would not foreclose legal assistance in connection with securing rights or benefits on behalf of a child.) Priorities are to be established to insure that those least able to afford legal assistance are given preference.

Subsection (a)(3) provides that grants and contracts are to be made so as to provide the most economical, effective, and comprehensive delivery of legal assistance to persons in both urban and rural areas, to assure equitable services to the significant segments of the population of eligible clients (including handicapped individuals, elderly individuals, Indians, migrant or seasonal farmworkers, and others with special needs) and to provide special consideration for utilizing organizations and persons with special experience and expertise in providing legal assistance to eligible clients.

Subsection (a)(4) provides that attorneys employed full time in legal assistance activities supported in major part by the Corporation refrain from any outside practice of law for compensation and, except as deemed appropriate in guidelines promulgated by the Corporation, any uncompensated outside practice of law.

Subsection (a)(5) provides no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to undertake to influence the passage or defeat of any legislation by Congress or by State or local legislative bodies, except where representation by an attorney as an attorney for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities, or where a legislative body, a committee, or a member of such body requests personnel of any recipient to make representations thereto.

Subsection (a)(6) provides for the Corporation to insure that all attorneys engaged in legal assistance supported in whole or in part by the Corporation refrain, while so engaged in such supported activities, from any political activity associated with a political party or association or a candidate for public or party office; voter transportation to the polls, or any voter registration activity; except as necessary to the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities. The Corporation shall also insure that all staff attorneys refrain, at any time, from political activities prohibited by clauses (1) and (2) of section 1502(a) of title 5, United States Code.

Subsection (a)(7) requires recipients to establish guidelines for a system for review of appeals taken to insure the efficient utilization of resources and to avoid frivolous appeals.

Subsection (a)(8) provides that interim funding shall be provided to maintain legal assistance activities pending final action on a refunding application.

Subsection (b)(1) prohibits legal assistance under this title with respect to a criminal proceeding.

Subsection (b)(2) prohibits use of funds for political activities prohibited by subsection (a)(6) of this section.

Subsection (b)(3) prohibits grants or contracts with any public interest law firm which expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public.

Subsection (b)(4) provides that no funds under this title be used for legal assistance for any unemancipated person under eighteen years old, except with parental consent, upon a court request; in child abuse cases, custody proceedings, persons in need of supervision (PINS) proceedings, or cases involving the institution, continuation, or conditions of institutionalization; where necessary for the protection of such person to secure benefits or services to which such person is legally entitled; or in other cases under criteria prescribed by the Board to ensure adequate legal assistance for such persons under eighteen years old.

Subsection (b)(5) prohibits support for training programs for the purpose of advocating, as distinguished from disseminating information about, particular public policies, or encouraging political activities, labor or antilabor activities, or any illegal boycott, picketing, strike, or demonstration.

Subsection (b)(6) provides that no funds under this title may be used to organize, to assist to organize, or to encourage to organize, or to plan for the creation or formation of or the structuring of, any organization, association, coalition, alliance, federation, confederation, or any similar entity, except for the rendering of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities.

Subsection (c) provides that recipients carrying out legal assistance activities under this title shall have a governing body consisting of a majority of lawyers (except with respect to certain preexisting programs and subject to waiver in certain other special situations), and including an appropriate number of eligible clients.

Subsection (d) provides for the Corporation to monitor and evaluate and provide for independent evaluations of programs under this title.

Subsection (e) provides that grants and contracts under this title shall be made by the president of the Corporation.

Subsection (f) provides for public announcement at least thirty days prior to making any grant or contract, and notification of the Governor and the State bar association prior to making a legal assistance grant or contract or otherwise initiating such a project.

Subsection (g) provides that the Corporation shall provide for comprehensive, independent study of the existing staff-attorney program and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services, including judicare, vouchers, prepaid legal insurance, and contracts with law firms.

Section 1008. Records and reports

This section provides authority for the Corporation to require reports and records, which shall in no way impair confidential attorney-client relationships. The Corporation shall publish an annual report. Evaluation reports are to be available for public inspection. The Corporation is declared subject to the Freedom of Information Act. Notice and reasonable opportunity for comment shall be afforded to interested persons prior to issuing rules, regulations, and guidelines. All rules, regulations, guidelines, instructions, and application forms (including any final revision thereof) shall be published in the Federal Register at least thirty days prior to their effective date as so published in their final form.

Section 1009. Audits

This section provides for financial auditing of the Corporation by the General Accounting Office, and also requires the Corporation to conduct or require an annual financial audit of each grantee, contractor, or person or entity receiving financial assistance under this title, which shall in no way impair confidential attorney-client relationships.

Section 1010. Financing

This section authorizes appropriations to the Corporation of $71,500,000 for fiscal year 1974, $90,000,000 for fiscal year 1975, and $100,000,000 for fiscal year 1976 and each subsequent fiscal year.

Section 1011. Special limitation

This section provides for reasonable notice and opportunity to reply before any suspension of financial assistance, and opportunity for notice and a full and impartial hearing (on the record in accordance with due process protections and appropriate adversary procedures) before termination, denial of refunding, or suspension of financial assistance beyond thirty days.

Section 1012. Coordination

This section provides authority for the President to direct that particular support functions of the Federal Government or its instrumentalities, such as the General Services Administration and the Federal telecommunications system, be utilized by the Corporation and those receiving financial assistance under this title.

Section 1013. Prohibition of Federal control

This section provides that nothing in this title shall be deemed to authorize any Federal agency or employee to exercise any direction, supervision, or control with respect to the Corporation or legal assistance activities. However, the Office of Management and Budget is authorized to review and submit comments upon the Corporation's annual budget request when it is transmitted to the Congress.

Section 1014. Severability

This section provides that if any provision of this title is held invalid, the remainder shall not be affected thereby.

Section 1015. Right to repeal, alter, or amend

This section expressly reserves the right to repeal, alter, or amend this title at any time.

SECTION 2 OF THE BILL (TRANSITION PROVISIONS)

Subsection (a) of this section provides for the Legal Services Corporation to succeed to all rights of the Federal Government to capital equipment in the possession of legal services programs and activities under the Economic Opportunity Act.

Subsection (b) provides for transfer to the Corporation of all personnel employed directly (except attorneys under schedule A) in legal services activities in the Office of Economic Opportunity, and all assets, liabilities, obligations, property, and records held or used primarily in connection with such activities. The Director of the Office of Management and Budget is to make determinations regarding such transfers in consultation with the Director of the Office of Economic Opportunity. Personnel who are transferred are not to be reduced in compensation for 1 year thereafter, except for cause. The Director of the Office of Economic Opportunity is to offer appropriate assistance in seeking suitable employment for those who do not transfer to the Corporation.

Subsection (c) provides that collective-bargaining agreements in effect on the date of enactment, covering employees transferred to the Corporation, shall continue to be recognized by the Corporation until the termination date of such agreements, or until mutually modified by the parties.

Subsection (d)(1) provides that the Director of the Office of Economic Opportunity and the president of the Legal Services Corporation shall cooperate in arranging for the orderly continuation by the Corporation of financial assistance to legal services programs. OEO obligations extending beyond 6 months after enactment shall include provisions under which the Legal Services Corporation may assume such obligations.

Subsection (d)(2) provides for the repeal of section 222(a)(3) of the Economic Opportunity Act (the specific authority for the existing legal services program), such repeal to be effective 90 days after the first meeting of the Board of Directors of the Corporation.

Subsection (d)(3) provides for this legislation to take effect 60 days after its enactment. It also provides for the Director of the Office of Economic Opportunity to make funds available out of current appropriations as necessary to meet the organizational and administrative expenses of the Corporation and, 90 days after the first meeting of the Board, to transfer to the Corporation unexpended balances of funds allocated to legal services.

Subsection (d)(4) amends title VI of the Economic Opportunity Act by adding a new section 625 making clear that no provision under the Economic Opportunity Act (except the new title X itself) shall be construed to affect the Legal Services Corporation.

Mr. NELSON. Mr. President, I ask unanimous consent that letters from Melvin Laird, Counselor to the President, and Chesterfield Smith, president of the American Bar Association, be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

The White House,
Washington, D.C., October 4, 1973.
Hon. Gaylord Nelson,
U.S. Senate,
Washington, D.C.

Dear Gaylord: We are pleased that the Subcommittee on employment, Poverty and Migratory Labor has completed action on legislation to create an independent National Legal Services Corporation.

While we differ with some of the specific provisions of the bill as reported, we believe it does include essential principles proposed in the Administration's bill such as independence and accountability of the Corporation, freedom of the attorney to represent his client, and maintenance of a vital program.

Therefore, we urge that final action be taken on the bill in this general form by the full Committee and by the Senate followed by an expeditious reconciliation of issues with the House passed bill so that the best possible measure may result and a National Legal Services Corporation may be implemented at the earliest opportunity.

Sincerely,

Melvin R. Laird,
Counselor to the President for Domestic Affairs.

American Bar Association,
Washington, D.C., November 12, 1973.

Re: S. 2686, National Legal Services Corporation

Hon. Gaylord A. Nelson,
Chairman, Subcommittee on Employment, Poverty and Migratory Labor, Washington, D.C.

Dear Mr. Chairman: On behalf of the American Bar Association I commend you for your leadership in securing favorable committee action on S. 2686 now before the Senate.

The American Bar Association has long been interested in the creation of an independent national legal services corporation and has on three occasions adopted policy positions in support of this concept. I am pleased to inform you that S. 2686, as reported, fully complies with the Association's insistence on assuring the independence of lawyers for the poor to provide professional legal services to clients. I urge that the legislation be speedily and favorably acted upon by the Senate and that any amendments seeking to restrict the independence of lawyers or the access of their clients to our processes of justice be resisted.

Sincerely,

Chesterfield Smith.

Mr. NELSON. Mr. President, I ask unanimous consent that editorials from the Washington Post and the Washington Star-News supporting the Legal Services legislation be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Washington Star-News, Feb. 8, 1973]

Legal-Aid Compromise

In the brief time remaining before adjournment, Congress should exert the extra effort required for a final decision on continuation of legal services for the poor. Certainly the delay in determining what to do with this worthy program—which is surviving rather desperately within the decimated Office of Economic Opportunity—has dragged on far too long. But now, thanks to recent action by the Senate Labor and Public Welfare Committee, the stalemate can be broken.

What emerged from the committee was a compromise bill that seems to settle Congress' main differences with the Nixon administration on this long-debated matter. In this legislation, which we hope the Senate will act upon speedily, the administration has won its point. But the point isn't so vital as to justify any additional, lengthy haggling, which can only prove fruitless. This is affirmed by the fate of past legislation that foundered on the presidential veto, because Congress insisted on allowing the President to appoint less than half the board members who would govern the program. President Nixon wanted to name all of them, and that's what the Senate committee's bill would permit, with Senate confirmation of nominees.

But the board would have a bipartisan structure, and on the main aspect of this innovation there is no disagreement between Mr. Nixon and Congress. Both favor creation of a separate and independent legal services corporation, which could serve the needs of poor people without political interference. The Senate measure would achieve this admirably, while prohibiting unseemly lobbying or political activity by legal services lawyers. Such abuses have occurred in the past, but they are isolated exceptions to the multitude of vital services provided to impoverished Americans in routine legal matters. And the poor certainly must be assured of access to the courts, through such a federally funded endeavor, if the system of justice is to maintain respect.

Nonetheless, much quarreling may lie ahead in a conference committee, because the House has passed a bill loaded with restrictive amendments. This Senate legislation—a sensible compromise between conservative and liberal points of view deserves to prevail.

[From the Washington Post, December 10, 1973]

THE LEGAL SERVICES BILL

After a long and tortured legislative journey from the House floor where it was mangled on June 21, the legal services bill finally comes to the floor of the Senate today. From the standpoint of those who wanted a strong independent legal services corporation, it is not a perfect bill, but it is an acceptable one. Moreover, it represents an honest effort by the White House and the Senate Labor and Public Welfare Committee to work out legislation that will satisfy the legal representation needs of the poor and also assure the President that he retains some control over a program that his administration has found controversial in the past.

The committee bill represents true compromise by both sides. Legal services advocates have receded substantially from hard positions of earlier years. The entire board, for example, will be appointed by the President. Advisory committees will be established in each state to monitor legal services activities. Finally, though the committee bill will permit many activities that would have been prescribed by the House, the tone of the legislation is essentially negative, giving rise to the possibility of narrow interpretations of authority or, at least, too long wrangles over numerous questions of authority.

On the other hand, there are victories for legal services advocates, too. Legal backup centers—a vital resource system for the program—have been restored. The House-imposed prohibition on representation before legislative bodies has been removed—as long as eligible clients are involved. In addition a provision that would have required legal services to pay legal costs and fees in affirmative action cases which they brought and lost has been eliminated.

Despite the honest and tedious effort of Senate liberals and the White House to bring off an acceptable compromise, opponents of the program continue to hammer away with horror stories about how the program has been abused in the past. The stories don't stand scrutiny. An analysis of over 70 cases of abuse shows that almost half of them are untrue. One such story, for example, attributes a legal services program in Boston the actions of a private law firm in that city. In another 20 per cent of the cases, the stories are true but in no way horrible, for they involve legitimate program activities. Only 3 per cent of the cases represent instances in which the stories are true and no disciplinary action was taken. In all of those instances, the prohibited practices have been discontinued.

So, the Senate is faced with a situation in which the White House has made an honest effort to make good on the President's pledge to establish an independent legal services program and Senate liberals have been accommodating. There is no need for further compromise. The Senate should pass the bill promptly and the White House should continue its firm support through the House-Senate conference. The administration could do no better by the President's standing commitment to legal services—and his new Vice President's "dedication to the rule of law and equal justice for all Americans"—than to see this bill through to enactment.

QUORUM CALL

Mr. NELSON. Mr. President, I call attention to the lack of a quorum.

The PRESIDING OFFICER (Mr. KENNEDY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 10 A.M. WEDNESDAY, THURSDAY, FRIDAY, AND SATURDAY OF THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow and Wednesday, Thursday, and Friday of this week, it stand in adjournment until the hour of 10 a.m. on Wednesday, Thursday, Friday, and Saturday, respectively.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUEST FOR LIMITATION OF TIME ON YEA-AND-NAY VOTES THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the hour of 12 noon daily this week, yea and nay votes be limited to 10 minutes each, with the warning bells to be sounded after 2½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS subsequently said, Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HELMS. Mr. President, I could not hear the Senator. Did the Senator from West Virginia ask unanimous consent with respect to rollcall votes on the legal services bill?

Mr. ROBERT C. BYRD. No, I did not.

Mr. GRIFFIN. Mr President, I believe the request of the distinguished majority whip had to do with the time for rollcall votes.

Mr. ROBERT C. BYRD. Mr. President, I am sorry. I misunderstood the distinguished Senator. I understood him to ask whether a unanimous-consent request had been made with respect to the legal services bill. I made no request with regard to the legal services bills.

I did ask unanimous consent that any yea and nay votes for the remainder of the week beginning at the hour of 12 noon daily consume only 10 minutes for each rollcall vote.

Mr. HELMS. Mr. President, inasmuch as I did not hear the unanimous-consent request, would the Senator mind making the request again, because I would like to object.

Mr. ROBERT C. BYRD. To the 10 minute rollcall votes?

Mr. HELMS. The Senator is correct.

Mr ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order limiting yea-and-nay votes to 10 minutes be vacated.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS later said: Mr. President, last Friday, I asked the distinguished majority leader that I be notified so that I might be on the floor in connection with any unanimous-consent agreement relative to the legal services legislation.

When a unanimous-consent request was made earlier this afternoon to limit rollcall votes after 12 noon to 10 minutes for the rest of this week, I was on the floor but was not in a position that I could hear the distinguished assistant majority leader.

The RECORD will show that immediately thereafter I apprised the distinguished Senator from West Virginia of this fact. And he very graciously asked for a unanimous consent to vacate the previous unanimous-consent agreement on the 10-minute rollcall votes. However, the distinguished Senator from Masachusetts (Mr. KENNEDY) objected.

Mr. President, a unanimous-consent agreement is supposed to mean that there is unanimous consent. In this case obviously there is no unanimous consent. I therefore feel constrained to serve notice that until the Senator from Massachusetts in his wisdom chooses to remove his objection to vacating the unanimous-consent agreement on 10-minute rollcall votes, there may be a live quorum call for each and every rollcall vote.

ORDER FOR DIVISION OF TIME ON CLOTURE MOTION ON RHODESIAN CHROME BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for debate on the cloture motion tomorrow be divided equally between the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MANSFIELD, FOR TRANSACTION OF ROUTINE MORNING BUSINESS, AND FOR CONSIDERATION OF THE RAIL SERVICES BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders or their designees have been recognized tomorrow under the standing order, the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD) be recognized for not to exceed 15 minutes; after which there be a period for the transaction of routine morning business not to exceed 15 minutes with statements made therein limited to 3 minutes; at the conclusion of which the Senate proceed to the consideration of the rail services bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR GRIFFIN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the order that has been entered for the recognition of the distinguished majority leader on tomorrow, the distinguished minority whip, the Senator from Michigan (Mr. GRIFFIN), be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, may I ask what time the Senate is convening tomorrow?

Mr. ROBERT C. BYRD. At 10 a.m.

Mr. JAVITS. The 15 minutes will ensue from 10 on?

Mr. ROBERT C. BYRD. There is one order for 15 minutes for Mr. BAYH, which surely will be taken. There is an order for Mr. MANSFIELD, which may or may not be taken, and an order for Mr. GRIFFIN, which may or may not be used.

ORDER FOR RECOGNITION OF SENATOR BAYH TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on tomorrow, prior to the order for the recognition of Senator MANSFIELD, the distinguished junior Senator from Indiana (Mr. BAYH) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABOUREZK). Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT

The Senate continued with the consideration of the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Mr. JAVITS. Mr. President, I wish to address myself to this bill and to emphasize that this is the third time this important matter has been before the Senate.

I am the ranking Republican member of the committee which handled this bill. I have been in all the conferences in which the Legal Services program has figured as an element of the antipoverty program. Generally speaking, the idea of the Legal Services Corporation has been hailed by the organized bar as well as by agencies concerned with the problems of poverty as a very distinguished element of progress in this field.

Another point which should be emphasized is that of all the programs in the antipoverty field, this one, which in round figures amounts to approximately 7 percent of the aggregate OEO expenditure, has proven itself as making the greatest contribution to the service of dignity of the individual and, therefore, to the hope of redeeming the individual from the syndrome of poverty. Therefore, in my judgment, it is a very signal success.

Give or take the usual problems about what lawyers get into and how they represent their clients, and so forth, I would say that we are dealing here with a highly successful enterprise, which we have, in a sense, happened on, as this program started very small, as being a key element in the redemption of individuals and families from the poverty syndrome, which in many cases goes on for generations.

As I have said, this matter has been before the Senate already on two successive occasions. The Legal Services Corporation was included in the Economic Opportunity Amendments of 1971. In that case, it was part of a bill later vetoed.

Again, in 1972, both Houses included such a provision, but differences between us broke out at the last minute. I was a party to the conference, and we were practically settled, when suddenly a few Members in the other body decided that they wanted to push it further than the provisions which were contained in the Senate bill, and that broke it up, and we did not agree in conference and it was dropped.

Then, we had the introduction of the administration's proposal, which I sponsored, on May 15, 1973, and which is the basis for the bill we are now considering.

In addition, this measure has always been characterized by its bipartisan character; and the bill now before the Senate—this is a critically important point—is based essentially upon what the President requested.

On May 15, 1973, the President sent us a message on his bill to establish a private nonprofit federally funded Legal Services Corporation to which the duties and responsibilities of the parent program in the Office of Economic Opportunity would be transferred.

Before doing anything else I would like to point out that the measure which we have before us now contains the primary criteria which the President set forth in his transmittal message:

> First, that the corporation itself be structured and financed so that it will be assured of independence; second, that the lawyers in the program have full freedom to protect the best interests of their clients in keeping with the Canons of Ethics and the high standards of the legal profession; and third, that the Nation be encouraged to continue giving the program the support it needs in order to become a permanent and vital part of the American system of justice.

I shall outline this in detail at the close of my statement.

Mr. President, what has been presented to the Senate is the "toughest" of various proposals which heretofore have come forth.

Because I think this critically important, I would like to lay the bill side by side with the particulars of the President's message—which is set forth at pages 6 and 7 of the committee report—to show that the bill follows, indeed tracks the President's message.

The corporation which is before us is nonprofit, governed by a board of 11 members appointed by the President, with the advice and consent of the Senate. No more than six members could be of the same political affiliation, and a majority would have to be lawyers. That is exactly what the President asked for.

Second, the corporation would be authorized to make grants or to enter into contracts with individuals, partnerships, firms, organizations, and corporations, as well as with State and local governments for the purpose of providing legal assistance to eligible clients. Again, the provisions of the bill are similar to what the President wanted.

With those provisions, and others in the committee bill, goes what so many of the opponents of the bill like to raise, judicare, and the committee bill gives that a chance by giving them the opportunity to study and demonstrate the ways in which these and other alternative methods of delivery may be employed and to fund State and local governments under certain circumstances.

The next point—which also relates to judicare—is that the corporation can undertake research on the delivery of legal services and to serve as a clearinghouse for information on such services. Embodied in that also is the essential backup centers in respect to "law reform" which has been an important element of legal services rendered so far.

The next point is that legal assistance attorneys would be barred from participating in political activities and from encouraging or participating in strikes, boycotts, picketing, and various forms of civil disturbance. In essence, we provide what the President sought.

The next point provides for a nine-member advisory council which would be established in each State. Again, the committee bill contains authority for such councils, even with the number of members of each advisory council the President requested.

Then, as to the eligibility criteria for the client. Again our provision is very similar to what the President asked for.

Another provision that is important is this. Those who complained about legal services in the antipoverty program have constantly urged it should not render services in criminal proceedings. That is very, very sharply restricted here, so that if there is any such matter it must be essentially civil in nature, as in the case of habeas corpus.

In short, every effort has been made to meet the legitimate views of those who over the years have felt it questionable to render these legal services. This has resulted in fantastic outpourings of support for this bill and the program it contemplates.

The most distinguished statement on the subject naturally comes from the president of the American Bar Association. Indeed, we have had testimony from the American Bar Association on a number of occasions in connection with the proposal to establish a Legal Services Corporation. The president of the American Bar Association has written a letter, and I ask unanimous consent that the letter may be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN BAR ASSOCIATION,
Washington, D.C., November 12, 1973.

Re S. 2686, National Legal Services Corporation.

Hon. JACOB K. JAVITS,
Subcommittee on Employment, Poverty, and Migratory Labor, New Senate Office Building, Washington, D.C.

DEAR SENATOR JAVITS: On behalf of the American Bar Association I commend you for your leadership in securing favorable committee action on S. 2686 now before the Senate.

The American Bar Association has long been interested in the creation of an independent national legal services corporation and has on three occasions adopted policy positions in support of this concept. I am pleased to inform you that S. 2686, as reported, fully complies with the Association's insistence on assuring the independence of lawyers for the poor to provide professional legal services to clients. I urge that the legislation be speedily and favorably acted upon by the Senate and that any amendments seeking to restrict the independence of lawyers or the access of their clients to our processes of justice be resisted.

Sincerely,

CHESTERFIELD SMITH.

Mr. JAVITS. Mr. President, the concluding sentence of the letter addressed to me and to the members of the minority stated:

> I urge that the legislation be speedily and favorably acted upon by the Senate and that any amendment seeking to restrict the independence of lawyers or access of their clients to our justice be resisted.

So potent has been the support we have received in this matter that the administration itself, through former Representative Laird, now counselor to the President, has had a good hard look at the Senate bill and he feels it would be highly constructive if the Senate bill were passed so that we might go to conference, and the indications are they will not stand in the way of expeditious passage.

With respect to the subcommittee bill—essentially that now before us—counselor Laird wrote:

> While we differ with some of the specific provisions of the bill as reported, we believe it does include essential principles proposed in the Administration's bill such as independence and accountability of the Corporation, freedom of the attorney to represent his client, and maintenance of a vital program.

Indeed, the administration reserves all its rights in the conference to do everything it can to win whatever point it feels may be in the House bill. But the words are clear as to the Senate. Mr. Laird concludes:

> Therefore, we urge that final action be taken on the bill in this general form by the full Committee and by the Senate followed by an expeditious reconciliation of issues with the House passed bill so that the best possible measure may result and a National Legal Services Corporation may be implemented at the earliest opportunity.

That actually occurred through the full committee, which reported the bill unanimously. It is especially significant that in the report by the full committee, Senator TAFT, who entertained very serious reservations about this legislation, now, as well as others on the committee, support it and voted to report it favorably, and insofar as I know, he has no reservations about it now.

Indeed, one of the finest statements in support of the bill is that by Senator TAFT, ranking minority member of the subcommittee, which is included in the report, in which he makes specific comment on the way in which the bill gives safeguards to the various points that have been made in opposition to the measure.

Mr. President, it is rare that a measure so hotly contested, deliberated upon for so long comes to the Senate with a balance of support from Members who formerly disagreed—from those generally described as liberals who felt a much stronger bill was needed, and from the administration in terms of getting this bill underway, and getting the body on record at the conference. But this has been effectuated because of the extraordinary willingness to compromise and listen to reason on the part of Members on both sides of the aisle in the Senate, and the administration itself.

When the President inaugurated a new era in the executive branch of endeavoring to agree with Congress on major measures so that we would not face vetoes—almost in the dark as to what the White House wanted—this bill emerged as a prime example in which that kind of consultation and collaboration could result in a constructive piece of legislation which all agreed was necessary and which nonetheless could be frustrated if this understanding had not developed.

Therefore, I deeply feel that the time has come to act; that exploration, inquiry, the fruits of experience have all been brought to bear upon this measure in an unparalleled degree and with a degree of agreement which has been achieved that is very promising for this very major establishment of a legal services program as an element of the effort to deal constructively with America's great social problem of poverty. From many opposite points of the spectrum there has been shown an ability to agree.

I hope very much, therefore, that here in the Senate, notwithstanding the strong feelings of some of our colleagues—I feel not too many—we may do our part to put this legislation on the road to enactment by expeditiously approving this bill. So I hope very much the committee bill will be passed without substantial amendment and that we will move speedily into conference with the other body, so that the Legal Services Corporation may at last be realized.

I might say there have been more distinguished lawyers who have approached me, as ranking minority member of the committee and a sponsor of this legislation, urging the greatest diligence in bringing this measure into law, now that we have a Senate committee bill and a House bill, than in any other single enterprise that I have ever been engaged in this Chamber, including the great civil rights struggle. I think that is a tribute to the fact that a legal services program has been recognized as the intelligent, constructive, and economic aspect of the struggle against poverty which has, I think, been a brilliant conception on the part of our people, the President, and the Congress within the last decade.

Mr. President, with that general background, I shall now address myself to particular elements of the current program and the committee bill, in terms of the President's own criteria.

THE CURRENT LEGAL SERVICES PROGRAM AND ITS IMPORTANCE

Mr. President, the current legal services program has been one of the "bright lights" in the entire antipoverty effort. Evolving from a pilot program in the early days of the Office of Economic Opportunity, the program now handles 1.5 million separate legal problems a year, serving 500,000 clients, through more than 2,200 full time attorneys, working in 256 local projects out of 900 neighborhood offices and 16 backup centers as well as related efforts throughout the Nation.

It has been a cost-effective effort, recovering each year in benefits to the poor, much beyond its annual appropriations, now at the level of $71.5 million.

It has been a successful program where it has chosen to litigate. A 1969 study shows that 83 percent of its cases were settled and, where it chose to go to court, it won in 85 percent, thus contradicting the view that it indulges itself in litigation for frivolous causes.

It has been a crucial program, in terms of "intangibles" as well, by increasing the faith of the poor in the system, providing a bridge to the "establishment" and thus contributing to the poor's sense of dignity and participation in our society.

As stated so accurately by George W. Moore, appearing on behalf of the National Clients Council before the Subcommittee on Employment, Manpower, and Poverty on October 9, 1970:

> We clients did not start out believing blindly that the law was our friend, that the courts would do justice and that lawyers were fighters for equal justice for the poor. In fact, we started by fearing the law as the enemy; fearing lawyers and the courts as a part of a system which repossessed our furniture, evicted us, garnished our salaries, and sent our children to reform school. This program has won our trust—a precarious trust, but a growing trust, among minority groups. We know, at least so far, that the attorney in this program owes his full loyalty to his client and only to his client—not to some politician. If the poor lose faith in this program, in the possibility of equal justice through law, then all of us know the alternative that remains.

These and other values of the program were testified to by very distinguished members of the bar, and officials of the program conducted in New York City, during field hearings of the subcommittee, which I chaired on May 7, 1973.

THE NEED FOR AN INDEPENDENT CORPORATION

Mr. President, as it has sought to provide for equal justice under law, the program has become controversial and embattled.

It has been threatened at times by interference within the executive branch, by Governors' vetoes, and by congressional efforts to make the Governors veto provision "final" or "absolute" or otherwise to restrict the ability of an attorney to represent his client.

These assaults have been fueled at times because of specific cases where attorneys in the program have exercised questionable judgment, but for the most part, opposition has arisen because, as noted by the President in his message to the Congress of May 5, 1971:

> Much of the litigation initiated by legal services has placed it in direct conflict with local and State governments. The program is concerned with social issues and is thus subject to unusually strong political pressures.

Mr. President, in May 1971, President Nixon, following upon recommendations by the American Bar Association, his own Commission on Executive Organization—headed by now OMB Director Ash, and Members of the Congress, proposed legislation to have the program transferred to a new independent nonprofit corporation, patterned after the Corporation for Public Broadcasting and free of the Governors' veto.

In submitting his proposal, the President stated:

> Even though surrounded by controversy, this program can provide a most effective mechanism for settling differences and securing justice within the system and not on the streets. For many of our citizens, legal services has reaffirmed faith in our government of laws. However, if we are to preserve the strength of the program, we must make it immune to political pressures and make it a permanent part of our system of justice.

Unfortunately, as I indicated earlier while the Congress agreed with the President on the concept, it differed on terms, particularly on the composition of the Board of Directors; as a result, a legal services measure passed by the Congress as a part of the OEO extension in 1971 was vetoed, and a similar measure was dropped in conference in 1972.

THE COMMITTEE BILL IS DESIGNED TO MEET THE PRESIDENT'S OWN CRITERIA

Mr. President, we stand again—and perhaps for the last time—at the brink of making this program a "permanent part of our system of justice."

The committee bill has been carefully designed from the administration's own measure—including exactly the administration's proposal for the composition of the board—to meet the President's own criteria and specifications with respect to the establishment of the corporation and its new charter.

As stated in President Nixon's message to the Congress of May 5, 1971, and reiterated in his message of May 11, 1973, calling for the establishment of a Legal Services Corporation, the principal elements are:

> *First*, that the corporation itself be structured and financed so that it will be assured of *independence; second*, that the lawyers in the program have *full freedom* to protect the best interests of their clients in keeping with the Canons of Ethics and the high standards of the legal profession; and *third*, that the Nation be encouraged to continue giving the program the *support* it needs in order to become a permanent and *vital part of the American system of justice*." (Emphasis added.)

Moreover, equally important criteria are, as also emphasized in the President's messages, that the corporation be "accountable" to the public and the poor and that the program be operated in "a responsible manner."

Mr. President, these criteria add up to the central objective of the legislation—to free the program from outside political influence—so that it can operate professionally, and to provide new safeguards to insure that it will operate professionally.

As a sponsor of this proposal and as ranking minority member of the committee, I consider it my duty to state specifically and in detail for Members of the Senate how the provisions of the bill operate to meet these five key criteria and objectives.

THE BOARD OF DIRECTORS AND OTHER ELEMENTS OF BASIC STRUCTURE

Mr. President, the principal foundation for all of these elements is in the structure of the Board, set forth in section 1004(a) of the committee bill.

Under the committee bill, following exactly the administration's proposal, the program would be administered by an 11-member board, appointed by the President and subject to the advice and consent of the Senate.

And key to those provisions and reflective of our major purposes, are the requirements that a majority shall be members of the bar and not more than six shall be of the same party.

This composition—professional, as opposed to political—stands as the best guarantee of independence, freedom of the attorney, and vitality of the program.

Its method of selection, by the Executive and the Congress, provides strong elements of accountability.

And at the same time, it provides assurances of conduct of the program responsibility because, for the first time, it would essentially be the bar itself that would run the program.

To these ends, I note and support the criteria set forth on page 10 of the committee report which committee members intend to apply in considering the President's nominations, to insure members who are representative, committed to independence, and understanding of the purposes of this act.

Other elements of the corporation and board structure following very closely the administration's bill—are designed to maintain independence, consistent with accountability:

Terms of the members of the board are to be staggered—section 1004(b).

Except for the initial chairman, the chairman of the board is to be elected by the board—section 1004(d).

Removal of members of the board is to be by vote of seven board members, and then only for malfeasance in office or for persistent neglect or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause—section 1004(e).

The board appoints the president—the chief executive officer—of the corporation and other corporation officers—section 1005(a).

The President of the corporation is authorized to appoint and remove employees of the corporation—section 1005(b).

PROGRAMMATIC ELEMENTS

Mr. President, these key elements—independence, freedom of the attorney, vitality, accountability, and responsibility—thread their way also through the charter given to the new corporation and related provisions.

First, independence.

Independence is derived not only by the establishment of the corporation itself and the composition of the board and related structures, but by a number of other provisions:

Appropriations may be made for 3-year periods to insure independence, as proposed by the administration—section 1010.

Except as discussed below, the corporation has wide latitude for funding legal services efforts—section 1006(a); importantly, this includes backup centers which have been such an important element of the program.

Except as specifically provided, no director, agency, officer or employee of the corporation is deemed authorized to exercise any direction, supervision, or control with respect to the corporation's activities—section 1013.

The program would no longer be subject to the Governors' veto.

Second, full freedom of the attorney to protect the best interests of his client in keeping with the canons of ethics and the high standards of the legal profession.

Mr. President, in addition to the freedom which will derive generally from the independence of the corporation, the bill contains a number of other elements to that end.

A key to that freedom is the fact that the corporation is to provide legal assistance principally through individuals, partnerships, firms, and nonprofit organizations and corporations, thus preserving the currently applicable "staff attorney" approach.

The committee bill and the committee report make it clear that only in limited cases, where staff attorney means will not be adequate, may the corporation fund State and local governments—section 1006(a).

This is essential to freedom of the attorney to represent his client without interference, since as noted by the President, State and local governments are often the defendants in actions brought on behalf of poor citizens; to permit such governments to conduct the programs in the normal case may create a conflict of interest. It would be counterproductive indeed, after freeing the program from political influence at the Federal level, to surrender it to political influence at the State and local level.

There are a number of specific safeguards in the bill to further insure that an attorney in a legal services program may, like other attorneys, fully represent his client:

The corporation shall not interfere with an attorney's professional responsibilities—section 1006(b)(3).

Personnel of the corporation may testify or make other appropriate comments when formally requested by a legislative body, a committee or member thereof, or in connection with legislation or appropriations directly affecting the corporation—section 1006(c).

An attorney may provide legal advice and representation where necessary as an attorney with respect to ballot measures, initiatives, or referendum—section 1006(d)(4).

The corporation shall insure the maintenance of the highest quality of service and professional standards, the preservation of attorney/client relationships, and the protection of the integrity of the adversary process in furnishing legal assistance to eligible clients—section 1007(a)(1).

An attorney may directly or indirectly undertake to influence the passage or defeat of any legislation when the attorney is acting as an attorney for specific eligible clients or requested by a legislative body, a committee or a member thereof—section 1007(a)(5).

An attorney as an attorney may advise and represent a client in regard to political activity—section 1007(a)(6).

An attorney may provide legal assistance in certain cases involving children under 18 years of age—section 1007(b)(4).

An attorney can render legal advice and representation as an attorney for a specific eligible client in connection with the establishment of organizations, et cetera; for example, community economic development corporations—section 1007(b)(6).

Third, support and vitality.

Support and vitality will derive from independence and freedom prudently exercised by the corporation and its grantees under the guidance of the organized bar.

But two other elements are essential and are addressed in this bill: Adequate funding and administrative continuity.

Mr. President, as the sorry experience of the past fiscal year points up tragically—as dismantlement of OEO was unsuccessfully attempted—the vitality of a program in terms of morale and cost-effectiveness is undermined whenever the flow of funds from the Federal level to the local level is interrupted or held back or directives are imposed without sufficient time for administrative adjustment.

The committee bill authorizes $71.5 million for fiscal year 1974, the administration's own level, but authorizes $90.0 million for fiscal year 1975, $100 million for fiscal year 1976 and thereafter; it is anticipated that the situation will be reviewed before fiscal year 1975.

The bill contains the following safeguards to insure that that flow of funds appropriated by the Congress are not wrongfully interrupted at the local level:

Interim funding must be provided to maintain legal assistance activities pending final action on a refunding application—section 1007(a)(8).

Reasonable notice and opportunity to reply must be given before suspension of financial assistance—section 1011.

No rules, regulations, or guidelines may become effective until 30 days after initial publication—section 1008(b).

Mr. President, a key element of the vitality of the existing program, is its administration through the so-called "staff attorney" system, that is, lawyers hired by grantees.

There are a number of persons who believe that other approaches—such as "judicare"—might be more advantageous.

To test these approaches, section 1007(g) requires the corporation to provide for a comprehensive independent study of the existing staff-attorney program, and through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services, including judicare, vouchers, prepaid legal insurance, and contracts with law firms.

Fourth, accountability.

Mr. President, while the program is to be independent of political control, it is to remain accountable—that is, liable to be called to account—by the legislative and executive branches of the Federal Government, ad the public generally, through the board and appropriations provisions and the following:

Retention of the right to repeal, alter or amend the title at any time—section 1015.

Retention of the authority of the Office of Management and Budget with respect to review of the budget—section 1013(b).

Financial auditing of the corporation and its grantees by the General Accounting Office—section 1009.

Application of the Freedom of Information Act and all regulations are subject to publication and comment—section 1008.

Open meetings of the board in most cases—section 1004(g).

It is to be generally accountable to—although not under the control of—State and local officials.

The Governor of each State is authorized to appoint a nine-member advisory council for the State, which council is charged with notifying the corporation of any apparent violation of the law, applicable rules or regulations—section 1004(f).

There must be public announcement and notification of the Governor at least 30 days prior to making a grant or contract—section 1007(g).

Mr. President, importantly, the corporation and its activities are also to be "accountable" to the poor—for whose benefit this legislation is enacted.

To that end, the bill includes provisions:

Under which the corporation is established under a new title to the Economic Opportunity Act of 1964, the principal statutory source of programs to deal with poverty—section 1.

For the establishment of the board, a National Advisory Committee, and for creation of a governing body for each program, in each case, including clients—section 1004(i); section 1007(c).

For adequate provision of legal assistance to eligible clients who speak a language other than English as their predominant language—section 1006(b)(6).

For establishment of priorities to insure that those least able to afford legal assistance are given preference—section 1007(a)(2).

For equitable services to significant segments of the population of eligible clients—section 1007(a)(3); this may include assistance to groups such as the elderly and the Jewish poor and others, who reside outside of poverty areas.

Mr. President, the program is to be accountable also to the organized bar, which after all, has a clear interest, through its involvement in the corporation and otherwise, to insure it is operated professionally:

Attorneys are to be represented on the National Advisory Committee, as well as the board—section 1004(i).

The State Advisory Council, like the board itself, is to be made up of attorneys, appointed after consultation with the State bar associations—section 1004(f).

The governing body for each project recipient must include a majority of lawyers—section 1007(c).

Fifth, responsible conduct of the program.

The elements of accountability will obviously be of little value without a careful definition of what the program is to be accountable for or responsible for assuring.

Accordingly this bill includes a series of explicit "don'ts" directed at preventing any abuses—particularly in the areas of political activity—that could represent a departure from professional and responsible operation of the program.

Freedom to represent one's clients, like other attorneys, is under no circumstances to be construed under this measure as license to use Federal funds for the advancement of one's own political views.

To that end, the following provisions are designed to limit political activity:

The corporation and recipients shall not contribute or make available corporate funds or program personnel or equipment to any political party or the campaign of any candidate for public or party office—section 1006(d)(3).

No employee of the corporation or any recipient shall, while carrying out legal assistance activities, engage in or encourage others to engage in any public demonstration, or picketing, boycott or strike; no employee may at any time engage in or encourage others to engage in any rioting, civil disturbance, violation of a court injunction, or any other illegal activities. This provides additional safeguards against even the appearance of wrongdoing. No employee may at any time intentionally identify the corporation or any recipient with any political activity—section 1006(b)(5).

The corporation and recipients shall not contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing ballot measure, initiatives, or referendums, except as necessary to the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities—section 1006(d)(4).

The corporation shall insure that all attorneys engaged in legal assistance supported in whole or in part by the corporation refrain, while so engaged, from any political activity associated with a political party or association or a candidate for public or party office, voter transportation to the polls, or any voter registration activity, except as necessary to the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities. The corporation shall also insure that any attorney receiving a majority of his annual professional income from legal assistance activities supported in whole or in part by the corporation refrain from political activities prohibited by clause (1) and (3) of section 1502(a) of title 5, United States Code—Hatch Act provisions—section 1007 (a)(6).

Prohibition against support for training programs for the purpose of advocating, as distinguished from disseminating information about, particular public policies, or encouraging political activities, labor or antilabor activities, or any illegal boycott, picketing, strikes or demonstrations—section 1007(b)(5).

Another concern relating to political activity has been with the so-called legislative lobby. Again the bill contains a number of provisions to limit lobbying to those areas clearly related to the duty of an attorney with respect to specific clients:

The corporation shall not participate in litigation on behalf of clients other than the corporation or undertake to influence the passage or defeat of any legislation by Congress or by any State or local legislative bodies, except that personnel of the corporation may testify or make other appropriate communication when formally requested by a legislative body, a committee, or a member thereof, or in connection with legislation or appropriations directly affecting the corporation—section 1006(c).

No funds made available to recipients by the corporation shall be used at any time, directly or indirectly, to undertake to influence the passage or defeat of any legislation by Congress or by State or local legislative bodies, except where representation by an attorney as an attorney for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities, or where a legislative body, a committee, or a member thereof requests personnel of any recipient to make representation thereto—section 1007(a)(5).

Other provisions of the bill are designed to insure that the program operates in a professional, responsible and efficient manner and that it maintains its focus on the basic purpose of providing legal services to the poor:

Services are to be provided essentially to civil matters as under current law—section 1003; section 1007(b)(1).

No attorney shall be compensated for the provision of legal assistance under the title unless the attorney is admitted or otherwise authorized by law, rule, or regulation to practice law or provide legal assistance in the jurisdiction where such assistance is initiated—section 1006 (b)(4).

Attorneys employed full time shall refrain from any outside practice of law for compensation; guidelines issued by the corporation will cover uncompensated outside practice—section 1007 (a)(4).

Recipients are required to establish guidelines for a system for review of appeals to insure the efficient utilization of resources and to avoid frivolous appeals—section 1007(a)(7).

Grants or contracts with public interest law firms litigating in the broad interest of the majority of the public are prohibited—section 1007(b)(3).

Support is prohibited for training programs for the purpose of advocating—as opposed to disseminating information about—public policies—section 1007 (b)(5).

Funds may not be used to organize, assist to organize organizations—except for the rendering of legal assistance—section 1007(b)(6).

Mr. President, the corporation subject to due process considerations has been given very strong authority to enforce these and other provisions of the law:

The corporation is directed to promulgate regulations to insure compliance, including provision for termination of financial support—section 1006(b)(1).

Additionally, a recipient which finds a violation must take appropriate remedial or disciplinary action—section 1006 (b)(2).

The corporation must insure the maintenance of the highest quality of service and professional standards—section 1007(a)(1).

Mr. President, the current legal services program operates under the authority of one simple paragraph of the Economic Opportunity Act of 1964. That paragraph contained in section 222(a) (3) provides in its essential part as follows:

> (3) A "Legal Services" program to further the cause of justice among persons living in poverty by mobilizing the assistance of lawyers and legal institutions and by providing legal advice, legal representation, legal counseling, education in legal matters, and other appropriate legal services. Projects involving legal advice and representation shall be carried on in a way that assures maintenance of a lawyer-client relationship consistent with the best standards of the legal profession. The Director shall make arrangements under which the State bar association and the principal local bar associations in the community to be served by any proposed project authorized by this paragraph shall be consulted and afforded or funded, and to submit to the Director comments and recommendations on the operations of such project, if approved and funded.

As the program has expanded and carried out its job, we have had very highly emotional debates in this body and elsewhere over the conduct of the program under that paragraph, often watching the program on almost a "case-by-case" basis.

Mr. President, once given an independent and secure structure and a new and more specific charter, then I believe that the program can be given confidently to the professional bar, through their membership on the board and related boards and committees, and that they, subject to the general review of the three branches of the Federal Government, as well as State and local government, will administer a truly professional program.

As stated by the President's Commission on Executive Organization in recommending establishment of a nonprofit corporation:

> We must have the necessary confidence in the legal profession and the judiciary to assure that the Corporation and its grantees will be continually monitored and measured by the professional standards applicable to all the components of our justice system.

If this confidence is not well founded, then the Congress, as well as the executive branch, retains all of the right and power to step back in.

The board is like a "trustee" and the charter which I have described is analogous to the "trust document."

If the trustee breaches its trust by departing from his charter or putting funds in irresponsible hands, then the power can be revoked, but in the meantime we will not watch over or interfere with every "investment" he makes in terms of legal services for the poor.

Mr. President, in that spirit and for the reasons I have cited, I hope very much that the committee bill will be passed without substantive amendment and that we will move speedily into conference with the House of Representatives, so that the legal services corporation may at last be secured.

Mr. President, I ask unanimous consent that, appended to my remarks, may appear very recent editorials favoring the bill from the Washington Star-News of December 8 and from the Washington Post of December 10.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Washington Star-News, Dec. 8, 1973]

Legal-Aid Compromise

In the brief time remaining before adjournment, Congress should exert the extra effort required for a final decision on continuation of legal services for the poor. Certainly the delay in determining what to do with this worthy program—which is surviving rather desperately within the decimated Office of Economic Opportunity—has dragged on far too long. But now, thanks to recent action by the Senate Labor and Public Welfare Committee, the stalemate can be broken.

What emerged from the committee was a compromise bill that seems to settle Congress' main differences with the Nixon administration on this long debated matter. In this legislation, which we hope the Senate will act upon speedily, the administration has won its point. But the point isn't so vital as to justify any additional, lengthy haggling, which can only prove fruitless. This is affirmed by the fate of past legislation that foundered on the presidential veto, because Congress insisted on allowing the President to appoint less than half the board members who would govern the program. President Nixon wanted to name all of them, and that's what the Senate committee's bill would permit, with Senate confirmation of nominees.

But the board would have a bipartisan structure, and on the main aspect of this innovation there is no disagreement between

Mr. Nixon and Congress. Both favor creation of a separate and independent legal services corporation, which could serve the needs of poor people without political interference. The Senate measure would achieve this admirably, while prohibiting unseemly lobbying or political activity by legal services lawyers. Such abuses have occurred in the past, but they are isolated exceptions to the multitude of vital services provided to impoverished Americans in routine legal matters. And the poor certainly must be assured of access to the courts, through such a federally funded endeavor, if the system of justice is to maintain respect.

Nonetheless, much quarreling may lie ahead in a conference committee, because the House has passed a bill loaded with restrictive amendments. This Senate legislation—a sensible compromise between conservatives and liberal points of view—deserves to prevail.

[From the Washington Post, Dec. 10, 1973]

The Legal Services Bill

After a long and tortured legislative journey from the House floor where it was mangled on June 21, the legal services bill finally comes to the floor of the Senate today. From the standpoint of those who wanted a strong independent legal services corporation, it is not a perfect bill, but it is an acceptable one. Moreover, it represents an honest effort by the White House and the Senate Labor and Public Welfare Committee to work out legislation that will satisfy the legal representation needs of the poor and also assure the President that he retains some control over a program that his administration has found controversial in the past.

The committee bill represents true compromise by both sides. Legal services advocates have receded substantially from hard positions of earlier years. The entire board, for example, will be appointed by the President. Advisory committees will be established in each state to monitor legal services activities. Finally, though the committee bill will permit many activities that would have been proscribed by the House, the tone of the legislation is essentially negative, giving rise to the possibility of narrow interpretations of authority or, at least, to long wrangles over numerous questions of authority.

On the other hand, there are victories for legal services advocates, too. Legal backup centers—a vital resource system for the program—have been restored. The House-imposed prohibition on representation before legislative bodies has been removed—as long as eligible clients are involved. In addition, a provision that would have required legal services offices to pay legal costs and fees in affirmative action cases which they brought and lost has been eliminated.

Despite the honest and tedious effort of Senate liberals and the White House to bring off an acceptable compromise, opponents of the program continue to hammer away with horror stories about how the program has been abused in the past. The stories don't stand scrutiny. An analysis of over 70 cases of abuse shows that almost half of them are untrue. One such story, for example, attributes to a legal services program in Boston the actions of a private law firm in that city. In another 20 percent of the cases, the stories are true but in no way horrible, for they involve legitimate program activities. Only 3 percent of the cases represent instances in which the stories are true and no disciplinary action was taken. In all of those instances, the prohibited practices have been discontinued.

So, the Senate is faced with a situation in which the White House has made an honest effort to make good on the President's pledge to establish an independent legal services program and Senate liberals have been accommodating. There is no need for further compromise. The Senate should pass the bill promptly and the White House should continue its firm support through the House-Senate conference. The administration could do no better by the President's standing commitment to legal services—and his new Vice President's "dedication to the rule of law and equal justice for all Americans"—than to see this bill through to enactment.

Mr. TAFT. Mr. President, our governmental system is one founded upon law. Equal access to the procedural system that considers an individual's rights and obligations under the law is essential for all citizens. Historically, such access has been provided for principally by private lawyer-client relationships with the financial ability of the client to secure such an arrangement often the determining factor as to the availability and the quality of the relationship. This procedure presents serious obstacles to economically disadvantaged members of our society and is repugnant to the constitutional requirement of equal justice under law. Attempts to correct this imbalance by the legal community have been advanced through the implementation of numerous legal aid and public defender programs since the early 1900's. These programs developed internally within the legal profession and proved not to be numerous enough or broad enough in scope to provide equal opportunity in meeting the legal needs for the economically disadvantaged. Recognizing this fact, an experimental legal services program to provide free legal assistance for low-income persons was initiated by the Federal Government in 1965 in the Office of Economic Opportunity with a budget of $600,000. This concept achieved acceptance in the Congress and the legal community in the following years and is represented by a Federal commitment at the rate of $71.5 million for the current fiscal year.

The committee bill is a refinement of the experience of the legal services program in the Office of Economic Opportunity and is a major step forward in insuring delivery of legal services to all Americans. The work and input leading to the proposal has come from not only many Members of the Congress and their staffs, but also as a result of initiatives and excellent cooperation from the administration, various bar organizations, and individual advocates of strong legal service programs.

I realize that some of my colleagues may have questions about certain aspects of this legislation, especially in light of the rather controversial history that similar proposals have experienced. I am very much aware of the concerns many of my colleagues may have with regard to the areas of lobbying and political activity, or on the other hand, the suggestion that Federal assistance for legal services be incorporated into a revenue-sharing type of plan.

Quite frankly, I initially approached this subject with similar thoughts and concerns. After extensive staff research, consultations with my colleagues on the committee, and discussions with the administration, however, I found my concerns could be resolved by the specific statutory language contained in this proposal.

I believe the safeguards adopted for lobbying and political activity merit positive consideration of the Senate as such safeguards represent a sound and flexible approach without jeopardizing the mandate of the Corporation to provide Legal Services to the economically disadvantaged.

While a revenue-sharing approach is not specifically adopted, States may receive grants for programs under certain circumstances and will have an opportunity through State advisory boards and notice provisions to monitor the legal services provided within their State by the Corporation. Provisions are also included to permit experimentation with alternative types of delivery systems of legal services to the economically disadvantaged.

It is also important to examine the powers and directives that are given to the controlling board of the Corporation all of whom are Presidentially appointed, to issue rules and regulations to insure the corporation is conducting its activities within the statutory guidelines and pursuant to the congressional mandate.

The constructive balance that has been reached on these points and other under the excellent leadership of Senators Nelson and Javits should be reviewed by all Members with the understanding that without compromise, opportunity for passage and approval of this legislation would be greatly jeopardized. Further, assuming this legislation is approved by the Senate, a comprehensive consideration of the proposal can be expected in conference committee deliberations with the House which has approved a much more restrictive approach to this area. I, therefore, will support the proposal as reported without offering major substantive amendments and would urge my colleagues to consider a similar approach to this extremely important legislative proposal.

Mr. President, my staff and I have been in contact with many members of the bar from the State of Ohio regarding this legislation and have worked closely with the Ohio State Bar Association. The president of the association, Mr. Walter A. Porter of Dayton, Ohio, has forwarded numerous recommendations to our office regarding this legislation and I ask unanimous consent that Mr. Porter's letter of November 26, 1973, expressing support for S. 2686, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Ohio State Bar Association,
Columbus, Ohio, November 26, 1973.

Hon. Robert Taft, Jr.,
U.S. Senator,
Senate Office Building,
Washington, D.C.

Dear Senator Taft: Following receipt of your letter of November 14, 1973, I forwarded copies of S. 2686 with the Senate Report to members of our staff and officers of the Ohio State Legal Services Association.

As you know, representatives of our Association have been in contact with your office on a regular basis since last May when the legislation was introduced. I therefore feel that you are familiar with our position on this bill.

We are keenly aware of the legislative compromises that must be made to enact an effective legal services corporation bill. Therefore, while we do have some criticisms of the bill as proposed, we urge that you continue to support the bill as reported out of the Senate Committee and to oppose any amendments which will further restrict the activities of legal services attorneys in providing quality representation to their clients.

It remains our conviction that legal services programs and attorneys must be governed by the Canons of Professional Responsibility and by the local associations and State Supreme Courts who have the duties of policing the conduct of attorneys within their jurisdictions. We oppose any provisions in the legislation which restrict the professional activities of legal services attorneys since such restrictions force legal services attorneys to compromise the Canons in their representation of clients. For example, if Congress prohibits legal services attorneys from representing clients before State Legislatures, those attorneys would be more restricted than attorneys in private practice who deem the Legislature the best forum within which to plead clients' causes. Thus, the poor would be provided with *less effective* counsel in that their attorneys would not be free to represent them zealously within the bounds of the Canons, which encourage attorneys to represent clients before legislative bodies.

We remain firmly committed to the support of a legal services corporation bill which will be totally independent of political influence and afford legal services attorneys the opportunities to provide quality representation to their clients.

Again, I want to express the thanks of our Association for your continued interest in this very important legislation. We are deeply appreciative of your comments printed in connection with the Senate Report. If I can be of any further service to you in any way, please feel free to call upon me.

Sincerely yours,

WALTER A. PORTER.

Mr. ABOUREZK. Mr. President, I want to say a few words in support of one of the finest social programs in the history of this country. I want to rise in support of the legal services program and of the bill which has emerged from the Committee on Labor and Public Welfare.

Some of you may be aware that there was a series of very severe floods in South Dakota last year, particularly in the area around Rapid City. Many families were left homeless. Many were without jobs. The Black Hills Legal Services project was established to try and meet the legal needs of these people. It rose to the occasion in a magnificent fashion.

They immediately began negotiating with HUD officials to secure a substantial reduction for low-income families in the charges for space in temporary trailer parks. They persuaded HUD of the necessity of installing lighting in such parks. They convinced the local police that these parks, filled with families which scarcely knew one another by sight, posed special law enforcement problems, and secured extra police protection for the camp residents.

When Indian clients of the SBA complained that the property which they had lost in the flooding was being undervalued by Government assessors, the project immediately got the local Community Action project to find personnel for an independent audit, on the basis of which greater claims could be substantiated.

Now this was all being done by three young lawyers whose current caseload is approximately 600 to 700 open cases. Many of those cases reflect the routine legal difficulties of the poor. Many others are a reflection of the terrible disadvantages that saddle those without funds. In my State, for example, unemployed fathers are not eligible for support from public welfare. When the floods hit, existing high unemployment was only made worse. And, as always, there were crafty men prepared to exploit that situation. Several fly-by-night companies came into the State, they obtained contracts to do ditching and cleanup work from the public authorities, hired local unemployed men to do the job, collected, and then absconded from the State leaving their unpaid workers behind.

The Legal Services project is representing many of these workers. Where would they have been able to turn for legal help if it were not for the Legal Services program? These men have no money to pay for private counsel. They would have not even the possibility of redress without Legal Services.

Many people in the Rapid City area live in hotels and motels. Alternate housing simply is not available. One such tenant was a young Indian girl, Ms. Juanita Blue Thunder, in town on a Bureau of Indian Affairs scholarship. She had a dispute with her landlord over the rent, and he seized all of her personal belongings. He claimed he could do that under an ancient law that permits innkeepers to take a lien on the baggage of their guests and to seize it without a prior legal hearing on whether the bill presented is fair or not. This law was obviously designed to protect innkeepers against transient guests. It was not designed for the long-term tenant.

Legal Services lawyers agreed to take Ms. Blue Thunder's case. They discovered that other landlords were using the same ancient rule and that no one had challenged their right to do so. When they argued the issue before the South Dakota Circuit Court, the judge said that anyone who spends more than 4 weeks in a hotel is not a guest but is a tenant, and has the right to a fair hearing on his dispute with the landlord.

Now Blue Thunder against Richards is not an earth-shaking case. But it was a class action, and it was precisely what the Legal Services program means when it speaks of law reform. This young Indian woman and her Legal Services lawyers secured not only her rights but the rights of all others who were similarly situated and who were being similarly exploited. If it were not for the Legal Services program, she might never have found a lawyer and the legal issue might never have been raised in court.

But Legal Services cannot handle all the cases that come to them. Many they have to refer out. In this calendar year alone, Legal Services of South Dakota has referred cases to private attorneys in which more than $250,000 in verdicts have been won.

I think all of us are agreed that the provision of legal services to the poorest fifth of our population is an important goal. I want to see that done, and I want to see it done free from partisan control in Washington, and free from the kinds of political disputes at the local level that revenue sharing would inevitably bring. I think partisanship has its place. I think revenue sharing has its place. But, when the partisans of revenue sharing speak of giving control to local government, I have to ask myself whether local government should be involved in controlling certain kinds of professional relationships. I think the strength of the Legal Services program has been that, while it may sometimes be controversial, it has always been professional. It has received the support not only of the American Bar Association but also of the South Dakota Bar Association, because it has tried to stay out of politics, and has tried to offer to its clients precisely the same range of services, and precisely the same quality of service that they could obtain if they had money to hire private professional counsel of the finest sort from firms with expertise in the areas of the law which most affect them and with adequate research departments to back them up in those legal areas where it is necessary.

I want to see that kind of a Legal Services program preserved. I think the pending bill as it emerged from committee will do that, if the corporation's board is wisely selected. I am opposed to the notion that Washington should seek to pick an attorney's forums for him. I am opposed to the notion that Washington should seek to tell him what arguments he can raise or what kinds of cases he can handle for his clients. I am in favor of the bill as it has been reported to the floor.

Mr. HANSEN. Mr. President, so very often the Senate is forced to consider deficient solutions to national dilemmas because of the immediacy of the need for resolution. Repeatedly we evaluate the magnitude of the problem and only minimally the detriments of the proposed machinery.

This situation is amply demonstrated by the Legal Services bill. No one of conscience denies the affliction of poverty on many of our citizens or their need for legal alleviation. Unfortunately, the Legal Services bill has detrimental aspects to everyone, without discrimination as to their pecuniary status.

This Legal Services bill provides once again for the courts to be a body for legislation, and for Federal financing to bypass the deliberative function of the Congress.

Today, people claim rights to what was once regarded as a helping hand to alleviate misery. Complete law courses are now taught on welfare rights.

Mr. President, no one believes more firmly than I that persons minus financial resources should be entitled to counsel to interpret the law and promulgate justice. I deny the premise that these same persons have the right to change the law other than through their properly elected representatives. While funding must be provided for protection under the law, we should not pay for suits against ourselves.

Finding No. 5 of the bill states that—

> To preserve the strength of the legal services program it must be insulated from political pressures.

Such a truism does not contradict a conclusion that the machinery of this legislation should not be a political pressure. The obvious intent is to insulate these judicial functions from political and lawmaking processes, but an inadequate insurance has been provided to guarantee that the lawmaking process is isolated from the activity of a few overzealous reformers.

My expectations for this legislation were what the President called—

> A legal services program which gives the poor the help they need; which is free and independent of political pressures and which includes safeguards to insure that it operates in a responsible manner.

The safeguards in the Legal Services bill are admirable and meet the problem in concrete terms. However, the exceptions negate the essence of what has been accomplished. The exception dominates the restriction.

If this were a solitary problem, the situation would be sufficiently severe, but the bill is filled with ambiguous language which provides insignificant improvement over the status quo.

Mr. President, I think that a further objective should be an approach that does not create a separate class of attorneys. It would seem a desirable alternative to provide an individual more freedom in choosing his attorney.

Since many legal problems revolve around State legislation, State definitions, and State programs, it would seem that the States might provide a more adequate alternative.

It is my fervent hope that legal problems of the poor can be solved without funding a school for ideological and social change that is our responsibility to consider.

Mr. INOUYE. Mr. President, in Hawaii, the OEO sponsored Hawaii Legal Services projects of the Legal Aid Society of Hawaii gives legal advice and representation to poor persons throughout the State. During the past year, over 5,000 persons who could not otherwise obtain the services of an attorney were assisted by Legal Services project lawyers. Some of these lawyers must reach their clients by air or by driving extended distances. The project's caseload is a varied one, including adoptions, guardianships, divorces, sales contract disputes, landlord-tenant problems, and administrative law matters. Earlier this year, the senate of the State of Hawaii commended the Hawaii Legal Services project for "its excellent efforts in behalf of the poor."

S. 2686 providing for a National Legal Services Corporation is a more restrictive measure than I would like. It is, however, a workable compromise which will provide for the continued existence of a National Legal Services program. In particular, I support S. 2686 because it makes attorneys for the poor as free as are private attorneys to give their clients the best and most complete representation possible.

Mr. MATHIAS. Mr. President, if the concept upon which our Republic was founded—equal justice under the law—is to have any meaning in our adversary system of legal representation, then every individual must be provided the means whereby he can enforce his rights and redress his grievances. The Legal Services Corporation bill is a great step in providing the opportunity to do just this. It creates an independent structure to assure many Americans that they will have the assistance of a competent lawyer to pursue their just objectives, aggressively, but within the framework of our judicial system.

I have seen the potential to accomplish this in my own State of Maryland. The legal aid bureau, through funding received from OEO since 1966, has provided lawyers throughout the Baltimore metropolitan area and in those very areas where low-income populations are most prevalent. This program has provided a law firm for the poor which, in its last year of operation, served over 35,000 low-income citizens. The most common thread in all these cases was a lack of money to pay a lawyer. The legal problems handled by these poverty lawyers covered the myriad day-to-day crises of the poor—evictions from homes, family problems, overreaching by unethical fly-by-night merchants, and countless problems with the bureaucracy of governmental agencies that touch upon the lives of the poor on a daily basis.

Mr. President, I ask unanimous consent that the text from the annual report of the Legal Aid Bureau of Baltimore be included in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATHIAS. That report shows, among other things, the great diversity in the types of cases being handled by the bureau. While a few major controversies command the headlines, it is the mundane and routine cases which are the real news as the rights of individual Americans are established and secured.

The bill creating the Legal Service Corporation comes to us after a great deal of debate and study in committee. It represents a thoughtful compromise of the issues which were in controversy. For example, there are checks on any kind of partisan political activity by Legal Services lawyers, assuring that legislative advocacy is solely to pursue the objectives of the low-income client community. The existence of backup centers for legal research activities on behalf of poverty attorneys with crushing caseloads is also provided. Of importance is the composition and selection of board members and the establishment of national and local advisory boards to assure input from every level. But most important, perhaps, is the clearly recognized protection in the bill of the vital attorney-client relationship.

The bill in short provides assurance to the low-income community of a meaningful commitment by our Government to the principle, equal justice under the law. I support the Legal Service bill, and hope that its passage will result in the continued establishment of a legal tradition which assures to all Americans the opportunity to be adequately represented by our legal system.

This occasion should not pass without acknowledgment of another frontier in legal representation, that of providing adequate legal representation for those who do not qualify for poverty representation but who nevertheless need representation and for whom such representation is a financial strain.

Ours is a society that has become increasingly complicated. The purchase of homes, the purchase of automobiles, the use of short-term credit arrangements, the protection of warranties, the role of insurance in personal protection and estate—all of these and many more pressing problems generally yield minor legal fees but can be of major importance to the individual involved. The result is a gap in the delivery of legal services to many Americans who fail to qualify under programs for the poor but who, nevertheless, do not have adequate resources to obtain legal assistance.

A recent Harris poll shows that only 24 percent of the public has a favorable opinion of the legal profession. This should be a source of great concern to lawyers. I believe that this unfavorable opinion is due less to Watergate fallout than to the gap in delivery of legal services.

The problem is a difficult one. Hard-pressed private practitioners are dependent upon a finite resource for their livelihood—time. What may appear to an individual with a legal problem as a callous or mercenary indifference to that problem may in fact be merely a reflection of the economic realities of the time squeeze.

The problem of delivery of legal services to the middle class is one of the problems which I hope will be successfully addressed by the Subcommittee on Representation of Citizens Interests of the Committee on the Judiciary, of which I am a member. That subcommittee has already addressed itself to some of these problems and I am hopeful that its work will yield solutions.

The legal profession occupies a unique position in our society. A free society is a society of laws, not men, and a society of laws depends upon the independence and integrity of the legal profession. Any attempt to deliver improved legal services to the American people must be consistent with the preservation of this important instrument of our liberty.

EXHIBIT 1

LEGAL AID BUREAU OF BALTIMORE, INC.—1972 ANNUAL REPORT

(Respectfully submitted by Roger Garfink)

(NOTE.—The Legal Aid Bureau, Inc. is a private, non-profit law office that has been serving the low-income community in the Metropolitan Baltimore area since 1911. The Bureau's goal is to provide legal advice and representation for any person who cannot afford a private lawyer and to protect the rights of all individuals through a wide-ranging program of law reform and legal education activities.

The Bureau is governed by a 28-member Board of Directors, composed of 14 lawyers, 3 judges and 11 community members. To finance its activities, the Bureau depends upon contributions from individual citizens, civic and bar organizations, the United Fund of Central Maryland and grants from Federal, State and City government agencies. During the current year such grants were received from the Executive Office of The President, Office of Economic Opportunity, through the Community Action Agency of Baltimore City; the Department of Health, Education and

Welfare, through the Maryland State Department of Employment and Social Services; the Department of Housing and Urban Development, through the Model Cities Agency of Baltimore City.)

REPORT OF THE PRESIDENT

The year 1972 was a difficult one for the Legal Aid Bureau. Although progress has been accomplished in a number of respects, conditions which are part and parcel of the search for national purpose and priorities are making the many tasks of our staff exceedingly difficult. By year's end, a threat of a severe budgetary cutback of 60% proportions looked more and more real, as the Department of HEW contemplated more restricted funding guidelines affecting many social programs, including legal services for the poor.

Despite these ominous dangers to the continuation of effective legal services, progress was made in meeting the demands of increasing caseloads through greater staff specialization and co-operation. Law reform and legislative activities growing out of this daily caseload progressed substantially and insured that a larger number of poor persons would benefit from the full dimension of legal services.

The Legal Aid Bureau acknowledges with deep gratitude the ever growing support it has received during this crucial year from the organized bar and the bench, support that has been crucial in its present struggles. The assistance of concerned members of the legislature, city, state and federal, has also been crucial and invaluable. It is to be hoped that in 1973–74 the proper rendering of justice to the poor in this city and state will continue to be a prime concern not only of the judicial branch of government but of the legislative and executive, as well as the general community. If so, greater progress towards the goal of achieving equality before the law will result.

LAW FIRMS FOR THE POOR

Heightened awareness of individual legal rights of the poor, one goal towards which the Bureau has been striving, has meant additional requests for assistance of our staff in all of our city and county neighborhood and central city offices. All of these neighborhood offices for the poor have given assurance to the low-income citizen that some measure of justice exists for him. If the Bureau has come to be accepted by the communities, a major reason must be the impact and success in individual cases handled by attorneys in these offices. The tenant threatened with eviction, the employee faced with loss of his livelihood, the family whose unity is being disintegrated have found the poverty lawyer and the law a tool for coping with otherwise unmanageable problems. The Legal Aid staff attorneys' caseload continued to show substantial increase as noted hereafter in the statistics. In the past year, for example, Bureau attorneys in its Family Law Center obtained half of the divorce decrees handed down in Baltimore City, on behalf of the low-income community. In December, 1972, for example, Legal Aid obtained 157 decrees for its clients.

Group representation, so vital to the low-income community increased in the past year, with Legal Aid attorneys providing assistance to welfare rights organizations, neighborhood improvement groups and local health councils. A neighborhood association was represented on an issue of whether Baltimore City could bill property owners and not tenants for water bills. The Court of Appeals of Maryland ultimately decided this issue favorably to the tenant organization represented by the Bureau.

Community groups also gave of their skill to the Legal Aid programs. Because of the many Bureau cases which relate to family problems, Associated Catholic Charities volunteered to counsel domestic clients at the Bureau offices in an attempt to resolve disputes out of court and to maintain family unity.

BUREAU LAW REFORM

In this year the Bureau carried forth with increased fervor the questions raised by clients about laws, regulations and practices of major institutions affecting their ability to be independent and self-sufficient. Neighborhood attorneys and Law Reform Unit staff coordinated efforts to provide the depth of legal services needed to achieve this client goal.

Perhaps the most significant class action filed was in the area of employment opportunities. *Byrd, et al., v. Local Union No. 24, International Brotherhood of Electrical Workers, et al.*, alleges that major building construction and trade unions and associated contractors have discriminated against black applicants to their apprenticeship programs and membership in unions. The plaintiffs are requesting that the defendants admit blacks into the apprenticeship program and unions on a one-to-one ratio with whites and that the trade unions develop objective, non-discriminatory criteria for selection of apprentices in the future.

An effort to encourage welfare recipients to develop employment opportunities was *Baker* v. *Social Services Administration*, a suit seeking to allow more reasonable work-related expenses in welfare grants calculations. In June, 1972, a Baltimore City Court judge signed an order directing Social Services to allow as deductions from earnings the actual amount of taxes withheld and the cost of lunch while working, instead of a maximum ten dollars for lunch and taxes together.

Too often neglected are the children of poor families, but the Bureau in 1972 was quite active in litigation on behalf of such children. In *Griffin v. Richardson*, the U.S. Supreme Court affirmed a lower federal court decision obtained by Bureau attorneys that held unconstitutional a provision of the Social Security Act which denied survivor's benefits to the illegitimate children of deceased wage earners. Most notably, *Griffin* affected at least 29,000 similar children across the nation. The district court ordered the Social Security Administration to pay approximately $50 million in back benefits to these children.

The Supreme Court also affirmed a three-judge federal court in *Francis v. Davidson* which ruled that needy children cannot be denied public assistance benefits merely because their fathers are out of work due to a strike or alleged misconduct. The *Francis* victory will benefit about 300 children annually in Maryland.

Wolfe v. Hilson, challenged Maryland's laws which allowed the state to confine in training schools children in need of supervision (CINS). These children, who are not accused of being delinquent but who may be beyond their parents' control, are often detained in such schools with juveniles who have been determined delinquent, so that the children in need of supervision are thereby subjected to the same cruel incarceration. *Wolfe* sought the release of the plaintiffs into the custody of their families or into a program of care best suited to the child's well-being. While the decision has not been rendered as of this date, the Maryland legislature, acting as a result of the exhibited need, passed a bill in its last session which would prohibit the placing of children in need of supervision in the same training schools as delinquent children.

The Maryland Court of Appeals decided in June, 1972, in *Dorsey v. State Department of Social Services*, that income of a minor child in excess of his or her public assistance needs could not be considered a resource to others in the child's family who are receiving welfare. In short, a child with other income could be excluded from the welfare unit if it was to his or her advantage.

Unscrupulous merchants and repairmen have persisted for hundreds of years as the ancient Roman cry "caveat emptor" proves, and more often unfortunately against those least able to protect themselves, namely the low-income person with little financial bargaining power. The Bureau initiated several class actions in 1972 to establish basic constitutional rights in consumer matters for the vulnerable low-income consumer. A suit was filed seeking advance notice of repossession and an opportunity for a hearing prior to repossession. Other actions alleged that contracts used by finance companies violated the Truth-in-Lending Act.

A case particularly important to low-consumers was *Clark v. Public Service Commission*, challenging a recent rate increase by the Baltimore Gas & Electric Company, and, specifically, the rate structure, which allegedly discriminates against low-income residential consumers in favor of more affluent residents and commercial users.

The Bureau, on behalf of a neighborhood organization, intervened in *Property Owners Association v. Mayor & City Council*, in which the Maryland Court of Appeals upheld a lower court decision that Baltimore City could bill property owners and not tenants for water service charges.

1972 continued to be an active year for prison related litigation of the Prison Assistance Project, most notably in *Collins v. Schoonfield*, which provided far reaching relief for the inmates of the Baltimore City Jail. At the conclusion of a five week trial and after negotiation between the parties, a federal court judge ordered extensive reforms to be implemented in the Jail by the defendants. Far reaching changes in the nature and extent of medical care of inmates was an important aspect of the Court's decree. In reaching its decision, the Court also recognized that inmates should not be punished for infractions of jail rules without a prior hearing attended by various procedural safeguards. The Court also recognized the rights of inmates to send and receive correspondence, literature and publications without censorship by jail authorities except to the extent that incoming mail and packages can be inspected for the presence of contraband. The tenor of the Court's decision was that inmates of the Baltimore City Jail, as pretrial detainees, are entitled to all the rights and privileges enjoyed by other citizens except to the extent that they must be deprived of those rights in order that the security of the institution can be maintained.

In *Inmates of the Maryland Penitentiary v. McColley*, it was alleged that officials of the Maryland Division of Correction were denying due process to prison inmates by their refusal to allow them to be represented by retained counsel at prison disciplinary hearings charging major infractions. At a three-week trial, it was argued that the presence of retained counsel in serious offenses is necessary to protect the right to a fair hearing to which inmates were entitled as a result of *Bundy v. Cannon*, a previous Legal Aid case.

LEGISLATIVE ADVOCACY

1972 completed the third year of legislative advocacy in Annapolis by Bureau attorneys. A measure of the Bureau's success was demonstrated by the increasing number of legislators who solicited advice from attorneys in matters affecting the poor.

Legislative efforts can bring attention to potentially unjust laws and, more importantly, can create laws potentially helpful to poor people. During the 1972 session, attorneys regularly testified before House and Senate committees.

The Bureau, on behalf of its clients, enthusiastically pursued several specific issues in Annapolis. It supported the establishment of a Family Court, and some form of no-fault divorce law. As the previously mentioned *Wolfe v. Hilson* case waited for its hearing, attorneys successfully lobbied for a bill that would prohibit the detention in training schools of children in need of supervision. The Bureau aggressively supported voting rights for ex-offenders, expanded work-release programs in jails, and allocation of credit to pre-trial detainees for time spent in jail prior to trial. Numerous consumer and housing bills were reviewed by staff and Board and supported or opposed on behalf of the low-income community served by the program. A private right of action bill giving new power to consumers and a rent control bill protecting tenants were both enacted by the legislature.

NEW DEVELOPMENTS

Consumer law center

The Consumer Law Center became reality in September, 1972, from a combination of grants from Model Cities and the Department of HEW. The Consumer Law Center provides services in five primary ways: (1) test case, group and individual representation; (2) legislation; (3) investigative studies; (4) consumer education; and (5) clearinghouse "back-up" center for the various attorneys throughout the Legal Aid Bureau in the handling of consumer cases. The underlying objective of the Consumer Law Center is to pick up patterns of illegal or unfair business practices and to seek innovative and effective legal reforms to counter such practices.

Mental health project

The Mental Health Project, consisting of a supervising attorney and several students from the University of Maryland School of Law, concentrated on the individual problems of some of the 1,100 persons confined to Maryland mental institutions while also being involved in educational and reform activities. In 1972, the Project became involved in litigation which assured persons being committed to a mental institution a due process hearing to test the validity of the commitment. Support by a grant from the Grant Foundation promised continued development of this unit of the Bureau, representing a too often forgotten world of clients.

A young woman who had been placed in a mental institution at the age of 13 and released after seven years as a result of assistance from this project expressed her feelings most poignantly in the following poem:

Without you
there was nothing
the faintest
glimmer of hope—
there was none
to be seen
but I spoke,
you heard—
you listened—
above all
you cared.
to you
I was somebody
a pleading voice
in lonely despair
help me—
two words
then you appeared
and at once
birth of something
into somebody, came about . . .
because of you.

Legal assistants

While the legal assistant program has existed since 1971, the Bureau expanded the program in 1972, so that the increased caseloads could be handled more adequately by neighborhood offices. Project Serve I and II, created by the 1971 legislature to provide meaningful employment to recipients of welfare grants, enabled the Bureau to train and utilize seven welfare recipients as legal assistants, thus not only helping to alleviate interview problems and to free attorneys' time, but also assisting members of the client community to become self-reliant and independent.

Word processing center

A law firm, particularly one the size of the Legal Aid Bureau, generates a mountain of paper work. To meet this enormous client demand with quality and speed, the Legal Aid's Central complex reorganized its secretarial system into a moderized Word Processing Center, providing for remote dictation to centralized transcribers and magnetic tape typewriters. This model, developed in the Bureau, has relieved typing back logs without increase in size of staff, increased typists' skills and in short allowed the staff to ride herd on the paper work. The system has been observed and reviewed by law firms in the City and represents effective use of resources to benefit the client community as well as staff.

THE FUTURE?

The Legal Aid Bureau's cloudy future at the close of 1972 mirrored the priorities of the times. Threats of massive budgetary cuts appeared more and more likely, endangering the continued representation of poor persons. Staff and Board committees had to be formed to examine the present Bureau structure and delivery of services, the nature of the caseload, and some possible restructuring of staff to efficiently provide legal services in case funding cuts became a reality.

In the face of these challenges the Bureau has continued seeking alternative sources of funding. The directors of the program have constantly sounded out private foundations and other government agencies. There has been effective co-operation between the Bureau, the Bar Associations and Federal, State and City legislators toward the creation of an independent Legal Services Corporation to provide adequate funding nationwide and inspired administration.

In order to continue with programs and growing service to the poor provided in this year, the Bureau will need the continued support of the Bar and the community. It was the dedication of lawyers to equal justice for all that led to the creation of a movement to provide legal services to poor people, and ultimately to the foundation of the Legal Aid Bureau. To continue to meet this commitment we need a continual rededication of the Bar, not only to obtaining adequate funding for this program, but also to support the effective development of our laws and legal system. Only this reform can assure a society under the law in which meaningful change and development can be achieved on behalf of the poor through the legal processes. Until the concept of equal justice for all is made more of a reality through such change and development, the present threats to our system of government will not diminish.

My thanks go out to all members of the Legal Aid staff, and Board, and to the many supporters of this program from the Bench and Legislature and Bar for their excellent efforts and commitment during a period of great stress and complication in the Bureau's life.

Condensed statement of income and expenses, year ended December 31, 1973

Income:	
Community Action Agency	$654,580*
Department of Social Services	780,000
Model Cities	100,235*
Community Chest	147,577
Reginald Heber Smith Fellowship	54,952
Income from investments	658
Bar Association of Baltimore City	750
Direct contributions	98
	1,738,850
Expenses:	
Salary and other personnel costs	1,366,738
Operating expenses	386,759
Deficit—General Fund	(14,647)
	1,738,850

*Excludes contract income not expended during the year.

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Investigator

Roland A. Walker.

Para-professionals

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Legal Aid Southwest, 1435 W. Baltimore Street, Baltimore, Maryland 21223, Tel.: 945–6040.

Legal Aid Cherry Hill, 710 Cherry Hill Road, Baltimore, Maryland 21225, Tel.: 685–1120.

Law Reform Unit, 341 N. Calvert Street, Baltimore, Maryland 21202, Tel.: 685–1112.

Family Law Center, 341 N. Calvert Street, Baltimore, Maryland 21202, Tel.: 539–5340.

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Legal Aid, Howard County, 8316 Main Street, Ellicott City, Maryland 21043, Tel.: 465–2839.

THE JUVENILE REPRESENTATION PROVISIONS OF S. 2686

Mr. BAYH. Mr. President, I would like to address my remarks today to subsection 1007(b)(4) of the Legal Services Corporation bill, regarding representation of juveniles.

During my tenure as chairman of the Subcommittee on Juvenile Delinquency, I have come to realize the need to provide adequate legal representation for indigent children. All too often, these children have faced a dual barrier to adequate legal assistance. First, their poverty has been a bar to representation. Second, as children, they have often been denied essential rights which were guaranteed to adults long ago. The concerns I had with the juvenile representation provisions of the House-passed bill—concerns which prompted me to request revision when this legislation was considered by the Employment, Manpower, and Poverty Subcommittee—have been vitiated by subsection 1007(b)(4).

Subsection 1007(b)(4) places certain limitation on the representation of children, but it does not depart from our long-time commitment to provide appropriate and essential legal services to indigent children. It limits representation only in those situations where representation would unnecessarily exacerbate the reasonable and proper relations between parent and child. The subsection assures that legal services will not be provided in instances where such representation would create conflicts between parent and child to the detriment of necessary parental control, but it does so only as long as the child's important procedural and substantive rights are not endangered by the lack of legal representation. Hence, in what are largely private disputes between parents and children, the Labor and Public Welfare Committee determined that providing legal services for the unemancipated child would not be appropriate without parental consent.

On the other hand, in the case of emancipated minors—those not legally subject to parental control—there is no problem of potential parent-child conflict, and hence no restriction has been placed on the availability of legal services. Furthermore, the subsection sets forth several other areas where requiring parental consent would be clearly inappropriate, either because of a constitutional right to be represented by counsel—for instance, where the child may be deprived of his liberty or a previous deprivation has become unlawful—or because of a high probability of conflict of interest between parent and child—for instance, child abuse, custody, and Pins proceedings. In such cases, the child must be accorded the same opportunities for legal services as an adult.

Although it is not possible to draft a provision that anticipates every situation in which fundamental fairness—the constitutional standard for the rights of children in court—dictates that a child have an independent right to obtain the services of a lawyer, the subsection sets forth the primary areas in which such situations are considered likely to occur. Furthermore, the subsection permits a court to authorize such legal representation in additional cases should an appropriate situation arise, and the subsection authorizes the Board of the Legal Services Corporation to set forth additional situations which may not presently be foreseen.

Striking a balance, then, between the rights of parents or guardians and the interests of society in assuring the protection of children, the subsection envisions the following manner of providing legal services to eligible children: in most cases, presumably, consent of a parent or guardian will be forthcoming because the parent or guardian will first come to the legal services attorney seeking legal assistance for the child. However, when the child first seeks such assistance without a parent or guardian being present, the attorney, after interviewing the child and identifying the legal problem, would then seek the appropriate consent, respecting the child's attorney-client privilege. Consent could then be given by the parent or guardian, or, in appropriate cases, representation could be requested by a court of competent jurisdicion over the subject matter of the legal problem.

Only in those exceptions set forth in the subsection or in additional situations established by the Board of the Corporation would consent not be required. Those situations are ones in which the interests of the parent or guardian may militate against giving consent, but the value of fundamental fairness and the interests of society in protecting the rights of the child must predominate.

Most importantly, where governmental agencies are involved and the child's liberty, placement, or general welfare are at stake, we simply cannot make legal representation for indigent children contingent on parental consent. Subsection 1007(b)(4)(C) authorizes representation in such instances. It authorizes, for instance, the provision of legal services to children in "child abuse cases," which covers the whole range of situations where a child is suffering from actual physical beatings, profound neglect, or is otherwise being denied the minimal parental care which is the right of all children. The subsection also provides for full coverage in custody cases, where the child's own independent interests often require representation. Further, it covers "Pins proceedings:" those proceedings which, by whatever official name authorize a State to act when the child has not committed a crime but may be in need of the supervision of the court because of predelinquent activities. Here, because of the substantial powers of the state to impose limitations on the child's activities, and because the labeling of a child as a ward of the court may have profound effects on the life of the child, legal representation is essential for the child to be protected from arbitrary treatment.

Finally, subsection 1007(b)(4)(C) recognizes that whenever a child has been institutionalized or when institutionalization is threatened, it is essential that legal services representation be available. Institutionalization can take a variety of forms, including placements in such institutions as training schools, mental hospitals, group homes, special schools, foster homes, and the like—in short, any agency authorized by the State to accept and care for children. The subsection necessarily authorizes representation whenever institutionalization is involved—when a child is threatened with its imposition, when he seeks release or when he challenges any of the conditions of the institution, physical or procedural.

Subsection 1007(b) (4) (D) is the other provision setting forth an area in which the protection of the rights of children are considered predominant. Unfortunately, it cannot be denied that many children are denied services, rights or benefits, either from the State or private persons, to which they are legally entitled. Indeed, as we have become increasingly aware of the essential rights of children as persons, as well as their special rights as children, the denial of benefits and rights has become clearer. An indigent child without the ability to obtain representation by legal services attorneys will normally have no means to obtain benefits which are being illegally or wrongfully denied. His right to obtain such benefits should not be dependent on the consent of his parents. Thus clause (D) authorizes representation whenever it is necessary to secure or maintain for a child the range of services and benefits to which he may be legally entitled.

I regard clause (E) as a mandate to the Corporation to ensure that the legal representation needs of children will be met as those needs become apparent; indeed, I would have difficulty in supporting this bill were no such mandate included. Ten years ago, few persons recognized that children in juvenile courts had a constitutional right to assistance of counsel when their liberty was threatened by the Government, and almost no one anticipated that 18-year olds would need to go to court to establish their rights to vote in the cities and counties where they live. Twenty years ago, we did not realize that children by the thousands would need the assistance of courts—and therefore of lawyers—to establish their right to equal educational opportunity. I am confident that the Corporation Board, while recognizing the authority of parents to exert reasonable and proper control over their children, and the obligation of parents who can afford it to provide their children with legal counsel, will diligently meet its own obligation under this bill to ensure that the needs of children for independent legal services are met.

Mr. JAVITS. Mr. President, if I may have the attention of the distinguished Senator from North Carolina, I may say that it has been our intention tonight—those of us who are managing the bill—to go on until whatever hour suited Senators. We were perfectly happy to stay here for several hours more. There is no effort on our part to seek any tactical advantage.

I have inquired, and I understand that the Senator from North Carolina and other Senators who may be in opposition to the bill would just as soon that we did go over until tomorrow. So I shall not stand in the way of that.

But in fairness to us, if the question should arise as an issue—I hope it will not—but if it should, I think that in fairness we ought, at least, to take the position that we are ready to stay here and have further debate on the bill with any Senator who saw fit to make such statement, not to seek a tactical advantage, but just so as to make the record clear that we shall be happy to stay around and debate.

If there does not seem to be any disposition to do that, there is no use making Senators do something they have no disposition to do right now.

Mr. HELMS. Mr. President, I appreciate the remarks of the distinguished Senator from New York. Like him—and the Chamber being virtually empty—I think that further debate this evening would be merely tiresome and virtually nonproductive. I would certainly agree with the Senator from New York that we ought to quit for the evening. Of course, we are ready to debate, but I think that to do so this evening would be a needless exercise.

Mr. ROBERT C. BYRD. Does the Senator from North Carolina yield the floor?

Mr. HELMS. Yes; I certainly do.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

RHODESIAN CHROME LEGISLATION

Mr. HARRY F. BYRD, JR. Mr. President, I send to the desk two amendments to S. 1868 and ask that they each be stated.

The VICE PRESIDENT. The Chair believes that that bill is not before the Senate at the present time.

Mr. HARRY F. BYRD, JR. The Chair is correct. However, if the Chair will return the amendments to me, I will read the amendments into the RECORD and will then send the amendments to the desk.

The VICE PRESIDENT. Is the Senator submitting them for printing only?

Mr. HARRY F. BYRD, JR. I am submitting the amendments for printing only, except that I would like to have them stated for the RECORD.

The VICE PRESIDENT. The Senator can ask that they be printed in the RECORD. Is that the wish of the Senator from Virginia?

Mr. HARRY F. BYRD, JR. Mr. President, it is the wish of the Senator from Virginia to take whatever step is necessary so that such amendments to S. 1868 will be in order with no unanimous consent required in the event—which I hope will not occur—that cloture is invoked.

The VICE PRESIDENT. The amendments will be stated by the clerk.

The legislative clerk proceeded to state the amendment.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. Does the Senator from Virginia yield for that purpose?

Mr. HARRY F. BYRD, JR. Mr. President, I yield for that purpose.

The VICE PRESIDENT. The Senator will state his parliamentary inquiry.

Mr. ABOUREZK. Mr. President, I am afraid that I did not understand the request about cloture. I would like to inquire of the Senator from Virginia what the statement was.

Mr. HARRY F. BYRD, JR. Mr. President, under the rules of the Senate, as the Senator from South Dakota knows, there will be a vote tomorrow on cloture on S. 1868. Under the rules of the Senate, if cloture is invoked, the only amendments which can be considered once cloture is invoked are those amendments which happen to be at the clerk's desk at the time cloture has been invoked.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ABOUREZK. Mr. President, the Senator from Virginia is submitting these amendments so that they can be considered even if cloture is invoked?

Mr. HARRY F. BYRD, JR. The Senator is correct. I am submitting them so that I will have an opportunity to call up the amendments if I so desire in the event—which I hope will not occur—that cloture is invoked.

The VICE PRESIDENT. It might be pertinent if the Chair were to read the pertinent part of the cloture rule. That part reads as follows:

> Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time.

Mr. HARRY F. BYRD, JR. Mr. President, that is precisely what I am seeking to do at this point.

Mr. ABOUREZK. A further parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. ABOUREZK. Mr. President, is there a time limitation on the two amendments in the event cloture is invoked?

The VICE PRESIDENT. Unless cloture is invoked, there will be no time limitation.

Mr. ABOUREZK. And is the Senator from Virginia asking unanimous consent that these amendments be considered after cloture at this time?

Mr. HARRY F. BYRD, JR. No. The only thing I am asking is that the amendments be stated and be printed in the RECORD and lie at the desk.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield.

Mr. ROBERT C. BYRD. Mr. President, the only thing the able senior Senator from Virginia is seeking to do is to qualify his amendments under the rule, because under the rule they must have been read previously in order to be qualified if cloture is invoked. That is all he is trying to do.

Mr. ABOUREZK. Mr. President, what I am trying to find out is, in the event cloture is invoked, will the consideration of these two amendments that he is submitting have unlimited debate?

Mr. ROBERT C. BYRD. No.

Mr. HARRY F. BYRD, JR. No.

The VICE PRESIDENT. It is the understanding of the Chair that once cloture has been invoked, all Senators are limited to 1 hour.

Mr. ABOUREZK. Including even the consideration of amendments such as these?

The VICE PRESIDENT. Including the consideration of amendments such as those submitted by the Senator from Virginia.

Mr. ABOUREZK. I thank the Chair, and I thank the Senator from Virginia for yielding.

The VICE PRESIDENT. The clerk will read the amendments.

The legislative clerk read as follows:

Amendment No. 852

At the end of the bill add the following new section:

Sec. 2. Section 5(a) of the United Nations Participation Act of 1945 (22 USC 287c(a)) is further amended by striking out "Notwithstanding the provisions of any other law," and inserting in lieu thereof the following: "subject to the approval of the Congress by appropriate Act or joint resolution,".

Amendment No. 853

At the end of this bill add the following new section:

Sec. 2. The amendment made by the first section of this Act is repealed as of December 31, 1974.

Mr. HARRY F. BYRD, JR. Mr. President, as the able Senator from West Virginia has just pointed out, the only purpose of my presenting these amendments this evening is to qualify the amendments for consideration in the event that cloture should be invoked tomorrow. I hope that cloture will not be invoked on S. 1868.

I had hoped that the distinguished Senator from Minnesota (Mr. Humphrey) would be present this evening, as there are questions I need to put to him in regard to this legislation. I want to read into the Record at this point a statement which appears on page 40262 of the Congressional Record of December 7, 1973. It is a part of the debate which took place last Friday between the distinguished Senator from Minnesota (Mr. Humphrey) and the Senator from Virginia. I want to read into the Record at this point one assertion by the distinguished Senator from Minnesota. He said:

> The fact of the matter is that the United Nations Charter, as adopted by the Congress of the United States and ratified by the Senate, has the same standing as a provision of our Constitution. It is the supreme law of the land.

Mr. President, if the situation is as the Senator from Minnesota states it to be, it would be very undesirable, I think, that cloture be invoked tomorrow, because this proposal, the legislation introduced by the able Senator from Minnesota, would, if enacted into law by Congress, support his contention that any action taken by the Security Council and then implemented unilaterally without congressional approval by the President of the United States then becomes, to use his words, a part of the Constitution of the United States.

That is a very far-reaching interpretation, but the clear implication of S. 1868 is precisely as the Senator from Minnesota stated in the remark that I have just read into the Record.

Mr. President, one of the amendments which I have presented and in due course, if necessary, will call up, would provide that, before any future sanctions could be taken against any other nation, approval of Congress would be required. I think that there should be a change in the United Nations Participation Act to require the approval of Congress before economic sanctions can be taken against another nation.

The other amendment which I have introduced would conform, to an extent, to the U.S. position with that of Great Britain. The British Parliament each year, annually, renews its sanctions against Rhodesia. The way that our country has been operating, the sanctions remain in effect continuously unless Congress acts otherwise. The action taken by the United States was taken at the behest of Great Britain, and yet Great Britain herself reserves the right each year to decide whether sanctions should continue; and if S. 1868 is to be considered, then I think this would be a very desirable amendment for the Senate to give consideration to putting on S. 1868.

I hope, as I have mentioned before, that cloture will not be invoked tomorrow, because the implication of the pending legislation (S. 1868) is that the United States is in violation of international law, and the wording on the legislation says that in very clear language. The reason it is claimed that the United States is in violation of international law is because of legislation which was enacted by the Senate and by the House of Representatives, signed by the President, and upheld by the courts.

Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT

The Senate continued with the consideration of the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Mr. CRANSTON. Mr. President, I would like to speak very briefly, at this point, about the committee measure.

This measure has been before the Senate, in terms of the fundamental issue, for some 3 years. There have been extended hearings at great length, and considerable debate upon this floor, over the key issues.

All of us involved in this measure who want some form of legal services legislation enacted and the valuable program carried on, have worked long and hard to accommodate reasonable concern. In fact, the members of the Committee on Labor and Public Welfare have gone to great lengths to develop an acceptable compromise. Great efforts have been made to work with the administration to find a measure that is acceptable to them. We have now developed that measure.

We have very broad bipartisan support for the bill. It is obvious that it is vital, at this time of serious doubts about the equality of justice in our land, to make it very plain and to reaffirm our commitment to equal access to the system of justice in our society for those unable to afford their own private counsel. The existence of the legal services program has been a very strong argument against resorting to violence for those who seek change in our society, because it has been made plain that they have an opportunity, through the legal process of the country and its system of order and justice under law, to achieve change by working through the system rather than against it.

I think that the existence of this program has had a great deal to do with persuading many Americans not to turn to violence at a time when some Americans have turned to it.

This program has had a great record of success across the country, especially in my State but also especially in many other States. That very success has perhaps been the reason for opposition to it by a few members of our society and I think relatively few members of this body, simply because it has shaken the establishment where that was in order and has brought about change which has been uncomfortable to some individuals otherwise comfortable in our society on behalf of those who needed change and whose desires were change and whose effort to achieve change were found through our system of justice to be appropriate and under the law, where the law was on their side.

It has been made plain that there are those in this Chamber who propose to delay, in one way or another, action on this bill. It seems to me that it is in order for them to speak at this time to present their case against this measure, which has not been presented.

I want to make it plain that I and the manager of the bill are prepared to spend whatever hours are necessary in this Chamber tonight to hear from those individuals. I note that none of them are on the floor at this time.

I would like to ask the distinguished chairman of the committee handling the bill what we might do to bring the matter to a head since there is no one here to speak against the measure. There is no one presently in this Chamber to speak against the measure.

I do not want to make any end run here, but this certainly indicates that we should find some way to make our speeches and to have a decision on the bill.

Mr. NELSON. I understand that the distinguished Senator from North Carolina does not intend to speak this evening. I believe he had a brief colloquy with the Senator from New York (Mr. Javits). It is certainly our purpose to stay here as long as anyone wishes to talk, so that those who are opposed to this bill and who wish to delay its being considered or voted on until next year will not be able to complain that they were not afforded ample opportunity to discuss the bill. As a matter of fact, the bill has had more discussion, more analysis, more evaluation, more negotiation than any other bill I have been involved with in the many years I have served here.

We started on this legislation in 1969. We passed it. We not only created the Legal Services Division within the OEO, but we subsequently passed two indedependent Legal Services Corporation bills in both houses on two different occasions. The President vetoed one. He stated the grounds for the veto and we have met every major concern of his veto message. There are only some minor differences left, which the administration is prepared to leave up to negotiations in conference between the House and Senate.

So we are on all fours with the administration on all major parts of the legislation, and we should be prepared to vote at any time. The bill passed this body on two occasions with a substantial majority each time. I will put the rollcall votes in the Record tomorrow. I do not believe there have been more than a handful of votes against the Legal Services Corporation bill the two times the legislation has been before us for final passage. But in any event, I will put the rollcall votes in the Record and let them speak for themselves.

There is no desire, I believe, on the other side, to take any time on this bill. As the Senator has indicated, not one of the opponents of the bill is in the Chamber now. In fact, there are only four Senators here at this time. So, I am prepared to move to adjourn after a brief quorum call, in the event the distinguished majority whip may desire to make some requests.

Mr. CRANSTON. I should like to state that I altered my plans for this evening because I had understood there would be considerable debate, and I wanted to hear the opposition's points, to consider them, and to refute them if I could. Also I planned to be here into the evening if necessary to protect the rights of those interested in this legislation. I think it is very interesting that those opposed to the bill do not bother to show up for its consideration at this point, after being advised by those who made plans that they wanted to speak on the bill.

Mr. NELSON. I think all the discussion about the issues involved in this bill has already been carried out on the floor of the Senate. I doubt whether anyone could add anything more that has not already been said.

Mr. CRANSTON. Mr. President, I yield the floor.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

On tomorrow the Senate will meet at the hour of 10 a.m. After the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Indiana (Mr. Bayh) will be recognized for not to exceed 15 minutes; then the distinguished majority leader, the Senator from Montana (Mr. Mansfield) is to be recognized for not to exceed 15 minutes, to be followed by the distinguished minority whip, the Senator from Michigan (Mr. Griffin); for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business for not to exceed 15 minutes with statements made therein limited to 3 minutes; at the conclusion of which the Senate will proceed to the consideration of S. 2767, the rail services bill. There may be amendments thereto with yea-and-nay votes occurring thereon.

At the hour of 1 p.m. the Senate will debate the motion to invoke cloture on the Rhodesian chrome bill, which debate will end at 2 p.m., at which time there will be an automatic quorum call, under the rule, before the vote on the motion to invoke cloture. Upon the ascertainment of a quorum, the Senate will vote on the motion to invoke cloture.

If cloture is not invoked, the Senate will probably resume the consideration of the rail services bill. Of course, if cloture is invoked, unless by unanimous consent it does otherwise, the Senate will proceed until it completes action on the Rhodesian chrome bill to the exclusion of all other business.

At any rate, there will be other yea-and-nay votes tomorrow, either on the Rhodesian chrome bill, if cloture is invoked, or on the rail services bill if cloture is not invoked.

Senators are alerted to the fact that tomorrow will be a relatively long day with yea-and-nay votes throughout the day.

ADJOURNMENT TO 10 A.M.

Mr. NELSON. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and, at 6:08 p.m., the Senate adjourned until tomorrow, Tuesday, December 11, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 10, 1973:

Department of Justice

William B. Saxbe, of Ohio, to be Attorney General.

Department of State

Robert J. McCloskey, of Maryland, a Foreign Service officer of class 1, to be an Ambassador at Large.

Department of Justice

Thosmas F. Turley, Jr., of Tennessee, to be U.S. Attorney for the western district of Tennessee for the term of 4 years, reappointment.

HOUSE OF REPRESENTATIVES—*Monday, December 10, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Our soul waiteth for the Lord; He is our help and our shield.—Psalms 33: 20.

O Thou who art from everlasting to everlasting, in whose will is our peace and by whose grace we are made good, at the beginning of another week we bow in Thy presence with humble minds and reverent hearts. We pray that Thou wilt lead us to a higher plane of faith, hope, and love that the decisions we make, the influence we exert, and the example we set may be for the good of our country.

Renew in us a deeper devotion to Thee, a loftier love for our fellow man, and a stronger faith that right is right and that we will do the right, right now.

During this Advent season, may we grow in spirit; may our people increase in faith, and may our Nation enter into a new era of peace on earth and good will among men.

In the spirit of the Saviour, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5089. An act to determine the rights and interests of the Choctaw Nation, the Chickasaw Nation, and the Cherokee Nation in and to the bed of the Arkansas River below the Canadian Fork and to the eastern boundary of Oklahoma.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (H.R. 9256) entitled "An act to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (H.R. 11459) entitled "An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes."

The messages also announced that the Senate agreed to House amendments to Senate amendments Nos. 1 and 2 to the foregoing bill.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill and joint resolution of the House of the following titles:

H.R. 10717. An act to repeal the act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; and for other purposes; and

H.J. Res. 736. Joint resolution to provide for a feasibility study and to accept a gift from the U.S. Capitol Historical Society.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 210. An act to authorize the establishment of the Boston National Historical Park in the Commonwealth of Massachusetts;

S. 262. An act to provide for the establishment of the Tuskegee Institute National Historical Site, and for other purposes; and

S. 1283. An act to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; and for other purposes.

PRESIDENTIAL COLD SHOULDER TO CITIZENS OF COUNTRYSIDE

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, now that we have the full story on the impoundment of $150 million intended by Congress for rural water and sewer grants, I regret to advise those Members from countryside congressional districts that $120 million of the $150 million has been impounded for the second consecutive year.

Most citizens of the countryside are agreeable to a policy of equal sacrifice. We want to shoulder our share of the responsibility for a sound economy. But this double impoundment of water and sewer grant appropriations is not just a freeze of funds, it amounts to a Presidential cold shoulder for the citizens of the countryside.

THE CONGRESS REFUSES TO AUDIT AN AGENCY WHICH HOLDS 20 PERCENT OF THE NATIONAL DEBT

(Mr. PATMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PATMAN. Mr. Speaker, it is amazing that the Congress continues to refuse to take up legislation to audit an agency which holds nearly 20 percent of our national debt.

H.R. 10265, which would require an audit by the General Accounting Office of the Federal Reserve System, remains in the Rules Committee despite the fact that it was voted out of the House Banking and Currency Committee by more than a 2-to-1 margin.

The Federal Reserve holds $77 billion of U.S. bonds which have been paid for with Government money. These bonds are in the portfolio of the New York Federal Reserve Bank and despite the fact that they have been paid for, the Federal Reserve refuses to cancel them and continues to charge the U.S. Treasury nearly $4 billion annually in interest payments on these securities.

These bonds, as an obligation which has been paid for, should be canceled and subtracted from the national debt and the Treasury should cease to pay out this $4 billion annually in taxpayers' money.

Mr. Speaker, it is unbelievable that the Congress would refuse to require an audit of this agency and of the portfolio of $77 billion of paid-up bonds. We are not protecting the public interest when we allow this to continue.

PRESIDENT'S TAX PAYMENTS PROVIDE BEST CASE YET FOR TAX REFORM

(Mr. VANIK asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. VANIK. Mr. Speaker, President Nixon's tax disclosure leaves many doubts unresolved.

However, there is one fact beyond doubt—and that is that there is something lousy about a tax system which permits any citizen earning over $200,000 per year to pay income taxes at a rate between 4 and 7½ percent—one-half the tax rate applicable to the head of a family with three dependents and a gross income of $5,000.

Laws which permit such gross avoidance of a citizen's obligation to support his government discriminate against fairness and decency and should be stricken from the books.

The President's tax returns have presented the best case made so far for long overdue tax reform.

THE MILITARY ALL-VOLUNTEER CONCEPT—COMPREHENSIVE REPORT FROM MIDEAST

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. MONTGOMERY. Mr. Speaker, to continue my 1-minute speeches on the volunteer concept, several weeks ago I suggested in one of my 1 minutes that a group from the House Committee on Armed Services go to Israel and Egypt to study the reserve programs of these two countries. I am pleased to report that a very qualified number of the House Committee on Armed Services did go to the Mideast and have returned with a comprehensive report.

Mr. Speaker, I point out that 1-minute speeches are a vital part of the House proceedings and do bring about action.

I yield to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

Mr. Speaker, I was one of those who was privileged to go to the Middle East recently and did make a very comprehensive and indepth study of the reserve forces of Israel which are impressive. I want to say that I think that this was a very important trip. We were very complimented by Secretary of State Kissinger who said we made a distinct contribution toward what we were trying to achieve there.

I want to thank the gentleman from Mississippi for making the trip possible. The gentleman from Mississippi is always interested in our National Guard and Reserves and never fails to make his own distinct contribution to our national defense.

Mr. MONTGOMERY. I thank the gentleman for his remarks, and I was glad to do it.

ADMIRAL RICKOVER AND THE ENERGY CRISIS

(Mr. PRICE of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Illinois. Mr. Speaker, Admiral Rickover did his best, with the help of the Joint Committee, to make the Navy independent of petroleum fuels. Unfortunately, we were not allowed to go as far as we wanted to and, therefore, we are still dependent in a major way for petroleum fuels for our Navy.

The research and development program under Admiral Rickover and his outstanding organization has placed this country in a position of preeminence in the application of nuclear energy to the propulsion of warships. The Department of Defense was, fortunately, convinced that all submarines should utilize nuclear energy but, most unfortunately, they were unconvinced that all surface warships should utilize nuclear power too. So now we are still in a situation where we need large amounts of petroleum for our Navy.

CIVILIAN NUCLEAR POWER

Admiral Rickover, also with the full cooperation of the Joint Committee on Atomic Energy, has also done his best to decrease the dependency of the civilian economy on our critical supplies of petroleum. He apparently has the answer to the question which the President raised in his energy message of November 8, when he said we must find ways of reducing the time required to bring nuclear powerplants on the line from 10 years to 6 years. Admiral Rickover brought the first central station nuclear powerplant on the line in a little over 3 years. This was the Shippingport reactor near Pittsburgh, for which ground was broken in September of 1954, and design power achieved in December of 1957.

The President certainly identified an important area for saving precious petroleum since every year sooner a nuclear plant goes on line—or for that matter a coal plant—the savings in petroleum are over 12 million barrels of oil.

NEED FOR COMMUNICATIONS DURING ENERGY CRISIS

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, during this period of uncertainty over energy supplies and before establishment of an effective mechanism to make the difficult decisions which must be made, the biggest problem facing us is clear communications between the Government and the American people.

The American people are ready, willing and able to help when they are assured, first, that the Federal Government's requests are as fair and equitable as possible, and second when they know exactly what the Government wants them to do.

Today the biggest cause of frustration, uncertainty, confusion and anger over the energy crisis is that the American people do not know what is expected of them. They are confused by apparently conflicting statements from national spokesmen and others concerned with energy problems. Many remain skeptical of the dimensions of the crisis or even of its existence. Furthermore local and State energy planners frequently cannot reach Federal officials to find out exactly what their own responsibilities and duties are.

Since it may be months before an effective organization can be set up to speed the communication process it is essential that the communications gap be ended at once. To do this I am today recommending to the new Administrator of the Federal Energy Office, William Simon, that he immediately institute the issuance of a daily radio and television energy bulletin to directly communicate both to the public as a whole and specifically to local and State officials exactly what they should be doing. In addition I am today writing to the Corporation for Public Broadcasting and the National Association of Broadcasters to urge their cooperation in the establishment of a special Energy Communications Network to carry vital communications from the Federal Energy Office and similar State and local government offices.

TRADE BILL OF VITAL IMPORTANCE TO AGRICULTURE

(Mr. MAYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAYNE. Mr. Speaker, the House is scheduled to take up the Trade Reform Act of 1973 in a few minutes. I want to alert my colleagues to the vital importance this legislation has for American farmers.

It is easy to forget, in a time of strong world demand, that the success of American agriculture is closely related to a continued growth in our overseas markets. Without large exports, U.S. farmers could not operate on a scale anywhere near the size of our present agriculture. Nor could our farm-oriented industries expect to survive.

Our agriculture can produce—and does produce—far beyond what can be consumed at home. Moreover, it produces those commodities with an efficiency that enables our farmers to compete successfully in the world market. Our farm trade is, therefore, the most important defender of the dollar overseas—and the most important means of paying for the imported products essential to our economy and our standard of living.

American farmers must continue to have the opportunity to trade—to share in the growth of their traditional markets and to seek greater access to new markets. We must find a way to negotiate toward a more open trading world. That is the purpose of the Tokyo round of multilateral trade negotiations under GATT.

Our ability to negotiate in these areas is strongly dependent on the Trade Reform Act of 1973. Failure to enact this bill will raise questions among other GATT members as to whether we are really serious about a negotiation, and whether negotiation is worth pursuing.

We should not lose the momentum for trade negotiations. We should get on with the Tokyo round. It is important that agricultural trade be negotiated along with nonagricultural trade. We should pass the trade bill without delay.

HISTORIC PAPERS TAX LOOPHOLE HAS BEEN CLOSED

(Mr. COLLIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLIER. Mr. Speaker, lest there be some misunderstanding or so that we might place in the proper perspective the remarks made by my colleague, the gentleman from Ohio (Mr. VANIK), I call to the attention of the House the fact that the one preferential tax provision which seems to be the major bone of contention in the President's tax return was that involving the gift of historic papers in excess of some $500,000, a tax advantage which other Presidents have enjoyed.

But I call to the attention of my friends in the House that we did close this loophole—and the gentleman from Ohio was on the committee—effective July 25, 1969. The provision in the tax law that permits, as a deduction, the gift of historic papers such as was the case in Mr. Nixon's tax returns for those years, has already been remedied by the 1969 Tax Reform Act.

CALL OF THE HOUSE

Mr. DAVIS of South Carolina. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 638]

Abdnor
Archer
Armstrong
Ashley
Aspin
Barrett
Bell
Bergland
Buchanan
Burke, Calif.
Byron
Carey, N.Y.
Cederberg
Chisholm
Clark
Conyers
Dent
Diggs
Donohue
Dorn
Dulski
du Pont
Edwards, Ala.
Erlenborn
Esch
Eshleman
Fish
Fisher
Flowers
Giaimo
Goldwater
Grasso
Gray
Gubser
Hanrahan
Harsha
Hébert
Henderson
Hogan
Holifield
Hunt
Jarman
Keating
Kemp
Kluczynski
Kuykendall
Lent
McEwen
McSpadden
Madden
Martin, N.C.
Melcher
Mills, Ark.
Mitchell, Md.
Murphy, N.Y.
Reid
Rhodes
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rousselot
St Germain
Scherle
Staggers
Stokes
Stuckey
Symms
Veysey
Waggonner
Walsh
Wampler
Widnall
Wolff
Wyatt
Wydler
Young, Ill.
Zwach

The SPEAKER. On this rollcall 355 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PROVIDING FOR CONSIDERATION OF H.R. 10710, TRADE REFORM ACT OF 1973

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 657 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 657

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10710) to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed seven hours, six hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, and one hour to be controlled by Representative John H. Dent, of Pennsylvania, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by direction of the Committee on Ways and Means, an amendment offered to section 402 of said bill containing the text printed on page 34311 of the Congressional Record of October 16, 1973, an amendment proposing to strike out title IV of said bill and an amendment proposing to strike out title V of said bill, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I shall consume.

Mr. Speaker, this rule provides a modified closed rule for 7 hours of general debate on the bill H.R. 10710 entitled "The Trade Reform Act of 1973." There will be 6 hours of general debate, which will be equally controlled and divided between the chairman of the Committee on Ways and Means, and the ranking member of that committee.

This bill contains a bit of an exception to the usual rule in that there will be 1 hour of debate under the control of the gentleman from Pennsylvania (Mr. DENT).

Mr. Speaker, the rule, as I said, is a modified closed rule. No amendments are in order to the rule except in four instances:

First, any amendments offered by the Committee on Ways and Means. Second, the so-called Vanik amendment, having to do with the extension of credit to nations who do not meet certain criteria. Third, an amendment to strike title IV of the bill and, fourth, an amendment to strike title V of the bill.

Other than those four permissable amendments the bill is a closed rule as reported by the Committee on Rules.

Mr. Speaker, this bill is, as I said, known as the Trade Reform Act of 1973, and in title I contains authority subject to clearly defined limitations for the President to enter into and negotiate tariffs. In other words, the President's authority, which is under the constant surveillance of the Congress, is to enter into negotiations with other nations in respect to tariffs and other matters, including nontariff impediments with the United States. Title II is intended to protect business and employees in the United States who might suffer adverse effects from the exercise of the authority granted the President under this bill. The showing will be made to the Tariff Commission by the employees or businesses believed to be injured under the exercise of the authority of this bill.

In title III the President is given authority to deal with instances that he finds exists wherein discriminatory trade practices or policies are asserted against the United States by other nations of the world. And, fourth, the bill gives the President authority, acting on behalf of the United States or in concert with other developed nations to grant trade preferences to the underdeveloped nations of the world in order to encourage the development and the economy of those countries.

There are many who think that this is far-reaching legislation which will be important to the benefit of industry, the consumers, and the trade of the United States, and which will serve to materially reduce the unfavorable trade balances which our country has had for a considerable time.

I am aware of the fact, as is the distinguished Committee on Ways and Means, that there is objection to this bill, but may I ask of our colleagues that if they are opposed to the bill that they express those objections when the bill is before the House for consideration.

I do hope, and I think all of the Members agree that it is the only fair thing, that the House will adopt the rule and allow the House to work its will upon this measure, when full debate has been had and a full opportunity for discussion and consideration of the measure has been had by the Members of the House.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

I should like to ask the gentleman: One of three amendments the gentleman stated will be offered by the gentleman from Ohio (Mr. VANIK). Who are the other two privileged individuals of the House who have been singled out to offer amendments?

Mr. PEPPER. As to the other two individuals who will offer motions to strike section 4 and section 5, I will ask the chairman, the gentleman from Oregon (Mr. ULLMAN) or the gentleman from Florida (Mr. GIBBONS) on behalf of the committee if they wish to respond. We were advised in the Rules Committee that there were those who wished to offer amendments to strike section 4 and to strike section 5, and we made those in order.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Oregon.

Mr. ULLMAN. I thank the gentleman for yielding.

The committee had no intention of offering those motions, but the rule allows them to be made by any Member of the House. The committee feels the House should work its will on this.

Mr. GROSS. If the gentleman will yield, I still wonder who the other two privileged individuals are that they should be singled out to offer amendments.

Mr. ULLMAN. If the gentleman would yield, the committee will not offer these motions, but we think that the House might want to work its will on those amendments, and if any Member—including the gentleman—wants to offer an amendment, the rule provides that he be recognized.

Mr. GROSS. If the gentleman will yield further, do I understand that the committee did not ask for this kind of rule?

Mr. ULLMAN. It was the feeling of the committee, if the gentleman will yield, that those two sections are far-reaching in their own way. We feel they are important, but if the House has objections, we asked for a rule that would provide for any Member to be given an opportunity to strike these sections.

Mr. GROSS. If the gentleman will yield further, will we be given an opportunity to vote the amendments up or down? Will we have that right under the rule?

Mr. ULLMAN. Yes. If the gentleman makes the motion, he certainly will.

Mr. GROSS. I am glad we were not excluded from voting.

Mr. PEPPER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman for yielding.

I should like to ask the gentleman from Oregon some questions that I think have a bearing on whether we ought to vote this rule or whether we ought to recommend that the committee resume its hearings and deliberations on the vital subject of international trade.

The committee's report on the bill states that the bill is presented to us at this time because it is high time, in the light of changed conditions, to rework our international trade policies. One of the things that bothers me about this is that there is at stake a lot more than just renegotiating trade restrictions. For example, you cannot develop a comprehensive trade policy unless you decide what you are going to do about tax preferences and other benefits which our laws now give to foreign investment. Specifically, our laws allow a deferral of tax on foreign-source income. Our laws allow the Overseas Private Investment Corporation—OPIC—to grant guarantees to businesses investing abroad. Our tariff laws allow American firms to assemble abroad parts manufactured in this country and bring them back at lower tariff rates.

Then we have the whole question of the energy crisis, which broke wide open after the hearings and markup of this bill. The economic circumstances existing when this bill was written have radically changed. Undoubtedly some of the basic premises on which this bill was drafted are no longer valid.

For example, we have assumed that the critical barriers to trade were primarily artificial barriers in a world economy of abundance. Yet we now find ourselves heading into a worldwide scarcity of the most basic commodities—food, oil, and other essential materials. We do need to eliminate obstacles to an expanding world trade. But this bill only addresses itself to one class of obstacles.

We need to know what the committee thinks our legislative policy should be in the world energy shortage. We cannot separate this from general trade policy. For example, should our tax laws continue indiscriminate granting of oil depletion allowances and similar tax advantages for investment in foreign oil fields or should they be limited to cases where the President determines it is in accordance with our national interest?

I could go on at great length. What assurance do we have from the Committee on Ways and Means that these questions are going to be taken up and decided and integrated with the approach of this bill so that we are not acting in a piecemeal fashion but have some picture of the whole foreign trade and investment package the gentlemen have in mind?

Mr. ULLMAN. Mr. Speaker, if the gentleman from Florida will yield, I will state to the gentleman that the Committee on Ways and Means is greatly concerned about all matters mentioned by the gentleman from Ohio. The mat-
time, as soon as we get a proposal.

There is already a task group of the Ways and Means Committee working on the matter and we will be ready when the report comes from downtown.
ter of energy will certainly be taken up, if it involves taxes, at a very early

The other matters the gentleman referred to are matters that involve tax reform and that will be thoroughly considered as early in the year as we can get a tax reform bill to the Congress.

Mr. SEIBERLING. Should this not all be done as a package instead of having us acting in the dark on trade legislation without knowing what the tax legislation will be?

Mr. ULLMAN. It will be in a package in the tax reform bill when it comes and it will be fully discussed and considered. The Ways and Means Committee intends to deal very comprehensively with this whole question of tax reform.

Mr. PEPPER. I yield 5 minutes to the gentleman from Minnesota (Mr. KARTH).

Mr. KARTH. Mr. Speaker, the trade bill is the most major national policy legislative matter to come before the Congress in this session. In fact, it is one of the major legislative proposals of the last 10 years.

It is not a perfect bill.

I know of no major legislative matter during my 15 years in Congress that has been perfect. I doubt seriously anyone would challenge that.

To make a major piece of legislation "perfect," that is perfect in the minds of each of us, we would perhaps find it necessary to pass 435 different bills on each major issue. We all know that cannot be done.

There are those outside the Congress who feel the same way—that this is not a perfect piece of legislation. There are degrees of variation both in opposition to and in favor of the bill.

Take Mr. Meany's opposition for example. He sees nothing good in this bill.

He has that right.

He favors the highly protectionist-isolationist Burke-Hartke bill.

Again, he has that right.

On the other hand we have the right, yes even the duty of looking beyond one's position. We have the responsibility of asking why people either favor or oppose this and every other bill. When that is done, we find that most organized groups often times favor or oppose legislation for what are largely parocial reasons.

There is nothing suspect about that. That is the way our system works. Mr. Meany is no exception to this common rule.

Mr. Meany is a politician. In fact, I would say he is a super-politician. He has been there a long time. To stay president of the AFL-CIO for any extended period of time such as Mr. Meany has—particularly during a period in our history when politics has been the name-of-the-game requires extraordinary political senses.

I might even suggest that Mr. Meany is a better politician than any Member of this body. Fourteen million voters is a large constituency.

Mr. Meany is elected to his job, too. Not quite as often as you and I, but he is elected.

He knows how to get elected and reelected again and again.

He undoubtedly feels it is his duty to represent many different international union affiliates.

He has done a masterful political job of representing all of them.

It is no secret. There are some international unions who oppose this bill. They oppose it for what they consider to be excellent personal reasons.

The shoe workers union, the textile workers, steel, and some others.

They oppose it because imports are highly competitive with the products their members produce.

There is nothing wrong with that. If the contrary were true I would be most surprised. The officers of those unions are representing their members, plain and simple.

Mr. Meany represents them too. All of them.

Just like the officers of giant U.S. corporations represent their major stockholders.

More often than not, the national interest may be beyond their concern. Beyond their scope of first interest. It is perfectly normal and to be expected for they too are elected by their peers—the stockholders.

We on the other hand have a responsibility far in excess of that. We must look toward the best interests of our country—the national interest.

In this trade bill our national interest is vitally involved. About 6 percent of our GNP is due to foreign imports. Ninety four percent is not.

It has been said an incalculable number of times that trade—not aid—is the common denominator that cements international relations more concretely than anything else. This is particularly true in cases where countries share a common objective—a common political and ideological philosophy.

We should not write a trade bill that is designed in the short run to exclusively benefit the United States alone and at the expense of our trading partners. Anyone in his right mind knows that would be the end of international commerce.

No country, including ours, can be expected to sign an agreement that will benefit everyone except their own nationals, their own country.

A trade bill must be written so as to provide an equal opportunity for all partners in trade to benefit together.

I think this bill does that.

Of course this bill gives broad and flexible powers to the Executive.

The only way that can be avoided is for Congress itself to negotiate the international trade agreements.

But the Constitution prohibits that.

Legislative bodies of other countries will not be negotiating the trade agreements either.

One cannot expect—because it is impossible to expect—that the Executive can negotiate a detailed trade agreement without giving the Executive flexibility and authority to negotiate and move broadly in many directions simultaneously.

It cannot be done otherwise.

Yet there are enough protections in this bill to guard against either Executive incompetence or superior ability of the opposition. Let me briefly cover an import aspect or two of this bill.

The bill covers areas of both U.S. industrial product and agricultural product interests never before in a trade bill.

Nontariff barriers today constitute greater impediments to international fair trade than tariffs do.

This bill, for the first time, directs the President to give U.S. attention to nontariff barriers.

This is extremely important. Since tariffs have been set by previous agreements, nontariff barriers have been substituted.

These impediments to fair trade have grown over the past few years to unexpected and unacceptable proportions.

It was the judgment of the committee that the only effective way to eliminate these trade distortions would be to reduce the broad industrial and agricultural commodities to product sectors.

Heretofore and too often, the elimination of an unfair trade impediment on an agricultural product could be traded for one on an industrial product and vice versa.

It is the committee's intent that this kind of cross sectoral horse trading be discontinued and disallowed.

Whatever those product sectors are determined to be, the negotiations on eliminating the nontariff barriers should then be confined to those sectors. This should assure equity of access of U.S. exported products to foreign markets. The results of negotiations on these matters must be returned to Congress for approval.

This section also provides an alternative approach. If nontariff barriers cannot be eliminated directly, they can be converted into a rate of duty affording substantially equivalent tariff protection. This tariff in turn can be reduced in part or in total, but must be submitted to Congress with a clear statement of the proposed reductions accompanied by a tariff commission report on the rates of duty which afford substantially equivalent protection to the trade barrier of the United States which is being converted.

Let me turn briefly now to the General Agreement on Tariffs and Trade.

Under existing law we must live by the rules of GATT—rules that have grown to be favorable to the European Community countries—rules that are favorable to them because they have been modified over a period of time by the majority—the European countries. This bill grants authority to negotiate international labor standards, labor conditions, and tax structures, like the value-added tax of some member countries, many of which can be considered nontariff barriers.

To my knowledge no previous trade law has ever directed the President to negotiate a change in GATT rules. Rules that should be fair, and provide equity for all in the field of international commerce. This bill does.

It also provides authority to restrict imports if our balance of payments require it.

Conversely it gives authority to suspend import barriers to restrain inflation, but not if such action would cause or contribute to material injury of firms or workers in any domestic industry, or be contrary to the national interest. It provides for a meaningful economic assistance program to firms and employees alike if they are injured, or if there is a serious threat of injury due to imports.

All trade agreements reached have a three termination or withdrawal date.

Again I say this may not be a perfect bill. It may well be desirable for the other body to make some changes.

I think they may find it desirable and reasonable to amend the definitions clause so as to provide uniformity of application to firms and employees alike. They may choose to tighten some other areas of the bill. But when the final vote is taken we should pass this bill, send it to the Senate and give them the opportunity of doing so.

Mr. PEPPER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker and Members, I am hoping later to be able to give more detailed reasons and arguments for the opposition to this legislation and the rule.

One thing I would like to call attention to is that during my lifetime Mr. Meany has always given support, not only to the rule, but also the legislation, but in this case, he has opposed supporting this legislation as I have.

All of a sudden, because he now speaks against this bill, he is supposed to be some kind of slick politician, some kind of wiley change has been made in his character. When he supported this bill he was a statesman, now he is supposed to be a villain. Let me tell the Members what made the change. If we were consuming today the same percentage of American made goods that we were consuming when we started out on the ill-fated Kennedy Round in 1962, we would need at this moment 15 million American jobs.

That is the only premise I have made, to protect American jobs. If this is such a great success, and the Members realize this goes even further than the Kennedy Round ever attempted to go, and yet during the 10 years of the Kennedy Round, during those 10 years we have dropped from a $43 billion American credit overseas to $108 billion debit.

We cannot do that if our trade balance is right. We cannot do that if we are winning at the poker table. The only way we can owe money is if we are losing at the poker table. We have apparently a deceitful present disregard for ourselves, our people and our country.

Let me tell the Members why this bill is coming up today. Because, ladies and gentlemen, the labor movement for the first time in its history since 1926 has decided that free trade is not good for the American people. It is not good for American enterprise. It is not good for American labor and it is not good for the American Congress. Labor has not been able to prepare a fight. It was told this bill would not come until next year. Yet, here we are, where none of us, I believe, have taken 5 minutes to study the results of 10 years of Kennedy and we are marching headlong, precipitously, into 10 years of Nixon.

Let me tell the Members of the House that it does not matter who is occupying the top position of the Presidency of the United States; it is what we are doing to the American people. Sixteen million on relief, 14 million drawing food stamps, 7,695,000 drawing unemployment compensation checks as of the first week in July, 30 million on public so-called social security. Millions more on pensions—all nonproducers in our economy.

Where are we going? What can we do? Oh, I know there will be answers given time and time again. They will give us answers, but they cannot answer this; none of them can answer this: How come, if this is such a great, wonderful, public give away and peacemaker, we have had war every year since it passed in 1962, we have had unemployment growing week after week and have had a great deal of sacrifice we never had before?

The SPEAKER. The time of the gentleman from Pennsylvania has expired.

Mr. PEPPER. Mr. Speaker, I am sorry that I do not have the time to yield further to the gentleman from Pennsylvania.

Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. LANDRUM).

Mr. LANDRUM. Mr. Speaker, I support this rule and I support the bill which the rule makes in order. As my friend from Minnesota (Mr. KARTH) has stated, it is not a perfect bill, but it is the very best bill we could produce in the committee. I commend him for his efforts in producing what is here. Without his efforts, we would not have what we do have.

Mr. Speaker, I would say to the Members from my region of the country which is concerned primarily with raw agricultural products and textiles that it is imperative that we have this rule and have this bill. Our negotiators today are in Geneva trying to negotiate a renewal of the long-term cotton agreement that expired in September. They are hoping to get into a renewal agreement an understanding that will include man-made fibers as well as cotton, and unless we have this, the textile industry, the agricultural industry, and the more than 2 million employees in the apparel and textile industry are going to suffer a serious setback.

Mr. Speaker, I urge support of the rule.

Mr. PEPPER. Mr. Speaker, I yield 2 minutes to the able gentleman from California (Mr. HANNA).

Mr. HANNA. Mr. Speaker, I rise in opposition to the rule for consideration of the Trade Reform Act of 1973. My reasons for this opposition are twofold. First, I consider this an inappropriate and impolitic time for this branch of Congress to undertake debate on this legislation. Second, on the merits themselves, the terms of the proposed rule are unsatisfactory and unacceptable for dealing with this complex bill.

The delicacy of the present international situation is obvious. Never has there been a greater flurry of international activity since the developments leading to an agreement in Vietnam. It was because of the delicacy of the international situation that President Nixon originally asked a month ago that consideration of this legislation be postponed. It is difficult to see what has changed during the course of this past month to make consideration of the trade bill more timely now. The truce in the Middle East is a temporary and tenuous one, filled with threats of a renewed war. Frantic efforts contrive now, to save the December 18 Geneva Conference—among the most critical set of peace negotiations in recent memory. Secretary of State Kissinger is right now engaged in difficult talks with our Atlantic neighbors, with whom the fabric of alliance wears ever thinner.

Only 1 month ago, we recognized the impolitic timing of consideration of the trade bill. If our judgment was legitimate and valid at that time, then we only need look around us to see that the same judgment is as legitimate and valid now.

Not only is consideration of this legislation unstatesmanlike in terms of this country's international situation, but it is impolitic in terms of what this Chamber's contribution to trade policy should be. President Nixon's obvious strategy is to entirely discount in his international representations this body's decisions adverse to his position, on the assumption that those provisions can be changed before the bill is enacted into law.

This posture at this time not only makes the House of Representatives look foolish, but it hardly presents a united front during a delicate international period. The position of the House will be discounted by the President, the President's position will be different than ours, and the Senate's view will be unknown. Can anyone seriously argue that this kind of disunity will strengthen America's negotiating posture in trade talks and other international conferences?

Mr. Speaker, these serious risks to the respect for this Chamber, to the unity of our negotiating posture, and to the delicate balance of interests which must be maintained during this international period are not justified by any necessity for swift action. If the Senate gives this bill the kind of sober and deliberate consideration which it demands, then it is virtually impossible that a trade bill can be enacted into law any time soon. The argument that House action is now imperative to give the President the negotiating authority he needs is therefore fallacious—for our action alone simply will not give him that authority.

Under these circumstances, Mr. Speaker, it is unjustified that the House consider this difficult and historic legislation during the end-of-the-year rush. There is clearly more critical business before us which must be acted upon—emergency assistance to Israel, the creation of an independent Special Prosecutor, a package of crucial energy bills, and remaining appropriations measures. With only 2 weeks left in this session, our energies and attention obviously will and should be focused where they have to be focused. And yet, there is no bill pending before the Congress that will have more long-range importance than the trade bill. In short, Mr. Speaker, we are all placed in the impossible situation of considering this important legislation without the undistracted attention which it most certainly deserves.

Even if this were an appropriate time

to consider the trade bill, Mr. Speaker, the rule which has been provided to us would be unacceptable. I am familiar and sympathetic with those arguments that this bill should provide a broad policy framework and should not be threatened by amendments relating to specific industries, interests, or countries. I would wholeheartedly support a rule which excluded those types of amendments. But this rule goes much further.

It takes out of the hands of every Member of the House, other than those on the Ways and Means Committee, the opportunity for making positive contributions to the broad policy framework we are being asked to ratify.

The various provisions of this bill are not as interrelated as those in a traditional tax measure. Negotiating authority for nontariff barriers is analytically distinct from that for tariffs. Trade preferences for less developed countries is a subject analytically distinct from negotiation of nontariff barriers with advanced nations. And most-favored nation status for Communist countries is obviously an entirely different matter from trade preferences for less developed nations. Can anyone say with sound justification that the provisions of this bill are more interrelated than those of the Budget and Impoundment Act, or of an appropriations bill, or of the defense authorization bill? No, Mr. Speaker, tradition, not reason, is the basis for this rule. History, not sound policy, is the midwife of these limitations on debate.

For example, Mr. Speaker, there is the overriding question of the balance of authority between the President and Congress. During this Session, we have grappled with this question on several occasions—the war in Vietnam, war powers generally, budget control and anti-impoundment measures, and so on. Never once were amendments related to Presidential and congressional authority foreclosed. Yet, perhaps, the broadest sweep of authority yet granted the President—that related to the negotiation of nontariff barriers—is contained in this bill. Under this provision, the President may negotiate away present laws related to product safety, consumer protection, environmental standards and other domestic safeguards. I find it difficult to see how any fair-minded Member of this Chamber could honestly maintain that the full House is incompetent to consider under an open rule the proper role for congressional oversight of this process.

To be sure, the provisions for legislative veto and consultation make some provision for congressional oversight. But that provision is inadequate. The contribution of the House of Representatives, Mr. Speaker, has always derived from its power to prevent proposals from becoming law, unless it approved.

The legislative veto technique has been used only in exceptional circumstances—where the issue was rather straightforward, such as an impoundment, or where the issue involved certain inherent Executive powers, such as warmaking or reorganization. But to use the legislative veto as the major oversight technique where the entire fabric of domestic legislation may be threatened is simply unacceptable. These trade agreements will inevitably place those of us who favor liberalized trade in the impossible position of voting against an international protocol or voting against necessary domestic legislation. Our opportunity to suggest an accommodation of competing interests will be foreclosed.

As we enter ever more definitely into a period of increased international trade, we must confront this issue of Executive power straightforwardly. We must decide whether our constitutional system demands that trading partners understand that internationally negotiated agreements are subject to the approval of Congress—as we recently did with regard to world financial institutions—or we must candidly concede greater powers to the President than we ever have before. We simply cannot have it both ways. With this kind of fundamental issue at stake, Mr. Speaker, I simply do not understand how it is justifiable to close off the catalyst to really meaningful debate which would be provided by the offer of a procedural amendment to this nontariff barrier provision.

Mr. Speaker, there are other problems with this bill. It continues, with admittedly progressive changes, the past policy separately from the policies related to domestic industries involved in trade. Rather than an escape clause provision, for example, for those industries affected by imports, we should have a sector-by-sector industrial policy from which the trade policy for each industry flows.

These questions of fundamental policy are hardly the same thing as the "Christmas-tree" provisions which advocates of trade negotiations are afraid of. But even though issues of fundamental national policy are admitted by all to be different from possible special interest amendments, they are treated the same way under the rule before us. I submit, Mr. Speaker, that we have the time to reject this rule in favor of different terms of consideration next session.

Mr. Speaker, the House of Representatives is designed to be a great deliberative assembly. Any limitations on deliberations can only be justified by overriding and compelling necessity. When limitations are proposed with no necessity offered as justification, the limitations are artificial and high-handed. Our efforts at reform of Congress are meaningless if we allow this practice to continue. Truly liberalized trade can only come as a result of free debate. I urge all of my colleagues who favor reform and free trade to show the consistency of their positions by voting against this rule.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the rule and I support the bill. However, I, like the gentleman from California (Mr. HANNA) who just spoke, think the timing is bad.

I do not think this is the most opportune time to bring up this legislation. In view of the delicate situation in the Middle East and our desire for a better understanding with all nations of the world, I think this legislation could well have been put off until after the first of the year. Certainly it will not soon be passed by the other body. I think the timing is bad, even though I support the rule and support the bill.

Let me just say one thing about the rule. It is a precedent-shattering piece of workmanship by the Committee on Rules. The Members will note that it provides for 7 hours of debate, 6 hours to be equally divided between the majority and the minority, and 1 hour to be given to our beloved friend, the gentleman from Pennsylvania (Mr. DENT).

Now, even though I like the gentleman from Pennsylvania and wish to accommodate him whenever possible, I hope that we do not do the like of this in the future. I just do not think this is the way to legislate.

Nevertheless, a majority of the members of the Committee on Rules thought they should do this, and it was done. I hope, however, this does not set a precedent for the future. We have 435 Members sitting in this body, and if we start designating individuals to have certain time unto themselves, then we are heading in the wrong direction if we truly want to preserve some semblance of free and open debate in the House.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield to me?

Mr. LATTA. I will be happy to yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, can the gentleman shed any light as to the reason why one individual Member was chosen for this favored position over the rest of us in this Chamber?

Mr. LATTA. Well, the gentleman is a very delightful individual, and he is very convincing. He always make a good argument, and he just persuaded a majority of the Committee on Rules to give him an hour.

Let me say, Mr. Speaker, as far as the bill is concerned, I think it heads this country in the right direction. I think it gives to the President of the United States the bargaining authority he needs to cope with our complex trade problems. We have to realize that most of the countries of the world have been outtrading us. They have in many instances been boycotting our products while filling our country to the brim with their products. They get around using our products in other countries by various and devious means.

They impose x amount of duty on the surface and then below the surface they add more hidden taxes and other barriers then you can imagine.

I am hopeful when they start negotiating they will look behind some of these duties and see how badly we are being dealt with around the world. Yes, I must add some of our good allies to this list. All you have to do is to travel outside the United States and see how very few American-made automobiles are being driven. On the other hand, drive down the streets of Washington and you can quickly get some idea as to how many foreign-made automobiles are being imported to the United States. Why? Why can we not get a better trading arrangement with these countries importing their products? There are a good many American workmen involved in producing an automobile. I think it is high time that we gave the President authority to sit down with these countries and insist on a better trading arrangement.

Although there are no quotas being established in this bill, I think it is important that we not establish something in this legislation as a matter of law which would bring about retaliation by other nations.

What we are saying to them is, treat us fairly, and we will treat you fairly. That is all we ask.

I think in the past we have been going too far in protecting the best interests of our trading partners. It is high time we started looking after American interests. The authority given in this legislation to the President of the United States would do exactly that.

Mr. Speaker, much can be said about this legislation and I am sure it will be discussed in depth. I think it is worthy of our consideration. I know that there is objection by some of organized labor to it, but I hasten to point out that two of the largest unions are listed in favor of it—the Electrical Workers of America and the UAW, two of the largest unions, appeared before the Ways and Means Committee in support of it. Hence, all of organized labor is not opposed to it as some would have us believe.

I think this rule should be adopted and the House should discuss the legislation.

Unfortunately, trade legislation is very delicate and complicated legislation and should never be debated under an open rule. Back in 1930 the Smoot-Hawley Tariff Act was passed under an open rule, and it was one of the worst pieces of tariff legislation ever passed. We do not want to repeat that mistake here today.

Mr. Speaker, I yield 5 minutes to the gentleman from Nebraska (Mr. MARTIN).

Mr. MARTIN of Nebraska. Mr. Speaker, I rise in uspport of this rule on H.R. 10710, the Trade Reform Act. The Trade Expansion Act of 1962, which gave the President broad powers in negotiating trade agreements with other countries expired in 1967. In view of the growing economic power of the common market nations Japan, Russia and the People's Republic of China in world trade, it is essential that the President again be given authority to negotiate trade agreements.

The rule granted on this bill is a good rule. To consider this legislation, Mr. Speaker, under an open rule would lead to a Christmas tree piece of legislation. The last time, I believe, that we had an open rule on a trade bill was in 1930 when the Smoot-Hawley bill was considered on the floor of the House. Debate went on for days and the bill ended up a hodgepodge of irresponsible provisions. To open this bill on this complex subject to any amendment would result in a chaotic situation on the floor of the House.

Foreign policy cannot be conducted by 535 Members of the Congress. It must be conducted under the leadership and guidance of the President.

If the experiences of the 1930's have taught us anything, it is that a unilateral type of action with regard to protectionist foreign trade policy which we attempted then, has led us only to a downward spiral affecting the economies of all nations. Certainly I recognize the need to protect American industry and American jobs from being flooded by foreign imports.

Certainly I recognize the need to protect American industry and American jobs when flooded by foreign imports. This is precisely what this bill does in a balanced, moderate fashion. But I would remind those who advocate unilateral quotas on imports and imposition of export controls that the United States is not immune to retaliation by foreign countries, and when we embark upon a purely selfish course, neither the American worker whose welfare we invoke for the short-sighted policy would benefit, nor would the nation as a whole or the international economy.

The bill we have before us will permit the Government of the United States to move in tandem on the monetary and trade negotiations. The monetary negotiations are already underway. The trade negotiations have begun, but cannot get down to serious bargaining until the legislation before us is passed.

There are dangers in not entering into trade negotiations now. There is too much to lose. The trading system is changing as time passes, in ways which few, if any, in this body would find acceptable. If we stand still the United States will be unable to take decisive action to give shape to how the trading system evolves. The discrimination will grow. If we want to see the development of an open, nondiscriminatory and fair world economic system, we must act now to give our negotiators the go-ahead that they require.

Let me finish by saying that on a measure of this kind a vote against the rule is a vote against the bill. It is for these reasons that I support the rule allowing for consideration of H.R. 10710.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, hopes ran high at the beginning of this year that 1973 would prove to be a critical juncture, perhaps a turning-point, for U.S. international economic policy. To be sure, this country has been awash with grave warnings about the "trade crisis" for a number of years now. But other than the dramatic moves of President Nixon during the last 6 months of 1971, few concrete actions or policy decisions have been forthcoming. The hoped for momentum this year never materialized. Though the administration proposal came forth in April, no hearings whatsoever have been conducted in the other body. Furthermore, even though the Ways and Means Committee took the only action in Congress and reported a bill in October, fear that its consideration by the full House would imperil the cease-fire in the Middle East forced three postponements.

But finally the Trade Reform Act of 1973 has come to the floor, and with it has come the opportunity to move substantially closer to resolving the growing national dissensus over the future direction of our international economic policy. On the basis of recent economic indicators, to forego that opportunity at this time may well mean to forego the most favorable climate for beneficial trade adjustments in this decade.

As we all know, the positive adjustments—as far as the United States is concerned—expected to flow from the Smithsonian agreement of December 1971, have taken longer to work their way through the complex international economy than many of us expected. The result was a trade balance that deteriorated in 1972 for a second year in a row, falling to a deficit of more than $6 billion. But in the third quarter statistical reporting period, from July to September 1973, the Commerce Department's merchandise account—the balance of trade—reported a surplus of $783 million. Though the size of the surplus is small, it is not negligible, and more important, it represents the first surplus since early 1971. Many economists predict, furthermore, that we can expect a surplus in the fourth quarter long enough to ring up a surplus for the year.

In other words, as a result of the dollar devaluations begun in 1971, U.S. produced commodities are more competitive in international markets than at any time in the past 4 years. Hence, they are in the best position in this decade to take advantage of reduced tariff and nontariff barriers. Indeed, if international trade were free of government constraints at this time, and if the marketplace was free to determine the flow of trade, the United States could be reaping the benefits.

As you know, Mr. Speaker, the avowed purpose of the General Agreement on Tariffs and Trade, of which the United States is a charter member, is just that—the reduction of Government interference in international trade. The 77 full members of GATT, including the nine nations of the Common Market, and Japan, as well as the 13 associates, are meeting in Geneva for negotiations designed to reduce trading barriers. At the end of October, however, the European members refused to set up crucial working groups pending passage of a U.S. trade bill that would give the administration authority to negotiate reductions. As a result, substantive world trade negotiations that could significantly benefit the United States are at a standstill, and will not proceed until the Congress acts.

It must be in light of this urgency that we take up House Resolution 657 seting the groundrules for consideration of the Trade Reform Act. Under the rule, debate shall extend for 6 hours equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. Significantly, 1 additional hour of debate is to be controlled by the distinguished chairman of the General Subcommittee on Labor (Mr. DENT). Three amendments shall be in order under the rule; first, an amendment will be offered by Mr. VANIK to place export-import credits under the conditions of title IV; second, an amendment will be proposed to strike title IV;

and third, an amendment will be brought to strike title V.

Mr. Speaker, I urge the House to accept the rule in this form and to reject attempts—no matter how well meaning—to amend or defeat it. Whatever form such an effort would take, either to defeat the previous question and amend the rule, or failing that, defeating the motion on final passage, the ultimate effect would be to cause costly delays in the Geneva negotiations with perhaps irreversible consequences.

Though I shall leave discussion of the provisions of the act to the distinguished members of the committee, I call your attention to the possible ramifications of amendments of title I. Under title I, the President is granted authority for 5 years to negotiate agreements to raise or lower tariff and nontariff barriers. It will be argued that the President ought not to be granted such powers, and that furthermore, the President's intention to lower nontariff barriers will work particular hardships on certain product sectors. But without such powers important trade negotiations have already been halted and will not proceed until such powers are granted. In addition, the committee bill not only limits the duration of the authority but also specifically sets limits on tariff rate reductions, and provides a congressional veto mechanism to guard against nontariff adjustments that unduly harm a domestic producer.

I am sure that those who argue the perspective of organized labor will express their misgivings over title I, as well, and will also argue the inadequacies of the adjustment assistance provisions of title II. But should the force of these arguments persuade the House to open the rule, I have no doubt about the effect. A glut of amendments will rain down upon this body that would have the purpose of exempting and protecting every product and labor sector from both the real and imagined dangers of freer trade. The cumulative effect could easily be legislation that would so bind the administration as to be meaningless, and to threaten a veto.

The effect of an amended rule, or its defeat, could, I fear, set the clock back 8 months in the House, and further delay consideration in the other body. It would do so, moreover, without the opportunity for constructive debate that is provided by House Resolution 657.

Mr. Speaker, it is acknowledged by most economic authorities that the huge $6 billion plus trade surpluses that we enjoyed during the early sixties have become relics of another age. The international economy has become just too competitive for us to ever hope to achieve such surpluses again, nor is it necessary that we do so. A helpful index of just how competitive the international market has become is the rate of growth of imports to the United States by competitors we formerly dominated with our exports. Between 1966 and 1972, imports from Western Europe doubled, to a level more than $15 billion annually; and in the same period, imports from Asia—with Japan the major component—have nearly tripled to a level of $15 billion per annum.

Even if it were desirable, we could not shut our trading door to these competitors without severe and potentially catastrophic international ramifications. To the contrary, our best interest is served by striking an equilibrium with these and other trading partners that will guarantee no one permanent surpluses, but rather will stop the seesaw of surpluses and deficits that have proved so damaging to the United States in the last few years. At present the major obstacle blocking the road to this goal is the absence of the negotiating authority that this bill would provide the President of the United States. I firmly believe that the rule before us today would allow for comprehensive debate on that subject without unnecessarily dooming prospects for its acceptance.

Mr. Speaker, I urge adoption of House Resolution 657 in order that the House can consider H.R. 10710, the Trade Reform Act of 1973.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I am pleased to yield to the gentlemen from Massachusetts.

Mr. BURKE of Massachusetts. I thank the gentleman for yielding. I wonder if the gentleman is also pleased at the 1 million permanent jobs lost since 1965 as a result of the trade policies.

Mr. ANDERSON of Illinois. Mr. Speaker, I will not yield any further. I do not accept that figure. That is not true, and any objective observer who looks at the record will discover that those corporations that are engaged in the export industry are creating more jobs here at home by far than those who are not engaged in export at all. So this story about a million lost jobs is absolutely a figment of the gentleman's imagination.

Let me say before my time is up that there is a very good reason why we have elected in the Committee on Rules to provide a modified closed rule in this case.

I see that my friend, the gentleman from Pennsylvania, has returned to the floor. I received a very interesting letter from him under date of December 6 which starts out: "Yes, we have no bananas, steaks, eggs, blue jeans," and so on. This is exactly, I think, an example and this is typical of the kind of protectionist amendments that would be offered under an open rule to this bill.

As the gentleman from Nebraska truly said, if we want to do a Smoot-Hawley all over again with the disastrous economic consequences that bill produced, then go ahead and vote down the previous question, open up this rule, and everybody who wants to can come in with an amendment to exempt bananas, tennis balls, freezers, and all of them will be here in the well offering amendments of that kind.

Mr. DENT. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Pennsylvania.

Mr. DENT. I thank the gentleman for yielding.

Outside of being a fighter in his opinion, I can tell the gentleman what I really am. I am in favor of American jobs. When I said, yes, we have no bananas, that came from a chamber of commerce and in one of our magazines.

Second, when I read through that list, tennis balls are made in one factory, and it happens to be in my hometown, and they are making less today than they did 20 years ago. The growth of our population and users of tennis balls has been exported and all the jobs that would have been created here in the United States.

Mr. ANDERSON of Illinois. The gentleman from Pennsylvania has just proved my point.

The SPEAKER. The time of the gentleman has expired.

Mr. LATTA. I yield 1 additional minute to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I thank the gentleman.

Tennis balls are made in his hometown. Pajamas are made in smoebody else's hometown; hot water bottles are produced somewhere else; and it is only fair to expect that the protagonists of those interests are going to be here in the well offering amendments to exempt that particular product from the coverage of these negotiations. That is what we want to avoid. We want to give our negotiators the kind of authority that they need to sit down and hammer out a realistic agreement that will be good for American labor, good for the American public, and good for the entire country.

Mr. O'BRIEN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Illinois.

Mr. O'BREIN. I thank the gentleman for yielding.

With regard to this legislation, my district, actually in my hometown, has one company which produces a great deal of manufactured goods, 40 percent of which goes overseas. There are 4,000 jobs that depend on the manufacture of parts for overseas assembly. Not one of those assembled units comes back to the State of Illinois or the United States for sale. What happens to those 4,000 jobs if we fail to pass this legislation?

Mr. ANDERSON of Illinois. The gentleman from Illinois makes an excellent point. Those jobs are gone.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. SCHNEEBELI).

Mr. SCHNEEBELI. I thank the gentleman for yielding.

Mr. Speaker, I support House Resolution 657, providing for 7 hours of debate on the Trade Reform Act of 1973, and permitting three amendments to the bill. An amendment will be in order to prevent the extension of credits to nonmarket economies that fail to allow free emigration. Also, one amendment to strike title IV, relating to MFN treatment for Communist countries, may be offered, and one amendment to strike title V, providing for U.S. participation in a system of generalized tariff preferences to less developed countries, may also be offered.

Mr. Speaker, this bill is vitally needed to enable the United States to continue to play a leading role in international economic relations. Since 1967, the President has been without tariff negotiating authority and this has hampered our economic relations. In 1970, the House-passed major trade legislation in recognition of this need, but due to the inaction of the other body, this bill did not become law. More than 3 years have elapsed since the House recognized the need to provide this authority, and it is imperative that we act favorably on this bill to do so.

Our committee voted 22 to 3 for the type rule granted by the Rules Committee.

The bill updates provisions of existing law providing import relief, adjustment assistance, and protection against unfair trade practices. It is urgently needed and strongly supported by the administration. The rule will enable us to consider legislation that is vital to continuance of the trade agreements program that has received bipartisan support for nearly one-third of a century. The rule permits the House a specific choice on the most controversial aspects of the legislation while providing for consideration of the remainder of the bill in a responsible way.

I urge all my colleagues to join me in supporting House Resolution 657.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, it is interesting that a great deal of the opposition to this bill seems to center on the rule. I do not think it is opposition to the substance of the rule so much as the fact that we are taking up the bill at all. That raises, of course, the issue as to whether or not we should be seeking this authority for the President at this time.

There is current a very strong feeling that if we do nothing we risk nothing. In fact, doing nothing would be disastrous. Mr. Speaker, in fact since 1967 when the last Presidential authority to seek new trade relationships with our trading partners expired, there have been dramatic changes in those relationships which I maintain require attention at this time. Let me suggest what some of those changes are.

First of all our goods have been increasingly discriminated against overseas as our trading partners have become more prosperous and more protectionist. Both the balance between imports and exports and the volumes of imports and exports, have vastly altered. Our currency has been twice devalued, increasing the competitiveness of our exports in the world market and reducing the competitiveness of foreign goods coming into this country. Japan's economy has surged. Europe has become a customs union during this period. We have become much more dependent on overseas oil. Direct military and political confrontation with the Communists has diminished. England has joined the Common Market. The world agricultural surplus has become a scarcity. The developing nations have become more prosperous, more demanding, and more developed. And we have had ample demonstration of the difficulty under current law of dealing administratively with unfair trade practices by other countries.

Mr. Speaker, I maintain that all these changes indicate the timeliness of this measure. We must not delay. As a matter of fact delay in bringing this measure before the House has resulted in some slippage in the negotiating timetable already. Sir Christopher Soames, speaking for the European community, has urged some delay in moving ahead with the necessary negotiations. If we are going to play an important part in future commerce, if we are going to have a growing share of world markets, it is absolutely essential, Mr. Speaker, that we move ahead now and try to bring about the changed trade relationships which will reflect the changes on the world scene that I have recounted. Delay works against the bill, and against the credibility of our role in opposing the drift to the economic naturalization which has characterized the period since 1967.

I hope the rule will be supported. I believe there is comparatively modest opposition to it as a matter of substance and those who oppose the rule in fact oppose the bill.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, I concur in what my colleague, the gentleman from New York, has said, and I wish to underscore the fact that we could do nothing that would leave us where we are. The world is changing very rapidly and we need to be at the negotiating table to give direction to that change. I do not know how soon the Senate will act. The Senate cannot act until after the House acts. Today is the day we ought to pass the rule and tomorrow pass the bill.

Mr. CONABLE. I thank the gentleman from California for his contribution.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. CHAMBERLAIN).

Mr. CHAMBERLAIN. Mr. Speaker, I have listened with interest to the comments in opposition to this rule. Before we make this important decision, perhaps we should reflect a bit about what a vote against this rule would really mean.

You will recall that it was back in April that the President sent a message to the Congress stating that "The need for trade reform is urgent." In fact, it was so urgent that the House leadership agreed, and the Ways and Means Committee put aside tax reform so we could get to work on trade problems. We started hearings on trade immediately after the Easter recess. Why? Because everyone felt that the interest of the country demanded that we act. We had our hearings and we worked through April, all of May, June, and July in the hope of accomplishing our goal before the August recess.

There was broad agreement that our bill was vital to show our intentions for reform before the September conference in Japan that was supposed to be the kickoff for restructuring world trade. We did not make it. But we thought we could recover from this if we got a bill out soon after Labor Day. Well, we finally reported our bill on October 10. And we all know what has happened since then. The whole world has been caught up in the fast moving events in the Middle East.

But we still need a trade bill. It is vital if we are to negotiate with our trading partners to bring about the needed reforms in world trade.

We have heard some critical comment about the timing for the consideration of this bill. I am not too happy about it myself. But what choice do we really have? I rather believe it is now—or never. If this rule is voted down, will it not mean that trade reform has been killed—certainly for this Congress? Is that the message we want to send the world? I think not.

Sure there are lots of hard decisions in this bill. It is terribly complex. But I think we have already delayed much too long. It is time to get this behind us.

We need this bill. We needed it long ago—and we need it now—just as soon as we can get it. I urge that you vote to support this rule.

Mr. BROTZMAN. Mr. Speaker, will the gentleman yield?

Mr. CHAMBERLAIN. I yield to the gentleman from Colorado.

Mr. BROTZMAN. Mr. Speaker, I rise in support of this rule, because I think we have to move forward now. Often as we discuss the problems of world trade, it becomes an interesting colloquy and discussion about international events. The real fact is that this particular bill touches flesh and blood people that we here represent. It touches them as to what they are going to pay for the products they buy. It touches them as to their own jobs.

I would certainly concur with what the gentleman from Michigan said and I urge support of this rule.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PRICE).

Mr. PRICE of Texas. Mr. Speaker, today the Congress is in the process of debating perhaps one of the most important pieces of legislation yet to be considered during this session of the Congress, the Trade Reform Act of 1973. Since 1967, the President has not had basic authority to adjust tariff rates because his negotiating powers expired 6½ years ago under the terms of the Trade Expansion Act of 1962.

Also, since 1967, economic conditions of the world's trading community has changed drastically with production capabilities and marketable products expanding rapidly. Major structural changes have also occurred in the world economy as Europe's Common Market and Japan improved their economic strength and have recently emerged as strong competitors with the United States. Furthermore, our monetary system has in recent years increasingly shown itself to be archaic and terribly outmoded for the needs of our present trading economy.

Never has the need for an effective mechanism to deal with both tariff and nontariff barriers to trade been more apparent, and our lack of authority at the negotiating tables looms most significantly today as a new round of trade negotiations among world powers is under way.

The bill we are considering today is designed to give the United States more leverage in negotiating which hopefully will gain greater access to foreign markets for U.S. products and to provide our American negotiators with the needed latitude equivalent to that which their counterparts have by virtue of their own parliamentary systems.

Although we will all admit that there are problems surrounding the legislation being considered today, nevertheless the need for a trade bill strongly outweighs the problems.

What should be the concern of all my distinguished colleagues today is the effect of the entire Trade Reform Act of 1973 upon their districts and our Nation as a whole. In my district alone the market for our agricultural products will be financially beneficial. If the United States has the necessary products at home, is it not better to export the excesses instead of having the Federal Government pay subsidies. By exporting agriculture products such as wheat feed grains and to foreign countries, our farmers will have the needed incentive and markets to produce record agricultural crops.

The United States has expanded its wheat, grain sorghum, corn, and soybean production to an alltime record level this year. More than 40 million additional acres of U.S. cropland have been made available for production in 1973; and 20 million more acres will be freed for production in 1974. For 1974, the Agriculture Department will not divert any cropland, leaving our farmers completely free to respond to the demands of domestic and export buyers for increased farm products. This should stimulate efficient U.S. farmers to even greater production in 1974. This assurance of increased production should help to eliminate any unnecessary stockpiling by importing nations in the current years.

In 1973, the world grain trade increased by 20 million tons—and U.S. exports increased 30 million tons; thus, the United States provided all of this increase plus making up for some of the shortfalls. The increased demand has been partially due to poor crops in some parts of the world, but more importantly to the increasing world demand for livestock products and thus for livestock feed. It is in the interest of the developing nations, too, to stimulate the increased grain production the world needs and wants. Because the United States recent experience with price and wage controls, together with the long history of failures in international commodity agreements, many authorities are convinced that a free and open market is the best and most realistic way to assure an equitable sharing of available grain supplies.

Japan is looking to the United States for soybeans, cotton, grain sorghum, and other grains. Eastern Europe is importing U.S. soybeans and soybean meals and grain for livestock, and Taiwan is bidding for all U.S. grains plus apples. Although these are only a few examples of our foreign market today, imagine what it can be once the President has negotiating power. If the U.S. agriculture community is to benefit from the opening market for its goods, a trade bill is vitally necessary.

I could go on and on discussing the beneficial points of this bill and its bad points that hopefully will be corrected by amendment, however, I urge my colleagues to carefully reflect on the effects and benefits the Trade Reform Act of 1973 will play upon the people in their own districts and the Nation.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Speaker, I rise in support of this bill and also in support of this rule. It has been rumored that there may be a concerted effort to defeat the rule and not take up the bill at all. I think this would be a tragic development.

There is a rumor also that some proponents of the legislation are going to vote against the rule. I hope this will not occur. It seems to me essential that the House face up to its responsibilities. This may not be an ideal time to discuss the consideration of this bill, but there may never be an ideal time to discuss legislation of this kind as far as the international situation is concerned.

It has been argued that the House need not act because the Senate may not act. This, if true, would be no excuse for inaction by the House. The House cannot control the Senate, and we should not shirk responsibility for what the other body may or may not do.

The House will not be meeting our responsibilities unless we discuss the matter at some length.

In that connection, I want to associate myself with the remarks just made by the gentleman from Michigan (Mr. CHAMBERLAIN), and the gentleman from New York (Mr. CONABLE) on the importance of this bill.

Mr. DENT. Mr. Speaker, will the gentleman yield?

Mr. FRELINGHUYSEN. The gentleman will have an hour on the bill. I refuse to yield. I would think he would stop interrupting for at least 30 seconds. I decline to yield.

Mr. DENT. The gentleman says he will not yield. I only need 30 seconds.

Mr. FRELINGHUYSEN. Major adjustments of the trade relationship between the United States and the rest of the world are needed, and they are important. If we delay in acting, or in effect if we kill the bill and thus eliminate the possibility of negotiating, it seems to me we will be working very definitely to our own disadvantage.

I trust we will accept the rule. I trust we will not defeat the whole proposition. I trust we will not have an open rule. I trust also that we will pass this legislation.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, in 1962 the Congress enacted the Trade Expansion Act under the theme and slogan that America must either trade or fade. It is still a sound message today.

To those concerned about the future of union labor in this country, I point out that the products of 30 percent of America's agricultural cropland is sold overseas.

The American farmer is the single best consumer of union-made steel products in this country. So, city and rural people alike have high stakes in trade expansion, especially in light of the evergrowing protectionist tendency of the Common Market.

Mr. Speaker, I generally oppose restrictive laws, but I certainly am strongly in support of this rule, and I hope it will be adopted and the bill will be accepted.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentlemen from Illinois (Mr. COLLIER).

Mr. COLLIER. Mr. Speaker, our very persuasive colleague from Pennsylvania (Mr. DENT) pointed out in his earlier remarks that our balance of payments, and indeed our balance of trade, have worsened since the last major trade legislation we enacted in 1962; and certainly he is correct.

But, let me assure the Members that unless we move forward today in adopting this rule, we are merely preserving the status quo. We are never going to get a trade bill upon which all of us agree. That is a foregone conclusion. We are never going to get a trade bill upon which all segments of our society will concur. This bill, however, while it does provide more negotiating power to the Executive, does have built-in protections where the Congress for the first time—and I repeat, for the first time—will have an opportunity to see that those negotiations are conducted in the manner which are in the best interests of this country. This was not in the previous bill.

Therefore, I implore the Members of the House, and I have never been known, as most of you know, as a great free trader in any sense, but I certainly do not think we can any longer survive in a vacuum. I think we have to adopt the rule. It will be in the best interests of the consumer, labor, and to the credit of this body if we adopt this rule today.

Mr. LATTA. Mr. Speaker, I yield to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Speaker, I rise in support of this proposed rule.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I rise in support of both the rule and the bill itself. And I urge my colleagues in the House to do the same.

This country desperately needs a trade bill. Without H.R. 10710, the United States has a trade policy without any teeth, a condition which has existed since the Trade Expansion Act of 1962 expired 6 years ago. The negotiating authorities contained in this bill are crucial to our effective participation in any GATT talks and to the resolution of other trade negotiations to put us on an equal footing with our foreign trading partners especially Japan and the European Economic Community.

The fact that our balance of payments, which was suffering badly a year ago, has made a dramatic turn around in recent months is no reason to oppose or delay passage of this legislation. In fact, the provisions of this bill will help to strengthen the comparative advantages of these sectors which contributed most to our improved balance-of-payments position, especially agriculture.

The Trade Reform Act does not sell us out to foreign competitors, as some of its critics contend. Neither does it sell out the Congress controls over our trade policy. The authority to negotiate away unfair trade practices, and to retaliate against them when necessary, should be important considerations for those Members interested in protecting American industry and workers. And the bill gives Congress effective procedures for passing judgment on Presidential actions and which more than preserve our powers over trade policy. In addition, the title II adjustment assistance provisions are broadened and liberalized to aid American firms and their employees whose jobs are jeopardized by foreign imports.

Finally Mr. Speaker, a word about title IV. Regardless of how any Member of this House feels about extending most-favored-nation status to the Soviet Union, now or ever, I hope that he or she will realize that this country needs a trade bill now.

The Trade Reform Act of 1973 provides both the incentives for expanded fair and mutually beneficial trade and the authority to take action to correct or defend against unfair treatment. A dispute over title IV should not hold up this bill. The longer we wait, the more we risk loss of trading position in an increasingly chaotic world economy.

Both the United States and the Soviet Governments have known for over a year now that the Mills-Jackson-Vanik provisions would be contained in this legislation. It should come as no surprise to them that this bill will pass with title IV in it, if we are to get a bill at all. This legislation should not be allowed to fail here or be vetoed because of concerns about slippage in our détente with the U.S.S.R. If it can survive at all, détente will survive the title IV provisions.

In my State of Minnesota, tens of thousands of jobs depend on foreign trade. This bill is calculated to expand trade and is therefore, for us, a job protection and job creation bill. Minnesota agriculture needs this bill to expand markets abroad, especially after the production incentives of the new farm bill. Minnesota labor, particularly in our skilled, scientific industries, like data processing systems, needs this bill for more jobs and better jobs. Minnesota products need fair treatment in foreign markets. We believe this bill will give us fair treatment, expanded markets, and more jobs.

This country, the American worker, and the American consumer cannot afford to go without this trade bill. We need the Trade Reform Act now, and I urge its passage.

Mr. BIAGGI. Mr. Speaker, I rise in opposition to the rule to permit consideration of H.R. 10710, the Trade Reform Act of 1973. It seems futile for the Congress to waste many precious hours taking up this ill-conceived bill. It deserves to be recommitted.

This bill would continue an archaic, economically irresponsible, and grossly outdated international trade policy which in the last 7 years has put the United States in a position of inferiority in the international trade market.

This bill could result in the perpetuation of an import policy which has wiped out both jobs and industries at a devastating rate. More than 1 million American men and women have lost their jobs as a result of an unregulated flow of imports into this country.

Moreover, one need only look around to those items of everyday use, such as cars, clothings, and major appliances.

To discover what effect this unrestricted import policy has had on the American economy. Such household names as Sony, Toyota, and Volkswagen, while representing great economic growth for Japan, and Germany, has presented the American people with widespread unemployment, in key industries and the continuation of a dangerous unfavorable balance of trade. In the electronics industry alone, where imported goods make up over 75 percent of all manufactured products 450,000 jobs have been lost in the last 4 years.

The future will continue bleak if this bill passes. Thousands more hard working Americans will be out in the streets standing on unemployment lines as a direct result of the Nixon trade and economic policies. Our unemployment rate could rise to levels we have not seen since the depression.

With this bill, Congress will turn over to the executive branch a vast amount of power in international trade matters and give the President unprecedented authority to regulate U.S. imports and exports. The hands of the representatives of the people in Congress would be completely tied. The only voice we would have in the making of international trade agreements would be a simple veto over the President's determinations of what he thinks is right or wrong for America.

True, certain provisions of this bill which prohibit favorable trade status to nations, such as the Soviet Union, that deny their citizens the right to freely emigrate, could be used as a lever to change these policies. I agree with this principle and am a cosponsor of the Mills-Vanik-Jackson amendment.

However, I do not believe we have to attach a very meritorious piece of legislation to an otherwise worthless bill. We can approve the Mills-Vanick bill separately, if necessary, or attached to a sound trade bill next year. I get the impression that the administration wants to use this provision as a "vote-getter" for their trade bill. The basic human rights of the Soviet Jews should not be used as bargaining chips in a fight between Congress and the President over trade legislation.

On a practical and realistic level, it seems useless for the House to pass this rule. In light of the highly important legislation we have yet to consider, particularly with respect to finding solutions to our current energy crisis, it seems incredulous that the House would vote to waste 7 or more hours on a bill which is clearly not in the best interests of the American people.

Mr. Speaker, it is my fervent hope that the majority of my colleagues will share my sentiments and defeat this rule. H.R. 10710 fails to deal with our current trade problems and stands to initiate further economic havoc by giving the President the tools to turn trade into a million dollar bonanza for the moguls of the supernational corporate giants and the profit-hungry international trading interests. This legislation should be promptly returned to the Ways and Means Committee. It needs major revisions. It does not merit the time and energy of this body this year. The committee should be directed by an overwhelming vote of rejection to develop a bill that will help create American jobs, help maintain the rights of people to freely emigrate, and serve as the framework for a new American trade policy to benefit this Nation for the next decade.

Mr. DENT. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Speaker, I just tried to say that when all the emergency was coming on about this in the House when this bill was passed originally in 1962, it died in 1967. If I can count, that is 6 years ago.

In all those 6 years, this great emergency has not come up, but now on the even of Christmas everybody seems to be looking for the "Miracle of 34th Street."

Mr. GIBBONS. Mr. Speaker, I am here today to ask the Members to support the rule and to support this bill.

To respond just briefly to my good friend from Pennsylvania (Mr. DENT), whom I have just yielded to, let me say that part of this act expired in 1967, and for that reason this country has been lassoed and hog-tied and not able to work as it should work in international trade and to defend itself. Things have happened, and the Congress has tried to act in this area before. It tried to act in 1970 and failed to act after a long debate. And it has tried to act since that time.

Mr. Speaker, as so many Members have pointed out here today, times really have changed. I think that one change that I am aware of, and perhaps that all Members ought to be aware of, is that the last time the House tried to use an open rule with a trade bill was in the Smoot-Hawley days.

Mr. Smoot was a Member of the Senate, and Mr. Hawley was a Member of the House. Mr. Hawley's picture hangs over the room occupied by the Committee on Ways and Means. He was chairman of that committee at that time. I think all of us know, and as history has taught us, what a sorry mistake the Smoot-Hawley Act was.

Under an open rule it becomes incumbent upon every Member sitting here to try to defend the interest of his own district. What happens, though, is that sometimes we get a horrible monstrosity, such as Smoot-Hawley was.

Smoot-Hawley helped pull this country down into the very depths of the depression. It helped pull world trade from a very substantial amount of trade to almost a zero balance. Twenty-five nations responded in the only way they could to retaliate against us, and historians tell us and those of us who were old enough to remember realize that Smoot-Hawley was probably one of the main causes of the disintegration of world trade that took place then, and it led to World War II with the tremendous loss of life during that war.

Mr. Hawley was a Member of Congress from the State of Oregon, and the acting chairman of our committee today is from the State of Oregon. So, my, how times have changed.

The Smoot-Hawley bill was full of all kinds of little "goodies" for little industries in particular areas.

One thing we can say about this bill today, Mr. Speaker, is that no special interest has been served by it; only the American general interest has been served by it. The gentleman from Oregon, Chairman ULLMAN, resisted with skill and determination any attempts to put into this bill the kind of things that would lead us back into the Smoot-Hawley days, the kind of things that Members of Congress are inclined to do when they are protecting their own district interests and political interests in a bill like this.

So it is rather fitting that here on this day, some 40 years after Smoot-Hawley, another gentleman from Oregon would be leading us in the consideration of what I think is a very fine and a very courageous piece of legislation, a very well-founded and well-thought-out and well-debated piece of legislation.

Mr. Speaker, some Members of this body have objected to the timing of this bill, as my friend, the gentleman from Pennsylvania (Mr. DENT), just did.

There is never an easy time or a good time to vote on a piece of trade legislation. They are tough bills. They get ground right down into the foundation on which America has been built.

But the House of Representatives, through its Committee on Ways and Means, through its other deliberative processes and through its Committee on Rules, has been working on this bill since April. We must pass it soon in order to give the other body a reasonable chance in the next year to try to get something done to express their ideas on this subject.

Mr. Speaker, I think we ought to support the bill and the rule.

Mr. PEPPER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. VANIK).

(Mr. VANIK asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, at this point in the Record, I would like to enter the full text of the "Freedom of emigration amendment" which I will offer tomorrow to the Trade Reform Act of 1973 pursuant to the rule, House Resolution 657:

AMENDMENT TO H.R. 10710, AS REPORTED OFFERED BY MR. VANIK

Page 129, line 25, after "treatment)," insert the following: "such country shall not participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly.".

Page 130, line 20, strike out "and (B)" and insert the following: ", (B) such country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and (C)".

Page 131, line 6, after "received", insert the following: ", such credits or guarantees extended,".

Mr. PEPPER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the President has recommended the passage of this bill, the Committee on Ways and Means has recommended it, and the Committee on Rules has brought the rule out.

I hope that this rule will be adopted and that the House will have the chance to work its will on this bill.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BURKE of Massachusetts. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 147, not voting 55, as follows:

[Roll No. 639]

YEAS—230

Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Arends
Ashley
Badillo
Bafalis
Baker
Beard
Bevill
Biester
Blackburn
Blatnik
Boggs
Bolling
Bowen
Bray
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Camp
Carter
Casey, Tex.
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collier
Conable
Conte
Corman
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dennis
Devine
Dickinson
Downing
Dulski
Duncan
Esch
Evins, Tenn.
Fascell
Findley
Flynt
Foley
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Gettys
Gibbons
Gilman
Ginn
Goldwater
Goodling
Green, Oreg.
Griffiths
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Harvey
Hastings
Heckler, Mass.
Heinz
Hillis
Hinshaw
Holifield
Holt
Horton
Hosmer
Hudnut
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Karth
Ketchum
King
Landrum
Latta
Lehman
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McEwen
McKinney
McSpadden
Macdonald
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Michel
Miller
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Mosher
Nelsen
Nichols
O'Brien
O'Neill
Parris
Passman
Patman
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Powell, Ohio
Preyer
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Regula
Reuss
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rostenkowski
Roy
Ruppe
Ruth
Sandman
Sarasin
Satterfield
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Thornton
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Waldie
Ware
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Yates
Young, Fla.
Young, S.C.
Young, Tex.
Zion
Zwach

NAYS—147

Abzug
Adams
Addabbo
Anderson, Calif.
Annunzio
Ashbrook
Bauman
Bennett
Biaggi
Bingham
Boland
Brademas
Brasco
Breaux
Brooks
Burke, Mass.
Burlison, Mo.
Burton
Byron
Carney, Ohio
Clark
Clay
Cleveland
Collins, Ill.
Collins, Tex.
Conlan
Cotter
Crane
Daniels, Dominick V.
Danielson
Davis, S.C.
Dellums
Denholm
Dent
Derwinski
Diggs
Dingell
Drinan
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Flood
Ford, William D.
Froehlich
Gaydos
Giaimo
Gonzalez
Gray
Green, Pa.
Gross
Hanna
Hansen, Wash.
Harrington
Hays
Hechler, W. Va.
Helstoski
Hicks
Holtzman
Howard
Huber
Hungate
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Koch
Kyros
Landgrebe
Leggett
McCormack
McFall
McKay
Madden
Matsunaga
Meeds
Metcalfe
Mezvinsky
Milford
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Moakley
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nix
Obey
O'Hara
Owens
Patten
Poage
Podell
Price, Ill.
Randall
Rangel
Rarick
Riegle
Rodino
Roe
Rosenthal
Roush
Rousselot
Roybal
Runnels
Ryan
St Germain
Sarbanes
Schroeder
Seiberling
Shipley
Snyder
Spence
Stanton, James V.
Stark
Steed
Steelman
Stratton
Stubblefield
Studds
Sullivan
Symington
Taylor, Mo.
Thompson, N.J.
Tiernan
Towell, Nev.
Vigorito
Whalen
White
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wright
Wylie
Wyman
Yatron
Young, Alaska
Young, Ga.
Zablocki

NOT VOTING—55

Abdnor
Archer
Armstrong
Aspin
Barrett
Bell
Bergland
Buchanan
Burke, Calif.
Carey, N.Y.
Cederberg
Chisholm
Conyers
Donohue
Dorn
du Pont
Edwards, Ala.
Erlenborn
Eshleman
Fish
Fisher
Flowers
Grasso
Gubser
Hanrahan
Harsha
Hawkins
Hébert
Henderson
Hogan
Hunt
Keating
Kluczynski

Kuykendall
Lent
Martin, N.C.
Melcher
Mills, Ark.
Rees
Reid
Rhodes
Roncallo, N.Y.
Rooney, N.Y.
Scherle
Stokes
Stuckey
Symms
Veysey
Waggonner
Walsh
Wampler
Wolff
Wyatt
Wydler
Young, Ill.

So the resolution was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Rooney of New York against.

Mr. Waggonner for, with Mr. Barrett against.

Mr. Carey of New York for, with Mr. Kluczynski against.

Mr. Bergland for, with Mr. Donohue against.

Mr. Fisher for, with Mr. Hawkins against.

Mr. Rees for, with Mr. Symms against.

Mr. Wyatt for, with Mrs. Chisholm against.

Mr. Rhodes for, with Mr. Melcher against.

Mr. Mills of Arkansas for, with Mr. Stokes against.

Mr. Erlenborn for, with Mr. Conyers against.

Until further notice:

Mrs. Grasso with Mr. Abdnor.

Mr. Reid with Mr. Hanrahan.

Mr. Wolff with Mr. Eshleman.

Mr. Aspin with Mr. Edwards of Alabama.

Mr. Dorn with Mr. Cederberg.

Mrs. Burke of California with Mr. du Pont.

Mr. Flowers with Mr. Fish.

Mr. Henderson with Mr. Gubser.

Mr. Stuckey with Mr. Buchanan.

Mr. Hogan with Mr. Harsha.

Mr. Lent with Mr. Hunt.

Mr. Roncallo of New York with Mr. Martin of North Carolina.

Mr. Walsh with Mr. Scherle.

Mr. Wydler with Mr. Wampler.

Mr. Archer with Mr. Young of Illinois.

Mr. Bell with Mr. Kuykendall.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RESIGNATION OF AND APPOINTMENT OF CONFEREE ON H.R. 11324

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the gentleman from Georgia (Mr. Stuckey) be excused from further service as a conferee on the bill H.R. 11324, and that the Speaker be authorized to appoint a Member to fill the vacancy.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER. The Chair appoints the gentleman from Texas (Mr. Eckhardt) to fill the vacancy, and the Senate will be notified of the action of the House.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON H.R. 11450

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce have until midnight tonight to file a report on the bill H.R. 11450.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

TRADE REFORM ACT OF 1973

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10710) to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10710, with Mr. Boland in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule the gentleman from Oregon (Mr. Ullman) will be recognized for 3 hours, the gentleman from Pennsylvania (Mr. Schneebeli) will be recognized for 3 hours, and the gentleman from Pennsylvania (Mr. Dent) will be recognized for 1 hour.

The Chair now recognizes the gentleman from Oregon (Mr. Ullman).

Mr. ULLMAN. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, first I want to express my appreciation to the Members of the House for the vote on the rule. We in the Ways and Means Committee recognize the difficulties of voting on a very complex and important piece of legislation such as this, but it is a piece of legislation that must be passed by this Congress. I think when the Members look back on it they will recognize that this is the best time to dispose of this very important piece of legislation.

I wish to again thank the members of the committee on Ways and Means who labored long hours over many weeks to report responsible trade legislation to the House. The result was truly a committee effort to which all members of the committee contributed.

All members of the committee, and I am sure other Members of the House, will join me in expressing our great appreciation for the fine work of Ambassador William R. Pearce, Deputy Special Trade Representative who presented the original proposal to the committee on behalf of the administration. Ambassador Pearce and his excellent staff, representing the appropriate agencies, were of great assistance to the committee during the committee's development of the bill into an innovative and forward looking trade bill.

Mr. Chairman, I would like to say a few words about the staff of the committee on Ways and Means. It is an excellent staff, all of whom are completely dedicated to assisting the committee to write the best legislation possible. Indeed, the staff needs to be enlarged in order that the full oversight responsibility of the committee under the trade bill can be met. We often forget the hard work that goes into preparing for and conducting lengthy public hearings and markup sessions. The trade bill involved many extra hours of work by the whole staff and the committee is extremely grateful for their fine efforts.

The committee has long prided itself on the soundness and high quality of the bills it reports, and their presentation to the House. Much of the credit for those characteristics in the Trade Reform Act is due to the high professional standards and dedicated efforts of the following members of the staff: John M. Martin, Jr., chief counsel, Richard Wilbur, minority counsel, and Harold T. Lamar and Arthur Singleton, professional staff members. For their contributions to the trade bill the committee is deeply appreciative. It is also necessary, Mr. Chairman, to recognize and indicate our appreciation to Mr. Ward Hussey, House legislative counsel and Mr. Roger Young, assistant legislative counsel for their wise counsel and expertise in drafting the committee's bill.

I hope the Congress will be able to go home over the Christmas recess and say that they have considered and approved trade legislation that is broad in scope, that is responsible, and that will help us in this critical time to face up to our world obligations.

Mr. Chairman, the legislation that we bring before the Members today could well be the key to American industrial and overall economic growth in the next 20 years.

It can be the key to millions of new jobs and new markets for our factories and our farms. It can be the key to the achievement of sound international monetary reforms and monetary and financial stability for the years ahead. It can be the key to the reform of our international trade system and continued expansion of world trade and economic growth. It can be the key to peace and prosperity in our times.

Mr. Chairman, this legislation is sorely needed to further our economic and political interests abroad and improve competitive conditions for our producers at home and abroad.

Mr. Chairman, it is only because of circumstances beyond our control that fuller consideration of this matter has been delayed. One may ask why we are considering H.R. 10710 on December 10, almost 2 months after it should have been considered in the House.

The Committee on Ways and Means spent 24 full days in public hearings and 37 more days, and I mean full days, in markup sessions.

The bill was ordered reported on October 3 by a vote of 20 to 5.

On October 10 the report was filed and immediate consideration of the bill was requested. The leadership responded by scheduling the bill for consideration on October 17.

Let me here express my appreciation to all the members of the Committee on Ways and Means for their long, hard, and diligent efforts in producing what I consider one of the best and most responsible trade bills that has come out of this Congress for a long, long time.

I want to express my appreciation to all of the members. The vote was 20 to 5; but even those members who voted against the bill were extremely diligent in attempting to improve it and allow it to come to the floor in a responsible way.

Now, the answer to why this bill is being considered today is that the President asked that the bill be delayed. He requested that the bill be delayed on the grounds that title IV of the bill authorizing the President to extend nondiscriminatory treatment to certain Communist countries, contains language that the administration objected to because the rule which had been granted for the bill provides the opportunity to add additional language with respect to limitation on credits to those countries, which the administration also found objectionable.

In view of this request for delay, one might ask why the provisions on most-favored-nation treatment to certain Communist countries are in the bill at all.

The answer to that question is that the administration asked for the provisions of title IV at the time the draft proposal was submitted to Congress. They considered this an extremely important part of the bill.

The provisions on most-favored-nation treatment to certain Communist countries was requested by the administration at a time that they had to be aware that the Jackson-Mills-Vanik amendment was already pending in the House and in the Senate. Indeed, in the House the Mills-Vanik amendment had almost 280 sponsors at the time the President submitted the trade proposal, including in his request for authority to extend most-favored-nation treatment to certain Communist countries.

Because the President specifically tied his request for delay to matters of grave national security in the Middle East and the possibility of the outbreak of general war, there was no way that either the Speaker or the Committee on Ways and Means could refuse that request.

Now—at this late hour—the President has asked us to go forward. I believe it is imperative that we do go forward.

It seems to me that further delay could well cause serious injury to our international relations with the free world.

Some have asked also, "Will the Senate act?"

I have been assured by Chairman LONG and members of the Senate Finance Committee that they will most certainly take the measure up once we send it to them.

I find it inconceivable that the Finance Committee would fail to act, and the Senate itself would fail to act on such a major piece of legislation involving the long run economic well-being of the entire country.

Some ask, why do we need a bill at all? Mr. Chairman, before getting into a discussion of some of the major provisions of the bill, I would like to address myself very briefly to the subject of why we need a bill.

As this year has unfolded, we face a much different picture than we did at the end of last year when we experienced the largest trade deficit in the history of our country, almost $7 billion. Our trade balance has now moved into a favorable trade position and some analysts estimate our trade surplus for 1973 could amount to over a billion dollars. This is certainly a most welcome change.

Our balance-of-payment position has also improved, but these developments, let me say, while welcome, in no way indicate that we are in a sound position with regard to our trade posture. Just the opposite is true. The disruptive factors of inflation, devaluation, and other market uncertainties all point to the absolute necessity of moving toward a much stronger posture in world trade. There are ominous signs of future economic crises if we fail to act.

We must strengthen the opportunities and the resolve of nations to cooperate in international trade matters, for the world is closer in many ways to the bilateralism and narrow self-interest of the 1930's than ever before, and we cannot slip back into that posture. The result worldwide would be disastrous.

Moreover, while some progress is being made in international monetary reform, we cannot disassociate successful resolution of that effort from one of the basic purposes of this bill, which is trade reform domestically and internationally.

Let me expand on some of the reasons for the bill. The bill is needed to assure job opportunities for American workers. Under this bill, when temporary import restraints are needed to provide relief to industries and their workers who are seriously disadvantaged by injurious import competition, timely and effective relief will be available.

Beyond this, the bill reforms our domestic laws to better assure conditions of fair trade in our own market and the mechanism to better assure our producers conditions of fair trade in foreign markets.

The best assurance of expanding job opportunities is sound economic growth. More than ever before in the United States, a large part of such growth must be generated by expanding world trade, a principal aim of this bill. The next greatest contribution that can be made to job opportunities is by assuring our own producers that they can continue to produce in the United States and survive competitively. This, too, the bill does.

Indeed, H.R. 10710 does more to provide tools to achieve conditions of fair trade and expanded markets for our producers and workers than any trade legislation yet enacted.

It is ludicrous, Mr. Chairman, to think that we would be able to increase job opportunities for an ever increasing work force by adopting a negative growth policy of trade restriction and insulated markets. Our great and productive economy was built on the basis of open markets and unrestricted competition. We can very quickly dismantle it if we choose to restrict competition and impose more vigorous and more Government controls, which certainly would happen in the case of a quota system.

We need this bill to assure and enhance our own standard of living, for just as the bounty of our own factories and farms contribute to our standard of living, the uniqueness and variety and the attractive cost of imported products benefit all of us as consumers and producers. To deny ourselves imported products which enrich our lives on the basis of some magic mathematical market-share formula, on the erroneous assumption that such controls on our economy can insure our continued prosperity, would be both shortsighted and self-defeating.

Mr. Chairman, we need this bill, because it is an essential ingredient to a foreign policy that is in our national interest. To some extent, the last few weeks have been unreal in terms of a discussion of this bill which many considered to be the "Soviet Union's most-favored-nation treatment bill."

And yet what this bill is really about is a recognition that our friends are important to us politically, and that our trading partners are important to our survival as an economy and as a nation.

The major provisions of this bill have to do with improving the opportunity for expanding our trading relations with the free world, and that is why this bill is needed.

The preoccupation with title IV has run the risk of alienating our trading partners. As dangers to détente have occupied the news, our trading partners have wondered whether anyone was interested in considering a bill which would make it possible for this country to participate in trade relations which have been agreed to by our own Government.

The development of the European communities has been an important part of our foreign economic policy over the past two decades. Are we to continue to be so preoccupied with the problems of encouraging better political and economic relations with the Soviet Union that we endanger our relations with Western Europe?

I would hope not, Mr. Chairman.

The path to peace does not involve the benign neglect of the need for expanding economic exchange with those countries who have moved with us in the postwar period to achieve the goals of a free society and of the ideals that bind us all together. The bill, Mr. Chairman, is needed to enable this country to participate fully in those multilateral trade negotiations which are already underway but which cannot go forward without the United States. The bill is needed now for daily events continually demonstrate that we are drifting, without a coherent and strongly supported trade policy, at our own peril.

Thus, the bill, the Trade Reform Act of 1973, provides the President authority to enter into trade agreements with foreign countries for a period of 5 years. This negotiating authority is fully adequate for the negotiations contemplated.

The bill most assuredly does not, however, give the President unfettered new power and authority.

In this bill the trade agreement authority is delegated to the President under stricter statutory guidelines and more specific limitations than ever before.

Moreover, it provides for this authority in a manner that demands active consultation with and participation by the Congress in the development of and the administration of the trade policies set forth in the bill.

In this respect, the bill is the most innovative approach to establishing a real partnership in the conduct of our international trade relations that has ever been proposed.

H.R. 10710 renews the President's authority to modify rates of duty pursuant to trade agreements. I will discuss the specific limitations on this authority later.

Suffice it to say the committee did not approve the President's request for unlimited authority to modify rates of duty.

This bill provides a new mechanism for dealing with nontariff barriers to trade, which is something long needed. Agreements on reducing or eliminating nontariff barriers are difficult to negotiate since often their implementation affects domestic laws and regulations and, for the United States, raises serious questions of constitutional responsibilities and prerogatives.

Yet these types of barriers have become more important as tariffs have been reduced. It has long been recognized that further trade liberalization is not possible without reducing and eliminating these trade restraining and trade distorting measures.

The delegation of authority in this bill to negotiate trade agreements on nontariff barriers, the guidelines and limitations on such negotiations, and the congressional consultation and disapproval procedures regarding their domestic implementation, constitute sound, and innovative legislation. The bill preserves the constitutional power of the Congress, and it gives the executive branch strong backing in the forthcoming negotiations.

This bill looks at the whole background of world trade practices and sets the stage for a complete revision of the outmoded trading rules that we have lived by.

Thus, for the first time in trade legislation, Congress would direct the President to use the GATT to further United States economic interests. In the past, while we in Congress have complained that our negotiators have not pursued our interests fully and effectively, we have ignored the international organizations and institutions which are vital to our trading interests.

By directing the President to seek a revision of the international trading rules, we are in effect saying that the GATT must be revitalized effectively to further our interest, but if the institutional problems are insoluable, a new organization and a new set of rules must be found in order to meet U.S. interests of the 1970's and beyond.

This bill would provide carefully limited authority to modify import restrictions for balance-of-payments reasons or to restrain inflation.

This bill would assure careful preparations for and conduct of the trade negotiations by providing: Public hearings, thorough Tariff Commission investigations of probable economic effects of trade agreements, a well-structured public advisory committee mechanism and continuing congressional oversight through the establishment of congressional advisers.

This bill provides for a congressional disapproval procedure that will give the Congress a stronger voice than ever before in the conduct of trade policy. In addition to the negotiation and implementation of trade agreements on nontariff barriers, the congressional disapproval procedure will apply: To the President's retaliatory actions against foreign trade discrimination, to his actions in using quotas or orderly marketing agreements for import relief measures, and to his authority to extend or continue nondiscriminatory treatment to certain Communist nations.

In each of the first four titles of the bill there is a provision for a veto procedure which I think is very important.

Guidelines, limitations, requirements of investigations and public hearings, consultations, disapproval procedures—clearly the delegation of authority in this bill is not an unlimited grant.

In reality the bill will constitute a return to this Congress of its rightful role in carrying out its constitutional responsibilities over tariffs and trade.

In this respect, I want to assure my colleagues that the Committee on Ways and Means intends to fully exercise its oversight obligations. Not only does the bill provide for a continuing consultation with the Congress but, as indicated in the report, the Committee on Ways and Means does not intend that the bill be passed, the authority granted, and then the bill be forgotten. As indicated in the report, the committee intends to closely monitor the preparations for and the conduct of the international negotiations and report to the House frequently on the progress being made. The committee is enlarging its staff in order to carry out these oversight functions and to staff the congressional advisers to the negotiations that are provided for in the bill.

Let me very quickly turn now to the rest of the bill, titles II and III of which relate to providing the opportunity for needed protection of our industries and their workers.

This bill rewrites the escape clause and provides more timely and effective import relief to industries and workers found to be suffering from serious injury due to imports. These provisions are aimed at keeping domestic producers in business and their workers employed by providing temporary import relief, if necessary.

Just as important, this bill establishes a program of direct assistance for workers and firms that is immediately, practical, and meaningful in terms of the support provided. These programs are far better than the existing ones, and represent a vast improvement over the administrations proposals in this area.

This bill emphasizes again and again the importance of providing conditions of fair trade to our producing interest. Thus, the bill amends the Antidumping Act to make it more responsive to the prevention of dumping practices.

This bill amends the countervailing duty provisions and restores the right of judicial review to domestic producers in cases of negative findings by the Secretary of the Treasury. For the first time, the Secretary will be required to act within 1 year under the countervailing duty provision. Through these amendments the committee has placed much pressure on the negotiators to complete an agreement of export subsidies. The committee intends that an equitable solution be found to the treatment of taxes at international borders.

This bill amends the foreign import restrictions provisions of current law and directs the President to act, by retaliation, if necessary, to remove injustifiable and unreasonable restrictions on U.S. exports. Further, the bill provides new authority to act against subsidized exports to the United States when, among other conditions, the President is advised that the antidumping and countervailing duty provisions are not sufficient to remedy the burden being imposed on domestic producers.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. ULLMAN. Mr. Chairman, I yield myself an additional 5 minutes.

Mr. Chairman, this bill does provide, and I want to emphasize, it does so at the request of the President, authority for the President to extend nondiscriminatory treatment to those Communist countries not now enjoying such treatment.

The committee has carefully reviewed the President's request and has imposed a number of limitations and conditions on the President's authority under this provision.

I would now like to turn to the question of the amendment that my colleague, the gentleman from Ohio (Mr. VANIK) is to offer to those provisions of title IV of this bill. In effect, his amendment would restore to the original Vanik language the limitation on the extension of credits to those countries which are found to have restrictive and undesirable emigration policies.

If my memory serves me correctly, the amendment that the gentleman from Ohio (Mr. VANIK) proposed, which established appropriate emigration policies as a condition for the extension of nondiscriminatory treatment to certain Communist countries was unanimously approved by the committee without the credit limitations. The issue of whether the credit limitation language should be included was resolved negatively by the committee on the grounds that our committee does not have jurisdiction over foreign credit matters.

Nevertheless, the members of our committee decided not to object to a vote of reinstituting the credit limitation language to Mr. VANIK's overall language on freedom of emigration and East-West trade. Thus, before the Rules Committee we were neutral on the issue of the rule permitting a vote on the Vanik credit limitaticn amendment.

This country is now making some credit available to the Soviet Union.

And I would like to look at that for just 1 second. The latest information I have is that U.S. Government participation in credits to the Soviet Union approximates $700 million. Direct Export-Import Bank credits—over 5 years—account for a little over $100 million, as do U.S. commercial bank credits in tandem with those Export-Import Bank credits. Outstanding Commodity Credit Corporation credits, which have a 3-year maturity, amount to just under $500 million. I am informed there is not much of a backlog of applications for Export-Import credit regarding the Soviet Union.

I am satisfied that the House will work its will on this amendment. I plan to vote against the amendment. I remain hopeful we can relate to these important humanitarian concerns in other ways.

I believe we should and must continue to seek ways that will provide for normal trading relations and still assure a resolution of the emigration issue.

Mr. Chairman, finally, this bill does provide under very carefully drawn safeguards, the authority to extend tariff preferences to exports from developing countries. Our committee had the benefit of counsel from our distinguished colleague from Florida (Mr. FASCELL), who chairs that very important Latin-American Subcommittee, and who is familiar with the problems of developing countries.

Some have expressed the opinion that this bill does nothing to assure our access to needed raw materials from abroad, nor does it provide a framework for avoiding both economic and political crises created by preemptive buying of or export embargoes on on scarce materials. This bill does provide—and I want the Members to know that the Committee on Ways and Means does not have jurisdiction over export controls—this bill does provide, however, a means to deal with those problems. By establishing a negotiating authority and by directing the President to seek the revision of outmoded trading rules and the negotiation of new trading rules needed to deal with uneconomic distortions of trade, this bill provides an excellent opportunity for the negotiation of international understanding on the question of scarcity in world markets that will assure more cooperative efforts to meet scarcity problems and rules against discriminatory practices.

This is a sound bill, Mr. Chairman. This is a well-balanced and a well-formulated bill. It deals forthrightly with the challenge of international markets. It deals effectively with the competitive problems of our domestic market. It deals imaginatively with congressional executive branch joint and separate powers and responsibilities.

I can think of no more important action this House can take than to approve overwhelmingly, H.R. 10710. This bill constitutes a new concept in trade legislation, domestically, and it seeks a new plateau of international understanding and mutually beneficial trade liberalization, internationally.

This legislation and the international negotiations it makes possible is broad enough to attract the cooperative efforts of all nations. It is flexible enough to deal with the environmental problems and other worldwide developments that are impinging on trade relations and comparative competitive abilities among nations.

I firmly believe that the best avenue to peace and world understanding is the peaceful pursuit of commerce. Opening the doors to fair trading practices must be the No. 1 consideration in any effort toward peace.

Let us not delude ourselves that there was not a lesson in the depression of a Smoot-Hawley Act.

Let us move forward to the trading world that the economics of the 1970's and 1980's dictate by supporting H.R. 10710, the Trade Reform Act of 1973.

I would now like to turn to a detailed discussion of the provisions of the bill.

TRADE AGREEMENT AUTHORITY

Basic authority to enter into trade agreements. The President has not had authority to enter into trade agreements since the expiration of such authority under the Trade Expansion Act of 1962 on June 30, 1967. The committee considers it essential that the Congress provide such authority for a 5-year period to enable the United States to prepare for, participate in, and complete the forthcoming major multilateral trade negotiations.

Section 101 of the bill would authorize the President to enter into trade agreements with foreign countries during the 5-year period following the date of enactment of the legislation, and to modify or continue rates of duty within specified limits to give effect to such agreements.

The President may enter into trade agreements whenever he determines that existing duties or other import restrictions of any foreign country or of the United States unduly burden and restrict our foreign trade and that any of the purposes of the bill would be promoted by such trade agreements.

AUTHORITY TO MODIFY RATES OF DUTY

The bill would authorize the President—by proclamation—to increase, decrease, or continue any existing rates of duty or continue duty-free—or excise—treatment pursuant to trade agreements with foreign countries. The exercise of this authority is subject to specific limitations and is conditioned by certain determinations the President is required to make and prenegotiation procedural steps he must follow.

In connection with a trade agreement the bill permits the President to:

Decrease rates of duty existing on July 1, 1973: First, by 60 percent in the case of duties of 25 percent ad valorem or below; and second, by 75 percent in the case of duties of more than 25 percent ad valorem, provided, however, that no duty currently above 25 percent ad valorem can be reduced to a rate below 10 percent ad valorem. Duty reductions on rates of 5 percent ad valorem or below are not subject to these limitations and these rates can be eliminated.

Increase rates of duty existing on July 1, 1973—or impose duties—to a level 50 percent above the rate existing on July 1, 1934—50 percent above the column 2 rate—or 20 percent ad valorem above the existing rate, whichever is higher. This limitation may be exceeded however, when necessary to obtain a substantially equivalent level of protection if a nontariff barrier or other trade distortion is converted to a tariff.

ROUNDING AND STAGING

In order to simplify rates of duty subject to reduction where the result would be a rate other than a whole number or an even half-number, the above limits may be exceeded by not more than one-half of 1 percent ad valorem for rounding purposes.

Section 103 of the bill would also require that tariff reductions may not take place in less than 15 equal annual installments or by annual reductions of a maximum of 3 percent ad valorem, or one-fifteenth, whichever is greater. The purpose of the staging provisions is to provide time for the adjustment of domestic industries and workers to the effects of the reduction or elimination of duties under a trade agreement. The staging provisions also cover the exceptional situation in which it might be necessary to interrupt the implementation of a trade agreement concession, if the rate of duty has been increased for any reason.

The bill clearly does not provide the unlimited tariff modification authority originally requested by the President. However, it is essential that the Congress grant the President tariff negotiating authority adequate to obtain solutions to some of the trading problems of particular concern to the United States in the forthcoming major multilateral trade negotiations. The purpose of this authority is to give the President the bargaining leverage and negotiating flexibility required to achieve the overall objectives of expanding foreign market access for U.S. exports and a more open and nondiscriminatory trading system.

To the extent feasible, this authority should also be utilized so as to insure reciprocity of market access to each sector or agriculture, manufacturing, and mining.

The trade agreement authority for modifying rates of duty permits the use of various types of negotiating approaches and techniques most appropriate for achieving these goals.

At the same time, the limitations on the degree of tariff reductions, the staging provisions, the reservation of certain articles from the negotiations, and the prenegotiation procedures for hearings, advice from and consultations with the Congress, domestic producers, and private organizations, provide the necessary safeguards to insure that the authority will not be exercised to the detriment of domestic interests.

The authority to increase tariffs which has always been granted the President, subject to limitation, is not to be used to raise tariffs across the board. In specific cases where tariff relationships among countries on particular products or in particular product sectors might warrant the harmonization of duty rates among countries tariff increases as well as decreases might be necessary.

This authority could also be used if the President decided to convert other types of trade barriers to fixed tariffs. However, in examining these latter possibilities, the committee has noted in the report that in most cases it would be preferable to reduce or phase out the import restraint of the nontariff barrier itself, rather than to resort to an often complex and unrealistic procedure to convert and reduce in terms of a hypothetical rate equivalent.

NONTARIFF BARRIERS AND OTHER DISTORTIONS OF TRADE

Considerable concern has been expressed in many quarters about the presence of nontariff barriers and other trade distorting measures. Indeed, in 1962 the Congress expressed concern that barriers other than tariffs were negating U.S. trade agreements rights. In the Trade Expansion Act of 1962 section 252 authorized and called for action by the President against unfair or discriminatory foreign import practices. Little or no action has been taken under this provision, however, and many of the problems, insofar as U.S. exports are concerned, have become institutionalized, making it all the more difficult for the United States to export.

The erosion of the principle of nondiscriminatory treatment with the proliferation of preferential trading arrangements in recent years, together with international trading rules which are outdated and unrealistic in today's trading world, or are not accepted and applied by all major trading countries, reduce both the opportunities for growth of U.S. exports in foreign markets and the mutual benefits intended by reciprocal trade concessions. Of particular concern is the presence of discriminatory practices and nontariff impediments to trade in some countries which deny equality of treatment and equivalent market acces between countries in the same product or product sector; for example, in agriculture and high technology manufacturers.

While offering a most attractive and accessible market to foreign producers, as indicated by the growing importance of manufacturers as a share of total imports, the United States also maintains a number of barriers and other trade distorting measures which are of considerable concern to our trading partners. The inclusion in section 102 of the bill of specific negotiating authority on such barriers makes it clear that the Congress attaches a great deal of importance to the reduction or removal of nontariff barriers in the major multilateral negotiations. For the purposes of this bill barriers include the American selling price (ASP) system of valuation. Given the diverse nature and complexities of such barriers and the fact that they are imbedded in domestic laws in many cases, it has not been possible to frame general implementing authority which can apply to the various types of agreements which may be negotiated. Thus, provisions of this bill are intended to meet the twofold objectives of: First, expediting and reducing the uncertainties of the process by which agreements can be implemented, thereby increasing the U.S. ability to negotiate agreements with foreign countries; and second, providing an increased role for the Congress in the trade agreements program through procedures enabling its proper consideration of agreements before and after their implementation.

The bill contains a statement by the Congress urging the President to take all appropriate and feasible steps within his power to reduce or remove trade barriers, including the negotiation of trade agreements with foreign countries. The Pesident is authorized to enter into such agreements during the 5-year period following enactment of this bill.

It is not possible at this time to anticipate all of the types of agreements that might be negotiated by the President under the authority of section 102, particularly with respect to the number of other parties to such agreements. However, the authority granted in section 102 is not intended to be an additional grant of authority for the President to extend the benefits of trade agreements on less than a nondiscriminatory basis. At the same time, it may well be that certain nontariff barrier agreements will encompass special undertakings or domestic procedures which are necessary for countries to become eligible for the benefits of the agreement, but no country-by-country discrimination would be involved in extending the benefit.

In addition, the bill includes a competitive balance of market opportunities provision stating that the attainment of competitive opportunities for our exports in developed countries equivalent to those accorded in our market to imports is to be a principal U.S. negotiating objective with respect to trade agreements on nontariff barriers. U.S. negotiators are to seek equivalent market access and equality of treatment, as between countries, for agricultural products and for product sectors of manufacturing. To the maximum extent feasible and appropriate, negotiations on nontariff barriers are to be conducted on the basis of product sectors to achieve this negotiating objective.

It is intended that, where feasible, competitive balance should be sought for major product sectors within industry and agriculture. Industrial product sectors are to be defined by the Special Representative for Trade Negotiations together with the Secretaries of Commerce or Agriculture, as appropriate, and after consultation with the Advisory Committee for Trade Negotiations and interested private organizations. The product sectors may be broad in scope as appropriate to best accomplish the negotiating objective.

While the bill does not specifically require the establishment of product sectors in agriculture, it is the committee's intention that, where feasible, competitive balance should also be sought for major agricultural products.

Wherever feasible, however, it is the clear requirement of the Congress that negotiations on nontariff barriers be conducted on a product sector basis to achieve equivalent market access and open, nondiscriminatory trading treatment among countries within the particular product sector. However, other negotiating approaches may be used to achieve solutions to nontariff barriers, and negotiations may take place across sectoral lines with tradeoffs of concessions between sectors, including between agriculture and industry, if a product sector approach is not feasible in a specific case.

Before the President enters into an agreement under this section to reduce barriers or other trade distorting measures he is to consult with the Committee on Ways and Means and the Committee on Finance of the Senate. Consultations should also be held with any other congressional committee with original jurisdiction over the subject matter covered by the agreement. The principal purpose of these consultations is to assess the ways in which domestic statutes or regulations would be affected by the agreement and consequently whether or not further congressional action will be required before the agreement can be implemented.

CONGRESSIONAL VETO PROCEDURE

The bill contains a congressional veto procedure—as an alternative to existing procedures—which is applicable to the implementation of trade agreements. The procedure may be used whether or not further congressional action is required. Thus, the President may submit agreements and implementing documents under this procedure when domestic statutes would be affected or when further congressional action, while not required, would otherwise be appropriate.

To the extent that Congress has authority to change State laws by ordinary legislative action, State laws covered by the subject matter of the agreement could be superseded by the orders and regulations accompanying the agreement.

Any trade agreements involving the reduction or elimination of nontariff barriers submitted to the Congress under this procedure can be implemented and any necessary or appropriate proclamations and orders carried out only if there is compliance with the following procedures:

First, the President must give at least 90 days advance notice to both Houses of Congress of his intention to enter into a trade agreement on a particular subject and must publish the notice in the Federal Register. The purpose of this first 90-day notice requirement is to assure consultation by the executive branch with the Congress, including the appropriate committees of the Congress, on the subject matter of a proposed agreement, to afford the Congress an opportunity to hold hearings, to indicate its reactions to the agreement, and to recommend modifications before it is entered into.

Second, after entering into the agreement, the President must deliver a copy of it and any proclamations and orders proposed for its implementation to both Houses of Congress, with an explanation of how they affect existing law and a statement of the reasons why the agreement serves U.S. interests and why each proclamation and order is necessary and appropriate.

Third, the agreement enters into force and the proclamations and orders take effect only if neither House of Congress adopts, by a majority of those present and voting, a resolution disapproving of the agreement during the 90-day period following the delivery of the documents.

If an agreement, together with the proclamations and orders necessary for its implementation, has been considered by the Congress pursuant to this section and has been disapproved by either House under this provision, it may be resubmitted together with new proclamations and orders, without meeting the requirement of section 102(f)(1) for a preliminary 90-day period of consultation.

The congressional veto procedure is to be considered an optional method of implementation, which is particularly applicable whenever it is determined through consultations with the appropriate congressional committees that domestic statutes would be affected by the nontariff barrier agreement.

Conversion of nontariff barriers to tariffs. This bill enables the President to negotiate trade agreements under section 102 involving the conversion of a U.S. trade barrier to tariffs of a substantially equivalent level of protection. The agreement under section 102 may also provide for the reduction or elimination of that portion of the tariff which represents the conversion of the nontariff barrier. However, the section 102 agreement cannot provide for the reduction of the column 1 rate of duty existing prior to the conversion. Section 101 can be used for this purpose with respect to an article on which a nontariff barrier has been or will be converted under section 102 if the following conditions are met: on or before the date on which the section 102 agreement for conversion of the nontariff barrier is submitted to the Congress under the congressional veto procedure, a statement of the reductions proposed in the column 1 rates under section 101 is also submitted, together with the determination by the Tariff Commission of the converted rates on such articles which afford substantially equivalent protection.

The purpose of these provisions is to insure that the Congress has full and complete information available to it on all tariff modifications proposed under trade agreements before they approve any agreement with respect to an article. These provisions insure that section 101 is not used to reduce a 1973 rate of duty subsequent to congressional consideration under the veto procedure unless the above-described advance notice has been given.

Whether the President chooses to convert the nontariff barrier into tariffs or to negotiate its direct removal or reduction, the congressional veto procedure is available to implement the agreement particularly where the implementation requires changes in domestic statutes. In the absence of further legislation, it is expected that trade agreements modifying the American selling price and the final list methods of customs valuation would be made subject to the congressional veto procedure whether or not the agreements involved the conversion of these measures into tariffs.

The committee has been assured, however, that due to the complexities involved and, in particular, to the unique legislative character of establishing a valuation and classification standards for international trade that the adoption of a new system of customs valuation or the Brussels tariff nomenclature will be the subject of a request for affirmative congressional approval through the regular legislative procedure.

OTHER AUTHORITY

Steps to be taken toward GATT revision; authorization of appropriations for GATT. Section 121 provides an authorization for an annual appropriation to pay the U.S. share of expenses of the General Agreement on Tariffs and Trade (GATT).

Although the fundamental objectives of the general agreement on tariffs and trade remain valid, developments in the world trading situation in the quarter century since it was negotiated necessitate the making of important changes in the application of the agreement and revision of some of its rules. Those provisions which are obsolete owing to changed circumstances should be updated and others revised in a manner accepted and applied equally by all major countries.

The bill directs the President to take action as soon as practicable to obtain changes in the GATT which will promote the development of an open, nondiscriminatory, and fair world trading system. In particular, the committee has insisted that the President should seek changes in the GATT especially in the following areas:

First, it is neecssary to revise the decisionmaking machinery in the general agreement in order to more nearly reflect the balance of economic interests. GATT participants have increased from an initial 19 in 1947, most of which had comparable economic interests, to 85 in 1973, with widely varying economic interests. The advantages of mediation panels, and of weighted voting as an alternative to the present one vote per country system should be explored.

Second, article XIX of the GATT should be revised to make it a truly international safeguard mechanism which takes into account all forms of import restraints that countries use in response to injurious competition or threat of such competition. The committee does not intend that any modification be so rigid as to make it impossible legitimately to protect against injurious competition nor should it be so flexible as to result in insufficient discipline. What the committee does intend is that the international safeguard mechanism developed will be adhered to by all contracting parties on the basis that no one country or group of countries are favored or are disadvantaged.

Third, the committee recommends that GATT articles be extended to conditions of trade not presently covered in order to move toward more fair trade practices. Many agricultural practices, such as export subsidies, production subsidies, and variable protection at the borders, are not adequately covered by GATT provisions or are not specifically covered. Existing GATT provisions are also inadequate or nonexistent with respect to Government procurement and rules for applying product standards, for example.

Fourth, international fair labor standards and procedures to enforce them should be included in the GATT. The committee is including in this bill certain measures to assist in the economic adjustments which may be necessitated by increased imports. It believes, however, that additional steps are needed which would lead to the elimination of unfair labor conditions substantially disrupting or distorting international trade. The GATT should seek to develop principles with respect to earnings, hours and conditions for employment of workers, and to adopt public petition and confrontation procedures.

Fifth, GATT provisions on tax adjustments in international trade should be revised to insure that they will be trade neutral. Present provisions permit adjustments on traded goods for certain indirect taxes but not for direct taxes. The President shall seek such modification of present rules as would remove any disadvantage to countries like the United States relying primarily on direct taxes and put all countries on an equal footing.

Sixth, the committee also recommends revision of the balance-of-payments provisions in GATT so as to specifically recognize import surcharges as the preferred means by which industrial countries may handle balance-of-payments deficits when import restraint measures are required. Such revision should be consistent with whatever arrangements are agreed to in negotiations to reform the international monetary system. In view of recent practice, other countries would probably support revision of the GATT so as to specifically permit import surcharges to be imposed to take care of balance-of-payments problems and to prefer such measures to quantitative restrictions.

BALANCE-OF-PAYMENTS AUTHORITY

Section 122 of the bill provides for flexible authority for the President to deal with fundamental international payments problems, including authority to impose an import surcharge or other import limitations for a period not longer than 150 days—unless extended by act of Congress—to deal with a serious balance-of-payments deficit, to prevent a significant depreciation of the dollar, or to cooperate with other countries in correcting an international balance-of-payments disequilibrium.

Such restraints must be applied to imports from all countries, except that a surcharge may be applied to only those countries which fail to correct a persistent and excessive surplus in their international payments position. The section also authorizes the President to reduce or suspend tariffs or other import restrictions for a period not longer than 150 days—unless extended by act of Congress—to deal with a persistent balance-of-payments surplus, or to prevent significant appreciation of the dollar.

The authority provided the President to deal with fundamental international payments problems in specific situations—subject to the 150-day limitation, if not extended by act of Congress, consists of the following:

First, to impose a temporary import surcharge in the form of a duty not to exceed 15 percent ad valorem, and/or temporary quantitative limitations on imports in the case of a serious U.S. balance-of-payments deficit, or to prevent an imminent and significant depreciation of the dollar, or to cooperate with other countries in according an international balance-of-payments disequilibrium.

Second, to reduce temporarily duties by not more than 5 percent ad valorem and/or reduce or suspend temporarily other import restrictions in the case of a persistent U.S. balance-of-payments surplus, or to prevent a significant appreciation of the dollar.

The President may suspend, modify, or terminate, in whole or in part, any action under this section at any time, consistent with the provisions of the section.

The committee believes that this authority could prove useful in those unusual circumstances where such restraints are necessary to deal with serious balance-of-payments problems, but feels that it should be carefully circumscribed. Therefore, the authority is limited to 150 days unless there is further congressional authorization, and to a maximum surcharge of 15 percent ad valorem.

In addition, subsection (e) limits the impact of quotas which the President can impose under this authority. Subsection (e) provides that any quantitative limitation imposed on the quantity or value of an article must not reduce the level of importation of such article, based on quantity or value as the case may be, below the level existing during the most recent period which the President determines to be representative. Since the quotas are for balance-of-payments purposes and are not designed to alter trends in the growth of imports of particular products, any increase since the end of the representative period in domestic consumption of the article must be taken into account.

Quotas may be imposed only if this type of measure is permitted as a legitimate instrument to deal with international balance-of-payments problems by international agreements to which the United States is a party—such as the GATT or the articles of agreement of the IMF—and only to the extent that the fundamental imbalance cannot be dealt with effectively by the imposition of an import surcharge.

For the purposes of subsection (a), a "large and serious U.S. balance-of-payments deficit" shall be considered to exist whenever the President determines that the balance of payments has been in substantial deficit over a period of time and that such deficit is likely to continue in the absence of corrective action. A large decline in the U.S. net international monetary reserve position would be evidence of a serious balance-of-payments deficit.

The committee does not intend that a small or even a large balance-of-payments deficit of short duration would warrant the exercise of the authority under this section.

Even in a situation where use of this authortiy might be justified, it is contemplated that other corrective measures will be considered before this authority is exercised.

U.S. cooperation in correcting a fundamental international balance-of-payments disequilibrium as reflected in payments positions of other countries is authorized when allowed or recommended by the International Monetary Fund. Multilateral cooperation could include, for example, the implementation of joint actions to restrict imports from a country running large and consistent surpluses, if that country refuses to take measures to ameliorate the payments disequilibrium.

Subsection (c) sets forth the principle that import restricting actions be applied on a nondiscriminatory basis, and quotas be applied on a basis which shall aim at a distribution of trade approaching that which foreign countries might expect in the absence of quotas. In the event that it is necessary for quotas to be used under this section, provision should be made for meeting the needs of small business importers who may find it difficult to keep supply lines open in competition with larger businesses. However, the President may impose a surcharge on a selective basis against one or more countries having large or persistent balance-of-payments surpluses if the President determines that the purposes of this section would best be served by such action. The intent of this provision is to create incentives and pressures on surplus countries which have disproportionate reserve gains and persistently refuse to undertake effective adjustment action, comparable to the incentives to adjust on deficit countries which result from convertibility. Upon the entering into force for the United States of new rules regarding the application of surcharges as a part of reform of internationally agreed balance-of-payment adjustment procedures, the President must impose any surcharge authorized under this section consistently with such new international rules.

In this connection, the committee has provided in subsection (c) that it is the sense of the Congress that the President seek modifications in international agreements aimed at allowing the use of surcharges in place of quantitative restrictions and providing rules to govern the use of such surcharges as a balance-of-payments adjustment measure within the context of arrangements for an equitable sharing of balance-of-payments adjustment responsibility among deficit and surplus countries.

Subsection (d) provides that actions taken under this balance-of-payments provision must be applied uniformly to a broad range of imported products. However, the President may exempt certain articles or groups of articles because of the needs of the U.S. economy relating to such factors as the unavailability of domestic supply at reasonable prices, the necessary importation of raw materials, and avoiding serious dislocations in the supply of imported goods. This authority would permit the nonapplication of an import surcharge to duty-free imports, for example. In addition, exceptions may be made where import restricting actions would be unnecessary or ineffective. As indicated in the bill these exceptions are to be uniform as to their application. Examples of situations in which import restricting actions would be unnecessary or ineffective might include, among others, situations where goods are in transit, or situations where commitments for the importation of goods are so far advanced, such as binding contracts, that application of the import restrictions would only result in higher prices for goods to domestic interests. The authority to implement import restricting measures or to exempt particular products from such measures cannot be used for the purpose of protecting individual domestic industries from import competition.

Subsection (g) prohibits the President from invoking any provision of law authorizing the termination of tariffs concessions as authority for imposing a surcharge on imports into the United States.

BALANCE-OF-PAYMENTS SURPLUS OR APPRECIATION OF THE DOLLAR

In the case of a persistent balance-of-payments surplus or with respect to efforts to prevent a significant appreciation of the dollar, subsection (b) authorizes the President to reduce temporarily the duty applicable to any article by not more than 5 percent ad valorem and/or to lower the restrictive effect of or suspend temporarily any quantitative limitation applicable to any article.

The President may impose such import measures only for a period of 150 days unless a longer period is authorized by act of Congress. Furthermore, the President may not apply such measures to any article where he determines that such action would cause or contribute to material injury to firms or workers in any domestic industry, including agriculture, mining, fishing, or commerce, impair the national security, or be otherwise contrary to the national interest.

For the purposes of subsection (b), a "large and persistent U.S. balance-of-payments surplus" shall be considered to exist whenever the President determines that the balance-of-payments has been in substantial surplus for a period of time and that such surplus is likely to continue in the absence of corrective measures. A large increase in the U.S. international monetary reserves in excess of needed levels of reserves would be evidence of a large and persistent U.S. balance-of-payments surplus.

AUTHORITY TO SUSPEND IMPORT BARRIERS TO RESTRAIN INFLATION

The committee has provided the President with authority in section 123 to reduce temporarily import barriers as a means to restrain inflation. This provision is designed to give the President some flexability to initiate anti-inflation import measures which are responsive to the need to insure domestic supply of imported articles at reasonable prices.

Subsection (a) authorizes the President, during a period of sustained or rapid price increases, to reduce or suspend duties and/or increase the level of imports which may enter under other import restrictions on any article or group of articles, if he determines that supplies of such articles are inadequate to meet domestic demand at reasonable prices. While your committee recognizes the breadth of this authority, it feels that such authority has been sufficiently limited.

The duration of any action taken by the President under this section has been limited to 150 days unless a longer period is authorized by act of Congress. Once an article has been subject to an action under this section, it cannot be subject to another such action until 1 year has expired after the termination of the effective period of the prior action. In addition, the committee has provided in subsection (a) that actions taken under this section in effect at any time shall not apply to more than 30 percent of the estimated total value of all U.S. imports of all articles during the time such actions are in effect. Finally, subsection (b) stipulates that the President shall not exercise his authority under this section if in his judgment such action would cause or contribute to material injury to firms or workers in any domestic industry, impair the national security, or otherwise be contrary to the national interest. In addition to excluding from action articles subject to import restraint under section 22 of the Agricultural Adjustment Act, under section 128(b) of the bill, articles subject to special import restraint under the import relief or national security provision are also exempt from action.

COMPENSATION AUTHORITY

The purpose of section 124 is to provide the President with authority to compensate foreign countries for increases in U.S. tariffs or other import restrictions when the United States has been found obligated to pay such compensation for trade restrictions imposed pursuant to an import relief finding under section 203. Authority to reduce duties for purposes of compensation in the past has been the general negotiating authority. Such authority does not presently exist, since the authority to proclaim reduction under section 201 of the Trade Expansion Act expired on June 30, 1967.

Subsection (a) grants the President discretionary authority, whenever import relief has been granted pursuant to the escape clause, to enter into agreements with foreign countries to grant new concessions in the form of modification or continuation of any existing duty or continuation of any existing duty-free or excise treatment to the extent he determines necessary or appropriate to maintain a general level of reciprocal and mutually advantageous concessions.

Subsection (b) limits duty reductions to not more than 30 percent below the existing rate. The President could stage duty reductions if appropriate.

Subsection (c) provides that no agreement may be entered into under this section for the 5-year period following enactment of this act during which time compensation agreements may be negotiated and implemented under the basic negotiating authority of section 101.

The authority can be used where the President has provided import relief pursuant to section 203. In such cases, the United States is required by GATT article XIX to consult with foreign countries having an interest as exporters of the products concerned. If a satisfactory arrangement is made, that is, if compensation is not forthcoming, countries adversely affected have the right under GATT to restrike the balance of concessions by increasing or imposing equivalent new barriers on U.S. exports. If, on the other hand, the President can offer corresponding or offsetting tariff reductions on other articles, the balance of concessions can be restored without damaging U.S. exports.

It is not intended that this section be interpreted as requiring the payment of compensation by the United States whenever import relief has been granted pursuant to section 203. The GATT provides that countries seeking such compensation must show that they have been adversely affected, and it is expected that no action will be taken under this section until such a showing has been made.

RENEGOTIATION OF DUTIES

In order to cope with problems that may develop in the 2 years following the initial trade negotiation period, section 125 provides the President additional authority, subject to strict limitations and the same legislative standards provided in his basic negotiating authority, to renegotiate tariff agreements. The committee is informed that this authority may be needed to eliminate tariff discrepancies and anomalies that often only become apparent after the results of the major tariff negotiations are more closely examined.

Subsection (a) authorizes the President to enter into trade agreements and to proclaim modifications or continuance of existing duty, duty-free or excise treatment or additional duties to carry out such agreements with foreign countries. The scope of negotiations under this authority is limited so that in any one year, duty reductions or continuation of duty-free treatment are limited to articles which account for not more than 2 percent of the total value of U.S. imports during the previous 12-month period. Duty reductions are limited to 20 percent below the existing rate and no duty rate for any article may be decreased or increased to a rate which is lower or higher than the rate which would have resulted if the maximum authority granted in section 101 had been exercised for that article. In other words, the resulting tariff modification on any article under authority of this section and section 101 may not exceed the limits set forth in subsections 101 (b) and (c).

TERMINATION AND WITHDRAWAL OF AUTHORITY

The bill continues without change the requirement in previous trade legislation that every trade agreement entered into under this bill is subject to termination or withdrawal, upon due notice, at the end of a period specified in the agreement. This period is not to be later than 3 years from the effective date of the agreement.

This section also continues the authorization of the President to terminate, in whole or in part, any proclamation made under the bill. This authority has existed in all prior acts since 1934.

Subsection (c) contains explicit authority to implement domestic actions following the suspension or withdrawal of obligations or withdrawal of concessions under such agreements. The authority used in the past for such actions included the termination authority, for example, section 255(b) of the Trade Expansion Act—and the general trade agreement implementation authority—for example, section 201(a)(2) of the Trade Expansion Act.

The purpose of subsection (c) is to provide additional flexibility in existing law to enable the President to exercise U.S. rights and obligations as fully as foreign countries are able to do so under the GATT and other international trade agreements, so as to protect U.S. trading interests in the context of the procedures of GATT or other trade agreements. It specifically authorizes the President to give domestic legal effect to the withdrawal or suspension of trade agreement concessions to any foreign country in the exercise of our international rights and obligations and is intended to replace his general authority to withdraw or suspend obligation trade agreement concessions in exercising U.S. rights or obligations under the GATT. The authority enables the President to react to actions by other countries and also to implement the withdrawal of U.S. concessions under the renegotiation rights of the GATT.

This subsection explicity deals with the questions of partial withdrawal of concessions—setting intermediate rates between those presently in existence and those previously in existence—and terminating for a time, that is suspending, obligations or concessions. This explicit authority is necessary to clarify these technical issues which hinder flexible administration of the trade agreements program and as indicated is intended to replace the general authority which in the past was used for such purposes.

If the withdrawal takes the form of imposing or increasing tariffs, the new duty rate may be set at any level up to 20 percent ad valorem above July 1, 1973 rates of duty, or 50 percent above the statutory rate of duty, whichever is greater. For example, if the present tariff is 10 percent and the column 2 rate is 40 percent, a new tariff could be set at any level between 10 and 60 percent. Tariff increases may be applied temporarily, and then returned to prior concession levels. This section does not contain independent authority to decrease tariffs although the suspension of a previously negotiated tariff increase, which have been rare in the past, could have this effect.

The use of this authority will be limited to the exercise of U.S. rights and obligations under international trade agreements. It is not the intention to use this authority either as a substitute or extension of other authorities under this or other acts. It could not be used, for example, and it is clearly intended that it not be used to impose a surcharge for balance of payments purposes.

Subsection (d) provides for the continuation of the trade agreement rates of duty for a period of 1 year unless and until the President or Congress acts to modify those rates. Within 60 days following the termination of any trade agreement, the President is required to submit to Congress recommendations for the maintenance or modification of the rates affected. The President is authorized to terminate the proclamations giving effect to the trade agreement rates, thereby reinstating the prior proclaimed rate, or, if there is none, the statutory rate.

The administration has requested an explicit procedure for dealing with rate changes following international actions which terminate the effect of international agreements. Were domestic tariffs to be required to "spring back" to the statutory rate if trade agreements were terminated, the result would be chaotic. A sudden reversion to the 1930 rates could give a severe shock to the Nation's economy. Similarly, our export sales could be affected drastically by withdrawal of foreign tariff concessions. Under this provision, a spring-back is explicitly prevented for a period of 1 year, to permit the President and the Congress to make a considered determination of the appropriate rates. Thus, under this provision, if a trade agreement, or any part of it were terminated, the parties could choose to maintain their staff concessions in the absence of the trade agreement. The United States would thus also be able to apply its concession rates on the basis of de facto mutual benefit, perhaps pending the renegotiation of a terminated trade agreement.

In examining the situation regarding the status of rates of duty once their trade agreement "reason for being" has been terminated, the committee was concerned both with the possible effects of a sudden return to higher rates of duty, and also with the implication that the United States would take no action should other countries terminate their trade agreement obligation to the United States by terminating a trade agreement. Clearly, such a situation requires a review of future action in the trade field by the Congress. Thus, the committee has amended the original proposal of leaving terminated rates of duty to the discretion of the President, and provide for possible congressional action after recommendation by the President.

NONDISCRIMINATORY TREATMENT

With certain exceptions contained in the bill or in other existing legislation, section 127 requires that duties, other import restrictions, and duty-free treatment proclaimed in carrying out any trade agreement under title I shall apply to the products of all countries whether imported directly or indirectly. This provision is substantially the same as section 251 of the Trade Expansion Act of 1962.

The principle that duty reductions as well as other trade concessions shall be extended without discrimination among countries entitled to such treatment is known in international law as the most-favored-nation principle. This principle has been the continuing basis of U.S. efforts to achieve an open and nondiscriminatory world trading system and is consistent with past U.S. trade agreements legislation and our international obligations. It is indeed the cornerstone of the GATT, and departure from the principles of nondiscriminatory treatment is threatening international cooperation.

Exceptions from the requirement for nondiscriminatory treatment authorized in the bill would include: First, generalized preferential tariff treatment extended to certain developing countries under title V; second, surcharges imposed on imports from countries in persistent balance-of-payments surplus as authorized in section 122; third, retaliation against unreasonable and unjustifiable restrictions under section 301; and fourth, countries not now receiving nondiscriminatory treatment and which would not qualify for nondiscriminatory treatment under title IV.

Reservations for national security or other reasons. No reduction or elimination of existing import restrictions on any product is authorized by the bill if the President determines that such action would impair national security. A parallel provision is contained in the Trade Expansion Act of 1962 (sec. 232 (a)). Section 232(b) of the TEA, which authorizes the President to adjust imports of any article when he determines that such imports threaten or impair national security, will also remain in effect. Section 128 of this bill requires that not later than 60 days after taking an import action under section 232 of the Trade Expansion Act for reasons of national security, the President shall submit a report to Congress stating the reasons for his action. Annual reports to Congress on section 232 are also required.

The President is required to reserve from trade negotiations or from other authorized actions which reduce or eliminate import restrictions any article (1) for which a national security determination has been made or (2) which is subject to an import relief measure under section 203 of the bill or section 351 of the TEA He may similarly reserve any other article when he considers this appropriate, taking into account information and advice provided by the Tariff Commission, advice from the appropriate Departments, and information gathered in public hearings.

HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

Tariff Commission advice. In connection with the proposed trade agreements, the President must make public and submit to the Tariff Commission lists of articles to be considered from modification or continuance of duties or excise treatment in negotiations under section 101, 102, 124, or 125. For articles considered for duty modification, the list shall specify the provision of title I under which such consideration may be given. The President must seek the advice of the Tariff Commission before proclaiming preferences for articles imported from eligible developing countries under title V.

The Tariff Commission must advise the President, within 6 months, of the probable economic effect of duty modifications on the domestic producers of competitive articles and on consumers for each article listed. This advice is sought to assist the President in making an informed judgment of the effect of duty modifications on the various segments of the U.S. economy. The advice to the President may also include the Tariff Commission's consideration as to whether a duty reduction on any article should be staked over a longer period than the minimum provided in section 103.

The Tariff Commission shall also report to the President, at his request, the probable economic effect of the modification or elimination of trade barriers through negotiations under section 102. Such advice shall, where feasible, include the probable economic effect of modification of such trade barriers to international trade on domestic industry and purchasers and on domestic prices and supply of articles. The advice contemplated under this section should include the extent to which market access would be increased or otherwise affected by modification or elimination of the trade barrier.

Any converted duty rates, affording substantially equivalent tariff protection as the trade barrier, which are required under section 102(g) shall be included in the advice to the President under this section.

In preparing its advice, the Tariff Commission must hold public hearings and investigate and analyze certain economic factors which are identical to those listed in the Trade Expansion Act of 1962. It is intended that the Tariff Commission make a special effort, to the extent feasible, to study foreign production and marketing factors.

Departmental advice. The President under section 132 is required to seek information and advice prior to entering into any proposed trade agreement under section 101, 102, 124, or 125, and before proclaiming preferences for imports from eligible developing countries under title V, from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State, and the Treasury, and from the Special Representative for Trade Negotiations. He may also seek information and advice from other sources he may deem appropriate. This provision is substantially the same as section 222 of the Trade Expansion Act of 1962. It is intended to assure that the President receives the views of agencies most concerned with the outcome of the negotiations.

Public hearings. Section 133 of the bill requires the President to provide for public hearings in which any interested person may present his views on any proposed trade agreement or the modification of any duty or other import restriction provided for under section 101, 102, 124, or 125. Such hearings are also required before any article is designated an "eligible article" for purposes of generalized tariff preferences for developing countries under title V of the bill. These hearings will be of substantial value in insuring what a full range of views is presented in all proposed trade agreements.

PREREQUISITE FOR OFFERS

In negotiating a trade agreement under section 101, 102, 124, or 125 the President may make an offer to modify or continue a duty or to continue duty-free or excise treatment or impose additional duties, with respect to any article only after receiving a summary of the public hearings held with respect to that article and advice from the Tariff Commission—if received within the 6 months' time limit—of the probable effects of modifications in the existing customs treatment. These procedures must also be followed with respect to articles considered for preferential status for a beneficiary developing country under title V of this bill.

Advice from private sector. The purposes of section 135 are to establish the institutional framework to assure that representative elements from the private sector have the opportunity to make known their views to U.S. negotiators, and to provide the latter a formal mechanism through which to seek information and advice from the private sector, with respect to U.S. negotiating objectives and bargaining positions before the President enters into a trade agreement concluding the multilateral trade negotiations.

This section provides for the creation of two general types of advisory committees and in addition requires the President to provide opportunity for the submission of information and recommendations on an informal basis by other private organizations or groups. One overall policy-level Advisory Committee for Trade Negotiations is established. This committee will be composed of representatives of Government, labor, industry, agriculture, consumer interests, and the general public. The advisory committee is to be composed of not more than 45 members. The broad range of interests to be represented on this committee is intended to provide U.S. negotiators with a balanced view of what objectives U.S. negotiators should pursue in the multilateral trade negotiation.

The requirement that the President also establish advisory committees for particular product sectors to be representative, so far as practicable, of all industry, labor, or agricultural interests in the sector concerned reflects your committee's concern, that in past trade negotiations there has not been adequate input from U.S. producers who are in the best position to assess the effects of removing United States and foreign trade barriers on their particular products.

The emphasis of the procedures provided is to strengthen the hand of our negotiators by their knowledge and familiarity with the problems domestic producers face in obtaining access to foreign markets. Therefore, these committees must be representative of the producing sectors of our economy. The committee believes that special consideration should be given to consultation with those representing the interests of small business.

The kinds of advice with respect to particular products which your committee believes will be useful to U.S. negotiators during preparations for, and conduct of, the negotiations include: Policy advice and information on negotiations on particular products both domestic and foreign; and advice on other factors which are relevant to positions of the United States in trade negotiations. It is anticipated that the advisory committees will be particularly helpful in identifying opportunities for expanded U.S. exports. However, their advice on the balance of market access being sought in the sectors in agriculture and manufacturing also should serve as a guide to our negotiators.

The Special Representative for Trade Negotiations is, of course, not bound by the advice of any particular group of producers. Advisory committees are entitled to be informed at an appropriate time when their advice and recommendations have not been accepted. Provision is also made in this section for inclusion in the President's report on the results of the negotiations, a report on the consultations with these committees, the issues involved in such consultations, and the reasons for not accepting their advice and recommendations. The report must indicate the extent to which the advice of the advisory committees was or was not accepted.

If the product advisory committees are to play an effective role in the negotiations they should be privy to our negotiating objectives, strategy, and tactics. These are not subjects which can be discussed in open meetings with the public, including representatives from other governments and the press. For that reason, your committee has included a provision which stipulates that whenever, and to the extent it is determined by the President or his designee, that such meetings will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions, meetings of the product advisory committees may be exempted from the requirements of subsections (a) and (b) of section 10 of the Federal Advisory Committee Act—relating to open meetings, public notice, public participation, and public availability of documents.

It is anticipated that, as the advisory committees begin discussion of U.S. negotiating positions, one determination could be issued for all future meetings on that subject.

We have also provided that information received in confidence by an advisory committee may not be disclosed to any person other than to officers or employees of the United States designated by the Special Representative for Trade Negotiations, by the Committee on Ways and Means of the House of Representatives, or by the Committee on Finance of the Senate, to receive such information.

In addition, there is a provision in this section to assure private organizations or groups, including those whose interests may not be fully represented by any of the formally constituted advisory committees, the opportunity to submit pertinent information and recommendations on an informal basis to U.S. negotiators.

Finally, it is made clear that this section should not be construed to authorize or permit any individual to participate directly in any trade negotiation. In trade negotiations conducted under the auspices of the General Agreement on Tariffs and Trade, the direct participation of persons other than Government representatives is generally not permitted.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Section 141 of the bill would establish the Office of the Special Representative for Trade Negotiations, and, therefore, would continue and more firmly establish the Special Representative for Trade Negotiations as the official who, acting for the President, is to be the chief representative of the United States for trade negotiations under trade agreement negotiating authority.

This position was established in the Trade Expansion Act of 1962 with the implicit intention of providing the Congress with a focal point in the executive branch for responsibilities for carrying out the authorities delegated to the President by the Congress under trade agreement legislation. As indicated in the legislative history, the position was created to provide both better focus and centralized direction for treating trade negotiations and trade problems from an overall commercial point of view—and to downplay the strictly foreign policy orientation that trade agreement negotiations had been subjected to in the past under the leadership of the Department of State.

While there has not developed as close a relationship as is desirable between the Special Trade Representative and the appropriate committees in the Congress, the bill, in establishing the Office of the Special Trade Representative, is reaffirming the conclusion that a strong and independent office, headed by a Government official reporting directly to the President and responsible to the Congress, is the best means of assuring that in trade policy matters the United States is speaking with one strong voice on behalf of the executive branch and that positions taken accurately reflect the intent of the Congress.

Because it is necessary that the Special Representative for Trade Negotiations be recognized as the chief trade representative of the United States—as provided by the bill—the committee attaches great importance to the establishment of the office as a necessary support for the Special Representative for Trade Negotiations in his extremely important duties in acting for the President, and in speaking for the United States and the Congress in the forthcoming multilateral trade negotiations.

At the same time, the committee believes the Special Representative for Trade Negotiations should be assisted by two deputy representatives for trade negotiations who can act for, and share the responsibilities with, the Special Representatives for Trade Negotiations.

The bill provides that the Special Representative and the two deputies shall be appointed by the the President, by and with the advice and consent of the Senate. The Special Trade Representative for Trade Negotiations will have the rank of Ambassador Extraordinary and Plenipotentiary and his deputies shall hold the rank of Ambassador. The committee intends in the establishing of the Office of the Special Representative that the Special Representative and his two deputies holding office prior to the effective date of the act, if already confirmed by the Senate, continue in office without further confirmation.

As indicated, the bill provides that the Special Trade Representatives for Trade Negotiations shall be the chief representative of the United States for each trade negotiation under title I, or section 301 of the bill regarding unfair trade practices; he shall be responsible to the President and the Congress for the administration of the trade agreements program—he shall advise the Congress with respect to nontariff barriers, international commodity agreements, and others related to the trade agreements program; and he shall be responsible for making reports to the Congress on the operations of the trade agreements program as required in other provisions of the bill.

The Special Representatives for Trade Negotiations shall also be Chairman of the Interagency Trade Organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 and, consistent with that provision and with this bill, consult with other Federal agencies in the performance of his duties.

Despite the creation of the position of the Special Representative for Trade Negotiations in 1962, your committee has been greatly concerned at the lack of focus in the conduct of trade policy, and at the lack of an effective, cooperative interchange with the Congress on policy matters and issues under its jurisdiction which are of considerable significance and importance to the economic welfare of the United States and its people. It is the intent of your committee, that through the establishment of the Office in question, together with the public and congressional advisory committee structure envisaged in the bill, that greater cooperation between the executive branch and the Congress—serving the practical needs of trade and commerce to a greater extent than in the past—will be achieved.

The committee did not provide in the bill for the transfer of outstanding appropriations from the existing office to the office statutorily established under the bill. It is intended by the committee that such funds be so transferred.

CONGRESSIONAL DISAPPROVAL PROCEDURES WITH RESPECT TO PRESIDENTIAL ACTIONS

Due to the unique nature of nontariff barriers and other distortions of trade including their relationship to domestic law and the problems of the implementation of trade agreements providing for their reduction or elimination, it has been difficult to develop appropriate trade agreements authority in this area. The President, in his trade proposals embodied in H.R. 6767, proposed a procedure encompassing review and possible congressional veto of trade agreements submitted by the President to the Congress when he determined further congressional action for the implementation of such trade agreements was necessary.

In considering the President's proposal on nontariff barriers, the committee determined that it would be constitutionally more appropriate that the Congress authorize the President to enter into trade agreements providing for the reduction or elimination of nontariff barriers and other distortions under specific guidelines, since the implementation of such trade agreements often involved other domestic legislation. The committee also considerably tightened the provision with respect to congressional disapproval procedure for agreements negotiated and presented to the Congress, and for proposals for their implementation. Consultations with the appropriate committees are required, including the Committee on Ways and Means in the House and the Committee on Finance in the Senate. Moreover, it is envisaged that there will be continuing consultations with the congressional delegation to the negotiations as provided in section 161 of the bill.

In developing the procedures for congressional consideration of trade agreements respecting nontariff barriers, the committee determined that in a number of other instances authorities granted to the President might also be subject to the same procedures for possible disapproval. Thus, in addition to the procedures for disapproving nontariff barrier agreements, the bill provides that such procedures will be used with respect to: (a) actions the President might take with respect to import quotas and orderly marketing agreements under section 203, (b) actions the President might take with respect to unfair trade practices under section 301, and (c) findings the President might make and actions the President might take with respect to the extension of or continuation of nondiscriminatory treatments to the products of certain state trading countries.

The bill, therefore, provides for the consideration of resolutions disapproving the entering into trade agreements on distortions of trade or disapproving certain other actions as discussed above. A resolution respecting the subject matter described may be referred to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate, as well as other committees of original jurisdiction with respect to the entering into force of trade agreements on distortions of trade. The bill provides that resolutions disapproving the actions proposed by the President may be discharged from the appropriate committee if no action has been taken by such committee at the end of the 7 calendar days.

Such a motion to discharge is highly privileged and may be made only by an individual favoring the resolution, and the debate on such a motion should be limited to not more than 1 hour, time to be equally divided between the opponents and proponents. An amendment to the motion is not in order and it will not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

When the committee to which the resolution has been referred has reported, or has been discharged from further consideration of, a resolution, it will be in order at any time thereafter to proceed to the consideration of the resolution, and such motion is highly privileged and is not debatable. Debate on the resolution shall be limited to no more than 10 hours to be equally divided between opponents and proponents.

If, at the end of 90 days after the date which a document referred to in sections 102(f), 204(b), 302(b), or 406(a) or (b) has been transmitted to the Congress, neither House has acted favorably on a motion to disapprove of the action proposed to be taken by the President, such action will become effective.

CONGRESSIONAL LIAISON AND REPORTS

Participation by Members of Congress as advisers to the negotiating delegation and the consultations will be required with respect to actions contemplated by the President under the authorities granted him by the bill. Section 161 envisages a degree of consultations and oversight activity not previously considered under past extension of trade agreements authority.

In order to meet this need, and in order for the Congress to carry out its responsibilities through the Committee on Ways and Means of the House and the Committee on Finance of the Senate, the bill provides that there shall be five Members of each House selected by the President to serve as accredited official advisers to the U.S. delegation to international conferences, meetings, and negotiating sessions, with respect to trade agreements. In the case of the five Members, each either from the House and from the Senate, no more than three shall be of the same political party—their selection by the President shall be upon the recommendation of the Speaker of the House or the President of the Senate, respectively. It is contemplated that the congressional advisers shall attend the negotiating sessions of the forthcoming multilateral trade negotiations and shall serve at other conferences, meetings, and sessions involving trade agreements.

The President shall appoint the congressional delegation to negotiations at the beginning of each regular session of Congress.

It is the consensus of the committee that the congressional delegates be selected on the basis of annual rotation in order that in the course of the 5-year period of negotiating authority, each member of the committee will have had the opportunity to serve as a congressional delegate if he so desires. On the other hand, in view of the need for some continuity, members may be reselected if that is found to be desirable. Given the unique grant of authority under the bill, the committee considers the continuing service of members of the Committee on Ways and Means as congressional delegates to negotiations to be an essential feature of oversight responsibilities of the committee.

In this provision and in other provisions of the bill, the committee has provided for its oversight responsibilities. For example, it is anticipated that the committee will hold frequent meetings of the full committee to be briefed by the committee staff, by a representative of the executive branch, and by its own members who are serving as congressional delegates, on developments in the multilateral negotiations and in trade policy. It is the plan of the committee that such briefing sessions will serve as a basis for periodic formal reports by the committee to the House. In addition, it is planned by the committee that public hearings will be held annually on the report required to be submitted by the President to the Congress on the operations of the trade agreements program and the other provisions of the bill. It is expected that, with the enactment of this act, such annual reports will be submitted no later than March 31 of the year following the period for which the report is submitted. Further, the committee intends that the Tariff Commission update and give priority to the required annual reports on the operations of the trade agreements program. It is the sense of the committee that this report by the Tariff Commission also be made timely by the submission of the report not later than 3 months after the end of the period for which the report is being prepared.

The bill provides in section 162 that, as soon as practicable after a trade agreement has been entered into, the President shall submit a copy of the trade agreement to the Congress, together with a statement, in light of the advice provided by the Tariff Commission under the prenegotiation procedures, the reasons for his entering into the agreement. It shall be noted that section 102 requires that the President include in this report a sector-by-sector analysis of the extent to which trade agreements afford competitive opportunities for U.S. exports equivalent to the competitive access afforded by the United States to the importation of like or similar products, taking into account all barriers (including tariffs) and other distortions of international trade affecting that sector.

RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION

Title II of the bill constitutes a major revision of the "escape clause" or trade adjustment and adjustment assistance provisions of the Trade Expansion Act.

IMPORT RELIEF

Section 201 outlines procedures to be followed by the Tariff Commission in conducting an investigation to determine the existence of serious injury to a domestic industry due to imports. It also contains changes in existing criteria to be taken into account in making such a determination.

First, filing of petitions. A petition for eligibility for import relief may be filed with the Tariff Commission by an entity, including a trade association, firm, union, or group of workers, which is representative of an industry. The petition must include a statement describing the specific purposes for which import relief is sought, which may include the facilitation of the transfer of resources to alternative uses and other means to adjust to new competitive conditions.

The Tariff Commission must transmit a copy of any petitions to the Special Representative for Trade Negotiations and to the Government agencies which are directly concerned in particular cases, such as the Departments of Agriculture, Commerce, Interior, Labor, State, and Treasury.

Second, injury determinations. The Tariff Commission must conduct an investigation at the request of a petitioner, the President, the Special Representative for Trade Negotiations, the Committee on Ways and Means, or the Senate Finance Committee, or on its own motion to determine whether an article is being imported in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The Tariff Commission must hold public hearings during the course of its proceedings.

The term "like or directly competitive" used in the bill to describe the products of domestic producers that may be adversely affected by imports, was used in the same context in section 7 of the 1951 Extension Act and in section 301 of the Trade Expansion Act. The term was derived from the escape-clause provisions in trade agreements, such as article XIX of the GATT. The words "like" and "directly competitive," as used previously and in this bill, are not to be regarded as synonymous or explanatory of each other, but rather to distinguish between "like" articles and articles which, although not "like," are nevertheless "directly competitive." In such context, "like" articles are those which are substantially identical in inherent or intrinsic characteristics—that is, materials from which made, appearance, quality, texture, and so forth—and "directly competitive" articles are those which, although not substantially identical in their inherent or intrinsic characteristics, are substantially equivalent for commercial purposes, that is, are adapted to the same uses and are essentially interchangeable therefor.

The term "industry" includes entities engaged in agricultural activities. In determining the domestic industry producing an article like or directly competitive with an imported article, the Tariff Commission may, in the case of a domestic producer which imports, treat as part of such domestic industry only its domestic production. In the case of a domestic producer which produces more than one article, the Commission may choose to treat as part of such domestic industry only that portion or subdivision of the producer which produces a like or directly competitive article.

Where a corporate entity has several independent operating divisions, and only some of these produce the domestic article in question, the divisions in which the domestic article is not produced may be excluded from the determination of what constituted the "industry" for purposes of the investigation and finding. It is the intent of the committee that unless there are compelling reasons, including economic adjustment possibilities, for not excluding such operations they should not be included. The concern of the Tariff Commission would be with the question of serious injury to the productive resources—for example, employees, physical facilities, and capital—employed in the divisions or plants in which the article in question is produced.

With respect to multiproduct plants or subdivisions in which productive resources are devoted to producing several individual product lines, of which only one is the subject of the Tariff Commission investigation, the Commission would be concerned with the question of serious injury with respect to the operating unit as a whole which produces the product concerned, not merely the specific product line in question. For example, if a plant or subdivision produces product lines A, B, C, and D, of which only product line A is the subject of the investigation, the Commission would investigate the viability of the operating unit as a whole producing the four products, and whether internal adjustment through the shifting of its productive resources to the production of product lines B, C, or D have been or could be achieved. The Commission would not be expected to find import injury to that establishment—as part of the basis for finding serious injury to the entire industry—if serious injury or the threat thereof did not exist with respect to its operations as a whole. The extent to which the products of a multiproduct establishment can be separately considered is necessarily affected by the accounting procedures that prevail in a given case and the practicability of distinguishing or separating the operations of each product line.

The elimination from section TEA 301 (b)(1) of the language "as a result in major part of concessions granted under trade agreements" would broaden the President's authority to proclaim increased import restrictions. At present, such authority applies only to products the subject of trade agreement concessions. The Tariff Commission in making its report of investigations under section 201(b), will necessarily take into account imports from all countries and the various rate levels associated with the so-called preferential and MFN rate treatments in rate column numbered 1 of the TSUS and with the generally higher rate treatment in column numbered 2 applicable to the products of designated Communist countries.

One major change in existing law—section 301(b) of the Trade Expansion Act—is the deletion of the requirement that the increased imports result from concessions granted under trade agreements. The second major change is the substitution of "substantial cause" for "major cause." "Major" has been understood to mean greater than all other factors combined. The bill defines "substantial cause" as "a cause which is important and not less than any other cause. The committee intends that a dual test be met—imports must constitute an important cause and be no less important than any other single cause. For example, if imports were just one of many factors of equal weight, imports would meet the test of being "not less than any other cause" but it would be unlikely that any of the causes would be deemed an "important" cause. If there were any other cause more important than imports, then the second test of being "not less than any other cause" would not be met. On the other hand, if imports were one of two factors of equal weight and there were no other factors, both tests would be met.

A new section has been added concerning the factors to be taken into account by the Tariff Commission in determining serious injury, threat of serious injury, and substantial cause. These factors are not intended to be exclusive. It is important to note that the Commission is directed to take into account all economic factors it considers relevant. The committee did not intend that an industry automatically would satisfy the eligibility criteria for import relief by showing that all, or some of the enumerated factors, were present at the time of its petition to the Tariff Commission. That is a judgment to be made by the Tariff Commission on the basis of all factors it considers relevant.

In making its determination with respect to serious injury, the Tariff Commission shall take into account the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment in the industry.

With respect to threat of serious injury, the Tariff Commission shall consider a decline in sales, a higher and growing inventory, and downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry concerned. The existence of any of these factors such as the growth in inventory would not be relevant to the threat of injury from imports if it resulted from conditions unrelated to imports. In addition to the factors listed in section 201(b)(2)(B), the Tariff Commission shall take into account all factors which it considers relevant. It is the intention of the committee that the threat of serious injury exists when serious injury, although not yet existing, is imminent.

With respect to "substantial cause," the Tariff Commission shall consider an increase in imports—either actual or relative to domestic production—and a decline in the proportion of the domestic market supplied by domestic producers.

To assist the President in making his determination under sections 202 and 203, the Tariff Commission will also investigate and report on efforts by firms in the industry to compete more effectively with imports. Furthermore, the Tariff Commission will be required, whenever in the course of its investigation it has reason to believe that the increased imports are attributable in part to circumstances which come within the purview of the Antidumping Act, countervailing duty statutes—section 303 of the Tariff Act of 1930, or the unfair import practices statutes—section 337 of the Tariff Act of 1930, or other remedial provisions of law, promptly to notify the appropriate agency so that such action may be taken as is otherwise authorized by such provisions of law. Action under one of those provisions when possible is to be preferred over action under this chapter.

This provision is designed to assure that the United States will not needlessly invoke the escape-clause—article XIX of the GATT—and will not become involved in granting compensatory concessions or inviting retaliation in situations where the appropriate remedy may be action under one or more United States laws against unfair competition for which action, no compensation or retaliation is in order.

Third, reports to the President. As under the Trade Expansion Act, the Tariff Commission must report to the President the findings and their basis under each investigation, and include in each report any dissenting or separate views. The Tariff Commission will furnish the President a transcript of the hearings and any briefs submitted in the course of the investigation. The Commission will also make public its report—except confidential information—and include a summary in the Federal Register.

The reports of the Tariff Commission are to be filed not later than 6 months after the date on which the petition was filed. The Tariff Commission will include a finding in its report to the President, in cases in which it has found injury, or threat thereof, as to the duty or other import restriction which is necessary to prevent or remedy such injury or threat.

Fourth, subsequent and continuing investigations. The Tariff Commission will not investigate the same subject matter under a previous investigation under the bill unless 1 year has elapsed since the Tariff Commission made its report to the President of the results of the previous investigation, except where the Tariff Commission determines that good cause exists. The committee believes that this exception is necessary for those instances in which an industry can produce to the satisfaction of the Commission sufficient new evidence to warrant reconsideration of the case. The rule that no new investigation may be begun unless 1 year has elapsed does not apply to investigations initiated under the provisions of the Trade Expansion Act, which resulted in negative determinations. These cases may be the subject of a new investigation at any time following enactment of this bill.

Any investigation which is in progress upon enactment of this bill shall be continued in the same manner as if the investigation had been instituted originally under the provisions of this bill. The request for any such investigation shall be treated as if it had been made on the date of enactment of this bill. In addition, any affirmative finding pursuant to the TEA on which the President has not taken action on the date of enactment of this bill shall be treated as an affirmative finding and as having been received by the President on the date of the enactment of this act.

The President's authority to extend any tariff adjustment action taken under section 351 of the Trade Expansion Act of 1962 is repealed by section 602(d) of this bill. This does not prevent an industry having current escape clause relief from petitioning for new import relief under this bill. The mandatory 2-year period between periods of import relief when no relief can be given does not apply to the period immediately following escape clause relief under the 1962 act.

PRESIDENTIAL ACTION AFTER INVESTIGATIONS

Section 202 provides for a determination by the President within a specific time period whether to provide import relief following an affirmative finding by the Tariff Commission of injury to an industry due to imports. It also enumerates factors which the President must take into account in this determination.

First, President's authority. After receiving a report from the Tariff Commission containing an affirmative finding of injury to an industry due to imports, the President is required to evaluate the extent to which adjustment assistance has been made available, or can be made available, to the workers and firms of the industry. After this evaluation he may direct the Secretary of Labor and the Secretary of Commerce to give expeditious consideration to petitions for adjustment assistance. In addition, he may provide import relief for the industry under section 203.

Second, factors to be considered. The President must take into account various considerations in determining whether to provide import relief. In addition to other considerations the President may deem relevant, he must take into account: information and advice from the Secretaries of Labor and Commerce with regard to adjustment assistance; the probable effectiveness of import relief as a means to promote adjustment, and the efforts to adjust to import competition being made or to be implemented by the industry concerned; other considerations relative to the position of the industry in the Nation's economy; the effect of relief on consumers; the effect of import relief on the U.S. international economic interest; the impact on U.S. industries and firms of any possible modification of duties which may result from payment of compensation to foreign countries; geographic concentration of imported products marketed in the United States; the extent to which the U.S. market is the focal point for exports of the article because of restraints on exports or imports of the article with respect to third country markets; and the economic and social costs which would be incurred by taxpayers, communities, and workers if import relief were, or were not, provided.

The President may request additional information from the Tariff Commission within 45 days after the date on which he receives an affirmative finding of injury. The Commission must furnish this additional information in a supplemental report within 30 days—60 days where extensive additional information is requested—of the request.

Third, time limit and report to Congress. The President must make his determination whether to provide import relief under section 203 within 60 days after receiving from the Tariff Commission an affirmative finding of injury or an evenly divided decision which he may treat as an affirmative finding. The committee notes that this provision eliminates an anomaly in existing law which imposes no time limit on the President's decision respecting evenly divided reports by the Tariff Commission which the President may consider as affirmative. For those cases in which the President has requested supplemental information from the Tariff Commission, he must act within 30 days of receipt of the supplemental information. If the President decides to provide import relief, he is required to do so within the additional periods provided in Section 203. If he determines not to provide import relief, he is required to submit immediately to both Houses of Congress a report stating the considerations on which his decision was based.

IMPORT RELIEF

First, President's authority. Section 203 establishes a preferred order for providing import relief. The order is: Increases in, or imposition of, duties; tariff-rate quotas; quantitative restrictions; and orderly agreements. Any of these measures may be used in combination. Duty increases under the first item in the order of preference may include the suspension of the application of items 806.30 and 807.00 of the Tariff Schedules to the article, in whole or in part, or the termination of the eligibility of an item for preferential treatment pursuant to title V.

The relief will be granted to the extent and for such time—not to exceed 5 years—the President determines necessary to prevent or remedy serious injury, or threat thereof, to the industry, and to facilitate its orderly adjustment to new competitive conditions.

Second, requirements and time limits. The President is required to report to the Congress on the relief provided. The report must include his reasons for choosing to provide import relief as a remedy rather than relying on adjustment assistance, as well as his reasons whenever he selects a method of relief which ranks lower in preference. Whenever the President provides relief in the form of quotas or an orderly marketing agreement, he is required under section 204 to submit his detemination to the Congress for possible disapproval through a 90-day veto procedure provided in chapter 5 of title I.

No import relief shall be provided unless due diligence has been exercised to notify those persons who may be adversely affected by the provision of such relief, and have been given a reasonable opportunity to be present, to produce evidence, and to be heard at a public hearing. The usual Government means of notice will be used for this purpose.

Import relief in the form of a suspension of the provisions of tariff items 806.30 and 807.00 or a termination of preferential duty status for an item pursuant to title V is permitted only when the Tariff Commission has determined in the course of its injury investigation that the serious injury—or threat thereof—to the domestic industry results from the application of items 806.30 or 807.00, or from generalized preferences under title V. It is the intention of the committee that neither the suspension of the application of item 806.30 and 807.00 or the termination of the preferential tariff status of an article under title V is to be considered as an action affecting the international obligation of the United States.

No rate of duty can be increased by, and no duty imposed of, more than 50-percent ad valorem above the rate existing at the time of the President's proclamation. For example, a duty of 25-percent ad valorem could be increased to a rate of 75-percent ad valorem; a rate of 50-percent ad valorem could be imposed on an item which was duty free at the time of the proclamation. When implementing quotas or orderly marketing agreements, the President must establish a level of permissible imports which is not less than the quantity or value of such article imported into the United States during the most recent period which he determines to be representative of imports of the article.

Import relief—in the form of tariffs, tariff-rate quotas or quantitative restrictions—is to be proclaimed not later than 15 days after the President has determined to provide import relief. In the case of an initial orderly marketing agreement, it must be entered into not later than 180 days after the President has determined to provide import relief. If, within 15 days after the import relief determination date—the date of the President's determination under section 202 to provide relief—the President announces his intention to negotiate one or more orderly marketing agreements, the taking effect of any initial proclamation imposing duties, tariff-rate quotas, or quotas may be withheld until the entering into effect of an orderly marketing agreement which is entered into on or before the 180th day after the import relief determination date. The application of any such initial proclamation may be suspended only while such agreement is in effect.

As noted above, for purposes of the import relief, suspension of tariff items 806.30 and 807.00 and the suspension of the designation of any article as an eligible article for purposes of generalized system of preferences shall be treated as an increase in duty. However, no such suspension of either kind may be made unless the Tariff Commission, in addition to an affirmative finding under section 201(b), determines in the course of its investigation under section 201(b) that the serious injury—or threat thereof—to the domestic industry producing a like or directly competitive article results from the application of item 806.30 or item 807.00, or from the designation of the article as an eligible article for purposes of the generalized system of preferences.

Third, administration of orderly marketing agreements and quantitative restrictions. The President may issue regulations governing import entries where import relief consists of quotas or one or more orderly marketing agreements. In order to carry out an orderly marketing agreement, the President is authorized to prescribe regulations governing the entry or withdrawal from warehouse of articles covered by the agreement. In addition, in order to carry out one or more orderly marketing agreements concluded with two or more countries accounting for a major part of U.S. imports of the article covered by the agreements, the President is also authorized to issue regulations governing the entry or withdrawal from warehouse of like articles which are the product of countries not parties to the agreements.

Thus, nonparticipant imports could be restrained if two or more bilateral agreements, or one or more multilateral agreements, were concluded which meet the test of coverage of a major part of U.S. imports. This section also provides for efficient and fair administration of quotas and orderly marketing agreements and for regulations to insure, to the extent practicable, against equitable sharing of quotas by a relatively small number of larger importers.

Import relief is to terminate within 5 years unless extended by the President for one 2-year period. The relief may be extended at a level no greater than the level in effect immediately before the extension. The President must determine that a renewal is in the national interest, taking into account advice from the Tariff Commission and the factors which pertained to his initial determination to provide relief. In addition, any import relief implemented for more than 3 years must to the extent feasible be phased down, with the first reduction in relief occurring not later than 3 years after the effective date of the initial grant of relief. The President may phase down the relief in equal or unequal stages, as he deems appropriate. In the case of orderly marketing agreements, phasing down may be accomplished by increases in the annual amount of imports which may be entered. Staged reductions are not considered terminations or expirations, and consequently an industry may not petition the Tariff Commission with respect to phasing down of relief.

Import relief can be terminated or reduced at any time, where, after taking into account the advice of the Tariff Commission and the Secretaries of Commerce and Labor the President determines that such action is in the national interest.

This bill continues in large part provisions contained in the Trade Expansion Act relating to continuing review by the Tariff Commission of import relief. Upon request by the President, the Tariff Commission is to report to the President on developments with respect to the industry concerned, including the progress and specific efforts of the firms in the industry to adjust to import competition. The Tariff Commission also conducts investigations regarding the probable economic effect on the industry of reductions or terminations of import relief.

Upon petition from the industry, not earlier than 9 months and not later than 6 months prior to the date import relief is to terminate by reason of the expiration of the initial period, a Tariff Commission investigation is conducted including a public hearing. A report is made to the President on its findings as to the probable economic effect on the industry of termination relief.

No new investigation for the purposes of section 201 shall be made with respect to an industry which has received import relief under this bill unless 2 years have elapsed since the expiration of import relief previously granted.

Section 204 provides that whenever the President chooses to use quotas or orderly marketing agreements as import relief, then the President must submit the proclamation providing quotas or the orderly marketing agreement, as the case may be, to the Congress for approval through a 90-day veto procedure similar to that provided in chapter 5 of title I. If the Congress disapproves the use of quotas or the orderly marketing agreement, the President has a 15-day period in which to provide other import relief in the form of tariffs or tariff quotas.

ADJUSTMENT ASSISTANCE FOR WORKERS

The bill provides a new adjustment assistance program with eased qualifying criteria and a streamlined petitioning process. It is the intention of the committee that workers displaced by increased imports receive all the benefits to which they are entitled in an expeditious manner.

In addition, the bill provides for more adequate benefit payments to eligible recipients and would make several improvements in the other services which these recipients would receive under the program. The new program of adjustment assistance for workers would be financed through a trust fund with annual appropriations coming out of customs receipts.

PETITIONS

The bill provides for filing of petitions with the Secretary of Labor by groups of workers or their duly authorized representatives for a certification of eligibility to apply for adjustment assistance. It is intended that a group of three or more workers in a firm may qualify as a petitioner for a certification to apply for adjustment assistance. The Secretary must promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.

The bill incorporates the same filing provision with respect to workers' petitions as contained in section 301(a)(2) of the Trade Expansion Act except that petitions are to be filed with the Secretary instead of the Tariff Commission. The provisions of section 302 of the Trade Expansion Act calling for investigations and determinations by the Tariff Commission relating to workers' petitions would be eliminated.

The Committee intends that the Secretary shall establish minimal filing requirements so that in the normal case a petition will be considered filed upon receipt by the Secretary.

GROUP ELIGIBILITY REQUIREMENTS

The bill provides new criteria for certification of eligibility of groups of workers to apply for adjustment assistance. Under the bill, the Secretary of Labor rather than the Tariff Commission would determine whether the criteria were met. The bill would also eliminate the requirement in the Trade Expansion Act of a causal link between increased imports and trade agreement concessions, and require that increased imports, either actual or relative, only "contribute importantly" to the separations rather than be their major cause as required by present law. In addition to requiring that a significant number or proportion of the workers in a firm have become or are threatened to become totally or partially separated, sales or production, or both, of the affected firm or subdivision would have to decline on an absolute basis with increased imports contributing importantly to the decline.

The requirement that import increases contribute "importantly" may be contrasted with the "substantial cause" language in the import relief section of the bill. "Substantial cause" in determining eligibility for import relief includes the concept "important" but adds another requirement, that the cause be not less than any other single cause. Therefore, importantly as used in determining eligibility for worker adjustment assistance is an easier standard; a cause may have contributed importantly even though it contributed less than another single cause.

DETERMINATION BY SECRETARY OF LABOR

The bill provides that as soon as possible but not later than 60 days after a petition is filed, the Secretary must determine whether a substantial number or proportion of workers have become, or are threatened to become, totally or partially separated because of increased imports. The Secretary is to issue a certification of eligibility to apply for adjustment assistance covering workers in any group which meets such requirements. The certification is of a continuing nature and covers workers totally or partially separated on or after the impact date through the date of termination of the certification.

Each certification shall specify the date on which the total or partial separation began or threatened to begin. The date to be determined is the earliest date on which any part of the total or partial separations involving a significant number or proportion of workers began or threatened to begin. The date when total or partial separations threatened to begin is the date on which it could reasonably be predicted that separations were imminent.

A certification of eligibility to apply for assistance shall not apply to any worker who was last totally or partially separated from the firm or subdivision prior to his application more than 1 year before the date of the petition upon which the certification covering him was granted or more than 6 months before the effective date of the new program.

The Secretary is required to publish promptly in the Federal Register a summary of his determination on a worker petition. If the determination is affirmative, the Secretary would issue a certification and the summary would therefore be of the certification.

The bill provides for the termination of certifications of eligibility to apply for adjustment assistance if the Secretary determines that total or partial separations are no longer attributable to the conditions specified in the bill.

The bill provides that the Secretary of Labor is to be notified by the Tariff Commission whenever it initiates an investigation of an industry under section 201 and that the Secretary shall immediately begin a study of the number of workers in the domestic industry producing the like or directly competitive article who have been or are likely to be certified for adjustment assistance and the extent to which the adjustment of such workers may be facilitated through the use of existing programs. The Secretary is to make his report to the President not later than 15 days after the Tariff Commission makes its report under section 201.

QUALIFYING REQUIREMENTS FOR WORKERS

Under the bill a worker must have been employed with the same trade impacted firm or subdivision for 26 out of the 52 weeks preceding his separation at wages of at least $30 a week.

In order to qualify for weekly payments, an adversely affected worker covered by a certification under section 223 must file an application. The worker's last total or partial separation before he applies must have occurred on or after the "impact date"—the date specified in the certification when total or partial separation began or threatened to begin—within 2 years after the date on which the Secretary issued the certification covering the worker, and before the termination date. The date of issuance of the certification is the date on which the Secretary or his delegate signs the certification.

WEEKLY AMOUNTS

The basic formula for the weekly trade readjustment allowance payable to an adversely affected worker is increased from 65 percent to 70 percent of his average weekly wage for the first 26 weeks. For subsequent weeks of entitlement, a worker would receive a benefit equal to 65 percent of his average weekly wage as under present law. The maximum trade readjustment allowance for any week is increased from 65 to 100 percent of the average weekly wage in manufacturing. This would raise the maximum payment from an estimated $111 to an estimated $170 a week in 1974. The committee believes that the increases in the trade readjustment allowances which it is recommending are needed to assure that workers whose employment is adversely affected by increased imports will receive adequate compensation.

Benefits extend up to 52 weeks, except for workers over 60, who may receive an additional 13 weeks, and except for additional payments of up to 26 weeks where workers exhaust benefits while still in approved training programs. The worker's allowance is to be reduced by 50 percent of any earnings. In addition, if the total of a worker's earnings, unemployment insurance, training allowance and trade readjustment allowance for a week is more than 10 percentage points higher than his trade readjustment allowances alone—that is, more than 80 percent or 75 percent, as applicable—or is more than 130 percent of the average weekly manufacturing wage, the excess is deducted dollar-for-dollar from his trade readjustment allowance.

EMPLOYMENT SERVICES

The bill provides that the Secretary of Labor shall make every reasonable effort to secure counseling, testing, and placement services, and supportive and other services provided for under any Federal law. The Secretary shall procure such services through agreements with cooperating State agencies whenever appropriate.

TRAINING

The bill directs the Secretary to provide or assure provision of appropriate training including training for technical and professional occupations to trade-impacted workers under manpower programs established by law whenever it is determined that suitable employment is not available.

The bill provides supplemental assistance to defray transportation and subsistence costs when training is provided in facilities which are not within commuting distance.

Any worker refusing without good cause to accept or continue, or failing to make satisfactory progress in suitable training to which he was referred by the Secretary would be disqualified from receiving payments under this program untill he enters or resumes the training. This subsection is identical in substance to setcion 327 of the Trade Expansion Act.

JOB SEARCH ALLOWANCES

To make it easier for workers to obtain new employment as quickly as possible the bill provides that a worker covered by a certification may file an application with the Secretary of Labor for a job search allowance. This allowance provides reimbursement to the worker of 80 percent of the cost of his necessary job research expenses, not to exceed $500.

The allowance can only be granted to assist the worker in obtaining employment within the United States, only when the worker cannot reasonably be expected to obtain suitable employment in his commuting area, and only if the application for the allowance is filed within 1 year from his last total separation prior to his application for adjustment assistance.

RELOCATION ALLOWANCES

The bill would ease the qualifying requirements for relocation allowances by omitting the head-of-household requirement in the Trade Expansion Act. The committee believes that relocation allowances should also be made available to single individuals are more likely to benefit from relocation allowances.

Relocation allowances are afforded—upon application and meeting qualifying requirements—to any adversely affected worker covered by a certification who has been totally separated from adversely affected employment. The qualifying requirements—apart from the head-of-household test—are identical to those of the Trade Expansion Act.

A relocation allowance may be paid only if, for the week in which the worker files an application for such allowance, he is entitled to a trade readjustment allowance or would be so entitled—without regard to whether he filed application for a trade readjustment allowance—if it were not for the fact that he has obtained the employment to which he wishes to relocate.

To be entitled to a relocation allowance, the worker must relocate within a reasonable time after he applies for such allowance. If the applicant is a worker undergoing vocational training under the provisions of any Federal statute he must relocate within a reasonable time after the conclusion of such training.

A relocation allowance could not be granted to more than one member of the family with respect to the same relocation. Thus, for example, a husband and wife who otherwise met all of the requirements for relocation would be entitled to one relocation allowance to relocate to another domicile.

Relocation allowances under the bill consist of: First, 80 percent, rather than 100 percent as provided in the Trade Expansion Act, of the reasonable and necessary expenses—as specified in regulations prescribed by the Secretary of Labor—incurred in transporting the worker, his family, if any, and household effects from their present location; and second, a lump sum payment equivalent to three times the worker's average weekly wage, up to a maximum payment of $500, rather than 2½ times the average weekly manufacturing wage as provided in the Trade Expansion Act.

GENERAL PROVISIONS

The bill contains general provisions relating to entering into agreements with the States, the liabilities of certifying and disbursing officers, recovery of overpayments and penalties, which are substantially similar to the provisions of present law.

The bill provides for review by the courts of final determinations of entitlement to payments in the same manner and to the same extent as is provided by the judicial review provision of the social security program.

FUNDING

The bill provides for the establishment of a trust fund—the adjustment assistance trust fund—to be used to finance the costs of the adjustment assistance program including the administrative costs of the Labor Department and cooperating States. Annual appropriations to the trust fund, out of customs collections, of such sums as are necessary to pay such costs are authorized. The Secretary of Labor is to certify to the Secretary of the Treasury payments that are due to States and the Secretary of the Treasury will make such payments from the trust fund.

TRANSITIONAL PROVISIONS

Benefits as provided in the bill would be paid to all eligible recipients for weeks of unemployment beginning on and after the effective date of the chapter establishing the new trade assistance program.

In all cases where workers receive benefits for weeks of unemployment before the effective date of the new chapter, such benefits will be as provided in the 1962 act. It is intended that workers whose individual applications for adjustment assistance have been approved under the existing program shall receive benefits as provided in the bill for weeks of unemployment which occur after the effective date of this chapter and in which they are eligible for trade readjustment allowances.

If by the effective date of this chapter workers have not completed the process of qualifying for adjustment assitance under the present program they would be permitted to file a group petition, or apply for individual benefits, as the case may be, under the liberalized eligibility criteria of the bill. In order to take advantage of this provision, workers must meet the time limitations on eligibility for petitions in the bill, which include a showing that separation occurred no earlier than 6 months before the effective date of the new adjustment assistance chapter.

An exception to the time limitations on weeks of unemployment that can be covered by certifications under the bill is made for groups of workers that filed petitions under present law more than 4 months before the effective date but did not receive approval—certification—or denial of their petitions before the new chapter went into effect. Where: First, a petition for certification has been filed more than 4 months before the effective date of this chapter by a group of workers or its authorized representative; second, the Tariff Commission has not rejected the petition; and third, a certification has not been issued, the group of workers or its representative may file a petition under the new chapter within 90 days after the chapter becomes effective. If a certification is issued pursuant to such a petition, the restriction against granting allowances for weeks of unemployment more than 6 months before the effective date of the chapter shall not apply, and the restriction against granting allowances for weeks of unemployment more than 1 year before the filing of a petition shall be calculated on the basis of the original petition filing under the 1962 act. Without this exception, a group in this situation might be unable to qualify for benefits even though it in fact met all the qualifications called for by present law and had applied in a timely fashion. The requirement that petitions must be filed more than 4 months before the effective date of the new chapter is intended to allow the Tariff Commission time to examine such petitions before the expiration of the 1962 act. Thus, petitions which do not meet the requirements of the present law would be rejected, for the most part, and there would be little chance for petitioners to use the special relief provided for pending cases in order to circumvent the cutoff provisions of the new chapter.

COORDINATING COMMITTEE

The bill establishes the Adjustment Assistance Coordinating Committee, consisting of a Deputy Special Trade Representative as chairman and officials charged with adjustment assistance responsibilities of the Departments of Labor and Commerce and the Small Business Administration, to coordinate adjustment assistance policies and programs and to promote the efficient and effective delivery of adjustment assistance benefits.

ADJUSTMENT ASSISTANCE FOR FIRMS

The bill reaffirms that an adjustment assistance program for firms has an important role in carrying out the Government's responsibility for assisting in the economic adjustment process flowing from changes in conditions of import competition. The committee believes the new and revised provisions with respect to adjustment assistance for firms will greatly simplify and expedite the consideration of petitions for certification of eligibility, and the delivery of more effective and timely aids to economic adjustment to those firms found qualified for adjustment assistance.

Under section 251, petitions for certification of eligibility to apply for adjustment assistance may be filed with the Secretary of Commerce by individual firms or their representatives, rather than with the U.S. Tariff Commission as has been the requirement under the Trade Expansion Act of 1962.

The Secretary of Commerce is required to promptly publish a notice in the Federal Register of receipt of the petition and initiation of an investigation concerning its merits. Provision is made for submission, within 10 days after such publication, by any other person, organization, or group having a substantial interest in the proceedings, for a hearing, following which the Secretary shall provide for a public hearing. Interested persons will be provided an opportunity to be present, produce evidence, and present their views.

Both the substantive requirements which must be met and the procedures to be followed are greatly simplified in the new bill. Criteria to be applied by the Secretary of Commerce as a basis or certification of eligibility include determination that: First, a significant number or proportion of workers have become separated or partially separated—that is, their hours of employment reduced—or that workers are threatened with either of these situations; second, the sales or production, or both, of the firm has decreased; and third, increased imports of like or directly competitive articles have contributed importantly to factors one and two. Under the bill the required causal link to concessions previously granted under trade agreements is eliminated.

The definition of a "significant number or proportion of workers" is left to pragmatic application, as it was under the Trade Expansion Act. In a firm with smaller than average number of employees, a proportion of those affected becomes more important than numerical totals. In addition, it is not intended that the definition of "partial separation" contained in the bill with respect for worker assistance would apply to the criteria with respect to firm eligibility. It is expected that the question of what constitutes partial separation will be established by regulation.

As indicated in the discussion of adjustment assistance for workers, the requirement that import increases contribute "importantly" may be contrasted with the "substantial cause" language in the import relief section of the bill. "Substantial cause" in determining eligibility for import relief includes the concept "important," but adds another requirement, that the cause be not less than any other single cause. Therefore, "importantly" is an easier standard; a cause may have contributed importantly even though it contributed less than another single cause.

The determination of whether the firm is certified eligible to apply for adjustment assistance must be made within 60 days. After the firm is certified, it has 2 years in which to file an application for adjustment assistance. As under the Trade Expansion Act, the fact that a firm has been certified as eligible to apply for adjustment assistance does not mean that such assistance will automatically be granted. There may be firms for which adjustment assistance is not appropriate or which are simply unable to develop a viable adjustment proposal under the statutory criteria. The application for adjustment assistance must include the firm's proposal for economic adjustment. It is not intended that the 2-year time limit would preclude a firm from revising or amending its initial proposal after the expiration of the 2-year period.

Before an adjustment proposal of a firm can be approved and assistance furnished the Secretary must find that the proposal:

First, is reasonably calculated materially to contribute to the economic adjustment of the firm;

Second, gives adequate consideration to the interests of the workers of such firm; and

Third, demonstrates that the firm will make all reasonable efforts to use its own resources for economic development.

These criteria are virtually the same as in existing law. In addition, the Secretary must find that the firm has no reasonable access to financing through the private capital market. This requirement is similar to a provision of existing law and is intended to preclude a firm from obtaining financial assistance from the Government when the firm could obtain all of the needed funds through the private capital market at a reasonable rate of interest. In some cases, a firm is able to obtain a private loan for a portion of the total amount needed with the Government supplying the remainder. It is not intended that the word "access" be interpreted to preclude Government assistance when the firm has such access for only a portion of the needed amount.

Adjustment assistance under this chapter of the bill will include technical assistance as well as financial assistance, singly or in combination. The provision under the TEA of 1962 for tax assistance in the form of extended carryback was found to have little application to the type of firms which were certified as eligible for adjustment assistance and consequently no provision for tax assistance has been made in the bill.

Provision of technical assistance by the Secretary is to be for (1) development and preparation of an economic adjustment proposal, and (2) carrying out the proposal, or both. Costs of technical assistance furnished through private—nongovernmental—individuals, firms, and institutions—including consulting services—which may be borne by the U.S. Government will be limited to not more than 75 percent of the total. Thus, a technical assistance contractor could receive up to 75 percent of the cost of such services from the Government. If a firm could not afford to pay any of the cost of technical assistance, the Government could advance the total amount as long as adequate provision for repayment of at least 25 percent of the total is included.

In some circumstances the Government's share of the cost may be substantially less than 75 percent, and it is the intention of this committee that the payment of up to 75 percent of the cost of technical assistance not be automatic. Firms applying for adjustment assistance are expected to share the cost to the extent possible. Indeed, it is not intended that the Government is required to bear the costs of technical assistance.

The terms and conditions under which financial assistance may be provided by the Secretary of Commerce, while retaining all reasonably necessary safeguards to insure against monetary losses to the Government as lender or guarantor, have been defined broadly enough to meet the range of situation patterns which are apt to be encountered and to exclude some of the unnecessarily restrictive language of the TEA.

Direct loans are to be employed only to the extent that loan funds, with or without a guarantee, are not available from private sources.

The caveat that financial assistance shall not be provided under this chapter unless the Secretary determines that required funds are not available from the firm's own resources restates in more simple and positive language a similar requirement in the TEA. A determination that there is reasonable assurance of repayment of the loan is also included, as it was in the TEA, and typically in other programs including the provision of Government financial assistance.

Under section 225, the Secretary is required to give priority to small businesses in making loans and guarantees. Applicable rates of interest for both direct loans and guaranteed loans are to be determined at the prevailing rate authorized for loans to small businesses by the Small Business Administration. This provision greatly simplifies the formula provided under the TEA, and establishes a desirable degree of uniformity in Government-wide lending policies. With respect to loan guarantees, the Government may guarantee up to 90 percent of that portion of a loan made for adjustment assistance purposes.

Specific limitations on the permissible aggregate amounts of loans outstanding to any individual firm under this chapter are established as not to exceed $3 million for guaranteed loans and $1 millon for direct loans. This provision emphasizes the intent of the adjustment assistance program to be concentrated on the small to medium size enterprise.

Since 256 permits the Secretary of Commerce, in the case of any firm that is a small business within the meaning of the Small Business Act and regulations, to delegate all of any part of his functions, other than the certification of eligibility, to the Administrator of the Small Business Administration. This provision facilitates the utilization of the existing resources of the Small Business Administration in terms of organization, personnel, background, and experience in working with firms under circumstances which parallel those of the adjustment assistance program.

Section 263 of the bill contains provisions for dealing with adjustment assistance cases under consideration at the time of passage of the bill.

Firms whose petitions are under consideration by the Tariff Commission under the provisions of the Trade Expansion Act when the bill becomes law must reapply to the Secretary of the Commerce under the provisions of the new law. In order to assist the Secretary and expedite his consideration of such cases, the Tariff Commission is directed to make available to the Secretary, on request, data it has acquired with respect to its investigation.

If, on the date of enactment, the Tariff Commission has completed its investigation and issued a report containing an affirmative finding, or a report where an equal number of Commissioners are evenly divided, the Secretary may certify the firm as eligible to apply for adjustment assistance without conducting a further investigation.

Finally, firms which have already been certified as eligible to apply for adjustment assistance and which have either not yet applied for adjustment assistance or have applied and are in the process of developing their adjustment proposals will be treated under the provisions of the new law. Thus, for example, the limits on the total amount of financial assistance which a firm can receive would apply to such firms. Those firms which have already had their adjustment proposals approved by the date of enactment, however, would be able to receive assistance at the levels provided in such proposals. This latter provision would allow the Secretary to furnish the assistance at the level promised when he approved the proposal.

Section 264 sets up procedures to activate accelerated factfinding, review, and evaluation of basic conditions in industries which clearly are or may be confronted with import-impact problems. As soon as the Tariff Commission begins an industry investigation under section 201, the Secretary of Commerce will be notified and will begin immediately to assemble facts concerning the industry, including the identification of existing programs and their adaptability to meet problems associated with the facilitation of orderly adjustment measures.

The Secretary will submit a report concerning this study to the President within 15 days after the submission of the report of the Tariff Commission concerning the subject industry. The Secretary's report will be published and a summary published in the Federal Register.

It is also provided that, whenever an affirmative finding of injury or threat thereof to an industry is made by the Tariff Commission, the Secretary shall take steps to inform the individual firms in that industry about available programs and facilities to assist in orderly adjustment to import competition, and to provide help in the preparation and processing of necessary applications and petitions.

In the two-pronged provisions of section 264, the machinery is established for positive action to deal with import-impact problems simultaneously with their identification, rather than procedures which left the initiative entirely to the firms which were affected, with the Government agencies reacting to distress calls instead of anticipating them. It was this committee's intention that Government agencies assume a positive role in identifying problem areas and developing countermeasures.

Finally, the committee intends that the adjustment assistance program for firms should be coordinated with the other interested agencies of the Government through the Adjustment Assistance Coordinating Committee established by section 250 of the bill.

That committee will coordinate the adjustment assistance policies and programs of the various agencies involved and will promote the efficient and effective delivery of adjustment assistance benefits.

FOREIGN IMPORT RESTRICTIONS AND EXPORT SUBSIDIES

Section 301 revises and expands existing section 252 of the Trade Expansion Act of 1962 regarding responses to unjustified or unreasonable import restrictions of other countries or instrumentalities including variable levies, export subsidies by them to third markets which displace competitive U.S. exports, and export subsidies to the U.S. market which substantially reduce sales of competitive domestic products. In this section "unjustifiable" refers to restrictions which are illegal under international law or inconsistent with international obligations. "Unreasonable" refers to restrictions which are not necessarily illegal but which nullify or impair benefits accruing to the United States under trade agreements or otherwise discriminate against or unfairly restrict or burden U.S. commerce.

Whenever the President determines that another country or instrumentality thereof: First, maintains unjustifiable or unreasonable trade restrictions which impair the value of trade commitments made to the United States or burden, restrict, or discriminate against U.S. commerce; Second, engages in discriminatory or other acts or policies which are unjustifiable or unreasonable and which burden of restrict U.S. commerce; or Third, provides subsidies—or other incentives having the effect of subsidies—on its exports of one or more products to the United States or to other foreign markets which have the effect of substantially reducing sales of competitive U.S. products in the United States or in third countries, he is required to take all appropriate and feasible steps within his power to obtain their elimination. The steps taken under this requirement must, however, be sanctioned under existing authority, because it is not intended that this language provide any new power. He also has discretionary authority to: First, suspend, withdraw, or prevent the application of benefits of a trade agreement to such country; and Second, to impose duties or other import restrictions for such time as he deems appropriate. In determining what action to take the President is required to consider the relationship of such action to the international obligations of the United States and to the purposes of the bill. The committee expects that he will depart from international obligations only where international procedures are inadequate to deter the unjustifiable or unreasonable practice or subsidies. Even then, the President should depart from U.S. international obligations only when a matter of important principle and the national interest dictate that course of action.

In cases where the foreign restriction, act, policy, or practice is unjustifiable, the President may act either on a nondiscriminatory — most-favored-nation—basis or only with respect to the products imported from one or more offending foreign countries. In those cases where a restriction, act, policy, or practice is not unjustifiable but is nevertheless determined to be unreasonable, the President's action must apply only to the offending country.

Before the President may respond under this section to subsidies on exports to the U.S. market, three things must occur:

First, the Secretary of the Treasury must determine that a subsidy, or another incentive having the effect of a subsidy, exists;

Second, the Tariff Commission must find that the subsidized exports are substantially reducing the sales of competitive products made in the United States; and

Third, the President must find that remedies available under the Antidumping Act and under the countervailing duty law are insufficient to deter the subsidization practices.

It is the intent of the committee that "commerce," as it is used in section 301 (a), is to include the services as well as goods. Although the committee understands that the trade agreements of the type authorized under title I of the bill do not usually extend to the treatment of services, it is much concerned over present practices of discrimination against U.S. service industries including, but not limited to, transportation, tourist, banking, insurance, and other services in foreign countries. It is the committee's intent that the President give special attention to the practical elimination of this discrimination by the use of authority under this provision, to the extent feasible, as well as steps he may take under other authority. This intent is further indicated in the section 163 requirement that he report to Congress on the results of action taken to remove this discrimination in international commerce against U.S. service industries.

The President is required to provide, upon request, for the presentation of views, including appropriate public hearings, on acts or policies of foreign countries which fall within the scope of this section. These hearings concerning foreign practices are not a prerequisite to the President's acting against such practices. With respect to his own actions under this section, the President is also required to provide for the presentation of views on the taking of such action, including the holding, upon request, of public hearings. In addition, he may request the views of the Tariff Commission on the impact of taking action on the U.S. economy.

In the view of the committee, this revision of section 252 of the Trade Expansion Act of 1962 is necessary to protect the interests of U.S. producers and exporters against unfair practices of foreign countries. The revised language will give wide authority to the President, subject to appropriate procedural safeguards, to retaliate against these practices, and will strengthen the hand of the administration in resolving through negotiation disputes which arise by reason of these practices.

The decisionmaking process in the GATT is such as to make it impossible in practice for the United States to obtain a determination with respect to certain practices of our trading partners which appear to be clear violations of the GATT. For example, it is highly unlikely that the United States could obtain a GATT decision that the various preferential arrangements which the European Community has created with both developed and developing countries are inconsistent with article XXIV—customs unions and free-trade areas, and hence illegal. So long as decisions in the GATT are made on the basis of political consensus of the contracting parties, the United States will have no assurance that questions of consistency with the GATT will be resolved impartially. The Committee believes that it is essential for the United States to be able to act unilaterally in any situation where it is unable to obtain redress through the GATT against practices which discriminate against or unreasonably impair U.S. export opportunities.

Moreover, the committee believes that a tool, in addition to that available in the countervailing duty statute, should be available to deal with the problem of subsidized exports to the U.S. market, particularly where the subsidization also affects sales of U.S. goods in third market countries. Since the United States has tried and failed repeatedly in recent years to achieve agreement on subsidy practices, a more forceful approach is called for.

Although the committee continues to regard the countervailing duty law as the primary tool for combating subsidy practices of foreign countries, that law provides only for an additional duty calculated to offset the foreign subsidy. The new authority in this section would permit the President to go beyond mere equalization and to impose additional restrictions to deter countries from according subsidies to their products. The committee fully expects that requests for action under this provision will be considered promptly by the President.

Since retaliation against unreasonable practices which are not unjustifiable might not be sanctioned by the contracting parties to the GATT, the committee believes that the effects of retaliation in these cases should not extend beyond the country or countries against which the retaliatory measure is taken.

Section 302 provides that where the President takes import-restricting action in response to an unjustifiable or unreasonable foreign practice or policy—including subsidy practices, he must report such action to both Houses of Congress, together with a statement of his reasons for taking the action. If either House of Congress passes a resolution disapproving the President's action within 90 days after he submits such materials, the effect of the action is terminated. Consideration of a resolution under this section in each House will be pursuant to the special procedures set forth in section 151.

ANTIDUMPING DUTIES

The committee has taken note of the fact that since 1970 the Treasury Department has significantly increased the size of its staff and the staff of the Customs Service devoted to the processing of antidumping investigations. As a result, the length of time necessary to complete investigations has been reduced. Additionally, the number of determinations issued annually since 1970 has increased appreciably over the number issued in a comparable period prior to that year. It is intended that the Treasury Department continue vigorous enforcement of the act. The amendments to the act, contained in section 321 of the bill will significantly facilitate such vigorous enforcement.

Subsection (a) amends section 201(b) of the Antidumping Act to provide that the Secretary of the Treasury or his delegate must, within 6 months, or, in more complicated investigations, within 9 months after a question of dumping is raised by or presented to him, make the determination required under present law as to whether there is reason to believe or suspect that the purchase price of imported merchandise is less, or the exporter's sales price is less or likely to be less, than the foreign market value or constructed value of the merchandise.

If the Secretary's determination is affirmative, then under paragraph (2) of section 201(b), as amended, he must publish notice thereof in the Federal Register and require the withholding of appraisement of any such merchandise entered on or after such date of publication. Paragraph (2) also retains the present provision in the Antidumping Act which authorizes the Secretary to order that such withholding be made effective with respect to merchandise entered on or after an earlier date, but in no case may the effective date of withholding be earlier than the 120th day before the question of dumping was raised by or presented to him.

Paragraph (3) of section 201(b) provides that if the Secretary's determination is negative, or if he tentatively determines that the investigation should be discontinued, notice thereof must be published in the Federal Register, but the Secretary may within 3 months thereafter order the withholding of appraisement if he then has reason to believe or suspect that dumping is involved. An order of withholding of appraisement in that case is treated in the same manner as is a withholding under paragraph (2) of section 201(b). If no withholding of appraisement is ordered within 3 months, the Secretary must publish a final negative determination or a notice of discontinuance of the investigation. Section 201(b), as amended by the bill, also provides that the question of dumping is deemed to have been raised by or presented to the Secretary on the date on which a notice is published in the Federal Register that information relating to dumping has been received in accordance with regulations prescribed by him. As provided under current Treasury Department regulations (19 CFR 153.30), the Secretary will publish such a notice generally within 30 days after information relating to dumping is received in acceptable form.

Subsection (b) incorporates a new provision in the Antidumping Act which requires the Secretary of the Treasury or the Tariff Commission to hold a hearing prior to any determination under subsection (a). In order to preserve the informal and nonadversary nature of these proceedings, the hearings are specifically exempted from the procedural requirements of the Administrative Procedure Act. The transcript of each hearing plus all information developed in connection with the investigation with the exception of material treated as confidential or otherwise exempt from disclosure under the Freedom of Information Act, shall be available to all persons.

Subsection (b) also requires the Secretary and the Tariff Commission to include in the record and publish in the Federal Register their determinations, together with a statement of the bases for their findings and conclusions on all material issues presented.

Subsection (c) makes three amendments to section 203 of the Antidumping Act, dealing with purchase price.

The first amendment deals with the treatment to be given export taxes in the computation of purchase price. Section 203 of the Antidumping Act, which defines purchase price and sets forth the adjustments to be made thereto, currently provides that any export tax imposed on the exported product must be added to the purchase price if it is not already included therein. Section 204, on the other hand, which defines exporter's sales price, currently provides that any export tax must be subtracted from exporter's sales price if it is included therein.

The "purchase price" treatment of an export tax is anomalous. An export tax increases the price of an exported product and, if not subtracted, would distort any dumping price comparison made between the export price and the home market price of a particular product. The distortion would artificially reduce or eliminate any dumping margins that might otherwise exist. The present treatment of export taxes under the exporter's sales price provision is proper and the proposed amendment would make the section on purchase price symmetrical with the section on exporter's sales price in this regard.

The second amendment deals with the treatment of certain types of tax rebates in computing purchase price. The amendment would conform the standard in the Antidumping Act to the standard under the countervailing duty law, thereby harmonizing tax treatment under the two statutes. It must be noted that in recommending this amendment, there is no intention to express approval or disapproval of the standard employed by the Treasury Department in administering the countervailing duty law with regard to the treatment under which that law of rebates or remissions of direct and indirect taxes.

With the amendment, no adjustment to the advantage of the foreign exporter would be permitted for indirect tax rebates unless the direct relationship of the tax to the product being exported, or components thereof, could be demonstrated. Further, an adjustment for such tax rebates would be permitted only to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation. This is to insure that the rebate of such taxes confers no special benefit upon the exporter of the merchandise that he does not enjoy in sales in his home market. To the extent that the exporter absorbs indirect taxes in his home market sales, no adjustment to purchase price will be made and the likelihood or size of dumping margins will be increased.

Under the present language of the Antidumping Act, Treasury is required in its calculation of purchase price to add back to the price at which merchandise is sold to the United States:

> The amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller, in respect to the manufacturer, production, or sale of the merchandise, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States.

The "adding back" of such taxes under the Antidumping Act has the effect of reducing or eliminating any dumping margins that may exist. The language of the Antidumping Act "in respect to the manufacture, production or sale of the merchandise" is somewhat broader than the standard which would be applied to tax rebates under this amendment—directly related to the exported products or its components—and will result in fewer or smaller adjustments which decrease the size of dumping duties.

The third amendment would assure that imported merchandise benefiting from tax rebates which the Secretary has already determined to be a bounty or grant, and thus subject to countervailing duties, would not be unfairly penalized by subjecting them to antidumping duties as well by reason of the same tax rebates.

Subsection (d) makes three amendments to section 204 of the Antidumping Act, dealing with exporter's sales price.

The first amendment adds a fifth item to the list of those costs, expenses, or taxes which must be subtracted from the resale price in the United States to an unrelated purchaser in the computation of exporter's sales price. This amendment provides that whenever merchandise subject to an antidumping investigation or finding is imported by a person or corporation related to the exporter, that is, an exporter's sales price situation, and the merchandise is changed by further process or manufacture so as to remove it from the class or kind of merchandise involved in the proceeding before it is sold to an unrelated purchaser, such merchandise will not escape the purview of the law, but appropriate adjustments for the value added will be made to arrive at an exporter's sales price.

The committee intends that this amendment shall be applicable only if the manufactured or assembled product that is sold to an unrelated person contains more than an insignificant amount of the imported merchandise. It would distort the purpose of the Antidumping Act to render section 204 applicable to a product sold in the United States that had no, or only the slightest, physical relationship with the imported merchandise. Thus, for example, when a process of manufacture or assembly is performed on the imported merchandise, the resultant product must contain at least a significant amount, by quantity or value, of the imported merchandise. The amendment will codify existing Treasury Department regulations on the subject and eliminate any question concerning the scope or intent of the act to reach such merchandise which has been further processed or manufactured.

The second and third amendments are identical to the amendments of section 203 of the act concerning the treatment of certain tax rebates or remissions in the computation of purchase price, and would apply these same standards in the computation of exporter's sales price.

Subsection (e) amends section 205 of the Antidumping Act, 1921 (19 U.S.C. 164), dealing with the determination of foreign market value, in two respects.

A new subsection (b) to section 205 is added to provide for disregarding, in certain situations, sales in the home market of the country of exportation or, as appropriate, sales to countries other than the United States if such sales are made at prices which represent less than the cost of production of the merchandise in question. The committee believes that this amendment is necessary to prevent foreign sales of merchandise, which are made at less than the cost of producing such merchandise, from being used as the basis for determining whether sales of such similar merchandise to the United States are at less than foreign market value. In the absence of such a provision, sales made to the United States at less than cost of production could escape the purview of the act if sales in the home market of the country of exportation or, as appropriate, to third countries are also made at prices which fail to meet the cost of production by an equal or greater amount.

Under the amendment, an inquiry into whether sales in the home market of the country of exportation or, as appropriate, sales to countries other than the United States are below cost shall be made in situations where the Secretary has reasonable grounds to believe or suspect that such sales are in fact being made.

Whenever the Secretary determines that sales below cost have been made, such sales shall be disregarded in determining foreign market value if they:

First, have been made over an extended period of time and in substantial quantities; and

Second, are determined by the Secretary not to be at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade.

These standards are designed to insure that sales made at less than cost of production will not automatically be excluded from consideration, for frequently it is normal business practice, both in foreign countries and the United States to sell obsolete or end-of-model-year merchandise at less than cost. Similarly, certain products, such as commercial airliners typically require large research and development costs before introduction and initially are sold at prices which do not reflect all overhead costs. If, however, such prices will permit recovery of all costs based upon anticipated sales volume over a reasonable period of time, such sales will not be disregarded. On the other hand, systematic sales at less than all cost of production at prices which will not permit recovery of costs will be disregarded under the amendment. Additionally, in determining whether merchandise has been sold at less than cost, the Secretary will employ accounting principles generally accepted in the home market of the country of exportation if he is satisfied that such principles reasonably reflect the variable and fixed costs of producing the merchandise.

When the Secretary determines that any sale shall be disregarded by virtue of its having been made below cost under the above standards, he shall, for purposes of determining foreign market value, determine whether a sufficient number of sales at or above cost of production remain as an adequate basis for comparison. In the absence of a sufficient number of sales at or above cost, the Secretary shall determine that no foreign market value exists and resort instead to constructed value as defined in section 206 of the act (19 U.S.C. 165) for purposes of comparison with the purchase price or exporter's sales price of the merchandise in question.

A new subsection (c) to section 205 is also added to adopt in the law the substance of the existing Treasury Department practice, as reflected in section 153.5(b) of the Treasury's antidumping regulations (19 CFR 153.5(b)), under which decisions regarding dumping are made with respect to merchandise from state-controlled-economy countries. From time to time, a case arises in which the information indicates that the economy of the country, from which the merchandise is exported, is controlled to an extent that determinations cannot be made in accordance with the usual technical rules. The amendment would confirm the Treasury practice under which the Secretary makes the necessary dumping determinations with respect to state-controlled-economy countries based on prices at which such or similar merchandise of a non-state-controlled-economy country is sold either for consumption in its home market or to other countries, or based on the constructed value of such or similar merchandise in a non-state-controlled-economy country.

Section (f) amends section 212(3) of the Antidumping Act, 1921 (19 U.S.C. 170a(3)), to provide that companies will be deemed to have sold merchandise to the United States at less than its foreign market value only if their sales to the United Staates are at prices lower than their own prices in the home market or, as appropriate, to third countries. Under present section 212, the Treasury Department is occasionally compelled to compare the prices at which one manufacturer sells to the United States with the prices at which a different manufacturer sells in the home market of the country of exportation. This is necessitated by the present language of section 212(3), which defines "such or similar" merchandise in such a manner as to compel resort to the home market prices of a second manufacturer if the first manufacturer makes no sales, or an insignificant number of sales, of the merchandise in question in his home market.

This committee believes that this language creates inequities by subjecting a manufacturer to liability for dumping duties in situations where he cannot control, and, most often, does not know the prices which will form the basis for comparison with his prices to the United States. To remedy this situation, the committee recommends that those subparagraphs of section 212(3) which dictate resort to the prices of a different manufacturer be deleted. With the amendment, a foreign manufacturer would be deemed to have sold merchandise to the United States at less than foreign market value only if the price of such merchandise is lower than the price of such or similar merchandise sold by the same manufacturer in the home market or, as appropriate, to third countries. If no sales, or an insignificant number of sales, of merchandise are made to countries other than the United States, resort would be had to constructed value—section 206 of the act—for purposes of comparison with the price to the United States.

The procedural amendments made in this section will apply to all investigations begun on or after the date of enactment of this act. The substantial amendments to the Antidumping Act—subsections (c) through (f) of this section—will apply to all merchandise which is not appraised on or before the date of enactment of this act. However, such amendments will not apply to merchandise which was exported before such date of enactment and which is subject to a finding of dumping, which finding is either outstanding on the date of enactment or revoked but still applicable to such merchandise.

It will be noted in the following section that section 516 of the Tariff Act of 1930 is amended to specifically permit judicial review of negative countervailing duty determinations. The committee has been informed by letter from the Secretary of the Treasury that domestic producers do have the right of judicial review in antidumping cases. The committee wishes to make it clear that the absence of amendments to section 516 with respect to antidumping cases should not be considered to mean that negative antidumping findings are not subject to judicial review. The Committee is in agreement with the letter.

COUNTERVAILING DUTIES

Section 331 of the bill would amend sections 303 and 516 of the Tariff Act of 1930 in a number of important respects. Section 303 is the statute under which the Secretary of the Treasury determines whether imported foreign articles receive a "bounty or grant." The Secretary is required to ascertain and determine, or estimate, the net amount of any bounty or grant, and is required to declare the net amounts so determined and order the imposition of countervailing duties.

Although the present statute is mandatory in terms, it does not compel the Secretary to act within any specified period of time. The bill would impose on the Secretary of the Treasury the responsibility to make his determinations as to whether a bounty or grant exists within 12 months after the question is presented to him.

Existing Treasury regulations call for certain types of information to be presented by a person who alleges that an imported article is receiving a bounty or grant. The regulations provide that such communciations shall include a full statement of the reasons for the belief that a bounty or grant is being paid or bestowed, a detailed description or sample of the merchandise and all pertinent facts obtainable as to any bounty or grant alleged to be paid or bestowed with respect to the merchandise. The regulations go on to provide, among other things, that the Commissioners of Customs will review the information submitted, and if he determines that it is patently in error, he will so advise the person who submitted it and close the case; otherwise he will proceed with an investigation.

We are advised by the Treasury Department that its regulations will be amended to require the Commissioner of Customs to determine, generally within 30 days after the information is first received, whether the information submitted is adequate under the regulations to enable Customs to proceed with the matter. The new regulations will also provide that the person submitting the information will be advised in writing within the 30 days whether or not Customs will proceed with the inquiry. If the information submitted is inadequate, Customs' advice to the person furnishing it will include a statement of the reasons why. If the information submitted is adequate, Customs will so advise the person furnishing it and the date of such affirmative advice would be "the date on which the question is presented" for purposes of triggering the commencement of the 12-month period within which the amendment would require the Secretary to act.

The committee was advised in 1970 that the Treasury Department would amend its regulations to conform to these procedures, and is concerned that the Treasury has not done so. The committee has received assurances from the Treasury that it will promptly move to amend its regulations and will be closely following the matter to insure that this commitment is fulfilled.

The 12-month limitation would be applicable only with respect to questions presented on and after the date of enactment of the bill. Any inquiries relating to the application of countervailing duties which are already pending in the Treasury Department on the date of the enactment of the bill will not be affected by the 12-month limitation for action. However, the Treasury Department has agreed to make all reasonable efforts to proceed with such inquiries as promptly as possible.

The present statute is mandatory, in that the Secretary is required to apply countervailing duties to dutiable merchandise which he determines to benefit from a bounty or grant. Section 331 (a) would extend the provisions of the statute to nondutiable items. However, in the case of nondutiable items, there will be an additional requirement of a determination by the Tariff Commission whether or not an industry in the United States is being, or is likely to be, injured, or is prevented from being established, as a result of the importations benefiting from the bounty or grant. The injury requirement for duty-free articles will exist only as long as the international obligations of the United States requires an injury determination. The Tariff Commission is required under the bill to make an injury determination with respect to nondutiable imports within 3 months after the initial determination by the Secretary of the Treasury that a bounty or grant is being paid or bestowed. The relevant language regarding injury determinations by the Tariff Commission was derived verbatim from the Antidumping Act, 1921, and is intended to have the same meaning.

The bill also provides for suspension of liquidation in the event the Secretary of the Treasury determines a bounty or grant exists with respect to nondutiable imports. The suspension would take effect with respect to merchandise entered or withdrawn from the warehouse for consumption, on or after the 30th day after publication in the Federal Register of the Secretary's determination of the existence of a bounty or grant. The subsequent countervailing duty order, requiring the assessment of duties equivalent to the amount of the bounty or grant, issued by the Secretary of the Treasury following the Tariff Commission's determination of injury, would be effective as of the date of suspension of liquidation. The significance of this suspension is that if there is a determination of injury by the Tariff Commission with respect to nondutiable imports, it will take effect on the same date as would a determination by the Secretary of the Treasury that a bounty or grant was being paid or bestowed on dutiable imports.

Section 331 of the bill also provides that all determinations by the Secretary with respect to the existence of a bounty or grant and all determinations by the Tariff Commission with respect to injury will be published in the Federal Register and will become effective 30 days thereafter. Under the current Treasury practice, countervailing duty orders become effective 30 days after publication in the Customs Bulletin. This new provision will advance by 2 or 3 weeks the date orders become effective by avoiding present printing leadtime lags in publication of the Customs Bulletin.

The committee amendment to the existing law would also add a new subsection (d) to section 303 of the Tariff Act authorizing the Secretary of the Treasury to refrain from applying the countervailing duty law to an article with which is subject to import quota restrictions or to effective quantitative limitations on its exportation orders become effective by avoiding present printing leadtime lags in formation and advice from such agencies as he may deem appropriate, that such quantitative limitations are an adequate substitute for the imposition of the countervailing duty.

The committee amendment to the existing law would likewise add a new subsection (e) to section 303 of the Tariff Act. The Secretary would be authorized not to impose additional duties under section 303 if, after seeking information and advice from such agencies as he may deem appropriate, he determines that such imposition would be likely to seriously jeopardize satisfactory completion of the forthcoming international trade negotiations. The Secretary's authority under this subsection would be restricted to 4 years after the date of its enactment. An additional provision in subsection (e) restricts the authority of the Secretary to refrain from imposing countervailing duties by reason of the serious jeopardization of trade negotiations to only 1 year from the date of enactment in investigations concerning merchandise produced by facilities owned or conrtolled by the government of a developed country when the investment in or operation of such facilities is subsidized.

The 4-year temporary discretionary authority was accorded because of the very real danger that the mandatory provisions of section 303, combined with the committee's amendment providing for a 12-month time limit for action under this section, could compel the Secretary to take actions which might well frustrate the successful outcome of the forthcoming negotiations.

The committee is aware that there are differences of opinion internationally as to what constitute permissible and nonpermissible export assists under international law and practice, and that the negotiation of an agreement on this issue may prove difficult. The committee has no desire to sanction certain existing export-assist practices conducted by various foreign governments. It also recognizes that the United States itself may well be conducting programs of export assists which foreign governments may find inconsistent with international law and policy.

With this background, the Secretary of the Treasury must be temporarily accorded some degree of latitude in administering section 303 until an international agreement is reached regarding the international practices which would be considered permissible and nonpermissible. Otherwise the Secretary of the Treasury may conceivably be constrained to take countervailing action under section 303 against a practice which ultimately may be internationally agreed to be a permissible international export assist. The discretionary authority accorded herein has been restricted to 4 years to facilitate the international negotiations. It has been accorded on the understanding that the U.S. negotiators will report regularly to the Congress on the progress and ultimately on the outcome of the negotiations with respect to international export assists. The committee assumes that it may be necessary to further amend section 303 depending upon the outcome of these negotiations, assuming that they terminate in an agreement acceptable to the United States.

Section 331(b) of the bill would amend subsections (a), (b), and (c) of section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), to provide for judicial review of negative countervailing duty determinations by the Secretary of the Treasury. The amendment is necessitated by a 1971 decision of the Court of Customs and Patent Appeals (*United States* v. *Hammond Lead Products, Inc.*, 58 CCPA 129, CAD 1017), which held that judicial review of negative countervailing duty determinations was not available to domestic producers. If allowed to stand this decision might adversely affect the ability of American producers to obtain meaningful relief under the countervailing duty law, a result not intended by the Congress. Moreover, the amendment is also warranted, for reason of equity, because American producers have a right to judicial review in the customs courts of other customs determinations involving duty assessment of countervailing duties.

Section 516 of the Tariff Act of 1930, as amended, permits American manufacturers, producers, or wholesalers to file a petition with the Secretary of the Treasury contesting the appraisement, classification, or rate of duty assessed with respect to imported merchandise by the Customs Service. The amendment permits such petitions to be filed by American manufacturers, producers, or wholesalers where it is believed that countervailing duties should be assessed.

Under section 516, if the Secretary of the Treasury agrees with the claims made in the manufacturer's petition, he must determine the proper appraised value, classification, or rate of duty and notify the petitioner of his determination and publish such notice in the weekly Customs Bulletin. All merchandise concerned entered thereafter is appraised, classified, or assessed with a rate of duty in accordance with the Secretary's decision. The amendment would apply the same procedure to countervailing duty cases, except that the notification in such cases would be published in the Federal Register.

If the Secretary disagrees with the petitioner's claim, the petitioner may file, within 30 days, after being notified of the negative decision, notice that he desires to contest the decision. The Secretary must then publish the decision and the fact that the petitioner desires to contest.

Following the first judicial decision not in harmony with the Secretary's decision, liquidation of all entries of the subject merchandise subsequent to that decision is suspended pending a final judicial decision. If that decision is sustained on appeal, the merchandise concerned is subject to appraisement, classification, or assessment of duty in accordance with the final decision and effective as of the day after the date of the first judicial decision. The same procedure will be followed in cases involving negative countervailing duty determinations where the court will determine whether or not a bounty or grant is being paid or bestowed on the merchandise in question.

The committee has determined that the effective date of the provisions of the bill amending the countervailing duty procedures should be the date of enactment of the bill.

UNFAIR IMPORT PRACTICES

Section 341 of the bill would amend section 337 of the Tariff Act of 1930 to vest authority in the Tariff Commission to order the exclusion of articles involved in unfair methods of competition and unfair acts based upon the claims of U.S. letters patent and imported or sold in violation of the statute. The decisions of the Commission would be subject to judicial review by the U.S. Court of Customs and Patent Appeals—CCPA.[1] Under the existing provisions of the statute, the President issues such exclusion orders after receipt of findings and recommendations of the Tariff Commission. Section 341 would make no changes in the existing provisions as they relate to the respective roles and authority of the President and of the Commission with respect to unfair methods and acts other than those based upon the claims of U.S. letters patent, which are provided for in subsections (a) through (g) of section 337.

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[1] In connection with the existing statute, where commission findings are advisory in nature, it is noted that the U.S. Supreme Court has expressed by way of dictum that the Commission's proceedings under sec. 337 are lacking of a case or controversy necessary for review by the CCPA, a constitutional court (*Glidden* v. *Zdanok*, 370 U.S. 530 (1962)). After the President has ordered exclusion of an article, a customs officer's exclusion thereof from entry into the United States is subject to judicial review by the U.S. Customs Court.

As in the past, the Commission would make its determinations in cases involving the claims of a U.S. patent following the guidelines of Commission practices and the precedents of the CCPA. Commission precedent, approved by the CCPA, establishes that the importation or domestic sale without license from the patent owner of articles manufactured abroad in accordance with the invention disclosed in an unexpired U.S. patent constitutes an unfair method of competition or unfair act within the meaning of section 337. In cases involving the claims of U.S. patents, the patent must be exploited by production in the United States, and the industry in the United States generally consists of the domestic operations of the patent owner, his assignees and licensees devoted to such exploitations of the patent. Where unfair methods and acts have resulted in conceivable losses of sales, a tendency to substantially injure such industry has been established (cf., In re Von Clemm, 229 F 2d 441 (CCPA 1955)).

The Commission would also consider the evolution of patent law doctrines, including defenses based upon antitrust and equitable principles, and the public policy of promoting a "free competition" in the determination of violations of the statute. For a period of over 40 years, the Tariff Commission has entertained complaints of importation or sale of articles allegedly made in accordance with the specifications and claims of a U.S. patent, first under the provisions of section 316 of the Tariff Act of 1922, and then pursuant to successor provisions in section 337 of the Tariff Act of 1930. In its decisions under these provisions, the Commission has determined that under certain circumstances, the importation or domestic sale of an article manufactured abroad in accordance with the invention disclosed in a U.S. patent constitutes one type of unfair method or unfair act within the meaning of the statute. This practice has resulted in the Commission's considering U.S. patents as being valid unless and until a court of competent jurisdiction has held otherwise. The public policy recently enunciated by the Supreme Court in the field of patent law (cf., *Lear, Inc.* v. *Atkins*, 395 U.S. 653 (1969)) and the ultimate issue of the fairness of competition raised by section 337 necessitate that the Commission review the enforceability of patents, for the purposes of section 337, in accordance with contemporary legal standards when such issues are raised and are adequately supported. The President is not empowered under existing law—nor would the Commission be under the amendment—to set aside a patent as being invalid or to render it unenforceable. The extent of the Commission's authority is to take into consideration such legal defenses and to make findings thereon for the purposes of determining whether section 337 is being violated.

Any order of the Commission entered in any proceeding would be subject to judicial review in the CCPA within such time after said action is made and in such manner as appeals may be taken from decisions of the U.S. Customs Court. A complainant as well as an importer would have the right to judicial review of a Commission proceeding such as is contemplated by the committee's amendment.

The Commission would be authorized at any time, after a hearing in the course of its preliminary inquiry or full investigation but before completing its investigation, to issue a temporary order of exclusion if it is satisfied from the evidence in its possession that a probable unfair method or act has been established, and that, in the absence of such temporary order of exclusion, immediate and substantial harm would result to the domestic industry.

Any order issued by the Commission, whether temporary or final, would be terminated by the Commission when, on its own motion or upon request of an interested party, it finds that the conditions which lead to the issuance of the order no longer exist. If, for example, a court of competent jurisdiction should hold invalid or unenforceable a patent involved in an exclusion order, the Commission would take the matter under consideration, and, where appropriate, would terminate or suspend the order of exclusion.

Commission proceedings and actions would be based upon a full hearing on a record, bringing these provisions into accord with the provisions of subchapter II of chapter 5 of title 5 of the United States Code.

TRADE RELATIONS WITH COUNTRIES NOT ENJOYING NONDISCRIMINATORY TREATMENT

Title IV of this act would authorize the President to extend nondiscriminatory—column 1—tariff treatment to imports from countries not now receiving such treatment in return for appropriate benefits to U.S. interests, provided such countries permit their citizens to emigrate and do not impose unreasonable financial barriers to emigration. Nondiscriminatory treatment — most-favored-nation treatment—was withdrawn from all Communist countries except Yugoslavia pursuant to section 5 of the Trade Agreements Extension Act of 1951, which was in turn superseded by section 231(a)—originally enacted as section 231—of the Trade Expansion Act of 1962. It was restored to Poland in 1960.

Section 231(a) of the Trade Expansion Act of 1962 removed the area of discretion previously available to the President and flatly required denial of nondiscriminatory tariff treatment to all Communist countries. Section 231(b), enacted as an amendment to the TEA in 1963, in effect permitted an exception to be made from Poland and Yugoslavia. The authority requested by the President to extend or withdraw nondiscriminatory treatment in the case of those countries not now receiving such treatment can be a useful factor in obtaining important trade benefits for the United States.

EXCEPTION OF THE PRODUCTS OF CERTAIN COUNTRIES OR AREAS

Section 401 continues in force the provision of existing law requiring the President to deny nondiscriminatory treatment to the products of any country or area not now receiving such treatment except as otherwise provided in this title. The countries not now receiving such treatment, as set forth in headnote 3(e) to the Tariff Schedules of the United States, are Albania, Bulgaria, the People's Republic of China, Cuba, Czechoslovakia, East Germany, Estonia, Hungary, those parts of Indochina under Communist control or domination, North Korea, the Kurile Islands, Latvia, Lithuania, Outer Mongolia, Romania, Southern Sakhalin, Tannu Tuva, Tibet, and the U.S.S.R. In contrast to the Trade Expansion Act, this act will permit the President under certain conditions to extend nondiscriminatory treatment to those countries, under procedures set forth in the succeeding provisions of this title. The term "nondiscriminatory treatment" is intended to be synonymous with the meaning given "most-favored-nation" treatment, that is, products of a country given such treatment are subject to the normal preferential—column 1—rates of duty to which the products of all other nations enjoying such treatment are subject.

FREEDOM OF EMIGRATION AND EAST-WEST TRADE

Section 402 makes the products of a nonmarket economy country; that is, all Communist countries except Yugoslavia, which is subject to this title; that is, all Communist countries except Poland and Yugoslavia, ineligible to receive nondiscriminatory treatment during any period when the President determines that such country—

First, denies its citizens the right or opportunity to emigrate;

Second, imposes more than a nominal tax on emigration, or on documents required for emigration; or

Third, imposes more than nominal taxes, fines, or other charges on a citizen as a consequence of his desire to emigrate to the country of his choice.

During any period when such a determination is in force with respect to any country, the President would be barred from entering into a commercial agreement providing for the extension of nondiscriminatory tariff treatment to that country.

If a non-market-economy country is determined by the President to be eligible to receive nondiscriminatory treatment under the above test, he may conconclude a commercial agreement providing such treatment with such country only after submitting a report to Congress setting forth his findings of eligibility. The report must contain information concerning the country's emigration laws and policies, as well as a statement on how these laws and policies are administered. If thereafter the President proclaims the extension of nondiscriminatory treatment to that country, either pursuant to a bilateral commercial agreement or a multilateral agreement, and such treatment is not disapproved by Congress under section 406, then the President must, so long as such treatment is in effect with respect to the products of the country, submit semiannual reports to the Congress with current information on emigration laws and practices.

Section 402 will effectively prevent the extension of nondiscriminatory treatment to Communist countries which frustrate the desire of their citizens to emigrate. If those governments refuse without due cause to permit any individual who desires to emigrate the opportunity to leave, the products of those countries would not be eligible for nondiscriminatory tariff treatment. Further provisions of this section make clear that a country which in theory accords the right to emigrate, but in practice makes the exercise of that right impossible or extremely onerous through the imposition of unreasonable fees, taxes, and other charges, will not be eligible for nondiscriminatory treatment. This section applies to all Communist countries—except Poland and Yugoslavia, the products of which now receive nondiscriminatory tariff treatment.

It is hoped that this section will provide an incentive to the Soviet Union and other Communist countries to permit freedom of emigration. When such freedom is granted, the products of these countries may, subject to the other provisions of this title, be accorded nondiscriminatory tariff treatment by the United States.

EXTENSION OF NONDISCRIMINATORY TREATMENT

Section 403 provides that the President may extend nondiscriminatory treatment by proclamation to any country with which he has concluded a bilateral commercial agreement meeting the requirements of section 404, or he may issue a proclamation extending such treatment to any country which is a party to an appropriate multilateral agreement to which the United States is a party; for example, the GATT, subject to the congressional veto procedure under section 406(c). Where nondiscriminatory treatment is extended pursuant to a bilateral agreement, such treatment may be accorded only so long as that agreement is in force. In the case of extension based on multilateral agreement, such treatment may be accorded only so long as both the United States and the country concerned continue to be parties to the agreements.

Nondiscriminatory tariff treatment must be withdrawn during any period the country concerned is in arrears under any agreement to settle its lend-lease debts to the United States. The President is also authorized at any time to suspend or withdraw nondiscriminatory treatment extended under this section. The committee considers that it is desirable to permit the President to extend nondiscriminatory treatment either through a bilateral commercial agreement or the GATT, whichever appears the more appropriate. It is further believed that the provisions of this section are desirable to protect American commercial and security interests. Some consideration has previously been given to extension of nondiscriminatory treatment to Romania, Hungary, and Czechoslovakia. It was the feeling of the committee that some priority should be given to these countries in extending such treatment.

As provided under section 407, the President will make necessary changes in general headnote 3(e) of the Tariff Schedules of the United States periodically to reflect the granting and withdrawal of nondiscriminatory treatment made under this title.

AUTHORITY TO ENTER INTO COMMERCIAL AGREEMENTS

Section 404 authorizes the President to give effect to bilateral commercial agreements providing for nondiscriminatory treatment to Communist countries whenever such agreements are in the national interest. These agreements would be limited to a period of no more than 3 years, but could be renewed for additional periods of up to 3 years if a satisfactory balance-of-trade concession has been maintained during the previous period, and if U.S. trade concessions have been or will be adequately reciprocated. These limitations are imposed to assure that the United States obtains benefits from such country reasonably comparable, although not necessarily of a similar nature, to those it accords. The provision applies both prospectively and to agreements which have already been entered into but not yet implemented, such as the agreement with the Soviet Union signed in October 1972.

This section stipulates that a bilateral commercial agreement must contain safeguards against market disruption, arrangements for settlement of commercial disputes, provisions for bilateral consultation, and, where the country is not a party to the Paris Convention for the Protection of Industrial Property provision, for U.S. nationals to receive, with respect to patents, rights equivalent to those provided in the convention. It also lists illustrative additional provisions which may be included in those agreements. Each agreement, moreover, must be subject to suspension or termination for national security reasons.

The requirements of section 404 will insure that commercial arrangements with Communist countries provide benefits to U.S. business, that they provide an opportunity to monitor the agreement to make certain it operates in a favorable manner, and that such agreements afford the opportunity to secure any adjustment needed to protect our interests. Any such agreement, moreover, may enter into force only if either House of Congress adopts a resolution disapproving it within 90 days after the President delivers copy of the agreements to Congress.

MARKET DISRUPTION

The purpose of section 405 is to provide more easily satisfied criteria for determining whether injury to domestic industries has resulted from imports from countries which are granted nondiscriminatory treatment under this title. This section will provide an additional means whereby effective action can be taken to protect domestic industries in those cases in which imports from Communist countries under this title are threatening or causing material injury to domestic industries.

Under this section, an entity filing a petition for import relief under section 201 of this bill could request the Tariff Commission to determine whether articles imported from a country receiving nondiscriminatory tariff treatment under this title were causing or threatening to cause, market disruption and material injury to the domestic industry, producing the article like or directly competitive with the imported article. Market disruption, as defined in the bill, exists whenever imports of the article in question are at a substantial level and are increasing rapidly both absolutely and as a proportion of domestic consumption, and when such imported articles are being offered for sale at prices substantially below those of the comparable domestic article.

If the Tariff Commission finds that those tests are met, the President would be authorized to impose import relief measures—additional duties, tariff quotas, absolute quotas, et cetera—on a discriminatory basis against the products of the country concerned, or against the products of all countries.

A problem in trade with nonmarket countries is the possibility that such a country, through its control of distribution to the products which it produces and of the price at which those articles are sold, could disrupt the domestic markets of its trading partners and injure producers in those countries. It is intended that section 405, which reduces the level of injury needed to permit an affirmative determination in import relief cases—from "serious injury" to "material injury"—will provide needed protection to domestic producers. The term "comparable domestic article" is intended as a narrower classification than "like or directly competitive article." The provisions of this section are in addition, of course, to the protections already afforded under the Antidumping Act.

PROCEDURE FOR CONGRESSIONAL DISAPPROVAL OF EXTENSION OR CONTINUANCE OF NONDISCRIMINATORY TREATMENT

Section 406 establishes a procedure under which Congress can disapprove the extension or continuation of nondiscriminatory treatment within 90 days after the President submits a proclamation providing nondiscriminatory treatment or an annual report on emigration practices.

In the case of an initial extension of nondiscriminatory tariff treatment to the products of a country covered by this title, the President must submit to Congress, in addition to the report on emigration practices required by section 402, a copy of his proclamation extending nondiscriminatory treatment, a copy of the multilateral or bilateral agreement pursuant to which such treatment is to be extended, and a statement of his reasons for extending such treatment to the country concerned. The proclamation will enter into force if, and only if, neither House of Congress adopts a resolution approving the extension of nondiscriminatory treatment to such country within 90 days after the submission of these documents. Special rules governing procedures for dealing with resolutions under section 406 are contained in section 151 of the bill.

In addition, after the President submits the semiannual report required to be submitted to Congress on or before December 31 of each year under section 402(b) regarding the emigration practices of a country to which nondiscriminatory tariff treatment is extended under this title, either House may adopt a resolution within 90 days disapproving the continuation of such treatment. In the event such a resolution is adopted, nondiscriminatory treatment will cease to be in force. Nondiscriminatory treatment may not thereafter be extended to the products of such country except in accordance with the provision of this title.

These congressional veto provisions will assure continuing congressional control over commercial dealings with Communist countries.

GENERALIZED SYSTEM OF PREFERENCES

Title V of the bill would authorize the President to participate with other major developed countries in the granting of generalized tariff preference to imports from developing countries for a period of 10 years. The bill requires the President submit a full and complete report to the Congress on the operation of the system within 5 years. The system would provide for duty-free treatment for any article determined to be eligible under the provisions of section 503 imported from any country designated as beneficiary under the provisions of section 502, and subject to the limitations specified in section 504. In granting such treatment the President must have due regard for the effect such action would have on the economic development of developing countries, the anticipated impact on domestic producers, and the extent to which other developed countries are making a comparable effort to assist developing countries through the granting of generalized tariff preferences.

BENEFICIARY DEVELOPING COUNTRIES

The bill contains several criteria for determining countries which may be designated as beneficiaries of generalized tariff preferences. Statistical criteria such as per capita GNP are not very satisfactory measures by themselves for distinguishing between various levels of development, since these statistics must be evaluated in the light of other economic factors. Moreover, some countries now regarded as developing countries may reach a high enough level of development well before the end of the 10 years to justify termination of preferential treatment to them. Consequently, no definition or list of developing countries has been included in the bill. It does include a list, however, of countries which are generally recognized to be developed countries and stipulates that these countries cannot be designated as beneficiary developing countries. The list is similar to that in the interest equalization tax legislation. Inclusion of this list in the bill does not imply that all other countries will be eligible for generalized tariff preferences, or that any member country of the European Economic Community, if otherwise qualified, would be ineligible for preferential treatment if its membership in the Community were terminated.

The bill would prohibit the granting of generalized tariff preferences to countries which do not receive nondiscriminatory—column 1—tariff treatment, and would require the withdrawal of preferences from countries which subsequently cease to be eligible for such treatment. The bill would also prohibit the granting of generalized tariff preferences to any developing country which grants preferential treatment to the imports of another developed country—"reverse" preferences—unless the country provides satisfactory assurances that it will eliminate these "reverse" preferences before January 1, 1976. Preferential treatment would be withdrawn if the country has not eliminated "reverse" preferences before that date. The condition would not be met if a developing country simply extended to the United States "reverse" preferences granted to another developed country. This criterion is intended to provide increased pressure for developing countries to remove "reverse" preferences within a reasonable period of time.

In addition to the mandatory criteria, section 502 lists a number of other factors which must be taken into account in designating beneficiary countries. No one of these criteria is individually controlling on the President. However, they do constitute guidelines and reflect certain expectations about beneficiary countries. It is expected that a potential beneficiary country will express its desire to be so designated, in accordance with the "self-election" principle which the donor countries of generalized tariff preferences have generally agreed to apply. A potential beneficiary is expected to present a bona fide claim to development status based on its level of development as defined by appropriate economic indicators. The developed countries have agreed to make their generalized preference systems roughly comparable and, in general, the United States would not expect to give preferential tariff treatment to countries which do not receive such treatment from other donor countries. The expropriation of U.S. property in violation of international law by a potential beneficiary country is also to be taken into account.

The term "country" is specifically defined to include the insular possessions of the United States to insure that they may be designated as beneficiaries. Designation as a beneficiary is not intended to impair any benefits that these possessions are receiving by reason of headnote 3(a) to the Tariff Schedules of the United States. It is intended that the products of U.S. insular possessions should under no circumstances be treated less advantageously than those of foreign countries. To the extent that such products would be entitled to better treatment under headnote 3(a) than under this title, they should receive treatment under 3(a).

Indeed, in determining eligibility of an article under this title, the President should take into account the extent to which duty-free treatment of such articles from the insular possessions are presently contributing to the economic well-being and development of the insular possessions, and the extent to which such trade would be adversely affected if such articles were to be made eligible for generalized tariff preferences.

The President may provide that all members of an association of countries for trade purposes, that is, a free trade area, customs union, of association leading to the formation of such an area or union, shall be treated as one country for the purposes of this title, provided each member of the association is eligible for individual designation as a beneficiary country. Where an association of countries is designated a beneficiary, exports from all member countries of the association shall be treated as exports of the association, both for purposes of the value-added requirements of section 503 (b) and for the purposes of the competitive need limitation in section 504(c). For these purposes, movement of goods among members of the association prior to their exportation to the United States is to be disregarded.

Prior to designating any beneficiary country the President must notify both Houses of Congress of his intention and the considerations on which the decision is based. He must also notify the Houses of Congress 30 days in advance of terminating beneficiary status to any country and his reasons for the termination.

ELIGIBLE ARTICLES

Section 503 establishes the procedures and criteria for determining products which may be eligible for duty-free preferential treatment. The "prenegotiation" procedures specified in sections 131 through 134 of this bill would have to be followed prior to granting preferential treatment on any article, as though the act of designating an article as an eligible article under this title were an action affecting rates of duty pursuant to a trade agreement under section 101. These procedures include the advice of the Tariff Commission as to the anticipated economic effect on domestic producers, information and advice from other Government agencies, and public hearings.

Before any list of articles to be considered for designation as eligible is furnished to the Tariff Commission for purposes of its required investigation under section 131, an Executive order would have to be in effect designating beneficiary countries. The Tariff Commission would not be able to make a sound judgment of the economic impact of preferences on industries producing like or competitive articles unless the Commission were apprised of the list of countries which will receive preferences. At the same time, it is recognized that the list of beneficiary countries may be modified from time to time.

The term "article" will in general refer to the five-digit tariff item numbers of the tariff schedules of the United States. Exceptions may be made to this rule if necessary to insure that an article is a coherent product category.

No article would be eligible for duty-free preferential treatment for any period during which it is the subject of import relief measures under section 203 of this bill or section 351 of the Trade Expansion Act. It could not be designated at any time while import relief action is in effect, and if, subsequent to its designation, the President, pursuant to a finding of the Tariff Commission, took an import relief action affecting it, the preferences would be terminated. Section 203(f) further provides that if the Tariff

Commission finds under section 201(b) that serious injury to a domestic industry is resulting from the extension of preferences under this title, the President may terminate the preference without taking other import relief action.

Where injury to the domestic industry results from imports entering under preferences which receive bounties or grants in the country or countries of origin, such imports will be subject to countervailing duties under the provision of section 303 of the Tariff Act of 1930.

To receive preferential treatment, an eligible article must meet specific rules of origin to insure that the benefits of U.S. generalized preferences accrue to the designated beneficiary developing countries. To receive preferential treatment such articles must be imported directly from a beneficiary developing country into the customs territory of the United States. The value added in the developing country, including the cost or value of materials produced in the developing country and the direct costs of processing operations, must also equal or exceed a minimum percentage of the appraised value of the article at the time of its entry. This minimum percentage cannot be less than 35 percent or more than 50 percent of the appraised value as prescribed in regulations established by the Secretary of the Treasury and shall be uniformly applied to all eligible articles from all beneficiary developing countries. The percentage may be adjusted within this range from time to time in the light of actual experience, to assure that, to the maximum extent possible, the preferences provide benefits to developing countries without stimulating the development of "passthrough" operations the major benefit of which accrues to enterprises in developed countries.

In determining the appropriate percentage for value added, the Secretary of the Treasury will be expected to evaluate the effects of the extension of preferences on trading patterns, paying especial attention to imports of products ordinarily dutiable at high rates which enter under the system and contain a high proportion of manufactured components produced in developed countries. The Secretary should increase the percentage for value-added in the event he finds that imports of products of this type are increasing sharply and substantially. The range of up to 50 percent has been included to permit adjustments in the light of experience, since at the present time the effect of various percentage levels on patterns of trade is unknown.

The President should take into account the interests of the insular possessions of the United States in determining the eligibility of any article.

LIMITATIONS ON PREFERENTIAL TREATMENT

The President is authorized to withdraw, suspend, or limit preferences at any time with respect to any article or any beneficiary developing country. In taking such action, the President must consider the factors taken into account in granting preferential treatment initially and in designating beneficiary countries. Withdrawal or suspension of preferential treatment restores the rate which would apply in the absence of this title; an intermediate rate of duty cannot be established. As noted in the GATT waiver authorizing generalized tariff preferences, the United States and the other developed countries agreed that preferences are voluntary and that they do not constitute a binding commitment. Consequently, the withdrawal or suspension of preferential treatment would not give rise to payment of compensation under section 124 of this bill. Nor would the reduction of the general level of tariff rates as the result of bilateral or multilateral trade agreements create in beneficiary countries any right to compensation for the reduced incidence of preference.

The President is required to withdraw or suspend preferential treatment from any country which ceases to receive nondiscriminatory—column 1—tariff treatment from the United States. He must also withdraw or suspend preferential treatment from any country which has not or will not eliminate reverse preferences before January 1, 1976.

Duty-free preferential treatment shall also not apply to a particular article from a particular beneficiary developing country if that country has supplied, directly or indirectly, 50 percent or more of the total value or over $25 million of U.S. imports of the article during the latest calendar year for which complete data are available. If imports of an article eligible for preferences from a beneficiary country reach the 50 percent or $25 million level in any calendar year, the preference on that article from that country must terminate not later than 60 days after the close of the calendar year, unless the President determines before the end of the 60-day period that granting or continuing the preferential treatment would be in the national interest.

This competitive need formula is designed to provide an express requirement governing the withdrawal or suspension of preferential treatment in those cases where it can no longer be justified on grounds of promoting the development of an industry in a particular developing country. This authority also enables the President to withhold the initial granting of preferential treatment to a particular developing country which has already demonstrated its competitiveness in the article in question. The formula is also designed to provide more opportunities to the least developed countries which would not have to compete in the U.S. market on equal terms with highly competitive products exported by more advanced developing countries. It should be noted that the competitive need formula takes into account indirect exports-reexportations, et cetera—whereas indirect exports are not eligible for preferences under this title.

Since the bill authorizes the President to grant generalized preferences for a period of 10 years, the committee considers it important to monitor the operation of this title and to insure that it fulfills the purposes for which it is intended. Therefore, the bill requires the President to submit a comprehensive report on the operation of the U.S. system of generalized preferences no later than 5 years after enactment of the bill.

GENERAL PROVISIONS

Title VI, the general provisions of the bill, defines certain terms of a general nature used throughout the bill, as well as certain terms having applicability to specific sections of the legislation. The title also specifies the relationship of this bill to certain other legislation where appropriate, and it provides for certain authorities to the Tariff Commission and the President with respect to information on the operation of trade agreements and changes in the Tariff Schedules of the United States as a result thereof.

Mr. SCHNEEBELI. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, since the mid-1930's, the trade agreements program has been one of the cornerstones of U.S. international economic policy. During this period, the trade agreements program has been renewed and broadened, culminating in the Trade Expansion Act of 1962.

The Trade Reform Act now before the House builds on this record, but also makes important changes to properly restrict presidential authority and to involve the Congress as a full partner in all trade negotiations.

The chairman has explained the bill in detail. In view of his explanation and the intention of other members of the committee from our side of the aisle to concentrate on particular areas of the legislation, my remarks will be general in nature and focus on the rationale for the bill.

The President has been without authority to adjust tariffs since the authority provided by the Trade Expansion Act of 1962 expired on June 30, 1967. Although the rules of the GATT require that we grant compensation to our trading partners when we provide import relief to a domestic industry under our escape clause, there has been no authority for the President to do so. This invites other nations to retaliate if we take escape clause action and may inhibit action to provide import relief.

Although tariffs were reduced substantially during the Kennedy round, in many cases they still significantly inhibit trade. An attempt at further reductions on a reciprocal basis would be mutually beneficial to both the United States and our trading partners.

The committee bill, therefore, grants authority to the President to proclaim limited tariff reductions as a result of trade agreements entered into with our trading partners over the next 5 years. Broad prenegotiation procedures are included to insure the fullest participation by interested members of the public, and reduction in duties would have to be staged to cushion the impact on domestic industries.

In addition to these limitations as to procedure and the duration of the authority provided, the latitude to cut specific tariffs is carefully limited in this bill. Present tariffs of between 5 and 25 percent ad valorem may be reduced by 60 percent of the present amount. While tariffs above 25 percent ad valorem may be reduced 75 percent but in no event below 10 percent ad valorem. As in the Kennedy round, reduction in duties of 5 percent or less are not subject to limitation but may be eliminated in order to avoid nuisance duties not providing any real protection but represent an administrative burden.

It should be noted that to the extent feasible the basic negotiating authority is to be used to insure reciprocity of market access to each sector of agriculture, manufacturing and mining.

Trade figures for 1971 show about $45.5 billion in U.S. imports, with about one-third or $15 billion being duty free, and the remaining two-thirds, or $30 billion, being subject to duties. Of the $30 billion in dutiable imports, about $13.5 billion were subject to duties of 5 percent ad valorem or less that could be eliminated under this bill, but the remaining $16.5 billion—more than one-third of all imports and more than one-half of dutiable imports—would be subject to reduction limitations. When we consider that the average level of U.S. tariffs was 12 percent at the beginning of the Kennedy round and is today 8 percent, the authority provided in this bill provides even less latitude in duty reductions than the Trade Expansion Act of 1962 did.

Interference to free trade is of two types—tariffs and other devices and practices known as nontariff barriers, or NTB's. There has been growing recognition in recent years that the benefits of previous negotiations have been undermined and are threatened by the continuing extension of these nontariff barriers. And if we are to maintain an open world trading system, the United States must be prepared to meet our trading partners' commitment to effectively negotiate for the elimination of NTB's, which are varied and wide-ranging, such as quantitative limitations, subsidized exports, Government procurement practices, border taxes, licensing, et cetera.

The bill provides procedures authorizing the President to negotiate on nontariff barriers while preserving legislative prerogatives and insuring effective participation by the Congress. The President would be authorized, during a 5-year period, to enter into trade agreements providing for the reduction or elimination of nontariff barriers. Under this authority, NTB's must be negotiated to the extent feasible, on the basis of similar product sectors. A principal negotiating objective will be to obtain competitive opportunities in exports for our product sectors equivalent to competitive opportunities afforded in the United States market for similar products.

The prenegotiation requirements, including public hearings by the Tariff Commission, public hearings by our negotiators, and full and continuing consultation by interested and appropriate groups in the private sector with our negotiators—both before and during negotiations—would apply in the case of nontariff barriers as well as tariffs.

The bill requires the President, at least 90 days before entering into an agreement on nontariff barriers, to notify both the House and the Senate of his intention to do so and to place a notice in the Federal Register. After entering into the agreement, copies of the agreement along with any implementing proclamations and orders must be transmitted to the House and Senate. The agreement and any implementing proclamations and orders will go into effect at the end of the 90-day period unless either House of Congress adopts a resolution of disapproval by simple majority.

It is quite evident, with all these provisions of the bill for congressional review and oversight, that we have assured proper and ample controls by the Congress.

While liberalizations in trade will result in improved efficiency and greater economic well-being for the Nation as a whole, the process of adjusting to increased competition sometimes imposes burdens on individual industries, businesses, or workers. Where an industry has been seriously injured in the past by imports, the law has provided for import relief. Additionally, in these cases or where separate proceedings were instituted, workers suffering from significant unemployment could receive adjustment assistance.

However, under the Trade Expansion Act of 1962, it was necessary to show that the dislocations were in major part due to increased imports which were in major part caused by past tariff concessions. This double burden posed insurmountable obstacles to many industries and their workers, so the committee has, therefore, greatly liberalized the criteria entitling industries and workers to relief.

Under the bill before the House, it will only be necessary for an industry that is seriously injured to show that imports are a "substantial cause" of the injury in order to be considered for import relief. In the case of workers applying for adjustment assistance, it will only be necessary to show that imports contributed importantly to total or partial separation and to a decline in sales and production of the workers' firm.

The benefits for workers are liberalized considerably, and adjustment assistance is provided for firms. Additionally, the Secretary of Labor will make eligibility determinations for adjustment assistance in the case of workers, and the Secretary of Commerce will make determinations on adjustment assistance relative to firms. The streamlined procedures will expedite action on applications for adjustment assistance, and the liberalized criteria will provide greater access to needed relief.

The bill also contains improved procedures providing relief against unfair practices by our trading partners.

The countervailing duty and antidumping statutes are tightened and time limits are imposed to insure expeditious consideration of complaints by domestic interests. The President's authority to retaliate in the case of unfair trade practices by our trading partners, both against American imports in their own markets or to third country markets, is expanded.

Additionally, title IV of the bill provides carefully circumscribed authority for the President to extend nondiscriminatory tariff treatment to countries which are not now entitled to that treatment. The right to grant this treatment would, as the Members know, be limited to insure that it is not extended to countries with restrictive emigration policies.

The bill also provides authority for the United States to participate in a generalized system of tariff preferences to underdeveloped countries. This carefully limited authority will enable the United States to join with our trading partners in providing a system of tariff preferences to enable these countries to develop their own productive capacity.

In view of the magnitude of the bill and the fact that other Members will comment in more detail on these provisions, I will not discuss any further in detail.

While the bill provides authority adequate for the United States to participate in a new round of negotiations on tariffs and nontariff barriers, new limits are included, as I mentioned previously, to safeguard the rights and responsibilities of the Congress. As before noted, any proclamations and orders implementing agreements on nontariff barriers may not go into effect if either House of Congress passes a resolution of disapproval.

Additionally, whenever the President extends nondiscriminatory tariff treatment to a country under title IV, the Congress will have a 90-day period in which either House may adopt a resolution of disapproval. The President also must submit an annual report with respect to each nation receiving this treatment under title IV, and a resolution of disapproval by either House within 90 days will preclude any further extension of such treatment.

If the President takes action on an escape clause investigation to impose quantitative limitations or to enter into an orderly marketing agreement, the same procedure for disapproval within 90 days is provided. Similarly, if the President takes action under section 301 against unfair trade practices of foreign countries, either House of Congress could adopt a resolution of disapproval within 90 days.

The bill provides for the appointment of five members of the Ways and Means Committee and five members of the Senate Finance Committee at the beginning of each regular session of Congress to be accredited as official advisors to the U.S. delegation negotiating any trade agreement. It is contemplated that the U.S. advisors will be kept fully informed on all aspects of the negotiation and will in turn keep Congress informed. Annual reports on the trade agreements and import relief and adjustment assistance will also be required.

Finally, Mr. Chairman, let me point out that trade is of increasing importance to our country, and this bill is of critical importance to further efforts to improve our trade posture.

In the last 5 years our exports have increased from a total of $37 billion in 1969 to a projected $68 billion at the completion of this year. In 5 years our exports will have increased 83 percent. Agriculture has played a prominent role in this growth.

In 1969 our agricultural exports were

$6 billion. In 1973 our agricultural exports are expected to be $17 billion, an increase of 183 percent. We recognize the fact that much of the thrust and the impulse for this increased export comes as a result of two currency devaluations amounting to about 25 percent which makes our export more competitive.

This year for the first time in several years we will show a balance of trade surplus. Hopefully this change in the character of our balance of trade will be continued for the next several years as the result of the momentum that we gained from the devaluation.

We are going to hear something in debate about the opposition to the use of the Export-Import Bank with regard to our exports to the U.S.S.R. in particular.

I would like to analyze some of this criticism and analyze what our Export-Import Bank has done with regard to our exports to Russia. The Export-Import Bank has been in existence since 1934. For the first time, February of 1973, we have authorized the support of credits for some exports to Russia.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SCHNEEBELI. Mr. Chairman, I yield myself 2 additional minutes.

Mr. Chairman, of the total authorization of $12 billion by the Export-Import Bank as of the end of June of this year, $103 million were for financing export credits for Russia—only eight-tenths of one percent of our total export credits.

What is the character of the four loans that have been authorized? One is for electric submersible pumps. One is for helping build a plant for producing tableware and dishware. One is for circular knitting machines, and the last is for helping build a truck plant.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. SCHNEEBELI. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, it has been 11 years since this body has considered major trade legislation. In that time we have had a change in leadership on both sides of the aisle, with Mr. ULLMAN and Mr. SCHNEEBELI now leading the committee, in the very complicated and challenging task that is now before us. I think we are deeply indebted to Mr. ULLMAN and to Mr. SCHNEEBELI for an outstanding piece of work.

Mr. SCHNEEBELI. I thank the gentleman for that reference.

In conclusion, Mr. Chairman, the bill reported to the House provides far less authority than the administration requested in almost every area, but particularly in regard to negotiating authority on tariffs and nontariff barriers. At each step of the way, procedures are provided to insure that congressional authority may be exercised. Congress will be fully represented at all negotiations and procedures for close liaison with Congress are included. More than at any other time in the history of our trade agreements program, the new bill provides for effective exercise of congressional responsibility and insures that Congress will be a full working partner as authority on this bill is exercised.

Mr. Chairman, this bill is a balanced approach which provides needed authority for the United States to conduct its international economic affairs in the next few years. We will have an opportunity to review the program as it develops, and to insure that action taken is fully consonant with Congress' views of U.S. interests.

If we are to act responsibly in meeting our international commitments, in developing a free world trading system with our partners, and in restructuring rules governing international trade, this legislation is vitally needed. I urge all of my colleagues to join me in supporting this bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SCHNEEBELI. I yield myself 1 additional minute.

Mr. ZWACH. Mr. Chairman, will the gentleman yield?

Mr. SCHNEEBELI. I yield to the gentleman from Minnesota.

Mr. ZWACH. Mr. Chairman, I have been very concerned with legislation that says, "The President shall—the President shall— the President shall." It looks like we are surrendering to the President entirely; but as I read the bill, I see there are some congressional strings. We do keep congressional responsibility to the extent that Congress shall regulate interstate and foreign trade.

I want to compliment the committee on that, because as a Member here who has not said a great deal, I have been very concerned about the surrendering of congressional rights on war, on many matters, and now on trade.

I want to impress how important it is that we keep congressional responsibility in this bill. I do know they are there and I want to compliment the committee for them.

Mr. SCHNEEBELI. I thank the gentleman for his contribution.

There are many areas here of congressional oversight.

Mr. SCHNEEBELI. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois (Mr. COLLIER).

Mr. COLLIER. Mr. Chairman there was a time when the United States produced 76 percent of all the world's automobiles and 47 percent of the world's steel supply. Today we produce only 33 percent of the world's automobiles and our steel production represents only 19 percent of the world's total.

These are sobering statistics because they deal with the Nation's two greatest industrial enterprises. And they are symbolic of other domestic industries.

There are many reasons for this situation and not the least of which is the tremendous increases in the technical competence and productivity of Japan and Western Europe. Whether we as a nation should take the tragic course of excessive protectionism on one hand, or adopt a free trade policy pursuing an "all give and no take" concept, we can only look to the years ahead as a further economic headache for this country. But one thing that is certain, we must not close our doors to imports, for we have the productive capacity to demand that we sell American goods on the basis of a dollar in exports for each dollar of goods that we import. There is no simple road to achieving this desirable and necessary balance.

As a nation we cannot control the activities or attitudes in foreign countries by any trade legislation we pass in this Congress. Our balance of payments problems and trade deficits in recent years have been a source of justifiable concern to all of us. But recent months have seen our position improve, partially because we and our major trading partners have had two currency realinements in the last 2 years and several currencies continue to float. This has taken place during a period in which we have seen an almost brutal inflationary spiral, although the rate of inflation in the United States is still well below that of most industrial nations in the world.

We have made progress in defrosting the economic cold war with the Soviet Union and the People's Republic of China. It seems to me that all of this points to the fact that things have changed dramatically in the past three decades, and the United States must enter the world market on a hard bargaining basis or we may find ourselves sitting on the curbstone watching the economic parade of a changing world pass us by.

This is the climate which prevails as we take up the first major trade legislation that has come before this Congress in nearly 11 years.

The bill which our committee has reported, H.R. 10710, is by no means legislative perfection, because conflicting interests, ideologies, and philosophies are inherent to trade bills. I support this bill because it is structurally sound and because it is as close as we can get to meeting our fundamental needs for establishing a new trade policy while accommodating a host of parochial interests and concerns. Certainly we are going to have some problems after its enactment, but we also have an opportunity to provide the basic vehicle for the attainment of those goals which are essential to our survival in the international marketplace.

I would be more satisfied if H.R. 10710 strengthened provisions in assisting many beleagured domestic enterprises in their battle against import penetration, much of which is abetted by unfair practices on the part of our trading partners. But this bill does make substantial improvements in the escape clause and provides greater access to import relief for both domestic industries and the American workingman.

This will be denied, I am sure, in the course of this debate by opponents of this bill—many of the original proponents of what we came to know as the Burke-Hartke bill. But if this bill is defeated for any reason at this time, by a majority of the Members who did not get just what they wanted in trade legislation, the present problems which we face can only be compounded. What answer is there in failure to enact any trade legislation? That is a question each of us will have to answer if this bill is not passed.

I hope and trust it will not suffer that fate because I think that the bill occupies a reasonable middle ground between opposing points of view with respect to the impact of imports. It provides wider avenues to relief than existing law. But at the same time it avoids certain so-called protectionist provisions which would make it anathema to some of the more free-trade oriented Members. I guess what I am saying is that it represents the best and most reasonable compromise possible.

It is a realistic bill designed to be effective in the real world of today rather than one which might be tailored to a "never-never land" philosophy.

This is illustrated well in title I which includes the President's basic negotiating authority.

The administration, in its original proposal to the Congress, asked for virtually unlimited authority to raise or lower rates of duty in negotiating trade agreements. It also sought broad authority to negotiate on nontariff trade barriers with the proviso that agreements which were reached would be subject to a congressional veto procedure. The committee strengthened this veto procedure, and applied it to other provisions of the bill as well. And we did not agree to the carte blanche tariff adjustment authority which was requested.

The administration argued that it needed wide negotiating latitude in order to reach agreements which would be meaningful and mutually beneficial.

The committee, however, decided that reasonable limits on the President's authority would provide some assurance of fundamental protection for home interests without preventing the successful completion of negotiations.

Under the committee bill, the President would, in connection with a trade agreement, be authorized to reduce duties according to a formula based on rates existing as of July 1, 1973.

In providing the various Presidential authorities I have mentioned, the committee was very much aware that in many instances it was breaking new ground, and that the powers which were granted were vast, indeed. Therefore, these powers were reduced substantially from those which the administration originally requested and were carefully circumscribed to insure congressional review. Additionally, the committee provided extensive machinery, much of it also new, to protect the rights of interested parties.

Whenever the President decided to take action under the basic negotiating provisions of title I, he would have to publish and send to the Tariff Commission lists of articles involved. The Tariff Commission would have 6 months to investigate and advise the President as to the probable economic effect of any rate changes on domestic producers and on consumers. The Commission also would report to the President, at his request, on the probable economic effect of changing or eliminating trade barriers other than tariffs. Data on converted duty rates, affording protection substantially equivalent to the original trade barrier, would be included in the Commission's report.

In preparing its advice, the Tariff Commission would be required to hold public hearings and to investigate a variety of economic factors, both at home and in other countries where feasible.

The President also would be required to obtain advice from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State, and Treasury, as well as from the Special Representative for Trade Negotiations, before entering into any tariff adjustment agreement. Finally, he would be required to provide for public hearings in which any interested party could present views on either a tariff adjustment or NTB agreement.

Provision also is made in the bill for two general types of advisory committees from the private sector. The first would be a single Advisory Committee for Trade Negotiations, to be composed of no more than 45 representatives of Government, labor, industry, agriculture, consumer interests, and the general public. The other type would be an advisory committee for a particular product sector. The Ways and Means Committee was concerned that an excessive number of these might be self-defeating, and has expressed the hope that no more than 30 would be established.

Also provided is machinery for the submission of information to our negotiators on a confidential basis, where appropriate, by interested affected parties. Private sector representatives would not participate in actual negotiations, of course, nor would their recommendations be in any way binding on the negotiators. But they would be heard.

The committee was especially determined to make certain that the Congress would become a partner in the negotiating process, to the maximum extent practicable. Five members of the Ways and Means Committee and five members of the Finance Committee would be recommended by the Speaker and the President of the other Body, respectively, and would be appointed by the Chief Executive at the beginning of each Congressional session, to serve as official advisers at all negotiations.

Our committee envisions frequent meetings during the actual negotiations, in order that we might be kept up-to-date on developments by our own Members serving as Congressional delegates, by our staff and by representatives of the executive branch. These briefing sessions are designed to form the basis for periodic formal reports from the committee to the House. Additionally, we plan to hold public hearings on the annual reports which the President would make to the Congress on the operations of the trade agreements program under the legislation before us.

In developing the many provisions of H.R. 10710, which grant negotiating authority to the President, the committee has attempted to build wherever possible on the fundamentals of trade law which have served us well over the past four decades. In some cases—with respect to nontariff barrier negotiations, for example—we had to move into legislatively uncharted areas in order to meet problems which our predecessors could not foresee.

In all instances, however, we were guided by two overriding aims: To provide sufficient but not excessive authority to enable the executive branch to reach agreements which would be of maximum benefit to the United States, and to make certain that the Congress and affected sectors of our economy would have a real and audible voice in trade negotiations.

I believe we succeeded, Mr. Chairman, and I urge the support of all my colleagues for this legislation, which is clearly both reasonable and necessary.

Mr. SCHNEEBELI. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. TEAGUE of California. Will the gentleman yield?

Mr. COLLIER. Yes. I yield to the gentleman.

Mr. TEAGUE of California. We have had a problem for some time now out in California and Arizona because of the fact that Japan refuses to allow us to import oranges into that country. They allow the importation of lemons and grapefruit but not oranges. Under the overall concept of this bill, would we have some hope for some negotiations which might result in a relaxation of Japan's attitude in that regard?

Mr. COLLIER. I would say very definitely, and I think this is the forte of this bill. If provided the tools and the authority to negotiate, and presuming, of course, as we must, that our negotiators will be fair but tough, that is the type of thing we need to negotiating fair and equitable agreements. It is the best way to eliminate the nontariff barriers which have plagued American industry for so many years.

Of course we must recognize that we too have some nontariff barriers. There is no good reason why good faith, sitting and negotiating, using the tools provided in the bill cannot provide a solution to the specific problem that the gentleman from California is talking about.

Mr. TEAGUE of California. I thank the gentleman.

Mr. ULLMAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Michigan (Mrs. GRIFFITHS).

Mrs. GRIFFITHS. Mr. Chairman, I thank the gentleman from Oregon very much for yielding me this time.

First, Mr. Chairman, I should like to extend my congratulations to the chairman of the committee, and the ranking minority member, for the tremendous work they did in bringing this bill to the floor. I am sure that without their leadership there would have been no bill. The administration owes a vote of thanks to the gentlemen. I would like to say also that I think it is a far better bill than the bill the administrtion introduced.

Mr. Chairman, it is widely recognized that nontariff barriers have become increasingly important trade restrictions as tariffs have been reduced. The forthcoming multilateral trade negotiations must deal with them. Some of these restrictions distort trade more than tariffs. Also, it would make no sense to reduce tariffs further, only to have the effects of such reductions nullified or impaired by nontariff measures.

The problem is how to enable our negotiators to deal effectively with nontariff barriers. Under the Constitution the President has the authority to negotiate international agreements with foreign countries. But the Congress has the power to enact domestic legislation, in which many nontariff barriers are imbedded.

In trade-agreements legislation since 1934 the Congress has periodically delegated to the President prior authority to implement negotiated tariff reductions. In order to stay within the Constitution, this delegation of authority has been limited and carefully circumscribed. It has enabled the Executive to negotiate trade agreements for tariff reductions but, at the same time, has preserved congressional control over the nature and extent of these reductions.

Negotiating authority in the field of nontariff barriers is much more complicated. Unlike tariffs, nontariff barriers are heterogeneous in nature. Consequently, there is no common standard applicable to nontariff barriers that lends itself to a general delegation of authority as has been done in the case of tariffs.

The bill reported out of the Ways and Means Committee provides an answer to this problem of executive authority to negotiate and congressional authority to legislate.

In the first place, this bill exhorts the President to negotiate on nontariff barriers and provides him authority to enter into agreements with foreign countries to reduce or eliminate them. It makes clear that the Congress, as well as the Executive, is behind such negotiations—even though it is recognized that they will inevitably involve United States, as well as foreign, concessions on nontariff barriers. This joint commitment on the part of the Executive and the Congress is important to U.S. credibility in negotiations on nontariff barriers.

Second, the traditional methods that the President now has to implement the results of non-tariff-barrier negotiations that require congressional action are preserved.

In addition, a new alternative method of implementing non-tariff-barrier agreements is included in the bill. Section 102 requires the President to notify both Houses of the Congress 90 days before he plans to enter into a trade agreement on a particular nontariff barrier. The purpose of this 90-day period is to assure consultation on the prospective agreement with the appropriate committees, and to give the Congress an opportunity to hold hearings and to recommend revisions in the agreement before it is concluded. After the agreement is negotiated the President is required to submit it to the Congress and, if not disapproved by either House within an additional 90-day period, it would enter into force.

This congressional veto procedure is an optional method of implementing agreements on nontariff barriers. Resort to it, as well as the substance of such agreements, would be a subject of congressional consultations. The committee believes that the congressional veto procedure is adequate for the purpose of insuring Congress a proper role in the formulation and review of non-tariff-barrier agreements and of establishing U.S. credibility in the nontariff barrier negotiations.

I feel, as do most of my colleagues in the committee, that section 102 of this bill bridges the very difficult area between executive negotiating authority and congressional legislative authority. It is clear from this provision that Congress welcomes non-tariff-barrier negotiations. The congressional veto procedure, particularly its requirement for close consultation with the Congress before and after the conclusion of an agreement, gives a reasonable expectation that negotiated agreements will be implemented. At the same time, this section maintains the constitutional responsibilities of the Congress with respect to domestic legislation.

Mr. ULLMAN. Mr. Chairman, I thank the gentlewoman from Michigan for her kind remarks.

Mr. Chairman, I now yield 10 minutes to the gentleman from Georgia (Mr. LANDRUM).

Mr. LANDRUM. Mr. Chairman, I wish to add my support to and urge the passage of H.R. 10710, a bill which in my judgment will insure the opening and the maintaining of equitable world trading markets, and to insure that the U.S. exports will not be discriminated against or disadvantaged by unjustifiable subsidies of competitive foreign imports, in third-country markets.

Any legislation on the subject of foreign trade must have teeth. Legislative safeguards are necessary not only to insure fair treatment for the U.S. products abroad, but are equally important to protect them against the dumping and subsidization of imports into the United States.

In this bill, H.R. 10710, great effort was given to providing these vital safeguards, and time should show that the effort was not wasted.

When I speak of effort here, I speak in terms of the full committee, but at this point I want to take a moment to say to the membership of the committee that we all owe a debt of gratitude to the leadership furnished by the acting chairman of the committee, the gentleman from Oregon (Mr. ULLMAN) and to the ranking minority member of the committee, the gentleman from Pennsylvania (Mr. SCHNEEBELI) in a trying and difficult situation in the committee, when the regular chairman, the gentleman from Arkansas (Mr. MILLS) was felled by illness. The gentleman from Oregon (Mr. ULLMAN) took over the management of this bill and did a magnificent job in guiding the committee to produce the bill that we have here, and in bringing it to the floor, and I commend the gentleman, as well as the leadership from the minority.

This bill revises and expands the President's authority to act against foreign countries maintaining unjustifiable or unreasonable import restrictions and other policies burdening or discriminating against U.S. exports.

The gentleman from California (Mr. TEAGUE) just a few moments ago engaged in a colloquy with the gentleman from Illinois (Mr. COLLIER) about the trouble and difficulty that we were having with the Japanese in exporting oranges or citrus fruit to that market. Certainly this bill will be a help to that situation.

Modern marketing and international trade require negotiating. It is impossible to fix a statute to have an ironclad rule or to bring it to Congress each time we have to have an improvement or change. So it is necessary, despite the natural tendency against giving additional authority to the chief executive, that we in this modern day give what authority is necessary to provide that our negotiators will not have to sit at the table with their arms folded and be able to say nothing or do nothing except bring back to their superiors in this country what is proposed, and then take it back.

We must provide our negotiators, who will be the President's trade representatives at these conferences, what is in plain, unadulterated English, horse-swapping authority, because in reality that is what we are going to wind up doing—swapping. We will give them a little of what we have for a little of what they have, provided what they have is what we want, and provided what we have is what they would like.

In that connection, I think I could say to the gentleman from Minnesota (Mr. ZWACH) who engaged the distinguished ranking minority member in colloquy a moment ago about his reservations on the bill, to begin with he realizes, as all of us do, that if we are going to put the agricultural commodities of Minnesota and Georgia into world markets, we have got to provide the trading delegates, our trading representatives from this Nation, with authority to trade.

I was glad to hear him make the comment that he made in response to the gentleman from Pennsylvania. However, the President taking this action against a discriminating country must give prior notice to the public of the foreign action and the products against which he intends to retaliate and hold hearings to receive the views of all interested parties before exercising this authority.

Procedures for obtaining relief under the Antidumping Act and the countervailing duty laws are greatly improved under H.R. 10710. For example, time limits are imposed on dumping investigations and the Secretary of the Treasury's determination in countervailing duty cases. Moreover, the bill provides that negative determinations by the Secretary in countervailing cases will be subject to judicial review.

Because the export subsidies will be the subject of redefinition in the upcoming trade negotiations, and for other reasons, the bill provides that for a period of 4 years discretion can be used in the imposition of countervailing duties when the Secretary of the Treasury finds that such action would seriously jeopardize the negotiations. However, it is clearly understood that the Congress intends that the Secretary is to enforce the countervailing duty law during these 4 years as firmly and as promptly as possible.

Mr. Chairman, in addition to laying a sound foundation for the pending United States trade negotiations, this bill provides the responsible and fully adequate safeguards necessary to ensure the United States fair treatment in world trade.

For this reason, Mr. Chairman, I urge my colleagues to support this legislation.

Mr. Chairman, I should also like to state my support for this bill with emphasis on the great improvement the bill makes regarding relief available to those industries and workers seriously injured by import competition. Under present law programs designed to provide import relief and adjustment assistance for workers and firms have too often proven to be cumbersome, untimely, inadequate, and, worst of all, unavailable. A principal objective of this bill, H.R. 10710, is to correct this unfortunate situation. The bill revises the criteria for determination as to what constitutes injury for purposes of import relief and adjustment assistance.

For example, under present law it must be shown that the increased imports causing the injury are the result in major part of the concessions granted under trade agreements and that these imports must be the major cause of the injury, but this bill requires only that imports be a substantial cause of the injury.

Secondly, the bill directs the President to consider the use of adjustment assistance in all cases involving import injury. It establishes a preference for priority lists for the President to follow in determining what type of import relief he should impose, and he must explain to the Congress why he is not taking action or is acting contrary to the priorities of action established by the bill.

Finally, the bill would greatly improve the benefits that may be paid to import impacted workers and firms. Maximum weekly payments to workers have been increased from $111 to $170 and for the first time an expense-paid job search program is provided.

In order to enhance future adjustment of domestic producers to greater competitive abilities, technical and financial assistance is to be made available for import-affected firms which do not have access to the capital market.

In short, Mr. Chairman, this bill is responsive to the need of reassuring our domestic industries and workers that they can obtain relief when injuries from imports compel it.

This bill deserves the full support of Congress.

Mr. ZWACH. Mr. Chairman, will the gentleman yield?

Mr. LANDRUM. I yield to the gentleman from Minnesota.

Mr. ZWACH. Mr. Chairman, I thank the gentleman for yielding. I am thinking now especially of injured workers or people laid off. I have a dairyman in my congressional district. I have about 6,000 workers who have been driven out of work by dairy imports. Will this dairyman and his workers, and say he has 3 or 4 or 5 workers, qualify for benefits under this bill, for the 52 payments for the dairy farmer and his employees?

Mr. LANDRUM. I would say to the gentleman I do not mean to convey the idea or to try to convey the idea that the bill will prevent that. I just say the bill does set up the machinery for assisting those who may be affected by such a condition. I am not convinced that it is a total panacea, and that it will do all it should do, but I am convinced that it makes an effort in that direction.

Mr. ZWACH. I thank the gentleman.

Mr. SCHNEEBELI. Mr. Chairman, I yield 11 minutes to the gentleman from Colorado (Mr. BROTZMAN).

Mr. BROTZMAN. Mr. Chairman, I would like to join those who were laudatory of our acting chairman, the gentleman from Oregon (Mr. ULLMAN) and also the ranking Republican on the committee, the gentleman from Pennsylvania (Mr. SCHNEEBELI) for their dedicated and continuing leadership which they afforded us as we considered this controversial and complex series of issues.

This is the first opportunity I have had on the committee to work on a trade bill or a piece of trade legislation. I can tell the other members of this committee that it takes a great deal of time and effort. The Members would be amazed at the thoroughness and the minutia that this group of members on the Ways and Means Committee covers to bring a bill of this type and magnitude to the floor for our consideration.

Mr. Chairman, the vote of the House on H.R. 10710 will have much to do with the course of world trading relationships for many years to come.

Although the relative economic position of the United States has declined in recent years, and had a trade deficit last year for the first time since 1893, our practices and policies still have tremendous influence over directions the world takes. If we assume a positive and constructive stance, our leadership can show the way toward a new era of profitable exchange, for us and for our trading partners. If we act negatively, this also will show the way, but toward chaos.

Representatives of the free world nations have just begun to weave the fabric for a new round of trade talks in Geneva which can be of benefit to all. Without the basic authority in the bill before us, our negotiators would be handcuffed, and the threads of negotiation would unravel. In fact the United States has been without trade agreement legislation since the expiration in 1967 of authority under the Trade Expansion Act of 1962.

Mr. Chairman, I simply do not believe we can afford to let this happen. The United States remains the free world's trade leader and in a breakdown of negotiations we have the most to lose. This is not simply an interesting discussion of international relationship—it relates to jobs and money. It relates to the stability of the America dollar. It relates to the ability of this Congress to act in behalf of the American people.

H.R. 10710 is both symbolic and substantive. It includes many important provisions designed to meet head-on the new problems which confront us today and in the foreseeable future. World War I—Smoot-Hawley served us poorly; World War II—good job in building up Europe—maybe too good—built strong Europe: dollars and technology. Changes developed that limited our positions and preferences.

Not to detract from the prominence accorded other provisions of the bill, but I think those dealing with nontariff trade barriers—or NTB's as they are commonly called—may well be the most important to us in the long run. Anything other than a tariff which has restrictive effect on imports or trade.

Until recent years, NTB's were not considered of first-rank significance by the major trading nations. But as tariff rates generally were reduced by substantial margins, largely through the Kennedy round, other trade barriers assumed greater relative importance.

In 1962, the Congress expressed concern that barriers other than tariff were nullifying rights which the United States had obtained through trade agreements, and we included in the Trade Expansion Act that year a provision for action by the President against unfair or discriminatory foreign import practices. There has been little or no action under this provision, however, and many of the problems have in the meantime become institutionalized, making it all the more difficult for our country to export.

Congressional concern about NTB's was expressed again in committee reports on the Trade Act of 1970, but this legislation never became law and did not, in the first place, include statutory language to deal with nontariff barriers.

H.R. 10710 is, therefore, the first piece of legislation we have had which really comes to grips with the problem. It gives the executive branch authority to enter into agreements for the reduction or elimination of NTB's on a basis of mutuality, subject to veto by either House of the Congress.

Given the heterogeneous nature of nontariff barriers, and the fact that they involve a wide variety of domestic laws, no single negotiating approach would appear to be practical; hence, the broad but carefully circumscribed authority of this bill. NTB's—ways to convert them into tariffs—gets them up on the table where we can deal with them.

Because the provisions of H.R. 10710 which relate to NTB's are entirely new, and because of the increasingly important role they are playing in trade negotiations, I thought it might be helpful if I took just a few minutes to share some of the information on nontariff barriers whic hwas presented to the Ways and Means Committee during its deliberations on this bill.

Much of the material available to us came out of work within the General Agreement on Tariffs and Trade, or GATT as it is popularly known.

GATT units have been attempting to deal with the problem since the end of the Kennedy round. Not the least of their difficulties lies in the understandable fact that countries often refuse to recognize their practices as barriers to trade. What one government calls an NTB may be what another government views as a legitimate device necessary to the well-being of its citizens.

Numerous complaints about NTB's among and between member countries of GATT have poured in to the organization's headquarters at Geneva, and some 200 of these NTB notifications have been inventoried and separated into 27 different categories.

To cut this unwieldy inventory down to manageable size for our committee's purposes, an illustrative summary was prepared. But even this very abbreviated version consumes nearly 100 pages in print—which demonstrates rather graphically the sheer dimensions of the problem.

Some NTB's in the inventory, such as quotas, restrict imports directly and are easily recognizable. Others, such as government procurement policies and product standards, fall into grayer areas and are more difficult to sort out and define. Still others, such as health and safety laws, were instituted in many cases for social reasons only. Then there are such hotly disputed items as variable levies—CAP—and border taxes—VAT—which add to the prices of imports at points of entry. Also highly controversial are subsidies on exports, which give an advantage to the products of the exporting country. CAP—variable levy appendix to price of U.S. agricultural products to make them higher than the European price; VAT—export subsidy, border tax on imports.

Although many of GATT's 80 member countries employ the same general categories of NTB's, the way in which they are applied varies widely from country to country.

The following practices, for example, have been listed as nontariff barriers used by Japan:

Under the heading of government procurement, Japan purchases electronic computers and peripheral equipment solely from domestic sources, if available. And all tobacco products are purchased by the Japan Monopoly Corp.

Under the heading of product standards, Japan requires complex inspection procedures for new automobiles, which has the practical effect of suspending sales of imports during peak buying seasons.

Also as a deterrent to imported automobiles, especially those from the United States, are vehicle taxes which increase according to cylinder capacity and wheel base.

Japan imposes import quotas on a number of commodities, including fresh oranges, citrus and tomato juices, aircraft engines and parts, some types of computers, roasted peanuts and coal—all of which are items which the United States presumably would like to export in greater quantities.

Aircraft parts, incidentally, are subject to licensing requirements as well as quotas.

Additionally, Japan imposes a progressive tax on whisky, which is a de facto discrimination against high-priced imports, such as American bourbon.

Charged against France, to cite another example, are: Quotas on a wide variety of agricultural products, many of particular interest to the United States, such as canned pineapples, vinegar, tobacco and certain alcoholic beverages; a use-tax system on automobiles which puts standard U.S. models in the highest tax bracket; monopoly control and price fixing in pharmaceutical products; preference in government purchasing to domestic items first and items from other Common Market countries second; and state trading in tobacco, explosives, matches, alcoholic beverages, fishing gear, coal, petroleum, and additional goods.

France also applies other nontariff barriers which are listed separately for the European Economic Community, and which are even more extensive.

There is an extensive list of NTBs in the GATT inventory charged to the United States.

The U.S. list includes, of course, the celebrated American Selling Price—ASP—system of valuation, under which benzenoid chemicals, some rubber footwear, canned clams and certain wool knit gloves from abroad are assessed duties based on the value of the competitive American product rather than on the value of the imported article. ASP—use price of American equivalent.

Also listed are our domestic international sales corporations—or DISC's—which are provided limited tax benefits designed to stimulate exports. These benefits are seen as subsidies by some of our trading partners.

Another item on the list is our "buy American" policy. A number of nations have such policies, but ours, unfortunately, happens to be more visible than most, and, therefore, has been subject to a great deal of adverse criticism.

Additional NTB's on the U.S. list involve quotas on agriculture items, such as sugar and various dairy products; export restraints, such as the long-term cotton textile agreement; our oil licensing system; a multitude of product standard requirements, such as our motor vehicle safety and food and drug laws, plus aspects of our countervailing duty and antidumping statutes.

In order to find potential solutions to the charges and countercharges on nontariff barriers, in 1970 5 GATT working parties were assigned the task of examining each of the 27 categories and developing proposals which might be acceptable to the affected parties. Instead of diluting their efforts over the entire field, the GATT units started off by concentrating on a few selected groups. Product standards, import licensing, and customs valuation were chosen for priority attention.

Over the past 3 years, progress in these areas has been encouraging, and a draft code in at least one category, product standards, already has been written.

It is anticipated that work will continue not only on the projects underway, but in all other categories, during the coming multilateral trade negotiations. And in specific preparation for this round of bargaining, the GATT Committee on Trade in Industrial Products is drawing up a list of items which the various delegations have indicated they want to consider as soon as possible.

Mr. Chairman, the stage is set for hard and potentially fruitful negotiations on nontariff barriers and on all other aspects of world trade—with one major exception. Our negotiators do not have the authority they need, and until they do, our trading partners have made it clear they will not sit down for substantive talks.

In light of these developments, and the enormous stake which the United States has in the outcome, I think it behooves the House to act promptly and affirmatively on the bill before us.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume, to the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Chairman, I rise today to urge defeat of the so-called Trade Reform Act of 1973. As I have said so many times over the past months, this bill would encourage the President to take almost any action he chooses to encourage manufactured imports and will, if passed, lead to the erosion of America's industries, America's skills and jobs, and further inflationary pressures from poorly managed trade policies. The import relief section of the bill is a sham by failing to provide effective or realistic measures to help American industries, firms, and workers threatened with further import injury. What is being asked of us today is to sanction the establishment of the President as a foreign trade czar. The transfer of congressional power which would occur under this bill constitutes an abdication of congressional authority and interest in the foreign trade area.

DETERIORATION OF U.S. TRADING POSITION IN RECENT YEARS

In the little more than 6 years since the conclusion of trade negotiations, the world trade picture for the United States has changed dramatically. In retrospect, the rosy conditions which favored passage of the Trade Expansion Act of 1962, brimming with optimism about what the future held in store for world trade, we now know were beginning to evaporate before the agreements even got underway in Geneva in 1965. Certainly, by the time our negotiators were finished reducing tariffs an average of 35 percent, the conditions under which such concessions were authorized had already ceased to exist.

Perhaps, such largesse, magnanimity, altruism, or what have you, made sense coming from a nation which possessed what appeared to be enormous and endless trade advantages. In the years following World War II, America's economic and industrial strength compared to a Europe ravaged by war and particularly over her two vanquished competitors, Japan and Germany, was all too painfully obvious and produced embarrassing balance-of-payments surpluses, which were not to anyone's advantage if perpetuated indefinitely.

In more recent years, however, we have witnessed one significant turn of events after another, each whittling away at these seemingly insurmountable trading advantages: The success and expansion of the European Economic Community, dedicated to freer trade between member nations, but behind restrictive tariff and nontariff barriers discouraging market penetration from without; growing emulation of this practice in other areas such as Central and South America and Africa, with obvious implications for future accessibility of those markets to U.S. exports; the reemergence of both Japan and Germany as major world economic powers, together with a new interest on the part of the Soviet Socialist bloc in world trade after years of preoccupation with internal commerce; and the growing energy shortages faced by most industrialized countries. None of these developments occurred overnight. All were a long time in the making. It is just that their full significance has not been apparent until recently. Certainly their significance was not apparent to those who pushed for the Trade Expansion Act of 1962, or were in charge of our negotiations in Geneva under that act.

Anyone seeking evidence of the significance of these developments need only refer to the accumulation of adverse international trade and monetary news for the United States in recent years: The inability of the United States to register a back-to-back trade surplus since September of 1971, but rather, our balance of trade has been in the red 21 months out of the past 23; in 1972 this Nation experienced a trade deficit of $6.34 billion, with one having to go back to the 19th century for another deficit year, and probably to the very beginnings of the Republic for a worse trading performance; the deficit in trade for this year, through August, while not as bad as last year, is still a red figure and a sizable one of $1.5 billion—an interesting example of how a poor performance can be welcome when one becomes psychologically conditioned to expecting the worst—as would be expected with a deteriorating trade performance such as this, a series of deficit figures in our overall balance-of-payments position has plagued us since the fourth quarter of 1969; two devaluations of the dollar, with a third unofficial depreciation, in little more than a year, with corresponding reevaluations in the currencies of our two major trade competitors; and last, but not least significantly, a number of uncoordinated Government actions in the form of import surcharges, export controls of one kind or another, and suspension of gold convertibility at the same time as a stop-and-go domestic policy of wage and price controls and rising interest rates is pursued in a manner which makes business and even household planning next to impossible.

Difficult as all of this has been, one could perhaps adjust to it and even accept continuation of the present trade policies, if these developments could be shown to be cyclical in nature. We could wait for the inevitable upswing and a better turn of events with resignation on the theory that the overall trend is for the better and future gains will more than cancel out past difficulties and losses. However, when the trend seems to be steadily moving in one direction over an extended period of time, and against us at that, then it would appear that a reexamination of existing trade policies and practices is not only appropriate but essential for any nation whose prosperity is of concern to its leaders. In other words, there comes a time when sitting a crisis out, or riding out a storm, can make an already serious situation worse and rather than contributing to one's chances of survival can be a recipe for certain disaster.

EFFECT OF PRESENT TRADE POLICIES ON U.S. TRADING POSITION

What are the results of the continued pursuit of our present policies in the face of a serious deterioration in this Nation's trading position? At a time when the Secretary of Commerce admits this country is lacking sufficient reinvestment in plant modification and improvements as well as the research and development necessary to remain competitive with our trading partners the only way we can—through greater capital intensification, requiring even more efficient deployment of this scarce and vital commodity—our present policies encourage billions of dollars a year to be exported or reinvested overseas in foreign plant expansion.

At a time when every energy expert worth the name is estimating the energy requirements of this Nation have nowhere to go but up and that we will become even more dependent on foreign energy sources, our present trade policies permit the indiscriminate import of essential goods with nonessential goods—goods which are in scarce supply at home, with goods that could be manufactured in unlimited supply here at home in factories which are presently closed and by workers who are currently unemployed beneath the onslaught of slightly less expensive foreign imports. At a time when the American consumer is faced with empty shelves in the supermarket and sky-rocketing prices for the basics of life such as beef, bread, butter, milk and cheese, our trade policies encourage the export of these very products at subsidized prices in order to offset the avalanche of imports of luxury and nonessential items, goods in any event which could be manufactured here at home, putting people to work in the process.

At a time when potential home buyers are being turned down at the banks for mortgages or gouged with higher and higher interest rates, the Federal Reserve Board justifies such a deliberately contrived scarcity of money on the grounds that it must make it attractive for investors to keep funds here lest money move overseas attracted by the high interest rates available there. After having dismantled tariff barriers almost unilaterally, we are faced with increasing trade barriers of a non-tariff nature for our goods and services and a get-tough attitude on the part of some of our trading partners, illustrating once and for all that this nation is the only major economy where the government lacks a coordinated trade policy and both the ability and determination to push for whatever advantages are available in the world market.

As far as the concept of free trade is concerned, I think the energy crisis has clearly brought out that it does not exist when we are treated to the spectacle of nations automatically shutting off critically needed oil supplies. And what about our oil import policy? There is no provision in this bill that allows for the fair and equitable allocation of imported oil.

H.R. 10710 AVOIDS DEFINING NEW TRADE POLICY

At a very minimum, conditions such as these cry out for reexamination. While there may be disagreement on an alternative trade policy, I fail to see how anyone can disagree that the present trade policies pursued by this Nation are out of date and need thorough revision. Considered in the light of this awesome challenge, H.R. 10710, the administration's trade bill with very few modifications, can only come as a deep disappointment.

One will search this legislation in vain for a clear indication of anything approaching a new direction for our foreign trade policy. Worse still, one will search in vain to determine exactly what our foreign trade policy will be, if this legislation should pass.

I know there are those who will say at this point that a careful reading of the administration's proposal, H.R. 10710 would indicate the President can, should he decide, raise or lower tariffs in response to a similar effort by our trading partners; or impose quota restrictions on imports, or remove them, in response to similar actions by our trading partners; or negotiate removal of nontariff barriers subject only to the expressed disapproval of Congress within a certain period—even then, nontariff barriers could be converted to equivalent tariffs, whatever that may be, and negotiated by the President without this restraint—or he could do any of these things without corresponding responses or reactions by our trading partners. The list could go on and on.

In short, there is little a President who wished to be a "tough" negotiator could not do under this bill. I should be very pleased with this prospect, or so it is argued.

On the contrary, this prospect, this possibility—and that is all it is the way this bill is written—fails to satisfy me and I fail to see how it could satisfy anyone else. The fact is I am quite familiar with the chameleon qualities of this bill which is capable of as many interpretations as there are colors in the rainbow and whose shades of meaning are derived from the light in which the bill is viewed or the background with which a particular reader approaches the bill. In truth, the whole appeal of this legislation is centered on this very quality of "something for everyone," regardless of one's views on trade. Its essentially blank check nature is not only hard to resist but hard to predict.

Under this bill, the President will be able to do virtually everything or nothing as far as foreign trade is concerned. However, in my opinion, such wide scale permissiveness is no substitute for clearly defined policies, nor does such obvious license make for good legislation.

PROSPECT OF MORE OF THE SAME

As a matter of fact, my own interpretation, and that is all one can go on with this legislation, is that in all likelihood the President will do little differently from the way he is doing it now. I listened in vain to administration witness after administration witness, hoping that someone might slip and reveal a new way of looking at things that might accompany the changes in the letters of the law—which can be read any way one wants to—in other words what the true spirit of the law was. The administration's position, as developed over the past few months before this committee, makes it likely that imports will continue to flood our markets without the slightest thought being given to establishing priorities about what we as a nation need to import and can afford to import. In terms of the dislocation visited upon American industries and workers by foreign imports, the emphasis still continues to be on alleviating the consequences rather than preventing the problem in the first place.

And while over 1 million jobs were lost permanently since 1965 as a result of the trade policies of this Nation, during the next 5 years, another 1 to 2 million more jobs could be permanently lost under the provisions of this bill. Which brings us to another important point, the adjustment assistance provisions in this bill are a cruel hoax and a joke and are practically meaningless. There is no provision in this legislation to deal with the acceleration of unemployment or the Federal responses that resulted in unemployment.

The present policies, or more correctly the lack of a policy toward foreign investment, will clearly continue to be the order of the day and foreign investment will continue to be encouraged by our suposedly neutral present tax laws. One will search in vain through all the many sections and titles of this bill to find so much as a single comma or period of our present tax policies, which in effect subsidize these foreign investments, changed. So much for that much discussed tax reform, at least where the multinationals are concerned.

Thus, after many months of sessions, I am convinced this bill completely fails to meet the challenge of the times for creative response and instead opts for a continuation of more of the same. It is a deceptive vehicle for nothing more than a rehash or retread of present attitudes and practices, present institutions and present personnel. However smartly packaged, beneath all the camouflage H.R. 10710 simply reheats and re-serves the trade philosophy pursued by this Government with such unfortunate results for the past decade.

But, as I say, this is an individual interpretation. Someone with a totally different approach to trade could probably, with reason, conclude that events could change and the administration's attitudes with it. Under this legislation, there would be no need, in such an event, for the President to reapproach Congress for a new trade policy. There is ample room for the administration to change its spots several times under this legislation.

BLANK CHECK IN FOREIGN TRADE TO PRESIDENT

Practically every other section of this bill begins by stating, "Whenever the President determines * * * the President is authorized * * *." Whatever the reasons, and they are numerous, whether because of inflation or balance of payments, whether because of actions taken by foreign trading partners, or just to exact as good a bargain as he desires, the President will be authorized under this legislation to take a wide range of important actions, such as imposing temporary import surcharges; imposing quotas; raising, reducing, or suspending duties; increasing the value or the quantity of articles which may be imported; and last, but by no means least, to remove nontariff barriers. There is even permission for him to act on grounds of national security in this area.

There is no question that this bill would make the President of the United States the foreign trade czar of this Nation. While it is conceivable that there would be times when I might agree with his actions, it is also certain that there would be many times when I would disagree. But, agree or disagree, there would be little Congress could do, having voted in this bill to give the President of the United States a free hand to conduct this Nation's foreign trade as he determines best over the next 5 years. Considered separately, the granting of authority to make any one of the decisions referred to above would correctly be interpreted as a transfer of congressional power to the President, authorizing him to make decisions which the Constitution specifically provides Congress shall make; taken all together this massive delegation of authority to the President constitutes a virtual abdication of congressional authority and interest in the foreign trade area.

CONSTITUTIONAL QUESTIONS

In my opinion, the Founding Fathers clearly and carefully assessed the importance of the power of levy duties and in other ways to regulate foreign commerce. Not only was the regulation of foreign commerce entrusted to the exclusive jurisdiction of the Federal Government, but specifically to the elected representatives of the people and the States in Congress assembled, in article I, section 8:

> Congress shall have power to lay and collect Duties, Imposts and Excises . . . to regulate Commerce with foreign Nations.

If regulation of foreign trade was of crucial importance to our Founding Fathers as a past source of conflict and chaos among the individual States, as well as a potential source of needed revenues for the Federal Government, of how much more greater concern should the conduct of foreign trade be to a Congress today? Not only is foreign trade inextricably wound up with the conduct of this Nation's foreign policy but it is crucial to the Nation's whole domestic economic policy, both monetary and fiscal, as well as its full employment policy.

REVERSES RECENT TREND TOWARD REASSERTION OF CONGRESSIONAL AUTHORITY

In the recent past we have heard about a reassertion of eroded congressional authority in two important areas. Last October this Congress, wisely I think, declined in the end to legislate an abdication of its authority in the spending area and refused to give the President authority to cut back spending as he thought best in order to keep total spending within a ceiling, even though there was little disagreement about the desirability of the ceiling itself. It was just that he who determines spending, determines the national priorities. Much was made then of the centrality of the power of the purse to the very power of Congress itself. In my dissenting views to H.R. 16810, I remember referring to any transfer of Congress' power of the purse to the President as a "domestic Gulf of Tonkin resolution." The parallel development of both anti-impoundment and budget control legislation this session is evidence of a renewed determination of Congress to recapture its authority in this vital area.

To mention the Gulf of Tonkin is to mention the most flagrant example of congressional abdication of authority, in ths instance, Congress exclusive power to declare war. Anyone who has been in this body the last 10 years knows firsthand the tremendous effort it took to gradually regain some semblance of congressional authority in this area, culminating as it did only with the decision to end the bombing of Cambodia on August 15 of this year.

How this same Congress a few weeks later can even contemplate abdicating authority in the foreign trade area is beyond my comprehension. To allow the President—and in effect faceless bureaucrats downtown, answerable to no one—authority to make the vital decisions over the next 5 years in foreign trade is for Congress to bow out of one of the most important areas of decisionmaking in the government today. History—and not ancient, but very recent history—if it has taught this Congress anything it is that power lost today in the name of greater ease of decisionmaking and flexibility for negotiators, is power hard to regain tomorrow in the name of constitutonal prerogatives.

NO REAL SAFEGUARDS AGAINST ABUSE

To those who argue that the bill contains meaningful safeguards which substantially circumscribe this granting of authority to the President, especially the provision for what has been termed "congressional veto power," indicates the extent to which constitutional arrangements have been turned upside down of late. After all, the Constitution gives the President veto power over actions of Congress, not the other way around. The distinction is important. In my opinion, the Founding Fathers intended Congress to make the policy decisions in this area, if not to legislate the specifics. Unlike treaties, this was not just to be a matter of advice and consent in response to presidential initiatives, but a matter of original jurisdiction in the Congress. As such it was to be a central feature of congressional power and, by the same token, crucial to the whole theory of checks and balances and separation of powers which guided the drafting of our Constitution.

Now we all know that life today is more complicated than it was in the days of our Founding Fathers. Certainly relations with foreign governments are no exception. Doubtlessly matters requiring ernments, as trade policies do today, detailed negotiations with foreign gov- necessitate the day-to-day participation of executive department personnel. Furthermore, it has never been anything but difficult since the beginning of time for governments to resolve conflicting demands between the dual needs of determining national foreign policy objectives and providing negotiators with sufficient flexibility to negotiate the best possible arrangements with foreign governments. Granted these conficting demands make it extremely difficult to legislate in the foreign trade area. However, I do not think we acquit ourselves with any great distinction when we avoid drafting necessarily difficult and complicated legislation and simply give the executive department authority to make the tough decisions in this area. In my opinion, these decisions are important enough to be either made directly or clearly charted by the legislative branch of the Government. But instead of wrestling with the problem of providing sufficiently clear guidelines for our negotiators in the very important international conferences scheduled for the near future we have left it for the President to do.

CONGRESS IS SILENT ON FUTURE DIRECTION OF U.S. TRADE

Thus, any forthcoming negotiations will be carried on without any clear direction coming from Congress. Any and all direction will have to come from the President. Instead of being called the Trade Reform Act of 1973, it should be labeled the Trade Power Transfer Act. Policies are not even delineated, much less reformed in this act; rather the President's policies, alternatives and choices have simply been multiplied. While it might be difficult to draw a clear and precise line down the middle between what constitutes too much freedom or too little flexibility for trade negotiators, one does have a visceral reaction that this bill is nowhere near a prudent centerline or middleground, but errs in the direction of too much freedom. The net result should be obvious to everyone: the President will be free to act in an area of major national concern while Congress continues to slumber.

The argument is often made that the President's trade negotiators will have to be able to earn the confidence of their opposite numbers in foreign governments and that when agreements are reached, they can be relied upon. It is further argued that potential congressional interference in these negotiations in the form of a requirement for ultimate congressional approval would make it pointless for foreign negotiators to negotiate with our Government. One almost gets the impression that the legislative bodies of foreign governments have no interest in trade policies. Such is simply not the case. The trade policies of foreign governments are subject to extensive debate and questioning in their parliamentary bodies and in the supranational bodies. Perhaps more significantly, those entrusted with supervising trade negotiations are members of the legislative body and therefore available for questioning both publicly and privately by their colleagues on a regular basis. Obviously our system is different; but to argue that trade must be taken out of the legislative process and left to the exclusive discretion of the administration and its bureaucrats is simply an argument which would be incomprehensible to many of our foreign partners.

WRONG TIME FOR GRANT OF SO MUCH POWER TO PRESIDENT

For anyone who has been in this country the past year or more, let alone anyone who has served during this period in the Congress, to have to be reminded of the dangers of concentrating too much power in any one office should not be necessary. If it was one of the greatest acts of gall for this administration to approach this Congress with a request like this at this particular juncture in history, it would be the greatest act of folly for this Congress to accede to such an extravagant request at this particular juncture in history.

How many times do we have to be taught a lesson to learn a simple truth? This is neither the time nor the place for a trade bill of this nature.

It is with these thoughts in mind that I must urge my colleagues in the House to vote against this legislation today.

Mr. SCHNEEBELI. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. BROYHILL).

Mr. BROYHILL of Virginia. Mr. Chairman, I support H.R. 10710 for two major reasons.

First, the executive branch needs clear and carefully defined authority to enter into agreements for a more equitable exchange of goods in the new round of trade negotiations which will be taking place over the next several years. This bill provides such authority, and if our negotiators do not have it, their capacity to deal effectively will be impaired, with the inevitable result that trading conditions will deteriorate to the ultimate disadvantage of the United States.

Second, the bill includes some provisions which should be helpful to American industries and workers in their uphill fight to cope with imports which have been increasing for years.

This is not to say I am completely pleased with the legislation. I am wary of it, as I would be with any new trade bill, in light of what has happened since enactment of the Trade Expansion Act of 1962, which gave rise to the ill-fated Kennedy round of negotiations.

The horror stories which have been told about the U.S. trading position over these past 12 years are legion, and there simply is not enough time to recount them here today. But the overall track record certainly can stand some reemphasis.

During its deliberations on this legislation, our committee received testimony that from the start of the Kennedy round, until 1971, there was a net worsening in our balance-of-trade deficit, as far as manufactured products are concerned of about $9 billion. That represents an estimated potential loss of more than 150,000 jobs, not to mention the damage to our economy generally.

And in 1971 and 1972, our gross merchandise trade balance—the dollar volume difference between imports and exports—showed successive deficits of approximately $2 billion and $6.4 billion.

It is true that the picture has brightened this year, with monthly surpluses developing in April, July, September, and October and with relatively low deficits occurring in other months. But it also is true that these figures reflect a double devaluation of the dollar in the past 23 months, along with rising prices and demand, worldwide. The dollar volume of our exports has increased, but our share of foreign markets has not gone up dramatically. All of which certainly takes some of the bloom off the recent trade balance rose.

We remain in a precarious trade position, and if H.R. 10710 had been tailored to my tastes, it would have taken a more vigorous stance with respect to surging imports. They run virtually the whole gamut of product lines, they are produced at costs so low there is no way our domestic enterprises can match them, and they often are subsidized by their governments in one way or another. I am concerned not only about their gross impact on the U.S. economy, but about their particular effect on key industries. We simply cannot afford to let vital production facilities go out of business and consequently to become too reliant on foreign supplies. We should have learned some lessons in that regard in recent times.

But I am a realist. I recognize that H.R. 10710 represents a necessary compromise, and that it does go much further than present law toward the goals I seek. It contains provisions making it easier for American firms and workers to obtain relief before they have been displaced, and strengthening our capacity to deal with proliferating unfair trade practices in which other countries engage. These are the portions of the bill to which the remainder of my remarks will be directed.

H.R. 10710 would make several important improvements in the so-called escape clause, which has been a part of our trade law for two decades but which was weakened markedly in the 1962 act.

The escape clause provides a mechanism whereby domestic industries may seek relief from increased import competition. The Tariff Commission is required to investigate such cases and to determine whether the increased imports have seriously injured, or threaten to injure, the petitioning enterprise.

Under current provisions, the Commission is required additionally to determine whether the increased imports have resulted from concessions which the United States has granted pursuant to trade agreements. H.R. 10710 would eliminate this requirement. The Commission no longer would have to find a causal link between the imports and a trade concession in order to reach an affirmative decision.

Also under existing law, the Commission must determine whether increased imports are a major cause of injury to a petitioning industry. The word "major" has been interpreted to mean "greater than all others combined." In quantitative terms, this has meant that the Tariff Commission, in order to reach an affirmative decision in an escape clause case, has had to find that increased imports were at least 51 percent responsible for the injury suffered by the industry.

The administration proposed substituting the word "primary" for "major." This would have required a finding that increased imports were more responsible than any other single factor for an industry's difficulties. But the committee decided to substitute the word "substantial", which I believe is much preferable.

"Substantial cause" is defined in the bill as one which is important, and not less important than any other. This means the Tariff Commission could reach an affirmative decision if increased imports were found to be the greatest single factor, or if it were found to be one of two or more equally rated factors greater than than any others.

Under the escape clause provisions of the 1962 act, a clear majority of the tariff Commissioners have been able to reach an affirmative decision in only 3 out of 28 cases presented to them. It has been obvious that the "causal link" and "major cause" criteria were very formidable obstacles to any home enterprise seeking import relief.

I think it would be safe to assume that under the criteria of H.R. 10710, a number of industries which have suffered severe injury would be able to obtain the relief which they could not get under present law.

In another change from present law, H.R. 10710 would require that the President take into account a number of economic factors in determining whether to provide import relief following an affirmative decision by the Tariff Commission. These factors include the efforts which the industry is making on its own to meet foreign competition, the position of the industry in the economy, the potential effect of import relief on consumers and on our international economic interests, geographic concentration of imports in the domestic market, and the economic and social costs which would be incurred by taxpayers, communities, and workers if import relief were not provided.

Additionally, the President would have to determine whether to provide import relief within 60 days after receiving from the Tariff Commission an affirmative decision, or an evenly divided decision which may be considered an affirmative finding.

If the President felt he needed more information, he could request it from the Commission within 45 days after receiving an affirmative finding, and the Commission would have no more than 60 days in which to file its supplemental report.

A fourth change in the escape clause procedure is one with which I disagreed in committee, but which I recognized as necessary to the compromise that was reached on the bill.

Under this change, after the President had received an affirmative finding and had decided to take some action, he would in all cases be required to consider the provision of adjustment assistance. If he chose to provide import relief, he would have to proceed according to priorities established in the bill.

First on the priority list would be tariff adjustment. Second would be a tariff-rate quota, which is a system by which a tariff is either imposed or increased on imports above a specified quantitative level. Third would be quotas, and fourth would be orderly marketing agreements, under which foreign producers limit voluntarily their exports to the United States. Any of the measures could be used in combination.

H.R. 10710 would require the President to explain his decisions with respect to affirmative findings. If he decided to take no action, if he chose any form of import relief over adjustment assistance, or if he failed to follow the order of priorities, he would have to submit a report to Congress stating his reasons. And, if he selected either quotas or orderly marketing agreements, that decision would be subject to the 90-day congressional veto procedure already described.

A fifth change, which H.R. 10710 would make in the escape clause provisions, would permit the President to suspend temporarily the application of items 806.30 and 807 of the Tariff Schedules. These items provide special tariff treatment to U.S. products which are reimported after processing or assembly abroad. However, this suspension could be imposed only if the Tariff Commission determined that the serious injury, or threat thereof, to the domestic industry resulted directly from application of those items.

Other changes deal with the duration of import relief, and on mandatory phasing out of such relief. Whatever the import relief, it would have to be proclaimed no later than 15 days after the President made his determination. A 180-day limit would be placed on the imposition of orderly marketing agreements. Import relief could continue for 5 years, with one 2-year extension permitted. But if it lasted longer than 3 years, it would have to be phased down, to the extent feasible.

As under present law, adequate provision would be made for public hearings in connection with escape clause proceedings, and no import relief would be provided without affected parties being given a chance to be heard on the matter.

With respect to relief from unfair trade practices by other countries, H.R. 10710 would make noteworthy changes with respect to the antidumping and countervailing duty statutes and the President's other authority to act against export subsidies and foreign import restrictions.

In antidumping cases, the Secretary would be required to determine within 6 months, or within 9 months in exceptionally complicated investigations, whether there were reason to believe, or suspect, that the purchase price or the exporter's sales price of the imported merchandise were less—or were likely to be less—than either the foreign market value or its equivalent.

If the Secretary found in the affirmative, he would have to publish a notice to the effect in the Federal Register and require the withholding of appraisement of the merchandise in question. In no case could the effective date of withholding be earlier than 120 days prior to the time the question of dumping was raised or presented to him.

If there were a negative finding, or if the Secretary decided to discontinue investigations, he would have to publish a notice to that effect also. But if he determined within the next 3 months that dumping had, indeed, been involved, he then could order the withholding of appraisement.

H.R. 10710 also would impose a time limit on the Treasury Secretary in countervailing duty cases. Under present law, the Secretary is required to determine whether a foreign country has provided a bounty or grant on its exports to the United States, but he faces no deadline in this regard. The bill would give him 1 year.

The measure would, for the first time, make duty-free imports subject to countervailing action, but only if it were found that such imports were causing injury to a domestic industry.

In negative decisions by the Secretary, domestic producers would be given the right of judicial review.

H.R. 10710 would make an additional change of importance. Under present law, it is mandatory that countervailing duties, equal to the bounties or grants, be imposed if affirmative findings have been made. But in response to an administration request, the committee bill would give the Secretary a 4-year grace period in which he could refrain from countervailing if he found it would seriously jeopardize trade negotiations, which would be going on during this time.

There is one exception to this discretionary authority, and it is a good one. In cases where subsidized merchandise is produced in plants owned or controlled by the government of a developed country, the Secretary would have only one year in which to refrain from countervailing.

H.R. 10710 also revises and expands the President's authority to retaliate against foreign countries which maintain unjustifiable or unreasonable import restrictions or other policies which have the effect of burdening, restricting, or discriminating against U.S. exports. The President would, in such cases, be empowered to suspend or otherwise limit the benefits of any trade agreements or to impose duties or other import restrictions. In the particular case of a subsidy on exports to the U.S. market, the President could take such action only if he found the antidumping and countervailing duty remedies would be inadequate, if the Treasury Secretary determined that a subsidy or its equivalent actually existed, and if the Tariff Commission found the subsidized imports were substantially reducing sales of competitive domestic products. All of the President's actions under this authority would be subject to the 90-day congressional veto procedure.

Although I personally feel that the limitations placed upon Presidential actions in such cases are in some cases unduly restrictive, and despite my continued disagreement with other changes which I have cited, I still support the bill and urge my colleagues to do the same.

The basic negotiating authority which it provides is urgently needed, and the congressional veto procedure with which the bill is liberally sprinkled assures adequate review of major trade agreement decisions. On balance, H.R. 10710 is a dramatic improvement over existing law.

Mr. SCHNEEBELI. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. Pettis).

Mr. PETTIS. Mr. Chairman, I thank the gentleman for yielding to me at this time.

Mr. Chairman, I would like to take this time to commend the Chairman, the gentleman from Oregon (Mr. Ullman) for his leadership in bringing this legislation to the floor today, and the efforts of the ranking minority member, the gentleman from Pennsylvania (Mr. Schneebeli).

Our committee took a long, hard look at the world trade situation and the U.S. piece of the action. I think the Trade Reform Act of 1973, which is before us, is a realistic answer to conditions that exist today and are likely to remain with us through most of this decade.

We have been discussing this bill for a long time. I am sure we are all a little weary, so I will keep my remarks brief and direct them only to title V, the generalized special preference provisions.

I have also made available at the majority and minority desks, detailed fact sheets on title V and some answers to anticipated questions, which some of you might have.

The major economic reason for instituting a generalized special preference system is to oppose the European Common Market trading block arrangements that threaten to shut out U.S. exports to most of the developing nations in Africa and the Mediterranean.

Common Market nations have built up a spreading network of agreements with less developed countries, or LDC's, whereby these countries receive special preferences from the European Community if they, in turn, grant reciprocal preferences to EEC products.

These "reverse preferences" are effectively making it impossible for U.S. exports to compete in the developing countries.

And, make no mistake, emerging nation are going to become a significant factor in the changing world market.

Looking at the figures, U.S. exports to less developed countries are concentrated in Latin America and amount to $15 billion a year. That's 30 percent of our total export market. What is more, our balance of trade with these nations remains favorable to the United States.

If we are to expand, and break into new LDC markets, we have to stop the trading blocks being built up by the Common Market, and increase the export earnings of less developed countries which can be spent for U.S. goods.

This can only be done through a generalized preference approach.

In order to qualify for special preferences from the United States, the bill requires that a country eliminate its "reverse preference" agreements by January 1, 1976.

The European Community is aware of this condition and would revert to a generalized preference system, similar to ours.

The bill also deals—on a number of levels—with domestic industry competition from imported products.

Some of these provisions are in title V, and would exclude imports of those goods that are directly competitive with American-made products most sensitive to additional competition, such as textiles, footwear, and various steel products, as well as all items which would be covered by the import relief provisions in title II.

Here, let me point out that projections indicate the generalized special preferences would increase our imports of manufactured goods by less than 1 percent. This estimate is based on the latest total figures we have available which show that if generalized preferences had been established in 1971, the overall import increase would have been totaled $218 million for that year.

It is also important to remember that we are talking about developing countries. So these probably would not be sophisticated manufactured goods in the first place. More likely, we are talking about products which U.S. industry has already begun to move away from anyway because of the poor economic and wage returns they represent in our advanced industrial society.

I think those members who are opposing this title would do well to take an objective look at the long-run benefits instead of concentrating on possible short-term problems for "marginal" production operations domestically.

To deter an already developed nation from reaping the benefits of general preferences by using an emerging nation as a conduit for its products, the bill sets up a formula that requires an eligible product to meet certain rules of origin.

At least 35 percent and not more than 50 percent of the total appraised value of an article must be added in the developing country. This includes both the cost of materials and the cost of labor and processing.

The 35-percent minimum limitation is, of course, to safeguard against "pass-through" maneuvering. The 50-percent maximum limit was set to coincide with the "competitive need formula" in title VI. If an industry in a developing nation is responsible for over 50 percent of the production of an item, it is already viable and does not need special preferences to encourage development.

The bill also specifies limits on the amount of any one item from any one country which can enter the United States duty free. These limits are set at $25 million or 50 percent of the U.S. imports of particular item, annually, unless the President determines it is in the national interest to continue duty-free treatment after these limits are reached.

Other factors to be taken into account in determining eligibility for generalized special preferences are whether a potential beneficiary country requests this treatment, its level of economic development, whether it is receiving preferential treatment from other developed countries, and whether it has expropriated U.S.-owned property without compensation.

I have touched mainly on the economic points involved with title V. Now, I would like to finish up, very briefly, on the political and philosophical implications.

Generalized preferences have been of major concern to poorer nations since 1964.

The U.N. Conference on Trade and Development adopted a policy to institute GSP in 1970. To date, the United States alone among the industrialized nations has not met its commitment to provide this type of preference system, despite our agreement to do so.

The already delicate situation of U.S. credability in the world becomes more seriously damaged with every day we delay in keeping this promise.

Mr. Chairman, this Nation has a major stake in trade with the developing countries—both from the aspect of economics and from our need to maintain our good name in the eyes of the world.

I urge my colleagues to vote to keep title V in this legislation. It is vital not only to the developing nations, but more importantly, to the future economy of the United States.

Mr. Chairman, at this time I will place in the Record questions and answers regarding title V, the generalized system of preferences. And I might add again that any Member who is interested in a digest of this legislation at this moment can find copies of this at both the majority and the minority tables.

(The material referred to follows:)

H.R. 10710—The Trade Reform Bill

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

Questions and answers

Q. *What are generalized preferences?*

A. It is expected that most manufactured and semimanufactured goods and selected other products (import-sensitive items excepted) from eligible developing countries would be authorized duty-free entry into the United States.

Q. *Why should developing countries receive special treatment?*

A. The United States and the other industrialized countries are committed to assisting the economic development of the poorer countries. By increasing and diversifying their exports, these countries can increasingly pay their own way. Preferential tariff treatment in the industrialized country markets gives a boost to the "infant" industries in the developing countries that have gotten a slow start in manufacturing for the world market.

Q. *What are the other industrialized countries doing in this area?*

A. All major industrialized countries, with the exception of the U.S. and Canada, have implemented generalized systems of tariff preferences for goods from developing countries.

Q. *How will generalized preferences benefit the United States?*

A. *Politically,* by fulfilling a long-standing expectation of the developing countries, enactment of generalized preferences will reaffirm the United States' serious commitment to economic development, bring U.S. policy commitment to economic development, bring U.S. policy into line with the 16 countries that have already implemented GSP, and thus improve the climate of United States relations with the developing countries. This is essential to the United States' dealings with these countries in connection with *energy and other scarce mineral resources.* It is also important to harmonious negotiations with the developing countries in *multilateral trade negotiations,* where we share interests and objectives with them, such as improved access for agricultural products. Moreover, developing countries have resisted pressures to grant preferred treatment to the European Common Market as a part of trading bloc arrangements which would discriminate against non-participants (e.g., the U.S. and Latin America). Their resistance to these pressures would be undermined if the United States did not implement generalized preferences.

Economically, United States exports will benefit from increased export earnings by developing countries. Over 75 percent of these countries' foreign exchange comes from export earnings. Poorer nations, like poorer people, tend to spend all they earn; they do not hoard reserves. The United States is highly competitive (and has an excellent sales record) in the kinds of industrial equipment developing countries need. The United States exports $15 billion a year to developing countries—30 percent of our total exports and $1 billion more than we import from them.

Q. *What developing countries will benefit?*

A. The bill designates 26 countries as developed and not eligible for generalized preferences. Most developing countries are expected to qualify. However, the bill prohibits the extension of generalized preferences to (a) Communist countries not eligible for most-favored-nation treatment and (b) countries that grant "reverse preferences" to other industrialized countries unless they indicate that these reverse preferences will be eliminated by January 1, 1976. In designating a beneficiary country the bill instructs the President to consider:

Whether the country has expressed a desire to be so designated;

The country's level of economic development;

Whether other industrialized countries extend generalized preferences to the country; and

Whether the country has nationalized property of a United States citizen or corporation without the payment of prompt, adequate and effective compensation.

Q. *Does this mean that former colonies of European countries will be ineligible for U.S. preferences if they continue to grant tariff preferences to the European Community?*

A. Yes, unless they indicate the preference will be eliminated by January 1, 1976. The United States does not seek preferential treatment for its products in any market, and the bill would not allow the granting of preferences to countries that discriminate against United States exports.

Q. *How will product coverage be determined?*

A. Lists of products will be submitted to the Tariff Commission, public hearings will be held, and the President will have advice from the Tariff Commission and other agencies and appropriate sources before designating articles eligible for preferential treatment. The intention is to submit all manufactured and semi-manufactured items except import-sensitive items such as textiles, footwear, watches, certain steel products and goods subject to quantitative restrictions. Some agricultural products would be included, on a case-by-case basis.

Q. *What about developing country products that are already competitive in the United States?*

A. Such products would not receive preferential treatment. On the basis of performance in the latest calender year, a single product from a developing country which accounted for either more than half of U.S. imports of that product (this criterion would affect about 150 items) or over $25 million (affecting about 10 additional items) would not be eligible for duty-free treatment, having proven the ability to compete in the United States market without preferences. This "competitive need formula" would reserve preferential treatment for those industries and countries—particularly the least developed—that need it most.

Q. *How can we be sure that the benefits of preferences go to real production in developing countries and not to mere assembly or pass-through operations?*

A. To be eligible for preferences, the goods must be shipped directly from the beneficiary developing country, whose materials and processing must account for at least 35 percent of the appraised value upon entry in the United States. The Secretary of the Treasury may raise this figure to as high as 50 percent if necessary to avoid "pass-through" operations.

Q. *How does the Generalized System of Preferences (GSP) in this bill compare with those the EC and Japan have in effect?*

A. Assuming the product coverage stated above and broad country eligibility within the provisions of the title, the U.S. system would provide roughly comparable "burden sharing" with those of the EC and Japan (rather more in terms of absolute amounts of imports eligible for GSP, slightly less if trade eligible for GSP is calculated as a percentage of dutiable trade with potential beneficiaries or as a percentage of the importing country's GNP, and substantially less in terms of the amount of total duty-free imports from potential beneficiary countries).

Operationally, the following differences exist:

The EC employs a processing rule of origin, i.e., goods qualify as having been produced in a beneficiary country if they have undergone a change in their BTN classification, whereas the U.S. system would employ a straight quantitative rule (minimum 35 percent of appraised value produced in the beneficiary developing country).

The EC employs tariff quotas that revoke preferential treatment for a product (from all sources) when total preferential imports of that product reach a specified level. The U.S. "competitive need" formula, on the other hand, would remove preferences by individual product and country as they achieve competitiveness in the U.S. market.

Q. *How will injury to domestic industries be avoided?*

A. First, import-sensitive items (textiles, shoes, watches, certain steel products) will be excluded from preferences; second, the same safeguard provisions will apply to preferential imports as are provided (in Title II) for all imports; and third, the title provides general authority to suspend or limit preferences with respect to any article or country.

Q. *How much will U.S. imports be increased by generalized preferences?*

A. Assuming the product coverage stated above and broad country eligibility within the provisions of the title, if the U.S. system of preferences had been in effect in 1971, it would have stimulated an estimated $424 million of new exports from beneficiary developing countries to the United States. Of these, some $206 million would have replaced U.S. imports from other sources, for a net increase in U.S. imports of $218 million. (Based on 1971 statistics. Projections for future years indicate that the new imports stimulated by GSP will remain less than 1 percent of total U.S. imports.)

Mr. ULLMAN. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. ROUSH).

Mr. ROUSH. Mr. Chairman, I rise today to offer my observations concerning one section of this proposed Trade Reform Act of 1973, title III "Relief From Unfair Trade Practices." This is a section of the bill which I anticipated as providing significant, definite and measurable relief for American industries faced with subsidized imports from abroad.

Chapter 3 of title III contains major amendments to the countervailing duty law, including a requirement that the Secretary of the Treasury must reach a final determination within 12 months after the question is presented to him as to whether exports to the United States are subject to foreign bounty or grant. Duty-free imports will become subject to countervailing duties for the first time, subject to the finding of a bounty or grant by the Secretary of the Treasury and a subsequent finding by the Tariff Commission that such imports are causing injury to domestic industry. The provisions will assure that domestic producers have the right to judicial review of negative determinations by the Secretary of the Treasury.

So far so good. I have long felt that one of the badly needed remedies for what has become unfair trade competition is the strict enforcement of the legislation already on the books to protect our home industries, and I include among these adjustment assistance, the antidumping law and the countervailing duty provisions. The bill before us represents a step in that direction, but for one step forward it takes two back as far as the countervailing duty section is concerned.

Section 331 of the bill would amend section 303 and 516 of the Tariff Act of 1930 in a number of important respects. Section 303 is the statute under which the Secretary of the Treasury determines whether imported foreign articles are receiving a "bounty or grant" are subsidized. The Secretary is required to ascertain and determine the net amount of any bounty or grant and to declare the net amounts so determined in order to impose countervailing duties to provide some level of equity for American products competing with their imports.

The present proposal makes enforcement of countervailing duties mandatory, reduces the time element, and gives the right of judicial review to companies. This is eminently satisfactory, however, it also adds a new subsection (e) to section 303 of the Tariff Act authorizing the Secretary of the Treasury not to impose additional duties under that section 303 if, after seeking information and advice from such agencies as he may deem appropriate, he determines that such imposition would be likely to seriously jeopardize satisfactory completion of international trade negotiations. And his authority for this suspension would last for 4 years.

Thus those of us who wish adequate guarantees for American industry and workers find ourselves worse off than before. This decision to allow the enforcement of countervailing duty laws through judicial review to be withheld for 4 years deals a death blow to the millions of us who believe in fair trade and it amounts to a 5-year repeal—in all—of the countervailing duty laws. Since the objective of this law is to remedy internationally recognized forms of currently unfair trade competition, this proposal is conceptually unsound.

As explained in the committee report the purpose of this amendment is to permit administrative discretion where there is uncertainty as to whether a particular practice is condemned as an export-related subsidy. The amendment, however, seems to go much further than its stated purpose. There are many subsidy practices under the GATT which are clearly condemned, such as, direct grants for exporters, the remission of corporate taxes on export income, and a whole variety of export-related assistance for production, distribution, raw material acquisition and export credit. Yet, the discretionary authority in the amendment apparently applies to these clearly recognized export subsidies, as well as to the practices in the "gray area."

To clarify this point in the legislative history I would like to ask: Is the intent of this amendment to permit the Secretary of the Treasury to refrain from imposing countervailing duties only when the export-assist in question is in this "gray area"?

It would seem to me, Mr. Chairman, that a firm and strict commitment to invocation of our countervailing duty laws would assist us in trade negotiations much more effectively than the passage of trade legislation such as this which leaves everyone uncertain as to the strength of U.S. commitment to relief and protection of our own industries from unfair trade practices. If no one can be sure that the power to retaliate will be forthcoming, countervailing duties become a meaningless and ineffective club. If, as this bill proposes, countervailing duties will only be imposed when such action will not offend our trade partners, when will it be used and what kind of negotiating power does that leave us? We have given up in advance one of our chief weapons. The countervailing duty law was originally passed to retaliate against those countries which subsidize industries competing with American industries in our home market. It was never meant to win friends abroad but to look to the legitimate interests of industry here at home. That was the clear congressional intent.

Moreover, I have little confidence that this kind of discretionary authority will result in strong action on the part of the Treasury Department. After all, the antidumping law, countervailing duty provisions and adjustment assistance have been meagerly applied and enforced. It was for this very reason that American industry came to the Congress to ask for legislative enforcement provisions and for this right to judicial review—to strengthen our trade relief measures. By this provision we guarantee the enforcement of countervailing duty laws through judicial review on the one hand, and then suspend this right with the other. Who are we fooling? Certainly not our trade partners. They know what this means, and certainly we are not fooling American business interests.

I would go on further to ask: What will happen if this Congress passes trade legislation patently inadequate to the needs of American industry? I think we can expect several undesirable results. First, those who argue forcefully against "protectionist legislation" should be advised that unless American industry is given some definite, unequivocable guarantees that "free trade" will be required of our trading partners as well as ourselves, our own industry will flee abroad and join the ranks of the multinationals flourishing in other countries. Second, the demand for stringent trade quotas will inevitably increase.

I recognize that I am something of a voice crying in the wilderness since this title of the trade bill cannot be amended under the rule. However, the vote here today does not complete action on this legislation and I would hope that those who determine the final details of this bill will take heed to the effects this particular section of the trade bill will have on American industry and the total economy.

Mr. SCHNEEBELI. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. CLANCY) who is a new member on our committee, and a very valuable member.

Mr. CLANCY. Mr. Chairman, I support H.R. 10710 because I feel strongly that it is an essential ingredient of trade negotiations which can be of great benefit to the United States.

The bill is designed to protect and enhance the position of American interests in a number of ways—including strengthened import relief measures for domestic firms and workers, and tougher provisions to deal with unfair trade practices by foreign governments and enterprises. But the primary purpose of the legislation is to provide authority for effective U.S. participation in multilateral negotiations on both tariffs and nontariff barriers to trade, that will accrue to the benefit of the American economy.

This authority is set forth in title I of the bill and already has been described in considerable detail by several of my committee colleagues. It is not my purpose to repeat what has been said in regard to this portion of the bill, but to emphasize and enlarge upon two aspects of it—relating to nontariff barriers, or NTB's, and to the General Agreement on Tariffs and Trade, or GATT.

First, with respect to NTB's, I think it can be said with complete accuracy that they represent some of the most complex and pressing problem areas to be faced in upcoming world trade negotiations. This certainly is not to say that tariff rates themselves have been reduced to insignificance. To the contrary, they remain important. Many countries continue to have very high rates on vital industrial items which, if cut, would greatly expand American export opportunities and increase domestic job opportunities. But the proliferation of nontariff barriers, both in numbers and in the extent of usage, poses a new and even more formidable challenge to our negotiators and to their counterparts from other nations.

Twenty-seven different types of NTB's already have been identified and catalogued—ranging from credit restrictions on importers, through consular and customs formalities and documentation, to more familiar barriers such as quotas, health and safety standards and Government procurement practices. The list undoubtedly will continue to grow as more devices are recognized and as countries find new ways to shut off outside competition in their own marketplaces.

The overriding objective of the U.S. negotiating team will be, of course, to focus on and break down the barriers which work against our economic interests—to open up foreign markets as much as possible for the items which we most want to sell abroad.

In order to achieve this end, our negotiators must have sufficient authority. If they do not, their foreign counterparts simply will not be willing to bargain with them.

Because of this obvious need, the administration asked for very broad negotiating power, including the authority to pursue agreements on some NTB's in advance of congressional review. Our committee saw the need, but also recognized the risk, from a domestic point of view, that our negotiators might give up more than we felt was desirable in pursuit of a particular agreement.

Therefore, we widened the congressional veto procedure to cover all NTB agreements, and we provided for consultation, in advance of the completion of such agreements, with appropriate congressional committees.

Our negotiators would have preferred the broader authority originally sought, of course, but they have accepted our committee's modification as a workable mechanism. It would give them the credibility they need at the bargaining table, because there would be a reasonable expectation that negotiated agreements would be implemented. Yet it would, at the same time, preserve congressional responsibility for domestic legislation and the protection of domestic interests.

With respect to the General Agreement on Tariffs and Trade, I think it is important to note that H.R. 10710 includes an authorization for an annual appropriation to pay our country's share of GATT expenses. The United States has participated in the organization since 1947, but the Congress never has specifically authorized expenditure of funds for this purpose. Our national share has been paid, up to now, out of the State Department's International Conference and Contingencies Appropriation Fund.

Our committee felt that after 26 years, it was high time we faced up to the realities of the situation and made outright authorizations and appropriations on an annual basis. At the same time, we felt strongly that some changes should be made in GATT, and we, therefore, included a provision instructing the Administration to seek certain revisions.

Although the principles underlying this international body of rules for the conduct of foreign trade remain valid, some of the rules are obsolete. The number of participating nations has increased over the years from 19 to 85, yet GATT decisions still are based on one vote per country. Considering the widely varying economic interests represented, weighed voting clearly would be more equitable. Another problem has arisen from the inability, under GATT machinery, to obtain adequate enforcement of rules applying to the formation of customs unions and free trade areas. For these and other reasons, H.R. 10710 would direct the President to pursue the following GATT reforms:

First. A change in the decisionmaking system to more accurately reflect the balance of economic interests;

Second. A rule revision to make sure that all forms of import restraints which are used in response to injurious competition are adequately covered;

Third. Extension of the rules to cover such conditions as fair labor standards and a public petition and confrontation procedure to allow individuals as well as governments to present grievances;

Fourth. A change in the border tax rule, to allow adjustments for direct as well as indirect levies; and

Fifth. Rule modifications which would recognize import surcharges as preferred actions to be taken to alleviate balance-of-payments problems.

Our committee has made it clear that this list of desirable changes is not meant to be all-inclusive, but is merely representative of more urgent reform objectives.

In short, Mr. Chairman, H.R. 10710 would signal not only official U.S. recognition of the basic worth of GATT but also our intention to push hard for badly needed improvements.

While I have focused on two important aspects of the bill, it also contains needed improvements in the escape clause, adjustment assistance, our antidumping and countervailing duty laws, and measures to deal with unfair trade practices. These provisions, along with those I have described, make the passage of this bill an important objective.

I urge my colleagues to join me in supporting this legislation.

Mr. ULLMAN. Mr. Chairman, I yield to the gentleman from Illinois (Mr. ROSTENKOWSKI) such time as he may consume for a question.

Mr. ROSTENKOWSKI. Mr. Chairman, I thank my chairman for yielding.

Mr. Chairman, in its "section-by-section analysis of the Trade Reform Act of 1973," sent to the Ways and Means Committee by the administration along with its proposed bill which was introduced and considered by the committee as H.R. 6767, at page 68 of the so-called committee print, which contains this section-by-section analysis, the administration discussed section 103(c) of H.R. 6767.

Section 103 was entitled "Nontariff Barriers to Trade" and, in this administration analysis, subsection (c) was explained as granting the President advance authority to implement certain trade agreements and specifically cited as an example of agreements which could be implemented under this authority, agreements relating to, and I quote from page 68, "the wine-gallon/proof-gallon basis for assessment."

As the members of the Ways and Means Committee know, this example referred to the method of tax determination on distilled spirits which is presently contained in section 5001 of the Internal Revenue Code and which has been in every enactment of the Federal tax laws since 1868. Similarly, it has been the view of this committee that the President has never had the authority and should not be granted the authority to change, in any way, this wine-gallon/proof-gallon method of tax determination.

Therefore, am I correct, Mr. Chairman, in pointing out that our committee in its hearings and executive sessions very carefully considered this Presidential request for such authority and that the committee determined not to grant such authority? And that there is no provision or language in the bill now before us, H.R. 10710, which would grant the President authority to make change or modification of the wine-gallon/proof-gallon basis for assessment without congressional approval.

Mr. ULLMAN. The distinguished gentleman is absolutely correct. It was our committee's determination that any such change in the Internal Revenue Code would have to be approved by the Congress.

Mr. ROSTENKOWSKI. I thank the gentleman.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee (Mr. JONES).

Mr. JONES of Tennessee. Mr. Chairman, as a member of the Committee on Agriculture and as chairman of the House Dairy and Poultry Subcommittee, I am concerned about the effect of this bill on our domestic dairy industry. My concern is heightened by the fact that the well-known Flanagan report keeps reappearing despite some strong congressional efforts to set it aside. The idea of this report was to open the American market to a flood of imported dairy products in an effort to get our trading partners to purchase our other products.

Such an action might or might not help the administration's balance-of-trade problems, but it would certainly ruin our domestic dairy industry. This would simply place us in a situation with regard to milk that would be similar to the current oil situation. Milk is a critical product and there is no logical reason why the United States should make itself dependent upon uncertain milk supplies from foreign countries.

Another serious question arises with regard to the quality of many dairy products being imported to this country. I am not condemning the sanitary conditions of the dairies in all countries because I understand that some countries have high standards. But, on the average, production standards in many foreign countries simply do not meet those we stringently impose on American dairy farmers and dairy processors.

It is my understanding that about one-sixth of our cheese imports are rejected by customs officials making spot checks. This year the administration opened the door for nonfat dry milk imports and I saw some pictures of the product we received. I can assure you that the samples I saw are not what American mothers want to feed their babies.

It is not fair to our dairy industry to require it to produce a high quality product and then undercut it with low quality, highly subsidized imports. I also cannot justify subjecting American consumers to products whose quality cannot be accounted for.

For several weeks now I have been considering the best way to look into this very problem. I plan to seek Chairman BOB POAGE's counsel on the advisability of holding hearings in the subcommittee on pending legislation in this area.

Some things simply should not be bartered away. The ability to produce in an efficient manner critical commodities such as milk and dairy products falls in this category. Neither, this bill or the accompanying report, seem to have broached this subject in very specific terms. I hope our debate here today will give concrete guidance as to the true intent of Congress on this matter.

I would like to ask the gentleman from Oregon (Mr. ULLMAN) exactly what assurances, if any, the administration has given that it does not intend to trade off our dairy industry? And, to what extent will our negotiators attempt to insure that dairy imports meet the quality standards we require of domestic products?

Mr. ULLMAN. You raise a specific question with respect to dairy products. Let me emphasize the fact that the Ways and Means Committee, and I am sure this House, will hold the administration to its commitment that domestic measure of particular interest to our own dairy industry will not be the subject of negotiation unless dairy policies of our major competitors were also the subject of negotiation. We expect the President to live up to the negotiating objective of seeking competitive balance for major agricultural products, including specifically dairy. When any nontariff barrier agreement which affects dairy products is returned to the Congress, we will examine it closely to see whether the negotiating objective contained in the bill was in fact honored.

Mr. CHAMBERLAIN. Mr. Chairman, I rise in support of H.R. 10710, the Trade Reform Act of 1973.

The President has been without trade negotiating authority since 1967 and has not had even the power to adjust tariffs necessary to take effective action under the escape clause. This bill provides carefully limited authority to negotiate with our trading partners on tariffs and also authority to negotiate with respect to nontariff barriers which have been playing an increasingly important role in international trade in recent years. This authority is important and must be provided if the United States is to participate effectively in international economic relations.

The bill also makes important improvements in provisions of existing law relating to import relief for domestic industries and workers, includes needed changes in our adjustment assistance program, and provides a more effective antidumping and countervailing duty statute as well as increased protection against unfair trade practices. Others on the committee have gone into great detail on some of these provisions, so I will confine my remarks to a few important points which need emphasizing.

First, it is important to point out that the bill removes impediments to effective utilization of adjustment assistance. The existing law requires that workers show that their dislocations are in major part due to increased imports which, in turn, are in major part due to past tariff concessions. This double burden has made it extremely difficult for American workers to qualify for needed relief and adjust to import competition.

The new law will eliminate the requirement that increased imports be connected with past tariff concessions. Additionally, the bill will only require that imports "contribute importantly" to the economic dislocation of workers rather than be the major cause. This far less stringent criteria should provide more meaningful access to adjustment assistance benefits.

Additionally, benefits under existing law are limited to two-thirds of a worker's wage up to a maximum of two-thirds of the average of manufacturing wages. Under the provisions of this bill, a worker will be able to obtain 70 percent of his wages for the first 6 months and 65 percent for the next 6 months. More importantly, the maximum benefit will now be equal to 100 percent of the average wages in manufacturing rather than two-thirds.

Second, I want to say a few words about the Canadian Automobile Agreement. As noted in the committee report on page 90, the committee did discuss developments under the United States-Canadian Automotive Products Agreement. It was pointed out to the committee that the trade statistics being using in the annual report of the President on the automotive agreement are specially developed statistics and do not reflect the values normally used in reporting U.S. exports and imports.

On a number of occasions, I have indicated to the House my strong belief that the U.S. Automotive Products Agreement has not resulted in the great advantages to the United States predicted at the time the Congress was asked to implement the agreement. The Canadian Government continues to impose transitional measures which do not permit the interplay of free-market forces as intended by the agreement. I continue to marvel at the satisfaction that supporters of this agreement express when one considers that Canada, a country with one-tenth of the population of the United States, has a favorable balance of trade in automotive products, one of our foremost industries.

It is my hope that renewed emphasis on this trade after this bill passes will prompt our officials to pay more attention to commercial policy beneficial to our own economy and less attention to foreign policy in our dealings with other countries. There is no better place to start than with the automotive agreement.

If a satisfactory carrying out of the agreement cannot be obtained from Canada, I believe we in Congress must consider its termination and repeal.

I renew my call for our Government officials to seek the immediate elimination of the transitional measures still being maintained by the Canadian Government under the Automotive Products Agreement.

Further, as it is evident that the energy crisis will require the automotive industry to make numerous adjustments, I would like to express the hope that those adjustments will recognize and be based upon the needs and welfare of our own industries and workers.

Finally, I also want to say a word about the multinational corporation. Unfortunately, the term "multinational" has become a pejorative term down-grading efficient business organizations operating in the international community. There is no doubt that the multinational corporation has expanded in scope and requires observation and careful analysis. However, the studies which have been done to date indicate to my satisfaction that multinational corporations have created many American jobs and that exports related to their activities are far in excess of imports.

In this connection, I would like to point out that during the committee's consideration of this legislation, representatives of major Michigan international corporations met with our Michigan congressional delegation to express their views relating to international trade. Of these corporations, 13 collectively employed 505,000 Michigan citizens, 46 percent of the manufacturing work force in our State.

They told us that 45,000 of these Michigan jobs were directly dependent upon the exports of these corporations. In many cases, multinational corporations' products are manufactured in a given country for sale in that country or economically related geographic areas. They are responding to economic efficiency and, therefore, make goods available to consumers at lower prices, increasing the economic well-being of both workers and consumers. Despite theories to the contrary the evidence is compelling that the choice for most American companies has rarely been between investing in the United States or investing in foreign operations, but rather investing in foreign operations or losing a foreign market to a competitor.

There are undoubtedly abuses which need to be corrected, and it would be an oversimplification to say that there are not problems, and governments must give careful attention to these problems, but this cannot be done in an environment that simply decries that everything about the multinational is bad.

Mr. Chairman, let me summarize by saying that this comprehensive and complex bill will enable us to effectively deal with our trading partners in establishing an open world trading system. It will also enable us to deal effectively and promptly with unfair trade practices, and provide needed import relief to enable our industries to adjust to competition. The bill is needed and I urge my colleagues to join me in its support.

Mr. THOMSON of Wisconsin. Mr. Chairman, the Trade Reform Act of 1973 is legislation that can touch the lives of every American.

Few American industries face greater impact, however, than the dairy industry. Suggestions such as those contained in the "Flanigan Report" have caused great concern among dairy farmers in the last year.

I recognize that some of the basic conditions that existed at the time the "Flanigan Report" was prepared have changed very substantially. Many of these changes have rendered portions of the study obsolete.

There are basically two very serious shortcomings in the analysis included in the Flanigan study. My review of it would indicate that the report did not contemplate any requirement that foreign dairy products entering this country be required to meet the same health standards required of domestic production and, frankly, the report does not seem to contemplate a system of totally free trade in dairy products.

If my latter conclusion is correct, and it was intended that the market for dairy products in this country be used as a negotiating instrument to gain expanded access for American exports in foreign markets, the concern of the dairy farmer is completely justified. In the economic best interest, not only of the dairy industry, but of the Nation as a whole, this must not be allowed to happen.

Specific language has been included in the report accompanying the trade bill in response to concerns expressed that provisions benefiting our domestic dairy industry would be negotiated away in order to secure greater access for other agricultural exports, with little regard for the severe discrimination and high level protection afforded dairy products by our trading partners. This language contains administration assurances that protection for our own dairy industry would not be the subject of negotiation unless dairy policies of our major competitors were also on the table, and it contains an expression of the intention of the Ways and Means Committee that authority granted by the Congress to negotiate on nontariff barriers would be used to provide equivalent market access for agricultural products, to that extent feasible.

The administration has made public its position on this question on a number of occasions. In testifying before the Ways and Means Committee regarding this bill, Agriculture Secretary Butz states that—

> The dairy industry has been highly protected around the world. Surpluses have built up and certain of our trading partners have resorted to large export subsidies in order to market these surpluses. In a liberalized trading situation, we would expect these export subsidies would be terminated, thereby ameliorating much of the adverse effect for U.S. producers.

Public and congressional oversight procedures provided by this bill are strong. With respect to dairy, any negotiation conducted by the administration would have to be brought back to the Congress for review and could be vetoed if a simple majority of the Members of either House felt that the settlement obtained failed to provide fair competitive terms for the dairy industry.

All this is helpful, but there could be more than that. There could and should be a firm pledge from the President or a direction from Congress that a tradeoff of the dairy industry will not take place.

It is difficult to follow the logic of the "Flanigan Report" that cites increased U.S. imports of dairy products from the European Community when one looks at the comparative production data unless the assumption is made that there will be some form of continuing export subsidy and accompanying import restriction by the Common Market.

As Ambassador Eberle has stated publicly:

> Our dairy industry is highly productive. Surely it cannot pay to ship feedstuffs from the U.S., feed lower productivity cows in Europe, and then ship such products back to the U.S. at prices lower than our domestic production without the influence of enormous subsidies and other distorting policies.

If all barriers were taken off around the world, the United States would fare very well. Contrary to views expressed in some quarters, the United States is a very efficient producer of milk. Next to New Zealand, it is probably the most efficient dairy in the world.

The European Community countries, on the other hand, are for the most part not efficient dairy producers, despite much talk to the contrary. Their production units are usually very small, with many farms having five or six cows or less. And they rely heavily on human labor, rather than on the highly developed technology which is becoming increasingly common in the United States. Neither their productivity nor the average quality of their output can match that of the American dairy industry. If the outrageously high support which the EEC accords its dairy industry were removed, the variable levy system which protects these high prices were dismantled, and its export subsidies eliminated, the efficiency of the EEC dairy industry would be put to the test for the first time. For example, the EEC target price for milk is $6.79 per hundredweight, whereas the U.S. support is $5.63 per hundredweight; for butter, the EEC price is 96.2 cents per pound, whereas it is 62 cents per pound in the United States. In all likelihood, the result would be a drop in European dairy production. This would go far to prevent price-depressing world surpluses from developing and would make it unnecessary for the EEC or other suppliers to resort to export subsidies to dump their excess production in foreign markets.

If no progress is made toward the elimination of these barriers, however, it is difficult, if not impossible, to conceive of a justification for a restructuring of the provisions relating to the American dairy industry. To tell the American dairy farmer that he must face a "free world market" when, in fact, no such market exists, is a fantasy.

I made reference earlier in my remarks to the difference in health standards for dairy products imposed here and abroad. There is no question that these standards have increased the costs of producing milk and processing it into dairy products in this country. The dairy industry has met this additional cost; in fact it has insisted on it in many instances as a means of assuring the consumer the highest possible quality product. At the present time, the Food and Drug Administration samples imported dairy products. Over the past few years, their statistics show that between 8 and 24 percent of all inspected cheese imports are rejected as unfit. A major cause for rejection of imports from EEC nations has been the presence of pesticide residues—a situation that has long been grounds for banning an American farmer's milk from the market.

In the interest of consumer protection and product safety, we must assure ourselves that this market or a substantial portion of it will not be given over to imports which do not and cannot meet the same standards that are imposed on domestic production.

I am enclosing for the Record the following data on dairy programs for selected major world dairy producers to illustrate the present system under which world competition operates:

European Economic Community

"Target" or support prices for milk are attained by purchases of butter, nonfat dry milk, and certain cheeses. Export subsidies are used on most dairy products with restitution amounts varying by product and market. Threshold prices and import levies are established to equate external prices to internal market levels at the point of import. Denmark, Ireland, and the U.K. are being brought into the system with the latter two still having a special arrangement with New Zealand. France is expected to request a 15 percent increase in the target price shortly.

AUSTRIA

Processing plants are required to pay fixed prices to the producer with an approximate 20 percent direct government subsidy added. An extra quality premium is also sometimes given, but approximately 40¢ per cwt is subtracted for promoting exports.

SWEDEN

The government has a policy to adjust milk production to demand. The support program is financed by import levies and tax funds.

SWITZERLAND

The basic policy is designed to adjust milk production to demand. Approximately ¼ of the price is held back to finance any loss in the export of dairy products. Any left at the end of the year is returned to the farmer.

AUSTRALIA

The support program is in the process of being phased out. Its termination is scheduled for 1976.

NEW ZEALAND

There is no direct support program. Over ¾ of milk production is exported in one form or another, and these exports are controlled by the New Zealand Dairy Board.

CANADA

Manufactured milk prices are supported by offers to purchase butter, cheddar cheese, and nonfat dry milk in conjunction with direct payments to farmers. Prices received by producers are controlled by individual Provincial Marketing Boards.

The CHAIRMAN. Under the rule the Chair now recognizes the gentleman from Pennsylvania (Mr. Dent).

Mr. DENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. GAYDOS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 640]

Abdnor
Adams
Annunzio
Archer
Armstrong
Aspin
Badillo
Barrett
Bell
Bergland
Blatnik
Broomfield
Buchanan
Burke, Calif.
Carey, N.Y.
Cederberg
Chisholm
Clark
Conyers
Coughlin
Dellenback
Dellums
Diggs
Donohue
du Pont
Edwards, Ala.
Edwards, Calif.
Erlenborn
Eshleman
Fish
Fisher
Flowers
Fraser
Grasso
Gray
Gubser
Hanrahan
Harsha
Hébert
Heinz
Helstoski
Henderson
Hogan
Hunt
Jarman
Johnson, Colo.
Kastenmeier
Keating
Landgrebe
Landrum
McEwen
Mann
Melcher
Mills, Ark.
Minshall, Ohio
Mitchell, Md.
Mizell
Podell
Powell, Ohio
Pritchard
Reid
Rhodes
Roncallo, N.Y.
Rooney, N.Y.
Rose
Rosenthal
Ryan
Satterfield
Scherle
Sebelius
Shoup
Shriver
Shuster
Skubitz
Snyder
Stark
Steed
Stokes
Stuckey
Symington
Symms
Taylor, Mo.
Thompson, N.J.
Veysey
Waggonner
Walsh
Wampler
Whitten
Widnall
Wyatt
Wydler
Yates
Yatron
Young, Ill.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. Boland, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee having had under consideration the bill H.R. 10710, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 338 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The committee resumed its sitting.

The CHAIRMAN. When the point of order that a quorum was not present was made, the Chair had recognized the gentleman from Pennsylvania (Mr. Dent).

The Chair now recognizes the gentleman from Pennsylvania (Mr. Dent).

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Illiniois.

Mr. DERWINSKI. Mr. Chairman, I commend the gentleman from Pennsylvania on the heroic fight the gentleman made on the rule.

Mr. Chairman, the fact that there has not been a Quorum present on the floor throughout this entire debate is evidence that the rule adopted was a disservice to the subject matter before us.

I believe that the House should have had the opportunity to work through every section of the bill. I especially point out to the Members that the three votes that are permitted are still subject to very limited debate. This is a mockery of the legislative process.

Personally, it was my hope that we would have a rule which would have permitted me to offer an amendment to grant most-favored-nation status to Romania, Czechoslovakia, Bulgaria, and Hungary. The purpose would have been to set the stage for their expanding trade relations with us, which would have automatically decreased their dependency on the Soviet Union.

It is my understanding that the so-called Vanik amendment would not preclude the extension of nondiscriminatory tariff treatment to any of these countries. However, keep in mind that this is an interpretation not precise language.

For these reasons, I fully support the view of the proponents of the Vanik amendment that Romania, Czechoslovakia, Bulgaria, and Hungary should be accorded most-favored-nation treatment, and that nothing in the present bill should be interpreted as precluding this.

Mr. Chairman, may I now address myself to the basic subject of trade? It is difficult to achieve a completely acceptable flow of exports in relation to imports, and we certainly need a national trade policy requiring nations which export to use to, in turn, permit entry of American products into their markets. We have nothing to fear from the free flow of trade, but it must be a two-way street. Quotas or restrictions against American products must be eliminated.

In addition, Mr. Chairman, we must recognize the enormous values, both economically as well as politically, to the United States of our sale of farm products abroad should take into account our domestic needs so that food prices in our country would not be forced up. I also believe that we should use our agricultural productivity as a bargaining tool in foreign affairs. We should extract political and economic concession from the Soviet Union and Red China before making any substantial sales of grain or other food products to them.

May I add, Mr. Chairman, since détente is proving to be a substantial illusion that, notwithstanding any restrictions of the Vanik-type language, I do not believe that we should extend anything beyond normal commercial credit terms to the U.S.S.R.

This bill has been held up much too long and we certainly must provide our negotiators with leverage and flexibility to use in negotiations with the Common Market, Japan, Canada, and other major trading partners. Therefore, despite its imperfect form and my opening complaints against the rule, I will vote for final passage.

Mr. DENT. Mr. Chairman, just before I took the floor there was a little discussion made as to the position of agriculture insofar as milk products are concerned. In answering the reply about the protection of milk products, I might say that perhaps the Members had better read the November 30 "News for Dairy Co-ops." In it you will see that Secretary of Agriculture Earl L. Butz tells us that the cheese import quotas would be expanded 60 to 100 million pounds before the end of this year.

You know, if you want to take time and analyze this whole problem of agricultural imports—from milk, to meat, to hides and all of the products derivative from the hides, the milk and the meat—you would have to recognize the sad story of American agriculture.

It has been noted by a man much wiser than I would ever be, or could be, that if we were to feed all of the cattle that we need to consume in the United States, there would never have been a surplus or shortage of feed grain products in the United States.

At this moment we are exporting more feed grains than we are consuming in meat in this country, because we have made it possible for an American to go to Costa Rica, to go to Colombia, to go anywhere in the world, and open up a feed lot, buy feed grains from the United States for less than the domestic feed grain price, to import the meat and blend it in on the counter of the butcher, and sell it at the same high cost as we sell domestically grown and butchered meat.

I came to the Congress a confirmed free-trader, just as badly misled as the majority of this Congress is, just as badly misinformed as the majority of this Congress is, just as badly fooled as we were in 1962, and from what I see before me today, we will be fooled again.

What happens to trade? Trade for use is the initiative that makes friends in the international world. Trade for abuse makes enemies. We have said that trade encourages peace—peace when?

Peace when? I am 65 years of age, and I cannot remember when we have ever had peace.

When I was 16 years of age, I was down in Nicaragua chasing San Dino out of his own country. Sixteen years of age. That is a long time ago. What peace? Have we gained peace?

When we took this country out of trade on a basis of economics and made it solely a basis of international diplomacy, we can counter to the advice of every president of the United States of America, including Franklin D. Roosevelt, who said:

> Never allow the inexact science of foreign diplomacy to overshadow the exact science of trade economics.

Have we not done that? Oh, yes; we have. Let us take the Russian wheat deal. Was that a trade deal? That is what this bill promotes, and it promotes it to the extent that we have already agreed, Mr. Chairman—and I will back that up with facts—to make safe and secure the needs of Russia for the next 3 years in wheat, even if they have a shortfall in their crop, even if it denies the American people and our traditional trading partners around the world much needed wheat.

In less than 35 days after the wheat deal went through, bread prices, wheat prices, flour prices, increased to the baker by 100 percent. The second largest bakery in our area, in fact, I think in the United States, a national bakery, was almost on the edge of being taken out of business completely, second only to one other bakery in the United States. The only thing that saved it was that they were permitted a price increase pass-through for the increases in wheat that they had to pay.

I was told this afternoon in a rather unusual manner when I spoke about unemployment caused by this trade bill that it was a figment of my imagination. The same man has some figments of his own, because he told this floor not an hour and a half ago that the United Electrical Automobile and Aerospace Workers were sponsoring this bill.

Point 1: Here is the letter from the Auto Workers, as he called them, against this bill in its entirety:

> INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA.
> *Washington, D.C., October 12, 1973.*
>
> DEAR REPRESENTATIVE: The UAW believes that the trade bill approved by the Ways and Means Committee last week falls far short of the needs of the nation and of the nation's workers.
>
> Failure to include reform of the taxation of overseas income is unconscionable. The continued deferral of taxation of overseas income and the overseas tax credit provides a continuing strong incentive to move American jobs overseas.
>
> The modest steps taken by the Committee in the area of trade adjustment assistance is a betrayal of the needs of American workers. The Committee's bill falls so far short of previous Congressional policy established in the Amtrak legislation that it is demeaning to workers affected.
>
> Therefore, on behalf of the UAW, I urge you to vote against the trade bill.
>
> Sincerely yours,
> JACK BEIDLER,
> *Legislative Director.*

Point No. 2: Another spokesman this afternoon said that the IUE was for this bill. Item No. 2, a letter from the IUE indicating that they are 100-percent against this bill:

> INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,
> INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS,
> INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS,
> *Washington, D.C., October 23, 1973.*
>
> TO MEMBERS OF THE HOUSE OF REPRESENTATIVES: The IBEW, IAM and IUE, with the largest concentration of workers in the electrical-electronics industry, opposes enactment of H.R. 10710, the "Trade Reform Act of 1973." We urge you to vote against this bill.
>
> There is an acute need for responsible trade legislation. The rise of multinational corporations, the changed economic relationships among nations and the decline of the dollar make this obvious even to those who have not been injured directly by the flood of imports. The need is even more evident to the members of our three unions, many of whom have seen plant gates shut in their faces, production transferred overseas and opportunities for new jobs erased—all as a result of the very conditions which require reform.
>
> Instead of attacking directly the complex roots of the trade crisis, H.R. 10710 has these deficiencies:
>
> *1. It's a special interest bill.* Although massive investments abroad, tax loopholes on overseas profits, the shifting of production beyond our shores, and the sale and licensing of taxpayer-subsidized technology are responsible for much of the trade crisis,

the bill does nothing about these evils created or exploited by multinational corporations. Indeed, it was written solely on the basis of big business recommendations, while the harsh experience of American workers and the unanimous testimony of their representatives was ignored.

2. *It promotes the export of more jobs to low-wage countries.* By giving the President power to remove tariffs from their products, the bill invites a new wave of imports from Taiwan, Singapore, Haiti, Brazil and other nations where runaway U.S. manufacturers are riding high, where wages are minuscule and where trade unionism is oppressed or illegal.

3. *It prescribes a poisoned placebo for inflation.* By permitting the President to temporarily remove tariffs and quotas as an "anti-inflation" device, the bill will simply open up new opportunities for imports to preempt the U.S. market. It will have no effect on inflation. If imports cured inflation, U.S. prices would be at rock bottom today.

4. *It lowers U.S. standards, rather than raising those of other nations.* In the name of promoting trade, the President can negotiate the removal of such "non-tariff barriers" as consumer protection and product standard laws. He can agree to elimination of required country-of-origin identification on products, including those carrying American brand names. Without muscle behind it, the bill's nod in the direction of international fair labor standards means nothing; in fact, by encouraging further export of jobs to low-wage countries, the bill will undercut U.S. wage and benefit standards.

5. *It offers nothing to cope with imports.* Existing laws against other nations' unfair trade practices are weakened. Qualifications for adjustment assistance and for relief from the subsidized competition of foreign exporters are toughened.

H.R. 10710 is opposed by the two million members of IBEW, IAM and IUE. To you they say: vote against it and thereby open the way for a new bill that deals with the problem of trade, rather than making trade a greater problem.

Respectfully,

Charles H. Pillard,
President, IBEW.
Floyd E. Smith,
President, IAM.
Paul Jennings,
President, IUE.

I have heard it said that the Industrial Union Department of CIO—which was always for this trade bill, always, but they have learned a lesson that this Congress has not learned—where is the IUD? Here it is, exhibit No. 3, a letter urging defeat of the bill:

Industrial Union Department,
Washington, D.C., October 9, 1973.

Dear Congressman: The trade bill reported by the House Ways and Means Committee is, in our judgment, a body blow to the health of the American economy and particularly a grievous thrust at the job security of millions of American workers.

In spite of the melancholy fact that more than one million U.S. jobs, mostly in manufacturing, have been lost since 1966 because of the enormous influx of foreign goods, there seems to be the unhappy tendency to wish this fact away as a bad dream. But it is terribly real.

For example, in one overall industry—electronics and electrical—the U.S. Bureau of Labor Statistics took a job inventory in September 1969 and repeated it in September 1972 and discovered 450,800 jobs less in September 1972 than in September 1969! The nature of the industry involved and the known trade facts concerning this industry, make it clear that the overwhelming reported job loss was due to imports.

On a smaller scale, we in the Industrial Union Department have kept a running boxscore of plant closings during the past 30 months. It is a random and scattered sampling which is very much incomplete and represents a tiny smattering of the totality of plant closings. Yet, our "tip of the iceberg" statistics compiled during the last 30 months show 142 shops totally or partially closed because of foreign imports. 112 of these were closed altogether with an average job loss of 449, while 30 shops were partially closed because of imports with an average job loss of 353. The total job loss in our minuscule sampling was 60,800! Since this very sporadic sampling which we have in our computer shows 60,800 jobs lost due to imports, it takes little imagination to realize that the true job loss because of imports is indeed stupendous and even catastrophic.

It is obvious to us that the bill from the Ways and Means Committee does not address itself to this profoundly important problem—American job loss and unemployment. It is equally obvious to us that any trade bill which fails to directly concern itself with American job security is doomed to ill-serve the American people.

Further, nothing is included in the Administration bill which faces up to the wildly escalating exportation of American capital, technology and jobs by American multinational corporations. Speaking of exportation of American technology, which has been one of the important reasons for our industrial supremacy, one gets a sense of enormity of the exportation of this peculiarly American asset when it is realized that in 1960 American multinational corporations received a total income of $840 million from the sale of royalties and licenses abroad, while in 1971 American corporations received a total of more than $3 billion for the sale abroad of such royalties and licenses. It would not be surprising if this figure reached $4 billion in 1973.

Any meaningful bill must begin the process of regulation of these multinational industrial (and often political) goliaths who devour American jobs as readily as they avoid American taxation of their foreign profits.

Further, it is our understanding that the principal thrust of the bill is to grant additional powers to the President, powers which would further diminish the authority of Congress. It is our fear that such ceding of congressional responsibility to the President may very well worsen our present predicament rather than ameliorate it. The Administration has a strong tendency to think and act in the area of international trade in terms of diplomacy rather than the economic interests of the American people. We believe that the time for earnest and hard bargaining with our trading partners is here. The predirection of the Administration to ignore this reality is such that we urge against following this counter-productive trail.

All in all, our earnest conviction is that the shape of the present bill is so out of joint as to make it more of a national liability than a national asset and therefore should be shelved and a new start made.

I respectfully ask your careful consideration of this communication.

Sincerely,

I. W. Abel, *President.*

Exhibit No. 4, American Federation of Labor and Congress of Industrial Organizations, against the bill 100 percent:

American Federation of Labor
and Congress of Industrial
Organizations,
Washington, D.C., December 5, 1973.
Hon. John H. Dent,
U.S. House of Representatives,
Washington, D.C.

Dear Congressman Dent: Next week, the House will be voting on the Nixon Administration's trade bill (H.R. 10710).

The AFL–CIO finds this bill worse than no bill at all. We urge that you vote to defeat it.

As it now stands, the bill has been written almost completely to White House specifications. Its key feature is the grant to the President of unprecedented and sweeping new executive powers which he may use—unhindered by the normal restraints of Presidential powers—to permanently alter the structure of foreign trade and the structure of the U.S. economy.

The one feature of the measure not written to White House specifications, however, concerns the granting of most-favored-nation status to the Soviet Union. Title IV denies the extension of MFN to nations unless they permit free emigration. Further, under procedures allowed in the rule, an amendment will be offered to this provision by Rep. Charles Vanik (D., Ohio) which would deny the extension of credits by the United States to the Soviet Union.

The AFL–CIO supports these restrictions on the extension of MFN to the Soviet Union, and urges you to support Title IV and vote for the Vanik amendment. We would then urge you to *vote to defeat the entire bill.*

We believe that the far more logical approach to the pressing problems created by this nation's trade policies and by the growing world-wide energy crisis is for the House to reject the bill now before it and turn to writing a new trade bill in 1974 when the present turmoil of events does not cloud the scene. A strong, assertive trade bill in 1974 should, of course, contain strong restraints on MFN and credits to the Soviet Union.

Consider these facts:

The present trade bill has been withdrawn from floor action three times because of "unfavorable" events;

The bill's strongest backers admit publicly that support for the bill is eroding;

The *N.Y. Times* reported on December 4 that "higher unemployment next year" would reinforce strong opposition to the bill;

The Common Market nations and Japan quickly capitulated in the face of the Arab oil embargo, demonstrating their overriding concern with putting their own economic self-interests ahead of any American considerations.

In view of the fact that world-wide rapid changes are occurring which will deeply affect not only the American economy but America's position with respect to trade with the rest of the world, approval of an Administration trade bill tailored to a set of circumstances which are becoming obsolete with each passing hour would be the height of folly.

Sincerely,

George Meany,
President.

The California Federation of Republican Women:

California Federation
of Republican Women,
Carlsbad, Calif., November 15, 1973.
Representative John H. Dent,
House Office Building,
Washington, D.C.

Dear Sir: We urge your support of our position in opposition to most favored nation status to Russia, as outlined in the enclosed resolution which passed unanimously at our recent convention.

Sincerely,

Ann Bowler,
President.
Ann Hagerty,
Corresponding Secretary.

The American Federation of Teachers:

October 18, 1973.

Dear Congressman: The American Federation of Teachers, AFL–CIO has closely followed the development of trade legislation in the House Committee on Ways and Means. We had hoped the Committee would offer a bill that would operate to reverse the rapid deterioration of the United States' position in world trade and the loss of thousands of American jobs resulting from increased imports. Unfortunately, the bill finally reported by the Ways and Means Committee, HR 10710, can only serve to worsen the many problems brought about by present trade policies and practices.

As indicated in a letter of August 2, 1973 to members of the Ways and Means Committee, the AFT is keenly aware that in terms of the future for students of all teachers, it is obvious that if a wide range of job choices is not available for them on graduation, the value of their education is materially reduced. Furthermore, all teachers know of the frustrations and tragedies associated with attempting to reach children in a classroom who have just come to school from a household with an unemployed or underemployed breadwinner and all the pressures present in such a situation. Finally, there is the very real question of educational finance. Most of the funding for public education is derived from local tax revenues. When a significant employer in a community closes its doors, it is not long before the schools and therefore, students and teachers, feel the pinch. Thus, the continued strength of the economies of cities, counties and townships is of utmost importance to us. The professional nature of our membership notwithstanding, the AFT believes that a completely service-oriented economy will not have this strength and that a diversified industrial base must be preserved in the United States.

These concerns led the AFT Executive Council at its meeting in December 1972 to adopt a resolution calling for a positive trade policy to "regulate and control runaway corporations, prevent the irresponsible export of our technology and capital, and regulate imports to prevent widespread bankrupting of families and communities that our obsolete trade policies have permitted."

HR 10710 does not do any of these things. Quite the contrary, the bill constitutes a virtual abdication of Congressional responsibility in the field of foreign trade. It grants the President a blank check of authority in an area which, according to the Constitution, is specifically reserved to the Congress. Furthermore, the bill only offers some minimum cosmetic language to regulate the exercise of the authority Congress will be ceding to the President. For example, one section of Title I of the bill grants the President five-year authority to negotiate tariff cuts on a sliding scale."

But another section of the same title gives the President immediate power to arbitrarily remove *any* tariffs or import quotas (except for some farm products) to increase the import of goods in any category from any country if he alone deems it necessary to fight inflation. Such action could void voluntary import restraint agreements (as in textiles and steel), standards and purchasing policies, all with no provision for Congressional review. Countervailing duties, import "escape clauses" and anti-dumping provisions would be meaningless under this authority.

The same slight-of-hand technique of granting the President limited authority in one section with an open door to complete autonomy in another section is also used in Title V of the bill which provides the President with ten-year authority to give zero tariffs to imports of manufactured and semi-manufactured products from developing countries. Limitations on such authority are provided in one section. But in another, the President may declare that in his judgment, the "national interest" requires keeping the special zero duty. There would be no Congressional review of such a policy decision.

The only authority left to Congress in the area of international trade under HR 10710 would be merely the opportunity to vote up or down in a single action, the highly complicated changes in tariffs and non-tariff safeguards that will be embodied in each trade accord. These trade agreements could have profound effects on important domestic legislation affecting product safety, consumer protections and environmental safeguards but Congress will only have 90 days to examine these impacts and make its decision. The AFT does not believe that this is the time for any further abdication of Congressional responsibility to the Executive Branch.

HR 10710 completely lacks any effective mechanism to reverse or even slow the continuing flood of imports which are wiping out jobs and whole industries at a devastating rate. The bill relies on adjustment assistance as a first line of relief for heavily import-impacted industries, though the President can choose a different policy so long as he reports his reasons. The AFT views these "import relief" procedures as disappointing at best. Adjustment assistance and the other "import relief" measures only become available after the damage to firms, employees and communities has occurred. Nowhere in the proposed bill is there even mention, let alone provision for encouraging corporations to expand operations in the United States as opposed to moving overseas. In fact, quite the opposite is true. The present system of corporate taxation is left intact whereby American corporations are encouraged to transfer production abroad as foreign subsidiaries are granted more favorable tax treatment than companies which choose to keep their production and jobs in the United States. Furthermore, there are no safeguards against the continued export of capital, technology, and jobs which has the effect of further eroding America's already threatened industrial base.

As stated, the AFT is on record as supporting a positive trade policy. However, HR 10710 is totally unacceptable. In fact, its effect, if passed, would be more damaging than no bill at all. Accordingly, we respectfully urge that HR 10710 be defeated as a first step toward the development of meaningful trade legislation that will meet the nation's problems rather than further aggravating them.

Sincerely,

CARL J. MEGEL,
Director, Department of Legislation.

The Amalgamated Meat Cutters and Butcher Workmen:

NOVEMBER 9, 1973.

Hon. JOHN H. DENT,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. DENT: On behalf of our Union, I should like to urge your strong opposition to H.R. 10710, the Administration's trade bill. This measure not only fails to provide protection against the disastrous loss of U.S. jobs now taking place, it would actually accelerate this dangerous process.

Despite the massive loss of employment, despite the great outflow of American technology, despite the undercutting of the American dollar by the multi-national corporations, despite the damage done to the U.S. economy by the unconscionable greed of these corporations, the bill would make no reforms. On the contrary, it would permit the President to cut back the tariffs on goods from low wage nations to zero.

This and other provisions are exactly the immense new powers which President Nixon demanded. The Committee on Ways and Means tinkered a bit, but it put its stamp of approval on President Nixon's bill.

In a transparent maneuver concerning trade favors for the Soviet Union, the Administration would like to drop the Soviet provisions in the House now, in the hope of a better political climate when and if the measure comes before the Senate. It would then try for the Soviet benefits in the Senate and conference. For the sake of human rights, we urge that you support the bill's rejection of Soviet most favored national treatment and vote for the Vanik amendment barring special Russian credits. And then, vote against the bill on final passage. Thank you very much.

Sincerely,

PATRICK E. GORMAN,
Secretary-Treasurer and Chief Executive Officer.

The Amalgamated Clothing Workers:

OCTOBER 19, 1973.

Hon. JOHN H. DENT,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN DENT: The House of Representatives will shortly have before it H.R. 10710, the Trade Reform Act of 1973.

As representatives of 365,000 workers in the men's and boys' apparel and related industries, the Amalgamated Clothing Workers of America urges you to reject this trade bill as worse than no legislation at all.

We are primarily concerned that the granting of almost limitless authority to the President in international trade negotiations is a serious abdication of Congressional responsibility. We have no faith that such a broad grant of authority will help the workers in our union or in our industry. Some restraints and voluntary arrangements exist now in the field of international trade in textile and apparel products. The emphasis in H.R. 10710 on the elimination of non-tariff safeguards places these arrangements in jeopardy—at the will of the Executive Branch.

The apparel industry is one of the largest employers in the U.S.; it is also one of the most vulnerable to competition from low-wage countries. H.R. 10710 does not address itself to fair trade policy which would help to maintain the economic health and stability of this industry. The bill takes no steps toward regulating the flood of imports in this, or any other, manufacturing sector; its reliance on the concept of adjustment assistance is an ill-conceived palliative; and its grant of preferential treatment to so-called underdeveloped nations will simply accelerate imports from those countries which have already shown a capacity for massive production in the apparel field.

The jobs of our members are at stake in this legislation. We urge you to oppose H.R. 10710 when it reaches the House floor for a vote.

Sincerely yours,

MURRAY H. FINLEY,
General President.
JACOB SHEINKMAN,
General Secretary-Treasurer.

Shall I take the 13th chapter and read the Members the litany of the saints to express that everybody who has half of a brain and conscience in this country is against this bill, except the Congress of the United States.

Here is a group that is for the bill, and a letter from them. Let me read it to you. The American Importers Association.

"If organized labor has its way," this great big AIA says, "all the imports will be categorized by category, measured as to their impact."

What other way can we do it? Every American business does not lump the sale of shoes and the sale of plows in comparison. They go by category. Give me category-by-category in this legislation, and that is the only sound way we can operate in international trade. Every country but the United States operates that way. We are the only ones that operate in an area of basket consideration.

At one time I exposed on this floor the fact that we had sent CARE packages overseas, only to have them subsequently classified an export from the United States and totaled up into moneymaking exports of the United States.

All the foreign aid we have given since the beginning of foreign aid programs has been counted as an export. What do the Members think about the fact that we have been doing a great business in exports and still owe all the money in the world? If we are doing so well, how come we owe so much money? Why is it that the Japanese are in Somerset County, next to my home, buying up all the coal in the ground they can buy? Why is it the Japanese now own many, many lumber plants in Alaska? That great frontier of ours, our greatest remaining resource in lumber and timber is being bought up by the Japanese.

What else are they doing? Almost every celery patch in Arizona and southern California is now owned by the Japanese. Why not? They are buying it with a 60-cent dollar. Who created the 60-cent dollar? The foreign "friends" of ours who knocked the dollar down.

When anybody tells us now that this increases exports, did it increase exports in the shoe business? Did it increase exports in the shoe business?

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to my friend, the gentleman from Massachusetts (Mr. Burke).

Mr. BURKE of Massachusetts. Mr. Chairman, not only did it not increase exports, but talking about the Japanese, one of the most unusual things happened in the month of August this year, in my judgment. In August of 1945 we signed a peace treaty with Japan and in August of 1973 the Japanese were over wanting to buy the Boston Naval Shipyard.

Mr. DENT. That is not entirely an unusual situation, because they are now resting over there with their billions of American dollars they do not want. They can spend it in the United States and get one dollar's worth as per our exchange with our labor and only 60 cents worth as per their exchange with the Japanese yen.

But let me show the Members what the American Importers Association has done. I call upon the several committees that may have jurisdiction to look into matters of this kind. AIA has a fund raised to defeat the so-called Burke-Hartke bill and support this trade legislation. The AIA established a suggestion of contributions from agents, retailers and central purchasing agents according to the volume of imports in millions. For those under $1 million, $150 contribution on up the line to $1,350 contribution is expected from every importer to and exporter from the United States. For customs brokers, with 1 to 10 employees, $150 is expected; a customs broker with 51 to 60 is expected to give $450. Every broker has a piece of the pie in the export-import business. I would like to insert this for the Record:

American Importers Association,
New York, N.Y., October 13, 1971.

To: AIA Members.

AIA Needs Your Dollars Now—To Oppose Labor's New Protectionist Bill in Congress and the Surcharge

If Organized Labor has its way there will be quotas on all imports on a *category-by-category, country-by-country* basis equal to the average imports for 1965–69. Each year the quotas will be changed up or down to keep the import penetration of the U.S. market at the 1965–69 level. There will be no offset for reduced imports of products which decline due to market factors.

AIA has begun a vigorous campaign on behalf of all its members to oppose this bill now before Congress; and to seek immediate termination of the surcharge. But, AIA's actions are limited by the amount of money collected so far.

One month ago, AIA asked for contributions. Many members have sent in their share of the money needed, and AIA thanks them for their quick action. However, there are many more members who have not sent in their checks.

We urge all members who have not contributed yet to do so as quickly as possible. Please read the accompanying schedule of contributions. These are the recommended *minimums.*

The threats to your livelihood are real. They are here now. Action must be taken to oppose them now. It takes a great deal of money—but if everyone contributes his share—we may be able to obtain an earlier rescission of the surcharge and stall Labor's drive for quotas.

Please send in your check today.

Sincerely,

Kurt Orban,
President.

Suggested Scale for Contributions

[Dollar volume of imports in millions]

Importers (including agents, retailer, central purchasing offices):

	Contributions
Under $1	$150
$1–$5	350
$5–$10	550
$10–$15	750
$15–$20	950
$20–$25	1,150
$25–$30	1,350
$30–$40	1,550
$40–$50	1,750
$50–$60	1,950
$60–$70	2,150
$70–$80	2,350
Over $80	2,550

Customs brokers: Based on number of persons handling imports in the entire company, including branches in other cities:

Employees:	*Contributions*
1–10	$150
11–20	200
21–30	250
31–40	300
41–50	350
51–60	400
Over 60	450

Attorneys: Based on number of attorneys directly concerned with imports and international trade:

Attorneys:	*Contributions*
1	$175
2	225
3	275
4	325
5	375
6	425
Over 6	475
Banks steamship lines, insurance companies	1,000

American Importers Association,
420 Lexington Avenue,
New York, N.Y. 10017.

Here is my company's share $—— of the financing of AIA's campaign against the surcharge and protectionism.

(name)

(title)

(company)

(address)

Sure, the AIA is against it. Where did all that money go? I wonder? I wonder where it went? I hope nobody left the gate open any place.

Under this kind of a trade bill, what happens? We now import things we do not need and we export the things we do need. We are shipping cowhides out of the country as fast as we can bale them. We are bringing in shoes and leather products. Lost jobs in production there.

We shipped out cotton and we brought in textiles. Lost jobs in production.

The smartest operators on the face of this earth, and I bow to them for it, are the Japanese traders. They are so smart that 80 percent of their business is under the table. They do not do it up on top, because then we could understand them. We must have the greatest suckers ever representing the United States in trade deals all over the world, because no one could ever give away so much in so short a time as we have given away in the last 10 years.

We could go whole through this whole thing. I can remember in 1960, and, incidentally, to show there is no effect either way to anybody, it might interest Members to know that in 1960 on this floor I started on page 12022 and I ended up on some page around 12066.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. DENT. Just a minute, I will be glad to.

I told the Members then what I thought. I want someone in this room to take this treatise that I gave to Congress in June 1962 and pick out the predictions that I made on trade, on imports, on jobs, and on another thing that no one took seriously at that time, the devaluation of the American dollar.

I talked about the trade surplus and the fakery of it. It is right in here and, if Members find it, any one of them, and find one place where I have not predicted exactly what happened, I will leave the Congress and go back to digging coal where I belong.

Mr. HANNA. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from California.

Mr. HANNA. I thank the gentleman for yielding.

I think the gentleman knows that I myself have been for a long time, as he said he was, for free trade. I am not remanding on that pledge; however, it is my firm conviction that those here in the House today are passing a trade bill without any sense of what the trade policy of this country is. They are sending people to negotiate who have absolutely no input in this administration or in this Congress as to what the aim of the negotiations should be. What are we negotiating today? What is the policy of this country in trade and agriculture?

It was not very well decided in the wheat deal.

What is the trade policy of this country in steel, in metals?

Let me give a little incident here. We are not only short in a big way in terms of trade in oil, we are short in a bad way in the trade of many things which are short, not the least of which is metals.

What we have seen with the Arab countries with oil when they are jacking up the price when we are short is going to happen in every other country that has the things of which we are short. Not only that, because we have no trade policy, we have added to our shortage.

Let me give you an example. I do not know whether any of the Members have businesses in their districts that have to use lead in batteries. If any of the Members have a factory like that, they are in trouble, because there is very little lead in this country. One of the reasons this is so is that we have no policy. The Europeans and the Japanese came and bought all of the lead used in batteries, which represented 65 percent of the lead needed for new batteries. We have very little chance to recoup that. We have to find lead in countries that mine lead and there are only three or four left.

We have no policy that has protected our position. We have no policy that has protected our opinion. Tell me how we can go to the people of the United States and justify what we are about to do. We are going to have a trade bill when there is absolutely no trade policy.

When, oh when are we going to have some kind of economic trade policy in the sectors of our economy? When are we going to have a policy that will establish a background against which these negotiations we are talking about can take place? We all certainly have the cart before the horse in this matter.

I think it means very little to me, gentlemen, in the end, but I think some Members are going to be very sorry.

Mr. DENT. Mr. Chairman, someone said during the debate that jobs were not lost. Anyone who is interested in his State, give me the name of the State and tell me what he wants to know about it, and I will be glad to answer if he is not worried about it.

Let me read this: Hartford, Conn., typewriters, number of workers who lost jobs, 1,500; Macon, Ga., footwear, 1,200 workers affected; Hialeah, Fla., footwear, 120 workers affected; Miami, Fla., 350 workers affected. This is part of the catalog, my dear friends, which is as big as the Sears, Roebuck catalog and in finer print.

I heard one of my colleagues say that this helped the textile industry. Helped it how? Here are 540 jobs lost in Joilet, Ill., affecting 200 employees. We are being flooded with shoes all over the United States. My own State of Pennsylvania was the largest shoe manufacturing State in the Union, with all due respect to Massachusetts, my friends, and we are down to 45 percent of manufacturing of shoes.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from California.

Mr. TEAGUE of California. Mr. Chairman, I know the gentleman wants to be correct about the facts. He mentioned a while ago that the Japanese owned most of the celery production in California. Now, a big portion of that comes from the districts represented by Congressman PETTIS, Congressman KETCHUM, and myself. There are, we estimate, perhaps 10 percent Nisei who own lettuce farms in that district. We do not know of any, do not personally know of any Japanese capital or Japanese Nationals who are celery operators.

Mr. DENT. My dear friend, in order that we do not take the time of the House, I will be glad to send you the report and give you the background where I got it.

Mr. TEAGUE of California. Mr. Chairman, I will be very glad to have it.

Mr. DENT. I will give it to the gentleman tomorrow in fine print.

Another industry affected by our trade policy was housed in Carthage, Mo., where the main industry was marble—dimensional stone, as it is sometimes called. I wish my friend Jim Taylor was here, because I think he has something interesting to learn if he does not already know it. In 1966, the marble industry came before my committee on import impact. They testified that if they did not get relief, then they might have to close down completely. Last week, the Carthage Marble, second largest in the United States, did shut down.

Why? Let me tell the Members why. Up until a point before the passage of the Kennedy Round, we had a policy in the United States of importing free of duty and customs raw materials into the United States. Raw materials in the marble industry are considered to be "rough blocks," imported as "rough" from Italy, France, and Asia. Because marble has a different color and different texture in every vein that is discovered, and in order for anybody to be in the marble business, he must have marble coming from all over the world to meet the demands of his customers.

It is sawed, cut up, and polished. Today there is a high tariff on rough marble and a low tariff on finished marble. Today we import finished marble—and Carthage Marble is out of business, and some importer is making more money.

That is why the marble industry is down the drain.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. DENT. I will be glad to yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, over the years we have spent in excess of a hundred billion dollars in foreign aid, and various administration people, including this one have been coming before us and saying, "You have got to help these underdeveloped nations, because no nation can exist solely as a producer of raw matrials. They have got to have an industrialized base."

Now, what is happening with the people who are negotiating these tariffs? They are turning the United States into nothing but a producer of raw materials, they are exporting our industrial base, they are exporting our jobs.

I know the gentleman is reading statistics, and I can give him a lot more to read.

When I came to this Congress, in my district there were 24 manufacturers of dishes and pottery; today there are two.

The rest of them have gone. We can take almost every industry and see that that is happening.

If we think this Nation can exist as what the people in foreign aid have been deploring as a nation with agricultural dependence, we can just let these bureaucrats in the civil service go over there and negotiate these tariffs, and we will see that is exactly what they are negotiating us into.

Mr. DENT. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I just want to document this. Of course, it is true that most of us will color a thing toward our own values, and maybe that is the proper spirit. But I try to keep mine within the lines of knowledge, to the best I can obtain.

I have tried not to lie, because I found out as a boy that it did not pay, and it certainly does not do me any good as an adult.

Mr. Chairman, more than half of the people in the United States wear shoes which were made abroad. More than half of our black and white TV sets were made abroad, and now, Mr. Chairman, 9 out of 10 of us listen to the news on radios which were made abroad and overseas.

If this energy crisis keeps up and they can build automobiles overseas fast enough, we will just have to get ourselves a microscope before we will be able to find an American-made car. What are we doing, I ask the Members? Are we watching the dimming of America? Are we exporting too many jobs? I said something a while ago, and one of the Members said it was a figment of my imagination.

Is it a figment of my imagination when we can take just simple figures and figure out the manufacturers we had in 1962 and compare them to now? When the Kennedy round came up, they promised so much; in fact, they promised half as much as this bill does, and so this bill promises twice as much. If it does twice as much damage as the Kennedy bill, then there will be many new faces in the Congress in the next 2 years.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. DENT. I will be glad to yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, let me thank the gentleman for yielding.

First, let me say that I am not the Member who said that any of these points were figments of the gentleman's imagination.

Mr. DENT. No. It was said on the other side.

Mr. GIBBONS. I am sorry. I did not hear that.

Let me say to the gentleman from Pennsylvania that I do have a hard time following his figures and——

Mr. DENT. Excuse me. The gentleman ought to see the trouble I have with the Department of Commerce.

Mr. GIBBONS. I know that we all have trouble with each other's figures.

Mr. Chairman, when the gentleman appeared before the Committee on Ways and Means on June 14, he had an oral statement and a written statement, and this weekend I pulled out that statement and read it very carefully.

I noticed the gentleman started off his statement by saying as follows; and I am quoting now from page 4929:

> One of the things that has always been brought up and one of the hardest nuts to crack in this type of legislation is the effort to try to get people to look at this section as it is today, without relying so much on what was said or done yesterday.

Mr. Chairman, I must say that I agree with the gentleman from Pennsylvania.

Then I went on in the gentleman's statement, and I read on and on, and I got over here and I could not find any dates or any back-up of material until I got over here on page 4939 of the gentleman's statement. There I found the first date as to footnoting, and it refers to an address made by Coler G. Parker to the National Industrial Conference Board on February 19, 1953.

Now, that was 20 years prior to the gentleman's appearance before the committee.

Then I went on to the next page, because I could not believe that was right, and the next page is footnoted in three places, and I refer to two of those three places, first on page 4940. Two of them in December 1953 and one of them in August 1953.

Mr. DENT. Will the gentleman make sure I get back the time he is using? I am a limited person, you know, from the standpoint of time.

Mr. GIBBONS. I will be glad to stop now. I did want to make some points.

Mr. DENT. You are making the point of what? That in 1953 I said something and I repeated it in 1963?

Mr. GIBBONS. These are the only things I can see where we really refer to what you are talking about now. I do not want to take up any more of your time—I did have some points to make—but I will bring them up on my own time.

Mr. DENT. That is perfectly all right. But let us understand each other. I go way back to 1953. I was thinking of this problem then. Can anyone in this room compare American productivity and American strength and American capability to produce in 1953 with 1972. Can they bring it up to date and tell me that we are in the same or in an equal position? Certainly I had to start then in 1953 because that's when we were strong in productivity and strong in technical skill and industrial might.

This is just as it happened in 1964. After 1962 when I predicted it would happen the flood of products coming into the United States wiped out our trade balance in 1964, and this has been the case ever since.

The CHAIRMAN. The gentleman has consumed 30 minutes.

Mr. DENT. I yield myself 5 additional minutes.

Mr. LONG of Maryland. Will the gentleman yield?

Mr. DENT. I am sorry. There are only two opponents I have heard on this whole floor. I know your position, and I am happy for it.

Mr. LONG of Maryland. I would just like to make a unanimous consent request.

Mr. DENT. I yield to the gentleman for that purpose.

Mr. LONG of Maryland. Mr. Chairman, I rise in support of the Vanik feature of this bill.

Mr. Chairman, as an early sponsor of the Vanik amendment, I intend to support the addition of the final portion of this amendment to the trade bill—the prohibition of any trade credits and credit guarantees to any nonmarket economy government which denies freedom of emigration. As now written, the trade bill prohibits most-favored nation status to nonmarket economy countries which deny freedom of emigration but allows the United States to provide trade credits and credit guarantees. This trade credit provision is much more important to the Soviet Union and therefore, much more important as a hostage to force the Soviet Union to allow Jews and other minorities to emigrate.

At the moment, the Soviet Union is allowing significant numbers of Soviet Jews to emigrate. However, this emigration represents only nonenforcement of official policy, not a change of policy.

The House should vote to prohibit trade credits and credit guarantees unless the Soviet Union allows free emigration for three reasons:

First. Free emigration is a basic human right.

Second. Soviet Jews and other minorities want to leave the Soviet Union.

Third. In view of its arms buildup and its financing of aggression in other parts of the world, the Soviet Union should not receive trade concessions in any case.

In fact, the United States should be demanding far-reaching foreign policy concessions from the Soviet Union in return for trade credits and most-favored nation status.

First, free emigration is a basic human right. Critics of the Vanik amendment argue that the United States should not interfere in the internal affairs of the Soviet Union. However, for any nation to belong to the community of nations, it must fulfill minimum requirements, and free emigration is one of those. Further, repression and harassment by the Soviet secret police continue. By voting to prohibit trade credits, we will encourage the Soviet Union to end this persecution.

Second, Soviet Jews and other minorities want to leave the Soviet Union. Israel needs the Soviet Jews who will go to Israel if free emigration is possible. Immigrants are Israel's lifeblood and are especially important since the recent Middle East war.

Third, recent actions of the Soviet Union prove that we must be more hardheaded in our dealings with the Soviets. Critics of the trade credits prohibition argue that its passage will threaten détente. However, consider the recent actions of the Soviet Union: First, in bring about a new war in the Middle East; second, in encouraging the Arab oil embargo of the United States and the West; and third, in seeking, according to numerous reports, a clear-cut superiority in the quality of ballistic missiles, rather than parity. Where is détente?

Far from easing tensions, these actions have renewed tensions between the USSR and the United States around the world. The United States will probably be forced to increase substantially its defense budget. With trade credits and guarantees, the Soviet Union will be able to continue its high weapons expenditures, boost expenditures for economic development, and ironically, exploit its fossil fuel reserves. We need not only free emigration in return for trade credits and guarantees. We need more. We were burned in the Russian wheat deal. Who wants to be burned again?

A vote prohibiting trade credits without free emigration is a clear statement from Congress that the United States should drive much more realistic bargains with the Soviets in return for economic concessions.

Mr. DENT. I am sure Mr. VANIK will be happy to hear that.

Let me just show you how we treat this game of trade. I wonder how many of you understand the phenomenon that has happened since we were a free trade oriented nation.

The phenomenon that has taken place in this country is not trade with foreigners, as much as it is trade with Americans in foreign countries. For instance, Chrysler some 3 or 4 years ago, negotiated with Mitsubishi to bring into the United States Dodge Colts made by Japanese workers. They brought in 20,000 Colts in 1971. These were Dodge automobiles. Chrysler at that time did not make 20,000 American automobiles. In the trade balances, you and I have had to read that as somewhat distorted inasmuch as Chrysler's 20,000 automobiles imported from Japan were not counted as foreign products.

As a part of its deal with Mitsubishi Chrysler won the right to sell its Valiants in Japan. However, those Valiants were assembled in Australia. So in this case; as in many, the typical multinational operation went into effect. The American based multinational corporation. Chrysler, helped a foreign country export cars to the United States, but on the other hand, the exports of the United States sold in Japan were not made in the United States but, rather, in Australia by Australian workers.

This was clearly a joint venture operated as a double-edged sword against American workers.

Do any of you really and honestly believe that this Nation can operate on consumption and distribution? Yet that is what we are doing. We are oriented to an economy based on distribution and consumption. It is a service-oriented economy. It can no more survive without the third leg than the farm wife can milk a cow on a two-legged stool. Even an old farmer back years ago discovered he had to have a three-legged stool to sit evenly on an uneven floor.

And nothing is more uneven than the economic floor of a democracy. We have our ups and downs, our levels and our high points, our valleys in production, in taste, changes in character of products, changes of desires by purchasers and merchants in what the merchants are selling. Therefore we need a three-legged stool. And what is the three-legged stool? It is production, distribution, and consumption.

Let me tell you why you have not felt the real wrath of our problem that we are creating for ourselves. I will tell you why. Because we still have a great deal of consumption.

We are the only Nation on the face of the Earth that creates its own consumption base. How do we create this consumption base? We create that consumption base by taking money from some people and giving it to others, many times giving it to the same ones we take it away from. But we keep the market money going into the marketplace, and when it goes into the marketplace, it is a nonearned dollar. We are a high cost Nation, and we have the money to buy the goods that naturally flow here. If I felt the consumer truly benefited, my gripe would be less, but the fact of the matter is that they do not.

For instance, we bought two radios. One FM tuner from Japan that was sold there for $11 and some cents. Do not hold me to the penny, I have it here some place in my files, but I do not have the time to dig it up, but I will show it to you. That same radio that sold for $11 and plus cents in Japan, imported into the United States, priced to the importer, tariffs, customs, and insurance added on to it, and profit, if they made any, was $13-plus, about a 2-dollar differential. The American market price that was labeled on this was $36. Where is the savings to the consumer?

We have another one that we bought for $36 in Japan, delivered to the United States through an importer, through direct connections with our people, which was imported into the United States for $54. That same product was priced in the United States, as a suggested retail price, at $156. Again, where is the savings?

The CHAIRMAN. The time of the gentleman has again expired.

Mr. DENT. I yield myself 5 additional minutes.

And then another foreign tuner, an FM tuner, priced at $55, sold in the United States, the cost of transportation, all of it put together, for $76, and is priced at $195 in the United States. Again, where is the savings?

Then, lastly, while I wind up in these few moments left, let me show you why we have a marketplace. I will tell you why we have a marketplace, my dear friends. It is because we have 946,080 Americans collecting military retirement. We have 28,363,000 Americans drawing social security. We have civil service retirees and survivors, some 1,214,000 Americans. Railroad retirement beneficiaries, 993,000. People on welfare, 14,806,000 Americans drawing welfare. Veterans collecting GI benefits other than for education, 350,000. Veterans or survivors collecting pensions or compensation, 4,933,627. Unemployed workers collecting as of July 1, 1973, 8,795,000. All of these workers, plus a few more who may be making marginal earnings in the United States. Let us see what they look like. Military personnel, out of the Treasury of the United States, 2,552,841. Federal Government workers, 2,833,000, that is coming out of the Treasury, that is money paid for by the remaining workers in the United States. Because every job in this country must have seed money some place. Additionally, there are:

	Fiscal year 1973—estimate
Children in school- lunch program	25, 700, 000
People helped under Medicaid	23, 537, 000
Medicare beneficiaries	10, 400, 000
Veterans getting hospital care	1, 005, 000
People receiving food stamps	12, 103, 000
College students, excluding veterans, getting loans and/or grants	N.A.
Adults receiving vocational education	3, 372, 000
Children of poor families counted for Elementary and Secondary Education Act	8, 855, 300

Why is it that in the coal mining town that I was born in, when they closed the coal mine, the barber could not make a living? Why did the squire have to move? Why did they close the school down? Why is it that the store left? Why did the little saloon down on the corner close up? Why did they leave? The people still needed service; they still had hunger; they still had thirst. They still had to have shoes fixed. They still had to have services rendered. Where was the seed money coming from? Answer: These source of the seed money—the coal mine—was gone.

What are we doing in the United States? We are taking seed money from the very people we gave it to in the first place. So we tax everybody, but it is diminishing return. That is why we have a national debt increase every year. That is why we have to go in before the House and say, "We are going to increase the national debt." Why do we do that? Why has every country in the world come in here and poached upon our market so that they could create jobs? The biggest fools in America now are the farmers of this country. They allowed themselves to be the scapegoats, because they have allowed themselves to be condemned in industrial centers as being those who lived on subsidy from the American taxpayer. They never got much of a subsidy. The American farmer was paid the difference between what it cost him to raise and sell his product to the American people and what we sold it to the foreign people. The money that was paid to the farmer was subsidy in fact to the foreign purchasers of American products.

We are doing it every day on many other products in this country. We sell hides at a higher price than the American shoemaker can buy them, but the foreigner can afford. We sell our stumpage at a higher price than the American lumber mill can buy it. We have closed down most of our lumber mills in the United States. Why? Because we are importing it back.

You go ahead. The Lord will not give me long enough to stay and watch and see it. But just as I walked past awhile ago when they were tallying up the last vote, I passed a group of my friends, and they gave me the hee-haw, a sort of a laughter, and they went down like this. I said I can see easily in my mind as a young man, if I had been born and reared in Rome, and I was sitting in the Coliseum, there they were, all of the genteel, all of the well-doers, with no worry about tomorrow.

So they too put their thumbs down. I ask you: Where is Rome? Is it in the northern part or in the central part of our country? Where is the dynasty? Rome fell. I will make a prediction, if it is the last one I make, and I hope to God I am wrong. If the Members pass this bill, they will either repeal it in the next 5 years or this Nation will become virtually dependent for its livelihood on foreign products.

I may say that my friend, the gentleman from Florida, thinks that I am doubletalking.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. DENT. I yield myself 1 additional minute.

When I do, I am talking about changing facts, and everyone is worse than the last one.

I call upon the Members to not ignore the voice of labor, because that is the blood of this Nation that flows through the economic life. Listen to it. They supported the trade bill in 1962. If this bill were good, if it were to create jobs, would labor be against it today? They could not; they would not. They know what they are doing.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. I thank the gentleman for yielding.

I want to say this to the gentleman: I want to commend him for his excellent talk here today. I want to point out that some of these Members who are voting for this bill will not be here to vote to repeal it in a few years.

Mr. DENT. Mr. Chairman, I reserve the balance of my time.

Mr. ULLMAN. Mr. Chairman, I yield 10 minutes to the gentleman from Minnesota (Mr. KARTH).

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. KARTH. I yield to the gentleman from Oregon.

Mr. ULLMAN. I thank the gentleman for yielding.

Mr. Chairman, the purpose of the trade bill is not to solve all of the problems of any nation. In the speech of the distinguished gentleman from Pennsylvania there was a great deal of reference to export matters. The Committee on Ways and Means does not have jurisdiction over export control. If it is proper, it has to come under the jurisdiction of the House here. The Committee on Ways and Means does not have jurisdiction.

There are many items of short supply in this country, but this is not the vehicle. We do not have the authority to cope with those problems.

Reference was made to investments. I know a little bit about lumber investment in Alaska. I happen to know that American industry went broke up there.

It is a "go broke" business. There is no way American capital can go up and make a living in the lumber business, and that is why the Japanese came in. But there are reasons for most of the answers that were given by the gentleman.

I thank the gentleman from Minnesota for yielding.

Mr. KARTH. Mr. Chairman, I am not sure I can put all of this in its proper perspective but let me at least make an effort to do so. I have listened very carefully to most of the arguments made by the opponents today and I find some of them very interesting. It has been said on a number of occasions that if trade is important to peace, why have we been at war for most of our lifetimes?

The fact of the matter is, at least since we have had trade agreements with the developed countries of the world, that the people we have been at war with, have been those countries with whom we have not had trade agreements, and those with whom we have not been at war are those with whom we have chosen to trade. That is kind of a simple answer I guess to a very wound-up, impassioned statement on that score, but the fact is, it is true.

Timing has been mentioned, Mr. Chairman. I really do not know what the proper timing is, but I will say this. Favorable trade agreements with our friends should not be held in abeyance to satisfy our enemies. I think some of our trading partner friends are very upset and disappointed with this country, for we have in effect given more attention recently to our enemies than we have to our friends.

Mr. Chairman, why do we import substantial amounts of manufactured articles under the most-favored-nation treatment from a country like Canada? In fact we import tons of automobiles and parts, hundreds of millions of dollars worth of imports from Canada, manufactured imports on a duty-free basis. Why do we do that? There is a good reason.

The simple fact is, we must accept some of their industrial manmade products to get their raw materials. We want, no we need, their raw materials such as oil and pulp and ore.

If the gentleman from Pennsylvania had stayed here, I might even have suggested to him that maybe his steelworkers would not be working at all if it were not for the ore we get from Canada to keep his people busy making steel.

All these raw materials we get from Canada, and incidentally we import about 35 percent of the total manufactured goods from the industrialized countries of the world, from Canada. That is, about 35 percent of the total comes from our neighbor to the North. There is not an industrialized country in the world, Mr. Chairman, that is not crying for those raw materials, literally begging Canada to sell to them the raw materials Canada sells to us. Perhaps at twice the price.

Indeed we must accept some of their manmade, manufactured articles in order to get their raw materials. Frankly I do not know that I blame Canada for taking that position.

It has been said that a Toyota sells in America for about what it sells for in Japan, while a Pinto made in America sells for three times its U.S. price in Japan. I think that is essentially true, but that is what this bill is designed to correct. That is the kind of nontariff barrier we want to eliminate and which this bill gives authority to eliminate. It is one of the features of the proposed act.

Let me remind Members that what has been described most often today has taken place under existing conditions, under present law, and not under this bill.

That is why this bill is here. It has also been said by way of complaint, that this bills allows tariffs to go up 50 percent above Smoot-Hawley. The gentleman who made that statement said:

> I didn't even have enough courage to propose that in the committee.

Under certain circumstances what he said about possible tariffs equal to 50 percent of Smoot-Hawley is true.

There is a section of this bill that does, in fact, allow tariffs, if you will, to go up 50 percent above the Smoot-Hawley levels. But that argument should satisfy those who oppose the bill, for the opponents contend that this bill give insufficient protection to American industry and American workers; so under certain circumstances when industry or the worker is very seriously affected by imports, there are remedies in this legislation to take care of it. Again, another reason why the bill is here.

I wish some of those who are opposing this bill, frankly, would take the time to read it. I know it is long and I know it is difficult. I know, Mr. Chairman, it is very tough reading, but it is there.

I wish the Members who oppose it, and I do not mean this in any malicious way whatsoever, but I spent 6 months on this bill in committee. I just wish they would take a little more time to read it.

No one has recognized that, not until the 1962 Trade Expansion Act expired in 1967, Mr. Chairman, not until that time did our balance-of-trade problems begin.

Is there anyone here willing to admit, who is opposed to this bill, that may be it is because the trade law expired 6 years ago and we have not had one to replace it since? I think that is a fairly cogent argument.

More than that, let me say that in my judgment it is sound argument. I wish we had passed a trade bill in 1969, Mr. Chairman. Unfortunately, we did not, but if we had, it seems to me that all the arguments that are being raised today about this spector of imports and the terrible things that have been happening to this country, I suggest to those that had we passed a trade bill sooner those things probably would not have come about. All the grave matters we are listening to about what is happening, are happening under existing law, not under this bill.

What do opponents think we have the bill here for?

We are more concerned about it than those who are opposed to it, because we know it is easy to argue against a bill like this. Rhetoric is cheap. Facts are what you choose to make them.

Let me say to my friends who represent the agricultural community, let me say this one thing. This bill, in my judgment, particularly now since the whole agricultural production system has been changed by this Congress; that is, where the lid is off and the sky is the limit on production, the agricultural community in this country stands a great deal to gain under this bill. We know that as the standard of living goes up across the world spectrum, people want to eat more and they want to eat better. There is not any doubt in my mind whatsoever that every farmer in this country is going to produce more, because he is able to sell more, not only to Americans, but to every person in the world whose standard of living is going up by leaps and bounds. There is not any doubt about it and it is also true, of course, in industrial products. As the standard of living grows and expands in the world, there will be greater demands for industrial, manmade products.

What country is the greatest industrialized nation in the world? Who produces the most and, therefore, who is the best equipped to sell the most? I honestly think it is the United States.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. KARTH. I yield to the gentleman from Pennsylvania.

Mr. DENT. I suppose the gentleman did not mean to leave the impression, and I do not believe he did, but I would like, and I will give you title by title all the contents of the bill and will the gentleman pick out for me, not now, but afterward, the difference between this bill and in how many instances in the Kennedy Round we may not have had the same thing?

The CHAIRMAN. The time of the gentleman has expired.

Mr. ULLMAN. Mr. Chairman, I yield the gentleman 4 additional minutes.

Mr. KARTH. Mr. Chairman, I appreciate very much the offer of the gentleman from Pennsylvania. Indeed, there is a great deal of difference between this bill and the 1962 law.

Mr. ZWACH. Mr. Chairman, will the gentleman yield?

Mr. KARTH. I yield to the gentleman from Minnesota.

Mr. ZWACH. Mr. Chairman, I thank the gentleman for yielding to me. I want to associate myself with his remarks and agree with him fully on the importance of this legislation.

Mr. KARTH. Mr. Chairman, I thank my colleague for his remarks.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. KARTH. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I want to say that the gentleman has made a most persuasive statement. I have gotten a great deal from it.

With regard to the remarks of the gentleman from Pennsylvania who related here for a great, long time the horrors of free trade and all the people becoming unemployed, I cannot help but wonder how on Earth during the period in which we have had this legislation that we have gained about 10 or 15 million people in employment. I cannot understand why, under the terms of the things he is talking about, why everybody is not unemployed.

However, let me point this out; I come from a district in Baltimore, a port district. If we stop buying goods abroad, I think it would have to be a pretty naive person who would not say that we stop selling abroad. The port of Balitimore is a vast port with machine shops, ship repairing, great grain handling facilities, and all kinds of industrial production. It handles both the trade coming in and going out. I just cannot imagine how the gentleman from Pennsylvania could assume that the port of Baltimore could continue to prosper as a great industrial port if we were neither buying nor selling our goods.

Mr. KARTH. Mr. Chairman, I thank the gentleman from Maryland for his contribution.

There are as many figures and statistices as we have speakers on this subject. Let me continue if I may, for a moment. The Russian wheat deal has been mentioned and a great whoop-de-do has been made about it. Let me call to the attention of the Members that the Russian wheat deal was consummated under existing law. If opponents of this bill are concerned about some of the things that have gone on that have really despoiled the productive capabilities of this country, or whatever the problem is, I would think they would want to change the effect of existing law to eliminate those circumstances.

Let me point out to the Members that not only was the Russian wheat deal negotiated under existing law, but it was negotiated by private entrepreneurs and was not subject to congressional veto. If the Government did something like this, under this bill it would be subject to congressional veto.

For those Members who have read the bill, they know that.

Category by category, trade has been endorsed profoundly by the gentleman from Pennsylvania, and I have the greatest respect for him, but let me say that this bill provides for the first time in trade legislation, product sector negotiations—product sector negotiations. That is category by category, depending on how thin we want to slice it.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. KARTH. Mr. Chairman, I yield to my distinguished colleague from the State of Minnesota.

Mr. NELSEN. Mr. Chairman, I just want to compliment my colleague from the great State of Minnesota for the very careful analyses he has given us of this bill. I want to compliment him on the position he has taken.

Mr. KARTH. Mr. Chairman, I thank my colleague from Minnesota.

Let me conclude, Mr. Chairman, by saying again that the major complaints of the opponents of this legislation all afternoon have been complaints about existing law; not complaints about this bill. The tragic circumstances of the conditions we are in today are because of existing law, and yet when we propose to change the law to provide our Government with an opportunity to throw out these old agreements and negotiate new ones, they oppose the opportunity to do so.

Mr. SCHNEEBELI. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. ZWACH).

Mr. ZWACH. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding time to me.

Mr. Chairman, I will say to the Members of the House that I think it is true that our country is in some difficult times with regard to jobs and with regard to exporting jobs.

I think that if we go through the 1970's the way we have in the 1960's, we are not going to have any great 1980's and 1990's.

But I think this legislation approaches and tries to help correct this situation.

Very frankly, when I started to read this bill and I read that the President shall do this and the President shall do that and the President shall do some other thing, I was concerned, because I know, when we say that the President shall do something, we mean some flunkey or some nonface in some building down here, in the White House or the State Department, is going to do it—someone that we cannot get at by vote is going to do this or do that.

However, I do think that this trade bill has the best handle, the best congressional handle, of any trade bill that we have considered in my lifetime. I am glad to see the handle that the Congress has maintained, and I believe we have kept every possible handle that we could keep and still negotiate and carry on a proper trade bill.

As a farmer for 40 years, I approach this legislation with considerable concern, because in 1962, in the Kennedy round, we all know who was sold down the river in the 1962 negotiations. It ended up being the producers of agricultural goods. Negotiators said they were going to stand and continue to stand for agriculture as well as for industry.

But when the waters cleared, there was nothing left for agriculture, with the result that the economic market of Europe in 1969, 7 years after the 1962 act, the average levy or the ad valorem levy on industrial products in Europe was 8.6 percent.

What do the Members think was the average levy on agricultural products in the economic market? On barley and wheat, it was 120 percent of ad valorem; on corn it was 70 percent of ad valorem; on poultry products and pork it was 45 percent of ad valorem.

So, Mr. Chairman, I am rather concerned, from the standpoint of agriculture, when we get into further tariff consideration we are finding now that food is coming into its place of recognition. I think this bill will improve things.

Mr. Chairman, I wish to speak for a moment about hides. My good friend, the gentleman from Massachusetts, and my good friend, the gentleman from Pennsylvania, have been talking about the shoe industry. The real sad story about the shoe industry is that we lost it at a time when the price of hides to the American producer was almost nothing.

From 1952 to 1971, the price of hides to the American producer was only 14 cents a pound. In fact, as a farmer and a cattleman, when a cow died, I could not afford to skin it, because the hide did not bring enough of a return to pay for the labor.

We lost all of our shoe industry while the shoe manufacturers were getting the hides for nothing in America, for almost nothing.

So we must look beyond just trade agreements to see what is wrong with America. There has to be something else besides just trade agreements. If it were that simple, we would not have the problems we now have.

The problem, I will say to the Members, in America in getting our jobs back from foreign countries is much, much bigger and much deeper than just trade agreements.

So we lost our entire shoe industry. As a producer of hides, I will say to my good friend, the gentleman from Massachusetts, that there is nothing in the world I want as much as to see that the workingman, the laborer, and all of our people should benefit from those hides.

Mr. BURKE of Massachusetts. Mr. Chairman, will my good friend yield?

Mr. ZWACH. I yield briefly to the gentleman. I have a limited amount of time, so I will yield only briefly.

Mr. BURKE of Massachusetts. Mr. Chairman, I wish to point out that the Korean people who were working in the shoe factories of Korea were being paid less than 10 cents an hour for their labors, and they were working 10 hours a day, 6 days a week and, for instance, they had a 10-year-old child getting as low as 6 cents an hour.

So, Mr. Chairman, that is the thing I wish to bring out.

Mr. ZWACH. I agree. The problem is more than just trade agreements. It runs much deeper.

Let me quickly come to something else which concerns me.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SCHNEEBELI. I yield the gentleman 2 additional minutes.

Mr. ZWACH. I have 6,000 dairy farm factories in my congressional district. The so-called Flanagan report says that the American dairyman is going to be submerged for the export of feed grains. I think as I read the report that there are some corrections in this area. However, I am very concerned about the trade picture on agricultural products.

Let me tell you something. I do not think it is good to sell corn only or to sell soybeans only or to sell barley or oats only. It would be much better for America if we could to the extent possible produce that in the second phase and manufacture the butter and cheese and dried milk powders and pork and beef and sell it that way. That is what the other countries do.

However, it seems like the whole push in America is to sell the feed grains instead of a finished product and make nothing but great big feed grain factories out in our great Midwest. That is all.

That is not good, first of all, because it drains our real good soil and sells off hundreds of millions of tons of our best soil. It ought to go out as pork and beef and dairy products. If we sell our feed and ship back the finished product, we are making the greatest mistake in America. After the fuel shortage we will find a food shortage here. Let us keep the food factories going in this country.

Will the chairman of the committee respond to me for just a moment? I would like to have his assurance that dairying will not be traded off unfairly or unduly in the legislation passed by this committee.

Mr. ULLMAN. Will the gentleman yield?

Mr. ZWACH. I yield to the gentleman.

Mr. ULLMAN. In responding to that question, I want to assure the gentleman that the committee was very diligent in its efforts to make sure that the dairy industry would not be traded off in any negotiations. I am sure that the House will also hold the administration to its commitment that our own dairy industry will not be the subject of negotiation unless dairy policies of our major competitors are also the subject of that negotiation. We expect the President to live up to that principle, and we expect the Congress to stay behind it.

Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania (Mr. Gaydos).

Mr. GAYDOS. Mr. Chairman, I wish to thank the chairman for yielding me this time on this bill.

Mr. Chairman, I rise in opposition to this bill.

I think the kindest comment that can be made about this bill is that it is the right bill but that it is offered at the wrong time and before the wrong forum. This bill merely continues the same policies as the 1962 act and fails to take into consideration the substantial transformation that has occurred in our international trade, where we experienced such a substantial deficit in 1972. It more appropriately should have been before the Diet of Japan or the various legislative bodies of the EEC countries. The rationale of title I, general negotiating authority; title IV most-favored-nation provision; and title V, systems of preferences, reflect the concern on the part of a nation which has such a favorable balance of trade that it is interested in encouraging more foreign imports. This certainly is not the status of trade in the United States at this time. Instead, we are in a situation where spiraling manufactured imports have eclipsed our exports and have caused serious dislocations in our economy.

The only provisions of the bill which outwardly appear to have any relevance to our trade problem are title II, relief from import injury, and title III, relief from unfair trade practices. But a close study of those two titles indicate that any relief for our current trade problem is purely illusory.

Perhaps the most insidious thing about this bill is that it appears to give something to everybody, notwithstanding the existence of the many complex and contradictory solutions being advanced as the solution to our current trade problem. In turn this appears to reflect a feeling on the part of the sponsors of the bill that the basic problem is unsolvable and the best way out is to give carte blanche authority to the President and hope for the best.

I do not share this feeling of defeatism. Instead, I submit that the Congress must address itself to the underlying problem of international trade and mandate the President to pursue certain policies within specified goals and objectives. Instead of providing that the President "may" take certain steps or is "urged" to take certain steps he should be directed to take certain action. For example, with respect to section 102 which is aimed at eliminating nontariff barriers, the President is only required to take certain action such as consulting with committees of Congress before entering any agreement to eliminate nontariff barriers after he has made the decision to take certain action. Thus, if he does nothing how can it be said that he has not enforced the law?

Mr. FORD. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore (Mr. Patten). Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 641]

Abdnor
Adams
Archer
Armstrong
Aspin
Badillo
Barrett
Bell
Bergland
Broomfield
Brown, Calif.
Buchanan
Burke, Calif.
Carey, N.Y.
Carney, Ohio
Cederberg
Chisholm
Clark
Conyers
Dent
Diggs
Donohue
Drinan
du Pont
Erlenborn
Eshleman
Evins, Tenn.
Fish
Fisher
Flowers
Fraser
Fulton
Grasso

Gray
Griffiths
Gubser
Hanrahan
Hansen, Wash.
Harsha
Harvey
Hébert
Heinz
Henderson
Hogan
Howard
Hunt
Jarman
Jones, N.C.
Jordan
Keating
King
Kuykendall
Lehman
Mann
Martin, Nebr.
Melcher
Mills, Ark.
Minshall, Ohio
Mizell
Nix
Parris
Patman
Powell, Ohio
Reid
Rhodes

Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rose
Ryan
Scherle
Shoup
Shuster
Smith, N.Y.
Snyder
Steed
Stokes
Stuckey
Sullivan
Symms
Taylor, Mo.
Teague, Tex.
Thompson, N.J.
Towell, Nev.
Veysey
Waggonner
Walsh
Wampler
Widnall
Wiggins
Wilson, Charles H., Calif.
Wyatt
Wydler
Yates
Young, Ill.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Boland, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 10710, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 337 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the point of order of no quorum was made, the gentleman from Pennsylvania (Mr. Gaydos) had been recognized and he had 7 minutes remaining.

The Chair recognizes the gentleman from Pennsylvania (Mr. Gaydos).

Mr. GAYDOS. Mr. Chairman, I wonder how many Members of this House really know what a nontariff barrier is. Section 102 of the bill states that Congress finds that nontariff barriers are reducing the growth of foreign markets for U.S. goods and preventing the development of open and nondiscriminatory trade among nations, and "urges" the President to take all appropriate and feasible steps within his powers to reduce or eliminate them. Yet there is no definition of what constitutes a nontariff barrier in the bill. Furthermore, reference to the committee report reveals that the only specifically designated nontariff barrier is the ASP—American selling price. On the other hand the committee report indicates that nontariff barriers are "diverse," "complex," and "imbedded in domestic laws." We are led to believe that product standards are considered a nontariff barrier. What about safety standards such as the Flammable Fabrics Act or health standards such as the Food and Drug Law and the Wholesome Meat Act? Our foreign trade partners view these laws as nontariff barriers. Are we about to pass a law which gives to the President authority to supersede the Federal and State Laws which have been enacted to better protect the health and safety of Americans

The ambiguous nature of this bill is more graphically illustrated by section 102(c)(1)(2) and (3) which provides in part, that a principal objective in negotiating the reduction or elimination of nontariff barriers—

> Shall be to obtain with respect to each product sector . . . competitive opportunities for U.S. exports to the developed countries.

Not only is there no definition of "product sector" in the bill, but amazingly, the definition of this term is delegated by Congress to representatives of the executive branch, who shall prescribe such definition after consultation with private organizations. This complete absence of a congressional definition of nontariff barriers means that the Congress has forfeited its right to effectively review the administration action in the light of the intent of Congress. How can Congress challenge any action of the administration based on its determination of a "product sector" when the meaning of that term is undefined in the bill and Congress accordingly has no standard against which to compare the administration's interpretations?

Another instance of the ambiguity in the bill is found in section 122 which authorizes the President to proclaim temporary surcharges or quotas: First, to deal with serious balance-of-payments deficit; second, to prevent an imminent and significant dollar depreciation; or third, to cooperate with other countries in correcting an international balance of payments disequilibrium. This would appear to authorize the President to impose quotas, but further language provides that quotas are authorized only if trade agreements to which the United States is a party permit quotas and only if surcharges are ineffective.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, the gentleman is inquiring about what a nontariff barrier is. I have here a print of the committee dated May 1973 which, starting on page 54 and going over to page 176, not only refines what a nontariff barrier is, but we outline them.

It is impossible to lay out a really simple definition in this particular matter about nontariff barriers. It actually is any distortion of trade other than those distortions caused by ad valorem tariffs. This is a term widely understood in international economics and international trade. As I say, this report of the committee dated May 1973, starting on page 54 and going to page 176, is very explicit as to what a nontariff barrier is.

Mr. GAYDOS. Mr. Chairman, let me respond to the gentleman by saying that I am very familiar, as is anybody who has read it, with the report. However, I am making the specific point in talking about the nontariff barriers that appear in the bill: The report is not part of the bill. It just is another example, as I see it, in my opinion, and in my very sincere belief that we are talking about a subject where nontariff barriers should be identified in some manner within the bill. The report is of no significance at all.

If I may continue, yet section 121 of the bill directs the President to take the necessary action to bring about—

> The revision of Article XIX (19) of the GATT into a truly international safeguard mechanism which takes into account all forms of import restraints countries use in response to injurious competition or threats of such competition.

If it is the intent of Congress to have the President take action to eliminate quotas as a device available to GATT members, then why does the bill make a provision for the use of quotas in section 122? Why should Congress grant authority to the President to use quotas when another section of the bill authorizes him to seek agreement from our trade partners not to use them? At best this apparent contradiction would seem to express a built-in assumption that administration efforts to obtain an agreement from GATT members to eliminate quotas are bound to fail.

While one looks in vain in this bill for clear guidelines to be followed by the President in exercising the very broad authority granted in the bill, it is interesting to note that section 128 provides that the President shall not reduce or eliminate a duty or other import restriction if he determines it would threaten to impair the national security. Admittedly, a similar provision is in the 1962 act. But what is the purpose of this provision? Is it not proper to assume that the President would consider the effect on national security in all his actions? If there are some Members of this House who do not share this confidence in the President, how can they allow such a broad delegation of power as is provided in the bill? Or is Congress, in fact, telling the President he can do as he pleases provided he does not endanger the national security? Have not the dismal results of negotiations pursuant to the 1962 act, which was likewise devoid of guidelines, taught us the futility of granting broad discretionary authority to the President? Or does this mean that the Congress is so confused about the problem of international trade that it is incapable of suggesting any guidelines for the administration to follow? I submit that in considering the bill before is we are not being asked to legislate, but rather to abdicate to the President the constitutionally mandated power of Congress to regulate foreign commerce, and at the same time to place our confidence in the President to solve the international trade problem. The disastrous results of the Russian grain deal on our economy certainly do not inspire such confidence.

Title II of the bill would appear at first blush to offer some consolation to the American worker who faces unemployment from foreign imports, but a close reading leads to the conclusion that the reference to increases in duties, quotas or orderly marketing agreements as a means to prevent the destruction of American industry, with its resultant unemployment, are mere window dressing. What it all boils down to is that adjustment assistance is advanced as the only remedy for injurious imports. With rising unemployment forecast for 1974, this is a cruel hoax to play on the American worker. It could well lead to a national disaster.

The mere fact that this bill appears to have expanded the scope of adjustment assistance is frank acknowledgement that adjustment assistance has not been effective in the past, even though no detailed general report has been made to the Congress of the results of adjustment assistance under the 1962 Act. Additionally, it is tacit acceptance of the unmanageability of our current trade policy. This means we are resigned to a policy of reacting to the instability of our trade policy rather than taking the initiative and setting as our goal our national industrial health, and preventing the occurrence of injury before it is beyond our control. How much longer do we have to follow our present policy before we are convinced of the futility of catering to the whims and caprices of our trade partners? Are we going to be here five years hence, authorizing further expansions in adjustment assistance to compensate for the destruction of American industries and the unemployment of American workers much like we are today proposing an expansion of adjustment assistance provided in the 1962 act? Do we have to wait until our trade partners have managed our economy back to a primarily agricultural economy?

If this legislation is really reform in nature and purpose it should embody a reform in the philosophy which has brought us to our current situation. This means we should establish a policy of preventing further destruction of American industry by imposing quotas in those areas of our economy where we can salvage our future. I do not suggest a turning back of the clock, but rather an approach to international trade designed to put our industry on an even footing with foreign competition and make domestic investment by American industry as attractive as investment abroad. This could be accomplished by the Burke-Hartke proposal which would set up flexible limitations on imports, which would allow an increase in imports when there was an increase in domestic production.

There are those who cavalierly say that if American goods cannot compete with foreign imports, the Government should not insulate American industry from the inroads of foreign goods. But this is a grossly misleading statement. Which of our trade partners has made such a contribution to international world peace and has provided assistance to the developing countries—and developed, such as Japan and the countries of Western Europe—as well as to the poverty-stricken nations of the world? The answer is clearly, none. Yet the cost of those international commitments is reflected in the cost of domestic production. If our trading partners would demonstrate their willingness to share in the cost of these international commitments then the apparent cost advantage they now enjoy would soon disappear. In the meantime why should we stand idly by and allow our domestic industry which is required to pay a minimum wage, to provide safe working conditions for its employees, to eliminate pollution from its operations as well as to conform to many other regulations, to be destroyed by foreign imports which are produced without such restrictions? Is it fair and equitable that American industry and American workmen should be penalized for adherence to such laws?

The American worker wants a job. He does not want an insurance policy to pay for his burial when foreign imports cause his unemployment. Yet this bill does nothing to address itself to the projected increase in unemployment. From September 1969 to September 1973 steel jobs declined from 1,378,300 to 1,330,700. For every 18 million tons of steel imported in a year, 109,000 jobs could have been created. Further, based on energy supplies of 90 percent of last year the steel industry forecasts a loss of 65,000 to 70,000 jobs. The auto industry forecasts a reduction of 10 percent in car sales next year, and the aerospace industry predicts job losses in 1974. And yet in spite of all this are asked to approve of legislation here today which would only make worse the unemployment, while at the same time we are exporting our raw materials for production abroad.

Some people may find comfort in the latest report of the Department of Commerce which indicates that for the first 10 months of 1973 exports exceeded imports by $680 million, whereas for the comparable period of 1972 imports exceeded exports by $5.23 billion. But it must be realized that this change resulted from the dollar devaluation and a substantial increase in agricultural exports. Actually if our agricultural exports remained level with 1972, the trade balance for the first 9 months of 1973 would have amounted to a deficit of $5.6 billion. Can we count on such substantial increases in agricultural exports to continue in the future to bring about trade surpluses? I certainly do not disapprove of such substantial increases in our agricultural exports, provided they do not cause a disruption to our economy, such as resulted from the Russian grain deal. But I strongly feel that it is a fallacy to depend on such further substantial increases in our agricultural exports to solve our foreign trade problem. Such continued increases would require a continuation of worldwide weather conditions adverse to the agricultural production of our trade partners. This is to say at least an untenable assumption.

Furthermore, I doubt if the American housewife views with much enthusiasm the continuation of substantial increases in agricultural exports when she sees the results of these increases in the spiralling food costs at the supermarket. Of course increased agricultural exports are no benefit to the unemployed worker who at the same time sees his job lost to foreign imports and must face the prospect of higher food costs for his family.

The present energy crisis may be a blessing in disguise if we heed the lesson it can teach us. If instead of increasing our dependence for oil on foreign sources, we had pursued a policy of developing domestic energy sources, we would not now be experiencing the serious dislocations in our economy. If we do not wish to disregard the lesson of the present energy crisis then we should engage in a true reform of our trade policy and establish a goal of never again becoming so dependent on foreign imports that a cessation of them would jeopardize our economy. This means we should immediately take the necessary steps to prevent foreign imports from destroying our domestic industry, thereby allowing foreign countries to acquire control of vital segments of our economy, and seriously endangering our national security.

Unfortunately the bill before us does not address itself to this problem, nor does it make any attempt to prevent such a situation from occurring. Instead let us not ignore the message of the bill before us. It speaks out in loud and clear language to the American worker telling him that he can look forward to the remote possibility of qualifying for adjustment assistance. Will this Congress condemn the American worker to such a future?

This bill represents a betrayal of the American worker. I can have no part in deception, and I ask my colleagues to vote against this legislation.

Mr. SCHNEEBELI. Mr. Chairman, I yield 2 minutes to a member of the committee, the gentleman from Michigan (Mr. CHAMBERLAIN).

Mr. CHAMBERLAIN. Mr. Chairman, I thank my colleague for yielding to me. The reason I ask for this time is for the purpose of making some legislative history here. I direct a question to our colleague from Oregon, the distinguished acting chairman of the Committee on Ways and Means.

I would like to inquire if under escape clause investigations, the Tariff Commission determines whether imports of like or directly competitive products are seriously injuring a domestic industry and makes recommendations for import relief where appropriate. I understand that specific products within a general product category are excluded from import relief recommendations when the specific products are not themselves contributing to the injury of the domestic industry. I also understand that the President, in framing any import relief he may decide to provide, makes a similar exclusion. Is it the gentleman's understanding that the escape clause will continue to be interpreted and applied in this manner?

Mr. ULLMAN. Will the gentleman yield?

Mr. CHAMBERLAIN. I will be happy to yield to the gentleman from Oregon.

Mr. ULLMAN. I will say that that is certainly my understanding and the understanding, I think, of the committee. In any import relief action the President certainly can exclude any items that are not competitive.

Mr. CHAMBERLAIN. I thank the chairman for responding to my query.

Mr. MICHEL. Will the gentleman yield?

Mr. CHAMBERLAIN. I am pleased to yield to the gentleman.

Mr. MICHEL. Mr. Chairman, this trade bill is landmark legislation and deserves our wholehearted endorsement.

For several months the Ways and Means Committee thoroughly investigated, debated, and prepared this legislation which will permit the United States to fill its leadership role—a role we have vigorously filled since 1945—in seeking economic peace and prosperity among nations.

The Trade Reform Act of 1973 is sound and reasonable legislation. It strikes an unusually strong balance between Executive leadership and decision-making on trade matters, and appropriate congressional concurrence.

The President is given authority to relax or impose several measures in negotiating trade agreements with our trading partners. However, this is only done within a framework of consultation with the Congress.

This legislation can represent a significant gesture to the world that the United States does not intend to retreat from leadership in building a freer world economic system; does not intend to artificially isolate itself from a rapidly changing world; is not afraid to compete with the products and services of other countries on an unburdened basis; and is willing to pursue a more open and freer economic system.

The pursuit of trade reform legislation has not been easy. Since 1967, when the President's authority to negotiate trade agreements with our partners expired, we have time and time again attempted to find a legislative answer to the trade question.

Mr. Chairman, we have gone through periods which seemed to indicate that the United States could, in fact, ignore the needs of free world trade and live within its own self-abundancy.

How foolish it is to believe for one moment that this is the case in 1973. To pay for our increasing number of vital imports, such as oil and iron ore, we need the income derived from a healthy export-conscious economy. We can only achieve this balance if the atmosphere of world trade is unburdened and free from artificial constraints.

The Trade Reform Act is the method to achieve this balance by giving us the ability to sit down with our trading partners and mutually work for the reduction of trading barriers, such as excessive tariffs, quotas, unrealistic product requirements and other impediments to an open economic system.

Some Members expressing themselves vocally here this afternoon are fearful that legislation which improves and strengthens our position to negotiate trade agreements will be injurious to our economy because, by allowing imports, domestic industries and workers will be displaced. These same people feel that restrictions on our ability to compete abroad will somehow help strengthen our economy. Apparently, they feel that regulating the natural flow of goods and services between nations into stagnancy, is good.

In reality, we have factual examples that international trade, conducted in an unburdened manner, is directly beneficial to the United States.

I am fortunate that in my district one of the Nation's leading exporters, and one of the world's most successful multinational corporations, makes its home.

Over the years I have served in the House, I have watched this company increase its activity in worldwide markets, and have observed firsthand the benefits this has had on my State and the Nation.

Their employment has grown by the thousands in response to serving markets throughout the world—markets that were penetrated by a balance between growth at home and the operations abroad.

Exports, generated by overseas sales, have returned billions of dollars to this country which have contributed to the positive side of our balance of payments. Wherever this company have constructed facilities abroad, exports from the United States to that country have increased dramatically. We have some very good figures to back up what I have just said and will attempt to include these in our extension of remarks.

Anyone else who would take the time to examine their contribution to world trade, could only come to the conclusion that it is a direct benefit to the U.S. economy.

And among American firms, their experience is not unique.

The history of American trade is strong evidence of our productiveness and ingenuity as a free country. While there are isolated examples of some industries being injured by imports, the sheer weight of evidence indicates that as world trade volume has increased, unemployment has decreased.

Figures indicate that unemployment in the United States is at an alltime low while world trade is at an alltime high.

Is this, then, the time to retreat from our traditional leadership role in pursuit of an unburdened world economy? Definitely not.

The bill before us today recognizes that there may be occasions when domestic disruptions may be caused by developments in trading patterns. If this does occur, the bill provides for protection to workers and relief measures which insure that the injured will have appropriate compensation while securing other forms of employment.

That is why I say this legislation is reasonable. It recognizes that the way to international economic progress is paved with understanding between countries, arrived at through a process this House cherishes—that is, through give and take, through negotiation, through compromise. But it also recognizes that problems can occur. That is why the bill includes a provision to protect sectors of our economy injured by imports, and provides assistance to workers and firms who may have also suffered.

Mr. Chairman, with respect to the serious question of trading relations with Communist countries, I do not intend to enter the argument of whether or not trade reform legislation is the place to address the domestic social policies of another country—but I surely would be remiss if I did not point out that I feel the action taken by the Ways and Means Committee to limit the extension of most-favored-nation status to only those countries which do not place restrictions on emigration is most adequate to indicate the mood of this Congress to the Soviet Union.

I firmly believe that any other form of penalty to trading with the Soviet Union—such as that proposed by Mr. VANIK—would not help those within the Soviet Union that it is intended to help—but only serve to make their plight even more severe, and serve to upset the progress made between the United States and U.S.S.R. on the diplomatic and political front.

The President and his representative are at a sensitive juncture in their efforts to reach a just and lasting peace in the Middle East, and thus once more proving that the détente between the Soviet Union and the United States is for real. I do not believe we should undermine their honorable efforts.

The Trade Reform Act of 1973 will be a useful tool. It will serve as a tool to pursue agreements on trade matters between ourselves and our trading partners. Our negotiators at Geneva at the historic international talks on trade and tariffs need this legislation now to indicate the integrity, seriousness, and commitment of the United States to continue the job that was started in 1945, to rebuild an orderly international economic system.

There are a lot of other reasons why this bill should be approved as it is, without any debilitating amendments.

Reasons such as our favorable trade balance, largely assisted by the realinement of currencies brought on by U.S. leadership, indicate the time is appropriate for additional improvements in economic relations.

Reasons such as our need to seek trade agreements so that we will continue to have access to resources we vitally need as a country—petroleum, iron ore, bauxite, timber, copper, and countless others.

Reasons such as that if we do not penetrate successfully markets of Eastern Europe, our competitors will, thus further shackling our ability to enhance our national potential.

But I believe the central reason is that we should not retreat from a leadership position that has been constructed over several years on the dedicated service of many Americans who were determined that the world economic stagnation, and depression of the 1930s—and its contribution to World War II, should not happen again. I am of the belief that an open, free economic system is the basic requirement for peace and understanding between nations.

We have nothing to gain but reprisal and consequent decline in our national health—if we turn down the road of economic isolation and market protectionism.

The option is the road to a world trading system based on trust, confidence and peace among nations.

I believe the Trade Reform Act is the opportunity to maintain the leadership needed to achieve these goals.

Mr. Chairman, I support this bill enthusiastically and sincerely hope we will pass it within the next day or two without doing any serious harm to its content during the amending process.

Mr. SCHNEEBELI. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Chairman, with respect to paragraph e of the bill on page 123 beginning with line 13, this provision is entitled, "Temporary Provision While Negotiations Are in Process." In all due respect to the work of the committee, it seems to me that with this one provision the committee undoes all that the other amendments to the countervailing duty provision would accomplish.

As I am sure the gentleman is aware, there has been a failure to administer and apply this provision and to countervail against subsidized exports to this market over the years. Can the gentleman tell me why this subparagraph e should not be removed from the bill?

Mr. ULLMAN. Will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman.

Mr. ULLMAN. The gentleman is correct that the committee amendments are certainly directed at assuring that the countervailing duty provision will be administered as has been intended by the Congress in the past, and that the Secretary of the Treasury will no longer be able to ignore petitions for action under this provision. I would point out to the gentleman that the amendments do require the Secretary of the Treasury to act within a 12-month period on bona fide questions of subsidized exports to the United States. Further, the amendment would make duty-free merchandise subject to the countervailing duty provision if such subsidized exports are found to be injuring a domestic industry. Just as important to the gentleman is the reaffirmation of the right of domestic producers to judicial review of negative determinations by the Secretary of the Treasury under the countervailing duty provision.

With these changes it was recognized that cases under the countervailing duty provision could be brought before the Secretary which if acted upon could seriously jeopardize the forthcoming multilateral negotiations including negotiations on an agreement to define justifiable and unjustifiable export subsidies. Thus, the Committee agreed that the Secretary of the Treasury would have the discretion for a period of 4 years not to impose additional duties if he finds on the basis of advice and information from appropriate agencies that such action would be likely to seriously jeopardize the negotiations. Further, the period would be reduced to 1 year with respect to products of facilities owned or controlled by a developed country if the investment in, or the operation of, such facilities are subsidized.

I think the gentleman will agree that the previous amendments we discussed are in the interest of our domestic producers who are concerned with subsidized exports to the U.S. market. The permanent change in the legislation with respect to the requirement that the Secretary act within a 12-month period and with respect to judicial review are far more significant than the temporary period of discretion granted the Secretary under certain circumstances for purposes of obtaining an international agreement in the area of export subsidies.

Mr. QUILLEN. I thank the gentleman.

Mr. SCHNEEBELI. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. PETTIS), a valued member of our committee.

Mr. PETTIS. Mr. Chairman, I would like to draw the distinguished acting chairman's attention to a provision of title II of the bill. I refer to the so-called escape clause provision under which the President is authorized to provide import relief after the Tariff Commission has made a finding of injury to a domestic industry. In section 202(c) certain considerations are set out which the President shall take into account in deciding whether to provide import relief. Included among these is "geographic concentration of imported products marketed in the United States." The fact that this consideration is explicitly set out in the legislation as a guide to the President indicates that the Congress is instructing the President to be mindful of the geographic concentration of imported products and their impact on domestic industry in that geographic area. Is my understanding correct in this regard?

Mr. ULLMAN. Mr. Chairman, if the gentleman will yield, the understanding of the gentleman from California is correct. The language which the gentleman has referred to in section 202 defines a congressional policy to guide the President in the exercise of his authority under title II.

Mr. PETTIS. Is not my further understanding correct that the Tariff Commission, in making its findings under the escape clause, would take into account and report to the President on considerations which apply to the exercise of Presidential authority? Thus, in the case I cited, the Tariff Commission, under section 201, would consider and report on the effects of the geographic concentration of imports on the affected industry in the particular geographic area.

Mr. ULLMAN. That is correct, and that information would be considered by the President.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. PETTIS. I yield to the gentleman from California.

Mr. CORMAN. Mr. Chairman, I also would like to direct a question to the gentleman from Oregon. I am concerned with some of the practices by foreign countries which were called to our attention during the course of the hearings wherein some of our exports are precluded from foreign markets even though the same types of products have ample access to the U.S. market when exported from that foreign country. It seems to me that such a practice by foreign countries of not permitting or drastically restricting exports of particular products from the United States to enter when the producers from the country involved enjoy almost unlimited access in the American market is a discriminatory treatment which our negotiators should seek to eliminate. It is my understanding that this is the type of situation which would justify action under section 301 regarding foreign import restrictions or export subsidies.

Mr. ULLMAN. Yes; the gentleman is correct. These types of unjustifiable or unreasonable import restrictions which burden or discriminate against U.S. commerce and on which other countries are unwilling to negotiate are to be dealt with by the President under the authority provided in section 301.

Mr. PETTIS. Mr. Chairman, if the gentleman would yield further, is it correct that our own producers who are being discriminated against in foreign markets even to the extent of having their products embargoed can bring their case to the President, and he is required to provide for public hearings under section 301?

Mr. ULLMAN. Yes; that is correct.

Mr. CORMAN. Section 301 provides the President with the authority to increase duties or impose other import restrictions in order to obtain the elimination of unfair foreign import restrictions on United States exports, does it not?

Mr. ULLMAN. Yes; those are the actions which the President may take if he determines that such action is required to obtain the elimination of the restrictions on U.S. exports and if other requirements of section 301 are met.

Mr. PETTIS. Could he act to restrain the imports of the similar product from the same country that is discriminating against U.S. exports?

Mr. ULLMAN. Yes; such an action could be taken in the same product area.

Mr. SCHNEEBELI. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Chairman, in the time allotted me, I would like to address my remarks to title V of H.R. 10710. This section of the Trade Reform Act of 1973 provides for a generalized system of preferences—GSP—for selected imports from the developing countries.

Under this title the President is authorized to participate with other developed countries in granting tariff preferences on the imports of manufactured and certain other products from the developing countries over a 10-year period. The GSP was agreed to in 1970 at the U.N. Conference on Trade and Development—UNCTAD. Since that time, the United States is the only OECD country which has not yet passed the necessary enabling legislation.

The United States runs a surplus in its trade accounts with the developing countries, and they are important trading partners of ours. Granting GSP will help to expand this mutually beneficial trade.

Perhaps the most compelling reason for supporting title V is the growing importance of the less developed countries to us as a source of basic raw materials and markets for U.S. exports. In this context, granting GSP will vividly demonstrate America's desire to build better relations with them. The capital thereby generated within the developing countries—as a consequence of GSP—will help provide both the means and the incentives for them to buy American goods and services. In the absence of this necessary effort, the United States could lose potentially enormous markets for our exports which the European Economic Community—EEC—countries and Japan could well exploit.

Title V, moreover, is limited in its total effect. It contains effective safeguards designed to insure that the increased trade resulting from GSP will not injure American workers and industries. In addition, title V provides that when imports of an item from an individual developing country reach a level of $25 million or 50 percent of the total value of such an item, preferential treatment is terminated.

Thus, title V should have no adverse effect on U.S. labor. In fact, the increase in American exports to the developing countries resulting from GSP could easily result in more jobs for Americans, with each additional $1 billion in exports expected to create an estimated 80,000 new jobs.

One of our goals in extending GSP is to eliminate "reverse preference" agreements between other developed countries and individual developing countries which discriminate against U.S. exports in the markets of these developing countries. Title V may not be extended to any developing country which benefits from such "reverse preferences."

In summary, title V honors the commitment made to developing countries by President Nixon in 1970. In helping the economies of emerging nations, its implementation also will expand American export opportunities and provide access to scarce raw materials. Mr. Chairman, I urge my colleagues to retain title V as a part of the Trade Reform Act of 1973.

Mr. SCHNEEBELI. Mr. Chairman, I yield 20 minutes to the gentleman from Georgia (Mr. BLACKBURN).

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. I appreciate the gentleman's yielding. I am aware of the content of his remarks. I have discussed them with him at great length, and I wish to associate myself with them. They are going to be very refreshing, following a good deal of the misinformation and lack of accuracy we have heard here today.

I welcome his remarks.

Mr. Chairman, the heart of the controversy over the Trade Reform Act of 1973, and the subject which I wish to address myself to in the brief time available concerns title IV of the bill dealing with "trade relations with countries not enjoying nondiscriminatory treatment." The central question in this section is whether the United States is going to grant most-favored-nation privileges and tax-supported credit guarantees to the Soviet Union and other nonmarket economies.

In the bill, freedom of emigration is quite properly asserted as a minimal prerequisite, and I emphasize, minimal prerequisite, to the extention of most-favored-nation status to any nonmarket economies. However, no such limitation has been placed on the extension of credit guarantees; in this aspect I believe the bill is seriously deficient and must be changed here on the floor.

Quite clearly, the entire trade bill, and particularly title IV, represents critical aspects of the conduct of American foreign policy. While most of the bill is needed for the progress of negotiations with our trading partners in Western Europe and Japan, the principal impact of the provisions of title IV falls upon the Soviet Union. The extension of trade concessions to the Soviet Union have been promoted as part of the broad policy of détente being pursued by the administration. Given the actions by the Soviet Union this past year, the Congress would be extremely negligent to grant further concessions without qualifications.

Even while proclaiming détente with the United States, the very same Soviet leaders have simultaneously announced their continued devotion to an "anti-imperialist" foreign policy including support for the so-called "national liberation" movements. In his acceptance speech for the Lenin Peace Prize on July 12 of last summer, Leonid Brezhnev stated that with détente accomplished, it was necessary "to further tighten the socialist community and to develop our relations with national liberation forces and with the young states of Asia and Africa, fighting for their independence." Apparently Brezhnev then fulfilled the Soviet version of the meaning of peace prizes by supplying the arms necessary for the Arab nations to launch attacks against the State of Israel in October. Obviously, the Soviet Union knew the attacks were about to commence as they not only withdrew their embassy personnel from the area, but also prepared shipments of materials to the Arab nations for immediate airlift once the hostilities began. The desire for a strategic breakthrough in the eastern Mediterranean clearly superseded the previous pledges of the Soviets to consult with President Nixon in order to prevent the outbreak of war. Détente is being credited with having ended the Yom Kippur war in effect when the war was precipitated, but was any other policy than détente.

A certain eeriness of timing seems to accompany the consideration of the Trade Reform Act. You may recall that it was during the Yom Kippur war that the bill was last scheduled for consideration but was abruptly postponed with the fear of allegedly anti-Soviet repercussions emanating from the Congress. Now, just this month, as we take up this measure, we are considering also a proposal to extend $2.2 billion of assistance to Israel in order to replace losses incurred during the war. I need not point out that such enormous losses were due to the use of the most advanced Soviet military equipment which had been sent to their Arab allies. Now, in a lengthy statement just last Thursday on the oil crisis, the Communist Party newspaper, Pravda, stated that the oil embargo of the Arabs "supported by the U.S.S.R. has succeeded in creating a lasting antagonism between the United States and the other industrial powers, Europe and Japan."

As the economies of the Western world are rapidly being brought to a halt through the foreign policy machinations of the Soviet Union, it is hardly appropriate for the United States to provide credit guarantees in order to promote Russian economic advancements. The American consumer still is suffering from the higher food prices engendered by the massive sale of wheat to the Soviet Union on credit this past year. The extension of credit to the Soviet Union for massive sales of materials in the future will undoubtedly have the effect of even further raising interest rates in the money markets of the United States. Even now consumers cannot afford to borrow money for home mortgages.

In light of historic evidence, it would be wiser to demand from the Soviets cash payments to the maximum possible extent. By denying them easy term credits, which in reality is economic aid, we can force them either to pay us in gold or sell their gold and pay us in U.S. dollars. From this, we would have a two-fold benefit: One, the soaking up of Eurodollars; and two, an immediate improvement of our balance-of-payments problem.

The Soviet Union's strategic rationale, which is behind their present policy of extension of international economic relationships, is based on three objectives. Namely, to obtain from the United States and developed nations of the West, advanced technology, industrial know-how, and massive credits necessary for the buildup of their economic base in which the military/industrial complex predominates.

Let us stop playing the Soviet kind of game, providing them with what they need in return for nothing, and let us get down to the serious business of extracting concessions. The essence of trade is that each side seeks something it wants. The side that is most eager to acquire benefits from the other must make the larger concessions—that is, pay a high price. We should demand from the recipient Soviet Government that it declare a moratorium on dumping, adopt above-board marketing methods, invest in export industries, create dealer and service agencies abroad, make their ruble convertible, join the International Monetary Fund, drop the secrecy about free exchange and gold reserves, develop confident relationships with U.S. business firms. This last would require protection of U.S. property rights, whether in the Soviet Union or outside the Soviet Union, and honest dealings under the patent laws.

We must prevent American credits in the Soviet economy from being de facto subsidies for increasing military development and the financing of subversion abroad. We can do this by including language in this bill which would prohibit taxpayer-backed credits and credit guarantees to the Soviet Union. I urge my colleagues to support such an amendment when it is offered.

Mr. STEELMAN. Mr. Chairman, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from Texas.

Mr. STEELMAN. I thank the gentleman for yielding.

I want to compliment the gentleman for taking this time. I think this is an important piece of legislation in that it does expand this country's trade with other countries of the world. I hope that we will be discriminating in the source of new arrangements that are made with the Soviet Union, especially with regard to credit in this title IV with relation to the trade status.

I compliment the gentleman and wish to associate myself with his remarks. I have discussed these remarks with him in advance.

Mr. Chairman, the Trade Reform Act of 1973 has been before the Congress and under close public scrutiny for many months now. Like most of my colleagues, I believe that continued close commercial relations with our major trading partners in Western Europe and East Asia requires that we act expeditiously on this measure. Little doubt exists that aside from the controversy engendered by the proposed changes in the trading status with the Soviet Union and other nonmarket economies, the bill could have been acted upon long ago. Extensive deliberations and a clear consensus of opinion now exists concerning title IV of the act dealing with "trade relations with countries not enjoying nondiscriminatory treatment." Therefore, rather than deleting this section of the bill as some have proposed, and thus embroil us all in the same turmoil at some later date, I believe that we should act upon that section and the entire bill this week.

Critics of title IV have properly expressed their concern with the relationship between this section and the numerous disconcerting policies of its chief beneficiary—the Soviet Union. However, by relating any trade concessions for the Soviets to freedom of emigration, it is possible to strongly encourage the liberalization within Russian society that we all desire. In this manner the choice is clearly left up to the Kremlin leaders whether they want nondiscriminatory trade treatment—most-favored nation status—more than they need the continued confinement of their people. By virtue of placing a progressive head tax this past year on each individual leaving their country, the Soviets explicitly sought to use people as an exportable commodity. Though suspended after extreme pressure from the rest of the world, the law remains on the books ready for reimplementation. If such laws are to be permanently abolished and other restraints upon the people are to be removed, then we must vigorously encourage the Soviet leaders to move in this direction. Thus if we are to allow material goods to pass freely across international boundaries, then we should certainly require that human beings be allowed at least an equal opportunity in their ability to move.

The Soviet Union does not currently enjoy most-favored-nation status and might decide that lifting their embargo on people represents too great a threat to their closed society to warrant the benefits accruing from freer trade. Under the bill before us only the extension of most-favored-nation status is dependent upon a prior acknowledgement of the right of emigration. Consequently, we must also prohibit the extension of credits to the Soviet Union unless there is a similar guarantee of freedom of emigration.

The Soviet Union needs access to our sources of credit far more than access to our markets. In fact, if the Soviet Union continues to restrict emigration and their products are denied access to American markets, then the demand for credit may rise even higher than it might have otherwise. Even with their limited trade with the Western nations, the Soviet Union amassed a $1.3 billion trade deficit in 1972 and a cumulative foreign debt of $8.5 billion. Both figures are expected to rise substantially by the end of this year. Under both the economic and political circumstances, the guarantee of any credit to the Soviet Union is highly questionable, but to do so without any reciprocal actions is completely unjustified.

The extension of credits, much more than most-favored-nation status, provides a tremendous boost to the Soviet economy. As we all know, just this past year the United States salvaged the Soviet Union from one of their regular agricultural disasters. The grain deal that so drastically raised our own food prices was largely based on credit. Not only did we not have the quantities of food available for the deal, but with the prime lending rate hovering around 10 percent, we clearly did not have surplus capital available for credits. Money is in just as short a supply now as then. Extensions of credits to the Soviet Union amount quite simply to a form of economic aid to the same country we spend billions of dollars to defend ourselves against.

Thus, prior to any further economic assistance through lucrative trade agreements with the Soviet Union, we must have some substantial evidence that we are not simply further strengthening a government suppressing their own people or possibly using the benefits of our trade for the promotion of international instability. Only if the Soviet Union openly announces and adheres to freedom of emigration will we have at least a minimal assurance that some trade concessions from the United States are justified.

Mr. BLACKBURN. Mr. Chairman, I rise to speak in support of the Vanik-Mills amendment and the extension of the Vanik-Mills amendment to include a prohibition of generous credits and credit guarantees to the Soviet Union. I rise in support of the Freedom of Emigration amendment because I feel that it is essential for the Congress to make known to the administration their reluctance, that many of us have—or the misgivings that many of us feel—about the present policies of the administration which are allowing the indiscriminate exportation of American capital equipment and technological know-how to the Soviet Union. There are many arguments that are being advanced for expanding of Soviet trade, and I should like in my remarks at this time to deal with some of them.

One argument we hear repeated quite often is that trade leads to peace. Mr. Chairman, there has been no substantive evidence that trade necessarily leads to peace. Obviously, a world at peace will be a world with increased trade. But that is not the same thing.

I recall prior to World War II there was a very great degree of trade between the United States and Japan, and we got a great deal of the scrap metal back from Japan that we sold to them. So increased trade does not necessarily mean increased peace.

In 1918 the cliche was advanced, "Civilize the Bolsheviks" with trade; today the cliche is "peace through world trade." On the other hand, we have had trade with the Soviets since 1919. Our armies have fought in two wars, Korea and Vietnam where the Communist side was armed with Soviet weapons produced by a military-industrial complex largely built by Western firms under the label of "peaceful trade."

Two: "The Soviets are mellowing." Again, this is a 50-year-old cliche. No substantive evidence has been produced to support the claim. Indeed, the evidence goes the other way. Wining and dining, soft words and expressions of good fellowship do not suggest change of Soviet intent. The key is whether the Soviets have decided to abandon totalitarianism.

The 1970 case of Soviet seaman, Simas Kudirka, demonstrates both Soviet intent and the spinelessness of U.S. policy. Kudirka wished to leave the Soviet Union. When the Soviet ship *Sovyetskaya Litva* was in U.S. territorial waters, Kudirka jumped on board the U.S. Coast Guard vessel *Vigilant* and requested asylum. After extensive communications with Washington, the *Vigilant* allowed Soviet personnel to board the Coast Guard vessel, seize Kudirka, beat him and forcibly remove him to the *Sovyetskaya Litva.*

The American action was direct flagrant contravention of paragraph 23 of the Geneva Convention. Kudirka was subsequently sentenced by the Soviets to "10-year labor in a strict regime camp with confiscation of personal property." The property amounted to a mere 700 rubles and was later seized by the Soviet State. At the moment Kudirka's relatives are bravely resisting Soviet attempts to have Kudirka declared mentally incompetent and so provide a rationale to transfer him to a psychiatric hospital. Probably no other recent episode demonstrates the brutal methods of the Soviets and the bootlicking response of a once-proud United States.

Congressman RICHARD ICHORD recently provided an answer to the basic question at issue:

> The Soviet Union is still a nation which allows no freedom of the press, no freedom of assembly, no freedom of religion, no freedom to emigrate to another country.

In other words, there has been no mellowing, after 50 years of United States-Soviet trade.

Three: "If we do not sell to the Russians, they will get it elsewhere." We spend $80 billion annually on a defense mechanism to protect our country against external threats. It is clear therefore that we have a very real problem with the U.S.S.R. Our relations must be based on principle, not expediency. National security cannot be subordinated to political pull or commercial profit. The tactic, "they will get it elsewhere" was first used by a few American businessmen in 1918 to get Woodrow Wilson to relax a trade embargo. So long as we have a defense problem, the only acceptable policy is to convince our allies that our trade is backfiring and subsidizes Soviet military capability.

Four: "Trade has no effect on Soviet military capability." On the contrary, the United States and its allies have built the Soviet military-industrial complex to a very significant extent and continue to subsidize it. A forthcoming book from Arlington House "National Suicide: Military Aid to the Soviet Union," outlines the 50-year story.

Five: "Those against trade are extremists and/or screwballs and/or warmongers." This is the tactic of outright despair, demonstrating the lack of rational argument and hard fact. A thorough examination of the evidence—all the evidence—not just selections—will uncover a powerful case against Soviet trade. The writer considers that the arguments against trade by far overwhelms the arguments for trade, at this time.

Six: "Admittedly the Russians want our technology, but this assistance is marginal; they could do it themselves, if they wanted."

Then why do they not go ahead and do it?

Because if you make a precise detailed technical examination of Russian plants and processes, one by one, from 1917 to 1973, you find almost complete technical dependence on the West. For example, you take each Soviet truck plant in turn, identify its equipment and processes, and check the technical attributes of each Russian model against Western models. The marginal assistance argument then collapses, the degree of Soviet dependence upon Western technology becomes obvious. In any event, any college economics text demonstrates that "the sum of the margins is the total."

Soviet innovation is limited to duplication and "scaling up." Their really successful work is in pure science, not applied technology; that is, for example, the Kirlian process, the use of vitamins against cancer—the FDA forbids U.S. work along these lines—and so on.

Seven: "If the Soviets are dependent on us we can control them and we have a weapon for peace." The Russians are like most other people in this world of ours: intelligent, proud, and capable. Sooner or later the Soviets would resent the status of being a technical colony of the United States. The most important single factor that inhibits Russian technical development is its unbending statist regime. The beneficiaries of Soviet dependency are the self-appointed Soviet rulers—to maintain their political power.

Eight: "Mutual interdependence will bring world peace." This collectivist cliche omits a basic historical truth: that statist systems are the most likely to get involved in conflict.

The "Brezhnev doctrine" is explicit. The Kremlin reserves the absolute right to intervene in any Socialist state. How do you derive peaceful intent from that kind of assertion?

Unfortunately, these totalitarian political systems are quite acceptable to a few international businessmen because state monopsonistic buying programs dovetail the marketing objectives of some super national corporate giants. Under Hitler it was Standard Oil that benefited from cooperation with I. G. Farben in Jasco. I. G. Farben was one of Hitler's financiers. Under Brezhnev, it is Occidental Petroleum cooperating with Amtorg, the Soviets foreign trade agency.

A recent article in Human Events—July 21, 1973—calls attention to the peculiarly successful history of Mr. Armand Hammer, the president of Occidental Petroleum, of his dealing with the Soviet Government over the past 50 years. The fact that he continues to enjoy such favored treatment from the Soviet Government is undisputed and could lead to a degree of justifiable suspicion that he is enjoying immense personal profits all the while he is contributing to the strength of the Soviets' economy, at the expense of the American taxpayer and consumer.

There is only one road to peace. To move toward a world of voluntary societies, each demonstrating by word and deed and protection of individual rights. The enemies of individual liberty will never achieve a world at peace. Neither can a world at peace be achieved by subsidizing the terrorization of Russian intellectuals, would-be emigrants and the

Russian faithful of all religions. Washington policymakers who brush aside these inhuman activities are not aiding the cause of peace. We cannot achieve a world at peace when foreign economic policy is covertly influenced by the ambitions of a mere handful of businessmen whose judgment is clouded by visions of huge profits.

To conclude: This administration—and specifically Henry Kissinger—has been less than forthright in release of full information about United States-Soviet dealings. But enough data is available to make clear the United States-Soviet trade as presently conducted, is a one-way blind alley.

The Soviets get the benefits, a few internationalist operators—such as Armand Hammer and Cyrus Eaton—get the cream of the order-book action, and the weary American taxpayer is expected to contribute the subsidies and the credits—at 6 percent, yet—and then guarantee the losses. We may find that when the "Great Debate" takes place, support for trade with the Soviet Union will join wheat and soybeans to become another scarce commodity.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, the gentleman from Georgia is making an excellent point and one I would like to associate myself with. Also I would like to point out that if people will look at the statements emanating from Soviet Russia today by such distinguished people as Alexander I. Solzhenitsyn and Andrei D. Sakharov, they will see there can be no effective change in Soviet foreign policy until there have been changes in Soviet domestic policy.

The gentleman from Georgia is going to the heart of the question. I appreciate his leadership on this issue and I do associate myself with his remarks.

Mr. Chairman, the Trade Reform Act of 1973 being considered this week is one of the most significant pieces of legislation to come before this House this session.

Most of the debate surrounding its provisions on trade with the Soviet Union has focused on the terms of that trade, not on the efficacy of such trade per se, and such efficacy, I suggest, ought to remain open for debate, both within this House and throughout the Nation.

What are some of the possible dangers in a significant expansion of trade with the Soviet Union?

First, indiscriminate trade may jeopardize the security of the United States. There can be no trade in commodities of actual or potential military application.

Second, trade is not a simple commercial concept when dealing with the Soviet Union, for American firms will be trading not with private firms nor individuals but rather with the State itself or with State-controlled instrumentalities.

Third, trade, even in nonstrategic goods, can permit the Soviet Union to divert requisite consumer production to military production, as consumer-type commodities are provided through trade and not internal production.

Fourth, trade must be on terms which strengthen the U.S. dollar. Today, the American taxpayer is paying 7.75 percent interest on dollars borrowed by the Government of the United States for the extension of credits by both the Export-Import Bank and the Commodity Credit Corporation and the extension of credits to the Soviet Union by Eximbank and CCC at 6 percent means—

The American taxpayer is subsidizing the balance of that interest—or 1.75 percent.

The Soviet Union wants credits—credits underwritten by the American taxpayers—as conditions of trade.

Fifth, the Soviet Union, by sometimes disregarding ordinary patent conventions or treaties, seeks to buy prototypes for copying purposes.

Sixth, trade with the Soviet Union, by relieving that Nation of economic and domestic political burdens, discourages, rather than encourages, internal reform of the government or the economy.

Seventh, American businessmen are not starved for world markets and can seek more non-Communist foreign markets.

In summary, if we are going to permit trade with the Soviet Union or any other Communist country, we had better be sure that we are getting something we want—either in the form of physical resources or raw materials for production; or something intangible, like an expansion of the rights of their citizens; or in engendering a meaningful structural change in the domestic, policymaking institutions of societies. James Burnham, whom I quote hereafter, has made the point that there can be no real détente without changes in these policymaking institutions in the Soviet Union and a general opening up of the intellectual and political climate within the U.S.S.R.

This should, therefore, be a goal of our foreign trade policy.

One of its most important provisions is title IV, Trade Relations With Countries Not Enjoying Nondiscriminatory Treatment.

Section 402 of this title provides that, in order to assure the continued dedication of the United States to fundamental human rights, the products from any nonmarket economy country shall not be eligible to receive nondiscriminatory trade treatment—most-favored-nation treatment—MFN—and the President shall not conclude any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country—

One, denies its citizens the right or opportunity to emigrate; or

Two, imposes more than a nominal tax on emigration or on the visas or other documents required for emigration for any purposes or causes whatsoever; or,

Three, imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice.

The denial of such MFN treatment would end on the date on which the President determines that such country is no longer in violation of these criteria.

I have long supported the enactment of stringent requirements against conferring MFN treatment on those countries that deny fundamental human rights to their citizens.

The use of the economic power of the United States to obtain concessions from foreign nations—which concessions should result in the expansion of political freedom and the right of free expression by the citizens of those nations—ought to be an integral component of U.S. foreign policy.

The doctrine of noninterference," which has been advanced by those opposing section 402, holds that no nation ought to use its foreign policy in such a way as to "interfere" with the domestic policies of a second power—another country. When the United States must formally confer and negotiate with representatives of other countries, this is an understandable policy to publicly express. It is not, however, neither an accurate nor a desired doctrine. The controversial U.S.-Soviet Union grain deal shows clearly the way in which the Soviet Union was able to impact upon our domestic economy through that one trade package, for today we have inadequate domestic grain supplies for home consumption, a misallocation of railroad boxcars, a resulting rise in domestic food prices, a serious dock shortage in some ports, et cetera, and the resulting political implications arising from these economic stresses. I hope, therefore, that our foreign policymakers perceive the realities of this doctrine they espouse and its shortcomings, for trade can be an instrument—a weapon—for freedom.

The noted foreign affairs analyst, James Burnham, in discussing recent statements of Andrei D. Sakharov, the Soviet dissident intellectual and father of the Soviet hydrogen bomb, made an observation worthy of being brought to the attention of this House:

> (Sakharov) is contending that in this specific case of the presently developing relation between the existing Soviet Union and the Western nations, it is impossible to affect Soviet foreign policy in a manner of benefit to the Western nations unless there is a change in the domestic structure; that, in fact, Soviet policy without domestic changes must be a continuing and increasing danger to Western Nations.

Thus, U.S. trade policy should be directed at building a détente based on Soviet deeds, not just words.

There can be little doubt but that the trials and so-called confessions now emanating from the Soviet Union are designed with only one clear purpose in mind: To intimidate and silence all internal criticism of the Soviet Government and to foreclose, thereby, any internal softening or normalization, for internal criticism, reason the Soviet leaders, would jeopardize extant and future hardline Kremlin policies.

That there has been substantial persecution of its citizens, particularly those who are members of minority religious or cultural heritages, cannot be questioned. Neither can its impact on the intellectual climate within the Soviet Union. In a paper prepared for the February 1971 Brussels Conference and subsequently published in the June 1971 issue of Soviet Jewish Affairs, Mr. William Korey, speaks to the well-developed body of international law on this most basic of human rights—the "right to leave":

The "Right To Leave" for Soviet Jews: Legal and Moral Aspects

(By William Korey)

The right of Soviet Jews to emigrate to Israel has recently become a widely known part of the general human rights problem.

* * * * *

International opinion is perhaps best expressed in a study conducted by an important United Nations organ, the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Entitled 'Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including His Own, and to Return to His Country,' the 115 page document was completed and published in 1963 after three years of exhaustive research. The Special Rapporteur of the Sub-Commission in preparing the Study was the distinguished jurist and statesman of the Philippine Islands, Judge José D. Inglés.

The Inglés study is probably the most important work ever prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and, indeed, it constitutes a landmark in the evolution of human freedom. Its principal theme runs as follows: Next to the right to life, the right to leave one's country is probably the most important of human rights. For, however fettered in one country a person's liberty might be and howsoever restricted his longing for self-identity, for spiritual and cultural fulfilment and for economic and social enhancement, opportunity to leave a country and seek a haven elsewhere can provide the basis for life and human integrity.

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It is the contention of Judge Inglés that the right to leave is 'a constituent element of personal liberty' and, therefore, should be subject to 'no other limitations' than the minimal ones provided in Article 29 of the Universal Declaration of Human Rights.

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The UN study makes the right to leave a precedent for other rights. Judge Inglés notes, for example, that, if a person is restrained from leaving a country, he may thereby be 'prevented' from observing or practising the tenets of his religion; he may be frustrated in efforts to marry and found a family; he might be 'unable to associate with his kith and kin'; and he could be prevented from obtaining the kind of education which he desires. Thus, the jurist concludes that disregard of the right to leave 'frequently gives rise to discrimination in respect of other human rights and fundamental freedoms, resulting at times in the complete denial of those rights and freedoms.' To this the Special Rapporteur adds that for a man who is being persecuted, denial of the right to leave 'may be tantamount to the total deprivation of liberty, if not life itself.'

* * * * *

The Preamble notes that the right to leave and to return is 'an indispensable condition for the full enjoyment by all of other civil, political, economic, social and cultural rights'.

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There already exists a body of international law on the subject which conforms to international opinion as expressed in the Inglés study.

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U Thant has called the Universal Declaration the 'Magna Carta of Mankind.' It is far more than a mere moral manifesto. According to leading international lawyers who had assembled in Montreal in March 1968, the Universal Declaration 'constitutes an authoritative interpretation of the [UN] Charter of the highest order, and has over the years become a part of customary international law.' As early as December 1960, the General Assembly adopted by a unanimous vote of 89 to 0 a Declaration on Colonialism which specifies that all States shall observe faithfully and strictly the provisions of the . . . Universal Declaration on Human Rights'.[9] In 1961, the Assembly again voted—97 to 0—that all the provisions of the Declaration on Colonialism including the specific reference to the Universal Declaration be faithfully applied and implemented without delay. In 1962, it reaffirmed this 101 to 0. That same year the UN Office of Legal Affairs ruled that a UN Declaration 'may by custom become recognized as laying down rules binding upon States'.[10]

A second body of international law bearing upon the subject is the International Convention on the Elimination of All Forms of Racial Discrimination. This treaty, the culmination of three years of drafting work, was adopted unanimously by the General Assembly on 21 December 1965. Article 5, paragraph d, subsection 2 provides that each Contracting Party to the treaty 'guarantees the right of everyone' to enjoy, among various rights, 'the right to leave any country including his own, and to return to his country'.

The third major international legal document is the International Covenant on Civil and Political Rights. The result of 18 years of preliminary drafting work in various UN organs, the Covenant was adopted by a unanimous vote of the General Assembly on 16 December 1966. Article 12, paragraph 2 of the Covenant reads: 'Everyone shall be free to leave any country, including his own'.

Clearly, then, both authoritative world opinion and international law consider the right to leave a country as a fundamental human right binding on all Governments.

There is a very important point which should be stressed here: The provisions of the legislation pending before us, if enacted and when put into full force and effect, will apply to the rights of all citizens of foreign nations—not only those who are Jewish but to all others as well. Further, it will be applicable to all nonmarket economy countries, not just the Soviet Union. Thus, there will be hope extended by the promulgation of these provisions to all those people who want to leave the repressive and oppressive regimes of totalitarian or authoritarian societies—a hope that the economic power of the United States will be used to better their common lot, by encouraging requisite internal reforms necessary to the receipt of continuing trade assistance from the United States—something the vast majority of these foreign countries must have.

Avraham Shifrin, a Soviet Jew and intellectual who spent more than 30 years in and out of Soviet labor camps, spoke of those countless thousands now in labor camps and of the millions of people, who want to leave, that these detainees represent:

> I urge a free world outcry of revulsion against the Soviet slave labor system of the 1970s. The U.S. and its free world allies can help in two ways. First, by exposing the facts, and second, by voicing our indignation. In helping them, we shall also be helping ourselves.

Yet, Mr. Chairman, where is the recognition of this spirit as a part of our foreign policy objectives? Are we to recognize only the search for markets and dollars as the denominators of our foreign policy judgments? What is so wrong with the use of moral and ethical criteria in the formulation of foreign policy when such criteria rest upon beliefs in political and economic freedom? Is not a foreign policy without adherence to a moral standard devoid of the goals and guidelines needed for making policies in the long term interest of free men?

I suggest that the provisions of the bill pending before us provide this House—and the Nation it represents—an opportunity seldom seized to reinforce our foreign policy with these moral and ethical considerations. The substance of this debate is the fundamental rights of all men. I can think of no more worthy a goal for the Nation and, most assuredly, for the people who are its intended beneficiaries.

Sakharov summed up what he perceived to be the obligations of this Congress:

> I express the hope that the Congress of the United States, reflecting the will and the traditional love of freedom of the American people, will realize its historical responsibility before mankind and will find the strength to rise above temporary partisan considerations of commercialism and prestige.

I trust, Mr. Chairman, that we, today, rise to meet this challenge.

Mr. BLACKBURN. Mr. Chairman, I appreciate the gentleman's observations because he certainly points up very clearly that in the absence of some structural changes within the Soviet Union, that is changes which allow a free exchange of information, people, and ideas, with the Western World, there never will be a change in the Soviet foreign policy.

Certainly, the history of the Soviet state reveals that since the establishment of the same through Bolshevik revolution, every Soviet leader, whether Lenin or Stalin, Khrushchev or Brezhnev, has maintained the same steadfast determination to ultimately dominate the entire world. The present leadership of the Soviet Union demonstrates the same objectives today as Lenin exhibited in 1917.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for yielding to me. I wish to compliment my colleague for bringing to the House many of these important facts about our present and past dealings with the Soviet Union. The gentleman has clearly documented we need to exercise tremendous caution in any kind of dealings that we have with this Soviet slave state because, as the gentleman has pointed out, their basic doctrine of world conquest has not changed.

The Members of the House can be grateful to the gentleman for so decisively refuting the many distorted myths about "honorable" trade with the Soviet Union. The gentleman from Georgia has crushed such fables as, first, "trade with Russia leads to peace," second, "the Soviets are mellowing" third, "trade has no effect on Soviet military capability," fourth, "those against Soviet trade are extremists" under a landslide of facts. In addition, Mr. Chairman, Mr. Blackburn has thoughtfully proved that Communist Russia is a slave state for workers and our free labor country has difficulty in exchanging products and services with this type of regimented society.

In addition to the items mentioned by the gentleman from Georgia, I would like to review title IV of this legislation before us.

The stated purpose of title IV, as stated in the committee report, is the extension of "nondiscriminatory—column 1—tariff treatment in return for appropriate benefits to U.S. interests, provided such countries permit their citizens to emigrate and do not impose unreasonable financial barriers to emigration." In other words, "most-favored-nation treatment" is to be extended to "nonmarket economies" in accordance with provisions designed to insure "freedom of emigration" and protection against "market disruption." However, these provisions, as they now stand, are, in my judgment, so inadequate as devices to protect the stated concerns of the bill, that they may be regarded as virtually cosmetic.

The major deficiency in this title is the absence of any prohibition against granting credits and loan guarantees to nations which deny freedom of emigration to their citizens. Unlike the Vanik-Mills amendment, which I have cosponsored, this bill would deny only tariff benefits to the Soviets, which means that their exports, of vodka, for example, to this country would continue to be at a competitive disadvantage which would be relatively insignificant in the total trade picture.

What would be significant and effective, if we are really serious about insuring freedom of emigration, is to prohibit the extension of credits and loan guarantees to finance our exports to Russia, for without these credits and loan guarantees, the Russians would no longer be able to obtain American goods and technology of incalculable value in exchange for I.O.U.'s which are unredeemed and unredeemable.

This approach would also go a long way toward protecting other American interests in addition to freedom of emigration because it would prevent the recurrence of such massive giveaways as the wheat deal as well as the contribution of vital hardware and technology to the Soviet war effort. It might also slow down for a time the "dumping" of Soviet goods on the American market and the consequent loss of American jobs.

Additional conditions and safeguards will be needed, however, to protect against the sufficient "concessions" in the area of emigration to remove any prohibitions which may be imposed on that basis alone. If the Soviets were to allow all of the Soviet Jews and others who want to emigrate to leave tomorrow, I would still be concerned about the fact that Soviet currency is not convertible into so-called hard Western currencies. I would demand that the Soviets pay for whatever nonstrategic commodities we might sell them in gold, timber, or other commodities which the Soviets produce in abundance and which we sorely need.

I would insist that the Soviet Union provide detailed information regarding its financial condition and credit worthiness so that we might fairly evaluate its ability to pay market rates of interest on the loans which it has been demanding to receive as a condition of "détente." I would also want to find out what assurances we could obtain that the Soviets will not "dump" their goods on American markets. Such assurances are practically impossible to obtain with respect to a nonmarket economy because there is no satisfactory way to calculate the actual cost of production of goods in order to determine whether or not "dumping" has in fact taken place.

I want to emphasize that the conditions which I would impose are not designed to discourage the expansion of American exports. Rather they are only the conditions which any prudent business would insist upon and which are necessary if the Soviet Union is not to become a more-favored-nation than any of our longstanding allies, virtually all of whom are subject to the full disclosure and anti-dumping conditions of the General Agreement on Tariffs and Trade—GATT.

I strongly urge my colleagues to restore to title IV the prohibition against extension of credits and loan guarantees and to pursue other means to insure that the Soviets will not take undue advantage of our fairness and generosity in the future as they have done in the past.

Mr. Chairman, I think that the gentleman from Georgia is to be complimented for the very scholarly work he has done on this subject of trade with Communist Russia. I wish to associate myself with the thoughtful and factual presentation of the gentleman from Georgia.

Mr. BLACKBURN. Mr. Chairman, I thank the gentleman for his observation.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from California.

Mr. CORMAN. Mr. Chairman, I want to be sure I understood the gentleman correctly. At the beginning of his remarks, did he indicate that he will support the Mills-Vanik amendment?

Mr. BLACKBURN. Yes, I will support the Vanik-Mills Freedom of Emigration amendment in its entirety, namely with prohibition of taxpayer-backed credits and credit guarantees to the Soviet Union.

Mr. CORMAN. The amendment which will be offered by the gentleman from Ohio, which I intend to support, will be concerning withdrawal of credits.

But as I understand it, the thrust of the Mills-Vanik proposals is that they are not to cut off the opportunity for trade, but, rather, to effect the emigration rights of Soviet Jewry. It does seem to me there is quite a difference.

While the gentleman has pointed out some interesting facts about how this country has been run for the past 5 years, the fact of the matter is that if title IV stays in, with the two provisions, the sole thrust of those provisions is to make an effort to assure the rights of Soviet Jewry to emigrate from the Soviet Union.

I just wondered if the gentleman is supporting title IV, as amended, or seeking to strike title IV from the bill.

Mr. BLACKBURN. No, I think it would be a mistake to strike title IV from the bill.

In fact, I am not happy about using this bill as a vehicle to handle the issue of generous credits and credit guarantees to the Soviet Union. However, many of us believe that America's national security, as well as America's best economic interest, is not being served by the present trade policies with the Soviet Union.

But this is the best and the only vehicle which is available at this time to provide also protection for American taxpayer, American consumer, and American national security.

Mr. Chairman, I appreciate the gentleman's observation at this time, because it gives me the opportunity to announce that I intend to introduce legislation before we adjourn. My legislation will deal more directly to what our trade policy with the Soviet Union should be. Should we insist that they pay cash or should they be able to obtain our sophisticated technology and capital equipment on credit underwritten by our taxpayers? Should we not carefully scrutinize the use to which they will put our technological know-how and our capital equipment? We must be absolutely certain that our Nation's wealth will not be employed to injure the vital interest of the United States.

We want to make sure that the Soviets and other Communist governments will not use our technology and capital equipment for the purpose of strengthening their military capacity. We want to make sure that the sophisticated technology and capital goods provided by us will not be used by them to create industries and production processes which would be based on slave or semi-slave labor. Because this would lead to unfair practices (dumping on their part), unfair competition to our labor and industry, and it certainly would lead to disruptive effects on our economy as a whole.

Mr. Chairman, I fully intend to address myself to those problems.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I compliment the gentleman on his statement.

He has obviously done a great deal of study on this issue, and he feels very strongly about it.

However, following up the question asked by our friend, the gentleman from California, I would like to ask the gentleman if he is not somewhat concerned about what might happen from his point of view if the Russians were to comply with the elimination of the emigration tax and title IV remains in.

I would like to advise the gentleman that he will have the opportunity to vote against title IV in its entirety, if he wishes, tomorrow, because I intend to move to strike title IV, and I wish to ask him to consider over the evening's deliberations, to consider whether or not it might not better serve his point of view if title IV were, in fact, completely stricken from the bill, thus eliminating any possibility of such negotiation to extend the most favored nation standing with respect to both credit and tariff treatment to the Soviet Union.

Mr. BLACKBURN. Mr. Chairman, I am glad the gentleman from New York raised this question. My answer is: I have every confidence that the Soviet Government will not comply with either the spirit or the letter of the Vanik-Mills Freedom of Emigration Amendment. If they should ever let it be known that the doors of the Socialist "paradise" can be opened from the inside, the Soviet leaders would soon find themselves governing a barren wasteland.

Mr. SCHNEEBELI. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, the stated purposes of the Trade Reform Act are twofold: first, to stimulate U.S. economic growth and to maintain and enlarge U.S. foreign markets; and second, to "strengthen economic relations with foreign countries through the development of fair and equitable market opportunities and through open and nondscriminatory world trade."

These are very broad and fundamental objectives. They envisage nothing less than the construction of a more open, more equitable, and more stable world trading system. The bill provides the basic authorities, subject to carefully defined limitations, for the United States to participate effectively in realistic trade negotiations to achieve these ends.

This proposed legislation is global in its scope. It seeks an orderly international economic order within a structure of peaceful relations. It is both appropriate and essential, therefore, that such a comprehensive bill should include provisions concerning trade with the state trading countries, in addition to the industrialized countries and the developing countries. The structure of peace will not be sufficiently strengthened if the improved trading system is limited to only one part of the world. The new world economic order must include the less developed countries and the Communist nations. We cannot ignore half the globe.

Our own trade relations with the state trading countries—the Soviet Union, the People's Republic of China, and most of the smaller Eastern European countries have for too many years lagged far behind the practices of other major world trading countries. We have seen trade with the Communist countries by our principal allies grow regularly at a rate of increase greater than the growth of world trade as a whole.

By 1971 the total of trade exchanged between East and West had exceeded $24 billion annually—imports plus exports—while the U.S. share of this trade amounted to only $600 million, or only 2.5 percent of the total. The U.S. share of world trade as a whole, was close to 15 percent. If this ratio had applied to U.S. trade with the Communist countries, our trade would have exceeded $3.5 billion instead of $600 million.

In 1972 total East-West trade—imports plus exports—topped $29 billion. The U.S. share of this total had increased to 4.25 percent and amounted to over $1.2 billion. Other important trading countries, however, were still well ahead of us. West Germany's share of East-West trade came to $5.7 billion, Japan's to over $2.8 billion, Italy's to over $2 billion, and the United Kingdom and France close behind, with somewhat under $2 billion each. The countries of the European Economic Community as a group exported close to $7 billion of goods to Communist countries and imported close to $6.5 billion.

The time has long passed when the United States can afford to deny American companies the opportunity to earn needed dollars in nonstrategic trade with Communist areas. In its drafting of the Export Administration Act of 1969 and its amendments thereof in 1972, the Congress has made clear its view that with the exception of necessary limitations on strategic trade, the policy of the United States should be to encourage trade with all countries "except those with which such trade has been determined by the President to be against the national interest."

The proposed Trade Reform Act likewise reflects the objective of seeking fair and equitable trade relations with all nations, without reference to their systems of government or economic organization. This surely should be our aim if we are to have orderly international economic relations in the 1970's.

The Department of Commerce has acted constructively, within the requirements of the Export Administration Act of 1969, as amended, to remove unnecessary restraints on U.S. trade with Communist countries and to encourage actively the exploration of trade opportunities by American firms. A number of other steps have been taken as part of the process of opening up U.S. trade relations with the Communist countries. An East-West trade center has been set up in Vienna to assist American businessmen in contacts throughout Eastern Europe, a trade information office has been created in Warsaw to assist in United States-Polish trade contacts, and a new U.S. commercial office has been opened in Moscow. In addition, a Joint United States-U.S.S.R. Trade and Economic Council was established in October 1973 with broad business participation on the U.S. side. A United States-U.S.S.R. Commercial Commission was founded in May 1972 to "monitor the spectrum of United States-U.S.S.R. commercial relations, identifying and, when possible, resolving issues that may be of interest to both parties." There have been three sessions of the Commission in which a great deal of progress has been made on intergovernmental arrangements to improve the conditions for the conduct of trade. This includes in particular the conclusion of an overall trade agreement between the United States and the U.S.S.R., conditional on U.S. enactment of MFN tariff authority, and the settlement of Soviet lend-lease obligations in October 1972.

Also in 1972 a Joint American-Polish Trade Commission was established and has held several meetings to deal with trade issues, in particular to assure improved arrangements for business representation. Although there are not joint trade commissions with other countries of Eastern Europe; there have been discussions of trade matters and the reflection of interest in further trade development on both sides.

With respect to the People's Republic of China, it is encouraging that trade contacts have developed and that trade has increased so quickly after the President's trip to Peking signalized a reopening of relationships between the two countries.

These developments all indicate that the United States is well on the road toward working out a more normal trading relationship with those Communist countries that have exhibited the intent to improve relations with the United States. It is important that the United States be in a position to respond constructively in the field of trade relations. As we work to broaden the scope of our relationships with the Communist countries and to enlist their cooperation in constructing a safer and more peaceful world, we should also expand our trade and economic interchanges as a proper part of expanded normal relations across the board. Such actions to regularize our economic relations recognize a logical tie between improved political relations and improved economic relations.

The principal remaining barrier on the U.S. side to permitting nondiscriminatory treatment of trade with Communist countries is the existing statutory denial of most-favored-nation treatment of imports from all of the Communist countries except Yugoslavia and Poland. This means that the products of the Communist nations, excepting Yugoslavia and Poland, are subject to the higher 1930—column 2—rates of duty rather than the normal—column 1—rates of duty to which the products of all other nations are subject.

Title IV of the bill makes it possible to extend such nondiscriminatory U.S. tariff treatment to individual Communist countries not now receiving such treatment on conditions which assure that there will be benefits to the United States. Thus, the bill would permit nondiscriminatory tariff treatment to be extended either through a bilateral commercial agreement or through the General Agreement on Tariffs and Trade (GATT), whichever appears the more appropriate in the case of a particular country.

Title IV provides that if nondiscriminatory treatment is extended as part of a bilateral commercial agreement, certain conditions must be met:

First. The agreement shall be limited to 3 years, subject to renewal for additional periods not to exceed three years;

Second. It must provide for termination for national security reasons;

Third. It must contain safeguard arrangements to prevent disruption of domestic markets;

Fourth. It must assure patent rights equivalent to provisions of the Paris Convention for the Protection of Industrial Property;

Fifth. It must provide arrangements

for settlement of commercial disputes; and

Sixth. It must provide for intergovernmental consultations on the operation of the agreement.

The agreement may also contain other provisions that would benefit trade and would be appropriate in terms of the particular country involved. Moreover, any such agreement may enter into force only if neither House of Congress adopts a resolution disapproving it within 90 days after the President transmits a copy of it to Congress.

The essence of the carefully detailed conditions and safeguards in title IV is to create a framework within which the extension of most-favored-nation tariff treatment may be used as a negotiating device to make possible trade arrangements with Communist countries that will be of real value to U.S. trade as well as to the advancement of overall U.S. interests involving the Communist nations. This is a worthy objective. It is fully in the spirit of the President's wish, in connection with East-West relations generally, to move away from confrontation and toward negotiation in resolving international differences.

Title IV of the bill also contains provisions that condition the extension of MFN treatment upon compliance with stated standards of practice on emigration. These provisions reflect the problem faced in the Ways and Means Committee of balancing the very real importance of trade cooperation as a part of generally improved relations across the board with the desire to support free speech and free movement on a global basis. The provisions in title IV that condition the extension of MFN tariff treatment on a certification that citizens of the Communist countries can emigrate freely is intended to link these two concerns. The effect of the provisions, unless they are modified, is unquestionably to make it difficult if not impossible to initiate steps to extend MFN tariff treatment to any of the Communist countries, at least under present circumstances.

The extension of most-favored-nation treatment is a matter of great interest to the Communist countries. They wish both for reasons of national pride and for reasons of economic interest to receive equal treatment in American markets. A pledge by the United States to extend MFN treatment to the U.S.S.R was the key point in making possible the trade agreement and lend-lease settlement of October 1972. The United States-Soviet trade agreement of 1972 is in conformity with the provisions of title IV of this bill, apart from the condition respecting free emigration, but neither it nor the lend-lease settlement become definitely effective until authority to extend MFN tariff treatment is in the President's hands.

The authority to extend MFN tariff treatment to the Soviet Union and other Communist countries is essential if we are to continue in our efforts to further normalize trade relations with these countries. Normalization of trade relations is part of our objective of developing a mutual vested interest in cooperation and restraint in our bilateral relations with the U.S.S.R. We have substantially reduced the risk of direct United States-Soviet confrontation in crisis areas. The extension of MFN is essential to the full implementation of the Ocober 1972 U.S.-U.S.S.R. Trade Agreement and the lend-lease settlement. These agreements would bring benefits to the United States as well as to the U.S.S.R. and the implementation is important if progress is to be made in other fields.

The administration in 1972 on several occasions made known its support for MFN tariff treatment for Romania, a country which has shown significant independence from Soviet influence in its external relations. We have concluded a claims agreement with Hungary whose government has made considerable progress in decentralizing its economy and in relying on the interplay of market forces. Both of these countries—as well as Poland, which has had important trade relations with Western countries for many years—are now members of the GATT, and Romania has recently joined the IMF and the IBRD. The extension of MFN is an important consideration for these and other Communist countries—notably Czechoslovakia, Bulgaria, and the People's Republic of China—in negotiating commercial agreements, claims settlements, consular conventions, and other mutually beneficial arrangements.

In pure trade terms, the fact is that extension of MFN treatment by the United States is of crucial importance to the continued expansion of our own exports to the Communist countries. Our East-West trade has grown dramatically in 1972 and 1973. It is highly beneficial from our standpoint because our exports vastly exceed our imports.

From almost nothing in 1971 our exports to the People's Republic of China in 1973 will reach an estimated $850 million with an estimated $60 million of U.S. imports from the People's Republic of China. This is a favorable trade balance for the United States of 14 to 1. Such an imbalance cannot go on in the longer term unless the People's Republic of China has the possibility of earning dollars through exports to the United States on equal competitive terms with other countries.

Total U.S. exports to the Soviet Union are expected to reach about $1.4 billion in 1973. U.S. imports are estimated at about $190 million, making for an imbalance of 7 to 1 in favor of U.S. exports. The expected increase in U.S. nongrain exports to the Soviet Union from an average of about $135 million in the previous 3 years to almost $200 million in 1973 is helped by the new availability of Export-Import Bank credits and guarantees.

Even with the availability of credits for both agricultural and nonagricultural exports, however, the continued growth of United States-Soviet trade will depend at some point on Soviet ability to increase its sales in U.S. markets.

What is true of the PRC and the U.S.S.R. is also true of the countries of Eastern Europe not now receiving MFN treatment. Their purchases in the United States are running at three times their exports to the United States.

It is not only these economic considerations that argue for providing the President with now long-overdue authority to negotiate on nondiscriminatory tariff treatment with the Communist countries. It is also and even more strongly the political considerations that call for this authority.

Our relations with the major Communist powers—the Soviet Union and the People's Republic of China—are crucial to the maintenance of world peace in the future. We must be realistic in pursuing those relations. It is important to maintain our military strength so that we do not permit ourselves to be found at a disadvantage at crucial points in dealing with major problems. It is also important to test our relationships with the Communist powers by a standard of mutual commitment and mutual performance in finding solutions to problems.

I believe we have been realistic in insisting that there be responsibility in international conduct and that improved relations with the Communist powers not be exploited to weaken our ties with other friendly countries. On this basis it has been possible to make progress in many important ways in our East-West relations.

Progress on trade should reflect and be a part of progress generally with the Communist powers toward more stable international relations. It is logical and helpful that there should be a significant economic involvement of our two systems that parallels an increasingly constructive involvement on other issues. If it continues to be impossible for the United States to give final substance to the important expanded framework of economic relationships worked out with the U.S.S.R. in the October 1972 agreements, this will inevitably detract from the cooperative structure of overall relationships that we are attempting to build. Likewise, if it continues to be impossible to discuss enlarged economic relations based on the negotiation of most-favored-nation treatment with the People's Republic of China, this will diminish the prospects for further broadening of relationship and understanding between our two nations.

The enactment of this bill containing the authority provided in title IV is therefore an essential first step in furthering the movement toward greater understanding and cooperation in our relations with all the Communist countries.

Mr. ULLMAN. Mr. Chairman, I yield 10 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise to address myself to the question of trade to the Soviet Union and specifically in support of the Vanik amendment to the Trade Reform Act of 1973. It is my opinion that it is vital for us to take the step of adopting the Vanik amendment—the only one available to us under the rule granted for the consideration of this bill—to prohibit U.S. credit to the Soviet Union until we have adequate assurances that such credit is in the best interest of this country.

Most of us entertain serious reservations about interfering in the internal affairs of other nations. We would not like it, for example, if some other nation tried to tell us how we should set quotas on those allowed to immigrate into our country each year. However, there are times when policies of certain nations are so repressive and devoid of basic humanitarian considerations that we cannot ignore them and act as if they did not exist. When we give a nation most favored nation trade status, which allows them to sell their goods in the United States with the lowest tariff charges, and especially when we extend credit to them from the hard-earned tax dollars of our citizens we are not fulfilling a right they have but we are extending a privilege to them.

Certainly we have the right, Mr. Chairman, to withhold any or all trade or financial assistance until we are satisfied that any nation has met certain basic standards we feel all human beings should be granted by their government. The Soviet Union is a closed society which does not tolerate the slightest criticism of the state. Our papers carry almost daily accounts of Soviet persecution of intellectuals, artists, or scientists who dare to question any decision or policy of the Soviet Government.

Mr. Chairman, I am well acquainted with the arguments of those who believe if we greatly expand trade with the Soviets by granting them most favored nation and long-term credit that our example will lead them to liberalize their immigration policies, move toward a more open society in which at least minimal dissent will be tolerated, and reorder their priorities between military and civilian programs. But such an approach is to put the cart before the horse. Let us first gain some assurances that they are ready to join the family of civilized nations by abandoning policies of internal repression and external conquest. The stakes are much too high for us to take the gamble and the risk when we hold the cards.

It is rather obvious that there is something basically wrong with a society which must erect an iron curtain or any other type of barrier to prevent citizens from immigrating to another country. There is something basically wrong with a society which deprives its citizens of simple domestic goods and services while spending inordinate amounts of its GNP on military matters.

The Vanik amendment is a good amendment for a number of reasons: First of all, it focuses on a humanitarian issue that should concern all of us who believe that man has a right to be free. Second, it does not deprive the Soviet Union or any other non-market nation of any responsibility—moral or otherwise—we have toward them. Third, it tells the world that we still cling to certain residual requirements for the treatment of human beings in any part of the world which cannot be compromised with our blessing. Fourth, the passage of this amendment will give us much needed time to thoroughly examine all the issues involved in the trade question as they relate to our economic policies, national security concerns and all the rest before we plunge headlong into a venture with so many potential consequences. Things have happened so rapidly since the Moscow Summit of May 1972, I am afraid that many people have not even stopped to assess the importance of these developments. The Soviet Union has already received millions of dollars in credit not only from the Commodity Credit Corporation but also from the Export-Import bank and preliminary commitments have been made for additional millions. At the same time projects are being studied involving billions of dollars of U.S. loans along with extensive sharing of our technology especially in connection with the Soviet oil and gas deposits in Siberia.

It appears to me that long-term credit with a subsidized interest rate, which, in effect, causes the American taxpayer to pick up the tab on part of the interest on money borrowed by the Soviet Government, is a giant step that must be carefully and extensively examined by the Congress of the United States. I personally believe that it would be a breach of confidence with the people who sent us here to represent them if we did not give such a move our most extensive deliberations. Logic would lead us to the unavoidable conclusion that extension of credit to the Soviet Union will make it easier for her to continue to divert over 12 percent of her GNP to the production of military hardware. I fail to see how this could possibly be in our best interest.

I submit, Mr. Chairman, that in our consideration of the granting of MFN status and credits to the Soviet Union, we should first stop and reflect upon why we spend approximately 80 billions a year on defense. We do not spend 80 billions because of the threat presented by Cuba. We do not spend 80 billions a year because of the threat presented by Red China. We are spending 80 billions a year primarily because of the threat which the Soviet Union presents to world peace.

In view of Russia's recent action in the Mid-East war, it is difficult for me to see where Russia has changed its objective of world domination through international communism.

I am not a businessman, Mr. Chairman, as I have pointed out on several occasions. I am a lawyer, an accountant and a teacher by training and experience and having held public office for better than 20 years, some people might call me a politician. If I were a businessman, and I had a product to sell, I would sell that product to my enemy as well as my friends, as long as I received a price which I thought was mutually advantageous, or personally advantageous to me. But I will be damned, Mr. Chairman, if I would lend that enemy the money to put me out of business.

This question of trade with the Soviet Union is of such importance that I have directed the staff of the Committee on Internal Security which I chair to do a preliminary staff study on the possible threats to national security that might be involved. As far as I can determine no committee or subcommittee of this House or the Senate has done an in-depth study on the potentially adverse effects that massive trade, extensive credit and exportation of our technology to the Soviet Union could have on the security of this Nation.

I am also concerned that no one committee has been in a position to tie together the various and diverse aspects of the trade question in a whole picture for our consideration. At least nine committees of the House of Representatives have an interest in and responsibility for one or more of the ramifications of expanded trade with the Soviet Union. With this thought in mind, I am now preparing a resolution to establish a temporary special committee with representation from all of these committees to thoroughly investigate the subject and report back to the House and the respective committees their findings.

Mr. Chairman, I urge the adoption of the Vanik amendment.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from California.

Mr. CORMAN. Mr. Chairman, I thank the gentleman for yielding to me. I would view with discretion that portion of the gentleman's presentation which seems to me makes something much more out of the Vanik amendment than it really is. It has nothing to do with us looking at whether or not it is in our own interest to grant credit or grant MFN status to the Soviet Union. The single question raised by the Vanik amendment is whether or not the Soviet Union uses racial or religious discrimination in their emigration policy.

Mr. ICHORD. I will ask the gentleman from California, does he feel at the present time the President of the United States could make a finding that the Soviet Union is not persecuting its Jews by its emigration policies?

Mr. CORMAN. No. sir; not at all.

Mr. ICHORD. Then I think the question answers itself. The amendment will effectively preclude MFN status and credit being extended to the Soviet Union.

Mr. CORMAN. I want to make it clear that I support both of those. I supported the Vanik amendment in committee. I will support the amendment on the floor.

Mr. ICHORD. I understand that.

Mr. CORMAN. The truth of the matter is that I call to the gentleman's attention the fact that the only way that we take away from the Soviets the power to determine whether they are to get MFN is to strike title IV. That is why the present speech and the previous speech made a better case for striking title IV than they do for the Vanik amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ULLMAN. I yield 1 additional minute to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman. Let me point out to the gentleman from California that I am not opposed to trade with the Soviet Union as long as it is mutually advantageous, but I am opposed to extending them credit making it much easier for them to continue to divert so much of their gross national product to the production of military hardware. I would point out to the gentleman that even without this bill credits are being extended to the Soviet Union at the present time, and I oppose this.

Mr. CORMAN. Yes, sir.

Mr. ICHORD. The Vanik amendment will have the effect of stopping further extension of credits to the Soviet Union unless they change their emigration policies.

Mr. CORMAN. Yes, sir.

Will the gentleman yield further?

Mr. ICHORD. I yield to the gentleman from California.

Mr. CORMAN. I thank the gentleman for yielding.

My point is that it is within their power to stop their discrimination.

Mr. ICHORD. I fully agree with the gentleman.

Mr. CORMAN. That is the only point I want to make.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I make no great pretense of detailed knowledge of Soviet politics, although I did receive my master's degree, long before I got in politics, in Russian Studies. I just want to make one observation. I, frankly, am not certain whether the extension of credits to the U.S.S.R. is in our national interest or not. I suspect what they want more than anything else is access to sophisticated American computer technology which will enable them to plan in a much more sophisticated way than they have been able to do up to now. As I said, I am not sure that that is in our long-range national interest, but just as surely as I stand here, I am sure that it is not in the long-range interests of the Jews who remain in Russia for either the language in this bill or the language in the Vanik amendment to pass.

I would make the simple prediction that Soviet Jews, if the language in this bill or the language in the Vanik amendment passes, will be worse off than they are today for one very simple reason. I think one can imagine how far any of us would get if we stood on the floor of this House and said:

"Well, the Russians say that we have to change our emigration policies or they are not going to do this or that with us, or they will not deal with us correctly on the Middle East."

I think the Members know how far each one of us would get if we said:

"Well, fellows, since Brezhnev says that is what we ought to do, that is what we had better do."

I submit to the Members that Mr. Brezhnev, although his political system is quite different from ours, is in precisely the same position as a politician. I do not believe he can go to his Politburo and say:

"Well, fellows, because the American Congress dictates we have to change our emigration policy or they will not trade with us, we had better change our emigration policy."

They are not going to do it. It is going to be more difficult for Russian politicians in positions of leadership to change Russian emigration policy as far as Soviet Jewry is concerned if we pass the language in this bill, or if we pass the Vanik amendment, than if we do nothing at all.

I would simply say that it is possible I think to draft language which could take care of this problem in a more sophisticated way and still provide Mr. Kissinger with the latitude he needs to negotiate with the Russians and provide at the same time for some assistance to Soviet Jewry, but I do not believe this language does it, and obviously under this rule we have no chance of changing that language.

Mr. SCHNEEBELI. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Chairman, I am deeply grateful to the gentleman from Pennsylvania for yielding me this time and I want at the outset to applaud the patience and perseverance and fortitude of the distinguished Committee on Ways and Means for their stick-to-it-iveness in being able to sit here until 6:35. I hope I am the clean-up hitter and I shall listen with renewed interest to the vigor with which the debate takes up tomorrow morning.

While I must admit every American industry has a vested interest in the trade bill now before us. I doubt that anyone stands to lose more than America's dairy farmer. The emergence from the Department of Agriculture of the so-called Flanigan report brought legitimacy to a perennial fear in America's dairy community that its rights would be "trade-off" for concessions from our GATT partners in the areas of beef, soybeans and feedgrains. While we all know the Flanigan reports is but one of many studies on the subject of agricultural trade negotiations, its "pie in the sky" philosophy has caused great concern among all of us who respect the productivity of America's farmers.

Few of us can ignore recent trends in the American farm community. Even if we had no preponderance of agri-business in our home districts, we all represent nearly one-half million price and quality conscious consumers. What we conclude here this week will have a significant effect on the future of American farmers and consumers alike.

Dairy farming, like all of agriculture, is in a convulsive state of flux. In addition to the changes that are taking place throughout agriculture, the dairy farmer is experiencing additional stresses that are compounding his problems. His production costs, especially soybean/protein supplements, have rapidly outstripped his returns over the past year. Economic stabilization actions, particularly the wage-price freeze, have severely limited his ability to recover the necessary costs of production. These factors, coupled with several recent actions to expand product imports, have led many dairy farmers to leave the dairy business because of inadequate prospects for future returns on existing investments. Recent USDA figures show that in January of 1973 milk production, in Wisconsin alone, was increasing at the rate of 1 percent annually. By September of this year, production had fallen off over 9 percent from the same time in 1972—tragic but obvious proof that the emigration crisis facing our dairy industry is a real one.

The dairy farmer faces a crisis of confidence in his market. In order for him to remain in business or for a prospective dairy farmer to make the investment needed to develop an economical facility, he must have some assurance that a stable market will exist. Otherwise, he cannot recover his cost of production, let alone expect a reasonable return.

It must be recognized that "free trade," as it is generally understood, is virtually nonexistent in world dairy markets. The European Economic Community, in particular, presently provides a very high degree of protection and assistance to its dairy producers in the form of high levies on imports and export subsidies designed to enable their produce to penetrate world markets. The list of examples is endless and outrageous:

(a) support prices of $6.79 per hundredweight on milk, as compared to $5.61 in the United States,

(b) a 38.3 cents export subsidy on butter and 37.78 cents per pound of cheddar cheese—November 1973.

In fact, last winter the EEC was so intent upon increasing their butter exports, in the hope of keeping their inefficient dairy farmers in business, that they sold 440 million pounds to the Soviet Union at 19 cents a pound. To make the sale possible at that price, the Community paid an export of more than 80 cents a pound—a 420 percent subsidization of actual sales value.

Subsidies notwithstanding, the EEC dairy produce is not exposed to the rigid sanitary supervision of American products. As my colleague and friend DAVID OBEY has noted in the July 19, 1973, CONGRESSIONAL RECORD: over 10 percent of all imported cheese is rejected at the point of entry into this country because it is "moldly or contaminated with insect larvae, unsafe chemical substances such as dieldrin or benzine hexachloride and other assorted junk." And, to make matters worse, most dairy imports are subject to spot checks only—which means most contaminated produce from foreign countries finds its way to our tables.

European nonfat dry milk, labeled by the USDA as too contagious to feed to our livestock due to contamination with dreaded foot and mouth disease bacteria, is instead fed to the American consumer. This type of unequivocably inferior product, by law, can never come out of American dairy plants, yet certain people, including Mr. Flanigan's committee, insist on increasing European imports!

All other things being equal, the American dairy farmer has nothing to fear. If EEC sanitation standards, subsidization levels, and general dairy technology were required by law to be equal to that of American standards in order to sell abroad, the EEC would soon lose virtually every world account they now command on the mistaken premise of efficiency and productivity.

The American dairy industry does close to $20 billion of business annually. And no one benefits more from a healthy dairy industry than the American consumer. If our dairy farmer, whose average age is already over 50 years old, is allowed to continue his emigration from the farm, we may soon see the greatest American food crisis yet.

Unlike beef, pork, and cheese, we cannot import fresh raw milk. How many mothers, especially those who are already caught in the price squeeze, want to pay double or triple what milk costs today, or, even worse, force their children to go without, because there simply is no milk available. Even if the EEC or New Zealand could supply our butter and cheese needs on a priority basis, America's dairy farmer would be so disheartened that a raw milk crisis would soon be inevitable. Moreover, we must have a healthy "hard product" market to sustain the weekly fluctuations in demand for fresh milk. Without a demonstration of confidence, America's dairymen will continue to sell out and move to the cities.

During the August recess, I had the opportunity to visit at length with consumers as well as dairy farmers. The price and availability of all food products was the prime subject of concern for everyone. While many farmers had already sold out or were culling their herds, I began to realize if something were not done soon, milk would be the next food product in short supply.

Upon my return to Washington, I wrote a letter to our distinguished colleague from Pennsylvania, HERMAN SCHNEEBELI. I raised my concerns over the viability of the Flanigan report and how the dairy importation problem would be dealt with in committee markup. His response was most heartwarming. While I would like to submit the entire text of his return letter into the RECORD, I read in part:

> With more specific reference to dairy, I sought and received firm assurances from the Administration that protection for our own dairy industry would not be the subject of negotiation unless dairy policies of our major competitors also were on the table. Secretary Butz specifically acknowledged, in public testimony before the Committee, "that the dairy industry has been highly protected around the world. Surpluses have built up and certain of our trading partners have resorted to large export subsidies in order to market these surpluses. In a liberalized trading situation, we would expect that these export subsidies would be terminated, thereby ameliorating much of the adverse effect for U.S. producers."
>
> I do not regard these as empty assurances. In any case, we will have the opportunity to judge the result for ourselves, since any negotiation conducted by the Administration covering dairy would have to come back to the Congress for review and could be vetoed if a simple majority of the members of either House felt the settlement obtained failed to provide fair competitive terms for the dairy industry.

A further clarification of the administration's position was released on Friday, September 28. In a speech before the American Society of Agricultural Consultants in Atlanta, Ga., Special Trade Representative to the President, William Eberle, said, and I quote:

> As to the daily question, let me say flatly that we do not contemplate trading off our dairy industry in exchange for benefits for our grain producers. . . Our dairy industry is highly productive. Surely it cannot pay to ship feedstuffs from the U.S., feed lower productivity cows in Europe, produce dairy products from those cows in Europe, and then ship such products back to the U.S. at prices lower than our domestic production without the influence of enormous subsidies and other distorting policies.

Again, I would like to submit the entire releases made by Mr. Eberle on September 28, 1973, into the RECORD.

Finally, I would like to extend my compliments to the fine presentation made by AL ULLMAN, HERM SCHNEEBELI, and their fellow members of the Ways and Means Committee on the dairy question in the committee report. Specifically, in regard to nontariff barriers, the report of the Ways and Means Committee states:

> In addition, the bill includes a provision stating that the attainment of competitive opportunities for our exports in developed countries equivalent to those accorded in our market to imports is to be a principal U.S. negotiating objective with respect to trade agreements on nontariff barriers. U.S. negotiators are to seek equivalent market access and equality of treatment, as between countries, for agricultural products and for product sectors of manufacturing. To the maximum extent, feasible and appropriate, negotiations on nontariff barriers are to be conducted on the basis of product sectors to achieve this negotiating objective.
>
> It is the committee's intention that, where feasible, competitive balance should be sought for major product sectors within industry and agriculture. Industrial product sectors are to be defined by the Special Representative for Trade Negotiations together with the Secretaries of Commerce or Agriculture, as appropriate, and after consultation with the Advisory Committee for Trade Negotiations and interested private organizations. The product sectors may be broad in scope as appropriate to best accomplish the negotiating objective.
>
> While the bill does not specifically require the establishment of product sectors in agriculture, it is the committee's intention that, where feasible, competitive balance should also be sought for major agricultural products. Concern has been expressed that provisions benefiting our domestic dairy industry would be negotiated away in order to secure greater access for other agricultural exports, with little regard for the severe discrimination and high level of protection afforded dairy products by our trading partners. But the Administration has assured the committee that protection for our own dairy industry would not be the subject of negotiation unless dairy policies of our major competitors were also on the table.
>
> The committee fully expects that the Administration will, to the extent feasible, use its authority to provide equivalent market access for agricultural products.

In regard to this language, let me conclude by referring to the language in the bill and the committee report on these points. As the gentleman knows, the bill requires that negotiations on nontariff barriers insure equivalent market access and equality of treatment in product sectors to the extent feasible. I would like to ask the gentleman from Oregon if my understanding of the use of the term "to the extent feasible" in the bill and the committee report is correct. I assume this means that where nontariff barriers are applicable to product sectors on both sides of the bargaining table there would be mutual give and take on a reciprocal basis with respect to these products.

With specific reference to the dairy industry, I assume this is what is meant by the statement in the committee report "that competitive balance should also be sought for major agricultural products" and that "the administration has assured the committee that protection for our own dairy industry would not be the subject of negotiation unless the dairy policies of our major competitors were also on the table."

Does the gentleman agree with this statement?

Mr. ULLMAN. If the gentleman will yield, the gentleman raises a very important point. The Committee on Ways and Means felt very strongly that fairness demanded that where we open our markets to a range of foreign goods that our producers of similar goods be given the same type of opportunity when they sell abroad. We spelled this out in the bill, in section 102, as a principal negotiating objective in the nontariff barrier area.

The gentleman questions the intent behind the use of the phrase "to the extent feasible." We recognize that the measures we impose in the United States and those that are found abroad do not match perfectly. In some cases it may not be possible to achieve the reduction or removal of a nontariff form of protection for a particular product without tradeoffs in concessions among other product sectors. For one thing our trade interests naturally differ from those of our trading partners, otherwise I suppose that there would be very little basis for trade at all.

But the flexibility that we have provided when measuring the negotiating results in terms of the equivalency of competitive opportunities available here and abroad, would not serve as an excuse for not engaging in hard bargaining on foreign trade barriers on a given product sector when our own market is being opened up in that sector.

Mr. STEIGER of Wisconsin. I appreciate the gentleman's statement because we should make it absolutely clear that where there are NTB's on both sides of the bargaining table, there must also be a mutual give and take on a product basis. Because of certain EEC policies and problems, our trading partners already are asking us to yield on nontariff barriers on selected dairy products. With these factors in mind. I hope the gentleman from Oregon will take this opportunity to make it very clear that our negotiators cannot decline to bargain for competitive balance on a product basis simply because "it is not feasible."

Mr. ULLMAN. I already have responded to similar questions with respect to dairy products. Again, let me emphasize the fact that the Ways and Means Committee, and I am sure this House will hold the Administration to its commitment that domestic measures of particular interest to our own dairy industry will not be the subject of negotiation unless dairy policies of our major competitors were also the subject of negotiation. We expect the President to live up to the negotiating objective of seeking competitive balance for major agricultural products, including specifically dairy. When any nontariff barrier agreement which affects dairy products is returned to the Congress, we will examine it closely to see whether the negotiating objective contained in the bill was in fact honored.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Illinois.

Mr. COLLIER. There are cases where it would be impossible for our negotiators to negotiate on a rational basis a nontariff barrier. One good example of this, which is widely prevalent is on local government and State contracts where bids specifically prohibit the use of structural steel or many things that might go into that contract. It is done by State and local law and, therefore, is preempted by any action that might be taken.

(At the request of Mr. SCHNEEBELI, and by unanimous consent, Mr. STEIGER of Wisconsin was allowed to proceed for an additional 2 minutes.)

Mr. STEIGER of Wisconsin. Mr. Chairman, I appreciate very much the comments of the gentleman from Illinois.

I yield to the gentleman from Wisconsin (Mr. FROEHLICH).

Mr. FROEHLICH. Mr. Chairman, I would like to associate myself with the remarks on the dairy problem of my friend and colleague from Wisconsin BILL STEIGER, and thank him for the excellent work he has done to clarify the intent of the Congress in regard to the dairy question. I also want to thank AL ULLMAN, HERM SCHNEEBELI and their fellow members of the Ways and Means Committee for the reassurance they have given to the American dairy community in the committee report on the Trade Reform Act of 1973.

While the very best reassurance to dairy farmers would be in the form of specific language in H.R. 10710, I fully understand that this is not in keeping with the philosophy of the entire bill. My remarks today are not intended to underestimate the reassurances of the committee, but rather to reemphasize their absolute and undeniable importance.

The Trade Reform Act provides opportunities for American agriculture in general, but it also holds great liabilities for America's dairy industry unless the intent of the Congress is known and understood by the administration. We all know that benefits can result from reducing nontariff barriers and increasing accessibility to foreign markets. But, we know equally well that to achieve these ends, we will have to make concessions of our own.

It is the responsibility of the Congress to insure that these concessions are made on a quid pro quo basis in each product sector—not for the benefit of one sector at the disastrous expense of another.

In fact, however, the dairy farmers of my district are deeply apprehensive about the flexible language in this bill, especially in light of the Flanigan report and similar suggestions that their interests be traded away for benefits to our soybean, beef, and grain producers. While such tradeoffs may appear attractive to some, I am convinced that they would be disastrous for our dairy farmers and even more catastrophic for the American consumer. I am pleased that the committee has recognized these implications and seen fit to articulate congressional opposition to these expedient procedures for the upcoming trade negotiations.

The American dairy farmer has lived with frustration and disappointment for years. The Flanigan report is merely the culmination of this consternation in its most dreaded form—the elimination of protection for our dairy farmers with little or no reductions in the outlandish dairy protection policies of the EEC nations and other countries. Though this report is only one of many alternative suggestions, any serious contemplation of its recommendation would ruin America's dairy industry—and that would work severe hardship on 200 million consumers.

The American dairy industry has a history of making burdening investments in order to produce the finest products available anywhere in the world. It operates under stringent sanitary and production requirements enforced by the Federal Government for the benefit of all consumers. And it is not an overstatement to say that many farmers have gone for years realizing only minimal profits on the investments they have made—profits that would be totally unacceptable in most other industries.

Dairy farming simply is not a lucrative business. It takes an enormous dedication and a good dose of faith to make a go of it. But dairy farmers need more than faith to live. They need a solid, stable market for their hard products to counter the fluctuations in demand for raw milk. Without this market, they cannot produce milk for cheese and butter production, let alone milk for the consumer's table.

Yet, when demand is strong and prices rise, the Government consistently takes action to deny the farmer the opportunity to recoup the losses he has suffered in years gone by. This was the case three times this year alone; on April 25 when cheese imports were increased; again, on July 18 when quotas on nonfat dry milk were lifted; and a third time on November 1 when butter quotas were suspended. Not only have these shortsighted policies introduced instability to the domestic market for hard dairy products, but, in fact, they have reduced milk production altogether, and driven hundreds of farmers from the rural community. The implications that the farmers fear in this bill are not only that it will further reduce their market, but that it will put them out of business permanently.

All of this is totally unnecessary. The American dairy industry is the most efficient in the world. And, it could be a great positive factor in our balance of trade if it was competing on an equal footing with foreign dairy producers. Mr. STEIGER has positively shown that this equal footing does not exist under the present trade policies of our partners in Europe. But more than this, he has shown the state of desperation that afflicts foreign producers, as evidenced by the outrageous export subsidies and import levies that their governments support. Their products might be cheaper than our own in some cases, but this is not because they are better, only because their farmers are paid great sums to export and are totally protected from foreign competition.

When this fact is seen in light of the lack of sanitary requirements in many of those foreign nations, one begins to respect the American dairy farmer for his quality mindedness and efficiency. Anyone can produce inferior products cheaply, but it takes a great ability to produce quality products at competitive prices.

Let's take a look at the hard facts of the situation. In fiscal year 1972, nearly 10 percent of all inspected dairy imports were rejected for not meeting American standards—many did not even come close. Examination of FDA commercial import detention reports reveals that these import rejections were so low in quality as to make one nauseous at the thought of the filth they contained. When we understand that only 15 percent of dairy imports are ever inspected, it makes you wonder how many Americans are exposed to this garbage because 85 percent of it is never inspected at all.

To sacrifice the domestic markets of our own dairy producers will most certainly lead to increasing emigration from rural areas. As our colleague from Wisconsin has pointed out, it will also lead to the unavailability of milk for the American family, simply because farmers will no longer exist to produce that milk—and, despite the willingness of our foreign competitors to dump their products on our markets, they will not be able to provide us with raw milk. While the consumer might save a few pennies by importing our hard dairy products, I seriously doubt that he will be pleased by huge increases in milk prices and the dangerously low quality of other imported dairy products.

For all these reasons and many, many more too numerous to mention, it is with some relief that I view the intention of the Congress as expressed in the committee report. I appreciate the understanding shown by our colleagues on the committee and the knowledge that if this bill passes the negotiated results of these trade talks will necessitate congressional approval before they are implemented. But I will not be happy until those negotiations are completed and I know that the American dairy farmer has not been sacrificed once again.

Mr. STEIGER of Wisconsin. I appreciate very much the comments of the gentleman from Wisconsin (Mr. FROEHLICH).

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding. I think he has made a fine contribution.

The trade reform bill on the floor today and tomorrow will touch the life of everyone in this country, and the lives of many millions of people abroad as well.

We can talk about this bill in broad, general terms like balance of payments, comparative advantage and economic expansion. But such generalizations do not answer the question that most people will ask: "How's it going to affect me?"

One group especially and justifiably concerned are the thousands of dairy farmers in Wisconsin and their counterparts throughout the country. When they think of world trade they ask a very basic and vitally important question: "Is the United States willing to cripple one important domestic industry—the dairy industry—in order to promote exports in other agricultural commodities?"

I am very pleased, indeed, that the report on this trade measure, and remarks by members of the Ways and Means Committee clearly indicate that it is the intent of the Congress that this not happened.

The reason they are forced to ask that question can be traced back to a once secret document called the Flanigan Report. This report was written over a year ago, and recommends the elimination of essentially all international trade barriers regarding agriculture, and an end to price supports for agricultural products in Europe and the United States. It suggests a tremendous increase in U.S. grain exports to European countries and Japan and an increase—on the order of $1 billion—in dairy imports to the United States.

What worries dairy farmers, and those of us concerned about the health of the dairy industry, is that in many ways this administration seems to be already implementing those recommendations.

The price support for milk was kept at its legal minimum of 75 percent of parity until the Congress increased it to 80 percent of parity last Fall, and Secretary of Agriculture Earl Butz has suggested that the minimum support level be eliminated altogether. And, in addition to that, over 400 million pounds of additional dairy products, especially non-fat dry milk and butter, have been imported into the country since December, 1972, mostly on an "emergency" basis.

Mr. Chairman, some people think dairy farmers are overreacting to all this and are edgy for no good reason. One nameless USDA official quoted in the Wall Street Journal recently said that dairy farmers were "paranoid."

But I think they have reason to be concerned. When you couple this administration's import policy and its determination to keep price supports at basement levels, with twists and turns in its economic stabilization policy and accelerated costs of production in the dairy industry, you know farmers have something to worry about. The result has been decreasing numbers of farmers, decreasing numbers of cows, and decreasing amounts of milk.

Every month for the past 12 months, we have had a decline in milk production compared to the same month a year ago. In Wisconsin in September production was down a record-breaking 9 percent, and 30,000 fewer cows were being milked than a year ago. And, while the Secretary of Agriculture would have us all believe that farmers are wallowing in newly found wealth, the fact is that from January through October of this year, gross incomes for dairy farmers increased 10 percent all right, but their costs of production increased 20 percent.

When the latest monthly figures came out, one newspaper reported that the picture for the American dairy farmer is bright, if he intends to sell his cows for beef and take it easy.

As serious as this may be for dairy farmers, the consumer has plenty to worry about too.

The administration has made no bones about the fact that dairy products were being imported to keep a lid on dairy prices at home, even though those prices lagged behind farmers' costs of production.

I can foresee the day, Mr. Chairman, if that is allowed to continue, that so many dairy farmers will call it quits that we will have to rely on imported dairy products to meet our needs. Lord knows, we should learn from our oil shortages today what happens when we grow to rely heavily on imports for anything. Just as with oil, if we grow dependent on others for our dairy products, the price of cheese, now kept artificially low by export subsidies, will rise substantially and we won't have any help in meeting our fluid needs at all.

I think we can forestall that unfortunate set of events if we guarantee dairy farmers a decent price for their milk and decent incomes for their families. We can help too if we have a more balanced import policy than that suggested in the Flanigan report.

I am glad to see that the administration has changed its tune in recent months and that it now seems less anxious to sell the dairy industry down the river in order to increase our sales of feed grain and soybeans. I think it is important during the debate on this bill that we set down for the record some of what they've been saying.

For example, Agriculture Secretary Butz said on November 27, 1973, that—

> This administration is prepared to put the matter of quotas on the negotiating table, but we're not going to give them away. We'll fight to prevent the dumping of subsidized dairy products in the United States.

Under Secretary of Agriculture Phil Campbell used almost the exact same language in a speech in South Dakota a month earlier.

In early November, Assistant Secretary of Agriculture Clayton Yeutter said:

> The Department of Agriculture will fight to prevent the dumping of subsidized dairy products on the dairy markets of the United States. In the long run there can be no rational alternative for free trade, but all farmers of the world will have to compete on an equal basis—and U.S. dairy farmers will have to have free access to all markets.

Perhaps of greatest importance was the remark referred to earlier by my colleague, Mr. STEIGER made by the President's Special Representative for Trade Negotiations, William D. Eberle, who said that the United States does not contemplate "trading off our dairy industry in exchange for benefits for our grain producers."

Mr. Chairman, there is one other subject of importance here which may be outside the scope of this bill, but which is certainly not unrelated to what I have been discussing. That is sanitation standards for the dairy products which are imported into this country.

Consumers in this country have become accustomed to uniform high quality in their dairy products. This grows out of the system of Federal, State and local inspections of the plants where milk is processed and the farms where it is produced. The dairy industry, from the farmer through the retail outlet, has invested millions of dollars to develop this high quality and to maintain it.

We have no real knowledge of the conditions under which imported products are produced. There are no legal requirements that they be produced under conditions similar to those established or required in this country. There is an inspection program administered by the Food and Drug Administration which makes an inspection of a random sample of imported dairy products. Due to a lack of adequate funds and manpower, this program falls far short of inspecting all but about 15 percent of the dairy products imported into this country. And, during a period of expanded imports such as we have seen this year, that percentage is even lower.

Even so, FDA reports are filled with notices of seizure of imports for such reasons as the presence of pesticide residues, filth, failure to conform to established product standards, or just plain unfit for human consumption.

It is because of my concern that such conditions should not be allowed to exist that I introduced with 30 cosponsors the Foreign Dairy Quality Act of 1973. That legislation would establish firm inspection requirements for farms producing milk and plants processing it into dairy products for import into the United States.

I am hopeful that the Congress will act on that legislation some time early next year. It would not only equalize the efforts American and European dairy farmers must make to produce wholesome products, but would help to shatter the myth that European farmers have an advantage over U.S. dairy farmers in efficiently producing milk.

We would, however, still have to solve two basic problems which face the international dairy industry. One is a constant fluctuation between surpluses and shortages and the other is the use of export subsidies which today make a mockery of so-called "free trade" as far as dairy products are concerned.

Last spring in Strasbourg at a meeting on agricultural policy attended by United States and Common Market officials, I suggested that a negotiated international agreement among major dairy producing countries, with minimum prices for dairy products, is one way we could bring equitable prices to the world's dairy producers. There is ample authority under this trade bill for the United States to conclude such an agreement.

I encourage our trade negotiators to do so. But let them also keep in mind that under this legislation, before any such agreement is formalized the President is required to notify Congress, and either House could veto the proposal if—in this case—it felt the dairy industry was being compromised. If and when such an agreement is signed, as I hope it will be, I am sure that a number of us in Congress will be scrutinizing it very carefully.

Mr. SCHNEEBELI. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Pennsylvania.

Mr. SCHNEEBELI. Mr. Chairman, I would like to commend the gentleman for his efforts. He has spoken to me many times about the fact he would like to see the dairy farmers and agricultural workers have justice in this area. He has been very thoughtful and very thorough. I agree with the evaluation just submitted by the gentleman from Oregon.

Mr. STEIGER of Wisconsin. I appreciate the comments of the gentleman.

Mr. ULLMAN. Mr. Chairman, I yield myself 1 minute. Does the gentleman from Pennsylvania have any additional requests for time?

Mr. SCHNEEBELI. Mr. Chairman, if the gentleman will yield, I would like to reserve 20 minutes for tomorrow, the balance of our time, for general debate.

Mr. ULLMAN. Mr. Chairman, we have no further requests for time.

The CHAIRMAN. Does the gentleman from Pennsylvania yield back all time, except 20 minutes?

Mr. SCHNEEBELI. Yes. I yield back all but 20 minutes.

Mr. ULLMAN. Mr. Chairman, I would also say that Mr. DENT also has some time left. He was not able to be here this evening. He has 19 minutes. I reserve 20 minutes for tomorrow.

Mr. REUSS. Mr. Chairman, the Trade Reform Act before the House today is a good bill. We can take pride that at a time when the United States is caught up in its own morass of problems, from the scandals of Watergate to the growing fuel shortages, the bill does not fall victim to the isolationist or restrictionist sentiments which these domestic difficulties might otherwise have spawned.

The bill provides the President with the authority to proceed with negotiations to reduce trade barriers. The United States was instrumental in the call for this round of multilateral trade negotiations in the discussions prior to the 1971 Smithsonian Agreement. It is right that we should now be prepared to grant the President the power to carry out our earlier initiative. The bill permits the President discretion to eliminate tariffs below a minimum level of 5 percent, and to cut by fixed proportions those above this minimum. While I would be in favor of a broader tariff-cutting authority, which would allow the United States to bargain for freer trade, the bill provides adequate leverage to get further negotiations underway.

The bill also gives the President authority to bargain away a range of nontariff barriers—NTB's—on a mutually advantageous basis. These provisions are rightly subject to congressional approval. Such power to negotiate on all fronts to remove blocks to free trade is an essential requirement of effective international economic negotiation. The right of congressional veto over the elimination of any specific nontariff barrier limits the power of the President to act independently, and preserves for the Congress the necessary degree of control over foreign economic policy. The requirement of sectoral reciprocity in eliminating nontariff barriers unfortunately narrows the scope of negotiations to areas where such reciprocity exists. This limitation differs markedly from our tradition of conducting trade negotiations on the basis of overall reciprocity. But the total authority granted the President permits us to proceed toward promoting open and nondiscriminatory world trade.

I am happy to see that the bill provides a strong statutory basis for the Office of the Special Representative for Trade Negotiations. These provisions assure a clearer focal point for the formulation of U.S. trade policy, and a greater degree of independence for our chief negotiator.

The bill also provides for adjustment assistance to help workers and firms hurt by imports to move into lines of production that can survive without the need of protection. Such measures are essential to protect individuals from undue hardship resulting from freer trade. While the actual provisions could be more generous, they do provide the basis for dealing with the very real human problems which will arise as we move to rationalize the international division of labor. They are also the minimum we can provide to meet the very real concerns of labor to protect their members.

The bill wisely grants a generalized special tariff preference for exports of developing countries. Such provisions will help develop and strengthen the manufacturing sectors of poor countries which rely so heavily on these trade receipts. Most of the developed countries have already extended similar provisions for duty-free treatment to exports of developing countries. Now the United States, which was one of the early promoters of generalized preference, will join in.

It is regrettable that the trade bill includes no provision to change the tax treatment of multinational corporations. American subsidiaries should pay similar taxes on the profits from their overseas operations as their parents do here on earnings from domestic operations. Labor's concern about exporting jobs is a real one, particularly if we are subsidizing overseas operations through preferential tax treatment.

My only major reservation is the balance-of-payments authority delegated to the President under section 122. This seems superfluous and unwise. If the United States continues to let the dollar float in exchange markets, as we are wisely doing now, the exercise of this authority would prevent the deterioration or appreciation of the external value of the dollar which would be necessary to eliminate a balance-of-payments deficit or surplus, as the case may be. On the other hand, if we should ever revert to a fixed exchange rate parity for the dollar, the time limit proposed of 150 days would be much too short to allow a reversal in basic economic conditions sufficient to restore a satisfactory balance-of-payments equilibrium. I do not suggest that the 150-day limit be extended. Such a proposed delegation of power to the President is already too sweeping, particularly as we have not chosen to specify which balance-of-payments accounting surplus or deficit would be most relevant. I would hope that the Senate, when it considers the bill, will eliminate section 122.

But the Trade Reform Act does represent a major step forward toward open and nondiscriminatory trade. It deserves support.

Mr. FRASER. Mr. Chairman, I rise in support of the Trade Reform Act of 1973. Further delay in granting our Government the authority it needs to participate in the new multilateral trade negotiations under GATT—General Agreement on Tariffs and Trade—would be unwise. We must join the other nations of the world in developing more satisfactory rules for international trade and investment if we are to avoid drifting into regionalism and nationalism.

IMPORTANCE OF THE GATT NEGOTIATIONS

Delegates from 102 nations pledged themselves in Tokyo this September to "the progressive dismantling of obstacles to trade and the improvement of the international framework for the conduct of world trade." The new round of negotiations is scheduled for completion by the end of 1975. Under scrutiny will be nontariff barriers, as well as tariffs. Agriculture will be a major new item on the agenda. Earlier GATT negotiations focused on manufactured goods. As the world's most efficient food-producing nation, we will be trying to get the European Community and Japan to lower barriers to our agricultural exports. Developing nations' problems have been assured "special attention" and "special treatment." The GATT negotiations will also consider "an examination of the adequacy of the multilateral safeguard system"—that is the steps member nations take to protect domestic industries from threatening imports.

IMPORTANCE OF THIS BILL TO THE GATT NEGOTIATIONS

Crucial to the negotiations is the U.S. delegate's authority to enter into substantive negotiations. The other major powers have indicated their unwillingness to go to the negotiating table until Congress has granted the U.S. delegate the needed authority. A European Community spokesman has declared that "first and foremost we must all be ready to come to the negotiating table with adequate powers and proposals before too long a period has elapsed."

This bill will enable the U.S. delegate to do just this. To lose this opportunity now could mean a return to the disastrous economic nationalism of the post-World War I years that led to the economic collapse of the 1930's and eventually to World War II.

AUTHORITY GRANTED TO THE EXECUTIVE BRANCH IN THIS BILL IS HEAVILY SAFEGUARDED

This bill, it is true, grants new and needed authority to the executive branch, authority without which the

United States cannot take its place at the negotiating table. But the Ways and Means Committee has carefully restricted this authority:

The executive branch must notify the public and Congress of the items to be included in the negotiations.

It must ask the Tariff Commission to determine the impact that any specific negotiation will have on our domestic economy.

Limits on tariff reductions are carefully spelled out.

And for nontariff barrier agreements, the executive branch must consult beforehand with the House Ways and Means Committee and the Senate Finance Committee.

Furthermore, either House may veto any nontariff barrier agreement with which it disagrees.

EXPANDING OUR FOREIGN TRADE THROUGH THIS BILL WILL HELP, NOT HURT, OUR ECONOMY

We cannot cure what is wrong with our economy by altering our stance in international trade. This trade is only 5 percent of GNP. When unemployment was at its height, 2 million people had been put out of work, largely because of the Federal Government's misguided anti-inflationary measures. Two million people are many more than are involved in all of our foreign trade.

Although many more jobs are gained than are lost through trade, some dislocation unfortunately does occur through changing trade patterns. This bill takes important steps to safeguard American workers and industries from being seriously injured from competition of imports. I am under no illusions that trade adjustment assistance is a remedy for our economic ills, but it is a useful and needed part of a total program to assist individuals. Although the adjustment assistance provisions in the bill are not as strong as I would like to see, they are a distinct improvement over existing law and over the administration's proposals. Eligibility criteria are eased; relocation and retraining allowances are provided.

Open and vigorous trade is critical in maintaining fgriendly relations with the rest of the world. There are so many important reasons why we have to keep international trade channels open, reasons that have to do with the nature of war and peace and avoidance of the economic disasters of the 1930's which led to the growth of fascism and World War II.

I urge Members to support the Trade Reform Act of 1973.

Mr. MALLARY. Mr. Chairman, I consider this trade legislation to be a generally far-sighted proposal to update and improve our trade relations throughout the world. The thrust of the changes is far-reaching and certainly is the proper object of much debate. I am concerned, however, that we do not lose sight of the fact that such broad proposals will have a significant effect on the many individual sectors of our American economy.

The question which demands attention is: How will the legislation affect each particular sector of our economy? I am particularly concerned because, in Vermont, the dairy industry traditionally has been and continues to be a vital part of the economy.

Normally, our country has a surplus of milk over commercial requirements of about 5-billion pounds per year, out of an annual milk production of around 120-billion pounds. This surplus is usually bought up by the Commodity Credit Corporation under the price support program and is then used mainly for charitable purposes—mostly at home, but also abroad. Import quotas have the purpose of preventing imports from displacing domestic milk and thereby aggravating the surplus which the Government is required to buy up.

All this works to keep our foreign trade in dairy products a very minor part of the total picture. Why then is the Trade Reform Act important for dairy farmers?

First of all, the administration has recently taken steps to liberalize imports because of an abnormally poor production year. Cow numbers declined and production per cow dropped. Furthermore, CCC stocks of dairy products are down substantially from a year ago. We have imported some dairy products because of the reductions in domestic production.

On October 31, President Nixon authorized emergency temporary import quotas for butter and butteroil. The quotas are for 56-million pounds of butter and 22.5-million pounds of butteroil. Earlier, the President had authorized imports of 180-million pounds of nonfat dry milk. These earlier special quotas have now terminated, and the latest special quotas will end on December 31.

For the first time in many years the U.S. Government does not have a substantial stock of butter and cheese and nonfat dry milk imposing a ceiling over the market, stagnating trade, serving as a disincentive to production, and operating as an effective ceiling on dairymen's prices. If, through negotiation, we can move other countries in the same direction, this will be a plus for our own dairymen.

Changes in our dairy import policies should not be founded upon unilateral actions but upon a solid base arrived at through substantive negotiation. I believe that the negotiating process we are considering can remove many of the inequities which now characterize the international dairy situation.

On the other hand, I am pleased to note that if we cannot negotiate an acceptable agreement for dairy, Secretary Butz has indicated that he will fight to prevent the dumping of subsidized dairy products in the United States. He has taken a strong position in favor of using countervailing duties to prevent unfair competition in our markets. In other words, we are assured that if we liberalize import quotas in the United States, we will still have and will vigorously use a companion mechanism that protects our farmers against the threat of subsidized competition.

I am encouraged that the administration has assured that committee that provisions which would benefit the dairy industry will not be traded away in order to assure greater markets for other agricultural or industrial exports. The committee report makes it quite clear that protection for our own dairy industry would not be the subject of negotiation unless the dairy policies of our major competitors were also being discussed and open for negotiation. This assurance is vital to protect American dairy farmers against discriminatory practices overseas or foreign export subsidies.

The proposed Trade Reform Act would not only provide the President with authority to negotiate for improved trading conditions for dairy, it would also strengthen his hand in dealing with the subsidized exports of foreign countries either to this market or to third country markets. In my view, the interests of the dairy industry will be adequately protected by this bill which is otherwise so important to our continued role in world trade.

Mr. ARCHER. Mr. Chairman, I support H.R. 10710, in large part because of changes which our committee made in the provisions of law dealing with unfair trade practices by other countries.

Some of these changes, in title III of the bill, represent compromises on the part of committee members holding strongly to opposing points of view. Both sides worked hard to resolve their differences, in the interest of producing legislation which not only would be acceptable to each, but would be equitable and workable as well. I believe the results of this strenuous effort to reach a meeting of disparate minds have served to strengthen the bill as a whole, making it more responsive to the conditions of trade as they exist today.

The first major improvement in this area came in a revision of section 252 of the 1962 Trade Expansion Act, which sets forth responses which the President may make to unjustifiable or unreasonable import restrictions by other countries or instrumentalities.

Under section 301 of the bill, the President is required to take all appropriate and feasible steps within his power to eliminate three specific practices:

First, where another country maintains unjustifiable or unreasonable trade restrictions which impair the value of commitments made to the United States or which burden, restrict, or discriminate against U.S. commerce;

Second, where another country engages in discrimination or other acts or policies which are unjustifiable or unreasonable and which burden or restrict U.S. commerce;

And third, where a country provides subsidies—or incentives having the effect of subsidies—on its exports to the United States, or to third countries, which have the effect of substantially reducing sales of competitive U.S. products either in our domestic market, or in the market of the third country.

In responding to these practices, the President would be given discretionary authority to suspend, withdraw or prevent the application of benefits under a trade agreement, or to impose duties or other import restrictions for as long a period of time as he deemed appropriate. If he decided to take such action, he would be required to give the Congress his reasons for doing so, and either House could, within 90 days, veto his decision by a majority vote of those present and voting.

In taking any retaliatory steps, the President would be required to consider the potential impact on our international obligations and on the purposes of this bill.

In cases where the foreign acts were deemed unjustifiable, he could take retaliatory steps on a broad, nondiscriminatory basis. In cases where the foreign acts were deemed unreasonable, he could respond only with respect to products of the offending country.

In the committee report on H.R. 10710, the term "unjustifiable restriction" is defined as one which violates international law or is inconsistent with international obligations; and the term "unreasonable restriction" is defined as one which may not be illegal but which adversely affects our benefits from trade agreements or otherwise discriminates against or unfairly burdens U.S. commerce.

The President can retaliate with respect to subsidies on exports to this country when three determinations have been made. First, a finding by the Treasury Secretary that a subsidy, or another incentive having the effect of a subsidy, actually existed. Second, a Tariff Commission finding that the subsidized exports really were reducing sales of competitive U.S. products. And third, a Presidential determination that remedies available under the antidumping and countervailing duty statutes were not adequate deterrents.

Appropriate provisions are included in this section of the bill for the presentation of views and for public hearings in connection with any retaliatory action which the President might choose to take.

The committee has made clear its intention that the term "commerce," as it is used in this section, should include services as well as goods. We were concerned about reported practices of discrimination against U.S. service industries, including but not limited to transportation, insurance, banking, and tourism. We additionally indicated our concern in another part of the bill by requiring that the President report to the Congress on the results of action taken to remove this type of discrimination wherever found in world commerce.

I might emphasize at this point that the principal change in law under this section of the bill lies in the provision of explicit authority to deal with subsidized exports to third country markets and to the U.S. market. The committee noted, in its report on the measure, that the countervailing duty statute should remain the primary tool for combating subsidy practices by foreign countries. But this law, which has been on the books since 1897, provides only for an additional duty to offset the foreign subsidy. In view of the rising problem of export subsidization around the world, we felt that new authority was needed, permitting the President to go beyond mere equalization and impose further restrictions to deter such practices. I believe this is an important improvement over present law and is one of the more attractive features of H.R. 10710.

In addition to these changes, the bill would make substantial alterations in the Antidumping Act and the countervailing duty statute, strengthening both laws and streamlining the procedures under which they are implemented.

The committee took note of the fact that the administration of the Antidumping Act by the Treasury Department has improved significantly in the past few years. There has been a marked reduction in the length of time consumed in completing antidumping investigations as well as an appreciable increase in the number of cases handled.

The committee was most desirous that vigorous enforcement continue. Accordingly, we have recommended the enactment of time limits on the decisionmaking process in Treasury Department investigations.

Under the bill, Treasury would have only 6 months—or in more complicated investigations, 9 months—after an investigation has been initiated, to determine whether there is reason to believe or suspect that a particular type of foreign merchandise is being sold in the United States at less than fair value; that is to say, at a dumped price.

If the decision is affirmative, an order is issued withholding appraisement of the merchandise in question. This decision is the most critical one in an antidumping investigation, for if appraisement is withheld, and this is followed by a final Treasury determination that the merchandise is being sold at dumped prices, and later by a finding of the Tariff Commission that there was injury to a domestic enterprise, then all affected merchandise is subject to the assessment of dumping duties starting from the date of withholding of appraisement.

Since Treasury regulations require that, generally, the decision on whether to initiate an investigation should be made within 30 days of receipt of a dumping complaint, and that a final determination must be made no later than 3 months after withholding of appraisement, final affirmative action by Treasury will come, in most cases, within 10 months of the date of a complaint. It will not come later than 13 months from the date of a complaint.

If a decision is made that there is no reason to believe or suspect that a particular type of foreign merchandise is being sold in the United States at a dumped price, then the Treasury Department issues a tentative negative determination. Under the bill, a tentative negative determination normally would be followed by a final decision within 3 months.

The bill would require both the Treasury and the Tariff Commission to hold hearings prior to any final determination. In order to preserve the informal and nonadversary nature of these proceedings, and to avoid unwarranted delays in reaching decisions, the hearings specifically would be exempted from the procedural requirements of the Administrative Procedure Act. In the interest of fairness to all parties, published determinations of the Treasury and the Tariff Commission would contain statements indicating the bases for their findings and conclusions.

A number of other substantive amendments to the Antidumping Act are included in H.R. 10710. These are designed to correct existing errors, close potential loopholes, and guarantee fair treatment of all companies subject to an investigation. One provision would insure that a product which is the subject of a dumping investigation could not escape the purview of the law simply because it is imported by someone corporately related to the foreign exporter and is further processed into a different type of product before being sold to an unrelated purchaser in the United States.

Another provision is designed to prevent sales, made in the foreign home market at less than cost of production, from being used in certain circumstances as a basis for determining whether merchandise is being sold in the United States at dumping prices. Without such a provision, sales to the United States at less than cost of production could escape the purview of the act if sales in the home market of the exporting country or sales to third countries also were made at prices which failed to meet the cost of production by an equal or greater amount.

A third new provision would codify existing Treasury regulations which provide a special rule for dumping investigations of products from state-controlled-economy countries. In such countries, prices in the home market or to third countries do not necessarily reflect the interplay of normal market forces. Therefore, provision is made for reference to the prices of similar products in nonstate-controlled-economy countries as a basis for the determination of whether dumping margins exist.

A fourth provision of the bill to amend the Antidumping Act would insure that a company will be judged to have sold, or not sold, at dumping prices solely on the basis of its own practices, and not on the basis of the selling prices of another company.

Even more significant than the Antidumping Act amendments, in strengthening the ability of the United States to respond appropriately to unfair trade practices, are the provisions of the bill relating to the countervailing duty law. This package represents a balanced approach to the troublesome problem of subsidized imports. It corrects important deficiencies in the statute, or in its administration, which have led to what we consider inadequate use of the law. At the same time it provides the administration, on a temporary basis, with the flexibility needed to avoid precipitous action that could endanger the successful completion of an international agreement on export subsidy practices.

Although the present countervailing duty law, which has been little changed since its enactment 76 years ago, mandates action by the Secretary of the Treasury whenever he determines that a bounty or grant is being paid on exports to the United States, the absence of any time limit on the Secretary's action has led to lengthy delays in the application of the law. To remedy this, we have proposed a time limit of 12 months on the Secretary's decision, once he initiates an investigation. The Treasury Department has assured the committee that promptly following enactment of this legislation, regulations will be promulgated providing that the decision on whether to initiate a countervailing duty investigation will be made generally within 30 days after receipt of a complaint that a bounty or grant is being paid on exports to the United States.

Another significant provision would expand the countervailing duty law to include merchandise which is free of duty. Whatever reasons may have existed in the past for the exclusion of duty-free merchandise, the large number of items which now enter duty-free, combined with the significant increase in this category which likely would occur as a result of negotiations conducted under authority of this bill, make it clear that subsidized imports of duty-free merchandise can do serious injury to competitive American industries. Therefore, in accordance with our international obligations, the bill provides that countervailing duties would be imposed on duty-free merchandise if the Tariff Commission, within 3 months after the Secretary of the Treasury determines that a bounty or grant exists, finds that a U.S. industry is being injured by such subsidized duty-free imports. The provision for a Tariff Commission injury determination parallels the Antidumping Act and is combined with a suspension of liquidation provision which insures that the effective date of the imposition of countervailing duties on duty-free merchandise would be the same as if the merchandise were dutiable.

The committee recognized that requiring the Treasury Secretary to impose countervailing duties on merchandise which also is subject to quota restraints might amount to "overkill" in particular situations. Consequently, we have included a provision which would authorize the Secretary to refrain from imposing countervailing duties on merchandise if, after consulting with other appropriate agencies, he concludes that the quantitative limitations are an adequate substitute for countervailing duties.

The committee is very much aware that the upcoming trade negotiations will focus on export subsidy practices, that a number of these practices are central to the economic structure of certain foreign governments and that a number of programs of export assistance conducted by the United States could be considered by foreign governments as giving rise to unjustifiable subsidies, which might well be subject to foreign countervailing actions.

We are also mindful that the mandatory nature of the countervailing duty law, combined with the proposed 12 month time for action, could compel the Treasury to countervail against such practices in the midst of the negotiations, making the conclusion of a satisfactory trade agreement difficult if not impossible.

In view of all these factors, and in order to facilitate the reaching of international agreements on one of the most difficult trade problems, we have included in the bill a provision giving the Secretary a limited 4-year authority to refrain from imposing countervailing duties, if he concludes that the imposition would be likely to seriously jeopardize the satisfactory completion of negotiations. This authority would be limited to only 1 year in the case of investigations concerning merchandise produced by facilities which are owned or controlled by the government of a developed country, when the investment in or operation of such facilities is subsidized.

The committee is additionally aware that there are considerable differences of opinion as to what constitutes a permissible export subsidy practice. We certainly did not want to sanction any foreign export assistance scheme, nor did we want to frustrate efforts to reach a satisfactory international understanding. Indeed, we earnestly hope that a satisfactory agreement can be reached on export subsidy practices, and that this can serve as a basis for the further, permanent amendment of domestic law upon completion of the negotiations.

A final provision of the bill which concerns the countervailing duty law would amend section 516 of the Tariff Act of 1930 to provide for judicial review of negative countervailing duty determinations. Under a recent court decision, such determinations were held to be free from judicial challenge by American producers. We believe this decision denies American producers basic equity and impairs their ability to obtain appropriate relief under the countervailing duty law. Accordingly, we have amended section 516 to extend to them the same right of judicial review of negative countervailing duty determinations as are presently enjoyed by U.S. importers to contest countervailing duty assessments.

In conclusion, Mr. Chairman, I would emphasize that our committee worked very hard over a long period of time to develop the provisions of H.R. 10710 relating to unfair trade practices. We realize they may not meet the exact specifications of every Member. But they represent the best effort of our entire committee to bridge ideological gaps and bring to this body a fair and practical set of answers to some pressing trade problems.

I commend these provisions, and the bill as a whole, and urge that H.R. 10710 be approved.

Mr. PODELL. Mr. Chairman, there is no doubt in my mind that the United States must have a new trade law for the 1970's and beyond. We cannot afford to go on working with guidelines for foreign commerce which were established one or two generations ago. Nevertheless, the bill before us is so full of flaws that I must reluctantly vote against it.

There are a number of major problems in 10710. First, this bill grants sweeping new powers to the President at a time when the present occupant of that high office has abused and usurped powers on a level unparalleled in our history. Article 1, section 8 of our Constitution gives Congress the right "to regulate commerce with foreign nations." We could not choose a worse time to abdicate more of our powers and transfer them to the executive branch.

Second, the legislation fails to address itself to the Nation's runaway unemployment problem. Over 1 million jobs have been lost in this country in the past 7 years, in large part due to our trade policy. Moreover, the most recent figures issued by the Bureau of Labor Statistics show that unemployment went up again last month. The commercial agreements which are anticipated by H.R. 10710 would result in still more working Americans losing their jobs and joining the welfare rolls.

Third, the bill would allow "zero tariffs" on imports from various "banana republics" where dictatorships are able to impose extremely low wages. This special allowance will further hurt many of our domestic industries, such as electronics, footwear, and textiles.

Fourth, the proposal avoids the crucial issue of multinational corporations, such as ITT, which have spread their tentacles into every corner of the planet. These giant corporations, whose assets exceed those of some countries, have been manufacturing goods in low-wage areas abroad and then selling them to us in the United States. H.R. 10710 imposes no regulation on these corporations and does not close any of the tax loopholes for multinationals, which cost this country $3 billion every year.

Finally, the bill does nothing to alleviate our increasing dependence upon imports. The Arabs' embargo on shipments of oil to the United States is ample proof that Mr. Nixon's strange notions about "détente" are less important than American self-sufficiency. In the first 6 months of this year, the importation of goods increased by an incredible 23.6 percent over the same period a year ago.

In short, then, this bill raises many more questions than it answers. It does not come to grips with the problems faced by the American worker or the American consumer. Like so many other bills proposed by President Nixon, this legislation was drafted by and for the special interests. I believe that it is in the public interest to vote against this bill, and I intend to do so. At the same time, I am hopeful that we can promptly begin consideration of genuine trade reform legislation which we so urgently need.

Mr. KASTENMEIER. Mr. Chairman, while I would like to vote for this bill, I have for a variety of reasons some very real reservations about the thrust of this legislation. It is of such broad scope and has such great potential impact on the lives of every American that I am concerned that the authority which we grant in this bill will be abused to hinder rather than help the economic strength of this Nation. Although this concern runs to every part of this Nation's economy, I would at this time like to address my remarks specifically to the effects the bill could have on this country's dairy industry.

Over the past year, there have been repeated statements of concern on the part of dairy farmers that the trade negotiations and agreements authorized under this legislation could lead to a tradeoff of the domestic dairy market for expansion of exports of other goods. The U.S. Department of Agriculture study that has become known as the "Flannigan report" recommends substantial increases in dairy imports in exchange for larger volume of U.S. feed grain exports.

If such action were carried out under the provisions of the Trade Reform Act we are considering here today, it would be a serious blow to all of the American dairy industry, but it would strike a particularly critical blow to Wisconsin dairy producers. Since fluid milk is highly perishable, most of the dairy imports would enter this country as manufactured products, such as nonfat dry milk and cheese. Three out of every four pounds of milk produced on Wisconsin farms goes into manufactured dairy products.

It does not take a prophet to predict what would happen to Wisconsin's billion dollar dairy industry if the recommendations of the Flannigan report were implemented. Other administration actions during the past 12 months have done nothing to relieve the fears of the dairy farmer.

On five occasions during the past year, the President has raised the import quota for nonfat dry milk, until today a total of 321 million pounds of the product have entered the country in addition to the permanent annual import quota of 1.8 million pounds. The import quotas on cheese have been increased by 50 percent in the last year. These actions were taken for the specific purpose of holding down product prices. Early this month, the import quota on butter and butterfat was expanded by the equivalent of 84 million pounds of butter. This action was taken in the face of rising butter production and a butter market that had fallen more than 15 cents a pound since October 1.

Last March, the price support level for milk was set at the legal minimum despite clear evidence that this would not bring forth adequate milk production. Recognizing this, Congress mandated an increase in the dairy price support level. Unfortunately, by the time this became law, the higher minimum level was too low to be effective in halting a decline in milk production that has reached very serious proportions. Again, the administration failed to seize the opportunity to take effective action and the price support was again set at the minimum permitted by law.

The price support actions and the import expansions have been viewed by dairy farmers as direct efforts to weaken the industry. Many have lost confidence in the future and have already departed from the business. At a time when much is heard about the need to hold down the cost of living and to take steps to assure the consumers of the Nation of adequate food supplies, it is difficult indeed to conceive of deliberate actions which actually discourage the production of a basic food item. This, unfortunately, is the case in the dairy industry.

What is urgently needed is some clear signal to the dairy farmer that his markets are not to be thrown open to the competition of freely subsidized imports from around the world. He needs to be told that the United States is not going to become the dumping ground for world dairy surpluses.

Unless such assurances are provided, there is no way that the needed confidence can be restored to the dairy industry. Without that confidence, we can expect a continued erosion of the productive capacity of the industry.

When a man enters the dairy business, he makes an investment that can only be recovered over a period of years. He dedicates himself and his family to a job that requires attention 7 days a week, 52 weeks a year. Unless he can reasonably expect that the investment and dedication will be rewarding in the sense that it provides an adequate living for his family, he is not going to make it.

The provisions of the report of the Ways and Means Committee stating it is aimed at providing the needed assurance that the dairy products markets of this country will not be sacrificed to expand markets for other products are helpful. I am hopeful that this assurance can be made clear and specific as an instruction to those who have the responsibility for the conduct of our trade negotiations. This is the minimum that is needed.

Mr. VANIK. Mr. Chairman, this trade bill comes to the House of Representatives at a most inappropriate time. Our Nation is staggering under the impact of an energy crisis. Signs of growing and widespread unemployment are on the horizon. Our partners in the free world are engaged in a horrendous display of disunity and self-survival. Our President's prestige and ability to negotiate from strength is clouded.

The principal beneficiaries of this bill are the American multinational corporations. Today, these corporations can shift their operation from nation to nation as they maneuver from tax responsibility anywhere. The other beneficiary is American agribusiness which shows no concern for the American diet when export profits are involved. They seek wider markets in Western Europe and Japan in exchange for a deeper foreign penetration into industrial America's markets. This is the manner in which agribusiness expresses gratitude to the American taxpayer who paid dearly in multibillion dollar subsidies to strengthen agriculture to assure adequate supplies at home at reasonable prices.

The bitter fruits of taxpayer largesse to American agriculture have spiraled domestic prices. Agribusiness, like its multinational counterpart, pays very little of its wealth in Federal taxes. The arrogance of American agribusiness and American multinational corporations appear beyond the control of the American people. Should this arrogance be rewarded with legislation which reinforces these policies?

Titles I, II, and III of this bill serve as such reinforcement. Although some discretionary authority originally requested by the administration has been eliminated, too much remains. The bill is still largely the President's legislation. The Congress should legislate trade policy—not abdicate responsibility. Under the bill as now written, the President will have the power to be free trader or protectionist and to reward his friends and punish his enemies.

This administration bill stakes out extensive authority for executive discretion—and this discretionary authority is carved out of the little that remains of the shattered and torn carcass of constitutional congressional authority and responsibility. If the Congress should finally pass this bill in its present form, it will move the Congress a considerable distance toward becoming an unnecessary branch of the Government. As far as trade is concerned, there will be little left for the Congress—but remorse for its own folly.

All trade bills have extended wide authority to the executive branch. But this bill exceeds prior grants of authority in both scope and substance. It would not be quite so bad if we really knew what the administration's trade position was. But the administration statements have not always been entirely consistent. The emphasis on either free trade or protection has depended on the particular administration spokesman and the audience he has been addressing.

Since the administration has given us little clear indication of what will be negotiated away and what exactly will be gained, we must look to the bill itself. However, the legislation grants powers right and left—but gives not a clue as to the congressionally mandated objectives of our negotiators. In short, the bill imposes no direction on the administration. It is a piece of putty, to be molded as the administration sees fit. We do not know how this President will use these powers—we can have no idea of how the next President will use them.

Not only is this the wrong bill—it is the wrong bill at the wrong time. It is unconscionable to proceed with a bill of this potential impact at a time when we have no idea what will happen to the American economy and the world economy during the next several months. To grant the President authority to enter into long-range negotiations and to make major economic decisions makes no sense whatsoever in a time of economic upheaval. It is certain that the world's major trading nations will be undergoing fundamental economic realinements. Industries will be developing and closing. Extraordinary pressures will be put on existing sectors of the economy. Some industries may be headed for a long-range recession. To add the uncertainties of major trade/economic changes would be to add chaos to confusion. The sensible thing to do now is to deal with the energy crisis and the economic dislocations it has caused. When we have a better understanding of the economic problems involved in meeting this new and most serious problem, then we can consider traditional trade legislation.

THIS IS AN AGRICULTURAL TRADE BILL

H.R. 10710 is a trade bill designed for and around the American farmer. It is clear from the testimony presented to the committee that American agriculture feels it has the most to gain. I find it interesting that one of the few executive agencies actively lobbying for this bill is the Agriculture Department. They seem particularly anxious to make more big sales to the Soviet Union.

I would like to make these comments on this aspect of the bill: First, it is imperative that the final trade bill contain some provisions for preventing the export of essential reserves of food supplies. We must not be permitted to export ourselves into starvation. Second, this bill should be amended to protect the consumer better by permitting a wider range of imports.

Third, while the farmer may have a short-term gain from this bill, he should be advised that by implication, this bill could lead to the termination of many of the subsidies now enjoyed by the agricultural sector.

It is generally agreed that American agriculture is the world's most efficient and productive. It is expected that our biggest increase in export sales can occur if foreign nations were to eliminate their barriers to American farm goods. The increase in potential agricultural trade exports is estimated in the billions. And according to recent highly complex economic studies by the Brookings Institution such increased foreign sales will increase the price of food goods to American consumers by at least several percentage points.

The productivity and efficiency of American agriculture are not solely the product of the American farmer. The first land grant colleges which provided for training in agriculture were paid for by the Federal Government and its taxpayers. Agriculture research has been financed by the Federal Government. Crop conservation and subsidy stabilization programs have cost the taxpayers tens of billions of dollars in the last decade. When a particular sector of the agricultural economy feels that it is threatened, it receives protections from the Government against imports. Quotas have been placed on milk, cheese, and meats—while thousands go hungry in our Nation's cities.

In light of the billions which have been spent to develop American agriculture and maintain it in a healthy state, this trade bill should have made provisions to prohibit the export of that productivity and profit to the detriment of the vast body of American consumers. Americans are entitled to a preference in American products. Export of food goods must be controlled and regulated when such exports threaten to unduly increase the domestc price of these vital items—items such as wheat, soybeans, feed grains, vegetable oils, meats and other products necessary for health diets.

SPECIAL IMPORT PROTECTION FOR AGRICULTURE

It is typical of the emphasis in this bill that agricultural products under marketing orders are excluded from the provision granting the President authority to suspend import barriers to restrain inflation. Section 22 marketing orders—anticonsumer devices designed to hold down supply and hold up price—are in effect on wheat, cotton, peanuts, and dairy products. Under this bill, import barriers on these products cannot be suspended to restrain inflation.

It is also interesting that in the section on nontariff removal, only one import restraint is specifically mentioned—American selling price; ASP is a system of valuation used mainly in the chemical industry. There is no mention of agricultural marketing orders. There is no reference to the Sugar Quota Act which in most years costs American consumers $400 million. There is no mention of the Meat Import Quota Law of 1964 which costs consumers—primarily the poor—$350 million per year. Nowhere can one find concern about the dairy quota which Brookings Institution economists estimate costs consumers half a billion dollars a year.

During the height of this year's beef crisis, I offered an amendment to repeal the Meat Import Quota Act of 1964. The motion lost 9 to 15.

The Department of Agriculture's hard-nosed position on the meat import quota law can be seen in the letter I received from the Secretary of Agriculture on May 10, 1973:

> 1(b). The Department does not regard present meat prices as a reason for repealing the Meat Import Quota Act of 1964. Quantitative restrictions on meat imports have been suspended since June 1972, and there is no prospect of their being reinstituted while current market conditions prevail. However, meat production is highly cyclical, and the Meat Import Act does provide safeguards if the supply situation changed and our producers were threatened with sudden sharp increases in imports. Meat prices have already begun to moderate, and a further decline is in prospect for this fall as a consequence of the record large increase anticipated for 1973 U.S. soybean plantings.
>
> If we are granted the authorities contained in the proposed Trade Reform Act of 1973, we would be prepared to negotiate the elimination of our meat quotas in exchange for substantial concessions from our trading partners. But this would not preclude our producers from having recourse to the import relief provisions contained in Section 203 of the Trade Act in the event of imports causing or threatening injury.

The second paragraph, of course, holds out some hope for eventual repeal.

The first paragraph is nonsense. As we all know, meat prices did not decline until very recently. Second, suspension of the quota is not enough, repeal is essential.

Temporary suspension of meat supply restrictions does not appreciably increase the supply of the cheaper priced foreign processing meat. Foreign producers will not substantially alter their production and shipping plans for what appears to be a temporary change in the American market—a market which may be suddenly restricted by the stroke of a pen. For example, Australia, one of our principal trading partners, to protect its markets against sudden American actions, requires its ranchers to sell 1 pound of meat in the world market for every 2.5 pounds sold in the American market. The temporary relaxation of import quotas will not substantially increase meat supplies, since producers must plan years ahead to increase herds to meet American needs.

AGRICULTURAL EXPORT SUBSIDIES

Last year, the intelligence of the American people was insulted by the spectacle of $300 million in agricultural export subsidies being paid out to drain away domestically needed food goods.

After so many billions spent to develop and encourage the productivity of American agriculture, we should not permit subsidies to be applied or given to items for export. We must never repeat the debacle of last year's wheat "deal" which cost the American consumer some $3.2 billion in higher prices and economic dislocations. If loans and subsidies are necessary in the future, they should be limited to the necessary support of agricultural products required for domestic needs.

Fortunately, this bill does indicate very strongly that the United States is anxious to end the growing practice of export subsidies. As the committee report states:

> The committee recommends that GATT articles be extended to conditions of trade not presently covered in order to move toward more fair trade practices. Many agricultural practices, such as export subsidies, production subsidies, and variable protection at the borders, are not specifically covered. (Page 26)

Later, on page 76, the committee recognizes that the United States—

> May well be conducting programs of export-assists which foreign governments may find inconsistent with international law and policy.

It is very clearly the intention of the United States to move against the wide range of government subsidy programs. I am hopeful that this policy decision will be carried out evenly and across the board to remove or limit the wide range of agricultural subsidies and production payments which have so frequently raised the price of American farm goods and taxed the general public. This is particularly relevant to agriculture, since it appears that most American and foreign complaints under the GATT rules involve agricultural subsidies and restrictions.

I might add here, Mr. Chairman, that this policy objective should be applied to eliminate the DISC export subsidies. It is also time that the various developed nations of the world examined their systems of government-backed investment insurance plans and export banks. The reduction or control of these various institutions could save the American taxpayer—and taxpayers throughout the world—enormous sums.

FAILURE TO ASSIST AMERICAN WORKERS

The bill makes some show of protecting American interests and workers—but it is almost all verbiage. Title II and, more especially, title III deal with import relief from fair competition and from unfair trade practices. Almost none of title III is needed; it almost seems that it has been included to give the illusion of concern about unfair trade practices. Presidents already have the authority to move against this type of problem if they desire. It is interesting in this connection to note the language of the McKinley

Tariff, enacted in 1890 and still in force today, which deals with some of the situations which we are encountering today:

> Whenever the President shall be satisfied that unjust discriminations are made by or under the authority of any foreign State against the importation to or sale in such foreign State of any product of the United States, he may direct that such products of such foreign State so discriminating against any product of the United States as he may deem proper shall be excluded from importation to the United States. . . .
>
> 19 U.S.C. 181

That American industry and labor should expect little in assistance from this bill can be seen by the fact that the President has been holding up a decision to grant import relief to the nonrubber footwear industry for two and a half years. He does not need a new bill to help him assist this industry. Indeed, the bill as written permits the President to delay in taking corrective action in some cases. For example, this bill will permit him to wait up to 4 years before taking retailatory action, if he feels the matter can be settled through negotiations. The question is, can the workers and companies involved wait 4 years?

FAILURE TO ASSIST AMERICAN WORKERS

It is also interesting to note that the congressional veto procedure is very one-sided. Congress can veto an import relief decision or retaliation-for-unfair-competition proposal, if it thinks that the action is too strong. But there is no provision for the Congress to veto a presidential decision not to provide relief.

Also typical of the weak provisions assisting American interests is the adjustment assistance portion of the bill. The section provides no relief to communities crippled by a plant closed by import competition. If a worker is undergoing job retraining, he is eligible for daily subsistence aid to help him travel to and attend the retraining programs. The bill provides for $5 a day in subsistence—the same as was provided in 1962. Apparently the administration feels that the cost-of-living has not gone up in the last 11 years. In the 1962 act, some impacted workers were eligible for assistance if they had been employed for $15 a week, 78 out of 156 weeks immediately preceding separation. The new bill stiffens that requirement to 26 out of 52 weeks at wages of $30 or more per week. Most important, the bill says that workers shall be eligible for job training—but sets up no special program for trade impacted workers. Under the "new" plan of manpower revenue sharing, how are such workers to be guaranteed retraining? Given the inadequate level of manpower funding by the administration, how can these workers realistically depend on Federal job-producing manpower programs?

CANADIAN-AMERICAN AUTOMOTIVE PARTS AGREEMENT

The failure to promote American trade interests with greater vigor can be seen in the administration's and the committee's failure to take stronger action under the Canadian-American Automotive Parts Agreement of 1965. The committee report notes that the Canadians have still not dropped certain transitional restrictions against U.S. exports. As the report states:

> In the opinion of the committee our Government should obtain the termination of these transitional measures as soon as possible.

Largely as a result of this 1965 agreement, United States trade with Canada in automotive products declined from a favorable balance of $555 million in 1964 to a $1,375 million deficit in 1971. Although trade in automotive products has increased to 10 times its previous level, the increase has been heavily in Canada's favor.

The basic function of the agreement was to abolish all restrictions on automotive trade between the two countries—but this has yet to occur. Under annex—or amendment A—of the agreement, Canada was given certain favorable restrictions, which were meant to be temporary. These restrictions stipulate, basically, that only a governmentally recognized "manufacturer" can import U.S. auto items duty-free into Canada; the Canadian citizen buying a car directly from America would still pay a substantial duty. Canadian automotive imports, however, enter our country duty-free.

As I say, Mr. Chairman, these restrictions on U.S. exports were to be temporary. We were told by administration witnesses in 1965 that the Canadians would remove these restrictions by about 1968. The committee was also assured by Commerce Department officials that, despite the agreement, the United States would maintain a half billion dollar surplus in automotive products.

It is the possible repetition of this type of sloppy negotiation and protection of American interests that concerns me as we consider this new trade bill, with its enormous grants of discretionary authorities.

BALANCE-OF-PAYMENTS AUTHORITY—A NONSENSICAL GRANT OF AUTHORITY

Among the various provisions of H.R. 10710, perhaps section 122 relating to "balance-of-payments authority" is the strangest. It is an enormous grant of authority to the President. It cannot accomplish what it seeks to do—in fact, its use would probably cause more damage than benefit.

The section provides that—

> To deal with a large and serious United States balance-of-payments deficit.

And—

> To prevent an imminent and significant depreciation of the dollar in foreign exchange markets.

The President can proclaim a 15-percent, 150-day import surcharge and/or impose 150-day import quotas. Similarly, to prevent a "large and persistent" U.S. payments surplus or a "significant appreciation" of the dollar, the President may cut tariffs by 5 percent for 150 days or reduce import barriers.

There are any number of problems with this provision.

First, there is the problem of definitions. What is a "large and serious" deficit? How much is a "significant depreciation?"

Second, is it wise to grant import quota power, particularly since on the opposite page of the bill, it is stated that an American goal in GATT negotiations is to see that surcharges are the preferred means of handling balance-of-payments problems?

Third, how can a 150-day quota increase—or decrease—or a 150-day, 15-percent tariff increase—or 5-percent decrease—possibly solve a "large and serious" deficit—or surplus—or prevent a "significant" depreciation—or appreciation? The committee report sheds little light on the problem. For example, the report says:

> The committee does not intend that a small or even a large balance-of-payments deficit of short duration would warrant the exercise of the authority under this section. On the other hand, the U.S. balance-of-payments position in August, 1971, represents an example of a large and serious deficit that promises to persist over time.
>
> This provision is not intended, however, to provide authority to alter longer term trends in foreign exchange rates.

In early May, I wrote Secretary of the Treasury Shultz concerning the interest equalization tax legislation and the administration's plans to continue this tax which is designed to improve the balance of payments. As Secretary Shultz said to me in his reply letter of May 16:

> Controls constitute a distortion to the process of the market and deal with symptoms rather than with the fundamental economic forces at work.

I would suggest, Mr. Chairman, that a small 150-day surcharge is a control which might arrest the symptom but cannot alter the fundamental economic forces at work creating a serious deficit. The imposition of this section would just disguise the balance-of-payments problem for a few months and once revoked, would simply result in renewed speculation for or against the dollar. It seems to me that speculative pressures could build up as the 150-day expiration date approached.

More importantly, underlying this whole section seems to be the idea of a return to fixed exchange rates. This return is implicit in the concern over the significant depreciation and appreciation of the dollar. In short, the United States—with little guidance and no real, clear debate in the Congress—seems to be moving back to the fixed rate system which has cost us so dearly in the last several years.

It is ridiculous to return to the fixed rate when the "dollar overhang" stands at about $100 billion. Most of this money is in the Eurodollar market, ready to flow in speculation against the target of a fixed dollar.

The desire to return to fixed rates appears to be a goal of the International Monetary Fund. During the last year of floating rates, the IMF has pretty much been a bureaucracy in search of a mission. But is it really necessary to return to the old system which allowed the dollar to get so far out of value and which resulted in an excessive flood of job-destroying imports? The floating exchange rates have weathered the severe political and economic troubles of the past 10 months and, second, world trade and investment have continued to expand. The new system has proven tough and serviceable and should be continued.

I fear that section 122 will simply be further excuse to move to a fixed rate for the dollar—a philosophy which over the past decade cost us hundreds of thousands of jobs because imports were more attractive than our exports.

ABSENCE OF FOREIGN INCOME TAX REFORM PROVISIONS

While the President's trade message talked about the need for tax reform in certain foreign trade and investment situations, the bill he sent to the Congress did not include any tax reform language. Once again, the administration failed to deliver on the issue of tax reform. Without administration support, the Committee did not take any action on tax reform. If the Congress does not take this opportunity to include foreign income tax reform within the trade bill, it will probably pass up its only relatively "veto-proof" opportunity during the remaining 3 years of this administration's tenure.

In addition to the tax-reform proposals "talked about" in the administration's trade message, it is now time to examine the use of the percentage depletion allowance and the foreign tax credit by American multinational corporations operating in nations which have embargoed shipments to the United States. Oil companies—with about 50 percent of their operations in the Middle East—now claim about $2 billion a year from the Treasury under the foreign tax credit provision. The percentage depletion deduction for overseas operations is about $3.5 billion annually. In essence, the taxpayers of America are helping support the treasuries of nations which have cut off critical supplies of oil.

In 1969, the House repealed the deduction for percentage depletion in foreign operations, since it did not encourage the development of secure, domestic resources. The other Chamber, however, restored this provision. While we might want to retain this provision for operations in countries which permit oil shipments to us, it certainly makes no sense to continue what is now a one-way foreign aid program to unfriendly countries.

INTERNATIONAL SALES CORPORATIONS

There is another area in international trade where tax reform is vital. In the Revenue Act of 1971, the Congress created a new tax privilege or subsidy known as DISC—Domestic International Sales Corporations. DISC was designed to encourage companies to set up export "subsidiaries," whose income from export sales would, generally, be deferred. I recently asked the Treasury whether there was any proof that DISC's were resulting in increased export sales. I was told that over 3,000 DISC's had been created, but by the IRS's interpretation of the confidentiality laws, they could not even disclose the names of these corporations. Furthermore, no data was available as to whether this new loophole was actually resulting in increased exports. I have asked the GAO to provide me with information on the cost-effectiveness of the DISC provision. I am awaiting this study.

But DISC is having a result. In the budget speech delivered in the Canadian House of Commons on February 19, 1973, Minister of Finance and Member of Parliament, the Honorable John N. Turner explained, in part, the Canadian Government's decision to reduce the tax burden on industry as follows:

> These reductions will enable them (Canadian industry) to offset the serious competitive threat posed by the substantial tax subsidies for exports made available in the past year to U.S. corporations.

DISC will cost the Treasury hundreds of millions and gain us nothing, as country after country around the world sets up their own form of export subsidies. DISC should be eliminated before it costs any more in lost revenues and foreign retaliations.

THE TRADE BILL AND THE OIL CRISIS

As I said earlier, this is the wrong time to consider a major trade bill. A most serious, glaring problem in the bill is its failure to deal in any way with the energy and raw materials crisis. In short, the bill has been overtaken and rendered almost obsolete by the oil embargo. As Robert Gardner, law professor at Columbia University and a Deputy Assistant Secretary of State during the Kennedy administration said in his recent speech to the National Foreign Trade Convention:

> The Trade bill "has the appearance of a Rip Van Winkle who has returned to the international trade arena after a long sleep unaware that the most serious current threat to the economy of our country and that of our allies is the withholding of oil by the Arab countries.

The committee's report, printed at the start of the recent Middle East war, says that no attempt was made to develop a new energy import policy, but—

> It is the intention of the Committee to return to this important problem of establishing a rational and equitable allocation of imported energy resources.

It is obvious that the Committee will have to do a great deal more in the energy field—and hopefully soon.

It is one of the principles of the 1941 Atlantic Charter, signed by Roosevelt and Churchill, that after the war, all nations should have "access, on equal terms, to the trade and raw materials of the world." We are now being denied that access. And we are not doing anything about it.

Like most trade bills, this one focuses on entry to markets and totally fails to deal with the question of access to supplies. An amendment should be provided, giving the President the authority to deny our markets, exports and assistance to countries which wage economic warfare against us.

It has just come to my attention that the Soviet Union last month summarily cancelled its contracts to provide oil and gas to five Western European nations—in order to complement the Arab embargo.

The trade bill before us is heavily premised on such contracts, under which America would provide all of the capital investment and quite obviously could suffer the same fate.

CONCLUSION

I hope, at a minimum, that the Members of the House will support my amendment to deny credits to any nation which denies freedom of emigration. This language constitutes one of the few decent aspects of the bill. The adoption of this language will signal a clear-cut position of the American Congress to the Soviet leadership. This is an American trade bill and this Congress should work its will. Up to now, all trading between our two great nations has been conducted on Soviet terms. Genuine and long-term trade leading toward détente requires mutual give and take.

I believe in meaningful détente—developed and not purchased—based on mutual trust and respect among our peoples.

I want to express my thanks and admiration to my colleagues in the House who have stood by the great principles expressed in the freedom of emigration amendment. Their unfaltering commitment has done much to preserve the humane standards which make our Nation so great.

If our amendment is adopted—each Member must individually judge the merits of the rest of the bill.

As far as I am concerned, a vote for or against final passage is unrelated in any way to one's position on the freedom of emigration amendment. If the bill passes with the amendment, it places our potential new trading partners on notice of the conditions which we believe are necessary before trade can proceed. If the overall bill is defeated, it still serves notice on these countries of what we expect. If the credit ban dies with this bill, it will be included in other legislation—such as the Export-Import Bank extension now moving forward in the other Chamber.

The adoption of the amendment is a clear and unmistakable sign of where the Congress stands on this issue. Regardless of whether-or-not a bill passes, the amendment serves notice to other nations of our feelings on this fundamental question of human rights; it telegraphs to them the steps they will have to take before full trade eventually commences.

Mr. ULLMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair (Mr. BOLAND) Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10710) to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

STEWART AGAINST KYROS, COHEN, ET AL.

The SPEAKER laid before the House the following communications, which were read:

[In the U.S. District Court for the District of Maine, Southern Division, Civil Action File No. 14–115]

SUMMONS IN CIVIL ACTION

Paul K. Stewart, of Portland in the County of Cumberland and State of Maine, Plaintiff, v. Peter N. Kyros, member of the United States Congress from Maine, of Portland in the County of Cumberland, and William S. Cohen, member of the United States Congress from Maine, of Bangor in the County of Penobscot and State of Maine; Carl Albert, Speaker of the United States Congress from Oklahoma, and having an office and place of business as Speaker in Washington in the District of Columbia; and the New York Times Company, publishing a daily newspaper in the City and State of New York, Defendants.

To the above named Defendants: You are hereby summoned and required to serve upon Paul K. Stewart, Esq., plaintiff's attorney, whose address is 193 Middle Street, Portland, Maine 04111 an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

MORRIS COX,
Clerk of Court.
ELISE H. CLARITY,
Deputy Clerk.

[Seal of Court.]
Date: December 6, 1973.

THE SPEAKER'S ROOMS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., December 10, 1973.

Hon. PETER MILK,
U.S. Attorney for the District of Maine, Federal Court House, Portland, Maine

DEAR MR. MILK: I am sending you a copy of a Summons and complaint in Civil Action No. 14–115 in the United States District Court for the District of Maine, Southern Division, against me in my official capacity as Speaker of the House of Representatives, received by certified mail on December 10, 1973.

Representatives Peter N. Kyros and William S. Cohen, both of Maine, have also received by certified mail copies of the Summons and complaint.

In accordance with the provisions of 2 U.S.C. 118, I respectfully request that you take appropriate action, as deemed necessary, under the supervision and direction of the Acting Attorney General in defense of this suit against the Speaker of the House of Representatives. I am also sending you a copy of the letter that I forwarded this date to the Acting Attorney General of the United States.

Sincerely,

CARL ALBERT.

THE SPEAKER'S ROOMS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., December 10, 1973.

Hon. ROBERT H. BORK,
Acting Attorney General, Department of Justice, Washington, D.C.

DEAR MR. BORK: On December 10, 1973, I received by certified mail a Summons and complaint in Civil Action No. 14–115 in the United States District Court for the District of Maine, Southern Division. A copy of the Summons and complaint is enclosed herewith. Representatives Peter N. Kyros and William S. Cohen, both of Maine, have also received Summons and complaint in the action.

In accordance with the provisions of 2 U.S.C. 118, I have sent a copy of the Summons and complaint in this action to the U.S. Attorney for the District of Maine requesting that he take appropriate action under the supervision and direction of the Acting Attorney General. I am also sending you a copy of the letter I forwarded this date to the U.S. Attorney.

Sincerely,

CARL ALBERT.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE CONFERENCE REPORT ON H.R. 11324

Mr. McFALL. Mr. Speaker, at the request of the gentleman from West Virginia (Mr. STAGGERS), the chairman of the Committee on Interstate and Foreign Commerce, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a conference report on the bill H.R. 11324.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT (H. REPT. NO. 93–709)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 11324) to provide for daylight saving time on a year-round basis for a two-year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Emergency Daylight Saving Time Energy Conservation Act of 1973".

SEC. 2. The Congress hereby finds and declares—

(1) that the United States faces severe energy shortages, especially in the winter of 1973–1974 and in the next several winters thereafter;

(2) that various studies of governmental and nongovernmental agencies indicate that year-round daylight saving time would produce an energy saving in electrical power consumption;

(3) that daylight saving time may yield energy savings in other areas besides electrical power consumption;

(4) that year-round daylight saving time could serve as an incentive for further energy conservation by individuals, companies, and the various governmental entities at all levels of government, that such energy conservation efforts could lead to greatly expanded energy savings and help meet the projected energy shortages, and that such energy conservation efforts could include but not be limited to such actions as—

(A) lowering office, home, and store thermostats several degrees;

(B) limiting unnecessary automobile travel and holding down the speed of necessary automobile travel;

(C) using energy efficient automobiles;

(D) using public transportation whenever possible;

(E) turning off office air-conditioners and heating plants an hour earlier in the afternoon; and

(F) limiting unnecessary use of electric lights;

(5) that the use of year-round daylight saving time could have other beneficial effects on the public interest, including the reduction of crime, improved traffic safety, more daylight outdoor playtime for the children and youth of our Nation, greater utilization of parks and recreation areas, expanded economic opportunity through extension of daylight hours to peak shopping hours and through extension of domestic office hours to periods of greater overlap with the European Economic Community; and

(6) that the emergency nature of an energy shortage require the temporary enactment of daylight saving time.

SEC. 3. (a) Notwithstanding the provisions of section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)), the standard of time of each zone established by the Act of March 19, 1918 (15 U.S.C. 261–264), as modified by the Act of March 4, 1921 (15 U.S.C. 265), shall be advanced one hour and such time as so advanced shall for the purposes of such Act of March 19, 1918, as so modified, be the standard time of each such zone; except that any State with parts thereof in more than one time zone, and any State that lies entirely within one time zone and is not contiguous to any other State, may by law exempt the entire area of the State lying within one time zone from the provisions of this subsection.

(b) Notwithstanding any other provision of law, if a State, by proclamation of its Governor, makes a finding prior to the effective date of this Act, that an exemption from the operation of subsection (a) or a realinement of time zone limits is necessary to avoid undue hardship or to conserve fuel in such State or part thereof, the President or his designee may grant an exemption or realinement to such State.

(c) Any law in effect on October 27, 1973, adopted pursuant to section 3(a)(2) of the Uniform Time Act of 1966 by a State with parts thereof in more than one time zone, or adopted pursuant to section 3(a)(1) of such Act by a State that lies entirely within one time zone and is not contiguous to any other State, shall be held and considered to remain in effect as the exercise by that State of the exemption permitted by subsection (a) of this section unless that State, by law, provides that such exemption shall not apply during the effective period of this Act.

(d) The provisions of subsections (b) and (c) of section 3 and section 7 of the Uniform Time Act of 1966 shall apply to the provisions of this section.

SEC. 4. (a) The Secretary of Transportation shall, on or before June 30, 1974, submit an interim report, and on or before June 30, 1975, submit a final report, to the Congress on the operation and effects of this Act. Each such report shall give particular attention to such effects on the use of energy in the United States, traffic safety, including the safety of children traveling to and from school, and the effects on school hours. Each such report shall also include such recommendations for legislation or other action as the Secretary may determine. The final report shall include any recommendations of the Secretary with respect to time zone limits.

(b) The Secretary of Transportation shall consult with the departments, agencies, and instrumentalities of the United States having information or expertise with respect to the operation and effects of this Act. Each such department, agency, and instrumentality shall exercise its powers, duties, and functions in such manner as will assist in carrying out the provisions of this section.

Sec. 5. The authority of the Secretary of Transportation, under the first section of the Act of March 19, 1918 (15 U.S.C. 261), to modify the limits of any time zone is suspended during the effective period of this Act.

Sec. 6. Notwithstanding any other law or any regulation issued under any such law, the Federal Communication Commission shall, consistent with any existing treaty or other agreement, make such adjustment by general rules, or by interim action pending such general rules, with respect to hours of operation of daytime standard amplitude modulation broadcast stations, as may be consistent with the public interest, including the public's interest in receiving interference-free service. Such general rules, or interim action, may include variances with respect to operating power and other technical operating characteristics. Subsequent to the adoption of such general rules, they may be varied with respect to particular stations and areas because of the exigencies in each case.

Sec. 7. This Act shall take effect at 2 o'clock ante meridian on the fourth Sunday which occurs after the date of enactment of this Act and shall terminate at 2 o'clock antemeridian on the last Sunday of April 1975.

And the Senate agree to the same.

Harley O. Staggers,
John E. Moss,
Bob Eckhardt,
James T. Broyhill,
John H. Ware,
Managers on the Part of the House.

Warren G. Magnuson,
John O. Pastore,
Adlai E. Stevenson III,
Norris Cotton,
J. Glenn Beall, Jr.,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11324) to provide for daylight saving time on a year-round basis for a two-year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text, and the House disagreed to the Senate amendment.

The committee of conference recommends that the House recede from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill, the Senate amendment thereto, and the substitute agreed to in conference are noted below except for clerical corrections, conforming changes made necessary by reason of agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

House Bill

The House bill provided that this legislation could be cited as the "Daylight Saving Time Act of 1973".

Senate Amendment

The Senate amendment provided that this legislation could be cited as the "Emergency Daylight Saving Time Energy Conservation Act of 1973".

Conference Substitute

The conference substitute is the same as the Senate amendment.

Congressional findings

House bill

No provision.

Senate amendment

Section 2 of the Senate amendment contained congressional findings that the United States faces severe energy shortages; that various studies indicate that year-round daylight saving time would produce an energy savings in electrical power consumption and may yield energy savings in other areas; that year-round daylight saving time could serve as an incentive for further energy conservation; that year-round daylight saving time could have other beneficial effects, such as reduction of crime and improved traffic safety; and that the emergency nature of the energy shortage requires the temporary enactment of daylight saving time.

Conference substitute

The conference substitute is the same as the Senate amendment.

ADVANCEMENT OF TIME

Duration

House bill

Section 2(a) of the House bill provided for a one-hour time advancement in each time zone on a year-round basis. Under the effective dates section of the House bill (section 6), this one-hour time advancement would be required from the first Sunday more than 15 days after enactment of this legislation until the last Sunday in April 1975. During such period, the House bill would supersede section 3(a) of the Uniform Time Act of 1966.

Senate Amendment

Section 3(c) of the Senate amendment amended section 3 of the Uniform Time Act of 1966 to add a new subsection (b) providing for a one-hour time advancement in each time zone from the fourth Sunday after the enactment of this legislation to the last Sunday in April of 1974, and from the last Sunday in October 1974 to the last Sunday in April 1975. Under the Senate amendment, the provisions of section 3(a) of the Uniform Time Act of 1966 would continue in effect from the last Sunday in April until the last Sunday in October of each year.

Conference Substitute

The conference substitute is the same as the House bill, except that it follows the Senate amendment in providing for the fourth Sunday after enactment as the beginning date of advanced time under this legislation. The conferees selected the later effective date of the Senate version in order to afford States an adequate opportunity to petition the President for relief under section 3(b) of this legislation.

Exemptions

House Bill

Section 2(a) of the House bill provided that any State with parts thereof in more than one time zone, and any State entirely within one time zone and not contiguous to any other State (Hawaii), could enact a State law exempting that part of the State in one time zone from the advanced time requirement of the House bill (continuous until the last Sunday in April of 1975). This provision gave the States divided by a time zone boundary the same authority granted under section 3(a) of the Uniform Time Act of 1966, which was intended to permit any State divided by a single time zone boundary to put the entire State on the same clock time.

Section 2(b) of the House bill provided that any State law enacted pursuant to section 3 of the Uniform Time Act of 1966, and in effect on October 27, 1973, exempting one time zone of a State with more than one time zone (Indiana), or exempting the entire State within one time zone if such State is not contiguous to any other State (Hawaii), would remain in effect as an exercise of the exemption authority granted by section 2(a) of the House bill unless that State enacted another law providing that such exemption would not apply for the duration of the House bill.

Section 4 of the House bill provided that the authority of the Secretary of Transportation to modify the limits of any time zone would be suspended for the duration of the House bill.

Under the House bill, the Commonwealth of Puerto Rico and the Virgin Islands would not be granted an exemption because neither is a State and the term "State" was not defined to include them.

Senate amendment

Under the new section 3(b) of the Uniform Time Act of 1966 added by section 3(c) of the Senate amendment, any State with parts thereof in more than one time zone, and any State entirely within one time zone and not contiguous to any other State (Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands), could enact a State law exempting that part of the State in one time zone from the advanced time requirement of the Senate amendment (winter months of 1973–1974 and 1974–1975).

The Senate amendment did not provide for an automatic exemption from advanced time for States with laws already enacted under the Uniform Time Act of 1966.

The Senate amendment did provide, however, that if the Governor of a State made a finding, before the beginning of either period of advanced time required by the Senate amendment (fourth Sunday after enactment and last Sunday in October of 1974), that an exemption from advanced time during such period, or a realinement of time zone boundaries, was necessary to prevent undue hardship or to conserve fuel, the President could, in his discretion, grant an exemption or a realinement to such State.

Also, under the Senate amendment the authority of the Secretary of Transportation to modify time zone limits would remain in effect.

Conference Substitute

The conference substitute is the same as the House bill with the following two exceptions:

1. The automatic exemption from observance of daylight saving time is extended to include the Commonwealth of Puerto Rico and the Virgin Islands as well as Indiana and Hawaii.

2. The Senate provision is retained, giving the President the authority to grant an exemption or realinement upon a Gubernatorial finding that an exemption or realinement of time zones is necessary to conserve fuel or prevent hardship. However, this authority in the conference substitute is limited to those States whose Governors issue a proclamation before the effective date for time advancement under this legislation. The ability of the President to delegate this authority is clarified by adding the words or his designee".

Effect on State law

House Bill

Section 2(c) of the House bill provided that subsections (b) and (c) of section 3 of the Uniform Time Act of 1966 would apply to the provisions of the House bill requiring advanced time on a year-round basis. These provisions of the Uniform Time Act of 1966 express the intent of the Congress to supersede State and local laws insofar as they provide for advances in time or changeover dates different from the requirements under Federal law, and provide that the Secretary of Transportation may enforce the Federal law by injunction obtained from an appropriate U.S. district court.

Senate Amendment

The Senate amendment did not contain a comparable provision. The provisions of the

Uniform Time Act of 1966 referred to in the House bill would continue to apply under the Senate amendment because the provisions of the Senate amendment were direct amendments to the 1966 Act.

Conference Substitute

The conference substitute is the same as the House bill, except that it also provides that section 7 of the Uniform Time Act of 1966 will apply in order to incorporate by reference the definition of the term "State" contained therein, which definition includes the District of Columbia, the Commonwealth of Puerto Rico, and any possession of the U.S. (Virgin Islands).

PERMANENT AMENDMENT TO UNIFORM TIME ACT OF 1966—YEAR-ROUND DAYLIGHT SAVING TIME

House Bill

No provision.

Senate Amendment

The Senate amendment added a new provision to section 3(a) of the Uniform Time Act of 1966 under which a State (including the District of Columbia, the Commonwealth of Puerto Rico, and any possession) could provide by law that the entire State (whether in one or more than one time zone) or that portion of the State entirely in one time zone observe advanced time on a year-round basis. Thus, advanced time would be observed during the present statutory April–October observance period unless exempt by State law, and for the balance of the year (i.e., year-round) if a State by law so elected.

Conference Substitute

This provision of the Senate amendment is omitted from the conference substitute.

The managers on the part of the Senate, particularly Senator Norris Cotton (R-N.H.), were insistent upon the retention of this provision providing States this new option, in addition to the exemption option now provided for in the Uniform Time Act of 1966, as amended, to observe by State law daylight saving time on a year-round basis. Recognizing that the House provision would generally mandate year-round observance of daylight saving time until the last Sunday of April 1975, and after being assured by the Chairman of the Senate Committee on Commerce and the Chairman of the House Committee on Interstate and Foreign Commerce, each of whom were conferees, that if one or more States were desirous of observing advanced time on a year-round basis, then hearings would be held by each Committee on legislation to afford the States this additional option following the termination of the Emergency Daylight Saving Time Energy Conservation Act of 1973, Senator Cotton reluctantly agreed to the conference substitute.

FEDERAL COMMUNICATIONS COMMISSION AUTHORITY OVER DAYTIME BROADCASTERS

House Bill

Section 5 of the House bill required the Federal Communications Commission to make adjustments, consistent with international obligations and the public interest in receiving interference-free broadcasts, to permit daytime standard AM broadcast stations to operate up to one hour before local sunrise. The adjustments could be made by general rule, or by interim action pending issuance of general rules, and could include variances with respect to operating power and other technical operating characteristics and also could be varied for particular stations and areas because of the exigencies in each case.

Senate Amendment

Section 8 of the Senate amendment was the same as the House bill except that the language limiting the authority of the Commission to permit pre-sunrise operating authority to not more than one hour before local sunrise was omitted.

Conference Substitute

The conference substitute is the same as the Senate amendment.

REPORTS

House Bill

Section 3 of the House bill required the Secretary of Transportation, after consultation with other Federal departments, agencies, and instrumentalities, to report to the Congress on or before June 30, 1975, with respect to the operation and effects of the House bill, particularly the effects on the use of energy. The report was required to include recommendations for legislation or other action. Other Federal agencies were required to assist in carrying out this section.

Senate Amendment

Section 4 of the Senate amendment required the Secretary of the Interior to make a comprehensive study of the energy conservation resulting from year-round observance of advanced time and, in coordination with the Secretary of Transportation, to review the appropriateness of present time zone boundaries. The Secretary of the Interior was required to submit to the President and to the Congress not later than June 30, 1975, a report on the results of his study, together with his recommendations and those of the Secretary of Transportation with regard to present time zone boundaries.

Section 7 of the Senate amendment required the Secretary of the Interior, in coordination with the Secretary of Transportation, to investigate the effect of the Senate amendment on traffic safety, including the safety of children traveling to and from school, and submit an interim report to the President and to the Congress not later than June 30, 1974. Such report was required to include the estimated savings of energy and the total effect of the Senate amendment.

Conference Substitute

The conference substitute follows the House bill in requiring the Secretary of Transportation to make the required reports after consultation with other Federal agencies (including the proposed Federal Energy Administration) having expertise or information with respect to the effects of this legislation and in requiring such agencies to cooperate in carrying out this provision. It follows the Senate amendment in requiring an interim report in addition to a final report. Each report must include recommendations for legislation or other action and particular attention must be given to its effects on the use of energy in the United States, on traffic safety (including safety of children traveling to and from school), and on school hours. The final report, like the Senate version, must include any recommendations of the Secretary of Transportation regarding time zone lines.

ALLOCATION OF PETROLEUM PRODUCTS

House Bill

No provision.

Senate Amendment

Section 5 of the Senate amendment prohibited the President or any department or agency of the United States from taking any action resulting in unreasonable discrimination against users or classes of users of refined petroleum products, or in unreasonable classification of such users, in carrying out any emergency energy rationing or conservation program involving the allocation of such products among users or restricting amounts sold to users. This provision did not apply to action taken under the Defense Production Act of 1950.

Conference Substitute

This provision of the Senate amendment is omitted from the conference substitute. However, it should be noted that the deletion of this provision does not indicate any opposition to it among the conferees.

The conferees recognized that severe hardships have been imposed on several sectors of the Nation's economy in recent months through administrative decisions which have arbitrarily cut allocations of fuel to whole sectors of the Nation's economy. The conferees agreed that unreasonable discriminations in fuel allocations must be terminated at the earliest possible date. Retention of the provision could make the conference report subject to parliamentary objection and might risk delay of enactment of any law for several weeks. The conferees took notice of the fact that a similar provision having substantially the same effect was reported by the House Interstate and Foreign Commerce Committee as section 115 of the Energy Emergency Act (H.R. 11450). The conferees agreed that the Energy Emergency Act is the proper context for such provision, especially since the Congress will take final action thereon before adjourning.

GOVERNMENT CONTRACTS

House Bill

No provision.

Senate Amendment

Section 6 of the Senate amendment required the head of any Federal agency to negotiate modifications of any contract between such agency and any contractor if the head of such agency determined that the ability of the contractor to perform in a timely manner would be materially impaired by a shortage of petroleum, petroleum products, or other energy-producing material beyond the control of the contractor and that such modification is not inconsistent with the national interest.

Conference Substitute

This provision of the Senate amendment is omitted from the conference substitute.

EFFECTIVE DATES

House Bill

Section 6 of the House bill provided that it would take effect on the first Sunday occurring more than 15 days after its enactment and would terminate on the last Sunday in April of 1975. During this period the provisions of the Uniform Time Act of 1966 would be superseded.

Senate Amendment

As noted earlier in this joint statement, section 3(c) of the Senate amendment added a new subsection (b) to section 3 of the Uniform Time Act of 1966 under which the one-hour time advancement required by the Senate amendment would be effective from the fourth Sunday after enactment to the last Sunday in April of 1974, and again from the last Sunday in October of 1974 to the last Sunday in April of 1975. During the two periods from the last Sunday in April to the last Sunday in October of 1974 and 1975 section 3(a) of the Uniform Time Act of 1966 would continue in effect.

Conference Substitute

The conference substitute follows the House bill in providing for a continuous period of required advanced time until the last Sunday in April of 1975, but it follows the Senate amendment in providing that such period will begin on the fourth Sunday after enactment of this legislation.

In order to avoid any possible misunderstanding, the conferees wish to emphasize that during the operative period of this legislation, except as expressly provided, the several States will not be able to exercise the available option under section 3(a) of the Uniform Time Act of 1966 to exempt a State by law from the observance of advanced time. However, after the termination date of this legislation on the last Sunday in April 1975, the Uniform Time Act of 1966 will resume in full force and effect.

Thus, when section 3(a) of the Uniform Time Act of 1966 does become effective again, State laws enacted under the exemption authority contained therein will again become effective and States which have not enacted such laws will again be permitted to exercise all of the exemption authority granted by such section, i.e., any State may exempt the entire State, whether or not it lies in more than one time zone, or may exempt that part of the State which lies in one time zone, in the same manner as before this legislation was enacted.

HARLEY O. STAGGERS,
JOHN E. MOSS,
BOB ECKHARDT,
JAMES T. BROYHILL,
JOHN H. WARE,
Managers on the Part of the House.
WARREN G. MAGNUSON,
JOHN O. PASTORE,
ADLAI E. STEVENSON III,
NORRIS COTTON,
J. GLENN BEALL, Jr.,
Managers on the Part of the Senate.

HOUR OF MEETING ON TUESDAY, DECEMBER 11, 1973

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 a.m. tomorrow, Tuesday, December 11, 1973.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL ANNOUNCEMENT

Mr. DANIELSON. Mr. Speaker, on Tuesday, December 4, 1973 on rollcall vote No. 619 on House Resolution 725, to make it an order to consider the conference report on S. 1443, the Foreign Assistance Act of 1973, I was shown as not voting. I was present and voted "aye."

THE ADMINISTRATION'S TRADE BILL IS WORSE THAN NO BILL AT ALL

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. BURKE of Massachusetts. Mr. Speaker, in a short time we will be taking up the Nixon administration's trade bill (H.R. 10710). This is neither the time nor is it the right climate to be discussing this legislation. The Middle East situation is of such a serious nature that a reasonable postponement is in order. This bill does not contain safeguards against the rise in unemployment that will result if this bill passes. The energy crisis will be worsened if this bill passes because there are no provisions in the bill to provide for an equitable and fair allocation of imported oil. As every Member of this House knows I am strongly opposed to this bill because it places in the Executive more power than any President ever had. It violates section 8 of article 1 of the U.S. Constitution and transfers the power and authority of regulating trade from the Congress to the President. Congress has already abdicated too much power to the White House. We are witnessing throughout the Nation high inflation, devaluation of the dollar, and loss of jobs, and one might say we are being reminded of the "days of Herbert Hoover" all over again.

I include a letter opposing the bill signed by George Meany, president of the American Federation of Labor and Congress of Industrial Organizations, and also to include a pamphlet put out by the AFL–CIO, entitled "The Administration's Trade Bill Is Worse Than No Bill at All:"

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL
ORGANIZATIONS,
Washington, D.C., December 5, 1973.

Hon. JAMES A. BURKE,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BURKE: Next week, the House will be voting on the Nixon Administration's trade bill (H.R. 10710).

The AFL–CIO finds this bill worse than no bill at all. We urge that you vote to defeat it.

As it now stands, the bill has been written almost completely to White House specifications. Its key feature is the grant to the President of unprecedented and sweeping new executive powers which he may use—unhindered by the normal restraints of Presidential powers—to permanently alter the structure of foreign trade and the structure of the U.S. economy.

The one feature of the measure not written to White House specifications, however, concerns the granting of most-favored-nation status to the Soviet Union. Title IV denies the extension of MFN to nations unless they permit free emigration. Further, under procedures allowed in the rule, an amendment will be offered to this provision by Rep. Charles Vanik (D. Ohio), which would deny the extension of credits by the United States to the Soviet Union.

The AFL–CIO supports these restrictions on the extension of MFN to the Soviet Union, and urges you to support Title IV and vote for the Vanik amendment. We would then urge you to vote to defeat the entire bill.

We believe that the far more logical approach to the pressing problems created by this nation's trade policies and by the growing world-wide energy crisis is for the House to reject the bill now before it and turn to writing a new trade bill in 1974 when the present turmoil of events does not cloud the scene. A strong, assertive trade bill in 1974 should, of course, contain strong restraints on MFN and credits to the Soviet Union.

Consider these facts:

The present trade bill has been withdrawn from floor action three times because of "unfavorable" events;

The bill's strongest backers admit publicly that support for the bill is eroding;

The N.Y. Times reported on December 4 that "higher unemployment next year" would reinforce strong opposition to the bill;

The Common Market nations and Japan quickly capitulated in the face of the Arab oil embargo, demonstrating their overriding concern with putting their own economic self-interests ahead of any American considerations.

In view of the fact that world-wide rapid change are occuring which will deeply affect not only the American economy but America's position with respect to trade with the rest of the world, approval of an Administration trade bill tailored to a set of circumstances which are becoming obsolete with each passing hour would be the height of folly.

Sincerely,

GEORGE MEANY,
President.

Enclosure.

THE ADMINISTRATION'S TRADE BILL IS WORSE THAN NO BILL AT ALL

The United States is suffering major problems of trade deficits, devaluations, inflation and an eroding industrial base. Each passing month brings more distortions in trade, more manufactured goods imported, more scarce raw materials and agricultural products exported, more twists and turns that wrack our economy and cry out for rational solution.

Instead of facing up to these problems of the Seventies, the Administration's Trade bill (H.R. 10710) is a re-run of the past trade policies that are now outdated and unrealistic. It is also a dangerous abdication of congressional authority that can cause far-flung harm to U.S. industry, business, consumers and workers.

I. THE BILL FAILS TO MEET AMERICA'S PROBLEMS

It fails to provide even a minimum program to regulate the flood of imports which are wiping out jobs and whole industries at a devastating rate. In the first half of 1973, imports rose by 23.6 percent over the like period of last year, and U.S. prices of imports rose by 25 percent in the same period.

It contains no provisions for the regulation of U.S.-based multinationals which export capital, jobs, production and technology abroad, then ship goods back to the U.S. as imports and/or displace U.S.-made goods in export markets.

It does nothing to close the present lucrative tax loopholes for American-based multinationals which make it more profitable for them to locate and produce abroad. These tax loopholes cost the U.S. some $3 billion a year in badly-needed revenue.

It takes no recognition of the loss of more than a million jobs and job opportunities in the U.S. since 1966 under present foreign trade and investment policies. It provides no assurance to either workers or industries that the future strength of America's industrial base will be protected.

II. THE BILL MAKES AMERICA'S PROBLEMS WORSE

The thrust of the bill's authority toward tariff cuts will accelerate imports. This will encourage still more U.S. industries to relocate abroad as their "defense" against imports.

The bill's authority for negotiating away non-tariff safeguards as "impediments" to trade endangers present laws on product safety, consumer protections, environmental standards and other domestic safeguards. International trade agreements altering or eliminating these laws at the federal, state and local level will be packaged for presentation in such a way as to make rational evaluation by Congress impossible.

The bill would permit special "zero tariffs" on imports from so-called emerging nations such as Taiwan, South Korea, Singapore, Haiti and other low-wage enclaves which already have taken over huge segments of production of U.S. electronics, textiles, apparel, and shoes. This will encourage more U.S. industries to abandon U.S. workers and move production to these preferential areas.

The bill relinquishes important trade powers of the Congress to the President. It gives him unprecedented authority. Congress would have only veto power over agreements on an up or down basis that would preclude effective assertions of congressional will.

The bill re-runs the illusion of help for import-injured workers through the federal dole of "adjustment assistance." This concept is a proven failure at meeting the real problems of import damage for both workers and industry. Under the present adjustment assistance program, only some 50,000 workers have received assistance in more than 10 years.

The bill gives the President sweeping power, in the name of fighting inflation, to negate the present weak laws concerning countervailing duty, escape clause, and anti-dumping. The President can, immediately upon enactment, arbitrarily increase the imports of goods from any country, eliminate voluntary agreements, end import restraints and suspend laws now in effect.

An extension of credits and most-favored-nation status to countries that deny their citizens basic liberties would be a direct slap at our democratic trading partners ard should be denied.

STRONG LEGISLATION IS NEEDED

Strong trade legislation is needed, but it is far more preferable to start anew in January on a meaningful trade bill that will meet the nation's problems than to proceed with legislation that will extract a disastrous toll of jobs, industries and national well-being. A vote against the bill is a first step towards the consideration of new and effective trade legislation.

American workers in aircraft, chemical and allied products, steel, steel products, apparel, rubber, shoes, electronics, stone, clay and glass, textiles, transportation, construction, services, education, food processing and scores of other occupations urge you to defeat the Administration's trade bill.

Defeat H.R. 10710, the Administration's Trade Bill.

NATIONAL PROTECTION ACT

(Mr. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKBURN. Mr. Speaker, I have come to the conclusion that the present trade policies of this administration relative to trade with the Soviet Union and the Iron Curtain bloc countries are endangering the United States. I have concluded that present trade policies are resulting in the transfer to the Soviet Union of technology which will have an immediate use in increasing the military strength of the Soviet Union. I have also concluded that the transfer of technology and American capital goods will allow the Soviet Union and the Iron Curtain bloc countries to compete on an unfair basis with American industries and American workingmen by using the benefit of Communist slave and nonfree labor.

Mr. Speaker, I bring these remarks to the attention of the House because we should have this in mind when we are considering the trade bill that will be considered today and tomorrow.

I am inserting some prepared remarks in the RECORD at this point, to which I invite the attention of my colleagues so that they too can be aware of the danger being presented to America's security as well as her economic interest by reason of the administration's trade policies.

NATIONAL PROTECTION ACT

The purpose of my act will be to prevent the exportation of American products, including agricultural commodities, technology, scientific accomplishments, and capital equipment, or reexporting of the same, to any country which takes actions to harm the U.S. economy or endanger the security of the United States.

A. PROTECTION OF THE AMERICAN ECONOMY

The present policies of this administration of allowing the indiscriminate exportation of American capital goods and technology to countries possessing both abundant natural resources and utilizing slave labor pose a serious threat to the competitive position of America's economy in world markets. The threat is twofold: First, a threat to the employment of skilled American labor which should not be expected to compete with slave labor; second, a threat to American industry which has developed a high degree of technology and sophistication in production under the stimulus of a competitive and market-oriented economy.

Today, it is recognized by any serious student of international economics that the Soviet Union and her Communist allies are suffering from a lagging economy in spite of an abundance of raw materials, space, and skilled labor. Their lagging economies can be traced in large measure to the stultifying effects of a heavy-handed bureaucracy dominated by political considerations and the lack of stimulus of competitive enterprises in which the innovation of man's imagination can be brought into full play. The stultifying influence of these factors is best reflected in the lack of notable advancement in new technology and imaginative management for the development of a healthy domestic economy. The leadership of the Soviet Union, as the leader of the Communist-dominated Eastern bloc countries, itself now recognizes their inability to meet the challenge of American technology. They are incapable of developing even the natural resources within the confines of their own boundaries.

The backward nature of Soviet technology should be an embarrassment to the Soviet leadership, but they have fouund a way to avoid the economic effects of such embarrassment. They have found that the American Government is now willing to make available to them technology which their economy has proven incapable of developing. Thus, present trade policies of the United States are making available to the Soviet Union, and her allies, the fruits of America's industries, her scientists, and her workers.

If we could feel that the Soviet leadership would accept such bounties in the spirit of fair competition for world markets and for the primary purpose of development of her domestic economy, with the benefits to flow primarily to the Soviet workers and the Soviet citizen, then we would have no need to view the receipt by her of such technology with serious misgivings. From all visible signs, however, it appears that the Soviet Government's intention is to use America's finest scientific and technological developments to further the expansion of her military capability while, at the same time, exploiting the citizens of her country for slave labor purposes in order to disrupt the Western economy, including that of the United States.

Last February, the Subcommittee on Internal Security of the Committee of the Judiciary of the U.S. Senate held public hearings on the Soviet labor camps—see publication "U.S.S.R. Labor Camps" by the Judiciary Committee. The hearings confirmed previous estimates that about 25 percent of the Soviet labor force consists of slave laborers. These Soviet subjects are placed in prison camps behind barbed wire under the guise that they are either politically unreliable or socially parasitic, and that they need the benefits of political and social reeducation. They are primarily utilized in Soviet basic industries in the Asiatic part of the Soviet Union—beyond the Ural Mountains and in Siberia. The rest of the Soviet labor force is in only a slightly better situation. They do not live in forced labor camps and under brutal control of sadistic guards, but they lack all basic freedoms common to their counterparts in the free world. Soviet workers are not free to bargain for the sale of their services to the only employer in the U.S.S.R., namely, the Communist state apparatus. Soviet nonslave workers are assigned to their jobs by the Communist aparatchicks of the Soviet government. Their meager wages are determined by the bureaucrats of the Soviet State Planning Commission. In other words, Soviet workers are not permitted to organize into free and independent labor unions in order to be able to obtain sufficient strength to negotiate on an equal footing with their employer—the Soviet government. Consequently, we have a phenomenon of a desperately underpaid and exploited labor force.

It is a common practice for the Soviet Union to dump products in the markets outside of its borders. There are numerous examples of semifinished products and products dumped in the world markets. To mention just a few: petroleum, natural gas, automobiles, various agricultural products, coal, chrome, motorcycles, steel, copper, vodka, and so forth.

On November 26 of this year, the Wall Street Journal presented an article dealing with the increasing degree of dumping on the Western markets of automobiles now manufactured in the Soviet Union and other Communist bloc countries. The base for manufacture of these cars was Western technological know-how and Western capital equipment provided to the Soviet Union on credit. Officials in the automotive industry have observed that the automobiles being exported by the Soviet Union into Western Europe are being sold at an unrealistically low price.

Such dumping makes little sense to a business- and profit-oriented Western observer, but to a Soviet Government, whose first consideration is political advantage, the disruption of a Western market is more important than any potential profit which they might be currently foregoing. For us, however, to improve their ability to carry out their economic warfare upon any of the Western markets is a form of economic insanity for which we have no one to blame but ourselves. The purpose of my legislation is to insist that our Government officials take into account the potential market disruptions with resulting high unemployment and economic distress in our country before we continue to allow the transfer of sophisticated technology and capital goods.

If the Communist governments were paying in hard cash or gold for the capital goods and technology, one could argue that the sales are improving America's balance of payments as well as our balance of trade. Such is not the case. We are transferring at a staggering pace benefits to the Soviet Union and her satellites and receiving in turn I O U's of questionable value, I O U's which, at best, can only be repaid out of the proceeds of exploitation of slave labor and at the cost of unemployment and economic disruptions in our realm.

B. PROTECTION OF NATIONAL SECURITY

The other area of national concern adversely effected by the transfer of American technological know-how, capital equipment and scientific achievement to the Soviet Union and Warsaw Pact nations is that of national defense. A 10-year study by the prestigious Hoover Institute at Stanford University establishes that the Soviets have been unable to develop a technology worthy of the description "advanced." Most of Soviet technology, probably as high as 90 percent, is imported from the West, copied from the West, or obtained via military and industrial espionage. The primary beneficiary of the transfer of Western technology has been the Soviet military-industrial complex, and ultimately Soviet military power.

For example, the sale of an American scientific computer to the Soviet Union has enabled the Soviet military to shorten by about 2 years the time required to create and perfect their first MIRV—multiple independent reentry vehicle—the only area of sophisticated military technology in which the United States had enjoyed a definite lead. The American strategic advantage due to existence of our MIRV's has been erased by a successful test of a Soviet MIRV SS–18.

We have received disturbing reports regarding a continuing and increasing flow of sophisticated American technology to the Soviet Union and to some of the Warsaw Pact governments. Most of the technology being transferred has a direct military application.

Transfer of American capital goods and technological know-how having an immediate military utility to the Soviet Union and Warsaw Pact governments is, to me, a direct contribution to the Soviet's ability to ultimately destroy our country and our allies.

What is more probable than a military conflict involving nuclear destruction of both the United States and the Soviet Union is the successful intimidation by a militarily superior Soviet Union of the United States. Such intimidations, made possible by a clear military superiority, would be manifested by a series of confrontations resulting in a succession of concessions by this country. Each concession being a surrender of something of economic—and concomitant military—value to the United States, thus further tilting the balance of military superiority in favor of the Soviet Union with a reduction in military capability of the United States. The final result of such concessions would, of course, be a United States incapable of defending itself against the Soviet threat with the leadership of America being finally forced to surrender the very liberties, as well as the possessions, of the American people to an ambitious and aggressive Soviet menace.

If my conviction about the aims of the Soviet Government were the result of my own personal speculations, I would not expect the President, the Congress, or the people of the United States to give attention. In fact, I wish that my conclusions were peculiar to me alone. It would give me some reassurance to suppose that my imagination was being dominated by fears peculiar to me, and to me alone. Such source of comfort does not now present itself.

Many writers, serious students of communism and of the Soviet affairs such as Prof. William Van Cleave from the University of Southern California, Prof. Anthony Bouscaren, Prof. Gerhart Niemeyer of Notre Dame, Dr. Slobodan Draskovich, Dr. Charles Baroch, Prof. Anthony C. Sutton of Hoover Institute at Stanford University, and many others have reached the same dreadful conclusion. I would invite your attention to Prof. Bouscaren's work "Is the Cold War Over?", Dr. Draskovich's excellent study "Will America Surrender," and Prof. Sutton's penetrating analysis "National Suicide"—subtitled "Military Aid to the Soviet Union."

But it is not enough that I should call to your attention the writings of scholars of international stature on the subject of Soviet goals and purposes. We need not speculate on the basis of inferences drawn from past actions. We can find from the mouths of the Soviet leadership itself statements of intentions which bode only ill for the Western world.

One no less than Leonid Brezhnev, the Soviet Communist Party leader, the unquestioned spokesman for the Soviet Government in both domestic as well as international matters, has made clear the Soviets' intentions for the foreseeable future. When questioned by other leaders in the Communist government of Soviet Russia as well as other Communist leaders in the Iron Curtain countries about the true meaning of accommodation with the West, Mr. Brezhnev's response was clear and, to date, unchallenged. In effect, Mr. Brezhnev reassured the leadership of the Communist world that détente was merely a period for strengthening the Soviet economy through the utilization of Western technology while continuing the pursuit of clear Soviet nuclear and other military superiority over the West. A Western intelligence summary of Mr. Brezhnev's reassurances to his Communist allies is worthy to be repeated:

> To the Soviet Union, the policy of accommodation does represent a tactical policy shift. Over the next 15 or so years, the Soviet Union intends to pursue accords with the West and at the same time build up its own economic and military strength.
>
> At the end of this period, in about the middle nineteen-eighties, the strength of the Soviet bloc will have increased to the point at which the Soviet Union, instead of relying on accords, could establish an independent superior position in its dealings with the West.

The famous words that Vladimir Lenin—the founder of the Soviet Communist State—once used to describe a capitalist as "a man who will sell you the rope that will be used to hang him," are the best illustration of the mentality of those persons in the United States who are involved in transfer of sophisticated technology, scientific achievements and capital equipment on credit to the U.S.S.R.

Recent reports about agreement signed by General Dynamics Corp., which, we would like to stress, is one of the Nation's largest defense contractors, and the Soviet Union's State Committee for Science and Technology is extremely disturbing. The 5-year agreement for scientific and technological cooperation covers such defense related fields as ships and shipbuilding, telecommunications equipment, asbestos mining and processing, commercial and special purpose aircraft, computer-operated microfilm equipment, and navigation and waterbuoys.

Control Data Corp. has also recently signed a broad agreement for scientific and technological cooperation with the State Committee of the Soviet Union's Council of Ministers for Science and Technology. That accord calls for cooperation in the joint development of advance computer technology and related services. This agreement will transfer to the Soviet Union a knowledge of computer techniques that it does not now possess. But, will that be in this country's interest? The most recent and most disturbing news is about a deal between the Fairchild Corp. and the Communist government of Poland for the sale of U.S. integrated circuit technology, which is extensively used in modern weapons systems as well as in advanced computers.

All these have been made possible by the policy of the drastically pared list of commodities embargoed for export to the Soviet Union for strategic reasons and by the practically dismantling of the Office of Export Control in the U.S. Department of Commerce.

What is so incredible to me is the willingness of our Government's officials to believe that we will receive one whit of technological improvement from these so-called scientific discussions. If we have received any improvement in either domestic or military technology as a result of a discussion with a Soviet scientist the fact has never been made public and I would challenge our Government officials to make known such benefits if such have ever been received. To term scientific discussions with Soviet scientists and technicians as "mutual exchanges" is a thin facade which can be best described as an absolute fraud on the American public. There is only one beneficiary of such "scientific exchanges" and that beneficiary is the Soviet government and the Soviet military machine.

The military technical virtuosity of some of the Soviet weapons which have been in the spotlight during and after the most recent Middle East conflict has forced upon me and my colleagues in Congress disquieting thoughts which require not only the reevaluation of the entire concept of détente but also reevaluation of the premises of our trade with the Soviet Union. The SAM–6 surface-to-air missile, for example, changed Western preconceptions about how the struggle in the Middle East would go by its extraordinary effectiveness—an effectiveness which, for a time, denied Israel air supremacy in the Suez Canal zone.

This country has no comparable weapon, nor does the United States Air Force now have any reliable means to counter this missile should American planes have to fight in a war with a country having the SAM–6 mobile missile launchers. Impressive too, is the new Soviet antitank missile, a weapon directed by infrared rays, and the 3-ton Frog-7, the Soviet missile that sent 1,100-pound warheads crashing down on villages in the Central Galilee.

The impression is inevitable that the Soviet Union has concentrated its resources of scientific and technological talent overwhelmingly on military needs—including the military related space programs—while totally neglecting civilian technology. Moscow is asking now that the United States play a major role in repairing the backwardness of the Soviet civilian technology on the one hand and military technological shortcomings due to the lag in the computer field.

The Middle Eastern war has demonstrated the Soviet understanding of détente. They have armed Arabs and pushed them into the war against Israel and by doing so they have violated the obligations undertaken under the Basic Principles of Relations which were signed in Moscow in 1972 and reaffirmed in Washington last June.

In these circumstances, is it now wise to take another hard look whether this country should provide the Soviet Union with any kind of technological assistance? And, in taking that second look, account ought to be taken, too, of the recent reports about the spectacular rise in the Soviet tank strength in Central Europe as well as the 50-percent increase in Soviet tactical airpower in that area.

Similar consideration is due the gigantic Siberian natural gas deals that Moscow is seeking to conclude with some American companies. The energy crisis is real enough, but is dependence upon Soviet oil or gas the way out of the Nation's problems?

A negative answer is unavoidable. This is particularly true at this time when the Arab nations have put an oil and natural gas embargo on the United States. I personally harbor a deep suspicion that the use of oil as a weapon for political purposes was the brain-child of the Soviet Government. If the Soviets would encourage others to use energy as a political weapon, can any rational man doubt that they would use the same weapon when possessed by her and when it suits her own political purposes? The Arab move ought to teach the United States that political use of economic levers is likely to be a major and increasing feature of the world scene from now on. The Arabs are now punishing this country, Western Europe and Japan for their support of Israel.

The motives for a possible future Soviet cutoff of energy shipments to this country could arise from any of the numerous areas of potential confrontation between Washington and Moscow. More than ever, therefore, the question now arises why the United States should put this potential energy weapon in Moscow's hands and pay billions of dollars in capital investments for the privilege of doing so. President Nixon's recent suggestion that this country become self-sufficient in energy seems to point toward a much wiser geographic focus of future American energy investment.

The Middle East crisis and then the frightening Soviet-American confrontation of October 24–25, should help put sober calculation in place of euphoria.

The experience of the recent Middle East war and concerted Soviet effort to promote instability around the world point up the lack of any substance in any claims by those that détente has meant a de facto improvement in American-Soviet relations. The experience is to the effect that the Soviet global intentions did not change. Dr. Kissinger recognizes it; however, he is unwilling to act. The President recognizes it and, therefore, his decision that we should be self-sufficient in the area of energy needs. Our Western European allies realize it, too. Recently, at the Moscow talks, Sir Alec Douglas-Home renewed the Western position on relaxation of barriers to East-West contract: In reply to the Soviet Foreign Minister Gromyko's position he stated, "We do look for practical ways of bringing people together, in other words, for a true détente in practice, rather than just in words." And the French Foreign Minister Michel Jobert called for strengthening of Western Eupean defenses in face of de facto Soviet foreign policy.

I would like to point out that the Soviet strategy in the Middle East by encouraging the oil embargo had as objective creation of dissension in the NATO and ultimately to weaken the capability and will of the Western World to defend itself.

INTRODUCTION OF PATENT MODERNIZATION BILL

(Mr. SMITH of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New York. Mr. Speaker, there are currently pending in the House of Representatives two bills proposing revision of the patent laws of the United States. One is H.R. 7111 which is the counterpart of S. 1321, the so-called Hart bill. The other is H.R. 10975, the admintration bill. Each of these pending bills, while possessed of worthy objectives, has been criticized for various aspects in their rigorous and meticulous detail as to procedure, which would threaten to deny access to patenting to all but larger and adequately capitalized entities. It seems, therefore, important that this House also have before it for consideration a bill providing improved quality of patents, public participation in the patenting process and promotion of early disclosure of patentable advances without stifling, hobbling, and impeding the incentives to invent and to disclose, develop and invest risk capital in inventions.

For this and other purposes I am today introducing the patent law modernization bill. It is presented by the American Patent Law Association and is the product of long and intensive labors by that association and by members of the Patent, Trademark, and Copyright Section of the American Bar Association. No patent modernization bill should be insensitive to promotion of incentive to patent as respects individual inventors and small technically oriented companies. It should not place an unreasonable financial burden on the public, on inventors or on industry in general. The patent system can lose much, if not all, of its attractiveness to individuals and small companies by increasing costs of patenting to such an extent that those categories are priced out of the market.

We must be especially sensitive to the maintenance of the patent system as a viable vehicle by which the individual inventor and the small company can retain the incentive for research and development which the patent system has traditionally provided and must continue to provide. The patent law modernization bill, which I am introducing today, is reasonably designed to accomplish these purposes.

There has for some time been concern by inventors, industries and the patent bar over the considerable number of litigated patents which have been invalidated by the U.S. courts. It is thus desirable to improve, within reasonable bounds, the patent examining process in order to improve the quality of patents.

The prime factor in patent invalidity is the belated discovery in the course of litigation of patents and publications which constitute prior art against the patent, but were not found or cited during prosecution of the application on which the patent issued. This to a considerable degree is explainable by the technology explosion of the last 10 to 15 years. The result is an accompanying information explosion. The Assistant Secretary of Commerce for Science and Technology has recently stated that the Patent Office files contain over 11 million documents and that approximately 250,000 new ones are added each year. The increasing multitude of technical publications adds to the magnitude of the problem. Clearly, better ways of finding prior art and applying it in the Patent Office to prevent the maintenance of invalid patents are needed.

This bill addresses itself squarely to the prior art problem but seeks to do so in a way that does not inordinately burden the applicant for a patent with needless expense that would be counterproductive to the overall operation of the patent system. It provides, for example, that the inventor make oath to his belief that he knows of no prior public use or of other information which would bar issuance of a patent under the law; he is also called upon, under oath, to state that he has made a full disclosure to the Patent Office of all facts which he reasonably believes are pertinent to the proceedings in the Patent Office.

Moreover, the bill provides that the applicant may be required to submit copies of or to cite patents and publications that were considered in the course of preparing the application and to state why the invention is believed to be patentable over such prior art. This is calculated to give the Patent Office examiner at least the best prior art of which the applicant was aware and to facilitate his searching of Patent Office files for additional prior art that might be relevant. It should also speed the examining process by helping the examiner and the applicant, early in the proceedings, to reach an understanding of each other's position.

Provisions are included for the publication of pending applications at the request of applicants. The bill does not make such publication mandatory.

Instead, it strikes an appropriate balance between the public's interest in early disclosure and the applicant's right to exercise his option of accepting a patent or taking his chances at maintaining his invention secret. This is important if the utilization of the patent system is to attract the widest possible interest among inventors and those who invest in inventive efforts.

In addition, the bill is designed to accelerate the public availability of disclosures of new technology by reason of its provision that the life of a patent is limited to 20 years from the filing of the application rather than the 17 years from the issue of the patent, as at present. This offers incentive to applicants for patents to accelerate issue of a patent with attendant publication and it penalizes delay.

Also, the bill provides for objection by the public to issuance within 1 year after issue of any patent. Any member of the public may within this period notify the Commissioner of Patents of publications or patents that may have a bearing on the patentability of any claim of the patent and explain the pertinency of such publication of the patent. Thereupon the Commissioner may cause the claims of the patent to be reexamined. Thus by this provision the interested public has the opportunity to bring to the attention of the Patent Office pertinent art not previously discovered by the Patent Office or the applicant, thus meeting the prime problem encountered in the patenting process.

In addition, for the same period members of the public having evidence of earlier public use or sale of the patented invention or of prior invention may submit such evidence. One claiming derivation from himself may similarly submit evidence. In these instances the party submitting the evidence is entitled to participate as a party in the reexamination proceedings in the Patent Office.

One should have special concern for costs. To limit access to the patent system to the rich would be to destroy the system in its proper objectives. It is most important that the selectivity of the patent system operate with respect to the degree of distinction an invention possesses over what has gone before, and not with respect to the economic status of the applicant. Changes in procedure in the Patent Office should be regarded in relation to the balance between benefits and cost. Higher costs of Patent Office operation will traditionally be passed on to applicants for patents in the form of fees. Of vital consideration to applicants are procedural changes which will substantially increase the charges which their attorneys must make. The provisions of this bill have been carefully designed to maximize the benefits of increased responsibility on the part of the applicant and public participation in the examining process while holding to a reasonable extent the concomitant increased costs to applicants.

This bill, aside from those aspects which are properly directed to legislative modernization and revitalization of the patent laws of the United States, leaves the implementation as to details to the Commissioner of Patents to prescribe by applicable revision of the rules of practice in the Patent Office, where they are subject to change to meet the exigencies of the situation. This is far more appropriate to meeting the needs of the system on a month-to-month and year-to-year basis than is legislative prescription of meticulous details with resultant rigidity which militates against seasonable change.

Another change of significance is directed to the practice of importing materials made abroad by a process which, if carried out in the United States, would infringe a patent here. Such a practice is made an infringement in this bill, as it is in many other industrialized countries.

The bill also provides clarification as to acceptable licensing practices, thus eliminating some of the uncertainties which now exist. The President's Commission on the Patent System in 1966 urged that the licensable nature of patent rights be clarified. This bill strikes a desirable balance between specific proscription against certain practices and specific approval of certain practices, while safeguarding all parties from inequities by calling for a rule of reason to be applied in determining whether other licensing provisions are acceptable.

While these remarks have been devoted to the most important of the concerns and provisions, the bill also includes numerous other changes, both technical and substantive, which contribute to the general modernization of the patent system. The bill deserves careful consideration as a soundly conceived and proper response to the need for change in a vital institution.

AMENDMENT TO H.R. 11450

(Mr. MILFORD asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MILFORD. Mr. Speaker, when the emergency energy bill, H.R. 11450, reaches the floor, I shall offer an amendment concerning the transportation of schoolchildren and urging the use of schoolbuses to augment city mass transit systems.

The amendment will:

First. Establish a minimum distance that any child may be transported to any school by bus;

Second. Prohibit the transportation of children to any school other than the one nearest their home; except in the cases of special education classes which may be offered at only one school in a system, parochial schools, private schools, or schools for handicapped children;

Third. Require school districts to offer for lease their schoolbuses to authorized area mass transit companies for use during periods when demand exceeds transit company facilities and when the schoolbuses are not required by the school.

Every citizen in this Nation is being asked to cut his energy use by 25 percent. There must be no exception for our schools.

Cross-town transportation of children at this time is absurd and energy-expensive. Families must drive their own cars further to participate in after hours school activities. Schools must maintain longer operating hours and run more buses longer distances. This just does not make sense.

Probably the most important provision of this amendment consists of the use of schoolbuses by mass transit companies. Many Members have not given thought to the fact that the energy crunch is going to place a severe strain on mass transit facilities. One of our greatest problems will be in getting people to and from work. The demand for new buses will far outstrip our ability to manufacture them.

Our school districts now have thousands of buses that sit idle much of the time. These can be pressed into service to fill the need immediately.

Finally, public cooperation will be essential if we are to survive this energy crisis without serious harm. People with school-age children will resent excess busing—particularly when they begin to have difficulty getting to their own jobs.

This amendment will provide a solution for the citizens. I ask for your support when the amendment comes up on the floor.

Amendment to H.R. 11450. Page 6, line 5, insert after the period the following:

Such plan or plans shall contain limitations on the transportation of students enrolled in schools operated by local or State educational agencies, as defined in sections 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, including prohibition of the transportation of any such student enrolled in elementary school for distances of less than one mile and of any such student enrolled in secondary school for distances of less than two miles, and prohibition of the transportation of any such student to a school other than the school nearest his place of residence (within the school district of the local or State educational agency) which provides the appropriate grade level and type of education for such student, taking into account school capacities. Such plan or plans shall also contain provisions for requiring local and State educational agencies which own school buses to enter into agreements with appropriate authorities in order to lease such school buses, during the hours in which they are not needed for the transportation of students, for purposes of augmenting mass transit service.

FOREIGN DEBTS ARE NOT FORGOTTEN

The SPEAKER pro tempore (Mr. McFALL). Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, the Committee on Government Operations, of which I am a member, released a report which I feel is of particular significance at this time to the Nation's taxpayers, to members of Congress, and to the Federal Government as a whole. The report to which I refer is titled "Delinquent Foreign Debts and Claims Owed to the United States (Selected Countries)."

At a time when Congress is considering what is probably one of the most significant budget and spending control bills ever to be debated in this forum, the information and recommendations in this report deserve special attention. This bill and the matter of delinquent debts and claims owed to the United States by foreign countries have commonality because the manner in which we as representatives of the people handle these matters will, in large degree, determine the kick they give to the pocketbooks of the Nation's taxpayers.

The committee report on foreign debts and claims grew out of on-going studies of this matter which have been conducted by the Subcommittee on Foreign Relations and Government Information, of which I am a member.

We have been zeroing in on delinquent international debts because they hurt the American taxpayer in three ways. First, since the Federal Government does not have this money available to apply to costs in the national budget the taxpayer has to cough up higher levies. Second, the taxpayers are penalized when the Federal Government, because of the vacuum caused by the failure of countries to pay debts they justly owe us, is forced to borrow money at high interest rates. And, finally, the taxpayers suffer long-term injury when the United States gives the impression to other countries that the men making decisions at the top are such poor economic managers they do not insist on timely payment of debts.

As members of the subcommittee, we feel we have made some progress, since more than $125 million in delinquent debts were either collected or rescheduled under formal repayment agreements during the 92d Congress as a result of the improved reporting and collection procedures sought by the subcommittee. The subcommittee also played an instrumental role in initiating negotiations and achieving the agreement which led to the $722 million settlement of the Soviet Union's World War II lend-lease debt owed to the United States.

While some 100 countries are currently delinquent in paying their debts to the United States, two large debts deserve special attention because of the obstinance of the debtors to quickly settle them. The first of these is a classified claim resulting from the withdrawal of America's North Atlantic Treaty Organization—NATO—forces from France in 1968, at the demand of former French President Charles de Gaulle. The amount of this claim has never been revealed to the American people on the ground that such action might jeopardize its settlement. Since the U.S. Department of State has advised our subcommittee that France can afford to pay the claim with no economic difficulty, I feel it is high time that France be reminded that friendship is not a one-way avenue. When I served as acting chairman during hearings in Paris last year (1972), I had this to say to the French:

> Twice in this century, our American brothers have crossed the Atlantic to fight and die side-by-side with the French. We have indeed climbed the same hill together, fighting for freedom against tyranny.
>
> Americans remain vigilant against the forces of tyranny. The United States is a full partner in the North Atlantic Treaty Organization that is committed to the defense of Western Europe. And this is at a great expense to the citizens of our great Nation.
>
> Americans believe in principle and we keep our commitments. Likewise, France has a great tradition for honor, and I cannot believe that the people of France would permit their government to breach its solemn agreements with the people of the United States.

Now we have been told that there have been many "conversations" between United States and French officials regarding this claim, but the U.S. Embassy in Paris is reluctant to describe these talks as "formal negotiations." Perhaps we are just quibbling about words, but one thing is clear: a satisfactory settlement has been pending too long.

The other debt of major concern is a $35.6 million delinquent debt owed to us by Iran. Negotiation over this debt, stemming from lend-lease agreements and American suplus property provided to Iran following World War II, broke down when United States officials refused to go along with Iran's insistence that we cancel the interest due on the debts.

On the subcommittee we are opposed to a concession because it could easily come back to haunt us in negotiations with other countries who owe us money, and also because we found, during a subcommittee visit, that Iran is experiencing a healthy, new prosperity from petroleum development and can easily afford to pay this debt.

We on the subcommittee feel that foreign countries now enjoying prosperity cannot be permitted to remain on the delinquent debt list or owe us large unpaid claims. One of the reasons the U.S. dollar has been under attack is that there are too many dollars floating around the world. So it is imperative that we get these dollars back home.

With this background, here are the subcommittee's recommendations, as adopted today by the Committee on Government Operations:

First. The United States Department of State should intensify its efforts to reach satisfactory settlement of the French claim and the Iranian surplus property debt before the end of this year, relaying to those governments the growing congressional concern over these matters.

Second. The State Department should give high priority to efforts seeking debt repayment acceleration by those countries now in an economic position to make repayments, especially when they possess excess U.S. dollars not already invested in the United States.

Third. The Defense Department should coordinate the military services' systems of reporting and collecting delinquent military sales and credits debts, with a high priority on reducing delinquencies, and, where appropriate, U.S. military advisory groups in these countries should participate in such efforts.

Fourth. The Treasury Department should devise a reporting system on unpaid claims and include at least a worldwide total in its periodic reports to Congress.

During the course of the work of the subcommittee some of these recommendations have, to a degree, been implemented.

Hopefully, diligent efforts to collect these overdue bills from abroad will give the average American taxpayer a little more breathing room.

I commend this report of the Committee on Government Operations to my colleagues.

ENERGY CRISIS: WE HAVE DONE TOO LITTLE TOO LATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, everyone has suddenly become concerned about the energy crisis. But for those of us from the Midwest it has been a very real problem for a long time.

In October 1972, I wrote Secretary Morton:

> There is now or soon will be a dangerous shortage of fuel oil in several northern Illinois counties. Several thousand homes may be affected and many could be without heat during the coming winter unless action is taken immediately.

Within weeks, there were plants in Illinois which were forced to limit operations because they could not heat their facilities. Crops lay in snow-covered fields because there was no fuel to dry them. And many other agricultural producers as well as individual consumers had serious difficulties in obtaining guaranteed supplies.

In December of 1972, several Congressmen who represent areas most affected by the energy shortage warned of a worsening situation. Our letter to Secretary Morton said in part:

> It is now assumed that the shortages of fuel oil that plague the Midwestern markets, particularly the small business independent marketers, will continue and increase, forcing additional business shutdowns and throwing more men literally out of work and into the cold.
>
> While the Midwest is suffering the most, the nation as a whole is facing a critical shortage of heating oil. This does not consist of merely "spot dislocations or localized product shortages." This shortage is substantial, severe, and widespread.
>
> All possible steps must be taken at once to replenish heating oil and liquid gas supplies. We strongly urge that the Oil Policy Committee take the necessary steps to solve this problem.

Early in 1973, as it became even more clear that firm action was needed to combat the energy crisis, I introduced three pieces of legislation to help ease the growing shortage.

First, a bill to lift all import quotas on oil;

Second, a bill to authorize the President to ration fuel oil to areas in acute distress; and

Third, a bill to deregulate the price of gas at the wellhead by the Federal Power Commission.

At the time these bills were introduced, I pointed out to my colleagues:

> The energy crisis is upon us. Given the seriousness and intensity of the situation, I urge the Congress to act immediately upon my proposals.

Shortly thereafter the President suspended fuel oil import quotas on heating oils and raised the crude oil import quotas for the rest of the year by 65 percent. In a letter I sent President Nixon, I stated:

> For years, the U.S. was not only self-sufficient in oil, it carefully limited its own production through state conservation laws which included as wasteful the selling of oil in excess of the market's demand. However, the supply of domestic oil has been failing to meet demand by increasing margins.

In response to my letter, John Ehrlichman, then Assistant to the President replied:

> I believe we have done everything which can be done this season. I am confident that by next winter we will be in an easier position.

Unfortunately, such optimistic thinking has been dashed by this year's harsh reality.

Also, early in the year, I placed in the CONGRESSIONAL RECORD a statement pointing out the need for careful consideration of any action to combat the energy crisis:

> Emergency measures, emergency allocations, last minute stop-gap measures, increasingly will fall short, thereby creating chaotic marketing conditions and shortages.

NATURAL GAS

The energy problems faced by the Midwest in recent years were caused, in large part, by the serious shortage of natural gas. For example, a 30-percent reduction to the Marblehead Lime Co. outside Quincy, Ill., has forced management to move workers to other assignments.

Demand for natural gas has been growing steadily. This is due in part to the extension of the pipeline systems, which became available to millions of new consumers. Primarily, however, it is due to the cleanliness of natural gas and its comparatively low price.

Back in 1954, the Supreme Court decided that producers of natural gas were part of the industry intended to be regulated as a natural monopoly for the protection of gas consumers under the Natural Gas Act. Ever since, the Federal Power Commission has kept the price of natural gas at the wellhead artifically low. This control discourages the drillings of new wells.

At the same time that prices have been kept artifically low, demand for natural gas increased with the advent of clean air standards which eliminated many of the dirtier fuels for industrial uses without very expensive emission control devices. The relatively low price of gas per British thermal unit stimulated its use by all classes of consumers, including large industry and utility customers who burned gas lavishly under generator boilers. No estimates of the demand for natural gas were generous enough to predict the requirements of present years. Most unfortunately, several years are required between the decision to drill for gas and actual commercial production.

Although any legislation in this particular area will not have an immediate effect, due to this leadtime, I am convinced we must look to long-range solutions, such as deregulation of natural gas, to deal with the energy shortage.

In October of 1973, 10 months after my bill had been introduced, Gov. John Love affirmed the administration's support of deregulation of natural gas. In his testimony before the Senate Commerce Committee, the President's energy adviser explained:

> The natural gas problem demands legislative relief. We are proposing that this relief be in the form of returning the regulation of well head prices on new supplies of natural gas to the private marketplace. This would allow competitve market forces to set the prices at which new supplies of natural gas are bought and sold in the field. It allows the quick and certain adjustments which are now required if the nation is not to continue suffering from chronic shortages. The Administration has decided that this is the most efficient, most effective, and most economical method of solving the natural gas problem.

An article in the Washington Post by Evans and Novak earlier had pointed out:

> There is a tendency to assume that whatever is good for the oil and gas lobby must be disastrously bad for the rest of us. Deregulation of gas is an exception to this rule. The consumer will be given the choice of no natural gas at a low rate or an adequate supply that costs more.

The current energy crisis underscores this thinking.

THE FUEL SHORTAGE AND AGRICULTURE

In March 1973, I stated on the floor of the House of Representatives, that spring was upon us, but that this would not solve the many problems created by the past winter's fuel shortage. I also reviewed a report to the Illinois Office of the Governor dealing with the far-reaching effect upon the agricultural community of the diesel and gasoline shortage. That report stated:

> The Illinois Agricultural Association states that approximately 45% of the total products used by farmers takes place during a 90-day period starting March 1 through May 31 (the northern part of the state sometimes will extend its planting season into the first ten days of June).
>
> According to facts gathered in 1971, diesel purchases were on a 10% increase. Although all figures are not yet in, it is safe to estimate that approximately 93,000,000 gallons were used in 1972. With the additional tillable acres to comply with the U.S. Department of Agriculture's recent decision to sharply reduce set-aside acreage, this figure for 1973 could easily reach another five to seven million additional gallons. In other words, this is in the neighborhood of 100,000,000 gallons of diesel fuel for 1973 (this takes into consideration very little fall plowing that was accomplished in the fall of 1972 and that will have to be done in the spring of 1973).
>
> The latest fairly accurate figures on gasoline useage on farms for agricultural needs show a total of 332,600,000 gallons purchased in 1971. It is estimated that between 1971 and 1973, approximately a 35% increase in need has taken place. Again taking into consideration the set-aside acreage and the need for additional plowing in the spring of 1973, this would add approximately 1,175,000 gallons to the 1971 figure. The knowledgeable people in the agricultural field say that it takes between 12 and 14 gallons of gasoline or diesel fuel per tillable acre during an entire farming season.

Currently, the Department of Agriculture is operating under three fuel allocation programs. One is the voluntary program on the distribution of gasoline, under which food and agriculture are considered among the priority customers. The second program is a mandatory allocation of propane, effective in early October, which again includes food and agriculture as priority customers. Finally, on November 1, a manadatory program for middle distillate fuel became operative, which includes diesel fuel used by farmers. Although no priority users are identified under this particular program, there are provisions for hardship cases. In addition, under this program, States have the authority to redirect up to 10 percent of the fuel used in their State. Hopefully, States will be particularly responsive to the needs of agriculture.

ON BEHALF OF SMALL GASOLINE STATIONS

Under phase IV gasoline price regulations, independent stations were required to roll back prices they charged to January 10, 1973 levels. However, the major oil companies were permitted to charge the May 15, 1973, prices. This arbitrary discrimination by the Cost of Living Council resulted in many independent stations operating at a loss, while the majors were permitted to sell gasoline at higher prices. Phase 4 was driving many small service stations out of business and increasing monopoly power in the fuel industry. When an amendment was offered on the House floor to prohibit the Cost of Living Council from discriminating against the small independet stations, I strongly supported it. That amendment was approved by the House overwhelmingly—371 to 7.

Only after the Senate approved the amendment by a vote of 90 to 6 did the Cost of Living Council finally agree to change its regulations; thus, ending discrimination against the small independent gasoline stations.

CONSUMER COMPLAINTS

Every congressional office has been flooded with letters and calls from concerned citizens who do not know where to turn with their own energy problems. So serious has the problem become that I felt a Federal hotline should be established to provide quick answers. In testimony I submitted at the September hearings of the Office of Oil and Gas in the Department of the Interior, I explained:

> The State of Illinois, through its Department of Agriculture, has already set up such a state "hot line." However, since most of the major suppliers have interstate operations, a national hot line would be far more effective.

In addition, I said:

> The fuel shortage in our country has become a critical problem. The situation demands prompt action. I urge the immediate implementation of the mandatory fuel program, and hope that consideration will be given to the recommendations I have made today—the creation of a reserve of fuel oil, and a Federal "hot line."

I am encouraged that the Department of the Interior has now established a special telephone number to handle special consumer problems concerning fuel.

The Washington telephone number is 202-254-8046. By calling this number, information about shortages and local emergencies can be reported.

THE MIDDLE EAST WAR

The war in the Middle East broke out on October 6. Eleven days after the outbreak of the war, the Arab nations announced a 5-percent—later increased to 10-percent—cutback in oil being shipped to the United States. On October 19, President Nixon requested that Congress provide $2 billion in additional aid to Israel. As a result, the Arabs terminated all oil shipments to our country.

One consequence of this cutoff has been a commitment by this Nation to develop energy self-sufficiency as rapidly as possible. While that goal will take years to realize, our country does have large quantities of coal, oil shale, and Alaskan and offshore oil that eventually will reduce our dependence on foreign sources.

CALL FOR ENERGY CONSERVATION

In October of this year, I stated on the House floor that unless we rethink our everyday practices, waste and unnecessary consumption of what resources are available will squander anywhere from 25 to 40 percent of our basic energy resources.

This fall, before the President's energy messages, I introduced a concurrent resolution with several of my colleagues which stated in part:

> It is the sense of Congress that all citizens of the United States are urged to conserve energy by reducing the temperature of their homes and place of work by two degrees for the duration of the coming cold season.

I was hopeful that enactment of such legislation would encourage each American to do his part in averting a nationwide fuel shortage this winter. The President has now urged everyone to lower their thermostats to 68 degrees. I fully endorse this action, except, of course, in the few cases which would involve real hardship—such as the sick and the elderly.

GOVERNMENT MUST DO ITS PART TOO

At the same time that each citizen does his part, I am convinced the Government must make similar efforts. In early August, I pointed out to my colleagues on the House floor that the Government—Federal, State, and local—is the biggest consumer of gasoline. Because of rising gasoline prices, the closing of small gas stations, and limits on purchasable gas, prompt action was required. Therefore, I sent a letter to President Nixon, recommending that all Federal agencies cut back their use of fuel by at least 10 percent. The text of that letter follows:

> DEAR MR. PRESIDENT: My colleague, the Honorable Manuel Lujan, has discussed with me the critical gasoline shortage facing our nation. The situation appears to be getting worse, and it is time for some positive action on the part of the government.
>
> The government is the biggest consumer of gasoline. During 1972, about 60 per cent of the gasoline used in this country was used by the government—federal, state, and local.
>
> The American Petroleum Institute estimates that our present rate of gasoline consumption will result in a 10 per cent increase of the 131 billion gallons used in 1972 this year. The Institute projects that 1973's consumption will be between 10 and 12 per cent higher in 1974.
>
> If something is not done to conserve gasoline, vital public services will be hampered. Police and fire protection, farm production, transportation, construction, trash and garbage collection—all would be jeopardized.
>
> I am taking this opportunity to join Mr. Lujan in uring you, in view of the crisis, to consider an executive order calling on all federal government agencies to cut back gasoline use by at least 10 per cent. Such a nationwide cutback could save an estimated eight to ten billion gallons of gasoline a year.
>
> Thank you for your consideration of this matter.
>
> Sincerely,
>
> TOM RAILSBACK,
> *Member of Congress.*

The President has now ordered all Federal installations to cut back.

WHAT CONGRESS HAS DONE

At long last, Congress has passed the Alaskan pipeline bill. In July of 1973, I announced I supported initiatives that called for the completion of this approach:

> To meet our growing demands for oil, any further delays in time will become even more critical as this decade progresses. A look at the statistics will confirm this. Within the last three years, the United States has gone from an almost self-sufficiency in oil to an ever-increasing dependence on oil imports. In 1970, we imported 22 percent of our oil . . . By 1980, it is forecast that this might rise to 50 percent.
>
> By increasing our own domestic oil supplies at the earliest date, it would lessen our growing dependence on foreign sources of oil. To me, this is of utmost importance.

The Congress has also enacted legislation which provides for Presidential authority to impose mandatory oil allocations to wholesalers and retailers, and is expected to complete work on a daylight savings proposal in the immediate future. Although there has been some opposition to this approach, the bill will provide for a 2-year trial period—probably beginning in January of 1974—in an effort to save 150,000 to 450,000 barrels of crude oil a day. This savings will occur because most people's working schedules will more closely coincide with the daylight hours of the day.

In addition, Congress is presently considering the following:

First, energy emergency powers bill, providing for peacetime power to the President for the conservation of scarce fuels;

Second, deregulation of natural gas;

Third, project Independence proposal; and

Fourth, electric facilities siting, which is the administration's bill to speed power generating plants while protecting the environment.

FOR THE FUTURE

Solar energy is another possible approach to the energy problem.

Also, for the long run, fusion energy may be one of our best answers. Fusion energy has the value of building new resources rather than expending existing ones. It is also less dangerous than fission energy which is derived from burner or breeder reactors. Although it will take at least another 20 to 30 years to develop this approach fully, I am convinced work and research should go forward immediately.

Further, there must be development and exploration of new oilfields, both onshore and offshore, in a serious attempt to make Project 1980 a reality.

A WORD ABOUT RATIONING

Most of my constituents have informed me that they are reducing their thermostat levels, limiting pleasure driving, reducing automobile speeds, and using less electricity. However, many of them are very worried about the possibility of gasoline rationing. For my part, I believe it would be a shame if we had to ration, and certainly hope that we will use rationing only as a last resort.

A letter I received from a community nursing home in my district points out one very important problem rationing would cause:

> Community Nursing Services Meal Service Program brings meals to homebound persons in Rock Island County, thus permitting many to remain in their own home a little longer.
>
> The meals are delivered from the place of preparation to the homes by all volunteer help, using their own transportation. Much concern has been expressed by the volunteers because of the possibility of gas rationing in the near future.
>
> Are there measures that can be taken to assure the volunteers that gasoline for the purpose of delivering meals will be available?

Mr. Speaker, we have known about the energy crisis for years now, but unfortunately we have delayed taking decisive action to correct our problems. With the passage of time, these problems have been compounded and accelerated, and a real crisis now faces the American public.

To dismiss the energy crisis as only another temporary situation is shortsighted and unrealistic. We can no longer just blame one another. All sectors of our economy are being adversely affected, and we must all pitch in from the President on down.

TRIBUTE TO WILLIS JONES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

Mr. McDADE. Mr. Speaker, last Thursday at the Jermyn Motor Inn in the city of Scranton, a huge gathering of people met to pay tribute to a man who had served his community, and indeed this whole Nation, so very well and with outstanding distinction. They paid this tribute to Willis Jones, a man who made an indelible mark on the lives of the people of his home community.

For 45 years Willis had served the Greater Scranton Chamber of Commerce, 26 of them as its executive vice president. He had seen a revolution in the industrial composition of the whole community. Through all that time it was his task to work with the leaders of every sector of the community, with labor, with business, with industry, with industrial development groups, with literally all the people of the whole area in a tireless campaign to bring more jobs to the community and to make the community a finer place in which to live.

He succeeded beyond the dreams of

anyone. He was a leading part of an effort that made the work of the people of Scranton to attract new industry something that became known throughout this whole Nation as the Scranton plan. He was an integral part of the whole effort that caused Scranton to be named as one of the first all-American cities. And he worked endlessly, up to the very moment of his retirement, to attract even more and finer industries to the region he loved and served so well.

I know all of my colleagues here in the House will join me in saying "well done" to this fine man, and to wish him well in retirement. The strength of America lies in the strength of each of her communities; and there is one community in America which will always remember what part was played in its life by Willis Jones.

With your permission, Mr. Speaker, I will append two articles from the Scranton Tribune and the Scranton Times covering that occasion:

[From the Scranton Tribune, Dec. 7, 1973]

Six Hundred Applaud Willis Jones

(By Tom Phillips)

Willis Jones, small in stature, was too big to cry, but there were tears in the eyes of many of the 600 people who paid him a community tribute Thursday night at Hotel Jermyn.

It was the valedictory of a man who has served the Greater Scranton Chamber of Commerce for 45 years, 26 of them as its executive vice president.

It was nostalgic, of necessity, but it also was an opportunity for many facets of the community to say to him, with warmth, "Thank you!"

Willis Jones was truly overwhelmed and expressed surprise that in the Prophecy of the 1928 Technical High School graduating class it said: "Willis Jones will be the executive vice president of the Chamber of Commerce." He had applied for a job at the Chamber on May 3, 1928, and he got it. The prophecy came to pass.

Former Gov. William W. Scranton long associated with Willis in the C of C, was toastmaster.

He promised to be brief and he was. He read a message from Governor Shapp to Willis in which he described the guest of honor as an "Outstanding Pennsylvanian."

Scranton took off on Willis' French, which the executive secretary frequently used when traveling to French communities with C of C delegations. It was a purported message from Mons. Pompidou, the French premier. Scranton delivered it with gestures and nasal tones.

Mayor Eugene J. Peters, who was in Puerto Rico attending the U.S. Conference of Mayors was unable to attend, but was represented by Director of Public Safety Anthony Batsavage. A recording of the Mayor's greeting to Willis was heard. Scranton commented that "it was on tape," and then added, "it worked."

Willis served under 24 presidents of the C of C; 13 of them are still living, eight attended the affair. Robert J. Nolan Jr., current president, was in Saudi Arabia and could'nt attend. He was represented by Mrs. Nolan.

Delegations attended from nearby C of Cs, including Pocono Mountains and Pittston, United States Chamber of Commerce and from the Economical Development Council.

Dwight B. Havens, president, Detroit C of C, long-time friend of Willis and his wife, Louise, was principal speaker. He related with eloquence of Willis' work and the "rebirth of a community that would not die." He commented: "Willis Jones was here and Willis Jones cared."

Havens said a city is not measured by its census, nor its size, but rather by its leadership. He asserted: "I am proud to salute Willis Jones. We all benefit by our friendship with him and his leadership.

Willis said when he joined the Chamber he found himself just a little boy working with great men. "I was overwhelmed. I realized the community was great."

It was the days when coal was king. "But then we lost the anthracite industry and had to diversify, he recalled. He recited the formation of the Scranton Foundation, Scranton Plan, SLIBCO and LIFE. Great industries start coming here and then "we turned the corner."

In concluding he cited the farewell of "The Prophet" in the book of that title: "Farewell to you and to the life I have spent with you.

"It was but yesterday we met and together we have built a tower in the sky, but now the noontime is upon us and our half-waking has turned to a fuller day, and we must part.

"If in the twilight of memory we should meet once more, we shall speak again together and you shall sing me a deeper song— and we shall build another tower in the sky."

Presentations and resolutions were presented to the retiring executive vice president by: Scranton Kiwanis, Scranton Lions, Scranton Rotary, Scranton UNICO, Scranton Jaycees, Lackawanna Junior College, Keystone Junior College. Johnson School of Technology, Marywood College, University of Scranton, Worthington Scranton Campus, Penn State University; Diocese of Scranton, office of the Bishop; Scranton School District, Scranton YMCA, Lackawanna County Commissioners, House of Representatives, Commonwealth of Pennsylvania; Department of the Army, Tobyhanna Army Depot, Junior Advancement, City of Scranton and Scranton Commercial Association.

[From the Scranton Times, Dec. 7, 1973]

Hundreds Join in Tribute to Retiring Chamber of Commerce Official

(By Robert Burke)

Willis Jones has been giving the Greater Scranton Area the business for more than 45 years.

And it was because of his untiring efforts during those years to rebuild the local economy by luring new industries into the region that a grateful community paid tribute to the retiring executive vice president of the Greater Scranton Chamber of Commerce at a testimonial dinner Thursday night.

Several hundred of his friends and business associates were on hand at the Jermyn Motor Inn to witness the salute and scores of others who were unable to attend sent congratulatory telegrams.

Speaker after speaker praised his accomplishments from the podium before Mr. Jones was given an opportunity to speak and, when he finally got his chance, the C of C executive admitted he didn't know how to express his appreciation.

"What a night . . . what a night," he said.

"I embrace you . . . I love you . . . I can't say enough about how I think tonight."

He then took his audience on a trip back through time to the day in May of 1928 when, as a senior at Scranton Technical High School, he began what was to become a lifelong love affair with the C of C.

He said he began as little more than a glorified office boy, but came into close personal contact with the leading citizens of the community at that time.

It was shortly after he began his C of C career that the nation was hit by the economic disaster of depression but, he said, Northeastern Pennsylvania wasn't hit too hard by the country's monetary woes because its coal mines were still working near peak levels.

But during the 40s and 50s, he recalled, the adversities of economic depression began catching up with this area because the coal industry began to fade.

It was during that time that Mr. Jones and the late Raymond B. Gibbs, his predecessor, and other community leaders created the industrial development organizations which have keyed the region's economic rebirth.

The retiring guest of honor read a litany of industries and businesses which have been attracted to this area in the intervening years—Daystrom, RCA, American Can, Owens-Illinois and many more.

"We turned the corner," he said with a justifiable amount of pride. "No longer is Scranton, Pennsylvania, dependent on coal for its economy."

Among the speakers who credited Mr. Jones with playing a major role in developing the diversified economy which now exists in the Scranton area was Dwight B. Havens, a close friend of the honored guest who serves as president of the Greater Detroit Chamber of Commerce.

Throughout its history, Mr. Havens told his audience, America has managed to produce the type of leaders it needed to respond effectively to any given crisis.

That same thesis, the Michigan visitor added, holds true on the local level and, when the Scranton area needed an individual to help reshape its faltering coal economy, Mr. Jones was willing and more than able to accomplish the job.

Mr. Havens recalled attending the play "1776" and said he was moved emotionally by one episode which saw George Washington send a dispatch to the argument-torn Continental Congress asking whether anyone was interested in fighting for independence.

"Is anyone there . . . does anybody care?," he quoted the terse message.

Mr. Havens said that a study of this area's economic development will show that, at a time when this area needed help, Mr. Jones was here and he cared enough to reshape the entire economy.

Also paying tribute to Mr. Jones were former Gov. William W. Scranton, who served as toastmaster, and Mayor Eugene J. Peters, whose attendance at the National League of Cities convention in Puerto Rico made it impossible for him to attend but managed to have a tape recorded message of congratulations played from the podium.

Also joining in the verbal tribute were Peter J. Kaldes and William J. O'Hora, past presidents of the C of C who served as co-chairmen of the testimonial.

Immediately prior to offering his remarks, Mr. Jones was presented with a color television set by William F. Forbes, immediate past president of the chamber who was substituting for Robert E. Nolan Jr., the current C of C president who was forced to miss the dinner due to a business commitment in Saudi Arabia.

Sharing the limelight with Mr. Jones was his wife, the former Miss Louise Eynon.

While scores of congratulatory telegrams arrived at the hotel shortly before the dinner, the only such message read was sent by Gov. Milton J. Shapp who said he was unable to attend due to a conference in Hershey.

The Rev. Vernon F. Searfoss, rector of the church of the Good Shepherd, offered the invocation, while the Very Rev. Dexter L. Hanley, S.J., president of the University of Scranton, gave the benediction.

In addition to the television set which was presented during the course of the program, Mr. Jones also received a variety of gifts from the area's various service clubs, schools and governmental figures.

Sylvester J. Kazmerski served as coordinator of the testimonial.

SUPPORT CONTINUES TO GROW FOR CUYAHOGA VALLEY NATIONAL HISTORICAL PARK AND RECREATION AREA LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, the increased awareness of the energy crisis has also increased our awareness of the need to develop parklands near our major urban centers. Today, more than ever before, it is vital that we bring "parks to where the people are."

One of the best possibilities for an urban area park is in the Cuyahoga River Valley, between Cleveland and Akron, Ohio. This area is a miracle of greenness between two of the largest and most industrialized cities in the Nation. It is within approximately 1 hour's driving time of 4 million people.

Legislation to create this recreation area has been introduced in both Chambers and is sponsored in the House by nearly 50 Members. We in Ohio are especially hopeful that this legislation can be enacted in the near future.

I would like to point out, Mr. Speaker, that the support for this legislation has continued to grow, year after year.

I would like to enter in the RECORD at this time a copy of the recent endorsement of the park passed by the Junior League of Cleveland. Also, I would like to enter in the RECORD a copy of the resolution of support adopted by the Northeast Ohio Areawide Coordinating Agency. This is the 701 planning agency for the entire northeast Ohio area. As their letter indicates, without the passage of this legislation by the Congress, the future of this invaluable parkland is in serious jeopardy:

RESOLUTION OF ENDORSEMENT

Be it hereby resolved, That The Junior League of Cleveland, Inc., endorses legislation, SB 1862 and HR 7167, to create a Cuyahoga Valley National Historical Park and Recreation Area.

Adopted by the membership of The Junior League of Cleveland, Inc., at its meeting on October 25, 1973.

MRS. KENNETH I. FELDERMAN,
President.

THE PROPOSED CUYAHOGA VALLEY NATIONAL HISTORICAL PARK AND RECREATION AREA

John Seiberling, Address to House of Representatives, April 16, 1973: "The magnificent thing about the Cuyahoga Valley is that it has all the scenic, historic, and recreational potential to qualify as a park in its own right—and it is located right in the center of one of the Nation's most populous and industrialized regions. Over 4 million people already live within a half-hour's drive of the proposed park."

FACTS ABOUT THE PROPOSED PARK AREA

1. The bill would create a 15,000 acre park between Akron and Cleveland. This park would include land owned by the Cleveland and Akron Metropolitan Park Systems, Hale Homestead, and Blossom Music Center.

2. The park as envisioned would stretch along the Cuyahoga River Valley south from Rockside Road in Independence to Bath Road just north of Akron.

3. This land is mainly rural and undeveloped, the only remaining large undeveloped and unurbanized land in the Cleveland-Akron area. It has remained undeveloped because it is a flood plain, has a lack of suitable drinking water, and its slopes are too steep for low-cost development.

4. The valley is rich in Indian history, from the Mound Builders in 600 B.C. to the Indians who used the Cuyahoga on their route from the Great Lakes to the Mississippi. Over 300 sites of archaeological interest have been identified in the valley.

Also located in the proposed park land are parts of the old Ohio Canal, which was largely responsible for Cleveland's growth and prosperity. Between 1825 and 1832, this 40 ft. wide, 4 ft. deep channel was dug between Cleveland and Portsmouth on the Ohio River. Presently, one may see aqueducts, locks, mills, the original towpath, as well as intact sections of the Canal.

5. Steps Leading Up To The Present Bill: A study completed in 1968 by the Ohio State Department of Natural Resources reached the "indisputable conclusion that the valley must be preserved as open space land." Several million dollars have been spent in land acquisition by the State of Ohio, the federal government, private individuals, and the Cleveland and Akron Metropolitan Park Boards.

The U.S. Department of the Interior has made an in-depth feasibility study of the park and has determined that it is worthy of being included in the National Park System.

6. The Park Bill, HR 7167, sponsored by Reps. John F. Seiberling (D–14, Akron), Charles Vanik (D–22, Cleveland), and Ralph S. Regula (R–16, Akron), has the unanimous support of the northeast Ohio delegation, and broad support from the rest of the State. (The same bill has also been introduced in the Senate by Saxbe.)

The intent of the bill is "to preserve and interpret the historic and scenic features of the Cuyahoga Valley, and to enhance the potential of the area for recreation development." (Sec. 3)

The bill is presently awaiting review by the Director of the National Park Service and the Secretary of the Department of the Interior. Meanwhile, the bill is residing in both the House and Senate Interior and Insular Affairs Committees.

NORTHEAST OHIO
AREAWIDE COORDINATING AGENCY,
Cleveland, Ohio, October 12, 1973.

Hon. CHARLES A. VANIK,
Congressman, the State of Ohio, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN VANIK: At its regular monthly meeting on 3 October, 1973, the full Policy Board of the Northeast Ohio Areawide Coordinating Agency (NOACA) unanimously adopted Resolution 73–69.

This Resolution, a copy of which is attached, urges passage of Senate Bill S–1862 and House Bills 7077 and 7167, all of which would crete a Cuyahoga Valley National Park.

As you know, the Cuyahoga Valley is probably the last major open space area between the already urbanized centers of Cleveland and Akron. You are also aware of the NOACA Board approval, in 1972, of an application for State and Federal funding to purchase land and/or scenic easements in the proposed park area to ensure continued open space for the residents of our highly industrialized seven-county Northeast Ohio complex. A subsequent Environmental Impact Statement was also approved for the aforesaid application. Enclosed for your edification is a NOACA staff background paper of the events leading up to the present situation.

Without designation by Congress to make the Cuyahoga Valley a Federal Park, however, it is doubtful that the State of Ohio and our local jurisdictions can achieve the most appropriate results concerning the establishment and continued maintenance of the Park area.

The Federal Government's cooperation thus far has been encouraging. Failure of Congressional designation of the Park as a national endeavor, however, would seriously impede the outstanding progress made to date. Therefore, we most earnestly encourage your continued efforts toward passage of the aforementioned bills.

Very truly yours,

DEAN J. HITCHENS,
President.

RESOLUTION OF THE BOARD OF THE NORTHEAST OHIO AREAWIDE COORDINATING AGENCY

Whereas, the NOACA Board recognizes that it is of the utmost importance to preserve the few remaining open space areas in our heavily metropolitanized environment; and

Whereas, the Cuyahoga Valley is the last major open space area left between industrialized Akron and Cleveland; and

Whereas, it is recognized further that there is a great need among our area's residents for park and open space lands for leisure time enjoyment, health and well-being; and

Whereas, the Cuyahoga Valley is an area enriched with scenic beauty and recreational opportunities and also high in historical and cultural values; and

Whereas, there is proposed legislation in the United States Congress for the establishment of a Cuyahoga Valley National Park; and

Whereas, the NOACA Board, upon review of the proposed legislation has found it to be consistent with the above-stated goals of preservation of the Cuyahoga Valley as an open space and recreation area for the public benefit; and

Whereas, review of the legislation leads the NOACA Board to concur that not only would establishment of the park be of great social value but also that the impact of the park would be beneficial in the long-term for the local economy.

Now, therefore, be it resolved that the Board of the Northeast Ohio Areawide Coordinating Agency unanimously urges passage of Senate Bill S1862 and House Bills 7077 and 7167 that would create the Cuyahoga Valley National Park.

Certified to be a true copy of a Resolution of the Board of the Northeast Ohio Areawide Coordinating Agency dated the 3rd day of October, 1973.

DONALD SIMMONS,
Secretary.

A RATIONALE FOR ACCOUNTABILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS), is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, on March 23, 1973, I had the pleasure of participating in a symposium on accountability in education sponsored by the Department of Foundations of Education of Memphis State University's College of Education.

At that symposium, Mr. Speaker, I tried to outline some of my own thoughts on the nature of accountability.

Those remarks have recently been printed in the proceedings of the symposium, and I insert them at this point in the RECORD.

ACCOUNTABILITY: A RATIONALE

(By JOHN BRADEMAS)

When Leon Lessinger began to use the word "accountability" some three years ago, he was proposing a method of trying to insure what he called three basic rights in education. The first right was the child's; the second, the taxpayer's; and the third, the school's. The child's right, said Dr. Lessinger, was "to be taught what he needs to know" in order to be a productive and satisfied member of our society; the taxpayer's right, to be informed of the educational results produced by specific expenditures; and the right of the school, finally, was to draw on all the resources of the society instead of being restricted to what he called "educators' overburdened resources."

EDUCATIONAL ENGINEERING

As we all know, the method he championed for achieving the goal of *"guaranteed* acquisition of basic skills by *all* our children" (the emphasis is his) was "an independent educational audit of educational results."

For Dr. Lessinger, that meant the process of what he called "educational engineering." Discussion of accountability turned quickly, therefore into discussions of performance contracting, external audits, program planning and budget systems, and voucher plans. So what these methods were supposed to *achieve*, accountability, got shunted to one side and educators focussed attention on the methods themselves.

I do not intend to try to compare these methods and tell you of which I approve and which I don't; I cite them chiefly because the proponents of accountability as well as those who have apprehensions about it center their concern on methods. I want instead to suggest to you that it may be possible to approve of the purposes of accountability without necessarily approving—or disapproving—of particular methods for achieving them. Yet the idea of accountability has by now been interpreted in ways which are different enough from one another to have permitted a certain unclarity to creep into the notion in its present use within the educational community. My principal purpose here will therefore be to try to set forth some clearer statement of what the idea of accountability means. For we shall surely not be able to agree on methods for implementing and measuring.

ACCOUNTABILITY—A "RELATIONAL" TERM

Let me begin by saying something about the logical characteristics of the term "accountability" itself. First, accountability is what logicians call a "relational" term, not a simple "property" term. The distinction can best be brought out by example. "Female" is a property term. "Sister" is a relational term. A person can be called female simply by possessing certain physiological characteristics, independently of whether anyone else possesses them. But a person cannot be called "sister" except in relation to other persons. To say that a person is a sister is to say, first that she is female, but second that she has one or more brothers or sisters and also that those persons all share the same parents. In other words, "sister" is shorthand for "sister-of and daughter-to" certain other persons. Just so, to be accountable is not a simple property only certain persons have independently of whether other persons possess it. To be accountable is to be accountable-to someone or some others. It is also to be accountable-to some task or purpose.

ACCOUNTABLE TO WHOM, FOR WHAT?

But we have only begun. None of this analysis yet tells us who is to be accountable, or who has the right to hold those persons accountable. All we can say so far is that the mere analysis of the idea does not let us conclude definitively that only teachers, say, can be considered accountable. Of course, I have in mind here the objections which teachers and teachers' unions have quite properly made to the concept of accountability in some of its versions. For if the concept of accountability is to be made part of the everyday workings of public education, we shall need the teachers on our side and we will also need many other kinds of people as well.

So far, we have a formula, with three blanks in it: X is accountable to Y for doing Z. Now, of course, as you know, the blanks in that formula have been filled in certain ways for a very long time. Here is one familiar way:

Pupils are *accountable* to *teachers* for dong *homework* (passing test, etc.) Here is another: *Teachers* are accountable to *principals* for (and here we spell out whatever obligations are detailed in signed contract). And, to continue: *Principals* are accountable to *superintendents* for (and here we spell out whatever is involved in managing a given public school.) We might go on a level or two higher: *Superintendents* are accountable to boards of education for (and here we spell out the obligations involved in keeping a given school district functioning.) Perhaps we might go so far as to say: *Boards oj education* are accountable to *taxpayers* for (perhaps: for making wise use of funds allocated for the education budget of a given community.) In larger communities, there are, of course, levels interspersed between the levels I have mentioned. And yet in general the pattern is familiar enough to enable us to agree that this is how things have been up till now.

A TWO-WAY RELATIONSHIP

Let me then point out one important assumption about this way of filling in the blanks. At each level, the pattern assumes that accountability is a one-way relation. The pattern says that a pupil is accountable to the teacher, but it does not say that the teacher is accountable to the pupil. It says that the teacher is accountable to the principal, but it does not say that the principal is accountable to the teacher. And so on. In other words, the assumption is that it is perfectly proper for there to be a hierarchy of accountability, with persons at lower levels being accountable to persons at next higher levels. But I want to suggest to you that this is not a democratic way of doing things. If we want to say that teachers are accountable-to-someone, it seems only fair to have someone accountable-to-teachers. But that is all part of the idea that accountability can be traced throughout a one-way hierarchy. For in this view, no one is accountable to pupils.

So let us explore the idea of accountability as a two-way relationship. If a pupil is accountable to a teacher, it seems only fair that a teacher might also be accountable to his or her pupils. If pupils submit to being examined on what they are taught, perhaps they have a right to say something about what want to learn. Everyone knows that when someone wants to learn something, the learning absorbs the person's *full* attention; he learns well and quickly (because he wants to for some purpose of his own). Then why don't we take advantage of his truism by using it in public education? Since we adults insist that children learn how to read, why can't we let children tell us what they want to read about? If the skill itself stands in the way of what it is that interests them, they will deal with the skill as a necessary step on the way to a goal of their own choosing.

We gain willing students by working with, rather than against, the grain of the child. But we gain something else as well. We are teaching the child at a very young age that he or she bears a good part of the responsibility for his or her education. Here again we make use of a truism about learning: if we want someone to learn something—to learn how to do something or be something, as distinguished from learning only some isolated fact—we put the person in a situation in which he can be or do that thing.

So if we want, as an end-product of our educational process, an independent person who is capable of and interested in continuing to learn long after he or she leaves our educational system, then we begin as *early* as we can to teach children how to be independent and responsible. A teacher who seriously discusses with a pupil what that pupil's interests are is really telling the pupil something very important: the teacher is saying that he or she respects the child's individuality, takes the child seriously, and, finally, is interested in the child.

All of us in our non-professional moments know these things. We have only to put them to work for us in our public education system. Indeed, we're learning them in our professional moments as well. A study entitled, "Educational Accountability and Evaluation," written last year by Sheila Krystal and Samuel Henrie, points out that although performance contracts have resulted in only very small improvements in reading and mathematics skills, one of the interesting side-effects of this and other approaches to accountability is that students have been found to respond well to the added interest in their learning and welfare.

AUTHORITY AND ACCOUNTABILITY

One consequence of considering accountability as a *two-way* relationship is that old patterns or old lines of authority may well fall away fairly soon. For the two-way relationship between teacher and pupil can be replicated at every stage of what has been up till now believed to be a one-way hierarchy. If a teacher is accountable to her principal for teaching certain things to a certain number of pupils for a certain number of hours per day and days per year, so the principal is accountable to the teacher for the environment in which teaching is to take place. For here, when the authority goes not just in one direction, but makes a round trip, so to speak, what we're really emphasizing is that the teacher has a right to be a partner to settling the terms of those things he is going to be held accountable for.

PARENTS A VITAL LINK

Just so, when the line of authority points back to the superintendent from the principal, as well as going in the other familiar direction, new topics will be laid open for discussion as well as new attitudes in discussing them. So that by the time we reach the line of authority that runs from the school board to the parent, we can expect that there will be equally important line from the parent to the school board. Indeed, parents are the link that can turn this whole series of two-way relationships into a circle, instead of parents' being merely one end of the former series of one-way relationships that was in effect an authoritarian hierarchy, where those at lower levels had no means of questioning those at higher levels.

Parents complete the chain by having the power to vote a school board in or out, on one end, and by watching and assisting the growth of their own children, at the other end. Many parents do both these things now, of course. But the two-way relationship patterns could invite many new participants into the whole educational process, by letting parents see that they have no right to demand certain results from their children's teachers unless they themselves are willing to share part of the responsibility with the teacher. In the two-way view of the relationship, when the parent goes to the teacher to say: "You're being paid to teach, but my Johnny can't read," the teacher will be able to point out that certain factors beyond her control but perhaps within the parent's control may well be standing in Johnny's way.

This view of accountability—as a two-way relationship between and among all participants at all levels of the educational process—goes to the core of one of the unspoken assumptions about accountability as the weapon we've long been seeking that will let us punish the teachers who can't make our children learn. This punitive interpretation of accountability is, of course, what the teachers' unions are responding to when they resist accountability in many of its forms.

ACCOUNTABILITY AS A SCHOOL IMPROVEMENT PROGRAM

New York City is therefore to be applauded for having required that scapegoating be no part of the accountability plan it bought from the Educational Testing Service. The theme of that plan is to offer a tool for pinpointing schools and school districts that are doing a good job; it does not design techniques for indicating individual principals and teachers who are *not* doing a good job. In a word, the accountability apparatus designed by ETS works for corrective action for schools. It is a school improvement program. What is still not clear is whether the plan tells anyone who is responsible to whom and for what.

The *New York Times* of March 18, 1973, printed the results of part of Stage 1 of the plan: a full page listed student reading achievement scores in Grades 2 and 5 in every school in every district in the city. Stage 2 will be to assess the causes of poor achievement. Stage 3 will be to offer methods of taking corrective action to remove deficiencies in performance.

The heart of the problem is, of course, assessing the causes of poor achievement. What corrective action is to be taken will, in turn, depend on what the causes turn out to be. One important aspect of the New York scheme is to make the corrective action plans a matter of public record, so that they can be opened to public discussion. The ETS report warns, however, that goals still have to be clarified, standards set, and measurement techniques improved. But these are familiar problems for educators. The point is how does calling them problems of "accountability" help educators solve them?

Here is one way. It was perhaps the impetus of the idea of accountability itself that caused the New York City Board of Education to try to think more carefully about goals it might reasonably try to meet, within the limits of a contemporary situation the pressures of which you all know well. To the extent, then, that accountability serves as a goal to all of us to sharpen our ideas about specific goals we want our public school system to accomplish, it serves a useful purpose, both intellectual and practical.

OTHER CONSIDERATIONS

Now let's go back one more time to the concept of accountability, construed as a two-way relationship. Accountability, so defined, means that I am most fairly accountable to you when I help decide what things I shall be accountable for, as well as how my performance of those things is to be judged. For I find it difficult to understand how anyone can expect me to agree to perform certain tasks which are not within my power. I cannot agree that I will teach Johnny and Susan to read at grade level by the end of the year, in advance of knowing Johnny and Susan. . . . If, on the other hand, I know these children well, and know them to be intelligent enough to do the work, but also know that they are distracted by home situations of poverty or parental bickering or brutality, then again I cannot, absent these distractions, agree to teach them to read at grade level.

The only way I can agree, in a moral sense, to make some attempt to be accountable for the actions of persons who are not fully under my control is if those persons are presented to me with all negative conditions removed. And since there is no way of insuring that children will walk into our public schools only under optimal conditions for learning, it seems I cannot *morally* agree to be accountable, in this narrow legal sense, for the learning of my students.

So is there some means of insuring ourselves of the guarantee which the notion of accountability was originally introduced to provide—the guarantee that children will *in fact* learn something specific? In view of the qualifications I have in logic been constrained to make, I think not. But this conclusion does not at all mean—I hasten to add—that we have to give up on the hope of being able to educate our children more effectively than we've been doing up to now. So let's go back to accountability again, looking at some of the "educational engineering" methods which were supposed to put it into effect.

PERFORMANCE CONTRACTING

Take performance contracting, for example. A good deal of intellectual inquiry about the purposes a school wishes to accomplish is necessary before it is ready to ask for competing bids from contractors. The outcome of that searching is a statement, in as specific terms as possible, of the kinds of performance a contractor will be asked to guarantee. Now, because contractors are profit-making organizations, they will surely not promise to achieve, results for otherwise they would receive no money for their effort. So the schools are in effect called on to specify their goals in the minimal terms (recall Dr. Lessinger's notion of a guarantee of "basic" skills) that a profit-making company would reasonably risk guaranteeing.

In other words, performance contracting, while it demands that schools state their goals carefully, also demands that those goals be stated in the kind of units that can be dealt with by systems analysts. So at the very moment that educators are trying to find ways simply to keep children from dropping out of school, let *alone* to find ways of teaching them a love for learning that will remain with them throughout their adult ways, performance contracting asks this of us although there is no evidence whatever that any accumulation of quantifiably, measurable goals will ever coalesce into the broader goals most of us believe to be essential to what it is to be an educated person.

PERFORMANCE CONTRACTING AND THE WORK WORLD

There is a striking parallel here with what is happening in the lives of factory workers throughout the world. As you know, more and more corporations are reporting higher absentee rates, higher alcoholism rates, and general worker discontent, all of which developments are reflected in shoddy products coming off the assembly lines. Corporations become concerned about such things only at the point, of course, where they begin to eat in to their profits, as when hundreds of thousands of automobiles must be recalled for safety defects. Investigation of worker discontent now reveals that the factory assembly line, formerly believed to be the very model for efficiency, is instead the cause of worker discontent. We have discovered (again learning professionally something we all know in our daily lives) that when people do not know and do not share in the over-all purpose of some action, they often do not care about the action itself.

The headquarters plants of both Volvo and Saab in Sweden have taken seriously the outcome of these investigations. Their newer plants have been designed without assembly lines. Instead, small groups of workers, who choose to work together because they work well together and trust one another's performance, are given the responsibility of assembling entire cars by themselves. No one is placed in authority over them: they select their own foreman; they hire new workers; they decide on their own schedules; they see that parts and tools are available to themselves when needed. In short, the only job they are hired to do is to produce automobiles. Now I am not familiar enough with the details to know whether they also agree to produce a certain number of automobiles within a certain time, but I think not. The point is that under this new system, Volvo and Saab produce more automobiles which are freer of defect than were produced under the old assembly line methods. But better than that: there is less absenteeism, less theft, less waste of materials and a visible spirit of genuine enthusiasm for the job than there ever was before.

The parallel I am suggesting is that performance contracting may well be an intrusion into education of assembly-line methods. It assumes that industry has made its great profits by breaking things down into quantifiable units, and that therefore education should copy its methods to achieve its successes. But in fact industry is now turning away from assembly-lines and restoring the old craft idea of giving persons full responsibility for all decisions related to their work. I am suggesting, in other words, that performance contracting (and other "educational engineering" methods) may be extremely valuable in compelling school personnel to think carefully and hard about their goals. At the same time, such methods may be counterproductive in requiring that those goals be stated in quantifiably measurable terms.

ACCOUNTABILITY AND THE CONGRESSMAN

Now what does this lengthy abstract discussion mean in terms of the day-to-day business of running schools? I want to say that, speaking as a legislator, I sympathize with your problems of dealing with accountability in your school systems. We in Congress are familiar with the demand for accountability. As representatives of our constituents, we are accountable to them in at least two senses. First, they may call us to account for actions we have promised to undertake if they elect us. And second, they may call us to account for actions we do take when we propose bills, vote yes or no on certain bills, hold hearings, and vote to expend money, or not to.

But we in Congress know about accountability from the other side of the fence as well. For one of our essential duties as legislators is to assure that the executive branch is carrying out the intent of Congress in accordance with the terms of specific legislation. Here it is we who are—and should be—calling others to account. And when, in the course of our demands for accountability from the Executive, we encounter resistance (as you may have heard), we as Federal legislators have problems of our own. For example, the President says that we can't solve social problems by throwing great sums of money at them. And one of our difficulties in responding to this unexceptional truism is there are few effective ways of judging the effects of educational expenditures. In fact, we haven't *yet* developed adequate standards of performance for human behavior of most sorts, let alone for the behavior specific to the education setting.

EVALUATION IN ITS INFANCY

In this connection, a column by David Broder in the *Washington Post* of March 20, 1973, is right on target. Broder's purpose in this column is to try to uncover the evidence on which President Nixon bases his assertion that certain Federal programs have failed and that therefore these programs should no longer be Federally funded. The President made this claim in a recent saying, "We have conducted detailed studies comparing . . costs and results. On the basis of that experience, I am convinced the cost of many federal programs can no longer be justified." Broder reports that, on the contrary, Administration witnesses at Congressional hearings are unable to describe the standards and techniques by which programs have been judged successful or not.

Broder then calls our attention to a brand-new journal produced in Minneapolis, under a grant from the National Institute of Mental Health. The magazine is called *Evaluation: A Forum for Human Service Decision-Makers*, and of it, Broder says:

"The mere fact that this is Vol. 1 No. 1 of the journal suggests that evaluation, particularly of human service programs, is scarcely a long-established, mature science."

The lead article in *Evaluation* is written by Garth Buchanan and Joseph Wholey of the Urban Institute, and it concerns Federal-level evaluation. These two writers had examined Federal evaluation programs in 1969 and had found that substantial work on evaluation was, in their words, "almost non-existent." Re-examining the field two years later, Buchanan and Wholey found that while more money had been budgeted for evaluation, the support was probably based, not on previous results, but rather on the urgent need. They say:

"We are led to this conclusion because in our judgment the impact of evaluation results on programs development and improvement in the last two years has been disappointing when compared with the amount of money and effort that have gone into evaluation."

An outgoing Assistant Secretary of the Department of Health, Education and Welfare, Laurence Lynn, Jr., also has an article in the same journal. He tells us that HEW has some 125 professional evaluators, with a budget of $40 to $50 million, who have been working for only two or three years, and with mixed results. Most of the studies produced only limited findings; many were almost useless. In other words, the President's claim to have evidence indicating that the results of certain Federal programs do not justify their costs is not supported by these researchers or by his own Administration witnesses. But of course that we do not yet have evaluation criteria does not mean that we should not continue, diligently, to seek them.

ASSESSING EDUCATIONAL RESULTS

Critics of American education are right to tell us how ignorant we are about assessing human behavior, especially with respect to education. The more frequently we keep hearing that conclusion, the more people will realize how much work still needs to be done. Indeed, one of the principal reasons I became the most vigorous champion in Congress of the new National Institute of Education was my conviction that we need far more and better research on the evaluation of human learning.

And a number of us in Congress continue to press for legislation that contains plans for evaluating ongoing programs. To date, our best attempt (and it is very mild) is contained in section 205(a) of Title I of the original Elementary and Secondary Education Act of 1965, redesignated section 141(a)(6) as amended in 1970. There we specify one of the constitutions under which local education agencies receive grants as follows:

That effective procedures, including provision for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs in meeting the special educational needs of educationally deprived children.

Because our knowledge is so sadly lacking in this area, we were unable to make more exact demands. The outcome was, as we no doubt expected, that little more than the usual "final report" found its way back to Washington at the end of the grant period.

COLLEGES IN FINANCIAL DISTRESS?

Let me cite from personal experience another example of the problem of evaluating the effectiveness of education. Last year, in writing the Higher Education Act of 1972, my subcommittee colleagues and I sought a formula for providing a new program of general institutional aid to colleges and universities, that is, unspecified aid, aid to be expended as each institution saw fit. One of the great arguments made for such assistance was that colleges and universities were in deep financial distress—you all recall *The New Depression in Higher Education*, Earl Cheit's Carnegie Commission Study. But when our committee attempted to find a definition of "financial distress" or even "financial need" our inquiries fell on stony ground. For there are no commonly accepted standards of the economics of higher education; and those of us who make decisions about financing higher education cannot easily turn to some common cost-benefit measurements to help us make more rational policy judgments than we now do. Indeed the paucity of serious intellectual attention to such questions led to these two results last year. First, the committee—and Congress—finally opted for the cost of education allowance basis for providing direct institutional aid (linking the aid to the number of federally assisted students and the volume of their aid—both measurable factors) rather than, sans any agreed definition of "financial crisis" or "needs," the across-the-board per capita approach; and second, Congress authorized the creation of a National Commission on the Financing of Post Secondary Education, to study the impact of present and possible future ways of supporting post secondary education. And among the charges of this Commission, of which I am one of the four Congressional members, is to consider suggested national uniform standards of determining the annual per student costs of providing postsecondary education for various kinds of students in various kinds of institutions.

So many of us in Congress, faced with the responsibility of acting on legislation that may significantly affect the future shape of higher education, have felt at sea by the thinkers of the country, to whom we feel we should have been able to turn for far more rigorous and constructive contributions on the purposes of postsecondary education, the best policies for achieving those purposes, and the best ways of judging how effectively those policies are indeed helping achieve those purposes. Else how can we as legislators be accountable to the taxpayers, not to speak of the students, teachers, and administrators of the institutions of higher learning?

WASTELANDS OF UNDERSTANDING

That there are similar wastelands of understanding at the elementary and secondary level, you know as well as I. The present controversy over the findings of Christopher Jencks about, in turn, the findings of James Coleman, coupled with the comments of Daniel Patrick Moynihan and Frederick Mosteller—a debate summed up most cogently in Godfrey Hodgson's recent *Atlantic* essay—is perhaps the most widely discussed instance of the difficulty of coming to some common definitions of terminology, not to speak of purposes or of policies to achieve them. Does, for example, Title I of the ESEA "work"—whatever that means—to "improve the education"—whatever that means—of children in school districts with large numbers of low income families?

The suggestion that "we've tried it and it doesn't work" is far too simplistic for me. For one thing, little more than 7% of the total cost of all elementary and secondary public schools comes from federal sources—not very much money. Moreover, we all know that in many instances the funds intended to be targeted on low income districts—and thereby on poor children—have been spent in violation of the Congressional intent, as general aid in middle income schools. So don't complain if orange trees don't bear peaches!

I am therefore not ready to abandon Title I ESEA, not because it has unquestionably been proved effective in improving the educating of children, and not because, as Jencks argues, it is better to have pleasant schools because children spend so much time in them, but rather, that, until refuted. I prefer to proceed on the assumption that compensatory spending on the education of poor children helps them learn. That social scientists are so deficient in their scholarship should not cause legislators to suspend their common law right to make common sense judgments! So here, in the higher education and elementary and secondary education measures, you have just two examples of how Congressmen are struggling, without, to repeat, as much help as I think we should have, to be accountable, in every sense of the word.

BETTER SCHOOLS ACT

I might here say just one other word about evaluation and accountability, in light of President Nixon's recent proposal for special revenue sharing for education. The President's bill, with the revealing title of "Better Schools Act," says only that the schools "shall evaluate," but of course it is no more able to specify the criteria for evaluation than does Title I. So although categorical programs may in some ways be deficient, at least in the statement of the purpose of the act, they provide some general standards for the use of funds. Special revenue sharing, by contrast, puts the money on the stump and runs.

It is time for me to summarize what I have tried to tell you. I have argued, first, that we must begin to construe accountability as a two-way relationship between and among all participants at all levels of the educational process. And I have said that this approach makes unnecessary the tendency to use accountability as a way of pointing a punishing finger at someone, particularly at teachers. This way of understanding accountability can mean a new sense of democratic relationships throughout the entire chain of administer-faculty-pupil-and-parents.

Second, I have suggested that it is essential that we begin to develop scientifically acceptable standards for judging educational performance. That is, as I have earlier remarked, one reason I support the National Institute of Education as well as other serious research on this subject, however financed.

In this connection, I have already told you why I think the President's revenue-sharing program for education means a retreat from the search for effective evaluation of educational achievement. For revenue-sharing gives lip-service to the idea of evaluation but is basically silent about standards for spending the funds it provides.

And, finally, I have given you, from the lives of legislators, some examples of how, for us, the problem of accountability is far more than an abstract idea.

For Congressman and Senators who write legislation that affects the schools and universities of this nation, accountability must be a continuing concern. I know that for all you who shape the process of teaching and learning it will be a continuing concern as well.

CPA AT HUD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Fuqua) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, I wish to

continue in my attempt to clarify the impact of the proposed Consumer Protection Agency on the existing Federal administrative agencies. In order to increase perspective and avoid undue speculation, I have asked selected agencies to list those actual proceedings undertaken last year that would be subject to CPA advocacy under the various bills.

The bills now being considered by a Government Operations Subcommittee on which I serve are H.R. 14 by Congressman ROSENTHAL, H.R. 21 by Congressman HOLIFIELD and HORTON, and H.R. 564 by Congressman BROWN of Ohio and myself.

The major difference among the bills is that H.R. 14 and H.R. 21 would allow the CPA to appeal to the courts the final actions of other agencies. The Fuqua-Brown bill would not grant such an extraordinary power to a non-regulatory CPA.

Today I wish to call attention to the reply of the Department of Housing and Urban Development. The HUD reply reveals that the differences in the three CPA proposals would have had little effect on the degree of CPA participation in HUD administrative proceedings during the calendar year 1972. HUD conducted only three formal hearings in 1972.

The fact that there would be little effect on the ability of the CPA, as authorized by each of the bills, to advocate the consumer interest at the administrative level, emphasizes the major difference in the three CPA bills. Only the Fuqua-Brown bill, H.R. 564, would not authorize the CPA to initiate court review of the decisions of HUD.

Mr. Speaker, in order to give the Members an early appreciation of the scope and importance of these CPA bills, I now include in the RECORD the reply of the General Counsel of the Department of Housing and Urban Development.

General Counsel of Housing
and Urban Development,
Washington, D.C., September 24, 1973.

Hon. DON FUQUA,
House of Representatives,
Washington, D.C.

DEAR MR. FUQUA: The Secretary has asked me to reply to your inquiry of September 7, 1973, regarding certain administrative actions taken by the Department during 1972. I am, therefore, responding to your numbered questions in the order in which they were asked.

Question 1. What regulations, rules, rates or policy interpretations subject to 5 USC 553 (the Administrative Procedure Act (APA) notice and comment rulemaking provisions) were proposed by your agency during calendar year 1972?

With respect to the majority of its programs, HUD is exempt from the provisions of 5 USC 553 and is therefore not required to engage in rulemaking since these programs generally involve public grants benefits or contracts. An exception, however is the Interstate Land Sales Full Disclosure Act (15 USC 1701) which confers certain responsibilities of a regulatory nature. During 1972 the Department published a final rule, after opportunity for rulemaking and amendments providing procedures under that Act.

In addition, the Department as a matter of policy (24 CFR Part 10) has voluntarily provided for comment and public procedure throughout its programs except where impracticable, unnecessary, or contrary to the public interest. Pursuant to this policy, HUD has issued numerous notices of proposed rulemaking, and has promulgated a number of final rules after opportunity for public comment, on occasion permitting informal hearing and oral presentation.

Question 2. What regulations, rules, rates, or policy interpretation subject to 5 USC 556 and 557 (that is, APA rulemaking on the record) were proposed or initiated by your agency during calendar year 1972?

HUD does not engage in any formal rulemaking pursuant to 5 USC 556 or 557.

Question 3. Excluding proceedings in which your agency sought primarily to impose directly (without court action) a fine, penalty or forfeiture, what administrative adjudications (including licensing proceedings) subject to 5 USC 556 and 557 were proposed or initiated by your agency during calendar year 1972?

Two functions of the Department, adjudicatory in nature, come within the aegis of 5 USC 556 and 557: administration of the Interstate Land Sales Full Disclosure Act, mentioned above, and Title VI of the Civil Rights Act of 1964 (42 USC 2000a).

15 USC 1715(b) provides that a land sales registration order issued after hearing be based upon the record, and that the hearing be conducted in accordance with the provisions of the Administrative Procedure Act. During calendar 1972, the Department conducted only two land sales registration hearings and issued no final adjudicatory orders. This number of hearings is not representative,, however, inasmuch as the enforcement program did not become fully active until the latter part of the year.

42 USC 2000d–1 provides that grants or assistance be terminated for noncompliance with the Civil Rights Act only in the case of recipients ". . . as to whom there has been an express finding on the record, after opportunity for hearing . . ." During calendar 1972, HUD joined with HEW in one hearing under title VI, but no order has been issued.

Question 4. What adjudications under any provision of 5 USC Chapter 5 seeking primarily to impose directly (without court action) a fine, penalty or forfeiture were proposed or initiated by your agency during calendar year 1972?

HUD imposed no fines, penalties or forfeitures under 5 USC Chapter 5, during 1972.

Question 5. Excluding proceedings subject to 5 USC 554, 556 and 557, what proceedings on the record after an opportunity for hearing did your agency propose or initiate during calendar year 1972?

The Department conducts hearings as to parties debarred or suspended from contracting with the Department under 24 CFR Part 24, but the proceedings are not governed by 5 USC Chapter 5.

Question 6. Will you please furnish me with a list of representative public and nonpublic activities proposed or initiated by your agency during calendar year 1972?

The only industry with respect to which the Department has regulatory type responsibilities is interstate land development, mentioned in answers to 1 and 3 above. Considering the general nature of your question, changes in HUD top and middle management as well as record-keeping limitations make it infeasible to refer now to matters raised at informal policy and budget meetings or to recount the substance of telephonic policy interpretations.

Question 7. Excluding actions designed primarily to impose a fine, penalty or forfeiture, what final actions taken by your agency in calendar 1972 could have been appealed to the courts for review by anyone under a statutory provision or judicial interpretation?

15 USC 1710(a) provides for court review of orders under the land sales registration program. 42 USC 2000d-2 provides for judicial review of the Department's actions under Title VI of the Civil Rights Act of 1964. Appeals from debarment and suspension actions are taken to the United States District Courts.

I hope this information will be of assistance in your evaluation of the impact of H.R. 14, 21, and 564 on administrative agencies.

Sincerely,

ROBERT R. ELLIOTT,
(for James L. Mitchell).

TAX NOTES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

Mr. DRINAN. Mr. Speaker, I bring to the attention of the Members material taken from the December 10, 1973 issue of Tax Notes. This is a weekly published by Tax Analysts and Advocates, 2369 North Taylor Street, Arlington, Va.

On the inside cover of Tax Notes for December 10 there is reprinted the following memo from John M. Martin, Jr., Chief Counsel to the Committee on Ways and Means to the members of that committee I reproduce this memo:

On page 3 of this issue there is the following information about the Ways and Means Committee and members' bills. I attach these three paragraphs.

An article from this same source by Samuel Hastings-Black is entitled "How to Analyze 'Private-Interest' Tax Bills." This article follows:

Memorandum to Members of the Committee on Ways and Means

From: John M. Martin, Jr., Chief Counsel.
Subject: Miscellaneous Bills.

The purpose of this memo is to again request those Members who have not already contacted me as to any miscellaneous minor bills which they wish to be added to the list for possible consideration by the Committee when it has a chance to either announce receipt of written statements or to meet on such bills to please advise me not later than noon Tuesday, December 4, of the bills which they desire to be added to this list.

As was indicated in the Committee meeting several days ago, this will not include any bills involving a major revenue impact or major, far-reaching changes.

Please have someone contact me or Mrs. Kendall on Extension 53628 just as soon as possible, since a considerable amount of work is involved in assembling these various lists and in advising the Departments to expedite their reports thereon.

Ways and Means Will Try Again on Members' Bills

The memorandum reprinted on the preceding page indicates that the House Ways and Means Committee will make another try to secure passage of members' bills by either unanimous consent or suspension of the rules, in spite of two consecutive years of failure. Members' bills, which are subject to a variety of definitions and connotations, generally are narrow-interest measures, not necessarily against the public interest but often suspicious nonetheless. (See story on private interest legislation, page 16.) A coalition of House liberals, including Chairman Wright Patman, D-Texas, of the House Banking and Currency Committee, and Reps. Henry S. Reuss and Les Aspin, both Wisconsin Democrats, have successfully blocked action.

Traditionally, the bills were brought up under either suspension of the rules or under unanimous consent, procedures which make it simple for a few, or even a single, objector to block action. The principal argument of the opponents has been that the legislation received no hearings.

Ways and Means has not decided upon a strategy for this session but among the possibilities is the holding of open hearings on the bills. Most, the members insist, are quite routine and would meet no opposition. Some are clearly of a technical nature that obviously would not make major changes in tax law. Ways and Means staff members declined to say what type of bills were submitted by the deadline. The Committee tentatively plans to meet on them this week.

How To Analyze "Private-Interest" Tax Bills

(By Samuel Hastings-Black)

"Private-interest" tax bills? No cause for alarm—it's not a new kind of bill. This is just Tax Notes' way of ducking the problems created by using the term "member's bill." A "private-interest" bill is one tailored to help individual but purposely unnamed taxpayers.

If the taxpayer is named, then the legislation is more properly characterized as a private bill, a form of relief long recognized as a basically sound problem-solving device. Sometimes the text of a "private" bill will include the name of the taxpayer; this kind of bill is unusually referred to the Judiciary Committees, although some private tax bills are handled by Ways and Means. Alternatively, a bill may not name the beneficiary, but the legislative history may say who the beneficiary is. An example is the Senate's Herndon Foundation amendment to H.R. 8214. (See S. Rept. 93–554, Nov. 27, 1973, and Tax Notes, Dec. 3, 1973, p. 4, H.R. 11484.)

If a bill would help unnamed taxpayers but is not narrowly tailored, then it is simply a piece of general legislation, to be judged on its merits.

"Special interest" bills connote aid to an entire industry or a segment, even a small segment, of an industry—e.g. a bill to abolish excise taxes on tow truck bumpers (H.R. 4021, introduced this year). The beneficiary class may be recognizable, but even this kind of bill is broad enough to require some consideration on general merits before passage. The bumper manufacturers have not been bashful about letting their identity be known.

"Member's bills" can either be "private interest" bills, "special interest" bills, or "private" bills. Since the term "member's bill" is fairly broad, Tax Notes has had to come up with something narrower—hence this article's title. "Member's bill" is also a term of art, indicating bills solicited by the Committee chairman from the committee members, at the end of a session ("ornaments" on a "Christmas tree" bill) or after a long effort at enacting a major bill.

How about "contributor's bills"? Such terminology would be correct at least some of the time, but poses problems: a) it requires more facts before the term can be used; b) it could be libelous unless specifically true; c) it includes general legislation, as when an environment lobby contributes to a campaign and afterward solicits introduction of a pro-environment tax; and d) it would exclude egregious private interest efforts where no contribution was involved.

What more can be said about private interest bills? The definition indicates that a member of Congress is trying to help someone specific, but the member doesn't want the voters to know about it. This means that the member is uneasy about owing the beneficiary something—perhaps in return for a campaign contribution or favors such as free rides in company jets. It means that the beneficiary or the member is uneasy about the relief being proposed—typically, a departure from horizontal equity (similar taxpayers getting similar treatment) toward a special favor—a loophole, or a departure from generally accepted principles of tax accounting or economics.

IDENTIFYING A PRIVATE INTEREST BILL

There are a number of telltale signs of a private interest bill:

1. The title doesn't say what the substance is. Example: To amend section 832(e) of the Internal Revenue Code of 1954. Mar. 13, 1973.—Report requested from Department of the Treasury.

2. The text is short—a few lines, often one page, rarely more than two or three pages.

3. The text is devoid of substance—it's just tax law gobbledygook.

4. The bill may have a retroactive date, bailing out some lawyer's or accountant's blooper.

5. No speech accompanies the introduction of the bill, nor any press release, fact sheet, etc.

6. The sponsor is likely to be on Finance or Ways and Means, or, in the House, a senior member.

7. The office of the sponsor won't tell you anything about the bill.

8. The bill may be introduced at the end of a session or as an amendment to an end-of-session bill. Often the sponsor's hope is to add the language quickly to a veto-proof bill (for example, H.R. 8214, the current Christmas tree bill, which contains language giving tax relief to prisoners of war and families of servicemen missing in action).

9. The committee language reporting the bill is obscure, dwelling on technical details.

10. The estimate may be fudged—"negligible," "a small effect at most." (The cost may be a paltry million, which is small compared to the federal budget; but if the bill benefits one taxpayer, it wouldn't be small to that taxpayer.)

11. The estimate may be fudged by cranking in feedback effects. The first level effect of the bill might be, say, to cut tax on certain securities, resulting in a revenue loss; so the analysis may go on to say that these securities will subsequently be traded more often at the low tax rate, generating more, not less revenue than before. These second level effects are not customarily included in revenue estimates, however. (See Tax Notes, Oct. 15, 1973, pp. 9–10.)

12. The committee or the sponsor may cite Treasury approval for a revenue estimate, but not approval for the bill itself.

13. The committee or sponsor may cite Treasury approval but this turns out to be only oral approval. If Treasury has been unwilling to go on record, or only asked at some secret markup session, there may be a reason.

14. The bills may be put on the House Suspension Calendar (no debate) or made the subject of a unanimous consent resolution limiting debate.

How to Analyze the Bill

Now you've got to get a better feel for what the bill does. At this point you should:

1. Check the current calendar of the Ways and Means or Finance Committees to see if the bill has appeared elsewhere. Using the sponsor index, see if the bill was introduced earlier by the same member. Use the number index to determine who else may have introduced the bill. Use the subject index to see if a different member introduced a similar bill. If the number index indicates that the bill was reported, then there is legislative history in a published report. The report number and date, and a summary of it, appear at the beginning of the calendar. Current calendars are available free at 225-3625 (Ways and Means) and 225–4515 (Finance).

2. Check the "Final Calendar" of the Finance or Ways and Means Committee for the previous Congress. Private interest bills are the opposite of old soldiers—they often die, but they rarely fade away. Use the same indexes to see who was behind the proposal in previous years. Any time the measure was introduced, there may have been a speech in the Congressional Record on the subject. (Final Calendars are also free.)

3. Check the Congressional Record indexes for a speech by the sponsor within a few days of introduction of the bill. These indexes are published separately from the daily Record.

4. Go to the Commerce Clearing House 6-volume Standard Federal Tax Reports (annotated Revenue Code) and read the material at the relevant code sections to see whether any revenue rulings or cases discussed the issue.

5. Call some sources who might be able to shed some light on the objectives and potential beneficiaries of a bill. These would include:

The revenue committees (Ways and Means and Finance) and the extremely influential Joint Committee on Internal Revenue Taxation (225–3621). The latter handles most of the technical work on tax legislation in both houses of Congress.

The Office of the Assistant Secretary for Tax Policy (964–5561). Within that office there is the Office of Tax Analysis (964–2318), the Office of the Tax Legislative Counsel (964–8248) and the Office of the International Tax Counsel (964–5046). OTA provides economic advice on tax matters and the other two units give legal advice.

*The Internal Revenue Service (964–4037).

*The Tax Division of the Department of Justice (739–2901). This group would know if a bill might overturn some court decisions.

Individuals at local law firms or on the university law facilities who might be familiar with the circumstances that gave rise to the legislation.

6. It is possible that the Treasury Department issued a formal bill report on the proposal. A request for such a report can be made through the Office of the Assistant Secretary for Tax Policy. All reports issued since July 1, 1967, are available under the Freedom of Information Act. Reports issued after June 1, 1973, are available in Room 441, Main Treasury.

IDENTIFYING AN UNNAMED BENEFICIARY

Now that you know what the bill is trying to do, you can begin the most difficult phase, which is finding out who the lucky taxpayer is. The Executive has a statutory duty to disclose the name, or the name of the taxpayer's lawyer, if either appears in writing in connection with communications to or from Treasury. Try these methods:

1. Correspondence from the member of Congress is available through the Office of the Assistant Secretary for Tax Policy. Correspondence received on or after June 1, 1973 would show up in the tax correspondence index in the library on the fifth floor of Main Treasury. Correspondence prior to that but sent after July 1, 1967, must also be made public on request. No index is publicly available. However, it is usually a simple matter to frame a request in a general manner keyed to the legislation in question and thereby obtain the correspondence.

2. Pursuant to written requests Treasury must search files for logs of meetings or telephone conversations with taxpayers, the Hill, or counsel, if there were any such discussions.

3. If a Treasury employee knows the taxpayer's name, he (she) may well tell you just to get you off his (her) back, with no need for a written request.

4. If you know that the bill benefits a certain type of industry or business, or a taxpayer with certain kinds of business interests, you might try to find a reporter or editor from the sponsor's state, who has a

reputation for not liking the sponsor, and who might be able to name some acquaintances of the sponsor who fit into the category of taxpayers benefitting.

5. You can check the sponsor's campaign receipts to see if executives from that industry gave any money (donors must list their place of work). To do this, go to the Public Records Office of the Secretary of the Senate (Capitol Basement, Room ST 2, 225-2124) or the Records and Registration Office of the Clerk of the House (Longworth Building, Room 1036, 225-1300) and examine the campaign contribution records for the member in question. The campaign committees organized to fund the member are listed. If general committees, such as the Republican Congressional Committee, were heavy contributors, it is advisable to check the names of individuals making large donations to it to see if the dates correspond to those on which donations were then transferred by the campaign committee to the member in question. Masking the identity of donors by passing the contributions through the campaign committees is called "laundering."

6. If you have the name of the attorney of the taxpayer who is a beneficiary of the private interest legislation, compare the law firm's clients (listed in Martindale & Hubbell) with the list of campaign donors.

7. If reversal of a court case is involved, the name of the taxpayer and the taxpayer's lawyer will be included in the judge's opinion.

WHY ALL THIS SECRECY?

In the case of a private bill, the taxpayer's name is routinely made public by the sponsor or the committee involved. Since the purpose of the bill is to correct what is widely seen to be an inequity, no one is embarrassed to identify the dollar amount and the beneficiary.

In the case of a special interest bill or a piece of general legislation, the same is true. There is a revenue estimate and the beneficiary class is described. A good example is S. 1696, by Sen. Dole (Tax Notes, Nov. 26, 1973, p. 16). The benefitted group includes those companies or citizens who own private aircraft. Sen. Dole is not embarrassed to let that be known, even though it is recognized that this is an upper income group. Nobody's hiding anything.

CONABLE POSITION

Rep. Barber B. Conable, Jr., the Republican Ways and Means member from Rochester, N.Y., made a number of relevant and thoughtful points in his August 16, 1973 newsletter. He uses the term "Member's bill" in much the way this article uses "private interest bill." Among his statements:

a. ". . . sometimes special situations arise in which a serious and unintended inequity follows for one or two taxpayers even though the general application of the law is fair and intended. A court would be powerless to change the law or to disregard it, but a special bill can be put through Congress as a last resort to correct the problem without affecting the basic policy of the law. For this purpose the Ways and Means Committee is broken down geographically, and a taxpayer seeking such a legislative remedy is expected to go to the Committee member nearest his home to ask him to sponsor a Member's bill."

b. ". . . a day is set aside for consideration of Member's bills by the Committee. At that time the affected department of the executive branch (usually Treasury) presents a report on each considered bill. An unfavorable report automatically kills the bill. Any single member of our 25-person Committee can object to any Member's bill and this automatically kills it, as well.

c. "To require public hearings, normal mark-up sessions, the granting of a formal rule and full-scale debate on these measures would waste enough time so that it would never happen and the remedy would be lost."

d. ". . . if we no longer use Member's bills, the proposals which became Member's bills in the past will be buried in our omnibus tax legislation, complex and many pages long, and most rank and file legislators will never even realize they are voting on them. . . ."

The Conable analysis squares, in part, with the Hill and executive branch experience of TA/A's staff, but recent history provides plenty of exceptions to the Conable view, and these exceptions point up the problems with private interest bills. Our experience with the Conable analysis, point by point:

(a) Conable is describing "private bills," a quasi-judicial vehicle to right a wrong on a one-time basis, without changing the law for all future time. His description doesn't as squarely apply to "private interest bills."

There is a system for private bills, naming the taxpayer and defining the relief. These bills are not codified and apply only to the one beneficiary. But private bills are not private interest bills. Bills in this other category are codified and apply to all future similar transactions. They hide the identity of the beneficiary and, usually, the amount of the revenue loss. As for going to the member nearest your home, there seem to be numerous exceptions to this benign "rule" if it is a rule. Finance Committee member Sen. Hansen R-Wyo., has been pushing a bill for two years which would benefit a few closely-held corporations in Illinois.

(b) Treasury objections to H.R. 8663, recently under consideration by the Finance Committee, seem not to have had any effect. The right of members to kill a proposal by objecting has been more carefully observed in the House than in the Senate. No such objection procedure exists in the Finance Committee. Floor objection is, practically speaking, harder in the Senate because Finance reports private interest bills out as amendments (51 votes to kill) rather than as separate bills under unanimous consent (1 objection to kill). This is not to visit the Finance Committee's "sins" on Rep. Conable.

(c) The question here is, if these bills are one-time relief for inequitably treated taxpayers, then why not hold hearings and debates? These bills wouldn't take up any time because everyone would be for them. There is a formal procedure for private bills, and no one seems to complain that the procedures waste so much time that private bills "never happen." They happen all the time. The remedy is not lost because of the rules—on the contrary, when rules are observed, confidence in the process builds, and the remedy is enhanced.

(d) This is simply a threat of bad faith. "If we have to have floor dabate, we'll put these provision into bigger bills." This seems almost an admission that the private interest bills can't stand on their own feet. If they have to be "buried" maybe they shouldn't pass in the first place. In fact, however, this burying is already done and may be part of the problem. A better solution is represented by the Technical Amendments Act of 1958. The committee published extensive lists of "unintended Hardships and Benefits Resulting from the Revenue Code of 1954." Hearings were held and the provisions of law analyzed extensively. No one tried to hide that the many small provisions added up to a major bill, worthy of extensive public discussion.

A BETTER METHOD

The Conable analysis contains the seeds of an improved procedure for handling private-interest bills. Conable's analysis indicates that the Congress is to be used as a last resort. Perhaps no taxpayer should be the subject of a bill until the taxpayer has lost a court suit or an attempt to get a ruling or a regulation. The suit would be cited, or the negative ruling, refusal to rule, or denial of regulation change included, in the committee hearing record on the bill. The taxpayer would always be identified. If the taxpayer is truly the victim of a "serious and unintended inequity," the taxpayer should not be reluctant to be identified.

If Treasury submits a report on every bill, these reports should be in writing with a dollar revenue estimate, and made a part of the record. Transcripts of the executive sessions should be immediately made public. There should be no need for secret transcripts. This applies to House-Senate conferences also.

Again, if the inequities are clear, allowing floor debate should pose no problem. Floor debate becomes lengthy only when a bill is controversial.

The time pressures cited by Conable at (e) above indicate that perhaps a Ways and Means subcommittee should be appointed to deal with these minor bills. The subcommittee and its own staff could develop the reports, and provide liaison to Treasury. Ralph Nader's Tax Reform Research Group offers a broader response to Conable: how does Ways and Means provide any time for private interest bills when it hasn't achieved House passage of a single major bill in this Congress, much less any tax reform?

Some critics argue that the private interest bill is simply a device whereby Ways and Means can ensure that narrowly written bills are referred to it instead of to the Judiciary Committee. The committee may have been unable to get a single major bill on to the House floor so far in 1973, but it isn't about to give up the power to give private interest relief.

IS THIS ALL WORTH IT?

The fact is this kind of research can yield important stories. Obviously, the basic theme is that a member of Congress is doing a favor for someone in the form of general legislation not naming a taxpayer. Moreover, there is a decision not to name the beneficiary. Journalists, citizens' groups, and opposing candidates would give their eyeteeth for this kind of story, especially if there is a campaign contribution involved. An article by George P. Anthan of the Des Moines Register, about a private interest bill sponsored by ex-Sen. Jack Miller, R-Iowa, is widely regarded as the straw that broke Miller's back and resulted in his upset defeat last year.

DISC LAW CONTRIBUTES TO CRITICAL SHORTAGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 15 minutes.

Mr. DANIELSON. Mr. Speaker, many of us have been surprised to learn that in this time of critical shortages the United States is exporting many commodities which are desperately needed here at home. What is even more surprising is that the United States, through tax benefits and incentives actually encourages the export of goods which are in short supply here in the United States—supplies of commodities which are insufficient to meet the requirements of the domestic economy.

In enacting Public Law 92-178, the Revenue Act of 1971, the Congress made many changes in our tax laws, among which are provisions designed to improve our balance-of-trade situation. Title V of that law establishes special tax treatment for the income of Domestic International Sales Corporations, DISC's, which are defined as those corporations primary engaged in the export of goods produced, grown, manufactured, or extracted in the United States. These provisions, which appear in sections 991 and following of the Internal Revenue Code of 1954, title 26, United States Code, have the effect of indefinitely deferring taxation on one-half of the income a DISC derives from the export of domestically produced goods. The DISC law was enacted for the purpose of stimulating and promoting the export of commodities produced in America. It amounts to a Government subsidy for exports.

The Congress realized at the time this bill was passed, that such a favorable tax treatment, an export subsidy, should not be extended to goods which are badly needed here at home. Accordingly, in section 993(c)(3) of the Internal Revenue Code, provision was made for exempting goods from the DISC law whenever the supply is "insufficient to meet the requirements of the domestic economy." The President is given the authority to make that determination.

Despite the fact that our domestic supply of petroleum, and goods derived from petroleum such as chemical fertilizers and plastics, are in critically short supply, the President still has not seen fit to exercise his statutory authority to deny special tax treatment of income realized from the export of those products.

We are most acutely aware of the shortage of petroleum and petroleum derivatives. But there are other critical shortages in other sectors of our economy, such as certain foods, livestock feeds, lumber, paper, newsprint, iron scrap, nonferrous metals, and many others. Even the recycling industry, which many of us here in Congress have encouraged and fought for, is suffering shortages of raw materials due to exports.

As an illustration, the price of waste paper, from which new "recycled" paper, cardboard, and corrugated paper boxes are made, has increased, in the Los Angeles area, from $20 per ton to $70 per ton in the last 9 months. Exporters are paying $90 per ton for waste cardboard at dockside in San Pedro, Calif. These prices put waste paper beyond the reach of our domestic recycling industry. Manufacturers who are producing for domestic consumption can no longer compete against these prices, which are inflated by the combination of high foreign demand and DISC tax exemptions.

One manufacturer of recycled products in Los Angeles has told me that unless these conditions are changed the only way he can survive is by turning away from the domestic market, setting up his own DISC, and becoming an exporter.

Mr. Speaker, I have introduced two concurrent resolutions on this subject. The first, House Concurrent Resolution 393, calls upon the President to exercise the authority granted to him by the DISC law to deny tax exemptions to profits derived from the export of petroleum and petroleum products. The second resolution calls upon the President to immediately undertake a review of the commodity requirements of the domestic economy to determine which commodities are in short supply, and to end the favorable DISC tax treatment which is now given to profits derived from the export of those commodities.

The following are the texts of these resolutions:

H. Con. Res. 393

Whereas the Nation is facing a severe and critical shortage of petroleum, natural gas, and products derived therefrom, and such commodities are essential to the common defense, the economy, and the general welfare of the United States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring). It is the sense of the Congress that the President should immediately exercise the authority granted to him by section 993(c)(3) of the Internal Revenue Code of 1954, to determine that the supply of certain commodities to wit: petroleum, natural gas, and products derived therefrom, is insufficient to meet the requirements of the domestic economy, and, by Executive order, designate such commodities as in short supply for purposes of section 993(c)(1) of the Internal Revenue Code of 1954 (relating to taxation of Domestic International Sales Corporations).

H. Con. Res. 395

Whereas provisions of the Internal Revenue Code (26 U.S.C. 991 et seq.) relating to taxation of Domestic International Sales Corporations (DISC's) were enacted for the purpose of stimulating the export of American products and improving the Nation's balance of trade by granting certain tax exemptions to profits derived from the export of goods manufactured, produced, grown, or extracted in the United States; and

Whereas the tax exemption of profits derived from exports serves as an incentive for the export of many essential commodities which are, or may be, in short supply domestically; and

Whereas such provisions were not intended to apply to the export of products the supply of which is insufficient to meet the requirements of the domestic economy; and

Whereas it is apparent from market conditions now existing in the United States that the supply of many essential commodities is insufficient to meet the requirements of the domestic economy; and

Whereas the President is specifically empowered by section 993(c)(3) of the Internal Revenue Code of 1954 to determine and designate certain products as in short supply and thereby deny such favorable tax treatment to profits derived from the export of such products: Now therefore, be it

Resolved by the House of Representatives (the Senate concurring), It is the sense of the Congress that the President should immediately undertake a review, study and evaluation of the supply of all commodities manufactured, produced, grown or extracted in the United States for purposes of determining, pursuant to section 993(c)(3) of the Internal Revenue Code of 1954, whether the supply of any such commodity is insufficient to meet the requirements of the domestic economy, and, by Executive order, designate any such commodity as in short supply for purposes of section 991(c)(3) of the Internal Revenue Code of 1954 (relating to taxation of Domestic International Sales Corporations).

House of Representatives,
Washington, D.C., November 28, 1973.

Hon. Richard M. Nixon,
President of the United States,
The White House,
Washington, D.C.

Dear Mr. President: This letter is to request that you exercise the authority granted to you by Section 993(c)(3) of the Internal Revenue Code of 1954 which permits you, by Executive Order, to end special tax treatment for the export of any goods, the supply of which ". . . is insufficient to meet the requirements of the domestic economy."

I am referring, of course, to the export of various petroleum products by our domestic companies. Much public attention has been given to the export of heating oil, which is estimated to equal 1.2 million barrels in 1973. I am even more concerned, however, about the export of other goods which are in critically short supply, such as petrochemical fertilizers and industrial raw materials and feedstocks derived from petroleum, the export of which is encouraged by the favorable tax treatment accorded to Domestic International Sales Corporations (DISC's) under relevant provisions of the Internal Revenue Code.

Inasmuch as chemical fertilizers are petroleum products, and petroleum is in critically short supply, I am gravely concerned that the farmers of the nation will not be able to obtain the amount of fertilizer necessary to provide the abundant crops we need to feed our own people, to say nothing about having a surplus for export to foreign lands.

At this time, we should be imposing a total embargo on the export of such vital products until we are assured of sufficient reserves to satisfy domestic needs. Short of an embargo, and as an absolute minimum, we should suspend those provisions of our tax laws which provide financial benefits to domestic companies for the export of critical commodities at the expense of the basic needs of the American people. Sections 991 and following, of the Internal Revenue Code, relating to Domestic International Sales Corporations, are precisely such provisions in our tax laws. And, in enacting these laws, the Congress specifically empowered the President, in Section 993(c)(3), to eliminate favorable tax treatment for income derived from the export of goods which are in short supply.

I strongly and respectfully urge you to exercise your authority under Section 993(c)(3), to determine and designate that petroleum products, including but not limited to heating oil, petrochemical fertilizers and industrial raw materials and feedstocks derived from petroleum, are in short supply, and thereby remove the financial incentive companies enjoy because of filling foreign needs before those of our domestic American consumers.

Respectfully yours,
George E. Danielson,
Member of Congress.

WASHINGTON RIP OFF

The SPEAKER pro tempore. Under a previous order of the House the gentleman from California (Mr. Van Deerlin) is recognized for 5 minutes.

Mr. VAN DEERLIN. Mr. Speaker, in the general euphoria ever the return of baseball to Washington, some of our colleagues may have missed a few of the details of how the deal to lift the Padres from my home city of San Diego was consummated.

Likewise, some may not be fully aware of the court actions which San Diego is planning to seek redress from those responsible for this latest Washignton rip-off.

San Diego is feeling the pressure today.

It could be your city tomorrow.

The feeling in San Diego is that our city has been had, as the result of a collusion involving not just the owners of the Padres and the grandees of the National League—but prominent Federal officials as well.

San Diegans most emphatically resent the suggestion that Federal revenues may be used to ease any burden on new owners of the Padres for indemnifying San Diego.

This would put San Diegans in the ridiculous position of having to foot part of the bill for pirating away their own ball team.

No one in authority has actually said that Congress might underwrite part of these costs. But I derive little comfort from a telegram sent to the National League last week on behalf of congressional and other Washington leaders.

In this wire, National League owners were assured that the Washington group, including the Congressmen, stood ready to consult them "in an attempt to work out procedures that would minimize the financial risks and limit the financial exposure in such a move."

What inference other than the possibility of Federal subsidies, indirect or otherwise, can one draw from such a statement?

Fortunately, the city of San Diego still may have legal recourse to block the transfer.

On Wednesday, the day after tomorrow, the city will file a breach of contract suit against the Padres in San Diego Superior Court.

The city will seek $12 million in damages from the Padres for breaking a 20-year lease on municipally owned San Diego Stadium with 15 years to go. City property director William MacFarlane estimates the actual net loss to the city at $300,885 a year.

In the Superior Court petition, San Diego will ask the court to attach all the assets of the Padres, including the franchise itself, pending a final judgment on merits of the suit.

If the court agrees, the Padres would be likely to remain in San Diego for at least another season, since attorneys for the city believe the litigation would take at least a year.

Also imminent is an antitrust suit to be filed in U.S. district court, San Diego. The city will attempt to show that a conspiracy existed among the Padre management, other National League owners, and other individuals in unlawful restraint of trade. A related allegation is expected to center around unfair use of the monopoly status enjoyed by professional baseball.

In San Diego, many observers are drawing a parallel between the murky circumstances of the proposed Padre deal and the Watergate case. This may well be an unfair comparison, but in the present moral climate in our National Capital it is perhaps also inevitable.

Mr. Speaker, I submit for the Record a sampling of editorial reaction to circumstances surrounding the Padre transfer. First, a column by Dave Hatz in the Chula Vista, Calif., Star-News of Sunday, December 9:

Forget what you've read and heard—the sale of the San Diego Padres to Washington, D.C. is one thing, and one thing only—a political rip off.

They're calling it a lot of things but it all boils down to being nothing more than a Watergate West.

All the yelling and threatening made by the "honorable" senators and representatives on the floors of Congress has finally paid off.

Threats of an anti-trust suit against baseball should the nation's capital not get another team made the National League back into one of the biggest sports injustices of our time.

But maybe D.C. does deserve still another chance. After all, they've only had two teams there that have failed since 1960 and maybe the third will be the charm.

And the Padres, or whatever they'll be called, will probably have a better chance of succeeding back there because now they've got a legitimate major league team.

San Diego was always criticized for the lack of support it gave the Padres, but in reality the attendance was excellent for a minor league club. And that, with the exception of a few players, is exactly what the city has had for the last five years—a minor league team.

Now, after the club at long last has invested some money to get some name players and bring the team up to major league caliber the league has decided to move it.

It was all done very neatly, too.

After C. Arnbolt Smith announced he could no longer hold on to the team the decision went to the league so it could decide who it'd prefer to have the team—the Joseph Danzansky group and the Marge Everett.

The plan worked perfectly. Since Danzansky made his bid way back in May his group had the first shot.

Ironically, the owners voted to approve the sale to Washington—something they rejected last June when there wasn't even another group interested in purchasing the team.

And Mrs. Everett, all along had been chastised because of her role in the Illinois racing scandal which resulted in the conviction of former Governor Otto Kerner.

But to turn her down for that is really calling the kettle black. We're supposed to believe that politicians and baseball team owners have never done anything wrong? They're real close.

So the government and baseball continues to cut its own throat. In a time when the honesty of this Nation's leader is being seriously questioned they go right out and pull a stunt like this to make people further question their credibility.

Fortunately, the city of San Diego has said it's going to fight for everything it deserves and let's hope it gets it.

City attorney John Witt has promised a $12 million damage suit for breach of contract, and will bring an antitrust action against the National League.

And what is ridiculous is the fact of an indemnity for the National League to protect the Washington owners from liability arising out of lawsuits filed in San Diego by the city.

So they expect the taxpayers to foot the bill. Imagine, it coming down to San Diegans paying part of a suit back to themselves. That may sound a little confusing but that's what it comes down to.

To say the least, most of San Diego's leaders were mildly incensed by Thursday's shocking action.

"It's a modern version of the public be damned," Mayor Pete Wilson snarled at a news conference.

"The city will wage war against the league on both the legal and political fronts to keep our baseball team in San Diego," he said. "The U.S. Congress, as watchdog of the public purse, has decided that subsidizing the piracy of the San Diego Padres is an urgent national priority, warranting the expenditure of federal taxpayers' dollars," he continued.

Let us only hope that the decision to fight will not be too little and too late.

San Diego deserves a fair shot and the low blow which was leveled at it in Thursday's decision is more than just a slap in the face. It is, to be sure, a supreme insult.

The city will fight and perhaps we will find out now if justice does indeed still exist in America.

This is supposed to be the land where the little guy still has a chance—now we'll find out for sure.

Sure, it's known that politics has existed in the world of sports long before this incident, but it's hard to believe that it is now so extensive.

Isn't there anything or anyplace left where politicians haven't stuck their dirty hands?

And should this deal be finalized on December 21 and the Padres do indeed go, how's this for an appropriate name—the Washington Rip Offs.

The following editorial from the San Diego Union of Saturday, December 8, reflects the widespread inference that Members of Congress somehow made a commitment of public assistance to protect a privately owned baseball team against financial loss stemming from a move to the Nation's Capital:

Foul Ball!

There is more at stake in the future of the San Diego Padres than whether there will be major league baseball in San Diego next year. The transfer of the Padres franchise to Washington, D.C., is based on promises by members of Congress that the team can count on subsidies of federal funds. This raises the very serious question of whether taxpayers throughout the country have any obligation whatever to provide funds for a Washington baseball team.

The action by National League owners on this franchise raises issues that are political as well as legal. On the legal front, it is the City of San Diego and its local taxpayers who must seek redress in the courts for the threatened breach of a 20-year contract which made the presence of the Padres a vital element in retirement of the debt on the Stadium.

Politically, we doubt if Americans anywhere—especially in cities supporting major league baseball teams—have any sympathy with the way their tax money is being used to keep fans happy in Washington. The prospective new owners of the San Diego franchise are to obtain use of the RFK Stadium on giveaway terms, and a committee including congressional representation has assured them that the city of Washington, with its pipeline into the federal treasury, will cover any judgment for breaking the San Diego contract.

We applaud the city administration in its determination to fight what is plainly a decision of doubtful legality. The events of the past few days make it inevitable that the future of the Padres will be settled in the courts—including the court of public opinion.

In the San Diego Evening Tribune of Friday, December 7, sports writer Steve Bisheff similarly assessed the resentment of local baseball fans that big Government was conspiring against them:

Politicians Tromp Over Local Fans

(By Steve Bisheff)

You almost learn to expect it, if you're a sports fan in San Diego.

You know, another day, another rip-off.

Let's see, there were the basketball Rockets who fled to Houston. The basketball Q's who are threatening to bolt to Los Angeles. And of course, the baseball Padres who are now heading for the nation's capital.

It's this latest baseball farce that is most disturbing. The basketball cases concern owners shelling out their own money, seeking to turn their own profit. It would have been nice if either had enough faith in this town to try and stick it out. But it didn't work out that way, and the guy who signs a team's checks has a right to make his own decisions.

The Padre decision seem to have been made by other people. Sure, C. Arnholt Smith originally sold the team to Joseph Danzansky in Washington. But we'd been led to believe all along that Smith would prefer to have someone buy the team and keep it in San Diego.

So, someone shows up, works out all the details, engineers a handful of impressive trades and then gets the door slammed abruptly in her face. Maybe Marge Everett wasn't qualified to own a baseball team. But if that was the case, why didn't the National League speak up sooner? Why wasn't action taken before yesterday?

Let's face it, this is a deal with almost as many political overtones as Watergate. And Bowie (I can't do anything right) Kuhn is right in the middle of the whole mess.

With all the other problems facing our country today, our loyal Congressmen somehow found time to lobby for a baseball team in Washington. Just like they pushed through the National Football League's blackout ban so they could see the Redskins' home games on TV. I mean, what would these guys do if it weren't for football and baseball?

So they'll be there next summer, sitting in their box seats and feeling important. Even if the grandstands around them are conspicuously empty.

The real loser, of course, is San Diego. A beautiful stadium, funded by taxpayers' money, will be rendered useless for most of the year. A town that never really had a chance to support a lively, well-promoted ball club will never find out what it could have done with the opportunity.

And, perhaps most important of all, the future of professional sports in this city is now seriously imperiled.

The National Basketball Assn. and the National Hockey League won't be impressed by the fact that major league baseball couldn't make it here. And those who say big league baseball will be back in the near future are probably kidding themselves.

And so San Diego will continue to get a bum rap.

Pro basketball didn't fail here. The Rockets were drawing surprisingly well when Bob Breitbard packed the team's bags and shipped them to Texas. The Q's? Put them in the Sports Arena, let Wilt Chamberlain play and the people would start showing up.

The Padres were considered flops because they could draw only 600,000. Well, that's not bad when you consider the team was operating on a budget that started low and receded faster than Buzzie Bavasi's hairline.

So, rack up another defeat for the little guy. The average fan got stomped on again. The people who love baseball in San Diego have been preempted by some big, cigar-smoking politicians.

Funny, with a crisis over energy, a fuel shortage, polluted air and an impending recession, our elected officials go out of their way to insure the presence of baseball in a city where the game has already flunked twice.

The rest of the country may not be able to drive, breathe or eat very well. But in Washington, congressmen will be able to watch baseball.

NATIONAL ENERGY DEVELOPMENT BANK

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the Record.)

Mr. PATMAN. Mr. Speaker, today I am introducing a bill, H.R. 11860, to establish a National Energy Development Bank to provide loans and grants to finance urgently needed research, exploration, development, production, and delivery of energy resources within the United States.

The energy crisis is being attacked on various fronts and I feel strongly that this Congress needs to provide a source of low-interest financing in adequate quantities to encourage the development of new technology and new energy sources. It is also hoped that the low-interest loans will help move small and medium-sized companies into the energy fields and provide new competition.

The bank will be authorized to make loans in all facets of the energy field. The bill would require that the bank give preference to new technology, new sources of energy, research in the development of new technology and sources of energy, revitalization of now dormant sources of energy, small and medium-sized concerns, projects designed to lower the cost of energy to consumers, and projects which provide maximum protection to the environment.

To qualify for loans, the applicant must produce evidence that he is unable to obtain credit on reasonable terms from the private sector.

The bank will be governed by a seven-man board of directors. The board would include the Secretary of the Treasury, the Secretary of the Interior, and the Administrator of the Federal Energy Administration. The President would appoint four additional members. Two of these members would be qualified to serve on the board by virtue of their scientific education, training, or experience. However, they could not be persons who were officers or employees of any corporation engaged in the energy field. Two other members would be appointed by the President to represent the broader public community. The members would serve on the board for 2-year terms.

Under the legislation, the bank would be capitalized with $1 billion and with the power to make loans up to 20 times its capital. Thus, we would have a $20 billion source of capital for these purposes.

In addition to the loans, the bank would also be authorized to make grants primarily for research purposes and they would be limited to universities and nonprofit corporations and organizations.

MIAMI-DADE GENERAL HOSPITAL DEDICATED

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on October 5, I participated in the dedication of a fine and much needed new hospital in a rapidly growing area of south Dade County, the name of which was the Miami-Dade General Hospital. I paid tribute to all those who had a part in the building of this institution, which in the years ahead would mean so much to the lives, the health, and the happiness of so many people. This hospital is privately owned and operated by a professional hospital management company which has some 48 hospitals to manage, some of which the company owns and some of which are under a management contract. I emphasized on this occasion that the important thing is not who owns or operates a hospital, but who can give competent, quality medical service and care to those who need such care at the lowest cost to the patient. I emphasized that the cost of medical care today is burdensomely high to most of the patients of this country.

I also emphasized that the great problem facing the people of this country who need medical care and attention is how they can pay for the care they need and the necessity of our developing a system for the provision of medical care to the people of this country who need it so that they can properly receive it. I also emphasized the great need for custodial and medical care in institutions after one leaves the hospital or for those who need such attention who are not just emerging from the hospital. To provide these facilities and a way by which people who need such care can get it is one of the most crying needs of the country.

Mr. Speaker, these are grave problems facing Congress and the Nation. I hope what I have said here may suggest to others the consideration of these problems so that we may find a way in the Congress and the country through which these problems can be properly solved. I include my remarks made at the dedication of Miami-Dade General Hospital on October 5, 1973, to appear in the Record following these remarks:

Remarks of Hon. Claude Pepper at Dedication of Miami-Dade General Hospital, October 5, 1973

Cong. Pepper. On the dedication of this fine and needed new hospital in this rapidly growing southern area of Dade County, I want to extend congratulations to Doctor Maxwell Dauer, and his lovely wife, who are here for this occasion, and to Dr. David Kenet and Dr. Leonard Freed, who had the vision to see the need and to establish it. I would also like to congratulate my good friends Shepard Broad, and his son, Morris Broad, who provided the financing through their Americans Savings and Loan Association. I also want to congratulate Jack R. Anderson, the president of the Hospital Management Company, which has some 48 hospitals to manage, many of them under contract, such as this one, and others which they own. Hospital affiliates are known for their efficient operation of hospitals, and any time you can save a dime in the operation of a hospital, that helps lower the cost to the patients.

Hospital costs are so high today that we must do everything we can, consistent with high quality medical care, to reduce costs. While there are some who think that all hospital operations should be by non-profit organizations, the important thing is to render high quality medical care at the cheapest possible cost. If private management, with greater efficiency and better organization, can render high quality medical care at a lower cost than other institutions, so much the better for the patients. I understand that hospital affiliates through efficient management has been able to lower the cost of quality medical care below the cost of similar care in other institutions. Our problem in this country is to bring high quality medical care within the reach of all of our people. We are far from having achieved that goal so far. It is unthinkable that in this great and rich country the life or the health of any human being should be jeopardized for the lack of means to pay for the kind of medical care which would safeguard such life or health.

It is a national problem, therefore, to provide such a program or such programs for the provision of health care that will bring high quality medical care to all who need it. Many plans over the years have been proposed—National Health Insurance—which is really only compulsory insurance—private insurance, medical clinics, and various combinations of programs, public and private. Perhaps we should set our goal of bringing high quality medical care within the reach of all our people and then experiment with the best ways to achieve that goal and finally if a single plan appears to be the only effective one by which we could reach that goal, then put such a plan into operation.

The medicaid program that we have at the present time would reach substantially all the people who are not able to pay for required medical care either through their own means or by insurance if the States would put up their share of the cost of such a program. In the State of Florida, 60% of the cost of the medicaid program is paid by the Federal Government. The Federal funds are available for providing proper care in hospitals and nursing homes to meet the needs of the people, but the States do not put up their share in most instances, including Florida. It may be that we will have to turn to a medicaid program to provide nursing home and medical care which will be totally funded by the Federal Government. The nursing home situation is deplorable today here in Dade County and in most parts of America. We commend hospital affiliates for its pioneering work—the success it has had thus far and upon the expansion of the best quality medical care at the lowest possible cost which it will provide in the years ahead.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Abdnor (at the request of Mr. Arends), for the remainder of this week, on account of the death of his father.

Mr. Roncallo of New York (at the request of Mr. Arends), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Young of South Carolina) to revise and extend their remarks and include extraneous matter:)

Mr. Railsback, for 5 minutes, today.

Mrs. Heckler of Massachusetts, for 60 minutes, on December 13.

Mrs. Heckler of Massachusetts, for 5 minutes, today.

Mr. McDade, for 5 minutes, today.

(The following Members (at the request of Mr. Danielson) to revise and extend their remarks and include extraneous material:)

Mr. Vanik, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Fuqua, for 5 minutes, today.

Mr. Drinan, for 20 minutes, today.

Mr. Mathis of Georgia, for 10 minutes, today.

Mr. Danielson, for 15 minutes, today.

Mr. Van Deerlin, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Chamberlain, prior to the remarks of Mr. Dent, in the Committee of the Whole today.

Mr. Thomson of Wisconsin, prior to the remarks of Mr. Dent, in the Committee of the Whole today.

Mr. Ullman to revise and extend his remarks and include extraneous matter during debate on H.R. 10710.

(The following Members (at the request of Mr. Young of South Carolina) and to include extraneous matter:)

Mr. Esch.

Mr. Derwinski in three instances.

Mr. Latta.

Mr. Railsback in three instances.

Mr. Don H. Clausen.

Mr. Wyman in two instances.

Mr. Hosmer in two instances.

Mr. Johnson of Colorado.

Mr. Collins of Texas in four instances.

Mr. Ashbrook in two instances.

Mr. Price of Texas.

Mr. Zwach.

Mr. Young of South Carolina.

Mr. Spence.

(The following Members (at the request of Mr. Danielson) and to include extraneous material:)

Mr. Evins of Tennessee in two instances.

Mr. Harrington in three instances.

Mr. Danielson in five instances.

Mr. Annunzio in six instances.

Mr. Badillo in four instances.

Mr. Rarick in three instances.

Mr. Gonzalez in three instances.

Mr. Fraser in five instances.

Mr. McSpadden in two instances.

Mr. Jones of Oklahoma.

Mr. Mitchell of Maryland.

Mr. Lehman in 10 instances.

Mr. Fascell in five instances.

Mr. Hungate.

Mr. Bennett.

Mr. Burton.

Mr. Mezvinsky.

Mr. Waldie.

Mr. Diggs.

Mr. Ford.

Mr. Wolff in four instances.

Miss Jordan.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 210. An act to authorize the establishment of the Boston National Historical Park in the Commonwealth of Massachusetts; to the Committee on Interior and Insular Affairs.

S. 262. An act to provide for the establishment of the Tuskegee Institute National Historical Site, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1283. An act to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; and for other purposes; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5089. An act to determine the rights and interests of the Choctaw Nation, the Chickasaw Nation, and the Cherokee Nation in and to the bed of the Arkansas River below the Canadian Fork and to the eastern boundary of Oklahoma.

H.R. 11459. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes; and

H.R. 11710. An act to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following title:

On December 7, 1973:

H.R. 8877. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1974, and for other purposes.

On December 10, 1973:

H.R. 5089. An act to determine the rights and interests of the Choctaw Nation, the Chickasaw Nation, and the Cherokee Nation in and to the bed of the Arkansas River below the Canadian Fork and to the eastern boundary of Oklahoma;

H.R. 11459. An act making appropriation for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes; and

H.R. 11710. An act to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969.

ADJOURNMENT

Mr. DANIELSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 49 minutes) under its previous order, the House adjourned until Tuesday, December 11, 1973, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1618. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation for the Veterans' Administration for Compensation and Pensions has been apportioned on a basis which indicates the necessity for supplemental estimates of appropriations for fiscal year 1974, pursuant to 31 U.S.C. 665; to the Committee on Appropriations.

1619. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations; to the Committee on Foreign Affairs.

1620. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to amend the Department of State Appropriations Act of 1973; to the Committee on Foreign Affairs.

1621. A letter from the Acting Attorney General, transmitting a report on the administration of the Foreign Agents Registration Act of 1938, as amended, covering calendar year 1972, pursuant to 22 U.S.C. 621; to the Committee on the Judiciary.

1622. A letter from the Acting Attorney General, transmitting a report on identical bidding in advertised public procurement during calendar year 1972, pursuant to section 7 of Executive Order 10936 issued April 24, 1961; to the Committee on the Judiciary.

1623. A letter from the Chairman, Federal Power Commission, transmitting copies of publications entitled "Regulations to Govern the Preservation of Records and Public Utilities and Licensees, January 1, 1972," and "All-Electric Tomes, Annual Bills, 1972"; to the Committee on Interstate and Foreign Commerce.

RECEIVED FROM THE COMPTROLLER GENERAL

1624. A letter from the Comptroller General of the United States, transmitting a report on improving the procurement and supply of drugs in the Federal Government; to the Committee on Government Operations.

1625. A letter from the Comptroller General of the United States, transmitting a report on improving of Defense ammunition logistics with effective central control; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOLIFIELD: Committee on Government Operations. Report on the Regulation of Diethylstilbestrol (DES) and Other Drugs Used In Food-Producing Animals with amendment (Rept. No. 93–708). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 11324 (Rept. No. 93–709). Ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11450. A bill to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes; with amendment (Rept. No. 93–710). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. UDALL (for himself and Mr. Foley):

H.R. 11856. A bill to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. UDALL (for himself, Mr. Foley, Mr. Ruppe, and Mr. Dellenback):

H.R. 11857. A bill to establish a national program for research, development, and demonstration in nonnuclear energy sources and for the coordination and financial supplementation of Federal energy research and development; and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DANIELSON (for himself, Mr. Mazzoli, Mr. Harrington, Mr. Stark, Mr. McKinney, Mr. Holifield, Mr. Roybal, Mr. Van Deerlin, Mr. Hawkins, Mr. Anderson of California, Mr. Hanna, Mr. Johnson of California, Mr. Corman, Mr. Sisk, Mr. Brown of California, and Mr. McFall):

H.R. 11858. A bill to provide for the conservation of petroleum and other natural resources by imposing an excise tax on the sale of certain gasoline-powered automobiles according to the rate at which such automobiles consume fuel, and for other purposes; to the Committee on Ways and Means.

By Mr. DAVIS of Wisconsin:

H.R. 11859. A bill to amend the act which created the U.S. Olympic Committee to require such committee to hold public proceedings before it may alter its constitution, to require arbitration of certain amateur athletic disputes, and for other purposes; to the Committee on the Judiciary.

By Mr. PATMAN:

H.R. 11860. A bill to establish a National Energy Development Bank to provide loans and grants to finance urgently needed research exploration, development, production, and delivery of energy resources within the United States; to the Committee on Banking and Currency.

By Mr. DENT:

H.R. 11861. A bill to increase the availability of urgently needed mortgage credit for the financing of housing and other purposes; to the Committee on Banking and Currency.

By Mr. HUBER:

H.R. 11862. A bill to amend the Elementary and Secondary Education Act of 1965 to prohibit nonessential educational transportation in recognition of the current energy crisis; to the Committee on Education and Labor.

By Mr. LITTON:

H.R. 11863. A bill to amend section 412 of the Federal Aviation Act of 1958 to require the Civil Aeronautics Board to disapprove certain pooling and other agreements between air carriers unless the Board finds that no party to any such agreement will, by reason of payments received under such agreement, continue to earn a profit during any period of labor dispute between such party and its employees; to the Committee on Interstate and Foreign Commerce.

By Mr. McCORMACK (for himself, Mr. Teague of Texas, Mr. Mosher, Mr. Fuqua, Mr. Goldwater, Mr. Symington, Mr. Wydler, Mr. Hanna, Mr. Esch, Mr. Roe, Mr. Conlan, Mr. Bergland, Mr. Parris, Mr. Pickle, Mr. Cronin, Mr. Brown of California, Mr. Martin of North Carolina, Mr. Milford, Mr. Ketchum, Mr. Thornton, and Mr. Gunter):

H.R. 11864. A bill to provide for the early commercial demonstration of the technology of solar heating by the National Aeronautics and Space Administration and the Department of Housing and Urban Development, in cooperation with the National Bureau of Standards, the National Science Foundation, the General Services Administration, and other Federal agencies, and for the early development and commercial demonstration of technology for combined solar heating and cooling; to the Committee on Science and Astronautics.

By Mr. QUILLEN:

H.R. 11865. A bill to amend title 38 of the United States Code to redefine the period of war known as the Mexican border period in order to extend veterans' benefits to persons who served in Mexico on or after June 1, 1914; to the Committee on Veterans' Affairs.

By Mr. RARICK (for himself and Mr. Blatnik):

H.R. 11866. A bill to provide for the Forest Service, Department of Agriculture, to protect, develop, and enhance the environment of certain of the Nation's lands and resources, and for other purposes; to the Committee on Agriculture.

By Mr. SARASIN (for himself, Mr. Burgener, Mrs. Chisholm, Mr. Collier, Mr. Conyers, Mr. Cotter, Mr. Gilman, Mr. Vigorito, and Mr. Wolff):

H.R. 11867. A bill to impose an embargo on the export of petrochemicals until price controls on petrochemicals are removed; to the Committee on Banking and Currency.

By Mr. SMITH of New York:

H.R. 11868. A bill for the modernization and general revision of the Patent Laws, title 35 of the United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. WHITE (for himself and Mr. Runnels):

H.R. 11869. A bill to amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or distracting of the legislative body or bodies of that state, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BURKE of Florida:

H.R. 11870. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty; to the Committee on the Judiciary.

By Mr. COHEN (for himself, Mr. Fraser, Mr. Lehman, and Ms. Holtzman):

H.R. 11871. A bill to amend the Social Security Act to direct the Secretary of Health, Education, and Welfare to develop standards relating to the rights of patients in certain medical facilities; to the Committee on Ways and Means.

By Mr. DRINAN:

H.R. 11872. A bill to extend the maximum period of entitlement for eligible veterans to take advantage of benefits provided by the GI bill; to the Committee on Veterans' Affairs.

By Mr. MELCHER (for himself, Mr. Andrews of North Dakota, Mr. Denholm, Mr. Findley, Mr. Gunter, Mr. Johnson of Colorado, Mr. Litton, Mr. Mayne, Mr. Nelsen, Mr. Nichols, Mr. Rarick, Mr. Scherle, Mr. Sebelius, Mr. Smith of Iowa, Mr. Thone, Mr. Zwach, Mr. Foley, Mr. Price of Texas, Mr. Stubblefield, Mr. Sisk, Mr. Symms, and Mr. Bergland):

H.R. 11873. A bill to authorize the Secretary of Agriculture to encourage and assist the several States in carrying out a program of animal health research; to the Committee on Agriculture.

By Mr. NEDZI:

H.R. 11874. A bill to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions; to the Committee on Government Operations.

By Mr. PREYER (for himself and Mr. Wampler):

H.R. 11875. A bill to suspend for a period of 6 months the duties on certain denim; to the Committee on Ways and Means.

By Mr. ROGERS (for himself, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, Mr. HUDNUT, Mr. GIBBONS, Mr. GUNTER, Mr. ROBISON of New York, Ms. SCHROEDER, and Mr. WOLFF):

H.R. 11876. A bill to amend the Public Health Service Act to assure an adequate supply of chlorine and certain other chemicals and substances which are necessary for safe drinking water and for waste water treatment; to the Committee on Interstate and Foreign Commerce.

By Mr. TIERNAN:

H.R. 11877. A bill to authorize the disposal of silver from the national stockpile; to the Committee on Armed Services.

H.R. 11878. A bill to protect the environment and conserve natural resources by stimulating the recovery, reuse, and recycling of waste materials and by decreasing the quantity of materials moved in commerce which must be disposed of ultimately as waste; to promote and regulate commerce by identifying and establishing standards and guidelines for the proper management of waste which poses a substantial hazard to human health or the environment, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. TIERNAN (for himself, Mr. EDWARDS of California, Mr. FLOOD, Mr. GAYDOS, and Mr. METCALFE):

H.R. 11879. A bill to authorize the Secretary of Transportation to make grants and provide technical assistance to units of general local government to implement programs which are designed to increase the use of carpools by commuters; to the Committee on Interstate and Foreign Commerce.

By Mr. DANIELSON:

H. Con. Res. 395. Concurrent resolution to express the sense of the Congress that the President should evaluate the commodity requirements of the domestic economy to determine which commodities should be designated as in short supply for purposes of taxation of domestic international sales corporations; to the Committee on Ways and Means.

By Mr. SISK (for himself, Mr. PEPPER, Mr. LONG of Louisiana, Mr. LATTA, and Mr. DEL CLAWSON):

H. Res. 743. Resolution to amend the House rules regarding the making of points of no quorum, consideration of certain Senate amendments in conference agreements or reported in conference disagreement, request for recorded votes and expeditious conduct of quorum calls in Committee of the Whole, deferred putting of the question on suspension motions, and elimination of joint sponsorship of bills, memorials, and resolutions, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

328. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to fuel supplies for commercial fishermen; to the Committee on Interstate and Foreign Commerce.

329. Also, memorial of the Legislature of the State of Louisiana, relative to the energy crisis; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. RAILSBACK:

H.R. 11880. A bill for the relief of Georgette Van Akeleyn (nee d'Harcourt); to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 11881. A bill to authorize and direct the Secretary of the Interior to sell interests of the United States in certain lands located in the State of Alaska to the Gospel Missionary Union; to the Committee on Interior and Insular Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII,

372. The SPEAKER presented a petition of the city council, New York, N.Y., relative to daylight saving time; to the Committee on Interstate and Foreign Commerce.

EXTENSIONS OF REMARKS

NUCLEAR WEAPONS—UNITED STATES VERSUS SOVIET UNION

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, December 10, 1973

Mr. HARRY F. BYRD, JR. Mr. President, on November 28, 1973, in the Baltimore Sun, there is published an article written by Joseph Alsop entitled "If This Shocks You, You Are Not in the Real World."

This is a very interesting article on the nuclear weapon situation in the United States vis-a-vis the Soviet Union.

The article points out that in nuclear strategic weapons the Soviet Union is piling up an enormous lead over the United States.

There are some interesting facts in this article that should be brought to the attention of the Senate and I ask unanimous consent that it be printed in the Extensions of Remarks.

The VICE PRESIDENT. Without objection, it is so ordered.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IF THIS SHOCKS YOU, YOU ARE NOT IN THE REAL WORLD

(By Joseph Alsop)

WASHINGTON.—Readers who dare to give themselves a fairly ugly reality test are hereby invited to do so. You are not living in the real world of 1973 if you are either shocked or surprised by any of the following propositions.

First, the talk of Soviet strategic "parity" with this country is plain garbage. In nuclear-strategic weapons, the Soviet Union is acquiring an enormous lead over the United States. If drastic measures are not taken soon, they will in fact enjoy potentially decisive nuclear-strategic superiority by the fairly early 1980's.

Second, the Soviet strategic lead mainly results from no less than five brand new intercontinental nuclear missiles, of far greater power and better design that those they had before. Two additional, still better new missiles are further predicted for testing in only two more years.

Third, for the above reasons, there was no foundation for the major American assumptions that made the first Strategic Arms Limitations Talks agreement seem acceptable and safe.

If you are one of those who hold that the U.S. can prudently allow decisive nuclear-strategic superiority to pass to the Russians, this is rather obviously a report to skip.

For those who hold the contrary view, however, the foregoing propositions are easy enough to prove from facts no longer disputed, even within the more error-prone sectors of the U.S. intelligence community.

After the SALT agreement was safely signed and sealed, to begin with, Moscow briskly began a long series of missile tests, which then revealed the new missiles they had been keeping up their sleeves. Each new land-based missile was thoughtfully designed to fit into the existing silos of one or another type of their existing missiles—thus circumventing the SALT rule against digging additional silos.

The SSX-16 will therefore replace the solid-fuel SS-13. Either the SSX-17 or the SSX-19 will replace the Soviet Minuteman-type missile, the SS-11. The SSX-18 will replace the Soviet monster-missile, the SS-9. Finally, there is the SSN-8, built for the new Soviet D-class nuclear submarine.

It is thought by many who think of such matters at all, that the new missiles merely embody minor improvements on the missiles they replace. This again is garbage, but it is garbage with a highly significant origin. The error arises from the existence of permanent, ongoing designs teams, which were responsible for the older missiles, and have now produced the replacements.

The cost to the U.S. of maintaining so many competing design groups, all encouraged to produce prototypes of new missiles as often as they can make major advances, would be in the neighborhood of $7 billion a year. Even in research and development in the strategic field, in sum, Moscow is investing at a rate that shows the grimmest of purpose.

As for the new missiles themselves, the land-based ones are uniformly much more powerful than their predecessors, and all four are provided with MIRV or independent by targetable, warheads. In all but one case—one of the two competing replacements for the SS-11—the great gain in power results from use of a "pop-up" launching system.

This permits the main rocket to ignite outside the silo, after the pop-up, which provides an immense gain in thrust for various technical reasons. With additional power thrust behind them, the new Soviet MIRV's are also radically different from our own MIRV warheads. Ours have power that can be counted in kilotons, whereas the Soviet MIRV warheads are all in the megaton range. Thus, they are effective counterforce weapons—and ours are not.

Overall, deployment of the new missiles with their MIRV warheads will increase the number of individually targetable Soviet warheads five or six times.

The SALT assumptions were: (A) That Moscow would not get a sea-based missile with anything remotely resembling this range; (B) That we had succeeded with MIRV-ing all our missiles, whereas the

the Soviet Union had failed; and (C) that greater accuracy was another huge American advantage. The first and second assumptions have now proved dead wrong. And the third assumption about our accuracy is now meaningless, since it is canceled out by the vastly greater power of the Soviet warheads.

So there you have the facts. In a more rational America, these appalling facts would spur great national efforts. Instead, several members of the Senate Armed Forces Committee were downright angry when they were told the facts. They preferred no contact with the real world.

THERESA JOHNSON—THE LADY OF CHRISTMAS

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. DANIELSON. Mr. Speaker, it is refreshing from time to time to take a break from the everyday duties of my elective office to bring to the attention of my colleagues the work of an extraordinary person, in this case my constituent, Mrs. Theresa Johnson of El Monte, Calif.

During this past year I had the opportunity to become involved in a project that resulted in assuring that many needy children in El Monte and South El Monte will have refurbished toys again this year at Christmas. It gives me a humble sense of satisfaction to know that in some small way I was able to help make Christmas a better time for others.

Through my involvement in this Christmas project I first learned of the work being done by Mrs. Theresa Johnson. She is the kind of person that I am proud to represent in Congress because, in a very real way, Mrs. Johnson symbolizes the spirit of Christmas. A brief description of her daily life will illustrate how she exemplifies the true spirit of giving and unselfish devotion to helping make life a little happier for others.

Mrs. Johnson is 71 years old. In 1961 she was stricken with throat cancer which required drastic surgery resulting in the removal of most of her throat and jaw. She cannot speak, her hearing is gravely impaired, and she is losing her vision. However, even when the pain is most severe she does not complain. Instead she goes ahead and does the job she feels should be done—helping others.

Such unselfish devotion is not new to Mrs. Johnson. Her life has been one of giving and making sacrifices for others. She lost a son in World War II and another son has retired after a career in the U.S. Navy. Before her serious illness she worked on projects that provided warm clothing for orphans in Korea and she helped in many other ways to make life more pleasant for those less fortunate than herself.

Now she sits, day by day, and repairs dolls which she contributes to the children at the Porterville, California Retarded Children's Center. Much can be said about the blessing that Mrs. Johnson's efforts has been to these retarded children and the great joys she brings into their lives each Christmas but perhaps the following poem by her friend, the late Phoebe Blackburn, best describes the story of this remarkable woman and her dedication to her fellow man:

OUR THERESA DEAR

If I could not speak and I could not see
I wonder what sort of person I'd be?
Could I be like our Theresa Dear
Cheerful and happy all through the year?

Even when pain is most severe
She does not cry or shed a tear.
Just grits her teeth and holds on tight,
Knowing God is near and all is right.

And after the pain eases once more
Theresa starts in on the nearest chore.
She cooks, she cleans, and sweeps the floors
And works in her garden out-of-doors.

She takes good care of "Boots", her cat,
And lovingly calls her a spoiled little brat.

On the telephone often with friends she will chat
They tell her much about this and that.
She answers them; there is a code and so
Two taps mean yes and one tap means no.
When visitors call, just as quick as a wink
She takes pen and paper and converses in ink.
Theresa's letters are the greatest as all her friends know
And each day of the year one to son Earl must go.
In answer to one he writes her to say
How much he loves her and tell news of the day.

In leisure hours, Theresa sits down to rest
While she knits or crochets . . . the very best.
With darling Boots curled up in her lap
She makes beautiful stoles, warm slippers, or cap.
While busily knitting, she thanks God above
For her many blessings and for friends to love.

Oh if I could not speak and I could not see
I wonder what sort of a person I'd be?
Could I ever be like Theresa Dear,
Cheerful and happy all through the year?

GENERAL AVIATION SAVES FUEL

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. MILFORD. Mr. Speaker, the President of the United States is like a large number of citizens and a few Congressmen: they do not fully understand "general aviation" nor what general aviation does for this Nation.

Many still believe that general aviation consists of a bunch of guys out at the airport cutting didos on Sunday.

In order to set the record straight by correctly spelling out the role of "general aviation" and in order to tell of its efforts to conserve fuel, I include in the RECORD an article from the December issue of the AOPA Pilot. I would urge all of my colleagues to read it carefully. The article follows:

FUEL: THE ENERGY CRISIS AND GENERAL AVIATION

The ever-increasing demand for petroleum products, the cutback of oil supplies from the Arab countries, and the drastic price increases levied by other suppliers of crude oil are among contributing factors to what may become a critical energy shortage.

This energy crisis calls for conservation and cooperation, not panic.

Not everyone will get all the fuel they *want;* however, with cooperation, everyone can get all the fuel they *need*. Part of the solution is to make the most efficient use of available fuels. This takes on two meanings in general aviation. First, a general aviation airplane frequently is the most efficient vehicle for a specific trip or purpose. Second, there are energy-saving steps that can be taken in the operation of aircraft. By understanding these and making the necessary adjustments, general aviation will not only assure its own fuel needs but will also make significant contributions to total energy conservation.

WHAT OF GENERAL AVIATION?

Objectivity is the key to understanding the true role of general aviation as it relates to the nation's economic and strategically flexible posture. The country benefits:

Through energy conservation. Pipelines and powerlines are regularly patrolled by general aviation aircraft. Leaks and breaks are easily spotted and repair crews guided to the scene with minimum delay. Such aircraft also figure largely in locating new energy sources and in speeding construction of wells and transmission lines.

Through assistance in food and livestock production. General aviation airplanes apply seeds, fertilizers, herbicides, insecticides and crop-growth regulators. A few hours in the air complete what would otherwise require days by earth-bound, energy-consuming farm equipment. Inventory and control of herds are simple chores from the air, accomplishing in hours that which would take days on horseback or in off-the-road, fuel-burning vehicles. During times of heavy snow, feed is quickly and efficiently airlifted and dropped to livestock which would otherwise starve due to the inaccessibility of such locations by ground vehicles.

Through efficient personal transportation. Nearly 100 million people travel intercity each year in their own or rented aircraft, by air taxi and commuter airlines. Much of this travel is between communities not served by scheduled airlines and results in considerable savings in time and money: two more important conservation areas. A trip by general aviation airplane usually is an *alternate* use of fuel, not an additional use. And it's an efficient alternate. Many small airplanes get more miles to a gallon of fuel than an automobile provides. Direct routes and shorter travel time assist in conserving energy.

Through more efficient law enforcement. Today, more and more law enforcement agencies throughout the U.S.—federal, state and municipal—are making airborne police an integral part of their control systems. In addition to routine patrols of our Mexican and Canadian borders to thwart illegal alien and contraband traffic, sky police perform a vital service in traffic management. By pinpointing trouble spots on the ground, automotive traffic can be expeditiously and efficiently rerouted, resulting in substantial fuel savings for those who might otherwise become mired in a major traffic snarl. Airborne police also are most useful in helping to control crime and in releasing patrol cars to meet specialized needs rather than routine surveillance.

Through population dispersement. Because the airplane makes possible rapid and dependable transportation between communities, it helps to attract business to smaller localities and is a reassuring factor in the decision-making that prompts businessmen so located to remain where they are. The benefit: more jobs. General aviation aircraft also put the nation's medical, social, and economic centers within minutes or, at the most, hours from the most remote hamlet.

Through an infinite variety of specialized jobs. General aviation aircraft foster rural and small-town development, providing economic and social benefits so that residents of such areas need not move to larger cities and compound the massive urban problems already present. The private and business airplane is engaged in mapping; photography; the study and control of weather; the transportation of food, medical supplies, and equipment needed in a hurry. It is instrumental in the conduct of search and rescue operations for boaters, hikers and campers, and is a vital tool in the prevention and control of forest fires. In 1971 alone the airplane assisted in the containment of 2,812 forest fires, as recorded by the U.S. Forest Service.

HOW WE ARE HELPING

As the world's largest general aviation membership organization, AOPA, with 178,000 active, current members, urges every responsible citizen to consider carefully the many invaluable—and in some cases indispensable—services provided by general aviation. A large number of these specialized requirements could not be accomplished by any other means.

To perform its important work, general aviation uses *less than one percent* of the amount of fuel burned in the nation's automobiles. If every general aviation airplane in the U.S. were grounded today, the resultant fuel savings would mean that only one pint of additional gasoline would be available each week for every automobile in the country.

Would it be worth it? We think not.

We believe that if everyone works together, realistic energy conservation can produce a degree of fuel saving that will permit everybody to have what is needed, even though it may not be what we all want.

Some energy savings can be realized by individuals who use private and business airplanes. Other ways for general aviation to significantly reduce fuel consumption will require government cooperation.

HOW GENERAL AVIATION PILOTS AND USERS CAN HELP

Use economy cruise power settings. These are normally in the lower power range. Such settings may be used with safety and increased fuel economy except for new or rebuilt engines during the first 100 hours of operation. Consult your aircraft manual for specifics.

Use proper leaning procedures. If your plane is equipped with an exhaust gas temperature gauge (EGT), use it at all altitudes and power settings below 75 percent and within limitations specified by the manufacturer.

Reduce ground operation time. Plan ahead to reduce unnecessary ground running of the engine.

Keep the airplane clean. Accumulations of mud, bird droppings, and other dirt reduce speed and increase drag and fuel consumption.

Correct improper rigging. Having to hold aileron or rudder during cruise indicates that the airplane is out of rig. It slows speed and wastes fuel.

Fly direct courses. Instead of flying from one radio navigation aid to another—VOR to VOR—in VFR weather, take a direct course. The shorter distance saves fuel.

File IFR only when necessary because of bad weather. Instrument flight rule procedures invariably require more fuel—often as much as 20 percent more—because of clearance delays, circuitous routings and holding.

Use intersection takeoffs at big airports. Request intersection takeoffs where available, to save taxi time and long waits at the end of the runway, especially where airliners are waiting for separation purposes.

Use proper spacing in the traffic pattern to avoid go-arounds. Avoid cutting in on other aircraft, thus forcing them to go around.

Pay strict attention to navigation. Do not wander off course. This just adds mileage and uses more fuel.

Use plane pools as you would car pools. Frequently travelers to the same destination for the same purpose will use more than one airplane. It requires far less fuel to fly one 4-place airplane than to fly two 2-place aircraft. Whenever possible, plan business trips to include several stops, rather than "double back" and start again to a destination which could have been included on a single flight.

Consider alternate transportation. By carefully considering schedules, number of persons traveling in a group, time and money, one may find occasions when scheduled airline service is more practical. This will conserve fuel for those many other times when travel by private aircraft is more efficient and practical.

WHAT THE FAA SHOULD DO

Establishment of high-speed safety corridors. There now exists a complex system of terminal control areas at major cities in the U.S. which keep jet aircraft at low altitudes for many unnecessary minutes. These TCAs also require some aircraft at lower altitudes to detour around them, unnecessarily using fuel. AOPA has asked the FAA to establish climb-and-descent safety corridors instead of terminal control areas. These corridors will provide jet aircraft—which consume enormous amounts of fuel at low altitudes—with more time at the higher fuel-saving altitudes.

The temporary postponement of the biennial flight review. The newly effective Part 61 of the Federal Aviation Regulations requires that all licensed airmen undergo a proficiency flight review with a certificated flight instructor every two years. AOPA has asked that this requirement be temporarily suspended pending the easing of the energy shortage.

Revise air traffic control procedures. Many of the "highways in the sky" are circuitous routes which have a proper place when there is heavy traffic. The FAA should, however, revise its procedures to cut down on this unnecessary vectoring and roundabout routing when less dense traffic permits it in safety.

Promote use of parallel runways. At Dulles International Airport, near Washington, D.C., sections of taxiways are used as parallel runways. This permits moving traffic faster, thus cutting down air and ground time. The FAA should encourage this at all airports where it is safely practical, and should expedite construction of short, parallel runways at other airports where congestion may cause delays.

Open restricted areas to flight. There are many places throughout the United States where civil aircraft are prohibited. Most of these are reserved for military operations. Flying around them increases the travel time, thus using more fuel. Recognizing that these areas are important for military readiness, AOPA does suggest that these areas be open during the many hours—and sometimes days—when the military is not conducting its necessary exercises.

If everybody saves a little, nobody will have to do without a lot.

GERALD R. FORD

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. DAN DANIEL. Mr. Speaker, the elevation of Congressman GERALD R. FORD to the Vice-Presidency is not only historically significant, it is personally satisfying to those of us who have known and respected him. The 40th Vice President has assumed that office under a provision of the Constitution never before utilized, but the procedure is indeed honored by the man we have selected.

JERRY has won the confidence and admiration of the Nation through a notable record of personal and legislative achievement. His leadership qualities have served well our country's interest in his taxing responsibilities in this body. In his quiet and unassuming way, he has worked with diligence and ability—both in service to his Michigan constituents and to the Nation—during 25 years as a Member of Congress. He has proven that leadership need not be flamboyant in order to be effective, but he is a man of convictions well expressed.

In his new role, the Vice President will apparently have an important role in relations with Congress and I welcome this association. His experience will not only be valuable to the President; it will be of much importance to the Congress and to the Nation.

Our best wishes go to the Ford family. The events of recent weeks have placed them in a burdensome role which will bring changes in their personal and public lives. But a grateful Nation will be enriched by their commitment.

PROJECT 70,001—WHAT IT IS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. LEHMAN. Mr. Speaker, as a member of the Congressional Advisory Board of Deca, Distributive Education Clubs of America, I have been impressed with Deca's project "70,001."

This project is a youth organization/employer based program whose purpose is to employ disadvantaged young people in distributive occupations. It was established in Wilmington, Del., in 1969 with the cooperation of the Wilmington Public Schools, the Delaware State Department of Public Instruction and Deca.

The success of the program can be seen in its 71 percent job retention rate. Significantly, the cost-per-enrollee per year averages only $1,000. In August of 1973, the Office of Economic Opportunity awarded the project a 3-year grant of $250,000 to help Deca bring its concept to other areas of the country.

Knowing of the interest of my colleagues in training programs with a high success rate, I commend their attention to the brief article below:

PROJECT 70,001—WHAT IT IS

70,001 is an alternative program of employment, training and education that works. Unlike other "job training" programs that attempt to prepare individuals for employment, 70,001 places unemployed individuals on the job first and then trains them in the job.

Designed primarily for alienated youth, of minority ethnic backgrounds, who are deemed unemployable due to educational or social deficiencies, activities of delinquent or criminal behavior, and/or environmental influence, 70,001 places primary emphasis upon the development of attitudinal skills in the individual. Verbal and quantitative instruction are provided, as well as training in specific occupational skills, in the form of individualized instruction in a program of youth activities, to the extent that they are considered necessary for continued employment and/or promotion.

The National Advisory Board of DECA, of more than seventy (70) national companies, has endorsed 70,001 and top management of these companies encourages local management to participate in the program. Melville Shoe, Sears, Penneys, Woolworth, Goodyear, Goodrich, Allied Stores, SCOA and Genesco have been particularly cooperative in providing jobs.

The most vital element in accomplishing this task is a concerned, qualified and well-trained coordinator for each program.

With the existence of a pool of available manpower on one side, that requires placement and training to become employed and an expanding number of jobs on the other side, the key to success is the individual coordinator who can command immediate positive response from the youth while, at the same time, elicit the necessary cooperation of the business community in providing employment.

There exists also an expanding group of persons with such abilities necessary to successfully coordinate 70,001 programs.

These potential coordinators are "retired" professional or college athletes. Being of the same ethnic and cultural background of the individuals in the program and having attained success and stature in the community, they enjoy "respect through association" from both the youth and the employer providing, of course, that *their* attitude toward the task is positive.

There are definite techniques and methodology that need to be transmitted to program coordinators if the program is to produce the results it has in Delaware.

A key to this training of program coordinators is to help them develop an understanding of and competency in organizing and implementing the motivational activities developed by the several National Vocational Student Organizations.

The social, civic and vocational activities of these youth organizations and the leadership development opportunities they provide, such as competitive events, election of officers, and the like are often considered supplementary or complementary to regular instruction in vocational education. In 70,001 they must be *integral* to the program. Properly executed, they concentrate upon attitudinal development, which is the most important instructional activity of the 70,001 program. In addition, these activities provide for skill development related directly to the enrollee's job.

In summary, the 70,001 program works when a concerned, personable and popular coordinator can be recruited and trained in such techniques as interview and analysis of students, job analysis and placement, organization and implementation of youth activities (attitudinal development), employer relations, guidance and counselling.

SOLVING THE ENERGY CRISIS

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. JONES of Oklahoma. Mr. Speaker, we should make no mistake about it, today's energy crisis is not a passing fancy. The short-range problems, that is between now and the mid-1980's, concerns the use of our fossil fuels.

To solve the immediate crisis two things must be done. The demand for energy must be significantly reduced. Second, production of new domestic supplies of fossil fuels must greatly increase.

Cutting down demand can be accomplished in two ways: Either Americans can do it voluntarily by a daily concious effort to conserve in our homes and our travels or failing in a voluntary program, a mandatory conservation effort imposed by the executive branch bureaucracy certainly will take effect.

To increase supply of energy requires legislation in at least four areas. All are designed to reinstitute free market incentives so that private enterprise will invest in the exploration and production of the fossile fuel reserves we have in this Nation.

First, we must spur production of natural gas. This is our quickest source of new energy supply. This can be done by legislation which deregulates the price of new natural gas.

Second, coal production must increase. America has one-half of the world's coal supplies. To spur coal production will require a temporary relaxation of environmental regulations and passage of the strip mining bill balancing energy and environmental concerns.

Third, the ineffective price and economic control program should be removed at least in the energy-related industry. Excess profits generated from this action certainly should be dedicated to new exploration and production.

Finally, we must open up new production with off-shore drilling, shale oil, and perhaps opening up naval petroleum reserves.

The long-range energy problem, that is for the mid-1980's and beyond, requires a strong Federal commitment to research and development in two areas:

First, alternate sources of energy such as solar power, nuclear, geothermal, and others; and second, improved recovery methods of more conventional fossil fuels. This means that Congress must get on with vital legislation which provides approximately $2 billion a year for energy research and development.

The private citizen plays an important part. He can spur this legislative action by writing Congressmen and Senators to urge their immediate action. Working together, America can become self-sufficient in energy by the 1980's.

AN END TO THE NAVAL BOMBARDMENT OF CULEBRA

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. BADILLO. Mr. Speaker, I have consistently opposed the military construction appropriations measures as I believe they basically represent a continued distortion of our national priorities, that they carry forward many programs of questionable value in terms of our ability to defend ourselves and our overall national security and that they involved the expediture of funds which are urgently required to begin to cope with so many domestic problems such as housing, education, job training and employment expansion, the environment, transportation and similar critical needs. Thus, when the House considered the fiscal year 1974 military construction appropriations bill (H.R. 11459) last Friday, I was paired against it.

Although I am recorded as opposing the measure, there was one aspect which I fully support and which I am delighted has finally been enacted. I refer to the $12 million which was appropriated to provide for the relocation of portions of the Atlantic Fleet Weapons Range from the Island of Culebra in Puerto Rico to a site which does not pose as great a threat to life, property or the ecology. This move is long overdue and, now that the necessary funds have finally been apropriated, the Navy should have no excuse to continue its incessant delays and foot-dragging in fulfilling the commitment made to the government and people of Puerto Rico several years ago to withdraw the Naval training activities from Culebra.

The Navy failed to request funds to undertake a relocation effort and the necessary money was not included in the military construction measure we passed earlier this year. Through the successful efforts of the distinguished Resident Commissioner from Puerto Rico, Mr. BENITEZ, the $12 milion was included in the Senate version and an agreement was reached with the House to accept the Senate language. I commend Dr. BENITEZ for the effectiveness of his work on this issue and express my appreciation to the distinguished chairman of the Military Construction Appropriations Subcommittee, Mr SIKES, for his willingness to accept the inclusion of these funds to enable the Navy to relocate the Culebra training and testing facility. I trust the Navy will now move with all necessary speed to fulfill its moral and legal obligations and proceed with the relocation of the activities now conducted on and about Culebra.

SUPPORT FOR ISRAEL

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. RINALDO. Mr. Speaker, as a staunch friend of the State of Israel, I have supported every action before this House to aid the great democracy in the Middle East.

More specifically, I have cosponsored the Mills-Vanik amendment to foster freedom of emigration from the Soviet Union; House Concurrent Resolution 358 to laud physicist Andrei Sakharov, novelist Alexandr Solzhenitsyn, historian Pyotr Vakir, economist Viktor Krasin and other Soviet citizens who have spoken out against injustice; House Concurrent Resolution 341, which calls on the Austrian Government to allow the processing center at Schoenau to continue operating and House Resolution 620, which expresses support for the Israelis in the Mideast war.

Additionally, last summer, when I was interviewed by a Soviet television crew here in the United States to cover the visit of Chairman Brezhnev, I spoke out in behalf of the captive peoples of the Soviet Union.

And when this House considers another bill I have sponsored, H.R. 11088, which will provide aid and credits to Israel, I intend to vote for it proudly. I am proud that the Union Lodge of B'nai B'rith has named me man of the year for 1973, and I am proud to be able to add to the Congressional Record a copy of a resolution adopted by the B'nai B'rith Lodge of Westfield-Mountainside, whose members live in Westfield, Mountainside, Scotch Plains, Fanwood and Plainfield, N.J.

The text of the resolution follows:

Resolution

Be it hereby resolved that this Organization unanimously petition our Government to support the legitimate aspirations of the Democratic State of Israel for a permanent peace based on defensible borders with major power treaty guarantees.

Marvin A. Harlan,
Robert Eisenber,
President.
Melvin D. Marx,
Secretary.

The above resolution was unanimously adopted at the meeting of B'nai B'rith Lodge #2415 on December 3, 1973.

Melvin D. Marx,
Secretary.

WHY ARE OUR SCHOOLS VANDALIZED?

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. BINGHAM. Mr. Speaker, vandalism has become a major problem facing our schools. Los Angeles, for example, has suffered more than $11 million in property damage attributed to vandalism, arson and burglary. The consequent loss of staff and student time, and the disruption of the learning atmosphere is incalculable.

An article detailing this problem appeared in the Los Angeles Times on September 16, 1973:

Campaign Opens on School Vandalism

(By Doug Smith)

Hoping to reduce the incidence of vandalism, arson and burglary in the city schools this year, the Los Angeles Board of Education and the county Juvenile Courts have opened a month-long program to inform adults and youths of the consequences of such actions and efforts being made to stop them.

"Since 1968 the Los Angeles School District has lost more than $11 million because of Vandalism, arson and burglary," says Supt. William Johnston.

"Because of our increased security efforts, our losses of $2 million this year have been the lowest in four years. Unfortunately, the recent cutbacks in federal funds will force the district to reduce its security force some 30%.

"This reduction, I am afraid, will be reflected in an increase in vandalism and other crimes. I fear that once again our losses will go well beyond $2 million."

BLOCK PARENTS' GROUPS

Johnston said that in addition to a $1 million program to install silent alarms in more than 100 schools over the next three and a half years, the school district is encouraging the formation of block parents' groups to keep watch on neighborhood schools for situations that might lead to vandalism.

Judge William Hogoboom, supervising judge of the Juvenile Court, added that the courts will help the school district in its antivandalism campaign because vandalism is often the act that leads to chronic delinquency in many juveniles.

Parents will be held financially responsible for any damage that can be attributed to their children, said Hogoboom. Last year 115 cases were handled by the courts with judgments as high as $20,000 handed down.

"We aren't planning to become more harsh overnight," said Hogoboom, "but we are trying to impress on parents their obligation, first a moral one and then a legal one, to make their children understand they are not supposed to do these things."

Despite the effort to recover financial losses caused by vandalism, both Johnston and Hogoboom stressed that the primary goal of the antivandalism campaign is to protect the welfare of students, both against educational loss and an increasing involvement in crime.

"What money is recovered never compensates the teacher for lost instructional materials," said Johnston. "Nor will it compensate for the educational loss suffered by an entire classroom destroyed by fire. Nor will it compensate the community for the damage done to its educational efforts.

"Parents must know what their children are doing."

Our schools are in a double-bind. The Nixon administration continues to slice money from the budget slated for educational programs, while vandalism and security costs for our Nation's schools continue to grow at an unrelenting pace.

It may well be that increased Federal funding for innovative educational programs would reduce the devastation of school property. In any event adequate funds must be available for local school security programs, whatever shape they ultimately take. In many school districts across the country the learning process cannot continue without an upgraded school security system.

The Safe Schools Act, H.R. 2650, is designed to help schools meet this problem. It would earmark Federal funds for the purpose of learning more about the school crime problem, developing and testing techniques for dealing with it, and assisting the most vulnerable school districts in formulating and implementing organized programs to achieve a healthy learning environment.

THE DEFENSE RACE RELATIONS INSTITUTE

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. MITCHELL of Maryland. Mr. Speaker, on Friday, November 30, Congressman Dellums attempted to restore to the defense appropriations bill the $1.2 million needed to continue funding of the Defense Race Relations Institute. While Congressman Hicks aptly pointed out the fallacy in appropriating $1 billion for an aircraft carrier, only to have a racial dispute render it inoperative, the amendment was defeated.

It is at times like this that the true priority placed by Congress on the successful integration of this country comes to light. Friday's vote attests to the fact that it is a shamefully low priority.

Nothing more clearly points to the alienation of blacks within the armed services than the fact that 2 percent of all military officers come from minority groups. This, in a force constituted of 15 percent minority members.

The 700 equal opportunity officers deal not strictly with blacks, but with whites and black-white interactions. Theirs is not an easy job, but it is one they do well. This assertion is supported by the 1973 Department of Defense Annual Report which lists the Institute as No. 1 in an 8-point program designed to bring DOD toward its goal of "complete racial equality in the services."

I was, and am, in complete agreement with the need to cut the defense budget. However, it should be obvious to us by now that "bandwagon" actions, taken without proper consideration, cost us dearly in the future.

For some reason, the Members of Congress have chosen to delude themselves into believing that racial tensions in the Armed Forces are less explosive now than they were at the *Kittyhawk* and *Constellation* incidents. I can assure them that this is not at all true.

I deeply regret the defeat of the Dellums amendment and of the possible advent of renewed civil strife within our own ranks.

CONGRESSMAN STEIGER SPEAKS ON CONGRESSMAN JOHN RHODES

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. SPENCE. Mr. Speaker, the high regard which Members of this body, particularly on this side of the aisle, hold for our new minority leader, John Rhodes, is well known. One of his colleagues from Arizona, Congressman Sam Steiger, has made some observations on the significance of John Rhodes' election which are especially noteworthy. I am pleased not only to voice my concurrence with Congressman Steiger's thoughts, but also to bring them to the attention of all Members of the House. Congressman Steiger's remarks were made in his weekly newsletter to his constituents, the text of which follows:

Sam Steiger's Congressional Report

As I write, the Republican members of the House of Representatives have just elected John Rhodes as their leader, replacing the Vice President of the United States, Gerald Ford.

Many of you may find it hard to accept my statement: but the truth is that John Rhodes' unanimous election is a remarkable tribute to him by his normally very critical peers. For John has no big state power base to elevate him to such a position. There are only three Republicans from Arizona in the House, including him. That contrasts with 12 from Jerry Ford's home state of Michigan.

That's impressive enough in itself. But the choice was so overwhelmingly popular that no one even offered to contest John. That adds up to the kind of respect that can be earned only by solid worth.

John earned that respect not just by laboring for many years in the Republican vineyard, but also by demonstrating intellect and leadership that are surpassed only by his lifelong reputation for honesty. And believe me, with this bunch of Republicans all to stand for election next year, they wanted their leader to be, above all, a totally honest man.

So we in Arizona have been paid the highest of compliments. That's particularly true for those who live in John Rhodes' Congressional District: your choice for Congressman is the unanimous choice of all the other Congressional Districts, and on merit alone.

Not bad for a little desert state!

MOSCOW FLIM-FLAM

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. ASHBROOK. Mr. Speaker, when it comes to the matter of trade between the United States and the Soviet Union, America's labor unions have a far more realistic view of its effects than Nixon, Kissinger or the chamber of commerce. In the December 1 issue of the AFL–CIO News, John P. Roche blasts the idealistic notion that trade will cement United States-Soviet political relations. Such trade will not bring an end to the cold war. As Roche contends.

> Every indication is that this is flim-flam, calculated political warfare.

Any benefit will be to the Soviet Union, not to the United States. He also said:

> What the United States, then, is being invited to do is to rescue the Soviet Union from the incompetence of its economic system.

The following is the complete text of Roche's article.

MOSCOW PULLING FLIM-FLAM IN DEALS WITH U.S. BUSINESS

(by John P. Roche)

Does anybody really apprciate the cosmic irony involved in the present deals between the Soviet government and various American manufacturers? At the American end the enterprise is justified by everybody from Sec. of State Henry Kissinger down as a technique of cementing political relations.

The theory is that once the Russians get thoroughly dependent on us for spare parts, their ideological compulsions will wither away. In short, the American protagonists have adopted the quintessentially Marxist logic that economic relationships determine the behavior of political superstructures.

As the United States Chamber of Commerce prepares to hang a portrait of Karl Marx over the mantle in the director's room, the Soviet spokesmen are busy asserting the primacy of political power. In this they can draw sustenance from Lenin's 1921 New Economic Policy and from his improvisation of a category known as "progressive capitalists."

Lenin, who never let little theoretical problems interfere with achieving a desired objective—his was proudly "opportunist"—kept assuring his distressed colleagues, notably the compulsively abstract Trotsky, that if it ever came to the crunch, the Bolsheviks could seize the foreign assets. That is, Lenin asserted the supremacy of the political over the economic relationship.

According to the Christian Science Monitor's Paul Wohl, a close and perceptive student of Soviet internal developments, Brezhnev's recognition that his "country will be drawn into the international division of labor to an ever greater extent" has been denounced by hard-liners as "economic madness." Pavlovian Marxists, they probably have nightmares in which Dr. Armand Hammer of Occidental Petroleum appears in Siberia with a writ and ejects the Communists from the premises for not keeping up their time payments. It's an entertaining thought—and on the basis of his track record Hammer might be worth worrying about—but at ground-level it is simply preposterous. Political power is decisive.

To take an example from a different area, 20 years ago the big oil companies "owned" the Arab oil producing states. Today the companies, where they have managed to maintain residual rights and have not been nationalized, are at the mercy of the countries in which they operate. And—against all good Marxist logic—it happened with hardly a shot being fired. Who would think that a mighty "imperialist" power like the United States would permit, to take one example, a lunatic nationalist like Colonel Qaddafi to take over Libya? Where was the 82d Airborne?

To ask this question is to answer it: the so-called "imperialist" nations are toothless lions when it comes to defending the foreign economic interests of their nationals. (Before someone rushes in shouting "What about Chile?", recall that the military junta has flatly announced it would not return nationalized American assets.)

What the United States, then, is being invited to do is to rescue the Soviet Union from the incompetence of its economic system. (Last year we initiated this "Bundles for the Bolsheviks" policy by the wheat give-away, which played an almost incalculable role in our subsequent domestic inflation.)

Our corporations will move in, perhaps with U.S. financing in the form of long-term credits, with, one hopes, a little help from the Soviet treasury, and spend, say, 30 years modernizing the Soviet economy. Their investment will be repaid in the form of barter—that is (and the prospect must have Lenin chuckling in his tomb), part of the "stuff" the Americans have produced will be used to repay them.

By any rational standards of political economy, Moscow's operation can only be described as rolling a drunk. It is comparable in poker to loaning money to a player who then cleans you out. But . . . "just a minute" . . . say its proponents: "You have left out the political linkage." This is shorthand for saying that the Soviets have promised to call off the Cold War.

Well, I have news for them. Every indication is that this is flim-flam, calculated political warfare. And you don't have to believe me: just take an Israeli to lunch.

CHRISTMAS TREE LIGHTS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. WOLFF. Mr. Speaker, with the energy crisis upon us, many people have been confused by ambiguous Government statements encouraging conservation measures to be taken by private citizens. I am thinking in particular of statements articulated by the President relative to ornamental Christmas lighting.

Many mistakenly believe that a ban has been placed on the use of interior Christmas tree lighting. I have checked with Mr. Dennis Bakke of the White House press office for an interpretation. Mr. Bakke indicated that no request has been made to restrict Christmas tree lights used to decorate trees in the home.

People should naturally be encouraged to reduce the total wattage that they use, and a reduction of the use of outdoor lighting is therefore in order. However, the total of all the lights in normal decoration of a Christmas tree uses the same amount of energy as one 100-watt bulb. Thus, a comparable saving could be effected by turning off only one small light in the home.

While adjustments must be made to meet our energy needs, energy research stepped up, and our resources distributed in the most equitable way, we need not let this crisis force needless interference with celebration of the holiday season. Christmas tree decoration has been a tradition in our Nation for many years. It would be a sad day indeed if we needlessly destroyed this family celebration and with it part of the spirit of the holiday season. To add credence to the view that the President did not intend to restrict the use of Christmas tree lighting, one should note that the President himself will light the national community Christmas tree in the President's park, south of the White House.

OIL EXPORTS INCREASE ALTHOUGH SHORTAGE OF GASOLINE HAS FORCED MANY SMALL BUSINESS SERVICE STATIONS TO CLOSE

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. EVINS of Tennessee. Mr. Speaker, one of the great mysteries of the energy crisis is the sharp increase in exports of gasoline and other petroleum products, while the American people face shortages and thousands of service stations are forced to close.

Certainly this is contrary to the public interest as is noted in a recent editorial in the Tennessean of Nashville, which points out that a cost of living study indicates fuel exports increased 284 percent this year over 1972.

Other reports indicate that September exports increased 350 percent over August.

Information just released by the State Department reflects an increasing trend of exports in 1973 over 1972. For example, in the major categories of petroleum products, exports have increased from 37,000 barrels of product per day to 47,000 in 1973—not including the last quarter of the year.

Our House Small Business Committee is deeply concerned over the impact of the energy crisis on service station operators and other small businessmen throughout the Nation, and a number of hearings and investigations have been conducted by subcommittees. It is now estimated that 10,000 service stations throughout the Nation have been forced to close, primarily because of the shortage in gasoline.

For the Nation to export gasoline when small businesses are being forced to close permanently defies logic and the national interest. In short, it is an outrage.

Currently our Subcommittee on Regulatory Agencies, whose chairman is representative JOHN DINGELL, Democrat of Michigan, is investigating specific examples of exports—specific case studies—and hearings are expected to be held in this connection within the near future.

The Subcommittee on Special Small Business Problems, whose chairman is Representative NEAL SMITH, Democrat of Iowa, has also done outstanding work in assisting small businessmen in securing an equitable supply of petroleum products through hearings, investigations and intercessions with Federal agencies in specific cases.

Because of the interest of my colleagues and the American people in this most important subject, I place in the RECORD herewith the editorial from the Tennessean:

[From the Tennessean, Dec. 6, 1973]

PUBLIC DESERVES ALL FACTS ABOUT BIG OIL ACTIVITIES

The suspicion is widespread that the major oil companies have not done all that should have been done to prevent the current energy crisis from developing. This suspicion could easily undermine any efforts to build support for a program of national sacrifice.

It is an indisputable fact that Big Oil can benefit financially from the crisis. Indeed the corporate reports of most of the oil firms this year have shown remarkable jumps in profits. Third quarter profits for Exxon were up 59% over last year, while Mobil's jumped 38% and Texaco's 34%. A medium-sized firm, Ashland Oil, has ended its fiscal year with a record $85.2 million net income. This is a 25% rise over the previous year.

High profits during the crisis period aren't in themselves evidence that the oil companies were anything but lucky beneficiaries of a unique situation. Indeed Ashland Chairman Orin E. Atkins said that a sustained profit growth was necessary if his firm is to meet increased energy demands.

But others see the high earnings of petroleum corporations in an entirely different light. What Mr. Atkins regards as necessary growth, others see as "windfall profits."

Among the most vocal opponents of the way Big Oil has conducted its business while the crisis developed is Rep. Joe L. Evins of Tennessee's 4th District. He recently charged, "Certainly the Arab oil companies intensified the crisis, but this monopolistic action by the Big Oil companies prior to the crisis restricted supplies and left the nation in a weaker position to cope with the current problem."

Mr. Evins is concerned that the Nixon administration seems to be eager to cave in to Big Oil demands to exempt the companies from antitrust prosecution during the crisis. His investigations into the activities of the companies during the past few years has convinced Mr. Evins that Big Oil is "effectively evading the intent of the antitrust laws" already and "we should not take the energy crisis as an excuse for setting aside the antitrust laws that have been in effect for 70 years."

Others in Congress share Mr. Evins' concern that the crisis, if not actually engineered by petroleum interests, at least will be used to establish a national energy policy that will serve Big Oil wishes while weakening government control, driving competition out of the marketplace and keeping oil company taxes at a disproportionately low level. Rep. Charles A. Vanik, D-Ohio, submitted a report to the House recently that showed three U.S. oil giants that have invested in Saudi Arabian oil fields paid little income taxes. The tax rates, according to Mr. Vanik, were 2.9% for Mobil, 2.7% for Texaco and 5.8% for Standard of California.

Furthermore, major oil firms are doing nothing to bolster their image by continuing to export fuels needed at home at increasing rates. Rep. Richard Fulton of Nashville is one of several congressmen introducing measures to block oil exports. He said it is "apparent this jump in U.S. exports can partly be owed to the fact that oil companies can derive higher profits from foreign countries at the expense of the American people . . ." Fuel exports jumped 284% this year over 1972, according to a Cost of Living Council study.

Last summer several states and the Federal Trade Commission took legal steps to find out whether major oil companies were working in concert to benefit from the gasoline shortages. Only this week New York filed a similar suit charging seven major oil firms with pervasive fixing of retail gas prices and attempts to drive independent competitors out of business.

The congressional actions to stop profiteering are welcome and the public deserves much more vigorous legal efforts to resolve the variety of charges against Big Oil interests. At a time when the administration is asking for excessive taxation and sacrifice for the American people, it is mandatory that all doubts are dispersed that Big Oil is making dupes of the American people.

EDITORIAL BY GORDON SINCLAIR OF CANADA

HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. LATTA. Mr. Speaker, one of my constituents has forwarded to me a reprint of an editorial given by Gordon Sinclair over Station CFRB of Toronto, Canada, and believing that it says so many things about the United States which need to be said, I submit it for the benefit of my colleagues. It goes as follows:

EDITORIAL BY GORDON SINCLAIR

The United States dollar took another pounding on German, French and British exchange this morning, hitting the lowest point ever known in West Germany.

It has declined there by 41 percent since 1971 and this Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people in all the earth.

As long as sixty years ago, when I first started to read newspapers, I read of floods on the Yellow River and the Yangtze. Who rushed in with men and money to help? The Americans did.

They have helped control floods on the Nile, the Amazon, the Ganges and Niger.

Today the rich bottomland of the Mississippi is underwater and no foreign land has sent a dollar to help.

Germany, Japan and to a lesser extent Britain and Italy, were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts.

None of those countries is today paying even the interest on its remaining debts to the United States.

When the franc was in danger of collapsing in 1956, it was the Americans who propped it up and their reward was to be insulted and swindled on the streets of Paris.

I was there. I saw it.

When distant cities are hit by earthquake it is the United States that hurries in to help . . . Managua, Nicaragua, is one of the most recent examples. So far this spring, 59 American communities have been flattened by tornadoes. Nobody has helped.

The Marshall Plan, the Truman Policy, all pumped billions upon billions of dollars into discouraged countries. Now newspapers in those countries are writing about the decadent war-mongering Americans.

I'd like to see just one of those countries that is gloating over the erosion of the United States dollar build its own airplanes.

Come on let's hear it!

Does any other country in the world have a plane to equal the Boeing Jumbo Jet, the Lockheed Tristar or the Douglas 10?

If so, why don't they fly them? Why do all international lines except Russia fly American planes?

Why does no other land on earth even consider putting a man or woman on the moon?

You talk about Japanese technocracy and you get radios. You talk about German technocracy and you get automobiles.

You talk about American Technocracy and you find men on the moon, not once but several times . . . and safely home again.

You talk about scandals and the Americans put theirs right in the store window for everybody to look at.

Even their draft dodgers are not pursued and hounded. They are here on our streets. Most of them, unless they are breaking Canadian laws, are getting American dollars from Ma and Pa at home to spend here.

When the Americans get out of this bind . . . as they will . . . who could blame them if they said the Hell with the rest of the world. Let someone else buy the Israel bonds. Let someone else build or repair foreign dams or design foreign buildings that won't shake apart in earthquakes.

When the railways of France, Germany and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are still broke.

I can name to you 5,000 times when the Americans raced to the help of other people in trouble.

Can you name me even one time when someone else raced to the Americans in trouble?

I don't think there was outside help even during the San Francisco earthquake.

Our neighbors have faced it alone and I'm one Canadian who is damned tired of hearing them kicked around. They will come out of this thing with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over their present troubles.

I hope Canada is not one of these.

IMPEACH FEVER END OF ORDER?

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. PRICE of Texas. Mr. Speaker, I would like to call the attention of my colleagues to the excellent article by Virginia Payette and syndicated to a number of newspapers nationwide, in which Ms. Payette wonders if this Nation has not cast aside the constitutional 4-year term of office for U.S. Presidents. I noted this thought-provoking article in the November 13 issue of the Amarillo Daily News and I include it at this point in the Record:

[From the Amarillo Daily News, Nov. 13, 1973]

Impeach Fever End of Order?

(By Virginia Payette)

New York.—Before you join the lynch mob give a thought to this startling statistic: if Mr. Nixon surrenders to the current resign-or-be-impeached fever, he will be the third President in a row to be forced out of office by emotional reaction.

That's every Chief Executive in the past 10 years. And two of the three were elected by the greatest landslides in history.

It's almost getting to be a trend.

And before anybody questions that "emotional reaction" bit, let's have a quick look at what's happened to our Presidents between November 1963 and November 1973.

It was just 10 years ago this month that President Kennedy was assassinated by Lee Harvey Oswald, a certified psycho. He had nothing personal against Mr. Kennedy; he just got carried away.

A year later President Johnson won the office on his own with a record-shattering vote. But by 1968 he was a rejected man, and he knew it. The emotional waves of protest against his Vietnam policies convinced him he could never win another term, and back there at the tail end of winter he said he was through.

He had done more for the poor and the black than any President of his time, but the outcry was against a war and a draft, neither of which he started. He accepted the abuse but he never understood it.

"I am their commander-in-chief," he said once as he watched a group of doves demonstrating outside the White House. "Why are they doing this to me?"

Now President Nixon is caught up in the same whirlpool that had LBJ spinning only five years ago. Again the demonstrators are in front of the White House, but with a new gimmick: they're honking their horns for impeachment.

One almost has to wonder if we've written off the constitutional four-year term and decided to let the duly elected President run the country only as long as he runs it our way. (Except if your side loses, you go to work on him right away.)

Mr. Nixon has been charged with misplaced priorities, but in his first term welfare rolls doubled. People wanted him out because of the war and the draft, but he ended them both, along with the cold war with Rusisa and China. Inflation is slowing up, and unemployment has dropped within a holler of that magic four per cent.

Which really isn't a bad job of presidenting.

The Senate Watergate hearings, which are supposed to reform election procedures, have slipped instead into a search for "the truth." So far, they have yet to come up with anything that looks like a constitutional basis for impeachment.

Plenty of people around the President are in trouble. But they haven't tagged him.

Which could be why the House is dragging its heels. And why the politicians are putting out pious pleas that he do "the patriotic thing" and save them the embarrassment of it all by resigning.

Mr. Nixon says he'll do no such thing.

If he does go, however he decided to do it, it will be more than just this firing of this President.

It means it may be a while before we see orderly government in this country again.

WE ASK ONLY AN EXAMPLE

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. JOHNSON of Colorado. Mr. Speaker, as with the rest of my colleagues in Congress, my constituents have been writing en masse with questions about the energy crisis. Every letter I have received express a willingness to sacrifice and a desire to cooperate, but many fear that those leading our conservation efforts are not practicing what they preach.

In this regard, I offer a recent editorial from the Fort Morgan Times of Colorado which reinforces this thought. The public is looking to us and the Executive to set examples. If we and those directly responsible for our energy program do not demonstrate a commitment, the American people can hardly be expected to sacrifice and cooperate.

I commend "We Ask Only An Example" to the collective consciences of all of us:

[From the Fort Morgan, (Colo.) Times, Nov. 27, 1973]

We Ask Only An Example

President Nixon has announced some drastic measures to deal with what has become a serious energy shortage and what promises to become an even more severe crisis.

He has ordered certain actions and is asking Congress to vote these and additional directives into law so there will be no need for "voluntary" cutbacks. They will be enacted into law and will be required to follow them—whether we want to or not.

Many questions arise in our minds about the sudden need, the crisis that is no longer imminent but is actually upon us and why other actions earlier could not have been enacted which would have been less stringent but equally equally as effective by being done sooner. But we will not quibble about this here. We realize there is a dire need for support and sacrifice.

We feel certain that the American public business, and industry will comply as they are required to do. We were amazed and impressed by the flurry of activity and compliance that occurred throughout the country including Morgan County when the President made his first suggestions and requests such as lowering thermostats and state and local government cars being driven at reduced maximum speeds.

The same will happen now. Additional sacrifices will be made. We will plan for our trips to take longer; we will do more walking; efficient car pools might just become a reality although there has been a monumental—but unsuccessful—struggle to get them off the ground, and people will be more conscious of lights burning in their homes and businesses.

There is only one thing we ask and that is a good example. We will expect that the President will make fewer trips to Camp David or Florida or the Western White House in California to save fuel. There is something about Air Force One flying one man and a few staff members—with the accompanying jets ferrying newsmen and other staffers—the length and breadth of the country that doesn't sit well with someone who is foregoing a trip for pleasure from Fort Morgan to Denver.

We will expect the myriad of officials in our nation's capital, those up and down the hierarchy of the greatest bureaucracy of them all, to form some car pools of their own. No more of this one-man one-chauffeur-in-a big-limousine rule that has been the case for so long.

A few more joggers or walkers or bike riders in business suits around The Hill will be a welcome sight.

It is good that the temperature and lights in the White House and in other official buildings in Washington have been lowered. But the same additional sacrifices of some of the niceties and luxuries we have all enjoyed and become accustomed to that are being asked of us should be met by similar additional sacrifices in the capital.

We will expect a high example.

COURT APPOINTMENT OF WATERGATE SPECIAL PROSECUTOR IS CONSTITUTIONAL

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. HUNGATE. Mr. Speaker, the House will soon be called upon to pass judgment on legislation to provide for an independent Special Prosecutor to investigate and prosecute alleged offenses growing out of the Watergate incident, and related matters. The Committee on the Judiciary has reported H.R. 11401, which provides for the Special Prosecutor to be appointed by a panel of judges from the U.S. District Court for the District of Columbia.

Although some question has been raised as to the constitutionality of such a procedure, overwhelming support of the constitutionality has developed among the deans and constitutional law professors of the law schools throughout the country. They include: Professors Gerhard Casper of the University of Chicago Law School, Daniel J. Meador of the University of Virginia Law School, and Paul J. Mishkin of the University of California Law School. In hearings before the Senate Judiciary Committee, Professors Paul Freund of the Howard Law School, Philip B. Kurland of the University of Chicago Law School, and Dean Monrad G. Paulsen of the University of Virginia Law School gave their unqualified support. In addition, 48 deans of American Law Schools have now submitted a statement urging in part "that Congress act immediately by statute to establish a Special Watergate Prosecutor's Office, with the Special Prosecutor to be appointed by a specified law court—as authorized in Article II, Section 2 of the U.S. Constitution—and with complete independence of the executive branch of government."

The statement follows:

Statement by Deans of American Law Schools

Whereas substantial evidence exists that close associates of the President of the United States, and possibly the President himself, have engaged in a dilebarate effort to obstruct justice;

Whereas public trust in the administration of justice requires that the evidence of such misconduct be investigated by prosecutors independent of those under investigation;

And whereas the President has prevented such an independent inquiry from being conducted,

Therefore, we the undersigned, deans of American law schools, respectfully petition the Congress of the United States to take the following measures:

1. We urge that Congress act immediately by statute to establish a Special Watergate Prosecutor's Office, with the Special Prosecutor to be appointed by a specified law court (as authorized in Article II, Section 2 of the United States Constitution) and with complete independence of the executive branch of government.

2. The President's stated refusal to comply with court rulings requiring him to produce relevant evidence raises a serious question as to whether he will cooperate fully with a Congressionally established prosecutor. There being only one course clearly open to the American people to protect against this contingency, we urge further that the House of Representatives create a Select Committee to Consider the Necessity of Presidential Impeachment, or refer the matter to its Judiciary Committee.

George J. Alexander, Dean, University of Santa Clara Law School.

E. Clinton Bamberger, Jr., Dean, Catholic University of America School of Law.

John A. Beach, Interim Dean, Syracuse University of American School of Law.

Douglas G. Boshkoff, Acting Dean, Indiana School of Law, Bloomington.

Ralph L. Brill, Acting Dean, Chicago-Kent College of Law.

George Bunn, Dean, University of Wisconsin Law School.

Craig W. Christensen, Dean, Cleveland State University College of Law.

Gordan A. Christenson, Dean, American University, Washington College of Law.

Lindsay Cowen, Dean, Case Western Reserve University, Franklin T. Backus Law School.

Ronald R. Davenport, Dean, Duquesne Univesrity School of Law.

Daniel J. Dykstra, Dean, University of California School of Law, Davis.

Thomas Ehrlich, Dean, Stanford Law School.

Russell N. Fairbanks, Dean, Rutgers, The State University School of Law, Camden.

Adrian S. Fisher, Dean, Georgetown University Law Center.

Monroe H. Freedman, Dean, Hofstra University School of Law.

Abraham S. Goldstein, Dean, Yale Law School.

Richard C. Groll, Dean, DePaul University College of Law.

Edward C. Halbach, Jr., Dean, University of California School of Law, Berkeley.

Willard Heckel, Acting Dean, Rutgers School of Law, Newark.

David M. Helfeld, Dean, Law School of University of Puerto Rico.

Richard G. Huber, Dean, Boston College Law School.

John F. X. Irving, Dean, Seton Hall University School of Law.

Otis H. King, Dean, Texas Southern University School of Law.

James C. Kirby, Jr., Dean, Ohio State University College of Law.

Robert L. Knauss, Dean, Vanderbilt University School of Law.

Karl Krastin, Dean, University of Toledo College of Law.

Peter J. Liacouras, Dean, Temple University School of Law.

Raymond E. Lisle, Dean, Brooklyn Law School.

Willard D. Lorensen, Dean, University of West Virginia Law School.

Robert B. McKay, Dean, New York University School of Law.

Phil C. Neal, Dean, University of Chicago Law School.

John C. O'Byrne, Dean, Northeastern University School of Law.

Robert E. O'Toole, Dean, New England School of Law.

Monrad G. Paulsen, Dean, University of Virginia School of Law.

Kenneth L. Penegar, Dean, University of Tennessee College of Law.

C. Delos Putz, Jr., Dean, University of San Francisco School of Law.

James A. Rahl, Dean, Northwestern University School of Law.

Herbert O. Reid, Acting Dean, Howard University School of Law.

Albert M. Sacks, Dean, Harvard University Law School.

John D. Scarlett, Dean, Drake University Law School.

Richard D. Schwartz, Dean, State University of New York at Buffalo Law School.

Eugene F. Scoles, Dean, University of Oregon School of Law.

Paul Siskind, Dean, Boston University School of Law.

Michael I. Sovern, Dean, Columbia University School of Law.

Theodore J. St. Antoine, Dean, University of Michigan Law School.

Samuel D. Thurman, Dean, University of Utah College of Law.

Bernard Wolfman, Dean, University of Pennsylvania Law School.

Robert B. Yegge, Dean, University of Denver College of Law.

BAN THE HANDGUN

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. BINGHAM. Mr. Speaker, it makes no difference whether a gun is fired in anger or by accident. The result is the same: a human being winds up either dead or injured. The time has come to restrict the easy access to these weapons.

The two articles reprinted below appeared side-by-side in the November 20 edition of the Washington Post, and are a most telling commentary:

Silver Spring Youth Shot in Pistol Mishap

A 15-year-old Silver Spring boy was wounded in the face yesterday when a .38-caliber revolver being shown him by a friend accidentally discharged, Montgomery County police reported.

The gunshot victim, identified as Francis A. Carchedi, 407 Irwin St., was reported in good condition last night at Holy Cross Hospital where he was receiving treatment for a flesh wound in the left cheek.

Police said the incident occurred in a home in the 800 block of Whittington Terrace about 4:30 p.m. while the youth was visiting a 16-year-old friend.

According to investigators, the older youth was exhibiting the pistol which police said belonged to his father, to the Carchedi boy when the weapon went off.

Police said the revolver was taken into their custody and no charges were filed in the case.

SE Youth Shot in Robbery Dies

An 18-year-old Southeast youth died of a gunshot wound suffered yesterday when he was robbed on South Capitol Street, Washington police said.

He died at 9:05 p.m., nearly three hours after the robbery, on a Cafritz Memorial Hospital operating table, a hospital spokesman said.

The youth, identified by police as Lindberg Brewer Jr., lived with his father at 621 Elmira St. SE, a hospital spokesman said.

Brewer was walking in the 3800 block of South Capitol Street, police said, when a gunman approached him, robbed him of an undetermined amount of money and then shot him once in the abdomen.

THE SAD STATE OF AFFAIRS FOR POLISH VISITOR VISAS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. DINGELL. Mr. Speaker, by permission previously granted, I submit for the information of our colleagues, the letter I directed to Secretary of State Kissinger regarding the sad status of visitor visas for Polish citizens and my request for a full report.

The letter follows:

House of Representatives,
Washington, D.C., December 7, 1973.

Hon. Henry Kissinger,
Secretary, Department of State,
Washington, D.C.

Dear Dr. Kissinger: I believe you must be aware of the growing number of Polish citizens being refused visitor visas to visit their families in the United States. In fiscal year 1969 only 865 visas were refused by the Embassy in Warsaw, but by 1973 an unbelievable, 6,853 visas were denied, an increase of over 800%. The number of my constituents referring cases to my office concerning relatives in Poland being refused visitor visas by the United States Embassy also have increased many fold in the last few years.

I was shocked to learn from my own staff investigation that there is a conscious U. S. State Department policy to crack down on the number of visitor visas being granted by the Consular Officer at the Embassy in Warsaw to Poles, because of the "Polish problem," i.e., an inordinate number of Poles with visitor visas allegedly have been caught by the Immigration and Naturalization Service working illegally in this country and the number of Poles requesting change of status from visitor to immigrant is increasing.

If visitors are found to be working in violation of their visas, there are ample provisions in 8 U.S.C. (1251) to have them immediately deported. On the other hand, it is perfectly legal for aliens to apply for adjustment of status from non-immigrant to a permanent resident immigrant under Section 245 of the Immigration and Nationality Act. Therefore, I cannot comprehend how this could constitute a "problem." In fact, the quota for Poland is not even filled for this category.

One of those confirming this new and tough policy and the alleged problem was Assistant Secretary of State for European Affairs, Mr. Walter J. Stoessel.

My staff interviewed eight State Department officials who are responsible for Polish affairs and visa policies and my staff requested facts and figures to back up these charges. Although they were all in agreement that there is a serious "Polish problem," especially as it pertained to illegal employment, not a single official could supply my staff with one figure to back up this assertion. They claimed it was their impression that it was a serious problem and that the Immigration and Naturalization Service, which has jurisdiction over aliens once they get into this country, could provide me with the facts.

The State Department, I find, is completely contradicted by the Immigration and Naturalization Service. After interviewing five responsible officials of the Immigration and Naturalization Service, including the chiefs of the Investigations and Intelligence Offices, my staff found that these officials were completely unaware of a "Polish problem." In fact, they characterized, as insignificant, the number of Polish aliens visiting the United States on visitor visas who have been required to depart for either working illegally or overstaying their visas. Polish visitors made up about 1% (only 816 out of a total of 54,248) of those required to depart in fiscal year 1973. The Immigration and Naturalization Service stated that this is their best measure of a "problem" and that Poland is not a problem.

This is a disturbing revelation and I want to know whether your Department is as ignorant as they appear or are blatantly discriminating against Poles.

I think it is incredible that the State Department would be basing policies on impressions and not facts, when a quick check would show that the impressions were dead wrong.

In the meantime thousands of Poles, who simply wanted to visit their families in this country, have suffered unnecessarily at the hand of this policy of ignorance.

First, I want this senseless and unjustified policy changed. Second, I am requesting that you conduct a thorough investigation of this situation to determine how this policy came about, whether it was based on ignorance alone, or whether ignorance is a disguise for blatant discrimination against the Polish people.

Would you please forward the results of your investigation to me as soon as possible.

In addition, would you please address the following questions separately:

1. Why did none of the responsible officials in the State Department have figures to back up their impressions about the problem with Polish aliens?

2. Are there any communications between the State Department and the Embassy in Warsaw in your files concerning the alleged problem of Polish aliens or which indicate that the Embassy should be more selective in granting visitor visas? What were the stated reasons for moving to a more restrictive policy? Would you forward copies of this correspondence to my office?

3. Is it true that a Consular Officer in an Embassy, such as Mr. Cline in Warsaw, can be easily persuaded by the State Department to get tough on granting visitor visas? For example, I understand that if an alien, to whom Mr. Cline has granted a visitor visa is caught in violation of that visa, this could be a black mark on Mr. Cline's efficiency report in that post and this then could damage Mr. Cline's career in the Foreign Service. Is this an unfair burden to put on the shoulders of a Consular Officer?

4. Has the State Department been warned in writing by the Immigration and Naturalization Service that Polish aliens are a problem and that the State Department should get tougher in their visa granting procedures? Would you forward copies of this correspondence to my office?

I would appreciate a response to these questions as soon as possible.

With every good wish.

Sincerely yours,

JOHN D. DINGELL,
Member of Congress.

DALLAS DRUG SEMINAR—SUCCESSFUL HEARINGS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. COLLINS of Texas. Mr. Speaker, several weeks ago I held a series of hearings in Dallas on the problem of drug abuse. Drug abuse seems to be a phenomenon which particularly afflicts young people, frequently causing serious illness to the drug abuser, personal tragedy to the abuser and his family and friends, and in extreme cases even death.

I wanted to know why people use drugs, and once they become users, what they can do to cure their abuse. I also wanted to know what steps can be taken to prevent drug abuse in our society.

In the course of the hearings, we heard testimony from eight former addicts, young men whose addiction had led them to commit crimes and to endure imprisonment for their offenses. It was informative to me to see the extent to which family and friends had influenced their drug-taking behavior. The family influence was largely negative: Parents paid little attention to their children, were frequently absent from home, and in some instances the ex-addicts came from broken homes. In such a situation, the views of their friends became even more important to them than is customary at that age. And if those friends were experimenting with drugs, or knew a pusher, or had older brothers or sisters who were using drugs, the likelihood was that the whole group would turn to using drugs.

Several methods have been tried to deal with the problem of youthful drug abuse.

Tough law enforcement has provided part of the answer. As Federal, State, and local efforts have proved more effective, there are fewer drugs available with which young people can experiment.

Expansion of treatment programs, both within the community and within our prison systems, has provided another part of the answer. If treatment is available when a drug user decides he wants to break his habit, the number of drug users in olr society can be reduced significantly.

But the toughest problem of all has been: How do you prevent drug abuse? In the course of the hearings in Dallas a number of possible approaches were discussed. But the one that seemed to be most effective involves identification of potential drug users and their referral to appropriate counseling and group discussion programs. It makes a great deal of sense, after all, to see drug abuse as a symptom of a larger problem. The people in our society who are most likely to become seriolsly involved with drugs are the ones who have the greatest number of problems with which they cannot cope. The youngster who has problems at home, who exhibits truancy and delinquency in school, whose grades are below what he is really capable of achieving, is a prime candidate for drug abuse and drug addiction. Yet there is no need to stigmatize such a youngster; rather, that youngster needs help in the form of sympathetic adults and supportive friends who will help him cope with his problems and develop more acceptable behavior patterns.

A program based on this approach has been implemented in New York City, with remarkable results. In a 1-year period, participants in this program demonstrated a 28-percent reduction in absenteeism, a 49-percent reduction in behavioral problems, and 8.5-percent increase in average grades. A program which can accomplish these results deserves the most serious attention. School administrators, guidance counselors, teachers, and parents across the country should be informed of the methods employed in this counseling program, and should be encouraged to adopt similar approaches in their schools.

I have been particularly pleased to learn that the White House Special Action Office for Drug Abuse Prevention is giving this program its most serious attention, and is encouraging its consideration and adoption in other districts as well. I, for one, intend to support their efforts, and to work with the schools in my district to develop an equally effective drug abuse prevention program.

DEVELOPING THE SOVIET UNION WITH AMERICAN HELP

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. ASHBROOK. Mr. Speaker, in the December 4th issue of the CONGRESSIONAL RECORD, I stated that Occidental Petroleum and El Paso Natural Gas Co., had signed a letter of intent with the Soviet Government to develop Siberia's gas field's. According to the Oil Daily, a team of geologists and engineers from Occidental, El Paso and Bechtel Corp., is now in these gas fields. The geologists and engineers are reportedly investigating a U.S.-U.S.S.R. production, transport and liquefaction program. I find it extremely ironic that we are moving so rapidly to develop Soviet oil fields at the same time we are suffering from an Arab oil embargo which in no small part is the result of irresponsible Soviet actions in the Middle East

The following is the complete text of the article which appeared in the December 4th issue of the Oil Daily:

U.S.-U.S.S.R. LNG NOW BEING STUDIED

NEW YORK.—Occidental Petroleum Corp., Bechtel Corp., and El Paso Natural Gas are now investigating with Soviet authorities a U.S.-USSR production, transport, and liquefaction program.

A team of geologists and engineers from the companies is in Siberia's gas fields now, checking out feasibility of details.

They are looking at "one of the largest gas reserves in the world," according to Dr. Armand Hammer, chairman, Occidental Petroleum Corp.

The USSR has issued a letter of intent for multi-million dollar contracts for pipeline and liquefaction facilities, Hammer indicated.

"I believe we will be importing LNG," he said. "If we don't, the Japanese and Europeans would be glad to buy that gas."

A Japanese partner with Oxy, El Paso, and Bechtel is a possibility, Hammer added.

Bechtel vice president Ralph N. Dorman said the group expects to resume negotiations with the USSR in January.

In June, Occidental Petroleum and El Paso said they signed a letter of intent with the USSR for the program, valued at more than $10 billion.

Bechtel, Occidental Petroleum and El Paso will provide engineering know-how for the project.

Dorman said gas production from the project is estimated at 1 billion cubic feet a day, or more if the Japanese come in on the arrangements.

Dorman said financing for the tanker fleet to bring gas to the North American West Coast will run to $1 billion in the early stages.

HOPES AND FEARS ON RISE WITH NEW HARLEM SKYLINE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. RANGEL. Mr. Speaker, the history of Harlem in the 20th century has too often been a history of destruction, poverty, abandonment, and despair. An exodus of population, job opportunities, economic development, and construction has been matched by an influx of poverty, discrimination, inadequate education, and dangerously unsafe housing. As hope often moved out, the heroin pushers moved in.

There is new hope now with a commitment to rebuild Harlem, to make it once again a community where parents want to raise their children. Political, business, religious, labor, and neighborhood organizations are working together, and some of the first results are beginning to appear on the Harlem skyline. New housing, business, recreational, and community projects are under construction.

There is a long, long way to go. The majority of Harlem's population is black and Spanish-speaking and are victims of racial discrimination, the administration's mismanagement of the economy, unemployment, unsatisfactory schools, drug addiction, and neglect by governmental policymakers. I am pleased to share with my colleagues Charlayne Hunter's recent report on some of the progress being made:

[From the New York Times, Nov. 20, 1973]

HOPES AND FEARS ON RISE WITH NEW HARLEM SKYLINE

(By Charlayne Hunter)

A new Harlem skyline is emerging in bold vertical thrusts that are altering the traditional low profile of the community and providing new residential and office space.

The contrasts between the new skyline and the predominant low-lying blighted tenements that surround it is striking. One of the best examples is the dark towers of Lionel Hampton Apartments, now replacing two blocks of shabby tenements built along the railroad track on 131st Street and Eighth Avenue in the late eighteen-hundreds. The old tenements lacked light, air and attention. The $11-million Hampton Towers will offer modern housing for 1,000 tenants.

There are those in Harlem who view the new skyline as positive evidence of a renaissance—the start of a massive push that will not only see the coming of desperately needed office and apartment facilities, but also the participation of black people as owners and operators and managers, with a stake for the first time in planning the destiny of their community.

There are others in Harlem, however, who view the new skyline rising north of 110th Street from river to river with suspicion—a suspicion that Harlem is being revitalized only for middle-class blacks and whites, a suspicion that businesses that have existed in the community for decades will be forced out by towers that only the government or outside commercial interests can afford.

In addition to the Hampton Towers, some of the elements of the new skyline include:

The 19-story, $36-million State Office Building at 125th Street and Seventh Avenue, which is moving toward completion in 1974, eight years after Governor Rockefeller's announcement hailing it as the beginning of "the rebirth of this great part of our city."

Towering over three-story and four-story office buildings and decaying brownstones reminiscent of the ones that it has replaced, the State Office Building will house mostly state agencies, including the Harlem Urban Development Corporation.

In addition, a group of local businessmen are nearing completion of negotiations for the construction of a communications complex and a hotel on the eastern portion of the site.

The CAV Building, a $15-million, 15-story office tower with eating facilities and underground parking, situated a block east of the State Office Building. It is one of the largest projects assembled, developed and owned by a black.

Privately financed and owned by 43-year-old Charles A. Vincent, the CAV Building will mostly house Federal agencies and will bring 2,000 new workers into the area when it is completed next month. Mr. Vincent said that his building will not only "help stabilize the need for commercial space in Harlem for years to come," but aid the community in other ways. "When you're paying $400,000 a year in real-estate taxes," he said, "you just pick up the phone and call the Mayor about better police protection and getting the streets cleaned."

Pilot Block a $49-million residential project situated between 122d and 123d Streets and Second and Third Avenues that consists of four towers, the tallest 35 stories, containing 656 units of low and moderate income housing. Put together with the aid of Federal subsidies, the Pilot Block is owned and managed by four community-based corporations. Like many of the other new Harlem developments, the Block will offer its tenants such facilities as a medical center, a day care center, a gymnasium, a swimming pool and a job training center. It is scheduled to open in the summer of 1975.

1199 Plaza, sponsored by Local 1199 of the Drug and Hospital Workers Union. This development will offer housing in four buildings in a site that will stretch from 107th Street to 111th Street, from First Avenue to the East River Drive. The development, now under construction at a cost of $70-million and scheduled for completion in stages in 1974, is being financed with government and private funds. Unlike other Harlem residences, 1199 Plaza will be a moderate to middle-income cooperative.

Schomburg, Towers, twin 35-story octagonal buildings along with a third nine-story building that together represent 600 units of low- and moderate-income housing. The $20-million development is situated at 110th Street and Fifth Avenue and forms the first tangible pillars of Harlem's symbolic gateway. Scheduled for occupancy in April, 1974, the development has received more than 4,000 applications from prospective tenants.

Upaca Sites I and II, 405 units of low-and-moderate income apartments in two buildings now being constructed at a cost exceeding $14-million. The development takes its name from the Upper Park Avenue Community Association, a group that has initiated development from 116th Street to 124th Street between Park and Lexington Avenues known as the Upaca Strip, Over the years, the group has attracted major support from both the public and private sectors, and the new residential construction is part of its long-range strategy for the area.

"Harlem is in the midst of a quiet revolution," said Jack E. Wood, president of the Harlen Urban Development Corporation. "It's exciting because everyone is involved—the politicians, the community leaders, the businessmen and the clergy. They're not just talking revitalization. They're working at it."

As the conduit for the flow of state funds and financial resources, the Harlem Urban Development Corporation (H.U.D.C.) is now in its second year as a subsidiary of the State Urban Development Corporation, which has bonding authority of up to $2-billion and broad powers to package and finance major developments.

More than half of some 6,000 new residential apartment units now under construction or in the planning stages in Harlem are under the general sponsorship of either U.D.C. or H.U.D.C.—an investment of about $150-million. Most of the remaining units are being built with funds from the Federal and city governments, with some additional funds from private sources.

Mr. Wood of the Harlem Urban Development Corporation maintained that community advisory committees are participating in decisions affecting building design, are represented in negotiations with developers and have a voice in the selection of management agents as part of the H.U.D.C.'s determination to "program Harlem residents into ownership." The committees are representatives chosen by the community groups who put forth the proposals initially.

In this way, he said, a start has been made "in getting Harlem away from being a community of renters and into being a community of owners."

Under the community advisory board system, the community group may share a percentage of the developer's fees that can range in these developments from $25,000 to $250,000. In addition, the group is given first option to buy the project at the end of the tax shelter period, which may range from 15 to 20 years.

IT CAN BE DONE

Mr. Wood said that every week some Harlem-based group or organization "is looking at whole blocks along 125th Street.

"This kind of thing never seemed to matter before Vincent came along and showed it could be done."

Among these groups, Mr. Wood said, is the Harlem Commonwealth Council, a federally funded, local-development organization that has been quite active of late. The Commonwealth Council bought out its white partners in an $8-million city office building where its offices are situated on 125th Street and recently purchased for "about $700,000" property on the northeast corner of 125th Street and Eighth Avenue. The council intends to construct a building there for condominium apartments and commercial office space, including the Freedom National Bank.

As a part of its Federal involvement, the 6-year-old Commonwealth Council is mandated to offer shares of stock to the community in all of its ventures. James H. Dowdy, president of the council, said the stock plan would go into effect early next year.

Everyone agrees, in Mr. Wood's words, that plans and rumors of plans, along with tangible evidence" are causing land and property values to appreciate hourly" in Harlem. As a result, many local people who want to either invest in Harlem or rent professional space there contend that they are being priced out of the market.

Charles A. Vincent, for example is interested in additional investment in the community, but said the cost of property in Harlem has "skyrocketed" since he assembled his parcels three years ago.

"A three-story building I was interested in purchasing on 125th Street three years ago was on the market for $500,000," he noted. "Today, the owners are asking $1-million."

Max Bond is a black architect who lives in Harlem and whose work is part of the emerging skyline, especially the new 27-story Lionel Hampton Towers.

His five-year old firm, Bond-Ryder Associates, is situated in a run-down two-story building at 110th Street and Lenox Avenue, and Mr. Bond and his partners are thinking about moving downtown.

"We'd like to stay in Harlem," he said the other day. "But the available office space is too expensive for us."

Mr. Bond said his concern now pays about $700 a month rent for the suite of offices they occupy, with half again as much going to upkeep and maintenance. Still, he said, that comes out to less than the firm would have to pay in any of the newer buildings on 125th Street, where commercial space is going for about $13 a square foot in some cases.

"We could move to 1 Lincoln Plaza, in front of Lincoln Center, for less than we could to 125th Street," Mr. Bond said.

HOUSING COST COMPLAINTS

Similar complaints also are being voiced by some in the community about the cost of the new housing. Without Federal supplements, the cost of construction now demands rentals of about $100 a room a month.

And while the 6,000 units now under construction at a cost of about $40,000 per individual apartment unit have been guaranteed the Federal subsidies available, any new construction must be weighed in light of the Nixon Administration's announced intention of eliminating those subsidy programs.

In most of the housing now under construction, subsidies reduce that cost from 10 to 40 per cent of the rents in each development so that the final figure is closer to about $25 a room. The remaining units, with some limited subsidy, rent for from $35 to $45 a room.

But the average income of families in the central and east Harlem area ranges from $5,000 to $6,000 a year.

"We simply cannot afford those rents," said Mrs. Glen Glenn, the housing coordinator for the Milbank Frawley urban renewal areas in Harlem.

Mr. Wood said that he, too, was "a little upset with the rental prices of the stuff we're building." But he said he is more worried about what would happen to construction in Harlem in the future if there is no renewal of the Federal subsidy programs.

According to a comprehensive study now being undertaken by the Harlem Urban Development Corporation, the community needs 50,000 units of housing "at the earliest possible time."

"If some form of public money doesn't come through, we haven't the vaguest idea how we're going to build housing here for the people who need it and have them live in it," Mr. Wood said.

In part because of the intense need for decent housing in Harlem, some community people are now raising questions about the housing that is under construction—questions that may have implications for whatever else is built in the area in the future.

TEST OVER SCHOMBURG

The concern of these local residents can perhaps best be seen in a controversy over the Schomburg Towers, which is situated in an area covered by both the Federal Model Cities program and Urban Renewal programs.

The U.D.C.-sponsored project has been the target of residents who argue that they were not allowed to participate in the decision affecting the site and that they have been displaced and forced into either worse housing or compelled to leave the city.

The charges now are being reviewed by the Federal Government, and have been heard by District Judge Edward Weinfeld.

The issue of citizen participation in the implementation stage of a government-supported project will have no impact on the Schomburg development. But, Cora T. Walker, the Harlem lawyer representing the residents, said that it is important to have the case reviewed by the courts because of the 39 other undeveloped blocks that make up the urban renewal area there.

Mrs. Walker said that the Schomburg suit also represents an "overriding concern that Harlem not become another area where urban renewal comes to mean black and Puerto Rican removal.

Mrs. Walker and others in the area see in the new construction signs of an "intended plan" to make Harlem attractive to upper-middle-class blacks and whites, with little or no concern about what happens to the residents who are living there now.

Mrs. Walker said that she and others in the area plan to press their fight for greater involvement in planning the future of Harlem.

Blacks in the area do not like the tall buildings, she said. And if they had had some opportunity, to be involved in the planning, they would have vetoed them.

To some extent, Mr. Bond, who has been the architect of some of the tall buildings, agrees. While he finds the trend toward the higher buildings "deplorable," he maintains that need and economics must be considered before esthetics because, simply, it's cheaper to build tall on limited space.

"To say you're against urban renewal because you're always getting pushed out doesn't make sense when you concede the need," Mrs. Walker said. "What we have to be about is some constructive, alternative means of getting what we want.

"In terms of upgrading the quality of our lives, it's impossible for an outsider to understand what we need. We must be involved, and the problems are not just in these buildings, but in jobs and job opportunities.

"What we're saying is, if we can't have a part, then leave us with the rats and roaches."

FAST RESPONSE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. WOLFF. Mr. Speaker, the Queens Village-Hollis-Bellerose Volunteer Ambulance Corps continues to amaze and please the people in the community. The corps, started just a year and a half ago, is now breaking State records for responding quickly to emergencies. These volunteers are making a great contribution to the safety and health of their fellow citizens, and they deserve substantial praise for their valiant efforts. I would like to insert the following New York News editorial about the corps in the RECORD for the attention of my colleagues:

FOR FAST RESPONSE . . .

. . . in answering calls for help, the Queens Village-Hollis Bellerose Volunteer Ambulance Corps holds the state record. The corps has thus far been cited by the New York State Volunteer Ambulance Corps and First Aid Association and the International Rescue Service.

Credit goes to the corps' 210 volunteers who give up to 20 hours of their time weekly; to the Knights of Columbus, which helped the corps' formation with a $15,000 interest-free loan; to other supporting community organizations, but most of all to Peter Garbacki, a disabled Vietnam veteran; his brother, Robert, and David Kissel.

The three friends started the corps a year and a half ago and have made it so efficient that calls are answered in 2 to 5 minutes. They are writing a bright page in the long history of Queens volunteerism.

VOICE IN THE WILDERNESS

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. LANDGREBE. Mr. Speaker, recently an editorial appeared in the Valparaiso, Ind., Vidette-Messenger which quoted liberally from an editorial broadlast by Mr. Gordon Sinclair of Toronto, Canada. Mr. Sinclair very clearly points up the tremendous ingratitude of those nations which have been receiving billions of our wealth over the past several decades. I ask that the editorial be printed in the RECORD as a reminder of the folly of trying to buy friends:

V–M VIEWPOINT: VOICE IN WILDERNESS

Americans, take heart. Not all foreigners loathe us. We have a friend in Canada, who "tells it like it is"—saying things we don't consider among ourselves often enough.

Our "Voice In The Wilderness" is Gordon Sinclair, Toronto radio and TV commentator, who broadcast a recent editorial over the airwaves in his country. Here are some of his excerpts:

This Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people on all the earth.

Germany, Japan and, to a lesser extent, Britain and Italy were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts. None of these countries is today paying even the interest on its remaining debts to the United States.

When the franc was in danger of collapsing in 1956, it was the Americans who propped it up, and their reward was to be insulted and swindled on the streets of Paris. I was there. I saw it.

When distant cities are hit by earthquakes, it is the United States that hurries in to help.

This spring, 59 American communities were flattened by tornadoes. Nobody helped.

The Marshall Plan and the Truman Policy pumped billions upon billions of dollars into discouraged countries. Now newspapers in those countries are writing about the decadent, warmongering Americans.

I'd like to see just one of those countries that is gloating over the erosion of the United States dollar build its own airplanes. Does any other country in the world have a plane to equal the Boeing Jumbo Jet, the Lockheed Tristar or the Douglas 10? If so, why don't they fly them? Why do all the international lines except Russia fly American planes?

Why does no other land on earth even consider putting a man or woman on the moon?

You talk about Japanese technocracy, and you get radios. You talk about German technocracy, and you get automobiles. You talk about American technocracy, and you find men on the moon—not once but several times—and safely home again.

You talk about scandals, and the Americans put theirs right in the store window for everybody to look at.

Even their draft-dodgers are not pursued and hounded. They are here on our streets, and most of them—unless they are breaking Canadian laws—are getting American dollars from Ma and Pa at home to spend here. . . .

When the railways of France, Germany and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are still broke.

I can name you 5,000 times when the Americans raced to the help of other people in trouble. Can you name me even one time when someone else raced to the Americans in trouble?

I don't think there was outside help even during the San Francisco earthquake.

Our neighbors have faced it alone, and I'm one Canadian who is damned tired of hearing them kicked around. They will come out of this thing with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over their present troubles. I hope Canada is not one of these.

PERSONAL STATEMENT

HON. BARBARA JORDAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Ms. JORDAN. Mr. Speaker, due to confinement in Bethesda Naval Hospital during the past week, I was unable to vote on 19 separate rollcall votes taken by the House of Representatives. *Had I* been present and voting, I would have cast the following votes:

Roll Number	Item	Vote	Ms. Jordan
Tues., Dec. 4, 1973:			
619	H. Res. 725, a rule waiving points of order against the conference report on Foreign Aid Authorization.	265-137	Yes.
620	Conference Report on S. 1443 Foreign Assistance Act of 1973.	210-193	Yes.
621	Suspend the rules and agree to H. Con. Res. 173 relating to the U.S. fishing industry.	405-0	Yes.
Wed., Dec. 5, 1973:			
622	Conference Report on H.R. 8877, Labor HEW appropriation bill for fiscal year 1974.	371-33	Yes.
623	Reced and concur with amendment in Senate amendment No. 1, relating to impoundment, of Conference Report on H.R. 8877.	263-140	No.
624	Amendment by Mr. Hébert (Louisiana) to H.R. 7130 that sought to prohibit consideration of authorizing legislation after July 1 in lieu of Mar. 31 of each year.	106-300	No.
625	Amendment by Mr. Bennett (Florida) to H.R. 7130 that sought to require the pilot testing of all Federal programs prior to implementation.	185-218	No.
626	Amendment by Mr Bennett (Florida) to H.R. 7130 sought to provide for a maximum limitation on authorizations for appropriations to 3 yr except those founded through user taxes.	192-217	No.
627	Amendment by Mr. Bingham to H.R. 7130 that sought to require all appropriation bills be sent to the President at the same time with no exceptions.	117-289	No.
628	Amendment by Mr. Martin (Nebraska) to H.R. 7130 that sought to delete the title on impoundment control.	108-295	No.
629	Amendment by Mr. Anderson (Illinois) to H.R. 7130 that sought to require both Houses of Congress to take action before a Presidential impoundment is disapproved and to allow selective disapproval of impoundments by Congress.	186-221	No.
630	Amendment by Mr. Mallary (Vermont) that sought to make title II relating to impoundment control effective Oct. 1, 1975.	185-221	No.
631	Passage of H.R. 7130, Budget and Impoundment Control Act of 1973.	386-23	Yes.
Thurs., Dec. 6, 1973:			
632	Motion by Mr. Delaney (Democrat, New York), a call of the House.	383	Present.
633	H. Res. 738, the rule under which H. Res. 735 was considered.	389-15	Yes.
634	H. Res. 735, confirming the nomination of Gerald Ford, of the State of Michigan, to be Vice President of the United States.	387-35	No.
Fri., Dec. 7, 1973:			
635	Conference Report on H.R. 11459, making appropriations for military construction for the Department of Defense for fiscal year 1974.	329-40	Yes.
636	H. Res. 673, providing for a rule on H.R. 9107, Federal retirement annuities.	295-70	Yes.
637	Passage of H.R. 9107, to provide increases in certain annuities payable under chapter 83 of title 5, United States Code.	270-95	Yes.

"MURDER BY HANDGUN: THE CASE FOR GUN CONTROL" NO. 54

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. HARRINGTON. Mr. Speaker, Kevin Shea is the sort of person who suffers from the present handgun situation. He was shot to death, possibly by accident, by an acquaintance.

Our country can greatly benefit from strong handgun legislation. Fatalities caused by assaults, holdups, and accidental shootings would be greatly diminished.

I have included below an article from the December 9th Boston Globe dealing with handguns. The article follows:

Pistol Shot Fatal to Youth in Dorchester

A 17-year-old Dorchester youth was shot to death last night in the office of a gasoline station about a block from his home.

Police said Kevin Shea of 32 Fendale av. was shot at least once by a weapon being handled by an acquaintance, who fled.

Police are investigating the possibility of an accidental shooting, although the handgun was fired several times.

A suspect is being sought in connection with the shooting at a Mobil station at Gallivan boulevard and Washington street, Dorchester, where the shooting occurred about 6 p.m.

Several attendants were at the station. At least one is believed to have witnessed the shooting.

Police said the person who fired the gun panicked after the shooting and ran west on Gallivan boulevard. Police were looking for a brown Ford Maverick seen leaving the scene.

Several spent cartridges were found on the floor of the station, police said.

Shea, the son of Robert Shea, visited the station often, and according to attendants at one time had worked there part-time.

ALASKAN PIPELINE IS TOUGH AND RISKY

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. LONG of Maryland. Mr. Speaker, I was one of 14 Members of Congress to vote against final passage of the measure authorizing construction of the trans-Alaska pipeline. This proposal presented too many risks for too little return.

Scientific and technical evaluations, both pro and con, have been brought forward by both sides in this debate over a pipeline which will not even increase U.S. oil supplies for at least 3 years.

In the Baltimore Sun today, Moscow correspondent Michael Parks reported on a study by Soviet scientists who express grave doubts about the chances for successful construction of the pipeline. Soviet scientists have developed tremendous amounts of expertise in dealing with permafrost, metals behavior under temperature stress, and the myriad other problems with which the Alaska pipeline builders will be confronted. I bring to my colleagues' attention Mr. Parks' report on the Soviet study of our proposed pipeline:

Soviet Experts' View: Alaskan Pipeline Is Tough, Risky

(By Michael Parks)

YAKUTSK, U.S.S.R.—America's controversial trans-Alaskan oil pipeline is viewed by Soviet specialists on northern development as one of the most difficult and potentially dangerous projects yet undertaken in a northern area.

Soviet scientists studying the delicately balanced environment of the north have many of the same concerns about such large projects as American environmentalists opposing the pipeline.

Soviet construction engineers with experience in building pipelines in permafrost regions where the earth never thaws completely see unprecedented difficulties with the trans-Alaskan project.

Although the Soviet Union has far more experience than the United States in developing permafrost regions, Soviet specialists at this northern regional center said they are not ready to tackle such a project yet.

"I am doubtful that we have the right technology for such a pipeline, and I do not think we have adequate scientific research and techniques to assess its impact on the environment," a senior Soviet scientist said.

"But that does not necessarily mean that such a project is impossible or even inadvisable. But I do think it would have to be considered risky, not only risky for us but for anyone at this time."

The 789-mile trans-Alaskan pipeline, carrying oil deposits on Prudhoe Bay south from Alaska's northern slope to the Pacific port of Valdez, had been delayed for about four years by environmentalists' objections until authorized by Congress last month in response to the energy crisis.

Soviet scientists and construction engineers do not want to become embroiled in the trans-Alaskan controversy, but one senior scientist commented, "Such projects demand entirely new technologies and approaches, and these have not been developed yet."

A principal problem, Soviet specialists believe, will be the above-ground construction necessary because the heated oil would melt the permafrost if placed underground.

Vladimir N. Pereshakov, chief of the Soviet Gas Ministry's building organization here, said that above-ground pipelines in general do more damage to the surrounding environment, break more easily and cost more to maintain than below-the-surface lines, even in permafrost areas.

An above-ground line will expand and contract as much as 6 inches as temperatures go from 85 below zero to 95 above.

"No pipe is able to stand these temperatures without becoming tense, fatigued and breaking," he said. "We have an experimental gas line above ground, and we have dozens of seasonal breaks on it and virtually none on the below-ground segment. The temperature changes will even cause the pipe to buckle and jump off its supports.

An above-ground pipeline also greatly disrupts wildlife in the area, Soviet scientists have found, and leads to mass migrations not only of animals but also of birds from the area.

But Soviet engineers also see serious problems with putting the pipeline underground most of the way because of the heat of the oil.

"The oil will be hot enough to melt the permafrost, turning the whole area into a swamp," Mr. Peresshakov said.

"We know of no insulation effective enough to use in these circumstances. There are some promising materials, but none is sufficiently developed and tested."

Other problems are posed by the actual construction process, an area in which Soviet specialists have much experience from the accelerating development of Siberia and their far northern regions.

"The main principle of construction is to preserve the permafrost at all costs," said Rostislav M. Kamensky, deputy director of the highly regarded Soviet Permafrost Institute here.

"Sometimes this is hardest to do during the actual construction process than later when the buildings and so forth are in use. A bulldozer carelessly used can do irreparable damage, for example. Trees must be carefully cut and then only by hand. One passage by a tractor can turn an area into a swamp."

The basic principles of northern development have been worked out, Mr. Kamensky said, but each project requires new techniques, new approaches, new applications.

There are a number of unresolved key problems, however, that Soviet, American and Canadian scientists are working on together.

The construction of oil and gas pipelines is one of them. Also included are the problems of providing northern communities with fresh water, constructing sanitary sewer systems and disposing of solid wastes.

"Destruction of the environment in the north proves disastrous very quickly," Mr. Kamensky said. "Melt the permafrost, for example, and we note the results in the next year—a swamp."

Mr. Kamensky said he felt that scientists are not able yet to assess the full impact of such major projects as the $4.5 billion trans-Alaskan pipeline or some of the new cities the Soviet Union is building in Siberia.

According to all our present indices, there is no damage to the environment, but the problem is that we do not fully understand the ecology of the north yet," he explained.

"We understand some things separately, we understand how some regional systems work, but we do not yet have a global view. For that reason, we scientists tend to take what many would consider a more conservative view about the speed and method of northern development."

He said Soviet scientists will go to Alaska to observe the construction of the oil pipeline, which is longer than Soviet oil lines in permafrost areas but shorter than Soviet permafrost pipelines carrying natural gas.

"The Americans have a number of ideas, approaches on how to avoid the inherent problems of their trans-Alaskan pipeline, which is unprecedented in its size and difficulty," Mr. Kamensky said. "But the state of research and technology is such, that only the laboratory of life will prove them right or wrong."

AID TO ISRAEL

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. WALDIE. Mr. Speaker, there are no doubt extremely divergent views within this body on the recent course of events in the Middle East.

It is disturbing to us all that after a bloody conflict and the strongest diplomatic efforts possible by outside interests that the ceasefire agreement remains shakey at best.

During the last outbreak of hostilities between Israel and the Arab States, serious questions arose about our continued military assistance obligations in the Middle East. At the time, I urged the House to support an acceleration of equipment delivery to Israel under previously authorized military assistance guidelines.

Today, I offer that same support for passage of H.R. 11088, the emergency security assistance act for Israel. Its passage, in my view, is absolutely essential if the two sides are ever to reach a posture for long term and meaningful peace negotiations.

I know it is clear to us all that the recent Arab oil embargo has placed a new dimension on this dispute. However, I do not feel that this arbitrary act by oil-producing nations of the Middle East should serve to break a long standing moral commitment to the integrity of Israel. That commitment must remain.

CAPITALISTIC SYSTEM WON'T SURVIVE MISMANAGEMENT OF ENERGY CRISIS

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. ZWACH. Mr. Speaker, Ed Wimmer, president of Forward America, Inc., and public relations director of the National Independent Food Dealers Association, a well known commentator on economic affairs, recently wrote an open letter to the President and to all Members of the Senate and the House, in regard to the energy crisis.

Because letters of this type all too often reach the Members, I include Mr. Wimmer's remarks in the Congressional Record at this point:

Capitalistic System Won't Survive Mismanagement of "Energy Crisis"

(By Ed Wimmer)

Open Letter to the President of the United States, and Members, U.S. Senate and House of Representatives

Greetings: If Dr. George Charles Roche III was on target when he warned, in his great book "Legacy of Freedom," that "American is tottering on the brink of a new Dark Age because Western Man has departed from his Heritage," then any real bungling of the present fuel crisis could be the final push that sends the Capitalistic System over the brink.

It becomes clear, therefore, that every approach to the production, distribution and allocation of energy fuels be made with a fearfully dedicated determination to avoid any unnecessary dislocation of the economy, and particularly in the case of the family farm and other independent enterprises of all kinds, whether service station, delicatessen, highway hamburger stand, motel, or Knott's Berry Farm.

What we have in this country today, is a Monopoly-Welfare State-created Fuel Crisis, and one of the results could be energy costs that could cause inflationary pressures that could balloon into catastrophic proportions. Answers will not be found in bureaucratic allocations, drastic restriction of travel, or other depression causing, top-down controls based on fear of imaginary emergencies.

Basic to our present problem is waste of fuel—not use of fuel—as an appraisal of the present threat will reveal. To avoid critical shortages war must be waged on waste without knocking out the little guy. Savings from waste will see us through every foreseeable emergency.

Consider first the millions of gallons of gasoline being consumed EVERY DAY, in traffic jams, bottlenecks, crazily regulated stop-and go-signs, no left or right turns—that route millions of cars four blocks to reach a one-block destination. The parking Merry-Go-Round around the U.S. Capitol is a horror example of fuel waste and frustration—all of which we deplored in 1971, suggesting that NASA be charged with providing a national traffic control system. If two men could be landed on the Moon, then another man can be gotten both to and from work without dying from traffic tie-up fumes on the way.

With this idea in mind, every township, every Governor, should immediately examine their traffic systems and employee let-out times with a view to staggering the hours in order to avoid traffic jams. Finding a parking place in downtown areas is a nightmare. Due to a jumble of state laws, huge trucks cover millions of miles empty. Others are half loaded. Others sit with motors idling while their drivers eat and tell the latest jokes. . . . Limousines in Washington and taxicabs are kept running to keep occupants cool or warm, according to the weather. Cars are serviced at gasoline pumps with motors running, and kids 'gun' cars to school three blocks away.

When fuel allocation was first mentioned, officials announced no curtailment of supplies was "needed by the Defense Department", but no word on stopping Defense Department's waste of fuel. Antiquated school and transit buses and uninspected passenger cars and trucks spew the air with pollution, as the city officials and environmentalists rave on about yesterday's failures.

In the base of Big Oil, the Monopoly-Welfare State pattern is clear to even the most uninformed observer. Independent wildcatters knocked out of discovery and exploration. Independent refiners, jobbers, terminal operators and service station operators massacred.

Big Oil takes over its competition—Big Coal; and both use depreciation and depletion allowances to buy up millions of acres of farm lands, motels, shopping centers, insurance companies, catalogue schemes, restaurants, and entertainment centers.

Most giant companies paid no federal income taxes. Engaged in trading stamp and credit card atrocities, and are now raising prices while reporting unheard of profits.

If Congress gets regulatory slap-happy about the fuel crisis, and does nothing about the monopolies and bureaucracies largely at the bottom of the decay of modern capitalism, and fails to solve major traffic tieups, etc., the smalls are going to be put through the wringer as they have been these past 50 years, only this time will be the last time.

No oil giant should own coal companies which places a utility, for example, at the mercy of non-competitive bidding. Big Oil should be separated, as advocated, from non-petroleum businesses, and until this goal is reached, all businesses owned by any conglomerate should display ownership where the consuming public can identify which company controls what.

Decentralization of power, in agriculture, industry, finance and government, is necessary to solving the fuel crisis or any other crisis, including the breakdown of public trust in business and politics. Including the frustration of our youth. The balancing of our budgets. Payment of our debts. Meeting foreign competition at home and abroad. Reducing inflation and restoring the value of the dollar, and having enough money to attack the crime and drug problems. The slum and racial problems. Indian problems, or any other drawback to the spiritual, social, economic and political well-being of this country.

Few Americans will tie the fuel crisis to the power crisis. . . . Few will join in a national end the waste, turn out the lights, walk a block campaigns until their feet are cold, but have "the people" ever done anything for themselves without an enlightened leadership? Fewer Americans have any confidence in getting enlightened leadership from the Nation's Capital, but after 41 years of communicating and working closely with all branches of government, I know the leadership is there. It simply hasn't been organized behind a positive program of any nature that goes to the source of the capitalistic monopolies and massive welfare that have our freedoms by the throat.

Reasonable men who advocate decentralization of economic power, recognize a need for tax reforms that not only provide venture capital and incentives to proprietorship, but big business must receive tax advantages that encourage research and development, concentration on high quality products and better workmanship, but at no time should the taxing power be abused to the point of encouraging any merger or the further growth of huge chain store systems that have spun a veil of secrecy, deceit and discrimination over the entire system of production, manufacturing, processing, and wholesale and retail distribution.

All of these conditions are directly related to settling the fuel crisis—or any other major crisis—in this country, and until this fact is recognized, we are going to cure none of our headaches or meet any threat to the capitalistic system; and in no way reduce the all-destructive trends to bigger bureaucracies and welfare grants.

General MacArthur declared his convictions that a break-up of all power systems was essential to meeting the communist threat. President Eisenhower devoted his Farewell Address to the subject, making a desperate appeal; and, recently, Dr. Paul McCracken said there is no other way to save free enterprise and representative government in our time. He further said it "will take great courage to break up the giants," which a former economist-vice president of Krafco Corp. called for in 1972. Dr. McCracken had this reservation: that Congress probably "lacked such courage." My personal view Congress has no other alternative but to pursue a course of decentralization of economic and political power. Other alternatives that might save the Capitalistic System have been "used up," the results being a trillion dollar debt on the backs of the oncoming generation, and so little trust in government and business, that nothing short of a Revolutionary return to the ideals underlying the Founding of our Republic, can restore that trust.

The energy crisis is NOT Arab- or Israel-made. It was allowed to develop before the recent clash took place, and if John McLain's figures, printed on this page, are valid (and they haven't been disproved), then the charges of "too little too late" from Big Oil on the domestic front, are equally valid.

If rationing is attempted on a wide front, new blackmarket millionaires will be made by the thousands. We will have a rash of the old prohibition and OPA chiseling and bootlegging on a massive scale, and as always the weak will get weaker, and honesty will have no defense.

Greatest danger will not be blackmarkets—but rather the inflationary effects of the fuel situation, and in this respect it might be well to be reminded by Congressman H. R. Gross, that in 1924, 19 billion marks were worth one-fourth of an American penny.

In Canada, the U.S., and our neighbors to the South, there is ample energy to carry us through ANY present threat without creating another giant bureau.

Ed Wimmer.

Realities Behind the Oil Crisis

Ed Wimmer. Mr. John (Mike) Kunnen, President of the Greater Cincinnati Gasoline Dealers Assn., is as familiar with the gasoline business as the "experts" who have been making the headlines.

Mike is not only a dealer himself, but he has been a student of the petroleum industry for 29 years, and his appearances before investigative committees has brought commendation from government officials that is enjoyed by few people.

Before turning you over to Mike, however, I want to lay some groundwork by quoting a few rather sensational remarks by John McLain, Chairman, Continental Oil Co., from statements he made in September 1972:

"There are enough potentially recoverable *oil* reserves in the U.S. to last for 65 years. . . . Potentially recoverable *gas* reserves in the U.S. to last 50 years—at present rate of consumption.

"Measured coal reserves, 300 years. Uranium reserves sufficient for electric power needs for 25 years. Recoverable shale oil reserves (and here is something to think about) sufficient to last 35 years after all other natural reserves are exhausted—at present rate of consumption.

"The total resources in the U.S., alone, are enough to supply all our needs (at present rate of consumption) for 300 years.

"Present trends indicate mobility to meet these needs which are going to be doubled by 1985—a period in which domestic production will decline 30%—in the next 15 years. By 1975 we will be 50% below median gas needs; imports of crude oil will have to be quadrupled—which we cannot do."

Mr. McLain emphasized that he wants private enterprise to be allowed to meet this crisis, and future needs, and in his final statement, he said:

"We have an adequate source base. Our problem is to get new supplies at a faster rate."

IMMEDIATE LEGISLATIVE ACTION FOR ENERGY CONSERVATION AND PRODUCTION IS IMPERATIVE

HON. HAROLD D. DONOHUE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. DONOHUE. Mr. Speaker, judging from home area impact, reported countrywide reactions, the special study findings of a Senate committee and other acknowledged authorities, the most important problem immediately affecting the American people is the energy shortage crisis.

Whoever may be blamefully involved in this crisis and whatever may be the background complexity of its causes, our congressional duty is to legislatively move as swiftly and effectively as is humanly possible to alleviate the hardships accompanying this sudden shortage and initiate long-range plans and programs to make and keep this country forever free of the political pressure, whims and threats of our present oil supplying sources in the Mideast.

Mr. Speaker, to accomplish the first part of this twofold objective we must promptly approve legislation to authorize the Chief Executive to project an adequate series of emergency actions, such as the reestablishment of daylight saving time, percentage supply reductions, nationwide automobile speed limits and other necessary regulations to insure the fairest and most effective use of the energy supply at hand.

However, in this area, Mr. Speaker, I am vigorously opposed to any special Federal tax on gasoline and exorbitant price increases on gasoline, oil and other petroleum products that would permit the extraordinarily high oil company profits to be further and unreasonably swelled at the burdensome expense of the faultless general public. I would emphasize, Mr. Speaker, that our predominant legislative duty in this matter is to make certain that the energy shortage sacrifices that must be endured will be shared equally among all our citizens whatever their status. Any other course, Mr. Speaker, will only result in unconscionable discrimination being imposed upon the fixed-, low-, and middle-income people of this country and thereby doom the best intended legislative projections to utter failure. I most earnestly hope that the executive department of the Government will fully cooperate to prevent any such tragic failure.

Second, Mr. Speaker, we must speedily move to the approval of legislative proposals designed to achieve a satisfactory level of energy production and supply self-sufficiency within the shortest period possible. I think this goal can be best accomplished by the creation of a strong and independent agency with the power to mobilize and unite all the personnel and physical resources that we must have to begin and sustain a massive research and development program that would be comparable to our unparalleled, but traditionally American, effort that resulted in the building of the atom bomb and the placing of the first man on the moon.

Our history shows that whenever the emergency arises and our people are assured that necessary burdens and hardships are equally imposed they can and they will exercise the spirit and dedication, the patience and perseverance that is required to overcome the national challenge of the moment.

To this imperative end I most earnestly hope that the leadership will very quickly present and the House resoundingly adopt pending measures designed to achieve the energy conservation and production objectives that I have summarized above in the national interest.

INCREASE CIVIL SERVICE ANNUITIES

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. LEHMAN. Mr. Speaker, due to a longstanding, previously scheduled commitment, I was not present for the votes which occurred last Friday. Instead, I was hosting a Business Opportunities/Federal Procurement Conference for the business community in the 13th Congressional District.

I have long supported H.R. 9107 to increase civil service annuities and I worked for its approval in committee. Had I been present, I would have voted "aye" on rollcall No. 636 to adopt the rule to consider H.R. 9107 and I would have voted "aye" on its passage on rollcall No. 637. I would also have voted "aye" on rollcall No. 635 to adopt the conference report on the bill making appropriations for military construction.

CRISIS IN GOVERNMENT

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. FORD. Mr. Speaker, in these days when people are concerned about the effectiveness of their Government, because the crisis in Government has erupted into a crisis in energy, we continue to watch daily the rising prices of oil products. Judging from statements by Treasury Secretary Shultz and the new energy "czar" Simon, there is no end in sight to this relentless upward march.

The drain on the consumer's pocketbook of recent increases for gas and heating oil does not go to the service station operator, the heating oil dealer, or the independent wholesaler. It represents a pass-through by them of increases charged by the oil companies. We are told that the increases are justified mainly by oil prices for imported crude oil and products, but we know that the companies are calling for a full share of those higher foreign prices in their role as producers in the exporting countries.

Certainly the sacrifices made by the American public are not reflected by the increased profits of the oil companies. The following table, cited in Newsweek magazine, December 17, 1973, reflects the third-quarter profits for the oil giants in millions of dollars:

	1971	1972	1973
Atlantic Richfield	$50.6	51.6	59.0
British Petroleum	87.0	35.0	135.8
Exxon	357.0	353.0	638.0
Gulf	141.0	110.0	210.0
Mobil	134.1	140.9	231.2
Phillips	32.4	37.6	53.9
Royal Dutch Petroleum	209.3	110.5	413.7
Standard Oil of California	135.0	150.0	226.0
Standard Oil of Indiana	93.3	107.3	147.3
Texaco	218.2	207.4	307.4

Not only did all of these companies show a profit, but some of these oil gushers almost doubled in profits. We must decide how to reverse this massive shift in income and decide the question of how the allowable profits can be channeled into actions to expand the immediate supply and to develop new sources of energy.

If the antitrust laws are to be partially waived for oil companies, as proposed by Mr. Nixon, then the oil companies should be subject to Government regulation.

As $4 million was donated by the major oil companies and their executives to the reelection campaign, it is no wonder that Mr. Nixon has encouraged the oil companies to have more participation in policymaking, and, therefore, to use the crisis to further enhance their power.

Mr. Speaker, I ask unanimous consent that an editorial from the Washington Post, on December 8, and a commentary by Nicholas Von Hoffman in this morning's Post be printed in the RECORD as these articles demonstrate the dangerous conflict of interest that this administration not only allows to continue, but fully supports:

THE REIGN OF THE OILIGOPS

(By Nicholas Von Hoffman)

There wasn't much left of the free market in the energy industry before, but this oil company crisis will destroy what there was. As these oiligops' reward for their successful run on the American paycheck, the companies are not only getting an antitrust exemption, but will henceforth be able to run their conspiracy out of President Nixxon's new emergency energy office.

The personnel manning the place will be oil company executives and we idiots will be thanking them for making this sacrifice for their common good. Their profits are up 50 per cent without a crisis, but while we are expressing our gratitude to the thieves for robbing us, the majors will be getting what they aspired to for so long: the completion of their control of the oil fields, the pipelines, the tankers and the gas stations with the legal power to allocate markets, fix prices and hold back supplies through an office in the White House.

The ending of the free market in coal, oil, natural gas and atomic power will be rationalized as always. They will tell us that this is the only way we will get our fair share of scarcity, and that if the prices are driven up out of sight there must be some incentive to put money into research and exploration of new energy resources—the same reasons they gave for granting oil import quotas and the loopholes that resulted in income tax payments even lower than Nixxon's.

They put the money in the bank, not in oil exploration, but this new deal they're blackmailing us out of will allow them to keep us in a state of permanent shortage. Yet, as an added incentive for them to rob again, we are being told we must use public funds to pay for research in such areas as shale oil and atomic fusion, the patent rights, of course, to be turned over to them for more profit.

Under the circumstances, nationalizing the whole shebang is the only sensible thing to do. If we must have a planned economy, then we, not the major oil companies, should do the planning and the profiting.

No socialistic government entity will do worse. The majors and the guy they bought with their illegal campaign contributions are already turning our country into a replica of an Iron Curtain society. No lights at Christmas, no gaiety, the joy of constant self-sacrifice for the state, drabness, restriction of travel and movement, cold homes and chronic shortages. Aren't these the features which characterize the Red Utopia, and aren't these what Nixxon and Exxon are vouchsaving for us?

Nixxon's proposal for energy self-sufficiency by 1980—Project Independence, he calls it—makes about as much sense as one of Stalin's five-year plans, and it has just about as much chance of success. It assumes that we can continue to increase our oil consumption rates at a maniacal 5 per cent per annum and still not need to buy foreign oil.

One more devaluation of the dollar and we won't have to worry about buying foreign oil. No matter what our position on Israel may be, the Arabs won't sell it to us. Even now the Arab decision to cut us off was probably much influenced by the fact that we encouraged old friends and allies like the Saudi Arabians to convert their oil into dollars, hundreds of millions of which we promptly stole from them overnight by our unilateral devaluation of our currency. This was an act by Nixxon/Kissinger, our twin foreign policy geniuses, that rivaled that brilliant stroke we call the Russian Wheat Deal.

Project Independence is a public relations term for a program to denude the country. Piddling sums will be spent developing such things as home solar energy plants that would free us from the thralldom of the public utilities. Having refused to make the effort they will tell us that such schemes are impractical, and that we must either rely on atomic bomb factories and shale oil or walk to work and freeze at home.

If we acceded to their demands for shale oil exploitation and strip mining under the threat of freezing through an inflationary depression, we are also kissing a state like Montana goodbye. We might just as well pluck its star off the flag and send its congressional delegation home. It will be good for nothing but testing nuclear weapons.

Nevertheless, they are saying we must agree or face economic decline or even catastrophe. What they overlook is that we have been in an extended period of decline, that is, our economic growth rates have been flattening out; we are a mature society. We are not a Japan; our economic adolescence was behind us before they created an energy crisis for us.

We are not going to grow as fast as we once did or in the ways we once did, and the Exxon-Nixxon solution, which is nothing more than permanently high-priced fuel, will only speed up the slowing down.

Given the mess they've created it may be much too late for the free market to help us with our problems. Perhaps some form of socialization is necessary, but either choice is preferable to handling over the power to plan our economy to this bunch of oily monopolists.

[From the Washington Post, Dec. 8, 1973]

Who Allocates the Oil?

The Interior Department apparently intends to enlist hundreds of oil company executives to help it run the oil allocation programs. Of all the dangerous and defective ideas that the energy crisis has evoked, this one is the most astounding. If ever there were a time for the federal government and the industry to keep each other at arm's length, this is it.

Congress' purpose, in enacting the allocation law, was precisely to take these very difficult and influential decisions away from the oil companies. As a concession to reality, the department needs to come to terms with the truth that the oil companies are neither greatly loved nor widely trusted among the general public. A lot of the allocation rulings are inevitably going to be abrasive and open to debate. It will be a great deal better for both the government and, for that matter, the companies if the men who make those decisions have no connection whatever with the industry.

The perils in this proposal are underlined by the administration's attempts to persuade Congress to suspend the conflict-of-interest laws for the recruits. One might have thought that the administration would demonstrate at this late stage in its troubles, a certain sensitivity in these questions. But if Secretary of the Interior Rogers Morton does not see anything wrong with lifting the conflict-of-interest rules for oil company executives, perhaps there are people in Congress who can explain the point to him. The allocation program has to stand beyond any suspicion of favoritism. Secretary Morton might usefully ask himself whether importing hundreds of people from the oil industry will help him win public confidence in the fairness of the difficult judgments ahead.

IRREGULARITIES IN SBA'S LOAN PROGRAM

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. EVINS of Tennessee. Mr. Speaker, I have recently learned of allegations of improprieties concerning actions of certain personnel in the Small Business Administration in some field offices—primarily in Richmond, Va., and possibly other SBA branch offices.

These are serious charges and we all deplore any improprieties or malpractices. It is my further feeling that all committees of Congress are entitled to full information and disclosure which, I am advised, Administrator Thomas Kleppe of SBA is readily providing to the Subcommittee on Small Business of the House Banking and Currency Committee. It is my further information that Mr. Kleppe is cooperating fully with Federal investigatory agencies and departments in these matters.

I believe that in all fairness appropriate recognition should be given to Administrator Kleppe's efforts to cooperate in uncovering any wrongdoing and prosecuting any who may be guilty of any criminal act. According to Mr. Kleppe's testimony, he was the victim of a coverup by several SBA officials who deliberately withheld information from him.

Also, in all fairness, I think the following record should be cited with respect to the overall performance of SBA under the leadership of Mr. Kleppe:

FISCAL YEAR 1973

There were 45,000 small business owners who received SBA counseling.

Administrator Kleppe is responsible for the management of a loan portfolio of about $5.5 billion—SBA has some 85 field offices, 4,000 regular employees and makes an average of 1,000 loans per day; 34,000 small business loans approved for $2.2 billion; and 215,000 disaster loans approved for $1.5 billion.

Small business received 20 percent—$10 billion—of all Federal procurement, contracts and services, and 135,000 small businessmen attended SBA management courses.

SBA loans are made in branch and field offices throughout the country and some mistakes could be understandable—deliberate violations of the law, where they have occurred, are never understandable and cannot be condoned. Irregularities should be corrected and the work of SBA improved.

I commend Mr. Kleppe for his prompt and forceful action in this regard and for his actions involving some SBA personnel offices.

However, I do not condone a charge of McCarthyism directed at members of a committee of the Congress who are entitled to determine, review and act upon the facts of any matter under proper inquiry.

Tom Kleppe is a former colleague in the House. He is an able and honorable man and I regret that this situation has developed under his administration of SBA. Overall his record of performance in terms of assistance to American small business has been outstanding.

As a longtime supporter of SBA and as chairman of the House Small Business Committee, it is my hope that this matter can be resolved at the earliest time possible and any cloud lifted from SBA and its employees, and this important agency permitted to continue its assistance and service to American small business and our free enterprise system.

RECREATIONAL NEEDS VERSUS FUEL SHORTAGES

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. CLAY. Mr. Speaker, everything possible must be done to insure that recreation in this country, and particularly recreation-oriented industries, not be eliminated as we consider legislation to deal with the energy crisis.

Those involved in the recreational industry must do everything possible to conserve energy in their operations but at the same time they must continue to meet the growing need for healthy outdoor recreation for the American public.

An article which appeared in the St. Louis Post-Dispatch on December 4 points up the necessity of recreational outlets for man's healthy existence. As the article states:

> The Kerner Report issued by a special study group set up by the Federal Government several years ago carried strong implications that without outdoor recreation and outlets for the populations of large cities, there would be large-scale eruptions of antisocial behavior.

Besides the social implications, economic effects of curtailing recreational activities must also be taken into consideration. As one who comes from Missouri, a State whose third largest industry is tourism, we would suffer severe economic hardships if recreational activities were eliminated.

At a time when the energy crisis weighs heavily on our minds, I want to share the Post-Dispatch article, "Recreational Needs Versus Fuel Shortages," with my colleagues.

The article follows:

Recreational Needs Versus Fuel Shortages

(By Al Foster)

Recreation is no longer something Americans can take for granted. The reason, of course, is the energy crisis. Shortages of energy—particularly of petroleum fuels—may be forcing the public and private agencies and other groups filling the nation's recreation needs to ponder how important play really is to the well-being of man.

Is play necessary for man's healthy existence or is it an amenity, a luxury, a reward for work?

Konrad Lorenz, author of "On Aggression," has referred to most forms of recreation, or play, as a substitute for aggression. The Kerner Report issue by a special study group set up by the Federal Government several years ago carried strong implications that without outdoor recreation and outlets for the populations of large cities, there would be large-scale eruptions of antisocial behavior.

Some observers point out that there is no real difference between the actions of urban youths who break windows in vacant buildings and suburban youths who throw rocks or other missiles at a row of bottles for target practice. Is one group playing and the other group intentionally involved in vandalism or are some actions that are not acceptable to society actually forms of play?

"The lack of contact with nature and the outdoors, combined with the stresses of urban and suburban life in large city areas is leading many young people to attempt a different life-style in the countryside," said Dr. Harry G. Moore Jr., associate professor of clinical psychiatry at St. Louis University medical school. He stressed that "the acting out of aggressive impulses through play is of great importance to children and their emotional well-being."

Dr. Moore, a child psychiatrist, expressed a concern over the effects of a fuel shortage on team sports and other organized athletic activities. "These recreational outlets may be hampered if there is not fuel to transport youths to playing fields or energy to light playing fields for evening activities. Without outlets of some sort, the youths will be bored and their behavior may present a problem."

Concerns that recreation may not be given a proper recognition and priority if there is rationing of oil, gasoline and other energy sources is reflected beyond any regional area.

On the national level, James Watts, Director of the Bureau of Outdoor Recreation, is a staunch supporter of a high priority for the nation's recreational needs. He points out that the economy of many states is dependent on visitors, or tourist dollars. States such as Nevada, Colorado, Michigan, Minnesota and others will suffer severe economic hardships if travel is curtailed to any large extent. Missouri classifies tourism as its third largest industry.

Watts said, "The recreation and travel industries support hundreds of thousands of jobs throughout the nation. But, beyond the economic effects are the social implications. We have become an urban nation with little open space in our cities. Most people work in order to have the means to play. Restricting people to the urban environment without the means to reach recreational outlets outside the cities could lead to deterioration of both the people and the cities."

The Department of the Interior's Bureau of Outdoor Recreation is making an effort to see that a reasonable consideration is given to all aspects of recreation in any energy allocations by the Federal Government.

Shortages of fuel and materials could affect every phase of recreation unless the need for play outlets is recognized and given its proper priority. Parallels have been drawn between animal behavior and human behavior. It has been pointed out that some animal species are playful by nature, or by instinct, and that deprivation of play outlets or other means of diversion can lead to self-mutilation or overly aggressive behavior.

Zoo curators are aware of animal needs for play and provide outlets for animals that require them. In some instances, it has been noted that primates without play outlets will lapse into a state of depression and lethargy.

Correlation of animal behavior and human behavior is a relatively new field of study, but many of these same actions have been observed in man. Play, or at least the artifacts of play—the toys of men, have been found by archeologists and anthropologists in sites dating back 4000 years in the Indus Valley of Pakistan. Excavations of ancient civilizations in Central and South America have shown that highly developed playing fields were included in cities of the Mayan cultures. Play appears to be as old as man.

Changes in the life-style of man have compressed people into high-density environments but have not provided the needed outlets for play. Because the needed play outlets are distant from the people, it is felt that some fuels must be allocated for recreational use, not as a diversion, but as a necessity for healthy survival in the urban areas.

Other shortages are affecting the recreation field. Boat manufacturers are unable to obtain sufficient quantities of resins to manufacture fiber glass canoes and power boats. This same shortage affects the recreational vehicle industry. Plastics for use in making fishing rods and lures are in short supply.

However, the fuel and energy shortages appear to be the greatest areas of concern. The Recreational Vehicle Institute, an organization of manufacturers of RV equipment, began a campaign last year emphasizing that the user of a recreational vehicle who turns off the energy-using equipment in his home requires less energy to travel than to stay at home. Paul DuPre, a spokesman for the organization, expressed the opinion that recreational-vehicle owners must accept some restrictions in their long-distance travels, but that recreational travel should not be curtailed.

If severe limitations are imposed on fuels, it will affect the off-road motorcycle rider as much as the hiker. Both must go to distant areas to fulfill their felt needs for recreation. Fuel limitations will hurt those who manufacture recreational equipment and the facilities that house and serve travelers and vacationers. The Bureau of Outdoor Recreation has long recognized that driving for pleasure and sightseeing is the primary form of recreation of all United States citizens. In addition, it is obvious that most recreational opportunities are distant from people's homes, regardless of the type of recreation involved.

In the pressure play for allocations of fuels and energy, industry, agriculture and business and other groups are vying for their share. The recreation industry, which is not so well organized, is beginning to express a desire for equal consideration.

The question that remains unanswered is, "How important is recreation?" To many, it is vitally important, not as a means of diversion or a way to fill idle time, but as a means of survival in the midst of urban stress.

Dr. Moore, the psychiatrist, stated it simply. "Play keeps us sane."

CONFERENCE REPORT RETAINS CONGRESSIONAL APPROPRIATION OF DISTRICT OF COLUMBIA FEDERAL PAYMENT

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. DIGGS. Mr. Speaker, on Wednesday, December 12, the House will consider the conference report on S. 1435—the District of Columbia Self-Government and Governmental Reorganization Act. I would like to take this opportunity to call attention to title V of the bill—the Federal payment provisions.

First, let me stress that the conference report retains complete congressional approval over the Federal payment with a thorough annual review and recommendation by the President, the Office of Management and Budget, the House and Senate Appropriations Committees, and Congress. This procedure fully conforms to the provisions of the Budget and Accounting Act.

Second, the conference report also retains the House provisions for determining an adequate, equitable and predictable Federal payment level. These provisions were recommended by the congressionally-authorized Commission on the Organization of the Government of the District of Columbia, chaired by my distinguished colleague, ANCHER NELSEN. Specifically, the bill identifies nine key elements affecting the costs and benefits to the District brought about by its role as the Nation's Capital. These elements shall be taken into consideration by the locally-elected Mayor in requesting a Federal payment amount. They include such factors as the potential revenues unobtainable because of the lack of taxable commercial, industrial, and business property in the city; the costs of services the District provides to the Federal Government; the benefits of Federal grants to the District not provided to other States and local governments, and so forth.

These provisions of title V establish a logical, credible process for determining the payment level while retaining the clear prerogative and responsibility of Congress to determine what that amount will be.

Third, the conference substitute authorizes a Federal payment at the following levels: $230 million in fiscal year 1975, $254 million in 1976, $280 million in 1977, and $300 million in 1978, and each year thereafter. These amounts reflect a compromise between the House bill authorized amount and the amount that would have been generated under the Senate provisions. I have received a letter from the Mayor certifying the city's estimated revenues, including new revenue authorizations, for fiscal years 1975 through 1978. The amounts in this bill are well within the Federal payment levels which would have been equivalent to 40 percent of the certified general fund estimated revenues.

Let me conclude by stressing that there is nothing automatic about the Federal payment process authorized in this bill. Again, I point out that the Appropriations Committees may review every last dollar in the Federal payment, as well as the entire District budget, and appropriate only so much of the Federal payment as the Congress deems necessary. I welcome the close scrutiny by all Members of these provisions in the conference report and trust you will conclude that they establish a sound, adequate, and equitable Federal payment. This assessment is concurred in, I am delighted to say, by the able gentleman from Kentucky, Congressman BILL NATCHER, chairman of the House D.C. Appropriations Subcommittee.

SECRET WITNESS PROGRAM

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. ESCH. Mr. Speaker, the recent kidnap-slaying of two small Michigan boys was a shocking crime for residents of the Midwest. Although the matter received little or no attention in the eastern press, I am certain the circumstances leading to the arrest of three suspects will be of interest to Members and the general public.

According to the Detroit News, the three 21-year-old men charged with first-degree murder were arrested on the basis of information furnished to the newspaper as part of its "secret witness" program. This tipster service in which citizens provide information without fear of exposure to possible recrimination has helped in the solution of 32 additional murders and scores of other crimes. Under the reward program, some $103,000 has been paid to persons providing the information.

Certainly this system merits consideration by newspapers across the country. Moreover, I would like to take this opportunity to salute the citizens who did their duty and the Detroit News for providing such a valuable service to the community.

Mr. Speaker, I insert the article describing the secret witness program at this point in the RECORD to be followed by an editorial from the Detroit News:

"SECRET WITNESS" RESPONSE: TIPS LED TO SUSPECTS

(By Boyd Simmons)

Two "Secret Witness" telephone calls 20 minutes apart, from different persons who named the same individuals as suspects, set Detroit Police on the trail that led to today's warrants in the kidnap-murders of two small boys.

The next day a third person called, also naming one of the men accused today in the slayings. And the two original "Secret Witnesses" called back with additional details at a moment when the investigation seemed to be faltering.

The calls were part of an outpouring of information that kept the "Secret Witness" telephone in The Detroit News office ringing for 48 hours as Detroiters sought to help solve a crime that had shocked them.

It was one of the greatest responses to a "Secret Witness" reward since the program was started by The News in February, 1967. In that time "Secret Witness" tips have pointed the way to solution of 32 other murders along with scores of other crimes and has seen $103,000 paid to the persons providing them.

None of the key "Secret Witness" callers in the kidnaping murders of Gerald Craft, 8, and Keith Arnold, 6, had any connection with the others. Each had seen or heard something that convinced him that he knew who was responsible.

(The use of "he" to describe the Secret Witness tipsters in the kidnap-murders is a grammatical term, not necessarily a true identification of the sex of the tipsters.)

Some of the other calls helped, too, supplying a bit of information to guide the about 150 detectives turned loose on the case by the Detroit Police Department, the Wayne County Sheriff's office and suburban forces.

The News passed its "Secret Witness" information over to the Detroit Homicide Section which directed the investigation. The homicide detectives moved so swiftly and thoroughly that on one occasion a suspect was in custody within an hour after vital information about him was received.

And The News kept its part of the agreement it has with all law enforcement agencies. It printed nothing of what it knew was going on as a result of the "Secret Witness" tips until warrants were issued. And then it told only what police announced or what was general knowldege. The details of what "Secret Witnesses" told, or who told it, remains confidential.

Because vital information was received from all three key sources after the City of Detroit's $5,000 reward was added to a similar amount posted earlier by The News, both rewards will be paid if the accused persons are convicted in court.

One tip provided the greatest help and came in first. This "Secret Witness" will, in the event of payment of the reward, receive the greatest amount but the dispersal would be determined by a three-member citizens committee which has final authority over reward payments.

MORE NEEDLESS MURDERS: CAN'T WE FIND WAY TO STOP THE KILLING?

The utterly senseless murder of two small boys again shows the terrible grip homicide has upon the Detroit area. Will this outrage finally shock us out of a sense of complacency and alert us to the proximity of murder and murderers in our midst?

What wrong did six-year-old Keith Arnold or eight-year-old Gerald Craft commit to deserve killing in cold blood? Police have not yet established the reason for the boys' abduction from their northwest Detroit neighborhood. Police may never be successful in determining why their killers executed them.

Perhaps the slayers, whoever or wherever they are, can't say why this happened either. In their awful way, these two slayings, while technically not part of the city's homicide toll of nearly 700 because they occurred outside the city limits, are truly part of the death pattern here.

The killings go on and on, justifying Detroit's bloody record this year as the leader in homicides among the nation's large cities. While experts question the death count statistics, society debates the prevalence of firearms or calls for institution of the death penalty as a deterrent.

Neither better statistics nor stricter firearms laws nor harsh punishment will eliminate wanton murders. That will take a deep and universal understanding by the urban population that violence cannot resolve social or personal troubles. We must stop tabulating deaths and begin to tally the causes.

We have talked about homicide in an abstract way as something that happens to somebody else or that involves quarrelsome or criminally minded adults. But the murder of Keith Arnold and Gerald Craft was a slaughter of innocents.

No Detroit area child whose parents might be subjected to ransom demands can be considered safe until the boys' killers are apprehended. Yet will that prevent someone else from trying the same thing? Our children are not secure until that question is answered.

No longer can homicide here even be considered a black inner-city affliction. Just a month ago the body of Ruth Postif, a 17-year-old Dearborn girl abducted from a suburban shopping center, was found in a remote area. The two dead boys, both black, lived in a good neighborhood.

Police Commissioner Philip Tannian recently suggested the wave of deaths might recede if the many who possess legal and illegal handguns put them away or turned them in. But it's clear now that those persons who possess the will to use weapons, who demonstrate violent tendencies, should be turned in, too, or otherwise prevented from carrying out their murderous acts.

At the very least, a conference ought to be called to probe the causes and effects of urban violence. Certainly metropolitan area families must do more than share the sorrow this empty Christmas with the Arnold, Craft and Postif families. Revenge against their killers is not enough. There must be an end to the killings.

HOW THE ENERGY CRISIS WILL HIT INDUSTRY

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. PICKLE. Mr. Speaker, one of the most important questions being asked today is just how and where the energy crunch will hit hardest.

A recent article in Business Week gives a good overview of the effects—both good and bad—that we can expect to appear in industry.

I would like to reprint that article in the RECORD at this time:

HOW THE ENERGY CRISIS WILL HIT INDUSTRY

In virtually every company in the country this week, top management was trying to measure how the continued shutoff of Arab oil might affect business next year. But specific information was hard to come by.

The impact of the oil embargo is tangled up with the impact of Phase IV price controls, which have already created some shortages. Then there are contradictory trends in many industries. While an oil shortage might shrink the output of one product line, it will boom another that serves as a replacement. Also, some companies are positioned to take advantage of the impact of an oil shortage. Finally, the sophisticated econometric models that many companies use have no history of an oil shortage, so they do not know how to weigh its effect on results.

Because many companies saw an oil squeeze coming last spring and stockpiled petroleum supplies, the industrial impact of the Arab embargo will be dulled over the next couple of months. But if the shutoff continues for several months, economists are predicting a cut in output ranging from 10% to 15%. Labor is fearful of widespread layoffs. These industries could be hurt the most:

SYNTHETIC FIBERS

An already tight situation will worsen. Celanese Corp. and Du Pont Co., as well as several other producers, have already cut back their polyester production substantially because of a shortage of paraxylene, made from natural gas feedstock. Du Pont will shave Dacron production about 10% each month during November, December, and January for an estimated total cut of 25-million lb.

CLOTHING

Because of cuts in production of synthetic fibers, clothing manufacturers will have to use alternate materials. Nylon tricot is already on allocation, and the squeeze is particularly severe in grades used in lingerie and some hosiery.

Cotton prices, abnormally high because of export sales to Japan and China, will go higher, textile companies say. Wool at $2.45 a lb. is considered out of sight. A shortage of propane, used both as a fuel and as an important element in curing and finishing textiles, makes the textile picture look even starker.

STEEL

The industry's oil consumption jumped 67% in 1973 from 1.3-billion gal. to 2.2-billion gal., the result of the industry raising its output to 110-million tons of steel from 92-million tons in 1972 and switching from natural gas to petroleum for finishing operations, such as annealing and preheating slabs before rolling. Stewart S. Cort, chairman of Bethlehem Steel Corp., predicts: "A 15% reduction in fuel consumption will cost the nation 6.8-million tons of steel and more than 30,000 steelmaking jobs. If steel is held to its 1972 fuel consumption, the nation will lose 12-million tons of steel, and 60,000 steelworkers will become unemployed."

Steelmakers are saying that a cutback in steel production might impede U.S. efforts to offset the Arab blockade. Oil and gas producers are already short of steel pipe used in stripping wells, says Cort. "Steel is also indispensable in the construction of electric generators, coal mining equipment, and oil refineries."

Pinched steel supplies could mean still

greater strains upon the nation's already seriously taxed rail network, because railroads would have to curtail their car-building programs. In addition, a cutback in steel output could affect the production of machinery and equipment essential to the expansion of U.S. industrial capacity. Many people were looking to a high level of machinery production in 1974 to ease shortages that resulted from lack of capacity in several major industries, according to Cort. Any curtailment brought about by steel shortages will have serious adverse effect on all the machinery industry and thereby the U.S. economy as a whole.

PLASTICS

Because the feedstock of plastics is either natural gas or petroleum, a cutback in output is already under way. Styrene, polyethylene, and phenolic resins are likely to show the most serious shortages.

Supplies of plastics are also distorted by price control problems. Likely to be the hardest hit are the small manufacturers—those who buy materials from the major companies and turn them into end products.

Jack Cubeta, vice-president and general manager of Intercosmic Plastics, Inc., a division of ICP Industries, Inc., says, "We're living from hand to mouth right now. We were working seven days a week. Then when the plastics shortages started, we cut back to six days and now we are on a 4½-day schedule." Intercosmic Plastics makes decorative plastic sheets for bath enclosures as well as plastic sheathing, luminous ceilings, and marbleized vanity table tops. Says Cubeta: "We plan to stay in the business, but we would do better if we just shut down the plant, laid off all our employees, and resold what plastic resins we can get at triple the price in the export market, where prices aren't controlled"

Plastic flooring materials will soon be in the same situation as plastic bathroom equipment, predicts Richard Bezzola, treasurer of Industrial Vinyls, Inc., a big Miami flooring producer.

"It looks as if we'll be in trouble in the manufacturing of chair arms and molded products as well as consumer items, such as polystyrene ice chests and toys," says Norman S. Edelcup, vice-chairman of Keller Industries, Inc., also in Miami, a large maker of plastics and aluminum products. "At this point," Edelcup says, "the plastics shortages are worse, but we've been told that after Jan. 1, if the aluminum producers don't get some price relief, they are going to stop shipping."

At Scripto, an Atlanta-based manufacturer of pens and lighters, there are also concerns about a shortage of plastic and aluminum. President Herbert W. Sams predicts that the company's product line will be cut by 20% by mid-1974 because of shortages.

ALUMINUM

Aluminum production will be tied closely to the availability of electrical energy because it uses massive amounts of power. The Northwestern part of the U.S. relies heavily on hydroelectric power. Droughts in that section have produced a deficit of nearly 10-billion kilowatt hours, resulting in some cutback of aluminum production. Despite improving weather, the area is still short of power, and future supplies will depend on rainfall in December, January, and February.

New capacity is not likely to be built in the Northwest. One victim of the energy problem may be the proposed $160-million aluminum mill that Amax Pacific Aluminum Co. wanted to build at Warrenton, Ore. Governor Tom McCall has withdrawn his support of the project, saying: "Faced with an energy crisis that will not be overcome for years, we cannot invite an industry that consumes electricity far in excess of those with equal or greater job potential."

AUTOS

In the automobile industry, fuel shortages are striking in a number of ways. The gasoline shortage and the possibility of rationing early in 1974 is causing a run on smaller cars that get greater mileage (page 38). A shortage of synthetic fibers is causing companies to plan shifts to other material for auto upholstery. The shortage of plastics is causing a sharp slowdown in use of synthetics to replace metal parts and save weight. Transmission fluids are getting tight and there could be no ethylene glycol for antifreeze by yearend.

PLYWOOD

The industry is having a rough time. Almost one-third of its plants have already had their power supplies cut back or expect to be curtailed imminently.

Plywood producers are big consumers of interruptible power, so they are the first group of power users to be cut back under the federal power allocation order. They are also short of both propane and fuel oil, so their standby power systems will be able to give them little relief this winter.

Natural gas and propane are also used in the mills to run driers. Both fuels are in short supply, and propane is being allocated. And the plywood producers, like the plastics industry, are also big users of phenolic resins. Phenolics come from benzene and toluene, which are both scarce and will get scarcer as demand for natural gas and oil for heating increases in the winter months.

THE SMALLER INDUSTRIES

Other industries with lesser impacts on the economy will also feel the bite of the oil shortage. The makers of pleasure boats, for example, will be hard hit if they cannot get styrene, which is made from benzene, a petrochemical. Styrene resin, when combined with fiber glass, is the principal material in the hulls of boats. In the light of curtailments, Thomas Duggall, president of Thunderbird Coat Co., a subsidiary of Fuqua Industries, Inc., says he has been advised by his major supplier to expect 20% less resin next year, and that will mean reduced sales of boats.

"The fuel shortage has been pretty disastrous for the brick industry," says George C. Sells, president of General Shale Products, a Tennessee manufacturer of brick and concrete products. Since August, the cost of fuel, which normally accounts for about 10% of a brick producer's total production costs has jumped close to 50% at one of General Shale's plants. "We could be 100% on coal within a year in all our plants barring a shortage of coal crushing and conveying equipment," says Sells.

Users of polyvinyl chloride in the phonograph industry have been subject to decreasing shipments for some time. "I had to shut down for three days earlier this month because I was out of PVC," says Charles Spitzer, owner of Reco-Press, a Dallas record company. Next year PVC will be in even shorter supply, and that will affect people who use it not only for records but as a rubber substitute in electric wire, textile finishes, and gaskets.

REPLACEMENTS AND SHIFTS

As the oil and gas shortage bites deeper, a host of products will disappear from the market, many of them cheap, low-profit items. They could include such products as plastic drinking straws, plastic pens, fertilizer, aluminum windows, water purifying chemicals, buttons, plastic milk cartons, and firewood. Some of them will never be missed. Others will be replaced by other materials.

Managements who are still pessimistic may change their minds when they start to evaluate the possibility of replacing materials that are in short supply. For example, rayon, which is made from wood chips, could pick up some of the shortage of synthetic fibers, particularly in lingerie. Paper will replace some plastics used in packaging.

Gates Rubber Co. in Denver is having problems getting supplies like Neoprene, a synthetic rubber made from natural gas, and is looking at substitutes. But it anticipates no decline in employment next year. Johns-Manville Corp. has started introducing fiber glass into its production of polyvinyl chloride pipe to make its supplies of PVC go further—at the same time toughening the pipe and raising its price.

It will be several months before companies are able to regear their production to use such replacements and to line up sources of supply for the new materials. Certainly some plastics will be replaced by aluminum, stainless steel, zinc, or other metals.

One effect of the cutback in oil is that users of materials in short supply are putting their scarce raw materials to more profitable use. "What we see more than anything else is taking our plastics out of poorer end-use areas and putting them into other products," says C. Robert Powell, group vice-president at Diamond Shamrock Chemical Co. But this kind of shift may well improve profit margins next year.

BOOM FOR SOME

While the energy problem will squeeze some companies, others will find it a strong stimulant for business. At Raytheon Co., the diversified Massachusetts company, President Thomas L. Phillips explains, "People don't realize how well positioned we are in terms of the energy crisis with Badger Co., which builds oil refineries, with United Engineers & Constructors, which designs nuclear plants, and with Seismograph Service Corp., which will benefit from an increase in oil exploration." Raytheon also has a strong position in gas home appliances and has a patented process to eliminate the waste of gas from burning pilot lights.

On the railroad lines of the Burlington Northern, Inc., executives have already spotted a positive impact from the energy problem. Piggyback service, in which truck trailers are placed on railroad flatcars, is up sharply. BN Transport, a subsidiary, reports that its piggyback business is up 58% so far this year. Over the entire BN system, piggyback service is up 15%. Commuter rail traffic has also risen, apparently because fewer people are driving to work. The BN reports that its commuter service into Chicago has standees—nearly 1,500 a day—for the first time.

Rollins Leasing, a subsidiary of Rollins International, Inc., says it is expecting an increase in truck leasing as a result of the fuel shortage. John W. Rollins, president of Rollins Leasing, explains, "Customers don't have to worry about diesel fuel supplies when they lease with us because we supply trucks, fuel, and maintenance."

Coal is figuring in an optimistic outlook at FMC Corp. "We envisioned an energy problem several years ago," says Raymond C. Tower, executive vice-president in charge of the company's chemical group. All the company's 36 chemical plants burn coal instead of natural gas or oil. And the company has covered itself with long-term coal contracts.

Moreover, FMC, with a consortium of companies, is working on a coal gasification process that is likely to be speeded because of the shortage of oil and gas and the rapidly escalating price of oil. In addition, FMC manufactures rayon, whose renewed acceptance should add to sales and profits as supplies of synthetic fibers, which are based on natural gas, are cut back.

At International Paper Co., Vice Chairman J. Stanford Smith says the company has not yet made any change in its sales forecast for next year because the company sees offsetting circumstances. Says Smith: "Even if our sales of linerboard (used to package goods) fall off 10% or 15% as industrial production declines that amount could be offset because we are seeing a shift by milk producers away from the plastic gallon jug and back to paper milk containers."

Meanwhile, as industry tries to assess the economic outlook, the Administration has an Energy Emergency Action Group trying to set up policies to cope with the situation (page 58). A final analysis of how bad the energy crisis will hit business will have to wait until the government chooses one of the options open to it.

FEAR NOT, STAND FIRM

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. BENNETT. Mr. Speaker, recently I had the opportunity to be present at the meeting of the Rotary District Convention at Jacksonville, Fla., and heard an excellent speech by Malcolm B. Johnson, Tallahassee Democrat editor, which I thought every American would be helped by reading so I include it herein.

LUNCHEON SPEECH OF MALCOLM B. JOHNSON, NOVEMBER 20, 1973

Bob Langley commissioned me to come here today and say something encouraging about the state of the nation and the human condition. I suspect he thought this would assure a short speech from one who has pretty well conditioned himself to not like much of anything that happens the rest of his life.

But I have an old friend, a patriarch of sorts in our news business, who says things are no worse than they ever were. We only have more alert reporters—and, I may add, less alert historians.

So you hear . . . You may even have said lately: "All the news is bad. Has it ever been worse?"

Well, it isn't all bad, by any means; and it has been much, much worse in our own time. However, it is disturbing enough to justify a bit of Pollyanna optimism, if no more than to keep from tearing out hair.

First, a word about the nature of news: Bad news drives out good, from the mind as well as from the printed page, just as by the law of economics bad money drives out good.

This is not the preference of the news reporter any more than—if as much as—that of the news reader. Given equal space and headline treatment, the odds are that scandalous news will be read first and remembered longest. It's human nature.

Quick, now: Recall five episodes from the Bible.

Now. Didn't you think of Cain killing Abel, Adam and Eve's sin in the Garden, Noah's flood, crucifixion of Jesus, Job's troubles, Jacob deceiving his blind father, Samson and Delilah, Pharoah's army drowning in the Red Sea, David and Goliath, Moses and the Israelites in the wilderness, the beheading of John the Baptist?

Murder, war, disaster, persecution, pestilence, fraud, treachery, greed, lust, general cussedness. You have to scratch your head to recall the good lessons. The gospel. So what's new?

Besides, all good things aren't news, because they frequently lack drama and commonalty that would make an impression on readers whose interests we are ordained to serve. Good news tends to be gradual, cumulative; bad news, sudden, shocking.

You don't expect to hear sirens when there is no fire; but that doesn't mean the firemen aren't making their rounds for fire prevention.

And you'd soon stop reading a paper that repeated daily: "No bad fires again today. Firemen inspected a dozen homes and eliminated fire hazards."

But our bad news is SO bad, they say. It touches the leaders of government, the presidency.

Well, without excusing any misconduct that has been proved beyond the reasonable doubt which is guaranteed to all citizens, it helps to read history.

Our codes of judicial and legal ethics contain epigrams from the mouth and pen of Sir Francis Bacon, lord chancellor, highest judicial officer of Britain. Do you know his full story?

He was impeached on 28 charges of accepting bribes, in some cases from both sides in litigation. He tried to settle for pleading guilty without disclosing details, but they put him away in the Tower of London for nearly a year.

Daniel Webster, hallowed as a statesman, was on the take most of the time he was in the U.S. Senate. Even while he was leading the fight for renewal of the charter of Bank of the United States he sent the bank a note complaining "my retainer has not been received or refreshed as usual." John F. Kennedy, recalling this in his book, "Profiles of Courage", gratuitously suggested "Webster accepted favors not as gifts but as services which he believed were rightly due him."

President Franklin Pierce was arrested for running down and killing a woman in a carriage he was driving through Washington's streets. Case dismissed. Who remembers it—or even when Franklin Pierce was president?

Why, the greatest scandal of our day—the to-do that provokes despondency over the fate of the nation—involves political misconduct our fathers found commonplace, if not permissible. Is this reason for gloom? Why not consider it, rather, a growing concern over chicanery that indicates a wholesome reaching for higher morality?

Now, I concede this calls for some triumph of faith over experience in view of the recent trend toward more permissive behavior, a toleration of non-violent crime (except in high places), an acceptance of perversion and violation of all the biblical social injunctions as long as they occur only between consenting adults.

It may be that we're closer to Sodom and Gomorrah than we are to Armageddon, especially since the latest tussle in the historic struggle between Israel and Egpyt seems to be cooling off without violent involvement of the rest of us.

Good news can be the absence of bad.

We're not at war, nor anywhere near it, for the first time in a generation. No young men are being drafted for military service.

We have no major strikes. Our National health is excellent by past standards.

For all the furor over inflation and the downward drift of the stock market and the low value of the dollar, our people have the highest standard of living in world history—telephones, TV, two cars, boats, air conditioning, leisure time to fret and fume about prices and shortages while we're playing. We deplore unemployment, ignore the glad news that employment is about the highest in history. More people have jobs than really want them.

We fret over shortages, but we spend more on dog and cat food than we do on baby food—$50 million a year just to rid our pets of fleas. I throw out enough grain for the wild birds every day to make a day's meal for many a man in less fortunate nations.

America may be running short of gas, but it's more from joy riding than from desperation driving. Most of our shortages are from waste, not from lack of resources.

Our astronauts in their Skylab are doing things—spectacular, fascinating things and routine scientific things—that will be paying off in human benefits for many decades after Watergate is forgotten. (That they are getting scant attention is testimony to our preference for scandal over accomplishment.)

There's scarcely a day we don't have a report of some new discovery in medicine or other sciences that will help conquer another disease, prevent a famine, or make the good life more attainable for more people.

Our states and cities, generally, have ample money—and we are so preoccupied with our affluence that most of us aren't even concerned enough to demand that surpluses be turned into tax reductions.

Our women are liberated. Dr. Spock is revising his book on care of babies to delete several thousand references to "him" and "her." The Federal government last week decreed that the Census Bureau may no longer use the word "maid" as a job description. Henceforth, they are, officially, "lodging quarters cleaners." How much more can the human condition be improved?

Our black citizens are making amazing progress—and without the rioting and block burning they carried on a few years ago. The young man who sweeps out my office to pay his way through college (even as many of us did) can talk confidently about his ambition to be a Senator—and nobody doubts that he might make it, despite the color of his skin.

Good news; but hardly a news item.

And the bad news? Of course we have it. But think back again. Why, it's not so terrible.

Remember the utter dejection of our Nation when the Russians surprised us by sending up that first Sputnik? It's doubtful that our demoralization ever was so general. It seemed that one shot had put us far behind, if not at the mercy of, a hostile force. We bounced back, and higher than the Russians have been able to go.

Bad news? Recall the shock after the debacle of Pearl Harbor, the panic and suicides of the 1929 stock market crash, the barbed wire barricades on our Florida beaches and the submarine sinkings of two or three tankers a day off our coast in World War II.

Remember the epidemics of flu, of smallpox, of typhoid, or diphtheria that swept away families and made pallbearers of us in our childhood—little boys carrying schoolmates to the grave.

I bore my first pall at the age of eight. If you want to know about bad news, go to an old graveyard and count the childrens' headstones. Malaria, hookworm, rickets, yellow fever, polio. Now there was pollution. Man didn't make it. Man cleaned it up.

Remember the pogroms, the ruthless slaughter and persecution of Jews by the evil Hitler and his henchmen? The nauseating news of those kids' bodies being unearthed in Houston this year can match Hitler's crime only because the impact is fresher, the scene closer, the criminals part of our own society. And for depravity, remember Leopold and Loeb? The St. Valentine's Day massacre and other Prohibition gang wars? Lynch mobs?

Remember the depression? That was nearly all bad news. Almost a third of our wage earners out of work, out of homes, out of food, wandering. Here in Jacksonville, I worked as a boy in the public library and saw old men sit all day in public reading rooms, then just before closing time sneak into the restroom to line their shabby garments with newspaper underwear for warmth against the night. We college boys waiting on tables had to hide the catsup because vagrants would ask for a cup of hot water, then convert it into tomato soup when we weren't watching.

Don't talk to me about going back to the good old days. We couldn't stand the ardors or the odors if we were suddenly cast back to our own past.

Talk about air pollution and destruction of the environment:

Why many of us can remember when Florida was almost a desert of cut over and burned over woodlands, with smoke from wild fires hanging so heavy in the fog that we walked in front of cars at night to keep them on the road and poke the scrawny tick range cattle out of the way. Smog, before the word was coined. The air is cleaner, the landscape greener, today.

Here on this riverfront, the odors were so bold and so separate that I vow I could walk Bay street blindfolded and call off the establishments as I passed. Can you remember the pungent stench of a big steam laundry washing the human body odors out of tons of clothes? Oil and fish and sewage all mingled beneath the docks and rats as long as your forearm skittering through the wharfs?

Jacksonville's waterfront has almost lost its nostalgic appeal in antisepsis and beautification now—amid the frightful talk of pollution.

We fret about the fumes from automobile exhaust, forget that London and New York employed men by the thousands to clean up after the horse.

Folks worry about the endangered species. The brown pelican. The peregrine falcon. The Okaloosa darter (half-size sardine that lives in West Florida). I'm a nature lover, or have some reputation for it in my home town. But I don't think ecology—the science of all inter-related species—can be cut off just below man. Man and his economics and politics are paramount in the ecology on this earth over which God gave him dominion and a responsible stewardship.

Prospective extinction of the Okaloosa darter doesn't worry me any more than the past extinction of the dodo or the pterodactyl—as long as the human condition is improved.

I submit that the human condition is better almost everywhere, through man's own efforts (and perhaps at the sacrifice of some inferior species.)

My town is a better place to live than it was when I moved to Tallahassee 36 years ago. Jacksonville is better than when I left here for Tallahassee. Florida living is better, in every hamlet and city I revisit after nearly 50 years of fruitful experience in this state. More people have more of the good life everywhere.

Adjustments and adaptations are necessary. It has always been so. Let us learn from the woodpecker. In our lifetime, there were two huge woodpeckers in Florida—the ivory billed and the pileated.

They lived on the bugs from dying trees in virgin forests. Timbermen and pulpwood people cut out the woodpecker trees, closed their cafeterias. The Ivory billed woodpecker couldn't adapt. He starved into extinction. The pileated adjusted. He comes to our urban feeders. He eats at my woodpile. His breed is multiplying. He never had it so good.

And neither have we Americans of 1973. Our nation is not sick; but its people show signs of neurosis. We seem to enjoy a self-flagellation, to need a life of jumping from crisis to crisis—and creating crises if none arise naturally. We have become a people of very many fears, and very little faith. We must quit low-rating ourselves and our institutions. I, for one am tired of Nader types trying to scare us to death with suspicion and exaggerated bellyaches.

It is popular to say we need new goals, new values. But our salvation is in the old values—as simple as the Ten Commandments, the Golden Rule and the Sermon on the Mount.

There is no promise of any religion, nor of any atheistic dogma that life on this earth will remain as it was or as it is, that this generation is the end of evolution, that the ultimate good life will come to a heaven here and now. All teaching is to the contrary.

The ultimate reward comes in the hereafter, if at all, but whether or not we believe there is a heaven, there is no doubt we can have a generous portion of the really good life if we stick to those old values which point the path.

The Evolutionist, the physical man, depends on survival of the fittest. To the Christian, spiritually, it comes out about the same in the advice that many are called, few chosen.

Moses exhorted the Children of Israel, as they fearfully fled (many reluctantly) from slavery in Egypt: "Fear not, stand firm, and see the salvation of the Lord."

There is no surer way to improvement of the human condition, here or hereafter.

We go home, now, to Thanksgiving. There is no cause to belittle the breadth and depth of gratitude for our abundant blessings.

PSRO: A CHALLENGE TO THE PRIVATE PRACTICE OF MEDICINE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. CRANE. Mr. Speaker, beginning in January 1974 a new Federal bureaucracy will begin operation—with its basic goal the direct control of medical care to all who receive Federal funds.

The law, a part of the Social Security Act, institutes what are called Professional Standards Review Organizations and was initially presented to the Congress as legislation which would save taxpayers money. This, its proponents argued, would be done by having a Federal agency check on doctors to make sure that they are not charging too much for their services. This, we have since learned, is the least of the problems with the PSRO program.

While doctors and patients have traditionally considered it the role of the medical doctor to prescribe the necessary care for patients, to determine whether a patient does or does not have to be hospitalized, and what manner of medication would prove most effective, the new PSRO program takes much of this decisionmaking process out of his hands.

Local PSROS will have the responsibility to see to it that doctors practice according to norms approved by a national council, which will include representatives of consumer groups and other nondoctors. A PSRO examiner, for example, will be in the position of challenging a doctor's professional judgment in a case. That examiner will not himself be required to have medical training.

Under this program, the principle of the confidentiality of the doctor-patient relationship will be seriously challenged. The doctor will be forced to reveal his records to PSRO inspectors and if he is to be paid for the services he performs, he will have to abide by HEW guidelines. The doctor will, in effect, be little more than a Government bureaucrat.

Even patients who do not receive Federal aid in any form, will be subject to having their confidential records examined by Government agents in an effort to establish "norms" of medical care. The PSRO examiner will be able to search through a doctor's files and records without any court order or search warrant. The result will clearly be the destruction of the doctor-patient relationship.

Opposition to this ill-conceived program has been mounting, both in the Congress and among American doctors. Recently, the American Medical Association adopted a resolution calling for major alterations in the law, demanding the restoration of the traditional doctor-patient relationship. Many doctors believe that the AMA position did not go far enough, and believe that only repeal of the PSRO legislation will solve the problem. I share this view.

One of these doctors is Dr. John P. Heard, a general practitioner in Decatur, Ga., and president of the De Kalb County Medical Society. He urges repeal and declares:

> First, it is bad law by anyone's standards, and we would be negligent to stand idly by and see it implemented. Second, the survival of the A.M.A. is at stake. If PSRO is implemented, we won't have any need for an A.M.A.

In an important editorial dealing with this subject, the Wall Street Journal noted:

> These PSROS . . . will have the task of second-guessing decisions made by . . . doctors in treating patients under Medicare, Medicaid and maternal and child health problems . . . the law empowers the government, through PSROS, to examine medical records in doctors' offices, not only of federally insured patients but private patients as well.

The Journal notes, in addition:

> The AMA had a hand in the original conception of PSROS, apparently with some notion of displaying flexibility. . . . But a good many physicians are making it clear that they think that was a bad tactic. It would seem that they have a point.

The Journal decries the fact that the PSRO legislation was approved with so little consideration of its long-run ramifications and concludes:

> The issue deserves a better hearing than it got when PSROS were so nimbly written into law last year.

I wish to share with my colleagues the editorial published in the Wall Street Journal of December 6, 1973, and insert it into the RECORD at this time:

No Time for Patients?

We would never argue that any group should be exempt from accountability to the larger society, but we can understand why many doctors at an American Medical Association convention in Anaheim this week are up in arms over a new federal law purportedly designed to monitor the way doctors deal with federally insured patients.

The law, described elsewhere on this page today by Mr. Winsten, requires the establishment of "Professional Standards Review Organizations" all around the country starting Jan. 1. These PSROs, which will be comprised mainly of doctors, will have the task of second-guessing decisions made by other doctors in treating patients under Medicare, Medicaid and maternal and child health problems.

Their findings will be used by a HEW bureaucracy to establish certain "norms" that doctors would be expected to follow in treating federally insured patients. Such questions as whether some doctors overprescribe or require unnecessary hospitalization will enter into the review and norm-setting process.

While we favor a businesslike administration of federal social programs, the PSRO legislation raises some questions which didn't get adequately asked or answered by Congress. It was attached, by Senator Bennett (R., Utah), as a rider onto last fall's bill and controversial Social Security bill and somehow rode through with almost no public attention. The House did not even hold public hearings on the PSROs.

And yet the law empowers the government, through PSROs, to examine medical records in doctors' offices, not only of federally insured patients but private patients as well. The Association of American Physicians and Surgeons thinks this is an unconstitutional invasion of a private relationship.

Further, it can be doubted that Congress gave sufficient thought to the cost of all this monitoring and normsetting. There is no clear picture of how many PSROs there will be but a minimum of 150, and probably considerably more, is likely. The man-hours of doctors who serve on them will be that many fewer man-hours devoted to practicing medicine, not to mention the man-hours that will have to be devoted in doctors' offices to meeting demands for information or justifying decisions.

It might be noted that some 50 million patients and 10 million hospital admissions are potentially subject to monitoring and that the proposed norms cover some 350 procedures. It makes you wonder if doctors will have any time left to treat patients.

Finally, the law seems to ignore that a great deal of peer review already goes on in medicine, by state and local medical societies and hospital boards that review decisions to operate and the like. While peer review has been criticized as ineffective a lot of the criticism remains unproved. In Louisiana last December, it was the state medical society that blew the whistle on a HEW-financed private birth control scheme that now is under criminal investigation, which suggests that the public interest may fare at least as well under private peer review as through the good offices of HEW.

Many doctors claim that the PSRO sleeper actually was designed to open the medical profession up for full federal insurance, or, as the AMA once would have termed it, "socialized medicine." Interestingly, the AMA had a hand in the original conception of PSROs, apparently with some notion of displaying flexibility—thus avoiding the kind of pitched battle it lost over Medicare—and at the same time keeping PSROs in the hands of physicians. But a good many physicians are making it clear that they think that was a bad tactic.

It would seem that they have a point. Medicare and Medicaid were a product of the mid-1960s and there is no denying the public support that then existed. But this is 1973 and Americans have seen quite a lot they don't like about federal social programs. There is no certainty they are yet ready for national health insurance and they certainly aren't ready for sneaky approaches to that end through innocent-looking riders to complex bills in Congress. As to monitoring Medicare and Medicaid, HEW might do well, or so the Louisiana case would suggest, to get better control of its existing auditing system.

Rep. Rarick (D., La.) has introduced a bill to repeal PSROs. It may well be that the public has a bigger stake in repeal than it realizes. At any rate, the issue deserves a better hearing than it got when PSROs were so nimbly written into law last year.

Those who believe, as many leaders of the AMA seem to, that Federal money will not be accompanied by increasing Federal controls, have not learned the lessons of history. One doctor who has, and who has attempted to inform his fellow physicians, is Dr. R. S. Jaggard. He declares:

Such physicians have not studied their history lessons. It is painfully clear to any student of history, especially of the American welfare state of the past 40 years, that government money brings government control. A PSRO clerk is a PSRO clerk. A PSRO clerk follows rules and regulations prescribed by the Secretary of Health, Education and Welfare, period. A physician is an intelligent and skilled individual, who exercises his own independent intelligent judgment and skill on behalf of his patient, in accordance with his own decisions as to what is best for that specific person in those specific circumstances at that specific time and place. The physician deals with patients and specific problems. The two are not compatible and neither one can function as the other.

Discussing the fact that the AMA has tended to support Government intervention and controls, while many in the Congress and elsewhere have resisted them, Allan C. Brownfeld, editor of Private Practice, the Journal of the Congress of County Medical Societies, writes:

While the leaders of organized medicine continue to work hand in hand with government bureaucrats in adjusting a straightjacket to American medicine, private practitioners—and those outside of the medical field who believe in freedom—have been mounting an effective attack upon the PSRO program.

Mr. Brownfeld notes:

There is something doctors can do about the PSRO program, and it is not too late. That something, is to work for repeal of the legislation.

Discussing the controls to be imposed by the PSRO program, Dr. Jay A. Winsten, a research fellow in pathology at the Harvard Medical School, writes:

At the top of this new bureaucracy, the HEW Secretary will exert broad discretionary power. . . . Each PSRO will be responsible for developing guidelines which, for a given illness, injury or health condition, provides answers to the following questions: Should the patient be hospitalized, or treated on an out-patient basis? If hospitalization is necessary, what is the probable length of stay required for proper care? What are the specific health care services required for proper diagnosis and treatment of the patient's complaint?

In simple terms, the basic decisions concerning a patient's care will not be made any longer by the private practicing physician, but by a bureaucratic Government organization. It will, in effect, be medical care by committee.

Following is Dr. Winsten's analysis of the PSRO program as it appeared in the Wall Street Journal of December 6, 1973:

Imposing Controls on Doctors

(By Jay A. Winsten)

There was little fanfare when on Oct. 30, 1972 President Nixon affixed his signature on what is now known as Public Law 92–603, or the Social Security Amendments of 1972. But by now the shock waves are reverberating throughout the medical community.

Some medical leaders have termed the legislation as a giant step down the road toward socialized medicine. This week at the American Medical Association's annual clinical convention at Anaheim, Calif., dozens of speakers denounced the law as unconstitutional. There's no doubt on the part of friends or foes alike that it is the most radical health legislation in this country's history—establishing mandatory cost and quality controls for large segments of the $80 billion a year health care industry. Doctors for the first time will be held publicly accountable for the quality, medical necessity, efficiency and cost-effectiveness of the health care they provide.

The controversial legislation, first introduced by Sen. Wallace Bennett (R. Utah), is laced with pointed references to new "obligations imposed on" medical practitioners. It requires physicians to open their private files and hospital records to outside inspectors. Strong financial sanctions are provided for physicians who fail to comply.

The controls initially will be limited to medical treatment rendered in hospitals and financed under Medicare or Medicaid. Implementation will occur in several stages. The target date for initial action is Jan. 1, 1974.

The law reflects Congress' determination to get top value for every health dollar expended in the face of spiraling costs and to generally improve the quality of medical care. Experts agree that hundreds of thousands of lives could be saved each year by proper application of currently available medical knowledge, but they disagree on whether P.L. 92–603 is the proper means to achieve this goal.

However, Congress acted on the basis of solid evidence that efforts to control medical costs can be effective—New York City Medicaid administrators have monitored practitioners for signs of overutilization, fraud and deficient treatment; in 1968, they recovered over $27 million in public funds, at an overall auditing cost of $681,000.

A NETWORK OF REVIEW BOARDS

At the heart of the new federal controls a network of regional review boards will be established. Each will be charged with defining acceptable norms of medical aid and insuring that individual physicians and hospitals meet specified standards of performance. P.L. 92–603 requires the Department of Health, Education and Welfare to designate regional boundaries for the boards by Jan. 1.

In a major concession to the medical profession, the act gives local medical societies first crack at organizing the regional boards, which will be known as Professional Standards Review Organizations (PSROs). Medical societies will be granted up to two years to demonstrate to HEW's satisfaction that they are able to organize and manage PSROs. After Jan. 1, 1976, HEW is empowered to turn, if necessary, to alternative organizations, such as state health departments.

In each state having three or more PSROs, a Statewide Professional Standards Review Council will be established to coordinate activities. The state councils will be physician-controlled, staffed predominantly by representatives of PSROs, state medical societies, and state hospital associations.

A national Professional Standards Review Council will be created to pass on the standards of care, diagnosis and treatment developed by local PSROs. Members of the national board will be appointed by the HEW Secretary. A majority will be physicians.

At the top of this new bureaucracy, the HEW Secretary will exert broad discretionary power. The effectiveness of the cost and quality controls will largely depend on whether he is personally willing to crack the whip.

How will the PSROs function? Each PSRO will be responsible for developing guidelines which, for a given illness, injury or health condition, provide answers to the following questions:

Should the patient be hospitalized, or treated on an out-patient basis? (The patient's age and complicating medical conditions will be taken into account.)

If hospitalization is necessary, what is the probable length of stay required for proper care? (At specified times after admission of a patient, the attending physician will be required to certify the medical necessity of continued hospitalization and to justify his decision to the satisfaction of the local PSRO.)

What are the specific health care services required for proper diagnosis and treatment of the patient's complaint? (Recognizing that alternative methods of treatment may be equally efficacious, PSROs are directed to specify alternative modes of treatment whenever appropriate.)

In order to insure compliance with the guideline, PSROs are empowered to "examine the pertinent records" and "inspect the facilities in which care is rendered or services provided."

The PSROs will compile, and probably publish, up-to-date "profiles" on individual physicians. Doctors who over-prescribe certain drugs, overutilize certain procedures (such as tonsillectomies), render deficient care, or otherwise fail to meet their "obligations" will be identified by means of the computerized profiles.

Each physician and health institution will be charged with an "obligation" to assure that medical services "will be provided only when, and to the extent, medically necessary; and will be of a quality which meets professionally recognized standards of health care; and will be supported by evidence of such medical necessity and quality . . . as may reasonably be required by the PSRO."

Financial sanctions are authorized for practitioners who demonstrate "an unwillingness or lack of ability substantially to comply with the obligations." The sanctions will be imposed at the discretion of the HEW Secretary, upon recommendation of the local PSRO. The Secretary may bar an offender from further participation in the Medicare and Medicaid programs. Alternatively, he "may require that . . . such practitioner or provider pay to the United States . . . an amount not in excess of the medically improper or unnecessary services so provided or (if less) $5,000." Appeal mechanisms are available.

Clearly, the PSRO program, if effectively administered, will signal the beginning of a new era in American medicine. It is widely assumed that national health insurance legislation will one day bring essentially all patients and physicians under the PSRO umbrella. Even the American Medical Association, which initially opposed the PSRO concept, supported the Bennett Amendment but is now wracked with controversy over the law.

DR. WELCH'S COMMENTS

Writing in the New England Journal of Medicine on the impact of PSROs, Dr. Claude E. Welch, president of the American College of Surgeons, commented that "the philosophical implications involved are anathema to many doctors who pride themselves on their independence of thought and action. Unfortunately for them, these attitudes steadily diminish in all parts of contemporary society. . . . Deep philosophical problems are involved that will change the whole practice of medicine. . . . Group decisions will replace individual vagaries. Physicians will of necessity become cost conscious, a feature that at present is woefully lacking. No longer can they use expensive bed space for ambulatory work-ups or procrastinate with indicated treatments. . . . The publication of norms of diagnosis and treatment will make many doctors realize their own deficiencies."

How will the guidelines, review procedures, and sanctions be translated into action in a national cost and quality control program? New York City's Medicaid experience provides some clues. Under an auditing plan developed by Dr. Lowell E. Bellin, health department professionals visit practitioners' private offices to review patients' records, and re-examine patients who have previously been treated. Staff pharmacists check prescriptions for signs of tampering, and clerks monitor invoices for such irregularities as double-billing, overcharging or overutilization of services. High volume practitioners are a special target of the investigators.

In addition to detecting fraud, overutilization and inefficiency, PSROs will be required to devise procedures for measuring the quality of medical care. Several questions will have to be resolved: What are the most useful sources of data—abstracts of hospital charts, discharge data sheets, insurance claim forms, direct observation of physicians, or patient interviews? How much will each method of data collection cost? How reliable will the data be? How much of a doctor's time will be required to supply the data? Should sampling techniques be used, or should data be compiled for every patient?

More difficult is the question of what criteria are to be used in assessing the quality of the care. Some experts argue that explicit protocols should be devised for the diagnosis and treatment of specific illnesses, and that these should be applied as standards against which to measure a doctor's performance. Others argue that only those processes (tests and procedures) which have been demonstrated to substantially affect the outcome of the patient's illness should be included as items in the protocols. Still others assert that only the outcome is relevant, and that the processes should not be monitored at all.

A CAUTIONARY REPORT

These questions have been recently considered by a committee of public health experts, convened under the auspices of the Institute of Medicine, the research unit of the National Academy of Sciences. The committee, headed by Dr. Robert J. Haggerty of the University of Rochester, cautions in a draft report against the rapid proliferation of protocols for monitoring the processes of medical care. If physicians are required to perform services of unproved effectiveness, the committee argues, then costs may go up without improving the quality of care. The committee warns that innovation may also be a victim:

"The tendency will be . . . to institutionalize a laundry list of processes for given disease conditions, deviation from which may result in the imposition of a sanction. If this happens, and the evidence suggests that it will, the flexibility and 'room' for innovation and experimentation will be sacrificed. An illustration is the treatment of (heart attacks). There is evidence to indicate that patients treated at home are no less likely to recover than those hospitalized. Yet current practice dictates lengthy hospitalization and, if enshrined as standard practice under the PSRO program, efficacious alternatives may be discouraged, if not proscribed."

The committee generally stresses a go-slow approach to the PSRO program, which they characterize as a major innovative social experiment: "While other nations have intervened to alter the structure and organization of their health care system, and still others have assumed the financing of care, the promulgation of national programs to assure the quality of care is unprecedented."

Many interested parties, including the Congress, health care professionals, and consumer groups, will be watching closely to see if medical societies can meet the challenge of the PSRO program. As Dr. Welch observed, the PSRO legislation "gives physicians a mandate to exert leadership; conceivably, this could be the last opportunity to do so."

It is my opinion that the PSRO program will, if it is permitted to continue, do serious damage to the level of American medical care, to the traditional confidentiality of the doctor-patient relationship, and to our efforts to limit an expanding, inefficient, and costly government bureaucracy. How anyone can believe that the creation of a huge new government bureaucracy will, in any sense, save us money is almost impossible to understand.

Our medical care is, and has been, the best in the world. Those who recently told us of a doctor shortage, and spent millions of taxpayers' dollars to increase medical school facilities, now tell us that they have overexpanded and that we will now have a surplus of doctors. Those of us who argued that there was, in fact, no doctor shortage at all, have been proven correct.

Those of us who now oppose the PSRO program do not want to be proven correct after the damage is done. We want effective action to be taken today, by those in the Congress, in the medical profession, and in the society at large, to see to it that a massive government bureaucracy with its coercive controls is not imposed upon our free, efficient, and high quality medical care system.

EMERGENCY ENERGY BILL

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. MILFORD. Mr. Speaker, when the emergency energy bill, H.R. 11450, reaches the floor, I shall offer an amendment concerning the transportation of school children and urging the use of school buses to augment city mass transit systems.

This amendment will:

First. Establish a minimum distance that any child may be transported to any school by bus;

Second. Require school districts to offer for lease their school buses to authorized area mass transit companies for use during periods when demand exceeds transit company facilities and when the school buses are not required by the school;

Third. Prohibit the transportation of children to any school other than the one nearest their home; except in the cases of special education classes which may be offered at only one school in a system, parochial schools, private schools, or schools for handicapped children.

Every citizen in this Nation is being asked to cut his energy use by 25 percent. There must be no exception for our schools.

Crosstown transportation of children at this time is absurd and energy expensive. Families must drive their own cars farther to participate in after-hours school activities. Schools must maintain longer operating hours and run more buses longer distances. This just does not make sense.

Probably the most important provision of this amendment consists of the use of school buses by mass transit companies. Many Members have not given thought to the fact that the energy crunch is going to place a severe strain on mass transit facilities. One of our greatest problems will be in getting people to and from work. The demand for new buses will far outstrip our ability to manufacture them.

Our school districts now have thousands of buses that sit idle much of the time. These can be pressed into service to fill the need immediately.

Finally, public cooperation will be essential if we are to survive this energy crisis without serious harm. People with school-age children will resent excess busing—particularly when they begin to have difficulty getting to their own jobs.

This amendment will provide a solution for the citizens. I ask for your support when the amendment comes up on the floor:

AMENDMENT TO H.R. 11450

Page 6, line 5, insert after the period the following:

Such plan or plans shall contain limitations on the transportation of students enrolled in schools operated by local or State educational agencies, as defined in sections 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, including prohibition of the transportation of any such student enrolled in elementary school for distances of less than one mile and of any such student enrolled in secondary school for distances of less than two miles, and prohibition of the transportation of any such student to a school other than the school nearest his place of residence (within the school district of the local or State educational agency) which provides the appropriate grade level and type of education for such student, taking into account school capacities. Such plan or plans shall also contain provisions for requiring local and State educational agencies which own school buses to enter into agreements with appropriate authorities in order to lease such school buses, during the hours in which they are not needed for the transportation of students, for purposes of augmenting mass transit service.

SOLAR HEAT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. LEHMAN. Mr. Speaker, an interesting article appeared in the Washington Post December 9 concerning solar heat.

According to the article, solar heating and cooling systems could be on the market in greater abundance within a year.

In the midst of heating oil shortages, this is certainly welcome news. And it is all the more reason why the time has come for legislation I have introduced to make the way easier for Americans to install solar heating and cooling devices in their homes, by raising dollar-for-dollar mortgage insurance provided under title II of the National Housing Act.

I commend the attention of my colleagues to the article below:

SOLAR HEAT

(By Sarah Booth Conroy)

A solar heating system for private homes may be on the market within six months, if the most optimistic experts are right. Solar cooling will be along later.

The early system would provide only part of the necessary heat, about 70 per cent in the Washington area, and a backup system would be necessary. But with fossil fuel shortages already a reality, solar heating at a marketable price obviously would represent a real breakthrough.

"The basic solar collector is really rather simple to make," said Fairchild Space and Electronics Co. marketing manager James J. Greeves. "It could be turned out in quantity by aluminum door manufacturers. The cost per unit would go down drastically as more are built."

In one type of simple solar collector, the sun's rays pass through glass to heat water that is running over metal blackened to absorb heat. The hot water goes to an insulated storage tank in the basement. From there, a blower may force heated air through ducts around the house. Other systems distribute the solar-heated water itself to radiators in other rooms.

Solar heat is quiet, non-polluting, easily maintained and cheap to operate. The basic principle involved has been known since early man first used glass to focus the sun's rays to start a fire.

In 212 B.C. Archimedes set fire to Marcellus' invading ships by using mirrors to concentrate the sun's rays. A solar steam engine ran on the banks of the Nile 60 years ago. And today, some 20-odd houses are already being heated wholly or partially by the sun in locations from Albuquerque, N. Mex., to Newark, Del., to District Heights, Md.

Dr. Werner von Braun, the famous rocket expert who sparked America's space exploration, said recently (in a message sent to the International Solar Energy Society in Paris) that solar energy will be to the '70s what space exploration was to the '60s. Von Braun is now a Fairchild vice president.

Fairchild is not yet building collectors, according to Greeves. "But we have done some design work and quite a bit of study. We're looking at costs now. The big question is, can they be built cheaply enough? As other forms of energy become more expensive, I think the answer is yes, solar systems can be competitive."

Greeves expects to see mass-produced solar systems on the market "within a year. Maybe not the big guys, but some smaller guys will put them on the market. I would be surprised if they don't. If I have anything to do with it, Fairchild will be among those marketing solar systems. But I'm still trying to sell the idea within the house."

Fairchild is already considering the possibility of working with Arthur Cotton Moore, a Georgetown architect, on a plan for a science building at Madeira School in McLean that would be heated by the sun.

"Our preliminary work shows the 9,000-square-foot building could pay for its solar heating system at least over a 20-year period," Greeves said. Madeira's interest stems, to some degree, from board member John Nassikas, who is also chairman of the Federal Power Commission.

Greeves said solar heating systems would not be commercially viable unless the cost could be brought down to $2 per square foot of building space.

Dr. James Hill, a mechanical engineer for the National Bureau of Standards Center for Building Technology, is one who believes a basic solar collector may be on the market in just over six months. He hopes so, because he plans to install a collector atop the NBS' test house in Gaithersburg, Md.

"I'd rather install a commercial system than build our own. But we could build one for about $2,400. It isn't that difficult," he said. Every so often Dr. Hill thinks about installing a collector to heat a hobby room behind his own garage.

Albert Weinstein, manager of Westinghouse Electric Corp.'s special energy systems, with offices at Friendship Airport, says experiments with solar heat have gone on for 30 years "and the concept is as old as the sun.

"But it hasn't been commercial because the cost wasn't competitive with gas or oil," Dr. Weinstein said. "The initial cost of solar systems has always been greater than that of conventional furnaces.

"But the lifecycle cost—the cost of running the system over its lifespan—is very much cheaper. Now that the priority is shifting to conservation of energy, we've recognized we must study the feasibility."

The National Science Foundation, according to Ray Fields, deputy director of the public technology projects office, has let three contracts for a "proof-of-concept experiment."

Phase Zero, as it's called, is being undertaken by Westinghouse in cooperation with Colorado State University at Boulder, (Colorado's Dr. George Lof built a solar house 15 years ago), by General Electric along with the University of Pennsylvania, and by TRW with the University of Arizona. Westinghouse also is consulting with the Carnegie Mellon Foundation in Pittsburgh, the National Association of Home Builders Research Foundation at Rockville and Burt-Hill (architectural) Associates in Butler, Pa.

Phase Zero is to be completed in May.

These three big firms are chary of predicting how far off commercially produced systems are, because their contract with NSF calls only for a feasibility study. After Phase Zero, the NSF's Phase One will select the best candidate (from the systems suggested by the three Phase Zero contractors) to be built. Phase Two will cover testing and evaluating the solar system.

Minneapolis Honeywell, it is understood from another source, is suggesting to NSF the possibility of building a portable solar collector, installed on a van, to test solar heat in various parts of the country. The scheme would also serve to introduce solar heat to the public.

The three organizations that already have NSF contracts are studying heating and cooling needs in various regions; reviewing existing solar systems "so we won't reinvent them," as Weinstein says; studying the impact on building codes and zoning; examining the attitudes of builders, architects, consumers and environmental groups; and identifying gaps in the technology.

Grumman Aero Space Corp.'s manager of energy systems, John Mockovciak (of Bethpage, N.Y.), believes his company will have a prototype solar collector, a working model, finished in six months.

"The problem is not technology, it's cost acceptability," he said. "The high initial cost means that some sort of incentive will be necessary. Utilities, for instance, have given bonuses to builders to encourage them to go all-electric or all gas. Bills before Congress would provide a tax write-off. That would certainly help.

"If such incentives were offered, our company could put one on the market in 18 months from the working model. That's two years from now."

Roger Schmidt, Honeywell's program manager of solar energy conversion, said his company (with the University of Minnesota, on an NSF contract) is studying the feasibility of building a trough concentrator solar collector.

"We know that solar heat turns apples red. Now we have to find the way to make it economically feasible," he said.

J. T. Kane, editor of PE (professional engineer) magazine, wrote in the October issue devoted largely to solar energy:

"The relative cheapness and availability of fossil fuels in the past made fooling around with solar energy a more or less exotic pastime. The altogether changed energy and environmental situation in the last quarter of the 20th century, however, has made solar energy and energy conservation in general ideas whose time has come and gone and come again, this time in the role of crucial links in the energy source chain.

"In an assessment of solar energy as a national energy resource, a NSF/NASA solar energy panel drew these conclusions . . .

"There are no technical barriers to wide application of solar energy to meet U.S. needs . . . If solar development programs are successful, building heating could reach public use within five years, building cooling in six to 10 years, synthetic fuels from organic materials in five to eight years, and electricity production in 15 years."

But optimists like Hill, Greeves and von Braun think those estimates are conservative.

And people with oil furnaces hope the optimists are right.

THE HOUSE JUDICIARY COMMITTEE AND THE SPECIAL PROSECUTOR

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. RAILSBACK. Mr. Speaker, the Judiciary Committee of the House of Representatives is about to begin an inquiry into whether grounds exist for the impeachment of the President of the United States. Because the Office of the Special Prosecutor has been conducting its own investigation into Watergate and related matters since May of this year, I considered it essential that the Judiciary Committee have made available to it by the Special Prosecutor such information as is necessary to conduct its impeachment investigation. I, therefore, proposed, and the Judiciary Committee has incorporated as part of legislation creating an independent Special Prosecutor, a provision which requires that the Special Prosecutor report at least monthly to the Judiciary Committee on any and all information relating to possible impeachable offenses committed by the President. Since the full House will consider Special Prosecutor legislation shortly, I thought a brief explanation of my proposal would be helpful: I might note that it is my intention to offer this provision as an amendment to any Special Prosecutor bill which is submitted as a substitute for the reported bill.

The purpose of the amendment is to provide by statute a channel of communication between the Special Prosecutor and the Judiciary Committee. This will allow the committee access to the evidence, whether damaging or exculpatory, developed by the staff of the Special Prosecutor during its months of inquiry and avoid duplication of investigative efforts. It will, most importantly, serve the public interest by expediting the Judiciary Committee's work so that the agonizing question of impeachment can be laid to rest one way or the other.

At my request the Library of Congress has prepared a memorandum on the constitutionality of and precedents for my proposal. I would like to share that report with my colleagues:

ARGUMENTS IN SUPPORT OF REQUIRING SPECIAL PROSECUTOR TO REPORT TO CONGRESS INFORMATION ON IMPEACHABLE OFFENSES BY THE PRESIDENT

This memorandum outlines arguments in support of the constitutionality of the following provision in H.R. 11401, as reported by the House Committee on the Judiciary:

"The Special Prosecutor shall report at least monthly to the chairman and ranking minority member of the House Judiciary Committee such information as may be pertinent to the question of whether impeachable offenses have been committed by the President of the United States. The Special Prosecutor, upon request by the House Judiciary Committee, shall provide to the chairman and ranking minority member of the Committee such information, documents, and other evidence as may be necessary to enable the committee to conduct an investigation or inquiry into whether grounds exist for impeachment of the President of the United States." [Sec. 9(b) of H.R. 11401]

It would seem that since the power to appoint Special Prosecutors is derived from Congressional legislation (e.g., 28 U.S.C. 515, 510) or, in the case of H.R. 11401 (appointment by a panel of judges), the Constitutional provision giving Congress the option to vest the appointment of inferior officers in the courts of law, that Congress has the power to define the duties and powers of the Special Prosecutor so appointed. Creation of offices and the definition of the responsibilities and powers of their occupants is a legislative function. To require the Special Prosecutor to report periodically to Congress on certain matters would seem to be a proper exercise of Congressional oversight of the offices and departments it creates.

Several statutes presently require executive agencies to submit reports to Congress or committees thereof. For instance, under 5 U.S.C. Sec. 3954, "[a]n Executive agency, on request of the Committee on Government Operations of the House of Representatives, or any seven members thereof, or on request of the Committee on Government Operations of the Senate, or any five members thereof, shall submit any information requested of it relating to any matter within the jurisdiction of the committee." Annual reports of the Executive Departments and executive officers must also be delivered to each House of Congress. 44 U.S.C. Secs. 1112–1115. Pursuant to 31 U.S.C. Sec. 1002, a law which dates back to the first Congress in 1789, the Secretary of the Treasury is required to "make report and give information to either branch of the legislature in person or in writing, as may be required, respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office." 26 U.S.C. Sec. 6103(d) permits inspection of income tax returns and data compiled by the Internal Revenue Service by certain committees of Congress. In a prosecutorial context, the old Selective Service Act required that the "Department of Justice shall proceed as expeditiously as possible with a prosecution under this section, or with an appeal, upon the request of the Director of Selective Service System or shall advise the House of Representatives and the Senate in writing the reasons for its failure to do so." 50 U.S.C. App. Sec. 462(c) (1970).

Congress' power to impose the reporting requirement on the Special Prosecutor in this instance would seem to be stronger than in situations where it is merely exercising its oversight function over Executive departments and officers. For here, Congress is operating in aid of an explicit power given it by the Constitution—the power of impeachment, Art. I, Section 2, Clause 5; Art. II, Section 4. The power of impeachment has been described as an "exception to the separation of powers" and cuts across traditional boundaries between the legislative and executive branches of government. See, Berger, *Impeachment* at 5. While normally objections could be raised to Congressional efforts to elicit information from the Justice Department or a federal prosecutor engaged in an ongoing civil or criminal investigation on the ground that prosecutorial discretion—which, it is argued, properly resides in the executive—would be jeopardized (but see, 50 U.S.C. App. Sec. 462(c) (1970) discussed above), an exception has been recognized when Congress is in need of the information in order to carry out one of its Constitutional functions. Thus, Federal Bureau of Investigation files, while often refused Congress in other contexts, are often provided when Congress is considering the confirmation of a Presidential appointee. As Attorney General Robert Jackson stated in a 1941 opinion:

"Of course, where the public interest has seemed to justify it, information as to particular situations has been supplied to Congressional Committees by me and by former Attorneys General. For example, I have taken the position that committees called upon to pass on the confirmation of persons recommended for appointment by the Attorney General would be afforded confidential access to any information that we have—because no candidate's name is submitted without his knowledge and the Department does not intend to submit the name of any person whose entire history will not stand light. *By way of further illustration, I may mention that pertinent information would be supplied in impeachment proceedings, usually instituted at the suggestion of the Department and for the good of the administration of justice.*" 40 Op. A.G. 45 (1941) (Emphasis added)

Committees of Congress have had contact with the Department of Justice and federal prosecutors in the past in determining whether impeachment proceedings were warranted. In 1931, while considering the impeachment of federal Judge Anderson of Tennessee, a House subcommittee had the advantages of a report by the Department of Justice which had done an extensive investigation of the handling of bankruptcy proceedings in the Judge's court in making its own investigation. *Cannon's Precedents of the House of Representatives*, vol. 6, Sec. 542. In 1796, a petition outlining charges against a territorial judge was referred by the Committee to the Attorney General for his opinion. The Attorney General responded with the opinion that indictment and trial would be preferable to impeachment proceedings. The Attorney General's opinion was referred to Committee, which eventually recommended that the case should be taken before the court of the Territory where the judge would have an opportunity to be heard. *Hind's Precedents of the House of Representatives*, vol. 3, sec. 2486.

Acting under its Article I power to discipline its own members, the House, in 1924, requested the Attorney General to provide it with the names of members who were being investigated by a federal grand jury and the evidence against them which had been submitted to the grand jury. The Attorney General refused, but on the ground that having two investigations proceeding at the same time would defeat the ends of justice. The Attorney General was willing to transmit the evidence it had to the Congress if its investigation leading to a consideration of the expulsion of the members involved was to be the sole investigation. The text of Attorney General Daughterty's communication to the House of Representatives follows:

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: Resolution No. 211 of the House of Representatives of the United States passed March 6, 1924, directing me to transmit the names of the two Members of Congress mentioned in the report of the grand jury of the District Court of the United States for the Northern District of Illinois, eastern division, and the nature of the charges made against such Members of Congress can not be complied with by me for the reasons—

First. I am unwilling to make public the name of any man against whom any criminal charge has been made until the evidence in my possession convinces me that there is reasonable ground to believe that the person is guilty as charged and until proper legal steps shall have been taken to protect the public interests.

Second. To transmit to you the nature of the charges made against any persons under investigation in the Department of Justice is incompatible with the public interest and will tend to defeat the ends of justice.

If, however, the House of Representatives of the United States, acting within its constitutional power (under Article I) to punish its Members for disorderly behavior or to expel such Member, requests that all the evidence now in the possession of anyone connected with the Department of Justice shall be turned over to the House of Representatives to enable it to determine what action should be taken by the House in reference to the conduct of any of its Members, I will direct all such evidence, statements, and information obtainable to be immediately turned over to you or to such committee as may be designated by the House and will await the complete investigation of the facts of the House before continuing the investigation now being made by the Department of Justice. To have two tribunals attempting to act upon the same facts and to hear the same witnesses at the same time will result in confusion and embarrassment and will defeat the ends of justice.

Until I am requested by a resolution of the House of Representatives to submit these matters to the jurisdiction of the House the investigation now being conducted of the matters referred to in said resolution will continue in accordance with the usual rules of the departmnt.

Respectfully,

H. M. DAUGHERTY,
Attorney General.

Some members of the House favored further action to force the Attorney General to give it the information, but a resolution was eventually passed which requested the Attorney General to "proceed at once and give preference and precedence to this investigation and report the results to this House." *Cannon's Precedents of the House of Representatives*, vol. 6, Sec. 402.

Thus, it can be seen that Congress, in the exercise of a function authorized by the Constitution, whether it be the power to discipline its own members, to confirm appointments, or to impeach officers, has successfully procured information from the prosecutorial arm of the Executive branch. The Justice Department has also seen it as its duty to provide such information to Congress as may be relevant to the Congressional powers of discipline, confirmation and impeachment. Most recently, Assistant Attorney General Henry Peterson, in testimony before the Senate Select Committee on Presidential Campaign Activities, stated that had he come across evidence of impeachable offenses on the part of the President while investigating the Watergate affair he would have transmitted such evidence to the House of Representatives. The provision in H.R. 11401 requiring the Special Prosecutor to report evidence of impeachable offenses to the House Judiciary Committee would seem to be within the powers of Congress as an aid to its Constitutional function of impeachment. The solicitation of such information from prosecutors would not only seem to be constitutionally sound but also in accord with past practice.

IMPEACHMENT

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. DON H. CLAUSEN. Mr. Speaker, in recent weeks I have received thousands of letters, telegrams, phone calls, postcards, and names on petitions calling for the impeachment or nonimpeachment of President Richard M. Nixon. In addition, I have received hundreds of inquiries asking—"What is impeachment all about?" From this tremendous outpouring it appears obvious that many people do not fully understand what the impeachment process involves and, for this reason, I would like to devote this Washington report to this subject and, hopefully, provide a better and more balanced understanding of this very serious question.

Impeachment is the process by which our Constitution empowers the Congress to discipline high Government officials by removing them from office. Section 4, article II of the Constitution states specifically:

> The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

Note the phrase "on impeachment for, and conviction of." The point is, impeachment in and of itself is but the process or "vehicle" which ultimately leads to conviction or dropping the matter completely.

An impeachment proceeding is basically a two-part process beginning in the House of Representatives. The House performs the "functions of a grand jury in a criminal proceeding" by examining all the available facts and evidence to determine whether or not an impeachable offense has been committed. In our current situation, the House Judiciary Committee has already embarked on this task. Thus, the impeachment process has begun. Following their investigation, the Judiciary Committee will report its findings along with any impeachable evidence to the full House of Representatives. If a simple majority of the Members of the House Judiciary Committee first, and the full House second, concur in the findings and recommendations of the committee and so vote, the matter is then referred to the U.S. Senate. If the members of the committee or the House do not concur and so vote, impeachment proceedings are concluded at that point.

As impeachment proceedings are advanced to the U.S. Senate, they sit as a court of law, conduct the trial and ascertain whether or not the available evidence supports conviction. Here, however, a two-thirds vote by the entire Senate is required for conviction. Failing the required two-thirds, the individual charged has been impeached—but not convicted. This is precisely what happened to President Andrew Johnson, the only American President to be impeached. While he was impeached, he was not convicted, and therefore not removed from office.

Another question I am receiving is—"What is an impeachable offense?" Impeachment is not a criminal proceeding per se and criminal acts are not the sole or even the most important grounds for impeachment. For many years it was assumed that only indictable offenses were impeachable; however, the House has since ruled otherwise. In reviewing the nature of impeachable offenses leveled at various Federal judges and other Government officials in the past I find such charges as intoxication, nonresidence, improper personal habits, judicial misconduct, and in the case of President Andrew Johnson—"intemperate, inflammatory, and scandalous harangues in public addresses." Therefore, I would conclude that an impeachable offense is any misconduct or misbehavior which demonstrates unfitness to hold high public office whether moral, criminal, intellectual, or even physical in nature.

Considering the consequences of impeachment, many people believe the President should resign to spare the Nation the turmoil, upheaval, and uncertainties that might result. As a Member of Congress I have weighed these alternatives as fairly and constructively as possible. As one who has known the President for many years, this has been a difficult and agonizing experience for me personally as it has for millions of Americans whether they ever supported Richard Nixon or not. Regardless, throughout Watergate and its aftermath, I have consistently tried to place the welfare of the Nation above personalities and above partisan political considerations.

I was one of the first Members of Congress to publicly call for a complete, impartial investigation of Watergate and "let the chips fall where they may." I have gone on record supporting the creation and appointment of an independent Special Prosecutor. And, earlier this month, I voted for the funding authorization of $1 million to permit the House Judiciary Committee to continue and complete its impeachment investigation. Given this, however, I do not believe the President should resign as things now stand. History and the American people are entitled to a full accounting and a complete disclosure of the President's conduct as our Chief Executive. The established legal and constitutional process is, in my judgment, the only means of attaining that goal—not resignation. "Innocent until proven guilty beyond all reasonable doubt" is still the accepted principle in the American judicial process.

For more than a year now, President Richard Nixon has been subjected to the most massive and intensive personal investigation ever conducted on an American President involving no less than six Federal investigating bodies and something in the neighborhood of $12 million. But where and how will it all end?

Many people in this country are growing weary of this "crisis-a-day" existence in which charges continue to be raised, but seemingly never get resolved. Now we learn the Senate Watergate Committee has decided to postpone further hearings until mid-January in order to "expedite their investigation."

As one leading national newspaper put it recently, the President "is drowning in a sea of unproved charges. The moment he starts to address one of them, his answers are swept away by another" with the result that part of the public is convinced "the President is Satan himself," while another part is convinced he is the victim "of a campaign of endless and baseless innuendo" or a crusade to "get Nixon." There is also another segment of our society that is literally hanging in the balance—not wanting to believe their President is a "crook," but not convinced he is not.

As distasteful and unthinkable as impeachment may seem now in the eyes of some, we may well be reaching the point where it offers the only acceptable means of resolving this dilemma once and for all. Many in the Congress, supporters and nonsupporters of the President alike, are coming to the conclusion that the best hope for a clarifying position by the Congress can only come from a complete and clearcut impeachment investigation and conclusion.

While, to a great extent, impeachment has become a rhetorical slogan for expressing frustration and discontent, in judging whether or not Richard Nixon should be impeached, the public as well as the House of Representatives must now embark on some serious "soul-searching." I, for one, agree with the sentiments recently expressed by Senator AIKEN of Vermont. The time has arrived to either impeach President Nixon or "get off his back"—either indict him by grand jury or admit the evidence does not exist or support an indictment. The President, not unlike all American citizens, is clearly entitled to a bill of particulars against which he can either defend himself or be judged indictable, and which will hopefully define the issues and resolve them.

Herein, then, lies the challenge, the obligation and the constitutional duty of every sitting Member of Congress. The issue before us now is not whether to impeach, or not to impeach—that process is already underway. The issue is—do we really understand what is going on and are we, the people, and our Nation prepared for the consequences?

PROCLAMATION OF THE CZECHOSLOVAK NATIONAL COUNCIL OF AMERICA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. DERWINSKI. Mr. Speaker, the Czechoslovak National Council of America, a nonprofit organization devoted to promote cooperation of all peoples for the preservation of Democratic freedom, saw fit to issue a very timely, concise, yet profound proclamation. It certainly speaks for itself, I believe:

PROCLAMATION OF THE CZECHOSLOVAK NATIONAL COUNCIL OF AMERICA

At a time when the United States are being maligned abroad and our free institutions are being undermined at home, the Board of the Czechoslovak National Council of America, speaking on behalf of numerous American citizens of Czech and Slovak descent, solemnly proclaims: We believe that America represents the best hope for freedom, justice and democracy throughout the world. We declare our intention to do our utmost to strengthen the healthy forces in our society and to help America in bringing peace, justice and freedom to all people deprived today of these values, which alone make life worth living.

SENATE—*Tuesday, December 11, 1973*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

Dr. C. Leslie Glenn, canon and subdean, the Washington Cathedral, Mount St. Alban, Washington D.C., offered the following prayer:

O Thou, source of all our blessings, in our daily lives we have many things to be thankful for, both small and great. Today we give thanks for the return of professional baseball to our city. We pray it may increase sportsmanship among us, and physical fitness, and that the recreation afforded by the games may be joyous and satisfying for young and old.

And we give thanks for the ordinary round of daily concerns and duties. Help us to perform them with laughter and kind faces. Let cheerfulness abound with industry. Give us to go blithely on our business all this day and bring us to our resting beds weary and content and undishonored, and grant us in the end the gift of sleep. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, December 10, 1973, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SUDDEN INFANT DEATH SYNDROME ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 583, S. 1745.

The PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 1745, to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Sudden Infant Death Syndrome Act of 1973".

STATEMENT OF PURPOSE

Sec. 2. It is the purpose of this Act to provide financial assistance to identify the causes and preventive measures needed to eliminate sudden infant death syndrome, to provide information and counseling services to families affected by sudden infant death syndrome and to personnel engaged in research for the prevention of sudden infant deaths.

AUTHORIZATION OF APPROPRIATIONS

Sec. 3. Section 441 of the Public Health Service Act (42 U.S.C. 201) is amended by inserting the subsection designation "(a)" immediately before the first sentence and by adding at the end thereof the following new subsection:

"(b) (1) The Secretary, through the National Institute of Child Health and Human Development, shall carry out research programs specifically relating to sudden infant death syndrome.

"(2) There are authorized to be appropriated to carry out the purposes of this subsection $7,000,000 for the fiscal year ending June 30, 1974, $8,000,000 for the fiscal year ending June 30, 1975, and $9,000,000 for the fiscal year ending June 30, 1976.".

AMENDMENT TO TITLE XI OF THE PUBLIC HEALTH SERVICE ACT

Sec. 4. (a) The title of title XI is amended by adding thereto the words "AND PERINATAL BIOLOGY AND INFANT MORTALITY".

(b) Title XI of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART C—SUDDEN INFANT DEATH SYNDROME

"SUDDEN INFANT DEATH SYNDROME COUNSELING, INFORMATION, EDUCATIONAL, AND STATISTICAL PROGRAMS

"Sec. 1121. (a) (1) The Secretary through the Assistant Secretary for Health and Scientific Affairs may make grants to public and nonprofit private entities, for the establishment of regional centers for sudden infant death syndrome counseling, information, educational, and statistical programs.

"(2) The Secretary through the Assistant Secretary for Health and Scientific Affairs shall carry out a program to develop public information and professional educational materials relating to sudden infant death syndrome and to disseminate such information and materials to persons providing health care, public safety officials, and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending June 30, 1974, $4,000,000 for the fiscal year ending June 30, 1975, and $5,000,000 for the fiscal year ending June 30, 1976.

"APPLICATION; ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

"SEC. 1122. A grant under this part may be made under application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

"(1) provide that the program and activities for which assistance under this part is sought will be administered by or under supervision of the applicant;

"(2) provide for appropriate community representation (with special consideration given to groups previously involved with sudden infant death syndrome) and the development and operation of any program funded by a grant under this part;

"(3) set forth such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(4) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"REPORTS

"SEC. 1123. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress within one year after the date of enactment of this Act and annually thereafter a comprehensive report on the administration of this Act with regard to sudden infant death syndrome.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary.".

HEALTH SURVEY AND STUDIES

SEC. 5. Section 305(b) of the Public Health Service Act is amended by inserting immediately before the period at the end thereof the following: "specifically including statistics relating to sudden infant death syndrome".

Mr. KENNEDY. Mr. President, I rise in strong support of S. 1745 which is designed to provide for a major increase in programs to combat SIDS. This bill basically provides for two main efforts intended to improve our understanding of what causes SIDS and our ability to deal with the tragedy when it occurs.

Approximately 10,000 babies die each year from SIDS. This amounts to one death for each 350 live births.

A joint hearing was conducted by the Health Subcommittee, which I chair, and the Subcommittee on Children and Youth, which is chaired by my close friend and colleague from Minnesota, FRITZ MONDALE, in September. At that hearing, Senator MONDALE and I heard every witness who testified, except the administration, strongly support the necessity for legislation in this area. The administration contended that legislation was unnecessary.

After having carefully reviewed the record, I cannot agree with the administration's conclusions. In June of 1972, more than a year and a half ago, the Senate unanimously adopted Senate Joint Resolution 206. That resolution called upon HEW to increase in a major way its effort against SIDS. Yet the administration's testimony before our subcommittees makes it abundantly clear that it has chosen to disregard the clear intent of the Senate. For example, the administration's testimony revealed that for fiscal year 1973 there were only 11 grants and contracts primarily in support of research into SIDS. And the testimony also reveals that the Department of Health, Education, and Welfare has not mounted an effective program in respect to counseling, information, public education, and statistical programs regarding SIDS. In my judgment the administration's testimony, without intending to do so, makes an excellent case for the necessity for legislation in this area.

Mr. President, I would now like to briefly describe the major feature of S. 1745. The bill includes a 3-year research program to be carried out by the National Institute of Child Health and Human Development of the NIH. The bill authorizes a total of $24 million for the research program. The bill also authorizes a 3-year program to be carried out by the Assistant Secretary for Health in respect to information, public education, and counseling programs regarding SIDS. The bill authorizes a total of $12 million for these programs. Finally, the bill requires the Department to collect statistics on SIDS as a part of the Federal-State-local data collection system which is now being created.

Lastly, Mr. President, I want to draw attention to an effort which is underway in Massachusetts to combat SIDS. Legislation has been filed by the Special Commission on Child Care which would encourage parents to have autopsies performed in SIDS cases by having the State pay for such autopsies. In addition, that legislation calls for the development of educational programs and materials on SIDS at the University of Massachusetts Medical School for the benefit of medical examiners, police, and other emergency personnel.

Mr. President, as chairman of the Senate Health Subcommittee, I urge all of my colleagues in the Senate to support this legislation.

Mr. SCHWEIKER. Mr. President, the greatest single killer of infants from 1 month to 1 year of age—approximately 10,000 babies each year—is the result of the Sudden Infant Death Syndrome—SIDS.

The nature and the tragedy of the sudden infant death syndrome, often called "crib death," has been with us since biblical times. An apparently healthy, thriving baby is often placed in his or her crib for a nap or for the night, and several hours later is found dead. Taken from his parents by a mysterious ailment, the cause of which we know practically nothing about and for which we have no preventive measure.

The magnitude of the parents' shock and grief at the loss of their beloved child is compounded by feelings of guilt and self-recrimination, but also further intensified, because of public and professional ignorance about SIDS. Grieving parents who have lost their child have recounted to the Health Subcommittee—of which I am ranking minority member—during hearings on the pending bill—of which I am a cosponsor—additional horrible experiences—jailed before the cause of death of their child was diagnosed as SIDS.

I believe we must establish an aggressive national committment on two fronts: First, to provide adequate funding for expanded biomedical research so we can increase understanding of the underlying mechanism of the sudden infant death syndrome, discover its probable cause(s), identify infants at risks of becoming its victims, and explore preventive approaches. Second, to provide adequate funding for increased public and professional informational and educational programs.

To achieve this goal—stimulate scientists to divert their investigative efforts toward finding the solution to this complex problem, and to support counseling information, educational and statistical programs—the bill provides:

First. Twenty-four million dollars is authorized over 3 years to the National Institute of Child Health and Human Development to carry out research programs specifically relating to sudden infant death syndrome; and

Second. Twelve million dollars is authorized over 3 years to develop information and education programs and materials for health professionals, public safety officials, and the public.

Medical science has a long way to go in achieving full understanding of SIDS and ignorance can no longer be an excuse for bereaved parents being held to blame. I urge my colleagues to support this bill.

Mr. MONDALE. Mr. President, I am very pleased that today the Senate has voted to approve S. 1745, the "Sudden Infant Death Syndrome Act of 1973." I would like to express my particular thanks to Senator KENNEDY, chairman of the Health Subcommittee, for his active role in shaping this legislation and moving it to the floor.

In terms of the need, this legislation is long overdue. Nearly 2 years ago, in January of 1972, my Subcommittee on Children and Youth held the first congressional hearing on crib death or Sudden Infant Death Syndrome—SIDS. We were appalled and shocked at the stories of parents who lost babies to this disease and yet could secure no comfort—either from medical research or from social agencies—in their grief.

At that hearing, Frank Hennigan, a business executive from Chicago, described the insensitivity of hospital personnel who dealt with him and his wife after the report of their child's sudden, unexpected death. In Mr. Hennigan's words:

> At the hospital, it was immediately obvious to those unemotional, unexcitable, calm pro-

fessional medical authorities that the child was dead, and therefore was a more interesting subject to be discussed. "Had the child fallen?" "Were there symptoms of illness?" Et cetera. The doctor who pronounced Jimmy dead on arrival stated to me that, "He looks like he's been squeezed. How about that, Mr. Hennigan?"

At the 1972 hearing, representatives of the Department of Health, Education, and Welfare submitted information showing that an estimated 10,000 infants die each year in this country from SIDS; and that SIDS is the leading cause of death in infants between the ages of 1 month and 1 year. Yet in fiscal year 1971, the National Institute of Child Health and Human Development was supporting only one grant—in the amount of $46,258—directed specifically to discovering the cause of SIDS.

Following the subcommittee's 1972 hearing, I and 15 of my Senate colleagues introduced Senate Joint Resolution 206. We introduced a resolution rather than new authorizing legislation because HEW representatives assured us of their deep concern for the problem and of their intentions to move ahead on activities related to SIDS. So the resolution we introduced spelled out several areas in which we believed immediate action was necessary. I request unanimous consent that the text of Senate Joint Resolution 206 be placed in the Record at this time.

There being no objection, the text of Senate Joint Resolution 206 ordered to be printed in the Record, as follows:

S.J. Res. 206

Joint resolution relating to sudden death syndrome

Whereas sudden infant death syndrome kills more infants between the age of one month and one year than any other disease; and

Whereas the cause and prevention of sudden infant death syndrome are unknown; and

Whereas there is a lack of adequate knowledge about the disease and its effects among the public and professionals who come into contact with it: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this joint resolution to assure that the maximum resources and effort be concentrated on medical research into sudden infant death syndrome and on the extension of services to families who lose children to the disease.

Sec. 2. The National Institute of Child Health and Human Development, of the Department of Health, Education, and Welfare, is hereby directed to designate the search for a cause and prevention of sudden infant death syndrome as one of the top priorities in intramural research efforts and in the awarding of research and research training grants and fellowships; and to encourage researchers to submit proposals for investigations of sudden infant death syndrome.

Sec. 3. The Secretary of Health, Education, and Welfare is directed to develop, publish, and distribute literature to be used in educating and counseling coroners, medical examiners, nurses, social workers, and similar personnel and parents, future parents, and families whose children die, to the nature of sudden infant death syndrome and to the needs of families affected by it.

Sec. 4. The Secretary of Health, Education, and Welfare is further directed to work toward the institution of statistical reporting procedures that will provide a reliable index to the incidence and distribution of sudden infant death syndrome cases throughout the Nation; to work torward the availability of autopsies of children who apparantly die of sudden infant syndrome and for prompt release of the results to their parents; and to add sudden infant death syndrome to the International Classification of Disease.

Mr. MONDALE. The resolution was approved by the Senate on June 7, 1972, by a vote of 72 to 0. It was not acted on by the House.

After the 1972 hearing and after Senate approval of the resolution, public interest and concern about SIDS continued to build. The National Institute for Child Health and Human Development awarded a contract for the study of how SIDS cases are handled by the authorities, and the study was completed earlier this year. I and my colleagues continued to receive a steady stream of mail from parents who had lost children. They expressed concern about a number of aspects of SIDS: the lack of counseling and information available to parents about the disease; the insensitivity and lack of knowledge of hospital, law enforcement, and other personnel who deal with families who lose children; and the feeling that we simply do not have a national commitment to finding the cause and cure for this terrible disease.

And so on May 8 of this year I introduced S. 1745, "to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes," as a vehicle for discussion about the type of Federal legislation required.

On September 20 the Subcommittees on Children and Youth and Health held a joint hearing on S. 1745. We heard testimony from HEW, from parents, from national organizations that work with parents who have lost children, and from medical examiners.

Mr. and Mrs. John Smiley of California described their ordeal, in which they were charged with manslaughter of their child, who was later found to have died of SIDS. The Smileys were actually jailed for 3 days before the inaccuracy of the diagnosis was established.

It became clear that what happened to the Smileys was not unique. Dr. Abraham Bergman of Children's Orthopedic Hospital and Medical Center in Seattle, who is president of the National Foundation for Sudden Infant Death, Inc. told the subcommittee:

> We know of six cases in the past year where people have been thrown in jail.

Representatives of HEW testified that support for medical research "related to SIDS" in 1973 was $4.1 million; and that $3.5 million—a decrease—was projected for 1974. Of the research funds allotted in 1973, however, NICHD could only identify some $603,575 as dealing directly with SIDS.

We cannot wait any longer for HEW to get interested enough in SIDS to develop an adequate, focused effort to provide services to families and to provide sufficient research support. We have spent 2 years educating the public and the Congress about this disease and about its traumatic consequences for thousands of American families. It is time to see that something is done about it.

The Labor and Public Welfare Committee has reported a bill which I believe would provide the Federal focus and support so desperately needed. Two major types of initiatives are authorized—family counseling and related services and research.

Counseling and related activities would be carried out through regional centers authorized to conduct "counseling, information, educational and statistical programs" on SIDS. These centers would be administered by the Secretary through the Assistant Secretary for Health and Scientific Affairs.

Research activities would be carried out by the National Institute of Child Health and Human Development.

S. 1745 is a 3-year bill. The authorizations for research are $7 million, $8 million, and $9 million respectively for the years 1974 through 1976. Authorizations for regional centers are $3 million, $4 million, and $5 million for 1974 through 1976 respectively.

I request unanimous consent that an excerpt from the committee report and the bill as reported by committee be printed in the Record.

There being no objection, the extract and bill were ordered to be printed in the Record, as follows:

I. PURPOSE

The purpose of S. 1745 is to provide financial assistance to identify the causes and preventive measures needed to eliminate Sudden Infant Death Syndrome and to provide information and counseling services to families affected by Sudden Infant Death Syndrome and to personnel who come in contact with the victims or their families.

II. LEGISLATIVE HISTORY

On May 8, 1973, S. 1745 was introduced in the Senate.

The Subcommittees on Children and Youth and on Health of the Committee held a joint hearing on S. 1745 on September 20, 1973. At that hearing testimony was offered by representatives of the Department of Health, Education, and Welfare; representatives of organizations that serve parents who lose children to SIDS; parents who have lost children to SIDS; and medical examiners and other experts on dealing with SIDS cases. With the exception of the administration, all of the witnesses testified to the need for legislation respecting Sudden Infant Death Syndrome.

On October 10, 1973, the bill was favorably ordered reported with amendments by the Committee.

III. NEED FOR LEGISLATION

At least 10,000 babies die of SIDS each year in this country. The disease is the largest killer of infants between the age of one month and 12 months. No cause and no prevention are known for SIDS.

Because of the lack of public and professional knowledge about the disease, families who lose children suffer acute guilt feelings and other problems of readjustment to normal life.

Thus the need for this legislation falls into three major categories: research, services to families and statistics.

1. *Scientific research.*—At the committee's hearing, Dr. John S. Zapp, Deputy Assistant Secretary for Legislation at HEW, testified:

"The National Institute of Child Health and Human Development is now supporting 72 research projects aimed at understanding the Sudden Infant Death Syndrome * * * Research in related areas is critical to the development and clarification of our knowledge of S.I.D.S. and represents the best investment of our research funds at this time. Therefore, 11 research grants and contracts are specifically concerned with SIDS, and 61 grants and contracts are for studies related to the syndrome. FY 1973 support approximates $4.1 million compared with $3.5 million in fiscal year 1972.

"In fiscal year 1973, 21 research grant applications directly related to SIDS were reviewed by the National Advisory Child Health and Human Development Council. Seven were recommended for approval; two have been funded. Funding of three is anticipated this month; two will not be funded because of low scientific merit."

At the hearing Dr. Russell Fisher, Chief Medical Examiner of the State of Maryland, stated that research efforts "might be made more responsive to the Sudden Infant Death Syndrome problem by earmarking funds for this special problem."

Saul Goldberg, president of the International Guild for Infant Survival, submitted to the Subcommittee a statement he presented in August to the House Subcommittee on Public Health and Environment. In this paper he said:

"This lack of substantial funding is further explained by government officials by a lack of "meritorious research ideas" or "qualified researchers." Yet there are several potential researchers ready and willing to investigate SIDS in new and promising directions * * *"

The Committee believes it is clear that no permanent solution to the problem of SIDS can be found without a focused, concentrated, continuing medical research effort. Until the cause and cure for this disease are found, thousands of families will continue to suffer the tragedy of suddenly losing an apparently thriving baby.

2. *Information and counseling services.*—S.J. Res. 206, which was passed 72–0 by the Senate June 7, 1972 contains the following passage:

"The Secretary of Health, Education and Welfare is directed to develop, publish and distribute literature to be used in educating and counseling coroners, medical examiners, nurses, social workers and similar personnel and parents, future parents and families whose children die, to the nature of sudden infant death syndrome and to the needs of families affected by it."

The Committee believes that this is an accurate description of the types of programs required to respond humanely to families who lose children to SIDS. Information submitted to the Committee by HEW shows that $75,000—an increase of only about $8,000 over the previous year—would be spent on professional and public information and education activities relating to SIDS in 1974. Dr. Zapp testified that no funds have been spent on directly training medical examiners and other personnel who come into contact with SIDS cases.

The Committee believes that it is essential to provide training to these personnel in order to minimize the grief suffered by families who lose children and to maximize the results of research efforts.

At the hearing, Mr. and Mrs. John Smiley of California described an ordeal in which they were charged with manslaughter of their infant daughter who was later found to have died of SIDS. They were jailed for two days and charges against them were eventually withdrawn after they received the assistance of a lawyer from a national organization that works with families whose children die of SIDS. If law enforcement and medical personnel received adequate training in the diagnosis of SIDS; and in how to deal with parents whose child had recently died, experiences like that of the Smileys would be less likely to occur.

Mrs. Smiley testified that she had not known about SIDS until after her baby died. The Committee suggests that substantial feelings of guilt and misunderstanding could be alleviated if prospective parents were provided with information about SIDS.

Dr. Abraham Bergman, the recipient of a grant from the National Institute of Child Health and Human Development of NIH to study the handling of SIDS cases and president of the National Foundation for Sudden Infant Death, cited examples of several cases in which parents were jailed before the cause of their child's death was diagnosed as SIDS.

"I do not want to give the Committee the impression that it is common practice to throw parents into jail when their babies die of crib death. I am aware of six such cases in the past year. There are probably more of which I am not aware, but even so it is a small percentage of the approximate eight thousand families who lost children to SIDS last year. This tip of the iceberg, however, is indicative of the ignorance about SIDS in the United States. The sad part is it is all so unnecessary. By the expenditure of a small amount of funds * * * and just the semblance of some action on the part of HEW, the human aspects of SIDS which cause an enormous toll of mental illness could be solved within two years."

Dr. Bergman also outlined the need for regional centers to deal with SIDS:

"A community wide system must be established for dealing with all cases of sudden unexpected infant death. It is not practical to expect every community to have the resources necessary to provide proper services. By proper services, I mean (a) performance of autopsies on all cases of sudden unexpected infant death, (b) notification of the family by telephone or letter within 24 hours of the result of the autopsy, (c) the use of SIDS on the death certificate, (d) information and counseling about SIDS by a knowledgeable health professional. Small communities which lack trained pathologists cannot be expected to provide adequate service."

S. 1745 provides that "The Secretary, through the Assistant Secretary for Health and Scientific Affairs may make grants to public and nonprofit private entities for the establishment of regional centers for sudden infant death syndrome counseling, information, educational and statistical programs."

In most cases, the Committee suggests, research into SIDS could fruitfully be coordinated through these regional centers—one in each of the 10 regions currently designated by HEW. It is hoped that if all research within a given region is not specifically conducted by the regional center, that efforts will be made to establish the center as a focal point for information and services related to SIDS within that region.

3. *Statistics.*—The "statistical programs" referred to in Sec. 1121(a)(1) of the Committee bill would be expected to consist of compilation of the most comprehensive, reliable statistics possible concerning the incidence of SIDS within the region.

The Committee's bill also provides that the National Center for Health Statistics of the Department of HEW make a special effort to assure the comparability of local and state statistics relating to Sudden Infant Death Syndrome.

In that respect Dr. Bergman testified that the survey of the management of SIDS showed the need for development of standardized terminology and statistics on the disease.

"An incredible variety of terms were found on death certificates to describe presumed crib death. Only half of the 421 parents interviewed were told their baby died of SIDS or crib death. Eighty-three percent said that the verbal explanation provided at the time of death varied with the death certificate diagnosis, understandably leading to much confusion and bitterness."

IV. CURRENT RESEARCH AND STATISTICAL PROGRAMS

The National Institute of Child Health and Human Development has principal responsibility for federally-sponsored research on sudden infant death syndrome. Since its establishment in 1963, the NICHD has been increasingly concerned with the syndrome and has directed its efforts to enlarge our understanding of it. But progress had been slowed by two critical factors: (1) Few applications dealing with SIDS had been submitted to the NICHD for consideration, and (2) the lack of a code for the syndrome in the International Classification of Diseases made accurate mortality rates difficult to collect.

During the past two years, the NICHD has intensified its program of research to increase understanding of underlying mechanisms of the syndrome, to discover its probable cause(s), to identify infants at risk of becoming its victims, to explore preventive approaches, to inform the scientific community and public about the sudden infant death syndrome, and to stimulate scientists to direct their investigative efforts toward finding the solution to this complex problem. The Institute's program also includes plans (1) to learn more about the current status of management of S.I.D.S. cases in the United States; (2) to develop guidelines for use by coroners, medical examiners, and pathologists in reporting these cases; (3) to support interdisciplinary educational and research conferences and workshops concerned with the sudden infant death syndrome; and (4) to prepare and distribute scientific publications and public information documents.

In FY 1973, the NICHD supported 72 grants and contracts related to S.I.D.S. with a total budget of $4.1 million. In fiscal year 1974, it is projected that approximately $3.5 million will be obligated for S.I.D.S. research. This program has developed an investigation into the etiology of the syndrome and the psychological consequences of the event on parents and siblings. Seven priority areas are highlighted. These include:

1. Abnormal sleep patterns related to breathing and circulation and other functions essential to life.

2. Respiratory, cardiac, and circulatory responses to such stimuli as excess carbon dioxide in blood or oxygen deficiency, which may make some babies likely to die of S.I.D.S.

3. The body's system for temperature regulation and its response to environmental conditions existing at the time of death from S.I.D.S.

4. The baby's developing immune system and how defects in development may predispose an infant to S.I.D.S.

5. The distribution of S.I.D.S within the population and characteristics surrounding its occurrence in order to identify infants at high risk and to try to determine causes.

6. Studies of the structural and functional changes in tissues and organs which may be involved in S.I.D.S.

7. The psychological stresses experienced by the family and the community in which S.I.D.S. occurs.

These areas of emphasis grew out of a research planning workshop sponsored by the NICHD in August 1971. The workshop brought together investigators with scientific expertise in areas which could have a direct or contributing influence upon the cause of death in S.I.D.S. This meeting served to stimulate research in S.I.D.S. because many of those who met had not previously been directly involved in research on S.I.D.S., nor had they considered the relevance of their scientific work to S.I.D.S.

To further enhance this expanded program of research, the institute, between May and

September 1972, sponsored five workshops relevant to the seven priority areas. The purpose of these workshops was to consider the problem at hand, to identify new approaches to the study of S.I.D.S., and to highlight specific research questions in need of in-depth study. A summary report for each workshop was prepared for publication. A seventh workshop, "Voids in Pathology in the Sudden Infant Death Syndrome," was held in the Spring of 1973. As a result of these conferences, a number of specific researchable questions were raised, and areas in need of further study and clarification were identified.

Immunologic Factors and Infectious Diseases Related to S.I.D.S.—A recent NICHD-supported study has suggested that viruses may act as "triggering agents" in some cases of S.I.D.S. A review of previously published research in the S.I.D.S. area has revealed a mild elevation of the antibody Immunoglobulin M (IgM) in association with the syndrome. This antibody is often found associated with recovery from a viral infection. Although this research suggests association of viral infection with S.I.D.S., no specific agent has been identified with the syndrome.

Studies are required to learn if S.I.D.S. might result from an inappropriate or over-violent response of the baby's defense system to a challenge by a virus or other stimuli. Endotoxins—poisons released from certain bacteria—are known to cause illnesses. However, little is known about the relationship between maternal endotoxin effects during pregnancy and infant reactions. Research may clarify whether S.I.D.S. may be the result of an allergy to endotoxin acquired before birth.

In addition, the workshops revealed that there is a significant lack of research concerning the development of the baby's immunologic system both before birth and shortly after birth. Such works is fundamental to identifying the relationship between infectious diseases, and S.I.D.S.

Heart and Lung Factors in S.I.D.S.—NICHD-supported research with an animal model suggests that S.I.D.S. might result from a failure to recover from a normal oxygen-conserving response—a reflex which includes a temporary halt in breathing, a slowing of heartbeat, and constriction of blood vessels.

The role of breathing and circulation in S.I.D.S., however, is still far from clear. Scientists attending one of the workshops suggested that although heart stoppage is probably not a primary factor in S.I.D.S., more research should be carried out to learn the potential effects of an immature heart adversely reacting to a wide variety of stimuli, including low oxygen in the surroundings and high carbon dioxide levels in the blood. Similar stimuli could also adversely affect the still-developing respiratory system.

Relatively little research has been done on the development of swallowing, vocalization, and breathing in the infant. It is conceivable, according to scientists, that uncoordinated activity in these three modalities could lead to respiratory obstruction and consequent lack of oxygen supply.

Other significant voids in our knowledge about S.I.D.S. warrant further attention. For example, much more needs to be learned about changes, at a microscopic level, in the tissues of the kidney, nasopharynx, larynx, and heart of S.I.D.S. victims.

Neurologic factors in S.I.D.S.—Many studies, including several supported by NICHD, have reported that most S.I.D.S. deaths occur during sleep and that death does not seem to involve an outward, violent struggle.

A great deal of research remains to be done in order to understand the complex relationships among sleep, the developing nervous system, and the maturing respiratory system and how they might be involved in S.I.D.S.

Sleep deprivation and the occurrence of S.I.D.S. following such an experience should be clarified, since it has been reported that immature animals may die in the sleep period immediately following sleep deprivation. It is known that increased rapid eye movement (REM) sleep, or periods of "light, active" sleep accompany sleep deprivation. It has been hypothesized that babies may die of S.I.D.S. during such periods of active sleep because their immature nervous, respiratory, and circulatory systems have a low tolerance for such circumstances.

Epidemiologic research in S.I.D.S.—Current epidemiologic data fails to differentiate S.I.D.S. from other causes of infant death and few risk factors have been elucidated which are specific for S.I.D.S. In addition, epidemiologic studies to date have been retrospective or "after-the-fact"; prospective studies are now needed. These could include studies relating maternal factors and events occurring at birth or just after birth to later occurrence of S.I.D.S.

There is need, according to workshop participants, for an internationally accepted definition of S.I.D.S. and uniformity in identifying as S.I.D.S. on death certificates, all sudden, unexplained, and unexpected deaths of infants.

Behavioral aspects of S.I.D.S.—A recently supported study by NICHD has indicated that one of the unsolved problems with S.I.D.S. is the lack of understanding extended to families of victims. Frequently, the study showed, parents are accused wrongly of neglect or child abuse and suffer deep feelings of guilt.

At present, very little is known about the personal, emotional, or social characteristics of parents who lose a child to S.I.D.S. It is not known to whom parents turn for help, nor the response they are likely to receive. The response of the community or community organizations to a death from S.I.D.S. and individual grief has not been investigated in death. Studies need to be conducted to learn if problems of grief can best be handled by counseling from health professionals. through voluntary parents' organizations, or by other means.

Although much research has been undertaken to learn about response to death following long-term illness, little is known about the impact of an unexpected childhood death. In addition, studies need to be carried out to learn about the response of other children in a family which has lost an infant to S.I.D.S.

Classification.—The Department (NICHD and National Center for Health Statistics) has worked with the World Health Organization to create a separate category for S.I.D.S. in the 9th edition of the International Classification of Diseases.

V. COMMITTEE VIEWS

The Committee believes it has become essential to enact legislation specifically respecting SIDS in order to assure that programs of research, counseling, information and public education be effectively implemented.

On June 7, 1972 the Senate passed Senate Joint Resolution 206 relating to SIDS by a vote of 72–0. The basic purpose of that Resolution was to assure that the maximum resources and effort, through the Department of HEW, be concentrated on research into SIDS and on the extension of services to families who lose children to the disease. A copy of S.J. Res. 206 is included as Appendix 1.

It has been 19 months since the passage of S.J. Res. 206. And the Committee is disappointed and not satisfied with the magnitude and the scope of the SIDS program administered by DHEW. In its testimony before the Committee the Administration testified that it has only 11 research grants and contracts for studies specifically concerned with SIDS. These grants and contracts amount to $603,575. Furthermore, the Administration's testimony makes clear that HEW makes virtually no effort in respect to counseling information, public education and statistical effort respecting SIDS, which is most unfortunate given the clear intent of the Committee and the Senate as expressed in S.J. Res. 206 regarding the need for an increased effort in these areas.

The Committee, therefore, rejects the Administration position on S. 1745, which states, "The authority proposed by S. 1745 for support of research in SIDS duplicates the broad and flexible authorities that are already available under the PHS Act. Under existing authority, the NICHD and other DHEW programs are aggressively moving toward the goal of understanding the causes of SIDS and dealing with the problems it presents. As outlined above, we have identified the critical factors hindering our understanding of the problem and have made much progress in removing these obstacles. Additional authorities, such as those proposed in S. 1745 would provide no advantages to the effective activities already under way within the Department. Accordingly, we recommend against enactment of S. 1745."

VI. TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1949, as amended, the following is a tabulation of votes in Committee:

"There were no rollcall votes cast in the Committee. The motion to favorably report the bill to the Senate carried unanimously by voice vote."

VII. COST ESTIMATES PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with Section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–510, 91st Congress) the Committee estimates that the cost which would be incurred in carrying out this bill is as follows:

[In thousands]

	1974	1975	1976	Total
Biomedical research	7,000	8,000	9,000	24,000
Counseling, education, and statistical programs	3,000	4,000	5,000	12,000
Total	10,000	12,000	14,000	36,000

VIII. SECTION-BY-SECTION ANALYSIS

Section 1—Short title

Designates the title of this Act as the "Sudden Infant Death Syndrome Act of 1973."

Section 2—Statement of purpose

Cites the purpose of the Act as follows: (1) to provide financial assistance for research into the causes and prevention of sudden infant death syndrome, and (2) to provide information and counseling services to families and personnel involved with sudden infant death syndrome.

Section 3—Authorization of appropriations

This section describes technical amendments to Section 441 of the Public Health Service Act (42 U.S.C. 201) including the addition of the following subsection:

Section 441(b)(1). Designates the Secretary of the Department of Health, Education and Welfare through the National Institute of Child Health and Human Development to carry out research programs on sudden infant death syndrome.

(2) Authorizes appropriations under this subsection amounting to: $7 million for fiscal year 1974; $8 million for fiscal year 1976, and $9 million for fiscal year 1976.

Section 4—Amendment to Public Health Service Act

This section cites two amendments to title XI of the Public Health Service Act:

(1) amends title XI by adding the words, "and Perinatal Biology and Infant Mortality," to the title.

(2) amends title XI by adding at the end thereof the following new part:

PART C—SUDDEN INFANT DEATH SYNDROME

Sudden Infant Syndrome Counseling, Information, Educational, and Statistical Programs.

Section 1121. (a) (1) Authorizes the Secretary of the Department of Health, Education and Welfare to make grants to public and non-profit private entities through the Assistant Secretary for Health and Scientific Affairs to establish regional centers for counseling, information, educational, and statistical programs on sudden infant death syndrome.

(2) Authorizes the Secretary of the Department of Health, Education and Welfare through the Assistant Secretary for Health and Scientific Affairs to establish an information and educational program on sudden infant death syndrome including the development of public and professional educational materials relating to the syndrome and the dissemination of such materials to the involved persons. This program may be carried out through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

(b) Authorizes appropriations under this section amounting to: $3 million for fiscal year 1974; $4 million for fiscal year 1975; and $5 million for fiscal year 1976.

Application; administration of grant and contract program

Section 1122. Requires applicants for grants under this title to:

(1) Insure that programs for which assistance is sought will be administered by or under the supervision of the applicant.

(2) Provide for appropriate community representation in the development and operation of programs under this title.

(3) Establish procedures to control and account for all Federal funds paid to applicants under this title.

(4) Provide for making such reports as the Secretary may reasonably require.

Reports

Section 1123. (a) Directs the Secretary of the Department of Health, Education and Welfare to submit comprehensive reports each year to the President for transmittal to the Congress on the administration of this title.

(b) Authorizes the Secretary to recommend additional legislation regarding this title as he deems necessary.

Section 5—Health survey and studies

This section amends Section 305(b) of the Public Health Service Act by the insertion at the end of that section the following phrase, "specifically including statistics relating to sudden infant death syndrome."

IX. CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no changes is proposed is shown in roman):

PUBLIC HEALTH SERVICE ACT

* * * * *

THE NATIONAL HEALTH SURVEYS AND STUDIES

SEC. 305. (a) The Surgeon General is authorized, (1) to make, by sampling or other appropriate means, surveys and special studies of the population of the United States to determine the extent of illness and disability and related information such as: (A) the number, age, sex, ability to work or engage in other activities, and occupation or activities of persons afflicted with chronic or other disease or injury or handicapping condition; (B) the type of disease or injury or handicapping condition of each person so afflicted; (C) the length of time that each such person has been prevented from carrying on his occupation or activities; (D) the amounts and types of services received for or because of such conditions; (E) the economic and other impacts of such conditions; (F) health care resources; (G) environmental and social health hazards; and (H) family formation, growth, and dissolution; and (2) in connection therewith, to develop and test new or improved methods for obtaining current data on illness and disability and related information. No information obtained in accordance with this paragraph may be used for any purpose other than the statistical purposes for which it was supplied except pursuant to regulations of the Secretary; nor may any such information be published if the particular establishment or person supplying it is identifiable except with the consent of such establishment or person.

(b) The Secretary is authorized, directly or by contract, to undertake research, development, demonstration, and evaluation, relating to the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the Federal, State, and local levels *specifically including statistics relating to sudden infant death syndrome.*

* * * * *

PART E—INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT AND OF GENERAL MEDICAL SCIENCES

Establishment of Institute of Child Health and Human Development

SEC. 441. (a) The Surgeon General is authorized, with the approval of the Secretary, to establish in the Public Health Service an institute for the conduct and support of research and training relating to maternal health, child health, and human development, including research and training in the special health problems and requirements of mothers and children and in the basic sciences relating to the process of human growth and development; including prenatal development.

(b) (1) The Secretary, through the National Institute of Child Health and Human Development, shall carry out research programs specifically relating to sudden infant death syndrome.

(2) There are authorized to be appropriated to carry out the purposes of this subsection $7,000,000 for the fiscal year ending June 30, 1974, $8,000,000 for the fiscal year ending June 30, 1975, and $9,000,000 for the fiscal year ending June 30, 1976.

* * * * *

TITLE XI—GENETIC BLOOD DISORDERS—AND PRENATAL BIOLOGY AND INFANT MORTALITY

PART B—COOLEY'S ANEMIA PROGRAMS

Cooley's anemia screening, treatment, and counseling, research, and information and education programs

SEC. 1111. (a) (1) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects for the establishment and operation, primarily through other existing health programs, of Cooley's anemia screening, treatment, and counseling programs.

(2) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for research in the diagnosis, treatment, and prevention of Cooley's anemia, including projects for the development of effective and inexpensive tests which will identify those who have the disease or carry the trait.

(3) The Secretary shall carry out a program to develop information and educational materials relating to Cooley's anemia and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

(b) (1) For the purpose of making payments pursuant to grants and contracts under subsection (a) (1), there are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

(2) For the purpose of making payments pursuant to grants and contracts under subsection (a) (2), there are authorized to be appropriated $1,700,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

(3) For the purpose of carrying out subsection (a) (3), there are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

Voluntary participation

SEC. 1112. The participation by any individual in any program or portion thereof under this part shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

Applications; administration of grant and contract programs

SEC. 1113. (a) A grant under this part may be made upon application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each application shall—

(1) provide that the programs and activities for which assistance under this part is sought will be administered by or under the supervision of the applicant;

(2) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released, or (B) statistical data compiled without reference to the identity of any such patient;

(3) provide for appropriate community representation in the development and operation of any program funded by a grant under this part;

(4) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

(5) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

(b) (1) In making any grant or contract under this title, the Secretary shall (A) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (B) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

(2) The Secretary may make a grant under section 1111(a) (1) for a screening, treatment, and counseling program when he determines that the screening provided by such program will be done through an effective and inexpensive Cooley's anemia screening test.

Public Health Service facilities

SEC. 1114. The Secretary shall establish a program within the Public Health Service to provide for voluntary Cooley's anemia screening, counseling, and treatment. Such program shall utilize effective and inexpensive Cooley's anemia screening tests, shall be made available through facilities of the Public Health Service to any person requesting screening, counseling, or treatment, and shall include appropriate publicity of the availability and voluntary nature of such programs.

Reports

SEC. 1115. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this part.

(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary.

PART C—SUDDEN INFANT DEATH SYNDROME

Sudden infant death syndrome counseling, information, educational, and statistical programs

SEC. 1121. (a) (1) The Secretary through the Assistant Secretary for Health and Scientific Affairs may make grants to public and nonprofit private entities, for the establishment of regional centers for sudden infant death syndrome counseling, information, educational, and statistical programs.

(2) The Secretary through the Assistant Secretary for Health and Scientific Affairs shall carry out a program to develop public information and professional educational materials relating to sudden infant death syndrome and to disseminate such information and materials to persons providing health care, public safety officials, and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending June 30, 1974, $4,000,000 for the fiscal year ending June 30, 1975, and $5,000,000 for the fiscal year ending June 30, 1976.

Application; administration of grant and contract programs

SEC. 1122. A grant under this part may be made under application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

(1) provide that the program and activties for which assistance under this part is sought will be administered by or under supervision of the applicant;

(2) provide for appropriate community representation (with special consideration give to groups previously involved with sudden infant death syndrome) and the development and operation of any program funded by a grant under this part;

(3) set forth such fiscal controls and fund accounting of procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

(4) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

Reports

SEC. 1123. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress within one year after the date of enactment of this Act and annually thereafter a comprehensive report on the administration of this Act with regard to Sudden Infant Death Syndrome.

(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary.

X. APPENDIX I

S.J. RES. 206

Joint resolution Relating to sudden infant death syndrome

Whereas sudden infant death syndrome kills more infants between the age of one month and one year than any other disease; and

Whereas the cause and prevention of sudden infant death syndrome are unknown; and

Whereas there is a lack of adequate knowledge about the disease and its effects among the public and professionals who come into contact with it: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this joint resolution to assure that the maximum resources and effort be concentrated on medical research into sudden infant death syndrome and on the extension of services to families who lose children to the disease.

SEC. 2. The National Institute of Child Health and Human Development, of the Department of Health, Education, and Welfare, is hereby directed to designate the search for a cause and prevention of sudden infant death syndrome as one of the [top] *highest* priorities in intramural research efforts and in the awarding of research and research training grants and fellowships; and to encourage researchers to submit proposals for investigations of sudden infant death syndrome.

SEC. 3. The Secretary of Health, Education, and Welfare is directed to develop, publish, and distribute literature to be used in educating and counseling coroners, medical examiners, nurses, social workers, and similar personnel and parents, future parents, and families whose children die, to the nature of sudden infant death syndrome and to the needs of families affected by it.

SEC. 4. The Secretary of Health, Education, and Welfare is further directed to work toward the institution of statistical reporting procedures that will provide a reliable index to the incidence and distribution of sudden infant death syndrome cases throughout the Nation; to work toward the availability of autopsies of children who apparently die of sudden infant death syndrome and for prompt release of the results to their parents; and to add sudden infant death syndrome to the International Classification of Disease.

S. 1745

A bill to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sudden Infant Death Syndrome Act of 1973".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide financial assistance to identify the causes and preventive measures needed to eliminate sudden infant death syndrome, to provide information and counseling services to families affected by sudden infant death snydrome and to personnel engaged in research for the prevention of sudden infant deaths.

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. Section 441 of the Public Health Service Act (42 U.S.C. 201) is amended by inserting the subsection designation "(a)" immediately before the first sentence and by adding at the end thereof the following new subsection:

"(b) (1) The Secretary, through the National Institute of Child Health and Human Development, shall carry out research programs specifically relating to sudden infant death syndrome.

"(2) There are authorized to be appropriated to carry out the purposes of this subsection $7,000,000 for the fiscal year ending June 30, 1974, $8,000,000 for the fiscal year ending June 30, 1975, and $9,000,000 for the fiscal year ending June 30, 1976.".

AMENDMENT TO TITLE XI OF THE PUBLIC HEALTH SERVICE ACT

SEC. 4. (a) The title of title XI is amended by adding thereto the words "AND PERINATAL BIOLOGY AND INFANT MORTALITY".

(b) Title XI of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART C—SUDDEN INFANT DEATH SYNDROME

"SUDDEN INFANT DEATH SYNDROME COUNSELING, INFORMATION, EDUCATIONAL, AND STATISTICAL PROGRAMS

"SEC. 1121. (a) (1) The Secretary through the Assistant Secretary for Health and Scientific Affairs may make grants to public and nonprofit private entities, for the establishment of regional centers for sudden infant death syndrome counseling, information, educational, and statistical programs.

"(2) The Secretary through the Assistant Secretary for Health and Scientific Affairs shall carry out a program to develop public information and professional educational materials relating to sudden infant death syndrome and to disseminate such information and materials to persons providing health care, public safety officials, and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending June 30, 1974, $4,000,000 for the fiscal year ending June 30, 1975, and $5,000,000 for the fiscal year ending June 30, 1976.

"APPLICATION; ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

"SEC. 1122. A grant under this part may be made under application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

"(1) provide that the program and activities for which assistance under this part is sought will be administered by or under supervision of the applicant;

"(2) provide for appropriate community representation (with special consideration given to groups previously involved with sudden infant death syndrome) and the development and operation of any program funded by a grant under this part;

"(3) set forth such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(4) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"REPORTS

"SEC. 1123. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress within one year after the date of enactment of this Act and annually thereafter a comprehensive report on the administration of this Act with regard to sudden infant death syndrome.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary.".

HEALTH SURVEY AND STUDIES

SEC. 5. Section 305(b) of the Public Health Service Act is amended by inserting immediately before the period at the end thereof the following: "specifically including statistics relating to sudden infant death syndrome."

Mr. JAVITS. Mr. President, when there is no known cause of nor preventive measure for the largest killer disease of infants, I believe we must establish an appropriate national commitment—a commitment adequately to fund appropriate biomedical research and develop appropriate information and counseling services which will allow us to respond humanely to families who lose children to SIDS.

The scope of the problem of "crib death," as the sudden infant death syndrome is often called, is the unexpected demise of an infant not known to have had a serious disease and whose death remains unexplained after complete autopsy. Based upon findings from several epidemiologic studies, both in the United States and abroad, it appears that the mortality rate from SIDS is about 3 per 1,000 live births. In this country, we estimate that some 7,000 to 10,000 infants die each year as a result of this syndrome, which is the leading cause of death in infancy—up to 1 year—after the first month of life. In the majority of cases, the baby is apparently in good health and feeds without difficulty. While there may be evidence of a slight cold or stuffy nose, there is usually no history of a serious upper respiratory infection. Often, the infant is placed in his or her crib for a nap or for the night, and several hours later is found dead.

The Department of Health, Education, and Welfare testified there was approximately $4.1 million in HEW supported research related to SIDS. However, only $603,575, 11 research grants and contracts, are specifically concerned with SIDS. Unless there is focused, concentrated, continuing biomedical research and the cause and cure for this disease is found, thousands of families will continue to suffer the tragedy of suddenly losing an apparently healthy baby.

At the same time, the hearing record is replete with examples of family ordeals because of SIDS. Horrible experiences, beyond the tragedy of losing their child to SIDS, were recounted as parents told of being jailed before the cause of death of their child was diagnosed as SIDS. This cannot be allowed to continue and can be substantially reduced by providing the necessary counseling information and public education and statistical efforts respecting SIDS and by providing assurances that law enforcement and medical personnel will receive adequate training in the diagnosis of SIDS and in how to deal with the tragedy of parents losing such an infant.

I urge my colleagues to support this bill which authorizes a total of $36 million over 3 years: $24 million to carry out research programs on SIDS and $12 million to establish the necessary public and professional informational and educational programs. This bill will allow us to move coherently toward the goal of understanding the causes of SIDS and dealing with the resulting problems of this tragic disease.

Mr. PACKWOOD. Mr. President, it is with a great sense of satisfaction for me personally that the Senate is today giving its favorable consideration of S. 1745, the sudden infant death bill. We have been a long time in bringing the message of this tragic disease to the American public and the Congress, and the passage of S. 1745 culminates many long months of work by untold individuals and groups nationwide.

My own personal interest in this mysterious killer began years ago when close friends lost a dearly loved infant to sudden infant death. At that time, I became aware of the lack of information and research about SIDS, and the need for counseling services and community understanding of this unique tragedy. As a result, I sponsored legislation in the Oregon Legislature to earmark funds for SIDS research at the University of Oregon Medical School. This was the first time that funds had ever been earmarked for specific research, and the first time that SIDS had been singled out for special focus. This in spite of the fact that even then SIDS was causing hundreds of deaths per year in Oregon, and thousands nationwide.

Last year's sense of the Senate resolution, Senate Joint Resolution 206, was a precursor of this bill we are considering today, S. 1745. It is gratifying, to say the least, as a cosponsor of both bills, that the Senate now recognizes the necessity for this urgent effort to deal with this mysterious and tragic killer of infants.

I trust that the other body will also realize the urgency of this work, and will give its prompt approval.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

SENATOR FULBRIGHT AND THE MIDDLE EAST CRISIS

Mr. MANSFIELD. Mr. President, a very sound editorial analyzing the position of the chairman of the Foreign Relations Committee, Senator FULBRIGHT, with respect to the Middle East appeared in the Arkansas Gazette on December 5, 1973. The editorial concludes that Senator FULBRIGHT's position is strikingly similar to that of Secretary of State Kissinger to bring lasting stability to that troubled area are worthwhile and should be given every consideration.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FULBRIGHT'S ROLE IN MIDDLE EAST CRISIS

In the morning mail there was a newsletter from the celebrated Liberty Lobby, one of the more durable of the ultra-right wing organizations, and its lead item is an attack on Senator Fulbright for his renewed proposal that the United States guarantee Israel's borders, formally, in a treaty.

There must be some kind of lesson here for the Israelis and for the many leaders in the American Jewish community who have been so bitter in denouncing J. W. Fulbright for his policy statements on the Middle East generally and the conflict between the Arabs and Israel specifically. In point of fact, Fulbright's position is strikingly similar to that of Secretary of State Kissinger and we have not heard much criticism of Kissinger from the Jewish community. In any case the question for Jewish leaders is: Can a U.S. Senator whose proposals relating to Israel are denounced by the Liberty Lobby, even as they are largely shared by Henry Kissinger, be all bad?

Fulbright has spoken of internationalizing Jerusalem and, on this point, we think that his position has been unrealistic. The issues engaged in Jerusalem are religious and, therefore, are the fiercest of the lot, as they have been since the time of the Crusades. At the risk of oversimplifying the question, we would say that whoever has Jerusalem is not going to give it up. It is the world capital of religion; it is the City of David and of Jesus and of Mohammed (at the Dome of the Rock, Mohammed is said to have ascended to heaven). It is the misfortune of 20th Century peacemakers that the true believers in two of the three great religions are still all too ready to fight for Jerusalem.

Israel might very well agree to granting full custody of the shrines to the appropriate ecclesiastical figures, but that is the limit of it. The critical need now in dealing with Jerusalem is to get the particular controversy under negotiation while the priority problems—withdrawal from occupied territory and the creation of a buffer zone—are resolved.

It is possible that no one can resolve the Middle Eastern conflict on anything but a makeshift basis and certainly a makeshift will have to do until something better comes along. But no matter how formidable the outlook, the best hope is that Secretary Kissinger, employing the agencies of the United Nations, can work out an interim settlement laying the ground work for something more lasting. The current cease-fire itself represents a preliminary, if tenuous, success in the American effort. Certainly, in any case, Kissinger can effectively use the help of Fulbright, the chairman of Foreign Relations, in addressing the Middle Eastern crisis, as indeed he has been using Fulbright's ideas and influence all along.

Previously we have remarked how Fulbright can wax unnecessarily abrasive in his comment on Israel, especially perhaps on an occasion when he thinks Congress has granted to Israel's foreign minister privileges not normally granted to the representative of a foreign government. Nevertheless, in summing up the specific proposals that Fulbright has for the Middle East, we are struck by their fairness and simplicity.

The essentials in his plan are:

The withdrawal of Israeli forces to the borders occupied before the 1967 war.

Establishing simultaneously a buffer zone in the Sinai, with United Nations forces supervising the demilitarization.

Negotiating a treaty with Israel in which we guarantee Israel's borders against aggression.

The first two elements are basic requirements in any peace arrangement. The third would support whatever settlement was reached, putting the Arabs and the USSR on formal notice that the United States is Israel's protector.

Fulbright proposes that something be worked out to give Israel the essential protection it needs in the Golan Heights, from which the Arabs used to shell villages in Israel. He proposes to negotiate the complex problem of resettling the Palestinians displaced from what was their homeland. He proposes, similarly, to negotiate the questions of what to do about Jerusalem.

AMTRAK CAN HELP THE PUBLIC TRANSPORTATION CRISIS

Mr. MANSFIELD. Mr. President, I do not want to sound repetitious but I feel that the crisis in public transportation brought about by the current energy shortage is worthy of repeated comments until something is done. Amtrak is the logical solution to some of these transportation problems but, to date, there has been little, if any, response to the needs of the traveling public. The passenger train system in our Nation was at its lowest ebb when Atmrak took over most of the Nation's passenger service. This was at a time when the railroad companies themselves abandoned the traditional strong-arm of our Nation's transportation system—the passenger train. Today, we have an excellent chance to regain opportunities for the passenger train.

The current energy crisis pleads for more economical means of transportation for our public. In my estimation, the passenger train system is the most economical and logical answer. Airline schedules have been reduced and automobile travel is being discouraged. Railroads consume less diesel fuel on a per capita basis. Trains require less fuel than any other mode of transportation. I am informed that Amtrak carries 80 passengers for 1 mile for a gallon of gasoline. In addition, there is a sincere demand for improved passenger trains and the energy crisis has severely aggravated this need.

The U.S. Postal Service, which is having its own serious operational problems is now concerned that the energy crisis will reduce available means of transporting mail. Why not put the mail back on the trains? I believe the Nation's mail delivery system was far more efficient 5 years ago when the railroads were the major conveyer of all classes of mail, except air.

Despite repeated appeals from the people of Montana and their representatives in the Congress, Amtrak continues to refuse to expand passenger service when the need is increased beyond all predictions. During the holiday season, thouands of people just in my State alone are being turned away by the Amtrak ticket agents.

I wish to propose a series of questions that Amtrak must respond to if they are sincere in their effort to make the Nation's passenger train system work.

Why has Amtrak continued to refuse to establish daily passenger train service through the southern route in Montana where the need far exceeds service available?

Does Amtrak maintain an inventory of unused equipment?

How many cars and engines could be put into service immediately, not now on the line?

Are delays in upgrading and purchase of rolling stock due to unavailability of funds?

Has Amtrak made overtures to the U.S. Postal Service in reassuming a greater responsibility for hauling mail?

I have received repeated accusations that Amtrak officials discourage passenger service whenever possible, especially on select routes. Is this true?

Are all members of the Amtrak Corporate Board fully committed to a renewed and vigorous national system of passenger trains?

Finally, do Amtrak officials agree that passenger trains could be a very important part of the solution to the Nation's energy crisis?

Does the minority leader desire recognition?

Mr. HUGH SCOTT. Yes, Mr. President.

I am in favor of anything that will improve passenger service and improve the movement of the mails. In fact, I think we ought to do everything we can to get the mails back on the track; and that goes for the females, too. [Laughter.]

The PRESIDENT pro tempore. Under the previous order, the Senator from Indiana is recognized for not to exceed 15 minutes.

SPECIAL PROSECUTOR

Mr. BAYH. Mr. President, for the Senator from Indiana to request a special order is rather uncommon. But I desire to remind Senators that tomorrow we shall consider special legislation to protect the integrity and the independence of the office of the Special Watergate Prosecutor. I do not think I have heard a single Senator suggest that the present arrangement under which Mr. Jaworski is operating is adequate. Yet there are some who say that this appointment has significantly changed our responsibility to insure independence. I disagree, and the following remarks are directed at the importance of S. 2611, which is a measure sponsored by some 55 Members of the Senate.

Although we have virtually unanimous agreement that Congress must, in the light of past events, act to strengthen the prosecutor's protections, there is disagreement on how to structure these protections. The American people regard the President's dismissal of Special Prosecutor Cox and the forced resignations of the two top officials of the Department of Justice as clear evidence that equality under the law is not being maintained and that justice is not being served, and they want us to do something about it, with good reason.

We have before us three alternative approaches to the problem. Two of these—S. 2642, the Hruska-Taft bill, and S. 2734, the Percy-Baker bill—leave the appointment and removal of the Special Prosecutor where it now rests, with the President. The third, S. 2611, the Hart-Bayh bill, places this power in the politically neutral branch of government, the courts, on the basic theory that no man can be a judge in his own case and be expected to investigate himself. That is exactly what we have under the present arrangement.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. GRIFFIN. I wonder whether the Senator might want to acknowledge that there is a fourth alternative, which was suggested this morning in an editorial by the Washington Post, and that would be for Congress to leave things alone.

Mr. BAYH. Yes; I think we could agree that there is a fourth alternative, an extremely irresponsible one, let me suggest, with all deference to the Washington Post.

I do not see how we could have gone through the Saturday night massacre and have had all the promises, all the assurances, and all the special guidelines put in the Federal Register, have them totally ignored by the President once, and then proceed right down the same track.

I have heard the suggestion that Leon Jaworski is an honorable, able, dedicated man, and that is true, but so are Archibald Cox, Elliot Richardson, and Bill Ruckelshaus.

With all deference to my friend, the Senator from Michigan, I, for one, am not prepared to accept this fourth alternative, although he is accurately pointing out that it is available.

This Nation has not been put through a domestic trauma of the equivalent seriousness of Watergate since the Civil War. It has been with us daily now for almost 18 months and its end appears to lie many months or even years hence, with the way out of the woods being far from clear. What is clear, however, is that the law and the Constitution provide us with two separate mechanisms to sort out the facts, to exonerate the innocent, and punish the guilty. As to the President himself, the mechanism rests in the hands of the people's representatives in the House and Senate—through the impeachment process. As to all others who may be involved, we must look to the criminal process, and it is here that we have run into trouble.

The crux of the problem lies in the fact that under the American political system the executive branch has the basic responsibility of investigating and prosecuting criminal offenses. In the normal case, the system works well, with one branch of Government enforcing sanctions for conduct deemed to be criminal by another branch and with the courts serving as arbiters of individual guilt. The Founding Fathers clearly recognized that this process would break down if the President himself were involved, and thus provided the impeachment process as a remedy in that extraordinary situation. But they did not address themselves to the problem of large-scale criminal misconduct by Presidential appointees and aides, some of whom might themselves be the possessors of evidence of Presidential criminality.

Let me say, in an aside to the Senator from Michigan, that I wish I had more than 15 minutes. I would enjoy some give and take on the matter he has raised. But since I have probably 10 minutes remaining, I think I had better hurry through my remarks.

Mr. GRIFFIN. If the Senator needs some more time, the Senator from Michigan has a special order, and he would be glad to provide some.

Mr. BAYH. If the Senator cares to proceed further, I would be glad to proceed with him. I did not mean to give his comments such short shrift.

Many months ago, the Senate attempted to resolve this problem. During the winter of 1973, it became clear that there had been an attempt to cover up events surrounding the 1972 break-in at the Democratic National Committee. Officials of the executive branch had not been telling the public all they knew about the Watergate break-in or its aftermath and had been involved in diverting or obstructing the Justice Department's investigation. The Department's own investigation of the ITT affair and related matters had been minimal and incomplete. In the wake of the resignations of top White House aides H. R. Haldeman and John Ehrlichman and of Attorney General Kleindienst, even the President appeared to recognize and accede to the public demand that an independent prosecutor be appointed to deal with these allegations of criminal misconduct. In his announcement on April 30 of Elliot Richardson's nomination to be Attorney General he placed the full weight of his office behind the concept of complete independence for the Special Prosecutor, declaring:

> I have given Mr. Richardson absolute authority to make all decisions bearing upon the prosecution of the Watergate case and related matters. I have instructed him that if he should consider it appropriate, he has the authority to name a special supervising prosecutor for matters arising out of the case. Whatever may appear to have been the case before, Whatever improper activities may yet be discovered in connection with this whole sordid affair, I want the American people, I want you to know beyond the shadow of a doubt that during my terms as President, Justice will be pursued fairly, fully, and impartially, no matter who is involved.

That is about as unequivocal a pledge of independence, of not getting involved with the Special Prosecutor, as one can ever receive. That is what the President said on April 30. The Senate made it clear that it would confirm Mr. Richardson only if we were given concrete guarantees of the Special Prosecutor's complete independence. I and several members of the Judiciary Committee spent many hours negotiating the exact wording of the guidelines governing Mr. Cox's independence with Mr. Richardson. And the Judiciary Committee was repeatedly assured by Mr. Richardson and indirectly, through Senator Scott, by the President himself, that this independence would not be compromised.

Now I, of course, believe that our distinguished minority leader is an honest man, and I believe that he accurately reflected the pledge of independence, of noninvolvement of the President, when he came from the White House directly to the Judiciary Committee. Yet, the President changed his mind. All of us can change our minds, but I suggest that we are foolish if we put ourselves in a position where, for reasons that he feels are appropriate, he might change his mind again.

We now know what happened—repeated attempts by the White House to block Mr. Cox's investigations and refusal to cooperate by making evidence available, culminating in the Saturday Night Massacre of October 20. Perhaps we in the Senate were naive in relying on these assurances for we were creating what was, in retrospect, an inherently unstable situation where the closer the investigation got to the President himself, the more likely it was to break down. What has now become obvious is that if the President or his subordinates select the Special Prosecutor or have any opportunity to restrict or influence him, it will cast a cloud over the credibility of the investigation, no matter what the prosecutor's personal reputation and no matter what the purported safeguards, for executive branch involvement can have only one of three results. First, if the Special Prosecutor is fired in violation of the safeguards, the Nation would undergo another traumatic blow from which the public's faith in Government would not soon recover. Second, if the investigation produces charges against the President, there will be allegations that the Prosecutor had been excessively zealous or unfair in order to demonstrate his independence, that he had gone out of his way to show that he was not a lackey to the President. But, as the Committee report on the Hart-Bayh bill points out:

> Most dangerous is the third possible outcome of such an investigation: If a presidentially appointed Prosecutor is not dismissed, if he is able to "work out" disputes with the White House, and if after another year or more the Prosecutor presents no charges against the President, there will be little public confidence in the result. The nation will always wonder which leads were not followed up; what compromises were reached about documents that might have been sought; what evidence of wrongdoing was deemed outside his jurisdiction by the man whom the White House had selected.

The Percy-Baker and Hruska-Taft bills share what I regard as the key defect of leaving the appointment and removal of the Special Prosecutor in the executive branch and thereby failing to meet the essential problem of creating the appearance as well as the reality of independence and evenhandedness. It is certainly true that these bills do attempt to strengthen the Special Prosecutor's position by giving him statutory protection from wrongful removal by the President or the Attorney General, but in both cases his only remedy is to bring a lawsuit after the fact. The distinguished sponsors of S. 2642 and S. 2734 argue, in all good faith, that they too favor giving the Special Prosecutor the strongest possible protections against Presidential interference, but, they say, the Constitution will not permit the complete separation of these investigations and prosecutions from executive control and that to vest this authority elsewhere would breech the doctrine of separation of powers since prosecution is "inherently" an executive function.

But the provisions of the Hart-Bayh bill rest squarely on the express power granted to the Congress under article II, section 2 of the Constitution to vest the appointment of such officers as it deems appropriate in the courts of law. As Senator Hart noted in discussing this question on the floor last week:

> Whether prosecution is "inherently" or "exclusively" a function of the executive branch as a matter of constitutional law, or merely has become centered in our executive branch by tradition, is a nice question for historians and scholars to debate. But it is irrelevant, because the Supreme Court has flatly said that article II, section 2 of the Constitution permits Congress to vest the appointment power in the courts even of officers whose duties are entirely executive in nature. That is the holding in Ex Parte Seibold, acknowledged to be the controlling case.

The only limitation that the courts have placed on the use of this appointment power is that the courts may not be called upon to make appointments which would be "incongruous" with the nature of their office. Judges regularly appoint attorneys who appear before them in court, and it seems rather obvious that such an appointment is not nearly so far removed from the court's traditional role as is the appointment of school board members, election supervisors, or steamboat inspectors, all of which have been upheld as legitimate by the courts. In fact, even the opponents of the Hart-Bayh bill do not find the serious constitutional problem to lie in vesting the appointment power in the courts. The real problem arises, they contend, when we try to restrict the right of the President to remove the Special Prosecutor.

The line of Supreme Court cases here begins with Meyers against United States, where Chief Justice Taft declared that once the President appointed an executive officer, in that case a postmaster, his power to remove that officer could not be restricted. Later cases, most notably, Humphrey's Executor against United States and Weiner against United States narrowed the broader language of Meyers and said that Congress could validly restrict the President's removal power where the officer was part of a commission or agency which was established by the Congress to be independent of the executive branch.

The Hruska-Taft proposed attempts to solve this constitutional problem by vesting the appointment and removal power in the Attorney General rather than the President without the safeguard of advise and consent by the Senate, thereby coming within the holding of Meyers and the earlier Perkins case, that unheld the power of Congress to restrict removal of an officer if that officer is appointed by a Cabinet officer rather than by the President.

Senators Percy and Baker argue that although under their bill the prosecutor would be appointed by the President with the advise and consent of the Senate, he would fall within the Humphrey's exception to the Meyers holding in that, in Senator Percy's words,

> The very reasons which necessitated the establishment of certain agencies in the Executive Branch of government to deal with complex and controversial matters, free from any pressure which might modify or color their independent judgments, are now present with regard to the investigation and the prosecution of the Watergate related offenses.

As a matter of constitutional law, I am persuaded that a good case can be made for Senator Percy's argument. But the issue is by no means free from doubt. In an attempt to resolve this constitutional question, I asked for the views of the Solicitor General and Acting Attorney General, Mr. Bork, who had previously expressed his doubts as to the constitutionality of the Hart-Bayh bill. He replied that in his opinion the Percy-Baker bill:

> Creates an officer in the Executive branch whose removal is subject to the constraints discussed in the case of Meyers v. United States which held that restrictions could not constitutionally be placed on the removal power of the President in the case of postmasters who were appointed by the President by and with the advice and consent of the Senate.

As Mr. Bork notes, the holding of Meyers applies only to congressionally imposed restrictions on removal of a Presidentially appointed officer. The Hart-Bayh bill thus avoids Meyers entirely by placing both appointment and removal in the courts. As a result there is less constitutional doubt about the solution proposed by S. 2611 than there is about the Percy-Baker plan. I ask unanimous consent, Mr. President, that the full text of Acting Attorney General Bork's letter of December 7, 1973 be printed at the conclusion of my remarks.

In conclusion, Mr. President, as I said on October 26 when I, along with 54 other Members of the Senate, introduced S. 2611 in the wake of that traumatic Saturday night:

> The one thing we can do here in the Congress to reverse this tidal erosion of confidence is to enact speedily legislation to create a new special prosecutor whose independence will be above reproach. That prosecutor must not answer to Congress, nor to the President, that prosecutor can answer only to the American people.

After careful study and debate it is now clear that the only way that this can be accomplished is with S. 2611 and I urge its favorable consideration.

Mr. HUGH SCOTT. The Senator has read a most remarkable sentence from the committee staff-written report on the bill:

> If after another year or more, the Prosecutor presents no charges against the President, there will be far too little confidence in the result.

The Senator from Pennsylvania disassociates himself firmly with that charge, which is an abandonment of the presumption of innocence.

Would the Senator from Indiana comment on the presumption of innocence, since this line assumes that the Prosecutor, whoever he is, must present charges against the President of the United States.

Mr. BAYH. No. I think if one reads the entire report, I say to my distinguished friend and colleague from Pennsylvania, we are talking about not only the President but also those who have been very close to the President. We know there have been a number of indictments and we know a number of Presidential aides have been investigated. I share the Senator's belief in a commitment to the presumption of innocence, but I think anybody who has been out on the hustings talking to his constituents, and perhaps inasmuch as my term expires next year I have had more opportunity to do that than the distinguished minority leader, and if we are to trust the polls, we find a high degree of disbelief and distrust, and for us to go along with a prosecutorial structure that has that seed of distrust is not the course for us to follow.

Mr. HUGH SCOTT. I shall not delay the discussion but I am somewhat shocked at the maliciousness of this sentence coming from the Committee on the Judiciary which waives the presumption of innocence, and says that if the Special Prosecutor, whoever he is, does not present charges against the President—not others, but the President—"there will be far too little public confidence in the result."

In other words, the Prosecutor is told in advance by the committee in this report that he has to find charges against the President of the United States or else there is no reason for him being Special Prosecutor.

Now, what district attorney has ever had such a writ?

Mr. BAYH. Does my friend, the distinguished Senator from Pennsylvania, find that expanded language he just referred to?

Mr. HUGH SCOTT. I read from it.

Mr. BAYH. No, the fact that the committee wants the Prosecutor to find charges against the President. Can the Senator find that language there?

Mr. HUGH SCOTT. I find in there the equivalent of it, which is what shocks me.

Mr. BAYH. Read it carefully.

Mr. HUGH SCOTT. The language states:

> If a Presidentially appointed Prosecutor is not dismissed, if he is able to "work out" disputes with the White House, and if after another year or more the Prosecutor presents no charges against the President, there will be far too little public confidence in the result.

What I am saying is that that abolishes the presumption of innocence and establishes for the committee, which I reject as applying to my views, the idea that there can be no presumption of innocence, that the Prosecutor's duties are going to be to present charges against the President, and otherwise he will not have done his duty.

Mr. BAYH. I do not think the Senator found the language demanding the Prosecutor to go out and bring charges against the President, did he?

Mr. HUGH SCOTT. I did find the language that is in the report if he does not do it.

Mr. BAYH. What language?

Mr. HUGH SCOTT. That there will be——

Mr. BAYH. The following phrase is the important part of the sentence.

Mr. HUGH SCOTT. That there will be far too little public confidence in the result.

Mr. BAYH. That is exactly right.

The PRESIDENT pro tempore. The time of the Senator from Indiana has expired.

Mr. GRIFFIN. I am glad to yield.

The PRESIDENT pro tempore. Under the previous order the Senator from Montana is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time allotted to the Senator from Montana (Mr. MANSFIELD) be allotted to my control.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. If the Senator from Indiana wishes additional time I will be glad to yield it to him from my time.

Mr. BAYH. I do not wish to mean to impose on the Senate. I appreciate this give and take with the distinguished Senator from Pennsylvania. I thought I had 10 minutes. How much time do I have?

Mr. ROBERT C. BYRD. I said I would yield as much time to the Senator as he requires.

Mr. HUGH SCOTT. I thank the Senator for the colloquy, and he did correctly quote me earlier.

Mr. BAYH. I do not ever intentionally misquote anyone. What really concerns me is that I have great faith in my friend from Pennsylvania, and he knows that. I have great respect for him. We do not always agree, but he is a man of impeccable integrity. Nor I do not attribute any invidious intent to the President, but I think we are making a big mistake to go down that path again.

As one Member who signed that report, the presumption of innocence is in that report. What we are after is a way in which we can accept the responsibility of showing confidence in the result.

Mr. Cox said he had investigated some individuals who had been written about in the press, found that there was no problem and ended the investigation. Archibald Cox could take that position and believe there was no hanky-panky, but the important thing is what the people believe. That is what concerns me about any Special Prosecutor appointed by the President, who can be discharged by the President, whose mission is to investigate activities surrounding the President. I want that result to be believable.

I am equally concerned about those who have not been prosecuted who have been given a clean bill of health that these results be accepted.

That is what the report refers to. I thank the Senator for bringing it out.

Mr. HUGH SCOTT. I thank the Senator from Indiana. I have no desire to prolong the controversy. The Senator knows I have favored a Special Prosecutor from the beginning, from June of 1972, and I was disposed to favor a Special Prosecutor appointed by the President, or the Attorney General, or any other constitutional form of procedure. That is the bill of the Senator from Indiana. But I do think that the journals that are now commenting on the independence asserted by Mr. Jaworski are worth bearing in mind, because it seems to me that is exactly what is happening. Mr. Jaworski is an independent Prosecutor. He is most unlikely to be removed. I do not know what the odds are, but I think a hundred to one, in view of all that has gone before.

In any event, if the Senator's bill went to the White House and were vetoed, the veto probably would be sustained. If it were not sustained the controversy over the constitutionality would go on for months and months and the position of Mr. Jaworski, which is presently clear and strongly approved by the public generally, becomes invidious, ambivalent, and fuzzy, because he is operating in a shadowy area without knowing if his successor can or cannot lawfully be appointed.

That is my concern, not that we should not have one, but how to go about it.

Mr. BAYH. I know that reasonable men can differ. I like to think I am reasonable.

The PRESIDENT pro tempore. The 5 minutes yielded to the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I yield an additional 5 minutes to the Senator.

Mr. BAYH. I would like to feel I am reasonable and if it were not for the fact that those same newspapers that are now writing about the independence of Mr. Jaworski, were writing about the independence of Mr. Cox, and if it were not for such men as the distingiushed Senator from Pennsylvania (Mr. Hugh Scott), Elliot Richardson, and Archibald Cox, who said it was impossible for the discharge to happen—if it were not for those things I might feel comfortable with the present arrangement.

Mr. GRIFFIN. Mr. President, will the Senator yield for a further observation?

Mr. BAYH. I yield.

Mr. GRIFFIN. The distinguished minority leader referred to the possibility that the bill providing for a court-appointed Special Prosecutor might be vetoed by the President. If it were vetoed by the President and the veto were not overridden, I suppose there would be a fine situation in terms of the political issues that some may be primarily interested in. But an article in the Washington Jost this morning, written by a House Member——

Mr. BAYH. A Republican House Member.

Mr. GRIFFIN. Yes. It does happen to be a Republican House Member, and he referred to a very interesting possibility; that the President would sign the bill and leave the question constitutionality to the courts. If that should happen, I would think that many of those who are pushing for it would be very disappointed. Then we would have the unfortunate situation of a cloud hanging over the ability of the special prosecutor to carry out his duties.

At an appropriate time, and not to get it involved with the Senator's remarks, I shall ask permission to have both the article by Representative Cohen and the editorial from the Washington Post printed in the Record for the benefit of Members who may be interested.

Mr. BAYH. I would be glad to ask unanimous consent that they be put in right now. I am sure the Senator from Michigan did not mean to insinuate that the some 55 of us who are sponsors of the bill I am directing the Senate's attention to are more concerned with political motivations than in solving the problem which faces us.

Mr. GRIFFIN. Not at all. I do not want that implication left.

Mr. BAYH. Since he said perhaps some are, I thought I would give him a chance to clear that up.

I remember sleeping in the hotel room when we were in London on the way to Ankara to a NATO meeting when I found out about this. I was shocked. I walked the streets of London at 3 o'clock in the morning for about 2 hours. I did not know what to do.

I cannot anticipate at this time what the President will do. I am tired of trying to anticipate what the President will do. I think we ought to do our best. If we pass this vehicle, fine. If we pass some other vehicle, fine. Let us do what we think is right. Then the President will have to exercise his responsibility. If he signs it, fine. We have written in it a provision for immediate appeals such as we have in other pieces of legislation.

I might ask the Senator from Michigan, inasmuch as we are operating, at least partially, on his time, is he going to accept either the Hruska-Taft bill or the Percy-Baker bill?

Mr. GRIFFIN. I will respond to the distinguished Senator from Indiana by saying that if we are to have legislation, the bill offered by the Senator from Ohio (Mr. Taft) at least would be constitutional. I personally believe that the reasoning set forth in the Washington Post editorial this morning is most appropriate and that we would really be serving the public interest to have a thorough, independent, and expedited investigation.

Mr. President, I ask unanimous consent to have printed in the Record an article entitled "Endangering the Special Prosecutor" by William S. Cohen; an editorial entitled "Congress and Mr. Jaworski"; and a letter to Senator Eastland written by Judge Sirica.

There being no objection, the material was ordered to be printed in the Record, as follows:

Endangering the Special Prosecutor

(By William S. Cohen)

Justice Holmes once wrote that a "catchword can hold analysis in fetters for 50 years." It is a noteworthy observation, for as Congress prepares to debate and deliberate on the subject of a special prosecutor, it is in danger of being mesmerized by the popular call for an "independent" prosecutor. The need for a special prosecutor whose independence cannot be summarily intruded upon by the body that is the subject of investigation can no longer be a matter of legitimate debate. The question is, how can the objective of establishing the office of special prosecutor be achieved most expeditiously and in a manner that will survive constitutional attack?

The House Judiciary Committee has reported favorably on a bill that would require a panel of U.S. District Court judges to appoint the special prosecutor. Though the bill has several commendable features designed to strengthen it against challenges that are certain to follow, most proponents of the bill, including Archibald Cox, have conceded that it is not free from Constitutional doubt.

It is argued, however, with a familiar ring of pain reliever commercials, that three out of four experts agree that the bill is Constitutional. When further delay in taking action on Watergate-related criminal activities can only contribute to the disintegration of public confidence in our institutions, one must ask what public interest is being served in adopting a bill that has a quarter-moon chance of being validated?

In addition, the U.S. District Court in Washington, in a unique, unsolicited "advisory" opinion, stated that the proposal would be unwise, unwelcomed and (impliedly) unconstitutional. Proponents of the bill dismiss the admonition as not rising to the dignity of judicial *dicta*. It is interesting to speculate what reception the Court's opinion would have received had it endorsed the Judiciary Committee's proposal.

But all of this misses the mark. The question really is not one of independence. Mr. Cox was independent and Leon Jaworski, to the great despair of some, is demonstrating daily that he too is independent. Congress can draw statutory prohibitions against arbitrary orders emanating from the White House concerning the prosecutor's tenure. The problem has been and is the lack of access to presidential documents, memoranda and recordings. Congress, through a confirmation process by the Senate, could insist upon a commitment that is tantamount to a waiver of that vague and seemingly all-purpose doctrine of executive privilege as a condition precedent to its approval of a special prosecutor nominated by the President. Mr. Nixon has said in private that the "special prosecutor should have everything and when he asks for it, he shall get it." Vice President Ford has testified that in his opinion executive privilege should not be invoked in any claims involving alleged criminal conduct. This proposal would simply commit broad promises into the semi-permanence of statutory ink.

Congress, however, dazzled by the glitter of obtaining a special prosecutor who could never be fired by the President for any reason—legitimate or not—appears unwilling to adopt any alternative course of action. Moreover, many proponents of the court-appointed prosecutor privately suggest that whether or not the committee bill proves to be constitutional is of little consequence, since the question soon will be moot.

These members envision the following sequence of events: The bill for a court-appointed special prosecutor will pass the House and Senate. The President will veto the bill and the veto will be sustained. Mr. Jaworski, in the meantime, will continue his efforts in securing indictments against all wrongdoers. If he succeeds, he will be praised by all; should be fail, the proponents of the bill can maintain that they stood tall in the pursuit of justice while the President and his votaries (anyone who opposed their bill) achieved their goal of frustrating and defeating the search for truth.

But assume a different scenario. Assume that certain White House advisers, unhappy with Mr. Jaworski's independence, were to suggest to the President that while they believed the bill to be unconstitutional, the President should not veto it and allow the courts to make the determination. The immediate result would be weeks and perhaps months of delay, confusion and confrontation, Mr. Jaworski would not be able to continue his efforts because congressional action would have superseded his appointment. The President would be under no obligation to "fully cooperate" with a court-appointed prosecutor whose office would almost certainly be challenged, if not by the White House, then surely by prospective defendants. Thus the quest for truth would be delayed and perhaps even derailed.

While it is not the most desirable arrangement, what is best for the country "at this point in time" is to allow Mr. Jaworski to continue in office with his integrity and demonstrated independence buttressed by strong statutory protection. The greatest safeguard against his dismissal by the President is public opinion. President Nixon crossed that Rubicon on October 20, 1973. He is not in a position to cross it a second time.

Congress and Mr. Jaworski

The shock and dismay that attended President Nixon's firing of Archibald Cox on October 20, quite naturally—and admirably—

led many members of Congress to consider ways in which they might guarantee the independence and professional longevity of whoever succeeded him as Special Watergate Prosecutor. It is worth recalling that those were the days before Leon Jaworski had come upon the scene and before it was evident that the Special Watergate Prosecution Force was not destined to go the way of the dodo bird. So, in the aftermath of the October 20 "massacre," as it was known, a certain number of bills were introduced in the House and Senate seeking to create a pressure- and intimidation-free prosecutor's office. Now they are coming to a vote in each chamber, and the question is whether intervening events have not rendered them at best obsolete and at worst positively harmful to the prospects of Mr. Jaworski's success. We think the answer is that this legislation has in fact been made both unnecessary and undesirable by what has occurred in the past several weeks.

In an article elsewhere on this page, Rep. William Cohen, a Republican from Maine, argues the case against what is apparently the most popular of these bills: a measure authorizing the U.S. District Court to name a Special Watergate Prosecutor who is wholly insulated from Executive Branch manipulation and answerable only to itself. We think Mr. Cohen is right. From the point of view of those who are genuinely committed to the vitality and effectiveness of the Special Watergate Prosecutor's office, it is probable that the best thing that could happen to this legislation—if it is passed—is that it be vetoed. That is because it has such an enormous potential for mischief, deliberate and inadvertent.

At a minimum, and in the best and most innocent of worlds, the mere creation of a wholly new prosecutor's office would be bound to delay and complicate the present prosecutor's job, to generate obstructive legal challenges and otherwise to dissipate the momentum Mr. Jaworski has gathered. In a less innocent world, which seems to be the one we live in, enactment of such legislation could be taken by the White House as a pretext to get rid of Mr. Jaworski, or at least to hamper and undermine his work. A President so inclined would not veto the legislation—he would welcome it.

Mr. Jaworski's record in his brief time in office is a crucial element in this calculation. He has by all accounts demonstrated himself to be determined, independent and, generally speaking, equal to the job. The White House has already begun to put out stories concerning its dissatisfaction with some of his activities. In the House, an alternative measure to the court-appointed prosecutor bill which is known as the "Dennis substitute" and would merely strengthen Mr. Jaworski's tenure and independence is being supported by Representative Cohen and others. While this approach sounds preferable to us, it is our general view that the best result would be enactment of no legislation at all at this time—including legislation which we have previously supported making the prosecutor's appointment subject to Senate confirmation and strengthening the statutory basis of his independence.

We think Mr. Jaworski is doing just fine. We think the enactment of legislation affecting his office, even that mandating relatively modest changes in his charter, put his continuance in office and his effectiveness at risk. And we think that very large body of congressmen and senators who have committed themselves to the creation of a court-appointed prosecutor, along with those who are committed to the passage of less drastic measures, should be seeking ways to leave these votes in abeyance for the moment. Traditionally, after all, Congress is known for a certain skill at putting off and putting over what it does not wish to bring to a final vote. Finding ways to do just that in this matter should not restrain its inventiveness.

U.S. District Court,
for the District of Columbia,
November 15, 1973.

Hon. James O. Eastland,
U.S. Senate, Committee on the Judiciary,
Washington, D.C.

Dear Senator Eastland: I have received your letter dated November 15th concerning a quotation attributed to me in the *Washington Post* newspaper. I have read the *Post* article you referred to and find it substantially accurate insofar as it refers to my statements. Shortly after Judge Gesell of this Court released his opinion in the case of *Nader* v. *Bork*, I was visited in my chambers by several reporters who asked whether I agreed with the paragraph of that opinion in which Judge Gesell notes his opposition, and the reasons therefor, to a court-appointed special prosecutor. I responded that personally, I am in full agreement with Judge Gesell's statement. I also mentioned that I had been informed that several other judges, members of this court, were of the same opinion.

I might mention that shortly before receiving your letter this afternoon, I had lunch with eight of our judges, each of whom remarked that he disapproves of a procedure that would require this court to appoint a special prosecutor.

Thank you for your letter and interest in this matter.

With kindest regards,
Sincerely yours,
John J. Sirica.

Mr. GRIFFIN. By leaving this subject alone and allowing Mr. Jaworski to make his investigation, in my opinion, would expedite the business of the Senate as well.

Mr. BAYH. Mr. President, I ask unanimous consent to put in the letter at this point a letter from the Attorney General, Mr. Bork, in which he raises serious constitutional questions on the Percy-Baker bill, based on somewhat the same reasoning on which he raised certain constitutional questions about ours.

There being no objection, the letter was ordered to be printed in the Record, as follows:

December 7, 1973.

Hon. Birch Bayh,
U.S. Senate,
Washington, D.C.

Dear Senator: This is in response to your request for views on S. 2734, a bill "To establish an independent Special Prosecution office, as an independent agency of the United States, and for other purposes."

S. 2734 would provide for the creation of an Independent Special Prosecution Office, with the Special Prosecutor to be appointed by the President, by and which the advice and consent of the Senate. The Special Prosecutor could be removed by the President only for neglect of duty, malfeasance in office, or violation of the Act creating the office. A notice of dismissal would have to be delivered to both Houses of Congress, and the dismissal would become effective at the end of the first period of thirty calendar days of continuous session of Congress after the date on which notice is delivered to it. The bill would give the district courts original jurisdiction of an action brought by the Special Prosecutor with respect to his removal or attempted removal from office.

By providing for a presidential advice and consent appointment, S. 2734 avoids the constitutional problems inherent in the proposals providing for a court-appointed Special Prosecutor. However, by providing such an appointment, the bill creates an officer in the Executive Branch whose removal is subject, in my opinion, to the constraints discussed in the case of *Myers* v. *United States*, 272 U.S. 52 (1926), which held that restrictions could not constitutionally be placed on the removal power of the President in the case of postmasters who were appointed by the President by and with the advice and consent of the Senate. S. 2734 attempts to avoid the problem posed by the *Myers* case by making the Special Prosecution Office "independent." That office, however, would not be independent in the same sense as the various independent agencies which perform quasi-judicial and quasi-legislative functions are independent, since the Special Prosecution Office would be performing a function which is essentially an Executive Branch function, the prosecution of criminal cases. For this reason, the holding of *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1934), that Congress could place restrictions on the President's firing of a presidential appointee to the Federal Trade Commission, does not resolve the issue whether such restrictions can be placed on the firing of the Special Prosecutor if he is appointed by the President by and with the advice and consent of the Senate.

In conclusion, I believe the *Myers* case casts great doubt on the constitutionality of the removal provisions in S. 2734. This doubt is not removed by *Humphrey's Executor*. Under the circumstances it would be preferable to create the Special Prosecutor as an "inferior Officer" appointed by the Attorney General with appropriate restrictions on the power of the Attorney General to remove him from office.

Sincerely,
Robert H. Bork,
Acting Attorney General.

Mr. BAYH. Mr. President, I do not think that position is well founded, and I think we have ample precedents cited, which are contained in my statement which is in the record, to support the constitutionality of our bill. It has been supported unanimously by the American Bar Association Board of Governors. It has been supported by the deans of some 48 of the most prestigious law schools in America.

I think the question of confusion raised in the Post editorial is a good point to raise. We sit here right now and cannot believe we could ever have had a situation existing which did exist when Mr. Cox, Mr. Ruckelshaus, and Mr. Richardson were discharged.

The distinguished Senator from Michigan is a lawyer, and he has served with great distinction in the past on the Judiciary Committee. We sat there for hours and tediously worked out an agreement. Nobody, in his wildest dreams, could anticipate what happened.

I think, with all respect to the Post and my colleagues who may have other beliefs, it is our duty now to take out an insurance policy to see that this does not happen again, to see that we do not get into a position where we have thousands and thousands of wires indicating that people have lost faith in the governmental process. I do not want to go through that again.

It seems to me that one of the reasonable alternatives that might well result from an independent prosecutor bill would be for that three-judge panel to appoint Mr. Jaworski and let him go ahead and continue to function.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. BAYH. I yield the floor.

The PRESIDENT pro tempore. The

Senator from West Virginia has 2 minutes remaining.

EXTENDED CHRISTMAS LEAVE FOR U.S. SERVICEMEN AND SERVICEWOMEN

Mr. ROBERT C. BYRD. Mr. President, the fuel shortage has many aspects, and many of our people are likely to be subjected to inconvenence and hardship in the months ahead. I believe that most Americans are willing to put up with inconveniences and to make sacrifices in the interest of conserving energy and thereby easing the shortages.

But one aspect of the situation comes to mind in which I do not believe it is necessary to ask for sacrifices. I am thinking of U.S. service men and women who would like to get home for Christmas to be with their families, but who may not be able to do so, because of the distance they have to travel and because of the curtailment of airline schedules and the reduced availability of military flights.

I know of cases in my own State in which young men and women serving in our Nation's Armed Forces at duty stations in, let us say, Texas, have planned to be with their families in West Virginia on Christmas, but who now find that they cannot get air transportation, and Amtrak trains do not serve many of our towns and cities. They can ride a bus, but the time required to get home and return, in many cases, will leave them only a few hours with their loved ones.

In this situation, Mr. President, it seems to me that our military services should consider a policy of extended leaves for personnel in instances in which ti can be shown that adequate transportation is not available or that travel time would be so lengthy as to make the time at home of only a few hours duration. Our country is not at war, and it seems to me that our service men and women could be given extended time away from their bases in individual situations which would justify it.

Christmas, of all the times in the year, is a family time, a period when all who can do so wish to be with their loved ones at their own hearthside. Longer leaves for those who need them will not use up any more fuel than is going to be burned by buses and trains. If our men and women in uniform can have only a few hours at home, they are probably going to make their trips anyway. Giving them another day or two, it seems to me, could be a big morale builder.

Perhaps some components of the Armed Forces already plan to grant extended leaves where justified. If so, I commend them. I would hope that all branches of the Armed Forces would consider a longer leave plan for the holidays that are now approaching.

I yield the floor.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. BAYH). Under the previous order, the Senator from Michigan (Mr. GRIFFIN) is recognized.

LEGAL SERVICES CORPORATION AND RAILROAD BILLS—PRIVILEGE OF THE FLOOR

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Arizona (Mr. FANNIN), I ask unanimous consent that a member of the staff, Mr. Tom Shroyer, be permitted on the floor during the consideration of the Legal Services legislation and, if the Senate should go to the railroad bill, also during the consideration of that bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, I yield to the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) such time as he may require.

The PRESIDING OFFICER. The Senator from Pennsylvania.

OIL EMBARGO AND/OR SOVIET-AMERICAN TRADE

Mr. SCHWEIKER. Mr. President, I would like to bring to the attention of my colleagues the article which appeared in the New York Times on Saturday, December 8, reporting that the Soviet newspaper, Izvestia, has attacked my resolution (S. Res. 210) calling for a cutoff of American trade with the Soviet Union until the Arab oil embargo is lifted.

The Times quotes Izvestia as saying:

> What kind of connection can the initiators of the bill see between the oil embargo and Soviet-American trade? None at all. But the objective of Senator SCHWEIKER and his sympathizers is very precise—to hinder development of Soviet-American trade.

Mr. President, I am not privy to the secret understandings between the Russians and the Arabs. But I can read the newspapers, and I have read of the Russian strategic arms buildup, the Russian effort in preparing the Arabs for the recent sneak attack, the failure of the Russians to urge the Arabs to sit down and negotiate until the tide of war had turned, the Russian breach of summit promises to consult with Washington prior to international explosions, the massive Russian resupply effort including the reported introduction of nuclear weapons, the threat of unilateral Soviet military intervention—the list is long, and I could go on.

Do these things add up to a "connection" between the embargo and Soviet-American trade? I think so. But in the words of the recent Washington Post editorial, these things at least "revive the most troubling questions about its—Moscow's—readiness to accept the mutual restraint required by true détente."

As for Izvestia's charge that I am trying to hinder development of Soviet-American trade, it is instructive to examine the type of trade concessions sought by the Russians. According to the House Subcommittee on National Security Policy and Scientific Developments, in a report dated June 10, 1973:

> Soviet representatives have indicated that the availability of (U.S.) credits is an indispensable condition to expanded U.S.-Soviet trade.

They are seeking two types of credit from us in order to get the benefit of American technology in Russia: Deferred-payment credit, and "project loans" for transactions such as exploitation of Siberian mineral reserves.

The Siberian oil and gas exploration is a $7.6 billion project, and of that amount, the Soviet Union proposes to put up just $1.5 billion. The remaining $6.1 billion is to be financed on a long-term basis by our Export-Import Bank and private U.S. banks, on terms more favorable than other U.S. trade partners enjoy. In plain language, Mr. President, this means the American taxpayer is going to subsidize this Russian energy development, with the hope that sometime down the road, the Russians will give us some of the oil and gas.

Mr. President, my constituents do not want to send their tax dollars to Siberia while the Russian Middle East policy is depriving them of the right to have comfortably heated homes or drive their cars. If massive American capital investment is going into energy development, and I think it should, my constituents want that investment made here, in the United States, so they are sure to share in the return.

One Russian wheat deal is enough. My constituents are not ready to pay for a $6 billion Russian energy deal, and I am going to see that they are not forced to finance this deal. I think this kind of trade is no trade at all, because we are not sure of getting anything for our money. I think it is against our national interest, and I predict it could leave us holding a lot of unenforceable promissory notes.

So Izvestia says I am trying to hinder development of Soviet-American trade. In the present world situation, I think Russian trade financed by the American taxpayer should be hindered. And I am going to offer my resolution as an amendment to the next appropriate bill in the Senate so the American people have a chance to be heard before their money is spent.

Détente is a two-way street. If we are going to have détente, both sides must pay as we go, and must pay the same price. I am not willing for this country to buy détente now, by submitting meekly to the Arab oil embargo, while the Soviet Union buys détente with American credit.

I thank the Senator very much for yielding.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I yield

back the remainder of my time under my special order.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements made therein limited to 3 minutes.

ORDER FOR ADJOURNMENT TO 9:45 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until the hour of 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS McGOVERN, MANSFIELD, AND GRIFFIN, FOR TRANSACTION OF ROUTINE MORNING BUSINESS, AND FOR CONSIDERATION OF SPECIAL PROSECUTOR BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees have been recognized under the standing order, the distinguished senior Senator from South Dakota (Mr. McGovern) be recognized for not to exceed 15 minutes, after which the distinguished majority leader, the Senator from Montana (Mr. Mansfield) be recognized for not to exceed 10 minutes, after which the distinguished minority whip, the Senator from Michigan (Mr. Griffin) be recognized for not to exceed 10 minutes; after which there be a period for the transaction of routine morning business for not to exceed 15 minutes with statements made therein limited to 3 minutes; at the conclusion of which the Senate proceed to the consideration of the Special Prosecutor bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BENTSEN ON FRIDAY MORNING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Friday, after the two leaders or their designees have been recognized under the standing order, the distinguished junior Senator from Texas (Mr. Bentsen) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further morning business.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Proposed Supplemental Appropriations, Fiscal Year 1974, Department of State (S. Doc. 93–50)

A communication from the President of the United States, transmitting proposed supplemental appropriations for the fiscal year 1974, in the amount of $27,557,000 for the Department of State (with accompanying papers). Referred to the Committee on Appropriations.

Proposed Supplemental Appropriations, Fiscal Year 1974, Legislative Branch (S. Doc. 93–51)

A communication from the President of the United States, transmitting proposed supplemental appropriations for the fiscal year 1974, in the amount of $197,535, for the legislative branch (with accompanying papers). Referred to the Committee on Appropriations.

Proposed Supplemental Appropriations, Fiscal Year 1974, Department of the Interior (S. Doc. 93–52)

A communication from the President of the United States transmitting proposed supplemental appropriations for the fiscal year 1974, in the amount of $365,000, for the Department of the Interior (with accompanying papers). Referred to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRAVEL, from the Committee on Public Works:

S. 2798. An original bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes (Rept. No. 93–615). Together with minority views.

(See statement by Senator Gravel at conclusion of today's session.)

By Mr. BURDICK, from the Committee on the Judiciary, without amendment:

H.R. 3490. An act to amend section 40b of the Bankruptcy Act (11 U.S.C. 68(b)) to remove the restriction on change of salary of full-time referees (Rept. No. 93–610).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S.J. Res. 159. A joint resolution to provide for the designation of the last Sunday in May of each year as "Walk a Mile for Your Health Day" (Rept. No. 93–611).

By Mr. ERVIN, from the Committee on Government Operations, with an amendment:

S. 2432. A bill to establish a procedure assuring Congress the full and prompt production of information requested from Federal officers and employees (Rept. No. 93–612). Together with additional views.

S. Con. Res. 30. A concurrent resolution to establish a procedure assuring Congress the full and prompt production of information requested from Federal officers and employees (Rept. No. 93–613).

By Mr. McCLELLAN, from the Committee on Appropriations, with amendments:

H.R. 11576. An act making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes (Rept. No. 93–614).

CONGRESSIONAL RIGHT TO INFORMATION ACT

Mr. ERVIN. Mr. President, I have reported S. 2432, the Congressional Right to Information Act, as reported by the Committee on Government Operations, accompanied by the committee's report on the bill.

As amended by the committee, S. 2432 would for the first time in the history of our country provide a practical and just way to solve the controversies between the legislative and executive branches as to what information the Congress is entitled in order to carry out its constitutional functions.

The bill mandates every Federal official or employee to comply with congressional requests for information unless the President specifically instructs them in writing not to do so.

Upon noncompliance with a request for information, the committee chairmen would be authorized to issue subpenas to compel the production of the information sought. The committees could determine that the information is necessary to its legislative function, and the chairman would be authorized to issue a subpena, notwithstanding the Presidential instruction.

Should the subpena not be complied with, the committee chairman would be authorized to initiate a civil action in the U.S. District Court for the District of Columbia to enforce the subpena.

The District Court would be given jurisdiction over such actions—which it does not now have—and the power to enforce the subpenas by mandatory injunction or other appropriate order. The court also could modify the subpenas or set them aside entirely.

Mr. President, the Congress has groped with the problem of information for years, and S. 2432 finally provides the means to resolve these issues in court, where the concept of "Executive privilege" is being formulated.

There are many details of the bill which can best be obtained from its text. Therefore, I ask unanimous consent that S. 2432, as amended by the Committee on Government Operations, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2432

A bill to establish a procedure assuring Congress the full and prompt production of information requested from Federal officers and employees

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That this Act may be cited as the "Congressional Right to Information Act".

Sec. 2. (a) Title III of the Legislative Reorganization Act of 1970 is amended by adding at the end thereof the following new part:

"Part 4—Keeping the Congress Informed

"INFORMING CONGRESSIONAL COMMITTEES

"Sec. 341. (a) The head of every Federal agency shall keep each committee of the Congress and the subcommittees thereof fully and currently informed with respect to all matters relating to that agency which are within the jurisdiction of such committee or subcommittee.

"(b) The head of a Federal agency, on request of a committee of the Congress or a subcommittee thereof or on request of two-fifths of the members thereof, shall submit any information requested of such agency head relating to any matter within the jurisdiction of the committee or subcommittee.

"PRODUCTION OF INFORMATION

"Sec. 342. (a) When an officer or employee of the United States is summoned to testify or to produce information, records, documents, or other material before either House of Congress or a committee of the Congress or subcommittee thereof, that officer or employee shall appear at the time and place specified and shall answer all questions propounded to him, or produce all information, including records, documents, and other material sought, unless, in the case of an officer or employee of a Federal agency in the executive branch, either within twenty days of the date of the summons, or, in the case of any such information which was first requested at an appearance, within ten days after that appearance, the President formally and expressly instructs the officer or employee in writing to withhold the information requested, including answers to specific questions, or specific records, documents, or other material, in which event such Presidential instruction shall set forth the grounds on which it is based.

"(b) Each written Presidential instruction pursuant to subsection (a) shall be transmitted to the House of Congress or committee of the Congress or subcommittee thereof requesting the information, proposing the questions, or seeking the records, documents, or other material.

"SUBPENA OF INFORMATION

"SEC. 343. (a) If a House of Congress or a committee of Congress—

"(1) determines that an officer or employee of the United States has failed to comply with the provisions of section 342(a); or

"(2) upon consideration of the Presidential instruction transmitted pursuant to section 342(b), determines that the information requested is needed to enable it to exercise a legislative function under the Constitution.

it shall prepare a written report setting forth such determination. In the case of a committee, the chairman is authorized, subject to the approval of the committee, to issue a subpena requiring such officer or employee to appear before the committee at a time specified and to provide the information requested by answering the question or questions propounded and to produce any information, including records, documents, or other material requested. In the case of a House of Congress, the majority or minority leader shall introduce a resolution citing such determination and authorizing the majority or minority leader of that House to issue a subpena requiring such officer or employee to appear before such House and to provide the information requested by answering the question or questions propounded and to produce any information, including records, documents, or other material requested.

"(b)(1) If a committee of the Congress determines that an officer or employee of the United States has failed to comply with a subpena issued pursuant to subsection (a) within fifteen days after such officer or employee receives such subpena, the chairman of such committee is authorized, subject to the provisions of paragraph (2), to bring a civil action in the United States District Court for the District of Columbia to enforce such subpena.

"(2) If a committee of the Congress referred to in paragraph (1) determines that the chairman of such committee should institute a civil action in the United States District Court for the District of Columbia to enforce the subpena issued by it pursuant to subsection (a), the chairman shall introduce a resolution in the House or Houses of Congress concerned citing the failure to comply with the subpena of the committee and authorizing the chairman to bring a civil action in such court for such purpose. If such resolution is agreed to by the House or Houses of Congress concerned, the chairman shall institute a civil action in the United States District Court for the District of Columbia to enforce the subpena.

"(c) If a House of Congress determines that an officer or employee of the United States has failed to comply with a subpena issued pursuant to subsection (a) within fitfeen days after such officer or employee receives such subpena, the majority or minority leader of that House shall introduce a resolution citing such failure to comply and authorizing the majority or minority leader of that House to bring a civil action in the United States District Court for the District of Columbia to enforce such subpena.

"(d)(1) A resolution introduced pursuant to subsections (a), (b)(2), or (c) shall not be referred to a committee and shall be privileged business for immediate consideration. It shall at any time be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. Such motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(2) If the motion to proceed to the consideration of the resolution is agreed to, debate thereon shall be limited to two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(3) Motions to postpone, made with respect to the consideration of the resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

"(4) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to the resolution shall be decided without debate.

"(e) The provisions of subsection (d) of this section are enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively; and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

"JUDICIAL REVIEW

"SEC. 344. (a) The United States District Court for the District of Columbia shall have original jurisdiction of actions brought pursuant to section 343 of this Act without regard to the sum or value of the matter in controversy. The court shall have power to issue a mandatory injunction or other order as may be appropriate, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the subpena issued pursuant to section 343 of this Act.

"(b) Any congressional party commencing or prosecuting an action pursuant to this section may be represented in such action by such attorneys as it may designate.

"(c) Appeal of the judgment and orders of the court in such actions shall be had in the same manner as actions brought against the United States under section 1346 of title 28, United States Code.

"(d) The courts shall give precedence over all other civil actions to actions brought under this part.

"PROTECTION OF INFORMATION

"SEC. 345. (a) Each House of Congress and each committee or subcommittee of the Congress shall take appropriate measures to insure the confidentiality of any information made available to it under this part which, in the judgment of the Federal agency providing it and the House of Congress or committee or subcommittee of the Congress receiving it, requires protection against disclosure which would endanger (1) personal privacy, (2) trade secrets or confidential commercial or financial information, or (3) the conduct of the national defense, foreign policy, or law enforcement activities.

"(b) The Select Committee on Standards and Conduct of the Senate shall investigate any breach of confidentiality of information made available under this part by a Member or employee of the Senate, and the Committee on Standards of Official Conduct of the House of Representatives shall investigate any breach of confidentiality of information made available under this part by a Member or employee of the House of Representatives. Such committee shall recommend appropriate action such as censure or removal from office or position.

"DEFINITIONS

"SEC. 346. For purposes of this part:

"(1) The term 'committee of the Congress' means any joint committee of the Congress or any standing committee, special committee, or select committee of either House of Congress.

"(2) The term 'Federal agency' has the same meaning given that term under section 207 of this Act, and includes the Executive Office of the President.

"SAVINGS PROVISIONS

"SEC. 347. (a) Nothing in this part shall be construed to require the furnishing or production of any information, records, documents, or other material to either House of Congress if such furnishing or production is prohibited by an Act of Congress.

"(b) Nothing in this part shall be construed as in any way impairing the effectiveness or availability of any other procedure whereby Congress may obtain information needed to enable it to exercise a legislative function under the Constitution."

(b) Title III of the table of contents of the Legislative Reorganization Act of 1970 is amended by adding at the end thereof the following:

"PART 4—KEEPING THE CONGRESS INFORMED

"Sec. 341. Informing congressional committees.
"Sec. 342. Production of information.
"Sec. 343. Subpena of information.
"Sec. 344. Judicial review.
"Sec. 345. Protection of information.
"Sec. 346. Definitions.
"Sec. 347. Savings provisions.".

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. MAGNUSON, from the Committee on Commerce:

G. Joseph Minetti, of New York, to be a member of the Civil Aeronautics Board.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to the requests to appear and testify before any duly constituted committee of the Senate.)

Mr. MAGNUSON. Mr. President, I also report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL

RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Charles J. Robinson, and sundry other Coast Guard officers for promotion in the Coast Guard; and

Michael P. Lovett, and sundry other Coast Guard Reserve officers to be permanent commissioned officers in the Regular Coast Guard.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HARTKE:

S. 2794. A bill to amend chapter 36 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to continue making educational assistance and subsistence allowance payments to eligible veterans and eligible persons during periods that the educational institutions in which they are enrolled are temporarily closed pursuant to a policy proclaimed by the President or because of emergency conditions. Referred to the Committee on Veterans' Affairs.

By Mr. SPARKMAN (for himself and Mr. TOWER):

S. 2795. A bill to authorize the Secretary of the Treasury to change the alloy and weight of the 1-cent piece. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. PELL (for himself and Mr. MONDALE):

S. 2796. A bill to provide health benefits to employees and their immediate families, and to provide for the distribution of health benefits, for medical education, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. NELSON (for himself, Mr. HART, and Mr. HATHAWAY):

S. 2797. A bill to require that the three United States Commissioners on the International Joint Commission of the United States and Canada be appointed by the President by and with the advice and consent of the Senate, to establish fixed terms of office for such Commissioners, and to make the Commission bipartisan. Referred to the Committee on Foreign Relations.

By Mr. GRAVEL:

S. 2798. An original bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes. Placed on the calendar.

STATEMENTS ON INTRODUCED BILLS

By Mr. HARTKE:

S. 2794. A bill to amend chapter 36 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to continue making educational assistance and subsistence allowance payments to eligible veterans and eligible persons during periods that the educational institutions in which they are enrolled are temporarily closed pursuant to a policy proclaimed by the President or because of emergency conditions. Referred to the Committee on Veterans' Affairs.

THE ENERGY CRISIS AND GI BILL PAYMENTS FOR VETERANS

Mr. HARTKE. Mr. President, today I introduce legislation to protect educational assistance or subsistence payments for veterans or eligible wives, widows, and children attending institutions which may be temporarily closed pursuant to an established policy proclaimed in an executive order of the President or because of emergency conditions.

Mr. President, for the last few weeks I have been watching with increasing concern the effect of the energy crisis on institutions of higher learning. As my colleagues may be aware, because of the fuel shortages, many schools in the country and, particularly in New England and the North Central States, are planning extended Christmas vacations or unscheduled leaves during the month of January. I have been quite concerned that these extended closings would cause these students attending colleges on the GI bill to have their monthly assistance payments reduced or cut. Veterans' Administration law and regulations issued thereunder normally provide for monthly assistance payments only during an "ordinary school year," which is generally 9 months. The regulations further provide that college enrolled veterans will not have their checks reduced during the ordinary school year for school holidays and short intermissions between semester terms or periods of instruction. More extended closings caused by the energy crisis, however, would fall outside of those definitions.

Veterans, particularly those with dependents, must rely on their educational assistance checks—which are below the levels where I believe they should be—not only for educational costs, but for subsistence expenses as well. The school closings occasioned by the energy crisis will not present realistic opportunities for veterans to find new employment during those periods.

Mr. President, in response to these congressional concerns, the Administrator of Veterans' Affairs has been able to deal with part of the problem by issuing amendatory regulations effective immediately to prevent any college enrolled veteran from losing GI bill payments during the energy crisis. These new regulations provide for continued payments of educational benefits under the GI bill within a certified period of enrollment during which the school is closed due to an order of the President or due to an emergency situation.

Mr. President, I ask unanimous consent that the full text of the regulations be inserted in the RECORD at this point.

There being no objection, the regulations were ordered printed as follows:

[38 CFR Part 21]

VETERANS' ADMINISTRATION EDUCATIONAL BENEFITS

Payment During Emergency Closing of School

The following regulatory change provides for continued payment of educational benefits within a certified period of enrollment during which the school is closed due to order of the President or for any emergency situation.

It is found that it is impracticable and contrary to the public interest to give preliminary notice and postpone the effective date of these regulations until 30 days after publication thereof in the FEDERAL REGISTER (§ 1.12 of this chapter) because of the need for an immediate liberalization of the requirements for awarding educational assistance for veterans and eligible persons under chapters 34 and 35 of title 38, United States Code and for awarding subsistence allowance for veterans under chapter 31 of that title.

1. In § 21.261(b), subparagraph (1) is amended to read as follows: § 21.261 Ordinary leave.

* * * * *

(b) *Charging of ordinary leave.*

(1) For veterans enrolled in educational institutions, leave will not be charged for school holidays and short intermissions between successive terms or periods of instruction within the ordinary school year, provided the veteran was enrolled for the two successive terms. "Ordinary school year" means a period of approximately 9 months which begins in the fall and ends in the spring. At the discretion of the Administrator, payment may be made for breaks, including intervals between terms, within a certified period of enrollment during which the school is closed under an established policy upon an order of the President or due to an emergency situation. Leave will not be charged for such breaks.

* * * * *

2. In § 21.4203(b), subparagraph (1) is amended to read as follows: § 21.4203 Reports by schools; requirements.

* * * * *

(b) *Entrance or reentrance.* The certification must clearly specify the program objective. Upon receipt of a certification of enrollment, an official authorization will be issued showing the beginning and ending dates of each period for which an allowance may be paid. The authorization will be for the period of enrollment or the extent of the eligible person's entitlement, whichever is the lesser.

(1) Schools organized on a term, quarter or semester basis may generally report enrollment for the term, quarter or semester or the complete course to the expected date of graduation. Certifications for the ordinary school year may include the summer session. If a certification covers two or more terms or the complete course, the school will report the dates for the break between terms or school years if a term or school year ends and the following term or school year does not begin in the same or the next calendar month. No allowances are payable for these intervals. At the discretion of the Administrator, payment may be made for breaks, including intervals between terms, within a certified period of enrollment during which the school is closed under an established policy based upon an order of the President or due to an emergency situation. Enrollment certifications for the complete course are encouraged, except where the student is a veteran or eligible person pursuing a program on a less than half-time basis or is a serviceman. For these students a separate enrollment certification will be required for each term, quarter or semester.

Mr. HARTKE. Unfortunately, Mr. President, the Administrator lacks authority to issue such regulations affecting all recipients of GI bill payments. Students attending vocational, technical, or trade schools not leading to a standard college degree, for example, would not be protected and receive continued payments in the event the institutions were closed because of the energy crisis.

Accordingly, to provide the same protection for these students, as well as to clearly establish the policy for all GI bill recipients, the legislation I introduce today would amend subsection (a) of section 1780 of title 38, United States Code, to provide that such payments may continue where an institution is temporarily closed pursuant to an established policy proclaimed by Executive order of the President or because of emergency conditions. Because many educational institutions are planning extended leaves in the month of January, I believe it is important that we act promptly before the close of the session. I am hopeful that the Committee on Veterans' Affairs, which I am privileged to chair, will be able to consider this bill in executive session and report a bill to the full Senate within a week so as to prevent any inequities or disruptions in GI bill payments which might be occasioned by the energy crisis.

Mr. President, I ask unanimous consent that the text of the bill as introduced be printed in the Record at this point.

There being no objection, the bill was ordered printed as follows:

S. 2794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1780 of title 38, United States Code, is amended by adding a new sentence as follows: "Notwithstanding the foregoing provisions of this subsection, the Administrator may, in his discretion, continue to make educational-assistance or subsistence payments to eligible veterans or eligible persons during any certified period of enrollment that the educational institution in which such veterans or persons are enrolled is temporarily closed pursuant to an established policy proclaimed in an executive order of the President or because of emergency conditions."

By Mr. SPARKMAN (for himself and Mr. Tower):

S. 2795. A bill to authorize the Secretary of the Treasury to change the alloy and weight of the 1-cent piece. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. SPARKMAN. Mr. President, I am introducing on behalf of myself and the Senator from Texas (Mr. Tower) a bill that has been requested by the Treasury Department.

I ask unanimous consent that a memorandum, that was sent along with the draft of the bill, be printed at this point as part of my remarks and also that a letter from the Secretary of the Treasury to the President of the Senate, the Honorable Gerald R. Ford, also be printed as a part of my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

Comparative Print Showing Changes in Existing Law Made by Draft Bill

Changes in existing law proposed to be made by the draft bill are shown as follows (existing law proposed to be omitted is enclosed in brackets; new matter is italic):

SECTION 3515 OF THE REVISED STATUTES, AS AMENDED (31 U.S.C. 317)

Sec. 3515. (*a*) The minor coins of the United States shall be a five-cent piece, a three-cent piece, and a one-cent piece. The alloy for the five and three cent pieces shall be of copper and nickel, to be composed of three-fourths copper and one-fourth nickel. The alloy of the 1-cent piece shall be 95 per centum of copper and 5 per centum of zinc. The weight of the piece of five cents shall be seventy-seven and sixteen-hundredths grains troy; of the three-cent piece, thirty grains; and of the one-cent piece, forty-eight grains.

(b) Whenever the Secretary of the Treasury determines that the use of copper in the one-cent piece is no longer practicable, he may change the alloy of the one-cent piece to not less than 96 per centum of aluminum and such other metals as he shall determine. The one-cent piece authorized by this subsection shall have such weight as may be prescribed by the Secretary.

The Secretary of the Treasury,
Washington, D.C., December 7, 1973.

Hon. Gerald R. Ford,
President of the Senate
Washington, D.C.

Dear Mr. President: There is transmitted herewith a draft bill "To authorize the Secretary of the Treasury to change the alloy and weight of the one-cent piece."

Section 3515 of the Revised Statutes, as amended (31 U.S.C. 317), now requires that the alloy of the one-cent piece be 95% copper and 5% zinc and that it weigh 48 grains. The draft bill would authorize the Secretary, when he determines that the use of copper in the one-cent piece is no longer practicable, to change the alloy to not less than 96% aluminum and such other metals as he shall determine, and to prescribe the weight of the one-cent piece composed of such alloy.

The proposed legislation is necessitated by the steadily rising price of copper, which has increased from approximately fifty cents per pound in January 1973 to almost one dollar by October of this year. The value of copper content of the one-cent piece has correspondingly increased to 0.6c per piece, to which manufacturing and transportation costs and another 0.2¢ per piece. If the price of copper rises to $1.20 per pound, the cost of the metal, together with the production costs, will exceed the face value of the one-cent coin. If the price of copper rises to $1.50 per pound, the metal value of the coin alone will exceed one cent and thus hoarding of pennies will become profitable.

The proposed legislation would permit the Secretary of the Treasury to change the alloy of the one-cent piece when the price or availability of copper no longer makes its use practicable in pennies, thereby preventing hoarding and the resultant shortage in pennies.

There is enclosed a comparative type which shows the changes the draft bill would make in existing law.

It would be appreciated if you would lay the draft bill before the Senate. An identical bill has been transmitted to the Speaker of the House of Representatives.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely yours,

George P. Shultz.

By Mr. PELL (for himself and Mr. Mondale):

S. 2796. A bill to provide health benefits to employees and their immediate families, and to provide for the distribution of health benefits, for medical education, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. PELL. Mr. President, I introduce on behalf of myself and Mr. Mondale, for referral to the Committee on Labor and Public Welfare, a bill to provide for the improved accessibility and availability of comprehensive health care services for all citizens, to provide for the creation of areawide health services and health education corporations, and to provide a decent level of health benefits to this Nation's employees and their families. My bill is entitled, "The Health Benefits and Health Services Distribution and Education Act of 1973."

Mr. President, I believe that this bill speaks thoughtfully, and soundly, to the continuing serious and complex problem of health care in this country. For years we have known of the inexcusable shortcomings of our health care systems, and although we have made some tentative and piecemeal approaches to the solution of small parts of the health services problem, I do not believe that we have ever attempted to reform it systematically, at its roots. Two years ago, I introduced a somewhat similar bill, and I spoke of the unremedied ills of our citizens and of the Nation's medical delivery and purchase systems. It is frightening that, today, these same ills remain present, and even more unjust and needless than ever, and so, with certain modifications which I believe represent affirmative additions to the timeliness of this measure, I am reintroducing it today.

I believe that two fundamental problems—a shortage and impractical distribution of medical personnel, and an unsound and antiquated financing of the health care industry—contribute in enormous measure to today's health care crisis. My bill is carefully designed to meet these two problems, and to fundamentally restructure the financial and organizational foundations of this Nation's health care system. I believe that health care for all citizens must become a first priority in this Congress; for that reason, I am introducing today the Health Benefits and Health Services Distribution and Education Act of 1973.

I believe that this bill is drawn from the most practical and well proven and understood principles of American organizational and business experience. It is not a plan for socialized medicine or for enormous and never-ending Federal support of a program which will never have to stand the test of the marketplace. Rather, this legislation encourages a coordinated and planned systems approach to the purchase and delivery of medical services, thus maximizing the efficiency and thoroughness of health services, minimizing their costs to the consumer, and still allowing the individual as complete a freedom of choice as he or she has today.

This bill has four major characteristics. First, it asserts that the access to decent health services, like a minimum wage, should be considered the right of every worker in this Nation. Health services are treated as a cost of conducting this Nation's business, and I believe that that is demonstrably true. These health services are basically of a preventative nature, emphasizing periodic and routine examinations, and early detection of disease. These services would be entirely complimentary to the existing curative and hospital benefits which many employees already purchase, and the existing and proposed systems could be easily merged. The comprehensive health services which I propose, especially annual medical examinations and multiphasic screenings for eyesight, hearing, respiratory and circulatory diseases, are designed to take the fullest advantage of the medical professions skill and experience with preventative medical techniques. I have also included care for drug addiction, alcoholism, and mental illness because each of these diseases seriously harms our Nation's social and economic well-being, as well as being a terrible burden to an individual and family.

Second, this bill provides for the delivery of these mandated services in a more efficient and well-coordinated system than we presently have in this Nation. I am proposing federally chartered corporations which would manage the delivery of the health services prescribed under this bill and educate the still much-needed manpower to provide these services in all parts of this country.

Because of the proven cost benefits realized by well managed corporations. I propose the corporate method as the best fundamental solution to the reorganization of health service delivery. The majority of the board of directors of the corporation would be weighted toward public interest representation, and the corporations, because they would be regionally distributed, would be sensitive and responsible to the particular needs of the communities which they served. I can point with great pride to my own State of Rhode Island, the home of Aime Forand, the father of medicare, and the home of John Fogarty, a long-time crusader for health research, which has proven that these ideas will work. In Providence, the AFL–CIO with the assistance of the Prudential Insurance Co., has built a prepaid group health care plan own paraprofessional staff.

Third, I propose the utilization of Regional Health Planning Councils in each major geographic region of the country, to insure that adequate provisions are made for sufficient service delivery, manpower training, and facility construction.

Fourth, my bill provides a tested and proven method of delivering health benefits and services to the people who need them. Because this bill recognizes and utilizes the marketplace as a factor in targeting services and limiting inflationary costs, I believe it represents a realistic and practical approach which can be quickly implemented so that this enormous problem of health care, which has for too long gone unresolved, may be remedied.

By Mr. NELSON (for himself, Mr. HART, and Mr. HATHAWAY):

S. 2797. A bill to require that the three U.S. Commissioners on the International Joint Commission of the United States and Canada be appointed by the President by and with the advice and consent of the Senate, to establish fixed terms of office for such Commissioners, and to make the Commission bipartisan. Referred to the Committee on Foreign Relations.

Mr. NELSON. Mr. President, the border between the United States and Canada is the longest unguarded boundary in the world. Of that boundary, approximately 1,400 miles is formed by waterways, either lakes, rivers, or canals. Since 1909, all authority of these waterways, which includes not only the Great Lakes but the entire American-Canadian Northern boundary area has rested in the hands of the International Joint Commission on the Great Lakes composed of three Canadian Commissioners chosen by the Queen with the recommendation of the Government Council of Canada and three American Commissioners, who in the past have been chosen by the President with no oversight by any congressional body.

The Commissioners occupy what has become a strategic policy and planning position in the last two or three decades. The settlement of people directly on the shore of the Great Lakes has increased dramatically, as has the commerce and trade which is carried on, particularly since the opening of the St. Lawrence Seaway.

This increased settlement and this heavy increase of traffic have added greatly to the responsibilities of the Commission in overseeing and planning for problems such as water and air pollution and the control of lake levels which in the last few years has destroyed millions of dollars in both public and private property. In addition, the Commissioners supervise research in wildlife habitat and the fishing industry.

More recently, the importance of finding new sources of energy has suggested the possibility of hydroelectric, or tidal power as alternatives to the fossil fuels on which we heavily rely. Certainly these sources of power involve the Great Lakes and thereby come under the control of the Joint Commission. These factors further increase the importance of the planning which the American and Canadian Commissioners must direct.

Presently, the Commissioners coordinate almost 30 technical advisory boards that are investigating problems and helping to plan for the future of the Lakes. This is a most important task. Over 15 percent of the population and economy of this country depends on the Lakes. Over 40 million people now live around the Great Lakes and by the year 2000 that figure is estimated to jump to almost 60 million. Over one-third of the border between Canada and this country transverses the Great Lakes.

The bill that I am introducing with the distinguished Senators from Michigan (Mr. HART) and Maine (Mr. HATHAWAY) is straightforward. It accomplishes three things: First, it mandates that the President's appointments have the advice and consent of the Senate; second, it legislates that these appointments have fixed terms of office; and third, it states that the Commission is to be bipartisan.

In times like these we cannot afford to be caught short in the kinds of men who will fill these positions of increasing responsibility. We must have men of vision who are professionally qualified to carry out the duties and responsibilities of this office with industry and vigor. For these reasons, my distinguished colleagues and myself have written a bill that requires the American nominees for the International Joint Commission to be subject to the same approval of the Senate as is now required of officials appointed to other positions of similar responsibility.

Only in this way, with proper congressional oversight of these appointments, can we insure that the men chosen will be of the caliber that we need to deal with the problems of the future in this area of our international waterways.

The Canadian Government has long subjected its nominees to a strict scrutiny with regard to their qualifications for office. We must begin to do the same, if these positions are to be used with the kind of imagination that is necessary for the future.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 796

At the request of Mr. PELL, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 796, to improve museum services.

S. 2700

At the request of Mr. MONDALE, the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. TAFT), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 2700, to postpone implementation on the Head Start fee schedule, and that their names appear on any future printings of the bill.

S. 2710

At the request of Mr. HARTKE, the Senator from South Dakota, (Mr. MCGOVERN) was added as a cosponsor of S. 2710, to amend title 38, U.S.C., to increase the rates of disability compensation for disabled veterans, and for other purposes.

S. 2728

At the request of Mr. TALMADGE, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 2728, to provide for the control and eradication of noxious weeds, and the regulation of the movement to interstate or foreign commerce of noxious weeds and potential carriers thereof, and for other purposes.

S. 2733

At the request of Mr. HARTKE, the Senator from South Dakota (Mr. ABOUREZK) was added as a co-sponsor of S. 2733, to provide for the embossing of paper currency.

SENATE JOINT RESOLUTION 177

At the request of Mr. DOMENICI, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Georgia (Mr. NUNN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Utah (Mr. BENNETT), the Senator from Indiana (Mr. BAYH), and the Senator from Utah (Mr. MOSS) were added as cosponsors of Senate Joint Resolution 177, to authorize the administrator of any direct Federal loan program or any federally guaranteed loan program to renegotiate or reschedule repayment by any person or business suffering severe economic harm as a result of the energy crisis on a loan under any such program.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 155

At the request of Mr. HARTKE, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of Senate Resolution 155, expressing disapproval of the testing of nuclear weapons in aboveground explosions.

LEGAL SERVICES CORPORATION ACT—AMENDMENTS

AMENDMENTS NOS. 855 THROUGH 872

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted 18 amendments intended to be proposed by him to the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

LEGAL SERVICES CORPORATION ACT—AMENDMENTS

AMENDMENTS NOS. 873 THROUGH 881

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted nine amendments intended to be proposed by him to the bill (S. 2686) supra.

SUPPLEMENTAL APPROPRIATIONS, 1974—NOTICE OF MOTIONS TO SUSPEND THE RULE

AMENDMENT NO. 882

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE submitted the following notice in writing:

In accordance with rule XL, of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H.R. 11576) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes, the following amendment, namely:

Page 2, after line 21, insert the following:

VETERANS' ADMINISTRATION

No funds appropriated in this or any other Appropriation Act for any fiscal year shall be used to make a settlement of any construction contract by the Veterans Administration in an amount which has not been audited independently as to the reasonableness and appropriateness of expenditures and which has not been provided for speccifically in an Appropriations Act.

AMENDMENT NO. 883

(Ordered to be printed and to lie on the table.)

Mr. PASTORE submitted the following notice in writing:

In accordance with rule XL, of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H.R. 11576) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes, the following amendment, namely:

Page 13, after line 12, insert the following:

PRESIDENTIAL ELECTION CAMPAIGN FUND

For the Presidential Election Campaign Fund, the amounts designated to such fund by individuals under section 6096 of the Internal Revenue Code of 1954, as of the date of enactment of this Act are hereby appropriated to the fund.

FEDERAL ENERGY ADMINISTRATION ACT—AMENDMENT

AMENDMENT NO. 884

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS. Mr. President, the amendment which I submit today to S. 2776 has been twice passed by the Senate. Most recently it passed Monday, December 10 where section 3 of S. 2176 incorporated the language of S. 70, the Energy Policy Act of 1973, which passed the Senate on May 10, 1973. My amendment would establish a three member Council on Energy Policy to centralize the collection and analysis of energy information, coordinate the energy activities of the Federal Government and prepare a long-range comprehensive plan for energy development, utilization, and conservation. This proposal would provide a single place for Congress and the President to seek energy information and policy recommendations. It assures us a single entity would have responsibility for examining the overall energy picture.

S. 2776, the Federal Energy Administration Act, proposes the establishment of a new, line agency principally to administer the fuel allocation and rationing programs designed to meet the current energy emergency. My proposal to establish a Council on Energy Policy is fully compatible with the establishment of a Federal Energy Administration.

The Administration will be primarily concerned with the day-to-day operations of a highly complex and important energy allocation program. Because of the hardships and dislocations that will occur as a result of fuel shortages, the administration of such programs will consume virtually all of the resources and talent of the Energy Administration. The Energy Administration is an essentially temporary effort to put together an entity that can run the emergency programs necessary to alleviate the current shortages. Such an agency will have little time to devote to long-range planning, and the development of a comprehensive and credible system of energy statistics. Its energies will be consumed trying to answer the millions of complaints and attempting to secure fuel supplies to maintain productivity and employment.

For this reason it is imperative that we establish a permanent ongoing Council to focus on providing sophisticated policy analysis and designing a national energy plan that will provide guidance to all agencies of the Federal Government and the private sector.

The Council on Energy Policy parallels in the energy area the successful organizational structure of the Council of Economic Advisers and the Council on Environmental Quality. Energy, like economics and the environment cuts across the responsibilities and operations of virtually every department and agency of the Federal Government. For example, major opportunities exist for energy conservation depending upon the Department of Housing and Urban Development's building and installation standards. If the Department of Transportation encourages mass transit instead of highway construction or rail shipments instead of truck or air shipments, major energy savings can occur, yet HUD and DOT are not part of the Federal Energy Administration.

Tax incentives administered by the Treasury Department, such as depletion allowances, foreign investment tax credits, and intangible drilling expense deductions all have a very significant impact on energy production, yet of course the Department of Treasury cannot be transferred to the Federal Energy Administration.

The foreign policy of the Nation is very much immeshed with energy because imports are an important share of our energy supply. But the Department of State is not part of the Federal Energy Administration.

Last week on December 7, the Senate passed the National Energy Research and Development Policy Act of 1973. The direction and funding of energy research and development can play a critical role in the Nation satisfying its energy requirements in the future but the energy research management project, which would direct these efforts, is not part of the Federal Energy Administration. Yet all of these important energy functions in virtually every agency and department of the Federal Government must be effectively coordinated and a rational energy plan must be established. This task cannot be performed by a Federal Energy Administration that will have its hands full trying to run the allocation and other emergency programs designed to cope with the immediate shortages of energy.

Therefore, I again urge for prompt enactment of these provisions to establish an agency to be responsible for energy policy—a single place to provide information, make policy recommendations and engage in long-range planning. Let us not waste another day attempting to reach energy policy decisions in the dark.

HOUSE BILL REFERRED

The bill (H.R. 9107) to provide increases in certain annuities payable under chapter 83 to title 5, United States Code, and for other purposes, was read twice by its title and referred to the Committee on Post Office and Civil Service.

NOTICE OF HEARING ON NOMINATIONS BEFORE JUDICIARY COMMITTEE

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, December 18, 1973, at 10:30 a.m., in room 2228 Dirksen Office Building, on the following nomination:

Herbert J. Stern, of New Jersey, to be U.S. district judge for the district of New Jersey, vice Leonard I. Garth, elevated.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. McClellan); the Senator from Nebraska (Mr. Hruska) and myself as chairman.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Denny L. Sampson, of Nevada, to be U.S. marshal for the district of Nevada for the term of 4 years, reappointment.

Donald E. Walter, of Louisiana, to be U.S. attorney for the western district of Louisiana for the term of 4 years, reappointment.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Tuesday, December 18, 1973, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

A SALUTE TO THE HOMESTEAD HIGHLANDER MARCHING BAND

Mr. PROXMIRE. Mr. President, it is with great pleasure that I announce that the Homestead Highlander Marching Band has been selected to march in the Cotton Bowl Parade in Dallas, Tex., on New Year's Day, 1974. This is a particularly coveted honor among high school bands. Only seven bands outside Texas were included among the finalists.

Thanks to a combination of talent, dedication, and plain old hard work, these young men and women have earned the right to represent the State of Wisconsin before the Nation. The national recognition which they will receive from this event is richly deserved.

It is a privilege to salute them on their accomplishment.

PENNSYLVANIA AAA FEDERATION FUEL CONSERVATION PROGRAM

Mr. HUGH SCOTT. Mr. President, I am pleased to recognize the Pennsylvania AAA Federation for their efforts to meet the energy crisis. On December 5, 1973, the federation initiated a 15-point program designed to reduce gasoline consumption by 25 percent by arousing public awareness through a coordinated mass media effort. The federation encompasses 40 AAA Motor Clubs in the Commonwealth with over 1.2 million members. When proven successful, the pilot program will be implemented by other organizations across the Nation.

Because of the tremendous potential impact of this program, I have asked the administration to recognize this program as a prototype to determine if the public through voluntary action, can reduce gasoline consumption by at least 25 percent. I commend the Pennsylvania AAA for their strong action and encourage others to utilize their available resources to implement similar energy saving programs.

I ask unanimous consent that a telegram from the federation and the 15 points of this conservation program be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Form car pools. Neighbors should get to know each other. Several people will probably discover they work in the same general area. If four or five people combine to use one car, there will be fewer cars consuming precious gasoline during rush hour traffic.

Housewives should also form car pools. Wives can get together for shopping trips to food stores and to various other shops and stores, especially during the Christmas shopping period.

Car pools can also be formed for those people attending the same worship services.

Businesses and industries should work with their employes to further promote car pools among employes from the same general areas.

School students should leave their cars at home and use school buses, public transit, or walk to school. Otherwise they should help set examples for their parents and form their own car pools. "Joy riding" before and after school should be voluntarily eliminated.

Short trips should be combined. Hops to the store for a quart of milk and a loaf of bread can be eliminated with better planning. Such things can be taken care of when delivering or picking up children at school or on the way home from work.

Recheck the social calendar. More evenings at home with the family together can be mutually rewarding besides being a gas saver.

If buying a second car is called for, make it a smaller one with an economical engine. Vehicle weight and engine size have a direct effect on gasoline consumption.

Keep the car's engine in tune. A poorly tuned engine wastes a good deal of gas. Special attention should be given to fuel and air filters as well as plugs, points, condensers, and emission control devices.

Don't fill the gas tank to the neck. Fuel can overflow while the car is in motion or parked on a hill. Gas also expands in warmer weather and can spill over.

Properly inflated tires cut "road drag" and save gas. Run with the maximum pressure listed on the tire's sidewall, but do not exceed it.

Avoid "jack rabbit" starts and drive at steady, moderate speeds. Do not race from traffic light to traffic light. Anticipating movements early will minimize braking and acceleration. When entering a freeway, use all the available acceleration lane since floorboarding the gas pedal rapidly wastes gas.

After a cold start, don't use a long idling warm up period. Begin driving at moderate speed until the engine has warmed up.

Don't sit for a long time with the engine idling. Turn it off during waiting periods. It takes less gas to start an engine than it does to idle it.

Travel light on long necessary trips. It would be cheaper to ship heavy items ahead of time. Driving with a heavy load steals from fuel efficiency.

Harrisburg, Pa., *December 5, 1973.*

Senator Hugh Scott,
Senate Office Building,
Washington, D.C.

Dear Senator Scott: This morning I sent telegrams to the President and William E. Simon asking that Pennsylvania be designated a pilot test State to determine if the public, through voluntary action, can reduce gasoline consumption by at least 25 per cent.

I would ask that you discuss this possibility with Congress and the President as a means of averting the need for excessive taxes and/or gas rationing.

The following is a basis for our request:

This morning the Pennsylvania AAA Federation and 40 AAA motor clubs in the State have launched an intensive voluntary gasoline conservation program aimed at reducing motor fuel consumption in Pennsylvania by 25 per cent.

Program includes 15 specific recommendations public should follow to cut gas consumption. These points are being released today to nearly 400 newspapers across the State. Additionally public awareness will be reinforced with repetitive announcements on over 120 radio stations and over 20 TV stations for next several weeks. As a further step we are coordinating a program to encourage every newspaper in Pennsylvania to provide free classified ad service for people seeking car pools.

If given enough time, we intend to further coordinate our expansive public awareness program through cooperation of churches, service clubs, chambers of commerce, PTA's and the various chapters of League of Women Voters.

AAA in Pennsylvania is comprised of over 1,250,000 members who will be most directly effected by our efforts. We ask that you look at Pennsylvania as pilot test State where it can be demonstrated that voluntary conservation can achieve substantial reduction in gasoline cosumption.

We feel that if our program can have effective impact over the next three to four weeks, than it certainly is well worth launching nationwide in deference to restrictive taxes and rationing.

Under separate mail, we are sending you copy of full gas conservation program as initiated by our organization and 40 Pennsylvania AAA clubs. Please review it as carefully as your time permits. We hope you will agree with us that it provides sensible answer to need for public cooperation and that you will view what happens in Pennsylvania as indication of what can be achieved voluntarily on national basis.

Sincerely,

John J. Donovan,
Executive Vice President.

HOW SHOULD WE SELECT OUR VICE-PRESIDENTIAL NOMINEES?

Mr. HUMPHREY. Mr. President, we have recently sworn into office the first Vice President of the United States selected under the procedures of the 25th amendment.

The office of Vice President of the United States is the second highest office in this land. Neither recent events, nor the history of that office, nor the many complaints raised about its ambiguities should lead us to minimize its importance. The holder of this office at any time can become the President of the United States. He must be qualified fully to hold that office.

So in the coming months we will be evaluating how wise was our decision in establishing the selection process to fill a vacancy in the office of Vice President under the 25th amendment.

Mr. President, no less important will be our efforts, in Congress, in our political parties, and in the Nation, to evaluate the wisdom of our process for selecting the Vice-Presidential nominees of our political parties. Events of only the last few months have disclosed possible weaknesses in these selection processes in both of our major political parties.

Mr. President, on December 13, next Thursday, in room 1202 of the New Senate Office Building, a special commission of the Democratic Party will meet in open session to decide on recommendations for reform of our system in the Democratic Party of selecting Vice-Presidential nominees. This meeting of the full Commission on Vice-Presidential Selection of the Democratic Party will culminate a year of work, inquiry, study, debate, and consultation by this commission, which I am privileged to chair.

I call to the attention of the Senate and to other researchers the statement I made in the Congressional Record of October 16, 1973, at page 34234 which gives a brief history of our commission, the names of its distinguished members, and a memorandum describing a number of alternative possibilities for methods of Vice-Presidential selection.

Mr. President, I wish to discuss in some detail today the work of our commission. I believe the importance of this matter to the country and to our system of government justifies placing a rather extensive documentation in the Record so it may be available to all interested parties and to Members of Congress.

REPORT ON VICE-PRESIDENTIAL SELECTION OF THE EXECUTIVE COMMITTEE

As its meeting of November 29, the Executive Committee of the Vice-Presidential Selection Commission voted, 11 to 1, to recommend to the full Commission two major innovations in the process for selecting Vice-Presidential candidates. These will be submitted on December 13 for approval by the full Commission.

Our proposal would amend convention rules to:

Extend the length of the Democratic National Convention by 1 full day to permit an interval of 48 hours between the selections of the party's Presidential and Vice-Presidential candidates; and

Give the convention, at the request of the Presidential nominee, the option of referring the selection of the Vice-Presidential nominee to a specially convened meeting of the Democratic National Committee, renamed for this purpose, the "Vice-Presidential Nominating Convocation"—a miniconvention.

If the plan is approved by the full commission and the national committee, it will represent the first significant reform of the Vice-Presidential nominating structure in the history of the Democratic or Republican Party.

Our recommendations resulted from the Commission's extensive investigation, discussion and inquiry, including public hearings and the solicitation by mail of the views of thousands of Democrats and interested persons. The executive committee's proposal is based on four principal concerns:

First. The convention is the principal decisionmaking body for both Presidential and Vice-Presidential nominations.

Second. The Presidential nominee has a significant voice in the convention's decision.

Third. Presidential candidates should give assurances of careful deliberation, consultation, and investigation with respect to their possible recommendations of Vice-Presidential nominees.

Fourth. The rules need to provide the option of additional time for selecting the Vice-Presidential nominee, if exceptional circumstances make that necessary.

The new procedures we have recommended call for two major institutional innovations.

First, the length of the Democratic National Convention would be extended by 1 full day to permit an interval of 48 hours between the selections of the party's Presidential and Vice-Presidential candidates.

In other words, following the established procedure of national conventions, the nomination of the Presidential nominee would be made on the third day of the convention.

The agenda on the fourth day would include discussions of rules and charter changes, but not, as has been the case, the selection of the Vice-Presidential nominee. That decision and the acceptance speech of the Presidential nominee would be deferred until the evening of the fifth day—Friday.

Second, the rules would permit the convention to approve an optional plan, if it agreed with the Presidential nominee that the 48-hour interval was not sufficient.

Within 24 hours after the selection of the Presidential nominee, the nominee must recommend to the convention either that it proceed with the Vice-Presidential selection on Friday night of the convention, or that the convention delegate the Vice-Presidential selection responsibility to a specially convened meeting of the Democratic National Committee, the "Vice-Presidential Nominating Convocation."

This convocation would meet between 14 and 21 days following the close of the convention for the purpose of selecting the party's Vice-Presidential candidate.

It is important to understand that the DNC Convocation, under the rules adopted at the 1972 convention, would be chosen by the 1976 convention.

It would be exactly representative of the convention and each delegation would have voting power exactly equal to that State's delegation at the national convention, distributed proportionally to each convocation delegate.

Our proposal emphasizes, also, that under either the convention or the convocation, these rules would apply:

Each Presidential candidate has the solemn obligation to consult, deliberate and investigate carefully with respect to his own preferences for a Vice-Presidential running mate.

The Presidential nominee may indicate his recommendations of one nominee or several nominees for the Vice-Presidential nomination.

It shall be the right of any Democrat to be formally nominated at the convention, providing petitions supporting his or her candidacy are signed by at least 10 percent of the convention delegates, and these are from at least three different States.

Delegates' votes also may be cast during the Vice Presidential selection for persons not formally nominated.

Mr. President, in the interest of documenting the work of the commission for future students of this subject, I will quote for the Record the complete text of the commission's report, which will be the subject of our deliberations on Thursday:

REPORT OF THE VICE-PRESIDENTIAL SELECTION COMMISSION OF THE DEMOCRATIC PARTY

To assure the soundest and safest possible continuity of good and responsible government for the United States;

In response to a situation in need of improvement, especially in light of recent developments;

To provide procedures which best assure that the Democratic Party nominates its Vice Presidential candidate after the fullest deliberation and investigation, and after comprehensive consultation with all elements of the Democratic coalition; and

In the hope that any person nominated for the position of Vice President of the United States by the Democratic Party will be an individual of the highest probity, and broad experience, capable of assuming the Office of the Presidency and executing said office in the best interests of the people of our Nation;

The Commission on Vice Presidential Selection, pursuant to the August 9, 1972 mandate of the Democratic National Committee, hereby submits its recommendations to the Democratic National Committee and to the Rules Committee of the 1976 Democratic National Convention.

To give the Party's Presidential nominee additional time to review qualifications and credentials of possible vice presidential running mates, the Democratic National Convention, which by custom has met for four days every four years, shall meet for five days, under the following provisions:

1. The Convention will convene Monday evening, for the purpose of welcoming remarks, a keynote address, and the resolution of all Credentials disputes.

2. A National Platform shall be adopted at the Tuesday evening session of the Democratic National Convention.

3. A Presidential nominee shall be selected at the Wednesday evening session of the National Convention. The Democratic National Convention's Presidential nominee, within 24 hours of the selection of said nominee, shall recommend to the Democratic National Convention either of the following two vice presidential selection options, with the final and ultimate responsibility for choosing between them resting in the hands of the National Convention which shall vote on the question after having the opportunity to hear responsible dissenting opinions to the recommendation of the Presidential candidate:

(a) The Democratic National Convention shall proceed to select the Vice Presidential nominee of the Democratic Party pursuant to past custom, on the last night of the National Convention, pursuant to the same procedures and rules governing the selection of the Democratic Presidential nominee.

(b) The National Convention delegate vice presidential selection authority to a "Vice Presidential Nominating Convocation" of the newly created, and proportionately representative, Democratic National Committee. The "Vice Presidential Nominating Convocation of the Democratic National Committee" shall meet not less than fourteen (14) days nor more than twenty-one (21) days following the close of the Democratic National Convention, at a time not coinciding with the National Convention of any other major political party, to select the Party's vice presidential nominee, pursuant to procedures set forth in Article VII of the

Codified Rules of the Democratic National Committee, which reads:

"(a) The delegation from each State, Territory or District shall be entitled to the same number of votes as that State, Territory or District was entitled to cast at the National Convention.

"(b) The number of votes to be cast by each member present and voting shall be the same proportion of votes allocated to his or her delegation under Subsection (a) of the Section as his or her vote on the Committee is to the total number of votes on the Committee exercised by all members of the delegation from his or her State, Territory or District who are present and voting when the vote is taken.

"(c) Where a vote on the Committee is shared by two or more members of the Committee, it shall, for the purpose of allocating votes for the selection of the vice presidential nominee, be apportioned among those members sharing it who are present and voting.

"4. The full report of the Rules Committee of the National Convention, including the permanent Charter of the Democratic Party of the United States adopted by the 1974 Conference on Party Organization and Policy, shall be presented to the Convention Thursday evening, to be debated fully, amended if necessary, and officially adopted by the Convention.

"5. The Friday evening session of the Democratic National Convention shall include:

"(i) The Roll Call for, and nomination of, a Vice Presidential Candidate of the Democratic Party, if the Democratic National Convention has voted not to delegate such responsibility to the 'Vice Presidential Nominating Convocation of the Democratic National Committee.'

"(ii) The Acceptance Speech(es) of the Nominee(s) of the Democratic Party.

"(iii) Adjournment.

"No provisions of these rules shall be interpreted to prevent any Democrat to announce and run for the Vice Presidential nomination of the Democratic Party. Any person receiving petition support from at least 10% of the assembled delegates representing elements of at least three separate state delegations, whether at the Democratic National Convention or the 'Vice Presidential Nominating Convocation of the Democratic National Committee' shall be entitled to have his or her name placed in nomination for the Office of Vice President of the United States."

Mr. President, I wish to note that subsequent to the meeting of the executive committee I have received inquiries from some members present about a possible omission from this text. The question is whether or not the executive committee agreed that the Vice-Presidential nominee or nominees who are the choice or choices of the Presidential nominee will not have to have petitions filed with signatures of 10 percent of the delegates and with three States represented on the petitions. We wil not be able to clear up this question until the meeting before the full commission, but I wish to note that the question has been raised.

PRESENT SYSTEM

Mr. President, to assist in understanding our proposals for reform, we need to have a firm idea of the way the present system, under the rules of the Democratic National Convention, operates.

The Commission was advised by Mr. Stu Eizenstat, member of and counsel to the Vice-Presidential Selection Commission, that the procedures for nominating a Vice-Presidential candidate are almost exactly the same, on paper, as those for nominating the Presidential candidate.

By recent practice, nominations for Vice President have come on the last day of the convention, which has been Thursday, the day following nomination of a candidate for President. The first 2 days of the convention have been taken up with action on reports of the credentials and rules committees and the adoption of a platform.

A 12-hour interval is required between the nomination of a Presidential nominee and the start of nominations for Vice President. A delegate wishing to nominate a Vice-Presidential candidate may submit a petition bearing signatures representing no less than 50 nor more than 200 delegate votes, of which no more than 20 are from any one delegation.

But any delegate may vote for any candidate, when the roll is called, regardless whether that candidate has been named in a petition. The only advantage gained by filing a petition is that it confers the right to deliver one nominating speech and no more than two seconding speeches for that candidate prior to balloting.

In a report to the Democratic National Committee, Mr. Eizenstat has pointed out that existing convention rules neither recognize the right of the Presidential nominee to express a preference for Vice-Presidential running mate, nor prohibit such an expression. But as a practical matter, the Presidential nominee "taps" his running mate and the convention approves his choice.

The Vice-Presidential nominee, once chosen, is invited to deliver an acceptance speech, which is generally the last order of convention business before adjournment.

If either the Presidential or Vice-Presidential nominee should die, resign, or become disabled, the Democratic National Committee fills the vacancy.

ALTERNATE PLANS CONSIDERED BY THE EXECUTIVE COMMITTEE

Mr. President, before its meeting of November 29, the executive committee studied in detail a number of alternative proposals, not necessarily exclusive of the others, before adopting the recommendations to be taken up on Thursday. I wish to share, in summary, these alternative proposals.

The first alternative required the convening of a "mini-convention" of the newly selected Democratic National Committee at least 14 but not more than 21 days following the Democratic National Convention, for the purpose of nominating a Vice-Presidential candidate.

The Presidential nominee of the Democratic National Convention would be formally charged with consulting with State party leaders, elected officials, and constituent Democratic Party groups, in a process involving the widest possible sample of Democrats at all levels, to test party sentiment on all potential Vice-Presidential candidates.

The national committee would select a nominee following procedures set forth in article VII of the rules of the 1972 Democratic National Convention for filling a vacancy on the national ticket.

The second alternative makes up part of the recommendation chosen by the executive committee for consideration by the full Vice-Presidential Selection Commission. It offers the delegates to the Democratic National Convention the options of either selecting a Vice-Presidential nominee themselves at the close of the convention, or turning the choice over to the miniconvention of the Democratic National Committee.

The third alternative was to retain the present system, which I have outlined.

The fourth reform called for appointment of a seven-member screening commission before May 1, 1976, to review all potential Vice Presidential nominees and report to the rules committee on the credentials and qualifications of the contenders. The report would be made available to all presidential candidates.

The fifth alternative proposed a screening council of three members named by the chairman of the Democratic National Committee, to assist the Presidential nominee in selecting a running mate.

The sixth alternative, called the Calhoun plan, suggested simultaneous balloting for Presidential and Vice Presidential nominees on the Wednesday night of the convention, with the candidate receiving a majority of votes becoming the party's Presidential nominee and the candidate with the second-highest vote total becoming the Vice-Presidential candidate.

The seventh alternative, which has also found its way in principle into the executive committee recommendation, called for extending the national convention an extra day, to provide added time between nomination of a Presidential candidate and selection of a running mate.

The eighth alternative also had the objective of increasing the time interval between selection of the two candidates. It would have accomplished this by scheduling selection of the Presidential nominee for the second evening of the convention, rather than the third, with Vice-Presidential nominee selection coming on the fourth and final evening.

The ninth alternative, or open convention plan, called for selection of the Vice-Presidential nominee by the full convention, from a list of three individuals provided by the Presidential nominee within 12 hours after being selected.

SOME REPRESENTATIVE WITNESSES AND RECOMMENDATIONS

These proposals, Mr. President, evolved over about a year's time, during which the commission corresponded widely with hundreds of interested persons. In addition, we held a series of hearings in various parts of the country. Former Governor Endicott Peabody chaired hearings in Boston, held by Massachusetts members of the commission. Similar hearings were held in New Hampshire. We also conducted hearings in Washington, D.C., and held an exceptionally useful session in New Orleans, in connection with the national convention of the American Political Science Association in September.

Witnesses at these hearings, and correspondents sending their views to the commission, have included Democratic Party workers and members at the grass-roots level, State party leaders and Democratic holders of State elective offices, distinguished political scientists, Members of Congress and national party leaders including the Chairman of the Democratic National Committee.

A full transcript of the New Orleans meeting is available, as is the record of the Washington, D.C., hearing. In addition, the commission has arranged to have all correspondence and the other materials I have mentioned today recorded on microfilm, to be available to researchers.

As a sample of the views expressed by this large cross section of the Democratic Party and the academic community, I would like to read a brief tabulation prepared by the staff of the Democratic National Committee, containing a roughly representative group of witnesses at our hearings and their preferences among the various alternative methods of reforming the Vice Presidential selection process. I regret that I cannot mention all of the testimony and correspondence we received—or do justice to those I mention—in this brief space.

Speakers favoring a delayed-choice and miniconvention approach included:

Donald G. Herzberg, dean of the graduate school of Georgetown University. He suggested the national convention should write the party platform, nominate the Presidential candidate, select a new national committee and adjourn. The national committee would meet 30 days latter to act on the Presidential candidate's recommendation for a running mate, either ratifying that selection or nominating a different Vice-Presidential candidate.

Robert S. Strauss, chairman of the Democratic national committee. He said the national committee should have the power to ratify the Presidential nominee's selection within a limited time after the convention. But he cautioned that during the delay pressure on the Presidential nominee would build concerning his choice, both within and from outside the party.

Prof. Austin Ranney, a member of the McGovern-Frazier commission prior to the 1972 Democratic National Convention. He said a delayed choice could permit a more deliberative approach while serving to integrate and unify the party.

Senator GEORGE MCGOVERN supported a delay of 7 to 10 days.

Donald Fraser, speaking for Americans for Democratic Action, also spoke for delayed Vice-Presidential nominee selection.

Speaking in favor of continuing the present system, though with modifications in some case were:

Stephen K. Bailey, vice president, American Council of Learned Societies. He agreed greater care by both party leaders and the Presidential candidate is needed in choosing a Vice-Presidential candidate. But a delayed decision, he argued, would serve to "diminish the bargaining, brokerage, and reconciling functions of the national convention."

Representative JAMES O'HARA, of Michigan. His first preference is abolition of the office of Vice President by constitutional amendment, and an entirely new system of providing for Presidential succession. Lacking that, Mr. O'HARA proposed that petitions signed by 10 to 20 percent of the convention delegates would be required to qualify an individual for consideration for the Vice-Presidential nomination, but a letter of preference from the Presidential nominee would carry weight equal to a petition, and the Presidential nominee's choice could be placed in nomination at any time during the convention's consideration of Vice-Presidential nominees.

Senator MIKE GRAVEL, of Alaska. The Presidential candidate should not endorse a nominee for Vice President. He could submit a list of individuals acceptable to him, but the convention should have full power to select the Vice-Presidential nominee, the Senator recommended.

Letters supporting the present system were received from Senators BENTSEN and SPARKMAN and Representatives CHAPPELL, POAGE, and ROY.

Support for a screening committee approach came in testimony from:

Liz Carpenter, member of the Democratic National Committee and a member of the steering committee of the National Women's Political Caucus. She recommended a small task force functioning during the convention as a Vice-Presidential candidate-screening committee, reporting to the Presidential nominee.

Senator WILLIAM HATHAWAY, of Maine, proposed that each candidate for the Presidential nomination should submit a list of three possible choices as running mate, before the convention, with the lists reviewed by the executive committee of the Democratic National Committee.

Rearrangement of the convention agenda to provide more time between the selection of nominees for President and Vice President also received support. Some proponents of this approach included:

Ralph K. Huitt, executive director of the National Association of State Universities and Land Grant Colleges. He also advocated adopting the party platform after the Presidential nominee was chosen, rather than before.

Lawrence I. Radway, professor of political science at Dartmouth agreed that the convention agenda should be reordered to place action on the party platform after the nomination of the Presidential candidate and before selection of a Vice-Presidential nominee.

Prof. Valerie Earl, chairman of Georgetown University Political Science Department, also favored this agenda. Professor Earl said the main business of the convention is to choose a Presidential candidate, and since both the candidate and delegates want a Vice-Presidential nominee who will strengthen the ticket, the choice of running mate "should be left to the time and the situation and the people who are involved. We should not impose a formula upon the candidate and the convention."

Mr. President, we received a variety of other recommendations outside the range of those I have mentioned, and I will list a sampling of them as a further indication of the degree of interest our commission's studies attracted and the kinds of thought-provoking suggestions we received.

Thomas J. Seess, of the political science department of Mount St. Mary's College, Md., proposed that State primaries allow Presidential-Vice-Presidential tandem tickets. The convention then would choose its Presidential and Vice-Presidential candidates as a team, in a single process.

Stanley Arnold of New York, a 1972 Vice Presidential candidate, was among advocates of a national primary. He suggested running two primaries, the first for Presidential candidates and the second to be a runoff among the losers in the first, to select Vice-Presidential candidates.

Landis Jones, professor of political science, University of Kentucky, is the author of a new book on the Vice Presidency. He argued that attention is being focused too much on the mechanics of the selection process. More thought, he said, should be given to the job of Vice President itself, "what it is you want him to do; what it is that you want him to be able to do." Mr. Jones asked what the Vice President is training for, and what the training process should be.

Prof. Aaron Wildavsky, dean of the School of Public Affairs, University of California at Berkeley, argued that the party itself should play a stronger role in selecting the Vice-Presidential nominee. Beyond that, Professor Wildavsky suggested that perhaps both the Presidential and Vice-Presidential candidates should be chosen by "more permanent and powerful groups of party leaders," with the Vice-Presidential candidate particularly chosen with the continuing interests of the party in mind, to reflect the interests of the party as an institution rather than the immediate interests of a single campaign.

Mr. President, we also received numerous letters and other written statements offering varied views.

On the subject of a so-called open-convention system, for instance, we received statements of support from Common Cause head John Gardner, Florida Attorney General Bob Shevin, Prof. James MacGregor Burns of Williams College and Representative ROMANO MAZOLLI of Kentucky.

Finally, Mr. President, I have referred earlier to the contribution of former Gov. Endicott Peabody of Massachusetts, who conducted one of our hearings. As a member of the executive committee of the commission, Mr. Peabody cast the lone dissenting vote from our recommendation to the full commission, and he has subsequently filed a minority report. The work of Governor Peabody must be considered for a complete view of our work.

Governor Peabody proposes a constitutional amendment giving the Vice President a vote on all issues before the Senate, in place of the current restriction confining him to breaking tie votes only. This, argues Governor Peabody, would involve the Vice President thoroughly in legislation and permit him to serve as an official with a national constituency on Capitol Hill.

He further proposes that first-ballot Convention votes for Vice President should be confined to candidates who had run in primaries either for President or Vice President. Connected to this proposal is one that the Democratic National Committee encourages states to allow Vice-Presidential candidates a separate place on the primary ballots or in party convention endorsement action.

Finally, Governor Peabody recommended, in anticipation of the end of the electoral college system, that candidates for Vice President be allowed to run on their own in national elections, just as do candidates for President.

Mr. President, I wish to conclude my remarks by inviting Members of the Congress and all other interested parties to express to me, the staff of the commission at the DNC, or individual members of the commission your recommendations and comments. It is the intention of the commission to agree on a final report at its meeting of December 13. This final report will be submitted to the Democratic National Committee. The DNC will then pass on it as a matter for inclusion in the rules of the Democratic convention of 1976.

May I also express the deep interest of the commission in the work of a newly appointed committee of the House Democratic Caucus which is also looking into the question of the Vice-Presidential selection process. We hope to have the participation of its chairman, Congresswoman Edith Green, and its members at our meeting of December 13. Because of the strict time limit set for our report, we have not been able to delay it, but we certainly will be in close communication with the members of this House Caucus Committee.

Our report, of course, presumes certain limits to our authorized mandate. We have not considered reforms which require the enactment of legislation, or the adoption of a constitutional amendment.

And finally, Mr. President, may I express the hope that the other major political party will also be able to investigate this question thoroughly. It is their responsibility no less than that of the Democratic Party, and I think the interests of the people of the United States require reform in this field by both parties before the 1976 convention.

THE BLESSINGS OF AMERICA

Mr. BEALL. Mr. President, certainly all of us, in coping with the day-to-day problems of life in our country, sometimes forget the countless freedoms and privileges that this Nation offers to its citizens. Too often, as we criticize a government policy or a political figure, we fail to remember that this right exists in few other countries of the world.

Recently, I received a letter from a new citizen of our Nation, Mrs. Aspasia K. Catsouras, which places back into focus the wonderful gifts which the United States offers its people. I ask unanimous consent that Mrs. Catsouras' letter be printed in the Record so that my colleagues might be made aware of her thoughtful comments.

There being no objection, the letter was ordered to be printed in the Record, as follows:

CAMP SPRINGS, MD.,
November 28, 1973.

J. GLENN BEALL, Jr.,
Member, U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: I have received your letter of November 27, 1973, and should like at this time, to give to you my sincere thanks for the kind thoughts contained in your letter.

During the past eight years in which I have lived in the United States, I really feel that some people here seem to take for granted their right and privilege to be known as a citizen of this country. As we all hear and read every day, we have our share of problems, as do all other countries of the world. However, we, as a country, because of our traditional democratic institutions, are best able to define each problem and then seek a solution in the best interest of all of the people of the United States. Unfortunately, such traditions of democracy exist in very few other countries of the world.

In closing, I am very proud to be writing this letter to you as a citizen of the United States.

Sincerely,
(Mrs.) ASPASIA K. CATSOURAS.

"HUMAN RIGHTS DAY" HIGHLIGHTS THE NEED FOR RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, yesterday we celebrated the 25th anniversary of the proclamation of the Declaration on Human Rights. The University of Wisconsin, in cooperation with the Governor's Commission on the United Nations, marked the occasion by holding a radio roundtable discussion on the subject of human rights. The panel included such experts as Bruno Bitker, chairman of the Governor's Commission on the United Nations; Richard Bidler, University of Wisconsin Law School professor; Everett Refior, professor of political science at the University of Wisconsin; and Marianne Steigerwald, the League of Women Voters

Their discussion encompassed the entire spectrum of human rights, including such topics as freedom of speech, women's rights, rights of minorities, and slavery. Their discussion was particularly timely since I believe that the Senate will take up the Genocide Convention next year.

This treaty is one of several human rights treaties which the world community has adopted in order to give the force of international law to the high ideals expressed in the Declaration of Human Rights. The Genocide Treaty was first presented to the Senate in 1949 by President Truman. Today, over 70 nations have ratified this treaty but the United States has not. Think about it. An entire generation has grown to maturity and the Senate has still failed to act.

Mr. President, this treaty has been reported out favorably by the Senate Foreign Relations Committee several times. It is only fitting that on this, the 25th anniversary of the Declaration of Human Rights, that the United States at last ratify this important human rights treaty.

RISING FOOD PRICES

Mr. SAXBE. Mr. President, consumers in recent months have become concerned over rising food prices. Understandably, the people of this country are almost unanimous in their desire for inexpensive food to put on the table. But many of these same people unwittingly contribute to higher food prices by supporting policies which reduce supplies and increase costs.

An excellent article on food costs was written recently for the Ohio Farmer magazine by its editor, Earl W. McMunn. Entitled, "Let's Reason Together," it tells some of the reasons why food prices have risen along with other costs in our inflationary economy.

I have known Mr. McMunn for a long time, and what he has to say is well worth listening to. I ask unanimous consent to have this article printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Ohio Farmer magazine, December 1973]

LET'S REASON TOGETHER

(By Earl W. McMunn)

IF CONSUMERS ARE TO HAVE CHEAP FOOD

Consumers of this country want cheap food. That is what they have had although many are not aware of the fact. Rising prices of the past year threw many into a panic. Some ill-informed politicians, labor leaders, newsmen and others screamed that "people couldn't afford to eat!" This in spite of the fact that in 1973 the average person is spending less than 17 percent of his income for food. That is still a real bargain when compared with other nations of the world or for most other times in the history of this nation.

We have cheap food because of a combination of circumstances. Mostly it is the result of an abundance of technical information, use of commercial inputs, and freedom to operate under a profit-oriented economic system. Cripple any of these forces and food will become more expensive. This is a fact of economic life. But the sad truth is that too many governmental decisions are made by people who don't understand economics. Recent efforts to help consumers by controlling livestock prices are but one example.

The forces which provide our cheap food have been building up for at least half a century. We have had an abundance of land, a surplus of farm labor, and plenty of people who wanted to farm. Commercial suppliers provided the machinery, the chemicals and the other inputs. Our know-how was improved by a steady flow of information from both public and private sources.

During this same period, our economy was expanding and people were becoming more affluent. This made it easier for them to buy food with a smaller share of their total incomes. For instance, in the 20 years between 1952 and 1972, wages and incomes rose by an average of seven percent a year. Farm prices rose less than one percent. This is why many consumers developed the idea that they should get a raise every year, but they shouldn't pay more for food. That was the way it had been during most of their lifetimes.

All this has changed during the past year. Now it is becoming clear that food prices must rise when everything else in the economy is on the upswing. People must pay more if they expect to be well fed. And, there is ample evidence that eating is a habit which no one wants to give up. There is little reason to believe customers will need to make any real changes in their eating habits. At least, not so long as economic forces are permitted to operate. The trouble comes when we try to make economic decisions on the basis of politics.

Here may be our greatest danger. Some of the most critical decisions may be made without real understanding of the problem. This is an ever-present threat where agriculture is involved. It is a fact of life that most members of Congress and the regulatory agencies no longer have a farm background. Too few have even an understanding of agricultural matters. How can they be expected to know, for instance, that a decision which hampers the oil business may cut farm production and add to the cost of food?

As a nation, we haven't yet faced up to the fact that there's a difference between necessities and luxuries. Or, that necessities must come first when hard decisions must be made. We've been sold on the idea that we must have the luxuries, then we'll pay for the necessities if there's anything left over in the budget. This has been true for much of our national planning, just as it has been in many a private household.

What is the value of aimless joy riding when fuel is needed to grow crops, transport them to market, and keep the nation's factories in operation? Look at the traffic clogging our highways during non-working periods and it's easy to see where billions of barrels of fuel could be saved.

But our system has offered little incentive for savings. Most of our policies have been in the opposite direction. Regulatory agencies attempt to impose arbitrary restraints upon retail prices. These work like a two-edged sword—and in the wrong direction! They discourage exploratory drilling, investment in refineries and everything else that is required to boost production. At the same time, low prices encourage consumers to use fuel for many purposes which are both foolish and wasteful.

Price may not be the most popular rationing tool, but a more effective method has not yet been invented.

Modern farming depends largely upon the use of commercial inputs. Anything which interferes with their availability is harmful to food production. Every farmer knows this, but it is not understood by many others.

Recent estimates indicate we are now using commercial inputs at the rate of $50 billion per year. No longer is any farm self-sufficient as in the days of the pioneers.

High crop yields depend upon the use of chemical fertilizers, herbicides and pesticides. We must have fuel to cultivate land and dry the crops. Our rapid increase in labor efficiency is largely the result of abundant use of machinery and equipment. Modern farming would be impossible without vast amounts of capital.

We look to agribusiness for a wide array of production inputs. Other segments of agribusiness process crops into forms that are acceptable to consumers. How long has it been since you saw a consumer carrying a live hen home from market? Now, it's a tender, juicy broiler which is killed, plucked, cut-up, packaged and perhaps cooked in golden batter. The consumer never had it like this in the "good old days!"

And, if we're honest, who in agriculture would like to go back to those good old days? They were the days when wood was cut to heat the house, you turned the soil with a two-horse walking plow, and you killed potato bugs by knocking them into a can of kerosene. No wonder that almost everyone knew something about farming. With the backbreaking work of those "good old days" most people of the nation were needed on farms just to get the farming done!

Consumerism is a popular cause. But some self-styled consumer advocates ignore the fundamentals of sound economics. All they accomplish is to make conditions more difficult for the very people they claim to help. You're not helping anyone when you tear down the agribusiness complex which has provided Americans with the best living ever enjoyed by any people in the history of the world.

Uniformed consumerists are fond of using "profits" as a dirty word. They would squeeze or eliminate profits while implying this helps consumers. What they don't understand is that profits are essential if consumers are to get the products—and this includes food.

No one goes into business expecting to take a loss. There must be a profit incentive before you buy land, build a plant or employ help. Without the profit incentive there is only one other way. This is the Communist method where the production assets are owned by the government and people are told what to do. But, compared wtih our system, that method has a poor track record!

So it is clear that some things are necessary if we are to retain our ability to produce an abundance of food and at reasonable cost.

Basic to everything else is that we retain the incentive pricing system. It is the governor which signals for more production when demand is great and a slowing off when demand is weak. Price ceilings are a signal to produce less—not more.

We must have adequate supplies of machinery, parts, fertilizer, fuel, chemicals and other commercial inputs. Already we have seen how farm production suffers when any of these is in short supply.

Unwise environmental regulations can seriously hamper our ability to produce. Some environmentalists would ban almost all insecticides, herbicides, antibiotics and fertilizer. They don't know, or refuse to admit, what this would do to the food supply. We in agriculture shouldn't be forced to defend against these irresponsible attacks. The people who will really suffer are consumers who want an adequate supply of wholesome food and at reasonable cost. This is what they have been getting. Ill-informed environmentalists should be their problem, not ours! The sooner they understand this fact, the better off we all will be.

Fuel and transportation place other limits on our abiltiy to produce. If added acreage is farmed in 1974 it will take more gasoline and other forms of fuel. Extra rail and truck transportation will be needed to get the crops to market.

Adequate food supplies will require greater investments in research. Surpluses of recent years led some people to conclude that public research was no longer needed. At the same time, private research was discouraged by watch-dog agencies of government which made it increasingly difficult to bring a new product to market. Now we are learning the hard way that there is need for more research—not less.

It all boils down to one simple fact. If consumers want cheap food, they must support policies which make cheap food possible.

MAKING THE PRESIDENTIAL ELECTION CAMPAIGN FUND DOLLAR CHECKOFF EVERY CITIZEN'S BUSINESS

Mr. HUMPHREY. Mr. President, I am pleased to report some positive developments concerning the public financing of Presidential election campaigns, despite the recent setback to broader public financing reform.

As Senators know, the Presidential Election Campaign Fund Act, as amended, provides every taxpayer the opportunity to check a box on his tax form and thus designate $1 for this now nonpartisan campaign fund to be used by Presidential candidates of major and minor parties in general election campaigns.

Designation of the $1 for this purpose does not add to the individual's tax due and does not reduce his refund.

As the result of the amendment adopted last summer, the checkoff question and box are printed on the first page of both the long and short tax forms. In addition, a court suit has resulted in a checkoff box being added to both short and long forms to allow those who did not participate in 1972 to designate $1 of that year's taxes toward the nonpartisan fund.

Further, Mr. President, as I reported in the CONGRESSIONAL RECORD of September 18, the Internal Revenue Service has approved my suggestion that employers be allowed to include notices which encourage participation in the checkoff with the 1973 forms they mail to their employees.

Mr. President, on November 13 I wrote to the IRS requesting a report on the steps they plan to encourage participation in the public financing fund, pursuant to their agreement with Members of Congress.

Mr. Donald Alexander, Commissioner of the IRS, has sent to me a letter outlining the steps he plans to take to publicize the checkoff between now and the April tax deadline. He reports these specific plans.

First, a 30-second public service television announcement, in color, will be sent to TV networks and stations all over the United States. This announcement will stress that the fund is nonpartisan and that designation of $1 for it does not affect the amount of tax a person pays or the amount of a refund.

Second, printed advertisements in four sizes will be distributed to some 700 major national publications and to IRS field offices for distribution to the local print media.

These ads are designed so that they can be "dropped in" to advertising spaces of publications on a public service basis when there is space available.

As a third part of the information campaign, an 11 by 14-inch poster for placement on walls and counters in IRS offices has been prepared.

A fourth part of the publicity campaign will be a news item prepared by the IRS for Members of Congress who wish to use this newsletter.

Other parts of the campaign will include a news release for Washington daily newspapers, two news releases for local daily papers to be distributed by IRS field offices, two releases for local weekly papers to be sent from IRS field offices, and two radio spot announcements for networks and stations all over the country.

In addition, Mr. President, the front covers of both the 1040 and 1040A tax forms have prominent references to the checkoff, and boldface type in red ink on both the forms and the package covers draws it to the attention of taxpayers.

The instructions for both short and long forms contain the following description of the dollar checkoff:

> Presidential Election Campaign Fund.—You can tell us to turn over $1 of your tax to the presidential election campaign fund by checking the appropriate box on line 8. On a joint return, the election to designate or not to designate is available to both spouses. For example: (1) Both may elect to designate $1 each for a total of $2. (2) Both may elect not to designate. (3) One may elect to designate $1 and the other choose not to.
>
> If you check the box(es), it will not increase your tax or reduce your refund.

The checkoff question on the forms is phrased as follows:

> Presidential Election Campaign Fund.—Check (box) if you wish to designate $1 of your taxes for this fund. If joint return, check (box) if spouse wishes to designate $1. Note: This will not increase your tax or reduce your refund.

If a person files his 1973 return without checking off a dollar for the fund, he may amend his return later to do so by filing Form 1040X, which also will permit a checkoff for 1972.

Taxpayers who make a mathematical mistake on their return or who are billed for taxes due or receive refunds larger or smaller than they claimed will also be given a notice of the checkoff. Mr. Alexander estimates there will be 11 million such notices for 1973 returns.

Mr. President, of course, the long-form return also includes the opportunity for the taxpayer to take a tax credit or an itemized deduction for contributions to candidates for public office. While that is not the subject of my statement today, I will enclose the text of the explanatory statement for the tax credit or deduction at the close of my remarks, as enclosure No. 3.

This publicity campaign is encouraging to me. It gives impetus to the only system of public financing of Presidential campaigns that we presently have. I agree with many of my colleagues and many people across the country that the dollar checkoff limited to general election Presidential campaigns is not enough in and of itself, but it is an important step in the right direction. Our hope for further reform should not delay efforts to fully utilize the fund as now established.

Only 3.1 percent of the taxpayers participated in the checkoff last year. It is my earnest hope and belief that with proper publicity this year we can greatly increase that percentage. If we work at it, we can have $75 to $100 million in the fund for the 1976 election even if other reform efforts fail. And if we are successful in broadening the fund along the lines approved by the Senate in the last 2 weeks, our efforts now to encourage participation in the checkoff will have given us a better foundation on which to build.

Mr. President, I ask unanimous consent to print in the Record my letter to the IRS and Mr. Alexander's reply to me of November 30, 1973, followed by those enclosures to his letter which can be reproduced in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

November 13, 1972.

Mr. Donald C. Alexander,
Commissioner, Internal Revenue Service,
Washington, D.C.

Dear Mr. Alexander: As you know, I have greatly appreciated the initiative and cooperation of the Internal Revenue Service with respect to encouraging taxpayer support of the Presidential Election Campaign Fund. In particular, I am encouraged by the immediate IRS approval of my suggestion that employees be allowed voluntarily to encourage taxpayer participation through the dollar check-off on the tax form by including informational materials with their mailing of W–2 Forms.

In this connection, I would appreciate an opportunity to see the text of advertising spot announcements or printed materials which the IRS plans to distribute or make available for distribution regarding the dollar check-off. As you know, no official laymen's description of the dollar check-off has been published. I would like to see your information as soon as possible.

With best wishes.

Sincerely,

Hubert H. Humphrey.

Internal Revenue Service,
Washington, D.C. November 30, 1973.

Hon. Hubert H. Humphrey,
U.S. Senate,
Washington, D.C.

Dear Senator Humphrey: This is in reply to your previously acknowledged letter of November 13 asking to see the texts of advertising spot announcements or printed materials on the dollar check-off which the IRS plans to distribute or make available for distribution.

Our program to remind taxpayers of the check-off includes:

1. Public service television announcement, in color, to be distributed to networks and stations throughout the United States.
2. "Drop-in" ads in four sizes for distribution to 700 major national publications and to IRS public information field officers for local media. Drop-in ads are designed to fit into the standard advertising spaces of publications, which print the ads as a public service when they have space available.
3. Poster, 11" x 14", to be placed on walls and counters in IRS offices,
4. News item for Congressional newsletters,
5. News release from Washington for daily newspapers,
6. Two news releases for local daily newspapers to be distributed by IRS field offices,
7. Two news releases for weekly newspapers to be distributed by IRS field offices,
8. Two radio spot announcements to be distributed to networks and stations throughout the United States.

Items 1, 2, and 3 are in final form, and text or facsimiles are enclosed. The balance of the items are being prepared and we will send you copies when they are completed.

The front covers of the 1973 tax form packages for both the 1040 and 1040A contain a prominent reference to the check-off. Boldface type in red ink draws attention to the check-off on the package covers and on the forms themselves. Those who did not indicate a check-off on their 1972 returns will be able to do so right above the block for their signatures. We are enclosing copies of these forms for your information.

Taxpayers who file their 1973 tax returns without making a designation for 1973 will have another opportunity to check-off. They will be able to do so by amending their return with Form 1040X, "Amended U.S. Individual Income Tax Return." Form 1040X will also permit a designation for 1972 by those who did not make a check-off for that year.

Form 5185, "Presidential Election Campaign Fund Designation," will be included in all computer-generated notices sent to taxpayers and will enable them to check off if they haven't already done so on their returns. Taxpayers receive these notices whenever they make a mathematical error on their return, are billed for taxes due, or receive a refund larger or smaller than they claimed. An estimated 11 million notices will be mailed concerning 1973 returns.

Forms 5185 and 1040X are at the printers. Copies will be mailed to you when they are available.

Last year, 3.1 percent of all returns included 1976 Presidential Election Campaign Fund designations. We would expect that changes in the law, method of checking off, the residual effect of earlier IRS publicity efforts, and our current efforts to acquaint the public with the check-off will result in a significantly greater participation by taxpayers in the coming months.

Please let us know if we can be of further service.

With kind regards,

Sincerely,

Donald C. Alexander.

TV Program Format

VIDEO

CU of flag in "Spirt of '76."

Zoom back to entire painting.

MS of old artwork with man holding money.

Shot of man (old artwork) working on paper gives impression of man working on tax return.

Zoom in on 1040 and 1040A.

Super IRS logo.

AUDIO

Music: Fades up: Fife and drums.

Music up full.

VO: The Spirit of '76 . . . we're going to celebrate it again. In 1976, we'll have a presidential election. You can give a dollar of your taxes to a non-partisan fund to help pay campaign expenses of presidential candidates. This doesn't affect how much tax you pay or the amount of your refund. Look for the check-off section on your federal income tax return. And, if you did not do so last year, you can also check off for 1972 on your 1973 return.

Music up and out.

Copy for Drop-in Ads and Posters

TO CHECK OR NOT TO CHECK

You may participate in the 1976 Presidential Election Campaign Fund by checking the box on your tax form 1040 or 1040A. This will designate $1 (or $2 on a joint return) to a nonpartisan fund. If you didn't do so last year, you can also check a box for 1972. This will not reduce your refund or increase your tax.

Department of the Treasury, Internal Revenue Service.

Part IV.—Credits

Line 52—Credit for Contributions to Candidates for Public Office.—You may claim a tax credit on line 52, Form 1040 or an itemized deduction on line 33, Schedule A (Form 1040), but you cannot claim both, for political contributions paid.

If you elect to claim a credit on line 52, Form 1040, the amount of the credit is one-half of the political contributions paid, but not more than $12.50 ($25 if married and filling a joint return). This credit may not exceed the tax on lines 16, 56, 57, and 58 less the amount of credits on lines 49, 50, and 51. Make a side calculation before you enter the credit on line 52.

DEFINITIONS

"Political contributions" means a contribution or gift of money to—

(1) A person who is a candidate for nomination or election to any Federal, State,

or local elective public office in any primary, general, or special election, for his use to further his candidacy.

(2) Any group organized and operated exclusively to support the nomination or election of one or more candidates seeking Federal, State, or local public office, for use by that group to further its purposes.

(3) The national committee of a national political party.

(4) The State committee of a national political party as designated by the State committee of that party.

(5) A local committee of a national political party as designated by the State committee of that party.

"Candidate" means a person who has publicly announced candidacy for nomination or election to Federal, State, or local elective public office and meets the legal qualifications to hold the office.

"National political party" means:

(1) A political party presenting candidates or electors for President or Vice President on the official ballot of ten or more States during an election year.

(2) In the case of contributions made during any other taxable year of the taxpayer, a political party that met the qualifications described in the preceding paragraph (1) in the last Presidential election.

"State" means the States and the District of Columbia.

"Local" means a political subdivision or the total of subdivisions of a State or part of it.

GREATER INTERNATIONAL UNDERSTANDING

Mr. MONDALE. Mr. President, last April a poem composed by A. A. Granovsky, professor emeritus at the University of Minnesota, appeared in the newsletter of the International Institute of Minnesota.

This poem expresses beautifully the sentiment shared by U.S. citizens of Ukranian ancestry who are proud of their cultural heritage and deeply loyal Americans. It is also an eloquent plea for freedom, mutual understanding and dignity among people of all countries.

Mr. President, I believe many of my colleagues would enjoy reading this poem by a distinguished entomologist and an eloquent spokesman on behalf of greater international understanding. I ask unanimous consent that it be printed in full in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

I LOVE THEM BOTH

I have been often asked—how can I love
Two countries, as my fatherland, so dearly?
To share my soul with them, my life, and lore . . .
And faithful be to both—how could be, really?!

But it is so! Indeed,—I love them both!
I love America—as though my wife,
With whom I share my happiness and life—
Why shouldn't I love her till the last of breath?

I love Ukraine as well! As faithful son
Loves Mother.—She that gave me life, first kiss! . . .
To both I owe creative thoughts and bliss,—
For their future greatness under sun!

My love to both of them is true and strong
And my devotion to the cause—sincere,
I see no conflict in my love, no fear,—
For liberty of both I sing my song! . . .

With freedom here—in stature grows each man
With dignity to share in fullest measure,
So dear to him his priceless native treasures,—
With love to both! What more can one demand?!

And you, my friends, have kept this guiding light—
To see America as true, as love,
Enriched with cultures, visions and the lore—
For human destiny and freedom's fight! . . .

—A. A. GRANOVSKY.

CAPT. PATRICK K. HARROLD

Mr. DOLE. Mr. President, yesterday, memorial services were held in Leavenworth, Kans., for Capt. Patrick W. Harrold, U.S. Air Force. These services followed a finding by the Air Force that Captain Harrold is presumed to have been killed in action during the Vietnam war in 1969. No information or evidence was ever developed on his fate or that of another pilot who vanished after their aircraft crashed during an attack on North Vietnamese forces in Laos.

These services stand as a vivid reminder to each of us individually and to the Nation as a whole that the Vietnam war is not a closed book. Captain Harrold was one of some 1,300 Americans whose status was not resolved by the Paris peace agreements of January 1973. These individuals, listed by the Armed Forces as missing in action, are constant reminders to us that the Vietnam war cannot be considered a completed chapter in our history. Neither can we forget that the North Vietnamese and the Vietcong have failed to comply with their obligations under the Paris agreements to assist in obtaining information on our MIA's.

As one who has worked for many years with the wives, parents, and friends of our prisoners and missing men, I know the likelihood of any of them having survived as many as 5, 6 or 7 years is slim. But that is not the entire point. Our forces have data on crash sites, combat engagements, and returned prisoners reports which—if on-the-scene investigations could be made—might very well lead to solid, factual determinations on these men.

But there has been no cooperation from North Vietnam or the Vietcong. In stark violation of the Paris agreements they have refused to allow our Joint Casualty Resolution Center Task Force to make inspections.

Thus the wives, families, and loved ones of these men must either go on not knowing—in emotional and legal limbo—or accept the legally effective determinations by the services, as in Captain Harrold's case.

So I believe that the services in Captain Harrold's honor yesterday serve two basic purposes. First, they pay that last measure of respect and tribute to an American who gave the ultimate measure of devotion to his country. Second, these services also signal his fellow countrymen that we must not and shall not forget others—some 1,300—whose missing-in-action status is being prolonged unnecessarily and inexcusably by Hanoi.

Mr. President, I ask unanimous consent that an editorial from the Leavenworth Times of December 3, 1973, be printed in the RECORD.

And, Mr. President, I would also express to the family of Captain Harrold my personal sympathies and the greatest measure of respect for his valiant sacrifice to the Nation whose uniform he wore.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

EDITORIAL—WITH DEEPEST SYMPATHY

The long wait for some official finding has ended for the family of Air Force Capt. Patrick K. Harrold. The Air Force has notified his next of kin that his status of missing in action has been terminated by a presumed finding of killed in action as of Nov. 19, 1973.

Captain Harrold was one of two pilots who vanished over Laos during an attack mission against advancing North Vietnamese forces the night of Dec. 5, 1969. The presence of large numbers of Communist forces in the area prevented a ground search. Aerial search revealed no clue to their fate and returned prisoners of war and other sources have provided no information concerning them.

To the discredit of the North Vietnamese who promised on Jan. 23 of this year to assist in accounting for all Americans missing in action, that country and her allies have refused ever since to provide either help or information.

We join the many friends of Captain Harrold's family in offering our deepest sympathy and our prayers. It was not our privilege to have known the deceased personally, but he was an American patriot who made the highest sacrifice for his country and in the name of freedom.

RETIREMENT OF ANDREW E. RUDDOCK

Mr. McGEE. Mr. President, as chairman of the Committee on Post Office and Civil Service, I want to take this opportunity to commend Mr. Andrew E. Ruddock, who will retire effective January 1, 1974, after 34 years of service.

Andy Ruddock plans to step down after a career in which he rose from messenger to head of the Bureau of Retirement, Insurance, and Occupational Health.

As director of that Bureau, Mr. Ruddock was a frequent witness before my committee. Always he was knowledgeable, informative, and helpful. Indeed his thinking and his direction have been major factors in the development of civil service retirement, group life, and group health insurance programs. His efforts have been recognized by advancement through the Commission's ranks to his present position and by his receipt of the Commissioners' Award for Distinguished Service in 1961. I cannot permit Andy Ruddock's impending retirement from his post at the Civil Service Commission to pass without acknowledging the debt of thanks for his truly dedicated service to civil service employees and the public. Also I want to express thanks to him for the high degree of cooperation which the Bureau of Retirement, Insurance, and Occupational Health has always shown to the Committee on Post Office and Civil Service and the Congress as a whole.

Happily, Mr. President, the Bureau will remain in good hands. Thomas A. Tinsley, Deputy Director of the Bureau for the past 4 years, will succeed Mr. Ruddock. With John G. McCarthy as Associate Director for Operations and Solomon Papperman as Associate Director for Policy to assist him, Tom Tinsley will, I am confident, continue the outstanding administrative record of the Bureau.

A USEFUL AND ESSENTIAL UNITED NATIONS

Mr. JAVITS. Mr. President, in addition to the vital role played by the United Nations in the containment and cessation of the recent outbreak of hostilities in the Middle East and the crucial role the United Nations has played in so many other world crisis situations, in recent years there has been an ongoing debate as to whether the United Nations is anything more than a debating society. In my judgment, the U.N. has proved its worth many times over in its essential peace keeping role and in the settlement of such disputes in areas as Cyprus, Korea, the Congo, and other areas. Furthermore, the United Nations has sponsored the Declaration of Human Rights, and numerous international conventions, such as the conventions dealing with genocide, forced labor, and slavery, all of which serve to protect the human rights and civil liberties of all peoples.

In an article published in the September 1973 Free Mind—a publication of the American Humanist Association—Mr. Jesse Gordon has succinctly described why, in his judgment, the United Nations is the useful and essential world organization that it, in fact, is. I recommend this article, "AHA and the United Nations," for the information of all Senators, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

AHA and the United Nations

(By Jesse Gordon)

When delegates from 50 nations met at San Francisco in the spring of 1945, World War II was not yet over, but a determination to establish an international organization to keep the peace was paramount in the minds of the delegates. After two months of intense negotiations, the language of the Charter of the United Nations was agreed upon.

Twenty-eight years have passed since the nations of the world pledged themselves "to save succeeding generations from the scourge of war."

In judging the political performance of the UN and in making the organization the scapegoat for the difficulties of its members, a number of important considerations are often conveniently forgotten. The first of these is the origin of the UN. The UN was not set up by small or medium powers. It was set up by the great powers themselves under the shock and experience of two devastating world wars. Kurt Waldheim, the secretary-general of the UN, states: "The UN was set up by the great powers to avoid in the future the mistakes, weaknesses and misunderstandings which, twice in less than 30 years, had led them into total war. We ignore this historical fact at our peril."

The American Humanist Association is active among the hundreds of non-governmental organizations sponsoring the UN.

The A.H.A. realizes there is an urgent need for greater understanding and support of the United Nations by the millions of citizens who are the constituents of non-governmental organizations. The A.H.A. is represented in the NGO group by Mrs. Henrietta Rogoff with Mr. Jesse Gordon, alternate.

In 1945, the UN came into existence accompanied by the usual flowery speeches. It was seen as "the great hope of humanity," "the hope of the world," and "the last, great hope for peace."

Has the UN fulfilled the "hope" that so many people placed in it as "The last great hope of humanity?" Or, is it just a useless debating society?

First of all, the UN has contended with a world of many revolutions—peaceful and otherwise. The original membership of the UN was 51; it now numbers 135, with the two Germanys recently joining. The UN has many achievements to its credit. It can count among its successes, in the political area, the negotiated settlement of disputes affecting Indonesia, Kashmir, and West New Guinea, among others. The Middle East "question" has, of course, been before the UN almost continuously since 1947. It can be shown that UN presence in the area has prevented many incidents from developing into a wider war.

One might ask the question: What might have happened in the Congo and neighboring states in 1960 if it had not been for the UN peacekeeping force there? Critics point to Soviet intervention in Hungary and Czechoslovakia and the impotence of the UN to act in those situations.

It all comes down to big power politics and political objectives. The U.S. role in Indochina could similarly be examined for violations of the U.N. Charter.

What are the principles of the Charter?

The Charter is based on seven main principles:

(1) The equality and sovereignty of all member states.

(2) Fulfillment "in good faith" by all members of obligations assumed under the Charter.

(3) Peaceful settlements of disputes.

(4) Renunciation of the threat or use of force.

(5) Cooperation with the UN in any action it takes.

(6) Encouragement of non-member states to abide by its principles.

(7) Non-intervention by the UN in the internal affairs of any state.

The Charter also calls for freedom of religion. Many faiths, each with a different conception of God, are represented at the UN. A moment of silence opens and closes each General Assembly session, and there is a Meditation Room at UN headquarters which is open at all times. There is no mention of God in the Charter just as there is none in the U.S. Constitution.

The UN Charter pledges all members to cooperate for the promotion of human rights. Although the authority of the United Nations is limited to debate, study, publicity, and recommendation, it has exerted immeasurable influence on behalf of human rights.

In 1948 the General Assembly adopted the Universal Declaration of Human Rights. Its clauses on the civil, political, economic, and social rights of human beings have influenced the written constitutions of a number of new nations. Its provisions have been incorporated in several important peace treaties.

The General Assembly has also produced draft conventions—treaties—in the human rights field. Some forbid particular offenses such as genocide, forced labor, and slavery. Others set standards in particular areas such as political rights of women. Such conventions must be ratified by the individual UN members in accordance with their constitutional processes. In addition, the Assembly has produced two comprehensive human rights covenants, one on civil and political rights and one on economic and social rights, both ratified by more than 30 governments.

For many years UN experts have offered advisory services to governments on human rights questions. Various UN-sponsored international seminars on human rights have been held. The UN has also served as a central point to which aggrieved groups may complain of specific human rights violations. But there is disagreement as to how the UN should handle such complaints. One proposal would establish a UN office, that of High Commissioner for Human Rights, to receive inquiries and complaints from both governments and private parties and to advise and conciliate at their request. The High Commissioner would have no power to overrule a government, but his views would carry moral authority.

LEGAL SERVICES CORPORATION

Mr. HARTKE. Mr. President, with the enactment of legislation concerning legal representation for those otherwise unable to afford counsel in matters under the law, we are taking several giant steps toward the constitutional command of "equal protection of the laws." Many words have been written and spoken on this subject already and I shall therefore keep mine brief.

I would like to point to the outstanding record of the Legal Services Organization of Indianapolis, Ind., which has succeeded in 1,495 cases which it brought into the courts of this country. I do not here imply that 1,495 cases would have otherwise gone without justice, but I am sure the quality of justice which these cases have brought to the litigants furthers the spirit of respect for the law in Indianapolis.

Mr. President, the bill S. 2686, which we are considering here goes a long way in assuring the people of this country that they will be represented by counsel in the courtrooms. The Committee on Labor and Public Welfare has performed a remarkable task in balancing the independence of counsel with the political ramifications of public finance. Even though certain sections of the bill do not represent clear and concise lines, it is the start of a corporation which will bring justice to all the peoples of America.

The legal profession will gain new respect and identification with all individuals in our society when the poor have representation just the same as the corporations.

Mr. President, I ask unanimous consent that a letter received by me from one of the lawyers in the Indianapolis office, along with supporting information and articles from several newspapers be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Legal Services Organization
of Indianapolis, Inc.,
December 6, 1973.

Senator Vance Hartke,
Old Senate Office Building,
Washington, D.C.
Attention: Steven Cloud.

Dear Senator Hartke: Enclosed is a summary of the structure and activities of the

Legal Services Organization of Indianapolis. I also attach some newspaper articles which may be of help to you as well.

Our file containing letters of endorsement from Indianapolis groups was destroyed in the recent Indianapolis fire, which completely destroyed LSO's downtown office in the Thomas Building. We are attempting to reconstruct the file by obtaining the originals of the letters which were sent to the Mayor and to City-Council members last year and if we are successful, I will send them on to you without delay.

Please get in touch with me if I can be of any further assistance.

Yours truly,

Jody Raphael,
Attorney-at-Law, Northeast Office.

December 6, 1973.

The Legal Services Organization of Indianapolis is a non-profit corporation organized under the laws of the state of Indiana, which since 1966 offers free legal services to poor persons living in Marion County. It receives its funds from the Office of Economic Opportunity and currently employs 14 attorneys who work in three offices in Indianapolis.

In a period beginning March 1, 1972 and ending February 28, 1973, LSO of Indianapolis handled 6,506 cases, an average of 337 cases per staff attorney. The average cost per case was $81.00. Of these cases, 1739 were family problems, including divorces, guardianships, support, adoptions, custody, separation and paternity actions; 1769 were juvenile court cases; 722 consumer and employment problems; 446 welfare and social security matters; and 504 housing problems.

The LSO record in Indianapolis demonstrates that the program is allowing poor persons access to attorneys which they did not have before the inception of the program. In the last year, 2214 new clients stated during the initial interview with an LSO attorney that they were seeing a lawyer for the first time in their lives. 1047 new cases in the one year period were referred by private attorneys to LSO. Conversely, LSO referred 992 ineligible cases to the Indianapolis Bar Association's Lawyers' Referral Service, which represents 15 percent of all those people who contacted the service during this period.

The Poor's Lawyers—Group Scores Well in Indianapolis

(By Fred Sievers)

Indianapolis.—An organization dedicated to protecting the legal rights of the poor has achieved such success it has prompted a storm of controversy in this eleventh largest city in the nation.

The furor is over the role of Legal Services Organization of Indianapolis (LSO), a group of lawyers largely fresh out of law school with an impressive record of courtroom victories for the poor.

LSO's successes against the status quo in controversial areas of school desegregation, student discipline and welfare rights have provoked the ire of city fathers and raised threats of loss of local funding for LSO next year.

Organized seven years ago and financed largely by the federal Office of Economic Opportunity, LSO lawyers have gone into federal and state courts to score significant victories not only for the poor in Indianapolis but in the rest of the state as well.

It has been blasted by some of the city's editorial writers, judges, school and municipal officials, and praised by the Indianapolis League of Women Voters, Urban League, and Model Cities Board.

Critics have accused LSO of meddling, of concentrating on sensational class actions involving large groups of the poor rather than on the needs of poor individuals and of generally being a trouble-maker.

Norman P. Metzger, the 34-year-old director of the agency's 18 lawyers, all except one younger than Metzger, says it is the problems of the poor, and not the acts of LSO, which have brought court decisions of which critics complain.

What's more, he maintains, LSO is helping many of the once skeptical poor to have a new respect for the orderly processes of the law.

He cites the efforts of a group of Indianapolis high school students to sell and distribute their own newspaper on school property as a prime example.

The newspaper, published by students without aid or support of the school, brought protests from parents, school officials, and the school board, partly because of the newspapers' use of a four-letter word.

On orders of the school board the students were barred from distributing the newspaper on school premises. Six students appealed to LSO for help.

"The kids came to us and asked if we would represent them," said Metzger in an interview. "Here was a group of students who weren't picketing, demonstrating or doing similar cop-outs but who wanted to put the system to a test to learn whether it protected them, too."

A major issue was whether the school, acting in place of parents in matters dealing with educational discipline, could exercise such authority despite constitutional rights of free speech and press.

A federal district court, upholding the right of the students to distribute their newspaper on school property, ruled that children have rights independent of those of parents.

To Metzger, the students obtained a lesson in democracy they could never have gotten in school.

They learned that the American system of justice serves regardless of age.

The school board, which has appealed the decision to the federal Circuit Court of Appeals in Chicago, apparently felt otherwise.

In another victory against the school board that added fuel to the fire of critics, LSO lawyers, acting on behalf of several welfare parents, won a federal court ruling that the board had violated the court's order against assigning so many black students to a school as to tend to cause white parents to withdraw their children and move away.

One of the most far-reaching federal court victories won by LSO lawyers was a suit brought by a welfare mother protesting state welfare rules against paying aid for dependent children to women who had not been separated from their husbands for six months.

The court not only struck down the six-month waiting period as unreasonable but held, in effect, that those denied aid for that reason could be eligible for assistance retroactive to 1970.

Some welfare officials have claimed the retroactive provision could cost the state millions of dollars. The decision is being appealed by the state's attorney general.

In still another decision of major consequence, LSO lawyers won for an Indianapolis township poor relief recipient a federal appellate court ruling that he was entitled to a pre-hearing before his aid was discontinued by the township trustee.

LSO lost in federal district court and appealed to the Seventh Circuit Court of Appeals. The suit was brought against the Center Township trustee.

Indiana Attorney General Theodore Sendak, protesting the case could be a landmark in federal-state relations, sought but was denied permission to intervene in the case.

It was LSO attorneys who won for a group of welfare women a public hearing, as required by law, on a proposed 25 per cent reduction by the state welfare board in the standards of needs governing welfare payments.

While LSO has won major victories for the poor, it has lost some battles. It lost in an effort to invalidate the state's ejectment statute, which it claimed gave landlords an economic advantage over needy tenants. Its attack on the state's mechanic lien law, which permits a garage to retain possession of a car when the owner is unable to pay repair charges, was unsuccessful.

But in both cases, the defeats were for technical or procedural reasons, not on the merits of the issues.

The city council has withheld a decision on whether it will continue to provide LSO with special federal funds, which amounted to $172,000 this year, or will contract with another organization for legal services for the poor. LSO also receives $318,000 in OEO funds and is expected to continue receiving such funds.

We Need the Legal Services Organization

We believe there should be one standard of justice for all people in this country—whether they can afford the services of an attorney or not. And we won't believe that single standard of justice can become a reality unless everyone, including the poor, has equal access to legal assistance.

In most criminal proceedings today, if a defendant can't afford an attorney, the court must appoint one and see that he's paid.

In most non-criminal situations, however, the poor in this community must depend on the Indianapolis Legal Aid Society and the Legal Services Organization of Indianapolis—better known as L-S-O.

Legal Aid gets its operating funds from the United Fund and other nongovernmental sources. L-S-O relies entirely on *public* funds.

On Monday evening, the Public Safety Committee of the City-County Council will consider an L-S-O application for slightly more than 200-thousand dollars in federal Community Service Program funds—about a third of the money needed to maintain L-S-O operations for the coming year.

We strongly favor the continued funding of L-S-O. And we urge the committee to recommend approval of this request by the full City-County Council.

Legal Aid, with a total of *four* attorneys, and apparently with no desire to accept public funds, can hardly be expected to serve all the legal needs of the poor in this community. So L-S-O, with 22 attorneys, is needed.

And, according to an outside evaluation of the agency, made last month, L-S-O in Indianapolis has "a very effective program with a director who is doing a very good job generally and with a dedicated, highly intelligent staff of attorneys."

The agency is not above criticism. And some *was* contained in the recent evaluation report. But most of L-S-O's critics seem to be persons who oppose the whole concept of a federally funded legal service for the poor.

We see no viable alternative to such a service. And we believe Indianapolis is *fortunate* to have an L-S-O that is providing the poor with legal service rated "good to excellent" by knowledgeable persons who've taken the time to examine this service closely.

LSO Merits Support of the Community

To the Editor: Sometime ago when the cities were burning, people were being looted all one could hear was, "Why don't these people use the system?" Maybe one should ask the question now "Have the same people changed their philosophy and now wonder why some do use the system?"

It may not have materialized to the degree many feel it should have and maybe it has materialized to a much greater degree than many would like. In any event, I feel the purpose of LSO is to provide greater access of the system to the "have-nots" and I'd like to make it clear that I am encouraged by the complaints coming from the "haves" rather than the "have-nots" and I am sure that there are those who might not share these viewpoints.

What about the question of who should be sued? This reminds me of a committee in the Legislature that covers all segments of the state investigating the question of taxes. They can all agree there should be an increase but the other party should be the one to pay it. If we truly intend for the poor to have adequate legal service then we must agree that the one to be sued has no priorities in the eyes of the attorney who is desperately trying to obtain a settlement for his client.

The mayor or the Council might agree that it is alright to sue everyone else except the state. If I understand the President's remarks then I can agree with him that there ought not to be any restrictions on who the poor people can sue through LSO.

Just for a minute, let's agree that there are some restrictions then I ask you, "What kind of a committee structure should be set up to decide?" Should it be the editorial writers, should it be the John Birch Society, should it be the KKK, should it be the Black Panthers, should it be labor unions, should it be corporations, should it be state government, city government or federal government? I think it should stand as it is now, the LSO or LAS for the indigent and the private attorneys for the people who are lucky enough to make enough money to pay their own way. Naturally, I would be willing for the Board of Directors of LSO to hand down the guidelines on this matter. I do want to make it clear that the situation as it now stands, in my opinion is a drastic attempt to infringe upon the authority of the Board of Directors of LSO.

It seems that many people have talked about letting the community people decide on their activities and they are fully in favor of LSO. I truly believe this whole episode will adversely affect the representation of the poor. It is regrettable, all the accusations and the false impressions that have been made against this group. It is ironic that $191,104 was earmarked for the dog pound last year and $363,123 was allocated for legal representation for our city for this period—all of which is accepted without question—while $202,000 for legal representation for the poor in our town causes an uproar.

I'd like to address myself just for a minute as to the class action suits. I want to make it clear that I'm not satisfied with LSO in this matter. In this city, if a mother or father's son is picked up, he has to write a letter to the jail and the authorities will write back when the parents may visit. If they happen to be from a well-to-do family I'm sure this rule would be bent with mere phone calls. In any event, at least the bondsman would be available for his release.

In many cases the poor, and not even what you would consider the poor, are blocked from being released inasmuch as communications with the individual jailed are restricted because they don't have access to the credit union funds he has available or checking account that he has available that could be used for his release. I don't pose as an attorney but I would certainly welcome LSO, LAS or any other attorney that might want to try this on for size. In this state, we have handicapped children reaching the age of 18 or 19 before they receive any education. There were cases in other states that did induce this state to pass legislation that would provide this education to those as of July of this year. As it now stands, most people acquainted with the problem feel the passing of the law satisfied the decision in the other states and that this state will not allocate funds to satisfy this great need.

When I think of the people who have the money for legal service and object to the poor having the same I'm reminded of the minister who told the story of the little boy that was in love with sunshine and decided to selfishly box himself up some of this sunshine and when he nailed on the last board, he found he had none. It may very well be that unless we respect other peoples' rights to have legal representation we may very well find ourselves in the little boy's position.

Buford C. Holt,
Director, Greater Marion County United Auto Workers Community Action Program.

Mr. HARTKE. Mr. President, last year, LSO was involved in 2,402 litigated matters. In those which went into litigation, LSO succeeded in 1,495 of the cases, which is a win record of 73 percent. This includes 13 higher court appeals including two cases in the U.S. Supreme Court.

Two attorneys and 10 part-time law students, supported by a grant from the Indiana Criminal Justice Planning Agency and the community services program of the Indianapolis City Council, represent juveniles at the Marion County Juvenile Court. A third attorney in the project is presently supported by the Reginald Heber Smith community lawyer fellowship program of OEO.

LSO publishes 5,000 copies of a monthly preventive law newsletter, "You and the Law," and prepares preventive law columns for over 10 neighborhood and community newspapers in Indianapolis. It writes brochures on such areas as landlord-tenant and consumer law and speaks to large numbers of community groups. Its monthly newsletter, "The Advocate," is mailed to some 2,500 members of the bar and the public. It informs the public about the activities of LSO and contains articles on legal developments in Indiana and Marion County which affect poor persons. The purpose of "The Advocate" is the education of the public about the legal problems and legal rights of poor persons.

Last year, LSO served 30 eligible community groups, dealing with the problems the groups were solving which would improve the quality of life in various Indianapolis neighborhoods.

LSO's relatively few class action suits this year established important rights for poor persons in Marion County. LSO won for an incapacitated Indianapolis township poor relief recipient the right to be informed of the reasons for his termination from poor relief and the opportunity for a hearing before termination of assistance.

LSO brought another case on behalf of a welfare mother and her children who were denied welfare because she had not been separated from her husband for 6 months. In striking down this Indiana regulation, the court ruled that Congress had not sanctioned a 6-month waiting period for AFDC eligibility. In a recent case, an LSO attorney is attempting to win for a tenant the important right not to be retaliated against by her landlord because she took various actions aimed at bringing the home up to minimum housing code standards.

LSO's board of directors, reflects the wide-ranging interest in LSO on the part of city government and the Bar in Indianapolis. Four members of the 15-member board are appointed by the City-County Council of the Consolidated City of Indianapolis, four by the Indianapolis Bar Association, one by the Marion County Bar Association, one by the mayor of Indianapolis, and five by the client community by a democratic selection process. These five represent the Indianapolis Branch of the National Association for the Advancement of Colored People, the Indianapolis branch of the Urban League, the Indianapolis Southern Christian Leadership Conference, the Indianapolis Welfare Rights Organization, and the Marion County Central Labor Council of the AFL–CIO.

LSO enjoys broad-based public support in the Indianapolis community. It has an advisory council which attends board meetings and is otherwise active in LSO operations. Members of that council include representatives from the Indianapolis Chamber of Commerce, United Auto Workers of Marion County. Indianapolis League of Women Voters, Community Services Council of Greater Indianapolis, the Indianapolis Church Federation. Hispano-American Society, the Near-East Side Community Organization, the Model Cities Board—City Demonstration Agency Board—the West Indianapolis Neighborhood Congress, and the United Southside Organization.

IMPEACHMENT

Mr. McCLURE. Mr. President, I have said it before, and I will say it again: We do not get a true understanding how the American people feel on major issues by listening to congressional rhetoric and reading Washington papers.

As far as the President's problems with Watergate are concerned, I note that the House Judiciary Committee is busy setting up an impeachment study and everything I read in the press indicates a somewhat foregone conclusion that Mr. Nixon will be out of office shortly.

I now call attention to a poll conducted among Boise State College students November 27. We are led to believe that of all groups, the students of this Nation are, indeed, in the forefront of the impeachment effort. Yet, at Boise State the sentiment is in the other direction—and quite conclusively so. I ask unanimous consent that the results of the poll be printed in the Record.

There being no objection, the poll results were ordered to be printed in the Record, as follows:

Poll Results

[Answers in percent]

I. Should the President be impeached?

Yes	11.4
No	62.8
Unsure	25.8

II. Should the President resign?

Yes	25.7
No	60.0
Unsure	14.3

III. Do you approve or disapprove the manner in which the President is handling his job?

Approve	54.2
Disapprove	31.4
Unsure	14.4

GASOLINE RATIONING

Mr. HASKELL. Mr. President, last month the Senate narrowly defeated an amendment which I proposed to the Energy Emergency Act directing the President to implement a gasoline rationing program by January 15, 1974. Since that time, appeals for immediate rationing have become common and increasingly urgent.

The administration steadfastly refuses to admit there is no reasonable alternative to gas rationing, stating it must be used only as a last resort. And even as the administration formally announces there will be no decision until at least March on whether there will even be gas rationing, unidentified administration spokesmen are quoted almost daily in the press as admitting rationing is inevitable.

As Senator JACKSON has repeatedly pointed out, each day rationing is delayed costs us 1 million barrels of oil. Mr. President, for a Nation which will fall critically short of the 17 million barrels of oil it uses daily, the waste of 1 million barrels daily can only be called reckless.

Why does the administration delay imposing rationing? We can only hope that it is not seriously considering instead a heavy tax of 30 to 50 cents per gallon as we hear rumored. No doubt such a tax would achieve the desired drop in consumption, but it will do it solely at the expense of the lower and middle-income groups in this country. Others would simply buy their way out.

Is rationing delayed because the administration fears the political consequences of imposing it? Mr. President, if that is the reason, I am afraid someone is seriously misreading the feelings of the American people.

Of the Coloradans who have written to me about the energy crisis recently, over 90 percent, favor gas rationing as opposed to a heavy gasoline tax.

I will not suggest to you, Mr. President, that Colorado residents are anxious to live with gas rationing. But when the clear need exists, as it does now, to severely limit consumption, most far prefer the rationing approach.

As I see it, there are two deadly political dangers in this energy crisis. One lies in putting a vital commodity—fuel for energy—up for bids. The other lies in giving hollow reassurances, thus delaying the hard choice until the pumps are dry and the question is moot.

The American people have the good sense to know when sacrifice is called for. They have the strength and the will to sacrifice; they ask only that the sacrifice be fair. I urge the administration to recognize this and begin implementing a rationing program without further delay.

ENERGY CONSERVATION

Mr. DOMENICI. Mr. President, we are all well aware that many sacrifices are necessitated by our current energy shortage. One of the most obvious of these sacrifices is the response of many communities which are refraining from putting up their usual Christmas lights in their downtown areas. This action, combined with other necessary measures currently being taken, can cause some dampening of the Christmas spirit, especially in small communities which are, as a rule, not so well lighted as larger cities.

These small communities abound in rural America, a section of the country which has been most responsive to our call for energy conservation. The dilemma of these communities is clear—how can they do their patriotic duty by conserving energy without depriving their citizens of the uplift in spirits which cheerily lighted downtown areas have historically provided.

Mr. President, some of the folks in my home State of New Mexico have found the answer to this problem and I ask unanimous consent that a letter which I received from C. Richard Cothrun, manager, Ruidoso Valley Chamber of Commerce, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

RUIDOSO VALLEY CHAMBER OF COMMERCE,
Ruidoso, N. Mex., December 5, 1973.

Senator PETE V. DOMENICI,
U.S. Senator,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR DOMENICI: Since 1961, the Village of Ruidoso has not had downtown Christmas lights. This year new ones were purchased and preparations made to put them up. However, in view of the energy crisis we were reluctant to turn them on and use extra electricity.

Then, we came up with a solution—A community wide appeal was made to our citizens to volunteer to turn off their lights and use candlelight for only one night during the three weeks period our downtown lights will burn, thereby offsetting the additional energy to be consumed.

The response was heartwarming, although we only needed 120 families (according to figures computed by the electric company) several hundred volunteered. So, we will not only not use any additional energy, but will actually conserve it. Many of our local merchants are offering discounts on candles to help those citizens participating.

We just wanted you to know what people working together can do. We didn't feel with all the worry and gloom in the world today, that this was the time to turn off the Christmas lights. All of us will feel a great deal of joy when the lights turn on for everyone to enjoy because we turned ours off for one night.

Blessings during the Christmas season,
C. RICHARD COTHRUN,
Manager.

P.S.—Paul Harvey gave us national exposure on this project on his 12:30 radio broadcast today.

CLARIFYING THE RECORD

Mr. McGOVERN. Mr. President, one of the most courageous young men I came to know during the recent campaign for the Presidency was Mr. Rob Risner, the eldest son of Col. Robinson Risner, an American pilot who was held as a prisoner of the North Vietnamese for a considerable period of time. Mr. Risner endorsed my candidacy in Oklahoma City in the summer of 1972 and remained a firm supporter throughout the campaign. On April 23, 1973, he wrote a letter to Time magazine correcting an erroneous story in Time, indicating that he had later become a supporter of Mr. Nixon.

I ask unanimous consent that Mr. Risner's letter in the April 23 issue of Time be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From Time magazine, Apr. 23, 1973]

NONSUPPORT

Sir: In your story on the P.O.W.'s [March 19] you said that as a newly returned prisoner of war, Colonel Robinson Risner had even talked all of his children into supporting President Nixon, although they all had supported Senator McGovern in the presidential campaign. I am Colonel Risner's oldest son, and I do not now support, nor have ever supported President Nixon.

When Senator McGovern campaigned in Oklahoma City last summer. I explained in his presence that I believed President Nixon had failed at any attempt to end the war and free the prisoners; and that I believed Senator McGovern was sincere in his efforts to end the war and bring the prisoners home.

ROB RISNER.
HUNTSVILLE, TEX.

THE MENOMINEE RESTORATION ACT

Mr. NELSON. Mr. President, last Friday, the Senate passed H.R. 10717, the Menominee Restoration Act. This legislation restores to the Menominee Indian Tribe, of Wisconsin, the full Federal recognition that other American Indian tribes enjoy. Along with that recognition comes the provision of needed Federal services in health, welfare, education, roads, employment, and economic enhancement.

The passage of the Menominee Restoration Act is truly an historic occasion. In 1953, the Congress approved House Concurrent Resolution 108, which expressed the sense of the Congress that there should be a termination, as rapidly as possible, of all special Federal services for Indian tribes, and for a transfer of Indian property to the Indian owners freed of any Federal trust.

Pursuant to this resolution, the Congress passed in 1954 the act terminating the Menominee Tribe of Wisconsin. The legislation was essentially forced on the Menominee, for attached to the bill was a provision which provided for the distribution of approximately $10 million in funds which the tribe had on deposit in the U.S. Treasury. If the tribe wanted to get the $10 million, it would have to terminate Federal assistance. Faced with this threat and with a feeling that opposition would be futile, the tribe gave its consent.

The result of termination of services to the Menominee was predictable. When the procedures involved in termination were completed in 1961, I traveled to Washington to oppose the ending of Federal assistance, as Governor of Wisconsin, on the grounds that not only was termination unworkable, but it would cause severe economic depression on the reservation. Termination was completed, and economic disaster resulted.

Mr. President, a report of the Bureau of Indian Affairs to the House Committee on Appropriations and the House Interior Committee reveal the vast evidence of the failure of termination to make the Menominee Indian reservation self-sufficient.

That report, submitted on April 6, reported that—

> Almost without exception, the economic and social indicators for the Menominees are considerably lower than those of any other population segment in the State of Wisconsin.
>
> Employment—Only 46% of Menominee County Indians were reported in the labor force, compared to 59% for the State of Wisconsin. The low figure is caused by the fact that almost a fourth of those in the labor force were reported as disabled or handicapped. Of those in the labor force, 26% were unemployed, as opposed to 5% for the state.
>
> Income—The average per capita income for Menominee County Indians was $1,028 compared to Wisconsin's $3,158 and the average family income for Menominee County Indians was one-half that of the State's . . . Almost 40% of the Menominee County Indian families had income below the poverty level.
>
> Taxes—In the 60's, the total taxes paid by the Menominees doubled. Even with this steady rise, the revenues obtained were not sufficient to meet the needs of the Menominees.
>
> Education—The median grade completed by persons 25 years of age and older was 9.2 for the Menominee Indian, but 11.9 for the people of Wisconsin. More than 75% of the former have dropped out of school before graduating.
>
> Health—There are neither hospital facilities nor practicing physicians in Menominee County. Both services were available prior to termination.
>
> Housing—Half of Indian occupied homes in Menominee County have complete plumbing and central heating . . . somewhat more than a third have telephones. All of these facilities are available to more than 90% of homes elsewhere in the State. The median value of Menominee County homes was a little over $5,100, which is less than a third of the State's average.

The Bureau of Indian Affairs report brings forth the following conclusion, after an exhaustive study of the economic condition of the tribe:

> Our study of the situation has led us to the same conclusion that has been accepted by most Menominee, that is, the return of the Menominee tribe to the trust relationship with the Federal government is the only solution to this almost hopeless situation.

The expressions of support that have been offered for restoration of the Menominee Tribe have been greatly appreciated by those of us working for the passage of this legislation.

Melvin Laird, the President's domestic adviser, and formerly a Congressman who represented the Menominee, on September 5 stated that—

> The proven reliability and willingness of these people to accept the responsibilities of self-government proves that restoration of the Menominee Indian tribe is not only advisable but well deserved.

The chairman of both the House and Senate Interior Committees, Senator Henry Jackson and Congressman James Haley, offered their support for the Menominee Restoration Act. Senator Jackson, in a speech before the National Congress of American Indians said:

> No other tribe has met with more disastrous consequences than the Menominee tribe of Wisconsin. The Menominee have a valid claim for corrective action. Their claim cannot, in equity and good conscience, be ignored.

The support of the Secretary of the Interior Rogers C. B. Morton, Wisconsin Gov. Patrick J. Lucey, and a bipartisan group of Congressmen and Senators, have attested to the widespread public support for restoration.

And perhaps most important, the Menominee people themselves have worked long and hard for this legislation, and for them, the passage of the Restoration Act is a very personal victory. Hundreds of Menominee traveled to Washington to appear at the Senate and House hearings. Miss Ada Deer, a full-time Menominee representative, spent almost 2 years working to bring the story of the Menominee Indian Tribe to the attention of the Congress. When the legislation at last appeared to reach the hearing stage, they did not stop. The Menominee Indians kept working, and helped signficantly in understanding the importance of this legislation.

Mr. President, the pasage of the Menominee Restoration Act is only the beginning of important efforts to reverse this Nation's Indian affairs policy. The efforts in the future will take much time, effort, and patience. But the lesson to be learned from the Menominee Restoration Act is that, with cooperation and understanding, progress can be made. This Nation can reaffirm its traditional support for the rights and privileges of the American Indians.

I ask unanimous consent that the bill as passed by the Senate, and a portion of the Senate Interior Committee report on H.R. 10717, be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 10717

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Menominee Restoration Act".

Sec. 2. For the purposes of this Act—

(1) The term "tribe" means the Menominee Indian Tribe of Wisconsin.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Menominee Restoration Committee" means that committee of nine Menominee Indians who shall be elected pursuant to subsections 4(a) and 4(b) of this Act.

Sec. 3. (a) Notwithstanding the provisions of the Act of June 17, 1954 (68 Stat. 250: 25 U.S.C. 891–902), as amended, or any other law, Federal recognition is hereby extended to the Menominee Indian Tribe of Wisconsin and the provisions of the Act of June 18, 1934 (48 Stat 984; 25 U.S.C. 461 et seq.), as amended, are made applicable to it.

(b) The Act of June 17, 1954 (68 Stat 250; 25 U.S.C. 891–902), as amended, is hereby repealed and there are hereby reinstated all rights and privileges of the tribe or its members under Federal treaty, statute or otherwise which may have been diminished or lost pursuant to such Act.

(c) Nothing contained in this Act shall diminish any rights or privileges enjoyed by the tribe or its members now or prior to June 17, 1954, under Federal treaty, statute, or otherwise, which are not inconsistent with the provisions of this Act.

(d) Except as specifically provided in this Act, nothing contained in this Act shall alter any property rights or obligations, any contractual rights or obligations, including existing fishing rights, or any obligations for taxes already levied.

(e) In providing to the tribe such services to which it may be entitled upon its recognition pursuant to subsection (a) of this section, the Secretary of the Interior and the Secretary of Health, Education, and Welfare, as appropriate, are authorized from funds appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), the Act of August 5, 1954 (68 Stat. 674), as amended, or any other Act authorizing appropriations for the administration of Indian affairs, upon the request of the tribe and subject to such terms and conditions as may be mutually agreed to, to make grants and contract to make grants which will accomplish the general purposes for which the funds were appropriated. The Menominee Restoration Committee shall have full authority and capacity to be a party to receive such grants to make such contracts, and to bind the tribal governing body as the successor in interest to the Menominee Restoration Committee: *Provided, however,* That the Menominee Restoration Committee shall have no authority to bind the tribe for a period of more than six months after the date on which the tribal governing body takes office.

Sec. 4. (a) Within fifteen days after the enactment of this Act, the Secretary shall announce the date of a general council meeting of the tribe to nominate the candidates for election to the Menominee Restoration Committee. Such general council meeting shall be held within thirty days of the date of enactment of this Act. Within forty-five days of the general council meeting provided for herein, the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect the membership of the Menominee Restoration Committee from among the nominees submitted to him from the general council meeting provided for herein. The ballots shall provide for write-in votes. The Secretary shall approve the Menominee Restoration Committee elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. The Menominee Restoration Committee shall represent the Menominee people in the implementation of this Act and shall have no powers other than those given to it in accordance with this Act. The Menominee Restoration Committee shall have no power or authority under this Act after the time which the duly-elected tribal governing body takes office: *Provided, however,* That this provision shall in no way invalidate or affect grants or contracts made pursuant to the provisions of subsection 3(e) of this Act.

(b) In the absence of a completed tribal roll prepared pursuant to subsection (c) hereof and solely for the purposes of the general council meeting and the election provided for in subsection (a) hereof, all living persons on the final roll of the tribe published under section 3 of the Act of June 17, 1954 (25 U.S.C. 893), and all descendants, who are at least eighteen years of age and who possess at least one-quarter degree of Menominee Indian blood, of persons on such roll shall be entitled to attend, participate, and vote at such general council meeting and such election. Verification of descendancy, age, and blood quantum shall be made upon oath before the Secretary or his authorized representative and his determination thereon shall be conclusive and final. The Secretary shall assure that adequate notice of such meeting and election shall be provided eligible voters.

(c) The membership of the tribe which was closed as of June 17, 1954, is hereby declared open. The Secretary, under contract with the Menominee Restoration Committee, shall proceed to make current the roll in accordance with the terms of this Act. The names of all enrollees who are deceased as of the date of enactment of this Act shall be stricken. The names of any descendants of an enrollee shall be added to the roll provided such descendant possesses at least one-quarter degree Menominee Indian blood. Upon installation of elected constitutional officers of the tribe, the Secretary and the Menominee Restoration Committee shall deliver their records, files, and any other material relating to enrollment matters to the tribal governing body. All further work in bringing and maintaining current the tribal roll shall be performed in such manner as may be prescribed in accordance with the tribal governing documents. Until responsibility for the tribal roll is assumed by the tribal governing body, appeals from the omission or inclusion of any name upon the tribal roll shall lie with the Secretary and his determination thereon shall be final. The Secretary shall make the final determination of each such appeal within ninety days after an appeal is initiated.

SEC. 5. (a) Upon request from the Menominee Restoration Committeee, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of the Act of June 18, 1934, as amended, for the purpose of determining the tribe's constitution and bylaws. The election shall be held within sixty days after final certification of the tribal roll.

(b) The Menominee Restoration Committee shall distribute to all enrolled persons who are entitled to vote in the election, at least thirty days before the election, a copy of the constitution and bylaws as drafted by the Menominee Restoration Committee which will be presented at the election, along with a brief impartial description of the constitution and bylaws. The Menominee Restoration Committee shall freely consult with persons entitled to vote in the election concerning the text and description of the constitution and bylaws. Such consultation shall not be carried on within fifty feet of the polling places on the date of the election.

(c) Within one hundred and twenty days after the tribe adopts a constitution and bylaws, the Menominee Restoration Committee shall conduct an election by secret ballot for the purpose of determining the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this initial election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted and all tribal members who are eighteen years of age or over shall be entitled to vote in the election. All further elections of tribal officers shall be as provided in the tribal constitution and bylaws and ordinances adopted thereunder.

(d) In any election held pursuant to this section, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate the adoption of a tribal constitution and bylaws and the initial election of the tribe's governing body, so long as in each such election, the total vote cast is at least 30 per centum of those entitled to vote.

(e) The time periods set forth in subsections 4(c), 5(a), and 5(c) may be changed by the written agreement of the Secretary and the Menominee Restoration Committee.

SEC. 6. (a) The Secretary shall negotiate with the elected members of the Menominee Common Stock and Voting Trust and the Board of Directors of Menominee Enterprises, Incorporated, or their authorized representatives, to develop a plan for the assumption of the assets of the corporation. The Secretary shall submit such plan to the Congress within one year from the date of the enactment of this Act.

(b) If neither House of Congress shall have passed a resolution of disapproval of the plan within sixty days of the date the plan is submitted to Congress, the Secretary shall, subject to the terms and conditions of the plan negotiated pursuant to subsection (a) of this section, accept the assets (excluding any real property not located in or adjacent to the territory, constituting, on the effective date of this Act, the county of Menominee, Wisconsin) of Menominee Enterprises, Incorporated, but only if transferred to him by the Board of Directors of Menominee Enterprises, Incorporated, subject to the approval of the shareholders as required by the laws of Wisconsin. Such assets shall be subject to all valid existing rights, including but not limited to, liens, outstanding taxes (local, State, and Federal), mortgages, outstanding corporate indebtedness of all types, and any other obligation. The land and other assets transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Wisconsin. Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the tribe and shall be their reservation. The transfer of assets authorized by this section shall be exempt from all local State, and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(c) The Secretary shall accept the real property (excluding any real property not located in or adjacent to the territory constituting, on the effective date of this Act, the county of Menominee, Wisconsin) of members of the Menominee Tribe, but only if transferred to him by the Menominee owner or owners. Such property shall be subject to all valid existing rights including, but not limited to, liens, outstanding taxes (local, State, and Federal), mortgages, and any other obligations. The land transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Wisconsin. Subject to the conditions imposed by this subsection, the land transferred shall be taken in the name of the United States in trust for the Menominee Tribe of Wisconsin and shall be part of their reservation. The transfer of assets authorized by this section shall be exempt from all local, State, and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(d) The Secretary and the Menominee Restoration Committee shall consult with appropriate State and local government officials to assure that the provision of necessary governmental services is not impaired as a result of the transfer of assets provided for in this section.

(e) For the purpose of implementing subsection (d), the State of Wisconsin may establish such local government bodies, political subdivisions, and service arrangements as will best provide the State or local government services required by the people in the territory constituting, on the effective date of this Act, the county of Menominee.

SEC. 7. The Secretary is hereby authorized to make such rules and regulations as are necessary to carry out the provisions of this Act.

SEC. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Amend the title so as to read: "An Act to repeal the Act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin; to reinstitute the Menominee Indian Tribe of Wisconsin as a federally recognized sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; and for other purposes."

SECTION-BY-SECTION ANALYSIS

Second 1 provides that the act may be cited as the Menominee Restoration Act.

Section 2 defines the terms "tribe", "Secretary", and "Menominee Restoration Committee."

Section 3 extends Federal recognition to the Menominee Indian Tribe of Wisconsin under the provisions of the Indian Reorganization Act of 1934; repeals the act of June 17, 1954, which terminated Federal recognition of the tribe and reinstates the tribe to all rights and privileges which were lost thereby, provides for protection of existing rights and obligations; and provides that any services which the tribe might become eligible for from the Bureau of Indian Affairs and the Indian Health Service may be provided to them by these agencies through a grant process.

This section effectively restores the tribe to the legal status it occupied prior to the Termination Act, and protects and preserves any valid existing right or obligation which may have vested in any person, Indian or non-Indian, during the years between termination and restoration.

Some concern was expressed that section 3(b) reinstating the tribe and its members to all rights and privileges under any Federal treaty, statute or otherwise which might have been lost or diminished by the termination act, might be interpreted to be retroactive to 1954, thus giving rise to claims against the United States. The committee wishes to make clear that the subsection has no retroactive effect and is not intended to be the basis for any claim against the United States.

Section 3(d) provides for the protection of existing property and contractual rights and obligations, "including existing fishing rights." The committee recognizes that there is current litigation pending in the Wisconsin Supreme Court regarding fishing and hunting rights. It is made clear that this provision is not a congressional determination of what those rights, if any, may be.

Section 4 provides for the re-establishment of tribal self-government by creating mechanisms and procedures for opening and bringing current the tribal membership roll which was closed and made final by the Termination Act; the adoption by democratic process of a tribal constitution and bylaws for the government of the tribes; and the initial election of tribal officers under such constitution and bylaws. The section provides for the nomination and election of a nine-member Menominee Restoration Committee which will represent the Menominee Indians during the process of re-establishing tribal government, including preparation of the reopened roll. The Menominee Restoration Committee, under the general supervision and direction of the Secretary of the Interior, would prepare the roll, draft a proposed constitution and bylaws, hold and supervise an election to adopt the proposed constitution and bylaws, and hold and supervise an election of the initial officers of the tribe under the constitution and bylaws. All of these actions will be subject to the provisions of the Indian Reorganization Act of June 18, 1934.

Section 4(a) and (b) provide for the nomination and election of the Restoration Committee, which will take place prior to the completion of the new tribal roll. In order to insure that as many as possible of the persons who are eventually found to be eligible for enrollment have an opportunity to participate in this process, subsection (b) provides that, solely for the purposes of such nomination and election, all persons eighteen years of age or over who think they meet eligibility requirements may offer evidence of eligibility to the Secretary, and they may vote if the Secretary determines they are eligible.

Section 5 provides for the drafting of a proposed constitution and bylaws by the Restoration Committee and the holding of an election thereon by the Secretary under the provisions of the Indian Reorganization Act. Subsequent to the adoption of such constitution and bylaws and approval thereof by the Secretary of the Interior, the Restoration Committee would conduct an election, pursuant to the newly adopted constitution and by laws of the initial officers of the tribe.

Section 6 provides for the transfer of the land and other assets of Menominee Enterprises, Inc., to the Secretary of the Interior on behalf of the Menominee Tribe. This land would be taken in trust for the tribe and would constitute their reservation.

The transfer of assets will be subjected to the terms and conditions of a plan negotiated between the Secretary and the members of the Menominee Common Stock and Voting Trust and the Board of Directors of Menominee Enterprises, Inc.

Section 6(a) provides that a plan shall be submitted within one year from the date of enactment of the act to the Congress and if neither House passes a resolution disapproving the plan within 60 days it shall take effect.

The committee appreciates the arduous task ahead in restoring the Menominee Tribe to essentially the same status it enjoyed prior to termination of Federal supervision over the tribe and its affairs in 1954. During the interim period between that date and enactment of restoration legislation, numerous events have contributed to complex social, economic and legal problems for the Menominee Tribe and its members. This act necessarily grants broad authority to the Secretary to negotiate with individuals, tribal members and appropriate corporate representatives in the development of a plan to provide for the transfer of the corporate assets (land and mill) to the Secretary to be held in trust for the Menominee Tribe.

Because of the inherent problems to be faced in the foregoing process, the committee has placed reliance and confidence in the Department's expertise to examine carefully all of the critical areas relating to development of a plan. In this connection, the committee wishes to clarify that the Secretary and appropriate tribal and corporate representatives shall, prior to the actual drafting of a plan, consider, among others, the following:

1. Maximum Indian self-determination to permit the tribe to exercise control and management over its affairs including natural resources so long as such management does not conflict with statutory responsibilities of the Federal trustee;
2. That the Menominee forest will continue to be administered under the sustained yield concept;
3. That cultural pride and tribal autonomy are maintained; and
4. That existing and future rights of Menominee Indians and non-Menominee are protected. This particular concern involves the actual definition of what rights actually exist to insure that the final plan will avoid needless litigation.

The committee wishes to emphasize that it is not mandating these specific factors be included in the plan. To this end, the committee will, of necessity, rely on the judgment and expertise of Departmental officials.

The transfer of the assets will be subject to the approval of the shareholders of the Corporation and the provisions of the laws of the State of Wisconsin governing the disposition of corporate assets. The assets would remain subject to foreclosure or sale under the terms of such obligation in accordance with the laws of Wisconsin. The transfer of the assets, and the assets after transfer, would be exempt from all local, State, and Federal taxation.

Section 6(c) provides that the Secretary may accept a conveyance to the United States in trust for the Tribe of any real property of members of the Menominee Tribe if the owner voluntarily conveys it. The terms of such transfer, including the compensation to be paid to the owner, would be left to the plan to be negotiated pursuant to subsection (a).

As with the transfer of the corporate land and other assets, the transfer of the individual real property would be subject to any valid existing rights and obligations and would be subject to foreclosure or sale pursuant to the terms of such obligation in accordance with the laws of Wisconsin. The tax exemptions provided in subsection (b) are the same for transfers under this section.

Subsections 6(d) and (e) provide for the orderly transfer of governmental functions and continuation of necessary governmental services during such transfer. Subsection 6 (e) was included in the legislation to make clear that the act does not in any manner authorize the State of Wisconsin to deviate from its own constitution or laws with respect to Menominee County after restoration. The committee wishes to emphasize that nothing in the act prevents the State of Wisconsin, pursuant to its constitution or laws, from making provisions for local government structure.

Sections 7 and 8 authorize the Secretary to make such regulations and rules as are necessary to carry out the provisions of the Act and authorize such appropriations as may be necessary for that purpose.

COST

The first-year cost of this legislation is estimated to be $5,020,991, as follows:

Bureau of Indian Affairs—Federal program services	$1,369,000
Bureau of Indian Affairs—Roll preparation and election costs	35,000
Indian Health Service—Federal program services	1,300,000
Indian Health Service—1-time nonrecurring cost of sanitation facilities construction	1,800,000
Department of Health, Education, and Welfare—Impact aid (Public Law 81-874)	516,991
Total	5,020,991

Thereafter, the annual cost of this legislation is estimated to be $3,185,991, based on the present level and cost of the general Indian program. This cost will of course change from year to year.

WHITE HOUSE SHENANIGANS

Mr. McGOVERN. Mr. President, the columnist, Tom Braden, has recently drawn attention to a number of memoranda involving Pat Buchanan and other political wheelhorses at the White House. Because they shed additional light on the shabby character of Mr. Nixon's reelection effort and, therefore, bear on the pending responsibility of the Congress to investigate administration wrongdoing, I ask unanimous consent that portions of these memoranda, printed in the Washington Post of December 3 and 6, be printed in the Record.

Also included is a special memorandum entitled "The Assault Book," which indicates some of the dirty tricks of Buchanan & Co. that were designed to discredit the democratic campaign.

It is difficult to believe that characters of this kind have come to occupy a high place in our Government. The sooner they are removed from the public scene, the better it will be for the Nation. I think that all of these materials should be read carefully by the Congress.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 3, 1973]

The Nixon White House Papers: Memos on the Media

(Note.—In our letters space today, White House aide Patrick J. Buchanan and syndicated columnist Tom Braden engage in a dispute over a column Mr. Braden wrote a while back. In it he asserted that a collection of documents he called the "Buchanan papers" was worth reproducing and distributing "free," owing to what they revealed about the Nixon administration's attempt to control and distort the free flow of information, via the press, to the people.

(Mr. Buchanan contends that the particular documents cited by Mr. Braden should not have been named after him, since they were not his doing—and he is right: the documents should properly be called the Nixon White House papers. And Mr. Braden is also right in his judgment of their value as reading matter for today's concerned citizens. That is why we have reproduced lengthy excerpts from the documents in question below.

(Lest Mr. Buchanan feel that we are only compounding Mr. Braden's original error in focusing on these memoranda, as distinct from those made public by the Ervin committee in connection with his testimony—34 documents that could go by the name of the "Buchanan papers"—we should add that we intend to reprint lengthy excerpts from the latter as well within a few days. They are very much of a piece with the "non-Buchanan" papers—and at least as illuminating for what they have to say about the mentality and the morality which have done so much to bring about the current crisis in Mr. Nixon's government.)

For the sake of identification, the following documents, variously classified as Confidential, Secret, Eyes Only, were written by, or to: H. R. (Bob) Haldeman, former chief of staff at the White House who resigned on April 30, 1972; Jeb Stuart Magruder, who worked for Haldeman at the White House before becoming deputy director of the Committee to Re-elect the President in late 1971; Lawrence Higby, who also worked for Haldeman and is still at the White House; Herbert G. Klein, former Communications Director for the administration; and Charles W. (Chuck) Colson, special counsel to the President until his resignation last February.

Higby to Magruder: As I indicated to you the other day, we need to get some creative thinking going on an attack on (Chet) Huntley (NBC) for his statements in Life. One thought that comes to mind is getting all the people to sign a petition calling for the immediate removal of Huntley right now. The point behind this whole thing is that we don't care about Huntley—he is going to leave anyway. What we are trying to do here is to tear down the institution. Huntley will go out in a blaze of glory and we should attempt to pop his bubble.

Most people won't see Life Magazine and for that reason I am asking (Pat) Buchanan to draft a statement for the Vice President to give. We should try to get this statement on television. Obviously there are many other things that we can do, such as getting independent station owners to write NBC saying that they should remove Huntley now; having broadcasting people look into this due to the fact that this is proof of biased journalism, etc. Let's put a full plan on this and get the thing moving. I'll contact Buchanan and forward copies of my correspondence with him to you so you will know what the Vice President is doing.

Magruder to Higby: The issue of Chet Huntley is fairly well played out. We leaked his letter of apology to the President and it got very good coverage.

We will continue to hammer at press favoritism on a regular basis. We will ask the Vice President to make this a standard fare while he's on the stump in the congressional campaigns.

We will keep tabs on examples of partisan press treatment and feed them into the Vice President (and Cabinet officers on the stump) on a regular basis. Now that Huntley is out, he is no longer the issue.

However, the general question can be kept in the news as we find more and more examples of unfair treatment by the press. This will simply be a continuing function.

Haldeman to Magruder: A couple of points that I did not want to cover in the general meeting but that you do need to move ahead on quickly. First, I'm sure you have studied that TV summary done by Buchanan, which is a devastating indictment of NBC, especially of David Brinkley . . . The need, probably, is to concentrate on NBC and give some real thought as to how to handle the problem that they have created in their almost totally negative approach to everything the administration does. I would like to see a plan from you; don't worry about fancy form, just some specific thinking on steps that can be taken to try to change this, and I should have this by Friday. Get Klein and Ziegler both involved in the thinking on this, and I would suggest also Nofziger, who could be very helpful, and perhaps get Pat Buchanan in. In fact, I feel definitely you should get Pat Buchanan in to work with you on it; but move quickly.

Another area is the mobilization of the Silent Majority, which we touched on briefly in the meeting today. We just haven't really mobilized them, and we have got to move now in every effective way we can to get them working to pound the magazines and the networks in counter-action to the obvious shift of this establishment to an attack on Vietnam again. Concentrate this on the few places that count, which would be NBC, Time, Newsweek and Life, The New York Times, and The Washington Post. Don't waste your fire on other things.

Magruder to Haldeman: We can achieve this goal.

1. Begin an official monitoring system through the FCC as soon as Dean Burch is officially on board as Chairman. If the monitoring system proves our point, we have then legitimate and legal rights to go to the networks, etc., and make official complaints from the FCC. This will have much more effect than a phone call from Herb Klein or Pat Buchanan.

2. Utilize the anti-trust division to investigate various media relating to anti-trust violations. Even the possible threat of anti-trust action I think would be effective in changing their views in the above matter.

3. Utilizing the Internal Revenue Service as a method to look into the various organizations that we are most concerned about. Just a threat of a IRS investigation will probably turn their approach.

Magruder to Haldeman and Klein. (Tentative Plan Press Objectivity):

Plant a column with a syndicated columnist which raises the question of objectivity and ethics in the news media. Kevin Phillips could be a good choice.—Klein

Through an academic source, encourage the Dean of a leading graduate school of journalism to publicly acknowledge that press objectivity is a serious problem that should be discussed. Also, attempt to arrange an indepth analysis in a prestigious journal like the Columbia Journalism Review.—Klein/Safire

Have Rogers Morton go on the attack in a news conference . . . Have him charge that the great majority of the working press are Democrats and this colors their presentation of the news. Have him charge that there is a political conspiracy in the media to attack this Administration.—Klein/Colson

Arrange for an "expose" to be written by an author such as Earl Mazo or Victor Lasky. Publish in hardcover and paperback.—Klein

Produce a prime-time special, sponsored by private funds, that would examine the question of objectivity and show how TV newsmen can structure the news by innuendo. For instance, use film clips to show how a raised eyebrow or a tone of voice can convey criticism.—Klein/Magruder

Have outside group petition the FCC and issue public "statements of concern" over press objectivity.—Colson

Generate a massive outpouring of letters-to-the-editor.—Magruder

Have a Senator or Congressman write a public letter to the FCC suggesting the "licensing" of individual newsmen, i.e., the airways belong to the public, therefore the public should be protected from the misuse of these airwaves by individual newsman.—Nofziger

Colson to Haldeman: The following is a summary of the most pertinent conclusions from my meeting with the three network chief executives . . .

I had to break every meeting. The networks badly wanted to have these kinds of discussions which they said they had had with other administrations but never with ours. They told me anytime we had a complaint about slanted coverage for me to call them directly. Paley (William S. Paley, chairman of the board, CBS) said that he would like to come down to Washington and spend time with me anytime that I wanted. In short, they are very much afraid of us and are trying hard to prove they are "good guys."

These meetings had a very salutary effect in letting them know that we are determined to protect the President's position, that we know precisely what is going on from the standpoint of both law and policy and that we are not going to permit them to get away with anything that interferes with the President's ability to communicate.

Paley made the point that he was amazed at how many people agree with the Vice President's criticism of the networks. He also went out of his way to say how much he supports the President, and how popular the President is. When Frank Stanton (vice chairman and director, CBS) said twice as many people had seen President Nixon on TV than any other President in a comparable period, Paley said it was because this President is more popular.

The only ornament on (Julian) Goodman's (president, NBC) desk was the Nixon Inaugural Medal.

(James C.) Hagerty (vice president, ABC) said in (Leonard) Goldenson's (president, American Broadcasting Companies, Inc.) presence that ABC is "with us." This all adds up to the fact that they are damned nervous and scared and we should continue to take a very tough line, face to face, and in other ways. . . . I will pursue with Dean Burch the possibility of an interpretive ruling by the FCC on the role of the President when he uses TV, as soon as we have a majority. I think that this point could be very favorably clarified and it would, of course, have an inhibiting impact on the networks and their professed concern with achieving balance . . . I am realistic enough to realize that we probably won't see any obvious improvement in the news coverage but I think we can dampen their ardor for putting on "loyal opposition" type programs.

"Talking Paper" to Magruder (sender not identified):

1. Put someone on The Washington Post to needle Kay Graham. Set up calls or letters every day from the viewpoint of I hate Nixon but you're hurting our cause in being so childish, ridiculous and over-board in your constant criticism, and thus destroying your credibility.

2. Nofziger should work out with someone in the House a round robin letter to The Post that says we live in Washington, D.C., read the D.C. papers, but fortunately we also have the opportunity to read the papers from our home districts and are appalled at the biased coverage the people of Washington receive of the news, compared to that in the rest of the country, etc.

Magruder to Haldeman: Here is a report on the talking paper given to me last week.

1. We have a team of letter-writers who are pestering The Washington Post from the viewpoint that was suggested.

2. I have asked Lyn Nofziger to work up the House round robin letter to The Post.

[From the Washington Post, Dec. 6, 1973]

THE NIXON WHITE HOUSE PAPERS—II

(NOTE.—The following are excerpts from 34 documents which received relatively little attention when they were released by the Watergate Committee some weeks ago in connection with the testimony of White House Special Consultant Patrick J. Buchanan. They were brought forcibly to our attention as the result of a controversy between columnist Tom Braden, who urged that they be given wider circulation, and Mr. Buchanan, who replied that Mr. Braden wasn't quoting from the right collection of papers. These samplings are from the "right collection" and we think they are worth reading in their original language for the insights they give into two particular characteristics of the Nixon White House: (1) its preoccupation with manipulating the appearance of things and (2) its boundless faith in the utility of contrivance and intimidation as effective political instruments.)

The following memos were written by, or to: John Mitchell, former Attorney General who became director of the Committee for the Re-Election of the President; Jeb Stuart Magruder, who worked at the White House before becoming deputy director of CRP; Robert Odle, former director of administration of CRP; William Timmons, assistant to the President for legislative affairs; and Kenneth L. Khachigian, a speechwriter for the President. Timmons and Khachigian are still at the White House.

PJB (Buchanan)/Khachigian to Mitchell: Our idea of a typical first rate Truth Squad would be Hatchet Man (Sen. Robert) Dole with Good Guy (Donald) Rumsfeld; young, tough, aggressive, attractive—and willing to mix it up with the Democratic candidate.

Suggest establishment of a "Fair Coverage Committee" or "Equal Time Committee" which might be located in the RNC, which would "clock precisely the positive and negative coverage of presidential and vice presidential candidates on the networks. If we are getting anything more than "equal time," this committee can remain silent; if we get anything less than equal time, it should confirm same with Mort Allin's news monitors—and then send a memorandum to John Mitchell who should get on the horn to the network president and point this out, indicating that if it is not corrected, and equal time not provided—this will be made an issue in the campaign, and the subject of legislation in the coming Congress.

On all the black radio stations in the swing states, we should run ads on Muskie's statement about no blacks for Vice President. "If he does not think the time has come for one of us to be even considered for Vice President, then the time has come for Black America to tell Ed Muskie we don't think it is time for him to be considered for President. Write in Shirley Chisholm."

Magruder to Mitchell: Attached is a copy of an Evans and Novak column from the July 25 Washington Post which indicates the Democrats are setting up a '72 Sponsors Club similar to the President's Club of the LBJ era. For $72 a month, there are a number of privileges accorded to those who contribute.

Pat Buchanan has suggested that we have someone we know, preferably a Democrat not connected with us, join this club. This could be arranged by having the individual write in explaining that he read about the club in the newspaper and is fed up with the administration's policies and wants to contribute his share and become a member of the club. This would give us many advantages in keeping track of Democratic contenders and their strategy.

Magruder to Haldeman: Based on this morning's meeting we have begun moving on the following:

Ten telegrams have been drafted by Buchanan. They will be sent to Time and Newsweek today by 20 names around the country from our letter writing system. Copies are attached. . . . Letters to the editors of The Times, Post, Star, Chicago Daily News, St. Louis Post Dispatch are being prepared and sent.

Nofziger is having statements placed in the Congressional Record. Once they appear, they will be printed and distributed together with favorable columns to editors, publishers, business leaders, and other opinion leaders.

Nofziger has contacted Victor Lasky, who has agreed to run a column. Nofziger will also contact Lawrence, Kilpatrick and Paul Martin.

An attempt is being made to get a resolution from Sigma Delta Chi condemning the pre-press conference meeting by 25 commentators to set strategy to embarrass the President.

Odle to Timmons: Fourth Party Candidacies. Top-level consideration should be given to ways and means to promote, assist and fund a Fourth Party candidacy of the Left Democrats and/or the Black Democrats. There is nothing that can so advance the President's chances for re-election—not a trip to China, not four-and-a-half percent unemployment as a realistic black presidential campaign . . .

The Black Vice President bumper stickers calling for black presidential and especially vice presidential candidates should be spread out in the ghettoes of the country. Also, anti-Muskie stickers. We should do what is within our power to have a black nominated for Number Two at least at the Democratic National Convention . . .

Buchanan to the President: Humphrey is struggling heroically to get well on this issue (Vietnam), to make himself, now, an acceptable alternative, to the party's left. The Prodigal Son, however, is not welcome back home—if the New Republic and I. F. Stone are to be believed. A little Machiavelli here might be of use. If the President, who is not revered on the Left, were to publicly express thanks to HHH for the quiet support he has given on Vietnam—HHH is likely to be astonished and stunned, and his leftwing courtship broken off on the spot. Perhaps (Sen. Robert) Dole or the Vice President even might compliment HHH on the "strong support" he has consistently provided for the war in Vietnam.

Buchanan to Mitchell: There is an interesting development shaping up. McGovern's ambitious children seem to be busy "stealing" Wallace delegates—and playing false, by "ripping off" the Wallace delegations in Tennessee and elsewhere, places like Michigan. This is excellent. We should hold back commenting upon the process which Governor (Jimmie) Carter (D-Ga.) is raising hell about, until it is accomplished—and then accuse the Democratic Convention of shafting the legitimate popular winner, and stealing the delegates of a bed-ridden matyr.

THE "ASSAULT BOOK"

Buchanan/Khachigian Memo (Assault Strategy):

We need to shed the "in bed with big business" image. PJB believes we should seek out the opportunity to "take out" some egregious, giant, preferably, but not necessarily Democratic, corporation publicly—as Kennedy did with big steel in 1962. Business will be with us in 1972—but one of our problems is a too close identification in the public mind with corporate power. ITT reinforced that. Public presidential anger at the price-gouging of some big business firm would be, in my judgment, a good thing.

If we have abandoned the idea of introducing or supporting "tax reform"—I trust we have not—I would recommend RN publicly veto one, two or three huge spending bills—on national television. Two minutes would be sufficient. . . .

As the campaign progresses, we should increasingly portray McGovern as the pet radical of Eastern Liberalism, the darling of the New York Times, the hero of the Berkeley Hill Jet Set; Mr. Radical Chic. . . .

My recommendation is that PJB—using our Radical Chic materials, as well as the Assault Book materials—write, not a full-length book, but a 5,000-word piece, using full color, good paper, like *First Monday* with pictures of Hiss and Hoffman and other endorsees, and that this be printed and distributed by the millions. A quality, brightly written, colorful picture biography of McGovern of 5,000 words would be infinitely superior to those old full-length hatchet biographies that are never read.

Further, though a bit outrageous, McGovern can be charged, among Democrats, with "packing" caucuses, with "stealing" the nomination from the more popular candidate, with not representing the average man in the Democratic Party—but rather the left-wing organizers. . . .

To reverse the "underdog" image of Mr. McGovern—we should, upon his nomination, cease speaking of an easy win. We should, in public, both to rally our troops and to remove this "underdog George" label—argue that the Democrats have the largest party. We should leak polls showing us worse off than we are. . . .

Impressions of McGovern may be favorable but they are not fixed. They can be changed. And we should be moving this material into the public record. How? Not bitterly or stridently. To do so gives the appearance of arrogance and power which we want desperately to avoid. Thus, when our "heavies," if you will—the Vice President, Bob Dole, etc.—use this material they should for the present be scrupulously exact and precise, and avoid for the present—the blistering attack. There will be "time enough. . . ."

When McGovern backs off some of these Black radical schemes, as back off he must—we should continue to hang them around his neck—and then mail his recantation to the black media.

Some on the media are slobbering all over George; they may have to be charged publicly with being pro-McGovern—to force them to back off a bit. (Incidentally, given his performance the other night, (Sander) Vanocur (PBS) is a positive disaster for us—and McGovern's most effective campaigner. He may have to be fired or discharged—if we are to get anything approaching an even shake out of that leftwing taxpayer subsidized network.)

A CRITICISM OF ADMINISTRATION POLICY ON HOUSING FOR THE ELDERLY

Mr. PELL. Mr. President, I recently read an excellent article, appearing in the December 1973 American Association of Retired Persons News Bulletin, by Mr. Bernard E. Nash, the executive director of the National Retired Teachers Association and the American Association of Retired Persons. Mr. Nash makes the point that this Nation's senior citizens are being severely hurt by the President's housing moratorium, and that, if the proposed replacement of housing construction by cash grants becomes a reality, our elderly citizens will be hurt even more. There still exists a real shortage of available, and affordable, housing which seniors can rent. Housing must be near transportation, medical, shopping, cultural, and recreational facilities, if it is to be of any value to the elderly. If housing does not meet these requirements, we will be forcing our elderly into isolation, and away from a meaningful role in the community. Merely offering elderly persons cash or vouchers with which to rent housing does nothing to meet the problem of decency, cleanliness, safety, or accessibility of residences. Because I believe that Mr. Nash's article speaks to these problems, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IS GOVERNMENT AWARE OF CRITICAL HOUSING NEEDS OF THE ELDERLY

(By Bernard E. Nash)

Recognizing the fact that government spending can fuel the fires of inflation, older citizens generally support efforts to curb unnecessary and wasteful spending for government programs. At the same time, as I pointed out in my report last month, too much budgetary zeal can often result in the crippling of necessary and successful programs that are deserving of revenue.

Recent policy changes by the Department of Housing and Urban Development in housing programs for older citizens constitute a perfect example of this excessive zeal for budgetary integrity. What is worse, they raise serious questions about the degree of awareness at the Federal level of the special and critical housing needs of older citizens.

Following the 1971 White House Conference on Aging, the Administration, heeding the advice of its own experts in the Departments of Housing and Urban Development and Health, Education and Welfare, announced its endorsement of current federally assisted housing programs for the elderly.

But last January, the Administration declared an 18-month moratorium on most federally-supported housing construction. And in his long-awaited housing message in September, President Nixon not only announced that the moratorium would probably continue until early next year, but also suggested that a program of direct cash grants to those seeking housing might replace the present direct government involvement in housing construction.

Reaction to this proposal from older citizens and their representatives has been both swift and negative. In a meeting with HUD officials last month, representatives of our Associations and of several other organizations of older Americans were highly critical of the cash grant proposal.

Our arguments are these:

While it is true that many federal housing programs have been plagued by failures, it is generally agreed that the elderly housing program is the one HUD program that has been uniformly successful.

The demand and need for more of such housing is clear and critical.

Housing requirements for the elderly involve many considerations such as proximity to transportation and community services, ease of access, nearby health care facilities and shopping areas. Cash grant assistance for housing which meets few or none of these criteria would be of little value to older persons.

For older persons, housing as well as cash is scarce, and cash cannot buy a commodity which does not exist.

Our Associations oppose the phasing-out of the present federally assisted housing programs for older citizens. Limiting government involvement in housing construction will not prevent these special needs from arising. It will merely make them more difficult to meet.

THE BISHOP OF TAMMANY PARISH

Mr. McGOVERN. Mr. President, the December 3 issue of the Washington Post carried a piece by Nicholas von Hoffman referring to a recent interview with the former New York Tammany Hall Democratic leader, Mr. Carmine DeSapio.

Because the article contains a number of human-interest references and observations on American politics, I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Bishop of Tammany Parish

(By Nicholas von Hoffman)

New York.—In the years of his greatest power, when he was the leader of Tammany Hall, the New York County Democratic leader and national committeeman, his enemies called Carmine DeSapio The Boss while the people in his organization called him The Bishop. Now defeated, deposed and despised by his enemies for having lost power, he is back in town after having served two years in the federal slammer for conspiring to bribe a city official. But you can still see why they called him the Bishop.

He has an episcopal gravity. You feel you are in the presence of a presence. The famous dark glasses, which he wears because of an eye disease and which make him look so sinister in the newspapers, turn out to be rather pale. Far from appearing threatening, DeSapio, the last of the great New York bosses whose line stretches back through William Marcy Tweed to Federalist times, comes across at age 65 as a weighty man who compels strangers to like him without cracking jokes or acting silly. On first meeting you trust him and you hope that the charges of corruption and gangster affiliation against him aren't true.

"Nixon makes Tweed look like St. Francis of Assisi," DeSapio said when he agreed to be interviewed about Watergate. He was reluctant to do it. He's still quietly active in politics, making the rounds of wakes, marriages and testimonial dinners, taking calls from politicians in his office where he says he sells insurance, but he knows that if his name is publicly coupled with that of any of his friends they can get burned.

He was also dubious because with jail and everything he wondered if he had any "credibility" left, yet outside of Chicago's Richard Daley there isn't anybody in the country whose views on Watergate would be more interesting to hear. DeSapio could play politics as rough as Nixon but he too was scandalized: "I saw a headline where it said Rose Mary Woods may take the Fifth. This is deplorable. Whether she does or she doesn't, she is the President's secretary. Unbelievable! . . . They were operating the government like a menu in a restaurant."

DeSapio says these things calmly, not like a man in the pulpit. He knows that they can say he's a fine one to talk, but of course he is a fine one to talk because he does know and he can make distinctions about traditionally permissible and impermissible conduct the rest of us can't. So he says of the break-in that it was crazy: "If I'm a professional political leader operating outta Washington nobody can convince me I gotta send a guy into the Republican National Committee by force . . . and that Cuban-CIA thing, I'd throw a net around 'em . . . what those people were obviously trying to find out was McGovern's schedule to give their advance people so they'd know who's going to be where at what time and then they could set up a harassment to throw the candidate off balance, but you know the press has all those schedules. You can get one from a reporter. Or if I wanted information on the National Committee I could get any young guy or gal to volunteer to work in there."

DeSapio isn't very impressed one way or another about the argument over did Nixon know. As he sees it, whether Nixon knew or not, it's what Nixon did in a general way that set up Watergate: "If I'm the leader and people are working around me it's my business to convey to them the area of activity and the course of conduct they must pursue in terms of what I think is good for our party, for our party's elected officials and for them. I must set the tone. When Wagner was first elected mayor in 1953, I said to the district leaders the days are over that a leader can walk into police headquarters. I told 'em, 'Forget, that's out.'"

Watergate pains a man like DeSapio because it has brought the profession of politics into disrepute as nothing else, his own conviction included. For him politics is a dearly earned skill, and even now when he cringes at the word boss, he takes the title of professional politicians with pride. Nixon didn't have professionals around him. The mere fact that he had those advance men (Ehrlichman and Haldeman), men who knew how to whip up a crowd or arrange for the balloons to drop at the right time, that doesn't make them professionals."

To DeSapio a professional first of all protects his boss. That is, he is a guy with flexibility and "sophistication." At the same time DeSapio, as a committed party organization man, believes in loyalty every bit as much as the Nixon people, but "it depends if the top man permits the right type of loyalty to exist. Take Kenny O'Donnell and Larry O'Brien, all those fellows around John Kennedy, they were as fiercely loyal to Kennedy as Ehrlichman and Haldeman were to Nixon but they had the know-how not to be so arbitrary and to be more flexible.

"I think part of the difference is that Nixon in my opinion is an insecure guy. Sure, he deserves a hell of a lot of credit for bringing himself to the spot he's in, but even at his apex I think he was the type of guy who says 'I hope they don't catch up with me because I have a pretty good act going here.' John Kennedy was different. Maybe inwardly he was just as rough but his style was different. He had the Irish malarkey and he knew when to ease off."

For somewhat different reasons, DeSapio, like reporter David Broder and other political analysts, feels that the decline of party structure has a great deal to do with Watergate: "The type of person Nixon brought in built his own personal organization for him, and I've never seen it to fail when that happens things start to deteriorate so that the whole house comes down on the housekeeper."

As Carmine sees it, a powerful functioning party structure is an important additional check on how public office is being administered because, as he says, even if the elected official is willing to take risks that may result in his political extinction the party isn't; the party has to worry about what happens after he is gone.

The collapse of party structure he thinks also has incapacitated Congress: "Why did Watergate happen? Let me ask you, did we have strong leadership, and by that I don't mean old time pols or hacks? I say the answer is no. In Congress you did not have a strong leader who was respected. Individualism is not what makes for strong institutions. The members of Congress can be individuals, consult their conscience and so forth but they also have a responsibility to make these institutions work, and if they were working Ehrlichman and Haldeman would not have been able to take Congress on. Remember the guy you can make a deal with easiest is the guy who is leaderless. He's the guy who sells himself out for a dam or a post office."

DeSapio would rebuild the party system by "scattering a dozen Dick Daleys around the country in strategic places," but as a nation we've spent a century destroying the structures and disciplines that made the DeSapios possible.

Now they are gone and we feel the loss, sometimes so strongly we sentimentalize the bosses of yore and forget how rank they could be. But, however you feel about that, the last of the great Tammany chieftains does have an answer to Nixon's defense that he was just doing what politicians have always done.

THE DEBATE ON THE DEBT LIMIT BILL AND PUBLIC CAMPAIGN FINANCING AMENDMENT

Mr. ERVIN. Mr. President, in its issue of Sunday, December 9, 1973, the Birmingham News, the largest newspaper in Alabama, published an article, written by its Washington correspondent, James Free, about the debate on the debt limit bill and public campaign financing amendment. Mr. Free, who is one of the most respected media correspondents on Capitol Hill, draws an interesting word picture of our colleague from Alabama.

Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Allen Was Not Obstructionist; His Foes Were

(By James Free)

Washington.—The story of Sen. James B. Allen's repulse of the Senate liberals' plan for public financing of presidential elections is certain of a place in legislative history. But it is important that a few current misconceptions about it should be cleared up.

Opponents of the Alabama senator's stand called it a filibuster. Yet they talked more than he did.

And it was Allen, rather than the proponents of the public financing amendments, who was pressing for a showdown vote on the only "must" issue at stake—the pending House-approved bill to raise the public debt limit by $10.7 billion.

The traditional filibuster has been an effort to prevent a crucial vote, not to get one. It is true that Senators Edward Kennedy, D-Mass., Walter Mondale, D-Minn., and others contended that Allen was blocking a vote on their "compromise" package that included their U.S. Treasury aid to presidential candidates proposal. But the really urgent issue before the Senate, however, was the lifting of the public debt limit, for the authority of the debt ceiling expired at midnight last Friday.

And it was on that Friday, of course, that the liberals tried to stage their shotgun wedding of the debt ceiling bill with their election financing amendments.

The Alabama senator pointed out that the House had rejected by a seven to one margin a substantially similar package sent over from the Senate earlier in the week. Significantly, the House had rejected out of hand the Senate amendments, which at that stage called for providing public money for Senate and House races as well as Presidential campaigns.

DOWN ALLEN'S ALLEY

This House action is what put the business before the Senate down Allen's alley. He had, naturally, opposed the earlier Senate combination of the debt ceiling with campaign financing, but the Senate rules permit nongermane amendments. "So there was no real opportunity for effective minority resistance that first time around," said Allen.

Last Friday, Allen saw his opportunity and seized it.

"I had not consulted with any members of the House on this matter," said Allen, "but I was delighted at the way the House had handled it. The House did not differ with the Senate amendments on campaign financing and asked for a conference with the Senate. It turned them down flat, and sent back a 13-line bill that lifted the temporary public debt ceiling.

"This meant that when Kennedy, Mondale, and company moved to tack on their 122-page campaign financing amendments, they had become the obstructionists to prompt approval of the "must" public debt bill. For even if the Senate accepted the liberals' package, it would take several days at the very least for the House to act again on these nongermane amendments.

"Besides, there was no assurance either that the House would reverse its earlier position and take the package bill to a House-Senate conference or that, if the package bill cleared both the House and Senate within a few days, the President would sign it. In fact, we were told that Mr. Nixon would veto the bill if the campaign financing amendments were included."

ALLEN GETS PRIORITY

This set of circumstances meant that when Allen interrupted a formal motion for floor consideration of the package bill with his motion for the Senate to recede from (or kill) its campaign financing amendments, that his motion got precedence, or priority consideration. "This was because my motion to recede from the Senate amendments was, in effect, a vote on final passage of the House-approved debt ceiling bill."

The first Allen motion to recede was tabled Friday by a margin of 36 to 32. This convinced the Alabama senator that he had an excellent chance to win. It also showed that the issue could not be resolved either Friday or Saturday. Ardent supporters of the public financing plan filed a petition for cloture, or closing debate, and this opened the way for a cloture vote as early as Sunday.

So the first Sunday session of the Senate since 1929 was set to begin at 10 a.m. One naive senator suggested starting at 1 p.m., but was quickly squashed with reminders that the Redskin-New York Giants football game kickoff was scheduled for about 1:15 p.m.

Not quite incidentally, the Senate did meet at 10 a.m. last Sunday, and somehow managed to wind up for the day at 11:58 a.m.—giving those interested plenty of time to get to Robert F. Kennedy Stadium.

Before adjournment Sunday, the cloture motion received 47 yeas to 33 nays, thus failing to get the necessary two-thirds. And Sen. Allen put in another motion to recede from the Senate public financing amendments. This time 36 senators supported him, or four more than on Friday.

"I figured then that we were gaining strength," said Allen, "that the liberals could not win. They put in a second cloture petition Sunday, but must have known that their ball game was over."

Why did they think they could win in the first place?

"Well," said Allen, "remember that they had the backing of both Democratic Leader Mike Mansfield and Republican Leader Hugh Scott, plus Democratic Whip Robert Byrd and Sen. Russell Long, of Louisiana, chairman of the Finance Committee, who favored public campaign financing for some time. They thought they could ramrod this through by sticking it onto the 'must' debt ceiling bill.

Allen recalled that many of the proponents of public campaign financing had tried without success to "pack" the Senate Rules Committee with a number of liberals from the Judiciary Committee, including Sen. Ted Kennedy, when the investigation of Rep. Gerald Ford as the Nixon nominee for Vice President was assigned to the Rules Committee.

ARROGANT POWER GRAB

"This was another grab for power," said Allen. "It was an arrogant abuse of constitutional and legislative procedures. It would have struck directly against the foundations of democracy—the separation of powers between the House and Senate and the separation of powers between the Congress and the Presidency.

"This business of sticking a non-germane Senate amendment on a really urgent and critical bill approved by the House and sending it back to the House usually results in House-Senate conferences to resolve differences and then an up or down vote in the House on the conference bill. Most members of the House get no opportunity for input on the final round. They have to take it or leave it.

"In this instance, too, many supporters of the package bill were trying to force the President into having to veto a public campaign financing proposal in order to get a second chance to sign a bill lifting the public debt ceiling. Either that or having to accept the financing amendments in order to get the debt ceiling bill. In short, it was a move to deny the President his constitutional right to veto a particular bill."

NIXON TELEPHONED ALLEN

What about liberal claims that President Nixon was really the power behind the turnback of the public campaign financing plan?

"Well, it was news to me," said Allen. "I went into this on my own when there seemed to be no concerted effort to block the liberals on it.

"I did not talk to anybody at the White House. I did talk with Sen. John Sparkman, my Alabama colleague, and he said I could count on his support. But I did not ask any other senator to vote with me. Many of them did, and I appreciate it. A number of them joined in floor debate. It was not a one-man fight although I was the one who seemed to get it started and moved to make full use of the senate rules as we went along."

Among those speaking on Allen's side were Senators John Stennis, D-Miss., Strom Thurmond, R-S.C.; Sam Ervin, D-N.C.; Jesse Helms, R-N.C.; Sam Nunn, D-Ga.; Lowell Weicker, R-Conn.; James Buckley, Conservative-N.Y.; Pete Domenici, R-N. Mex.; and Robert P. Griffin, R-Mich.

Griffin, the Republican Whip, was the only Senate party leader who did not back the public campaign financing plan.

President Nixon did telephone his congratulations to Allen on Tuesday, the day after the final cloture attempt, which saw Allen's side on this issue go up from the previous 33 to 34, with the yeas picking up only from 47 to 49—far short of the two-thirds needed. The final vote to recede was 48 to 36.

WATERGATE MAJORITY

Sen. Allen is proud of the fact that four of the seven members of the Senate Watergate Committee agreed with his opposition to the "half-baked" campaign financing plan. It has been mentioned that Ervin, the chairman, and Weicker, made speeches on the floor. Senators Edward Gurney, R-Fla., and Herman Talmadge, D-Ga., did it with their votes. Sen. Joseph M. Montoya, D-N. Mex., joined the liberals, while Senators Howard Baker, R-Tenn., and Daniel Inouye, D-Hawaii, were absent.

"I'm pretty sure Baker would have voted with us," said Allen.

This majority backing from the Watergate Committee was meaningful, Allen noted, because the committee was created not only to probe the Watergate scandals, but to come up with legislative proposals to prevent abuses in future presidential campaigns. Its report is not due until February, 1974, so the liberals were premature with their sweeping proposals.

MASTER OF RULES

It is commonly agreed now that no senator knows and uses the rules and precedents of that body better than Jim Allen.

As Alabamians are well aware, their junior senator got his first schooling in legislative rules as a member of the Alabama House of Representatives, and later as a member of the Alabama Senate, plus eight years as Lieutenant Governor, or presiding officer of the Alabama Senate.

"Most of the rules of the House in Alabama are in the gavel of the Speaker," said Allen. "The rules of the Senate in Alabama, while not nearly so broad, are based on the rules of the U.S. Senate. There is not nearly so much reliance on precedents, or previous rulings, however, in the Alabama Senate. The precedents used are mostly from memory, for there is no readily available listing of the precedents. The U.S. Senate Rules and precedents are carefully listed in a book that has 759 pages."

On coming to the U.S. Senate in January, 1969, Allen looked on the customary freshman Senator's frequent assignment to preside over the Senate as an opportunity rather than a chore—an opportunity to learn its rules. He is the only sitting senator to have earned two gavels for presiding over the body. One gavel is awarded for each 100 hours.

Allen is a firm advocate of adherence to the Senate rules and precedents. "There's a sound basis for them. I have found that at least nine times out of ten the rule is what it ought to be, logically.

"I agree with John Hattel, the English parliamentarian, who said parlimentary rules:

"Whether those forms be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by, than what that rule is; that there may be a uniformity or proceedings in business, not subject to the caprice of the presiding officer or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body."

Sen Sam Ervin is prone to extravagant language at times, as television viewers of the Watergate hearings know. But he has observed Allen in action in the Senate, and one can undertsand the general basis for what the Tar Heel senator has written along with his autograph on a photograph of Ervin that hangs in Allen's office.

Sen. Sam wrote: "If I had to stand with one man at Armageddon and battle for the Lord, I hope that man will be Senator Jim Allen of Alabama, whose industry, intelligence and courage make him one of America's finest public servants of all time."

INDOCHINA AID

Mr. McGOVERN. Mr. President, the Senate will shortly consider legislation appropriating funds for both military and economic aid to the Thieu government in South Vietnam. In connection with those funding measures, I hope we will be mindful of one of the most compelling truths about our long and bitter experience with a succession of regimes in that country.

From the beginning we have viewed more American aid as a vehicle to inspire reform of various governments in Saigon. And for just as long, we have been wrong. Those governments have seen our aid, whether it was American dollars or American troops, as something quite different; not as a vehicle for reform but as an alternative to the steps that were necessary to win the support and confidence of the Vietnamese people.

We should recognize that our post-settlement dollars are no less susceptible to abuse of that kind. In fact, there is persuasive evidence that President Thieu is using our aid now as a means of avoiding the kind of accommodation envisioned by the Paris agreement, and that we are once again underwriting construction of a narrow, corrupt, and dictatorial regime in Vietnam. It is the sort of government which represses opposition of all kinds, and which—with our aid—sows the seeds of its own inevitable doom by literally driving away the people whose support it most needs.

These conditions have recently been described most persuasively by a Vietnamese historian, Mr. Ngo Vinh Long, who currently serves as the Cambridge director of the Indochina Resource Center. His article, "U.S. 'Aid' Prelude to War," is highly relevant to the Vietnam aid issue, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. "AID": PRELUDE TO WAR

Previous to the signing of the Paris agreements the United States channeled a very large amount of unauthorized funds to the Thieu regime and its armed forces through to the U.S. army and other agencies. According to Colonel Hoa of the ARVN Department of Logistics, the Saigon military budget averaged about $5 billion a year at the official exchange rate instead of about $1 billion as the public has been led to believe (quoted in the Saigon daily Duoc Nha Nam, December 11, 1971.) The presence of American troops also brought various fringe benefits in the form of G.I. spending and work contracts for the Thieu regime and its supporters. After the signing of the accords, however, the withdrawal of American troops deprived the Thieu regime of the much needed money pump and hence all the attached fringe benefits. Of course American military and economic aid still remains at the very high ceiling of about $2.5 billion a year. Yet even this is not enough for Thieu because the Thieu regime has absolutely refused to demobilize any part of its armed forces. On September 14, 1973, Thieu himself declared that ARVN had to be maintained "to beat the Communists." (Le Monde, September 16–17, 1973). In fact, as his Interior Minister, Le Cong Chat, testified before the joint session of the Budget and Finance Committee and the Interior Committee at the Saigon Lower House on October 30, 1973, Saigon's national police force are to be increased to 122,000 men and the local Popular Defense Forces to 4 million persons by 1974. The minister stated that the salaries for the national police alone amounted to 29.5 billion piasters this year and is to be increased to 35.8 billion piasters by 1974. Also, the proposed expansion of the prison system in South Vietnam will incur a further expense of 5.7 billion piasters. Of this amount 1.6 billion piasters will go to the Department of Correction and the rest will be shared by the Con Son Prison Administration and the central office at the Department of the Interior (Dien Tin, November 1, 1973). According to the official statistics given by the Thieu regime, in 1971 its national budget was 235 billion piasters, in 1972 this was increased to 328.5 billion piasters, in 1973 the amount is 467.2 billion piasters, and during FY 1974 it will be increased to 630.7 billion piasters, an increase of 275 per cent over 1971, 195 per cent over 1972 and 130 per cent over 1973 (Dien Tin, November 6, 1973).

THIEU AND TAXES

Where will Thieu get all this money? One way is through increased taxation. The main part of the tax package for 1974 is 226.5 billion piasters, or an increase of 85 percent over the total tax package of 126.5 billion for FY 1973 (Dien Tin, October 25, 1973). The amount of 226.5 billion piasters of tax money for 1974 also represents an increase of 182 percent over the total for FY 1972, a deputy at the Saigon Lower House recently stated. However, according to the same deputy, the 226 billion piasters will only pay about 65 percent of the salaries of the military and civilian personnel. This amounts to over 330 billion piasters alone (Dien Tin, November 6, 1973). While this is the case, the 226 billion piasters in tax is a large chunk of the gross national product of South Vietnam, which is given as 453.9 billion piasters for 1974 (Dien Tin, October 25, 1973). Robert H. Nooter, Assistant Administrator for Supporting Assistance of the State Department, testified on July 13, 1973 before the Senate Subcommittee on Foreign Operations that Saigon's GNP in 1972 was 124.6 billion piasters at constant (1960) prices. Since the foreign exchange rate was 102 piasters per US dollar in 1960 and around 430 piasters per dollar in 1972 (Vietnam Economic Data, April-June, 1973, AID Bureau for Supporting Assistance), it seems that South Vietnam's GNP has been declining.

This development is reflected in the critically high and steadily increasing rate of unemployment recently announced by the Saigon Department of Labor. Among the unemployed are the 3.9 million who fled into the towns and cities for safety, 600,000 officially listed refugees who are still living in the camps, 160,000 former employees for American and other foreign companies and firms, 250,000 young people of working age joining the labor force every year, several hundred thousand former barmaids and of thousands of disabled veterans, widows, prostitutes for the foreign troops, and tens and discharged soldiers. The total population of the country is given as 18.7 million. (Dai Dan Toc, October 28, 1973)

As for those who are still employed, they have received little or no increase in salary since 1971. The minimum monthly salary of a male employee is still 6,375 piasters (Dai Dan Toc, November 4, 1973), while a 100-kilo sack of rice now costs over 27,000 piasters *in* Saigon (Dien Tin, October 19, 1973). This means that a worker can buy only about 25 kilos of rice a month, which is only enough for his own consumption. Nevertheless, the Thieu regime has ordered that taxes must be "collected to the utmost" (tan thu) for the sake of the national budget (Dien Tin, November 1, 1973). And in the countryside a person has to pay from eight to 14 kinds of taxes, depending on his occupation or lack of occupation (Dien Tin, October 19, 1973).

"COLLECTION TO THE UTMOST

"Collection to the utmost" does not simply mean collecting all the taxes in full. It also means official sanction to use all possible means to extortion to get those taxes. In the October 1973 issue of this newsletter we documented in some detail the rice collection policy, which involved massive military forays into the countryside, causing death and suffering and threatening a full-scale resumption of the war. We have now learned that this policy is being pushed with unprecedented curelty and that, not content with leaving it to the regional commanders, the province and district chiefs and other local authorities, the Thieu regime has ordered the high command of the Saigon Armed Forces, the Department of Commerce and Industry, the Department of Agriculture, and the Department of Economy to join forces in the collection of rice (*Dien Tin,* November 2, 1973).

We also described a gigantic land grab being carried out by Thieu's officials. Using their bureaucratic power these officials employ the army to evict the peasants from their land even though they have legal proof of ownership. The timber and produce from the peasants' land are then taken away for export to bring in the much-needed foreign currency. In the past five years Saigon has had to import on the average over $800 million in foreign goods each year. The only year it imported less than $800 million was 1970. The total imports planned for 1974 amount to $870 million, while South Vietnam only has a foreign reserve of $27 million this year (*Dien Tin,* October 25, 1973). Even Robert H. Nooter of the State Department testified before the Senate Subcommittee on Foreign Operations on July 13, 1973 that the State Department's own planning for Saigon's import will amount to $800 million in 1974. Foreign currency is not onlv for imports but also for transfer of funds abroad, to Swiss and other foreign bank accounts. The land grab by Thieu's officials continues with increasing cruelty despite the fact that several million people are unemployed and starving. More than one million hectares of the once cultivated land has been laid barren by the war and recent floods (caused in part by the American defoliation program) destroyed additional crops in some central and southwestern provinces during the past few months. To maintain the loyalty of its officials and the flow of taxes and supplies to Saigon, the Thieu regime sanctions a system of unbridled corruption, extortion and terror in the countryside far worse than in any other period since the Diem regime first came to power.

The Western press, impressed as it is by the destructiveness of modern war-making gadgets and spectacular military offensives, has failed to notice the suffering and death caused by Thieu's officials by quieter and simpler means. A measure of the seriousness of the situation has been the response of the Saigon newspapers. In spite of extremely heavy fines, strict censorship, the constant threat of confiscation of the papers and closing down of their presses, these papers have been carrying hundreds of articles fully documenting and detailing the corruption and extortion, the murders and liquidations carried out every day by Thieu's officials. In what follows we briefly summarize some of the typical cases as reported in several Saigon newspapers.

ASSASSINATION SQUADS

The first typical case is described in detail in the October 24–31, 1973, issues of *Dien Tin.* It involves Major Ngo Van Thi, district chief of Ben Tranh in Dinh Tuong province. Like many of his colleagues, this district chief has all kinds of ingenious ways of making money. He organizes gangs of thugs (many of them his own soldiers) disguised as NLF troops, armed with captured NLF weapons, and sends them out to rob people at gunpoint. These gangs are called the "assassination squads." During village and hamlet elections, anybody who wants to run for office has to pay him 50,000 piasters and anybody who wants to "win" has to pay from 100,000 to 300,000 piasters. Almost all of the seats in the hamlets and villages under his jurisdiction have been sold in this manner. The sum of 300,000 piasters is equal to the annual salary of a colonel or a Saigon university professor. Although this may appear to be a huge sum of money to pay for a village seat, "the successful candidate" can easily get back his investment with interest in a short time, simply by using his bureaucratic power to exact as much money from the people as he wants. Many of the village chiefs in the district will in turn recruit gangs of their own and send them out disguised as NLF soldiers to rob the people. On one occasion, May 31, 1973, the national police of Tan Hoa Thanh learned of this and brought it to the attention of the district chief. Within hours, the commander of the robbery, Le Van Man, took his M-16 rifle with him in search of the police who dared to bring the matter up.

The district chief's henchmen also arrest people, branding them as "Viet Cong" or deserters, in order to exact money from them. Meanwhile, the real deserters are holding many of the official positions in the villages and hamlets after paying the district chiefs huge sums of money. The district chief also forces the peasants to sell rice to rice merchants working with him and then pockets half the profit made. Any person who wants to bring rice to Saigon for sale has to pay him 150,000 piasters for permission. At the beginning of this year the district chief had group photos taken of the 10,000 households in his district to make it easier for him to control them. In the process he made at least 1.5 million piasters by shaking down the photographers.

He also forced the households to hang out Saigon flags and made more than 300,000 piasters from that. The district chief confiscates identity papers from the population and returns them to their holders only after a certain amount of money has been paid. He sends his henchmen out to collect and destroy the certificates of land ownership from landholders and then usurps their lands. Following his example landlords go on a rampage stealing lands from the peasants. Any peasants who attempt to go back to their land have been either beaten or brought to court. The whole thing is so rampant and callous that the Director of the Office of Paddyfields and Land in Dinh Tuong province has had to protest in a report. As for those owners who have not had their certificates of ownership taken away from them, they have to pay 30 gia (about 900 kilos) of rice per hectare. This amounts to about 30 per cent of the yield. In addition to this they have to pay taxes of course to the central authority.

There are many other ways of making money, notably demanding 20 to 70 thousand piasters from regional forces who do not want to be transferred to dangerous areas in the district. Many of these forces are in turn used by the district chief to run his various businesses, such as raising pigs, repairing motor-cycles and cars, and providing personal services for him and his various wives.

Many people have dared to bring the matter to the attention of the Thieu regime. People with documented proof of the corruption of the district chief have had the papers confiscated and have been beaten, in some cases killed, by his hired thugs. The latest victim of such a murder was Mr. Le Van Duyen, a fairly well-off inhabitant of Ben Tranh. Mr. Duyen had supplied the government with impressive documentation of the district chief's crimes. As a result, in the middle of the night of October 25, 1973, the district chief sent two of his henchmen and executed Mr. Duyen in front of his wife and daughter by shooting him through the temple with a revolver. After that District Chief Ngo Van Thi forced Mr. Duyen's family to bury him immediately and would not allow an autopsy.

According to *Dien Tin*, the case of the district chief of Ben Tranh has been brought to the attention of the Thieu regime many times with full documentation. Many times, because of public pressure, investigative teams have been sent out, but nothing ever came of such investigations and not a word has been uttered about the case officially. The October 30 issue of *Dien Tin* formally charged the Thieu regime with protecting the district chief, detailing some of the reasons. This issue was immediately confiscated. *Dien Tin* then concluded that the district chief of Ben Tranh was "covered by a huge umbrella as large as the sky." The entire population of Ben Tranh is of less consequence than the district chief who is absolutely indispensable in "herding the people."

MORE EXTORTION CASES

The second typical case involves Major Nguyen Van Hac, district chief of Giao Duc, Dinh Tuong province. His case has been discussed in some detail by many Saigon papers for months, and it was again mentioned in the October 27–29 issues of *Dien Tin*. Basically, Nguyen Van Hac has been guilty of the same crimes as Major Ngo Van Thi, only more openly. He has no need to disguise his people as NLF troops when they go out to rob the people. He simply sends Captain Tuong or Sergeant No out with a group of soldiers to knock on people's doors and demand money. When a public outcry unavoidably brought the case of Nguyen Van Hac to the attention of the Thieu regime, an official investigating delegation was sent out which was merely a whitewash. Nguyen Van Hac wined and dined the delegation and nothing came of it. In fact, Mrs. Nguyen Van Hac even declared publicly that she had bought off the entire delegation and that her husband would shortly be made deputy provincial chief of Dingh Tuong. Nguyen Van Hac also personally bragged to the inhabitants of his district, "I am still district chief of Giao Duc. All those local people and reporters who accused me have been thrown in jail. You'll see, whenever I get tired of this place I'll go to Dinh Tuong to take up the post of deputy regional commander."

The third typical case is that Major Vu Cong Khanh, district chief of Thang Binh, Quang Tin province. He has been accused by the village councils in all the villages under his jurisdiction of cruelty, extortion, and wanton destruction of private and church properties. Even the Province Council of Quang Tin was forced to send an official report to Thieu himself, summarizing the crimes committed by the district Chief and asking Thieu to transfer the district chief to another place while his crimes were under investigation. The letter was dated September 25, 1972, but so far Thieu has not responded to it in any way. For this reason, a verbatim transcript of the letter was printed in the November 3–5 issues of *Dien Tin*. Major Khanh's activities are similar to those of his two colleagues just mentioned. The only difference is that he is even more brazen in his approach. (This is perhaps due to the fact that northern provinces are usually regarded by the Thieu regime as "unfriendly" requiring harsher measures.) Any village official who does not go along with the district chief's activities is personally beaten up by him. The victims of this kind of physical abuse have been the village chiefs and other village officials of Binh Lam, Binh Lanh, Binh Tri, and Binh Phu. Although the district chief received money in April for rehabilitating 11 villages, he officially allowed the inhabitants of only 6 villages to come home. The inhabitants of the other villages were ordered to go south and that as far as he was concerned their villages ceased to exist. As well as pocketing the entire amount of money allotted to the five villages and a very large chunk of the money of the other six, he also sent Company 3 of the Army Corps of Engineers to the villages of Binh Lam and Binh Lanh with bulldozers and power saws and razed them to the ground. Churches and pagodas, houses, orchards, and even graveyards were completely flattened. Then the district chief ordered army trucks to carry back to his district headquarters anything of value. Of particular interest to the district chief was the timber from jackfruit trees, a valuable article. It took 10 trucks working continuously for two weeks to transport all these trees.

"THE LITTLE MONARCH"

The fourth typical case involves Major Le Van Sy, district chief as well as military commander-in-chief or Phuoc Long, the province of Bac Lieu. As described in the November 3–5, 1973, issues of *Dien Tin, by* holding these positions Major Sy makes a huge sum of money by replacing and transferring village officials, soldiers, outpost commanders and so on. The Major has an impressive force of retainers who specialize in extortion, protection of gambling, rapes and torture. They beat people whenever they feel like it, for no reason at all. Rapes are committed both impulsively and systematically. Two of the Major's most effective henchmen in the village of Phong Tay, for example, order families with beautiful girls to their village headquarters to sleep at night under the pretense that these families are considered "Viet Cong suspects." Then the women are taken to their private quarters and raped. Those families who refuse to go to the village headquarters to sleep are branded as Viet Cong and punished accordingly. The Mayor sends his henchmen out daily to find out which peasant households have some rice and which have relatives with the NFL. Sometimes disguised as NFL soldiers, his men will ask the inhabitants for help. The people who fall into this trap are immediately arrested and tortured to extort money from them. Many of the major retainers are draft-dodgers and deserters. At one point the national police made a sweep in the area and arrested eight of Major Sy's retainers because these people did not have the necessary papers. The major forced the national police to release them at once.

To make extra money, the Major also makes his soldiers raise pigs, chickens and ducks for him. All the local rice milling stations have to supply feeds free of charge. Soldiers are also used as servants for his three wives. At one point, owing to public pressure the IV Corps Headquarters was forced to investigate but without result. Major Sy's protector was so powerful that the authorities of the IV Corps were obliged to announce that "Major Sy is a meritorious and effective administrator and has never done anything wrong." Since that day, the Major has behaved even more heavy-handedly and the inhabitants in his district are even more fearful of him. And for this reason, he has earned the nickname "the little monarch" of Phuoc Long.

The list of local despots protected by the Thieu regime might be extended but enough has been given to show how much the Vietnamese people have to go through. And the despots are not limited only to officialdom. Landlords and even some Catholic priests have been especially active in robbing and bulling the people. Catholic priests who are involved in such activities are usually more subtle than the officials, but not always so, as in the case of the parish priest of Cai San, a Catholic community of several hundred thousand Catholics who originally had come from North Vietnam. The case of this priest, who is the spiritual father in charge of the whole community of Cai San, is described in the October 25, 1973, issue of *Dien Tin*.

The father stops at nothing to get an income for himself. Even the officials in Cai San are scared of him and "have to shake their heads and stick out their tongues because the Father's activities would even make the devil cry and the gods frown in sadness." In Cai San community there is a 75-year-old man, who is a descendant of a five-generation Catholic family and advisor to the parish's Catholic Council. This man, Tran Van Huan, advised the father to refrain from his unpopular activities. But the father went on with his business and so Mr. Huan had to oppose him publicly. The father subsequently sent a disciple to destroy Mr. Huan's house and beat his daughter almost to death. As a result of this, Mr. Huan prepared a document to be presented to the Saigon regime describing the crimes of the father. A policeman was then dispatched to Mr. Huan's house armed with a rifle. Everybody in the house was shot and a woman in the neighborhood who was visiting at Mr. Huan's house was killed on the spot. Only Mr. Huan and his wife escaped death with severe injuries and had to leave the community. All of Mr. Huan's land was then seized by the father. And even though Mr. Huan again sent a letter to the Saigon regime on October 7, 1973, asking for help and intervention, nothing has been done.

But this kind of abuse of power is not limited to the districts and provinces alone. It happens right in Saigon under the very noses of foreign observers and the foreign press. For example, as reported in the October 27, 1973, issue of *Dien Tin*, on the previous day Saigon representatives held a conference at which they reported the widespread confiscation of properties on the pretext of not having paid the full amount of taxes. Often the properties confiscated are worth more than 100 times the amount of taxes owed. These would in turn be sold off cheaply and the money gained would be pocketed by the tax collectors and their protectors. An example of this tactic is given by Representative Ruyet: A bread bakery on Hai Ba Trung Street, a few blocks from Thieu's Independence Palace, was taxed at 200,000 piasters. But the collector made the owner pay 2 million piasters. After the owner paid this, an additional 5 million piasters was demanded. The owner said he had no more money and in two days this bakery, worth "several tens of millions of piasters," was confiscated and sold for a few million piasters. Money is also being made in the name of "urban beautification," Thieu's latest program for attracting foreign tourists. One of the ways of extracting money from the Saigon population under this program is the widespread confiscation of motor bikes on the pretext of "traffic law violations" as described by Deputy Do Sinh Tu in the November 1, 1973 issue of *Dien Tin*.

Again, one can simply go on and on citing cases of extortion right in the city of Saigon itself. What can be done about it. The Thieu regime says it needs more money from the United States and other countries. The Nixon administration agrees, and has been forcing Congress to vote generous sums to the Thieu regime. The assumption of the Nixon administration and a majority in Congress is that the Thieu regime will behave better if given more money. They assume that it is the lack of money that has made the Thieu regime embark on its course of corruption, extortion, and terror. But this is an erroneous assumption, for several reasons. American aid given to Thieu at the present rate asked by the Nixon administration will meet only a third of Thieu's budget (*Dien Tin*, October 25, 1973). Thieu will still have to "collect to the utmost" from the Vietnamese people to meet his expenditures. This aid will not make Thieu's officials any less despotic but instead it will give them added strength and ammunition in carrying out their activities. Not only will they have more means at their disposal, but the foreign currencies supplied through the aid will enable them to transfer the wealth they exact from the Vietnamese people abroad. Perhaps the most serious of all is the fact that as long as the Thieu regime thinks it can depend on U.S. aid, it will never make peace with the Vietnamese people. As a Saigon newspaper recently stated. "The more critical the situation the Saigon government creates for itself, the more reason there is for the Nixon administration to continue military aid." (*Dien Tin*, October 3, 1973.) If such is the expectation, then the Thieu regime will never make peace with any segment of the society, including the Third Force. Thieu has declared that all Third Force groups are "traitors with their "strings pulled by the Communists." (*Dien Tin*, October 3, 1973.) And Deputy Nyugen Ba Can, chairman of the Saigon Lower House and one of Thieu's most effective supporters, said "there is no such thing as national reconciliation and national concord" with other political forces. (*Dien Tin*, October 3, 1973.)

But the importance of a Third Force for national reconciliation and national concord is real and is not just a "Communist ploy" to outmaneuver Thieu politically by using it as a focus for the vast popular opposition to the Thieu regime. Even if the PRG should become a dominant force in the future, with or without a coalition government, a Third Force can at least provide a channel through which Thieu's present henchmen and local despots can reform and give them an opportunity to prove that they are willing to change and work for the benefit of the national community. It also makes it possible for the PRG to cooperate with them and use them in the future without risking strong criticism from the population who have been their victims and perhaps from the PRG soldiers and rank-and-file who have sacrificed so much for the national community. There is no doubt that many of the present despots are talented people and could be of good service to their country if given the opportunity to change their ways.

This opportunity is thrown away as long as U.S. aid flows indiscriminately to the Thieu regime. There should be a complete or at least a very substantial aid cut. The Thieu regime must be made to realize that it needs the Vietnamese people and not be allowed to rely on continued U.S. aid to oppress people. As long as the Thieu regime still has the illusion that it can beat large segments of the Vietnamese people into submission with continued aid, it will continue with its present policies and its officials will continue heaping suffering and death upon the Vietnamese people. Under such circumstances, there is no guarantee that the PRG won't lose its patience and be pressured by public opinion to take military measures to curb the Thieu regime or even attempt to get rid of it. When this occurs, not only will there certainly be ramifications beyond the wishes of most Vietnamese but there will be little the United States can do to save Thieu. Besides the obvious loss of lives and destruction of property in the course of the fighting, the prospect for national reconcilation and concord as envisioned in the Paris agreements will become more difficult. To cite but one possible example, the present despots have to be punished if a sense of justice is to be felt and if social order is to be promoted. It will be too late for them to repent all of a sudden and it will also be too late to let them go scot-free even if the future government wanted to do this badly enough. On the other hand, if the despots were appropriately punished for their crimes the cry of "bloodbath" will resound in the Western world and especially in the United States. Even sympathetic people will call the Vietnamese authoritarian and will explain any punishment in terms of Vietnamese culture as in *Fire in the Lake*. Even if these despots were to be sent to "correctional facilities", to use an American term, for a short period to allow them to think things through, the cry of "thought reform," "brain washing," and "kiem thao"—again as in *Fire in the Lake*—will be loud and clear. Many Americans on both sides of the political fence would feel especially self-righteous either about their correct idea of the nature of a socialist or communist society or their correct idea of the nature of Vietnamese society. Either way, in the eyes of these people, the Vietnamese can't win. At best, they will be victims of Communism or their own culture!

The tragedy of continued aid to the Thieu regime, therefore, does not stop at the continued death and suffering for the Vietnamese people but it includes as well the danger that the most significant social experiences in the history of the world will never be fully understood by people in the West even after the expensive price they have had to pay for it.

THE 13th ANNIVERSARY OF THE REPUBLIC OF UPPER VOLTA

Mr. HARTKE. Mr. President, today December 11, 1973, marks the 13th anniversary of the Republic of Upper Volta. For the past 5 years tragedy has stalked this African country in the form of drought, that has brought misery and starvation to untold thousands.

The will to survive has given the people of the Republic of Upper Volta new vigor and determination.

The Republic of Upper Volta has been under the able guidance of President Lamizana, who took office in 1966 and proceeded to institute new reforms and social programs.

In October 1973 President Lamizana represented the six drought stricken countries at the United Nations, where he made a passionate plea for relief.

Following his plea in New York, President Lamizana called upon the President of the United States and again appealed for more aid.

To date the United States has committed $80 million to the six countries.

Mr. President, such determination as manifested by the people of the Republic of Upper Volta deserves our recognition.

ANTISMOKING SPIES

Mr. ERVIN. Mr. President, every American who flies on a commercial aircraft during the Christmas holidays stands to be spied on by agents of the Government.

This spying will not be done to prevent possible hijackings.

It will not be done to insure the safety of passengers and crews.

It will not be done to save fuel in every way possible.

But it will be done to enforce the smoking segregation rules—those regulations which require that Americans who choose to smoke must be herded off by themselves, away from those who do not.

My own spies have reported to me that

the Civil Aeronautics Board is urging all its 680 employees to perform this spying function during the holidays. The CAB wants them to act as "observers" and report violations of the no-smoking rules and what action, if any, the airline crews took to stop the violations.

It is not enough that the pilots and crews must worry about their jobs in the face of the fuel crisis. Now they must worry about the creeping presence of Federal bureaucrats who may be watching over them at every opportunity.

I wonder whether these bureaucrats will openly announce their presence to the crews in advance—or whether they will sneak about undercover, perhaps wearing red wigs and filing top secret reports on the smokers of America when they return to Washington after Christmas.

Have we not seen enough of this type of activity in the past few years? Have we not seen enough surveillance of civilians by the Army and so-called plumbers in the White House itself?

Are not Federal employees already beleaguered enough without being made spies on behalf of those who choose not to smoke? We have seen Federal employees forced to participate in social experiments after working hours, and we have seen their right to privacy severely restricted. Have we not seen enough?

Mr. President, I call upon the Chairman of the CAB to call off this activity and to stick to the purposes of the agency. It seems to me that the CAB will have its hands full merely insuring that air transportation is provided safely and economically during the holidays.

I also call upon the Chairman of the Civil Service Commission to investigate this activity so that CAB employees will not be required to demean themselves by spying on their fellow Americans.

NATIONAL HEALTH INSURANCE

Mr. HARTKE. Mr. President, earlier this year, I introduced S. 444, the Health Care Insurance Act. This bill has 180 cosponsors in the House and Senate, making it the health insurance bill with the most support in Congress.

I have noted with interest the introduction of a health insurance bill by the distinguished chairman of the Senate Finance Committee (Mr. LONG) and the distinguished Senator from Connecticut (Mr. RIBICOFF). While I will have more to say about that bill at a later date, I think it important to point out here that the Long-Ribicoff bill is a bill for disaster, not a bill for health care. It provides coverage once you have a serious problem, but it does nothing to encourage preventive health care.

The Health Care Insurance Act is designed to provide a coherent package of health care benefits covering preventive health maintenance, normal illness, and catastrophic illness. It is designed to assure that financial help is provided to those who need it most in the form of tax credits and deductibles—deductibles which for catastrophic insurance are geared to family income.

A recent article in Modern Medicine outlines the current administration health insurance plan. Those who have been waiting for it will be disappointed. For an average annual premium of $625 per family, a person can look forward to having the "privilege" of paying an additional $825 in health care costs before any real benefits are provided. That means that each family will be liable for almost $1,500 in health care costs. For most workers today, that is no improvement at all.

Mr. President, these two proposals are both "frontloaded." That is, they seek to discourage basic health maintenance. When you have a serious problem, both plans come to your aid, but preventing serious health problems is another, quite different matter.

Once my colleagues have had the opportunity to give these bills detailed consideration, I am confident that their deficiencies will become apparent. The Health Care Insurance Act represents a much more desirable and far more feasible alternative. It will provide quality health care to all Americans at reasonable cost.

THE FUEL CRISIS

Mr. McGOVERN. Mr. President, during recent trips to South Dakota I have been approached by constituents across the State who are terribly concerned about the energy crisis.

Aside from a great bewilderment as to how our country ever got into the present situation, their greatest single concern is the price of gasoline for their cars and what if any rationing system will be imposed. Like most midwestern farm States, South Dakota depends almost exclusively on the automobile for transportation. Without adequate supplies of gasoline, South Dakotans could not get to work because there are no mass transit systems. Rural families could not get to the nearest town to buy groceries. Most frightening of all, farmers could not run many of the machines that are vital to our Nation's food supply.

There has been a great deal of talk about a gasoline tax that would raise the price of gas to around $1 per gallon. For South Dakotans that would be disastrous. Sixty-eight percent of South Dakota's families earn less than $10,000 per year and 15 percent of the families in the State earn less than $3,000 per year. They must have gas to earn their livings and buy their food and clothes. A per gallon gasoline tax of 30 or 40 cents would literally take food out of their mouths and clothes off their backs.

Mr. President, there is little doubt in anyone's mind that we must have some kind of allocation system that will conserve the gasoline we do have. As we study the different possibilities we must consider the needs of those who use the product and not just the shortened supply of the product itself. A per gallon gasoline tax would be in effect an allocation program based exclusively on the ability to pay with no consideration given to the needs of the middle- and lower-income families in South Dakota and all across the country.

It is for this reason, Mr. President, that I wish to go on record as being adamantly opposed to any per gallon gasoline tax. Other methods of rationing may be more difficult to administer, but it is clear that we have an obligation to the people of this country to go to whatever lengths are necessary to insure that their livelihoods are not threatened.

There has been one other concern expressed to me by South Dakotans that is also of immediate importance. Service station operators and bulk dealers across the country have experienced cutback after cutback in their allotment of gasoline since early last summer. For those in rural farm States it has been most difficult since the decision is left to them as to which customer should get how much.

The energy officials in the administration have recognized in every allocation program the priority farmers must have to produce the Nation's food supply. Gasoline is still being apportioned in an inefficient way through the old voluntary allocation system. Farmers in South Dakota are going from station to station with 5 and 10 gallon containers in order to get the gas they need to run their farm machinery. They have turned to looking for black market supplies from Canada or anywhere else it might be available.

We should be completing our work on the legislation authorizing mandatory allocation of gasoline very soon. Even without it, many experts believe the administration has the tools they need to allocate our gasoline supplies. I would hope that the new energy chief, Mr. Simon, would find time to give consideration to some provisional measures that will insure our Nation's farmers that they can obtain the gasoline they need to run their farms. He has already made it clear that no system of rationing could be put into effect before March 1. I do not believe our farmers can wait that long. And I do not believe they should have to wait. A delay now may well mean a serious food shortage in the very near future.

Mr. President, I would like to insert in the RECORD a letter written to Mr. William Simon by Senator ABOUREZK and myself asks his consideration of the farm fuel problem.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *December 7, 1973.*

Mr. WILLIAM E. SIMON,
Administrator,
Federal Energy Administration,
Washington, D.C.

DEAR MR. SIMON: Farmers need a decision from you in the next several weeks. They need to know if they are going to be allocated fuel sufficient to plant the extra 10 million acres that the Agriculture Department is requesting them to plant.

As you know, the present allocation for farmers is 100 per cent of the fuel that they used in 1972. USDA officials tell me that this allocation will be 1.6 billion gallons less than what will be required to plant the additional acres.

We are sure that you also know that our corn and wheat supplies will be down by one billion bushels in 1974, as compared to the stocks of those supplies on hand in 1972.

As you also know, we desperately need these extra acres for food production to improve our balance of payments situation.

We urge you to make this additional allocation immediately.

Sincerely,

JAMES ABOUREZK,
U.S. Senate.
GEORGE MCGOVERN,
U.S. Senate.

THE WORLD'S SILENT CRISIS: FOOD

Mr. KENNEDY. Mr. President, the energy crisis understandably occupies our attention and concern today. Last week I addressed in some detail how our Nation might better deal with the energy crisis in cooperation with other nations around the world.

But there is a companion crisis that is every bit as important, and as difficult, as the one over energy and oil and fuel. It is the quiet crisis of world food.

Recently, the 17th session of the United Nations Food and Agriculture Organization—FAO—concluded in Rome a critically important conference on world food problems. For the first time in modern history, they met under the shadow of worldwide food scarcities that, in many areas, imperil the health and well-being of millions of people.

Yet it is a sign of the times that this silent crisis has gone unnoticed as long as it has.

Unlike the strong reaction to the energy problem, few world leaders have yet to speak out or express great concern over the growing crisis in world food supplies.

But, unlike the energy crisis, the current world food situation carries with it the silent and deadly hand of starvation and famine—which silences people, not simply machines—and which may condemn millions to face malnutrition and sudden death. Only those who cannot be heard suffer malnutrition in silence, or die of famine—and today that is a growing majority of the third world.

Mr. President, few Americans will recognize many of the names or areas that were the focus of the recent FAO Conference. Who has heard of Wollo, Ethiopia; or Bamako, Mali; or Dinajpur, Bangladesh? They are all places that seem distant and remote to us. Yet the food crisis the people in these areas face today is as much ours as it is theirs—and it is as urgent as it is now neglected.

These areas are the first to experience the effects of the growing shortage in world food reserves, creating scarcities in that most basic element that sustains all human life—protein. Few Americans have yet realized how greatly we are tied to the same forces which are now so tragically affecting the lives of millions of people in the developing areas of the world. For years we have thought ourselves immune from scarcities. After decades of surplus food—when we were accustomed to having plenty, when there were rising expectations, and unending confidence in the miracles of technology and service—it comes as something of a shock to find that we and the world face acute scarcities in food and other resources.

The plain fact is that there are signs that man has not been able to, and perhas cannot, bridge the gap between his limited resources and his growing rate of consumption—a demand rate produced both by increased population and greater affluence. Americans have now been awakened to the limits of energy, but in the final analysis the inconvenience of an empty gas tank pales in comparison to the prospect of empty food bins.

Perhaps when the pictures of the gaunt faces and the swollen bellies of starving children around the world begin to enter our homes, we will begin to comprehend the tragedy involved in prolonged global food shortages. Perhaps when our grocery shelves become empty of important food items, as they did recently, we will begin to understand the plight of so many throughout the third world today. And perhaps then our national leadership will end its silence on the food crisis and express some greater measure of concern over the new requirements for correcting the inadequacies and imbalances in present international food policies.

But we cannot wait long. If the doomsday message of Malthus is to be avoided, the world community must act soon.

The FAO conference in Rome has set the stage for action. It has provided a basis for initiating new and forthright policies to meet the immediate humanitarian needs created by food shortages, as well as to begin the necessary corrective actions to eliminate the causes behind the food crisis.

INCREASE WORLD FOOD PRODUCTION

The first area of concern is to increase world food production sufficiently to permit the establishment of an internationally coordinated food reserve. At a time when the world's total food production dropped sharply for the first time since World War II—yet which was matched by an increase, in the opposite direction, of the world's total population—the agenda before the FAO was as clear as it was ancient: Produce more food and save some of it for emergencies.

Furthermore, the adverse effects of weather and the increase in market demands for food grains in the developed nations, has depleted the world's food reserves for the first time in modern history. The world carryover of food, or the reserve stocks of food grains from last year, was less than 100 million tons—or less than a 1-month's world supply. Wheat stocks in the major exporting countries—principally the United States, Canada, Australia, and Argentina—are now at the lowest levels in over two decades.

All this means that the world is now entirely at the mercy of this year's weather and its effects upon this year's crop. Although the current forecasts are good, the predictions of FAO's director-general, A. H. Boerma, are also correct; after 2 successive years of poor harvests in the developing countries, and poor food production in the Soviet Union and elsewhere—

> Per capita food production in the developing countries as a whole has now fallen back to the level of 1961–65. The real measure of our anxiety is that while a marginal shortfall in expected production in a major area in 1973 could lead to a serious deficit at the world level, a marginal improvement would not much relieve what is already a dangerous situation.

Revised FAO estimates, made only last week, indicate that world agricultural production will increase by only 3 or 4 percent this year. But because the world's population has increased by nearly the same percent, and because world food prices have skyrocketed, the fact is that more and more people are still eating less and less.

SOUTH AND SOUTHEAST ASIA

Nowhere are the statistics on food shortages more bleak than in South and Southeast Asia, and in Africa. According to the FAO, there was an 8-percent drop in food production throughout the Far East generally, from the 1970 peak, and an average 6-percent drop in food production in South and Southeast Asia alone.

Countries that were formerly rice-exporting nations, such as Thailand and Burma, this last year found that their rice production dropped by 10 percent. In areas which were marginally self-sufficient, such as the Philippines, are once again deficit areas. But especially hard hit have been the already deficit food areas, such as Bangladesh and Ceylon, where the slightest drop in food production produces even greater human tragedy.

In Bangladesh, for example, drought later compounded by flooding, has meant that the total food deficit for 1973 is estimated to be 2.5 million tons of grain, worse than at any time since the 1971 civil war disrupted agricultural production. Still recovering from the aftermath of that tragic struggle, the current food crisis has set back efforts by the Bangladesh Government to rehabilitate its agricultural sector. By forcing it to use limited foreign exchange to purchase food for its hungry cities and towns, Bangladesh is placed in a vicious cycle where it is unable to purchase the fertilizers, insecticides, and other agricultural investments necessary to increase its food production next year. Instead, it will be faced again, the following year, with the need to buy more food, sometimes at double the price, with even less funds available for improvement of agricultural production.

Throughout South Asia, the drop in food production over the past 2 years—because of various adverse weather conditions—has meant that nearly all food reserves have now been exhausted. Such is the case in India, Pakistan, and Ceylon. The governments in these developing countries have had to increasingly depend upon foreign import of food—using hard currency in most instances—to buy food precisely at a time prices have doubled. The impact upon their economic development programs has been severe, and the sharp increase in the local price of food has had serious consequences on people who already spend 80 percent of their income on food. A doubling of the price makes food for the poor an even more scarce commodity.

WEST AFRICA

Mr. President, the grim situation in Africa has also been widely reported. As James MacCracken, of Church World Service and chairman of the American Council of Voluntary Agencies, phrased it recently in testimony before the Judiciary subcommittee on Refugees:

> A new equator circled our globe last year: Its name was drought and famine."

The circle of famine has been most evident in West Africa. Seven years of increasingly severe drought conditions in the Sahel region has brought unparalleled tragedy to millions of people, and has virtually destroyed a way of life for a whole people.

Hundreds of thousands of rural, mostly nomadic people, have fled their villages and the countryside in a desperate search for food and water. Livestock herds are decimated. Crops are destroyed and the very land itself has been made fallow. Threats of epidemic and disease are casting their shadows over urban areas choking under a wave of refugees seeking assistance.

A measure of progress has been made in recent months in meeting the immediate, emergency humanitarian needs created by the drought. A successful international relief effort has helped to stave off mass starvation, even as famine conditions persist. A recent report from AID's Sahelian Drought Emergency Task Force concludes that this year's harvest in the area will be "as much a deficit year as 1972." The report goes on to note that—

> The coming harvests will likely be inadequate to meet the demands of the urban population . . . and inadequate to support the nomads who have now been forced by the drought to become refugees.

Thus, even as the world continues to help these six West African nations meet the immediate relief needs caused by the drought and food shortage, an effort to address the longer term problem of rehabilitation and agricultural development has barely begun.

ETHIOPIA

But perhaps the best example of the food crisis era into which the world has now entered, is the case today of Ethiopia. As I reported to the Senate on November 27, large areas of Ethiopia are suffering from drought conditions similar to those in West Africa, although the food crisis there has received little or no attention abroad.

Yet the food problem in Ethiopia is, in many ways, typical of the silent and unseen food crisis that we have seen—and will likely continue to see—across the globe in the coming decades, unless something is done soon.

The food problem in Ethiopia is most graphically stated in an unpublished report in October of the United Nations development program. For 3 years, since the beginning of 1971, major areas of northern Ethiopia have been suffering from severe drought and famine conditions. Over 6 million people have been affected, and an estimated 1.2 million are now in need of relief aid. As of September 29, some 63,000 famine refugees were located in 12 relief camps in Wollo province alone.

Thousands of families have been forced to leave the parched earth of rural areas to seek food and shelter in urban centers. The United Nations team indicates that—

> Estimates of deaths number in the tens of thousands, and that over 100,000 people are living in conditions inimical to the preservation of a reasonable standard of health.

As in West Africa, Ethiopia is experiencing the accumulated effects of a prolonged drought—and long neglect. As the U.N. team notes:

> It has affected the quantity of land under cultivation, the crop yields in areas which have been planted, and the amount of water forage and grazing available for livestock. The result has been the debilitation and decimation of livestock, . . . and for the nomadic populations, about 125,000 people, . . . the effects have been catastrophic, making the nomads almost totally dependent on food relief.

The U.N. report concludes that 150,000 tons of food assistance will be required throughout 1974 to meet even minimum requirements. Thus far, the international community has offered or delivered approximately 40,000 tons, less than the amount needed to meet the needs of 3 months. The United States has contributed to date 18,000 tons.

FOOD: A DECADE FOR SURVIVAL

Mr. President, as the food crisis in Ethiopia illustrates, food conditions have deteriorated so severely in so many areas of the world, the international community can no longer simply speak of foreign assistance for development, but for mere survival. In the optimism of the 1960's, the United Nations declared it to be a decade of development. Given the realities of today, particularly in food production, the FAO would be wise to declare the 1970's a decade for survival in food production.

Food shortages—and even famine—are on the minds of people around the world—from the villages of South Asia and the desert of West Africa, to the farms of Nebraska. And it is long past time that it becomes a matter of concern in the capitals of the world, and reflected in the deliberations of our policy planners.

As FAO Director-General Boerma noted in his introductory report to the conference:

> It would indeed be a blessing in disguise if the precarious world food situation of 1973 could lead to the longer term measures that are required to ensure that such a situation can never occur again. It is intolerable that, on the threshold of the last quarter of the twentieth century, the world should find itself almost entirely dependent on a single season's weather for its basic food supplies."

RECOMMENDATIONS FOR ACTION

Mr. President, there can be little comfort taken in this hope of the FAO director unless our Government and other governments take the strong and urgent measures needed to turn around the world food situation—from one of world scarcity to one of controlled world reserves—from international competition for food, to international cooperation in food distribution.

As we take needed steps to remedy our food problems here at home, we cannot neglect hungry people overseas. Although we no longer have unlimited surpluses to meet all their needs, we must do what we can, with what we can. For the United States and North America remain the breadbasket of the world. And, in the immediate years ahead, millions of hungry people in Africa and Asia and elsewhere will depend upon a wise and humane allocation of our limited food surplus. The allocation of our food should be done in close cooperation with other food exporting countries, and hopefully under international auspices.

Regrettably, the administration's record in this significant area of public policy has fallen short in meeting our country's international responsibilities. The administration has not only blundered in the domestic economy and in the allocation of food and other resources for Americans—it has also blundered in its food allocations overseas.

Mr. President, just as the current energy crisis demands that we chart new courses in our distribution of oil and energy resources, so, too, does the growing crisis in international food supplies demand that we take new initiatives in world agricultural cooperation. Given the progress made in this area at the recent FAO Conference, I propose that our Government move now on at least four fronts:

1. ESTABLISHMENT OF A WORLD FOOD BANK

The food crisis of this past year has shown, if nothing else, how perilously close the world can come to simply running out of food. We have fallen increasingly to the mercy of unpredictable weather and drought conditions rather than to international planning in our reserve food supply.

The FAO Conference mandated that this "close call" in food surpluses must not happen again—that the world finally must establish a meaningful international policy of food reserves, coordinated under international auspices. The mechanism for achieving this—as for achieving the control of energy resources—will obviously be one of the more important and difficult questions to be resolved in the coming months.

But our Government must now show greater leadership in this area. Not only because America is still the single most important producer of the world's exportable food—and, until last year, the holder of the world's largest residual foodgrain reserve—but because the concept of "freedom from hunger" is also a longstanding national commitment in our foreign policy.

To give substance to this commitment, we must see in the days ahead an explicit offer by our Government to support, and to contribute to, an international food reserve system. We can hardly ask some nations to share with us their limited resources, particularly in energy, if we are not prepared to cooperate with others in sharing cur abundant resources in food—especially to those developing nations who need it the most.

The Congress has already mandated that our Government must review over the coming year our international food policies. Section 39 of the Foreign Assistance Authorization, passed by the Senate this past week, asks for a careful review of all aspects of our international food policy and particularly our capacity to participate in an internationally coordinated program of food reserves. This review by the various departments within the executive branch must proceed with urgent speed if we are to lend credibility to our concerns in this area.

2. PROTECTION OF ENERGY RESOURCES FOR FOOD

Nowhere is the linkage between the companion crisis of food and energy more direct, or more painfully clear, than in the alarming impact the current shortage of oil products will have on the production of fertilizers—and, ultimately, on the total production of next year's world food supply.

Already, in many areas of Asia, the cutback in fertilizer supplies means that the once heralded "green revolution" is in danger of literally withering away because the "miracle" behind almost all of the new miracle seeds, is fertilizer. Without proper nitrogen fertilizer, most new strains of rice and wheat produce little more than traditional varieties—and science will take a great leap backward.

More ominous still is the fact that most of the rice-growing nations of South and Southeast Asia simply must increase their food production just to keep pace with the estimated growth in their populations. Without a steady supply of fertilizer this will be impossible.

The intensity of the shortage that has developed in the world fertilizer supply can best be gaged by the skyrocketing price a ton of the most commonly sold variety of nitrogen fertilizer now brings on the world market. Once selling for approximately $50 a ton in 1971, a year later it climbed to $75 to $100 a ton, and then as the oil crisis worsened this autumn, it has again doubled in price to approximately $200 a ton.

All this means that the countries which must increase their agricultural production the most, will be the least likely to receive or able to buy the necessary fertilizer to achieve it.

Even as we now see the necessity of protecting our own domestic oil supply to safeguard agricultural production—to assure our farmers that they will have sufficient priority for the oil and energy they need—so, too, must the international community engage in cooperative planning to assure that petroleum products for agriculture have the highest priority around the globe.

The developed nations, such as the United States, Japan, and Western Europe, have a heavy obligation to help maintain fertilizer commitments to the third world. Given the growing shortage and competition for agricultural petroleum products, this will obviously require more than verbal assurances. Rather, it will more likely require some kind of international rationing of fertilizer—or, at the minimum, guarantees for providing on a priority basis, fertilizer supplies to third world countries that fall short. This can be negotiated either bilaterally or under the auspices of the FAO or other appropriate international trade agencies.

For our part, the U.S. Government must make clear its firm intention to help provide fertilizer supplies to the developing countries, after the minimum needs of our own farmers are met. Without this—and the contribution of other developed nations—there can be little hope of averting more severe food shortages next year.

Cut-throat, competitive marketing in oil resources for agriculture can only mean doom for the vast majority of mankind, threatening famine for millions throughout the third world. To ration oil resources for food must surely be as great a priority as rationing oil for economy.

3. FOOD FOR PEACE

We must review, and reassert, the humanitarian principle and purpose of Public Law 480, the food for peace program. Last year, at the expense of both our own citizens, and starving people in Africa and Asia, the administration pursued a policy of "food for cash" instead of "food for peace."

This policy upset food commitments to hungry people around the world. It caused chaos in the shipment and delivery of emergency humanitarian food overseas. It nearly destroyed the many developmental food programs of America's voluntary agencies, and reversed long-standing policy guidelines on the implementation of the title I and title II provisions of the law.

It is deplorable under any circumstance to divert all our available surplus food for commercial purposes—to sell our exportable food to the rich at the expense of the poor. And during last year's acute worldwide food scarcity, this policy was nearly catastrophic to the many important nutritional and developmental programs abroad. Worse still, it caused an even further escalation of world food prices, making what food there was available even less likely for the poor.

This reversal in our traditional humanitarian priorities demands not only a policy review, but I believe new legislation to assure that the high purpose of Public Law 480 will in the future be fulfilled.

We should seriously consider the recommendation made by the voluntary agencies, made both before the Refugee Subcommittee hearings last month and in informal meetings with various Senators, that the Congress legislatively earmark at least 10 percent of our exportable food grains for humanitarian purposes.

As James MacCracken, of Church World Service, sees it:

> This 10% would be very much like the traditional tithe in the Judeo-Christian heritage—a moral responsibility to use at least that amount of our exportable, surplus food resources for humanitarian purposes as a gift not only to help the poor, but for the larger benefit of mankind.

It is important to emphasize that we are again talking about surplus—that amount of food left after America's own food needs are met. And we are talking about the use of food after the farmer has been paid what he normally would under market conditions. We are speaking of surplus food for export, and the purpose of Public Law 480, as amended in the mid-1960's, was to assure that humanitarian needs would always have an important place in our export priorities.

The Department of Agriculture should come clean on its current intentions for Public Law 480 next year, and its plans for food allocations under title II and title I. If this administration will not wisely use our surplus food for humanitarian as well as commercial purposes—as it has done over the past 2 years—then the law must regrettably be amended once again, and the humanitarian provisions of Public Law 480 strengthened.

Finally, Mr. President, in the short term, there are critical food shortages in a number of areas which, as I noted earlier, must now receive greater attention and priority if we are to avoid massive starvation. The food relief effort in West Africa must continue, and the food needs in Bangladesh remain critical. And, most important, the neglected needs of Ethiopia must finally be met.

The amount of food required to meet the nutritional needs of the people of these drought-stricken areas are certainly not great—particularly when compared to the grain consumption of the wealthy countries. For example, in the United States we divert an estimated 5 to 8 percent of our high protein food grains just to feed our pets. Some 4 million tons of food grains go to our pets annually—or enough food to meet the current emergency food requirements of Ethiopia, Bangladesh, and West Africa combined for the coming year.

In addition, the international community must soon begin to develop more efficient mechanisms for responding to famine situations. The neglect of Ethiopia today is, regrettably, simply another example—of which there are many—of a humanitarian crisis routinely neglected, rather than routinely responded to. This will continue to occur as long as more effective organizational mechanisms are not established, internationally, as well as within our own Government, to respond to food crises whenever and wherever they occur.

The tentative steps of the United Nations to create a permanent international emergency relief service must be supported, and, within our own Government, we must some day see the creation of a Bureau of Humanitarian and Social Services within the Department of State to coordinate and give greater priority to our relief efforts abroad.

In the weeks ahead, the Subcommittee on Refugees, and the Labor and Public Welfare Subcommittee on Health, will continue to press ahead in their joint inquiry into this important area of public policy—offering positive recommendations concerning the growing problem of world hunger, health, and refugees.

CONCLUSION

Mr. President, food is the most fundamental commodity to sustain human life—more so than oil, or gas, or other energy resources. So the threat of world shortages in food is menacing anywhere—not only to the physical and mental health of the people involved, but also to the social and economic development of individual countries and entire regions of the world, including our own.

Energy and food. Both are basic to the life we now know. Both are essential for the peace of the world. We have the choice today of uncontrolled competition for them, or cooperating their more equitable distribution. But the more scarce these resources become—especially food—the more dangerous to the health and peace of mankind becomes the competition for them. If we undertake international cooperation now, essential patterns for the future will be established.

Mr. President, the recent history of

people around the world tells us that threats to the peace are more than just arms races or military confrontations. Famine can be a threat to peace and stability. Massive refugee movements can unbalance the peace. And natural disasters can create upheavals worse than war.

Clearly people problems cannot be ignored—for the health and well-being of people is an essential ingredient in building a structure for peace.

Mr. President, I ask unanimous consent that various materials from the FAO Conference be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From FAO News]

Strategy Proposed To Bring Greater Harmony to Agricultural Production and Trade of Nations

Washington, November 28.—Action toward improving the use of the world's agricultural resources by cooperation of individual nations has been taken by the biennial conference of the Food and Agriculture Organization (FAO) of the United Nations meeting in Rome.

The conference requested FAO Director-General A. H. Boerma to prepare a draft strategy of international agricultural adjustment including guidelines, indicators and arrangements for periodic review and appraisal of progress. After consultation with other agencies and consideration by the FAO Council, this proposed strategy should be submitted to the next session of the conference in 1975.

The 131-member governing conference called on the secretariat to work on a strategy which would have as its objectives:

—A faster and more stable rate of growth in world agricultural production, especially in developing countries where demand is expanding most rapidly;

—A better balance between world supply and demand for agricultural products with more orderly expansion of food production and consumption and greater security in the availability of food in adequate quality and quantity to all consumer groups, taking due account of the need for more rational use of world food and agricultural resources;

—An orderly and more stable acceleration of trade in agricultural products;

—A rising share for developing countries in a general expansion of agricultural trade.

In calling for this action the conference recognized that most individual countries had long acted to influence agricultural production within their own borders. However, the conference said, these actions were usually taken with insufficient regard for the agricultural production and trade of other countries.

The conference agreed that it was desirable that such national measures should take account of international as well as national objectives, that they should contribute to the attainment of the targets established for the U.N. Second Development Decade (1971–80) (a four percent annual growth rate for agriculture) and that they should help to meet the special requirements of the developing countries.

The conference said that adjustment in the agricultural sector was a continuing process consisting of interdependent changes at the farm level and the national and international levels. It endorsed the need for the development of a world-wide framework within which governments could work together towards greater consistency in their national and regional adjustments policies (see FAO release 73/94 of October 29. 1973).

Introducing the subject at the start of the general debate, which preceded the conference decision, Dr. E. M. Ojala, FAO's Assistant Director-General for Economic and Social Affairs, said:

"At the global level, there is no counterpart of the national government with its power to determine policies. At the same time, as we all know, the agricultural sectors of different countries are interdependent to a significant and possibly increasing extent. What one country does in the course of managing its agricultural adjustment is almost bound to have an effect, for good or ill, usually ill, on other countries. The adjustments needed can be brought about by market forces alone, and sometimes they have been with effective but often brutal results. Few countries are now prepared to accept such consequences, and rightly so."

The apparent need, said Dr. Ojala, was "... A general acceptance by all governments as to the broad directions in which world agriculture ought to develop in the medium and long run, together with a readiness on the part of governments to develop machinery, or use existing machinery, to consult together as required to facilitate their efforts to harmonize national adjustments in the agreed general direction for world agriculture."

Dr. Ojala said adjustment was often interpreted as calling for cutbacks in the volume of production. In fact, he said adjustment in a world of rising populations and incomes is mainly matching supply to a rising total demand.

[From FAO News]

FAO Endorses Unanimously World Food Conference in 1974

Washington, November 27.—Member nations of the Food and Agriculture Organization have endorsed unanimously a proposal for a World Food Conference in November 1974 under the auspices of the United Nations and voted $500,000 towards the costs of the Conference.

A report proposing general objectives and format for the Conference was approved in plenary session of FAO's 130-nation biennial conference, meeting in Rome November 10–29. The FAO conference recommended that, because of the availability of technical expertise in FAO, the World Food Conference be held in Rome.

The report will now be transmitted to the Economic and Social Council of the United Nations in New York which will place its recommendations before the U.N. General Assembly, where a final decision is expected before the middle of December.

"The principal task of the World Food Conference," the FAO report declares, "should be to bring about a commitment by the world community as a whole to undertake concrete action towards resolving the world food problem within the wider context of development problems."

In its report the FAO conference indicated that the world food problem which had undergone a serious deterioration during the past year, could not be solved within the agricultural sector alone. It suggested that the next year's World Food Conference should be at the ministerial level with full participation of all members of the United Nations, or of its related agencies including those not members of FAO. In earlier debate on the question many delegations stressed the importance of participation of the USSR which is not a member of FAO.

As envisaged by the FAO report, major emphasis of the World Food Conference should be placed on additional measures for increasing the food production consumption and trade of developing countries.

"Particular attention," the report declares, "should be paid to maximizing the production potential of available land to an extension of the area under irrigation, and to the expansion of the availability of agricultural inputs, which should increasingly be manufactured in the developing countries. Action should also be foreseen to reduce losses, both before and after harvesting."

The question of what role trade matters should play in the World Food Conference was the focal point of considerable debate as the item moved through commission and plenary sessions of the FAO conference.

The report does not envisage the World Food Conference as a negotiating forum. It suggests that the aim should be to reach agreement on specific objectives and programs, which would subsequently be carried out through existing international machinery. Since questions of food balances and trade are highly interlinked, the area of international trade and international agricultural adjustment has particular significance, the report indicated.

During earlier debate many delegations had emphasized the urgency of improving unfavorable conditions on international markets for the agricultural commodities produced in developing countries.

Under arrangements which the U.N. General Assembly is expected to make, UNCTAD would be invited to cooperate in the work of the Conference. While the Conference would not be expected to duplicate the work of UNCTAD or the General Agreement on Trade and Tariffs—GATT—it could give "valuable support and impetus to it".

Following the report's unanimous adoption by the FAO conference plenary, FAO Director-General Addeke H. Boerma expressed "great satisfaction" that member countries had been able to agree on a report which would give the U.N. General Assembly "clear guidance as to what this Conference thinks should be done."

"The World Food Conference," said Dr. Boerma, "presents a great challenge and a great opportunity . . . provided that it can express the political will of all member states to put an end to the shameful state of affairs in which millions of people still suffer from hunger."

He hoped that the spirit of collaboration evident here in Rome would be sustained when the issue came before the U.N. General Assembly and in subsequent discussions.

While preparations for the World Food Conference cannot be decided upon until the U.N. General Assembly reaches its final conclusions on the proposals, the FAO conference authorized Dr. Addeke Boerma, FAO's Director-General, to enter into appropriate arrangements for FAO participation if U.N. General Assembly endorsement is received. It also authorized the Director-General to draw on the Organization's working capital fund up to a maximum of U.S. $500,000 to cover costs connected with the Conference. The FAO report recommends that the Conference be held in Rome where FAO headquarters facilities would be available to the Conference preparatory committee, Secretariat and the Conference itself.

[From the FAO News]

World Food Program Facing 50-Percent Cut in Food Pledges

Washington, October 3.—The World Food Program's aid resources have been slashed almost in half by spiralling cereal grain prices, Executive Director Dr. Francisco Aquino said today at the opening of the WFP 24-nation governing body meeting in Rome.

While WFP needed 1.2 million tons of food to meet all its approved projects and emergency operations to the end of 1974, projections showed that only 613,000 tons were likely to be available, Aquino reported to the Inter-governmental Committee.

He said that even after drastic reductions in commitments, which would mean stopping many good projects, a deficit of 161,000 tons was anticipated to the end of 1974. Thus, for the first time in the program's history, the governing body would not be asked at this meeting to approve any new projects.

The meeting also heard expressions from the Secretary-General of the United Nations and the Director-General of FAO, on their grave concern over the world-wide grains shortage and rising prices which had forced the World Food Program to reduce sharply its grants of food-as-aid to development.

Dr. Kurt Waldheim, for the UN, and Dr. Addeke H. Boerma, for FAO, urged delegates to adopt a target of $440 million in food, cash and services to be pledged to WFP during 1975 and 1976.

Dr. Waldheim said the target figure did not reflect the rising prices and expressed the hope that "donors would compensate by making supplementary pledges."

Dr. Waldheim's message was read by his Under-Secretary-General, Mr. Vittorio Winspeare Guicciardi, while Dr. Boerma addressed the meeting in person.

Since its establishment ten years ago WFP has given more than $1.3 billion, mainly in surplus foods to economic and social development projects in 94 countries. It is estimated that 26 million persons have benefited from the projects.

A portion of its resources is also used in disaster relief operations and WFP currently is playing a major role in the aid to the drought-stricken West African Sahelian Zone.

Faced with a shrinking pool of resources, WFP has had to resort to a pruning of all ongoing projects and for the first time its governing body was not being asked to approve new projects.

This situation, Dr. Boerma said, "is a unique step backwards in the history of the program," a program that represents "a special kind of indicator of the richer world's sincerity towards the developing countries and their real needs."

Dr. Boerma said the ten-year record of WFP had shown it to be a "new and vital armament in developing strategy."

He noted that some bilateral aid programs dispensed food on a larger scale than that of WFP.

"But," he added, "the fact remains that, in this much-politicized world of ours, the World Food Program, as a multilateral agency generally free from the taints of suspicion that attach fairly or unfairly to many bilateral aid efforts, is something of a model test case."

Thus, he said, if the scaling-down of large surpluses in the richer world were to lead to a crippling of the program's activities, it would once again raise the old question of WFP's basic purpose.

"Is it really a development aid program or is it just an elegant international device for surplus disposal?," he asked.

His own conclusion was that ten years experience had given WFP a reason-for-being "quite apart from any considerations of convenience as to surplus disposal." But a sharp cutback in the program's resources would both "stifle the slender hopes of large numbers of impoverished people" and "call in question again the whole political and moral rationale of WFP on which a growing number of other hopes have been based."

In outlining the severe cutbacks he has been forced to make, Aquino urged the governing group to keep constantly before it the fact that "behind the stark figures lie hardship and the disruption of economic activities."

"In recent weeks I have had to make a number of hard—to me, regrettable—decisions which will adversely affect the lives of thousands of people in the developing countries, and will in some countries seriously impede development," he said.

After the program's statutory and other firm commitments had been fulfilled, the executive director reported top priority would be given to projects in the 25 least-developed countries, and to countries such as Pakistan, Bangladesh, Ethiopia and Nicaragua, which had suffered recent disasters.

Donor countries pledge commodities to the program in monetary terms, but its commitments to recipient countries are made in specific quantities of food.

The pledging target figure of $440 million for 1975/76, submitted for approval at the Intergovernmental Committee's last meeting in April, was inadequate, as $650 million would now be required to finance the program's activities as planned, Aquino said. Anything less than the original target figure would be unrealistic, and he said he was hopeful that donors would surpass it. He was also confident that as the world food situation improved, countries would come forward with supplementary pledges as in the past.

KANGAROO GRAND JURIES

Mr. KENNEDY. Mr. President, the November 19 issue of The Nation contains an excellent article by Frank J. Donner and Richard I. Lavine describing a deeply disturbing pattern of grand jury abuse by the Department of Justice. In recent months a number of Senators and Representatives have emphasized the need for reform in this area, including comprehensive legislation to protect the rights of citizens from the sort of freewheeling and oppressive grand jury abuses that have become so prevalent in recent years. I believe that the article, entitled "Kangaroo Grand Juries" will be of interest to all of us in Congress concerned about the problem, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FROM THE WATERGATE PERSPECTIVE—KANGAROO GRAND JURIES

(By Frank J. Donner and Richard I. Lavine*)

For two generations, the American imagination has either denied the possibility of facism in this country or, while conceding its possibility, has been unable to project a convincing description of how facism may come, to identify the institutional stress points, and describe its potential constituency. Watergate teaches that, for all our constitutional political restraints on the abuse of power, if a police state comes into being here it will surely rest on an all-powerful Presidency in control of a centralized political intelligence apparatus. In its January 3, 1972 issue, The Nation published "The Grand Jury Network" (Donner and Cerruti), a report on the growing use by the Department of Justice of federal grand juries to curb political dissent. Events of the past two years have substantiated the earlier contention that this distortion of the grand jury function is part of a master plan to attack political opposition through a new centralized intelligence system. More specifically, the Internal Security Division (ISD) of the Justice Department has used the traditional accusatory function of the grand jury as a cover for:

(1) A secret White House-sponsored network for the systematic collection of political intelligence by illegal means and for purposes unrelated to law enforcement.

(2) The laundering or legitimizing through grand jury interrogation of such tainted evidence.

(3) The development of evidence through the grand jury process to support an indictment already handed up—a form of pretrial discovery not permitted in criminal cases.

(4) The use of civil contempt not to obtain testimony but solely to punish uncooperative witnesses. In the past eighteen months, twenty-one individuals have, after grants of immunity, been jailed for contempt.

Specific instances of these practices will be dealt with in a moment, but before revisiting the grand juries we need to look more closely at the roots of these abuses, now laid bare by Watergate.

The enormous range of the Watergate disclosures invites a piecemeal response, and the large patterns thus break down into small clusters of seemingly unrelated events. It is, of course, important to know whether Dean or Ehrlichman is telling the truth, what may be learned from the Presidential tapes, the extent of the President's knowledge of the events, the source of authority for Operation Gemstone. But the concrete question of who did it conceals the deeper issue of why it was done. In American public life we almost invariably reduce power conflicts to issues of due process, of individual rights; the one is typically abstract, and the other more accessible because it is specific and "human." Finally, a need for stability, a desperate dependence on institutional order and continuity, makes us reluctant to confront claims of usurpation of power, as though the very recognition of its possibility would deny meaning to the American experience.

But one can hardly sweep under the rug the wealth of evidence, uncovered by Watergate, of the growth of Caesarism in the White House, a phenomenon made visible by the President's plush accouterments of power and the use of his office for personal gain. The meat for this Caesar, the means by which he has sought to consolidate his power, is political intelligence, a system of surveillance and related practices ranging from informers and wiretapping to sabotage, break-ins, mail interception and dossiers. From almost the start of his first term, Nixon initiated a series of moves designed to seize control of the intelligence capability of the nation. Beginning in 1939, when the FBI was first given domestic intelligence jurisdiction, the intelligence community in this country had been highly diffused, with a variety of institutional bases and haphazard coordination. This decentralization reduced the efficiency of domestic surveillance and postponed the inevitable showdown with libertarian forces. In the same period a democratic constituency had on the federal level (urban and state units are another story) imposed jurisdictional limits on the scope of intelligence practices and targets; these restraints, though precarious and frequently evaded, were still no mean achievement when one recalls the struggle to rein in the surveillance excesses of the Defense Department, the CIA and the FBI. But the lack of effective and publicly responsive facilities to monitor essentially secret operations left open the danger of abuses, periodically exposed by alert Congressmen, defecting whistle-blowers and the media.

What President Nixon undertook was nothing less than the relocation and centralization of the entire intelligence establishment in the White House. More, he moved to eliminate all the bitterly won jurisdictional restraints on domestic espionage. And the justification for this no-holds-barred secret police *apparat* was national security, a goal which assertedly absolved the President from responsibility to the law or, save by impeachment, to the Constitution and beyond the reach of the courts. When in 1972 the Supreme Court unanimously rejected these expansive claims as a justification for domestic intelligence practices, the Administration simply renewed its contentions about the very same practices, but now under the warrant of "foreign intelligence."

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*Frank Donner is director of the American Civil Liberties Union research project on political surveillance at the Yale Law School. This study forms part of a book on the subject to be published by Holt, Rinehart & Winston in the spring of 1974. Richard Lavine has been active in politics and is now a student at the University of Pennsylvania Law School.

The main leverage in the campaign to take over political espionage was the alleged need to refocus intelligence priorities and coordinate intelligence sources. The agencies traditionally responsible for domestic intelligence had developed a vested interest in the old Left and in antiquated files of political subjects. But the entrenched bureaucrats of political surveillance thought they had a powerful shield against the new wave of political headhunters—the Congress, which was itself under pressure from White House power seekers, and the Congressional antisubversive committees. So it was that J. Edgar Hoover turned to his Congressional allies for protection against threats to his fiefdom, not from his liberal enemies but from White House firebrands. His seemingly bizarre Congressional testimony about the alleged Berrigan plot in November 1970 was an attempt to find sanctuary in his Congressional power base. Hoover's intelligence methods and priorities supported a structure that had evolved over a quarter of a century, built cooperatively by the bureau, Congressional committees and tenacious cold-war supporters. Now the committees were moribund, the bureau under severe attack, its senile director obsessed with his immortality, the cold war receding into the past, traditional surveillance practices riddled by Supreme Court decisions as new targets were moving to the center of the radical stage. In addition, the cry for more sophisticated intelligence and a cohesive structure was not confined to the White House. It was also demanded by sections of the surveillance community symbolized by the clash between Hoover and William Sullivan, former director of FBI domestic intelligence, and an Administration ally.

AN ADMINISTRATION "BESIEGED"

Domestic, peacetime intelligence systems have, with the growth of the modern state, evolved into a centrally controlled intelligence community. In the course of this development, political police became a special force independent of all other instruments of state administration, enjoying unlimited jurisdiction, answerable only to the head of state. This process was enormously accelerated by the release of powerful movements for change, beyond the control of conventional police units—one need only recall Sidmouth's England, Fouché's France, the European continent after 1848. In the United States, the "natural" growth and centralization of the intelligence community has been hobbled for reasons already indicated, but the political stimulus to such expansion is unmistakable.

In 1969, the incoming Nixon Administration was faced with a society heaving with unrest. All of the major intelligence initiatives in the first Nixon term can be traced to a hysterical reaction to successive waves of protest. A "siege mentality" gripped the Administration almost from the day it took over. Nixon was haunted by the fate of Johnson, ambushed by what seemed to be the revolt of an entire generation. Those long years of powerlessness, of wandering in the wilderness, was it all to be for naught? Were the country's unruly dissenters to be allowed to frustrate Nixon's too-long-delayed entry into the promised land?

Early in 1970, the Administration began intensive preparations to expand and improve its surveillance capability over militant left-wing individuals and groups. In a series of interviews with a *New York Times* reporter, Administration officials conveyed the President's concern about the wave of bombings and bomb scares. On March 12, Nixon and some of his aides met at dinner with New York University Prof. Irving Kristol. According to the news account, "the discussion included attempts to draw parallels between young American radicals and the Norodniki, the children of Russian aristocrats who assassinated Czar Alexander II." No one mentioned Alexander III's jackboot repression of the radicals in the wake of the assassination, but the extraordinary horror—if not hatred—of radical youth comes through the interview.

The "official view" was that the militants were political criminals. In mid-March President Nixon told the Congress that the bombings were the work of "young criminals posturing as romantic revolutionaries." In April one of his advisers told the *Times*, "It wouldn't make a lot of difference if the war and racism ended overnight. We're dealing with the criminal mind, with people who have snapped for some reason." A "key official" in the Administration added, "We are facing the most severe internal security threat this country has seen since the depression." He said that the President had "expressed distress that the intelligence system was not capable of pinpointing the activities of these people" and insisted that there was a desperate need to improve government intelligence. One White House aide proclaimed, "The greatest safeguard for the rights of individuals is to have good information on what [the radical fringes] are doing." He urged that the government substitute for traditional criminal prosecutions the collection of information to "prevent the perpetration of an act of violence." This benign verbiage masked the preparation of a comprehensive plan for restructuring the American political intelligence system into a cohesive political police force serving the same purposes as its counterparts in 19th-century European despotisms.

President Nixon personally initiated a project to draft recommendations for intensified domestic intelligence at a meeting in the White House on June 5, 1970. Present in the Oval Office that day were Nixon; H. R. Haldeman, then White House chief of staff; John Ehrlichman, then the domestic counselor to Nixon; Tom Charles Huston, a Presidential aide, and the chiefs of the four intelligence agencies: J. Edgar Hoover; Adm. Noel Gayler, director of the National Security Agency; Lieut. Gen. Donald V. Bennett, director of the Defense Intelligence Agency; and Richard Helms, director of the CIA.

The proposals submitted by the committee, believed to be the handiwork of then domestic intelligence chief William Sullivan and now known as the "Huston plan," included a program of electronic surveillance of "individuals and groups in the United States who pose a major threat to the internal security," covert mail coverage or the opening of sealed materials before delivery, surreptitious entry (burglary), and an increase in the number of "campus sources" in order to "forestall widespread violence." Approved by Nixon on July 23, the plan was assertedly never implemented because of Hoover's opposition.

But Hoover was not objecting because the proposed tactics were illegal. The FBI had routinely made illegal searches, including both burglary and mail interceptions, before the policy was changed in 1966. What disturbed Hoover was the proposal of an interagency group to supervise the bureau, thus ending his one-man rule and acting as a buffer between him and the President. "What was really at stake," reported one participant in the report's preparation, "was whether Mr. Hoover was going to be able to continue running the FBI any damned way he wanted." In a recent interview Huston has explained Hoover's actions in the same way: "In my judgment if Hoover at any time raised what I regarded as a principled objection . . . if he had said this thing is wrong because it is unconstitutional, the President doesn't have the power to order it, that it is unethical . . . any kind of principled objection, then on that basis he'd have hit me right between the eyes. . . . But when a guy says, you know, that I don't want to do it—that it's too risky, but I don't care if someone else does it, then as far as I am concerned, I think it's fair to draw an inference that the guy is just trying to save his butt and duck the responsibility that's his and of the agency that's charged with these problems." ("Tom Charles Huston: Don't Call Him a Sonofabitch," by Terence Sheridan, *Rolling Stone*, October 25.)

Although Hoover's objections stymied the Huston plan, it hardly moved the Administration from the conviction that some form of secret police operation (always euphemistically described) was imperative to contain the radicals. As we will show, the Internal Security Division of the Department of Justice and the bureau pressed forward to spearhead the drive on the radicals. The release of the Pentagon Papers, one of a series of leaks, caused another White House explosion in 1971—a "panic session," Colson called it—and demands for an effective intelligence sanction to choke off these new threats to the Administration's authority. Again this response throbbed with a wildly exaggerated insistence that the very foundations of Presidential power were being undermined. As the trial record in the Ellsberg case later demonstrated, the asserted threat to national security was ludicrously overstated, but every surveillance initiative seeks acceptance because of a claimed emergency, an imminent peril to a vital interest. In most cases such assertions are ritualistic, but in the corridors of the White House and in the Oval Office it became a *cri de coeur*, an expression of a fear of betrayal from within. From the beginning, Nixon and his aides felt surrounded by hostile forces, by holdovers from prior administrations who were in league with the press and the networks to "get" the President.

Mounting frustrations plainly took their toll of Nixon as he lurched back and forth from megalomania to paranoia. In the tightly knit Presidential circle, an ominous thesis was evolving, a sort of political Manicheanism in which legitimate critics and rivals for power, regardless of their political affiliation, were indiscriminately condemned as "enemies" to be stopped by any means necessary. Grandiosity and bitter rancor began to set the tone of the Presidency, completely personalizing it in the process. Only those could qualify for the President's approval who shared his self-appraisal that he was a lion beset by jackals. In such an atmosphere what was more natural than the transfer to the domestic theatre of intelligence tactics traditionally used against foreign enemies, a real-life version of a James Bond script performed in our own back yard? Viewed in this chilling setting, many seemingly disconnected images again fuse into a pattern: the shuttered inward-turning world of the Presidency, supported by the fanaticism of personal loyalty; the cult to toughness ("balls"); the rise to prominence of kamikaze types such as Colson and Ehrlichman; the "enemies" list, and the Nixon-ordered 1969–71 wiretaps of staffers and newsmen.

Nixon's activation in July 1971 of the "plumbers" unit is enormously significant. For the first time in American history, a Chief Executive formed an espionage network, a secret intelligence system answerable only to himself and operating outside the law and the Constitution. To most Americans such an action must seem borrowed directly from the manual of a police state, but as Nixon saw it, he could do no less, for, as he told Mardian at San Clemente in July 1971, his capacity to govern was threatened. No member of the White House staff close to Nixon was permitted to forget that a sanction against Ellsberg was an obsessive Presidential priority. His orders were to "get" Ellsberg; had he not learned from his other "crises" that capture of the offensive by a bold stroke was the most effective way to deal with "enemies" out to "get" him? Had he not by such tactics triumphed over Alger Hiss, another Eastern intellectual, twenty-five years earlier?

Ehrlichman, Krogh, Dean and the rest must have felt very much like the courtiers who heard Henry II's angry cry against Thomas à Becket, "Will no one rid me of this turbulent priest?" The formation of the plumbers' unit; the CIA involvement; the burglary of Dr. Fielding's office; the tenacious surveillance; the hoaxlike covers (national security, "prosecutibility"); the barrage of grand jury subpoenas in Boston and Los Angeles; the organized attempts to assault Ellsberg on the Capitol steps in May 1972; the attempt to influence the outcome of the Ellsberg trial by offering the trial judge the directorship of the FBI; the deliberate suppression for weeks of the evidence of the burglary; the invented laxness of Hoover and the FBI—are all the fruits of the President's nightmare reaction to the Ellsberg affair. In his May speech, Nixon described the situation as "so grave as to require extraordinary actions," an organized effort to "find out all it [the plumbers' unit] could about Mr. Ellsberg and his motives." If there was a "White House horror," this corrupt use of power, unmistakably instigated by the President, was it.

Significantly, a major frustration of the Cox investigation was the Administration's refusal to turn over materials relating to the plumbers. And it will be recalled that the President admittedly told Asst. Atty. Gen. Henry Petersen last April "to stay out of national security matters" when interrogating the master plumber, Howard Hunt.

POPKIN'S ORDEAL

Despite the claim advanced to witnesses that the Ellsberg grand jury in Boston was a legitimate law-enforcement proceeding, newly revealed background facts establish that it was merely a branch of a White House project intended primarily to develop material which would smear Ellsberg and inspire extralegal sanctions against him. For all of the spooky rhetoric used by Hunt, the grand jury proceeding was part of a campaign of political gangsterism made familiar by such films as Z. It had a dual objective: to give color to the suggestion that Ellsberg was a victim of some repellant psychic deviation (preferably sexual in origin) and to identify him as a member of a conspiratorial ring with ties to Russia.

Two memoranda on the "Pentagon Papers project" in the Watergate record are revealing. The first, dated August 11, 1971, from Krogh and Young to Ehrlichman, reports on the process of the Boston and Los Angeles grand jury proceedings and the preparation of a CIA psychological study (considered "disappointing" and "superficial"), and proposes the seizure of Dr. Fielding's records by a "covert operation," which Ehrlichman approves "if done under the assurance that it is not traceable." This memo corroborates testimony that the major focus in the Ellsberg matter was on personal smear— not, it should be noted, that such *apparatchiks* as Liddy and Hunt had difficulty with the notion that a man who had "turned" from ardent hawk to a midnight purloiner of national secrets was indeed deranged.

The memo establishes that both grand juries were feeding into the plumbers, who coordinated and evaluated the data received for inclusion in a comprehensive investigative "game plan." But when Ellsberg's counsel, six months later, attacked the Boston grand jury on the ground that its process was being improperly used to develop evidence for the Los Angeles case, the ISD lawyer vigorously denied it. And his Los Angeles colleague took the same position when Ellsberg moved the court for a protective order to prevent the use of the Boston grand jury as a source of evidence for the Los Angeles trial. The courts relied on these questionable representations in denying relief.

By August 26, plumber David Young had broadened his vision. Initially the aim of the project had been, to use Young's euphemism, "the development of a negative image." Now, according to a memo of that date, a new theory was developed as the result of a meeting with Congressional moguls: Mardian, a Justice Department functionary, and the Defense Department's general counsel, J. Fred Buzhardt. The notion that Ellsberg was a "prime mover" was to be abandoned in favor of the hypothesis of a subversive conspiracy of insiders (Halperin, Gelb, Warnke and others), already victims of Nixon-sponsored wiretaps. And if the break-in produced usable "negative" material, it should be released through a Congressional investigation, not by press leaks. (This last was the contribution of White House aide Patrick Buchanan.) Plumber Egil Krogh in a recent press interview has solemnly averred that this entire project was presented to him by the President as a "matter of the most urgent national security." The break-in was intended not for any squalid smear purpose, but to verify a hypothesis that Ellsberg was "involved with a foreign power" in an intrigue to damage President Nixon's peace with honor strategy. Krogh never explained how Ellsberg's emotional problems could throw light on this thesis.

The Boston investigation, first by bureau agents and then by the grand jury, fits well the objectives discussed in the memoranda and establishes that law enforcement was a filmsy cover. One person interviewed by bureau agents, Everett E. Hagen, director of the Center for International Studies at M.I.T., where Ellsberg had an office, reports that the questions he was asked dealt mainly with personal qualities: "I had the feeling that they would have liked me to say, 'Dan Ellsberg's a kind of odd person; he stands on his head in his office every afternoon.' "

FBI agents also interrogated Samuel Popkin, then a Harvard faculty member specializing in Vietnamese village life. The interview commenced on a curious note. As Popkin recalls, one agent began by making this observation: "We would like to ask you questions about Dan Ellsberg. We want to understand him and we need your help." The leitmotif of the interview was expressed through terms such as "emotions," "stability" and "psychiatric." "I had the impression the agents were trying to elicit negative comments about Ellsberg. . . . All sorts of questions were also asked me that didn't sit right like, 'Does Ellsberg seem to be a nervous person?' 'Is Ellsberg emotional?' 'Is Ellsberg erratic?'—questions that at the time I thought were there to impugn the person, to try to paint him as a neurotic, or a crazy person, or a person with a grudge or a vendetta."

After unsuccessful attacks on his subpoena, Popkin appeared before the grand jury on August 19. "My first contact with the manipulative side of the grand jury," he recalls, "came when I asked the prosecutor, 'May I please be told the subject of the matter under inquiry?'

"The prosecutor reared up at me and gave a long lecture in a very stentorian voice, saying: 'The judges just told you that you may not ask this question, to appear here immediately and testify. Please don't keep these people waiting. Why are you trying to hold up the process of justice?'

"Not having immunity, I immediately took the First, Fourth and Fifth Amendments on totally trivial elementary questions: 'Do you read the *Boston Globe, The New York Times?*' "

But Popkin was soon confronted with more sensitive questions and unsuccessfully sought a protective order freeing him from the obligation of exposing confidential sources. His ordeal stretched on through the rest of 1971, as other subpoenas were dropped for a variety of reasons, including a deficient government denial of wiretapping in the cases of three other witnesses.

On January 18, 1972, Popkin again refused to testify, this time because of uncertainty over the continued validity of a previous grant of immunity. Finally, on March 29 he was held in contempt for having refused to answer seven questions before the grand jury two days earlier.

In his testimony, Popkin denied all knowledge of who might have possessed the Pentagon Papers before their general publication the previous June, or how they were distributed to the press. An unofficial transcript of the proceedings (printed in the *Harvard Crimson*) reads in part:

Q. Mr. Popkin, more specifically, do you know if someone possessed what is now known as the Pentagon Papers in Massachusetts other than to the extent you have previously testified?

A. May I see my lawyer?

Q. Mr. Popkin, as you know, a witness has the right to see his lawyers only on serious questions. You have been out of the room twice already for periods as long as ten minutes. You are now asking permission to leave the room for a third time. Is this necessary?

Q. Mr. Popkin, do you recall an immediate reaction that was formed in your mind upon hearing about original stories in *The New York Times* about who may have been the source?

A. I request permission to see my counsel.

Q. Mr. Popkin, how can your counsel be of use in this case? We're asking you about your immediate reaction.

A. I request permission to see my counsel.

Q. Mr. Popkin, you are being asked about your immediate opinion, how can your counsel be relevant?

A. I request permission to see my counsel.

Q. Mr. Popkin, you are stretching things for this grand jury. Your exits from the room have been ranging about five minutes. This is an inconvenience for the grand jury.

Popkin eventually gave answers to these questions, after intense intimidation and harassment by the prosecutor. However, he refused absolutely to divulge to the jury his "opinions" about who might have had access to the documents.

Q. Mr. Popkin, perhaps I should rephrase that question. What is your opinion as to persons you believed possessed the Pentagon Papers in Massachusetts prior to June 13, 1971?

A. Is this grand jury really asking me to violate confidences necessary to my research, simply to discover my opinion?

Q. The grand jury does not answer questions.

A. I respectfully decline to answer this question on the grounds that it violates my rights under the First Amendment to freedom of press, assembly and speech.

He also refused to divulge the contents of conversations on which he based such opinions:

Q. The question was prior to June 13, 1971, what was your knowledge as to the persons who participated in making the study?

A. May I be advised as to the pertinence of that question to the subject under inquiry?

Q. No, you may not.

A. My only knowledge of that answer comes from scholarly research.

Q. What is that knowledge?

A. I respectfully decline to answer that question on the grounds that it violates my rights under the First Amendment to freedom of the press, speech and freedom of assembly.

Q. Is the knowledge derived in part from conversations you had with others? Who were the persons you interviewed to acquire this knowledge of who participated in the study? When and where were the conversations in which you acquired knowledge as to who participated in the Pentagon Papers study? Forget that.

A. The persons I acquired this knowledge from were interviewed in the course of my scholarly research.

Q. The question was who were the persons you interviewed to acquire this knowledge?

A. I respectfully decline to answer this question on the grounds that it violates my rights under the First Amendment to freedom of press, freedom of speech and freedom of assembly.

In the end Popkin refused to answer four questions seeking his opinion on who had had copies of the Pentagon Papers and how he had formed that view. He declined to answer two additional questions about how he had learned who had originally written the official study. The last unanswered question was whether he had discussed the study with Daniel Ellsberg, whom he knew professionally.

The danger of such a fishing expedition was evident. The Harvard faculty adopted a resolution urging "restraint" in grand jury inquiries and asking that the government show a strong need before putting such questions. It warned that "an unlimited right of grand juries to ask any question and to expose a witness to citations for contempt could easily threaten scholarly research." Twenty-four other scholars filed affidavits on Professor Popkin's behalf.

In May 1972, the First Circuit Court of Appeals in Boston upheld Popkin's right to refuse replies to the four questions having to do with his opinions of who might have had copies of the papers. One circuit court judge went so far as to label some of the questions "repugnant." Another judge simply said they were "badly phrased." But the court ruled that the others were proper questions, and required Popkin to answer them, although only "to the extent that the persons were not government officials or other participant-sources." In other words, Popkin was still forced to disclose the names of other scholars with whom he had discussed the Pentagon Papers, and from whom he may have learned the names of participants in the study.

This left Popkin near the end of his rope. On November 10, the Supreme Court, by an 8-to-1 decision (Douglas dissenting), refused to delay the execution of his contempt judgment. On November 16, Popkin filed stipulations offering to answer the questions, but only if he would not be forced to compromise his confidential sources. This offer was rejected by the Court of Appeals and on November 21, 1972, Samuel Popkin became the first American scholar jailed for protecting sources of information.

One week later, the government suddenly decided to dismiss the grand jury, which had been scheduled to run another six weeks, and Popkin was released. The decision came after Derek Bok, president of Harvard University, had joined the case to argue in Popkin's favor, and after Daniel Steiner, general counsel to the university, had met in Washington with A. William Olson, then head of the Internal Security Division, to urge that some way be found to release Popkin as soon as possible. Throughout Popkin's long ordeal, the prosecution continually asserted that the grand jury was investigating in good faith into the commission of federal crimes, and that the questions at issue were necessary to that investigation. Judges routinely accepted that claim.

THE GRAND JURY CHAIN

The pursuit of Ellsberg was layered in falsehoods—to grand jury witnesses and their lawyers, judges, the media, even to the Watergate committee. Such deceptions became inevitable when intelligence sanctions were deployed against Ellsberg outside the law-enforcement process. Intelligence, of course, routinely draws upon the arts of deception: "covers" to prevent discovery of the action, the identity of the participants, or the source of the operation.

Intelligence covers of the sort described above are functional. But domestic political intelligence practices, unless required for a vital purpose, are unconstitutional and in a democracy repellent. Another layer of deception is therefore needed, a normative or constitutional cover. And the more offensive the practice, the more strident and deceptive the justification. Such deception, to paraphrase La Rochefoucauld, is the tribute that lawlessness pays to constitutional democracy.

In the beginning was the word; the strategy of deception rests on a foundation of euphemisms. The very term "plumbers" is a mask on reality. The burglary was a "surreptitious entry," preceded in Hunt's priceless euphemism, by a "judgment visit" or a "feasibility study." The official cover for the burglary is Aristotle's "invented terror"—the fraudulent claim of an imperiled national security. Moreover, this cover was exploited, not merely to justify the burglary but also President Nixon's suppression of the evidence of the burglary and his evasion of Judge Byrne's order for production of this evidence for weeks, until a threatened resignation of the Attorney General to his deputies forced his hand.

To give this claim of national security the indispensable panache of a foreign threat, the CIA was brought in for "support services," ranging from a wig to a psychological study. But the chief support role was performed by those indispensible heavies, the Russians. According to Krogh and Ehrlichman, the Presidential mandate to the plumbers and the burglary was triggered by the discovery that the Russian Embassy had been mailed a copy of the Pentagon Papers. But this contention is questionable: The New York Times began printing the papers on June 13, 1971. The plumbers unit was commissioned by a Presidential ukase (verbal of course) a week after publication began, and did not become operational until early July. Why couldn't the Russians simply clip the Times? What a naive question! There was, it seems, another version of the papers, containing supersensitive material not printed by the Times, and it was undoubtedly this collection which turned up at the embassy. Who are we to say nay to such a contention, or to be nagged by the suspicion that a copy of the papers was deliberately sent to the embassy as justification for the break-in—a routine tactic for a Hunt or Liddy?

But another serious difficulty plagues this argument. If any government agency would know about the Russian Embassy's mail, it would be the FBI, which deploys an incredible arsenal of surveillance weapons against the embassy. And where would the embassy's receipt of such material serve a vital function? Obviously there is one place where such evidence would be invaluable: at the Pentagon Papers trial before the U.S. District Court on June 18, 1971, and the argument on appeal on June 22. At both of these proceedings the government had a chance to offer support for its key contention that publication of the papers had threatened our national security, especially through the channel of foreign relations. The government could have made such proof in open court or, if it was necessary to protect sensitive national security matters, *in camera*. When the plumbers' contention was made public in May of this year, an inquiry was addressed to then U.S. Attorney, Whitney North Seymour, Jr., seeking verification. In a letter dated May 5, 1973, he replied as follows:

"I have since looked into the matter and am relieved to be able to report that apparently neither this office nor the court was deceived as to the information available to the government at the time of the Pentagon Papers proceeding here. I have not been permitted to see the actual reports, which are classified, but I have been advised by an official in Washington that the FBI had no information concerning the possibility of the Soviet Embassy having possession of the papers at the time we presented our arguments to the District and Circuit Courts. I should add that I have not been able to learn the actual extent or scope of the papers that may have come into the embassy's possession."

As national security transmutes common crime into noble acts, so at the same time the actors are changed from criminals (perjurers, forgers, burglars and the like) into patriotic heroes. That is why in his testimony Hunt sounds aggrieved that an ungrateful nation did not reward him more generously with "support money," or perhaps, as in one of his thrillers, "take care of its own." In this view, of course, the victims of his acts become villains, subversives with no rightful claim to legal redress.

"National security" has been used, not merely to gild a single isolated caper; it is the trademark, the signature as it were, of President Nixon himself. Small wonder that national security has become the Administration's chief justification for resisting an effective investigation into its own affairs. In his May 22nd statement, the President used the term twenty-three times and "security" by itself thirteen times.

The standard model of this cover evades or represses dissent by claiming that it threatens our bargaining position abroad or that now is not the time, when negotiations are in so delicate a state, to rock the boat. Such covers have been used for a variety of purposes, from defusing the peace movement to braking the impeachment drive. Reliance on them naturally increases with the intensification of the President's domestic difficulties. The more he is without honor in his own country, the more he becomes a "prophet" abroad. This process ultimately gives Nixon such a stake in foreign conflicts that he is tempted to provoke them. Certainly a persuasive case can be made for the view that this motivation contributed to the President's unilateral decision to call a worldwide military alert in the middle of the night of October 24–25, when the movement to impeach him was cresting. To the obvious danger of such provocation must be added the loss of credibility involved in crying wolf.

The activation of the plumbers and the burglary required the fabrication of yet another cover. What bothered many Americans more than the question of power was the fact that President Nixon had by-passed the FBI. But the Administration had prepared for this contingency. It would appear that the formation of the plumbers was forced on the Administration because J. Edgar Hoover was sabotaging the Ellsberg investigation. Ehrlichman testified that Hoover wouldn't allow his agents to interview Ellsberg's father-in-law, Louis Marx, because he was an old friend of Hoover. But documentary evidence established that Hoover and Marx had met only once, thirty years earlier. In addition, Marx had, in fact, been interviewed by bureau agents before the plumbers were commissioned by the President. Nor was that all. FBI agents had twice sought interviews with

Dr. Fielding, once on July 20, 1971, and again on July 26. Moreover, on August 3 Hoover had written Krogh fully committing the FBI to the Pentagon Papers investigation and, as we have seen in the memo of August 11, Krogh informed Ehrlichman of Hoover's communication that the Ellsberg investigation had the highest bureau priority. Covers come in all colors and sizes—even in reversible models. In 1971, the bureau's asserted apathy served as an Administration pretext for bypassing it. But, in the 1972 Watergate coverup, the bureau was too active for the Administration's purposes and fear of leaks was used to conceal the Administration's sabotage of its investigations. The CIA, which in 1971 permitted itself to be compromised and used as a foreign intelligence cover, was reluctant to perform the same role in 1972, either for Watergate itself, or the Mexican (money-laundering) connection.

The Huston plan concentrated on student radicalism, an area in which Huston himself, a former national leader of Young Americans for Freedom, was considered an expert. Depicting the campuses as "the battleground of the revolutionary protest movement," he recommended the recruitment of informers in college groups, along with burglary, wiretaps and mail covers. Like Ehrlichman and others, Huston thought that the mere pronouncement of national security, unchecked by any judicial evaluation, was sufficient to put the President beyond the reach of the law.

Mardian, appointed to head the ISD in November 1970, took over the war on radicals. His unit had especially close ties to Sullivan's FBI Division 5, and it is not surprising that it was to Mardian that Sullivan turned in the summer of 1971, to forestall the use by Hoover of the "Kissinger wiretap" tapes for blackmail purposes. Mardian was a red hunter of the old school, a mind of the 1950s with a provincial outlook somewhat unpalatable to the more "philosophically" conservative Huston, who once turned up his nose at a job offer from Mardian. But what Mardian lacked in finesse he more than made up in zeal. With the operational support of Division 5 and the collaboration of his field marshal, Guy Goodwin, he launched a series of grand jury probes against the Weatherman faction of SDS which served both as a cover for intelligence gathering and as a directly punitive attack on radical witnesses.

The first of the seven grand juries against Weatherman was called in Detroit. On July 3, 1970, acting solely on the testimony of an informer, Larry Grathwohl, it returned an indictment charging thirteen individuals with conspiring to bomb military and police installations in Cleveland, Detroit, Milwaukee and Los Angeles. Fifteen unindicted co-conspirators were also named.

The first major grand jury attempt by Goodwin to stage an extensive investigation occurred in Tucson in October 1970. In the course of those proceedings five individuals subpoenaed from Los Angeles were jailed for seven months for refusing to testify. On October 20, the grand jury indicted one John Fuerst for transporting explosives in interstate commerce. Fuerst had been named in connection with an overt act set forth in the Detroit indictment, although he was neither indicted nor named as a co-conspirator by the Detroit grand jury. The testimony before the Tucson grand jury makes it quite clear that it was primarily concerned with Fuerst, but that did not prevent it from developing a detailed and comprehensive picture of West Coast radical activities. The "over" use of Fuerst for fishing purposes was emphasized by the fact that no additional indictments were issued after Fuerst's original indictment, despite the subsequent testimony of five witnesses.

In November 1972, another ISD grand jury was convened in Cleveland. On November 29, a California woman subpoenaed to testify there was given limited (use) immunity and then interrogated about bombings in Cleveland in 1970, involvement with SDS in Cleveland and her knowledge of various people in the area. She admitted knowing some of the people she was asked about, but was unable to answer most of the questions, and so testified. The focus of this grand jury was the Weatherman underground and again Fuerst was used as a cover for an extensive interrogation about activities charged in the Detroit indictment as "overt acts." Indeed most of the evidence gathered in Cleveland was developed for use in the Detroit trial.

In fact it was only a week after the appearance of the California witness before the Cleveland grand jury that a Detroit panel handed up a new indictment against fifteen people in Weatherman, superseding the original indictment with similar charges now fleshed out with evidence gathered by the grand juries in other areas.

The superseding indictment in Detroit did not put an end to this seesaw process. Early in January 1973, the Cleveland grand jury subpoenaed two witnesses, one of whom had testified in November. In this round of questioning she was presented with a rerun of the earlier questions, despite the fact that it was the same grand jury. The second Cleveland witness refused to answer a number of similar questions on the ground that they were based on illegal wiretaps. In response, the government dropped her subpoena rather than disclose its sources. On January 10, two days later, indictments were handed down in Cleveland against three of the Detroit defendants. These indictments were based on the testimony of an FBI agent; the two witnesses had been called solely for the purpose of developing information to aid in the prosecution of the new Detroit indictment.

The Cleveland indictments were simply moves in a game. The acts listed in these indictments are identical to those charged by the Detroit grand jury. In an effort to provide a justification for the grand jury probe and to mask its true purpose the prosecution "indicted" three individuals who were underground and thus unlikely to come to trial. It is also noteworthy that the indictments were returned only two days after the Detroit defendants sought to intervene as the Cleveland grand jury was being improperly manipulated to develop evidence for use in Detroit.

Another grand jury proceeding which was activated to develop testimony for use in the Detroit trial began in Madison, Wis., in February 1973 when two women, each named as an unindicted co-conspirator in the Detroit indictment, were subpoenaed. By a familiar coincidence, one of the witnesses was asked about activities which are described as overt acts in the Detroit indictment. When she refused to testify the government sought a grant of immunity from prosecution and an order compelling her to testify. At the immunity hearing, the judge asked the government what the purpose and scope of the grand jury's inquiry was. The government refused to answer, insisting that it had no obligation to reveal the purpose of the grand jury's activity. The judge then refused to grant immunity or to order testimony. He ruled that the Internal Security Division attorney was abusing the grand jury process.

Still another front in the grand jury offensive against the SDS radicals was opened in the fall of 1972 in San Francisco with a volley of eleven subpoenas for a group of individuals, most of them strangers to one another, scattered all over the United States and Puerto Rico. From the questions asked in San Francisco by Goodwin and his assistant, it became clear that this investigation sought information about links between fugitives and techniques for the protection and support of persons in the underground. Subjects covered included mail drops, welfare and food-stamp acquisitions, transportation, housing arrangements and travelers' checks. Some questions were asked about the bombing of a San Francisco police substation in Febuary 1970. Even at the time, however, police and the local press did not attribute the bombing to Weatherman. It was generally believed to have been an isolated event with no organizational link. An intensive investigation for more than two years had yielded no suspects. The questions about the bombing seem to have been a smear technique, attempting to link the witness with terrorism, with the expectation that the questions would be made public when read at the subsequent immunity and contempt hearings.

Other questions involved a San Francisco residence, referred to in the Detroit indictment as having been rented by one of the defendants for the illegal purpose of storing explosives. Again, a deliberate abuse of the grand jury process. But when a number of Detroit defendants sought to intervene, the government inisisted that the development of evidence was not the "sole or dominant purpose" of the investigation. The San Francisco proceedings were marked by abrasive confrontations between the prosecutors and the witnesses. In many instances the witnesses were sharply limited in consulting counsel.

One witness, John Davis, brother of Chicago conspiracy defendant Rennie Davis, challenged his subpoena on wiretapping grounds. The government admitted that it had wiretapped Davis, but denied that the information which it had garnered was used to prepare either the subpoena or the questions. A hearing was then held to determine possible taint—whether the questions asked of Davis were based on wiretaps—and the government submitted approximately 250 pages of questions. The logs indicated that Davis had been "overheard" on numerous occasions in 1969, when he used telephones in the national office of SDS.

On June 1, 1973, three days before Davis' next scheduled appearance, the government dismissed the subpoena. Davis and another witness who had been subpoenaed in October but never questioned, commenced a civil suit asking an injunction to prevent the grand jury from questioning witnesses until the National Commission on Individual Rights is in operation. The commission was created in the 1970 Organized Crime Control Act, the same Act which created "use" immunity. It has never met because President Nixon had failed to appoint the seven members he is required to name. Minutes before the witnesses were to appear in court as plaintiffs, the government scrapped the subpoenas and contended that the civil suit was therefore moot.

In all, seventeen witnesses were called in the San Francisco probe, beginning in September 1972. Of these only four actually testified, and one other was jailed for thirty days for refusing to testify, although his conviction was later reversed on appeal. Another witness was also held in contempt, but was ultimately not required to testify because the government refused to comply with a court order that he receive a transcript of his testimony. The subpoenas of the other witnesses were dismissed.

After all the smoke had cleared, only one person—a fugitive Detroit defendant—was indicted as a result of the grand jury's work. Indeed, despite the government's disavowals, the main purpose of the San Farncisco proceeding appears to have been, once more, to dig up evidence for Detroit. None of the four witnesses who testified knew anything at all about the indicted defendant; his indictment was thus the result of information already in the government's possession.

Like Watergate itself, the grand jury sessions described here and in the January 1972 article form a pattern. It does not mean too much to discover that this or that grand jury was driven to excess by a zealous prosecutor, that rudeness and overreaching deprived a particular witness of his or her rights, or that in an isolated instance the subpoena power was used to collect evidence for trial after the indictment was returned. In exercising its proper function in good faith, a grand jury may step over a line; it is an abuse inherent in all institutions whose boundaries are not rigidly fixed. The remedy for such infractions is judicial redress or more scrupulous public servants. But the "whole" which here is so much greater than the sum of its parts is usurpation of power, the planned and manipulative rigging of an instrumenatlity for reasons unrelated to its basic purpose.

Nothing so clearly demonstrates this use of the grand jury for intelligence purposes as the government's repeated failure to remove from subpoenas and interrogations the claimed taint of illegal tapping. There is hardly a grand jury proceeding—Boston, San Francisco, Vermont, Cleveland, Harrisburg and Detroit, to name only a few—where subpoenas have not been dismissed because of alleged warrantless tapping. The August 11, 1971 plumbers' memorandum to Ehrlichman about the Ellsberg project, contains the notation, "It seems unlikely that Barnet, Raskin and Gifford will be called [as grand jury witnesses] because they have been overheard." (This last term is a modest entry in the surveillance dictionary of euphemisms.) In the Detroit case, the sheer bulk of the secret tap logs is staggering: 12,000 overhearings for nine months—and this from only one source, SDS headquarters in Chicago. In many cases, as in Seattle and Detroit, the government balks at disclosing the contents of the taps; it then seeks dismissal out of sheer embarrassment, claiming that national security would be "compromised" by further disclosure, or insisting that the challenged practice took place in hot pursuit of "foreign intelligence," an allegation almost invariably based on proofs so tortured as to make Ehrlichman's defense of the President's power to burglarize Dr. Fielding's office a model of persuasive reasoning. Rather than permit a profanation of the sleepless struggle to protect us from foreign foes, the government drops the case. The fact is that the Administration has failed utterly to develop a "foreign intelligence" sanction for domestic surveillance—catnip for every spy master since Walsingham. In 1970 the President commissioned the CIA to ferret out the foreign support for domestic protest, only to be told that it was an empty burrow. This report made his claimed need for otherwise illegal surveillance factually improbable and, irony of ironies, his détente policy made it politically incredible.

TWO HATS FOR MARDIAN

Lawyers for the Detroit Weatherman defendants, in preparation for a "taint" hearing ordered in a sweeping ruling by Judge Damon Kaith lest June, have uncovered powerful evidence that the ISD grand juries are a link in a surveillance network. Investigation corroborates documents submitted by John Dean to the Watergate prosecutor and Ervin committee (some of them were classified and only partially released to the press) that in the fall of 1970 the operational aspects of the Huston plan, from wiretaps to break-ins, were implemented by a White House-sponsored agency which had two covers: it was located in the Department of Justice as a part of the Internal Security Division and it claimed to be nonoperational, merely a conduit for intelligence generated by others. Its cover name was the Intelligence Evaluation Committee (IEC), but despite its interagency format (FBI, NSA, CIA, DOD, etc.), its *de facto* chief was Robert Mardian, who wore two hats: law enforcement and intelligence. Both operations were directed at the same organizational targets—SDS, Panthers, VVAW, Weatherman, etc. The linkage is plainly demonstrated by the admitted "almost daily" use of highly restricted ISD intelligence files by CREEP's security chief, McCord, and by the fact that the lawyers for groups targeted by the ISD for law enforcement were, as we shall presently show, systematically afflicted by office burglaries and fires. Also revealing is the unusually close relationship between ISD litigation chief, Guy Goodwin, and intelligence sources.

For example, he maintained continuous contact at the investigative level with Larry Grathwohl, an FBI informer in the Detroit case, and with informer William Lemmer in the Gainesville (VVAW) case. The Gainesville case, at the trial stage, provides an extraordinarily vivid illustration of the willingness of the ISD to get into bed with the most squalid informers and provocateurs. This promiscuity contrasts with the conventional role of the prosecutor, which is to test and evaluate data developed by investigators. But most important is the dominant use of ISD grand juries as an investigative tool and as a means, by compelling testimony through grants of immunity, of laundering evidence that has already been illegally obtained through intelligence.

What is less clear are the mechanics of the plan. Who organized the burglaries, mail interceptions, wiretaps and similar intrusions? Who designated the targets, recruited the operatives and instructed them what to look for? Although the FBI has, through a single affidavit of agent Clavin Clegg in Washington, denied that it "possesses" (i.e., as of the summer of 1973) records reflecting such capers, it is the prime suspect as chief wiretapper—a very expensive, labor-intensive form of surveillance. Its field operatives certainly included urban red squadders—that is a matter of record—possibly recruited by New York City BOSS veterans, Caulfield and Anthony Ulasewicz. [See "New York's Red Squad: BOSS Is Watching" by Claudia Dreifus, *The Nation*, January 25, 1971.] Ulasewicz himself may have lent a hand from 1970 to 1972, a period when he admits being busy in intelligence matters which he can no longer recall. Since at least 1970, the bureau has developed and funded a program, furthest advanced on the West Coast, for acquiring intelligence through paid informers run by local police units. This collaboration, quite visible when a particular organization (SDS, Venceremos, Revolutionary Union) becomes a priority target, permits the FBI to harvest the fruits of illegal surveillance while preserving "deniability." There are also indications of interagency sharing of intelligence resources made available by the Treasury Department's Alcohol, Firearms and Tax Division, an agency with which first Liddy and then Caulfield had important ties during the period in question. Urgently needed in this context is a thorough Congressional probe to fix responsibility for this shocking (and foolish) attempt to use law enforcement as a cover for intelligence, an "option" which even Tom Charles Huston thought would come to a sticky end.

The ISD, understandably enough, could hardly afford the airing that Judge Keith had ordered. On October 13, the prosecution, having stalled and thrashed about for more than four months in an effort to evade compliance with the judge's order, finally threw in the national-security-*cum*- sensitive-foreign-intelligence towel and moved for dismissal. Detroit thus joined the series of cases which the ISD's Goodwin lost, largely because of a fatal clash between covert intelligence practices and the norms of law enforcement.

From 1970 until 1973, more than fifteen cases are reported in court documents of burglaries on the premises of lawyers for radical groups and individuals, and in a few instances on those of their clients. According to an affidavit filed by Weatherman lawyer Gerald Lefcourt, his office was twice burglarized; first in the fall of 1970 and again in the winter of that year. On April 12, 1970, a fire, classified "suspicious," occurred at his Manhattan office. Lefcourt said one of his files on Mark Rudd had been scattered about the office. Two burglary attempts were made at Lefcourt's New York City home between the spring of 1970 and the spring of 1971. Nothing was taken in the second break-in, so police were not notified. Of the first, Lefcourt says, a television set was found in the building lobby and was taken to a police precinct station, where he went to claim it.

At the San Francisco office of attorney Michael Kennedy, burglars rifled files and scattered them about. The San Francisco police confirmed the break-in. During another burglary of his office, his briefcase was rifled. On August 19, 1971, the People's Law Office in Chicago was burglarized. Police confirmed the crime, and that items stolen included an electric typewriter, $50 in a cashbox and a shotgun. In a burglary at the law offices of Henry diSuvero on June 8, 1972, files were rifled. In addition, the offices or homes of other attorneys, including Charles Garry, Melvin Greenberg, Jeffrey Haas, Carol Scott, Lee Holly, Carl Maxey and Michael Lerner (counsel *pro se* in the Seattle 9 case), were entered under circumstances marked by a common pattern: the rifling or theft of files, with nothing else of value being taken.

An example of attempted mail interception is supplied by the July 23rd affidavit of a Chicago postman:

"I have been assigned to the Lincoln Park Station of the Chicago Post Office since 1968 as a mail deliverer.

"Part of my duties were to deliver mail to 2242 N. Bissell Street.

"I was aware that members of the People's Law Office staff including Jeffrey H. Haas, Courtney Esposito, Liza Lawrence and G. Flint Taylor, Jr. were living at and receiving mail at that address.

"On several occasions I was approached by men in plain clothes outside of 2242 N. Bissell Street who showed me badges which were sometimes of the Chicago Police Department and sometimes of the Federal Bureau of Investigation.

"These plain clothed officers asked questions of me about inhabitants of said house, took pictures of said house and watched said house.

"On several occasions I was approached and offered a job by some of these plain clothed police which I declined to accept.

"All of this occurred in the Spring and Summer of 1971."

Another insight into the *modus operandi* of the ISD network can be gained from two incidents, both involving attempts to develop evidence for the Detroit case. On April 24, 1970, the Chicago apartment of Martha Real, the cousin of Detroit defendant Mark Real, was searched illegally by Chicago's red squad Weatherman expert, Maurice (Maurie) Dailey. During this search, many items were seized, including Marth Real's personal address book, two sealed addressed letters, and alleged contraband consisting of several firearms. After the material was suppressed by the court as illegally seized, the record of her arrest was also expunged, pursuant to the court's order. The illegally seized items were then turned over to federal authorities and on July 9, 1970, Martha Real was subpoenaed by the Detroit grand jury.

When Miss Real first appeared before the grand jury she invoked her Fifth Amendment privilege in response to all questions. Thereafter, U.S. prosecutor Guy Goodwin and his colleagues successfully applied for an order granting her immunity from prosecution and requiring testimony. Goodwin then questioned Miss Real about the contents of the sealed and addressed letters illegally seized in Chicago, about other physical evidence illegally seized there, and about what was said in a tapped telephone conversation with a defendant in the Detroit case. That indictment recites an overt act which almost certainly was based upon material obtained from the illegal search and wiretap. In addition, by inducing Judge Keith to grant immunity, the prosecution made him an unwitting accomplice to laundering the illegally obtained evidence by compelled grand jury interrogation derived from this tainted source.

Robert Swartwout, an unindicted Detroit co-conspirator also mentioned in connection with an overt act, was in the early part of 1970 detained and beaten in Chicago by Dailey and his partner. He was then told he was under arrest because he was wanted on a charge in Virginia and was taken, without process of any court, to the Chicago airport where a ticket was purchased for him with money taken from his person. When the plane landed at the National Airport in Virginia, Swartwout fully expected to be met by police, but no one appeared and he was never thereafter arrested or charged in Virginia on any warrant. Information that had been gleaned from him as a result of the Chicago beating turned up in the Detroit prosecutor's file.

THE VETERANS IN MIAMI

The attack on Weatherman personnel was triggered by a White House decision that they were a threat; the tactics we have described flowed naturally from that decision. This linkage between the urgency of dealing with a target and the grand jury process appears again in the case of the Vietnam Veterans Against the War. The Administration viewed the veterans' peace movement with special hostility: organized opposition by veterans to policies in Vietnam could, unless curbed, divide and weaken a vital Nixon constituency. The Watergate coverup according to testimony at the trial of the original Watergate defendants last January, attributed the expenditures of large sums of cash and the bugging of the Democratic National Committee to the need to protect the Republican convention from violent demonstrations, specifically by the VVAW. At that trial, Jeb Magruder testified that he had paid money to defendant G. Gordon Liddy, who was to uncover "the plans of potentially troublesome demonstrators around the country and at the Republican National Convention."

James McCord, also convicted at that trial, claimed that his activities were justified "to avoid the greater harm, which in this case would be violence directed to Republican officials," specifically by the VVAW. In his testimony before the Senate Watergate committee, McCord expanded on this charge. He discussed intelligence data furnished him by the Internal Security Division, which was regularly feeding such information to CREEP through Robert Mardian, who had left ISD to work on the Nixon campaign:

"Q. (*Senator Weicker*): Now I would like you to describe for me as best you can types of information, further detail, that you received from the Internal Security Division. . . .

"*A.* (*McCord*): One such report dealt with, as I recall, a funding operation that was reported in which the McGovern committee purportedly funded a so-called barn-storming tour of several members of the Vietnam Veterans Against the War on the West Coast, as I recall, starting from Los Angeles, Calif., and going up the coast. It came concurrently with some other information that that same group was planning violence at the Republican National Convention involving danger or threats to life of individuals."

Although such reports were circulating through the Justice Department before the first Watergate break-in of May 27, 1972, the Internal Security Division did not even convene a grand jury until after the Watergate burglars had been caught and a cover story trumpeting the menace of VVAW had been concocted in the White House.

When the grand jury did meet, it was accorded an unusual amount of publicity. On July 11, while the Democratic convention was in progress and three days before any indictment was handed down, a spokesman for the Department of Justice gave an interview about the case. He described the "pretty bizarre and destructive weapons" that VVAW members had allegedly purchased, leading to headlines like "Bomb Plot Against GOP Probed" (*Atlanta Constitution*, July 19). Such publicity seems to have been floated in order to predispose the public to accept the subsequent cover-up story.

The grand jury and its indictment served the more immediate purpose of supporting the attempt to associate McGovern with more radical opponents of the war. One example is in a piece of GOP campaign literature distributed in Texas, listing "52 Reasons Why McGovern Must Be Defeated":

"32. During the McGovern convention in Miami, plotters were conspiring to blow up the Republican convention. They were arrested and taken to Tallahassee where six have been indicted; but these dynamiters and gun shooters and plotters were glorified with the consent of Mr. McGovern in the convention."

The "glorification" was a resolution passed by the convention on Thursday, July 13, condemning "this blatantly political abuse of the grand jury to intimidate and discredit a group whose opposition to the war has been particularly moving and effective," and describing the grand jury as "an attempt by the Nixon Administration to deny the veterans their most fundamental constitutional rights to express their dissent and opposition to the war in Southeast Asia."

The political motivations for the VVAW grand jury are confirmed by its timing. The VVAW and many other anti-war groups had been planning a series of demonstrations at both of the Miami conventions. But on July 6, three days before the Democratic convention opened, Guy Goodwin sent out the first batch of twenty-three subpoenas. All of those subpoenaed were members of VVAW; almost all were either regional, state or chapter coordinators for the organization. They were subpoenaed from all over the Southern United States on July 6, 7 and 8 to appear in Tallahassee the following Monday, July 10.

The initial defense motions to enjoin the proceeding, on the ground that it was a government effort to interfere with First Amendment rights, were quickly denied by the district court and the Court of Appeals. Most of those subpoenaed were then called before the grand jury, asked preliminary questions (name, address) and eventually excused, after being held under subpoena 500 miles from Miami for the entire week of the Democratic convention. Several were called back for further questioning, and refused to answer after being granted immunity. Four were cited for contempt on Thursday, July 13, without notice of a hearing. That evening the grand jury voted to indict six VVAW members for conspiracy to disrupt the Republican convention, scheduled for late August.

Five days later the Court of Appeals found that the original contempt citations came after a "nonhearing," and remanded the case to the district court for a second contempt hearing, this time with notice, formal reporting of the proceedings and argument—all of which had been disregarded earlier. The hearing was held, and by August 7, the four vets were back in jail for civil contempt, having been denied bail by the district court. They remained imprisoned for a month, until bail was set by Supreme Court Justice Douglas, whose ruling dealt with two issues:

"This application for bail has previously been denied by my brother Powell [after appeal to the Fifth Circuit Court of Appeals failed] and that normally would be enough for my denial. But there has emerged a troublesome question concerning electronic surveillance of petitioners' attorneys on which I think a hearing is required. . . .

'Moreover, I am deeply troubled by the charge that enough evidence had been found to sustain an indictment, making colorable the use of the grand jury for other purposes. . . ."

The six indicted were arraigned in Tallahassee on August 24, the last day of the Republican convention. On October 18, 1972, although none of those subpoenaed had been recalled before the grand jury, a superseding indictment was issued. The subpoenas of those who had been imprisoned for contempt were eventually dropped by the government, after the Court of Appeals reversed their contempt citations due to inadequate government denial of wiretaps of their attorneys. Last September, the trial jury acquitted all of the defendants on all counts. In the course of the trial itself, defense attorneys alleged that they had been bugged. [See "Justice in Gainesville: The Real Conspiracy Exposed" by Fred J. Cook, *The Nation*, October 1.)

CAMDEN AND THE IRISH IN TEXAS

The twin themes of political motivation and oppression are also prominent in the Camden, N.J. grand jury probe. In August 1971, twenty-eight Catholic activists, while engaged in a raid on the local draft board, were arrested by a corps of more than eighty FBI agents. Kept fully apprised for weeks in advance by a provocateur, Robert Hardy, the FBI not only captured the raiders red-handed but had hundreds of photographs of earlier casing activities, dozens of tapes of intercepted walkie-talkie conversations, and boxes of charts and maps confiscated in simultaneous raids on the night of the arrests. Despite this surfeit of evidence, a grand jury investigation was launched after the arrests to obtain intelligence about other "actions" of the Catholic Resistance and perhaps to develop leads for the still unsolved "liberation" of documents from the Media, Pa. bureau office the previous year.

On September 24, 1971, Goodwin's first witnesses, Pat and Bruce Grumbles, appeared before the grand jury. Both refused to answer any questions, citing a variety of constitutional claims. Thereafter, in mid-November, they were granted immunity and later jailed on civil contempt charges for refusing to testify. After the couple had spent more than six months in prison, they sought release in the district court, on the ground that the grand jury had been inactive since their confinement. The government hastily subpoenaed five new witnesses for June 27, 1972, and asserted that the investigation was continuing. Attempts to quash these subpoenas, with objections to the government's use of the grand jury to acquire evidence for the already pending indictment, failed. However, despite the government's assertions, these five were never recalled before the grand jury.

On February 26, after fourteen months in prison, they tried again. The trial of the Camden 28 had begun a few weeks before, but the term of the grand jury was not due to expire until the end of March. It was clear that the Internal Security Division intended to keep the couple in jail until the end of the term, despite the fact that the grand jury investigation had long since ended. The petition for release argued that continued incarceration would simply be punitive. The district court agreed, ruling that a jailing for civil contempt could be cut short when a continued jailing became punitive, rather than an inducement to testify.

Pat and Bruce Grumbles had served fourteen months, the longest contempt jail term served by any witness before an Internal Security grand jury. The previous record was held by the five witnesses in Tucson in 1971, who were confined for seven months. Upon their release at the expiration of the grand jury term, they were immediately re-subpoenaed. At that point they capitulated and testified, commenting that the government apparently had the power to keep them in jail for life. Mr. and Mrs. Grumbles were somewhat luckier; despite government threats, they were never subpoenaed again.

On May 24, the Camden defendants were, like the Gainesville group, acquitted on all charges, despite the fact that they admitted participation in the raid. The jury's verdict reflected the acceptance of two defense claims. The first was that Hardy, the FBI informer, had with the bureau's approval and funding provocatively implemented a raid plan which had already been abandoned by the defendants. That, of course, is a crude secret police tactic. The defense also charged that the bureau, by refusing to intervene until the draft offices were actually entered and the files destroyed, had deliberately escalated into graver substantive crimes a situation which at best would have rated a conspiracy charge.

Hardy testified that the bureau had agreed to make conspiracy arrests during a "dry run" of the raid a week prior to the actual event, and the bureau did deploy eighty agents at the scene when the raid was in this inchoate form. But the appointed time came and went and no arrests were made. Hardy's control agent, Michael Ryman, said in response to Hardy's protests that someone at the "Little White House" in San Clemente had canceled the arrangements. There could only be one reason for this cancellation—the political need for more serious charges. This conclusion is supported by the fact that, even on the night of the raid, the fully prepared arrest party made no move until the action was completed. Although Ryman sat in the courtroom throughout Hardy's testimony, the prosecution did not put him on the stand, a failure which, the judge told the jury, gives rise to an inference that Ryman was unable to contradict Hardy (the "missing witness" rule).

One proceeding, though not directed against the American Left, has finally served to mobilize liberal opinion against the Nixon Administration's abuse of the grand jury. On June 21, 1972, twelve Irish-Americans were summoned from New York to appear before a grand jury in Fort Worth, Tex. The subject of the investigation was to be the purchase and transportation of Japanese-made arms to the Irish Republican Army by the American-based Irish Northern Aid Society.

It appears that the investigation was undertaken by the Administration on the request of the British Government. According to newspaper reports, British soldiers had seized a cache of weapons used by the IRA and determined that the weapons had come from the United States and Japan.

Seven of the subpoenas were either dismissed or suspended indefinitely before the witnesses were called. Four of these were "high officials" in the Irish Northern Aid Society, the organization allegedly under investigation. The remaining five witnesses had no official connection with the society. Within a week of receiving their subpoenas in New York, the five appeared before the grand jury in Texas. They refused to testify and were given immunity protection. The questions put to them related solely to persons and places in the New York City area, Texas being roped in with blunderbuss queries of the sort that began, "Have you ever known any person in New York, Texas or elsewhere . . .?" Given the intensely political nature of the investigation, the predictably outraged response of the Irish community in New York, and the fact that 1972 was a Presidential election year, it seems reasonable to conclude that the grand jury was convened in Fort Worth because it is not an Irish community and thus would generate little or no local protest.

The five witnesses all refused to testify under immunity and were jailed on civil contempt citations on June 20, 1972. On August 3, their contempts were affirmed by the Court of Appeals, and they remained in the county jail in Texas. The refusal to release the five was surprising in light of the government's admission—made for the first time in its appeal brief—that one attorney for the witnesses had been overheard by electronic surveillance, supposedly conducted pursuant to a court order.

The conversation overheard occurred on June 17, four days after the subpoenas were served, two days before the witnesses were to go before the grand jury and while they were consulting with counsel. Without granting oral argument, without even waiting for a brief on the question from the witnesses, the Court of Appeals affirmed the contempts, refusing to order disclosure of the overheard conversation to the witnesses and their lawyers who charged a violation of the attorney-client privilege and right to counsel.

Another grand jury, also dealing with an aspect of the arms shipment investigation, was convened in San Francisco in the fall of 1972. There, too, a witness, Robert K. Meisel, has been jailed on contempt charges since January, with a short period of freedom on bail, granted by Justice Douglas but later denied by the full Court. It is likely that he will remain in jail until the expiration of the jury's eighteen-month term (which may be extended), even though the grand jury is inactive, having heard only one witness since Meisel's incarceration. Meisel has justifiably charged that the life of the grand jury has been artificially prolonged solely to punish him.

Significant political support had been mobilized for the five Fort Worth witnesses. Senator Kennedy filed an *amicus* brief in the Supreme Court, asking that the five be released on bail. Eight New York members of Congress sent a telegram to then Attorney General Kleindienst, urging him to "wind up this apparently trumped-up proceeding promptly and allow these witnesses to return to their homes and families." A meeting was set up between the Representatives and Justice Department attorneys, but was canceled at the last minute by the department. On September 15, 1972, Justice Douglas ordered that bail be set for the "Fort Worth Five" (Justice Powell had denied a similar motion) because of the government's admission of electronic surveillance. The bail conditions set by the district judge were $100,000 bond, confinement within the district except upon written permission, and lifting of passports. The Fifth Circuit ordered the amount reduced. In finally letting the witnesses out on September 25 for $10,000 or less, the trial judge struck a strong nativist note: "All of the witnesses are foreign born. Three of them are still citizens of foreign countries. The thought occurs that they ought to go back to where they came from if they cannot stomach the fundamental principles upon which this country is founded."

On January 22, the Supreme Court refused to review the Court of Appeals decision upholding the contempt citations. With that denial, bail for the five was revoked and they were returned to jail in Texas. They remained there for more than seven months until again released by Justice Douglas because of additional evidence of government violation of the attorney-client privilege by illegal wiretaps. Finally, on November 7, federal Judge Leo Brewster dismissed the contempt charges against the five. However, federal authorities could recall them to testify before another grand jury. If that happened, the case would probably go to the Supreme Court.

Political support for the witnesses was widespread. Senator Kennedy, Bronx Borough President Robert Abrams, and the families of several of the men held a press conference in New York in February, asking for their release from jail. On March 13, Rep. Bella Abzug held a public hearing on a resolution she had introduced demanding that the Justice Department furnish an explanation of why it had subpoenaed the five men.

Senator Kennedy testified at the hearings and issued the strongest condemnation of the Justice Department's misuse of grand juries yet heard from a public official. His testimony aptly summarizes some of the abuses:

"Over the past four years under the present Administration, we have witnessed the birth of a new breed of political animal—the kangaroo grand jury—spawned in a dark corner of the Department of Justice, nourished by an Administration bent on twisting law enforcement to serve its own political ends, a dangerous form of Star Chamber secret inquisition that is trampling the rights of American citizens from coast to coast."

* * * * *

"[There is now an] all too familiar and mushrooming recent pattern of grand jury abuse and secret inquisition by Justice Department officials around the country, a practice raising serious questions in Congress and the nation about the fairness and legality of the department's current operations and about the very security of our fundamental freedoms and basic liberties."

* * * * *

"And so it goes, as the Special Litigation Section of the Internal Security Division plies its trade, with its small army of grand inquisitors barnstorming back and forth across the country, hauling witnesses around behind them, armed with dragnets of subpoenas and immunity grants and contempt citations and prison terms. These tactics are sufficient to terrify even the bravest and most recalcitrant witness, whose only crime may be a deep reluctance to become a government informer of his closest friends or relatives, or an equally deep belief that the nose of the United States Government has no business in the private life and views and political affiliations of its free citizens."

The Fort Worth case and the high visibility of the grand juries in the Watergate and Agnew investigations have finally stimulated a movement for grand jury reform. One series of proposals calls for a change in the Fifth Amendment's guarantee of indictment by grand jury prior to trial. It would allow Congress to specify certain crimes as indictable, and other crimes which could be prosecuted without indictment, on the basis of an accusation of a prosecutor.

But to limit the role of the grand jury in this way, or to abolish it altogether as other critics urge, would be to throw out the baby with the bath water. We need to reinforce and implement this guarantee of the Bill of Rights and restore to grand juries their proper powers by making it more difficult if not impossible for a prosecutor to usurp the power of the grand jury. Legislation to achieve this purpose has been proposed by the Coalition to End Grand Jury Abuse, an alliance of the National Lawyers Guild, American Civil Liberties Union, Unitarian Universalist Association, National Conference of Black Lawyers, National Emergency Civil Liberties Committee and several other groups. The coalition's proposal calls for the grand jury to vote on whether to issue a subpoena; whether to seek immunity for a witness, and whether to ask for a contempt of court finding if the witness refuses to testify despite his immunity.

Perhaps the single most important provision of the coalition-sponsored bill requires the court to obtain the written consent of the witness before an immunity order may be signed. Such a provision would allow the witness to continue to assert the Fifth Amendment privilege against self-incriminating testimony, if he so chose.

The bill would also eliminate narrow (use) immunity and re-establish full transactional immunity in the federal system; limit a contempt sentence if the witness has been jailed for contempt once before for refusing to answer questions about the same subject; require judges to instruct the grand jury fully about its power and rights; and strengthen the rights of witnesses in areas such as secrecy, venue and the right to counsel. And, certainly before drastic surgery is performed on the grand jury system, a thorough investigation of the ISD's role in undermining it is vitally needed. Such an inquiry would necessarily encompass an examination of the Administration's politicization of the Department of Justice and its transformation into a ministry of fear. A probe of this kind would not be confined to the past; recent events have demonstrated that the President continues to demand that the Attorney General shall subordinate all other interests to his political needs.

RETIREMENT OF MR. ANDREW E. RUDDOCK, DIRECTOR, BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH, U.S. CIVIL SERVICE COMMISSION

Mr. FONG. Mr. President, it was with regret that I, as the ranking Republican of the Senate Post Office and Civil Service Committee, received the news yesterday that Mr. Andrew E. Ruddock, Director of the U.S. Civil Service Commission's Bureau of Retirement, Insurance, and Occupational Health, will be retiring at the end of this months after 34 years of outstanding service to his country.

Mr. Ruddock is one of the most outstanding civil servants it has been my pleasure to know during my years of service in the U.S. Senate.

He has appeared before the Senate Committee on Post Office and Civil Service as a primary witness on Federal employee retirement and fringe benefit legislation many times. He has always impressed the committee with his candor, great understanding, and compassion for all Federal employees. He has helped the committee in many ways to establish and perfect the numerous bills and laws dealing with Federal employee retirement, health benefits, and life insurance.

Mr. Ruddock first joined the U.S. Civil Service Commission as an assistant messenger in June 1939 after receiving an ASS degree from Blackburn College, Carlinville, Ill. He subsequently was assigned to more responsible positions within the Commission until in September 1959, he was appointed Director of the Bureau of Retirement and Insurance. In 1969 he was appointed Director of the new Bureau of Retirement, Insurance, and Occupational Health.

His outstanding service in behalf of the Federal civil service was evidenced not only by his steady climb up the career ladder of the U.S. Civil Service Commission, but in 1961 he was awarded the Commissioners' Award for Distinguished Service, which is the highest award that the U.S. Civil Service Commission can bestow on its employees.

It is interesting to note that Mr. Ruddock's career reads like a Horatio Alger story within the Federal service. He rose from an assistant messenger, which is below a GS–1 level, to the rank of manager of a multibillion-dollar fringe benefits program for the largest single work force in America, the Federal Government.

The programs he administers cover: First, the retirement of 2.6 million active employees and 1.3 million former employees and survivors who together receive annuity checks totalling $450 million per month; second, a life insurance program for 2.4 million employees and 700,000 annuitants, with an annual payout $338 million in claims; third, a health insurance program for 2.2 million employees, 700,000 retirees and dependents, totalling approximately 8.7 million persons; fourth, an occupational health service of more than 900 health units including oversight of Alcoholism and Drug Abuse programs.

His personal integrity has been and continue to be above reproach.

We will greatly miss Andy's tact; his grasp of the most technical and complex issues; and, his very reliable counsel.

His complete dedication, loyalty, and positive approach to his responsibilities has been most refreshing.

Although I receive word of Andy Ruddock's retirement with regret, I am confident that all of the members of the Senate Committee on Post Office and Civil Service join me in wishing he and his wife Margaret a very happy future after many years of complete and satisfying service. He has served his nation well and all Federal employes and former employees owe him a most grateful thanks for his many, many years of unfaltering service in their behalf.

THE ENERGY CRISIS—CAPITAL GAINS TAX

Mr. FANNIN. Mr. President, I recently introduced S. 2787, a bill designed to make available vast sums of capital needed to solve the energy crisis, to achieve our environmental goals and to create new, more productive jobs for Americans.

This bill would provide for a graduated capital gains tax based on the holding period of assets and it would increase the deduction for capital losses from $1,000 to $4,000.

In October of this year the New York Times printed an article by Robert B. Anderson, former Secretary of the Treasury, entitled, "Capital Gains? Capital!"

Mr. Anderson recommends we repeal the provision of the 1969 Tax Act that increased capital gains tax rates in excess of 35 percent for individuals. He further states it may be necessary to adopt a graduated scale capital gains tax. Mr. Anderson points out that the limit on the deductibility of capital losses demonstrates the lack of fairness of our tax policy toward capital transfers.

Mr. President, I would like my colleagues to have the benefit of Mr. Anderson's fine article setting forth the reasons this Nation needs to accumulate more capital and how our present tax laws have an adverse effect on this objective. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Capital Gains? Capital!

(By Robert B. Anderson)

Washington.—My work as Secretary of the Treasury in the Eisenhower Cabinet left me with a strong concern over the massive burden that today's national tax policy places on capital accumulation.

More capital is a necessary steppingstone to further advances in our standard of living. The higher American standard of living as compared with other countries is a direct outgrowth of higher levels of capital investment per worker. America's ability to combat inflation at home and to meet foreign competition is in direct proportion to her ability to accumulate larger capital resources.

In the area of expanding employment opportunities we must be equally aware of the demands for more and more capital. Frederick B. Dent, Secretary of Commerce, recently cited the staggering figure that each new industrial job created in this country requires an average capital input of $25,000. Since my tenure at the Treasury Department we have also witnessed an increase in the demand that our economic system provide the answers for such valid national goals as clean water, pure air and better land use. Americans must realize that how we legislate or control our national stock of capital directly affects our standard of living, our jobs, our environment and our ability to fight inflation.

Unwise tax policies that discourage savings and dampen the psychological climate for investment have an adverse effect on our total national well-being and on all segments of our society. There can be no more important national objective than to increase our capital resources. But we see instead under the guise of tax reform renewed attacks on the sources of capital accumulation.

Of particular importance in this regard is the impact of the Federal tax on profits earned on the sale of an investment—the capital gains tax. In the 1969 tax act Congress increased capital gains tax rates to a maximum of 35 per cent for individuals or even more if minimum tax provisions were taken into consideration. Prior to 1969 the rate was at a maximum of 25 per cent. At the same time the corporate capital gains rate was increased by a flat 20 per cent.

These increases strike at the ability of our citizens to accumulate the capital so vital to our national economic productivity and growth. A successful investment must now be of sufficient magnitude to compensate not only for continuing inflation but for a capital gains tax rate that can reach more than 35 per cent. A reluctance of investors to see their capital stock eaten away by the highest over-all capital gains tax in our history slows the pace of capital transfers.

This slower pace of capital transfers may well lessen, not increase, the Federal tax revenues in the long run.

The essential unfairness of this tax penalty is further demonstrated by the fact that tax provisions limit the taxpayer's ability to write off capital losses, thus allowing the Government to participate fully in the investor's success but only partially in the investor's unsuccessful risk capital venture.

At a minimum we should revert to the capital gains rates in effect prior to the 1969 tax act. The Federal Government would under this proposal take no more than 25 per cent of any capital gain made by a successful investor. Hopefully, the remaining 75 per cent would compensate the investor for the ravages of inflation and for the genuine risks taken. It may well prove necessary to make additional reductions in the capital gains tax rate to further stimulate capital formation so vitally needed. Such a policy might be accomplished under a long-range plan with phased reductions over a number of years, but let us take the first essential step now. Let us return to the pre-1969 tax rates on capital gains.

ENERGY CRISIS DEEPENS—SACRIFICES MUST NOT BE DISPROPORTIONATE—CONSTRUCTION INDUSTRY CAN AND SHOULD CONTRIBUTE IN DECISIONMAKING PROCESS

Mr. RANDOLPH. Mr. President, the energy crisis continues to deepen. All projections indicate that the worst is yet to come and in the months ahead there will be very severe shortages of fuels.

The Congress has already passed laws providing the executive branch with tools to respond quickly and effectively to the energy crisis. We are continuing to develop additional statutes which, when enacted, will strengthen our ability to assure the equitable use of available energy supplies and to maintain the strength of our country without necessity for disproportionate sacrifices by any segment of our population.

To assist in implementing new policies and procedures, the executive branch is establishing a number of advisory bodies. This is a proper procedure that is consistent with our democratic society. I believe, however, to be fully effective these advisory bodies should be reflective of the wide scope of our population. They should include representatives of organizations with experience in energy matters.

Mr. President, the American construction industry is the largest single industry in our country and one which is dependent upon continued supplies of fuel. I have, therefore, urged that representatives of this industry—both labor and management—be appointed to the advisory bodies being organized by the Department of Commerce and the Federal Energy Administration.

I ask unanimous consent that a copy of my telegrams on this subject to Secretary of Commerce Frederick B. Dent and Federal Energy Administrator William E. Simon be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

[Telegram]

FREDERICK B. DENT,
Secretary of Commerce,
Washington, D.C.:

It is essential that decisions for fuel allocations be well-founded, drawing on the experience of segments of our economy most affected by the energy shortage. The construction industry is the largest in our country. This single segment of our economy employs millions of workers and its annual business volume is well over ten percent of our gross national product. While the fuel consumption of the construction industry is small in relation to its activity, the industry cannot function without adequate fuel supplies. Therefore, it is vital that both labor and management representatives of the construction industry be included in the membership of the national industrial energy conservation council. Their participation will assist you in grappling with the very difficult problems posed by the energy crisis. These questions are vital to our continued national economic strength and must be resolved with the widest possible involvement of those affected.

Please advise us of your reaction to our request.

Senator JENNINGS RANDOLPH,
Chairman, Committee on Public Works.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HUGHES) laid before the Senate messages from the President of the United States submitting several nominations, which were referred to the Committee on Labor and Public Welfare.

(The nominations received today are printed at the end of Senate proceedings.)

RAIL SERVICES ACT OF 1973

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2767, which the clerk will report.

The second assistant legislative clerk read as follows:

Calendar No. 575 (S. 2767), a bill to authorize and direct the maintenance of adequate and efficient rail services in the Midwest and the Northeast region of the United States, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Time for debate on the bill is limited to 6 hours, to be equally divided between the Senator from Indiana (Mr. HARTKE) and the Senator from Maryland (Mr. BEALL), and 3 additional hours to be under the control of the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Mr. BEALL. Mr. President, I ask unanimous consent that during the debate on this legislation, as well as during the votes, Arthur Pankopf, Jr., John C. Kirtland, David Clanton, and Malcolmb Sterrett, of the Commerce Committee staff, and Joseph Carter, of my staff, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I ask unanimous consent that the following individuals be permitted to have the privilege of the floor: S. L. Sutcliffe, Tom Allison, Paul Cunningham, Arthur Pankopf, Jr., John Kirtland, Mal Sterrett, and Mr. David Clanton.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I shall not object, does the Senator wish to include rollcall votes in his request or to exclude rollcall votes?

Mr. HARTKE. Mr. President, I ask unanimous consent that they be permitted to have the privilege of the floor during the rollcall votes also.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, at this time I ask unanimous consent that the Committee on Commerce be discharged from consideration of H.R. 9142 and that it remain at the desk.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 9142) to restore, support, and maintain modern, efficient rail service in the Northeast region of the United States; to designate a system of essential rail lines in the Northeast region; to provide financial assistance to certain rail carriers; and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Indiana? The Chair hears none, and it is so ordered.

Mr. HARTKE. Mr. President, as the Senate begins debate on S. 2767, the Rail Services Act of 1973, it is important to keep in mind the fact that this legislation represents one of the most significant attempts at industrial reorganization that has ever been attempted in this Nation. A quick glance at a rail map of the midwest and northeast regions graphically illustrates the complexities involved in this reorganization. Is it any wonder that eight railroads in the region are insolvent? How can the thousands of miles of track strung out like spaghetti throughout the region be reorganized so as to produce railroad systems which simultaneously meet the service needs of the people in the region and produce profits for the people who operate the systems?

The Surface Transportation Subcommittee which I chair has been seeking answers to this and related questions for many months. It has been a challenge to define the problem. A solution has been more elusive.

The bill being considered on the floor today (S. 2767) establishes a process designed to solve the problems of rail transportation in the Midwest and Northeast while heading off the development of similar problems in other areas of the country. I cannot assure my colleagues that the bill if passed will provide a final solution, but the bill will begin a reasonable process toward the development of a final solution.

As many Senators know, S. 2767 is said to resemble the House-passed bill (H.R. 9142) of which I have spoken critically. While it is similar to the House bill in its general outlines, it avoids most of the pitfalls of the House-passed bill. H.R. 9142 has several shortcomings:

First, the study and planning phase of the restructuring process is not emphasized in H.R. 9142. Congress, when considering the final system plan, might be without the necessary information to evaluate the plan. Equally as important, H.R. 9142 would allow the planners to design a final system plan from their armchairs rather than getting out on the lines and studying first-hand the problems that confront everyone—the railroads, labor, shippers, and communities;

Second, in attempting to effectuate mandatory transfers of assets in exchange for securities of the new Corporation in the context of a section 77 reorganization proceeding, H.R. 9142 has left the door wide open to the creditors of insolvent railroads who could too easily avoid the legislative reorganization; obviously this would defeat the whole purpose of the bill;

Third, there are significant questions concerning the financial viability of the plan prescribed in the House bill; and

Fourth, finally, I do not think that the problems of abandonment and rail service continuation subsidy are treated adequately.

I am pleased to report that the bill favorably reported out of by the Commerce Committee without a dissenting vote avoids the pitfalls of H.R. 9142. While I am still not convinced that the legislation will produce the optimum solution, I can support the bill as reported as a competent piece of legislation that has a good chance of producing a solution for the Midwest and Northeast rail crisis.

Let me briefly describe for you the extent and nature of the present crisis.

At this time, seven class I railroads, as well as one class II carrier, are in bankruptcy. Class I: Penn Central, Reading, Erie Lackawanna, Lehigh Valley, Central of New Jersey, Boston and Maine, and Ann Arbor. Class II: Lehigh and Hudson River. Their services are not only essential to the prosperity and well-being of the people and industry in the Northeast and Midwest, but they are essential to the well-being and prosperity of the Nation as a whole. Cessation of services on the Penn Central alone would have drastic consequences throughout the United States. For example, it has been predicted that a shutdown of the Penn Central would produce a decrease in the rate of economic activity in the region of 5.2 percent, a decrease in the entire Nation of 4 percent, and a decrease in the GNP for the Nation as a whole of 2.7 percent after the eighth week of such a shutdown.

I am sure that it will be of interest to the Presiding Officer (Mr. BAYH), as it was to me, that a study by the Indiana Department of Commerce predicted that a shutdown of the Penn Central would produce unemployment in that State of 24 percent during the first month. A 60-day shutdown would cause the Indiana industrial economy to suffer a 25-percent reduction in its capacity. In addition, east coast marketing of corn and soybeans, two of Indiana's cash crops, would be hamstrung.

I might point out that, while frequently they talk about this being the northeast railroad system, the second largest State in the system in mileage is Indiana. The first is Pennsylvania.

Forty-two percent of the Nation's population lives in the northeast quadrant, and most of the major centers of the automobile, steel, and machine industries are centered there. The geographic zones served by the bankrupt properties account for more than 50 percent of the Nation's total industrial production.

The entire economy of the United States would suffer drastically if railroads in the Northeast and Midwest shut down operations.

Recent projections of the trustees of the Penn Central Transportation Co. have indicated that Penn Central has a worsening cash crisis; its cash forecast is particularly distressing. In late November 1973, the Interstate Commerce Commission informed the Committee that:

> The continued deterioration of liquid resources as a result of negative cash flows now indicates a cash squeeze developing in the first quarter, 1974, which could *quickly* deteriorate to a full cash crisis.

Cash flow, which is already negative; that is more cash is disbursed than is received, will be made even worse by the need for immediate track repair work so Penn Central can meet minimal Federal Railroad Administration track safety standards, by higher fuel costs and interline payments, and by recent Amtrak legislation, which legislatively specified the manner in which the National Railroad Passenger Corporation is to pay for services performed by Penn Central and other railroads. The immediate cash impact resulting from new FRA safety standards alone is estimated at $620,000 per month, and diesel fuel cost increases are approximated at $28.9 million annually over 1973 levels.

Coal, the largest single commodity handled by the Penn Central, continued its historical downtrend through the first 8 months of 1973, or 9.4 percent from the same period in 1972. The Commission has estimated that, even in light of the current energy crisis, "prospects for any near-term improvement in coal traffic significant to provide financial assistance for the railroad is considered unlikely," although some are more hopeful.

The ability of the Penn Central railroad to maintain operations under reorganization is critically dependent upon its ability to generate sufficient positive cash flow to sustain working capital needs, cover maturing equipment obligations, and pay for essential maintenance and capital expenses. In this most critical area, Penn Central continues to falter. It has been unable to develop a consistent positive cash flow despite court-ordered deferment of payments on debt interest, lease-line rentals, and property taxes, and the railroad's continued deferment of maintenance and capital expenditures. As a result, the Penn Central's liquidity position—the ability to service short-term expenses—continues to wear thinner, with cash balances on the decline and working capital standing at a deficit balance. This continued deterioration of liquid resources as a result of inadequate cash flow increases the prospect for a cash crisis by the first quarter of 1974, which could precipitate a complete shutdown.

The currently developing energy shortage must be seen as part of the background and need for a restructuring and rehabilitation of the railroad system in the Northeast and Midwest. Railroads are almost 4 times as energy efficient as trucks and 60 times as energy efficient as airplanes for purposes of freight carriage. The Federal Government's massive upgrading of the rights-of-way for trucks—through the Interstate Highway System—was not matched by a governmental effort to halt the deterioration of rights-of-way for railroads. Any upgrading or rehabilitation of rail rights-of-way will benefit both freight and passenger service by rail.

Given the current and projected shortage of energy resources, one goal of a rational national transportation policy would be to encourage shipping by the most energy efficient mode to the extent that the quality of service will not be unduly affected. The Senate Commerce Committee, in a staff report on initiatives in energy conservation, estimated that if the modal split for intercity freight traffic in 1985 were hypothetically redistributed as shown in the following table, a savings of 403,000 barrels per day of oil would be achieved:

PROJECTION FOR INTERCITY FREIGHT TRAFFIC PATTERN

[Percentage of total ton-miles]

		1985	
	1970	Current DOT projection	Modified projection to conserve energy
Rail	35.9	31.9	41.2
Truck	15.9	18.9	10.0
Water	28.4	27.1	27.1
Pipeline	19.6	21.4	21.4
Air	.2	.7	.3

By slowing down the rates of growth for air and truck freight traffic (the modified projection still represents almost a tripling of air ton miles and an increase of 14 billion ton miles of truck traffic over 1970 levels), then shifting this traffic to railroads as shown in the above table, 3.2 percent of the overseas crude oil imports needed in 1985 would be saved.

Cessation of rail service in the Northeast and Midwest portions of the United States would have drastic consequences, not only in these regions, but throughout the entire country.

Permit me to describe the way in which S. 2767 proposes to solve the Midwest and Northeast rail crisis. The legislation proposes to achieve this purpose by establishing a nonprofit Government National Railway Association to plan and finance the acquisition, rehabilitation, and modernization of the new system and by establishing a private United Rail Corp. to operate such system. It is further the purpose of the bill to meet the Nation's need for adequate and efficient rail services in all regions and to prevent any recurrence of the Midwest-Northeast railroad collapse in other regions of the Nation by providing loan guarantees which would enable railroads to acquire additional rolling stock, equipment, and facilities and by improving the utilization of existing rolling stock—title V. Loans would also be available to railroads outside the region which are threatened with insolvency in the absence of such loans—section 211. To minimize the economic dislocation that would occur as a consequence of massive abandonments, the bill authorizes rail service continuation subsidies and acquisition and modernization loans to States in the threatened region—sections 402, 403.

The bill is divided into seven titles: Title I contains the table of contents, the findings and purposes of Congress, and the general definitions applicable to the entire bill. Title II established the Government, National Railway Association and the machinery for planning, acquiring, and financing the new rail system for the Midwest and northeast region, including review by Congress and the courts. Title III establishes the for-profit United Rail Corp. to operate the new rail service system, provides for the conveyance of rail properties from the insolvent railroads to this corporation and profitable railroads, and sets forth the procedure for discontinuing and abandoning rail service not included in the new system. Title IV authorizes the Secretary of Transportation to grant rail service continuation subsidies and to help States and local transportation authorities purchase about-to-be-abandoned lines in order to maximize the continuation of local rail services. Title V provides: First, loan guarantees to enable railroads to acquire additional rolling stock, equipment, and facilities, and second incentives to insure better utilization of rolling stock. Title VI authorizes assistance for railroad employees who will lose their jobs or suffer compensation reductions under the reorganization; it also grants railroads certain rights to assure better utilization of railroad employees. Title VII relates the bill to other laws, directs the Secretary of Transportation to monitor and report to Congress on the effectiveness of the association and the corporation in implementing the purpose of the purpose of the bill, and contains certain other general provisions.

The planning and implementation process starts immediately upon the date of enactment of the bill.

Immediately upon enactment the Secretary of Transportation prepares and within 30 days submits "a comprehensive report" containing his conclusions and recommendations with respect to rail services in the region (sec. 204). At the same time, the Interstate Commerce Commission organizes and appoints a director for a special independent office within the ICC, the Rail Emergency Planning Office—section 205. Within 240 days after enactment the Office submits a comprehensive report surveying needs and possibilities for rail services and cost savings in the region and within 300 days it submits its proposal and recommended plan for the new rail system which meets all of the requirements for the final system plan as set forth in the bill—section 206.

Also upon enactment, a completely new entity is established, the Government National Railway Association—or Ginnie Rae—section 201. Ginnie Rae will adopt the final system plan—section 207—which is submitted to Congress for review—section 208; it will finance the implementation of the final system plan through the issuance of obligations—section 210—and the making of loans—section 211—and it will establish, through its executive committee, the new private corporation to operate the new system, the United Rail Corp.—section 301.

The four Government members of the Board of Ginnie Rae—the Secretaries of Transportation and Treasury, the Chairman of the ICC, and the Administrator of the EPA—will incorporate the Association as a nonprofit association and get it started pending the appointment of the other directors by the President, by and with the advice and consent of the Senate. The reports of the Secretary and the Office will be submitted to the Association which will simultaneously be doing its own investigations and studies in conjunction with the Office and the Secretary—section 203. Within 300 days the association must adopt and release a preliminary final system plan—section 207(a). Within 90 days after release of the preliminary system plan, a reorganization court will order a railroad in reorganization in the region to proceed in reorganization under the bill unless it finds: One, that such railroad is capable of income reorganization—if it would be in the public interest—or two, that such reorganization under the bill is not possible on terms which would be fair and equitable—section 207(b). The association, the Secretary, and the Office are all authorized to conduct public hearings on the preliminary system plan during the 60 days following its release. Within 60 additional days—or 420 days after enactment—the President and executive committee of Ginnie Rae will submit to the full Board of Directors the final system plan. Within 30 additional days—or 450 days—the Board must by majority vote of all the directors adopt the final system plan—section 207(c)—and must submit the plan to both Houses of Congress for review—section 208. If either the Senate or the House of Representatives passes a resolution stating that it does not favor the final system plan, it goes back to the association for revision. If neither House disapproves the final system plan within 60 days, it is approved. However, GNRA is not authorized to issue obligations until the Congress approves obligational authority affirmatively by joint resolution. The effective date of the final system plan is the date such financing resolution is approved.

Judicial review of the final system plan is limited to "matters concerning the value of the rail properties to be conveyed under the plan and the value of the consideration to be received for such properties"—section 209(a). Judicial review is to be conducted by a special three-judge district court to be selected by the judicial panel on multidistrict litigation—section 209(b)—and the transferring and conveyancing judgments of the special court are subject to direct appeal to the U.S. Supreme Court—section 303(e).

To keep rail service going in the emergency region pending the development and approval of the final system plan, $85 million is authorized to be appropriated to the Secretary—section 213—in order to provide emergency assistance to the trustees of the railroads in reorganization and the Secretary may direct GNRA—with its approval—to issue up to $150 million in obligations to forestall deterioration of the plant and equipment of the bankrupt railroads pending completion and implementation of the final system plan—section 215.

United Rail Corp.—Uni Rail—will be established within 300 days after enactment as a for-profit corporation with its headquarters in Philadelphia—to guarantee maximum reemployment opportunities for office workers of two of the defunct carriers, the Penn Central and the Reading—section 301. The corporation will operate all of the new rail system, except for those rail properties which the final system plan designates for sale to profitable railroads operating in the region, and which are purchased and operated by those railroads. Within 90 days after the effective date of the final system plan, the Association will deliver a certified copy of the plan and other data to the special court—section 209(c). Within 10 days thereafter, the corporation and the acquiring railroads will deposit with this court the securities of the corporation, obligations of the Association, and compensation from profitable railroads designated in the final system plan—section 303(a)—and the special court must direct transfer of the rail properties to the corporation and to the respective profitable railroads free of any liens or encumbrances—except in the case of secured property, the security interest will thereafter attach to the consideration received and the other assets of the debtor. If the special court finds, following transfer or conveyance, that any transfer or conveyance is not fair and equitable, it can order reallocation of securities or enter a judgment against the corporation or profitable railroad operating in the region so as to make such transfers or conveyances fair and equitable—section 303.

Within 30 days after the effective date of the final system plan, notice is to be given of intent to discontinue rail service on rail properties which are not designated for rail operations in the final system plan and 90 days later, absent local or private intervention, the service may be discontinued—section 304(a). Abandonment may take place 180 days after the effective date of such discontinuance—section 304(b). Such rail service may not be discontinued or abandoned if a shipper, a State, the United States, a local or regional transportation authority, or any other responsible person offers to subsidize continued service, or offers to purchase the properties for continued rail operations—section 304 (c) and (d). Provision is made for Federal assistance in the form of rail service continuation subsidies—section 402—and purchase and modernization loans—section 403.

Annual reports to the Congress are to be submitted by the Association—section 201(d)—and the corporation—section 301(h) and in addition the Secretary of Transportation is directed to report annually "on the effectiveness of the Association and the corporation in implementing the purposes of this act"—section 702.

Although the crisis brought on by the June 21, 1970, filing of a petition in a court of bankruptcy by the Penn Central Transportation Co. affects the midwest and northeast region primarily, the railroad problem is a national one. To date it has only reached disaster proportions in this region.

One of the most intractable aspects of the national railroad problem, one which affects shippers by rail and the consumers of goods and products shipped by rail as well as all of the American railroads, is the extreme shortage of railroad freight cars and other rolling stock. The freight-car shortage has not been, and according to studies, will not be solved by normal commercial financing mechanisms in the absence of Federal financial assistance in the form of guarantees of equipment obligations. The bill establishes an Obligation Guarantee Board in the Department of Transportation and authorizes the Board to provide such guarantees—not to exceed $2 billion—sections 503–506. Since the freight car shortage is caused not only by a shortage of cars but by poor utilization of existing cars, the Secretary of Transportation is directed to establish using appropriations not to exceed $10,000,000 a computerized "national rolling stock information system"—section 507 and to develop a rolling stock utilization index and study—section 508.

In the event of continuing inability on the part of railroads and the private sector to solve the freight car shortage problem, notwithstanding the loan guarantees and the information system, the bill authorizes the problem to be solved directly, following findings by the ICC and the Secretary and an affirmative concurrent resolution of Congress—section 509—through the establishment of a Government corporation, the Railroad Equipment Authority. The Authority, if established, will acquire, maintain, and provide freight cars and other rolling stock, manage this equipment as a pool, and is directed to "employ innovative concepts for equitable distribution and expeditious use of such stock to meet the needs of the national economy and the national defense"—section 510(b). Although the Authority is to be organized by the Federal Government, the bill provides for it to be converted to private ownership—as an equipment supply and management company—"as soon as practicable"—section 513.

The provisions of this bill, while beneficial to the Nation and the consuming public, could have an extremely painful effect on thousands of employees whose jobs could disappear in the process of reorganization and restructuring. Protection is provided for such employees in the form of offers of employment which the corporation must make to every adversely affected employee—section 602—monthly displacement allowances for protected employees deprived of employment or adversely affected with respect to compensation—section 605(b)—moving expenses and other transfer benefits for employees required to change their residence—section 605(g)—and separation allowances to protected employees who resign and sever their employment relationship—section 605(e).

The bill authorizes the appropriation of up to $15,000,000 for the Secretary for the purposes of preparing the reports and performing his other responsibilities. The special office in the Commission is authorized to receive up to $12,500,000. There is authorized to be appropriated up to $26,000,000 for administrative expenses of the association—section 214. In addition, there is authorized to be appropriated $200,000,000 to support continuation of local rail services—section 403; $85,000,000 is authorized to be appropriated for emergency rail assistance prior to the implementation of the final system plan—section 213; $250,000,000 is authorized to be appropriated for labor protection—section 609.

Ginnie Rae is authorized to issue obligations which would be guaranteed by the Federal Government. There would be no cost to the Federal Government if GNRA were able to meet the obligations it issued. If there was a default on any obligations, the Federal Government would be required to pay sums necessary to cover the amount of the default. The limitations on the amount of obligations Ginnie Rae is allowed to issue would determine what the maximum exposure of the Federal Government could be. The bill provides that the architects of the final system plan would establish the recommended limitations on the obligational authority on the theory that the amount of the obligational authority cannot reasonably be determined until the final system plan is known. The limitation which would be approved by Congress with or without modification after the submission of GNRA's recommendation would be binding upon the association.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. HARTKE. I am glad to yield.

Mr. CURTIS. The Senator has referred to a provision dealing with Federal assistance in the form of rail service continuation subsidies and has said that lines can be discontinued, absent local or private intervention. Does that mean that if somebody intervenes, it will not be discontinued?

Mr. HARTKE. The abandonment procedure provided by the bill, is not quite that simple.

Perhaps what the Senator is concerned about is whether or not intervention at that point could disrupt the final system plan. The final system plan, in and of itself, would be adopted by Congress. Then there would be portions which are not in the final system plan, which would then be available to be abandoned. For those outside the plan, the intervention of a State or any other responsible authority, in broad terms, would be permitted, with the provision that the State itself would make the final decision as to whether or not they want to participate in such a continuation of service with the funds which would be provided under the Federal subsidy.

Mr. CURTIS. That leads to my next question: Provision is made for Federal assistance in the form of rail service continuation subsidies?

Mr. HARTKE. Yes.

Mr. CURTIS. Does this imply that after the final plan is adopted, there are certain properties to be discontinued, certain services to be discontinued, but if an intervention is made, the abandonment will not take place and a Federal subsidy will be supplied to keep it going?

Mr. HARTKE. First, the fund for subsidy is put into two categories. Twenty-five percent of it is called a discretionary fund, which is held for utilization by the Department of Transportation; but the major portion of the subsidy, which is 75 percent of that fund, is allocated to the States in proportion to the eligible abandoned lines in their State relative to the total number of eligible lines which are to be abandoned.

In other words, after the final system plan is adopted, certain lines will be available to be abandoned. Each State then will have its relative proportionate share allocated to it in that 75 percent for determination as to whether or not they want to make application to continue those lines. The State, itself, would make the determination. Having made the determination that a line that is eligible for subsidy, it can allocate the funds if it will assume 25 percent of the total cost of the subsidy.

Mr. CURTIS. Is not one purpose of the proposed legislation to strip out all the duplication, to strip out the branch lines, and the other properties, and make fewer miles, without duplication, to do the job? Is that not right?

Mr. HARTKE. That is the stated purpose, according to some sources. It is not my idea.

Mr. CURTIS. Is it the idea of the proposer?

Mr. HARTKE. Let me see if I can try to state it. The basic purpose of the bill is to provide for a rationalized system, one which would be financially viable and which would, at the same time, provide service.

The concern that the Senator is expressing about duplication of service is well founded. There is an obvious intent to eliminate duplication. But I do not think any member of the committee would want to say that our purpose is to strip out certain lines with the idea that we are going to cut back the system. There is a difference between abandonment and rationalization. We are trying to come up with a vital financial system which will provide the service necessary for the Midwest and the Northeast.

If I can anticipate the concern of the Senator, he wants to make sure that we are not trying to duplicate service which, in the best interest of the public, should be abandoned. I think we have done that in the bill.

Mr. CURTIS. Does the bill, or does it not, require a material lessening of the total mileage of the rail service involved?

Mr. HARTKE. I think that that is implicit in the bill, but the bill does not specifically say that the mileage shall be reduced. It authorizes a reduction, and it is anticipated that there will be reduced mileage in the system. The estimates of reduction in mileage varies quite considerably. There has not been at this moment, however, a stated number of miles that will be available, although it is anticipated that there will be a cutback of the total mileage.

On page 29, beginning on line 1, we read:

> Rail properties are suitable if the cost of the required subsidy for such properties per year to the taxpayers is less than the cost of termination of rail service over such prop-

erties measured by increased fuel consumption and operational costs for alternative modes of transportation, the cost to the gross national product in terms of reduced output of goods and services, the cost of relocating or assisting through unemployment, retraining, and welfare benefits to individuals and firms adversely affected thereby, and the cost to the environment measured by damage caused by increased pollution.

Mr. CURTIS. Allegedly, the bill would create a unified system that can operate on its own eventually.

Mr. HARTKE. That is true.

Mr. CURTIS. But what would happen if, in the course of the next 10 years, there is objection to the abandonment? There is a provision already written in the bill that if a line is to be continued, there will be a Federal subsidy.

How do I know that 10 years from now there will be all the lines in Indiana we have now, and that we will go on paying a Federal subsidy for the unprofitable lines annually from then on?

Mr. HARTKE. I think the Senator can be assured that that certainly is not going to occur.

Mr. CURTIS. What is there in the bill that will assure me of that?

Mr. PEARSON. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. PEARSON. In response to the concerns expressed by the Senator from Nebraska, I share the same concerns. I think it is fair to say that not only is the new system designed to cut down substantially on the mileage, on the grounds of the labor involved, so that the system can become a viable proposition; but there are in the bill some steps. The first is that the authorization is for $100 million for 2 years.

The second is that a petition to go back into operation on an abandoned line has to be a petition to the State, the State agencies of the government, and there has to be made a determination as to whether or not the State will put up the 25 percent. Then it goes back to the Secretary of Transportation who likewise has to make a judgment and determination that the Federal subsidy which is limited in amount and terms of years. So it is limited by the State government and the Department of Transportation. This is giving some flexibility to handling situations outside the central core system to alleviate severe economic dislocation.

Going into Buffalo there are 12 lines. It is not economically feasible to keep that sort of competitive system going, which is overlapping and duplicating. This is a flexibility that the committee felt was advisable, and not to be sort of a loophole where you can go right back in there and have the same sort of duplication, overlap, and overemployment figures as before.

This particular proposal really was first instituted in the Midwestern part of the United States. The Senator from Oklahoma (Mr. BELLMON) was sort of the father of this idea. We have sought to have it incorporated in other bills in connection with Kansas, Nebraska, and other parts of the United States.

Mr. CURTIS. As I understand the Senator there is a limitation in time or years that the operating subsidy can be paid. How long is that?

Mr. HARTKE. Two years.

Mr. PEARSON. I understand 2 years and $100 million for each year.

Mr. CURTIS. Two years from when?

Mr. PEARSON. The passage of the bill.

Mr. HARTKE. From the effective date of the final system plan.

Mr. CURTIS. Those are not the same. The passage date of the bill and the effective date of the final system plan are quite aways apart. When does the 2 years run?

Mr. HARTKE. Let me explain the difficulty. What we are going to have here is about 18 months before there will be this final system plan. Until then no one knows what will be in the system and what will be out of the system.

Mr. CURTIS. Yes.

Mr. HARTKE. So we cannot talk about any lines abandoned under the plan until after the final system plan is adopted. After the final system plan is adopted there is a 2-year period in which the subsidy provision will apply.

Mr. CURTIS. Does the Senator limit this to 2 years?

Mr. HARTKE. Yes; by virtue of the authorization of the bill. It does not say Congress at a later date will not come back and extend that period.

What you are faced with is there going to be abandonment under this bill, much as under Amtrak.

Mr. CURTIS. If there is going to be abandonment why prolong the misery for 2 years and pay a subsidy?

Mr. HARTKE. The thing is that you have certain items which the association may finally determine are not necessary for the total system plan; in order to have a total system plan which may be a financially viable operation. There may be a factory on a branch line. Maybe they run 4 to 5 cars a month. If they want to continue that in view of the cost-benefit ratio situation, they may feel it is necessary to do so. There might be 250 people working there in a community and 250 people may be thrown out of work if rail service is cut off.

We are saying if they are not in the total system plan then the State has to come up with its plan for those railroads which are threatened with abandonment, but the local authority or State authority can make application for subsidy of that line.

Mr. CURTIS. What good is a 2-year subsidy for serving an industry that has to have the railroad anyway?

Mr. HARTKE. It gives them at least during that 2-year period—they continue to operate and try to make adjustments to the transportation problems involved. Also, the State may want to come back at a later date and pick up the whole subsidy. Some States are doing that now. They are subsidizing at least on the passenger level what otherwise would be abandoned lines.

Mr. CURTIS. It seems to me it may be sowing seeds for pressures never to abandon anything.

Mr. HARTKE. No, I do not think that is true.

Mr. CURTIS. Because it might be very popular for a Member of Congress to suggest in a bill that the Federal subsidy be not 75 percent but 90 percent, and you do not know what the subsidy will be. Does it have to be in dollars?

Mr. HARTKE. It has to be in dollars, basically. The general provision is that it probably could be—the manager of the bill is not very happy with the other side of the coin. I do not mind telling the Senator that. Historically my concern has been exactly the reverse of what the Senator from Nebraska is speaking. My concern has been there are going to be too many abandoned lines and too little service.

Mr. CURTIS. Would the Senator support a proposal for the continued subsidy, say at 90–10 instead of 75–25?

Mr. HARTKE. I did not hear the Senator.

Mr. CURTIS. Would the Senator support a proposal for 90–10?

Mr. HARTKE. Yes; but the committee would not.

Mr. CURTIS. That is the point that disturbs me. If we are going to go through the trauma of having the Government inject itself into these railroads involving quite an area of the United States and we are honest in our purpose that what we want to end up with is a system that can operate on its own, and it is stripped of all unnecessary obligations, why not make it once and for all? Why have the subsidies after the new system is set in motion? Why promise them ahead of time they do not have to succeed?

Mr. HARTKE. First as a practical matter there are serious problems. In my State on those highways which are non-Federal we have 11,000 bridges which are one lane and limited to 4 tons. In certain areas of my State unless they have a method to provide for those areas they would have no service at all.

All I can say to the Senator is I think the terms of abandonment are much too strict; but I am willing to abide by the decision of the committee and support the bill as it is. I think abandonment under this will be rather severe. I think the outcry will be rather loud from people who will find no method to get back into service, even with the subsidy. My concern would be on the other side of the coin from the Senator from Nebraska, but I did not prevail in the committee. I am willing to go ahead and tell the Senator that I think those people in the committee who have been concerned with providing a viable, economic system which will provide services to the communities and still provide a method of taking care of those that are not a part of the core system have done a remarkable job of providing a competent, not too expensive method of continuing the services.

The Senator asks, would I give them 90–10 financing? I would say yes. I do not see why we should have only a 25-percent subsidy for the railroads when we have a 90-percent subsidy for roads for trucks. But that is not in the bill. This bill provides for 75 percent from the Federal Government and 25 percent from the participating intervenor that is to be funded by the States, under their plans, under the guidance of the Transportation Department.

I tell the Senator that those abandonment procedures are so much better than the present ones that this is a major change of great significance.

Mr. CURTIS. On the question of abandonments, I do not like abandonments. I have protested them. I have gone to the ICC. I have protested them with respect to the railroads. I want them to serve my area, too, but we have wide areas in Nebraska with no rail service. We have wide areas with very limited service. There was no subsidy program to keep them going, which probably was the right thing. I think that perhaps that is one of the reasons why the roads west of Chicago are in better condition and are not asking for a bailout.

If we are to spend all these millions of dollars for study and ICC has a plan and the Secretary has a plan and they get going and say, "This is it; if we reduce the mileage, if we eliminate the duplication, if we do some other things, if we stop trying to have a railroad within a very few miles of every point, then we will have a system that can operate on its own," certainly, if we do all that, we should not, ahead of time, make a request for failure by saying, "We will still give you a subsidy." It seems to me the subsidy should end when the new operation is ready to go.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. BEALL. May I suggest that this is a compromise between the position the Senator from Nebraska is advocating at the present time and the one advocated by the Senator from Indiana a minute ago? We recognize that there are too many lines existing in the northeastern part of the United States. We recognize that for a new corporation to be economically viable, it is necessary that many of those lines be abandoned. At the same time, we recognize that also, in the public interest, for reasons outlined by the Senator from Indiana, where there is no other mode of transportation available, there should be an opportunity for people at the local level to determine whether it is in their interest that the lines be continued. That is why we have the subsidy.

It seems to me it would be unfair if we did not allow them to participate in the continuation of the plan. Further, we recognize that continuation itself imposes a pretty severe financial burden on any subdivision involved. So, for that reason, we provide this 75–25 ratio.

It will be noticed in the next section of the report that we authorize also loans, so that subdivisions may purchase a line that was to be abandoned. Here again, the ratio is 75–25.

So the logical thinking would be that, once they have the opportunity to experiment on an operational subsidy, they can make a determination. If they decide to continue it, they can do it by loan or continue it with a contractual relationship with some railroad.

The point here is that, unlike areas in Nebraska mentioned by the Senator, where there has been no line before——

Mr. CURTIS. Oh, yes, there have been.

Mr. BEALL. Someone here has to determine whether it is economically viable to continue.

Mr. CURTIS. There are many areas in Nebraska where there has been railroad service, or where the track is still there but there is no service. Sizable sums are being asked to be paid by the taxpayers to do what the railroads in these areas should have done years ago, in unification, but they were met with political problems. It seems to me that, at the time of this investment in a unified railroad system that is supposed to do the work, once that point is reached, the time for the subsidy should end.

What areas are there where there is no alterantive means of transportation?

Mr. HARTKE. I would answer the Senator from Nebraska's question by saying a lot of areas.

Mr. CURTIS. Where, for example?

Mr. HARTKE. Perhaps I can help clarify this matter. The association is faced with the problem of coming up with an organization that is financially viable. They come up with a system plan. They say this system plan is financially viable. If we were merely charged with providing necessary services, we might not have to also address this other problem. We are faced with the problem that either we are going to make this corporation financially viable or we are going to put on lines which would not pay their way and should be excluded from the system.

The Senator is saying that the taxpayers are being asked to provide these additional moneys. One thing the taxpayer is not being asked to do is adopt a system plan and a corporation which, on its face, is financially insolvent before we start.

That is the whole thrust of the bill. It is to take a group of bankrupt railroads, put together a system which is financially viable and continue service with the least expense to the taxpayer in the process.

Mr. CURTIS. It seems to me that if this legislation has any purpose, its purpose is to so strip from this program excessive mileage so that it can operate on its own.

Mr. HARTKE. I think that will happen. That will be the end result.

Mr. CURTIS. But the Senator from Nebraska thinks that the offer of a 2-year subsidy to go on, with all the problem operations they have now, is an invitation for political pressure for it to go on always. And if that happens, then we have spent all this effort and planning and money to bring about a system that cannot stand on its own.

Mr. HARTKE. I do not think, under the bill, that will be the result. I think there is no question that the bill is so drafted as far as the central system is concerned, that substantial mileage will be abandoned. I do not think any member of the committee will disagree with that.

Mr. CURTIS. Coming back to my original question of a few minutes ago, what type of area is there where there is no other means of transportation?

Mr. COTTON. Mr. President, on that point, will the Senator yield to me?

Mr. HARTKE. Yes, I will be glad to yield to the distinguished Senator from New Hampshire, who understands this matter.

Mr. COTTON. Mr. President, I would like for the benefit of my friend, the Senator from Nebraska, to show him why this is so necessary in the bill.

It is not possible to have this map printed in the Record. However, here is a map of my own State.

As far as this new corporation is concerned, I have reason to believe, based upon indications from the Department of Transportation, that the only service, as far as the State of New Hampshire is concerned, would be from the Massachusetts line to Manchester, and across the southeastern corner of the State, from Massachusetts into Maine, passing near Portsmouth for a total of some 50 miles.

We now have several rail lines, as shown on this map, up and down the State. Most of those lines are in the process of being abandoned.

The State of Vermont faces the same situation. However, the State of Vermont has already acted. It has purchased track to provide freight service all over the State.

As a matter of fact, at the request of the distinguished senior Senator from Vermont (Mr. Aiken), a provision was agreed to by the committee to enable States, such as Vermont, to continue operations which they have undertaken.

In my own State, this is a sparsely populated area across here. However, it has to have some kind of freight transportation. Our Governor has already recommended, and our legislature is considering, purchasing at least an essential part of this system, which it will then try to get it in operation.

This bill, in title IV, at least leaves that door open.

Perhaps this is an unjust statement, and I do not intend it to be. However, to my mind, the Department of Transportation has exhibited an almost complete indifference to the transportation needs of all areas north of Boston. If it were left to DOT and if we were to depend upon this new corporation, four-fifths of my State would be a desert as far as any kind of rail transportation is concerned. Yet, such transportation is the life blood of the many small industries which we still have, but which we stand to lose without transportation.

Many people in New Hampshire, reading newspaper reports, think this is a good bill and that it will do something for them. If the truth were known, I hate to even vote for the bill. The only thing that the three Northern New England States can hope for, and the only thing that my State can hope for, lies in the subject the Senator is now discussing.

This legislation formerly was called the Northeast rail bill. Now, it is properly called the Northeast and Midwest rail bill. However, as far as the Northeast is concerned, particularly the vast area in northern New England, this bill does not do that much.

Subject to amending certain provisions, I may be compelled to vote for some things in this bill, simply to give my State an opportunity to survive.

Mr. CURTIS. Mr. President, I commend the Senator for his attitude. I do not think he should have any other attitude than to serve his people.

I am not prejudging the legislation at all. However, I raise the question as to what areas are there in which no alternative can be found for transportation.

Mr. HARTKE. Mr. President, let me say to the Senator from Nebraska that we have two problems. We not only have the problem of area but we also have the problem of material. In some cases, material cannot be found. For example, the big generators for a lot of plants that are proposed cannot be moved in any other way than by rail.

We have in the north central area of Indiana a locality which, because of the peculiarities of the area, is not being served by the Federal highway system.

A bridge is limited to 4 tons. Many of them are limited to 1 ton, with practically all trucks being much heavier than that. There is no way to provide service.

I think that the Senator from Nebraska has raised a very valid point.

Mr. CURTIS. Mr. President, does the Senator from Indiana mean that there are areas where highways and bridges to carry freight cannot be built?

Mr. HARTKE. There could be if we were to build new highways. The State has no such plans. The Federal Government has a plan to provide highways to take care of this transportation.

Mr. CURTIS. Mr. President, in the western part of our country, when they did not have rail service, did they not have to build highways to move about?

Mr. HARTKE. They will probably have to in this case. What the Senator from New Hampshire has said is so true. The Senator from New Hampshire has been very helpful in this legislation. However, because of the fact that the bill does not in its thrust deal with anything except perhaps a maximum of 40 miles potential, the only hope for any type of operation which is necessary up there is contained in this provision. And even that is no guarantee.

Mr. CURTIS. Mr. President, I have always fought vigorously the abandonment of rail service. And I expect to continue to do so. However, I am not satisfied with the statement that there are areas of the country where alternative types of transportation cannot be provided.

I also question how much good we do a State or a locality or individual shippers in making plans for the continuation of service by saying, "You can have a subsidy for 2 years, and that is it."

Right now we have in mind going on from now on with that subsidy, or else we are offering them an impossibility.

Mr. HARTKE. I do not think that is true. I think that there are some situations in which there will be efforts made to continue the subsidies beyond that period.

I say that in all fairness. I do not say that on behalf of other members of the committee. I am not too sure they would agree with that. I do not want to mislead anyone. I do not know what is going to happen.

I think that some parts of the country will be faced with an entirely different situation and an entirely different problem than those the Senator from New Hampshire is talking about. The issue will become not the matter of too much subsidy. People will not understand that there is major surgery being done on rail service. I do not think there is going to be enough money to subsidize the projects that all of the people will be yelling for. There will be an outcry for subsidies.

Mr. CURTIS. Mr. President, I am not too sure it is. What I am wondering is whether we are going to have a very expensive piece of surgery built into the system with the encouragement and pressure to continue the status quo with the subsidy.

Mr. HARTKE. Let me say to the Senator from Nebraska—and I think I am one person on the committee who has a right to say this, because of my basic opposition to the approach used in this bill—though I am willing to concede that it has certain merits—the justification for complaint about the cost of this bill, in my judgment, is not in the subsidy provision. If the Senator from Nebraska is worried about the costs, that in my opinion is not the place where the concern should occur.

That cost, at the maximum as of now, is $200 million. That is the maximum under the bill. But I am saying to the Senator from Nebraska the legislation could be more costly than that.

There is a potential in this bill to pay much more if loans are defaulted upon. I hope that will not happen. The cost problems are not really in the subsidy section.

Mr. CURTIS. Where is it?

Mr. HARTKE. It is in the overall cost of upgrading and putting together a financially serviceable operation using guaranteed loans.

How are they going to replace a railroad system which has deteriorated over the years? How are they going to upgrade the track, build new equipment, make the necessary——

Mr. CURTIS. How does the bill provide for that upgrading?

Mr. HARTKE. I beg the Senator's pardon?

Mr. CURTIS. How does the bill provide for getting the funds to put tracks and rights-of-way in condition, and then have usable equipment to roll over them?

Mr. HARTKE. The theory of the bill is that if you rationalize or reorganize this railroad system to a financially viable operation in the first place, then it has a chance to obtain private capital in the long run. I think that is a fair theory: In other words, if you take off the lines which at the present time are not profitable and provide what amounts to a rationalized system, and say, "Now, here we have a system which, on the basis of our projections, can produce money," you will provide an opportunity for the new corporation, then, to obtain cash from private resources.

In addition, this bill does provide for payment of certain labor protection costs which will be paid by the Government and which will also relieve the corporation of financial burdens. In addition, we have provided for some interim financing, which is, I think, relatively small. But in addition to the $85 million we have already voted in the Senate, the bill provides for an advance from the association of an additional $150 million to begin to hold and update the present rail structure to be paid back by the corporation.

In addition, the bill provides for loan authority to be guaranteed by the Federal Government, and that obligational authority ultimately has to be affirmatively approved by the Congress. This is the change we made; it must be affirmatively approved before the system would go into effect.

So, on the question the Senator from Nebraska has raised, where they are ultimately faced with a severe financial drainage, they will have to come back to Congress after the final system plan is in effect.

I can say to the Senator from Nebraska that in my judgment, most of the Congress is not going to be concerned about the $200 million involved in the potential subsidy.

Mr. CURTIS. Well, now, is it a subsidy for replacing the roadbed, the rails, and equipment, or is it a loan program?

Mr. HARTKE. Is it a subsidy for continuing rail service?

Mr. CURTIS. Yes.

Mr. HARTKE. It is not a direct subsidy.

Mr. CURTIS. Is it or is it not?

Mr. HARTKE. There is no direct subsidy. I think it is only fair to say that when you guarantee any type of obligation, that, in effect, involves a subsidy.

Mr. CURTIS. The $85 million the Senator was talking about to start to upgrade these lines so that they can move a train fast enough, is that a loan or a subsidy?

Mr. HARTKE. The $85 million is a grant, pure and simple, just to try to keep the railroads going so we do not have to have midnight sessions to give them $100 million to meet an emergency, as we did the last time.

Mr. CURTIS. What is the $85 million for?

Mr. HARTKE. To pay the bills.

Mr .CURTIS. What kind of bills?

Mr. HARTKE. To pay for the fuel——

Mr. CURTIS. I am not talking about operations costs. What I am talking about is, does this bill provide for the subsidiation of the improvement of the railroad and the equipment?

Mr. HARTKE. No.

Mr. CURTIS. Not at all?

Mr. HARTKE. Well, let me—here: If you had, for example, a piece of track which washed out in a flood, this $85 million is interim financing to keep the railroads going. It is really basically operating cash, and a Federal grant. It is not intended to upgrade the track; it is just to keep the railroad going during the interim period.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. HARTKE. I am glad to yield to the Senator from New Hampshire.

Mr. COTTON. I would like to ask the Senator from Nebraska a question. I think he and I see eye to eye on this situation. The bill, as it now stands, I really fear, may be an entering wedge for nationalization of the railroads. For that, among other reasons, in the committee I voted with reservations to report the bill. I did so since certain of its provisions are needed to save rail transportation in my State. Thus, I am torn between what I have got to do for my State and what I fear.

But, let me say this to the Senator, if you take away this provision which permits the States, with some Federal aid, to take over rail lines that are being abandoned, then just as sure as night follows day, you will have an outcry from the many sections of the country covered by this bill concerning abandonments by the new corporation that is established. Then this bill will be an entering wedge for sure—a camel's head in the tent—for piecemeal nationalization of the railroads.

Mr. HARTKE. I agree with the Senator from New Hampshire 100 percent. I think he has stated it fairly.

Mr. CURTIS. Let me ask this: Was the action taken by the State of Vermont made with the foreknowledge that this legislation would be enacted?

Mr. HARTKE. Quite the contrary.

Mr. CURTIS. I beg the Senator's pardon?

Mr. HARTKE. Quite the contrary. In other words, what they are trying to do is salvage their situation in Vermont and New Hampshire at the present time, and they are having a rough time trying to do it. In fact, it may be a financial impossibility, for them to succeed the way it is now. I would imagine it is financially impossible for them to do it. The problem is that big.

What the Senator from New Hampshire is saying is that all of us have certain reservations about what we are doing here, but all of us know we had better do something, otherwise we will be meeting in midnight sessions again, doing what we did in March or February of last year, hurriedly putting together something to keep the railroads going. I think last time we voted $125 million.

If we do not, as the Senator from New Hampshire says, we will face the potential of nationalization, and we will have insured nationalization.

Mr. CURTIS. If we ended up with a unified system which could pay its way, and confine it to that purpose alone, would that be a step toward nationalization?

Mr. HARTKE. I think it is a question of interpretation. You can interpret it any way you want to. I would say no, some would say yes, some would say absolutely no.

Mr. CURTIS. The Senator spoke of a compromise here. Are there not rather actually two diametrically opposed theories of transportation involved?

Mr. HARTKE. As far as my position is concerned?

Mr. CURTIS. Yes.

Mr. HARTKE. No, I do not think that. It is not a question of compromise in ultimate end goals, but one of procedure. The substantive question is the same. I would not be for this measure if I did not think, on the substantive side at least, it is a proper approach. All I am saying is, I thought we started at the wrong end, but that is over. We are into this thing now. This is a substantive approach, a procedure which provides for the end result of a rationalized core system hopefully, that can be, financially viable and continue to provide service in this area, without the threat of the court liquidating the railroad. The court said that unless the railroads or someone comes up with a system, they will liquidate. This is the point I made earlier in my statement. On liquidation of the railroads, I do not know what we will have, and I do not think anyone else knows either. But I do know liquidation would be a disaster for the people of this counrty.

Mr. CURTIS. I am not a member of the Committee on Commerce, as the Senator well knows, but it appears to be more qualified than I am in transportation matters. The thought does occur to me, however, that we have got two problems. We have got one problem of trying to work out a system where the business is such that if it is properly organized, the number of miles reduced, the duplication reduced, the featherbedding ended, and the other things, it could go it alone, that because the railroads—and they were restrained by Federal laws, I realize—but because they were unable to effectuate such a unification, the Government is stepping in and doing it. We are spending millions of dollars to get it done. At the end of the road we should be entitled at least to hope and expect that we would have a working, paying, taxpaying railroad corporation when we ended up.

Now the areas that fall outside of it, I am not saying they are not entitled to any consideration, not at all, but I doubt whether the two problems should be mixed. The problem of transportation, whether it takes a subsidy, a guaranteed loan, nothing, or going to highways, or what not, those areas that could support a unified efficient railroad operation, that problem should be dealt with separately and not dilute the main object which, I assume, was to devise a railroad system that will work, and by work, I mean pay its way, pay its taxes, provide employment, and serve the public.

Mr. HARTKE. In effect, that is what we are doing.

Mr. CURTIS. But you are putting it all in one bill.

Mr. HARTKE. We have no choice but to do that. We have to make up our minds what we will do about the other lines. So far as the railroad corporation is concerned, the operating corporation, we must insure that it will be in no way be burdened with the additional problem of the abandoned lines. Ultimately, the question is going to come back to Congress within 2 years, with the final plan, even as to the abandoned lines. So, in effect, we have separated them. They may be in the same bill; but the question of abandonment is separate from that of the viability of the corporation itself.

Mr. COTTON. Mr. President, will the Senator from Indiana yield?

Mr. HARTKE. I yield.

Mr. COTTON. May I say to the Senator from Nebraska that we can go a little further. The Senator from New Hampshire has worked long and hard on this problem. Not only are we not combining two elements that do not mix, like oil and water, in attacking the two separate problems in one bill, but the fact is that the provisions of this bill are insurance. May I again say to the Senator that this is what we want to do and what we hope to be able to do. God knows we cannot guarantee it, but we want a new corporation created which will boil down the present service to the essential part of advanced railroad transportation in the Northeast and the Midwest. It therefore must cut off lines without sufficient traffic in order to stop financial losses and retain, as has been very well phrased by other Senators, "the core." We hope and believe that this can be done so that a system is set up that will pay for itself and that will not constitute a constant drain on the Federal Government. Further, we hope to establish a system which will not constitute a push toward nationalizing the railroads.

However, if we do not act by providing some help so that States, localities, or regions that need freight transportation can keep their industries alive, then perhaps the pressure from constituents—I do not know about Nebraska—will mount to add a few miles here and a few miles there so as not to shut out this county, this locality, or this section. It will constitute such a great pressure that we will be setting up a system which, just as the Senator from Nebraska said so well a few minutes ago, cannot pay its way. The minute we do that, we will be marching right down the high road to piecemeal nationalization of the railroads of this country, which we must avoid.

I can understand what the Senator feels concerning the apparent combination of two divergent elements in the bill. However, actually the bill is a proposition which, on the one hand, will pay for itself, and on the other, by way of insurance, do something to prevent the outside pressure from undercutting the whole proceedings. Otherwise, we might be forced to set up something that will not pay for itself, that will be a perpetual drain on the Treasury and that would lead to nationalization of the railroads.

Mr. PEARSON. Mr. President, will the Senator from Indiana yield?

Mr. HARTKE. I yield.

Mr. PEARSON. Mr. President, I have some concern that the colloquy today, justifiably raised by the Senator from Nebraska as it relates to the Northeast railroads, will have the RECORD give the impression that this is a Northeast problem when, as a matter of fact, the abandonment procedure was title II in the Surface Railroad Transportation Act of last year that died on the calendar. It came about and was adopted by the committee, because of a concern that some of us had in the Midwest part of the United States.

For instance, in the State of Kansas—and I cite it because I feel that our two States of Nebraska and Kansas are so similar—about half, or 48 percent, of the lines in the State of Kansas are branch lines.

It was in anticipation of the abandonment of the branch lines that the Senator made reference to, because he protested, and I have been protesting in the past, that the case lies in developing some sort of mechanism to let the branch lines continue.

It so happens that the ICC rule, which is called the 34 carload rule was adopted and was just upheld by the Supreme Court of the United States 2 weeks ago. That would say that if a line did not produce 34 carloads per mile per year, there was a prima facie case for abandonment. That would translate, in the State of Kansas, to the abandonment of a third or a half of all the branch lines. Those figures can be modified and applied by every State in the United States, particularly Kansas and Nebraska.

Our grain people say that with this quickie abandonment proceeding, in about 6 months we will face a very severe problem in the agricultural belt, in Kansas and Nebraska.

The original amendment that the Senator from Maryland and I propose would apply this abandonment procedure to the entire United States. We abandoned that abandonment procedure, because most of us felt that the Northeast problem was now acute, with the problem of getting this bill on the floor and getting it passed, now that the House has acted, and we are so desperate that we really ought to abandon that and go directly to the Northeast.

But this proposal is going to be back, and I hope the Senator will join me in bringing it back in another bill, in another form, so that we can alleviate a situation that is going to have enormous economic effect on the wheat section of the United States.

Mr. CURTIS. I agree with the Senator, and I commend him for his efforts.

The Senator from Nebraska does not buy the 34-carload rule, because it is a matter that cannot be determined with mathematical certainty. Something may originate on a branch line, but it goes a long way on the main line. There will be a good many main lines. How are the costs and benefits going to be divided? It is not subject to adding a column of figures and saying this is it. It is a matter of theory and an element of judgment and that sort of thing.

The Senator from Indiana said they were legislating with a gun at their heads, and that was the courts. I want to say that those west of Chicago have a gun at our heads. If there are no railroads east of Chicago, there is no place to which we can ship.

To the extent that they would make a unified, efficient, workable railroad plan to take the freight on, you have a national problem. To that extent, and that limited extent, in the opinion of the Senator from Nebraska, it is a national problem. But whether or not some community in Indiana is disappointed that this unified system did not go through their town is a local problem. The national problem must be weighed in connection with its effect upon the national commerce, the flow of the necessary supplies to the very section of the country, the needs for national defense.

I happen to be one of the individuals who fought vigorously against the mail service discontinuing the use of the railroads, because that was the beginning of much of the trouble in our area. So we cannot cite the carrying of the mails as one of the national problems; but certainly the flow of commerce from one section to the other and the national defense needs constitute a national problem.

However, not all transportation problems are national problems. There are cities today that have problems because a railroad cannot run into it and do it profitably, when, as a mater of fact, the local taxation so taxes the rail lines running in there that they do not have to know very much mathematics to realize that nobody can run a railroad into that city.

On the one hand, they have said, "Give us a railroad." On the other hand, they have taxed the right-of-way to such an extent that no business genius could ever run a railroad there.

Some of those things are local problems. Part of this is a national problem. But not every transportation problem that we can think of is a national one.

I thank the distinguished Senator for yielding.

Mr. HARTKE. I thank the Senator from Nebraska for being helpful in this matter.

The members of the committee, and I wish to pay special tribute to Senator PEARSON and Senator BEALL, who have worked hard on the question of abandonments. Our difference of opinion on most of these measures is minor, and it may be a matter of procedure.

I thank the Senator from Nebraska for bringing this matter to our attention, and I can assure him that the 34-carload abandonment rule is going to be facing him very soon. He will have his chance, perhaps even on this bill, to vote on some of these amendments.

We have attempted to minimize the cost to the taxpayer and to maximize the posibilities for the success of a viable railroad system in the Northeast and Midwest, one of which will adequately service the people who are served there.

I have some figures for some of this in Nebraska. Nebraska receives over 97 cars a day from the Northeast, more than 1,165,000 tons a year, and it ships over 145 cars a day to the Northeast.

Mr. CURTIS. Will the Senator give me those figures again? We have wondered who has been stealing our cars all the time. [Laughter.]

Mr. HARTKE. Nebraska receives 97 cars from the Northeast and ships out 145 cars a day to the Northeast.

Mr. CURTIS. We cannot make any money that way. We send you 145 cars, you steal them, we never see them again, and you send us 97. That is what, as the distinguished Senator from Kansas said, is causing so much trouble.

Mr. BEALL. I point out that it is a very favorable balance of trade.

Mr. CURTIS. Our railroads operate efficiently. They pay their taxes. We send the cars and you steal them.

Mr. HARTKE. The Senator from Nebraska points to a different problem, which is covered by another portion of the bill. I sympathize with the Senator.

Mr. CURTIS. We cannot ship on sympathy. [Laughter.] We have tried that, and it will not work. Communities have lost great sums of money and individual farmers have lost great sums of money, because they could not ship out the grain.

Mr. COTTON. Mr. President, the distinguished Senator from Maryland (Mr. BEALL) is managing this bill for the Republican side of the committee. As ranking Republican member, I am most grateful to him. He has done a great deal of work on this bill, and has taken the responsibility of leadership. I shall do all I can to help him.

Mr. President, the bill, S. 2767—the proposed "Rail Services Act of 1973"—represents the work product of many long and arduous hours of work by the Committee on Commerce, on which I am privileged to serve as the ranking Republican member. I therefore joined with my distinguished colleagues on the committee in voting to order the bill reported to the Senate. But, Mr. President, I did so expressing reservations, particularly with respect to the employee protection provisions of title VI of S. 2767.

In this connection, I invite the attention of Senators to the additional views of the distinguished Senator from Michigan (Mr. GRIFFIN), the distinguished Senator from Kentucky (Mr. COOK), and the distinguished Senator from Maryland (Mr. BEALL), who is managing the bill for our side of the aisle, in which I joined, setting forth our mutual concerns with respect to the collective bargaining agreement embodied in the provisions of title VI of this bill, and which must be paid for with the money of the American taxpayer. These additional views are to be found on pages 139–141 of the committee report, accompanying S. 2767.

I anticipate that amendments may be offered to these provisions of the bill, and at such time as such amendments are offered, I shall have more to say in this regard.

Mr. President, the purpose of S. 2767 is to salvage the rail services operated by some seven insolvent class I railroads operating in the Midwest and Northeast region, encompassing some 17 States and the District of Columbia, which are threatened with cessation. It would propose replacing such railroads with a new and viable rail services system. The evolution of such a new and viable rail service system will be both a painful and costly. However, notwithstanding my own personal reservations with respect to the expense of such a restructuring, I must acknowledge the necessity for it and the attendant cost, especially when considering the potential adverse economic impact upon the several States in the affected region, if this necessary remedial action is not undertaken in a prompt and timely fashion.

In view of this restructuring, Mr. President, I invite the special attention of Senators to the provisions of title IV of the pending legislation, S. 2767, entitled "Local Rail Services." Our Committee on Commerce, mindful of the necessity for continued rail service in the several affected States, has sought to come with a viable solution to enable the States and local or regional transportation authorities, in cooperation with the special office established by this bill in the Interstate Commerce Commission and the Secretary of Transportation, to obtain Federal assistance for the continuation of local rail service. I believe that this is a most important provision of the bill, and one which should meet with the approval of most Senators.

Mr. President, I should like to conclude my opening remarks by expressing one note of caution to my colleagues in the Senate. That note of caution is that the scope of the pending legislation, S. 2767, should, to the extent practicable, be limited in its application to the several affected States in the region. I was aware, and I am sure my colleagues on the committee were aware, of the desires of many Members of the Senate to undertake consideration of remedial legislation dealing with the railroads on a nationwide basis. However, in light of the brief period of time remaining in this session of Congress and the pressing need for this legislation, I believe that prudence dictates that we in the Senate adhere to my proposed limitation on the scope of applicability of the pending legislation. Mr. President, I believe we can more appropriately address other issues of a national character at a later time when we are under less pressure.

Mr. BEALL. I yield myself 10 minutes.

The State of Maryland today has 1,145 miles of rail trackage. Of this 40 percent is operated by bankrupt carriers—carriers whose ability to continue to provide critically needed rail transportation services is in question.

The situation in Maryland is unfortunately not unlike that in 16 other Northeastern States. For example, Connecticut has 80 percent of its trackage operated by bankrupts; the State of Pennsylvania has 79 percent of its rail trackage operated by bankrupt carriers. In New York the percentage is 86. Similar situations exist in New Jersey, Delaware, Rhode Island, and Massachusetts. These are among the most highly industrialized States of the Nation. Rail transportation services are essential both to the economic health of the Northeast region and the well-being of the entire Nation. Our dependence as a nation on efficient rail transportation cannot be overemphasized in periods of normal economic conditions. This dependence is heightened in a period when we are faced with a concurrent energy crisis. If the people are to enjoy the standard of living to which we have become accustomed, then the maintenance of efficient movement of industrial supplies and products is absolutely imperative.

Today there are 13 railroads serving the 17-State Northeastern region. Seven of these carriers are in bankruptcy. The trustees of the largest—the Penn Central—have filed a plan of reorganization which, in the absence of Federal assistance, calls for the liquidation of Penn Central rail assets and accordingly a cessation of transportation service. The Nation needs that service.

The issues which are responsible for these conditions in the Northeast are complex. They run the gamut from poor productivity to governmental economic regulation and managerial inadequacies. Changing economic conditions, the development of the world's best highway system, Federal support for inland water systems—have all had their impacts. A cycle marked by insufficient earnings, deferred maintenance, and poor plant and equipment, has seriously undermined the ability of rail carriers to efficiently and effectively provide needed services. This undermining has produced a further erosion of the rails' market share, further earnings reductions, and the cycle continues. This legislation comes before us none too soon.

Largely through the hard work and long hours which the senior Senator from Indiana has given to the Northeast railroad crisis we have before us today legislation which addresses this most critical of transportation problems. The Rail Services Act of 1973 will replace the bankrupt corporations with a new and more efficient rail services system. We are not attempting to "bail out" existing corporations. In addition, this particular bill resolves many issues raised by the minority members of the committee which were left unaddressed by other versions. This again, I feel, is a tribute to the conscientious and knowledgable manner in which Senator HARTKE approached this complex transportation issue.

The legislation would establish the Government National Railway Association. This nonprofit association will plan and finance the acquisition, rehabilitation, and modernization of a new railroad system throughout the Northeast. Once the new system is developed, it will be operated by the for-profit United Rail Corporation.

The most essential prerequisite to the development of a successful rail system capable of meeting the region's transportation requirements is a considerable measure of plant "restructuring." That is a nice way of saying excess track and other facilities need to be cut. Railroads grew up in the 18th century and at that time their only real competition was the horse and wagon. Competition between the various railroads was keen and as a result railroads tried to serve the maximum number of communities. Railroads only 30 miles apart could be profitable before other modes of competition. The introduction of the motor vehicle and the increase in the capital requirements of rail lines have changed the situation.

Yet, the bill will afford protection to areas which might otherwise lose service by providing for rail service—continuation subsidies. It will also assist States and local transportation authorities in the purchase of lines threatened with abandonment.

It has been noted that this restructuring process will also reduce the labor requirements of the rail industry in the region. That is true and unusual employee protection conditions are afforded under the bill. For reasons I will outline later, I have serious reservations regarding these provisions and the precedent Congress would be establishing.

Thus, State and local communities and labor are insured against detrimental impacts during the transitional period while the region and the Nation will benefit from an improved rail transportation system.

Here is how it will work. First comes the development of a comprehensive analysis of existing and future rail service needs in the region, and a study of methods of achieving economies and the cost of providing necessary rail services. The Rail Emergency Planning Office, to be created within the Interstate Commerce Commission under this act, will evaluate the report of the Secretary of Transportation on rail service needs in the region. This ICC group—in an initial report to the Congress—will identify the rail services system which it believes will best satisfy the region's requirements.

The reports of the Emergency Rail Planning Office will be an input to the Government National Railway Association in preparation of preliminary and final system plans. The final plan, after ICC review, will be submitted to the Congress. The Congress will then have the choice of approving the plan, and sending it back for modification. In addition, the obligational authority needed to carry out the final system plan must be approved by a joint resolution of Congress, thus requiring congressional approval of the funding to be made available to the association for implementing the plan.

Subsequent to congressional approval, the board of the association will create the for-profit United Rail Corporation which will, in turn, acquire the rail assets needed to provide the services designated under the congressional-approved plan. After the transfer of properties the final system plan will be implemented through a program of consolidation and modernization.

The funding mechanism developed under the bill enables the association to provide assistance to the United Rail Corporation for use in acquiring necessary plant, equipment, and facilities. Additionally, for purposes of implementing the final system plan, the association may also provide financial assistance to Amtrak and other railroads in the region. These loans would be guaranteed by the Government.

Since the Nation must have benefit of rail service during the planning phases, the Secretary of Transportation is authorized to grant the seven bankrupt carriers up to a total of $85 million for use in maintaining a stable level of service.

This provision is needed to prevent erosion of the estates of the bankrupt railroads.

The bill also provides that the Secretary, with the approval of the association, may provide up to $150 million in additional interim assistance to the bankrupt carriers for acquisition, maintenance, and improvement above current levels of both equipment and track. United Rail Corporation, when it takes over, will have an operable railroad system.

Passenger service will be dealt with in the plan—an especially critical item in view of the energy crisis. All essential passenger routes will be maintained. In addition, I am particularly pleased that the Northeast corridor will allow high-speed trains to travel between Washington and Baltimore and will receive such attention. In S. 2767, the Corporation is directed to lease or sell the properties in this corridor necessary to implement the Department of Transportation's recommendations for the Northeast corridor. This will allow development of high-speed ground transportation in the corridor and will also provide needed working capital to the Corporation.

As was stated in the minority views to the earlier Senate version, S. 2188:

> During the hearings on similar legislation concerning the Northeast rail crisis, we expressed concern that the initial Administration plan relied too heavily on economic criteria at the expense of public convenience and necessity.

But, the bill as reported mandates a rail system based solely on public need without consideration of economic viability. We seek a middle ground. Neither the needs of individual users of the system, nor the railroads' profit and loss statements, can be considered the sole test in fashioning a solution to the problems in the Northeast.

Passenger service, of course, is only a portion of the problem addressed by this legislation. Mundane as it may appear, freight service is vital and must be treated as such. Yet while providing vital freight service we are also aware of the social issues and the local needs which deserve full attention in this matter.

The Rail Services Act of 1973 balances the need to develop an efficient rail system in the Northeast against the need to continue rail service of some sort in areas which might be otherwise left out were it not for congressional concern. This is achieved by enabling the Secretary to provide a maximum subsidy of 75 percent of the cost of continued operations on lines in the region that would otherwise be abandoned. The bill provides $100 million for each of the first 2 years once the final system plan is approved by Congress.

Another alternative available to States and local communities to minimize the dislocation resulting from the abandonment of lines is through federally subsidized acquisition. Section 493 provides that the Secretary can direct the association to provide loans not to exceed 75 percent of the purchase and rehabilitation costs of a line which might be otherwise be abandoned.

Thus the legislation would enable a State or local community to continue operation under a subsidy basis for a 2-year period and acquire the line thereafter.

The restructuring necessary to the development of an effective Northeast rail system will naturally cause some labor dislocation. However, the bill provides full protection for those adversely impacted through a formula based on the time employed by a bankrupt carrier and annual wages for a preceding 12-month period.

There are two major provisions of the bill which address railroad problems outside of the Northeast. First, the association can provide loans to railroads outside the region where such assistance is required to prevent financial failure. Second, the bill recognizes the Senate's concern with the freight car problem—already well established with our passage of S. 1149 earlier in this session. That bill is incorporated as title V of the S. 2767.

Although this is a regional bill, it is of critical importance to the Nation as a whole. As it has been pointed out in the committee report:

> A shut-down of the Penn Central would produce a decrease in the rate of economic activity in the region of 5.3%, a decrease in the entire Nation of 4%, and a decrease in the GNP for the Nation as a whole of 2.7% after the eighth week of such a shut-down.

I have selfish concern for my constituents—of course it is essential to my State and its people. For example, it has been estimated that there would be a 40-percent reduction in production at Bethlehem Steel at Sparrows Point facility at the end of the third week. Both the 60- and 160-inch plate mills would close almost immediately resulting in the loss of jobs for 600 to 650 men.

The Port of Baltimore ships exports manufactured throughout the Nation; and similarly brings into the Nation products that are necessary to the health and benefit of people throughout the country. Railroads are essential to development of mineral resources in other parts of my State.

It is also vital that the Eastern Shore farmers have rail service for shipment of their agricultural products. But it is equally essential that your constituents have that rail service in order to bring fertilizer and farm machinery into the area.

In summary, I believe S. 2767 provides a good basis for resolving the Northeastern rail problem. There are differences between the House and Senate bills. These can be addressed in conference committee. The urgent task before this body is to pass the legislation and then make certain constructive changes needed in conference. Time is critical; the Penn Central judge has been patient thus far, but our failure to act in this session could result in a shutdown of service.

The legislation before us today is vital to the national interest.

I strongly recommend its enactment.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. BEALL. I yield.

Mr. CURTIS. Will the Senator tell us what treatment will be given to shareholders of the bankrupt railroads and those who are not bankrupt, whose business will be taken over by the new corporation? What treatment will they receive and what treatment will the creditors of these railroads receive?

Mr. BEALL. The Senator mentioned the nonbankrupt railroads. I would point out that the nonbankrupt railroads are not affected by this legislation. There is no attempt here to take over the operation of profitable railroads.

Mr. CURTIS. Not even if a unification and elimination of duplication is necessary?

Mr. BEALL. The procedure to be followed is to give profitable railroads the opportunity to pick up the services provided.

Mr. CURTIS. I will modify my question to say that under the bill what treatment will the stockholders of the bankrupt railroads receive and what treatment will the creditors receive?

Mr. BEALL. Stockholders of the Penn Central, a bankrupt, will get the residue of the estate. The creditors will get new common stock in the corporation.

Mr. CURTIS. What is that residue?

Mr. BEALL. It is undetermined at this point.

Mr. CURTIS. What is the status of the nonrailroad property that a bankrupt railroad might have?

Mr. BEALL. The nonrailroad property is not included in the corporation. The bankrupt estates retain title to the nonrailroad property.

Mr. CURTIS. Would the creditors get common stock in the new corporation?

Mr. BEALL. The creditors would get common stock in the new corporation.

Mr. CURTIS. Would they get common stock before they exhausted all the remedies against the nonrailroad property as a bankrupt corporation?

Mr. BEALL. I think the Senator had better ask the question again. I am not an attorney. I cannot answer this particular question.

Mr. CURTIS. If the bankrupt companies are to retain their nonrailroad properties as their own, will not that property first be used to pay their creditors, rather than to let the creditors share in the common stock of the new corporation?

Mr. HARTKE. Mr. President, will the Senator from Maryland yield?

Mr. BEALL. I yield.

Mr. HARTKE. In the first place, I think that a little distinction should be made. This matter is in the courts. In the first place, a decision then has to be made as to the corporation acquiring railroad property. The estate itself, I think, under normal procedure, would permit the secured creditors to participate in the stock of the new corporation. Is that the question the Senator is asking?

Mr. CURTIS. Yes; but would they first be entitled or required to levy on the nonrailroad property of the bankrupt corporation?

Mr. HARTKE. No; that is in the court. The court has that property in reorganization.

Mr. CURTIS. The whole business is in court, and the Senator is basing his premise on taking it out of the court.

Mr. HARTKE. No; we are not interfering with the court procedure or with the reorganization. What we are attempting to pull out of the reorganization court and take from the estate is such part of the business as deals with transportation and a reorganized transportation ssytem.

Mr. CURTIS. Perhaps I do not understand this. I hope that before the debate is over, there will be an opportunity to check into the record and clarify it, because I would doubt very much that the Senator has intended to let a bankrupt corporation end up owning its nonrailroad property clear, and its creditors being satisfied by receiving common stock in the new corporation.

Mr. MANSFIELD. Mr. President, will the Senator from Indiana yield?

Mr. HARTKE. I am glad to yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the cloture vote, at approximately 2:10, or thereabouts, if cloture is not invoked at that time, the Senate then return to the present pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I thank the distinguished Senator.

Mr. TAFT. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HARTKE. I yield.

Mr. TAFT. Mr. President, I ask that the privilege of the floor be granted to William Lind, of my staff, during the debate on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, under section 77 of the Bankruptcy Act, the property of the bankrupt railroads is in the estate. What we are doing is taking out the transportation part; we are not dealing with nonrailroad property. That still remains a part of the estate, under the court's jurisdiction. Under the present system, it is anticipated that creditors will acquire payment under due process. They will acquire stock in the new corporation.

Mr. CURTIS. Who determines how much stock they will be entitled to?

Mr. HARTKE. That ultimately will be decided by the court which reviews the recommendation of the association.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. CURTIS. I thank the Senator.

Mr. BEALL. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BEALL. Mr. President, the Senator from Connecticut is about to call up an amendment.

REJUVENATE NORTHEAST RAIL SERVICE

Mr. RIBICOFF. Mr. President, I am pleased to join as a cosponsor of the Rail Service Act of 1973. This bill is desperately needed to save rail freight service in the Northeastern United States.

For years—for too many years—rail service in New England and the other Northeastern States has been deteriorating. Most residents of the area saw the deterioration first in passenger service. The commuters of my own State, Connecticut, have lived with dirty, unheated, unairconditioned, late passenger service for too long. Steps are being made to reverse this trend, but much more remains to be done before they receive the economical, clean, and efficient service they deserve.

Unknown to most Americans, freight service was also getting worse, as freight cars were late, misdirected, and even lost.

The causes are many and varied—inept management, shifting economic conditions, overworked equipment, and thousands of miles of poor track to name a few.

The 1968 merger of the New York Central and Pennsylvania Railroads was hailed as the solution to the Northeast's rail problems. Rather than being the panacea the public was led to expect, the merger only exacerbated the situation. Twenty-eight months after the merger, Penn Central shocked Washington, Wall Street, and the Nation by admitting it was broke.

At the moment the Penn Central and five other class I railroads in the Northeast—the New Jersey Central, Boston and Maine, Lehigh Valley, Reading and Erie Lackawanna—are in bankruptcy proceeding and may cease operations unless Congress acts.

If a cessation of service occurs, it would lead to an economic disaster.

These rail systems handle 45.5 million tons of originating and terminating freight each year—70 percent of that traffic being carried on the Penn Central and Boston and Maine. These two railroads alone service close to 10,000 shippers. The six carriers employ over 120,000 persons—a quarter of the rail employees in the entire Nation. The areas served by the Penn Central include 55 percent of our manufacturing plants and 60 percent of our manufacturing employees. In addition to this private business the Penn Central serves 59 U.S. military installations and is the single largest carrier of mail in the Nation.

These railroads ship an average of 390 cars carrying 19,501 tons of material into my own State of Connecticut each day. The Penn Central accounts for 20 percent of the State's total freight—freight that could not be absorbed by other modes of transportation. The railroad operates 640 miles of track in the State, employes 3,900 men and women, and has an annual payroll of $43 million. In addition, railroad supply industries provide another 1,100 jobs.

Not only would these jobs be lost, the factories and stores dependent on the railroad would also face disaster. Additionally, the current energy shortage would grow worse as coal and other fuels could not be delivered.

Should the Penn Central shut down for 8 weeks, one study has predicted that economic activity in the Northeast would decline at a rate of 5.7 percent. Nationwide the decline would be 4 percent with the gross national product going down at a rate of 2.7 percent.

In a word, Connecticut and the Nation would suffer an instant recession.

The legislation before us today can prevent such economic chaos.

The Rail Services Act would establish a nonprofit Government National Railroad Association to plan and finance a new rail system. A private United Rail Corp. would be established to run the new system.

In the past, the six bankrupt railroads have dropped unprofitable lines regardless of the impact on the local economy. The costs of the economic dislocations resulting from abandonments are, however, often greater than the cost of continuing service on the lines. Thus, this legislation authorizes the Secretary of Transportation to subsidize service on lines that would otherwise be abandoned. This is critically important to Connecticut which has many miles of so-called unprofitable lines that are nonetheless vital to the State's economic stability.

Until now one of the greatest contributing factors in the railroads' decline has been the sorry state of their tracks. Almost 7,000 miles of Penn Central's track do not meet Federal Railroad Administration safety standards. These tracks are often used but the trains must creep along at a slow, unprofitable speed. In order to correct this the bill provides for loan guarantees to enable the railroads to purchase new rolling stock and upgrade their track and roadbeds. If the new rail system we are creating is to succeed, it must have a modern physical plant to meet today's needs.

Simply preserving the status quo through this bill is not enough. We must seize this opportunity to review our transportation priorities and make a firm commitment to expand the role of railroads in our economic life.

We must increase and improve rail passenger commuter and intercity service in our urban corridors. This bill takes a first step by requiring the Secretary of Transportation to implement the Northeast corridor project and begin truly high speed train service between Boston and Washington. We can not rest on that, however. There is no reason why the commuter from Connecticut cannot ride trains as fast and efficient as the ones his counterpart in Europe takes for granted.

We must not only preserve the present freight system but must increase it. At a time of growing energy shortages we must use all of our transportation resources. Railroads are almost four times more energy efficient than trucks and 60 times more than airplanes for purposes of freight carriage.

It has been estimated that if we could raise the railroads' percentage of total ton miles from the current 35.9 percent to 41.2 percent by 1985 we could save 3.2 percent of the crude oil we will need by that date.

We have ignored our railroads for too long. While the Government has been assisting the highway builders and truckers, the airlines and airports, the maritime industry and to some extent mass transit facilities, the railroads have deteriorated.

It is time to restore them to their proper place in our transportation network.

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment offered by Mr. WEICKER is as follows:

On page 21, between lines 5 and 6, insert a new subsection as follows:

(d) Study of Nationalized Rail Passenger Service.—Within 360 days after the date of enactment of this Act, the Secretary shall prepare and submit to Congress a comprehensive report on the feasibility and desirability of nationalization of rail passenger service in the United States. The report shall consider the extent and nature of the Federal commitment to rail passenger service, the long-standing lack of commitment of private railroad companies to rail passenger operations, the current financial crisis of intercity and rail mass transit operations, the potential for coordination of the national rail passenger system, including rail mass transit and subway lines, the implications of including other public transportation modes within the nationalized system, the estimated costs, economic, social, and environmental, of nationalization of rail passenger service, the relative efficiency and transportation effectiveness of nationalization, and such other matters as the Secretary deems relevant.

On page 51, line 21, strike out "$15,000,000" and insert in lieu thereof "$15,250,000".

Mr. HARTKE. Mr. President, I have discussed this matter with the Senator from Connecticut. He has been a strong advocate of trying to improve rail passenger service throughout the United States. I share fully his feelings of apprehension, in addition to anxiety and sometimes of confusion, concerning the field of rail passenger service. We have a situation where it appears that Amtrak cannot at this moment accommodate all the individuals that need to be accommodated.

What the amendment does, in substance, is provide for a study by the Department of Transportation of nationalization of the entire passenger service.

I have discussed the amendment with the ranking minority member of the committee, and we are prepared to accept it.

Mr. WEICKER. Mr. President, I wish to commend both the Senator from Maryland and the Senator from Indiana for being good enough to work with me on this amendment. Basically, they have put a great deal of work, time, and effort into the rail situation, more particularly the crisis which exists in the Northeast, but I think it also behooves us, while we are at the business of constructing a system, to take a look at rail passenger service throughout the United States and also the three types of it, namely, intercity, commuter, and mass transit, related to it.

It is my intention in offering this amendment that the Federal Government for the first time afford serious consideration to the prospects and implications of nationalizing our rail passenger service, the concept of which has been rejected out of hand by many transportation authorities and citizens alike over the years. I believe the only way to initiate rational discussion of the issue is to get some facts on the table. This amendment constitutes a first step toward a rational approach to the subject of nationalization of rail passenger operations.

Mr. HARTKE. Mr. President, I am prepared to accept the amendment.

Mr. BEALL. Mr. President, on behalf of the minority, we are prepared to accept the amendment.

Mr. HARTKE. Mr. President, I yield back my time.

Mr. WEICKER. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Connecticut.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I suggested the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from Indiana wish the time to be equally divided?

Mr. HARTKE. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BEALL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, I have an amendment, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. BEALL. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment offered by Mr. BEALL is as follows:

On page 32, line 14, delete the word "shall" and substitute in lieu thereof "may".

On page 34, line 12, delete the word "to" and substitute in lieu thereof, "which may".

On page 34, lines 12 and 13, delete "or authorizes them to be offered for sale or lease".

On page 34, line 14, delete "of" and substitute in lieu thereof "or".

On page 43, line 6, change the word "shall" to "may".

Mr. BEALL. Mr. President, this is not the amendment on which I have a 2-hour limitation. I repeat, it is not that amendment.

Mr. President, section 206(c)(2), page 32, starting at line 13, says that the final system plan shall designate which rail properties of profitable railroads operating in the region "shall be offered" for sale or lease to the Corporation subject to paragraph (4) of subsection (d) of section 206. Paragraph (4) of subsection (d) on page 34 says that such designation shall terminate 60 days after the effective date of the final system plan unless a binding agreement with respect to such properties has been entered into and concluded.

The report at page 26 states that this means that negotiations must proceed between the parties as to such properties.

I believe the intent of our committee was clearly to give the planners maximum flexibility in determining what should be in the final system plan. However, it was not our intent to require that profitable railroads operating in the region sell or lease to the new Corporation rail properties designated in the final system plan if they do not want to.

Nevertheless, there is considerable ambiguity because of our interchange of the use of the words "shall" and "may." This may lead to an interpretation contrary to our intent.

For example, section 206(B)(2) says which rail properties of profitable railroads operating in region shall be offered for sale or lease to the Corporation, and which rail properties of profitable railroads operating in the region may be offered for sale or lease to other profitable railroads operating in the region. All of this, of course, is subject to paragraphs (3) and (4) of subsection (D) of this section.

Since I believe the Senator from Indiana will agree that the binding agreement referred to in paragraph (4) of subsection (D) is to be voluntary and that there is no intent to force a profitable railroad to sell a line of the railroad to the Corporation if it did not wish to make a sale, I am hopeful that this amendment will be adopted. This will make certain what I believe the committee intended.

Mr. HARTKE. Mr. President, the Senator from Maryland is correct in his assumption. What we intended to do, was to make a technical change in the bill which is quite acceptable. It does improve the bill. We want the parties to sit down and talk to each other about transfers. However, there is no intention to work a hardship or to provide for a method which has historical or legal connotations which might be contrary to the intention of the act.

The amendment is not only satisfactory to me, but it also improves the bill.

Mr. BEALL. Mr. President, I thank the Senator from Indiana.

Mr. President, I yield back the remainder of my time.

Mr. HARTKE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland [putting the question].

The amendment was agreed to.

Mr. HARTKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HARTKE. Mr. President, I withdraw my suggestion of the absence of a quorum.

Mr. MONDALE. Mr. President, in a moment I will offer an amendment to the pending bill, an amendment which is cosponsored by my colleague from Minnesota, Senator HUMPHREY, as well as by Senators SCHWEIKER, CLARK, and HUGHES.

Together with another amendment I am sponsoring with Senator HUMPHREY, it is designed to complement S. 2767 by providing for the formulation and implementation of plans to improve and preserve essential rail services throughout the United States.

First, I should like to commend the distinguished floor manager, the chairman and members of the Senate Commerce Committee for their outstanding work in developing legislation to solve the immediate crisis facing the Northeast rail emergency region and to fashion a viable and fully adequate rail system for the future.

The bankruptcy of eight carriers in the Northeast is the most dramatic illustration of the severe rail problems facing our country. Unfortunately, it is not the only such example.

Although it commands less attention than the threatened shutdown of rail service to our major industrial centers, the steady decline in service to rural America is an equally serious national problem.

I am very pleased that the committee has adopted Senator MAGNUSON's proposal to improve the supply and distribution of railroad rolling stock under title V of this bill. With an average daily shortage of nearly 40,000 freight cars, rural communities are currently suffering from the greatest boxcar crisis in history.

This crisis has resulted in enormous losses to our Nation's farmers, local elevators, and to our entire economy. Through loan guarantees provided by the proposed Obligation Guarantee Board and the computerized "national rolling stock information system," or if necessary, through the establishment of a new Railroad Equipment Authority, the supply and availability of freight cars will be increased to keep pace with demand. This provision is an important step toward better rail services for rural America and it has my full support.

But the abandonment of thousands of miles of track still looms as a major threat to the economic well being of rural America.

Over the past 40 years, the railroad companies have abandoned more than 46,000 miles of tracks, primarily lines serving rural areas. At the same time most of the 2-million miles of non-Federal system rural roads have received little or no attention during the past 30 years. While substantial Federal funding has been invested in the Interstate System, this funding has been directed toward the construction of intercity highways and not toward upgrading rural roads.

Local communities have for many years been deeply concerned by the neglect of rural transportation by the Federal Government, but only in recent years has this neglect reached critical proportions. For during the 1970's we have experienced a major increase in the volume of commodities that must be shipped while the abandonment of essential rail services has sharply accelerated.

Since 1970 the number of abandonment cases brought before the Interstate Commerce Commission has nearly tripled from a rate of about 100 per year in the 1960's to a rate of 250–300 per year. In virtually every case that has been decided since 1970, the ICC has granted the railroad's request for a discontinuance of service, resulting in the loss of more than 7,800 miles of track to rural America.

The statistics on abandonment cases broken down by State clearly demonstrate that the Federal Government has nearly always acceded to the wishes of the railroad companies, regardless of protests voiced by rural communities. The ICC since 1970 has decided 15 abandonment cases affecting the State of Minnesota, involving requests for the discontinuance of service along 395.8 miles of track. The ICC agreed to the abandonment of all 395.8 miles of track. In the State of Iowa 27 cases have been decided since 1970. Out of total requests for the discontinuance of 692.4 miles of track, the ICC has approved the abandonment of 633.2 miles. Out of 26 requests in the State of Indiana involving the proposed abandonment of 266.16 miles of track, the ICC granted the requests for all but 2 miles. In Kansas eight cases have been decided since 1970, involving 172.5 miles; and the State of Kansas was able to save only 7 miles of track.

The November 12 court decision, authorizing the abandonment of any lines where the railroad alleges that fewer than 34 carloads of traffic per mile were transported during the preceding year, adds a new and much more serious dimension to the rural rail crisis.

While the ICC's "34 carload" rule was primarily intended to assist the Penn Central and other bankrupt railroads in the Northeast, it will apply nationwide. Unless Congress otherwise directs, representatives of railroad workers have warned that—

> The countryside of this Nation will be stripped of its railroad service within 12 to 18 months.

We must question the wisdom of this policy from a number of standpoints.

First, as a result of increased foreign demand, bad weather, and other conditions, American consumers have been faced with higher prices and shortages of some food products on their supermarket shelves. Rising world population and increased affluence are likely to result in continued heavy demand for food from the United States.

Farmers have responded to shortages and higher prices with fence to fence planting. All available acreage will be brought into production in 1974. Expanded production in turn creates new demand for transportation, fertilizer, seed, machinery as well as for harvested commodities.

Thus, at the very time when agricultural transportation needs are the highest ever in history, railroad companies are proposing to eliminate thousands of miles of track serving rural communities. Unless the inadequacies of America's rural transportation system are remedied, we will be headed for a transportation nightmare in attempting to move commodities over thousands of miles of abandoned track, neglected roads, and clogged waterways.

Second, our Nation is facing an energy crisis. We have an estimated shortfall of 3.5 million barrels of oil a day, according to administration experts. Railroads can move each ton of freight for one-fourth the fuel required by trucks, a significant savings when projected across the Nation. If we are to achieve independence in energy, and I believe that we must, then we will have to conserve petroleum supplies. And one means to help achieve this objective would be to preserve existing rail services.

Third, in many cases, alternative means of transportation do not exist, are more expensive and less efficient for shippers, or involve public costs which greatly exceed any private gain which might result from an abandonment.

In the State of Minnesota, for example, it would cost an estimated $80 million just to provide adequate highways to serve communities that are threatened with the loss of their railroads. For each of these towns there are no alternatives to rail service. Aside from the tremendous costs to taxpayers, there would also be extremely high added costs to businesses which would have to convert their terminals and receiving facilities to accommodate the increased reliance on motor carriers.

Take the illustration of a 41-mile branch line in Minnesota running between St. Clair and Albert Lea. Five communities are located along this line, and local businessmen are fighting the proposed abandonment. They have shown that it would cost $8 million to upgrade local highways to handle 9-ton trucks if rail service is abandoned. In contrast railroad company officials report an estimated cost of $2 million to improve track and roadbed along the existing line.

Many local businessmen would suffer from the abandonment. For example, the manager and part owner of the Farmers Lumber Co., in Pemberton reported that it would cost $40 more per thousand feet to have lumber hauled by truck rather than by rail.

The railroad argues that it is not profitable for them to run this line. Yet area residents believe that more dependable service would enable the company to show a profit.

The St. Clair branch line serves only five communities in Minnesota. But it is illustrative of the dilemma faced by hundreds of other communities throughout the Nation.

Incredibly, the Federal agencies and departments charged with responsibility for decisions that have a profound impact on America's rail transportation system do not know precisely how rail abandonments have affected rural communities, and they do not know what the impact of future abandonments will be. In its report on S. 2188, the Senate Commerce Committee revealed:

> Time and again the Committee has found disturbing the large gaps in basic information about straightforward questions—gaps shared alike by private and public organizations. For example, despite the decades of experience with economic regulation of the railroads by federal and state agencies, and the huge R&D budgets provided to D.O.T., including both the Office of the Secretary and the Federal Rail Administration, nobody could answer the simple question, "What has

happened in the past to shippers, communities, workers and other affected parties when railroads have been permitted to abandon lines?" And what might happen in the future? Perhaps such questions are not esoteric enough to challenge our officials, but it is a matter of fundamental, rock-bottom importance in any serious attempt to ascertain what the public interest demands in dealing with the problem.

The committee is absolutely right that information on the impact of abandonments ought to be uncovered before we proceed full speed ahead on a course which could result in immense costs to our Nation—a course that would be very difficult, if not impossible, to reverse.

Mr. President, I send amendments to the desk.

The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk proceeded to state the amendments.

Mr. MONDALE. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 27, line 19, on page 28, line 1, on page 28, line 6, on page 28, line 13, on page 67, line 5, on page 67, line 14, on page 67, lines 20–21, on page 68, lines 2–3, on page 68, line 7, and on page 71, line 2 strike out the following words: "in the region".

On page 71, line 18, after "Act" and before the comma insert the following: "or other lawful authority.".

On page 28, line 9, after "Act" and before the semi-colon insert the following: "and those rail properties with respect to which the Commission has issued a certificate of abandonment within 5 years prior to the date of enactment of this Act and which remain in condition for rail service".

On page 29 between lines 11 and 12, insert the following new subsection:

"(g) OTHER STUDIES.—Within 300 days after the effective date of the final system plan, the Office shall, with the assistance of the Secretary and the Association—

"(1) study, evaluate, and hold public hearings on the Secretary's report on essential rail services within the Nation, which is required under section 204(a)(2) of this title, and the Secretary's formulation for a national transportation policy, which is required under section 204(c) of this title. The Office shall solicit, study, and evaluate comments, with respect to the content of such documents and the subject matter thereof, from the same categories of persons and governments listed in subsection (c)(1) of this section but without any geographical limitations; and

"(2) prepare a detailed information survey and detailed and comprehensive studies with respect to States outside the region covering the same material required to be surveyed and studied with respect to the region under subsection (c)(2) of this section, including a comprehensive report to be submitted to the Commission, the Association, the Secretary, and the Congress and to be published in the Federal Register."

On page 70, line 22, strike out "$100,000,000" and insert in lieu thereof "$200,000,000", and after the word "years" insert "including and".

Mr. MONDALE. The amendments which Senator HUMPHREY and I offer today are designed to obtain the answers to these questions and to provide assistance to local communities when the total cost of maintaining rail service is less than the cost of permitting an abandonment.

Our first amendment would expand the duties of the Rail Emergency Planning Office to include an evaluation of the Secretary of Transportation's report on essential rail services within the Nation. The Office would focus on the problem of abandonments and would provide full opportunity for public comment in the preparation of its report. The study would include:

A survey of existing rail services;

An economic and operational study and analysis of present and future rail service needs;

A review of the public costs and benefits of moving traffic by alternative modes of transportation;

A study of methods to achieve economies in rail operations; and

An analysis of the impact of abandonments on railroad workers.

In addition, this amendment would extend local rail services assistance under title IV to include abandoned lines in States outside the rail emergency region. The authorization would be doubled to $200 million per year for each of the 2 years, including and following enactment of the final system plan for the Northeast. Under this section funds would be provided to the States on a 75–25 percent matching basis. Subsidies would be available to continue operations along necessary lines which would otherwise be abandoned. Loans and loan guarantees would also be available to States, local or regional transportation authorities to purchase and restore abandoned rail lines.

In my opinion, this amendment is essential if we intend to continue rail freight services for these communities which need it and will lose it, throughout the country, if we fail to recognize the essential nature of this service, in the light of the food crisis, in the light of the energy crisis, and in the light of the need for having a balanced system of transportation for rural America.

Those of us in the Midwest stand ready to support the committee in its plan for emergency assistance for the Northeast, but what we are trying to do by these amendments is call attention to the fact that we have a similar crisis. It may not receive the same attention as the troubles of the Penn Central Railroad, but without these amendments, which Senator HUMPHREY and I have introduced, thousands of miles of essential rural freight tracks will be lost in a matter of a few months or a few years, and the consequences will be disastrous not only for those of us who live in those areas, but for the country at large.

Mr. President, I hope the committee will accept the amendment.

Mr. HARTKE. Mr. President, this amendment deals with the problem we discussed earlier on the floor of the Senate; that is, whether or not abandonment procedures should be restricted to the northeast and the midwest, or whether they should be extended nationwide. The amendment would make two changes in the bill: First, extension of rail service continuation subsidies nationwide, and second, increasing the funds for such subsidies by $200 million.

In many cases where we have had abandonment of branch lines, it has turned out to be a disaster. Many communities were deprived of essential services. What this amendment does is make a change in title IV of the bill the nature of which I have indicated, and I personally am in favor of the amendment.

I think the Senator from Kansas would have preferred that this position be taken by the committee, but the committee determined otherwise.

I personally am in favor of the amendment.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. BEALL. Mr. President, on behalf of the minority, I am prepared to accept the amendment.

I might point out that the Senator from Kansas (Mr. PEARSON) is very much an advocate of this position and has been for quite a while. I believe, as our colloquy indicated earlier, it is in the national interest to protect those areas where railroads are found within the region, in order to provide opportunities for State and local governments to provide the necessary services. I believe if it is in a region's national interest, it will likewise be in the interest of the whole country to do that sort of thing.

Mr. MONDALE. Mr. President, will the Senator yield at that point?

Mr. BEALL. I yield.

Mr. MONDALE. Under this 34-car rule the court has now affirmed, the State of Kansas could lose up to half of its branch lines. It is a rule that may make sense in the context of the Penn Central Railroad, but in terms of rural transportation, it is an utter disaster. That is why we need this legislation.

Mr. HARTKE. I congratulate both Senators from Minnesota for coming forward with this legislation. I think it is a good proposal, and I am prepared to accept it.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. HUMPHREY. I have a companion amendment which goes with the amendment introduced by my colleague. My amendment would apply a 2-year moratorium that is now related to the Northeast to the rural areas in general. It ties in directly with the amendment of the senior Senator from Minnesota. So may I suggest, if it is agreeable, that we just consider the amendments en bloc, both amendments, since they are complementary?

Mr. HARTKE. Mr. President, if the Senators from Minnesota want to proceed in tandem, it is satisfactory to me but this is a case where, if they act separately, they might fare better than if they act together. We may have reservations concerning a 2-year moratorium at the moment, though I am sympathetic to the approach.

The amendment before us at the present time is the amendment which deals with the extension of the subsidy provisions of the legislation to the entire nation.

Mr. HUMPHREY. That is what my amendment deals with, too.

Mr. MONDALE. The second amendment which Senator HUMPHREY and I propose would establish a 2-year moratorium on the abandonment of rail service outside the rail emergency region. This would provide time for study and for the adoption of State transportation plans and subsidy programs to preserve essential rail services.

But while the study is being carried out and while States prepare plans to continue essential rail service, it would be senseless to proceed with the abandonment of many thousands more miles of track.

The moratorium would simply prevent further rail abandonments until we can assure that the economic, environmental, and social needs of our country are met.

Mr. President, these amendments would benefit rural America. They are fully supported by the National Council of Farmer Cooperatives, the National Farmers Union and the National Farmers Organization.

Representatives of railroad workers have urged the Senate Commerce Committee to approve the moratorium, pending thorough study of rail service needs in rural America. They have expressed their complete agreement with these amendments.

Mr. HARTKE. Mr. President, the moratorium provision is a separate matter which, as I understand, is not before the Senate at this moment. If I am wrong in that, the Senator or the Chair can correct me as to whether both amendments have been offered.

Mr. MONDALE. At this time I have called up only the first amendment. May I suggest the absence of a quorum

Mr. HARTKE. Yes; with the time to be charged equally to both sides.

Mr. MONDALE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, on the first amendment I am prepared to accept it, and I yield back my time.

Mr. MONDALE. Mr. President, I yield back my time.

The PRESIDING OFFICER (Mr. HASKELL). All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Minnesota (Mr. MONDALE).

The amendment was agreed to.

Mr. HUMPHREY. Mr. President—Mr. President——

The PRESIDING OFFICER (Mr. HASKELL). Under the previous order——

Mr. HUMPHREY. Mr. President, I ask unanimous consent for 2 minutes' extension of time——

The PRESIDING OFFICER. Senator, we have——

Mr. HUMPHREY. Mr. President, I ask unanimous consent—and we can change the world under that——

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. HASKELL). Under the previous order, the hour of 1 p.m. having arrived, the Senate will proceed to the consideration of S. 1868, the pending question being to invoke cloture on passage of the bill. The clerk will state the bill by title.

However, the clerk will suspend, for the Chair to recognize the Senator from Minnesota.

RAIL SERVICES ACT OF 1973

Mr. HUMPHREY. Mr. President, I ask unanimous consent for 2 minutes extension of time to take up my amendment No. 819 which I have discussed with the managers of the bill.

The PRESIDING OFFICER. Does the Senator ask that we go back to the bill?

Mr. HUMPHREY. That is correct.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota (Mr. HUMPHREY)? The Chair hears none, and it is so ordered.

AMENDMENT NO. 819

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 66, between lines 6 and 7, insert the following new subsection:

(g) REPORT ON ABANDONMENTS: PARTIAL MORATORIUM.—The Commission shall submit to the Congress within 90 days after the date of enactment of this Act a comprehensive report on the anticipated effect, including the environmental impact, of abandonments in States outside the region. No carrier subject to part I of the Interstate Commerce Act shall abandon, during a period of 730 days after the date of enactment of this Act, all or any portion of a line of railroad (or operation thereof outside the region), the abandonment of which is opposed by any—

(a) passenger, consignor, or consignee served thereby during the 18 months preceding the date of filing of the abandonment application; or

(b) State, county, or municipality served by that line.

TWO-YEAR MORATORIUM ON RAIL ABANDONMENTS

Mr. HUMPHREY. Mr. President, this amendment was jointly authored by my colleague from Minnesota, Senator MONDALE, and I. We are joined by Senators CLARK and SCHWEIKER as cosponsors.

The intent of this amendment is to halt, for a period of 2 years, the abandonment of rail lines and rail services where opposition to such abandonments exists. It applies solely to areas which fall outside of the region covered by the provisions of this legislation.

This is a companion amendment to the previous amendment offered jointly by Senator MONDALE and I today to direct the undertaking of a comprehensive study of the rural transportation crisis. It only makes sense to await the outcome and recommendations of this major study before allowing any action that could irreparably damage our rural rail system.

The abandonment of rail lines and services is not a new problem. In the last 40 years, more than 46,000 miles of railroad trackage has been abandoned, largely in our rural areas. Railroads today are operating with 30,000 fewer locomotives and 840,000 fewer cars than they had in the 1930's. This loss equates to roughly 13 main line railroads, stretching from coast to coast, each located 100 miles apart and each having 2,300 locomotives and 64,000 cars. In fact, total miles of rail in our country actually declined from 236,807 miles in 1938 to 205,202 in 1972.

However, the greatest cause of concern is the rapid rise in abandonments in the last few years and the projected abandonments for the immediate future. Since 1970, the number of abandonment cases brought before the ICC has nearly tripled from a rate of about 100 per year in the 1960's to a rate of from 250 to 300 per year at the present time. In virtually every case that has been decided since 1970, the ICC has granted the railroad's request for a discontinuance of service, resulting in the loss of 7,800 miles of track to rural America. An additional 78,000 miles of rail trackage has reportedly been proposed for abandonment by the Department of Transportation.

We must not allow this wholesale abandonment of our rural rail lines and services to continue to take place. The costs to all Americans is simply too great.

While rural Americans, the farmers, grainhandlers, forest products manufacturers, and other rural businesses, bear the immediate costs of rail abandonments, all Americans pay higher prices for food, fiber and forest products as a direct result.

Last year we saw how valuable the products of our farmlands are to our entire Nation. The billions of surplus dollars earned by agricultural exports provided the margin of resources needed to pay for our rapidly growing energy needs. We also saw just how inadequate our transportation system was in moving these products to market.

To meet growing demand for agricultural products, at home and abroad, our farmers have been urged to bring millions of additional acres of land into production. When I hear this talk about maximizing American agricultural production, I have to seriously wonder how we are going to move what we produce. If the contemplated rail abandonments in rural America are permitted, we will simply be unable to move all this production to market. The result of this failure will be felt in the grocery bill of every family in America. It will also be clearly registered in lost export earnings and increased bankruptcies by farmers and other rural businesses. We cannot let this happen.

Some people may suggest that trucks are the answer to the rural transportation crisis. Perhaps they are, but not for many years, if ever.

First, the rural road system in our country has been virtually ignored for 30 years. Today, less than 15 percent of our rural roads are capable of carrying the heavy loads that would give truck transportation some degree of economic efficiency. Of course, in the springtime, the percentage of our rural roads that could handle heavy trucks would be even less. Our rural road system simply does not provide a viable substitute service for most of the rail lines that would be abandoned. Our roads are not capable of carrying a high frequency of heavy loads.

To this must be added the problem of rural bridges. Our countryside is dotted with bridges built in the 1920's and before. They are only able to carry loads of from 2 to 4 tons. Today, in 1973, there are nearly 8,000 such bridges in Indiana alone and over 7,000 in both Mississippi and in Arkansas. I am sure that if the data was available it would clearly demonstrate that these States are not exceptions.

Therefore, we must face the fact that, at least until something is done to improve our rural roads and bridges, rail transportation will be essential for many areas in our country.

In this time of great concern over the fuel shortage, a word about its relationship to rural rail service is also in order. Two main points can be made.

First, can we afford to strip our rural areas of the most energy efficient mode of transporting bulk commodities at a time when we are moving into a prolonged period of fuel shortage? I think not. The fact that the same ton of wheat or corn can be moved by train with one-fourth to one-seventh the amount of fuel required by a truck needs to be carefully weighed in any calculation of the future transportation system of our country. The implications for the cost of feeding our families is substantial.

Second, in the short run, even if roads and bridges are available in a rural area, which trucker is going to have gas available this year to service new customers created by rail abandonments? At least until these companies have more gas than in prior years, they will have all they can do to service the needs of their present customers.

Mr. President, it is clear to me that we must prevent what could be a catastrophic breakdown in a critical element in our transportation system. A breakdown that would bring with it tremendous costs to our Nation.

We must approve the moratorium on abandonments of rail service which I propose today in this amendment. It will allow the time needed for a detailed examination of the impact of continued rail abandonments on our economy and time to find out how best to provide an adequate and efficient rural transportation system for the benefit of all of our people.

Mr. President, we have discussed this second amendment with the managers of the bill, and they have agreed to take it, as was the amendment of my colleague (Mr. MONDALE). They are complementary.

Mr. HARTKE. Mr. President, the Senator understands correctly. We will accept the amendment. However, the second amendment provides for a moratorium on abandonments for a 2-year period. We are prepared to accept the amendment and, hopefully, to have the opportunity to discuss its implications before we go to conference.

Mr. President, I yield back the remainder of my time.

Mr. HUMPHREY. Mr. President, I yield back the remainder of my time.

Mr. CLARK. Mr. President, I strongly support both of these amendments. At a time when this country has such a shortage of energy, at a time when there is such a need to reorganize and revitalize much of the railroad transportation system, these amendments to S. 2767—and the bill itself—only make common sense.

The first measure establishes a 2-year moratorium on railroad track abandonment where there is opposition to abandonment. Abandonment is a problem in many areas across the country, but it is especially serious in the countryside where the railroads often provide the only link between the farmer and the consumer. In Iowa alone, more than 500 miles of track have been taken out of service in the last 2 years, almost as much was abandoned in the previous 20 years. And more than a thousand additional miles of track, most of it in the less-populated areas of the State, are threatened with the same fate.

A recent court order placed a temporary nationwide freeze on abandonment, which has been under the jurisdiction and control of the Interstate Commerce Commission—which decided abandonment requests by the railroads on a case-by-case basis and which almost always approved the requests to discontinue service. At the very least, this approach has been shortsighted. It has ignored the danger of a chain reaction, a danger very accurately described in a report by the Iowa Office for Planning and Programing:

> A given segment of branch line is abandoned. Although the amount of shipping generated by that line did not turn a profit, it did add to business on the next segment of track . . . Having lost some, or all, of the business from the abandoned segment, the profitability of the next segment may disappear. This second segment then becomes a candidate for abandonment.

In many States, including Iowa, the State commerce commission will intervene in an abandonment proceeding, but because of financial limitations, these commissions often find themselves limited to the same case-by-case approach.

The legislation before the Senate today—with these amendments—would help solve that problem. The second amendment would establish a new and independent Rural Rail Transportation Planning Commission that will be responsible for conducting an analysis of rural transportation needs and potential, not just in one region, but across the country.

It will evaluate rail lines threatened with abandonment in terms of economic, social, and environmental impact. Then, the Commission will report back to the Congress with recommendations on the best way to continue and improve rural rail service. Until that report is available, abandonment cannot be permitted because it could result in irreparable damage to the rural rail system. Without this moratorium, we might find ourselves abandoning what prove to be essential rail lines.

Mr. President, neither these amendments nor the entire bill offer a panacea for the problems of railroad transportation in this country. But they do represent a very sound beginning. And, as we consider the legislation, it is essential to consider the importance and effectiveness of this country's rail system, especially in light of the energy emergency. Railroads can move more passengers and freight for every gallon of fuel than either airplanes or trucks and automobiles, and the railroads do it with far less damage to the environment.

Iowa and every other agricultural State depend on the railroads to move food from the farm to the supermarket. Hopefully, this legislation will enable that process to become more efficient and more effective all cross the country.

It does little good to produce record crops to feed the country—and people in many other countries as well—if we cannot move that harvest from the farm to the market place. To do that, the country needs better railroad transportation, especially in rural areas not more abandonment. This legislation will help supply it.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 819 of the Senator from Minnesota (Mr. HUMPHREY).

The amendment was agreed to.

PRIVILEGE OF THE FLOOR

Mr. JAVITS. Mr. President, I ask unanimous consent to have present on the floor during the consideration of the bill Gene Mittelman and Gary Kline.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The PRESIDING OFFICER. The clerk will now report the bill S. 1868.

The legislative clerk read as follows:

> S. 1868, to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Time for debate will be limited to 1 hour, to be divided and controlled by the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 7 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, the pending legislation, S. 1868, would repeal legislation which was enacted 2 years ago. The legislation enacted 2 years ago said that the President shall not prohibit the importation of a strategic material from a free world country if that same material is being imported from a Communist country.

That legislation passed the Senate. It passed the House of Representatives. It was signed by the President. It was tested in the courts. The position of Congress was sustained.

Mr. President, the main strategic material involved in this matter is metallurgical chromite. It is a very important material. It is essential for many of our military products.

In this connection, the able Senator from Nevada (Mr. Cannon) made a splendid address to the Senate last evening, to which I invite the Senate's attention. It begins on page 40387.

Senator Cannon is an authority on this matter. He is chairman of the Stockpile Subcommittee of the Committee on Armed Services. His speech points out the great importance of chrome as a strategic commodity.

The major chrome-producing countries are three in number; namely, Rhodesia, South Africa, and Russia. The lesser chrome-producing countries are Turkey and Iran.

If we eliminate the importation of chrome from Rhodesia, such as was the situation which prevailed prior to the enactment of the so-called Byrd amendment 2 years ago, then we become dependent on the Soviet Union for the largest part of our chrome imports. We must bear in mind that the United States has no chrome of its own.

I emphasize again that the bulk of the world's chrome is obtained from three sources; namely, Rhodesia, South Africa, and the Soviet Union.

Now if the pending legislation is approved by Congress, it will mean that the United States will be shut off from Rhodesia as a country from which it might import this strategic material.

The Senator from Nevada (Mr. Cannon) in the course of his remarks yesterday said this:

> The United States, to put it plainly, would cut off its nose to spite its face if we refused to buy chrome produced in countries whose policies we do not agree with. We certainly do not refuse to buy from the Soviets in spite of their harassment of the Jews in Russia.

I think that is a significant point, Mr. President.

As a matter of fact, when we take those three countries, Rhodesia, South Africa, and Russia, the majority of the people of this Nation are in disagreement with the governmental policies of all three. The majority of the people of the United States would be in disagreement with the racial policies of Rhodesia. The majority would be in disagreement with the racial policies of South Africa; and I think a majority of American citizens are in disagreement with the Communist dictatorship in Russia.

So, if we are going to cut ourselves off from a vital material because we do not like the form of government, or the policies, rather——

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 3 additional minutes.

Mr. HARRY F. BYRD, JR. Then we are in a position where, if we carry that to its logical conclusion, we would not be able to import chrome in any quantities from any source.

The title of the bill, S. 1868, says that its purpose is to restore the United States to its position as a law-abiding member of the international community.

Well, Mr. President, those who feel that this legislation is necessary to restore the United States to its position as a law-abiding member of the international community take, in my judgment, an extreme view.

The chief sponsor said this in debate in the Senate on Friday. I will read the words of the distinguished Senator from Minnesota (Mr. Humphrey).

> The fact of the matter is that the United Nations Charter as adopted by the Congress of the United States and ratified by the Senate has the same standing as a provision of our Constitution. It is the supreme law of the land.

Of course, I do not agree with that at all. So far as the legality of the Byrd amendment is concerned, I pointed out that it has been sustained by the courts of the United States.

I might add that one of the cosponsors of that amendment 2 years ago, who supports it today, is the distinguished senior Senator from North Carolina (Mr. Ervin). I think most of us will agree that Senator Ervin is perhaps the foremost constitutional lawyer now serving as a Member of the Senate of the United States.

Also, one who testified in behalf of the Byrd amendment 2 years ago was the late Dean Acheson, longtime Secretary of State, one who was generally recognized as an expert on international law, and one who was generally considered, I believe, to have been a constitutional lawyer of unusual eminence.

I ask unanimous consent that the text of the testimony by Secretary Acheson be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Statement of Dean Acheson

I am happy to respond to your request to appear and testify on S. 1404, introduced by Senator Byrd. I heartily approve of this bill and urge the subcommittee to recommend that it be approved. I also agree entirely with every statement made by Senator Byrd in his speech in the Senate on March 30, 1971, introducing this bill. Similarly I am in accord with the remarks of Senator Cannon in the Senate on April 29, 1971, in support of S. 1404.

1. Basis of Sanctions Against Rhodesia.

As stated by Mr. John A. Armitage on June 17, 1971, on behalf of the State Department before a subcommittee of the House Foreign Affairs Committee regarding proposals similar to S. 1404:

"... our policy with regard to Southern Rhodesia is based primarily on that regime's action to deny an effective voice to its African majority in the determination of Rhodesia's future . . . This is abhorrent to this country."

Whether or not this is a correct statement of the purpose or intent of Rhodesia's Unilateral Declaration of Independence or its constitution—and I very much doubt that it is—our Supreme Court's decision in *Baker v. Carr*, requiring universal suffrage, is not incorporated in the U.N. Charter, nor is U.S. national policy to enforce it throughout the world. Furthermore, the fact that a foreign country's domestic policy may be abhorrent to us—as, for instance, that in effect in the Soviet Union—has not heretofore led us to declare economic warfare (which to the State Department is a peaceful means of noting displeasure) against that country.

Mr. Armitage further told the House subcommittee that the United States is committed to continue sanctions by Article 25 of the Charter requiring members "to accept and carry out the decisions of the Security Council in accordance with the present charter." To be sure, in quoting the article, Mr. Armitage conveniently omitted the concluding phrase. This makes quite a difference.

The decisions of the Security Council which members agree in the Charter to carry out are to relate to threats to the peace, breaches of the peace, or acts of aggression. None have occurred. The threats have all been made and aggressions originated by others. Rhodesia has merely declared its independence, though without the acquiescence that Britain has granted to her other once connected territories. Rhodesia has threatened no one.

The complaint is over Rhodesia's internal matters in which the United Nations may not intervene by Article 2, Section 7 of the Charter. The answer to this, says the State Department, is that Great Britain has invited intervention and that Rhodesia is not a state because no other state has recognized it as such. The essence of sovereignty is the will and ability to exercise it. Britain has neither in regard to Rhodesia; and has had neither for five years. I venture to say that nothing could induce the British Government to take over responsibility of conducting the internal affairs of Rhodesia, which it has not had for fifty years, if ever. A state comes into being not by form—external recognition (else how did the first state come into being?)—but by taking over, exercising and maintaining the powers of sovereignty.

The sanctions resolution is a nullity. Furthermore, it is a failure; to continue to comply with it will injure our national interests; and the only way to get rid of it is to disregard it .

2. Sanctions Against Rhodesia Are a Failure.

After five years Mr. Armitage found it necesary to inform the House subcommittee that "the U.N. Sanctions program has not yet achieved its goal." In fact, it has been an abject failure. Many nations have ignored it altogether. In 1969 Rhodesia's rate of growth in gross national product exceeded that of the U.S.A. Last year was much less successful due to a bad crop year—what lawyers call "an act of God"—rather than due to the United Nations. "A reduced rate of growth of Rhodesian economy" in that year principally affected employment of black Rhodesians in primary products.

Economic sanctions cannot be expected to force a people to action which they believe contrary to their vital national interests. During World War II, I represented the State Department in our effort to weaken our enemies in Europe by reducing the dealing of the European neutrals with the Axis Powers. Although we and our allies controlled all overseas imports to Europe, I have written of the net effect of these "sanctions":

"A good cause can be made for the argument that economic measures resulted in stopping important exports for military needs from Sweden to Germany about six months before military measures would have done so. Exports from Switzerland and the Iberian Peninsula probably moved in minimum necessary quantities until military measures stopped them."

The conclusion is inescapable that sanctions against Rhodesia have failed and must continue to fail. The State Department will, I suppose, argue that we are the prisoners of the U.N. Security Council and cannot escape from the serious harm being caused our national security unless and until the Secretary Council repeals sanctions. This it cannot do over the veto of the Soviet Union. The USSR is unlikely to permit the repeal of sanctions, which we have made so profitable to them. Later, perhaps, the Communist Chinese, whom Ping-Pong diplomacy is working hard to get onto the Security Council will have another veto.

3. Sanctions Are Hurting U.S. National Security.

Chromium is a strategic mineral essential to the production of steel. It is not produced in the United States. A few figures will tell the story of our folly. Senator Cannon, Chairman of the Stockpile Subcommittee of the Senate Armed Services Committee, has supplied them.

In 1965 Rhodesia supplied about 40% of our national requirements of metallurgical chromite. The USSR provided slightly less. Turkey and South Africa made up most of the balance. In 1970, with Rhodesia eliminated by sanctions, the USSR supplied about 60% of our needs. The Soviet price increased from $25 per ton to $72 per ton in 1971, a 188% increase. Yet imports fell in 1970 20% short of consumption. Senator Cannon tells of a pending bill, S. 773, to authorize disposal of 1,313,600 short tons of metallurgical grade chromium from the government stockpile, which constitutes 30% of the total stockpile. "Testimony before my subcommittee," said Senator Cannon to the Senate on April 29, 1971, "left it unmistakably clear that, while the amount of the material to be released could be readily absorbed by the consuming industry and might serve the temporary expediency of holding world chrome ore prices in line, the relief would be shortlived."

The State Department has succeeded in putting the country's head in the bear's mouth and seems to think nothing of it. The country, however, is less complacent.

The problem that has been raised, as Senator Cannon puts it, "We cannot continue to ignore."

4. Broader Aspects of the Sanctions Policy.

Even less can we continue to ignore the broader menace threatened by the emotional and reformist intervention we are supporting, not only in Rhodesia but throughout southern Africa. Problems in all of Africa are enormous. Even to mitigate them will require all the help that mature cultures can give and more primitive ones will accept. In southern Africa there are indigenous white societies quite as established and rooted as their black neighbors. They are willing to help the welfare of the areas far more than overseas countries or the United Nations can do. Those who are not such ideological and mathematical democrats as to be willing to weigh heads as well as count them will further this development. To continue meddling in the internal affairs of Rhodesia, South Africa, and Portuguese Angola will not bring the U.N.'s stated goal of international peace and security, but, on the contrary, the bloodiest warfare and insecurity. S. 1404 is a step, and an important one, back to sanity and good will.

Mr. HARRY F. BYRD, JR. Mr. President, I reserve the remainder of my time.

Mr. HUMPHREY. Mr. President, under the legislation we are seeking to repeal, the United States has now been violating international sanctions against Rhodesia for almost 2 years. The experience of these 2 years has shown that the benefits sanctions were to have brought have not materialized—and the cost of violating sanctions has been even greater than many of us predicted 2 years ago.

In light of this experience, we believe that the Senate must determine whether the United States should continue violating sanctions.

This issue has been fully debated over the past several months. There have been numerous statements made on both sides. As chairman of the Africa Subcommittee, I held extensive hearings on this in which all arguments were heard. These hearings have been available for all Senators since the beginning of October. When S. 1868 was finally brought to the floor, we believed that it had been fully discussed; and we were ready to vote immediately.

But those who seek to continue U.S. violation of sanctions held that the issue had not been adequately debated. For 3 weeks now we have been waiting for these Senators to express their views. Wednesday, November 21, time was available for debate. But it was not used. The Monday after Thanksgiving, November 26, an hour and a half was set aside to debate legislation before the Senate. Yet no one appeared to express his views on S. 1868. And the Senate adjourned for that time. During the following 3 weeks, S. 1868 remained unfinished business on a second track. Any Senator who felt that the bill had not been adequately discussed could have had time set aside to express his views. Yet no one asked for such time to be set aside.

Mr. President, we who seek to restore United States sanctions against Rhodesia felt that the issue had been thoroughly debated before the bill was ever brought to the floor. Many statements have been made by both sides. Hearings were held. Concerned Americans who wanted to restore sanctions and concerned Americans who wanted to continue violating them talked with most Senators about the issue. The facts and the arguments were well known by all. For this reason, we felt the Senate was prepared to vote on this issue the day it was brought to the floor.

It was the opposition who felt that such extensive discussion of this issue was necessary that no time limitation—not 4 hours, not 8 hours, not 16 hours—could be placed on discussion of this bill. It was, therefore, the responsibility of the opposition to discuss it—to use the time that was set aside and to arrange for more time to be set aside. Yet this was not done.

It is obvious that what the opposition wants is not an exhaustive discussion of the sanctions or the United Nations Participation Act or the United Nations itself. What the opposition wants is to keep the Senate from voting on S. 1868.

But we believe that the Senate must be allowed to vote on U.S. violation of international sanctions. Over the past 2 years our violation of sanctions has brought none of the benefits that it was to have brought, and the cost of our breaking sanctions has been tremendous.

It was argued that for national security reasons the United States could not be dependent on the Soviet Union for chrome ore. The importation of chrome from Rhodesia would reduce our dependence on the Soviet Union. Yet, since we began violating sanctions against Rhodesia, our reliance on high-quality Russian chrome has not diminished at all. A greater quantity and the same percentage of our chrome imports—around 55 percent—continues to come from the Soviet Union.

The administration has stated several times that there is no strategic need for Rhodesian chrome ore. It has recently been determined that we have an excess of 3 million tons of chrome in our strategic stockpiles. Mr. Peter Flanigan has stated:

> Access to Rhodesian chrome and other minerals is not an important element in U.S. security or our overall foreign economic policy given: (1) the substantial excess of our stockpile resources and (2) the comparatively minor amounts we actually import from Rhodesia.

Deputy Secretary of Defense Clements pointed out that:

> The metallurgical grade chromite needed by industry to support the Defense Department's steel requirement during the first year of a war amounts to 128,300 short tons, or 2.3% of the quantity held in the inventory as of 31 December 1972.

A second benefit of the violation of sanctions was to have been an improvement in the competitive position of the U.S. ferrochrome industry. This industry processes chrome ore for use in the production of stainless steel. It was argued that the U.S. ferrochrome producers could not compete with foreign producers because they did not have Rhodesian chrome.

Yet our violation of sanctions has seriously hurt, not helped, the domestic ferrochrome industry. It is not benefiting from imports of Rhodesian chrome. This year we are importing only 4 percent of our chrome ore from Rhodesia. But we are importing vast and growing quantities of Rhodesian ferrochrome, which is produced more cheaply than American ferrochrome because of the inadequate wages paid black Rhodesian workers who have no right to strike. Three American ferrochrome plants have already announced they will close, citing competition with southern African producers as a major reason. Through the Ferroalloys Association, the rest of the ferrochrome industry has appealed for protection against foreign competition.

So much for the "benefits" our violation of sanctions was to have brought—the reduced dependence on Soviet chrome which has not materialized and the assistance to the American ferrochrome industry which has backfired. Let us now look at what our violation of sanctions has cost us.

First, our violation of international law has seriously damaged our prestige. The United Nations General Assembly has passed five resolutions appealing to the United States to return to full compliance with international sanctions. The distinguished American Bar Association has appealed to Congress to return to compliance with international law.

My distinguished colleague from Virginia holds that the United States is a sovereign state and can therefore violate international law. This is true. But we must realize that in doing this, in breaking our treaty obligations to the United Nations, we are undermining a system of international justice and order on which we depend. If we are to expect other nations to live up to their commitments to the IMF, the GATT, the various treaty agreements they have made with us, then we must be willing to live up to our own commitments to the United Nations and international law.

Second, our violation of sanctions against Rhodesia has seriously damaged our relations with the other African States. These States are deeply committed to ending the racial oppression in the southern part of their continent. At their independence, these nations held the United States in high regard because we were committed to human rights and racial equality. But our image in Africa has been badly tarnished by our refusal to stand with the rest of the international community in defense of human rights and racial equality in southern Africa. It appears to them that our commitment to these principles is merely verbal, that they will have to seek other allies in their struggle for justice and equality in southern Africa.

An article which appeared on the front page of yesterday's Washington Post illustrates the problems our violation of sanctions has caused in our relations with the African States. The article points out that our relations with the largest and wealthiest state in Africa—Nigeria—have deteriorated as a result of our stand on white supremacy in southern Africa. It also points out that our investments in Nigeria will soon be greater than our investments in South Africa, and that today Nigeria is our third largest oil supplier, sending us 700,000 barrels of oil a day.

We must realize that we are going to lose the cooperation of Nigeria and the other African States so rich in natural resources if our commitment to racial equality appears to be a shallow one.

Finally, our violation of international sanctions has damaged the credibility of our commitment to the peaceful resolution of conflict. In imposing sanctions on Rhodesia, the international community sought to pressure the white minority regime into negotiations with representatives of the African community. In breaking sanctions, the United States has given considerable moral support to the minority regime in its attempts to suppress all criticism by force.

The violence in Rhodesia has grown steadily and has spread to neighboring countries. Rhodesian land mines have killed 20 Zambians in the past year. The United States now can either continue its moral support of the white minority in their attempts to rule by force; or it can join with the international community and the Africans in Rhodesia who want a peaceful settlement.

We are now seeking the support of other nations in our policy of negotiating settlements to both current disputes and long-standing differences between nations. We must prove the sincerity of this policy by standing with the other nations in their attempt to bring the conflict in Rhodesia to an early and peaceful close.

Mr. President, in light of the tremendous cost of our policy of violating sanctions against Rhodesia, I believe the Senate must be allowed to vote today to reverse that policy and return to full compliance with international law.

Mr. President, I ask unanimous consent that the letter of July 20, 1973 from the Deputy Secretary of Defense, Mr. Clements be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Deputy Secretary of Defense,
Washington, D.C., July 20, 1973.
Hon. Donald M. Fraser,
Chairman, Subcommittee on International Organizations and Movements, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

Dear Mr. Chairman: This is in response to your letter of June 8, 1973, regarding chrome ore imports from Southern Rhodesia and its relation to our national security requirements for metallurgical grade chromite.

While the Department of Defense is one of the beneficiaries of the stockpile of strategic materials, we do not control the stockpile. The stockpile is operated by the General Services Administration (GSA) (this function was formerly under the Office of Emergency Preparedness but was recently transferred to GSA) and is designed to protect not only the industrial needs of the Department of Defense during an emergency, but those of the nation, as well.

Metallurgical grade chromite is consumed by industry in the production of alloy and stainless steels after it is first refined into alloying additives, such as high carbon ferrochromium. The quantities of these additives consumed are controlled by specifications for the steel mill products. The DoD does not directly consume chrome ore or the alloying materials. Instead, we look to the steel-making industry to obtain the raw materials needed to produce our steel requirements.

When requested, in connection with stockpiling activities, we provide information regarding our estimated emergency requirements for materials. Because it is so difficult to determine the ferroalloy content of such a broad variety of steel mill products, we provide our estimate of the alloy and stainless steel tonnages which we expect to use during an emergency. GSA obtains the total national ferroalloy usage from industry and through a factoring process arrives at the approximate military demand.

There are some uses of chromium metals, however, that we are able to estimate, for example, special heat resistant components of aircraft engines. These comparatively small direct DoD requirements are reported and are included in the total requirement calculation for stockpile planning purposes. The following direct DoD requirement for chromium based on an assumed three year war were reported during the periods shown:

1963—1,535 short tons; 1968—1,350 short tons; and 1973—1,696 short tons.

According to an estimate prepared in 1973 by OEP, [the metallurgical grade chromite needed by industry to support the Defense Department's steel requirement during the first year of a war amounts to 128,300 short tons, or 2.3% of the quantity held in the inventory as of 31 December 1972.] Thus, it can be seen that the Defense requirement for metallurgical grade chromite is relatively small, and that the bulk of the stockpile inventory would be used by the non-defense industry in the event of an emergency.

I hope the above will assist you in your review of the chrome ore import situation.

Sincerely,

W. P. Clements, Jr.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a letter from the Secretary of State to the chairman of the House Foreign Affairs Committee relating to our Government's position on the Byrd amendment be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Secretary of State,
Washington, D.C., October 3, 1973.
Hon. Charles C. Diggs, Jr.,
Chairman, Subcommittee on Africa, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

Dear Mr. Chairman: Thank you for your letter of October 1, also signed by Congressman Fraser, concerning H.R. 8005, a bill to restore the United States to full adherence to the United Nations' Rhodesian sanctions program.

I am pleased with this occasion to reiterate the assurance I gave in my confirmation hearings before the Senate Foreign Relations Committee September 7, that the Administration supports efforts in Congress to repeal that portion of the Military Procurement Act of 1971 commonly known as the Byrd Provision. Moreover, in a letter of August 2 to Chairman Morgan, Assistant Secretary of State for Congressional Relations Marshall Wright expressed the Administration's strong backing for the enactment of S. 1868/H.R. 8005. You may be interested to know that various agencies within the government were given the opportunity to review that letter prior to its dispatch, and that I had personally approved it as Assistant to the President for National Security Affairs. I am convinced now, as I was then, that the Byrd provision is not essential to our national security, brings us no real economic advantage, and is detrimental to the conduct of foreign relations.

You are, of course, familiar with the evidence that imports of Rhodesian chrome and nickel are no longer necessary for strategic reasons and that a request is currently before the Congress to eliminate our stockpile of nickel and to reduce greatly our stockpile of metallurgical grade chromite. It is also pertinent to note that contrary to the intention of the Byrd Provision, the percentage of imports of chrome from the USSR actually increased during the last two years.

On the other hand, the Byrd Provision has impaired our ability to obtain the understanding and support of many countries including such important African nations as Nigeria, a significant source of petroleum and a country where we have investments of nearly $1 billion.

Thus, I believe the enactment of H.R. 8005 is in the interest of the nation, and accordingly I support your efforts to secure its passage. Thank you for this opportunity to restate my views. I am sending a reply to Congressman Fraser.

Sincerely,

Henry A. Kissinger.

Mr. HUMPHREY. I yield myself such time as may be necessary.

Mr. President, one of the points that has been emphasized again and again by the distinguished Senator from Virginia is that the United Nations Participation Act really has no binding effect upon the action of our Government. I just want to state once again that the ratification of the Charter of the United Nations by Congress, by the Senate, as a treaty, stands in the same position as the supreme law of the land. There is no way in which one can ignore the facts of history or the facts of international law. The United Nations Participation Act obligates us to the responsibilities under the charter.

Of course, nations can break treaties,

and they do. In fact, that is what we have done. Nations can break their word. They do. That is exactly what we have done in the instance of the sanctions on Rhodesia. Nations can take the lead for a particular international endeavor and decide later that they wished they had not, and backtrack, and that is exactly what the action of Congress has been in reference to our ignoring the United Nations resolution on sanctions relating to Rhodesia.

I think it would be well to note that the American Bar Association has expressed itself quite forcefully on these matters. When the Senator from Wyoming (Mr. McGEE) addressed the Senate on December 7, he made note of the fact that the American Bar Association's House of Delegates passed a resolution a year ago relating to our commitment under the terms of the Charter of the United Nations. The resolution called upon Congress to put the United States back in compliance with the United Nations sanctions against Rhodesia. The resolution goes on to state that the United States believes that the good-faith fulfillment of treaty obligations is central to the rule of law. That is what we are really talking about here today.

I am not saying that Congress cannot violate the law, because it has. I am simply saying that those of us who believe in constitutional government, those of us who believe in the rule of law, have some obligations to fulfill. The rule of law includes the law of treaties, which includes the Charter of the United Nations. It includes, for example, our North Atlantic Treaty Alliance. That is the law; we ratified it. The rule of law includes the United Nations Participation Act that was passed by Congress. It is just as much a law as the Internal Revenue Code. It is just as much a law as the Fair Labor Standards Act. That does not mean that people do not violate the Internal Revenue Code. They do. It does not mean that people do not violate the Fair Labor Standards Act. They do. But it does mean that when you violate, you are a violator; and we are a violator of our commitments under the charter of the United Nations and under the United Nations Participation Act, insofar as fulfilling our responsibilities of the Security Council resolution relating to sanctions toward Rhodesia is concerned.

The Senator from Wyoming placed in the RECORD, on page 40259, on December 7, the American Bar Association resolution, and it reads as follows:

> *Whereas,* The United States of America considers the rule of law to be the only alternative to the rule of force;
>
> *Whereas,* The United States believes the good faith fulfillment of treaty obligations is central to the rule of law;
>
> *Whereas,* All members of the United Nations have a solemn treaty commitment as parties to the Charter of the United Nations;
>
> *Whereas,* Article 25 of the Charter of the United Nations provides that "The members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present charter";
>
> *Whereas,* The Security Council of the United Nations has decided in accordance with the Charter to impose economic sanctions against Rhodesia prohibiting the import or export of goods from or to Rhodesia;
>
> *Whereas,* The Administration of President Nixon has strongly and unequivocally expressed its view that (a) the United States is legally obligated under the Charter to comply and (b) neither economic nor national security considerations are sufficiently compelling to compensate for the adverse foreign policy consequences of a failure so to comply; and
>
> *Whereas,* The Congress of the United States over the objections of the Administration has approved legislation which has become law and requires the United States to permit the importation of chrome and various materials from Rhodesia,
>
> *Therefore Be It Resolved,* That the American Bar Association urges the Congress of the United States to repeal such legislation and thus permit the Administration to take all necessary steps to prohibit the importation of material from Rhodesia into the United States in conformity with its international obligations under the Charter of the United Nations.
>
> *Further resolved,* That the President or his designee be authorized to appear before the appropriate committees of the Congress in support of such action.

We have had the Secretary of State appear before Congress in support of such action. Secretary Kissinger strongly recommends the proposed legislation, strongly recommends that we comply with the economic sanctions toward Rhodesia. The President of the United States strongly recommends it. In fact, our Ambassador to the United Nations, Ambassador Scali, strongly recommends that we comply. President Nixon, in a very forceful statement, as I have said, strongly recommends that we comply with the Security Council resolution, and that we repeal the legislation that was passed here that would put us in noncompliance with the resolution of the Security Council.

Mr. McGEE. Mr. President, will the Senator yield for one moment?

Mr. HUMPHREY. I yield.

Mr. McGEE. As a recall, the Senator referred to Secretary of State Kissinger's strong testimony, both in a letter to the House and testimony before the Committee on Foreign Relations when he was up for approval. As I recall his commitment on this question, it was phrased in very strong language. I wish to quote it precisely. This is the Secretary of State of the United States attesting to what he represents as the President's position, as well as his own, as National Security Adviser and now Secretary of State:

> I am convinced now, as I was then, that the Byrd provision is not essential to our national security, brings us no real economic advantage, and is detrimental to the conduct of foreign relations.

How can it be put stronger than that? I really hope that the Senator from Virginia, who is in the Chamber, might well give heed to admonitions of that dimension.

Mr. President, this provision is no longer of any importance to our national security; it is of no economic advantage; and finally, it impedes the foreign policy of our country.

Knowing the Senator from Virginia to be the very astute and far-seeing man that he is, it would seem to me that this would give him pause. We should come to a vote on this matter. Would the Senator agree?

Mr. HUMPHREY. I surely think the statement of the Secretary of State is so unequivocal and forceful that we would be very foolish not to heed what he has to say. That is why this legislation is before us, legislation that puts us in compliance with the charter of the United Nations and the Security Council resolution.

There is no act we could take that would do more to restore our credibility as a nation in international affairs than to repeal the Byrd amendment.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. CANNON. The Senator referred to a United Nations resolution. Is that the same United Nations resolution that provides:

> "No state may use or encourage the use of economic measures to coerce another state in order to obtain from it the subordination of the exercise of any of its rights and to secure advantages of any kind.

Mr. HUMPHREY. I am not sure. If the Senator will excuse me for a moment, I will check the records.

Mr. CANNON. I wondered because we always have great concern about the possibility of the United States not complying fully, and yet we see that this resolution is specifically being violated by the Arab countries now in the withholding of oil to this country.

Mr. HUMPHREY. There is no doubt about it at all.

Mr. CANNON. It seems to me that we go far afield when we say we must lean over backward and not use any efforts of this kind in our dealings and yet we want other countries to abide by them. We have not put any pressure on the Arab countries under this United Nations resolution, as far as I know, to get them to renew their oil deliveries, which is so clearly in violation of this provision.

I might say to my distinguished colleague that this matter gives me a great deal of concern, particularly in light of the fact that we impose an embargo against Rhodesia. Here we would impose that and yet we do not see fit to do anything with regard to the Arab countries that violate this provision of the resolution and we do not do anything with respect to Russia. As a matter of fact, we are improving our détente position with Russia at a time when they have a policy against free emigration. We even are going so far as to have the Jackson amendment considered and offered today in the House with respect to the trade bill because of Russia's policy against emigration; yet we go blithely on our way doing business with Russia and buying a great deal of chrome from them, and they in turn buy from Rhodesia. So it seems to me a rather silly policy to follow this kind of policy with regard to one country and disregard it with respect to Russia.

I wonder if the Senator from Wyoming would address himself to that point.

Mr. McGEE. I would be glad to as soon as I clarify the parliamentary situation. Whose time are we speaking on?

The PRESIDING OFFICER. The time is the time of the Senator from Minnesota.

Mr. McGEE. That is that point I wanted to make clear. I am wondering if the

Senator from Virginia would be willing to share time on this colloquy so that I might respond to the Senator from Nevada.

Mr. HARRY F. BYRD, JR. I share time with the Senator.

Mr. McGEE. I thank the Senator. I will respond to the question.

The PRESIDING OFFICER. The Senator from Wyoming may proceed.

Mr. McGEE. Mr. President, there are a couple of points I wish to make to my classmate of 1958 and my colleague in this body.

We have to remember where we started. Where we started was when Great Britain and Rhodesia had finally abandoned their efforts to work out a set formula for Rhodesia stepping up to independence. There was an impasse with the threat of a bloodbath to achieve their position. It was at that moment that the United States took the lead, quietly behind the scenes in the United Nations, to encourage a U.N. embargo as a time-holding action in order to permit something short of shooting. This was a particular crisis situation at that moment.

The United Nations did so act. We are one of those who voted with it. No effort was made to kill it in the United Nations at that moment. We were the private instigator of that.

Mr. CANNON. How long ago was that?

Mr. McGEE. Oh, this would have been about 1966 or 1967.

Mr. CANNON. Six or seven years ago.

Mr. McGEE. Anyway, when this was instituted in the United Nations we undertook it in a bona fide manner as a member of the United Nations. What we are now saying as a member of the United Nations is that we will breach a commitment to that body and to the charter of that body and our endorsement of the United Nations by unilaterally becoming the only Nation in the world to take us out of that commitment. We are the first power in the United Nations to block a United Nations action of that sort by formal unilateral action. That is the first point the Senator should bear in mind.

The other point is in regard to the Arab nations. I would agree there should be some action pending in that regard, but there is not. God knows that is a tough problem, and I am aware of the inequities in that situation. But it has no relevance to this situation or how we got to where we are on the Rhodesian chrome questions.

What we are contesting is that we should go very slowly in reputing any kind of commitment we have in that body as long as we insist it is one of the agencies and instrumentalities among nations to try to achieve a greater degree of stability. That is what this is all about. Now, we have testimony of the Secretary of State, Dr. Kissinger, in the House and during his approval in the Senate, and in correspondence directly to us here, that there is no economic reason for taking the present stance of the Byrd amendment; that there is no longer a strategic reason for doing that. As a matter of fact, he gave this advice to the President of the United States when he was the security adviser to the President.

Finally, it is intruding into our ability to carry out a constructive foreign policy in the American interest. That is rather overwhelming testimony from the man in charge. We think from that point of view, times have changed since our earlier actions here, and that is why it is being reconsidered in the Senate.

Mr. CANNON. Well, Mr. President, I would simply say and point out to my colleague that, since the imposition of the sanctions, over 100 cases of evasion have been reported to the United Nations by Great Britain. Those represent only the tip of the iceberg. Sanction busting continues to occur on a monumental scale.

South Africa and Portugal ignored the embargo from the very outset.

I might say Portugal was the only one of our European friends to stand by us in the early days of the problem in the Mideast with respect to the Arab-Israeli conflict, being the only country that would permit us to use their bases to fly down to Israel. I would suggest perhaps the Senator would like us to terminate our relationship with Portugal because they continue to do business with Rhodesia.

South Africa and Portugal were soon joined by Eastern European countries and parts of the Middle East. Finally, Western Europe and Japan entered the Rhodesian market with a vengeance. West German, Dutch, Italian, Japanese, and Swiss companies have been blithely ignoring the embargo since 1968.

It does not make sense to go merrily along our way and say we have to abide by this resolution when no one else does, and when it is not in our own self-interest.

I know the distinguished Senator from Wyoming says our Secretary of State says it is in our self-interest and there is no economic justification for it. I do not agree with that. I do not agree with the Secretary on everything he says. That is one of the issues on which I disagree with him. The fact remains that if we followed that embargo, Russia, where we were getting much of our supply of chrome, raised her prices markedly. So, from the economic standpoint, it did increase our economic burden by buying chrome from them at the same time Russia was buying chrome from Rhodesia.

Despite these sanctions, this country with only 6 million inhabitants exported over a quarter of a billion worth of goods last year. So it is obvious that the sanctions have been flagrantly violated. I think very few knowledgeable people would argue its effectiveness.

I would simply say that if we are really trying to improve the lot of the blacks in Rhodesia, if the moral justification for the sanctions resolution was to gain political and economic power for the black Rhodesian majority, then the embargo has backfired. Rhodesians are no closer to self-government today than they were 6 years ago, and they may have actually lost grounds in their struggle for economic equality.

This general observation, however, begs the question: What can the United States do to improve the lot of Rhodesia's black majority? The most practical method for Americans to assist the social and political aspirations of Rhodesian blacks is to provide more rather than fewer jobs to the black majority. It is to become more involved in the Rhodesian social structure rather than allow the Smith regime to rule by default.

I would say that if we disregard the embargo, we are going to provide more jobs for blacks in Rhodesia and we are going to act in our own self-interest itself.

Mr. McGEE. Mr. President, I wonder if under the same reciprocity we have had, I might respond to two points raised by the Senator. Is it agreeable to the Senator from Virginia, as long as we protect each other on time?

Mr. HUMPHREY. The Senator can speak on our side.

Mr. McGEE. Well, the Senator from Nevada was speaking on our side. Thus, we will have both of us speaking on our side and cutting our time down.

I would refer to two points which the Senator from Nevada has suggested.

The first is that Portugal and South Africa have chosen to violate this embargo. Let us separate that. Portugal and South Africa, even though both might have cause to, have not taken any governmental action defying the embargo. Such hanky-panky does go on now under law. As an illustration, we have in this country laws against murder, but that does not stop people for committing that crime. It is no reason to retract the law on murder because some people commit murder. The same principle applies under United Nations actions.

It ill-behooves the United States, as a leader in the world, as an exponent of government under law, in our international relationships, to become one of those who flout the very law we had a hand in instigating.

The other point that those who have broken the sanction on Rhodesia have done so as conspirators and violators, not with government sanction at any time, whether it be Japan, Western Europe, Eastern Europe, South Africa, or wherever. We are still making the case under law.

The PRESIDING OFFICER. The Senator from Virginia asked to be notified when he had 14 minutes remaining, and that time has now arrived

Mr. McGEE. I thank my colleague for allowing me to balance this out.

Mr. HARRY F. BYRD, JR. Mr. President, I yield 2 minutes to the distinguished Senator from Nevada.

Mr. CANNON. Mr. President, this is a rather specious argument to make: that their governments have taken no official action; but they have taken unofficial actions to achieve the same result.

We are the Government of the United States. I do not see any reason why we should not take action that is in our own self-interest. As I have pointed out, we have seen the Arabs completely ignore the United Nations resolution. What have we done? We are not retaliating against the Arabs. The Secretary of Agriculture is going ahead at the present time with the sale of many bushels of wheat to the same Arab Nations which violated a United Nations resolution against us.

So I say it is time that we recognized where our own self-interest lies and do something about getting real results, which everybody else has ignored to date.

I thank the Senator from Virginia for yielding to me.

Mr. HARRY F. BYRD, JR. Mr. President, how much time remains to me?

The PRESIDING OFFICER. The Senator from Virginia has 13 minutes remaining.

Mr. HARRY F. BYRD, JR. I yield myself 3 minutes.

Mr. President, I concur in the statements made by the distinguished Senator from Nevada. The distinguished Senator from Wyoming mentioned the history and background of United Nations sanctions; that Great Britain and Rhodesia could not get together on Rhodesian independence. That brings to mind the issue that Rhodesia unilaterally declared her independence from Great Britain, the same as the United States did in 1776. Yet this country participated in imposing sanctions on Rhodesia, although she did just what the United States did almost 200 years ago.

The Senator from Minnesota mentioned a letter written by Secretary of State Kissinger. I think the able Senator from Nevada (Mr. CANNON) handled that matter quite well, but I would mention it also.

We know from testimony that 2 years ago the late distinguished Secretary of State, Dean Acheson, took exactly the opposite point of view to that of the present Secretary of State. I say that the present Secretary of State is concerning himself, and I guess justifiably so, with what we might call United Nations politics—the politics of the United Nations. That has inspired to a considerable degree his statement today. I think he is an able man, but that does not justify Congress in believing that everything Secretary Kissinger says is true, and neither do I.

Former Ambassador Goldberg said, at the time sanctions were imposed:

> What is happening to Rhodesia now is an effort to perpetuate the control of 6 percent of the population over the other 94 percent.

Is it not a fact that in the Soviet Union the members of the Communist Party, comprising about 1 percent of the population and acting through a few leaders, control the other 99 percent of the people of that nation of nearly 200 million?

Is it not a fact that a handful of men control the destinies of all the people of Albania?

Is it not a fact that a handful of men control all the people in Bulgaria, in Rumania, and in Yugoslavia?

Is it not a fact that Fidel Castro almost single-handed, operating through a small Communist cadre, controls the lives and fortunes of nearly 7 million Cubans?

The PRESIDING OFFICER. The time that the Senator from Virginia has allotted to himself has expired.

Mr. HARRY F. BYRD, JR. Mr. President, I reserve the remainder of my time.

Mr. McGEE. Mr. President, will the Senator from Minnesota yield me 3 or 4 minutes?

Mr. HUMPHREY. Mr. President, I yield 5 minutes to the Senator from Wyoming.

Mr. McGEE. Mr. President, let me suggest to my good friend, the Senator from Virginia, that he is confusing Dean Acheson and Henry Kissinger. While Dean Acheson was once the Secretary of State with a very hard-hitting line and working toward world cooperation, when he testified in the words which the Senator from Virginia quoted, he was appearing in behalf of a client and was representing a chrome-using client in the United States. He was trying to win that client.

Henry Kissinger is the Secretary of State. He is not speaking for any company. He is speaking for no one but the people of the United States. And he is presently saying that the Byrd amendment on the books at the present time impedes the foreign policy of the United States and is no longer in the national interest of the United States.

Deputy Secretary of Defense Clements has said that in terms of chrome, we would need right now 2.3 percent of the present chrome stockpile in the event of war. What he was trying to say to us is that the whole ball of wax has changed and that what he was saying to us at the time has changed.

It is not 3 years ago. It is not 6 years ago. And that is the reason that we need to try to remove this obstacle not only in the national interest, but also in the pursuit of a wise foreign policy.

We have testimony from Nigeria, where the great oil findings are now going on. Nigeria has taken a stance in which it views with some difficulty our relations with the chrome issue and Rhodesia.

We ought to work toward improving our Nigerian relations and access to that oil. Let my good friend, the Senator from Virginia, try to run some of the Rhodesian chrome through his gas tank. All he will get will be a good, clean tank. However, it will be empty.

All of these parts need to be added up, not in terms of chrome interests, not in terms of a steel company or a lawyer arguing for his client, but in terms of the national interests of the United States. And the man in charge of that interest now and trying to pursue foreign policy says that the present law gets in the way, that it impedes the pursuit of constructive American policy and our own national interest.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 4 minutes.

I am glad that the Senator from Wyoming brought up Nigeria and said that Nigeria is upset and concerned with the United States because of its policy and because of the enactment by the Congress 2 years ago of certain legislation.

I would point out that the United States has given Nigeria $447 million over a period of time in loans and grants. If that has not satisfied Nigeria, I doubt that changing the law which Congress enacted 2 years ago to permit the importation of chrome from Rhodesia is going to soften Nigeria's attitude.

In any case, it is another effort to buy friendship. I do not believe that works. And it is hypocrisy on our side.

The Ambassador to the United Nations, under the present Secretary of State, vetoed just last month a United Nations proposal to put sanctions against South Africa. South Africa, from the point of view of the African nations, has equally undesirable racial policies as does Rhodesia.

I cite that to suggest that there is a great deal of hypocrisy in this entire matter. The Senator from Nevada pointed out that most of the other countries of the world, practically all of the other countries of the world, with the exception of Great Britain, pay no attention whatever to the United Nations sanctions against Rhodesia. Very recently, Sir Douglas Hume, the British foreign secretary, in a television interview, said that while his government supports trade sanctions against Rhodesia because it had been put on by the previous Labour government, he did not think it was the correct policy.

He said:

> We disagree with the political systems of a number of countries, for example South Africa, but we trade with them and by and large, we don't believe in ostracism and boycott.
>
> We think that contacts are the way to induce countries with which we disagree to change their policies. This is the way to break down prejudice.

Mr. President, so, even Britain, at whose behest the United States entered into these sanctions, feels it is not a correct policy. I, for one, am convinced that it certainly is not the correct policy.

I feel it is important that the United States begin to act in its own interest as the Senator from Nevada has pointed out.

I want to say in my judgment that there is no one in the Congress of the United States who has as fine a knowledge and as detailed a knowledge of the strategic materials of our Nation and of the need for them and of the stockpile process as does the distinguished chairman of the Stockpile Subcommittee of the Armed Services Committee, the Senator from Nevada (Mr. CANNON).

Mr. CANNON. Mr. President, first I want to thank the distinguished Senator for his remarks about me.

I want to point out that no chromite ore has been mined in the United States since 1961.

The Senator from Wyoming pointed out how little we need to rely on what we have in the stockpile.

I simply say that since 1962 the national stockpile of metallurgical grade chromite has declined over 43 percent and is currently at the lowest level in 15 years. The apparent size of the stockpile is further diminished by the fact that 43.1 percent of available inventories are officially classified "non-stockpile grade"—the highest proportion in the past 10 years. These inferior stocks cannot be economically used to produce stainless steel and cannot legitimately be included in total stockpile availability. The administration has recently proposed further liquidation of the high-grade metallurgical stockpile, retaining less than 6 months' supply in the national inventory.

Mr. HARRY F. BYRD, JR. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Virginia has 5½ minutes remaining.

Mr. HARRY F. BYRD, JR. Mr. President, I reserve the remainder of my time.

Mr. HUMPHREY. Mr. President, first of all, let me say with regard to all of the comments of my friends, and particularly those for whom I have the highest regard and respect, the Senator from Nevada and the Senator from Virginia, that I have in my possession a letter from Deputy Secretary of Defense Clements, Jr. The letter is dated July 20, 1973. It is addressed to the chairman of the Subcommittee on International Organizations and Movements of the Committee on Foreign Affairs, House of Representatives, Representative FRASER.

Deputy Secretary of Defense Clements says:

> According to an estimate prepared in 1973 by OEP, the metallurgical grade chromite needed by industry to support the Defense Department's steel requirement during the first year of a war amounts to 128,300 short tons, or 2.3 percent of the quantity held in the inventory as of 31 December 1972. Thus, it can be seen that the Defense requirement for metallurgical grade chromite is relatively small, and that the bulk of the stockpile inventory would be used by the non-defense industry in the event of an emergency.

The OEP to which the letter refers is the Office of Emergency Preparedness.

I spoke to this point earlier. The Government has come in and testified that the stockpile is overstocked.

The Government has testified again and again that there was no basic need for the importation of Rhodesian chrome. The Government has made it manifestly clear that there is no particular defense need, that you cannot justify the Byrd amendment on the basis of national security.

The argument for the Byrd amendment, of course, originally was that if we opened up Rhodesian chrome importation, we would not be so dependent upon the Soviet Union.

What has been the fact since the Byrd amendment was agreed to? The fact is that we are importing more from the Soviet Union now slightly more than we did before. The fact of the matter is that the Soviet Union is a major supplier. The fact of the matter is that the Byrd amendment did not in any way retard or impair that importation from the Soviet Union. The only thing it did was hurt one of our allies, Turkey.

Turkey is an ally. Turkey has chrome, and the supply of chrome furnished from Turkey, which is an ally, is down. The supply of chrome from the Soviet Union is up. And, might I add, if everyone is violating the sanctions, as has been indicated here, why is it that the Government of Rhodesia keeps asking that we maintain the Byrd amendment? If they are doing so well over there in Rhodesia with all of these many countries supposedly violating the Security Council resolution imposing sanctions on Rhodesia, why is it that the Rhodesian Government pleads with us not to change things, to leave it just as it is?

The fact of the matter is that the ferrochrome industry in the United States, our domestic industry, has been injured by the Byrd amendment. The fact is that the United Steelworkers of America, that mine and process this material, have come to the Congress of the United States asking for the repeal of the Byrd amendment. The fact of the matter is that there are but one or two companies in the United States that profit at all from the Byrd amendment. The fact of the matter is that there is no national security justification whatsoever for the Byrd amendment. The fact of the matter is that every responsible office of this Government, the President, the Secretary of State, the Secretary of Defense, those who are responsible for the security of this country, recommend the repeal of the Byrd amendment.

I think that is a rather convincing case. The workers of America who are responsible for mining and processing this chrome in America are for the repeal of the Byrd amendment. They say this amendment takes their jobs. They say this amendment is contrary to their interests.

The Union Carbide Co. is for the Byrd amendment. And our foreign policy must not be made in the interest of one or two corporations.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HUMPHREY. That is plenty of time. I thank the Chair.

Mr. HARRY F. BYRD, JR. Mr. President, I do not have the time to answer all the statements made by the distinguished Senator from Minnesota as to the accuracy of which I have some questions, but I do want to say a couple of things.

First, let me say that if the President is opposed to the Byrd amendment, he could render it inoperative before the day is over. He could render it inoperative before we get to a vote this afternoon, because the Byrd amendment says that the importation of a strategic material is not prohibited if that same strategic material is being imported from a Communist-dominated country.

Two things can happen: The President can strike chrome from the list of strategic materials, and if the argument of the Senator from Minnesota is correct, he might as well strike it, because it is of no value. But he has not struck it, and it has been on the books 2 years, so it must be an essential material, as the Senator from Colorado has pointed out.

The second thing the President can do is prevent the importation of this same material from Russia. If he does that, the Byrd amendment will be inoperative, and the importation of chrome from Rhodesia will not be permitted. So that can be done by legislation, if indeed the situation is as bad as the Senator from Minnesota would have the Senate believe.

In concluding, let me point this out: If we follow the reasoning of the Senator from Minnesota and the Senator from Wyoming, this is the fix that the Senate and Congress will be in: Whenever a future President, the present President or a future President, acting through his Ambassador at the United Nations, agrees to a Security Council resolution and implements that resolution unilaterally without reference to the Congress, then, if we follow their reasoning, we in Congress are bound by law or, to use the words of the Senator from Minnesota, are bound by the Constitution to that course of action, even though Congress has had no say in the action.

I say that is a very dangerous policy, and that is one reason that I feel it would be very unwise for the Senate to pass S. 1868, because it would tend to give substance to the proposal that whatever the United Nations Security Council does, which subsequently is implemented unilaterally by our President, then Congress and we as individual Members of Congress are bound by that as being, to quote the Senator from Minnesota, the supreme law of the land.

I submit that that is a very dangerous doctrine, and one which I would not want even indirectly to give assent to.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2½ minutes.

Mr. HARRY F. BYRD, JR. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Minnesota has 1 minute.

Mr. McGEE. How much time?

The PRESIDING OFFICER. One and one-half minutes.

Mr. McGEE. Let me use that time simply to suggest to my good friend from Virginia that under the United Nations Charter, a condition of that charter was the reservation of the veto power by the United States in the Security Council. That veto power has been used when it was thought to be in contradiction to our national interest.

No substitute has been suggested for that veto power. The President of the United States is the constitutional authority to make that decision at this time. They can repudiate him later, but they cannot take us unilaterally out of the United Nations by an action of this body denouncing the United Nations. That is what the Byrd amendment does, and what Dr. Kissinger challenges as the invalidity of the Byrd amendment.

But the issue here is not really the substance, at this moment, now, of the Byrd amendment. The issue is whether the Senate of the United States ought to have a right to vote on what ought to be the judgment of this body. So far, the Senator from Virginia is denying this body that right. We should have a vote up or down on the Byrd amendment with all its ramifications. Instead, we have this delaying action that has required us to file a cloture motion.

I just want the Senator to know that we are prepared to file cloture motions as long as necessary. We can carry them around by the bagful.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McGEE. But the issue is invoking cloture right now, rather than the substance of this bill. We think the Senate ought to have a right to vote.

Mr. HARRY F. BYRD, JR. Mr. President, the Senate has for several years now been trying—or at least I thought it had—to recapture some of the authority has given away to Presidents in the past.

In this particular case, the Senate in 1945 gave away authority to the United Nations. I think it is time that we recapture some of that authority that we have given to the United Nations.

But I am saying that the Senate never gave to the United Nations or to the President or anyone else the right to bind future Congresses. Yet, if we follow the theory of the Senator from Minnesota and the Senator from Wyoming, that is what they would have done.

So I say, Mr. President, if we follow that theory, then whenever the United Nations Security Council acts, and that act is implemented by the President, the hands of Congress are tied.

I do not believe that was the intent in any way, shape, or form of the United Nations Participation Act of 1945. If it was, now is the time it should be changed.

Mr. MONDALE. Mr. President, I rise in support of the motion to invoke cloture on S. 1868. After 3 weeks of debate, it is time to take action on this bill which would reinstate the United States to full adherence to the U.N. Rhodesian sanctions program and thereby restore this country to its position as a law-abiding member of the international community. This month marks the second anniversary of the enactment of section 503 of the Military Procurement Act of 1971, commonly known as the Byrd amendment, which, in effect, has made the United States an international lawbreaker.

Mr. President, one of the fundamental problems with recent American foreign policy is that it has failed to recognize the just values, humane interests, and ethical concerns that I believe are basic to our Nation and to what the American people desire. The United States cannot pursue a foreign policy which ignores the deeply ingrained values of our own people. Rather, we must pursue a foreign policy which is committed to the rule of law throughout the world and which adheres to our international treaty obligations.

But the U.S. violation of international sanctions against Rhodesia has seriously jeopardized some of these foreign policy goals. The issue today is the same as it was last year and in 1971: the United States is breaking a treaty obligation through the U.N. which also hampers our credibility with other African nations, as well as concerned citizens throughout the world who see this country paying mere lipservice against apartheid and minority rule. The United States voted for the imposition of sanctions against Rhodesia with other Security Council members in 1966 when the Council voted to impose selective mandatory sanctions and again in 1968 when it voted unanimously to impose full mandatory sanctions.

The record of the past 2 years indicates that the economic and security reasons which led to the 1971 congressional vote to violate U.N. sanctions are no longer valid—if indeed they ever were.

The proponents of the Byrd amendment argued that chrome is essential during a national emergency and Rhodesia imports would, therefore, reduce American dependence on the Soviet Union. However, despite the importation of chrome from Rhodesia for the past 20 months, our imports from the Soviet Union have not decreased at all but, rather, have increased. On the other hand, imports from our other principle supplier of chrome, Turkey, have decreased substantially. Indeed, U.N. Ambassador John Scali recently testified before the Foreign Relations Committee that—

> Adequate quantities to meet all of the U.S. defense needs are available from Turkey, Iran and South Africa.

Further, the United States has already released from its stockpiles some 900,000 tons of chrome and the Defense Department, the President, and the Department of State have recommended the release of another 2 million tons of chrome from the stockpile. It is clear, therefore, that we have sufficient supplies of chrome to meet our vital defense needs in an emergency.

As Assistant to the President, Peter Flanigan testified before the Foreign Relations Committee:

> Access to Rhodesian chrome and other minerals is not an important element in U.S. security or our overall economic policy given: (1) the substantial excess of our stockpile resources and (2) the comparatively minor amounts we actually import from Rhodesia.

Proponents of the Byrd amendment have also stressed the economic consequences of compliance with the U.N. sanctions. They argue that the price of chrome had risen since the total embargo was placed in 1968 and that the Russians would be able to inflate their prices further. However, a recent Library of Congress study noted that the price of chrome, including that of Rhodesian chrome had increased in recent years. The study concluded that the increase was due as much to an increase in demand for chrome and the general upward shift in raw materials as to the effects of economic sanctions.

It was also argued by supporters of the Byrd amendment that countries such as Japan and West Germany were covertly violating the U.N. sanctions. It was claimed that they were using cheap Rhodesian chrome to make their own cheap ferrochrome and stainless steel industries. But a recent report by the Carnegie Endowment for International Peace entitled, "Irony in Chrome: The Byrd Amendment 2 Years Later," pointed out that:

> This surge of low-cost imports of ferrocrome from Rhodesia has done more harm to American industry than any of the chrome ore-related hardships—real and imagined—that occurred during the period of the sanctions.

This is because our continued reliance on imported ferrochrome, which exceeds imports for chrome both in gross tonnage and in dollar value, has jeopardized the domestic American industry. Since 1971, two of the four principle producers of American ferrochrome have closed because of the competition with low wage imports. Thus, our importation of ferrochrome from Rhodesia has contributed to the loss of hundreds of American jobs and to the threatened extinction of an industry which could be important to our national security.

Mr. President, we have violated U.N. sanctions against Rhodesia in order to secure economic and national security advantages which have not developed. I strongly urge my colleagues to vote to invoke cloture. Immediate passage of this bill will prove our desire to take our place with the rest of the international community in the defense of human rights, racial equality, and self-determination.

Mr. THURMOND. Mr. President, the question of what we in the Senate are going to do on the past. Many pros and cons have been examined and ably discussed at great length and with tremendous conviction. We are confronted with a veritable mountain of facts, figures, and statistics that explore many aspects and ramifications of the question in minute detail.

However, Mr. President, it would seem to the Senator from South Carolina that further elucidation is necessary. We must consider this matter on the basis of commonsense and principle.

Chrome is an essential raw material. It is used in the pharmaceutical, food, dairy, chemical, aerospace, atomic energy, and steel industries. The United States is totally dependent on foreign sources for its supplies of chromium, and the largest high-grade reserves of this strategic material in the free world are found in Rhodesia.

Enactment of this legislation would mean a much heavier reliance on the Soviet Union for chrome ore. Thus, we would be relying on a potential adversary rather than an insured friend for a lower grade of this strategic wartime material at an even higher price. Such a proposition defies reason.

Enactment of this legislation would put American manufacturers at an economic disadvantage due to the stiff competition from nations which will continue to purchase Rhodesian chrome.

Furthermore, repeal would displace thousands of black workers in Africa. The chrome mines themselves have at least five black workers for every white worker. If production is cut, the least-skilled workers, the Africans, will be the first to go. Rhodesia's gross national product is growing by 8 percent each year. She is becoming more self-sufficient and we should do nothing to inhibit this growth, particularly since she takes such a strong pro-Western stand.

Mr. President, simply analyzed, the enactment of this bill would have the following consequences: it would benefit the Soviet Union and other Communist nations while imposing unnecessary burdens on our own domestic industries; it would seriously impair our national defense; and it would show an intention to damage the economy of a growing, friendly nation that has a greater sense of participatory democracy than many states which we are currently embracing.

Mr. President, for these reasons I urge my colleagues to oppose this piece of legislation and to vote against cloture.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. McClure). Time for debate has expired. The clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 1868), a bill to amend the United National Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

Mike Mansfield, Gale W. McGee, John O. Pastore, Quentin N. Burdick, Jennings Randolph, Clifford P. Case, Henry M. Jackson, Edward W. Brooke, Thomas F. Eagleton, Dick Clark, Hubert H. Humphrey, Mike Gravel, Harold E. Hughes, Philip A. Hart, Alan Cranston, Gaylord Nelson, Floyd K. Haskell, Jacob K. Javits, Edward M. Kennedy, Walter F. Mondale, Lee Metcalf, Edmund S. Muskie, Charles H. Percy.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair directs that the clerk call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 569 Leg.]

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Alaska (Mr. Gravel), the Senator from Mississippi (Mr. Stennis), the Senator from North Carolina (Mr. Ervin), and the Senator from Louisiana (Mr. Johnston) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

The VICE PRESIDENT. A quorum is present.

The question before the Senate now is, Is it the sense of the Senate that debate on S. 1868, a bill to amend the United Nations Participation Act of 1945 to halt importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community, shall be brought to a close?

The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. Stennis), the Senator from Alaska (Mr. Gravel), the Senator from South Dakota (Mr. Abourezk), the Senator from North Carolina (Mr. Ervin), and the Senator from Louisiana (Mr. Johnston) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

I further announce that, if present and voting, the Senator from South Dakota (Mr. Abourezk) would vote "yea."

The yeas and nays resulted—yeas 59, nays 35, as follows:

[No. 570 Leg.]

YEAS—59

Baker
Bayh
Beall
Bentsen
Biden
Brooke
Burdick
Case
Chiles
Church
Clark
Cranston
Dole
Domenici
Eagleton
Fong
Griffin
Hart
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Tunney
Weicker
Williams

NAYS—35

Aiken
Allen
Bartlett
Bellmon
Bennett
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Cook
Cotton
Curtis
Dominick
Eastland
Fannin
Fulbright
Goldwater
Gurney
Hansen
Helms
Hollings
Hruska
Long
McClellan
McClure
Nunn
Scott, William L.
Sparkman
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—6

Abourezk
Ervin
Gravel
Johnston
Stennis
Symington

The VICE PRESIDENT. On this vote there are 59 yeas and 35 nays. Two-thirds of the Senators present and voting not having voted in the affirmative, the cloture motion is not agreed to.

CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I send to the desk a cloture motion and ask that it be stated.

The VICE PRESIDENT. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 1868), a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

Mike Mansfield
Gale W. McGee
Hubert H. Humphrey
Edward W. Brooke
Floyd K. Haskell
Jacob K. Javits
Quentin N. Burdick
Clifford P. Case
Alan Cranston
Edmund S. Muskie
Philip A. Hart
George McGovern
Abraham Ribicoff
Harold E. Hughes
Frank E. Moss
Daniel K. Inouye
Lee Metcalf
Dick Clark
Ted Stevens
Edward M. Kennedy
Jennings Randolph

The VICE PRESIDENT. The Senate will be in order.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, what is the pending business?

The VICE PRESIDENT. The unfinished business is S. 1868, a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome; however, under a previous order, the Senate will now return to the consideration of S. 2767, a bill to authorize and direct the maintenance of adequate and efficient rail services in the Midwest and Northeast regions of the United States, and for other purposes, which is the pending business.

Mr. MANSFIELD. Mr. President, for the information of the Senate it is the intention of the joint leadership to have the Senate stay in session until this bill is finished today because we are up against a time limitation in seeking a sine die adjournment. I hope Senators will understand.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. GRIFFIN. As I understand it, the Senator from Maryland (Mr. Beall) is going to offer an amendment if he gets recognition. On that amendment there is a 2-hour limitation, and on any amendment after that there is a 1-hour limitation.

Mr. MANSFIELD. The Senator is correct.

Mr. GRIFFIN. The Senator from Maryland has stated he may not use all of his time.

RAIL SERVICES ACT OF 1973

The Senate continued with the consideration of the bill (S. 2767) to authorize and direct the maintenance of adequate and efficient rail services in the Midwest and Northeast region of the United States, and for other purposes.

Mr. MUSKIE. Mr. President, in the midst of the energy crisis, we in the Senate today are considering legislation to deal with a crisis of similar magnitude for our Nation—the crisis in rail transportation. Unless the Federal Government acts, the rail transportation network of the Northeast and near Midwest will collapse in the bankruptcy proceedings now in progress. The bill we consider today, S. 2767, the Rail Services Act of 1973, would prevent that drastic short-term result. I hope it also leads to a long-term future of sound health for our Nation's rail transportation system.

For years, we have ignored the consequences of the deterioration of our rail network. As with other issues of economic development, our transportation growth has been marred by the lack of a sound transportation growth policy. We have ignored the declining health of the railroads, and ignored the consequences of their difficulties—the effect of diminished rail services on our environment, our population growth patterns, and on the future health of our economy.

Under S. 2767, the reorganization of affected railroads would be in the form of a final system plan setting out which rail properties would be continued and which would be abandoned. The plan would be developed by the Department of Transportation with the commentary of a new Railroad Emergency Planning Office within the ICC, within 300 days after enactment. This final system plan would be adopted by the Government National Railway Association. It would then be submitted for approval within 120 days to a new special three-judge court, before which all rail reorganization suits in the region would be consolidated. Congress would have the right to disapprove the plan. Upon approval of the plan, and financing by the Government National Railway Association, the affected railway properties would be turned over to the United Railway Corp. to be operated. The Government National Railway Association would finance the operation through federally guaranteed debt securities up to a limit to be established by Congress.

In addition to the organization of the United Rail Corp. and the Government National Railway Association, the bill provides for a variety of operating subsidies, equipment improvement loan programs, and other measures to aid the rail system. It provides initial emergency assistance to affected railroads, and in guaranteed loans, to carry those railroads through the formative periods; subsidies for rail operations, to be given on a 75-25 matching basis to States who choose to subsidize rail operations which otherwise would be abandoned under the reorganization; guaranteed equipment improvement obligations, to be administered by a new Obligations Guarantee Board in the Department of Transportation; a computerized National Rolling Stock Information System; and a new Railroad Equipment Authority—established as a new Federal independent agency—authorized to fund new rolling stock. The bill also provides for employee protective provisions, to give liberal support to displaced rail employees. The bill in addition contains a worthwhile provision which directs the ICC and Federal Maritime Commission to impose freight rates favorable to recyclable materials and allows the EPA to intervene in such proceedings.

Mr. President, finally, I give my support to an amendment to this bill which would provide for study of a plan for consolidation of all American railroads under a single private corporation. This innovative plan was first advanced by E. Spencer Miller, president of the Maine Central Railroad. The study hopefully will provide us with evaluation of at least one option for a national solution to our rail transportation problem.

I give my support to the Rail Services Act in the hope that it will create a new era of health for rail transportation.

Mr. TUNNEY. Mr. President, today the Senate is considering the Rail Services Act of 1973, a bill addressing the rail crisis in the Northeast. It is apparent that at no time in the history of the Nation has the rail transportation industry been faced with the difficulties it must now deal with. Serious financial problems have threatened the shutdown of seven class I railroads in the Northeast and Midwest region of the Nation. One hundred years of neglect have forced the railroads into a dangerous economic situation in which they simply cannot perform the services which they were designed to render. As a result of this difficult situation, the Senate Commerce Committee has developed legislation which is a major step in saving those class I railroads in the Northeast and Midwest that are threatened with court-ordered shutdown. The bill is, by no means, a complete solution to a problem that never should have occurred but it is a step in the right direction.

The purpose of this bill is not only to meet the pressing needs of the railroads in the Northeast and Midwest, but to prevent the collapse of railroads in the other regions of the Nation by providing loan guarantees which would allow rail systems to improve existing facilities and equipment.

While the bill was still in committee, I asked that the equipment improvement provision be amended to include refrigerator cars in the definition of rolling stock because a shortage of these particular cars has caused losses to the growers of citrus and other perishable crops in California and many sections of the Nation. These losses have resulted in higher prices to the consumer, losses of revenue to the railroads and higher unemployment.

The California Public Utilities Commission has indicated that in 1949, 110,000 ice bunker cars were maintained for shippers of perishables in the United States. This number had declined to some 51,000 in 1971. Carriers will no longer provide ice and it is impossible for shippers to ice cars on a transcontinental movement. As a result, the only cars that can provide protective service are mechanical refrigerator cars and this number has leveled off at approximately 25,000. The railroads have advised the commission that there are no present intentions of constructing any additional refrigerator cars at this time. The commission has issued service orders finding that an emergency shortage with respect to refrigerator cars now exists and that the situation will become worse during the peak harvest seasons commencing in April or May of 1974.

I feel that the equipment improvement provisions will assist railroads in the elimination of this dangerous shortage of cars by allowing them to purchase enough equipment to service the needs of shippers and consumers.

Additionally, I am cosponsoring an amendment by Senator HATFIELD which would direct the Secretary of Transportation to examine the possibility of expanding present Amtrak routes to provide more extensive passenger service. I feel very strongly that we must utilize our most energy-efficient transportation systems as the energy shortage grows. In view of recent curtailments of service by the airline industry and the dwindling supplies of automobile gasoline some means of offsetting the transportation shortage must be found and expanded rail passenger service would assist greatly filling in the gaps created by the energy shortage.

Mr. HART. Mr. President, the Rail Services Act of 1973 represents many months of hard work by the Committee on Commerce and especially by the distinguished chairman of the Subcommittee on Surface Transportation, the Senator from Indiana. This bill represents many difficult policy choices which we hope will result eventually in a viable rail transportation system in the Northeast and Midwest.

One of the most difficult policy choices which was made by the committee was the decision to exempt the Government National Rail Association from the provisions of the National Environmental Policy Act during the formulation and adoption of the final system plan. The critical nature of the rail transportation problems addressed by the Rail Services Act forced us to insure that the timetable for the designation of the final system plan be maintained as closely as possible. Thus, the committee saw fit to prohibit judicial review and exempt GNRA from the provisions of NEPA during the planning process.

However, the bill also recognizes the need to design a rail transportation system in the Midwest and Northeast which meets several environmentally sound goals, including the achievement in the region of ambient air standards established pursuant to the Clean Air Act and the maximum use of those modes of transportation in the region which require the smallest amount of scarce energy resources and of those modes which can most efficiently transport energy resources. The bill also recognizes that abandonment and reduction of rail services "will adversely affect the Nation's long-term and immediate goals with respect to energy conservation and environmental protection."

Because the committee has recognized the necessity of pursuing these and other environmentally sound goals through implementation of the final system plan, I would think that Congress, when considering the adoption or modification of the final system plan, should have sufficient environmental information upon which to assess the degree to which the plan has achieved these environmental goals. This is doubly important because of the NEPA exemption contained in this legislation.

Therefore, I seek assurance that the NEPA extension provided GNRA prior to adoption of the final system plan does not exempt the Association from the duty of providing Congress with adequate information upon which to assess the probable environmental effects of implementing that plan.

In order to protect the creditors of the railroads in reorganization, we have attempted to avoid time-consuming lawsuits which would prevent the adoption of the final system plan. It is my assumption that the committee intended that the Association provide the Congress with all the information necessary for Congress to assess the environmental impact of the plan in a manner similar to that required of impact statements required by the provisions of NEPA. Can the Senator from Indiana assure me that my assumption is correct?

Mr. HARTKE. The Senator from Michigan is correct. For the Association to present a plan to Congress without the data necessary to evaluate the probable environmental impact of that plan would be a mockery of the process contemplated by this legislation. I agree with the Senator from Michigan that even though GNRA is temporarily exempt from the provisions of NEPA, such information as it provides Congress should be in a form which would satisfy the requirements of that act.

Mr. MAGNUSON. Mr. President, I want to congratulate my colleagues on the Senate Commerce Committee for the intense examination and intelligent resolution of the many complicated issues contained in the Northeast/Midwest rail crisis. The committee, and particularly the Surface Transportation Subcommittee chaired by Senator HARTKE, has worked on the many problems in rail transportation in the Northeast and Midwest for many months, and the legislative product of those efforts is something of which we can all be proud.

While the Rail Services Act of 1973 is primarily directed at problems facing rail transportation in the Northeast and Midwest regions of the country, it is by no means a regional bill. The health of our nationwide rail transportation system is dependent upon a strong and healthy system in the Midwest and Northeast regions. Furthermore, there are a number of problems, such as the continuing and ever worsening shortage of freight cars, not only in the region primarily treated in this legislation, but in all regions of the Nation.

Mr. President, our rail system is truly a nationwide system. The eight bankrupt carriers in the Northeast and Midwest are vital to the economy of the entire Nation. For instance, the Northeast railroads receive over 300 cars a day from the State of Alabama, over 360 cars a day from the State of Georgia, over 520 cars a day from the State of Minnesota, and over 640 cars a day from the State of California. The State of Louisiana receives over 200 cars a day by rail from the Northeast States, the State of Washington receives over 197 cars per day, the State of Texas receives 679 cars a day, the State of Tennessee receives over 562 cars a day, the State of North Carolina receives over 567 cars a day, and the State of California receives over 810 cars per day. A widespread rail transportation crisis in the Northeast and Midwest would most certainly precipitate economic chaos of major proportions in all these States.

Some indications of the effects of a substantial shut-down were demonstrated last month when the Penn Central withdrew some 1,790 miles of track from service because it did not meet minimum standards issued under the Federal Railroad Safety Act of 1970. While the track was withdrawn from service for only a brief period—before a temporary exemption from the standards was granted—hundreds of shippers were affected and an untold number of carloads were unable to move.

The totally unacceptable consequences of allowing the present situation to deteriorate further is well-illustrated in figures developed by the Surface Transportation Subcommittee. This information discloses that cessation of services on the Penn Central alone would have drastic consequences throughout the United States. For example, it has been predicted that a shutdown of the Penn Central would produce a decrease in the rate of economic activity in the region of 5.2 percent, a decrease in the entire Nation of 4 percent, and a decrease in the GNP for the Nation as a whole of 2.7 percent after the eighth week of such a shutdown.

Not only is it clear that the Nation's railroads are interrelated and vital to the economic health of the country as a whole, it is also clear that the ability of railroads to adequately serve shippers, communities, States, and the entire country has been severely hampered by an increasing shortage of freight cars. This is a problem that has faced the regulatory agencies, the railroads, and the Congress for too long.

In fact, the first case to be brought before the Interstate Commerce Commission—docket No. 1 in 1887—was a complaint by wheat farmers in the Dakota Territory that the railroad upon which they depended did not furnish enough cars to move their harvest.

In recent years the shortages of freight cars has been acute and far more widespread than it was in 1887. Class I railroad ownership of freight cars declined from 1,702,016 cars in 1961 to 1,464,613 cars in 1971 despite an increase in traffic of about 35 percent. The trend to larger cars has not kept pace with traffic increases. Larger cars have resulted in the capacity of the railroad fleet increasing only about 4 percent during the period—from 94.8 million tons to 98.4 million tons. The decline in numbers of cars is most concentrated in general services cars, such as gondolas, hoppers, and box cars. Significantly, despite the decline of general service cars, there has been an increase in railroad ownership of special purpose cars. Also, nonrailroad ownership cars—private carlines and shippers—has increased 38 percent, from 255,296 to 350,254, during the decade of the 1960's.

In 1972 the railroads handled more than 780 billion ton-miles of revenue traffic, the highest in history, and freight car shortages were relatively low. However, in 1973, the Nation is experiencing its greatest freight car shortage in history—for example, an average daily shortage of 33,165 cars in the week ending May 12, 1973, and an average daily freight car shortage for the week ending November 3, 1973, of 38,883 cars. This increased shortage, according to a spokesman of the rail industry, is attributed to a vastly increased traffic volume—19 percent higher than 1972.

The shortage of freight cars is a long standing problem of nationwide scope. Shippers are often unable to obtain sufficient numbers of freight cars to move their products. As a result, grain is piled in the streets of Midwestern towns, manufactured goods stack up on shipper's docks, vital coal stockpiles are diminished, and lumber prices skyrocket, in part, because the products cannot be moved to the location of demand for them. Shippers have turned to Congress and to the Interstate Commerce Commission many times for solution of the freight car problem.

The Department of Transportation forecasted in hearings held by the Senate Commerce Committee in 1971 a one-third increase in rail freight transportation between 1971 and 1980. A need for installation of 617,000 cars of 80-ton capacity to meet the demand was estimated. The Department further estimates that an additional 130,000 cars are needed to meet present car shortages. The Department projects that investment of $2.3 billion is required to eliminate the immediate car shortage and that $8.8 billion will be required to keep up with the demands of the future.

Most of the railroads in reorganization could be earning additional revenues and maintaining profitable traffic — which will otherwise travel by other modes—if they could secure an adequate supply of rolling stock and increase the utilization of that rolling stock. The Penn Central, for example, is presently unable to purchase or lease several thousand cars needed by its customers. The recent increase in demand for rail services, which will intensify if coal shipments are increased to meet the energy crisis, will serve only to increase this shortage. For the period January 1, 1973, through April 27, 1973, alone, the Penn Central Transportation Co., lost an estimated $6.48 million in revenues because of inadequate rolling stock supply and utilization.

In light of the increasing severity of the problem and the failure of voluntary efforts of the railroads and regulatory measures by the Commission, a legislative solution is mandatory.

Because of the need for a legislative solution, the Senate Commerce Committee has twice now favorably reported bills to the full Senate designed to deal with the problem. The Senate has passed this legislation twice, most recently on July 24, when S. 1149 passed the Senate by an overwhelming margin.

Mr. President, title V of the Rail Services Act of 1973 is essentially S. 1149, the Rolling Stock Utilization and Financing Act of 1973. Title V addresses not only the needs of the entire Nation for more freight cars and better utilization of those freight cars, but it has direct application to the severe problems faced in the Northeast and Midwest, where the inability of carriers to secure adequate rolling stock has been most severe. In the case of the Penn Central, freight car availability has been so low as frequently to jeopardize shippers' production schedules, sometimes even to the point of plant shut-downs necessitated by clogged inventory pipelines. The problems arising from poor car supply are even more acute, as a result of the unreliable delivery performance which makes it impossible for shippers to plan effectively for receipt of raw materials.

Thus, there is a very pressing need to increase the number of and utilization of freight cars if the new Corporation created by the Rail Services Act of 1973 is going to be able to better serve shippers in the region and increase its revenues so as to function effectively as a private Corporation.

The most important factor in increasing revenues for the new Corporation will come about through improved and more reliable service provided shippers and other users of the new railroad. Improved availability of freight cars will be provided through loan guarantees for freight car acquisition and improved utilization under the provisions of title V of this act. Car supply will further be improved through better utilization and general modernization and rehabilitation of railroad facilities.

Not only will shippers, consumers, and the entire Nation benefit from title V, but the chances for the success of the new Corporation will be vastly improved.

Mr. PELL. Mr. President, I am pleased to add my strong support today to S. 2767, the Rail Services Act of 1973.

At the outset I want to commend the excellent work accomplished by the Senate Committee on Commerce under the leadership of Senator MAGNUSON, its chairman, and by the Subcommittee on Surface Transportation, under the leadership of Senator HARTKE, its chairman. I have been in close contact with the committee as this legislation has developed over many months of comprehensive hearings and most detailed and constructive labor. The provisions of this legislation are of landmark proportions as we grapple with a rail crisis which seriously affects not only my own State of Rhode Island but the Nation as a whole.

I am especially pleased that S. 2767—under section 206(a)(3)—calls for "the establishment of improved high-speed rail passenger service," as recommended by the Secretary of Transportation in his report to the Congress of September 1971, entitled "Recommendations for Northeast Corridor Transportation." This detailed report and subsequent studies done in this area by the Department clearly demonstrate the need for this improved service—a concept on which I have been working since the beginnings of my first term in the Senate.

Earlier this year I introduced legislation with these specific goals in mind. These goals were contained in my bill, S. 2080, introduced on June 26. In my statement to the Senate on that day I said in part:

> An important provision of the bill is that after designating the primary rail passenger transportation corridors in the United States the Secretary of Transportation must establish a project planning organization for each corridor which will determine the need for and the costs of major improvements to rail passenger transportation.

While national in scope this legislation was especially applicable to the crisis in the Northeast—as is the legislation we are considering today, which is also national in its thrust and meaning, and which also contains most important provisions for planning a restructured and improved rail system and for the designation of costs.

On November 20 of this year I was pleased to cosponsor three amendments to the then pending legislation. Sponsored by Senator KENNEDY these amendments called special attention to the Secretary of Transportation's report of September 1971 and called for its implementation.

I am indeed happy that the "Final System Plan"—as prescribed by S. 2767—will be "formulated in such a way as to effectuate" the implementing of high-speed rail passenger service in the Northeast.

Mr. President, my concern for this improved service goes back more than 11 years. In June of 1962 I introduced Senate Joint Resolution 194 which called for improved rail passenger service in the Northeast corridor. This concept led to the establishment 2 years later of the Northeast corridor transportation project in the Department of Commerce, to the High-Speed Ground Transportation Act of 1965, and to the inauguration of today's Metroliners and TurboTrains. Dr. Robert A. Nelson, now a professor at American University, directed the Department project and earlier studies and research, which created such an important foundation to our present deliberations. His abilities, knowledge and vision merit our praise as we consider today's legislation.

These new trains, however, cannot serve our people effectively unless we place a new emphasis on their improvement and on urgently needed improvement to their rights-of-way and the tracks they travel.

Especially today, in terms of the energy crisis we face and in terms of the need to protect our environment from pollution, improved rail service is of urgent importance. An electrically powered passenger train, per seat mile, consumes up to four times less energy than the automobile or airplane. And in terms of pollution the passenger train emits, on a comparable basis, only one-twenty-seventh of the pollutants involved in highway travel by buses and automobiles.

Moreover, as I pointed out in a statement to the Senate on November 20, improvements in rail passenger service can more than pay for themselves in increased revenues. As Department of Transportation studies show, if we project improvements which would provide 5-stop rail passenger services in 2½ hours between Washington and New York, and 4-stop service in 3 hours between New York and Boston, we can expect a surplus of revenues over operating costs and annualized expenses for the capital improvements involved of approximately $40 million per year by 1985. Projecting a 30-year timespan, that surplus would approximate $75 per year.

In this respect the funds utilized would prove a most sound investment, and I believe this funding should become available at the earliest possible time.

I also wish to address in these remarks title VI of the bill we are considering. This title is concerned with the proper protection of labor in view of the extensive restructuring contemplated in the legislation.

Mr. President, the provisions of title VI are the result of most careful and lengthy deliberations in the Senate as well as in the House. They represent the best views of all concerned. The Senate, in the adoption of these provisions, would not set a precedent which might have unfortunate implications for the future, as some opponents have maintained. As one example, Congress has provided wage assistance and retraining for our coal miners in the past, with such assistance now amounting to a total of more than $2 billion.

Were we to alter the provisions in title VI, were we to limit the time for adjustments to take place, we would indeed be setting an unfortunate precedent. We would be inviting labor-management difficulties at the very time when a well-conceived transition would take place.

This bill has the support of both labor and management. Both sides have deliberated together. Both have reached basic agreements reflected in this legislation.

As one who has long worked for appropriate protection of our working men and women, I endorse those provisions. I believe they are in the national interest. Certainly they reflect the views expressed by my constituents in Rhode Island.

It should be emphasized that the United Rail Corporation, to be established by this legislation, is granted freedom in the possible transfer of employees and allocation of work. In this respect, the representatives of railroad labor who worked with the Congress on the development of this legislation deserve our commendation in their cooperative efforts to give the Corporation added opportunities for success.

I believe that success can be achieved, and that in the future we can look forward to the increase of jobs among railroads, rather than to a diminishing of employment. But it will take time and maximum flexibility is needed.

Mr. President, revitalized and, above all, improved rail service is essential to a well-balanced transportation system. It is in keeping with my own long-expressed beliefs. As an efficient, energy-conserving, relatively safe, relatively nonpolluting, all-year-round mover of passengers and of goods and services, high quality rail transportation will have a key role in our Nation's future.

The realization of this role is implicit in this legislation, and I urge its passage and speedy enactment into law.

Mr. BUCKLEY. Mr. President, for more than 2 years, it has been apparent that Federal legislation is necessary to remove the bureaucratic chains that have prevented major railroads in the Northeast from recovery and reorganization under present laws and through private financial sources. It cannot be denied that bad management has contributed heavily to the present state of affairs. Yet to point out the obvious shortcomings of railroad management is not the same as relieving the Government of its major share of the responsibility for the railroads' troubles. Government intervention created the atmosphere in which managerial competence could flourish while discouraging innovation.

The backbone of our free enterprise system is competition. Such competition between and within modes of transportation is desirable and should be encouraged. But the Interstate Commerce Commission's interference, resistance to rate increases, and resistance to innovation completely thwarted the railroads' attempts to compete. The Federal Government poured billions into fostering overwhelming competition for the railroads through subsidization of the national highway system and the airway system and supporting the inland waterways with $250 million annually. The railroads not only could not compete, but were in effect limited to freight and passengers that other transportation systems did not find it expedient to carry.

There is, Mr. President, irony in the fact that it has become very popular in recent months to view rail transportation as the most efficient and economical transportation available in terms of cost and energy. Most environmentalists assess railroads as the only logical means of satisfying transportation needs while achieving air quality goals.

Those concerned with national security look to railroads as the only transportation capable of coping with massive freight movements in times of national crisis. The energy crisis has alerted the public to the majestic powers of the locomotive in comparison to the fuel consuming diesel tractor trucks. Increased dependence on our abundant coal resources for energy needs has handicapped the need for a healthy system of rail transportation. It is, as I said, ironic, that at the very time it has become clear that rail transportation is crucial to the survival of this Nation, there is a threat that a major portion of the rail service in the Northeast might collapse. The crisis, like so many others, is not due to government neglect, because the Northeast railroads could have survived neglect, but to incentive-stifling government involvement over a period of years.

Through the sixties the U.S. Post Office systematically diverted mail away from passenger trains to the airways and other means. The result of such a policy was that by 1968 the Penn Central's annual revenues were reduced by $32 million. Penn Central attempted to absorb 1,000 mail handlers rather than spend the required $14 million to pay them off, but the U.S. Government did not accept any responsibility for hardship it imposed by its actions. It was not the first or last time the Federal Government would refuse to face squarely the accumulating labor problem of the railroads. The Penn Central was further saddled with millions of dollars worth of useless mail-handling equipment. To add to the dilemma, the Interstate Commerce Commission refused to approve any reductions in the scheduled passenger trains which became unprofitable without the sustaining mail revenues.

Under the guise of protecting the public interest, the ICC studied the feasibility of the Penn-Central merger for 5 years, finally giving approval contingent on the inclusion of the bankrupt New York, New Haven and Hartford in the plan. The New Haven had lost $22 million the previous year even though taxes and credits were suspended under bankruptcy laws. Another $22 million expenditure was forced on the Penn Central because the New Haven's equipment was badly in need of repair. This ultimatum from the ICC not only drastically weakened the possibility of the Penn Central merger producing a viable railroad but was the main contributing factor to the bankruptcy of the Lehigh and Hudson River Railroad, a well-managed class II Railroad that was not encumbered with any mortgages or bonded indebtedness.

The inclusion of the New Haven in the merger made it economically expedient for the Penn Central to divert freight traffic to the New Haven Railroad through the congested terminals of New York City and away from the Lehigh and Hudson's efficient and inexpensive bypass to the metropolitan area.

ICC has delayed decisions on rate increases for at least a year and often longer. The railroads were accustomed to governmental obstruction when seeking increases, but when innovation offered opportunities to reduce rates or increase efficiency, the ICC was even slower to agree. The Southern Railway developed a taller freight car designed to carry larger amounts of grain more cheaply. Final approval from ICC was withheld for 4 years. This bureaucratic sluggishness has made it virtually impossible for railroads to cope with working costs and competition.

Excessive taxation has also taken its toll on the profitability of the railroads. Twenty percent of rail revenues are used for taxes and right-of-ways while other modes of transportation pay 5 percent and less.

Thus, there is overwhelming evidence that makes it clear that government bureaucracy and intervention sapped the strength of the railroads with the very tools which were enacted to protect the public interest. The potential calamity we are attempting to avoid with the legislation now under consideration can be traced ultimately to unwarranted government interference.

It staggers the imagination to contemplate the chaos that would result should the bankrupt railroads in the Northeast and the Midwest cease operation. One can easily appreciate the disastrous effect that a shutdown of General Motors and Ford would have on the Nation. The predicament facing thousands of farmers and commercial and industrial firms in New York that are dependent on shipments by rail is equally great. The "domino effect" would jeopardize many firms and farmers throughout the Nation as well as leaving many profitable railroads stranded. Stoppage of shipments of coal to powerplants would cause whole communities to be without electricity.

The Rail Services Act of 1973, now under consideration, demonstrates that the Congressmen and Senators who have wrestled with this dilemma and who have studied proposal after proposal from nationalization to liquidation, recognize the root causes which sent seven railroads into bankruptcy with four of those seven requesting permission to liquidate. By insisting that the proposed rail corporation operate at a profit and finally take its place as a free, privately owned member of the business community, this bill accepts the premise that the railroad business, like any other business, must be free to function like a business.

If the railroads are to have a chance to survive, however, they must be assured an adequate source of capital. The bankruptcy of the Penn Central dramatized the institutional problems faced by railroads, thereby totally discouraging private investment in all railroads. The 2-year delay in congressional action dried up capital investment in railroads to the degree that loans could not be obtained even when unmortaged equipment was offered as collateral. The Rail Services Act provides guaranteed loans to all railroads threatened with insolvency and encourages an increase in rolling stock. These provisions will not only provide capital but will assist in creating the climate of confidence needed to stimulate a cash flow from a multitude of private sources to the railroads.

This legislation effectively provides an opportunity for threatened communities to present evidence in opposition to abandonment but also sets reasonable time limits on the proceedings. When abandonment is approved, there will be adequate notice before service stops. During that time, it will be possible for individuals, companies, local communities and States to purchase lines which they consider to be essential to the economic welfare of an industry or a community. There is also provision in the Rail Services Act for the buyers to apply to the Secretary of Transportation for a 75 percent subsidy to assist in continued operation of lines abandoned by the new core system.

I am particularly pleased that the Senate Commerce Committee has taken great care to insure that the final core rail system does not impinge on the ability of the Delaware & Hudson to continue its independent existence as a profitable railroad; and now it has provided the Erie Lackawanna and the Boston & Maine, sufficient time to prepare court evidence of their independence to relieve them from participation in the new corporation. The protection of these railways can provide a reasonable amount of rail competition in the Northeast.

This is legislation that can offer some chance for salvaging a viable privately operated rail system out of the complex of bankrupt railroads, consistent with the free enterprise theories so fundamental to the success of railroads throughout the Nation.

Unfortunately, however, the bill incorporates labor provisions that should be the subject of the gravest concern. The Congress ought not to be legislating labor settlements. Furthermore, the precedent that would be authorized by compensating at full pay until age 65 employees who have as little as 5 years' service will come to haunt us. It has been pointed out that the agreements included in this legislation are less costly and less protective than those which labor demanded from the Penn Central, at the time of the merger. But it must be remembered that Penn Central was prepared to offer generous settlements in return for union support for the merger. It seems to me the Beall amendment offered a responsible alternative. It would have allowed the management of the new corporation and the employees to have reached a settlement, and it would have provided the Federal funding for benefits, up to $250,000,000, required to insulate the new corporation from a crippling overhead cost. But for the urgency of solving the Northeast railroad crisis, and the need to give the new corporation every opportunity to be relieved of excessive financial burdens to insure its ability to become solvent and profitable, I would oppose this bill sheerly on the basis of the proposed employee benefit program.

However, Mr. President, the immediate benefits that will accrue to the people of the Northeast and to the Nation outweigh the obvious drawbacks incorporated into the bill. I, therefore, intend to support the Railroad Services Act of 1973 and urge my colleagues to do the same.

AMENDMENT NO. 823

Mr. BEALL. Mr. President, I call up my amendment No. 823 and ask that it be stated.

The PRESIDING OFFICER (Mr. McCLURE). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BEALL. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 129, line 20, strike all through page 150, line 25, and substitute in lieu thereof the following:

"EQUITABLE PROTECTION ARRANGEMENTS

"SEC. 601. (a) GENERAL.—The Corporation or an acquiring railroad shall provide fair and equitable arrangements to protect the interests of employees affected by the transfer or conveyance of rail properties to the Corporation or such an acquiring railroad pursuant to this Act. The term 'acquiring railroad' means a railroad, except the Corporation, which seeks to acquire or has acquired, pursuant to the provisions of this Act, all or part of the rail properties of one or more railroads in reorganization, the Corporation, or a profitable railroad. The equitable arrangements required by this subsection shall be contained in contracts between the Corporation or an acquiring railroad and the duly authorized representatives of such affected employees and shall be extended to all affected employees who are represented by such duly authorized representatives.

"(b) PRINCIPLES AND CERTIFICATION.—Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) to such employees under existing collective-bargaining agreements or otherwise; (2) the continuation of collective-bargaining rights; (3) the protection of such individual employees against a worsensing of their positions with respect to their employment; (4) assurances of priority of reemployment of employees terminated or laid off; and (5) paid training or retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to section 5(2) (f) of title 49, United States Code. No conveyance under section 303 of this Act may be made unless the Secretary of Labor has certified to the Corporation or an acquiring railroad that the labor protective provisions required by this section afford affected employees fair and equitable protection. The Secretary of Labor shall certify that affected employees of a railroad have been provided fair and equitable protection as required by this section prior to the submission of the final system plan to Congress under this Act.

(c) CONSTRUCTION CONTRACTS.—The Corporation shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work under any contract or agreement entered into under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Corporation shall not enter into any such contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 333 of title 40, United States Code, shall be applicable to all construction work performed under such contracts or agreements, except any construction work performed by a railroad employee. Wage rates provided for in collective-bargaining agreements negotiated under and pursuant to the Railway Labor Act, shall be considered as being in compliance with the Davis-Bacon Act.

"(d) CONTRACTING OUT.—The Corporation shall not contract out any work normally performed by employees in any bargaining unit covered by a contract between the Corporation or an acquiring railroad and any labor organization, if such contracting out shall result in the layoff of any employee or employees in such bargaining unit.

"(e) AUTHORIZATIONS.—The Corporation and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs, provided protected employees pursuant to the provisions of this title. The Corporation and acquiring railroads shall then be reimbursed for such actual amounts paid protected employees pursuant to the provisions of this title by the Railroad Retirement Board upon certification to said Board by the Corporation and acquiring railroads of the amounts paid such employees. Such reimbursement shall be made from a seperate account maintained in the Treasury of the United States to be known as the Regional Rail Transportation Protective Account. There is hereby authorized to be appropriated to such Protective Account annually such sums as may be required to meet the obligations payable hereunder, not to exceed in the aggregate, however, the sum of $250,000,000. There is further authorized to be appropriated to the Railroad Retirement Board annually such sums as may be necessary to provide for additional administrative expenses to be incurred by said Board in the performance of its functions under this section.".

On page 151, line 2, strike "610", and insert in lieu thereof "602".

On page 151, line 13, strike "611", and insert in lieu thereof "603".

On page 152, line 10, strike "610 and 611", and insert in lieu thereof "602 and 603".

Amend the table of contents on page 3 accordingly.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BEALL. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. BEALL. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. BEALL. For the information of Senators, I do not believe this amendment will take the allotted time. Therefore, Senators may plan their afternoon and govern themselves accordingly.

I yield myself 15 minutes.

As I stated in my earlier remarks, S. 2767 represents urgently needed and carefully conceived legislation. It has my enthusiastic support. The bill is of critical importance not only to the region involved but to the entire Nation. Just as the railroads of the region are inextricably linked with the other railroads of the Nation, I believe the action we take in the Senate on this legislation cannot be viewed in isolation.

I must, therefore, call to the Senate's attention my strong reservations regarding the bill's labor protective provisions and urge the adoption of my amendment. While I agree, as I feel certain my colleagues do also, that it is essential that displaced workers be provided fair and equitable treatment, the labor protective provisions in the Senate bill are unwise from a public policy standpoint, overly generous in terms of their benefits, unprecedented, and discriminatory to other railroad employees and to employees in other industries who lose their jobs.

This bill guarantees any adversely affected railroad employee, with more than 5 years of service, his current income, including fringe benefits and overtime pay, up to $30,000 annually until age 65. The bill also includes an escalator clause so that the guaranteed lifetime wage will be increased to reflect "subsequent general wage increases." Furthermore, protected employees, who secure nonrail positions, would only have to deduct 50 percent of their earnings from such employment.

Thus, Mr. President, if a 26-year-old telegrapher with 6 years of service, who earns $12,000 annually is displaced in implementing the new system, he would receive an allowance to make up for the full amount of his lost income and fringe benefits up to $1,000 per month. If he were to take nonrail employment, he would only forfeit up to 50 percent of his earned income. Thus, he would receive a Federal allowance, so long as his income from nonrail employment was less than $24,000 annually.

If a mid-management employee, earning $30,000 per year were furloughed, he would still receive an allowance so long as he received less than $60,000 from nonrail employment. These figures incidentally, would increase over years with increases in the cost-of-living and future collective bargaining agreements.

In all fairness, it should be pointed out that many workers who are adversely affected through the natural process of early retirement, attrition, et cetera, would probably regain their former status in a period of 5 to 6 years. At least, this was what we were told in the hearings; however, no one is in a real position to give any assurances that this would happen.

Thus, by any standards, the displacement benefits are generous and extraordinary. The generous benefits provided go far beyond protection available to employees of other industries, and beyond that we have heretofore provided other railroad employees.

First, with respect to other industries. The energy crisis will mean disruption to our economy and displacement of employees. Our response for these employees was to provide an additional 2 years of unemployment compensation, not salary.

What about the Federal employees displaced as a result of the closing of certain military and other Federal facilities?

What about the aerospace industry employees on the west coast and elsewhere displaced as a result of the Federal decision not to proceed with the SST and other aerospace and defense projects?

What about the employees of the major automobile companies being furloughed in Detroit and elsewhere resulting from the change in our economy as a result of the energy crisis?

What about the employees in the heartland of the country laid off because of the lack of fuel for general aviation?

What about the many gas station operators who face not only a reduction of their income, but also the wiping away of a life investment because of gas not being available?

What do they get? The answer for the most part is unemployment compensation. The Federal-State unemployment compensation pays on the average only 50 percent of the displaced worker's pay for periods ranging from 20 to 36 weeks.

Thus, our Federal employee at a Rhode Island defense installation will receive between $82 to $102 maximum weekly benefits.

Our aerospace employee in California will receive a maximum of $90 weekly; in the State of Washington a maximum of $81; our employee with the Nation's motor industry in Michigan a maximum of $56 to $92; our employees with a private aircraft corporation in Kansas a maximum of $73.

In addition, Mr. President, there have been furloughed in my State railroad employees in my home area of Cumberland and elsewhere from the railroads. These employees will fare better than other industries, since railroad employees already enjoy the best statutory job protection in the Nation. Under the Railroad Unemployment Insurance Act, two-thirds of the employee's pay—as contrasted to 50 percent under unemployment compensation—for a maximum period of 52 weeks—as contrasted with 20 to 30 weeks under unemployment compensation—is provided.

These railroad employees and the employees of other industries will receive nothing like the lifetime protection provided under this bill.

It is worth noting that the employee protection provided to railroad employees displaced under title V of this bill differs substantially from the other labor protective provisions provided to employees in the Northeast region.

For the life of me, I do not know how to answer the employees of other railroads and other industries when they say, "why this discriminatory treatment?"

I am aware of the special relationship the Federal Government has with the railroad industry, and it might be useful to explore the previous legislation and agreements in this area.

Over the years the basic protection of railroad employees who were adversely affected by mergers and abandonments was provided in a combination of voluntary agreement known as the "Washington Agreement of 1936" and regulations of the Interstate Commerce Act. The Interstate Commerce Commission is required, under section 5(f)2), before approving a merger, to find that a fair and equitable arrangement, including employee protection for at least 4 years against adverse effects, is included.

The Washington Agreement was a voluntary agreement entered into by all of the railroad unions and most of the railroad industry. It provides for 5 years of protection, but guarantees only 60 percent of lost income. Through a number of court decisions and ICC regulations, the provisions of the Washington Agreement and the ICC regulations were interwoven and made applicable to abandonments as well as mergers. It is true that on occasions individual voluntary agreements have gone further, the most important example of which is the Penn Central merger, which provided lifetime job protection to the existing employees. However, none of the merger rules or agreements involved federal financial contribution, and this is an important distinction to keep in mind.

Where Federal funding has been provided, such as in the urban mass transportation legislation and the Amtrak law of 1970, the approach has been to require fair and equitable protection arrangements to be worked out by the parties, subject to the approval of the Secretary of Labor. Thus, it is obvious that the labor protective provisions in the pending measure go far beyond any provision that the Federal Government has underwritten in the railroad or other fields of endeavor.

The amendment I offer for title VI of S. 2767 will in no way invoke hardship on the employees of the bankrupt railroads who may be displaced by the restructuring process authorized by this legislation. However, my amendment will, if accepted, save the Congress from establishing the very dangerous precedent of legislating detailed collective-bargaining agreements.

Let me take a moment to amplify on the perilous course we will take if the employee protection title of this legislation is passed in its current form. Were it not for the rather unique way in which this title VI was written and then handed to our committee, I believe most of my colleagues would agree that, both as a general proposition and in this instance, it would be desirable for Congress to legislate principles, and leave to the parties in interest the negotiations of the specific terms. In previous instances where we have addressed difficult and complex labor-management issues, we have followed this guideline and have not succumbed to the pressure to imbed every detail into the law. Now we are very close to doing just that in this legislation.

If we pursue this course, what will be the probable outcome?

First, as I have indicated, we will have treated one small group of our society in a much different manner than we treat all of the others. Therefore, we can expect cries of discrimination and, at the very least, increasing pressure to write similar detailed protection provisions into laws covering all other industries. We will find ourselves engrossed in what are rightfully labor-management negotiations in an area in which the Congress is ill equipped to participate. We will find ourselves trying to serve as a continuing mediator in every future negotiation on these matters.

Second, we must recognize that once we have legislated these detailed agreements, which certainly will require amendments in the future, we must be prepared to enact further legislation every time a change is to be made. Thus, Congress will also assume the role of having to act as a continuing arbiter as the parties bring disputes back to us for resolution.

Finally, and this is perhaps the crux of the matter, we will have preempted the right of collective bargaining to ourselves and effectively will have taken that right away from labor and management, where it has resided until now. I do not believe that any responsible member from labor or management would sit still for that to happen.

Why, then, are we about to embark on such a course? Well, it is a very interesting story and is a result of activities which took place entirely outside the framework and debate during the development of this legislation. In this instance, representatives of the rail-labor organizations and representatives of the management of two profitable railroads—the Southern and the Union Pacific—voluntarily got together to work out an agreement on the type of employee protection which they thought should be included in this legislation. Of course, neither side in this negotiation cared to bear any of the costs of such labor protection and their negotiations were thus freed from the usual cost constraints imposed on a normal labor-management negotiation.

Now, it is not difficult for management and labor to reach agreement if neither party has to pay the bill. This was a two-party agreement, with the third party, the taxpaying public, unrepresented yet footing the bill.

The benefits involved insofar as I know, far exceed that offered by the management of the railroads who negotiated the agreement, or for that matter, any other railroad in the country.

Now, I wish to clear that I believe that Southern's and Union Pacific's presidents, as well as the labor representatives, who negotiated, with the encouragement of the administration, are to be commended for the time and effort they devoted to helping solve the Northeast rail crisis; but I am concerned notwithstanding this good faith effort, that the precedent we would be establishing in mandating the specific settlement by legislation, is an unwise one.

With the agreement signed by these nonrepresentatives of the taxpayer, first the House of Representatives and then our committee were told, in fact virtually ordered, not to change one word of this document, but simply to rubberstamp it into law. And so far, that is what has been done, with the exception of a few minor amendments made by our committee. For some reason, in the haste to produce legislation to solve the Midwest and Northeast rail crisis, we have allowed ourselves to lose sight of the longer term issue of whether it is in the best interest of this Nation to start down the path toward legislated labor agreements. I, for one, hope that today we see the error in this course of action. We can still provide basic guidelines for employee protection in this legislation which would be satisfactory and lead to a fair and equitable agreement for all parties concerned.

I urge you to support the amendment which I will now briefly describe and put us back on the track as legislators, not labor-management negotiators.

My amendment is simply a straightforward substitution of the employee protection language contained in the Rail Passenger Service Act of 1970—Amtrak—plus authorization for a substantial Federal payment of $250 million for payment of protection costs. This funding would be available to cover the costs of whatever protection agreement is finally negotiated by the rail labor organization and the management of the new corporation or an acquiring railroad.

The amendment states that the corporation or an acquiring railroad shall provide fair and equitable protection arrangements to all employees of the railroads in reorganization. It contains guidelines on what shall be included in these protective arrangements, covering several areas, the most important of which is a guarantee that an employee shall not be forced into a worse position than that he holds on the date of enactment of this legislation. Furthermore, no conveyance of rail properties can take place under this legislation until the Secretary of Labor has certified to the new corporation or acquiring railroad that the labor protective provisions negotiated by the parties in interest are fair and equitable.

The remainder of the language of the amendment is identical, to the extent practicable, with the 1970 Amtrak Act; when the Congress dealt with the labor protection issue in 1970 it chose this approach rather than attempting to iron out all of the details in the legislation. I strongly recommend that we choose this same approach in this case. Labor and management can then negotiate an agreement with $250 million Federal support which can be the same as the existing title VI language or better, if they so wish, but the resulting agreement will have been arrived at through the normal collective bargaining process in the private sector, not as a legislated "tablet of stone." The results for the displaced employee can be exactly the same, but the long-term result—as precedent for future Congresses—will be immeasurably better.

In closing, I would like to emphasize that I am very much in favor of fair and equitable employee protection, and in this case, substantial Federal payments of these costs. But I do strongly oppose the contention that the employee protection provisions which were negotiated outside the congressional arena should be written in a Federal statute without change simply because they generally—not entirely—follow established practice in the rail industry.

We are dealing here with a situation where the Nation's taxpayers will be footing the bill, not the shareholders of profitable railroads. If we begin to extend such a practice to other industries, we will soon find ourselves a welfare state, and I fear the incentive to work will be eroded away completely. We should consider what the total bill will be if we had agreed to statutory lifetime income protection at full salary for the aerospace industry, or for a reduction in force by the Federal Government, or for layoffs due to the energy crisis. Our objective should be to set forth basic principles and guidelines for the protection which should result from labor-management negotiations once the new railroad is designed. The Congress should not forsake its responsibility for protecting the interest of the taxpayer by simply accepting without question the overly generous protection package agreed to by parties who have nothing to lose and everything to gain by the commitment of Federal funds for this purpose.

By adopting my amendment, we would be following the general and desirable principle of having Congress legislate general provisions rather than the specific terms of the negotiations. Let us not enact specific agreements that erode the free collective bargaining process. This agreement in the bill would be legislating without the new management's participation; the next agreement could be done without labor's consent.

I believe that the Senate bill for the most part represents improvement over the House provisions. The Senate can also improve the labor provisions, as well as maintaining our position of both charity and independence by adopting the amendment I have offered. I urge the adoption of the amendment.

Mr. PEARSON. Mr. President, will the Senator yield?

Mr. BEALL. Mr. President, I yield to the Senator from Kansas.

Mr. PEARSON. Mr. President, I would like to join in a colloquy with the distinguished Senator from Maryland and remind him that in the early days when we had identified the problems and were seeking so desperately to find some solution, I think that the Senator from Maryland was one of the first to recognize the responsibility of all of us to provide a framework which would in turn provide for fairness in the matter of labor problems, so to speak. The idea of consolidating the many railroads and, of necessity, arbitrarily setting forth a core system meant a great deal more than just an abandoning of some lines and some freight terminals and some old, dilapidated equipment.

It dealt with a very human problem, and that was the problem of the railroad workers and how we should accommodate ourselves to the many people who had chosen this profession and had served so honorably and well in it for so many years.

In all of those discussions, the Senator from Maryland was in the forefront, seeking fair and equitable labor provisions.

I think, as I understand the point that the Senator is making, it is just as in the amendment that the Senator from Maryland and I submitted in the closing days of July. In that instance, the corporation was not only to negotiate with the Government the acquisition of roadbeds, but also to negotiate a favorable and fair labor determination. I think this is sound policy.

I think the Senator's amendment is most generous—$250 million to go in and to work out a settlement. I think that under those terms it could be even more favorable than the Amtrak agreement.

So I commend the Senator for his work, not only with respect to this amendment, but also in trying to put the pieces together. He has treated with great sensitivity and concern those who are in the railroad unions.

I think this amendment would be better policy. I think that in the long term those affected by it will find this arrangement to be a better means to set a precedent.

All of the industry—all of those who are concerned with this problem—desire not only some solution; but if one would speak to the railroad presidents or those in management, we would find, when we got to the dotting of the "i's" and the crossing of the "t's" of this particular legislation, they were concerned about the sort of precedent we are setting for their problems in the years ahead.

I commend the Senator. I think he has

offered a fair and equitable amendment. I intend to support it, and I hope that the amendment will be adopted.

Mr. BEALL. I thank the distinguished Senator from Kansas for his generous support. The Senator has long been a leader in this particular field. He is very knowledgeable in the problems of the railroads, and particularly knowledgeable about how labor and management should interact on agreements that are satisfactory to both parties.

In this instance, he is most correct. We can, under my amendment, come up with the same provisions as a result of negotiations between the parties. Labor can fare just as well financially for its membership as they have in the bill. In the long run, they will have fared better, because they will have the credit of Congress at the collective bargaining table.

The Senator is correct in saying that we would do an injustice if they had to come back and seek amendments to this particular collective bargaining agreement.

Mr. FANNIN. Mr. President, will the Senator yield 5 minutes to me?

Mr. BEALL. I yield 5 minutes to the distinguished Senator from Arizona.

Mr. FANNIN. Mr. President, first of all, I commend the distinguished Senator from Maryland for offering what I think will be a worthwhile amendment. It will help considerably in correcting some of the inequities in the proposed legislation.

It is extremely important that the Senate and the American taxpayer realize what is being proposed to remedy the critical rail transportation situation with which we are now faced. We are being forced to act with a gun at our head; namely, the breakdown of rail transportation in the Northeast section of our country and a court threat to shut down operations entirely.

The properties of bankrupt railroads are to be put into a new quasi-public railroad corporation at a cost about which no one can now even make an informed guess.

It is claimed that the new railroad corporation will be an economic success. I have not heard any financial expert say that the corporation's stock would be a good buy.

However, my greatest objection to the bill is to title VI, the employee protection sections. Here, the committee has gone into the minutest detail in spelling out the protections and benefits for the displaced employees. They are to be given separation pay, retirement benefits, and working conditions which no profitmaking railroad has in its union contracts. True, the bill contains a ceiling of $250 million, but I am confident that this is only a beginning, and that we will later be asked to double or triple that amount in order to carry out the requirements of this title.

Mr. President, title VI reads like the first demands of a union going into bargaining with an employer.

Take the case of the employee who elects to be transferred: If he changes his residence he is entitled to all expenses of moving his household, transportation for himself and family, and living costs for 10 days. If he owns or is purchasing a home, he will be reimbursed for any loss suffered from the sale of his home. If he is renting a home he will secure the cancellation of his lease. In any event, he does not have to transfer unless it is to a job of his particular skill. Mr. President, these are matters of collective bargaining, and the whole title VI should be eliminated from the bill and left to just that.

Mr. President, I feel that employees who have given a part of their lives to learning their craft and who have been entrusted with the lives of passengers and the movement of freight should not be thrown on the unemployment scrap heap. I fully realize that many of their jobs involve danger and their wages reflect that fact. But there is a limit to how far we should go in permitting a raid upon the public purse, a limit upon what the taxpayer should be required to pay. I just cannot go along with treating the displaced railroad worker better than we treat a retiring member of the U.S. Supreme Court.

Mr. President, I do not know how the Northeast railroads got into their present position of insolvency. I have heard it blamed upon poor management—upon too much competition because of too many duplicating tracks—upon institutional creditors and upon Congress itself. I submit that the railway unions must share a part of the blame. How many years did we hear about the refusals of the unions to permit the elimination of firemen on diesel locomotives? For the past several decades, I have witnessed recommendations of emergency boards named by the President accepted by railroad managements and turned down by the unions. Insistence upon workrules which bear no realistic economic basis has played a part. For many years we saw 100-mile limitations upon train crew operation which made no sense after the speed of trains was greatly increased by improved equipment. Are we now to reward them for their refusals to share in the elimination of uneconomic practices?

Protecting the well-being of the railroad employee should be considered as a social cost payable by the Government rather than a burden upon the new corporation. However, title VI goes far beyond what is necessary to provide adequate labor protection. It places the railroad employee in a far better position than his colleagues in other industries. An employee with more than 5 years' service can receive a monthly displacement allowance for the rest of his working life, in other words, a guaranteed annual income.

As a matter of personal interest, I have checked the law upon retirement of Supreme Court Justices. I find that if a judge resigns after age 70 and after serving 10 years, he receives the salary he was receiving when he retired. If the judge retires after age 65 years, he must have served on the bench for 15 years. If a judge retires under a proven disability and has served less than 10 years, he receives one-half of his salary—United States Code, title 28, chapter 17, section 371.

Mr. President, take an extreme example: A man goes to work for one of these insolvent railroads at age 20. He is laid off at age 25. He is not offered any job by the new corporation. He can receive his monthly compensation for the next 40 years. Of course, if he secures employment elsewhere the amount of his earnings is deductible, but we have surely reduced the incentive for him to look for work.

Take another example: A man in his middle age who has reached the top of his grade skill. The only limitation on his displacement allowance is $2,500 per month, "except that such amount shall be adjusted to reflect subsequent wage increases." Thus, he could receive $30,000 per year and more if there is a wage increase.

Another example, a protected employee decides to resign and the corporation agrees, having no job for him. He then receives a separation allowance in a lump sum not to exceed $20,000. In the same subsection, we find that there are also allowances for employees of less than 5 years.

If he has not less than 3 years of employment, he receives an amount equal to 275 days' pay at his then rate, provisions for allowances for employees with 2 to 3 years' service; 1 to 2 years' service; and less than 1 year's service are spelled out in the bill.

Mr. President, I could go on with examples for an hour but little purpose would be served. I do want to raise the case of the protected employee, who elects to resign. As I read the bill he will be entitled to the bonus up to $20,000 even though he has secured employment elsewhere at a wage higher than he was receiving from the railroad.

Mr. President, I have no amendment to offer at this time. I understand several amendments to title VI will be offered by other Senators. In my opinion, we should strike out title VI in its entirety and leave the matter to collective bargaining with a dollar ceiling upon what the new corporation may spend.

Mr. President, Mr. BEALL the Senator from Maryland's amendment accomplishes that objective and I wholeheartedly support his amendment.

Mr. CLARK. Mr. President, will the Senator from Maryland yield for a very brief question?

Mr. BEALL. I am happy to yield to the Senator from Iowa.

Mr. CLARK. Is there any assurance that this amendment would cost the taxpayers any less than the bill itself?

Mr. BEALL. My amendment provides a flat $250 million. The bill itself authorizes the expenditure of $250 million, but it does not put a limit on it.

In other words, the agreement could cost more, and they could come back in following years, and we would be forced to pay whatever amount of money is required to be paid by this agreement which we are legislating.

My amendment would say, "Here is $250 million; go enter into an agreement that costs no more than that."

Mr. CLARK. So the bill at present, according to the Senator's understanding, does not impose a $250 million limit?

Mr. BEALL. No. It provides an appropriation of $250 million, but future expenditures are unlimited.

Mr. CLARK. But it would take further action by Congress to make them?

Mr. BEALL. It would require further authorization and appropriation by Congress, but Congress would have its hands tied, because Congress in this instance would have enacted a collective-bargaining agreement on which it commits itself to fund expenditures should they be required.

Mr. CLARK. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. HARTKE. Mr. President, I yield myself 2 minutes on this issue.

To clear up the issue, under the bill there is an authorization of $250 million which Congress would require the taxpayers to pick up. I think the Senator from Maryland is correct, that there could be an assessment beyond that, but if there is an assessment beyond that it becomes the obligation of the Corporation and the railroad, and not the obligation of Congress.

Mr. BEALL. Mr. President, I would just ask the Senator from Indiana to show me where in the bill that is.

Mr. HARTKE. Mr. President, I yield myself 5 additional minutes.

I find it very difficult, personally, to disagree with my distinguished friends from Maryland and Kansas, for the simple reason that they have put so much effort and good work into this bill, and so many of the good ideas that are in the bill itself are the result of their initiation and their cooperation that I would prefer not to be opposing this amendment. But I find it necessary to do so.

Really, the complaint here from the sponsors of the amendment and those who agree with them involves a matter of basic policy in regard to the railroad employees. A part of this comes about from the fact that we really have in this country no transportation policy whatsoever, and equally no labor policy whatsoever. We have done very little planning in either field.

I think it is high time we address ourselves to these questions, but I do not think it is appropriate to do so piecemeal in this legislation.

We are a remarkable nation. Maybe we have in fact done what Madison said, we have demonstrated that America is destined to prove the impossible in many fields. We used to be an agricultural nation. We no longer really are, in the sense of the number of citizens employed in agriculture, because even though a large segment of the Nation is devoted to farming, only 5 or 6 percent of the working force at the present time is involved in that business.

Harvey Wheeler, a distinguished student of policy and economic structure from the Center for the Study of Democratic Institutions in California, makes the equally astonishing and I think probably salutary recommendation that 10 percent of the work force is going to be able to produce all the material needs of the United States by 1990, so that what we will have is 5 percent of the people producing the food and 10 percent doing all the industrial and other work, with the net result being that 85 percent of the present work force will have to find some other place to get their livelihood.

The issue, I think, is beyond the purview of this legislation. But I would address myself to the question of collective bargaining.

I do not think Congress is legislating collective bargaining agreements here. This is not, in my opinion, a collective agreement. It is simply a detailed remedy for what will happen to the individuals who lose their jobs and suffer displacement as a result of the massive restructuring of the Northeast and Midwest railway sections. I can understand the assertion that it is a form of collective bargaining and the fact that it does deal with what we will do collectively with people who ultimately will be out of work as a result of this action. But section 604 specifically provides that collective bargaining agreements are to be negotiated and a single implementing agreement is to be consummated.

So this agreement, in this part of the bill, does not deal with collective bargaining agreements whatsoever. In other words, the details of what will happen beyond that are going to have to be established by agreements between the parties themselves.

Taking up the question about the detail provisions which describe what happens to employees disadvantaged by this legislation, these details, as the Senator from Maryland has indicated, were worked out initially by rail labor and management and, frankly, by management which is not even involved directly at the present time in what is going on. To that extent, I think there can be a complaint that the public was not represented in the negotiations. But the House of Representatives knew about it at the time and the Senate Commerce Committee knew about it when it reported this bill. It has not been a secret. It has not been attempted to be kept secret. It is a well-known fact that the work they have provided and the suggestions they have made have been evaluated and have helped us do the best job we can in trying to deal with these problems.

I see no reason to hide the way this came about. The only testimony against the labor protection provisions came from the Secretary of the Department of Transportation. He has made a statement. He accused rail management and labor of giving away the store. It is somewhat ironic to hear Secretary Brinegar say that, when he was the one individual who did encourage the parties to come up with a legislative draft in order to facilitate the actual consummation of the legislative agreements which this legislation worked out. Now he comes forward and has some objections to the provisions.

I will point out that he has no objection, however, to the amount of money involved: The $250 million for labor protection. I think to that extent, that is somewhat of an inconsistency on the part of the Secretary, but not on the part of the sponsors of the bill.

The argument is also made that if Congress is to legislate such an agreement, it should not exceed what is fair and equitable. No one can disagree with that as a statement of general principle. My opinion is that the provisions of title 6 in this bill are fair and equitable.

In the first place, generally speaking, the rights which will be accorded to the employees are not so liberal in their total context as the rights they have at the present time. What we are saying to them is, "We will displace you as a result of Federal legislation but, at the same time, you are going to be asked to take less than you have at the present time."

Let me give you an example, Mr. President. If an employee is available for a job which requires him to transfer, at the present time he can refuse to be transferred, generally speaking. To a great extent now, in this bill, he can be transferred without any restrictions whatsoever.

In the second place, rail management itself has not come forward and objected to this type of legislation as being overly generous. Frankly, they have been uncritical of the whole process that we have put forward here.

There is a point I should like to make that deals with the question of the age limit of 65. The reason the age limit of 65 is in this measure is that 65 cuts off and prevents workers, for example, who are 63 years of age from drawing a displacement allowance past 65 when they are eligible for railroad retirement.

The question arises about the 30-year-old displacement. He is entitled to a monthly displacement allowance but only until the job comes up on a railroad. He is required to take it. He has to go back to work. If he does not take the job available to him, then his displacement allowance is terminated.

The point is that the 30-year-old in most cases will be back at work in probably 1, 2, or 3 years, as other railroad employees retire, and as, hopefully, the corporation gets into full swing as a viable operation and continues its operations as originally structured, and hopefully, even expands. So what we are saying is that, to that extent, the argument about the 30-year-old is probably somewhat exaggerated.

As to the $250 million limit, I think that is the limit of the tax liability. Let me say there is no question whatsoever, and the Senator from Maryland would agree, I am sure, that no matter what, the $250 million is all that is authorized in this bill. Before we could take another step, it would have to be authorized by Congress. The argument can be made that the employees would have the right to come back and insist on equity, that they entered into an agreement which had a $250 million estimate on how much would be needed and that that was not sufficient; but my judgment is that, as I understand the structuring—and I have to admit that the Department of Transportation has so far refused to permit me to see any of the secret tapes on this measure—I am in a position where I cannot really say whether this is excessive or not. My own judgment is that the amount is possibly more than will be necessary to take care of the displacement of employees.

Many present workers will retire. Most of those displaced will go back to work.

In other words, attrition will take care of most of these problems.

Briefly, I want to go back to the whole question. We talk about other employees not receiving benefits like Federal employees. We talk about Government contracts which are terminated, and things of that sort. I agree. What has been said is true. But maybe the efforts are at the wrong end. Maybe there are things done for a railroad employee that should be done for other people. I believe that is something which appropriately belongs in the Committee on Labor and Public Welfare and they should come up with a recommendation. To the extent they have not done so, they have neglected their duties. To the extent that the Labor Department has not done so, or the administration has not done so, they can be criticized for that. But it is unfair to criticize railway labor unions for following a policy which was established in 1936, ratified by law in 1940, and which is the basis for what we are doing here. If we change the provisions, as the amendment of the Senator from Maryland would, we would be undoing what has been the historical attitude of Congress throughout the years.

Now, Mr. President, I should like to yield to the Senator from Pennsylvania (Mr. SCHWEIKER).

Mr. SCHWEIKER. Mr. President, I would like to comment briefly on the employee protection provisions of the pending bill. I wish to emphasize the term "employee protection" inasmuch as this section is designed not only to provide employment security for the labor force of the affected railroads, but also includes management personnel. Thus, it is not accurate to refer to this section of the bill as labor protection. It is employee protection for all the employees.

It also must be emphasized, Mr. President, that the provision contained in the bill is the result of serious negotiations between rail management and rail labor and represents a negotiated package agreed to by all parties. The negotiations were begun at the encouragement of the Department of Transportation as a means to draft the legislative provisions to reduce the inevitable confusion and hardships for employees of the railroads resulting from the cessation of the operation of the railroads in the Northeast. The negotiations resulted in the formula contained in the bill which both rail management and rail labor recommended be adopted by the Congress. Mr. President, in my view the pending amendment would overturn those negotiations and represent an unwarranted intrusion into bona fide labor-management negotiations. Adoption of the amendment could seriously jeopardize the success of the entire rail system proposal represented by this bill. The elimination of the provision created through the negotiations would be a fatal defect in the proposed legislation.

Mr. President, the employee protection proposed in title VI of the bill is generally fair and equitable to all parties concerned—the railroads, including the new Railroad Corporation, the public and the employees involved. Indeed, they grant the new Corporation unprecedented freedom in the transfer and reallocation of work in the utilization of employees in inaugurating its operations. I think this is a very important point, if the administration of this new program is to be successful. I believe this point has been overlooked.

Mr. President, it has been suggested that these provisions set a dangerous precedent. I must point out that Congress went far beyond the employee protections contained in this bill when it enacted the Emergency Transportation Act of 1933, the last legislation in which Congress directly provided for the vast merger of the services and facilities of railroads. In that act Congress prohibited the reduction of the number of employees below that in service during the month before its enactment.

In other words, that act was recognized as a freeze on employment. Further, it is my understanding that these provisions follow a pattern of employee protection dating back to 1936.

As I indicated earlier, the provisions in this bill are recommendations of labor and management representing all organized railroad labor and all railroad management—except the Norfolk & Western, the Chessie lines, and the bankrupt railroads. The president of the Association of American Railroads testified before the Senate Committee on Commerce as to the positive reaction of the industry to the recommended provisions now contained in the bill. The chairman of the industry's negotiating arm, the National Railway Labor Conference, has also indicated approval of the provisions.

In fact, Mr. President, the president of the Association of American Railroads and railroad presidents have stated that the provisions would be less costly than protections now in existence by contract and, most significantly, provide a unique freedom to the new rail corporation to transfer work and employees, a right found nowhere else in the railroad industry.

Mr. President, I urge the Senate not to tamper with the employee protection provisions in title VI of the bill.

Mr. HARTKE. Mr. President, I yield myself 2 minutes to discuss the question of the $250 million limitation.

The provision about which we are talking is on page 150 of the bill. It deals with section 609. The pertinent part of that section is in line 11, which reads "pursuant to the provisions of this title."

This clarifies what I understand the proposed legislation would do. Whether this is what the Senator from Maryland wants it to do is a different matter.

It limits the liability of the taxpayer to $250 million. That is one of the provisions of this title, the limitation of $250 million.

The displacement benefits are to be paid by the corporation or the acquiring railroad, and they are to be reimbursed to that extent, and to that extent only.

In other words, they are acquiring the property and acquiring the employees. To the extent that those are displaced, they will receive their payment in accordance with the provisions of this title. Then, in turn, they make their application to the Treasury to be reimbursed to the extent of $250 million. It is my understanding that if there is any claim beyond that, the Corporation still has that obligation; but they do not have the opportunity for reimbursement under the provisions of this act. If there is any disagreement on that point, I would like to hear it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BEALL. I yield myself 2 minutes, so that I may disagree with the Senator.

Mr. HARTKE. I yield myself 2 minutes, first, before the Senator disagrees.

The Senator from Maryland may disagree with the idea that the Corporation should not have the obligation to go ahead and take care of this displacement or cost in the event no reimbursement is available from the Treasury; but it is my understanding that it is the obligation of the Corporation under the law, and to the extent that there is an amount which exceeds the $250 million, it would then become the liability of the Corporation, without any right of reimbursement, unless there is subsequent action of Congress.

Mr. BEALL. That is a very important qualification—subsequent action of Congress.

Section 609, "Payment of Benefits," beginning at line 8, reads:

> The Corporation, Association (where applicable), and acquiring railroads shall then be reimbursed for such actual amount paid protected employees pursuant to the provisions of this title by the Railroad Retirement Board . . .

To me, that language means that the Corporation or the acquiring railroads are going to be reimbursed.

Further on, it reads:

> There is hereby authorized to be appropriated to such protective account annually such sums as may be required to meet the obligations payable hereunder, not to exceed in the aggregate, however, the sum of $250,000,000.

All this indicates to me is that we are now authorizing the expenditure of $250 million, but we have still indicated, prior to that time, that the Corporation is going to be reimbursed. Therefore, since we have indicated this reimbursement of the Corporation, I think Congress may be compelled to pass an additional authorization should the expenditures for this provision exceed the presently authorized $250 million.

Mr. HARTKE. I hear the Senator from Maryland. I understand what he is saying. I disagree with his conclusion, by virtue of the fact that in line 11, it says "pursuant to the provisions of this title." "Pursuant to the provisions of this title" has an express limitation. In no case shall it exceed $250 million.

I do not think there is even the slightest indication that there is a requirement by Congress to reimburse them in an amount in excess of $250 million.

Mr. BEALL. We have a difference of opinion. But if the Senator is correct—and I do not think he is—then he is placing a burden on the new corporation which I do not think anybody thinks it should have; because we have received testimony from some that these benefit could possibly exceed $250 million. If that is the case, the new corporation is being required to shoulder a burden for an agreement to which they have not been party. This is not their doing at all. I do not think we ought to place this kind of financial burden on a new corporation.

Mr. HARTKE. I disagree with that 100 percent. I think this burden should be put on the new corporation. I believe that is a fair interpretation.

With regard to what the Senator is talking about now, I am led back to the question I have had concerning this whole legislative scheme. My objection to this whole bill has been that the start has been made at the wrong end of the process. We do not know what the final system plan will be. Without knowing what the plan is, we cannot know what it is going to cost or how many employees it is going to need. That is my objection to the bill. I lost that argument a long time ago. There is no reason for me to complain about it. To the extent that we are buying a pig in the poke, blindly, to that extent at least, putting the burden of labor costs in excess of the authorization on the corporation and the acquiring railroads puts some financial restrictions on this bill.

In my opinion, we have done a pretty good job of trying to make sure that the taxpayer is not bilked, that the system works the way it is intended to, and that wise minds will prevail in the design of the final system plan.

The argument that the Senator from Maryland is making is that he does not know what the ultimate cost is going to be. Not knowing what the ultimate cost is going to be, he is fearful against whom that ultimate cost is going to be assessed. As I interpret the bill, it says that any cost beyond $250 million will be on the corporation, but the Senator from Maryland is not in agreement with me on that. I think it should be, and that is my interpretation. I think that the authorization limitation of $250 million is very clear, and the Senator from Maryland says it is not. That is a difference of opinion in which I am sure I am not going to be convinced differently, and I do not think I am going to convince the Senator from Maryland.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. BEALL. I yield 5 minutes to the Senator from Michigan.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 27 minutes remaining.

Mr. GRIFFIN. Mr. President, unless the Beall amendment is agreed to the pending bill would make welfare reform obsolete for over 100,000 employees of the bankrupt Penn Central and 6 other bankrupt railroads in the Midwest and Northeast. It would guarantee, at taxpayers' expense, the current salaries of 80 percent of these employees, up to a maximum of $30,000 per year, until age 65, even though they do not work.

But this does not tell the full story. The guaranteed salaries include fringe benefits and overtime pay.

The guaranteed salaries will be determined in such a way as to make it possible for an employee to get more money under this bill than he was previously making.

The guaranteed salaries will be reduced by only 50 percent of earnings from a nonrailroad job.

And these guaranteed benefits will be adjusted upwards to reflect subsequent general wage increases.

Thus, it is quite easy to see that Christmas will come early for the employees of the Penn Central and the other bankrupt lines in the Northeast.

What Congress is being asked to do in this legislation is to ratify an agreement negotiated by rail management and labor without any taxpayer representation, despite the fact that the agreement will drain the Federal Treasury by at least $250 million, and by as much as $500 millon or more.

This is truly a sweetheart agreement. Railway labor had everything to gain by a generous settlement, and the railroad management involved in the negotiations had nothing to lose, particularly since the taxpayers will have to foot the bill.

As several of my colleagues and I pointed out in additional views to the Commerce Committee report on S. 2767—

> There is not even any quid pro quo for the expenditure of at least $250 million, of taxpayers' funds, such as modernization of antiquated and costly railroad labor work rules, which have been, at least in part, responsible for the current crisis.

In a report to Congress on March 26 of this year, the Interstate Commerce Commission concluded that—

> If the problems of the Northeastern railroads are to be resolved . . . traditional practices governing utilization of the work force must be changed.

However, the pending bill saddles the proposed new rail corporation at the outset with existing work rules and provides no method of resolving prolonged disputes on this and many other issues.

The question facing the Senate today is not whether protection should be afforded to rail employees affected by this legislation, but how much protection should be afforded? The benefits provided in this bill far exceed anything Congress has ever done before for any other segment of organized labor.

Workers who lose their jobs because of foreign imports only get unemployment benefits, and perhaps job retraining assistance. The same holds true for workers who are laid off because of the closing of military installations or because of the discontinuance of a Federal program such as the SST.

Even under the emergency energy bill, recently passed by the Senate, workers who lose their jobs because of Government action would only be eligible for unemployment compensation.

Hundreds of thousands, even millions, of workers can be affected by a work stoppage of just one railroad—the Penn Central—without the benefit of any assistance except 26 weeks of unemployment benefits. The 1-day Penn Central strike early this year forced the shutdown of several auto plants involving almost as many workers as will be affected by this legislation.

If that strike had lasted only a week, the entire auto industry would have ground to a halt, directly affecting about 900,000 workers.

In the past 12 years there have been 10 crippling nationwide transportation strikes, yet legislation which I have introduced to provide a reasonable resolution of these disputes languishes in committee.

Where is the concern for workers affected by these strikes? Clearly the answer is not to be found in this legislation.

The argument is made that the railroads in the Midwest and Northeast will stop running without this legislation. There is no question that this legislation is urgently needed. The Penn Central and other bankrupt railroads serve an area including 55 percent of America's manufacturing plants and 60 percent of its manufacturing employees.

But the price for keeping this service going is high and there is no guarantee against future work stoppages in the new rail system.

In order to correct this inequitable situation, I joined with several of my colleagues in supporting an amendment offered in committee by the distinguished junior Senator from Maryland (Mr. BEALL). This amendment would have taken Congress out of the business of legislating collective bargaining agreements. Instead, the new United Rail Corporation would negotiate with labor equitable protective arrangements for displaced employees, subject to approval by the Secretary of Labor.

Some Federal assistance would, of course, be required, but there would be a much better opportunity for arm's length bargaining to protect not only the interests of railroad employees but also the interests of the American taxpayer. Congress adopted a similar approach in having Amtrak take over the passenger trains. Employees affected under that legislation can receive benefits for up to 6 years.

Mr. President, if such an amendment is not adopted, what will we say to millions of other workers throughout the country who will ask for equal treatment?

The only sensible course is to make sure that we do not unfairly discriminate in favor of one group of workers and against all other workers in America. The Beall amendment is not antilabor, anticonsumer, or antianything else.

I am very keenly aware of the importance of keeping the Penn Central going in the Midwest, and I am aware of what it means to the automobile industry. But surely this provision in the bill which the amendment of the Senator from Maryland would seek to correct should be remedied. It is inequitable. It robs the Treasury in a way that is absolutely unconscionable.

I hope enough Senators will vote for the Beall amendment to see that it is adopted.

I yield back any time I have.

Mr. BEALL. I yield to the Senator from Michigan for his statement.

The PRESIDING OFFICER. Who yields time?

Mr. BEALL. I yield to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. HATHAWAY. I thank the Senator. As I gather from listening to the debate, under the proposal of the Senator from Maryland the corporation and the union representing the employees could negotiate an agreement that was identical to the one that is now in the bill before us except there would be a ceiling of $250 million on how much could be spent to carry out the provisions of that agreement. Is that correct?

Mr. BEALL. That is correct.

Mr. HATHAWAY. That seems to me to be a wise provision. I assume the Senator is advocating that because the corporation was not a party to the negotiations that brought about the agreement that is now incorporated in the bill. Is that correct?

Mr. BEALL. That is one of the reasons.

Mr. HATHAWAY. Are there others?

Mr. BEALL. I do not think Congress should legislate a collective bargaining agreement. I do not think we should be enacting a collective bargaining agreement into law. That is not one of our responsibilities. This is the responsibility of labor and management, to negotiate these agreements. It is a terrible precedent for us to follow, specifically, to enact this kind of agreement in the law. My amendment says, "Go ahead and do it yourself and here is the money to do it."

Mr. HATHAWAY. I thank the Senator.

Mr. BEALL. We are setting a very dangerous precedent for other Federal employees. Why should we not do the same thing for other employees, no matter what the complaint? What defense do we have from these people who say, "You have done this for the railroads. There is no reason why it should not be done for the shipyards that might be closed and other people who are out of work. Why not give them a displacement allowance?" Who knows where the end of the line is?

Mr. HATHAWAY. In the proposal made by the Senator from Maryland, we are authorizing $250 million and they can come up with an identical provision as that in the bill and the same people could come to us and say, "Why did you not do it for us?"

Mr. BEALL. We feel an obligation in this instance because we are not putting a precedent on the new corporation. There is a successor corporation, and we do not think they should pay this bill.

Mr. HARTKE. Mr. President, I wish to point out first that this is not a collective bargaining agreement. Here we are dealing with individuals who are being displaced as a result a railroad reorganization. The Federal Government is going to take over these railroads and displace certain people with vested employment rights.

What we are saying to them is to give up the rights they have now, take less, and under the amendment of the Senator from Maryland it would take them back even further, but not save any money.

The crux of the problem and why you cannot solve the problem as the Senator from Maine would like to solve it is that you are starting out to restructure a system with $250 million in the kitty for labor displacement. This is the first time I have seen an operation where you are going to restructure a whole corporaton on the basis of labor cost and the sad fact is that labor here, instead of getting a bonanza is stepping backward unless you make the corporation assume the current liability they have to these employees. Labor, instead of getting a bonanza here, has been asked to come in under a $250 million limitation under an agreement in whch they can move these employees, which they cannot do at the present time, move their homes, and otherwise change their employment rights. They could not do that today.

In essence, what we have here is a measure which is morally right, legally proper, and legislatively necessary if we are to solve the railroad problem.

Mr. HATHAWAY. I understand that under the amendment of the Senator from Maryland $250 million is simply the Government's obligation. The new corporation and the unions could work out something that would cost in excess of that. The Federal Government is not committed to more than that amount, whereas under the committee bill it is open ended. If it runs over $250 million, we have to pick up the tab.

Mr. HARTKE. That is not true. If the Senator would be kind enough to look at section 609 on page 150, beginning on line 4, if displacement benefits are to be paid by the corporation or the acquiring railroad, then the corporation or acquiring railroad is to be reimbursed. Then, on line 11 it is stated:

> Pursuant to the provisions of this title by the Railroad Retirement Board upon certification to said board by the corporation, association, and acquiring railroads of the amounts paid such employees.

If the Senator will then turn to line 21, he will find that under the provisions of this title there is a limitation of $250 million.

The fact is that that is the total exposure of the taxpayer. If there is a system which costs more than that in displacement then somebody should be obligated to pay the employees for being displaced. That is all I am saying.

What the Senator from Maryland is saying is that there cannot be a system, no matter how well devised or how it is marked up, which is going to cost more than $250 million in labor costs. That, in and of itself, I think is not only a great disservice to existing employees but is contrary to legal principles.

Mr. BEALL. Mr. President, I yield myself 2 minutes

The Senator from Maryland is not saying that. He is saying there ought to be a labor agreement between labor and the corporation, and we think the problem has an obligation. We are willing to put into it up to $250 million. If they want to agree to more than that in an agreement between each party, that is fine, but we cannot go into it more than $250 million.

Mr. HATHAWAY. Mr. President, will the Senator yield?

Mr. BEALL. I yield.

Mr. HATHAWAY But reading the language on page 150, it does seem to limit the Federal Government's agreement up to $250 million.

Mr. BEALL. I disagree with that. If we look at line 8 of that page, it says:

> The Corporation, Association (where applicable), and acquiring railroads shall then be reimbursed for such actual amounts paid protected employees pursuant to the provisions of this title by the Railroad Retirement Board upon certification . . .

My argument is that should the expenses run higher than $250 million, they will be back here to Congress and we will have an obligation to reimburse the Retirement Board so that they can reimburse the corporation as a result of legislating this very specific collective bargaining agreement.

Mr. HARTKE. Mr. President, I yield myself 1 minute.

We are in 100 percent disagreement on this point, but if the Senator from Maryland is concerned about this, and if it would help the Senator from Maine, I would be willing to insert in the bill the language "and acquiring railroads shall then be reimbursed for such actual amounts paid protected employees pursuant to the provisions of this title by the Railroad Retirement Board upon certification to said Board by the Corporation, Association, and acquiring railroads of the amounts paid such employees, not to exceed $250 million."

So it is very clear what we want done, if that would help the Senator.

Mr. HATHAWAY. That would be extremely helpful to me.

Mr. HARTKE. At the appropriate time, I will so move. This is not an amendment to the amendment of the Senator from Maryland; therefore, it would not be in order at this time.

Mr. BEALL. The Senator is correct.

Mr. HARTKE. But I would be willing to make such a technical change, because that is the intent of this legislation as I understand it, and it would clarify any disagreement that exists at this moment between the Senator from Maryland and myself. It would not enter into the final policy decision as to who is going to take up the balance.

Mr. HATHAWAY. What the Senator is saying is that the Federal Government would not be obligated more than $250 million at any time for this labor protection agreement.

Mr. HARTKE. Yes. Let me say it is impossible to bind a subsequent Congress to anything.

Mr. HATHAWAY. I agree.

Mr. HARTKE. But with that exception; yes.

Mr. HATHAWAY. Does the Senator from Maryland think that would correct or alleviate the apprehension he has?

Mr. BEALL. It may correct some apprehension I may have about the provision, but we still have the fact that we have legislated and placed on a new corporation a burden brought about by this legislation, and, secondly, we have legislated a precedent of paying somebody $30,000 a year for not working. All those things are involved here, it strikes me, to make it an unattractive matter.

Mr. HATHAWAY. I thank the Senator for yielding.

Mr. HARTKE. Mr. President, I yield myself 1 minute.

Let me assure the Senator from Maryland that, in the event the amendment of the Senator from Maryland is defeated, which I hopefully and charitably expect, I assure the Senator I will then offer the amendment to make that clarification.

Mr. HATHAWAY. I thank the Senator from Indiana.

Mr. THURMOND. Mr. President, the bill we have before us, S. 2767, sets an unwanted precedent for employee protection. These provisions, without question, place a fiscal burden on the American taxpayer that should not be his responsibility.

Under title VI of S. 2767, the Federal Government will pay up to $30,000 per year until age 65 to an employee of the railroad who is adversely affected as to his compensation. The only requirement is that the so affected employee accept employment by the new corporation when employment is offered to him.

Such action in no way influences these employees to seek employment in another profession. Even if he should find other employment, his displacement allowance would only be reduced by one-half of his new salary. Therefore, an adversely affected employee could be making $50,000 per year and still receive $5,000 per year from the Government.

I do not feel that it is the responsibility of the Federal Government to provide such liberal protection. A better approach would be for the management of the Corporation to negotiate with labor representatives for a fair and equitable settlement.

The amendment being offered by the Senator from Maryland is extremely liberal, providing $250 million for employee protection. It does, however, allow the Corporation to negotiate reasonable payments to employees who suffer a reduction in their income due to reorganization of the railroads.

I consider the Beall amendment the lesser of two evils; therefore, I vote in its favor.

Mr. HUGH SCOTT. I have one matter on which I would like to have the Senator's assurance, although I am satisfied that the bill really leaves no doubt on the point. Assume first, that a railroad presently in reorganization has leased, for a term of years, a line of railroad from a nonrailroad company which is not in bankruptcy or reorganization, and which is not affiliated in any way with a railroad; second, that the lessee railroad is now conducting authorized operations over the lines; and third, that the present lessee railroad entered into the lease subsequent to going into reorganization and with the approval of its reorganization court and prior to the enactment of this legislation. If the new United Rail Corporation were to acquire the leased line in question, am I correct in my belief that the new Corporation would thereby acquire the rights and obligations which the lessee carrier had with its lessor?

Mr. BEALL. The Senator is correct in his understanding.

Mr. HUMPHREY. Mr. President, with respect to the question of the Senator from Pennsylvania and the answer that the Senator from Maryland has just given, I would like to make reference to one particular situation that has been brought to the attention of the Committee on Commerce. For this purpose, I ask unanimous consent that there be inserted in the Record at this point the letter of Mr. T. R. Anderson, president of the Lehigh Coal & Navigation Co., which was sent to Chairman Magnuson on November 21, 1973, and which details how the act would apply to certain railroad properties that are owned by nonrailroad companies. An identical letter of the same date was sent to the ranking minority member of the committee, Mr. Cotton. This letter has been included as part of the record of the committee's hearing on this legislation.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Lehigh Coal & Navigation Co.,
Bethlehem, Pa., November 21, 1973.

Hon. Warren G. Magnuson,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

Dear Chairman Magnuson: The purpose of this letter is to bring to the attention of the Committee on Commerce certain provisions of H.R. 9142, the "Regional Rail Reorganization Act of 1973", as passed by the House of Representatives, and the corresponding provisions of the Committee's Working Paper No. 1, dated November 11, 1973, entitled the "Rail Services Act of 1973", as they may affect non-railroad, non-bankrupt companies such as The Lehigh Coal and Navigation Company (LC&NC).

LC&N is not itself a "railroad" as defined in section 102(11) of H.R. 9142 or section 103(10) of Working Paper No. 1, nor is LC&N controlled by, or affiliated with, through stock ownership or otherwise, any railroad. LC&N does have, however, an interest in certain "rail properties" as defined in section 102(10) of H.R. 9142 and section 103(9) of Working Paper No. 1. LC&N's interest is in a line of railroad, commonly known as the Lehigh & Susquehanna System (the "L&S"), running about 132 miles in total length in Northeastern Pennsylvania. This line provides an important connecting link for substantial amounts of rail freight traffic moving over such railroads as the Lehigh Valley, Reading, the Delaware & Hudson, Penn-Central, Erie-Lackawanna, and the Central Railroad Company of New Jersey.

As a result of a transaction consummated in 1962 and approved by the Interstate Commerce Commission in *Reading Company-Purchase-Lehigh & Susquehanna Railroad System*, 317 ICC 633 (1962), Reading Company, now in reorganization under section 77 of the Bankruptcy Act, acquired from LC&N the fee simple title to the L&S, subject, however, to LC&N's right to receive the income from such properties for a period of thirty-five years. At the present time, LC&N is exercising those rights through a lease with the Lehigh Valley, also a railroad in reorganization. This lease was entered into by the Trustees of Lehigh Valley, approved by the Lehigh Valley's reorganization court, and filed with the Interstate Commerce Commission. Lease payments in the amount of $575,000 per annum are presently being made by the Trustees, as an expense of administration, under the terms of the lease. In addition to its leasehold rights, Lehigh Valley also has the option to purchase LC&N's interest outright for $7.5 million, less a credit for a portion of rental payments already made. The L&S lines have been operated profitably and successfully by Lehigh Valley, and sworn testimony on behalf of the Lehigh Valley's Vice President, J. W. McDonnell, at a June 7–8, 1973, hearing in Philadelphia before Lehigh Valley's reorganization court, testified that net income arising from the L&S for the last nine months of 1972 *after* rental payments to LC&N amounted to $1,962,000. Lehigh Valley's rent to LC&N for the L&S during this period under the court-approved lease and option-to-purchase agreement amounted to $343,750.

It is LC&N's understanding that in acquiring rail properties from a "bankrupt railroad" under the mandatory conveyance scheme contemplated by H.R. 9142, Federal Rail Corporation will be able to acquire only that property interest which the bankrupt railroad has. Where a bankrupt railroad is the lessee of property belonging to a lessor that is neither a railroad nor controlled by, or affiliated with, a railroad, the Corporation can acquire only the bankrupt railroad's leasehold interest, and not the lessor's interest as well, as the bill does not reach the acquistiion of property owned by persons who are not railroads. Under these circumstances, Federal Rail Corporation would supplant the bankrupt railroad as the lessee of the property, and all the rights and obligations between lessor and lessee specified in the lease would survive. The same analysis is equally applicable in the context of Working Paper No. 1, where the mandatory conveyance scheme allows Federal Rail Corporation to take rail properties only from "railroads in reorganization."

Thus, assuming that the interests of Reading and Lehigh Valley in the L&S are "rail properties" that are designated by the Final System Plan for mandatory conveyance to Federal Rail Corporation, it is our understanding that the specific results would be as outlined below.

First, both the fee interest of the Reading and the leasehold interest of the Lehigh Valley would be acquired by Federal Rail Corporation for such recompense as the Final System Plan may ultimately provide based upon a determination of "fair and equitable value" or "just compensation".

Second, since Federal Rail Corporation can acquire from Lehigh Valley only that interest that Lehigh Valley has—the right to use the L&S properties so long as all the terms and conditions of the lease with LC&N are observed—acquisition of the Lehigh Valley's leasehold interest would necessarily carry with it (1) the obligation on the part of Federal Rail Corporation to observe all the terms and conditions of the lease, including the payment to LC&N of the specified rent in cash, and (2) the right of Federal Rail Corporation, as the new lessee, to exercise the option to purchase LC&N's interest in the L&S for $7.5 million in cash less the credit allowed by the terms of the lease.

Thus, it seems clear that Federal Rail Corporation could not acquire LC&N's interest in the L&S under the mandatory conveyance provisions of either H.R. 9142 or working Paper No. 1, which provisions cover only rail properties of "bankrupt railroads" or rail properties of "railroads in reorganization",

On LC&N's behalf, I wish to assure the Committee of our earnest desire to work with the Lehigh Valley, other railroads, shippers, and the proposed Federal Rail Corporation to preserve and to improve the vital link supplied by the L&S in our national railroad system. It is for this reason that we are calling our situation to the Committee's attention so that the matter is fully understood and the record clear.

We would appreciate having a copy of this letter included in the record of the Committee's hearings on this subject.

Sincerely,

T. R. Anderson,
President.

Mr. BEALL. Mr. President, I am ready to yield back the remainder of my time if the Senator from Indiana is ready to do the same.

Mr. HARTKE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Maryland. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. Gravel), the Senator from Louisiana (Mr. Johnston), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

The result was announced—yeas 37, nays 59, as follows:

[No. 571 Leg.]

YEAS—37

Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Ervin
Fannin
Fong
Goldwater
Griffin
Hansen
Hatfield
Hathaway
Helms
Hollings
Hruska
Mathias
McClure
Packwood
Pearson
Roth
Saxbe
Scott, Hugh
Scott, William L.
Taft
Thurmond
Tower

NAYS—59

Abourezk
Aiken
Bayh
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Eagleton
Eastland
Fulbright
Gurney
Hart
Hartke
Haskell
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Sparkman
Stafford
Stevens
Stevenson
Talmadge
Tunney
Weicker
Williams
Young

NOT VOTING—4

Gravel
Johnston
Stennis
Symington

So Mr. Beall's amendment was rejected.

AMENDMENT NO. 824

Mr. HATFIELD. Mr. President, I call up my amendment No. 824.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 21, lines 5 and 6, insert a new subsection:

"(d) Rail Passenger Transportation.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to Congress a comprehensive report on the feasibility and desirability of expanding service by the National Railroad Passenger Corporation. The report shall consider the current and projected shortage of refined petroleum products, curtailment of alternative modes of travel, availability of additional equipment for the provision of rail passenger service (whether domestic or foreign), the economic feasibility of additional service on existing routes and expansion of service to new routes, and such other matters as the Secretary deems relevant. The National Railroad Passenger Corporation shall cooperate fully with the Secretary in the preparation of this report.".

On page 51, line 21, change "$15,000,000" to "$15,100,000".

Mr. HATFIELD. Mr. President, I ask unanimous consent that the names of the Senator from Wyoming (Mr. Hansen), the Senator from Utah (Mr. Bennett), the Senator from Massachusetts (Mr. Kennedy), the Senator from Ohio (Mr. Taft), and the Senator from California (Mr. Tunney) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I yield to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I ask unanimous consent that my staff assistant, George Nethercutt, Jr., be permitted the privilege of the floor during the consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. Senators conducting conversations will please retire to the cloakroom.

The Senator from Oregon may proceed.

Mr. HATFIELD. First, Mr. President, I want to express my appreciation for the hard work of the Commerce Committee in putting together this complex bill. As a former member of the committee, I am aware of all the ramifications that are included, and I know the bill represents a great deal of work by members of the committee.

During my service on the Commerce Committee, much of my efforts were directed toward enactment of legislation to correct the chronic freight car shortages. Without going into the statistics I cited during floor debate earlier this year when the Senate approved the freight car bill, I want to commend the committee for including the freight car legislation as a part of this bill. The statistics of the need are staggering and dramatic. The impact of freight car shortages touches all businessmen, all consumers—they affect the price of many of the goods we purchase.

The amendment I have proposed is very simple and easy to explain. I believe that the energy crisis offers us an opportunity to revitalize our rail passenger system. As airline flights are curtailed and as gasoline supplies continue to dwindle, greater pressure is going to be put on the Amtrak system.

In checking on the Oakland to Seattle Amtrak route, officials told me that traffic this past October was up some 102 percent over passenger traffic in October 1972. I am sure that November reports will reflect a continued growth. In fact, Amtrak is sure to experience a rapid rate of growth on existing lines—to the degree that, I am told, Amtrak is not even taking names for waiting lists on many routes for tickets during the holiday season.

This is good news to those of us who would like to see a prosperous rail passenger system in this country. In view of the energy crisis, I believe the opportunity exists to expand Amtrak operations and to add lines where there is a demonstrated need and a reasonable chance for good ridership.

Congress should consider expansion of the Amtrak system. It would not be prudent, however, to talk about adding one line here and another one somewhere else without first looking at the problem in view of the energy crisis.

The amendment calls for a report to be submitted to Congress within 180 days of enactment that would examine carefully the possibility of expanding rail passenger routes under Amtrak. While Congress is criticized at times for setting up a study as an answer to a problem, I think this is the best approach here in view of the changing situation in which we find ourselves. Let us find out just what routes might be added with a reasonable chance of economic vitality. In addition, this report would consider such matters as the oil and gas shortage and its impact on alternate modes of travel. Where before there might not have been a demonstrable need for Amtrak service at its inception in some area, if air service there was reduced significantly, then there may be a greater potential pool of train riders to draw from. Other routes between cities fairly close together may well be able to draw new riders from automobile travelers who feel the gas pinch.

Before Congress takes any further steps, however, I think we need more facts. Could added trains secure enough fuel themselves? I also am aware that there is a lag developing in delivery of new Amtrak passenger equipment. Could we secure enough equipment to operate new train routes?

I really do not think there needs to be a great deal more said about this amendment. It is very simple. It simply says let us get some facts before us on the possibility of expanding Amtrak, in light of the energy crisis and the curtailment of other modes of travel. There would be authorized for this study $100,000, and in light of other sums we are talking about in this Chamber, not just in this bill, but on the other energy legislation, that is not much.

In conclusion, I urge my colleagues to support this amendment. Out of all the gloomy news caused by the energy crisis lies this one hope of restoring rail passenger service to what it once was. We should see what needs to be done, what the realistic prospects are, and then at that time, we will be in a position to act.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. CHURCH. I wonder if the Senator would be good enough to add my name as a cosponsor of his amendment.

Mr. HATFIELD. I am happy to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Oregon. Is time yielded back?

Mr. HARTKE. Mr. President, let me say that I have discussed this matter with the Senator from Oregon. I think during all the time we have been dealing with the question of Amtrak rail passenger service and even before the creation of the present system, I have thought we should have done more. So I compliment the Senator for his action. In fact, on every rail passenger bill that has come before this body I have advocated more rail passenger service. To my mind, quality and quantity are inseparable. It is unlikely that many passengers will be lured back permanently unless we improve the service.

I have expressed my doubt in the past as to whether the Department of Transportation is dedicated to the improvement of passenger service.

Now we are faced with an emergency where they are not even able to take care of what they have, at least in a decent fashion. They cannot find the cars necessary to take care of their passengers. So I think the amendment is very timely.

I am prepared to accept the amendment and yield back the remainder of my time.

Mr. PACKWOOD. Mr. President, I rise today to commend my distinguished colleague (Mr. Hatfield) and to urge my fellow Senators to support his amendment.

When I visited Oregon last week, I found a tremendous interest in resuming rail passenger service to eastern Oregon, My constituents see hundreds of millions of dollars going to Amtrak, but they have the distinct impression that the majority of that money is being spent in the East while the less populated areas of the Nation are left out in the cold. I am thinking in particular about the communities of Pendleton, Baker, La Grande, and Ontario, Oreg.

The Hatfield amendment directs the Secretary of Transportation to study the feasibility and desirability of expanding Amtrak service to areas that heretofore have been neglected. I am confident that the Department of Transportation and the National Rail Passenger Corporation will pay more than lipservice to this proposal. Far too often we see Federal studies lost in a maze of bureaucratic redtape. Rural Americans deserve more than a perfunctory evaluation of their transportation needs. At a time of gasoline shortages and airline cutbacks, it is all the more imperative that we provide Americans with sufficient mass transportation opportunities.

I hope my colleagues will support this amendment. Its passage will be warmly received by eastern Oregonians and other rural residents throughout the Nation.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. BEALL. I would say to the Senator, on behalf of the minority, that I think his amendment is very timely, and we are willing to accept it.

The PRESIDING OFFICER. Is time yielded back?

Mr. BEALL. I yield back the remainder of my time.

Mr. HATFIELD. I thank both Senators for their comments, and I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. McClure). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment was agreed to.

Mr. MOSS. Mr. President, I send to the desk an unnumbered amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MOSS. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with. I will try to explain the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the Record.

The amendment ordered to be printed in the Record is as follows:

Beginning on page 159, line 6, strike all through page 164, line 6 and insert the following:

Sec. 703. (a) Rate Policy.—In view of existing and anticipated shortages of critical natural resources, the Transportation Commissions, within the scope of their respective jurisdictions, are hereby directed to effect with the least practicable delay such lawful changes in the rate structure of the country as will promote the freedom of movement by common carriers of recyclable materials at the lowest possible lawful rates compatible with the maintenance of adequate transportation service: *Provided*, That no investigation or proceeding resulting from the enactment of this section shall be permitted to delay the decision of cases now pending before either of these commissions and involving rates on recyclable materials, but such cases shall be decided in accordance with this section.

(b) Investigating Rates.—The Transportation Commissions, within the maximum scope of their respective statutory jurisdictions, shall, within 36 months after the date of enactment of this Act and on a continuing basis thereafter—

(1) investigate and formally identify all rates charged by transportation carriers subject to their respective jurisdictions for the transportation of recyclable materials and shall, in each case, after a hearing has been afforded, determine whether the rates charged and the terms and conditions of transportation for such materials are reasonable or whether they unjustly discriminate against the movement or shipment in interstate or foreign commerce of recyclable materials and in favor of competing virgin natural resource materials or commodities;

(2) issue appropriate orders in all cases where the rate charged or terms and conditions of transportation applicable to recyclable materials are found to be unreasonable or discriminatory pursuant to which such rates and conditions of transportation will be effectively canceled and repealed and replaced by rates, tariffs, and conditions of transportation which are found to be fair, reasonable, and nondiscriminatory; and

(3) file annual reports with the President and the Congress on the 10th day of December of each year and such terminal reports as shall be appropriate to reflect all actions commenced or completed under the Act during the reporting period to eliminate unreasonable and unjustly discriminatory rates for the transportation of recyclable materials.

(c) Intervention.—The Administrator of the Environmental Protection Agency shall take such steps as are necessary to insure that the directives of subsections (a) and (b) of this section are carried out as expeditiously as possible, including the initiation of and intervention in proceedings before the Transportation Commissions. Such Administrator shall have such standing in proceedings before these commissions as is necessary to comply with this subsection. Attorneys appointed by such Administrator may appear for and represent him in any such proceedings.

(d) Unreasonable and Discriminatory Rates.—(1) In addition to all other obligations imposed by law, a Transportation Commission shall not approve, authorize, or allow to go into effect any rate or charge increase for the transportation of recyclable materials which is unreasonable or unjustly discriminatory when such increase or existing rate for such recyclable materials is compared with the increase approved, authorized, or allowed to go into effect or with the existing rate demanded or collected by the railroad or carrier for the transportation of virgin natural resources which compete with such recyclable material.

(2) In addition to all other obligations imposed by law, it shall be unlawful for any railroad, common carrier by water, motor carrier, or any group, conference, or association of railroads or carriers, or for any officer or agent thereof to (1) file with the Transportation Commission or (2) demand, charge or collect any rate or charge, schedule of rates or charges, proposed rate or rate increase, classification or tariff for the transportation of recyclable materials which is unreasonable or unjustly discriminatory when compared with any rate or charge, schedule of rates or charges, proposed rate or rate increase, classification or tariff already on file or filed or charged or demanded by such railroad, carrier, group, conference or association of railroads or carriers for the transportation of virgin natural resources that compete with such recyclable materials; and before any such rate, charge, rate increase, schedule, tariff, or classification is accepted for filing, the filing party shall be required to furnish such evidence as shall be necessary to establish that the same is not unreasonable or unjustly discriminatory.

(e) Complaints.—Any person may file a complaint with a Transportation Commission which alleges that rates, charges, or tariffs or proposed rate increases for the transportation of recyclable materials within its jurisdiction and not already under investigation are unreasonable or unjustly discriminatory or both. Upon filing of any such complaint, the affected Commission shall forward a copy thereof to the railroads or other carriers whose rates or proposed rate increases are challenged. Such carriers shall be offered a reasonable opportunity to answer such allegations in writing. The affected Commission shall thereupon investigate and, after a hearing has been afforded, determine whether such rates, charges, tariffs, or proposed rate increases are unreasonable or unjustly discriminatory when compared with the rates, charges, or tariffs charged or filed by responding railroads or other carriers for transportation of competing virgin natural resources. If such rates, charges, tariffs, or proposed rate increases are found to be unreasonable or unjustly discriminatory, the affected Commission shall issue an appropriate order which effectively cancels such rates, charges, or tariffs or denies such rate increases, and replaces them with rates, charges, tariffs, and conditions of transportation found to be reasonable and nondiscriminatory, and the respondents shall be ordered to comply with the affected Commission's rulings.

(f) Proceedings.—(1) In any proceeding under this section, the railroads or carriers whose existing or proposed rates are under investigation shall establish by a preponderance of the evidence on the record, subject to cross-examination, that such rates are reasonable and nondiscriminatory.

(2) The Transportation Commissions shall make specific findings based upon appropriate references to the record with respect to all determinations made by it in accordance with this section. If either Commission wishes to rely on its own experts in making these findings, such experts shall place all evidence in the record, subject to cross-examination.

(3) With respect to determinations required under this title, facts and conclusions offered in evidence by other Governmental agencies having specific expertise in such matters as functional equivalence, substitutability, or environmental impact and the degree thereof, shall be presumed to be true unless rebutted by a preponderance of the evidence.

(4) Because of the important environmental interest involved in such proceedings, the Transportation Commissions shall give full preference to the hearing and decision of such questions and decide them as speedily as possible. In any such case, a Transportation Commission may by subpoena compel the attendance of witnesses and the production of books, papers, documents, and such other evidence as may be required. Attendance of witnesses and production of evidence in response to subpoena may be required from any place in the United States to any designated place of hearing. Persons acting under subpoena, except employees of either such commission, shall be entitled to the same fees and mileage as are paid for appearances in the courts of the United States. Obedience to any such subpoena shall, on application of the affected Commission, be enforced by any district court of the United States having jurisdiction over the parties or witnesses involved. In such cases, depositions, written interrogatories, and other discovery procedures shall be available to the extent practicable and in conformity with the rules applicable to civil proceedings in the district courts of the United States.

(g) REVIEW.—Orders issued by a Transportation Commission pursuant to this section shall be subject to judicial review or enforcement by any court with appropriate jurisdiction in accordance with the provisions of the Interstate Commerce Act (49 U.S.C. 1, et seq.) and the Shipping Act of 1916 (46 U.S.C. 801, et seq.).

(h) PRESUMPTION OF DEFINITION.—For the purposes of this section—

(1) A recyclable material which is functionally or technically equivalent to or substitutable, in any industrial or manufacturing process, for any virgin natural resource material shall be presumed to be competitive with such virgin natural resource material unless this presumption is rebutted by a preponderance of the evidence.

(2) "Recyclable material" means any material such as scrap metal, discarded textiles, rubber, plastic, glass, and others which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be usefully recovered from solid waste sources such as garbage, refuse, or trash or from industrial, commercial, and agricultural operations for reuse or recycling.

(3) "Transporation Commission" means, to the extent of their respective jurisdictions, the Federal Maritime Commission and the Interstate Commerce Commission.

(i) REGULATION.—The Transportation Commissions are authorized to prescribe such regulations as may be necessary to carry out the provisions and purposes of this section.

(j) PENALTIES.—Any person who violates subsection (d) of this section shall be subject to a civil penalty of not more than $5,000 for each such violation. Such civil penalty shall be assessed by the Transportation Commission which has jurisdiction over the violation. Such penalty may be remitted or mitigated upon such terms as the affected Commission shall deem consistent with the purposes of this section.

FREIGHT RATES FOR RECYCLABLES

Mr. MOSS. Mr. President, I offer the amendment to section 703 of the Rail Service Act of 1973. The amendment would not alter the fundamental intent of section 703, which is to provide more equitable freight rates for recyclable materials.

The amendment would simply bring greater precision of language to this section, and would place in the bill a provision for a 3-year study of the present rate structure. When Senator COOK and I presented section 703 in committee it was our intention to include such a provision for a study, but through a misunderstanding, it was not included in the final draft of the bill.

Allow me to describe briefly the importance of section 703, which is entitled "Freight Rates for Recyclables." In my opinion, this section embodies one of the most important and compelling pieces of legislation to come before the Congress this session. Clearly the Senate Commerce Committee, its distinguished chairman, Senator MAGNUSON, and Senator HARTKE, are to be congratulated for the actions they have taken to support the proposal that these provisions be enacted into law before the Congress adjourns this year.

If, as the committee intends, section 703 is enacted, and if it is fairly, expeditiously, and vigorously administered, it will have a dramatic, beneficial impact on the following areas of vital importance to our Nation:

First, conservation of dwindling supplies of critically short natural resources;

Second, increased recycling and recovery of these same resources from our country's growing mountains of solid waste;

Third, conservation of vast amounts of energy by industrial users throughout the United States;

Fourth, alleviation of our imperiled balance-of-payments position; and

Fifth, assistance to our cities and States in their constant struggle against the expanding problems and spiraling costs of solid waste disposal.

Moreover, we will gain these benefits with no cost to the American consumer or the Federal Treasury.

Mr. President, the record before the Commerce Committee shows that since 1968, agency after agency of the executive branch has urged the Interstate Commerce Commission and the Federal Maritime Commission to correct the unreasonable, discriminatory transportation rates for recyclable commodities such as scrap metals, waste paper, and textile wastes.

The Secretary of the Interior, the Department of Commerce, the Director of the Office of Emergency Planning, the General Services Administration, the Council on Environmental Quality, the Environmental Protection Agency, the Citizens Advisory Committee on the Environment, the National Materials Policy Commission, and the National Science Foundation have all called for the elimination of the unreasonable and discriminatory freight rates which have impeded effective recycling and have drained our scarce stock of critical natural resources.

At the local level, the National League of Cities, the U.S. Conference of Mayors, the Council of State Governments, and the League of Women Voters have sought the same relief from the Federal Government contending that unreasonable, discriminatory freight rates for the transportation of recyclables are discouraging recycling and making it more and more difficult and costly for local governments to manage and dispose of their expanding volumes of solid waste materials.

Unfortunately, the Interstate Commerce Commission has not responded to this broad range of pleas. The Federal Maritime Commission has made some slight effort, but it has proceeded at a snail's pace and has failed to come to grips with the magnitude of the problem. For the most part, the ICC has actually moved backward in this area. They have approved six straight percentage increases in nationwide rail transportation rates for recyclables in the last 5 years, thereby aggravating and increasing the discrimination already firmly imbedded in the basic rate structure.

The record before the Commerce Committee shows:

First, that in 1959, nonferrous metal ores and concentrates were carried by the railroads at an average rate per hundredweight at 51.7 cents while competing nonferrous scrap metals had to pay 65.1 cents per hundredweight, or a net difference in rates of 13.3 cents;

Second, that in 1971, after ICC licensed some of the annual percentage rate increases mentioned above, the disparity had grown to 17.7 percent; that is, a rate of 70.3 cents was then being charged for the virgin ores, while a rate of 88 cents per hundredweight was charged for competing recyclable materials;

Third, that in 1959, virgin woodpulp was carried by the railroads at an average rate per hundredweight of 17.4 cents, while wastepaper was compelled to travel at an average rate per hundredweight of 31.3 cents, or a net difference in rates of 13.9 cents.

Fourth, that by 1971, however, the rates for woodpulp had risen to only 24.4 cents per hundredweight, while waste paper rates had increased to 43 cents and the net disparity in rates had grown to 18.6 percent.

These rate statistics were derived from those published by the Interstate Commerce Commission itself, and in spite of the clarity of the rate problem presented for rectification, the ICC has stubbornly refused to act.

At this point, I wish to refer briefly to present rail freight rate comparisons which indicate the discriminatory nature of the present rate structure:

First, in the eastern territory of the United States, waste paper is carried by rail at rates which result in revenue per car to the railroads of $344, while competing woodpulp is carried at rates which return only $254.84 per car;

Second, in the southern territory, waste paper is carried at rates which return a revenue per car to the railroads of $216, while the competing woodpulp is carried at revenue per car of only $145.95;

Third, in the western territory, waste paper is carried at revenues per car of $315, while the rates for competing woodpulp return a revenue per car of only $172.15 to the railroads;

Fourth, similarly, virgin alumina and bauxite is carried from Mobile to Los Angeles by rail at a rate of only $16.73 per ton or a revenue per car of $669.20, while scrap alumninum is forced to bear a rate of $45.80 per ton or a revenue per car return to the railroads of $1,374.

Given the past failures of the ICC and FMC to take corrective action, section 703 of S. 2767 has been drafted to compel the Interstate Commerce Commission, the Federal Maritime Commission, and the Environmental Protection Agency to join hands to eliminate all unreasonable rate disparities governing the transportation of recyclable materials without any further delay. In this day of critical national shortage and dwindling supplies of precious natural resources, recyclable materials which are substitute for virgin resources should be paying the lowest possible transportation rates, not the highest.

Thus, section 703(a) directs the two Commissions and the Environmental Protection Agency "to effect with the least practicable delay such changes in the rate structure of the country as will promote the freedom of movement by common carriers of recyclable materials at the lowest possible rates compatible with the maintenance of adequate transportation service."

This means that if any commodity can be carried economically by a railroad or an ocean carrier at a rate of 24.4 cents per hundredweight, no recyclable should pay any more than that rate for a comparable transportation service. It means also that if a containerized natural resource material can be carried at a rate of $16.50 per ton, the competing containerized recyclable material should be carried at the same rate, or at a lower rate if other containerized commodities are transported over the same transportation route at a lower rate per ton.

In other words, various commodities such as agricultural products, forest products and the like are already carried at the "lowest possible rates compatible with the maintenance of adequate transportation service." In some cases, this has been done because Congress directed that it should be done in the national interest. In 1973, and in the years ahead, the national interest clearly directs that recyclable commodities receive the same transportation equality and advantages.

Section 703 directs the two Commissions to cancel all such existing rates and replace same with reasonable, nondiscriminatory rates within a period of 3 years.

And under section 703 the carrier whose rate is challenged shall have the burden of proof to show that the said rate is not unreasonable or unjustly discriminatory as just indicated.

In order to make it abundantly clear why the three Government agencies charged with the administration of section 703 must proceed in the national interest expeditiously and decisively to accomplish the statutory goals just described, let me refer briefly to the following crucial considerations:

First, studies prepared for the Environmental Protection Agency and various industrial sources prove that hundreds of thousands of trillions of Btu's of energy can be saved during the next 10 years if we simply increase industrial utilization of solid waste materials by 50 percent. These reports stress that this energy saving will be achieved only if we promptly eliminate economic impediments to recycling such as discriminatory transportation rates. The studies demonstrate that paper manufacturers and aluminum smelters, for example, use only 5 percent of the energy required for the processing of virgin raw materials when they switch to substitutable recyclable commodities.

Second, studies prepared for the National Geological Survey and the Bureau of Mines indicate that, by 1985, the United States will have to depend on foreign imports for more than one-half of our supplies of the nine most basic raw materials—iron, lead, zinc, nickel, tin, and so forth—and that by the year 2000 we will have to look to foreign imports for more than one-half of 13 of our most basic raw materials. This means that the negative impact on our balance-of-payments position will grow from $5 billion in 1970 to $36 billion in 2000—unless we promptly take all actions necessary effectively to remove all economic impediments to increased recycling.

Third, in a joint report issued in March 1973 entitled "Cities and the Nation's Disposal Crisis," the National League of Cities and U.S. Conference of Mayors stated:

> The disposal of wastes and the conservation of resources are two of the greatest problems to be understood and solved by this nation in the latter third of the country. With almost half of our cities running out of current disposal capacity in from one to five years, America's urban areas face an immediate disposal crisis. The cities' management of solid waste will have to be conducted in the face of two critical trends:
>
> 1. The sky-rocketing volume of solid waste.
> 2. The sharp decline of available urban land for disposal sites . . .
>
> Cities cannot recycle wastes on a large scale until recycling becomes economically profitable on a large scale. The Federal Government should adjust its discriminatory freight rates . . . to provide positive incentives for increased utilization of recycled materials . . .
>
> . . . Recycling and resource recovery as a solution is potentially the most environmentally cost effective and responsible approach . . .

In conclusion, I want to emphasize that I do not believe that its adoption and the subsequent reduction in rates for the transportation of recyclable materials will be costly to our railroads or ocean carriers. At the present time, these commodities account for only 2 percent or less of the railroads' total annual revenues, and even less in the case of ocean transportation. Moreover, the whole purpose of section 703 is to increase the volume of recyclable traffic, and thereby more than offset any loss involved in the structure.

I believe the transportation industry can look forward to the day when the recyclable industry and those who use recyclable materials will be among their very best and most dependable and desirable volume customers.

For all of these reasons, Mr. President, it is crucial to the national interest that the section on freight rates for recyclables be included in this legislation.

I move the adoption of the amendment.

Mr. COTTON. Mr. President, will the Senator yield for a question?

Mr. MOSS. I yield for a question.

Mr. COTTON. The Senator's amendment was not presented to the committee, and it is not printed. Do I correctly understand the Senator—and I have every confidence in whatever he recommends—that his amendment fixes rates?

Mr. MOSS. No, it does not fix rates; it simply provides that there shall not be discrimination between virgin materials and used or recyclable materials. For instance, scrap iron would now move at the same rate as newly poured iron or even other iron products. Wood pulp would not move more cheaply than does paper. There is great discrimination now.

Mr. COTTON. Is that discrimination perpetrated by the decisions of the Interstate Commerce Commission or by law?

Mr. MOSS. I am sorry; I did not understand the question.

Mr. COTTON. The Senator has indicated that there are discriminations now. Are those discriminations the result of decisions by the Interstate Commerce Commission?

Mr. MOSS. They have been carried forward for a considerable period of time. Advantage has been given to virgin materials on the theory that we at one time thought we needed to encourage the making of paper and the mining of ore.

Mr. COTTON. The force of the Senator's amendment is that times have changed and that we should now, as far as possible, utilize recycled materials and not dig into our basic resources.

Mr. MOSS. The Senator is correct. That is the whole purpose of the amendment.

Mr. COTTON. I thank the Senator. With that information, I would favor accepting the amendment.

Mr. HARTKE. The amendment of the Senator from Utah basically is to correct some elements of the original amendment adopted in the committee itself. We are prepared to accept the amendment.

Mr. BEALL. We are prepared to accept the amendment.

Mr. HARTKE. I yield back the remainder of my time.

Mr. MOSS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. MOSS. I move to reconsider the vote by which the amendment was agreed to.

Mr. BEALL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. HARTKE. I merely desire to submit an amendment.

Mr. COTTON. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. COTTON. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with. I shall explain it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment ordered to be printed in the Record is as follows:

On page 141, line 1, after the word "section", delete all through "and," on line 3 and insert in lieu thereof the following:

"(1) in the case of a protected employee with five or more years service on the effective date of this Act, shall continue for six years after the date of conveyance of rail properties under section 303 of this Act, except that for such employee who has also reached age fifty on the effective date of this Act such allowance shall continue until the attainment of age sixty-five; and (2)".

On page 141, line 5, delete "such date" and substitute "the effective date of this Act".

Mr. COTTON. Mr. President, the Senate has just rejected the Beall amendment which would have taken out of the bill the labor arrangement that was written into it, that would guarantee wages and increases and so forth to all protected employees until they were 65. Now that arrangement was written into the bill by the House and is now in the Senate bill. Much as I desire to support this bill, having worked long and hard with the other members of the Commerce Committee, I do not believe I can bring myself to vote for a bill that sets this kind of precedent and that writes into law as drastic a labor agreement. The Beall amendment would not have legislated an agreement, but would have left it up to the parties, as was done in the Amtrak legislation.

The amendment I am offering is a fair and reasonable compromise and would at least put the question into the conference, provided the Senate passes the bill. It is a fair and reasonable compromise, although I want to make it plain that I still do not believe we should be legislating labor agreements. To that extent, I am inconsistent in offering this amendment.

But, my amendment simply provides that in the case of protected employees with 5 or more years of service on the effective date of this act, their compensation shall be continued for 6 years, which is the same arrangement agreed to as a result of the Amtrak legislation. It further provides that all protected employees 50 years of age or over on the date of passage of this bill shall be protected and guaranteed their wages until they become 65 years old.

Now, no one has come up with reliable figures, and I do not know that we could, but I doubt there are many cases of 30-year-old employees, under the bill in its present form, who would be drawing pay plus increases and, in some cases, additional pay when otherwise employed for the whole period of 30 to 65 years of age. Probably that would be the exception rather than the rule. But this would give the same protection that was given in the Amtrak legislation on wages for all the younger employees who have had 5 years of service, but for those 50 years or over where it becomes more difficult, of course, for displaced employees to find employment, they shall have the guarantee of the protection already written into this bill up to the age of 65.

That is a very simple explanation. It is a simple and plain compromise. It can have the advantage at least of allowing us to have something in conference before we pass such a drastic labor arrangement. This is not unfriendly to labor. It is fair. I would have no desire to deprive the protected employees of their fair and reasonable compensation. I can appreciate the feelings of the many Senators who voted against the Beall amendment, and who may have been apprehensive because it left it up to the parties to negotiate. Any Senator who voted for the Beall amendment could not go home and say, "I made sure that protection was specifically written into the bill for you." Something, I might add, which has not been done in the past.

Therefore, I had hoped that my amendment would be accepted. However, I understand that the Senator from Indiana (Mr. Hartke) cannot accept it.

Mr. President, I ask for the yeas and nays.

There was not a sufficient second.

Mr. HARTKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Roth). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. McClure). Without objection it is so ordered.

Mr. COTTON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HARTKE. Mr. President, let me say that the distinguished Senator from New Hampshire (Mr. Cotton) has been very helpful on this measure. He spent long hours, expended diligent effort, and contributed immeasurably to the success of this legislation, as did the distinguished Senators from Maryland and Kansas (Mr. Beall and Mr. Pearson). I find it rather unpleasant, therefore, to oppose this amendment, but I have to, on several grounds.

To make the analogy with Amtrak, to make the analogy of a situation negotiated after the fact; that is, that there was a situation where employees of the railroad were given the opportunity to go with Amtrak, but if they chose not to go with Amtrak, they still retained employment with the railroad. It was not mandatory to transfer. Under this legislation, there will be no such opportunity afforded those displaced employees either to accept the employment given to them or if there is an offer made and they do not accept it, then they are entitled to absolutely nothing.

Second, this is not really, as I have said repeatedly, a labor collective bargaining agreement. This is a labor protection device, under a special set of circumstances, where the court has assumed jurisdiction over the operation. The individuals at the present time, by virtue of their prior contract, have benefits which are really substantially better than those being put forth in this bill. In effect, what we do is vitiate the contractual arrangements made by the individual to force them in many cases, maybe to leave their homes and be transferred.

I am in no position to discuss the actuarial effects, any more than is the Senator from New Hampshire, because we frankly do not know. He said he did not know. I admit he did not know. But no one else knows, either. That is one of the real difficulties about the bill.

As to how many people would be affected adversely by this amendment, I have no idea, because we are dealing with unknown factors. We do not know the number of miles. We do not know the number of employees. We do not know how many individuals would be affected below 30 years of age.

Mr. COTTON. Those who worked 5 years would not be affected adversely, any of them, for 6 years.

Mr. HARTKE. I know, but they would be after the 6 years. It would be fatal to a man anticipating that he had his protection for a lifetime. Under the present contract which has been negotiated with Penn Central, it is not even a 65-year age limit.

There is no requirement that he accept transfer. I will agree that until the 6th year, under the amendment, there would be no difference. But in the 7th year, that employee could be spinning out in orbit.

As I said before, I disagree with the amendment. I think the provisions of the bill are correct. The Senator from New Hampshire is correct in the other assumption that unless some changes are made in this title, it will not be in conference.

Mr. COTTON. Also, would the Senator agree that as the bill now reads, payment to all of these employees until they are 65 years of age may well run far beyond the $250 million authorized in the bill to meet the obligations? Does not the Senator agree with that?

Mr. HARTKE. Let me say that I do not disagree with it, which is not necessarily a distinction, but it is a different statement.

The fact is that I do intend to offer the amendment, which I promised the Senator from Maine I would offer, limiting the tax liability under this bill to $250 million. I intend to offer that amendment, even though I did not persuade the Senator from Maine to go along against the amendment of the Senator from Maryland.

The liability in this bill, as it is to be passed, will be $250 million, subject to only one condition—that is, that Congress itself would, at some future date, make a decision to add to that amount.

There is no explicit or implicit recognition of any further liability by the taxpayers.

Mr. COTTON. The Senator has been talking about a contract. If at some future time we find that $250 million has not taken care of all of this guarantee to protect employees until they are 65 years of age and that another $100 million or $150 million is necessary, Congress has to appropriate it.

Mr. HARTKE. I do not think Congress has to do so at all. I believe that liability should be assumed by the corporation. This is the discussion I had with the Senator from Maryland, and he and I disagree as to who should assume that obligation. I think the obligation to reimburse the people who are displaced is incumbent upon someone, and the question is not whether they should be paid but who is going to pay.

Mr. COTTON. Even with all the trouble this Nation is in, the Federal Government is likely to be more solvent than the corporation we are contemplating. The Senator is depending on its having clear sailing, paying its way and being a profitable corporation, at least one that can meet its obligations. But, there is a moral obligation on Congress to make up the difference and to see that the employees are protected—all of them, even if they were only 30 years of age at the time of the effective date of this act until they are 65 years of age.

Next year, the Portsmouth Naval Shipyard in my State of New Hampshire may be discontinued. It is the largest single employer of labor in my State. If so, all those who have worked there for years will just be out in the cold. If this kind of protection is to be granted by law, I want those people also protected until they are 65 years of age. I want those who are out of jobs in the Boston Navy Yard, which was abolished a short time ago, or in any Government installation, given the same protection. If we are going to do it for the railroads, we ought to do it for our own employees. Therefore, this is an irresponsible situation.

I thought I was offering a very favorable amendment which would go at least nine-tenths of the way toward what is sought in the bill as it now reads.

Mr. HARTKE. The proposal of the Senator from New Hampshire in this regard does not take cognizance of the fact that it has been the established policy of the United States, in accordance with the law of 1940, with modifications, under the agreement made in 1936, that railroad employees do have this different type of arrangement on displacement.

I do not find it conducive to the benefit of the Senate to have any further discussion, because I think it is just a difference of opinion. I am not in any way unsympathetic with the Portsmouth Naval Yard employees or anyone else. I feel that what is justified here is to treat these employees at least half-way or substantially as well as they are treated under their present contracts, since we are the ones who are taking their jobs and forcing displacement from their employment.

Mr. BEALL. Mr. President, the Senator alluded to the 1936 agreement. I believe the 1936 agreement provides 5 years' protection and 60 percent of the income for employees who lose their jobs through merger.

Mr. COTTON. So my amendment would be more liberal.

Mr. BEALL. The amendment of the Senator from New Hampshire is more liberal than what has been the established practice since 1936.

Mr. COTTON. In view of that, I again appeal to the Senator from Indiana to accept this amendment. I fail to see how he can fail to do so after it has been shown that my amendment is more liberal than the present guarantee the railroad employees have.

Mr. HARTKE. It is not more liberal in its philosophy. The political decision has been made. The Railroad Retirement Fund is funded by the Government. The railroad situation has been handled differently all through its history, and I do not propose at this time to change that situation.

If the Senator from New Hampshire or the Senator from Maryland or others want to come up with a national labor policy, a national transportation labor policy, I will join them.

Mr. BEALL. It is not a matter of changing policy. The history has been that when labor and management negotiated, they decided in the 1936 agreement on 5 years as the kind of protection that should be offered. But when labor and management sit down, with the Federal Government paying the bill, they decide that lifetime protection is the kind that should be offered.

When they are paying the bills themselves, they decide one thing; but when the taxpayer is paying the bill and the same taxpayer is not a party to the negotiation, they feel that the sky is the limit.

Mr. HARTKE. The taxpayer is paying the bill in order to avoid the closing down of the railroads. If the Senator from Maryland can find somebody else to pick up the bill, I would be more than glad to do it.

This was negotiated by the Penn Central, in the merger. These employees received their benefits at that time. Now the Senator is saying to them that that has failed—we had long hearings on that—that the Penn Central merger has failed; that the private enterprise system in that regard has failed. The Government has to come in now and try to bail them out, without nationalizing the system. We are at least going to provide in the reorganization and restructuring that these employees will have some of the benefits they had under the privately negotiated settlement.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. Stennis), the Senator from Louisiana (Mr. Johnston), and the Senator from Maine (Mr. Muskie) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

The result was announced—yeas 40, nays 56, as follows:

[No. 572 Leg.]

YEAS—40

Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Chiles
Cook
Cotton
Curtis
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Javits
McClellan
McClure
McIntyre
Packwood
Percy
Saxbe
Scott, William L.
Taft
Thurmond
Tower
Weicker

NAYS—56

Abourezk
Aiken
Bayh
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Dole
Domenici
Eagleton
Fulbright
Gravel
Hart
Hartke
Huddleston
Hughes
Humphrey
Inouye
Jackson
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
Metcalf
Mondale
Montoya
Moss
Nelson
Nunn
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Talmadge
Tunney
Williams
Young

NOT VOTING—4

Johnston
Muskie
Stennis
Symington

So Mr. Cotton's amendment was rejected.

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. COTTON. Mr. President, I send to the desk a second amendment.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read the amendment, as follows:

On page 148, between lines 2 and 3, insert the following new subsection:

"(i) Any employee of a naval shipyard who is deprived of employment because of any Government action or the lack of fuel supplies shall be entitled to the same benefits as are provided in this section. The Secretary of Labor shall certify the eligibility of employees under this subsection. There is authorized to be appropriated such sums as may be necessary.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. COTTON. I yield.

Mr. HARTKE. The amendment which the Senator from New Hampshire is offering is not germane to the bill. I am prepared to listen, and I hope the chairman of the Committee on Labor and Public Welfare will hear what he has to say, as well as those concerned with the problem of unemployment which is going to occur in the future. As I have said, I will be glad to listen.

Mr. COTTON. I thank the Senator. I understand that, undoubtedly, the Chair will rule that this amendment, under the unanimous-consent agreement, is not germane. But, I appreciate the Senator's courtesy in withholding objection, because I would like to have 2 or 3 minutes to present the reasons for the suggested amendment.

Mr. President, I do not want to have it go out to my people living in New Hampshire, where we are living in constant fear of losing our naval shipyard, as other States have lost theirs—I note the Senator from Rhode Island is present—and I do not want it to go out to the 7,000 people employed in the Portsmouth Naval Shipyard, which is the largest single employer in my State, that we have passed a bill down here that guarantees pay to displaced employees of railroads until they are 65 years of age, together with any salary increases. But, that if the U.S. Government through the Secretary of Defense or the President of the United States decided, a month or a year from now, to close down our naval shipyard, 6,000 or 7,000 people would be thrown out of work there, some of them after many years of work there, and that we would not give them the same consideration that this bill gives to displaced railroad employees.

He said this is a matter of political philosophy. Certainly, he was 50 percent right. It is political. But, I do not say anything about the kind of philosophy it is.

If it is going to be the political philosophy of this Congress and of this government, in trying to save rail transportation, to guarantee to all workers of all ages—even those who may be only 30 years of age—who may have worked only 5 years, and pay them, until they are 65 years of age, giving them all the raises in the meantime, then I think we should also do it in the Senate. I think any Senator who has served here 5 years, if he is displaced—and he is liable to be next year—should be assured that he will receive his full salary as a Senator until he is 65 years of age. What is fair for the goose is fair for the gander. Nobody could criticize that. But, certainly we ought to treat our own displaced Federal Government employees in the same manner as others, and that is the reason for this amendment.

Mr. COOK. Mr. President, will the Senator yield?

Mr. COTTON. I yield.

Mr. COOK. I wonder why he has been so exclusive in naming a naval yard. We do not have a naval yard in the Commonwealth of Kentucky. We are in the central part of the United States, but the condition of the defense budget calls for 15,500 civilian employee jobs to be lost.

Mr. COTTON. Does the Senator want to add that to this amendment?

Mr. COOK. It should be any facility.

Mr. COTTON. I accept the amendment.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. COTTON. I yield.

Mr. GRIFFIN. I thank the Senator from New Hampshire for the fairness and equity involved in the amendment. I hope he will not concede the point of order and press the amendment. I would like to point out that there are hundreds of thousands of automobile workers in Michigan who, because of Government action, are presently unemployed. I wonder if the Senator would be willing to have his amendment modified to include such employees?

Mr. COTTON. I will be glad to accept that modification.

Is there anyone else who wants to include somebody else?

Mr. DOLE. Mr. President, will the Senator yield?

Mr. COTTON. I yield.

Mr. DOLE. Just in the last 2 weeks in general aviation industry about 2,500 workers have lost their jobs in Wichita because of indirect Government action and the lack of fuel. If we could provide for them as well as the farmer who are unable to get fuel, I would like to have them included.

Mr. COTTON. I will be glad to add them.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. COTTON. I yield.

Mr. CURTIS. I would like to say a word for the taxpayer. Would the Senator include them? [Laughter.]

Mr. COTTON. No, I cannot. That would not be germane.

I would suggest, however, that concerning this philosophy that we are discussing, we should make sure that everybody has an opportunity. All labor should be treated alike under this new political philosophy.

Now, having offered the amendment and accepted these modifications——

Mr. COOK. Mr. President, if the Senator will yield, I would just like to say to the Senator that I would like to have the privilege of asking unanimous consent that the rule of germaneness not apply to this amendment, so Members of the Senate would have an opportunity to vote on it on its merits.

Mr. COTTON. I would be happy for the Senator to do so.

Mr. COOK. I just want to hear who objected, I will say to the Senator from New Hampshire.

Mr. COTTON. I do not plan to appeal from the ruling of the Chair when our new Vice President is in the chair for almost the first time.

I therefore would ask unanimous consent that an exception be made with respect to the rule of germaneness adopted in the present unanimous-consent agreement as it applies to my amendment.

Mr. HARTKE. Mr. President, reserving the right to object, and I do intend to object.

The VICE PRESIDENT. Does the Senator from Indiana reserve the right to object?

Mr. HARTKE. Yes, I reserve the right to object. The Senator from New Hampshire has made a unanimous-consent request.

Mr. COTTON. Mr. President, I have made a unanimous-consent request. The Senator from Indiana has been very courteous in allowing me to present arguments for my amendment. The political philosophy has been clearly put before the Senate. And, I hope, even though my term of service in the Senate is almost over, that before I leave the Senate, we can have this kind of measure adopted.

If the political philosophy is going to be that we should take care of everybody until the age of 65, I want to see to it in my last days in the Senate that indeed everybody is taken care of, including Members of the Senate.

Mr. HARTKE. Mr. President, reserving the right to object, what is the parliamentary situation? Is there a unanimous-consent request.

The VICE PRESIDENT. A unanimous-consent request is pending.

Mr. HARTKE. Mr. President, reserving the right to object, and I do intend to object, I want to say that I am very interested in the discussion by the Senator from New Hampshire. If it were made in seriousness, I would be glad to go ahead and debate it on the floor. I think there is a great deal of merit in the measure and would like to discuss it. However, I did not use the term "political philosophy." I said that is the philosophy adopted by the Government. It is not a new one. It started in the 1940's. I was not here then. I believe that perhaps the Senator from New Hampshire was a Member of Congress at that time.

Mr. COTTON. I was not here then.

Mr. HARTKE. Mr. President, I feel, all of the discussion having been had, that I must object. I raise a point of order upon the amendment itself.

The VICE PRESIDENT. Objection is heard.

Mr. HARTKE. I raise the point of order under the unanimous-consent agreement that the amendment is not germane.

The VICE PRESIDENT. Does the Senator from New Hampshire yield back his time?

Mr. COTTON. I am waiting for the ruling of the Chair before I yield back my time.

The VICE PRESIDENT. The point of order is not in order until the Senator from New Hampshire has yielded back his time.

Mr. COTTON. I congratulate the Vice President for having mastered the rules of the Senate in such a short time. How would it be if I yielded back my time if the Chair would rule that my amendment would not do anything? [Laughter.]

Mr. President, I yield back the remainder of my time.

The VICE PRESIDENT. The Chair rules that the point of order is sustained.

MODIFICATION OF AMENDMENT NO. 824

Mr. HARTKE. Mr. President, I ask unanimous consent that in the amendment offered by the Senator from Oregon (Mr. HATFIELD), amendment No. 824, that the figure on page 51, line 21, be changed from $15,250,000 to $15,350,000. That was the intent of the amendment, and this is merely to correct the amendment accordingly.

The VICE PRESIDENT. Is there objection to the request of the Senator from Indiana? The Chair hears none, and it is so ordered. The amendment is accordingly modified.

RECONSIDERATION OF VOTE NO. 571

Mr. CHILES. Mr. President, I move that the vote by which the Beall amendment legislative roll call No. 571, was rejected be reconsidered.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? [Putting the question.] There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion to reconsider the vote by which the Beall amendment was rejected.

Mr. BEALL. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BEALL. Mr. President, is this a debatable motion?

The VICE PRESIDENT. The answer is in the affirmative.

Mr. BEALL. How much time do we have on the motion?

The VICE PRESIDENT. There will be 20 minutes on the motion, 10 minutes to each side.

Mr. CHILES. Mr. President, I voted against the Beall amendment. My reason for voting against the amendment was that I had an understanding that this was an agreement that labor and management had worked out and that they thought it was fair and equitable. Upon hearing that, I decided that I would vote against the Beall amendment. To tamper with an agreement that labor and management had worked out did not seem to me to be too wise a course to take. However, now that I find that labor and management had worked out this agreement, primarily because the taxpayer was going to pick up the bill and that we were going to do something in this amendment that I do not think that we have done in any other matter here which dislocated people, I would like to change my vote.

When we discussed the question of the SST and there was a great deal of unemployment in Washington and in California and other States, nowhere in that measure did we say that we would pay these people who were unemployed until they reach the age of 65 years. However, suddenly for the first time we are making this kind of agreement here. I do not understand how we could justify that vote and provide that the taxpayers would pick up that bill.

It is one thing if the corporations themselves were going to pick up the bill. If they worked out an agreement between labor and management and if the companies in the Northeast were going to pick up the obligation, that would be one thing. However, I understand that the taxpayer is going to be responsible for picking up the bill. And at a time that we are making defense cuts and cutting Navy shipyards and cutting allocations, I do not see how we can justify such a vote. I know that we have increased the unemployment compensation a little in such cases.

However, I know of no agreement that we will proceed to pay a person until he reaches 65 years of age up to $30,000, as I understand it.

I think the junior Senator from Florida cast a wrong vote on that measure. I want to reconsider the motion. I want to cast an affirmative vote. I would like to ask the Senator from Maryland if he would allow me to ask him a question or two on his amendment. I am trying to inform myself better on the subject.

Mr. BEALL. I am most happy to let the Senator ask me a question.

Mr. CHILES. Mr. President, what did the Senator from Maryland say in regard to that measure? Did the Senator strike out the entire provision that the workers would receive some kind of unemployment benefits?

Mr. President, may we have order?

The VICE PRESIDENT. The Senate will be in order.

Mr. BEALL. Mr. President, my amendment is a very straight-forward substitute for the committee language now in the bill. As I pointed out in my introductory remarks, I do not think it is proper for the Congress to legislate a collective bargaining agreement in this respect.

The Senator is very correct about the specifics of the matter.

I do suggest that the employees who would be displaced as the result of this merger should be protected. My amendment says first that the new corporations and the labor unions involved should get together and bargain collectively to come up with employee displacement benefits. The amendment specifically guarantees them the present rights they now have. They should proceed with a collective bargaining agreement similar to the one with their present employers.

I suggested that there is an obligation on the Federal Government to proceed so that the new corporation should abide by any benefits negotiated. And I provide $250 million in my amendment.

That, very briefly, is what my amendment does. Importantly, we avoid the precedent that the Federal Government would establish if we enacted the bill as presently written.

Mr. CHILES. The Senator did provide for benefits for workers who were displaced?

Mr. BEALL. Most certainly. I think that they need benefits.

Mr. COOK. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. COOK. Mr. President, I say to the Senator from Maryland that the parties negotiating with the $250 million topside level could conceivably negotiate this very same agreement.

Mr. BEALL. They could negotiate the same agreement in the bill if they wanted to. However, at least they would negotiate.

Mr. CHILES. Mr. President, would the Senator explain again how they are protected under the bill?

Mr. BEALL. The Senator wants to know under my amendment how they would be protected?

Mr. CHILES. The Senator is correct.

Mr. BEALL. Mr. President, my amendment says that labor and management should sit down with a new corporation which, of course, has never participated in any of these negotiations. My amendment says that labor and the new corporation should sit down and come up with a collective bargaining agreement similar to those in that area. And the Secretary of Labor should certify that it is fair and equitable.

We further say that in the negotiations, they should keep in mind some principles. We say, first of all, they should preserve the rights, privileges, and benefits that employees now have under the existing collective bargaining agreements. We say, second, they should continue the collective bargaining rights; third, they should protect such individual employees against a worsening of their positions with respect to employment; fourth, that they should give assurances of priority of reemployment of employees terminated or laid off; and fifth, that they should have paid training and retraining programs.

Then we provide $250 million with which to do the job.

Mr. HARTKE. Mr. President, if I may have the attention of the Senator from Florida, in the first place, this is not a collective bargaining agreement that is provided for in the bill. Very simply, it deals with an entirely different situation than Lockheed.

What we have is the railroad corporations which are under the jurisdiction of the court. What we are saying to the court is that we are providing a way to prevent the liquidation of the railroads. In that process, we are saying certain people will be displaced. They have no choice in the matter whatsoever, if we pass the legislation. They cannot accept a job at reduced compensation; they are just thrown out. What we are saying is, "We are not going to throw you to the wolves."

Mr. CHILES. If the Senator will yield at that point, the people working on the SST did not have any choice.

Mr. HARTKE. On what?

Mr. CHILES. That they were going to be displaced. When Congress voted that we were not going to fund the SST, we did not give those workers any choice.

Mr. HARTKE. Mr. President, does the Senator know what the existing rights of these rail employees are? If the Senator wants to take them away from them, that is his prerogative. If you vote for the amendment, you may be voting to take existing rights away from those employees which they have today.

Mr. CHILES. Will they have those rights if Congress does not provide the funds for this?

Mr. HARTKE. They certainly will.

Mr. CHILES. They will, when the railroad is bankrupt?

Mr. HARTKE. It is possible that they could go back in at the time of taking over by the corporation, and there could be a deficiency judgment issued against the United States. They might be able to go into a court of claims with their claim and receive more money than is provided in this bill. Their rights are broader in their present agreement than they are in this bill, and if we vote this way, we could create a situation whereby any one of those employees could go into court and force the court to issue a deficiency judgment against the United States because the United States had taken away existing contractual rights without affording just compensation.

If Senators want to do that, we can agree to the Beall amendment. It will be no cheaper, and it will not void the agreement. The Amtrak situation is not analogous, because the employee had the right to go to Amtrak or stay with his present employment. If he wanted to go to Amtrak, he had to take the Amtrak contract, but it was his choice.

Here he has existing rights under the Penn Central merger agreements. We can complain about the prior railroad loans or the collective-bargaining agreement that was made by Penn Central and the rest of these railroads; but we did not consummate those agreements. If this amendment is adopted we are saying to these employees, "You are going to have to take less than you had before, or some of these employees are going to have to be turned out." But they can appeal.

Mr. CHILES. But the taxpayers did not make that agreement with Penn Central, either.

Mr. HARTKE. Oh, on that question, there is no difference between the Beall amendment and the committee's bill.

Mr. BEALL. There is a substantive difference.

Mr. HARTKE. The amount is $250 million in each case, and the taxpayer is going to pick it up. Anyone who says the taxpayer is not going to pick it up in either case is mistaken.

Mr. BEALL. Mr. President, will someone yield? I do not have time.

Mr. CHILES. I yield to the Senator from Maryland.

The VICE PRESIDENT. Does the Senator from Florida yield? The Senator from Indiana has the floor.

Mr. HARTKE. Mr. President, there is plenty of time on the bill.

Mr. BEALL. I yield myself 5 minutes on the bill.

The VICE PRESIDENT. There is time on the amendment.

Mr. BEALL. To answer the question of the Senator from Florida, my amendment provides $250 million as a top limit, because I believe that the Federal Government is entering into a situation where we have bankrupt railroads, and the Federal Government should not impose on the new corporation an undue burden that it cannot shoulder.

It cannot possibly be successful if the new corporation is going to have to pay the costs of any labor benefits that they may be obligated to pay as a result of preexisting agreements. This, I think, the Federal Government has some obligation to pick up as costs. In the bill as now written, there is no cap on the $250 million; it authorizes $250 million to pay for the expense of these agreements, but it also does not say there shall be no more paid. It says, in effect, that if the agreements cost more than that, "Come back next year and we will have to appropriate some more," because we are committing ourselves, in this bill, to provide up to $30,000 lifetime guaranteed income to anyone who loses his job, plus any increases in salary that may come to those who continue to work. In other words, there is no limit, under the Senator's proposition which now exists in the bill.

In my proposition, there is a $250 million contribution to help defray the costs which might be incurred between the new corporation and the labor union.

Mr. HARTKE. Mr. President, I want to address myself to that proposition, to clear up the situation.

In the first place, there is not a $30,000 lifetime guarantee. It is a maximum of $30,000 per year, and there will not be many people in that category.

Under the Penn Central agreement at the present time there is no $30,000 limit. The difference is that it is not a lifetime agreement under this bill, it is limited to age 65. It is a lifetime agreement under their present labor contract. We are taking this and transfer protection away from them.

Under the amendment I have proposed, the Senator from Maryland will agree, there would be a cap of $250 million of taxpayers' liability. Under the amendment which is proposed by the Senator from Maryland, there is a $250 million immediate tax liability. There is no question that both of them involve the taxpayer exposure.

Under the Beall amendment, if the parties agree to a contract costing $400 million, then we are $150 million shy. All I am saying is that that $150 million, under his arrangement, has to come from somewhere, or we have to go ahead and say a contract has been negotiated which nobody is going to pay.

That gives you a strike, because if you have people who have a contract and they cannot get their money, then the employees are going to walk out. Then we will be back in midnight sessions, to put in the other $150 million.

Under the bill as it is now written, the $250 million is the extent of the liability of the taxpayers. Any excess over that will be on the corporation or acquiring railroad, and I want it there. The Senator does not. I want it there because it puts pressure on the Department of Transportation to design a system that does not reduce the mileage so much as to raise labor protection costs substantially above $250 million. I want the emphasis on service. The Senator wants the emphasis on money and a shrunk system. That has been the argument from the beginning.

Mr. HASKELL. Mr. President, with the indulgence of the Senator from Florida, I would like to ask two practical questions. Under the Beall amendment, is it not true that 5 years' service with the railroad, without regard to age, is sufficient to guarantee full pay for the rest of your life?

Mr. BEALL. That is correct.

Mr. HARTKE. No, that is not correct.

Mr. BEALL. Until 65.

Mr. HARTKE. Until 65, with certain conditions.

Mr. HASKELL. And the conditions are?

Mr. HARTKE. It is a guarantee, but if he is offered a job even if it involves a transfer, he can be required to take it or lose his monthly displacement allowance.

Mr. HASKELL. Does he then lose his entire railroad pay?

Mr. HARTKE. If he accepts it, he has to forfeit everything?

Mr. HASKELL. No, if he takes the job, does he lose his entire railroad pay?

Mr. HARTKE. Did the Senator say a nonrailroad job?

Mr. HASKELL. Assuming he takes a nonrailroad job, and he goes to work for a filling station, and assuming he gets the same amount from the filling station, will he then lose?

Mr. HARTKE. No, he will lose a percentage.

Mr. BEALL. Fifty percent.

Mr. HARTKE. Fifty percent is right. So he could make, now, $20,000 on the railroad, but if he is not paid on the railroad any more, he can go out and get a job not on the railroad, so he would only lose $10,000 of his railroad pay, so he would be making $30,000, but the cost of employee protection would be reduced by $10,000.

Mr. BEALL. That is correct. Another condition exists that should be mentioned. If an employee has to take a job at a lesser pay than, he is getting now, on the railroad, the Federal Government will supplement his pay to make up the difference between what he had been paid by taking a lesser job and is now getting, plus any raises in the meantime.

Mr. HASKELL. I thank the Senator.

Mr. COOK. If the Senator will yield, I would like also to point out it is very interesting that if any railroad were to go out on strike, I say to the Senator from Colorado, if any railroad were to go out on strike, the striking railroaders would receive their strike benefits under their respective unions, but under this program, would continue to draw full salary in relation to the terms of the bill, so that the individual who was employed on the railroad which is then going out on strike, would receive whatever strike benefits his union might authorize, but the individual who had his job abolished would receive his full payment from the corporation during that period without any diminution of the amount received, although the striking employee would be receiving strike benefits only.

Mr. HARTKE. Mr. President, all these arguments concern the philosophy of government and the collective bargaining agreements that have been previously negotiated. How can we now abrogate those contracts. I am not going to stand here and try to abrogate any collective bargaining contracts and force a possible deficiency on the Government or a deficiency suit in the Court of Claims.

It is not my policy to argue for something that is unjust. I did not make the rules. The collective bargaining agreements with Penn Central were made by people in the private enterprise system. They negotiated the contract. Under this amendment we will vitiate that contract without knowing the replacement terms. I do not know a court in the land—and I know my law pretty well—that will not go ahead and say he is entitled to that contract if you displace him by the action of Government. There is a possibility that under the due process clause or impairment of contract clause, when a man has been denied the benefits to which he is entitled to claim, he can come back into the Court of Claims. And he has a lifetime claim, exactly what those who support the Beall amendment are opposing. They cannot shut off his employment or make him leave town under the amendment—those terms are unknown. They cannot force him to transfer.

Your complaint with this bill is really a complaint about the history of railroad labor protection. As a practical matter, if I were out there on a working arrangement, I would not want to surrender that right. If you challenge that right, this corporation will never fly.

The trouble with this bill—and I am going to make my reservation statement later—has been from the beginning that we started at the wrong end. That is the trouble with the Beall amendment because it says if we shrink that railroad line to conform to the $250 million of labor benefits, and you say no, where are you going to get the extra money? You are not going to get it out of the surplus oil you have in America.

Mr. COTTON. Mr. President, I have elaborated a long time to the Senator from Indiana about this, and I am amazed and surprised at the statement he has just made.

Let us put the cards on the table. The Beall amendment specifically—and I hope the Senator from Indiana will correct me if I am wrong, as I do not have it before me—preserved all the collective bargaining labor agreements with the railroads involved.

It did not vitiate those agreements. All the employees that could possibly be affected by this bill would have had their rights preserved by the Beall amendment.

Now let us put the cards on the table. What happened was that representatives from two of the most prosperous railroads in this country negotiated the agreement embodied in this bill. The Union Pacific was one of the railroads represented; and the other was the Southern, both of which are solvent and prosperous. And, I might add, neither of which would want this agreement to apply to their employees.

Yet, the House committee took this agreement, negotiated by two of the most prosperous railroads in the country, and incorporated that labor agreement in its entirety into this bill.

While I am sure that the Senator from Indiana was most sincere in what he had to say, when he says that the Beall amendment nullified existing agreements, that could not possibly be true because it specifically does not. Prior agreements would be respected under the Beall amendment.

Second, the Senator from Indiana states that this bill is only embodying in the bill agreements at the collective bargaining table already made. He is talking about agreements made by two prosperous railroads, neither of which are affected by this bill nor do they have to pay—the taxpayer does.

So that the logic of the Senator from Indiana is beyond the power and comprehension of the Senator from New Hampshire, even though he has great respect for his expertise in this area. But this simply could not be.

Mr. HARTKE. Let me clarify the matter on the question of the Beall amendment. What happens there simply is that if you negotiate a matter and there is not sufficient cash to pay for it out of the $250 million, that employee displaced then has the right to go ahead and make his claim some place, because the action of the Government precipitated the situation. The question, so far as he is concerned, is that the action of the Government has, in effect, vitiated his contract without his consent. Since it vitiates his contract, he has a right to displacement under the new bill. Under that bill, it provides simply that he is entitled to his benefits.

Now, the net result is, you either have to get the money from the corporation or from the Treasury, and if the corporation goes bankrupt when he comes on back in which is a distinct possibility, and makes a case in the Court of Claims, he gets his money. You have no advantage under the Beall amendment; but there is an advantage in the bill. I am prepared to vote.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Indiana yield?

Mr. HARTKE. I yield.

Mr. HARRY F. BYRD, JR. I want to attempt to get a breakdown on the cost of this legislation——

Mr. HARTKE. Does the Senator want to do that now, or let us have a vote now on the motion to reconsider the Beall amendment, as we are ready to vote?

Mr. HARRY F. BYRD, JR. All right. I will be glad to wait.

The VICE PRESIDENT. The Senator from Indiana has 1 minute remaining.

Mr. HARTKE. Mr. President, I graciously yield back that 1 minute. [Laughter.]

The VICE PRESIDENT. The question is on agreeing to the motion to reconsider the vote on the Beall amendment.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from South Carolina (Mr. THURMOND) is necessarily absent because of death in his family.

The Senator from Ohio (Mr. SAXBE) is detained on official business.

If present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 41, nays 53, as follows:

[No. 573 Leg.]

YEAS—41

Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Chiles
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Hansen
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Mathias
McClellan
McClure
Nunn
Packwood
Pearson
Roth
Scott, Hugh
Scott, William L.
Sparkman
Taft
Tower

NAYS—53

Abourezk
Aiken
Bayh
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Eagleton
Fulbright
Gravel
Gurney
Hart
Hartke
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Stafford
Stevens
Stevenson
Talmadge
Tunney
Weicker
Williams
Young

NOT VOTING—6

Johnston
Muskie
Saxbe
Stennis
Symington
Thurmond

So the motion was rejected.

EMPLOYEE STOCK OWNERSHIP PLAN

Mr. HATFIELD. Mr. President, let me again express my appreciation to the members of the Commerce Committee for including within this bill my amendment for an employee stock ownership plan. I believe this will be a most significant step toward expanding the base of ownership in society. By attaching this amendment to the Northeast rail bill, we will establish the railroads as a model for demonstrating the effectiveness and viability of employee stock ownership plans. I ask unanimous consent that information explaining ESOP be printed in the RECORD at this point.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C. November 5, 1973.

DEAR COLLEAGUE: Soon the Senate will begin consideration of legislation to revitalize the bankrupt rail systems of the Northeast. I believe this offers an opportunity for a full discussion of possible alternatives to nationalization.

Increasing federal subsidies are not sufficient to prevent continued deterioration and future labor-management conflicts. Federal solutions, in their present form, are an open invitation to bailouts of other ailing railroads and industries. Our railroad crisis is merely one more in a growing parade of examples where a bankruptcy in leadership and vision has led to a vacuum in our corporate sector which, not surprisingly, has been filled by increasing government powers and controls and new and more costly bureaucracies.

I am, therefore, proposing an amendment to whatever bill passes the Senate. This amendment would signal a healthy, new direction for the proposed Northeast Rail Corporation and the Federal National Railway Association, as proposed by the Pearson-Beall amendment, by adding a provision to the financing and labor relations sections of this bill which would explicitly mandate "to the maximum extent practicable" the use of an Employee Stock Ownership Plan for financing transfers of corporate assets and future expansions of the reorganized system. Enclosed is a copy of this amendment, together with a comparison of ESOP financing with conventional debt financing and a one-page summary of how this amendment would benefit taxpayers, workers, railroad users, and the public generally if applied to the future system under projections of the Department of Transportation.

The Employee Stock Ownership Plan is, in my opinion, the most important innovation in investment finance developed in recent years. The ESOP would spread stock ownership systematically among all employees, at no personal risk to themselves and without reducing their take-home pay or other benefits. And by building a vested and growing property stake and rising dividend incomes into each member of the corporate team, anyone—management, union officials, and blue collar workers alike—would share * * * of interest in the growth and profitability of the Northeast Rail Corporation, if this is the approach adopted by the Congress. Technological improvements, now viewed as a threat to workers, become a growing source of each worker's retirement and preretirement income under an ESOP. Thus, by offering significant equity opportunities to its work force, the new rail corporation would not only begin on a more viable footing, but, through its ESOP, can offer taxpayers some hope for an efficient, unsubsidized and relatively strike-immune rail system in the Northeast corridor.

From a taxpayer's standpoint, this amendment would add no Federal costs to the present railroad proposals now being considered. In fact, the ESOP is, I feel, our only hope for converting what is today a significant tax loser into a future, tax-paying member of the corporate community. The ESOP's advantages for meeting this crisis and other kinds of economic problems have received extensive treatment in many business and scholarly journals and in several important books in the future of the American economy. A growing number of labor leaders have recognized the ESOP as offering new horizons for democratic unionism. And from a moral and political standpoint, we have nothing to lose and everything to gain by adding an ESOP provision to the Northeast Rail bill.

When all factors are considered, including the cost and relative inadequacy of most alternative private retirement systems (for which the ESOP becomes a substitute), the probable costs and losses to the corporation resulting from (i) the inevitable demands of employees or progressively more pay in return for progressively less work input where they have no opportunity to accumulate significant capital ownership over a reasonable working lifetime; (ii) the shrinkage of markets for the corporation's products or services from the otherwise inevitable inflation of its product prices; and (iii) the added costs to the employer from alienation and demotivation of employees not enabled to acquire capital ownership in an economy where capital is a chief productive factor, etc., the cost of capital under Model II ESOT financing over the long term, i.e., beyond the financing period, is no greater, and will normally be less than the cost of capital resulting from any of the techniques discussed under Model I above.

Reorganized Northeastern Railroad System Benefits To Be Derived Under Employee Buyout Through ESOP Financing

THE U.S. ECONOMY IN GENERAL

An efficient, unsubsidized, strike-immune rail system in the Northeast corridor.

A dramatic example of how a sick industry can be revived by creating a unity of interest between management and organized labor through widespread access to corporate ownership and dividend incomes among all employees . . . without affecting traditional jurisdictional prerogatives of management vis-a-vis union leadership.

A positive alternative to nationalization and current trends toward nationalization and taxpayer bail-outs of our railroads.

Cuts government costs and reduces pressures on almost bankrupt present railway workers retirement system . . . yet raises the tax base.

WORKERS EMPLOYED AFTER REORGANIZATION

No reductions in present pay levels, present retirement contributions, and other present employee benefits.

An opportunity to buy and pay for a sizeable chunk of stock in the new company ($10,000 on the average per worker), and to own this stock in the same way as America's wealthiest families accumulated their property holdings: through access to corporate credit, with personal risk cut off by the insulation given under law to a corporation.

No taxes paid on any worker's property acquired through the ESOP, on any appreciation in value of a worker's holdings, or dividends, as long as these assets remains "sheltered" within the ESOP.

In addition to wages, a second income from dividends on stock held by the ESOP for each employee during his working years (an estimate supplement of almost $3,200 per year for the average employee after 5 years, based on conservative profit projections of the U.S. Department of Transportation). Dividend checks received by workers on-the-job or upon their ultimate retirement or displacement by automation are, of course, subject to personal taxes, the same as paychecks.

An opportunity to share with his fellow workers additional company stock and diversified holdings of other companies or real estate, acquired through future financings by the ESOP, as the new corporation expands, adds new and more efficient equipment, or otherwise seeks new sources of income.

A better answer to automation than demoralizing featherbedding, make-work, spread-work, etc.

A personal stake in cost-cutting and higher corporate profits, thus enabling the industry to become more competitive, to grow faster, to expand into new territories, and generate new jobs.

An inflation-proof capital estate to pass on to one's heirs.

Amendment Proposing Consideration of an Employee Stock Ownership Plan in Final System Plan

On page 5, between lines 23 and 24 insert the following new subsection and renumber accordingly:

"(5) 'Employee stock ownership plan' means a technique of corporate finance that uses a stock bonus trust or a company stock money purchase pension trust which qualifies under Section 401(a) of the Internal Revenue Code in connection with the financing of corporate improvements, transfers in the ownership of corporate assets, and other capital requirements of a corporation and which is designed to build beneficial equity ownership of shares in the employer corporation into its employees substantially in proportion to their relative incomes, without requiring any cash outlay, any reduction in pay or other employee benefits, or the surrender of any other rights on the part of such employees."

On page 26, between lines 2 and 3 add the following new paragraph and renumber accordingly:

"(8) improving employee motivation and raising employee incomes and productivity by maximizing opportunities of railroad employees to participate as stockholders in their employer corporations."

On page 31, between lines 23 and 24 insert the following and renumber accordingly:

"(1) the manner in which employee stock ownership plans shall, to the extent practicable, be utilized for meeting the capitalization requirements of the Corporation, taking into account (a) relative cost savings compared to conventional methods of corporate finance; (b) labor cost savings; (c) potential for minimizing strikes and producing more harmonious relations between labor organizations and railway management; (d) projected employee dividend incomes; (e) impact on quality of service and prices to railway users; and (f) otherwise promoting the objective of this Act creating a financially self-sustaining railway system in the Midwest and Northeast region which also meets the service needs of the region and the Nation;

On page 44, line 19 after the word "Act." insert the following:

"In making loans the Association shall consider whether the applicant has an employee stock ownership plan and shall give preference to applicants who have such a plan."

The VICE PRESIDENT. The bill is open to further amendment.

The Chair recognizes the Senator from Indiana.

Mr. HARTKE. Mr. President, I send to the desk an amendment which I previously offered and ask that it be stated.

The VICE PRESIDENT. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 150, line 10, after the word "employees" insert the words ", not to exceed the aggregate sum of $250,000,000,".

Mr. HARTKE. Mr. President, this is an amendment which was discussed earlier in regard to making clear this provision with respect to labor protection. It clarifies the point. I am sure the other side has no objection.

Mr. BEALL. It is useless to object. It moves the burden from the taxpayer to the new corporation, but the taxpayer is going to pay for it one way or another.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from New York is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield so that I may complete a colloquy I started with the Senator from Indiana?

Mr. JAVITS. I yield for that purpose.

The VICE PRESIDENT. How much time does the Senator yield?

Mr. HARRY F. BYRD, JR. Mr. President, I yield on my own time.

The VICE PRESIDENT. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. I wish to ask the distinguished manager of the bill, the Senator from Indiana (Mr. HARTKE), a few questions in order to get an understanding on the course of this legislation.

The VICE PRESIDENT. The Senate will be in order.

Mr. HARRY F. BYRD, JR. The organizational and administrative expenses of the Secretary of Transportation, ICC and GNRA will be $43.5 million in this bill.

Mr. HARTKE. The Senator is correct.

Mr. HARRY F. BYRD, JR. And the interim operating cost is listed at $85 million.

Mr. HARTKE. The Senator is correct.

Mr. HARRY F. BYRD, JR. And the subsidies to help maintain unprofitable lines, supplementing State, local, and private funds is $200 million.

Mr. HARTKE. That is $200 million in the bill, but I wish to point out that occurs until there is a subsidy coming. It is not an immediate expense. Furthermore, it is increased to $400 million by the amendment of Senators MONDALE and HUMPHREY.

Mr. HARRY F. BYRD, JR. The subsidy was increased to $400 million. The labor provision is $250 million.

Mr. HARTKE. The Senator is correct.

Mr. HARRY F. BYRD, JR. The guarantees of obligations of the association, as I understand it, are unlimited in the Senate bill.

Mr. HARTKE. No, that is not true. The House bill has a limitation of $1 billion. We changed that and required the association to come to Congress and make a recommendation as to the obligations needed to restructure and improve rail service. Under the bill, Congress must act affirmatively by resolution for it to become effective. It is not specific as to the ultimate obligational authority, if the Senator means that.

Under the bill at this moment there is no obligational authority at all. There will be none until the final system plan is approved and a recommendation is affirmatively acted on by Congress.

Mr. HARRY F. BYRD, JR. The House bill has $1 billion.

Mr. HARTKE. Yes.

Mr. HARRY F. BYRD, JR. And the Senate version eliminates that.

Mr. HARTKE. The Senate bill has an entirely different approach.

Mr. BEALL. If the Senator will yield, that was my amendment in committee. The Senate bill originally had a $1 billion figure, as far as the authority for the guarantee.

We thought it best to take it out and have them go to Congress with the figure they need. We are saying, "Tell us what you think is right, and we will make a determination at that point whether we should give you the authority that we retain in Congress."

Mr. HARTKE. So that the Senator from Virginia is not misled, there is obligational authority in the bill which allows the association to guarantee up to $150 million worth of loans in order to upgrade or to prevent deterioration of the railroad in the interim period. That is $150 million from the association. That has to be approved by the Secretary of Transportation.

Mr. HARRY F. BYRD, JR. For equipment improvement that is $2 billion.

Mr. HARTKE. Yes; that has been passed by the Senate in another form and the same amount is in this measure.

Mr. HARRY F. BYRD, JR. That is the same as S. 1149, which passed the Senate on July 27.

Mr. HARTKE. That is right.

Mr. HARRY F. BYRD, JR. And that is to acquire rolling stock?

Mr. HARTKE. Basically it is called the freight car bill.

Mr. HARRY F. BYRD, JR. The Senate passed three pieces of legislation this year dealing with the matter under discussion. I understand one bill was S. 1149, and that is incorporated in this proposal.

Mr. HARTKE. S. 1149 is the so-called freight car bill, and it is incorporated in all of its substantive forms in the bill.

Mr. HARRY F. BYRD, JR. The Senate also passed S. 1925, which authorizes the ICC to continue essential rail transportation. Is that part of this bill?

Mr. HARTKE. Yes; the purpose of this is to give authority to the Secretary of the ICC to authorize utilization of other tracks.

Mr. HARRY F. BYRD, JR. That is a part of this bill?

Mr. HARTKE. Yes; it is in this bill.

Mr. HARRY F. BYRD, JR. On July 27 the Senate considered the bill, S. 2060, to assure continuation of rail service in the Northeast. That bill authorized $210 million. Is that incorporated in this bill?

Mr. HARTKE. That is the one the Senator from Virginia and I had a discussion on. It increased by $85 million a prior authorization, putting a total ceiling of $210 million on it. That is in this bill.

Mr. HARRY F. BYRD, JR. Is $210 million in the bill or $85 million?

Mr. HARTKE. It is $85 million.

Mr. HARRY F. BYRD, JR. So it is not $210 million?

Mr. HARTKE. It is not; that is right.

Mr. HARRY F. BYRD, JR. But the other bill called for $210 million?

Mr. HARTKE. It did not and it did, depending on where one started. If one starts with the $125 million we had in the previous authorization, this bill calls for the same amount originally passed. This is $85 million in additional money, and that is a grant; it is not a loan.

Mr. HARRY F. BYRD, JR. But the bill which the Senate passed had a figure of $210 million?

Mr. HARTKE. The problem there is that we had a combination with the $125 million. We took the $125 million that had been authorized and appropriated at a prior time and added the $85 million in order to come up with $210 million. But in this bill the net result is the same, since the $125 million had been approved by the House and the $85 million had not; the $85 million is in this bill.

Mr. HARRY F. BYRD, JR. The House has not approved the bill for $210 million?

Mr. HARTKE. No. It was an authorization going to $210 million. That is $85 million for interim financing, the $125 million having been approved by both Houses and signed into law. It was necessary to include this. That $125 million is gone.

Mr. HARRY F. BYRD, JR. That goes back a year or so, or several years. Is that right?

Mr. HARTKE. That is right.

Mr. HARRY F. BYRD, JR. What I am trying to understand——

Mr. HARTKE. The $125 million was in 1970.

Mr. HARRY F. BYRD, JR. That is correct.

Mr. HARTKE. But the authorization totaled $210 million, because that was included in the original amount of the bill which passed the Senate, for the purpose of giving the total amount involved in the Penn-Central bailout. They have drawn down $109 million of the $125 million already out of the Treasury, but the Treasury would have a total of $210 million available. Out of that, $109 million has been drawn down by the Secretary. If this bill with the $85 million is passed, we will have a balance of the $125 million less $109 million, which is $16 million, and $85 million, which makes a total availability of $101 million.

Mr. HARRY F. BYRD, JR. In the colloquy we had on July 27 I put this question to the Senator from Indiana:

> Will the $125 million loan guarantee be paid from the $210 million?

Which was the amount sought at that time—

> Mr. HARTKE. Yes.
>
> Mr. HARRY F. BYRD, JR. It is correct, I gather from the Senator's assertion, that the Department sought only $85 million, yet we are giving them $210 million?
>
> Mr. HARTKE. Yes. They had to pay off the loan. As I said, we came up with a figure of $62.5 million. I do not agree on the $85 million figure.
>
> Mr. HARRY F. BYRD, JR. Why do we not change the legislation and make it $85 million?
>
> Mr. HARTKE. We cannot because the railroads could not then pay the $125 million loan.

Yet we come in here today and the figure, as I understand, is not $210 million, but $85 million.

Mr. HARTKE. That is right, but that is a different type of assistance. The $125 million is a loan. The $85 million is a grant. If a railroad now goes into default, the $125 million becomes due and is an obligation of the Government. We are dealing with a total of $210 million.

Mr. HARRY F. BYRD, JR. What I am trying to understand is, has the bill, S. 2060, which authorized $210 million, been scrapped?

Mr. HARTKE. Yes, it has been scrapped, basically.

Mr. HARRY F. BYRD, JR. It has been scrapped?

Mr. HARTKE. It is fair to say that.

Mr. HARRY F. BYRD, JR. And $85 million of that $210 million is incorporated in this bill?

Mr. HARTKE. Yes, that is correct.

Mr. HARRY F. BYRD, JR. I thank the Senator, and I thank the Senator from New York for yielding.

Mr. JAVITS. Mr. President, at the suggestion of the managers of the bill——

Mr. McGEE. Mr. President, will the Senator yield me 30 seconds?

Mr. JAVITS. Let me get this started, and then I will be happy to yield.

At the suggestion of the managers of the bill, I send five amendments to the desk and ask unanimous consent that they may be considered en bloc, and I will explain each one.

The PRESIDING OFFICER (Mr. Stevenson). Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that the reading of the amendments may be dispensed with, and I will explain them.

The PRESIDING OFFICER. Without objection, it is so ordered.

The five amendments to be considered en bloc are as follows:

On page 14, line 12, delete "402 or".

On page 58, line 2, by changing the period to a comma and adding the following: "but subject to such leases and agreements as shall have previously burdened such properties or bound the owner or operator thereof in pursuance of an arrangement with any State, regional, or local transportation authority under which financial support from such State, regional, or local transportation authority was being provided at the time of enactment of this Act for the continuance of rail passenger service or any lien or encumbrance of no greater than 5 years' duration which is necessary for the contractual performance by any person of duties related to public health or sanitation.".

On page 61, line 15, after the word "discontinued", insert the following: "to the extent such discontinuance is not precluded by the terms of the leases and agreements referred to in section 303(b) (2)".

On page 63, between lines 18 and 19 insert a new paragraph (B) and redesignate accordingly:

"(B) a rail service continuation subsidy which is payable pursuant to a lease or agreement with a State, regional, or local transportation authority under which financial support was being provided at the time of the enactment of this Act for the continuance of rail passenger service.".

On page 30, line 2 delete the semicolon, add a comma and the following: "and preservation to the maximum extent practicable of existing railroad trackage in any area in which fossil fuel natural resources are located.".

On Page 60, between lines 19 and 20, insert the following new paragraph:

"(5) Upon making the findings referred to in this subsection, the special court shall order distribution of the securities, obligations, and compensation deposited with it under subsection (b) of this section to the trustee or trustees of each railroad in reorganization in the region who conveyed right, title, and interest in rail properties to the Corporation and the respective profitable railroads under such subsection. Any excess securities, obligations, or compensation shall be returned to the Corporation or any applicable profitable railroad.".

Page 68, line 7, after the words "to a State", insert the words "local or regional transportation authority".

Mr. JAVITS. Mr. President, I ask unanimous consent that I may yield to the Senator from Wyoming without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

USE OF FRANKING PRIVILEGE BY MEMBERS OF CONGRESS—CONFERENCE REPORT

Mr. McGEE. Mr. President, I submit a report of the committee of conference on H.R. 3180, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3180) to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

Conference Report (H. Rept. 712)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3180) to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 4, 5, 6, 7, 15, 17, 18, 26, and 27.

That the House recede from its disagreement to the amendments of the Senate numbered 8, 10, 13, 14, 16, 19, 20, 22, 23, 24, 25, 30, 32, 33, 34, 35, 36, 38, 39, 40, 41, and 42, and agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3 and agree to the same with an amendment as follows: Strike out the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 3 and, on page 2, line 15, of the House engrossed bill, strike out "by a Member of Congress".

And the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9 and agree to the same with an amendment as follows:

In the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 9 strike out the word "a" and insert in lieu thereof the following: "such".

And the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 11 insert the following subparagraph:

"(D) any mass mailing when the same is mailed at or delivered to any postal facility less than 28 days immediately before the date of any primary or general election (whether regular, special, or runoff) in which such Member or Member-elect is a candidate for public office. For the purpose of this clause (D), the term 'mass mailing' shall mean newsletters and similar mailings of more than 500 pieces in which the content of the matter mailed is substantially identical but shall not apply to mailings—

"(i) which are in direct response to inquiries or requests from the persons to whom the matter is mailed;

"(ii) to colleagues in Congress or to government officials (whether Federal, State, or local); or

"(iii) of news releases to the communications media.

The House Commission on Congressional Mailing Standards and the Select Committee on Standards and Conduct of the Senate shall prescribe for their respective Houses such rules and regulations and shall take such other action, as the Commission or Committee considers necessary and proper for the Members and Members-elect to conform to the provisions of this clause and applicable rules and regulations. Such rules and regulations shall include, but not be limited to, provisions prescribing the time within which such mailings shall be mailed at or delivered to any postal facility to attain compliance with this clause and the time when such mailings shall be deemed to have been so mailed or delivered and such compliance attained.

And the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12 and agree to the same with an amendment as follows: In the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 12, strike out "February" and insert in lieu thereof the following: "April".

And the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21 and agree to the same with an amendment as follows:

In the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 21 strike out the word "February" and insert in lieu thereof the following: "April".

And the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28 and agree to the same with an amendment as follows:

Eliminate the matter proposed to be inserted by Senate amendment numbered 28 in the House engrossed bill, restore to its former place in the House engrossed bill the matter proposed to be eliminated from the House engrossed bill by Senate amendment numbered 28, and, immediately after the word "privilege" in such matter so restored, insert the following: "by any person listed under subsection (d) of this section as entitled to send mail as franked mail".

And the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29 and agree to the same with an amendment as follows:

On page 7, line 3, of the Senate engrossed amendments, insert immediately after "privilege", the following: "by any person listed under subsection (a) of this section as entitled to send mail as franked mail."

And the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31 and agree to the same with an amendment as follows:

In lieu of the provisions of Senate amendment numbered 31, on page 15 of the House engrossed bill, strike out line 6 and all that follows down through the period in line 10 on page 16, and insert in lieu thereof the following:

"(a) The equivalent of—

"(1) postage on, and fees and charges in connection with, mail matter sent through the mails—

"(A) under the franking privilege (other than under section 3219 of this title), by the Vice President, Members of and Members-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), and the Legislative Counsels of the House of Representatives and the Senate; and

"(B) by the surviving spouse of a Member of Congress under section 3218 of this title; and

"(2) those portions of fees and charges to be paid for handling and delivery by the Postal Service of Mailgrams considered as franked mail under section 3219 of this title; shall be paid by a lump-sum appropriation to the legislative branch for that purpose and then paid to the Postal Service as postal revenue. Except as to Mailgrams and except as provided by sections 733 and 907 of title 44, envelopes, wrappers, cards, or labels used to transmit franked mail shall bear, in the upper right-hand corner, the sender's signature, or a facsimile thereof, and the printed words 'Postage paid by Congress'.

"(b) Postage on, and fees and charges in connection with, mail matter sent through the mails under section 3214 of this title shall be paid each fiscal year, out of any appropriation made for that purpose, to the Postal Service as postal revenue in an amount equivalent to the postage, fees, and charges which would otherwise be payable on, or in connection with, such mail matter.

"(c) Payment under subsection (a) or (b) of this section shall be deemed payment for all matter mailed under the frank and for all fees and charges due the Postal Service in connection therewith.

And the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 37, insert the following:

SEC. 12. (a) Chapter 32 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3219. Mailgrams

"Any Mailgram sent by the Vice President, a Member of or Member-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, an elected officer of the House of Represntatives (other than a Member of the House), or the Legislative Counsel of the House of Representatives or the Senate, and then delivered by the Postal Service, shall be considered as franked mail, subject to section 3216(a)(2) of this title, if such Mailgram contains matter of the kind authorized to be sent by that official as franked mail under section 3210 of this title.".

(b) The table of sections of such chapter 32 is amended by adding at the end thereof the following:

"3219. Mailgrams.".

And the Senate agree to the same.

GALE W. MCGEE,
JENNINGS RANDOLPH,
H. L. FONG,
TED STEVENS,
Managers on the Part of the Senate.

T. J. DULSKI,
DAVID N. HENDERSON,
MORRIS UDALL,
CHARLES H. WILSON,
EDWARD J. DERWINSKI,
ALBERT JOHNSON,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3180) to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TECHNICAL AMENDMENTS RELATING TO SENATE AMENDMENT NUMBERED 3

Amendments Numbered 1, 2, 4, 5, 6, 7, 15, and 17: These technical amendments, which make certain purely minor and technical changes in language, punctuation, and paragraph and subsection and subparagraph designations, are eliminated as inappropriate because of the action taken by the conference committee on Senate amendment numbered 3. The Senate recedes.

MAIL MATTER FRANKABLE BY MEMBERS AND MEMBERS-ELECT OF CONGRESS

Amendment Numbered 3:

House bill

Section 3210(a)(3) of title 39, United States Code, as set forth in subsection (a) of the first section of the House bill listed specific categories of mail matter, included in all of those categories of mail matter, mailable by a Member of Congress or a Member-elect to Congress under the franking privilege.

Senate amendment

Senate amendment numbered 3 inserted on page 4, after line 2, of the House engrossed bill, language in a new paragraph (4) intended to emphasize that certain categories of mail matter frankable by a Member of Congress are also frankable by a Member-elect.

Conference agreement

The conference agreement reflects the effect and intent of both Senate amendment numbered 3 and the applicable provisions of the House engrossed bill with an amendment which clarifies the application of the sending of mail matter by Member of, and Members-elect to, Congress under the franking privilege.

HOLIDAY GREETINGS

Amendments numbered 8 and 9:

House bill

The House bill, in the form in which it passed the House, contained no specific provisions prohibiting a Member of or Member-elect to the Congress from sending a card expressing holiday greetings. However, the provisions of section 3210(a)(4) of the House passed bill contained a general prohibition against any public official using the frank for mail which, in its nature, is purely personal to the sender and is unrelated to the official business, activities, or duties of the official.

Senate amendments

Senate amendment numbered 9 amended the provisions of the House bill to provide a specific prohibition against a Member of or Member-elect to the Congress using the frank to mail a card expressing holiday greetings.

Senate amendment numbered 8 is a technical amendment to conform the provisions of the House bill to the changes made by Senate amendment numbered 9.

Conference agreement

The House recedes from its disagreement to the technical amendment made by Senate amendment numbered 8 and recedes from its disagreement to Senate amendment numbered 9 and agrees with a further amendment which is purely technical to include the clarifying word "such" before the words "Member or Member-elect".

MASS MAILINGS

Amendments numbered 10, 11, and 35:

House bill

The House bill did not restrict mass mailings. It did, however, direct the House Commission on Congressional Mailing Standards to study and evaluate problems relating to mass mailings and postal patron mailings. The House bill also directed the Commission not to recommend that mailings, whether mass or individual mailings, be prohibited more than 30 days before an election.

Senate amendment

Senate amendments numbered 10 and 11 added a new clause (D) to section 3210(a)(5) to prohibit mass mailings mailed less than 31 days before a primary or general election (whether regular, special, or run-off) when the Member or Member-elect is a candidate for public office. "Mass mailing" includes newsletters and similar mailings of more than 500 pieces when the content is identical but exempting mailings in direct response to direct inquiries or requests. Senate amendment numbered 35 repealed the provisions of the House bill on studying and evaluating mass mailings and postal patron mailings as no longer necessary because of the specific prohibition against mass mailings before elections and the prohibition in Senate amendment 18 against postal patron mailings.

Conference agreement

The conference agreement provides that mass mailings shall not be delivered to the postal facility less than 28 days before a primary or general election in which the Member of Congress is a candidate for public office.

The term "mass mailing" is defined to include newsletters and other similar mailings of more than 500 pieces when the content is substantially the same, except for mailings—

(1) in direct response to inquiries or requests;

(2) to colleagues in Congress or to Federal, State, or local officials; and

(3) of news releases to the communications media. The House Commission on Congressional Mailing Standards and the Senate Select Committee on Standards and Conduct are to promulgate rules and regulations necessary to carry out clause (D), including rules and regulations to determine when mailings are considered to be mailed at or delivered to a postal facility.

EXPIRATION OF FRANKING PRIVILEGE

Amendments numbered 12, 21, 22, 23, 24, 30, 32, 33, 34, 39, 40, 41, and 42:

House bill

Section 3210(b) of title 39 in the House bill authorized the use of the frank by the various officials until the 30th day of June following the expiration of their respective terms of office.

Senate amendments

Senate amendment numbered 12 limits the authority for such officials to use the frank until the first day of February.

Senate amendment numbered 21 adds a new section 2 to the bill amending section 3211 of title 39, United States Code, relating to the sending of public documents under the frank and makes two changes. First, the amendment deletes from the provisions of existing law reference to the Clerk of the House of Representatives and the Sergeant at Arms of the House of Representatives and inserts in lieu thereof "each of the elected officials of the House of Representatives (other than a Member of the House)". Secondly, the amendment changes the provisions of existing law which permits the use of the frank for sending public documents until the 30th day of June following the expiration of their respective terms of office to the first day of February.

All of the other Senate amendments referred to above are technical amendments to conform the provisions of the bill to the changes made by Senate amendments numbered 12 and 21.

Conference agreement

The conference agreement provides for the use of the frank until the first day of April following the expiration of the terms of offices of such officials. The conference agreement also adopts the changes contained in the Senate amendment numbered 21 relating to the mailing of public documents.

The House recedes from its disagreement to all of the technical conforming amendments.

LEGISLATIVE COUNSEL OF THE SENATE

Amendments numbered 13, 14, 16, and 38:

House bill

Section 3210(b) of title 39 in the House bill, relating to the basic authority for the use of the frank, did not extend the privilege to the Legislative Counsel of the Senate. The last sentence of section 1303(d) of the Revenue Act of 1918 (2 U.S.C. 277) authorizes the Legislative Counsel of the Senate to use penalty mail.

Senate amendments

The Senate amendments numbered 13, 14, and 16 made the necessary adjustments under section 3210(b) to extend the privilege of the frank to the Legislative Counsel of the Senate. Senate amendment numbered 33 repealed the last sentence of such section 1303(d).

Conference agreement

The conference substitute adopts the language of the Senate amendments on this subject.

POSTAL PATRON MAIL

Senate amendment numbered 18:

House bill

Section 3210(d) of title 39 in the House bill authorized Members of the House to send mail with a simplified form of address for delivery within the area constituting the congressional district from which he was elected. The simplified form of address does not require a specified addressee or address to be placed on the mail matter.

Senate amendment

The Senate amendment numbered 18 struck out the provision of such section 3210(d).

Conference agreement

The Senate recedes from the amendment.

FRANKING COST AS POLITICAL CONTRIBUTION

Senate amendments numbered 19 and 20:

House bill

The House bill contained no provision relating to the cost of franked mail as a political contribution.

Senate amendments

Senate amendment numbered 20 added a new subsection (f) to section 3210 to prohibit the cost of preparing or printing frankable matter from being considered as a contribution to or an expenditure by the Vice President or a Member of Congress for the purpose of determining any limitation on expenditures or contributions with respect to any such official imposed by any Federal, State, or local law or regulation in connection with any campaign of such official for election to any Federal office.

Senate amendment numbered 19 is a technical amendment to conform the provision of the bill with the change made by Senate amendment numbered 20.

Conference agreement

The House recedes from its disagreement to Senate amendments numbered 19 and 20.

ADMINISTRATIVE PROCEDURE ON FRANKING PRIVILEGE COMPLAINTS

Senate amendments numbered 25, 26, 27, 28, and 29:

House bill

The House-passed bill established a House Commission on Congressional Mailing Standards to provide guidance, assistance, advice, and counsel through advisory opinions or consultations in connection with franking mailings upon the request of any Member of the House or Member-elect, Resident Commissioner, or Resident Commissioner-elect, Delegate, or Delegate-elect, surviving spouses of any of the foregoing or other House official entitled to use of the frank.

Provisions were also included for complaints to be filed with the Commission that a violation of any of the franking requirements is about to occur or has occurred with the requirement that the Commission conduct an investigation of the complaint and make written findings of fact. Such findings of fact are binding and conclusive for all judicial and administrative processes. A provision was included that any judicial review of such decision if ordered on any ground shall be limited to matters of law. The Commission if it finds that a "serious and willful" violation has occurred or is about to occur may refer its decision to the Committee on Standards of Official Conduct of the House of Representatives for appropriate action.

Senate amendments

Senate amendment numbered 25 added the words "by any person" to clarify who could file the complaint of a violation. Senate amendment numbered 27 struck out the words "serious and willful" in connection with the provision relating to the type of violation which the Commission would refer to the Committee on Standards of Official Conduct.

Senate amendments numbered 26 and 28 struck out the provision of the House bill that made the findings of fact by the Commission final and binding on the courts.

Senate amendment numbered 29 added a new section 6 to the bill to provide that the Senate Select Committee on Standards and Conduct would provide guidance, assistance, advice, and counsel to Members and Members-elect of the Senate. This amendment provided that the appropriate courts would not have jurisdiction to entertain any civil action relating to a violation of the franking laws or an abuse of the franking privilege until a complaint has been filed with the Select Committee and the Committee has rendered a decision thereon.

Conference agreement

The House receded from its disagreement to amendment numbered 25 so that the words "by any person" is included to clarify the application of the complaints that may be filed with the House Commission on Congressional Mailing Standards.

The Senate receded from its amendment numbered 27 so that the words "serious and willful" are retained in the House provision relating to the type of violation that would be referred to the Committee on Standards of Official Conduct of the House of Representatives.

The Senate receded from amendment numbered 26 relating to the finality of the findings of fact by the House Commission.

The House receded from its disagreement to amendment numbered 28 with a further amendment that clarifies the application of the provisions of section 5 to violation of the franking privilege by officials of the House only.

The House receded from its disagreement to amendment numbered 29 which added section 6 to the bill and agreed to the amendment with a further amendment which makes it clear that the provisions of such section 6 relate only to the mailings under the frank by Members of the Senate.

MAILGRAMS

Amendments numbered 31 and 37:

House bill

The House bill, in the form in which it passed the House, contained no provisions permitting the sending of Mailgrams as franked mail.

Senate amendments

Senate amendment numbered 37 permits the frank to be used for the sending of Mailgrams and other items transmitted by electronic means.

Senate amendment numbered 31 provides for payment for the handling and delivery of Mailgrams as franked mail.

Conference agreement

The House recedes from its disagreement to Senate amendment numbered 37 and agrees with a further amendment which deletes the authority to send items transmitted by electronic means under the frank except Mailgrams.

The House recedes from its disagreement to Senate amendment numbered 31 with further technical amendments to reflect the agreement of the conferees on Senate amendment numbered 37.

FRANKED MAIL BY SURVIVING SPOUSES OF MEMBERS

Amendment numbered 36:

House bill

The House bill in the form in which it passed the House contained no provisions modifying the privilege granted to the surviving spouse of a Member to send franked mail relating to the death of such Member under section 3218 of title 39, United States Code.

Senate amendment

Senate amendment numbered 36 amended section 3218 of title 39, United States Code, by restricting the type of mail which the surviving spouse of a Member may send under the frank to "nonpolitical" mail relating to the death of such Member.

Conference agreement

The conference agreement adopts the Senate amendment.

Gale W. McGee,
Jennings Randolph,
H. L. Fong,
Ted Stevens,
Managers on the Part of the Senate.

T. J. Dulski,
David N. Henderson,
Morris Udall,
Charles H. Wilson,
Edward J. Derwinski,
Albert Johnson.
Managers on the Part of the House.

Mr. McGEE. Mr. President, I have the agreement of the ranking minority member of the committee (Mr. Fong), who is in the Appropriations Committee with my proxy voting there, while I vote his here, and accordingly I move the adopton of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. McGEE. I thank the Senator from New York.

RAIL SERVICES ACT OF 1973

The Senate continued with the consideration of the bill (S. 2767) to authorize and direct the maintenance of adequate and efficient rail services in the Midwest and Northeast region of the United States, and for other purposes.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The first amendment, No. 821, which is printed, will permit the acquiring rail corporation under this bill to take the property which it acquires subject to the leases with State, regional, or local transportation authorities which presently exist. This is a necessary amendment if we are to insure that vital commuter service be preserved.

The amendment also provides that short-term, under 5 years, leases which involve the performance of duties related to the public health and sanitation are to be preserved in any transfer. The need for this amendment is to deal with transportation authorities who have such agreements with Penn Central and other railroads or are in the process of negotiating such contracts and to deal with contracts for the transportation of sanitation or garbage in order that these, too, might be preserved in the takeover.

The second amendment, No. 822, which is printed, also relates to the continuation of the vital commuter rail service within the system. It amends section 304, which is entitled "Termination of Rail Service," in order to insure that once these rail properties are conveyed to the United Rail Corp., the commuter service cannot be discontinued if to do so would violate the terms of a lease referred to previously with a governmental transportation authority.

The third amendment I offer is a technical amendment relating to the way in which the special court appointed under the bill deals with properties and the proceeds of those properties which are transferred to the new United Rail Corp. There is a gap in that process because the section fails to direct the special court to convey the consideration deposited with it to the trustee or trustees of each railroad or reorganizaion in the region, and also fails to tell the court what to do with any surplus. This amendment endeavors to deal with that problem.

The fourth amendment, Mr. President, is one that represents nothing more than oversight by the comimttee. In section 402(b)(2), which provides for discretionary rail service continuation subsidies, the Secretary is only authorized to provide assistance to a State. The amendment will make such assistance available to local or regional transportation authorities as well, which are often the body to which such assistance is necessary.

Mr. President, I have one further amendment that deals with a different point. It modifies the goals section, 206 (a), to further coordinate this bill with the aims of our national energy policy. It states that one of the goals of the system, and only to the maximum extent practicable, is to preserve trackage in areas where fossil fuel natural resources are located. This will not require that service on such trackage be continued where otherwise it would not be consistent with the other goals; it merely provides that such trackage be preserved where possible. We should not be too quick to rip up such trackage when we may need it in an emergency at some future time. Transportation of energy resources must be protected. This is one of the lessons we have learned from the present energy crisis. This amendment will help to prevent it from happening again.

Mr. HARTKE. Mr. President, I compliment the Senator from New York for the improvements he has made in the bill. I think that his amendments do improve the bill. I think that they are necessary to make the bill better legislation.

Mr. President, we are prepared to accept the amendments.

Mr. JAVITS. Mr. President, I thank the Senator from Indiana.

Mr. President, I yield back the remainder of my time.

Mr. HARTKE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from New York [putting the question].

The amendments were agreed to.

Mr. JAVITS. Mr. President, I move that the vote by which the amendments were agreed to be reconsidered.

Mr. HARTKE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I would like to clarify two points in this bill that vitally affect small, viable railroads in the Northeast that in all probability will not become a part of the United Rail Corp. These railroads, even if not in the new corporation itself, may be a vital part of the total Northeast system, and I would like to make clear at least two ways in which the bill helps to insure that these railroads, if they are included as part of the overall system plan, are protected.

The first way relates to the loan section of the bill, section 211. This provides that loans may be made by the association, "to other railroads in the region, for purposes of assisting in the implementation of the final system plan." I would like to ask the distinguished chairman of the subcommittee whether this means that a profitable railroad, that is a part of the system plan, will be entitled to a loan if that is necessary, for it to provide the service that the plan anticipates. I should point out that it would be a real inequity if the United Rail Corp. could obtain loans for rehabilitation, equipment, or other necessary purposes, when other railroads, equally important to the overall system, could not.

The other point relates to preservation of existing through routes. If a small independent railroad is included in the final system, it is there for a purpose. The whole point of that purpose would be defeated if the United Rail Corp., which might surround a small independent, could route traffic less efficiently around that independent for its own gain. I therefore want to make clear that my interpretation of this bill and I inquire whether this coincides with the interpretation of the committee, would require the United Rail Corp. to continue, to the full extent practicable, the routing of traffic that is envisioned by the final system plan.

Mr. President, may I note that these questions are particularly applicable to the Delaware & Hudson Railroad, one of the few that is still operating a private enterprise railroad in the State.

I ask the chairman to state whether that is his interpretation as well.

Mr. HARTKE. Mr. President, the case is well taken about the situation on the Delaware & Hudson. I think that the Senator from New York correctly expressed the interpretation of the committee.

I fully agree with Senator JAVITS regarding the purpose of section 211 of the bill. Under the provisions of the bill, a railroad in the region can receive loans under section 211 if it would tend to effectuate the goals of the final system plan. Because the Senator is correct that it is highly likely that some of these railroads will continue in existence as part of the restructured system in the northeast, I am sure that they will qualify for loans under this section.

I also agree with the Senator's remarks regarding through routes. The redesigned system in the Northeast and Midwest will route traffic in the optimal manner. It is the intent of the committee that the new United Rail Corp. follow the routes that are devised in the final system plan. It is certainly not the intent of the committee to arbitrarily route traffis around remaining small railroads to their detriment unless such routing makes sense in terms of the final system plan.

Mr. JAVITS. Mr. President, I thank the Senator from Indiana very much.

There is a provision in the bill regarding the stimulation of employee stock ownership plans by the United Rail Corp. That provision is contained in section 206(e)(3).

Mr. President, I thoroughly favor such plans. And I am pleased that such a provision is included. I gathered that the real initiator of this idea was the Senator from Louisiana (Mr. LONG).

The only thing that troubles me is that if one reads the definition of an employee stock-ownership plan, as it is contained in section 103(5) of this bill, the only plan which can be put into effect is a plan popularly known as the Kelso plan, because its main advocate is Louis Kelso, an economist with an investment house in San Francisco.

I think it is most unwise to limit the choice of the United Rail Corp. to that type of employee stock ownership plan.

I would hope that the provision could be expanded to encompass other varieties of employee stock ownership plans, especially since this provision was not explored in hearings before the Commerce Committee. This bill is going to conference. Proper modifications can still be made. I would hope that the provision could be expanded to include profit sharing and stock bonus plans and trusts which qualify under section 401(a) of the Internal Revenue Code of 1954, are financed by employer contributions, employee contributions, or both, and which permit investment in or purchase of the employer corporation's shares for the benefit of the participating employees.

Mr. President, the initiator of this idea feels that if I offered an amendment to this effect it would be an unfriendly gesture. So, I will not do it. However, I express my honest opinion to him and compliment him on his fine initiative in which he was joined by the Senator from Oregon (Mr. HATFIELD).

I would hope, however, that these comments would be a prelude to an acceptance of an enlarged proposal. I have been working on a generic bill with regard to employee stock ownership, and based on my experience in regard to this matter, I think it unwise to lock the rail corporation into one option. For example, we can take the Sears, Roebuck profit-sharing plan where the employees have benefited enormonsly from the fund and have acquired control of the company. It is not a Kelso-type of plan. It is a contribution-type plan in which the employer's stock is acquired by the trust. There are other fine plans as well of the contribution type. The Sun Oil Co. employee stock plan is a well-known example as is the Westinghouse Employee Stock Purchase plan.

I wish the Record to show that I hope very much that when this legislation finally emerges, it will show the benefit of all the thinking on this subject and that the statute will give the rail corporation a number of options rather than confine them to one idea.

Mr. TAFT. Mr. President, if the Senator will yield, I wanted to ascertain something. One of the amendments the Senator is offering relates to the city of New York and authorizes them to deal with any waste disposal.

Mr. JAVITS. That is the garbage disposal amendment. It is No. 821 and has been agreed to.

Mr. TAFT. It is coming to Ohio. And it sounds as if it will be well taken care of when it gets there.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I wonder if I could find out how many more amendments will be offered this evening. I note that there will be about four or five.

Mr. KENNEDY. Mr. President, I think that my amendment will be accepted. It will only take 5 or 6 minutes.

Mr. TAFT. Mr. President, I believe that one of mine will be accepted. The other amendment may take 15 minutes.

Mr. BROCK. Mine will be accepted. It should not take too much time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator may yield to me without losing from the time allotted to him under the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, may I suggest the absence of a quorum and ask the attachés on both sides to ask as many Senators as possible to come to the floor?

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL PROSECUTOR LEGISLATION

Mr. MANSFIELD. Mr. President, last week the Senate gave permission for a time limitation on Calendar No. 573, S. 2611, a bill to insure the enforcement of the criminal laws and the due administration of justice and establish an independent special prosecutor, by Mr. Hart and others, and Calendar No. 574, S. 2642, a bill to establish an independent special prosecution office, and for other purposes, by Mr. Taft.

Mr. President, I ask unanimous consent that the time limitation granted by the Senate be vitiated.

Several Senators addressed the Chair.

Mr. MANSFIELD. I think the Senators would be doing the Senate a favor by not objecting, because there was no date at which this measure would be called up, and I would like to make a further explanation.

Mr. BAKER. Mr. President, do I understand the unanimous-consent request is simply that the time limitation agreement be vacated, as distinguished from the pendency of the measure?

Mr. MANSFIELD. The Senator is correct.

Mr. PERCY. Mr. President, I would ask the majority leader, because the unanimous-consent agreement was reached after a great deal of consultation among the Members of the Senate, and we all seemed to be in accord with it, for what reason is this request now being made? Would the majority leader explain?

Mr. MANSFIELD. Mr. President, I will be glad to answer the question, and I withdraw my request.

A good many of us have been thinking about the situation evident at this time, and whether or not it was desirable at this particular moment to bring up these two bills, both of which were reported by the Judiciary Committee without recommendation.

I personally have been tremendously impressed with Mr. Leon Jaworski. I think he has been doing an outstanding job as the Special Prosecutor, the successor to Archibald Cox. I think he has shown independence, flexibility, and determination, and in talking with some of my colleagues, I raised the question that I personally did not see what could be gained at this time by bringing up these measures.

I make that statement even though I wholeheartedly and without reservation support the Hart-Bayh-Kennedy bill, which seeks to have a Special Prosecutor appointed by the court.

That, in brief, is the reason why I am taking this responsibility and making this statement at this time. I yield to the distinguished Republican leader.

Mr. HUGH SCOTT. Mr. President, I want to thank the distinguished majority leader, who has just before this announcement advised me that he had in mind making a statement on the subject. I am glad to learn the views of the distinguished majority leader.

I think there is a common interest involved here, no matter what bill or bills one favors or opposes, and that is in getting on with the duties of the Special Prosecutor. Not only should they not be impeded by the President of the United States, as we have often demanded, but they should not be impeded by the Senate of the United States, which also has a responsibility in the premises.

In order that we may give Mr. Jaworski a fair chance to continue to demonstrate, as he has so brilliantly demonstrated so far, his complete independence, his integrity, and his determination to proceed to unearth the truth no matter where the paths may lead him, that the Senate would be acting wisely and responsibly if it were, for the present, to leave this matter in the hands of Mr. Jaworski, all of us being well aware that should a condition arise where we would feel the need to change our minds, or our point of view, or to seek additional legislation, we are certainly free to do so. But I do say that I agree, as I said earlier this morning at the time the Senate convened, Mr. Jaworski has done an excellent job. He deserves a fair chance. He should not be required to be in court to defend his writ, nor should he be required to be defending the competitive assertions of some future person competing for an office which he is so well performing.

So that I do hope the wishes of the distinguished majority leader will prevail. I would be most appreciative if, on my own side of the aisle, the same viewpoint, the same expression of confidence in Mr. Jaworski will surface as a result of what the Senator from Montana has just said to the Senate.

Mr. MANSFIELD. May I say that I think the Senator from Pennsylvania speaks for his side of the aisle as I think I speak for mine. I do not know of a man in Government who has as much confidence in him and in his capacity to do his job as does Mr. Jaworski. I think I can speak for every Member of the Senate, both Republican and Democrat, in that respect.

May I say that, on the basis of what I have said, neither of these resolutions will be called up this session. They will remain on the calendar. The time limitation will stand. If any further action is taken, I want to assure my associates in this body that I will, first of all, contact the distinguished Republican leader—as is our custom—so that he and his colleagues will be aware; I would also notify the distinguished Senator from Illinois (Mr. Percy), the distinguished Senator from Ohio (Mr. Taft), the distinguished Senator from Michigan (Mr. Hart), the distinguished Senator from Massachusetts (Mr. Kennedy), the distinguished Senator from Indiana (Mr. Bayh), the distinguished Senator from Illinois (Mr. Stevenson), the distinguished Senator from Tennessee (Mr. Baker)—and all other of the 100 whose names I have not mentioned, so that we will all know at about the same time.

I just wanted to make this statement to indicate, in light of the circumstances, the great confidence we have in Mr. Jaworski and the fact that anything we might do at this time might be misinterpreted.

So, to repeat, these bills will not be called up this session, but will remain on the calendar, and so will the allocated time.

Mr. PERCY. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. PERCY. Mr. President, I have great respect for the joint leadership and for what they have said on this matter; but I feel also that some of us have a responsibility to a principle which we have been attempting to enunciate for many months now. This is not a government of men. It is a government of law. What we are trying to do is to embody in law the principles by which we should undertake the most important investigation—the executive branch of the Government—that has ever been undertaken in this country.

All I would ask is that—and I would feel compelled to object on this short notice on this request—the sponsors of certain legislation be given an opportunity—some of them are not here present who are sponsors of that legislation—to think it through this evening and then raise the subject tomorrow morning or at any time the leadership would suggest to bring it up again, and give them a considered judgment, because this action, setting aside an important piece of legislation that we are committed to bringing up tomorrow by unanimous consent, which has been worked out harmoniously and cooperatively—and on which the Senator from Illinois has read an editorial this morning in the Washington Post. I share the judgment and opinion of the leadership and the country, really, in the integrity of Mr. Jaworski. So there was nothing in the legislation that was being proposed that would in any way remove or hinder him, but just build a body of law and statute in order to protect that office.

I do realize, as the editorial points out very clearly—and perceptively, I think—if I could read just a sentence——

Mr. MANSFIELD. If the Senator will yield before he gets to the editorial—which I have not even read—there was no agreement that we would bring it up on Wednesday. The leadership stated it would endeavor to bring it up on Wednesday and tentatively schedule it for that date. The leadership has certain responsibilities. The leadership has to be given a certain amount of confidence and cooperation by the Senate if it is to carry out its duties which you expect us to undertake.

So I want to repeat for the third time that these two bills will not be taken up in this first session of the 93d Congress. They will remain on the calendar. They may be called up in the second session of the 93d Congress, but not unless the leadership on the other side and the interested parties, including the distinguished Senator from Illinois, all are notified in the first place.

So I would hope that the Senator would not enter an objection because, in the first place, there is no unanimous-consent request pending. And, understand that what is being done is an attempt to face up to a situation which we think would be most fortuitous for all concerned.

Mr. BAYH. Mr. President, will the Senator from Montana yield?

Mr. PERCY. If the Senator will yield further, I would merely like to have adequate time to consult with my colleagues who have worked for months on this legislation. If there is not sufficient time to give us overnight this consideration, could we, later in the day—we are going to be here for a while—come back to this subject on the floor?

Mr. BAKER. Mr. President, will the Senator from Montana yield at that point——

Mr. MANSFIELD. I yield.

Mr. BAKER (continuing). So that I might inquire as to the parliamentary situation? Did I understand the distinguished majority leader to say that the unanimous-consent request dealing with the taking up of the Special Prosecutor bills, or dealing with the Special Prosecutor bills, related only to the allocation of time?

Mr. MANSFIELD. Yes.

Mr. BAKER. My understanding is that the unanimous-consent order did, in fact, make it the pending business on Wednesday.

Mr. MANSFIELD. The Senator is correct, in the latter aspect. I had forgotten that. It was my intention to ask unanimous consent that we turn to other business so that we could occupy our time, prior to adjournment, on things which are better suited for consideration.

Mr. BAKER. Mr. President, if the Senator will yield further, I shall not prolong this much longer except to say that I have great respect for the joint leadership. I recognize and I believe I have some understanding of their responsibilities to bring order out of the plural undertakings of several Members of the Senate. They perform an indispensable service to the Senate and I respect the responsibility and the obligation that they have. But if, in fact, unanimous consent is requested to vacate the order to make this the pending business on tomorrow, at this point the Senator from Tennessee will be constrained to object.

On the other hand, Mr. President, if the distinguished majority leader—if the joint leadership—would be willing to wait until tomorrow and discuss this matter further, then it may be we can reach some sort of accord. But it was only just a few minutes ago that I first learned there might be a request for unanimous consent to vacate the order making this the pending business on tomorrow.

I reiterate I have great admiration and respect for the joint leadership, and I entirely agree with the assessment of the joint leadership as to the confidence in Mr. Jaworski and his ability to perform effectively. But, very frankly, Mr. President, I am not prepared at this point to say that that kind of confidence should substitute for the force of facts in a desirable statute of law. So might I ask if the joint leadership would be inclined to lay aside and refrain from making that unanimous-consent until the opening of business tomorrow.

Mr. MANSFIELD. I shall be glad to do so.

Mr. BAYH. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield to the Senator from Indiana.

Mr. BAYH. Mr. President, I appreciate the Senator's willingness to wait until tomorrow to make that request. I share the feelings of all of us with respect to the leadership. It has not been and will not be the position of the Senator from Indiana to tie up the Senate on this issue. But I think it is imperative that we not make a hasty decision, that we take a few minutes at least on tomorrow to discuss the pros and cons of whether we should even consider it.

In my judgment, with the respect I have for the leader, I think we are making a tragic mistake here.

I read the article in the Washington Post this morning, and I concurred in every assessment it made relative to the job Leon Jaworski is doing and the general state of the prosecution now. But the reason I think we are making a mistake is that any of us who sat on the Judiciary Committee about 6 months ago and went through the hearings of Elliot Richardson and had Archibald Cox and went through the tedious business of putting together those guidelines could have said exactly the same thing a week or so after that, when Archibald Cox was doing a good job.

I do not want to lessen the effectiveness of Leon Jaworski. I want him to be as effective as he can. But I think we have a responsibility not only to give him the environment of openness but also to give him the legal support of openness; so that at some future day, when the President, with motives that are good and pure and just to him, or anybody else who might be sitting in the Presidency, is tempted to remove Mr. Jaworski and thus to throw this country into the kind of mood the likes of which I cannot remember, we will have given to the President and to the country the legal safeguard against that kind of thing ever happening.

In taking a general sampling of some of my colleagues, I probably find myself in the minority. But I would like to have the chance tomorrow—I think all of us should have the opportunity tonight—to pause and reflect for a moment and not take the easy way out, or at least think about the possibility that today it looks this way, just the way it did when Archibald Cox was operating.

Mr. MANSFIELD. Mr. President, if the Senator will yield, he will have that time tomorrow. But I wish he would not say that we are taking the easy way out, because what I am doing is contrary to my personal feelings on the matter, and the Senator knows it. Tomorrow we will discuss that matter.

Mr. BAYH. I did not mean to direct that personally to the leadership, certainly not to the Senator from Montana personally. But, in my judgment, if the Senate does not stand up and take a position on this, we will not be fulfilling our responsibility, and I think each of us in entitled to make that judgment for himself.

ORDER FOR CONSIDERATION OF APPROPRIATION BILLS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at an appropriate time tomorrow, it be in order to take up the supplemental appropriation bill.

The PRESIDING OFFICER. Is there objection?

Mr. PERCY. Mr. President, reserving the right to object——

Mr. MANSFIELD. This will not interfere with the talk we are going to have tomorrow.

Mr. PERCY. If that is understood, I have no objection.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. MANSFIELD. I should like to get the schedule outlined for the rest of the week, first.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, do I correctly understand that the assurance given to the senior Senator from Illinois is that unanimous consent to take up this measure will in no way jeopardize the debate on or the consideration of the Special Prosecutor measure?

Mr. MANSFIELD. That is correct. It will be available for the first 2 hours, as the Senator knows, under the rules of the Senate.

Mr. HUGH SCOTT. But the Senator will understand that we affirm the 5-hour time limit, or whatever it is. It is simply that any motion can be made at the end of the morning hour.

Mr. MANSFIELD. Yes.

Mr. BAKER. And that opportunity will be given to make such motion prior to the discussion of the supplemental bill. Is that correct?

Mr. MANSFIELD. Yes.

Mr. BAKER. But it in no way vitiates any of the actions previously taken by unanimous consent.

Mr. HUGH SCOTT. That is my understanding.

Mr. MANSFIELD. That is true. As the Senator requested, I put over the unanimous consent until tomorrow, and the Senator knows the parliamentary rules of what can be done at that time.

Mr. BAKER. I am fully grateful for it, and I understand what the consequences can be.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I again ask unanimous consent of the Senate that it be in order to take up the defense appropriation bill at an appropriate time on Thursday next.

The PRESIDING OFFICER. Is there objection?

Mr. PERCY. Mr. President, reserving the right to object, could the majority leader once again clarify what this would do to the existing unanimous-consent agreement?

Mr. MANSFIELD. We are going to finish this unanimous-consent matter affecting these two Special Prosecutor bills tomorrow. This is the next day. That will be out of the way.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at an appropriate time on Monday, the foreign aid appropriation bill be laid before the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR CONSIDERATION OF LEGAL SERVICES CORPORATION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the pending business, the Senate return to the consideration of S. 2686.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HUGH SCOTT. Is there to be a vote on the cloture motion tomorrow?

Mr. MANSFIELD. No. There is to be a vote on the cloture motion on Thursday.

Mr. President, I yield to the Senator from Ohio and then to the Senator from Massachusetts (Mr. Kennedy), and then I hope we will get back on the bill.

Mr. TAFT. The Senator has answered my inquiry.

Mr. HART. Mr. President, will the Senator yield?

Senator MANSFIELD. I yield.

Mr. HART. Mr. President, as one who is interested in the Special Prosecutor being wholly independent, and as one who has had conversation during the course of the day with the majority leader on the subject, I rise simply to say that no one in this Chamber—and that includes the Senator from Michigan—more sincerely believes in the independent Special Prosecutor bill that 55 of us have sponsored than does the Senator from Montana. I have never had the experience of leadership, and do not seek it, and I am sure that the position he suggests we adopt tomorrow reflects his understanding of the leadership responsibility, too.

Mr. MANSFIELD. I thank the Senator.

Mr. BAYH. Mr. President, will the Senator from Montana yield for a point of clarification?

Mr. MANSFIELD. I yield.

Mr. BAYH. I hope the Senator realizes the intent of the suggestion of the Senator from Indiana. It was certainly not directed personally.

Mr. MANSFIELD. Of course.

Mr. BAYH. I have had lengthy conversations with the distinguished leader, and I know that if there is anybody who is above some of the pettiness to which some of us might be tempted from time to time and who has the desire of the Senate at heart, it is he. I think we all have a responsibility, when we are gathered together, to determine the policy of the Senate and to speak out, so that at some later date we might feel a bit better about it.

Mr. MANSFIELD. The Senator is correct. I did not take it personally, but I thought the implication ought to be clear. Hence, I spoke for the record.

Mr. PERCY. Mr. President, I should like to explain to the majority leader my own deep concern.

I recognize the theory that it is possibly best to leave this matter in suspense for a while. But the Senator from Illinois would like to determine—and the Senator from Tennessee and the cosponsors of our bill—what jeopardy we place the country in and what jeopardy we place the Senate in if, over the period of a month or so that we may be gone, we could once again go through the tremendous experience, the emotional experience, this country had on the so-called Saturday massacre. Is it possible that by leaving this matter in suspension now, we could once again go through an experience that did more to destroy the confidence of people in government and the processes of law—and I would not want that on my conscience—if we would have any chance of figuring out a way to prevent it? I recognize that it is not a likely possibility, taking into account the country's reaction, but it is a possibility.

Mr. MANSFIELD. I will be glad to answer.

I do not expect any more Saturday night massacres in any way, shape, or form.

Further, when the Senate adjourns sine die, hopefully toward the end of next week, it will do so on the same basis as during the month's recess last August. It will be subject to recall by the minority leaders of both Houses, or by the majority leaders of both Houses, or by the President pro tempore and the Speaker of both Houses, or as is always applicable, by the President of the United States. So that I think we have to keep in mind there are such matters as the energy crisis which may call us back suddenly, the situation in the Mideast which may call us back, and there are other matters, but I certainly do not expect to be called back on the basis of another "Saturday night massacre."

Mr. HUGH SCOTT. Mr. President, will the Senator yield a that point?

Mr. MANSFIELD. I yield.

Mr. HUGH SCOTT. If we are called back in the event Mr. Jaworski should be fired I will join the majority leader in recalling Congress.

Mr. MANSFIELD. I point out in that case the two bills are on the calendar.

That is it.

Mr. PERCY. Mr. President, will the Senator yield further so that I may read for the Record the material I wanted to bring to the attention of the Senate from this morning's Washington Post editorial?

Mr. MANSFIELD. Excuse me. I did not mean to interrupt the Senator.

Mr. PERCY. I agree with the term improbable, but we have to deal with the impossible and certainly we should give consideration to this matter. The editorial states:

> And we think that very large body of congressmen and senators who have committed themselves to the creation of a court-appointed prosecutor, along with those who are committed to the passage of less drastic measures, should be seeking ways to leave these votes in abeyance for the moment. Traditionally, after all, Congress is known for a certain skill at putting off and putting over what it does not wish to bring to a final vote. Finding ways to do just that in this matter should not strain its inventiveness.

Certainly, that has been portrayed. The motivation can be of the highest motivation and it may be and many times is the better part of judgment not to do something if it would be ill-advised to do it. The only consideration the Senator from Illinois requests on behalf of other colleagues is that we have a chance to consider this overnight.

Mr. MANSFIELD. That will be done. I have the utmost confidence in Mr. Leon Jaworski. Up to this time he has done a magnificent job. He has filled the shoes of Mr. Cox ably. He has gone into areas which Mr. Cox did not enter as Special Prosecutor. I look upon what the Senate may do if it follows the suggestion of the joint leadership as a vote of confidence in Mr. Jaworski and the independence he has shown in carrying out his investigatory authority.

RAIL SERVICES ACT OF 1973

The Senate continued with the consideration of the bill (S. 2767) to authorize and direct the maintenance of adequate and efficient rail services in the Midwest and Northeast region of the United States, and for other purposes.

Mr. HARTKE. Mr. President, we have done the best we can to expedite this matter and if everything works out as we expect we should be finished with the bill and ready to vote final passage by 7 o'clock.

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask that it be considered and I ask unanimous consent for Mark Schneider of my staff to remain on the floor during consideration of this bill.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 30, between lines 10 and 11, insert the following paragraph:

"(8) the minimization of job losses and associated increases in unemployment and community benefit costs in areas presently served."

Mr. KENNEDY. Mr. President, I have had an opportunity to discuss this matter with the manager of the bill and I believe the minority member has been notified, as well.

All this amendment would do would be to add one more goal to be reached by the final system plan.

I want to commend at the outset the distinguished chairman of the Transportation Subcommittee and the distinguished chairman of the full committee and the committee members for the long hours that have been expended in preparing this legislation.

I intend to comment further at a later date on the specific provisions of the bill which I believe are most noteworthy, including the recognition of the vital importance of improving rail passenger service and including provisions similar to amendments I had introduced to require the implementation of the Department of Transportation recommendations for high-speed passenger service in the Northeast Corridor.

The amendment I am offering now would insert as an additional goal in the establishment of the final system plan the same provision contained within the House bill, 9142.

This provision is "the minimization of job losses and associated increases in unemployment and community benefit costs in areas presently served."

To a degree the bill already assumes this subject as a goal with its inclusions of provisions providing for subsidy to state and local entities which desire to continue service on lines which may not be included in the core system.

Thus, there is a clear recognition that while some branch lines may be abandoned, after adequate hearing, those lines may still provide essential transportation services to a given community.

I think we all share the view that any final reorganization of the Northeast railroads to provide for a restructured viable system should be done with recognition for the local negative impact on jobs and on the local economy.

In Massachusetts and in New England there are numerous small communities served by railroads affected by the plan which could be wiped out economically if service were to be terminated.

I can give some striking examples of the potential damage when one discusses the possibility of cutting rail services to communities without taking into account the consequences.

In Irving, Mass., there is one major employer, the Irving Paper Co. That firm employs some 700 persons. If the B. & M. rail line, the only one into the community, were shut down, the impact would be the loss of at least 300 jobs and possibly the entire 700.

In South Middlesex, of some 26 firms sampled, 3,569 jobs would be lost, if service were discontinued.

In North Adams, 613 jobs of a total of 3,891 employed would be lost in the firms surveyed.

In the Gardner, Mass., some 5,000 jobs would be lost without rail service.

These estimates by the New England Regional Commission show the magnitude of the impact of abandoning rail service to these and other communities. What we are seeking in this amendment is to ensure that the goal of minimizing the job loss and economic disruption be maintained throughout the establishment of the final system plan and its implementation.

This amendment, as did the House measure, merely makes this an explicit part of the bill by including it as one of the goals of the final system report.

I would hope it would be accepted.

Mr. HARTKE. Mr. President, I congratulate the Senator for offering the amendment. This language should be in the bill; it is in the House bill. We should give consideration to minimizing the job loss and the dislocation that will result in trying to modernize the railroads of this Nation.

Mr. BEALL. Mr. President, on behalf of the minority, I wish to thank the Senator for offering the amendment. It covers ground that should have been included in the bill initially.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be discontinued. I shall explain the amendment.

The PRESIDING OFFICER. Without objection, the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

On page 155, line 18, delete all after the words "no later than" and insert "6 years after the date of enactment."

On page 155, line 19, after paragraph (2) add the following: "The Secretary shall begin the necessary engineering studies upon enactment."

Mr. KENNEDY. Mr. President, on this amendment also I have spoken with the floor manager as well as with the ranking minority member.

The purpose of the amendment is to reduce the total amount of time that will be necessary for the completion of the Northeast corridor passenger service from 9 years to 6 years and to begin the studies to carry it out.

The proposed legislation, at page 155, states:

Nine years after the effective date of the final system.

This amendment would reduce the total time period to 6 years. I have been informed that those who are familiar with the Northeast corridor project feel that this plan could be achieved in from 3 to 5 years. So this proposal adds only one more year beyond what the key planners in the formulation of the plan thought was essential to develop a plan.

I think the amendment is in the interest of the passengers of the Northeast area.

Thus, this amendment merely would reduce the number of years provided for competing the Northeast corridor passenger service from 9 to 6 years from passage of the act and provide authority to the Secretary to begin engineering studies for the purpose immediately.

Both House and Senate versions of the legislation recognize the critical need for improving rail passenger service in the corridor where some 20 percent of the Nation's population resides. The energy crisis makes this an even more pressing matter.

G. A. Lincoln, former chief of the U.S. Office of Emergency Preparedness has compared the fuel usage of modes of transportation. The cross-country passenger train is nearly three times more efficient than the automobile, and four times more efficient than the jet plane. The commuter rail system is nearly seven times more efficient than the auto.

As to pollutants, the U.S. Department of Transportation shows that commercial jets emit 2.7 times as many of pollutants per million passenger miles as high speed trains, buses 21.8 times, and private autos 27.3 times.

The Metroliners already have shown their potential attractiveness to passengers with the Washington to New York route increasing its ridership some 18 percent a year ago and increasing its share of the combined air and rail ridership from 25 to 27 percent. At the same time, the Metroliner routes have been showing a profit.

The recommendations of the Department of Transportation report would upgrade the system sufficiently to provide two-hour service from Washington to New York and 2¾-hour service between New York and Boston. This service would include Boston, Providence, New Haven, New York, Newark, Philadelphia, Wilmington, Baltimore, and Washington, D.C. The increasing ridership would not only be paying off the cost of the original capital improvements but ultimately would show a substantial profit.

By 1985, DOT estimates the high speed corridor route would be pumping an estimated $40 million in net revenues into Amtrak coffers.

I believe we would be doing ourselves a major disservice if we did not utilize the opportunity presented by the need for revamping of the rail industry in the Northeast to produce not only improved freight service but improved passenger service as well.

I would add that this proposal has the full support of the New England Governor's Conference.

I would note that I want to commend the committee for the adoption of provisions insuring the realization of this long-sought after program and for achieving this in a way that also adds to the financial viability of the overall plan as well.

I would emphasize that in no way does this measure require any expenditure of additional appropriated funds for the acquisition of modernization of the corridor rights-of-way. All of these funds would be obtained through loans from the private market, some government guaranteed.

However, the financial viability of this measure is estimated by the Department of Transportation to enable it not only to cover a substantial portion of the actual expenditures for improvement during the 3 to 5 years estimated as necessary to complete the program but will be paying in as profit an estimated $40 million a year by 1985. Even those estimates are considered to be conservative given the current heightened attractiveness of rail passenger service during the energy crisis.

I believe that the amendment I have offered will further the committee intent stated in the final system goals: "the establishment of improved high-speed rail passenger service, as recommended by the Secretary in his report of September 1971, entitled 'Recommendations for Northeast Corridor Transportation.'"

I want to express my particular appreciation for the committee inclusion of the provisions contained in amendments I submitted to the bills which were before the committee in its considerations of this measure. I know both the chairman of the subcommittee and the chairman of the committee have been strong supporters of efficient and modern high-speed rail service in the corridor. I believe the provisions of the bill, along with the amendment I am offering today will see that we can reach that goal at the earliest possible time.

I hope that the able manager and the ranking minority member will be agreeable to accepting it.

Mr. HARTKE. Mr. President, in my judgment, 6 years is too long even though it shortens substantially the time in the bill. That is my only criticism of the amendment. I hope that this proposal places a reasonable expectation on the time for completion. It would be nice if we could celebrate the achievement of this transportation proposal in 1976. Perhaps the Senator from Massachusetts can reduce the time for completing the last leg of the plan by 4 years.

I am prepared to accept the amendment.

Mr. BEALL. The minority also is willing to accept the amendment.

Mr. KENNEDY. The 9 years in the legislation, plus 18 months to 2 years, would bring the plan up to 11 years. This amendment would cut the time back almost in half, to a 6-year period. That is the time which the Department of Transportation thinks would be reasonable for completion and we also would authorize an immediate start of the necessary engineering studies.

I want to commend the committee itself for the attention they have devoted to the Northeast corridor problems. I think it is a tribute to the able manager and the minority members that they have been sensitive to our needs. I wish to commend both of them for the time they have given to the problems of the Northeast.

I ask unanimous consent finally that the statement on the New England Governors Conference endorsing action on high speed rail service in the corridor be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Northeastern Railroad Problems

A modern, efficient rail transportation system is essential to the continued health and growth of the nation's economy. Fuller and more advantageous utilization of our existing rail plant will not only contribute materially toward the realization of a balanced national transportation system but will serve also to enhance our environment by permitting more efficient land use, by reducing air and noise pollution, and by conserving our precious and threatened energy resources.

Significant segments of the New England economy are heavily dependent upon rail transportation for their continued existence. Loss of service will result in widespread and irreparable harm in terms of lost jobs, reduced employment opportunity, displaced industry and disruption of planned business and industrial development and expansion. Even the present, and in some instances long-standing threat of rail service loss or curtailment is having deleterious effects upon our economy.

The crisis is made more acute to New England in light of our region's changing economic base, a badly deteriorated rail physical plant, and the bankruptcy of two of New England's major railroads—the Boston and Maine and Penn Central. Penn Central poses an immediate threat to the region and, indeed, to the nation, in view of its bankruptcy court's directive that the railroad's trustees either file a plan of reorganization or a plan for liquidation by early July on the one hand, and on the other, the trustees' stated position that reorganization is not possible without immediate substantial Federal financial assistance.

It is abundantly clear that the financial dimensions and geography of the region's rail transportation system, and most significantly its interdependence with and reliance upon the balance of the nation's rail network, demand that the Federal government assume a decisive and leading role in revitalizing and in fostering and insuring the growth of this presently seriously troubled industry.

It is imperative that the Congress of the United States act with all deliberate speed in setting up a process for formulating and implementing long-term permanent solutions to the Northeastern Railroad Problem. Essential elements of this process must include (1) thorough and systematic analyses of the specific rail carriers, of the freight transportation industry as a whole, and of the economic and social impacts of the rail industry upon the regions it serves, (2) acceptance of a Federal financial role in the continuation of essential rail freight service, (3) identification of appropriate state and local government parts in assuring freight transportation service, and (4) recognition of and attack on the problems of all railroads, both profitable and bankrupt.

It is long overdue for the Congress to develop, to establish and to implement a national transportation policy of which rail is a fundamental part. Public investment priorities and other transportation decisions must reflect this policy. Just as the Northeastern railroads must be dealt with as parts of a larger integrated national rail system, so too must this system be viewed within the framework of a national intermodal transportation system.

There are immediate problems facing individual railroads and groups of railroads which must be confronted and resolved. There is a compelling and overriding public interest in continuous uninterrupted rail service. The system or any vital part of the system must not be permitted to shut down as the process of developing and implementing longer term remedies goes forward. The Congress must set up a mechanism, which might include short-term operating subsidies, to enable all existing rail freight service to continue.

Rail service abandonments should be halted until adequate consideration has been given to the effect each will have upon the whole rail system. To continue on the present piecemeal course may be counterproductive in terms of the economic effects on the system, may be illogical and inconsistent with the overall policy which is to be developed, may cause undue and grave harm to users and the public, and would serve only to occupy the time, energies and resources of persons and public and private agencies which could be more advantageously employed in dealing with the broader problem.

Implementation of high speed rail passenger service in the Northeast Corridor must take place without further delay. With twenty percent of the United States' population living on a land area comprising some two percent of the nation, with intercity traffic unsurpassed in terms of volume by any other area, with demand for intercity activity to continue to rise particularly between major urban centers, with alternatives to solving existing modal problems becoming increasingly restricted, there is no reasonable basis for continued Federal failure to finance and to acquire and construct the necessary facilities and equipment required for the realization of this priority project. The rail system in the Corridor has the capacity to carry a substantially greater number of intercity passengers while taking almost no land, creating little air and noise pollution, minimizing energy consumption, and providing a high level of safety. The program constitutes the best and least costly method of meeting some of the major intercity transportation needs of the Northeast with necessary and appropriate Federal financial assistance. It remains a high pay-off program that will yield important and enduring results at low risk to the Federal government. The States of Connecticut, New York, and Massachusetts have already acted in advancing the project through their acquisition of approximately one hundred miles of the four hundred and fifty mile right-of-way between Boston and Washington. Resolute and prompt Federal action on the Northeast Corridor Project will also contribute materially to solving the Northeast Railroad Problem.

Gov. Thomas J. Meskill,
Chairman, Connecticut.
Gov. Thomas P. Salmon,
Vice-Chairman, Vermont.
Gov. Kenneth M. Curtis,
Maine.
Gov. Philip W. Noel,
Rhode Island.
Gov. Francis W. Sargent,
Massachusetts.
Gov. Meldrim Thomson, Jr.,
New Hampshire.

Mr. HARTKE. In acknowledging that commendation, let me point out that rail passengers in Northeast corridor will not be the only beneficiaries; the proposal will materially contribute to the Corporation's financial success. I think that some people have lost sight of what we are doing in this respect.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachuetts.

The amendment was agreed to.

Mr. BROCK. Mr. President, I have an amendment at the desk which I ask to have considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BROCK. Mr. President, I ask unanimous consent thaat the further reading of the amendment be dispensed. I will explain the purpose of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment ordered to be printed in the Record is as follows:

On page 48, on lines 12 through 15, delete the following: "the current average yield on outstanding marketable obligations of the United States with remaining periods to maturity of such loans," and substitute in lieu thereof: "the prime rate as determined by the Secretary of the Treasury".

Mr. BROCK. Mr. President, the amendment is directed at a problem where the original language would have required or allowed, in effect, a subsidized rate of interest on direct loans at a Treasury rate which I think is extended. I have tried to reach more toward the prime rate, as in the Lockheed loan, directing, in the discretion of the Secretary of the Treasury, the establishment of U.S. practice for the prime rate for direct loans.

I am hopeful it would be acceptable to the manager of the bill.

Mr. HARTKE. Mr. President, I have discussed this amendment with the Senator from Tennessee. As originally drafted, it was found to be too open ended and at that time interest rates could have approximated as much as 15 or 18 percent. As the amendment is now drafted, I am prepared to accept the amendment.

Mr. BROCK. Let me say I do appreciate the suggestions of the Senator from Indiana, because I have no interest in going to that high a rate. I think the suggestions the Senator from Indiana made were constructive. I think we seek the same objectives in this respect, and I thank him for his support.

Mr. HARTKE. Mr. President, I yield back my time.

Mr. BROCK. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back on the amendment, the question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was agreed to.

Mr. TAFT. Mr. President, I call up an amendment which I have at the desk amending language on page 47.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read the amendment, as follows:

On page 47, line 11 after the word "railroads" insert the phrase "(including a railroad in reorganization which has been found to be reorganizable under section 77 of the Bankruptcy Act pursuant to section 207(b) of this title."

Mr. TAFT. Mr. President, this amendment has been discussed with the distinguished chairman of the committee. Its purpose is to make it abundantly clear that a railroad which is in a 77(b) reorganization under the bankruptcy law would be eligible as a borrower under the authorizing sections. This particularly applies to the Erie-Lackawanna Railroad, which believes that type of reorganization can be used in its case, but would need the assistance offered other bankrupt roads under the legislation, and I think would well be entitled to such consideration.

Mr. HARTKE. Mr. President, I have discussed this amendment with the distinguished Senator from Ohio. It addresses the question of the Erie-Lackawanna, which perhaps can be reorganized on a cash basis. With this amendment it could make itself viable with some loans from the association if it is indeed reorganizable.

I think the Senator has worked out an acceptable amendment in trying to deal with this peculiar situation.

I am ready to accept the amendment and yield back the remainder of my time.

Mr. TAFT. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. TAFT. Mr. President, I have another amendment at the desk which amends the Interstate Commerce Act, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

Sec. 2. Part I of the Interstate Commerce Act is amended by striking out section 13a and inserting in lieu thereof two new sections as follows:

"ABANDONMENT OF LINES

"Sec. 13a. (a) Except as provided in subsection (b) and subject to the requirement of subsection (c) of this section, and notwithstanding any other provision of this Act, after ninety days following public notice and notice to the Secretary of Transportation, any carrier by railroad subject to this part may abandon any line of railroad (including any part thereof), notwithstanding the constitution or laws of any State or the order of any State agency or court.

"(b) (1) If the Secretary of Transportation finds, after receiving any notice pursuant to subsection (a), with or without public hearing at the discretion of the Secretary, that the continuance of the line proposed to be abandoned, is essential to the national or any regional economy or to the national defense, he shall prior to ninety days following such notice (A) order the continuance of such line without change, and (B) contract with such carrier to make payments to such carrier in the amount necessary to reimburse the carrier for losses suffered as a result of such continuance ordered by the Secretary. Any such contract may be made for such period or periods, and may be renewed, as the Secretary determines. At any time the Secretary determines that such continuance is no longer essential under the provisions of this subsection he shall terminate such payments, and authorize such abandonment, effective on a date which is at least ninety days after public notice is given of such abandonment.

"(c) No employee's employment with a carrier shall be terminated as a result of an abandonment authorized in subsection (a), but a carrier may, after any such abandonment, reduce by attrition its total number of employees by an amount equal to the number of employees made unnecessary by such abandonment, discontinuance, or change.

"(d) (1) The Secretary of Transportation shall administer the provisions of this section and shall promulgate such regulations as may be necessary for such administration.

"(2) The district courts of the United States shall have jurisdiction upon complaint of the Secretary of Transportation, or any party in interest, alleging a violation of any provision of this section, to issue such writs of injunction or mandamus as may be necessary to restrain violations of, or compel obedience to, the provisions of this section.

"(e) There are authorized to be appropriated such amounts as may be necessary to make payments contracted for by the Secretary of Transportation pursuant to subsection (b).

RATES, FARES, AND CHARGES FOR THE TRANSPORTATION OF PROPERTY

"Sec. 13b. (a) Any provision of this Act which is inconsistent with the provisions of this section shall not apply after the effective date of this section to carriers by railroad subject to this part or to rates, fares, charges by, or activities of, any such carrier which are established or carried out pursuant to this section. After such effective date rates, fares, and charges established pursuant to this section shall be just and reasonable charges for the purposes of this Act.

"(b) Any carrier by railroad subject to this part may establish or revise rates, fares, or charges, and classifications applicable thereto, for the transportation of property, subject to the following requirements:

"(1) No such proposed rate, fare, charge, or classification, or revision thereof, shall be made effective until after thirty days following public notice thereof and notice to the Secretary of Transportation, and all effective rates, fares, charges, and classifications by each carrier shall be maintained in print and open for public inspection.

"(2) No discrimination shall be practiced in such rates, fares, charges, and classifications with respect to the identity of the shipper, the direction of the shipment, the value of the property shipped or for any other reason other than may be expressly authorized by the provisions of this section or other provisions of this Act.

"(3) No rebates shall be made to shippers.

"(4) No agreements shall be made between carriers with respect to rates, fares, charges, or classifications.

"(5) Rates, fares, or charges may be varied, or classifications may be made, on the basis of—

"(A) bulk shipments and general merchandise shipments;

"(B) weight;

"(C) cubic volume;

"(D) the need for special equipment to transport the property;

"(E) special switching services necessary to transport the property, or to originate or terminate the shipment;

"(F) distance;

"(G) providing a lower weight to mileage rate for longer than for shorter shipments, for trailer or container or flatcar shipments, for unit train shipments, and for multiple car shipments; and

"(H) an amount actuarily calculated to cover claims for damage and loss of high value shipments.

"(c) Any carrier by railroad, or any officer or other agent thereof, who knowingly violates the provisions of paragraph (2) or (3) of subsection (b) of this section shall upon conviction thereof be punished by a fine of not more than $10,000 for each violation.

"(d)(1) The Secretary of Transportation shall administer the provisions of this section and shall promulgate such regulations as may be necessary for such administration.

"(2) The district courts of the United States shall have jurisdiction upon complaint of the Secretary of Transportation, or any party in interest, alleging a violation of any provision of this section, to issue such writs of injunction or mandamus as may be necessary to restrain violations of, or compel obedience to, the provisions of this section."

SEC. 3. The amendment made by this Act shall be effective after ninety days following the date of enactment of this Act.

SEC. 4. Nothing in this Act is intended to amend the provisions of the Rail Passenger Service Act of 1970.

Mr. TAFT. Mr. President, this amendment is in approximately the same form as legislation which I introduced back on February 5, 1973, to deal with the Interstate Commerce Act. There have been no hearings on that particular measure up to the present time, but I note particularly with regard to his legislation that the committee report notes in several places that among the factors contributing to the bankruptcy of the Northeastern railroads was the abandonment and rate regulation policy of the Interstate Commerce Commission.

In fact, the ICC policies have resulted in a national railroad rate of return on investment of just slightly over 2 percent. So low a rate of return has destroyed railroad credit; as a result, billions of dollars of Federal money must now replace private funding. The ICC has combined policies of setting overly low rates in some categories with forbidding low rates in other categories, so as to prevent effective competition with trucks. At the same time, the ICC has forced the railroads to continue service, at railroad expense, over thousands of miles of unprofitable branch lines.

In sum, the ICC has effectively prevented the railroads from responding to market conditions, and the taxpayer is now paying for this mistake.

The committee report notes this situation, but the bill, S. 2767, provides only temporary relief, for a few railroads, from ICC regulation. I, therefore, offer the amendment which:

First, makes the Government bear the losses suffered in unprofitable branch line operations which the Government has ordered continued, and

Second, gives the railroads the right to set rates and fares in response to market conditions, subject only to such regulation as is necessary to prevent discrimination and collusion.

Mr. President, the problem we are facing here today did not spring up overnight. It is the inevitable end result of 70 years of discriminatory and incompetent regulation of the Railroad Industry by the Interstate Commerce Commission.

The ICC, set up to protect the average citizen from the railroad, is now about to cost the average citizen hundreds of millions of tax dollars because it has been a major factor in the ruin of the railroads.

The committee report on S. 2767 notes, parenthetically, in several places that the ICC is one of the factors—in my view, one of the major factors—behind the collapse of the Northeast Railroads. Yet the bill before us does nothing, except on a temporary basis, to correct this problem.

The magnitude of the problem is perhaps best realized from the fact that, across the Nation, railroads earn on the average only slightly better than 2 percent on their investments. That is less than a person can earn on tax-free municipal bonds. Is it any surprise that railroads find it almost impossible to borrow money? Who would invest in an industry with this return rate? Even the most profitable railroads, such as the Southern, earn only about 7 percent, not a high rate of return in terms of competing for capital.

The choice before us is whether we want to let the railroad industry respond to market conditions so it can again be healthy and rely on private capital for its growth and modernization, or whether, in the name of regulation, we want to create a situation where the railroads are maintained and perhaps even operated at taxpayer expense.

There are two ICC practices which must be altered if we are to make the former choice. First, we can no longer demand, via the ICC, that railroads operate uneconomical branch line service at their own expense. Ideally, if a branchline is unprofitable, the railroad should have the right to go to the shippers on that line, show them the books, and set a freight rate covering the actual expenses of operation plus a reasonable rate of return. If this rate is higher than that offered by other forms of transportation, then the shippers can make arrangements with those other transportation organizations, and the railroad can abandon the branch line.

I recognize, however, the political pressures on the Government not to let branch lines be abandoned. Very well: But the Government does not have the right to make the railroad pay the expenses of these political decisions. According to my amendment, if the Government orders continued service on an unprofitable line, the Government will pay the bill. That is, in all justice, the only way that this can be done.

Let me note that, as we see here today, if the taxpayer does not pay the initial price in such cases, he pays it later on anyway.

Second, the railroads must be allowed to set rates and fares according to market conditions, subject, of course, to such regulation as is needed to prevent discrimination and collusion. To deny this right to the railroads is simultaneously to increase expenses to the general public, by preventing free competition, and to ruin the railroads, by setting too low a rate of return.

I believe my amendment is the only genuine solution to a major factor of the problem facing us today. Anything that ignores the role of the ICC increasing the mess before us now is only a band-aid solution: One that will come loose in no time. I call on my distinguished colleagues to join me in assuring that the future of America's railroads will be both a bright one and one of private ownership and private capital, not continuing expense to the American taxpayer.

Mr. HARTKE. Mr. President, I have discussed this amendment with the Senator from Ohio. Unfortunately, it does not fit within the overall purview of what we intended in this measure. There is no question that the Senator has pointed his finger at one of the problems of the railroad industry. However, it is directly contrary to one provision we have already adopted.

I hope that the Senator from Ohio would take the assurance of the committee that we will go into this matter thoroughly next year. It will be on the agenda for us to act upon. We will certainly give the Senator a clear opportunity at that time to present his case and do it in a fashion that would be much more appropriate than dealing with it in this important measure.

The Department has asked us not to include regulatory changes in this measure. The majority and minority agree that to deal with this measure without hearings and without committee consideration would cause a definite flurry which could not be sustained.

Mr. TAFT. Mr. President, if the Senator will yield, I appreciate the remarks of the distinguished Senator from Indiana. A bill on this very subject has been pending for almost a year now.

I recognize also that we would be in a hearing then and that the distinguished chairman might have the comments that may be coming from the Department or the administration. There will be some recommendation in this general area.

We expect to hold hearings on them

early in the next session of the Congress. I would request that consideration be given at that time to S. 756, which will, of course, still be pending at that time along with any other legislation that might be pending.

Mr. HARTKE. Mr. President, I assure the Senator from Ohio that we will schedule hearings on his bill in the early part of the next session of the Congress.

Mr. BEALL. Mr. President, I agree with both Senators. I think that the Senator from Ohio is pointing his finger at a very important problem that is facing the railroads historically. That pertains to regulation and lethargic regulation. I think that deregulation should be considered.

I agree with the Senator from Indiana that we would be remiss if we were to handle this matter in the pending bill. This is a matter that deserves some hearings. I can assure the Senator from Ohio, speaking for the minority, that the matter will receive attention next year.

We have assurances from the administration that the proposal will be in our hands later this year and no later than when Congress reconvenes next year.

Mr. TAFT. Mr. President, I thank the Senator for his remarks.

Mr. President, in view of the remarks of the two Senators, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HELMS. Mr. President, the distinguished Senator from South Carolina (Mr. THURMOND) is unable to be present because of a death in the family. On his behalf I call up his first unprinted amendment at the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS), on behalf of the Senator from South Carolina (Mr. THURMOND), offers the following amendment:

On page 141, line 13, before the period insert a comma and the following: "or for any period during which the employees of the Corporation are on strike, whether or not the protected employee is an active participant in such strike".

Mr. HELMS. Mr. President, if the distinguished Senator from South Carolina (Mr. THURMOND) were present, he would present the following statement in support of his amendment, which I shall read, as follows:

Mr. President, It has come to my attention that, under S. 2767, employees of the Corporation will retain their right to strike.

Under the provisions of title VI, any person receiving a monthly displacement allowance would continue to receive that allowance during the period of a strike.

My amendment is intended to stop all allowances paid to those protected employees and adversely affected employees during the period of a strike.

Should these payments continue while a strike was in progress, the Federal Government, in effect, would be subsidizing one side of a labor dispute. This situation should not exist, and this amendment allows the government to remain neutral during a strike.

Mr. President, I urge the adoption of the amendment.

Mr. HARTKE. Mr. President, I would like to say briefly that this amendment is not in the best interest of the legislation. It really gives us a problem. I understand what the Senator from South Carolina is concerned about. The problem is that if we have an individual displaced by virtue of this law which we pass and there is then a strike without any concern for the employee, he is thrown to the wolves and loses money not by virtue of the strike, but by virtue of the fact that he is displaced.

It would create a new situation in the labor-management relations.

I cannot see any way in which this could be any part of the legislation.

Mr. HELMS. The employee would be entitled to a raise.

Mr. HARTKE. There is no question about that. Those raises do pass through. The Senator is penalizing the wrong people.

Mr. HELMS. Mr. President, I yield back the remainder of my time.

Mr. HARTKE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

Mr. HARTKE. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

Mr. HARTKE. Mr. President, let me say again that I find this amendment is unacceptable.

Mr. BEALL. Mr. President, may I say that I agree with the Senator from Indiana. The amendment is unacceptable at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. (Putting the question.)

The amendment is rejected.

Mr. HELMS. Mr. President, on behalf of the distinguished Senator from South Carolina (Mr. THURMOND), I call up his next unprinted amendment which is at the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) on behalf of the Senator from South Carolina (Mr. THURMOND) proposes the following amendment:

On page 141, line 13, before the period insert a comma and the following: "or for any period during which such employee does not work because of his participation in a strike".

Mr. HELMS. Mr. President, the statement prepared by the Senator from South Carolina (Mr. THURMOND) which he would present at this time, were he able to be present, reads as follows:

Mr. President, my previous amendment would have stopped the payment of the monthly displacement allowance during the period of a strike against the corporation.

The amendment I now propose would stop payment of the allowance to an adversely affected employee who participates in a strike. An adversely affected employee is actively employed by the corporation and receiving a displacement allowance due to a reduced salary.

Should payments continue to such an individual during a strike, the Federal Government would be actively supporting one side of a labor dispute. My amendment will allow the government to remain neutral by cutting off the displacement allowance while a strike is in progress.

Mr. President, I urge the adoption of the amendment.

Mr. HARTKE. Mr. President, this is basically the same proposition. As I said before, the difficulty is that while it is attempting to correct a difficulty, the amendment is aimed at the wrong people.

The man who is out of work is not out of work because he participated in the strike.

I do not think that this amendment has a proper place in the bill.

I oppose the amendment.

Mr. HELMS. Mr. President, this hypothetical individual is working for the railroad, and while on a strike he would be drawing payments from the Government.

Mr. HARTKE. That is correct. However, he would be drawing them not because of anything that had to do with the strike.

Mr. President, I yield back the remainder of my time.

Mr. HELMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. (Putting the question.)

The amendment was rejected.

Mr. STEVENS. Mr. President, I call up an amendment that is at the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

On page 21, between lines 5 & 6, insert the following: A new Section 205 and redesignate subsequent Sections accordingly:

CONSOLIDATION STUDY

SEC. 205 (a) ESTABLISHMENT.—There is established an American Railroad Consolidation Commission.

(b) BOARD.—(1) The Consolidation Commission shall consist of nine members appointed to serve at the pleasure of the President, two representing railroad management, two representing railroad labor organizations, and two representing appropriate Government departments and agencies, and three other qualified individuals.

(2) The President shall designate a Chairman and a Vice Chairman from among the members of the Consolidation Commission. Any vacancy in the membership of the Consolidation Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(3) Five members of the Consolidation Commission shall constitute a quorum, but a lesser number shall constitute a quorum for the purpose of conducting hearings.

(4) (a) A member of the Consolidation Commission who is otherwise an officer or employee of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties of the Consolidation Commission.

(b) A member of the Consolidation Commission from private life shall receive $100 per day when engaged in the actual performance of duties of the Consolidation Commission, and shall receive reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(c) Functions.—The Consolidation Commission shall

(1) After investigation and study, formulate a plan for the consolidation of all class I, privately owned, common carriers by railroad, including their railroad subsidiaries and affiliated terminal companies, in the United States, exclusive of Alaska and Hawaii, and excluding lines wholly owned and operated by Canadian National and Canadian Pacific Railways, into one private corporation and to assess and determine the value of such railroads as a whole, the value of each separate component and proper capitalization of the entire system and distribution of securities to its components.

(2) Study of railroad diversification into businesses not traditionally considered part of railroad operations. The study will consider, among other things, the contribution of diversification to deterioration in rail passenger service and in the efficient movement of freight, to lack of growth of railroad operations, and to the direct or indirect diversion of railroad revenues, assets and management attention from railroad operations into such other businesses. The study shall set forth and evaluate various measures which may be taken to correct adverse conditions attributable to diversification.

(3) After adoption and authorization of such plan by Act of Congress, take initial steps as are authorized by such Act, to carry out such plan.

(d) Powers.—(1) The Consolidation Commission may for the purpose of carrying out this Act—

(a) Appoint and fix the compensation of an Executive Director and such additional staff personnel as he deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the general sechedule under section 5332 of such title;

(b) Procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals; and

(c) Request and accept from any executive department or agency, or congressional committee, any information and assistance deemed necessary to carry out its functions under this Act, and each such department and agency is authorized, to the extent permitted by law and within the limits of available funds, to furnish information and assistance to the Consolidation Commission.

(2) (a) The Consolidation Commission, or at its direction, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Consolidation Commission or such subcommittee or member may deem advisable. Any member of the Consolidation Commission may administer oaths or affirmations to witnesses appearing before the Consolidation Commission or before such subcommittee or member. Subpenas may be issued under the signature of the Chairman or Vice Chairman and may be served by any person designated by the Chairman or Vice Chairman.

(b) In the case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such court, upon application made by the Attorney General of the United States, shall have jurisdiction to issue to such person an order requiring such person to appear before the Consolidation Commission or a subcommittee or member thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

(c) Report.—Not later than one year, unless said period is extended by order of the President, the Consolidation Commission shall report to the President and the Congress the plan formulated pursuant to this Act, together with its recommendations for such legislation as is necessary to adopt and carry out such plan.

On page 52 between lines 15 and 16 insert new subsection:

(d) Consolidation Commission.—There is authorized to be appropriated such amount, not to exceed $500,000, as is necessary to carry out the provisions of this Act.

Mr. STEVENS. Mr. President, I am today introducing an amendment to S. 2767 at the suggestion of my distinguished colleague from Ohio (Mr. Saxbe) to provide for a study of the concept of consolidating all class I common carriers in the United States, except Alaska and Hawaii, into a single private corporation. My sponsorship of this amendment is based on the fact that as an Alaskan Senator, I represent a State which is not directly affected by railroad legislation which seeks a satisfactory solution to the Northeast and Midwest railroad situation. I am hopeful that a study of the concept of adopting an overall transportation plan for our Nation's railroads will receive favorable support, and therefore provide an appropriate method of analysis and study of this important transportation issue.

Mr. President, the American rail system as it is presently constituted, is faced with a disaster. In the East a great number of roads are in bankruptcy. In the Midwest they are operating without producing the profit necessary to invest in capital improvements. In the far West the deteriorating situation in the rest of the country has produced confusion in the attempts to effectively schedule the rolling stock.

Earlier this year Senator Saxbe introduced a bill to provide for the nationalization of the seven bankrupt railroads in the Midwest and Northeastern corridors. His aim at that time was to provide a stimulus for a detailed analyzation of the American railroad system. Since then we have determined that nationalization in any form would be in our worst interests. For this reason, I am today introducing an amendment that might serve as a solution to the cancer which is invidiously consuming an industry which enjoyed robust economic health not too many years ago.

This legislation is the first in a two-step process which would provide for the establishment of a plan for the consolidation of all class I common carriers in the United States into a single private corporation similar in structure to the Bell Telephone System.

The bill presently before the Senate provides for much needed immediate action, but might only briefly retard this growing cancer which is destroying our rail network. We must develop a plan that will be a workable alternative to the inevitable nationalization of our railroads and cost the Federal Treasury billions of dollars. This amendment, by dealing with the problem on a national scale, avoids the pitfalls of regional approaches to the current rail crisis. Without looking at the national picture, regional legislation even as effective as S. 2767 will only serve to delay the day of reckoning for the American rail industry.

The objective of this amendment is to establish an American Railroad Consolidation Commission which will, after investigation and study, formulate a plan for the consolidation of all class I, privately owned common carriers by railroad, including their railroad subsidiaries and affiliated terminal companies in the United States, exclusive of Alaska and Hawaii and excluding lines wholly owned and operated by the Canadian National and the Canadian Pacific Railway, into one private corporation. After 1 year the American Railroad Consolidation Commission will make their legislative recommendations to Congress which will then be able to vote for a well planned solution to not only the problems of a few railroads, but those of the entire Nation.

The Commission will assess and determine the value of our domestic rail system as a whole and the value of each individual railroad company and the proper capitalization of the entire system in conjunction with a plan to distribute securities to the holders of debt and equity securities of the component parts.

The deterioration of our railroads is not confined to the seven bankrupt lines that are presently getting so much attention. It is a growing affliction destined to spread throughout the entire rail industry if preventive measures are not taken immediately. The Rock Island line is teetering on bankruptcy, the C. & W., the Milwaukee and Katy have been saved by abnormal grain movements and other lines are experiencing difficulties which make their future operation questionable at best. The point is that the malaise of the northeast and midwest lines is not local, but is only the predecessor of nationwide problems.

Presently, all American railroads operate as one system in the interchange of track usage, cars, tankers and traffic. Thus, even though there are many separate and distinct lines, they are integrated for operational purposes. The several plans advanced so far have incorporated a core-system theory, but there has been no study which could firmly demonstrate whether the core-system could do the job, and more importantly, the effect, which might be disastrous, in its end connections and on the presently solvent lines which would parallel it. If events continue on their present course, we can anticipate a deepening rate of chaos and no solution to the problems of car service, car availability, circuitous and uneconomic routing and a host of other problems which we have been unable to solve. We must also recognize the fact that at a time when this country is in the midst of an energy crisis of the first order, we must further develop the most economic means of transportation possible which is often represented by a fully integrated rail system.

We realize that the lines that are presently prosperous will at first feel that upon consolidation there would be a monetary flow from their railroads to counteract the losses being sustained by the eastern lines during reorganization. This concern will most assuredly be offset by adequate recognition of the prosperous carriers through security allocations in the private corporation. Therefore, although there may be short term disadvantages, consolidation, of necessity, will produce a tremendous long term gain through the enormous economic advantages such as the elimination of duplicate tracks and facilities in the congested East where multiple lines now serve the same communities and shippers. On the other hand, preservation of the status quo most certainly looks toward a long term loss for even the most prosperous lines as the whole railroad system continues to decay.

The proposed American Railway Consolidation Commission will have 1 year in which to develop a fair and impartial plan to consolidate all U.S. railroads. The Commission's findings and recommendations will be submitted to Congress together with its proposal for legislation necessary to adopt and carry out this proposal. During this time we will have an opportunity to analyze the entire question and what would be the most rational solution for all concerned.

As is evidenced by S. 2767, Congress can no longer afford to sit on its hands, or to rely on limited programs to keep the railroads operating. Halfhearted solutions will only lead to further complications at a later date. This amendment provides a reasonable and practical alternative to disaster on the one hand, or full nationalization on the other.

I have discussed this amendment with the Senator from Indiana. I might say for the record that my statement was primarily the statement that would have been made by our colleague from Ohio if he were not involved in the hearings on his own confirmation.

Mr. HARTKE. Mr. President, this is a study request. If it were a substantive request, asking that it be adopted with the bill, I certainly could not approve it, and I am certain that the distinguished Senator from Maryland (Mr. BEALL), the ranking minority member of the subcommittee, could not approve it. It contains a substantive change, in that it provides for studying the possibility of creating one unit to run all the railroads of the Nation and hopefully thereby avoid nationalization.

The effect of such a procedure would be to substitute a form of quasi-nationalization. But in view of the fact that we have, under Senator HART's amendment adopted by the committee, a requirement that the Department of Transportation give thorough study to all types of transportation policy, including nationalization of passenger service as suggested by the Senator from Connecticut (Mr. WEICKER), I am prepared to take the amendment at this time, with the understanding that we will discuss it to see whether or not it is in conflict with other provisions, with no assurance that we can come out of conference satisfactorily with it.

Mr. STEVENS. Mr. President, I am hopeful that I will be a member of that conference committee, and I can discuss the matter with the floor manager further at that time.

It would seem to me that the concept of studying an alternative to nationalization in the form of a national railroad corporation is something that should be considered.

Several Senators addressed the Chair.

Mr. STEVENS. I yield first to the Senator from Maryland.

Mr. BEALL. I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I would like to ask a question of the Senator from Alaska as to the length of time that the nonprofit Government national railroad corporation, Ginnie Rae, would be in being. Is this a permanent structure? Is there any provision at all for moving it out of the Government structure at any point in the future?

Mr. STEVENS. It is a nonprofit corporation. We hope it will prove out, but there is no specified time for it to prove out.

Mr. PERCY. I ask this question because it would be extremely important, I should think, if a study is to be undertaken, that we again take a look at what other alternatives there may be. If it was possible to move the post office out from under the Government, in effect, and set it up separately, we continually, I should think, should be looking to see whether or not there is any way within the private sector to take this out of Government and have it set up in some other way, and I would hope, if we were going to have a study, we would give careful consideration to those possible alternative methods.

Mr. HARTKE. Yes. Let me say to the Senator from Illinois that this is an entirely different question than that in the amendment of the Senator from Alaska. In the measure before us today there is a provision that the Department of Transportation must constantly review the situation and report back to Congress with the idea that the Corporation will eventually go public.

The bill creates a system with a financing association, and therefore, has a different function than the Corporation itself. The Corporation itself will issue stock, and possibly work itself back by virtue of its own operation into a completely private, nongovernmental operation.

Mr. PERCY. So that is a continuing responsibility of the Department of Transportation?

Mr. HARTKE. That is right.

Mr. PERCY. That answers the question of the Senator from Illinois.

Mr. BEALL. Let me ask the Senator from Alaska, does his amendment provide for the expenditure of any funds?

Mr. STEVENS. It does provide for authorization for expenditure of funds.

Mr. BEALL. How much?

Mr. STEVENS. $500,000.

Mr. BEALL. I would say to the Senator from Alaska that while I would reluctantly agree to take the matter to conference, the bill already provides for a study of transportation policy by the Department of Transportation, and it provides for study both within as well as outside the region involved in this transportation policy.

I would hope we would all understand it is taken to conference only for the purposes of further discussion.

Mr. HARTKE. Mr. President, let me say that I have also reluctantly accepted the amendment. I do point out there is some value in taking it to conference. That puts it in the form of one of a number of items possible to be included in the report for further consideration.

Mr. STEVENS. I think that is acceptable. I understand what both the Senator from Indiana and the Senator from Maryland are saying. We want a study of the concept of a national railway corporation as one of the alternatives for the future of the American railway system, for further study.

I was in error about Alaska; I will get to that some other time. Alaska is not included in this amendment. But as a matter of fact, we already have the Hart amendment covered by the provisions of this bill, requiring a study by the Department of Transportation. We want one of the facets of that study to be a study of this alternative to nationalization. I will be prepared to argue that at a later time with both Senators. I think it advisable to have it in the bill, so that we can mark it up in the conference and come out with some comprehensive requirements as far as this study is concerned.

I ask unanimous consent to have printed in the RECORD at this point an article entitled "Looking Down the Track," published in today's Wall Street Journal, and an article entitled "Norton Simon's Do-It-Yourself Railroad Plan," published in Business Week of November 17, 1973.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 11, 1973]

LOOKING DOWN THE TRACK

Congress is hammering out a plan for reorganizing bankrupt Northeast railroads that will at best be only a beginning for sorting out the Nation's transportation mess. At worst, depending on the final wording of the bill, it could further impede the process by tangling all the Nation's railroads in new red tape.

Probably the best realistic hope for restoring a private, unsubsidized rail system—which is both desirable and feasible—will rest with: (1) The wisdom of the directors of a proposed new government agency which will conduct the reorganization; (2) Whether Congress next session will follow up with even more urgent legislation to put the Interstate Commerce Commission on a siding and allow railroad managements to do more of their own thinking.

As to the first point, it is not altogether impossible that the new agency will come up with a workable solution. Under both the House and Senate plans, which have not yet been reconciled in conference, the new agency will set up a new quasi-private corporation which will issue securities for the viable properties of the bankrupt roads.

It will have a mandate to create a financially self-sustaining rail service system in the Northeast. However, the ICC, state and local governments and sundry other parties will have a voice in designing this system, which raises some doubts about whether a really viable network can be created in the year Congress plans to allot. And just in case the system isn't self-sustaining, "Ginnie Rae" (Government National Railway Association) or whatever the final name of the creating agency, will have federal backing for bonds it will sell to raise funds for the operating company.

If that backing is not under federal budget control the President is threatening a veto. A veto also is threatened, quite properly, if the final bill still contains an extraneous section that would put the government into the business of owning and leasing rolling stock.

It is Point 2, however, that most likely will determine whether the proposed new Northeast corporation can ever unhook from "Ginnie Rae" and become a fully private, self-sustaining entity. In fact, the ability of all the nation's railroads to survive as private entities may well rest upon regulatory reform. The happiest outcome would be if the Northeast properties could, some three to five years hence, be redivided and merged with private roads to form viable, competing private transcontinetal North-South and East-West systems.

An impressive blueprint for this kind of reform has just been completed—alas, too late to figure heavily into the drafting of the Northeast bill—by a "Task Force on Railroad Productivity" for the National Commission on Productivity and the President's Council of Economic Advisers. Congress and the future Ginnie Rae planners would do well to read it carefully.

In addition to the end-to-end mergers—which would reduce the time, bookkeeping, and "lost car" costs that now occur as rail cars move from one system to another—the task force also recommends such specific operating procedures as shorter trains (to reduce whiplash damage) and further containerization (to increase rail-truck-ship compatibility). But most importantly it recommends a reduction in government regulation of rates, service offerings and almost all other aspects of transportation management. By some estimates, according to the task force study, the inefficiency and idle resources waste caused by transport regulation cost consumers and shippers some $4 billion to $10 billion a year.

The report argues that less regulation is necessary for permitting other reforms to occur. John R. Meyer and Alexander L. Morton, both of Harvard and the National Bureau of Economic Research and the prime movers of the task force study, observe in a forthcoming Harvard Business Review article that "It is unfortunately true that the existence, or simply the specter, of regulation has all too often inhibited innovation and experimentation, especially in marketing. In short, less regulation would give rail managements real scope to manage."

We say amen to that. But whether the Northeast rail bill will permit movement in the direction the task force recommends still remains in doubt. The only thing that is not in doubt is there is only one right way to go, and that is towards private, competitive, deregulated transportation.

[From Business Week, Nov. 17, 1973]

Norton Simon's Do-It-Yourself Railroad Plan

With the House's passage last week of the Shoup-Adams bill to revive ailing Northeast railroads and the anticipated Senate passage of a similar bill, it might seem that, barring a veto, the vexing railroad problem might now be laid to rest. Actually, the problems are just beginning, particularly for the two new corporations—the Federal National Railway Assn., which will consolidate and finance the Northeastern system, and the Federal Railroad Corp., which will operate it. Someone will have to make some hard decisions on what is needed to make the Northeast once again a viable segment of the national railroad network.

Last week, a well-known maverick offered a dissenting opinion. Norton Simon, the 66-year-old industrialist who five years ago left the billion-dollar conglomerate that bears his name to pursue educational and cultural interests, hired a hall to tell the public why he felt the railroad-rescue bill was inadequate.

There hadn't been anything quite like it in railroading since Robert R. Young tilted at the monolithic railroad industry in the early 1950s. Young won his battle—a bruising proxy fight for control of the New York Central RR—but he lost his war. The Central, a decade after Young's death, merged with the Pennsylvania RR to become the ill-fated Penn Central Transportation Co. Simon may already have lost his battle to get his views considered in the Shoup-Adams bill [BW, Nov. 10, p. 170], but the war to determine the future of U.S. railroading is far from over.

The bill provides for a three-man committee to rearrange the rail map, and that committee could be influenced by any future effort Simon might make to get his ideas accepted. In its present form, the bill also proffers up to $1-billion in government-guaranteed loans—in Simon's view, the wrong solution to the problem.

LONG-RANGE

Simon says, and many railroad authorities agree, that further guaranteed loans are simply a "Band-Aid, a temporary bailout," likely to result in either nationalization or indefinite subsidization. He thinks the wealthier railroads of the country, whose fate is inexorably tied to that of the bankrupts, should provide interim funds to keep the entire network going. "I don't believe you can have one bankrupt railroad without having a bankrupt system," Simon told several hundred rail watchers, gathered at the Waldorf-Astoria to hear his views.

A long-time director of Burlington Northern, Inc., and a predecessor line, Simon, speaking as an individual, said: "We've got enough money on the BN to give them help. If the pressure is on the other roads and they had money in it, they'd see to it that they got together and got the solution."

The Shoup-Adams bill grew out of a proposal originated by Frank Barnett, chairman of the Union Pacific. It would indirectly help the solvent roads in the national network as well as the bankrupt lines which need subsidies, Simon said. "It will let the railroad conglomerates like the Union Pacific concentrate on drilling for oil in the North Sea when they should concentrate on running the railroad," he claimed. Sources close to the Administration who would like to see the Shoup-Adams bill amended agree. "The way it is now, it bails out the banks," one critic says.

CHANGES AND SOLUTIONS

Simon's ideas will hardly endear him to fellow railroad board members. But Simon would like to see some changes in railroad boards, also. Noting that of the 75 board members of six large railroads, all but five are over 50, more than half are associated with banking interests, and none are women, he calls for open dissent and discussion by board members with minority views.

Simon's own views range from criticism of the number of derailments, even on healthy railroads, to the archaic nature of Interstate Commerce Commission regulation and what he calls "the credibility gap which has arisen as a result of bad accounting and irresponsible reporting of financial results." As an avowed capitalist who wants to see the free enterprise system continue, he says he is "troubled by the piecemeal approach now being pressed for in Congress, by many of the old time bureaucrats in the ICC, in the executive branch of government, and in the railroad industry."

Simon's solution, which he admits needs refinement, has several parts. He would amend the rail-rescue bill to form a new independent commission to study the railroad industry. He would like to see a single national system under private ownership and thus stop the wasteful squabbles for division of rates. Some critics who agree in principle part company here; they would like to see at least two national competitive systems.

Along the way, Simon would overhaul or replace the ICC, which he sees as a 19th Century institution ill-equipped to deal with 20th Century realities. And he would bring rail accounting into line with modern accounting principles.

He noted that in 1954 he had told Alfred E. Perlman, then 53 and president of a healthy Western line, that he would be out of his mind to join Robert R. Young in attempting to save the New York Central. Simon noted that Perlman, again head of a Western line, had recently returned the compliment. "What you are trying is impossible," Perlman said, to which Simon retorts: "I don't think that it is impossible at all. I think that it takes a rising up of the American public to solve the problem."

Simon's proposal is a reminder that the rail crisis carries with it a rare opportunity: for the second time since the ICC was created in 1887 (the first was with the creation of the United States Railroad Administration during World War I), there is a realistic possibility of changing the railroad structure. Many critics are disenchanted with the status quo; Simon's proposals for cutting out inter-railroad waste, for accurate accounting, and for modernized regulation are attractive primarily because they are a significant departure from traditional thinking.

Mr. STEVENS. I yield back the remainder of my time.

Mr. HARTKE. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BIDEN). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HART. Mr. President, I call up an amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HART. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART's amendment is as follows:

On page 15, line 25, and page 16, lines 1–8 redesignate paragraphs (8) and (9) as paragraphs (9) and (10) and substitute new paragraph (8) as follows:

"Consult on an ongoing basis with the Chairman of the Federal Trade Commission and the Attorney General to assess the possible anticompetitive effects of various proposals and to negotiate provisions which would, to the greatest extent practicable in accordance with the purposes of this Act and the goal set forth in Section 206(a)(5) of this Act alleviate any such anticompetitive effects. For the purposes of carrying out their responsibilities under this paragraph the

Chairman of the Federal Trade Commission and the Attorney General shall have the same access to information as the Secretary, the Office, and the Association have under Section 203 of this Act. The Chairman of the Federal Trade Commission and the Attorney General shall prepare reports to be published and transmitted as attachments to the preliminary and final system plans which reports shall set forth their views as to whether each plan contains provisions having potentially anticompetitive effects and whether the goal set forth in Section 206(a)(5) has been met. The report shall also set forth proposed amendments, modifications or deletions to such plans designed to alleviate any anticompetitive provisions found therein or to achieve such goal."

On page 37, line 9, after the word "office," insert the words "the Chairman of the Federal Trade Commission, the Attorney General".

On page 152, line 14, delete "(3)" and substitute "(2)".

On pages 152 and 153, delete paragraph (2) of Section 701(a) and redesignate paragraphs (3) and (4) as paragraphs (2) and (3).

Mr. HART. This amendment will remove difficulties posed by the provisions of the bill mandating a study of the antitrust consequences of the preliminary system plan. As reported, section 701(a) makes the antitrust laws inapplicable to transactions taken in compliance with the requirements of the final system plan. To minimize the potentially anticompetitive effects, the subsection also provides for a joint review by the Federal Trade Commission and the Attorney General of the preliminary system plan within 60 days after its release. Their evaluation and proposed amendments are to be submitted to the Association, the Office, the Secretary, and the appropriate congressional committees.

The Department of Transportation has suggested that the contributions of these agencies could be enhanced if they are empowered to work along with the Association as it formulates the preliminary and final system plans rather than wait until a preliminary plan is released for public response. The amendment would produce this result. They leave untouched the basic antitrust exemption.

A new section 202(a)(8) requires the Association to consult with the Chairman of the Federal Trade Commission and the Attorney General during the planning process, to eliminate as much as practical any possible anticompetitive effects. The Commission and the Attorney General will retain the same access to information previously granted. They will also be required to prepare reports evaluating the preliminary and final plans for anticompetitive aspects. These reports will be published and transmitted with the respective plans. The Department agrees that these amendments will meet their objections.

I hope very much that the amendment can be agreed to.

Mr. HARTKE. Mr. President, the Senator from Michigan has offered an important addition to the planning process provided in S. 2767. By initially providing for review of the antitrust implications of the preliminary system plan, the committee intended to provide a check to an otherwise open-ended antitrust exemption for actions necessary to comply with the final system plan. As I understand it, this amendment will provide that review during the design and also upon completion of the preliminary and final system plans. This review is to be provided in consultation with the association by the two Federal agencies most concerned with stimulating market competition. However, the agencies will retain their independence during the planning process, thus providing the Congress and the association with a more objective evaluation than might be provided by a member of the association board. On behalf of the committee I accept this amendment.

I yield back the remainder of my time.

Mr. BEALL. Mr. President, we accept the amendment. After checking with the Department of Transportation, everyone seems to agree that the amendment is acceptable.

Mr. HART. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HARTKE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. HARTKE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE's amendments are as follows:

On page 32, line 24 after the word "poration" insert the phrase: "by a profitable railroad,".

On page 34, line 11 after the word "properties" insert the phrase: "of railroads in reorganization in the region, of railroads leased, operated, or controlled by railroads in reorganization, or".

On page 43, line 2 after the word "region" insert the words "or railroads leased, operated, or controlled by such railroads in reorganization".

On page 47, line 13 after the word "plan" insert the words "or pursuant to section 403 of this Act".

On page 57, line 9 delete the words "designated in the final system plan".

On page 57, line 20 after the word "and" insert the following: "shall itself convey all right, title, and interest in the rail properties".

On page 59, delete lines 13 through 19 and renumber accordingly.

Mr. HARTKE. Mr. President, I yield back any time I have on this amendment.

Mr. BEALL. Mr. President on behalf of the minority the technical amendments appear to be in order.

I yield back my time.

The PRESIDING OFFICER (Mr. BIDEN). All time on this amendment has been yielded back.

The question is on agreeing to the amendments of the Senator from Indiana.

The amendments were agreed to.

Mr. HARTKE. Mr. President, I send to the desk an amendment which I ask be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 52, between lines 15 and 16, insert the following new subsection:

"(d) Temporary Availability of Funds.—(1) Appropriations of the Department of Transportation may be expended for necessary expenses of carrying out the Secretary's functions under this Act in an amount not to exceed $15,000,000: *Provided*, That funds so expended shall be reimbursed to the appropriations from which expended out of any appropriations subsequently made for the purpose of carrying out such functions.

"(2) Sums appropriated to the Department of Transportation may be transferred by the Secretary to the Government National Railway Association to enable the Association to carry out its functions under this Act in an amount not to exceed $26,000,000: *Provided*, That funds so transferred shall be returned to such department and reimbursed to the appropriations from which provided out of any appropriations subsequently made for the purposes of carrying out such functions.

"(3) Appropriations of the Interstate Commerce Commission may be expended for necessary expenses of the Rail Emergency Planning Office under this Act in an amount not to exceed $12,500,000: *Provided*, That funds so expended shall be reimbursed to the appropriation from which expended out of any appropriations subsequently made for the purposes of carrying out such functions.".

Mr. HARTKE. Mr. President, this amendment provides for the temporary availability of funds out of existing appropriations so that the Secretary of Transportation and the ICC can begin immediately the planning and emergency funding tasks assigned. This amendment has been requested by the Department of Transportation. The Appropriations Committee has been consulted. To the best of my knowledge all parties are in agreement.

Mr. STEVENS. Mr. President, this matter was just discussed in the Appropriations Committee and I want to make certain that the appropriated items for which there was no budget request, like navigation aids, air safety, are not included in the funds that can be used for this. These moneys should come out of the surface transportation money available to the railroad agencies and available to the highway funds. If these are used in Department of Transportation funds, they are liable to be put aside. These moneys to be made available for necessary navigation aids, were not requested by the administration, so that they might like to put it into this pot instead of what we want it to be used for.

Mr. HARTKE. I am not in a position to make that determination for the Department of Transportation, but I assure the Senator from Alaska that I will be more than glad to make a recommendation to the Secretary that he not utilize the funds the Senator is referring to.

Mr. STEVENS. Would the Senator be willing to put it into this amendment? There is plenty of money in the highway bill and in the Federal railroad administration for this purpose.

Mr. HARTKE. I certainly would be inclined to agree with that, if it did not present such a complicated matter. I am fearful if we started out on that, we would be here all night, because everybody would want the opportunity to make sure that his pet project was not interfered with.

In view of the necessity to begin this reorganization at the earliest possible moment, we want to provide the necessary funds, which are not very much in their totality—certainly not very much in the interim period—so that we can proceed with the planning. In other words, I want to get the railroads on the track.

Mr. President, I yield back my time.

Mr. BEALL. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I rise to support the legislation now before the Senate and to urge its adoption.

I also want to commend the distinguished chairman of the Transportation Subcommittee and the chairman of the Commerce Committee, and the members, for the vast amount of time that preceded the final drafting of this measure.

In that regard, I believe the bill before us provides both for vitally needed emergency relief to maintain rail service in the Northeast along with a national process for achieving a long-term solution to the Northeast rail crisis.

Currently eight railroads in the Northeast and Midwest region of the Nation are in bankruptcy. These rail services are essential—more so now during the period of the energy crisis—for the economic security of the region and of the Nation.

The magnitude of the predicament facing us is demonstrated in innumerable ways. Taking the Penn Central alone, one finds that there are 3,286 employees in my own State. Those employees receive some $34.6 million in salaries and wages. The Penn Central itself purchased nearly three-quarters of a million in goods from Massachusetts industries in 1972, and its industrial investment was estimated by Penn Central officials at some $24.5 million.

Shutting down the Penn Central would plunge my State into a severe recession. In the entire Northeast and Midwest, the termination of Penn Central would produce a 5-percent decline in economic activity. In the Nation, the impact would be a 4-percent decline in economic activity and a 2.7-percent drop in ENP within 8 weeks of the shutdown.

Those statistics relate merely to the direct impact of the termination of services of one of the eight railroads now in bankruptcy.

It must be recognized that the legislation we are considering is not a special interest measure focused on only one region. Some 42 percent of the Nation's population resides in the Northeast and Midwest States covered by these rail lines and more than 50 percent of our industrial production is located within those same boundaries.

For that reason, it is essential that we move speedily to approve this measure which will establish the mechanism for the creation of a rational, coherent, and efficient core rail network within the region.

It should be noted that the bill provides specific protection for the rail lines which may be excluded from the final core system including substantial Federal subsidies which rival those which have been received by other transportation modes for over a decade and a half.

With greater rail services not only environmentally preferable but far more efficient in terms of its energy usage, a strong Federal stance of support for the maintenance of a healthy rail network appears to be in our national interest.

RAIL PASSENGER SERVICE

Mr. President, I particularly want to take note of the inclusion in the measure of concepts regarding the stimulation of rail passenger service that I and other Senators, including the distinguished chairman of the subcommittee and the distinguished Senator from Rhode Island (Mr. PELL) have introduced as deparate legislation in the past.

In my testimony before the committee on November 15, I strongly urged the inclusion of these provisions and I am pleased to see the committee has incorporated them into the bill.

I believe that the problem of rail transportation in the Northeast cannot be dealt on either a freight only or a passenger only approach. Therefore, I believe it is critical that this bill include both in its goals and in operating provisions the view that development of an efficient and modern rail transportation system in the Northeast is essential, a system including both passenger and freight components.

I believe this measure is essential to the health and economy of the Northeast and Midwest and a I urge its adoption.

Mr. HARTKE. Mr. President, I ask unanimous consent that an editorial from today's Wall Street Journal entitled "Looking Down the Track," be printed in the RECORD prior to passage of the bill.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

Looking Down the Track

Congress is hammering out a plan for reorganizing bankrupt Northeast railroads that will at best be only a beginning for sorting out the nation's transportation mess. At worst, depending on the final wording of the bill, it could further impede the process by tangling all the nation's railroads in new red tape.

Probably the best realistic hope for restoring a private, unsubsidized rail system—which is both desirable and feasible—will rest with: (1) The wisdom of the directors of a proposed new government agency which will conduct the reorganization; (2) Whether Congress next session will follow up with even more urgent legislation to put the Interstate Commerce Commission on a siding and allow railroad managements to do more of their own thinking.

As to the first point, it is not altogether impossible that the new agency will come up with a workable solution. Under both the House and Senate plans, which have not yet been reconciled in conference, the new agency will set up a new quasi-private corporation which will issue securities for the viable properties of the bankrupt roads.

It will have a mandate to create a financially self-sustaining rail service system in the Northeast. However, the ICC, state and local governments and sundry other parties will have a voice in designing this system, which raises some doubts about whether a really viable network can be created in the year Congress plans to allot. And just in case the system isn't self-sustaining, "Ginnie Rae" (Government National Railway Association) or whatever the final name of the creating agency, will have federal backing for bonds it will sell to raise funds for the operating company.

If that backing is not under federal budget control the President is threatening a veto. A veto also is threatened, quite properly, if the final bill still contains an extraneous section that would put the government into the business of owning and leasing rolling stock.

It is Point 2, however, that most likely will determine whether the proposed new Northeast corporation can ever unhook from "Ginnie Rae" and become a fully private, self-sustaining entity. In fact, the ability of all the nation's railroads to survive as private entities may well rest upon regulatory reform. The happiest outcome would be if the Northeast properties could, some three to five years hence, be redivided and merged with private roads to form viable, competing private transcontinental North-South and East-West systems.

An impressive blueprint for the kind of reform has just been completed—alas, too late to figure heavily into the drafting of the Northeast bill—by a "Task Force on Railroad Productivity" for the National Commission on Productivity and the President's Council of Economic Advisers. Congress and the future Ginnie Rae planners would do well to read it carefully.

In addition to the end-to-end mergers—which would reduce the time, bookkeeping, and "lost car" costs that now occur as rail cars move from one system to another—the task force also recommends such specific operating procedures as shorter trains (to reduce whiplash damage) and further containerization (to increase rail-truck-ship compatibility). But most importantly it recommends a reduction in government regulation of rates, service offerings and almost all other aspects of transportation management. By some estimates, according to the task force study, the inefficiency and idle resources waste caused by transport regulation cost consumers and shippers some $4 billion to $10 billion a year.

The report argues that less regulation is necessary for permitting other reforms to occur. John R. Meyer and Alexander L. Morton, both of Harvard and the National Bureau of Economic Research and the prime movers of the task force study, observe in a forthcoming Harvard Business Review article that "It is unfortunately true that the existence, or simply the specter, of regulation has all too often inhibited innovation and experimentation, especially in marketing. In short, less regulation would give rail managements real scope to manage."

We say amen to that. But whether the Northeast rail bill will permit movement in the direction the task force recommends still remains in doubt. The only thing that is not in doubt is there is only one *right* way to go, and that is towards private, competitive, deregulated transportation.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to

be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HARTKE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 9142.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

H.R. 9142. A bill to restore, support, and maintain modern, efficient rail service in the northeast region of the United States; to designate a system of essential rail lines in the north region; to provide financial assistance to certain rail carriers; and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HARTKE. Mr. President, I move to strike all after the enacting clause in H.R. 9142 and substitute the text of S. 2767, as amended, in lieu thereof.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Indiana.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. LONG. Mr. President, will the Senator from Indiana yield?

Mr. HARTKE. I yield. We have plenty of time.

Mr. LONG. Mr. President, I have great hopes for this measure. I believe it will succeed when the employees become aware of the fact that the bill provides for a stock ownership plan by the employees, which will give them and should give them a tremendous incentive to make the railroads succeed.

I ask unanimous consent to have printed in the Record the language in the bill which relates to the goals insofar as the employee stock ownership plan is concerned, which appears on page 35 and page 36 of the bill.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

(3) the manner in which employee stock ownership plans shall, to the extent practicable, be utilized for meeting the capitalization requirements of the Corporation, taking into account (A) the relative cost savings compared to conventional methods of corporate finance; (B) the labor cost savings; (C) the potential for minimizing strikes and producing more harmonious relations between labor organizations and railway management; (D) the projected employee dividend incomes; (E) the impact on quality of service and prices to railway users; and (F) the promotion of the objectives of this Act of creating a financially self-sustaining railway system in the region which also meets the service needs of the region and the Nation.

Mr. LONG. Mr. President, I ask unanimous consent that the language defining the stock ownership plan which appears on page 6 of the bill be printed in the Record.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

(5) "Employee stock ownership plan" means a technique of corporate finance that uses a stock bonus trust or a company stock money purchase pension trust which qualifies under section 401(a) of the Internal Revenue Code of 1954 (26 U.S.C. 401(a)) in connection with the financing of corporate improvements, transfers in the ownership of corporate assets, and other capital requirements of a corporation and which is designed to build beneficial equity ownership of shares in the employer corporation into its employees substantially in proportion to their relative incomes, without requiring any cash outlay, any reduction in pay or other employee benefits, or the surrender of any other rights on the part of such employees.

Mr. LONG. Mr. President, I proposed in the committee that this language should appear in the bill. Much of my interest in the matter was aroused by a Senator from Oregon (Mr. Hatfield) and I ask unanimous consent to have that letter printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., November 29, 1973.

Hon. Warren G. Magnuson,
Chairman, Senate Commerce Committee,
Washington, D.C.

Dear Warren: Tomorrow, I will offer an amendment to Working Paper Number 1 of the Rail Services Act of 1973, which would enable all employees of Northeast and Midwest rail systems now undergoing reorganization to acquire ownership of up to 100 percent of the newly issued common stock of the new system through an employee stock ownership plan. A description of the employee stock plan and how it would affect the Northeast rail situation is attached. My proposal essentially follows that proposed by Senator Hatfield in his "Dear Colleague" letter of November 5, 1973.

This, in my view, is *the* solution to our present rail crisis. As explained in the attached materials, this amendment would hurt no one. Existing creditors would be made more secure. Since these railroads have not paid taxes in years, there would be no additional tax loss to the Treasury by adopting this amendment to the present bill now being considered by the Commerce Committee. Employees of the new rail corporation, through this highly effective financing innovation, would gain stock ownership without any cash outlay or loss of other present benefits on their part. To the relief of our taxpayers and railroad users, the ESOP is the only logical alternative to nationalizing our railroads. And to rail union officials, the ESOP opens a wholesome new era of broader bargaining potential in behalf of their members. No one stands to lose anything. Everyone will benefit by affording our railroad workers an effective opportunity to become more self-sufficient through expanded capital ownership.

I urge your support of this vital new thrust in American economic policy.

With every good wish, I am
Sincerely yours,

———— ————.

Proposed Strategy for Employee Acquisition of Reorganized Northeast and Midwest Railroad System Through an Employee Stock Ownership Plan

The Employee Stock Ownership Plan (ESOP) is the most important innovation in investment finance developed in recent years. The ESOP uses a stock bonus trust or a money purchase pension trust that qualifies under section 401(a) of the present Internal Revenue Code as a mechanism for financing the transfer or growth of corporate assets, while building substantial and growing ownership stakes into all corporate employees without requiring any cash outlay on their part or exposing them to personal investment risk. It is a means for providing access to corporate credit and the normal self-liquidating logic of corporate finance to new owners. It does no more than to place corporate employees in the same position that has enabled America's wealthiest families to become rich, but does so without depriving anyone of his existing property rights. As applied to the reorganized rail system, it would spread ownership of up to 100 percent of the newly issued common stock into all employees (existing stock of the bankrupt rail corporations have been rendered valueless) while providing existing creditors to the extent of net liquidation value, newly issued preferred stock or refinanced debt obligations.

Over 40 highly successful U.S. corporations have already adopted ESOP's, some more than 15 years ago. Tax savings available to corporations that have adopted ESOP's offer added inducements for employers, besides the benefits derived through the ESOP in the area of employee motivation, productivity expansion, labor-management harmony and expanded corporate profits.

Instead of loans being made directly to the corporation the loan is made to a specially designed ESOP that qualifies as a tax-exempt employee stock bonus trust under section 401(a) of the Internal Revenue Code. Such trusts normally cover all employees of the corporation and their relative interests are usually proportional to their relative annual compensation—however defined—over the period of years that the financing is being paid off. The trusts are normally under control of a commitee appointment by management and its membership may include representatives of the employees. Voting power on stock held by the trust may be passed through to the employees or may remain with the trustees.

The trust committee invests the proceeds of the loan in the corporation by purchasing newly issued stock at its current market value.

The trust gives its note to the lender, which note may or may not be secured by a pledge of the stock. If it is so secured, the pledge is designed for release of proportionate amounts of the stock each year as the installment payments are made on the trust's note to the lender and the released stock is allocated to the participant's accounts.

The corporation issues its guarantee to the lender assuring that it will make annual payments into the trust sufficient to enable the trust to amortize its debt to the lender. Within the limits specified by the Internal Revenue Code (15 percent of covered payroll presently), such payments are deductible by the corporation as payments to a qualified deferred compensation trust. Thus the lender has the general credit of the corporation to support repayment of the loan, plus the added security resulting from the fact that the loan is repayable in pre-tax dollars. (In contrast, under conventional financing the repayment of principal on any loans is always in after-tax dollars.)

Each year, as a payment is made by the corporation into the ESOP, there is allocated proportionately among the accounts of the participants in the trust a number of shares of stock proportionate to the participant's allocated share of the payment. Special formulas have been designed to counteract the relatively high proportion of early amortization payments used to pay interest and the relatively high proportion of later payments used to pay principal.

As the financing is completed and the loan paid off, the beneficial ownership of the stock accrues to the employees. Most trusts are designed to permit the withdrawal of the portfolio in kind, subject to vesting provisions, either at termination of employment or at retirement. However, it is desirable to so design the trust that any dividend income on shares of stock that have been paid for by the financing process and are allocated to the employees' accounts, be distributed currently to the employee-participants, thus giving them a second source of income.

Diversification of the trust can be achieved after a particular block of stock has been paid for by exchanging the stock, at fair market value, for other shares at equal market value. Since the trust is a tax-exempt entity, such diversification is without tax impact.

Through the use of ESOP financing, the corporation can obtain low-cost capital and save the additional expense of a public offering. Once installed, the ESOP becomes a permanent part of the corporation's financial machinery, combining within a single package a mechanism for comprehensive, long-range planning and resolving of basic corporate problems—financing, employee motivation, compensation, and retirement benefits—which in the past have been handled on a piecemeal, generally unplanned, and often disruptive basis. Although there will be a *temporary* earnings dilution from the issuance of new stock in future financings through the ESOP, that dilution is soon restored by the productivity increases, the tax savings compared to conventional borrowing, and the yield of such cash flow gains that are retained in the corporation.

The ESOP financing method properly uses the qualified trust to give the employees a means of legitimately buying and paying for capital as a function of enabling the corporation to finance its growth and acquisition of assets, and motivating its employees. It is not a giveaway. What the employee receives is not compensation in the sense of pay for his labor Through ESOP financing, he is being provided with a means of buying stock through the device of a deferred compensation trust, coupled by a commitment by the corporation—usually to a third party—to pay what amounts, in economic theory, to a tax-free preferential dividend to the employee-buyers who are being so financed. From the standpoint of the corporation, the justification for making such an economic preferential dividend is that it wishes to make employees into full owners in order to motivate them, not only to work harder, but to insist on their fellow workers also working harder and to use every effort to achieve cost savings and maximum profitability for all stockholders. By the ESOP financing technique, the employee, in short, is put in a position where what he does, and what his fellow workers do, affects the value of his capital holdings. No better motivational device can be conceived.

What are some of the benefits we can expect if the ESOP proposal is incorporated in the Rail Services Act of 1973?

THE U.S. ECONOMY IN GENERAL

An efficient, unsubsidized, strike-immune rail system in the Northeast corridor.

A dramatic example of how a sick industry can be revived by creating a unity of interest between management and organized labor through widespread access to corporate ownership and dividend jurisdictional prerogatives of management vis-a-vis union leadership.

A positive alternative to nationalization and current trends toward nationalization and taxpayer bail-outs of our railroads.

Cuts government costs and reduces pressures on almost bankrupt present railway workers retirement system—yet raises the tax base.

WORKERS EMPLOYED AFTER REORGANIZATION

No reductions in present pay levels, present retirement contributions, and other present employee benefits.

An opportunity to buy and pay for a sizable chunk of stock in the new company ($10,000 on the average per worker), and to own this stock in the same way as America's wealthiest families accumulated their property holdings: through access to corporate credit, with personal risk cut off by the insulation given under law to a corporation.

No taxes paid on any worker's property acquired through the ESO, on any appreciation in value of a worker's holdings, or dividends, as long as these assets remain "sheltered" within the ESOP.

In addition to wages, a second income from dividends on stock held by the ESOP for each employee during his working years (an estimated supplement of almost $3,200 per year for the average employee after five years, based on conservative profit projections of the U.S. Department of Transportation). Dividend checks received by workers on-the-job or upon their ultimate retirement or displacement by automation are, of course, subject to personal taxes, the same as paychecks.

An opportunity to share with his fellow workers additional company stock and diversified holdings of other companies or real estate, acquired through future financings by the ESOP, as the new corporation expands, adds new and more efficient equipment, or otherwise seeks new sources of income.

A better answer to automation than demoralizing featherbedding, make-work, spread-work, etc.

A personal stake in cost-cutting and higher corporate profits, thus enabling the industry to become more competitive, to grow faster, to expand into new territories, and generate new jobs.

An inflation-proof capital estate to pass on to one's heirs.

Mr. LONG. Mr. President, in approaching our consideration of S. 2767, a bill designed to establish a planning framework within which the reorganization and revitalization of our Midwest and Northeast rail services can be carried out, it is indispensable that we ask ourselves a basic question. Why did one of the most important railroad systems in the world, located in one of the most highly populated and highly industrialized areas of the world, possessing a labor force that was more than adequate both in numbers and in skills, fall into shameful disrepair and finally bankruptcy?

One must of necessity conclude that the causes lie within the institutional arrangements—the financial designs—of the railroads themselves, and within the institutional relationships between the railroads and governments, both Federal and State.

It is not the task of this Congress to restore the losses of stockholders of the bankrupt system. Rather, while protecting the property rights and values that still remain, it is the task of this Congress to so guide the organization and restructuring of the railroad enterprises and of their relations with Government, that they will in the future run efficiently and economically, will take full advantage of our internally available fuel supplies, and will provide a model of enterprise to which we can look for answers to the industrial malaise that mars other areas of our economy.

When the railroads were built, the United States was in the midst of accomplishing the most decisive economic revolution in history up to that time: It was, through the direct intervention by Government, engaged in broadening its capital ownership base with a view to making the then most important form of capital—land—available to every citizen who sought it. Though we were struggling to become industrialized, we were still primarily an agricultural nation. We understood the importance of broad, private ownership of the means of production only in terms of ownership of land.

Accidentally, in the 30 years following the Civil War, we stumbled upon the formula for simultaneous rapid economic growth, full employment, and gentle deflation or increase in the purchasing power of money; the only time in modern history when these three much-sought after economic characteristics simultaneously concurred.

No doctrine seems better entrenched among modern economists than the notion that price stability—for example freedom from inflation—and full employment are mutually incompatible. The idea has come to be accepted that there must be a deliberate trade-off between unemployment and price stability. In spite of this widely accepted idea, however, there is an extraordinary period in American history, namely, the 30-year period following the Civil War, when we had enormous national economic growth, full employment even with high levels of immigration, and gently but constantly declining price levels. This was a unique period in economic history.

Of course, there have been times of price declines, but these have been associated with depressions, panics, or the collapse of societies. But during the period to which I allude, the nickel was an important unit of purchasing power, and every year accumulated savings became more valuable. That was the great period of railroad building. Railroad mileage in the United States increased from 35,000 miles to 160,000 miles, or 357 percent. The milling of flour increased 120 percent and the production of steel ingots increased by 23,000 percent. It was a period of growth, excitement, and industrial ferment. It witnessed the inception of the electric utility, the telephone, and the petroleum industries, plus the beginning of modern merchandising and distribution and numerous other significant developments in industrial history.

What was it that occurred in the 30 years from 1865 to 1895 in American economic history to simultaneously bring about the cherished objectives of rapid economic growth, full employment, gentle deflation, and the flowering of industrial innovation?

The answer, Mr. President, is that the 30-year period from 1865 to 1895 was the only time in the history when a government—this Government—directly intervened to influence the pattern of capital ownership in the economy. This was the most effective period of the Homestead Acts. Congress, after a full decade of turbulent, and at times almost violent, debate, had legislated the steps to bring about the realization of the American economic dream—the accumulation, over a reasonable working lifetime, of a holding of productive capital that would provide significant income and economic security, as well as the economic underpinnings for political democracy. It was an agrarian economy in spite of its rush to bring about industrialization. Productive property was thought of primarily in terms of land ownership. It was the accessibility of land ownership to those who were born without capital that alone explains the openness of that society, its full employment, its economic growth, and the rising solidity of its currency.

But at the very moment in history when we were discovering how government could assist private enterprise by guiding the growth and the pattern of ownership and development of the country's productive system, we were laying the foundations for the most serious of errors that brought our great railroads into their present troubles. While we were trying to get the private ownership of land into the masses of our citizens, we so structured the financing of our railroad systems that by the decade of the 1970's, virtually all of our industrial capital—which now included much of our productive land—would become owned by only the top 5 percent of wealthholders.

It is today again time for Congress, taking a long view of history, to return our economy to the principles that made us great.

It is time for us to innovate in laying down the guidelines for the reorganization of our Northeast and Midwest railroad system, a new equivalent to the Homestead Acts that will broaden the private ownership of our industrial economy even more effectively than the Homestead Acts did for our agrarian economy.

Had we structured our railroad system in the first place so that, instead of becoming owned by the top 5 percent of our wealthy citizens, they would become owned in reasonable-sized holdings by great numbers of our citizens—particularly those employees whose labors and talents make the railroad system function, we would not be experiencing our present difficulties.

Now, as in the period following the Civil War, the pattern which we establish for the ownership of our railroads can become decisive for the health of our economy in the future. If we lay down guidelines that permit the pinnacle ownership of the reorganized Midwest and Northeast railways from this point forward, we will foredoom the American economy to disaster. In an age when the productive input of capital instruments—land, structures, machines, and intangible capital—is greater than the productive input of labor by perhaps a factor of 10, and this disparity will grow at an accelerating rate, to build incremental productive power into the rich rather than into the propertyless masses is to insure the collapse of our private property economy and the advent of inflationary and totalitarian socialism that is making such headway in other parts of the world.

We have a recent lesson in the Western Hemisphere for statesmen who frustrate the aspirations of the people not just for full employment, but for the ownership of productive capital. When the late President Allende of Chile threatened the confiscation of the trucks of the small truckowners, the lands of the small landowners, the businesses of the small businessmen, and the hopes of all the propertyless serfs who dreamed to become such owners, he reaped the predictable whirlwind that leaders who fail to heed the reasonable economic aspirations of the people must suffer.

Thus, for the serious business before us at the moment, we must realize that at the very moment when we saw the importance of broad ownership of agricultural capital, we failed to generalize the underlying idea and laid the foundations for the concentrated ownership of industrial capital.

I am convinced we cannot retain our economic greatness if we do not now apply the wisdom of the Homestead Acts to economic enterprises as a whole, and to institute steps that will make it possible, within a few years, for every household and individual in America to become an owner of a viable holding of productive capital.

Fortunately, through the tools of modern finance, we can accomplish this critical objective wholly within the principles of private property and free-market economics: The foundation stones of our economic greatness and of our political freedom. We can now make "haves" of the "have-nots," without taking from the "haves."

Between now and 1980, the U.S. economy will have to put into place something on the order of $1 trillion of new capital formation if we are to continue our economic growth, restore our prosperity, protect our environment, and fulfill the economic expectations of our people. If we assure that this trillion dollars or so of newly formed capital becomes owned in reasonable-sized holdings by families and individuals from the 95 percent of our citizens who today owns no productive capital, we will have adopted what is in effect an Industrial Homestead Act: an economic policy that will apply generally and to the economy as a whole. We will restore the economic dynamics under which we can enjoy rapid economic growth, full employment, and gentle deflation—the hardening of money.

The place to begin this quiet revolution, this revolution of common sense, Mr. President, is with S. 2767, a bill laying down the guidelines and establishing the governmental machinery, for facilitating the restructuring and reorganization of our Midwest and Northeast region railroads.

S. 2767, the Rail Services Act of 1973, squarely addresses itself to the issue of expanding the base of capital ownership for our railroads, and for the vast new capital formation which must take place within the railroads in the foreseeable future. The Senate Commerce Committee added, provisions to the bill to assure, to the extent found practicable, by the proposed Government National Railway Association, the use of a technique of finance known as Employee Stock Ownership Plan—ESOP—financing. The ESOP is a remarkable innovation in corporate finance designed to reverse the heretofore universal tendency of all widely accepted techniques of corporate finance to concentrate ad infinitum the ownership of capital. It has enormously important social, economic, and political ramifications for strengthening our free enterprise economy.

Mr. President, I submit that the use of the ESOP financing technique to the maximum extent—ideally to the extent of 100 percent—in connection with solving the current railroad crisis, is the only logical alternative to nationalization of the railroads, for it is not just a way to efficiently finance economic growth, but also to build market power, and to motivate, in the most powerful way, the entire labor force to perform as never before in order to solve this problem.

The ESOP would enable the entire work force of the reorganized rail system to purchase, without deductions from their paychecks or savings, up to 100 percent of the newly issued common stock of the proposed United Rail Corporation on credit tied to the new capital requirements of the United Rail Corporation and secured by its future profits. Shares of stock, when paid for, would be allocated to the individual accounts of each employee in a tax exempt deferred compensation ESOP trust, without reduction of the take home pay or other benefits of the worker. Unions and management would retain their normal bargaining prerogatives and responsibilities, but subject to a broader range of bargaining possibilities. Given these incentives, if the new system cannot be run at a profit, without subsidies, the workers will have no one to blame but themselves.

Each worker will be put in a position where his own efforts toward cost minimization and increased production will directly influence the value of the capital estate which he acquires during his working lifetime. I would anticipate that strikes and slowdowns, antiquated work rules, featherbedding, resistance to automation, and unreasonable wage demands—all seemingly unsolvable problems up to now—will eventually disappear once workers come to realize how these activities not only work against the interests of consumers as a whole, but also against their individual self-interests.

Before describing the mechanics and implications of the ESOP, I think it fitting to acknowledge the contributions of those responsible for launching ESOP as a solution to the labor and capitalization problems of the new Northeast and Midwest rail system. This concept was first proposed by our distinguished colleague from Oregon (Mr. HATFIELD) in his "Dear Colleague" letter of November 5, 1973. Cosponsoring Mr. HATFIELD's proposal were Mr. CURTIS, Mr. HANSEN, Mr. HUMPHREY, and Mr. METCALF.

DESCRIPTION OF THE BASIC ESOP FINANCING TECHNIQUE

Let me briefly describe the basic logic of Employee Stock Ownership Plan financing and how it would work in the contemplated railroad reorganization. In my opinion, the ESOP financing technique is the most important innovation in investment finance developed in recent years. The ESOP addresses itself to three of the most fundamental barriers to broadening the private ownership of equity capital in connection with the financing of economic growth or the financing of changes in the ownership of business assets:

First. The logic of corporate finance is built around the idea of investing under conditions where the investment is expected to pay for itself. This can be most easily accomplished if the investor can get to the pretax—that is, precorporate income tax—income produced by the newly acquired capital. To accomplish this objective, the ESOP involves using, in an innovative way, either or both of two traditionally recognized deferred compensation trusts designed to be qualified under section 401(a) of the Internal Revenue Code. These are the stock bonus trust and the money purchase pension trust designed to be invested, at least initially, either wholly or primarily in the stock of the sponsoring corporation.

Second. The employee must be shielded from income tax during his period of capital accumulation to the extent that his capital-derived income is used to defray the purchase price for his stock. Any "second income," or income from his newly acquired capital investment, thereafter used for consumption purposes would be subject to normal personal income taxation by Federal and State governments.

Third. The mechanism must not be capable of being abused by anyone for the purpose of building concentrated ownership rather than broad-based capital ownership. The present statutory law and regulations of the Treasury Department are admirably designed to prevent this abuse, and to assure building broad ownership into the employees as a whole, proportioned directly to their relative compensations from the employer.

Fourth. The financing technique must be so designed as to build significant capital ownership in the worker over a reasonable working lifetime. It often happens that where ownership of capital is insignificant in terms of its income-producing power it does not arouse the natural acquisitive instinct of the worker to protect and preserve his investment.

Fifth. Any technique suitable for building capital ownership into the workingman must be capable of doing so without making deductions from his paycheck or calling upon him for the investment of his generally nonexistent savings, or his invariably inadequate personal savings. The ESOP technique thus fully harnesses the logic of corporate investment, namely, that investment should be made upon terms where it can reasonably be expected to pay for itself within a reasonable period of years.

The ESOP is not a plan to redistribute the profits or dilute the equity of existing shareholders. It is not a stock option plan. It is not an antiunion technique, but rather is designed to broaden the outlook of both union officials and union members to comprehend both factors of production: not just the employment of labor, but the acquisition of privately owned capital by employees. And ESOP financing is not a handout or tax loophole scheme in any sense of the word.

The ESOP is merely the most logical and most economical vehicle devised to date for ownership planning and for the creation of vast amounts of new capital formation which we so desperately need within our corporate sector. The key to corporate ownership, as bankers and businessmen know so well, is having access to corporate credit. Under conventional financing techniques corporate credit is used to make the rich richer; to build capital ownership into the top 5 percent of U.S. wealthholders, who today own all the productive capital.

The ESOP makes some of that corporate credit available to employees while simultaneously financing the growth or normal operations of the corporation itself. It is a practical means for providing access to corporate credit and the normal self-liquidating logic of corporate finance to the new employee owners. It does no more than to place corporate employees in the same position that has enabled America's wealthiest families to become rich, but does so without depriving anyone of his existing property rights. As applied to the reorganized rail system, it would spread ownership of up to 100 percent of the newly issued common stock into all employees. It should be noted here that the fact of bankruptcy itself indicates that the present common stock of the bankrupt rail corporations has been made substantially valueless. The ESOP financing technique can be used in such manner as to protect, and indeed to greatly enhance the likelihood of full recovery of their claims by existing creditors, while providing them, to the extent of their legally recognized claims, with either readjusted debt securities, or with preferred stock, or with a combination of the two. The important aspect of the ESOP financing technique in this instance is that, once the claims of creditors have been paid off through their preferential claims on the income of the reorganized corporation, the growing equity of the corporation, to the extent that the ESOP is used, will be built into employees. Thus, prior to paying off existing creditors and newly acquired creditors, the employees are motivated by the prospect of building their own capital holdings to do everything possible to run the system profitably. When and as creditors are paid off, the employees are equally motivated to build the value of their own equity holdings through diligent and cost-conscious efforts on their part.

Over 40 highly successful U.S. corporations have adopted, or are in the process of adopting ESOP's since the first application of this financing technique in 1957. Not only does the ESOP provide low-cost capital for the employer, but it provides the most important form of job enrichment known to man: Enrichment for each employee in the form of a reasonable capital holding. It is ideally designed to generate labor-management harmony, expanded corporate profits, and to avoid the structurally inevitable inflation that arises in modern economies so long as employees are put in a position where, in order to keep up with rising living costs, rising taxes, and rising expectations, they must demand progressively more pay for progressively less work.

Financing loans, which under conventional techniques would be made directly to United Rail Corporation, would, under ESOP financing be made to a specially designed ESOP. While the details of the design of the ESOP would, under the Rail Services Act of 1973, be ultimately determined by the Government National Railway Association, it would seem that the trust in this case, as in most other ESOP financing instances, would cover all employees of the corporation, and their relative interests would be proportional to their relative annual compensation—however defined—over the period of years that they are employed. The voting power of the stock in the trust would normally be vested in a trust committee appointed by management and the membership on the committee would undoubtedly include representatives of the employees. Voting power on stock held in the trust may be passed through the trust to employees as the stock is paid for, or it may remain with the trust committee.

The trust committee invests the proceeds of loan financing and other trust income into newly issued stock of the United Rail Corporation at its current fair market value at the time of investment.

The trust gives its note to a lender, which note may or may not be secured by a pledge of the stock. If it is so secured, the pledge is designed for release of proportionate amounts of the stock to the trust each year as installment payments are made on the trust's note to the lender and the released stock is allocated to the participants' accounts.

United Rail Corporation would issue its guarantee to each credit source making a loan to the trust, insuring the lender that United Rail Corporation will make periodic payments into the trust sufficient to enable the trust to amortize its debt to the lender. Within limits specified by the Internal Revenue Code—15 percent of covered payroll for a stock bonus trust and an additional 10 percent of covered payroll if a money purchase pension trust of ESOP design is added—and such payments are deductible by the Corporation as payments to a qualified deferred compensation trust. Thus the lender would have the general credit of United Rail Corporation to support repayment of the loan, plus the added security resulting from the fact that the loan is repayable in pretax dollars. In contrast, it should be noted, under conventional financing the repayment of principal on any loans is always in after-tax dollars.

Periodically, as payment is made by the Corporation into the ESOP, there is allocated proportionately among the accounts of the participants in the trust a number of shares of stock proportionate to each participant's relative compensation from the Corporation. Special formulas have been designed to counteract the relatively high proportion of early amortization payments used to pay interest and the relatively high proportion of latter payments used to pay principal.

As each particular financing is completed and the loan paid off, the beneficial ownership of the stock representing that financing accrues to the employees and is allocated proportionately to the individual account of each in the ESOP.

Most ESOP trusts are designed to permit the withdrawal of the portfolio in kind, subject to vesting provisions, either at termination of employment or at retirement. Special provisions concerning the portability of accounts of employees in the trust should be developed for the United Rail Corporation ESOP. It is desirable to so design the ESOP that any dividend income on shares of stock that have been paid for by the financing process and are thus allocated to the employees' accounts be distributed by the ESOP trust currently to the employee-participants, thus giving such employees a second source of income—"the eye of the owner."

Diversification of the portfolio of the ESOP can, if desired, be achieved after a particular block of stock has been paid for by exchanging this stock, at fair market value, for shares in other corporations at equal market value. Some modifications of present Treasury rules and regulations with respect to this aspect of the ESOP would probably be desirable. Since the trust is a tax exempt entity, such diversification is without tax impact to the employee owning the account that is diversified.

Through the use of ESOP financing, the corporation can obtain low cost capital and save the additional expenses of conventional public stock offerings. Once installed, the ESOP becomes a permanent part of the corporation's financial machinery, combining within a single package a mechanism for comprehensive long-range planning and the resolving of basic corporate problems: Financing, employee motivation, compensation, and retirement benefits, which in the past have been handled on a piecemeal, generally unplanned, and quite often self-defeating and mutually disruptive basis. Although there will be a temporary earnings dilution from the issuance of new stock in future financings through the ESOP, that dilution is soon restored by the inherent financing advantages of the ESOP technique: The use of pretax dollars to finance growth, the simultaneous building of property-supported retirement benefits as corporate growth is financed, the harnessing of the natural tendency of the employee under such circumstances to minimize costs and thus maximize profitability in order to benefit his own investment, and the normal savings in corporate retirement costs that occur when retirement funds are invested in the recycling of secondhand securities purchased in the market place.

Mr. President, U.S. business corporations, including railroad corporations, have always needed, but heretofore have never had, a way to raise the incomes of employees without raising corporate costs. Most approaches for liberalizing the railroad retirement system and private corporate retirement systems, particularly measures calling for earlier vesting, have the same effect as wage salary increases, namely, they are inflationary. Most retirement programs are so designed that contributions become costs of doing business and enter into the costs of goods and services produced. Where retirement income payments are not made directly by business to the retirees, they are in general invested in outstanding securities—secondhand securities—purchased from speculators in the public markets. The funds thus invested do not, with rare exceptions, go into new capital formation to increase the productive power of business. Rather, the $15 to $20 billion annually contributed to private retirement systems, as recent testimony before the Financial Markets Subcommittee of the Senate Finance Committee has shown, are used to inflate the prices of outstanding stocks of "glamor corporations." Such securities are normally purchased by retirement trusts on a yield basis that is presently more than offset by the inflationary loss of purchasing power of the underlying funds. The very process that deprives the corporate sector of a major source of financing growth is thus devoted to the financing of stock market speculation and inflation. It should be remembered, that most private retirement funds contain recycled outstanding securities acquired in this irrational process.

This bill is designed to overcome these basic structural defects of present private retirement systems, while permitting earlier vesting without raising corporate costs—indeed while greatly reducing corporate costs. It is not designed, however, to adversely affect contributions to the existing Railroad Retirement System, which are mandated under present laws on a pay-as-you-go basis similar to social security. Contributions to the ESOP go directly into new capital formation, or, in certain cases can be used to acquire assets purchased on a self-liquidating basis.

Contributions to the United Rail Corporation ESOP would go directly into capital formation, using the funds to be provided under S. 2767 for that purpose. Eventually, such contributions may also be used to finance the acquisition of other operating assets. The important point to remember here, however, is that the pretax yield of productive capital is harnessed directly to the repayment of financing, while building ownership into employees.

Mr. President, I know of no more efficient and effective way to build into railroad employees beneficial ownership of a private, viable capital holding, capable of supplementing their wage and salary incomes during their working lives, providing retirement security thereafter, and estates to pass on to their heirs. I know of no more practical way of enabling corporate management to raise the incomes of employees without raising corporate costs and with a long-term deflationary impact on the economy as a whole. Because the ESOP financing technique can both accelerate the growth and lower the costs of railroad transportation, it can open up the opportunity for greatly increased employment in the enormously more important railroad system of tomorrow.

Management's search for a way out of the class-conflict era of labor-management relations would take a new and brighter turn through the use of ESOP financing. The heretofore divergent interests of management and owners can through ESOP financing, be united with that of employees in revitalizing the private enterprise system generally, while building economic security into all employees. Employee stock ownership financing accomplishes the ultimate synthesis of interests defined by economist John Bates Clark almost 90 years ago as:

> Productive property owned in undivided shares by laboring men, contention over the division of products replaced by general fraternity . . .

Thus, Mr. President, the potential benefits of providing every worker the chance to participate in the ownership of capital are enormous.

Some of my colleagues who favor the ESOP approach have expressed concerns that overzealous tax reformers might level unfounded charges that this bill is a "tax loophole." If it is, and I deny that it is, then it is the first such "loophole" ever provided to working Americans. To the extent that existing ESOP tax incentives are taken advantage of by United Rail Corporation under S. 2767, to that extent we will have achieved truly structural reform of the U.S. tax system. It represents a new thrust for cutting the costs of welfare, eliminating future consumer subsidies of dozens of different kinds for the purpose of "creating" jobs, and other nonproductive forms of government spending, as redundant workers among the unemployed are absorbed into a healthier and more dynamic private sector.

ESOP financing techniques are designed to build market power into the American people as they finance the growth of the American economy. I can imagine no better method for making commonsense of the double-entry bookkeeping logic that is the very basis of any market economy.

This technique systematically broadens the personal income tax base for State and Federal Governments as more Americans begin drawing paychecks and dividend checks directly from enterprises that produce most of our goods and services. It is clearly a move in the direction of simplicity, fairness, and common sense, and that is what genuine tax reform is all about. Any reform that increases our dependency on government should be suspect. Conversely, the ESOP provision in S. 2767 is designed to increase the self-sufficiency and productive potential of America's railway workers and to encourage them to demonstrate the value of broadened corporate ownership as a catalyst and motivating force for updating and revitalizing today's undercapitalized rail and mass transit systems.

Only when workers can become owners of new and more efficient means of production can we overcome the enormous alienation and resistance to technological advancements that have become commonplace within modern corporations, despite all the palliatives and psychological manipulations we have invented to mask the root cause of employee alienation and industrial disorder. That cause, for a certainty, lies in the inability of the worker to increase his productive power.

Without having legitimate access to the ownership of productive capital acquired on self-liquidating terms, one cannot be expected to use moral restraint against the tendency to demand progressively more pay in return for progressively less work when one must compete with the enormous productive power of modern capital. If a modern worker cannot acquire his share of the ownership of the machine, it must be a feared and hated enemy for it threatens his power to earn a living. Dignity can, however, come from acquiring legitimately, over a reasonable working lifetime, an ownership stake in the employer corporation and sharing in the "wages of capital"—the profits of the corporation in which the capital is employed.

Mr. President, there are but three political-economic roads from which we can choose.

We can take the course to the right, advocated by laissez-faire philosophers and economic anarchists, which would allow pinnacle ownership to remain and would indeed add enormously to its concentrated holdings. This would result, for example, if the existing creditors of the bankrupt railroads became the the owners of the common stock of the United Rail Corporation. Under this approach, each advance in technology, and each added investment would heighten the confrontation between the "haves" and the "have-nots," and would perpetuate economic class conflict.

We can take the road to the left, making everyone a "have-not" under the banners of "nationalization" and "equality." This would force an equal sharing of misery and scarcities, using the State or a collective to impose a new form of monopoly ownership, substituting robber-bureaucrat for robber-baron, perpetuating effective ownership by a small but different elite. This "new class" would, by such a step, be placed in a position where it could control the society not only through its stomachs, but also through the guns and nightsticks which it possesses, making corruption and tyranny even more inevitable than under pinnacle private ownership. Preventing the workers from enjoying the power and distribution rights that flow from the personal ownership of productive capital, this second road invites a continuing class struggle and relentless inflation. It should be noted that the socialist-leaning critics who argue that the government-owned railway systems of nonsocialist countries would not incur losses if the "ecological benefits" from greater uses of railways were added to the Government corporation's revenues, avoid mention of the fact that each of those economies is saddled with rampaging and accelerating inflation.

Such inflation inevitably flows from putting labor in a position where it must demand progressively more pay in return for progressively less work input, whether the workers' nonownership of capital results from pinnacle private ownership, or governmental public ownership.

Or, Mr. President, we can steer a middle course, getting back to the original road that was opened by Jefferson, Adams, Madison, and other Founding Fathers, and expanded by Lincoln under the then revolutionary homestead programs. This was the essence of the American dream that sparked the hopes of the propertyless everywhere and worked so well before our land frontier closed. The third road opened by our pioneer ancestors was intended to make everyone a "have," an owner of income-producing property; it was intended to provide each person a stake to help him become independent of others for his subsistence and thus providing the economic foundation for a free and just political democracy. This road ended when our geographic frontiers ran out and our industrial frontier began.

What an irony of history that our railroads—the key to the rise of America to industrial and agricultural greatness, and now even more vital to the development of a freer, more prosperous, and more environmentally hospitable economy yet to be built—took the wrong turn over a century ago, leading the rest of American industry headlong into pinnacle ownership, the concentrated ownership of capital. Our railroads today have been the first to arrive at a dead-end in that road. We, the Members of this Congress, more than a century later, are now given a second opportunity to provide a prototype design for the pattern of ownership of the American economy.

We could take the first course and further exacerbate the already intensely concentrated ownership of productive capital in the American economy.

Or we could join the rest of the world by taking the second path, that of nationalization.

Or we can take the third road, establishing policies to diffuse capital ownership broadly, so that many individuals, particularly productive workers, can participate as owners of industrial capital.

Mr. President, the choice is ours. There is no way to avoid this decision. Non-action is a political decision in favor of continued, and indeed increased, concentrated ownership of productive capital.

Which of these three ownership alternatives makes the most common sense, the most political sense, the most social sense, the most economic sense, indeed, the most moral sense?

The eyes of the world are upon this chamber as we deliberate this fundamental question at this moment of truth of our Nation's history.

Mr. President, are we ready to begin anew where our revolutionary forebearers ended, constructing a modern extension of the third road, the road of expanded ownership of productive capital, so that everyone will have the right to own the corporations that will, regardless of our decision, propel us further into the uncertain age of automation?

The have-nots of the world, including the 95 percent of the American people who own no capital, await our answer.

Mr. HARTKE. Mr. President, let me say to the distinguished Senator from Louisiana, the chairman of the Finance Committee, that this is probably one of the most innovative ideas presented in this bill, which has a lot of innovation in it. His amendment deals with basic aspects of the industrial system. The Senator has given great thought to the theory of industrial democracy which in substance allows those people making their contribution to the industrial production of this Nation to share not alone as wage earners, but also as *participants* in the profits of their labor. Individuals that really would, under normal circumstances appear to be opposed to this kind of operation, seem to be sympathetic to it, in view of the fact that it is the chairman of the Finance Committee who is the proponent of this measure as a result of which we may be moving much more rapidly toward a democratic system. Under the private ownership plan that had heretofore been envisioned by some, people were ready to sell this system short. In other words, we are now saying that the concentration of wealth might be brought to an end by concentrating the wealth in the hands of those people who are really producing the wealth of the Nation.

I commend the Senator from Louisiana. He has a great deal of material there. Not only is it possible that this could lead the way in the railroad industry, but also, this could be the beginning spot for giving consideration to other major industries in the Nation.

Mr. LONG. It might be well to find out how employees, properly motivated, can make the bankrupt corporation succeed. If this proposal works and I think it should be given a try—and I hope the Senator, as one of the conferees, will work for this—then we may very well have the answer for the future when some bankrupt corporation comes to the U.S. Government asking to be bailed out. It may be that we can say, "If you work this out so that your employees have a substantial piece of the action, our experience is that that type thing tends to work."

My big objection to our private property system is not that I do not favor it—I do favor it very much—but I object that not enough people own some of it. It would be well to see how it works when you give the employees an opportunity to own a major share of the stock, perhaps even 100 percent, if they will make the railroad a big success.

I look upon this as a great challenge for us to urge employees to be a part of the team and eliminate all those divisive labor-management practices which could be avoided when people of good will work together to make a success of an enterprise.

Mr. BEALL. Mr. President, I yield to the Senator from Kansas as much time as he desires.

Mr. DOLE. Mr. President, I support the Rail Services Act of 1973 as essential legislation to maintain the viability of our Nation's rail transportation system which is becoming increasingly important in these days of fuel shortage.

LOANS FOR MARGINAL RAILROADS

This legislation not only provides for the restructuring of seven bankrupt railroads within the private sector, but it also provides authority for loan assistance to marginal railroads threatened with insolvency though these railroads lie outside the designated 17-State region specifically affected by this bill. This loan authority will be available to railroads such as the Rock Island and the Katy which together provide service on more than 1,000 miles of right-of-way in Kansas. More than one-half of the trackage in Kansas is currently operated by marginal railroads whose future is in jeopardy. This legislation, which deals with the bankrupt northeast railroads, properly recognizes that those connecting railroads across the country which are vulnerable, threaten the viability of our entire national system, and must have support if the system is to be sustained.

FREIGHT CAR SHORTAGE

The pending legislation also recognizes the chronic freight car shortage which threatens the survival of small shippers on branch lines throughout the Nation and primarily in the grain producing States. By incorporating in this legislation the Senate passed freight car bill, S. 1149, the Senate reaffirms its commitment to improve the utilization of the freight car fleet and to expand that fleet to meet current needs. The daily shortage in general service freight cars averages about 38,000, and this shortage is translated into acute hardship for thousands of country elevators and other shippers. Provisions of this bill will help alleviate this shortage and assist in meeting a longstanding problem of farmers and elevators across the country.

FAIR TREATMENT FOR LABOR

Earlier this year I supported strongly those amendments to the Railroad Retirement Act and other permanent legislation, which facilitated increases in railroad retirement benefits negotiated between rail management and labor. I am pleased that Congress has met its commitment to all of the Nation's 500,000 active employees and nearly 1 million retired rail employees.

The integrity of the railroad retirement fund must not be compromised, and with my support, Congress has seen to it that retired railroad employees within the framework of the recently passed law, will be assured continuity in retirement benefits and equitable benefits as well.

Title VI of the pending bill incorporates a comprehensive package of benefits for those whose positions in employment will be worsened as a result of legislative reorganization of the bankrupt railroads pursuant to the other titles of the bill. I am not opposed to the benefit levels provided in title VI per se; however, I am opposed to any congressional action which would enact into law a collective bargaining agreement which is properly the province of the private sector.

I supported the amendment of the distinguished Senator from Maryland (Mr. BEALL) because it provided the opportunity for free collective bargaining between management and labor as to the terms and conditions of labor protection to be accorded displaced workers.

The Beall amendment recognizes that the Federal Government has an obligation to provide assistance to the displaced employees, and it provides $250 million in Federal contributions to be applied for the benefit of affected employees pursuant to an agreement which would be negotiated freely, and certified by the Secretary of Labor as "fair and equitable."

I believe that the Government has an obligation, in forcing this merger and the resultant employment reduction, to be fair with affected employees, and I feel that under the Beall amendment, the employees, with the infusion of $250 million in Federal labor protection payments, would have been assured adequate protection until retirement age or until job opportunities in the new rail system became available.

Mr. HARTKE. Mr. President, I agree to manage and sponsor the Midwest and Northeast railroad reorganization legislation with a great many reservations and very considerable trepidation. The measure is of the magnitude to cause even the bravest legislator to approach it with caution. The bill will effectively grant an association, or more realistically its executive committee consisting of five men, the power to restructure most of our railroad transportation system in the vast area bounded generally on the west by the Mississippi, on the south by the Ohio River and on the north by Canada. The grant of authority over the largest segment of our private enterprise system is, to my knowledge, more extensive than has ever taken place in the history of our country, other than in war time. Billions of dollars of railroad assets are involved, but that is only the visible part of the iceberg insofar as the effects of such an extraordinary grant of power is concerned.

Industries, both large and small, throughout this vast area are dependent in varying degrees on rail transportation. Even the mammoth General Motors Corp. wired the President of the United States that a shutdown of the Penn Central would bring the operations of that giant corporation to a grinding halt.

While I am not suggesting that a small group of men to whom we are entrusting the economic welfare of the Midwest and Northeast would cut off service to General Motors, I do, however, suggest that they will have the power to, and in all probability will, cut off rail service to thousands of companies and hundreds of communities. The impact on nonrail employees, on tax rolls and therefore school budgets, the impact on the viability of communities or their ability to attract new industries will lie in the hands of five men recommended, if not chosen, by the Secretary of Transportation.

In the very limited amount of time that we have had since the House passed its version of this measure we have labored diligently to afford reasonable protection to shippers, States, cities, and communities against arbitrary action by these planners. I am not satisfied with the protection that this bill affords and my efforts to obtain greater protection to provide service for the general public have been unavailing.

Illustrative of the protection that is lacking is the following:

The bill provides for hearings by a rail emergency planning office to be created within the ICC to which all parties would present their views and demonstrate their vital interests. The office then makes a recommendation with respect to the service to be provided to such parties by the final system plan. The association is required to "evaluate" the recommendations of the ICC office, but the final system plan does not have to be consistent with or conform to the recommendations of the ICC. Thus, major industries or major cities and towns may convince the Commission office that they should continue to receive rail transportation service, but if the association decides that such service is inconsistent with the viability of the new Rail Corporation, then the planners are free to ignore the testimony regarding need for service.

After we passed the Amtrak legislation, many communities, even large cities such as Cleveland, Ohio, bitterly complained that they were deprived of rail service. If you think you heard complaints with respect to Amtrak, you may be sure that you have heard nothing that will compare to the complaints that I anticipate as a result of the actions of the planners of the Association under this legislation. Then why am I voting for it? Why have I sponsored this bill? The answer is that the judge having charge of the Penn Central reorganization says that unless we pass a bill to immediately provide for funds to keep the railroad operating and make long-range plans for its future, he will order the Penn Central system liquidated. He says he has no choice, and under our Constitution he may be corrrect.

Certainly we cannot afford to see Penn Central shut down and liquidated so we are faced with a Hobson's choice or virtually no choice at all. We have to pass legislation to prevent the liquidation of Penn Central, but I have strong reservations regarding the legislation which is before you today. There are a number of other features of this bill which I would change.

For one, I believe the bill sets too severe a time schedule for the kind of careful planning that we need. This is a vast project of the greatest possible significance to the welfare of the State of Indiana and all other States east of the Mississippi and north of the Ohio. I would rather support Penn Central for a longer period of time with funds from the Treasury than force a hasty and possibly ill-considered restructuring plan. I would like to afford more time for the ICC office to hear the thousands of complaints from your constituents and mine that will arise when they see the initial plan of the Department of Transportation, a plan which the Department has adamantly refused to show to your committee or any Member of Congress.

I would like to have the Association itself have more time to devise a preliminary system plan and to be fully advised with respect to the effect of such a plan on the welfare of constituents or unemployment, on the economic welfare of our States and communities. The Board of Directors of the Association which has to finally approve the plan has only 30 days to approve or disapprove the final system plan devised by its executive committee.

Can you imagine a group of 13 men and women representing a cross section of America, most of whom will have no expertise in the field of transportation, passing on such a gigantic plan in 30 days. The Association's plan then will be presented to the Congress and it will be deemed approved if we fail to reject within 60 days. Also indicative of the meager time schedule established by the bill is the following: a special three-judge Federal court will be permitted only 20 days to pass upon vital aspects of the final system plan. Let me assure you that considering the multitude of actions and the extreme complexity of the matters that will be before that court, 20 days will be a totally unrealistic period of time for a decision.

I am concerned also with the motivation of DOT and the association. At the outset, the Department of Transportation proposed legislation which contained practically no money. It has consistently argued against those provisions in either House or Senate bill which provided Government financing. Accordingly, I think we can count on the DOT and the association, which I believe it will control, to insist on a highly profitable, stripped down, restructured railroad whose securities will be thereby assured of acceptance by creditors. This motivation is certain to result in far less service to fewer shippers and communities than I think should be provided in any system established by an agency created by Congress.

On the basis of our experience with the Department of Transportation to date, we can clearly expect information regarding its planning and that of the association only after it is completed. Every Member of Congress who has tried to get information regarding plans for the restructured system from DOT has been rebuffed. In order to prevent a continuation of this coverup, I would have preferred to see on the board of directors of the association at least two members recommended by the chairmen of the Senate and House committees. Congress might then just possibly be kept abreast of the plans as they are being developed rather than being forced to wait until they are completed. As matters now stand, we will undoubtedly be faced with the choice of accepting or rather not rejecting a plan no matter how onerous to our States, cities, communities, shippers, and employees as the only alternative to nationalization of the bankrupt railroads in the Midwest and Northeast.

I understand the bill we are about to enact. I have taken every legal and rational step available to me to make it possible to restructure the railroads in the Midwest and Northeast in the public interest.

Mr. President, during the time we have been involved in the proposed legislation, it would have been impossible for us to have acted as expeditiously and as effectively as we did without the cooperation of the other members of the committee. I want to pay special tribute to the Senator from Maryland, who spent hours, including times when I could not be there. We had such a good understanding that the minority sometimes became the majority, so far as proceeding was concerned.

In executive sessions, which were very open, discussions were frank and candid and educational and very productive of what I think is a major improvement of this legislation.

In addition, Senator CANNON took over as manager of the bill. Senator LONG was helpful, as were Senator STEVENSON and Senator HOLLINGS. Senator PEARSON, who had to operate on one foot at times, operated with a 100 percent so far as his mental capacity was concerned. Senator COOK, who is not a member of the subcommittee, was very productive. Senator STEVENS was very helpful. Although sometimes he seemed to have an emphasis on Alaska more than some of us would want, it was one which was productive, too.

Senator COTTON, the ranking minority member, demonstrated the ability and capacity to give in and also to help us move the measure successfully.

Of course, all this could not be done without the able leadership of such a distinguished chairman as WARREN MAGNUSON, probably one of the outstanding legislators in the history of the United States.

All this could not have been accomplished except for the fact that we have people who gave up hours with their own families, working long hours, providing for us the material and providing it in a fashion which was understandable, and without too much controversy, and I refer to the staff. I pay special tribute to Lynn Sutcliffe, Art Pancopf, Tom Allison, Mal Sterrett, Paul Cunningham, John Kirtland, Bob Joost, Loyal Synder, Dave Clanton, Joe Carter, Chris O'Malley, and Fran Pollock.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BEALL. Mr. President, I thank the Senator from Indiana for his very kind remarks. I reiterate what I said in my opening statement about his good work in bringing this bill out of the committee and to the floor today, so that we have what we all hope will be a successful solution to the problem that faces the northeastern part of the United States. As a result of this legislation, we will be able to have an economically viable operating unit, so that rail service can be maintained for the economic betterment of the whole area.

I should like to second what the Senator said with regard to the work of the staff in preparing the measure and in keeping us prepared. They worked assiduously on our behalf, and I second the Senator's remarks on their behalf.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SAXBE (after having voted in the affirmative). On this vote I have a live pair with the Senator from South Carolina (Mr. THURMOND). If he were present and voting, he would vote "nay." I have already voted "yea." I withdraw my vote.

Mr. MANSFIELD (when his name was called). Mr. President, on this vote I have a pair with the Senator from Maine (Mr. MUSKIE). If present and voting, he would vote "aye." If permitted to vote, I would vote "nay." I withhold *my vote.*

Mr. ROBERT C. BYRD. I announce that the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), and the Senator from Louisiana (Mr. JOHNSTON), are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON), is absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from South Carolina (Mr. THURMOND) is necessarily absent because of death in his family.

The Senator from Utah (Mr. BENNETT) and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The pair of the Senator of South Carolina (Mr. THURMOND) has been previously announced.

The result was announced—yeas 69, nays 22, as follows:

[No. 574 Leg.]

YEAS—69

Abourezk
Aiken
Baker
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Buckley
Burdick
Cannon
Case
Chiles
Church
Clark
Cranston
Curtis
Dole
Eagleton
Fulbright
Gravel
Gurney
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Talmadge
Tunney
Weicker
Williams
Young

NAYS—22

Allen
Bartlett
Bellmon
Brock
Byrd, Harry F., Jr.
Byrd, Robert C.
Cook
Cotton
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Hansen
Helms
McClure
Packwood
Scott, William L.
Taft
Tower

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY QUOTED—2

Saxbe, for.
Mansfield, against.

NOT VOTING—7

Bennett
Griffin
Johnston
Muskie
Stennis
Symington
Thurmond

So the bill (H.R. 9142) was passed.

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

> A bill to authorize and direct the maintenance of adequate and efficient rail services in the Midwest and Northeast region of the United States, and for other purposes.

Mr. HARTKE. Mr. President, I move that the Senate insist upon its amendment and request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. MAGNUSON, Mr. PASTORE, Mr. HARTKE, Mr. LONG, Mr. GRIFFIN, Mr. COOK, and Mr. BEALL conferees on the part of the Senate.

Mr. HARTKE. Mr. President, I ask unanimous consent that the name of the Senator from Connecticut (Mr. RIBICOFF) be added as a cosponsor of the measure.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I move to indefinitely postpone consideration of S. 2767.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I ask unanimous consent that the Secretary be authorized to make necessary and technical corrections of the bill.

The VICE PRESIDENT. Without objection, the Secretary will be so authorized in the engrossment of the measure.

Mr. HARTKE. Mr. President, I ask unanimous consent that the bill as passed be printed for the use of Senators.

The VICE PRESIDENT. Without objection, it is so ordered.

TRIBUTE TO SENATORS

Mr. MANSFIELD. Mr. President, the passage of S. 2767 represents an achievement of great magnitude. The questions presented to the Senate for resolution were as complex and difficult as any to come before the Senate this year. There is no perfect solution to this type of problem. But to do nothing while the problem grows worse would be irresponsible.

Although one can disagree with parts of the measure, one must agree that the leadership shown by the senior Senator from Indiana (Mr. HARTKE) as well as the Chairman of the committee (Mr. MAGNUSON) in shepherding this measure through the committee and the Senate has been remarkable. They are legislators of the finest order.

They are both men who know how to grapple with difficult problems and resolve them forcefully and fully. The Senate owes them a great debt.

In addition, I want to congratulate the immense contribution of the junior Senator from Maryland (Mr. BEALL) who comanaged the measure on the floor. His spirit of cooperation and his leadership is greatly appreciated. To all Members of the Senate who took such an interest in this measure, the leadership wishes to express its appreciation for their cooperation.

LEGAL SERVICES CORPORATION ACT

The Senate resumed the consideration of the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Mr. MANSFIELD. Mr. President, what is the pending business?

The VICE PRESIDENT. The pending business, under the order, is S. 2686, a bill to amend the Economic Opportunity Act of 1964.

CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I send to the desk a cloture motion and ask that it be read.

The VICE PRESIDENT. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read the cloture motion, as follows:

> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 2686), a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Mike Mansfield
Gale W. McGee
John O. Pastore
Hubert H. Humphrey
Alan Cranston
Edmund S. Muskie
George McGovern
Philip A. Hart
Robert Taft, Jr.
Floyd K. Haskell
Daniel K. Inouye
Gaylord Nelson
Walter F. Mondale
Edward M. Kennedy
Jacob K. Javits
William D. Hathaway
Joe Biden
Harold E. Hughes
Dick Clark

AUTHORIZATION TO FILE REPORT OF COMMITTEE ON PUBLIC WORKS OF BILL ON WATER RESOURCES DEVELOPMENT AND RIVER BASINS MONETARY AUTHORIZATIONS ACT OF 1973 BY MIDNIGHT

Mr. GRAVEL. Mr. President, I report from the Committee on Public Works an original bill on Water Resources Development and River Basins Monetary Authorization Act of 1973, S. 2798, together with minority views, and ask unanimous consent to file the written report thereon by midnight tonight.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I would like to make a very brief statement concerning a few items in the report. The Senator from New York (Mr. BUCKLEY) had asked my permission to take extracts from the record of the subcommittee to use in his minority view—a minority view of one. I had no objections, and wish to note that all the subcommittee meetings were open to the public and to the press. In fact, the press requested, that the markup sessions of the committee be made public.

However, it is my belief that the Senator from New York, has put the words somewhat out of context in the way he has extracted from the record. However, I will stand by them. The point in issue was in respect to a spread sheet I had ordered for the committee, laying out numbers of sections, whether they had OMB approval, whether they had passed the Senate before, a brief description of the item in question, and also the name of the sponsor.

The Senator from New York also suggested that we remove the name of the sponsor in the legislation. I responded to that by saying that I saw no reason why, such actions should not carry the name of its sponsor. We must be responsible for our actions.

Mr. President, we are all elected by the voters in our home States. We come here with names that we are given at birth. We come here with a title from the States. We come here with a charge to uphold the public trust. When my colleagues come to me with problems about their States, I seriously consider their views on the needs of their constituents before making a final judgment.

My colleague has characterized this as back-scratching and has also characterized it as pork barrel. He phrased the "pork barrel" charge with the caveat that we in the Congress are held in very low repute among the American people as a result of the scandals that have taken place.

I submit that we are held in low repute as politicians and as public servants not alone as a result of scandals but also because we often choose to act with anonymity or behind closed doors. We are elected to do the public business and, in my view, we should do it in public.

I think anyone who characterizes a water resources bill as pork barrel is missing the point. What we are dealing with here is a capital investment in America and the continuation of a capital investment that began with the Nation's birth. This is an investment that will continue to be made for a very good reason—because people in various parts of the country feel these projects should be undertaken.

If we choose to demean ourselves and those we are elected to serve by calling a financial investment in water resource development, "pork barrel" then fie on this House, and fie on the people in it. If I may, one other comment germaine to this discussion. In my view when a Senator stands up to strike projects about which he knows nothing, I say that is bad government. We had proposal after proposal to strike out items in the bill from committee members who knew nothing about the project in question.

Mr. President, I stand on the record of the subcommittee and the full committee, and I stand on the accomplishments of Congress in this area over a number of years. I think we ought not to use the term "pork barrel." I think we would be better served if we talked about capital improvements for serving the people who live in this country and sent us to the Senate as their representatives.

ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, following the remarks of the distinguished Senator from South Dakota (Mr. McGovern) under the order previously entered, the following Senators be recognized, each for not to exceed 15 minutes, and in the order stated, prior to the order for the recognition of Mr. Mansfield under the order originally entered: Mr. Bellmon, Mr. Saxbe, and Mr. Hansen.

The VICE PRESIDENT. Without objection, it is so ordered.

What is the will of the Senate?

Mr. MONDALE. Mr. President, I would like very briefly to observe that the pending business is the Legal Services Corporation Act on which we have been prepared to vote now for 2 days.

No one in opposition to the bill has sought the floor.

I would hope either that something might occur so that we might act, or that, if we have what I call a filibuster by amendment, we might invoke cloture, pursuant to the motion filed a few minutes ago.

Before us is an act to establish an Independent Legal Services Corporation. We would like to be assured, so far as possible, of the availability of legal services consistent with the Canons of Ethics for those in this country who need those services. If the law and the Constitution is applied to them as it is to others in American society, they will then have the right to go before the courts of the land to seek justice.

The measure pending before the Senate is the result of several years of compromise. It enjoys a broad bipartisan support. The measure was reported out of the Labor and Public Welfare Committee unanimously. And, as has been shown in the record, Mr. Laird of the White House, has written to us arguing that the Senate act on this measure.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. JAVITS. Mr. President, I am advised that there are 66 amendments in print by some Senators. There is no time limitation on the bill.

We have analyzed approximately 20 of those amendments, beginning with amendment No. 777 and going down to amendment No. 796 inclusive.

I state these facts for the Record, as I said yesterday, just to indicate that we are here. We are perfectly willing to debate any amendment which any Senator has to offer.

Again, I wish to repeat the fact that this has been very thoroughly debated and discussed since 1971, and even before in terms of the existing program I think that we have gone a long way in the Senate to work with the administration in trying to come to a satisfactory bill, observing all rights of those concerned.

Mr. President, for the Members of the Senate who may be interested, I am advised that there is a very interesting analysis of the concept of a legal services corporation by the former president of the American Bar Association. That analysis was given in testimony before a subcommittee of the House of Representatives in hearings held early this year, in February and March 1973.

I think it might be illuminating to have the opinion of the then president of the American Bar Association on the proposal to establish a corporation. We have said before that the American Bar Association does support passage of the Senate Labor and Public Welfare Committee bill.

I ask unanimous consent that a copy of a letter to me from the present president of the American Bar Association, Mr. Chesterfield Smith, together with the testimony of the former president of the American Bar Association, Robert W. Meserve, which is incorporated in the record I have, along with certain give and take on this general subject in the same record, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

American Bar Association,
Washington, D.C., November 12, 1973.

Re S. 2686, National Legal Services Corporation.

Hon. Jacob K. Javits,
Subcommittee on Employment, Poverty, and Migratory Labor, New Senate Office Building, Washington, D.C.

Dear Senator Javits: On behalf of the American Bar Association I commend you for your leadership in securing favorable committee action on S. 2686 now before the Senate.

The American Bar Association has long been interested in the creation of an independent national legal services corporation and has on three occasions adopted policy positions in support of this concept. I am pleased to inform you that S. 2686, as reported, fully complies with the Association's insistence on assuring the independence of lawyers for the poor to provide professional legal services to clients. I urge that the legislation be speedily and favorably acted upon by the Senate and that any amendments seeking to restrict the independence of lawyers or the access of their clients to our processes of justice be resisted.

Sincerely,

Chesterfield Smith.

Establishment of a Legal Services Corporation

This subcommittee is conducting these hearings for the purpose of and with the intent to develop a bill that will continue to guarantee to the poor good professional legal assistance.

In view of recent negative expressions and actions concerning the legal services program, those of us who support such a program feel that it is imperative that we begin to lay the groundwork necessary to produce a viable and effective piece of legislation with the kind of broad constituent support needed to get it through Congress and enacted into law.

The presence of our opening witness speaks well of our intent to see that the poor, as are the more fortunate, are provided with the kind of professional legal assistance associated with the profession and a member of the bar.

Mr. Meserve, it is indeed our honor to have you appear before this subcommittee in support of our efforts.

I introduce to the committee and for the record, Mr. Robert Meserve, president of the American Bar Association.

You may proceed as you so desire, Mr. Meserve.

STATEMENT OF ROBERT W. MESERVE, PRESIDENT, AMERICAN BAR ASSOCIATION, ACCOMPANIED BY JOHN P. TRACEY, ASSOCIATE DIRECTOR, WASHINGTON OFFICE, AMERICAN BAR ASSOCIATION

Mr. Meserve. Thank you very much, Mr. Chairman and members of the subcommittee.

It is with great pleasure that I appear before you today to express the views and policies of the American Bar Association on legislation to establish a national legal services corporation.

As you know, the association takes great and, I think, justifiable pride in the support and encouragement which it has provided to the Federal Government's efforts to bring to the poor and the equal access to our processes of justice to which we are all committed.

Since 1965, when the new experiment in democracy known as the Legal Service program began with the cooperation of the association and the Federal Government, virtually every president of our association has requested and received an opportunity to convey to the Congress the association's support for an expanded program of legal services to the poor and our professional concerns regarding the administration and operation of the program.

I am exceedingly grateful for the opportunity you extend to me today to continue this tradition.

As a background for my testimony and also to define the limits of my authority. I have attached to my prepared statement a staff memorandum which compiles the official policy statements of the association on the issues of concern to this committee.

Two of the resolutions merit our specific attention at the outset.

In April 1971, the board of governors of the association gave detailed consideration to the proposed establishment of a national legal services corporation.

The board concluded and resolved:

"That the American Bar Association supports, in principle, the creation of a federally funded, nonprofit corporation to administer monies which will be used to fund programs which will provide a broad range of legal services to persons unable to afford the services of an attorney, the charter of which shall contain assurances that the independence of lawyers involved in the Legal Services Program to represent clients in a manner consistent with the professional mandates shall be maintained."

You will note from that portion of the 1971 resolution quoted, that the association has not gone on record in support of or in opposition to any specific bill or provision thereof except insofar as such legislation would offend the professional obligations and independence of lawyers employed or otherwise funded by the corporation or its grantees.

As president of the association, I appear before you in a representative capacity and must observe the limits of my authority.

The second resolution which I would specifically note is that adopted by the house of delegates of the association on February 12 of this year at its midyear meeting in Cleveland, Ohio.

In reaffirming the commitment of the association to the national corporation concept, the House resolved as follows:

"The United States Government should increase the level of funding of Legal Services Programs to enable them to provide adequate legal services to eligible clients and to prevent a serious deterioration of the quality and quantity of service because of increased expense and mounting caseloads.

Government at all levels and lawyers from both the public and private sectors should take every step necessary to insure that legal services lawyers remain independent from political pressures in the cause of representing clients.

"The Congress of the United States should enact a legal service corporation of a design consistent with the foregoing principles and the need to maintain full and adequate legal services for the poor."

I am proud to report to you that not a single member of our house of delegates spoke against the resolution and that it was adopted on a virtually unanimous voice vote.

The task which this committee commences with these hearings on legislation to establish a national corporation is both critically important and vitally urgent. I need not dwell on the obvious fact that continued debate without resolution on the important issues before you will seriously damage the program and perhaps critically obstruct the continuation of the legal services movement. The current status of the program has to be a matter of great concern to the Congress, the administration, the bar, and most importantly, the poor who have derived so much benefit from the services which it has provided. In February 1971 the Ash Council on Executive Organization recommended the corporation structure to the President and virtually every concerned and informed constituency agreed, in principle, with that recommendation. Since that time, the program, its lawyers, and clients appear to have the most serious threat to the continuing availability of legal services to the poor in its 8-year history.

The pendency of the legislation and the continuing debate over its provisions have resulted in a rudderless course in national program administration. Crucial decisions and policy directives have been postponed because of the continued anticipation that the new structural autonomy of a corporation was just around the corner.

As you all undoubtedly know, the program has been without a permanent director since February 1972, and the National Advisory Committee which has traditionally been the vehicle for advice and oversight by the organized bar was recently disbanded by the Office of Economic Opportunity after not having been convened since April 1971. The continuation of the program in its current posture must be viewed as a most serious crisis by all concerned.

Now I would like to turn to some of the important issues which confront you in your effort to design the structure of the national corporation.

The heretofore divisive issue of the composition of the Board of Directors of the Corporation is one where my authority from the association leaves me little opportunity to provide specific assistance. In considering this issue, the association's board of governors concluded that it was more political than professional and should be left to the political process to determine. I am sure that I speak for the association, however, in expressing the hope that a majority of the board be lawyers.

The structure decided upon must offer a framework through which the lawyers employed by program grantees can serve clients to the extent of professional obligations mandated by the code of professional responsibilty of the American Bar Association and the ethical mandates of the bar in the jurisdiction wherein the lawyer practices. Statutorily mandated restrictions which would in any way interfere with the ethical obligations of a lawyer to a client would seriously undermine the professionalism of the legal services effort. Restrictions such as those advanced in amendments offered by Senator Murphy in the 90th and 91st Congresses which sought to prevent legal services lawyers from instituting suits against Government agencies or officials or allowed Governors of the States to control the scope of activities of legal services programs would certainly appear to contravene canon 5 of the code of professional responsibility which requires that a lawyer exercise independent professional judgment in behalf of a client. The association vigorously and successfully opposed such provisions in the past and will certainly oppose them in the future.

The association has also resisted administrative attempts to regionalize or decentralize the administration of the program. We believe that the program should be truly national and that the policy direction should be left to the Board of Directors of the Corporation with local policies formulated by the boards of the local projects within the framework of the national directives. This, of course, would seem to argue against a revenue-sharing approach which, as I understand it, would vest State and local officials with the funding decisions which, as we all know, effectively control policy. Funding decisions should be the prerogative of the national corporation.

While we insist on policymaking on a national basis, we would recommend continued consultation with State and local government and State and local bar associations. Our experience indicates that many of the problems and tensions in the operation of the Legal Services program have resulted from failure on the part of program lawyers and local government and bar associations to communicate with and understand each other. On our part, we continually and successfully urge more interaction between the programs and bar associations.

As you know, there has been a good deal of controversy surrounding the operations of the Legal Services program. Unfortunately, the criticism, most of which is unfair and overgeneralized, seems to get more public attention than the excellent client service which the more than 2,300 lawyers currently employed deliver to their previously unrepresented clients on a day-to-day basis. We have all heard the outcry against "law reform" activities of poverty lawyers who, accordingly to the criticisms, neglect the legitimate needs of clients in order to pursue their own agenda of social and institutional reform. A look at the record may help to put that criticism in better perspective.

The Office of Economic Opportunity has released statistics that indicate that the program is currently serving approximately 1 million clients per year. The breakdown of representation indicates further that approximately 42 percent of the matters involve domestic relations, 18 percent deal with consumer and job-related problems, 10.5 percent are housing problems, 9 percent involve Government welfare programs, and 20 percent are juvenile offenses and other miscellaneous matters. These statistics would seem to accurately reflect the legal problems experienced by the poor and the areas where assistance is most needed. Statistics also indicate that 83 percent of the matters handled by legal services lawyers are disposed of without litigation.

The California rural legal assistance program has perhaps received more severe criticism than any other legal services project. The intensity of the criticism finally resulted in the appointments by OEO of a prestigious commission of three State judges chaired by my fellow New Englander, Robert B. Williamson, a distinguished jurist who formerly served as Chief Justice of the Supreme Court of Maine.

After exhaustively studying the many complaints against the program, which covered of the gamut the criticisms of legal services programs generally, and conducting public hearings throughout the State, the Commission concluded:

"[T]he operations of CRLA as conducted presently and within the recent, past are within applicable OEO standards and applicable standards of professional responsibility. The Commission finds that CRLA has been dicharging it duty of provide legal assistance of the Economic Opportunity Act of 1964 in a highly competent, efficient and exemplary manner. We therefore recommend that California Rural Legal Assistance, Inc. be continued and refunded."

[Report of the OEO Commission on CRLA to the Honorable Frank Carlucci, dated June 25, 1971, page 88.]

With regard to the so-called law reform activities of legal services programs, it is often overlooked that the mandate from Congress and a review of the program by the General Accounting Office specifically recognize law reform as a legitimate program activity.

The report of the Committee on Labor and Public Welfare of the Senate on the Economic Opportunity Amendments of 1967 noted:

"Yet the legal services program can scarcely keep up with the volume of cases in the communities where it is active, not to speak of places waiting for funds to start the program. The committee concludes, therefore, that more attention should be given to test cases and law reform."

[S. Rept. No. 563, 9th Cong., 1st sess., p. 40]

In a report on the Office of Economic Opportunity in 1969, the General Accounting Office reported to the Congress:

"LSP has improved the plight of the poor living in areas served by LSP projects by affording legal representation to the poor and educating them as to their legal rights and responsibilities. However, few LSP projects were engaged in OEO's more far-reaching goals of assisting the poor in the formation of self-help groups, such as cooperative and business ventures (economic development) and in advocating appropriate reforms in statutes, regulations, and administrative practices that adversely affect the poor (law reform)."

[Review of Economic Opportunity Programs, GAO Rept. No. B-130515, March 18, 1969, p. 129]

Finally, President Nixon in his message to the Congress transmitting the legislation for the establishment of a national legal services corporation stated:

"While it is important to insulate the corporate structure so that public funds can be properly channeled into the field, it is even more important that the lawyers on the receiving end be able to use the money ethically, wisely and without unnecessary or encumbering restrictions.

"The legal problems of the poor are of sufficient scope that we should not restrict the rights of their attorneys to bring any type of civil suit. Only in this manner can we maintain the integrity of the adversary process and fully protect the attorney-client relationship so central to our judicial process. [II. Doc. 92–104, 92d Cong.]"

I can also state that it has been represented to me that that is still the position of the President.

Thus it appears to me that every competent authority which has investigated the operations of the program has come down on the side of the project lawyer being unfettered by statutory restrictions which encumber the project's obligations in representing clients in civil matters. I would hope that the legislation process could go forward without expending valuable time on a rehash of what seems to be settled issues.

As noted in the previously quoted association resolution, we continue to urge a higher level of appropriations for the national corporation. At the $71.5 million level requested in the administration's budget for the coming fiscal year, it would appear that there will be a further contraction rather than an expansion in services. Specific thought might be given to authorizing funds for the transitional phase of the program to assure no diminution in services.

In conclusion, the list of accomplishments of the legal services program in the 8 years of its operation is most impressive. It has survived adolescence and attained a maturity which argues for a national legal services corporation properly structured so as to assure the continued professionalism of the program which, at the same time, insulates the projects from political pressures. We must have the necessary confidence in the legal profession and the judiciary to assure that the corporation and its grantees will be continually monitored and measured by the professional standards applicable to all the components of our justice system.

We must also recognize that legal services to the poor has become an integral component of that total system and must be continued and hopefully expanded and strengthened.

Speaking on behalf of the American Bar Association and as a private lawyer committed to the cause of adequate legal services for all our citizens, I pledge our continuing cooperation in your critically important task.

That is the end of my statement, gentlemen and lady.

[The following memorandum was submitted for the record:]

American Bar Association Memorandum

Re: ABA Policy Positions.—Legal Services.
Date: February 16, 1973.

The modern history of ABA support for providing comprehensive legal services to the poor began with the adoption of a resolution sponsored jointly by the Committee on Legal Aid and Indigent Defendants and the Committee on Lawyer Referral at 1965 Midyear Meeting in Miami, Florida. The 1965 Resolution provides:

Whereas, The organized bar has long acknowledged its responsibility to make legal services available to all who need them, and this Association has been a leader in discharging this responsibility; and

Whereas, The organized bar, under the leadership of the National Legal Aid and Defender Association and of this Association, has extended legal services to indigents for more than three quarters of a century, and there are now some 247 legal aid offices and 136 volunteer legal aid committees rendering these services, and

Whereas, The organized bar, under the leadership of this Association, has also extended legal services to persons of modest or low incomes for many years through Lawyer Referral programs, and there are now some 203 Lawyer Referral agencies in operation; and

Whereas, Individual lawyers traditionally have rendered service without charge to those who cannot pay; and

Whereas, Despite this considerable effort of individual lawyers and the organized bar over many decades, it is recognized that the growing complexities of modern life, shifts of large portions of our population, and enlarged demands for legal services in many new fields of activity warrant increased concern for the unfilled need for legal services, particularly as to persons of low income, and that the organized bar has an urgent duty to extend and improve existing services and also to develop more effective means of assuring that legal services are in fact available at reasonable cost for all who need them; and

Whereas, The Economic Opportunity Act of 1964 provides for cooperative programs with state and local agencies through which various services, including legal services, may be rendered to persons of low incomes who need advice and assistance; and

Whereas, Freedom and justice have flourished only where the practice of law is a profession and where legal services are performed by trained and independent lawyers;

Now, Therefore, Be It Resolved, That the American Bar Association reaffirms its deep concern with the problem of providing legal services to all who need them and particularly to indigents and to persons of low income who, without guidance or assistance, have difficulty in obtaining access to competent legal services at reasonable cost; and authorizes the officers and appropriate Sections and Committees of the Association, including such additional special committee (if any) as the Board of Governors may establish, in cooperation with state and local bar associations and the National Legal Aid and Defender Association, to improve existing methods and to develop more effective methods for meeting the public need for adequate legal services; and

Further Resolved, That the Association, through its officers and appropriate committees, shall cooperate with the Office of Economic Opportunity and other appropriate groups in the development and implementation of programs for expanding availability of legal services to indigents and persons of low income, such programs to utilize to the maximum extent deemed feasible the experience and facilities of the organized bar, such as legal aid, legal defender, and lawyer referral, and such legal services to be performed by lawyers in accordance with ethical standards of the legal profession; and

Further Resolved, That the Association's Committees on Legal Aid and Indigent Defendants and on Lawyer Referral Service shall, in the absence of the creation of a special committee for the purpose, have primary responsibility for (i) implementing these resolutions, (ii) coordinating with the appropriate Committees and Sections, and (iii) reporting back to this House at the annual meeting in August, 1965.

(Reports of the ABA, 1965, pp. 110–111.)

The above resolution states the basic Association policy on extending legal services to indigents and persons of low income.

The Board of Governors adopted a resolution specifically opposing the so-called Murphy Amendment in October 1969. That Board resolution provides:

Whereas, the adoption by the United States Senate of an amendment to S. 3016 seeks to place in the hands of the governors of the various states a power of veto over the activities of legal services programs funded by the Office of Economic Opportunity; and

Whereas, such power contravenes the American Bar Association's commitment to secure full and effective legal services to the poor by providing every person in our society with access to the independent professional services of a lawyer of integrity and competence; and

Whereas, enlarging the scope and effectiveness of the power to veto legal services programs is highly undesirable because experience has shown that the power to veto may be used to circumscribe the freedom of legal service attorneys in representing their clients to address issues of governmental action or omission affecting the rights of their clients, and to discourage actions which are politically unpopular or adverse to the views of the majority; and

Whereas, such limitations impair the ability of legal services programs to respond properly to the needs of the poor and constitute oppressive interference with the freedom of the lawyer and the citizen;

Now, therefore, Be It Resolved, That the American Bar Association reaffirms its position that the legal services program should operate with full assurance of independence of lawyers within the program not only to render services to individual clients but also in cases which might involve action against governmental agencies seeking significant institutional change; and

Further Resolved, That representatives of the American Bar Association be authorized to express the concern of the Association as to the effect of the aforesaid amendment.

(Reports of the ABA, 1970, pp. 161–162)

The above resolution was widely circulated to state and local bar associations and to the Congress. Fifty bar associations responded with similar resolutions or statements of opposition.

The Board of Governors adopted a resolution following the Annual Meeting in Dallas in August 1969 directed at public criticism of legal services lawyers by public officials. The August 1969 resolution provides:

Whereas, attacks against legal aid and legal service lawyers and other lawyers threaten the rights of clients to have independent advocates;

Now, Therefore, Be It Resolved, That the American Bar Association supports and continues to encourage every lawyer in the exercise of his professional responsibility to represent any client or group of clients in regard to any cause no matter how unpopular; and

Further Resolved, That the American Bar Association deplores any action or statement by any government official who attempts to discourage or interfere with the operation or activities of any properly constituted organization which provides legal services to the community because the lawyers associated therewith, or any lawyer acting in good faith and within the confines of ethical conduct, zealously represents clients in matters involving claims against a government entity or individuals employed thereby.

(Reports of the ABA, 1970, p. 162)

A resolution supporting the enactment of legislation authorizing a federally-funded, non-profit corporation to provide funding for legal services programs was adopted by the Board of Governors in April 1971. This resolution provides:

Whereas, The American Bar Association in furtherance of policy positions adopted by the House of Delegates in February 1965, and the Board of Governors in August and October, 1969, has vigorously supported the expansion of legal services to those unable to afford the services of an attorney through the Legal Services Program of the Office of Economic Opportunity; and

Whereas, The American Bar Association has insisted that the independence and professional integrity of the lawyers involved in rendering such service be maintained, with particular emphasis on protection of the attorney-client relationship and compliance with the Code of Professional Responsibility and Canons of Ethics of the Legal Profession; and

Whereas, Pronouncements of this Administration and legislation currently pending in both Houses of Congress propose the establishment of a federally-funded, non-profit corporation to assume responsibility of funding programs which will make a broad range of legal services available to persons unable to afford the services of an attorney which corporation will not be an agency or establishment of the United States Government; and

Whereas, The establishment with adequate safeguards of such non-profit corporation will tend to further the insistence of the American Bar Association on the independence and professional integrity of the Legal Services Program:

Now, Therefore, Be It Resolved, That the American Bar Association supports, in principle, the creation of a federally-funded non-profit corporation to administer monies which will be used to fund programs which will provide a broad range of legal services to persons unable to afford the services of an attorney, the charter of which shall contain assurances that the independence of lawyers involved in the Legal Services Program to represent clients in a manner consistent with the professional mandates shall be maintained; and

Be It Further Resolved, That representatives of the American Bar Association designated by the President be authorized to present testimony on behalf of the Association before the appropriate committees of the Congress consistent wtih this resolution.

(Reports of the ABA, 1971, pp. 558–559)

At the Midyear Meeting in Cleveland in February 1973, the House of Delegates of the American Bar Association reaffirmed its support of the expansion of legal services efforts and establishment of a national legal services corporation. The resolution adopted by voice vote provides:

Whereas, There is a continuing need for legal services for the poor; and

Whereas, There are federally funded legal service programs to meet this need in each of the states; and

Whereas, The funding for these programs has not increased since 1970 in spite of the increase in demand and operating expenses; and

Whereas, This Association continues to support the need for adequate legal services to the poor and the need for vital and independent programs to provide this representation;

Now, Therefore, Be It Resolved:

1. The United States government should increase the level of funding of legal services programs to enable them to provide adequate legal services to eligible clients and to prevent a serious deterioration of the quality and quantity of service because of increased expense and mounting caseloads.

2. Government at all levels and lawyers from both the public and private sectors should take every step necessary to insure that legal services remain independent from political pressures in the cause of representing clients.

3. The Congress of the United States should enact a legal service corporation of a design consistent with the foregoing principles and the need to maintain full and adequate legal services for the poor.

In addition to the above resolutions, the Board of Governors in October 1970, authorized President Edward L. Wright to communicate to OEO Director Donald Rumsfeld the Association's concern regarding a proposal for administrative reorganization of the Legal Services Program. A copy of that letter is attached.

AMERICAN BAR ASSOCIATION,
October 16, 1970.

Re legal services program of the Office of Economic Opportunity.

Hon. DONALD RUMSFELD,
Office of Economic Opportunity,
Washington, D.C.

DEAR MR. RUMSFELD: You will recall that I wrote to you on October 3, expressing my concerns regarding the proposal for administrative reorganization of the Legal Services Program currently under consideration by the Agency.

The proposed reorganization plan was extensively discussed by the Board of Governors of the American Bar Association at its Fall Meeting in Chicago on October 15 and 16. The Board has authorized me to inform you of the Association's reiteration of the recommendations made in the February, 1969 memorandum to then Secretary Finch and to Secretary Romney, especially the following: "Should an independent office in the Executive Branch not be feasible at this time, and if an OEO type of agency is to be continued, the existing program could remain within that structure, provided it becomes administratively independent from the existing Community Action Program."

Independence of the Legal Services Program from the Community Action Program and its establishment as a National Emphasis program with policy and responsibility firmly established at the national level have been sought since the inception of the program. Representatives of the organized bar have continually championed the need for such independence before Congress and program administrators and at the highest level of this and the previous Administration. A regression from the Program's status which you established in your historical announcement of July 14, 1969, in our opinion, would be unwise, unwarranted, and unacceptable to the legal profession which greeted that announcement as the culmination of five years of unswerving effort on a matter of immense professional and public concern.

This Association is well represented on the Subcommittee of the National Advisory Committee, which is currently considering the reorganization proposal in cooperation with you and other officials of the Agency. Preliminary reports from those conducting this study have led the Board of Governors to conclude that the concerns which have been expressed by members of the bar and by members of Congress are justified.

On behalf of the American Bar Association and its Board of Governors, I urge you to reaffirm the independent status of the Legal Services Program at all levels of administration within the agency.

Sincerely,

EDWARD L. WRIGHT.

Mr. HAWKINS. Thank you for a very excellent and clearcut statement. It is certainly one which I think speaks rather eloquently to the subject that we have before this committee.

The Chair is going to yield its time to its colleague from Washington, Mr. Meeds, who is the author of one of the legal service bills, and then recognize the ranking minority member, Mr. Steiger, who has also authored one of the bills.

Then we will proceed in the order of the committee.

Mr. Meeds.

Mr. MEEDS. Thank you very much, Mr. Chairman.

My commendations to you, Mr. Meserve, for your statement and my commendations to the American Bar Association for its longstanding support of what I consider to be the jewel in the crown of OEO programs, the program which has really brought full mention of constitutional rights to those who have heretofore been unable to assert the right of a judiciary, access to the judiciary because they could not afford it.

Without defining the help and work of the American Bar Association certainly this program would not be what it is.

Mr. MESERVE. Thank you, Congressman.

Mr. MEEDS. I deeply appreciate in your statement the reiteration of President Nixon's statements with regard to the importance of this program, the importance of insulating the corporate structure.

As he said, "Even more important that the lawyers on the receiving end be able to use the money ethically, wisely and without unnecessary or encumbering restrictions."

I would like to address my questions to you along that line, if I may.

Mr. MESERVE. Surely.

Mr. MEEDS. What might be some encumbering restrictions? In the bill which was presented with this very eloquent statement by the President, there was a provision that a board would decide whether appeals could be taken.

Would you feel that that would be a proper restriction on the individual zealous pursuit of the attorney's case?

Mr. MESERVE. I would think that if that board were comprised of lawyers, their advice on the subject surely should be of great assistance to an individual lawyer who—and I speak from my own experience—quite frequently sees the merits of the case as being much greater perhaps than they are and quite frequently does not understand problems of policy which may affect the whole structure of the program.

Basically, I would think the ultimate decision within the limits of funds available should be on a professional basis for the lawyer. I surely would have no objection to his getting informed advice.

Mr. MEEDS. But I assume you would have objection if it went beyond advice, if he were told which cases he could appeal.

Mr. MESERVE. I think that would be very dangerous from the point of professional responsibility. I would not want a committee of my partners to tell me if I could appeal a case for a wealthy client.

Mr. MEEDS. As a matter of fact, it would be a violation of the code of ethics?

Mr. MESERVE. It would be, Congressman.

Mr. MEEDS. What would you advise this committee would be the limits of legislative advocacy?

In other words, in that bill also—and this is from my recollection because I don't have it before me—if it provided that a lawyer could appear before a legislative group for his client only upon the request of the group or something like that, if that were the case—and again trusting my recollection and assuming for the purpose of the question that that was the case—would that be an undue restriction in your mind in the role of the lawyer in pursuing zealously the cause of his client?

Mr. MESERVE. I think any limitation which would bar legislative activity on behalf of a client would violate the code of professional responsibility, if we talk about a client's wishes and a client's interest reasonably adapted to the program.

Limitations on lobbying for causes or issues not related to a specific client or group of clients would not appear to offend the code if such activity were proscribed as a condition of employment.

Surely political activity of individual lawyers which seek to promote their own interests or a particular party or individual should not be permitted in the program. I think this could safely be left to the judgment of the board of directors of the corporation which, as I suggested, should at least consist primarily of lawyers acquainted with the restrictions in the code of professional responsibility.

Mr. MEEDS. On the floor of the House particularly, we have had a lot of comment that because the taxpayers support the legal services program that somehow the obligation of the lawyers working for legal services should be different to their clients than that of you and your client.

Do you think it should be any different?

Mr. MESERVE. No, sir; I do not. I think the lawyer-client relationship does not change just because the Federal Government is paying the fee. There is only one code of professional responsibility. Its provisions are equally applicable to private lawyers and legal services lawyers. That is the way it should be. If we are serious about providing counsel to the poor, I think we should offer the same services as we give to our paying clients.

Mr. MEEDS. Finally, I would like to ask you a question with regard to funding.

You stated that you thought funding at $71 million, which as I understand is proposed in the fiscal year 1974 budget of the President, would be in effect a reduction of the services under the program.

Would you explain and clarify that?

Mr. MESERVE. I think there are statutory provisions with regard to increments and fringe benefits which will mean that while the actual amount may be the same as last year, the services might be somewhat reduced.

I have also felt that the present funding of the program only permitting the program going into certain areas, and not experimenting with other areas. I think the problem of the rural poor ought to be dealt with, too. I am not sure it can be dealt with within the present framework of the OEO organization, but I think there ought to be funds to permit all the poor to benefit by this program. Therefore, I think the funds are now inadequate and will be in the future when the normal increments are taken into account.

Mr. Meeds. Thank you very much.

Mr. Hawkins. Mr. Steiger?

Mr. Steiger. Thank you, Mr. Chairman.

I welcome these hearings as an opportunity for Members of Congress, the administration, and all interested parties to work together in strengthening the Legal Services program.

A great deal of justifiable criticism has been devoted to Federal programs which are wasteful and inefficient. It is unfortunate, therefore, that the most stringent attack upon any Federal agency has been reserved for one of the Government's most successful endeavors—the Legal Services program.

Ironically, this opposition has largely been generated by the very success of Legal Services attorneys in asserting the rights of the disadvantaged.

While most Americans have strongly supported the implementation of equal access to the judicial process, there are some—whose power rests upon governmental authority or economic sanction—who are unwilling to have their actions subjected to the scrutiny of an impartial court under the rule of law.

Those who would permit the arbitrary and capricious disregard of the legitimate rights of any citizen must not be allowed to prevail.

The Legal Services program has done more than win cases and establish precedents. It has served as a constant reminder that in our democracy, just grievances can be resolved within the system rather than in the streets.

Yet today the very existence of the program hangs in the balance. To insulate the program from recurring political attacks, President Nixon has strongly endorsed the concept of a nonprofit Legal Services Corporation.

The Congress must now act its legislative will, to insure that the Corporation is truly independent, professionally administered, and capable of delivering high quality legal services.

The crisis grows and we must act rapidly.

President Meserve, we know of the deep commitment of the American Bar Association to the Legal Services program, and we are grateful for your personal efforts in this endeavor.

There is now a 30-day funding limitation and the imposition of travel restrictions on field lawyers.

What is the American Bar Association's position on those matters?

Mr. Meserve. First, may I explain what I am sure you will understand and that is that our support goes to the program and not necessarily to any particular individuals. The selection of the individuals to operate that program is basically none of our business so long as they are people sincerely interested in operating the program. From this point of view, we were very sorry to lose Mr. Speaker and Mr. Tetzlaff who had been honest and able administrators of the program, in our opinion.

But, I am not against any person who is there now. This has been explained to me, particularly the 30-day funding and the limitation on funding as a temporary matter which would enable the new administrator to get a handle on what is going on. From that point of view, I personally would think that this is a reasonable thing for a limited period of time. I think it would be terrible if over an extended period of time the program were to operate on a 30-day basis. For example, I don't see how a client could have any confidence in the continued representation of a lawyer whom he knows may not be there 30 days hence and there may be no program there to support him 30 days hence.

I would hope that the people in what I expect will be sort of a caretaker responsibility pending your creation of a legal services corporation will see to it that they discharge their duties as caretakers honestly and efficiently and keep the level of legal services high.

I think we have some other problems here, too. These are grants, these 30-day funds, made to other entities operating in the field under the supervision of OEO. Many of these bodies have to make extensive commitments for the employment of lawyers and others to administer those programs. They cannot do that on a 30-day basis. I don't know any lawyer who has any capacity who will want to work on a program where he may be letting the program terminate within 30 days. Moreover, many of these programs at some of these backup centers have made contractual commitments, as I understand it, in reliance upon a probable extension of the program which will cause financial loss to the entities involved, the agencies which are backing them up, such as educational institutions and the like.

I would surely hope that, assuming that the restrictions on travel and the 30-day limitations are within the power of OEO, that they would be terminated quite promptly and the program restored to the point where, as far as you can, there is confidence that the program will continue and the objectives will continue to be met.

Mr. Steiger. What is the impact of the decision to end the advisory council?

Mr. Meserve. Well, I think the prior administrators have found the advisory council to be a useful body. It is through that council that the American Bar Association, for example, has had an input in the program and has been able to offer advice. I believe the council if it had to be dissolved, a new one should be appointed. I think there ought to be a council there and the administrator ought to be free to call upon it. I would hope he would. I would hope it would represent not only the organized bar, the American Bar Association, but some of the client groups to whom the office must look in connection with its programs. I think a national advisory council is desirable for either the corporation or the existing OEO organization. I would hope that one would be reinstituted that would have a professional advisory input into the situation.

Mr. Steiger. It has been reported that OEO has considered terminating funding for backup centers and providing some kind of an in-house capability for backup services.

Would you give us your thoughts about the consequences of a development of that kind?

Mr. Meserve. First of all, I would hope that any such program if instituted would be preceded by adequate notice to the entities which have committed themselves in effect to provide this type of service and have made financial commitments inconsistent with having the service terminated on 15, 20, or 30 days' notice.

Generally speaking, I would feel that these, more or less independent agencies are helpful to OEO. I would hope that an investigation of them made by the present administration would convince them that that is so and that the actual expense of operating through the independent entity as a backup center is probably in the whole less, and the services better than with an in-house capability which means employing people by the Government whereas now people are employed by independent entities.

Mr. Steiger. You do agree, do you not, that there is a need for the concept of backup services?

Mr. Meserve. Indeed I do. I don't see how with any efficiency the individual lawyers in the field can do all the types of research which these backup centers can do in specific and particular areas. I think it is a great economic advantage that a backup center in Massachusetts can tell a lawyer in Colorado what is going on in a particular field not only in Colorado and Massachusetts but throughout the United States because they have an actual capacity to correlate and integrate resources into these particular problems. I think the concept of a central organization responsive to legal and drafting questions in particular areas is an excellent one. I do think that the backup center program has worked well from all I have heard. I see no reason to abolish the concept but I am not wholly on the inside on that. I think some kind of backup center services ought to be provided to counsel in the field or they will handle a great many less cases than they are now, which I think is bad for the poor people.

Mr. Steiger. The gentleman from Washington, Mr. Meeds, talked about the concept of a restriction on appeals. It has also been suggested by some that there ought to be restrictions on test cases.

Would you give me your judgment about any kind of effort to limit the ability of a legal service attorney to handle a test case given the limited resources available?

Mr. Meserve. I think that is a matter of judgment to be exercised in rules laid down in advance by the individual sponsoring organization. I would think that it is possible that a test-case limitation can be imposed, to some extent, fairly. But on the other hand, I must say that the test-case concept to me seems pretty vital to a legal services program, and economical in the long run. If you can pick one case as a test case, it may affect thousands of people in the area and avoid the necessity for a tremendous amount of duplicated litigation all raising the same issue. In the interest of judicial economy and in the interest of representing the poor, the selection of test cases and pushing of test cases is indeed desirable. It may be that the test cases selected might be so far removed from the interest of an average poor person that perhaps they ought not to be brought. But none have been brought to my attention under the present program that have not warranted the test-case action. I think of the property tax case in California which was litigated under the OEO legal service funded agency there. It seems to me that that was a test case and did a very good job in bringing to the attention of the court and people of the United States a very real problem in taxation.

I don't know how you do that except through test cases. Therefore, whatever restrictions might be adopted, I hope they would meet the needs of the poor to have test cases brought in such areas.

Mr. Steiger. One last question which as a nonlawyer is asked of me by people: Why should the average citizen—or why should nonlawyer Bill Steiger—be concerned as to whether lawyer Lloyd Meeds is bound by what the American Bar Association talks about as the code of professional responsibility?

Mr. Meserve. Without that application of the code, in my opinion, the judicial system could not exist. It is that simple, sir. I think that the need for lawyers in a particularly competitive profession to be bound by rules as to what they can and cannot do and to live within those rules is integral to the whole system of justice which has developed in the United States of America. I don't think it matters whether I am representing Standard Oil of New Jersey or a poor man from the Boston ghetto. It is my duty to observe the code of professional ethics. Otherwise, the whole system falls apart.

Mr. Steiger. I appreciate very much what I think is a very good response to my question and your real commitment, as with the commitment of the American Bar Association.

Thank you.

Mr. Hawkins. Mrs. Chisholm?

Mrs. Chisholm. Thank you.

I have two brief questions.

First of all, in terms of the espousal of equalitarian principles even in the area of law, which is still an ideal in this country and not a reality as yet, does the American Bar Association feel that any services offered to the poor by the legal services lawyers should in no way be different from the services offered to the middle- and upper-class citizens in this country who have the wherewithal to pay for such services so long as the services offered by the lawyers ameliorates the condition of the poor in our society.

I would like to know how the American Bar Association feels about that ideal kind of concept which is not yet implemented.

Mr. Meserve. I think I have already, if I may say so, answered your question, Congresswoman. I feel that the poor person in our society ought to get the same kind of legal representation in every area as the rich person can get. I think the only way that can be done is through the legal services program. I think legal services ought to be able to ameliorate his condition and to see to it that the guarantees of the Constitution of the United States are available to all citizens of all classes of economic wealth or lack of it.

Mrs. Chisholm. Thank you.

One more brief question.

The Code of Professional Ethics in the field of law is analogous to the Hippocratic Oath taken by men in the field of medicine?

Mr. Meserve. I think the code is much more extensive and detailed. The Hippocratic Oath, as I understand it—and, of course, I am not a doctor—is a general statement of professional conduct, as I remember it, which is a very desirable thing. The Code of Legal Ethics is far more detailed. It deals with many more situations, even though in many areas it is expressed in generalities which must be interpreted by the court from time to time. It is more analogous to the differentiation perhaps between the Ten Commandments or the Sermon on the Mount on one hand or the Constitution of the United States on the other.

Mrs. Chisholm. Thank you.

Mr. Hawkins. Mr. Clay has yielded his first set of questions to the gentleman from Michigan, Mr. Ford.

Mr. Ford. I would like to go back to this question of a test case. That is not a legal term—"test case"— that it a term that gets taken up at cocktail parties and in coffeehouses and other places where lawyers get together and they say there is a certain type of litigation going on and if this is decided it will set some things in perspective and therefore it becomes a test case when viewed from a professional standpoint by lawyers outside the case.

But as the lawyer or client or individual involved in the case, the words "test case" means nothing, do they?

That case is only important to him as to how it ends up with respect to his rights, whether it be criminal or civil. The fact it will set the pattern for something else to happen is irrelevant; isn't it?

Mr. Meserve. I would not say it is strictly irrelevant. I would agree generally with you that the problem is serving the interests of an individual client.

Mr. Ford. From a professional point of view, does the lawyer have any right in determining how he should proceed with that client's case at any given time to take into account whether it will or will not be a test case that will affect the rights of other people?

Mr. Meserve. Yes, I think he does. I think it affects the rights of that client, but I think it also affects the rights of society generally and he has a right to take that into consideration.

My office was hired many years ago—long before I was a partner in it—to bring certain litigation on behalf of a corporation involving the constitutionality of the social security laws back in the Roosevelt days.

It litigated that question to the Supreme Court of the United States. I think at all times we were conscious and our client was conscious and wanted us to proceed in that case as counsel representing the individual whose case was the only case that could bring the problem before the Court but also as a test case involving for a multitude of clients in such a position the constitutionality of the social security law. That is why the client wanted the case instituted in the first place.

Mr. Ford. But you would agree with me that if parties outside the scope of the interest of the people bringing the suit in that case had decided that from their point of view this was a test case that they could not, if this was a legal services case, bring pressure to stop.

Let us put it as far as a regulation. What would be the effect of the lawyer's professional standing if we attempted to impose on him that once someone identifies this as a test case you are thereafter barred from representing the party in that case because its nature is now described as a test case without regard to what the real issues are.

Mr. Meserve. If I understand your question, of course, that could not occur. You have to consider the interests of the party and act for him.

Mr. Ford. Then you would agree that any attempt to characterize cases and put a restriction on legal services lawyers would be outside the scope of what is considered in the Code of Professional conduct?

Mr. Meserve. Yes. I think the interests of the individual client may include the fact that the case may affect a lot of other people. If the client would come to me and say he wanted to drop the case, I could not say, "No, you must proceed because it is a test case."

Mr. Ford. It works both ways?

Mr. Meserve. Yes.

Mr. Ford. You in your statement make mention on page 5, "I am sure that I speak for the association when I express the hope that the majority of the board . . ."—and you are speaking of the board of directors of the corporation—". . . be lawyers."

It has been our understanding that the various meetings that took place with everybody concerned in this went on for so long with Mr. Powell, your predecessor representing the American Bar Association, that really there may be what could amount to a quasi-contractual relationship.

The fact is that the American Bar Association has substantially acted in a number of ways to substantially carry through an agreement that they would accept a corporate concept which whenever discussed from your point of view had carried with it the thought that not only the national board but the local boards would have a majority of lawyers on it.

To many of us it came as a surprise that anybody would think otherwise because from its inception the discussion of the corporation has carried that concept.

Is that a fairly accurate description of where you sit in the bar association?

Mr. Meserve. I would feel that to run a legal program it would be entirely desirable that the majority of people concerned be lawyers but not exclusively lawyers. I would also say I am not acquainted ehough with the history to give you a complete and frank answer to the remainder of your question except that I would suppose that any president of the American Bar Association sitting where I am sitting would advocate that position. However, we have resolutely stayed away from trying to say that so many members of the board should be appointed upon the nomination of such and such a person. That has not been a function which the American Bar Association as such has carried forward.

Mr. Ford. Last year when we had the legislation in conference one issue that held us up as long as anything else that was negotiated with the White House during the course of that conference was the specific issue of once you decide there are going to be lawyers on the board who decide who is and who is not a lawyer in there was a very hard position taken by the White House that the only way they would agree to the appointment system was if the President would make the appointments directly, completely unfettered by any kind of a recommendation from the several bar associations that had been included, several groups of professional organizations that had been included in the legislation as prospective recommenders of members of the board.

It really came down to the point where it became apparent to us that not even a simple provision that allowed one of these professional groups to submit several names and let the President take anyone he wanted would satisfy him.

It had to be the privilege of rejecting all of them and reaching outside in effect. This caused a number of us to be concerned about how important that appointing process was. Where we had not attached a great deal of importance to the appointing process, while we would have this fragmented method of people reaching the board, some coming from the recommendation of your organization, and some coming from the recommendations of another organization.

When you think it is the President, the Congress, the American Bar Association or any one group or person is going to have the power to make all the appointments for something that should have a national scope then it takes on a different dimension.

How do you feel at this point about retaining the role of these professional organizations in recommending the names of people who should be selected for positions on the board?

Mr. Meserve. I would be flattered if such a role could be continued for the American Bar Association but I don't know that I have a right to express any specific position on the issue of whether or not it should be legislated by congressional action. I think that is a political issue which goes beyond my authority. I am not trying to duck you. I would think it would be a happier situation if the interests of the groups that have a direct interest in this program could be recognized. If it came to the point of saying either they could not be recognized or we would have no program, I think the program is the important thing. I would hope that anybody who was appointed would feel his responsibility and would recognize the need to govern the program by the Code of Professional Ethics and professional responsibility, but I really have no authority to speak to that position, especially in the absence of a bill.

Mr. Ford. Recognizing that the American Bar Association and some State bar associations are similarly organized at the State levels, we all serve on some committee or another, or we did, some of us, before we came here, and put in some extra time because we have a demonstrated interest in particular areas of the law.

Is it fair to assume that a recommendation coming from the American Bar Association or similar professional organizations would be likely to contain the names of people who had served on such committees as would concern themselves with poverty laws, with special problems of providing legal representation to indigents, et cetera?

Mr. Meserve. I think that would be a fairly reasonable assumption to make.

Mr. Ford. Isn't the tradition so strong in this regard that an attempt to go outside of some people who have demonstrated interest and expertise would probably get a person like yourself in trouble with the American Bar Association?

Mr. Meserve. I don't know. One of the bills suggested that the president of the American Bar Association, ex officio, be a member of the board of the corporation. I don't know what I can do or what restrictions there are on my power in that regard. I have not had anybody come to me and say I did a wrongful thing in appointing somebody to a committee in which they had shown no interest before, but I think the presumption would be that the people we would nominate would be people who had a demonstrated interest in the field and who had capacity and character and were well informed in the fiedl of professional ethics.

Mr. Hawkins. There is a Democratic caucus set for 10. Some of the Members are a little edgy about wanting to attend.

If you care to stay, I will get back to you for further questions.

Mr. Benitez?

Mr. Benitez. I just want to commend the president of the American Bar Association on a very fine statement.

I am happy to see that this association which in the past has been identified with a more conservative outlook is joining us in this particular issue in the belief that the human rights of education, health, and legal services should be extended equally to all Americans.

Mr. Meserve. Thank you very much. I think this is true conservatism as well as true liberalism. I think it works both ways.

Mr. Hawkins. The Chair would like to announce that due to the speed with which we were forced into moving with, because of the strangulation and mass murder of Legal Services, we are going to appoint a subcommittee consisting of Mrs. Mink and Mr. Steiger to reconcile any conflicting views in the bill sponsored by Mr. Meeds and the bill sponsored by Mr. Steiger. The committee will hold one additional public hearing at which others will be invited to present their views.

It is the intent of the committee to draft a bill just as rapidly as possible and to present it to the full committee. We hope to get a bill on the desk of the President before the last legal service program has been extinguished. We will move rather fast. I make this as a public notice so that no one will be taken by surprise.

Mr. Ford, if you care to remain to ask some additional questions, you may.

Mr. Ford. I just thought you ought to know that there has been floating around here what heretofore has been intended to be a secret document called congressional strategy on OEO which is a coldblooded Madison Avenue-type campaign to slaughter OEO in a manner that will maximize the efforts with a minimum of political pain to the people responsible for them.

One of the interesting observations that you should be made aware of is that in laying out the specific strategy to be followed they deal with Legal Services by first recognizing that this is one that has some stickers on it and they better be careful about handling legal services because what they may get away with where the only constituency interested is poor people they cannot get away with where there is a professional body of support.

Obviously, you represent a principal part of that professional body of support.

Whoever did this is more sophisticated than I on the makeup of these committees. One of the tactics is to steer the legal services corporation into the judicial committees.

Later on it says, "* * * steering it into the judicial committees has the advantage of providing it a more conservative reception, one likely to be more sympathetic to the administration point of view. It would be easier to bring it off this time because one, the administration wants it and two, there is no EOA legislation pending to which it can be attached."

At the time this was written, the committee that is now holding the hearings had not yet been informed. Reading the rest of the document it is apparent that the intention of at least the person writing this was that all of these actions would take place and leave legal services with no place to go and Congress would be forced with either the expiration of legal services, that thereafter some form, I know not Mr. Steiger's bill, of legal service program would float to the Congress and go to the judicial committee and magically we would have a more conservative legal services program.

I call this to your attention because I had not realized that we were dealing with this kind of activity in a conservative-liberal vein.

Mr. Meserve. I have not, either. I want to say that I am sure this committee will deal with it in a vein which is neither liberal or conservative and look to the preservation of the public good. That is our attitude.

In response to the chairman's remarks, I would like to say that we are extremely anxious to cooperate in any way we can with the operations of this subcommittee in considering any specific legislation which may be brought to our attention.

I assure you that I am not acquainted with that document to which you refer and obviously had no part in it.

Mr. Ford. Thank you.

Mr. Steiger. One further question: There has been some speculation that the OEO administrators might consider turning the legal services program over to the American Bar Association.

Has that been raised with the ABA?

Do you have any comment?

Mr. Meserve. That has not only been raised with the ABA, but on first impression raises my hackles. I don't imagine the ABA can run a government operation as the OEO. As far as I can now consider it, it seems to me to be a very unwise suggestion. I don't think the ABA is constituted to run a program as administrators. I think that this ought to be apart from any existing organization.

I surely hope the ABA would have an input but we are not trying to build an empire, I assure you.

Mr. Steiger. Thank you.

Mr. Hawkins. Again, Mr. Meserve, you have shown the high level of professional integrity of the association in presenting your views to this committee. We thank you.

Mr. MONDALE. Mr. President, I normally do not object or disagree with what the Senator from New York says. However, I wish to point out that there are not 66 amendments. There are 72.

Mr. JAVITS. Mr. President, I thank the Senator from Minnesota for his correction. I am very pleased to stand corrected.

Mr. HELMS. Mr. President, I ask unanimous consent that during the consideration of this bill, my legislative assistant, Mr. James P. Lucier, be permitted the privilege of the floor.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I would like to direct a question to the Senator from New York. Would the Senator from New York advise the Senator from North Carolina approximately on what days public hearings were held on the bill this year?

Mr. JAVITS. Mr. President, the Senator from New York advises the Senator from North Carolina that no hearings were held this year on this particular measure.

If the Senator desires it, I could give him, on his time or on my own time, the days of the hearings dealing with measures which were comparable to this one.

Mr. HELMS. That was prior to my arrival in the Senate. Does the Senator have any information as to whether either the distinguished Senator from Tennessee (Mr. Brock) or the Senator from North Carolina was invited to the closed executive session of the subcommittee and committee at which time this measure was drafted and finally approved?

Mr. JAVITS. Mr. President, I did not hear the question.

Mr. HELMS. Mr. President, the point that the Senator from North Carolina would make is that the Senator from Tennessee (Mr. Brock) and the Senator from North Carolina introduced in good faith a measure which we think to be superior to the one now pending before the Senate. We were given short shrift on this. Insofar as we know, speaking only for the Senator from North Carolina, we were not even given the courtesy of an invitation or consultation. No discussions were afforded our proposal when it was known that we had introduced legislation on this topic.

I wonder how it is that, if the Labor Committee bill is such a magnificent piece of legislation as has so often been said on the floor of the Senate, that it has not been considered by the Judiciary Committee.

Mr. JAVITS. Mr. President, I may respond to the Senator that as I understand it the bill to which he refers was actually referred to the Judiciary Committee. And as far as we are concerned in respect of this measure, as it was an element, and has been continuously, of the so-called anti-poverty program and also the Office of Economic Opportunity, it went to our committee.

Any other committee could at any time have sought to assert jurisdiction and could have brought the matter to the floor if it had desired to do so. Apparently there was no desire to do so.

I would appreciate it if the Senator would advise me if he or any of his colleagues requested a hearing from the Committee on Labor and Public Welfare to which the bill was not referred, as I am not personally aware of any.

Mr. HELMS. Mr. President, what was the question of the Senator?

Mr. JAVITS. Mr. President, I wonder in what form, at what time, and under what circumstances, if at all, the authors of the bill which was referred to the Judiciary Committee sought a hearing before the Committee on Labor and Public Welfare. I would be very much interested in getting that information.

Mr. HELMS. Mr. President, I will endeavor to furnish the Senator a copy of a letter written by the Senator from North Carolina in this connection on tomorrow. I do not have the letter with me on the floor at the moment. I did not anticipate that there would be this discussion.

Let me ask the Senator from New York this question: Would the Senator from

New York have any objection to this bill being considered by the Judiciary Committee?

Mr. JAVITS. Mr. President, at this stage, I would feel that the matter has been very thoroughly considered and that every committee that had any interest has had a full opportunity to dig into the matter.

The rules of procedure in the Senate protect the right of everyone. A motion could have been made to send this bill to the Judiciary Committee if that were the disposition of any Senator. A complete substitute could have been offered for the whole bill. Amendments can be offered to any part of a bill.

I do not see that anyone's rights have been invaded if a majority of the Senate is with what is considered to be the right course to take, including, by the way, a motion to table the bill. The Senate has tabled bills. And it is a very legitimate motion.

Mr. HELMS. Mr. President, the Senator from North Carolina would in no way imply that there has been any violation of the rules.

I reiterate my question, Mr. President, directed to the distinguished Senator from New York: Would he have any objection to this bill being considered by the Committee on the Judiciary? Would he personally object to the examination of the bill by the Judiciary Committee?

Mr. JAVITS. The Senator from New York believes there has been a very extensive public examination of this bill. The Senator from New York, if faced with that issue, would hope to consult with the other Senators who submitted the measure with him—Senators NELSON, TAFT, SCHWEIKER, and BEALL—at the very least, in order to ascertain what would be their attitude.

If the composite opinion was that this matter had been thoroughly enough examined, and that every committee that had any jurisdiction or thought it had jurisdiction had had an absolute access to the method by which that jurisdiction could be asserted, and failed to do so, and if the Senator were chosen by the group as the one to make the objection, he would make it. But I would not wish to do it on my own. On the other hand, if I were on the floor on my own, and the Senator should ask unanimous consent to refer this measure to the Committee on the Judiciary, I would object in order to preserve the opportunity for the consultation which I have described.

Mr. HELMS. But only for that reason?

Mr. JAVITS. Certainly only for that reason. But that is no implication as to my own attitude. I have already stated my attitude: I believe the matter has been very thoroughly considered, and is ready for action.

Mr. MONDALE. Mr. President, will the Senator yield? As the Senator from New York knows——

Mr. JAVITS. I might say that the Senator from North Carolina has the floor.

Mr. MONDALE. Will the Senator from North Carolina yield?

Mr. HELMS. Let me finish this line of questioning, if I may.

I still do not fully understand the position of the distinguished Senator from New York, and I am sure he will forgive me for not being able to hack through the verbiage to which I acknowledge that I have contributed.

Does the Senator feel that this bill would pass the muster of the Committee on the Judiciary?

Mr. JAVITS. I have no idea. I just would be guessing. I really do not know.

Mr. HELMS. Would not the Senator be willing to resolve any doubt about it, since there is considerable doubt about this measure, certainly on my part and on the part of others? Would not the Senator feel that inasmuch as there have been no hearings this year, and there are several freshman Senators who have come to this body as of last January—I know the Senator does not want those of us who are new in the Senate to feel that we have been shut out. We were given no opportunity to sit in on the construction of this measure. I am perfectly willing to take the Senator's word about his own judgment as to the worthiness of this bill. I know he is sincere. It may be that he is sincerely wrong; I will not pass judgment on that. But I still say that this is unusual procedure, for the Senate to deny an opportunity, at the time of the drafting of a bill, to provide input. That is what the Senator from North Carolina takes exception to.

Mr. JAVITS. Mr. President, I have no desire to instruct my colleague in the way in which legislation is handled in the Senate, but I know of no situation—

Mr. HELMS. My distinguished colleague does not need to.

Mr. JAVITS. I know of no situation in which, if Senators feel they would like to appear before a committee, testify before a committee, and present whatever ideas they may have to a committee, including my Committee on Labor and Public Welfare, that they would be denied that right, or have been denied that right. I would like to know about that, if the Senator claims that in this case. But to backtrack through the whole process by which legislation comes to the floor, especially when no rights whatever have been lost—the Senator has every right to propose anything he wishes on this bill. Any committee has the right to move to send this bill to that committee. No one's rights have been shut off at all.

Mr. HELMS. That is true. I would say to the Senator, that is precisely why there are—how many amendments, 76?

Mr. JAVITS. Seventy-odd.

Mr. HELMS. Seventy-odd amendments. We are trying to bring to this bill a state of perfection which we think does not exist at this time. And yet what did I just hear from our distingnuished colleague from Minnesota? That we are filibustering by amendment. That is simply not so, Mr. President. We are exercising a legitimate process, the only process left to us.

The Senator's point would be absolutely valid if there had been public hearings on this bill. But there were not. And I frankly wonder why there were not public hearings.

Mr. JAVITS. May I point out to my colleague that in the last two Congresses, hearings were held on the legal services program.

Mr. HELMS. But I was not here.

Mr. JAVITS. I understand, sir. But you were not here when lots of laws became law that you are subject to, just as I am. We have spent billions and billions of dollars of public money while the Senator was not here. We engaged in wars. Before I was here, too. You simply cannot reverse the tide of history.

Mr. HELMS. I believe the Senator is straying from the subject, but do not let me interrupt him.

Mr. JAVITS. I think I would rather let the Senator speak than I. I think I have answered the question. The fact that the Senator was not here, it seems to me, is not directly relevant to the situation, as he has lost no rights of any kind.

Mr. HELMS. I hope my distinguished colleague will not misunderstand me, because I am sure he knows the affection in which I hold him.

Mr. JAVITS. It is reciprocated.

Mr. HELMS. But could the Senator tell me why this was done in executive session?

Mr. JAVITS. As far as I know, this bill was not marked up in executive session. But even if it was, the important point here was that we had discussed and considered this bill for over 2 years, and that fare has had jurisdiction over anti—we had had a bill vetoed which had much of this in it.

Finally we got to the point where the administration wanted the bill out, and we moved it. This was something which, as I say, was one of those almost classic examples of trying to get together with the administration on a bill, at least with respect to passing his bill in the Senate.

But again, whether the administration liked the bill or not—and apparently the administration certainly is willing to see this one at least go to conference—it does not cut off any Member's rights. The Senator has every right to push any amendment he wishes. Even cloture will not cut him off. He has a number of colleagues. The colleagues together have time in which to debate every amendment within the time which the rule gives them, and if there are enough Senators who are enlisted in the fight, they can handle 67 amendments. Every Senator has an hour. We have found before that even the administration of the cloture rule could take as much as a week, if Senators wished to use their time and if there is adequate support for the effort to amend the bill.

But in view of the fact that we are at the end of the session, that this is a measure which has, at long last, come into some kind of balance where it can become law, and the fact that it has been discussed and considered and looked into by most eminent authorities—I have just inserted in the RECORD the statement of the former President of the American Bar Association, regarding the necessity for such legislation and my own bar association in New York and many others in the country have passed on the matter—it is late, and my friends feel that the time has come to act.

Mr. HELMS. I would simply also——

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. HELMS. Just 1 more minute, and then I shall be through, and you gentlemen can have it.

There was just one question remaining in my mind. I keep hearing about the American Bar Association. As far as I know, the American Bar Association was not elected to the United States Senate. The Senator from New York was, the Senator from California was, and the Senator from North Carolina was, but the role of the American Bar Association is purely advisory as far as I am concerned.

They may be right upon occasion, and they may be wrong upon occasion. But if they are so interested in this legislation, why did it not go to the Committee on the Judiciary? Why was it sent to the Labor and Public Welfare Committee where it was acted upon?

Mr. JAVITS. I hope the Senator will forgive me if I—I think I have almost exhausted the subject, but I have the greatest respect for the Senator and, if he wishes, I will answer the question.

The Economic Opportunity Act, the so-called antipoverty program, has been in the constant jurisdiction of the Committee on Labor and Public Welfare from the beginning. This goes back almost a decade. One of the elements of the Economic Opportunity Act is the legal services program. Hence, when the matter involved amendments with respect to the extension of the Economic Opportunity Act of 1964, the amendments have invariably been referred to the Committee on Labor and Public Welfare. That is the reason for this measure and the reason why the committee reported the bill.

I repeat, had any other committee sought to assert jurisdiction over the measure, the methodologies of the Senate which are practiced, the procedure would have permitted that committee to seek to have it referred. But that did not happen in this case.

That is the best information I can give the Senator.

Mr. HELMS. I thank the Senator from New York and, let me say, I have enjoyed the discussion.

Mr. JAVITS. I thank my colleague.

Mr. CRANSTON. Mr. President, first, it is a great pleasure for me to have been recognized by the Vice President of the United States. It is the first time it has happened in my experience in the Senate. When I was brand new here, I felt that I should not speak during the brief time the Senator from Minnesota (Mr. HUMPHREY) was in the chair as Vice President. Then, his successor was never here except when close votes were expected, so I never had the opportunity to seek recognition when he was in the chair. Consequently, it is indeed a great pleasure to be recognized by a real genuine Vice President of the United States.

Mr. President, I should like to say on the matter of the Judiciary Committee and its relationship to a role on the legal services bill, as the Senator from New York has said, since passage of the Economic Opportunity Act in 1964, the Committee on Labor and Public Welfare has had jurisdiction over anti poverty programs, including the legal services program. The Judiciary Committee has never had jurisdiction.

A recommital motion was made last year, when legal services corporation legislation was on the floor, to refer the bill to the Committee on the Judiciary and it was defeated by an overwhelming vote.

The chairman of the subcommittee that would be most likely to have jurisdiction, if this matter were to be referred to that committee is my colleague from California Mr. TUNNEY. He is chairman of the Subcommittee on Representation of Citizen Interests. I have discussed this with him, and he has made it plain that he does not wish this matter referred to that committee and, hence, to his subcommittee. It is well recognized that the Committee on Labor and Public Welfare has this jurisdiction.

It so happens that my colleague from California wrote a letter to the Senator from North Carolina (Mr. HELMS) in response to a query from him about the Judiciary Committee and its possible interest in this measure. Mr. TUNNEY there is no desire by that committee to indicated in his letter of July 6 that have that matter before it. He did state:

> The subcommittee shall review carefully all existing Federal legal services programs to determine whether or not they are adequately serving the needs of the poor.

The committee report on S. 2686 states:

> The bill reported by the Committee on Labor and Public Welfare represents a bipartisan effort, based upon the bill submitted to Congress by President Nixon on May 15, 1973.

A majority of this body, a majority on this side of the aisle, a majority on that side of the aisle, and the administration, do not want this measure recommitted. They want it passed.

All 16 members of the Labor and Public Welfare Committee, Mr. President, support the bill and want it speedily passed.

I had hoped again that tonight we would have the opportunity to discuss this bill on its merits, the arguments for it, and the arguments, if any, against it, but again there is no desire, apparently, by those seeking to obstruct it, to speak on it.

I note that no one is in the Chamber right now to speak against the measure. Obviously, we have simply run into a filibuster, so we have taken the route normally available and often taken when the Senate faces a filibuster, and the majority and minority leaders have filed a cloture motion.

Mr. President, I yield the floor.

QUORUM CALL

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, tomorrow the Senate will convene at 9:45 a.m.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: MCGOVERN, BELLMON, SAXBE, HANSEN; after which the following Senators will be recognized, each for not to exceed 10 minutes, and in order stated: MANSFIELD and GRIFFIN.

At the conclusion of the aforementioned orders, the Senate will proceed to the consideration of routine morning business for not to exceed 15 minutes, with statements limited therein to 3 minutes; at the conclusion of which, under the order previously entered, the Senate will proceed to the consideration of the Special Prosecutor bill.

On tomorrow there will be yea-and-nay votes on motions, amendments, and final passage, hopefully, of the supplemental appropriations bill.

I yield the floor, Mr. President.

ADJOURNMENT TO 9:45 A.M.

Mr. CRANSTON. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:45 a.m. tomorrow.

The motion was agreed to; and, at 8:05 p.m., the Senate adjourned until tomorrow, Wednesday, December 12, 1973, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate December 11, 1973:

NATIONAL LIBRARY OF MEDICINE

The following-named persons to be Members of the Board of Regents, National Library of Medicine, Public Health Service, for a term of 4 years from August 3, 1973:

Joseph Francis Volker, of Alabama, vice Jack Malcolm Layton, term expired.

John William Kauffman, of New Jersey, vice William O. Baker, term expired.

HOUSE OF REPRESENTATIVES—*Tuesday, December 11, 1973*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord will give grace and glory; no good thing will He withhold from them that walk uprightly.—Psalms 84: 11.

O Lord, our God, unto whom all hearts are open, all desires known and from whom no secrets are hid, bless us with

Thy presence as we wait upon Thee in prayer. By Thy grace may we discharge our duties with diligence, carry our responsibilities with firm faith and live our lives with the light of love aglow within us.

Help us to turn our wayward and our worried hearts to Thee. Set us free from the failures of the past, the faults of the present, and the false hopes of the future. Grant unto us the courage to turn from evil ways and the confidence to come to Thee who forgives and cleanses and heals.

We pray for these leaders of our country. Do Thou so rule their spirits and so reign in their hearts that what they do may be for the welfare of our people and the well-being of all mankind.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

CALL OF THE HOUSE

Mr. RONCALIO of Wyoming. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 642]

Abdnor
Adams
Alexander
Anderson, Ill.
Aspin
Badillo
Blatnik
Bolling
Brown, Calif.
Buchanan
Burke, Calif.
Byron
Carey, N.Y.
Cederberg
Chisholm
Clark
Clay
Collier
Collins, Tex.
Conyers
Dellums
Dingell
Dulski
du Pont
Erlenborn
Eshleman
Fish
Fisher
Flowers
Flynt
Foley
Frey
Fuqua
Giaimo
Goodling
Gray
Green, Oreg.
Hammerschmidt
Hansen, Wash.
Harsha
Harvey
Hébert
Heinz
Horton
Huber
Hunt
Jarman
Landrum
Long, La.
Long, Md.
McDade
Macdonald
Mailliard
Mann
Matsunaga
Mills, Ark.
Mink
Minshall, Ohio
Nichols
Peyser
Reid
Reuss
Riegle
Rooney, N.Y.
Ryan
St Germain
Sandman
Shoup
Stanton, James V.
Stokes
Taylor, Mo.
Teague, Tex.
Thompson, N.J.
Tiernan
Vander Jagt
Veysey
Waggonner
Walsh
Wampler
Ware
Wilson, Charles, Tex.
Wyatt
Wydler
Young, Fla.
Zablocki

The SPEAKER. On this rollcall 347 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

TRADE REFORM ACT OF 1973

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of bill (H.R. 10710) to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 10710, with Mr. BOLAND in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the committee rose on yesterday the gentleman from Oregon (Mr. ULLMAN) had 1 hour and 19 minutes remaining and the gentleman from Pennsylvania (Mr. SCHNEEBELI) had 1 hour and 31 minutes remaining and the gentleman from Pennsylvania (Mr. DENT) had 19 minutes remaining. Before rising the gentleman from Oregon had yielded back the remainder of his time, reserving 20 minutes for himself, and the gentleman from Pennsylvania (Mr. SCHNEEBELI) had yielded back the remainder of his time, reserving 20 minutes for himself.

The Chair recognizes the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Chairman, I just want to remark that I have seven daily newspapers in my district and this is the only notice that I have seen in those newspapers at any time mentioning the trade bill. What I am trying to say is that I believe the American people have little or no idea of the seriousness of the problem before us today.

Nations since the beginning of time have tried to shape their own destinies. We are now in the midst of an era in history when we no longer can guide our own economies and establish our own taxes or do anything on our own to better the way of life of our people. We are each day becoming increasingly at the mercy of the stateless, soulless, anomalous corporate entities.

We started out in this country first with the conglomerate, which later stretched its tentacles into foreign countries and became a multinational. The next step on this road to stateless entities is the so-called transnational, and then eventually we will be in what is called the cosmo corporation which is being engineered by no less than George Ball, who engineered the trade bill we are living under today when he presented to my committee years and years ago a position paper in which he said that the United States of America had to get out of unsophisticated production of goods, that we were a nation which ought to produce nothing but the sophisticated products. He was forgetting of course that the labor-intensive industries are the backbone of the economy of any nation, whether it is a sophisticated nation or a nation that is emerging from the dark, dim blackness of poverty.

We find ourselves today facing the question that I want to believe honestly all of us know what it is all about but I am fearful that none of us really knows what it is all about.

The soulless multinational corporation, and there are two American-based multinationals which are more responsible for the devaluation of the dollar than all of the international bankers in the world. When they got word of the great transactions taking place in the Eurodollar they immediately moved in and dumped billions of dollars, setting the rush and the stampede on the American dollar.

In the language of the streets, in the language of the gutters from which I came, I will be compelled to say that the multinational operation has bastardized international trade. It is no longer a movement of goods for the uses of people. It is no longer an avenue with which a nation such as ours, with the greatest art ever invented as a nation has a soul and goes into the soul of America to do good for the nations that needed help, reaching out and spending our moneys, giving our talents, our trades, our crafts, and even our marketplace, absorbing within ourselves millions of nonproducing Americans walking the streets in despair; I say that in degradation, on relief in the third generation in some families in this country.

I would rather disassociate myself from the whole world if it means one worker in my district losing his American heritage.

Why do we think the multitudes of peasants and little people came from all over the world to this country? They came here and all of our ancestors, once, twice, thrice, fourth removed from ourselves in this generation came. They came here because they could breathe here. They could become for themselves whatever they could make and sacrifice to give their families that which they had not. Out of this great mass of poor peoples from all over the world, we created a nation. Then we got greedy and we started to exploit our own people.

We have passed law after law in this country to try to uplift the well-being of millions of Americans who could not protect themselves in the workplace of the market, of labor in the country. So we passed the Fair Labor Standards Act.

I asked this Congress on two occasions to write into international law our trade bill, the same provisions that we provided within the United States. That is that no product at this moment, no product can move from one State to another in the United States of America, unless it is produced under the Fair Labor Standards criteria.

Why then should a company be able to move from another company and go across the Rio Grande and set up in Mexico and produce outside the umbrella, out from under the umbrella of the fair labor standards and ship their products across the river?

Eighty-five thousand jobs gone in 3 years, under the PRONEF tariff agreement with Mexico, not negotiated by the Commerce Department of the United States, but negotiated by the State Department. Today, the only amendments we are allowed to work on in any way, shape, or form, have nothing whatsoever to do with the economics of international trade.

I read the letter sent up by the President asking that this bill be put on the calendar at this time. Two lines are devoted in this 100-odd-page bill and the rest of it demanding that we treat Russia like a new-found brother.

Let me say something; part of this time I am going to read the contract which I told the Members I would yesterday. Hear me, my friends, hear me, because this is the contract negotiated with Soviet Russia, and if any man in this room knows different, stand up now and tell me that it is not correct. Let me tell the Members what it was, and I put it in the RECORD February 22, 1972; in plenty of time for the Committee on Ways and Means to look at it and study it—plenty of time.

Here is the contract:

> Mr. Kosygin laid down two specific terms before he would discuss trade agreements in any way.

This is the report of the president of the Corn Products International, of a 100-member committee that went to Russia to lay down the precepts and the conditions to enter into a trade agreement with the United States of America:

> Mr. Kosygin laid down two specifics. First, he said that the Soviet Union must be considered as a favored nation under our trade agreements. This means that all concessions that we have given over the 30 years of reciprocal trade agreements between the United States and friendly emerging nations would have to be given to the Soviet Union in one fell swoop.
>
> The second provision that he would expect is that all avenues of credit now open to all our trading partners would be open to the Soviet Union, including the Import-Export Bank financing.

He went on further to say that he would expect that all avenues of credit now open to all our trading partners would be open to the Soviet Union.

I repeat that, including the Export-Import Bank. Not only are they trying to do this, and first of all we have it to attach to this legislation, and second in the bill coming up later today, we will have it on page 18 of the foreign aid bill. Two shots at the same thing.

He went on further to say:

> Since the United States was so far ahead of Russia in its production of sophisticated computers, and that he was having difficulty buying computers from the United States because, he said, they would not be used for military purposes.
>
> At least he was honest enough to qualify that particular statement by saying that at least these computers we would buy now would not be used for military purposes.
>
> Then he went on to say, to put the clincher on what I think would be a most devastating blow to U.S. industrial productivity and employment capacities—he said that he would want and expects American enterprise concerns to build plants and to send the equipped and trained persons to teach them the know-how to produce many industrial goods that they do not have proficiency in today.
>
> Further, he would expect and demand that the plants would be paid for by selling to the United States the production of those plants.
>
> Further, he said that this meant also pre-agreement arrangements for the plants would include an agreement to buy the same amount of goods from those plants annually for the next 20 years.
>
> He further went on to say that any products that the United States would sell to Russia would have to be part of a quid pro quo in which the Russian products would have to be bought by America, and that all products bought from America would have to be paid for in a barter type trade arrangement on products from Russia because "We will not pay for products from any hard currency country other than in products from our country to take their place in a barter deal."

This is what we are voting for today, and no man or woman in this room can plead ignorance to this. You cannot plead ignorance to this fact. This is something you cannot go out of here and say, "I did not know about it." It has been in the record since February 22, 1972, and we are voting for it today. Every man in this room, every woman in this room, every Member of this Congress must take that blame home with him.

Let me tell the Members what duties we have, and I only have a few moments.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield? I want to talk about that trade agreement; it is very vital.

Mr. DENT. I will come back to you. Please make it quick; the gentleman will notice that they put me on here and shackled me with two sledgehammers as to this time.

Mr. BURKE of Massachusetts. We realize that. We understand the situation, but it is interesting to note that in that trade agreement with Soviet Russia, there were 40 named ports established by this administration, but there is not one port in the northeast part of this country.

They talk about "most favored treatment." They are destroying the entire industrial complex of the Northeast, and they contribute further to it by failing to list one port in the northeast section.

Mr. DENT. Mr. Chairman, I thank the gentleman very kindly.

The Russians have a hammer and sickle as their standard bearing. We have a "Sickly Hammer," a man named Armand Hammer. This is an $8 billion deal that we are going to finance, at $400 million a year for 20 years.

To do what? To build a gas pipeline over an area with 1,500 feet of frosted tundra. We have to go down and float the bellyflat and build up from there. They have got a buildup of pipeline up to 45 degrees coming across the steppes.

This we bought. There is a $3½ million deal for technology and know-how already consummated, and if we do not pass this bill, our little Russian brothers are not going to let us get any Arabic oil. It is just that simple.

When are we going to demonstrate to our people in our districts that we do have brains enough to run this country for the people's own benefit? When are we going to quit lying to the people about what is happening to the United States of America and its people? How can we fail to understand this when we walk up and down our streets and through our streets and go past the unemployment office and watch our people tramp up and down, without employment?

Oh, we are sitting nice and smug. All we have to do is get elected every 2 years, and we do not have to worry. We do not have to care a damn if our people are unemployed.

We can go back and tell our people that we ratified these agreements, and that is what we are doing today, just ratifying these agreements.

Mr. Chairman, if God were to give me the strength and the time of life to live and if I had the financial means, I would go into every Member's district, and all I would give the people would be this message. I would ask them to listen just to this message.

Here is the rest of it, just a little of it: This is an $8 billion barter deal, 500 miles southeast of Moscow, with American dollars. We are dependent upon the Arabic states and we are in a crisis on oil.

Can we imagine what kind of a crisis we would be in if all of a sudden this Nation could not bring in the ships with the goods?

It cost us $10 billion or more, according to the best estimate I can get, for the extra shipping for the Vietnam conflict, because we had to use foreign flag ships, under contract, and pay them an exorbitant bonus for going into a war zone, and there was not a gun in the whole place that could reach them.

Here we have Occidental and El Paso gas in another deal. This is $10 billion. This is Occidental again, our good friend, "Sickly Hammer." This is $8 billion of chemicals and machinery for the chemical fertilizers for the next 20 years, and we are going to kick back again $400 million a year on the chemicals we now have in surplus.

Believe me, this has nothing to do with me. So far as my own life is concerned, it does not matter; this could be 10 times as bad, if we could possibly consider a situation that bad. Whatever happens, it will not affect my life. The only being that can affect my life now in any way, shape, or form is the Lord above, because all the rest of it is in a real neat pattern. I go home on weekends and visit a little bit with my wife, and then I come down here the rest of the week and visit with the Members.

That I will probably do until I die or until my people say it is time to hang up. Another joint venture that might interest you might have been a good deal. Also Sickly Hammer's deal, this time with the Bethel Corporation. $110 million to build an international trade center outside of Moscow. Occidental is not building it but you are building it and my unemployed people are building it. Every time they go into a store and buy themselves a little bit of food they pay a sales tax out of the meager earnings they have. What does it go for? For running my country. And these two agreements alone, in these two agreements alone we are going to spend $18 billion or $20 billion. We will add $20 billion to the public debt of the United States. We do not have the money. We have to borrow the money we put in the Export-Import Bank. If you do not believe that, just sit here and have another bill pushed by the Committee on Ways and Means in order to up the debt limit again for another 6 months.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. DENT. I apologize to all of you for taking up so much of your time. I only hope that you believe what I said. If you do not believe, live long enough and you will.

I am submitting certain documents for the record.

The documents referred to follow:

Problems With the Bill—General

1. Too much Presidential power.
2. Abdication of Congressional authority.
3. Use of trade as diplomatic tool, as opposed to economic reality.
4. Timing of the bill is bad—current situation will allow negotiators to take advantage of us.
5. Increased unemployment—implicit by trade adjustment assistance provision. In light of possible mass unemployment, any due to trade policies is unacceptable.
6. Movement from a manufacturing economy to a service-oriented credit economy is dangerously unwise.
7. Increased dependence on imports. Supporters of the bill contend that for the most products make up less than 10% of domestic consumption. Even if they were right—which they aren't—our dependence on Arab oil amounts to about 6%—and you see what that has done.
8. Non-tariff barriers are eliminated.
9. No action on multinational corporations that export jobs, capital, and technology.

President Has Power He Never Uses

Section 338 of the Tariff Act of 1930 and Section 252 of the Trade Expansion Act of 1962 give the President virtually plenary power to withdraw tariff concessions from countries who have not honored their commitments to us to provide equivalent access for U.S. exports to their countries. The provisions of the General Agreement on Tariffs and Trade also permit action by the United States as a Contracting Party to withdraw tariff concessions from nations whose actions have nullified or impaired the value of concessions granted to the United States.

The sad fact is that with but few exceptions the Executive Branch of the Government has failed to use such authority as a means of effectively getting the attention of the countries that are violating our trade agreement rights and burdening our commerce.

This reluctance to act with crisp efficiency against unfair practices of other nations has also been observable in the manner in which the antidumping and countervailing duty statutes have been administered by the Treasury Department.

It should be axiomatic under the spirit of the Antidumping Act that merchandise sold for export to the United States at such a low price that it does not cover the cost of producing the goods, is sold at less than fair value.

Problems With Bill—By Title

TITLE I.—NEGOTIATING AUTHORITY

1. Allows President to permanently alter international trade and U.S. economic structure by entering into 5 year agreements.

2. President can:

A. Cut tariffs

B. Remove non-tariff barriers—like "Buy American" provision, American Selling price, product standards (90 days notice to Congress plus 90 days to veto)

C. Impose import surcharges and/or quotas to correct *balance of trade or dollar depreciation* (limited to 150 days)

D. Authority to control inflation by removing tariffs and quotas on imports (limited to 150 days)

E. Authority to negotiate new GATT rules and regulations

3. Congressional role is deceptive because it will be very difficult to conduct trade policy on a "take-as-is or not-at-all" basis.

TITLE II.—"RELIEF" FROM INJURY CAUSED BY IMPORT COMPETITION

Industry *petitions* Tariff Commission for "relief"—if affirmative, "relief" can be granted by

1. Duties
2. Tariff-rate quotas
3. Quotas
4. Orderly marketing agreements

Also *adjustment assistance* by petition to Secretaries of Labor and Commerce. Imports must have contributed "importantly".

Workers only receive: 70% of average wage for 26 weeks; 65% of average wage for 26 weeks; older workers plus 13 weeks; and workers in training plus 26 weeks.

Industries: $1 million in direct loans; and $3 million in government-guaranteed loans.

The provision is a clear indication that industry based here will get no help or protection. It is an encouragement to locate abroad, and take with the dislocations, jobs and money.

TITLE III.—RELIEF FROM UNFAIR TRADE PRACTICES

1) Provides retaliatory authority; can institute retaliation after notifying Congress, but Congress has 90 days to veto.

2) Antidumping Act is amended to put time limits on investigations.

3) Countervailing duty law is amended by requiring a finding of injury by Tariff Commission before there is action. President can also postpone any implementation of this law if the President believes it would seriously threaten international negotiations, i.e., GATT.

TITLE IV.—MFN FOR COMMUNIST COUNTRIES

Vanik Amendment.

TITLE V.—PREFERENCES FOR DEVELOPING COUNTRIES

Presidential authority to grant tariff preferences (down to zero) on semi-manufactured and manufactured imports from developing countries—at least 35–50% of the material and processing costs might be attributable to D.C.; preferences cease when imports reach $25 million value or constitute 50% of total yearly U.S. import. (Another multinational provision?)

Occidental Petroleum—Russian Deals

1. Armand Hammer, Chairman of Occidental Petroleum, man responsible for negotiations.

CHEMICAL DEAL

2. $8 billion agreement to trade chemicals and machinery for chemical fertilizers over the next 20 years.

3. Essentially a barter deal, involving almost no exchange of cash.

4. Tass called it "an agreement on cooperation in building a big mineral fertilizer complex in the Soviet Union."

5. Occidental Petroleum is going to build 4 fertilizer factories, 500 miles southeast of Moscow, a capital investment of $400 million, of which $80 million is expected from the Eximbank; after they are built, Occidental will provide more than a million tons of superphosphates a year. In return, Occidental will get urea and ammonia for fertilizer valued at about $400 million a year. No jobs for U.S. workers!

6. Izvestia, the Soviet Government newspaper, cited Senator Jackson as a man who "intimidates his audiences with statements to the effect that the so-called development of Soviet-American ties is just 'aid to Communism'."

NATURAL GAS DEAL

1. Occidental and El Paso Natural Gas Co. has signed an agreement with Soviet Union that could bring more than $10 billion worth of Soviet natural gas to the U.S. over a 25 year period.

2. Hammer said Soviets have agreed to have products shipped "both direction" in American bottoms.

3. This deal is contingent on securing financing from U.S. lenders, and outside lenders will be sought as a last resort.

TRADE CENTER DEAL

1. Occidental is in joint venture with Bechtel Corporation, San Francisco to furnish design, supervisory and technical aid in the building of International Trade Center in Moscow at cost of $100 million, excluding land.

POLISH DEAL

November 11, 1973—$2½ million agreement extends 10 years and covers metal-finishing and pollution control equipment.

Russian Wheat Deal

1. July 8, 1972 the President announced an agreement that made $750 million worth of credit over a three year period.

2. Within a few weeks, subsidized wheat sales approximated $700 million, the largest private grain sales in U.S. history.

3. The Soviets made off with one-fourth of the U.S. wheat crop causing high prices and shortages nationwide, and with the sanction of the President.

4. Wheat in July, 1972 was $1.63 a bushel—it is now $4.65 a bushel.

5. GAO Report indicates

A. $300–$350 million in taxpayers' money was wasted in export subsidies not required in the marketplace.

B. The Department of Agriculture was totally deficient in administrating the program, in maintaining information, and in determining the appropriate export target price.

C. Had the Agriculture Department been more on its toes, the Russians would have paid more and Uncle Sam would have paid less.

6. Other Speculations for Wheat Deal

A. "Detente".

B. Get farm prices up before 1972 election.

C. Potential conflicts of interests between decision makers in the Dept. of Agriculture and major grain dealers.

General Comments About Soviet Union

1. Lenin described a capitalist as "a man who will sell you the rope that is going to hang him."

2. Overriding theme in present discussion about trade involves the export of American capital goods and technology financed by huge credits and credit guarantees underwritten by American taxpayers.

3. We get promises instead of cash. By denying them easy term credit, we can force them to pay us in gold (which they have $9 billion), or force them to sell their gold and pay us in dollars.

4. Demand cash to

1) soak up Eurodollars

2) improve balance of payments

5. In the last year, Export-Import Bank has loaned more than $1 billion to U.S.S.R. Private sources are estimated to account for $3 billion.

6. Kosygin said flatly that there would be no currency exchange, only barter.

Mr. ULLMAN. Mr. Chairman, I yield 7 minutes to the gentleman from Florida (Mr. GIBBONS), a member of the committee.

Mr. GIBBONS. Mr. Chairman, this is perhaps the most difficult speech I have ever had to make in my life. I admire, respect, and love JOHN DENT. He has already characterized me as a sledge hammer. I guess I will go down in history being "Sledge Hammer Sam." However, I feel some statements have to be made so that those who look at this RECORD in the future will have an accurate portrayal of what I think the facts are.

First. Mr. DENT is not talking about this bill but he is talking about the current law. We are seeking to change the current law. I could perhaps follow his reasoning if I could follow his figures. Yesterday I heard him on this floor make this statement, and this statement is in the RECORD on page 40548 and I am reading from it right now:

> Unemployed workers collecting as of July 1, 1973, 8,795,000.

I questioned the staff of the Committee on Ways and Means and asked them to check with the Unemployment Insurance Service, Manpower Administration, Department of Labor, Mr. Ralph Altman this morning and as of July 1; instead of there being 8 million unemployed as stated here yesterday there were 1,343,000 receiving compensation as of July 1, 1973.

Mr. DENT. Will the gentleman yield at that point?

Mr. GIBBONS. I will be glad to.

Mr. DENT. All right. Then I will give you my authority. All the figures that I read yesterday came directly from the first week in July issue of the Reader's Digest with the figures printed in them—7,965,000.

The Manpower Commission figures say that 6,695,000, is the correct figure. BLS show a different total, no two figures are alike.

Mr. GIBBONS. Well, I am sorry. I go into a little more reliable sources than the Reader's Digest.

Mr. DENT. I have given you my source.

Mr. GIBBONS. And the gentleman had 19 minutes to do this, so it is a little impossible for me to rebut him in the 7 minutes I have. On June 14, 1973 Mr. DENT appeared before our committee. I did not read his testimony until last Sunday or I would have told him about it sooner. On page 4935 of the committee record in his formal statement, and not the one the Clerk took down, but the one he turned in, he said that:

> At that time in 1962, there was a total of 16,800,000 persons engaged in manufacturing, with a payroll of $90 billion a year, and with a total population of 160,000,000 people. Today with a total population of 208,000,000 there are 14,127,000 persons employed in the manufacturing sector. I point this out because, in spite of all their predictions, there has been a loss of jobs in the manufacturing sector, in the face of a production consumption increase of 50–60%.

Actually, the figure from the Department of Commerce shows that the total employment in manufacturing on that date was 19,856,000 and not 14,127,000. That is a pretty substantial error. If Mr. DENT spoke quoting from the Reader's Digest I can understand why he reasons as he does.

As I say, this is not a pleasant speech for me to make because I like JOHN DENT. I admire him, and I have worked with the gentleman in the Congress and in our committees for a long time.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield briefly to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. I think it is only fair to point out to the Members of the House that the figures that the gentleman from Pennsylvania was giving here do not include the figures of those on welfare. Now, when people exhaust their unemployment compensation then they go on welfare. I would like to have the gentleman give out the figures of those on welfare, as they have been calculated.

Mr. GIBBONS. There are about 12 million on welfare. About two-thirds of those people on welfare are children under the age of 15, and most of the rest of them are women in the families who are managing the children under 15, and who, because there are no day-care centers and such as that, have to stay home and do not work.

I am not going to defend the welfare system. There have been plenty of studies made of the welfare system, and they show that we have able-bodied people on welfare, about 1 million, soaking wet, in this country. We are talking about——

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield further?

Mr. GIBBONS. No, I am not going to yield further to the gentleman because the gentleman from Massachusetts had plenty of time yesterday.

Mr. BURKE of Massachusetts. As a matter of fact, I had almost no time, or very little time allotted to me.

Mr. GIBBONS. If that is the case, then I will yield further to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. I am not objecting because I have not had sufficient time; I merely want to point out to the gentleman that in our Commonwealth of Massachusetts welfare has been increasing at the rate of $200 million a year for the past 4 years. And that has nothing to do with children or anything else, it has to do with unemployment. We have 200,000 people drawing unemployment as of today.

Mr. GIBBONS. I know the situation the gentleman from Massachusetts refers to in Massachusetts, and I regret that situation. I know the gentleman from Massachusetts has made this point many, many times in committee, but all of that has to do with the present law. What we are talking about today is changing the present law and improving the situation, and this bill does it, and does it very dramatically.

The issue of trade with Russia that the gentleman from Pennsylvania (Mr. DENT) has dwelled a long time on is one in which the House will have an opportunity to vote on here in just a moment as to whether or not the most-favored-nation treatment will be granted under this bill as suggested by the President. And there will be a motion to strike that entire section from the bill. And I think it was certainly a very sad mistake that MFN was ever inserted in this bill.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. Yes, I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, what difference does it make if the gentleman from Pennsylvania (Mr. DENT) made an error or did not make an error? Are we talking about a trade bill, or are we talking about unemployment figures?

Mr. GIBBONS. Let me say that I was using Mr. DENT's errors as an illustration. If I could follow the gentleman's mathematics I might be able to follow the gentleman's reasoning, but the gentleman's mathematics, which are the basis for his reasoning, are not correct. That is the only reason why I make that point.

The gentleman from Pennsylvania (Mr. GAYDOS) yesterday made a very intelligent speech on the floor in which the gentleman pointed out——

Mr. GAYDOS. The gentleman is very kind.

Mr. GIBBONS. In which the gentleman pointed out some of the problems in the bill. I respect the gentleman for doing that. I respect the other gentleman from Pennsylvania (Mr. DENT) for stating his position. But I just wish to point out very clearly that the *facts are not* as the gentleman outlines them. They are I believe as I outlined them, and they are from the best sources I have. I am not going to rely on the Reader's Digest on what is important to the future of this country, whether we agree with this bill or not. That is why I say what I do, and I do not do it with any great deal of pleasure.

Mr. GAYDOS. I believe that when the gentleman from Pennsylvania (Mr. DENT) quoted those figures upon which the gentleman relies, whether accurate or erroneous, I think it was merely background material.

Mr. GIBBONS. That is what all of us make our decisions on, upon the basis of background. I am merely trying to correct the record at this time so that the record will accurately reflect what the background actually is.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ULLMAN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, I thank the gentleman from Oregon for yielding me this additional time.

I would like to finish my little talk, if I can, here this morning on a positive note.

I am seriously worried about the future of free men in this world. I think it is time for us to stop here at 10 minutes of 11, on the morning of December 11, 1973, and assess the situation and ask who we are, what we are, and where we are going.

As I see it, we are 6 percent of the Earth's population. We have been able to amass and use about 35 to 40 percent of its wealth. We have been blessed by God and by geography and by a lot of accidents in history, and a lot of good leadership, to get where we are. We have a challenge to act responsibly in this world.

We are the biggest trading Nation in the world. We trade more within our own market and we trade more within the international market than any other nation in the world. Yet as we trade, foreign import trade is about 5 percent of our whole gross national product; we set the pace for all the rest of the nations in the world, particularly the free nations in the world.

If we respond negatively and tear up this free world again as we did accidentally in the 1920's and 1930's, then perhaps we may have to relive that very terrible part of world history. We have an opportunity to go forward now.

This is a well-thought-out, well-reasoned, well-debated piece of legislation that the Committee on Ways and Means presents to the Members this morning. We have done everything we can to make sure that this is not special-interest legislation but that this is broad, general-interest legislation for the good and the welfare of all the American people.

We hope and we trust that although this debate has been acrimonious, that we can close ranks and move forward as American people. I believe from the bottom of my heart that this is a good piece of legislation, a good bill, and that every Member in Congress ought to support it; but I respect those who do not. I want to end this little talk on a note that there is certainly no acrimony in my heart for those who disagree with me.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SCHNEEBELI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think it is important for us to understand at this point just what we do import from Russia, and why it is important that we continue this type of trade.

I should like to cite the 10 most significant items, in terms of dollar value, that we imported from Russia during the first half of this year. No. 1 was palladium, valued at about $27 million; No. 2 was platinum, about $14 million; No. 3, fuel oil, about $13 million; No. 4, nickel, about $4 million; No. 5, crude oil, about $3.7 million; No. 6, diamonds, about $2.2 million; No. 7, chrome ore, about $1.6 million; plus No. 8, titanium; No. 9, sable furs, and No. 10, glass, all amounting to less than $1 million each. For the information of the Members, I am inserting in the RECORD at this point a list of commodity groups imported from the Soviet Union, as provided by the administration:

TOP 15 COMMODITY GROUPS IMPORTED FROM THE SOVIET UNION, JANUARY 1973–JUNE 1973[1]

TSUSA No.	Description	Amount
6050750	Palladium bars, plates not less than ⅛ in. in thickness of palladium content.	$25,056,756
4751030	Fuel oil with testing 25 degree API under 145 s.	7,491,353
6050710	Platinum bars, plate sheets not less than ⅛ in. in thickness of platinum content.	7,145,951
6050210	Platinum grains and nuggets plates	6,050,551
4751050	Fuel oil with testing 25 degrees API above 145 s.	4,667,881
6200300	Unwrought nickel	3,982,233
4751010	Crude petroleum, shale oil	3,709,243
6050260	Palladium, palladium content	2,331,027
5203200	Diamond, under ½ carat cut	2,262,953
6011560	Chrome ore, 46 percent or more chromic oxide.	1,625,687
6050290	Platinum group metals and combinations.	1,137,623
4750550	Fuel oil with testing under 25 degree API.	1,118,710
6291500	Titanium unwrought and waste and scrap.	986,290
1241045	Sable fur skins whole, raw, or undressed.	963,910
5423320	Ordinary glass, 16–18.5 oz/SF measuring 40–60 unit in.	842,258
	Subtotal	[2]69,372,426

[1] The dollar value of the total import of this time period is $79,916,852.

[2] The subtotal represents more than 86 percent of the dollar value of the total import.

The character of our imports indicates the need to continue and expand our trade with Russia. These are raw materials, minerals, oil, and other items which are needed in this country.

What about the assertion that the Export-Import Bank is not the proper vehicle to finance our exports to Russia? The Export-Import Bank was established in 1934. Up until February of this year we did not finance or extend credit on a single transaction with the U.S.S.R. Since that time four different transactions with the U.S.S.R. have been financed. What is the character of our credits with respect to Russia? The four items that were financed with credit in sales to Russia were submersible electric pumps, knitting machines, a plant to produce tableware and dishware, and a truck factory. Where is our international involvement as far as our national defense is concerned with respect to these four different types of transactions?

As I cited at the outset, the commodities that we import from Russia are necessary commodities, many of which we cannot find sufficiently elsewhere.

Mr. Chairman, at this point I yield to the gentleman from Ohio (Mr. WHALEN) such time as he may consume.

Mr. WHALEN. Mr. Chairman, that hardy perennial of politics—the tariff—is again before us for debate. The first major legislation of the First Congress of the United States, over 185 years ago, was an act imposing tariffs on imports of numerous manufactured goods. We have been debating the issue ever since. First, we headed toward protectionism, then toward freer trade, then toward protectionism again, then back to freer trade.

A. POST WORLD WAR I

As you will recall, immediately following World War I Congress sought to assist domestic industry and agriculture by restricting imports. In 1921 it passed an Emergency Tariff Act which was soon followed by the Fordney-McCumber Act of 1922 which increased U.S. tariffs to their highest levels in history. For the avowed purpose of assisting agriculture, Congress raised most rates still higher when it enacted the Smoot-Hawley Tariff Act in 1930.

By 1931–32 the greatest economic depression in history engulfed the world. So widespread was it that it has become known as the Great Depression. In comparison, more recent economic recessions have been little more than mild headaches.

B. TRADE POLICY, 1934–67

By 1931 imports and exports had dwindled to a mere trickle. In 1934 among the many statutes enacted to combat the depression, Congress executed an about-face in trade policy and headed the country in the direction of free trade. Under the inspiration of then-Secretary of State Cordell Hull, it enacted the Trade Agreements Act authorizing the President to make Executive agreements with other countries for the purpose of reducing tariff rates by not more than 50 percent. For its part, the United States continued to treat all countries alike by extending its tariff concessions to all nations on an "equal treatment" basis. The only exception at the time was Cuba with which we had a preferential agreement. Nondiscrimination in international trade has been this country's stated ideal since the birth of the Republic.

Between 1934 and 1947 the United States moved consistently in the direction of lower tariffs. The greatest reductions of all were made in the General Agreement on Tariffs and Trade—GATT—on a multilateral basis in 1947.

After 1947 Congress became increasingly concerned over competition from imports. The pressure became so great that by the early 1950's numerous legislative provisions were enacted to assure domestic producers that they would not be injured by tariff-cutting. Tariff-cutting authority has always been granted to the President on a temporary basis and over the years the struggle between the administration to reduce trade barriers and the Congress to resist injury to any domestic producer has become increasingly intense.

By 1958, trade legislation had become protectionist-oriented. Thus, advocates of open multilateral trade contended that the President's tariff-reducing powers had become so hemmed in by safeguards against injury to domestic producers that the 1958 act was, in fact, protectionist legislation rather than a vehicle for expanding trade.

By 1962, it became clear that if the United States were to negotiate effectively with the European Economic Community, the President would need much greater authority than had been delegated to him by previous legislation. It also was evident that he would need the power to negotiate tariff cuts on an across-the-board basis, rather than on the basis of one commodity at a time.

Therefore, in 1962 Congress passed the Trade Expansion Act giving the President broad powers to reduce tariffs. After arduous negotiations, the Kennedy Round agreement was signed in Geneva on June 30, 1967, the very day on which the tariff-cutting authority authorized by the Trade Expansion Act of 1962 expired.

C. 1967 TO PRESENT

Although the tariff reductions agreed to in 1967 were highly publicized as the deepest reductions ever made in U.S. tariffs, the cuts were really very modest. In terms of percentage points, rather than in terms of percentage reductions from a 1962 base, the average tariff level was reduced from 12 percent ad valorem to a little less than 8 percent.

Since 1967 the President has been without authority to engage in broad international negotiations for the mutual reduction of trade barriers. Once Congress restores this power, the President's trade representatives will find negotiations increasingly difficult because of the proliferation of nontariff trade barriers, including import quotas, export limitations, "Buy National" laws, and various forms of tax discrimination. Further, most tariffs are now either very low or applicable to products that are made by producers who have enough political clout to intimidate the Government.

As far as the low tariffs are concerned, the next logical step is to eliminate them through negotiations. Notwithstanding the fact that the United States has been negotiating with other countries for the mutual reduction of trade barriers since 1934, there are still a number of products that are subject to tariffs that are highly restrictive of imports. The fact that a number of items are still subject to relatively high tariffs—many of them in excess of 25 percent and a number of them in excess of 50 percent—serves to identify the strong interests that exert restrictionist pressures. Even after 33 years of negotiations for tariff reduction, the tariffs on these items have been touched only slightly, or not at all. In this age of vigorous dissent by the average citizen, we have no time to lose in switching foreign trade policy from the dead-end siding of group pressures to the main track of the public interest. The common denominator of today's revolution is rebellion against the status quo with respect to such human rights as access to clean air and pure water, equal political and economic opportunities for the underprivileged, regardless of race and color, adequate public education, decent housing, and governmental protection of consumers against price-gouging and inferior quality. If the common man understood that tariffs, import quotas and other shackles on trade prevent him from enjoying to the maximum the fruits of his labor, he would certainly add a demand for free trade to the list.

For example, consumers are denied imported tomatoes in midwinter while luscious tomatoes are allowed to rot along the roads of Mexico. This occurs because the U.S. Government chooses to keep prices high through imposition of tariffs so as to enhance the profits of growers of the hothouse variety in the United States. People should understand that they cannot enjoy, at moderate prices, a wide variety and abundance of cheeses from Italy, France, and other countries because their government chooses to tax them for the benefit of producers of high-priced Wisconsin substitutes. They should realize that prices paid for a long list of consumer goods, including textiles, shoes and petroleum, are higher as a result of governmental restriction of imports. If they did, American citizens would be as aggressive against interferences with foreign trade as they are against foul air and polluted water.

Trade barriers diminish the welfare of all the people for the benefit of small groups of producers. Trade barriers are an anachronism in this age of the common man.

MY BASIC TRADE PHILOSOPHY

Undoubtedly, my opening comments, and my background as a former professor of economics, confirm that I am an ardent believer in free trade. However, I am fully aware of the immediate human hardships that would be faced by a number of persons if we were to move in that direction rapidly. How to soften these hardships is a challenge to statesmanship and legislative wisdom. The challenge is to spread the costs of the adjustments that would be necessary over the population as a whole.

It is still true, that from a purely economic point of view, free trade would be in the interest of the people of the United States as a whole. Indeed, it would be in the interest of the entire world if only it could be implemented politically. The principle is not complicated. It merely states the truism that people generally, as well as entire nations, are better off if they apply their productive energies to lines of activity in which their aptitudes and efficiencies are greatest.

Many attempts have been made to denounce this truism, but when one examines them closely he finds that they are political, rather than economic, in nature. The observation that governments subsidize exports, and that cartels and multinational corporations interfere with free trade does not negate the principle. Instead, the interferences which appear to repeal the principle need to be dealt with, as such, by governmental policies that point toward ever-freer trade. Stated simply, the United States should move toward free trade because the closer the world comes to this concept, the greater will be the economic welfare of all people. The fact that the United States is the largest economic power in the world gives it both responsibility and power to convince other countries that they should join with it in attempts to tear down the barriers which impede international movements of goods and capital.

TRADE REFORM ACT OF 1973

As you will recall, the President submitted the Trade Reform Act of 1973 to Congress on April 10 of this year. His action anticipated the preliminary trade talks which were scheduled to take place in September in Tokyo to be followed by extensive negotiations in Geneva in 1974. About a month later, the House Ways and Means Committee commenced its review of the legislation which the President had described as "the most significant reform of our approach to world trade in more than a decade." After a 5-month study, the committee reported the act for consideration by the House.

In my opinion, the Trade Reform bill leaves a great deal to be desired. The analysis I now will present will reflect, of course, the foregoing trade views which I have postulated. It also will concentrate on the economic aspects of the measure. That is, I will examine only the first three sections of the bill—title I dealing with negotiating and other authority; title II providing relief from injury caused by import competition; and title III providing relief from unfair trade practices. I will not comment on the purely political provisions which relate to nondiscriminatory treatment of the trade of Communist states—title IV—and the preferential treatment of imports from less-developed countries—title V.

As the act emerged from the committee, it is neither fish nor fowl. In fact, it is difficult to tell from reading the bill itself what its real policy objective is. It concentrates on the mechanics of negotiation and, in so doing, gives broad powers to the President. It also imposes penalties on other countries for unfair treatment of U.S. exports, without defining "unfair."

The bill contains no clear statement as to what the long-run goal, or objective, of the United States is with respect to foreign trade. All that it says is that its purpose is to extend the authority of the President to enter into trade agreements for a period of 5 years. In such agreements, he may continue, or modify, existing tariffs or proclaim additional duties. The emphasis is upon the authority to make agreements without stating their purpose. The phrase "fair and equitable" appears throughout the bill without definition.

H.R. 10710 apparently is an attempt to deflect protectionist pressures that are clamoring for enactment of the Burke-Hartke bill, which is as potentially dangerous as was the Smoot-Hawley Tariff Act of 1930. The Burke-Hartke provisions, if implemented, could precipitate an economic crisis culminating in worldwide depression.

Thus, the trade reform bill might be compared with a horse having two heads, located at opposite ends—or to an automobile with two engines—one headed in one direction and the other headed in the opposite direction. Whether the horse, or the automobile, is headed north or south depends upon whether one views the phenomenon from the north or from the south.

To dyed-in-the-wool free traders, who are grasping at straws everywhere, there is a tendency to emphasize the liberal aspects of the bill without paying much attention to its protectionist features. Conversely, protectionists can find in the measure enough safeguards against trade barrier reductions to induce them to support it.

A. H.R. 10710 AS PROTECTIONIST LEGISLATION

In the absence of an official and positive declaration of objective in H.R. 10710, one can only infer what that objective is by noting where stress is laid in the bill itself. It is a complex piece of legislation and in many places is couched in language that is unclear and evasive.

Although it faces in opposite directions simultaneously, toward trade liberalization and trade restrictionism, on balance it is heavily weighted toward the latter.

When read carefully, it is clear that "expanding international trade" refers primarily to expansion of U.S. exports for the purpose of retrieving a favorable U.S. trade balance. Increases in U.S. imports are suspect.

Compare, for example, the authority that the bill would confer upon the President to reduce tariffs with the authority that it would confer upon him to increase them. On the trade-liberalizing side he would be authorized, in trade agreements over a 5-year period, to: First, eliminate tariffs of 5 percent or less existing on July 1, 1973; second, reduce tariffs of 5 to 25 percent ad valorem by 60 percent; and third, reduce tariffs higher than 25 percent ad valorem by 75 per cent, providing that no such rate may be reduced to less than 10 percent.

On the tariff-boosting side, however,

the President would be authorized, pursuant to trade agreements,to add 50 percent ad valorem to rates existing on July 1, 1934—that is, under the Smoot-Hawley Act—or to a rate which is 20 percentage points ad valorem above the rate existing on July 1, 1973.

Note that these are not percentage increases, but rather increases in the ad valorem rates themselves. For example, a rate of 25 percent ad valorem could be increased to 75 percent ad valorem, and a rate of 100 percent in the Smoot-Hawley Act—not unusual by any means—could be increased to 150 percent. Furthermore, the President would be authorized to impose a tariff of 50 percent ad valorem on items which were duty-free at the time of his proclamation.

This provision of the bill would give the President power to transfer items from the free list to the dutiable list, a power that has always been the sole prerogative of Congress. This is greater power than has ever been granted by the Congress to any President with respect to tariffs.

Not only are the protectionist weapons given to the President to restrict imports very powerful, but the criteria set forth in the bill for ascertaining injury are much more lenient than in previous legislation. Whereas heretofore it was necessary that the Tariff Commission find that imports resulting from a concession in a trade agreement constituted the major cause of injury, under this bill the word "substantial" is substituted for major. This means that it is necessary for the Commission to find only that imports constitute an important cause of injury and "be no less important than any other single cause." Also, it would no longer be necessary that the injury be caused by imports resulting from a trade agreement concession. Increased imports regardless of their cause would justify action.

The factors that are to be taken into account by the President in penalizing imports after a finding of injury include "ability of an industry to adjust to import competition along with the impact of relief, or lack of relief, on communities, workers, consumers, exporters, and other domestic industries." In context, it is clear that no real, fundamental adjustment is contemplated as far as the economy as a whole is concerned. The adjustment that is stressed in the bill is the adjustment that a given industry needs in order to remain in business.

The weapons that the President can use to eliminate injurious import competition are presented in preferred order, as follows:

First. Increase in, or imposition of, a tariff.

Second. Imposition of a tariff-rate quota.

Third. Imposition of quantitative restrictions.

Fourth. Negotiation of orderly marketing agreements.

Although tariffs are preferred, any or all of the four devices may be used in combination.

H.R. 10710 also would give the President authority to provide relief from unfair trade practices by countries that maintain unjustifiable or unreasonable restraints on the trade of the United States, either by subsidizing their own exports, or by other means, which have the effect of substantially reducing U.S. exports or reducing the sales of U.S. products in the domestic market. The terms "unjustifiable" and "unreasonable" are not defined. The only restraint on the President is that there must be a finding by the Secretary of the Treasury that subsidies are being paid or other devices being used which are either "unjustifiable" or "unreasonable." It is not necessary that the Tariff Commission make any finding of injury, but merely that the imports in question are "reducing the sales of U.S. products in the U.S. market." It is required, however, that the President find that neither the Anti-Dumping Act nor the countervailing provisions of the law provides adequate remedies. Before taking action he is required to provide an opportunity for the presentation of views by the public, and he may request the Tariff Commission for its views as to the probable economic impact of the proposed action. He is not required to do so, however.

Whenever the President takes action under this section of the act, he must notify the Congress. Within a 90-day period either House of Congress may override his action by a majority vote of those present and voting. Otherwise, the President's action is final.

B. TOO MUCH PRESIDENTIAL POWER

The Ways and Means Committee report on the trade reform bill said that it is a "reform bill in every sense of the word." It certainly is, in the sense that it confers unprecedented power upon the President to increase tariffs almost without limit. It does it through ambiguities designed to give the impression that it is an instrument to liberalize trade and to bring about practical cooperation with other countries.

While proclaiming the virtues of freer trade, most of President Nixon's actions during his 5 years in office have been protectionist. Finding himself on the horns of a dilemma—the one to press for freer trade and the other to restrict import competition so as to satisfy powerful political interests—the President has tended to accept both horns by preaching free trade while practicing protectionism. In all probability this formula will continue.

The danger is, since H.R. 10710 does not clearly state the objective of U.S. trade policy, that the "more open and more equitable" trading world that is sought is one in which intimidation will be used to force other countries to buy more U.S. goods. This was demonstrated all too clearly some months ago when then-Secretary of the Treasury John B. Connally used threats in an endeavor to force other countries to buy more U.S. exports.

In all the years since the first Trade Agreements Act was passed in 1934, it was never seriously proposed that the President be given power to determine tariffs and trade policy. Back in the early 1940's, when Congress was considering expanding the President's powers to modify trade barriers, it was stated emphatically that such authority would be "too much power for a bad man to have, and more power than a good man would want." This commonsense philosophy should have been applied to the proposed Trade Reform Act of 1973.

C. ADJUSTMENT ASSISTANCE

Let us turn now to those provisions in title II of the bill which authorize so-called adjustment assistance.

It is unfortunate that we have to use everyday language to convey thoughts. I say this because, in the political arena particularly, words are purposely used ambiguously so as to cause confusion. We may agree upon words, but it does not follow that we are agreeing on their substance. The same word can mean many different things to many different people.

To be really meaningful the term "adjustment assistance" should be used in a broad national sense. This means that if imports displace workers or firms, the Government should assist those workers and firms in adjusting to endeavors that can stand up in the face of foreign competition. "Adjustment assistance" should not be used narrowly to mean that the Government should enable workers and firms to remain in their present lines of activity regardless of cost. If the latter is meant, "adjustment assistance" is no better than erecting trade barriers.

The purpose of "adjustment assistance" should be to enable firms and workers to transfer from producing commodities which cannot compete with lower cost imports to those that can. This does not mean, of course, that a given firm or group of workers should not try to reduce costs by improving efficiency. The most logical adjustment is that which eliminates excessively high-cost units of production, thereby enabling the remaining firms to operate at lower cost and to sell at lower prices.

The Foreign Economic Policy Subcommittee of the House Foreign Affairs Committee, in a report issued last August, concluded that:

> In order to strengthen and solidify our domestic economy and our foreign economic policy, adjustment assistance should have the primary claim on policy attention as a far less disruptive alternative to import restrictions.

In October 1972 I cosponsored a bill which encompassed most of the recommendations of this subcommittee of which I am a member. On February 28, 1973, I resubmitted the Trade Adjustment Assistance Organization Act in the hope that it would comply with the subcommittee's consensus that what is needed are practical and timely adjustment mechanisms to respond to trade-induced unemployment in noncompetitive industries on a national basis. The type of adjustment envisioned in this act means either that present operations are made more efficient or that firms and workers transfer to different lines of activity.

Unfortunately, the term "adjustment" seems to be used narrowly in H.R. 10710. This conclusion is borne out by such phrases in the accompanying report as:

> It is necessary to prevent domestic producers from disruptive market penetration

> and unfair trade practices if our domestic producing interests are to have confidence in their ability to survive competitively in the United States.

And, in discussing the need for safeguards, the report states that:

> Measures are needed to assure that producing entities in the U.S. are able to compete on the basis of equity and mutually applicable standards of fair trade.

Thus, the tone of the Trade Reform Act of 1973 clearly implies that "adjustment assistance" means that industries, firms, and workers shall be untouched by import competition. There is no indication in this measure that there should be adjustment in any fundamental sense.

NEEDED IMPROVEMENTS IN TRADE REFORM ACT OF 1973

My major criticism of the proposed Trade Reform Act is that it does not clearly state the objective of the United States with respect to international trade. If it were in my power to do so, I would amend the bill by adding a trade policy title. This section would contain a ringing declaration that the objective of the United States is to convince other countries that they should join us in removing all barriers to international trade, including tariffs, import quotas, and other trade restrictive devices.

The language in this title then would direct the President to enter into trade agreements with other countries, individually or by groups or with all countries together, multilaterally, in a major effort to move toward free trade. It would state further that it is the hope of the United States that the responses to such initiative will result in substantial worldwide free trade by the year 2000.

Even though the ensuing sections authorize the President to increase U.S. trade barriers as a defense against countries that do not treat our commerce fairly, a trade policy provisions clearly would have subordinated this authority to the bill's major purpose which is to obtain agreement among as many countries as possible that they will dismantle their trade barriers. Notwithstanding the fact that the President's power to increase trade barriers would be greater than his power to reduce them, I would have preferred to have it clearly stated that the thrust of the act is to tear down trade barriers, while the power to retaliate is to be used sparingly and only when absolutely necessary.

CONCLUSION

Unfortunately, the procedures of the House under which the trade bill is being considered do not permit the offering of such an amendment. Rather, the measure is being debated under a "modified closed rule." This means that the bill, with the exception of titles IV and V, has to be accepted or rejected in toto with no other amendments from the floor permitted. Politically, this is a device to prevent the introduction of protectionist amendments.

The realism which we face, therefore, is that the bill has to be considered in light of the current political situation. Waiting in the wings, so to speak, is the Burke-Hartke bill, the protectionist alternative to the Trade Reform Act. That measure, if adopted, would establish a comprehensive system of import quotas which would constitute a determined retrogression toward protectionism.

If the trade reform bill does not pass today, it is almost certain that Burke-Hartke, or something akin to it, would then be approved by the House of Representatives. In this event, the die would be cast; the United States would move backward toward rigid protectionism and economic depression.

And if both the Trade Reform Act in its present unhappy form and the Burke-Hartke bill were rejected, the President of the United States would remain powerless to negotiate trade agreements with other countries in any comprehensive manner.

So then, how should a liberal-minded Member of Congress vote today? Should he vote against the Trade Reform Act, thereby increasing the likelihood that Burke-Hartke would follow? Or, should he vote for the Trade Reform Act, while praying that the President of the United States will show enlightenment in its administration by deciding to do all in his power to facilitate free trade, rather than move backward toward restrictions?

I, for one, will do the latter—vote for the Trade Reform bill and then pray.

Mr. SCHNEEBELI. Mr. Chairman, at this point I yield 10 minutes to the "Sledge Hammer," the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I am somewhat amused at the sledge hammer reference to a sweet and reasonable fellow like me. I want to reason with the Members sweetly at this point because I feel that we do have to address some of the issues that have been brought up in the course of this debate, as full of sound and fury as it has been.

This is the Trade Reform Act of 1973. It is just what its name implies, relating to the reform of our trading arrangements

Whenever we reform anything, be it tax reform or welfare reform, we come face to face with a number of myths. The trade area is no exception as far as myths are concerned. Many of them have been referred to here on the floor. I would like to analyze some of these myths and try to deal with them factually.

The first myth I want to deal with is that we should fear trade negotiations. There has been a great deal of concern about America's position in world trade as an unfair position, and reference has been made to the extent to which our goods are discriminated against. Frankly, we should fear continuing the status quo. If we want to change things, if we are not satisfied with the way things are, we should want to give to our negotiators the opportunity to work to create a more rational order of world trade. We will be exporting jobs by default unless we negotiate and bring about new trading relationships.

Whether we like it or not, the multinational corporation is a fact in the world today and 60 percent of the multinationals are American. Unless we have the right to trade from this country without fear of discrimination against goods originating here it is inevitable that there will be increasing trade through foreign subsidiaries of American companies firmly ensconced on the European Continent and in the developing world and quite able to take advantage of obstacles to trade which may work against goods originating on the American Continent.

So one of the myths is that by negotiating we are going to export American jobs. In fact we are trying to avoid that happening through trade reform, for which the bill provides.

The second myth I would like to mention is not necessarily consistent with the first: That we no longer need negotiations with the change in the balance of trade. It has been pointed out that our balance of trade has changed this year at least partly as a result of the devaluation of our dollar and partly also as a result of the combination of controls in this country and higher prices abroad. It is easier for our people to make more money selling abroad than they can here under these current crazy economic controls. In fact one swallow does not make a spring and the fact that during the end of this year we have had a turnaround in our balance of trade does not mean that there is not a substantial advantage to us in trying to make a more rational pattern of trade for the long term, reducing obstacles to trade and the discrimination that affects the trade of our country as we drift toward economic nationalism without these negotiations.

The third myth I want to talk about is that we should not concern ourselves with trade at all since it constitutes only about 5 percent of our gross national product. There are many people who say we could live on our fat with our $1.3 trillion economy. We do not have to worry about trade, the argument goes. It is a very modest part of our total prosperity.

We do have a very high economic base in this country. We have a dynamic system; but my friends, I want to tell you that the future is going to see the development of foreign markets at a greater rate than the American market, simply because we already have such an advanced base. We are all aware of the fact that the developing countries are developing fast and becoming more prosperous. There are great opportunities in this country for a vigorous American competition. We should not cut ourselves out of that by a negative attitude on trade.

The fourth myth I want to deal with is that imports have a greater impact on jobs than exports. Imports do have an impact on jobs. That is the reason we have the adjustment assistance program. It is extremely liberal in this bill; so that those affected by imports will not have to carry the full burden of the benefits of a liberal trade.

But exports also have a major impact on jobs. Certainly they do in my home city of Rochester, N.Y. Certainly they do in large parts of this country.

Those who say that unemployment is the inevitable result of trade outreach are ignoring the fact that in 1953 we had 61.1 million jobs; in 1972, 81.7 million jobs. Something good has been happening during this period of time, or this economy would not have been able to generate such a tremendous increase in the job market.

The fifth myth, that we are so blameless in trade ourselves, that we have nothing to negotiate about, that we would have to give away concessions that would cut into the muscle of the American trade in order to get concessions from our more discriminatory foreign trade partners. I happen to be one of those who thinks we are more sinned against than sinning in trade; but let me say that we are by no means blameless. We have a number of nontariff barriers of our own—in marketing agreements, quotas, sanitation requirements, buy-American provisions, and things of this sort on both State and National level. Generally our tariffs are slightly higher than those on the European Continent, following the Kennedy round. There are many areas in which mutual concessions are possible and should be sought.

A sixth myth about this bill in particular is that we are giving the President a blank check. In fact, the central issue the Committee on Ways and Means struggled with was the issue of balance and how much discretion we should give the President, realizing that the initiating force in this aspect of foreign policy lies with the Congress. We have set up an elaborate system of congressional review and veto to be sure that Congress has throughout the process a major input into negotiations about the interests that inevitably concern our constituents. Our role, provided by this bill, prevents a blank check to the President and insures extensive congressional reviews and consultation.

Another myth is that free trade is a liberal position. I say to my conservative friends who think the conservative thing is to be against trade outreach, they are opting for a paternalistic government. You are voting for government control if you want the Government to protect American industry from competition. Competition is the cutting edge of American initiative. We are quite capable of competing in the world, using American knowhow and the tremendous resources that our fathers have given us. If we sit back on our haunches and say, "Protect us, protect us," we certainly are not expressing great confidence in the effectiveness of our system.

I hope our conservative friends will understand that competition, whether it be foreign or domestic competition, is also one of the major things that is keeping prices down in this country. Our incomes policy has not been all that effective.

So, I say to the Members who are conservatives, please understand that they are not taking necessarily a conservative position if they opt for Government protection of industry and a larger Government role to minimize foreign trade instead of the competition that we all believe in.

The last myth I want to mention is the myth that Russia will do anything to get American trade. Frankly, we are one of the only countries in the world—perhaps China is an exception—that does not permit trade with Russia on a nondiscriminatory basis. The Russians, quite obviously, want to normalize their relations with the United States to a greater extent. Trade is a neutral vehicle of contact, and it is not going to be of significance unless it is to mutual advantage.

The Russians obviously are concerned about the repetitive pattern of confrontation that I think concerns every person in this Chamber, and so they are anxious to normalize trade relations.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. SCHNEEBELI. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. CONABLE. However, the Russians will be able to trade with American industries located as subsidiaries in Europe if they cannot trade with America directly. They will be able to trade with all the other Western allies who do not have discriminatory treatment of the Russians as part of their trade policy, and it seems to me inevitable then that somehow Russia will make out whether she has the opportunity to trade on a nondiscriminatory basis with American-sited industries or not. I question whether the Russians will go to the extent of changing their entire system to take advantage of trade.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I thank the gentleman for yielding. I take it the gentleman is a supporter of NATO and has been over the years?

I quote from the study that was prepared by the Center Force Strategic and International Studies. It says:

> The Russian assertion of support for détente in Europe is believed by those governments to be a means toward Moscow's ultimate aim of destroying the NATO alliance.

I also ask the gentleman a question in re the People's Republic of China. Does he say that most favored nation status should perhaps be given to the People's Republic of China, as well?

Mr. CONABLE. Mr. Chairman, I think there is no reason why we should not have the option of moving at least to increase our trade with China. I think it is going to be difficult and is not going to amount to as much as many people would hope, but——

Mr. WOLFF. We can look forward to that as a step toward progress giving assistance to our adversaries, I take it?

Mr. CONABLE. Well, I think the opportunity can be progress. Of course, it has to be carefully done.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, the gentleman is telling how nice it would be to have trade with the Russians, and to a degree I can agree with him, but would he tell us how helpful they have been lately with the Arabs? They want trade on the one hand, but stir up all the trouble they can on the other.

Mr. CONABLE. I do not maintain Russia is a great friend of the United States. However, I do want to have contact with the Russians on some other level than military and political. I would like to see the Russians have a vested interest in peace and cooperation instead of continuing to be isolated to whatever extent American policy can isolate it. I deplore the repetitive pattern of confrontation that we all know.

Mr. SCHNEEBELI. Mr. Chairman, I have no further requests for time at this moment.

Mr. ULLMAN. Mr. Chairman, I yield 7 minutes to the gentleman from California (Mr. CORMAN), a member of the committee.

Mr. CORMAN. Mr. Chairman, almost everything that can be said about this bill has been said; about the state of the world and the state of our problems at home.

It is apparent that the world is in a state of transition.

For more than a generation, we have shared with the rest of the world our bounty in aid, and we hoped for a long time that this aid could be converted to trade. I think we are on the threshold of that conversion.

The developing nations are creating for themselves an industrial capacity, thus developing both the capacity to consume and to become customers of other nations.

Other areas of transition are evident also. Perhaps the most important single one concerns the Common Market, with its very substantial growth in membership; its wealth, and its role in world trade. The Market now rivals us in size and in productivity.

Japan, of course, is a strong force, having become a significant competitor of the United States in world trade.

Mr. Chairman, the effect upon the U.S. of these two competitors will certainly not diminish. They will continue to negotiate with each other to rearrange their trade patterns and to compete for new customers wherever they can be found. We must be at that bargaining table, too, with some kind of reasonable authority to negotiate in our own interest.

Another area in transition is our own industry. How can we provide the great bounty of consumer goods we need? A century ago it took 80 percent of the laboring force in this country, just to produce our food and fiber.

Today it only takes 5 or 6 percent, maybe less. That does not mean that the other 70 or 75 percent of the people are unemployed. Through the years, other kinds of employment have become available.

Today, because of automation, there is a rapid disappearance of low-skilled jobs. We can do things better through technology than we can through the sweat of our brow. It will soon take only a handful of people to man our factories.

There is nothing wrong with that. It is good. There is no reason to condemn a substantial portion of the people in this country to drudgery labor. It does not mean that they need to be unemployed; it means that they can turn their talents and abilities to something more constructive than tightening a nut on a bolt.

If we did not trade with other nations,

if we closed our harbors tomorrow, we would still continue to automate our industries. Low-skilled jobs would disappear, and we would be faced with the problem of providing for their economic needs during the time it takes for retraining and reemployment.

It is not trade that is causing the loss of jobs; it is automation. In the long run, that is good.

There were some alternative proposals to the bill of the Committee on Ways and Means. The principal one was the Burke-Hartke bill, which among other provisions, would have set up a series of restrictive quotas. Quotas lend themselves to monopoly. They lend themselves to price fixing, and they lend themselves to high-handedness and chicanery on the part of the bureaucrats who administer them. Quotas, in my judgment, are the worst possible way for us to attempt to regulate trade in a free economy.

If we want to recall some of the problems we have had with quotas, we can remember what happened to the price of beef and the availability of petroleum, after fixing import quotas on those two items alone.

Mr. Chairman, I respect very much the gentleman from Pennsylvania. As much as any Member in the House, I share with him the concerns of the laboring people in this country. But I would say to the gentleman that honest men, with common objectives, can look at the same set of facts and reach different conclusions. I have reached one which is substantially different from his.

The gentleman expresses concern about the fact that he has not enough personal wealth to come to my district and tell my constituents how I voted on trade legislation. I assure him that I will tell the folks in my district how I voted on this bill and why.

Let us look for a moment at H.R. 10710 and why it should be passed today.

International trade negotiations are now going on. During the next 2 or 3 years, I suspect there will be an almost complete reordering of the way various major trading partners will handle their international trade.

If we pass this bill today, there will be much time consuming work before the bill becomes law. The Senate must act. It will undoubtedly go to conference, and then there is the very troublesome problem of a possible Presidential veto. These are difficulties to be faced next year. Certainly, we can begin to solve these difficulties by passing the bill today in the House.

Mr. Chairman, in considering the bill the Committee on Ways and Means was seriously challenged to find a way to give the President sufficient authority to negotiate and yet protect American business and American labor from what could be bureaucratic high-handedness or favoritism. Now, there is always the threat of that in the best of administrations. I am not standing before you today to tell you we have the best administration we have ever had.

Mr. Chairman, I would like to answer those who have expressed concern that this bill grants the President too much authority. Nothing could be further from the truth. This bill will give the Congress a greater voice in the development of trade policy than ever before.

In just one aspect of the bill's provisions, that of congressional disapproval procedures, the bill returns to Congress some of the power it has lost over the years.

Actions the President takes under the first four titles of the bill are subject to the disapproval procedures. Thus, whenever the President negotiates a nontariff barrier agreement under the bill, that agreement and its implementation would be subject to congressional veto. Under title II, when the President departs from the congressional guidelines in imposing import quotas, his action is subject to disapproval by the Congress. Whenever the President retaliates against unfair or discriminatory practices abroad by restricting imports, that action also can be vetoed. Finally, the President's action to extend nondiscriminatory treatment to Communist countries or to continue such treatment can also be vetoed by the Congress. Thus, quite aside from the consultative procedures required by the bill, the congressional disapproval procedures will assure Congress its rightful role in international trade policy.

The mechanism of congressional veto is relatively new; I doubt it will be used very often; yet I think it will be an effective check on this administration.

The bill is a good balance. It will lead to expansion of both exports and imports, and that is good.

Mr. Chairman, I urge support of H.R. 10710.

Mr. SCHNEEBELI. Mr. Chairman, this is positive and progressive legislation, and it is necessary for the progress of this country. I recommend to my colleagues that we vote positively on this bill.

I yield back the balance of my time.

Mr. ULLMAN. Mr. Chairman, I yield myself such time as I may use.

Mr. Chairman, this bill has been carefully worked out by the committee; it is a responsible bill. All of the controversies that have been before the Congress and the Nation appeared in the committee, and we fought the battle and came out with solutions that are sound and responsible. This bill protects U.S. industry. There has been mention of the steel industry, and there are special provisions that will take care of steel imports in those cases where foreign government ownership of steel plants cause problems for our industry plants. Under the Waggonner amendment it gives the President direct authority to take action to protect the industries adversely affected by subsidized exports to the United States.

With respect to the countervailing duties, we were under a great deal of pressure to assure domestic producers the right of judicial review. That is provided in their bill here. On the antidumping provisions there will continue to be the right to judicial review also.

This bill starts a new procedure of congressional surveillance which I think is tremendously important.

There are four different veto procedures that will allow Congress to work its will. If we fail to pass this bill I think we are on the road to disaster. Protectionism and isolationism in the world in which we are living is the road to disaster. This is not an easy vote; it is a tough vote but it is a right vote. It is a right vote for the Members and it is a right vote for this country in this crucial stage of history. This is the road to economic growth; this is the road to jobs and this is the road to peace.

Thank you, Mr. Chairman.

Mr. BIESTER. Mr. Chairman, I rise in support of title V of the trade reform bill.

Title V provides authority for the President to grant generalized tariff preferences to developing countries on the imports of semimanufactures, manufactures, and other select *products*. While the President is given rather broad discretion in determining the eligibility of those nations qualified to receive duty-free treatment, factors which he is required to weigh include the country's level of economic development, its MFN standing and its preferential trade status with other nations. Articles eligible for preference are so determined only after the Tariff Commission has submitted its advice and other agencies and individuals have had the opportunity to make known their views. Certain items including watches, textiles, shoes, and specified steel products are not eligible for preferential treatment. Furthermore, an article exported from an individual developing nation will lose its tariff preference if more than $25 million worth of that article is imported annually by the United States from that source or if imports of that commodity from an individual developing nation constitutes 50 percent or more of U.S. imports of that article. Thus, American industry and its workers are protected from imports and import levels which could cripple domestic industries.

U.S. policy and congressional sentiment acknowledges that the developing nations must display initiative and determination to solve their own economic and social problems if they expect to receive U.S. aid and assistance. This attitude is reflected in the Mutual Development and Cooperation Act now approved by Congress. While development assistance will continue to play a critical role in and have a considerable impact on the developing nations, trade offers a promising vehicle through which these nations can most meaningfully and realistically acquire a greater degree of self-assurance and economic independence.

Much of the developing nations' exports to this country is admitted duty-free under MFN status and thus falls outside the scope of any generalized preferential tariff system. Furthermore, preferences do not cover all dutiable items since some have been excluded to protect domestic markets. Therefore, while the amount of trade subject to the generalized system of preferences is not extensive, that which is should be liberalized in order to provide developing nations with the additional markets critical for realizing their development goals.

These nations represent a substantial and growing market for American goods. At present, developing countries purchase approximately 30 percent of our exports valued at about $15 billion. These exports have doubled within the past 10 years and have contributed trade surpluses to our balance-of-payments picture. About one-half of all developing nations' trade in manufactured goods is conducted with the United States. If we expect to maintain or improve on this—and I feel strongly that we must—we will have to make the kinds of concessions and mutually beneficial agreements that will enable us to be competitive with the European nations and Japan.

Export sales provide foreign currency to developing nations—80 percent of their total—which increases their buying power on the world market. Their demand for manufactured products from the industrialized nations means more jobs for workers and a brighter economic picture for those nations which can and are willing to provide those goods and which have demonstrated a cooperative attitude in mutual trading relationships. The fact that certain European nations have special preferential trading agreements with many of the developing nations will not be much of an incentive to the developing nations to "buy American".

As a member of the Foreign Affairs Committee, I have had the opportunity to confer, both here and abroad, with many representatives of developing nations. Their attitude, shared virtually unanimously, reflects an earnest desire for expanded trade opportunities with this country. If we turn our backs on the possibility of increased trade at the same time all other industrialized nations have adopted GSP—and they all have—then we cannot criticize or fault the developing nations for the trading policies they consequently adopt.

Recent worldwide grain shortages and the petroleum cutoffs have graphically and dramatically served to illustrate the growing economic interdependence of the world community. We, along with practically every other nation, have come increasingly to rely upon an ever decreasing supply of scarce resources, agricultural and mineral alike. The developing nations possess stores of critical resources, our access to which will depend upon the relationships we foster with them. Nigeria, for instance, is a leading world supplier of petroleum. As a dynamic and influential African nation, Nigeria is stepping up its demand for the kinds of manufactured and agricultural goods the United States can supply. There is little doubt in my mind that if Nigeria can obtain better terms elsewhere on that which it imports, its exports—including petroleum—can just as easily go elsewhere as well. Such action, if it occurred, should not be unexpected or looked upon as politically motivated or retributive; it simply makes good business sense and we would do the same under the circumstances.

Today, we have the opportunity to approve a provision which opens the door to greater trade opportunities for U.S. business and industry, a system of generalized trade preferences which will be an entree into maturing markets, a good-faith application of an attitude which can assure our access to essential and scarce raw materials. If we deny to the developing nations GSP—which every other industrialized nation has extended them, which is mutually beneficial to them and to us, which is a logical expression and extension of the friendship and concern we have historically demonstrated—they will consider a denial of GSP an incomprehensible affront to their determined efforts to achieve and succeed.

Mr. Chairman, I strongly urge the House to support retention of title V.

Mr. CULVER. Mr. Chairman, I commend the Committee on Ways and Means for its long and arduous deliberations on the trade bill.

The committee's bill represents a needed departure in U.S. trade policy. For the first time under the bill's provisions our negotiators would have authority to deal forthrightly and directly with unfair and unjustifiable trade policies of other countries. The committee's bill provides ample negotiating authority in the area of tariff and non-tariff barriers and also, for the first time, provides a credible system of safeguards to protect U.S. workers and domestic industries from injurious import competition.

The committee has wisely restricted Executive discretion as well as provided detailed procedures that should assure adequate and responsible Congressional participation in, and oversight of, the national trade agreements program. Similar procedural safeguards have been provided to assure that consumers and importers, as well as domestic producers and workers, have the opportunity to make their views known on particular trade policy issues before the administration acts. This act is balanced and realistic and addresses itself to the principal issues which confront the United States in the international economic scene.

I am particularly gratified that the committee rejected the administration's original proposal to substitute a somewhat improved unemployment insurance program for a special program of adjustment assistance for workers and firms injured by increased import competition. I wish the committee had gone further than it did in this area.

The Subcommittee on Foreign Economic Policy, which I chair, last year made an exhaustive study of adjustment assistance in the hopes that our findings would be of value to the Committee on Ways and Means and to the House membership when it focused its attention on trade policy. To a large extent, the conclusions reflected in the adjustment assistance provisions of H.R. 10710 and those reached by the subcommittee in its report are in substantial agreement. Adjustment assistance is to be preferred as the least costly policy alternative for dealing with injury resulting from import competition. This important point is often ignored or disputed because the costs of adjustment assistance are visible as a budgetary expenditure, while the vastly greater costs of import restrictions are hidden in the higher costs consumers and producers must pay for goods subject to tariffs and quotas.

Mr. Chairman, the committee bill totally overhauls and streamlines the current adjustment assistance program's petitioning and certification procedures and centralizes responsibility for these functions in the Secretary of Labor and Commerce respectively for worker and firms. Further, the qualifying criteria for groups of workers, individuals, and firms have been eased to guarantee reasonable access to the program and to facilitate rapid-delivery of program benefits. These reforms are critical to the future success of the program; without them there would be little reason to provide adjustment benefits, since they would not be deliverable in time to be of assistance to workers.

The package of benefits has also been improved. Cash trade readjustment allowances have been increased. The maximum allowance payable has been increased substantially from 65 percent of the average weekly wage in manufacturing to 100 percent of that figure. If the new ceiling were in effect today, an unemployed trade-displaced worker could receive up to $155 a week compared to the $101 weekly maximum the present program provides. Allowance increases for workers making less than the average weekly wage are less generous—70 percent of the average wage for the worker's first 26 weeks of unemployment and 65 percent for subsequent weeks as compared to 65 percent for all weeks in the current program.

Unfortunately, the bill improves only marginally the manpower and employment services provisions of the Trade Expansion Act. These have not been effective. Adequate funding for these services was not provided and frequently a worker's eligibility for program allowances terminated before placement in suitable training was possible. Training is a valuable adjustment aid that has proven its effectiveness in enhancing both the employability and productivity of workers. I hope the funding authorization for the manpower bill we recently passed will prove to have adequate provision for trade impacted workers or that the Secretary of Labor undertakes to provide funds specifically for services to such workers.

The relocation provisions of the bill are an improvement over the present program. Access to relocation benefits is not restricted and workers may receive job search allowances as well as relocation allowances and expenses.

As I stated earlier, the program of adjustment assistance in this bill does not go far enough, but it represents a measurable improvement over the existing program, and I can support it.

This country lacks a national manpower and industrial policy. The social and human costs of rapid technological change, changing trade patterns, changing energy requirements and resources, and other inherent dynamics of our economy make it imperative that we deal systematically with our manpower and industrial problems. This point was made by the President's Commission on International Trade and Investment Policy and by the Subcommittee on Foreign Economic Policy. The concerns being voiced by labor and management in adversely affected sectors of our economy are real concerns which must be confronted if we are to maintain our preeminence as a responsible world power.

In the report of the Subcommittee on Foreign Economic Policy we stated that:

> With the imminence of new multilateral trade negotiations, it is all the more timely to provide a workable trade adjustment assistance program, which can also serve as a demonstration model for a national manpower and industrial program. Moreover, a strong trade adjustment assistance program will strengthen our position in international economic negotiations as well as fulfill our responsibilities to our domestic economy.

I support H.R. 10710. It is far-reaching legislation that should be enacted in the national interest. I support the revamping of the adjustment assistance policy in the bill, and have confidence that it serves as a workable point of departure from which further improvements can be made as it proves itself to be a viable alternative to unwise and costly import restricting measures.

Mr. FASCELL. Mr. Chairman, if we are to have a multilateral trade negotiation with any hope of accomplishing the ambitious objectives we have set out for this one—the so-called Tokyo round—the developing countries of the world must participate in it.

What is it we are trying to achieve for the United States in these talks?

Are we trying to open up new markets for U.S. exports, which still today represent a marginal 4 percent of our gross national product?

Are we trying to break down unfair and illegal barriers to U.S. exports—such practices as preferential tariff arrangements—which favor the exports of our developed country competitors in third world markets?

Are we trying to win fairer access to the markets of other industrialized countries?

Are we trying to create new demand for our exports in the developing countries by helping them help themselves to industrialize and diversify, so that they can better earn the foreign exchange to pay for imports from the United States?

Are we trying to assure dependable sources of supply for our increasing need for strategic raw materials?

Are we serious about trying to improve our credibility abroad and redeem commitments made over the last three administrations?

I believe we are trying to achieve all these objectives and if we are serious about accomplishing them, then we will need the fullest support of the developing countries in the forthcoming trade talks.

For many reasons the developing countries will be playing a significantly greater role in the multilateral trade negotiations than ever before. The so-called group of 77 developing countries which helped to create the United Nations Conference on Trade and Development (UNCTAD) is now actually 96 in number. In the 83-member General Agreement on Tariffs and Trade (GATT), almost two-thirds—53—are developing countries. If one adds the 16 countries, all developing, which have provisionally acceded to GATT or are considering it, the ratio is closer to 5 to 1—83 percent. These countries have obviously become an important force, not only as individual nations, but also as a combined group.

For years we have heard charges that the "have" countries of the world are doing too little to try to facilitate a greater role for the "have nots" in the politics of the world economy.

Now we need the voices of the developing countries in the councils of international monetary and economic affairs. We need them because their own increasing importance and numbers make it impossible to have effective reform of world systems without them; we need them because in international forums such as GATT which are structured on a one-country/one-vote basis their votes carry a lot of weight. We also are witnessing a dramatic demonstration of our own increasing dependence on developing countries for certain raw materials of which they are important suppliers.

If we are to achieve the more open and less discriminatory world trading order we seek, we must count on the support of at least some of the developing countries in order to achieve a better balance in a truly international reform of the rules of trade. The forthcoming talks are not, and must not be seen as, simply a confrontation between the United States and the European Community and Japan.

We have similar or common trading problems with many of the developing nations. For example, even though we are the largest industrial Nation in the world we still share a strong identity with many developing countries as an exporter of certain types of agricultural products. We share with the many developing countries the damage to our trade that is caused by artificial nontariff barriers and preferential trading arrangements. Trade preferences now extended by Europe to the Mediterranean and African developing countries favor these countries over others—in fact, they discriminate against others in a way which prevents diversification of economic relations for those who are not members.

We have, in fact, already begun to see the importance of this commonality of interest with the developing nations in the preliminary negotiations of the current round of talks. In Geneva, the developing countries have already stood with the United States on key procedural questions under consideration

Further, we need the developing countries both as a market and as a source of supply. As the Secretary of the Treasury testified recently, the developing countries provided a $14.6 billion market in 1972 for U.S. goods and services. In fact, as a group, they purchase more from us than we do from them. Perhaps more important, they provide us with one-third of our raw materials imports, and that proportion will only grow in the future. The United States is, in fact, already dependent on other nations for more than 50 percent of our supplies of 6 out of 13 major raw materials required by our industries and this dependence is expected to grow sharply in the years ahead.

The system of generalized preferences which the trade bill grants authority to offer is only one of the factors which should be taken into account in this effort to involve the less developed world more meaningful in the broadest possible trade talks. But it is an important factor, and as our trade negotiators have testified, possibly a sine qua non.

Now, I must add here that this system of generalized preferences is no "free ride." The use of the authority is subject to numerous checks and balances. Its basic limitations and restrictions are these:

A "competitive need" formula under which, unless waived by the President—a beneficiary would automatically lose its eligibility for GSP on any article which the President determines it has supplied 50 percent of total U.S. imports of that article, or a total value of the article in excess of $25 million a year over "a representative period."

An "eligible article" must be one which meets these tests:

First, it must have been so designated after a Tariff Commission investigation of the probable effects on domestic producers of like or directly competitive articles, public hearings, and the advice of interested departments and persons;

Second, it must be imported directly from a beneficiary and whose total value or value added is substantially attributable—a minimum of 35 to 50 percent—to the direct costs of materials or processing in that beneficiary; and

Third, it must not be subject to an escape-clause or national security clause action.

A "beneficiary developing country" must be one which meets these tests:

First, it must be so designated by the President after taking into account a long list of considerations, including the expressed desire of the beneficiary to be so designated; the level of economic development of the beneficiary; whether or not other major developed countries are extending generalized tariff preferences to such beneficiary; and whether or not such country has taken U.S. property without provision for prompt, adequate, and effective compensation.

Second, it must receive MFN equal tariff treatment; and

Third, it must not grant reverse preferences, or, if it does, it must give satisfactory assurances such preferences will be eliminated by the end of 1975.

In extending duty-free preferential treatment, the President must take into account in addition to the considerations listed above, the extent to which other major developed countries are "undertaking a comparable effort" to assist beneficiary developing countries.

All other major industrialized nations with the exception of Canada maintain some type of trade preference for the developing countries.

Our proposed system, while comparing favorably to others, will have a quite limited impact on U.S. imports.

In 1971, U.S. imports of products which could be declared eligible for generalized preferences totaled $2.7 billion. The competitive need formula eliminates preferences on $1.2 billion or 43 percent of this amount. The $25 million rule alone would exclude $946 million or 35 percent of total eligible imports while the 50 percent rule alone would exclude $288 million or 11 percent. This leaves a total estimated trade coverage based on 1971 figures, of only $1.5 billion.

Nor can the preference plan be said to benefit products manufactured by so-called "runaway" U.S. plants in certain areas abroad. The countries most affected, in terms of the absolute value of otherwise eligible imports excluded, would be Hong Kong, Taiwan, Korea, and Mexico in that order. In fact, there has been some criticism that the "competitive need" formula, which limits duty-free treatment to imports of less than 50 percent of the U.S. market or an annual rate of $25 million over a representative period, favors the least developed of the developing countries. Frankly, this proposal is designed to favor the lesser developed nations, an objective which is shared by many other industrialized countries and by many of the developing countries themselves. Tariff preferences should be used as an instrument to build competitiveness, particularly in the important manufacturing and semimanufacturing industrial sectors of the developing nations, and not as a crutch on which an exporting country should continue to rely beyond the point of relative competitiveness with the products of either the developed nations or those of the more advanced LDC's.

If we were to offer indiscriminate trade preferences to the exports of all developing countries, those developing countries which have already become highly competitive and need no artificial help would realize the bulk of the benefits. This is not the purpose of this plan; rather it is to enable the poorer and less competitive countries to earn their way more equitably.

Let me reemphasize the factors that underlie our need for a generalized system of preferences. The developing countries, especially including the Latin American nations, need export development and expansion of their manufactures and semimanufactures as a critical element in their economic development. The increased foreign exchange earnings of the developing countries will benefit our exports. We need their support and participation in our efforts to negotiate a freer and less discriminatory world trading system. In other words, we each have something to offer and something to request from the other. The returns to the United States from such a policy promise to be substantial. The trade preference proposal in this bill provides a bridge to connect our mutual objectives.

In sum, this is an idea whose time not only has come, but which is long overdue. Title V of the Trade Reform Act of 1973 should be overwhelmingly endorsed and enacted without further delay.

In conclusion, as chairman of the Inter-American Affairs Subcommittee I would like to remark briefly on the importance this bill has for our hemisphere neighbors as an indication of our continuing willingness to work together for a better future.

On October 5, Secretary of State Henry Kissinger hosted a luncheon in New York for delegates to the United Nations from Western Hemisphere countries. He issued an eloquent invitation to our neighbors to initiate a new dialog aimed at the creation of a renewed spirit of inter-American cooperation based on a careful joint review of all the issues which confront our nations. In response to Dr. Kissinger's invitation the foreign ministers from Latin America and the Caribbean met in Colombia from November 14 to 16 and issued a document setting forth their views as a basis for discussion with the United States at a meeting to be held with Dr. Kissinger in Mexico early next year. One of the central points raised in the statement of the foreign ministers, entitled "Bases for a New Dialog Between Latin America and the United States," concerns the "structure of international trade and the international monetary system." In that section the foreign ministers stress that:

> The United States should urgently implement its general scheme of preferences and apply it without reciprocity or discrimination. Preferences now in effect should not be impaired during the multilateral trade negotiations; they should be expanded.

Clearly, the Congress has an opportunity today to respond to this request by the hemisphere foreign ministers and to provide our new Secretary of State with a tool he needs if he is to effectively use his considerable talents to restore to our inter-American relations the mutual confidence and respect which so long characterized them.

Mr. DENT. Mr. Chairman, yesterday we were told that the bill before us is not a perfect bill.

No one in this body can disagree with that. Indeed, should the bill be perfect, it would be the millenium.

But we were told in the next breath that the opponents of this bill represent only a narrow self-interest. And we were told that this narrow self-interest is in defiance of the national interest.

Mr. Chairman, it is hardly a secret that the AFL–CIO and the UAW are strongly against this bill.

But to try to discredit this opposition by the implication that it is against the national interest is the shoddiest of tactics, particularly to make the bill a matter of "politics" by AFL–CIO President George Meany.

The constituency of the AFL–CIO is 13.5 million working and taxpaying American citizens. They are interested in what kind of jobs they will have and what kind of standards of living this Nation is to have.

This bill goes directly to what kind of jobs Americans will have in the future, and what kind of standard of living this Nation will have.

Is that narrow self-interest?

This is not just a bill that affects 13.5 million members of the AFL–CIO. It affects all Americans. That is why the AFL–CIO is interested in it.

And for too many Americans, this bill raises the threat of increased imports which will affect their jobs and their standard of living. For too many Americans, this bill increases the threat that their jobs will be exported out from under them, or that the technology they have been depending on for a high standard of living will be sent abroad rather than remaining here and producing. For too many Americans, this bill raises the threat that the industry of America on which we have depended to take care of an expanding work force will be further eroded in the name of international trade.

Mr. Chairman, I do not deny that we need a trade bill. But we do need a trade bill that—as this one does—puts the interest of our trading partners ahead of the interests of the American worker and the American economy.

The charge was made that only a narrow self-interest group of steel, electrical, textile, and shoe workers, support this bill. This is surely not true. The AFL–CIO convention in October 1973, adopted unanimously a resolution opposing this bill, all strata of American workers were represented. The 13½ million AFL–CIO workers and their families represent a major part of our economy. They have a personal stake in this country and its economic future. The real "self-interest" in this legislation are the corporations, whose beneficiaries will collect their dividends and profits whether the factories are here or in Taiwan. The American worker has a self-interest in America, in a good livelihood, a high standard of living, and a strong economic future. If that is self-interest, then every American should plead guilty. It is unfortunate that an attempt is made to becloud the issue.

It is regrettable that remarks were made yesterday that would have been better left unsaid. Uncomplimentary aspersions were made about a man whose life has been spent in and on behalf of the American worker, both the organized and unorganized worker.

Mr. Meany deserves better treatment. When he favored the 1962 trade bill he was considered a patriot and broad minded statesman. Today, 10 years later, millions of jobs lost, industries closed down, business and enterprises moved to foreign shores to produce the goods and services once produced by better paid, better clothed, better housed workers, Mr. Meany keeping before him his lifetime goal, jobs and dignity for American workers, has voiced the wish of the workers and is opposing the monstrous fraud.

For this he is pictured a wily politician.

It was said that he does not run for office as often as Congressmen do. The records show Mr. Meany runs every 2 years and has a constituency of 13,500,000 voters, covering the entire 50 States.

This, like many things said in the heat of debate, was not meant in the manner in which it was said. I disbelieve that any Member of Congress is unappreciative of his lifetime of service to his people, his organization, and his country.

Mr. Chairman, the voices raised most strenuously in behalf of the trade bill now being considered by the House come from U.S.-based multinationals.

They are for the bill, of course, because they have the most to gain from it.

One of the arguments for the multinationals in support of this bill is that by permitting them to expand abroad, it will result in the creating of employment here at home.

To support this claim, the multinationals depend partly on a set of statistics compiled by the Department of Commerce. These appear to show that the firms most active in foreign investment between the years 1966 and 1972 had a greater gain in employment in their U.S. facilities than did other corporations. The multinationals and their organizations also have studies which, not surprisingly, reach the same conclusion.

Then they make the claim that their foreign investment has created U.S. jobs.

This is a misleading bit of statistical trickery.

It can be true that those corporations which invested most heavily in foreign subsidiaries showed a greater gain in U.S. employment. But that does not make it true, as the multinationals would have everyone believe, that foreign investment is thus responsible for faster job growth at home.

Let's look more closely at the claim.

The multinationals examined by the Commerce Department are not just corportations which invest overseas. They include America's largest concerns which are the largest employers, the largest defense contractor, the largest recipients of Government contracts at all levels.

And significanly, they are the concerns most heavily engaged in mergers and acquisitions.

The unique character of these corporations was noted in a report to the Congress by the Tariff Commission early in 1973.

> The multinational firms are neither minor employers nor a special case which can be analyzed independently of the national economy. They are the backbone of the demand side of the labor market, the firms which . . . have the biggest quantitative punch in terms of the number of people they hire.

The claims of net job creation by the multinationals are highly vulnerable. As well as being active in direct foreign investment, the multinational concerns were heavily engaged in domestic mergers and acquisitions. Subtract the emloyment additions from the claimed job growth, and a different picture emerges.

The Emergency Committee for American Trade claims from its own studies an employment growth among multinationals in the decade from 1960 to 1970 of 36.5 percent compared with an employment growth of 30.3 percent for all industries. But without the job additions to these concerns as a result of mergers and acquisitions, the multinationals growth is 21.6 percent—considerably less than the all-industries figure.

Mr. de LUGO. Mr. Chairman, I am pleased to rise in support of the Trade Reform Act of 1973, and specifically to praise the outstanding work of our distinguished and learned colleague, Al Ullman. During his service as temporary chairman of the Ways and Means Committee, Congressman Ullman's unceasing efforts were responsible for drafting what I am sure will be one of the most important legislative documents of this decade. The American people are indeed fortunate that the Ways and Means Committee, which has such a predominant place in the Nation's economic destiny, is guided by the outstanding Chairman Wilbur Mills, and the no less able ranking majority and minority members, Al Ullman and Herman Schneebeli.

The opponents to this bill have suggested that because of its complexity and profound impact on such an essential facet of the Nation's commercial life, that action should be deferred for more settled times. However, it would take the most uninhibited optimist to predict that the future will be any less harried than the present. For the very reason that this is a difficult time in our national history the Congress cannot avoid making the important decisions, but to the contrary must reassert its position of leadership by enacting legislation such as this.

The ever growing interdependence of countries and regions on international trade as a means of assuring national viability is one of the great economic realities of the 20th century. If the United States is to maintain a position of leadership in this system of expanding world trade, it is vital that the President be given the new negotiating authority contained in the Trade Reform Act.

I am convinced that the unique and unprecedented congressional and public participation written into this bill provides adequate safeguards against any abuse of authority. In addition, the bill not only offers protection for workers and industry from possible harm caused by negotiated import increases, but in so doing improves present procedures for compensating injuries from foreign imports.

The extreme care with which the committee approached this legislation is demonstrated in the consideration given to our territories. As many of you are aware, products manufactured in the Virgin Islands and other insular possessions may enter the United States duty free provided that no more than 50 percent of their value is of foreign origin. The intent of Congress in passing this legislation has been fulfilled in that many new and important sources of employment have been attracted to the territories to take advantage of this provision. However, the Trade Reform Act gives the President authority to grant duty-free status to certain products from developing nations, and this in theory could have a devastating effect on the territories. Thus, I was enormously gratified that, acting upon my request, the committee has included in its report unequivocal qualification of this Presidential authority. The report states that the committee strongly believes that the products of U.S. insular possessions should under no circumstances be treated less favorably than those of foreign countries. Likewise, the committee stated that the President should consider the extent to which any duty-free treatment accorded a foreign state would affect the economic wellbeing and development of the insular possessions.

Mr. Chairman, I cite this example not only because of its importance to my constituents in the Virgin Islands, but also to show the extent of the thought and detail the committee has given to the preservation of important national interests.

Thank you very much.

Mr. CARNEY of Ohio. Mr. Chairman, I rise in opposition of the so-called "Trade Reform Act of 1973," H.R. 10710. I believe that the passage of this legislation would do serious damage to our standard of living, it would do serious damage to existing laws that protect our society, and it would do serious damage to the industrial backbone of our Nation.

Mr. Chairman, at the present time the American people have lost confidence in their President—yes, and even in their Government. The American people are literally begging the Congress to reassert its rightful powers under the Constitution. Yet, the bill before us today would further erode the power of Congress and place vast new powers in the hands of the President. These new powers would enable the President to negotiate agreements with foreign countries which would affect every area of our economy.

Mr. Chairman, the economy of the United States is fast becoming a service economy. American businesses are providing services to American consumers while goods for American consumers are being produced abroad. America cannot survive as a service economy.

Many traditional American industries now are located in foreign countries in order to take advantage of cheap labor and tax loopholes. Look at the number of foreign cars in the United States. Many of them are manufactured by American companies located abroad. Where are all the shoes being manufactured? Where do all the radios and televisions come from? Where have all the jobs gone? This bill does nothing about these problems.

Mr. Chairman, the fact is that American jobs and American technology are rapidly being exported overseas and this legislation would speed-up their departure. Furthermore, the assistance program for American workers who lose their jobs because of foreign imports or plant relocations abroad is totally inadequate.

At a time when our country is suffering from high unemployment, inflation, dollar devaluations, and trade deficits, the passage of this bill would do a great disservice to the American people. I urge that it be defeated.

Mr. BURLISON of Missouri. Mr. Chairman, I am voting against the President's trade bill for a number of reasons. One is that it seeks to regulate the internal affairs of another country. It is realized that the President is not to blame for this provision inserted in the bill.

Second, special trade concessions are made for so-called underdeveloped nations which merely will add to our foreign aid outlays which I oppose.

Another reason, perhaps most important, is that this bill will give far more power than should be given to this President. Even without this bill we saw just a few months ago how this administration looks upon our farmers when their interests are pitted against processors and/or consumers. The President placed an embargo on soybeans, thus reducing prices for farmers from $12 to $6 within a weeks' time. The administration came within a hair of doing the same thing on cotton. All this in view of the fact that no other scarce commodity has been embargoed, nor has there been a serious threat to do so. There are numerous examples of commodities more scarce than soybeans or cotton that were permitted to remain free of export embargoes or controls, such as petrochemicals and other oil products, fertilizers.

This example of blatant discrimination constrains me to vote against this new grant of vast economic and trade powers to this President.

Mr. DOMINICK V. DANIELS. Mr. Chairman, there are many provisions of the trade bill now before us which have not been adequately explained so that their full ramifications are evident.

There are many provisions in the bill which grant special concessions to so-called "developing countries" which I believe, if more closely examined, are far more damaging to the U.S. economy than they are helpful to these countries.

Imports from these so-called developing countries are not inconsequential. From a figure of $12.1 billion in the first 10 months of 1972, imports rose to a total of $16.2 billion in the like period of 1973—an increase of 33.9 percent.

The developing countries which get favored treatment under the provisions of the administration's trade bill are not all proverty-stricken entities. Such nations as Taiwan, Singapore, and others—which presently have full-employment economies and sizable trade surpluses with America—are included.

What is disturbing that nowhere in the hundreds of pages and thousands of complex and confusing words of this bill is there any definition of a "developing country." We should at least be laying down some careful guidelines as to what are the conditions under which we will extend trade concessions to these nations.

Most of the nations currently in the category of developing countries have high tariffs and other barriers against U.S. goods. And title I of the administration trade bill would permit these nations to keep whatever barriers they have in negotiations.

Title V of the bill permits another concession. The President can remove all tariffs on imports of manufactured products from these developing countries. There are some restrictions on this authority, but the President can, as one of the many and extensive powers granted to him in this bill, decide that the "national interest" requires that he not apply these restrictions.

Thus, the bill creates a special atmosphere and a specially protected status for developing countries, many of which have low-wage economies.

Further, these provisions encourage United States-based multinationals to relocate production in these protected enclaves, at the expense of U.S. jobs and production, and shipgoods back into the United States under low-wage conditions.

Mr. LONG of Maryland. Mr. Chairman, I commend the distinguished Ways and Means Committee for its exemplary effort in the complex area of international trade. I especially commend the committee for the reductions and restrictions it has made in the trade powers requested by the President. The provision that allows a veto by either House of Congress of any agreement to remove nontariff barriers is a model of congressional restraint of Executive power.

However, this congressional veto on agreements to remove nontariff barriers is not duplicated in three other areas in which the bill grants the President significant powers. These three other major powers are as follows:

First, power to impose import surcharges or quotas in case of balance of payments deficits;

Second, power to remove tariffs or quotas on imports to help control inflation; and

Third, power to lower tariffs or to raise them 50 percent above the 1934 Smoot-Hawley levels.

First, the President has authority under section 122 of the bill to impose import quotas and a maximum 15 percent import surcharge to help correct balance of payments deficits. Under this section, the President has a free hand for 150 days. After these 150 days, Congress must extend the authority for these actions or they will end. However, Congress should have the power to stop such actions before they are taken, not after they are a fait accompli. Under this section, representatives of inefficient industries would have 150 days in which to rally supporters who would benefit from protectionist measures.

Second, under section 123, the President may remove tariffs or quotas on imports to help control inflation. Again, Congress has no say for 150 days after which time Congress must extend these actions for them to continue. The only other restriction on the President's sweeping power under this section, other than the exception of certain articles, is that the removal of tariffs and quotas cannot apply to more than 30 percent of the total value of U.S. imports at the time the actions are taken. Whereas the principle of increased competition to control inflation is correct, the sweeping powers granted the President under this section for 150 days without any congressional limitation are disturbing.

Third, and most important, under section 101 the President has authority for 5 years to reduce or increase tariffs. His powers to reduce tariffs are moderate: tariffs of less than 5 percent may be eliminated; tariffs of 5 percent to 25 percent may be cut up to 60 percent; and tariffs over 25 percent may be cut up to 75 percent, but to a level of not less than 10 percent. However, the President's power to raise tariffs under this section is frightening. He may raise tariffs to 20 percent above the 1973 level or 50 percent above the 1934 Smoot-Hawley levels, whichever is higher. The 1934 tariff levels, set by the infamous Smoot-Hawley Act of 1930, prolonged and deepened the Great Depression by inducing foreign retaliation, shrinking exports, and increasing unemployment. And the President may raise or lower tariffs under this section without any congressional veto or check on his decisions. What assurance do we have that this or another President will not raise tariffs to harmful levels, as well as use other protectionist powers provided by this bill, in a misguided attempt to protect domestic industry?

Nominally, of course, the purpose of this trade bill is to reduce tariffs and other trade barriers by providing the President with negotiating authority. But in fact, the bill grants the President enormous powers, that could be used to restrain as well as to increase trade, without adequate congressional limitations on these powers. Of the President's power to raise tariffs 50 percent above the Smoot-Hawley levels, there exists no possibility for congressional restraint.

I am a free trader and support efforts to reduce trade barriers in order to provide higher standards of living for all nations. However, this trade bill could just as well serve protectionist ends. Moreover, another principle is at stake here—the principle of checks and balances between the Executive and the Congress I fear that this trade bill surrenders too much power to the President without adequate congressional limitations.

However, I shall reluctantly support the trade bill with these reservations and shall urge Congress to use all the powers it has to correct any excesses committed by the President, including the repeal of authority granted under this bill.

Mr. YATRON. Mr. Chairman, one of the most dangerous provisions of the administration's trade bill is the authority for the President to negotiate away present nontariff safeguards.

These safeguards in many cases take the form of laws on the books specifically passed and dealing with product safety, consumer protections, environmental standards, and other domestic safeguards.

Under the administration's bill, the President would be given authority to negotiate away these safeguards. Agreements concluded under this authority could wipe out not only Federal law, but also State and local law. The governing bodies would have have to go back and pass these laws all over again—if indeed they were aware of what had been nullified.

The President would have to notify Congress 90 days in advance of his intent to enter negotiations on nontariff safeguards, and then would have to give Congress 90 days in which to veto the agreement. But in the danger is that these agreements could be packaged in such a complex manner as to make rational evaluation by the Congress impossible.

Mr. Chairman, there is enough confusion in this bill with respect to nontariff safeguards without subjecting the Congress to this further confusion.

Mr. GAYDOS. Mr. Chairman, when the administration sent us its Trade Reform Act of 1973 not so long ago, it was accompanied by assurances from many of the President's spokesmen that the sweeping powers it sought would be used to assure the United States a more even break for its products in the world market, and to help safeguard domestic industries and jobs. Our new trade policy, it was implied, would be geared to getting trade concessions from others rather than so freely giving as in the past.

But the more these same spokesmen talk, the more it seems the old habit of giving concessions with regard to trade rather than getting them is just too strong to break. Now that we have given almost every other nation in the world free and open access to the American market—which has resulted in a deluge of imports which have wiped out hundreds of thousands of jobs and meant the disappearance of countless industries—we seem all too eager to now open the barriers to the Soviet Union.

As evidence of this, listen to what J. Dapray Muir, Assistant Legal Adviser for Economic and Business Affairs in the State Department, had to say in a recent speech:

> The importance of trade between the U.S. and the Soviet Union cannot be overemphasized; the Soviet Union is a reservoir of vast quantities of raw materials of interest to the U.S.; and its market potential for consumer type products and machines for making such products is immense . . . for these reasons, the nondiscriminatory tariff treatment for Russian products which is the precondition for the increased trade contemplated by the October Trade Agreement and which the President has, in his Trade Reform Act of 1973, requested Congress to enact, are of great importance.

Despite what Mr. Muir says, I believe that the importance of trade with the Soviet Union can be overemphasized—and I am afraid that that is just what we may be doing.

I believe that we, in the Congress, need to know a great deal more about what the United States is talking giving in terms of what we are getting before we rush to grant the Soviet Union the same tariff treatment we give other nations. We should be in no hurry to help the Soviets build up their economy if it is going to involve the deterioration of our own economy here at home. And if we hastily lower our barriers to the importation of cheaply made Soviet goods into this country, that is exactly what we are in danger of doing.

I think the Congress should be well aware of what stakes are involved with respect to what this administration has in mind concerning trade with the Soviet Union before it undertakes consideration of any trade bill.

Mr. BARRETT. Mr. Chairman, when all the technicalities in this proposed bill are boiled down, the simple result seems to be that the United States is the least-favored-nation in the proposals now before the Congress. When MFN and NTB and GATT and all the other alphabet soup of letters and trick phrases are examined, it looks as though the United States is left out of the considerations.

Let us look, first, at the term "most-favored-nation." We are told by the experts that this term merely means that countries which now do not have equal tariffs on their products into the United States will have the same tariffs as every other country. But that does not take into consideration that those countries are so constituted—both in national and international terms—to protect their economies absolutely. Thus the Communist countries get equal rights with all other countries to have the same tariffs. But the United States does not have equal rights to sell in the markets of the Communist countries.

Let me give you just one example: The United States is expected to have a 10 million auto market this year—including imports. It does not matter where they come from? Is the United States going to sell automobiles to the countries which will get most-favored-nation treatment? No, the United States is going to sell the productive capacity to make automobiles with the newest equipment paid for by credits from the United States. That is the kind of bargain that says: You get what you want and I will take what you give me. Now, nobody believes that the Communist countries are going to sell their working people 10 million cars. But everyone believes that more cars will be imported into the United States. So, what happens? The wall against U.S. goods remains, but we have to give the other countries an "equal" chance to ship autos into the United States.

Published reports say that the trade between the United States and the Soviet Union will expand to $3 billion this year—with or without most-favored-nation treatment. That is one prediction—recently in the Journal of Commerce.

But title IV and the least-favored-nation with the Communist countries is not the only problem in this bill. The United States is the least-favored nation in terms of GATT also. The GATT, according to this bill, should be revised. But any industry hurt by imports is not supposed to be helped under the GATT, in title II, because the old rules apply to U.S. industry while new rules are being negotiated. How can anyone stand still for that kind of a bill?

And title I and V of the bill also make the United States the least-favored-nation because the bill authorizes the negotiators to make bargains on nontariff barriers—NTB's—with the developed countries only. The developing countries can keep their nontariff barriers, it says by implication. So, what will happen? The developing countries are expected to export to the United States $2 billion a year if present trends continue. So, if Mexico or Brazil or Spain or Taiwan or any other country—friend or foe—has high barriers to U.S. exports, they can keep them, as long as the President decides it is in the national interest to consider these countries LDC's or "developing." But the United States has to give those countries not only the most-favored-nation equal rights to this market, but special preferences for their manufactured products. That makes us the least-favored-nation with everyone.

There is no expertise needed to understand this kind of a proposal. This is a proposal that will leave the United States less well off and every other nation—Communist or non-Communist, rich or poor, better off. In a losing game, should the United States not try to win for a change?

That is why I urge the defeat of the bill.

Mr. LEGGETT. Mr. Chairman, the Trade Reform Act of 1973 is, by and large, a sound and workable proposal. It has received the benefits of the collective wisdom of a great number of people, and has emerged as a document of compromises which should enable it to do the job for which it was designed.

I voted against the rule on this bill because I feel that the timing is not particularly auspicious for such an undertaking; with the President inescapably shadowed by the black cloud of Watergate and the international economic scene in disarray caused by the recent events in the Middle East, I believe that a short wait before taking up this proposal would allow us to see more clearly where we are headed. Nevertheless, there can be no disputing the fact that we have been without authority to conclude international trade agreements since 1967—the longest such period in our history; that there have been massive shifts in the world's economic structure for which we must make adjustments; and that the negotiations which would produce these adjustments have broken down because our trading partners, aware of this lack of authority, have been rightfully afraid to conclude good faith agreements knowing that they could not be binding on the United States.

The effects of our inability to act have not been pleasant; two currency devaluations and a reversal of our traditional favorable balance of trade are the prices we have had to pay for our lack of flexibility in this area. I believe that the bill reported by the Committee on Ways and Means presents us with the tools to deal with our trade problems in a meaningful, and certainly less cataclysmic, way.

Those who oppose the bill make the criticism that it erodes to an unacceptable degree congressional prerogative in the area of foreign commerce. On balance, however, I feel that the committee has provided us with adequate safeguards to insure that, while the United States is able to act decisively, the Congress remains in a position to see that it does not act precipitously. We retain the authority to review and veto such actions as removal of nontariff barriers, imposition of import surcharges or quotas, lifting of import restrictions, total removal of significant tariffs and quotas, and undue retaliatory measures taken by the President.

In addition, this bill provides more meaningful protection to workers and firms significantly harmed by increased imports. We all recognize that our current system of compensation for import injury is, to say the least, inadequate; labor must be provided more adequate protection from the vagaries of international trade.

The Trade Reform Act of 1973 will facilitate petitioning procedures, speed eligibility determinations, ease qualifying requirements for worker assistance, and increase benefits to affected individuals. Labor is the backbone of American production, and deserves every bit of this protection.

Possibly the most controversial portions of the bill are title IV, respecting most-favored-nation treatment, and the amendment that the gentleman from Ohio will offer concerning Export-Import Bank credits. I deeply regret the necessity for these provisions. The United States has always done its best to adhere to the U.N. Declaration of Human Rights which guarantees among other things the right of individuals to emigrate as they please, and I have always agreed wholeheartedly with that position. Certainly no one here can dispute the fact that emigration from other nations has allowed our own to become a tremendous example of what all men are capable of; yet we find today that there are still places where a man is not free to choose an alternative residence.

In sum, the trade bill we have before us is the very best we can do based on what we know and believe to be true; I strongly urge its passage with the Vanik amendment.

Mr. MAHON. Mr. Chairman, I shall vote for this trade bill with the hope that the bill is a move in the right direction. Admittedly it is far from perfect. I have opposed and do oppose some of the provisions in the measure.

It is my hope that as the legislative process continues the bill may be improved. The Senate must act on the measure and thereafter a Senate/House conference will be required. Of course, the content of the final version is not known at this time but I hope the final measure will be reasonably acceptable.

In view of the great interest in the bill and the significance of what the House is doing today I wanted to make these remarks for the Record.

Mr. BINGHAM. Mr. Chairman, foreign trade is the economic lifeblood of every industrialized nation. As the most industrialized Nation the world has ever seen, the United States must engage vigorously in world trade. In fact, the United States is the largest single trader in the world and has a substantial stake in maintaining and increasing the free flow of trade between nations. New York City in particular, as one of the major hubs of international commerce, relies heavily on the exchange of goods between nations for the employment and livelihood of hundreds of thousands of its citizens.

H.R. 10710, the Trade Reform Act of 1973 before us today, represents a major congressional effort to improve the ability of the United States to engage in trade. It is designed to build upon the so-called Kennedy round trade reforms of 1962 and allow the United States to retain its role in the expanding world trading system. Our economy and the world trade situation have changed so rapidly and so radically over the intervening years that the progressive trade policy fashioned 11 years ago requires modification if the United States is to survive as a great trading nation.

The Nation has had no authority to negotiate new trading agreements with other nations since 1967, and since that time the United States has had increasingly severe trade and monetary problems. Without new, flexible authority, the United States could well begin to lose out on its share of growing international markets, and the recent upturn in our trade balance could falter and again decline.

The Trade Reform Act is being considered under a "modified closed rule"; that is, only certain amendments will be permitted to be offered on the floor of the House. I voted against that rule, first, because I believe the consideration of this important legislation is ill-timed. I would have preferred to see the bill taken up early next year, when the Senate will also be ready to consider it and when the Nation will be in a better position to judge the performance of some of our major trading partners of the future, such as the Soviet Union.

This bill would allow the extension of favorable trade relations with the Soviets under certain conditions, but such policies should be held in abeyance until the Soviets adopt a more responsible attitude toward settlement of the Middle East dispute. I cannot agree with the argument that we should extend most-favored-nation status and tax credits to the Soviets in the hope that they will become more responsible members of the world community. They should prove their desire for détente and increased trade by joining the United States in promoting a direct negotiated peace in the Middle East. Then, and only then, should we consider expanded trade relations, always insisting on a free emigration policy.

I was opposed to the modified closed rule on another ground: It does not permit the House to consider amendments to our tax laws which would discourage American investments abroad that damage the job picture at home. In my own trade bill, H.R. 17133, which I introduced on October 13, 1972, I had proposed various measures of this type. Regulation of these investments and the practices of multinational corporations should have been included in this legislation. Since it was not, I voted against the rule permitting immediate consideration of this bill. I now encourage the Committee on Ways and Means to turn its attention to these issues early in the second session of the 93d Congress.

Since the rule providing for consideration of the bill has been adopted, I have decided to support the bill. On balance, I have concluded that H.R. 10710 is a responsible effort to give the President authority, subject to a variety of limitations, to enter into new trade agreements, to reduce, increase, or eliminate tariff and nontariff barriers to trade.

The President asked for unlimited authority, but the bill in title I sets limits on the amount of cuts that can be made, while granting short-term authority to raise or lower surcharges and quotas to restrain inflation or regulate the balance of payments. The bill also for the first time directs the President to give U.S. attention to nontariff barriers, which today constitute greater impediments to international fair trade than tariffs do.

It also directs the President to work for new, fairer rules of international trade, rules that have grown to be favorable to European countries and unfavorable to the United States. New rules governing unfair trade practices, international labor conditions and standards, and the tax structure of member countries need to be negotiated if the United States is to have a fair chance to compete in world markets.

Title II of the bill authorizes substantial relief from import competition to U.S. industries by giving the President authority to set up import protections for industries suffering from or threatened by import competition. The President must notify Congress of industries which request such assistance, and he is authorized to apply duties, quotas, and orderly marketing agreements to protect affected industries from harm. Workers and firms could also be granted relief from imports through an improved system of trade adjustment assistance. The program presently in effect has been ineffective, providing Government compensation to only 40,000 American workers because of import-related industry disruption.

In my own bill I called for easier and simpler access to relief, and increased worker benefits of unlimited duration. The provisions in H.R. 10710 are not as liberal as I would like, but they do allow workers and firms substantial help from the Government in the form of weekly compensation, training, and relocation benefits.

Title III of the bill allows the United States to retaliate against countries which unfairly restrict imports or discriminate against U.S. exports, or subsidize their exports to the United States. This new authority should help protect our own industries and open up new markets in such nations as Japan through a more equitable handling of trade matters between nations.

Title IV would permit the extension of most-favored-nation status to nonmarket countries on the condition that those nations allow the fundamental, internationally endorsed right to freedom of emigration. I also expect an amendment offered by Representative Vanik, which would also deny the extension of U.S. credits to such nations as the Soviet Union unless they allow free emigration, to be overwhelmingly approved by the House. Together, these provisions should provide tremendous leverage for the United States to help protect oppressed minority groups in Communist nations. Without these provisions and without this bill, the United States could continue to grant credits for international trade to the Soviets without any consideration of their treatment of Soviet Jews. This is an important factor in any decision to vote for this bill.

H.R. 10710 is clearly a very flexible instrument which the President can use to increase U.S. participation in world trade while protecting our own industries from unfair competition. It does not freeze into law a rigid set of protections, which some workers and companies threatened by increasing imports would have liked. Instead, it gives the President a negotiating instrument with which to gain new advantages for the United States in international markets through forthcoming multilateral negotiations. It is not blank check authority, however, since it includes Congressional guidelines, requirements for investigations and public hearings, consultations, and disapproval procedures. The bill also includes numerous safeguards to prevent or compensate for substantial injury to domestic firms and their workers. The bill allows the President to deal with two equally important concerns: The expansion of international trade with increased U.S. participation and the safeguarding of our own workers who may suffer from that expansion. The President must now use that authority wisely, and the Congress must use the oversight, consultation and veto powers reserved to it to make sure that wise and fair policies result.

It is said that the Congress should not delegate to any President, least of all the present incumbent, such powers as are delegated to the President in this bill. I am all for the Congress asserting its proper role in matters of foreign trade and foreign policy, and especially on the great questions of war and peace. But in this case the Congress cannot possibly do what we want the President to do: The Congress cannot negotiate trade agreements or negotiate for the reduction of nontariff barriers; this is something that only the Executive can do. Since the adoption of the first Reciprocal Trade Act in 1934, and especially since the Kennedy-round negotiations of the early 1960's the Congress has appropriately had to leave the prime responsibility for trade negotiations to the Executive. This has been a traditional part of the kind of constructive foreign policy favored by the Democratic Party, and we should not abandon it simply because a Republican is in the White House.

I am deeply concerned about unemployment in my district and elsewhere in the country, and I am worried that unemployment will grow as a result of the energy crisis. Moreover, I respect and understand the fears of those, especially of my friends in the labor movement, to the effect that under this legislation imports may cause additional unemployment, in spite of protective measures I have mentioned that are included in this bill.

However, it is my profound conviction that those who oppose H.R. 11710 on this ground are paying insufficient attention to the unemployment that will follow if our foreign trade does not continue to grow. The total slowdown of our economy, indeed the depression, that would ensue if we follow the course of economic isolationism would be catastrophic—far more serious than the temporary dislocations that may be expected as we continue to pursue the policy that the United States should be the greatest trading nation in the world.

Mr. MATHIAS of California. Mr. Chairman, exports are vitally important to American agriculture and the enactment of the Trade Reform Act of 1973 will be beneficial to our agricultural industry. American farmers must export to live. Without exports, the health of the farm economy and that of the entire Nation would be jeopardized.

Since our farmers are geared to produce in excess of the Nation's ability to consume, a vigorous and growing export market is vital to an economically sound and prosperous agriculture. Without strong export market outlets, farm income would drop, rural America would suffer, and hundreds of thousands of workers employed in the agriculture related industires—farm suppliers, handlers, transporters, processors, and merchandisers—would be out of work. A strong farm export market, therefore, is important to the entire Nation.

Farm exports mean better incomes for farmers, abundant food at moderate prices for American consumers, and reasonably priced foodstuffs for people around the world. They are also a principal source of the Nation's foreign exchange. For example, we pay for oil with soybeans, wheat, cotton, hides, and the other items of our agricultural abundance. Furthermore, our capacity to export food has been and continues to be a major factor in our efforts for peace. Food exports played a major role in achieving a détente with the Soviet Union and are a factor in renewing our relations with the People's Republic of China.

It is important to our farmers and to the entire agricultural industry that we encourage the reduction or elimination of trade barriers and increase accessibility to foreign markets. The Trade Reform Act is a major step toward open and nondiscriminatory trade. It is the responsibility of the Congress, therefore, to provide the President with the necessary authority to negotiate for improved trading conditions for agriculture.

Mr. BROYHILL of North Carolina. Mr Chairman, today the House of Representatives faces a critical decision which will shape America's foreign and domestic policies for years to come.

I think that nearly everyone agrees that the time has come for some basic shifts in our international trade posture. The international marketplace of trade in the 1970's is no longer the marketplace that we knew in the 1950's or 1960's. Major structural changes in the world economy have occurred as Germany and Japan emerged as strong economic and competitive powers. The world monetary system has become increasingly unstable and inequitable. The result of all of these changes has been the evolution of a world market structure vulnerable to recurrent crisis, protectionist sentiment and economic stress and distortions.

In recognition of the changes necessary in the international economic system, trade reform has been a No. 1 priority of the 93d Congress. Numerous proposals have been made by the administration, by interested parties, by labor unions, business and industry to effect that reform. In my opinion, we owe a real vote of thanks to our colleagues on the House Ways and Means Committee for the job they have done in putting together these diffuse and oftentimes contradictory perspectives into a piece of generally sound and workable trade reform legislation.

The major purpose of this legislation is to renew the President's authority to negotiate multilaterally trade items such as tariff levels and nontariff trade barriers. This authority, which last expired in 1967, is absolutely necessary if the United States is to take a strong initiative in forging a new international economic order which recognizes and protects the legitimate interests of America.

The administration has shown that it can use the authorities in this bill wisely and in the best interests of America and the international economy. The recent progress in Geneva at the GATT talks on a multinational trade agreement is an indication of the abilities and strength of our negotiating team.

But this trade reform bill does much more than simply concern itself with the needs of expanding our trade abroad and stabilizing the world economy. It also explicitly addresses itself to the needs of the American worker and American business.

H.R. 10710, the Trade Reform Act of 1973, increases our powers to deal with unfair trade practices of other nations. Sanctions to deal with the dumping of cheaper, below-cost foreign goods, restrictive and discriminatory foreign trade barriers, and other such practices are improved. This means, of course, additional protection for American jobs against unfair foreign competition.

H.R. 10710 also offers other improvements in the protection of American jobs and industry from foreign goods. The most basic improvement is in relief from economic injury due to foreign competition. This relief is offered in the form of adjustment assistance to both firms and employees. For eligible workers adversely affected by foreign trade competition, there is a liberalized benefit program including higher cash allowances, job training, employment counseling and placement, and other relocation benefits.

The Trade Reform Act is not perfect. But it goes a long way in providing a workable foundation for today's and tomorrow's new international economic world. The House of Representatives can do its part by passing H.R. 10710 today.

Mr. FRASER. Mr. Chairman, I rise in support of title V of the Trade Reform Act of 1973.

We cannot hope to have a peaceful and stable world composed of an affluent minority and an impoverished majority. As the richest Nation in the world, we should make good our long-standing commitment to implement a generalized system of tariff preferences for the poorer nations. In doing so, we would be acting not out of altruism, but in our own self-interest.

Export growth is essential for development. The developing countries have been concerned about generalized preferences since 1964. In their view, the present international trading system discriminates unfairly against them and discourages expansion of third world exports. Industrialized country tariff rates on manufactured imports from low-income countries are considerably higher than on those from developed countries. Some of the poorer nations believe that the major powers want to perpetuate a system that is allegedly designed to hinder their industrialization and to prevent their emergence as more important trading nations If aspirations for development among the poorer nations in Asia, Africa, and Latin America continue to be thwarted, levels of tension and violence will continue to rise, and development of democratic institutions conducive to human dignity will continue to be frustrated.

The best way of achieving development, economic development, experts agree, is not through massive aid programs nor inward-looking import-substitution policies on the part of the less developed countries, but through outward-looking policies of export promotion.

The economic growth of the third world has always been in the best interests of the United States. Thirty percent of our exports—$15 billion a year—currently go to the developing countries, This is already a sizable market, but its potential is even greater. The developing countries offer an expanding market for U.S. exports of agricultural commodities and of high-technology, high-skill manufactured products. In turn, we depend upon the poorer nations in significant measure for imports of essential raw materials, of low-cost labor-intensive products, and of investment income. Our goals can be best realized if there is recognition of our mutual trading interests.

The United States alone among the industrialized nations of the world has yet to implement a generalized system of tariff preferences. Sixteen major powers, Japan and the European Community included, have done so. Canada is about to implement system, and five Eastern European countries including the Soviet Union have announced generalized preference systems.

When we implement a generalized system of preferences, we can call on other countries to phase out special preferential arrangements and so-called reverse preferences, which would otherwise shut us out of important markets.

There has been steady proliferation of special preferential arrangements between some developing countries and the European Community. These special preferences discriminate against the United States and other third countries which are not a party to any such special arrangements. A worldwide system of generalized preferences under which all developed countries accord comparable tariff treatment to all developing countries would remove the justification for special preferences and the discrimination that goes with them.

The problem of reverse preferences—preferences which the poor countries give to certain rich countries—could also be eliminated through implementation of a generalized system of preferences. Reverse preferences are harmful to U.S. interests and to those of the developing countries as well. They increase the cost of imports necessary for development. Title V provides that to be eligible for preferences the developing country must agree to eliminate reverse preferences by January 1, 1976.

Developing countries do have a competitive advantage in low technology manufactures. We know that imports of these goods can increase competition in developed-country markets and can create problems. But title V is cushioned with safeguards to protect American industry and American workers.

Since generalized preferences are now being extended by nearly all industrialized nations, the increased flow of products from the poorer countries will be widely spread among the markets of the developed countries. The increase of U.S. imports resulting from generalized preferences is not expected to reach 1 percent of our imports of manufactures and will involve a wide variety of goods. There is little possibility of serious pressures resulting.

Title V restricts the amount of any one product that may enter the United States from any one supplier country. Preferences are to be terminated for any product from a less developed nation when those imports reach $25 million in value, or 50 percent of the total value of our imports of that particular product.

Preferential tariffs granted under the system proposed in title V are limited to a 10-year period. This is meant to insure that preferential tariff benefits are confined to small and beginning exporters.

In addition, all items subject to import relief action, such as watches, shoes, textiles, and certain steel products, are excluded from preferential treatment.

For these reasons, then, the United States will not experience adverse consequences from the extension of generalized preferences to the poorer nations.

Generalized tariff preferences in favor of the poorer nations of the world will help these countries shake themselves free of poverty. They will at the same time provide expanded markets for American exports and help insure continued U.S. access to essential raw materials.

For our own economic well-being as well as for our future good relations with the rest of the world, it is of the utmost importance that we implement a generalized system of tariff preferences for the poorer nations.

Mr. BADILLO. Mr. Chairman, I have given a great deal of consideration to the legislation before us and have attempted to weigh the pros and cons as they were presented to me by our colleagues and by interested individuals and organizations. There is little question that our trade policy urgently requires adjustment and realinement in a number of key areas and that the manner in which tariffs are negotiated and duties set must be reformed. Certainly the United States must be aided and encouraged to vigorously participate in world trade negotiations—such as the GATT negotiations now underway in Geneva and the bargaining to be initiated early next year in Japan—and the executive should be given the necessary tools and authority to engage in meaningful trade discussions. On balance, however, I believe that the measure we are now considering reforms nothing and that a number of aspects may very well be harmful to our own economy and to our future trade policy.

I am, for example, deeply troubled over the new authority granted to the President to enter negotiations which alter the basic structure of international trade and to move on areas affecting many aspects of the domestic economy. Although some protections are ostensibly provided by granting the Congress authority to closely monitor negotiations and provide for a congressional veto over nontariff barrier agreements, I am not at all sanguine that such a mechanism will work as effectively as is envisioned. I feel that this particular feature is deceptive. We have had enough experience in recent months and years to realize that the Congress will most likely not veto any complicated trade agreements on an up-and-down basis.

By failing to provide for any sort of regulation of the vast U.S.-based multinational corporations, H.R. 10710 cannot be classified as a bill effecting any needed reforms. It has been very aptly noted that some $3 billion in revenues are lost each year because of the tax advantages which exist to aid and encourage these multinational giants. We must also consider the fact that these corporate operations export essential jobs, capital, and technology which, in many instances, result in imports which displace American-made items.

There are two aspects of this measure which I very strongly support and which I am convinced must be integral parts of it. The amendment offered by our distinguished and able colleague from Ohio (Mr. VANIK) denying credits to any country which denies freedom of emigration for its citizens and title IV which extends most-favored-nation tariff treatment to only those nations guaranteeing to their citizens the right of emigration are essential and are two issues on which there can be no compromise. As one of the original cosponsors of the Mills-Vanik Freedom of Emigration Act I have spoken out here and elsewhere on countless occasions in support of these two features and of the right of people throughout the world—but particularly those Jewish citizens in the Soviet Union seeking to emigrate to other nations—to travel and emigrate without harassment, intimidation, or undue restrictions.

The United States in good conscience simply cannot extend credits or most-favored-nation status to any country which pursues repressive policies such as those being perpetrated by the Soviet Union against its Jewish citizens. As Mr. VANIK clearly stated in yesterday's debate:

> The amendment serves notice to other nations of our feelings on this fundamental question of human rights; it telegraphs to them the steps they will have to take before full trade eventually commences.

These two sections of the bill must be enacted and I am pleased to urge their passage.

In the final analysis, however, I cannot support the passage of the trade bill. I am aware of the many hours which the Ways and Means Committee devoted to this legislation and the many concessions and other agreements which were concluded in order to favorably report a bill of such importance. Nevertheless, for the reasons I have mentioned as well as for other defects which have been discussed by a number of our colleagues I do not believe that the enactment of this legislation is in the best interests of the Nation's trading ability or domestic economy. Thus, while I give my wholehearted support to the freedom of emigration portions of the bill, I intend to oppose it on final passage.

Mr. ASHBROOK. Mr. Chairman, central to our consideration of the Trade Reform Act of 1973 is the action we shall take concerning trade with the Soviet Union. The administration has asked for and vigorously pressed granting most-favored-nation status to the Soviet Union. The administration has also worked to block attempts to attach any conditions to expanded East-West trade.

Détente and all of its illusions has become the order of the day. Despite the Soviet wheat fiasco and the millions of dollars of unpaid debts owed by the Kremlin to U.S. citizens, American businessmen are rushing to Moscow.

Congress must decide whether unconditional trade with the Soviet Union is in the national interest. I, for one, believe that for the United States to develop the industrial and military capacity of a self-declared enemy is neither rational or moral.

Nothing makes this point more clearly than the Israel-Cambodia security assistance bill which will be before Congress later today. This bill would authorize appropriations of $2.2 billion to Israel and $200 million to Cambodia. The reason we will have to make these vast appropriations is to counter the military expansionism and reckless foreign policy of the Soviet Union. It is insane to vote funds to block Soviet military maneuvers while at the same time helping to develop the Soviet economy. Such a policy can only end in national suicide.

The Soviets have been and are involved in an arms buildup in the Middle East. Before the most recent war, they sent thousands of weapons including advanced SAM's to Egypt and Syria. These weapons destroyed equipment provided by the United States to Israel.

Now this may not be too unusual in itself, but there is one additional factor involved. That factor is that the West has built up this Soviet military might.

The GAZ-69 rocket launcher used against Israel was built in a Soviet plant built by an American firm. The ZIL–130 truck, a standard Soviet army truck, is manufactured in a plant built by another American firm. The Soviet T–54 tank—again in use against Israel—has a type of suspension system which the Soviet Union purchased from another American firm. Many of the weapons were sent to the Middle East by Soviet ships. The Soviet shipbuilding industry has been highly dependent on the United States. Now, of course many of these same weapons and vehicles were used in Vietnam to kill American fighting men and are still being used against allies in that part of the world.

In recent weeks I have detailed new "deals" with the Soviet Union—deals that are being underwritten by credits provided by or guaranteed by the U.S. Government or governmental agencies. Those deals include a highly advanced petrochemical plant. Advanced petrochemical industry is an important part of any Nation's military might.

The Soviet wheat deal, oiled with American Government credits, only cost the United States money. The cost of these other deals may be much higher. The American taxpayer through his tax dollars no longer should be asked to finance his enemies. It is time to say no to further credits to the Soviet Union granted or guaranteed by the U.S. Government.

Mr. ROBISON of New York. Mr. Chairman, in the past few decades we have witnessed a gradual redistribution of the centers of international superiority in the various categories of global power. As technology and communication improved and the benefits thereof spread more evenly throughout the world, the gaps of the past in defense, science, and trade have been largely diminished, if not removed. The upper berth of leadership which the United States used to hold in economic, military, and technological circles is no longer guaranteed. This position of American dominance was forged out of an aggressive dedication on the part of the American people, as a young nation, to build a place for themselves in the world community. The mobilization of our then abundant resources and talents, and the resulting quality and quantity of our production, were the envy of established and emerging nations alike.

Our world is continually changing—this being one of the few aspects of modern life that one can depend upon. So, the roles and relationships of the past on the international level are constantly being altered and reshuffled. Recognizing the inevitability of change and the inbuilt rigidity of our present system, we have to now embark on the difficult, but necessary, course of reforming our economic system, thus carving out a new posture for the American people in the dynamic, new world environment.

We are caught, along with our world neighbors, in a cycle of runaway demand and diminishing resources. Often, we now find ourselves looking to other countries for the natural resources and finished products which we need to maintain our present standard of living. The United States has been operating since 1967—the year the Trade Expansion Act of 1962 expired—without a clear, concise policy for new American initiatives in world trade. In that intervening period of time, traditional trading patterns have changed, the production capabilities of other countries have improved, and the initial steps for world monetary reform have been taken. It is within this setting, then, that the Trade Reform Act of 1973 was developed and is now proposed. This bill prescribes a more open system, calling for expanded cooperation on both the national and international levels to meet the needs of all people.

We are also seeing a growing interdependence among the policies of many countries in the world in the areas of security, politics, and economics. Whereas, the conduct of international trade used to be of concern to only a handfull of specialized economists and businessmen, the years of inflation, several dollar devaluations and projected fuel shortages now make the determination of trade policy an issue of concern for all Americans. The areas of trade, world politics, and defense can no longer be discussed in isolation. As dramatized by the course of "Arab oil diplomacy," each area of our world now affects, and is affected by, the others with increasing frequency. It has been recognized that building a healthy and workable linkage between two or more countries on one level can lead to the strengthening of relations on other levels. The posture of the United States in trade is a vital component in the process of creating both the atmosphere and the mechanisms through which all nations can cooperate and communicate. An expanded and open exchange and resulting understanding will hopefully lead to a lasting peace in the future.

The Trade Reform Act of 1973 is an important part of the effort to increase the number of channels for global communication and exchange. This long-awaited and vastly important piece of legislation is a step in the direction of laying the foundation from which the United States can effectively deal with the problems and opportunities presented by this rapidly changing economic system throughout our world. The provisions of this act give the Nation the flexibility and authority to increase our participation in international trade.

The directions recommended by this bill are but a portion of a much larger effort for world peace and international order. Our approaches in the past have been piecemeal and unguided. But upon the enactment of this bill, our Government will have the ability to encourage change and the incentives to accomplish reform on the international level, as well as the tools to minimize any domestic difficulties as a result of our new posture. Multilateral negotiations and exchange for economic purposes will lead to a heightening of mutual respect both socially and politically. As often expressed by spokesmen for the administration, we must so broaden our efforts to enjoin the political powers throughout the world as to search for a means of dealing with mutual problems peacefully. This bill will help, not hinder, such efforts. These are ambitious efforts, but we cannot shrink from them. Enactment of this bill is not a guarantee of peace, but rather a substantial contribution toward that goal, one which reduces economic friction and sets the wheels in motion for nations to deal more effectively and expeditiously with one another, strengthening the bonds of cooperation and understanding between all countries, large and small.

The global importance of the Trade Reform Act notwithstanding, the economic benefits for the American people deserve our attention. By lowering tariffs and encouraging trade through negotiation, our new policy will promote the free and fair movement of men, products, and ideas internationally. The consumer will have a wider selection of products and be able to pay a lower price for many goods as a result of a more competitive participation by the United States in the international market. The American manufacturer will also benefit substantially for many of the products that have been researched and developed at home can now be exposed to expanded distribution abroad. Production in the United States can profit by sharing foreign technology and resources to improve our methods of production and from enlarging operations at home to meet the needs of increased distribution. In the long run, this new policy will mean more jobs and lower prices in our own country.

During committee consideration of this bill, an alternative proposal was made by forces which advocated a more restricted trading stance. This approach—known as the "Burke-Hartke bill"—called for a return to protectionism through stiffer tariffs and import quotas, in the hopes of safeguarding jobs at home. However, in my opinion this policy would increase economic tensions, rather than reduce them, through retaliatory actions by foreign governments toward the United States. The effects of the trade war that would be touched off by such protectionist legislation would be felt not only by the industries that would be unable to sell their products worldwide and lose the opportunity to expand their operations at home, but by the consumer as well, who must deal with the day-to-day realities of an inflationary economy by paying higher prices for many of their purchases. In an effort to limit imports, our present level of exports will be drastically decreased, as foreign countries find it more to their advantage to go to other nations to buy their goods.

The number of jobs created by protectionism to fill the gap left by fewer imports would be equal only to the number of jobs that would be eliminated by the loss of exports. When viewed in comparison, a system of free and open trade raises the prospects for international exchange on all levels—not just products and machinery—and will lead to increased prosperity for our countries and others more so than protectionism.

One would be negligent if he did not recognize the fact that some workers will be displaced by imports in several domestic industries. A policy of free trade will increase the flow of products from abroad and harm several industries at home, even while benefiting the Nation as a whole. Two such industries are in my congressional district in New York—the shoe and dairy industries. In a statistical comparison of those persons benefiting and those adversely affected, the number of workers who would be injured would be very small. But, in human terms, the impact to be felt by those workers who are in trade-impacted occupations would be considerable. Those persons—both young and old—with outmoded skills or limited financial resources, face a difficult task in redirecting their lives. The Nation has a responsibility to assist all such workers who are victims of any actions taken by the Government in the national interest. The Trade Expansion Act of 1962 contained so-called readjustment provisions, but experience has shown that these programs were ineffective in meeting the needs of the recipients. In the past, applicants for such relief have found Federal programs inaccessible, cumbersome, and inadequate. Despite congressional intent, the mechanism for obtaining assistance was insufficient for the needs of the workers at that time. We must do better this time. Thus, the Trade Reform Act of 1973 takes some important steps in correcting the deficiencies of the original legislation and in providing help for both the industries and individuals affected.

For the provisions of this bill enable both the workers and the firms in "hardship" industries to receive all the benefits and assistance they are entitled to without delay. The petitioning process has been revamped. The criteria for eligibility have been relaxed, for now imports must only "contribute importantly to," rather than be the "direct cause" of hardship, as under the Trade Expansion Act of 1962. The Secretary of Labor must now make the determination for eligibility, with a greater number of economic factors to be considered, making it easier to qualify. Recipients will now be permitted to draw assistance for 52 weeks, as compared to the previous period of 26 weeks. Older workers, who are less able to find new employment, are given an additional 13 weeks to draw financial relief. Those workers who are training for new jobs will receive up to 26 weeks after their 1-year allotment, should their retraining period extend beyond 52 weeks. This provision particularly encourages displaced workers to look for new employment and avail themselves of training in new skills. Federal agencies must also adhere to stricter time schedules in acting upon petitions from both companies and individuals. The level of allowance, once eligibility has been established, is thus increased, along with relocation assistance, job search benefits, and the amount of help one can receive for training and reemployment.

So, the level of, and the access to, Federal adjustment assistance for both workers and industries affected by free competition and expanded imports through trade will be improved by this Trade Reform Act. This element is essential if we aim to protect the quality of life for all workers—not just those who will benefit from more open and active trading with foreign countries. The present mechanisms for dealing with domestic market disruptions are bolstered by providing a more flexible system which enables the United States both to regulate duties and quotas as a means of facilitating adjustment and to conduct new negotiations with foreign countries if and when the circumstances demand.

H.R. 10710 has my full support. As an economic proposal it is a solid and consistent approach to the needs of the United States. It will enable our country to properly meet the promises of the future by easing economic tensions and by building a more open and flexible trading mechanism.

More importantly, the Trade Reform Act of 1973 makes a strong contribution to the ongoing effort for world peace and understanding President Nixon has initiated, by pulling nations together and negotiating solutions to shared political and economic difficulties. It is, then—and in so many ways—landmark legislation.

It is unfortunate, I think, that this fact has been overshadowed—both in this debate and in the bill's attention around the Nation—by the emphasis given to the so-called Vanik amendment and the principles of human rights which, rightly or wrongly, it has come to symbolize.

Actually, there were two Vanik amendments—and I have had my troubles with both of them. One specified that most-favored-nation trading status was not to be granted to any nation which directly denied its citizens the right to emigrate, or attempted to do so indirectly by levying head taxes or exorbitant exit taxes. This language was, for better or worse, included in H.R. 10710 by the Ways and Means Committee—over the objections of the President—and will apparently stay in title IV of the bill.

But there is also a second Vanik amendment which seeks to build on the intent of the aforementioned language as already in the bill. It would do so by further denying any investment credits or guarantees to nations practicing similarly repressive emigration policies.

This is the amendment we will vote on, today, and though I have comparable reservations about it, I have learned from months of extended and often emotional discussion with my constituents that a Member of Congress can only stand on one principle at a time. By that I mean that I have always had complete sympathy with the plight of those Russian Jews who have sought, often in vain, to leave Russia. But I have found it difficult to convey the idea your sympathy for them—our concern for their plight—is not the sole issue.

Instead, there is a second extremely important issue involved here which seems to me to be the propriety—let alone the wisdom at this especially delicate point in time for the concept of a Soviet-United States détente—of our attempting to legislate domestic policy for another nation. In stating one issue, it seems to be impossible to state the other at the same time and not be impaled on charges of bigotry and moral insensitivity. In wrestling with that ambivalence, I will not try to sacrifice one principle in defending the other. With some reluctance, then, I shall vote for the Vanik amendment which is to be offered from the floor today. Thereafter, however, it is my intention to vote for the amendment I understand my New York colleague (Mr. CONABLE) will offer, which would strike all of title IV—and the two Vanik amendments with it—from the bill.

Taking this position is not an easy task—especially given the sensitivity of the question and, particularly, the depth of the support from within my congressional district for the Vanik approach. But I would hope—as one who has given this matter considerable thought—that the basis of my decision to vote for the second Vanik amendment will be recognized as a sincere expression of my personal feelings about the repression of religious and cultural minorities in the Soviet Union. I would ask, also, that my decision to vote for the Conable striking amendment be recognized as one resting on a degree of principle and conviction equal to that demonstrated by those who have insisted on my support of the Vanik approach.

We must presume that the emigration policies of any country are part of the whole cloth of the culture and policies of its citizens. By mandating, then, the Vanik language, we are also mandating—as the Wall Street Journal has suggested—that the Soviet Union must change the basic nature of its society as a condition of future economic exchange with the United States. And, in my previous correspondence with many of my pro-Vanik constituents, I have suggested that such a policy fiat is comparable to a situation—or could be—in which the Soviet Union ties its relations with this country to the treatment of blacks, or Indians, in the United States.

It seems to me that, if this Nation is to make such serious judgments on the morality, or immorality, of another nation's domestic policy, any such judgment must be made by our Government, as a whole, speaking for the entire Nation—and that the legislative branch oversteps its bounds when it attempts to do so on its own.

In other words, any such judgment should come as a concerted response of the American Government—which concert does not now exist since the White House has strongly, and consistently, objected, at least at this point in time, to congressional use of this important and essential piece of legislation as a means to change certain actions or policies, however objectionable, of other nations.

The perspective, Mr. Chairman, I am seeking to draw on this question is the probability that the Vanik approach holds within it the much larger question—far larger, that is, than its domestic, political import—of the legitimacy of our overall present stance toward the Soviet Union. If this Nation is to judge that our relationship should somehow be altered, then it must do so in other ways than through an amendment—or amendments—to a piece of legislation granting the President new authority to negotiate mutual reductions of tariff barriers in an international round of trade bargaining.

That "larger question" is something we have not really, in this debate, addressed ourselves to—nor even scarcely recognized. Since, however, I find it involved in the action we are evidently prepared to take with respect to title IV of this bill, I think we should strike that title for the time being, thus allowing some time to elapse for a reconsideration of our course.

Finally, I will vote for the bill on final passage even if title IV—as amended—remains in it. I will do so because the bill, itself, is—for reasons stated—a necessity, and also because, of course, several months will clearly have to pass before the other body gets around to its reconsideration of our decisions.

Mr. HARRINGTON. Mr. Chairman, few subjects before the Congress are as complex, controversial, and yet as important as foreign trade. Today we are considering legislation as significant as any that will come before the 93d Congress.

H.R. 10710, the "Trade Reform Act of 1973" is intended to liberalize our foreign trade by granting the President authority to enter international negotiations to lower tariffs and ease nontariff barriers to trade. The goal, of course, is to lower barriers in all countries and thereby increase our exports, the production of exports, and employment in export industries.

The converse to this goal is that our tendency to import will also increase the imports, may, in some instances, substitute foreign for domestic production, thereby decreasing employment in certain sectors. Many working men and women in this country oppose the legislation, because of this potential job loss in import-affected industries.

It seems to me, however, that protection from imports in the form of barriers to trade, is not the answer to the very real problems created when imports are substituted for domestic production. Instead, we must encourage domestic industries to adopt new technology and increase productivity while providing the kind of assistane to industry that will help American businesses successfully adjust to the new and more competitive situations.

This is not to say that we have had any such assistance program to date, or that we are considering one here today in H.R. 10710. But it is to say that in New England, for example, where twice as many jobs depend on exports as could be created by stemming imports, it makes little sense to jeopardize the larger number of jobs to protect the smaller number. This is the crude reality we face, and it leads me to support this legislation.

NEGOTIATING AUTHORITY

New negotiating authority with regard to trade barriers, as contained in this bill, is clearly needed. The authority given President Kennedy in the "Trade Expansion Act of 1962" expired in 1967, leaving the Executive without negotiating authority for the past 6 years. In the more than 10 years since the adoption of the Kennedy round" agreements, the realities of international trade have changed markedly, as the dominance of the United States in trade has been challenged in recent years by the economic resurgence of Western Europe and Japan.

While the Kennedy round had reduced tariffs to the point that today they average about 8 percent for the United States and Western Europe, and 10 percent for Japan, the relatively uncontrolled growth of nontariff barriers has promoted instability and disequilibrium in international trading patterns, and in fact, NTB's are not more of an impediment to trade than are tariffs, and particularly to American trade. They are, in fact, a relatively new tool being used extensively abroad to discriminate against American products. Authority to negotiate the reduction or conversion of NTB's to tariffs is clearly desirable—subject to guarantees of congressional review and consent, as are contained to some extent in H.R. 10710.

Trade negotiations presently in the preliminary stages have faltered, largely because of the understandable reluctance of our trading partners to begin serious discussions when the American President has no authority. I share the view that the Congress should not give the President excessive and unchecked authority. At the same time, it has been generally recognized that a President needs to be able to bargain on a wide range of trade-related issues, and that a grant of some discretion in negotiating authority is critical to the success of the trade talks. While in some areas, the bill now before us gives the President an over-broad grant of authority, the limitations and congressional controls included in the bill constitute at least an acceptable tradeoff between the need for Executive authority and the need to maintain congressional responsibility.

PROTECTIONISM OR FREE TRADE

For 40 years, since adoption of the Trade Agreements Act of 1934, the United States has generally followed a free trade policy; that is, its objectives in trade negotiations have been to lower tariff or nontariff barriers. In recent years this free trade orientation has come under sharp challenge, particularly from those sectors of our economy most directly affected by imports. It is argued that we should return to protectionism—whereby our trade policies would be directed toward the reduction of imports, to the extent of imposing quotas on imports. These proposals have been embodied in the Foreign Trade and Investment Act of 1973, the so-called Burke-Hartke bill.

As I come from an area of the country in which textile and shoe industries, among others, have been seriously hurt by imports, I can understand that these industries need assistance. At the same time, I believe that a protectionist trade policy—which would take our country back to the disastrous days of Smoot-Hawley—would cost us more jobs than it would create. In some extreme cases, protectionist measures, such as orderly marketing agreements or temporary import quotas, are clearly justified. But generally, the way in which we can assist those workers, firms, industries, and communities adversely affected by imports is not by artificial restraints on trade, but by a positive program of adjustment assistance that provides Federal support to improve the economic position of those affected.

The central question in the debate over protectionism is whether, on balance, imports are more of a harm to our Nation's economy than an asset. On the basis of the evidence that I have seen, I am convinced that an expansion of trade, as would result from lowering tariffs and easing nontariff barriers, would be a very positive step for our domestic economy—in terms of both creation of jobs, in the face of an impending recession, and in terms of reducing pressures for continued inflation.

To restrict imports could do great damage. Imports quotas would virtually guarantee retaliation from our trading partners in the form of greater barriers to our exports. Our opportunities for export sales would fall, and export-dependent employment—which is greater than employment threatened by imports—would also fall.

Export trade, on the other hand, has a major impact on domestic employment, and reductions in trade, which would result from protectionist policies, would hurt rather than help domestic employment.

Federal Reserve Board Gov. Andrew Brimmer has estimated that in 1971, about 2.65 million jobs could be attributed to the $40 billion of exports of merchandise in that year, while each $1 billion of exports generated about 66,000 jobs, with an equivalent number of jobs generated in industries supporting American export business. Governor Brimmer estimates that 4 percent of our total private employment—7 percent in manufacturing—is accounted for by exports. In some sectors, particularly high-technology and other "growth" industries—which, I might note, have comparatively high wages—the reliance upon export business is even higher.

In short, the "employment" argument used in favor of protectionism is a two-edged sword. In addition, one cannot overlook other effects of trade on our economy. Price and quality competition provided by imports are obvious. Not so obvious, but equally important, is the fact that import competition has resulted in significant advances in many U.S. industries in terms of investment and technology. The steel industry, for example, did not modernize until forced to do so by foreign competition. The automobile industry did not develop smaller cars until pressured by imports.

Present U.S. trade restrictions already cost U.S. consumers billions of dollars—$2 billion, according to one estimate, as a result of just tariffs on industrial projects. Including nontariff barriers, the total costs to consumers of present trade barriers may total as much as $10 million annually.

It seems to me, considering all these factors, that American policy ought to move in the direction of removing impediments to trade. H.R. 10170 provides the executive with the authority necessary, to accomplish this goal, with appropriate checks by the Congress.

ADJUSTMENT ASSISTANCE

Mr. Chairman, I would also like to address the subject of adjustment assistance. No one can say that the present system has been a success. I may know that better than many Members of this body, because of the large number of shoe, textile, and fish businesses in my congressional district.

A report for the National Association of Manufacturers on trade adjustment assistance indicates the severity of the need for assistance in the area of Massachusetts I represent. The report indicates that at least nine petitions filed by communities in my congressional district with the Tariff Commission for adjustment assistance have been accepted, six of these in one city—Haverhill—alone. Nearly 2,000 workers are in the group injured by import competition. In the past 3 fiscal years, according to information supplied by the Department of Labor, the adjustment assistance programs authorized by existing law have resulted in total expenditures within all of Massachusetts of $2,537,530. Even this seemingly substantial sum does not even approximate the needs of workers, firms, and communities in my State.

In fact, the present adjustment assistance system is woefully inadequate. It offers too little assistance, too low benefits, and is so difficult to invoke that it is finally an administrative nightmare. Assistance is available, at best, only after years of negotiating with an unresponsive and callous bureaucracy.

Chief cause for the failure of the program rests in the fact that assistance to workers or firms cannot be supplied unless they can prove to the Tariff Commission—which takes months upon months to act—that a previous trade concession has been the cause of increased imports that have caused the injury. In practice, it has been, with rare exception, almost impossible to prove this causal link. On a industrywide basis, the current adjustment assistance law requires that increased imports be shown to be the major cause of an industry's declining economic fortunes. This, too, has been difficult to prove in practice.

As I have often said, the failures of a program today, when the need still exists, are cause for an improved program—not for scrapping it. Unfortunately, the administration's response to the need for improvement in the adjustment assistance program cannot be characterized as productive. The few improvements contained in the administration's proposal, as spelled out in H.R. 6767, were far outweighed by the substantial reductions in the level and duration of benefits to workers and the complete elimination of assistance to firms that were called for in the bill. While the administration bill might have helped somewhat on an industrywide basis, by easing the process of invoking the so-called escape clause—which allows for the temporary implementation of import quotas, orderly marketing agreements, tariff-rate quotas, or countervailing duties—the net effect for workers and firms would have been negative.

The Ways and Means Committee has to some degree improved upon the President's proposal. For example, the committee bill makes adjustment assistance more easily available through more liberal criteria and simplified through more direct procedures and required decisions. In determining the eligibility of industries for assistance, the committee bill drops the causal link between imports and previous trade concessions and makes eligibility dependent on a finding that imports have contributed importantly to an industry's trouble, rather than requiring that imports be the major factor, as is presently the case.

Workers are entitled, under H.R. 10710, to up to 52 weeks of cash allowances. These allowances are to be increased above the administration's proposal to 70 percent of the worker's average weekly wages for the first 26 weeks of entitlement, and 65 percent of wages for the second 26 weeks. By contrast, the administration bill would have dropped benefits to 50 percent—compared to the present 65 percent—or two-thirds of the statewide average wage, whichever is less. While the Ways and Means Committee changes are all for the better, they do not go as far as provisions contained in legislation introduced by my colleague, Congressman CULVER—which I cosponsored—which would raise benefits to 85 percent of average weekly wages.

Even with these and other improvements in adjustment assistance contained within H.R. 10710, it seems to me that in the longer run we should adopt a new approach altogether—one that will work not only to assist those who have problems, but which will help to avert the creation of those problems.

Specifically, we should adopt a broad industry assistance program along the lines proposed by the President's special trade representative, Mr. Eberle. Such a program would assist industry to increase its productivity. It would reward competitive strength and efforts to achieve it, rather than concentrating assistance on poorly managed firms that are on the brink of financial collapse, already suffering from an inability to meet world competition. It would realistically face the market situation, and move to ease the very real human problems of adjustment assistance that a growing and healthy economy must inevitably face.

In the meantime, we should pass, as an interim program, legislation such as that offered by my colleagues, Congressmen CULVER and VANIK, which is now pending before the Ways and Means Committee. It should include an assistance program for communities severely affected by the prospective or actual closing of a major employment source. It should provide low-cost, easily available loans to any firm in a trade-impacted industry for the purpose of revitalizing and strengthening those firms. It should establish better means for forcasting trade-related problems in domestic industries. It should expand upon assistance to workers, emphasizing training, relocation, and fringe benefits, with special help given to older workers. It should provide incentives and assistance for research and development into projects that would create new job opportunities, and reward firms on their merits.

This is the outline of the kind of adjustment assistance program that I believe should be at the core of our trade policy, and which I will continue to support. The bill before us today does not accomplish all these goals, but will nevertheless prove a benefit rather than a detriment as our country heads toward another unnecessary recession. I support H.R. 10710, as part of an effort to create and protect jobs dependent on exports, and to stimulate our entire economy. I urge my colleagues to give their support to this important legislation.

Mr. RARICK. Mr. Chairman, our people are bombarded daily with news of some new shortage. A gasoline shortage, a bread shortage, a newsprint shortage, a grain shortage, a beef shortage, even a bailing wire shortage has been reported. Americans were informed by the Washington Post this morning that they can expect in the near future a toilet paper shortage. Perhaps this final indignity to the American taxpayer will cause enough of an outrage by the public that the international giveaway and tradeaway specialists will realize that we had better place the best interests of the American people first in all our dealings with foreign powers.

This bill is a far cry from that goal.

It certainly does not put the best interest of the American laboring man first. Rather than secure his employment, the authors of this bill obviously anticipate widespread unemployment if the provisions of this measure are implemented. Title II, "Relief From Injury Caused By Import Competition," goes to great length to detail how workers who lose their jobs to foreigners will be "helped" by the Government. Title II, in effect, is telling the American worker:

> Now that we have exported your job in the name of a "fair world economic system" and you are out of work (injury caused by import competition), the government will generously dole out some money to you (Part I "Trade Readjustment Allowances"), teach you a new skill (Part II, "Training and Related Services"), and then help you get a new job even though it may be far away from your home (Part III, "Job Search and Relocation Services").

What generosity. The very same law which puts the worker out of work, picks him up, dusts him off, and ships him to a new job in a strange part of the country. How much more simple and economical it would have been to have never imposed this unnecessary hardship on our workers in the first place.

Evidentially, the authors of H.R. 10710 foresee numbers of American businessmen being wiped out by the ill affects of this bill. There are provisions included in the bill for our business community, similar to those of labor, when they go bust, because of Government intermeddling with the free enterprise system.

In fact, a more apt title for this legislation would be the tradeoff bill, since it trades off and redistributes U.S. wealth and job opportunities worldwide.

The only advantages of this legislation will be realized by the international cartels, who have the economic power to expand and protect their interests; interests which may not necessarily coincide with those of the American people. This windfall of a "Balance of Payments" monoply will be reaped by a select handful, not the small businessman and not the laborer.

The very phrase "balance of payments" is a misnomer when applied to all nations. How can the United States have a favorable balance of payments with all countries, when many countries have nothing to sell us that our people or industry want or need. Nothing, that is, unless we create an artificial U.S. market for their products, and in the process, destroy our own domestic producers.

There can be no balance of payments in the sales of our agriculture products abroad when we continue to follow the economically disastrous concessional sales under Public Law 480. Under this "stimuli to economic growth," Mr. Chairman, if the host country does pay us for our agricultural goods—at low interest, long term rates—we often agree to leave that money in the host country for use there. This is hardly "balance of payments."

The simple fact is, there can be no true balance of payments unless and until there is an even distribution of wealth and jobs around the world, under some form of one-world government. And this, Mr. Chairman, is what this bill works toward, and it does it exceedingly well.

I insert in the RECORD the related newsclipping, which illustrates my point, following my remarks:

EXPORTS FROM UNITED STATES TO POLAND RISING

American exports to Poland in the first six months of 1973 reached $197 million; the figure for the same period last year was $45 million.

Since the ouster of Wladyslaw Gomulka from the leadership of the Polish Communist party three years ago, the new leader, Edward Gierek, has reversed a conservative attitude toward modernizing the country's economic base through the use of foreign credits. The Export-Import Bank, a United States agency, began underwriting such loans this year.

Increased trade—Polish exports to the United States have risen at a more modest rate from $64 million in the first half of last year to $84 million this year—is accompanied by a lively flow of official and trade missions. American companies in most business fields regularly include Poland in their exploration for export markets.

Criticism of the United States in official pronouncements or in the controlled press has been muted. Poles know more about the embattled status of President Nixon from the American official and quasi-official broadcasts beamed here by the Voice of America and Radio Free Europe than from their own press and broadcasts.

It is not unusual for Polish officials receiving American visitors to enter a mild defense of the president.

Similarly, Polish news coverage of the recent Middle East War and America's active support of Israel was far more moderate than the zealous and inaccurate reporting of the 1967 war.

American access to Polish officials, highly restricted in the past, has become easy at all levels. The ambassador, Richard T. Davies, became the first American envoy to be received in private audience by a Polish first secretary when he called on Gierek a year ago.

Gierek is known to hope that next year he will be come the first leader of Poland's Communists to make an official visit to the United States. An invitation was extended during Nixon's visit last year, but no date has been set.

These developments are in line with similar trends in the other countries of the Soviet bloc since the United States and the Soviet Union set their foreign policies on a course of relaxation of tensions.

Over the last four years the U.S. government has sponsored more than $29 million in scientific research projects on its behalf by Polish scientists.

The research is conducted on commission by a number of American government agencies over a wide range of disciplines. They include many branches of medicine, agriculture, environmental projection, mine safety, astronomy, alcoholism, traffic problems, nuclear physics and chemistry.

The funding is from the large zloty holdings of the United States accumulated as a result of eight major sales of American agricultural products, mainly grain, from 1957 to 1964. The total zloty earnings of the United States amounted to $519 million, of which about $300 million is left.

Mr. WOLFF. Mr. Chairman, as chairman of the House Special Subcommittee on International Narcotics Control, I wish to rise in support of an amendment to the Trade Reform Act which was proposed during committee consideration of the bill. This provision, which I have coauthored with my colleague, CHARLES VANIK of Ohio, a member of the Ways and Means Committee, allows the imposition of strong trade and investment embargoes against any action which fails to take vigorous action to halt illicit narcotics traffic and production within and across its borders.

This clause will encourage nations which have been lax in controlling the production and flow of heroin within their borders to tighten up their security operations. I urge my colleagues to support this stipulation and unite with me in the effort to fight the narcotics menace.

Mr. DONOHUE. Mr. Chairman, although I am not now and never have been opposed to fair trade agreements legislation, I am strongly impelled to act in rejection of this pending reform bill in its present composition and under current circumstances.

If this proposal were truly a reform measure, in the sense and reality of establishing agreements that would make such trade expansion fair to our own domestic industries and their employees, in equal competition with foreign industry imports, a very different situation and appeal would be presented to those of us who have been advocating and supporting fair trade for a good many years.

However, and most regrettably, a great many recognized authorities agree with a good many of us that this measure does not represent the full promise and projection of an acceptable fair trade bill. For instance, this bill grants new and extremely broad powers to the President to enter negotiations and initiate agreements that would permanently alter the structure of our trade relationships and the domestic economy.

The expanded import programs embedded in this measure will unquestionably accelerate the disastrous decline and expiration of domestic industries, such as the textile, shoe, leather, machine tools, steel, electrical appliances, and a long list of others that are so vital to the sustained economy of my own home region and the entire Nation.

Beyond these alarming potentials let me add that the labor and industry protections that are suggested in this measure have proved substantially inadequate to their intended purpose in the past and there is no new convincing justification for their acceptance now.

Mr. Chairman, I submit that an effective trade reform bill should very clearly evidence the same genuine concern for the wholesome survival and maintenance of our own American industries and their related job opportunities as it does for foreign competitors but, unfortunately, this measure is quite far from any persuasive indication that such would be its welcome result. Those of us who have maintained a steadfast concern for our essential regional and national domestic industries and their employees ask only for a constructive measure that will actually provide fair and reasonable adjustments and considerations to these beleaguered American businesses and citizens in order that they may have an equal chance to compete in our domestic markets with excessive foreign imports and I emphasize that an equal chance is all that these good citizens want. It is their just entitlement and the proposal before us simply does not grant them such entitlement.

The record shows that instead of the astronomical number of new jobs that were supposed to be created as a result of the 1962 Trade Expansion Act the reverse occurred and the foreign trade and investment policies of that act projected the loss of some million jobs and job opportunities since 1966.

Mr. Chairman, beyond these factors let us not be unmindful of the presently weak position of the President as viewed by the "hard bargainers" abroad; that many of our foreign competitors have very recently demonstrated, in connection with the Arab oil embargo, an overriding concern for their own economic self-interests ahead of any consideration for the United States; that the same Arab oil embargo should be a persuasive warning against our past American tendency to become dangerously dependent upon foreign sources of supply for key strategic and consumer goods; that the sudden and vastly uncertain projections of the energy shortage generate an entirely new economic complex the overall effect of which should be more thoroughly and carefully explored before any new foreign trade agreements are made; that this bill contains virtually nothing, by way of tax impact or other restrictions, to sensibly regulate U.S. based multinational corporations which export jobs, capital, and technology in return for imports which displace U.S. products; that another adverse obvious effect of the provisions of this bill would be to endanger our current and prospective laws to strengthen product safety, consumer protection, and environmental standards. These and a host of other deficiencies in this measure create much more than a reasonable doubt that this bill can achieve the purpose for which it is sincerely intended.

I would urge therefore, Mr. Chairman, that the measure should be returned to its committee of origin for further revision in accord with the changing national and international economic circumstances that have recently arisen and for the addition of strengthening amendments for the correction of certain protection deficiencies that have been revealed in the past operation of substantially similar legislation.

Indeed, Mr. Chairman, the administration itself has three times promoted postponement of congressional action on this measure and it is most difficult to see why we should be urged to immediate action now.

On this score, let us not scorn the old adage that has been so often proved to be historically right, namely, that action in haste may well make us repent at leisure. But most of all, in this very troubled period of our history and in the face of so much skepticism throughout our country, let us take the time and the thought to persuade our own people that, before all other appeals however good and worthy they may be, this Government is first and primarily concerned with the welfare of each and every American citizen and family.

Mr. MILLER. Mr. Chairman, a tangential issue to this trade reform bill now before the House is coming up later this afternoon when we take up the foreign aid appropriations bill.

Over the past 26 years, foreign aid has cost the American taxpayers $253 billion. This tremendous outflow of dollars that has circulated throughout the world is also one of the major causes of the international monetary crisis and recent U.S. trade deficits.

Just as this trade bill makes a break with previous policy so must the present foreign aid program break with the past. We simply cannot afford to continue to go down the same old road of sending money abroad and getting nothing in return.

If foreign aid can be reformed so that the American people can get something of value for the money and expertise we ship overseas, trade reform would be enhanced and more meaningful.

Right now a fierce global struggle is underway for available natural resources, not just petroleum, but zinc, copper, iron ore, phosphates, and many other critical minerals which form the basis for an industrial economy.

If we do not act soon, the United States will face a mineral crisis as devastating as the current energy crisis in terms of unemployment, product shortages, inflation, and public hardship. The American people are vulnerable to mineral embargoes and price gouging unless we secure assured access to foreign mineral resources.

Last July I proposed an amendment to the foreign aid authorization that would provide for the exchange or barter of U.S. foreign aid for strategic or critical raw material, minerals, and fossil fuels which have been or are being depleted in this country.

I hope my colleagues will read page 7 of the Foreign Assistance Appropriation Committee report regarding the committee's view that such exchanges should be considered and the remarks I shall offer when the bill is debated.

Mr. DRINAN. Mr. Chairman, I rise in support of the Trade Reform Act because, despite my reservations, H.R. 10710 is essentially a free trade bill. Despite broad grants of negotiating authority to the President, these grants are subject to preapproval and postapproval congressional action. The bill permits the President to reduce American tariffs and modify or eliminate nontariff barriers in exchange for the reduction by other countries of their barriers to trade. The significance of the President's power to negotiate reductions through elimination of nontariff barriers lies in the fact that nontariff barriers, more than tariffs, are barriers to trade. Nevertheless, these provisions are properly subject to congressional approval. The Congress retains a veto over the elimination of any specific nontariff barrier, thus limiting the President's independence and preserving for the Congress some degree of control over our foreign economic policy.

The bill before us also improves the trade adjustment assistance program. Access to that program has been eased considerably, and program benefits, particularly for workers, would be improved. The maximum trade readjustment allowance for any week would be increased from 65 percent to 100 percent of the average weekly wage in manufacturing, which translates to a raise in the maximum payment from an estimated $111 to $170 per week in 1974.

In addition, employment counseling, testing, placement, and other supportive services would be available to affected workers. This will hopefully represent a substantial improvement in the trade adjustment assistance program, which under present law has not been successful.

In title V of this bill, the United States is given the authority to make good on its longstanding international commitment to permit less-developed countries to increase their exports to the U.S. market The European Economic Community and Japan have already extended some form of preferential treatment to these manufactured products, leaving the United States as the only major western industrial nation which thus far has not yet fulfilled its commitment to extending duty-free treatment to a limited number of products from less-developed countries for a limited time and with adequate safeguards against injury to American industries and workers.

Finally, the passage earlier today of the Vanik amendment to title IV, ties freedom of immigration to the grant to nonmarket countries—such as the Soviet Union—of most-favored-nation treatment.

My colleague and distinguished economist Mr. REUSS stated succinctly one of my principal disappointments with this legislation:

> It is regrettable that the trade bill includes no provision to change the tax treatment of multinational corporations. American subsidiaries should pay similar taxes on the profits from their overseas operations as their parents do here on earnings from domestic operations.

Mr. Chairman, our Government needs the authority to participate in the new multilateral trade negotiations under GATT, the general agreement on tariffs and trade. Notwithstanding my reservations in the legislation before us, I believe that open and vigorous trade is essential to maintaining friendly relations with the rest of the world. The present round of GATT negotiations is scheduled for completion by the end of 1975. This bill will enable the U.S. delegate to those negotiations to negotiate with adequate power.

I believe that our economy will be helped by this hopeful step forward toward open and nondiscriminatory trade. I am satisfied that the authority granted to the executive branch in this bill is heavily safeguarded and that the objectives of expanded world markets for U S. products and the creation of additional jobs for American workers will be achieved.

Mr. SCHNEEBELI. Mr. Chairman, the Trade Reform Act of 1973 represents many months of work by the Ways and Means Committee. I want to pay special tribute to the assistance and cooperation that we received from Ambassador William R. Pearce in developing this bill.

Bill Pearce was instrumental in developing the recommendations that the administration submitted to Congress. He ably presented the administration's proposals to the committee and was particularly helpful in outlining the trade problems which we face as a nation. While ably representing the administration's point of view before the committee, he did so in a spirit of compromise and cooperation without sacrificing the goal of achieving responsible trade legislation necessary to shape America's future trade policy.

Development of the Trade Reform Act of 1973 was truly a cooperative effort and an important source of this cooperation was Ambassador Pearce. His deep knowledge of trade problems, his understanding of the important role Congress must play in trade, and his commitment to a sound trade bill enabling us to move forward with our trading partners were deeply appreciated by the committee. I want to take this opportunity to commend Ambassador Pearce on the sustained commitment he has made over the past year.

Mr. GUDE. Mr. Chairman, I support the amendment to title IV of the Trade Reform Act of 1973. It is urgent that the full Freedom of Emigration Amendment, most specifically, a prohibition on the granting of U.S. Government credits and credit guarantees, be adopted at this time. While pleased that the Ways and Means Committee has included language in this bill denying most-favored-nation status to nonmarket economy countries which deny their citizens the right to emigrate freely, I feel this was not enough. The denial of loans, credits, and guarantees to these nations is the heart of the economic issue here.

Despite repeated protests to the contrary from Soviet officials, it is quite clear to us that harassment of Jewish citizens continues, and without letup. Those applying for exit visas continue to be denied permission on arbitrary grounds—or no grounds whatsoever; they simply face repeated delays or lack of any official response to inquiries on their behalf.

I believe strongly, Mr. Chairman, that we must grasp this opportunity to put economic force behind our protest to the Soviets of their repressive treatment of their citizens. It is apparent that mere discussions of this issue with Soviet authorities have little value in effecting real change. And dramatic change is imperative. I urge my colleagues' support of this amendment.

The CHAIRMAN. All time has expired. Under the rule the bill is considered as having been read for amendment. No amendments are in order except amendments offered by the direction of the Committee on Ways and Means, an amendment offered to section 402 of the bill containing the text printed on page 34311 of the CONGRESSIONAL RECORD of October 16, 1973, an amendment proposing to strike out title IV of said bill, and an amendment proposing to strike out title V of said bill but said amendments shall not be subject to amendment.

Are there any committee amendments?

Mr. ULLMAN. Mr. Chairman, there are no committee amendments at this time.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would inquire of the gentleman from Ohio if this is the amendment which is made in order under the rule?

Mr. VANIK. Mr. Chairman, the amendment is made in order under the rule.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. VANIK: Page 129, line 25, after "treatment)," insert the following: "such country shall not participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly,".

Page 130, line 20, strike out "and (B)" and insert the following: ", (B) such country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and (C)".

Page 131, line 6, after "received", insert the following: ", such credits or guarantees extended,".

Mr. VANIK. Mr. Chairman, in recognition of the limitation of time under the rule, when the Committee rises I will ask in the House that all Members have 5 legislative days in which to revise and extend their remarks at this point in the RECORD.

Mr. Chairman, the amendment being offered would restore the original language of the freedom of emigration amendment cosponsored by 289 Members of this House.

The committee accepted the part of the original amendment denying most-favored national tariff status to nonmarket economy countries denying freedom of emigration.

On a procedural vote of 12 to 12, the committee deleted the provision denying loans, credits, and guarantees to these nations.

This is a crippling omission. The last 2 years of trade with the Soviet Union have been carried on without most-favored-nation status but with credits. Soviet trade is substantially in nontariff items. Most favored nation is largely status. Credits are the real economic force.

If our concern about human rights and the type of nations we trade with is real, then we must adopt the credit amendment now before the House. This amendment will show our potential new trading partners that we will require some basic consideration of human rights—that some system of regular and equitable emigration policy is expected—a nondiscriminatory, humane system free from terror and impossible conditions—a system that reflects respect for the United Nations Declaration of Human Rights.

This amendment is not an interference in the internal affairs of other nations. Since when does a condition on granting credits supported by the taxpayers of the United States constitute an interference with another nation's internal affairs? We have no duty or obligation to extend lower tariff rates or billions of dollars in loans—these are not the rights of foreign nations. They are gifts that can be offered by the American people under conditions set by the American people. The granting of these privileges are an internal affair of our Nation. It will be more difficult and dangerous to withdraw these privileges once given. Therefore, they must be given with the utmost care.

The passage of this amendment does not violate the properly given constitutional pledge of any American official to a foreign country. Power over taxes and tariffs and power over the purse are congressional powers. They should not be casually promised away without fully consulting the Congress.

It is argued that we have human rights problems of our own. I offer this amendment in the full humility that we are not perfect—and with the conviction that if we abandon this cause, we would be less worthy. This amendment is in the American tradition. It is similar to the 1911 abrogation of our commercial treaty with czarist Russia over that regimes massacres of its Jewish citizens.

It is said that quiet diplomacy will make this amendment unnecessary. That is the same thing the State Department said all during the 1930's about the plight of German minorities. The discussion of this amendment may already have been of help in the education tax issue. In spite of all the dangers involved for them, the people relying on this amendment have begged us not to give up this issue. Today's newspapers report a letter from 188 persons from 10 Soviet cities to the United Nations protesting restrictions against Jews in the Soviet Union. Today's newspapers also tell us that courageous Andrei Sakharov and his wife were both admitted to a hospital. In traditional Soviet methods of reporting, the reason was not given.

This amendment does not block trade needed by America. There is no security for the United States in the oil and gas fields of Siberia. Credits are unnecessary to a country with $20 billion in gold and which continues to make a disproportionate commitment of gross national product to its military. Even the just-retired head of the Export-Import Bank admits that it is foolish to make loans to a country which denies normal business data. Why are we in such a hurry to buy détente, even when we have reports that Soviet leaders say détente is a 15-year strategy to gain economic superiority? How can we justify an energy development in the Soviet Union financed by U.S. taxpayer funds in view of the events of last month when the Soviet Union canceled its commitment—to five Western European countries?

The amendment does not block trade with the East. It is a major step toward defining trading conditions to our mutual benefit. As the committee report indicates, expanded trade with certain Eastern European countries should soon be possible.

The passage of this amendment will be a reminder to the world that America is still the hope of free men everywhere.

Mr. ULLMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me make my position clear. This amendment came up in committee. The committee rejected this amendment on the ground of jurisdiction and not on the ground of substance. The committee, when it went before the Committee on Rules, was neutral, and my objection to the amendment lies primarily in the fact that the jurisdiction here lies with the Committee on Banking and Currency.

This is a very complex matter that should have had extended public hearings. We are moving here out of the proper jurisdiction, and without the proper background for study. That is the basis for my opposition to the amendment.

Mr. BELL. Mr. Chairman, I rise in support of the amendment offered by my colleague (Mr. VANIK) to add credit restrictions to title 4 of the Trade Reform Act.

I have always supported the principle of allowing people the right to choose where they wish to live.

We know that this is not the case in all parts of the world today.

I cannot condone the idea of the United States granting trade credits and guarantees to those nations which deny free emigration.

We cannot look the other way and ignore the plight of fellow human beings who do not have the right to determine where they can live.

Administration and congressional support for granting trade concessions to Russia increased with the announcement of the termination of special levies directed against those seeking to emigrate from the Soviet Union.

It was believed by many that this resolved the problems relating to emigration in Russia, but this is not true.

The Soviet Government has simply changed tactics.

Special harrassment and new exit tax policies are now being applied to Jewish families with children who are attempting to leave Russia.

This has resulted in 3-week-old babies being listed as traveling alone and, thus, subject to levies.

This convinces me that there has been no permanent relaxation of Soviet hostility to Jews, particularly emigrating Jews, and that trade concessions which we extend to Russia because of a presumption of changed policies in this area are not deserved.

It is also believed that denying extension of credits to Soviet exports is not a proper or even an effective way of dealing with the problem of Soviet jewry.

Mr. Chairman, I submit that it is entirely proper, extremely effective, and absolutely necessary.

For example, this Congress, under the leadership of President Washington, instituted a limitation on commerce on March 26, 1794, designed to cause Great Britain to rescind its notorious orders in council.

President Jefferson terminated all American foreign trade in 1807 for much the same reason.

More recently and more in point, in October 1960, the United States imposed an almost total embargo on trade with Cuba in an attempt to influence Cuba's very form of government.

And in July 1967, the United States joined in a United Nations embargo against Southern Rhodesia for the express purpose of altering that government's policy toward its black residents.

Thus, there is adequate precedent for the step that I am urging you to take.

Perhaps the essential distinction between the historical examples I have cited and the freedom of emigration measure is that the previous actions involved the withholding of previously ongoing trade relations; today we do not propose to interfere in any way with ongoing relations, but merely to condition a new concession, on our part with a consession by the other side.

I would also like to emphasize that the plight of Jews within the Soviet Union simply cannot be classified as an internal problem of that nation.

To my mind the history of the Jewish people, and especially the 20th century record, is such that no human being, no matter what his country or religious belief, can justify closing his eyes and mind to their plight.

In that sense the problem of Soviet Jewry is truly an international one.

Of course I favor the relaxation in tension between the Soviet Union and the United States, and of course I fully support the expansion of economic relation between the two central powers in the world.

But there is no need whatsoever for the United States to relent at this time and our insistence on freedom of emigration is consistent in the record of history. Correct in the annuals of international law, and essential to the moral standing of our Nation.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

Mr. Chairman, like most of the Members of this Chamber, I have supported Israel in the past and will, doubtless, support her in the future. Like most Members of this Chamber, I am profoundly skeptical about Russia. Like everyone in this Chamber, I deplore the denial of human rights and free emigration which has characterized the Russian regime from time to time. Any Communist country which does not have walls and barbed wire at its borders is likely to be diminished thereby, particularly with respect to its intelligentsia.

The emigration tax is part of that wall and that barbed wire, and there are, of course, many other devices available to an authoritarian regime to prevent emigration. This measure looks only to the emigration tax as a condition of trade negotiations.

Peace in the world depends on two things: American strength, and the encouragement of a climate in which progress can occur. Americans are sick of confrontations, and there is plenty of evidence that the Russians are sick of it, also, when the risks are so high.

The Vanik amendment is another confrontation, this one a legislative confrontation. It is the imposing of an absolute condition before normal trade can be even explored. Its rigidities conformed the first step toward commercial détente.

There has been progress in emigration from Russia and this will jeopardize it. For the last 2 years 30,000 Russian Jews a year have been permitted to leave with a waiving of the emigration tax. In October, during the Middle East war, 4,500 were processed for emigration documentation. The probability is that if we find some other device, instead of using elimination of the emigration tax as a condition precedent to trade, to keep continuing pressure on the Russians, we will be serving the cause of Soviet Jewry better than we are by drawing this line and encouraging confrontation on this issue.

That the effects of the Jackson-Vanik amendment are mischievous is evidenced by the delay the administration has requested up to this point. The President and Dr. Kissinger fear its mischievous effects. If anybody is interested in having a trade bill, it is the administration and President Nixon, and yet they have consistently put it off solely out of concern for the repercussions if the amendment is adopted.

Trade is neutral. It does not get involved with ideology. It will not happen unless there is mutual advantage. It will give the Russians a vested interest in peace and a greater concern for what we think of them. It will provide a form of contact more constructive than the military and political confrontations of the past.

Mr. SCHNEEBELI. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Pennsylvania.

Mr. SCHNEEBELI. Mr. Chairman, I believe the gentleman will agree with me that neither the State of Israel nor any of its representatives in the United States ever asked us to support this restriction of credit sales to the U.S.S.R.

Mr. CONABLE. Not as far as I know. I think there is a serious question about this as a tactic and although many people seem to believe it will be the most effective, I really question whether it will.

Mr. SCHNEEBELI. Because the State of Israel itself extends most-favored nation treatment to the U.S.S.R.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Wisconsin.

Mr. OBEY. I want to express briefly to the gentleman in the well that it may very well be we should not grant the Russians credit, but to tie it entirely to this question, to the Soviet-Jewish question in my judgment will result in having the Soviet Jews used as scapegoats by the Kremlin. I know it is designed to help the Jews but I believe it will hurt them. I respect the purpose of the gentleman from Ohio in offering this but I believe it will have the opposite effect.

Mr. CONABLE. Mr. Chairman, I urge opposition to the amendment, sharing the concern of the gentleman from Wisconsin.

Mr. DELLUMS. Mr. Chairman, I rise in support of the Vanik amendment. This amendment strengthens our commitment to human rights and our sense of responsibility in human affairs. In my opinion, the principle on which the amendment is based should be extended to our entire foreign policy.

Some say that this constitutes interference in the internal affairs of other countries. But it not interference to choose our trading partners, to maintain some standards about whom we do business with. The Soviet Union has shocked the entire civilized world with its relapse to the crude czarist repression of the Jews—one of the barbarities their revolution in 1917 was supposed to end once and for all. To destroy a community at its heart, its religious self-expression, and to prohibit the reconstitution of that community where it will no longer be a source of irritation to the Soviet Government and its desire for control—this strikes me not just as Realpolitik, however repulsive, but as gratuitous cruelty.

I call upon my colleagues to reject a false idea of détente that would have us close our eyes to the consequences of our acts. The Soviet Government can attain further economic growth in two ways: By liberalizing its internal policies or by relying on the United States and the other advanced countries to bail it out. I see no reason to hinder trade, but I also see no reason to help the Soviet Government maintain its grip without concessions to its own citizens. This amendment would allow trade only when a minimum standard of human rights is met. Surely, we can do no less.

Mr. BAUMAN. Mr. Chairman, one portion of the Trade Reform Act of 1973 (H.R. 10710) now before the House has taken on unusual importance, as we all know. The way we vote on title IV will signal to the world the degree to which America still values the cause of human freedom. I would like to address my remarks to this section.

It is axiomatic that we rarely truly appreciate something of value until we are without it. As a corollary, it can be said that we tend too easily to take our material wealth, and our liberty, for granted.

As a result, many Members will argue here today for a policy of granting generous trade advantages to the Soviet Union, giving little thought to the plight of the millions who must continue to live under the heavy yoke of totalitarian Communist rule.

I have no doubt that those who hold this view sincerely believe that such a move would be in the best long-range interests of world peace. But I also have no doubt that they are wrong.

One argument advanced against the amendment offered by the gentleman from Ohio (Mr. VANIK) to the Trade Reform Act is that it will have no effect on Soviet emigration policy, and that even if it did, we have no business meddling with the "internal" affairs of another nation. This amoral judgment, made without concern for the plight of those who are imprisoned for their beliefs, or those who are sent to "mental institutions" or forced labor camps, because they dare to differ publicly with Soviet policy, saddens me more than it angers me.

The economic advantages of new trading arrangements, as I shall explain shortly, are minimal for the United States. We even run the risk of getting burned. But to hand over extraordinary trade benefits to a Communist regime which differs from the Stalin era in style only is to me unconscionable. We have the capacity to strike a blow for human freedom. The Soviets need trade with the United States badly if they are ever to drag their economy out of the stagnation to which communism has relegated it for more than 50 years. If they want it badly enough, they will offer something in return. They have little in the way of industrial products to offer, and the volume of raw materials we can expect to import from them will be small in contrast to the vast amount of technology, manufacturing equipment, and capital which they want in return. But one return which we can ask will cost them no money at all. It is freedom for Soviet Jews, intellectuals, and many others who long to leave that Communist state.

Those who see this measure solely in economic terms only ignore two centuries of American dedication to the cause of human freedom. We must not now walk away from those who plead for our help. Those who argue that the chances for success are small ignore the fact that a chance exists. I, for one, believe that the Vanik amendment ought to be adopted in toto, with a prohibition of both most-favored-nation treatment and credits and credit guarantees, unless Soviet emigration policy is changed.

Some argue that such an amendment would imperil the era of détente which has been carefully pieced together by the President and Secretary Kissinger. Anything which would slow the shaky movement toward détente, the argument goes, must be avoided at all costs.

Some take a slightly more sophisticated approach, arguing that an era of peace must be built on a carefully constructed interdependence between the United States and the Soviet Union. They contend that the development of strong mutual vested interests in continued trade will prevent future hostility, and provide incentive for accommodation.

I fear that their argument is built on falacious reasoning and ignores history. It is based on an assumption that the trade will be substantial and long term, and that it will supersede in importance all other considerations for the foreseeable future. It should be obvious to all that the Soviets are not interested in buying much in the way of consumer goods from the United States. They want the highly developed technology which, in many areas, only the United States can supply. Sophisticated computers, highly technical manufacturing processes, and American investment capital are what they are seeking. It does not take a genius to figure out that once the Soviet Union has obtained the technology which its industrial sector cannot provide, their use for the United States will diminish rapidly. Once their factories are built, once their oil and natural gas supplies are located and drilling and transportation equipment are installed, once their science and industrial sectors have copied and put into production highly sophisticated American equipment, what will keep them from expropriating American-owned industries, or ignoring further trade obligations and defaulting on their debts?

Just as importantly, once we have become dependent on certain supplies of Russian raw materials, such as chrome, oil, or natural gas, what is there to prevent the Soviets from cutting off shipment of those supplies in order to punctuate some new demand in the realm of foreign policy? And make no mistake, raw materials are about the only product from the Soviet Union that we can use.

Thus, the "interdependence" which forms the cornerstone of this new policy toward the Soviet Union is questionable at best. We get the worst of the deal in several ways. The Soviets need what we have to offer far worse than we need any Soviet products. In order to give them the technology and investment capital that they need so badly, it is somehow felt that we must give them the most advantageous terms possible. Thus, we will wind up giving them long-term credits at low interest rates which are unavailable to some of our best clients. These credits will either be provided by the American taxpayer, or underwritten by him, and the interest rates being given to our new friends in the Soviet Union will be lower than those available to you and I. Meanwhile, with Americans supplying the investment capital needed to develop their natural resources and build their industrial economy, they will be free to spend the money thus freed on other things, and few can doubt that it will be spent on military hardware. And in return for all of this, we will be getting some raw materials that we could get elsewhere without the attendant costs and risks involved.

I simply cannot understand what the Soviet Union has done to earn such favorable treatment from the United States. Was it supplying North Vietnamese troops with the weapons necessary to kill more than 50,000 American soldiers and pilots in Vietnam? Was it supplying Egypt and other Arab countries with the war materiel necessary to start yet another war with Israel? Was it the jailing and repression of thousands of Soviet dissidents? Was it the construction of a massive military force now superior in many respects to our own—while they talked publicly of détente and peace? Does all this indicate a willingness to enter a new era of accommodation and friendly relations with the capitalist West?

Mr. Chairman, I am not about to suggest that we ought to prevent every American business and agricultural firm from doing business with the Soviet Union. But I do intend to maintain that we should have no part of a scheme which grants so much in the way of cheap credit and special treatment to a regime which puts its dissidents in mental hospitals, and which either forbids emigration or allows it only on the most limited scale. The basic human rights which we so easily take for granted are unknown in the Soviet Union, and while we cannot simply march over there and demand that these rights be recognized, we do not need to reward such a policy with needless generosity on our part.

If U.S. business wish to trade with the Soviet Union, fine. Let them demand cash or pay higher interest rates which are not guaranteed by the taxpayer. Let the Soviets divert a little of the enormous amount of money they are spending on military hardware into resource development or industrial production.

On the other hand, if the Soviet finally relents and grants at least the right to emigrate, if we can at least get this concession in behalf of humanity from that totalitarian regime, then perhaps we can consider another policy. It may be, as some argue, that our action will never change Soviet policy. That may be true. But we will never know unless we try. The rewards to us will be slim, except for the satisfaction of knowing that we may have helped to free some of those who will otherwise be condemned to a lifetime in the prison that is Soviet society. That is reward enough to me.

Mr. FINDLEY. Mr. Chairman, I will vote against the Vanik amendment. I believe the House accepted this amendment without full realization of its implications for our overall foreign policy and for its potential effect on a Middle East settlement.

Although the intent of the amendment is laudable, it will not work. We cannot legislate for the Soviet countries. On this matter, persuasion and cooperation are far more effective than a blunt instrument.

Because we have accepted this amendment without full realization of what its effects may be, I intend to vote against title IV and I urge my colleagues to do likewise. Rather than rush ahead on a course which may prove disadvantageous to us for many years to come, it would be far better to wait and reconsider early next year the issues raised by the title after we have had a chance to study this matter in depth and have seen what progress has been made in the Middle East talks.

Much has been said about the Russian grain sales.

Wheat was only one part of the Russian grain sales; 9.5 million metric tons were sold, having a value of $567 million. About a quarter of the wheat sold in 1972–73 remained to be shipped at the end of the fiscal year. The Soviet Union has informed the United States that it does not intend to make further purchases until late in fiscal 1974. Only 30 percent of our total wheat exports in fiscal 1973 went to the Soviet Union.

Corn for feed was the other major element in the Russian grain deal. These sales totaled 3.7 million metric tons in quantity, having a value of $210 million. The corn sales were not subsidized, although they were eligible for CCC credit, along with the wheat and a small amount of rye.

The credit arrangements for the grains sale to the Soviet Union did not impose an unusual or exceptional cost for American taxpayers. The Commodity Credit Corporation will extend up to $750 million in credits for Soviet purchases of grain during the 3-year period ending July 31, 1975. During fiscal year 1973 the USSR used $460 million worth of credits for wheat and corn. In fiscal year 1974 they are expected to use about $160 million.

The terms and interest rates made available to the Soviet Union are the same as those offered to other countries which import U.S. farm commodities under CCC credit financing. Between July 8, 1972, and May 16, 1973, an interest rate of 6⅛ percent was applied to all financing approvals issued for grain exports to the Soviet Union. However, in keeping with the rising trend in interest rates sinme May 1973, CCC credit rates have been increased and financing approvals issued currently for Soviet grain purchases carry a rate of 9½ percent. As of October 8, the Soviets had used $529.7 million worth of credit and repaid $31.4 million. They are completely current in their repayments schedule.

The export reporting system instituted in June is a significant improvement in keeping the public informed as to the extent of supplies and commitments for overseas shipments. It will enable the United States to monitor effectively any future large purchases by foreign governments and trading firms in American commodities markets.

In fiscal 1973, U.S. farm exports delivered almost $13 billion to the plus side of the international account, enough to pay for our fuel imports twice over. The sales of U.S. grains to the Soviet Union were a major factor in this export year, but by no means the only one. Exports to the U.S.S.R. accounted for less than one-fifth of the total U.S. gain in agricultural exports this past year, and we should, therefore, be careful not to overestimate the economic impact of that particular series of sales. The Russian purchases were a part of a total growth of world demand coinciding with a series of crop reverses in literally dozens of countries—none of which could have been accurately foretold.

Advantages of the Soviet transactions for U.S. farmers and taxpayers include the following:

First. The added export market increased the value of farmers' 1972 crops by more than $1 billion. This has made an important contribution to the righting of the U.S. balance of payments at a time when our need for increased foreign exchange earnings to pay for imported fuel is becoming more and more evident. It also enabled farmers to obtain more of their income from the marketplace, contributing to the $1 billion drop in Treasury payments to farmers in 1973 as compared to the previous year.

Second. The sales created 30,000 to 50,000 new jobs for Americans and stimulated approximately $1.5 billion of additional rail transportation, shipping, and other economic activity in this country. For the railroad industry alone, increased grain traffic as a result of the Soviet's purchases resulted in orders for 17,000 additional covered hopper cars, some with capacities up to 198 tons. This expanding business has been an important contributing factor to revitalizing segments of our rail industry, and will insure our ability to continue to handle increased grain movements. The Russian grain sales had important stimulating effects for port cities such as Houston, New Orleans, and Norfolk as well.

Agriculture remains the largest industry in this Nation today. It is related to employment for around 16.5 million people, or one-fifth of the U.S. labor force. Agricultural exports have become increasingly important and have greatly stimulated growth of our agricultural economy and the U.S. economy as a whole. In 1973, we exported the product of 80 million acres, or about 30 percent of our cropland.

Continued growth of the agricultural sector and of exports of agricultural products is essential to the health of our economy. We can insure this growth continues if we are able to exploit all available markets. The Communist countries constitute a market for agricultural products of about 1.2 billion people. We cannot afford to ignore a market this large, particularly when our advantages in agricultural production are so great.

Since 1950, productivity in U.S. agriculture has increased 3½ times, about twice the increase in the nonfarm sector. Meanwhile, growth of agricultural productivity in Communist countries has lagged far behind ours and in several countries has not matched productivity growth in their own industrial sector. Gross production in some countries is increasing faster than ours, but only because their rate of investment is higher. In the Soviet Union, for example, the rate of investment in agriculture is four times higher than the U.S. rate; that is, an average rate of $34 billion against $8.87 billion annually.

Our economy is an open one and we must trade in order to purchase the foods, fuels, and equipment we cannot produce efficiently ourselves. In fiscal year 1973 while the trade deficit for nonagricultural products was $3.5 billion, agriculture piled up to $5.6 billion surplus. Our agricultural trade surplus with the Communist countries of $1.3 billion accounted for 23.4 percent of the overall agricultural trade surplus. One-time large grain sales to the Soviet Union accounted for a substantial part of the fiscal year 1973 surplus, but a large and expanding market for our agricultural products, particularly feedgrains, in the U.S.S.R. and other Communist countries remains if we take the steps necessary to secure permanent entry into that market. Although we can do without agricultural trade with Communist countries if we must, we will pay an unnecessary cost by limiting the market opportunities for our domestic agriculture without good justification.

If the Communist countries are to continue to import from us, they must be able to sell their products here in free and nondiscriminatory competition with other foreign countries. Inclusion of provisions in title IV which potentially will deny these countries MFN treatment will hamstring their efforts to export to the United States. A further disincentive in the form of the crippling Vanik amendment is very likely to convince them that we are not serious about improving our overall relations and raising the level of economic cooperation and could well cause them to turn to other sources of supply or to do without.

A major purpose of CCC credits is to make our commodities competitive. Because of the present tight supply situation, CCC credits are being authorized only in a few exceptional cases, primarily for humanitarian reasons. The Communist countries understand this and are not seeking credits on a basis other than of equality with other areas such as Japan and Western Europe. If credits were authorized, we would be giving them nothing for the present except notice of our good will. If we discriminate against them as provided in the Vanik amendment, it will be a slap in the face which will discourage or eliminate commercial purchases and lose us this large market for years to come and will cast a pall over our whole effort to improve relations with these countries.

The Communist countries have the capacity to operate as nearly self-sufficient autarchies and they can obtain the few essential items that they need from other sources. If continuation of denial of equal treatment causes them to make the hard decision to do without the adjustments they will have to make in their economies will bear heavily on their ordinary consumers. In particular, it will necessitate reversal of current efforts to increase the amount of animal protein in diets of ordinary people. Adoption of this amendment, then, makes life more difficult, not less, for the average citizen in Russia.

There are some potential disadvantages in trading with Communist countries. Some people are concerned that after we have built up our agricultural exports, they will suddenly withdraw from the market and leave us holding the bag. However, experience has shown that once trade is opened, it tends to stay open. More important is the fact that these countries have made a conscious shift in priorities toward provision of more animal protein and consumer goods. For example, in 1971–75, while published Soviet figures on defense expenditures are running at about 18 billion rubles and declining as a percent of GNP, an average annual investment in agriculture of 24 billion rubles is planned.

For the next several years, they are dependent on us to accomplish their goal in increasing meat, milk, and egg supplies primarily by imports of U.S. feedgrains and oilseeds—the agricultural commodities in which we have the greatest advantage and for which we are the only major supplier. We should not lose sight of the fact that the Communist countries are planned economies. There is no indication that they will be in and out of the market. Rather, they are seeking long-term supply commitments from us so that they can proceed with planning of essential domestic programs. Even in the unlikely event that one or more of these countries did withdraw from our export market, all would not do so at once.

I have no quarrel with the intent of the Vanik amendment. I deplore the restrictive immigration policies of some of the Communist countries. However, it is my belief that it will not work. Over the years, embargoes and other restrictive trade measures have been singularly ineffective. I see no reason to believe we can affect the internal policies of other countries by U.S. law—what would be our reaction to a Soviet law designed to promote or deny busing of schoolchildren in the United States or, say, a completely open immigration policy.

In view of the détente that has been developed over the past couple of years, it is increasingly clear that there is opportunity to work out our areas of disagreement with the Communist countries. Persuasion, cooperation, and a deepening of détente shows much more promise than a belligerent and discriminatory domestic political action. The latter can do no good and much harm.

We seem to be proceeding in an orderly way toward settlement of the Middle East issue. I see no reason to jeopardize these efforts for a purpose which will be meaningless if the negotiations are successful. I consider it unlikely that the Soviets would not reverse their emigration policy, once pressure from the Arab nations is removed.

I am, however, very pleased that the language of title IV will not keep the President from extending most-favored-nation status to Romania. The committee report and the position taken by the author of the language, Mr. VANIK, makes clear the intention of the Congress to permit MFN to Romania.

In my view, Romania richly deserves this consideration.

Mr. HAMILTON. Mr. Chairman, I rise in support of the administration's request in the trade bill for the most-favored-nation status for the Soviet Union and I also rise in opposition to amendments to the trade bill that would deny the Soviet Union MFN status, credits, and guarantees unless there were changes in its treatment of its citizens and removal of restrictions on the free emigration of its citizens. And I support the administration's belated request for deletion of title IV if it contains constricting language.

Title IV of the trade bill, incorporating the administration's request, was not designed to reward the Soviet Union or to express any acceptance or approval of its domestic policies. Rather, this request was the result of the slow and checkered negotiations between the United States and the Soviet Union seeking to build détente. It must be seen as a natural and small step in the process of allowing normal economic relations to develop between our countries and to complement our ongoing political negotiations to reduce tensions between East and West. At no time during our long and complicated negotiations with the Soviet Union were basic internal changes in Soviet society made a precondition for further development of our bilateral relations.

SOVIET EMIGRATION TO ISRAEL

The primary motivation for these amendments to the trade bill seeking modifications in Soviet internal policies for the granting of certain economic benefits has been the uneven and, at times, unpredictable policies regarding the emigration of Soviet Jewish citizens who want to go to Israel.

After years of allowing only a couple of hundred of its Jewish citizens to emigrate each year, the Soviet Union began in late 1971 to liberalize its emigration policies. Americans welcomed this change in policy which has allowed over 50,000 Soviet Jews to leave for Israel.

This progress, however, makes no less objectionable and reprehensible, several features of the Soviet Government's policies toward its Jewish minority of close to 2.64 million citizens. Among the objectionable features, three should be noted:

First, there are many Jews in jail for ostensibly political reasons who have not been allowed to leave and whose only crime appears to be a desire to emigrate.

Second, despite Soviet claims that in 1972 95 percent of the Jews who applied to leave were able to do so, there are perhaps more than 100,000 Jews waiting and praying daily for exit visas that only seem to be forthcoming on a slow, erratic timetable, subject to the whims of particular—and often petty—Soviet authorities throughout the state bureaucracy.

Third, Soviet policies toward the emigration of its citizens have, in the recent past, involved outrageous fees that some Jews must pay to leave the Soviet Union, in particular the education tax. Each Soviet citizen emigrating has had to pay exit fees of about $1,000 for the privilege of renouncing citizenship and for an exit visa. In August 1972, an additional education tax was put into effect and in December 1972, the tax was refined with a scale for amortizing the education tax liability of prospective emigrants. This fee alone can be well over 10,000 rubles—$13,200 at official rate of exchange of $1.32=1 ruble. In some cases it can be waived. According to Israeli sources, nearly 20 percent of the Soviet Jewish emigrants after August 1972, had to pay some sort of an education tax, and the tax has been waived in about 400 cases.

The education tax became the focus of considerable administration and congressional attention but recently it has fallen into disuse. While the tax has not been rescinded, it is not being collected and Secretary Kissinger assures us that we have assurances it will not be reapplied. No American should—and certainly few of us ever would—support any principle other than the right of any citizen in any country to be allowed to emigrate without taxation or other reprisal.

BASIC QUESTION

The basic question which remains is how can America encourage more liberalization in Soviet emigration policies and how can concerned Americans best persuade the Soviet Union that we believe it is in the best interest of future Soviet-American relations and détente that irritants in Soviet emigration policy be removed.

LINKING UNITED STATES-U.S.S.R. TRADE TO CHANGES IN SOVIET DOMESTIC POLICY

Efforts to tie the further development of economic relations with the Soviet Union to changes in Soviet internal policies present, on different levels, a genuine moral dilemma and a practical negotiating problem. But in neither case is the intense debate between those who are morally sensitive and those who are morally insensitive or between those who seek accommodation at any price and those who demand our Government to exact as many concessions as possible from the Soviet Union for normal business relations.

Americans certainly should never condone the suppression of civil liberties. For more than a half century, we have objected strenuously to the way the Soviet Union treats its people and we should continue to do so today. But hard questions persist:

Should we demand that basic changes in Soviet society be a precondition to good relations in the future?

Should we let the future course of our bilateral relations and détente itself hinge so much on immediate changes in the Soviet Union?

Should we abandon our long cherished hopes for a basic and gradual evolution in Soviet society toward greater pluralism and just recognition of the fundamental human rights of all its peoples for what is, from the Soviet perspective, revolutionary and thus unacceptable changes now?

REASONS FOR OPPOSING AMENDMENTS

Mr. Chairman, I oppose amendments to title IV of the trade bill for two basic reasons:

First, the amendments will make more difficult the improvement of Soviet-American relations.

United States policy toward the Soviet Union over a period of many years and during the administrations of all recent Presidents has been characterized by efforts to keep our guard up, but also to expand areas of accommodation in order to reduce tension and promote cooperation. This policy has brought considerable success. It was not achieved by linking one issue to another, but by striving to achieve, wherever possible, a stable and predictable relationship, and by chipping away at Soviet rigidity by emphasizing contacts where feasible.

Recent Soviet flexibility in some areas of mutual interest was the product mainly of private persuasion and quiet diplomacy which suggests that public efforts to force changes in policy will not succeed and could jeopardize the climate of existing détente. The cold war atmosphere of yesterday is slowly changing, in part because we are reducing the threats, angry statements, irresponsible actions and ultimatums and are talking about our differences quietly and through the normal and traditional diplomatic channels. The recent Middle East crisis is a case in point. Détente provided a basis for reducing tensions at a time when irresponsible acts could have threatened world peace.

Our policy toward the Soviet Union requires that we make progress where we can. It does not mean we approve or accept many Soviet policies, either at home or abroad. Our policy merely reflects the mixture of cooperation and conflict that marks American-Soviet relations and our belief that over a period of time, as successful contacts and mutual interests are made and expanded, constituencies for cooperation will be developed in each nation so that neither nation will allow other conflicts to disrupt the cooperation.

The whole course of Soviet-United States relations in the last several years supports the view that private, but firm, diplomacy brings results. It is precisely because the Soviet Union desires better trade relations that we have some leverage in our dealings. We should use that leverage to achieve concessions from the Soviet Union, including changes in its emigration policies, but we should not mortgage our leverage of trade on this single issue of Soviet Jewish emigration. With the possibility of extending credits and MFN status, the United States would have more leverage with the Soviet Union than we would have over most other societies. Centrally planned economies are always planning 5 years in the future, and once we have economic ties and interrelationships with the Soviet Union, it is booked for a medium-term period, because of the inflexibility of its economic machinery. Such leverage should be employed carefully.

United States officials on all levels should continue to remind their Soviet counterparts that Americans abhor capricious, internal Soviet policies, like the education tax, and that their continuation will handicap future political and economic relations. But we should not forfeit the considerable advantage that will accrue to the United States from expanded trade because the education tax is repugnant to us. As we develop our relations with the Soviet Union our opportunities to persuade the Soviets that certain of their policies are unacceptable will be enhanced.

Second, we have no evidence that the Soviet Union is likely to bow to legislative pressure, and good reason to think that such pressure could be counterproductive.

If we try to back the Soviet Union against the wall on this issue, it may react and say no more emigration. We should not expect the Soviet Union or, for that matter, the United States to back down totally and publicly when confronted with a challenge by economic pressure to an internal policy. The Soviet Union has not done so before and is not likely to do so now.

Legislation linking further trade to removal of the education tax could not only forfeit the political and economic advantage to the United States that can accrue to us by skillful use of trade, but it could also affect the progress that allowed over 32,000 Soviet Jews to emigrate to Israel in 1972 and has maintained a monthly average of between 2,000 and 3,000 this year.

CONCLUSION

We all agree that the Soviet Government should liberalize further its emigration policies and let its citizens seeking to emigrate leave for other lands where those citizens feel they can live and work in dignity and honor. I only suggest that the best means to achieve this goal are strong, quiet diplomacy, and persuasion in all official and nonofficial contacts with Soviet authorities. We should be, and I think we are, telling the Soviet Union that if changes in some of its internal policies which Americans abhor are not effected, our relations cannot continue to progress. This approach has the best chance of persuading the Soviets to alter their emigration policies, and to advance our total national interests with the Soviet Union.

The pursuit of peace, then, emanates from a pragmatic view of coexistence. As Secretary Kissinger recently suggested, we "must be concerned with the best that can be achieved, not just the best that can be imagined." The pragmatic approach to our relations with the Soviet Union is, by and large, the approach used by the administration, and it should receive congressional support. I urge my colleagues either to support the administration's original request in title IV without any amendments, or to delete the entire title and have it brought up at a later date.

Mr. PODELL. Mr. Chairman, today's vote on the Vanik amendment will vitally affect the future of the oppressed nationalities in the Soviet Union as well as the course of Soviet-American relations. Courageous dissidents in Russia such as Evgeny Levich and Andrei Sakharov are awaiting our decision.

If we vote down the amendment it will be a signal to the Russian people that we care more for trade than for freedom, that our high flown promises are worthless.

It will show the Russian Government that they can continue to bleed America of her know-how and her resources as long as they pay lip service to a shallow détente.

It is only the strong moral pressure from the West which has provided the limited protection Soviet Jews will enjoy. Tens of thousands have escaped to Israel thanks, in no small measure, to the respect the Kremlin has for the Congress of the United States. Today we must earn that respect.

The administration pleads with us, "Do not jeopardize détente." But what is this détente they are so eager to save. If by détente they mean the recognition by both super powers that a nuclear war is totally unacceptable then no one will argue with them. Surely avoiding a nuclear holocaust is everyone's first priority. But beyond that, détente in the sense the administration preaches is a cold and dangerous concept. One that ignores human needs and the breakdown of barriers between Americans and Russians in favor of narrow agreements between the two governments.

We must restore the provisions barring credits and barring most-favored-nation status to Communist nations which prohibit free emigration. The most-favored-nation status has become a symbol in America and Russia for American determination to aid those Soviets denied the rights guaranteed them by international agreements. However, the credit provisions are the true key to impressing the Soviets. Almost all the significant projects the Soviet Union wishes to arrange are dependent on American financing. If we are really going to impress them with our commitment to change we have to turn off the flow of money.

There are three elements in the administration argument. The first is humanitarian. We must apply pressure quietly, we are told, to be effective. As trade and scientific contacts expand Soviet society will inevitably open up. Yet for years it has been public pressure which has worked. Does anyone doubt that Aleksandr Solzhenitsyn would have been silenced along ago if it were not for the furor of the free press?

Romania is the most open of the Communist nations in allowing international contacts; yet they maintain one of the most authoritarian domestic regimes. This is what the Kremlin wants for Russia and this is what Mr. Nixon's plans will allow.

The second argument is economic. We will gain great benefits by trade with the Soviets regardless of its political effects. This argument ignores the simple fact that both sides must have something the other wants. America has a great deal the Soviets want, particularly our advanced technology, our grain, and our money.

But what does the Soviet Union have to offer? There is only so much vodka and caviar that the American market can consume. What of the natural resources of Siberia, oil and natural gas, which are supposedly ours for the taking? In fact extracting these resources is so expensive that the Soviets are increasing their own reliance on Middle Eastern oil rather than exploit their reserves in Siberia. Even if Russian oil becomes an economic feasibility it would be folly to replace our dependence on the Arabs for energy needs with dependence on the Russians.

Finally, the goal of the Kremlin is to use American technology to build an advanced industrial society comparable to our own. Such a society will gobble up natural resources, especially gas and oil, leaving precious little for export to the United States.

The prime example of economic cooperation between our two countries is the wheat deal, popularly known as the "Great American Grain Robbery." We sold one-quarter of our wheat crop at bargain prices to the Russians, forcing prices up at home, cheating American farmers of a fair profit while reaping windfall profits for a few large grain dealers.

The final touch was added recently by Secretary of Treasury George Shultz. In response to a suggestion that the United States curtail grain exports to Arab nations withholding oil from us, Shultz responded that the Soviet Union could make up any deficit the Arabs incurred, presumably with American wheat.

The most serious administration claim for the merits of détente are political. By working together with the Russians we assure the peace of the world. Their startling proof of this is the Yom Kippur War. Mr. Nixon claims that because of détente and his personal relationship with Brezhnev we made it through the most serious crisis this Nation has faced since the Cuban missile crisis.

One wonders how we reached such a critical confrontation in the sweetness and light world of détente the administration believes in. In fact the Russians did everything they could to aggravate the crisis caring only that a direct confrontation which might lead to a general war be avoided.

The Russians not only had foreknowledge of the Arab attack, but they actually made it possible. Without Soviet missiles there would have been no war. As soon as the war began the Russians poured weapons into Egypt and Syria while we pleaded for restraint. Fortunately Mr. Nixon did not allow Israel to collapse with détente but responded to the Soviet arms airlift.

Even after the ceasefire was achieved the Soviets pushed us, always keeping just shy of any irrevocable actions. Now that negotiations are only weeks away the Russians continue to mouth propaganda while leaving to the Americans the difficult and painful task of reconciling the Arabs and the Israelis. So much for the political values of détente.

A new relationship with the Soviet Union is possible and probably inevitable. It is for us to say what that relationship will be. The administration wants us to embrace the Kremlin with open arms and closed eyes, trusting to the good will of the Russian leaders and the cleverness of our own administration.

So far the Kremlin has managed to steal us blind. The Russians want a great deal from America and we should deal with them on our own terms. There is little economic incentive they can offer at the moment but they can earn our aid by other means.

If they agree to free emigration, if they stop suppressing their most outspoken and noble citizens they will have made a true commitment to a new relationship with America, one that will be worth our aid and support. This change will not come from quiet pressure from the administration, but from the firm stand of the American people as expressed by Congress.

Mr. BRASCO. Mr. Chairman, I rise in support of the Vanik amendment. At last the freedom of emigration question has come before the House, posing a choice to America that will evoke the best from us, or the worst. Essentially, it boils down to the overwhelming majority of the Congress seeking a law that will deny certain trade concessions to the Soviet Union and similar nations whenever they deny their citizens the right or opportunity to emigrate.

When the Vanik-Jackson amendments were introduced last year, the Russian regime made a great show of defending its privilege to abuse its citizens in any way it chose. Certain elements here, both in and out of Congress, encouraged such opposition on their part, quietly assuring the Soviets that with the next Congress, it would not be found in their path. To the enormous credit of the American people, this has not proven to be the case, because the overwhelming majority of our citizens support the rights of oppressed people and have made their feelings known to the Congress.

This has been one of the noblest actions taken by our country in a long time. It can be termed a redeeming act in a time when some have come to doubt our capability to perform in such a manner.

Certain elements in this country have wrung their hands over the magic word "détente" warning that the long sought rapproachement with Communist Russia would die aborning, because of our insistence upon standing up for the oppressed in Russia. Solid congressional support for freedom of emigration gives the lie to their ignoble efforts to sabotage this altruistic policy.

A few business interests, enamored of Russian rubles and major contracts with the Soviets, have tried to trample the hopes of millions for liberty under the eager feet of those consumed with lust for profit at all costs. Those few American companies who have actively pursued policies of this sort stand huddled alone in the public view, exposed for what they really are: Insensitive greed personified and a disgrace to our ideals and best hopes.

Alongside them are their political allies, who, under the guise of seeking understanding with Russia and an end to international tensions, really are rather traditional opponents of the very people whose only hope for freedom lies on our hands. How strange it is that so many of these same opponents of freedom of emigration for Russian Jews have voted previously to use American economic leverage against nations they dislike. Aid to Greece exercises them. Sugar quotas for South Africa incense them. Chrome imports from Rhodesia prick their finely tuned consciences. On this floor they have beaten their breasts, howled their indignation, and demanded vigorous application of our dollar power on behalf of morality, charity, compassion, and motherhood. Would that their moral outrage for human beings were as strong today on behalf of the Jews of Russia.

There are also some who have thumped the tub loudly on behalf of every cause from Tibetan refugees to the plight of the Indians in the Amazon jungles. Worthy causes, to be sure, but not causes where we can have immediate effect, as is the case here. Some here in the United States, however, notable for their radical cast of thought, have taken it upon themselves to wage a personal vendetta upon the Jewish people, turning a blind eye and deaf ear to their plight in Russia, their murders by terrorists, letter bombs, executions of Israeli POW's, and Munich horrors. All these acts are excusable in their eyes.

How strange it is that so many such individuals have turned against the Jews in this, their hour of dire need. How odd it is that the images of 1945 have faded so much from our view. How sad it is that the world today countenances and even abets the atrocious international double standard now being applied to the Jews in our midst. What a confession of international moral bankruptcy.

We dare not, for our own sakes, turn our eyes from the tragic realities of Soviet Russia today, no matter how we yearn for rapprochement. The Vanik and Jackson amendments have forced the Russians to ease some restrictions on emigration. Yet we dare not doubt for an instant that if we relax the pressure they will almost immediately clamp the lid on the hopes of these people, slamming the door to a new life shut in their faces. Soviet promises are as reliable as the vagaries of the wind. Did we not see a few weeks ago how much they thought of détente? Did we not observe how they were willing to cast the dice, as any desperate gambler, putting détente on the line in the hope for geopolitical gain in the Middle East? Did we not see their sea and air lift? Have we not noted the lengths to which they were willing to go? Have they changed? Will they turn from power politics to morality if asked? I think not.

We must institutionalize our determination to gain freedom for these people, so that others as well may follow the road to freedom by the light of our example. Only a permanent method of pressure, embodied in law, will keep Russia true to her word. Their Constitution is the finest and freest in the world, on paper. Contrasted with the realities of Russian life, it is a disgraceful sham. Also, we should pass this guarantee because the nature of the opposition to it has made it a challenge to amoralism in our foreign policy.

Shall we embrace, by refusing to enact this legislation, the concept that a nation has no obligations other than those dictated by pure self-interest? Shall we revive the Metternichean principle that nations have only permanent interests rather than permanent principles and friends? I pray not.

We are confronting these people with a nasty choice; the only one such a regime understands and is moved by. Modify your disagreeable and unjust policies or harm your own economic self-interest. If they choose to oppress their citizens, we can do nothing. But we can make them choose, and it is our obligation to make them do so. To do otherwise would be to fail to use a readily available nonviolent instrument on behalf of an oppressed and driven people who cry out to us in their frustration and fear.

Unpleasant as it is to state this, many foes of this measure are merely unwilling to offend a dictatorship that happens to be a good customer and may become a better one. That is applied amoralism, and should be revealed for what it truly is. Any détente built on condoning such institutional outrage is not worth having.

Consider what we are endorsing if we do not take a forthright stand on behalf of the Jews of Russia and other minorities dependent upon their fate in this struggle.

Here is the single most persecuted minority in the history of mankind. Here is a people which stand alone as the only people to have been the victims of organized, assembly line genocide at the hands of a modern, industrialized state. One million Jewish children were gassed, shot, burned, and hacked to pieces by the Nazis. Forget about the Crusades, the Inquisition, Dreyfus, Leo Frank, and all the rest, if you can. Forget about the incredible black blot running across so many pages of man's existence labeled anti-Semitism. Forget about mass shootings, torture, pogroms, auto-da-fes, exiles, and ghettos. Forget about the people of the book, who, still penned up like animals, cry out to the world to be free.

Have we no conscience? Have we no compassion? Do we stand for nothing except a fast buck? Is selling Pepsi-Cola in Russia more important than freeing a family to live differently than their forebears?

Russia has always persecuted her Jews. Catherine the Great loathed them, imposing upon their heads and those of their children a series of restrictive rules that condemned them to lives of frustration and misery. The Romanoffs organized mob violence against these people, accusing them of ritual murders to focus peasant wrath on the Jews and away from their own heads and hands, begrimed with exploitation and sated with exorbitant luxury. The Soviets, led by the infamous Stalin, methodically sought to destroy the religious roots of the Jewish ethos, and failed, ingloriously, as so many others have done before them and will fail in the eras to come.

In international law the foundation of the right to travel is the Universal Declaration of Human Rights adopted by the U.N. General Assembly in 1948. Not that that organization would utter peep number one on its behalf and in favor of any Jew anywhere. Rather, I mention this to strengthen the cause of this measure. Surely, it should be extended to Jews as well as to other political refugees.

The world has not done too well by the Jews recently. So tell me what else is new. We watched the Munich horror without acting against terrorists. Letter bombs, sabotage, economic boycotts, and other measures aimed at these poor people have only evoked further anti-Semitism, some of it on the editorial and society pages of major newspapers. Today the Jews stand alone, for a change. Except for us.

As they mourn their freshly buried dead, perished after a sneak attack upon them that so many seem to condone in the name of "recapturing territories" we have a chance to signal these and other people that conscience is not dead, that human dignity is espoused by some and that a few nations are yet capable of honorable behavior.

America is no paragon of international virtue. But she is, after all, a subscriber to the elementary rules of decency governing the affairs of men and nations. Foreign policy is, I believe, supposed to at least try to walk such paths.

Those who believe the business of American foreign policy is business can relax. Even if we pass the Vanik-Jackson measures, as I fervently hope we do, the Russians will rave a bit today, but be back at business tomorrow. They care about commerce far more than they do about human rights. Nitchevo, comrades. Just once, would it not be a fine thing for America to do what she should do out of a sense of rectitude, rather than in the traditional cynical way of international dealing?

Sometimes a man or an action expresses the essence of what our country is or seeks to be. Today I am reminded of one such man, who, if alive today, would passionately endorse what the Vanik-Jackson measures seek to accomplish. His name was John Peter Altgeld, Governor of Illinois, lo, those many years ago. Some years before he took office, during the labor strife of the 1870's, there occurred in Chicago the Haymarket riot, where some unknown person threw a bomb that killed several innocent policemen. Anarchists were accused and several were arrested, tried, and sentenced to death. Several were executed, and the rest languished in prison under life terms.

Altgeld discovered that they were totally innocent, after he reviewed the evidence and trial transcripts. He then announced his determination to pardon those remaining in jail. His inner circle reacted violently against that decision, telling him that such a move was political and social folly. After repeated remonstrances by many close friends, he finally responded with one simple phrase that summed up what America meant to him in response to one friend who asked him, "Why are you doing this?"

He answered, "Because it is right."

Altgeld was a Czech immigrant. He knew what America was. A beacon light to the world, rather than a cynical nation which would subordinate its ideals to profit, power, and greed. We, too, are all the children or descendants of those who came here seeking the same dream. Have we forgotten, or will we remember, what it is all about. Will it be a Mammon or Altgeld? I know what we must do. The question is—Will we do it?

Mr. ANDERSON of California. Mr. Chairman, I rise in support of the Vanik amendment which would deny the use of American tax dollars to subsidize credit to those Communist nations which restrict their citizens from emigrating in pursuit of a better life.

We could ignore this matter of human rights. We could turn our backs on the Soviet Jews who have been repressed, persecuted, deprived of basic rights, and prohibited from leaving the country without paying a heavy tax. Perhaps this would allow some businesses to make a few more dollars; perhaps it would ease tensions between the U.S.S.R. and ourselves.

We could ignore their plight, but I think we are better than that. I think that we honestly believe in freedom and in the principle that none are free until all are free.

I think that we, as a nation, are totally committed to policies which help peoples in other nations gain their freedom.

The Vanik amendment would help this cause by encouraging the Russian leaders to adopt a less restrictive policy toward their Jewish citizens in order to gain trade benefits from us.

This amendment would show the world that we are a nation of people still concerned with the plight of those who are deprived fundamental rights. It will show that we not only talk of freedom, but that we are also willing to stand up for it. It shows that the American people care more about people than profits.

Mr. Chairman, I support this measure not out of any desire to challenge the Russians, but rather to offer a helping hand to the Soviet Jews who need our support.

Mr. ASHLEY. Mr. Chairman, there is no question but that the matter of most-favored-nation treatment falls within the jurisdiction of the Committee on Ways and Means. This cannot be said of the additional language sought to be offered by Mr. VANIK, dealing with Government programs of credit, credit guarantees, and investment guarantees, which lie within the jurisdiction of the Committee on Banking and Currency, the Committee on Agriculture with respect to certain commodity credits, and the Committee on Foreign Affairs with respect to certain investment guarantee programs. It is a matter of record that the acting chairman of the Committee on Ways and Means, Mr. ULLMAN, ruled the very language which is the subject of the Vanik amendment to be nongermane, within the jurisdiction of the Committee on Banking and Currency and out of order—and that his ruling was sustained by a vote of the committee membership.

Far more important, from a substantive point of view, is that there was virtually no testimony taken by the Committee on Ways and Means with respect to the effect of the extension or denial of Government programs of export credit to state trading countries. In fact, the committee print, briefing paper No. 8, of the Committee on Ways and Means indicates that only one public witness testified with respect to the right to emigrate as an amendment to the Trade Reform Act of 1973. I should point out in this connection that the Export-Import Bank Act expires on June 30, 1974, that the administration has requested new authority for the Bank, and hearings before the Subcommittee on International Trade of the Committee on Banking and Currency, which I chair, will be held on this subject early in the next session.

Mr. Chairman, my friendship and support for Israel are a matter of record stretching over a period of more than two decades. I have traveled there extensively and I was one of the early voices in the Congress to support the intricate water distribution system that has so dramatically turned vast deserts into productive farmlands. Nor have I been silent with respect to the historic policy of the Soviet Union which has precluded its citizens from leaving that country, or to the exorbitant fees required as a condition of emigration in a great number of instances.

The fact remains that the Vanik amendment may well become the law of this land without changing Soviet policy one iota. Is it worth the risk of pushing the Soviets into a decision to cut back on the emigration of Soviet Jews to Israel, now at a pace of more than 3,000 a month?

Can we assume that the Soviets are so eager for trade with the United States and are so dependent on U.S. exports and credits that they will acquiesce to what they consider to be interference in their internal affairs? In my view, Mr. Chairman, détente with the Soviet Union is in the interests of the United States and it is very much in the interests of Israel. Prime Minister Meir made this abundantly clear during her recent visit to this country when she stressed the importance to Israel of continued flexibility in the relations between the United States and the Soviets. Our Secretary of State, Dr. Kissinger, has expressed similar views and he, too, has warned against the counterproductive consequences of relying upon the Vanik amendment rather than diplomacy to bring about changes in internal Soviet policy.

Mr. Chairman, it is for these reasons and those which follow that I also will support a motion to strike title IV from the pending bill. The fact is that, regardless of most-favored-nation treatment, which the Soviet Union wants, trade is going to continue. This point is heavily underlined by the report last month that trade with Communist nations is the big reason why the United States stands to show a trade surplus in 1973. Obviously, if the terms of trade are mutually advantageous, then trade will take place.

The whole concept of most-favored-nation concessions, which has been the cornerstone of U.S. trade policy since the early 1930's, has in fact become largely outdated. The rules of the General Agreement on Tariffs and Trade, a body which now includes 77 trading nations, specify that if a member grants trade concessions to another, they must be extended to all members. Thus, MFN has become the rule rather than the exception.

With a new round of GATT negotiations now starting in Geneva, it is time Congress stopped using the trade bill as a political football. The legislation is needed to give the United States the flexibility it needs to deal realistically with other nations. The Soviet trade issues can wait.

Mr. QUIE. Mr. Chairman, the Vanik amendment is one of the most difficult I have been faced with. I deplore the emigration policies of the Soviet Union which have been an extreme hardship on their Jewish citizens desiring to emigrate to Israel. Just a little less than a year ago I spoke by long distance telephone to a Jewish intellectual in the Soviet Union about conditions there. Hoping that a show of support on the part of Congress would cause the Soviet Union to liberalize its emigration policies, I cosponsored the Mills-Vanik bill. This indication of support by the Congress I think helped the current administration in its effort and progress has been made.

Now the question comes should we actually use economic force. From what I have been able to learn this could very likely be counterproductive for those we want to help. The Arabs are using an economic club on the United States right now. Should we give in and turn our back on a nation for whom we at least have a moral commitment to assist in its survival—the State of Israel?

Interfering in the internal affairs of a foreign country is dangerous business. We cannot have it both ways—we freely interfere with others and no one can interfere with us. We should also remember there are some Americans who have disagreed with the policies of the United States and have voluntarily left this country. How would we react if a foreign country used economic force to persuade the United States to open its doors to them. Their return is an ethical question which we must resolve. I think persuasion can help while economic force would be harmful.

So I have come to the conclusion that the Congress has now carried this far enough and we ought to permit our Secretary of State Henry Kissinger to bring about additional changes with the Soviet Union through diplomatic channels which is the constitutional prerogative of the Executive and which has borne fruit in this administration.

Mr. BINGHAM. Mr. Chairman, I have for many years been greatly concerned about the plight of the Jews in the Soviet Union. In 1967 I organized a joint statement of protest in the House against the Soviet treatment of their Jewish community which was eventually signed by 306 Members.

At various times the House has overwhelmingly supported resolutions expressing the revulsion of the Congress at the Soviet policies, particularly the severe restrictions on emigration which are in conflict with the Universal Declaration of Human Rights and subsequent conventions to which the Soviet Union is a signatory.

During the past year, as a part of its policy of détente with the Soviet Union, the Nixon administration has proposed that existing law denying most-favored-nation status to the Soviet Union and other Communist countries be repealed and has publicly indicated its interest in extending large credits to the Soviet Union for the development of the latter's industry. A particularly spectacular proposal under discussion has been the idea of extending Export-Import Bank credits running into the billions of dollars for the development of natural gas resources in Siberia in the thought that such natural gas could be liquefied and shipped to the United States to help overcome this Nation's shortage of energy, and especially of natural gas.

In the face of these proposals, I joined many Members of the House under the leadership of the gentleman from Ohio (Mr. VANIK) in supporting an amendment to the trade bill that would deny credits and most-favored-nation status to the Soviet Union and other totalitarian countries until their unreasonable restrictions on emigration are removed, especially the notorious education tax which threatened to make it virtually impossible for scientists, engineers, and other highly educated people to leave the Soviet Union. A similar amendment was proposed in the other body by Senator JACKSON and cosponsored by a large majority of the Senate.

In its consideration of the trade bill now before us, the Committee on Ways and Means adopted the Vanik amendment so far as most-favored-nation status was concerned, but eliminated that part of the amendment that dealt with the extension of credits. Now the House of Representatives has an opportunity to reverse that action by the Committee on Ways and Means and to adopt the Vanik amendment in its original form.

There are those who argue that this action will be counterproductive and that it will actually hurt those it is intended to help; namely, the thousands of Jews who wish to leave the Soviet Union. But this very group has made it abundantly clear that they do not agree with this judgment and that they very much want the Jackson-Vanik amendment adopted. That courageous dissident, Andrei Sakharov, has expressed the same view.

It is also claimed that the Soviet Union's policy on allowing its citizens to leave is a domestic matter which should not be involved in questions of foreign trade and investment. But it has become increasingly clear in recent decades that gross violations of human rights are legitimately a matter for international concern. Without in any way attempting to equate the Soviet treatment of the Jews with the horrors perpetrated by Nazi Germany, it is pertinent to recall that at one time there were those who argued that the Nazi treatment of the Jews was a domestic matter not subject to outside interference.

We have it on the authority of an expert such as Dr. Hans Morgenthau that, when the Soviet Union wants something, they expect to pay something for it. Their actions with respect to the emigration of Soviet Jews have already shown a considerable responsiveness to American and world pressures. It is clear they want most favored nation status and that they want American credits. I have no doubt they will find a way, without losing face, to achieve both of these objectives if this bill is enacted into law incorporating the total Jackson-Vanik amendment including credits.

Obviously, none of us wants to see the Soviet Union become adamant if the Jackson-Vanik amendment is adopted and enacted into law. This would produce no benefits for the Jewish community in the Soviet Union and would also deprive the Soviet Union itself of the benefits of most favored nation status and of American credits. I must say, however, that I am less concerned than I would have been a year ago at the prospect of the United States failing to provide the credits needed for the contemplated natural gas development in Siberia. The Arab oil boycott has dramatically shown us how dangerous it is to become dependent for any essential commodity on not-necessarily-friendly foreign powers. If we do go ahead with the natural gas deal, we must be sure that we are guaranteed against any cutoff of the flow of natural gas in the future.

Similarly, the whole concept of détente has lost some of its attractiveness with the Soviets' obvious complicity in the Yom Kippur war and their encouragement of the Arab States to withhold their oil supplies.

For all of these reasons, I support the Vanik amendment with enthusiasm.

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment proposed by the Gentleman from Ohio (Mr. VANIK) prohibiting the extension of credits, credit guarantees or investment guarantees to those countries denying its citizens the right or opportunity to emigrate.

Early in the first session, when this amendment was first introduced, I joined a number of my colleagues in supporting the measure. While I fully understand the need for seeking new trading opportunities throughout the world, it is even more important that we do not compromise our principles of freedom and democracy for monetary gains.

In reporting this bill, the committee wisely saw fit to deny most-favored-nation treatment to those countries with restrictive emigration policies. However, in supporting this amendment we must complete the action taken by the committee. Denial of most-favored-nation status means little if not accompanied by a prohibition against credit extension.

Accordingly, I urge my colleagues to support the amendment before us clearly speaking out that our Nation does not condone the denial by any nation of the basic right of the freedom to emigrate.

Mr. BIAGGI. Mr. Chairman, I rise in support of the Vanik amendment to the bill H.R. 10710, the Trade Reform Act. While I am in total disagreement with the trade provisions of this bill, and with the tactics employed to hold this amendment hostage to insure the bill's passage, if it does pass, we will at least be able to demonstrate to the Soviet Union that their continued flagrant disregard of human rights will not continue to be tolerated by the United States.

As this bill is presently written, our only response to the Soviet Union's archaic and inhumane emigration policies would be to deprive them of most-favored-nation status in international trade. This action might serve to inconvenience the Soviet Union more than it would actually harm them economically. However, by adopting the Vanik amendment we would be adding the important provision of prohibiting trade credits and credit guarantees to the Soviets until they abandon their emigration policies. The threat alone which the Vanik amendment contains may ultimately prove to be more effective than its application in reality, but the overall fact remains that this amendment will surely hit a lot closer to home economically in the Soviet Union.

There are many of my colleagues who argue that the United States should not be interfering in the internal affairs of another country. However, we are dealing with a basic and universal human right which is explicitly provided in the U.N. Charter, with the U.S.S.R. as a signatory, indicating compliance with this provision, namely freedom of emigration. Yet for Jews and other minorities living in the Soviet Union this right has been ruthlessly disregarded.

If a country wishes to participate fully in the community of nations, it must meet minimum requirements in its dealings with its citizens. One of the most basic requirements is the permitting of free emigration for those who desire it. For years, the Jewish citizens of the Soviet Union have not only been deprived of this fundamental human right, but have also been subject to persecution and inhumane treatment by the Soviet Union. Do we condone these type actions by the Soviet Union by granting them major trade concessions? I say emphatically no.

Yet the Vanik amendment deserves passage for reasons beyond those pertaining to Soviet emigration policies. Recent examples are the actions of the Soviet Union in the Middle East which have proven that détente is a policy which is far from being realized. Soviet actions resulted in a near-confrontation between the two superpowers, not seen since the Cuban crisis of 1962.

Further, the Soviet Union was instrumental in encouraging the Arab oil embargo which has plunged this Nation into its most serious energy crisis in history.

These actions should prove to the Nixon administration that we must begin dealing more firmly with the Soviet Union in matters of international trade. The Vanik amendment represents an important first step.

We must also remember that by granting the Soviets trade credits, it will allow them to further enhance their arms superiority over the United States, by promoting further development of arms.

Mr. Chairman, the U.S. Government for too long has ignored the serious plight of the Jews and other oppressed minorities in the Soviet Union. We have been led to believe that we were embarking on a new international policy with our former adversary, characterized by cooperation instead of confrontation. Yet we can never afford to forget that the U.S.S.R. is still a Communist country, and has not lost its primary purpose, to ultimately dominate the world. As a result we should not enter into any meaningful agreements with the Soviet Union until we receive assurances that they are willing to compromise this objective, and as a start begin to respect the rights of men to emigrate freely. Adoption of the Vanik amendment today will clearly demonstrate to the Soviet Union that the freedom of all oppressed minorities in their nation will continue as a paramount prerequisite for international trade agreements. It is the responsibility of the United States to begin to promote the cause of freedom throughout the world. Let us begin today.

Mr. DRINAN. Mr. Chairman, I have long been active in the effort to win freedom of emigration for citizens in the Soviet Union. I have been an early and loyal sponsor of the Jackson-Vanik-Mills bill, which would deny most-favored-nation trade treatment or extension of credits and guarantees to the Soviet Union unless the Soviet Union permitted freedom of emigration. I submitted testimony in favor of this bill to the House Ways and Means Committee, and have spoken on the subject of freedom of emigration on numerous occasions on the floor of the House of Representatives.

Today, I have an opportunity to cast my vote in favor of the Vanik amendment which will restrict the extension of U.S. Government credits and credit guarantees to countries, including the Soviet Union, which deny free emigration. Credits and credit guarantees are the most valuable trade preferences the United States can grant other countries. I am hopeful that all of the 289 House cosponsors of the original Jackson-Mills-Vanik bill will continue their support and join me in supporting the Vanik amendment. This amendment will give "teeth" to title IV of this bill. The position of the Soviet Union in recent and continuing Middle East crisis is an example of the serious threat to the continued safety of emigrating Soviet Jews exhibited by the Soviet Union.

Present U.S. Government participation in credits to the Soviet Union, in direct Export-Import Bank credits, and in Commodity Credit Corporation credits amount to well over a billion dollars. My long-standing objection is not to treating the Soviet Union equally in our trade policy. I object to treating the Soviet Union preferentially. Such preferential treatment is unjustifiable in economic terms. Already the Soviet Union has bought American grain at bargain prices. The Soviet Union has received loans at preferential rates. The Soviet Union has consistently refused to comply with accepted norms for securing Eximbank financing and the Soviet Union is hoping to receive preferential treatment for resource development as well.

If we are to grant the Soviet Union preferential trade treatment, I believe that the United States has every good reason to insist that political and humanitarian considerations be included in the granting of MFN, and that we should, by supporting this amendment, attempt to receive substantial political concessions in return for our granting this advantageous trade status.

Dr. Elihu Bergman, consultant to the National Conference on Soviet Jewry and assistant director of the Harvard University Center for Population Studies, stated that as of October 1973 credits and credit guarantees from the U.S. Export-Import Bank in the amount of $202.6 million had been made available to the Soviet Union. The credits carried an interest rate of 6 percent and grace periods before repayment begins of up to 10 years. These transactions supplemented the $750 million line of credit for the so-called wheat deal made available in 1972 by the Commodity Credit Corporation. Dr. Bergman stated:

> In addition to these actual credits, major transactions involving the Soviets and American firms that have been announced this year envision U.S. Eximbank credits of approximately $3 billion. These credits too would be made available at a subsidized rate of six percent.

The loan of money at 6 percent rate for Eximbank means that Eximbank incurs a loss, which represents the subsidy paid by the U.S. Treasury, and ultimately by the American taxpayer. Beyond these direct costs, to the taxpayer, credits and credit guarantees exert an inflationary impact on the American economy, according to Dr. Bergman. This occurs because in raising the funds, the Eximbank competes against other demands for funds in the domestic money market, thereby increasing the cost of domestic credit, and contributing to the rise in the domestic price structure.

In economic terms, the Soviet Union has much to gain from us, while we have little to gain from them. If we are to subsidize Soviet imports—through granting Eximbank credits—and thus Soviet economic development, then these subsidies must be viewed as a kind of foreign aid, and must logically be subject to the same political considerations that surround our foreign aid determinations. The increase in demands of the Soviet consumer and the need to modernize seriously backward segments of the Soviet economy, suggest that the Soviet Union has a great stake in seeing the fruition of Soviet-American technology transfer. The stake of Soviet-American trade, as perceived by the Soviet Union, gives the United States valuable diplomatic, as well as economic leverage. This potential must be utilized, not only for our own benefit, but for the larger benefit of the community of nations.

Freedom of emigration in the Soviet Union is not the only basic freedom that needs to be guaranteed to the Soviet people, but it is the central issue today. There is no more basic freedom than the right to leave one's country if one so chooses—a right consistently and oppressively denied the Jewish citizens of the Soviet Union. The Jews of the Soviet Union have suffered enough. We in Congress have an opportunity to help by casting a vote in favor of the Vanik amendment today.

There is no greater goal before mankind than the relaxation of world tensions and the eventual realization of world peace. The developing commercial ties between the Soviet Union and the United States offer hope for improvements in a wide range of relations between our two countries. But we should not confuse superficial appearances of improved relations for genuine and lasting accomplishments. In our dealings with the Soviet Union, we should not deny the moral principles upon which our Nation was founded, and we should not ignore the basic rights and freedoms of all people of the world as enumerated in universally accepted international declarations and obligations.

I urge all of my colleagues to support this important amendment.

Ms. HOLTZMAN. Mr. Chairman, I strongly support the efforts to relieve the plight of Jews and political dissenters in the Soviet Union by putting Congress on record against special trade concessions with Russia unless freedom of emigration is granted. I know that I speak for thousands of my constituents on this point.

Many of us in Congress have been working for months to help change the Soviet Union's repressive policies. I am particularly proud to have helped organize a bipartisan congressional vigil which took place over the past several months on the floor of the House in support of the Mills-Vanik legislation.

Title IV of the trade bill presently includes a provision denying most favored nation status—special tariff concessions—to the Soviet Union until it lifts its barriers to emigration. I strongly support this provision, and will oppose any attempt to strike it from the bill.

I also intend to support the Vanik amendment which will deny special trade credits to the Soviet Union until freedom of emigration is granted. We cannot permit American tax dollars to finance trade with the Soviet Union—through special credit arrangements such as were used in the grain deal—while the Soviet Union refuses to allow Jews and dissenters the basic right to emigrate.

I know we in the Congress would not want to subsidize the denial of the fundamental freedom of emigration.

I am unable, however, to support the Trade Reform Act on final passage. While I support the concept of free world trade, I feel the bill suffers from a number of major defects that pose serious problems.

First, I am deeply troubled by the grant to the President of dangerous and broad authority to negotiate the removal of nontariff barriers, subject only to a congressional veto within 90 days. This provision allows him to waive U.S. requirements for consumer protection product safety and environmental control in the interest of improving trade. With no standards cited in the legislation, the potential for abuse is enormous, and the grant of such power constitutes an unnecessary and unwise abdication of responsibility by Congress.

Second, the bill totally fails to address the enormously complex and difficult problem of American-based multinational corporations whose growth has been fostered by numerous tax loopholes. We are fooling ourselves and the public if we do not include in a comprehensive trade bill some serious attempt to deal with the sweeping powers of these multinational corporations over world trade and, indeed, world politics.

Finally, I believe the delegation to the President of such broad powers as are contained in H.R. 10710 is a dangerous precedent and an unnecessary abandonment of our own congressional responsibilities. The role of Congress becomes all the more important because the authority contained in the bill could permanently affect the nature of American trade relations for years to come.

Therefore, I will vote to insure that

the Mills-Vanik provisions are in this bill. But, I feel constrained to oppose the Trade Reform Act of 1973 on final passage.

Mr. RANDALL. Mr. Chairman, I support the amendment sponsored by the gentleman from Ohio (Mr. VANIK) which seeks to prohibit extension of trade credits or credit guarantees to any nonmarket economy country which denies or unduly restricts the fundamental human right of emigration. In offering his amendment, our colleague from Ohio is merely attempting to restore the original provisions of the so-called Mills-Vanik-Jackson amendment.

As now written, the committee bill prohibits extension of most-favored-nation status to countries that deny freedom of emigration. The credit limitation language is not contained.

It should be no secret that these prohibitions are primarily aimed at achieving a relaxation or alteration in Soviet emigration policy. There is no need to describe in detail the many official and nonofficial barriers a Soviet citizen encounters if he wishes to exercise his fundamental human right to emigrate. Everyone is aware of the education taxes, excessive document and visa fees, and so forth, which have been used to restrict the the freedom of Soviet citizens.

In other words, Mr. Chairman, my vote in favor of the Mills-Vanik amendment is essentially a humanitarian vote in support of basic human rights. It puts the U.S. Congress on record in favor of freedom to emigrate to the country of a person's choice.

However, if this expression of humanitarian concern is to be more than illusory, we must support the amendment now before the House. The prohibition against conferral of most-favored-nation status to countries which deny freedom of emigration while allowing extension of credits and credit guarantees to the same countries makes the freedom of emigration section an illusory promise, a mere rendering of lipservice to the principle of free emigration.

The credit provisions are much more important to the Soviet Union than the granting of most-favored-nation status. The Soviets are much more interested in obtaining credit financing for industrial development than in obtaining MFN status for its exports. The truth of the matter is that at this time the Soviets do not have too much of a U.S. market for their exports. In other words, in order to be an effective tool of international diplomacy, the Mills-Vanik-Jackson amendment must include a prohibition on extension of credits. If this body wishes to make a firm commitment to freedom of emigration, it will support the amendent now before us.

Moreover, there is another, and perhaps more compelling reason to support the Vanik amendment. In view of today's international situation, it is questionable whether the United States should guarantee or extend any credits to the Soviet Union. We must remember that these credits, American money, will be used to fuel the Russian state economy and its industrial development. They will enable the Soviet Union to continue and expand its high expenditures for defense and its investment in military hardware. Remember, in a nonmarket economy, there is no differentiation between the private and public sectors. When we give money to the Soviets for economic development we are giving money to the Soviet Government. Extension of trade credits to Russia is actually a disguised or type of "back door" foreign aid. In principle, I have been consistently opposed to foreign aid. My opposition hardens, however, when the foreign aid is given to a country which, despite detente, remains our principal international adversary.

Why should we spend upwards of $80 billion annually for defense against the Soviet threat, and then turn around and provide American money to fuel the Russian military-industrial complex? In my mind, there appears to be an inconsistency involved here. The potential expenditures involved for our Government are not limited to extensions of credit. Think of this. What if we are forced to increase our own defense budget to offset the increased strength of the Soviet military-industrial complex resulting from the infusion of American capital?

I have respect for this administration's achievements in the field of foreign policy. Its promotion of détente is to be commended. However, events of most recent date should remind us that détente is still only a hope, and not much reality. Indeed, consideration of the very bill now before us has been at least twice delayed, at the administration's request, because of Soviet adventures in the Middle East. Who can forget that it was Russian arms and support which allowed the Arabs to initiate hostilities against Israel just 2 months ago? Who can overlook the fact that the U.S.S.R. is presently supporting the Arab oil boycott which has crippled our allies in Europe and aggravated our own energy crisis at home?

Détente is something for which we all hope and pray. Yet it is a long way from reality. Therefore, I submit that we should not permit American money in the form of credits to promote Russian economic advancement. We should not subsidize the Soviet military machine. We should adopt the amendment of the gentleman from Ohio.

Ms. ABZUG. Mr. Chairman, I rise in support of this amendment, which would deny most-favored-nation status and the extension of credit to the Soviet Union and other nations which deny the basic right of emigration to some of their citizens. I was an original cosponsor of Mills-Vanik and am glad to have the opportunity to support it today.

We are at the beginning of a cautious détente with the other great powers; trade and travel restrictions are gradually being relaxed; American cultural and professional groups are traveling to the four corners of the world.

This is tremendously encouraging. It leads us to hope that one day the entire world will be free of artificial barriers, since all human beings share the same small planet.

To reach this point, it is essential that we in the United States indicate what are the standards of human freedom. Different countries may be expected to hold different values, and I respect them, but some universal human rights must not be abridged. These are the freedom to choose one's place of residence and the freedom to observe one's own religious and cultural practices, for example. The United Nations Declaration of Human Rights, which just this week marked its 25th anniversary, has stood firm on these points.

Yet these rights are being denied to Soviet Jews who are now subject to exit fees, the amount depending on the extent of their education and the country to which they wish to go. Sometimes, as in the case of highly trained scientists, the amount may run into thousands of dollars.

Under these circumstances, the amendment before us and title IV of this act is the correct response.

I look forward to the time when all countries will have a free emigration policy so we may proceed with a freer trade policy.

There should be no price tag on human rights.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. VANIK).

The question was taken.

RECORDED VOTE

Mr. ICHORD. Mr. Chairman, I demand a recorded vote.

Mr. WOLFF. Mr. Chairman, a point of order. The Chair did not rule on the vote, on the ayes and noes on the voice vote.

The CHAIRMAN. The Chair will state that the Chair did not rule on the voice vote. When the gentleman from Missouri rose he requested a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 319, noes 80, not voting 33, as follows:

[Roll No. 643]

AYES—319

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Archer
Ashbrook
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burton
Byron
Carney, Ohio
Casey, Tex.
Cederberg
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Derwinski
Dickinson
Diggs
Dingell
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Eshleman
Evins, Tenn.
Fascell
Flood
Flowers
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Grasso
Green, Pa.

Griffiths
Grover
Gude
Gunter
Guyer
Haley
Hanley
Hanrahan
Harrington
Harvey
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Howard
Huber
Hudnut
Hungate
Hutchinson
Ichord
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kazen
Keating
Kemp
King
Kluczynski
Koch
Kuykendall
Kyros
Landgrebe
Latta
Leggett
Lehman
Lent
Long, La.
Long, Md.
Lott
Lujan
McCloskey
McCormack
McDade
McKay
McKinney
McSpadden
Madden
Madigan
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga

Metcalfe
Mezvinsky
Milford
Miller
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
O'Brien
O'Neill
Owens
Parris
Patten
Pepper
Perkins
Pettis
Peyser
Pike
Podell
Powell, Ohio
Price, Ill.
Pritchard
Quillen
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle

Schroeder
Seiberling
Shipley
Shriver
Shuster
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Tiernan
Towell, Nev.
Treen
Udall
Van Deerlin
Vanik
Waggonner
Waldie
Wampler
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zion

NOES—80

Andrews, N. Dak.
Arends
Armstrong
Ashley
Bowen
Bray
Brown, Ohio
Burleson, Tex.
Burlison, Mo.
Camp
Carter
Chamberlain
Collier
Conable
Davis, Wis.
Dellenback
Dennis
Devine
Evans, Colo.
Findley
Flynt
Frelinghuysen
Goodling
Green, Oreg.
Gross
Gubser
Hamilton

Hammerschmidt
Hanna
Hansen, Idaho
Harsha
Hosmer
Jarman
Johnson, Colo.
Kastenmeier
Ketchum
Landrum
Litton
McClory
McCollister
McEwen
McFall
Mahon
Mailliard
Mallary
Martin, Nebr.
Mayne
Mazzoli
Meeds
Melcher
Mosher
Myers
Nelsen
Obey

O'Hara
Passman
Pickle
Poage
Preyer
Price, Tex.
Quie
Railsback
Rhodes
Ruppe
Ruth
Schneebeli
Sebelius
Skubitz
Steiger, Wis.
Stephens
Thomson, Wis.
Thone
Ullman
Vander Jagt
Vigorito
Whalen
Wiggins
Wright
Zablocki
Zwach

NOT VOTING—33

Abdnor
Aspin
Badillo
Burke, Calif.

Butler
Carey, N.Y.
Chisholm
Danielson

Donohue
Erlenborn
Fish
Fisher

Gray
Hansen, Wash.
Hébert
Heinz
Hunt
Macdonald
Mann
Michel

Mills, Ark.
Minshall, Ohio
Moorhead, Calif.
Patman
Rooney, N.Y.
Shoup
Stokes

Thompson, N.J.
Thornton
Veysey
Walsh
Ware
Wyatt

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. CAREY of New York. Mr. Chairman, it is with difficulty that I vote against the pending trade bill. The Committee on Ways and Means worked diligently on this complex issue. However, the failure of the bill to contain provisions encouraging and developing appropriate international mechanisms to design a position of solidarity for the oil-consuming nations, has contributed to the sorry energy state—an energy shortage for the United States that I have been warning against for several years.

The report on H.R. 10710, on page 36, paragraph 2, contains language the committee accepted at my urging. The awareness of the problem is clear, but was not translated into statutory language. I do take some comfort from the fact that the committee plans to return to this important problem of establishing a rational and equitable allocation of imported energy resources."

During discussion in committee, I have been urging that our trading partners, the EEC, Japan, and others, should discuss formally and work together to develop this consolidated oil-importing and allocation policy. This was not adopted, and unless changes are made in this bill and in our trading partners' attitudes, we will all be going to the oil bargaining table with our hat in one hand and an empty oil can in the other. Recent evidence of EEC intransigence is their final list of tariff concessions to be offered as compensation for certain ill-effects of enlarging the Common Market.

All our trading partners who import oil heavily have gone singly to the oil-producing nations, pleading with the—OPEC—for special terms—terms clearly at the expense of each other's best political and ethical interests—and certainly against those of the United States. Certainly, realization that this world energy crisis will gradually, but inevitably, affect everyone, is our No. 1 educational priority in upcoming trade discussions and conferences.

An amendment I proposed to the trade bill while in committee would have required establishment of the administrative and negotiating mechanisms necessary to cope with the expected 5-year world shortage of fossil fuels, particularly oil and gasoline. It would have established within OECD and GATT rules for negotiating for these necessary energy commodities. It could have resulted in a reasonable and, indeed, provident common position of solidarity that we and our trading partners must take with the OPEC, if we are to avoid an inevitable escalation of oil blackmail—blackmail surely turning ours from an age of geopolitics, to an age of geo-economics.

I hope that the Senate Finance Committee, when and if the bill is discussed by them, will keep what I have said in mind. During hearings before that committee, it is my hope to testify, and remind them that the trade bill remains the sole, most likely vehicle for consolidating a common bargaining position with which to face the oil-producing nations of the world. We face a world shortage of energy. We must not let the failure of NATO to provide solidarity for our resupplying an attacked Israel, be the pattern for absolutely necessary economic solidarity.

As a member of the Ways and Means Committee's Task Force on Energy, I shall work strenuously to develop legislation that possibily can be added to the trade bill in the near future. Surely, the timing and urgency of such a move are mandatory. Such improvements in this legislation will provide the means of establishing international instrumentalities and negotiating mechanisms to facilitate a common oil-consumer position.

The trade bill before us, curiously, has about the same duration—5 years—as the projected severe world shortage of fossil fuels and energy. During this time, we, in the United States, must work to see that our research efforts are heightened to the point where our technological and scientific leadership reassert themselves, and the world again beats a path to our doors to share in the new energy wealth we shall unleash through oil shale development, coal-gasification, nuclear, solar and geothermal energy.

At this time, there is an injurious trend which will affect all consumers, because of the oil embargo. Not until key consumer nations join together will we bring this "catch-as catch-can" and "grab-box" for oil procurement to an end. Then only will the blackmail actions of the oil-producing nations cease against the people of this and other democratic nations.

Quite frankly, it would be preferable if we could place the necessary discretion and confidence in the President—discretion to devise the needed international systems and our role in them, and confidence that he would instill needed trust and amity in our fellow oil-consumers. However, this administration's track record on energy has been dismal—unparalleled. This administration has failed to meet long-predicted energy and fuel deficiencies across the United States—knowing that the warnings we have had in the past several years could only be harbingers of more severe energy shortages in the future.

I also hesitate to entrust this kind of mandate to a President who is so clearly politically allied with those who would seem to be involved in oil profiteering. I simply cannot condone or approve of either these failures to address the Nation's energy problems swiftly and efficiently, or expect the President to move strongly to require necessary pricing and supply responsibility and responsibleness on the part of the major oil oligopoly.

I am not and have never been a protectionist. I have always favored fair, reciprocal trade. Yet the present bill does not go quite far enough to insure that we are not trading in the jobs of American workers. Commodities and manufactures are proper media for trade;

the livelihood and security of American citizens are not.

I also feel that our approach to both an increased liberalization of trade and the exportation of our technology and managerial know-how must be deliberate and hard-headed. We must continue to maintain basic and security-related industries in a healthy condition. We must continue to be secure from overdependence for certain strategic raw materials and for vital manufactured and processed items. We cannot afford to widen the areas of possible international commercial blackmail—blackmail where economic strangulation becomes a new version of Clausewitz' theory of the extension of politics to the ultimate.

Exports of further technology, plus long-term credit financing of these and other exports to the Soviet Union, China, and other controlled economies and societies, must be very carefully measured and monitored. Aside from the question of freedom of emigration for Soviet Jewry and other citizens of these nations, we must address honestly the question of exporting trade potential and jobs to nations where the worker is not only a servant, but a serf of the state. They have no control over their time, their labor, or their liberty.

It is for these reasons, Mr. Chairman, that I reluctantly vote against the pending bill, and again declare my intention to present my thinking directly to the Senate Finance Committee, when hearings begin before that panel.

Ms. ABZUG. Mr. Chairman, although I voted earlier to approve the Mills-Vanik amendments to deny most-favored-nation status and the extension of credit to the Soviet Union and other nations which deny the basic right of emigration to some of their citizens, I am voting against the trade bill as a whole. It has been aptly said by AFL–CIO President George Meany that "this bill is worse than no bill at all."

In opposing this legislation, I do not repudiate my belief that wherever feasible, the lowering of trade barriers and the pursuit of détente is a necessary part of a sound domestic economy, a healthy world economy and peace among nations. High tariff and nontariff barriers will eventually cost us more jobs and more economic dislocation than they will save or prevent in the immediate present. But this administration-sponsored bill is not what is needed to improve our domestic economy or to protect the living standards of millions of American working families and small businesses.

Most assuredly all sectors of our economy are going to face new challenges in the late seventies and eighties. The American workforce, our most valuable resource, will have to renew itself and accommodate to a changing world economy. The Congress cannot continue to pursue its manpower policy through simple assurances that those displaced by some economic force will be taken care of. We know for a fact that "adjustment assistance" for workers is a proven failure at meeting the damage to firms and workers and unemployment assistance is of little value to the chronic unemployed, the underemployed, and the part-time worker.

We urgently need to shape new manpower policies that at least reflect our business policy. The glaring lack of any controls over multinational corporations in this bill points out our inability or unwillingness to come to grips with the question of developing and blending a manpower and business policy.

Particularly at a time when the Nixon administration's mismanaged energy crisis is already causing mass layoffs in some industries and threatens to demand inordinate economic sacrifices on the part of working people and the millions dependent on wages or small business income, this bill offers no hope of help to workers in key industries whose jobs and security are being ruthlessly taken away from them by the huge multinational corporations that increasingly dominate our economy.

I have previously submitted detailed evidence showing how these giant corporations go wherever the profits are the greatest, setting up manufacturing and processing plants in low wage countries, with no concern for the plight of American workers left stranded or thrown out of work after years of employment in a company or industry.

I have introduced H.R. 241, the Foreign Investment and Multinational Corporation Control Act, which would end the administration's policy of favoritism and protection for these American-based, worldwide firms. My bill provides for increased taxation of the multinationals. It also provides for records to be kept by every U.S. shareholder in foreign corporations. It repeals the foreign tax credit allowed to corporations, and restricts the transfer of American capital and jobs to foreign nations. The unregulated power of these corporations is a major source of our current trade problems.

We have been told that the issue of the multinational corporations will be dealt with as part of a general reform of the tax code. But if we accept this promise as a substitute for legislation, we are abdicating our responsibility on this issue. We cannot vote on a promise. We must vote on the merits of the legislation before us.

My other basic reason for opposing this bill is that once again it extends virtually unlimited power to the President. After the revelations of this past year, is it reasonable to expect us to hand over such enormous power to this President, or indeed to any President? Certainly Mr. Nixon's track record of doing what is good for big business and ignoring the needs of millions of ordinary Americans gives us no cause for confidence that he will develop a trade policy beneficial to the majority of our people.

This bill fails to set any policy or provide congressional guidance for the Nation's trade policy. I recognize the need to provide our negotiators with sufficient flexibility to conduct trade negotiations, and I certainly am not proposing congressional negotiations. But we need not surrender all our prerogatives in order to allow the executive branch to conduct trade negotiations.

Under this legislation there is no assurance that the President will favor lowered trade barriers. Under this legislation, he may raise tariffs and maintain present levels of import quotas and other nontariff barriers. In fact, we have no way of knowing what he will do. Giving the President a blank check is no substitute for the constitutionally mandated congressional role. This bill is simply too vague on a number of important questions, not the least of which is the definition of nontariff barriers. This definition must be part of any congressional mandate to the President.

Although trade reform is essential if the United States is to have a meaningful role in current trade negotiations, this bill is not the way to bring progressive change.

The spectacular economic competition presented by Japan and other nations, the exploitation of cheap foreign labor, the flight of American capital abroad, and the increasing transformation of the American economy from manufacturing to service in nature have created a vulnerability in the American economy which makes necessary a rethinking of what constitutes a free trade position. The normal position taken by free traders may no longer be viable in the face of these changed conditions. I am not agreeing that restrictive quotas are the answer, but the attempt to construct a sound trade policy must take into account the changes in the world and domestic economy and the needs of American working people, small business, and middle-income American business.

The administration continues to take half-hearted measures to deal with the energy crisis, gives higher prices to oil producers and auto manufacturers, and threatens higher taxes which would constitute a new attack on the sagging living standards of America's working people. Predictions of a major recession in 1974 and a steeply rising unemployment rate are coming from widely respected economists. We must consider what is best for the American people, and we cannot leave that decision to the President.

I agree with the advocates of this bill that drastic trade reform is needed to help us in the coming round of negotiations. I cannot, however, vote for this vague and poorly conceived bill. It should be sent back to committee to be revised, and we should reconsider it at the earliest possible date.

AMENDMENT OFFERED BY MR. CONABLE

Mr. CONABLE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will inquire of the gentleman, is the amendment made in order under the rule?

Mr. CONABLE. It is, Mr. Chairman. It is an amendment to strike title IV of the bill.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. CONABLE: Page 129, strike out line 8 and all that follows thereafter down through line 13 on page 137.

Mr. CONABLE. Mr. Chairman, this amendment strikes title IV. The Jackson-Vanik amendment is now completely enshrined in this bill. I have already expressed the opinion that it is mischievous and probably counterproductive. The issue now arises as to what is the best thing to do if you believe that we should try to work something out on other than a confrontation basis with the Russians.

I believe under the circumstances the best course would be to leave the law as it is and hope something can be worked out later.

One of the reasons I am moving to strike title IV and urge support of the amendment is because it would return the law to its present status and constitute a prohibition on negotiations with the Russians regardless of whether or not the emigration tax as a device was abandoned.

I would like to say to my conservative friends on this issue that the emigration tax is only one way of controlling emigration. Suppose the Russians swallow their pride and give up the emigration tax, thus meeting the conditions precedent of the Jackson-Vanik amendment.

If you do not believe in negotiation with the Russians, you are on record as favoring the granting of the nondiscriminatory tariff and credit arrangements to the Russians assuming they get the emigration tax device out of the way. You leave the issue up to the Russians, rather than retaining control of the issue here.

To those who are anxious to avoid confrontation, we have a procedural condition which I think requires some attention, also. As you may know, at least 83 Members of the other body have cosponsored the Jackson-Vanik amendment. It is entirely probable they will also seek to attach this to any trade bill that passes through the other body. There will be nothing to negotiate about in conference if the Jackson-Vanik amendment is adopted in the same wording and in the same substance as we have adopted it during the past few minutes in this House.

If, however, we strike out title IV, there is something to negotiate, and all of the Members of this Chamber will be able to have some further input into the process. We will not be dependent entirely on what the Russians decide to do with respect to the emigration tax as a condition precedent to nondiscriminatory tariff and credit treatment in the future. To those who want to work something out so that trade is a possibility, striking title IV offers a chance, but only a chance, for more leeway in conference. If both bodies enact Jackson-Vanik in the same wording, it very, very much reduces the option to work out progress in the commercial field.

It also, I believe, places the whole thing in the hands of the other body and leaves the conferees without any opportunity to try to work something out.

Mr. HANNA. Will the gentleman yield?

Mr. CONABLE. I yield to the gentleman.

Mr. HANNA. I want to support the gentleman.

One of the reasons why I have been against the rule is I foresaw exactly this kind of a situation coming out on this particular issue in this bill. I suggest we are trying to use in this amendment the power of our trade agreements when we do not yet have any trade to speak of. It would seem to me this is trying again to utilize leverage that does not exist.

I also say that it comes at a time when it would have the worst possible effect on what is the very tenuous relationship with Russia. I would hope that we can delete this. I know what the Senator is trying to do; he is trying to test what detente is all about. But this is no way to accomplish what the Senator seeks to accomplish. I hope this amendment will carry, and we will not put this burden on this bill.

Mr. SCHNEEBELI. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Pennsylvania.

Mr. SCHNEEBELI. Mr. Chairman, I also wish to voice strong support for the adoption of the amendment offered by the gentleman from New York (Mr. CONABLE). The adoption of the Vanik amendment is counterproductive, and I think it will be a great interruption to any normal resumption of our relations with the USSR and the People's Republic of China, both on a political and on an economic basis.

Mr. CONABLE. Mr. Chairman, I thank the gentleman for his statement, and I urge the adoption of the amendment striking title IV.

Mr. ULLMAN. Mr. Chairman, I rise in opposition to the amendment.

Title IV authorizing the President to extend nondiscriminatory treatment to certain Communist countries was requested by the President when he transmitted the proposed Trade Reform Act of 1973 to the Congress. Officials of the administration testified in favor of this title. Administration officials worked with the committee in mark-up session in rewriting and perfecting this title into responsible legislation.

As reported, this title establishes congressional guidelines for handling our tariff and trade relations with state trading nations, most of which do not participate in international organizations of trade cooperation such as the GATT. Title IV provides congressional guidance to the President that is needed unless Congress is to continue to have no say in these matters.

As I indicated previously, the administration had to be aware that the issue of the extension of nondiscriminatory treatment to the Soviet Union had to be linked to the issue of freedom of emigration by the introduction of the Mills-Vanik amendment on freedom of emigration and East-West trade and sponsored by over 280 Members of this House.

I would add that the President's letter to the Speaker of last week is the first and only formal request this House has received to drop title IV from the bill.

It is requested that we delay action on these provisions in order that they can be taken up at a later date. We have already granted far too much accommodation to the administration in scheduling this legislation. Let us move forward with this provision and if the basic conditions surrounding the issues of title IV change, let the President propose amendments to these provisions as they appear desirable at the time.

It has been said that the President proposes and the Congress disposes. I think that is appropriate guidance in this instance, and I urge Members to defeat the amendment deleting title IV from this bill.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I thank the gentleman for yielding me this time.

The amendment offered by the gentleman from New York to strike this title would, I suggest, negate the action taken by the House a moment ago on the amendment that was before the House. If this action is taken, if the amendment is agreed to, it would permit an unrestricted flow of trade to the Soviet Union or anyone else without regard to freedom of immigration or any other issue.

Mr. Chairman, I urge the defeat of the amendment offered by the gentleman from New York (Mr. CONABLE).

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I would like to ask the gentleman from Oregon a question. As I understand the amendment offered by the gentleman from New York (Mr. CONABLE) it would allow present law to remain in effect which denies most-favored-nations treatment to Communist countries; is that correct?

Mr. ULLMAN. The gentleman is correct.

Mr. MAYNE. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Iowa.

Mr. MAYNE. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. CONABLE).

Title IV as presently amended will substantially weaken the Trade Reform Act. It will endanger our improved relationship with the Soviet Union which is so important for the preservation of world peace. The policy of détente has already achieved very tangible results for our country and for the free world. Should we now run the risk of jeopardizing it by inserting into a trade bill the gratuitous discriminations against the Soviet Union which are contained in title IV?

I believe the purpose of a good trade bill should be to liberalize and increase opportunities for trade with all countries, and that certainly should include trade between the two superpowers. A trade bill should not be used as a lever for exerting pressure on matters entirely unrelated to trade against a trading partner of great potential. I say we are playing a dangerous game if we assume the Russian bear will not strike back at this crude attempt to dictate the internal policies of a sovereign nation.

I fervently share the hope that the Soviet Union will extend greater freedom to all its citizens, and will liberalize its emigration policy, especially as it affects Soviet Jews. But these worthy objectives should be pursued through legitimate diplomatic negotiations rather than through the discriminatory language now contained in title IV as amended. I fear that those who hope to bludgeon the Russians into acquiescence through this maneuver may well find they have produced an opposite and counterproductive result.

Title IV originated from a U.S. commitment to the Soviet Union made as part of the trade agreement signed by the two countries on October 18, 1972. In that agreement, the Nixon administration pledged to seek legislation extending most-favored-nation status to the Soviet Union, and the Russians agreed to settle U.S. claims against them for lend-lease aid during World War II. The Soviets agreed to pay $772 million in installments, and it has already paid the first two installments. Its next installment due July 1, 1974, and subsequent installments in settlement of these claims were to be subject to the U.S.S.R.'s attaining most-favored-nation status.

Title IV of the present bill would authorize the President to extend the application of most-favored-nation tariff treatment to the products of countries not now eligible, subject to veto by either the House or Senate within 90 days, for a period of 3 years at a time. From 1923 to 1951, the United States extended most-favored-nation status on a reciprocal basis to all other countries, without strings—Soviet Russia enjoyed this status from 1933 on. In 1951, the Trade Agreements Act of 1951 denied most-favored-nation to nations dominated by communism, but later most-favored-nations was again extended to Yugoslavia and Poland, the only Communist countries currently enjoying that status.

But the House Ways and Means Committee amended title IV, tying extension of most-favored-nation status to any previously ineligible country—in other words, all the Communist countries except Poland and Yugoslavia—to the President's determining and reporting to Congress every 6 months that the particular country did not deny its own citizens the right or opportunity to emigrate, did not impose more than a nominal tax on emigration or on documents required for emigration, and did not impose more than nominal taxes, fines, or other charges on its citizens in consequence of their desire to emigrate to another country.

It might well be asked whether the many non-Communist countries whose exports have most-favored-nation status might not have difficulty meeting the standards that the committee proposes for the U.S.S.R. and other nonmarket countries. The committee's restrictions on providing most-favored-nation status to the U.S.S.R. certainly would appear to breech the administration's October 18, 1972, agreement with the Soviet Union, would give it an excuse for discontinuing its installments to settle the lend-lease claims, and would erode rather than strengthen détente. However, the leaders of U.S.S.R. might be inclined to ignore the slight, in the interest of increasing East-West trade; inasmuch as immediate granting of most-favored-nation would affect the price of very few Soviet goods now sold in the United States.

Far more serious and dangerous to future international trade and relations is the Vanik amendment would prohibit title IV. This amendment would prohibit credits for trade with a Communist country unless it has been determined that the nation does not restrict emigration of its citizens. Denial of access to Export-Import Bank and CCC credits and loan guarantees would greatly imperil both political and economic relations between the Soviet Union and the United States. The U.S.S.R. needs credits and loan guarantees for large trade transactions with any country, including the United States. The effect of the Vanik amendment to title IV is to deny future trade with U.S.S.R., the People's Republic of China, and the other Communist bloc nations.

Détente did not create repression within the U.S.S.R.—rather the administration's pressures through diplomatic channels and otherwise under the détente prompted the Soviet Government to suspend its head taxes on emigration of many Soviet Jews, to permit emigration of certain hardship cases, and to allow an unprecedented emigration of 30,000 Soviet Jews a year. More have been allowed to emigrate from the Soviet Union in the last two years than in all the previous 40 years together. Far more has been accomplished by quiet diplomacy than could ever be accomplished by placing unprecedented conditions upon granting of most-favored-nation or than could be accomplished by restricting the credits essential to expanding trade. The Vanik amendment is impractical, and its adoption makes it imperative that title IV as amended be deleted from the bill.

Domestic repression is deplorable, but this bill is not an appropriate vehicle for attempting to change the situation. The benefits which détente and the normalization of commercial relations offer for the majority of the world's citizens and in the long run for those suffering under totalitarian regimes far outweigh any immediate disadvantages of the arrangement. Even in the short run, the restrictions contained in title IV as amended could well increase rather than lessen the difficulties of the Soviet Jews and other oppressed minorities.

An escalation of East-West tension over emigration policies will likely spur Soviet resentment and heighten domestic repression, perhaps with reimposition of the head taxes on emigrants, rather than cause relaxation in discrimination. In the past, détente has contributed to liberalization within governmental structures in Eastern European countries, and we have every reason to believe that the same result may obtain in the Soviet Union.

This Trade Reform Act is urgently needed, and must be speedily enacted if the best interests of American workers, producers, farmers, and consumers are to be served. It is needed to enable the administration to deal more promptly, effectively and fairly with import problems. Passage of this trade legislation would contribute significantly to establishing international confidence that is essential to all efforts to strength the interdependent world economic structure so vital to America's well-being.

As President Nixon said in his April 10, 1973, message submitting the Trade Reform Act to the Congress:

> The Act can mean more and better jobs for American workers.
>
> It can help American consumers get more for their money. It can mean expanding trade and expanding prosperity for the United States and for our trading partners alike. More importantly, these proposals can help us reduce international tensions and strengthen the structure of peace.

The President further stated:

> This legislation would help us to:
>
> Negotiate for a more open and equitable world trading system;
>
> Deal effectively with rapid increases in imports that disrupt domestic markets and displace American workers;
>
> Strengthen our ability to meet unfair competitive practices;
>
> Manage our trade policy more efficiently and use it more effectively to deal with special needs such as our balance of payments and inflation problems; and
>
> Take advantage of new trade opportunities while enhancing the contribution trade can make to the development of poorer countries.
>
> The world is embarked today on a profound and historic movement away from confrontation and toward negotiation in resolving international differences. Increasingly in recent years, countries have come to see that the best way of advancing their own interests is by expanding peaceful contacts with other peoples. We have thus begun to erect a durable structure of peace in the world from which all nations can benefit and in which all nations have a stake.
>
> This structure of peace cannot be strong, however, unless it encompasses international economic affairs. Our progress toward world peace and stability can be significantly undermined by economic conflicts which breed political tensions and weaken security ties. It is imperative, therefore, that we promptly turn our negotiating efforts to the task of resolving problems in the economic arena.

The Trade Reform Act, especially if the Conable amendment striking title IV were to be adopted, will provide President Nixon and our negotiating teams with the tools to meet this challenge. It will equip them so that they can work to create a new economic structure that will indeed help and not hinder the world's historic movement toward peace. A unique set of factors on the Soviet domestic scene and in the international arena have allowed for détente at this time. If the United States now balks, the likelihood that such an opportunity will reappear is very small, and there may well be a return to the mutual hostility and recrimination of cold war years, not only in United States-U.S.S.R. relations but also in our relations with China and all Eastern Europe. Enactment of the Trade Reform Act will help maintain the momentum toward a more open international economic order contributing significantly to world harmony.

The fact that the world in 1973 is generally a "sellers" market, with strong demand and good prices, should not deceive us into complacency. We must continue to pursue policies that favor liberal trade and the continued growth of our export markets. Otherwise, when conditions change, we may find ourselves in a world of shrinking trade—a world split into economic blocs where trade is restricted and state trading prevails. This is a real possibility unless we find a way to negotiate toward a more open trading world. As I said yesterday, that is the purpose of the Tokyo round of multilateral trade negotiations under the General Agreement on Tariffs and Trade—GATT.

Many months of hard work have gone into preparations for the Tokyo round, which is now technically underway in Geneva. It is important that this negotiation go forward positively in the coming year. It is important that the world's trading differences be negotiated under the GATT jurisdiction, rather than being fragmented into a host of smaller negotiations that would expend much time and energy and produce little. That is why U.S. policy has been to push strongly for a successful GATT negotiation—to seek a reduction in border protection and other trade limiting devices around the world. This bill will greatly strengthen our ability to carry through with these negotiations.

As Secretary Earl Butz said yesterday in Indianapolis, a vigorous and growing export market is vital to an economically sound and prosperous agriculture. We currently export nearly three-fourths of our wheat, half of our soybeans, one-fourth of our feed grains, more than one-third of our cotton and tobacco, two-thirds of our rice, half of our cattle hides.

Farm exports for fiscal 1973 totaled $12.9 billion. This equalled our production from one out of every four harvested acres and was about one-fifth of farmers' yearly cash receipts from marketings. It is estimated that farm exports will exceed $19 billion in fiscal 1974.

Secretary Butz very accurately warned that without strong export outlets for our products, farm income would plummet. Rural America would suffer disastrously, and more and more rural people would be forced to migrate to the cities. Millions of workers employed in the industries related to agriculture—farm suppliers, handlers, transporters, processors, and merchandisers—would flood the labor market looking for work if we were to lose our farm export market. Nearly 40 percent of our work force is involved directly or indirectly in agriculture and its products.

Loss of our farm export market would make it necessary to cut farm production by nearly one-fifth in order to avoid tremendous waste and avert a farm depression. It would also eliminate about one-fifth of all agriculturally related jobs. That loss would amount to 8 percent of the Nation's work force—which could triple unemployment in this country.

I commend Secretary Butz' entire address delivered yesterday to the Indiana Farm Bureau to my colleagues for their consideration, and will ask permission that its text be set forth in full in the Extension of Remarks section of today's Record.

Like Secretary Butz I favor open trade which fits our competitive, incentive economy, and this bill, the Trade Reform Act of 1973, will increase the opportunities for more open trading. This will encourage more effective use of our resources and let the law of comparative advantage function—production will occur where goods can be produced most efficiently. This will in the long run insure a higher standard of living for people in this country and throughout the world.

Passing this bill will help our Government keep agricultural and industrial trade negotiations firmly hitched together. This is essential if we are to defeat the efforts of Japan and the Common Market countries to protect their highly subsidized agricultures by negotiating the industrial and agriculture sectors separately. We must not repeat the mistake we made in the Kennedy round of agreeing to such a separation and seeing barriers on manufactured goods lowered while our farm products are again barred from Western Europe, Japan, and other markets. Sufficiently open trading can be achieved only if agricultural and industrial trade negotiations are considered together.

It is of critical importance that we strengthen the hand of our representatives at the seventh round of negotiations, under the general agreement on tariffs and trade presently underway at Geneva, so that they may accomplish these very worthy goals. I, therefore, urge my colleagues to join me in voting "aye" on final passage, whether or not the unwise and probably unproductive provisions of title IV then remain in the bill.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York (Mr. Conable).

Mr. BLACKBURN. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Georgia.

Mr. BLACKBURN. Mr. Chairman, I thank the gentleman for yielding to me at this time.

Mr. Chairman, I oppose the amendment offered by the gentleman from New York (Mr. Conable) because the fact is that the action to be taken under this amendment would negate the effect of the overwhelming sentiment just expressed by the House in the last vote. I suggest that if we are going to retain the benefits of the last amendment that we vote against the amendment offered by the gentleman from New York (Mr. Conable).

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New York (Mr. Conable). I would like to say that it is not accurate to contend that if we should strike title IV from the bill that it would in fact negate the last amendment we just voted on.

The result would be the restoration of present restrictions on trade with the Soviet Union, which already prohibits them from receiving most-favored-nation tariff treatment.

I support this amendment because I believe that passage of title IV as it now stands will cause us to lose considerable leverage in our current negotiating position with the Soviets. This will be the case not only in trade, but in the whole complex of strategic, political and economic interests in which we both have a stake.

Furthermore, I am disturbed by the consequences which this title may have on the Soviet Jews and others who must, or who choose to, remain in the U.S.S.R. Our action may encourage the Soviets to substitute indirect forms of harassment for their direct emigration restrictions. This would be a result we should all wish to avoid.

Additionally, I think it unproductive that we should attempt to dictate, through our legislative action, the domestic policies of another country.

For these reasons, I strongly advocate striking this title. We should take up the issue at a later date when world political and emotional tensions have lessened. By pursuing this course, we would not risk jeopardizing the major purpose of this important bill.

Mr. ULLMAN. Mr. Chairman, I yield to the gentleman from New York (Mr. Reid).

Mr. REID. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Vanik amendment on freedom of emigration and in opposition to the amendment to strike title IV, including the Vanik language. I would point out to the Members of this body that the Soviet Union in 1969 signed the Convention on Racial Discrimination, a binding treaty guaranteeing in article 5 the right of any citizen to leave his country. They have never honored it, and, in my view, this is no time to put economic expediency above the right to emigrate or human rights. I commend the position the gentleman has taken.

I urge my colleagues to support inclusion of the Vanik language, including the denial of credits and credit guarantees to any nation which—

First, denies its citizens the right to emigrate;

Second, imposes more than a nominal tax on emigration or on the visas or other documents required for emigration; or

Third, imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice.

We have seen the hardship that such a policy causes to hundreds of thousands of citizens. Let us do what we can, as representatives of the American people, to bring an end to this policy of repression and discrimination.

Mr. ULLMAN. I yield to the gentleman from Florida (Mr. Lehman).

Mr. LEHMAN. I thank the gentleman for yielding.

Mr. LEHMAN. Mr. Chairman, I rise in support of title IV of the Trade Reform Act. Title IV is the section dealing with freedom of emigration for Soviet Jewry.

I was proud to be one of the original

cosponsors in this Congress of the Jackson-Mills-Vanik legislation to prohibit most-favored-nation trade concessions and trade credits to any country which limits freedom of emigration.

As introduced in the House, this bill would additionally require the President to report to Congress every 6 months that recipients of American trade concessions did not restrict freedom of emigration. Concessions would have to be terminated if a country were to reimpose emigration restrictions.

Congress has moved to restore the moral basis for our foreign policy by strongly supporting the Jackson-Mills-Vanik legislation. It now has the endorsement of 362 of our highest elected officials—285 Congressmen and 77 Senators.

The recent Mideast war has served only to strengthen the determination of Congress to see that the Soviet Union does not receive special economic favors from the United States until it shows a greater willingness to act humanely toward Jews and other minorities living within its borders and toward the goal of world peace.

The Vanik amendment would restore to the legislation the prohibition on granting trade credits to those countries which restrict emigration.

The Soviet Union has already received hundreds of millions of dollars in trade credits, mostly for American wheat. Billions of dollars more in trade credits are planned.

Many friends have written me to say "no more wheat deals." When Americans who borrow money to buy homes or send their children to college must pay 10 percent interest, why should we allow the Russians billions of dollars in trade credits at reduced interest rates?

The policy of the Soviet Union regarding the basic rights of Jews and other minorities within its territory is well known. Freedom of religion is strictly limited. Jewish schools, books, newspapers, plays, films, and all other forms of cultural expression are forbidden. Russian Jews who declare their wish to return to their traditional homeland are immediately fired from their jobs and are subject to every conceivable form of harassment including imprisonment.

This is a systematic pattern of repression against tens of thousands of individuals who seek only to build a new life for themselves in Israel and who are depending upon our support in their struggle for freedom.

The Soviet Union claims that many of those denied permission to leave are individuals involved in matters of state security. This is merely a pretext to deny emigration to hundreds of scientists and prominent personalities in the arts who have had no contact with classified information, or in a few cases dealt with secret material 15 to 25 years ago. These people are kept as virtual hostages as an example to deter others from applying for exit visas.

The announcement that the notorious exit tax is no longer being enforced is no evidence of a Soviet change of heart. History has shown us that the Soviet Union enforces and then ignores its own exit tax statutes whenever it hopes to win a particular favor from the West. Does anyone seriously believe that Russian Jewry would be safe from the reimposition of the "ransom" tax once the Soviet Union received the unrestricted trade concessions it now seeks?

As long as Russia restricts freedom of religion, freedom of thought, freedom of expression, and freedom of movement, it cannot be counted as a responsible member of the family of free nations.

Détente will not automatically make Russia our friend, as the Mideast war has shown. The basic conflict between the Russian and American ways of life will never be resolved as long as Russia persists in its suppression of individual liberties.

It is one thing to sit down and talk with your opponent and it is another to offer him aid and comfort. In the interest of détente we should talk with Russia, but in the interest of freedom we must not give Russia most-favored-nation status, trade credits, or loan guarantees until freedom of emigration is guaranteed.

Only when the Soviet Union grants visas to the more than 100,000 persons who wish to leave, only when it stops using the excuse of state security to prevent the departure of prominent individuals, and only when it allows free emigration from all areas of Russia including the major population centers of Moscow, Leningrad, Kiev and Odessa, should we consider granting the Soviet Union special trade concessions.

During this past summer I visited the Jewish refugee center in Vienna. A few months ago, Austria agreed to yield to Arab terror and ordered the center closed. The solution to this problem is simply to have the Soviet Union allow Israeli planes to carry Soviet Jews directly from Russia to Israel. With the enactment of the Jackson-Mills-Vanik section of the trade bill, the Soviets may be encouraged to allow direct flights to Israel as they seek to comply with the terms of the legislation.

Although the administration has opposed the Jackson-Mills-Vanik legislation in the past, I call upon President Nixon to support it now. Our Nation must stand firm against the restrictive and aggressive policies of the Soviet Union. We cannot accept "détente at any price" and must never agree to bargain with human rights.

Mr. ULLMAN. I yield to the gentleman from Illinois (Mr. COLLIER).

Mr. COLLIER. I thank the gentleman for yielding.

Mr. Chairman, I should like to point out to at least those who supported the position of my colleague, the gentleman from Georgia, (Mr. BLACKBURN), that what the Members are actually doing here is saying that if the Soviet Union does comply with what we all feel is a desirable emigration policy, then they would be allowed most-favored-nation trade and the credits that are involved in the amendment we just voted on.

Mr. BROWN of Ohio. Mr. Chairman, I rise in support of the Conable amendment to strike title IV.

Wherever we turn—steel, petroleum, timber, sugar, grain, metals, fertilizers—we are finding the world's resources stretched more tightly than before to provide the growing world population with the rising standards of living they seek.

The world needs to use its scarce resources more efficiently. We are currently struggling with an energy crisis—which has been merely aggravated by the Arab oil embargo. The fundamental crisis is that we are using energy up more rapidly than we are discovering new energy resources.

The world's stocks of food commodities are at low levels—partly because of poor crops in several regions of the world in 1972, but even more importantly because of the rising incomes of the world's peoples and their demonstrated desire to improve their standards of eating. Agricultural production is thus at a higher premium than at any time in recent decades.

Freer trade can make a real contribution in this time of rising demand through using our resources more efficiently.

That is really what the Trade Reform Act of 1973 is all about. It would continue the world's long-term effort to lower trade barriers and allow goods and services to move more efficiently across national borders.

No modern economy in the entire world today is self-sufficient. We are all dependent in some degree on imports. In the United States, for example, there are many things which we cannot effectively produce at all—raw materials like tin, foodstuffs like coffee and bananas.

There are many additional items that other nations are set up to produce more efficiently. Their specialties range from high-technology cameras and electronic components to little hand-made toys and kitchen gadgets. We can import these items more cheaply than we can make them ourselves. The higher our standard of living goes, the less self-sufficient we become. These are the reasons that imports are becoming more and more important to us.

By the same token, there are many things that the United States does well. We are the world's leading producer of such high-technology items as computers, machine tools, and jet aircraft. We are also the world's largest exporter of farm products. Thus other countries are depending more and more heavily on the United States for the food to feed themselves, for equipment to run their industries efficiently, and for the aircraft to link their cities together.

Freer trade makes it possible for Americans to live better.

At the same time, it permits the other peoples of the world to live better.

We are all better off because we take fuller advantage of the special resources, and abilities of each country and each people.

With the rising demands being made on the world's resources, freer trade becomes more and more important to all of us.

I am sure that Americans are more vividly aware of the importance of imports—and of exports to pay for them—than at any time since our colonial days.

We have been forcefully reminded that we do not produce enough energy right now to meet even our current requirements, let alone enough to meet our economic growth needs for the next few years.

Export buyers are bidding higher for our farm output than they have in the past—and it is fortunate that they are. I shudder to think where the value of the U.S. dollar would stand today without the $5 billion improvement in our net agricultural trade balance this year over last. The increasing price of our oil imports alone is likely to cost more than $3 billion extra last year, even assuming we can get them. Although the increased bidding for our farm products by overseas buyers has contributed to a sharp increase in U.S. food prices, the earnings from our farm exports have kept us afloat.

Freer trade has been a goal of the United States at least since the disastrous tariff wars of the 1920's—the tariff wars that helped to bring on the Great Depression.

Freer trade takes on even greater importance today as we try to use our resources more effectively. It is the one thing we can count on consistently to make what we have go further.

Let me give you just one example, from the field of agriculture. By coincidence, agriculture is one of the areas where we have made the least progress in lowering trade barriers, and it is also one of the areas where the U.S. comparative advantage is greatest.

In recent years, while the United States has been idling farming resources because we have not had markets for all of our productive capacity, the Europeans have been protecting their farmers with a high variable levy and very high grain prices. The effect has been to make meat a high-priced item for Europeans.

As a result, Europeans have not been able to afford as much meat as they wanted. At the same time, U.S. farmers have been deprived of a consistent market for the output from some of their acres. Both sides have been less well off.

In the future, if the Europeans shifted their farming resources more heavily into caring for livestock—and opened their borders to grain imports from other countries—they could provide good incomes for their farmers and more reasonable meat prices for their consumers. We would benefit in the United States because it would allow our farmers to gear up more of the productive power they have been holding in reserve. We could earn more foreign currency to pay for the things we import, and still have plenty of farm products for our own people.

That is how freer trade is supposed to operate. That is how it can help us toward a higher standard of living. That is how it can provide jobs in the American economy, and help people overseas at the same time.

That is why I believe the Congress should pass the Trade Reform Act of 1973, and give our negotiators a strong tool with which to move the whole world forward to freer trade and better living.

Mr. RANDALL. Mr. Chairman, I rise in opposition to the amendment sponsored by the gentleman from New York (Mr. CONABLE). This amendment would strike title IV, the authority to extend most-favored-nation treatment in imports from Communist countries, from the bill. A vote against the Conable amendment is a vote for retention of title IV. As presently written, title IV ties the conferral of most-favored-nation status to emigration policies.

Mr. Chairman, authentic negotiations, be they contract negotiations, or trade negotiations, always involve give and take on both sides. From its past performance in dealing with the Russians, this administration fails to realize this simple fact of life.

I for one happen to be tired of seeing us give all the time without demanding any concession in return. The two most important series of negotiations we've had with the Soviets—those leading to the Salt treaty and those resulting in the wheat deal—both seemed to involve all giving on the part of the United States, but very little taking. There is substantial evidence that the much acclaimed Salt treaty may have perilously jeopardized our strategic force posture vis-a-vis that of the U.S.S.R.

Numerous reports now indicate the Soviets are seeking a clear-cut superiority in the quality of ballistic missiles rather than parity. We left the door wide open for this development by agreeing to a freeze on ICBM's, in which we are numerically inferior, without a companion clause limiting development of MIRV capability.

Then the debacle of the Russian wheat deal is too well known to warrant extensive comment. The Americans ended up subsidizing the Russians to the tune of about $400 million. The American consumer and the American farmer are still suffering from the fallout of the grain deal. In some places flour prices increased to the baker by 100 percent.

If we pass this bill without title IV, we will be putting our stamp of approval on future "deals" such as the Salt treaty and the grain sale. We will be giving unqualified approval to negotiations where the United States does all the giving and no taking. We will be saying to the Russians, "We guarantee all your import needs for the next few years, even if it means there will be no bread on American tables, in fact we will sell you all you need on credit."

We ought to demand a quid pro quo in all our negotiations with every country but particularly a country with a recent record of over-producing us—such as the Soviet Union. For this reason, we ought to reject the Conable amendment.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from New York (Mr. CONABLE).

The question was taken; and the Chairman announced that the "noes" appeared to have it.

RECORDED VOTE

Mr. CONABLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 106, noes 298, not voting 28, as follows:

[Roll No. 644]

AYES—106

Alexander
Andrews, N. Dak.
Arends
Ashley
Bennett
Bowen
Bray
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Burleson, Tex.
Burlison, Mo.
Camp
Carter
Chamberlain
Chappell
Cochran
Collier
Conable
Davis, Wis.
Dellenback
Denholm
Dennis
Devine
Dickinson
Duncan
Edwards, Ala.
Eshleman
Findley
Flowers
Flynt
Frelinghuysen
Gibbons
Goodling
Green, Oreg.
Gross
Gubser
Hamilton
Hammerschmidt
Hanna
Hansen, Idaho
Harsha
Hastings
Hechler, W. Va.
Hinshaw
Hosmer
Hutchinson
Jarman
Johnson, Colo.
Kastenmeier
Keating
Landrum
Litton
Lott
McClory
McCollister
McEwen
McKay
McSpadden
Mahon
Mailliard
Mallary
Martin, Nebr.
Mayne
Milford
Mink
Montgomery
Mosher
Moss
Myers
Nelsen
Obey
Passman
Patman
Poage
Powell, Ohio
Price, Tex.
Quie
Rhodes
Roberts
Robison, N.Y.
Ruppe
Ruth
Schneebeli
Sebelius
Sikes
Skubitz
Stanton, J. William
Steiger, Wis.
Stephens
Symington
Teague, Tex.
Treen
Van Deerlin
Vander Jagt
Vigorito
Waggonner
Ware
Whalen
Whitten
Wiggins
Wilson, Bob
Wylie
Young, Fla.
Zablocki
Zwach

NOES—298

Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Archer
Armstrong
Ashbrook
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Broyhill, N.C.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burton
Byron
Carney, Ohio
Casey, Tex.
Cederberg
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Collins, Ill.
Collins, Tex.
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Dent
Derwinski
Diggs
Dingell
Dorn
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Flood
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gilman
Ginn
Goldwater
Gonzalez
Grasso
Green, Pa.
Griffiths
Grover
Gude
Gunter
Guyer
Haley
Hanley
Hanrahan
Harrington
Harvey
Hawkins
Hays
Heckler, Mass.
Helstoski
Henderson
Hicks
Hillis
Hogan
Holifield
Holt
Holtzman
Horton
Howard
Huber
Hudnut
Hungate
Ichord
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Landgrebe
Latta
Leggett
Lehman
Lent
Long, La.
Long, Md.
Lujan
McCloskey
McCormack
McDade
McFall
McKinney
Macdonald
Madden
Madigan
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mazzoli
Meeds

Melcher
Metcalfe
Mezvinsky
Miller
Minish
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Pa.
Morgan
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
O'Brien
O'Hara
O'Neill
Owens
Parris
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss

Riegle
Rinaldo
Robinson, Va.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schroeder
Seiberling
Shipley
Shriver
Shuster
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.

Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Tiernan
Towell, Nev.
Udall
Ullman
Vanik
Waldie
Wampler
White
Whitehurst
Widnall
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wydler
Wyman
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zion

NOT VOTING—28

Abdnor
Aspin
Burke, Calif.
Butler
Carey, N.Y.
Danielson
Donohue
Erlenborn
Fish
Fisher
Gray

Hansen, Wash.
Hébert
Heinz
Hunt
Mann
Michel
Mills, Ark.
Minshall, Ohio
Moorhead, Calif.
Rooney, N.Y.

Shoup
Stokes
Thompson, N.J.
Thornton
Veysey
Walsh
Wyatt

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DANIELSON. Mr. Chairman, at the time the votes were taken on the Vanik and Conable amendments to the Trade Reform Act of 1973, I was unavoidably absent attending a meeting at the White House. Had I been present for roll No. 643, the Vanik amendment to deny the extension of credits to nations which deny or infringe the right to emigrate, I would have voted "aye." Had I been present for roll No. 644, the Conable amendment to strike title IV of the act, I would have voted "no."

As assistant majority whip, I knew before I left the floor that my vote would not be necessary to assure the adoption of the Vanik amendment or to retain title IV of the Act. I very much support the concept of free emigration embodied in the Vanik amendment and title IV, and long ago I joined with Mr. VANIK and Mr. MILLS in sponsoring H.R. 3912, which would have accomplished the same goals.

Mr. ULLMAN. Mr. Chairman, there are no further committee amendments.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLAND, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 10710) to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the ceonomic growth of the United States and for other purposes, pursuant to house resolution 657, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. DENT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—ayes 272, noes 140, not voting 20, as follows:

[Roll No. 645]

AYES—272

Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Archer
Arends
Armstrong
Ashley
Aspin
Bafalis
Baker
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blackburn
Blatnik
Boggs
Bolling
Bowen
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Camp
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conte
Corman
Coughlin
Crane
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson

Diggs
Dorn
Downing
Drinan
Duncan
du Pont
Edwards, Ala.
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Gettys
Gibbons
Gilman
Ginn
Goldwater
Goodling
Green, Oreg.
Griffiths
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Henderson
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Hosmer
Hudnut
Hutchinson
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Karth
Kastenmeier

Kazen
Keating
Kemp
Ketchum
King
Koch
Kuykendall
Landgrebe
Landrum
Latta
Leggett
Lehman
Lent
Long, Md.
Lott
McClory
McCloskey
McCollister
McCormack
McEwen
McFall
McKay
McKinney
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Mezvinsky
Milford
Miller
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Mosher
Myers
Natcher
Nelsen
Nichols
Obey
O'Brien
O'Neill
Parris
Passman
Pettis
Peyser
Pickle
Pike
Powell, Ohio
Preyer
Price, Tex.
Pritchard
Quie
Quillen
Railsback

Rees
Regula
Reid
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roncallo, N.Y.
Rooney, Pa.
Rose
Roush
Rousselot
Roy
Ruppe
Ruth
Sandman
Sarasin
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius

Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, Iowa
Spence
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen

Udall
Ullman
Van Deerlin
Vander Jagt
Waggonner
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wilson, Bob
Winn
Wolff
Wright
Wydler
Wylie
Young, Fla.
Young, Ill.
Young, S.C.
Zablocki
Zion
Zwach

NOES—140

Abzug
Adams
Addabbo
Andrews, N. Dak.
Annunzio
Ashbrook
Badillo
Barrett
Biaggi
Boland
Brademas
Brasco
Bray
Breaux
Brooks
Burke, Mass.
Burlison, Mo.
Burton
Byron
Carey, N.Y.
Carney, Ohio
Carter
Chisholm
Clark
Clay
Collins, Ill.
Conlan
Conyers
Cotter
Cronin
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Dingell
Donohue
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Flood
Ford, William D.

Froehlich
Gaydos
Giaimo
Gonzalez
Grasso
Green, Pa.
Gross
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holtzman
Howard
Huber
Hungate
Ichord
Johnson, Calif.
Jones, Tenn.
Jordan
Kluczynski
Kyros
Litton
Long, La.
Lujan
McDade
McSpadden
Macdonald
Madden
Melcher
Metcalfe
Minish
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nix
O'Hara
Owens
Patman
Patten
Pepper
Perkins
Poage

Podell
Price, Ill.
Randall
Rangel
Rarick
Rinaldo
Rodino
Roe
Roncalio, Wyo.
Rosenthal
Rostenkowski
Roybal
Runnels
Ryan
St Germain
Sarbanes
Seiberling
Shipley
Slack
Snyder
Staggers
Stanton, James V.
Stark
Steele
Stratton
Stubblefield
Studds
Sullivan
Symington
Taylor, Mo.
Tiernan
Vanik
Vigorito
Waldie
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wyman
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Tex.

NOT VOTING—20

Abdnor
Burke, Calif.
Erlenborn
Fisher
Gray
Hanna
Hébert

Heinz
Hunt
Michel
Mills, Ark.
Rooney, N.Y.
Shoup
Smith, N.Y.

Stokes
Thompson, N.J.
Veysey
Walsh
Wiggins
Wyatt

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Rooney of New York against.

Mr. Fisher for, with Mr. Thompson of New Jersey against.

Mr. Gray for, with Mr. Stokes against.

Until further notice:

Mr. Hanna with Mr. Smith of New York.

Mr. Mills of Arkansas with Mr. Michel.

Mrs. Burke of California with Mr. Shoup.

Mr. Heinz with Mr. Abdnor.

Mr. Hunt with Mr. Wiggins.
Mr. Erlenborn with Mr. Wyatt.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed and the amendments thereto.

The **SPEAKER.** Is there objection to the request of the gentleman from Oregon?

There was no objection.

PERSONAL ANNOUNCEMENT

Mr. BUTLER. Mr. Speaker, I was away from the House on committee business at the time of the vote on the Trade Reform Act of 1973. Had I been present, I would have voted "yea" on the Vanik amendment and "nay" on the Conable amendment.

PERSONAL ANNOUNCEMENT

Mr. FISH. Mr. Speaker, during consideration of amendments to the Trade Reform Act of 1973, I was absent from the Chamber on a committee assignment. Had I been present, I would have voted "yea" on the Vanik amendment and "nay" on the Conable amendment.

HOUR OF MEETING ON WEDNESDAY, DECEMBER 12, 1973

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 o'clock a.m., tomorrow, Wednesday, December 12, 1973.

The **SPEAKER.** Is there objection to the request of the gentleman from Massachusetts?

Mr. GROSS. Mr. Speaker, reserving the right to object, in this mad stampede to consider legislation after the lost time earlier this session, can the gentleman at this time give the House any indication as to when next week we may adjourn the first session of the 93d Congress sine die?

Mr. O'NEILL. Mr. Speaker, if the gentleman will yield, I will give him an answer to the best of my ability. I am sure the gentleman is aware of the program for the remainder of the week. We are going forward today with the emergency security assistance to Israel and Cambodia, and following that with the foreign aid appropriations. We hope to conclude those bills today. Tomorrow it is planned we will bring up first thing the National Emergency Energy Act if it gets a rule today. As the gentleman knows, ours is a different bill than the one which has already passed the Senate.

The one thing that I can see that would be holding us up from adjournment next week would be the conference on the energy bill.

Mr. GROSS. I am concerned—I do not know about other Members of the House but speaking only for myself I am concerned about whether we are going to be in session at the end of next week and will have to cancel airplane reservations that will be very difficult to reestablish. In other words, are we going to adjourn at the end of next week in the midst of or perhaps after the Christmas traffic has started?

Mr. O'NEILL. All I can say to the gentleman is that I have my own reservations for the 20th and I hope I am able to keep them. The main item that will be preventing the House adjourning is the conference on the energy bill because of the variations and differences between the bills passed by the two Houses. There will be many other conference reports coming back. We want to get the energy bill done so we can give the Committee on Interstate and Foreign Commerce an opportunity to work on it in conference.

Mr. GROSS. With the gentleman's statement that he has reservations for the 20th and his indication that he and the other leaders will do their best so that we will be out by the 20th, I withdraw my reservation of objection.

Mr. RHODES. Mr. Speaker, further reserving the right to object, the Republicans have a conference scheduled for tomorrow at 10. We would be perfectly willing to call it off for 1 day. Can the majority leader project his thinking into whether or not on Thursday he might ask for permission to come in early?

Mr. O'NEILL. May I say to the minority leader, I thought we had already cleared this matter with his side.

Mr. RHODES. The gentleman had.

Mr. O'NEILL. In view of that, we are going on a day-by-day basis. The main reason is that we would like to see tomorrow if we can get the energy bill through because that will get it into conference as quickly as possible, and pending the resolution of it, the schedule will depend on that.

Mr. RHODES. I understand. We will reschedule our conference for Thursday morning.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERSONAL EXPLANATION

Mr. HEINZ. Mr. Speaker, I was unavoidably absent this morning on official business in my district. Unfortunately, my return flight was also delayed by a closed runway at National Airport. Had I been present, I would have voted as follows:

On rollcall No. 643, on the Vanik amendment, I would have voted aye; on rollcall 644, on the Conable amendment, I would have voted no; and on rollcall 645, on the passage of H.R. 10710, I would have voted yea.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN REPORTS

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules I ask unanimous consent that the committee may have until midnight tonight to file certain reports.

The **SPEAKER.** Is there objection to the request of the gentleman from Indiana?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 11088, EMERGENCY SECURITY ASSISTANCE ACT OF 1973

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 742 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 742

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11088) to provide emergency security assistance authorizations for Israel and Cambodia. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendments recommended by the Committee on Foreign Affairs now printed in the bill, and all points of order against said amendments for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The **SPEAKER.** The gentleman from Florida is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 742 provides for an open rule with 1 hour of general debate on H.R. 11088, a bill to provide emergency security assistance authorizations for Israel and Cambodia.

House Resolution 742 provides that points of order against clause 27(d)(4) of rule XI of the Rules of the House of Representatives, the 3-day rule, are waived. House Resolution 742 also provides that it shall be in order to consider the amendments recommended by the Committee on Foreign Affairs now printed in the bill, and points of order against the amendments for failure to comply with the provisions of clause 7, rule XVI of the Rules of the House—the germaneness provision—are waived.

The purpose of H.R. 11088 is to help maintain a military balance necessary for the achievement of peace in the Middle East through authorizing $2,200,-million in emergency security assistance to Israel in the fiscal year 1974. H.R. 11088 places certain restrictions on the use of assistance in excess of $1.5 billion. Prior to the obligation or expenditure of such assistance the President will be required to make a determination that the aid is needed, and he must report to the Congress at least 20 days prior to the date on which funds are obligated.

H.R. 11088 also authorizes the President to use such sums as may be necessary, from the amounts authorized in the bill, for payment of the U.S. share of the expenses of the United Nations Emergency Force in the Middle East.

Mr. Speaker, I urge adoption of House Resolution 742 in order that we may discuss and debate H.R. 11088.

Mr. Speaker, I would like to add that I think all of us heartily commend the President for the prompt and effective action that he took when advised that the Russians were pouring large quantities of weapons into Egypt and Syria in the recent war between those nations and Israel. The war was terribly exacting of Israel, their losses in material were so serious, that if our country had not promptly and effectively responded to this challenge with the Russian aid in such enormous quantities going to the other side, the future of Israel might have been in the gravest jeopardy; so we have thrown our force and our might against the aid that has been given by the Soviet Union, to preserve and to protect the integrity of this citadel, this bulwark of freedom, as well as those people who have so long striven to enjoy liberty, freedom, independence, and integrity in that old part of the world with which they have been so long associated.

So now we provide this $2,200 million, which will not have to be paid back, at the discretion of the President, by Israel in this critical moment of crisis they face. It is a commendable proposal and I am sure the House will wish to adopt this rule in order that we may appropriate these funds for the aid of brave and great Israel.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding. I would like to ask him a question with reference to the waiver of two of the rules of the House. The rule provided for in this resolution is a little bit unusual in that on line 2 of the first page of H. Res. 742, it says that on the adoption of the resolution:

> It shall be in order to move, Clause 27(d) (4) of Rule XI to the contrary notwithstanding—

What is the reason for that waiver?

Mr. PEPPER. Mr. Speaker, may I ask the distinguished chairman of the Committee on Foreign Affairs, Dr. MORGAN, to respond to that?

Mr. MORGAN. Mr. Speaker, I would say to the gentleman from Ohio that we were held up in filing our report, and when we went up to get this rule, we did not know if the bill would be brought up before the end of the 3-day waiting period. This rule, therefore, waives the 3-day waiting period.

Mr. WYLIE. My other question is with reference to the rule referred to on line 3, page 2, where it says:

> And all points of order against said amendments for failure to comply with the provisions of Clause 7, Rule XVI are hereby waived.

Why did the Rules Committee adopt that waiver to the rules of the House?

Mr. PEPPER. Mr. Speaker, I yield to the chairman of the Committee on Foreign Affairs, Mr. MORGAN, to respond to that inquiry.

Mr. MORGAN. Mr. Speaker, I must say to the gentleman from Ohio that this was necessary, because there was some debate between members of the Foreign Affairs Committee and the Parliamentarian as to the germaneness of section 6 of the bill, whether that section is a violation of the clause that the gentleman mentioned. Therefore, to be on the safe side, we requested this waiver.

Mr. WYLIE. Mr. Speaker, will the gentleman yield for an additional question? The chairman mentioned section 6 of H.R. 11088.

Mr. MORGAN. Section 6 of the bill was a committee amendment.

Mr. WYLIE. What does section 6 do that is against the rules of the House?

Mr. MORGAN. Section 6 says:

> Of the funds appropriated pursuant to section 2, the President may use such sums as may be necessary from time to time for payment by the United States of its share of the United Nations Emergency Force in the Middle East, as apportioned by the United Nations in accordance with article 17 of the United Nations Charter.

Mr. WYLIE. Mr. Speaker, I thank the gentleman. So, this waives the rule which states that an appropriation is not in order until the passage of an authorization bill?

Mr. MORGAN. No, this is just an authorization. This money will come out of the $2.2 billion authorized. It is not an appropriation.

Mr. PEPPER. This is the authorizing bill.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the title of the bills states, "to provide emergency security assistance authorizations for Israel and Cambodia." I would like to ask the chairman of the committee if aid to Cambodia was not eliminated from the bill.

Mr. PEPPER. Mr. Speaker, the gentleman is correct. Cambodia was eliminated from the substance and content of the bill, but it still is in the title.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, why then does the rule state that this is a bill for assistance authorization for Israel and Cambodia?

Mr. MORGAN. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. Mr. Speaker, I will be glad to yield to the chairman.

Mr. MORGAN. Mr. Speaker, the original bill, H.R. 11088, as the gentleman from Iowa knows as a member of the committee, provided emergency security assistance authorizations for Israel and Camdodia. Then the bill was amended in the committee where the authorization was fixed at $2.2 billion.

The necessity for the authorization of $200 million for Cambodia was eliminated, because that $200 million necessary for Cambodia was incorporated in the foreign aid authorization, which passed this body last week. The conferees on that bill have authorized the Department of Defense to use the authority in the Foreign Assistance Act to draw down military articles for Cambodia.

Therefore, the additional authorization is necessary.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Iowa.

Mr. GROSS. Was not the bill, presently before the House, H.R. 11088, as amended, the bill for which the rule was granted?

Mr. MORGAN. The gentleman is correct.

Mr. GROSS. Mr. Speaker, I still have received no answer to the question as to why the House is misled by the language in the rule which states "emergency security assistance authorizations for Israel and Cambodia." The provision for Cambodia in the bill was stricken in committee.

Mr. MORGAN. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Pennsyvlania.

Mr. MORGAN. The original title of the bill in front of us was "To provide emergency security assistance authorizations for Israel and Cambodia."

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. Yes, I yield to the gentleman.

Mr. GROSS. Mr. Speaker, I wonder if it was explained to the Rules Committee why Cambodia was taken out of the bill?

Mr. QUILLEN. Mr. Speaker, I will respond to the gentleman.

It was explained before the Committee on Rules, and my reason for bringing it up at this time is to clarify that the $200 million for Cambodia was eliminated by the committee. This was explained to the members of the Committee on Rules, but I wanted it clarified here for the benefit of the Members of the House.

Mr. GROSS. Mr. Speaker, was that for the purpose of putting it in another bill so that certain Members in the House would not have to vote for Cambodia but could vote for funds for Israel? Does the gentleman have any indication that is the reason why Cambodia was stricken from the bill, although it was included by the administration?

Mr. MORGAN. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I will be glad to yield to the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Speaker, I must point out to the gentleman from Iowa that the conference on the foreign assistance authorization was going on before hostilities broke out in the Middle East of October 6. The decision to provide special emergency assistance to Cambodia in the Foreign Assistance Act was made during that conference. It was not designed to take it out of this bill. It came as a result of a proposal by the other body in the conference long before we took up this legislation.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Iowa.

Mr. GROSS. The cold, hard facts of life indicate that it was taken out of this bill, and I wish that someone would explain to the House why it was stricken.

Mr. MORGAN. Well, if the gentleman will yield further, the gentleman from Iowa was at the hearings, because the gentleman is always a very conscientious participant in the hearings on foreign aid, and he was present when the counsel from the Department of Defense, Mr. Forman, got up and, in response to a question, said that this additional authorization for Cambodia was no longer necessary.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. Yes, I will be happy to yield.

Mr. GROSS. Mr. Speaker, let us never, under any circumstance, embarrass anyone around here on a vote.

Mr. QUILLEN. Mr. Speaker, we all realize the emergency involved and the need for this measure. It is appropriate that it be brought to the floor at this time for speedy action, and I urge the adoption of the rule, for the consideration and passage of the bill.

Mr. Speaker, I have no requests for time, but I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 11771, FOREIGN ASSISTANCE APPROPRIATIONS, 1974

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 739 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 739

Resolved, That during the consideration of the bill (H.R. 11771) making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes, all points of order against said bill are hereby waived.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Tennessee (Mr. Quillen) and to myself such time as I may consume.

Mr. Speaker, House Resolution 739 provides for a waiver of points of order against H.R. 11771, the foreign assistance appropriation bill of 1974.

H.R. 11771 recommends the appropriation of new budget authority of $5,333,912,000 for the fiscal year 1974 for Foreign Assistance Act activities, foreign military credit sales, and emergency security assistance and disaster relief assistance. This figure is $1,532,655,000 below the budget estimates and $1,680,211,000 above the 1973 fiscal year new budget authority.

Title I of the bill includes funding for Indochina postwar reconstruction assistance. It provides that none of the funds appropriated in the bill may be used to provide for any type of assistance to North Vietnam. Title I also appropriates funds for the Overseas Private Investment Corporation and the Inter-American Foundation. Title III appropriates funds for the Action program, the Inter-American Development Bank, and for refugee assistance in the United States. Title IV provides for emergency security assistance for Israel in the amount of $2,200,000,000.

This is the appropriation bill for the authorization funded in the same amount to Israel which was presented in the previous bill.

Mr. Speaker, this is a very meritorious appropriation bill which is very much needed.

Mr. Speaker, I urge adoption of House Resolution 739 in order that we may discuss and debate H.R. 11771.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I am glad to yield to the gentleman.

Mr. WYLIE. I thank the gentleman for yielding.

On line 4 of House Resolution 739 it says "and for other purposes, all points of order against said bill are hereby waived." Do I understand the gentleman to say the authorization bill has not been passed and that the reason for this clause in House Resolution 739 waives the rule which prohibits an appropriation before the passage of authorizing legislation?

Mr. PEPPER. The reasons why the Committee on Rules waived points of order against H.R. 11771 are because: First, it contains legislation on an appropriation bill; second, reappropriations of certain funds; and third, because S. 1443, which is the foreign assistance authorization conference report, has not yet been signed into law.

Mr. WYLIE. I would just make the observation, why do we bother to adopt rules of procedure for the House if we continue to pass resolutions which waive the rules?

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, House Resolution 739 is the rule which provides for the consideration of H.R. 11771, the Foreign Assistance Appropriations bill. This rule waives all points of order because there are several items in the bill which had not been authorized at the time the Rules Committee held its hearings.

The Foreign Aid Authorization conference report has not yet been signed into law. It provides the necessary authorization for most of the items contained in titles I and II and also for the Asian Development Bank contained in title III of the appropriations bill.

The authorizing legislation for the United Nations Environment Fund, also contained in title I of the bill, has been agreed to in conference and the conference report has been agreed to by both Houses. The other major authorizing legislation outstanding at this time is for Emergency Security Assistance for Israel and Disaster Relief Assistance which are contained in title IV of the bill.

Mr. Speaker, I have no objection to the rule in order that the House may begin debate on this legislation.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EMERGENCY SECURITY ASSISTANCE ACT OF 1973

Mr. MORGAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11088) to provide emergency security assistance authorizations for Israel and Cambodia.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11088 with Mr. Murphy of New York in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. Morgan) will be recognized for 30 minutes, and the gentleman from California, (Mr. Mailliard) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. Morgan).

Mr. MORGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the House has before it today a major bill which I believe to be in the highest national interest.

The purpose of H.R. 11088, the Emergency Security Assistance Act of 1973, is to help maintain a military balance necessary for the achievement of peace in the Middle East.

The bill would do this through authorizing $2,200 million in emergency security assistance appropriations to Israel in fiscal 1974.

As Members know, an appropriations bill containing this amount will be coming up shortly and there will be more debate on this same subject. So I will keep my remarks short.

PRESIDENTIAL REQUEST

First, I will recall for you the President's request for this emergency measure in a message to the Congress dated October 19, during the Middle East crisis.

The President asked for $2,200 million in emergency security assistance for Israel and $200 million for Cambodia in fiscal 1974.

The President said:

> This request is necessary to permit the United States to follow a responsible course of action in two areas where stability is vital if we are to build a global structure of peace.

COMMITTEE ACTION

The Committee on Foreign Affairs, to whom the legislation requested by the President was referred, received briefings on the Middle East situation from the Secretary of State, the Honorable Henry A. Kissinger, on October 29 and again on November 28.

The committee received testimony in

open session on November 30 from the Honorable Kenneth Rush, Deputy Secretary of State; the Honorable William P. Clements, Jr., Deputy Secretary of Defense; and Adm. Thomas M. Moorer, Chairman of the Joint Chiefs of Staff.

The committee heard further testimony and received classified material in executive session on December 3.

The committee then marked up the bill in open session and ordered it favorably reported, with amendments, on December 4.

The committee vote for the bill was 33 to 1.

COMMITTEE AMENDMENTS

The committee approved three amendments.

First, the committee deleted the proposed $200 million for Cambodia.

This action was taken in view of the conference report on S. 1443, the Foreign Assistance Act of 1973, which the House and Senate passed last week. S. 1443 provided authority under which the President could draw down up to $200 million from U.S. defense stocks for emergency military assistance for Cambodia in fiscal 1974.

Because of this, it was unnecessary to include the amount for Cambodia in the bill before us today.

The committee also required that of the $2,200,000,000 authorized for Israel, any amounts above $1,500,000,000 can be obligated by the President only after he makes a determination that this is in the national interest.

The President must report any such determination to Congress at least 20 days before he commits the money, with a justification for what he is doing.

The second committee amendment directs the Secretary of Defense to conduct a study relating to the effectiveness of the military assistance program as it relates to the Middle East conflict.

Congress appropriates a lot of money for foreign military assistance programs around the world every year. This bill serves the same purpose, except that it is just for Israel.

So we ought to know what we get for our money—and this is a good chance to see what our foreign assistance weapons do compared with the weapons the Soviet Union is providing to the Arabs.

The third and final committee amendment authorizes the President to pay for the United States share of the costs of the United Nations Emergency Force in the Middle East.

The executive branch had requested a separate authorization for this, but the committee included it in this bill since the Middle East Peace Force is part of the overall Middle East peace effort supported by this bill.

This bill seeks to promote conditions for a peaceful settlement in the Middle East and to protect Israel's security. The U.N. Emergency Force also helps toward these objectives.

The U.S. payment for the United Nations Emergency Force would come out of the $2,200 million. The U.S. share is estimated to be $17.3 million over the first year—about 29 percent of the total peace force cost.

NECESSITY FOR THIS BILL

Mr. Chairman, I believe Members can easily understand why we must help Israel at this critical time when peace hangs in the balance in the Middle East.

Serious discussions are underway which could lead to a durable settlement.

But to negotiate a peace, Israel must have security. And the Arab States and the Soviet Union must be served notice that the United States will support Israel's defense, so they will not try more war instead of negotiation.

To maintain the military balance and her security, Israel needs our help.

The Soviet Union has been delivering massive amounts of modern weapons to the Arabs. Obviously the question of payments has not stopped the Soviet flow.

Israel can get equal weapons only from us. And so far, she has paid in cash or credit for all her American arms.

But Israel has suffered large war losses. Her economy has been dealt a heavy blow.

Israel already has bought nearly $1 billion worth of military equipment from us since October 6, the outbreak of the war.

These American shipments of replacement arms have restored Israel's relative military strength to about the same as it was October 6, the committee has been told. But Soviet deliveries to the Arabs are continuing.

The Defense Department estimates that Israel may need further arms totaling somewhat more than $1 billion, in addition to those we have already sent. This is more than Israel can afford.

What H.R. 11088 would do—in effect—would be to authorize payment for the $1 billion worth already sent and for those additional shipments which prove to be absolutely necessary for Israel's security.

The committee approved the President's request for flexibility in deciding how much of the $2 billion should be in grants and how much in sales credits. He needs this leeway in the changing Middle East situation. There is precedent for such authority for the President in past aid programs.

In summary, Mr. Chairman, the Foreign Affairs Committee believes there would be great reward to the United States, to the nations of the Middle East, and to the world, if permanent peace comes to this area.

For more than a quarter of a century, the Middle East has been a potential source for world conflict.

We do not want to have Soviet dominance over this strategic area.

We have an abiding special friendship for Israel.

It is in our interest to assure Israel's security—and thus to help bring about conditions for an enduring Middle East settlement.

To this end, I urge passage of this bill.

Mr. MAILLIARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Pennsylvania (Mr. MORGAN), the chairman of the committee has explained the bill and what we did to amend it in the committee and there is certainly no point in my being repetitious.

Mr. Chairman, I strongly support passage of the Emergency Security Assistance Act of 1973.

This legislation is needed, not only to provide urgently needed support for Israel, but to promote conditions for negotiations leading to a durable peace in the Middle East. In my opinion, a military balance between Israel and her adversaries is a prerequisite to successful peace negotiations.

The amount requested by the President and recommended by the committee is $2.2 billion. However, the arms requests by Israel are being carefully reviewed, and the committee has placed restrictions on the use of assistance in excess of $1.5 billion. Sums in excess of that amount may be used only if the President determines it to be important to our national interest and reports to Congress each such determination. While we hope the full amount will not be used, the committee believes it should be authorized in case it is needed.

Recognizing the importance of maintaining the cease-fire, this legislation as amended in committee would authorize the use of funds to pay the U.S. share of expenses of the United Nations Emergency Force in the Middle East. The U.N. Emergency Force is essential if we are to prevent the renewal of hostilities, so that the adversaries can move ahead with peace negotiations.

I might add that the United States has a rather large stake in the success of the negotiations.

I urge approval of this legislation.

Mr. MORGAN. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, I rise in support of this legislation. However, I do so with certain qualifying reservations.

The bill H.R. 11088 authorizes $2.2 billion. Of this amount, $1 billion of this measure providing for the defense of Israel is justified to the extent that it will replace lost equipment and maintain the military power balance in the area. I hasten to add, however, that it is with intention that the balance of power thus provided will hopefully make possible negotiations for peace—not further hostilities.

As for the remaining $1.2 billion this legislation makes available on the conditional basis of possible future need, I do not find any similar justification. I believe it is in our country's national interest to support and assist in the defense of our allies. At no point, however, was it demonstrated in the hearings that there exists any long-range requirement to use more than $1.5 billion of these funds for additional arms. My sincere hope, therefore, is that the entire $2.2 billion will not be needed.

As author of the amendment in the Foreign Affairs Committee to establish a limitation of $1.5 billion and give to the President limited discretionary power over any additional expenditure, my purpose was to give the President a necessary diplomatic flexibility in this delicate situation.

Nevertheless, inherent in the extension of that discretionary authority to the President were certain specific implications and guidelines.

First, that he would exercise it with extreme discretion as a means of maintaining stability in the area—not in any way which would result in renewed hostilities.

Second, from a diplomatic standpoint, that this "blank check" discretionary authority would not be exercised or interpreted as an advance commitment from the United States for any future hostilities in the area—started accidentally or otherwise.

These two guidelines regarding the $1.2 billion discretionary authority to the President are absolutely crucial. Overriding these, however, is another even more important consideration which motivated my authorship of this amendment.

I refer to the urgent social and economic needs of the entire Mideast area. These tragic conditions of poverty and ignorance have been too long overshadowed by repeated hostilities. Indeed, economic and social conditions have worsened as already scarce resources are spent on armaments.

It is for this reason that this amendment was associated to a recommendation for the formation of a Mideast Regional Development Bank. Briefly, the purpose is that at an appropriate time the executive branch will consider requesting Congress for authorization of a portion of the unused $1.2 billion to stimulate the creation of such a bank. This view is expressed on p. 7 in the report accompanying H.R. 11088.

Mr. Chairman, I was greatly encouraged by Secretary of State Kissinger's positive reaction to the proposal when he appeared before the Foreign Affairs Committee on November 28.

The short and long-range benefits of such a bank seem obvious: governments would be energized; resources would be better utilized; and constructive human contacts would be made.

In would, in short, represent a positive, reasonable, and promising approach to promoting the social and economic development of the entire area, thereby creating a climate for true and lasting peace.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. The gentleman in the well is the chief sponsor and the prime mover of one of the great pieces of legislation this House has passed and that is the war powers bill. The gentleman initiated it and is probably more familiar with the philosophy of the War Powers Act than any man in this Congress.

I would ask the gentleman two questions. First, does it concern the gentleman that in this case we are asked to pick up the pieces, in effect, to ratify action already taken by the Chief Executive?

Second, I would ask the gentleman, is there any possibility that the President could commit troops to the Middle East with or without the sanction of the war powers bill?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MORGAN and by unanimous consent, Mr. ZABLOCKI was allowed to proceed for 1 additional minute.)

Mr. ZABLOCKI. At the outset I want to thank the gentleman for his counsel on and support of the War Powers Act and for his kind remarks. Those are very serious questions. I would say to the first question that I believe that the authorization in the bill before us indeed is seeking to legitimize the unilateral action the President took to resupply military materials to Israel. However, it does not negate the war powers bill passed earlier. After all, we have stated in the war powers bill that whenever it is in our national security interest, the President could, indeed, react. In no way was he hamstrung in U.S. diplomatic actions, even using our military forces short of committing our Armed Forces to combat in order to promote diplomatic efforts.

Further, in no way does the war powers bill authorize the President to involve our troops in any part of the world, including the Middle East.

Mr. MAZZOLI. If the gentleman will yield further, does he believe that on October 6 that the situation in the Mideast was the kind of emergency that would have triggered the President's ability to deploy American troops under the war powers bill?

Mr. ZABLOCKI. He did not on October 6 deploy troops.

Mr. MAZZOLI. No. I say, does the gentleman believe that situation was one that could have provided the President the right to deploy American troops?

Mr. ZABLOCKI. No. It would not.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Does the gentleman find any inconsistency with what he said to what we find under chapter 2 of the Foreign Assistance Act of 1961, under which we are granting this aid?

The CHAIRMAN. The time of the gentleman has again expired.

(At the request of Mr. MORGAN and by unanimous consent, Mr. ZABLOCKI was allowed to proceed for 1 additional minute.)

Mr. ZABLOCKI. Mr. Chairman, I yield to the gentleman.

Mr. JOHNSON of Colorado. Section 503(d) provides:

> (d) assigning or detailing members of the Armed Forces of the United States and other personnel of the Department of Defense to perform duties of a noncombatant nature, including those related to training or advice.

In this case, to send them to Israel on a noncombatant status. So the President under this situation will be given authority to send troops to the area, is that true?

Mr. ZABLOCKI. The war powers bill provides that the President may not send troops to an area of combat or to areas where hostilities appear to be imminent. Under the Foreign Assistance Act of 1973 what the gentleman says is true. Under the general authority provision of chapter 2—military assistance—the President may send training forces and noncombatant forces to any friendly country when the President determines such assistance will strengthen the security of the United States and promote world peace.

Mr. JOHNSON of Colorado. The bill provides for sending the Armed Forces of the United States to perform duties of a noncombatant nature, including those related to training or advice. Obviously a man is not a combatant until he gets into a combat situation. I am afraid that our noncombatants may become combatants in the future. We have not learned anything from our mistakes in Vietnam and we are repeating them here.

Mr. ZABLOCKI. Indeed, the gentleman must know that in the recent conflict when the United States had shipped replacements for military equipment and materiel to Israel, U.S. noncombatant forces were needed and involved in Israel for logistic purposes.

Mr. MAILLIARD. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, in considering this measure before us today, the Emergency Security Assistance Act of 1973, there are several thoughts that we should bear in mind. In our quest for peace in the Middle East, it is essential that we assure Israel's ability to bargain for peace from a posture of strength, just as we have always maintained a strong defensive posture for our own Nation in order to guarantee world peace. Anything less than a totally secure military force will severely restrict and hamper Israel's negotiating power in the forthcoming Geneva peace talks.

Mr. Chairman, I call to the attention of my colleagues that Israel's initial request for military equipment was some $3.2 billion, and of that total our Nation's military experts have already pared down some $1 billion of that request. Our Nation has already supplied approximately $1 billion of equipment during the October 1973 hostilities. Our Nation's aid in providing military equipment was an important factor in Israel's ability to resist aggression from all sides.

Accordingly, in considering this measure today, let us bear in mind that the proposed assistance has already been whittled down by $1 billion, that $1 billion has already been supplied and that in providing the $1.2 billion that is now being sought, we are helping Israel meet its essential military needs so that it can maintain a stable defense and so that it can negotiate in a spirit of independence.

It has been estimated that close to $9 billion of military equipment was poured into the Arab States by the Soviet Union before and during the October 1973 Middle East conflict. Those estimates serve to further emphasize the need for additional U.S. assistance, if any semblance of balance is to be maintained in the Middle East.

Of further significance, as we consider this authorization, is the fact that this is the first time that Israel has sought outright grant assistance for military equipment purchases from our Nation. Over the past 25 years, that proud nation has purchased military equipment through our military sales program. However, the exorbitant costs of this recent conflict, which cost was equal to Israel's entire annual gross national product, necessiattes its seeking grant assistance this time.

Since Israel's birth as a nation, over 25 years ago, the United States has remained a firm supporter of this independent democratic state. These are difficult times for our ally in the Middle East. This measure is critical to Israel's very existence.

Mr. Chairman, I am proud of our Nation's staunch support of this small bastion of freedom. Despite the attempts of some nations to use oil as a political weapon in influencing our foreign policy and in the interest of securing peace in the Middle East and in the interests of Israel's very survival, I urge my colleagues to support this Emergency Security Assistance Act, H.R. 11088.

Mr. MAILLIARD. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, to the best of my knowledge the Congress has not enacted a bill of any sort since 1958 which could reasonably be interpreted as setting congressional policy towards the Middle East. The 1958 Middle East resolution is still on the statute books, but the administration has stated publicly that it no longer considers this resolution operative.

The 1958 act was a balanced resolution. To the best of my knowledge, it did not mention any State in the Middle East but, instead, set forth a declaration to support the territorial integrity and the independence of any State in the Middle East that may be threatened.

This bill will be viewed as a major policy statement by the Congress on the Middle East.

Now, what does it say? I would like to ask any Member in the Chamber now to define what an outsider might draw from the language of this bill as representing congressional policy toward the Middle East.

It mentions only one State. It deals only with military solutions to the problem. There is no reference whatever to some very laudable and, I believe, reasonably balanced and structured declarations by the United Nations, declarations to which our Government has lent support.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I am glad to yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Mr. Chairman, the gentleman has suggested that there is no broad policy statement in this bill with respect to our position in the Middle East.

I would think it self-evident that our policy position is that we want to see peace in the Middle East, that we do not consider we have enemies there, and that we feel strongly that the best way to bring peace is to see that the State of Israel has enough strength to engage in negotiations with a reasonable degree of confidence, as the gentleman from New York has suggested.

I assume the gentleman is leading up to an argument that at this stage we should be attempting to establish policy by incorporating into the bill a reference to U.N. Security Council Resolution 242.

That language was offered in committee. I think that amendment would be a senseless exercise, if I may differ with the gentleman.

Mr. FINDLEY. Mr. Chairman, let me ask the gentleman a question.

Does the gentleman support the term of U.N. Resolution 242, a resolution which was advanced first under President Johnson and more recently supported by the Nixon administration?

Mr. FRELINGHUYSEN. Is the gentleman asking me for my opinion?

Mr. FINDLEY. Yes, I am.

Mr. FRELINGHUYSEN. Of course, I do, and I would assume this country continues to support that position.

Mr. FINDLEY. Mr. Chairman, let me make a statement in reference to that.

The administration has clearly stated its support for Resolution 242. But the point I was trying to make is that the Congress until this day has not only restrained itself from any declaration of support for Resolution 242, but is now considering a totally one-sided piece of legislation, one that could be misinterpreted by other nations.

Mr. MAILLIARD. Mr. Chairman, I yield 3 minutes to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, I rise only to point up the fact that in addition to the assistance for Israel that is involved in this legislation, there are also provisions to handle the funding for the emergency force formed by the United Nations to help establish and maintain the peace in the Middle East.

It was my privilege to handle this matter in the United Nations as a part of our delegation there on the Committee on Administration and Budget. We were able to obtain a broad-based agreement to which many countries became parties, in which the Soviets will participate for the first time in the funding, and in which Arabs, Israelis, East and West, are all participating and paying for this force. All permanent Security Council members will be asked to pay for this purpose at a rate 15 percent above their regular assessment rate for next year. Our share is only $16.8 million.

Hence, Mr. Chairman, this is a matter of a few million dollars. I think it is a great bargain when we consider the billions of dollars we would have had to spend had the war continued. I am glad that the committee saw fit to report this item and urge its approval by the House.

Mr. MAILLIARD. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in strong support of this legislation.

I would like simply to say that I think the legislative history should indicate that there is no justification for considering this legislation as one sided.

The fact that it gives aid to Israel, that it authorizes aid to Israel, should not be interpreted as a slap at the Arab States. It is purely a continuation of a consistent policy of trying to maintain a reasonable military balance in order to prevent a conflagration.

The fact that there have been several outbreaks of hostilities already shows we have no alternative, in my opinion, but to keep a reasonable degree of strength in the hands of Israel so that she can negotiate. It is not an indication that we do not think there should be meaningful negotiations. Of course, we feel there should be negotiations soon. Passage of this bill does not mean that there should not be substantial concessions by both sides. Of course, there must be territorial concessions by Israel with respect to the occupied lands which she has held since 1967.

In my opinion, Mr. Chairman, this country has made very plain what we feel should be done. We have supported this position in the United Nations, and I assume we should not read into passage of this bill, and giving military assistance, that in some way we are repudiating the position of our own country.

I am sorry that time has not permitted a better exposition of the position in the United States, but this bill does not attempt to enunciate an up-to-date policy position with respect to the whole Middle East. Nor do I think it fair to suggest that in some way it commits us on a different basis to the defense of Israel, or that we are not recognizing the interests of the Arab countries. Of course, we are sympathetic to them and, of course, we want to see a just settlement. There will not be a lasting settlement unless it is just, and in order for it to be just it must be just in the eyes of the participating countries.

Mr. MAILLIARD. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, this is not only a very important measure, but it is one which is, of course, exceedingly close to the hearts of many people, including many of my colleagues. I fully recognize that fact.

I think for that reason, perhaps, it is all the more incumbent on those of us who have some reservations to mention them now before it is, perhaps, too late to do so. I say that very seriously, because, of course, what we are doing here, whatever our motives, whether we think it should be done or not, is really committing an act of war. I say that because we are financing one of two belligerents and giving them the money to buy the guns and bullets to shoot the other. That is a very risky proposition.

A lot of my friends have told me that we have another Vietnam here, but we are not really talking about another Vietnam. This is a war which could be World War III. So I think it is a very serious thing that we approach. How do you justify this measure, if you do?

I say the amendment which Mr. FINDLEY, as I understand it, is going to offer, which says that we do this not only to maintain a military balance but also in support of resolution 242 of the United Nations which looks, in the end, to an even-handed decision and a retreat to recognized and respected boundaries, is essential. It is the only thing, in my judgment, which could possibly justify our support of this measure.

You cannot support it on a financial basis, God knows. We cannot afford voting for it on any financial basis; not another $2,200 million outside the budget. It does not help our military situation, because we are using up our own equipment. We do not have any treaty obligation. If we are going to take sides in this situation, it seems to me the very least we can do is to say, at the same time, that we recognize that there are a lot of rights and wrongs on both sides in this situation; that territory is being held which obviously sometime—at least some of it—has to be released; that there are people who have been homeless for a quarter of a century. Some of these things have to be adjusted and in maintaining a military balance in the Near East in the cause of peace, which is the justification for this bill, we are surely doing so not only to effectuate a military solution, which in the end can be no solution at all, but, in the long run, to effectuate a solution which will be permanent because it is based on justice.

I do not think I can support this bill, but if I could do so it would have to be only with the Findley amendment, as a matter of simple conscience.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. Mr. Chairman, I rise in support of emergency security assistance for the State of Israel. This legislation carries out the clear intent of the recent House and Senate resolutions in support of Israel which have been cosponsored by 339 Congressmen and Senators from 48 States.

THE MIDEAST WAR AND AMERICAN FOREIGN POLICY

The recent Mideast war represents our first confrontation with Russian expansionism since the Cuban missile crisis.

There would have been no war in the Middle East without the intervention of Soviet arms. Russia has poured huge quantities of weapons into Egypt and Syria. Within the last year alone, it is estimated that weapons valued at more than $3 billion have been delivered to the Arab States.

Russia is using the Middle East as an arena for testing its most sophisticated weapons and tactics, not unlike the Nazis during the Spanish Civil War. Captured documents prove the Russians planned in detail the Arab attack.

The Soviet Union blocked a cease-fire when the Arab armies appeared to be winning. Then they negotiated with the United States for the imposition of a cease-fire on the Israelis when the tide of battle had turned in their favor.

Suppose the Soviet-backed Arabs had won? Russia would gain clear dominance over the Eastern Mediterranean and over the major source of oil for Western Europe and Japan. They would also open the Suez Canal and gain easy access to the Indian Ocean for the Soviet Navy.

Israel's defeat would have meant the subjugation of an independent state due to the application of Soviet power. The impact of such escalating Soviet power would be devastating to the free world.

Security is based not only on the might of the opposing forces but on the perception each nation has of the might of its adversaries and its friends.

We have an understanding of sorts now with the Russians based on our mutual perception of each other's strength. When the Russians feel that we are no longer equal in strength, the understanding between us may well disappear.

This emergency security legislation is a part of America's own defense to meet the thrusts and moves of the Soviets. Peaceful coexistence can be based only on Russian realization of America's will to defend its world interests.

ISRAEL PAYS BACK THE UNITED STATES

As we consider this legislation to provide military assistance to Israel, we should stop for a moment and consider the valuable military assistance which Israel has provided to the United States.

It is no secret that Israel has provided the United States with the latest Soviet military equipment captured from the Arabs.

Even before this latest fighting, the Israelis provided our Nation with valuable information about Soviet military technology. Only a few years ago, the Israelis captured an entire radar station which provided us with important information on how to locate, counteract and destroy Soviet radar and to protect our aircraft.

From this new Mideast war, the Israelis have provided the United States with a number of new Soviet weapons. The value to our own military defense of having these weapons in hand is incalculable.

Let us take the capture and transfer to the United States of the Soviet SAM-6 surface-to-air missile as an example:

During the months of July and August of 1968, when the United States was involved in some of its heaviest bombing over North Vietnam, the United States lost 30 planes in 27,000 sorties or a rate of 20 planes per 18,000 sorties. This figure is comparable to the loss rate of Israel during the six-day war of 1967. In both situations, ground fire and SAM-2's and 3's were the most sophisticated weapons faced.

With the introduction of the SAM-6 in the latest Mideast War, Israel's losses went up to 120 aircraft in 18,000 sorties. Eighty of those losses were directly attributable to the SAM-6, while many of the others were brought down during evasive action taken because of the SAM-6.

If the United States had faced the SAM-6 over North Vietnam, at the same ratio we would have lost at least four times as many aircraft. At least four times as many American pilots would have been killed and captured. In addition, many more American planes would have been made vulnerable to ground fire.

Considering the effectiveness of the SAM-6 against American-made aircraft in the Middle East war, it is clearly necessary for our Defense Department to develop countermeasures against the SAM-6.

The standard method is to create a prototype of the SAM-6 and then to experiment with possible countermeasures against it. The cost of creating a prototype of the SAM-6 has been estimated by one well-informed source to be $150 million and at best its capabilities would only be an approximation of those of an actual SAM-6.

The Israeli capture of the SAM-6 will prove, therefore, to be of enormous value to America's defense posture, both in the development of a SAM-6 prototype and more importantly in the prevention of future American plane losses.

Another sophisticated Russian antiaircraft weapon captured by the Israelis is the SAM-7. The capture of the SAM-7 has, for the first time, revealed the makeup of the special radar filter which controls this weapon.

Also among the weapons captured by the Israelis were certain radar-operated antiaircraft guns which play an important role in Soviet antiaircraft strategy.

Now, because of Israeli assistance and cooperation, the United States can learn to take those steps necessary to successfully counter the effectiveness of all of these deadly weapons—weapons which were designed to shoot down American aircraft.

In addition to antiaircraft weaponry, the United States now has in its possession the Russian T-62 tank. The T-62 is Russia's most sophisticated tank and it operates with a new 115 mm. smooth bore gun.

The Russians certainly know the value of U.S. possession of these Soviet weapons. They know that over the years Israel has destroyed or captured many billions of dollars in war equipment which could someday have been used against the United States. Perhaps the Russians will someday decide that the military cost of their support for the Arabs is too high.

The first echelon of the Russian military machine is in Egypt. The first echelon of defense against Russian aggression is Israel. Because of the superior quality of Israel's military manpower, they have traditionally needed to match the Soviet-made Arab ground equipment only on a one-to-three basis—one American-made Israeli tank is a match for three Russian-made Arab tanks. And one Israeli Phantom jet is equal to five Egyptian or Syrian Migs. When it comes to countering the power of Soviet weaponry, this is the best such bargain the free world will ever have.

Israel pays the United States back for its military assistance in many concrete ways. One of the most important ways is the direct military assistance Israel gives to the United States by both destroying and capturing Soviet military equipment.

NATIONAL PRIORITIES AND AID TO ISRAEL

I have spoken before about the need to reorder our national priorities, to reduce military spending and to improve the quality of life in America. My belief in the necessity of a reordering of priorities stems from a review of every facet of Federal spending.

I have weighed the level and type of military spending against the social needs of this country and I continue to find that imbalances remain.

In the past I have specified three areas of defense spending where our level of expenditures can no longer be justified in the face of our national needs: First, the stationing of large numbers of American troops abroad; second, the proposed acquisition of certain major new weapons systems which would add little to our overall defense; and, third, the size of the civilian bureaucracy supporting the military. I continue to believe that reductions can and must be made in each of these areas to bring about a more equitable allocation of our Nation's resources to meet our country's total needs and requirements.

My belief in reducing military spending in these three specific areas can in no way be taken as a blanket attack on our military and on the need for a strong national defense.

Our first priority is and should always be the interest and welfare of the United States. It just happens that, to use the wornout phrase, "at this point in time," it is vital to our national defense to block with aid to Israel the attempts by the Soviet Union to achieve total domination over the oil-rich and strategically located Middle East.

IN CONCLUSION

Much of Israel's military losses were incurred when Israel held its forces back from launching a preemptive first strike in order to maintain American support and good will.

Recent reports now indicate that the Soviet Union has completely replaced Arab equipment losses and that Israel is again facing a fully equipped Arab force.

Pressures are mounting on Israel to pull back from captured territories without any firm evidence that the Arabs are yet willing to recognize Israel's right to exist. Without such evidence, Israel must have boundaries which help to protect it from future attack.

Only when the Arabs publicly agree to recognize the right of Israel to exist and to renounce future war, will Israel be able to withdraw in safety from territories occupied in recent fighting.

Lastly, let us recognize that our involvement in support of Israel is fundamentally different from our involvement in Vietnam. Vietnam will survive regardless of the outcome of the fighting in Southeast Asia. If Israel loses a war, it would be the end of the Israeli nation.

Mr. Chairman, for the many reasons I have mentioned here today, it is vital that we approve this measure to provide emergency security assistance to the State of Israel. In light of our responsibility to ourselves, our Nation and all free men throughout the world, we can do no less.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. HAMILTON).

Mr. HAMILTON. Mr. Chairman, I rise in support of H.R. 11088, the supplemental aid bill for Israel introduced at the administration's request. I support this bill because I believe it is important at this time for the United States to maintain Israel's deterrent strength and to replace equipment destroyed and damaged during the October Middle East war.

The United States must take seriously its support of Israel's integrity at a time when Israel is suffering from the shocks of the recent war and from the extreme and increasing isolation it faces in the world community.

I support this legislation, however, with several reservations about its precise purpose, magnitude and the impact it may be conveying about U.S. policy in the Middle East. With the strong support for this bill in the House, I am sure many of my colleagues will state the cogent reasons for passage of the bill. It may also be appropriate for me to state several reservations that several of us feel about it, even as we vote for it.

POOR JUSTIFICATION OF REQUEST

My major problem with this bill is the gap between a $2.2 billion request and the administration's justification of that large figure.

Consider the following facts which the administration witnesses gave the House Foreign Affairs Committee in testimony:

First, the military balance which existed on October 5, before the war, has already been restored by our resupply effort, which cost about $1 billion.

Second, the additional $1.2 billion above the already committed $1 billion was justified on political grounds for "imponderables."

Third, although the tonnage of our resupply effort to Israel and the tonnage of the Soviet resupply effort in Iraq, Syria and Egypt are roughly equal, the heavy equipment losses in the recent war, that is, planes and tanks, were roughly four to one in Israel's favor.

POLITICAL INTANGIBLES

In my view the administration, for one reason or another, offered insufficient evidence to our committee for the need of $1.2 billion over and above the $1 billion to pay for the war's immediate effect on Israel's armed strength.

When justification for the additional $1.2 billion could not be made on military grounds alone, testimony was given that having made a $2.2 billion request, it would be detrimental politically to the United States to cut the figure. The administration seemed to be saying that a lesser appropriation, say $1.7 billion, instead of $2.2 billion, would indicate to Israel a lessening of our commitment to it or that such an appropriation might cause havoc if the United States had to request another special appropriation during peace talks which will hopefully start December 18, in Geneva.

I disagree that a reduction in an unjustified appropriation request will show wavering support of Israel. Neither do I think that just because the administration requested $2.2 billion for arms for Israel at the height of the war, when the duration and intensity of the war could not be gaged, that the Congress, much later and with the fighting stopped and a peace conference beginning, should feel compelled to support the administration's request.

I likewise disagree that another appropriation for military equipment next year could adversely affect peace negotiations because if there is another special aid request, it will be because peace talks have failed and hostilities have resumed.

As the Near East and South Asia Subcommittee has noted before, our aid to Israel should not be fitful and erratic. Our aid should not be based on what Arabs might think of it, but rather on our assessment of Israel's needs.

The $2.2 billion request is so large, so poorly justified, so militantly defended by some that it frankly makes it very difficult to vote for the request even if Members, like myself, want to support Israel and assure its deterrent strength. The administration and Israel's strongest supporters should try to appreciate that most Members of Congress are committed to and want to support the reasonable defense needs of Israel, but that performances like those surrounding this request may polarize positions and produce undesirable and undeserving opposition.

PESSIMISM

A second reservation I have with this legislation is the pessimism it conveys. The $2.2 billion request presumably represents a paring down of an initial Israeli shopping list of about $3.2 billion. This list was prepared in mid-October at the height of the fighting.

Imponderables did then exist. How long would the fighting last? How much would the Soviet Union continue to resupply? How much further could the Egyptians advance? How extensive are Israel's losses?

In this context, a $2.2 billion request had merit. It told the Soviets that we mean business if its resupply effort continues to be large. It told the Arabs we remain prepared to support Israel with arms if aggressed against. It told Israel, at a time of hardship and trial, of our commitment to its integrity.

But the request's pessimism, its military emphasis, its size, were based on the assumption that hostilities might continue, indefinitely, that this was no 6-day war.

Our officials, indeed all Americans, now seek to view Middle East efforts more optimistically. The Congress should do the same. Secretary of State Kissinger and President Nixon talk of the best chance for peace in 25 years. Their cautious optimism that peace talks can start, that parties can disengage, that the United States and the Soviet Union, despite many differences, can agree on the broad outlines of reducing tensions in the Middle East—these factors are part of a different political environment than the $2.2 billion request might suggest.

TOTAL IMPACT OF WHAT CONGRESS IS DOING

Finally, Mr. Chairman, I am quite worried about the total message Congress is signaling these days. It is true that the United States has probably already seen the full damage this bill will cause in our relations with the Arab world;

namely, the Arab oil embargo imposed only a few days after the $2.2 billion request was made, and, according to Arab spokesmen, triggered by it. But this action, coupled with other recent actions Congress is considering these days, raises questions about whether we are taking the steps we should to create a climate conducive to successful peace negotiations.

Nor do these actions show a clear understanding that we have definite interests on both sides of the Middle East conflict, that we want to play a useful and important mediating role in helping get negotiations between the parties on track and that we want to work with the Soviet Union in reducing arms and the levels of tensions throughout the region.

Only last Tuesday, we approved the conference report on S. 1443, Foreign Assistance Act of 1973 which contained an earmarking of $300 million in foreign military credit sales for Israel, and a $50 million security supporting assistance item, again earmarked for Israel.

This week we will approve a foreign assistance appropriation bill of close to $5.3 billion, over $2.55 billion of which is for Israel—including the special emergency appropriation bill of $2.2 billion and the earmarked foreign assistance items—and roughly $130 million is for the Arab world. And this week we will consider the trade bill, where efforts to deny MFN status and certain credits to countries which prohibit free emigration have the overwhelming support of this body. These efforts naturally have the strong support of all Israelis, and many others, as well, who want all Soviet Jews to have the right of free emigration.

IMPORTANCE OF PEACE

Mr. Chairman, the United States has the best opportunity for peace in the Middle East in many years. The recent history of the Middle East can be written in terms of missed opportunities for peace. We do not want to miss again. This Congress, I know, does not want to take any action which will exacerbate the situation. I sincerely hope the actions we are now taking will not send any wrong signals to any party in the Middle East or in the Soviet Union.

Moving toward peace in the region will involve the implementation of U.N. Resolution 338, firming up the cease-fires, and later of U.N. Resolution 242, which sets out the only agreed-upon broad outlines of a peace settlement. While the language of both resolutions is vague and ambiguous, their acceptance as documents by Israel and the Arab States remains clear and unequivocal. We should support their implementation. And an expression of such support now would serve as an important signal to the parties that we want peace. I am not convinced that other actions taken or to be taken by this body give a similar signal.

We have heard a great deal recently about the deplorable Arab oil embargo of the United States; certainly, the quick removal of that boycott should be a prime diplomatic objective now. U.S. relations against Arab oil States, through economic or military means, will likely not work because practically no nation will support us. Our only sure way to restore our access to Persian Gulf oil will be to demonstrate our commitment to peace with evidence that we are moving toward a just and lasting settlement of a problem that has caused untold human misery for so long.

Mr. Chairman, helping bring peace to the Middle East is the only policy we can pursue now that will guarantee both Israel's integrity and our access to oil. The price for not moving forward is an ugly equation of Israel or oil—a nonstarter of incomparables. H.R. 11088, in the absence of a strong commitment to a just and lasting peace, serves only a small part of our Middle East policy. I hope we in the Congress realize that fact and put this legislation in its important broader context of what we should be doing, and I think are trying to do, in the Middle East.

Mr. MORGAN. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, this bill has two objectives: It will allow Israel to negotiate from strength and stability and, second, it will be a signal to Russia and to the world that the United States will abide by its commitments to protect Israel from its enemies.

It is overwhelmingly significant that in the years 1946 to 1972, according to the AID, the United States gave $55 billion for military assistance to all the nations of the earth, and not a single dollar of that went to Israel.

Because of the disastrous military losses on two fronts in the 3-week war, Israel has estimated its needs at some $3 billion.

Since 1970 the Soviet Union has engaged in the Middle East in one of the largest military buildups in the entire history of Russia. This bill is designed to make Israel militarily invulnerable. This grant, Mr. Chairman, is intended to make the Day of Atonement war in 1973 the war that will end war forever in the Middle East.

I urge an "aye" vote.

Mr. MAILLIARD. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I take this time to pose a question to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Pennsylvania (Mr. MORGAN).

As the gentleman knows, during the past several months the administration has impounded approximately $12 to $15 billion in funds which have been authorized and appropriated for various health, education, manpower training, housing and environmental programs. This was done ostensibly to combat inflation. Many of the Members of this body are concerned that if we increase total authorizations and appropriations by $2.2 billion there will be further impounding of domestic programs by the administration to keep total spending levels the same as before enactment of those authorizations and appropriations.

I wonder if the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Pennsylvania (Mr. MORGAN) has received any assurances from the Office of Management and Budget that passage of this legislation and the subsequent appropriations bill will not involve any further impoundment of funds for domestic programs?

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Chairman, I remember very well that the gentleman from Ohio (Mr. WHALEN) was disturbed about this during the hearings, and he asked the Deputy Secretary of State, Kenneth Rush, the very question, and Mr. Rush answered the gentleman. But I requested a further statement from the Office of Management and Budget, and it appears in the hearings on page 29:

> The Office of Management and Budget has advised us that the entire $2.4 billion requested in this legislation can be fitted into the President's fiscal year 1974 budget ceiling. OMB estimates that the net cost to the U.S. Government of this $2.4 billion authorization in fiscal year 1974 will be approximately $600 million.

OMB has advised us that this legislation will not—I want to emphasize—will not force the executive branch to reduce or impound any funds previously requested under other Federal programs.

Mr. WHALEN. I thank the gentleman from Pennsylvania.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MAILLIARD. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Chairman, trying to make an objective appraisal of the Middle East situation and our policies there is the most frustrating situation I have encountered since coming to Washington. Emotions run so high among Americans that communication on the subject is impossible for some. If it is that way with us, it is no wonder the Arabs and the Jews cannot communicate with one another. Before commenting on the bill that is pending, I must state that I recognize the right of Israel to be an independent nation and that the United States through several administrations, commencing with Harry Truman and coming down to the present Nixon administration, have indicated their "commitment" to the State of Israel. It must also be pointed out that the extent of the so-called commitment has never been spelled out.

I do not object to the recognition of the fact that we have unique ties with Israel. I do object to the inflammatory rhetoric, the open-ended flexible policy which leaves to a President, either this one or one in the future, the sole determination of whether or not we shall go to war in Israel. If is my belief that whatever U.S. policy should be must be made clear to the world. If troops ever are to be sent, in my opinion, they must only be sent pursuant to congressional approval. And if that is required in advance, then the treaty making process should be gone through. We must not allow ourselves to be brought into a shooting war through a step-by-step miscalculation which we seem so prone to do.

Now to an analysis of H.R. 11088. There is so much obfuscation on the part of the administration with respect to the situation in the Mideast that one finds it difficult to even comment. The positions which the administration takes are conflicting, inconsistent, and misleading. It is impossible to tell what our policy really is, and it is impossible to predict what our future course of action will be. This leaves us in exactly the kind of position of which I am the most afraid—that is, with unlimited authority in the executive branch to involve us, or not, at its discretion.

Let me give you just a few examples of the infuriating cloud of nonfacts with which we are supposed to deal and to make critical decisions with.

It is clear that the United States delivered approximately $1 billion worth of material from our Defense Department inventories to Israel since October 6, 1973, the date the war started. This equipment was delivered under the Foreign Military Sales Act, which requires payment within 120 days after delivery. But it is also clear from the statements of William B. Clements, Deputy Secretary of Defense, that it is the judgment of the Defense Department that they cannot pay us in 120 days. That is the reason for the bill, H.R. 11088, which will leave to the President whether or not the funds authorized will be used to provide grants or credits. The weapons have been delivered, and more shall be delivered, pursuant to an act which requires that they be sales, but our evaluation of the Israeli economy is that they cannot afford to make the payments now. They may never be able to afford to make the payments, and therefore, Congress is being asked to provide authority to retroactively make the deliveries in the form of grants if necessary.

Now this is done because the Defense Department must be repaid for delivery so that it can replenish its inventory, which has been depleted. But it is going to cost more than the $1 billion to replenish the inventory since we are replacing old equipment with new equipment. Mr. Clements refused to give an exact amount, but used the figure of $250 million between what the equipment cost to Israel versus what it is going to cost us to put it back in our defense inventory.

Let me summarize to this point. Israel asked for a total of $3 billion. The administration comes to the Congress for $2.2 billion—$1 billion of which has already been delivered, pursuant to an act which requires cash payment within 120 days, which the Defense Department acknowledges is a burden on the Israeli Government which it cannot in all probability meet. We do not know what the ultimate cost will be, and we do not know what the ultimate requirement will be.

We say we are doing this to maintain the balance of military power in the area, but the net assessments of the losses are not finished, and we do not know exactly how much we need to send in. We say we want to maintain a balance which will prevent the Soviet Union from moving into the area, but by adopting a policy of unlimited resupply of Israel, are we not driving the Arab States into the Soviet Bloc? As Mr. ZABLOCKI said at the hearings,

> My concern is that the presentation today does not really give us the necessary substantive information with which we can intelligently consider the proposal and report the bill to the Floor of the House and defend the request.

Mr. Rush said at the hearings that we cannot allow the Soviet Union to take over the Middle East by our refusing to assist Israel to have a balance of military power with those countries supplied by the Soviet Union. But by continuing to supply Israel without limit, we force the other countries to turn to the Soviet Union and once again, our policy results in accomplishing exactly the opposite of what we say we want to do.

Israel's per capita debt is probably the highest in the world. Their economy is such that they cannot sustain a protracted war. Are we doing them any favors when we provide them with enough arms to continue to hold the ground obtained during the 1967 war, which was the direct cause of this latest war? At the time of the hearings, we did not know the capability of the Egyptian and Syrian armies after the Russian resupply. We specifically did not know whether it was equal to or beyond the capabilities of October 6, 1973 when the war commenced. But nevertheless, we are asked to give the President a blank check with which to do as he pleases. Why are we not given the information so that we can make the decision?

We know that for every ton of material delivered to Israel, it costs us 3½ tons of fuel. That means that if we have delivered approximately 100,000 tons of material to Israel, it has cost us 350,000 tons of fuel. How much fuel will be burned under the authority granted to the President by this act? We do not know.

Congressman FINDLEY stated at the hearings,

> I would like to know how much energy approximately was required to manufacture what was supplied, how much will be required to manufacture and deliver the items that are contemplated in this authorization. This is a $2 billion bill and there surely are some yardsticks that can be used to determine what the price tag is so that we will go into this with our eyes open and be able to answer questions on the Floor.

The information was furnished but it was classified so it is not available to the public.

The Office of Management and Budget has repeatedly said this year that any additional expenditure beyond the President's original budget request in January would result in busting the budget. In response to a question from Congressman WHALEN, we got this response.

> OMB has also advised us that this legislation will not force the Executive Branch to reduce or impound any funds previously requested for other Federal programs.

Why not, when every other request is regarded as a budget buster?

In response to a question about the potential of whether or not our troops will be involved, the answer was deferred to executive session and so there is no assurance on the record that American troops will not be involved. We do know that American troops were placed on the alert during the latest crisis and this just 2 or 3 days after assurances that they would not be sent into the Mideast.

Mr. Chairman, once again I want to reiterate that the rhetoric being used to justify this is totally irresponsible and dangerous. Let us define our commitment to Israel in terms which the whole world will know and recognize. If it is the decision of the Congress to send in troops, let it be known in advance exactly what the conditions are that will result in American troops being sent in. If we are to give unlimited supplies of aid to Israel to help them in the fight against our friends, the Arabs, let us let that be known also. If there to be any strings attached to the aid we give to Israel, let that be known.

I do not believe any one person has a solution or an answer to this problem. Obviously, there are inequities on both sides. The Palestinians must be pacified, if possible. Jerusalem must be made an open city so that all can go and worship, and Israel must be recognized as a nation which has a right to have secure boundaries and which is not facing extermination. The Arab nations have come a long way in acknowledging the latter fact.

Mr. Chairman, we will make a grave mistake if we continue to alienate the Arabs and drive them into the Soviet bloc and continue to provide aid to Israel under terms which inevitably can lead us to a commitment of our forces. I am willing to abide by the collective wisdom of Congress if a true debate is held after serious consideration is given by the Membership of the Congress. Even a cursory examination of the hearings will show that the Foreign Affairs Committee did not give adequate attention to this legislation. There were limited numbers of witnesses and they all urged the administration position—the blank check, options open, flexible negotiation, attitude which has cost us so dearly in the recent past in Southeast Asia.

Mr. Chairman, I am begging the Members of this Congress to act on their own rather than follow blindly the path to potential catastrophe.

Mr. MAILLIARD. Mr. Chairman, I have no further requests for time. I reserve the balance of my time.

Mr. MORGAN. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I take this time because I had the privilege a couple of weeks ago of being the chairman of a 22-member Special Subcommittee of the Committee on Armed Services that visited both the Israeli and the Egyptian sides of this war, and is now in the process of filing a report on our findings, both a classified one and a nonclassified one.

We came back with the primary impression, I think, that there is a real opportunity for peace in the Middle East, after talking with both Prime Minister

Meir and President Sadat. We concurred with Secretary of State Kissinger that the opportunities for a genuine settlement in the Middle East are better today than they have been at any time in the past 20 years.

Some people had raised the question as to whether this legislation, if they support it, is going to upset that peace agreement. I do not think it is, for a very plain and simple reason. First of all, people have said this bill would be a war-supply bill. But let me point out, half of the $2.2 billion has already been supplied to Israel. This measure is primarily designed just to pay for the weapons that were furnished to them at a very critical time in the fighting.

Secondly, as has already been said, this bill will make peace more possible simply because it is designed to reestablish a military balance between the competing forces in the Middle East.

The reason we have a détente today—whether the Members like it or not—with the Soviet Union is that we have previously reached a military and a nuclear kind of stalemate with them, and we have to maintain that stalemate if we are also going to maintain the détente. The same is true in the Middle East; and we have got to make sure that the supplies we send match the supplies that have already gone to the other side. When we achieve a real balance, those supplies will not need to be used; they will instead deter a new conflict, we hope.

Finally, we have to remember, as has also been said earlier during this debate, that to get a peace settlement, there is going to have to be some territorial adjustment on the part of Israel. There are going to have to be territorial concessions. And surely if as a result of such a settlement some of the "buffer zone" is going to be taken away from Israel, do not we have to be even more concerned that she has enough of the weapons needed to deter attack or defend herself if such an attack should come?

I believe this bill will be a positive contribution to a just and lasting peace in the Middle East, and I believe it deserves to be adopted on that account.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MORGAN. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Chairman, I rise to reiterate my support for the $2.2 billion in emergency assistance to Israel. As a member of the Foreign Affairs Committee, I have heard a wealth of testimony, particularly from our own State Department officials, which confirms my conviction that this support for Israel is essential in terms of our own security as a nation. Deputy Secretary of State Kenneth Rush told us that the $2.2 billion is critically needed "to counterbalance the heavy flow of sophisticated Soviet weapons to the Arab world." Captured documents brought to our attention not only confirm the massive influx of Soviet assistance, but indicate that the Soviets actually mapped out the Arab offensive, supplying the fire plans, the plans for crossing the canal and those for determining which fields would be mined. It is known that the Soviets began their sealift to the Arabs the day before the war started—further indication of Russia's involvement in the Arab offensive.

The Soviet Union has encouraged other Arab nations to support the Egyptian-Syrian aggression and has served to aggravate hostilities in the Middle East since the 1950's. It is known that since early 1971, the Soviets have directed the Egyptian and Syrian armies and air force, have trained Arab pilots and officers and have provided the sophisticated technology and material necessary to advance Arab military strategy. It is estimated that the Soviet Union has 1,000 military and other technicians in Egypt and 2,000 so-called technicians in Syria.

In short, quoting from the official Egyptian daily, Al-Ahram, "The Soviet Union has proved until the last moment that she is a loyal friend—to the Arab world"; the question we must ask ourselves today is what does this loyalty and commitment on the part of the Soviet Union mean, not so much in terms of the security of Israel, for the answer to that is obvious, but rather, in terms of our own national security.

Every move made by the Soviet Union to date in the Middle East corroborates evidence that the Soviets strongly desire to be a controlling influence in this strategically important area of the world. Russia wants control over the Suez Canal and to allow Soviet naval might to be expressed in the Indian Ocean. This would upset the balance in the subcontinent and place the Soviets in a position to bully the subcontinent nations into agreement with Soviet policy. It would turn the Mediterranean Sea and the Persian Gulf into Russian lakes wherein U.S. influence and security would be seriously undermined. Admiral Moorer in a meeting with the Foreign Affairs Committee made this point. In the early 1950's, the U.N. Security Council passed a resolution declaring Israel's right to free passage in the Suez Canal. The resolution was ignored by Egypt with Soviet support. Similarly, Egypt ignored the understanding negotiated by Secretary General Dag Hammarskjold that Israel would have free access to the Straits of Tiran, as a condition upon Israel's withdrawal from Sharm El-Sheikh in 1957. In 1967, President Nassar, again with Soviet backing, proclaimed a blockade of the straits, one of the factors which led to the outbreak of hostilities in 1967. The recently passed U.N. Resolution 242 again affirms Israel's right to free passage through international waterways; and the resolution has been virtually ignored by the Soviet-Arab alliance.

Russia also seeks to use the Middle East as a steppingstone to achieve domination over Africa with its vast supply of critically needed natural resources. Most important, the Soviets would like to gain further control over Arab oil policy. If Russia's hand were on the oil spigot, according to Secretary Sisco, "such control would serve to restructure the carefully established balance of power in the world" and leave the United States and its European allies in a measurably disadvantaged strategic position. Such a situation could also lead, as a matter of course, to a breakdown of the Atlantic Alliance which, for the last three decades, has been the key to the security of the free world. We have already begun to see the beginnings of such a breakdown in the face of the Soviet-influenced Arab oil boycott.

If the Soviet Union were truly interested in détente with the United States, they would be exercising their influence to join, rather than impede, efforts to calm the situation in the Middle East. Instead, they have been fomenting instability and using the Arab States as a testing ground for their most advanced military weapons, providing to Egypt and Syria weaponry not available to their most trusted satellites of Poland and Czechoslovakia.

If the Soviets were interested in peace, they would be seeking to foster negotiations that would lead to a durable peace in the Middle East. Instead, we note their callous attitude toward UN resolution 242, the stated goal of which is the establishment of a just and lasting peace in which every state in the area can live in security. The resolution, which Israel has agreed to, as have all nations in the UN, calls upon Israel to relinquish certain territories but recognizes the importance of "secure and recognized boundaries" for Israel's survival. The Soviet Union has tried repeatedly to pressure Israel into relinquishing all territories, a demand which both the UN Security Council and the General Assembly have rejected as asking the impossible.

We might also note the double standard inherent in the Soviet demands upon Israel. They call upon Israel to relinquish all territories because the Soviets supposedly support the principle that the acquisition of territory by war is inadmissible. Yet, the Soviet Union, I must remind, holds a substantial amount of territory acquired in recent times by war from Poland, Finland, Rumania, Japan, and other states.

In 1967, the UN attempted to avert a conflict in the Middle East after Nassar, with Soviet support, moved substantial Egyptian forces into the Sinai, reoccupied the strategic and previously demilitarized Sharm El-Sheikh and blockaded the Straits of Tiran. The UN attempt failed because of the Soviet Union, which seemingly would rather embrace war than risk losing any of its growing influence in the Middle East. When war did break out on June 5, 1967, the Soviet Union again blocked attempts by the UN to permit a cease-fire on the first day of war. Instead, the Soviets tried repeatedly to get through a resolution proclaiming Israel as the aggressor in that war. Each time they failed.

If the Soviets were interested in expanding relations with the United States, if they were truly committed to the avowed détente, they would not now be encouraging the Arab oil producing states in hostile, improper acts of blackmail against the United States. If we succomb to Soviet pressure tactics in this instance, if we renege on or weaken our support for Israel, we ultimately place our own national security in serious jeopardy. We also leave ourselves vulnerable to hostile tactics that can be used by any other nation which has the ability to withhold from us essential materials, and the repeated use of illegal pressure tactics by the Soviet-Arab alliance.

Now that we have ascertained the extent and intensity of Soviet involvement in the Middle East, the question may arise as to whether the full $2.2 billion is necessary to insure Israel's security and defense against the powerful Soviet-Arab bloc, and thus insure our own security against further Soviet expansion in and control over the Middle East. In September 1973, our State Department's Bureau of Intelligence and Research brought to our attention the extent, in dollar figures, of Soviet assistance to the Arab world. During an 8-year period, between 1964 and 1972, Egypt and Syria received in excess of $6 billion from the Soviet-Communist alliance. From June 1967 to October 5, 1973, the Soviets supplied the Arabs with 3,900 tanks, including 1,000 tanks just 1 month prior to the outbreak of the current conflict. In the midst of the war, between October 16 and November 8, the Soviets supplied an additional 1,500 tanks. They have replaced all Egyptian and Syrian losses which includes over 1,000 tanks in this resupply count. By contrast, the U.S. has supplied Israel with 200 to 250 tanks. In addition, the major portion of the $1 billion already sent to Israel was for so-called "expendable" items—ammunition that has already been exhausted. In fact, it has been said that during the heavy fighting, ammunition received by Israel in the morning would be completely used up later that same evening.

The $2.2 billion we are considering today is desperately needed, not only for replacing the expendable items like ammunition, but for essential heavy equipment like tanks which were extensively used. We have been told in the past that war in the Middle East could change the concept of modern day warfare, that ground weaponry like tanks would no longer be useful. Yet, strangely enough, ground weapons, tanks and the like, proved the deciding factor in the current conflict. As an example, back in 1970, the Soviets emplaced the most advanced type of missilery beside the Suez Canal—a fact which, by the way, it took our intelligence at that time a very long 10 days to recognize. As a result of the emplacement of these missiles, the Israeli Air Force was neutralized and crossing of the Canal by the Egyptians was rendered possible. The Israelis have successfully employed two methods for knocking out these missiles: one, by Kamikaze-type air attacks and two, the method which was found to be the most effective against ground to air missiles, attack by ground weapons; namely, tanks.

The State Department's intelligence report on the financial resources available to the Arab world ended on the note:

> The figures in the magnitude of billions available to the Arabs indicate how slight in comparison are the millions of dollars . . . to aid in Israel's development.

Along with the administration, I again stress the importance of the $2.2 billion as security and defense against the concerted build-up of power by the Soviet Union in this strategically vital area of the world, a build-up which I have attempted to outline above only in its smallest dimensions.

Our policy in the Middle East has wisely recognized the importance of Israel's security in relation to our own ultimate national security. The $2.2 billion we are considering today is in keeping with that policy of maintaining the "balance" that has existed in the Middle East. I urge my colleagues to support the Emergency Security Assistance Act in the interests of the security of the United States.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. Nix).

Mr. NIX. Mr. Chairman, I rise in support of H.R. 11088, providing emergency security assistance to Israel. I believe that passage of this bill is essential to the continuation of U.S. policy that Israel be guaranteed sufficient weapons to defend itself from attack by its Arab neighbors.

The Middle East situation continues to be fraught with danger—danger to Israel, to the United States and to the cause of world peace. Recently the situation has become even more complicated. The Soviet Union has been playing a reckless game in the Middle East, using the lives of Arab soldiers as pawns in its bid for expansion and aggrandizement. And following the Yom Kippur war the Arab "oil weapon" has been used successfully to bludgeon many of the industrialized nations of the world into supporting their position.

In the midst of this difficult situation, it would be well to remind ourselves of the basic facts. The State of Israel, a young democracy of 3 million people, has been in a virtual state of siege for a quarter of a century by Arab nations who have vowed its destruction. The Israelis have demonstrated their determination and their ability to defend themselves, but they can only do so if the United States continues to supply them with the arms they need. No amount of courage, by itself, can withstand the huge arsenal of sophisticated and deadly weapons supplied by the Soviet Union to the Arab States.

All of us are hopeful that the current effort to hold meaningful peace talks in the Middle East will succeed. Indeed, a negotiated settlement is essential if a genuine and lasting peace is to be achieved. But we must remember that genuine negotiations are possible only if Israel remains strong enough to repel armed attack. Achivement of a permanent peace settlement will be a long and difficult process. For our part, the United States must continue to help the Israelis to maintain the military security that is an absolute prerequisite to the success of that process. We must not allow ourselves to be bullied, blackmailed or seduced into abandoning the security of Israel to the goodwill of whatever Arab politicians are currently in power.

Israel was founded by a people who have suffered greater cruelty and misfortune through world history than perhaps any other people. They have created in Israel a democratic and free society. They seek only what any nation seeks—the right to national existence, to live in peace and security, and to have normal relations with their neighbors. I have consistently supported the long struggle of Israel to maintain itself as a free nation, and I shall continue to do so. I look forward to the day when all the nations of the Middle East will live together in peace and harmony. Until that happy day arrives, we must continue to do what is necessary to enable the Israelis to defend themselves.

Mr. MORGAN. Mr. Chairman, I yield to the gentleman from New York (Mr. Brasco) such time as he may consume.

Mr. BRASCO. Mr. Chairman, I rise in support of H.R. 11088. In recent weeks a school of thought has emerged in the United States which seeks to abrogate or water down America's commitment to Israel. They would have America act toward that little democracy as France and Britain behaved toward Czechoslovakia in the late 1930's. If these elements in American life succeed, we will be doing the same kind of harm to ourselves now as those other two nations did to themselves 35 years ago.

Above and beyond moral obligations and longstanding policies, we have a strategic requirement demanding American resupply and rearming of Israel as swiftly and generously as possible.

H.R. 11088 presently before the House provides emergency security assistance authorizations for Israel. The amount sought is $2.2 billion in either emergency military assistance or foreign military sales credits. I endorse this measure wholeheartedly and urgently, fervently hoping the overwhelming majority of Members of Congress will feel and act similarly.

From the first moments of her existence as a free nation, Israel has been under military assault, or has had that threat hovering over her entire span of national life. To the credit of her people, this has not led to a garrison state mentality. Instead, Israel's devotion to democratic principles and individual rights has thrived and grown despite an understandable temptation to erode such a commitment. How many nations, including those sworn to destroy her and their allies, can make such a claim?

For this very underlying reason, Israel has been in tune with American ideals, and has grown stronger because of our own commitment. Her people fight because of a desire to be free, rather than on behalf of a desire to conquer and subject others.

As a result, she poses a danger to totalitarian regimes and their client states everywhere. The "third world," torn by strife and evolving before our eyes, can see in Israel a choice between dictatorship and socialist-oriented democracy. The Arab States, unwilling to tolerate a free Israel in their midst, have found a willing patron in Russia, which has other goals in mind in that vital area of the world. Here is where America's geopolitical necessity comes into play. If we ignore or misinterpret Israel's role and goals, we will injure our own best interests by shortchanging the Israelis in a time of crisis.

The Communist rulers of Russia are inheritors of foreign policies of the Romanoff czars. Among goals they have in common down through history has been a desire to obtain warm water ports and to dominate narrow strategic gateways controlling so much of the world's commerce.

Control of such narrow straits and geopolitical linchpins brings with it military dominance as well. The Dardanelles, Suez Canal, Straits of Gibraltar, Bab-el-Mandeb, and the Straits of Tiran are perfect examples of such locations.

Much of the Middle East embroglio revolves around who shall control a short passage to Asia from the Mediterranean. Russia is now a first rate naval power, seeking to use her sea arm to extend her reach around the world. In order to be militarily effective, that growing fleet must be able to move to critical areas swiftly. This means either control of or easy access to such strategic geographical linchpins of the world. Russia seeks to be able to move her Black Sea and Mediterranean fleets through the Suez Canal to the Indian Ocean in order to present an overwhelming military presence in and around the entire periphery of the Indian Ocean. This is why Brezhnev was recently in India, again salvaging the Indian economy with more Russian aid.

Soviet Russia's rulers envision, and perhaps correctly so, an eventual and inevitable confrontation with an increasingly powerful China. Already their long mutual land frontier bristles with armaments, front-line troops and the faint odor of physical clashes. Russia seeks to dominate the subcontinent, outflanking Communist China, a situation the Chinese rulers anticipate and view clearly. In this way, the Kremlin's masters believe they will seize China in a crushing military vice from which she cannot escape. This was one reason China welcomed our attempts at rapprochement.

Russia must obtain control of the Suez Canal, or at least have a complaisant and cooperative regime astraddle of that waterway. Egypt, indebted to Moscow for military aid against Israel, fills such a bill amply.

Simultaneously, Russia still seeks eventual world domination. She reminds me of a paroled burglar, proclaiming his conversion and reform, strolling down a hotel corridor turning every door knob to see if any rooms are accessible. While her motives are complex, a present and primary one is control over Middle East oil, to deny or control access to it to the West and to guarantee it for her own eventual use.

If the present Soviet diplomatic and military drive succeeds, we shall be shut out of that entire area of the world. If Israel is rendered impotent in a geopolitical sense, there will be no effective counterweight to Russian influence. Once the Kremlin becomes master of Suez and Middle East oil, the world strategic balance tips decisively against the United States, setting the stage for dramatic Soviet adventurism which will only lead to further, and certainly more dangerous confrontations.

Appeasement of the Arabs and their Soviet patrons would be as useless and sterile a policy as was a similar attempt in another era.

Have we learned nothing? Has the siren song of "détente"—that pernicious word, so sapped our capacity to reason, that it will allow us to guarantee our own destruction? Do we really believe the Russians have, like Paul on the road to Damascus, had a blinding vision and accompanying change of heart? Nothing could be more of an exercise in self-delusion. The nations betraying Czechoslovakia to Hitler made themselves believe Germany would be satisfied with just that much and no more. We all recall the drama played out in Prague under Alexander Dubcek. How then can we delude ourselves today?

If further proof were required, examine the entrails of the recent Middle East war. Russia knew about the Arab sneak attack well ahead of time. Her resupply effort by sea was keyed to start arriving two nights after the Arabs attacked. The very quality and quantity of materiel supplied should tell us something. Turning aside talk of détente and rapproachement with the West, the Soviet Union plunged all out into the latest Arab attempt to destroy Israel. She even indicated a desire to insert her own military forces into the struggle. Mention has even been made of nuclear weapons being brought from Russia to Egypt. Even if that is untrue, the recklessness of such a total policy is both breathtaking and appalling.

Western Europe, guarded by American military might and inexplicably incapable of learning from the past, has totally capitulated to the Arab boycott. To them, with the exception of the Dutch, all honor to them, oil is more important than principle, morality, compassion and elementary decency. Leading the pack are those two familiar betrayers of the Czechs, France and England. Daladier and Chamberlain would feel right at home with Pompidou and Heath.

These people possess a coterie of sympathizers in this country, echoing their cry that we must support a sellout of the Israelis because they have such a nasty habit of defending themselves against those sworn to destroy them. It is just not done in our crowd, Reggie, old boy.

They bleat on about refugees, ignoring Arab treatment of Jews in Arab lands and cynical exploitation of Palestinians by their brother Arabs. To them, the discredited, one-sided United Nations is the answer. Actually, it is the chosen instrument to deal Israel further blows.

International promises are as worthless as international organizations. Noble in concept they may be, but incapable of execution in time of crisis they also certainly are. Israel needs more tangible means of insuring her survival. And she must survive. Why?

Because she is a counterweight to Russian influence in the entire Middle East. Because she helps create a balance, along with Iran and other non-Communist regimes, to radical, pro-Soviet Arab governments, whose instability is matched only by their propensity for violence. For example, let us reflect upon treatment of Jews in Arab countries, violent anti-Semitism of King Faisal and the incredibly brutal and barbarous butchery of Israel prisoners of war by the Syrians.

Israel is a beacon, an alternative, and refuge for Third World elements seeking a choice. She is a staunch friend of the United States, and a dependable one in an area of the world where stability is at a premium. She is an ace in the game for strategic domination of that crucially important part of the world; a deadly game we must maintain a viable presence in or lose out entirely.

For these as well as humanitarian reasons, we must act favorably regarding the $2.2 billion. Can there by any doubt of the eventual fate of Israel's people if she ever really lost a war? How many of us would wish to share in the responsibility of the aftermath of such a situation. Does this not occur to Arab apologists here? Evidently not.

Israel must have the full $2.2 billion in American weapons aid, and she must have it all soon. We have it in our power to grant that urgent request. We must act with dispatch.

In closing, let me return once again to Czechoslovakia and those who betrayed her sovereignty to Adolph Hitler. To this day, that group remains an abomination in the eyes and memories of decent people everywhere and the deed they perpetrated stands as a hallmark for deceit, ignobility, cowardice, and betrayal. It need not have been thus. They had a choice; so do we.

Mr. KASTENMEIER. Mr. Chairman, over the years, like other Americans, I have supported both the creation of the State of Israel and her aspirations for peace and recognition of her right to exist. Clearly, we must all be pleased that real progress is now being made to secure a permanent resolution to the Middle East conflict. However, I do not believe that the legislation currently before the House serves the interests of peace in the Middle East. Rather, in my view, the effect of this legislation is to provide more fuel to fan the flames of war.

The Emergency Security Assistance Act operates on the premise that the only way Israel can know security is by literally building a bristling fortress surrounded by the hostility of the Arab people. We have seen the Arab nations turn to the Soviet Union as the source of their own military security. The Middle East provides testimony to the fact that providing absolute military security for one nation in turn fosters absolute insecurity for its neighbors. The arms race perpetuated by the United States and Russia in the Middle East, including increasingly more sophisticated and devastating weaponry, can only result as the recent war has shown, in continued tensions and, ultimately, in more death and destruction.

Mr. Chairman, Secretary of State Henry Kissinger expressed a hope which I share when he said:

> We hope that Israel, as well as the Arab countries, will recognize that one of the clear consequences of the recent events is that a purely military solution to the problems of the Middle East is impossible.

Yet, this legislation recognizes only military needs, and seems to contemplate only military solutions.

I have long felt that the United States ought not to encourage the perpetuation of war, with the accompanying death and destruction, by sending arms and other military assistance to foreign countries, whether it be to Israel, the Arab nations, or Southeast Asia, and my voting record has been consistent on this issue. I cannot, therefore, in good conscience, support this bill.

Mr. Chairman, I firmly believe that it is in the best interest of Israel, the Arab countries, and the United States, for us to devote our major energies to finding a permanent solution to the Middle East problem so that the people in that part of the world will finally be able to live in peace. The founding father of the State of Israel, David Ben-Gurion, made the observation some time ago that—

> Real peace with our Arab neighbors—mutual trust and friendship—that is the only true security.

This is the goal all concerned parties must strive for. This is the goal not served by this legislation.

Mr. Chairman, I would like at this point to include with my remarks an article by Arthur Waskow which appeared recently in the New York Times. Mr. Waskow has made a compelling argument for finally coming to terms in the Middle East, and I commend his comments to the attention of my colleagues:

[From the New York Times, Nov. 24, 1973]

A Time for Terms in the Mideast

(By Arthur Waskow)

WASHINGTON.—It is time for the Israeli Government and the American Jewish establishment to pay attention to some of us Jeremiahs.

Since 1967, a small band of American and Israeli Jews have been warning that the Meir Government was trundling down a road to disaster, endangering Israeli security by seeing that security in the narrowest military terms. We saw the Israelis' arrogance, born out of victory, and the Arabs' hysteria, born from defeat, reinforcing each other; no justice offered from either side, no security won on either side.

Sometimes, full of hope, we preached justice—arguing that Israel and the Palestinians owed each other the fraternal recognition of another oppressed nationality and the political recognition of a self-determining Palestine alongside Israel. Sometimes, full of foreboding, we have warned Arabs that Israel could strike at them still more harshly, and have warned Israel that incompetence, self-glorification and self-deception would not forever dominate the Arab governments; that world-wide popular and diplomatic support for Israel's military outlook were eroding; and that Israel's deepening internal social divisions could only be dealt with if a stable peace were achieved. In both modes, the call for justice and the warning of disaster, we said that Israeli arrogance—expressed in the holding and slow incorporation of Sinai and the West Bank—was wasting time that could be used to secure a stable peace; and that Arab hysteria was preventing evolution within Israel.

Slowly—much too slowly—the Arabs have grown out of their hysteria. (The danger now is that they will fall over into arrogance.) But the Israeli and American Jewish establishments have been even slower to change. When we preached justice, they dismissed us as soft-minded relics of the old "galut" mentality, self-hating Jews devoid of pride in the new Israeli power. And when we warned of the long-term security "problems" facing Israel, they dismissed us as harebrained analysts who did not understand the power of modern technology and organization to win round after round of war.

In truth, it was the Israeli Government that was harebrained. It thought of the Arabs as tortoises, and would not heed our reminders that the tortoise sometimes wins the race if the hare gets arrogant.

Now, like Jeremiah we can only mourn at how correct we were. Look at the situation now: Arab oil boycotts bearing down on a Western Europe, America, and Japan already frightened by the "energy crisis." American power distracted by an internal agony over national identity and purpose that began in the sixties and is simply continuing in Watergate, and will not end there. Hostility between Western and Russian immigrants and Oriental immigrants to Israel—hostility over housing and public services, and over communal dignity, that cannot be eased so long as 40 per cent of Israel's gross national product is spent on the military. The erosion of non-Jewish support for Israel as the remnant of the holocaust, amid growing doubts of the justice of a permanent occupation of the Palestinian west bank and Gaza and of the Egyptian Sinai. The beginnings of articulate criticism among young American Jews of blind financial and political support for an arthritic Israeli bureaucracy and policy—even as these same young American Jews create stronger and stronger ties to real live people and communities in Israel.

The Meir Government's policy has led Israel into this moment of danger. But it can become a time of opportunity, if Israel will see it as a moment for making the claims of justice and security coincide. At this moment Israel is still militarily superior, though not triumphant; still has strong support from American Jews and the U.S. Government; still faces moderate politics among the west bank Palestinians and weakness in Fatah; still has not descended into a domestic kulturkampf. From now on, delay will weaken Israel.

That is, delay will weaken Israel unless the Arab governments and particularly the Palestinian nationalist leadership continue to pose unjust demands. If they do, Israel will in desperation coil itself even tighter, tenser, committed to strike first at any danger and to rule the Middle East, regardless of the consequences to freedom and justice.

So this is the moment, maybe the last when both sides can offer decent terms. For example, the Palestinian leadership and the Arab states should recognize Israel within the 1967 pre-war boundaries as a fully legitimate state, and extend to it such normal rights as free access to the Suez Canal; Israel should offer to return to those boundaries on two conditions: the demilitarization under effective international inspection and control, of all the territories Israel occupied from 1967 till the 1973 war; and an Israeli-Palestinian condominium over the old city of Jerusalem. Israel and the Arab states should jointly sponsor and guarantee an independent, neutral, and demilitarized Palestine on the west bank and in Gaza. Israel and the Arab states should agree to accept no military aid or advisers from any of the great powers, and the powers should agree to give them none.

Mr. DELLUMS. Mr. Chairman, we have today a question to decide that I approach with the greatest reluctance. A vote can be a cruel thing: You cannot vote "yes, but" or "no, however." There are only two lists of names, and one of them is "yea" and the other is "nay." There may be principles and counterprinciples, pressures and counterpressures, and whichever way you turn you may see more unfortunate consequences than fortunate ones, but the time still comes when you have to choose. I have chosen to vote against this legislation—a painful decision but I believe a necessary one.

I am faced with two principles that seem to some people to be in open contradiction. First, I came to Congress utterly committed to peace, and if I am not doing that, I should not be here. As an American and a human being, I want this country to stand for the possibilities of life and freedom, not power and death. I also want Israel to survive, to flourish, and to live in security and peace with its neighbors. This is not in contradiction to the first principle; it is a consequence of it. Israel's only future lays in peace.

The basic fact is, these two principles are in contradiction only if we make them so. Only if we consider that the only way to help Israel and the people within its borders is through more and more weapons, through reliance on force—only if we turn our back on a positive policy of economic assistance for the entire area that would remove the causes of war—only then do we set up an opposition between peace and Israel. Only if we take over the Nixon administration's automatic assumption that the only alternatives are war or abandonment does the willingness to vote for arms become the ultimate test of fidelity to Israel.

But these are not the only choices, and my vote today is a protest against reducing the issue to just those barren and nonproductive terms. I vote today to break the cycle, to move discussion up to a creative strategy that will help the Middle East, not just to a higher level of armed instability, but to a situation where the capacities of all the peoples in the Middle East can be used for something else besides this insane war.

There will be many, I fear, who will interpret this vote as indicating some lack of concern for Israel. This is unfortunate. Nothing is further from the truth. If this were the only act of my congressional career that had to do with Israel, perhaps such an interpretation might be justified. But I know that there are other ways to help Israel other than—ever-increasing grants of military aid—I have worked for them in the past and I will continue to work for them in the future. It is my profound conviction that I am working for them today, by rejecting an illusion that our only duty to Israel is just to send off a shipment of arms so that the Israelis and the Arabs can kill each other more efficiently.

I have studied the actual situation in the Middle East, and I have come to a conclusion that to claim that Israel's survival depends on these arms alone and this vote alone is not fact. There is the same balance of weaponry now as existed before the war. Even if the current level were not enough, I feel assured that the Defense Department and the President would find a way to get Israel more weapons—with or without congressional authorization.

If I was ever convinced that Israel's survival depended on an immediate shipment of arms, or upon a single vote, I would fight for it strongly. I do think that Israel's long-term survival does depend on vigorous economic assistance, coupled with a realistic diplomatic strategy that will lay the groundwork for lasting security and lasting peace.

Because of my belief in the importance of our responsibilities in this area, I intend to visit both Israel and the Arab countries next month, to learn as much as I can firsthand about the situation. I hope to come up with some suggestions that will substantiate my profound conviction that there exists creative solutions to the Middle East dilemma that can break the deadlock of security through mutual terror, instead of tightening it.

What is really needed in the Middle East now is significant economic assistance for the entire area, coupled with international guarantees for the preservation of Israel and a multinational commitment to end the suffering of the Palestinian refugees. This is the opportunity we now have to remove the causes of war.

The Nation and the Congress must reject the political manipulation of international crises that the Nixon administration too often substitutes for foreign policy.

This is a time for long-term realities, a time to step back from the pressures of the moment to consider the consequences of our acts, not just in terms of our own debate and rhetoric, but out in the real world of blood and suffering. When I consider those consequences with the greatest seriousness I have within me, I cannot regret this vote today.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise to express support for H.R. 11088. Prompt, equitable compromise of Israel/Arab differences is absolutely imperative if peace is to be achieved in the Middle East. This conflict, producing four wars in 25 years, has created a danger of nuclear war, separated America from her NATO allies, and brought about a worldwide energy shortage. Even though Russia has resupplied Egypt and Syria with war materials destroyed in fighting last October, there now exists the best opportunity in 25 years for a negotiated peace.

This peace is in the highest U.S. interest. The oil crisis which followed the October war shows the disturbing effect that war there has on the rest of the world and the importance of the peace negotiations which soon begin.

Maintaining a military balance between Israel and her Arab neighbors is essential to providing a proper setting for successful peace negotiations. Neither party should be put into a position of negotiating from weakness. An imbalance of power will tempt the stronger party to rely on force, not reason, at the negotiating table. A settlement not based on fairness and reason will likely not be permanent.

Mr. BAUMAN. Mr. Chairman, I rise in support of H.R. 11088, an emergency authorization for assistance to Israel. While there is little doubt in my mind or in the minds of most of the Members that this authorization is justified, there are several implications of approving a sum so large which we must not ignore.

Throughout its history, Israel has had one principal ally—one nation that has come to her assistance whenever it was necessary. During the most recent Arab-Israel war, the United States once again stood alone as the only nation willing to stand behind the state of Israel and her right to exist. Few of us take exception to this policy, a policy which I believe to be sound, both morally and politically, particularly in view of the continued Russian intervention in the Middle East. This authorization, of some $2.2 billion, is unusually large, but it is necessary. The vast amount of resupply which we carried out during the war was costly indeed, and Israel, with the highest per capita debt of any nation in the world even before the war, simply cannot bear this cost alone.

But $2.2 billion is a lot of money, even in a budget which this year totals more than $265 billion. We are operating in the red, and this will push us quite a bit further into the red, a situation which we cannot afford to ignore. To fully discharge our responsibility to the American public which elected us, we should be looking for a way to finance this appropriation by cutting spending elsewhere. The habit of spending money without concern over where it will come from is what has gotten us into deep trouble before. It provided the motivation for the Budget Control Act which we passed last week. To spend this money without providing the revenue from which it must come or by curtailing other spending would be irresponsible.

We should note that the supply of Israeli armed forces with American tanks, planes, and other equipment was at the expense of our own stockpiles, and in some cases, at the expense of the inventories maintained by our active and reserve units. This equipment must be replaced if the United States is to maintain the necessary level of military preparedness.

Thus, I hope we hear no anguished cries when the Pentagon approaches us in the near future for money to replace equipment which was shipped to Israel last October. We should also keep in mind that the cost of new equipment will inevitably be higher than the equipment on hand which we sent overseas during the Arab-Israeli war, thus further increasing the amount which will be necessary to replace it.

In short, let us keep in mind that our generosity to our allies must come at a price. Our willingness to provide this aid must be matched with a willingness to pay for it.

Mr. PODELL. Mr. Chairman, there is a monument to the fallen in northern Galilee with the inscription:

> In blood and fire Judah fell, in blood and fire Judah will arise.

In 1948 many of us felt we had seen fulfillment of that prophecy. A free and independent Jewish state rose from the ashes of war to take her place proudly among the nations of the world. Now, 25 years later while the pride of accomplishment is still strong, the struggle for independence goes on, the fire is still raging.

Every conflict ends with a cease-fire, never a permanent peace settlement; brief years of prosperity alternate with terrifying wars, and any moment a new shooting war may begin. As the fighting continues, the human needs of millions of Jews and Arabs are neglected. We can only pray that the negotiations soon to begin in Geneva will signal a new process of peace, compromise, and mutual respect.

Yet with bitter irony as Israel works for peace, she prepares for war. Years of distrust endanger the negotiations and if they fail the only option will be a strong defense. As in the days of Nehemiah the people of Israel must build up the land carrying swords in their hands as they work. For the past 25 years those swords have been provided by the United States. As Americans, we have committed ourselves for both moral and strategic reasons to the aid of Israel.

Today we can either reaffirm that commitment or we can yield to Arab blackmail. The recent war proved beyond any doubt that Israel cannot fight solely on guts and will. Cash and extremely sophisticated weapons are necessary elements in any hope of victory. The costs to the Israeli forces exacted by the SA–6 ground-to-air missiles alone were so great as to jeopardize the entire war effort. These missiles have been poured into Egypt and Syria as a small part of the stream of military hardware.

This Russian challenge can only be countered by the United States. It was the massive airlift wisely authorized by President Nixon which assured Israel's security during the recent fighting. Without the knowledge that American supplies would be forthcoming, Israel could not have committed her forces so strongly in battle.

However, the airlift was only the first stage in the supply effort. The second stage must be to rebuild and strengthen a war torn army still facing a foe with limitless equipment. The decision on the amount of equipment which the United States provides for the rebuilding effort and the method of financing it properly rest with Congress. Today we will make that decision.

The bill before us, H.R. 11088, authorizes $2.2 billion in emergency security assistance for Israel in some combination of aid and credits as the President determines to be proper. At a time when our own budget is so severely strained, the allocation of such massive grants to any country must be closely questioned. A careful consideration of this legislation, however, forces the conclusion that large military grants are unavoidable. Though in the past, Israel has always paid for American equipment, today the Israeli economy, quite simply, cannot afford it. On top of the billions upon billions of war related costs, the Israeli Government recently announced that full mobilization would remain in effect for at least three more months.

That means the economy must continue to manage with a critically depleted labor force. Crops will go unharvested, exports needed for foreign exchange will pile up on the docks, and the trucks and buses which form the heart of the transportation industry will remain commandeered for military purposes. Given these extreme pressures a new arrangement on military supplies between the United States and Israel is clearly dictated.

Essentially the issue of providing grants is the same as that raised by the Arab oil boycott. We will stand firm militarily but allow economic pressures to subvert our policy and Israel's safety? A protracted war of attrition, requiring full mobilization of Israeli reserves will tax Israel much more severely than it will the heavily populated, oil rich Arabs. Surely, the effect of the oil boycott has taught us how potent economic weapons can be and we must treat them as seriously as we would military provocations.

In short, without these grants we will be crippling Israel's economy just as effectively as the Arab oil boycott is crippling our economy, and for Israel that would be total disaster.

Nor is there any where else Israel may turn for help. Her traditional friends around the world are deserting her as Arab pressure grows. Japan, Britain, West Germany, Ethiopia, and dozens of other countries have prostituted themselves for Arab oil. If the United States joins their ranks, Israel will be truly alone.

Mr. Chairman, all sides in the Middle East must make compromises if peace is to come but the incentive to compromise will disappear if one side is disarmed.

Mr. COTTER. Mr. Chairman, I rise in strong support of H.R. 11088, a bill which authorizes $2.2 billion in emergency security assistance to Israel. As is well known by my colleagues in the House today, the brave Nation of Israel fought a war on two fronts that resulted in tremendous losses of Israeli fighting men and women. The war also took a horrible toll in airplanes and tanks which were so essential in stemming the tide of this unprovoked attack by Egypt and Syria.

As I mentioned in a statement on October 10, there could be no question who started this war. But this is not the time to enter into mutual recriminations and name calling. Rather, we must work to maintain a military and diplomatic atmosphere that will result in a lasting peace in this war-torn area of the world.

In large measure the hope for a lasting peace will depend not only on the good will of the negotiators, but also on Israel's ability to maintain a viable military posture. A weakened Israel, an Israel without adequate weapons, will encourage further warfare. Without a balance of conventional weapons, this arms instability could lead to renewed fighting with the possibility of a nuclear confrontation which could ultimately involve both the United States and the U.S.S.R.

This bill provides that the Defense Department conduct a thorough study of the effectiveness of the military assistance program as it relates to the 1973 Arab-Israeli war. The bill further authorizes payment of the U.S. share of United Nations Emergency Forces in the Middle East but, of course, does not provide that U.S. troops would be used in these United Nations Forces. Finally, the bill authorizes military aid and/or military sales credits for Israel.

Mr. Chairman, I support this bill because the massive Soviet resupply of Arab forces is contributing directly to the present and future instability in the Middle East. Since October 6, Israel has purchased over $1 billion of U.S. arms to replace the war losses. But even this effort was overwhelmed by the massive Soviet resupply effort. Therefore, I think that this $2.2 billion emergency assistance program, prudently administered, will contribute to stability in the Middle East.

I know that some people believe that we should abandon Israel in order to secure Arab oil. I cannot agree. To give in to Arab oil blackmail will decrease our ability to prevent future types of blackmail, wholly apart from the question of abandonment of our moral and diplomatic commitment to Israel.

On the other hand, I believe that the horror of the October 6 war has increased the mutual respect between the Arab and Israeli armies. This mutual respect, I am hopeful, will be the basis for a lasting peace, but if Israel is abandoned, the forces of aggression in the Arab world will be strengthened, the forces of moderation crushed, and the flames of war will again be ignited.

I believe that our Nation which contributed directly to the founding of Israel in 1948 has a serious and binding moral obligation to contribute to Israel's ability to maintain itself as a free and vibrant Nation. I urge my colleagues to support this bill.

Mr. TALCOTT. Mr. Chairman, I am voting for this authorization bill to provide $2.2 billion for Israel. I do so with reluctance. I am perfectly willing to help Israel defend its national security but I question the adequacy of the justification for this huge sum of money.

There has been insufficient proof of war losses. No one has seen an accurate "shopping list." Israel has not proved its need for this sum. Neither the State Department nor the committee has demanded justification.

It has been said that $2.2 billion is necessary to replace Israeli war losses. No accounting of Israeli war losses has been made. The excuse that the "confusion of war" precludes obtaining accurate estimates of the losses is not sufficient excuse for the Congress when authorizing the expenditure of U.S. funds.

For one example, tank losses are said to be a larger portion of this demand. But "tank losses" have not even been defined, let alone proved or accounted for.

When is a tank lost? When it is totally destroyed by a direct missile hit? When it "throws" a track? When it runs out of fuel? When it sustains minor damage? When it can be returned to operation in 5 days or 30 days?

Many of the tanks claimed to have been lost are probably now back in operation.

The Israelis captured several hundred Arab tanks which could be refiitted with Israeli arms. Is this "net gain" of tanks deducted from the Israel shopping list?

I think we should know.

If there is a true, justifiable need for $2.2 billion to save Israel from annihilation, of course, U.S. taxpayers would be willing to foot the bill, but we are entitled to better justification of such demands. We demand better justification from our own departments and agencies.

Also we should inquire about Israeli arms and munitions which they manufacture or refit and sell to other nations. Should we be furnishing arms and war materials to Israel while they are selling arms and war materials to other Nations?

Mr. BIAGGI. Mr. Chairman, I rise in strong support of the bill H.R. 11088, providing emergency security assistance for Israel. This legislation is urgently needed if we are to succeed in achieving a viable and lasting peace in the war-torn Middle East.

In the last 25 years, since Israel's conception, the Middle East has been a flashpoint for potential world conflict. In the last 6 years alone, there have been two major outbreaks of war between the Arabs and Israelis which flirted dangerously with bringing about a full-scale confrontation between the Soviet Union and the United States.

Throughout these troubled years, the United States has attempted to carry out a policy with Israel designed to achieve the combined objective of maintaining a balance of military capabilities; as well as promoting overall stability in this area.

Yet, in recent years, the costs involved in carrying out this policy have increased dramatically. In the October 6 war alone, we have provided Israel with nearly $1 billion worth of arms to compensate for a massive Soviet buildup of Arab nations. This resulted in restoring Israel's military strength to at least prewar levels, thus preventing her defeat.

However, despite the peace which precariously prevails today in the Middle East, the Soviet Union is continuing to rearm and resupply the Arab armies. It is in light of these continued reckless and dangerous actions on the part of the Soviet Union that the President was forced to ask for this $2.2 billion package to assist Israel, which we are considering today.

The beleaguered, yet courageous, nation of Israel has been beseiged with adversities throughout its entire history. And despite the efforts of many international leaders to bring peace to this area, it is now conceded that the only peace which can last here will be based on the maintaining of a military balance between Israel and her Arab enemies. This bill would help her accomplish this by allowing the Israelies to keep peace with the massive Arab reinforcements supplied by the Russians. It is only when the Arab nations realize that Israel will be equally equipped will there be a basis for peace here.

Mr. Chairman, let us serve notice not only on the Arab nations but on the Soviet Union as well, that the defense and safety of Israel will continue to be our foremost international concern. We cannot afford to delay another day in granting this assistance. The need is now, and we must respond to it. I urge the overwhelming passage of this bill by my colleagues today.

Mr. BINGHAM. Mr. Chairman, I commend the chairman and my colleagues on the House Foreign Affairs Committee for developing a proposal for emergency military assistance to Israel which won practically unanimous bipartisan support within the committee.

The central purpose of H.R. 11088 as amended by the committee is to guarantee the security of Israel and thus maintain the balance of power in the Middle East. As administration representatives in the hearings and in private discussions with committee members have pointed out, the Arab States, as well as the Israelis, must be made to realize that they have nothing to gain by continuing the fighting and everything to gain by negotiating. As Deputy Secretary of State Kenneth Rush testified:

> This legislation will provide firm evidence of American support against (Arab) aggression and of our willingness to help create a situation in which negotiations leading to a lasting peace can take place.

Historical forces have placed a heavy responsibility on the United States for creating a climate of peace in the Middle East. We have the difficult job of offsetting the massive Soviet assistance to the Arabs so that negotiations can proceed under favorable conditions. For the first time in 25 years the Arabs feel confident enough politically to go to the conference table. Israel's leaders have sought reconciliation through negotiations with their Arab neighbors ever since the creation of this tiny democracy, but the Arabs have consistently refused. In their weakened and disorganized condition, the Arabs apparently felt unable to negotiate directly with Israel. Their humiliation in the 1967 war was so great that the Arab leaders believed they must restore their prestige before they would talk. Now with huge arms shipments from the Communists, improved Arab unity and morale, and use of the weapon of oil blackmail, the Arab nations seem confident that they can force significant concessions from Israel at the negotiating table.

As for Israel, the events since the reprehensible Yom Kippur attack have come as a shock. For the first time there is doubt in the minds of her leaders that Israel can maintain her own security without outside help. Her financial condition has been drastically weakened by massive expenditures for arms and ongoing nonmilitary needs, while her sources of foreign currency, principally exports and tourism, to pay for needed imports have declined rapidly. Israel's citizens already bear the burden of the highest rate of taxation in the world and her foreign debt per capita is more burdensome than that of any other nation. A large portion of Israel's debt is to the United States, which up until now has provided her with arms only on a cash or credit basis. Prior to the outbreak of fighting on October 6, Israel owed the United States $1.2 billion for credit sales and $500 million for cash sales. Since that time Israel has received $1 billion worth of military equipment transferred to her by the U.S. Defense Department on the basis that she would pay cash for it in 120 days, that is by February or March of 1974. Defense Deputy Secretary Clements testified before our committee that there is a real possibility that Israel would have to default on the $1 billion if she does not receive U.S. financial aid. I personally doubt that Israel would do so—she has never yet defaulted on a loan—unlike nations we aided during World War II under our lend-lease program—but the burden of making such payments would be almost catastrophic. Moreover, H.R. 11088 will assure that the Defense Department will be promptly reimbursed for the value of the materiel supplied Israel since October 6.

Israel can no longer assume that she can defeat the Arabs over and over again. And she realizes that, while the Arabs can afford many defeats, Israel cannot afford one. The Arabs not only have great superiority in numbers and in sophisticated equipment supplied by the Communists, but they have also shown improved fighting ability. Many Israeli leaders are beginning to accept the hard facts that Israel can no longer go it alone, and that, because of Arab oil blackmail, the United States has become Israel's only source of help. Her representatives go to the conference table in hopes of securing a negotiated settlement for a lasting peace, but they must be mindful of the extremist elements in their constituency who still hold on to the belief that the only solution to the conflict is a military one.

H.R. 11088 will give the Government of Israel a chance to seek a nonmilitary solution; without it, the extremist elements on both sides may prevail. If Congress wavers in its support for the kind of flexible aid approach the administration has recommended, it may provide aid and comfort to these extremist elements and jeopardize the climate for peace.

How much of the $2.2 billion needs to be grants and can be credits in order to fulfill H.R. 11088's purpose cannot be determined at this point. Israel is in the process of a massive fund-raising effort while assessing her losses in the October war and her future military needs. Our Government also is in the process of completing an independent assessment of Israel's military needs.

Turning now to the legitimate concerns expressed by Members of Congress about this highly flexible proposal, the committee has sought to add safeguards and guidelines through amendments and the legislative record to insure that the money this bill authorizes will be used wisely with the maximum participation of Congress in the decisionmaking. The executive has been put on notice that it is to spend no more than necessary to achieve a Middle East power balance. To insure some measure of congressional responsibility in this regard, amounts of aid in excess of $1.5 billion—the current cash liability of Israel—have to be reported to Congress together with their justification 20 days before the date of their obligation or expenditure. However, the committee has wisely recommended suspension of this 20-day reporting requirement in the event of a renewal of hostilities. In addition, to make sure that Congress is kept fully informed about the effectiveness of this emergency assistance in maintaining the balance of power in the Middle East, the Secretary of Defense is directed to conduct a study of the 1973 Arab-Israeli conflict to assess the military strength of each party to the conflict including a comparison of U.S. weapons supplied to Israel with the Communist weapons delivered to the Arabs. The Secretary is to report his conclusions from this study to Congress as soon as possible and no later than December 31, 1974.

In closing, I would like to reaffirm my belief in the possibility of a permanent peace in the Middle East through direct negotiations, hopefully beginning this month. If the United States helps to maintain the balance of power, and resists the temptation to seek to impose terms for a settlement on Israel, there can be realistic negotiations on the part of both parties. I recognize that this is not an easy course to follow, especially when we are faced with hard domestic choices forced upon us by Arab oil blackmail. If our Middle East policy is successful the rewards will be great morally, politically, and economically; if we waver and fail, we face grave long-term consequences, one of the most serious of which will be the establishment of economic blackmail as a successful political tool in the hands of nations controlling needed raw materials. The United States has a unique chance to prevent such a disastrous development.

I urge my colleagues in the House to join me in reasserting U.S. control over its own foreign policy, and our faith in the possibility of a peaceful settlement in the Middle East by voting for passage of H.R. 11088, as amended.

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in support of H.R. 11088 which authorizes $2.2 billion in emergency security assistance for Israel in fiscal 1974 and for the U.S. share in the cost of maintaining the U.N emergency force in the Middle East. I think it is most important to point out in considering this legislation that maintaining a military balance in the Middle East during this difficult cease-fire and prenegotiation period is essential to getting those negotiations on the track and to promoting a lasting peace in that troubled part of the world. We have no interest in engaging in a runaway Middle East arms race with the Soviet Union which might tempt either side to reinitiate hostilities. I think the diplomatic record of the United States makes it quite clear that our primary objective is to bring the parties directly involved in the hostilities together for the purpose of achieving a permanent resolution of their longstanding differences.

As the recent outbreak of hostilities so clearly demonstrated, turbulence in the Middle East can cause an adverse ripple effect on countries around the world, and poses the ultimate threat of engulfing our entire globe in a nuclear tidal wave. As the committee report points out:

For more than a quarter of a century, the Middle East has been a potential tinderbox for world conflict. Even without direct superpower combat involvement, Middle East instability and wars have been costly to the people of that region, to the United States and to other countries.

In addition to our own interest in maintaining peace throughout the world, this country has a longstanding moral commitment to the sovereignty and survival of the democratic State of Israel. We have supported that concept since the birth of Israel and it has been our position that the recognition of Israel's sovereignty by other nations in the area, coupled with a serious effort by the Arabs and Israelis to negotiate a settlement of their longstanding differences can lead to a permanent peace in the Middle East. Hopefully the most recent stalemate and ceasefire can finally bring about the realization of those goals.

The purpose of the bill before us today is not to rearm Israel for the purpose of renewing hostilities, but rather to provide military material to replace combat losses and thereby give Israel an equal footing with its adversaries as it approaches negotiations and to insure the type of military balance in the area which is necessary to insure that those negotiations go forward. Obviously, a military imbalance will only provide a disincentive to negotiations and a potential invitation to a renewal of fighting.

I think it is important to emphasize that in the past Israel has obtained U.S. arms by cash or credit, and not by grants. However, the most recent Arab-Israeli war has taken its heaviest toll on Israel's economy. Last year one-fourth of Israel's GNP was devoted to defense; her taxpayers are reported to be paying the highest rate in the world; her foreign debt was around $4 billion; and at the time of the outbreak of hostilities she owed the United States approximately $1.7 billion in past cash and credit purchases of military equipment.

The most recent war has obviously compounded Israel's economic plight with one-quarter of her work force mobilized for defense. This has greatly impaired her production and ability to earn foreign exchange. Without financial assistance she is likely to default on the $1 billion due to the United States next February. For these reasons, this legislation is essential for it provides authority for grant military assistance for Israel as well as cash and credit sales.

Mr. Chairman, I think the committee is to be commended on underscoring our intention to promote Middle East peace and stability through this legislation incorporating a provision to insure that the Executive will spend no more than necessary to achieve a military balance. That provision, contained in section 2 of the bill, would require that the President give 20-day prior notification to the Congress if he finds it necessary to expend more than $1.5 billion for military assistance and/or credit sales. The President's report must include the amount in excess of $1.5 billion he intends to expend, and the terms and justification for the additional assistance.

I think the committee is also to be commended on the innovative feature in the committee report which proposes that the portion of the $2.2 billion authorization not used for military assistance be used to stimulate the creation of a Middle East Regional Development Bank, to be funded by other countries as well, for the purpose of assisting in promoting the social and economic development of the entire area, thus fostering a climate for genuine peace and progress in the Middle East. While this is not authorized in this bill and would require a separate authorization, I think it is a most meritorious proposal and one which should help induce the parties involved to reach a peaceful settlement. In addition, it is a multinational assistance approach which is in keeping with the new direction in foreign development assistance we are attempting to promote.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of H.R. 11088, which would authorize $2.2 billion in emergency security assistance for Israel.

On the holy day of Yom Kippur, the State of Israel was attacked on two fronts; the Syrians moved southwest over the Golan Heights and the Egyptians moved northeast across the Suez Canal into the Sinai Desert.

This offensive was countered by the Israeli Army at the cost of many lives, destroyed weapons, and a perilous situation in the already tense Middle East. And today, while peace hangs by a thread, the Arab nations are making demands upon both Israel and her allies who stood with her during this brutal conflict.

Israel is being asked to move back to the pre-1967 borders, and the United States is being asked to guarantee this move, or face a continued embargo on Arab oil.

Mr. Chairman, our commitment to the continuation of the State of Israel is being tested, and, perhaps, greater pressures will come.

But, stand beside Israel we must. The assistance needed to defend her borders is necessary for peace; for the moment that Israel is incapable of defending herself, surely the Arab threats to extinguish this solitary light of freedom will be fulfilled.

Israel is like a city under siege: Those within the walls can win many battles without bringing true peace and the attackers outside may lose many times without losing entirely. But the defenders—the Israelis—can lose but once. No matter how many wars are fought, no matter how many battles are won, the enemy will still be there waiting for that one victory which will spell disaster for those within the city.

Thus, it is our duty to provide Israel the strength for a stand-off, to equalize the forces, so that the people of Israel and the Arab nations may solve their problems together at the peace table.

The bill before us today would provide funds to help Israel defend herself, and I urge my colleagues to join with me in supporting this necessary measure.

Mr. DORN. Mr. Chairman, providing emergency military assistance to the small nation of Israel is in the interest of peace. This bill has my full support and I urge the House to approve it by an overwhelming margin.

Mr. Chairman, the bill now before us would help maintain the military balance necesary for peace in the Middle East by authorizing $2.2 billion in emergency security assistance to Israel. Soviet Russia continues to pour military hardware into the Arab States. Since the Yom Kippur war Israel has paid for nearly $1 billion in arms from the United States. Israel will need further arms to counter the Russian arms influx but simply cannot pay the bill without U.S. help. If the military balance is disrupted there would be no incentive for the Russians and the Arabs to negotiate.

This bill will serve notice on Russia and the Arab States that the United States is determined to maintain a balance of power. This bill will serve notice to all nations that the only answer is a negotiated peace and not further war.

Mr. BADILLO. Mr. Chairman, I rise in support of this legislation to authorize $2.2 billion in emergency military aid and foreign military sales credits to Israel for the current fiscal year and urge that it be promptly enacted.

By providing Egypt and Syria with highly sophisticated planes and other modern military equipment such as tanks and missiles, the Soviet Union clearly precipitated the Arab invasion of Israel. The only possible course open to maintain the military balance essential for the eventual achievement of peace in the Middle East and to insure Israel's territorial integrity is for the United States to furnish Israel the arms and equipment necessary to defend herself against any future attacks by her Arab neighbors. We must not only replace those items lost during the actual fighting with the Arab States but must also furnish Israel the necessary financial aid to maintain military strength for her defense.

Shortly after the outbreak of the Middle East fighting I was pleased to join in sponsoring a resolution calling upon the administration to honor existing commitments to supply aircraft to Israel. Israel's traditional air superiority was critical, in my judgment, to bring the fighting to an end. Further, I was an original cosponsor of House Resolution 613 which urged our Government to supply Israel with Phantom jet fighters and other military equipment in sufficient quantities to enable her to repel further attacks and to offset the military equipment and supplies furnished by the Soviet Union.

By supplying the Arabs with vast quantities of military hardware the U.S.S.R. has made a mockery of détente with the United States and has subverted any meaningful attempts to achieve some sort of accommodation. In light of this action the United States has a special duty to guarantee Israel's invulnerability to Arab attack. By convincing Russia and her Arab pawns that the United States is committed to Israel's security, I believe the way toward a substantive Middle East peace will be opened.

Mr. Chairman, I strongly believe that

the measure before us this afternoon affords the Congress an opportunity to take affirmative action to fulfill our moral and legal commitments to Israel and to make clear our intention to continue our support for this lone bastion of democracy in the Middle East. I urge prompt and favorable action on it.

Mr. O'NEILL. Mr. Chairman, I rise in strong support of this bill, H.R. 11088, which authorizes emergency security assistance for Israel.

This measure has been urgently requested by the President and is supported by the leadership on both sides of the aisle. For, we not only have assurances that the administration will not spend any more funds than are absolutely necessary, but we also have a provision in the bill requiring the President to report and justify his expenditure to the Congress.

The purpose of this bill is to promote the goal of American foreign policy in the Middle East—that is, to help achieve an enduring peace in an area of such dangerous volatile potentiality, that it could explode into worldwide consequences and repercussions.

It is because of this explosive potentiality that we need this bill.

We need this bill to support Israel, to assure her of the security she must have in order to negotiate a truly lasting settlement.

We need this bill, therefore, to encourArab States and to the Soviet Union, that the United States will provide Israel with the weapons she needs for her defense, indeed for her survival as a nation.

We need this bill, therfore, to encourage the Arab nations that their best interest lies in negotiating a durable peace—not in striking at Israel again.

Israel cannot afford to pay for the weapons she needs from us. Her economy already is heavily overburdened. Yet, she must have the military means to defend herself and assurance of further shipments from us to the extent that becomes necessary so she can proceed with the serious negotiations at hand.

Mr. Chairman, our only goal in the Middle East is a lasting peace with security for Israel under a negotiated settlement acceptable to all sides.

So, I urge all my colleagues to vote for this legislation which I am convinced will contribute dramatically to achieving this objective.

Mr. KOCH. Mr. Chairman, I rise in support of the legislation before us to provide Israel with $2.2 billion in emergency security assistance. I will not restate all of the arguments that have been made in support of this legislation by the distinguished members of the Foreign Affairs Committee and its distinguished chairman, Thomas E. Morgan. That committee was almost unanimous in reporting this bill out to the House.

I recently visited Israel and was present in that country from November 18 to November 23. The Government officials with whom I spoke and our own U.S. Embassy officials provided me with background and insight into the military and economic problems facing that country. I met with the Director General of the Ministry of Finance, Avraham Agmon. He told me that the 19 days of the October war cost Israel approximately $300 million a day, or a little less than $6 billion. This was the cost of destroyed war material, mobilization of the army, and the immediate economic losses suffered by the country. The total working population of Israel is 1 million and when the army is fully mobilized it commands the efforts of 300,000 people.

On November 22 when I was in the country, 25 percent of the working force was still mobilized in the army which had to maintain a daily alert. During the recent hostilities, our Defense Department delivered approximately $1 billion in arms to Israel. Because of the enormous forces arrayed against the Israelis, munitions delivered in the evening by our C–5A's were used by the Israeli soldiers on the battle line the following morning.

The expected deficit in the next year for the Israeli budget is $2.7 billion. To deal with that problem and to raise new funds within Israel itself, Israeli citizens are now being required to purchase "compulsory bonds"; in addition, people are being urged to buy additional bonds on a voluntary basis. The Government also has cut its various subsidies heretofore used to keep prices for necessities within bounds and it has increased the cost to consumers of Government services. Taxes represent 60 percent of the total income in the country compared to 30 percent in the United States and Israel has doubled its taxes every 2 years.

As the committee report states:

> This bill is designed to assure Israel the security she needs. It is designed to demonstrate unmistakably to Arab states and the Soviet Union that the U.S. will provide Israel with weapons essential for Israel's defense.

Director General Avraham Agmon provided me with the following details on his own financial situation to demonstrate how the Israelis are being required to bear as much of the cost of the country's defense as possible: Director General Agmon is one of the highest officials in the country and receives a salary of $650 a month. Out of that he must pay taxes and buy his compulsory bond as well as his voluntary bond. These bonds are redeemable after 15 years at 3-percent interest. With these deductions, his salary is reduced to $300. This amount is further subject to municipal taxes, school costs, and health insurance.

Mr. Chairman, as it has been stated by those who have spoken before me, as well as by Secretary of State Henry Kissinger, it is in our national interest and a moral imperative that we provide Israel with this financial assistance. Israel is the only democratic state in the Mideast. If we do not insure its security and economic well-being, and were it to be defeated by the Arabs, that area will become a Soviet bastion which would not bode well for our national security or for the free world. It is a moral commitment because of the Judeo-Christian ethics which bind our people. The United States took the lead in creating the State of Israel and resurrecting an ancient people in its own land. We must assist them now when almost every other country has bartered or sold its principles and ideals in exchange for oil.

When I saw Mrs. Meir on my recent trip to Israel she said to me and I shall always remember her statement:

> We shall never, never forget what your country did for us. Our children will be telling it to our great grandchildren.

The ties that bind our two countries together are insoluble. I urge the passage of this bill.

Mr. HARRINGTON. Mr. Chairman, I rise in support of H.R. 11088, legislation authorizing $2.2 billion in emergency security assistance for the State of Israel. As a member of the Foreign Affairs Committee, from which this legislation originates, I have had ample opportunity to study the issues raised by this bill, and I am convinced of the need for its enactment.

The $2.2 billion authorized by this bill is to be used to provide military assistance to the nation of Israel that is still recovering from a tragic and costly conflict. Much of this authorization will be used to provide, for the first time, grant military assistance to Israel. This bill sets a limit of $1.5 billion on total assistance unless the President determines that the expenditure of the remaining $700 million is required by the national interest.

This legislation marks another step in the evolution of American support for Israel. It should be remembered, as we consider this request for $2.2 billion, that the great preponderance of military assistance to Israel in the past 25 years has been on a cash or credit basis. It was not until 1962 that the United States began to sell sophisticated weapons to the Israelis, and in fact, it was only in response to the massive Soviet arms resupply effort to the Arab States after the six-day war of 1967 that the United States initiated the kind of comprehensive military sales program that included Israeli purchase of F–4 Phantom fighters, the mainstay of the Israeli Air Force. Prior to the "Yom Kippur war," however, grant military assistance was not made available to Israeli, while between 1946 and 1972 the United States, according to the Agency for International Development, expended a total of approximately $55 billion in grant military assistance throughout the world.

Israel's economy is such that grant military assistance is now a necessity. Israel has the highest per capita foreign currency debt in the world. Israel has the highest tax rate in the world—and yet, Israeli citizens have recently been required to make a compulsory defense loan of between 7 and 12 percent of their income.

Israel's economy has been hurt by the war, and continues to be stifled by the impact of mobilization. It is estimated that the loss in gross national product between October and December of this year will be approximately $476 million, with an additional estimated loss in GNP of $952 million for 1974. The Department of Defense has documented that Israeli purchases of military equipment, as a result of the recent war, have already amounted to $825 million, with at least another $175 million in purchases expected. Yet Israel's need is estimated to be $3.2 billion, and this need will be difficult if not impossible to meet without substantial grant assistance.

Many Americans, remembering the tragedy of our involvement in Vietnam, are anxious that American military forces not be directly involved in the Mideast conflict. The current energy crisis makes matters more difficult, as the Arab oil embargo has exacerbated an already difficult energy situation. And, there is a view that the United States should take a position that at least reflects an acknowledgement of legitimate goals and aspirations of the Arab States and the Palestinians.

I believe that passage of the emergency security assistance bill will further these goals. The most important objective of U.S. policy toward the Mideast, it seems to me, should be the conclusion of a durable peace that is just for all parties concerned, but which also provides for the continued security of Israel—a country for which the United States historically bears a great responsibility. The one lesson of the recent conflict is that the force of arms alone will not solve the many critical problems in the Mideast. But there is another important lesson as well—one demonstrated by the massive Soviet arms shipments to the Arab States since the cease-fire—and that is that no peace will be achieved if either side in the conflict has the perception that the other side is negotiating from a position of weakness. Therefore, I believe it necessary and appropriate that the United States continue adequate security assistance in support of Israel to the extent necessary to ensure the military sufficiency of Israeli forces. H.R. 11088 would accomplish this goal.

Seventeen million dollars in the bill will go to cover the costs of the United Nations troops now policing the delicate cease-fire. If for no other reason than to reduce the likelihood that hostilities will be renewed, this $17 million is well spent. But, it seems to me, there is a more important principle at stake. The recent war reemphasizes the importance of the United Nations in any Middle East solution. I hope that U.S. policy will reflect an appreciation for the valuable role that the U.N. can play.

I urge my colleagues to support H.R. 11088. It is an urgently needed bill, and one that I genuinely believe will advance the prospects for peace in the Mideast.

Ms. HOLTZMAN. Mr. Chairman, I rise in strong support of H.R. 11088 which provides $2.2 billion in emergency security assistance for Israel. In taking this essential action we not only are seeking to guarantee to survival of a valiant friend and a vital democracy, but we are at the same time protecting the best interests of our own Nation. We are reaffirming our support for the territorial sovereignty of a threatened democracy and at the same time we are protecting our only reliable ally in the Middle East, a region dominated by forces hostile to American interests.

Since the sudden and deliberate attack on Yom Kippur, the holiest day of the Jewish year, Israel has faced a formidable military threat. No less than 10 nations, with combined armed forces that outnumber Israeli forces by nearly 3 to 1, have united against them. Supplied with the most advanced Russian weaponry, the Arab nations are clearly bent on achieving a military dominance in the Middle East. Some even advocate the destruction of the State of Israel. It is, therefore, imperative that we take prompt action to help Israel replenish her resources so that she can bargain from strength at the negotiations table, thereby retain defensible borders, and the city of Jerusalem.

For this reason I urge my colleagues in the House to guarantee the security of Israel by passage of the Emergency Security Assistance Act, which authorizes $2.2 billion in direct grants and sales credits for military aid to the State of Israel. It is estimated that at least $1 billion in military equipment will be needed immediately to counter the massive Soviet arms shipments to Arab countries that have continued unabated since the outbreak of fighting. Without prompt action that neutralizes past and future Soviet armament build-up in the Middle East, Israel will be a target for another Arab attack.

Israel suffered casualties in the brief Yom Kippur war that, in proportion to its population, were greater than American losses in 11 years of fighting in Vietnam. And in spite of their miiltary success, the Israelis were forced to spend $100 million per day during the hostilities. We must do everything in our power to make it plain to the Arab nations that they cannot continue to wage wars of attrition supplied by Soviet arms that will take the place of serious negotiations.

We must support the survival of Israel. I therefore urge passage of H.R. 11088.

Ms. ABZUG. Mr. Chairman, I rise in support of H.R. 11088 which provides emergency security assistance for Israel. The funds contained in this legislation are critical to the very survival of the State of Israel and the maintenance of her territorial integrity.

This is, as we know, a time of both peril and opportunity for Israel. Her negotiators are going into the peace talks, which are scheduled to open in Geneva on December 18, with a set of proposals that deserve wide support. They will call for a final renunciation of war by both sides, the establishment of diplomatic relations, and the introduction of normal commercial ties between all countries of the Middle East. Recently, an Israeli official was quoted in a New York Times interview as saying, "We want to demonstrate at the outset that this is a peace conference, not a withdrawal conference."

Certainly no unilateral withdrawals or other concessions can be expected until it is clear that the Arab nations are willing to accept the existence of Israel once and for all and to follow this up with clearcut evidence of a desire to live peacefully side by side with Israel. The leaders of Israel have made clear that territorial concessions would be forthcoming within the context of such an agreement.

It is even more essential that Israel go into the peace talks able to bargain from a position of military strength. During a trip I made to Israel during the Thanksgiving recess with other Members of the House, we had an opportunity to talk with Prime Minister Golda Meir and other government and army officials, and we also toured the Suez front. Over and over, we were told that the rapid airlift of American weapons, ammunition, medical supplies, and equipment—an average daily lift of about 1,000 tons—had been absolutely crucial to Israel's military recovery and the advances that were made.

We were also told, and it is by now well-known, that the Arab armies were equipped by the Soviet Union with very large numbers of the very best in each class of weapons. In some instances, the Syrians and Egyptians were equipped with advanced models of troop carriers, antitank missiles and tanks that are not yet even in general use in the Soviet Army, and the Soviet Union is continuing to supply the Arab nations with military equipment.

It should also be noted that the Israelis were not only confronting the most sophisticated Soviet planes and missiles, but also French Mirage planes, British Hunter jets and Centurion tanks, and even some tanks furnished by the United States.

In voting on this bill we should also remember that unlike other nations who have received our weapons Israel is a democracy with a united purpose whose people and country have been a haven for the dispossessed and the haunted from the days of the holocaust to the present.

As the one nation that has stood by Israel, we must today enact this bill to provide up to $2.2 billion in emergency security assistance to Israel. We should do so for at least two reasons: to restore the enormous losses that Israel incurred in the Yom Kippur war and to notify the whole world that the American people will continue to stand by their commitment to Israel and its territorial integrity and to serve notice that we will not succumb to the Arab oil blackmail.

The public may not realize this, but between 1946 and 1972, according to the Agency for International Development, the United States provided to foreign nations grants and military assistance totalling approximately $55 billion. Among the recipients were many dictatorships whose policies are anathema to our democratic principles. We even sent grants of military assistance and training totalling about $324 million to nine Arab States, but not a single penny of this assistance was ever given by us to the tiny, democratic State of Israel.

Leaders of the Israeli Government estimate that it will cost almost $3 billion to make up for the overwhelming destruction of military equipment, weapons, and planes that occurred on the two fronts. The compromise figure of $2.2 billion in this bill will allow Israel to purchase the military equipment she needs for her defense, allow her to pay off those short-term debts whose payment cannot be avoided, and prevent her from sliding into hopeless bankruptcy.

In voting on this bill, we should also remember that unlike other nations which have received our weapons, the beleagured Israeli people have never asked for American manpower. They have shown they are willing to make incredible sacrifices to preserve their tiny nation. The threat to their survival remains, compounded by the ominous Arab oil boycott.

Our action in favor of this bill today can signal to the world the readiness of the American people to continue to extend the hand of friendship and support to the courageous people of Israel. We all pray that a permanent peace settlement will be achieved in Geneva, a settlement that is vital not only to all the nations of the Middle East but to the entire world. We must do all we can to make that peace possible and I therefore will vote for this measure.

Mr. MORGAN. Mr. Chairman, I have no further request for time.

Mr. MAILLIARD. Mr. Chairman, I have no further request for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Security Assistance Act of 1973".

(By unanimous consent, Mr. GROSS was allowed to proceed for 5 additional minutes.)

Mr. GROSS. Mr. Chairman, the legislation now before the House is the latest chapter in the continuing tragic inability of the administration and Congress to understand that the American people, already bearing the crushing load of more debt than all other nations combined, cannot continue to bankroll wars around the world and pose as this planet's policeman over and over and over again.

This legislation, authorizing the handing over of $2.2 billion to Israel, represents a partial payment, and only a partial payment, for the one-sided and improvident intervention by President Nixon in the Arab-Israel war—an act of intervention that had no approval by the American people or Congress, either before or after the fact.

The unilateral, one-sided action of the President is not only costing our citizens more than $2 billion, but his alienation of once friendly Arab nations and their subsequent oil embargo is costing American industry, business, and workers uncounted hundreds of millions of dollars and thousands of workers have lost their jobs.

The grave and unanswered question is why Nixon armed only Israel in this war. In years past, the President and his predecessors have provided military hardware to the Arab States. Arming both sides in the October conflict would have set no precedent, but it would have been a demonstration of evenhanded treatment and it is doubtful that vital oil supplies would have been cut off.

Appearing before the House Appropriations Committee on the administration's request for this huge handout to Israel, Deputy Secretary of Defense Clements stated:

> United States policy in the Middle East, as the President has said, is neither pro-Arab nor pro-Israel, but pro-peace.

No one can actually believe, not even Clements, that providing $2.2 billion in arms to Israel—all or much of it an outright gift—while refusing to sell jet fighters for cash to Saudi Arabia, is neither pro-Arab nor pro-Israel.

No one can actually believe that providing $36.5 million for Jewish refugee relief compared with $2 million for Arab refugee relief is neither pro-Arab nor pro-Israel.

If President Nixon is going to singlehandedly embark on military adventures is it too much to expect him to practice a modicum of even-handedness?

Incidentally, where now are the doves whose wings were constantly fluttering a few months ago from the floor to the rafters of this Chamber and the one across the way? They seem to have undergone a strange metamorphosis since those days when they were beating their breasts in self-proclaimed righteous horror and outrage over this country's involvement in Southeast Asia.

I am not for 1 minute defending participation in that no-win war that started with a little intervention and went on for so long and at such a horrible cost. But it has not been necessary for me to shed any dove feathers as have those self-anointed, alleged peace-lovers who mounted the battlements in October exhorting all of us to support resolutions and otherwise rush headlong to participate in yet another war—heedless of the consequences and heedless of the lessons of the past.

Mr. Chairman, on October 17, when the Petroleum Emergency Act was before the House and the Middle East war was still in progress, I stood here in the well and said this:

> I predict that our supplies of fuel from the Middle East whether they come through the refineries of Europe or direct from the Middle East, are going to be reduced and we are going to pay right through the nose for every gallon and every barrel of oil or the product thereof which comes to this country. Why? Because we cannot keep our big, long noses out of the affairs of other people around the world.
>
> I do not know who is going to win the war in the Middle East, but I do know one thing for dead sure and certain—that I can name the loser. That will be the common, garden variety citizen and taxpayer of the United States of America.

Now, nearly 2 months later, let me add this: By his act of unilateral intervention in the Middle East war our internationalist President has handed the citizens of this country a costly Christmas present—a Christmas present for which they will be paying long after he leaves Pennsylvania Avenue to bask in the warmer climes of Florida or California.

Mr. Chairman, during the past year Congress has been yelping at the top of its collective lungs about recapturing its delegated powers and thus assert its role as a coequal branch of Government. That is what the fight over impoundment and the war powers legislation was all about.

Having marched up the Hill to attack Executive power, this bill greases the skids for a quick retreat. Read the second sentence of section 3 of this bill. It gives the President the unadulterated right to use $2.2 billion for aid to Israel on whatever terms and conditions he wishes.

As if that were not enough, turn to section 4. In plain, unvarnished English it provides that if any of this money starts out as loans, the President can convert them to grants—gifts—before the end of next June.

Let us hear three big cheers right now from those who have professed so much worry about the erosion of the powers of Congress.

Then there is a little window dressing inserted by the Foreign Affairs Committee that the President can hold back—impound—$700 million until he alone determines it is in the national interest to use it. These are weasel words and do less than nothing to restrict this broad delegation of power and authority to the President.

In short, there never was a worse congressional abdication of control over the public purse than this.

Last but not least, how does this $2.2 billion fit into the President's budget which he charges is constantly being exceeded by Congress? One witness read a reassuring statement from the Office of Management and Budget that "this legislation will not force the executive branch to reduce or impound any funds previously requested for other Federal programs."

How sweet it is to have those words. One can only wonder how much more loose change to the tune of $2.2 billion is floating around that can be used to finance other programs without exceeding what the President proclaimed as his "tight" budget for the current fiscal year.

When Members receive hot letters from cold constituents they should tell them that Congress is simply restoring the balance of power in the Middle East. It should give them great comfort. What with the gasoline shortage, they may even welcome you home—permanently.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, I thought somebody ought to remind the gentleman that in the regular foreign aid bill—and may I say that I voted against it—there is $81 million for six Arab nations, so I just thought the House ought to know, in view of the gentleman's speech, that we are on both sides in this war, arming both sides so they can keep the thing going.

Mr. GROSS. It has become fashionable for this country to practice duplicity. That is why I said the precedent was already created. Why did we not sell Saudi Arabia Phantom jets while we were giving them to Israel?

Mr. HAYS. We gave assistance to Saudi Arabia.

Mr. GROSS. We would still have Arabian oil to operate on.

Mr. HAYS. We will sell them if they want them, not give them to them, but that is what we did in the regular bill.

Mr. GROSS. But in this case we are giving Israel $2,200,000,000, when they are already in hock to us. Israel is already in debt to the United States for a billion dollars.

Mr. WYLIE. Mr. Chairman, one of the most complex and vexing issues to confront the world today is the lingering dispute between the Arab nations and the State of Israel over which of these people shall claim the land of Palestine as their national home. It is a tragic dispute, for both the Palestinian Arabs and the Jews of Israel are able to support their claims to Palestine with historical, legal, moral, and religious precedents which they each believe to be right. It is tragic because they are both right, and they are both wrong, and they both have suffered the ultimate frustration of resorting to armed force to secure their concept of justice.

I have not risen to praise or denounce either the Arabs or the Israelis, nor to offer a brief in defense of past actions, nor to act as advocate as though this were a court of law. I have risen to offer what I earnestly believe to be a reasonable encouragement to Arab and Israeli alike to resolve their differences and find an accommodation under which they both may survive. My proposal, if it may be called that, is not a formula for peace nor a detailed plan to resolve all the problems. It is, instead, a gesture of encouragement which I hope would send the Israelis and the Arabs to the peace talks scheduled to be held shortly in Geneva with a concise understanding that the United States does not support the use of war to settle differences between nations.

My proposal requires that I oppose the current bill before the House, the bill which would provide $2.2 billion for the State of Israel. I am in opposition to providing military assistance, as my voting record will attest, because I do not believe the way to a peaceful resolution of conflict is through the continual rearming of nations at war. This was my purpose in supporting an amendment to the Export-Import Bank legislation during my first term which prohibited the making of a loan for the purchase of arms. This is why I have voted against the Foreign Military Assistance bills. It appears to me that the best hope for peace in the Middle East is the direct display of peaceful intentions, not the belligerent show of strength inherent in an arms race. For the United States to become directly involved in an arms race in the Middle East, and our providing more weapons to either or both sides at this time amounts to a direct involvement, is incongruous with the stated principles of this Nation that the world should live at peace.

I appreciate Israel's plight, surrounded as it is by hostile neighbors, and I appreciate the Israeli hunger for a future of peace and an end to war. I also appreciate the frustration and fears of the Arab peoples and their search for modernity and respectability among the family of nations. I also know that the sentiment in favor of this bill today in the House of Representatives probably mirrors the sentiment of my own constituents of the 15th District of Ohio. By opposing the bill, I do not denigrate that sentiment. but, I believe, support it.

The Israeli Minister of Defense, Mr. Moshe Dayan, was quoted as saying on December 9, 1973, that Israel has never been stronger than it is today. If that is true, and I have no reason to doubt the Minister of Defense of Israel, then why should the United States add to that feeling of strength by providing a gift of $2 billion worth of weapons? With each increase of Israeli might, there is a corresponding decrease in the chances for a peaceful settlement, because both the Arabs and the Israelis know that if their efforts at Geneva should founder or stall they can always return to the battlefield. More battles, more war in the Middle East, will cause more destruction, more interrupted lives, more maimed bodies, more deaths, more empty chairs in the family circle. Let the Israelis and the Arabs go to Geneva, to the peace conference arranged through the good offices of the United States, knowing that there will be no more weapons, no more arms races, to which they can turn when conflict clouds their deliberations. The United States should stop fueling the engines of war. The United States should continue what we have begun in Geneva, the peaceful settlement of conflict through discourse and compromise. Hope for peace is in Geneva, not along the cease-fire lines.

Israel has every right to exist, and I support that right. But I wonder how long Israel can exist if it is in a perpetual state of war. Can Israel afford endless war? Can it afford to send its young people and its treasure off to battle every 5 or 10 years? I would suggest that if the United States is the friend of Israel, then we should stop supplying the means for Israel's suicide. Knowing that they cannot rely upon the threat of an increasing military capacity, perhaps both the Arabs and the Israelis will talk more seriously and concentrate upon the search for peace in the Geneva negotiations. I simply cannot in good conscious vote to give any country $2.2 billion to buy arms.

Mr. RARICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to pose a question to my good friend, the distinguished chairman of the committee, Dr. Morgan.

I would ask the gentleman if he or any members of the committee have at any time considered the possibility that this legislation poses a constitutional question regarding a violation of the doctrine of separation of church and state as expressed in the first amendment of the U.S. Constitution.

Mr. MORGAN. No. I do not think the committee ought to consider that. There was never any discussion in that area, to my knowledge.

Mr. RARICK. Mr. Chairman, I will remind the gentleman that the first amendment reads:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

Mr. MORGAN. Mr. Chairman, we are not giving this assistance to a religion; we are giving it to a foreign, friendly state.

Mr. RARICK. This is the problem that I feel is posed.

The status of Israel is a matter of interpretation, of course.

Mr. MORGAN. We are in no way giving this money or granting these arms to a religion. Israel is a state; it is a nation; it is a member of the world community.

Mr. RARICK. Is the gentleman's interpretation that Israel is not a religious state?

Mr. MORGAN. Well, not any more than England or some other country is a religious state, no.

I would say again that Israel is a member of the world community. It is a state; it is a nation.

Mr. RARICK. Of course, the problem is that there have not yet been any lawsuits filed on this issue.

Coming to the interpretation of whether or not this is the establishment of a religion, I might remind the members of the committee that recently here in Washington, D.C., several Federal judges have ruled that taxpayers' funds could not be used to place a nativity scene on the ellipse in celebration of Christmas. Other judicial decisions concerning separation of church and state under the first amendment have forbidden prayer by children in public schools. Allowing this bill to pass without even considering the constitutional ramifications certainly creates a strange double standard as concerns the American people and relations between themselves as compared to their relations with foreigners concerning the establishment of religions.

Mr. Chairman, I thank the gentleman very much for his response.

Mr. RUNNELS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New Mexico (Mr. Runnels) for 10 minutes.

Mr. RUNNELS. Mr. Chairman, there are two things in this bill that flash lights and ring bells—blank checks and slush funds. I feel that a full discussion is absolutely necessary so the American taxpayers can read and judge for themselves the considerations and votes on this measure.

Part of what I have to say has been said thousands of times on this floor. This is one place where I believe conviction means something and I am impressed with the many Members who do not waiver on this score. My topics are loose funds in the Government bin, abdication of power, and manipulation of funds. Almost everyone has used or read these words in a speech at one time or another. There are many quotations I think are appropriate. I will not take the time to cite commentators of the press or quotable quotes from taxpayers' letters. The Congressional Record will do.

First, as I read the committee report, page 7, there is to be an estimated outlay of only $600 million in fiscal year 1974 which will come out of the $2.2 billion. The rest will come in succeeding years, it says. I ask, are we passing on something that will become a form of carryover of an unobligated balance from a prior year? If $600 million is all that is needed for expenditures in fiscal year 1974, then why are we talking about $2.2 billion? Why are we not talking about $600 million? Why do we not review the $1.6 left during next year's appropritions effort when the figures are current?

I hope the Members will remember all of the howling and screaming a couple of weeks ago about carryovers and unobligated funds. A favorite description was "slush funds." If you have forgotten here are a couple of quotes.

On page 38828 of the CONGRESSIONAL RECORD it says:

> We can never have true congressional control over military spending as long as we allow the Department of Defense to maintain such huge sums of money which they can spend pretty much as they please. The power of the purse is the only real power Congress can exercise to control the military and I believe it is high time to reduce these funds to more equitable amounts.

On that same day it was stated on page 38829 that "we have given them carte blanche, one might say" and although the billion talked about was a large amount, we were told it was a "slush fund" or a kitty just for the asking.

Another page, 38838, says—

> Will we next see more of the $10 billion of unobligated funds in the bill put to work for America's reinvolvement in Vietnam?

Well, if you are worried about a pipeline of money to Vietnam, you had better take a second look at this bill. Buried in the language is a potential $2.2 billion blank check to not only the President but to DOD for the reimbursement of appropriations, accounts, and funds for the value of articles and services sent to Israel. I ask who in Congress has absolute assurance that this reimbursed money will not end up, as one Member put it, in a fancy new F-5E with a hot Vietnamese pilot blowing 671 gallons of gas to bomb yet another village? I do not want to shiver in the dark this winter and I would suggest that if these Members want to stick to their convictions they will not vote for this slush fund either.

Next, I have trouble understanding who has got what and where is it going? Just for starters, the $600 million outlay seems like an awfully low amount and does not even sound reasonable. The testimony in the hearings expresses concern over the fact that Israel does not have the cash to cover an obligation to pay $1 billion in the February–March time frame. There is also a matter of $500 million worth covering cash sales prior to October 6, 1973. No one has said where the cash will come from other than from this bill. In fact it has been said that it will come from this bill. That totals $1.5 bililon which will be an outlay in fiscal year 1974 as I read it. And if I read the provisions of the bill correctly, the money will end up in DOD's pocket for the reimbursement of goods and services sold. Deputy Secretary of Defense Clements just as much as said so when he testified, and I will paraphrase, "If Israel defaults on the cash sales, the U.S. military departments may not be reimbursed." He is no doubt referring to the $1.5 billion of cash sales made around October 1973.

I think either we have not yet obtained all of the facts we need to make a sensible decision or we are being sweet talked, hoodwinked, and gobble-degooked right out of our purse strings under the cover of aid to Israel.

At first we were told that we must provide a billion for arms already sold and shipped and for which Israel cannot pay. Then the President says we need another billion besides—but as I see it, this extra billion amounts to a giant contingency fund not supported by actual facts and figures, but rather, hazy estimates. The Deputy Secretary of Defense said we may be confronted with another bill for $3 billion. The Deputy Secretary of State said that the Israelis have approached us and suggested they may need $500 million a year—year after year—and we are studying the matter. Not much is being said of the outstanding debt on credit sales before October 6 in the amount of $1.2 billion.

The $2.2 billion looks piddley compared to these amounts thrown around. Setting a precedent with this bill, with this magnitude of potential cost overrun is not what I call appropriate—particularly with regard to the lack of congressional oversight of billions flowing every which way.

Although I am one who supports the theory that we should provide assistance to Israel, I cannot agree with the methods contained in this bill. I am not even bothering to propose an amendment because under the circumstances there is nowhere to begin—and it does not look like the bill is needed in the first place.

Whether this bill passes or not, laws already on the books provide ample authorization to give needed assistance to Israel provided the appropriations are available.

We have the Jackson amendment to the Foreign Assistance Act of 1971 which authorizes unlimited assistance in this kind of situation. Under the amendment, which is in force till 1975, the assistance is authorized through credit sales and the President has the power to extend such credit in any shape, manner or form he chooses. Surely he can find a satisfactory credit arrangement that will ease Israel's acute economic burden. And I can see no objection to a simple conversion of the cash sales in question to a credit transaction.

There is one other matter I would like to take up. The committee has amended the bill directing the Secretary of Defense to study doctrine, tactics, assess arms effectiveness, compare U.S. arms with those of other major nations, consider program unit costs, and report to Congress.

I consider this amendment a direct affront to the committees and those Members in the House and the Senate concerned with the annual examination of the Defense Establishment. Nearly a month ago the Armed Services Committee started an examination of these very subjects. The committee did not ask the Secretary of Defense to do its work nor was there a law required to get the work started. Twenty-one Members have already been to the Mideast to get a first hand observation and discussion of these matters and the investigation is continuing. To do less would amount to a shirking of committee responsibilities to the Congress and the taxpayer. I feel that the amendment in this bill is redundant and it seems nothing more than window-dressing hastily tacked on at the last minute.

SEC. 2. In addition to such amounts as may be otherwise authorized to be appropriated to the President for security assistance for the fiscal year 1974, there are hereby authorized to be appropriated to the President not to exceed $2,220,000,000 for emergency military assistance or foreign military sales credits, or for both as the President may determine, for Israel, and not to exceed $200,000,000 for emergency military assistance for Cambodia.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

On page 2, beginning in line 1, strike out "and not to exceed $200,000,000 for emergency military assistance for Cambodia." and insert in lieu thereof the following: "of which sum amounts in excess of $1,500,000.000 may be used pursuant to this section or section 4 of this Act only if the President (1) determines it to be important to our national interest that Israel receive assistance hereunder exceeding $1,500,000,000, and (2) reports to Congress each such determination (if more than one) at least twenty days prior to date on which funds are obligated or expended under this Act in excess of such $1,500,000,000 limitation. The twenty-day requirement contained in the preceding sentence shall not apply if hostilities are renewed in the Middle East. The President shall include in his report the amount of funds to be used pursuant to the determination, the terms of the additional assistance under section 2 or section 4, and the justification for the determination. All information contained in the justification shall be public information except to the extent that the President concludes that publication would be incompatible with the security interests of the United States."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 3. Military assistance furnished out of funds appropriated under section 2 of this Act shall be furnished in accordance wtih all of the provisions applicable to military assistance under the Foreign Assistance Act of 1961 (75 Stat. 422; Public Law 87–195), as amended. Foreign military sales credits extended to Israel out of such funds shall be provided on such terms and conditions as the President may determine and without regard to the provisions of the Foreign Military Sales Act (82 Stat. 1320; Public Law 90–629), as amended.

Mr. MORGAN. Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the remainder of the bill as follows:

SEC. 4. At any time prior to June 30, 1974, the President is hereby authorized, within the limits of funds appropriated under section 2 of this Act for Israel, to release Israel from its contractual liability to pay for defense articles and defense services purchased or financed under the said Foreign Military Sale Act or under this Act during the period beginning October 6, 1973, and ending June 30, 1974, and such funds shall be used to reimburse current applicable appropriations, funds, and accounts of the Department of Defense for the value of such defense articles and defense services.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

On page 2, immediately after line 23, insert the follow:

"SEC. 5. The Secretary of Defense shall conduct a study of the 1973 Arab-Israeli conflict to ascertain the effectiveness of the foreign military assistance program as it relates to the Middle East conflict, including weapons that the United States is providing to Israel through foreign assistance programs, and to compare them to the effectiveness of the weapons which the Soviet Union is providing to the Arab states. In conducting such study and submitting such report, the Secretary shall take care not to disclose, directly or indirectly, intelligence sources or methods or confidential information received from any other nation. A report of the conclusions of such study shall be submitted to the Congress as soon as practical and in any case not later than December 31, 1974.

"SEC. 6. Of the funds appropriated pursuant to section 2, the President may use such sums as may be necessary from time to time for payment by the United States of its share of the expenses of the United Nations Emergency Force in the Middle East as apportioned by the United Nations in accordance with Article 17 of the United Nations Charter."

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GROSS: Page 4, after line 10, add the following:

"SEC. 7. Notwithstanding any other provision of this Act, none of the funds authorized to be appropriated under section 2 of this Act shall be available for use as provided in this Act until the President determines and certifies to the Congress, in writing, that current energy supplies available for use to meet current energy needs of the United States have been restored to the level of such supplies so available on October 5, 1973."

POINT OF ORDER

Mr. MORGAN. Mr. Chairman, I reserve a point of order against the amendment.

Mr. GROSS. Why does the gentleman not go ahead and make it? I do not want to waste any energy. If the gentleman is going to make a point of order, let him make it.

The CHAIRMAN. Does the gentleman from Pennsylvania insist on his point of order?

Mr. MORGAN. I do, Mr. Chairman. Mr. Chairman, I make a point of order against the amendment in that it deals with a subject that is not germane to the bill. As a matter of fact, it deals with an energy crisis in an emergency situation.

The CHAIRMAN. Does the gentleman from Iowa wish to be heard on the point of order?

Mr. GROSS. No, Mr. Chairman, I do not wish to be heard on the point of order. I do not accede to it.

The CHAIRMAN (Mr. MURPHY of New York). The Chair sustains the point of order because the amendment would make the authority contained in the bill dependent on an unrelated contingency.

AMENDMENT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FINDLEY: On page 4, after line 10, add a new Section 7 to read as follows:

"SEC. 7. In addition to the maintenance of the balance of military power in the Middle East, the military assistance authorized herein for Israel is intended to support the implementation of United Nations Security Council Resolution 242 (1967) and United Nations Security Council Resolution 338 (1973)."

Mr. FINDLEY. Mr. Chairman, this bill I feel deserves careful examination for a number of reasons, but the great fundamental flaw is the absence of even a single word which shows recognition on the part of the Congress that Arab States, as well as Israel, have legitimate interests at stake.

My proposal for correcting the defect is a modest one: Include language which refers favorably to United Nations Resolution 242 of 1967, and the supportive U.N. resolution 338 of this year is a balanced thoughtful resolution still strongly supported by the United States and all other major powers. It calls upon Israel as well as the Arab States to accept certain principles as the basis for a peaceful settlement.

The amendment—printed in the committee report on page 13—would not reduce by one penny the financial and military assistance for Israel authorized by this act. It would not extend financial or military assistance in any form to any Arab State. But it would do something vitally important: It would place the prestige of the House of Representatives behind fairness and evenhandedness as the basis for our Middle East policy.

True, the bill as reported says nothing about policy. It is nevertheless thunderous as a policy document. It supports explicitly and implicitly only the military interests of Israel. It contemplates only a military solution to the problem.

Israel of course has interests which the United States should support, and for that reason I voted to report this bill. But so do other parties to the recent military conflict; namely, Egypt and Jordan, with which we have diplomatic relations, and Syria, with which we do not.

Testimony before the committee disclosed that, except for a few minor commando actions, all the fighting in October occurred on Arab land occupied by Israel since 1967. The chairman of the U.S. Joint Chiefs of Staff, Adm. Thomas Moorer, testified that he had no reason to believe the Arab States had military objectives in October extending beyond the recovery of these occupied lands. American intelligence reported that the Egyptian battle plan called for stopping at the June 1967 borders and for not pressing the attack into Israel.

Two Presidents have recognized and supported the interests of Arab States, as well as Israel, by sponsoring and steadfastly supporting United Nations Security Council Resolution 242 in 1967 and Security Council Resolution 338 this year. Just 2 weeks ago Secretary of State Kissinger restated U.S. support for these two resolutions:

> The United States has committed itself, in Security Council Resolution 338, to support the implementation of Security Council Resolution 242 in all of its parts.

He went on to say:

> We hope that Israel, as well as the Arab countries, will recognize that one of the clear consequences of recent events is that a purely military solution to the problems of the Middle East is impossible . . .

This bill is silent on nonmilitary solutions and Arab interests. It is advanced as necessary to "maintain the balance of power" in the Middle East, but Arab States could understandably interpret it as a bill to help maintain only the occupation of Arab lands.

The House should amend the bill in order to avoid such a misinterpretation. It should explicitly endorse the wise initiative toward a peaceful settlement of the Middle East conflict which two Presidents have advanced. The amendment I offered in committee will provide badly needed balance to this bill.

My amendment, which I will offer in the House, states:

> In addition to the maintenance of the balance of military power in the Middle East, the Military Assistance authorized herein for Israel is intended to support the implementation of United Nations Security Council Resolution 242 (1967) and United Nations Security Council Resolution 338 (1973).

My amendment will provide needed balance. It will do no harm to the interests of Israel. Indeed, it should help the negotiating position of our diplomats and thus enhance the possibility that this massive provision of military assistance will actually become a powerful force for a just peace.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. The two United Nations Security Council resolutions which the gentleman mentions in his amendment have for years been the policy of the United States; is that not true?

Mr. FINDLEY. That is certainly true of the executive branch but unfortunately to this moment the Congress has never stated its own position in regard to U.N. Resolution 242.

Mr. ZABLOCKI. I join the gentleman from Illinois in his efforts to bring balance to the bill. It is my sincere hope the members of the committee will support the amendment.

Mr. FINDLEY. I thank the gentleman from Wisconsin very much.

LEY was allowed to proceed for 2 addi-

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. ICHORD, Mr. FIND-tional minutes.)

Mr. ICHORD. Mr. Chairman, I rise

to commend the gentleman from Illinois for offering this amendment. As the gentleman from Wisconsin has stated, it will bring balance to the bill.

The war between the Arabs and the Israelis is an enormously complex controversy. It is going to be extremely difficult to obtain a just and lasting peace. But it is to the interests of not only the United States, but the entire world, that peace be obtained in the Mideast, because the closing of the Suez Canal, for example, in my opinion stands as a monument to the stupidity of man; but if a peace is to be reached, it must be reached within the framework of resolution 242 of the United Nations.

I would hope that the chairman of the committee will accept the amendment of the gentleman from Illinois. I commend him for his offering it.

Mr. FINDLEY. I thank the gentleman very much.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in opposition to the amendment. A few minutes ago the gentleman from Illinois and I had a brief discussion regarding the language which in his mind would make this bill more balanced. The thing that disturbs me is the fact that the gentleman seems to be trying to write legislative history to indicate, without the language he is now proposing, that in some way we were intentionally trying to slap the Arabs. He says the Arabs might interpret U.S. assistance to Israel as being provided only on the basis of a continuing occupation by Israel of the Arab lands.

I can see no justification for such a contention or belief on the part of anyone, including the gentleman from Illinois. He says that the fundamental flaw in the language of the bill as written is its failure to recognize that the Arabs have legitimate interests. How could he possibly justify a contention that we Members of Congress do not recognize that the Arabs have legitimate interests in the area? I would think a child must know the Arabs have legitimate interests.

The fact that we are providing assistance to Israel should not by any stretch of the imagination be considered as an indication that we do not think the Arabs have any rights.

What the gentleman seems to be saying is that the language of Resolution 242 will give a pro-Arab flavor to what we are doing.

As the gentleman indicated earlier, I do not think this should be interpreted as an anti-Arab move in any sense. Necessity compels us to restore the military balance in the Middle East.

I, myself, think it is entirely unfounded to suggest that we are going around bankrolling wars as the gentleman from Iowa has just claimed.

I think it is even more untenable to charge, as the gentleman from Ohio (Mr. HAYS) just did, that we are arming both sides to keep this thing going.

I do not snicker at our administration officials who say that our objective is peace. Our objective is peace. Our objective in this bill, though obviously providing assistance to only one side, is not to encourage war, but to develop conditions that will produce peace.

The fact that there is no reference to Resolution 242 in the bill should not be considered, unless we make it so, a repudiation of the principles of Resolution 242.

As the gentleman from Illinois himself suggested, the fact that Israel supported the U.N. Resolution 242 indicates that it can be read almost any way anyone wants to read it.

What does this resolution say? It says that we are interested in the establishment of a just and lasting peace. Of course, we are. It says that we are interested in fair and recognized boundaries, free from threats or acts of force.

Of course we are. But to some extent the wording and the language of Resolution 242 is out of date. What we should be concerned with is the practical situation in which the countries of the Middle East find themselves.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. Mr. Chairman, I would like to finish, and I do have 5 minutes. If I have the time, I shall be glad to yield.

If, in the course of negotiations, all the participants recognize the continued validity of Resolution 242, more power to them. All I am saying is, this amendment provides no balance; it does not provide a pro-Arab bias regarding what we are doing nor will it prevent us from being considered anti-Arab, because we are aiding Israel.

The gentleman says it does not reduce the amount we are giving Israel. That is the point; it is already well known in the Arab world that the President would like to provide aid and the expectation is that Congress will provide it. So I would suggest that we are not doing any good by incorporating this language, and it could complicate the situation.

Mr. FINDLEY. Mr. Chairman, the gentleman very conveniently refrained from referring to a very important item in the United Nations Resolution 242 which states,

> Withdrawal of Israeli Armed Forces from territory occupied in recent conflicts.

Mr. FRELINGHUYSEN. Mr. Chairman, I did not very conveniently fail to recognize that language; it was the lack of time. In fact, I specifically recognized that language in my previous remarks. Of course, there is recognition on the part of this country and Israel that there be an adjustment of territory.

Mr. DENNIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the basic imbalance in this situation is a result of imbalance in the past. The gentleman from New Jersey is quite correct that the amendment offered by the gentleman from Illinois will not correct that imbalance. On the other hand, it is very difficult for me to see why anybody should object to this amendment.

It is very true that it does very little. As the gentleman from Illinois says, it does not hurt the Israelis or hurt anybody. Actually, all it is, is a sort of an expression of congressional intent.

But, I think in that fashion it is important because what it says, in effect, is that although we are trying to maintain that military balance in the Mid East, we are doing it as a step in maintaining peace and we are doing it in the recognition and with the intent that in the end we want a just and balanced peace, something beyond a mere maintaining of military balance.

If we vote against that amendment, it seems to me that in effect we are saying that all we are interested in is a military balance; that we are not concerned with going ahead and arriving at the type of peace which Resolution 242 envisages. I think that is what the gentleman from Illinois is trying to do, and I cannot see any possible harm in adopting the amendment, and much good may flow from it.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I thank the gentleman for his words and support. I would like to take this opportunity to respond to something the gentleman from New Jersey said. He indicated that my amendment was intended to give a pro-Arab flavor to the bill, or that the amendment has a pro-Arab flavor. Nothing could be further from the truth, and an examination of the amendment and United Nations Resolution 242 will show that.

Furthermore, the gentleman from New Jersey has stated his personal support for United Nations Resolution 242, so I am at a loss to understand why there should be any objection on his part or on the part of anyone else to including this very beneficial balanced language.

Mr. DENNIS. Mr. Chairman, neither the gentleman from Illinois nor the gentleman from Indiana wants to give a pro anybody flavor. We are interested in even handed justice.

Mr. PRICE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to discuss the amendment offered by the gentleman from Illinois (Mr. FINDLEY).

I had not planned to take part in the discussion on this bill. However, I think it is time that some of us stand up and let it be known to the Members of this body what we learned on the trip that the Committee on Armed Services took to Israel and Egypt recently.

We met in Israel with General Dayan and received a briefing from him about the war. We met with their economic advisers. We met with Mrs. Meir for an hour and a half, and the war and economic situation was discussed very thoroughly and frankly.

We saw firsthand the captured Russian materials that were in Israeli hands. We went to the front at the Suez Canal and viewed the territory that was held by the Israelis on the Egyptian side of the canal. And while in Egypt we traveled to and crossed the Suez Canal to the Egyptian front.

While in Israel we were told of the economic hardships that are now being brought upon the State of Israel and the losses that were sustained by their people in men and materials. We were told that approximately 60,000 immigrants are coming into that nation every year and is costing $40,000 per family to relocate.

Mr. Chairman, I do not know what part of our assistance goes for the settlement of people of the Jewish race in Israel, but I am wondering if it is the position of the citizens of our country that our taxpayers should be called upon to provide assistance for the relocation of a race of people in peripatetic.

I want it clearly understood that I have no animosity toward the Jewish people of this country or the Nation of Israel or toward the Arabic people of this country of Egypt.

To continue conveying my observations on our trip to the Mideast, we then proceeded to Egypt, and we met with President Sadat for 1½ hours, and the very question was asked that the gentleman from Illinois (Mr. FINDLEY) brought out in his amendment.

He said, "Why are you Americans furnishing weaponry and not only taxing your people to give them this weaponry but to sell them this weaponry to kill Egyptian people when we have been your friends for years?"

And they also asked us at the same time, "Why are you loaning and giving $2.2 billion to Israel, in order to kill Egyptian people?"

Honestly, it was difficult to reply to this question.

President Sadat said that the Sinai had belonged to the Egyptian people for 7,000 years, and they intended to take it back.

He said, "You are always worrying about the protection of the Israelis. What about the protection of the Egyptian people? We, too, would like to have some type of protection and guarantee."

Then the thought was brought out: Why not have a buffer zone as called for under U.N. section 242? However, the U.N. forces have not been able to enforce or guarantee any buffer zone for either side as long as the Russians continue their aggression in all parts of the world.

Mr. Chairman, in my opinion, the U.N., in the Middle East, with regard to this war, is a joke. We observed a U.N man standing there with a gun, and he could not have turned back anybody or enforced anything. It is a tribunal that sits there, and it is a farce, in my estimation. Both sides, Egyptians, Syrians, and Israelis, can push them aside immediately if they want to move tomorrow, and the U.N. would not make one iota of difference.

Why do we not try to settle the problem with all countries involved? Both countries say, "Yes, we want peace," and then they say, "We want peace, but we want arms to carry out this peace."

The CHAIRMAN. The time of the gentleman has expired.

(Mr. PRICE of Texas, by unanimous consent, was allowed to proceed for 2 additional minutes.)

Mr. PRICE of Texas. I yield to the gentleman from Pennsylvania for a question.

Mr. MORGAN. I wonder whether any member of the Armed Services Committee that was over there asked President Sadat where he got the SAM–2, SAM–3, SAM–6, and SAM–7 missiles, and SCUD missiles, and Frog missiles, and Sagger antitank missiles, and T–62 tanks, and Mig–21 jet fighter planes and a lot of other military equipment and under what terms?

Mr. PRICE of Texas. They bought them from Russia and said they would be glad to buy the F–4's from us if we would sell them to them.

Mr. MORGAN. Does the gentleman think they bought them?

Mr. PRICE of Texas. All I know is what the gentleman told us. I am not tied to any position. I was a young man in 1947 and I was not in the Government at that time. I am not arguing for or against either side but trying to discuss it so that hopefully we can make a decision on the matter on the merits.

Mr. MORGAN. I am sure that in the Armed Services Committee, the gentleman was told about the amount of tonnage of military equipment the Soviets sent into Syria and Egypt before the October hostilities, and again after the hostilities began, as compared to what we have furnished to Israel. It was a much greater tonnage of arms than what we sent to Israel as replacement for war losses. I am sure the gentleman realizes that Israel has an economy that is at least twice as developed as the economy of Egypt, so it is difficult to imagine how Egypt could possibly have paid for those arms.

Mr. PRICE of Texas. According to the figures presented to me, the Russians shipped 15,000 tons over a period of days and we shipped 14,800 tons over a period of time.

Mr. MORGAN. I am talking about the whole period since the start of the war.

Mr. PRICE of Texas. I agree with the gentleman. President Sadat said that the $2.2 billion of course, will be taken as an affront to the Egyptian people. Of course they are going to take it as an affront. I would do so and so would you. But I am saying that we are not going to help solve the Middle East problem if we keep pumping more money and pumping more equipment in there. We do realize that perhaps the overall problem is really between Russia and ourselves aside from the Israeli-Arabic war.

Mr. WOLFF. Will the gentleman yield?

Mr. PRICE of Texas. I yield to the gentleman.

Mr. WOLFF. Can the gentleman tell me on what side the Arab nations were in World War II and on what side they were in World War I?

The CHAIRMAN. The time of the gentleman has expired.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope to return this debate to the amendment before us. Basically I rise in opposition to the amendment. I think it is superfluous to the bill before us.

I have just discussed the matter with the gentleman from Illinois (Mr. FINDLEY) and I do not think this amendment does a disservice to the measure, but I do not believe it adds anything, either.

The important thing is that in the next week negotiations will take place in Geneva. The bill before us is a practical recognition of the fact that one of the ways in which we hope to keep the peace is to maintain a legitimate military balance there. That is the basic intention of this proposal before us.

Calling for compliance with Resolution 242 again, I say, does not perform a disservice, but there is hardly anyone in the United Nations who agrees on exactly what Resolution 242 means. I believe at this point, outside of being a momentous number in history—at least in the history of the United Nations—Resolution 242 will be rendered obsolete at the start of peace negotiations approximately a week from now in Geneva.

As I understand the issue before us, it is possible for the military balance to be maintained so that peace will be maintained during the course of what will be long, delicate, frustrating but eventually, we hope, successful peace negotiations.

I am not aware of anyone who wants a new outbreak of hostilities in the Middle East. I look upon this basic bill as an investment in peace in the Middle East. Since it does not add a needed feature, I would suggest we reject the amendment.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I realize that the gentleman from Illinois regards this as a very modest and ineffective amendment, but I want to point out that others do not so view it.

For example, former U.N. Ambassador Charles Yost read the language of the amendment, and he said, "I strongly support it." He said, "I think it ought to be written into the bill."

People from the Arab States not only in this country, but elsewhere, view resolution 242 as a significant statement of U.N. policy. It does have importance and value in their eyes. And if for no other reason, the Congress ought to seize this opportunity to support this.

Mr. DERWINSKI. I still do not believe that proves that this particular amendment deserves support at the present time. I do not see the point in further cluttering up the bill.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Florida.

Mr. FASCELL. Will the gentleman agree that the timing of this particular amendment is of great significance? Here is a U.N. resolution which has been on the statute books since the last war, renewed in October of 1973. This has been accepted as U.S. policy, enunciated by the President, and voted on by the United States in the U.N. Now the gentleman says let us have the Congress put its stamp of approval into the bill. I think that this is interjecting an entirely new element in this bill. We have come here to talk about authorizations for funds for helping Israel, and to inject a U.N. resolution dealing with a certain policy I think puts an entirely new light on the problem. Obviously it can only be interpreted to mean something in terms of pending negotiations and thus would be dangerous to adopt at this particular moment. The timing of the effort of the gentleman from Illinois is what gives this amendment on unfortunate interpretation. It can be read as a U.S. effort to pressure the pending negotiations differently from that already established. And the meaning of the U.N. resolutions can only be determined by the negotiations.

Does not the gentleman agree that putting this amendment in this bill at this time could give it an erroneous interpretation even though unintended?

Mr. DERWINSKI. I agree with the gentleman from Florida, and may I say frankly that humility requires me to admit that the gentleman from Florida has made the argument much better than I did myself.

I again suggest that we defeat this amendment.

Mr. SMITH of New York. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the amendment.

Mr. Chairman, the gentleman from Illinois in his supplemental views says that this would do something vitally important, and I agree with the gentleman. It would place the prestige of the House of Representatives behind fairness and evenhandedness as the basis for our Middle East policy.

Mr. Chairman, I would like to ask the gentleman from Illinois (Mr. FINDLEY) a question, and that is has the committee talked to Secretary of State Dr. Kissinger in regard to similar language?

Mr. FINDLEY. Mr. Chairman, if the gentleman will yield, shortly after this bill was introduced by the gentleman from Pennsylvania (Mr. MORGAN) Henry Kissinger appeared before our Committee on Foreign Affairs here in the Capitol Office, and in response to a question I raised he said:

> I have no objection to this bill being amended by including language which would state the support of the Congress for U.N. Resolution 242.

POINT OF ORDER

Mr. MORGAN. Mr. Chairman, a point of order. I believe the gentleman from Illinois is quoting a remark which may have been made, or may not have been made, in executive session.

Mr. FINDLEY. Mr. Chairman, if I have violated a rule of the House I certainly apologize. I will say that he certainly did not qualify by any secrecy known to me his views on this.

I was asking him for his position on an amendment to a bill which is very public in its character. I will add further that shortly before this I had one of these rare opportunities to be in the Oval Room, and the President told me of his own personal support for the terms of U.N. Resolution 242. So support of U.N. Resolution 242 is obviously something that the administration is not at least ashamed of, and I hope the gentleman will not press his point of order.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

I should like to take the time to ask the gentleman, was not this amendment brought up in committee, and was it not defeated in committee?

Mr. FINDLEY. Yes, to my sorrow it was turned down by a very substantial vote. I regret that my lack of ability to argue its merits caused it to fail upon that occasion, but I have high hopes for today.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the chairman, the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Chairman, I made my point. I withdraw my point of order.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. I thank the gentleman for yielding.

The gentleman has suggested that in some way this language would show that Congress is interested in fairness and evenhandedness. Is there anything in the language of this bill that makes the gentleman think that we would not be interested in fairness and evenhandedness if this amendment were not included?

Mr. SMITH of New York. If I were a member of an Arab nation of the Middle East and read the bill, I would not think this body was too fair and evenhanded.

I would urge this committee to adopt the amendment.

Mr. Chairman, I yield back the remainder of my time.

Mr. ICHORD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in behalf of the amendment of the gentleman from Illinois. Let me say that I cannot understand how the committee can possibly oppose this amendment. Let me read what the amendment says:

> SEC. 6. In addition to the maintenance of the balance of military power in the Middle East, the Military Assistance authorized herein for Israel is intended to support the implementation of United Nations Security Council Resolution 242 (1967) and United Nations Security Council Resolution 338 (1973).

It is true, as the gentleman from New Jersey states, there are different interpretations of United Nations Resolution 242, but both the Israelis and the Arabs have stated that they agree with the United Nations Resolution 242.

Let me state to the members of the Committee that I have the greatest respect and admiration for the Israel nation and for the courage of her soldiers. There is no doubt, as stated by the gentleman from Texas (Mr. PRICE) the war between the Arabs and the Israelis is one of quality against quantity—quality supplied in weapons by the United States of America, and quantity supplied to the Arab nations by the nation of Russia. The Israelis are using our weapons, I would state, even better, in my opinion, than we can use the weapons ourselves. The military strategy carried out by the Israelis in the recent war was daring, brave, and nothing short of brilliant.

I have the greatest respect and admiration for Israel and her soldiers and we do have a vital interest in the continuance of Israel as a nation. But, Mr. Chairman, the Israelis by the occupation of Sinai have done something for the Egyptians that no Egyptian leader has been able to do for 5,000 years: it has united the Egyptians. The Egyptians are united and they are ready and willing to die, if necessary, to regain the Sinai.

I ask the gentleman from New Jersey to answer this question. As the gentleman from Texas stated, we were repeatedly asked by President Sadat and other Egyptian leaders this question: What have we done as a nation to cause you to supply the Israelis guns and ammunitions to kill our innocent women and children and to occupy our land? They pointed out that they were not Communists by any stretch of the imagination; that their Moslem religion precluded their ever going communistic; that many of their leaders were educated in the United States; that they had the utmost respect for our Nation and all for which it stands. This was not the easiest question for us to answer. Oh, yes, we could answer the question obliquely by saying that we were not supplying the weapons to kill Egyptians; that we were supplying the weapons to maintain a balance of power and we could also state that the Israelis could say the same thing about Russian arms. To say the least, this is a difficult question to answer to their satisfaction. What have they done to us? As the gentleman from Illinois has stated, we should have balance in the bill. We should recognize that Egypt and other Arab nations who want to be our friends do have legitimate interests.

I state to the gentleman from New Jersey that, if we are going to obtain a peace in the Middle East, it will have to be within the framework of the United Nations Resolution 242.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from New Jersey.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(On request of Mr. FRELINGHUYSEN, and by unanimous consent, Mr. ICHORD was allowed to proceed for 2 additional minutes.)

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. Chairman, I thought the gentleman was asking me a question. All the gentleman has made me think is that perhaps some members of the Foreign Affairs Committee should have accompanied the members of the Armed Services Committee if they were not able to answer that question that the Egyptians posed.

We are not anxious to give anybody arms, and Lord knows we are not anxious to pour a substantial amount of arms into the Middle East. We are doing it because the Soviet Union and others have been pouring arms into Egypt and Syria.

Of course, there must be something other than a military effort to resolve the difficulty. Of course, there must be a recognition of concessions on the part of both sides along the lines of Resolution 242.

Mr. ICHORD. Mr. Chairman, I decline to yield further. We are not making any interpretations of the United Nations Resolution 242. Why is the gentleman objecting to the amendment? The Israelis have said they agree with 242 and the Arabs have said they agree with 242. Why should not the Congress of the United States agree with Resolution 242?

Mr. FRELINGHUYSEN. If the gentleman is asking me a question, I am not suggesting we should not. I am suggesting the gentleman from Illinois (Mr. FINDLEY) and the gentleman and others are making a mountain out of a molehill. Nobody is suggesting because we do not have language with respect to Resolution 242 in this bill that we are somehow repudiating it. I am saying, if we want to state the U.S. position, we can do it in some way other than by adopting the weasel wording of Resolution 242—and I mean no disrespect to the U.N. by this description—but it was passed in 1967. I do not think it adds much to the prestige of the House of Representatives one way or another to support this U.N. resolution. I would suggest we vote against the amendment.

Mr. ICHORD. I would put it the other way around. I would say, if the amendment does not amount to anything, why is the committee making a mountain out of a molehill?

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Findley amendment. In doing so let me also observe that of course on the Armed Services trip to the Middle East we had a lot of democracy, since obviously not all the members of that subcommittee see eye to eye on this legislation. But as long as there has been some reference to the President of Egypt (and I have some qualms as to exactly how much of that conversation we ought to discuss here) I think it should be made clear, and I speak now as just one of the members of that delegation and not in an official capacity as its chairman, that it was perfectly obvious to all of us that President Sadat's primary concern is to get back to Arab territories.

He made it clear to all of us in the discussion that that was his objective, and if that objective is achieved and peace is obtained in the Middle East, then he is not worried whether Israel gets $2.2 billion or $3.2 billion. His concern is to achieve peace; and although some members of our subcommittee have spoken on one side of this amendment this afternoon and other members have spoken on the other side, I feel strongly that both sides in the Middle East sincerely want peace and that there is a real opportunity to achieve peace. In my judgment this particular bill goes to the heart of achieving that peace because it will help to achieve the military balance on which any kind of effective peace must be founded.

Now with specific regard to the amendment offered by the gentleman from Illinois dealing with U.N. Resolution 242, the fact of the matter is, that this resolution, which of course we all support, actually says a great many things, as former Supreme Court Justice Arthur Goldberg said and in an article in the Washington Post on Sunday. The fact is that Resolution 242, like most good political documents, including the cease-fire agreement in the Middle East negotiated by Mr. Kissinger, contained a substantial number of ambiguities. And so the fact of the matter is that putting a reference to it in this legislation does not commit us on either side.

Actually the achievement of peace in the Middle East will depend on what the Peace Conference which convenes on the 18th of December in Geneva decides what Resolution 242 means.

I believe we would be making a very serious mistake here on this floor, when we are being presented with a simple measure directed toward one single aspect of this overall problem, the military aspect, that we should try to get into the specific details of those peace negotiations, which we simply cannot do here on the floor of this House.

The place to determine what Resolution 242 really means is in the Peace Conference. We ought to leave that business up to the participants in the Peace Conference and not try to include it in this legislation.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

I can assure the Members of this House that there is nothing in this bill that we are considering here today that is in any way anti-Arab. There is nothing here that is anti-Arab at all.

This is not a policy bill, as many speakers have pointed out, but a bill which involves existing U.S. policy.

I hope we do not get into the writing of policies here, as the gentleman from New York said. Negotiations are going to start on the 18th of this month and here we are being confronted with a policy matter, which could certainly harm those negotiations.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from California.

Mr. KETCHUM. Did we not just exact such a policy in the trade bill a few minutes ago?

Mr. MORGAN. The gentleman did not vote for the trade bill. I am not defending what happened then. I am defending this bill.

The amendment of the gentleman from Illinois in my opinion will add more controversy to the negotiations that are going to start on the 18th.

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from California.

Mr. MAILLIARD. I do not think there is any harm in the substance of the amendment; but to try to go back to a policy established by the United Nations 6 years ago when we are in a whole new ball game is just unwise.

Mr. MORGAN. Mr. Chairman, I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. FINDLEY).

The question was taken and the Chair announced that the noes appeared to have it.

RECORDED VOTE

Mr. FINDLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 82, noes 334, not voting 16, as follows:

[Roll No. 646]

AYES—82

Baker
Bauman
Bennett
Bowen
Burleson, Tex.
Burlison, Mo.
Butler
Chisholm
Cochran
Collier
Cronin
Daniel, Robert W., Jr.
Davis, Wis.
de la Garza
Dellenback
Dennis
du Pont
Edwards, Ala.
Evins, Tenn.
Findley
Flynt
Ford, William D.
Gibbons
Ginn
Gross
Hammerschmidt
Hanna
Hansen, Wash.
Hastings
Heinz
Hicks
Holt
Hosmer
Hutchinson
Ichord
Jarman
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Ketchum
Landrum
Lott
McClory
McCloskey
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mayne
Mazzoli
Miller
Mink
Montgomery
Mosher
Nedzi
Parris
Poage
Powell, Ohio
Price, Tex.
Pritchard
Rarick
Roberts
Roncalio, Wyo.
Runnels
Schroeder
Sebelius
Shuster
Skubitz
Smith, N.Y.
Stanton, J. William
Steiger, Ariz.
Symms
Thomson, Wis.
Treen
Vander Jagt
Waggonner
Whitten
Wilson, Charles H., Calif.
Zablocki
Zwach

NOES—334

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Barrett
Beard
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burton
Byron
Camp
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Culver
Daniel, Dan
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Delaney
Dellums
Denholm
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
Eckhardt
Edwards, Calif.
Eilberg
Esch
Eshleman
Evans, Colo.
Fascell
Fish
Flood
Flowers
Foley
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gilman
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hanley
Hanrahan
Hansen, Idaho
Harrington
Harsha
Harvey
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hillis
Hinshaw

Hogan
Holifield
Holtzman
Horton
Howard
Huber
Hudnut
Hungate
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jordan
Karth
Keating
Kemp
King
Kluczynski
Koch
Kuykendall
Kyros
Landgrebe
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lujan
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mathias, Calif.
Mathis, Ga.
Matsunaga
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Minish
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reid
Reuss
Rhodes
Riegle
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Seiberling
Shipley
Shriver
Sikes
Sisk
Slack
Smith, Iowa
Snyder
Spence
Staggers
Stanton, James V.
Stark
Steele
Steelman
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Wampler
Ware
Whalen
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zion

NOT VOTING—16

Abdnor
Burke, Calif.
Erlenborn
Fisher
Hébert
Hunt
Mills, Ark.
Mitchell, Md.
Rooney, N.Y.
Shoup
Steed
Stokes
Sullivan
Veysey
Walsh
Wyatt

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SIKES

Mr. SIKES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SIKES: On page 4, after line 10, add a new Section 7:

"It is the sense of Congress that every reasonable effort be made by the President to bring about meaningful negotiations between Israel and the Arab states directly concerned leading to a treaty of peace in the Middle East and to a resumption of diplomatic and trade relations between the United States and the Arab countries, and between Israel and the Arab countries."

Mr. GROSS. Mr. Chairman, I reserve a point of order on the amendment.

Mr. SIKES. Mr. Chairman, I ask unanimous consent that I may be permitted to speak for an additional 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from Florida is recognized for 7 minutes.

Mr. SIKES. Mr. Chairman, I believe this amendment is very clear. I question that it requires detailed discussion. I am hopeful that the Committee will accept the amendment.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Chairman, I have had some consultation with the gentleman from Florida, and if the point of order which has been reserved by the gentleman from Iowa (Mr. GROSS) to the amendment offered by the gentleman from Florida (Mr. SIKES) is overruled by the Chair, then I, as the chairman of the Committee on Foreign Affairs, would accept the amendment. I think it is a good amendment.

One of the principal objectives of the bill before us is to promote lasting peace in the Middle East—peace which can only come through negotiations between Israel and the Arab countries, and which will benefit all concerned.

The amendment of the gentleman from Florida (Mr. SIKES) seeks that same objective and for that reason I would support it.

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from California (Mr. MAILLIARD), the ranking minority member on the committee.

Mr. MAILLIARD. Mr. Chairman, while I have not had opportunity for consultation with all of the minority committee members, as far as I am personally concerned I am agreeable to accepting the amendment.

Mr. SIKES. Mr. Chairman, I had been disposed to try to save this time, but now that a point of order has been reserved I feel constrained to discuss the amendment, even though it has been accepted by the committee on both sides of the aisle.

Mr. Chairman, the language of the amendment is carried in the report on the appropriations bill which will follow this bill. It was overwhelmingly adopted by the Appropriations Committee.

Let me make it clear that I support the legislation now before the House. I realize that without positive help for Israel from the United States that nation would in a few years cease to exist. Arab power is growing, and other nations are backing away from Israel because of concern for Arab purchasing power, and the need for Arab oil.

Our Nation has strong ties with Israel which have caused us to look beyond the considerations that are influencing other nations. But we also have an additional reason for apprehension. We know how Russian influence has grown in the Middle East. We know that Russian naval ships are based in Yemen, Iraq, Egypt, and Somalia, and that Russian ships, in large numbers, are regularly visiting most ports of the area. We know that Russia is supplying advanced weapons to virtually every country that is anti-Israel. If Israel should cease to exist as a nation, it will be Russia that dominates the Middle East, and which exercises new and fearsome control over Europe and much of the free world elsewhere.

The reasons for my amendment should be very clear. It not only is important, it is essential that peace be restored to the area as quickly as possible—not an armed truce of the kind which has existed for a quarter of a century with constantly recurring wars—a lasting peace which is acceptable to both Israel and to the Arab States. I think it is a mistake to pass this bill without a hope for peace and an expressed desire that the President make every reasonable effort to obtain a lasting peace. Otherwise, this bill speaks only for the U.S. concern for arms for Israel.

Having achieved peace, it is equally important that the Congress show an interest in the resumption of normal diplomatic and trade relations with the Arab countries. Nearly all of those countries want our friendship. They do not want the doors closed to normal relations with the United States. How much better it would be if we show that beyond the immediate necessity of keeping Israel alive, we want both peace and normal relations with the Arab countries and, indeed, with and between all of the countries of the world, including peace and normal relations between Israel and the Arab States.

There are those who say that we cannot deal with some Arab nations. They use Libya as an example. Who can say that the present policies of Libya will continue or that another government in Libya will not in time be friendly to America?

Let us leave the door open. This amendment can help to show both sides that we want peace, that we want meaningful negotiations, that we want to live in harmony with all nations. It takes nothing away from the Israelis. It gives nothing to the Arabs. But it shows that we are not blind to the future.

Indeed, how important it would be if peace were to come quickly and Arab oil would flow again to the United States. This could prevent cold homes and stalled transportation and increasing unemployment before the end of winter.

The Arabs have said that oil will be available if peace returns.

The rank and file of the American people want peace in the Middle East and trade with the Arab nations. This amendment endorses that hope. I trust that it will be accepted, and I sincerely hope that the distinguished gentleman from Iowa will not insist on his point of order.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Alabama.

Mr. BUCHANAN. I thank the gentleman for yielding.

I should like to commend the distinguished gentleman on his amendment, and I wish to associate myself with his remarks.

The CHAIRMAN. Does the gentleman from Iowa insist on his point of order?

Mr. GROSS. I do, Mr. Chairman. This

amendment is window dressing. It calls upon the President to resume diplomatic and trade relations between certain nations and clearly goes beyond the scope of this bill.

Mr. SIKES. Mr. Chairman, this amendment expresses the hope and asks the President to move to bring to the Middle East. It expresses the hope that we will be able to resume normal trade relations with all nations, and that other nations, the Arabs and the Israelis, will be able to resume diplomatic and normal trade relations. I feel that it does not impose additional requirements. I feel that it adds to and supplements the language of the bill, and that the point of order should not be sustained.

The CHAIRMAN (Mr. MURPHY of New York). The Chair has studied the amendment and will state that the amendment goes to the question of negotiations involving Arab and United States trade and diplomatic relations and is not within the purview of this legislation. The Chair sustains the point of order of the gentleman from Iowa. Are there further amendments? If not, under the rule, Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. MURPHY of New York, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11088) to provide emergency security assistance authorizations for Israel and Cambodia, pursuant to House Resolution 742, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

RECORDED VOTE

Mr. MORGAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 364, noes 52, not voting 16, as follows:

[Roll No. 647]

AYES—364

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Bray
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burton
Butler
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Denholm
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harvey
Hastings
Hawkins
Hays
Heckler, Mass.
Heinz
Helstoski
Henderson
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hutchinson
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Keating
Kemp
King
Kluczynski
Koch
Kuykendall
Kyros
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Meeds
Metcalfe
Mezvinsky
Michel
Milford
Minish
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reid
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Sebelius
Seiberling
Shriver
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Symington
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wydler
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion

NOES—52

Baker
Bowen
Breaux
Burleson, Tex.
Burlison, Mo.
Byron
Camp
Cochran
Collier
Conyers
Dellenback
Dellums
Dennis
Flynt
Goodling
Gross
Hammerschmidt
Harsha
Hechler, W. Va.
Hicks
Hungate
Ichord
Johnson, Colo.
Kastenmeier
Kazen
Ketchum
Landgrebe
Landrum
Latta
Martin, Nebr.
Mazzoli
Melcher
Miller
Mink
Mitchell, Md.
Montgomery
Moorhead, Calif.
Powell, Ohio
Randall
Rarick
Rousselot
Runnels
Scherle
Shipley
Shuster
Snyder
Symms
Taylor, Mo.
Vander Jagt
Wampler
Wylie
Zwach

NOT VOTING—16

Abdnor
Burke, Calif.
Erlenborn
Fisher
Hébert
Hunt
Lott
Mills, Ark.
Rooney, N.Y.
Shoup
Skubitz
Stokes
Sullivan
Veysey
Walsh
Wyatt

So the bill was passed.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mrs. Burke of California.

Mr. Hébert with Mr. Fisher.

Mr. Mills of Arkansas with Mr. Stokes.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MORGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO FILE CONFERENCE REPORT ON H.R. 3180, FRANKING PRIVILEGES

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill, H.R. 3180.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT (H. REPT. NO. 93-712)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3180) to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 4, 5, 6, 7, 15, 17, 18, 26, and 27.

That the House recede from its disagreement to the amendments of the Senate numbered 8, 10, 13, 14, 16, 19, 20, 22, 23, 24, 25, 30, 32, 33, 34, 35, 36, 38, 39, 40, 41, and 42, and agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3 and agree to the same with an amendment as follows: Strike out the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 3 and, on page 2, line 15, of the House engrossed bill, strike out "by a Members of Congress".

And the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9 and agree to the same with an amendment as follows:

In the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 9 strike out the word "a" and insert in lieu thereof the following: "such".

And the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 11 insert the following subparagraph:

"(D) any mass mailing when the same is mailed at or delivered to any postal facility less than 28 days immediately before the date of any primary or general election (whether regular, special, or runoff) in which such Member or Member-elect is a candidate for public office. For the purpose of this clause (D), the term 'mass mailing' shall mean newsletters and similar mailings of more than 500 pieces in which the content of the matter mailed is substantially identical but shall not apply to mailings—

"(i) which are in direct response to inquiries or requests from the persons to whom the matter is mailed;

"(ii) to colleagues in Congress or to government officials (whether Federal, State, or local); or

"(iii) of news releases to the communications media.

The House Commission on Congressional Mailing Standards and the Select Committee on Standards and Conduct of the Senate shall prescribe for their respective Houses such rules and regulations and shall take such other action, as the Commission or Committee considers necessary and proper for the Members and Members-elect to conform to the provisions of this clause and applicable rules and regulations. Such rules and regulations shall include, but not be limited to, provisions prescribing the time within which such mailings shall be mailed at or delivered to any postal facility to attain compliance with this clause and the time when such mailings shall be deemed to have been so mailed or delivered and such compliance attained.

And the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12 and agree to the same with an amendment as follows: In the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 12, strike out "February" and insert in lieu thereof the following: *April*

And the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12 and agree to the same with an amendment as follows: In the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 12, strike out "February" and insert in lieu thereof the following: "April".

And the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21 and agree to the same with an amendment as follows:

In the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 21 strike out the word "February" and insert in lieu thereof the following: "April".

And the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28 and agree to the same with an amendment as follows:

Eliminate the matter proposed to be inserted by Senate amendment numbered 28 in the House engrossed bill, restore to its former place in the House engrossed bill the matter proposed to be eliminated from the House engrossed bill by Senate amendment numbered 28, and, immediately after the word "privilege" in such matter so restored, insert the following: "by any person listed under subsection (d) of this section as entitled to send mail as franked mail".

And the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29 and agree to the same with an amendment as follows:

On page 7, line 3, of the Senate engrossed amendments, insert immediately after "privilege", the following: "by any person listed under subsection (a) of this section as entitled to send mail as franked mail,".

And the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31 and agree to the same with an amendment as follows:

In lieu of the provisions of Senate amendment numbered 31, on page 15 of the House engrossed bill, strike out line 6 and all that follows down through the period in line 10 on page 16, and insert in lieu thereof the following:

"(a) The equivalent of—

"(1) postage on, and fees and charges in connection with, mail matter sent through the mails—

"(A) under the franking privilege (other than under section 3219 of this title), by the Vice President, Members of and Members-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), and the Legislative Counsels of the House of Representatives and the Senate; and

"(B) by the surviving spouse of a Member of Congress under section 3218 of this title; and

"(2) those portions of fees and charges to be paid for handling and delivery by the Postal Service of Mailgrams considered as franked mail under section 3219 of this title; shall be paid by a lump-sum appropriation to the legislative branch for that purpose and then paid to the Postal Service as postal revenue. Except as to Mailgrams and except as provided by sections 733 and 907 of title 44, envelopes, wrappers, cards, or labels used to transmit franked mail shall bear, in the upper right-hand corner, the sender's signature, or a facsimile thereof, and the printed words 'Postage paid by Congress'.

"(b) Postage on, and fees and charges in connection with, mail matter sent through the mails under section 3214 of this title shall be paid each fiscal year, out of any appropriation made for that purpose, to the Postal Service as postal revenue in an amount equivalent to the postage, fees, and charges which would otherwise be payable on, or in connection with, such mail matter.

"(c) Payment under subsection (a) or (b) of this section shall be deemed payment for all matter mailed under the frank and for all fees and charges due the Postal Service in connection therewith.

And the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted in the House engrossed bill by Senate amendment numbered 37, insert the following:

SEC. 12. (a) Chapter 32 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3219. Mailgrams

"Any Mailgram sent by the Vice President, a Member of or Member-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, an elected officer of the House of Representatives (other than a Member of the House), or the Legislative Counsel of the House of Representatives or the Senate, and then delivered by the Postal Service, shall be considered as franked mail, subject to section 3216(a)(2) of this title, if such Mailgram contains matter of the kind authorized to be sent by that official as franked mail under section 3210 of this title.".

(b) The table of sections of such chapter 32 is amended by adding at the end thereof the following:

"3219. Mailgrams.".

And the Senate agree to the same.

T. J. Dulski,
David N. Henderson,
Morris Udall,
Charles H. Wilson,
Edward J. Derwinski,
Albert Johnson,
Managers on the Part of the House.

Gale W. McGee,
Jennings Randolph,
H. L. Fong,
Ted Stevens,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3180) to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TECHNICAL AMENDMENTS RELATING TO SENATE AMENDMENT NUMBERED 3

Amendments Numbered 1, 2, 4, 5, 6, 7, 15, and 17: These technical amendments, which make certain purely minor and technical changes in language, punctuation, and paragraph and subsection and subparagraph designations, are eliminated as inappropriate because of the action taken by the conference committee on Senate amendment numbered 3. The Senate recedes.

MAIL MATTER FRANKABLE BY MEMBERS AND MEMBERS-ELECT OF CONGRESS

Amendment numbered 3:

House Bill

Section 3210(a)(3) of title 39, United States Code, as set forth in subsection (a) of the first section of the House bill listed specific categories of mail matter, included in all of those categories of mail matter, mailable by a Member of Congress or a Member-elect to Congress under the franking privilege.

Senate Amendment

Senate amendment numbered 3 inserted on page 4, after line 2, of the House engrossed bill, language in a new paragraph (4) intended to emphasize that certain categories of mail matter frankable by a Member of Congress are also frankable by a Member-elect.

Conference Agreement

The conference agreement reflects the effect and intent of both Senate amendment numbered 3 and the applicable provisions of the House engrossed bill with an amendment which clarifies the application of the sending of mail matter by Member of, and Members-elect to, Congress under the franking privilege.

HOLIDAY GREETINGS

Amendments numbered 8 and 9:

House Bill

The House bill, in the form in which it passed the House, contained no specific provisions prohibiting a Member of or Member-elect to the Congress from sending a card expressing holiday greetings. However, the provisions of section 3210(a)(4) of the House passed bill contained a general prohibition against any public official using the frank for mail which, in its nature, is purely personal to the sender and is unrelated to the official business, activities, or duties of the official.

Senate Amendments

Senate amendment numbered 9 amended the provisions of the House bill to provide a specific prohibition against a Member of or Member-elect to the Congress using the frank to mail a card expressing holiday greetings.

Senate amendment numbered 8 is a technical amendment to conform the provisions of the House bill to the changes made by Senate amendment numbered 9.

Conference Agreement

The House recedes from its disagreement to the technical amendment made by Senate amendment numbered 8 and recedes from its disagreement to Senate amendment numbered 9 and agrees with a further amendment which is purely technical to include the clarifying word "such" before the words "Member or Member-elect".

MASS MAILINGS

Amendments numbered 10, 11, and 35.

House Bill

The House bill did not restrict mass mailings. It did, however, direct the House Commission on Congressional Mailing Standards to study and evaluate problems relating to mass mailings and postal patron mailings. The House bill also directed the Commission not to recommend that mailings, whether mass or individual mailings, be prohibited more than 30 days before an election.

Senate Amendment

Senate amendments numbered 10 and 11 added a new clause (D) to section 3210(a)(5) to prohibit mass mailings mailed less than 31 days before a primary or general election (whether regular, special, or runoff) when the Member or Member-elect is a candidate for public office. "Mass mailing" includes newsletters and similar mailings of more than 500 pieces when the content is identical but exempting mailings in direct response to direct inquiries or requests. Senate amendment numbered 35 repealed the provisions of the House bill on studying and evaluating mass mailings and postal patron mailings as no longer necessary because of the specific prohibition against mass mailings before elections and the prohibition in Senate amendment 18 against postal patron mailings.

Conference Agreement

The conference agreement provides that mass mailings shall not be delivered to the postal facility less than 28 days before a primary or general election in which the Member of Congress is a candidate for public office. The term "mass mailing" is defined to include newsletters and other similar mailings of more than 500 pieces when the content is substantially the same, except for mailings—

(1) in direct response to inquiries or requests;

(2) to colleagues in Congress or to Federal, State, or local officials; and

(3) of news releases to the communications media.

The House Commission on Congressional Mailing Standards and the Senate Select Committee on Standards and Conduct are to promulgate rules and regulations necessary to carry out clause (D), including rules and regulations to determine when mailings are considered to be mailed at or delivered to a postal facility.

EXPIRATION OF FRANKING PRIVILEGE

Amendments numbered 12, 21, 22, 23, 24, 30, 32, 33, 34, 39, 40, 41, and 42:

House Bill

Section 3210(b) of title 39 in the House bill authorized the use of the frank by the various officials until the 30th day of June following the expiration of their respective terms of office.

Senate Amendments

Senate amendment numbered 12 limits the authority for such officials to use the frank until the first day of February.

Senate amendment numbered 21 adds a new section 2 to the bill amending section 3211 of title 39, United States Code, relating to the sending of public documents under the frank and makes two changes. First, the amendment deletes from the provisions of existing law reference to the Clerk of the House of Representatives and the Sergeant at Arms of the House of Representatives and inserts in lieu thereof "each of the elected officials of the House of Representatives (other than a Member of the House)". Secondly, the amendment changes the provisions of existing law which permits the use of the frank for sending public documents until the 30th day of June following the expiration of their respective terms of office to the first day of February.

All of the other Senate amendments referred to above are technical amendments to conform the provisions of the bill to the changes made by Senate amendments numbered 12 and 21.

Conference Agreement

The conference agreement provides for the use of the frank until the first day of April following the expiration of the terms of offices of such officials. The conference agreement also adopts the changes contained in the Senate amendment numbered 21 relating to the mailing of public documents.

The House recedes from its disagreement to all of the technical conforming amendments.

LEGISLATIVE COUNSEL OF THE SENATE

Amendments numbered 13, 14, 16, and 38:

House Bill

Section 3210(b) of title 39 in the House bill, relating to the basic authority for the use of the frank, did not extend the privilege to the Legislative Counsel of the Senate. The last sentence of section 1303(d) of the Revenue Act of 1918 (2 U.S.C. 277) authorizes the Legislative Counsel of the Senate to use penalty mail.

Senate Amendments

The Senate amendments numbered 13, 14, and 16 made the necessary amendments under section 3210(b) to extend the privilege of the frank to the Legislative Counsel of the Senate. Senate amendment numbered 38 repealed the last sentence of such section 1303(d).

Conference Agreement

The conference substitute adopts the language of the Senate amendments on this subject.

POSTAL PATRON MAIL

Senate amendment numbered 18:

House Bill

Section 3210(d) of title 39 in the House bill authorized Members of the House to send mail with a simplified form of address for delivery within the area constituting the congressional district from which he was elected. The simplified form of address does not require a specified addressee or address to be placed on the mail matter.

Senate Amendment

The Senate amendment numbered 18 struck out the provision of such section 3210(d).

Conference Agreement

The Senate recedes from the amendment.

FRANKING COST AS POLITICAL CONTRIBUTION

Senate amendments numbered 19 and 20:

House Bill

The House bill contained no provision relating to the cost of franked mail as a political contribution.

Senate Amendments

Senate amendment numbered 20 added a new subsection (f) to section 3210 to prohibit the cost of preparing or printing frankable matter from being considered as a contribution to or an expenditure by the Vice President or a Member of Congress for the purpose of determining any limitation on expenditures or contributions with respect to any such official imposed by any Federal, State, or local law or regulation in connection with any campaign of such official for election to any Federal office.

Senate amendment numbered 19 is a technical amendment to conform the provision of the bill with the change made by Senate amendment numbered 20.

Conference Agreement

The House recedes from its disagreement to Senate amendments numbered 19 and 20.

ADMINISTRATIVE PROCEDURE ON FRANKING PRIVILEGE COMPLAINTS

Senate amendments numbered 25, 26, 27, 28, and 29:

House Bill

The House-passed bill established a House Commission on Congressional Mailing Standards to provide guidance, assistance, advice, and counsel through advisory opinions or consultations in connection with franking mailings upon the request of any Member of the House or Member-elect, Resident Commissioner, or Resident Commissioner-elect, Delegate, or Delegate-elect, surviving spouses of any of the foregoing or other House official entitled to use of the frank.

Provisions were also included for complaints to be filed with the Commission that a violation of any of the franking requirements is about to occur or has occurred with the requirement that the Commission conduct an investigation of the complaint and make written findings of fact. Such findings of fact are binding and conclusive for all judicial and administrative processes. A provision was included that any judicial review of such decision if ordered on any ground shall be limited to matters of law. The Commission if it finds that a "serious and willful" violation has occurred or is about to occur may refer its decision to the Committee on Standards of Official Conduct of the House of Representatives for appropriate action.

Senate Amendments

Senate amendment numbered 25 added the words "by any person" to clarify who could file the complaint of a violation. Senate amendment numbered 27 struck out the words "serious and willful" in connection with the provision relating to the type of violation which the Commission would refer to the Committee on Standards of Official Conduct.

Senate amendments numbered 26 and 28 struck out the provision of the House bill that made the findings of fact by the Commission final and binding on the courts.

Senate amendment numbered 29 added a new section 6 to the bill to provide that the Senate Select Committee on Standards and Conduct would provide guidance, assistance, advice, and counsel to Members and Members-elect of the Senate. This amendment provided that the appropriate courts would not have jurisdiction to entertain any civil action relating to a violation of the franking laws or an abuse of the franking privilege until a complaint has been filed with the Select Committee and the Committee has rendered a decision thereon.

Conference Agreement

The House receded from its disagreement to amendment numbered 25 so that the words "by any person" is included to clarify the application of the complaints that may be filed with the House Commission on Congressional Mailing Standards.

The Senate receded from its amendment numbered 27 so that the words "serious and willful" are retained in the House provision relating to the type of violation that would be referred to the Committee on Standards of Official Conduct of the House of Representatives.

The Senate receded from amendment numbered 26 relating to the finality of the findings of fact by the House Commission.

The House receded from its disagreement to amendment numbered 28 with a further amendment that clarifies the application of the provisions of section 5 to violation of the franking privilege by officials of the House only.

The House receded from its disagreement to amendment numbered 29 which added section 6 to the bill and agreed to the amendment with a further amendment which makes it clear that the provisions of such section 6 relate only to the mailings under the frank by Members of the Senate.

MAILGRAMS

Amendments numbered 31 and 37.

House Bill

The House bill, in the form in which it passed the House, contained no provisions permitting the sending of Mailgrams as franked mail.

Senate Amendments

Senate amendment numbered 37 permits the frank to be used for the sending of Mailgrams and other items transmitted by electronic means.

Senate amendment numbered 31 provides for payment for the handling and delivery of Mailgrams as franked mail.

Conference Agreement

The House recedes from its disagreement to Senate amendment numbered 37 and agrees with a further amendment which deletes the authority to send items transmitted by electronic means under the frank except Mailgrams.

The House recedes from its disagreement to Senate amendment numbered 31 with further technical amendments to reflect the agreement of the conferees on Senate amendment numbered 37.

FRANKED MAIL BY SERVING SPOUSES OF MEMBERS

Amendment numbered 36:

House Bill

The House bill in the form in which it passed the House contained no provisions modifying the privilege granted to the surviving spouse of a Member to send franked mail relating to the death of such Member under section 3218 of title 39, United States Code.

Senate Amendment

Senate amendment numbered 36 amended section 3218 of title 39, United States Code, by restricting the type of mail which the surviving spouse of a Member may send under the frank to "nonpolitical" mail relating to the death of such Member.

Conference Agreement

The conference agreement adopts the Senate amendment.

T. J. DULSKI,
DAVID N. HENDERSON,
MORRIS UDALL,
CHARLES H. WILSON,
EDWARD J. DERWINSKI,
ALBERT JOHNSON,
Managers on the part of the House.
GALE W. MCGEE,
JENNINGS RANDOLPH,
H. L. FONG,
TED STEVENS,
Managers on the part of the Senate.

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATION ACT, 1974

Mr. PASSMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R 11771) making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited not to exceed 1½ hours, one-half of the time to be controlled by the gentleman from Kansas (Mr. SHRIVER) and one-half of the time to be controlled by myself.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana (Mr. PASSMAN)?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Louisiana (Mr. PASSMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11771, with Mr. PRICE of Illinois in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Louisiana (Mr. PASSMAN) will be recognized for 45 minutes, and the gentleman from Kansas (Mr. SHRIVER) will be recognized for 45 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. PASSMAN).

Mr. PASSMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the foreign aid bill before you, supported by facts covering title I only, is the best balanced bill presented to the Congress since the inception of the foreign aid program. Incidentally, practically all of the publicity on foreign aid is built around title I.

The budget request for title I, fiscal 1974, was $2,501,682,000. The bill before you calls for $2,044,932,000 for title I, or a reduction below the budget of $456,750,000.

Now, dealing with the total bill that is before the committee covering titles I, II, III, and IV, the reduction below the budget request for all titles of the bill is $1,032,655,000. The bill calls for $269,789,000 below the amount appropriated last year for titles I, II, and III. Incidentally, it is $84 million below the authorization that the House passed in the conference report last week. So, all in all, we have brought you a bill that should be acceptable even to the critics of foreign aid.

I would like to call the committee's attention to the fact that the large increase in the total foreign aid bill covering titles I, II, III, and IV is brought about by the emergency request for $2.2 billion for Israel, plus, of course, the continued alarming increase in multilateral organizations.

Let me assure the committee that the bill is not purposely weighted in favor of any particular nation. To those who would venture far enough to call this bill weighted in favor of Israel, may I urge that you check the facts as they are. First, the calm thinkers realize that if there is a strong Israel, it simply means protection for 150 million Arabs, because if the one nation in the Middle East friendly to the United States should go down the drain, then, in all probability, in due time the entire Arab world would fall under the domination of the Soviet Union, the wishes of the Arabs, notwithstanding. Such designs are on the trestle board, and we might as well face up to it.

Of course, if the Arab world should come under the domination of Russia, so would 70 percent of the known oil reserves of the world, and it would give the Soviet Union free access to all ports in the Mediterranean, plus the Suez Canal.

In addition to the words that I have committed to the record, let us have a look at the figure which you may find somewhat surprising. For instance, in the budget request there is $200 million plus for the Arab States, including, of course, Jordan, Lebanon, Egypt, Yemen, Sudan, Morocco, Saudi Arabia, and Tunisia, to name only a few. In addition to that portion of the bilateral request, these nations draw very heavily upon the multilateral organizations of which the United States is by far the largest contributor—in fact, several times as much as any runner-up contributor.

With respect to those who may feel that they should criticize the military assistance to Israel, may I point out that our country has never provided military material to Israel on a grant aid basis. In fact, there has been only a limited amount of grant economic aid. Those who have negotiated sales agreements with Israel have usually driven hard bargains.

As I reported this bill today, I can say to you that Israel is not delinquent on as much as one dollar of her indebtedness to the United States. Her accounts are completely up-to-date. In recent years, she has repaid $218 million for her indebtedness.

It may also surprise you to know that the Israelians are so proud of their country and so determined to maintain it that they are willing for 80 percent of their total budget to go to the military establishment.

Now, may I cover a few of the pertinent points in the bill before you:

Mr. Chairman, we have a new format to deal with this year. In prior years in considering this bill we have had worldwide, technical assistance, Alliance for Progress, technical assistance, programs relating to population growth and development loans. None of these titles are any longer in the bill. Rather, the authorizing committee has substituted new titles such as: food and nutrition, development assistance; population planning and health, development assistance; education and human resources development, development assistance; selected development problems, development assistance; and selected countries and organizations, development assistance. These things are extremely complicated.

The AID people assure us though that they can administer the programs according to the new captions and titles. Of the $580 million we are recommending in the bill for these development assistance programs, $280 million will be for loans, the same as the old development loan funds, and $300 million will be for various types of grants.

Mr. Chairman, I would now like to run through the bill very briefly, and bring out, if I may, some of the key points and things in which I know the Members will be interested. This bill is cut $1,032,655,000 below the budget request. That is one of the largest cuts made in the history of foreign aid, and a lot of credit goes to the great Committee on Foreign Affairs, because they certainly did their homework well this year. They trimmed this bill very substantially and did not leave too much fat for this committee to take out.

Mr. Chairman, if we may actually look to what this bill protects, let us go back if we may about 25 years ago, to the outbreak of the Korean war. President Truman, and later of course President Eisenhower, and I believe President Kennedy, and subsequently President Johnson felt that Korea must be maintained as a sovereign nation. All of our great generals and great admirals, all of our Secretaries of State during the period made the same claim, that we must protect South Korea, and protect them because they are friends of our Nation. Now that we have done this, they have a very strong economy, and they are just as good friends of America as any nation you will find on the face of the Earth. But they must maintain a very strong military, and without some military assistance from this country it is perfectly obvious that it is just a question of time until South Korea would fall.

Some of the members do not like to refer to it as an investment, but I do not know of any better way to refer to it than an investment. We actually invested $36.9 billion in all of the categories of financial assistance, including the Defense Department, for South Korea. In addition to that, we invested 54,246 precious American lives in that conflict, and added to that were 105,785 casualties. To me that is a tremendous investment made by the American people and, for my money, it is an investment that must be protected.

Let us have a look at another investment that we made, and this goes back to the days of President Eisenhower, later President Kennedy, President Johnson, and President Nixon. All of these Presidents, all of our great leaders, our Secretaries of State over the period of years went all out and said we must have a sovereign South Vietnam.

This may surprise you. We have invested $141 billion of our resources in South Vietnam, and added to that, of course, are 56,388 lives and 308,817 casualties. Without economic aid, and, of course, the replacement for those military items in the defense appropriation, South Vietnam would go down the drain. So, we must provide assistance to South Vietnam, otherwise, of course, that country cannot survive.

So, as I say, that investment must be protected.

Knowing, as I believe, that the Members want their subcommittee in the future as they have in the past, not to withhold any information from them, we have a very voluminous report. We put it on the line. We have named every nation on the face of the Earth that we have given assistance to since the inception of the foreign aid program, and we have given aid to 128 nations of the world and 7 territories.

If we add the amount of money we have spent for the interest on money we have borrowed to give away, we can see on page 9 the total cost is $253,171,100,000. We are not trying to hide anything from the Members. We want to put it out where they can see it. The main reason for putting the table in our report is so the Members may return to their constituents after reading the report and tell them what any nation on the face of the Earth has received. Most people think it is a good investment. I am only reporting the facts as we find them.

In an effort to be completely fair with the Members and not to mislead them, we have put all types of foreign aid and assistance in one place. We have included the Export-Import Bank, which is one of the finest organizations we have in our Federal Government. It has paid back to the U.S. Treasury over $800 million in dividends. It has been a very handsome profit.

If the Members will study the reports, they will find that there have been billions of dollars paid into the U.S. Treasury due to the profits made by the corporations on the sale of their exports, in addition to the fact that it provides employment for thousands of our fellow Americans in producing the goods that we export.

To give the Members a general idea how this committee over the years, along with other committees, has taken some of the fat out of the foreign aid program, the Members will find on page 11 the amount of money that we have been able to take out of the budget request by year for the past 19 years.

Hurrying along, if I may, Mr. Chairman, let us look at population planning and health, development assistance. Under the legislation that we have drafted and the limitation we placed in this bill, there will only be $100 million for family planning. So far as abortion is concerned, it is covered in the authorization bill. But population planning and health is a program, as far as I know, which has a lot of support, so we funded it.

If I may discuss briefly American schools and hospitals abroad, I think that this is one of the finest parts of the foreign aid bill and we have provided $19 million for this item. Among the institutions that will be financed will be the University of the Americas at Pueblo, Mexico. That is purely and wholly an American institution. It is owned by Americans, and students from 42 States attend this university. So we are financing that university.

The American University of Beirut. That is totally an American institution. Many of the leaders in the Far East were educated at the American University at Beirut, and it has been said by expert witnesses before our committee that without the AUB in Beirut, Lebanon would have also broken off diplomatic relations with our country when some of the others did. So it has been a tremendous investment.

Then, of course, we have the Weizmann Institute in Israel. That is an institution that is attended by scholars from throughout the world. So far as I know, there is no criticism of the Weizmann Institute. Project Hope, of course, is covered in this bill. That is something that we have been supporting for many, many years. It is funded in this bill.

Of course, the appropriation last year was $25,500,000. This year it is only $19 million, a reduction of $6½ million. That will leave very little money in this bill for what is usually referred to as purely small schools. Very few schools can or will be funded out of this bill.

We have what has been referred to previously as the President's Contingency Fund. We have made no reduction in this fund, inasmuch as we have cut substantially from the other sections. We have included $30 million in the bill so in case of emergency the President would have sufficient funds in that particular item to take care of emergencies.

The Members will find on page 33 that we have the International Narcotics Control program for $42,500,000. We have met with great success with this program. For instance, in Turkey they have almost eradicated the growing of the poppy, and they are cooperating beautifully. We find that to be true in other parts of the world, so the committee decided we should make no reduction in the International Narcotics Control item.

On page 35 it can be seen we have put in a special grant for the African Sahel Famine and Disaster Relief Assistance. This is set out at $25 million in a single item.

Mr. Chairman, in military assistance the budget request was $685 million, but the bill before us provides $500 million, which is $53.4 million below the amount that was appropriated last year.

The Indochina postwar reconstruction, Mr. Chairman, is a must. The budget request was $632 million, which is shown on page 40 of the report, but the Members will find the committee recommended only $500 million. That is a reduction below the amount authorized. Concerning aid to Israel, and the $2.2 billion, it is clear what the thinking of the House is on this matter. I can assure the Members that this money will not be spent unless it is necessary, because a certain amount of it will be held until such time as the President makes a determination and notifies the Congress.

On the international organizations our committee is deprived of the right to examine those who administer this program. They say this is in violation of our international agreements, so those who administer the program cannot come before our committee and justify the funds. We have to hear people in the State Department or in the Treasury who try to justify these funds.

I might try, Mr. Chairman, to give the Members an idea how the United Nations Development program works. I think the Members are entitled to have these facts. I have always thought the United Nations was supposed to be a peacekeeping organization but rapidly they are moving toward becoming another rather large spigot of foreign aid. If the Members will look at the UNDP item, they will find we have recommended a reduction. We feel it is adequate.

This agency has financed 53 projects in Cuba, amounting to almost $10 million. In addition to that we find that they are working on some plan to invest millions of dollars in Kuwait. We find the U.N. financed seven projects in Kuwait, one of the richest countries of the world.

In Japan, another of the world's wealthy countries, we find that the UNDP has a project for some $737,000.

We can go on and on about how this organization is operating. We think the time is coming when we are going to have to insist that we have the right to examine those who administer the programs. I am not going to be knocked off my feet by any claims that we put up this much and that fellows puts up that much. Look at how much money we put up and how much of it is going to nations such as Cuba to which I just referred.

I think I should cover one other item and show the Members how the international organizations are pyramiding their funds. We found that the Inter-American Development Bank on June 30 had $2.2 billion in undisbursed funds. They say additional funds are needed, yet the $2.2 billion is still to be disbursed. This year we provided $510 million for the maintenance of value. In our bill we are putting in an additional $418 million. That brings the total available to the Inter-American Development Bank to over $3 blilion.

The average expenditure annually since they created the bank has been $200 million. The largest year it was $400 million. So by any mathematical formula we want to look at it we have a 7-year supply of money in the Inter-American Development Bank if we consider it on the basis of their annual expenditures.

I do not think it is necessary to go into the other multilateral organizations. They operate on a similar basis, but I want to repeat that the time is overdue to have some machinery set up so we can have those people who administer these funds come before our committee and our committees and explain to us why they are dissipating the money in these bills on wealthy nations such as Kuwait and Japan, and we might also again include Cuba.

Now, Mr. Chairman, if I may discuss the disaster relief assistance item. The budget requested $150 million. The committee recommends only $100 million. On the surface it would appear we have made a reduction of $50 million, but that is inaccurate, because as I mentioned earlier, we put in $25 million for our friends in Africa that would have been a part of this disaster assistance item had we not put it in the regular part of the bill, because we wanted to earmark it to be sure that this $25 million went to Africa where we intended it to go.

The flood relief and reconstruction of Pakistan, if Members will read the report, is a sad story. I feel a humanitarian obligation, and I am sure I speak for a great many of the Members, when I say that.

The work of earthquake reconstruction in Nicaragua, of course, is self-explanatory if Members will read the report.

Now, Mr. Chairman, I will refer, if I may to military credit sales. This is the one good part of the bill, military credit sales. All nations on the face of the earth are going to buy military equipment, make no mistake about that. If we do not provide the short-term credit whereby they can purchase our military equipment, we are going to give them economic aid; then they are going to take their resources and pay for military aid from some other country.

This year the budget requested $525 million. It was cut by $200 million. There is only $325 million in this bill for military credit sales.

It has been one of the most profitable parts of our foreign aid program in that the terms are short. The prevailing interest rate is the same as we paid to borrow the money.

I should not like to mislead Members the $325 million could generate sales for over $700 million.

If I say that of this $325 million, $300 million is earmarked for Israel, that would indicate $25 million is left for other countries. That is not the proper way to explain it. The $300 million earmarked for Israel is out of the total credit ceiling set for the current fiscal year.

Mr. Chairman and members of the committee, we think we have a good bill. We have not withheld any information.

I do not want to take credit for this report. I doubt if in the history of a Congress has any chairman like our great chairman, Mr. Mahon and such an able ranking minority member as Mr. Cederberg, ever put together a subcommittee of 12 men who worked so closely together and tried so hard to do a credible job.

I do not know of any member of the subcommittee I would want to lose. Occasionally we have had disagreements. We have disagreed this year, without being disagreeable.

I think this is a good bill.

Mr. SHRIVER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, our able chairman of the Subcommittee on Foreign Operations and Appropriations has given to you the overall figures and comparisons for this bill, so I will not repeat them.

I would say we started out with one of the lowest requests for economic assessments that has been proposed by any administration as long as I have been acquainted with the foreign aid program.

Mr. GROSS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Forty Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 648]

Abdnor
Blackburn
Buchanan
Burke, Calif.
Carey, N.Y.
Carney, Ohio
Conyers
Derwinski
Diggs
Edwards, Calif.
Erlenborn
Esch
Fisher
Goldwater
Gray
Gubser
Hanna
Harsha
Hastings
Hébert
Holifield
Horton
Hunt
Jarman
Karth
Kastenmeier
Keating
Landrum
Lehman
Madigan
Mailliard
Michel, Ill.
Mills, Ark.
Moakley
Murphy, N.Y.
Rees
Reid
Rooney, N.Y.
Rosenthal
Schneebeli
Shoup
Steed
Stokes
Sullivan
Veysey
Walsh
Wyatt

Accordingly the Committee rose; and the Speaker having resumed the chair (Mr. Price) of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11771, and finding itself without a quorum, he directed the Members to record their presence by electronic device, whereupon 385 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. Shriver).

Mr. SHRIVER. Mr. Chairman, the request, as you know, was cut further in the authorizing legislation, thus limiting the range of choices available to our committee.

In recommending a bill which is more than a billion dollars below the budget request, the committee is, in concrete terms, expressing our belief that foreign aid projects should wait in line for U.S. funds just as projects in this country are required to do.

This is a smaller bill, and it is redesigned in accord with the structure of the authorization bill. No longer will we deal with such items as technical assistance, development loans, and the Alliance for Progress. Now the funds are split into functional categories, such as population planning and health, education, and human resources development, selected development problems, and selected countries and organizations.

This will make it a little more difficult to bring these figures together and to know what we are doing in each individual country, but I can assure you that the chairman and I, along with our colleagues on the subcommittee, will do our best to examine closely the future direction of this program.

I have never been known as a champion of large foreign aid expenditures by our Government. In fact, since I came on this subcommittee in 1965, we have cut nearly $6 billion from the economic assistance budget requests which were submitted by administrations of both political parties. We have done this, and we have been supported by both Houses of Congress, because the record of real accomplishments of foreign aid has not been impressive.

But in recommending passage of this reduced bill, we have recognized that there are items under the general classification of foreign aid which are vitally important to our own country and are worthy of your support. I commend to you the report on the bill prepared by the subcommittee, which touches on these items. I will briefly mention a few of them.

Of great importance to our country are the reduced but vital funds for security supporting assistance, military assistance, military credit sales, and Indochina postwar reconstruction assistance. Whether you choose to call it the Nixon doctrine or whatever, our Nation is in the process of lowering our presence around the world. We are defining our national interests and counting more on our allies to take care of themselves.

I agree with this policy, and I support it through this bill. We have been able to withdraw more than a half million American military personnel from Vietnam and an additional 60,000 from Thailand, Japan, the Philippines, and South Korea. Our costs have gone down drastically in terms of dollars as well as lives. Pages 5 and 6 of our report talks of the U.S. investment in war costs, military assistance, economic assistance, lives lost, and injured.

Much of the human and property damage in Vietnam and Cambodia is due to actions of our own forces. Funds in this bill for Indochina postwar reconstruction assistance will be used for temporary food, shelter, and medical care for refugees and other victims of the war. Funds will also go for reconstruction of schools, hospitals, and bridges.

The committee report states our agreement with the earmarking in the authorizing legislation of $5 million for assistance to Vietnamese-American children and $712,000 for assistance to the center for plastic and reconstructive surgery in Saigon. We as a nation have a direct obligation for the welfare of these children, and all efforts must be made through private, humanitarian agencies to facilitate their care and adoption.

Similarly, we have recommended that up to $15 million of the Indochina postwar reconstruction assistance funds for Cambodia be used to assist orphans, widows, and persons crippled by the war in that country through the construction and operation of orphanages, centers for plastic and reconstructive surgery, and vocational training.

The bill also provides important funds in the amount of $42.5 million for narcotics control activities in such countries as Mexico, Turkey, Burma, Laos, and Thailand. Primary emphasis will be placed on training narcotics control personnel and improving control capabilities in these countries. This is just part, but a very important part, of the drug control funds found in the fiscal 1974 budget. The total for all agencies involved in this effort now is more than $250 million. Details of these efforts can be found on pages 1206 through 1240 of part II of our hearings.

While these funds are used for activities in these other countries, the benefits in terms of reducing the flow of harmful drugs into our own country are obvious.

There are other items in the bill which warrant your support. The Cuban refugee program, under which nearly 450,000 refugees from Castro's Cuba have been resettled in this country, is funded in this bill. More than 80 percent of these refugees are now fully self-supporting, taxpaying, contributing members of their adopted communities, and the program is now scheduled for an orderly termination over a 5-year period.

In response to a proposed budget amendment, we have included under title IV of the bill $2.2 billion in emergency security assistance for Israel, $150 million in emergency military assistance for Cambodia, and $100 million in disaster relief assistance for the Sahel region of Africa, and for Pakistan and for Nicaragua.

The latest tragic war in the Middle East has been especially costly to Israel in terms of weapons and lives lost. A top-secret, preliminary report of the extent of these losses is available to the Members from the chairman of our subcommittee.

I believe it is critical that we include the $2.2 billion for Israel to help that country regain the military balance with the Arab countries, who have been heavily resupplied by the Soviet Union. Just as important as the actual aid is the visable indication at this time of our support in the Congress of our Secretary of State's fine efforts to bring this 25-year-old conflict to the conference table.

Secretary Kissinger says this aid is important to the stability in the area and the peace talks which will soon begin. His track record in extremely difficult negotiations in the past is sufficient evidence to me to support this request.

In a parallel situation, we are recommending the appropriation of $150 million of the $200 million requested for emergency military assistance for Cambodia. Testimony before our subcommittee on this request was blunt and uncomplicated: without this assistance for ammunition for rifles and artillery, which is needed because of the cessation of aerial bombardment by U.S. planes, the Cambodian Army will have nothing to shoot and will fall to the Hanoi-supplied insurgents. With this ammunition, the Cambodian Government has a good chance to survive.

Just as the survival of Israel is important to U.S. interests in the Middle East, the survival of a Cambodia not under the control of Hanoi is important to our interests in Southeast Asia. In recommending the appropriation of three-fourths of this request, the committee is supporting Secretary Kissinger's continuing efforts to form a lasting peace in Indochina.

Two-thirds of the amount requested for disaster relief assistance has been recommended for Africa, for Pakistan, and for Nicaragua. In each case, large areas have been devastated by natural forces beyond their control. It will take years just to bring them back to the substandard levels of development that existed before the disasters.

The drought in the Sahel, the extensive flooding in Pakistan, and the earthquake in Managua, Nicaragua have damaged these areas far beyond their own means to pick up the pieces. The American people, as they have done throughout our relatively brief history, responded generously in each case through private organizations and agencies.

However, more substantial aid is needed through this government-to-government effort for middle and longer term recoveries in each case. Agricultural inputs, reconstruction of roads, bridges, schools, hospitals, transportation, and utilities facilities—all of these take larger foreign exchange reserves than the economies of these poor countries can hope to provide.

Our committee reduced these requests by a third; not because we are not sympathetic to the needs, but because the longer term assistance to these countries must be weighed along with the immediate needs of people in our own country. We believe we have reached a reasonable recommendation for these items.

When the emergency items in the bill are removed, such as the funds for Israel, Cambodia, and the disasters I have just discussed, the recommended funding is more than a quarter of a billion dollars below fiscal 1973 foreign aid spending. In view of the domestic situation, this is a necessary reduction.

I urge your support for it. I also urge your support for those items just mentioned which remain in the bill. The committee believes they are important to our own national interests.

Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER. Mr. Chairman, I would like to call the attention of the House to page 7 of the committee report. It is the committee view and suggestion that it is time that we seriously look into the possibility of utilizing barter or exchange arrangements within the foreign assistance program. The committee states:

> Any such exchange or barter arrangements would have to be predicated on a mutual self interest, whereby the United States would furnish its capital and expertise to a recipient nation for the achievement of its internal development activities in return for the opportunity to negotiate an arrangement for the accessibility to the mineral and raw material resources of the recipient nation.

I am pleased the committee has recognized the possibility that the foreign assistance program may well afford us a unique way to help abate the rapid depletion of our natural resources and supply the minerals and critical raw materials this country will need in the very near future.

To my way of thinking, U.S. foreign aid does not, or never has really paid for itself. Very few countries have given anything of value in return. Those that have done so only in small amounts. Even the loans do not fully pay for themselves. The rate of dollar depreciation is much higher than the low interest rates on foreign assistance loans. And despite the easy repayment terms, several dozen countries are now delinquent in their loan repayments. Delinquent international debts and unpaid claims owed to the United States approach $60 billion. The United States should not have to negotiate with countries like Iran—for $12 million in delinquent interest—to get repaid for loans made in good faith.

Foreign aid has not made the rest of the world love us, in fact some of our major adversaries have been heavily subsidized by American taxpayers. Many recipient nations promote anti-U.S. policies on the one hand and willingly accept our foreign aid on the other. Ecuador, which received $173.2 million in grants between 1946 and 1972 has repaid the kindness by seizing American fishing boats that come within 200 miles of Ecuador's coast, although anything past 12 miles is considered international waters. Thailand, which in the same period of time received $1,604.1 million in grants from the United States refused to loan $250 million to the United States—under the Johnson administration—but instead consented to loan us $100 million on a short term, high-interest rate basis. Thailand, which also maintains a gold and foreign currency reserve of over $1 billion, is still receiving U.S. aid.

The purposes of foreign aid over the years has been thwarted by recipient governments. It is no secret that many AID programs have often helped "the rich grow richer." Luxurious office buildings, large dams, and other monuments have been erected with U.S. tax dollars, while little has filtered down to the people of those countries.

While this year's authorization is intended to redirect our aid for emphasizing "people program," how effective this new approach remains to be seen.

In any case, studies by the Agency for International Development—AID—show for example, that although the numbers of educated children in the underdeveloped world are rising, the numbers of uneducated children are growing just as fast—because of the population explosion. Sudden changes in weather, causing famine, can destroy years of work, as in West Africa this year. The United States cannot hope to feed and educate a world that is unable to regulate its own growth.

The United States does not have to look abroad for people in need and problems to be solved. We need look no further than our country for great challenges in economic and social development. It would be no less humanitarian to spend our money to cure our own problems first. Since America's problems are more finite, and less likely to grow at a geometric ratio, our efforts would be much more likely to succeed if they were made here at home.

While it can be said that foreign aid has done some good for some abroad, has it been worth the tax burden it has placed on our own people or the price exacted to our own economic stability? Truly, foreign aid is like a one-way street. United States money, goods, and expertise flow outward, while little comes back in return. Like a bucket punctured with so many holes, foreign aid drains our own economic vitality and taxes our people with no visible countervailing infusion. Foreign aid is in trouble because its basic concept of, we give and they get, will no longer be swallowed by the American people.

I think it is time we get something of value in return for the aid we do expend. On July 26 of this year when the foreign assistance authorization was before the House, I offered an amendment that would allow the President to enter into agreements with recipient nations to exchange certain U.S. foreign aid they may receive for strategic or critical raw material in their possession, which are in short supply in the United States or the United States requirements of which are not produced domestically. The text of this amendment is as follows:

Amendment offered by Mr. MILLER: On page 37 after line 22 insert the following new section:

SEC. 660. EXCHANGES.—(a) Notwithstanding any authority to furnish assistance under the Mutual Development and Cooperation Act or under the Foreign Military Sales Act, whenever it is in the national interest, the President shall endeavor to insure that, to the maximum extent practicable, such assistance shall be furnished only pursuant to agreements which provide for the exchange of necessary strategic or critical raw materials for such assistance. For purposes of this section, the term 'necessary strategic or critical raw materials' means raw materials, including petroleum or other fossil fuels, which (1) are in short supply in the United States or (2) the United States requirements of which are not produced in the United States.

"(b) Any necessary strategic or critical raw materials transferred to the United States in exchange for assistance may be disposed of or transferred to any agency of the United States Government for stockpiling, sale, transfer, disposal, or for other purposes.

"(c) Amounts received from the sale, transfer, or disposal of materials transferred to the United States in exchange for assistance shall be deposited as miscellaneous receipts in the United States Treasury."

The exchange or barter concept is not a particularly new one in the foreign aid program. Public Law 480, the food for peace program, has utilized it for many years under title III. The Commodity Credit Corporation—under the Secretary of Agriculture—used to barter, in the best interests of the United States and where possible, for "strategic and/or other materials" which are not produced in sufficient quantity in the United States to meet this country's needs. Until 1967, when bartering was voluntarily discontinued, the CCC routinely arranged exchanges through private corporations, usually at world prices.

The CCC received the raw materials and sold these in turn to the General Services Administration which in turn stockpiled them or sold them in a manner which did not disrupt the market. In addition to Public Law 480 barters, a provision of the Foreign Assistance Act of 1961, later repealed in 1967, provided that recipient nations or international organizations pay for the assistance they would receive with "defense articles or defense services" which were to be disposed of or stockpiled by agencies of the U.S. Government. The term "defense articles" was broad enough to include raw material, including *petroleum or* other fossil fuels.

We have reached a point in our relations with the rest of the world where reenacting such authority and applying it to the entire aid program would serve the national interests. If such authority were broad enough, it would be immensely useful in the future for the exchange of any critical raw materials, as the President may determine, which are needed by the Government or which would otherwise aid the economic security of the country.

There are many raw materials, of which petroleum is an obvious example, which are in short supply in this country or cannot be produced in this country to meet domestic needs. According to the National Commission on Materials Policy, the United States not only faces a fossil fuel shortage but also a pending mineral crisis. Demand for essential minerals is steadily outstripping supplies and we are becoming more and more dependent on foreign sources. The Brookings Institution recently stated that by the year 2000 we will be totally dependent on foreign sources for 12 of the 13 basic raw materials used by our industries.

Right now, imports account for 96 percent of the aluminum we consume, 85 percent of the asbestos, 77 percent of the tin, 52 percent of the zinc, 44 percent of the tungsten, 60 percent of the potassium, 17 percent of the platinum, 74 percent of the nickel, 10 percent of the sheet mica, 95 percent of the manganese, 26 percent of the lead, 28 percent of the iron ore, 18 percent of the copper, 98 percent of the cobalt, and the list goes on.

The Bureau of Mines listed 34 minerals this past June that are or may become in short supply in this country. The list includes aluminum, chromium, asbestos, copper, fluorine, iron, lead, manganese, nickel, petroleum, phosphorus, potassium, and zinc.

The loss or short supply of any of these raw materials could impose severe economic hardship and dislocations. The lack of asbestos, for example, would cripple the auto and foundry industries, and ultimately, much of the rest of the economy. The lack of a metal like aluminum would be equally serious. We already import 96 percent of the aluminum we consume, and our own reserves would last us but 3 years. The shortage of petroleum is already a fact. The outlook for most minerals for the future indicates that domestic demand will outrun production.

The mineral and energy shortages are having a great effect on the American balance of payments. In 1972, our new and processed mineral imports exceeded by $6 billion our mineral exports. If current consumption and production trends continue, this deficit would be $18 billion in 1985 and $44 billion in 2000. If all minerals—including sources of energy, gases, and nonmetals—are included, last year's deficit was $10 billion, and the deficit will grow to $40 billion in 1985 and to $96 billion in 2000.

Almost every nation receiving aid from the United States has an abundant supply of some mineral or material we now need or soon will need. Thailand, for instance, which the United States has always generously given to, is not poor in mineral wealth. That country has large deposits of tin, manganese, and antimony—all materials the United States needs. Thailand is often unable to sell all it can produce. If it wished to continue receiving aid, it could afford to part with materials it might not sell anyway.

Malaysia which needs U.S. aid has reserves of tin and titanium, both are scarce in this country. Ecuador which has many new office buildings built with the help of U.S. dollars, has oil and newly discovered copper reserves which need further development.

Brazil, a major recipient of U.S. aid over the years, has one of the world's fastest growing economies. But Brazil also is a nation blessed with rich, abundant mineral deposits, many of which this country will desperately need in the future. These include bauxite, manganese, barite, chromium, and titanium. Bolivia, while considered poor economically, is rich with large reserves of oil, tin, and iron.

Many nations of the world literally sit atop a vast treasure of abundant mineral and natural resources that could be used to pay for the U.S. aid they receive. The Philippines has reserves of gold and chromium. Venezuela has some of the world's largest reserves of natural gas and oil. Peru has copper, gold, and lead. Turkey has reserves of chromite, boron, pyrite, copper, and manganese.

Indonesia needs continued U.S. assistance. Indonesia is blessed with great and varied natural resources. These include bauxite—which is used in making aluminum—natural gas, and petroleum. Indonesia's resources could be exchanged for the U.S. aid they receive. So could the many resources of Brazil, the petroleum and copper of Ecuador, and many resources of many other recipients.

In most recipient countries, exchange of raw materials with the United States would not constitute an economic hardship, in fact many of them cannot sell all they could produce. Others have new reserves which need to be developed. If the United States were to have accessibility to these reserves, new jobs could be furnished and general internal development enhanced.

Exchanges could be arranged by the Agency for International Development, either through private channels, as in the past, or through direct government to government negotiations. The raw materials could then be transferred to the GSA for stockpiling and disposal. Much of this could be done with little disturbance of the world markets.

No doubt some will say that placing U.S. aid on an exchange basis would amount to "exploitation" of undeveloped nations. But they would be no more exploited than has the United States over the years in subsidizing nearly every nation on the face of the globe. There is good precedent for exchange under Public Law 480 and the Foreign Assistance Act of 1961.

This country simply cannot afford to continue sending billions of dollars overseas and get nothing in return. To this end, substantive proposals should be entertained to redefine and reform foreign aid and thus give it new acceptability and purpose. At the time of the floor discussion on this subject, I did receive the commitment of the Foreign Affairs Committee chairman, the committee's ranking minority member as well as the chairman of the Foreign Affairs Subcommittee of the House Appropriations Committee to pursue the language of the amendment further. I intend to press for its enactment.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. MILLER. I yield to the gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, I commend the distinguished gentleman from Ohio for his suggestions. This is the gentleman who drafted the language that we find in our report and a very capable member of the subcommittee. In my considered judgment his idea can accomplish a great deal if it can be developed.

I support him and I certainly hope the bill carries.

Mr. SHRIVER. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, this provides $5,833,912,000 for the next year which is an increase of $2,180 million in spending on the foreign handout program for fiscal year 1973. There is according to the report, almost $25 billion more in the pipeline, and bear in mind that this giveaway began in 1947 as the Marshall plan. It was to cost $5 billion per year for 5 years, and then it was to be out, over, and ended.

This foolishness has cost American taxpayers since its inception, according to the report by the committee—this foreign handout program—$253,171,100,000.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. In a minute or two.

> You are actually looking at a frightened Member of Congress. Some nights I actually do not sleep three hours because I find myself unable to get through to some of the witnesses and to get through to the American taxpayers just what we are doing to them.
>
> The point is that if we do not come down out of these dream clouds about what these programs cost, we are actually going to destroy the economy of America.
>
> I just do not know how we are ever going to bring it under control unless we just defeat the entire foreign aid package.

Those are not my words, not a single one of them. Those quotes belong to the gentleman from Louisiana (Mr. PASSMAN).

> Let's get this in the proper perspective. Gentlemen, we are ruining this country with the aid program. We all know that we have been so free and so generous until we are in trouble, not just our balance of payments situation but we are now running a trade deficit. We are not unmindful that there are about 80 billion U.S. dollars just floating around in the world that people don't want. Nations are running from them. Individuals are running from them. I do not know what happened to the dollar this morning, but we know that it has lost substantial purchasing power. The dollar has lost about 30 percent of its value against popular foreign currencies. The time has come to bring this under control.

So sayeth the gentleman from Louisiana (Mr. PASSMAN) and yet he is here with a bill today calling for $5,833,912,000 to be spent on more than 100 foreign countries.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I am delighted to yield.

Mr. PASSMAN. Mr. Chairman, let me explain this pipeline; $8.5 billion of that will be used by the Export-Import Bank; $9.5 billion of it is money we appropriated for multilateral organizations for callable capital which they use to borrow funds, so we are up to $17 billion that we could not possibly have a loss on. It is merely an appropriation.

In addition to that, 98 percent of the remainder is obligated for ongoing projects. The reason the bill is high is because we have $2,200 million in here for emergency security assistance for Israel which the gentleman's committee brought out this afternoon and passed the authorization by about 6 or 7 to 1.

Mr. GROSS. Just a minute, do not take all my time.

Mr. Chairman, I do not yield any further at this time except to ask the gentleman one question which he can answer "Yes" or "No." Did he vote for the bill that just went through?

Mr. PASSMAN. I voted for the Israel legislation, the $2.2 billion.

Mr. GROSS. That is what I thought.

Mr. PASSMAN. I thought the gentleman voted for it, too. Did the gentleman not vote for it?

Mr. GROSS. What is that?

Mr. PASSMAN. I thought the gentleman voted for it. Did the gentleman vote for the $2.2 billion?

Mr. GROSS. I would have had to be out of my mind to vote for it.

Let me ask the gentleman this question: How much money did that figure out for every man, woman, and child in Israel?

Mr. PASSMAN. Well, Mr. Chairman, I did not specialize in mathematics, but the gentleman from Maryland (Mr. LONG) has given us some figures which we can make available.

I will tell the gentleman that it is quite substantial.

Mr. GROSS. Would that figure be about $900 for every man, woman, and child in Israel?

Mr. PASSMAN. The gentleman is giving us the figure.

Mr. GROSS. I will ask the gentleman if there has been that kind of windfall lately for every resident down in Louisiana?

Mr. PASSMAN. Well, we do get some assistance.

Mr. GROSS. We do not get that kind of treatment in Iowa.

Mr. PASSMAN. I will agree that that is a pretty good windfall. I thought Iowa had it, too.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. GROSS) has expired.

Mr. SHRIVER. I yield the gentleman 2 additional minutes.

Mr. GROSS. Mr. Chairman, I thank the gentleman from Kansas for yielding me additional time.

I suggest that the Members read the hearings in connection with this bill, and if they can then adjust themselves to accept this legislation they have a better digestive system than I have.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, I am sure the gentleman would not want to chastise this humble country boy, because I gave him a complete report with all the facts that were before us. I would suggest the gentleman could get reelected on those statistics.

Mr. GROSS. Is the gentleman saying that I can be reelected on these statistics?

Mr. PASSMAN. These statistics here.

Mr. GROSS. I would hate like hell to run my district on a record like that; of having voted to spend $253 billion on so-called foreign aid.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, on the question of the so-called windfall for Israel of approximately $900 for every man, woman and child, let me point out——

Mr. GROSS. Mr. Chairman, may I ask, how is Maryland getting along? Has it gotten a windfall lately of $900 for every man, woman and child?

Mr. LONG of Maryland. If the gentleman would allow me to comment on it, let me point out that Israel suffered losses in this war which are greater than those we have suffered, based on population, in any war since the Civil War, except for World War II.

Let me point this out——

Mr. GROSS. Mr. Chairman, why does the gentleman not get his own time?

Mr. LONG of Maryland. Well, Mr. Chairman, the gentleman made a comment, and he wanted to ask a question, and I have tried to answer.

Mr. GROSS. The gentleman is not trying to answer. He is giving me a lot of malarkey.

Mr. LONG of Maryland. The average Israeli worker is not getting any windfall, and he is suffering the greatest reduction in his standard of living than probably any worker or any person has ever suffered in a comparable period in history.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. GROSS) has expired.

Mr. SHRIVER. I yield the gentleman 1 additional minute.

Mr. GROSS. Mr. Chairman, I believe it was the gentleman from Maryland who made a statement a little while ago about foreigners having to stand in line to obtain funds from this country.

Our people are standing in line in this country waiting for their funds the White House has impounded, and yet the gentleman has the nerve to peddle another bill providing almost $6 billion through this aid program to foreigners.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. GROSS. Yes, I will yield if the gentleman can contribute something to make sense out of the fact that we are giving away $6 billion to foreigners when our own people need help.

Mr. LONG of Maryland. Mr. Chairman, I understand that.

I would just like to ask whether the gentleman would be willing to trade places with even the most affluent person who is living in Israel right now, who is on the firing line of that country and who is paying half of his income in taxes and the rest in all kinds of other costs and suffering one of the drabbest existences of probably anyone in the world.

Would the gentleman be willing to trade places?

Mr. GROSS. Mr. Chairman, that is a hell of a question to ask me—if I want to trade places with some foreigner. The answer ought to be obvious.

Mr. PASSMAN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Chairman, I have long been a critic of foreign aid, hoping for years that we could reduce this program.

The reason we have foreign aid—and why we have never been able to end it—is the Soviet Union. The Soviets have instigated, financed, and supplied weapons for war after war, and have forced us to provide vast quantities of arms, weapons, supporting assistance, and rehabilitation aid to country after country under threat.

We shall never be able to get out of the business of foreign aid until we can get the Soviet Union to alter its policy of worldwide revolution, subversion, and aggression.

This administration made its greatest blunder when it came to the aid of the Soviet Union with wheat, trucks, and loans, without getting an agreement from the Soviets to stop instigating aggression after aggression—most recently the foul attack by the Arabs on Israel.

This bill is a good bill. Bilateral aid is targeted toward poor people, a new development we have been urging for a long time. There are cuts in many programs. The biggest single item is the $2.2 billion—which I have supported most enthusiastically—to go to the State of Israel, attacked by surprise by 100 million Arabs on a sacred day.

Israel is the only reliable bulwark in the Middle East against Russian domination of 70 percent of the world's oil.

We have given billions and billions of dollars and sent men to fight in country after country for people who would not fight for themselves. Israelis are willing to fight. This itself is something new in our foreign aid experience.

The Russians have been pouring arms into the Arab nations at a rate three times that of our supply of arms to Israel. Can we deny Israel the means to defend itself?

Because of the war, Israel's economic growth rate is projected to drop from 9 percent to about 2 or 3 percent. Its exports are falling drastically, and thus foreign exchange earnings will fall. Ten to 15 percent of Israel's civilian labor force is still mobilized. Combat losses have been relatively greater than those suffered by the United States in any war except World War II and the Civil War. Israeli external debt is $5 billion with debt service currently $700 million per year.

The Israeli taxpayer according to the gentleman from Iowa, is supposed to be getting a marvelous windfall. Well, an Israeli worker earning $500 a month pays $200 a month, or 40 percent of his income, in taxes and in compulsory and voluntary loans to the Government. And this $200 does not even include municipal and property taxes and health insurance payments. As a matter of fact, the effective tax rate of the average Israeli is probably greater each year than that of the President of the United States.

The Arabs can buy tremendous amounts of weapons from the Soviet Union and pay for them with oil revenues. Providing less than this $2.2 billion to Israel will suggest a softening of U.S. support of Israel, and a surrender to Arab blackmail.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PASSMAN. Mr. Chairman, I yield 1 additional minute to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I thank the gentleman for the additional time.

Mr. Chairman, we have allowed ourselves to become vulnerable to a small number of countries, of which the Arab countries are of course a part, in our dependence on external sources for essential raw materials. An embargo is likely to come from any one supplier or cartel, just as it has from the oil producing Arab States. An embargo has always been considered under international law as an act of war. I proposed, although it was not accepted in the committee, that we exert countervailing pressures by cutting off arms sales. Others have suggested a cutoff of wheat. We ought to consider these in future legislation.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. PASSMAN. I yield 1 additional minute to the gentleman from Maryland.

Mr. LONG of Maryland. Again I thank the gentleman from Louisiana for this additional time.

Mr. Chairman, I might point out that I have been concerned about aid to Cambodia, and I was proud to take a leading role in ending U.S. combat operations in Cambodia in May and June of this year.

I visited Cambodia in August, and saw for myself the suffering and destruction that war has brought to that country. We bear major responsibility for the suffering of Cambodian war orphans, widows of Cambodian soldiers, and wounded veterans. At present, few, if any, programs for relief of these victims exist.

However, at my suggestion, we do have language in the committee report to earmark some of the funds provided for Indochina reconstruction assistance for war orphans, war widows, and wounded veterans. We must help the victims of this war, a war they did not start. When I was in Cambodia, Cambodian officials to whom I talked just asked for weapons with which to defend themselves. We are providing that, but we must also concern ourselves with humanitarian aid. To the credit of the committee and its great chairman, we are fulfilling that need also.

Mr. Chairman, I want to pay tribute to the gentleman from Louisiana (Mr. PASSMAN). I have worked with the gentleman for many years. The gentleman always knows his bill backward and forward. I am proud to be associated with the gentleman in support of this legislation.

Mr. SHRIVER. Mr. Chairman, I yield 10 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, several things that we did in the committee have been mentioned by the gentleman from Kansas. I offered a motion to put in the report the $712,000 for the Center for Reconstructive—Plastic—Surgery in Saigon, and also $5 million to go for assistance to South Vietnamese orphaned children. This $5 million would be used to furnish assistance and facilities for the children damaged by the hostilities, and provide facilities to assist U.S. citizens in the adoption of orphans and abandoned South Vietnamese children.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I will be glad to yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman, I want to tell the gentleman from Massachusetts how important I think the gentleman's amendment is, and to congratulate the gentleman and the subcommittee and the full committee for making those provisions which are very important to these people.

Mr. CONTE. Mr. Chairman, I want to thank the gentleman from Minnesota (Mr. FRASER) because it was the gentleman from Minnesota who wrote to me on November 26 and brought this to my attention, and I was pleased that the committee saw fit to put this in the report.

Also in the full committee I was able to put in an amendment stating that the loan which is going to Israel should be repaid in a 25-year period, instead of the present 10-year period.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I am happy to yield to the distinguished gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, it was the distinguished gentleman's language. He drafted it and the language was adopted in full committee to extend the terms to 25 years. I want to commend the gentleman from Massachusetts for submitting this language.

Mr. CONTE. I want to thank the gentleman from Louisiana. We worked together on this bill. I had taken a sabbatical leave from the committee. I had been on the panel, I believe, 12 years and finally left it and, this year, I am back again on the committee. It is a great experience. I have gone back on the committee as the low man on the totem pole, but I enjoy this particular assignment. It is good to be back with my old friend, the gentleman from Louisiana, and, of course, my good friend, the gentleman from Kansas, in handling this very difficult, yet necessary, bill.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

I came across a colloquy in the hearings in which the gentleman from Massachusetts, presently in the well of the House, engaged with Mr. Rush, of the State Department. I gain from that colloquy that Israel is going to expect about $500 million a year from the United States. Is that true?

Mr. CONTE. That is right.

Mr. GROSS. In addition to the $2½ billion in this bill, they are going to want $500 million a year from now into perpetuity?

Mr. CONTE. In future bills.

Mr. GROSS. In future bills.

Mr. CONTE. I think the gentleman from Iowa stated it correctly.

Mr. Chairman, I was a young man of 20, learning to set type for the Berkshire Evening Eagle, when President Roosevelt spoke these words on this floor:

> Yesterday, December 7, 1941—a date which will live in infamy—the United States of America was suddenly and deliberately attacked by naval and air forces of the empire of Japan.

On that day, I felt the earth move. Shortly thereafter I drove to Albany, N.Y., with my father and enlisted, and in a very real sense, my life has never been the same since.

So I believe that I can appreciate the feelings of the young men and women of Israel, when, on Yom Kippur, their holiest of holy days, they were "suddenly and deliberately" attacked by the numerous Arab States which surround them. They too have a date that will live in infamy.

From a state of almost complete immobilization, Israel gathered together the available strength she had to repulse her invaders and won a long-needed cease-fire.

It was a hard struggle for Israel, and the suffering that it brought to so many within that country was a heavy price to pay, not for the glory of victory, but for the ambiguity of cease-fire. The visitor to Israel today will find, not a people triumphant, but a people bearing up under the severest hardships with a determination that is awe inspiring.

We have here today a piece of legislation which is rightly termed "emergency security assistance" for the nation of Israel; $2.2 billion has been requested, and $2.2 billion is being recommended to you.

It is absolutely essential that we contribute to restoring the integrity of the Israeli defense establishment.

First, let me point out that the hostilities of this past October were as costly in their conduct as they were tragic in their consequences. This was not the 1967 war, this was a protracted conflict in which Israel suffered major losses in manpower and in its inventory of equipment. Unlike 1967, when a relatively quick demobilization enabled a rapid return to normal production schedules, the implementation of a cease-fire requires the maintenance of long communication lines and a good part of Israel's citizen army at the fronts. So the cost continues, and manpower is still tied up.

This war has cost Israel to date $7.1 billion. During every hour that an Israeli man or woman fought off the destruction of family, friends, and all that 25 years of dedicated effort has produced, $10 million was drained from Israel. The horrendous cost of this war to the Israeli people can best be appreciated when compared to their $8 billion gross national product and $5 billion national budget.

Israel's industry is off by 50 to 75 percent as a result of the unprovoked attack on her. The reduced production has brought about a loss of $480 million. The war has caused a severe shortage of trucks. Vital supplies are backed up in port and manufacturers are having difficulties transporting their products.

The national income resulting from tax revenues has jumped from 35 to 53 percent as a result of a compulsory "war loan" of from 7 to 12 percent.

The wage earner on the street is taking home only 45 percent of his gross earnings. For example, a wage earner making $714 a month will pay $217 a month in income taxes, $38 as part of an old compulsory loan, another $38 for this new loan, and $24 in social security payments. This leaves him a net of $397 a month 'take-home." If this employee contributes a month's salary to the new voluntary funds drive and pays in six settlements, as is the usual case, another $119 would be deducted each month for the next half-year. That would leave him with only $278 of his $714 gross.

Israel, then, is bracing for a prolonged period of severe economic austerity. Enormous defense expenditures, manpower shortages, and inflation as a result of accelerated government spending are all in Israel's immediate economic future.

Second, for the first time in a quarter of a century, Arabs and Israelis are seated at the negotiating table. Israel can ill afford to bargain from a position of weakness within the severe military context of these diplomatic negotiations. There must be no doubt in anyone's mind that the United States is prepared to replace Israeli losses with the additional equipment necessary to maintain the balance in the Middle East. If the issues can be solved by a belligerent attack in a moment of Israeli weakness, what incentive is there for meaningful dialog at the conference table.

The losses incurred upon themselves by the Arab States have been and are now being replaced by massive Soviet resupplyment of such items as Mig 21's, surface-to-air missiles, the frog surface-to-air missile, and other sophisticated weaponry. And never is heard a discouraging word when it comes to repayment terms.

Israel has purchased nearly $1 billion in equipment from us since the start of the war. She indicates she will need $3 billion worth. Without authorization for foreign military credit sales, we are forced to require cash payment for the equipment already purchased by next February or March. This is an impossibility for them.

Upon my motion, the committee adopted the recommendation that the repayment period for Israel be extended to 25 years because of her anticipated financial difficulties. Reports have already reached us that she may require up to $500 million a year in economic aid.

The Appropriations Committee recommends $2.2 billion for emergency assistance. A lesser amount could mean another request at a time when granting that request would jeopardize our efforts at the negotiating table.

Foreign aid, in the form of international development assistance and security and, yes, we will even have to throw in the Public Law 480 agricultural commodities section, still comprises less than 3 percent of our total budget. Now, I know there are some who would throw in the kitchen sink to puff up this percentage, but these are the basic programs we deal with in discussing the aid program. In this same vein, we are led to believe in another section of the report—page 5—that our public debt, which is now at about $462 billion has increased $203 billion during the same period of time that the foreign assistance program has cost the U.S. taxpayer approximately $253 billion. It would be very easy to assume that foreign air comprised over half the national debt. This is wrong. We should keep in mind the fact that it is less than a 3-percent item in the budget.

I would also take issue with the use of Korea and Vietnam as being the best illustrations of the worth of U.S. aid efforts. All of the countries of Western Europe that have depended on us to maintain their freedom would display wide-eyed amazement to see these countries labeled as the best examples of our aid.

Under the heading of U.S. International Balance of Payments—page 12—we are given a heady listing of the U.S. record for the last 23 years, all of which, save two, were deficit years. We are also told that soon after the foreign assistance program was started, the U.S. international balance of payments began to experience large deficits. That is quite a comparison, and one which raises a few questions. We have been supplying our NATO troops to the tune of $17 billion a year for some time now. How does this affect our balance of payments? Second, what would have been our deficits had we not provided foreign assistance and Europe had fallen?

We can look with pride at data showing our present improving balance-of-trade situation—in the third quarter of this year, there has been a $1 billion favorable shift in our merchandise trade balance, resulting in a $1.2 billion improvement in the balance on goods and services in this period, to an estimated $1.8 billion surplus.

Many would advocate the position that our aid program is a huge give-away. Let me say right now that there is nothing wrong with giving. It is throw-aways that we must guard against. Has our aid program been a waste? I would like to offer a few examples to answer that question.

The Export-Import Bank's operations have resulted in an increasingly large positive impact on the U.S. balance of payments. During fiscal year 1971, repayments of principal and interest on the Bank's loans and guarantees, cash payments on export shipments and overseas sales of loans, resulted in a contribution of more than $2.3 billion to the nation's balance of payments. In fiscal year 1972, the amount increased to $3 billion. In fiscal year 1974, we expect a figure of $3.6 billion.

The worth of the Overseas Private Investment Corporation was best stated recently by Secretary of State Kissinger when he said:

> Significant investment benefitting the United States, as well as developing countries might not go forward in the absence of OPIC programs.

This agency encourages U.S. private investors to play a constructive role in the economic and social progress of friendly developing nations in which 70 percent of the world's population lives.

Lastly, the international institutions of which the United States is a member—the World Bank Group, the Inter-American Development Bank, and the Asian Development Bank—have gradually moved into a leading role in economic development assistance. Moreover, the burden of this assistance has been increasingly shared among the developing nations participating. These multilateral banks operate in the black and cover their own administrative costs. The bulk of the world banking administrative budget of about $100 million is spent here in the United States. Bonds of the international institutions carry the highest rating—triple A. They have sold in capital markets around the world.

In toto, these are not what we can characterize as give-away programs. They are soundly run organizations which have achieved what they were designed to do.

Through United States foreign aid we strengthened the muscle of post-war Europe to withstand the expansion of communism. We have contributed to the astounding growth of developing nations so that their economies could grow at an average rate of 5.6 percent; so that their manufacturing output increased by 90 percent; so that their food production rose by one-third.

We have the opportunity to continue. I urge your support for this measure.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I commend the gentleman from Massachusetts for his articulate and concise statement.

Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, in particular I would like to direct my attention to the $2.2 billion in aid to Israel.

The Soviet Union has made a major effort to resupply the Arab forces with arms since the outbreak of hostilities on October 6, 1973. The United States, a number of weeks ago, made the decision to initiate its own arms shipment in order to maintain a balance of forces in the Middle East.

The House Foreign Affairs Committee has reported that Israel's relative military strength has now been restored to its pre-October 6 level. The Defense Department, however, has made an assessment of Israel's military needs and has concluded that an additional $1 billion in arms may be needed.

To date, Israel has paid for our weapons with cash and credits, not grants. Israel cannot, however, pay for the $1 billion in arms which the United States has shipped in the past 2 months without irreparable harm to her economy. At present more than 25 percent of this tiny nation's GNP is spent on defense. The recent war has seriously disrupted Israel's economy. She has a foreign debt of approximately $4 billion and her ability to earn foreign exchange has been impaired.

The $2.2 billion in aid which we are considering today would greatly alleviate Israel's economic stress; $1 billion could be applied to the debt Israel has incurred so far. The balance could be applied to the military aid she will need in the future. The specific amount and whether it will be in the form of credits or grants will be up to the President to determine as circumstances dictate. Certainly, if a lasting peace can be established and Israel's security can be guaranteed, all the money may not be required.

Secretary of State Henry Kissinger recently stated:

> The United States has supported Israel because of the emotional ties that have existed, because of the democratic tradition of Israel, because of the fact that it is a going concern in this area, and because, as I have said, of our opposition to the domination of one nation by force by others.

Mr. Chairman, I strongly support the efforts of this Government to secure a lasting peace in the Middle East. None of the nations in this region can sustain prolonged hostilities. I feel that this legislation will help bring this about because it will assure a strong, secure Israel at the bargaining table. If the Arab States believe that we will abandon Israel, they will have no reason to accept a compromise solution. And compromise will be required if a lasting peace in the Middle East is to be attained.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, my memory is not very good, but I go back to 1967 and recall that in that year Israel started a war and really worked over the Arabs.

I do not recall, however, any bill before the Congress to resupply the Arab military needs. Does the gentleman remember any bill being put through Congress to reequip the Arab nations to maintain the balance of power as the gentleman suggests at that time?

Mr. CONTE. That is a very good question. Let me say this, and the gentleman, I am sure, is aware of it. We have given a tremendous amount of aid to the Arab countries. I do not have the figures at my fingertips. We have given a lot of assistance to Jordan, about $1 billion, to try to maintain the balance of power there. We have given aid to Iran, Iraq, Kuwait, Lebanon, and Saudi Arabia.

In this bill, even though as the gentleman says, it is an illustrative bill, there is money for military assistance to some of the Arab States. There is $6 million in it for the American University at Beirut. I think over the years we have given over $85 million to the American University of Beirut.

Mr. TIERNAN. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Rhode Island.

Mr. TIERNAN. I thank my distinguished colleague for yielding. I want to associate myself with the remarks of the gentleman. They cover the situation very well. I will be offering an amendment later that has something to do with what the gentleman has said. I commend the gentleman for his fine statement in behalf of the bill.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I might point out that we are a great supplier of arms, incidentally, to the Arab countries, not only in our foreign aid legislation, but also in our military aid.

In our procurement bill we had money for Saudi Arabia and others in this year; we cannot claim we are just being one-sided.

Mr. PASSMAN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I wonder if the gentleman would mind answering a question? The President requested a $10 million amount for the United Nations Environmental Fund. That request had received enthusiastic support at the Convention in Stockholm last year. This bill cuts it by $5 million, to $5 million. There is a concern on the part of some that this might signify a lack of interest on the part of the United States in this program.

I would like to ask if this does indicate any hostility toward the program on the part of the gentleman, or would the gentleman be willing to look at it with an open mind were $5 million added in conference on the other side?

Mr. PASSMAN. May I assure the gentleman that no one on the committee is prejudiced against the item. It is a new line item in the bill. We are concerned with environment in this country, however, we thought we would start out gradually since this was a new program. We will certainly look at it very closely if it is presented again later.

Mr. OBEY. I would hope if the amount is increased on the other side that the gentleman would be willing to look at that amount, in line with the commitment made in Stockholm. We are the greatest polluter in the world by far, and it is a tiny amount in comparison to some items in this bill.

Mr. PASSMAN. However, from little acorns big trees grow. We thought we had better take a good look at the program. I assure the gentleman, regardless of the position on the other side, we will look at it. We will not promise to support it, but we will again consider it in the future.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PASSMAN. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I wonder if the gentleman would explain the amount of money in this appropriation for Cambodia and where is the authorization for the money requested?

Mr. PASSMAN. I might say to the distinguished gentlewoman, this bill came to the floor with a rule waiving points of order. That is the purpose of getting a rule, so that in the event these questions arise we can satisfy the Members asking questions, such as where did we get the authority.

I might say that the administration requested $200 million for Cambodia, and the committee in its wisdom reduced it by $50 million, so that the amount in this bill is $150 million for Cambodia.

Ms. ABZUG. Mr. Chairman, in reading the conference report on the Foreign Assistance Act of 1973, on page 36, I notice in the paragraph on the "Special Drawdown Authority," that the President has special authority to draw down defense articles from the stocks of the Department of Defense, and in that paragraph it states:

> It is the intent of the Committee on conference that $200 million of the emergency military assistance required for Cambodia be furnished pursuant to the authority contained in this section.

Is this $150 million in this appropriation bill in addition to that authority?

Mr. PASSMAN. No, it is not unless a further need is necessary. We tried to legislate in such a way that the drawdown authority will never have to be used. Of course, we provided funds to Israel under a similar arrangement in the Forign Military Sales Act. The Members indicated their interest by voting a while ago to assist our friends in Israel, but we tried very hard to pass legislation with adequate funds to carry out the commitment.

I may say this, that it seems that the witnesses who appeared before our committee placed the same emphasis on Cambodia as they did on Israel. They say on page 151 of the hearing that aid to Cambodia is urgent and if we did not provide this money, they would take it out of all of the other military support money. That is how urgent this Cambodia money is.

Ms. ABZUG. Mr. Chairman, I would just like to ask one more question. In view of the statement in the conference report that it is the intent of the committee of conference that up to $200 million of emergency military assistance requirements for Cambodia be furnished pursuant to this drawdown authority, is it not possible that we will actually use that money in that way?

Mr. PASSMAN. If we had not provided for Cambodia in this bill with a direct appropriation then of course, on account of the money for Cambodia being urgent, they would have had to use the drawdown authority. But since we put the money in the bill, I question whether they will ever use the drawdown system unless the situation becomes worse and they have to have additional funds.

Ms. ABZUG. If we appropriate the $150 million for Cambodia, there is still nothing that would stop the President from using this drawdown authority in addition, is that not correct?

Mr. PASSMAN. Yes, and the same thing applies to Israel. We gave Israel $2,200,000,000 plus $300 million in other ways. The President could draw down additional funds. It applies to all nations.

Mr. GROSS. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, the gentlewoman from New York should not be worried about $6 billion in appropriations for Cambodia, Israel and some 128 other countries, because I am sure the President, operating on a tight budget and insisting he is waging a fight to the death with inflation, will veto this bill. He cannot do anything else under the circumstances.

Mr. PASSMAN. Mr. Chairman, I know the gentleman is in very close touch with his President. I wish he would inform the Committee if he is going to veto it.

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in support of H.R. 11771, the foreign assistance appropriation for fiscal 1974, though I do so with some reservations and the intention of supporting at least one amendment which will be offered to this bill. The bill before us appropriates $5.83 billion in fiscal 1974 for foreign assistance and related programs, a 15-percent reduction in the administration request, or $1 billion less than the budget figure. Let me say at the outset that I am pleased that the Appropriations Committee has approved in full the $2.2 billion in emergency military assistance for Israel which we have authorized earlier today in H.R. 11088. I think this was both a responsible and necessary decision on the part of the committee, given the tenuous peace in the Middle East and therefore the need to maintain a military balance.

The bill before us today, while it is $1 billion less than the administration request, is some $2.2 billion more than the amount appropriated in fiscal 1973. This increase is primarily due to the emergency situations which have arisen around the world in the past year, including not only the Middle East war, but the Pakistan floods, the West African drought, and the Nicaraguan earthquake.

Nevertheless, I am disturbed by some of the cuts which have been made by the committee in the area of economic assistance, totaling more than $300 million. These reductions have fallen on postwar Indochina aid—a $132 million reduction—on development assistance—a $139 million cut—on disaster relief—a $50 million reduction—and on the U.N. environment fund—a 50 percent cut of $5 million.

As one who has long supported a responsible U.S. role in helping developing nations help themselves, and as one who has supported the new directions in U.S. development assistance designed by the administration and our own Foreign Affairs Committee, I am discouraged by this less than bare-bones approach to our longstanding international moral commitments.

This bill particularly reflects a lack of confidence in our commitment to the multilateral approach to economic development assistance which is such an integral part of those new directions. The committee report cites as its reasons for this the diminished degree of detailed examination and control we have over the expenditure of U.S. funds through multilateral channels. While this argument cannot be challenged as a matter of fact, it is distressing in that it does not come to grips with the needs for a greater burden sharing and partnership among nations in the development effort.

It seems a bit ironic to me that we would be moving in the direction of greatly trimming our own bilateral efforts without providing some compensatory support mechanism for development assistance through multilateral institutions. The problems of world poverty, pollution, and overpopulation are increasing and not decreasing. In the face of this worsening situation, I cannot see how we can justify a reduced world role for ourselves. I am not arguing that we are obliged to shoulder the lion's share of the burden as we did in the fifties and sixties.

It is obvious that in the post-Vietnam era our Nation is neither interested in being the world policeman or its chief development agent. The new emphasis is rightfully on greater burden sharing and partnership both in the areas of security and development. But this new low-profile approach should not be twisted into a no-profile or neo-isolationist approach. If we are serious about burden sharing and partnership, we must demonstrate a willingness to contribute our share to cooperative or multilateral efforts.

We cannot insist on the same type of control and predominance we once exercised if we are sincerely interested in making multilateral institutions viable. It seems to me a commitment to these institutions is the responsible middle course between the dangerous anachronisms of American predominance and isolationism.

In the time remaining, Mr. Chairman, I wish to address myself to the amendment which will be offered later by the gentleman from Alabama (Mr. BUCHANAN) and the gentleman from Illinois (Mr. DERWINSKI), to restore funds for the United Nations development program. This bill provides $70 million for UNDP, a reduction of nearly $20 billion from the administration request. In addition, the bill prohibits the transfer of $20 million from the fiscal 1974 appropriation to the fiscal 1973 U.S. contribution to UNDP. That transfer would have permitted us to bring our 1973 contribution up to the level of the commitment we had made. The combined effect of the $20-billion cut and the transfer prohibition is a $40 billion shortfall in our contribution to UNDP over the 2-year period.

As the administration request originally stood, the $90 million request for UNDP would have put our 1973 contribution at 27.9 percent of the UNDP total and 23.6 percent of the 1974 total. The latter figure is lower than our newly negotiated assessed contribution of 25 percent. The committee cut and transfer prohibition will mean a substantial cut below our assessed share and can only be interpreted as a reneging on an international commitment and a lack of confidence in this most vital development program. I therefore intend to vote for that amendment to restore funds for UNDP at the appropriate time, and urge my colleagues to do likewise.

Mr. HALEY. Mr. Chairman, although I support appropriating funds for the Emergency Security Assistance Act which this body passed earlier, which authorizes aid to Israel, and which is to be funded under this bill before us today, I do not favor passage of the foreign assistance appropriation bill for 1974.

In the foreign aid program as it has grown over a quarter of a century, there has been an inordinate waste of tax moneys. In view of our critical needs domestically, it seems to me that the foreign aid expenditures cannot be rationally defended. This is so—not because foreign aid has never done anything beneficial—but because the programs' bureaucrats have lavished money on one project after another whether needed or not, and the end result of this extravagant investment has been no more than a puny dividend in terms of purchased friendships.

The general proposition that Americans should be taxed so our Government can support everywhere good works that properly should be supported by private charities is preposterous. Private charities derive funds from voluntary contributions; Government charity uses the involuntary contributions of citizen-taxpayers.

Mr. Chairman, I regret that appropriation for the Emergency Security Assistance Act have been tied up with the foreign aid appropriation legislation. I believe the two should have come to the House separately. Many of our colleagues will undoubtedly be caught in the dilemma of wanting to support appropriating for the Emergency Security Assistance Act but wanting also to maintain their opposition to the overall foreign aid appropriations bill. I am among that group and will vote against this bill while urging that if the bill should be defeated that a new bill funding the Emergency Security Assistance Act should be immediately brought before us for a vote.

Mrs. HECKLER of Massachusetts. Mr. Chairman, the State of Israel must have the means to insure its survival if there is to be any hope for a lasting peace in the Middle East. The critical negotiations planned in Geneva will surely fail if the balance of power is allowed to tilt sharply in favor of Israel's enemies.

Arabs and Israelis suffered *terribly* during the recent Yom Kippur war, and now both sides, finally, seem willing to sit down and settle their differences at the conference table. I pray that the talks succeed.

However, as you know, Russia continues to pour tons of sophisticated military hardware into the area to revitalize the Arab armies. Israel sustained heavy losses both in manpower and equipment during the bloody October fighting. If this continues, the resulting imbalance can only encourage another senseless holocaust with the threat of escalating into world war III, a war that no one can win.

Israel's military losses must be replaced. Therefore, I urgently call for prompt passage of H.R. 11088, authorizing $2.2 billion in emergency security assistance for Israel. In addition to helping replace the armament losses, this bill authorizes payment of the U.S. share of the United Nations Emergency Force out of these funds.

However, assistance will be limited to $1.5 billion unless the President determines the remaining $700 million is indispensable for Israel's defense and justifies the expenditure to Congress.

The State and Defense Departments estimate the $2.2 billion is sufficient to bring Israel back up to strength to discourage a further outbreak of hostilities and allow the tiny nation to negotiate with confidence and success. The Yom Kippur war must be made the final war to shatter the Middle East.

Since I have been in Congress, I have maintained an interest in Israel. I have visited Israel personally, and I have great respect for its people. The Israelis have a right to survival and the enjoyment of their nationhood. The Arabs have the same right, and I hope for the sake of all us, these great peoples can settle their differences.

I traveled to Russia as well, to urge that the cruel restrictions be removed and Soviet Jews be allowed to emigrate freely to Israel. I strongly oppose the so-called "education" tax that Russia was requiring of those desiring to leave.

While the Soviet Union waived this ransom under U.S. pressure last April and has not levied it since, Soviet Jews still have formidable hurdles on their journey to freedom. Often visas are denied for trumped-up reasons of "security" or sometimes for no official reason at all.

As long as this continues, I will oppose granting the Soviet Union most-favored-nation status in trade relations with the United States.

We cannot put our conscience to one side in an effort to improve relations between nations, no matter how desirable this end may be. The cost would be too high.

Nor can we afford to be less than even-handed in our relations with any of the nations in the Middle East. The $2.2 billion in emergency assistance for Israel is aimed not at giving that nation military supremacy in the area, but merely to bring it up to parity with the Arab nations into which Soviet arms continue to flow. Hopefully the nations of the Middle East will finally learn to resolve their differences not by force of arms, but by the greater forces of persuasion and negotiation.

The might of reason must prevail if there is ever to be a true and just peace in a land that is holy to three of the world's great religions.

Mr. FASCELL. Mr. Chairman, the U.N. development program and the U.N. environment program deserve generous support from the United States. It is important that the United States contribute to those two programs at the level set by the foreign aid authorization bill—$90 million for UNDP and $10 million for the environment program.

The cuts recommended by the Committee on Appropriations in these two programs would be harmful to our national interests. In the case of the U.N. development program, the committee allows only $70 million for UNDP for fiscal year 1974, which would bring the U.S. percentage of UNDP total contributions down to 19 percent for fiscal year 1974. The United States already ranks very low among contributors to UNDP in terms of gross national product. For us to exacerbate that tendency would be unworthy of the United States as a world leader, especially when other countries are making big increases in their contributions.

Another important point to remember regarding UNDP is that up to 80 percent of U.S. contributions return to the United States in the form of payments for grants, services, and contracts.

The U.N. environment program is an activity which will benefit the United States directly in the work that it does to combat environmental decay throughout the world. It is just getting its start this year. Other nations have already budgeted large amounts and for the United States to do less than its share would be a grave mistake.

I urge all of our colleagues to vote for full funding as already authorized for these two programs. It will be money well spent.

Mr. SHRIVER. Mr. Chairman, I have no further requests for time.

Mr. PATTEN. Mr. Chairman, I rise today to speak in support of the foreign aid appropriations bill generally and funds for Israel specifically.

My father always told me one thing when I was growing up: "Never forsake a man who is fighting for his fredom." During my years in Congress I have fought against and spoken out against Russian repression when it has occurred against the Hungarians, the Latvians, the Jews, and others. Communist guns have held free peoples down for too many year—and they are trying again in the Middle East.

A bill to authorize $2.2 billion worth of credit to Israel was approved by the House on Tuesday. I supported the bill at this critical time so that this tiny country can defend itself against an enemy whose financial resources are limitless.

In this hour of crisis, the United States must not abandon Israel. Besides humanitarian reasons, there is also the important consideration of our own self-interest. We need this strong and stanch ally, the only nation we can fully rely upon in the Mideast. The effect of the Arab threats for an oil boycott has certainly given them the leverage to follow through on their attempts to isolate Israel from the rest of the world. The United States is left standing as the only major power to support the Middle East's only true democracy—Israel.

Diplomatic relations with the Soviet Union are important. However, if we allow them to aid the Arab countries without quick financial action on our part to Israel, this will also have an effect on future relations. To have peace, we must have a balance of power. To have a balance of power, we must lend continued service and assistance to Israel.

It is our duty as well as the duty of every free country to support the political integrity of the State of Israel. In this way we support our own country and our own freedom.

Mr. PASSMAN. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. If there are no further requests for time, the Clerk will read.

The Clerk read as follows:

International organizations and programs: For necessary expenses to carry out the provisions of section 301, $105,000,000, of which $15,000,000 shall be available only for the United Nations Children's Fund: *Provided,* That no part of this appropriation shall be used to initiate any project or activity which has not been justified to the Congress: *Provided further,* That none of the funds appropriated or made available pursuant to this Act shall be used to supplement the funds provided to the United Nations Development Program in fiscal year 1973.

AMENDMENTS OFFERED BY MR. DERWINSKI

Mr. DERWINSKI. Mr. Chairman, I offer amendments and I ask unanimous consent that they may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. DERWINSKI: Page 4, line 21, strike out "$105,000,000" and insert in lieu thereof "$124,822,000."

Page 4, line 25, strike out everything following "Congress" through page 5, line 3, and insert in lieu thereof a period.

Page 5, line 7, strike out "$5,000,000" and insert in lieu thereof "$10,000,000."

Mr. DERWINSKI. Mr. Chairman, I will be brief.

Mr. Chairman, the best argument I could give Members this afternoon for this bill is to read excerpts from a response to a letter I directed to then-Secretary of State Rogers concerning U.S. voluntary contributions to U.N. programs. In my letter I asked several questions to each of which I received a reply:

DEPARTMENT OF STATE,
Washington, D.C., August 17, 1973.

Hon. EDWARD J. DERWINSKI,
House of Representatives,
Washington, D.C.

DEAR MR. DERWINSKI: Your letter of July 30, 1973 to the Secretary of State concerning U.S. voluntary contributions to United Nations programs has been referred to me for reply.

In your letter, you ask several questions. I shall reply to each in turn.

(1) What is the Administration's objection, in principle, to a legislated percentage ceiling on voluntary contributions?

In his February 9, 1972, report to the Congress on *U.S. Foreign Policy for the 1970's,* President Nixon, discussed our desire to see our assessed UN contributions reduced to 25 per cent. He concluded with the following statement:

"This 25 per cent limitation should not and will not apply to the voluntary contributions upon which many of the more important UN functions are now dependent. Current UN activities financed by voluntary national contributions include such activities as narcotics control, disaster relief, major economic assistance activities (the United Nations Development Program), population control, etc. All these are activities to which individual nations contribute, or not, as each sees fit. The size of each nation's contribution is determined by its own interest in the program. In most instances, the U.S. share of the cost of these programs is larger than our assessed share of the regular UN budget. That is a matter of national choice. The United States will continue to make generous contributions to activities of this kind which we have a particular interest in encouraging."

In the same report, the President reviewed his new approach to foreign assistance. "We fully support," he said, "a strengthened international effort for development through our membership in the multilateral development institutions and various consortia and consultative groups, through United Nations specialized agencies and the United Nations Development Program. . . . Because multilateral institutions enable us to contribute to development on a broad scale, our bilateral aid can and should be focused on countries in which we have a special interest and on problems where it can do the most good."

I would also call your attention to the April 1971 *Report of the President's Commission for the Observance of the Twenty-Fifth Anniversary of the United Nations.* After recommending that the United States seek to reduce its contribution to the UN assessed budget to 25 per cent, the Commission stated:

"In recommending that the United States seek a reduction of the percentage of its assessment to the regular budget, the Commission wishes to emphasize that it is in no way proposing any diminution of the overall commitment of U.S. resources to the UN system. Each reduction in the U.S. share of the regular budget must be clearly marked by at least a corresponding increase in U.S. contributions to one or more of the voluntary budgets or funds in the UN system."

Our commitment to the United Nations, and our participation in multilateral development programs in particular, bears a direct relationship on our ability to obtain support for our foreign policy goals—whether or not such goals are within the UN system or directly related to economic development. A constructive and active US role in these programs contributes in a very important way to the total image of the United States and helps us to persuade other countries—both developed and developing—to cooperate with us on issues which we consider to be of primary importance. It is, of course, quite natural that the countries of the developing world in particular should be strongly influenced in their judgment of us by our contributions to the development programs of the United Nations in which they have a primary interest.

Our objection to a percentage ceiling on voluntary contributions thus rests on two premises which we believe are essential to the furtherance of our foreign policy goals:

(a) We must be able to contribute such sums as we see fit to UN programs in which we have a particular interest and which further our own foreign assistance policies as well as general economic and social development.

(b) We must be able to maintain our overall commitment to and our traditional role of leadership in the UN system, a role which we believe is highly beneficial to us in that it furthers not only the development of international cooperation, which is so essential to a lasting peace, but also support among other governments for a variety of our foreign policy goals.

(2) What effect do you estimate such a ceiling would have on the UN programs concerned?

UNDP expenditure projections for the five-year period 1972–1976 are based on the assumption, authorized by the UNDP Governing Council, that resources will increase during the period at the annual rate of 9.6%. This is the rate at which resources in fact increased during the five-year period 1966–1970. Since 1970, however, the annual rate of increase in voluntary contributions to the UNDP has fallen below 9.6% on the average. This has occurred despite increases by other countries totalling 10% in 1971, 20% in 1972 and 11% in 1973 because of the stationary level of the US contribution from 1970 through 1972 and an anticipated increase of only 4.7% in 1973. The UNDP's reserve of unexpended resources, utilized since departure from full funding in 1971 to fill the gap between contributions and expenditures, is being rapidly depleted. It is presently estimated that by mid-1974 these resources will reach the minimum operational reserve level of $150 million required by the UNDP Governing Council.

Should the rate of growth of the US contribution be further slowed or even reversed in order to fit within a legislated percentage ceiling, the UNDP's tight financial situation would become critical and a drastic reduction in planned program delivery would seem inevitable. This would mean a reduction of assistance available under the already approved indicative planning figure for each country.

It would frustrate the UNDP's efforts, also approved by the Governing Council, to provide additional assistance to the 24 least developed countries. Such action might also be expected to have a demoralizing effect on the UNDP and, inter alia, undermine support for the management improvements being introduced by the American Administrator, Rudolph Peterson.

Virtually all voluntary programs would be seriously affected by a 25% ceiling on U.S. contributions in much the same way as the UNDP, as can be seen from the chart in our response to the succeeding question. We should expect that the onus for this situation would be placed squarely on the United States, as all other major donors are increasing their contributions.

(3) How do the contributions of other countries compare with those of the United States in terms of percentage of gross national product and percentage of budgets of the programs?

In 1972, the United States ranked 30th among contributors to the United Nations Development Program in terms of the relationship of contributions to gross national product. Among major donors, the United States was 13th. In terms of the size of contributions per capita, the United States ranked 10th among all donors and 8th among major donors. The standing of major donors in each instance was as follows:

1972 pledges in relation to GNP

[In percent]

1. Denmark	.132
2. Norway	.087
3. Sweden	.084
4. Netherlands	.044
5. Finland	.034
6. Canada	.024
7. Switzerland	.022
8. United Kingdom	.017
9. Belgium	.015
10. Austria	.013
11. New Zealand	.011
12. Iran	.009
13. United States	.009

1972 pledges per capita

1. Denmark	$4.19
2. Sweden	3.23
3. Norway	2.57
4. Netherlands	1.06
5. Canada	.85
6. Finland	.75
7. Switzerland	.68
8. United States	.42

While computations have not yet been made for 1973, our ranking in each case is expected to be lower.

As a percentage of total contributions to various UN voluntary programs in calendar year 1972, US contributions were as follows:

Program	U.S. contribution 1972 (thousands)	Percentage
United Nations Development Program	$86,000	30
United Nations Children's Fund	15,000	32
IAEA Operational Program	1,550	38
WMO Voluntary Assistance Program	1,550	33
WHO International Agency for Research on Cancer	312	14
UN/FAO World Food Program	[1] 62,500	50
UN Institute for Training and Research	400	32
International Secretariat for Volunteer Services	[2] 173	28
UN Relief and Works Agency	[3] 23,200	51
UN Force in Cyprus	4,800	29
UN Fund for Population Activities	29,040	46
UN Fund for Drug Abuse Control	2,000	74
UN Environment Program Fund	0	(4)

[1] Includes $61,000,000 in Public Law 480 commodities and freight services.

[2] Includes $100,000 special grant made under authority of Peace Corps Act.

[3] Includes $8,900,000 in Public Law 480 commodities.

[4] First contribution of $10,000,000 proposed for 1974 would represent 40 percent of estimated total contributions.

(4) What direct benefits accrue to the United States from participation in these programs, especially in terms of monies returning to the American economy?

In addition to furthering support for our foreign policy goals, as mentioned above, participation in multilateral development programs has benefited the United States in a variety of ways. Such programs have brought about a progressively wider sharing of the cost of technical assistance, formerly borne to a far larger extent by the United States. They have fostered greater self-reliance, thus multiplying the impact of U.S. assistance. Under its new system of country programming, the UNDP, in particular, is helping the developing countries to plan for and utilize more effectively all the foreign assistance they receive.

In terms of more direct monetary benefits to the United States, our participation in the UNDP and other multilateral programs has enabled American expertise and equipment to be introduced in areas such as Eastern Europe, where our bilateral aid programs have been foreclosed and our trade impeded, and Africa, where our bilateral programs are now minimal and markets are only beginning to be developed. Throughout the world, provision of experts, contract services and equipment through UN programs has brought significant monetary returns to the United States. While precise calculations are difficult, it has been estimated that 70 per cent to 80 per cent of U.S. contributions to the UNDP return to the United States in the form of payments for goods and services, including headquarters costs. Such estimates do not include amounts—perhaps more important over the long run—accruing to U.S. firms through sales to institutions and firms created as a result of UN projects or introduced to American products while receiving UN assistance. U.S. firms and lending institutions have also provided a considerable portion of the $9 billion in follow-up investment reported to have resulted from UNDP projects through 1972.

Mr. Chairman, there are further comments that I wish to make. The UN Development Program is the principal organ of the UN for development assistance to underdeveloped countries. Its performance effectiveness has been improving steadily and adequate U.S. contribution to UNDP enables our country to assist underdeveloped countries through genuine programs of development without the political consequences of some bilateral programs.

In terms of direct monetary benefits to the American economy, it has been estimated that close to 80 percent of the U.S. contributions to UNDP return to the United States in the form of payments for goods and services, including headquarters costs in New York.

The $90 million which the administration had pledged is 27.9 percent of the 1973 UNDP total and only 23.6 percent of the 1974 UNDP total. This figure is lower than our UN assessed budget payment which, in the past years, has been reduced to 25 percent. The $40 million involved is in the administration's budget and our proposal to restore these cuts has complete administration support.

Since I served at the United Nations 2 years ago as one of our delegates, I feel an obligation to emphasize for the record the need to keep our budget commitments to the UN, and in particular my amendments would restore the figure in the budget item to the UNDP, the United Nations development program, and to the United Nations Environmental Fund.

I believe these are practical programs. The UNDP, just like any aid program, has its examples of bad administration, but overall it is a very effective program.

Mr. Chairman, I believe that this amendment is consistent with what I consider our commitment to the United Nations.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. Yes, I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman from Illinois for yielding.

I had the privilege of serving as one of our delegates to the United Nations Environmental Conference in Stockholm in June 1972, and I feel that the amendment of the gentleman from Illinois (Mr. Derwinski) is highly important as an expression of our support of the recommendations of that conference.

Mr. Chairman, the Stockholm Conference on the Human Environment was attended by representatives from some 114 nations from every part of the globe—including both developed and developing nations, as well as large and small countries. The representatives were able to agree in principle on the broad guidelines which can protect the Earth's natural resources and improve the quality of the environment upon which the survival of mankind depends.

Mr. Chairman, this great international conference marked a dramatic turning point in human history from which this, and future generations may benefit.

Mr. Chairman, the principal objectives sought by our U.S. delegation, and outlined earlier by President Nixon, were substantially achieved. These consist of the following: first, establishment of a viable agency within the United Nations to coordinate United Nations environmental activities; second, establishment of an environmental fund totaling $100 million over the first 5 years, of which the United States has pledged up to $40 million on a matching basis subject to congressional approval; and third, establishment of a global Earth watch program to coordinate a monitoring of environmental conditions and trends in the atmosphere, oceans, and soil.

Mr. Chairman, all aspects of environmental problems are of concern to everybody in our interdependent world today. These problems are such that no nation, no continent, no system can succeed in resolving them alone, or even attempt to resolve them without relying on the knowledge, expertise, and experience of others or without drawing on the services envisaged in recommendation 137, as adopted at the Stockholm conference.

Government, consumers, business, labor—all people, rich and poor alike, suddenly realize they are all in the same situation, and that something must be done. In other words, no one of us can escape the responsibility of improving the state of our environment. All nations have a stake and concern. No political system or level of economic development is immune, for the environmental crisis is a global one. We must, therefore, encourage global cooperation in the exchange of knowledge and the application of that shared information.

Mr. Chairman, it would seem important for us to fulfill our pledge in support of a United Nations Environmental Fund which was proposed by President Nixon in February 1972 and to which a large number of countries have already fulfilled their commitments, as evidenced by the table appearing on page 28 of the committee report.

Mr. Chairman, I urge overwhelming support of the amendment offered by my distinguished colleague from Illinois (Mr. Derwinski).

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, of course, I am like my good friend, the gentleman from Iowa (Mr. Gross); I am just a little bit frightened.

I was in hopes that the gentleman would offer these amendments, because unless he explained all of these things and unless we know about this UNDP, we might wind up without any appropriation for the UNDP.

If the gentleman is going to insist upon his amendment, of course, I am going to have to oppose it and make some good strong points against it.

Did the gentleman indicate that he would make his talk and then let us look at it when it goes over to the other side?

Mr. DERWINSKI. Mr. Chairman, I think I recognize the gentleman from Louisiana, not only as a skillful debater, but as a very practical legislator, and, therefore, since I recognize the need to move along this afternoon, I ask unanimous consent to withdraw my amendments.

Mr. BUCHANAN. Mr. Chairman, I wish to associate myself with the remarks of the distinguished gentleman from Illinois (Mr. Derwinski) and to applaud his effort toward the restoration of UNDP funds to the level requested by the President. Foreign aid, they say, has no constituency. This seems particularly true of the United Nations enterprises to which we make voluntary contributions such as UNDP.

During the past 3 months, Mr. Chairman, it has been my privilege to serve as a delegate to the 28th General Assembly of the United Nations. This experience has provided an opportunity for a first-hand look at the work of the organization and its related agencies. I have become convinced that the relatively small investment we are making there may be one of the better ones. Mr. Chairman, I support this bill in its entirety. The reckless, unrestrained supply by the Soviet Union of more than $6 billion worth of military supplies to the Arab world including elements of that country's most sophisticated weaponry makes necessary the assistance to Israel included in this bill to restore the military balance essential to meaningful negotiations and to progress toward peace.

Yet I continue to be amazed at the ease with which one can steer through the Congress billions of dollars for military purposes and the difficulty involved in obtaining the authorization and appropriation of a few millions of dollars for developmental purposes. It is a fact that most of the world's people are desperately poor, and still are fighting man's ancient enemies of hunger, poverty, and disease. Many developing countries rely heavily on the United Nations Development Program. It is of vast importance to them. Our share is a relatively tiny portion of our national budget. It would seem to me to be penny wise and pound foolish for us to be niggardly and tight-fisted in contributions toward the establishment of a healthier more stable world where peace might have a chance to survive, while at the same time piling billions upon billions at home and abroad for the implements of war. The strong support by our country of such enterprises as UNDP may in the long run be of great importance to our own welfare as well as to that of the world's majority. It would appear to me that our investment in a better life for the world's people and our identification in this way with their hopes and aspirations cannot but be in the economic, political, security, and moral interest of this Republic. I urge my colleagues, Mr. Chairman, to reconsider and support our President's full requests for U.N. funding.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. GROSS. Mr. Chairman, reserving the right to object, I just wondered if this request to withdraw the amendment has the concurrence of the other sponsor who is the successor to the former Ambassador to the United Nations.

Does this have his concurrence, the withdrawal of this attempt to spend some more money?

Mr. DERWINSKI. Mr. Chairman, is the gentleman speaking of our mutual friend, the gentleman from Alabama (Mr. Buchanan)?

Mr. GROSS. He seems to be your teammate in this business of bulging the spending under this foreign aid bill.

Mr. DERWINSKI. I hope that the gentleman from Iowa does not mind if I occasionally have a few other coworkers. I usually spend my time joining the gentleman from Iowa in his heroic efforts.

Mr. GROSS. I just wondered if the gentleman was going through some kind of charade since the gentleman capitulated so quickly on his amendments.

Was this prearranged with the committee chairman? Would that be possible?

Mr. DERWINSKI. No; it is just that I recognize I probably do not have the votes, to begin with, and the gentleman from Iowa obviously is displeased with my amendments.

He is the last Member in the world I wish to debate. It always pains me to find myself in disagreement with the gentleman.

Mr. GROSS. Mr. Chairman, I know how badly the gentleman feels about that.

Mr. PASSMAN. Mr. Chairman, will the distinguished gentleman yield?

Mr. GROSS. Yes, I yield to the gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, of course, the gentleman's amendments would increase this bill by some $25 million.

Mr. GROSS. That is what I said; that he is trying to increase spending through this foreign aid bill.

Mr. PASSMAN. Mr. Chairman, I am not trying to debate the position. I just said that along the way in finalizing this bill, we would give it our consideration. We have an openminded subcommittee. We always look at what the other body puts in, and if they put in information we do not have, of course, we are going to look it over in conference.

Mr. GROSS. The gentleman did not

discuss it with the gentleman from Illinois?

Mr. PASSMAN. No, I do not believe I discussed it with the gentleman.

Mr. GROSS. How about your suggestion of going to conference and putting it in? Is that not what the gentleman suggested to the former Ambassador?

Mr. PASSMAN. No; I did not suggest that to the gentleman.

I said along the way if they can make a better case, we will look at it very closely.

Mr. GROSS. What is meant by "along the way"?

Mr. PASSMAN. You have to send it over to the other body and to conference, and then we have to come back to the House and the Senate. It is my understanding that when you have legislation with sums this large it is necessary to compromise at times.

Mr. GROSS. I just want to be sure the withdrawal of this amendment has the approval of the United Nations.

Mr. PASSMAN. I am delighted that the gentleman withdrew the amendment and along the way we will look very carefully at your view on this matter.

Mr. GUDE. Mr. Chairman, I move to strike the last word.

I would like to commend the gentleman from Illinois (Mr. DERWINSKI). He has long lived by the adage that he who fights and runs away will live to fight another day.

I heartily approve the amendment he has offered, and I earnestly hope we will restore this money somewhere in the process as it is very vital to the international scene at this point.

In particular I would like to draw attention to that part of his amendment which deals with the U.N. Environment Fund.

As a congressional observer at the United Nations Conference on the Human Environment held in Stockholm, Sweden, in June 1972, I was impressed with both the need and the enthusiasm for a U.N. voluntary fund for the environment.

President Nixon has taken a strong initiative in proposing a 40-percent U.S. contribution to this fund. With an overall goal of $100 million, this would mean a U.S. contribution of $40 million. Other countries have already pledged $60 million and I believe that our vote today will be taken as an indication of whether we intend to back up the President's pledge.

There are real benefits to be gained by the creation of this fund. One would be a global monitoring system for the prediction and assessment of environmental effects of international significance. This would include monitoring stations to measure atmospheric pollution levels in the developing countries, toxic substances in the oceans, and health hazards in foods and in urban areas.

Another important area in which the U.N. Environment Fund can be helpful is the collection and dissemination of environmental data. An information referral service would be established as a central source for data that now exists and would be further employed to help bring together data that individual nations would find difficult to compile.

The long-term impact of the Fund should be to set effective and equal environmental standards for all nations. It should serve in evaluating the environmental impact of development in order to alleviate or avoid some of its harmful effects in the less developed countries. It should sponsor education programs, pilot projects, and joint research efforts which would help realize the goals set at the Stockholm Conference.

From the standpoint of equity it is not unfair for the United States to support 40 percent of the cost of this fund. Our Nation is one of the world's major polluters and major resource consumers. As the world's most developed nation we have seen how much can be lost if environmental damage is not restrained. It is to our benefit to encourage a global environmental commitment.

Mr. Chairman, I therefore earnestly hope we will restore the funding for the U.N. Environment Fund to the $10 million level requested by the administration. This is a small item in our budget but it is an important indication of our commitment to a most important effort.

Mr. BINGHAM. Will the gentleman yield?

Mr. GUDE. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

I would like to associate myself with his comments and those made by the gentleman from Illinois (Mr. DERWINSKI).

If the House were to make the mistake of appropriating only $70 million for the U.N. Development Program for fiscal year 1974, the United States will be taking a step backward in world leadership. This would mean that our contributions for fiscal year 1974 would be only 19 percent of total UNDP funds. Last year when Congress voted to limit the U.S. share of the U.N. regular budget to 25 percent our representatives at the U.N. told other member nations that this action would in no way apply to voluntary contributions to programs such as UNDP. Cuts in our UNDP contribution this year would have the effect of breaking these pledges made by our representatives. The United States has been successful in urging other countries to bear a larger share of the contributors' burden in UNDP, so our credibility would be seriously undermined if we were now to move in the opposite direction ourselves.

I have personally observed the programs of the UNDP over more than 20 years. They are for the most part "people to people" programs, involving a great worldwide effort in the sharing of scientific and technical knowledge and know-how so that poor people can be helped to help themselves. We should be willing to carry our share of this program which we had so much to do with launching.

U.N. Development Program has made great strides in improving its management capability and effectiveness of operation during the past 2 years as a result of reforms which the United States took a lead in urging. We can be more certain than ever that the money we give to UNDP will be used wisely for worthwhile programs.

Mr. FRASER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the comments made by the distinguished chairman of the subcommittee, the gentleman from Louisiana.

I understand that he is willing to take a fresh look at the problems presented with respect to the United Nations development program.

Mr. PASSMAN. Will the gentleman yield? What did the gentleman say?

Mr. FRASER. I was saying I had understood the gentleman was going to take a look at some of the arguments being presented.

Mr. PASSMAN. Oh, yes. We are going to look at it. I can promise you that.

Mr. FRASER. I notice the gentleman from Iowa is helping to clarify that situation. I know that is very helpful, as it always is.

I just wanted to make the observation, Mr. Chairman, that the UNDP is one of the international programs which represents a joint effort by the industrial countries of the world to help the developing countries.

One of the problems of recent years is that the sense of an international system is being eroded. When I refer to an international system I am talking not only about the United Nations but referring also to NATO and other alliances of ours as well. There is a disintegration of the sense of community which had kept the peace in this world for the past quarter of a century, peace in relative terms, at least.

As the lessons of World War II fade from the memories of many of us there is less and less willingness to carry out mutual undertakings entered into in the international arena. I think this is a process which, if carried to its logical conclusion, can guarantee the eruption of world war III and the possible destruction of civilization, at least most of civilization, on this planet.

It is very important for the United States to be able to carry forward in concert with other countries in order to deal with the real problems that face this planet.

The UNDP is not a perfect program, but it does represent a coming together of industrial countries to discharge the sense of responsibility to assist the development of the countries which face a long road in the development process.

If this committee or this House should conclude that no matter what the President or his representatives agree to, no matter what arrangements are made in New York, that we are free to make unilateral cuts and reductions because we have some feelings that maybe a program is not run just the right way, then we are inviting the kind of response and reaction from other countries which is going to continue this process of erosion and this breakdown in the sense of international community.

So I suggest, Mr. Chairman, that the

issue presented by the appropriations for the United Nations development program revolves not only around the question as to how effective the program has been, with all of their strengths and with all of their weaknesses, but it also relates to our capacity to offer moral leadership in the world. So I do appreciate the fact that the chairman of the subcommittee, the gentleman from Louisiana (Mr. PASSMAN) has indicated that he will take a serious look at this matter. We certainly should not act lightly with respect to these matters, it ought to be done with utmost seriousness. Because it is important that the United States once again resume its role of world leadership. So I hope that when this matter returns from the conference that we will have accepted our full responsibility to act, and be a responsible member of the international community.

The cuts recommended by the Committee on Appropriations in H.R. 11771 would be, I am convinced, very damaging to our national interest. If the United States contributes only $70 million to the United Nations development program for fiscal year 1974 and is unable to transfer fiscal year 1974 funds to make up for the shortfall in contributions under last year's continuing resolution, our country would be responsible for a $40 million shortfall in pledges made to the United Nations development program—UNDP.

Such a shortfall in our contributions would be particularly damaging at this time in view of the fact that our Representatives to the United Nations—including George Bush and Senator GALE McGEE—made assurances at the United Nations that in reducing our payment of U.N. dues to 25 percent of the regular budget, the United States had no intention of applying a similar cut to voluntary contributions. It was largely on the basis of this assurance that a majority of the members of the United Nations agreed to reduce the American share of the regular budget to 25 percent. Now we have an appropriations bill which would have the effect of reneging on those assurances. Furthermore, we would be slashing our contributions to UNDP at a time when UNDP's effectiveness in development assistance is making impressive improvements, and when other countries are making major increases in their contributions to UNDP. At present the United States ranks 30th among contributors to the UNDP in terms of percentage of the gross national product and 13th among the major donors.

Despite claims that UNDP is inefficient and has exorbitant overhead costs, studies have shown that overhead costs for bilateral and multilateral technical assistance programs are roughly equivalent. The State Department's Inspector General for Foreign Assistance reports that his studies reveal that U.N. programs compare very favorably with U.S. bilateral programs in the way they are run.

Even if it were the intention of the appropriations bill to work against the spirit of the 25-percent limitation on U.N. dues, by applying it to voluntary contributions as well, a $70 million U.S. contribution to UNDP for fiscal year 1974 would place the United States far below 25 percent of UNDP's total contributions. In fact, the figure would only be about 19 percent.

I believe the true nature of multilateral development assistance programs has been seriously misrepresented by the Appropriations Committee in its committee report on H.R. 11771. Officially operated programs of multilateral assistance have advantages which bilateral programs do not have.

They can insure that development assistance is carried on in the areas where it is needed most, based on a consensus of all the donors and recipients in the program. Additionally, these programs can be implemented without the unfortunate political consequences that often flare up in the two-way donor-recipient relationship inherent to bilateral aid programs. Far from crippling UNDP at a time when it was becoming more effective, we should be significantly increasing our percentage of contributions, along with other countries, for the reasons stated above.

Partly at the urging of concerned Americans, including Members of Congress, UNDP has implemented a major overhaul in management of its operations during the past few years. One of its management reforms was to plan programs and their funding into the future, rather than operate on a short-term year to year basis. These plans are made using indicative planning figures based on pledges of contributions made by donor nations. So we can see that a $40 million default by UNDP's biggest donor would seriously cripple the very effectiveness that all of us have been urging for UNDP.

UNDP has been criticized for carrying on programs in wealthy countries such as Kuwait and Japan. Both of these countries, however, are net contributors to UNDP; that is, they give more money to UNDP than UNDP gives them. In the case of Japan, for example, UNDP helps support an International Institute of Seismology and Earthquake Engineering which benefits many countries of the world. Japan was the logical place to conduct such an undertaking because of the frequent occurrence of earthquakes there and the advanced stage of Japanese technology in this field.

Mr. Chairman, if we really want the United Nations and its various organs to improve their effectiveness, if we really want it to correct the shortcomings of which it has been accused, then slashing the capability of one of its most important activities, is certainly no way to go about it. I urge our colleagues to vote for and actively support the amendments being offered by the gentleman from Illinois, Mr. DERWINSKI, to appropriate the funds authorized for UNDP and to honor the pledges made by our country's representatives to the United Nations.

UNITED NATIONS ENVIRONMENT PROGRAM

Mr. Chairman, in public hearings last June the chairman of the Subcommittee on Foreign Operations of the Committee on Appropriations assured Representatives of the State Department that he favored an appropriation of $10 million for the U.S. contribution to the voluntary fund for the environment, under the U.N. environmental program. This was the level authorized by the House last May. However, I find that the foreign assistance appropriation bill (H.R. 11771) allows only $5 million for this program, a reduction of 50 percent in the amount authorized.

The United Nations environmental program was established last year by the U.N. General Assembly, based on recommendations made at the World Conference on the Environment in Stockholm, May 1972. One of the features of the program is a voluntary fund for the environment. Even before the Stockholm Conference, President Nixon gave strong American support to the concept of such a fund and indicated that if other countries paid their fair share the United States would be willing to contribute up to 40 percent of the initial fund of $100 million. During 1973, pledges for contributions and actual contributions from other countries quickly brought the total to $100 million, assuming a $40 million contribution by the United States over a 4-year period. Other countries are doing their share; why cannot the United States do likewise?

The U.N. environment program is not an aid program. It is an international coordinated effort to deal with problems which threaten the existence of mankind. We Americans are acutely aware of the magnitude and consequences of environmental decay. In our industrial society we have witnessed the worst effects of the problems of ecology. The U.N. Environment program will tackle some of the very problems that have the worst effects on America.

Although the United States is being asked to contribute money to the program, it stands to benefit as much as any other country from an effective United Nations environment program. If the House decides to cut our contribution to this program in half in the very first year of its operation, it will be dealing a major blow to direct U.S. interests in protecting our own environment. If we refuse to do our part in launching this worthwhile program, we will have no one to blame but ourselves if it fails. If there is ever a time when we should give less to the environment program, it is certainly not now while the program is in its infant stage. I would think that at least we would have the concern to allow this program an opportunity to prove itself; to do otherwise would be to condemn it to failure before it has a chance to succeed.

POPULATION PLANNING AND HEALTH DEVELOPMENT SYSTEMS

The foreign assistance appropriation bill, H.R. 11771, cuts the authorized figures for population planning and health assistance by $20 million; from $145 million to $125 million. At a time when Congress has determined through reorganization of the U.S. foreign aid program that health and population activities be accorded one of the highest priorities, the amount recommended by H.R. 1771 would in effect relegate these activities to a lower priority. One of the programs for which this money would be used is the U.N. Fund for Population Activities. Recently the United States has been successful in assuring better management of the fund through administrative integration with the U.N. development program. The fund has developed more good projects than it has resources to finance at present. The level of funding proposed by H.R. 11771 would hinder U.S. efforts in this vital area.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MILITARY ASSISTANCE

Military assistance: For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, as amended, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $500,000,000: *Provided*, That none of the funds contained in this paragraph shall be available for the purchase of new automotive vehicles outside of the United States.

AMENDMENTS OFFERED BY MR. TIERNAN

Mr. TIERNAN. Mr. Chairman, I offered an amendment.

The Clerk read as as follows:

Amendment offered by Mr. TIERNAN: Page 8 Line 3 delete "$500,000,000" and insert "$499,800,000."

Mr. TIERNAN. Mr. Chairman, I would ask unanimous consent that my other amendment on page 13, line 25, be considered at the same time; that the two amendments be considered en bloc.

The CHAIRMAN. The Clerk will report the second amendment.

The Clerk read as follows:

Amendment offered by Mr. TIERNAN: Page 13 Line 25 insert "and none of these monies shall be used to finance military credit sales to Saudi Arabia."

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

Mr. CONTE. Mr. Chairman, reserving the right to object, I have here page 12, line 25——

Mr. TIERNAN. Mr. Chairman, if the gentleman will yield, it should be page 13, line 25. It is down at the bottom of page 13 under Foreign Military Credit Sales.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, would the gentleman from Rhode Island explain to me why the gentleman wants these amendments to be considered en bloc?

Mr. TIERNAN. If the gentleman will yield, because both of the amendments deal with assistance in the bill to Saudi Arabia.

Mr. CONTE. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. TIERNAN. Mr. Chairman, the present oil embargo by the Organization of Arabian Petroleum Exporting Countries is causing severe economic and social hardships in our country. We rely upon these Arab nations for approximately 3.5 million barrels of oil per day, nearly one-fifth of our daily oil consumption, and 17 percent of our present oil shortage. Saudi Arabia is the largest oil-producing country in this organization and one of the most vocal and steadfast supporters of the embargo.

Because of their participation in this oil embargo, the possibility that the United States will be forced into an economic tailspin is becoming greater and greater each passing day. The chain reaction syndrome which oil shortages cause is not difficult to envision or understand. Oil shortages require reduction in oil consumption. Reduction in consumption means lower productivity, which in turn causes worker layoffs, resulting in greater economic hardships for all Americans.

Today I am proposing an amendment to this foreign assistance appropriation bill which would cut out $200,000 and restrict any military credit sales funding to Saudi Arabia. This country cannot afford to grant money or credit to any country which is severely damaging our economy by engaging in an embargo against the United States. Saudi Arabia has declared economic war against the United States, and we can do nothing but do the same.

Mr. Chairman, I think that last week when we had this matter before us, the chairman of the full committee indicated that we should not at this time slap the face of this country that has indicated its willingness to go along and be a trading partner of this country, but I think at this point it is clear that we must indicate to them very strongly that we cannot allow this to happen to our people throughout this country.

We had meetings today with utility companies that indicated a 24-percent fuel shortage. This will cause, undoubtedly, layoffs throughout this country. I cannot see us indicating other than by this action today clearly to them that we intend to see that they do not carry out this type of embargo; it is strictly a form of blackmail; and it has two prongs to it. One is to try to bring us to our knees with regard to our dealings with Israel, and also what it is going to do to our workers.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. TIERNAN. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

Will the gentleman explain to me why he thinks the Arabs are being unreasonable when they impose an embargo upon us, when that is done in retaliation for our sending about $1 billion to Israel for their support when they were involved in warfare? The gentleman from Maryland has said an embargo is an act of war. Is not supplying arms to a belligerent an act of war as well? And we did it first.

Mr. TIERNAN. We have been supplying arms in that area for many years, and the Arabs knew it, and they dealt with us knowing that. We have continued to support them with military credit assistance, even though they were opposed to our support of Israel all through those years. This is just now the latest step they have taken. It is affecting every worker in this country, and the effect is going to be long range. If they start to take this embargo off tomorrow, it will help us, but the effect of this embargo is going to be felt for the next 6 months. The unemployment in this country is going to reach proportions never before seen.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield further?

Mr. TIERNAN. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

I agree with what the gentleman is saying in terms of the economic effect of the embargo, but does not the gentleman also recognize that by our actions today we are probably driving the Arabian countries into the Soviet bloc even further? We are not really maintaining any kind of balance; we are disrupting the balance; and we are not accomplishing what we say we want to do.

Mr. TIERNAN. I do not think so, and I think that other speakers in the well have so indicated. I heard many speakers in the well indicate that the Arabs are not interested in joining the Communist countries. They are not interested in coming within the framework of their power; so if they are not in that frame of mind, then I say they should not punish the workers in this country by cutting off oil that is needed for production and the production plants throughout our country.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. TIERNAN. I yield to the gentleman from Minnesota.

Mr. FRASER. I thank the gentleman for yielding.

Let me question whether this amendment, no matter how well intentioned, really will offer a solution to our current problems. I do not believe any of us could have faith that the amendment, if adopted, could change the policy of Saudi Arabia. If anything, it is designed to exacerbate relations.

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendment.

A moment ago I was kidding my dear, dear friend, the gentleman from Iowa, Congressman GROSS, when he said he was frightened. I can say to the Members now that I am frightened. I have a great deal of respect for the distinguished gentleman from Rhode Island, but this amendment is something we should be frightened over. Here we are with our top diplomats in the Middle East trying their very best to get a peace treaty between Israel and the Arab States, and just a little while ago we voted a $2.2 billion authorization for Israel by a vote of about 6 or 7 to 1.

Now let us talk about King Faisal of Saudi Arabia. He has been a friend of the United States for a long, long time. He wants to continue to be a friend of the United States.

This amendment would deny Saudi Arabia $200,000 for training. Can Members ibafiine that? We vote $2.2 billion for Israel and there is hardly any objection to it. Now we come along and want to take away from King Faisal of Saudi Arabia this $200,000 for military training, and then in addition to that, $20 million for military credit sales. In all probability they would pay for the military equipment in several years.

Mr. Chairman, I hope that somehow or other we can vote this amendment down as near unanimously as possible.

If we believe what we said this afternoon when we supported $2.2 billion for Israel and then we deny these funds to Saudi Arabia, then we may wind up with no bill at all if we support this amendment.

Mr. Chairman, I trust and I hope this amendment will be voted down and, I hope, unanimously.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I wonder whether the gentleman can tell us whether the economy of Saudi Arabia is such that it needs this $200,000 from us? Is that country not sufficiently rich from its oil royalties to be able to survive very well without this additional $200,000?

Mr. PASSMAN. I can only repeat, if I may, for emphasis, that King Faisal has been a friend of this country and Saudi Arabia has been a friend of this country. We are trying to get peace in that part of the world and we have voted to give Israel $2.2 billion and we all applauded that. Now do we want to tell King Faisal that he cannot have $200,000 for military training? I hope we will vote this down and I ask Members to please exercise their rights and vote loudly.

Mr. SHRIVER. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Kansas.

Mr. SHRIVER. Mr. Chairman, I would remind the Members this budget was prepared many months ago and it is illustrative. It is not likely any of this $200,000 would be used for the purpose we are discussing. Under the circumstances all we would be doing would be counterproductive and not in the best interest of this country at a time when the Secretary of State is trying to bring about peace that will last in the Middle East. To do this, to counteract our Secretary of State's efforts at a time like this, would be a mistake.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I think we are all of a single mind in the statement I am about to make. We want to see peace in the Middle East. In view of the developments in recent weeks unless this matter in the Middle East is handled with the greatest skill it could lead to world war III. A repetition of a war in the Middle East could be disastrous to the world including the United States. So I do believe that we should give the Secretary of State some opportunity to try to work with the nations of the world and particularly in the Middle East to resolve these differences and to acquire and achieve some sort of lasting peace.

I believe this amendment is against the best interest of the United States and against the best interest of peace in the world. I know it has been offered with the greatest of sincerity but I want to join with the gentleman from Louisiana in strongly opposing it and expressing the hope that it will be soundly defeated.

Mr. PASSMAN. I thank the distinguished gentleman from Texas.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Chairman, I want to join the gentleman in the well. This amendment, or one very similar, was considered in the committee and was thoroughly debated. I regret to differ with my good friend; but if we want to shut off forever the oil spigot, this is the best way of doing it.

Henry Kissinger, our Secretary of State, is out there at the present time trying to get a negotiated settlement.

I was the one in subcommittee that made the motion for the $2.2 billion for Israel.

Mr. PASSMAN. That is correct.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

There was $300 million out of the credit sales ceiling and $50 million for security supporting assistance and $36.5 million was put in to aid Jewish people escaping from the Soviet Union to get to Israel.

These are credit sales. We can get a return on this money. But to say that we will not sell to them is foolish. We are not preventing anything. Most likely they will go to France or to the Soviet Union where all the others have gone, and, thereby, cut off all relations with them. We are in great need of this oil that has been discussed here in the House. If we can get a negotiated settlement, we will open the spigot and have oil flowing again to the United States by late spring.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Rhode Island (Mr. Tiernan).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. TIERNAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendments were rejected.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the 5 minutes.

Mr. Chairman, I am pleased that the Appropriations Committee has included $36,500,000 in foreign aid funds for the State of Israel to use in resettling and absorbing the thousands of refugees that have been arriving there from the Soviet Union. Senator Edmund Muskie and I were the principal sponsors in the Senate and the House respectively of the authorizing legislation for this program in 1972, and successfully urged the Senate Foreign Relations Committee and the House Foreign Affairs Committee to include an additional authorization this year. The House Subcommittee on State Department Organization, chaired by the distinguished gentleman from Ohio (Mr. Hays) gave strong support to this proposal.

Although administration support for this program has not been readily forthcoming, the Congress has previously appropriated $45 million. This additional appropriation will bring the total appropriations near the $85 million figure set for the program in 1972. This total represents only about one-third the total annual cost to Israel of the refugee resettlement program.

This is a great humanitarian effort. We can be proud of the leadership the Congress has displayed in making these funds available to assist tens of thousands of refugees resettle in Israel.

AMENDMENTS OFFERED BY MR. TIERNAN

Mr. TIERNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Tiernan: On page 8, line 3, delete "$500,000,000" and insert "$499,000,000."

Mr. TIERNAN. Mr. Chairman, I ask unanimous consent that the second part of my amendment be read and considered at the same time. It is on page 13. That the two amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. Tiernan: On page 13, line 25, insert "and none of these monies shall be used to finance military credit sales to Chile."

Mr. TIERNAN. Mr. Chairman, in the conference report on the Foreign Assistance Act of 1973 passed, which passed the House of Representatives on December 4 and is now before the President for his signature, section 32 of that bill reads as follows:

> It is the sense of Congress that the President should deny any economic or military assistance to the government of any foreign country which practices the internment or imprisonment of that country's citizens for political purposes.

Now, my amendment would merely cut out the assistance to Chile, because it is clear that country is allowing that type of action, which we clearly set forth in the legislative enactment which I indicated had passed this House on December 4 and clearly since September 12 that government has held in Chile over 200 political prisoners.

Overwhelmingly, the Members of this House have indicated that they do not want to encourage any country to keep political prisoners within that country. The evidence is quite clear, and I am sure the Members of this House know the situation in Chile at this time. I think the amendment would be a very strong addition to this bill.

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to say again that I have profound respect for my distinguished colleague from Rhode Island, but it is hard for me to believe that he is serious about offering this amendment. Chile was Communist. It had a Communist leader. No nation in the Western Hemisphere deteriorated as rapidly as Chile under the Communist regime.

They kicked out the Communist regime and they now have a friendly government, a government working towards democracy. Out of some 40 nations that we have in the military assistance program, we only provide $1 million for Chile for the training program and $10 million in credit sales.

We provided aid to the Communist regime in Chile. There were no objections last year that I know of to giving aid to Chile when they had a Communist regime, but now we have a friendly regime trying to develop a democracy, and to cut these funds out could conceivably turn them back the other way.

Mr. Chairman, I trust the members of the committee will vote this amendment down as we did the one offered a few moments ago.

Mr. KOCH. Mr. Chairman, I move to strike the last word.

Mr. STARK. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-three Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 6491]

Abdnor
Addabbo
Alexander
Bergland
Brown, Calif.
Burke, Calif.
Carey, N.Y.
Collier
Conyers
Daniel, Robert W., Jr.
de la Garza
Diggs
Dorn
Dulski
Erlenborn
Esch
Fisher
Foley
Goldwater
Gray
Gubser
Harsha
Harvey
Hébert
Hunt
Jarman
Karth
Kastenmeier
Keating
King
Madigan
Martin, Nebr.
Mayne
Melcher
Mills, Ark.
Mosher
Pike
Poage
Rooney, N.Y.
Shoup
Steed
Steiger, Wis.
Stokes
Stubblefield
Sullivan
Teague, Calif.
Veysey
Vigorito
Walsh
Whalen
Wyatt

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr PRICE of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11771, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 381 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. KOCH. Mr. Chairman, first, I should like to say that I regret the calling of the quorum. It was not my doing, and I would want to have the amendment, which is also not mine but Mr. TIERNAN'S, considered on the merits and not to have any irritability on the part of Members affect the final outcome. I will try as best I can to tell the Members why I rise in support of that amendment.

A young man who lived in my district and who went to Chile was, according to the reports available to me, killed by the Chilean Junta. That is why I am speaking tonight from this well in support of this amendment which would deprive Chile of further military aid. His name was Charles Horman. His wife, now a widow, and his father got in touch with me and told me what had happened. I will not give the Members the gory details, but I will tell you this, and it is in response to some of the comments that have been made by the opponents of the amendment with respect to Chile and the Allende government: I am not here to defend the Allende government. I disagreed with much that it did. There is no question but that Allende was a Marxist, a Communist, but the fact is that the Allende government was democratically elected, had a parliament made up of a majority of his opponents who were not Marxist or Communist, and there was a free press. It was a democratic government with an independent parliament and judiciary.

Today, as a result of the military junta's activities, there are hundreds of people in jail, if not thousands. There are hundreds of people who have taken refuge in the various embassies. Indeed, the Swedish Ambassador was just expelled from the country because he was the only Ambassador to physically defend the refugees who had received his protection under international law and who, had they been picked up by the junta, would have been slaughtered. He stopped them at the gate.

Why do I tell the Members this? I say this to the Members, not to praise the Allende government because I am not here to say praising things about the Allende government—many things that it did have got to be condemned—but what I am trying to convince them of is that it is not the role of the United States to involve itself in a civil war, because that, in fact, is what took place in Chile and what is taking place today.

There are many people who have written to me, and I believe many Members here have received similar letters, from those who believe that the CIA was in some way or other involved with the overthrow of the Chilean Government. Those suspicions have arisen by virtue of the fact that there were recent joint naval activities involving our Navy and the Chilean Navy. The suspicion comes out of the fact that many people believe we wanted to see the overthrow of that Government for good or bad reason. I have said to my constituents who have written that I hope and I want to believe we were not involved, that we learned our lesson.

But I know that if we continue to fund the Chilean junta with additional arms so that it can engage in additional repression of its own citizens, that those suspicions will not be allayed but will be enhanced. So what I am saying in support of this amendment is that if we do not want to have the blood of the victims of the military junta on our hands by virtue of their using our guns to shoot down their citizens, we should affirm the amendment.

Mr. FLOOD. Mr. Chairman, I move to strike the necessary number of words.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Louisiana (Mr. PASSMAN).

Mr. PASSMAN. Mr. Chairman, I thank the distinguished gentleman from Pennsylvania for yielding.

I spoke on this amendment earlier but we have more Members here now. As we all know until recently we had a Communist regime in Chile and that country was deteriorating very rapidly. We now have a friendly government which is trying to form a democracy. There is a long way to go from communism to democracy.

In this bill for this friendly nation we have $1 million for military training and we have $10 million in military credit sales. I respect the distinguished gentleman from New York for his views but a little earlier the gentleman voted for $2.2 billion in military assistance and sales for Israel, and I did not hear any argument from the gentleman. I certainly hope that the Members will vote this amendment down.

Chile pulled away from communism. We have a democracy forming in a very friendly country and we would be flying in the face of this new Government if this amendment were adopted. The military credit sales are short term and there is a favorable interest rate which will be applied to the loan. Only the $1 million is in the form of grant aid.

I hope the Members will consider this on the same basis as the earlier amendment and vote it down.

Again I thank the distinguished gentleman from Pennsylvania for yielding.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to the distinguished gentleman from New Jersey.

Mr. ROE. Mr. Chairman, I rise in opposition to this amendment. I would like to call to the attention of Members of the House something I believe to be important.

One, there is no question that the Allende Government was a Communist government and a repressive government. I have facts which I know to be true which indicated that in 1 week's time, had the military not arisen, those revolutionaries who had infiltrated Chile would have joined with Allende and joined with that government and made it a totally Communist government. In 1 week's time that would have happened.

We ought to ask if the people of Chile have a right to self-determination. Of course they do. I think it is fundamentally wrong for us to say they have not when we founded our freedom in this country on a fight against oppression. Yes, we did. We based it on the facts and on the need and wants of our people. That does not mean I support bloodshed—I do not.

Chile has been a longtime friend of the United States. We have a temporary situation which has evolved. Our strength in this country and in our relationships with South America is critical. Our attitude toward Chile at this particular point could not be more critical as far as our whole Western Hemisphere relationship than it is now with Chile. It is wrong to say that we should not support Chile. The government has taken a friendly position and they are returning the expropriated land and expropriated industries and they are returning them back to private enterprise in those countries that had made the investment in the first place.

We should leave ourselves this one thought. If the Chileans were wrong, then why did the U.S.S.R. cut off their relationship with Chile?

They cut off their relations with Chile because they knew the jig was up and the game was over. We could be making the worst error in our Western Hemisphere relations by taking the situation we have today and supporting this particular amendment.

I trust the Members of the House will think clearly and concisely and recognize the strength of our country lies with our brothers in South America and let us not do something stupid that we cannot undo later on.

Mr. YOUNG of Illinois. Mr. Chairman, I move to strike the last word.

Gentlemen, it was stated here a few moments ago that a certain citizen of the United States was killed in Chile, evidently from the State of New York. It was stated that if we did not vote to support this amendment that the blood of that particular citizen might be on our hands.

Well, I hope that that is not a correct statement. I represent the 10th District of Illinois in which Mr. Frank Trruggi was a resident. He was a citizen of the United States who was killed in Chile. I am going to vote against this amendment.

I do not think that if I vote against the amendment that I am going to have any blood on my hands, nor do I think the other Members of this assembly will have blood on their hands because they vote against this amendment.

I would also state that I am not here to defend the military junta of Chile. I am critical of them. I tried to get information through the State Department about the cricumstances of Mr. Trruggi's death. I have been trying for 2½ months. I have written a very caustic letter to the Secretary of State asking why we do not have better cooperation and better information about the death of Mr. Trruggi.

But I say that this foreign aid bill is an entirely different matter. The tragic death of this young man has nothing whatsoever to do with the passage of this bill with respect to foreign military sales.

I think if this amendment is defeated or not defeated, it will not bring back these two young men who were killed in Chile.

I think the purpose of the amendment is wrong if it is going to be premised upon the argument advanced here today. I would not want to be a part of this body and vote against this amendment if I thought it would bring back either of these two citizens; it will not. I say, that is an irrelevant matter. Therefore, the amendment ought to be defeated.

Mr. SHRIVER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Illinois. I will yield the balance of my time.

Mr. SHRIVER. Mr. Chairman, those of us on the subcommittee have been concerned with the results of cutbacks in making U.S. military equipment available to Latin American countries. It just does not work. They merely go elsewhere for their arms. They usually end up buying from some of our European allies who are only too happy to sell them whatever they want.

I do not see how it is in our national interest to antagonize our neighbor to the south, especially when we do not know what that government is about to do.

We must be reminded, these requests are illustrative and were made months and months ago. At that time Chile was under a Communist regime.

We have given assistance of this kind to every government of Chile, some right wing governments, some Communist governments, a Populist government, a liberal government, and to this one; so it is certainly in our national interest to maintain our positions with our neighbor to the south.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Illinois. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I just want to say that the Committee on Appropriations approved the pending measure in its present form. It was considered in great detail. I agree it is not perfect but I hope the House will support the committee, and in my opinion, the best interests of the United States and the Western Hemisphere will be served by defeating this amendment by a resounding vote.

Mr. HARRINGTON. Mr. Chairman, we have a rather clumsy, and I suppose awkward, doctrine that says we like to see nations in this world elect people freely. In 1970, after two or three less than satisfactory efforts, a fellow by the name of Salvador Allende was elected freely in Chile. He was a Marxist by definition, although I do not think he was much of a hard line Marxist. He was a Socialist, and I thought that in the context of an era that has been called pluralistic—a word that has had currency on both sides of this aisle, and which recently led to the welcoming to this country as recently as last week of the head of the Communist state of Romania, and which has led to efforts to develop détente and rapprochement with both the Republic of China and Russia—we were finally going to rise above our usual compulsive obsession and concern with labels about countries in this world.

Obviously, listening to debate, that is not the case at least not in this instance. I was in Chile, and I do not have any particularly developed expertise as a result of about 48 hours of intensive conversations, but I visited a place called the National Stadium, which I would commend to the attention of those who tend to disparage the reports critical of the junta which have appeared in the American press.

I saw a board on the wall which indicated that at one point in late September, some 5,000 individuals—some of them, perhaps, Americans—had been kept in that stadium. I am not here this afternoon to suggest that we defend Salvador Allende or that we offer eulogies for the Chilean people, who are sophisticated politically and who are concerned about the direction their country has taken and the degree of chaos that characterizes it.

Neither am I here to suggest that we refuse to aid the junta by providing the Chilean people wheat, as we did within 3 weeks of the time the junta took over, and by providing supplies of corn.

All I would suggest is that this Congress recognize that the junta took over by force, whether we like it or not. They killed people, whether we like to admit to that or not. I do not think it important whether it was 1 million or 12 million; the point is, we have witnessed the destruction of a government freely elected by people 3 years ago, and we are now about to implicitly endorse that conduct. If we can aid the Chileans providing them with meals, because their economy is stagnated, and otherwise provide the sort of things that meet human needs, you will have no quarrel from me. But giving the junta guns marked "made in the United States of America" or conducting training programs in the defense command school at Panama is hypocrisy of rank proportions.

Mr. Chairman, I think it is time to go on record and begin to reject the kind of obsessive concern we have had with things bearing the labels "Communist" or "Marxist", and to recognize that if we are going to do what we are doing in Russia; if we are going to do what we are doing in China; if we are going to welcome the President of Romania to this country, then we can tolerate a regime like Allende's in Chile.

Mr. Chairman, I support in full the amendment offered by the gentleman from Rhode Island, and I hope we have the sense to design a foreign policy mature enough to suit the mid-1970's.

Mr. FRASER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I will not take the full 5 minutes.

The difficulty presented by the country of Chile today, if one sets aside the events of the coup, is that they have several thousand Chilean citizens who are in custody, who they have acknowledged will not be brought to trial; will not be freed but will simply be kept in prison for an indefinite period of time. This treatment of Chilean citizens is in violation of the guarantees of international rights. It was violations of human rights which formed the foundation we accepted earlier today in denying to the Soviet Union credits and nondiscriminatory tariff treatment. We acted on the grounds that the Soviet Union was violating its obligations under international covenants with respect to human rights.

Mr. Chairman, there is much to be

said for the United States speaking out about violations of human rights, but for our position to be credible, we need to do it, whether it is occurring in the Soviet Union aimed primarily at Soviet Jewish citizens, or in Chile involving Chilean citizens who are in prison without the right to counsel, without the right to a trial, without any charges being brought, and with no prospect of release.

The past history of Chile, it seems to me, is not nearly so relevant as what the military junta is doing today with respect to its international obligations. We lose credibility if we say in the case of one country we are going to stand firm in behalf of human rights and then say in respect to another country that we really do not care.

What I am able to tell the Members is based upon a statement by the Ministry of the Interior in Santiago, who acknowledges that these people will not be given a chance to have charges made against them, will not have a trial, and will not be represented by legal counsel.

Mr. Chairman, let us stand up for human rights. Let us stand up for decency. I believe we can show our concern by supporting this amendment, an amendment which, it seems to me, carries forward the same principles we expressed so clearly earlier today.

Mr. CONLAN. Mr. Chairman, I rise in opposition to the amendment.

Briefly, there are just a couple of things that need to be rebutted, in answer to the statements made by the gentleman from Minnesota and the gentleman from Massachusetts.

There is a clear tendency to ignore the fact that the Allende government had only 38 percent of the vote; it had nowhere near the support of a major of the population. Then, without any consent of the Congress of that nation, Allende and his Communist-dominated regime moved in, using the entire patronage operation of the State, to deny housing except to those who supported the regime, to deny food and welfare except to those who supported the regime.

They used every instrument of power to clamp a dictatorship upon the people, and in the process, of course, there were some feelings and liberties deeply hurt.

The other point that has been raised here that détente is involved is a spurious one, and one that is not relevant. While we seek openings for trade, and while we seek openings for peace with the major Communist bloc countries, they are simultaneously training men and women through their activities in Cuba, and they are training men and women of all nationalities through their apparatus worldwide, the techniques of subversion, sabotage and revolution in order to destroy democratic governments.

In this situation we have a responsibility to allow free world nations like Chile the opportunity to learn the techniques of self-defense.

I see nothing incompatible with our seeking détente with the major Communist bloc countries in the world and also granting the right, the techniques, and the tools of self-defense to a government such as that of Chile, which was able to reverse the activities in process before it went under a Communist dictatorship.

I think the amendment before us is most inappropriate and I urge its defeat.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. CONLAN. I yield to the gentleman.

Mr. ROE. Just one more point. Is it not well documented that, yes, there were a good many people temporarily incarcerated, but it is well documented, also, and well known in Western circles that the bulk of those people were revolutionaries from up and down the whole Western Hemisphere, who were gathering in Chile to take it over and to deny the people the rights of freedom?

Let us talk about détente. We all agree on the point of human rights being respected. There is no one in this body who does not believe in human rights being respected. But let us not sacrifice human rights. However, we may be misguided by a lack of information and facts and in that way put the Chilean people back in chains, because that is what we would be doing if we voted for this amendment.

Mr. CONLAN. I thank the gentleman for his comments. I yield back the balance of my time.

Ms. ABZUG. Mr. Chairman, I rise in support of the amendment offered by Mr. TIERNAN to strike U.S. aid to Chile.

On September 11, the legally elected, constitutional government of Dr. Salvador Allende was overthrown in a bloody coup d'etat.

What shocked people at that time were the daily reports of murder, arrest, torture, and imprisonment of thousands of individuals, members of the government and ordinary citizens, Chilean and non-Chilean alike. I was appalled as were the people of all democratic nations. In fact, I received pleas from the families and friends of some of the Americans who were arrested and held in confinement by the junta, who I tried to assist. Their stories of brutality and deprivation of human freedom were overwhelming.

I am appalled today at the military aid this Congress is turning over to the military junta of Chile. Just today the Washington Post reported that Harald Edelstam, the Swedish Ambassador to Chile, said 'tortures, and arrests of people continue in Chile 3 months after the military takeover." Ambassador Edelstam also estimated that the junta has been responsible for 15,000 deaths, the arrest of 7,000 people, and an additional 30,000 left homeless. On the same page in today's Post was a story reporting that there are several hundred people who remain inside the embassies of many nations, in asylum, unable to leave.

We cannot countenance American dollars going to repress the freedom of the individual. The present government in Chile remains in power by force. It took power through violence and reigns by violence.

It offends every notion of our concepts of democracy and defiles any meaning of foreign aid to use any money for this widely acknowledged repressive government.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Rhode Island (Mr. TIERNAN).

The question was taken, and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. TIERNAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 102, noes 304, not voting 26, as follows:

[Roll No. 650]

AYES—102

Abzug
Adams
Addabbo
Anderson, Calif.
Ashley
Aspin
Badillo
Biester
Bingham
Blatnik
Bolling
Brademas
Brasco
Brown, Calif.
Burton
Carney, Ohio
Chisholm
Clay
Conyers
Coughlin
Culver
Dellenback
Dellums
Denholm
Drinan
Eckhardt
Edwards, Calif.
Esch
Ford, William D.
Fraser
Gaydos
Gibbons
Ginn
Green, Pa.

Gude
Hamilton
Harrington
Hawkins
Hays
Hechler, W. Va.
Hicks
Holtzman
Horton
Hungate
Johnson, Colo.
Kastenmeier
Koch
Kyros
Leggett
Lehman
Long, La.
Lujan
McCloskey
McCormack
Meeds
Melcher
Metcalfe
Mezvinsky
Mink
Moakley
Moorhead, Pa.
Mosher
Moss
Natcher
Nedzi
Obey
O'Hara
Owens
Pike
Rangel

Reid
Reuss
Riegle
Robison, N.Y.
Rodino
Roncalio, Wyo.
Rose
Rosenthal
Roush
Roy
Ryan
St Germain
Sarbanes
Schroeder
Seiberling
Stanton, James V.
Stark
Stubblefield
Studds
Teague, Tex.
Thompson, N.J
Tiernan
Udall
Van Deerlin
Vanik
Vigorito
Waldie
Wilson, Charles H., Calif.
Wolff
Yates
Yatron
Young, Ga.

NOES—304

Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Blackburn
Boggs
Boland
Bowen
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carter
Casey, Tex.
Cederberg
Chappell
Clancy

Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cotter
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dorn
Downing
Dulski
Duncan
du Pont
Edwards, Ala.
Eilberg
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Flood
Flowers

Flynt
Foley
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gettys
Giaimo
Gilman
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Griffiths
Gross
Grover
Gunter
Guyer
Haley
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harsha
Hastings
Heckler, Mass.
Heinz
Helstoski
Henderson
Hillis
Hinshaw
Hogan
Holifield
Holt
Hosmer
Howard
Huber
Hudnut
Hutchinson
Ichord
Jarman

Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kazen
Kemp
Ketchum
Kluczynski
Kuykendall
Landgrebe
Landrum
Latta
Lent
Litton
Long, Md.
Lott
McClory
McCollister
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Michel
Milford
Miller
Minish
Minshall, Ohio
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Morgan
Murphy, Ill.
Murphy, N.Y.
Myers
Nelsen
Nichols
Nix
O'Brien
O'Neill
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rarick
Rees
Regula
Rhodes
Roberts
Robinson, Va.
Roe
Rogers
Roncallo, N.Y.
Rooney, Pa.
Rostenkowski
Rousselot
Roybal
Runnels
Ruppe
Ruth
Sandman
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Ullman
Vander Jagt
Waggonner
Wampler
Ware
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles, Tex.
Winn
Wright
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NOT VOTING—26

Abdnor
Burke, Calif.
Carey, N.Y.
Chamberlain
Diggs
Erlenborn
Fish
Fisher
Goldwater
Gubser
Harvey
Hébert
Hunt
Keating
King
Mills, Ark.
Mitchell, Md.
Rinaldo
Rooney, N.Y.
Shoup
Stokes
Sullivan
Veysey
Walsh
Whalen
Wyatt

So the amendments were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The clerk will read.

The clerk read as follows:

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limts of funds available to it and in accordance with law (including not to exceed $10,000 for entertainment allowances), and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I would like to ask the gentleman from Louisiana if he thinks that $10,000 for the Overseas Private Investment Corporation to use for booze and entertainment will be quite enough?

Mr. PASSMAN. If the gentleman will yield, I can assure the gentleman that I would much prefer to have a reasonable representation allowance put in the bill where we can see it than to have them get it from other sources. It takes a certain amount of money to entertain and I think we should have it out in the open. I think this is a reasonable amount.

Mr. GROSS. Does the gentleman think this will be enough for them to also pay their dues to the country club in the Potomac area that is operated by the World Bank and International Monetary Fund?

Mr. PASSMAN. Yes, I think it will take care of that adequately.

Mr. GROSS. Maybe the gentleman would like to wish them a Merry Christmas on behalf of the taxpayers.

Mr. PASSMAN. And a Merry Christmas to the gentleman, too.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

INVESTMENT IN INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States subscription to (1) paid-in capital stock; (2) callable capital stock; and (3) the United States share of the increase in the resources of the Fund for Special Operations authorized by the Acts of December 30, 1970 (Public Law 91–599), and March 10, 1972 (Public Law 92–246), $418,380,000, to remain available until expended.

Mr. DINGELL. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, the international development banks have been doing an excellent job in carrying out the purpose for which they were created. However, a recent loan proposal before the Inter-American Development Bank has given me serious pause for concern that some loan be granted which would have direct adverse impact on a depressed industry in the United States, our U.S. fishing industry.

The loan would have financed high seas fishing vessels at financial terms not available to our fishermen, yet the boats would be competing with our fishermen and for fish which are under an international conservation agreement. I also understand financing for such boats is in general available through regular commercial channels. Specially favorable terms would provide unfair competition to our fishermen and should not be made available, even partially with U.S. taxpayers resources.

For this reason, Congresswoman SULLIVAN, who is unable to be here today, had intended to offer an amendment to this legislation which would have restricted use of the U.S. contribution for such purposes, an amendment I was prepared to support. However, Mrs. SULLIVAN and I were advised by the Treasury Department that such a proposal will not be considered by the Inter-American Development Bank until it is restructured and submitted for consideration next year. We have been assured that when this loan is considered next year the policies of the Bank will not permit the creation of unfair competition to our fishing industry nor will they permit adverse conservation impacts to occur.

Mr. Chairman, accordingly Mrs. SULLIVAN has decided not to offer an amendment to this legislation but I ask, Mr. Chairman, that her statement concerning this matter be placed in the RECORD at this point:

Page 16, line 9, before the period insert the following:

: *Provided*, That none of the funds appropriated and paid to the Bank pursuant to this paragraph shall be used for investment in any project or undertaking which would have an adverse competitive effect on a depressed industry within the United States.

Is in order because it merely limits the loans for which the fund may be used—and has always been in order in appropriation bills.

Mrs. SULLIVAN. Mr. Chairman, I had planned to offer an amendment but in view of recent developments, I have decided not to do so.

The amendment I had intended to offer would amend that section of the bill before us that provides funds for the Inter-American Development Bank. It would restrict the use to which these funds, either in the form of paid in capital stock or callable capital stock or funds contributed to the Fund for Special Operations, could be used.

Mr. Chairman, I have always in the past voted for the authorization and appropriations for these various multilateral or regional development lending institutions. However, I am concerned when these multilateral and regional lending institutions make loans for projects which directly compete with U.S. enterprises and have an adverse effect on U.S. employment. I hasten to say, Mr. Chairman, that I am not opposed to these institutions making loans—even when in fact they are using U.S. dollars to make these loans—when the loans will be used to compete against U.S. enterprises which are in a healthy and viable financial and economic position.

I do, however, feel it is unwise and unwarranted to allow such loans to be made using U.S. dollars and U.S. guarantees, when such loans will be used and would have an adverse competitive effect on a depressed industry within the United States. This, Mr. Chairman, is the gist of the amendment I had planned to offer. It would have provided that no funds appropriated and paid to the Inter-American Development Bank could be used in any project or undertaking which would have an adverse competitive effect on a depressed industry within the United States.

The reason I had intended to offer an amendment at this time comes as the result of a proposed loan which was pending before the board of the Inter-American Development Bank and which would, among other things, have provided for the financing of a number of high seas fishing vessels and a number of other types of coastal fishing boats. As I understand it, many of these boats could be financed in the private capital market. I believe that the Inter-American Development Bank as a publicly owned development bank, should not be in the business of making loans on projects which can be financed in the private capital market.

But specifically, Mr. Chairman, our tuna industry in the United States—because of overcapitalization—is a depressed industry, as is the U.S. fishing industry in general. This is why I had planned to offer an amendment at this time.

As I stated, we should not have these institutions, which rely so heavily on U.S. funds and guarantees, competing against depressed U.S. industries.

There are a number of other questions involved concerning the conservation aspects of the tuna catch, the full participation in the Inter-American Tropical Tuna Commission by tuna fishermen from various nations and a whole host of other questions that must be answered.

Mr. Chairman, in conclusion I recognized that this would have been a drastic action. I recognized further that many people would argue that we should not treat our sister countries who are trying to develop their own resources in this manner. But I believe that we must assure that our own people are able to lead decent and whole lives, and that their income is sufficient to meet their basic needs. Certainly, when we find depressed economic activity in one industry or another in our country we should not further antagonize a depressed industry by using our tax dollars and our Government guarantees to create an economic situation which will further exacerbate the problem.

Mr. Chairman, I have the full assurance of the Treasury Department and the U.S. Executive Director of the Inter-American Development Bank that the loan request over which I expressed concern—which called for the financing of a number of high seas fishing vessels as well as a number of other smaller craft—will not be considered. I am advised that the Bank will not deviate from its customary policy of not competing with the private sector and that it will not consider this request until it is restructured in a manner which would not compete unfairly with fishermen nor in a manner which would have an adverse conservation impact. In the interest of conservation, only a few high seas fishing vessels would be considered, as well as a number of small coastal fishing boats. This, in my judgment, is both fair and appropriate.

It is my further understanding that the Bank will adopt a policy of refusing to finance fishing boat loans for any type of fishing in the future except for limited coastal launch fishing vessels, such as red snapper, hake, et cetera, because these loans in general are available through regular commercial channels.

Mr. Chairman, in view of this understanding, I shall not offer an amendment to this legislation.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

EMERGENCY MILITARY ASSISTANCE FOR CAMBODIA

> For emergency military assistance for Cambodia, $150,000,000: *Provided*, That the funds appropriated in this paragraph shall be accounted for in accordance with section 108 of the Mutual Security Appropriation Act, 1956 (69 Stat. 438), as amended.

AMENDMENT OFFERED BY MR. STARK

Mr. STARK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. STARK: On page 17, lines 11 and 12, strike out "$150,000,000" and insert in lieu thereof "50,000,000".

Mr. STARK. Mr. Chairman, I would like to address the Members today to call their attention to a serious matter that I think has escaped the attention it should receive. On May 10, this House voted 224 to 172 to prohibit the use of funds to finance combat activities in Cambodia. We are being asked today to give $150 million to pay Asians to do what we were unwilling to have our own countrymen do.

Further, it is important to note that there is no authorization for this appropriation. This is a matter of the Appropriations Committee solely on the advice of Admiral Moorer suggesting, in the words of Admiral Moorer:

> What it amounts to is substituting artillery for bombs.

The Department of Defense is asking us today to let $150 million go to shell Cambodian citizens when we voted in this House to cease bombing and cease interfering in a civil war.

I am asking for a $100 million reduction in this $150 million appropriation as a protest; as a protest to President Nixon's devious policy of subverting the will of Congress; as a protest against the military arrogance of the Department of Defense which has lied to Congress about previous bombing in Cambodia and now sneaks around without being willing to go before the Committee on Foreign Affairs and getting proper authorization; as a protest against our inhumanity which recently led us to renege on a commitment to rebuild 100 civilian homes in Cambodia which we admittedly bombed. Although the military and President lied to this group in saying we did not; and as a protest against undue secrecy, because nowhere in the committee report will they tell us what the $150 million is to be used for.

There is a $200 million draw down authority; there is $167 million in support to the present Cambodian military machine, which gives them $367 million; there is another $150 million here, which would raise the total to $517 million. I think we have adequately supported our position before, that we do not wish to interfere in a civil war to support a corrupt government to kill innocent people who cannot have their own determination.

Mr. Chairman, I ask the Members to support me in a vote of protest by removing $100 million of this $150 million from this appropriation bill at this time.

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendment. The hour is late and the Members may be a bit impatient, but I wish they would listen to my argument against this amendment.

All Members of this House are cleared for security purposes. I have in my hand a secret document that the Members can come to the desk and read in detail. I do not think I am violating any classification if I say to the Members that the Secretary of State, the Secretary of Defense, the Deputy Secretary of Defense, and the Deputy Secretary of State show the same urgency and the same priority on the Cambodian aid as they do on the Israel aid. They have the same priority.

Now, in our hearings, and let me read, if I may, from page 151—and this is important:

> Mr. CLEMENTS. That is right. I want the Record to be sure of that. We have left an inference in the Record by saying in our judgment, both Defense and State, Cambodia cannot survive without this $200 million. That is a positive statement. I want to make the Record perfectly clear now that with the $200 million we have no guarantee that they will survive.

Now, I will read on, if I may, on page 151, as follows:

> Admiral MOORER. Without the $200 million we would be forced to draw down on the other parts of the MAP program and give Cambodia priority.
>
> Mr. PASSMAN. I believe you made the statement earlier. Without the $200 million you would have to use all of the other regular military assistance funds for only Cambodia?
>
> Mr. RUSH. Yes, sir.

Now, at the bottom of the page, on page 151, we read the following:

> Mr. RUSH. I would say this: We are sure without supplying this $200 million from some source, Cambodia does not have a chance, because they have no bullets to shoot. If we give it to them, they have some, we hope, at least a 50-50 chance to survive.

Now, that is the story. But after long deliberations and discussions with all members of the subcommittee, we decided, inasmuch as we had some military assistance in other parts of the bill that could be used for Cambodia, we would write a tight bill and give Cambodia only $150 million.

Now, it would be much better to cut it all out than to cut it down to $50 million.

Mr. Chairman, I hope the Members will back the committee. So far as I know, it was a unanimous decision. I do not believe there were any reservations, because they made an extremely strong case for Cambodia. I believe my good friend, the gentleman from Illinois, will agree that on actual cold-blooded facts they made a better case on funds for Cambodia than they did on funds for Israel.

So I hope the Members will vote the amendment down. If the Members are interested in this document, it is available, and if the Members read it, I do not believe they can possibly vote against my position.

Mr. WALDIE. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from California.

Mr. WALDIE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, if this amendment is agreed to and there was a threat that Cambodia would not survive, I will ask the gentleman, in view of that threat, then to tell me as a member of the committee what the consequences of Cambodia's not surviving would be to our country?

Mr. PASSMAN. Mr. Chairman, I want to thank the gentleman for honoring me with such hifaluting questions. I do wish to answer the gentleman's question.

In all probability, it would be one step toward all of Southeast Asia falling sooner or later. I think the gentleman knows that as well as I do.

Mr. WALDIE. Mr. Chairman, will the gentleman yield further?

Mr. PASSMAN. I yield to the gentleman from California.

Mr. WALDIE. Mr. Chairman, do I understand that although that is a great possibility, if I understood the testimony, that Cambodia will still fall, then this $150 million may be all that is between us and the fall of all of Southeast Asia?

Mr. PASSMAN. They have a 50-50 chance to survive if we give them bullets.

They are asking mostly for bullets. I think they have a fair chance of surviving if we give them this aid.

Mr. SHRIVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will say to the Members of the House that we have been able to withdraw over 500,000 of our troops from Southeast Asia. We have withdrawn another 60,000 men from other countries in the area.

We have moved a long ways from a year ago when we had this appropriation bill before us.

We do have what I think is a substantial investment in connection with that part of the world. My son was over there, and I know he thinks it is an investment. We must consider the number of dead and wounded and the cost to us of the war. It is all outlined in our report, and I suggest that the Members look at it.

We do have an investment there, and this little amount for ammunition, which is all it is, is justified. This amendment should be soundly defeated.

Mr. LONG of Maryland. Mr. Chairman, I rise in opposition to the amendment.

It was my amendment that represented the first language, the first direct prohibition, in the continuing resolution against continuing bombing in Southeast Asia, including Cambodia. So I feel that I have some entitlement to speak against this amendment.

Now, Mr. Chairman, $150 million is a relatively small sum of money for a country of 7 million people. It is a very primitive country. I visited there in August, and I think any feelings I have were reinforced as a result of that visit. We decided that we were not going to bomb in Cambodia, and we made that decision. As a part of that decision we committed ourselves to supplying them with enough weapons so that they could do the fighting themselves. I think to go back on that would be to break a debt of honor.

Our policy in Cambodia has been successful so far. They told me all they needed was enough artillery to keep on fighting, and believe me, they do not pay their armed forces. Wives and children go into the foxholes with their fighting men. I thought it was one of the most moving experiences of my life to go there and visit.

Let me say to those who want as I do to see money for Israel. I think you will see the greatest mistake in your life if you vote down money for Cambodia and at the same time insist on giving money to Israel. It will create tremendous bitterness. You will still get the bill through, but there will be a lot of bitterness in time to come.

After all, we are following a consistent policy in the Middle East. We are sending them the weapons to fight for themselves, just as in Cambodia we are sending them the weapons to fight for themselves. So our policy in the two countries is totally consistent. I think a vote to cut Cambodia aid is a vote to cut aid to Israel, if not in this bill then in subsequent legislation.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am as anxious as any member of this committee to have a vote, but I think it is rather ridiculous to infer that the fate of this Nation is predicated upon the maintenance of the very weak reed, Cambodia. Surely no one seriously offers that proposition.

I have great affection and admiration for my friend from Maryland (Mr. Long), but surely he does not believe that. We could not survive if we depended upon Cambodia.

Kid yourself not. We are talking essentially about an internal family battle. That is the closest family-held corporation in the Far East, and whoever survives there it will be one or the other part of the same family succeeding to governing.

I think it is time we look at some of these priorities of ours. We have a Nation sorely beset with a multitude of very burdensome problems and a careful review of the conduct of the government in Cambodia reflects no honor upon them.

They reflect nothing there that has advanced the interests of the Cambodian people, and this $100 million cut taken out will do no harm. Left in, it will not save them.

We continue throughout this whole area of the Far East to witness the will of people given far less resources than we have given in Cambodia, in Laos, and Vietnam, continue to survive. And I am talking of the North Vietnamese Nation and its resources as contrasted to the billions that we have been pouring into South Vietnam. I am talking about Laos, where we have wasted literally billions of dollars. And I am talking of Cambodia.

We committed a major and tragic error when we got ourselves into the mess over there in the first place. And do not believe that we are going to extricate ourselves for another $100 million or $150 million.

You can say it does not amount to very much. Well, you come out and tell my people that it does not amount to very much. My State is a State of 23 million people, and yet $150 million in its budget can cause considerable concern among the taxpayers of the State of California. They are concerned, and they think that we have been less than prudent in our stewardship over their dollars, and in this instance I concur. And if we do not cut it we are going to prove that we continue to be imprudent.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MOSS was allowed to proceed for 1 additional minute.)

Mr. MOSS. Mr. Chairman, I have requested this additional time so that I might yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, the gentleman from California just got through saying that we have ourselves to blame for getting involved in the mess in Cambodia, but will the gentleman from California not agree with the fact that it was the U.S. bombing in Cambodia that got these poor, primitive people into the situation in which they are now? And having gotten them into the situation they are in, the gentleman from California proposes to walk away and leave them without any help at all.

Mr. MOSS. Mr. Chairman, I will yield no further. The gentleman from Maryland is trying to tell us that we are going to save them from the ravages of bombing by giving them artillery rather than rifle ammunition. I think that is plain damn foolishness, and again I cannot concur.

Ms. ABZUG. Mr. Chairman, I rise in support of this amendment. It is extremely cynical for this Congress to appropriate further funds for Cambodia. Last August we insisted that our bombers be withdrawn, and stated our intent to end U.S. involvement in Asian civil wars. Now this bill continues our involvement in a different form, simply substituting American money and supplies for American pilots. We are still supporting the same corrupt regimes that we have underwritten for so long.

This morning's Washington Post tells us that President Lon Nol has accepted the resignation of the "reformed" cabinet which was sworn in only last May. The United States urged then that Lon Nol broaden the base of his undemocratic government, so three opposition leaders were invited in, and one accepted the premiership. He soon claimed, however, that his ability to govern was being restricted; he wanted to negotiate with all Cambodian factions, and President Lon Nol does not. Now the premier has resigned, and Lon Nol remains firmly opposed to negotiations to end the war. Why should he negotiate—when he can continue receiving over $500 million this year from the U.S. taxpayers? On top of the $180 million authorized it is claimed there is a $200 million shortfall and this appropriation bill recommends $150 million.

The fact is the conference report on the Foreign Assistance Act which we passed last week, gives the President special authority to drawdown defense articles and services from the stocks of the Department of Defense. On page 36 of the conference report it is stated:

> It is the intent of the committee of conference that up to $200 million of the emergency military assistance requirements for Cambodia be furnished pursuant to the authority contained in this section [Special Drawdown Authority].

In the general debate of this bill, in answer to my question as to whether the President could use the drawdown authority for $200 million in addition to the $150 million we are being called upon to appropriate, the answer was "yes." Thus we are really appropriating today $180 million, plus $150 million, plus $200 million for a grand total of $530 million.

It is widely reported that the Khmer forces are under pressure from Hanoi, Peking and Moscow to negotiate a peace settlement. The efforts of the United States should be directed to the same goal. Instead, the more arms and supplies we send to Lon Nol, the more aid the other side must send. It was also reported this week by David Shipler of the New York Times, that there is no evidence of North Vietnamese troops in Cambodia, which destroys one rationale the administration has used. Why do we continue supporting this unpopular regime?

A sober staff report prepared last April for the Senate Subcommittee on U.S. Security Agreements and Commitments Abroad, concluded that:

> . . . it was far from clear that the political and military intervention of the United States would have a decisive effect on the situation in Cambodia. It was clear, however, that the United States had become far more deeply and directly involved than ever before in the conduct of the war in Cambodia, as well as in Cambodia's internal political affairs . . . only U.S. air support had enabled the Cambodian Government's forces to survive . . . We found widespread doubt . . . that even continued American air support and a reorganization of the Lon Nol government . . . would arrest the government's decline . . .

Why are we still asking thousands of Cambodians to die for a government they do not even want? With American resources so low that our homes must be cold this winter, why are we sending oil and planes and ammunition to kill more Asians? We are just as responsible for their deaths as we were when Americans flew the planes and dropped the bombs.

The only possible beneficiaries of our action today are the military contractors and the Cambodian generals with Swiss bank accounts—certainly not the people of Indochina, and not the people of the United States.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. STARK).

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STARK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 147, noes 256, not voting 29, as follows:

[Roll No. 651]

AYES—147

Abzug
Adams
Alexander
Anderson, Calif.
Andrews, N.C.
Aspin
Badillo
Baker
Bergland
Bingham
Blatnik
Boland
Brademas
Brown, Calif.
Burke, Fla.
Burton
Byron
Carney, Ohio
Chisholm
Clay
Cochran
Collins, Ill.
Conyers
Corman
Cotter
Culver
Danielson
Dellums
Denholm
Diggs
Dingell
Drinan
Dulski
Eckhardt
Edwards, Calif.
Esch
Evans, Colo.
Flynt
Ford, William D.
Fountain
Fraser
Frenzel
Fulton
Gaydos
Gibbons
Ginn
Gonzalez
Gray
Green, Pa.
Griffiths
Gross
Gude
Gunter
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Hawkins
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holtzman
Howard
Hungate
Johnson, Calif.
Johnson, Colo.
Karth
Kastenmeier
Kazen
Koch
Kyros
Leggett
Litton
Long, La.
McCloskey
McCormack
McDade
Macdonald
Madden
Mann
Mathis, Ga.
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Miller
Mink
Moakley
Montgomery
Moorhead, Pa.
Moss
Natcher
Nedzi
Obey
O'Neill
Owens
Pike
Podell
Pritchard
Randall
Rangel
Rarick
Rees
Reid
Reuss
Riegle
Rodino
Rogers
Roncalio, Wyo.
Rose
Rosenthal
Roush
Roy
Runnels
Ryan
St Germain
Sarbanes
Schroeder
Seiberling
Shipley
Shuster
Stanton, James V.
Stark
Steelman
Stuckey
Studds
Symington
Taylor, N.C.
Thompson, N.J.
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Wilson, Charles H., Calif.
Wylie
Wyman
Yatron
Young, Ga.
Zion

NOES—256

Addabbo
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Bafalis
Barrett
Bauman
Beard
Bell
Bennett
Bevill
Biaggi
Biester
Blackburn
Boggs
Bolling
Bowen
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cohen
Collier
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dennis
Dent
Derwinski
Devine
Dickinson
Donohue
Dorn
Downing
Duncan
du Pont
Edwards, Ala.
Eilberg
Eshleman
Evins, Tenn.
Fascell
Findley
Flood
Flowers
Foley
Forsythe
Frelinghuysen
Frey
Froehlich
Fuqua
Gettys
Giaimo
Gilman
Goodling
Grasso
Green, Oreg.
Grover
Guyer
Haley
Hammerschmidt
Hanrahan
Hansen, Idaho
Hastings
Hays
Heinz
Henderson
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Hosmer
Huber
Hudnut
Hutchinson
Ichord
Jarman
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kemp
Ketchum
Kluczynski
Kuykendall
Landgrebe
Latta
Lehman
Lent
Long, Md.
Lott
Lujan
McClory
McCollister
McEwen
McFall
McKay
McKinney
McSpadden
Madigan
Mahon
Mailliard
Mallary
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Mayne
Michel
Minish
Mitchell, N.Y.
Mizell
Mollohan
Moorhead, Calif.
Morgan
Murphy, Ill.
Murphy, N.Y.
Myers
Nelsen
Nichols
Nix
O'Brien
O'Hara
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Roe
Roncallo, N.Y.
Rooney, Pa.
Rostenkowski
Rousselot
Roybal
Ruppe
Ruth
Sandman
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Symms
Talcott
Taylor, Mo.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Vander Jagt
Waggonner
Wampler
Ware
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wydler
Yates
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zwach

NOT VOTING—29

Abdnor
Burke, Calif.
Carey, N.Y.
Clark
Erlenborn
Fish
Fisher
Goldwater
Gubser
Harvey
Hébert
Hunt
Keating
King
Landrum
Mills, Ark.
Minshall, Ohio
Mitchell, Md.
Mosher
Patman
Rooney, N.Y.
Shoup
Stokes
Sullivan
Veysey
Walsh
Whalen
Wiggins
Wyatt

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. ROUSSELOT. Mr. Chairman, I rise in opposition to this huge expenditure bill.

As we consider H.R. 11771, the foreign aid appropriations bill, I am sure that many Members are aware of the fact that some of the countries which have received American foreign aid over the years have displayed a very cavalier attitude toward our generosity. Their spokesmen and politicians have acted as though the American taxpayer would be willing to provide an endless flow of dollars, despite the fact that some recipient countries would apparently take every opportunity to attack the United States and to undermine its defense and foreign policy objectives.

Recently a local radio station in Washington, WWDC, has been broadcasting a remarkable editorial by Mr. Gordon Sinclair, of radio station CFRB, in Toronto, Ontario, Canada, which was originally broadcast on June 5, 1973. This editorial, entitled "Americans," is an inspiring expression of the appreciation which one foreign commentator feels for the help which Americans have often thanklessly provided.

I understand that several thousand listeners have responded to Mr. Sinclair's editorial by requesting copies of it from WWDC. This response indicates that Mr. Sinclair has sensitively articulated the feelings of many Americans, and I therefore think it would be most appropriate to share the editorial with my colleagues at this time:

["Let's Be Personal"—broadcast of June 5th, 1973]

AMERICANS

The United States dollar took another pounding on German, French and British exchanges this morning, hitting the lowest point ever known in West Germany. It has declined there by 41% since 1971 and this Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least-appreciated people in all the earth.

As long as sixty years ago, when I first started to read newspapers, I read of floods on the Yellow River and the Yangtse. Who rushed in with men and money to help? The Americans did.

They have helped control floods on the Nile, the Amazon, the Ganges and the Niger. Today, the rich bottomland of the Mississippi is under water and no foreign land has sent a dollar to help. Germany, Japan and, to a lesser extent, Britain and Italy, were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts. None of those countries is today paying even the interest on its remaining debts to the United States.

When the franc was in danger of collapsing in 1956, it was the Americans who propped it up and their reward was to be insulted and swindled on the streets of Paris. I was there. I saw it.

When distant cities are hit by earthquake, it is the United States that hurries in to help . . . Managua, Nicaragua is one of the most recent examples. So far this spring, 59 American communities have been flattened by tornadoes. Nobody has helped.

The Marshall Plan . . . the Truman Policy . . . all pumped billions upon billions of dollars into discouraged countries. Now newspapers in these countries are writing about the decadent war-mongering Americans.

I'd like to see just one of those countries that is gloating over the erosion of the United States dollar build its own airplanes.

Come on . . . let's hear it! Does any other country in the world have a plane to equal the Boeing Jumbo Jet, the Lockheed Tristar or the Douglas 10? If so, why don't they fly them? Why do all international lines except Russia fly American planes? Why does no other land on earth even *consider* putting a man or woman on the moon?

You talk about Japanese technocracy and you get radios. You talk about German technocracy and you get automobiles. You talk about American technocracy and you find men on the moon, not once, but several times . . . and safely home again. You talk about scandals and the Americans put theirs right in the store window for everybody to look at. Even the draft dodgers are not pursued and hounded. They are here on our streets, most of them . . . unless they are breaking Canadian laws . . . are getting American dollars from Ma and Pa at home to spend here.

When the Americans get out of this bind . . . as they will . . . who could blame them if they said "the Hell with the rest of the world." Let someone *else* buy the Israel bonds. Let someone else build or repair foreign dams or design foreign buildings that won't shake apart in earthquakes.

When the railways of France, Germany and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are *still* broke. I can name to you 5,000 times when the Americans raced to the help of other people in trouble.

Can you name me even *one* time when someone else raced to the Americans in trouble? I don't think there was outside help even during the San Francisco earthquake.

Our neighbours have faced it alone and I'm one Canadian who is damned tired of hearing them kicked around. They will come out of this thing with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over their present troubles.

I hope Canada is not one of these. But there are many smug, self-righteous Canadians. And finally, the American Red Cross was told at its 48th Annual Meeting in New Orleans this morning that it was broke.

This year's disasters . . . with the year less than half over . . . has taken it all and nobody . . . but nobody . . . has helped.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

LIMITATION ON PROGRAM ACTIVITY

Not to exceed $7,650,000,000 (of which not to exceed $3,800,000,000 shall be for equipment and services loans) shall be authorized during the current fiscal year for other than administrative expenses.

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ichord: Page 18, line 10, strike out the period and insert in lieu thereof the following: "; except that no funds shall be obligated or expended under this paragraph, directly or indirectly, for the use or benefit of any nonmarket economy country (other than any such country whose products are eligible for column 1 tariff treatment on the date of the enactment of this Act) until the President makes a report to the Congress on his determination that such country does not (1) deny its citizens the right or opportunity to emigrate; (2) impose more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever; or (3) impose more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice."

POINT OF ORDER

Mr. PASSMAN. Mr. Chairman, I make a point of order against the amendment in that it requires a Presidential determination and is legislation on an appropriation bill.

The CHAIRMAN. Does the gentleman from Missouri wish to be heard on the point of order?

Mr. ICHORD. I do, Mr. Chairman.

Mr. Chairman, I would hope that the gentleman from Louisiana would withdraw his point of order, because the amendment which I offer is exactly the Vanik amendment which has been adopted by the House by a vote of 4 to 1.

Mr. Chairman, I submit that the amendment is in order, and I refer the Chair to Hinds' precedents, section 3942. An amendment which was submitted to an appropriation bill, to an agricultural appropriation bill, provided that no part of the appropriation shall be available for the agricultural college of Utah until the Secretary of Agriculture shall be satisfied and shall so certify to the Secretary of the Treasury that no trustee, officer, instructor, and so forth, is engaged in the practice of polygamy.

That required a certification by the Secretary of Agriculture, Mr. Chairman. This requires a certification by the President that certain nations do not deny the rights of immigration to their citizens. It is a certification and report on the basis of that precedent, and I submit, Mr. Chairman, that the amendment is in order. If not, I have another amendment at the desk which will be in order, on trade to Russia.

Mr. PASSMAN. Mr. Chairman, out of respect for 435 tired Members of this body, I ask for a ruling.

The CHAIRMAN. The Chair is ready to rule. The amendment requires the President to make a report to the Congress on his determination that a certain country does not deny its citizens the right or opportunity to emigrate, impose more than a nominal tax on emigration, and certain other factors.

This evidently places additional duties upon the President and requires new determinations. A similar amendment was ruled out as legislation when the foreign aid appropriation bill was considered in 1972. The Chair holds that the amendment is legislation on an appropriation bill and sustains the point of order.

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ichord: Page 18, line 10, strike out the period and insert in lieu thereof the following: "; except that no funds shall be obligated or expended under this paragraph, directly or indirectly, for the use or benefit of any nonmarket economy country (other than any such country whose products are eligible for column 1 tariff treatment on the date of the enactment of this Act)."

POINT OF ORDER

Mr. SHRIVER. Mr. Chairman, I raise a point of order on this amendment.

This amendment, like the other one, places additional responsibilities and additional duties. It is legislation on an appropriate bill; it requires considerable research and work in order to determine the nonmarket economy country. And then that is put just in parentheses in the bill.

Mr. ICHORD. Mr. Chairman, may I address myself to the gentleman's point of order?

The CHAIRMAN. The gentleman from Missouri (Mr. Ichord) may be heard on the point of order.

Mr. ICHORD. Mr. Chairman, I have previously checked with the Parliamentarian, and I have stated before that I would have preferred to have offered the Vanik amendment, but this is a direct limitation saving that no country shall be extended credit by the Export-Import Bank if it is a nonmarket economy nation and does not have preferential treatment under Tariff Schedule I.

It is solely a limitation, Mr. Chairman, and I submit that the amendment is in order by all of the precedents of the House.

The CHAIRMAN (Mr. Price of Illinois). The Chair is prepared to rule.

The language, as contained in this amendment, appears to the Chair to be strictly a limitation on the manner in which the funds are to be expended. Almost any limitation requires some determination in order to establish the fact of whether or not the limitation would apply.

So the Chair is constrained to overrule the point of order.

Mr. ICHORD. Mr. Chairman, I will say to the members of the committee that I apologize for offering this amendment at this late hour. However, it is an amendment upon which I feel very strongly. I would have preferred that the amendment be stated in the exact language of the Vanik amendment, but I offer this amendment, Mr. Chairman, because I am unalterably opposed to credit being extended to such nonmarket countries, and to this date this is the first time that this House has had the opportunity to pass upon this very important policy matter.

Mr. Chairman, I do not stand in the well this evening in opposition to the operations of the Export-Import Bank. I do not stand here in the well in opposition to trade with Soviet Russia. If trade with the Soviet Union will lessen world tensions, well and good.

But I think that we should seriously

consider what we are doing and what we have done to date if we continue to extend large credits to the Soviet Union without any safeguards. Before we extend credits we should first get a quid pro quo. Let us first see some meaningful action on the part of the Soviets in mutual arms reduction. Let us first see them change their emigration policies in recognition of the most elementary human rights.

Mr. Chairman, I think that this policy of extending credit to the Soviet Union defies commonsense. I fear, Mr. Chairman, that we are about to be taken by some of the large deals that are now pending, just as we were taken on the Russian wheat deal.

And I submit, Mr. Chairman, that this body should stop and ask itself this question: Why are we spending $80 billion a year for defense of the United States today?

We are not appropriating $80 billion a year because of the threat that India presents to this country; we are not appropriating $80 billion a year because of the threat posed by Communist Cuba; we are not even appropriating $80 billion a year for defense because of the threat posed by Communist China. We are appropriating $80 billion a year because of the threat posed by the Soviet Union, and we have recently seen what has happened in the Mideast situation with the supplying of arms by the Soviet Union to the Arabs, fueling the fires of war in the Mideast area.

If, Mr. Chairman, we continue, and we are doing it right now—in fact, we have $253 million already preliminarily committed—if we continue with this credit, Mr. Chairman, we are making it easier for the Soviet Union to continue to divert such a large portion of its gross national product to the production of military armaments. They have in the last decade built up the greatest military machine in the history of civilization. It defies commonsense to me to loan them money and make it easier for them to continue to build up that huge military machine.

I move the adoption of my amendment.

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendment.

Of course, it is not an easy thing to do, but it is the right thing to do.

Let us be realistic about this. There is no concession being made to Russia here. There are no concessions on interest or on the prices of commodities. We are selling and will sell millions of dollars worth of equipment and commodities to Russia. We put up 50 percent of the money and 50 percent of it comes from the independent commercial banks. This program furnishes a tremendous profit to the American businessman and to the U.S. Treasury.

If we are ever going to adopt the policy that we are not going to sell to people we do not like, then I do not know where it will lead us. We have several Communist countries we have been making Export-Import Bank loans to. They are up to date and approved. It is just a question of whether you want to take the position that you do not want to sell to any government that is contrary to ours.

I can assure you the Export-Import Bank is one of the finest agencies of the Federal Government. They have earned profits and funds for the American manufacturer and the working man who pays it directly into the U.S. Treasury for taxes; and the Export-Import Bank paid in dividends some $800 million to the U.S. Treasury.

I just do not know the purpose of the amendment. I would like to ask my very dear friend from Missouri this question.

Mr. ICHORD. I will be very happy to answer.

Mr. PASSMAN. In prior years the gentleman has offered these amendments and voted against the bill. If your amendment is adopted, will you vote for the bill this afternoon?

Mr. ICHORD. I will state to the gentleman that I will reverse my position. If the House votes for this amendment, I will vote for the bill.

Mr. PASSMAN. Well, that is one vote we did not expect.

Mr. SHRIVER. Will the gentleman yield?

Mr. PASSMAN. I am very happy to yield to the distinguished gentleman from Kansas.

Mr. SHRIVER. I want to concur in the excellent statement our chairman is making.

The Export-Import Bank has been very important as to the balance-of-payments situation and our trade situation in the world. They are making money for this country.

Mr. PASSMAN. It is a tremendous profit for the United States to sell to the Soviet Union directly. I hope we vote this amendment down.

Mr. BLACKBURN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Missouri.

I am going to leave aside for the moment the question of what it is we are selling to the Soviet Union. Frankly, I am convinced we are selling them things that we should not in the best interests not only of our security but of the economy of the United States.

I am going to address myself to only one thing here, and that is the question of under what conditions should we extend credit to any country whether it is the Soviet Union or anyone else. It is the first and primary responsibility of any leading institution to make sure that your borrower is credit worthy. Now, how do you determine that? You find out what they have in the way of cash reserves and what they have in the way of gold and what their productive capacities are. Let me tell you a little fact about the Soviet Union, that is, we do not know how much gold they have. We have heard estimates that they have anywhere from 2 million to 6 million tons of gold. Why can we not make them pay us in cash?

I do not think we can give them such credit as it looks like we will be giving them.

I recently read an article where someone asked Mr. Alkinno, the Deputy Minister from Russia who was visiting in this country, and said:

> Mr. Minister, why don't you explain your government's gold reserves; tell us just how much gold you have so that we will know whether to extend to you these generous credits.

And this was Mr. Alkinno's answer. He said:

> If our government told you how much gold we have you may determine that we do not need credit if we have got too much gold, and if we tell you how much we have you might decide we don't have enough to warrant you giving us credit.

Is that not a happy situation to do business under? Yet that is exactly the circumstances under which we are extending credit today to the Soviet Union.

I can just imagine any one of us going to our friendly neighborhood banker, and saying, "I want to borrow some *money*." And the banker then says, "Well, I will want to see your balance sheet to see what you have." And if we were to look at the banker and say, "Mr. Banker, if I were to tell you how much I had you might decide I do not need the loan because I am too well off. On the other hand, you might decide that I am not good enough for a loan. So just go ahead and loan me the money." Why, that banker would laugh all the way kicking you out the back door, and he ought to.

Until we begin to take some steps to insure that we are dealing with a country that will pay back the loan, and that they are reliable, then I do not think we want to do business with them on credit unless we do.

And, Mr. Chairman, I am leaving aside many other points that could be discussed this evening on this bill.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, let me assure the gentleman from Georgia that the gentleman misunderstands the type of credit that is being extended. They are secured credits insofar as credits can be secured. They are loans and they are very profitable. No strategic materials, and a high level of interest for the banks putting up 50 percent of the credit.

It simply means more money into the U.S. Treasury.

However, if we are talking about not selling to countries not because of their credit, but because we do not like them, then the amendment is good, but it is not good for America.

Mr. BLACKBURN. Mr. Chairman, I would ask the gentleman from Louisiana to please conclude his remarks, because they are coming out of my time.

Mr Chairman, I forgot to point out something concerning the security in making these deals with the Soviet Union. If we build the large truck factory over there and install $200 million worth of American equipment, can the gentleman from Louisiana tell me if anybody is going to pick up that equipment and bring it back home if they do not pay the loan?

Mr. ICHORD. Mr. Chairman, would the gentleman yield?

Mr. BLACKBURN. I am happy to yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the gentleman from Louisiana has stated that this is another demagoguing amendment.

Mr. PASSMAN. If the gentleman would yield, I did not offer that statement.

Mr. ICHORD. Let me ask the gentleman from Louisiana a question.

Mr. PASSMAN. Proceed.

Mr. ICHORD. The gentleman from Louisiana has said that we should extend Russia credit. But does the gentleman from Louisiana not recognize the fact that by doing so they are able to devote so much more of their gross national product into the production of military hardware? That defies commonsense, I say to the gentleman from Louisiana.

Mr. PASSMAN. If the gentleman will yield further, I might say to the gentleman from Missouri that I do not regard that as not being commonsense. In other words, if you are going to sell products and commodities and want to make a profit out of them—and I came out of the free enterprise segment of the country—you should do so. I would say to the gentleman that I would just as soon sell my products and make a profit to a saloon keeper, or to a bootlegger, as I would to the preacher of my church. Whether a saint or a sinner should not make any difference.

Mr. BLACKBURN. Mr. Chairman, I can truly say that if my only concern was about the difference between a bootlegger and the preacher in my church, I would not have any concern. But the fact is that we are dealing with a nation that wants to rule the whole world, and yet we are going to go ahead and sell them our products such as the miniature ballbearing machines that can only be made in this country, and 90 percent of the production made from those machines goes into defense. I just seriously wonder how we can possibly sell them goods of that sort.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GIBBONS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not intend to take the full 5 minutes, and I do not intend to make a speech. I only want to ask the sponsor of the amendment a couple of questions.

Can the gentleman from Missouri list for me the countries by name that this amendment would cover?

Mr. ICHORD. Mr. Chairman, if the gentleman will yield, the amendment would cover exactly the same countries as covered by the Vanik amendment, because the amendment is offered in the identical language.

Specifically, it would cover, I would say to the gentleman from Florida, all of those countries which do not presently have MFN status and who do not have preferential tariff treatment under column 1 on the date of the enactment of this act.

Mr. GIBBONS. Can the gentleman give me the names of the countries?

Mr. ICHORD. Specifically, it would cover the Soviet Union.

Mr. GIBBONS. We know it covers Russia; yes.

Mr. ICHORD. Specifically, it would cover Communist China. It would not cover Romania, because I believe that Romania does have MFN.

Mr. GIBBONS. Romania does not have any MFN. How about Hungary? How about Yugoslavia? How about Czechoslovakia? How about all of the Socialist countries? How about East Germany?

Mr. ICHORD. It would cover East Germany because it does not now have MFN status. All of those nations who do not have MFN status presently would be covered.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, would it not be much better to try to resolve this in the regular legislation?

Mr. ICHORD. It is practically the same as the Vanik amendment.

Mr. PASSMAN. The gentleman could not say what countries. This is an involvement we might regret. Could we not vote this amendment down and proceed on the normal basis, go before the legislative committee, let the gentlemen clear it up, get the understanding of it, and make the corrections there?

Mr. GIBBONS. Before I yield back the balance of my time, this is different than the Vanik amendment. The Vanik amendment was conditioned upon nondiscriminatory emigration treatment, and this goes further than that, I believe.

Mr. ICHORD. Will the gentleman yield on that point?

Mr. GIBBONS. Yes; I will yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

It is true that the Vanik amendment was conditioned upon the Soviet Union improving or changing its emigration policies and the persecution of its intellectuals.

Mr. GIBBONS. Yes, sir, that is right.

Mr. ICHORD. But the language defining what countries it applies to is exactly identical with the Vanik amendment.

Mr. GIBBONS. No; the Vanik amendment left it in the hands of the President to make that determination, and this one does not, as I see it. I do not know what countries this covers. Frankly, I have tried to study this question, but Mr. Chairman, I am not going to vote for this bill anyway. I am afraid this is a dangerous amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri, Mr. ICHORD.

The question was taken; and the chairman announced that the "noes" appeared to have it.

RECORDED VOTE

Mr. ICHORD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 134, noes 266, not voting 32, as follows:

[Roll No. 652]

AYES—134

Archer
Ashbrook
Bafalis
Baker
Bauman
Beard
Bennett
Biaggi
Blackburn
Brasco
Bray
Breckinridge
Brinkley
Broyhill, Va.
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Camp
Carney, Ohio
Casey, Tex.
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Denholm
Dent
Derwinski
Devine
Duncan
Eilberg
Evins, Tenn.
Flowers
Flynt
Frey
Froehlich
Fuqua
Gaydos
Gettys
Gilman
Ginn
Goodling
Haley
Hanrahan
Harsha
Hechler, W. Va.
Heckler, Mass.
Hinshaw
Hogan
Holt
Huber
Hudnut
Hungate
Hutchinson
Ichord
Jones, Okla.
Jones, Tenn.
Kemp
Ketchum
Kuykendall
Landgrebe
Lent
Long, La.
Long, Md.
Lott
Lujan
McKinney
McSpadden
Macdonald
Maraziti
Martin, N.C.
Mathis, Ga.
Milford
Miller
Mizell
Montgomery
Moorhead, Calif.
Natcher
Nichols
Parris
Peyser
Pike
Poage
Powell, Ohio
Price, Tex.
Quillen
Randall
Rarick
Regula
Rinaldo
Robinson, Va.
Rogers
Roncallo, N.Y.
Rousselot
Runnels
Ruth
Ryan
Satterfield
Scherle
Shipley
Shuster
Slack
Smith, N.Y.
Snyder
Spence
Steelman
Steiger, Ariz.
Stephens
Stubblefield
Stuckey
Symms
Taylor, Mo.
Teague, Tex.
Towell, Nev.
Treen
Vanik
Wampler
White
Whitehurst
Whitten
Wolff
Wyman
Young, Alaska
Young, Fla.
Zion

NOES—266

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Armstrong
Ashley
Aspin
Badillo
Barrett
Bell
Bergland
Bevill
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Breaux
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Mass.
Burlison, Mo.
Burton
Carter
Cederberg
Chamberlain
Chappell
Chisholm
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Dennis
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Flood
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Fulton
Giaimo
Gibbons
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gude
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hastings
Hawkins
Hays
Heinz
Helstoski
Henderson
Hicks
Hillis
Holifield
Holtzman
Horton
Hosmer
Howard
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Landrum
Latta
Leggett
Lehman
Litton
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Martin, Nebr.
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Minish
Mink
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Myers

Nedzi
Nelsen
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Perkins
Pettis
Pickle
Podell
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Rangel
Rees
Reid
Reuss
Rhodes
Riegle
Roberts
Robison, N.Y.
Rodino
Roe
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
St Germain
Sandman
Sarasin
Sarbanes
Schneebeli
Schroeder
Sebelius
Seiberling
Shriver
Sisk
Skubitz
Smith, Iowa
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steiger, Wis.
Stratton
Studds
Symington
Talcott
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vigorito
Waggonner
Waldie
Ware
Widnall
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wydler
Wylie
Yates
Yatron
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zwach

NOT VOTING—32

Abdnor
Burke, Calif.
Carey, N.Y.
Collier
Erlenborn
Fish
Fisher
Goldwater
Gubser
Harvey
Hébert
Hunt
Keating
King
Mills, Ark.
Minshall, Ohio
Mitchell, Md.
Mosher
Roncalio, Wyo.
Rooney, N.Y.
Shoup
Sikes
Stokes
Sullivan
Veysey
Walsh
Whalen
Wiggins
Wilson, Bob
Winn
Wright
Wyatt

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. PASSMAN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House, with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PRICE of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11771) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes, had directed him to report the bill back to the House with the recommendation that the bill do pass.

Mr. PASSMAN. Mr. Speaker, I move the previous question on the bill to final passage.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MILLER

Mr. MILLER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. MILLER. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MILLER moves to recommit the bill H.R. 11771, to the Committee on Appropriations.

Mr. PASSMAN. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. SCHERLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 219, nays 180, not voting 33, as follows:

[Roll No. 653]

YEAS—219

Abzug
Addabbo
Anderson, Ill.
Andrews, N.C.
Annunzio
Arends
Armstrong
Ashley
Badillo
Barrett
Bell
Bergland
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Breaux
Breckinridge
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Mass.
Burton
Carney, Ohio
Cederberg
Chamberlain
Chappell
Chisholm
Clay
Cohen
Collins, Ill.
Conable
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Wis.
Delaney
Dent
Derwinski
Diggs
Donohue
Drinan
du Pont
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Fascell
Findley
Flood
Foley
Forsythe
Fraser
Frelinghuysen
Frenzel
Giaimo
Gilman
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gude
Gunter
Guyer
Hamilton
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Hawkins
Hays
Heckler, Mass.
Heinz
Helstoski
Hogan
Holifield
Holtzman
Horton
Hosmer
Howard
Johnson, Pa.
Jones, Ala.
Jordan
Karth
Kemp
Kluczynski
Koch
Kuykendall
Leggett
Lehman
Lent
Long, La.
Long, Md.
McClory
McCloskey
McCollister
McDade
McEwen
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Mathias, Calif.
Matsunaga
Mayne
Meeds
Metcalfe
Mezvinsky
Minish
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Murphy, Ill.
Murphy, N.Y.
Natcher
Nelsen
Nix
O'Brien
O'Hara
O'Neill
Passman
Patten
Pepper
Peyser
Pickle
Poage
Podell
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Rangel
Rees
Regula
Reid
Rhodes
Riegle
Rinaldo
Roberts
Robison, N.Y.
Rodino
Roe
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Sandman
Sarasin
Sarbanes
Schroeder
Seiberling
Shriver
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Stanton, J. William
Stanton, James V.
Stark
Steele
Steelman
Steiger, Wis.
Stratton
Stubblefield
Studds
Symington
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Towell, Nev.
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Ware
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wydler
Wyman
Yates
Yatron
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki

NAYS—180

Adams
Alexander
Anderson, Calif.
Andrews, N. Dak.
Archer
Ashbrook
Aspin
Bafalis
Baker
Bauman
Beard
Bennett
Bevill
Blackburn
Bowen
Bray
Brinkley
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carter
Casey, Tex.
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conlan
Conyers
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
de la Garza
Dellenback
Dellums
Denholm
Dennis
Devine
Dickinson
Dingell
Dorn
Downing
Dulski
Duncan
Eckhardt
Edwards, Ala.
Eshleman
Evins, Tenn.
Flowers
Flynt
Ford, William D.
Fountain
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Gibbons
Ginn
Goodling
Gross
Haley
Hammerschmidt
Hanrahan
Harsha
Hastings
Hechler, W. Va.
Henderson
Hicks
Hillis
Hinshaw
Holt
Huber
Hudnut
Hungate
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Ketchum
Kyros
Landgrebe
Landrum
Latta
Litton
Lott
Lujan
McCormack
McSpadden
Maraziti
Martin, Nebr.
Martin, N.C.
Mathis, Ga.
Mazzoli
Melcher
Milford
Miller
Mink
Mizell
Montgomery
Moorhead, Calif.
Moss
Myers
Nedzi
Nichols
Obey
Owens
Parris
Patman
Perkins
Pettis
Pike
Powell, Ohio
Price, Tex.
Quillen
Randall
Rarick
Reuss
Robinson, Va.
Rogers
Roush
Rousselot
Roy
Runnels
Ruth
Ryan
St Germain
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shuster
Skubitz
Snyder
Spence
Staggers
Steed
Steiger, Ariz.
Stephens
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Tex.
Thone
Thornton
Tiernan
Treen
Udall
Waggonner
Waldie
Wampler
White
Whitehurst
Whitten
Wylie
Young, Alaska
Young, Fla.
Young, S.C.
Zion
Zwach

NOT VOTING—33

Abdnor
Burke, Calif.
Carey, N.Y.
Clark
Collier
Erlenborn
Fish
Fisher
Goldwater
Gubser
Hanna
Harvey
Hébert
Hunt
Keating
King
Michel
Mills, Ark.
Minshall, Ohio
Mitchell, Md.
Mosher
Roncalio, Wyo.
Rooney, N.Y.
Shoup
Sikes
Stokes
Sullivan
Veysey
Walsh
Whalen
Wiggins
Wright
Wyatt

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Harvey.

Mr. Rooney of New York with Mr. Keating.

Mr. Sikes with Mr. King.

Mr. Mitchell of Maryland with Mr. Roncalio of Wyoming.

Mr. Clark with Mr. Abdnor.

Mr. Carey of New York with Mrs. Burke of California.

Mr. Fisher with Mr. Collier.

Mr. Hanna with Mr. Walsh.

Mr. Mills of Arkansas with Mr. Wiggins.

Mr. Wright with Mr. Mosher.

Mr. Stokes with Mrs. Sullivan.

Mr. Hunt with Mr. Michel.

Mr. Fish with Mr. Goldwater.

Mr. Whalen with Mr. Shoup.

Mr. Erlenborn with Mr. Gubser.

Mr. Minshall of Ohio with Mr. Wyatt.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, and I also ask unanimous consent that in revising my remarks I may be allowed to include certain extraneous tabular matter.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

FOR SALE CHEAP: ONE ABM SITE, NEVER USED

(Mr. LEGGETT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. LEGGETT. Mr. Speaker, I have recently received a notice from the Army that the proposed Safeguard ABM base at Malmstrom, Mont., which we were once told was essential to national security, will be turned over to GSA for disposal as excess real estate. Thus an inglorious program comes to a fittingly inglorious end.

We have spent a total of $8 billion on antiballistic missile systems. Consider what we have bought with it:

First, we have bought the knowledge that ABM systems are hopelessly ineffective and cost-ineffective—with the possible exception of a dedicated hard-point defense such as the site defense of Minuteman system, which is merely unnecessary. But this was evident before we started.

Second, we gained an ABM Treaty with the Soviet Union, banning all ABM systems of any consequence. Thus, we prevented the Soviets from deploying a modern ABM. But since no Soviet ABM could hope to counter our nuclear deterrent, we have not improved our military position. We have merely saved the Soviets some money.

Third, by the ABM Treaty we saved ourselves from building a 12-site ABM. Since there was no military justification for building it in the first place, this is not much of an accomplishment.

Fourth, by stopping the Soviet ABM, the treaty removed the principal rationale for our own MIRV program. But we have gone ahead with MIRV anyway.

So we have spent $8 billion to learn what we already knew and to help balance the Soviet budget.

Now we are preparing to spend another $2 billion over the next 10 years to complete and operate the single site at Grand Forks, N. Dak. We will do this despite the ineffectiveness of such a limited system which is recognized even by such traditional ABM supporters as Senator Jackson. We will do it simply because we are permited to do so by the ABM Treaty, and because the administration apparently operates on the principle that no opportunity for military spending should go neglected.

The Malmstrom site consists of 641 acres in the middle of nowhere, bearing $64 million worth of improvements including 100,000 square feet of underground office space. My guess is that a bid of $19.98 would probably take it. Perhaps some public-spirited soul will pick up the property and develop it into a titanium-plated museum of Government folly.

For those inclined to black humor, I include the Army notice at the conclusion of my remarks.

Rest in peace, ABM. You will live on in history as one of the champion taxpayer-fleecers of all time.

The report follows:

Real Estate Disposal Report No. 473

Submitted pursuant to Title 10, United States Code, Section 2662.

Name of Installation: Safeguard ABM System, near Malmstrom Air Force Base, Montana.

Using Command: United States Army Air Defense Command.

Interest: Fee and Easement.

Area: Fee—641 Acres; Easement—869 Acres.

Original Cost:

Fee	$198,369
Easement	115,548
Improvements	63,700,000
Total	64,013,917

Acquisition Date: 1969.

Proposed Action: Report to General Services Administration as excess real property.

Authority: Federal Property and Administrative Services Act of 1949 (63 Stat. 377).

1. The Department of the Army proposes to report the SAFEGUARD Anti-Ballistic Missile System (ABM), Montana, to the General Services Administration (GSA) as excess real property.

2. The Montana SAFEGUARD ABM System is located in the north central part of the state near Malmstrom Air Force Base. The Montana SAFEGUARD is part of the "SAFEGUARD Ballistic Missile Defense System" the development of which began in March 1969 as successor to the nation's "Sentinel System". The SAFEGUARD System was planned for the defense of our retaliatory missile force against an accidental or intentional attack by hostile intercontinental missiles. The SAFEGUARD System differs from the "Sentinel System" in that it is not intended as an area defense for specific cities and it does not call for a fixed deployment schedule. The SAFEGUARD System was to consist of twelve sites to be phased in as defense requirements dictated. Construction of two SAFEGUARD complexes near Malmstrom Air Force Base, Montana, and near Grand Forks Air Force Base, North Dakota, was authorized by Congress in 1969. Construction at both complexes started in 1970 but was halted at the Montana SAFEGUARD complex in May of 1972 as a result of the Treaty between the United States and Russia on the Limitation of Anti-Ballistic Missile Systems. Under the Treaty the United States could only maintain one SAFEGUARD ABM site outside the Washington, D.C. area. The Grand Forks site was selected because of advanced construction and it was determined that the real property at the Montana SAFEGUARD complex was excess to Army requirements.

3. The Montana Safeguard is a complex of six separate sites plus a supporting water supply pipeline. A total of 641 acres of fee land and 869 acres of easements located in Pondera and Toole Counties, Montana were acquired (Army Acquisition Report No. 168) for the complex. At the time construction was halted on the Montana Safeguard over $63,700,000 had been spent on the improvements and some $10,000,000 on equipment for the facility. The status of construction is as follows:

a. Construction has been completed on the twenty-seven miles of waterline with booster stations and appurtenances to transport water from the Tiber Reservoir to the Perimeter Acquisition Radar (PAR), Remote Launch Site (RLS) No. 3 and Missile Site Radar (MSR) sites.

b. The PAR site is about 13% complete with the pouring of concrete for both the radar facility and 4,600 square feet of office space.

c. The MSR site is about 11% complete. The improvements consist of 21,400 square feet of office space and a below grade concrete radar facility and other buildings containing 100,000 square feet of space.

d. The RLS sites Nos. 1, 2, 3 and 4 are unimproved except for some minor grading and installation of test water wells at RLS Nos. 1, 2 and 4.

4. Since the Safeguard Montana property is also excess to the needs of the Department of Defense and the Coast Guard, it is proposed to report the fee-owned land to GSA for disposition. The Tiber Reservoir waterline along with the necessary easements to preserve the operational integrity of the pipeline will also be reported to GSA for disposition as an operating unit and the report of excess will note the interest of the Montana Water Development Association in acquiring this facility. The disposal report will be subject to possible Department of the Air Force use of the office and warehouse buildings at the MSR site for a period of eighteen months. Disposal of the remaining easement lands will be by the Army Corps of Engineers by negotiation with the owners of the servient estates. Any other real estate interests that have been acquired excluding fee interests will also be disposed of by negotiation with former owners of those interests. No acquisition of similar property in the vicinity is contemplated by the Department of the Army.

5. This action has been approved by the Assistant Secretary of Defense (Installations and Logistics).

ED ZUCKERMAN REVEALS ISSUES SURROUNDING THE FEDERAL RESERVE AUDIT BILL

(Mr. PATMAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. PATMAN. Mr. Speaker, the question of whether the Federal Reserve System should be subject to an audit by the General Accounting Office continues to evoke a great deal of comment in the news media across the land.

Ed Zuckerman, of Ridder Publications, has written a series for a number of newspapers in different parts of the Nation. Mr. Zuckerman's series is an excellent exposition of some of the major issues involved in the effort to require a full-scale independent audit of the Federal Reserve.

As I indicated last week, it is my intention to continue to keep the Members of the House informed on the audit bill and the various editorial comments which appear on this subject. It is not my intention to endorse all of the conclusions and comments which might appear under any byline, but to keep the Members abreast of the developments on a very important issue.

Mr. Speaker, it is still my hope that the House will be given an opportunity to vote on this legislation before the Congress adjourns.

Mr. Speaker, I place in the Record articles by Ed Zuckerman from the Gary, Ind. Post Tribune and the Wichita, Kans. Eagle:

[From the Gary (Ind.) Post Tribune, Dec. 1, 1973]

"Independent" Fed Fourth Branch of United States

(By Ed Zuckerman)

Washington.—In the six decades since its creation as the nation's central bank, the

Federal Reserve System has become a fiercely independent agency that has withstood attempts by Congress and the White House to curb the limitless power it exercises over the economy.

Sustained by funds that are neither budgeted by the White House nor appropriated by Congress, the granite and marble fortress on Constitution Avenue has literally become the headquarters of a fourth branch of government.

Ruled by a seven-member board whose presidentially-appointed members serve 14-year terms, the system lives on the $4 billion interest it earns on a $76 billion bond portfolio acquired on the credit generated by the economy which it regulates.

What it doesn't spend from its self-perpetuating source of income—about $3.2 billion last year—is returned to its true owners, the U.S. taxpayers, by way of transfer to the general fund of the U.S. Treasury.

Easily aroused by the efforts to diminish its authority, the Federal Reserve System has blocked previous proposals to make it accountable for its internal spending and for its secret decisions which set the pulse rate for the national economy.

"The one protection that the Fed has is its complexity," explain Joseph Lewis of the House Banking Committee staff. "When the little guy can't get a loan because of high interest or tight money, he doesn't know it's the Fed's fault."

Lewis' comments echo the view of his boss, the Fed's most formidable foe in Congress—House Banking Committee Chairman Wright Patman.

The 80-year-old Texas Democrat, a frequent and outspoken critic of the alliance between bankers and the Fed during more than four decades in Congress, has come closer this year than ever before to winning his battle to invade the banking industry's most sacred temple.

At stake in the fight is whether the Fed, like every other agency of government, will be subjected to periodic audits by the General Accounting Office (GAO).

In early October, Patman secured his committee's approval of legislation to subject the Fed to GAO audits. But the House Rules Committee voted 9–5 on Nov. 6 to postpone indefinitely a vote to forward the bill to the floor.

Patman blames Arthur Burns, chairman of the Fed's board of governors, for influencing the rules committee action. In numerous speeches, Patman has accused Burns of personally lobbying against the bill in concert with the American Bankers Association (ABA) which represents nearly all of the nation's 13,000 commercial banks.

Burns has denied the accusations. But ABA President Eugene H. Adams has admitted he was contacted by Fed officials about the GAO audit bill only days after Patman's committee approved the proposal.

Rep. Ray J. Madden, D-Gary, who became chairman of the House Rules Committee this year and was among the five Democrats who supported the audit plan, acknowledged that there was heavy lobbying against the bill. Those who voted for the bill, Madden said, "were the only ones who resisted the arm twisting of the financial monarchs of this country."

Madden, promising another vote by his committee in December, added that he threw several hundred telegrams from bankers into his waste paper basket in the days preceding the postponement action.

Patman, who was born in the bank panic year of 1893 and was elected to Congress just before the stock market crash of 1929, was as polite as his old-style populism would permit when he appeared before the rules committee on Oct. 24 to argue for his bill—until he mentioned Burns' lobbying.

His accusations attracted a response from Rep. Delbert Latta, R-Ohio.

"I would like to say for the record that Dr. Burns missed me, he did not lobby me on this bill," Latta protested. "I talked to my friend on my left from California (Rep. Del Clawson, a Republican) and he didn't lobby him. I talked to my friend on the right Rep. James Quillen, R-Tenn., and he didn't lobby him. I wonder why he missed us?"

One possible answer to Latta's question might be the financial disclosures all House members make each year. Those reports show that Clawson and Quillen—and two other members of the rules committee—have financial interests in banks:

—Clawson is a stockholder in the Capital National Bank of Compton, Calif. He joined the rules committee last January after giving up a seat on the banking committee.

—Quillen is a director of the First National Corp. of Kingsport, Tenn.

—Rep. Claude Pepper, D-Fla., who came to the rules committee several years ago from the banking committee, is senior vice president of Washington Federal Savings and Loan Association of Miami Beach. He also owns stock in several Florida banks.

—Rep. Clem McSpadden, D-Okla., a freshman hand picked for the rules committee by House Speaker Carl Albert, is a director of the First National Bank of Claremore, Tenn.

Despite their partisan differences, the two Democrats and two Republicans with financial ties to banking were united on the GAO audit bill, supplying the four-vote margin by which the bill was postponed.

Joining them in voting for the delay were Reps. James Delaney, D-N.Y.; Richard Bolling, D-Mo.; Dave Martin, R-Neb.; John Anderson, R-Ill.; and Latta.

Supporting the legislation with Madden were Reps. B. F. Sisk, D-Calif.; John Young, D-Tex.; Spark Matsunaga, D-Hawaii; and Gillis Long, D-La. Rep. Morgan Murphy, D-Ill., was absent.

After Patman's testimony, Martin, the panel's senior Republican member, came close to admitting he was lobbied by Burns while discussing the legislation with Rep. Thomas Ashley, D-Ohio.

Ashley, a member of the banking committee who opposes the GAO audit and also one of 107 House Members disclosing an interest in banking this year, sought the rules committee's approval to ask the House to amend Patman's bill.

In promoting his amendment that would sharply limit the audit, Ashley mentioned he was supported in his effort by Burns.

"I did not get that interpretation when I talked with Arthur Burns last week," said Martin.

[From the Wichita (Kans.) Eagle, Nov. 30, 1973]

Fed Comes Under Attack for Alliance With Banks

(By Ed Zuckerman)

WASHINGTON.—House Banking Committee Chairman Wright Patman has reason to believe the Federal Reserve System has spent great sums of public money to maintain an alliance with the banking industry which the government agency regulates.

The alliance, he says, is maintained by Fed-bought memberships in various banking associations which are used by federal employes.

Furthermore, the Texas Democrat fears that the federal reserve system has spent money to lobby against legislation which would submit the system to a General Accounting Office (GAO) audit which could potentially prove his belief and fears are correct.

Patman's bill is presently stalled in the House Rules Committee which voted 9–5 on Nov. 6 to delay indefinitely its consideration of the GAO audit bill. The margin for delay was provided by four rules panel members who have disclosed personal financial interests in banks.

Patman has accused Dr. Arthur Burns, chairman of the Federal Reserve Board, of waging a costly lobbying campaign in concert with the American Bankers Association (ABA). Burns has denied the charge. But one member of the rules committee, Rep. David Martin, R-Neb., has admitted talking with Burns a week before he voted to postpone consideration of the legislation.

Patman, in an angry written response to Burns, summed up the frustration which the rules panel vote has produced.

The lack of a GAO audit, he wrote, makes it "impossible for the Congress to determine how much money and manpower have been expended in this lobbying effort . . . so long as your agency remains unaudited, and so long as it remains outside of any type of effective review, you will be in a position to spend public monies and to lobby for and against any legislation."

Patman's Bill would permit GAO auditors to examine all phases of the Federal Reserve system.

While Burns argues that nothing would be accomplished by a "Monday morning quarterback" type of audit, Patman counters that analysis would help Congress better understand how the system meets its economy-regulating obligations. Among its various functions, the agency sets interest rates which banks may charge borrowers. Interest rate hikes, many congressional members say, have the effect of pouring fuel on the inflationary fire.

A GAO audit would also be of the "paper clips and pencil counting" variety—a time-consuming task of examining thousands of expense vouchers and seeking justification for those which appear unusual.

Patman has already given his congressional colleagues an idea what a GAO audit might produce. Last year, he ordered his chief staff investigator, Curtis Prins, to examine the Federal Reserve System's spending logs.

Prins found that the system paid nearly $130,000 to buy organizational memberships for its employes—about $80,000 went for memberships in banking associations.

The rest of the money was paid to groups with no apparent link to banking—such as the Minnesota State Association of Industrial Nurses, the Colorado Society for Personnel Administration, the Michigan Restaurant Association, the Real Estate Research Council of Northern California, the Rocky Mountain College Placement Association and the Kansas City Press Club.

"A review of the (Fed's) expenses in the social, recreational and athletic categories appears to paint the system with virtually a country club atmosphere," Prins wrote in a staff report which gave the first public glimpse at how the system spends money on itself.

Prins spent weeks combing through thousands of pages of expense vouchers which were reluctantly delivered to the House Banking Committee.

"It was just a raw pile of stuff, not collated in any way," commented Patman's key staff aide, Joseph Lewis.

"Unlike the rest of the bureaucracy which has a tendency to compartmentalize and categorize, the Fed responded to our request in a way that seemed designed to obstruct rather than instruct.

"It gave us a very limited look . . . we won't know what lies behind the surface without an audit which would force the Fed to justify the reasons for each expense," Lewis said.

Prins, a seasoned investigator who recently uncovered evidence of Nixon administration influence in picking recipients for small business administration loans, found numerous examples of spending which should be further examined:

The Chicago Federal Reserve bank spent $4,600 for theater tickets for the women employes' annual outing and $3,256 for supplies and food for the employes' annual card party.

The San Francisco bank spent $4,400 for a Christmas dinner party; $300 for baseball game tickets and $900 for a spring dance.

The Salt Lake City bank spent $145 for bowling shirts and $2,047 for various unspecified social events.

The Portland bank spent $250 for beach cabin rentals and $1.39 for flash bulbs used at a women employes' banquet.

The Dallas bank bought 1,152 ping pong balls for its 895 employes for $155.

The New York bank spent $21,168 for maintaining its bowling alleys, $589 for a golf tournament, $7,236 for a painting of the President, $2,897 for a children's party and $8,428 for a Christmas luncheon.

The Minneapolis bank paid a $100 registration fee for attendance at the International design Conference in Aspen, Colo. and $72 to rent formal attire for the graduation dinner of the American Institute of Banking school.

Another disclosure unearthed by Prins was the thrift plan which the Federal Reserve System makes available to all of its employes.

Of the system's 20,000 employes, 17,700 of them are enrolled in the plan.

For each employe who contributes $3,000 to the plan, the Federal Reserve System adds $750. The plan, a mutual fund, guarantees each participant a minimum return of 8 per cent.

By last August, after about 3½ years of the thrift plan's existence, the Fed contributed $6,822,000.

"We tried to show in the study just how far outside the normal operations of government the Fed has wandered," Lewis said. "These are benefits which employes in other government agencies don't have. It would be flatly illegal for other government agencies to provide them.

"The Fed claims these things are needed to attract employes and some of these types of benefits are available in private industry. But the Fed is a government agency," he added.

Lewis added that even if it were proper for a government agency to operate a thrift fund for its employes, mutual fund management would still be an improper activity for the Federal Reserve System.

"The Fed has access to so much inside information on the stock market," he said.

[From the Wichita (Kans.) Eagle, Dec. 1, 1973]

How L. B. J. Precipitated Tight Money—Fed's Big Business Done in Private

(By Ed Zuckerman)

Washington.—The key banking and monetary decisions which influence the national economy—such as setting the money supply level and the interest rates which banks may charge—are made by the federal open market committee an adjunct to the federal reserve system.

"It's all done behind closed doors," remarked House Banking Committee aide Joseph Lewis whose boss, Rep. Wright Patman, D-Tex., wants to open the doors to a General Accounting Office (GAO) audit which he feels would help Congress better estimate how well the Federal Reserve System is meeting its economy-regulating responsibilities.

Patman's legislation would allow GAO auditors to examine the inner sanctum proceedings of the open market committee as well as the ledgers of the Federal Reserve System which have never been subjected to outside scrutiny.

The bill is currently stalled in the House Rules Committee because, Patman claims, of lobbying tactics by the Federal Reserve System and the American Bankers Association.

"The Fed doesn't want anything that would disturb their independence," Lewis said.

The open market committee is comprised of the seven governors of the Federal Reserve Board, the president of the New York Federal Reserve Bank plus four presidents from the 11 other reserve banks who serve on a rotating basis. The seven other bank presidents are permitted to attend the secret sessions held at least once a month in Washington.

Although conducted in private, it has been widely suspected that the secrets discussed by the committee are shared among the nation's leading banking officials. This is because the branch bank president is selected by the nine-member branch bank board of directors, many of whom are bankers themselves.

A branch bank president unwilling to share his inside information would not hold the job very long, Lewis suggested.

To dampen fears that a GAO analysis of the committee's internal deliberations would produce any political pressures against its actions, Patman's bill would not permit any examination for at least one year after a market decision is made.

One decision made by the open market committee in late 1965 would be ripe for immediate GAO attention should Patman's legislation win attention.

That decision, which increased discount and interest rates by one-half per cent, set off a chain reaction which saw the prime lending rate raised the day after the decision and, within six months, the nation was plunged into a severe tight-money situation.

Since the decision, lending rates have continued to soar to today's record high levels. Some economic experts feel the 1965 decision, made at the height of the Vietnam War, helped set the inflationary spiral into motion.

David Wise, writing in his book "The Politics of Lying," claims that the 1965 decision was produced by "a chain of events so bizarre as to rival the Marx Brothers at their best."

Wise, who said his accuracy has not been challenged by the Fed since his book was published, contends that President Johnson's dislike of Douglas Kiker, White House correspondent for the defunct New York Herald-Tribune and now an NBC news commentator, started the incident.

"The plot involved the president of the United States, the assistant White House press secretary, the nation's highest economic officials, reporters of two great newspapers and quite a few other people," Wise writes. "Before it was over, the stock market was shaken, the Federal Reserve Board had raised the discount rate and the nation appeared, at least briefly, to be in the grip of a serious economic crisis."

It began when Kiker did not go to the LBJ ranch when the President went home to recuperate from his gall bladder operation. The newspaper sent another reporter, Dick Dougherty, instead.

Johnson, after learning Kiker was absent, decided to leak a story to Dougherty hoping that his report would attract notice from Dougherty's editors in New York and, maybe, result in Kiker's removal from the White House beat.

Dougherty, who was Sen. George McGovern's presidential campaign manager and is now working for NBC in New York, was told by Johnson's press aide that the quadriad (the government's four top economic advisors) had been summoned to the Texas ranch.

Dougherty shared the information with Robert Semple, his rival from the New York Times.

But, on the same day, the Labor Department announced a .2 per cent cost-of-living increase, bringing it to the highest level in history.

Both New York papers headlined the pending quadriad visit, in the face of new inflationary evidence, as evidence that Johnson was worried.

Despite Johnson administration assurances there was no cause for concern, the stories continued for the next few days.

"On Wall Street, bond prices fell sharply. Analysts attributed the drop to concern over rising interest rates, despite administration reassurances to the contrary," Wise reports.

Before Johnson's meeting with the quadriad could take place, the federal open market committee held a hastily-summoned session and increased bank interest rates to the highest point since 1930.

The repercussions, which started with the news leak to Dougherty, continued, Wise recounted in his book:

"Major banks across the country raised their prime rates. Savings and loan officials warned of higher interest rates on new mortgages; in Washington, the directors of the Federal Deposit Insurance Corp. met to consider whether to allow state banks to follow the Federal Reserve Board's lead.

"Across the border, the Bank of Canada raised its discount rate to match Washington's action. On Capital Hill, Rep. Wright Patman, chairman of the Joint Economic Committee, announced a congressional investigation of the decision. Sen. Russell Long, D-La., also proposed an investigation."

POWERS AND DUTIES OF AND RESTRICTIONS UPON SPECIAL PROSECUTOR

(Mr. DENNIS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DENNIS. Mr. Speaker, when the Special Prosecutor bill is considered, presumably later this week, I shall offer a substitute which, if adopted, will avoid constitutional problems, respecting the separation of powers by keeping appointment of the Prosecutor in the hands of the Attorney General, rather than giving this appointment to the courts, and which will, at the same time, give the Prosecutor statutory protection against arbitrary discharge.

I insert in the Record my substitute bill, H.R. 11555, and also the minority views of the Judiciary Committee.

I call attention also to an article by our colleague Mr. Cohen, of Maine, and to an editorial, both on the editorial page of this morning's Washington Post.

The bill and minority views follow:

H.R. 11555

A bill to define the powers and duties and to place restrictions upon the grounds for removal of the Special Prosecutor appointed by the Acting Attorney General of the United States on November 5, 1973, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Special Prosecutor heretofore appointed by the Acting Attorney General of the United States on the 5th day of November 1973, as successor to the former Special Prosecutor who assumed office on May 24, 1973, shall be and is hereby made subject to removal only by the Attorney General (or, if there be none, by the Acting Attorney General) for gross impropriety, gross misconduct, gross dereliction of duty, or for physical inability to discharge the powers and duties of his office, but for no other cause, or by the Congress pursuant to article II, section 4, of the Constitution. The Attorney General shall give thirty days' notice in writing to the Congress of his intention to remove the Special Prosecutor, setting forth in detail the reasons for such removal. Upon the giving of such notice the Attorney General may suspend the Special Prosecutor and his removal shall be effective thirty days thereafter.

Sec. 2. Anything in the statutes touching the powers and authority of the Attorney General to the contrary notwithstanding, said Special Prosecutor shall be, and he hereby is charged with the duty and clothed with the full and complete authority to investigate, to prepare, to conduct, and to prosecute any criminal offense arising out of or connected with the unauthorized entry into Democratic National Committee headquarters at the Watergate in 1972, arising out of or connected with the Presidential election of 1972, allegations of offenses involving the President, members of the White House staff, or Presidential appointees, except allegations of offenses the Special Prosecutor waives to the jurisdiction of the Department of Justice by letter to the Attorney General setting forth his reasons for such waiver, any and all other matters heretofore referred—pursuant to regulations of the Attorney General—to the former Special Prosecutor who assumed office on May 24, 1973, and such new matters which the Special Prosecutor consents to have assigned to him by the Attorney General of the United States.

Sec. 3. Said Special Prosecutor shall be compensated at the rate provided for level II of the Executive Schedule under section 5313 of title 5, United States Code, and he may appoint and fix the salaries (at not to exceed the rate of $36,000 per annum) of such staff and may employ such part-time experts and consultants (at rates not to exceed the per diem equivalent of the rate for GS-18 of the General Schedule established by section 5332 of title 5, United States Code) as he deems necessary to assist him in performing his duties under this Act.

Sec. 4. Upon request of the Special Prosecutor the head of any Federal department or agency shall—

(1) detail, on a reimbursable basis, any of the personnel of such agency; and

(2) provide any relevant information or materials, to the Special Prosecutor to assist him in carrying out his duties under this Act.

Such assistance by the Department of Justice shall include but not be limited to, affording to the Special Prosecutor full access to any records, files, or other materials relevant to matters within his jurisdiction, and use by the Special Prosecutor of the investigative and other services, on a priority basis, of the Federal Bureau of Investigation.

Sec. 5. All materials, tapes, documents, files, work in process, information, and all other property of whatever kind and description relevant to the duties enumerated in section 2 thereof, tangible or intangible, collected by, developed by, or in the possession of the former Special Prosecutor or his staff established pursuant to regulation by the Attorney General (28 C.F.R. 0.37, rescinded October 24, 1973), shall be delivered into the possession of the Special Prosecutor appointed under this Act.

Sec. 6. The Special Prosecutor shall hold office for a period of three years from and after his appointment and shall carry out his duties hereunder within that three-year period except as may be necessary to complete trial or appellate action on indictments then pending.

Sec. 7. The Special Prosecutor shall have and he is hereby given full authority to undertake any action he deems necessary and proper for the performance of his duties under this Act, including—

(1) issuing instructions to the Federal Bureau of Investigation and other domestic investigative agencies of the United States for the collection and delivery solely to the Office of Special Prosecutor of information and evidence bearing on matters within the jurisdiction of the Special Prosecutor, and for safeguarding the integrity and inviolability of all files, records, documents, physical evidence, and other materials obtained or prepared by the Special Prosecutor;

(2) conducting proceedings before grand juries;

(3) framing and signing indictments;

(4) signing and filing informations;

(5) contesting the assertion of executive privilege or any other testimonial or evidentiary privilege;

(6) conducting and arguing appeals in the United States Supreme Court, notwithstanding the provisions of section 518 of title 28, United States Code;

(7) instituting, defending, and conducting civil and criminal litigation in any court; and

(8) exclusively performing the functions conferred upon the Attorney General of the United States under part V of title 18, United States Code (relating to immunity of witnesses), with respect to any matter within his exclusive jurisdiction.

Sec. 8. In the event the Special Prosecutor shall resign or be removed from office pursuant to the provisions of this Act before having completed the performance of his duties under this Act, the Attorney General of the United States shall promptly appoint, subject to the advice and consent of the Senate, a new Special Prosecutor of the highest character and integrity to fulfill those duties, who shall serve subject to the provisions of this Act.

Sec. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Dissenting Views

We are in favor, under existing circumstances, of statutory provision for the appointment of a Special Prosecutor.

We believe, however, that this appointment should be brought about in such a way that the objective can be accomplished with as few Constitutional and legal complications as possible.

We are more interested in the successful prosecution of the guilty than in the promotion of a political issue.

H.R. 11401 does not meet this standard.

Under H.R. 11401 the appointment of a Special Prosecutor is lodged in a panel of three members of the United States District Court for the District of Columbia.

This procedure at once raises grave, and unnecessary, Constitutional questions by vesting in the Judicial Branch of the Government the appointment of an officer of the Executive Branch—a prosecutor, who acts as the agent of the executive in carrying out the executive's constitutional duty of enforcement of the laws. See *United States* v. *Cox,* 342 Fed. (2) 167 (1965).

The Constitutional question is one never definitively decided, but it is one of substance, the existence of which is conceded by every professional witness who testified before the subcommittee.

In this situation it would seem axiomatic that, if it is possible to secure an independent Special Prosecutor without building into our statute this Constitutional problem—which may invalidate every indictment the Prosecutor obtains—this certainly ought to be done.

In addition, H.R. 11401 poses very real practical problems.

Mr. Leon Jaworski, a prominent lawyer of high reputation, is already in office as Special Prosecutor under an appointment which is unquestionably valid. He and his staff—largely inherited from the former Special Prosecutor Mr. Archibald Cox—are already actively engaged in the "Watergate" investigation.

If now a new Special Prosecutor is appointed under H.R. 11401 and the District Court panel does not see fit to appoint this same Mr. Jaworski who is already actively in charge of the investigation, we may well have a situation where we have two rival Special Prosecutors in office during a period of undetermined length while the Constitutional validity of the new Prosecutor's status is determined by litigation, which can only be ultimately resolved by the Supreme Court of the United States. Instead of prosecuting the guilty we may be engaged in a time consuming and unproductive struggle over jurisdiction between prosecutorial rivals.

In addition, there is certainly a very good chance that H.R. 11401, which is subject to very substantive Constitutional objection, may, if passed, meet a Presidential veto on that very ground. In that case there is also a real possibility that the passage of this bill will prove to be an exercise in legislative futility.

The normal way in which to appoint an executive officer is by an executive appointment. Such an appointment under Article II, section 2 of the Constitution may be by the President, with advice and consent of the Senate, or it may be by a Department Head. In either case, and as long as the appointment of the executive officer is kept in the executive branch, we avoid the Constitutional problem, already posed, which inescapably arises when we attempt, as in H.R. 11401, (also in alleged reliance upon the provisions of Article II, section 2) to place an executive appointment in the hands of the courts.

The only difficulty with this approach, under the unusual circumstances we now face, is that under the doctrine of *Myers* v. *United States,* 272 U.S. 52 (1926), it is not possible, in the case of a Presidential appointment, to restrict by statute the power of Presidential removal, and while later cases have cast some doubt upon the limits and extent of this doctrine it may well still apply in the case of a Presidential appointment of a prosecuting officer.

An earlier Supreme Court opinion, *United States* v. *Perkins,* 116 U.S. 483 (1886), which is cited with approval in the *Myers* decision, seems to give us a satisfactory answer to this dilemma, for the Court there held that if Congress delegates the power of appointment to a Department Head and vests that Department Head with the power of removal, Congress may, at the same time, "limit and restrict the power of removal as it deems best for the public interest." Thus the Court held in that case that the Secretary of the Navy could discharge a Naval Cadet only by and through a Courts-Martial, as provided by an Act of Congress.

In view of all the foregoing considerations we supported in Committee, and will offer as a substitute on the Floor, the provisions of a bill H.R. 11555, which, by statute, clothes Mr. Jaworski the present Special Prosecutor, who was appointed by the Attorney General, with all the powers, jurisdiction, and authority during a three year term of office heretofore given to Mr. Cox by the "guidelines" under which he operated, and which provides, by law, that he can be discharged only "for gross impropriety, gross misconduct, gross dereliction of duty, or for physical inability to discharge the powers and duties of his office, but for no other cause". This measure then further provides that if for any reason it should become necessary to appoint a successor to Mr. Jaworski, that successor shall have all the same powers and all of the statutory safeguards given to Mr. Jaworski, and shall, in addition, in his case, be appointed by the Attorney General "subject to the advice and consent of the Senate". This last provision will ensure a congressional participation in any future appointment, which is not insisted upon in Mr.

Jaworski's case, since he is already in office and actively functioning, and his appointment seems to have met with very general approval.

For reasons stated it is our belief that the substitute bill outlined above will assure an independent Special Prosecutor free of the serious Constitutional and practical objections which surround the Committee bill, H.R. 11401. We therefore dissent from the action of the Committee rejecting the substitute, taken on a 21-17 vote, and we urge the House to support our substitute proposal.

David W. Dennis.
Robert McClory.
Joseph J. Maraziti.
Trent Lott.
Hamilton Fish, Jr.
William J. Keating.
Henry P. Smith III.
Wiley Mayne.
Lawrence J. Hogan.
Tom Railsback.
M. Caldwell Butler.
Charles W. Sandman, Jr.
William S. Cohen.
Carlos J. Moorhead.
Edward Hutchinson.

NIH DRAFT GUIDELINES ON HUMAN RESEARCH NEED REVISION

The SPEAKER pro tempore (Mr. Mazzoli). Under a previous order of the House, the gentleman from New York (Mr. Roncallo) is recognized for 30 minutes.

Mr. RONCALLO of New York. Mr. Speaker, probably no subject so touches the hearts and outrages the consciences of Americans as physical and psychological abuse of those unable to protect themselves through immaturity, mental incompetence or lack of knowledge. Who does not cry at the suffering of the retarded children at Willowbrook, deliberately infected with hepatitis for research purposes? Who is not disgusted at our Government's action in deliberately withholding penicillin therapy from syphilitic blacks being studied at Tuskegee? And who among us can fail to be revolted by the recent accounts of surgical experimentation on aborted human infants, alive despite their untimely delivery, but without the capability of long-term survival?

On November 16, the National Institutes of Health published draft guidelines on protection of human subjects in the Federal Register and invited public comment and participation in advance of actual proposed rulemaking. I have taken this special order today to review both the positive and negative aspects of the NIH draft and to stimulate congressional and public input toward improving the final product.

At the outset, I want to give credit where credit is due and praise NIH for its good faith in publishing the draft ahead of time and giving us this extra chance for timely participation in the rulemaking process. This gesture is not without its political implications, however. The Senate version of H.R. 7724, the Biomedical Research Act, would establish within HEW a National Commission for the protection of Human Subjects to certify institutional review boards and establish guidelines for protection of human subjects similar to the published NIH draft. A majority of this Commission would be composed of members drawn from the general public, rather than from the research community.

I think that this public participation in medical ethics is highly desirable and support the Senate title on establishing the Commission. It is not surprising, however, that some members of the research community would rather not have representatives from fields of law, ethics, theology, philosophy, humanities, and social science having a major say in what is or is not ethically appropriate in research on human beings. But it is precisely because a utilitarian view of human life has so unfortunately insinuated itself into segments of the medical world that such public input is vital. Physicians have traditionally maintained ethical standards even higher than the general population. When this leadership begins to break down, however, the layman must be allowed his say.

The biomedical research bill, including my amendment banning HEW support of live fetus research, passed the House on May 31. Senate action on their version, which included a similar amendment by Senator Buckley, was on September 11. Votes in both Houses, on the amendments and on final passage, were unanimous or nearly so. Yet the distinguished chairman of the Subcommittee on Public Health and the Environment has not yet seen fit to accede to the Senate's request for a conference. House hearings on the Senate title were held over a month ago, so perhaps the chairman was waiting for the draft guidelines to be published as evidence that NIH had pre-empted the need for a commission. This adversary environment is not necessary, however, because the guidelines, if improved and published in final form, could serve to amplify the interim provisions of the Senate bill.

I have great respect for the outstanding accomplishments of the gentleman from Florida (Mr. Rogers) in the field of public health legislation. I know that his dedication to the cause of medical research has and will continue to contribute to attacking many of the dreaded diseases and deformities that plague our lives. I urge the gentleman, therefore, that Commission or no Commission he agree to the conference and enact whatever version of H.R. 7724 will best assist and advance the cause of biomedical research while providing adequate safeguards for human subjects of experimentation.

To proceed with a review of the draft guidelines as published by NIH, let me say that although there are several major shortcomings, by and large they provide meaningful protection to many classes of research subjects who cannot adequately speak for themselves.

Children naturally form the first category of subjects which comes to mind when we think of those in need of special safeguards. To protect them, each HEW agency must establish an ethical review board to evaluate proposed research involving risk to children. Only one-third of the members of such a board may be engaged in human research activities. Additionally, the researcher himself must set up a protection committee of similar composition to act on behalf of the young subjects. Both parents, if available, must consent to their child's participation. If neither parent is available, a child may only be used if he is "seriously ill, and the proposed research is designed to substantially alleviate his condition." A significant innovation is to require the consent of the child himself, if he is at least 7 years old.

Before approving a research proposal, the ethical review board must consider its potential benefit and scientific merit, the degree of risk to children as shown in prior animal and adult human studies, and whether it is really necessary to use children to obtain the desired information.

Another class of potential research subjects is the mentally infirm. The NIH draft deals only with those who are institutionalized. NIH has drawn this distinction, noting that such persons suffer a triple burden with regard to consent. They might be unable to make an informed evaluation of the possible consequences of the experiment, might be seeking to win favor or early release from custodial authorities, and might be represented by legal guardians who do not really have the subject's interests at heart.

To look after the rights of the institutionalized mentally infirm, NIH would once again require that the researcher set up a protection committee. Instead of an agency ethical review board, however, the public or private facility undertaking the research would establish an organizational review committee with only token membership from the general public. These committees were outlined in HEW proposed rulemaking published in the October 9 Federal Register and relate to all human research activities. HEW expects to make those regulations final around the end of January.

The institutionalized mentally infirm would not be considered appropriate subjects for research unless it related to their impairment, unless it would study the effects of institutional life but did not involve risk, or unless there was no other source for the desired information. The legal guardian must consent to the use of the patient, and the subject's own consent obtained if he is sufficiently competent. At least one onsite inspection by the organizational review committee would be required. If the subjects are children, they get the added benefit of the rules discussed earlier.

The use of prisoners as research subjects is an open invitation for abuse. Certainly the voluntary nature of a prisoner's consent is open to question. In addition to the organizational review committee, therefore, a very special sort of protection committee must be set up. At least one member must be a prisoner or representative of an organization concerned with prisoners' interests, and not more than one may be connected with the prison itself or its sponsoring unit of government. Payment or reduction of sentence resulting from participation in research must be on par with other opportunities available to prisoners. Detainees prior to conviction may not be used, nor may a detained or imprisoned child.

The last group of potential subjects in need of special protection consists of pregnant women and the human fetus. The agency ethical review boards established to pass on proposed research involving children perform the same function with respect to this group. The researcher need not appoint a protection committee, however, unless recommended by the review board. The board must once again consider the scientific merit and potential benefit of the proposed research and the sufficiency of animal and adult human experimentation.

No research may be performed on a pregnant woman which might harm the fetus unless its primary purpose is to benefit that particular unborn child. Experiments on live, aborted fetuses is permitted only if the researcher had nothing to do with the abortion and the determination of the infant's viability. The fetus may not be kept artificially alive for research purposes, and procedures which terminate heartbeat or respiration are not allowed. When activities are permitted under these regulations, the consent of the mother and, when available, the father are required.

If the NIH draft guidelines provide so much protection, then where are the problems? What are the shortcomings which I hinted at earlier in this discussion?

First of all, these provisions would give official sanction to much of the same type of experimentation involving the human fetus which both Houses of Congress have so overwhelmingly deplored in their votes on amendments to H.R. 7724. I had hoped NIH would get the message, but for them to come back with this draft and say that a researcher can do anything he wants, short of actually killing the fetus, is an insult to nearly every Member of the House and Senate and does violence to the constitutional mandate that Congress, not the executive branch, set the policies for this Nation. Now I have no objection to experimental therapeutic procedures designed in an attempt to insure the survivability of the particular fetus involved. Nor do I find objectionable routine procedures, performed on all premature newborns, such as bloodtyping and monitoring of heartbeat and respiration.

It is impossible, however, to accept the principle that the researcher could be allowed to perform surgery, remove tissues and organs, inject chemicals, drugs and dyes, purely in the name of research and without any reasonable assumption of benefit to the individual living subject. He must only be careful that he does not terminate or artificially maintain heartbeat or respiration. Oh yes, he must also get the consent of the mother, and the father if he is available.

And who is this mother? She is the one who gave the original consent for the destruction of the life in her womb, legally it appears, under the unfortunate Supreme Court decisions handed down earlier this year. Just because something went wrong and her baby happened to be born alive does not give her the right to consent to its further harm by researchers who seem only to be interested in what that life had to offer their research, and not in what their skills have to offer that life. No, the mother has given up whatever right she might once have had to speak on behalf of her child, because she so patently does not have its interest at heart. Here, as in no other place, a protection committee is necessary, as well as strict regulations forbidding any sort of invasive research on a live human fetus other than for its own benefit.

Along these lines, I must congratulate the State of California for recently enacting a law to make live fetus research unprofessional conduct under the State medical practice act. I particularly commend Assemblyman Mike Antonovich and State Senators Roberti and Robbins for their stewardship of the bill through the legislature and Governor Reagan for signing it promptly into law.

There are several other deficiencies, as well, in the NIH draft. One major problem is that several criteria outlined in the discussion accompanying the proposed regulations are not reflected in the text itself. I know of no overriding principle of legislative history, such as we have with legislation passed by the Congress, which binds an executive agency to a prior interpretation of their own regulations.

For example, the discussion of children as experimental subjects states:

> The investigator must also stipulate either that the risk to the subjects will be insignificant, or that although some risk exists, the potential benefit is significant and far outweighs that risk. In no case will research activities be approved which entail substantial risk, except in the case of clearly therapeutic procedures in which the benefit to the patient outweighs the possible harm.

The proposed text is completely silent on these criteria, substituting in their stead broader, nonexplicit considerations. I completely subscribe to the point of view just quoted and believe that it should be definitely spelled out in the regulations themselves. Also, the discussion applies all the safeguards for children to the human fetus. Here too, the text is regrettably silent.

Another case where there is a significant difference between the discussion and the text is in the field of in vitro fertilization, including both implantation of human life conceived in the laboratory and actual test tube babies. In its discussion, NIH proposes to require that the safety of these techniques be demonstrated in subhuman primates, including studies of the effects on the offspring thus conceived. Additionally, they would impose a strict ban on such research until guidelines regarding the responsibilities of all concerned, including both donor and recipient parents, are developed.

Without passing judgment at this time on the subject of in vitro fertilization in general, I would have preferred that the discussion include some concern for the likelihood of survivability of the human infant thus conceived. I think it a moral crime to deliberately participate in the God-given gift of conception with the full knowledge that many of the living products of this sort of experimentation cannot be brought to term. It is bad enough to suffer the evils of abortion in our midst, without bringing still more foredoomed lives into existence.

In any case, there is still a lot of good in the NIH discussion. Once again, however, they have not included any of these criteria in their proposed text.

In looking over what NIH had to say, I was surprised to find that they had made no provision for the mentally impaired who are not institutionalized. Granted that those who cannot live in the care of their families or on their own are in need of the special protection afforded them in the NIH draft, but I believe that those only slightly more fortunate should be given protection similar to that provided to children.

Finally, I do not believe that the organizational review boards discussed in the October 9 proposed rulemaking provide sufficient means for protecting prisoners and the institutionalized mentally infirm. These committees are established within the facility conducting the research, and a good deal of conflict of interest could result. As long as the various HEW agencies would be required to set up their official ethical review boards for pregnant women and for children, both born and unborn, I think their scope should be expanded to pass on all research proposals involving subjects in need of protection.

NIH has recognized that public consideration and comment are vital to the development of their final recommendations. I hope they will listen with an open mind to what the Congress and the public have to say and incorporate these comments when they go to actual proposed rulemaking. To give the draft guidelines the widest possible distribution I have obtained reprints which will be distributed to all congressional offices this week. I hope that every Member will take the time to study them, draw his or her own conclusions, and submit comments to NIH. If possible, I would be very appreciative of receiving a copy of such comments to keep my file up-to-date.

I hope that these remarks have been both informative and objective. This is not a time for emotion. It is a time for careful and deliberative consideration on the ethical direction this country will take as we move into the last quarter of the 20th century. The real question is which is more important, the individual or society. Will we move backward toward the utilitarian view of human life which this country rejected during the Second World War, or will we move toward an era where the intrinsic worth of every person is paramount? The year 1984 is not that far away. The choice is ours.

Mr. HOGAN. Mr. Speaker, I would like to compliment the gentleman from New York (Mr. Roncallo) for his initiative in providing this opportunity to comment on the draft proposal by NIH for guidelines on the protection of human subjects of research.

On May 31, the House clearly demonstrated its disapproval of fetal research when it adopted an amendment offered by Mr. Roncallo to H.R. 7724, the Biomedical Research Act, which would put an outright ban on live fetus research. Even after the House demonstrated its insistance for this amendment, the NIH has come out with a preliminary proposal which would allow this research to take place in certain instances. The proposal would permit a mother to allow invasive surgery for research purposes if the child is born alive but without the chance of long-term survivability. Additionally, no special protection is provided to the non-institutionalized mentally infirm or to filitary subjects of research.

The chairman of the subcommittee, Mr. STAGGERS, assured us that research would not take place on live fetuses. However, the very fact that NIH intends to conduct studies to determine whether or not they should fund experimentation on live fetuses leads me to the conclusion that they are very definitely considering it. Now we have their proposed regulations which would permit this in certain cases.

This is another manifestation of the growing disregard in this country for the sanctity of human life.

While I am not totally adverse to the NIH proposal, I am definitely opposed to allowing researchers to perform vivisection on humans. I also oppose the fact that the guidelines would only prohibit experimenters from surgically removing tissues and organs from a fetus if the procedure will terminate the viability of the fetus. Viability, according to NIH, is to survive to the point of independently maintaining vital functions. These vital functions include the beating of the heart and the inflating of the lungs.

The highest court in our land has announced that the taking of a human life by abortion is legal. This poses a problem as to the rights of all of us human beings. What are the rights of these tiny human beings? They are not capable of giving consent to their being used as experimental subjects and it should rest in the hands of Congress to insure the equal protection of their rights.

Mr. Speaker, H.R. 7724, the biomedical research bill, has already passed both the House and Senate and is awaiting a conference. The enactment of this bill would make it crystal clear that no funds appropriated under this measure, nor any similar act or authority by the Secretary of Health, Education, and Welfare may be used at the expense of live human fetuses. They do not in many cases have this protection and it is up to Congress to say that they will have it.

This is not a time for half measures but a time for the Members of this body to indicate their respect for human life. It is the time for Congress to demonstrate clearly that it will not fund research of this sort. If we fail to prohibit expressly this research, we will be contributing to the disregard for life expressed by the Supreme Court. Let us prove that America is not morally bankrupt but that we still cherish human life.

Mr. MAZZOLI. Mr. Speaker, I would like to take this opportunity to commend the gentleman from New York (Mr. RONCALLO) on his leadership on this most important question. I compliment him on taking this special order to apprise this House, this Congress, and this Nation of the National Institutes of Health draft guidelines on the protection of human subjects in research.

Of special concern are the policies and procedures relating to the special treatment of human fetuses.

I have corresponded with Dr. John F. Sherman, then Acting Director of the NIH, as well as with members of the special study committee who drafted the guidelines in question. My opposition to research with live human fetuses is a matter of public record.

In reviewing the NIH draft guidelines, I noted in the summary of special policy considerations which accompanies the actual text of the proposed guidelines, the following statement:

> Respect for the dignity of human life must not be compromised whatever the age, circumstance, or expectation of life of the individual. Therefore, all appropriate procedures providing protection for children as subjects in biomedical research must be applied with equal rigor and with additional safeguards to the fetus.

I agree wholeheartedly with these statements. Unfortunately, these particular safeguards are not explicitly contained within the text of the proposed guidelines themselves.

Further on, the summary states that:

> The decision of the Supreme Court on abortion does not eliminate the ethical issues involved in research on the nonviable human fetus. No procedures should be undertaken on the non-viable fetus which clearly affront societal values.

I could not agree more wholeheartedly. Truly, this is a noble and principled statement. But, it is not spelled out to my satisfaction within the guidelines themselves.

Good intentions simply are not enough when a human being is involved.

In my judgment, if the NIH truly wishes to safeguard and protect the life and dignity of life of the fetus, regardless of its stage of development or viability, it must make this clear in the form of specific, detailed provisions contained within the guidelines themselves.

Personally, I favor an outright ban on live fetus research. This will not unduly hamper our scientists in their efforts to make our lives more healthy and of longer duration.

And in this connection I hope that the Biomedical Research Act of 1973, H.R. 7724, which bans live fetal research in programs directed and funded by the Department of Health, Education, and Welfare, can be acted upon by the conferees so that the Congress can give approval to the measure.

A respect for life demands a respect for all lives.

The most vulnerable lives are the ones the gentleman from New York (Mr. RONCALLO) and I believe are entitled to special protection under the law.

ENERGY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, there are some hard facts about the energy crisis which must be accepted by Government officials and, perhaps more importantly, by the people. We are going to have serious fuel shortages in the months ahead. The total deficit between demand and supply according to the Department of the Interior in its November 1973, report is 1.4 million barrels per day during the fourth quarter of 1973 and 3.5 million barrels per day during the first quarter of 1974. The energy problem is complex, it is real, it cannot be solved by any one single, simple cure. It is a short-term problem, and it is a long-term problem. Perhaps the most important fact is that every American will be required to make substantial sacrifices.

The situation is serious, and it serves no purpose whatsoever to dodge or water down plain facts. But America has encountered and solved serious problems throughout its history. Adversity, in fact, is as much a part of our American heritage as is success in grappling with that adversity. It is crucial, however, that we meet this problem with poise and with good sense.

The most important step, in my mind, is to develop a tough but fair allocation program. We must above all else make certain that no particular segment of our society, whether it is general aviation, the travel industry, or any other facet, bears an inequitable share of the scarcity burden. We must see to it that small businesses, the real foundation of our economy, do not fall between the slats in a scramble to allocate short supplies of energy. Before we make hasty moves, we must weigh carefully the direct and indirect effects of shifting the burden to one segment of the economy. Every American must have the fuel he needs to get to and from work, to perform his duties while at work, to go to church, and to heat his home. While probably no American will receive all the fuel he wants, we must see to it that he gets all he absolutely needs. I firmly believe that if we keep our programs fair, simple, understandable, and enforceable, the American people will close ranks as they have in the past, and we will lick this problem with minor economic disruption.

But to accomplish this goal, we must avoid knee-jerk reactions and keep our fingers away from the panic button. Government, employers, and every citizen must be steady and calm. Confusion must be dispelled, and sluggishness on the part of the Government and the major oil companies in response to genuine needs must end. The temptation to make a fast buck or to put selfish interests ahead of the country's needs must be resisted. Those found to be unfairly capitalizing on the shortages should be dealt with harshly.

Mr. Speaker, if we pull together, I feel certain that our Nation will successfully deal with this problem, both on a short and long term basis.

GASOLINE—TO RATION OR NOT TO RATION?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ROBISON) is recognized for 30 minutes.

Mr. ROBISON of New York. Mr. Speaker, it is an anomaly of more than passing interest that the same Congress which is seriously considering impeaching the President of the United States for having, among other things, exceeded his constitutional powers is, at the same, evidently ready to grant him virtually unlimited additional powers to deal with the burgeoning "energy crisis."

Perhaps I misjudge both the nature of the Senate-passed emergency energy powers bill—which is now being considered on our side of the Capitol—and the problems faced by our Senate colleagues in connection therewith, as well as their ultimate intent in adopting the same. But a surface examination of the result of their labors would appear to indicate that they—perhaps finding no consensus among them as to policy—merely passed the responsibility for handling the difficult energy crisis back to the President without, please note, attempting to define the principles or policy that should thereafter guide him.

As Senator HATFIELD stated to his colleagues in this regard—

> When we in Congress get into a church, as we are now, all the rhetoric about Congressional responsibility goes out the window in our eagerness to pass the ball to the President. Congress need not become an administrative agency, but it should set policy.

Shortly, Mr. Speaker, it will be the lot of the House to consider similar legislation and, given the great influence such a measure will have not only on our entire economy but on our very lifestyle, I hope we can do at least a bit better.

I do not intend, in these remarks, to try to touch upon more than one aspect of our broad-ranging new problems—that aspect being the question of gasoline rationing, a subject which, given the American dependence upon, and longstanding "romance" with, the motorcar, is sensitive enough to tackle by itself, alone.

For whatever it is worth now, I said as early as last January that I felt gasoline rationing, of some sort, was probably on the horizon, and I have since repeated that unhappy thought on numerous occasions prior to the actuality of the Arab embargo which, everyone now seems to suspect, will make gasoline rationing—of some sort—a necessity.

The key phrase here is rationing "of some sort"—for there are a host of alternative approaches, or methods, for achieving the only purpose for rationing any scarce commodity, which is to guarantee the fairest possible allocation thereof to our citizenry after having first taken care of the apparent priority needs.

This is, of course, far easier said than done—it not being even particularly easy to settle that question of priority needs. As to the latter, while the White House will wait until later this month, as I understand it, to publish details of its ideas of gasoline priorities, one can assume they will generally follow the already-announced priority allocations of so-called middle distillate fuels to fuel production activities, themselves, public passenger transportation, good production and processing, plus "essential" community services—with modifications as necessary to fit the gasoline picture.

For now, all we know is that initial allocations at wholesale and retail gasoline levels will be made at a rate 15-percent below the projected first-quarter demand in 1974—or 10-percent below the 1972 demand—with a possibility that this percentage may be increased as refineries shift, as may be needed, from producing gasoline to producing more heating oil. Estimated savings, out of this, are 900,000 barrels a day—"barrels-per-day" having apparently become the standard against which we will have to measure, from now on, the level of many of our formerly unrestricted activities, and pleasures.

In any event, based on what we now know—and if the White House's "guesstimates" are accurate in this regard—the announced ban on Sunday sales of gasoline will save some 50,000 of those barrels-per-day, while reduced speed limits, which I personally hope we will have sense enough to keep uniform for truck, bus and motorcar, will supposedly pick up another 200,000 or so barrels per day.

To try, then, to put this into perspective, it would appear—at least to me—that, based on current projections of gasoline supplies, nonbusiness use of cars will have to be reduced by something like 30 percent, with overall gasoline consumption, including business driving, cut by somewhere between 20 to 25 percent.

To accomplish this without that gasoline rationing "of some sort," would seem to be both impractical and impossible.

The question then becomes one of method.

Our World War II experience with gasoline rationing may not be of major assistance in finding the right method. The reasons for this are several. There are, to begin with, nearly three times as many cars in the Nation today, as in 1942 when World War II gasoline rationing became nationwide. The average American car has, in addition, become steadily bigger and less efficient since then—getting 30 to 40 percent less fuel mileage today than in 1942. Also, if memory serves me right, most cars in 1942 were more or less alike, in size, in horsepower, and in fuel-consumption rates; in other words, there was not then the disparity in fuel consumption one finds, today, as between a Cadillac and a VW "beetle."

There are other differences. The vast suburban subdivisions, complete with shopping-centers and towering apartment houses poorly served—if served at all—by public transportation, exist nearly everywhere, and are clearly the product of the long American honeymoon with the automobile.

The same American affluence that permitted development of the suburbs, as a new way-of-life, also permitted—for what may well be a majority of their inhabitants— an expansion of the original American dream from one to two cars "in every garage." And, more and more—with women now constituting 37 percent of the work-force, as compared with 20 percent 50 years ago—that second car is as essential to get that housewife to her job as the original "family-car" was to get the husband to his.

We have not realized the ambitious we once had in the housing field, but still, in 1970, 74 percent of the dwelling units in the United States were single-family, detached houses, as compared to only 64 percent in 1950—the closest year to 1942 for which I can find statistics; all of which means there are more of those garages, be they one or two-car in size. To which fact one can add the obvious trend toward multiple homes—at seashore or mountain—with the transportation involved in shuttling back and forth between the same. Not to mention, of course, the whole industries we have developed since 1942—which are industries, and not mere incidental "recreational" niceties—from ski-resorts, to "Disneylands," and from motels to roadside restaurants, all of which depend upon automobiles and whose disappearance, as a side-effect of the energy crisis, would have a serious effect on the overall economy not comparable to anything existing in 1942.

So, anyway we look at it, 1973—or 1974—is not 1942 when we think of gasoline rationing; and the 3 gallon-a-week "A" sticker handed out in 1942 for "essential" business—which the then-OPA defined as "necessary" shopping, or attending church services or funerals, getting medical attention, meeting emergencies involving "a threat to life, health or property," or trips for family or occupational necessities—would hardly meet today's actual needs.

Each gallon provided by that 1942 "A" sticker, the Government then figured, equalled 15 miles of driving—something today's "family-size" cars, equipped as the later models are with air-pollution control devices which exact at least an average 10-percent fuel penalty, cannot equal. The Environmental Protection Agency—fighting to avert a rollback of progress thus far made in alleviating air pollution stemming from motor vehicles—has just reminded us that vehicle weight is the single most important factor impacting on fuel economy and has stated, hopefully, that the accelerating trend toward the purchase of smaller cars will improve the emission-control fuel penalty. This trend, however apparent, will nevertheless not produce overnight results since few Americans can, in reality, absorb the economic loss involved in trading their big cars in now on small cars. I think, too, we have had a tendency to believe only the "rich" have big cars—whereas, Mr. Speaker, there are thousands upon thousands of one-car American families, usually those with the bigger families and lower incomes, who have big cars, typically station wagons, because they need vehicles of that size. How does one fit a family of seven or eight into a VW "beetle?"

I believe it was Will Rogers who, years ago—and long before automobile congestion became the problem and concern it is now—suggested that one way to solve the city parking problem would be to only license cars which had been fully paid for. This is a back-handed way of further stating that, in our consideration of the problems faced by most Americans in trading down to a small car, practically all of their currently owned big cars carry substantial bank loans on them which cannot conceivably be paid off in today's deflated, big-used-car market.

There are, of course, still further efforts that can be made by today's big-car owner. Mass transit is one such effort—but not much more of that than now available is on the immediate horizon, so it remains a long-term answer, at best. Commuter carpools offer more instant relief, and should be vigorously promoted. A recent Treasury Department study, as a colleague has just informed us, shows carpools as being one of the more effective energy conservation measures immediately available—with a potential saving of 780,000 barrels of gasoline per day merely by increasing the current, average automobile occupancy rate from 1.3 persons per car to 2.3 persons per car. With the price per imported barrel of oil approaching $10, this would also save some $7.8 million per day on our balance-of-payments problem. Surely, this is one route we all ought to travel—and now.

But even such stopgap measures, no matter how helpful, do not appear to be enough, especially if those White House "guesstimates" turn out to be too much on the optimistic side—and it is far too difficult than it should be to get an accurate handle on just what the gasoline supply picture really is, which adds to everyone's confusion and uncertainty.

So, with time fast running out, we come back to that question of gasoline rationing "of some sort."

There are various options, Mr. Speaker, and the best summary of those options I have seen is set forth in the following article by Robert D. Reischauer, as contained in the local "Star-News" the Sunday before last. Mr. Reischauer, an economist and research associate at the Brookings Institution, does not try to guide us to the right decision but he does give us this choice of options, along with their more obvious pros and cons:

Which Rationing System? No Easy, Popular Answers

(By Robert D. Reischauer)

It has become abundantly clear that petroleum soon will be rationed one way or another. Queues, coupons and prices, together with combinations of these devices, are the basic options available.

Each of these devices can be evaluated on the basis of several important considerations. They include: Is it fair? Could the same result be achieved with less cost and inconvenience? Are the incentives created socially desirable? And, finally, what are its political prospects? The answers to these questions are by no means clear.

QUEUES

If the basic fuel policy of the administration continues to be pious exhortations to drive slow and live cool, queues will become the major rationing device. With the prices of gas and oil fixed at close to their present levels by Phase IV guidelines, the amounts demanded will far exceed available supplies. In such a situation those arriving at a gas station or calling their heating oil distributor shortly after a fuel delivery will be served, while those who arrive or call later will not.

But queues are no way to distribute gasoline or heating oil. In the first place, it is arbitrary and would not conform to anyone's notion of matching needs to resources. Those with time on their hands, such as students and retired persons, could wait at the gas station for a fuel delivery; housewives in two-car families and secretaries may find the better part of some days consumed waiting to tank up a car in order that their husbands or bosses can commute by car.

Rationing by queueing is also inefficient. Time and gas will be needlessly expended looking for gas or seeking out distributors with heating oil. If gasless service stations become prevalent, few will dare venture forth on trips that consume more than a tank full of gas, irrespective of how vital the trip may be.

The incentives of a queueing system are also clearly undesirable. To the extent possible, people will hoard.

Under a system of rationing by queues, the gap between the actual and the market clearing price (the price at which supply and demand are equal) constitutes a temptation for finagling that distributors of petroleum products will find hard to resist. While some service stations may be so crass as to demand a cash bribe in return for regular phone calls telling a customer when new gas supplies are expected, the more usual pattern will probably be that such information can be gotten in return for the purchase of a pair of exorbitantly priced snow tires.

"Modifications such as limiting each customer to a fixed number of gallons at each purchase or reducing gas station hours can be made in the system of rationing by queues. However, it is unlikely that such gimmicks would reduce consumption significantly. And the first could result in an increase in waste caused by people cruising the streets from one station to the next.

At present, what our political system seems best at doing is nothing. Since doing nothing will result in rationing by queues, the prospects for adoption of this "solution" seem bright. The President's clear aversion to other forms of rationing also should lead a betting man to predict that until dislocation and public outcries reach calamitous proportions we will all be waiting in lines.

COUPONS

Under a system of rationing by coupons each consumer is given the right to buy a fixed number of gallons of fuel. Pieces of paper called coupons are not a necessary part of such an allocation system. For example, the administrative rules that require heating oil distributors to provide every house with 85 percent of the fuel it received last year are a form of rationing by coupons.

The rights or coupons could be either transferable—that is, sellable—or nontranferable. With transferable coupons anyone who was willing to forgo a bit of driving or to live in a cooler home could sell his rights to others. The price of coupons will tend to rise to an amount equal to the difference between the current price and the higher price needed to reduce demand to the level of available supplies.

Americans apparently view rationing by coupons as the fairest system. This popularity stems from the mistaken belief that coupons will be distributed according to each of our notions of need. However, there are an infinite number of possible ways to allocate coupons. Gasoline chits could be distributed on a simple per capita basis, a fixed allotment per family, or on the number of cars owned by each family possibly adjusted by the use of each vehicle (pleasure, business, commuting). In areas of similar climates heating oil could be allocated by the size of the house, the number of persons housed, or by past use.

No matter what rules are selected for the distribution of ration coupons, at least half of the populace will regard the system as horrendously inequitable. If fuel oil is distributed on the basis of consumption last year, those who kept their homes heated at 76 degrees will receive more than those who spent last winter at 70 degrees; in other words, those who contributed most to the crisis would suffer the least. On the other hand, if heating oil is allocated by house size or number of persons living in the house, the distribution may be regarded as unfair because it bears little relationship to the amount needed to keep each house at 68 degrees.

Similarly, if each car gets 15 gallons a week the one-car family will feel that their two-car neighbors are unjustly benefited. If gas coupons are distributed on a per capita or per family basis car owners will question why carless families should get anything. If carless families do not get coupons they may wonder what they will give the driver of their car pool to induce him to drive those extra miles to pick them up? If all families with cars get the same number of coupons, those with long commutes will feel they are suffering unduly when their neighbor who works around the corner from the office uses his coupons to take a ski trip.

A nontransferrable system of coupons would be rigid and produce undesirable incentives. Those who usually used less gas and oil than allotted them under the coupon system would have no motivation to conserve. Seasonal imbalance between fuel supplies and coupons may develop if some save their coupons for summer trips. Black markets for coupons would soon appear.

Some of these problems could be overcome through a system of salable coupons. Under such a system all consumers would have an incentive to conserve fuel. From an equity standpoint, however, it would be imperative that salable coupons be distributed not according to fuel use or needs but rather in accordance with some views of the appropriate income distribution because such coupons would in fact be equivalent to a cash transfer.

With respect to political viability, rationing by coupon probably runs a close second to queues. This is because the Democratic Congress can force the administration to take this "fairest of all" path but not specify the exact method of distributing the coupons. The Republican administration will thus be saddled with perpetrating the gross inequities that half of us inevitably will see in whatever method is chosen to allocate the coupons.

PRICES

Under this rationing device, the price of petroleum products would be allowed to rise. As this occurred, consumers would curtail their demand until it matched available supplies. Although there is great uncertainty about it, most experts estimate that the price of gasoline would have to double if it is to hold demand down to the level of probable supply.

The economic textbooks claim that rationing by price is the most efficient system. Everyone has an incentive to reduce fuel consumption but differential responses are likely. In areas where public transit is available, gas costing 85 cents a gallon may lead to a 30 percent reduction in car use. But in rural areas where there are no other options, fuel may drop only marginally. In contrast, rationing by nontransferable coupons would force an equal reduction in both areas.

What is most important, however, is that the decisions on how to use fuel would not be forced on the consumer by the government.

Although virtually all consumer products are currently allocated by price rationing, there is a tremendous aversion to this solution because of equity considerations. A doubling of gas and oil prices would constitute an intolerable burden on the poor, while for the rich it would hardly be noticed.

There also is the question of who would benefit from the higher price. Some analysts have argued that the petroleum companies should keep the proceeds of the higher price since increased profits are needed to stimulate new production and exploration. But surely there are more direct and efficient ways of stimulating such behavior. Others have suggested that we should not be too concerned about greater profits because some of this largess would flow to the government in the form of higher corporate taxes. However, as most Americans are only too aware, twixt tax code and Treasury a rather substantial drop hits the lip of corporate stock holders.

The other possibility is that the federal government raise prices by increasing the federal gas tax and instituting a new heating oil tax, but this raises new complications. First, it would be difficult to select the level of tax that, when added to the current price of gas or oil, would constitute the market clearing price. Of course we could start off with a 30 cent tax and, if this proved to be too high or too low, adjust it a few pennies a week in the appropriate direction.

A neater solution would be to let the petroleum wholesalers set a market clearing price and then make the tax a variable amount equal to the difference between the new and old market prices. It may be necessary to share 5 or 10 percent of the tax with the companies to provide them with an incentive to set the correct price.

The second problem that would face the federal government if it were to raise the taxes on petroleum products would be that it would find itself with increased revenues of some $50 to $70 billion. Some of this money could be used to subsidize mass transit systems. However, the vast bulk probably should be returned to the consumer. In this way the poor can be protected from the rising price of gas and oil just as would be true under a coupon system. In fact, a tax rebate system can be made to have the same distributional impacts as any salable coupon system but without the possibilities for counterfeiting.

But there are problems with such a tax rebate scheme. Determining who should get how much of a rebate is no easier a task than designing an equitable distribution of coupons. Furthermore, there is the matter of timing. A rebate check received in June will neither help the low income elderly buy heating oil this winter nor get the worker to his minimum-wage job.

The political prospects for rationing by price are bleak at best. When faced with crises this nation has generally driven the road of the managed economy because it gives the electorate a feeling that the situation is being controlled by their representatives. Furthermore, any price rationing scheme would require new tax and welfare legislation that would take months to pass Congress.

HYBRIDS

There are a number of conceivable hybrid solutions. For instance, half of the gas could be allocated by coupons at moderate prices, and the rest rationed by greatly increased prices. Alternatively, a consumer could be required both to use coupons and to pay an inflated price to get any gas at all.

In general such methods are advocated by those who feel that there are significant differences between the short and long run problems. If higher prices will not cut fuel consumption by the non-poor significantly in the short run, then only coupons will protect the poor. Over the long run, however, prices may be more efficient because people will then adjust their living patterns and the types of cars they own. Unfortunately hybrid solutions combine the weaknesses of both of the contributing schemes and add a new flaw—the incentive of the buyers and sellers to shift the product from the scheme that is least beneficial to them to the other.

There are no easy or popular ways to allocate the scarcity of a vital product. Some industries and families inevitably will suffer much more than others.

This may bring out the worst in Americans. As Washingtonians drive 50 miles an hour along the heavily patroled beltway, a few will be suspecting that out on those back roads Texans are still barrelling along at 90 miles per hour. Home owners who run out of oil may stop to wonder whether their neighbors with gas heat have really been living at 68 degrees.

While we might not reach the point where we begin counting the lights on our friends' Christmas trees, it is true that a warm house and a full gas tank make feelings of brotherhood among all men easier to come by.

I, for one, am very glad that the administration has finally put its house in some sort of operational order—what with the temporary creation of the Federal Energy Organization which, if given legislative status, will become the Federal Energy Administration and may stay with us a long time, and the appointment by Mr. Nixon of William E. Simon, Under Secretary of the Treasury, to head the same. I have known Bill Simon for some time, now, and have considerable confidence in his sagacity as well as in his capacity for doing this difficult job as well as anyone could. He has not, of course, been in charge long enough yet to justify criticism, but I do fear that time for a decision on gasoline rationing is running out if for no other reason than that, if we have to come to it, it will require several months to get an appropriate and viable rationing system into place. Bill Simon will, I think, be his own man, as far as he can, but he carries into office with him the administration's rather apparent bias against rationing, except as a last resort. Perhaps he is biased against it, too. He has not said, having indicated only so far that he thinks we can wait to the end of this month to see the result of what might be called "voluntarism" in the reduction of demand by motorists, and perhaps also to see how mild a winter we can anticipate, overall, since if the refineries have to concentrate on heating oil production to keep people warm, the gasoline situation will get appreciably worse.

But one thing he has indicated bothers me, Mr. Speaker, and that was his thought—at a recent press conference—that gas prices would have to rise by 40 cents a galllon for consumption by private passenger automobiles to be cut by the 30 percent that, at a minimum, may be necessary.

This could indicate that, like some high up in the administration, he tends to opt for allowing gasoline prices to go up to such a level that demand comes down to meet it. This is an appealing idea to most economists—and to those "free-market" people, in whose category I might normally count myself but for the special, economic problems we face with regard to this particular product in short supply.

For gasoline—for better or for worse—may, for reasons I have touched upon, have become as important to our society, today, as the potato was to the Irish during the 1845–49 Irish potato famine. At that point in history, the economists of that day said, in effect, there is no crisis regarding the potato, but simply a need for a higher price to ration the excess demand down to the scarce supply and to coax out higher supplies in the future. That was an apparent solution—but it does not explain away the fact that literally millions of men, women and children died of hunger from it.

Now, quickly, Mr. Speaker, I am not suggesting that, if we do not ration gasoline now in some more-equitable fashion than merely letting the market system do it, that Americans will "starve." I have no such notion in mind. Instead, I am merely suggesting that—and, again, for better or worse—the automobile is now so essential a part of our overall economy that rationing of the fuel on which it runs will become essential, sooner rather than later, based on some method better than one's ability to pay for that fuel.

If the administration has been loath to come to this decision—and, for the time being, seems content to rest on "congestion rationing" which, with cars already lined up 10 or 20 deep waiting to fill their gas tanks on Saturday nights before Sunday closings, may be the most-inefficient of all possible options—Congress has, so far, been equally reluctant to come to grips with the basic question. It is true that an amendment to require gasoline rationing by next January 15 was offered to the emergency energy powers bill in the other body, only to lose—with the Senators up for reelection next year voting overwhelming against it—19 to 10. But, here on the House side, as we stake out our positions on our version of the same legislation, most of my colleagues seem as ready to shy away from being for rationing as a horse was, in the old days, to shy away from the first "horseless-carriage" it ever saw.

So, Mr. Speaker, I want to say—here and now—that I am for gasoline rationing—still, perhaps, for gasoline rationing "of some sort," but for it, nevertheless.

I am well aware, in saying this, of the pitfalls involved—if our World War II experience is of any value—in any such system; of the probability of "blackmarketing" again; of the possible need to establish a whole, new Federal bureaucracy to operate and police any rationing system, although the local "draft boards"—already in place, without much now to do, and accustomed to keeping sophisticated records systems—ought to be explored as one possible mechanism for doing the job; and aware, too, of the probability that the public, whatever the system, will fret and complain about its fairness and equity, and blame each and every one of us who hung the burden thereof around their necks.

But, despite all these coincidental liabilities in being for gasoline rationing "of some sort," I think that is a more honest and responsible position to take than merely letting the President do what he thinks is needed, and then sitting back to join the inevitable legion of critics he will garner for his efforts. All too often of late, in facing up to unhappy situations—and decisions—like this one, silence and ambiguity have become the congressional substitute for policy. But in light of the fuel shortages predicted and possible, unprecedented as they are in peacetime, the American citizen deserves something better than that from its Congress. Besides which, if whatever form of rationing is adopted is to work, at all, it needs the solid support of both President and Congress at its inception so that the average citizen will have some sense of feeling that national policy has, indeed, been made.

Whether or not I will get a chance to vote these convictions in the next several days is almost totally uncertain. The House version of the emergency energy powers bill is out of committee but not available to us, yet—and no one knows what amendments may, or may not, lie to it.

Hence, Mr. Speaker, I will have to leave this statement more up in the air than I would wish. Suffice it to say I do not presently think a mere repeat of our World War II rationing system is the answer this time. I lean, instead, toward a system that allows a basic, weekly gasoline allocation to every registered vehicle in the Nation, with upward adjustments of those allowances for those vehicles used by medical doctors, farmers, certain commuters where neither car-pools nor mass-transit alternatives were available, and the like, on the basis of demonstrable need. Beyond this basic allowance—which would be on a minimal basis—I should think additional gasoline coupons could be issued to the registrants of such vehicles which coupons would be transferrable on a free, or "white" market, but at a price increased by an additional Federal tax per gallon at a level to be determined upon but sufficient to offset the inevitable Federal investment now made necessary in both mass-transit areas and research-and-demonstration areas in such energy fields, alternative to our present dependence on petroleum, as solar and geothermal energy, along with nuclear fusion. These transferrable "bonus" coupons would confront the vehicles' owners—or drivers—with a purchasing price for extra gasoline that, while preserving for all of us some freedom of choice, would more accurately reflect today's scarcity value of gasoline than would the old World War II nontradeable rationing system.

These "bonus" coupons, it would seem to me, would have to be controlled by the Federal administrators, based on their estimate of gasoline available, each month, for so-called "nonessential" driving; while, at least for now, the "basic" coupons would have to take into consideration the classification of existing vehicles—big and small—into certain classes relating to their fuel-consumption. To do so—or even to suggest it—gets one in hot water with the Volkswagen owners who argue that it is the Cadillac owners, not they, who contribute the most to the gas shortage. Still, if one wants to be fair—and to remember that not all big cars are presently owned by the so-called "affluent" American—it is necessary for now to try to give the owner of each existing car equivalent mileage for his supposed "essential" purposes.

Unfortunately, the system I have in mind does discriminate in favor of the two-car family, but I do not know how to get around that problem; even so, I find it a good deal less cumbersome than the proposals being advanced by some—notably here in Washington by the Washington Post—whereunder every citizen over 16 would get transferable gas coupons and, thus, some sort of Federal subsidy even if they were not licensed drivers. It may be appealing after a fashion to suggest—as the Post does—that the citizen too poor even to have a car, or to need a driver's license, ought to have a small, weekly subsidy out of the energy-crisis but I deem the real proportions thereof of sufficient economic concern already without turning it into some new form of social welfare.

Under the hybrid rationing system I have in mind, gasoline prices would continue to be subject to price controls. I think they have to be—what with Gulf and Exxon profits, just as two examples, up 91 and 81 percent respectively in the past 12 months. If such companies, no matter the need to give them incentives toward greater production, continue to so flourish while, in effect, the driving public languishes, the credibility needed by our Government to encourage voluntary reductions in driving habits will never be established.

The blemishes in any conceivable rationing system are painful to contemplate, and all too obvious, Mr. Speaker. What I propose is not something I am wedded to, necessarily, but for the moment I find it better than any other proposal—hence, I now advance it in the hope somebody may be listening.

The future we face, together, in this—and so many other—aspects of the burgeoning energy crisis is full of uncertainty, doubt, and even, more than a little fear on the part of the public.

I would seek to answer some of those concerns—not only by trying to be responsive to this particular part of the puzzle, for whatever my efforts may be worth, but by reminding ourselves, Mr. Speaker, of what the noted historian, Barbara Tuchman, has written concerning man's capacity to influence his own destiny. Drawing a parallel between the turbulence of our day and earlier times of travail, she declared:

> As our century enters its final quarter, I am not persuaded, despite the signs, that the end is necessarily doom. The doomsayers work by extrapolation; they take a trend and extend it, forgetting that the doom factor sooner or later generates a coping mechanism. I have a rule for this situation, too, which is absolute: You cannot extrapolate any series in which the human element intrudes; history, that is, the human narrative, never follows and will always fool, the scientific curve. I cannot tell you what twists it will take, but I expect that, like our ancestors, we, too, will muddle through.

So, will we, Mr. Speaker, if we but keep our heads—recognizing that change is all about us, and that a new era is emerging. But that fact need neither frighten us, nor discourage us.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. YOUNG) is recognized for 1 minute.

Mr. YOUNG of Illinois. Mr. Speaker, I was absent from the House on Monday December 10. I was working on various constituency matters in my 10th District offices in Skokie and Des Plaines. I missed rollcall No. 639 involving a vote on the rule for consideration of the Trade Reform Act of 1973. I would have voted "aye" in favor of the rule that was adopted.

AMENDMENTS TO BE OFFERED TO H.R. 11450 TOMORROW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 5 minutes.

Mr. COHEN. Mr. Speaker, tomorrow, during consideration by the House of H.R. 11450, I intend to offer two amendments which would encourage greater conservation of energy in home heating and cooling by providing an income tax deduction for expenditures made for more effective insulation and heating equipment in residential structures and which would establish in the Department of Housing and Urban Development a direct low-interest loan program to assist homeowners and other owners of residential structures in purchasing and installing effective insulation and heating equipment.

I include herein the text of both of my amendments:

> The Congress finds that the heating and cooling of homes accounts for approximately 12 per centum of our national energy consumption, and that the severe shortages which are presently anticipated in the supply of oil and gas used for home heating, along with the expected substantial increases in the cost of electricity, will significantly and adversely affect these structures. The Congress further finds that millions of American homes now lack adequate insulation or efficient heating plants or both, and that up to 50 per centum savings in energy use in these structures could be achieved if they were equipped with such insulation and more efficiently heated.
>
> It is the purpose of this amendment to provide a source of financial assistance for homeowners and other owners of residential structures so as to enable them to purchase and install more effective insulation and thereby improve their health and comfort while substantially reducing energy use.
>
> AUTHORIZATION OF LOANS
>
> In order to carry out the purpose of this amendment, the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to make loans as provided in this section to individuals and families owning and occupying one- to four-family residential structures, and to

other owners of residential structures of any type, to assist them in purchasing and installing qualified insulative materials and/or qualified heating equipment (as defined in section 4) in such structures.

(b) A loan made under this amendment with respect to any residential structure shall—

(1) be in such amount as may be necessary to meet the maximum desirable insulation standards for controlling heat loss, cooling loss, and infiltration and/or to reach the maximum desirable heating efficiency in the case of structures of the size and type involved, taking into account the climatic, meteorological, and related conditions prevailing in the region where the structure is located, as established by the Secretary in regulations prescribed by him and in effect at the time of the loan;

(2) bear interest at the rate of 5 per centum per annum on the outstanding principal balance;

(3) have a maturity not exceeding ten years; and

(4) be subject to such additional terms, conditions, and provisions as the Secretary may impose in order to assure that the purpose of this Act is effectively carried out.

(c) Each application for a loan under this amendment shall be accompanied by detailed plans for the purchase and installation of specified insulative materials and an estimate of the costs involved. No such application shall be approved unless the Secretary finds that the proposed insulation is reasonable and will be effective, that the costs will not be excessive, and that the insulation will not be of elaborate or extravagant design or materials.

DEFINITIONS

QUALIFIED INSULATIVE MATERIALS.—For purposes of this amendment, the term "qualified insulative materials" means any material or item which, as determined by the Secretary after consultation with the National Bureau of Standards, is capable of achieving a significant reduction in heat loss, cooling loss, or infiltration when properly installed in a residential structure under the prevailing climatic, meteorological, and related conditions. Such term includes (without being limited to) glass and plastic storm windows and doors, flexible and fill insulation, blown insulation, and any other material or item which is approved by the Secretary as being useful and effective for the insulation of ceilings, floors, walls, windows, or doors.

QUALIFIED HEATING EQUIPMENT.—For purposes of this amendment, the term "qualified heating equipment" means any item, fixture, or equipment which, as determined by the Secretary after consultation with the National Bureau of Standards, is capable of and designed for improving the operating efficiency of a heating plant in a residential structure. Such term includes (without being limited to) heat exchangers, ducting, and any other item, fixture, or equipment which is approved by the Secretary as being useful and effective for improving the operating efficiency of a heating plant in a residential structure.

DISSEMINATION OF INFORMATION

The Secretary shall provide to any person upon his or its request (without regard to whether or not such person is making or proposes to make application for a loan under section 3) full, complete, and current information concerning recommended standards and types of insulative materials and heating equipment appropriate for use in residential structures of varying sizes and types and in various regions of the country.

In the performance of, and with respect to, the functions, powers, and duties vested in him by this amendment, the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties set forth in section 402 (except subsections (a) and (c)(2)) of the Housing Act of 1950.

APPROPRIATIONS; REVOLVING FUND

There is authorized to be appropriated the sum of $10,000,000 to provide an initial amount for the program under this Act, and such additional sums thereafter as may be necessary to carry out such program. Amounts appropriated pursuant to this amendment shall be placed in and constitute a revolving fund which shall be available to the Secretary.

AMENDMENT No. 2

That (a) part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 189. EXPENDITURES FOR HOME INSULATION AND HEATING EQUIPMENT

"(a) IN GENERAL.—There shall be allowed as a deduction any expenditures made by the taxpayer during the taxable year for the purchase and installation, in his home or in any other residential structure owned by him, of qualified insulative materials or qualified heating equipment.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED INSULATIVE MATERIALS.—The term 'qualified insulative materials' means any material or item which, as determined under regulations prescribed by the Secretary or his delegate in accordance with standards developed and prescribed by the National Bureau of Standards, is capable of achieving a significant reduction in heat loss, cooling loss, or infiltration when properly installed in a residential structure under the prevailing climatic, meterological, and related conditions. Such term includes (without being limited to) glass and plastic storm windows and doors, flexible and fill insulation, blown insulation, and any other material or item which (under such regulations or standards) may be useful and effective for the insulation of ceilings, floors, walls, windows, or doors.

"(2) QUALIFIED HEATING EQUIPMENT.—The term 'qualified heating equipment' means any item, fixture, or equipment which, as determined under regulations prescribed by the Secretary or his delegate in accordance with standards developed and prescribed by the National Bureau of Standards, is capable of and designed for improving the operating efficiency of a heating plant in a residential structure. Such term includes (without being limited to) heat exchangers, ducting, and any other item, fixture, or equipment which (under such regulations or standards) may be useful and effective in improving the operating efficiency of such a plant.

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to assure that insulation and heating equipment with respect to which deductions are allowed under this section are effective for their intended purposes and are not of elaborate or extravagant design or materials.".

(b) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 189. Expenditures for home insulation and heating equipment.".

SEC. 2. The amendments made by the first section of this amendment shall apply only with respect to expenditures made after December 31, 1972, in taxable years ending after such date.

KAIPAROWITS COAL DEVELOPMENT ESSENTIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. McKAY) is recognized for 5 minutes.

Mr. McKAY. Mr. Speaker, the Interior Department is currently evaluating a proposal to build a coal-driven power generating plant on the Kaiparowits Plateau in southern Utah. This project has been in the planning stages for over 10 years, and has been delayed once already by Interior with a site rejection. With the energy crisis worsening daily, it is time to move ahead on this project. Delays will prolong the plant construction and deny critically needed power for the Southwest.

Mr. Speaker, it is estimated that there are a billion tons of recoverable low-sulphur coal in the mine complex which will support this plant. No strip mining will be necessary; all of the coal is recoverable through deep mining. Coal is America's only abundant and available raw fuel source, and Congress should insure that this particular coal resource is used.

If this plant were in operation today, it would be saving roughly 33 million barrels of oil a year. This is more oil than the entire State of Utah uses in a year, and its current market value would be $225 million.

Clearly, the construction of this powerplant is important. Reservations about its development have centered around the environmental implications, with the Nipple Bench site rejected as too close to the recreation complex at Lake Powell. The power companies now have submitted a second site, at Four Mile Bench, which is 16 miles to the north of the original site and 1,000 feet higher. The Interior received this proposal favorably, and the participants are optimistic about the ultimate development.

Besides the site selection, which places the plant in an isolated area with broad dissemination of any emissions, the participating power companies have committed themselves to the most modern and effective emissions control devices available. Even if the plumes of the Kaiparowits plant and the Navajo generating plant, which operates in the Four Corners region, should overlap, the calculations indicate that emissions would still be below the allowable secondary Federal standards.

In the next 10 years, the energy needs of the Southwest are expected to increase by nearly 15,000 megawatts. The Kaiparowits plant will supply nearly 20 percent of this increase. If the project is not built, the existing systems will be required to take up the increased demand, hurting the reliability of the system and forcing an increasing reliance of alternate energy sources like oil.

For Utah, the economic impact of the plant would be immense. In Kane County, where the proposed site is located, 6,200 new jobs would develop because of the project, with 3,200 new housing units anticipated. Tax income would approach $37 million a year, coal royalties would be $1.6 million, and Utah sales volume would climb to $74.1 million because of the plant.

That plant needs to receive a go-ahead as soon as possible, Mr. Speaker, and time hurts us. Once all of the environmental approvals have been obtained for site selection, the plant still must face a lengthy process of applications for construction and rights-of-way, all subject to environmental impact statements, public hearings, and policy reviews. From the day construction begins, it will require 5 years to move the plant on line.

If the United States is to be self-sufficient in energy, the country must rely, at least at first, on coal. The development of this powerplant, with its use of low-sulfur coal, should proceed as soon as possible. This development hinges on site election approval from Interior, and I hope this decision is expedited.

TRADE REFORM ACT OF 1973

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Howard) is recognized for 5 minutes.

Mr. HOWARD. Mr. Speaker, today, by a 272 to 140 vote, the House passed the Trade Reform Act of 1973.

While the legislation contained some meritorious language, such as the Vanik amendment relating to Soviet Jewry which I cosponsored, it also contained many flaws.

Consequently, I voted against final passage of this legislation.

More and more, the Congress is inclined to give the President more authority, and this is precisely what this trade bill does.

Second, I do not think the timing was right for consideration of a trade bill this week.

There is a very unstable situation in the Middle East. Nations, once friendly to us, are now backing off as a result of the situation in the Middle East, particularly because of the oil export threats from Arab nations.

The Senate has not indicated any great desire to seriously work on the trade bill for some time to come.

Although I have some serious reservations about the Trade Reform Act of 1973, I am more than pleased to see that the Vanik amendment on Soviet Jews is included in this legislation. I applaud Mr. Vanik for his work on this fine amendment.

CPA AT TVA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Fuqua) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, continuing with my effort to avoid confusion in relation to the scope of authority of the proposed Consumer Protection Agency, I wish to insert additional material received from the Tennessee Valley Authority.

The CPA proposals, all now pending before a Government Operations Subcommittee on which I serve, are H.R. 14 by Congressman Rosenthal, H.R. 21 by Congressmen Holifield and Horton and H.R. 564 by Congressman Brown of Ohio and myself.

As you know, I have asked those Federal agencies which would be subject to the CPA's advocacy rights to list their 1972 activities which would be subject to CPA action. The initial reply of the TVA was inserted in the Record of October 29, 1973.

With the Nation now entering an energy crisis of uncertain magnitude, I have requested TVA comment concerning authority of a CPA to obtain court review of energy related actions taken by the TVA.

The TVA Act authorizes suits against the TVA. Thus, the CPA could seek, and the TVA would be subject to judicial review of its final actions if, and this is an important if, the CPA is authorized to obtain such review.

Two of the pending CPA bills would authorize the CPA to obtain such review. Only the Fuqua-Brown bill, H.R. 564, would withhold authority to initiate judicial review of agency action from the CPA. Only the Fuqua-Brown bill would not grant to this nonregulatory CPA the extraordinary power to obtain court review of final actions of the TVA on energy related matters.

The reply of the TVA requests that the CPA not be authorized to seek or participate in court actions involving TVA power matters. Rather than provide specific exemptions for agencies such as TVA, I commend to you the approach of the Fuqua-Brown bill which does not authorize court appeal by the CPA of the final actions of any agency.

Mr. Speaker, for the reasons stated, I now include in the Record, the reply of the Tennessee Valley Authority.

Tennessee Valley Authority,
Knoxville, Tenn., November 29, 1973.

Hon. Don Fuqua,
House of Representatives,
Washington, D.C.

Dear Mr. Fuqua: This is in response to your letter of November 20, 1973, relating to proposed legislation to create an independent Consumer Protection Agency (CPA) now pending before the Government Operations Committee. You have asked us to advise you as to which of our decision-making responsibilities in energy-related areas should be excluded from the scope of matters with respect to which the proposed CPA may obtain review by the courts.

In our opinion none of TVA's decisions with respect to the administration and operation of its power system should be the subject of an action for judicial review instituted or participated in by the proposed CPA. The activities with respect to the power system which most directly affect the interests of consumers are the establishment of the rates at which power will be sold by TVA and the rates at which such power may be resolved by TVA's distributors to the consumers. As you know, the TVA Act requires that power be sold at rates "as low as are feasible," consistent with the requirement that the power program be self-supporting and that the interests of TVA bondholders be protected.

The language of H.R. 14 and H.R. 21 with respect to CPA's right to obtain judicial review of agency actions limits such right to those matters with respect to which the right of judicial review otherwise exists by law. As we indicated in the enclosure to our letter of September 27 to you, there are no statutes which provide for judicial review of specific TVA activities, but section 4(b) of the TVA Act makes TVA generally subject to suit in its corporate name. Our General Counsel has maintained that TVA action with respect to the establishment of power rates is committeed to the TVA Board's discretion and is not subject to judicial review. However, since this issue has never been finally determined, we think it would be desirable to provide in the proposed legislation that in no case would the proposed CPA be authorized to seek review or participate in court actions involving TVA power matters.

We appreciate your interest in this subject.

Sincerely yours,
Aubrey J. Wagner,
Chairman.

AN AMENDMENT TO THE ENERGY EMERGENCY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. Fraser) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, at the appropriate time, I intend to offer an amendment to H.R. 11450, the Energy Emergency Act, which will help insure that the new car pool development program authorized in section 116 is coordinated with ongoing comprehensive transportation planning efforts in the larger metropolitan areas.

More specifically, my amendment would enable regional transportation planning agencies, operating under section 134 of the Federal-Aid Highway Act, to qualify for carpool funding.

In most metropolitan areas over a million population, the section 134 transportation planning agency, recognized by the Department of Transportation, is the areawide planning and coordination agency charged with the responsibility for undertaking comprehensive physical, social and economic planning for its metropolitan region.

Often these regional agencies span State lines. In the case of the Washington Metropolitan Area Council of Governments, parts of two States and the District of Columbia are covered. The Washington COG is currently operating a computerized car pool matching program. My amendment would enable the Washington COG to receive direct funding for its car pool system, provided that it continues to serve as the regional transportation planning agency under the terms of the 1973 Highway Act.

The areawide comprehensive planning agencies are usually composed of elected officials representing local governments within the metropolitan area. My district, Minneapolis, happens to be part of a metropolitan region whose areawide agency is organized somewhat differently. Our metropolitan council is an independent unit of government operating under State law. Its 15 members are appointed by the Governor of Minnesota. Transportation planning is only one of the council's wide ranging responsibilities.

Mr. Speaker, it is important for us to integrate new energy conservation efforts as effectively as we can with ongoing programs now operating on a State, regional and local level. In the field of transportation, a useful planning and coordination mechanism has already been established through the section 134 planning process. Regional agencies are already at work developing more effective ways of meeting their areas' transportation needs. It makes sense for the new section 116 car pool program to be tied in with these efforts.

The proposed language of my amendment is as follows:

> On page 46, line 2, after the period, insert the following: "Metropolitan transportation organizations responsible for carrying out Section 134 of Title 23, United States Code, shall be eligible to receive funds under this section."

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CAREY) is recognized for 5 minutes.

Mr. CAREY of New York. Mr. Speaker, the House just voted on the Vanik amendment, including in title IV of H.R. 10710, requirements that the Soviet Union guarantee freedom of emigration to its citizens, in exchange for extension of U.S. credits and long-term financing of Soviet purchases.

I am one of the principal cosponsors of this amendment and the bill that preceded it. I voted in the Ways and Means Committee for its inclusion in the original bill. I have spoken often before the House on this important issue.

Immediately after voting on the Vanik amendment, which passed 319–80, I voted on final passage of the trade bill itself. However, during the vote on the Vanik amendment, even though I placed my card in the electronic voting slot, my vote in favor of the amendment was not recorded. I did not notice this until after completion of the vote. I was present and voted for the Vanik amendment.

THE COMPTROLLER GENERAL CRITICIZES ADMINISTRATION'S SWEEPING BILL (H.R. 11793) TO ESTABLISH THE FEDERAL ENERGY ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 15 minutes.

Mr. DINGELL. Mr. Speaker, earlier today, Mr. Elmer B. Staats, the Comptroller General, gave a very perceptive statement concerning the pitfalls of H.R. 11793—the administration's "Federal Energy Administration Act." I commend his statement to your attention and I urge that we defer action on this bill until next session, particularly since the FEA will be established on a proper legal basis by H.R. 11450 which we will consider later this week. His statement follows:

STATEMENT OF ELMER B. STAATS

I was pleased to respond to your request to present my views on H.R. 11793 which would establish a Federal energy administration, a proposal transmitted to the Congress only within the last few days. While I have not had an opportunity to analyze the proposal in an exhaustive manner, I have several comments which may be of assistance to the committee in its consideration of this proposal.

The function of the Federal Energy Administration as set forth in section 3 is a broad one, namely, for "assuring that adequate provision is made to meet the energy needs of the Nation for the foreseeable future." The administration would "plan, direct and conduct programs related to the production, conservation, use, control, distribution and allocation of all forms of energy." The Administrator would also act as the President's adviser with respect to domestic and foreign policy relating to energy matters. The proposal thus would provide in statutory form the general charter already provided for the Federal Energy Office established by Executive Order No. 11748 of December 4, 1973.

Needless to say, the authority which would be provided to the Administrator, taken in conjunction with the possible enactment of legislation along the lines of S. 2589, the proposed National Energy Emergency Act of 1973 as passed by the Senate, would be a most powerful one, indeed. The final judgment of the Congress is not clear with respect to the National Energy Emergency Act since similar legislation is yet to be acted upon in the House of Representatives. However, legislation along the lines of S. 2589 giving considerable authority and discretion to the President appears likely. It also appears likely that much or all of this authority would be delegated to the Administrator, thus placing tremendous power and responsibility in the proposed Federal Energy Administration.

NEED FOR A CENTRAL AGENCY

I do not question the need to have a focal point to deal effectively with energy shortages. I am nevertheless concerned about the sweeping language which is included in section 3(A). The bill would charge the Administrator with all aspects of energy, irrespective of the fact that many of the authorities are presently vested in other agencies—the regulatory agencies, the Rural Electrification Administration, the Tennessee Valley Authority, other parts of the Interior Department, and so on. As a suggestion, Congress may wish to consider limiting section 3(A) to powers and functions which would be authorized in the National Energy Emergency Act. This would still recognize in section 3(B) that the Administrator would serve as the President's adviser with respect to all aspects of the energy problem.

Section 4(A) and (B) of the bill would transfer the functions of certain agencies to the Federal Energy Administration. Section 4(C) of the bill as proposed by the administrator (but not included in H.R. 11793 introduced by Chairman Holifield) would provide authority for the President to transfer to the administrator additional fuctions after notifying the Congress of such transfers. The transfers would become effective after 60 calendar days unless the House or Senate adopts resolutions disapproving them. I question the advisability of the inclusion of this authority. The Congress should have an opportunity to review the entire program again over the next several months to enable it to examine the need for reorganizations or additional authorities which may be recommended by the President.

In addition, the Congress has before it a legislative proposal for an energy research and development administration. Section 4(C) of the administration's proposal would make it possible for the President to transfer activities from the energy research and development administration to the Federal Energy Administration under the procedure specified. While the bill makes no reference to the Energy Research and Development Administration, I assume that the Congress does not intend that the Energy Research and Development Administration, if established, would become a part of, or be subject to, the direction of the Federal Energy Administration without further congressional consideration. Language might be included in the bill to make this clear.

In short, I see no special need for section 4(C) authority and believe that it might complicate congressional consideration of the longer-term energy organization picture.

Also subject to question is the provision in section 4(C) of the administration's bill which would authorize the President to retransfer any function that was transferred to the Federal Energy Administration back to its former agency. Such retransfers should be subject to Congressional approval.

COORDINATION OF ENERGY DATA COLLECTION AND ANALYSIS

According to the background material accompanying the bill, the new agency would have the principal responsibility throughout the government for the collection and publication of energy statistics. The present energy data collection system is largely voluntary. The statement is made in the background material that "it is imperative that statutory authority exists to obtain whatever information may be required." The bill, however does not contain language which would provide such authority.

The General Accounting Office is presently conducting a study of federal energy data collection for the Senate Interior and Insular Affairs Committee. A few preliminary findings and observations are relevant to the proposal before you.

We have visited 17 federal agencies comprising 47 bureaus, offices, divisions, and administrations which are collectors or users of energy data. We are in the process of identifying still others.

An analysis of Office of Management and Budget Information indicates that, as of March 1973, 15 major federal agencies were circulating 145 questionnaires and forms to private industry and states requesting energy-related data. The questionnaires consisted of some 11 million responses requiring respondents to spend an annual effort of about 3.6 million man-hours.

A great deal of data is already being collected by numerous Federal agencies to meet their own purposes. But there is a need for greater centralization of energy data collection.

Most of the data is reported voluntarily, except for that collected by the Federal Power Commission for regulatory purposes, for administering the leasing of Federal lands and the outer continental shelf for mineral exploration, and on imports. Thus, there is a need for statutory authority to require the reporting of needed energy data.

Questions are being raised about the credibility of existing energy data because it is reported voluntarily by industry and not verified. Thus, there is a need also for specific statutory support for systematic data verification. Credibility of the data on which policy decisions are based is essential to the successful operation of the new administration. Appropriate verification provisions in the legislation should provide the new agency with access to records and other documentation which private firms have in support of data reported to the Government, as well as access to records and other documentation which other Federal agencies have in their files as a result of their data collection.

The question of confidentiality of company data will have to be carefully considered. At present, all company data is considered confidential and, with very limited exceptions, only aggregate data is disclosed contributing further to the existing lack of credibility.

Provision should be made for GAO access to the same records and documentation for which the administration is provided access, thus providing Congress the assurance that independent reviews of the manner in which the agency is carrying out its data collection functions can be made.

ADVISORY COMMITTEE

S. 2589 (section 310) would establish a National Emergency Advisory Committee of 21 members to advise the President in carrying out the provisions of that legislative proposal. The committee would have wide representation. I agree that the establishment of a committee of this type has merit irrespective of whether it remains in that proposal or is included as a part of the bill before the committee today. If it is to be considered in connection with this proposal, I suggest that you provide flexibility in its composition and size. I would also add a provision requiring the committee to be confirmed by the Senate. Senate confirmation would add stature to the committee and would enable the Congress to review its composition.

The overall importance of the legislation certainly justifies this type of consideration.

I believe the head of the Energy Research and Development Administration should be authorized to have an observer at each meeting of the advisory committee as is provided for the regulatory agencies in section 310 of S. 2589. An important function of such an advisory committee is to assure that interested organizations outside the Federal Government be kept fully informed and have maximum input into the decisions made under the statute.

INTERAGENCY COORDINATION

The background material accompanying the President's proposal states that the new agency would be charged with facilitating the implementation of the President's program to develop the capability for national self-sufficiency in energy supplies. This would be accomplished, among other things, by expediting the Alaska pipeline construction; accelerating the leasing of the outer continenal shelf, coal, and shale lands; expediting the construction of nuclear and non-nuclear power plants and energy facilities; and facilitating increases in coal production. The legislation does not include language indicating how this responsibility will be carried out and/or coordinated with agencies which retain program responsibilities such as the Department of the Interior and the proposed Nuclear Energy Commission.

For this reason, I believe that an interagency national energy policy council should be established to advise the President and the administrator of the Federal Energy Administration. The head of the proposed energy research and development administration most certainly should be a member of any such council. I would assume that the head of the Cost of Living Council and the administrator of the Environmental Protection Agency would similarly qualify as members.

The administration's proposal contemplates the transfer of the functions of the Cost of Living Council as they "relate to or are utilized by the energy division of the Cost of Living Council." While I am certain that the proposed agency would need to have a capability of making analyses of the effect of price adjustments upon the supply and distribution of energy, it is not at all clear to me why the function of the Cost of Living Council needs to be or should be transferred. I do not believe it practical or desirable to separate out energy price determinations from their effect on the cost of energy and hence other parts of the total cost of living program.

The roles of both the Cost of Living Council and the Environmental Protection Agency are particularly important. While national policy should dictate that all practical steps be taken to increase production of energy and improve its distribution, there are obviously two other major objectives which are at least partially in conflict, namely to minimize price increases and to protect the environment. How should this potential conflict be dealt with in this legislation?

One alternative would be to give the Environmental Protection Agency and the Cost of Living Council a veto over the actions of the federal energy administration, perhaps within a specified time limit.

Another alternative would be to require any disagreements to be made the subject of public hearings and/or a requirement to have the matter lay before the Congress for a specified period of time before becoming effective.

As a minimum, the statute should specify that actions affecting prices and changes in environmental standards be taken only after consultation with the Cost of Living Council and the Environmental Protection Agency and reporting thereon to the Congress.

Attention is called to section 206 of S. 2589 which would require full conformity to the provisions of the National Environmental Policy Act of 1969 if actions are taken which would extend beyond a period of one year.

Also relevant is section 311 of S. 2589 which would require any agency performing functions under the act to hold public hearings if the agency, in its discretion, determines that such actions "are likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses."

Section 5(9) would authorize the Administrator of the Federal Energy Administration, subject to appropriation acts, to enter into and perform contracts, leases, cooperative agreements, or other transactions with any public or private agency or person. This language referring to "other transactions" seems overly broad, and it may be desirable to specify exactly what is intended by the legislation if the Federal Energy Administration is to be empowered to make loans or grants.

The bill does not include authority of the Comptroller General to audit the records of contractors, grantees and other recipients of funds provided by the new agency under section 5(9). Such authority should be provided.

CONCLUSION

In summary, I favor legislation to strengthen executive branch leadership in energy programs and believe that a Federal Energy Administration, as modified to incorporate the proposals which I have made, would do this. It should not, however, be considered as a long-run substitute for a department which would embrace related natural resources functions. The energy and the natural resources problem are going to be with us for a long, long time and I do not believe that anyone should feel that we have the ultimate organizational solution in this proposal. The authority of the Administration should be temporary in nature and subject to further review by the Congress during its next session.

That there is an energy emergency is beyond question. The actions flowing from the emergency to date have been tentative for the most part and much needs to be done by way of additional planning. All this adds up to my mind to the need for approaching any long-term organizational arrangement cautiously and to proceeding on the basis that the life of the organization should be limited and subject to review in the light of changing circumstances. I would, therefore, favor limiting the life of the Administration to one year.

To underscore the interim or temporary nature of the agency, the title of the enactment might be changed to the "Temporary Energy Act of 1973," or the "Federal Emergency Administration Act of 1973."

PRESIDENTIAL CAMPAIGN FINANCING ACT OF 1973

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, I am today introducing a second version of a bill I had earlier this year introduced, the Presidential Campaign Financing Act of 1973.

The bill, which is similar to the measure I first introduced on September 20, 1973, would provide for public financing of presidential primary and general elections. Most of the changes in the bill are simply technical modifications of the first version.

A companion to the bill I am today introducing has also been introduced in the Senate by the distinguished senior Senator from Minnesota, the Honorable WALTER F. MONDALE, and the distinguished junior Senator from Pennsylvania, the Honorable RICHARD S. SCHWEIKER.

Mr. Speaker, this bill would provide for a mix of private and public financing for presidential primary elections by authorizing matching Federal grants for the first $100 or less received from each contributor. To avoid Federal grants to frivolous candidates, candidates would be required to accumulate $100,000 in matchable contributions before receiving Federal funds. Overall primary expenditures would be limited to $15 million per candidate and Federal matching payments would be limited to approximately $7 million.

For general elections, the dollar checkoff system under existing law would be retained and strengthened by doubling the existing checkoff from $1 ($2 on a joint return) to $2 ($4 on a joint return).

Major party candidates would be entitled to receive checkoff funds of approximately $20 to $22 million. Minor party candidates or new candidates would be entitled to receive a proportionately smaller share of public funds. Candidates would be permitted to receive private contributions of up to $3,000 or less in order to supplement Federal funds. The bill sets an overall spending limit of $30 million in the general election.

Mr. Speaker, the abuses of Watergate, and the other abuses which continue to be uncovered, underscore the importance of removing the corrupting influence of big money from our elections. The bill I am introducing today to provide public financing of Presidential elections is, in my opinion, the essential first step in that process.

Mr. Speaker, the principal features of this bill were added, through the leadership of Senator MONDALE, the distinguished Senator from Massachusetts, the Honorable EDWARD M. KENNEDY, and others, to the debt ceiling legislation by the Senate on November 27. These provisions were also the principal elements of a tentative House-Senate compromise to add a modest public financing amendment to the legislation. However, approval of that compromise was killed last week by a Senate filibuster.

I am pleased to note that the Committee on House Administration has begun work on a comprehensive campaign reform measure and that the distinguished chairman of the committee, the Honorable WAYNE L. HAYS, has indicated he hopes to have this bill ready for floor action early next year.

Mr. Speaker, public financing of elections is a necessary element of campaign reform, and I am hopeful that the committee will consider including the bill I am introducing today as a part of that comprehensive package.

Mr. Speaker, I include at this point in the Record a summary of the major provisions of my bill:

Detailed Explanation: Revised Brademas Presidential Campaign Financing Act of 1973

I. CONTRIBUTION LIMITS FOR PRESIDENTIAL CAMPAIGNS

A. No individual, organization, or group may contribute more than a total of $3000 to any Presidential candidate in connection with his or her campaign for the nomination, and another $3000 in connection with his or her general election campaign.

1. Contributions given in any year "in connection with" a campaign count toward the limits for the year in which the election is held.

B. Individuals or groups acting independently (i.e., without written authorization from the candidate) may spend no more than $1000 on behalf of a candidate in the prenomination period (a similar limit in the existing $1 check-off law already applies to the general election period).

II. GENERAL DISCLOSURE PROVISIONS

A. The equal time provisions are removed for Presidential candidates.

B. Each candidate is required to set up a single central campaign committee to handle reporting of receipts and expenditures, and a single campaign depository through which all receipts and expenditures must be channeled.

C. All cash transactions (contributions or expenditures) of $50 or over are prohibited.

D. The existing tax credit is doubled to make it one-half of any contribution up to $50 ($100 for joint returns), and the existing deduction is doubled to $100 to ($200 for joint returns).

E. Earmarking contributions as prohibited.

F. The penalty for misdemeanor violations of the Federal Election Campaign Act of 1971 (now $1,000 and/or one year imprisonment) is increased to $10,000 and/or one year in prison, and knowing violations are made a felony punishable by a fine of up to $100,000 and/or imprisonment for up to five years.

G. Embezzlement or conversion to non-campaign use of political contributions is made a felony punishable by a fine of up to $50,000 and/or imprisonment of up to five years.

III. PRIMARY ELECTIONS

A. Each candidate in the Presidential primaries is entitled to matching payments from the Treasury for the first $100 or less received from each individual contributor.

1. Payments begin 14 months prior to the date of the general election for President.

2. Any contribution made "in connection with" the candidate's campaign for nomination, in whatever year it occurs, is eligible for matching. However, all such contributions are aggregated, and no more than $100 from any contributor may be matched.

B. Candidates must accumulate $100,000 in matchable contributions before the first Treasury matching payments are made. Thus a candidate would have to accumulate 1000 contributions of $100 each, 2000 contributions of $50 each, etc. Only the first $100 of each contribution counts toward meeting the $100,000 requirement.

C. No candidate may receive total matching payments in excess of 5¢ for each person over 18 in the United States (roughly $7 million).

D. No candidate may spend more than $15 million in his campaign for the Presidential nomination. This limit increases with cost of living increases.

E. Matching payments may be used only for legitimate campaign expenses during the pre-nomination period, and unspent payments must be returned to the Treasury.

F. The Comptroller General certifies eligibility for payments, and is responsible for conducting a detailed post-convention audit and obtaining repayments when necessary.

G. There are severe criminal penalties for exceeding the overall primary spending limits, and for unlawful use of payments, false statements to the Comptroller General, and kickbacks and illegal payments.

IV. GENERAL ELECTION

A. The existing Presidential Election Campaign Fund Act (the $1 check-off) is retained, with the following amendments:

1. The requirement for a separate appropriation before money from the $1 check-off Fund becomes available is removed, making the check-off self-appropriating.

2. The amount of the check-off is doubled from the existing level of $1 ($2 on a joint return) to $2 ($4 on a joint return).

3. Candidates are permitted to receive and spend private contributions of $3000 or less (see III., below) to supplement the funds they receive from the $1 check-off, up to a maximum overall spending limit in the general election of $30 million.

a. Under the existing $1 check-off law, major party candidates may not use private contributions at all if they receive their full entitlement from the check-off (15c per eligible voter, or roughly $20–22 million), and minor and new Party candidates may use private contributions only to make up the difference between the smaller amount they receive from the check-off and the amount major party candidates are entitled to. (If the funds in the check-off are not sufficient to provide major party candidates with the full amount they are entitled to, they also may raise private money to make up the difference.) All candidates using the check-off money are thus limited to spending no more than $20–22 million in the general election. Those who accept no check-off money, however, may spend an unlimited amount in the general.

b. The $30 million limit on total spending in the general election imposed by this bill applies to all candidates (including those who decline their entitlement from the check-off), and therefore leaves no incentive for a candidate not to use the check-off. The $30 million limit would increase with cost of living increases.

c. The $30 million limit would permit major party candidates to supplement the $20–22 million they receive from the check-off with $8–10 million from private contributions of $300 or less. This ⅔ public, ⅓ private, ratio would continue as cost-of-living increases raised the $30 million spending limit, and as population increases raise the amount major party candidates may receive from the check-off (15c times the voting age population).

d. Minor and new party candidates could receive a larger proportion of their funds from private sources to make up for their smaller entitlement under the $1 check-off but in no case could their total spending exceed $30 million in the general election.

B. Payments to candidates are distributed in accordance with the existing law, i.e.:

1. Major party candidates (those whose party received 25 percent or more of the vote in the previous election)—15c times the 18-and-over population of the U.S.

2. Minor party candidates (those whose candidates received between 5 and 25 percent of the vote in the previous election)—a percentage of the major party candidate entitlement equal to the percentage of the average major party vote their candidate received in the preceding or current election (whichever is larger).

3. New party candidates—if the candidates receives more than 5 percent of the vote in the current election, he is repaid after the election according to the percentage of the average major party vote received.

C. The Comptroller General certifies eligibility for payments and is responsible for conducting a detailed post-convention audit and obtaining repayments when necessary.

D. here are severe criminal penalties for exceeding the overall general election spending limit, and for unlawful use of payments, false statements to the Comptroller General, and kickbacks and illegal payments.

A NEW ERA IN UNITED STATES–LATIN AMERICAN RELATIONS

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, last week Kenneth Rush, the very able Deputy Secretary of State, gave a major address in New York City on the changing nature of U.S. relations with the other nations of the Hemisphere. Because of the importance of Secretary Rush's remarks I want to take this opportunity to call his speech to the attention of all Members interested in Latin America and the Caribbean.

A New Era in United States-Latin American Relations

(Speech by the Honorable Kenneth Rush Deputy Secretary of State)

I am greatly honored to have been invited to address this distinguished group of leaders in the private sector. As you know, much of my working life has been in the world of business, and with an international emphasis. So I feel particularly at home addressing this group.

I have now spent over four years in Government, first in Germany and more recently in Washington. I recall that when I was in the private sector, I used to get impatient at times with "those people down in Washington". I couldn't understand why those bureaucrats couldn't solve some of our problems quicker. The solutions seemed pretty obvious to me. After becoming a Government official myself, I was surprised to see how suddenly the problems had become much more difficult.

I would like to talk to you today about relations between the United States and the countries of Latin America and the Caribbean and would like to suggest to you how our policy toward the Americas fits into the President's general approach to foreign affairs.

What we have been trying to accomplish in our relations in the Hemisphere is consistent with the very successful conduct of our foreign policy in other parts of the world.

THE HISTORICAL UNITED STATES-LATIN AMERICAN RELATIONS

Before discussing this Administration's policy toward Latin America and the Caribbean, a little history might help us put things in perspective.

Our relations with Latin America have been close and for the most part constructive. That is not to say that the course of those relations have always been smooth. Generally speaking, the closer people live together, the more contact they have with one another, the more likely it is that there will be problems. We see this in families and in communities. But it is also true that the rewards of belonging to a family and a community are very great.

I think it is a tribute to the nations of this Hemisphere that we have been able for more than a century to face our common problems in a spirit of conciliation and cooperation. Indeed, the countries of the Americas have constructed over time a series of treaties, agreements and institutions that have broken new ground in international relations.

This achievement has been all the more remarkable because one of the difficult facts of life in the Western Hemisphere has been that one nation—our own—has achieved political, economic and military power to a degree which has overshadowed that of all other American Republics. The Inter-American System has been by and large successful over the years in reconciling the greater power and resources of the United States with the principle that all members of the inter-American community are sovereign and equal states.

This achievement of the inter-American community has been based upon a consensus that the relationship between the United States and the countries of Latin America and the Caribbean has been of value to all parties.

For the Latin Americans, the relationship has afforded them the protection of the United States against military aggression from outside the Hemisphere. It has also provided them with economic assistance from the United States.

From the U.S. point of view the relationship has also provided benefits. The other American nations have stood by the United States in its global struggles. The United States has also valued the inter-American relationship because through it we have been able to pursue our national interests by means of consultation, negotiation and compromise, rather than by unilateral action.

I am aware that some people would add to the list of U.S. benefits American economic penetration. In my judgment this is a misreading of history. U.S. policy toward Latin America has traditionally been dictated by strategic and political considerations. Our economic expansion in the Western Hemisphere, as elsewhere, has been spontaneous.

As I have said, the success of the Inter-American System has been based upon a consensus among the members of the system as to the principles and goals which should govern their relationships with one another, and particularly the relationship between the United States and the rest of the American community. I think it is fair to say, however, that the rapid changes that have taken place in the world in recent years have tended to erode the Western Hemisphere consensus. Let me quickly review some of these changes on the global scene and how they have affected inter-American relations.

First, with the success of President Nixon's policy of détente with major adversaries, the threat of aggression or subversion from outside the Hemisphere has seemed in the eyes of many Latin Americans to have receded.

Second, new doctrines about national security have taken hold in many Latin American countries. These new concepts hold that national security depends primarily upon their countries' economic and social development, and only secondarily on conventional defenses against foreign military invasion. This has led some Latin Americans to the view that economic cooperation which they receive from the United States should be obligatory and unconditional.

Third, there are some Latin American nations whose economic development has been so rapid that they are moving out of the ranks of the underdeveloped and closer to the status of developed countries. In other words, there is much greater diversity among Latin American nations in regard to their needs and objectives with regard to the United States.

For our part our attitudes toward Latin America have also been affected by the changes in the world, in the Hemisphere, and in our own position. We have come to realize that we no longer have a monopoly on economic power and that our resources are not unlimited. The rise of Western Europe and Japan to the status of economic superpowers means that Latin America and the Caribbean should look, not just to the United States but to all developed countries to provide the extra resources that the region needs for its development.

We have also come to appreciate the difficulty in devising one monolithic policy or set of policies for a group of twenty-three countries whose stages of political, economic, and social development are so diverse and whose relations with us vary so widely.

Finally, we have come to recognize that we cannot separate our many interests in the area one from another, that what happens in one arena—the seizure of a fishing boat or the expropriation of an American enterprise—affects our interests in another area—economic development, for example.

If I were to sum up these changing perspectives in Latin America, and the United States, I would say that Latin America's perception of its relationship with the United States has been shifting rapidly away from traditional security and political interests to focus on greater and broader economic interests, at the same time that the U.S. ability to provide even greater and unconditional economic benefits has been declining. The possibilities for misunderstanding in this situation are evident.

Moreover, there has been for many years a growing dissatisfaction among Latin Americans and North Americans with the paternalistic aspects of their relationship. The dilemma which the American Republics have faced for some time has been how to reconcile Latin America's increasing needs for development assistance, new technology, and expanding foreign markets with the desire on both sides of the Equator to do away with any U.S. paternalism which might be associated with the provisions of that assistance.

THE RESPONSE OF THE NIXON ADMINISTRATION TO THE CHALLENGE

These trends were already at work when President Nixon assumed office in 1969. Although some of these changes were at best dimly perceived at that time, the President, with his intuitive grasp for the underlying currents in international affairs, saw the challenge. In his landmark speech on Latin America in October 1969 he faced that challenge squarely. He called for an end to paternalism in the relations between the United States and Latin America and the Caribbean. He asked for a new kind of relationship—a mature partnership.

This approach of the President to relations with the rest of the Americas has been entirely consistent with his general foreign policy. This policy is based upon the following principles:

1. Cooperation between the United States and its allies must be based upon a mutual perception of common interests, not a patron-client relationship.

2. Nations should take the lead in resolving those problems which are of primary concern to themselves. The United States cannot take more responsibility for another nation's problems than that nation itself is willing to take.

3. The role of the United States should be supportive. That is, it should supplement the efforts of other nations, not dominate them.

4. Our objectives can best be achieved through negotiation rather than confrontation.

The implications of this approach for U.S. relations with Latin America and the Caribbean were spelled out by the President in his 1969 address. They can be summed up as a greater degree of Latin American initiative and much less U.S. suggestions or direction as to Latin Americans' political, economic and social policies. The President pledged continued and broader U.S. support for Latin American development. This support, however, was to be based upon a recognition by both sides of mutual rights and obligations, rather than some sort of noblesse oblige by the United States.

The President's address of four years ago was a statement of intention on our part and a series of goals. The most important goal was a new relationship based on equality. The President did not, indeed could not, provide a blueprint as to how this new relationship was to be achieved. That would have to be worked out as the United States and Latin America faced specific issues. In a sense the past four years have been a search—a quest by the United States and the other countries of the Hemisphere for a new basis for their relationship.

We must be frank to recognize that that search has at times been impeded by events. There have been problems on both sides:

With the decline of the security threat in Latin America, the U.S. public has not seen clearly the basis for massive U.S. interest and involvement in the area.

Our economic difficulties—particularly the deficits on our balance of payments and of trade and the devaluation of the dollar—have reduced Congressional support for economic assistance. These problems also have caused a delay in introducing trade legislation of benefit to Latin America.

Preoccupation in the United States with crises in other parts of the world has tended to hamper the dialogue between North American and Latin American leaders—and yet a dialogue is essential if a new relationship is to be forged.

Sometimes our Latin American friends have not given sufficient weight to the enormous problems the United States has had to face in recent years. They have tended at times to cling to old ways and old assumptions. When the U.S. has not responded promptly and fully to their demands, some have charged us with willful neglect or disinterest. Some have attempted to use inter-American agreements to legislate, rather negotiate, U.S. policies.

TOWARD A NEW DIALOGUE

These problems in working out a new relationship with our friends and allies in Latin America and the Caribbean have not gone unnoticed by this Administration. At the President's request, Secretary Rogers visited eight countries in Latin America and the Caribbean last May. He talked fully and frankly with the leaders of the region.

When Secretary Kissinger was nominated for his present post, he put Latin America high on his agenda and said so to the Senate Foreign Relations Committee during his hearings. He said he intended to reinvigorate our relations with the Latin American countries. Only a few days after his confirmation, the new Secretary spoke to a number of Foreign Ministers and Ambassadors from Latin America and the Caribbean during the United Nations General Assembly in New York. He told them that he was undertaking an in-depth review of our policies and programs in Latin America, and he invited them to a dialogue on the issues in U.S.-Latin American relations.

The response to the Secretary's invitation to a dialogue was rapid and gratifying. At the initiative of several Foreign Ministers and particularly the Colombian Foreign Minister, a meeting was held in Bogota in mid-November to discuss an agenda for the new dialogue with the United States. From our observation, the tone of the discussions at Bogota was elevated and constructive. The agenda which the Latin American and Caribbean Ministers and their representatives have proposed faces difficult issues in their countries' relations with the U.S. frankly and squarely.

But the issues are posed as subjects for dialogue and negotiation, not recrimination or confrontation. The Foreign Minister of Colombia met with the Secretary in Washington last week to present to him the agenda agreed upon at Bogota and to invite the United States to add to that agenda. It has been agreed that the Secretary and his colleagues from Latin America and the Caribbean will meet in Mexico early next year to begin what we fully expect will be a continuing dialogue on the great issues facing the Americas.

The new relationship between the United States and the other members of the American community can only be worked out as specific issues are faced, discussed, and resolved. I can tell you that the President, the Secretary of State, and I are personally committed to a vigorous effort to do our part in making the new dialogue fruitful.

In this connection, I would like to express the appreciation of the Administration to this Council for its constructive efforts to make an input to the U.S. Government's review of its Latin American policy. The recommendations which you have recently made and the study groups you have created are a valuable contribution.

It is not my purpose today to try to outline the form and content of the new relationship in detail. But I do believe that the President's basic foreign policy approach which I have outlined earlier provides the basis for a few comment on some principles which might guide the new U.S.-Latin American relationship. I would sum up those principles in two words:

INTERDEPENDENCE AND RECIPROCITY

First, Interdependence:

Interdependence is not dependence.

Interdependence is each party in the relationship needing the others, and feeling that need with comparable intensity.

In the past, Latin America may have felt its need of the United States more intensely than we have felt our need of Latin America. We have needed Latin America, but that need was partly in hard-to-measure, almost intangible terms of psychic security—knowing that Latin America was "on our side". Latin America's need for us, in contrast, has been in the concrete, visible terms of trade, aid, and military protection. Hence the seeming dependence in the relationship.

It does not take much imagination these days to see how that situation will change.

Latin America is an important source of raw materials. In the old days, that was a problem for Latin America. The supply of primary commodities chronically tended to outrun demand and the producing countries searched for ways to avoid depressed prices. The old days have gone—perhaps forever. This country needs Latin American raw materials, food and energy resources.

This country also needs expanding markets for its exports. It used to be that the balance of payments took a poor second place to our domestic economy. We have learned the hard way that we have to give priority to keep our balance of payments healthy. Latin America already is an important market for U.S. exports—the most important market outside Canada, Western Europe, and Japan. Several of the Latin American countries rank among our top 12 export customers. Equally important, if Latin America as a region can fulfill its aspirations for sustained economic growth, its import needs may well grow faster than those of developed countries.

Finally, we are increasingly looking to earnings on our foreign investment to make up some of the balance of payments gap. Over 18 percent of U.S. private foreign investment is located in Latin America.

So, Ladies and Gentlemen, we need Latin America's raw materials and its markets.

Latin America, in turn, needs our capital, our technology, and our markets.

In addition to these economic ties between the United States and Latin America, there are bonds of friendship and of common values which date back to the founding of our nations.

I suggest to you that this mutual interdependence should provide the underpinnings for a new, equal, mature relationship.

This leads me to my second principle—Reciprocity.

Reciprocity is the sine qua non between equals. It is fundamental in a relationship of equality that each side believes that its interests and rights are being respected by the other side.

If the countries of Latin America take the position that, because of their relative weakness, the United States should not expect reciprocity, they will be perpetuating a paternalistic relationship.

Let me emphasize that I am not suggesting that the United States expects to receive a quid pro quo in kind for every economic benefit it extends to Latin America. We have already agreed that in trade, for example, LDC's should not be required to reciprocate fully trade concessions from the developed countries.

What I am suggesting is that when we believe a legitimate American interest is being jeopardized or injured by a Latin American government's action we should be given an opportunity to seek some redress of our grievances.

In the vast majority of cases, we do receive that consideration and our interests are given fair consideration. But conflict situations have arisen in which there were important principles at stake on both sides and in which we have felt that we were being asked to sacrifice our interests without any willingness to make concessions on the other side.

We do not expect that our view will always prevail, but we do believe we should be afforded the same consideration that a Latin American government would expect to receive should the situation be reversed. That is true reciprocity.

Interdependence and reciprocity. These are principles which guide American foreign policy, and they provide a firm basis for the New Dialogue and the New Era in United States-Latin American relations.

TYRANNY IN GREECE

(Mr. MADDEN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MADDEN. Mr. Speaker, John Anastaplos of Hammond, Ind., and news broadcaster for the Hammond WJOB radio station has forwarded to me excerpts from a question and answer broadcast which he had with his brother, Col. George Anastaplo, the colonel a lecturer in the liberal arts at the University of Chicago and professor of political science at Rosary College in Chicago.

Both brothers are of Greek descent and are very much interested in the freedom of Greece and its people. Prof. George Anastaplo has been a visitor to Greece and a student of Greek history and government. His answers in his brother's broadcast reveal some illuminating facts as to governmental conditions in Greece at the present time. This broadcast was recorded on November 21, 1973.

Dreadful Days in Athens: Greek Massacres and American Misjudgments

(By George Anastaplo)

Q. We have as our guest this morning my brother, George Anastaplo, who teaches at Rosary College and the University of Chicago. He is particularly knowledgeable in contemporary Greek affairs and has published several articles on that subject. Well, George, what is going to happen in Greece? Can students fight tanks and arms with broom handles and sticks?

A. I don't think it's going to depend on that. I think the obvious need of the present Greek government to *use* tanks and arms to control popular discontent will eventually undermine its standing, both at home and abroad, in such a way as to lead to its downfall. It doesn't mean that people actually have to overcome tanks. They only have to show that they don't want the tanks there in the control of the characters who are now trying to run the country.

Q. Is the present trouble going to abate?

A. It's hard to say, John. There will probably be ups and downs: there will be quiet periods and then there will be eruptions. I think that periodic eruptions are inevitable because of the character and standing of the present Greek government—that is to say, its bad character and its very flimsy standing. Trouble is built into this regime and it will be very difficult for it to continue without repeated disturbances of a kind that raise serious doubts about the legitimacy of the entire enterprise.

Q. Have you heard the latest news this morning?

A. I've heard that three political leaders in Athens have been placed on House arrest.

Q. That's right. And nine Greek universities have been closed until December 10th.

A. This is what happened last year, too. There were student uprisings and some universities were closed the last part of the academic year. Now universities are again being closed intermittently. There are two things of interest about this. One is that construction and other labor organizations have also been involved to a significant extent in this latest uprising.

Q. That is the "hard hats," as they are called?

A. "Hard hats" is what they would be called in this country: construction workers and others. In addition, it has to be remembered that in Greece most students live at home—so this is not merely campus discontent we are witnessing; this is general discontent which is spilling over on to the campuses, and in Athens.

Q. Why would construction workers be involved? I understand that they are among the best paid workers in the country.

A. They tend to be more organized politically in Greece than other workers and thus are more likely to be critical of this regime.

Q. Is it an exaggeration to say that these workers average about thirty dollars a day?

A. I really don't know what their wages are, John. But I do know that the general problem feeding public discontent, aside from the repressive character of the regime, is the very high rate of inflation in Greece today, far more than here. This has had serious effects upon the morale of the country at large. I am sure this inflation is raising serious questions about the desirability of this regime. The economic chickens, so to speak, are coming home to roost—the shortsighted, even demagogic, economic policies this government has pursued for the last six years.

Q. Has the former premier encouraged the student protest which has erupted this past weekend?

A. One former premier, Panayiotis Kannelopoulos, is one of those who have just been placed on house arrest. He has supported the students. I would not say that he has encouraged any particular outbreak. But he has certainly lent moral support to student opposition. He himself has been in opposition from the beginning.

Q. When was he ousted from power?

A. In April 1967. He was prime minister, as a member of the conservative party, when the colonels took over.

Q. Have you ever talked to him?

A. I've talked to him a few times.

Q. In Greece, or out?

A. He's been in Greece since 1967. That is, he was there when the colonels took over and he has remained there ever since. He has refused to leave Greece while the colonels remain in power.

Q. What kind of a man is he?

A. He is really a gentleman-scholar of an old political family, a quite distinguished author and historian—a man who has been interested in politics for many years. He's not a rabble-rouser but a rather calm, moderate man. He has remained in firm opposition to these characters ever since they seized power in 1967.

Q. You keep calling them "characters." Is there a reason you keep using that word?

A. These are army officers of bad faith, men who violated their oaths of office and their duties. They felt they could run the country better than anyone else. They have now led their country down to this rather miserable state of affairs. If you remember, the troubles they took over to put a stop to it 1967 were the repeated demonstrations and disturbances during two years of constitutional crisis. But throughout that two year period, which many apologists for the present regime will tell you were awful for Greece, only one man was killed: a student was accidentally killed during a demonstration in the summer of 1965. Then these characters seized power, supposedly to restore law and order and to insure economic stability. Well, the Greeks now have a remarkable inflation, far more than anything they suffered from in the period immediately prior to 1967; and now they also have repeated disturbances, with at least a dozen people killed in a matter of a week, to say nothing of others who might have died under torture or for other reasons during the past six years.

Q. You have talked to King Constantine in Rome and to former Premier Karamanlis in Paris. What do they say?

A. I haven't read anything that they have said the last week.

Q. But you have talked to them in person, when you have been in Europe, since the colonels took over in 1967. What are their sentiments?

A. I think all of the major political leaders in Greece—all those who have ever been put in power legitimately by the Greek people—have been in serious opposition to these characters. The politicians have never approved of what these characters have done. They have never said that these characters are legitimate. Instead, they have indicated that nothing but bad can come out of this continued usurpation.

Q. Does Constantine feel that he will eventually go home as King?

A. I am sure he hopes to be King.

Q. Does he think that is going to happen?

A. I have no way of knowing what he really believes. But the point is that all of the political leaders of Greece, the legitimate leaders of Greece, are in opposition to these characters, whether these leaders are of the Right, of the Left, or of the Center. That has been their constant theme since 1967. Greece does have at this time a civilian prime minister serving under a colonel who has made himself president. Now this civilian prime minister had never had any serious political following on his own in Greece: he never had more than two or three seats in Parliament belonging to his party.

Q. Is this Markezinis?

A. Yes. He had no political prospects. So he felt he could afford to take this chance to become prime minister. He knew he would have no other chance. Well, he should have realized that he would not be prime minister in fact but only in name. The so-called president of the country reserved to himself critical powers, including the power to control internal security. It has been the president who has been making all the decisions and all the announcements this past week, who has been ordering the police and army out into the streets of Athens, who has been justifying the killings. It has not been Mr. Markezinis. Mr. Markezinis has been very quiet, even though he is a usually a most talkative fellow. There have even been rumors that he has tried to resign.

Q. George, here is a report from United Press International: "Exiled Greek actress Melina Mercouri said this morning, 'The United States was responsible for the death of those student demonstrators during the anti-government disturbances in Athens.' At a news conference in Paris today, Miss Mercouri read a telegram sent to the U.S. Secretary of State Kissinger. In that telegram she said, 'It was your tanks that crushed the bodies of our young people. You are the enemy of the Greek people.' The United States said after the clashes that it would continue supplying arms to Greece, a member of the North Atlantic Treaty Organization. Miss Mercouri lost her Greek citizenship after making statements critical of the Greek military-backed regime." Do you want to comment on this report?

A. Well, let me say this, John. The opinion Miss Mercouri is expressing about American responsibility for the Greek tyranny is the opinion that many Greeks will have, for many years to come. But this was to be expected. This was exactly the sort of thing that several of us, over the last six years, have been warning against. We have been saying that there was no question but that one result of our playing footsie with the colonels, as we have done since 1967, would definitely be the loss of the significant American influence in Greece. Such a loss has already been foreshadowed in the fact that during the recent demonstrations one of the principal slogans of the students was, "Out with the Americans." I am sorry to say that it will be very, very difficult for any political regime that follows the colonels—for any regime which has to depend on public opinion—not to make something of a break with the United States by getting American bases out, by reducing the longstanding reliance by Greece upon American power, American arms, and American investments, by revising significantly the American alliance. On the other hand, our official experts in Washington—in the State Department and the Pentagon—who have been arguing for more than six years for this alliance didn't get what they wanted from it during the recent Mideastern crisis. What they had assured us was that the Greece of the colonels could be depended upon by the United States.

Q. Why have you been declared persona non grata? And how long has that been?

A. I was declared persona non grata three years ago by the colonels because I was saying the sort of things I am saying to you this morning. What I was warning against was that American policy in Greece was bound to hurt legitimate American interests in Greece and that that policy could not help the Greek people—that we were backing the wrong horse, that we were making a terrible mistake which we would have to live with for many years. I think we are now seeing a growing realization even in Washington of how serious a mistake we have made, although we are now far less in a position to do anything about it than we would have been several years ago when the colonels were much more obliged to defer to us than they are now. In short, we now find them less useful, more dangerous, and generally more harmful.

Q. Is there a likelihood you will return to Greece while the military junta remains in power?

A. It's highly unlikely. The "constitutional" changes which have been publicized in recent months have not really meant anything serious. It was quite evident, to anyone who thought about Greek affairs, where the power remained in Athens. It remained with Colonel Papadopoulos and the military units he controlled.

Q. When you say, "loyal to the Constitution," that means, of course, loyal to King Constantine?

A. To King Constantine as a constitutional figure. The point is that the characters now in power in Greece cannot help but continue under a cloud of illegitimacy. They came in by usurpation; they remain by fraud and by force. There's nothing else that can keep them there. Even they can no longer doubt that they would be swept out of power tomorrow if certain units of the army were not available to protect them. Things can't continue this way indefinitely, of course. Serious problems exist, not the least of which is that the colonels don't know what they are doing—and so they are prone to panic when pressure is put on them. We should not be surprised by this: there is no reason to believe that army officers who had never been active in political life but only in conspiracies, who had never had to regulate the economic and social life of their country, who had never been trained the way politicians are trained by their superiors and by their experience, by taking part in the political activity of the country—there is no reason to believe that such naive officers would know what they are doing.

Q. Thank you, George. Our time has run out. We must talk again sometime soon.

A. Thank you, John. We must, indeed. Let's hope we have better news to talk about next time.

THE ALL-VOLUNTEER ARMY—ON ONE TARGET, OFF ANOTHER

(Mr. DAN DANIEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, last week the Secretary of the Army announced that for the first time in 10 months the Army had hit the target on recruiting. The Secretary said Army recruiters signed up 102 percent of the monthly objective of 12,900 for November. This objective had been established in July as the number of non-prior-service males necessary for the Army to recruit in November.

While Army recruiters should be commended for this effort, it is essential that the Members be aware of the Army's makeup objective. Since the Army had not been able to enlist the numbers of men needed from July through October, the makeup objective was actually 15,900 or 3,000 men higher than the 12,900-man goal previously established. Measured against the Army's manpower requirements, the recruiters managed to sign up only 82.4 percent of their objective for November.

There is a possibility that the results of the present month may show some increase since, effective the first of December, the Army has been authorized to pay all its recruiters a $150 per month incentive. The other services have also been authorized this incentive payment, but only for those recruiters who have demonstrated their productivity. I can assure those Members who might question this policy that the matter will be fully explored with the Assistant Secretary of Defense for Manpower at a briefing later this week.

Mr. Speaker, I think it important to note that, in spite of all that has been done to make military life more attractive and adequately compensated, and in spite of vigorous recruiting efforts on the part of all Army personnel, the year-to-date results are less than 80 percent of the Army's requirements for nonprior service males. However, the November results suggest that the Army may be able to reach its monthly objectives even though it will have problems making up for past shortfalls. Only the next few months will reveal whether or not November is the start of such an optimistic trend.

I ask unanimous consent that the following tables, provided to me by the Department of the Army, be inserted at this point in the Record.

FISCAL YEAR 1974 MALE NONPRIOR SERVICE ACCESSIONS DATA

Fiscal year 1974	Objective	Actuals	Percent fill	Mental categories (percent)				High school (percent)	Total minority (percent)	Black (percent)
				I	II	III	IV			
July	17,300	13,193	76.3	1.9	20.2	46.6	31.3	65.9	35.5	33.9
August	17,000	13,751	80.9	2.1	24.4	53.7	19.8	58.8	32.0	29.9
September[1]	17,800	14,580	81.9	2.1	25.8	52.8	19.3	53.5	31.9	30.0
October[1]	17,200	13,487	78.4	2.0	22.7	55.5	19.8	43.7	30.5	28.7
November[1]	15,900	13,106	82.4	1.5	21.6	59.3	17.6	37.7	29.3	27.4
Year to date[1]	85,200	68,117	79.9	1.9	23.0	53.6	21.5	52.0	31.9	30.0

[1] Preliminary.

FISCAL YEAR 1974 RECRUITING STATISTICS

	Recruiting objectives	Results	Percent of fill
July 1973:			
Male	17,300	13,193	76.3
WAC	900	833	92.6
Prior service	1,000	792	79.2
Total	19,200	14,818	77.2
August 1973:			
Male	17,000	13,751	80.9
WAC	1,000	1,000	104.9
Prior service	1,000	1,112	111.1
Total	19,000	15,912	83.7
September 1973:[1]			
Male	17,800	14,580	81.7
WAC	1,000	1,175	117.5
Prior service	1,000	1,252	125.2
Total	19,800	17,007	85.9
October 1973:[1]			
Male	17,200	13,487	78.4
WAC	1,100	1,304	118.5
Prior service	1,000	1,295	129.5
Total	19,300	16,086	83.3
November 1973:[1]			
Male	15,900	13,106	82.4
WAC	1,100	1,271	115.5
Prior service	1,000	1,280	128.0
Total	18,000	15,657	87.0

[1] Preliminary.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

Mr. Minshall of Ohio, for the forenoon of today, on account of dental appointment.

Mr. Ginn, for December 12, 1973, and account of attending funeral of speaker of Georgia House of Representatives.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Young of South Carolina) to revise and extend their remarks and include extraneous matter:)

Mr. Heinz, for 15 minutes, today.

Mr. Edwards of Alabama, for 5 minutes, today.

Mr. Robison of New York, for 30 minutes, today.

Mrs. Heckler of Massachusetts, for 5 minutes, today.

Mr. Young of Illinois, for 1 minute, today.

Mr. Cohen, for 5 minutes, today.

(The following Members (at the request of Mr. Breaux) to revise and extend their remarks and include extraneous material:)

Mr. McKay, for 5 minutes, today.

Mr. Howard, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Fuqua, for 5 minutes, today.

Mr. Fraser, for 5 minutes, today.

Mr. Carey of New York, for 5 minutes, today.

Mr. Dingell, for 15 minutes, today.

Mr. Brademas, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Bell, immediately following Mr. Ullman on the Vanik amendment.

Mr. Biaggi, just before the vote on the Vanik amendment.

Mr. Buchanan, on the bill H.R. 11771 immediately following the withdrawal of the Derwinski amendment.

Mr. Hechler of West Virginia, in two instances, and to include extraneous matter, notwithstanding the fact that in one instance it exceeds two pages of the Record and is estimated by the Public Printer to cost $475; and in the second instance is estimated by the Public Printer to cost $575.

Mr. Carey of New York, in the body of the Record immediately following the vote on the Vanik amendment.

Mr. Carey of New York, in the body of the Record immediately following the passage of the Trade Reform Act of 1973.

Ms. Abzug, in the body of the Record, immediately following passage of the Vanik amendment.

Ms. Abzug, in the body of the Record, immediately following passage of the Trade Reform Act of 1973.

Mr. Randall in two instances, one after the Vanik amendment and one after the Conable amendment.

Mr. Madden in two instances, and to include a newspaper article and a radio broadcast.

Mr. Danielson to insert his remarks in the Record immediately before the Committee rises on the trade bill considered in the Committee of the Whole today.

Mr. Wylie to insert his remarks in the Record immediately following the remarks of Mr. Gross during the 5-minute rule on the Emergency Security Assistance Act today.

Ms. Abzug, before the Tiernan amendment and before the Stark amendment.

(The following Members (at the request of Mr. Young of South Carolina) and to include extraneous material:)

Mr. Hillis.
Mr. Findley in six instances.
Mr. Esch.
Mr. Hosmer.
Mr. Burgener.
Mr. Wyman in two instances.
Mr. Talcott in two instances.
Mr. Derwinski in two instances.
Mr. Carter in two instances.
Mr. Gilman in two instances.
Mr. Chamberlain.
Mr. Smith of New York.
Mr. Taylor of Missouri in two instances
Mr. Don H. Clausen in two instances.
Mr. Ketchum.
Mr. Heinz in four instances.
Mr. Railsback in two instances.
Mr. Froehlich in two instances.
Mr. Shriver.
Mr. Ruppe.
Mr. Pettis in two instances.
Mr. Wiggins.
Mr. Price of Texas.
Mr. Cohen in five instances.
Mr. Mayne.
Mrs. Holt.

(The following Members (at the request of Mr. Breaux) and to include extraneous material:)

Mr. Hungate.
Mr. Hanley.
Mr. O'Hara.
Mr. Gonzalez in three instances.
Mr. Rarick in three instances.
Mr. Reid in two instances.

Mr. Hawkins.
Mr. Rogers in five instances.
Mr. Dingell in two instances.
Mr. Harrington in four instances.
Mr. Bingham in five instances.
Mr. Fascell in three instances.
Mr. Stuckey in 10 instances.
Mrs. Chisholm.
Mr. Mezvinsky.

ADJOURNMENT

Mr. BREAUX. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 54 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, December 12, 1973, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1626. A letter from the President of the United States, transmitting notice of his intention to exercise his authority under section 614(a) of the Foreign Assistance Act of 1961, as amended, to waive the restriction of section 620(m) of the act as it applies to U.S. security assistance programs for fiscal year 1974 for Spain, pursuant to section 652 of the Act; to the Committee on Foreign Affairs.

1627. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation for the Veterans' Administration for "Medical care" has been apportioned on a basis which indicates the necessity for supplemental estimates of appropriations for fiscal year 1974, pursuant to 31 U.S.C. 665; to the Committee on Appropriations.

1628. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation for the Veterans' Administration for "Readjustment benefits" has been apportioned on a basis which indicates the necessity for supplemental estimates of appropriations for fiscal year 1974, pursuant to 31 U.S.C. 665; to the Committee on Appropriations.

1629. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States, pursuant to Public Law 92–403; to the Committee on Foreign Affairs.

1630. A letter from the Public Printer, transmitting the annual report of the Government Printing Office for fiscal year 1973; to the Committee on House Administration.

1631. A letter from the Acting Assistant Secretary of the Interior, transmitting a copy of a proposed concession contract for the continued provision of lodging, merchandising, and related facilities and services for the public at the LaPush area within Olympic National Park, Wash., for a term ending December 31, 1982, pursuant to 67 Stat. 271 and 70 Stat. 543; to the Committee on Interior and Insular Affairs.

1632. A letter from the Director of Territorial Affairs, Department of the Interior, transmitting the annual report for fiscal year 1973 on the administration of the Guam Development Fund Act of 1962, pursuant to section 6 of Public Law 90–601; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PRICE of Illinois: Committee on Armed Services. S. 1038. An act to amend title 37, United States Code, to authorize travel and transportation allowances to certain members of the uniformed services in connection with leave. (Rept. No. 93–711). Referred to the Committee of the Whole House on the State of the Union.

Mr. DULSKI: Committee of conference. Conference report to accompany H.R. 3180 (Rept. No. 93–712). Ordered to be printed.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 744. Resolution providing for the consideration of H.R. 11450. A bill to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes. (Rept. No. 93–713). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STAGGERS:

H.R. 11882. A bill to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CAREY of New York:

H.R. 11883. A bill to amend the Internal Revenue Code of 1954 to provide an exclusion of contiguous country branch items of domestic life insurance companies; to the Committee on Ways and Means.

By Mr. FORSYTHE:

H.R. 11884. A bill to make illegal the manufacture of thin-gage steel drums; to the Committee on Interstate and Foreign Commerce.

By Mr. ECKHARDT (for himself and Mr. Adams):

H.R. 11885. A bill to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOSS:

H.R. 11886. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations for fiscal year 1974; to the Committee on Interstate and Foreign Commerce.

By Mr. PERKINS:

H.R. 11887. A bill to establish a national program for research, commercial development, and demonstration of coal gasification and coal liquefaction; to provide economic development, reclamation, conservation, and other public service revenues for coal mine areas; and for other purposes; to the Committee on Ways and Means.

By Mr. PRITCHARD:

H.R. 11888. A bill to establish a national homestead program, in cooperation with local housing agencies, under which single-family dwellings owned by the Secretary of Housing and Urban Development may be conveyed at nominal cost to individuals and families who will occupy and rehabilitate them; to the Committee on Banking and Currency.

By Mr. SHRIVER (for himself, Mr. Hudnut, Mr. Wyman, Mr. Andrews of North Dakota, Mr. Biester, Mr. Blatnik, Mrs. Boggs, Mr. Casey of Texas, Mrs. Grasso, Mr. Morgan, Mr. Rhodes, and Mr. Rinaldo):

H.R. 11889. A bill to amend the Community Mental Health Centers Act to provide for the extension thereof, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STEED (for himself, Mr. Camp, Mr. Jarman, Mr. Jones of Oklahoma, and Mr. McSpadden):

H.R. 11890. A bill to declare that the United States hold certain lands in trust for the Citizen Band of Potawatomi Indians of Oklahoma; to the Committee on Interior and Insular Affairs.

By Mr. BROWN of Ohio:

H.R. 11891. A bill to amend the National Energy Emergency Act and the Emergency Petroleum Allocation Act to waive conflicts of interest; to the Committee on Post Office and Civil Service.

By Mr. BENNETT:

H.R. 11892. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the handicapped and elderly; to the Committee on Ways and Means.

By Mr. BRADEMAS:

H.R. 11893. A bill to amend title III of the Federal Election Campaign Act of 1971 to require the designation of central campaign committees and campaign depositories, to establish contribution and expenditure limitations with respect to campaigns for the Office of President, and for other purposes; to the Committee on Ways and Means.

By Mr. CHAPPELL:

H.R. 11894. A bill to require the Secretary of the Interior to compile and keep current a mineral fuel reserves inventory; to the Committee on Interior and Insular Affairs.

By Mr. DAVIS of Georgia (for himself, Mr. Teague of Texas, Mr. Mosher, Mr. Symington, Mr. Bell, Mr. Hanna, Mr. Esch, Mr. McCormack, Mr. Fuqua, Mr. Parris, Mr. Cronin, Mr. Cotter, Mr. Martin of North Carolina, Mr. Pickle, Mr. Brown of California, Mr. Thornton, Mr. Wolff, Mr. Goldwater, and Mr. Steele):

H.R. 11895. A bill to enhance the public health and safety by reducing the human and material losses resulting from fires through better fire prevention and control, and for other purposes; to the Committee on Science and Astronautics.

By Mr. FORSYTHE:

H.R. 11896. A bill to prohibit commercial fishing in the waters located in the national seashore recreation areas; to the Committee on Interior and Insular Affairs.

By Mr. GRAY (for himself, Mr. Blatnik, Mr. Harsha, Mr. Kluczynski, Mr. Grover, Mr. Wright, Mr. Cleveland, Mr. Clark, Mr. Don H. Clausen, Mr. Johnson of California, Mr. Snyder, Mr. Dorn, Mr. Zion, Mr. Anderson of California, Mr. Hammerschmidt, Mr. Roe, Mr. Rhodes, Mr. Diggs, Mr. Cederberg, Mr. Nedzi, Mr. Chamberlain, Mr. Harvey, Mr. Vander Jagt, Mr. Esch, and Mr. Brown of Michigan):

H.R. 11897. A bill to name the U.S. Courthouse and Federal Office Building at 110 Michigan Street, NW, Grand Rapids, Mich., the "Gerald R. Ford Federal Office Building"; to the Committee on Public Works.

By Mr. GRAY (for himself, Mr. Breaux, Mr. Mizell, Mr. Studds, Mr. Baker, Mrs. Burke of California, Mr. Shuster, Mr. Ginn, Mr. Walsh, Mr. Milford, Mr. Cochran, Mr. Bafalis, Mr. Abdnor, Mr. Hanarahan, Mr. Taylor of Missouri, Mr. Riegle, Mr. Ruppe, and Mr. Huber):

H.R. 11898. A bill to name the U.S. Courthouse and Federal Office Building at 110 Michigan Street, NW, Grand Rapids, Mich., the "Gerald R. Ford Federal Office Building"; to the Committee on Public Works.

By Mrs. HOLT:

H.R. 11899. A bill to provide retirement annuities for certain widows of members of the uniformed services who died before the effective date of the Survivor Benefit Plan; to the Committee on Armed Services.

H.R. 11900. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

By Mrs. HOLT (for herself and Mr. Hogan):

H.R. 11901. A bill to authorize the Secretary of the Interior to acquire certain property in the State of Maryland for an international center park, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PRICE of Texas:

H.R. 11902. A bill to amend the Internal Revenue Code of 1954 to provide tax relief for homeowners; to the Committee on Ways and Means.

By Mr. ROE:

H.R. 11903. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SCHERLE (for himself, Mr. Morgan, Mr. Abdnor, Mr. Huber, Mr. Bergland, Mr. Bowen, Mr. Mazzoli, Mr. Hogan, Mr. Hungate, Mr. Randall, Mr. Edwards of Alabama, Mr. Gunter, Mr. Smith of Iowa, Mr. Frey, Mr. Riegle, and Mr. Litton):

H.R. 11904. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

By Mr. SCHERLE (for himself, Mr. Ichord, Mr. Young of Florida, Mr. Culver, Mr. Dickinson, Mr. Mayne, Mr. Bevill, Mr. Fuqua, Mr. Horton, Mr. Thone, Mr. Winn, Mr. Kemp, Mr. Taylor of North Carolina, Mr. Ketchum, Mr. Derwinski, Mr. Mann, Mr. Davis of Georgia, Mr. Yatron, Mr. Nichols, Mr. Andrews of North Dakota, Mr. Montgomery, Mr. Lott, Mr. McCollister, Mr. Johnson of Pennsylvania, Mr. Bennett, and Mr. Morgan):

H.R. 11905. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

By Mr. SNYDER (for himself, Mr. Howard, Mr. Blatnik, Mr. Cleveland, and Mr. Taylor of Missouri):

H.R. 11906. A bill to amend the Appalachian Regional Development Act of 1965 as amended; to expedite the development of processes for the synthesizing of liquid and gaseous hydrocarbons; to the Committee on Interior and Insular Affairs.

By Mr. BADILLO (for himself, Mr. Roy, Mr. Derwinski, Mr. Rosenthal, Mr. de Lugo, Mrs. Collins of Illinois, Mr. Dellums, Mrs. Schroeder, Mr. Rhodes, Mr. Wydler, Mr. Ryan, Mr. Pepper, Mr. Young of Alaska, Mr. Gonzalez, Mr. Benitez, Mr. Hawkins, Mr. Murphy of New York, Mrs. Grasso, Mr. Bingham, Mr. Rodino, Mr. Cohen, Mr. Roybal, Mr. Long of Louisiana, Mrs. Chisholm, and Mr. Won Pat):

H.J. Res. 851. Joint resolution authorizing and requesting the President to proclaim the week of May 13, 1974, as Bilingual Education Week; to the Committee on the Judiciary.

By Mr. BADILLO (for himself, Mr. Moakley, Ms. Abzug, Mr. Stokes, Mr. Treen, Mr. Towell of Nevada, Mr. Koch, Mr. Pickle, and Mr. Danielson):

H.J. Res. 852. Joint resolution authorizing and requesting the President to proclaim the week of May 13, 1974, as Bilingual Education Week; to the Committee on the Judiciary.

By Mr. PICKLE (for himself, Mr. McCollister, Mr. Montgomery, Mr. Kemp, Mr. Spence, Mr. Burgener, Mr. Cochran, Mr. Don H. Clausen, Mr. Rangel, Mr. Huber, Mr. Scherle, Mr. Quie, Mr. Ketchum, Mr. Addabbo, Mr. McEwen, Mr. Bob Wilson, Mr. Robinson of Virginia, Mr. Won Pat, Mr. Eilberg, Mr. Roe, Mr. Treen, Mr. Rousselot, Mr. Hudnut, Mr. Steelman, and Mr. Mazzoli):

H.J. Res. 853. Joint resolution expressing the concern of the United States about American servicemen missing in action in Vietnam; to the Committee on Foreign Affairs.

By Mr. REUSS:

H.J. Res. 854. Joint resolution to authorize the President of the United States to proclaim January 1974, "African Relief Month"; to the Committee on the Judiciary.

By Mr. WIGGINS (for himself, Mr. Hosmer, Mr. O'Hara, Mr. Mayne, Mr. Butler, Mr. Conte, and Mr. McCloskey):

H.J. Res. 855. Joint resolution proposing an amendment to the Constitution of the United States relative to information proceedings and grand jury indictment; to the Committee on the Judiciary.

By Mr. ESHLEMAN (for himself, Mr. Won Pat, Mr. Snyder, Mr. Derwinski, Mr. Froehlich, Mr. Schneebeli, Mr. Winn, Mr. Waggonner, Mr. Roush, Mr. McDade, Mr. Lott, Mr. Mitchell of New York, Mr. Steelman, Mr. Burgener, Mr. Zwach, Mr. Roy, Mr. Cronin, and Mr. Mann):

H. Con. Res. 396. Concurrent resolution expressing the sense of the Congress with respect to certain patents which, if utilized, could result in energy savings; to the Committee on the Judiciary.

By Mr. CULVER:

H. Con. Res. 397. Concurrent resolution proviidng for the printing of additional copies of hearings before the Subcommittee on Foreign Economic Policy entitled "Foreign Policy Implications of the Energy Crisis"; to the Committee on House Administration.

EXTENSIONS OF REMARKS

THE NEED FOR TRADE REFORM

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1973

Mr. RAILSBACK. Mr. Speaker, I am pleased to add my support to one of the most significant pieces of legislation to come before the 93d Congress. Its provisions are important to all Americans—businessmen, consumers, farmers, and workers.

The Trade Reform Act was originally proposed by President Nixon in April of this year. At that time, he explained:

> The trade bill I am sending to Congress can mean more jobs and better jobs for American workmen.
>
> It can help American consumers get more for their money.
>
> It can help us expand our trade, and thus expand prosperity in America.
>
> And, most importantly, these proposals can help us reduce international tensions and strengthen the structure of peace in the world.

As we are all aware, legislation is imperative if the President is to participate in the multilateral trade negotiations. He has had no authority to conclude international trade agreements since June 30 of 1967—This is the longest period in U.S. history in which a President has not had this authority. Unless the United States has power to grant reciprocal trade concessions to other countries, there can be no progress in moving toward world trade liberalization.

Briefly stated, the major provisions of the Trade Reform Act are as follows:

First, renewal and extension of the President's authority to enter into trade agreements with other countries for 5 years, and authorization to proclaim duty modifications or continuances;

Second, authorization of the President to enter into trade agreements with other countries for 5 years providing for the elimination or reduction of nontariff barriers and/or any other distortions of international trade;

Third, requirement that, in exercising his trade agreement authority, the President shall assure mutual trade benefits;

Fourth, additional authority granted to the President to temporarily modify restrictions on U.S. imports to deal with balance-of-payment disequilibria and inflation;

Fifth, continuing and close congressional oversight of international trade negotiations and the implementation of and operation of international trade agreements;

Sixth, improvement of the present import relief clause as a means of assuring greater accessibility and more effective delivery of import relief to those industries seriously injured or threatened with serious injury from increased imports;

Seventh, improvement of current adjustment assistance programs for both workers and firms that are adversely affected by increased imports;

Eighth, improvement of domestic public procedures that insure the consideration of the economic interests of all citizens, consumers and producers, exports and importers;

Ninth, improvement of the means of dealing with problems of unfair trade practices in this country and abroad;

Tenth, requirements to respond to the President's request for authority to normalize trade relations with certain trading countries; and

Eleventh, authorization for the President to grant preferential tariff treatment to the exports of developing countries as part of U.S. participation in the common effort to developed countries to encourage diversification and development of exports from developing countries.

I also might add that, although the President recommended modifications of foreign source income, the House Ways and Means Committee has deferred action on multinational companies and tax modifications until the committee considers tax reform, presumably next session. I had urged such a decision earlier in the year.

To conclude, the Trade Reform Act of 1973 is indeed reform legislation. As the committee report says:

> It endeavors to bridge the gap between what has been desirable policy in the past and the needs of a future, with a view toward a continued policy of trade expansion.

The legislation responds to the President's request for authority to participate in the trade negotiations. It recognizes that substantial changes have occurred in the trading arena since the last trade reform legislation was enacted. And, of particular encouragement to me, the legislation includes a substantial delegation of congressional authority.

I urge immediate enactment of the Trade Reform Act of 1973.

THE ENERGY CRISIS

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. HILLIS. Mr. Speaker, I have come across an editorial given by John Bradford of radio station WIKY in Evansville, Ind., which I believe to be the most succinct and accurate description of our energy crisis which has appeared to date. Mr. Bradford should be congratulated for his ability to see the problem in such perspective.

And, I also commend Roger Zion, my colleague from Indiana, who is chairman of the House Republican Task Force on Energy and Resources of which I am also a member, for his attention and hard work on the energy problem.

The radio editorial follows:

RADIO EDITORIAL

After the first shock of any crisis, Americans like to hunt scapegoats—so much of the discussion of the energy crisis now centers on the question of blame.

Well, the easy answer is that there is lots of blame to go around. First, of course, President Nixon can be blamed. If he had not started massive military shipments to Israel in October, the Arabs would not have shut off the oil. But then, of course, Congress can be blamed. If it had not ignored the warnings—particularly the energy message proposed by Roger Zion four years ago and the President's message two years ago—we would be much farther on the road to self-sufficiency.

The environmentalists can't escape the blame. They delayed for three precious years the recovery of Alaskan oil because the Caribou might trip over the pipeline. And their crusading has inhibited extraction of coal and exploring for more oil.

Let's not overlook government. Stoneheaded policies on the pricing of natural gas has kept production far below what it might have been.

And, finally, all of the American people share in the culpability. By using thirty percent of all the world's available energy to comfort the six percent of humanity, Americans have brought on the crunch. More than that, Americans have demanded, and got, this energy on the cheap.

Now, after we have finished parceling out the guilt, let's get down to the job of cooperating to avert a serious economic upheaval.

The Republic will stand—but everyone will have to undergo a little sacrifice—a little hardship.

THE TRANSFER OF THE SAN DIEGO PADRES

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. BURGENER. Mr. Speaker, it has been reported that the San Diego Padres may be transferred to Washington. The team would abandon San Diego and its new stadium in spite of a currently valid contract between the Padres and the city of San Diego that still has 15 years to run. The team would come to Washington to occupy a new stadium which was built by the District of Columbia Armory Board which was established by the Congress in 1948. This stadium was built with funds raised through the sale of bonds guaranteed by the Government. The stadium will actually revert to the Federal Government at the end of a 30-year period.

The obvious congressional interest in the stadium may have had some effect on the terms of the agreement the Armory Board approved by resolution for rental of the stadium. Not only is the rent a low 10 cents per admission—for the first million admissions—the concessions, part of the advertising, and parking revenues will go to the team. The stadium will be picking up the cleaning, security, and maintenance costs. This, I submit, is a giveaway lease.

All of this raises serious questions of whether the people of San Diego, as Federal taxpayers may have been forced to contribute to the opposing side in the struggle over the transfer of the team.

But what really causes concern among those of us from San Diego is a facet of this deal which should be causing concern to all Members of the Congress who care about the equal treatment of our people by their Government. That is the report that Federal funds may be used to indemnify the perpetrators of this transfer; namely, the National League owners, from monetary liability should the city of San Diego prevail in its breach of contract litigation.

San Diego built a new stadium because of the assurance, contractually given, that the Padres would use the stadium for a 20-year period. If the league wants to authorize a change in the location of the franchise it should be subject to the legal ramifications of violating that contract. The press has carried many reports of assurance that the Congress would authorize the use of tax moneys to defray the cost of violating the contract. This, above all, cannot be allowed.

CON EDISON ON THE ARTS

HON. OGDEN R. REID

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. REID. Mr. Speaker, I insert in the Record a speech recently given by Charles Luce, chairman of the board of Consolidated Edison Co., of New York, on the value of the arts in our society.

Although, as many of the Members know, I have not been a consistent admirer of Con Ed, I do believe that in this case Mr. Luce has shown leadership and initiative in attempting to improve the quality of our lives by broadening support of the arts to show New Yorkers that, as he says:

> Art belongs to everyone—not just an elite few.

Mr. Speaker, I commend this article to the attention of my colleagues:

ART IN THE URBAN ENVIRONMENT

(Remarks of Charles F. Luce)

Thank you for the recognition you are giving today to Con Edison's urban cultural programs. We have enjoyed sponsoring them as much as we believe their various audiences have enjoyed attending them.

The relationship between business and the arts has improved considerably since Henry James wrote that the average American businessman regarded culture as the special concern of "women, foreigners and other impractical persons."

Business has come to realize that support of the arts is more than altruism—that is good for business because it helps create a better environment for people to work and live in. David Rockefeller, who has done so much to encourage business participation in the arts, has summed this up well. There is need, he said, for things that "can smooth the edges of an environment."

And nowhere is this need more pronounced than in an urban, heterogeneous environment where congested subways, noisy streets and the impersonality of large crowds represent daily existence for many people.

Better housing, education and employment opportunities are of course the paramount goals in the effort to improve the quality of urban life. Much remains to be done in these areas, and Con Edison is attempting to do its share. Art cannot be presented as an answer to what are very serious economic and social problems.

However, art can do other important things for society. It can help celebrate those occasions that mark man's common humanity. For individuals, it can keep them responsive to new ideas; by enriching their knowledge of the past, it can define their individuality; and it can give hope for the future.

Indeed, art offers each of us new dimensions of perception, satisfaction and joy that we cannot find in any other pursuit.

Because of art's positive contributions, it is surprising that business took so long to realize the value—and even the necessity—of active corporate support.

Fortunately, there was other support to fill this void. Through the centuries, the arts enjoyed the patronage of certain governments, religious institutions and wealthy families. From the Medici to the Mellons, such patronage produced individual works of art as well as the museums and other public buildings where art could be viewed and appreciated by others.

Of course, many of these wealthy families earned their fortunes through commerce. But they were the exception. Until recently, only a small percentage of American businessmen supported the arts—or even displayed any interest in them.

And government in America tended to share this disinterest. Except for such efforts as the Depression-era artists and writers projects—projects prompted by extraordinary circumstances—the federal government did practically nothing to further artistic development prior to the early 1960s. And the states were not much better. The creation of the New York State Council on the Arts in 1960—with a budget of $50,000—marked the first such effort in the nation aside from a shortlived Utah State Art Institute created in 1899.

Much credit has been given to the 1965 Rockefeller Panel Report on the Performing Arts for being the catalyst in fostering increased business and governmental support. And certainly the dramatic post-1965 increase in corporate support for traditional cultural institutions such as museums and symphony orchestras—as well as the new governmental commitment on all levels—is in good part attributable to this report.

Corporations have increased their support of the arts from $22 million in 1965 to more than $100 million today. And they have formed such groups as the national Business Committee for the Arts and this local Arts and Business Council to further their involvement.

From its humble initial budget of $2.5 million in 1965, the federal government's National Endowment for the Arts is now spending $118 million to support the arts on all levels. The New York State Council is now funding arts groups at the rate of $15 million a year, and the other 49 states have followed New York's lead in establishing such agencies. New York is still well in the lead, however. The New York Council's budget exceeds the combined total of all the other states' annual appropriations for arts councils.

This increased corporate and governmental support could not have come at a more opportune time. As Schuyler Chapin and others have pointed out, the personal philanthropy that has long supported such institutions as the Metropolitan Opera is rapidly becoming a thing of the past. New tax laws and other factors have caused a marked reduction in the large individual gifts that have been the traditional backbone of such institutions.

For the long term, it is essential that governmental support be broadened and strengthened. However, many large corporations—manufacturing companies, oil companies, airlines—are today helping to pick up the slack, both by grants to cultural institutions and by sponsoring cultural programs on public and commercial television which, in turn, help to develop new audiences for the institutions.

I am the first to enjoy the results of such corporate undertakings, and I certainly hope they will continue and grow in scope. But we at Con Edison—partially through choice and partially through necessity imposed by limited resources—have taken quite a different path. We have directed our corporate support solely to urban cultural programs on the community level within our service territory.

We consider our cultural programs an integral part of that which is popularly called a corporation's "social responsibility." Therefore, our efforts to improve cultural opportunity are closely related to our efforts in the more traditional areas of corporate involvement such as employment, health and education.

Just as our educational and civic contributions are directed to specific programs that fill the greatest human needs within our service territory, so is it also with our cultural dollars. And there is, we believe, good reason for such a practice.

As a public utility, Con Edison is forever bound to the five boroughs of New York City and Westchester County. If economic and social conditions become difficult here, we do not have the option of picking up our corporate headquarters and moving to Dallas or Denver or even suburban New Jersey. Our concern about the quality of life here is real. And, within the strictures of our limited and tightly regulated resources, we are attempting to improve it in whatever way we can.

We want all New Yorkers to know there is a Lincoln Center and a Metropolitan Museum of Art, and to be proud of the fact. That is why we sponsor with such institutions programs that many segments of the community will attend and enjoy.

We want all New Yorkers to know that art belongs to everyone—and not just an elite few. That is why we set up art galleries in our district offices and contribute equipment and manpower so large sculptures can be exhibited at various public sites.

We want all New Yorkers to be able to share in the varied cultural resources of our City. That is why we support a program that brings entertainment to the frequently forgotten residents of nursing homes and other institutions.

Aside from being directed toward those who might be called the victims of a cultural inequality, our arts programs have two other traits in common: they feature strong community input and participation, and they involve more than just financial support. Our monetary limitations being what they are, we rely heavily on ingenuity, creative use of internal corporation resources, and cooperation with arts and community groups in order to stretch our involvement far beyond what it would be if our participation were strictly financial. And I think most others corporations could do the same thing.

Our two largest cultural programs this past year were the Community Holiday Festival at Lincoln Center and the History of Puerto Rican Art exhibit at the Metropolitan Museum of Art and El Museo Del Barrio, a community museum in Spanish Harlem. In each case, our total contribution was much greater than could be measured in just dollars and cents. And the community benefit from these programs was much greater than could be measured in just attendance figures.

For the Puerto Rican art exhibit, the first comprehensive survey of Puerto Rican art, we assisted with publicity and the preparation of educational printed materials. Through our community contacts, we helped arrange attendance by school and community groups. Before the exhibition closed, it had been viewed by 25,000 persons at El Museo and 50,000 at the Metropolitan. For many members of New York's Hispanic community, the exhibit marked their first visit to the Metropolitan—even though this museum of diverse art treasures is less than 30 blocks from Spanish Harlem. Hopefully, their interest was whetted enough to encourage return visits. Hopefully, this exhibit also helped create the sense of community, and the appreciation for one's heritage, that I mentioned earlier.

Likewise, our sponsorship of the Community Holiday Festival at Lincoln Center involved more than contributing funds to produce the 12 programs.

Working with a large network of community groups, as well as the Board of Education, we spent scores of manhours on audience development. As a result, 11,000 persons from disadvantaged areas, mainly children and family groups, attended the Festival and enjoyed performers from their own neighborhoods in programs arranged by borough arts councils and other umbrella groups, such as the Harlem Cultural Council and the Chinatown Planning Council.

For many in the audience—and on the stage—it was their first visit to Lincoln Center. And the fact that audiences were watching performers from their own communities—and their own ethnic groups—did much to instill a feeling of community and individual worth among audience and performer alike. And, I might add, the programs were also very entertaining: they provided a very pleasant afternoon or evening, even without their concomitant social value.

Our effort to do the most with our limited cultural funds is a continuing process. And we're always on the lookout for new opportunities. Some of our most successful programs to bring art to the community involve no financial contribution per se, but are based on the donation of manpower, equipment and facilities.

For example, one unorthodox—but successful—activity was the establishment of a community art gallery in one of our Bronx district offices. This undertaking came about when the Bronx Museum was seeking, through the Bronx Council on the Arts, a public location to display the work of local artists. In addition to volunteering the use of our storefront office, we also made the renovations necessary to facilitate the hanging of paintings.

The gallery has been in operation nearly a year now—with the shows changed every six to eight weeks to give many artists a chance to be exhibited. Similar projects are now underway in our Brooklyn and Staten Island Divisions—and are being planned in Manhattan.

Just as we put office space into use as an art gallery, we also put 60-foot cranes into use to move large sculptures. We are told that the cost of outdoor sculpture exhibits sponsored by the Association for a Better New York and the Parks Department was reduced considerably by Con Edison's equipment and manpower contributions. And thousands of New Yorkers viewed the sculptures at their new public sites in the Bronx, Brooklyn and Manhattan.

We are finding new ways to expand our contribution to the arts. For example, we have provided portable generating equipment for outdoor art festivals; we have helped defray the administrative costs of arts groups by printing catalogs and other materials; we have donated surplus furniture to museums and theater groups; we have shared our manpower and professional expertise with several cultural organizations; we work to stimulate employee interest in the arts.

Is it over-reaching to compare, as some have done, today's corporate support of the arts to the traditional patronage of the arts by the leaders of commerce that began with the Renaissance mercentile princes?

Surely, sponsorship of community art galleries—or even a capital grant for a new concert hall—is not the same as commissioning a work by Leonardo da Vinci.

However, 20th century New York is not 15th century Florence. Its needs are different; its opportunities are different; its resources are different.

Within the context of these differences—and within the context of necessary further increases in government support for our cultural institutions—that which is being done today by some corporations—and by groups such as the Arts and Business Council—can have in the long run great significance.

It can improve our physical, social and cultural environment; it can give our fellow citizens new horizons to which to aspire; and it can evoke those small pleasures that are all too often absent in our hectic, computerized society.

Con Edison is delighted to be part of such an exciting undertaking.

STRIKING THE BALANCE

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. PICKLE. Mr. Speaker, when we are faced—as we are with the energy shortages—with something that strikes at the heart of our way of life and at our livelihoods, it is hard to keep one's head together.

It is hard not to find a scapegoat, strike out in anger, and try to find a "quickie" method to get out of the jam.

It is even harder to sit down, put one's feet in the other guy's shoes, and find a reasonable solution to the problem that everyone can live with.

It is hard even when not doing it means the situation will only become worse.

It is particularly hard if that "other guy" happens to be someone like the oil companies.

But that is just what we must do if we are to have energy at all in the next decade.

Ms. Margaret Mayer, an experienced and outstanding journalist, addressed this problem in a column in the Dallas Times Herald recently, and I would like to reprint that column in the Record at this time:

Profit Versus Gouging

(By Margaret Mayer)

Price gouging is not the solution to the energy crisis. Higher prices—both to dampen demand and provide incentive necessary to develop new energy resources—are, in the opinion of some of the brightest minds applied to the subject, a necessary step in the solution.

Convincing the public there is a difference between the two—that legitimate profit is not price gouging—is the toughest problem facing industry today and in the months ahead.

Any Washington cab driver can tell you who's responsible for the gasoline shortage—the oil companies. The oil companies caused it so they could "rake in" more money. When gas stations servicing cabs in Washington limited drivers to less than 7 gallons (a maximum $3 purchase) 10 days ago, the shortage hit their livelihood. They wanted somebody and something to blame.

How are you going to convince a cab driver or a truck driver that a 60 percent increase in 3rd quarter profits for oil companies was due to higher tanker rates or changes in foreign currency exchange rates or higher prices abroad that didn't really affect the price he pays at the pump?

How are you going to explain that a one-month 34.7 per cent jump in wholesale prices for refinery products may be based on misleading markets?

Try to tell the cab driver that oil company profits are actually less than those for manufacturing as a whole.

The best reasoned, most valid defense of oil profits in the current climate will make the "sinister force . . . devil theory" for erasure of 18 minutes of conversation on a White House tape sound like clear logic by comparison.

The comparison is a seriously topical one. Senate Democratic Leader Mike Mansfield last week referred to oil company financial records as "the most secret documents in the world." Say "secret" these days and the mind flies instantly to something sinister like secret Watergate tapes.

The implication is that the companies are hiding even larger profits than those reported and, more particularly, huge reserves of oil and natural gas that they refuse to tap until prices go even higher.

A "company man" who understands congressional hostility toward the oil industry admits that companies do not want to open up information on reserves (though keeping them secret may be the more damaging alternative) for competitive reasons. The explanation falls on deaf ears with anti-industry congressmen who refuse to acknowledge any competition exists where oil is concerned.

The industry man also admits that companies are loath to disclose the extent of their tax write-offs, which some begin to believe are a political millstone that outweighs the benefits derived.

He does deny, as Mansfield implied, that profits are either secret or exhorbitant, pointing out that even the Federal Trade Commission, presently intent on breaking up big integrated oil companies, says the rate of return on oil investment is not excessive.

"We're not hiding our profits," he says. "It's just that people don't want to sit still and listen to reason.

His reasoning is along the lines stated last week by the new respected energy czar, William E. Simon. It begins with the time when energy was both overabundant and cheap. When its value took on meaning, government assumed control. Producers went out of business.

The natural gas industry, as the foremost example, claimed 14,000 producers when the federal power commission started clamping down on prices in the early 1950's. Today there are 4,000 producers and the most ardent advocate of FPC control decry "big oil and gas."

"In the guise of protecting the consumer," says the company man, "they (control advocates) have made the industry so concentrated that it's in the hands of a few. If they carry through to their ultimate goal, they would make the product so cheap that the consumer can't get it at any price."

The choice for the consumer, he says, is between more expensive energy or no energy.

The problem is how to convince the consumer and, through him, the politician.

DISTINGUISHED SERVICE AWARD OF THE NATIONAL KIDNEY FOUNDATION

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. ESCH. Mr. Speaker, it is with great pleasure that I inform the Members of the House that Mrs. Harry Anderson, of Ann Arbor, Mich., has been presented the Distinguished Service Award of the National Kidney Foundation.

Veda Anderson, a member of the Board of Regents of Eastern Michigan University, was one of the founders of the Kidney Foundation of Michigan and has served as its vice president and as a trustee.

Last year, Mrs. Anderson was elected vice president of the National Kidney Foundation, a national voluntary health agency working toward the prevention, treatment, and cure of kidney disease. The organization and its State affiliates sponsor research and detection programs, educate the public and professionals in the field, provide patient and community services, inform legislators and insurance carriers as to the need for health care and help secure organs for transplant through the organ donor program.

In addition, to her many efforts on behalf of those suffering from kidney disease, Mr. Anderson helped initiate the National Kidney Foundation trick or treat candy program which has raised hundreds of thousands of dollars for the foundation.

Mr. Speaker, the Nation and especially residents of Michigan, will long remember the unselfish efforts of Veda Anderson. In announcing that she would be presented the Distinguished Service Award, National Kidney Foundation President E. Lovell Becker said it is "in recognition for your outstanding contributions through the years to build a strong kidney foundation, both locally and nationally."

DR. RUSSELL A. NIXON DIES AT 60; COLUMBIA MANPOWER ECONOMIST

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. HAWKINS. Mr. Speaker, this week a noted specialist, economist and educator, Dr. Russell Arthur Nixon, died of a heart attack in New York City after a distinguished career.

I am personally indebted to Dr. Nixon for his invaluable service in assisting me in the development of plans for the furtherance of a full employment program.

Under his inspiring leadership and unlimited enthusiasm, we were involved, even up to the week of this death, in formulating what we believed to be an absolute necessity to commit the Nation to a "guaranteed jobs program."

In the crisis through which we are now passing, men of the type of Russ Nixon are badly needed; and it is our hope that he leaves with us a legacy of inspiration that will motivate others to carry on the work he so unselfishly started.

A relevant news items on this distinguished American from the December 9, 1973, edition of the New York Times follows:

Dr. Russell A. Nixon Dies at 60; Columbia Manpower Economist—Professor of Social Policy Was Consultant to Government Agencies and Unions

Dr. Russell Arthur Nixon, a leading manpower economist, died yesterday of a heart attack in St. Vincent's Hospital. He was 60 years old and lived in Brooklyn Heights.

Dr. Nixon was associate professor of social policy at the Columbia University School of Social Work and chairman of the community relations committee of the university Senate since 1969.

From 1966 to 1971 he worked with Congressmen and Congressional committees on manpower, anti-poverty, delinquency and rehabilitation legislation, including the comprehensive manpower and family assistance plan proposals in 1970.

PROFESSOR AT NYU

In 1968–69, Dr. Nixon was associate professor at the New York University Graduate

School of Social Work and associate director of the Center for the Study of the Unemployed, where he directed its institutes and curriculum development.

In 1967–68 he gave manpower courses at the New School for Social Research, and earlier lectured at the Lewis M. Herrman Labor Education Center of Rutgers University.

From 1962 to 1965 he was manager of The National Guardian, a weekly newspaper that described itself as "progressive."

CONTEMPT CITATION

In 1964 Dr. Nixon was called to testify before the House Un-American Activities Committee after he and two members of the Women Strike for Peace Group, Dagmar Wilson and Donna Allen, had urged in 1963 that State Department admit for a lecture tour the Japanese law school dean and pacifist Kaoru Yasui.

The three refused to appear before the committee, protesting that the closed sessions would violate their freedom of speech by depriving them of the opportunity to deny publicly any implication that they had been involved in subversive activities.

Dr. Nixon, Mrs. Wilson and Mrs. Allen were cited for contempt of Congress, but those citations were thrown out in 1966 by the Court of Appeals for the District of Columbia.

Dr. Nixon was Washington representative of the United Electrical, Radio and Machine Workers of America from 1941 to 1962, serving as liaison with many Federal agencies on union legislative and economic matters.

In World War II he served with the infantry in Europe. In 1945 he transferred to the American Military Government, and took an important part in the denazification process in Germany. He was deputy director and acting head of the division of investigation of cartels and external assets for the American Military Government in Berlin.

Dr. Nixon received the Bronze Star for participating in the Allied intelligence group that uncovered Nazi poison gas plans and facilities.

Before the war he was legislative representative of labor's Non-Partisan League, a Congress of Industrial Organizations legislative and political unit in Washington, and worked with John L. Lewis, the labor leader.

Dr. Nixon was born July 27, 1913, in St. Paul, graduated from the University of Southern California in 1934 and received a Ph.D. degree in economics from Harvard in 1940.

From 1937 to 1941 he was an instructor and tutor in economics at Harvard, where John F. Kennedy was among his students. In Theodore C. Sorensen's biography, "Kennedy," the late President is quoted as saying that he was not a professional economist "but [one] who knows a hell of a lot about it after taking Ec-A under Russ Nixon at Harvard."

Dr. Nixon also taught economics at Radcliffe College from 1939 to 1941 and earlier at the Massachusetts Institute of Technology.

CONSULTANT TO AGENCIES

He had been a consultant to the University Research Corporation, the Office of Education of the United States Department of Health, Education and Welfare, the Commuity Action Program of the Office of Economic Opportunity, and the Vocational Rehabilitation Program of the New York City A.F.L.-C.I.O. Central Labor Council.

In 1970–71 he worked with the Secretary of Labor of Puerto Rico in developing a program for public-service employment of unemployed youths.

Dr. Nixon was a member of the board of editors of Science and Society, a scholarly quarterly; chairman of the subcommittee on construction industry of the Employment Opportunities Committee, New York and a member of the Manpower Task Force, the New York Urban Coalition and of many professional societies.

Surviving are his widow, the former Florence Guild; his mother, Mrs. May Nixon, and a sister, Mrs. Lois Kratha.

A memorial service will be held later at Columbia University.

SPECIAL PROSECUTOR

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. CARTER. Mr. Speaker, the Honorable William "Billy" Cohen of the State of Maine was elected to the 93d Congress of the United States. He is a graduate of Bowdoin College and the Boston University Law School. Recently, it was my pleasure to hear him speak informally to our prayer breakfast group. It is apparent that he is a man of sincere and deep conviction, of unusual brilliance and ability. I submit that in the years ahead he will become prominent in the affairs of this Nation.

I include for the Record an article appearing in today's Washington Post in which he presents the case against authorizing the U.S. District Court to name a Special Watergate Prosecutor.

Endangering the Special Prosecutor

(By William S. Cohen)

Justice Holmes once wrote that a "catchword can hold analysis in fetters for 50 years." It is a noteworthy observation, for as Congress prepares to debate and deliberate on the subject of a special prosecutor, it is in danger of being mesmerized by the popular call for an "independent" prosecutor. The need for a special prosecutor whose independence cannot be summarily intruded upon by the body that is the subject of investigation can no longer be a matter of legitimate debate. The question is, how can the objective of establishing the office of special prosecutor be achieved most expeditiously and in a manner that will survive constitutional attack?

The House Judiciary Committee has reported favorably on a bill that would require a panel of U.S. District Court judges to appoint the special prosecutor. Though the bill has several commendable features designed to strengthen it against challenges that are certain to follow, most proponents of the bill, including Archibald Cox, have conceded that it is not free from Constitutional doubt.

It is argued, however, with a familiar ring of pain reliever commercials, that three out of four experts agree that the bill is Constitutional. When further delay in taking action on Watergate-related criminal activities can only contribute to the distintegration of public confidence in our institutions, one must ask what public interest is being served in adopting a bill that has a quarter-moon chance of being invalidated?

In addition, the U.S. District Court in Washington, in a unique, unsolicited "advisory" opinion, stated that the proposal would be unwise, unwelcomed and (impliedly) unconstitutional. Proponents of the bill dismiss the admonition as not rising to the dignity of judicial *dicta*. It is interesting to speculate what reception the Court's opinion would have received had it endorsed the Judiciary Committee's proposal.

But all of this misses the mark. The question really is not one of independence. Mr. Cox was independent and Leon Jaworski, to the great despair of some, is demonstrating daily that he too is independent. Congress can draw statutory prohibitions against arbitrary orders emanating from the White House concerning the prosecutor's tenure. The problem has been and is the lack of access to presidential documents, memoranda and recordings. Congress, through a confirmation process by the Senate, could insist upon a commitment that is tantamount to a waiver of that vague and seemingly all-purpose doctrine of executive privilege as a condition precedent to its approval of a special prosecutor nominated by the President. Mr. Nixon has said in private that the "special prosecutor should have everything and when he asks for it, he shall get it." Vice President Ford has testified that in his opinion executive privilege should not be invoked in any claims involving alleged criminal conduct. This proposal would simply commit broad promises into the semi-permanence of statutory ink.

Congress, however, dazzled by the glitter of obtaining a special prosecutor who could never be fired by the President for any reason—legitimate or not—appears unwilling to adopt any alternative course of action. Moreover, many proponents of the court-appointed prosecutor privately suggest that whether or not the committee bill proves to be constitutional is of little consequence, since the question soon will be moot.

These members envision the following sequence of events: The bill for a court-appointed special prosecutor will pass the House and Senate. The President will veto the bill and the veto will be sustained. Mr. Jaworski, in the meantime, will continue his efforts in securing indictments against all wrongdoers. If he succeeds, he will be praised by all; should he fail, the proponents of the bill can maintain that they stood tall in the pursuit of justice while the President and his votaries (anyone who opposed their bill) achieved their goal of frustrating and defeating the search for truth.

But assume a different scenario. Assume that certain White House advisers, unhappy with Mr. Jaworski's independence, were to suggest to the President that while they believed the bill to be unconstitutional, the President should not veto it and allow the courts to make the determination. The immediate result would be weeks and perhaps months of delay, confusion and confrontation. Mr. Jaworski would not be able to continue his efforts because congressional action would have superseded his appointment. The President would be under no obligation to "fully cooperate" with a court-appointed prosecutor whose office would almost certainly be challenged, if not by the White House, then surely by prospective defendants. Thus the quest for truth would be delayed and perhaps even derailed.

While it is not the most desirable arrangement, what is best for the country "at this point in time" is to allow Mr. Jaworski to continue in office, with his integrity and demonstrated independence buttressed by strong statutory protection. The greatest safeguard against his dismissal by the President is public opinion. President Nixon crossed that Rubicon on October 20, 1973. He is not in a position to cross it a second time.

MY VOTE ON THE TRADE REFORM ACT

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. WIGGINS. Mr. Speaker, I regret having missed the opportunity to vote today on the Trade Reform Act, but unfortunately I had to be in attendance at a meeting of the Commission on Revision of the Federal Court Appellate System. While I do have strong reservations about some aspects of the act, especially in regard to the Vanik amendment of Export-Import Bank credits, I feel that other factors weigh in favor of the legislation, and thus would have voted in favor of final passage.

DANIELSON POLL SHOWS IMPEACHMENT FAVORED

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. DANIELSON. Mr. Speaker, I recently sent a questionnaire to all of my constituents in the 29th District of California, asking their opinions on many of the major issues that face us today. I feel sure that my colleagues would be interested in the results of that questionnaire so I am inserting it in the RECORD at this point:

DANIELSON POLL SHOWS IMPEACHMENT FAVORED

Congressman George E. Danielson today released preliminary questionnaire results indicating that impeachment of President Nixon is favored by a majority of the 29th Congressional District residents who responded to his recent poll.

"It is interesting to note that while the mail I received on this issue favored impeachment by a six to one margin," Danielson pointed out, the results of the questionnaire are substantially different, with 53.9% of those replying indicating support and 42.5% opposing impeachment. There were 3.6% undecided. This is still a substantial majority, but not as overwhelming as the mail count."

Other results announced by Congressman Danielson showed overwhelming support for export controls on scarce commodities. Very strongly favored, also were the establishment of an independent special prosecutor's office, health insurance legislation, the death penalty on serious federal crimes, a limit on total federal spending, and efforts to improve relations with the Soviet Union and Mainland China.

Danielson's questionnaire results also showed a strong feeling among his constituents that the President has too much authority to act without the consent of Congress, with 59.4% replying "yes" and 34.1% saying "no". There were 6.5% undecided.

Almost an equal number of respondents favored and opposed the continuation of compulsory wage-price controls, with an unusually large percentage of undecided among those polled.

Danielson also tallied the results by sex, and had a separate place for persons between the ages of 18 and 20 to reply. Some of the more striking differences that showed up included the fact that women were slightly less willing to impeach the President and to set up a special prosecutor's office than either the men or the young people. On impeachment, 18-20 year olds—57%; men—55%; women—52%. On the special prosecutor's office, 18-20 year olds—76%; men—73%; women—70%.

Young people tended slightly more to oppose wage-price controls and also included a larger group of undecided. Women tended to show less support than men for health insurance legislation, the death penalty, and improved relations with the Soviet Union and Mainland China. On the other hand, they gave stronger approval to export controls on scarce commodities than the men did. Young people favored these controls even slightly more than women did.

The preliminary results of the questionnaire are shown below:

[In percent]

	Total	Male	Female	Age 18-20
1. Do you favor the impeachment of President Nixon:				
Yes	53.9	55.2	52.2	56.9
No	42.5	41.3	44.2	37.9
Undecided	3.6	3.5	3.6	5.2
2. Do you favor having a special prosecutor for Watergate matters independent of the President and responsible only to the courts:				
Yes	71.9	73.3	69.9	75.9
No	22.8	22.9	22.9	20.7
Undecided	5.3	3.8	7.2	3.4
3. Do you feel the President has too much authority to act without the consent of Congress:				
Yes	59.4	59.5	59.2	60.3
No	34.1	34.9	33.4	32.8
Undecided	6.5	5.6	7.4	6.9
4. Do you favor the continuation of compulsory wage-price controls after phase 4:				
Yes	41.0	41.0	41.5	36.2
No	40.7	42.7	38.5	39.7
Undecided	18.3	16.3	20.0	24.1
5. Do you favor Federal legislation to make health insurance available to all citizens:				
Yes	76.2	77.9	73.7	81.0
No	15.6	15.0	17.5	5.2
Undecided	8.2	7.1	8.8	13.8
6. Should the death penalty be imposed for serious Federal crimes such as kidnapping, assassination and airline hijacking:				
Yes	74.6	76.8	72.9	67.3
No	20.0	19.1	20.6	24.1
Undecided	5.4	4.1	6.5	8.6
7. Should Congress adopt a strictly enforced limit on total Federal spending each year:				
Yes	72.0	72.1	72.4	67.2
No	16.4	16.4	15.9	20.7
Undecided	11.6	11.5	11.7	12.1
8. Should the U.S. impose export controls on feed grains and other scarce commodities until our domestic needs are filled:				
Yes	90.3	88.6	91.9	93.1
No	5.3	6.8	3.4	6.9
Undecided	4.4	4.6	4.7	----------
9. Do you support efforts to improve diplomatic and trade relations with the Soviet Union and mainland China:				
Yes	67.6	68.8	65.3	75.9
No	20.2	19.7	21.3	15.5
Undecided	12.2	11.5	13.4	8.6

BLACK SLAVERY IN ARAB NATIONS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. WOLFF. Mr. Speaker, I was appalled to learn of an article published in La Tribune de Genève this spring which details clandestine slavery operations which involve the buying and selling of young blacks in North Africa and the Mideast.

This practice is reprehensible and inimical to man's moral sense and I wish to insert this article in the RECORD so that it may be brought to the attention of every Member of this body.

A translation of the article, which appeared in French, follows:

SLAVE TRADE GROWING ON SEMI-CLANDESTINE ARABIAN MARKETS

"The prettiest teenagers are destined for harems."

One discusses the price, and after that the father and the uncles count the money, the young woman is taken away, bewildered and fearful. She is added to the flock of female captives.

The young blacks seem to make their way towards the harems of Saudi Arabia, Kuwait and Yemen . . .—the Arabs have been fond of young black women, these young women are treated with sweetness and are well nourished, one sees from this (treatment) that they will not be tested too much throughout the trip.

A representative of the AntiSlavery Society, finding himself in the South of Libya, met with a group from Touraegs, who accompanied a dozen slaves, teenagers and young black men who have been bought to Mali or to Nigeria. The slave dealers act as if they are members of their families.

But it is without a doubt that these captives are destined to be sent to the Middle East and sold for about a week's wages later into the half secret slave march from Djabba, Riya, Mecca or Nassaria.

Saudi Arabia officially counted 250,000 slaves in 1962. At that time, King Faisal proclaimed a law emancipating them. An important act . . .

A considerable expenditure was forseen for their masters to buy back some of the slaves. In fact, Faisal's measure did not produce any effect. So what did the masters lose?

Since that time, the export of slaves towards the prosecessions and harems of the Middle East have not stopped, but have increased.

TO PURCHASE 25-ACRE TRACT ON CHESAPEAKE BAY FOR NATIONAL PARK SYSTEM

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mrs. HOLT. Mr. Speaker, I am today introducing legislation with my colleague, Mr. HOGAN, which authorizes the Department of the Interior to purchase 25 acres of property on the Chesapeake Bay for inclusion in the National Park System.

This tract of land which is within an hour's drive of Washington is one of the few remaining parcels of property on the western shore of the Chesapeake Bay which is not being developed. It is currently being managed by a non-profit organization, the Jaycee International Brotherhood Foundation, Inc., as an international center designed to facilitate communication between U.S. citizens and foreign visitors to our country.

This unique center serves as an educational, cultural, and recreational site. It affords our citizens the opportunity to acquaint themselves with America's international heritage, our present and future world involvement, and an opportunity to meet citizens of other nations in a relaxed and informal atmosphere. It likewise allows international guests to gain first hand impressions of the American way of life through meetings and discussions with American citizens. I am extremely pleased that this center is located in my district and firmly believe that its continued growth will greatly aid our efforts to promote international understanding and harmony.

My bill will authorize the Department of the Interior to include this tract in the National Park System and provide for the continued management and development of the park by the Jaycee International Brotherhood Foundation under the auspices of the National Park System.

I commend the Jaycees for innovative efforts in this area and urge prompt action on this legislation to ensure that this worthwhile concept becomes a reality.

IN PROSPEROUS JAPAN, GOVERNMENT, UNIONS, AND BUSINESS ARE PARTNERS—NOT ANTAGONISTS

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. CARTER. Mr. Speaker, it is clear that there is much room for all Americans to work together more closely for greater productivity and economic strength. I submit for the RECORD an item that provides insight into the advantages of national teamwork:

IN PROSPEROUS JAPAN, GOVERNMENT, UNIONS, AND BUSINESS ARE PARTNERS—NOT ANTAGONISTS

And that's why they are all three so prosperous.

The Unions hold rallies to spur their members on to better work, greater productivity. Workers jog from entrance to machine, job to job. They do calisthenics on their lunch period, to keep fit for better work. They literally consider themselves a team, with team spirit.

Government sets taxes to encourage company profit and growth.

Business is alert to the needs of the market and quick to invest in modern equipment to improve products, increase productivity, cut costs and prices.

All this results in a spirit of what we used to have here and called teamwork. And we had better get it back if we ever hope to get our jobs back.

Japanese wouldn't understand our antagonism between government, unions, business which some people call our Adversary Democracy. But whatever you call it, the antagonism between the groups here who should be partners is so increasing American costs and prices that it is shifting hundreds of thousands of American jobs to hard-working, low-cost Japan.

A FOURTH SKYLAB MISSION?

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. TEAGUE of Texas. Mr. Speaker, Capt. James Oberg in a November 25, 1973, article in the Los Angeles Times discusses the outstanding success of the three Skylab missions and proposes that a fourth Skylab mission be undertaken. Had it not been for the severe restraint on funds for the past 6 years for the National Aeronautics and Space Administration, such a mission undoubtedly would have been undertaken, given the success that has already been achieved. As unlikely as this mission may be at the present time, I believe that this article deserves the attention of my colleagues and the general public:

THE VALUE OF A FOURTH SKYLAB MISSION

(By James Oberg)

Three more Americans have set up house in the 285-mile-high Skylab space station. This third—and according to current plans, last—crew of Skylab astronauts is to carry out scientific, medical and engineering experiments during a flight that may last as long as 12 weeks.

After astronauts Gerald P. Carr. Edward G. Gibson and William R. Pogue return to earth early next year, the 85-ton space laboratory will be abandoned in orbit. NASA engineers and scientists will settle down to study the results of the three Skylab visits and to prepare for the 1975 joint Soviet/American space flight and the late 1970s space shuttle project.

But there is another option. NASA may be able to use a back-up rocket and an extra Apollo capsule to send a fourth crew of astronauts to the space station. This bonus mission could carry out a series of valuable experiments at little extra cost.

During the 59-day flight of Skylab-2, in August and September of this year, NASA officials thought they might have to use this backup rocket. Some steering rocket failures on the Apollo ship in orbit prompted flight controllers to suspect that the capsule would not be able to return to earth safely. If their fears had been confirmed, a rescue ship would have had to have been sent.

As it turned out, the Apollo was able to return to earth under its own power, and the rescue ship was not launched.

If the third Skylab crew also returns safely, the rescue ship will no longer be needed. It will be dismantled and placed in storage and may eventually wind up in a museum or a scrap heap.

The space vehicle is already paid for and would cost NASA only the price of fuel and the salaries of the ground crews to launch it into space and recover the capsule on return.

The official NASA designations for the Skylab space shots do not coincide with popular usage. According to the space agency, the Skylab space station, launched unmanned May 14, was SL–1. The first crew of astronauts, launched 11 days later, was designated SL–2 by NASA, but the mission was called Skylab–1 by the astronauts and by news correspondents.

NASA's SL–3 was Skylab–2, and SL–4 has now carried the third crew of Skylab astronauts into space. The rescue rockets, the Apollo capsule, and the trained crew were all part, according to NASA convention, of the SL–R mission, the "Skylab rescue" mission.

Why should we make a fourth Skylab flight? Haven't three missions already accumulated more than enough data to keep NASA busy for years to come? Would an extra mission be practical, safe and worthwhile?

There are some unique opportunities this proposed mission could take advantage of. The first has to do with a later winter flight. The second deals with "lead time."

The first three Skylab visits were (and are being) made during June, August-September, and November-January. Astronauts on board the orbiting station scanned the earth with special multispectral survey cameras, recording data on earth resources that will be useful in finding mineral deposits, controlling pollution and monitoring crop growth.

A fourth Skylab flight in February or March would fill the gap in the cycle of seasonal Skylab coverage. A complete year could be surveyed at the selected Skylab observation sites. This would be particularly valuable for agricultural and ecological studies.

Furthermore, photographs of the late winter snow cover over North America could be analyzed to give geologists information on snow volume and the consequent water runoff that would come after the spring thaw.

Flood danger areas could be reinforced weeks in advance. A repetition of the millions of dollars of damage caused by the 1973 Mississippi spring floods might be prevented.

Scientific studies of the sun and stars could be continued with the use of the giant Apollo telescope mount attached to the space station. In March, separate space probes launched from earth will be arriving at Mars and at Venus. Observations from Skylab could be coordinated with data relayed from these probes.

A number of promising engineering experiments were tested on the first two Skylab visits, and equipment that may someday be used on the space shuttle and post-1980 American space stations is being tested. Special experiments in zero gravity materials processing may open up an entirely new industry of weightless metallurgy.

But such experiments take many months to plan, and more months to put together the necessary equipment. The results of the experiments carried out on Skylab–1 and Skylab–2 were still being studied when Skylab–3 was launched. The "lead time" from test, to evaluation, to plan, to retest was too long. Designs for new experiments and new procedures for old experiments will be coming out in the next few months but the soonest the results can be used on another space flight is more than five years from now, when the space shuttle project begins flying.

An extra Skylab mission could use the results of the first two missions to carry out entirely new or only slightly modified old experiments. Experimenters would have a chance to make investigations that otherwise would be delayed five years.

If the rescue capsule and rocket were used for an extra mission, what will stand by to rescue the astronauts if something goes wrong? And this last Skylab crew is supposed to empty the food lockers of the space station down to the last crumb. Where would a fourth crew get its food, water, and oxygen?

The need for a rescue rocket was decided on when NASA had to modify the Apollo capsule for use as a vehicle in which crews could travel to the Skylab. Originally designed for two-week moon flights, the Apollo would now be redesigned for earth orbital flights of 60 days or longer.

The Apollo power system simply cannot last that long, so for most of the flight the Apollo is "powered down." That is, its onboard fuel cell electrical power system is turned off, and power is fed to it from the solar cell panels on the space station. At the end of the mission the astronauts switch the Apollo electrical systems back on and return to earth.

Doubts about the ability of the Apollo to "power up" after 60 days in the coldness of space prompted NASA officials to order preparation of a standby rocket. If the Apollo systems could not be turned back on, the rescue rocket could be used.

A fourth flight could avoid this risk entirely and thus do away with the need for a rescue ship for the rescue ship. The Apollo capsule could stay "powered up" for as long as possible. On Skylab-1, this lasted for 23 days as the overworked Apollo fed its own power into the temporarily crippled Skylab.

So a fourth mission could fly for three weeks or more without danger. Furthermore, it is possible that NASA, with the experience of "powering up" both Skylab-2 and Skylab-3, may decide that the safety measures in the new Apollo design are adequate to allow the extra mission to "power-down" and "power-up" without danger on a flight of eight weeks or longer.

Because the original three-flight schedule called for only a certain amount of food on board, the fourth crew of Skylab astronauts would need to take their own food up with them. The first three Skylab crews have had the luxury of a specially stocked food pantry, hot meals, and such culinary delights as lobster Newbergh and ice cream sundaes.

A further Skylab crew would have to get by on the old Apollo wetpacks—nutritious but unappetizing meals packaged in plastic bags. The supply of water and oxygen would be more than adequate, as emergency reserves were included in the original design of the station.

A number of astronauts have been in training for Skylab missions for more than two years. Assigned to the backup crews, these men have been through the same program that prepared the nine astronauts who have already worked on Skylab.

Commander of the main backup crew is rookie civilian astronaut Vance Brand, 42. Brand, who also served on moon flight backup crews, has already been assigned to fly on the Apollo capsule which in 1975 will rendezvous and dock with a Russian space capsule. But he is remaining with the Skylab program until the last crew is safely back. If a rescue flight should be necessary, Brand would be the pilot.

His copilot on the backup crew is Don Lind, 43, a rookie astronaut with a Ph. D. in physics. The third member of the crew, William Lenoir, is a scientist-astronaut who joined the NASA program in 1967.

The Brand-Lind-Lenoir crew is ready for flight. Their rocket and capsule are paid for, and valuable experiments and rewarding tasks await them in space. A fourth Skylab visit is possible, feasible—and necessary. NASA must decide soon to begin the final preparations.

GLOOMY FOOD PROSPECTS

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. TALCOTT. Mr. Speaker, a food shortage can be more calamitous than a fuel shortage. A reduction or curtailment of food production in America could cause shortages, even famine.

This is not just my concern.

I insert a thoughtful, albeit gloomy, article by Roy Hitchcock, publisher of "Pacific Fruit News," an old and respected periodical serving the agriculture industry in California, entitled "A Gloomy Monday." I recommend its reading by every Member and consumer.

A GLOOMY MONDAY

Perhaps it's because it is Monday, or perhaps it is because the Thanksgiving holidays have come and gone and have left us in a sort of a mental backwash, but we feel anything but optimistic about the continuing availability of United States grown foods.

The idea that food in bountiful amounts will always be available has been taken for granted by Americans since the advent of the combine harvester which made it possible to harvest grains from large acreages and thus send a steady flow to the mills to feed a growing population.

Advances made by agriculture, the two-blades-of-grass-where-one-grew-before concept, through the years resulted in the most highly productive food production ever known to man. This was done in a period of less than 100 years and saw growers jumping from feeding themselves to several others to a point where one grower could feed 35 persons including himself.

However, this taken-for-granted cheap and abundant food supply was possible only under conditions that allowed those creating this flood to do so as they believed it should be done. In other words, it was produced by experts in their field of endeavor; men who knew how to grow and process foods. They created the bountiful harvests—yes, and surpluses—under a free-enterprise system, unhampered by artificial restrictions on their efforts.

CHANGES UNDERWAY

Here, we believe there are signs that the abundant foods concept is changing, and changing rapidly. The American homemaker soon could find that the dwindling supplies will continue, and that her favorite foods or brands may not longer be available when she wants them, and prices for what is available will be much higher than even today's high prices. In other words, the days of abundant and selective food supplies may be all but over.

Many processors and growers have a feeling that the struggle to maintain this abundant flow of foods to the American table will not be possible under today's conditions. They point out that besides short supplies of needed manufacturing goods and raw products, interference by perhaps well-meaning but misguided organizations and government agencies, national programs that in their overall coverage hit the industry without realizing—or perhaps even caring—that they work hardships on the nation's food supply, causes grave concern regarding the ability to produce to meet demand.

FORMIDABLE LIST

The listing of problems facing the production of American food supply is indeed formidable. For example, some of them are:

1. The problem of production stemming from shortages of raw materials, even though these materials may be increased by more plantings, hinges on such uncontrollable situations as a world-wide growing demand for foods that out-strips present production.

2. The inability of the world's countries to meet this increasing demand.

3. The inflationary trends in other countries that make our foods seem cheap, and therefore desirable.

4. Shortages of rail cars and trucks, making transportation difficult. The energy crisis that could make this worse, and even cut down on production time in plants. Growers face even more drastic cuts in lack of fuels to power farm equipment.

5. Competition encountered by processors for contracting with growers for foods for processing in the face of high-dollar crops such as wheat and soybeans.

6. Increasing costs of growing, harvesting and processing raw materials from farm to retailer.

SMALL SUPPLY/BIG DEMAND

The National Canners Association has pointed out that carryover supplies were the lowest in 20 years going into the 1973–74 year. This means that industries involved in producing processed foods are not only faced with short supplies, in a year of high demand, but unreasonable restrictions placed against food processors contemplating expansions, excludes the building of new facilities, even though justified and needed. The "overkill" in carrying out environmental programs is said to be responsible for this condition.

The NCA maintains that harvest must be increased 15 percent in fruits and seven percent in vegetables just to meet 1973 demands, let alone 1974's demands. Even with these increases, it is quite doubtful, we believe, that the nation would be in a position of being offered ample supplies of foods such as in 1969–70. The jump in the demand for foods on a world-wide basis, the short supplies of 1972 and 1973, and the inability of the industry to grow beyond current capacities will again place us in a short supply situation, and one that may continue for some time. Any increases in prices for foods will be offset by our constantly increasing costs, so that the margin of profits will remain at about the same level. As it is now, most members of the food industry, from grower to retailer, believe that the investment of capital and time warrant much more income and profit than is now being experienced. Some will undoubtedly find that this money could be put to better use, and will drop out of the food industry, causing still further shortages.

BILL KEATING

HON. WILLIAM H. HARSHA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1973

Mr. HARSHA. Mr. Speaker, the Congress will be losing one of its most dedicated and respected Members when BILL KEATING retires next January, and I am very saddened to have to bid farewell to my fellow colleague from Ohio.

I welcomed BILL's election to the House 3 years ago, believing he would prove a fine representative of Ohio's First District and a valuable addition to the membership of the Congress. In working with BILL on many occasions both on matters of interest to our neighboring districts and on issues of vital concern to the Nation during the past 3 years, I have found this belief to be on very, very solid ground.

In this short time, BILL KEATING has grown steadily in stature, not only because he has worked consistently and diligently to meet his congressional responsibilities, but also because he is a most remarkable individual whose integrity and fine character are valued by all who have come to know him.

BILL leaves the House to become the president and chief executive officer of one of Ohio's finest newspapers, the Cincinnati Enquirer. I can only say, Mr.

Speaker, that the Nation's loss of the services of a man of such high caliber and promise is the Enquirer's gain—we shall miss him. I join with my many colleagues who have been privileged to know **Bill Keating** in extending my best wishes to him and his family in the years ahead.

AMERICAN INDUSTRY AIDS SOVIETS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. ASHBROOK. Mr. Speaker, with the United States facing a serious energy shortage, you would expect that American equipment and supplies would be going to develop new oil and gas resources inside the United States. This assumption is logical, but it is wrong.

According to Leo Welt, who conceived and ran a recent trade show in Moscow, U.S. petroleum equipment and services suppliers already are on their way toward selling a billion dollars worth of such items for use in U.S.S.R. oil and gas activities. These items include many thousands of tons of pipeline coating sold by Kendall Polychem, $42 million worth of crawler tractors by International Harvester for pipeline construction, and $3.5 million for exploration items by Halliburton-Welex and Dresser Industries.

Perhaps after we have finished developing the Soviet economy we can then turn to our own needs.

The following is the complete text of the December 4 article in the Oil Daily, along with an accompanying article from the December 8 edition of the Washington Post:

UNITED STATES ENJOYS BRISK SOVIET TRADE

NEW YORK.—Business done so far indicates there is considerable opportunity for U.S. oil and gas equipment suppliers to the Soviet Union.

So noted Leo G. B. Welt, president, Welt International Management Service, at Oil Daily's Russian energy conference here Monday.

Welt, who conceived and ran the recent big Nefta-Gaz trade show in Moscow, stated that U.S. petroleum equipment and services suppliers already are on their way toward selling a billion dollars worth of such items for use in USSR oil and gas activities.

BIG CONTRACTS AWARDED

As examples, he cited the many thousands of tons of pipeline coating sold by Kendall Polychem, $42 million worth of crawler tractors by International Harvester for pipeline construction, and $3.5 million for exploration items by Halliburton-Welex and Dresser Industries.

According to Welt, the Soviets are in the market for a wide variety of energy related systems and products. But, he related, a good deal of attention at present is on exploration, drilling and production.

Welt confided this tip: if you can assist offshore or arctic oil and gas production, the USSR should be a profitable area in which to venture.

NEED FOR IMPORTED VALVES

Welt revealed that the Soviets displayed a very decided favoritism toward imported valves. Thus, he noted, Cameron Iron has an $80 million order for ball valves; Reeder Pump and Byron Jackson are supplying 500 submersible pumps, Wallworth has a $20 million valve order, and FMC Luciate is providing Christmas tree valves.

Other USSR oil and gas business cited by Welt: Otis Engineering, 200 well completions; Camco's $14 million for well completion and gathering items; Koomey-Steuart-Stevenson's $2.5 million for antiblowout controls; and I-H Solar's pact to supply gas turbines and compressors.

Welt emphasized that much more equipment will be necessary for Soviet oil and gas production to meet a near-term goal of 9.92 million barrels per day.

"Consider that the daily average rate for the current five-year plan (1971–76) is only 2.74 million b/d," Welt explained.

SOVIET TRADE PACT

MOSCOW.—Armco Steel Corp. announced today it has signed a five-year, scientific and technical exchange protocol with the Soviet Union.

Armco, a subsidiary of U.S. Steel, said the protocol provides for trade in the ferrous metallurgy field and offshore oil field equipment projects. Company officials said no trade figures have yet been discussed.

IN OPPOSITION TO THE DENNIS SUBSTITUTE TO H.R. 11401

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. HUNGATE. Mr. Speaker, I oppose the substitute offered by the gentleman from Indiana and I urge my colleagues to oppose it too.

Based upon an unjustified fear that H.R. 11401 is unconstitutional, the substitute provides for a Special Prosecutor who cannot be completely independent—the investigated must not appoint the investigator; the prosecuted must not appoint the prosecutor. The fox must not guard the chicken coop.

There may be some superficial appeal to the argument that court appointment of a prosecutor is unsound. But a study of the Constitution and the precedents make it clear that court appointment is not only constitutionally permissible but the only practical way to accomplish the result we all seek.

The plain fact is that no piece of legislation is ever totally free from constitutional question. This has been so since Moses descended with the tablets. This substitute, for example, is open to constitutional question. At our hearings, Acting Attorney General Bork, himself, questioned whether Congress can validly vest the appointment in the Attorney General with the advice and consent of the Senate. This is what the substitute provides for successor prosecutors.

Article II, section 2, clause 2 of the Constitution provides that certain officers—Ambassadors, Public Ministers, Consuls, and Supreme Court Justices—shall be appointed by the President by and with the advice and consent of the Senate. That clause goes on:

> . . . but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

It is clear that the Special Prosecutor is an inferior officer. If he were not, the substitute could not vest his appointment in the Attorney General.

Congress is clearly given wide latitude to choose where to vest the appointment of inferior officers. The Supreme Court has underscored this in the case of ex parte Siebold, involving court appointments of election officials pursuant to statute, 100 U.S. 371, 397–98 (1879). The Supreme Court said:

> It is contended that no power can be conferred upon the courts of the United States to appoint officers whose duties are not connected with the judicial department of the government.

The court answered the contention as follows:

> It is no doubt usual and proper to vest the appointment of inferior officers in that department of the government, executive or judicial, or in that particular executive department to which the duties of such officers appertain. But there is no absolute requirement to this effect in the Constitution; and, if there were, it would be difficult in many cases to determine to which department an office properly belonged . . . [A]s the Constitution stands, the selection of the appointing power, as between the functionaries named [that is, the President alone, the courts of law, and heads of departments], is a matter resting in the discretion of Congress.

In Siebold the court flatly stated "but the duty to appoint inferior officers, when required thereto by law, is a constitutional duty of the courts." This is clear and unequivocal.

It is not extraordinary to have judges appoint prosecutors. Federal district court judges are empowered by statute to fill vacancies in the office of U.S. attorney. This practice has been held constitutional in *United States* v. *Solomon*, 216 F. Supp. 835 (S.D.N.Y. 1963). Federal district courts are also empowered by statute to fill vacancies in the office of U.S. marshal. Beyond this, Federal judges are by statute empowered to, and regularly appoint, attorneys to represent defendants in criminal cases in their courts. Similarly, Federal courts are empowered to, and do appoint, special prosecutors to handle criminal contempt of court cases before them. In none of these instances has it been held that the making of the appointment is unconstitutional or deprives the courts of their neutrality. And, this is so even where the court making the appointment has before it the matter in which the appointee is to act.

The proponents of the substitute allege that H.R. 11401 may violate the separation of powers doctrine. Not only is this unfounded, but the reverse is true.

The separation of powers doctrine is not specifically provided for in the Constitution, but it is generally considered to be one of the premises upon which our system of government rests. The doctrine does not call for the complete separation of the three branches of Government, however, but calls for the sharing of power, a blending of power, so as to avoid concentrating too much power in one branch. Thus, each branch has powers that overlap powers of the other branches. For example, the Congress legislates, but the President can veto. The courts adjudicate, generally, but the Senate adjudicates in impeachment proceedings. There are many more instances of this blending of powers. The Constitution explicitly authorizes Congress to vest the appointment of inferior officers in courts of law, and as previously pointed out, the exercise of this authority has already been sustained when attacked.

The proponents of the substitute claim that the prosecutorial function is an exclusively executive function which cannot be taken from the executive branch. They rely on the language of article II, section 3 of the Constitution which provides that the President "shall take care that the laws be faithfully executed."

This language in article II, section 3 does not grant a power to the President; rather, it imposes a duty. To quote Prof. Edward S. Corwin:

> Certainly a duty to see that the laws be faithfully executed cannot by ordinary principles of construction afford an independent restriction on the power by virtue of which the laws needing to be executed are enacted. The language of duty rather than of power was employed advisedly in this clause of the Constitution; since by other clauses powers which are obviously essential to successful enforcement of the law are assigned to Congress. No one would contend that the President could appropriate money, or erect courts, or create offices, or enlarge the military forces, on the justification that such action was necessary in order to assure the enforcement of the laws. . . . Nor should it be overlooked in this connection that the clause requiring the President to "take care that the laws be faithfully executed" was taken almost verbatim from the New York constitution of 1777, which none the less gave the executive of that state very little voice in either appointments or removals. (E. S. Corwin, "Tenure of Office and Removal Power Under the Constitution," 27 Columbia L. Rev. 354, 384–85 (1927)).

Mr. Justice Oliver Wendell Holmes put it succinctly when he wrote:

> The duty of the President to see that the laws be executed is a duty that does not go beyond the laws or require him to achieve more than Congress sees fit to leave within his power. (Dissenting in *Myers* v. *United States*, 272 U.S. 52, 177.)

The prosecutorial function in Anglo-American law has never been an exclusively executive branch function. At the time the Constitution was adopted, private citizens, both here and in England, could prosecute criminal charges. The First Congress, which included many of the framers of the Constitution, provided for private prosecution—see act of September 24, 1789, section 35, 1 Stat. 92; act of April 30, 1790, section 16, 1 Stat. 116; L. White, "The Federalists," 415–16 (1948).

Another constitutional predicate for the committee bill is article II, section 8, clause 18, which gives Congress the power—

> To make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

In testifying before the Senate Judiciary Committee on November 7, Prof. Philip B. Kurland, an outstanding constitutional law professor at the University of Chicago Law School, said:

> The "necessary and proper clause" could alone sustain the appointment provision of this bill. But whether or not the "necessary and proper clause" by itself would provide constitutional justification, taken together with the language of Article II, Section 2, it certainly affords all of the constitutional warrant necessary. . . . The Constitution has become sufficiently amorphous so that there is no legislation which is not subject to constitutional challenge. And I would submit that you stand on as strong ground here as on most of the legislation this body enacts.

If ever it has been "necessary and proper" for the courts to appoint a Special Prosecutor, Watergate and its related matters pose such a situation. We can conjecture about a potential constitutional question incident to such an appointment, but there can be no doubt about the conflict of interest situation which inheres in an executive branch appointment.

If the American people are to have confidence in the end result—particularly if it should be exoneration—the Special Prosecutor must not be beholden to the President or to the Attorney General for his job.

Neither can we permit a situation in which the funding of the Office of the Special Prosecutor is through, and dependent on, the Department of Justice and the Executive Office of the President.

I, for one, cannot believe the Constitution denies to the Congress the power to preserve the integrity of our criminal justice system—even more, of our institutions of Government and our political leadership. Neither did a constitutional law professor, Prof. Paul M. Mator of the Harvard Law School who, incidentally, was a witness before our subcommittee called by the minority, by those who support the substitute. Professor Bator said "there is powerful and, ultimately, persuasive support in the law for the position that Congress has the constitutional authority" to provide for the court appointment of a Special Prosecutor.

As recently as Sunday, December 2, in a letter to the editor of the Washington Post, Acting Attorney General Bork continued to maintain the right of the President to place limitations on the independence of Special Prosecutor Jaworski, and even to discharge him, as an executive branch appointee.

If the Special Prosecutor is to be truly independent in fact and in appearance, and if he is to be as aggressive and forthright as he must, we have no choice but to vote nay on the Dennis substitute.

THE MOVE OF THE SAN DIEGO PADRES TO THE NATION'S CAPITAL

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. KETCHUM. Mr. Speaker, the news of the proposed move of the San Diego Padres baseball team to Washington, D.C., has been greeted with cheers here in the Capital. But perhaps there would be less joy if it was known how much this move was going to cost the American taxpayer.

As I pointed out several months ago, the terms of the proposed lease to be granted the Padres are very generous. They would provide the baseball team far more than the Washington Redskins enjoy, indeed, far more than many teams receive from other cities. In October, I wrote to the District of Columbia Armory Board, which runs R.F.K. Stadium, inquiring as to the exact terms of the lease. As of today, I have received no reply.

It appears that someone is going to have to pay the city of San Diego damages for breaking the Padres lease, which still has 15 years to run. Perhaps this sum will come from the municipal funds of the District. This means, in effect, that the American taxpayer is financing the move, in a disgraceful and cavalier waste of Federal money. Perhaps the District of Columbia Armory Board will cover damages from the sale of tickets. This money should be used to pay the interest on the debt at R.F.K. Stadium, which after all was built with Federal funds. Whichever way one looks at it, the move of the Padres is a boondoggle of the first order. Mayor Pete Wilson of San Diego has issued a fine statement concerning this move which I offer to my colleagues for their study:

STATEMENT BY MAYOR PETE WILSON REGARDING THE PADRES

The action of the National League club owners at best represents a surrender to political extortion and at worse a modern version of "the public be damned." The City of San Diego will wage war against the League on both the legal and political fronts to keep our baseball team in San Diego.

The National League club owners enjoy profits from a business which they operate in expensive stadia built at heavy public expense to provide their teams a place in which to play. In short, the citizens of cities which provide these expensive playing facilities are providing a hefty subsidy to the business of baseball. And now the club owners, who enjoy the profits from that business, are thumbing their nose at the citizens of San Diego who have taxed themselves to provide that subsidy.

This is not the first time professional baseball and specifically the National League has sanctioned the piracy of a franchise after the citizens of the host city have saddled themselves with the tax burden of a stadium in expectation of enjoying professional baseball into the indefinite future. I am sure the people of Milwaukee remember well the departure of the Braves.

San Diego is determined to assure that the last of such piracy has occurred and that the citizens of San Diego will not be added to the list of victims.

Adding insult to injury to the citizens of San Diego is the fact that their federal income tax dollars are to be used to subsidize the piracy of their baseball team from San Diego stadium which they subsidize as local taxpayers. The terms of the lease offered to the Danzansky group for the use of R.F.K. Stadium constitutes such a giveaway that no other city can or should in good conscience offer anything like it. Only Washington—where professional baseball has failed abysmally twice in the recent past—can offer such a sweetheart deal because it is being subsidized by federal income tax dollars paid by taxpayers in other cities.

How and why is this possible? Because the U.S. Congress as watch-dog of the public purse has decided that subsidizing the piracy of the San Diego Padres is an urgent national priority warranting the expenditure of federal taxpayers' dollars. The real answer is to be found in the flagrant threats made on the floor of the House by Congressmen who have all but promised anti-trust legislation against professional baseball if Commissioner Bowie Kuhn did not bring a team to perform in R.F.K. stadium for the enjoyment of Congressional baseball fans.

We will fight this piracy of the Padres both in the courts and in the halls of Congress. When we announced our legal action we made it clear to the National League that our filing suit was not a threat but a promise. Prior to the League meeting in Houston we had publicly directed the City Attorney to pursue a second suit against the League based on an anti-trust cause of action.

Also the League's brazen disregard of the rights of U.S. taxpayers and particularly those in the City of San Diego will revive I am sure the interest of several Congressmen in reviewing the terms of the lease on R.F.K. stadium offered to the Danzansky group by the Armory Board.

GOV. GORDON BROWNING

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. JONES of Tennessee. Mr. Speaker, I would like to take this opportunity to pay respectful tribute to former Gov. Gordon Browning of Tennessee, who celebrated his 84th birthday on November 20. Governor Browning is Tennessee's only living former Governor, and dean of the Democratic Party leaders in the State of Tennessee. Governor Browning was honored at a birthday party given at the Carroll-Lake Country Club near McKenzie, Tenn. I served with Governor Browning's administration as commissioner of agriculture and consider him to be one of the greatest influences in my career in politics. Governor Browning's integrity, conviction, and love of his home State of Tennessee make him one of our greatest Governors. The newspaper article that follows is a wonderful salute to Tennessee's "Mr. Democrat":

GOV. GORDON BROWNING

"I know my country is entitled to a better image than it has today. It's up to us to change that image . . .

"With a little common sense, there's no reason the Democratic party cannot regain its former stature in Tennessee."

Thus says Former-Gov. Gordon Browning, celebrating his 84th birthday, and speaking as "Mr. Democrat" of Tennessee, dean of the Democratic party leaders.

It was my privilege to attend the big birthday party given the state's only living ex-governor at the Carroll Lake Country Club near McKenzie, sponsored by the Carroll County Historical Society, and to be amazed again at the clarity of mind, energy and drive of one of the greatest of our governors.

VAST DETERMINATION

Each such occasion is usually termed "The Last Hurrah" for the former governor, but year by year, his vast determination and desire to continue serving brings him back. Odds are he'll be around to celebrate several more birthdays, help several more Democratic candidates for major offices, and continue to add to his reputation as one of Tennessee's best known political figures.

He has outlived most of his official family who served with him in 1937–39, and 1949–53 terms. Three of those surviving cabinet members honored him at his birthday party, namely U.S. Rep. Ed Jones of Yorkville, Dr. J. H. Barksdale, retired president of Bethel College of McKenzie, and Judge John Kizer of Milan.

Two potential candidates for governor, Former Rep. Ray Blanton of Adamsville and House Speaker Ned McWherter of Dresden paid their tribute to the ex-governor. Blanton recalled that Browning was the first prominent political supporter to indorse his candidacy for Congress, and had been his loyal supporter since.

LOYALTY, COMPASSION

Blanton praised Browning for his "loyalty and compassion" for people, his "courage and conviction" in his actions, and his "honesty and integrity" as a public servant, a man blessed with the "ability and energy" to accomplish the things he set out to do.

Seventh District Rep. Ed Jones, who was the youngest man to ever hold the office of Commissioner of Agriculture, and one of the state's youngest cabinet officials praised Browning as the "guiding light for all my public career. His six years as governor stand as among the greatest in the state's history."

Gov. Winfield Dunn sent a lengthy message of good wishes and regrets at his inability to attend because of his hosting the Republican Governor's Conference in Memphis.

Secretary of State Joe C. Carr presented the former governor with a giant wooden plaque of the Great Seal of the State of Tennessee, which will go to the Browning Memorial room in the McKenzie library. Speaker McWherter presented several legislative reproductions and photos also for the Browning Memorial.

Other notables honoring the governor were Judge A. T. (Tip) Taylor of Jackson, himself a former candidate for governor; Jim Alexander, former state treasurer and industrial coordinator for the state; Mayor Hugh Scarbrough of McKenzie, Judge Jim England, and former County Judge George Thomas of Dresden, as well as a number of Carroll County officials and some 300 friends and admirers from Carroll County and other areas in West Tenhed.

Mrs. Julian Devault, president of the Carroll County Historical Society, whose leadership and organization are responsible for the great Memorial Room in the McKenzie Library and chief organizer for the birthday celebration, sat with Governor Browning and presented him with the giant birthday card signed by all the guests, and with a wrist watch as a token of appreciation from those present.

Mrs. William Bowers of Milan, niece of the former governor, daughter of his only sister, characterized Browning not only as a "great governor" but the "greatest Uncle," beloved by his family.

The evening's chief speaker: Ex-Gov. Gordon Browning.

Parkinson's disease has taken its severe toll through the years, but he was helped to his feet by ever-caring Lt. Jerry Kemp, of the State Highway Patrol, and in a sometimes quavery voice, kept his audience laughing or cheering for almost 30 minutes.

Through all his adversities, Browning has not lost his sense of humor, his style of campaigning, the jokes and timely stories with which he * * *

"I'm not as old as I look," Browning introduced his remarks, and his speech bore him out.

"Somebody asked me today: 'how about running for governor?'. My reply was a firm 'No' . . . I'm afraid I might be elected." . . . and you almost believed it might be possible again.

Governor Browning offers strong disproof of the adage that "A prophet is not without honour, save in his own country".

He is honored in his own country, his own county, his own home town and his own neighborhood.

Highway markers proclaim Huntingdon the "Home Town of Former-Gov. Gordon Browning." His fellow citizens honor him on many occasions.

As is often the case, there's a strong rivalry between Huntingdon and McKenzie in Carroll county. McKenzie seized the initiative in memorializing Browning and founded the Browning Memorial room in the library. Huntingdon had plans for a room memorializing Browning also, but somehow it lost the * * *

Consequently, the McKenzie library has the bulk of the Browning papers, his mementoes of two wars, his political history, and the records to which historians will long turn for reference.

Perhaps there's a reason Carroll County is fundamentally Republican, including Huntingdon. McKenzie is Democratic and naturally feels more possessive about "Mr. Democrat".

Carroll county has furnished two governors. The other was Alvin Hawkins, a Republican, (1881–83). His picture hangs in the foyer of the Browning Memorial Room, but little memorabilia has been found to add to the library's memorial.

In conclusion, let's predict Gordon Browning will probably have a choice in the Democratic primaries for governor in 1974, but whoever wins in that primary will have Gordon Browning in their corner in November. He wouldn't know how to drag his feet, nor would he have ever "scratched" a Democratic ticket.

Mr. Democrat! We Salute.

ENERGY CRISIS

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. TAYLOR of Missouri. Mr. Speaker, in the months that follow, a great deal of effort will be needed to promote public cooperation with our national energy conservation measures.

The assistance from the news media in my district to create better public awareness and cooperation with these emergency conservation efforts has been very encouraging. Two editorials recently aired by KODE–TV and radio in Joplin, Mo., and KGBX Radio in Springfield, Mo., serves as good examples of the positive activities that are being displayed by the news media in southwest Missouri. I am pleased to offer these editorial comments for consideration by my colleagues.

[Editorial from KODE–TV & AM]

ENERGY CRISIS

(Air date, Nov. 12 13, 14, 1973)

As a nation accustomed to things plentiful and admittedly over-indulgent in our use of natural resources, the day for eliminating waste has finally dawned. Perhaps this is a good thing, since we should have been conserving our resources anyway.

It has been a foible of the American mind to believe in endless ribbons of neon lights,

lights burning in unused places, gasoline wasted by needless idling trucks and cars, and overheated and overcooled rooms. We trust that these and other similar practices will be discontinued and that citizens in the four-state area will lead the way by following the eminently sensible recommendations of President Nixon that will aid in conserving energy supplies. Recommendations that include setting thermostats at 68-degrees, replacing faulty weather-stripping on windows and doors, reducing heating in unoccupied areas, and one suggestion that is not only safe, but practical as well, reducing driving speeds to 50-miles per/hour. Motorists just might be amazed at all the scenery they have been missing.

KODE also agrees that the extension of Daylight Savings Time throughout the year would be an additional measure to conserve energy.

We firmly believe that citizens in the four-state area should follow the President's recommendations in an effort to eliminate waste and conserve dwindling energy supplies.

KODE-TV offers the use of its facilities to a bonafide representative of a valid opposing point-of-view. A written request for time to respond to the views stated in this prerecorded editorial should be mailed to KODE-TV, Channel 12, Joplin, Missouri, 64801.

[Editorial From KGBX]

COOLNESS IN CRISIS

(By Don Daily, vice president)

Right now we need leadership at every level of government that will forge a national policy for using our energy resources in the most economical manner possible. But that policy must be based on hard facts, not guesswork or bureaucratic mumbo, jumbo, but definitive information.

The French author Jean Francois Revel has written that "the ability to change to meet changing circumstances exists in America to a greater extent than in any other country." We think he's right. But to change our habits in the use of energy we must have facts on energy. The American public needs to know what our normal consumption of gasoline is per month? Who uses it? How much does government use? How much does industry use? How much does the general public use? What is our reserve situation? What priorities are needed to handle emergency vehicles, police, fire, Army, Navy and Air Force? How long will it be before new supplies can be developed? We think the American people deserve answers to such questions . . . facts that can be relied upon. There will be abuses, but we feel the great majority of industries and the majority of people will respond to voluntary restrictions if they are given the true picture of the energy shortage.

Many people tend to waste and squander in direct proportion to supply. "Use it up . . . burn it up . . . there's more where that came from," has become a way of life for many Americans. But Americans can be frugal too. Americans have more money in savings accounts than any people. We can learn to save gasoline and fuel oil too. The American Petroleum Institute says we have a 30 day supply of gasoline on hand and that the crisis point is a 29 day supply.

They also say we have a 58 day supply of light fuel oil for home heating and diesel fuel and that the crisis point is a 28 day supply. The heavy fuel oil supply is reported to be 18 days on hand and 13 days is the crisis point. Thus, gasoline stocks are closest to the crisis point. We can pool our use of private cars, even to the extent of out of town trips simply by checking with friends in advance when out of town trips are necessary. Salesmen for various companies could travel together. (It was done during World War II). Kids can walk to school more and leave those cars at home. Count the number of cars on the high school parking lots and you would be astonished. Most of these drivers could use some exercise. The rest of us? Car pools, busses, bicycles and walking are all options we have and the exercise from bikes and walking could give many of us a new lease on life!

But delay is damaging. The public needs to know now what's expected. KGBX believes the voluntary response to this crisis might amaze even Washington. We believe voluntary limits on gasoline should certainly be tried before mandatory restrictions are enacted. Director of the Budget Roy Ash estimates rationing of gasoline would cost the government one hundred million dollars a year to run! That's reason enough, in our opinion, to act cool in this crisis. Industry can find many ways to cut fuel costs, many already have.

There are still several signs on the horizon that could herald a year of stability and growth in America next year. But we have delayed too long. We need calculated, program solutions now. Remove the uncertainty. Act! That's what government should do at all levels.

We have great confidence in the American people. They're the most intelligent in the world and we think they will respond in this energy crisis, given completely accurate data and common sense programs.

TAIWAN, STILL OUR FRIEND AND ALLY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. BIAGGI. Mr. Speaker, I have been deeply disturbed by recent news reports that indicate a U.S. policy of neglect toward our friend and ally, Taiwan. There is little concealment of this administration's fascination with the Communists, be they Soviet or Chinese. The current State Department philosophy is hellbent on getting full diplomatic status for Red China, a move that can only be accomplished after all ties with National China are broken.

What, though, has this country gained from such close friendship with the Reds? World peace? Hardly. Better trading advantages? Definitely not. All we seem to be doing is putting ourselves further and further in an isolated corner of weakness and defenselessness.

We negotiated a peace agreement in Vietnam that sees continued fighting and killing. But our supposedly good friends, the Red Chinese, assured Dr. Kissinger that they would keep the peace there. They have done nothing. North Vietnam continues to wage war, continues to infiltrate the South with its regiments, continues to wreak havoc on local communities.

President Nixon points to his close personal relationship with Soviet leader Brezhnev as the key to keeping peace in the Middle East and preventing nuclear war between the superpowers. Yet, there is no peace there after the taking of many lives, and we are suffering an energy crisis because of the Arab oil blackmail.

This Soviet friendship also has led us down the primrose path of military unpreparedness. Through the Strategic Arms Limitation Treaty, through the mutual armed force reduction talks, we are weakening our defense posture, while the Soviet Union is strengthening theirs. Now we find that they may have even introduced nuclear weapons in the Middle East.

While the Soviet Union and the People's Republic of China were at odds, the United States enjoyed a temporary advantage. By dexterously playing upon the differences between the two, we developed our own relationship with each of them. Conversely, during this period both of these Communist countries curried U.S. favor. It seemed all too good. That rosy picture has diminished somewhat now though. China and the U.S.S.R. are in the process of rapprochement which once again places the United States back in the world of reality and puts in jeopardy that oh so fleeting advantage.

The Communist doctrinaire has as its central purpose world domination. Any means can be justified in attaining this goal. It is clear to me that President Nixon is unwittingly working hand-in-hand with the Communists to help them attain their long sought after prize. When Krushchev pounded his desk in a fit of anger at the United Nations and said "We will bury you," he meant it. This policy has not changed with the new faces at the Kremlin.

We must recommit ourselves to the support of those valiant small nations holding out against the power of Communist domination. Israel, in the Middle East, continues to fight the battle of freedom and democracy, waging war against the vast array of its Arab enemies who are fully equipped and supplied by the Soviet Union.

Taiwan, in Asia, continues to stand out against the threat of takeover by mainland Red Chinese, in its never-ending fight for restoration of democracy and the rights of the individual for all Chinese peoples. Taiwan has been abandoned by many who feel it is more advantageous to be friendly with the Red Chinese. Many of our so-called allies have dropped relations with Taiwan in exchange for relations with Peking. I do not want to see that ever happen here in the United States. We must continue to maintain a firm commitment to that embattled nation and its valiant leader Chiang Kai-shek. They deserve our support as they always have in the past, and now even more so.

Mr. Speaker, I urge my colleagues in this body to join me in keeping a watchful eye on the present administration to guard against any moves that will lead to a betrayal of our close friend and ally, Nationalist China. Let us keep our national commitment to freedom throughout the world.

AMERICAN OPINION ON WORLD POVERTY AND DEVELOPMENT

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. BINGHAM. Mr. Speaker, the Overseas Development Council has recently completed a comprehensive survey of American attitudes toward the problems of poor countries and programs designed to help them. The overall impact of the survey is that the American people are far more sympathetic to these problems and far more favorably disposed to development programs than has been generally supposed.

The following is a summary of the survey, prepared by the Overseas Development Council:

WORLD POVERTY AND DEVELOPMENT: A SURVEY OF AMERICAN OPINION

Contrary to the popular impression that Americans are turning inward, a recent comprehensive survey indicates that the public is concerned about the problems of the poor countries and is willing to support programs which assist in their development. This public concern is strong, despite widespread misperceptions concerning the relative burden of U.S. development assistance—compared to that of other countries—and its economic benefits. It is based primarily on moral and humanitarian reasons, rather than on an outdated cold war rationale or a sense that many of the low-income countries may be of increasing importance to the United States. The results also indicate that when Americans realize that they will need the cooperation of the poor countries in solving many of our common problems, this already strong sympathy can be more directly translated into effective public support for new policies aimed at helping the poor countries.

These are the central conclusions of *World Poverty and Development: A Survey of American Opinion,* an analysis by Paul A. Laudicina of the results of a nationwide survey sponsored by the Overseas Development Council and the U.S. Coalition for Development. The survey—which reflects public opinion about our relationships with the three quarters of the world's people who live in developing countries—is of particular interest in view of Secretary of State Kissinger's call for a new foreign policy consensus.

The survey, based on one-hour interviews with a representative sample of Americans, provides the first in-depth look at American attitudes on government as well as public commitment to global development, U.S. foreign aid and trade policy, budget priorities, and a range of other issues concerning world poverty and development. The survey was conducted by Peter D Hart Associates, Inc. The interviews consisted primarily of open-ended questions and generally avoided the pro-con, either-or, and multiple choice forms of questioning.

Thus the results provide a fuller picture than earlier surveys of:

(1) What Americans know about world poverty and development;

(2) What kinds of policies toward developing countries they oppose and what kinds they are willing to support; and

(3) How they relate their domestic and international concerns.

The survey analyzes views not only by age and education, but also by income, political orientation, race, union membership, and religious affiliation.

U.S. Policy Implications. The survey analysis finds that the American public clearly has not become isolationist and that Americans do not desire to withdraw from active participation in the outside world. The survey shows that although Americans lack even a basic understanding of the problems of poverty and misery that face three quarters of the world's population on a daily basis, they express a strong degree of sympathy for the problems of the poor countries. Moreover, they show a willingness to change their opinion toward greater responsiveness to these problems when provided with relevant information.

This central finding highlights the importance of national leadership on development issues. Whether in the legislative or executive branch, policy makers have a great deal of latitude to advocate and carry out policies that are genuinely responsive to the needs of the poor countries—without suffering on election day. In most cases, such policies are likely to engender little opposition and, with the proper leadership, could even gain a substantial degree of positive public support. However, it is also clear that active and widespread support will not simply materialize out of the latent sympathy of Americans to the problems of the poor abroad. It can only be gained if the policies and programs reflect their concerns and if steps are taken both inside and outside the government to inform and mobilize public opinion. For instance, many Americans would support aid programs which they saw as efficient and effective and aimed at the problems of those most in need.

The analysis recognizes that there are caveats to these conclusions. For example, the survey indicates that in the public's view domestic concerns will continue to take priority. This is in marked contrast to the 1950s and early 1960s, when foreign affairs seemed to dominate American opinion. Support will lag for large-scale programs aimed at alleviating international poverty as long as there is no meaningful attack on serious domestic, economic and social problems. There is a strong feeling that the poor abroad should not be helped at the expense of the poor at home. Therefore, those who favor more positive policies toward the developing countries must insure that domestic social problems are being seriously addressed at the same time. It is also important that the public be provided with more accurate information on world poverty and our own country's long-term economic and political stake in global development. The survey results indicate that Americans already support more favorable policies toward the poor countries; when they realize that these policies may also be in their self-interest, this support is likely to become considerably stronger.

However, on certain issues, the views of small but articulate minorities will be important. Trade is one conspicuous example. More liberal trade policies toward poor countries are currently being vigorously opposed by a substantial segment of the American labor leadership. However, the survey indicates that the American people as a whole do not share this view.

The highlights of the analysis of the survey results are summarized in the paragraphs that follow. (The survey questionnaire and the raw data collected are printed in the study as annexes.)

Sympathy for the Needs of the Poor Countries. Measured by responses to several carefully selected survey questions, more than a third of the American public (38 per cent) is basically sympathetic to the needs of the poor countries and supportive of a stronger U.S. commitment to global development. A fourth (25 per cent) is unsympathetic. Another third of the public (37 per cent) is ambivalent, but not negatively predisposed.

Who Cares about Global Development? The survey indicates that those Americans who support development tend to be relatively younger, better-educated, upper-income, and politically moderate to liberal. The 37 per cent who are unsure but not negative represent all levels of American society. But regardless of income or education, greater percentages of young Americans between the ages of 18 and 25, and of blacks, are sympathetic about the development needs of the poor countries and favor the United States helping these countries.

The Question of Domestic and Global Priorities. Americans give the solution of domestic problems priority over the solution of international problems, but at the same time they regard world hunger and poverty as very serious problems deserving "top priority" attention. The public does not appear predisposed to see these objectives as conflicting, but always gives priority to domestic over international poverty needs when asked to assign first place to one or the other. Americans show more optimism about the short-run feasibility of alleviating U.S. poverty than poverty abroad. They also feel a more direct responsibility for dealing with domestic poverty. But many Americans are unaware of the true dimensions of world poverty and, when provided with more facts, tend to favor allocating a greater proportion of the budget for overseas poverty programs than they did before having the facts.

Lack of Public Knowledge about U.S. Foreign Assistance. Not only do most Americans fail to grasp the immensity and nature of the problems of world poverty and the prospects for solutions to those problems, but they have an inflated idea of how much the United States today spends on foreign development assistance, erroneously believing that the United States is actually spending both far more than it is on foreign assistance and more in terms of relative wealth than are other rich nations. The responses to all questions on U.S. foreign assistance should be seen in the light of these major misperceptions.

Decline of the Cold War Rationale for U.S. Foreign Assistance. The survey indicates that cold war considerations, which were the major rationale for providing assistance to the poor countries in the 1950s and 1960s, have lost much of their credibility. The reasons for giving U.S. foreign development assistance that were enumerated by those interviewed were overwhelmingly humanitarian and moral. The survey results show that as of the fall of 1972 (when the survey was conducted) the increasing evidence of U.S. economic interdependence with other countries had made almost no impression on the public as a rationale for assisting global development.

Increasing Support for U.S. Foreign Development Assistance. Despite this lack of knowledge and the decline of the cold war rationale for U.S. assistance, more than two thirds (68 per cent) of the public supports the principle of the United States providing foreign assistance to the poor countries, with only 28 per cent opposed. The fact that public support for the idea of furnishing foreign assistance does not directly translate into support for U.S. official aid programs is due partly to the public's view that U.S. *voluntary* assistance—which has increased 60 per cent over the past decade—is a more reliable assistance channel than U.S. government aid. Although the American public knows little about aid programs, it believes that too much U.S. official aid is wasted in our own bureaucracy, and that U.S. aid does not get to those who need it most in the poor countries. Americans also question the integrity of some recipient governments in handling aid funds. Despite these reservations, 49 per cent of the public (a majority of those expressing views on the question) is willing to either maintain or increase the foreign economic assistance budget.

Opposition to U.S. Foreign Military Assistance. The survey results show that a majority (52 percent) of Americans favor cutting the foreign military assistance budget, and one of every two people regards the U.S. provision of military training and equipment as an ineffective and unacceptable form of foreign aid.

Strong Public Preference for Assistance Aimed at Basic Development Needs. The study shows that Americans do not regard aid as a political tool. The public believes that those countries most in need of U.S. economic assistance should be favored in the allocation of such assistance. Public support is strongest for direct, visible programs aimed at alleviating such basic human problems as hunger and malnutrition, disease, and illiteracy. The public also appears to expect such forms of assistance to do more to strengthen the self-sufficiency of the recipient countries.

Trade and Domestic Adjustment Assistance. The main reason that Americans gave for favoring freer trade with the poor countries was that trade helps the development of these countries. Two out of three Americans would favor a more liberal U.S. trade policy with underdeveloped countries if workers adversely affected by imports were protected against financial loss and retrained for as good or better jobs. Union households were no more protectionist on trade issues than non-union households. Strong public support therefore is possible on specific issues where the interests of developing countries are not regarded as conflicting with domestic needs.

Responsiveness of Public Opinion to New Information. The survey results show that unawareness and misinformation account for some of the negative opinion and for a large share of the uncommitted opinion on U.S. assistance to the poor countries. For example, when respondents learned that 95 percent of the world's poor live outside the United States, they were willing to allocate more for overseas poverty programs than they were before having been made aware of this fact.

Public Opinion on Importance and Credibility of Various Sources of Information on World Poverty and Development. The survey results show that Americans—both those informed and uninformed on poverty and development issues—consider television the single most important source of information on world problems. Newspapers, radio, school, books, and magazines were rated next in importance and reliability among the thirteen information sources that respondents were asked to rank in terms of these two criteria. The churches, pamphlets and newsletters, and special meetings ranked lowest on the list.

FERDIE DEERING'S VISION COMMENDABLE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. FINDLEY. Mr. Speaker, as a rural newspaper editor, I have the highest regard for one of my fellow farm journalists, Mr. Ferdie Deering, who is well-known as editor of the Farm-Stockman magazine and for his regular column which appears in the daily Oklahoman in Oklahoma City.

The recent announcement by the U.S. Department of Agriculture establishing U.S. Agricultural service centers at the local level throughout the country in order to provide one-stop service to farmers, ranchers, and rural residents makes Ferdie Deering look like a genuine prophet. In 1945 in a book entitled "USDA—Manager of American Agriculture," Mr. Deering recommended doing exactly what the Department of Agriculture now proposes to do with the establishment of these service centers.

As explained by Secretary of Agriculture Earl L. Butz, these centers will bring together at one location the services of the Agricultural Stabilization and Conservation Service, Farmers Home Administration, Soil Conservation Service, and Federal Crop Insurance Corporation. These four agencies together have some 7,800 local offices throughout the country. While most of these county-level offices are located near one another—and sometimes in the same building—a farmer has to run from one place to another to do business with the U.S. Department of Agriculture.

When Ferdie Deering looked into this problem in 1945, here is what he said:

> Local representatives of USDA should have no option except to work together to serve the farmers. These local functions should be grouped under a single administrative officer in the county, who would be responsible to the farmer committee. Thus the workers would have time to serve the farmer instead of spending most of their time administering. All offices should be grouped at a central location, so that farmers will not have to visit five or six places to transact their business with government farm agencies.

Elsewhere in the same book Mr. Deering also said:

> When representatives of these various offices go to see the farmer on his farm, one to advise him on one phase, one to discuss another, and then he has to go to town to a couple of different offices to see about something else, all in the USDA operations, the farmer is apt to say: "To heck with it all. I'll just go along and do the best I can as I have been doing."

As far back as 1945, interviews with people who used the services of the Department of Agriculture indicated that the majority of them felt "that USDA is too complicated, too confusing, and too clumsy in its present organization. They would like to see it continue its needed services to the farmer but work in a manner that will minimize duplication of effort, and overlapping of authority and eliminate unnecessary functions and controls."

In that book Mr. Deering pointed out that a report had been prepared by the USDA Office of Plant and Operations with the help of State and county agricultural interest from 36 States. This report said that in a great majority of our 3,074 counties there were representatives of from 4 to 12 of the agencies of the U.S. Department of Agriculture.

The report said that available space was generally inadequate and unsuitable and that offices of the several agencies were usually widely separated and all too frequently poorly housed in basements of public buildings or in lofts over grocery stores or garages.

Now some of this has been corrected. In 1951 Secretary Brannan initiated a move to bring together the offices of the old Production and Marketing Administration and the Soil Conservation Service. Eleven years later in 1962 the Secretary of Agriculture issued a memorandum calling for co-location of county offices. As a result some co-location was achieved in 54 percent of the counties where USDA has offices. This new program to establish service centers is a revitalization of that same program but this time gave it national implementation and support.

Mr. Deering in his book of 1945 said that a center of the type proposed in this latest program—

> Would do more than any other one thing to consolidate the efforts of the Department in a unified working program. It would provide the farmer a center for information and service that would mean greatly increased farmer participation in all agricultural programs.

These thoughts were put together by a man who thoroughly believes in the U.S. Department of Agriculture. In fact, he stated elsewhere in his book:

> I believe in the work of all these agencies and think their work should be carried on. I do not like to see some evidences of petty jealousies and do not like lost motion and extra expense due to lack of co-ordination of effort.

These prophetic words have provided the Department of Agriculture with good direction for its present program. The Secretary of Agriculture has announced that State administrative committees composed of the heads of these four agencies will develop plans for each State to establish these agricultural service centers at the local level. Their aim is just what Mr. Deering envisioned, to provide better service to farmers and people in rural America. There is no sinister effort to wipe out jobs and services. The program is just what Mr. Deering recommended 28 years ago. I understand that the chairman of the House Committee on Agriculture has been trying to get something like this done for 30 years and I think it is time that something is done.

I commend Mr. Deering's book and his vision to all Members of this body.

OUR NEW VICE PRESIDENT

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. RUPPE. Mr. Speaker, last Thursday's confirmation of Gerald R. Ford as Vice President was not only a great day for the Vice President's home State of Michigan, but for the entire Nation as well. The Evening News of Sault Ste. Marie, Mich., has noted this fact with a most perceptive editorial about the strengths which Gerald Ford brings with him to the Office of the Vice-Presidency I would like to share The Evening News editorial with my colleagues today:

> ### Our New Vice President
>
> Today Gerald R. Ford will be sworn in as vice president of the United States. This is a historic occasion. Importantly, it is one that could give some renewed strength to our belief in the integrity and effectveness of our government.
>
> During the past two years we have seen two candidates for our second highest elective office be less than open with the public, let alone with their own political associates.
>
> For the first time in the history of the country we will have a vice president who has experienced a grueling examination of his qualifications and fitness to hold that

office. These examinations have taken place in open meetings of the authorized committees of the United States Senate and House. They have taken place after weeks of presumed detailed investigation by various agencies of the federal government.

Gerry Ford responded openly to all questions, methodically, thoughtfully and with tolerance.

At the same time during the past weeks, a series of events have occurred which will affect all of our lives for years. If these had not been receiving first attention in the news, probably we would all have been much more aware of the steadiness and candid qualities of Gerald Ford during the time of his personal examination. Certainly, if any serious questions had arisen regarding his character or actions, the public would have been fully and dramatically apprised of such a development.

Yet it is the mounting events that in turn make so many people feel that a Gerald Ford is urgently needed in our highest levels of government. Almost without exception members of both houses of Congress placed great emphasis on Ford's personal integrity.

Naturally, not all people agree with his philosophical views. Yet there seems to be a genuine recognition that first we need a man of integrity as vice president. We seem to feel that we need a man who is steady and not easily excited and who can look at major governmental matters with a broad view. We seem to need a man who is not glib, not necessarily glamorous, but rather one who is concerned about people and the future of our nation.

Gerald R. Ford seems to be the right man at the right time, approved and supported by his peers.

IN MEMORY OF GEORGE COLLINS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. RANGEL. Mr. Speaker, it was just 1 year ago this past weekend that we, in the House, lost a dear friend and colleague, George W. Collins in a tragic plane crash.

The year that has gone by has not lessened the deep feeling of loss which has remained with those of us who knew George well. We miss his quiet counsel, his calm, well-reasoned advice and the strength of his courage.

George was important to many of us who came to know him during his short period in the House, but he was especially important to the members of the Congressional Black Caucus.

In the black caucus, where George worked diligently and with dedication, we came to rely upon his leadership on many issues. A man who was close to the people we all are committed to serve. George had an instinct for the people of the Seventh Congressional District of Illinois that never seemed to fail him in the exercise of his good judgment. Nothing symbolizes George's commitment to the people more than the Christmas party to which he was returning when he died. This party for the underprivileged children of his community was important to George Collins, because he was doing something directly for people. Nothing gave him more pleasure than that.

In the year since his passing, we in the House have been blessed by the election of his charming and lovely wife, Congresswoman CARDISS COLLINS, to fill his vacant seat. Her great abilities and her effectiveness revealed in the few short months she has been with us show that the spirit of George Collins' dedicated service to the people of the Seventh Congressional District of Illinois lives through the work of Mrs. COLLINS, his partner and successor.

"MURDER BY HANDGUN: THE CASE FOR GUN CONTROL"—NO. 55

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. HARRINGTON. Mr. Speaker, statistics indicate that an increasing number of homicides are being committed with handguns. Today, I am inserting an article from the November 29, 1973, issue of the Baltimore Sun, describing the killing of a Maryland shoe repairman during a robbery. It seems to me that if we had effective Federal gun control laws, fatalities stemming from such robberies would decrease.

The article is included below:

SHOE REPAIRMAN IS SLAIN IN WEST BALTIMORE SHOP

An elderly shoe repairman was shot to death yesterday afternoon during a robbery in the West Baltimore shop he had owned for 32 years.

According to police, 69-year-old Roy Schmuck already had given a bag of money to two young bandits when they opened fire and shot him five times.

Mr. Schmuck was rushed to Lutheran Hospital after the 1:40 P.M. shooting and doctors failed to save him, but he was pronounced dead at 5:10 P.M.

Officials said he had been shot three times in the right chest, and in the back of the neck and head.

Before learning Mr. Schmuck had been fatally wounded, his wife, Marie, 63, told a reporter: "At the age he was, he didn't want to get out of the neighborhood."

Mrs. Schmuck and her husband had owned the shop for 32 years, from the time the neighborhood was occupied entirely by white families through the period of complete racial transition.

The victim's brother, 67-year-old William Schmuck witnessed the robbery and shooting. He told police the bandits were "boys," and described them as black and wearing ski masks. Both carried guns, he said.

The brother told police the bandits walked into the store brandishing handguns at 1:40 P.M. and demanded money from the elder Mr. Schmuck.

The victim turned around, handed them a bag of money and the bandits "just opened fire," a police spokesman said.

Then, in an apparent moment of panic, the bandits dropped the bag of money and fled. Police said the money was recovered, but they were unable to provide the amount immediately.

Police said they are investigating similarities to the robbery-shooting of a shoe repairman in the 2200 block West Pratt street—about 2 miles away—a month ago.

That victim, Thomas A. Belluomo, 63, was shot while in a rear apartment by one bandit while an accomplice rifled the cash register. Mr. Belluomo survived the shooting.

Last night, Mrs. Schmuck said her husband "must have had a horseshoe somewhere to have lived so long. "They broke into his place at least six times. They threw rocks in, exploded bombs," she said.

Mrs. Schmuck's brother, Henry Hagey, said the shop owner had several chances to move his business—at Edmondson avenue and Mount Holly street—elsewhere, but "he was used to that neighborhood and dealing with those people. It's a shame to take a man's life for a few pennies."

Mrs. Schmuck said her husband "had the goodwill of the colored people. Now that his eyes are closed, I'll never know who owes him money."

She said her husband of 26 years had taken over his father's shoe-repairing business at the age of 16, and had operated the shop at its current location for the last 33 years. Now, she said, the store will be sold.

"People are scared to come into the neighborhood," Mrs. Schmuck said, "What is this country coming to?"

NAT BURING

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. JONES of Tennessee. Mr. Speaker, on December 3, 1973, Mr. Nat Buring, founder on the "King Cotton" brand, and of the Nat Buring Packing Co., in Memphis, Tenn., received the 1973 Junior Achievement Master of Free Enterprise Award. The award was presented at a banquet at the Sheraton-Peabody Hotel, and is given annually to the Memphian whose career shows successful and exceptional achievement in the realm of free enterprise. The following newspaper article pays tribute to Nat Buring, a charitable and enterprising man:

NAT BURING

(By Susan Adler Thorp)

Nat Buring who rose from peddling meat from a panel truck to owning a multi-million dollar meat packing industry, will receive the 1973 Junior Achievement Master of Free Enterprise Award.

The award, to be presented during a Junior Achievement banquet Dec. 3 at the Sheraton-Peabody Hotel, is given annually to the Memphian whose career exemplifies successful achievement in the free enterprise business system.

Buring, chairman of the Nat Buring Packing Co., will become the eighth recipient of the award given only by the JA Memphs chapter.

Born Dec. 31, 1912, in North Memphis, Buring is the son of European immigrants who came to America seeking freedom and opportunity. As a youth, he worked for his father in the family grocery at Court and Orleans before dropping out of school and opening his own business—a small grocery at Kansas and Iowa.

Two years later, Buring worked a short time for another grocer before he bought an old panel truck, borrowed $50 and became a meat peddler.

In 1933, after he married the late Sylvia Stark Buring, he worked as a shipping clerk for Abraham Brothers Packing Co. Within a few months, he returned to his panel truck.

He is a board member of St. Jude Children's Research Hospital and a member of: Future Memphis, Inc.; the President's Island Association; the Jewish Community Center; National Independent Meat Packers Association; United Cerebral Palsy; the Highland

Hundred; and Anshei Sphard-Beth El Emeth Congregation. In 1970, Buring and his wife received an award from the Israel government for their "significant contributions to the State of Israel."

Members of the committee which selected Buring are Mayor Wyeth Chandler; Charles Brakefield, WREC-TV; Charles Schneider, editor of The Press-Scimitar; James Merkle, president of Union Planters National Bank and president of the Memphis Area Chamber of Commerce; Dr. John W. Richardson, Jr., former acting president of Memphis State; Dr. A. Roy Tyrer, Jr.; Jack L. Elliott, president of Junior Achievement Inc., of Memphis; Byron B. Winsett, Winsett-Simmonds Engineers; Maj. Gen. William Fondren, retired; Jack Belz, Belz Enterprises; and R. E. Stockdale, Humko Products.

JAWORSKI WINS OVER SKEPTICS AS WORTHY COX SUCCESSOR

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. HOGAN. Mr. Speaker, in the near future my colleagues and I will be asked to consider H.R. 11401, calling for the appointment of a court-appointed Prosecutor to handle Watergate and related matters.

H.R. 11401, as reported out of the Judiciary Committee, contains serious constitutional risks. Our colleagues should be aware that if this legislation is passed as it stands now, and is subsequently found to be unconstitutional, all indictments and convictions of defendants would be invalidated.

If this legislation is passed it would place "uncompatible duties" upon those responsible for upholding justice. The main goal seems to be the appointment of an independent prosecutor, and the discrepancy arises as to whether he be "court-appointed" or "Executive-appointed." I feel strongly that Congress has it within its powers to provide a solution for the discrepancy and simultaneously give the Prosecutor the independence he should have.

Many have questioned whether an Executive-appointed Prosecutor can pursue his duties with complete independence. I believe the following article explains and illustrates how the current Special Prosecutor, even though appointed by the administration, is fulfilling his responsibilities with more independence than the former Prosecutor, Archbald Cox.

I urge my colleagues to read the dissenting views in the report and the following article which appeared in the Baltimore News American on November 26 to illustrate that it would be counter-productive to establish a new court-appointed Prosecutor:

> Jaworski Wins Over Skeptics as Worthy Cox Successor
>
> Washington.—A big difference between Archibald Cox and Leon Jaworski is the difference between a constitutional lawyer and a prosecutor. And many lawyers on the special Watergate prosecutor's staff, who had been deeply suspicious of Jaworski, have come to like that difference.
>
> But still unanswered is whether it will lead Jaworski into the same sort of confrontation with the White House that led to the firing of Cox.
>
> "I want such tapes as are material and I intend to get them," Jaworski told the Senate Judiciary Committee, which is considering a bill that would cloud his status by establishing a court-appointed special prosecutor.
>
> "I may move a little faster than some people would," Jaworski told the committee.
>
> He was sworn in as special prosecutor Nov. 5 and two days later sent the White House a formal request for still another tape of a presidential conversation.
>
> Jaworski's readiness to move quickly to obtain more evidence impressed staff lawyers accustomed to Cox tendency to agonize over fine legal points that might prove more significant to the Supreme Court than to a federal grand jury.
>
> "Archibald was always looking ahead to the appeals," one staff member said. "Jaworski has more a prosecutor's mentality."
>
> The favorable impression Jaworski has made on his staff and on Congress appears to have undercut chances for passage of a court-appointed prosecutor bill.
>
> So far, the White House has given the new prosecutor far more promises of cooperation than Cox ever received. Gone are the claims of executive privilege and the need to maintain the confidentiality of presidential discussions with aides.
>
> But it has only been promises, so far. Neither Jaworski nor U.S. District Court Judge John J. Sirica has received any of the documents or tapes Cox went to court to obtain.
>
> When Cox, after two court decisions upholding his right to obtain White House tapes, defied a presidential order to halt his efforts, President Nixon fired him on Oct. 20.
>
> The dismissl left Cox's staff stunned and embittered but determined to stay intact, if possible, and continue its investigations.
>
> The White House too was stunned by the public outcry at Cox's dismissal. Within a week, the President agreed to give Sirica the tapes Cox had subpenaed and to permit Acting Atty. Gen. Robert H. Bork to name a new special prosecutor.
>
> Bork's choice of Jaworski, head of a huge Houston. Tex., law firm and a former president of the American Bar Association, was greeted skeptically by the staff Cox had recruited. They viewed Jaworski as likely to compromise rather than risk confrontation with the President.
>
> Cox was one of the first to tell his former staff that Jaworski might turn out to be a very good choice. The former prosecutor told a member of his staff that he had been very impressed by Jaworski when the Texas lawyer handled the prosecution of Gov. Ross Barnett of Mississippi during the Kennedy administration. Cox was then U.S. solicitor general.

RAILSBACK AMENDMENT TO INDEPENDENT SPECIAL PROSECUTOR LEGISLATION

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. RAILSBACK. Mr. Speaker, I intend to introduce the following amendment to the substitute bill which Mr. Dennis will submit to H.R. 11410, the independent Special Prosecutor bill:

> The Special Prosecutor shall report at least monthly to the chairman and ranking minority member of the House Judiciary Committee such information as may be pertinent to the question of whether impeachable offenses have been committed by the President of the United States. The Special Prosecutor, upon request by the House Judiciary Committee, shall provide to the chairman and the ranking minority member of the committee such information, documents, and other evidence as may be necessary to enable the committee to conduct an investigation or inquiry into whether grounds exist for impeachment of the President of the United States.

THE OCTOBER ALERT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mrs. SCHROEDER. Mr. Speaker, the New York Times of November 21, and the Washington Post of November 28 and November 29 provide us with valuable background on the October "eyeball to eyeball" confrontation between this Government and the Soviet Union regarding events in the Middle East. That confrontation resulted in a so-called "Defense Condition 3" alert of U.S. strategic and conventional forces throughout the world. The alert and the circumstances surrounding it have been subjects of concern and confusion to many Americans who refuse to shut their eyes to the duplicity and ineptitude of the Nixon administration simply because it has not yet managed to blunder us into World War III.

Specific questions regarding the alert would include: When was it called? By whom? Why? Was it necessary? And, have we been told the truth about it?

Attempts to answer these questions must begin with the official version of the story. At his press conference of Friday, October 26, President Nixon offered the following explanation:

> A very significant and potentially explosive crisis developed on Wednesday of this week. We obtained information which led us to believe that the Soviet Union was planning to send a very substantial force into the Mideast—a military force. When I received that information, I ordered, shortly after midnight on Thursday morning, an alert for all American forces around the world.

Mr. Nixon went on to tell us:

> It was a real crisis. It was the most difficult crisis we've had since the Cuban confrontation in 1962.

Of the message from the Soviet's Communist Party Chairman, Leonid Brezhnev that triggered the alert, Mr. Nixon said,

> it was very firm and left little to the imagination as to what he intended.

At a State Department press conference the preceding day, Secretary Kissinger offered a version of the incident that differed in significant detail from that of the President. According to Secretary Kissinger, the alert followed a special meeting of the National Security Council which Mr. Nixon did not attend, and occurred about 3 a.m., Thursday, October 25, not "shortly after midnight."

Secretary Kissinger, moreover, described Soviet conduct at the time as an "ambiguity," repeatedly denied that the two powers were in a confrontation situation, and insisted that despite the alert—

> We are not talking about threats that have been made against one another. We are not talking of a missile crisis-type situation.

At a press conference of his own on Friday morning, October 26, Defense Secretary James Schlesinger suggested that the United States and the Soviet Union had been "very far away from a confrontation situation." Contrary to what President Nixon would claim hours later, Secretary Schlesinger further described the so-called National Security Council meeting as "abbreviated," and indicated that the alert had been called at about 10:30 p.m. on October 24.

So, from the President and his two top Cabinet officers—both, incidentally, known for the precision of thought and clarity of utterance—we have three different versions of the facts. The investigative reports of the New York Times and Washington Post provide us with a fourth and, presumably, the correct account of what went on. The true facts do much to debunk the myth that so long as Mr. Nixon is in the White House, a firm hand is at the helm. In fact, during the worst hours of the putative crisis, Mr. Nixon's hand was hardly at the helm at all, let alone firm. The Washington Post further informs us that there was no National Security Council meeting at all on the evening of October 24–25, a fact verified by the White House's own records. Also provided are excerpts of the Brezhnev dispatch in order that we may make our own judgments concerning the severity of the most difficult crisis we have had since the Cuban confrontation of 1962.

From the two newspaper accounts, it is clear that whatever "confrontation" occurred on the night of October 24–25 took place within the context of urgent Soviet desires to bring the Middle Eastern war between the Egyptians and Israelis to an immediate halt. Soviet Premier Kosygin had been in Cairo a week earlier and had seen the deteriorating condition of the Egyptian Army and the grave threat to the elite Third Egyptian Corps trapped in and around Suez City. Upon his return to Moscow, the Soviets urgently requested a visit from Secretary Kissinger. Mr. Kissinger arrived in Moscow on October 20, and, during the next 2 days, he and Chairman Brezhnev reached agreement on a number of measures to defuse the situation. These included: First, an immediate in-place cease fire in the area; second, negotiations among the combatants; and third, a final agreement based upon implementation of Security Council Resolution 242 passed in September 1967, which called upon the Israelis to withdraw from "territories occupied" during the six-day war.

According to the New York Times, during a stopover in Tel Aviv en route home from Moscow, Secretary Kissinger secured the consent of the Israelis to a preliminary accord embodying the above provisions. That understanding also became the basis of a joint United States-Soviet resolution adopted by the U.N. Security Council early on Monday, October 22.

The resolution, however, failed to end the Middle Eastern fighting. The Israeli advance on the west bank of the Suez Canal continued. The Egyptian 3d Army Corps was quickly threatened with total annihilation.

It is against this background that the events of Wednesday evening, October 24, and Thursday morning, October 25, must be considered. The New York Times reports that as Secretary Kissinger learned of the new Israeli advances, he felt "great dismay and a sense of betrayal." It is reasonable to assume that Soviet feelings along the same lines were no less intense. The Soviets dispatched a message demanding not only a second Security Council Resolution, but also the introduction of a joint United States-Soviet "expeditionary force" into the area to police the terms of the agreement. This was unacceptable to the United States because it would for the first time in history introduce large numbers of Russian troops into the area while simultaneously legitimizing their presence.

A second, more urgent dispatch arrived from Chairman Brezhnev at approximately 10:40 p.m. on the night of October 24. The Washington Post, which claims to have obtained a copy of that note, quotes Mr. Brezhnev as follows: "I will set it straight," that if the United States does not find it possible to act together "with us in this matter, we should be faced urgently to consider the question of taking urgent steps unilaterally."

It was this dispatch, which no reasonable reading can deem a threat to send a very substantial military force into the area, that triggered the U.S. alert. As far as concrete Soviet actions are concerned, the New York Times account indicates that our officials knew that seven Soviet landing craft and two ships with troop helicopters had been "milling around" in the Eastern Mediterranean during the crisis, and that some 49,000 Soviet airborne troops had been placed on "standby alert," a routine matter that had occurred first when the fighting broke out on October 6. According to the New York Times, these Soviet activities had "caused no undue alarm at the Defense Department." At no time during this "crisis", Mr. Speaker, were the Soviets placed on nuclear alert, not even after such an alert was issued for American forces. According to the New York Times, the American alert was issued just after receipt of the second Brezhnev message and implemented at about 2:30 a.m. on the morning of October 25.

It should also be noted that early that same morning our Government was in urgent touch with the Israelis and that the fighting stopped shortly thereafter. Later in the day, the Soviets were back in the U.N. Security Council, cooperating with us on yet another key measure, the dispatch of a U.N. expeditionary force to the Mideast with the participation of Soviet and American civilians as observers only. It is reasonable to assume that the silencing of Israeli guns had far more to do with encouraging continued Soviet cooperation than did the bravado and derring-do of the previous evening. And, speaking of derring-do Mr. Speaker, by all accounts, the President, who only hours later would be boasting of his toughness and coolness under pressure, remained in his White House living quarters throughout the episode, delegating all responsibility to his Cabinet chiefs, never once appearing in the situation room where all key meetings were held. Apparently heeding Harry Truman's advice:

> If you can't stand the heat, stay out of the kitchen.

Mr. Nixon stayed out of the kitchen.

Tough messages from the Soviet Union are not uncommon during crises. The Soviets sent tough messages in the waning moments of the Cuban missile crisis and a tough message on the last day of the 1967 Six-Day War. In each case, this Government followed a conciliatory approach, ignoring the abrasive language, concentrating instead on measures to reduce the conflict to manageable proportions. Here the action taken by our Government was — I believe correctly — termed "hysterical" by the Soviets. I refer not only to the alert itself—that was bad enough—but to the overblown rhetoric of both the President and the Secretary of State. It was Secretary Kissinger, after all, who first invoked the specter of nuclear catastrophe at his Thursday press conference, and who somehow seemed to link Soviet conduct to the failure of this country's press to back off on Watergate. Secretary Kissinger warned:

> One cannot have crises of authority in a society for a period of months without paying a price somewhere along the line.

Later he added:

> It is up to you ladies and gentlemen to determine whether this is the moment you try to create a crisis of confidence in the field of foreign relations as well.

As has so often been the case, this administration continues to blame the messenger when the news is not to its liking.

Mr. Speaker, this has been a year when both the executive and legislative branches have been asserting rights each claims itself entitled to. At times, I believe we have tended to forget that the American people have certain rights too—even in the arcane areas of foreign policy and national defense.

The American people have the right to know that the interests of their leaders will always run to averting international crises and not to contriving or exaggerating international crises.

The American people have the right to know that international problems when they occur will be viewed by their leaders in the context of the national well-being and not as opportunities for exhibition of one individual's personal fortitude or political virility.

And, the American people have the right to know that once the crisis has passed, the all clear signal will be rung with the same vigor and clarity as was the initial alert.

Mr. Speaker, the American people

have not been provided with that sort of leadership from their government of late. And we all hope but are beginning to doubt the administration of President Nixon has either the ability or the will to provide it for them. We want to place our trust and confidence in our President. But as the days grow shorter so has our ability to trust. As the nights grow darker, so has our light of confidence.

REVENUE SHARING

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. DON H. CLAUSEN. Mr. Speaker, the Congress enacted the general revenue sharing program slightly more than a year ago to provide additional financial resources and responsibilities to State and local governments.

I strongly support the program and its "no-strings" concept which permits greater freedom of action by local governments thereby increasing their flexibility and opportunity to meet special local needs. I hope this same conceptual approach will be extended to more areas of existing Federal programs.

Recently I received an unsolicited letter from one unit of local government in my district commenting on the impact revenue sharing has within its jurisdiction. I have already forwarded a copy of it to the distinguished gentleman from North Carolina (Mr. FOUNTAIN), chairman of the Subcommittee on Intergovernmental Relations, but it occurred to me that it should be shared with the entire membership of the House.

Therefore, I am submitting it for publication at this point in the RECORD.

The statement follows:

COUNTY OF MENDOCINO
ADMINISTRATIVE OFFICE,
Ukiah, Calif., October 30, 1973.

Hon. DON CLAUSEN,
Congressman First District, House Office Building, Washington, D.C.

DEAR DON: As an outcome of our first year's experience with Revenue Sharing, I thought you might find it of value to have a report from a rural County, such as Mendocino, to show what we have used Revenue Sharing funds for and why the General Revenue Sharing program does serve an important and practical need to local government.

I have seen substantial criticism that local governments have not utilized Revenue Sharing for people services, but have tended to utilize funds for construction and fixed assets. Also, there has been some complaint that tax relief has not been provided.

I am proud to indicate that the Mendocino County Board of Supervisors has utilized their initiative to provide Revenue Sharing funds, not only for needed County governmental requirements, but also has extended its share of funds to fire districts to extend better fire protection to our rural areas, to water districts to assist in badly needed sewer and water projects which were deprived of more direct federal funding, and to private social agencies to assist Senior Citizen projects, retarded children projects, environmental recycling projects, Indian health projects and related programs. Finally, Revenue Sharing funds were able to permit a property tax reduction in this County, which is the second year of such reduction.

We believe this type of expenditure, as outlined on the attached list, to be the type of expenditure which the Congress intended for Revenue Sharing monies, which is basically a combination of effort to meet various public needs, both governmental and citizen related. There has been some question as to the propriety of some of our expenditures under the state Constitution, but it is our intent to proceed with expenditures, based on our own legal advice, as being within the intent of the funds.

I hope that you will concur in this utilization and will continue to support the concept of general Revenue Sharing in the future. If you need further information on these programs, please let us know.

Sincerely,

ALBERT P. BELTRAMI,
County Administrator.

TAX RELIEF FOR HOMEOWNEHS

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. PRICE of Texas. Mr. Speaker, last July I introduced legislation to provide tax relief to American homeowners designed to alleviate some of the crushing tax burden already upon them. This proposal addresses itself to the tax problems of our Nation's homeowners as I believe they are overburdened by the combined weight of local, State, and Federal taxes. Thus, in an effort to ease these taxes, I have proposed that the Internal Revenue Code be altered in certain areas as it applies to people who own and reside in their own homes.

Today, I am reintroducing this bill with an additional provision aimed at encouraging homeowners and businessmen to improve the level of insulation in their homes and businesses. This new section will enable the Secretary of the Treasury to allow a Federal income tax deduction based on costs of purchase and installation of improved insulative materials.

For weeks the President, Members of Congress and other governmental officials have been asking the American people to voluntarily endure a number of hardships in connection with the energy shortage. I firmly believe that the time has come for our constituents to receive some type of incentive for fuel conservation. If we are to be fully effective in keeping consumption within the boundaries of current supply, we are going to have to offer some actual financial incentives, at least in some areas.

A recent issue of U.S. News & World Report reported that approximately 17.9 percent of all U.S. energy is used for heating homes and offices. This statistic came from a report of the Chase Manhattan Bank. Of this 17.9 percent, the House Energy Subcommittee estimates that over 40 percent is lost due to poor insulation. The solution to this problem is obvious, we should insulate homes and offices more efficiently. However, the cost involved might be too much for some citizens to bear right now.

Since better building insulation is now in the best interests of us all as we combat the energy shortage. I am today introducing a bill which will provide for a tax deduction for the cost involved in improving or installing, in a home or business establishment, efficient insulative materials. My bill will, if enacted, provide a reasonable incentive to encourage more individuals to take a positive step toward conserving home and building heat.

The Congress has already taken steps to increase our future energy supply. The Alaskan pipeline has been authorized, additional funds have been appropriated for energy research and development and legislation has been enacted requiring the President to allocate petroleum products so that no regional shortages develop unnecessarily.

In addition to the legislation that has passed, over the past 7 years, I, and a number of my colleague, have been trying to alert the Congress to the need for providing the incentives necessary to develop increased domestic energy supplies. I have sponsored legislation to deregulate the well head price of natural gas, to provide tax credits to encourage exploration of new domestic oil reserves, and others. Perhaps, had the Congress approved such legislation years ago, our domestic supply would be adequate today. However, the only way we can get through this winter, and perhaps many winters to come, is to carry out extensive conservation measures.

Therefore, if approximately 40 percent of heating or cooling energy fuel is loss through poor insulation, such an occurrence is certainly not conservation. We cannot be unrealistic and expect the American people to buy and install expensive materals just for the purpose of conserving fuel, consequently, a tax deduction is the only feasible method I can see for establishing a needed conservation practice.

I urge my colleagues in the House to act quickly and favorably on this legislation.

A NEW PEANUT PROGRAM

HON. W. S. (BILL) STUCKEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. STUCKEY. Mr. Speaker, the Department of Agriculture has made six administrative changes in the 1974 peanut program which will be disastrous for the State of Georgia—the Nation's leading peanut producer.

One change will eliminate transfers by lease, sale, or owner privileges now permitted for acreage allotments, resulting in reduced peanut acreage. The number of acres a man can grow peanuts on today is determined on an historical basis: The amount of his peanut acreage three decades ago. With the amount and cost of equipment needed today to farm peanuts, if a man only has a small acreage allotment, it is not worthwhile for him to grow peanuts. But if he has a neighbor with a sizable allotment who cannot use it, and if he is able to lease, buy or use that man's allotment, then he can earn himself a living. So, in effect, the elimination of allotment transfers will wipe out many of the 25,000 peanut farmers in the State of Georgia.

Another change eliminates the tolerance allowance for complying with the Federal allotment program. If a farmer is more than .9 an acre off on his measurements, he will have to pay a marketing penalty equal to 75 percent of the support price.

These and other changes being made are grossly unfair to the peanut farmer. They are far more drastic than I think anyone expected, were devised without any consultation with growers or Congress and the motive for the changes is highly questionable.

In announcing the changes, Secretary of Agriculture Earl Butz said they were aimed at reducing the program's cost. However, Mr. Butz has also been quoted as predicting that the changes will cause a buildup of Government-owned peanut stocks and dramatize the cost of the program to the Federal Government. The Department is revising its sales policy to provide a minimum resale level of 115 percent of the Federal loan rate, deliberately putting their prices higher than the market price.

Peanut farmers are clearly being used as pawns in a game to pressure Congress to legislate a new peanut program.

I think we all would like to see the peanut program cost the Federal Government as little as possible, but some Government assistance is necessary today in order to assure a farmer an adequate price for his crop and the consumer a fair price for the product in the marketplace. If changes are to be made, the way to do it is for Agriculture Department officials, House and Senate Agriculture Committee members and grower representatives to sit down and work out a program that will not put the burden on any one group but will consider the needs of growers, consumers, and the Government alike. The present changes are going to hurt the peanut farmer terribly, cause higher prices for the consumer and cost the Government even more money.

I would like to briefly summarize what the peanut industry means to the State of Georgia.

Economists estimate the overall economic activity generated by the peanut industry in Georgia at over $1 billion. Peanuts are Georgia's number one commodity with a crop value of more than $228 million in 1972.

But peanut growers are not the only ones who profit from peanuts in Georgia. The entire State benefits from purchases made by peanut growers. Each year Georgia peanut growers spend an estimated $7 million for fertilizer, lime, and gypsum, $10 million for seed, and $16 million for materials to control weeds, diseases, and insects.

Tractor and machinery costs for producing peanuts in Georgia exceed $17 million. Much of the machinery necessary for peanut production is manufactured in the State. Each year $10 million is spent for cleaning, drying, storing, and marketing.

There are approximately 30 firms in Georgia that store and shell peanuts. Transportation, storage, processing, and merchandising of Georgia's peanut crop provides livelihood for thousands of families far removed from the farms on which this important crop is grown.

Obviously there is little doubt that the economy of the entire State of Georgia is going to suffer unless the Department of Agriculture is willing to compromise on their changes for the 1974 peanut program.

FIRST DISTRICT QUESTIONNAIRE

HON. EDWARD MEZVINSKY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. MEZVINSKY. Mr. Speaker, recently I mailed a questionnaire to the residents of the First Congressional District of Iowa asking my constituents to give me their views on 15 varied issues.

During the past weeks, we have been busy going over their responses. I am pleased to report that approximately 20,000 completed questionnaire forms were returned to my office.

In addition to the readily apparent value of this type of public input, this questionnaire provided a catalyst for hundreds of First District residents to go beyond the limits of the printed form. As the questionnaire responses were returned, I was pleased by the substantial number of letters which were included—either expanding on specific questions or detailing the writer's thoughts on separate issues.

I deeply appreciate the interest shown in the questionnaire and was happy to hear from so many First District residents. I would like to share with you the results:

FIRST DISTRICT QUESTIONNAIRE

(1) Congress is considering health care legislation. Do you favor the creation of some type of national health insurance program to assure that all citizens have access to and can afford health care?

	Percent
Yes	65
No	28
No opinion	7

I also asked those in favor of the creation of a national health insurance program to suggest a means to finance such a program. A plurality suggested the use of a taxing system similar to that used to finance Social Security. A substantial number of respondents, however, looked to Congress to close tax loopholes as a means to raise the money needed to pay for such a health program. Another highly popular suggestion was that Congress readjust its budget priorities to give health care a top priority. The military sector of the budget was mentioned almost exclusively as the area where cuts should be made in order to be able to finance a health program.

(2) Each year, many workers lose their pension rights when they change their jobs or when their employers go out of business. Would you favor legislation creating safeguards protecting such retirement benefits?

	Percent
Yes	85
No	11
No opinion	4

(3) Would you favor new legislation providing increased funding for housing programs for senior citizens?

	Percent
Yes	65
No	27
No opinion	8

(4) Should the U.S. expand trade with the Soviet Union?

	Percent
Yes	58
No	33
No opinion	9

I should add here that many of those who favor such an expansion of trade added the warning that care should be taken to avoid problems such as those arising out of last year's massive grain sales to the Soviet Union.

(5) Should the U.S. expand trade with the People's Republic of China?

	Percent
Yes	59
No	31
No opinion	10

(6) Do you favor export controls on farm products?

	Percent
Yes	57
No	32
No opinion	11

(7) The Watergate hearings have generated many suggestions as to how to prevent future abuses of our political system and to limit the influence of money on our electoral process. Would you favor:

(a) Strict limitations on political contributions?

	Percent
Yes	85
No	12
No opinion	3

(b) A limit on the time candidates may campaign?

	Percent
Yes	71
No	24
No opinion	5

(c) Public financing of elections?

	Percent
Yes	46
No	46
No opinion	8

(d) A single six year term for President?

	Percent
Yes	27
No	65
No opinion	8

(8) Would you favor legislation:

(a) Imposing strict mandatory penalties for anyone convicted of a crime which involved the use of a firearm?

	Percent
Yes	77
No	18
No opinion	5

(b) Requiring nationwide owner registration of firearms?

	Percent
Yes	57
No	39
No opinion	4

(c) Outlawing the sale of so-called Saturday night specials?

	Percent
Yes	74
No	17
No opinion	9

(9) Would you favor legislation requiring grain exporters to disclose information on foreign sales as an attempt to avoid problems such as those arising from last year's Russian wheat deal?

	Percent
Yes	86
No	7
No opinion	7

(10) A primary task for Congress is setting priorities for our tax dollars. Do you think we should spend more, less, or about the same for:

[In percent]

	More	Less	About the same
Health care	63	11	26
Education	56	13	31
Defense	9	67	24
Foreign aid	5	78	17
Law enforcement	50	14	36
Space exploration	14	57	29
Housing	42	26	32
Mass transit	68	15	17
Highways	21	44	35
Pollution control	61	11	28

(11) Do you believe you have a real voice in how this country is run?

	Percent
Yes	23
No	72
No Opinion	5

(12) What do you consider the two or three major issues facing the nation today?

This question and number 13 which is similar, triggered the highest number of comments, both in the margins of the questionnaire forms and in separate letters.

The people of the First District who responded cited "government corruption", "Watergate", and "Nixon" as part of the general theme of the issue which concerns them most. Inflation was the second most often named issue cited as a major problem facing the nation today.

Other issues causing great concern are "high taxes", "unemployment", "government overspending", "excessive military spending", "care for the elderly", "the energy crisis", "health care", "education", and "environmental problems."

(13) What about right here in the First District? What do you consider the major problems here at home?

Moving closer to home, the issue causing most concern is definitely inflation, being named by respondents nearly three times as often as any other issue.

Four other issues, the energy crisis, high taxes, education, and environmental problems, very nearly tied for second place as the major issues.

Other issues of major concern include "farm problems", "problems of grain transportation", "care for the elderly", "housing", "highways", "crime", "drug abuse", "too much welfare", and the announced closing of the Atomic Energy Commission facility at Burlington, Iowa.

Compared to being the number one concern on the national front, the Watergate scandal and what First District residents consider "corrupt government" ranked tenth in the list of major issues facing the First District.

(14) How do you think the freeze on beef prices affected the food price inflation problem?

	Percent
Helped cut inflation	7
Made things worse	53
Little or no effect	40

(15) Since Phase I was announced in 1971, the President has used economic controls in an attempt to curb inflation. How successful do you believe the controls have been?

	Percent
Very successful	1
Fairly successful	21
Unsuccessful	78

MISGIVINGS ON THE ENERGY CRISIS

HON. JOHN A. BLATNIK

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. BLATNIK. Mr. Speaker, an eloquent editorial by Veda F. Ponikvar, editor of my hometown biweekly newspaper offers a penetrating analysis of the effects of the energy shortage and pinpoints the deep dissatisfaction haunting people in the Midwest and across the Nation: The lack of confidence in the President and his administration.

Despite repeated predictions of energy shortages, this administration has refused to face up to the problem realistically with constructive programs and policies to avert the unemployment, inconveniences, and personal discomfort which the public is suffering. Even now, after months of delay and refusal to implement authority granted by Congress, this administration's response has been uncertain and indecisive proposals which fall far short of the needs and expectations of the American people. Surely, as this editorial illustrates, America is "deserving of better housekeeping in the White House."

The beginnings of the energy shortage have already taken a deep toll in human terms—the elderly who cannot afford to pay more for heating oil and who would suffer great physical discomfort and severe illness without adequate heat in northern Minnesota's bitter and hazardous sub-zero temperatures; the workers who commute miles to the iron ore mines cannot afford a 30-cent gasoline tax increase; the small businessmen across the Mesabi Range who have been struggling in an already depressed economy; the parents worried about school closings and cold classrooms.

All this while oil companies report a more than 60-percent increase in profits during the third quarter of this year alone—and reports are widespread about suspected oil reserves which lie untapped while the oil companies wait for an advantageous price increase.

Mr. Speaker, these sobering, incisive editorial comments are written more in anguish than in anger, but also in the timely hope that they will encourage action toward an effective and durable Federal program to cope with the energy crisis. In that spirit, then, I call this editorial to the attention of my colleagues:

WITH MISGIVINGS—PUBLIC RESPONDS

With misgivings, the American public is responding to the President's request to conserve on gasoline and fuel in the wake of the strange and sudden shortage that is plaguing our nation.

As thermostats are lowered and speeds are reduced, the citizen of an affluent America has begun to ask many questions, and to date, there have not been any convincing, concrete, factual answers. We are not in a major declared war; we have not suffered any devastating holocaust; we have more people working than ever before in the history of this nation; we have technology on our side; and we have a record of production that cannot be equaled anywhere else in the world, and yet we are faced with shortages of such essentials as fuel oil and gasoline, wheat and flower, meat and dairy products, paper and cotton.

SOMEONE WASN'T KEEPING HOUSE

The dilemma can be placed squarely in the lap of the President and the White House Cabinet officials. Either they have been too engrossed in self-seeking power and personal aggrandizement to recognize the pitfalls and obligations of their responsibilities in governing a nation, or they have not been capable of the task assigned to them and have permitted other nations to make fools out of the greatest country serving the brotherhood of man. The tragedy of shame, disgrace, and bungled leadership that has been heaped upon the United States can be attributed directly to greed, arrogance, dishonesty, and a total disregard for the people of this nation. We have traditionally looked to the White House as a citadel of regency, humility, devoutness, direction, leadership, elegance, and above all, humility and honesty. Wherever else there may have been discrepancies, bungling and misdemeanors, we have clung to the White House for two hundred years as the fireside of greatness. Because Americans are a resilient people, we shall gather the ashes and begin to rebuild on an American dream that has been shattered and fragmentized into myriads of crystals that will take a great deal of remolding and firing.

WHO HAS THE COURAGE?

The question arises, who has the courage and the stamina to call a halt to the inequities that are virtually destroying us? While the American consumer and laborer braces himself against the shortage of fuel oil, and paying exorbitant prices for the few gallons that are available, the major oil companies, despite cursory denials, are basking in the glow and warmth of some of the greatest profits in their history. In the first nine months of this year, oil industry profits skyrocketed forty-seven percent above the 1972 levels, and in this last third quarter alone, the profit levels were up sixty-three percent from the 1972 levels. Business Week's Survey has revealed that the oil industry profits for the third quarter of 1973 were larger than the combined totals of the auto, food, machine tool, metals, paper, steel, textiles, tire, and rubber industries. The President has told the American public they must conserve and cut back, but he has done or recommended nothing to hold the prices on the fuel oil or gasoline.

Those who have a job and bring home paychecks will somehow get by. But are the elderly, the fixed income groups, the poverty segments, and the thousands already out of jobs because of this shortage fiasco, who cannot cope with the spiraling prices.

A NOTE OF FURTHER IRONY

And while Americans on the West Coast, already hit hard by the gasoline shortage, watch boatloads of gasoline and fuel oil leave for other destinations; while our people are paying over fifty cents for a loaf of bread as the wheat laden boats plied their way toward Russia, we are told of another increase to be implemented this weekend on the basic commodity of milk.

A bleak Yuletide faces an America that was deserving of better housekeeping in the White House, once the beacon and hope of all mankind, and now darkened and shaded because men entrusted to honor and service, became lost in a fog of greed and power.

GOOD ADVICE FOR BUSINESS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. PICKLE. Mr. Speaker, a good friend and distinguished American, former Ambassador Edward Clark, had some good advice for business in a speech he delivered recently in Austin Texas.

Speaking to the Philosophical Society, Ambassador Clark outlined 10 general objectives for businesses whose duty it is to supply the Nation's energy. And he went on to call on industry to be leaders in finding a compromise between profit making and public responsibility. He suggests this could be done by business involving itself in urban problems, poverty, race relations, environmental problems—both in ways that do and do not require investment of money.

Ambassador Clark's words are wise ones not only for business but for any body which has to deal with the public and I would like to reprint them in the RECORD at this time.

STATEMENT BY AMBASSADOR EDWARD CLARK TO PHILOSOPHICAL SOCIETY

I was asked yesterday by Chief Justice Joe Greenhill to make a statement on the natural gas crisis, together with, believe it or not, my suggestions for what should be done about this problem.

Energy is important to all people's human needs—it is important not only to energy supplying corporations such as oil, gas and electric companies, but to every industry. Human needs doesn't just mean heating and air-conditioning, but jobs, safety, traffic lights, hospitals, education, transportation, cooking and refrigeration.

Energy is fossil fuel, nuclear power, geothermal, solar—and the search and conquest by research and development of all potential energy sources.

Natural resources and producing states have in the past been compelled by our national policy to compete in an international market, while northern and eastern manufacturing states have had their products compete in tariff protected markets.

Energy supplying corporations have a responsibility as corporate citizens to the following ten objectives:

1. Provide for human needs as that term is from time to time defined and enlarged.

2. Create a reasonable and logical atmosphere to the public's understanding of energy consumption.

3. Promote the conservation of energy by the consuming public, both individual and commercial—turning off lights, less heating and cooling in areas both in homes and buildings that are not used. Innovative design by architects and engineers to maximize the need for less energy—hearing, lighting and air-conditioning.

4. Consider price design for the sale of energy so that the more used cost greater rather than the current practice of reducing the cost as more energy is consumed. Pricing is a complex mechanism and must be considered carefully by every supplier and regulatory authority in determining the fair rate of return on the investment of the supplier used and useful in supplying the energy.

5. Develop all sources of fossil fuels—oil, gas, coal degasification—both on-shore and off-shore.

6. Balance environmental aesthetics versus the total need and requirements for energy.

7. Promote the understanding and development of nuclear energy as a logical source of power.

8. Greater independence on reliability of energy so as not to be dependent and subjected to foreign sources with the obvious related implications.

9. Promote positive reserves and development on the total potential of energy resources, including the dedication of additional revenues for the search and capture of energy reserves.

10. Strive for a complete cooperation and understanding between representatives of the government and the public.

Business men are becoming increasingly aware that the business community can prosper only by being part of a healthy society, and can preserve its present degree of independence from public control by participation in the solution of social and environmental problems in accordance with public expectations and demands. There have been demands made from outside the business community—Ralph Nader, for example, has proposed that there be national elections to select public directors for large corporations.

The growing pressure from both inside and outside the business community has caused considerable self-examination on the part of business. Businessmen must take the lead in exploring and articulating the relationship between profit motive and service to society. There is obviously a potential compromise between the polarities of the position that the corporation's sole motive is making profits and the concept that business' ethical responsibility is to the public regardless of profits. Unless the business community takes the lead in establishing such a compromise solution, the decision may be forced upon it by governmental and activist pressure, and the solution may not be as favorable to business or as workable.

As a starting point, it is my suggestion that business recognize that there are problems which must be solved, and, since business cannot avoid involvement in the social climate in which it operates, it is, in effect, "good business" to participate in the solution to the problems.

Since public attitude plays a large part in shaping the climate in which business operates, and the public increasingly expects corporate participation in the solution, business may find that the resulting good will can justify the expenditure of increased corporate responsibility.

The corporate participation now accepted by many businessmen involves business participation in the areas of urban problems, poverty, race relations, and environmental problems, as well as the more traditional philanthropic areas of financial aid to education, science, and local and national charities. Corporate responsibility does not in every instance involve corporate expenditures; for example, the morally sound principle of ending racial prejudice can be encouraged throughout an industry without significant expenditures. Other forms of corporate responsibility require both commitment and capital.

For example, it has been suggested that businessmen should seek to obtain acceptance within the business community of progressively higher levels of support for the social agencies which are seeking to solve the problems in the communities where they do business. Some businesses have now adopted "matching gift" programs, where the company matches, dollar-for-dollar, contributions made by its employees for charitable or educational purposes. It appears that, as a whole, American business falls far short of the philanthropic support permitted by the Internal Revenue Code, and it would seem that an increased level of philanthropic support by business would demonstrate clearly business' concern for social betterment without significantly reducing earnings per share.

In the area of race relations, many large companies have already selected directors from minority groups in apparent recognition of the proposition that large companies affect all sectors of society and its leadership should represent all sectors of society.

There have been other suggestions which are designed to provide a forum for self-examination of corporate responsibility within the corporation itself. The election of "outside" directors, who represent the public generally, could provide a "conscience" for the corporation and perhaps a different prospective in board deliberations. Shareholder's committees for corporate responsibility could provide insight and information to the company, and perhaps a valuable channel of communication between the company and the shareholders who may be affected by the company's social endeavors.

The concern for the environment has reached such proportions that business has lost much of its freedom of choice, but still is blamed for much of the problem and has the opportunity to contribute much to the solution. Business should take the lead in suggesting and articulating market incentives which would build the solution of the environmental problem by industry into the profit and market system. Such a solution must go beyond the familiar suggestions of tax incentives and surcharges for effluents. Business may have to prepare itself to forego at least some short-term benefits and profits in favor of long-term appreciation in connection with solution of the environmental crisis. Perhaps most important, business must devote itself to workable solutions which would solve the environmental problems without disastrous and unnecessary "overkill."

It seems to me that business' most important expression of corporate responsibility is in the providing of leadership in helping to solve the social problems of the times. The business community includes a vast reservoir of talented and capable people who are uniquely qualified to provide leadership and direction to the many groups, private and public, which are seeking solutions. By recognizing that business must participate in the solution of social problems, and that business is uniquely qualified to provide responsible and qualified leadership, business can achieve the highest degree of social responsibility without sacrificing our free enterprise system, and without completely changing the recognized objectives of the corporations.

COL. MEREDITH P. SMITH, COMMAND CHAPLAIN, TO RETIRE

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. GAYDOS. Mr. Speaker, early next week Col. Meredith P. Smith, command chaplain of the Air Force Systems Command at Andrews Air Force Base, will end an illustrious career in military service. A native of my 20th Congressional District in Pennsylvania, Colonel Smith is retiring after more than 30 years in the service of his country.

Every combat veteran knows a chaplain has a unique link with those called upon to risk their life in the defense of the Nation. During World War II, there was a saying which emphasized the need for chaplains in combat:

There are no atheists in foxholes.

I believe that to be true. Many men, facing imminent death at the hands of an enemy. felt the need to make peace with their God. They sought the chaplain and with him prayed for God's blessing in the hell of battle.

Colonel Smith knows the needs of such men. He entered military service on November 11, 1942, during the holocaust of World War II. He earned five campaign stars while serving with the 2d Filipino Regiment, the 5th Armored Division, and the 3d Infantry Division. He was recalled during the Korean conflict and since then has served at numerous bases here and abroad. Colonel Smith wears with pride the Army/Air Force Commendation Medal, the Air Force Commendation Medal with two oak leaf clusters, and the Meritorious Service Medal.

Born in Wilmerding, Pa., in the Monyough Valley, Colonel Smith, a graduate of Etna High School, Etna, Pa.; Asbury College, Wilmore, Ky.; and Boston University, Boston, Mass. During his civilian ministry, he served pastorates in Buena Vista, Ky.; Dingham Canyon, Utah; Moultonville, N.H. and Marblehead, Mass. Married to the former Leda Yarnell of Butler, Pa., and the father of three children, Colonel Smith plans to return to Wilmerding after his retirement.

Mr. Speaker, it is with great pride that I bring Colonel Smith's record to the attention of my colleagues. He is a man with a special calling who has served long and well his God, his country, and his fellow man. May God go with him now.

PRESIDENTIAL PROCLAMATION OF BILINGUAL EDUCATION WEEK

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. BADILLO. Mr. Speaker, today I am introducing a joint resolution authorizing and requesting the President to proclaim the week of May 13, 1974, as Bilingual Education Week.

The Annual International Bilingual Bicultural Education Conference will be held in New York City on May 15–18, 1974, and will be officially welcomed by the United Nations. I believe that this is a most fitting gesture, since that body represents the place where many languages come together in an effort to promote peace and harmony among all the peoples of the world. I further believe that an official proclamation designating Bilingual Education Week would help to focus attention on the special needs of our many citizens and residents who either speak no English or who have limited English-speaking ability.

I would like to emphasize that this will be an international conference, with participants coming from around the world. This is an important point, since the fostering of the teaching and knowledge of foreign languages is important to our relations abroad as well as to our domestic needs.

It is my hope that this proclamation will at least partially help to emphasize the need for a renewed commitment to the concepts of bilingualism and biculturalism. By now, most of us have come to the realization that the great melting pot we once thought we had does not really exist at all. Each of us is proud of his own individual heritage and many ethnic groups cling tenaciously to the customs of their ancestors.

Still, in order to function as one cohesive nation, we must have some common means of communication, and we have officially adopted the English language. I believe, therefore, that we must provide every opportunity for each American citizen to become competent in the English language. At the same time we should encourage the preservation of the many cultural and linguistic traditions which blend to make this country.

Over the past few years the Congress has made a beginning in providing equal opportunity for non-English-speaking persons through legislation such as the Bilingual Education Act. Unfortunately, this program has not been as successful as it was intended to be, due to the fact that it has never been fully funded. More recently, I have offered amendments to the Comprehensive Manpower Act of 1973 for the purpose of insuring that persons of limited English speaking ability are given every opportunity to compete fully and equitably with other citizens in the U.S. labor market.

Although the joint resolution which I am introducing today will not provide any new program or any additional moneys to assist those in need of bilingual training, it can have an important psychological impact both on the non-English-speaking community and on those of us who are charged with the responsibility of developing new and innovative approaches to resolving their situation. I know that many of my colleagues can identify communities within their own districts where there are sizable enclaves of people who continue to cultivate the language and customs of their ancestral homelands. I am sure you will agree that the concept of bilingual education is vital to these people in order to give them the preparation necessary to become productive citizens. For this reason, I hope that the resolution will receive wide bipartisan support, and I urge my fellow Members to support it.

The following Members join me in cosponsoring this bill: Mr. Roy, Mr. Derwinski, Mr. Rosenthal, Mr. de Lugo, Mrs. Collins of Illinois, Mr. Dellums, Mrs. Schroeder, Mr. Rhodes, Mr. Wydler, Mr. Ryan, Mr. Pepper, Mr. Young of Alaska, Mr. Gonzalez, Mr. Benitez, Mr. Hawkins, Mr. Murphy of New York, Mrs. Grasso, Mr. Bingham, Mr. Rodino, Mr. Cohen, Mr. Roybal, Mr. Long of Louisiana, Mrs. Chisholm, Mr. Won Pat, Mr. Moakley, Ms. Abzug, Mr. Stokes, Mr. Treen, Mr. Towell of Nevada, Mr. Koch, Mr. Pickle, and Mr. Danielson.

RALPH NADER CONTINUES THE FIGHT AGAINST STRIP MINING

HON. KEN HECHLER

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. HECHLER of West Virginia. Mr. Speaker, the current energy shortage is being used by the giant energy conglomerates as a ramrod to shove more strip mining down the throats of our people. Under the pressure of this latest crisis, we are forgetting the environmental and human crisis that is strip mining. The following letter was written by Ralph Nader to Sir Denys Flowerdew Lowson, chairman of the board of directors of the American Association, Ltd., a British corporation which controls more than 100 square miles of coal-rich land and which controls the very lives of the people of that area of the Appalachian Mountains in Kentucky and Tennessee. I hope Mr. Nader's letter will serve as a case study to reawaken all of us to the incredible price that the people of the coal fields are paying daily because we in Congress allow strip mining to continue. The letter follows:

May 16, 1973.

Sir Denys Flowerdew Lowson,
Chairman, Board of Directors, American Association, Ltd., London, England.

O, it is excellent to have a giant's strength, but it is tyrannous to use it like a giant.—"Measure for Measure," Act II, Scene 1.

Dear Sir Denys: As a Life Governor of the Royal Shakespeare Theatre, you are no doubt familiar with these lines. The thought has been applied widely—and rightfully—to America's involvement in Vietnam. Yet as that war winds down, another one continues, a quiet, sordid little war in the once-verdant mountains of the states of Kentucky and Tennessee. The victims of this war are the local residents and their land; the aggressors are "strip miners." And the responsibility falls in large part upon the American Associations, Ltd., a British-based landholding and development company of which you are Chairman of the Board.

The American Association, Ltd., controls about 65,000 acres—over one hundred square miles—of coal-rich land, in the Appalachian Mountains of Kentucky and Tennessee. This region is famous for a sad paradox: human misery and abject poverty atop and amidst some of the world's most abundant mineral deposits. The explanation is regrettably simple. Appalachia is a colony. The people there do not own the wealth. Large, outside corporations like the American Association do. And the prime, almost exclusive, concern of these corporations has been to exploit the region at the lowest possible cost to themselves.

Most of your company's holdings—about 50,000 acres—lie in the isolated "Clear Fork Valley" in Claiborne, Campbell, and Bell Counties. Clear Fork is one of the most populated remaining valleys in the coal areas of Central Appalachia, with about 500–700 households in the communities of Fonde, Pruden, Hamblintown, Clairfield, Buffalo, and Straight Creek. Your company owns perhaps 85 percent of the valley there.

In this remote valley, the American Association has displayed corporate profitseeking at its worst. It has permitted wanton and destructive "strip mining"—mining by blasting and scraping away the surface instead of tunneling into a coal deposit. Once-beautiful mountains are now scarred and gouged; foliage is razed; streams are clogged and filled with acid and filth; the inhabitants are endangered by landslides, floods, and polluted water. The difference between what strip-mining is doing to the land in Appalachia, and what B–52 bombers have done to the land in Southeast Asia, is one of degree, not of kind.

And while carting away over 2.2 million tons of coal per year, leaving the region that much poorer, and in ruin, the American Association and the Companies to which it leases have virtually ignored the needs of the residents there. They have avoided their fair share of the local tax burden. They have presided over the destruction of job opportunities. They have even blocked the efforts of the local citizens to better their own lot.

Idealism and good intentions—spiced, albeit, with a goodly dose of empire and profits—propelled your firm into Appalachia in the early 1890s. Backed by capital from Britain's Baring Brothers, the American Association founded a town called Middlesboro (after a British counterpart) in the State of Kentucky, and set out to make it the booming iron and coal capitol of the southern United States. The venture was to strike a bold new phase in British enterprise and in Anglo-American relations. "This is but a transfer of British business to American soil," proclaimed American Association founder Alexander Arthur on November 11, 1890, to visiting dignitaries in the newly-resplendent Middlesboro Hall. He went on:

"I would say that America needs this place and our Anglo-American money, experience and push. Our mines, ovens, furnaces and works you have seen; these comprise our plant. We have also the sinews of body and of money and stand ready, clean-cut, and vigorous, for a generation of progress and success in manufacture, arts, and sciences. *Come and join hands with us in the great enterprise which is worthy of the noblest efforts of us all, native or foreign born though we may be.*" (Italics supplied.)

But misfortune, greed, and highly questionable dealings soon shipwrecked the hoped-for "noblest efforts." The financial panic of 1893 dried up the venture's British backing; Middlesboro was sold at auction, and 80,000 acres of mountain and valley land were mortgaged to the Central Trust Co. of New York, for $1,500,000.

Then a strange thing happened. The Central Trust filed to recover on the mortgage in 1894, the one J. H. Bartlett was appointed Special Commissioner to conduct the sale. Mr. Bartlett let the property go for but $25,000—about thirty cents per acre. The buyer was, of all people, an agent of the American Association, Ltd., a newly-formed corporation with essentially the same membership as the American Association, Inc. Shortly thereafter, Mr. J. H. Bartlett became General Manager of American Association, Inc.

The American Association, Inc. said later that the land had been worth well over one-half million dollars at the time of the sale.

This strange transaction did not go unnoticed. Creditors of the American Association, Ltd. sued the new American Association, Inc. in Claiborne County for "fraud," claiming it had "paid nothing for said property." But the records of this suit went up in flames with the Claiborne County Courthouse. And researchers could find no trace of the suit at the Bell County Courthouse.

The Association had acquired its Appalachian Coal empire through means its founder Mr. Arthur and yourself might not wish to label a "transfer of British business to American soil." Most records of the era are either missing, or else were burned with the County Courthouse. But the region is alive with tales of how American Association tricked, threatened, or forced uneducated mountain people into giving up their valuable coal-land for fifty cents to a dollar an acre. Said one mountaineer recently:

"The American Association said the land was worthless and that they would give my daddy a dollar an acre and we could live on the land and pay rent and they would pay the taxes. We didn't know it but we were standing barely 4' from a seam of coal when the American Association was talking to us."

Local residents say that when the property records burned with the Courthouse, the American Association used the chance to claim property that wasn't theirs.

At first, self interest bound the American Association, and the coal operators to which it leases, to a sort of uneasy truce with the people of the region. The companies needed men to dig the coal out of the large deep mines. So they had to provide these men and their families with a place to live and at least a minimal level of human services. Usually this level was indeed minimal. The miners and their families lived often in indecent conditions and worked in hazard-trap mines. And they were virtual serfs to the companies that employed them and owned everything around them—their home, their credit at the company store, health care and recreation in the company town, even "justice" at the company-controlled courthouse. In the 1930s your company, along with others, tried to keep these miners from joining a union that could stand up for their rights. Yet, despite all this, the need for able, willing bodies to mine the coal made the American Association and its cohorts show some concern for the region and its people.

But the chord that had kept this uneasy truce together has broken. Mining coal no longer requires people. In fact, people just get in the way. Your company has expressed the desire to rid the area of residents. It will no longer repair homes, and it plans to tear them down in the near future. Yet there is little other housing or even property on which to build housing. Depopulation has replaced paternalism as official corporate policy.

"The people would be better off, and we would be better off, if they would be off our land," said Mr. Alvaredo E. Funk, the American Association's General Manager in Middlesboro, Ky.

It began in the 1950s, when a coal market slump forced many coal operators to close down. Medium sized independent operators, like those that lease much American Association land, were especially affected. Employment in the region dropped sharply. In 1952 there were 1,230 coal mining jobs in Claiborne County; by 1958 there were but 282. Your company made no effort to provide other sources of employment for the men thrown out of work.

Since the 1950s, the market for coal has revived. More than revived. It is positively bullish. But bullish for the American Association and other coal owners and operators, not for the people of the region where you get the coal. Automation and strip mining have cut drastically the need for miners. At the single large deep mine left on your property, that of Consoliation Coal, 350 men with modern machinery turn out about as much as 1,500 men produced at 9 mines in 1948. And men are even more dispensible in strip mining. In Claiborne County alone, 200 men can now blast and bulldoze out almost as much coal as 1,500 deep-miners could dig in 1948.

Today, the need for local labor gone, a sort of undeclared warfare has broken loose. The companies to whom you lease are making an unchecked assault upon the land, and in consequence, on its people.

It is hyperbole to compare your company's presence in Appalachia to a war zone? Consider the evidence.

1. ENVIRONMENTAL DESTRUCTION

Irresponsible strip-mining on your lands in Tennessee harkens dismally of the laying-waste-to-the-land strategies of bygone generals. As you know, a strip miner literally blasts away the sides or top of a mountain. He then bulldozes the debris over the side, and shovels out the coal. The process is fast, cheap, and destructive in the extreme. Landslides block roads and railways, destroy homes and farmlands, and imperil human beings. The blasting alone has cracked the frames and foundations of homes. Streams, choked with silt and debris, flood at the slightest rainfall, leaving harmful deposits on scarce fertile soils. Acid and mineral substances pollute the water and endanger the area's water supply.

"We are afraid to go to sleep when it rains. We just stay up all night," says one Tennessee resident whose property these floods have ruined. In the Clear Fork Valley, some people must boil their water and add chlorine to it to make it safe to drink. And the Campbell County Highway Department has had to spend thousands of dollars clearing a single road after continual landslides.

Is this the experience of people in peace or in war?

Your company, the American Association, currently hosts more strip mining operations than does any other landowner in Tennessee. On your Claiborne County property alone, strippers laid waste to about 3,000 acres before the State passed a law in 1967 requiring that the land be restored. Since then, 1,400 more acres on your land have been stripped, and the reclamation is questionable at best despite the new law.

2. TAX EVASION

While their mineral wealth is literally carted out from under them, the people of this region pay, in measurable and immeasurable ways, for this destruction. State and local governments have to clear the roads after landslides and both roads and bridges after illegally overweight coal trucks have beaten them apart. The people pay for this through taxes, and through their own efforts to undo the damage to their homes and property. Yet not only do they get little or nothing, not even jobs, in return. Your company even avoids its duty to pay taxes to meet the costs of local government.

In the United States, local governments depend mainly on property taxes. Especially in Appalachia, where coal is the major form of property wealth, owners like the American Association are expected to pay their share. But it hasn't worked out that way in Claiborne County. Your 44,000 coal laden acres there represent 17 percent of the County's land area and perhaps 90 percent of the County's coal reserves. Yet in 1970 your property taxes provided only 3 percent of the County's property tax revenue. That year your company claimed to the State Board of Equalization—the board of appeals—that 40,000 acres of its coal-rich land were worth but five dollars per acre. Yet in that one year alone you garnered more in royalty payments from the mining companies to which you lease.

Complaints by local citizens led the Tennessee Board of Equalization to require that coal properties be assessed more accurately. But the figures your General Manager Mr. Funk then supplied the State were dubious at best. Local citizens charged that Mr. Funk's suspicious figures gave your company an almost one million dollar underassessment. The State Board seems to have borne out these claims when it tripled values Mr. Funk reported for properties now leased to Consolidated Coal.

Still, the strip mines on your land are greatly underassessed and undertaxed. Two companies mining your land, under lease, appear to have escaped taxation altogether, while others seem to have kept all their mining equipment off the tax rolls. As late as 1972 your coal-rich Claiborne County lands that were not being mined were still assessed at only $25/acre, less than the least expensive farm land in the county.

3. HOUSING

As the major employer in the Clear Fork Valley, and as owner of most of the land, the American Association once provided most of the housing as well. But now that it no longer needs the people, it seeks to get rid of them. It is your company's declared policy to tear down its houses in the valley, and not to build new ones. The houses your company still rents, it won't repair. Nor will it compensate tenants who make their own repairs. And the leases it grants are usually for but thirty days, if it grants a lease at all. And they empower you to evict without cause or reason.

"I've seen barns in better shape . . . Why, I've worked farms where people wouldn't keep their animals in barns the shape of these houses," one tenant said recently.

Meanwhile, strip mining destroys these homes and the land on which they rest. Residents count forty-two houses that have been stripped away in the small Rock Creek Hollow alone.

And your company has turned its back on both the immediate distress and the long-run needs of people whose homes are thus destroyed. In 1955 on American Association property, water broke through an old "slag" pile, surged down and destroyed the Community of Valley Creek. Two children were killed. Your company offered meager compensation. Just last year your company did not take preventive action when a landslide from a strip mine on your land threatened homes and lives in the Community of Buffalo Hollow until after local citizens hired an attorney and Granada Television filmed the slide for broadcast in Britain. Even the belated efforts you have taken—which have had little success—are of small comfort to people who have had to evacuate homes on your property before the invading army of bulldozing strip miners. Or to residents such as Lewis Lowe, who now faces perennial flooding along Clear Fork Creek. Or to the people endangered or blocked in by the landslides on such places as Duff Road.

Your manager, Mr. Funk, stated on the Granada television documentary, "The Stripping of Appalachia," "We're ploughing back our share into the development of Appalachia." Ploughing, indeed, there is aplenty. But apparently the only "development" is on a minor part of your holdings; in Cumberland Gap, across the giant Cumberland Mountain from Clear Fork Valley. Here one finds a new Holiday Inn for tourists, and here a marina and golf course are planned, as your May 19, 1971 Statement to Shareholders puts it, "to attract the wealthier citizens of Pineville and Middlesboro." What of the less wealthy residents of your 50,000 or more acres in the isolated Clear Fork Valley?

They could move elsewhere, one might reply. After all, your Statement to Shareholders the following year applauds your contribution to the local housing supply. "We have continued," it says, "our policy of building houses on plots of land owned by us. . . ." But these too are across the Cumberland Mountains. In the isolated valley, housing is scarce because your company owns most of the land and is tearing down its houses. There are very few "elsewheres" for people who wish to remain in the land where they and their parents were raised. And jobs and living conditions in the distant cities are very uncertain.

4. PREVENTING LOCAL SELF-HELP

To keep the area under tight control, the American Association has blocked the efforts of local citizens to help themselves, to provide for their own jobs and housing. These people have formed a community development organization, the Model Valley Development Council, to better the lot of the valley and its residents. Several years ago, when the Council approached your company to buy land for a small factory, your company would consent to sell or lease only a single small tract. It was covered with slag and refuse from an old mine, and the Association would let it go only if the local people themselves cleaned up the shameful mess. In 1972 the American Association refused to sell or lease land for the people to build homes. Last autumn, American Association General Manager Funk would not consider making just one-half acre available for the community to build a health clinic. Since then (and after wide showing of the Granada T.V. documentary) Mr. Funk has suggested you might lease—but not sell—some land.

But the people are still waiting. Meanwhile your company won't even let them cut trees for wood to repair their homes.

The mere control of so much of this area's land and wealth sets your company athwart any growth or local self help there. The County government is reluctant to provide services like sewers and roads because the population is sparse—sparse largely due to American Association policy. Lack of these services in turn keeps new builders away. And potential industries shun the almost total dependence on your company that setting-up in the region would involve.

Your company won't help these people. And it won't let them help themselves.

The American Association's seventy year occupation of this forgotten portion of Tennessee has resulted, then, in what? Surveys in the Valley have shown unemployment at about 30 percent. Around 20 percent of the households live on less than $1,000 per year; another 20 percent make less than $2,000. ($9,400 per year was the average family income in this country in 1969.) Homes are being destroyed and land and water are being ruined. Prospects for employment are grim. Prospects generally are grim, with your company looking ahead to 25–30 more years of strip mining, and then timber cutting after that.

Does this picture suggest the presence of a responsible citizen or of a greedy aggressor? And what will the picture be in twenty-five more years?—not in the small portion of your land north of Cumberland Mountain, where you are building playspots for the rich, but in the depressed Clear Creek Valley where most of your holdings lie?

The bloom indeed has faded from the hopes your countrymen held for the American Association venture in Kentucky and Tennessee. How different the response of two English people, viewing the enterprise at the outset and now. Visiting the area of 1891, Sir James Kitson, then-President of the British Iron and Steel Institute, could boast:

"I think we all, as Englishmen, rejoiced to see a town which was being developed with so much sagacity, so much judgment and energy: that was being developed under English auspices and with British capital." Eighty years later your countrymen were holding their heads a bit lower. After watching the Granada television documentary on your holdings in Clear Fork Valley, a Middlesex, England woman felt impelled to write a small local Tennessee newspaper:

"I write to tell you how ashamed I am that an English-owned company can so indiscriminately cause so much havoc to a small community. . . . My feelings after watching a recent television programme on the subject were ones of total horror.

"You must realize that I am an English woman of absolutely no importance, but nevertheless, would like to use the good offices of your newspaper to apologise for the desecration caused by an English company, on land in a country that has always had very close ties with my own. . . ."

It is true that the American Association is just one small part of your nearly £220m ($500,000,000) secrecy-enshrouded corporate empire, of which *Investor's Chronicle* magazine said, "What is quite unknown is how the empire is controlled, how the various companies relate to each other." This empire spans from Australia and Thailand to Canada and the West Indies, and includes pursuits so diverse as racetracks, rubber plantations, and equipment for hairdressing salons.

But the policies of the American Association spell the fate of the people and culture of the Clear Fork Valley. And they are now causing embarrassment to people of your own country.

You have shown charitable instincts in many ways. You have served as officer or director of six hospitals. In 1953 you were on the Executive Council of the Lord Mayor's National Flood and Tempest Distress Fund. Until 1948 you were Vice President of the League of Mercy.

Now you can apply this same sense of responsibility to the corporate realm.

What can you do? Such steps as the following, which you could set in motion at once, could begin to change your company from a hostile aggressor to a more responsible constructive citizen.

1. First, and most important, you should personally visit the region, for at least several days, to see first hand what your company's policies have done. You should meet with local residents to hear their views and to discuss your company's past actions and plans for the future.

2. Your company should inventory, and begin to correct, the damage strip mining on its land has done. Especially urgent is the need to correct damage to homes, farms, roads, and water supplies.

3. You should require all companies to whom the American Association leases, to restore carefully and completely the property on which they mine, and to repair any damage they do to the people or the region.

4. You should also require these companies to cooperate fully with tax officials, and to provide them with the information necessary to set fair and equitable property tax assessments. Such information should include lease agreements, royalty rates, and survey and estimates of coal reserves.

5. As a symbol of your desire to compensate the people of the region for the valuable land your agents tricked or threatened their forebears into selling, you should donate some of your 50,000-odd acres for community development.

6. You should keep in good repair the housing you rent to local people. And you should extend to them fair and adequate lease protection.

7. You should stop refusing to sell land to local groups seeking to build industry or housing.

8. You should instruct your General Manager, Mr. Alverado E. Funk, to negotiate with local citizen groups a fair and equitable compensation for all the property taxes which the American Association has avoided in the past.

9. You should, in the future, consult with these citizen groups about changes in your company's policies in the area.

Such steps will help get your company out of its social red ink in Appalachia. But what of the many other companies you control? Are they too laying waste to forgotten corners of the world?

There is a larger lesson to be learned from your destructive Appalachian venture. It is simply to apply to social problems, on the corporate level, the old adage "To foresee is to forestall." It would be a signal act of corporate foresight and responsibility for you to set up now a special committee to monitor the social impact of all the businesses you control. This committee should comprise both people from within your enterprises, and representatives of outside groups speaking for important social concerns. It should have the full authority of your office, and should report directly to you.

"Come and join hands with us in the great enterprise which is worthy of the noblest efforts of us all . . ." proclaimed the sanguine founder of the American Association, Alexander Arthur. While the standard since then has fallen miserably, it is not too late to hoist it up again. It fact, the decline, like adversity, could be sweet. It could occasion an ascent to a truly higher standard of corporate action and accountability.

Will you exert your "noblest efforts" to that end? Or will your neglect be the occasion of a mobilized citizenry recovering their future through resurgent legal and political action?

Sincerely,

RALPH NADER.

ADDRESS BY SECRETARY OF AGRICULTURE BUTZ

HON. WILEY MAYNE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. MAYNE. Mr. Speaker, I wish to call the attention of the House to the noteworthy address delivered by Secretary of Agriculture Earl Butz yesterday, December 10, at the convention of the Indiana Farm Bureau in Indianapolis. Entitled "American Agriculture Must Export To Live," the address is a thoughtful and vigorous exposition of the vital importance of our farm exports, the essential role of open trading in increasing such exports and the need to keep agricultural and industrial trade negotiations hitched together in the current round of negotiations under GATT. During today's debate on the Trade Reform Act of 1973, I have recommended the Secretary's remarks to my colleagues as extremely timely and pertinent to such legislation. The text of the address follows:

AMERICAN AGRICULTURE MUST EXPORT TO LIVE

(By Secretary of Agriculture Earl L. Butz)

American agriculture stands at the hub of the world market for food and fiber. In turn, exports are vitally important to American agriculture.

The American agricultural plant is geared to produce substantially in excess of this Nation's capacity to consume. That fact is unquestionable.

There are three ways of dealing with our excess capacity: (1) we can curtail farm production; (2) we can expand domestic consumption; (3) we can maintain farm exports at a high level.

Curtailing farm production is neither an effective nor an acceptable means of dealing with our excess production capacity.

For the greatest part of the last 40 years—and especially during the 1960's—we sought to curtail farm output in an effort to maintain higher than competitive prices. The objective was to improve farm income.

That approach has not worked satisfactorily. We have maintained higher than competitive prices, but we have not adequately bolstered farm income.

Why not? The body politic failed to recognize that economic theory and political practice are not one and the same in the realm of farm programs.

Income is the result of price, times volume, minus cost. Foodstuffs are said to have a fairly inelastic demand because demand for foodstuffs is relatively constant. As a result, when the volume of available food decreases, food prices increase proportionally more than the volume of food decreases. In reverse, when the volume of food increases, food prices usually fall proportionally more than the volume of food increases. Theoretically, then, by curtailing output prices should increase more than the volume is decreased, and thus farm income should improve.

In practice, it just does not work that way. There is no flaw in the economic theory. The problem is political. The Congress simply has never had the courage to legislate farm programs with the tough controls necessary to be most effective. Furthermore, farmers have never really expressed much inclination to stomach such controls had the Congress enacted them. Besides we have as a matter of policy had the government store a surplus which served as a constant ceiling on farm prices and prevented the market from performing adequately.

The inescapable conclusion of our 40-year experience is that a policy of "government-created scarcity" is clearly not the best way to deal with the excess production capacity of American agriculture in order to strengthen farm income.

Increasing domestic consumption is an important but limited solution to agriculture's excess capacity problem.

The current level of affluence in the United States makes extensive programs to increase consumption unnecessary. The biggest economic boom in American history is doing that.

There is one exception—those individuals at the very low end of the income spectrum. We are serving that need through a very expansive and expensive food assistance program. It is now a permanent policy of the United States to supplement food expenditures of low income Americans.

In other words, that segment of demand has now been made effective, and it will remain so. Yet, even the continuing and increasing demand stemming from society's affluence and from substantial food assistance programs will not be sufficient to absorb the full measure of American farm productivity.

A vigorous and growing export market is vital to an economically sound and prosperous agriculture.

We currently export a sizeable share of several major farm commodities: nearly three-fourths of our wheat, half of our soybeans, one-fourth of our feed grains, more than one-third of our cotton and tobacco, two-thirds of our rice, half of our cattle hides.

Farm exports for Fiscal 1973 totaled $12.9 billion. That amounted to the production of one out of every four harvested acres and is equivalent to about one-fifth of farmers' yearly cash receipts from marketings. In Fiscal 1974 farm exports may be in the neighborhood of $19 billion.

Without strong export market outlets for our products, farm income would plummet. Rural America would suffer disastrously, and tens of thousands of rural people would flock to the cities.

A sizeable farm export market is important to the entire Nation.

Millions of workers employed in the industries related to agriculture—farm suppliers, handlers, transporters, processors, and merchandisers—would flood the labor market looking for work if we were to lose our farm export market. Maximum farm production creates jobs throughout the economy. Nearly 40 percent of our work force is involved directly or indirecly in agriculture and its products.

Loss of our farm export market would make it necessary to cut farm production by nearly one-fifth in order to avoid tremendous waste and avert a farm depression. It would also eliminate about one-fifth of all agriculturally-related jobs. That loss would amount to 8 percent of the Nation's work force—which, at the outset, could triple unemployment in this country, a disastrous consequence.

Full production agriculture, which sizeable exports make possible, enables farmers to lower the average unit cost of production through higher volume. That means better incomes for farmers, abundant food at moderate prices for consumers, and reasonably priced foodstuffs for people around the world who seek to eat better by buying in the American market.

Cutting exports, and thus restraining production, would mean less income for farmers as well as shorter food supplies and higher food costs for consumers. That approach would also either let people around the world go hungry *or* forfeit to other less efficient food-producing nations the opportunity to earn the profits and to increase employment from food production.

Farm exports are a principal source of the Nation's foreign exchange. The chief reason is that the United States is the best place in the world to buy farm products over the long run. We have every intention of continuing to fulfill that role. As a result, farm exports are the best hope we have for maintaining the value of the dollar abroad.

A vigorous agricultural export business enables us to obtain from abroad the items of trade which have become so essential to this nation's standard of living.

Oil for energy is the most well-known example, and today the most urgent concern. Beyond the present problem of reaching agreement with oil-rich nations to sell oil is the problem of paying for that oil. We do not purchase that oil with the currency of Iran or Libya or Saudi Arabia or Venezuela. We do not print those currencies in this country. We pay for oil with soybeans and wheat and cotton and hides and the other items of our agricultural abundance.

The same is true for the small cars we import, the electronic equipment, the cameras and recorders, the coffee and tea, the bananas and olives. Our capacity to export farm products clearly makes it possible for us to import what we need, what we want, and what we have grown to expect.

Furthermore, the capacity of this nation to export food has been and continues to be a major factor in our efforts for peace. It played a major role in achieving what has become a beneficial and effective detente with the Soviet Union. It was a warming factor in breaking our long period of icy silence with the People's Republic of China.

Consequently, our food-producing genius became a very important factor—indirect though it may have seemed—in achieving a peaceful settlement to the war in Vietnam. Certainly our food abundance helps to maintain the detente which gave the United States an atmosphere in which to build peace in the Middle East.

The question is really not whether we must have agricultural trade—the question is how we will do it.

Tomorrow's trading relationships are being defined right now in Geneva, Switzerland, where representatives of more than 100 nations are gathered for the Seventh Round of negotiations under the General Agreement on Tariffs and Trade. These are the most important and far-reaching trade talks since the Kennedy Round began 10 years ago.

The expanded European Community is busily extending trade preferences to nations in the Mediterranean, Africa, and even South America.

The Congress has not yet acted on a new trade bill—but it will when it resolves questions relating to diplomacy, jobs, the health of the dollar, and our approach in relating to the world's developing nations.

Questions arise in this environment regarding how trade will be conducted. Will we have open trade—with low trade barriers that permit goods and services to flow freely according to market demand and comparative advantage? Or will we have administered trade—with trade and production patterns established under international agreements between countries and groups of countries?

The type of trading arrangements established will make a great deal of difference to American agriculture.

Open trade enables us to take the offensive—administered trade is defensive.

I favor taking the offensive. The historical contrast between soybeans and peanuts is one clear example of why I do not find much promise in the defensive approach.

At one time, both peanuts and soybeans contributed about equally to farm income. Both are oilseeds that produce protein meal and oil. Both are widely adaptable to United States farming areas.

Peanuts took the defensive approach. The Government set up acreage controls, high support prices, an import quota, and an exports subsidy—all in the name of helping peanut growers.

Similar "help" was proposed for soybeans—but farmers avoided such defensive measures. Soybean producers instead took the offensive road to opportunity and growth by producing for expanding markets.

Look at the results. Soybeans have become the major source of added protein for a protein-hungry world. Soybeans are America's most valuable crop—grown on 57 million acres this year and contributing nearly $7.5 billion to 1973 gross farm income. Most important—Government program costs for soybeans are nearly zero.

Peanuts on the other hand, which compete for the same markets and also have the candy and peanut butter market besides, are planted on just 1.6 million acres. Their contribution to farm income is only about one-half billion dollars. Yet, Government costs have run close to $100 million annually in recent years—with a sharp upward cost trend.

Soybeans took the offensive, the open route, sought markets—and won. Peanuts took the defensive, the administrated route, ignored trade—and lost.

Open trade fits our competitive, incentive economy—administered trade is based on the great leveling process.

The United States has traditionally favored freer, more open trade. That is natural. It fits our basically decentralized market economy where individuals are free to earn more and to reap the reward of greater effort.

Many other nations favor the great leveling process. The European Community is heavily committed to administered trading. While the Common Market has open trading within its expanding membership and offers special trade relationships to certain third nations, it seeks to avoid open trading with non-affiliated nations. The centrally-planned economies of the Communist Bloc nations challenge an open trading system since they can conduct trade in ways which other nations cannot.

Open trading encourages effective use of resources—administered trading distorts resource allocation and results in stress, inefficiencies, and shortages.

Open trading lets the law of comparative advantage function—that means production will occur where goods can be produced most efficiently. That means greater total output at less cost than any other system of determining who shall produce what. The specialization that results brings added efficiency and leads to even greater output and higher incomes. That makes possible a higher standard of living for more people, in this country and around the world.

Open trading encourages production of the things people want, when they want them. Open trading reduces problems of scarcity and surplus since world production tends to be more stable than that of individual countries.

Under administered trading, consumers have to wait longer for what they want, settle for less of it, and generally pay a higher price when they get it. Since industries usually have to bow to the demands of the market in the long run anyway, administered trading simply postpones the day of reckoning.

As Americans, we ought to understand how counterproductive administered trading can be. We have painfully gone through Phase I to Phase IV. Administered trading would simply be Phase III ½ raised to the tenth power.

Keeping agricultural and industrial trade negotiations firmly hitched together is a must if we are to achieve open trade.

Some of our major trading partners—the Common Market and Japan particularly—want to negotiate their industrial and agricultural sectors separately because they want to protect their highly subsidized agricultures. Such nations want lower trade barriers for their industrial goods while they continue to protect their agriculture.

To agriculture's sorrow, we gave in and agreed to such a separation in the Kennedy Round. Barriers on manufactured goods were lowered—but our farm products were held back from Western Europe, Japan, and other markets. This unwise strategy in the Kennedy Round contributed heavily to our recent balance of payments problem and our dollar devaluations.

We must be wise enough in the current round of GATT negotiations to consider the trade matters related to agriculture in the mainstream of those negotiations. After all, agriculture remains our largest industry, our largest employer, our largest exporter, our largest contributor to economic stability, and a critical tool of negotiation in world peace.

Only open trade will give American agriculture the opportunity it seeks and the American economy the stimulation it needs. Administered trading leaves our farmers as pawns in the leveling process—and further stifles our already control-weary economic system. That open trading can only be achieved if agricultural and industrial trade negotiations are considered together.

American agriculture clearly must export to live. Without exports, the health of the farm economy would be sadly jeopardized.

Furthermore, the Nation would suffer—in terms of our own supply and cost of food, in terms of jobs, in terms of our ability to buy from abroad, in terms of our economic stability, and in terms of peace.

MORAL BANKRUPTCY: A NEW EXAMPLE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Ms. ABZUG. Mr. Speaker, today's New York Post lead editorial confronts the issue of President Nixon's tax situation head on. They conclude that this newest attempt at "Operation Candor" fails once again and proves to be "A Case of Moral Bankruptcy."

I commend the following editorial to the attention of my colleagues:

A CASE OF MORAL BANKRUPTCY

Whatever legal judgments may finally be rendered about some aspects of President Nixon's financial files, the statement accompanying their release once again dramatized the moral bankruptcy of his leadership.

His words were clearly unresponsive to the underlying questions previously raised—and now confirmed and multiplied—about his tangled financal affairs. In effect he seemed to be presenting a technical lawyer's brief to prove—in his earlier infelicitous phrase—that "I'm not a crook." But even if that position can be sustained, the heart of the indictment stands.

Thus, by his own report, it is established beyond dispute that for three of the four years of his first term, Mr. Nixon paid a total of less than $6000 in taxes, and that for two of those years, 1970 and 1971, he paid less than $1000 annually. The key device employed to achieve this tax immunity was the "gift" of his Vice Presidential papers (many of them government documents) to the National Archives. This was assertedly made before repeal of the loophole provision in July, 1969. In addition—a disclosure apparently at variance with an earlier statement—he deducted $250,000 in interest payments on his real estate taxes.

Meanwhile, as a result of his tax maneuvers and a series of realty transactions, his net worth has risen from $307,141 on Jan. 20, 1969—inauguration day—to $988,522 on last March 31.

Even if there were no troublesome questions about whether Mr. Nixon used and abused the powers of his office for private financial advantage, the overall portrait of his operations would express gross insensitivity to the appearance of things. Millions of ordinary Americans were meeting heavy tax burdens amid the stress of inflation while he was escaping taxation.

And others were dying in Vietnam.

"I have proceeded in a manner I thought both prudent and in the best interest of my family," Mr. Nixon said. Did it never occur to him that his acquisitive life-style and tax gimmickry caricatured all his solemn appeals to the nation for sacrifice and self-discipline? Was he so arrogantly confident that the truth would remain hidden—at least for the duration of his Presidency—that he could live by the credo of "The public be damned"?

Obviously Mr. Nixon recognizes that his belated exercise in "full disclosure" will not "lay to rest" many of the issues created by his report. He felt obliged to propose, for example that the conservative-dominated Joint Congressional Committee on Internal Revenue Taxation review the deductions he took on his private papers and on the sale of land adjacent to his San Clemente estate. It is hardly the President's prerogative to determine what body of Congress should explore these matters.

Moreover, as Sen. Weicker (R-Conn.) pointed out yesterday, this is essentially the business of the Internal Revenue Service. Is the President admitting that the IRS can no longer command public confidence because of the unusual eight-day audit that approved his negligible tax payments in 1971 and 1972—an exercise so hasty that it inevitably invites suspicion of heavy urgent White House pressure?

Innumerable details of the Presidential accounting will stir unease and debate. This is the acknowledgment that he retained for himself unspent portions of his $50,000 annual expense account, supplementing his $200,000 salary—and these added sums were protected by his tax refuges. There is the extraordinary confession at the White House briefing that he was unaware that he had not been paying any California income tax, again a disputed legal point but one on which his avowal of ignorance must be considered astonishing.

There is the revelation that his own auditors disputed the view of his tax accountant that no capital gain should be declared on the San Clemente property sale. There is the saga of the trust fund set up by pharmaceutical magnate Elmer Bobst for Tricia Nixon.

In short, Mr. Nixon was understating the matter when he conceded that "questions and controversies may continue as a consequence of these disclosures." They surely will; not the least will concern the absence of evidence in the latest documents that his papers were actually donated to the Archives before Congress nullified that provision.

Amid all the ramifications that remain to be explored, the incontestable and unforgettable image is that of a President who almost totally eluded taxation for two years and paid a minor fraction in a third while his assets were expanding—and while he presided over a nation hurt by war and inflation.

The moral shallowness and cynicism unfolded in that portrait transcends legal arguments. It is consistent with the insolvency of spirit that was to emerge on so many levels of the Administration which has given us Watergate, the White House horrors, the Saturday night massacre, the tales of the missing tapes and so many other shabby scenes.

THE PULP AND PAPER SHORTAGE

HON. HAROLD V. FROEHLICH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. FROEHLICH. Mr. Speaker, there is a serious pulp and paper shortage in the United States. It is causing a scarcity of several vital paper products, and it is leading to layoffs and unemployment for thousands of workers across the country.

There are a number of factors that have brought us to the present situation. One factor that can and must be corrected immediately is the domestic ceiling price on pulp which is driving domestic pulp into foreign markets.

I am afraid that immense damage to the American economy will result if the Cost of Living Council does not decontrol domestic pulp in the immediate future—certainly before the end of the year.

Other steps should be taken, including a realistic limitation on pulp exports, at least until the pulp shortage has been reduced.

An outstanding program for meeting the pulp and paper shortage has been proposed by Mr. Joseph Tonelli, president of the United Paperworkers International Union. It was outlined last Sunday, December 9, 1973, in a paid advertisement in the New York Times.

With the idea that more people should be made aware of the present crisis and the steps necessary to correct it, I insert Mr. Tonelli's program in the CONGRESSIONAL RECORD:

THIS PROGRAM IS WORTH THE PAPER IT'S WRITTEN ON

Our country, already in the midst of an energy crisis, is now faced with a pulp and paper shortage of crisis proportions.

Paper production in many mills and converting plants has been drastically reduced because of insufficient stock. And at the same time pulp is being exported at twice the domestic price.

The small independent converter has had to curtail production because he hasn't enough paper.

Our members are being laid off. The hardships of an industry in short supply are already hitting home.

THE TIME FOR ACTION IS NOW

The Cost of Living Council must give consideration to our Union's Program to save jobs and to divert a greater flow of pulp, newsprint and paper to domestic market.

The Cost of Living Council must decontrol wages and prices in the paper industry. Prices of pulp and paper products should be allowed to rise in a free market.

Paper companies need profit levels that will permit them to generate internal cash. A higher rate of return on investment is essential, in order to attract new additional capital if present needs are to be met.

Projections of well established trends mandate that companies immediately earmark money for capital expenditures for new mills and for improving existing facilities, if we are to meet future domestic and world market requirements.

The pulp and paper producers must make an immediate and strong commitment for a substantial increase in new capacity in the primary sector of the industry.

It is imperative that there be an immediate curtailment of foreign exports of both pulp, paper and of all varieties of waste paper.

Paper companies individually must assume responsibility to voluntarily allocate and distribute fairly, greater quantities of paper to the small independent converters. The flow of paper to the independent converters must be immediately increased and maintained; if not, the independent converter will be squeezed out of business.

The Federal Government must create a diversity of incentives that would enable the industry to recycle more waste paper on an economically sound, continuing and dependable basis.

This proposal becomes increasingly attractive because it has the added virtue of helping to relieve the nation's solid waste problem.

The 187 million acres that comprise our national forests should be given twentieth century management and technology with full regard for watershed protection and water conservation. Wood fibers on public lands must not be wasted; wood fibers can and should be harvested without disturbing the ecosystem or wildlife conservation.

It is incumbent that the Cost of Living Council act quickly to prevent the loss of thousands of jobs and to bring more paper to the domestic market.

ISRAEL: DETERMINED TO LIVE

HON. OGDEN R. REID

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. REID. Mr. Speaker, I insert in the RECORD an article which appeared recently in the Patent Trader, a newspaper of northern Westchester County, N.Y. The article, entitled "Israel: Determined To Live," is authored by Ben G. Frank, a writer and lecturer who has spent the last 2 months in Israel, and now resides in Chappaqua, N.Y.

The article is, I believe, thoughtful and sensitive and merits the consideration and attention of my colleagues. I commend it to them:

ISRAEL: DETERMINED TO LIVE

(By Ben G. Frank)

ISRAEL.—The sands of the Sinai, the rocks of the Golan Heights, the walls of Jerusalem, the concrete of Tel Aviv are a long way from the hues of the foliage of northern Westchester with its quiet towns, its peaceful country roads, its beautiful homes and easy going suburban life.

And yet despite the distance, an American arriving in Israel in October of 1973 is well received. There is no ugly-American syndrome here; Americans are friends.

This makes it easier to talk to the man in the street; to the soldier, to the government official and to the mother of three whose husband kissed her and the children on the steps of the synagogue on Yom Kippur and went off to war.

One really does not have to scratch very hard at all in Israel to realize what it is to be in a nation at the end of the war, as was this writer.

The observations come pouring out at you after a brief visit.

Israel is sad.

Israel is strong.

Israel is proud.

Israel worries.

But above all, Israel is determined to live and survive.

Israel is sad because in a nation of three million, just a little more than the borough of Brooklyn, it lost about 2,000 young men. In proportion to the U.S. this would mean over 200,000 American boys killed. Add on this another approximate 3,500 Israeli wounded and one can see why there is not a family in Israel that was not touched by the 1973 war.

Being in Israel is like being in a small town. When I arrived and telephoned David Breslau, assistant director of B'nai B'rith Hillel in Jerusalem, he told me that Oren Hadary—whom I knew in the 1950's as a wirey, freckle-faced kid of seven, just like the energetic boys that roam Chappaqua streets and roads—had been killed in the war. Thus, I, too, knew someone who was killed. That is the way it is in a small country: Everyone knows everyone else. Life, too, is very precious in Judaism, said Mr. Breslau. Judaism is a family and each life is especially valuable to a people which lost six million 30 years ago, he indicated.

Therefore, the sadness in Israel today penetrates the atmosphere. Sgt. Shlomo S. also went off to a "war we did not ask for," he said. When he is at home now on leave, he related, he and his friends do not phone each other. Each does not know if the other is alive and each is afraid to call the other. Somebody has to break the ice, though, and I witnessed a scene where Sgt. S. and his friend, nickname Ben, met. The latter just popped over to Sgt. S's house with his wife. You could see they all held back their emotions; the trials and tribulations of war were on their faces, the days when husband and wife were apart. The wine was brought out, and everyone said, "L'Chayim," to life—and someone else said, "this should only be the last war."

It is very emotional in Israel. Can it be otherwise?

I met a soldier in the Sinai who showed me a letter he received from a girl, Ruthie, who like thousands of school children, made up gift packages for the boys. This soldier carried the student's letter with him wherever he went and this is what it said:

"To a soldier who is on the borders. Please receive my pretty present. I hope that the war will end fast and you will return to us healthy and well." . . . Signed Ruthie.

He received two pieces of soap, two packs of cigarettes, a toothbrush, bubble gum, chocolate, coffee and cakes—"all the things one forgets when one rushes off to war," he said.

Yaakov Dehan of Jerusalem, who came from North Africa to Israel in 1948, has lived through four Arab-Israel wars plus the so-called "War of Attrition" in 1968–70. He has 10 children and five were in the service this time, and one was wounded. And though he smiles you know that down deep he suffered the anguish of a father saying goodby to his sons who went off to war.

Children suffered, also. Do not think that little four-year-old Galit of Ramat Gan is alone. She is now afraid to leave her mother when darkness falls—a result of the blackouts and trips to the air raid shelters.

Mrs. Mollie Golub, an American woman from Brooklyn who spends a great deal of time in Israel, told about the children in the Mizrachi Women's Organization of America institutions. "Superficially," she said, "the children look alright, but nobody knows what goes on in the mind of a child."

Israeli children, too, saw the war on television. They know when a teacher was killed. They know when the son of a housemother in a nursery was killed. They know when a cousin was killed. "It was a trauma for the children to hear about the deaths of people they love," says Mrs. Golub as she goes on a visit to a hospital ward with wounded Israeli soldiers. "It is here where you see people charred by the ravages of war."

America and President Nixon have a special place in the hearts of Israelis and you can see why when you hear those huge Galaxie transport planes filled with military supplies zoom in and out over Tel Aviv.

"For America stood by Israel in its hour of need," said one taxicab driver. "We know," he continued in a more realistic tone, "America did not do it because of the colors of our eyes. She did it because we are saving the Middle East from a Russian takeover."

A rabbi voiced that feeling when he said, "Israel is the anchor of American security in the Middle East."

Again, after this war, despite the losses and the sadness, Israeli appear to be strong. There is no gloating. "We did what we had to," said one soldier who added with determination, "as we say it, we had 'no alternative.'" He and others added, "never again will the Arabs attack us by surprise as they did on Yom Kippur."

You watch Golda Meir, that energetic 75-year-old woman premier, visit the troops on the West Bank of the Suez Canal, and you see the respect they have for her—this matriarch who lived in America once. As she walks by, she tells the soldiers: the world knows how well you did, "who you are and what you are."

She sits down in the middle of the desert and talks to them and they all talk of the future . . . and the soldiers ask critical questions of their government.

Days later, she will fight back the tears when the wounded prisoners of war are brought to Lod Airport.

Israel also feels isolated as "Europe left us and Africa left us," said Yehuda Shimoni, El Al's manager for Israel.

Israelis also worry about political pressure. The impression one comes away with is that many feel it will "be in vain," if they are pushed by the diplomats back to indefensible borders. Especially after this "surprise war" do they, the Israeli, want defensible borders with a peace treaty.

If peace ever comes to this region, Jew and Arab can live together.

Minister of Police Shlomo Hillel said in an interview with this writer that there was not one act of sabotage among the Arabs that lived in Israel. Whatever they (the Arabs) thought, they kept it to themselves.

Minister Hillel, a member of the cabinet, said that many Moslems volunteered to drive trucks; many bought Israel war bonds; many served in auxiliary forces and the Druze fought in the Israeli Army.

H. Breitenfeld, chief of police for the Jersualem sub district, said the Arabs, after a short lull, also went back to work despite the war.

And despite the tension, the minister of police said that "not a single case of harm was done to any Arab during the whole war."

Israelis will have to tighten their belts, that they know. The cost of the war has been put at about $6 to $8 billion, that is about a year's Gross National Product for Israel. Minister Hillel pointed out that construction has stopped and that his most optimistic feeling was that it will take four to six months to catch up with this and other programs, though he admits it probably will take longer.

During the war, too, although crime is not a problem in Israel, thieves went out of circulation. "Even thieves have a certain sentiment to the surroundings," said the minister of police.

Over and over again, you hear what you heard at Hadassah Hospital at an entertainment show for wounded soldiers, and that is, as the entertainers say, "let this be the last war." That is what you see written on the faces of the sons and daughters, mothers and fathers, and grandparents of Israeli in November, 1973.

MONTHLY CALENDAR OF THE SMITHSONIAN INSTITUTION

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. SMITH of New York. Mr. Speaker, it is my privilege to insert in the RECORD each month the Monthly Calendar of the Smithsonian Institution. The December Calendar of Events follows:

CALENDAR OF THE SMITHSONIAN INSTITUTION, DECEMBER 1973

SATURDAY, DECEMBER 1

Film for Kids: *The Living Desert*—a Disney production exploring the varieties of life in the desert. 2 p.m., Baird Auditorium, Natural History Building. $3 general; $2 Associates.

SUNDAY, DECEMBER 2

Fall Film Trips: Outstanding independent films entitled *Consequences; Further Adventures of Uncle Sam; Notes on the Circus; Crocus; 69; Run Good; Nuptiae,* 5:30 p.m., History and Technology Building Auditorium. $1.25 general; $1 students; $.75 Associates.

MONDAY, DECEMBER 3

Cosmic Evolution Lecture: *Intelligent Life Beyond the Earth*. Speaker: Professor Philip Morrison, Massachusetts Institute of Technology. Final lecture in the series on "Are We Alone in the Universe?" Co-sponsored by the Smithsonian Institution. 8 p.m., National Academy of Sciences Auditorium, 2101 Constitution Avenue, N.W.

WEDNESDAY, DECEMBER 5

The Ascent of Man: *The Harvest of the Seasons*—Man discovers agriculture and domesticates plant and animal life, imposing his will on the wild wheat and the horse. Second in the BBC–TV and Time-Life Films featuring Dr. Jacob Bronowski and his personal views of the history of man seen through a history of science. Remaining films will be shown December 12, 19; Jan 2, 9, 16, 23, 30; Feb. 6, 13, 20, 27. All begin at 8 p.m. in the Baird Auditorium, Natural History Building. Each Wednesday film is repeated the following day at 12:30 p.m. in the History and Technology Building auditorium. Sponsored by the Smithsonian Free Film Theatre and the Office of Seminars.

Free Film Theatre: *The Desert; The Everglades*—two films showing the life patterns of two wilderness areas. Two-film program begins at 12:30 and 1:30 p.m. History and Technology Building auditorium.

Slide Presentation: *African Children.* Travelogue about black children in Nigeria and Gambia. Created especially for children by Fletcher Smith of the museum staff, the program is accompanied by various artifacts that can be touched and handled. 10 a.m., Anacostia Neighborhood Museum.

THURSDAY, DECEMBER 6

The Ascent of Man: *The Harvest of the Seasons,* 12:30 p.m., History and Technology Building auditorium. See December 5 for further details.

*Investigative Reporting Seminar: David Wise moderates the program with the following topics and discussants: The Interrelationship of the Press, Government and Public in a Democracy, Jack Anderson, *The Washington Post,* United Feature Syndicate, Inc.; The Role of and Need for Investigative Reporters, Jack Nelson, *The Los Angeles Times;* The Impact of Watergate on Investigative Reporting and Vice Versa, Seymour Hersh, *The New York Times;* The Rights of the Reporter versus The Rights of the Target—The Shield Law, the Grand Jury, The First Amendment, Leakage, Saul Friedman. *The Detroit Free Press;* The Two Types of Investigative Reporting; Reliance on Sources versus Public Record, Lucian K. Turscot IV *The Village Voice;* New Possible Directions for Investigative Reporting, Joseph Eszterhas, *Rolling Stone.* 8 p.m., Baird Auditorium, Natural History building $5 general, $4.50 students; $4 Associates.

FRIDAY, DECEMBER 7

Exhibition: *Marguerite Zorach*: The Early *Years,* 1908–1920. Forty paintings, drawings, and prints by Mrs. Zorach (1887–1968) from her years as a student in Paris to later works done in California, New York and England, Represented are her interpretations of Post-Impressionism, Fauvism and Cubism as well as her own mature literal style. National Collection of Fine Arts, through February 3.

Tie-Dye Demonstration by *James Campbell,* exhibits specialist. Persons attending may bring an item to be dyed and participate in a workshop. 10 a.m., Anacostia Neighborhood Museum. For more information call 678–1200.

*Sonnets and Lyrics: *Lucille Clifton* and *Michael Lally* reading the spare, direct poetry which has grown from the black woman's experience of self and surrounding. 8 p.m., Reception Suite, History and Technology Building. $5 general, $4 Associates. Reading will be followed by a reception.

The Oberlin Baroque Ensemble: Performers present a program of baroque music that will include Marin Marais' Opera for Instruments, *La Gamme,* played on instruments from the museum's collections—baroque violin, one-keyed flute, viols and harpsichord. An Americana concert presented by the Division of Performing Arts. 8:30 p.m., Hall of Musical Instruments, History and Technology Building. $3.50 general, $3 Associates. For reservations, call 381–5395.

SATURDAY, DECEMBER 8

Portfolio Day: High school juniors and seniors from the Washington area are invited to take part in the third annual program for pupils aspiring to an art education. Students are invited to bring portfolios; and information, evaluation and counseling will be available. Admissions officers from area and national colleges and universities having strong art programs will participate. For in-

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Footnote at end of article.

formation, call (202) 381-6541, Education Department, National Collection of Fine Arts. Registration 11:45 a.m.–1 p.m.; Interviews 1–5 p.m. Free. NCFA.

SUNDAY, DECEMBER 9

*Chinese Opera: *The Return of the Phoenix*. An innovative and imaginative Chinese musical, based on the Peking opera. The all Chinese-American cast switches to and from English and Mandarin Chinese, and recorded music is combined with live performance of musicians of the Yeh Yu Chinese Opera Association. 5 and 8 p.m., Baird Auditorium, Natural History Building, $6 general, $4 Associates.

*Fall Film Trips: *The Mad Baker; Circles, No. 2; Eaux d' Artifice; The Bird; Bump City; Variations on a Cellophane Wrapper; What Fixed Me*. 5:30 p.m., History and Technology Building auditorium. $1.25 general; $1 students; $.75 Associates.

MONDAY, DECEMBER 10

Audubon Lecture: *Mexican Adventures*. Chess Lyons, naturalist and conservationist, describes his journey to the off-shore islands of Mexico through the jungles of mangroves, the desert, into the Sierra Madre Mountains and into the heartlands of the Yucatan Peninsula. Sponsored by the Audubon Naturalist Society and the Smithsonian Resident Associate Program. 5:30 and 8:30 p.m., Baird Auditorium, Natural History Building. $2.50 general; $1.50 members. Children, $1.50 and $1. For reservations call 381-5157; tickets, as available, will also be sold at the door.

Santa Clause Arrives: Milton Jones, the neighborhood Santa of Anacostia, arrives at the Smithsonian's Anacostia Neighborhood Museum, for a two-week residence. Details of Santa's arrival will be announced.

TUESDAY, DECEMBER 11

Christmas Concert: *The Potomac English Handbell Ringers,* directed by Nancy Poore Tufts, will ring in the Yule season with a concert of works by Corelli, Haydn, Mozart, Scarlatti, Brahms, Grieg, Tschaikovsky, and Delius; present day folk songs, Christmas carols and contemporary compositions. The program includes a demonstration of the ancient art of change-ringing. Tickets are free and can be obtained, two to each requester, at the Renwick Gallery Information Desk or Museum Shop in person or by mail (enclose self-addressed, stamped envelope). 8 p.m., Grand Salon, The Renwick Gallery.

*Turkish Gala: Celebration of the 50th anniversary of the Turkish Republic. A film on Ataturk and the cultural development in Turkey, a reception with Turkish hors d'oeuvres and entertainment by Turkish musicians will be a part of the evening, all under the patronage of His Excellency, The Ambassador Esenbel, and in affiliation with the American Turkish Association. Ambassador Esenbel will be introduced by Dr. Esin Atil of the Freer Gallery of Art. 6–8 p.m., Baird Auditorium and Rotunda, Natural History Building. $3.50 general, $2.50 Associates and American Turkish Association members.

WEDNESDAY, DECEMBER 12

The Ascent of Man: The Grain in the Stone—Man's faith and fancy as architect and builder expressed in the Greek temples of Paestum, cathedrals of medieval France, ancient Inca cities of Peru and modern Los Angeles. 8 p.m., Baird Auditorium, Natural History Building. See December 5 for further details.

* Opera Lecture: Francis Robinson, Assistant Manager of the Metropolitan Opera, discusses opera at the Metropolitan and in Washington. 7:30 p.m., Reception Suite, History and Technology Building. $6 general, $5 Associates.

Free Film Theatre: *Point Pelee*—the narrow peninsula in Lake Erie that supports a unique combination of plant life; *Rise and Fall of the Great Lakes*—the history of the Great Lakes told through the eyes of a lone canoeist. 12:30 and 1:30 p.m., History and Technology Building auditorium.

American Aviation Historical Society. 8 p.m., National Air and Space Museum conference room. Public is invited.

THURSDAY, DECEMBER 13

Creative Screen: Holiday film festival. *Snowman's Dilemma*—A Bulgarian animated film about a bashful snowman's love of a little girl; Dylan Thomas' *A Child's Christmas in Wales*—still photographs of Welch children and adults: *A Christmas Fantasy*—the magic of a northern Christmas, 11:30 a.m., 12:30 and 1:30 p.m. The Renwick Gallery.

The Ascent of Man: The Grain in the Stone. 12:30 p.m., History and Technology Building auditorium. Repeat. See December 12 for further details.

* Homage to W. H. Auden: Devoted to the memory of one of the masters of contemporary poetry. An evening of poetry reading and reminiscences by two of his most distinguished colleagues—Stephen Spender and Daniel Hoffman—and introduced by Robert A. Brooks, Under Secretary of the Smithsonian Institution. 8 p.m., Baird Auditorium. $3 general, $2 Associates & students.

FRIDAY, DECEMBER 14

Christmas in Time: An original play by Rhozier "Roach" Brown, performed by the Inner Voices of Lorton Reformatory. 1:15 p.m., Anacostia Neighborhood Museum.

SUNDAY, DECEMBER *16*

Jazz Heritage Concert: *Cecil Taylor Unit*. Pianist, composer and first leader of the jazz avant-garde, Cecil Taylor performs his own works in a rare Washington appearance. 8 p.m., Baird Auditorium, Natural History Building. $4.50 general, $4 Associates. Sponsored by the Division of Performing Arts. Free Workshop 4:30 p.m. For reservations call 381-5395.

*Fall Film Trips: *FFFTCLM; The Dove; Window Water; Baby Moving; Migration; Breathing; The 'What Did you think of the Movie?'* 5:30 p.m., History and Technology Building auditorium. $1.25 general, $1 students, $.75 Associates.

*Brass 'Twixt Bloody Marys: Festive 19th century brass music related to the coming holiday season presented by musicians of the Division of Musical Instruments. Brunch of Bloody Marys, coffee, and pastries precedes or follows the concert, 10 a.m. to 12 noon or 11 a.m. to 1 p.m. $6.50 general; $5.50 Associates.

Introduction to Kwanza: Special programs have been designed to introduce groups to the African celebration of Kwanza. Reservations for these programs, scheduled for December 16–22, may be made by calling 678-1200.

MONDAY, DECEMBER 17

Wright Brothers Wind Tunnel Demonstration: In connection with the anniversary of the Wright Brothers flight, the wind tunnel used by them in experiments will be demonstrated every Monday, Wednesday and Friday at 2 p.m. through January 11. North Hall, Arts and Industries Building.

TUESDAY, DECEMBER 18

Black Christmas Play: Produced and directed by teenagers who are part of the Urban League's Anacostia drug abuse education program. 7:30 p.m., Anacostia Neighborhood Museum.

WEDNESDAY, DECEMBER 19

Lunchbox Forum: *Ten Years of Air Racing 1964–1973*. An informal discussion led by Don Berliner and sponsored by the National Air and Space Museum. 12 noon, Room 449, Smithsonian Institution "Castle" Building.

Free Film Theatre: *Alone and the Sea*—the saga of an elderly fisherman; *Livin' on the Mud*—a commune forced to abandon their homes by urban demolition. 12:30 and 1:30 p.m., History and Technology Building auditorium.

Ascent of Man: *The Hidden Structure*—The early techniques of Oriental metallurgy and the mystical searchings of alchemists give way to the beginnings of chemistry, Dalton's atomic theory and our knowledge of the elements. 8 p.m., Baird Auditorium. Natural History Building. See December 5 for further details.

THURSDAY, DECEMBER 20

The Ascent of Man: *The Hidden Structure*. 12:30 p.m., History and Technology Building auditorium. Repeat. See December 19 for details.

FRIDAY, DECEMBER 21

Exhibition: *Steinberg at the Smithsonian: The Metamorphoses of an Emblem*. Thirty-six drawings by Saul Steinberg, contemporary graphic artist and Smithsonian artist-in-residence, January–April 1967. All drawings are on Smithsonian letterhead creating visual puns by using the engraving of the Smithsonian "castle" as the nucleus of each drawing. National Collection of Fine Arts, through February 10.

SUNDAY, DECEMBER 23

* Virginia Folk Tales. The Wayside Theatre on Tour presents a unique theatre experience based on tales drawn from Virginia folk lore, and especially planned for children. The players perform, discuss, demonstrate and improvise, including the audience in their performance. 2 p.m., History and Technology Building auditorium. $2 general, $1.50 Associates.

TUESDAY, DECEMBER 25

The Smithsonian Institution museums and the National Zoo buildings will be closed Christmas Day. Merry Christmas.

WEDNESDAY, DECEMBER 26

Free Film Theatre: *Whaler Out of New Bedford;* and *Paddle to the Sea*. 12:30 p.m., History and Technology Building auditorium.

Kwanza Celebration: An African thanksgiving festival called Kwanza—a celebration by Africans born in America to commemorate the first fruits of the harvest and the principles of the African heritage that made the harvest possible. Anacostia Neighborhood Museum, through January 1. For daily program information call 678-1200..

THURSDAY, DECEMBER 27

Free Film Theatre: *Whaler Out of New Bedford;* and *Paddle to the Sea*. 12:30 p.m., History and Technology Building auditorium.

Creative Screen: Holiday Film Festival—*Snowman's Dilemma;* Dylan Thomas' *A Child's Christmas in Wales; A Christmas Fantasy*. Repeat. See December 13 for details.

HIRSHHORN DOCENTS

The Hirshhorn Museum and Sculpture Garden, scheduled to open October 1974, is recruiting for participants in a volunteer docent program. Training will begin in January. If interested, contact E. P. Lawson, 381-6512, prior to January 1, 1974.

REHABILITATION MEDICINE FILMS

Shown each Friday at 12:30 p.m., History and Technology Building auditorium, in connection with the current exhibition; Triumphing Over Disability—200 years of Rehabilitation Medicine in the United States.

7th—*Within Our Grasp; Happy, Forward; Room for Recovery; Eat to Your Hearts Content*.

14th—*Run Dick, Run Jane; Harlem Hospital Center; Help for Mark*.

21st—*Lisa, Pay Attention; Lights Out, No Sound; I Am Joe's Heart*.

28th—*Breath of Life; Congestive Heart Failure; Home for Supper*.

DEMONSTRATIONS

Museum of History and Technology

Steam Engines. Wednesday through Friday, 1–2:30 p.m. 1st floor.

Footnote at end of table.

Machine Tools. Wednesday through Friday, 1–2 p.m. 1st floor.

Spinning and Weaving—Tuesday through Thursday, 10 a.m.–2 p.m. 1st floor, and Sunday, Dec. 9 and 30, 1–4 p.m. (No demonstration Dec. 21–Jan. 1.)

Printing and Typefounding: Monday, Tuesday, Thursday, Friday, 2–4 p.m., 3rd floor.

Musical Instruments. A selection of 18th and 19th century instruments, and American folk instruments, Hall of Musical Instruments, 3rd floor, 1:30 p.m. Mondays and Fridays—keyboard; Wednesdays—lute and guitar; Thursdays—folk.

Music Machines—American Style. Mechanical and electronic music machines. Mondays through Friday, 1 p.m., 2nd floor. As part of this exhibit, excerpts from musical films are shown continuously.

RADIO SMITHSONIAN

Radio Smithsonian, a program of music and conversation growing out of the Institution's many activities, is broadcast every Sunday on WGMS-AM (570) and FM (103.5) from 9–9:30 p.m. The program schedule for December:

2nd—*Bill Monroe In Concert*. The father of bluegrass music performs with his group, The Bluegrass Boys, and two guest fiddlers, Charlie Smith, and Tater Tate.

9th—*Exploring the Mediterranean*. Smithsonian oceanographer Daniel Stanley describes the Mediterranean's brief geologic history and present threats to its vitality. *A Visitor from Bhutan*. A talk with Mynak Rimpoche, a Buddhist lama who heads the National Museum of Bhutan, in the Himalayas.

16th—*The Shaker Way*. A look at Shaker life and crafts, with Mrs. Faith Andrews, a leading expert on Shaker culture, and Sister Mildred Barker, one of 14 remaining Shakers.

23rd—*Wilson's Living Memorial*. Dr. James Billington, new Director of the Woodrow Wilson International Center for Scholars, talks about plans for the Center's future. *Fighting Lassa Fever*. Smithsonian curator Henry Setzer describes the efforts to curb Lassa fever, a serious disease carried by African rats.

30th—*Concert,* featuring 19th-century American music, performed by the American Music Group.

DOMESTIC STUDY TOURS

For further details write Mrs. Kilkenny, Room 106–SI, Smithsonian Institution, Washington, D.C. 20560.

Hawaiian Islands: Jan. 17–31.

Sturbridge Village, Massachusetts: Jan. 25–27.

Baja California Whale Observation Cruise: Feb. 4–11. (Waiting list only.)

Georgia Mound Builders: Feb. 18–24.

San Antonio, Texas, Fiesta: April 21–28.

PUPPET THEATRE

Arts and industries building

Patchwork—an original anthology of children's songs, poems and stories centered this month around the holiday theme. Performed by the puppets and people of Allan Stevens and Company. Wednesdays-Fridays, 10:30, 11:30 a.m., Saturdays and Sundays, 11:00 a.m., 12:30 and 2:30 p.m. Admission: $1.25 children or adults; $1 Smithsonian Associates: 75 cents, groups of 25 or more. For reservations call 381–5395. Tickets, as available, will be sold at the time of performance. Special Christmas week performances: December 26–30, three shows daily at 11 a.m., 12:30, 2:30 p.m.

Dial-A-Museum—737–8855 for daily announcements on new exhibits and special events.

Dial-A-Phenomenon—737–8811 for weekly announcements on stars, planets and worldwide occurrences of short-lived natural phenomena.

MUSEUM TOURS

Museum of History and Technology

(No tours December 22–January 1).

Highlights: Weekdays, 10:30 and 11:30 a.m., 1:30 p.m. Weekends, 10:30 a.m., 12 noon, 1:30 and 3 p.m.

First Ladies' Gowns: Monday-Friday, 10:30 and 11:30 a.m.

200 Years of Needlework: Tuesdays only, 10:15 a.m. Begins at the Star Spangled Banner exhibit.

Museum of Natural History

(No tours December 22–January 6).

Highlights: Weekdays, 10:30 a.m., 12 noon (noon tour may be delayed)

Calendar Requests: Mail to Central Information Desk, Great Hall, Smithsonian Institution Building, Washington, D.C. 20560. For changes of address, include mailing label.

Deadline for January calendar entries: December 5. The Smithsonian Monthly Calendar of Events is prepared by the Office of Public Affairs. Editor: Lilas Wiltshire.

HOURS

Open 7 days a week—Closed Christmas Day.

Arts and Industries Building, Freer Gallery of Art, National Collection of Fine Arts, National Air and Space Museum, National Museum of History and Technology, National Museum of Natural History, National Portrait Gallery, The Renwick Gallery, Smithsonian Institution Building—10 a.m.–5:30 p.m.

Anacostia Neighborhood Museum—10 a.m.–6 p.m. Monday through Friday; 1–6 p.m. weekends.

National Zoo Buildings—9 a.m.-4:30 p.m.

EXPERIMENTARIUM

Stars of Christmas: Past and Present. A look at the first Christmas and what the Star of the Magi might have been; the 1968 Christmas when Apollo 8 was orbiting the moon; and Christmas 1973 when the skies will include four visible planets, the Pioneer 10 Probe, Skylab, Comet Kohoutek, and the normally bright winter stars. Tuesdays through Fridays, 4:30 p.m., Saturdays and Sundays, 11 a.m., 12 noon, 1, 2, 3 and 4 p.m. Additional showings may be scheduled. Call 381–6264 to verify schedule. The Experimentarium, located in the National Air and Space Museum, is a prototype of the Spacearium to be opened by the Smithsonian in 1976.

Use of funds for printing this publication approved by the Director of the Office of Management and Budget, June 3, 1971.

FOOTNOTE

*Indicates activities sponsored by the Smithsonian Resident Associate Program. Information on the purchase of tickets for these activivties may be obtained by calling 381–5157. Tickets should be purchased in advance. When available and appropriate, tickets may be sold at the time of an event.

STATE OF THE UNION ADDRESS BY ARNOLD MILLER, PRESIDENT UMWA

HON. KEN HECHLER

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. HECHLER of West Virginia. Mr. Speaker, the United Mine Workers of America are presently in the midst of the second week of a history-making convention. The rank and file miners are for the first time in history exercising their full rights and International President Arnold Miller in his state of the union address set the focus for the convention. His remarks were greeted by several standing ovations, frequently interrupted by applause, and enthusiastically received by the delegates. Among other Members of Congress, I was honored to attend the UMWA Convention in Pittsburgh. The prestige of the United Mine Workers of America has never been so high, and the leadership of the UMWA has never been so well respected by the coal miners of this Nation and Canada. The UMWA is an inspiration to the trade union movement and to working people all over the world.

The text of President Miller's address follows:

STATE OF THE UNION ADDRESS BY ARNOLD MILLER, PRESIDENT, UNITED MINE WORKERS OF AMERICA, DECEMBER 3, 1973

Less than one year ago, I stood before a smaller group of United Mine Workers to take my oath of office. I told the coal miners gathered in our union headquarters that from that day on every coal miner would know that this is his union. I told them the United Mine Workers of America belongs to the rank-and-file.

A year ago that statement was a hope and a promise. Today, as I look out on this proud assembly of coal miners at the 46th United Mine Workers Convention, I believe it is no longer a hope, but a reality.

Among the delegates here today, I see miners who travel six miles beneath the ocean to mine the coal along the Nova Scotia shore. And I see men who mount their bulldozers and endloaders to mine the coal that fuels the steel furnaces of Birmingham, Alabama.

I see miners who work the thick seams of coal beneath our western plains and other miners who follow the curving paths of anthracite coal in eastern Pennsylvania.

Some of the United Mine Workers at this convention have lived and worked in the same hollows of West Virginia as their families before them for generations. And other mineworkers in this hall still speak the native tongue of their European homelands.

Among us today are coal miners whose grandfathers helped tame the western frontier and coal miners whose grandfathers were freed from slavery by a President named Lincoln.

I see here today coal miners who have different shades of skin and who speak with varied accents.

But when I look deeper, I see the finest group of working men in the world—bar none—the United Mine Workers of America.

And, as your president, I stand before you and proudly say to every coal miner in this hall—this is *your* union. The United Mine Workers of America belongs to the rank-and-file.

We have been through a rich and rewarding year together and we have achieved much we can be proud of.

For the first time in four years our Welfare and Retirement Fund reported a surplus. As a result, we have taken the first steps toward repaying the debt we owe to disabled coal miners and widows and guaranteed that in the future no disabled miner will be abandoned without medical care.

In the past year, we have revived our Safety Division and staffed it with trained, committed coal miners dedicated to preventing injuries and deaths in the mines.

And the Organizing Division, under Vice President Trbovich, has begun the long, hard fight to reverse the steady increase of non-union coal in this country.

Secretary-Treasurer Patrick has slashed luxury spending at the International since he assumed office and opened up our union's finances to public view. Under his direction, your dues money has been spent for the welfare of the membership or it hasn't been spent at all.

This past year the United Mine Workers formed COMPAC—the Coal Miners Political Action Committee—and the miner's voice is once again being heard in the Congress and in our state legislatures.

We have formed a credit union that puts coal miners' money to work for coal miners. And we've made the United Mine Workers Journal into the most open, and the most informative, labor paper in the country.

I'm proud of the progress we have made in these areas. But, to me, our greatest achievement this past year was the return of democracy to our union.

The 15 district elections this year went so smoothly and turned out so well that we might not realize just what we've accomplished.

But last December, you could count on one hand the number of district and International officials who owed their office to a vote of the membership. Today, all but a handful of our district presidents and executive board members have stood the challenge of election and come through with a mandate from the rank-and-file. And by contract time, I expect that every official in the union from top to bottom will have been popularly elected.

The district elections we've gone through have been a great test of our strength as a union. Each contest was hard fought. And each pitted against one another candidates with differing views about how our union should be run. But when the campaigning was over and the votes were in, we closed ranks and remained what we have been for 83 years—a union of coal miners, one and indissoluble.

The U.M.W.A. not only survived the challenge of democracy, we profited from it. For we proved to ourselves, and to the rest of the labor movement, that the United Mine Workers of America can open itself up to all points of view and come out the stronger for it.

In the years ahead, we will have to draw on that strength to meet the great challenges facing our union.

We face the challenge of our upcoming contract negotiations which hold out the prospect of important gains for our members. But contract negotiations at which the operators will be testing our unity as never before.

We face an energy crisis which offers hope of more jobs and increased benefits. But an energy crisis which some operators will try to exploit as an excuse to take additional shortcuts with our safety.

We have the opportunity to organize the 50,000 non-union coal miners who produce over 100 million tons of coal each year. But we face the challenge of powerful corporations which would like to see that share of non-union coal increase.

And we face the challenge of a labor union in the 1970's grappling with the complex social and political issues of our times.

Much of the task of this convention is to find ways to meet these challenges. In the next 11 days, we'll be asking ourselves who we are and where we are going. And how do we get there from here.

So perhaps it's time to pause and remember where we've been and what we've done.

Back in 1890, when our great-grandfathers organized the U.M.W.A., the nation ran on coal. And those first United Mine Workers said so in our union's charter. Here's how they put it.

"There is no fact more generally known, they wrote, than without coal there would not be any such grand achievements and blessings as those which characterize the present day civilization."

And what those early United Mine Workers wrote was true.

The railroads which opened up the West ran on the coal we mined and so did the nation's first battleships.

The coal we produced heated America's homes and fired its blast furnaces.

With picks and shovels, hundreds of thousands of United Mine Workers mined the coal that provided electrical power to a booming country. And, in the process, we died by the thousands in fires in explosions and in collapsing mines.

The coal we produced formed the cornerstone of America's great steel and plastics and chemical industries. And as we lay on our sides hand loading for 40 cents a ton, great financial empires were built on our labor.

We helped dig a nation out of a depression. And when it went to war we worked around the clock in an industry so dangerous that the Geneva Convention said you couldn't force a prisoner-of-war to work in a coal mine.

Throughout our nation's history, coal miners have been the front line troops of its industrial growth. We bore the most casualties and we worked in the most wretched conditions. And in times of crisis, we were always called on first to come to the Nation's aid.

Now it is 1973 and we face an energy crisis. And once again, the Nation is calling on its coal miners for help.

We accept that call as we have in the past. But this time there is a difference. And we take the occasion of this 46th United Mine Workers Convention to proclaim it to the coal industry and to the nation as a whole.

I'll make it simple and to the point. The pick and shovel days are over.

Coal miners today are skilled industrial workers in the pivotal energy industry of the 70's. Increasingly, coal miners are younger men. Many among our ranks are Vietnam veterans.

But, I believe, I speak for all our members when I say that no coal miner today is willing to repeat the history of his father and his grandfathers who labored their lives away in the bowels of the earth to fuel this nation's progress and reaped as their reward a back bent like a stunted tree and lungs that wouldn't work because they were full of coal dust.

The pick and shovel days are over. And we intend to let the coal industry know it in our next contract.

When I think about our contract, it strikes me as ironic that the unions which the United Mine Workers helped build have passed us by in recent contract gains.

United Mine Workers manpower and money built the steelworkers union, the autoworkers, the rubber workers, and many others. Now 40 years later these same unions have won benefits that coal miners do not enjoy.

The steelworkers won a cost-of-living and a paid 13 week vacation every five years in one of their recent contracts. Autoworkers won limits on involuntary overtime and four hundred and fifty dollar a-month pensions. A rubber worker who misses work because of sickness, has financial protection built into his contract.

But what did we coal miners win in recent contracts? We won a wage increase that lets us stay in about the same place on the economic treadmill. For fringe benefits, we got soap in the bathhouse in 1968 and a clothing allowance in 1971. One miner told me he expects the operators will offer us a washing machine in 1974.

Well, I have news for our friends at the Bituminous Coal Operators Association. Soap in the bathhouse isn't good enough for United Mine Workers anymore.

Two things are predictable in the 1974 negotiations. We're going to ask the operators to contribute more for our welfare. And the operators are going to turn their pockets inside out, stare down at the floor, and tell us they can't afford to.

I was raised in the coalfields and I've been a coal miner all my life. But I've never heard a coal operator claim he was making any money.

To hear the operators tell it, the coal industry is the oldest, non-profit organization in the nation.

Don't you believe it. In the first place, most of us don't work for the coal industry any more. We work for the giant corporations which own coal mines—we work for oil companies, power companies, and steel companies.

If you run a continuous miner for Consolidation Coal Company, you really work for Continental Oil. Their profits in 1972 were one hundred and seventy million dollars. That's even more than President Nixon's reelection committee took in.

A coal miner who runs an endloader for Peabody Coal Co. is an employee of Kennecott Copper. In the first quarter of this year, Kennecott made profits of more than twenty eight million. That's a 55 per cent rise over the year before.

If you run a buggy for Central Ohio Coal Co., your boss is American Electric Power Co. They pulled in profits of one hundred seventy million last year.

The steel companies we work for aren't exactly on the skids either. U.S. Steel earned $156 million in 1971 and Bethlehem took in one hundred thirty four million.

Even the few remaining independent coal companies have dollar signs in their eyes. Coal that was selling for fifteen dollars and seventy-seven cents a ton in January is selling for twenty dollars a ton today. And the energy crisis ensures that it will be a seller's market for years to come.

The boys in the company boardrooms can afford to give coal miners a cost-of-living clause that will keep us one step ahead of galloping inflation. And in 1974 we're going to ask them for one.

The multi-billion corporations we work for can afford to give us sick pay so that if a miner gets sick, the man from the finance company won't be on his way to pick up the car or the trailer. And in 1974, we're going to ask them for sick pay.

The energy industries which look forward to such profitable futures can afford to contribute more to our Welfare and Retirement Fund so coal miners can look forward to their futures too. And in 1974 we're going to ask them to contribute more.

The United Mine Workers intends to be reasonable in its negotiating demands next year. But coal miners have a lot of lost ground to make up. And we intend to recover a good piece of it in November.

Our final collective bargaining goals will be determined by the delegates to this convention. But let me just say a word about who will sign the contract we negotiate.

I worked a total of 24 years in the mines. Vice President Trbovich worked 25 years, and Secretary-Treasurer Patrick worked 18. But none of us worked a day under a contract we had any real voice in.

Now we're out of the mines and the contract negotiated next year will no longer set the terms of our employment. That is why we don't intend to sign it without your approval.

Any agreement we arrive at with the BCOA will be put to a vote of the rank-and-file. If they don't vote for it, we won't sign it. That's the only way to guarantee that the men who go into the pits and drive the dozers will work under a set of rules and benefits they helped write.

I make you one other pledge about our next contract. You won't have to be trained in a foreign language to understand it. I don't know what they call the language our past contracts were written in. But I know that the only people who can read it are coal operators and Philadelphia lawyers.

This time we're going to write the contract in coal miner's language. That way, when you and that coal company lawyer get eyeball to eyeball on a grievance case, you won't need an interpreter to know what your rights are.

Let me turn now to a topic that shouldn't have to come up at a United Mine Workers convention—safety in the mines.

I said before that the pick and shovel days are over for coal miners. But if you look at the way a lot of companies run their mines, you'd never know it.

One would think that a nation which can send a man into outer space for a month and bring him back safely could send a man into a coal mine for 8 hours and bring him back safely too.

But it doesn't happen. And I've never heard a good reason why.

If every coal miner sitting here today stood up who has carried the dead or broken body of a fellow miner from the mines, hardly a chair would remain filled in this hall. And while we deliberate at this convention these 11 days, surely as the day is long, a miner will die in the coal mines. And a dozen others will be crippled.

In the 73 years that make up this century, 100,000 of us have been killed in the mines. And when I say 100,000 I want to emphasize to the public that I'm not talking about statistics in a Bureau of Mines study. I'm talking about the fathers and grandfathers of men sitting in this hall. I'm talking about our brothers and our sons.

I'm talking about 100,000 men who loved their children and looked forward to watching them grow up, but 100,000 men who never came home from the mines one day because they were blown up in an explosion or crushed by tons of rock or mangled by mine machinery or smothered in the fumes of an underground fire.

The coal industry tells us they regret these tragedies. But, coal mining is dangerous work they say. And accidents happen.

They say it's a tragedy that a 21 year-old-boy like Kenny Holland got caught in a conveyor belt and run through its rollers until his neck broke as happened last April in a Peabody Coal Company mine in Kentucky.

They say accidents like that are part of the risk of being a coal miner. But the federal investigation into Kenny Holland's death says something different. It says that Kenny Holland died because Peabody Coal Co. wouldn't spend twenty dollars, as required by law. To put a protective guard over the conveyor belt that killed him.

The claim that accidents are simply a part of mining sounds convincing to an untrained public. But it fails to explain some stubborn facts.

If miners become disabled and die simply because coal mining is dangerous work, why are miners injured 18 times more often in coal mines operated by the Pittston Co. than in mines run by U.S. Steel where an honest effort is made to promote safety? Why do Eastern Associated Coal Company mines kill men 13 times more frequently than Bethlehem coal mines where new men receive extensive training in safe mining practices?

Deaths in the mine are not the work of fate and the cure for mining accidents is no secret. It's been known for years. Listen to what the Bureau of Mines wrote back in 1943. And I quote.

"The situation is so grave that serious thought and relatively quick action are demanded if the coal industry is to avoid the stigma of a national, even a world-wide, scandal because of the callousness with which the lives of its workers are being sacrificed."

Thirty years ago the Bureau of Mines called for "relatively quick action" by the coal industry to halt the slaughter of miners. And miners have been waiting for it ever since.

We waited through 23 dead at the Sunnyside mine in Utah and 47 dead at Old Ben No. 8 in Illinois. We waited while 13 miners were killed in a single accident in the King mine in Indiana and another 11 died in the Edgewater mine in Alabama.

We waited through 119 dead at Centralia and 37 dead at Robena No. 3. We waited through Hyden and Farmington and Buffalo Creek. And then Blacksville and then Itmann.

In the 30 years we waited for that quote "relatively quick action" from the coal industry, fifteen thousand, seven hundred and nineteen coal miners lost their lives in the mines. And more than three-quarters of a million were injured.

We can't afford to wait any longer.

We can't afford to wait until the coal industry develops a conscience. We can't afford to wait until the Bureau of Mines—now called MESA—recognizes that its mission is to protect coal miners—not strike a balance between safety and profits.

And we don't intend to wait any longer. Coal miners have never had anything handed to them. The enforcement of safety is no different. It's up to us.

We must elect our best and toughest men to our safety committees. If you've heard the popular song about Leroy Brown—the one who's meaner than a junk yard dog—that's the kind of man we need.

We have to find the means to put a safety committeeman on every shift at every mine so no group of miners will have to wait to correct a dangerous condition. And we must continue the training program launched by the Safety Division so that every member knows what our safety laws provide.

The International Safety Division and the field inspectors under Vice President Trbovich are available at all times to assist your safety committeemen.

Our legal staff will defend your right to walk out of an unsafe mine and will prosecute companies and foremen who violate mine safety law.

And you will have full backing from our district safety coordinators.

And before any operator charges that our safety effort is an obstacle to increased productivity, I challenge him to prove it. I worked in over a dozen mines in my lifetime and I always found that the safest mines are the most productive. But whether safety reduces production or whether it does not, we don't intend to bargain away our lives for a few more tons on the day.

The United Mine Workers of America is going to enforce safety to the letter with no ands, ifs, or buts. And if that is not acceptable to some coal operators, then they had better find a new way of making a living. Because coal miners in West Virginia and Kentucky and Pennsylvania are tired of dying so that men in the boardrooms of New York and Boston and Pittsburgh can get rich.

Speaking about corporations getting rich brings to mind another challenge facing the United Mine Workers—the energy crisis.

I don't pretend to be an expert on the energy crisis, but I know some things from common sense.

One of them is that contrary to what President Nixon told the American people in his energy message, this country is not running out of energy.

We face fuel shortages today because, as a nation, we have relied heaviest for our energy needs on the fuels we have very little of—namely oil and gas—and we have ignored the one fuel we have in great abundance—coal.

To understand the absurdity of our present position you need only recall that during World War II Germany ran a good part of its war machine on oil derived from coal. Thirty years later, the United States is running out of oil but sits like a helpless giant on top of the world's largest coal reserves because we lack the technology and plant facility to develop them.

Beneath our feet lie 1.3 trillion tons of coal. That's enough to fuel our nation for the next 600 years.

But though coal represents about 77 per cent of all the energy resources we have in this country, we only use coal for 18 per cent of our energy needs. Oil and gas make up at most 17 per cent of the country's energy reserves. But we rely on oil and gas for more than 75 percent of the nation's energy.

The question is—who designed this upside down system of allocating the nation's energy resources. There are a lot of answers and I don't know all of them. But here are a few.

Exxon, Gulf, Atlantic-Richfield, Mobil, Occidental, Continental, and Shell.

For 20 years we let the oil industry determine our energy development in this country. And not surprisingly the decisions they made were very good for oil companies. They included an oil depletion allowance and special tax loopholes for foreign oil. Their decisions squeezed out independent refiners and distributors. And they led to monopoly control over energy resources and discouraged development of competing fuels.

The energy policy they pursued reaped great profits for the oil interests. Now the public is paying the piper.

There are no miracle cures to the energy crisis we now face. But clearly we have to take immediate steps to develop our underground coal reserves, to promote sulphur control technology and to find improved ways of turning coal into oil and natural gas. We must take vigorous action to break the stranglehold a few giant companies hold over our energy resources.

In the weeks to come our union will be making some concrete recommendations along these lines.

But one point must be stressed now. We will never solve the energy crisis as long as we allow corporate interests to dictate the nation's energy policies.

Yet, apparently, that's just what President Nixon intends to do.

While the President offers us makeshift solutions like turning down our thermostats, he leaves the long-range decisions on energy to the people who got us into this mess in the first place.

Just last week the administration announced it is bringing 250 oil executives to Washington to alleviate the energy crisis. You've heard the old saying about foxes in the hen house? Well, now we've got wolves in the White House. I've never seen a more sure-fire formula for disaster.

But the President is not panicky about the energy crisis. Just the other day he told the Seafarers Union that despite rough seas he's one captain who has a steady hand at the helm.

That sounds reassuring. But I've got an eerie feeling that the Captain of the Titanic said the same thing right before he rammed the iceberg. And I'm afraid our future will be no more secure than that ill-fated ship unless the public interest begins to be represented in the energy debate.

Unfortunately, in the energy crisis, as in so many vital issues in Washington today, the voice of the public remains a voice crying in the wilderness.

While we're on the subject of the nation's chief politician, let me say a word about some other politicians that mineworkers are interested in—coalfield politicians.

When I think about coalfield politicians, I think about the early mining days.

In the old days, horses hauled coal in the mines and many companies kept stables underground. They raised their horses in those underground stables and some of them never saw the light of day.

Sometimes I think that some of our coalfield politicians wish that coal miners would stay underground like that and never see the light of day. Then, on election day they could send the ballots down on the mantrip, let us mark our x, and forget about us for another four years.

Well, unfortunately for some of our politicians, coal miners *have* seen the light of day. We saw it in West Virginia five years ago when we fought for black lung legislation.

In that fight, we were up against most of the state's doctors, the compensation lawyers, and the coal industry. So we shut the mines down for three weeks, and went calling on the legislature. And we didn't leave until we got what we came for.

We got a black lung law out of that fight and we learned a powerful lesson. That if coal miners organize and work as one we don't have to settle for politics-as-usual in the coalfields.

And we don't intend to settle for politics-as-usual any more. We do not accept as our plight that coal mining families live on some of the most valuable real estate in the world but can't get their roads paved or sewers installed or send their children to the best schools or fish in clear streams.

We're tired of paying our fair share of property taxes and watching the coal companies pay whatever they want. And we are no longer willing to stand by silently as profits are drained from our states and slag heaps and fallen tipples are left in their place.

The United Mine Workers has a new legislative Department—COMPAC. And we expect that before too long, COMPAC will be a household word in our legislatures and in the halls of Congress.

In the future, we will expect to see our political representatives—not just at a Labor Day rally—but when the crucial vote comes up on mine safety legislation, tax reform, and national health care. The United Mine Workers will be a familiar name to the major congressional committees also, for we intend to testify at every hearing on legislation that affects our interests as coal miners and as citizens.

And finally, miners are going to start running for public office themselves. We proved this year that coal miners can run an International union. In the years to come, I think we'll prove that coal miners can help run a State legislature, too, or a Congress.

To put it simply, the United Mine Workers of America intends to make politics-as-usual the policies of the past.

There are many other issues facing our union which I could discuss with you today. Some of them, such as organizing and the need to revive the anthracite industry, will be addressed by my fellow officers before this convention. And rather than go down in history as the first United Mine Workers president who spoke to an entire hall of sleeping coal miners, I will say just a few words about the work of this convention before I close.

Nothing is more vital to the future of our union and no business before this convention is more important than the changes you enact in the United Mine Workers constitution.

For it is not enough to write the words "rank-and-file" on the banner at the front of this hall. Those words must be etched into our constitution so deep that they can never be erased.

Towards that end, your International officers have recommended to the constitution committee a broad charter of rights and freedoms.

We have recommended that all future candidates for International office receive equal space in our Journal to present their views to the membership. And that every candidate be guaranteed a secret ballot election, an honest vote count, and the right to station observers in all polling places.

We have suggested that rank-and-file ratification be made a permanent constitutional right not subject to the whims of some future president or executive board. And we have called for checks and balances on the power of the International that will safeguard the autonomy of our districts.

All the changes we have recommended have one aim—to return this union to the membership.

But none of them will guarantee that it will happen as long as our union headquarters remains far from the membership.

For as recent events in Washington have shown all too clearly, when leaders become isolated from the people they are supposed to serve, the people suffer grievously and corruption is the order of the day. That is true for leaders of the United States and for leaders of the United Mine Workers.

To understand the problems of a man who works eight hours a day in a coal mine you have to remember what coal dust tastes like. To represent the interests of miners, you have to see a slag pile outside your window, not a skyscraper. To lead the United Mine Workers of America you can't be shielded from the look in a woman's eye while she waits for a husband trapped in a mine explosion.

No matter how committed to the membership your future officers are, as long as they live and work far from the coalfields the danger remains that they may lose touch with what this union is all about—200,000 men who've spent their working lives digging coal.

That is why we have to bring our union headquarters back to coalfields.

It's not that Washington, D.C. is such a bad place. There just aren't any coal miners there. And that's all we need to know to realize that Washington, D.C. is not where the United Mine Workers belongs.

In closing, I can't help thinking that for better or for worse both the past and the future of the United Mine Workers is somehow linked to that shiny black substance it took millions of years to create—coal.

A miner up in District 26 summed up our relationship to coal this way.

God made the coal and he hid it, the old miner said. Then some fool found it and we've been in trouble ever since.

And it's true that coal has been both a blessing and a curse.

For the nation, coal has provided the blessings of modern civilization—fuel, electricity, chemicals, and steel.

But for the miner, too often, coal has meant the curse of black lung, slag heaps, rivers of acid, and an early grave.

Now the time has come to bring the blessings of coal—not merely to the nation and the giant corporations—but to the men who mine it.

Those blessings won't come easily if history is any guide, and our union has many challenges to overcome before they will truly be ours.

But I have no doubt that history is on our side and that United Mine Workers are equal to any challenge we face.

For coal miners have always been bound together by something more than membership in the same organization.

We've stood on the same picket line through many a cold winter and traded at the same company store. We fought off the gun-thugs and we turned back the strikebreakers.

And when the roof fell, trapping us inside we never knew which of us would leave the mine alive.

We breathed the same coal dust and we cursed the same bosses. And when we went to the union hall we call each other brothers. Because that is what we are.

Thank you.

HOMEOWNER ENERGY CONSERVATION AMENDMENTS TO H.R. 11450

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. COHEN. Mr. Speaker, tomorrow H.R. 11450, the Energy Emergency Act, will be brought to the House floor for debate. At that time I intend to offer two amendments to provide assistance and encouragement to homeowners who wish to make energy-saving improvements to their residences.

My first proposal amends the Internal Revenue Code to permit the owner of a residence to deduct from his taxable income expenditures made to improve the efficiency of heating his home and to reduce heating losses. I anticipate that this tax incentive will be generally utilized for less expensive energy conservation measures where the homeowner has the cash available, but needs the additional encouragement to undertake the project which the tax deducation can provide. Such improvements might include adding storm doors and windows or placing more insulation in unfinished attics. I might point out that these measures can reduce heating losses by 10 to 20 percent.

The second amendment establishes a direct low-interest loan program. This program would be especially valuable for the homeowners who find that bringing their residences to an acceptable level of heating efficiency will involve a considerable expenditure. Usually, this situation will occur in the older of more cheaply constructed residences, and as we know, these homes are most frequently owned by those least able to afford these costs. The loan program would provide these owners with the necessary funds at the time the improvements were made. The loans would carry a 5-percent annual interest rate and would run for up to 10 years. Since it has been estimated that energy-saving improvements can pay for themselves within several years, I expect that the reduction in fuel costs alone would more than cover the monthly loan payments.

The rationale on which these proposals are based is very simple: the benefits to the Nation in energy conservation—much less the improved quality of housing in this country—far exceeds the modest Federal costs involved. Consider these facts. Heating our residential buildings now accounts for 11 to 12 percent of our national energy consumption. It has been estimated that because of inadequate construction and poor heating plant performance, up to 40 percent of the energy we consume is being wasted. The vast majority of our homes are literal heat sieves where quantities of heat laboriously manufactured in the home furnace promptly escape through the walls, windows, doors, and roofs. An uninsulated house of average size can waste up to 700 gallons of fuel a year; a partially insulated house, 200 gallons a year. The average home furnace today is supposedly designed to operate at 70 to 75 percent efficiency; in actual operation, however, its efficiency frequently drops to about 35 to 50 percent. Simple preventive maintenance and the implementation of technological improvements in the heating field, such as better ducting and temperature controls and even heat exchangers, could do a great deal to restore or even improve upon the originally designed efficiency.

In return for saving up to 4 or 5 percent on our national energy consumption, the Federal costs would be minimal. In the loan program the cost would only be the difference between the subsidized and market rates of interest. In the tax program it would be the amount of revenue lost because of the fractional reduction in taxable income. It is my opinion and I hope it is yours that the benefit-to-cost ratio of these proposals is very high and that the amendments warrant consideration by the full House on that basis alone.

In concluding, I would like to note one or two other important aspects of these amendments. First, as I am sure you have noticed, the basic approach to energy conservation in H.R. 11450 tends to be negative and restrictive, gasoline rationing, transportation controls, et cetera. While I recognize the necessity of such provisions, I also feel it is incumbent upon the Congress to adopt, as well, some positive approaches to meeting the energy crisis and ones that can reach and be understood by the average citizen.

Finally, as you are probably aware, provisions similar to my amendments have already passed the Senate in S. 2589. Since the energy legislation will almost certainly go to conference, it would seem to me that the wisest course would be to allow such provisions to be considered during the House debate. The House conferees would then be better able to reflect the views of the House on these proposals and we would avoid the procedural difficulties involved in retaining in a conference report provisions not originally considered by the House.

The text of the amendments follow:

Sec. 125. Homeowners' Energy Conservation Loan Program.

(a) Authorization of Loans.—

(1) In order to carry out the purpose of this section the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to make loans as provided in this section to individuals and families owning and occupying one- to four-family residential structures, and to other owners of residential structures of any type, to assist them in purchasing and installing qualified insulative materials and/or qualified heating equipment (as defined in section 4) in such structures.

(2) A loan made under this subsection with respect to any residential structure shall—

(A) be in such amount as may be necessary to meet the maximum desirable insulation standards for controlling heat loss, cooling loss, and infiltration and/or to reach the maximum desirable heating efficiency in the case of structures of the size and type involved, taking into account the climatic, meteorological, and related conditions prevailing in the region where the structure is located, as established by the Secretary in regulations prescribed by him and in effect at the time of the loan;

(B) bear interest at the rate of 5 per centum per annum on the outstanding principal balance;

(C) have a maturity not exceeding ten years; and

(D) be subject to such additional terms, conditions, and provisions as the Secretary may impose in order to assure that the purpose of this Act is effectively carried out.

(3) Each application for a loan under this subsection shall be accompanied by detailed plans for the purchase and installation of specified insulative materials and an estimate of the costs involved. No such application shall be approved unless the Secretary finds that the proposed insulation is reasonable and will be effective, that the costs will not be excessive, and that the insulation will not be of elaborate or extravagant design or materials.

(B) DEFINITIONS

(1) Qualified Insulative Materials.—For purposes of this section, the term "qualified insulative materials" means any material or item which, as determined by the Secretary after consultation with the National Bureau of Standards, is capable of achieving a significant reduction in heat loss, cooling loss, or infiltration when properly installed in a residential structure under the prevailing climatic, meteorological, and related conditions. Such term includes (without being limited to) glass and plastic storm windows and doors, flexible and fill insulation, blown insulation, and any other material or item which is approved by the secretary as being useful and effective for the insulation of ceilings, floors, walls, windows, or doors.

(2) Qualified Heating Equipment.—For purposes of this section, the term "qualified heating equipment" means any item, fixture, or equipment which, as determined by the Secretary after consultation with the National Bureau of Standards, is capable of and designed for improving the operating efficiency of a heating plant in a residential structure. Such term includes (without being limited to) heat exchangers, ducting, and any other item, fixture, or equipment which is approved by the Secretary as being useful and effective for improving the operating efficiency of a heating plant in a residential structure.

(C) DISSEMINATION OF INFORMATION

The Secretary shall provide to any person upon his or its request (without regard to whether or not such person is making or proposes to make application for a loan under section (3) full, complete, and current information concerning recommended standards and types of insulative materials and heating equipment appropriate for use in residential structures of varying sizes and types and in various regions of the country.

(d) In the performance of, and with respect to, the functions, powers, and duties vested in him by this Act, the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties set forth in secton 402 (except subsection (a) and (c)(2)) of the Housing Act of 1950.

(E) APPROPRIATIONS; REVOLVING FUND

There is authorized to be appropriated the sum of $10,000,000 to provide an initial amount for the program under this Act, and such additional sums thereafter as may be necessary to carry out such program. Amounts appropriated pursuant to this section shall be placed in and constitute a revolving fund which shall be available to the Secretary for use in carrying out this Act.

Sec. 126. Tax Incentives for Energy-Conserving Home Improvements

(a)(1) part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"Sec. 189. Expenditures for Home Insulation and Heating Equipment

"(a) In General.—There shall be allowed as a deduction any expenditures made by the taxpayer during the taxable year for the purchase and installation, in his home or in any other residential structure owned by him, of qualified insulative materials or qualified heating equipment.

"(b) Definitions.—For purposes of this section—

"(1) Qualified insulative materials.—The term 'qualified insulative materials' means any material or item which, as determined under regulations prescribed by the Secretary or his delegate in accordance with standards developed and prescribed by the National Bureau of Standards, is capable of achieving a significant reduction in heat loss, cooling loss, or infiltration when properly installed in a residential structure under the prevailing climatic, meteorological, and related conditions. Such term includes (without being limited to) glass and plastic storm windows and doors, flexible and fill insulation, blown insulation, and any other material or item which (under such regulations or standards) may be useful and effective for the insulation of ceilings, floors, walls, windows, or doors.

"(2) Qualified heating equipment.—The term 'qualified heating equipment' means any item, fixture, or equipment which, as determined under regulations prescribed by the Secretary or his delegate in accordance with standards developed and prescribed by the National Bureau of Standards, is capable of and designed for improving the operating efficiency of a heating plant in a residential structure. Such term includes (without being limited to) heat exchangers, ducting, and any other item, fixture, or equipment which (under such regulations or standards) may be useful and effective in improving the operating efficiency of such a plant.

"(c) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to assure that insulation and heating equipment with respect to which deductions are allowed under this section are effective for their intended purposes and are not of elaborate or extravagant design or materials.".

(2) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 189. Expenditures for Home Insulation and Heating Equipment.".

(b) The amendments made by the first section of this Act shall apply only with respect to expenditures made after December 31, 1972, in taxable years ending after such date.

NO CRISIS IN THE AMISH COUNTRY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. GAYDOS. Mr. Speaker, we Members of Congress from Pennsylvania are happy to report that not all of our State's citizens are up tight about the energy crisis. We have hundreds of Amish families who could not care less—personally.

Daniel Fisher, an Amish farmer, told Bill Richards, a newsman, the other day:

> It's the rest of the world that's in trouble, not us.

Quaintly enough, Mr. Fisher's farm borders Paradise, Pa.

Those of us who have delighted in driving, at times, through what is known as the "Amish Country" around Lancaster, Pa., and down into Maryland realize what Farmer Fisher has in mind.

The countryside is filled with well-tended farms, many of great value if ever placed on the market and having houses and barns of such size it would cost scores of thousands of dollars to duplicate them. And no one ever has seen an underfed Amishman—or, indeed, a depressed one.

Until now the strict Amishman—member of the "Old Order"—has been looked upon as a hold-out from the good life of America. His beliefs deny him ownership of an automobile. He must eschew electricity in his home. He heats with wood or coal. Television is a "no-no."

But today, with gasoline short, electric power limited, and other fuel supplies in jeopardy, the Amishman suddenly appears as though he may be the man of our immediate future.

Jacob Esh, another Paradise landtiller told newsman Richards:

> You jump in the buggy, go where you have to go, and come home. That's all there is to it.

It is that simple for Mr. Esh, Mr. Fisher, and their Amish associates and, as we fret over fuel cutbacks, our changing life styles, and the dire effects both may have on the economy, we can take comfort in the knowledge that some Americans remain complacent and unaffected.

ECONOMIC DETERIORATION

HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. HANLEY. Mr. Speaker, according to the report of the Committee on Ways and Means, one of the stated purposes of H.R. 10710 is to amend and improve the import relief provision of existing trade law in order to assure greater accessibility and more effective delivery of import relief to industries which may be seriously injured or threatened with serious injury by increased imports.

In my judgment, this is one of the most important issues raised by this bill. I do not intend to undertake in these remarks to document in detail what I feel sure every Member of the Congress recognizes—this country faces serious economic problems unprecedented in our history. The value of the dollar has been, is, and promises to continue to be in serious trouble. We continue to incur serious balance of payment disequilibria. This country has been forced to devalue the dollar twice in a rather short span of time. Inflation has not, in my opinion, been adequately checked and contained. Increasing national dependence on foreign energy sources and other strategic commodities appears inevitable, and serves to aggravate our already serious balance-of-payments disequilibria and these other economic problems.

I do not think I exaggerate the gravity of the situation when I point out that throughout history one of the pervading symptoms preceding the decline and fall of great nations has been economic deterioration of the kind I have just described. The liquidation of the British Empire in this century resulted in large part from economic ailments that are ominously similar to those we are experiencing.

The report of this distinguished committee squarely recognizes that those domestic statutes which endeavor to protect our producers from disruptive market penetrations and unfair trade practices must be made more effective if our domestic producing interests are to have confidence in their ability to survive competitively.

To this end, H.R. 10710 undertakes to develop a new mechanism for legislative-executive cooperation in the area of international trade policy which attempts, among other things, to provide improved import relief procedures to prevent these wholesale, disruptive market penetrations by foreign imports.

With all due respect to this distinguished Committee on Ways and Means which has worked hard and ably to cope with a multiplicity of complex problems, it is my considered judgment that the provisions in title II which attempt to provide import relief, while constituting some improvement over present law, fall short of what is necessary to cope with this problem.

I do not intend to address myself in any detail to the important subject of adjustment assistance to workers or to firms impacted by imports causing serious market penetrations. I do think we must all recognize that while such assistance is critical to the workers and firms affected when these import situations create serious domestic economic dislocations, more emphasis must be given to avoiding or forestalling these dislocations from happening in the first place, and this can be done only if we have prompt and effective deterrents available to stop these import incursions at the threshold before they have their damaging effect on our domestic industries. One of the economic lessons I hope we are learning is that the United States Government cannot go on indefinitely bailing out untenable economic situations by what amounts to subsidizing our mistakes. It makes far more sense to provide procedures by this legislation that enable us to detect and arrest harmful market penetrations of our domestic markets by imports before serious economic harm and dislocaion results, rather than wait until it happens and expect the Federal Government to provide adjustment assistance and absorb the economic impact.

I recognize that no system will be foolproof and fully responsive. There will undoubtedly continue to be serious domestice economic dislocations resulting from imports and I certainly favor the availability of adequate adjustment assistance when that happens. Also, I want to make it clear that I recognize that many domestic industries will have to adapt and change to respond effectively to foreign competition. What is really involved is how to prevent serious economic harm and dislocation during the necessarily lengthy period required to adjust to such import competition in an orderly and effective manner.

Today I want to focus on the single question whether the provisions of title II are adequate to provide a prompt and effective roadblock to harmful foreign imports and provide an adequate period to permit orderly adjustment to such competition.

While I recognize that H.R. 10710 would provide important improvements over existing law as to import relief, and I commend the committee for these improvements, I respectfully contend that title II falls short of providing the safeguards I believe the economic condition of this country requires.

As you know, the proposed administrative machinery to detect and deter injury from imports involves a two stage process: First, an investigation by the Tariff Commission and a decision recommending to the President an appropriate course of action based on the findings of that investigation; second, the actual import relief the President decides to implement.

As to the first step in this procedure, H.R. 10710 would liberalize existing criteria for determining when injury to domestic industry resulting from imports is occuring or threatening to occur. These criteria are important and should be adopted.

In addition, title II would provide stricter and more expeditious time limits within which import relief procedures must be considered and decided upon. This is likewise important and I feel serious consideration should be given to whether these time limits could not be structured to provide even more expeditious consideration and relief.

Mr. Speaker, the crucial part of this two stage administrative mechanism is what the President does or is required to do once the Tariff Commision has made its decision containing an affirmative finding of injury to an industry due to imports under section 201(b).

In my judgment the difficulty with the whole statutory scheme as it relates to import relief is that section 203 is discretionary not mandatory. Section 203(a) lists in order of preference the methods of providing import relief which the President may use, and I emphasize the word "may" use, when the Tariff Commission has decided that injury would result due to imports. Now I recognize that section 203(c) requires the President to report to Congress and explain why he chose one method or combination of methods to provide import relief, such matters as why he chose, for example, quantitative restrictions or tariff-rate quotas rather than increased duties. And presumably if he takes no action at all the President must account to Congress and explain his reasons.

I am frankly skeptical that this hierarchy of priorities as to kind of relief the

President may order is really meaningful when the President can choose among the possible remedies at will or, more importantly, can elect not to order any remedy at all. I am equally skeptical that the reporting to Congress procedure is an adequate means to assure the President will take effective action or even any action after receiving a Tariff Commission decision that injury due to imports has or will result.

There are two defects in this discretionary system both of which contribute to producing undue delay in effectuating relief. First, if the President elects not to take action or to take ineffective action there may well be undue delay while his report is prepared and Congress is studying and evaluating that report. Serious or irreparable harm to domestic producers may result during this interval. Second, if the Congress disagrees with the President's chosen course of action in a given situation it can only remonstrate and ask him to reconsider. If the President remains adamant, then still further and more extended delay would result while Congress undertakes legislative action to compel the President to take more effective action. We all know that such delay would probably be substantial and it is not sound legislative practice to be faced periodically with ad hoc situations demanding special legislative action which would be in the nature of private bills. The whole purpose of this bill, H.R. 10710, is to create an effective new mechanism for legislative-administrative-executive cooperation in international trade questions. It is not enough to provide for close and continuing congressional oversight of Presidential handling of import relief. To be effective this statute must command the President to impose import relief when the Tariff Commission makes affirmative findings of injury from imports pursuant to section 201(b).

Moreover, that mandate to act must also include the duty to implement remedies according to a congressional determination of priorities unless the President is able to assume the burden of proving that some other order of priorities is warranted by unique circumstances. Such a showing by the President could be made to Congress by an expedited procedure requiring the President to show cause within no more than 30 days why he believes a different order of priority of remedies is required in a specific situation.

Under this system the President would, first of all, have a statutory duty to implement import relief when the Tariff Commission so determines, and, secondly, the President would have a statutory obligation to implement such import relief on the basis of priorities established by Congress unless the President, by an expedited procedure, justifies to Congress a different set of priorities. I earnestly urge the Committee on Ways and Means and all Members of Congress to adopt this suggestion. It is the only means I know of by which we can be assured that appropriate import relief will be forthcoming on a suitably prompt basis, and it would not deprive the President of adequate discretion and flexibility to cope with varying trade situations.

TRIBUTE TO THE U.S. COAST GUARD

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. DON H. CLAUSEN. Mr. Speaker, last month I was privileged to attend a banquet in my congressional district honoring the men and women of the U.S. Coast Guard. The thought occurred to me that my colleagues may enjoy reading the remarks of the Honorable Alexander McMahon, a former coastguardsman and presently municipal court judge in Petaluma, Calif., on this occasion:

A TRIBUTE TO THE U.S. COAST GUARD

(By Judge Alexander McMahon)

Mr. President of the Mess, Ladies and Gentlemen of the Coast Guard:

I am doubly honored this evening—honored to be here and honored to be able to call you, as I shall now, the Constitutional Service; for you, as the U.S. Coast Guard, are as vital, living and expansive as our United States Constitution.

Little did our Founding Fathers conceive or contemplate, two hundred years ago, that the Simple, yet so beautiful document, so painstakingly drafted for the conduct of government in the 13 original states, would, in the year 1973, be the lodestar of government for some 50 states, the furthest of which is some 6000 miles from the seat of government in Washington.

And yet the Constitution of ours, expanded to include some Amendments, laboriously drafted and enacted, has, inherent within it the fluidity, the eternal spring of life that has enabled it to embrace—and successfully so—the needs of our life, of the nation and its government for almost two centuries.

And, the good God willing that we have people like you and our Congressman in the years to come, that Constitution will sustain the life of our Country in the centuries to come.

I called you the Constitutional Service because in your vitality, your inherent ability to meet the needs of the day, you, the Coast Guard, are like unto the Constitution.

Little did the first Congress conceive, in carrying out the mandate of the Constitution and establishing the revenue marine and providing for a small fleet of minute cutters, that those few men appointed to sail in the Harriet Lane and the others, would be the forerunner of a prestigious organization with the capacity to adapt to, and meet the needs, the ever changing needs of our marine oriented life.

And as the Constitution has that vital, mystic, living capacity to face, meet and master the ever arising challenges of government in a changing age, so that early Revenue Marine Service had, in some mysterious capacity—and I chose to believe it was its men—the ability now long proven, to meet the constantly shifting sands of time, and to afford exemplary service as the demand for service grew.

It is said that there is nothing new under the Sun, and so it is. There is hue and cry today to streamline, to merge bureaus and departments of Government in the interest of economy, efficiency and better service. The Coast Guard has long been, and little recognized as such, a pattern for merger and exemplary service as a result.

From the small fleet of ten, single masted vessels that constituted the first Revenue Marine, we have seen the evolution of the modern day Coast Guard.

In you and your makeup are the broad shoulders and strong arms of the surfman, whose Life Saving Service was merged with the Revenue Marine to form the Coast Guard in 1915.

In you and in your makeup are brave men of the Revenue Cutter Service who challenged the Arctic ice in wooden vessels.

In you and in your makeup are the sometimes unlettered, sometimes rough giants of the U.S. Lighthouse Service, merged into the Coast Guard in 1939.

In you and in your being are the stalwarts of the old Department of Commerce Merchant Marine Inspection Service, men whose respect for the sea led them into pioneering the reality that a safe, well equipped and properly manned vessel is paramount to the concept of Maritime Safety.

In its vigor, the United States Coast Guard is ever ready to aid in the defense of our beloved country with but scant departure from its peace time mission of preserving life and property from the onslaughts of a savage sea. It is again that vigor, in peace and in War, that is so akin to the Constitution.

But its virility, its strength, its capacity to meet and absorb the ever changing needs comes not from its history, or its name, but rather from the men who, above all, constitute and have constituted the United States Coast Guard.

It comes from the men of "Harriet Lane" and of Alert, from the men of Surveyor and Narcissus, of Hudson and Dispatch. From the brave men who faced the Arctic in Corwin and Bear in days long gone to their present day counterparts in the Bering Sea, and on Ice Patrol, and on lonely Ocean Weather Station.

It is the heritage of the surfman on Hatteras, or Flaherty, or Samoa on Humboldt Bay, and of the men who manned the lonely light stations at St. Elias, Fairweather, Point St. George and the myriad others now automatic and unmanned.

It comes from the virility, strength and dirty job willingness of the iron men of the old steam tenders Cedar and Hemlock and their successors today on Citrus and Woodbine and the indelicate Rose.

It is the strength and virility of the men on Atka and East Wind daring the Polar Ice as did the men of Bear and Corwin.

That strength and virility comes from men who have been able to shift to meet the new challenges of yesterday and today; from the men of today who are meeting the challenges of restoring and regaining the purity of our bays, rivers, and oceans; who are willing to dirty their hands in the grime of bunker oil spilled upon the waters, for the benefit of mankind and his environment.

That strength comes from men of commitment and dedication; from men whose lot is seldom to take to sea in calm waters but rather in the savagery of storm, because they and their expertise, and the creed of their service, and their willingness to give of their life for their fellow men, impels them so to do.

It comes from the men of this command, whose mission is to train so that those who wear the shield can be, and will be equipped to meet the challenges of the day.

It comes from men such as your Station Commander, Captain Kirkley. From men such as he with the versatility to master the Law as well as his regular Coast Guard duties. He has been called upon often to exercise that versatility, and in each call, he has proved himself. From the halls of NATO, to the Cutters Bridge, from Headquarters to the Green Hills of Petaluma, he has met and mastered every challenge.

I cannot toast you, Captain Kirkley, and the members of your command, for in accordance with protocol, such is not my privilege.

But, I can, sir, salute you, on behalf of a Nation, and on behalf of your Congressman, and for myself, for what you are, a Command Officer of the United States Coast Guard.

And, in saluting you, Sir, and your command, I salute that wonderful, vital organization, that distinctive and distinguished service so akin in its vitality to our Constitution, the United States Coast Guard.

I salute you, sir, and each of your officers, men of commitment all, and your loyal ladies who serve with you; you are the Coast Guard and I salute you all.

ENDANGERING THE SPECIAL PROSECUTOR

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. RAILSBACK. Mr. Speaker, once again, my colleague from Maine, William Cohen, has put his finger right at the heart of the issue in his article on the Special Prosecutor legislation, entitled "Endangering the Special Prosecutor," which appeared in the Washington Post on December 11, 1973.

I commend the attention of my colleagues to that excellently written article which follows in the Record immediately after my remarks:

Endangering the Special Prosecutor

(By William S. Cohen)

Justice Holmes once wrote that a "catchword can hold analysis in fetters for 50 years." It is a noteworthy observation, for as Congress prepares to debate and deliberate on the subject of a special prosecutor, it is in danger of being mesmerized by the popular call for an "independent" prosecutor. The need for a special prosecutor whose independence cannot be summarily intruded upon by the body that is the subject of investigation can no longer be a matter of legitimate debate. The question is, how can the objective of establishing the office of special prosecutor be achieved most expeditiously and in a manner that will survive constitutional attack?

The House Judiciary Committee has reported favorably on a bill that would require a panel of U.S. District Court judges to appoint the special prosecutor. Though the bill has several commendable features designed to strengthen it against challenges that are certain to follow, most proponents of the bill, including Archibald Cox, have conceded that it is not free from Constitutional doubt.

It is argued, however, with a familiar ring of pain reliever commercials, that three out of four experts agree that the bill is Constitutional. When further delay in taking action on Watergate-related criminal activities can only contribute to the disintegration of public confidence in our institutions, one must ask what public interest is being served in adopting a bill that has a quarter-moon chance of being invalidated?

In addition, the U.S. District Court in Washington, in a unique, unsolicited "advisory" opinion, stated that the proposal would be unwise, unwelcomed and (impliedly) unconstitutional. Proponents of the bill dismiss the admonition as not rising to the dignity of judicial *dicta*. It is interesting to speculate what reception the Court's opinion would have received had it endorsed the Judiciary Committee's proposal.

But all of this misses the mark. The question really is not one of independence. Mr. Cox was independent and Leon Jaworski, to the great despair of some, is demonstrating daily that he too is independent. Congress can draw statutory prohibitions against arbitrary orders emanating from the White House concerning the prosecutor's tenure. The problem has been and is the lack of access to presidential documents, memoranda and recordings. Congress, through a confirmation process by the Senate, could insist upon a commitment that is tantamount to a waiver of that vague and seemingly all-purpose doctrine of executive privilege as a condition precedent to its approval of a special prosecutor nominated by the President. Mr. Nixon has said in private that the "special prosecutor should have everything and when he asks for it, he shall get it." Vice President Ford has testified that in his opinion executive privilege should not be invoked in any claims involving alleged criminal conduct. This proposal would simply commit broad promises into the semi-permanence of statutory ink.

Congress, however, dazzled by the glitter of obtaining a special prosecutor who could never be fired by the President for any reason—legitimate or not—appears unwilling to adopt any alternative course of action. Moreover, many proponents of the court-appointed prosecutor privately suggest that whether or not the committee bill proves to be constitutional is of little consequence, since the question soon will be moot.

These members envision the following sequence of events: The bill for a court-appointed special prosecutor will pass the House and Senate. The President will veto the bill and the veto will be sustained. Mr. Jaworski, in the meantime, will continue his efforts in securing indictments against all wrongdoers. If he succeeds, he will be praised by all; should he fail, the proponents of the bill can maintain that they stood tall in the pursuit of justice while the President and his votaries (anyone who opposed their bill) achieved their goal of frustrating and defeating the search for truth.

But assume a different scenario. Assume that certain White House advisers, unhappy with Mr. Jaworski's independence, were to suggest to the President that while they believed the bill to be unconstitutional, the President should not veto it and allow the courts to make the determination. The immediate result would be weeks and perhaps months of delay, confusion and confrontation. Mr. Jaworski would not be able to continue his efforts because congressional action would have superseded his appointment. The President would be under no obligation to "fully cooperate" with a court-appointed prosecutor whose office would almost certainly be challenged, if not by the White House, then surely by prospective defendants. Thus the quest for truth would be delayed and perhaps even derailed.

While it is not the most desirable arrangement, what is best for the country "at this point in time" is to allow Mr. Jaworski to continue in office, with his integrity and demonstrated independence buttressed by strong statutory protection. The greatest safeguard against his dismissal by the President is public opinion. President Nixon crossed that Rubicon on October 20, 1973. He is not in a position to cross it a second time.

SENATE—*Wednesday, December 12, 1973*

The Senate met at 9:45 a.m. and was called to order by Hon. Harold E. Hughes, a Senator from the State of Iowa.

PRAYER

The Reverend Dr. C. Leslie Glenn, canon and subdean, the Washington Cathedral, Mount St. Alban, Washington, D.C., offered the following prayer:

Almighty God, who hast created man in Thine own image: grant us grace fearlessly to contend against evil, and to make no peace with oppression; and, that we may reverently use our American freedom, help us to employ it in the maintenance of justice among men and nations, to the glory of Thy holy name.

Guide, we beseech Thee, the nations of the world into the way of justice and truth, and establish among them that peace which is the fruit of righteousness, that they may become the Kingdom of our Lord and Saviour Jesus Christ. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The second assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., December 12, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Harold E. Hughes, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. HUGHES thereupon took the Chair as Acting President pro tempore.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills in which it requests the concurrence of the Senate:

H.R. 10710. An act to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States, and for other purposes;

H.R. 11088. An act to provide emergency security assistance authorizations for Israel and Cambodia; and

H.R. 11771. An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes.

HOUSE BILLS REFERRED

The following House bills were severally read twice by their titles and referred as indicated:

H.R. 10710. An act to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States, and for other purposes; to the Committee on Finance;

H.R. 11088. An act to provide emergency security assistance authorizations for Israel and Cambodia; to the Committee on Foreign Relations; and

H.R. 11771. An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes; to the Committee on Appropriations.

MESSAGE FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. Hughes) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, December 11, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I withhold that unanimous-consent request.

The ACTING PRESIDENT pro tempore. Does the Senator from Montana ask that the agreement be vitiated.

Mr. MANSFIELD. No.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MANSFIELD. Mr. President, I yield to the Senator from West Virginia.

ORDER FOR UNFINISHED BUSINESS TO BE LAID ASIDE FOR THE CONSIDERATION OF THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time today as the supplemental appropriations bill is made the pending business before the Senate, the unfinished business be laid aside and remain in a temporarily laid aside status until the end of the day or until the supplemental appropriations bill is disposed of.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BEALL. Mr. President, reserving the right to object, I assume that the minority leader was made aware of that?

Mr. ROBERT C. BYRD. Mr. President, I do not think that the minority leader would object to it.

Mr. BEALL. Senators Percy and Baker might.

Mr. MANSFIELD. Mr. President, this will be finished at the end of 2 hours. It would not affect them at all.

The ACTING PRESIDENT pro tempore. The Chair has already ruled on the question.

Mr. MANSFIELD. Mr. President, may I say also for the record that the Senate has granted unanimous consent that the supplemental appropriations bill could be taken up at an appropriate time today.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CIVIL AERONAUTICS BOARD

The second assistant legislative clerk read the nomination of G. Joseph Minetti, of New York, to be a member of the Civil Aeronautics Board.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Coast Guard.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MIDWEST AND NORTHEAST RAIL SYSTEM DEVELOPMENT ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 344 (S. 2188) be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the acting minority leader wish to be recognized?

Mr. BEALL. Under the previous order, I reserve my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from South Dakota (Mr. McGovern) is recognized for not to exceed 15 minutes.

(The remarks Senator McGovern made at this point on the introduction of S. 2799, dealing with excess profits and investment credits in the oil industry, are printed in the Record under Statements on Introduced Bills and Joint Resolutions.)

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma (Mr. Bellmon) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, how much time did the distinguished Senator from South Dakota have remaining?

The PRESIDING OFFICER. Five minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the unused time of the Senator from South Dakota be applied to the time of the Senator from Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Pastore). Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the distinguished Senator from Oklahoma (Mr. Bellmon) is now recognized for not to exceed 15 minutes.

CONDITIONS IN THE CATTLE FEEDING, PROCESSING, AND RETAILING BUSINESS

Mr. BELLMON. Mr. President, as one who has long believed in and supported the supply and demand pricing system, I am greatly appalled at the conditions which presently exist in the cattle feeding, processing, and retailing business. At the present time, cattle feeders are losing from $100 to $200 on each animal brought to market, while retailers are making profits of more than $125 per carcass processed and sold.

The reason for this high retail profit is that prices of beef at the meat counter have not been reduced so rapidly as the costs of live animals have declined. As a result, consumers are being denied the opportunity to benefit from the increased supplies of beef which are now available.

As a result of these catastrophic losses to cattle feeders, placements of cattle on feed in the seven principal States of this country were down 20 percent last October as compared with a year earlier. What this means is that the country may be heading into another shortage of fed cattle similar to that which brought the high prices, the boycotts, and the shortages of last summer.

Mr. President, it is remarkable how rapidly these changes have come. Perhaps some short review will be helpful to Members of the Senate in understanding how we have come to the present situation.

Members will remember that earlier this year demand for beef rose rapidly as a result of the higher incomes and increased prosperity of American citizens. Many consumers, who had not been able to afford as much beef as they wanted, now found it possible to use beef more frequently and in larger quantities.

With the increasing demand, prices naturally rose and as prices went up, beef producers held back breeding animals in order to increase the size of their herds and to provide a greater long-range supply to meet the anticipated increased demand.

As prices rose, consumers became frustrated and took direct action to express their displeasure. Boycotts were frequent and great pressure was brought on Government officials to enact price controls. Over the objections of the Secretary of Agriculture, price controls were finally put into effect on beef and from that point the situation became increasingly chaotic. The supply of beef began to decrease at normal retail levels, consumers purchased animals directly from producers, had them slaughtered and stored the beef in home freezers for future family use. Canadian processors came to the United States, bought beef animals in large numbers, hauled them to Canada where they were processed, and the meat was then "exported" back to the United States from which it came.

Fat cattle prices reached the level of $53.61 per hundredweight during the month of August at the Omaha markets. This was far in excess of the amount which processors could pay and still sell the beef at the controlled prices. As a result, many meat processing plants were closed and many meat counters were empty of beef.

In August, President Nixon announced that the beef ceilings would be lifted on September 12. From this point on, cattle feeders generally held back their animals on feed in anticipation of even higher prices when the ceilings were finally removed. These cattle gained from 2½ to 3 pounds per day every day they were kept off the market. When the ceilings were lifted and cattle started to move to market in a more normal manner, the animals were excessively heavy, the numbers were up, and the prices of live animals went down rapidly.

The drop has amounted to more than $15 per hundredweight—cwt. Live animals yesterday in Omaha were selling for $38.50 a hundred with heavier animals being heavily discounted. It is not at all unusual for a cattlefeeder to suffer from $100–$150 per head loss on animals he is now bringing to market.

Mr. President, unfortunately, even though prices of live animals have gone down rapidly, the price of beef in the meat markets has not reflected this reduction. I have before me a table which has been prepared to show 1973 cattle and beef price relationships. This table shows that in March of this year, when slaughter steer prices were $45.55 per cwt, retail beef was selling at an average of $1.35 per pound. When slaughter steer prices reached the level of $53.61 per cwt during the month of August, retail beef prices went up to $1.48 per pound. During the month of November, slaughter steer prices averaged $39.88 per pound, which is the lowest figure for any month of the year, but retail beef prices have been reduced only slightly to $1.34 per pound.

Mr. President, I ask unanimous consent to have this table printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

1973 CATTLE AND BEEF PRICE RELATIONSHIPS

1973	U.S. retail beef prices [1] (price per pound)	Dressed steer beef prices [2] (price per hundredweight)	Slaughter steer prices [3] (price per hundredweight)
January	$1.22	$61.92	$40.62
February	1.30	65.46	43.35
March	1.35	68.48	45.55
April	1.39	69.36	44.92
May	1.36	68.66	45.44
June	1.36	70.17	46.69
July	1.36	70.19	48.05
August	1.48	(4)	53.61
September	1.45	71.09	45.45
October	1.36	63.94	41.79
November	[5]1.34	62.15	39.88

[1] Based on USDA figures as reported by the Economic Research Service and Bureau of Labor Statistics.

[2] Based on average monthly midwest choice dressed beef prices for a 600–700 weight yield grade 2–4 carcasses.

[3] Based on average monthly Omaha choice slaughter steer prices.

[4] Not available.

[5] Represents preliminary estimates for the first 3 weeks in November.

Mr. BELLMON. Mr. President, retail beef prices in November were $1.34 per hundredweight, only 14 cents or 9 percent less than the peak consumer beef prices of $1.48 per hundredweight in August, 1973. In this same 90-day period, average slaughter steer prices declined $13.73 per hundredweight or 26 percent. This is roughly twice as much of a decline as had been reflected at the retail level.

While the retail price of beef was about the same in March and November, 1973; dressed beef and slaughter cattle prices in November, 1973, and thus far in December, are a minimum of $5 to $6 hundredweight lower than March, 1973 levels. Obviously, current retail margins are much wider than normal. The live cattle and dressed beef market can increase about $5 to $7 per hundredweight without any or very little change in retail beef prices. The American public has not yet fully benefitted from the very sharp decline in live cattle prices this fall.

What this means is that cattle feeders are becoming discouraged. They are not filling up their lots, and we are heading again into a period when beef supplies could go down sharply. This is reflected by the fact that cattle being placed on feed have been down sharply April through November of this year, ranging between the decline of 10 to 20 percent compared to a year ago levels. This means a total decline of approximately 1.5 million head of cattle that should be now in process of being fattened for next year's demands. These reduced placements will clearly result in sharply reduced beef supplies during the first half of 1974. Until live cattle prices improve significantly, the decline in feedlot placements witnessed for the past 8 months in a row will likely continue.

Mr. President, one of the saddest elements in the current situation, which sees many cattle feeders suffering serious economic losses that will lead to bankruptcies in at least a few cases, is that producers have never asked for price supports or controls on production. This vast group of intensely independent, free enterprising farmers and ranchers now feels victimized by Government price control programs which badly distorted the normal demand-supply characteristics of their industry.

For the country, the question is simple: Do consumers want an abundant, reliable supply of high-quality beef? If so, steps must be taken immediately to provide incentives for continued cattle feeding. This means that retail outlets must assist in effectively merchandising the abundant supplies of beef now available. This means that future U.S. Government needs for beef should now be filled. This also means that accelerated efforts to export U.S.-produced beef may need to be made.

Mr. President, I have tried to make these points in a letter I have sent today to Secretary Butz, pointing out the serious problems that cattle feeders are now having and urging certain steps be taken to improve the situation and to assure that the economics of the cattle feeding industry will be attractive enough so that the reasonable demands of consumers can be met in the months ahead, and so that we will not again be faced with runaway prices, with boycotts, with shortages, and with pressures for price controls that have brought us to our present unsettled and—unfortunately, for many—disastrous conditions.

I ask unanimous consent that the letter to Secretary Butz be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Dear Mr. Secretary: Undoubtedly, you are fully aware of the disastrous break in live cattle prices which are presently causing cattle feeders to suffer losses ranging from $100 to $200 per head on each animal currently being brought to market. The potentially damaging effect of these conditions upon future beef supplies is greatly in the October 1973 cattle on feed report which shows that October placement of cattle and calves on feed in the 7 principal feeding states were down 20% from October, 1972. This plainly indicates sharp reductions in beef supplies available to consumers five or six months from now.

The present situation is a result of many factors chief among which is the uncertainty brought about by the wage-price controls which were in effect for the first part of this year. The purpose of this letter is to ask for:

1. A study of the effects of the beef price control program on both consumers and producers;
2. A projection of future feed cattle supplies and the likely effect upon the retail prices of beef;
3. Projections as to next year's supply and

demand of feeder cattle as related to domestic feed lot demands;

4. Recommendations as to whether or not an accelerated beef or live animal export program is in order;

5. A review of needs of government agencies and programs for beef with the possibility that these needs might be met by accelerated purchases in the immediate future;

6. A review of margins of beef processors and retailers with recommendations as to how reductions in live prices may be more directly and promptly passed on to consumers; and

7. Any suggestions you may have as to means for avoiding the disastrous fluctuations in cattle prices in the future.

Sincerely,

HENRY BELLMON.

QUORUM CALL

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STENNIS). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order to recognize the Senator from Ohio (Mr. SAXBE) and the order to recognize me may be reversed, so that I may proceed at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CONDITIONS IN THE CATTLE FEEDING, PROCESSING, AND RETAILING BUSINESS

Mr. HANSEN. Mr. President, no one in this Chamber is more aware of facts about cattle production or more informed on the things that happen to the animal and to prices between the ranch and the consumer's table than my colleague from Oklahoma. When he speaks about cattle production and meat prices, I listen with respect for his knowledge and expertise.

I share his concern about the disparity between the price the producer receives and the price the consumer pays, believing as I do that it is important for the consumer to understand how much of his or her dollar actually goes to the person who raises the meat on the table.

Retail meat prices have not gone down, even though there has been a significant decrease in the price producers receive. The buying public should know this. I was interested to hear recently that the House Agriculture Committee may hold hearings next year to look at the reasons for this disparity, and I would suspect that by the time these hearings are convened, the energy crisis will be a factor in their examination.

We are going to hear a lot of grumbling and expressions of unhappiness next year from consumers because of the effects of the energy crisis on our economy, and in turn on prices of consumer goods. Every effort must be made to minimize the effect of the shortage on the economy, but under the best of circumstances, there will be a significant impact. It is important to remember that the energy crisis will affect agriculture every bit as seriously as any other segment of our economy, in view of the fact that farmers and ranchers use more gallons of fuel than they do hours of labor to feed this country.

And it should be pointed out that the cost of getting the meat to the supermarket accounts for a significant part of the dollar the consumer spends.

I commend the Senator from Oklahoma for his efforts to clarify the present situation as it relates to retail versus producer prices of beef. I share his concern.

Mr. President, as one who has great faith and confidence in a free economy ultimately to achieve the best answers to supply problems that arise in society, I have spoken from time to time on this floor in defense of the system that lets the laws of supply and demand work unfettered. I have spoken a number of times about my belief that the only real solution to, for example, the energy crisis will come when America decides to let the laws of supply and demand bring about their appropriate answers and responses in the marketplace.

I have pointed out that the extreme shortage of natural gas in this country arises in no small degree from the fact that the Federal Power Commission, for a number of years, has held the price of natural gas down at an inordinately low level. Because of that, we have witnessed increasing use of natural gas out of all proportion to what would have occurred had the true demand for gas been reflected in the price of that product. Because the Federal Power Commission kept the price down, we saw use increase, we saw other forms of energy pushed out of the marketplace, and we saw little interest in coal research for gasification or liquefaction, simply because it was economically impossible for the coal industry to come up with the technology and to implement the processes whereby coal could be turned into synthetic gas. Because of that, we are now experiencing the crisis that many people, many knowledgeable experts, predicted long ago would inevitably result.

I think we should take note of the fact that the same forces could affect—and indeed will—any other segment of our economy.

There is no question at all that last August when the Cost of Living Council put a ceiling on beef prices which failed to reflect the increased cost of production, they threw the whole supply-demand picture out of kilter. We saw the supply of beef practically dry up in the supermarkets and we saw a sharp escalation of price when the ceiling was lifted.

Now, we are witnessing an entirely different situation where the price in the supermarkets remains where it was despite a severe drop in the price of live, fat cattle, and if this continues it is inevitable that the farmers and ranchers, who have experienced the losses that presently are taking place, will be discouraged from purchasing cattle for feeding this winter, and next spring and summer when we desperately need the beef that now could be in production, we will not have it. That is the way the market works. I just say to my colleagues it is too bad when we decide by legislation to try to set aside the workings of the marketplace.

My concern is that unless this price situation can soon be corrected we will find fewer cattle in the feed lots of America than otherwise would be the case, and that means that next spring and summer there will be fewer servings of meat on the tables of Americans than could be the case if we were to witness the response that I think is entirely merited in the way of higher prices for feeder animals, or lower prices in the marketplace, so far as the retail level goes. That in itself would greatly expand the consumption of beef.

We have seen this demonstrated many times: As the price drops the demand increases because the price of the product is affected by supply elasticity. If the price increases, normally there will be an increasing supply and there will be a decrease in demand.

I would hope that Members of this body would give serious consideration to the concerns that have been expressed by the Senator from Oklahoma, recognizing that he has raised a warning flag for America now to consider, having in mind that his expression of concern I think involves all of us.

I think there has been no system devised that works as well as the economic system under which this country has been operating. The trouble we are in today, I think, is a consequence of the messing around and the interference we injected into the marketplace this summer; and we are paying now for the mistake of interfering at that time in the supply-demand picture.

I thank the distinguished Senator from Oklahoma very much.

ORDER OF BUSINESS

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. MANSFIELD. Mr. President, how much time is remaining to the distinguished Senators from South Dakota, Oklahoma, and Wyoming?

The PRESIDING OFFICER. The Senator from South Dakota has only 1 minute remaining; the Senator from Oklahoma used all of his time; and the Senator from Wyoming has 5 minutes remaining.

Mr. HANSEN. Mr. President, I am happy to yield my time to the majority leader.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be taken out of the time remaining under the orders.

The PRESIDING OFFICER. Without objection, it is so ordered. The absence of a quorum has been suggested, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESCISSION OF ORDERS RECOGNIZING CERTAIN SENATORS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the special orders granted to Senators Saxbe, Griffin, and Mansfield be vacated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, as the Chair understands, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to the usual 3 minutes.

What is the pleasure of the Senate?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum——

Mr. PERCY. Mr. President, will the Senator withhold that?

Mr. MANSFIELD. I withhold it.

The PRESIDING OFFICER. The Senator from Montana withholds that request, and the Chair recognizes the Senator from Illinois for 3 minutes.

PRIVILEGE OF FLOOR ON SPECIAL PROSECUTOR BILL

Mr. PERCY. Mr. President, on behalf of the Senator from Nebraska (Mr. Hruska), I ask unanimous consent that Mr. Kenneth Lazarus, from the staff of the Committee on the Judiciary, be allowed the privileges of the floor during the debate and any votes which may occur on the Special Prosecutor legislation.

On my own behalf, I ask the same permission for Mr. William Lytton, of the staff of the Committee on Government Operations.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I make the same request for Senators Baker, Javits, Bayh, Hart, and Kennedy, if they so desire.

The PRESIDING OFFICER. As to floor privileges for staff members?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Hollings). Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Hughes) laid before the Senate the following letters, which were referred as indicated:

RECLASSIFICATION OF EXISTING LOAN FUNDS

A letter from the Administrator of the Rural Electrification Administration furnishing information, pursuant to law, in connection with the reclassification of existing loan funds to Western Farmers Electric Cooperative of Anadarko, Oklahoma. Referred to the Committee on Appropriations.

REPORT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES

A letter from the Vice President of the Export-Import Bank of the United States transmitting, pursuant to law, the report of the Bank during the quarter ended June 30, 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into during the past 60 days (with accompanying papers). Referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON (for Mr. Ervin), from the Committee on Government Operations:

S. Res. 215. An original resolution authorizing supplemental expenditures by the Committee on Government Operations for inquiries and investigations by the Permanent Subcommittee on Investigations (Rept. No. 93–616). Referred to the Committee on Rules and Administration.

By Mr. EAGLETON, from the Committee on the District of Columbia, with amendments:

H.R. 6186. An act to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies, banks, and other savings institutions (Rept. No. 93–618).

By Mr. McCLELLAN, from the Committee on Appropriations, with amendments:

H.R. 11575. An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes (Rept. No. 93–617).

By Mr. McGOVERN, from the Committee on Agriculture and Forestry, with amendments:

S. 2150. A bill to amend Public Law 92–181 (85 Stat. 383) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products (Rept. No. 93–619).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. RANDOLPH, from the Committee on Public Works:

Alan G. Kirk, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. McGOVERN:

S. 2799. A bill to impose an excess profits tax on energy companies, create an incentive for certain energy investments, and for other purposes. Referred to the Committee on Finance.

By Mr. JAVITS:

S. 2800. A bill to amend the Federal Aid Highway Act of 1973 (P.L. 93–87), section 230(a) to require the use of not less than 5 percent of the funds to be appropriated for the Federal aid safer roads demonstration program for elimination of hazards at railroad-highway grade crossings. Referred to the Committee on Public Works.

By Mr. PROXMIRE (for himself, Mr. Eastland, Mr. Humphrey, Mr. Goldwater, Mr. Church, Mr. Thurmond, Mr. Moss, Mr. Tower, Mr. McGovern, Mr. Schweiker, and Mr. Helms):

S. 2801. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. PELL:

S. 2802. A bill to repeal Public Law 87–733, known as the "Cuban Resolution." Referred to the Committee on Foreign Relations.

By Mr. ERVIN:

S. 2803. A bill to insure the separation of constitutional powers by establishing the Department of Justice as an independent establishment of the United States. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself and Mr. Huddleston):

S. 2804. A bill to improve agricultural yields in the production of soybeans through the establishment of a Soybean Research Institute jointly supported by the United States and the People's Republic of China. Referred to the Committee on Foreign Relations.

By Mr. HUDDLESTON:

S. 2805. A bill for the relief of Migual Angel Cuadra. Referred to the Committee on the Judiciary.

By Mr. HUGH SCOTT:

S.J. Res. 179. A joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning April 21, 1974, as "National Volunteer Week". Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McGOVERN:

S. 2799. A bill to impose an excess profits tax on energy companies, create an incentive for certain energy investments, and for other purposes. Referred to the Committee on Finance.

BIG OIL: USE OR LOSE EXCESS PROFITS

Mr. McGOVERN. Mr. President, I introduce for appropriate reference a bill to insure that excessive profits fuel companies will have made as a result of the energy crisis are either used to ease that crisis or revert to the Public Treasury to help finance a public effort to meet our energy needs.

Representative Aspin is introducing a like measure in the House today.

The mechanism we use to achieve this end is an excess profits tax combined with an investment credit. Under the terms of the bill, corporate profits in excess of the level received over the prior 4 years would be taxed at the rate of 85 percent unless the energy companies used their increased profits to increase their net investment for: Greater refining capacity, domestic exploration, development of alternative energy sources, or the development of synthetic fuels.

In other words, this excessive profits tax would apply only to dividends, retained earnings or nonproductive kinds of investments such as a new string of gas stations, resort hotels, or new mergers.

The bill is essentially modeled on the excess profits tax which functioned effectively during the Korean war except for the addition of the section entitled "Special Deduction." That section would enable energy companies to avoid paying the excess profits tax by increasing their net outlay for designated types of investment. The concept of "net" is important for it requires actual increased investment above the level which would have otherwise been made.

In my judgment, the need for this kind of legislation represents an unnecessary failure of government policy. President Nixon and his new energy czar have opted for a so-called free market solution to the energy crisis. Following the doctrine of "what is good for the oil companies is good for America," they have determined to raise the price of gasoline to perhaps as much as 80 cents a gallon in an effort to reduce demand by 30 percent.

Their strategy to achieve this high price is said to combine both increased taxes at the pump and higher profits for the oil companies. But because Congress is unlikely to raise the gasoline tax, their plans are more likely to evolve into total reliance on higher oil prices and profits to achieve their objective.

Unfortunately, Congress does not appear to have the votes or the will to impose a better policy.

Apart from the basic question of fairness, the Nixon policy is analytically unsound and unworkable for three fundamental reasons. First, it assumes a free competitive oil industry which does not in fact exist. Second, it assumes that the private interests of big oil coincide with the public interest. And third, it ignores the tremendous economic dislocations which oil price inflation will produce.

The 31 largest oil companies had sales of just under $82 billion in the first 9 months of 1973, up 22 percent from the same period last year. Nearly three-quarters of those sales, or $59 billion, were made by the eight largest companies.

According to a recent FTC study, those same eight companies have a virtual monopoly on the oil industry at every stage. They control: 64 percent of domestic crude reserves, 51 percent of net crude production, 58 percent of refining capacity, and 55 percent of the gasoline market.

Each of these companies is self-sufficient in oil. As "vertically integrated companies," they in general explore for oil on land they own or lease, ship crude oil in their own tankers, trucks, and pipelines, refine the oil in their own refineries and sell the oil and gas in their own stations.

Because the market is so highly concentrated, they are in a position to affect supply and manipulate the price.

In these circumstances, it is absurd to believe that free market measures can have any real effect.

A good example of this absurdity is President Nixon's decision last week to lower the price of gasoline by 1 cent at the refinery while increasing the price of heating oil by 2 cents. The theory behind this change was that a more comparable price for the two products would result in greater production of heating oil. But, as a practical matter, the gasoline price change is nothing more than a bookkeeping entry for a vertically integrated company. Because the wholesale price of gas was not decreased, the 1-cent decrease for the refinery division will show up as a 1-cent increase in another division of the same company.

Second, the major oil companies are not in business to help the consumer or solve the energy crisis. They understandably seek the greatest possible profit for their shareholders. And where their private interest conflicts with the public good, one should not be surprised at the choices they make. In the case of the present energy crisis, big oil's best interest lies in preserving a seller's market and maintaining shortages.

As the appendix table shows, the energy shortages this year have been very profitable for the oil industry.

For the industry as a whole, profits reached $6.4 billion during the first 9 months of the year, up 47 percent over the comparable period last year. And third-quarter profits were $2.4 billion, up 63 percent.

Mr. President, I ask unanimous consent that the table be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. PASTORE). Without objection, it is so ordered.

(See exhibit 1.)

Mr. McGOVERN. Mr. President, for the eight largest companies, which make over 70 percent of the sales and 80 percent of the profits, the figures were even better. Exxon's third-quarter profits were up 81 percent; Gulf's, 91 percent.

The administration clearly shares the Wall Street Journal's hope that these record profits will be invested in the public interest. Indeed, these billions of dollars could, and in my view should, be used to build refineries, develop new sources of fuel, and increase domestic exploration.

But if the past is any guide to the future, this will not happen. Just as the oil companies fought to retain the oil import quota when foreign oil was cheap and plentiful, they will fight the development of alternative fuels. And just as they stopped building refineries in the mid-1960's, they will curtail or abandon the investment plans they announced only months ago. In fact, at a meeting of the American Petroleum Institute just 3 weeks ago, several companies announced "indefinite" postponement of refinery construction plans allegedly because of the Arab oil embargo.

As the administration implements its plan to increase energy costs and oil company profits, we will see profit increases which will be even larger than those so far this year. As long as supplies contract and costs increase only at the rate of inflation, the profit portion of each new revenue dollar will increase.

And since the natural interest of the oil companies is not in using those profits for productive purposes, we will see higher retained earnings, dividends, and perhaps new mergers and investments outside the energy field. That is why we need the measure I suggest today which would require the fuel companies to make productive kinds of investments—or see their inflated profits taxed at a high rate.

The last point I want to make, Mr. President, concerns the fundamental unfairness of the inflationary impact of the administration energy policy. Already, working Americans have seen their paychecks eaten away by 10-percent inflation and the highest interest rates since the Civil War.

And just last month we saw a 34.7-percent increase in petroleum prices pace the wholesale price index to a seasonally adjusted annual growth rate of 21.6 percent. These higher fuel costs mean more than an increase in what we have to pay to drive to work or heat our homes. They affect each and every industry in America and presage a new round of inflation above the projected 6 to 8 percent for next year. Yesterday, Herbert Stein, Chairman of the President's Council of Economic Advisers, predicted that increased fuel costs will add 3 percent to the cost of living.

The risk of recession, already great because of misguided administration policy, is now even more real because of the energy crisis.

In the face of these bleak facts, the last thing we need is still higher fuel costs and greater inflation.

And while these reasons would in themselves be sufficiently compelling in normal times, there is a further reason for us to act promptly. For we have learned in recent weeks that at least three major oil companies made illegal contributions to the Nixon campaign and that oil executives were the President's second largest group of contributors—exceeded only by large bankers.

So while simple justice demands that no company or individual profits unconscionably from a national crisis, already badly battered public confidence dictates that such profits do not even appear to be the return on a campaign investment.

The proposed legislation provides an affirmative response to each of these issues. It would insure that the record profits which the Nixon energy policy has and will continue to produce are used productively to meet our energy needs at home—either by private companies or the Government.

I hope that Congress will have the opportunity to consider it early next year, either as an original bill or in the form of an amendment.

EXHIBIT 1

OIL COMPANY PROFITS AND SALES, 31 LARGEST COMPANIES, 1973

[Dollar amounts in billions]

	9 mo.	Increase over 1972 (percent)	3d quarter	Increase over 1972 (percent)
Sales	$81.5	22	$29.2	36
Profits	6.4	47	2.4	63

OIL COMPANY PROFITS AND SALES, 8 LARGEST COMPANIES

[Dollar amounts in billions]

	Sales 9 mo.	Profits 9 mo.	3d quarter profit increase (percent)
Exxon	$18.10	$1.65	81
Mobil	8.96	.57	64
Texaco	8.25	.84	48
Gulf	7.00	.57	91
Standard (California)	5.45	.56	51
Shell	4.15	.25	21
Standard (Indiana)	3.90	.39	37
ARCO	3.15	.18	16
Total	58.96	5.01	

Source: Business Week, Nov. 10, 1973.

By Mr. JAVITS:

S. 2800. A bill to amend the Federal Aid Highway Act of 1973 (P.L. 93-87), section 230(a) to require the use of not less than 5 percent of the funds to be appropriated for the Federal aid safer roads demonstration program for elimination of hazards at railroad-highway grade crossings. Referred to the Committee on Public Works.

ELIMINATION OF HAZARDS AT RAILROAD-HIGHWAY GRADE CROSSINGS FOR SCHOOL BUS SAFETY

Mr. JAVITS. Mr. President, I introduce for appropriate reference a bill to set in motion a program to eliminate hazards at railroad-highway grade crossings which are located on established school bus routes. This would fulfill Recommendation No. 1 of the National Transportation Safety Board on the tragic school bus-train accident which occurred at Congers, N.Y., last year which cost the lives of five students and resulted in injury to 40 other youngsters.

The bill is directed to establishment of safeguards at railroad-highway grade crossings on public roads and highways which are not on the Federal-aid system. It directs that not less than 5 percent of the funds appropriated for the Federal-aid safer roads demonstration program be directed to elimination of hazards at such grade crossings with special consideration to be given to the protection of those crossings over which school buses regularly pass. The proposal amends the section of the Federal Aid Highway Act of 1973 which provides funds for the Federal-aid safer roads demonstration program in which allocations are to be made for improved highway marking and signs, elimination of roadside obstacles, elimination of hazards at railroad-highway grade crossings, and to correct high-hazard locations.

The need for action on those railroad-highway grade crossings which are not on the Federal-aid system is illustrated by the fact that nearly 60 percent of all motor vehicle train grade crossing accidents occur at crossings located off the Federal-aid system.

By directing this effort with specific emphasis on those crossings utilized by school bus routes, we move, in my opinion, to the most critical area of need.

It is here that if we prevent an accident we undoubtedly will save lives, for we still are too far behind in the development of much safer schoolbuses than those now in use and similar to the one involved in the tragic accident in Congers, N.Y., last year.

Action to make schoolbuses safer are, of course, required and recommended in other legislation I have introduced. This measure is the most recent in a series of bills I have introduced on the subject of schoolbus safety, beginning some years ago when the Congress in 1968 enacted my proposal for an HEW-transportation special study of the subject. But regardless of how safe we construct a bus, the best answer for the safety is to prevent the accident in the first place.

And this is what will be accomplished through this bill—establishment of a definite program to make railroad-highway grade crossings safer.

Under the present act, correction of railroad-highway crossing hazards stands relatively little chance of receiving funding of any consequence. The past experience of allocations of this type is that little if any funding goes for this purpose; most funding is utilized for hazards along highways or which are part of highways, such as, for example, dangerous curve correction, widening narrow bridges, and eliminating dangerous conditions at intersections.

This measure is a modest, but nevertheless direct and significant approach to start eliminating dangerous rail crossings which pose a threat to schoolchildren who must daily travel across these hazardous areas as passengers on schoolbuses.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 230(a) chapter 4 of title 23, United States Code, is amended by adding at the end of Section 405.(b) the following:

"*Provided,* That not less than 5 per centum of the funds appropriated for this purpose shall be employed for elimination of hazards at railroad-highway grade crossings. In establishing such projects, special consideration shall be given by the States to the protection of grade crossings over which schoolbuses pass and which have been regularly used for that purpose during at least one year prior to enactment of this legislation."

By Mr. PROXMIRE (for himself, Mr. Eastland, Mr. Humphrey, Mr. Goldwater, Mr. Church, Mr. Thurmond, Mr. Moss, Mr. Tower, Mr. McGovern, Mr. Schweiker, and Mr. Helms):

S. 2801. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes. Referred to the Committee on Labor and Public Welfare.

FOOD SUPPLEMENT AMENDMENT OF 1973

Mr. PROXMIRE. Mr. President, on behalf of myself and Mr. Eastland, Mr. Humphrey, Mr. Goldwater, Mr. Church, Mr. Thurmond, Mr. Moss, Mr. Tower, Mr. McGovern, Mr. Schweiker, and Mr. Helms I send to the desk a bill to amend the Food, Drug, and Cosmetic Act to include a definition of food supplements and for other purposes. The basic intent of this bill is to prevent the Food and Drug Administration from carrying out its determination to classify safe vitamin and mineral supplements as dangerous drugs and to regulate them under the drug provisions of the law rather than as foods or food supplements.

WHAT FDA IS PROPOSING

The Food and Drug Administration—in a very complex and lengthy addition to the Federal rules and regulations—is essentially proposing the following action. I may add that the proposed rules and regulations take up 30 pages in the Federal Register.

First, they propose that vitamins and minerals in quantities 50 percent or below what is called the recommended daily allowance—RDA—can and should be sold as a food.

Second, vitamins and minerals in quantities between 50 percent and 150 percent of the recommended daily allowance can be sold as a food supplement or as a food for special dietary uses.

Third, they propose that vitamins and minerals in quantities in excess of 150 percent of the RDA be classified as drugs and be regulated accordingly.

These first three actions were originally scheduled to go into effect next January 1 but a series of court cases has postponed that action.

Fourth, in the special case of vitamins A and D the FDA provided by regulation last August 1 that vitamin A could be manufactured in tablets larger than 10,000 international units and vitamin D in tablets larger than 400 international units for prescription use only.

WHAT IS WRONG WITH THIS?

One might ask, what is wrong with that? Why should not vitamins and minerals be labeled as drugs and sold either as over the counter drugs—OTC—like aspirin, or by prescription in certain cases? Aspirin is sold in large volume over the counter even though it is called a drug. Why should not this be done for vitamins and minerals now sold as foods or food supplements?

FDA PREJUDICE AND ACTIVE HOSTILITY

The answer is very simple. The Food and Drug Administration and much, but not all, of the orthodox medical profession are actively hostile against the manufacture, sale, and distribution of vitamins and minerals as food or food supplements.

They are out to get the health food industry and to drive the health food stores out of business. And they are trying to do this out of active hostility and prejudice.

That may seem to be a harsh charge against the FDA, but it is no more harsh than the attack on the FDA by a key figure in the National Academy of Science—National Research Council, and by the distinguished syndicated columnist Mr. James J. Kilpatrick. I ask unanimous consent that an article from the July 20, 1973, Washington Post detailing the former and a February 5, 1973, syndicated column by Mr. Kilpatrick be printed at this point in the Record.

There being no objection, the articles were ordered to be printed in th Record, as follows:

Is Dr. Edwards Divine?

(By James J. Kilpatrick)

Of all the Federal regulations that I yet have read, and I have read thousands, the regulations issued on January 19 by the Commissioner of Food and Drugs must be accorded a certain awesome supremacy.

These are the most autocratic, most arrogant, most infuriating orders ever decreed by a Federal agency. Dr. Charles C. Edwards, the Commissioner, here undertakes to establish by bureaucratic decree that absolute condition which has eluded mortal man since time began: In matters of dispute, conjecture, and opinion, Dr. Edwards now establishes what is "false."

He not only establishes the false. He also would require the entire food processing industry, under pain of criminal sanctions, to abide by his version of truth. He finds as a fact, for example, that "mineral nutrients in foods are not significantly affected by storage, transportation, cooking, and other processing." Neither is vitamin content affected by the soil foods are grown in. After Dec. 31, 1974, any processor who implies any such thing may be sent to prison for false labeling.

Dr. Edwards' regulations occupy 12 finely printed pages of the Federal Register. The new rules would require, in general, that all foods that are fortified or enriched must hereafter bear elaborate labels, printed in type not less than one-sixteenth of an inch high, specifying their precise percentages of what would become, by law, the "U.S. Recommended Daily Allowances" of vitamins and nutrients. Other regulations deal with dietary supplements.

My copy of the Register falls open at page 2147. These, if you would believe it, are findings of fact:

There is no rationale for allowing the promotion of dietary supplements of vitamins and/or minerals to the general American population for the purpose of treating diseases or symptoms . . . Lay persons are incapable of determining, by themselves, whether they have vitamin or mineral deficiencies . . . Vitamin or mineral deficiencies are unrelated to the great majority of symptoms like tiredness, nervousness, and rundown condition . . ."

These are facts? Since when are they facts? To be sure, certain experts advance these assertions. Other experts deny them. If two and a half years of hearings established one point, it was this: Nutrition is not an exact science. Dr. Edwards has no such humility. Thus he declares it flatly "false" that certain bioflavonoids have nutritional value. Any such representation is "inherently misleading," and "in no instance" will it be permitted.

The new regulations would forbid any processor to suggest or imply "that a diet of ordinary foods cannot supply adequate amounts of nutrients." The language echoes an earlier proposal that would have declared that "vitamins and minerals are supplied in abundant amounts by commonly available foods." Dr. Jean Mayer, the noted nutritionist, called the proposal "meaningless, childish, fallacious, and silly." But here it is once more, in only slightly amended form, and now it becomes "misbranding" to disagree with Dr. Edwards.

These sweeping edicts, you must understand, are for our own good. They are intended to "improve the nutritional well-being of Americans." They are for the people's "own health and welfare." They stem from Dr. Edwards' "conclusion of law" that "the development of general nutrition labeling . . . has become of primary concern to all consumers."

Primary concerns? All consumers? The language accurately reflects the unmitigated arrogance of the regulations as a whole. Here the whole might and majesty of the Federal government are thrown behind an edict establishing "the proper use" of a fortified cake mix. The criminal law must be mobilized because "there are persons in the United States who are receptive to suggestions that human ailments, to a great degree, can be treated by using vitamins and minerals . . ."

In my own view, the FDA has a responsibility, at law, to protect the public from fraud and contamination. But when the FDA recklessly converts mere opinions to "findings of fact" and to "conclusions of law," and peers into the minds of "all consumers" to determine their "primary concern," the FDA confuses bureaucratic power with divine power. We know how Dr. Edwards came to be Commissioner. It is not so clear who appointed him God.

Key Science Academy Figure Attacks Proposed FDA Rules for Diet Foods

(By Morton Mintz)

A sharp attack on some of the regulations proposed by the Food and Drug Administration for special diet foods and diet supplements has come from an unexpected source—a key figure in the prestigious National Academy of Science-National Research Council.

He is W. H. Sebrell Jr., chairman of the Committee on Recommended Dietary Allowances of the NAS–NRC, the private group that advises the Federal Government on scientific and technological matters.

FDA based its proposed Recommended Dietary Allowances on a report of the NAS-NRC Food and Nutrition Board, of which Dr. Sebrell's Committee is a part.

When FDA Commissioner James L. Goddard announced the proposed regulations on June 17, the general impression was that the new rules had been devised with the full knowledge and approval of the NAS–NRC.

The Sebrell statement, along with an attack by the Agriculture Department was the first salvo of public criticism aimed at the highly publicized Dr. Goddard since he took office six months ago.

The proposed fact-about-foods rules concern the content and labeling of special foods for weight control, vitamin and mineral dietary supplements and other special dietary foods and substances.

Thirty days was given in which formal objections and requests for a hearing could be filed with the hearing clerk of the Department of Health, Education, and Welfare.

Predictably, a torrent of objections came in from industries and others with a stake in preserving the status quo for products on which tens of millions of consumers spend an estimated $375 million to $500 million annually.

But some aspects of the regulations were bitterly denounced, too, by leading pediatricians and nutritional experts at universities across the Nation.

A prime target was FDA's proposal to require the following statement on the label of multivitamin and mineral products:

"Vitamins and minerals are supplied in abundant amounts by the foods we eat. The Food and Nutrition Board of the National Research Council recommends that dietary needs be satisfied by foods. Except for persons with special medical needs, there is no scientific basis for recommending routine use of dietary supplements."

Sebrell, a professor of public health nutrition at Columbia University, termed the statement "objectionable and misleading." Objecting as chairman of a Board committee, he said the statement also misuses the authority of the Board to back up a contention "which taken out of context creates a false impression."

He said there is "no relevance" to the claim of sufficient vitamins and minerals in food for many individuals.

A FDA spokesman said he was surprised by the "tone" of Sebrell's objections. He said the agency had had amicable dealings with NAS-NRC, which had known since March that FDA was relying on its own scientists and others for data, as well as on NAS-NRC. The spokesman predicted that in their final form the regulations will be acceptable to NAS-NRC.

Assistant Secretary of Agriculture George L. Mehren called the proposed label statement "inaccurate and misleading" and said it would give "a false sense of security" to a consumer regardless of his eating habits and called for its deletion.

Mehren agreed that our foods provide good nutrition "if equitable distribution is obtained." But he cited a survey indicating "that 48 per cent of households do not fully meet" approved intake of one or more nutrients."

Sebrell also protested a list of recommended dietary allowances published by FDA without the knowledge or consent of the NAS-NRC.

He said the list gives "a false sense of value or validity" by blending into a single category two groups of nutrients, one for which his Committee has not established dietary allowances, but to which FDA assigned "arbitrary figures," and a second for which such allowances are fully established.

Frederick Seitz, president of the National Academy, recently suggested a meeting between staff members of FDA and the Academy. The agency agreed to the suggestion.

Aug. 17 is the deadline for filing documentation of objections. Then a hearing is expected to be held. Some version of the FDA proposals is scheduled to be ordered into effect next December, but court challenges seem certain. The effective day of the regulations may be years away. Meanwhile, the old rules, which FDA first proposed to change four years ago, remain in effect.

Mr. PROXMIRE. Mr. President, now let me develop the point concerning FDA's hostility and prejudice.

DRUGS MUST MEET TEST OF SAFETY AND EFFECTIVENESS

If vitamins and minerals are defined as drugs then they must pass muster through the FDA bureaucracy and meet the requirements of the law and the FDA that they are both safe and efficacious. In addition, they would have to contain on their label the specific diseases or symptoms which the recommended dosage would prevent, cure, mitigate, or treat.

There are several reasons why this requirement is not only onerous and impossible but why it represents an absolutely prejudiced and hostile act on the part of the FDA.

First, the FDA in its rules and regulations already published in the Federal Register lists six prohibited statements in the labelling or branding of foods. It states that a food shall be "misbranded" if its labelling represents, suggests, or implies six items including item 1 which states:

> (1) That the food because of the presence or absence of certain dietary properties, is adequate or effective in the prevention, cure, mitigation, or treatment of any disease or symptom.

It is therefore illegal now to claim that the vitamin or mineral is effective in the prevention, cure, mitigation, or treatment of any disease. And obviously, the vitamin and mineral firms do not do this.

But, and here is the kicker, if vitamins and minerals are treated as drugs, then under the law they must prove that they are effective or "efficacious" in the prevention, cure, mitigation, or treatment of specific diseases.

ILLEGAL ACT REQUIRED

The FDA would require them to commit what is now an illegal act.

Here is an agency which states that vitamins and minerals are "illegal" and "misbranded" if they claim they are effective against any disease, but they now want to require that the manufacturers and distributors of these same vitamins and minerals prove that they are effective in the prevention, cure, mitigation, or treatment of a disease if they are to be sold as drugs in quantities in excess of 150 percent of the so-called recommended daily requirement.

Obviously, the FDA will use this provision as a means of banning many vitamins and minerals in quantities in excess of 150 percent of the RDA.

They have already pronounced on this issue. They have already made up their minds. They are requiring the vitamin and mineral industry to meet a requirement which the FDA has already said cannot be met. It is a contemporary version of that line from "Alice In Wonderland," "Sentence first. Verdict afterwards."

In fact, applying the FDA's own language, they want to require vitamins and minerals to meet a test under the drug regulations which FDA says would be illegal and misbranding if done under the food regulations.

That is asking the industry to meet an impossible regulation.

Its only purpose—and in fact its purpose is—to essentially ban altogether the purveyance of vitamins and minerals—either as foods, food supplements, or drugs, in quantities in excess of 150 percent of the so-called recommended daily allowance.

That is why I have said, without peradventure of contradiction, that the FDA is both prejudiced and actively hostile against the manufacture and sale of vitamins and minerals. They want to "do in" the health food industry.

FURTHER FDA PREJUDICE

But there is more to it than this. The FDA in numerous statements, publications, and arguments—and specifically in a FDA staff paper relating to the proposed dietary food regulations—has labeled as "false" certain claims they say have been made by the health food industry.

They refer to them as "subtle frauds" and as "nutritional quackery." But the overwhelming prejudice and bias of the FDA can be seen by an analysis of their own statements.

Here is what the FDA has said, and I quote it in full.

> It has not been easy to stop the more subtle frauds practiced by those who exploit the four myths of nutritional quackery: (1) that all diseases are caused by, or related to, nutritional deficiency; (2) that major segments of the population of this country are now suffering from, or are in imminent danger of suffering from, nutritional deficiency; (3) that a diet of ordinary foods cannot supply adequate amounts of vitamins and minerals; and (4) that our soil is depleted in vitamins and minerals, and that modern methods of harvesting, processing, packing, transportation, storage, and cooking eliminate what few nutrients are in the food to begin with.

The FDA goes on to say that—

> These claims are false, but all are believed by many consumers because they have been used repeatedly in promoting nutritional quackery.

What about this?

First of all, I know of no competent or responsible authority either within or without the vitamin and mineral industry who has ever claimed that "all," and I repeat "all diseases are caused by, or related to nutritional deficiency."

That is an FDA strawman. The myth is the FDA myth that it has been claimed by responsible parties. The FDA has set up a series of strawmen and then proceeds to knock them down.

Second, it is no myth that major segments of the population of this country are now suffering from nutritional deficiency. That "myth" has, in fact, considerable truth to it.

One major segment of the population in which numerous studies and reports indicate that vast numbers suffer from nutritional deficiency is the aged. I ask unanimous consent that an article by Richard Pothier of the Knight News Service reporting on a conference on Nutrition and Human Survival held in Washington, D.C. on September 1, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Rx for Senility: Food, Vitamins

(By Richard Pothier)

At least 20 million American are over 65. Vast numbers of them are suffering from mental and physical sickness that simple nutritional solutions might cure, scientists report.

Millions of the nation's elderly are poor, sick, confused and virtually mentally ill, and simply feeding them better, with food supplements if necessary, could help restore their lives.

One study, carried out at Duke University's Center for the Study of Aging, showed that half of all psychiatric patients over 65 had "borderline" or worse nutritional status in at least one major food needed for the body and brain to function.

A National Institutes of Health survey found "abnormally low levels" of vitamins and minerals among a random group of elderly men, rich and poor.

"The findings show that nutritional problems exit in advantaged as well as disadvantaged elderly and that vitamin supplementation may be a reasonable means of overcoming deficiencies," says a report from the NIH.

Some of the nation's leading nutrition experts met Monday here for a symposium on "Nutrition and Human survival." Some of the results of studies on America's old people startled non-professionals.

Dr. Alan D. Whanger of Duke University's Medical Center, a practicing psychiatrist, said he "Almost routinely" treats his psychiatric patients with vitamin mineral supplements.

It doesn't often cure the problems entirely, he said. But he said he's found evidence that "vague mental complaints" in elderly patients sometimes respond to nutritional therapy.

Up to 40 percent of his aged patients show some nutritional deficiency, he said.

Half of a group of severely ill, hospitalized psychiatric patients over 65 had only "borderline levels" of some important nutrients.

"I can't prove it, but I would presume that many of our aged need vitamin supplements. And what worries me is that because of new Food and Drug Administration regulations, vitamins are going to get more and more expensive and less and less available to our aged poor who need them the most," he said.

Vitamin mineral supplements "often would" make our aged heal their physically and mentally, he said.

The entire life-style of many of the nation's old people leads to poor nutrition, specialists say.

They often live alone and lack the money and knowledge to prepare balanced meals. As millions of Americans age, Dr. Whanger said, their diets often degenerate into "tea and toast."

The aging process itself leads to poor nutritional health. Dr. Leonard Luhby of New York Medical College pointed out that a simple fact like loss of teeth could have great bearing on nutrition.

"They're not as likely to be eating meat as they were in their earlier years." And they may abandon the traditional meat pattern.

He said this gradual degeneration in vitamin-mineral intake could lead to "a mild degree of confusion" or worse mental problems usually associated with senility.

"In many cases," he said, simply giving the elderly a proper diet "can correct the psychiatric condition."

At Duke University, Dr. Whanger said, multiple studies of vitamin deficiency have borne out this theory.

"There are surprisingly few adequate studies of the effects of vitamin supplementation," Dr. Whanger said. "By far the best is a controlled two-year study of 80 chronically ill, hospitalized elderly patients.

"Of these, 95 percent showed some sign of nutritional deficiency and 90 percent had low levels of thiamin (a B vitamin) or ascorbic acid (vitamin C.)

"Those subjects receiving supplemental vitamin B complex and vitamin C showed highly significant improvement in physical and mental condition, although this improvement took up to one year.

Mr. PROXMIRE. Mr. President, there are studies which show that among the poor—who compose about 15 percent of the population, which must be called a major segment—there are serious nutritional deficiencies.

There is also an NIH funded study which indicates that there are abnormally low levels of vitamins and minerals among elderly men, both rich and poor. According to the NIH news release: "The findings show that nutritional problems exist in advantaged as well as disadvantaged elderly and that vitamin supplementation may be a reasonable means of overcoming deficiencies." I ask unanimous consent that the August 25, 1973, release from NIH be printed at this point in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

MEDICAL NEWS TIPS

Vitamin deficiencies in the elderly—Investigators in the Gerontology Research Center of the National Institute of Child Health and Human Development are conducting a long-term nutrition survey on a group of more than 600 men. Early results of this study show that with advancing age, there is a reduction in blood levels of thiamine (B1), riboflavin (B2), and pyridoxine (B6)—three vitamins essential to maintaining normal body chemistry.

Two hundred men, volunteers in the Baltimore Longitudinal Study, have been studied to date. Of this group, 30 percent reported taking vitamin supplements. One-fifth of the subjects who were not taking vitamin supplements showed evidence of abnormally low levels of thiamine and riboflavin. Evidence also showed an abnormality in levels of certain enzymes known to change with vitamin deficiency in the plasma and red blood cells.

These results are surprising because the group being studied is comprised of highly educated, community-living subjects who have access to adequate diets. The findings show that nutritional problems exist in advantaged as well as disadvantaged elderly and that vitamin supplementation may be a reasonable means of overcoming deficiencies.

The data is now being examined to determine whether poor nutritional status increases development of age-related diseases, such as arteriosclerosis, diabetes, or hypertension.

For additional information about aging research, contact: Information Office, Gerontology Research Center, Baltimore City Hospitals, Baltimore, MD 21224, Phone (301) 342-5400, Ext. 1401.

Mr. PROXMIRE. Mr. President, what an ironic situation we have here. On the one hand the FDA states that it is a subtle fraud and a form of nutritional quackery for anyone to claim: That major segments of the population of this country are now suffering from, or are in imminent danger of suffering from nutritional deficiency. On the other hand, the NIH, also an agency of the Department of Health, Education, and Welfare has released a study showing that nutritional problems of the elderly exist in the advantaged as well as the disadvantaged elderly. In this case one hand does not seem to know what the other is doing. And clearly the FDA has not read the latest scientific evidence from its sister agency.

JUNK FOOD

And we all know the dangers to children, who drink vast quantities of carbonated soft drinks and eat candy and junk foods, from excessive amounts of sugar and an absence of highly nutritious foods unless their families are especially careful to see that they eat balanced, nutritional meals after they have filled themselves up with junk.

There are classes and segments of the population who do, in fact, suffer from nutritional deficiency. That is no myth.

The FDA also claims that a diet of ordinary foods can supply adequate vitamins and minerals. We have heard the FDA say again and again over the years that vitamins and minerals are supplied in abundant amounts by commonly available foods.

But again, in the words of the old song, "it ain't necessarily so."

What is a so-called "balanced diet," and who gets it?

VITAMIN C—THE NEW EVIDENCE

Take, for example, vitamin C. The recommended daily allowance is 60 milligrams. It is probably true that a diet which included fresh fruits daily would supply 60 milligrams a day.

But there is now very strong evidence to indicate that the RDA is far too low except perhaps as a minimum amount to prevent rickets, and that vitamin C in much larger amounts—as much as 1,000 milligrams a day or more—can have very favorable health effects.

Dr. Linus Pauling, the Nobel Laureate, created something of a sensation when in 1970 he published a book entitled "Vitamin C and the Common Cold" in which he advocated that individuals routinely use 1,000 or more milligrams of vitamin C a day and that these amounts be increased three- or fourfold with the first symptoms of a cold.

CANADIAN STUDY

Orthodox medical circles, the FDA, and others pooh-poohed Dr. Pauling's findings. But it now appears that his findings, or rather findings that vitamin C in relatively large daily amounts do have highly beneficial effects, have been confirmed in a highly scientific study done in Canada at the University of Toronto by Professors Anderson, Reid, and Beaton.

A double-blind test—neither the doctors nor the patients knew which group was getting vitamin C and which group was getting a placebo—was run with 1,000 individuals, 818 of whom completed the study. Half of them got 1,000 milligrams of vitamin C a day and the other half a placebo. When they felt a cold coming on, dosage of the vitamin C or the placebo was raised to 4,000 milligrams a day. The test was continued over 90 to 120 days.

There were some startling results.

First. Twenty-six percent of the vitamin C group remained free of any illness. For the placebo group, it was 18 percent. The study states that this was statistically significant.

Second. The duration of illnesses for the vitamin C group was 5 percent lower than for the placebo group.

Third. The mean length of disability—namely, days confined to the house—per illness was 21 percent lower for the vitamin C group as compared with the placebo group.

Fourth. Because both the number of illnesses were fewer and the number of days confined were fewer for the vitamin C group, the number of days per subject was 30 percent lower for the vitamin C group than for the placebo group.

Fifth. The mean number of days off work was 67 percent lower for the vitamin C group than for the placebo group.

Sixth. During the period of the study, 40 of the vitamin C subjects saw a doctor on a total of 60 occasions. But 56 of the placebo subjects saw a doctor on a total of 97 occasions. I ask unanimous consent that an article from the October 7, 1972, National Observer entitled "New Research Bolsters Pauling's Theory About Colds and Vitamin C" and the original scientific study, "Vitamin C and the Common Cold, a Double-Blind Trial" by Professors Anderson, Reid, and Beaton, from the Canadian Medical Association Journal for September 23, 1972, both be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

TESTED IN CANADA—NEW RESEARCH BOLSTERS PAULING'S THEORY ABOUT COLDS AND VITAMIN C

(By Patrick Young)

When Nobel Laureate Linus Pauling proposed two years ago that heavy, daily doses of Vitamin C could prevent and even cure common colds, he sparked a lively and continuing medical controversy. Doctors largely rejected the noted chemist's contentions as scientifically unfounded.

Now three researchers from the University of Toronto's school of hygiene report in the Canadian Medical Association Journal that patients taking Vitamin C in a test last winter had fewer and less-severe colds than a group taking placebos.

Doctors T. W. Anderson, D. B. Reid, and G. H. Beaton set out to test Pauling's idea that 1,000 milligrams (one gram) daily of Vitamin C would cut the number of colds by 45 per cent.

They selected 1,000 patients, each of whom said they normally experienced at least one winter cold. Half were given Vitamin C and half placebos. The Vitamin C group got 1,000 milligrams a day and increased this dosage to 4,000 milligrams when they felt a cold coming on. Each patient was watched for three to four months.

The researchers found the Vitamin C group had 561 colds to 609 for the placebo group, but the difference was far less than Pauling predicted. The Vitamin C group, however, had 30 per cent fewer days of disability, defined as "confinement to house or absence from work," a finding Anderson calls "highly significant."

"Our finding that disability was substantially less in the vitamin group was entirely unexpected and may have important theoretical and practical implications," the researchers said.

They consider it unlikely that the reduced disability resulted because the patients' diets were deficient in Vitamin C. Nor is there evidence that it resulted from some antiviral or antibacterial action of Vitamin C.

The team is readying a second experiment involving 4,000 persons for this winter. "We feel there is some definite effect of these big doses of Vitamin C," says Anderson.

VITAMIN C AND THE COMMON COLD: A DOUBLE-BLIND TRIAL

(By T. W. Anderson, B.M., Ph. D., D. B. W. Reid, M.S.C., and G. H. Beaton, Ph. D.)

Summary: A large scale double-blind trial was conducted to test the claim that the intake of one gram of vitamin C per day substantially reduces the frequency and duration of "colds". It was found that in terms

of the average number of colds and days of sickness per subject the vitamin group experienced less illness than the placebo group, but the differences were smaller than have been claimed and were statistically not significant. However, there was a statistically significant difference ($P<0.05$) between the two groups in the number of subjects who remained free of illness throughout the study period. Furthermore the subjects receiving the vitamin experienced approximately 30% fewer total days of disability (confined to the house or off work) than those receiving the placebo, and this difference was statistically highly significant ($P<0.001$). The reduction in disability appeared to be due to a lower incidence of constitutional symptoms such as chills and severe malaise, and was seen in all types of acute illness, including those which did not involve the upper respiratory tract.

This investigation was prompted by an article by Beaton and Whalen that appeared in this journal in August 1972[1] in which the authors reviewed the much-publicized book *Vitamin C and the Common Cold* by Linus Pauling.[2] While they were critical of the limited evidence upon which Pauling based his claims, Beaton and Whalen felt that properly controlled trials of the proposed therapy were justified in view of the scientific eminence of Linus Pauling (a Nobel prize-winner in biochemistry) and the large amount of public interest in the matter.

In the subsequent issue of the Journal a letter from Linus Pauling was published in which he specified that "the regular ingestion of 1000 mg. (of vitamin C) leads to the decreased incidence of colds by about 45% . . . (and) . . . to a decrease in total illness by about 60%."[3] Pauling based these estimates on the results of a double-blind study involving 279 students at a ski-school in Switzerland,[4] and although the differences observed in this study were statistically significant, the period of observation was only one week for each individual. We therefore decided to set up a double-blind study in which this quantity (1000 mg./day) would be given to a large group of subjects for a period of three or four months.

Since most of us involved in the study design were skeptical of Pauling's claims, we aimed to enroll a large number of subjects (1000) in the hope of avoiding an indecisive negative results. Furthermore, subjects were instructed to increase their intake to 4000 mg./day at the onset of a cold, in order that a negative result would not be open to the criticism that we had not followed all of Pauling's recommendations (which include raising the dosage at the first sign of a cold).[5] We recognized that this extra dosage feature might complicate the interpretation of the results, since we were adding a therapeutic feature to an essentially prophylactic trial, but we believed that the most important thing was to establish whether or not there was any effect from large doses of vitamin C. In the event that we obtained a positive result a subsequent trial could be carried out in which the two features were studied separately. At the same time, to avoid any possibility of our negative bias affecting the results, subjects were allocated to vitamin and placebo in a strictly double-blind randomized manner and the code was not broken until after all the data had been transferred to punch cards and initial tabulations carried out.

METHOD AND MATERIAL

Subjects: Volunteers were sought from a variety of occpations and age groups in order to obtain a reasonable cross-section of the general populaton. However, since we asked persons not to enroll unless they normally experienced at least one cold in the period January to March, the study group was not representative of the general population in terms of susceptibility to colds. Major sources of volunteers were the School of Hygiene (183), Ontario Hydro (120), Ryerson Polytechnical Institute (76) and the Toronto East General Hospital (72). Each volunteer was encouraged to recruit other family members and friends, and thanks to the enthusiastic cooperation of many individuals and the officials of several organizations, over 200 subjects were enrolled by December 5, 1971 and the full complement of 1000 by January 2, 1972. The study period ended on March 31, 1972, and the analysis which follows is based upon the 818 individuals who were in the study for at least two months, and for whom complete personal and sickness records were available for analysis. Almost all of the 182 subjects who dropped out of the study were subsequently contacted by telephone or letter, and it was established that most had dropped out because of loss of interest or because they found it impossible to remember to take their tablets regularly. The few who dropped out because of suspected side effects are discussed later.

Each potential volunteer received a description of the purpose and method of the study, including the fact that half of the subjects would be receiving an inert placebo preparation. In addition, each received a detailed set of instructions concerning the dosage schedule and the method of recording symptoms during an episode of illness. In the event that a subject needed to see a doctor, the doctor was to be asked to make a brief note of his physical findings and diagnosis on the patient's record-sheet. Physicians were informed of this through an announcement in the *Ontario Medical Review*, and were advised that the code could be broken for an individual patient if it was felt necessary to determine whether the patient was on the vitamin or placebo. (This contingency did not in fact arise, but if it had the patient would have been dropped from the study.)

Subjects who were in the habit of taking a daily multi-vitamin supplement during the winter months were asked to identify the product involved, and were accepted into the study only if the daily dose of vitamin C was 50 mg. or less.

Tablets: Each subject was given a bottle containing 500 tablets. Half of the bottles contained vitamin C in a strength of 250 mg./tablet; the rest of the bottles contained placebo tablets. Subjects were instructed to take a regular dose of four tablets each day in divided doses, increasing to 16 tablets (4g.) each day for the first three days of any illness. Because of the increased consumption of tablets at times of illness, a number of the subjects who entered the trial in early December ran out of tablets before the end of March. This accounts in part for the variation in the total number of days that individuals spent in the study.

Particular care was taken to ensure that the vitamin and placebo tablets were indistinguishable in appearance and taste. Pure ascorbic acid has a very strong and characteristic flavour which is difficult to imitate, and we therefore used a formulation containing 200 mg. of sodium ascorbate, 75 mg. of ascorbic acid and an artificial orange flavouring. The taste of this formulation was well matched by a placebo preparation containing 30 mg. of citric acid and the same orange flavouring and fillers. The effectiveness of the matching was established by asking 30 individuals to taste both tablets, and using pure ascorbic acid as reference, to judge which tablet contained the vitamin. Sixteen persons selected the placebo tablet and 14 the vitamin tablet. The effectiveness of the matching was verified at the end of the main study by the answers to the question "Do you think you have been on the vitamin or placebo tablet?". Approximately half of the 818 subjects answered "Don't know", and the remainder were divided almost equally between those who guessed correctly and those who did not.

Each bottle of tablets was assigned a code number derived from a computer-generated list of consecutive numbers, randomized in pairs. After the bottles had been labelled the list of numbers was given for safe-keeping to a colleague who was not involved in the study. The bottles were subsequently given out in numerical order to the subjects as they registered, so that when a group of individuals registered at the same time (e.g. a class of students) approximately half received the vitamin and half the placebo. This helped to ensure that the vitamin and placebo groups were well matched for age, sex and other characteristics (Table I).

TABLE I.—THE NUMBER OF SUBJECTS POSSESSING CERTAIN CHARACTERISTICS IN EACH GROUP

	Vitamin	Placebo
Total subjects	407	411
Age:		
Less than 25	218	213
Over 25	189	198
Sex:		
Male	180	177
Female	227	234
Occupation:		
Student	177	180
Other	230	231
Smokers	117	132
Usually 2 or more colds	211	192
Contact with young children	140	148
Frequently in crowds	309	323
4 or more ounces of juice daily	284	277
Other vitamin supplement	61	57

Record-sheets: A calendar type record-sheet was provided for each month. Subjects were instructed to record each day whether they were sick or well, and the total number of tablets taken during that day. On the reverse side of the sheet appeared a list of sites (nose, throat, etc.) against which, on each day of illness, was to be recorded 0 (not affected), + (mildly affected) or ++ (severely affected). The same coding was to be used to record the presence of malaise or chills, and in addition subjects were asked to record whether they had stayed indoors, stayed off work, seen a doctor, taken any prescription or non-prescription drug (and its nature) and, if possible, their highest oral temperature on that day. In addition to the monthly record-sheet, each subject completed an initial questionnaire and a final evaluation sheet.

At the end of each month the record-sheets were returned and the information coded and transferred to punch cards. On those occasions when two episodes of sickness were separated by only a few symptom-free days, the following rules were applied: if the symptom-free interval was two days or less, only a single episode was recorded; if the interval was three to six days, the episodes were counted separately unless the symptom patterns were essentially the same on the two occasions; if the interval was seven days or more, the episodes were counted separately, however similar the symptoms.

Subjects who were already sick on the day they entered the study were not considered to have started until their first symptom-free day.

A number of statistical analyses were carried out on the data. Where tests of significance were performed these were standard two-tailed tests.

RESULTS

When the table code was broken it was found that of the 818 subjects whose experience was available for analysis 411 had been on the placebo and 407 on the vitamin. The

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Footnotes at end of article.

randomization appeared to have been successful in producing two reasonably well-matched groups. The average age of the vitamin group was 28.8 years (range 10 to 64), and that of the placebo group 28.9 years (range 10 to 65). The total number of days in the study was 41,904 for the vitamin subjects (mean 103.2) and 41,864 for the placebo subjects (mean 101.9). There were no statistically significant differences in the frequency of any of the other recorded characteristics of the two groups (Table I). The relative distribution of recorded characteristics in the 182 subjects who dropped out of the study was essentially the same as that seen in the main group.

The 818 subjects recorded a total of 1170 episodes of illness. In the vitamin group 105 subjects (26%) remained free of illness throughout the study, while the corresponding figure for the placebo group was 76 (18%). This difference was statistically significant at the 0.05 level of probability ($X^2=5.92$).

TABLE II.—OVERALL SICKNESS EXPERIENCE OF THE SUBJECTS IN THE VITAMIN AND PLACEBO GROUPS

	Episodes of illness		Days			
			Symptoms present		Confined to house	
	Vitamin	Placebo	Vitamin	Placebo	Vitamin	Placebo
Total number	561	609	2,138	2,474	531	769
Number per subject:						
Mean ± S.E.	1.38±0.061	1.48±0.056	5.25±0.297	6.02±0.284	1.30±0.101	1.87±0.138
t—value	1.21		1.87		[1]3.33	
Vitamin/Placebo (percent)	93		87		70	
Mean number per episode:						
Mean ± S.E.[2]	—		3.96±0.162	4.18±0.139	1.04±0.074	1.32±0.087
t—value	—		1.03		[3]2.45	
Vitamin/Placebo (percent)	—		95		79	

[1] Approximate statistical probabilities less than 0.001.

[2] These figures are based on the average values for each subject. The corresponding mean values calculated directly from the overall number of days and episodes were: (symptoms) 3.81 and 4.06, (house) 0.95 and 1.26.

[3] Approximate statistical probabilities less than 0.05.

TABLE III.—THE MEAN NUMBER OF EPISODES OF ILLNESS, DAYS ON WHICH SYMPTOMS WERE PRESENT, AND DAYS CONFINED TO THE HOUSE PER SUBJECT IN EACH GROUP, CLASSIFIED ACCORDING TO SITE OF PREDOMINANT SYMPTOMS ON DAY OF ONSET

	Episodes per subject			Days per subject					
				Symptoms present			Confined to house		
Site of predominant symptoms	Vitamin	Placebo	Vitamin/ Placebo (percent)	Vitamin	Placebo	Vitamin/ Placebo (percent)	Vitamin	Placebo	Vitamin/ Placebo (percent)
Nose	0.79	0.84	94	2.92	3.07	95	0.64	0.78	82
Throat	.36	.43	84	1.67	2.02	83	.47	.73	64
Other[1]:									
(a) Respiratory	.10	.10	100	.39	.45	87	.13	.21	62
(b) Nonrespiratory	.12	.11	109	.32	.31	103	.10	.15	67

[1] Episodes beginning mainly at sites other than nose or throat have been divided into those in which symptoms affecting either the nose, throat or chest appeared at some stage of the episode ("respiratory") and those in which there were no respiratory symptoms at any stage ("nonrespiratory").

The overall sickness experience of the two groups is summarized in Table II in terms of frequency of episodes, duration of symptoms and duration of "disability" (as measured by days confined to the house). Although the mean number of episodes per subject was 7% lower in the vitamin group, this difference was not statistically significant. (In Title II the t-value is the ratio of the difference between means to its standard error; because of the very asymmetrical form of the distributions involved, the probability values are only approximate.) Statistical evaluation of the average duration of the episodes was complicated by the fact that some individuals experienced more than one episode of illness and these episodes often varied considerably in length. The mean number of days per episode in each group has therefore been calculated from the average number of days per episode for each person. On this basis the mean duration (days of symptoms per episode) for the vitamin group was 5% lower than that for the placebo group, and the mean length of disability (days confined to the house) per episode was 21% lower for the vitamin compared to the placebo group. The latter difference was statistically significant ($P<0.05$). (It should be noted that the percentage reductions in days per episode are underestimates, since an episode could not be less than one day in length.)

Owing to the combination of fewer episodes and fewer days per episode, the difference between the groups was marked in terms of days per subject, particularly days confined to the house, in which the mean figure for the vitamin group was 30% lower than that for the placebo group, a difference which was statistically significant ($P<0.001$). There were 232 subjects in the vitamin group who did not report any days confined to the house, compared to 195 in the placebo group ($P<0.01$.).

Other measures of severity or disability showed a similar pattern. The mean number of days off work was 0.88 per subject in the vitamin group, compared to 1.31 in the placebo group ($V/P=67\%$, $P<0.01$). (The number of days off work was lower than the number of days confined to the house because some of the latter occurred on weekends and holidays.) The number of subjects who did not report any days off work was 275 in the vitamin group and 243 in the placebo group ($P<0.05$). Similarly, while 40 of the vitamin subjects saw a doctor on a total of 60 occasions, 56 of the placebo subjects saw a doctor on a total of 97 occasions. The intake of antibiotics and other prescriptions drugs showed a similar distribution.

In Table III episodes of illness have been classified according to the site of the predominant symptoms on the first day of the episode. It is interesting, in view of the hypothesis being tested, that those episodes beginning with predominantly nasal symptoms showed the least difference between the two groups in the days of sickness and disability per subject. Indeed, the most striking feature of the figures shown in Table III is the similarity of the vitamin/placebo differences regardless of the type of onset. The only exception is in the episode-per-subject rate in those episodes with predominantly throat onset, in which there was a lower—but statistically not significantly different—rate in the vitamin group. Of particular interest, in spite of the small numbers involved, was the similarity of the pattern in the "Other: nonrespiratory" group, made up of those episodes which at no time involved the nose, throat or chest. (About half of these appeared to be typical attacks of gastroenteritis, while others were characterized by malaise or chills without any localizing symptoms.)

A large number of cross-tabulations were prepared to see if the difference in the disability experience between the vitamin and placebo groups could be explained on the basis of mismatching of the two groups, or different disease patterns at different times during the trial. This line of enquiry was essentially negative, since although there were differences in the size of the "vitamin effect", the vitamin subjects always showed less disability, whatever their other characteristics. These cross-tabulations are summarized in Tables IV and V. For brevity, only the figures for days confined to the house per subject are given, since these show some of the largest differences between the groups, and are based on reasonably large numbers. They are also likely to be of more medical and economic importance than the actual number of episodes or the number of days on which symptoms were present.

In Table IV it can be seen that there was a greater reduction in disability experience for the subjects who reported that they usually had two or more colds, who were in contact with young children, or who were frequently in crowds. Since each of these characteristics might be associated with an increased vulnerability to infection, the subjects were reclassified according to the number of episodes they experienced, to see if the higher average duration of disability in the placebo group was due to the experience of a few particularly vulnerable individuals. This was found not to be the case, although there was evidence of a trend in the size of the reduction of average disability per episode, from 17% in persons with one episode to 27% in those with three or more (Table VI).

TABLE IV.—THE MEAN NUMBER OF DAYS CONFINED TO THE HOUSE PER SUBJECT IN EACH GROUP, SUBDIVIDED ACCORDING TO CERTAIN OTHER CHARACTERISTICS OF THE SUBJECTS

	Days confined to house per subject		
	Vitamin	Placebo	Vitamin/placebo (percent)
Age:			
Less than 25	1.40	2.00	70
More than 25	1.20	1.74	69
Sex:			
Male	1.15	1.79	64
Female	1.43	1.94	74
Occupation:			
Student	1.46	1.78	82
Other	1.18	1.94	61
Usual colds:			
Less than 2	1.30	1.50	87
More than 2	1.31	2.29	57
Contact with young children:			
Yes	1.31	2.43	54
No	1.30	1.56	83
Frequently in crowds:			
Yes	1.27	1.92	66
No	1.41	1.69	83
Daily juice (ounces):			
0 to 3	.98	1.87	52
4 or more	1.45	1.87	78
Vitamin supplements:			
Yes	1.36	2.39	57
No	1.29	1.79	72
Smoker:			
Yes	1.27	1.82	70
No	1.32	1.90	69

Two other characteristics that showed substantial differences in the size of the "vitamin effect" were the daily intake of fruit or vegetable juice and the use of vitamin supplements. (Table IV). The possible significance of these differences will be considered in the Discussion.

The data were also analyzed to see if there was any particular type of symptom that appeared less frequently in the vitamin group. A summary of the findings is given in Table VII, and it will be noted that the difference between the two groups was most marked in the generalized, constitutional symptoms—severe malaise, chills (mild or severe) and fever (oral temperature 100° F. or higher). The local symptoms (referable to nose, throat and chest) showed less striking differences. With the exception of severe malaise and fever, the reduction was mainly in the number of days per episode, rather than in the number of episodes per subject. In the case of fever the reduction was almost entirely in the frequency of episodes (with the majority of episodes containing only one day of fever), while in the case of severe malaise there was an almost equal reduction in both the mean number of episodes per subject and in the mean number of days per episode.

The apparent similarity between the effectiveness of the vtiamin on the limitation of constitutional symptoms and on the reduction of days confined to the house is explained by the fact that it was the constitutional rather than the local symptoms which were most frequently associated with disability.

Other findings: It has been claimed that in addition to a specific effect on "colds", the intake of large doses of vitamin C produces an increased sense of well-being.[2] When questioned at the end of the study only 77 (19%) of the vitamin group said that they had felt an increased sense of well-being during the study, and 78 (19%) of the placebo group answered in the same way. This claim therefore seems to have little justification.

Of the 182 subjects who dropped out of the study 28 did so because of suspected side effects, distributed almost equally between the vitamin (15) and placebo groups (13). Gastrointestinal symptoms such as nausea, abdominal cramp or diarrhea were the symptoms in nine (vitamin: five, placebo: four), skin rash in five (vitamin: two, placebo: three) and genito-urinary in three (vitamin: none, placebo: three). The occurrence of less severe side effects was not monitored in any detail, but at the end of the study, in answer to the question "Did you have any unusual symptoms while you were taking the tablets?", the proportion answering yes was almost identical in the two groups (vitamin 12%, placebo 11%).

TABLE V.—THE MEAN NUMBER OF DAYS CONFINED TO THE HOUSE PER SUBJECT IN EACH GROUP DURING EACH MONTH OF THE STUDY, ACCORDING TO THE SUBJECTS' STARTING DATE AND TOTAL DAYS IN THE STUDY

	Number of subjects		Days confined to house per subject		
	Vitamin	Placebo	Vitamin	Placebo	Vitamin/Placebo (percent)
Month:					
December	212	213	0.29	0.61	48
January	403	404	.52	.66	79
February	407	408	.42	.59	71
March	391	385	.23	.34	68
Starting date:					
Dec. 5	160	160	1.34	1.91	70
Jan. 2	133	123	1.43	1.78	80
Other	128	114	1.11	1.91	58
Total days:					
118 (Dec. 5–Mar. 31)	122	111	.95	1.72	55
90 (Jan. 2–Mar. 31)	133	120	1.43	1.80	79
Other	152	180	1.48	2.01	74

TABLE VI.—THE MEAN NUMBER OF DAYS CONFINED TO THE HOUSE (PER EPISODE) FOR SUBJECTS IN EACH GROUP, ACCORDING TO THE TOTAL NUMBER OF EPISODES OF ILLNESS EXPERIENCED DURING THE STUDY

	Number of subjects		Mean days confined to house (per episode)		
Number of episodes	Vitamin	Placebo	Vitamin	Placebo	Vitamin/placebo (percent)
0	105	76			
1	138	155	1.18	1.43	83
2	104	114	1.00	1.31	76
3 plus	60	66	.81	1.11	73

TABLE VII.—THE MEAN NUMBER OF DAYS PER SUBJECT IN EACH GROUP ON WHICH CERTAIN SYMPTOMS WERE RECORDED

	Days symptom recorded		
	Vitamin	Placebo	Vitamin/placebo (percent)
Nose:			
Severe	1.59	1.67	95
Mild	2.28	2.53	90
Throat:			
Severe	.88	1.03	85
Mild	1.97	2.18	90
Chest:			
Severe	.40	.45	89
Mild	1.08	1.20	90
Malaise:			
Severe	.65	.95	68
Mild	1.96	2.13	92
Chills:			
Severe	.17	.22	77
Mild	.78	.99	79
Temperature greater than 100° F	.09	.20	45

TABLE VIII.—THE MEAN NUMBER OF EPISODES AND DAYS SICK PER SUBJECT IN EACH GROUP, FOR EPISODES DURING WHICH THERE WERE SYMPTOMS AFFECTING THE NOSE OR THROAT

	Episodes per subject			Days of symptoms		
Symptoms	Vitamin	Placebo	Vitamin/Placebo (percent)	Vitamin	Placebo	Vitamin/Placebo (percent)
Predominant on day of onset:						
Nose	0.79	0.84	94	2.92	3.07	95
Nose or throat	1.16	1.27	91	4.49	5.20	86
Present at any time:						
Nose	1.08	1.19	91	4.40	5.05	87
Nose or throat	1.14	1.24	92	4.61	5.36	86

DISCUSSION

The primary objective of this investigation was to test the claim that persons taking 1 g. of vitamin C per day would experience a substantial reduction in both the frequency and the total duration of "colds".[3]

We found it difficult to arrive at a single, generally acceptable definition of a "cold", other than that the episode of illness should at some time be marked by symptoms in either nose or throat. The average frequency and total duration of "colds" per subject were therefore calculated according to four different definitions of a "cold" (Table VIII). The difference between the vitamin and the placebo groups was essentially the same according to each of these definitions, the largest differences being a 9% reduction in frequency and a 14% reduction in days sick (using the definition of nose or throat symptoms predominating on day of onset). Neither these differences nor any of the others shown **in Table VIII** achieved statistical significance but there was a statistically significant difference in the number of subjects who did not experience any nose or throat symptoms at any time (V: 131, P: 101, $P<0.05$).

Our estimates are therefore considerably lower than the 45% reduction in frequency of "colds" and the 60% reduction in total days of illness that were observed in Ritzel's study of ski students,[4] on which Pauling based his claims.[3] However, both Ritzel's study and the present one involved limited numbers of subjects and therefore provide estimates that are subject to error. While it is difficult to determine exact limits for the percentage reductions observed by Ritzel, the approximate 95% confidence interval for the

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Footnotes at end of article.

45% reduction in frequency is 34% to 91%. The estimates from the two studies are therefore not necessarily in conflict.

Our finding that disability was substantially less in the vitamin group was entirely unexpected, and may have important theoretical and practical implications. Further studies will, of course, be required to confirm this finding and to establish its magnitude more precisely, but the high level of statistical significance associated with it encourages us to believe that it is likely to be a real effect rather than a statistical artifact. (The theoretical possibility that the placebo tablets were causing a prolongation of disability was considered but rejected. Citric acid is not known to be harmful at these dosages, and even at the maximum intake of 16 tablets per day, the amount of citric acid ingested was barely one tenth the quantity contained in an average-sized grapefruit.) We have therefore examined our data to see if they provide any clues as to the way in which these large doses of ascorbic acid might be exerting their effect.

One of the possibilities considered was that the reduction in days of disability in the vitamin group was due to some of our subjects being on diets that were, by conventional standards, deficient in vitamin C. (If this were the case the massive doses would be merely ensuring that the basic requirement of approximately 30 mg. a day was being received, and a much lower dose would have achieved the same effect.) While this possibility could not be ruled out, since we made no attempt to measure dietary intake or body stores of vitamin C, it would seem to be an unlikely explanation, since not only are foods containing vitamin C readily available in Canada, but over two-thirds of our subjects reported an intake of at least four ounces of fruit or vegetable juice each day.

Another question that was examined was whether the reduction in disability in the vitamin group was due to a lower incidence of complications. The data provided little support for this belief, since in both groups approximately 60% of the spells of disability began on the first day of the episode—too early to be ascribed to secondary complications. Furthermore, the number of episodes beginning with nose or throat symptoms in which chest symptoms first appeared on the second day or later was approximately the same in both groups (67 in the vitamin group, compared to 69 in the placebo group).

A third question that is of considerable theoretical interest is whether the large intake of ascorbic acid was exerting a specific anti-viral (or anti-bacterial) effect, or whether the mechanism involved was a non-specific one responding to any type of acute illness, or indeed to any acute stress. Our data cannot provide a clear answer to this question, but the fact that general rather than local symptoms were the most strongly influenced, and that different types of illness appeared to be more or less equally affected, would seem to favour a relatively non-specific mechanism. The high concentration of ascorbic acid normally found in the adrenal cortex (and its depletion at times of stress) may be relevant to this question.

Whatever the final answers may be to these and other questions, it would seem that further research in this area is well justified. In economic terms alone the rewards might be substantial, since the disability from acute (mainly respiratory) illness in Canada amounts to approximately 1.5 days per person each year.[5] In terms of total personal income (approximately 66 billion dollars in 1970[6]) this is equivalent to a loss of approximately 270 million dollars annually; even a small reduction in total disability would represent a very large saving to the national economy. However, before these potential economic benefits can be realized, further studies are required to establish the most appropriate dosage levels, the relative importance of the prophylactic and therapeutic features, and the safety of prolonged ingestion of large doses of ascorbic acid or its salts. Until more information is available on these questions we do not feel that any firm recommendations can be made concerning the place of large doses of ascorbic acid in the prevention and treatment of "colds" or other acute infections.

Many individuals assistted in the planning and execution of this investigation, and while it is impossible to name them all, we would particularly like to thank E. Van Sickle, R.N., for her valuable contribution, and S. Whalen, H. Moghadam, K. L. Weldon, A. Csima, J. Hatcher and M. Fears for their help in the design of the trial and the analysis of the results. We would also like to thank A. Harris and C. Retchford of Empire Laboratories for their assistance in preparing a convincing placebo tablet at very short notice, and, last but not least, we thank the large number of subjects who participated in the study.

FOOTNOTES

[1] BEATON GH, WHALEN S: Vitamin C and the common cold. *Can Med Assoc J* 105: 355, 1971

[2] PAULING L: *Vitamin C and the Common Cold*. San Francisco, WH Freeman, 1970

[3] Idem: Letter to the Editor. *Can Med Assoc J* 105: 448, 1971

[4] RITZEL G: Ascorbic acid and infections of the respiratory tract. *Helv Med Acta* 28: 63, 1961

[5] *Canadian Sickness Survey 1950–1951*. Ottawa, The Queen's Printer, 1960

[6] Statistics Canada: *Preliminary Report on the Geographical Distribution of Personal Income*, 1970

RDA FOR VITAMIN C FAR TOO LOW

Mr. PROXMIRE. The point is that the so-called recommended daily allowance—RDA—of vitamin C of 60 milligrams a day certainly appears to be an inadequate amount when the Pauling study and the Anderson, Reid, Beaton studies are read.

In these circumstances, for the FDA to assert that it is "nutritional quackery" for anyone to say that a diet of ordinary foods cannot supply adequate amounts of vitamins and minerals when those so-called adequate amounts are defined as the recommended daily allowance—RDA—is ridiculous.

One might properly ask that the FDA be more scientific and less religious in their opinions.

And to go further than that and to require by law that quantities in excess of 150 percent of the RDA must be manufactured, distributed, and sold as a "drug," is merely an attempt by the FDA, based on wholly inadequate knowledge and on a deep and pervasive hostility, to drive the present vitamin and mineral food and food supplement industry out of business.

FDA MYTHS

Let me turn now to the fourth so-called myth of nutritional quackery as defined by the FDA. The FDA claims that it is a myth that "modern methods of harvesting, processing, packing, transportation, storage, and cooking eliminate what few nutrients are in the food to begin with."

Of course, modern methods do not always eliminate nutrients. The FDA, once again, has phrased its criticism in false terms. But it is often the case.

Let me just mention two items which contradict the FDA on that claim. The first is flour. Until modern times flour was stone ground. The wheat germ in the flour was retained. That happens to be the highly nutritional part of wheat.

When the modern machine milling arrived on the scene, it was found that it crushed the wheat germ which in turn made the flour go rancid quickly and difficult to keep for long periods of time. As a consequence, the wheat germ or the most nutritious part of the flour was removed while the carbohydrates remained. In fact for years millers sold the most nutritious part of the flour, namely, the wheat germ, to farmers to feed to their pigs as swill while people got the least nutritious food.

As a result the American people probably eat the poorest, least nutritious white bread of any modern industrialized, civilized nation. It is a perfect example of how modern methods of processing have removed the basic nutrient of the food. That is no myth. That is the truth.

LOSS THROUGH STORAGE

The second example has to do with vitamin C. Nobel Laureate Linus Pauling makes the point succinctly on page 107 of his book on vitamin C:

> Why should our government forbid anyone to learn or to tell the truth about foods? Why should it be illegal to quote such information as the statement in the handbook *Metabolism* (Altman and Dittmer, 1968) that after storage for three months potatoes contain only half as much ascorbic acid as when fresh?
>
> What crime does one commit in quoting the paper of Glazebrook and Thomson (1942) who found that a ration of potatoes (12 ounces) containing 50 mg of ascorbic acid when raw contained only 4 mg, less than one-tenth as much, when cooked and reheated for serving?
>
> It is well known that the vitamins in foods are in part destroyed by the storage, transportation, processing, and cooking of the foods. Why should it be forbidden to tell the truth about the dangers of malnutrition and the possibilities of vitamin or mineral deficiences in foods?

In their zeal and hostility the FDA has thrown up a group of straw men, distorted statements, and outright misstatements of facts and scientific evidence.

They are the myth makers.

HARMFUL TO CONSUMERS

I believe this legislation is necessary to prevent the FDA from banning or unduly restricting vitamins and minerals in quantities greater than the 150-percent RDA. That, I believe, is their purpose.

But there will also be a very tragic effect on consumers if the sale of vitamins and minerals except as drugs is limited to units that are 150 percent or less than the recommended daily allowance. Let me be specific.

In July of 1973, 100 capsules of vitamin A in 25,000 international units cost $1.60 if ordered from William T. Thompson Co., Carson, Calif., one of the major distributors of vitamins.

Starting August 1, FDA banned the sale of capsules in excess of 10,000 units except as prescription drugs. Obviously, to sell vitamin A on the commercial market without a prescription, capsules were reduced to 10,000 units.

On October 31, 1973, the price for 100 capsules of vitamin A in 10,000 international unit capsules was $1.95.

Not only did the price of 100 capsules go up from $1.60 to $1.95, but 100 tablets at $1.60 contained 2.5 million units while $1.95 bought only 1 million units.

The consumer paid 35 cents more for 1.5 million fewer units of vitamin A.

Put another way, on July 31, 1973, 1 million international units of vitamin A cost 64 cents, but on October 31, 1973, a million units of vitamin A cost $1.95 or more than three times as much.

The FDA calls that "consumer protection."

TOXICITY

The Food and Drug Administration is proposing to limit the sale of vitamins A and D without prescription to very small amounts.

As I have said in the case of vitamin A they propose to limit nonprescription supplements to 10,000 international units or only twice the recommended daily allowance—RDA—for vitamin A.

In the case of vitamin D they propose to limit nonprescription supplements to 400 international units or an amount which is the same as the RDA.

They are doing this in part in the name of "safety" on grounds that these vitamins taken in large amounts can be toxic.

No one objects to limiting the quantities of food on grounds of safety. But the problem here is that these are excuses for limitations rather than substantive objections. Just consider a few facts.

NO KNOWN VITAMIN A DEATHS

So far as anyone knows, there has never been a death from taking too much vitamin A.

Yet for "aspirin," which is a so-called safe drug, the estimate is that about 200 deaths a year are caused by excessive use. But aspirin is not on prescription and should not be on prescription. And neither should vitamin A.

The fact is that through 1971, only some 17 cases of vitamin A toxicity were even known, and no deaths were attributed to an excessive use of vitamin A.

The next thing we know the FDA will want to put water on prescription. Excessive use of water and water-torture methods have been known to cause death as has the excessive use of hundreds of foods, minerals, beverages, and drugs. Sugar to a diabetic can be fatal. But with no known deaths and only exceedingly rare examples of toxicity, to place vitamin A on prescription when sold in units larger than twice the RDA is another example of the perverse and prejudiced attitude of the FDA.

In the case of vitamin D, the FDA wants to limit nonprescription sales of vitamin D to 400 units. But they are also proposing that whole milk, skim milk, and evaporated milk be fortified with vitamin D. That is fine. That should happen. I am for it.

But this is an ironic position for the FDA to take. Vitamin D taken in milk is somewhere from 3 to 10 times as potent as vitamin D taken in an oil base. If you add 400 IU's of vitamin D to milk, you are in fact probably providing the equivalent of 1,200 to 4,000 international units.

The FDA cannot have it both ways. They cannot and should not limit the sale of vitamin D without prescription to 400 international units on the one hand, and require that a quart of milk contain the equivalent of 1,200 to 4,000 international units on the other. But that is, in fact, what they are proposing.

If they were to be logical, they would also put vitamin D fortified milk under prescription.

But the FDA is not logical, and the FDA is using this false issue of toxicity to require vitamin A and vitamin D to be sold in relatively small amounts except under prescription.

Like the flowers that bloom in the spring, it has almost nothing to do with the case.

The answer is very simple. So long as the vitamins or minerals are nontoxic in the quantities recommended, and provided there is accurate labeling or the absence of false labeling, the FDA should not interfere except to carry out its existing legal responsibilities to see that food is manufactured in clean circumstances, and so forth.

EXPLANATION OF BILL

The bill, first of all, defines "food supplements" and the term "special dietary uses." These definitions are the same definitions that the FDA has used for 32 years, or since 1941.

Second, the bill prohibits the Secretary of Health, Education, and Welfare from limiting "the potency, number, combination, amount, or variety of any synthetic or natural vitamin, mineral, or other nutritional substance, or ingredient of any food for special dietary uses if the amount recommended to be consumed does not ordinarily render it injurious to health." This is the standard now in the law which the FDA uses to regulate food. It is a proper standard.

What this means is that the FDA cannot require vitamins to be sold over the counter—OTC—or under prescription if the units exceed the so-called recommended daily allowance unless the amounts recommended would "ordinarily render it injurious to health."

If the FDA can show that some vitamin or mineral in the capsule or international unit size recommended is ordinarily injurious to health then they can limit its potency or amount, et cetera.

But if the recommended quantities do not ordinarily injure health, the FDA cannot limit these items. I want to make it clear that the bill changes no other provisions of the Food, Drug, and Cosmetic Act nor does it affect any consumer protection provision.

The bill is just that simple. It is needed. I urge its adoption by the Senate. Meanwhile the FDA should stop its stupid and idiotic attempt to play God.

I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2801

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food Supplement Amendment of 1973".

SEC. 2. (a) Paragraph (f) of section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)) is amended by (1) redesignating clauses (1) and (2) as clauses "A" and "(B)", respectively, (2) inserting "(1)" immediately after "(f)", and (3) adding at the end thereof the following:

"(2) The term 'food supplement' means food for special dietary uses.

"(3) The term 'special dietary uses', as applied to food for man, means particular (as distinguished from general) uses of food, as follows:

"(A) Uses of supplying particular dietary needs which exist by reason of a physical, physiological, pathological, or other condition, including but not limited to the conditions of diseases, convalescence, pregnancy, lactation, allergic hypersensitivity to food, underweight, and overweight;

"(B) Uses for supplying particular dietary needs which exist by reason of age, including but not limited to the ages of infancy and childhood;

"(C) Uses for supplementing or fortifying the ordinary or usual diet with any vitamin, mineral, or other dietary property.

Any such particular use of a food is a special dietary use, regardless of whether such food also purports to be or is represented for general use.

"(c) No provision of any regulation under section 403(j) of the Act shall be construed as exempting any food from any other provision of the Act or regulations thereunder, including section 403 (a) and (g) and, when applicable, the provisions of chapter V of the Act."

SEC. 3. Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341–348) is amended by adding at the end thereof the following new section:

"SEC. 410. In administering this Act the Secretary shall not limit the potency, number, combination, amount, or variety of any synthetic or natural vitamin, mineral, or other nutritional substance, or ingredient of any food for special dietary uses if the amount recommended to be consumed does not ordinarily render it injurious to health.".

By Mr. PELL:

S. 2802. A bill to repeal Public Law 87–733, known as the "Cuban Resolution." Referred to the Committee on Foreign Relations.

Mr. PELL. Mr. President, in December 1960, I visited Cuba. Consequently, I believe that I was the last Member of Congress to have been there before the break in our relations. It is perhaps appropriate for me, therefore, to be the first to introduce this short and simple bill. It repeals Public Law 87–733 of October 3, 1962, the so-called Cuban resolution.

That resolution expressed the determination of the United States governing our policy toward Cuba just prior to the severe Soviet missile crisis, and when Cuban activities aimed at subversion and disruption in Latin America were at their height. Fortunately today, 11 years later, a far less fervid and dangerous situation prevails. How relevant, therefore, is the resolution to the improved situation of today? It has little relevance, when we reexamine the resolution itself in detail. In this connection, I found the hearings Senator McGee conducted on March 26 and April 18, 1973, enlightening, penetrating, and helpful.

First, let me quote from the resolution the three points constituting U.S. determination with respect to Cuba:

> Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—
>
> (a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere;
>
> (b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and
>
> (c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.

How does the situation look today with reference to these points?

Failure has crowned Cuban attempts to export Marxist-Leninist revolution to other parts of the Western Hemisphere.

No longer is there a threat of an externally supported military capability in Cuba endangering the security of the United States.

Members of the Organization of American States are open to new approaches to support the aspirations of the Cuban people for self-determination other than isolating them from the rest of the Hemisphere.

In addition, Cuban vindictiveness toward the United States is comparatively muted.

Under these circumstances, the Cuban resolution no longer responds to today's happier realities. No longer does it, I believe, express the sense of this 93d Congress. Moreover, embodying as it does moribund U.S. policy, it exerts a deadening influence on a more realistic course of action for dealing with Cuba. Therefore, both to remove from the books an outmoded piece of legislation and to indicate a new determination by the Congress looking toward the eventual reestablishment of normal United States-Cuba relations, I strongly urge the prompt repeal of Public Law 87–733.

To Cuba, this congressional action will signal a willingness of the American people to bury the hatchet and restore an ancient friendship between neighbors.

To the Organization of American States, it will demonstrate that the United States is ready to consider a new common policy regarding Cuba to replace an old one that jeopardizes hemispheric solidarity.

To the Soviet Union, it will indicate that we take seriously our policy to reduce international tensions and that we look for similar indications on the part of the Soviets.

To the administration, it will be a reminder that negotiation should replace confrontation close to home as well as farther away.

The current administration has provided effective and dramatic leadership in lifting the dead hand of the past from our relationships with the People's Republic of China and with the Soviet Union. In doing so, the administration has demonstrated a keen awareness that effective foreign policies must be based upon present realities instead of the postures of the past.

In an age when we are able to confer amicably with leaders of the People's Republic of China, with whom our country has many profound differences, it surely is time to recognize that our relations with our Cuban neighbors must consist of more than stern admonitions. We need not approve of the Cuban Government, its economic system, nor of each and every Cuban policy to recognize the desirability of a more flexible approach to relations with Cuba. A first and vital step in that direction is repeal of the outdated and inappropriate Cuban resolution of 1962.

Mr. President, I ask unanimous consent that the text of the Cuban resolution of 1962—Public Law 87–733—and the text of the bill I have introduced be printed in the RECORD at this point.

There being no objection, the bill and resolution were ordered to be printed in the RECORD, as follows:

S. 2802

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint Resolution expressing the determination of the United States with respect to the situation in Cuba", approved October 3, 1962, 76 Statute 697, and known as the "Cuban Resolution", is repealed.

CUBAN RESOLUTION

Joint resolution expressing the determination of the United States with respect to the situation in Cuba

Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "to extend their system to any portion of this hemisphere as dangerous to our peace and safety"; and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations"; and

Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union"; and

Whereas the international Communist movement has increasingly extended into Cuba its political, economic, and military sphere of influence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.

By Mr. ERVIN:

S. 2803. A bill to insure the separation of constitutional powers by establishing the Department of Justice as an independent establishment of the United States. Referred to the Committee on the Judiciary.

ESTABLISHMENT OF AN INDEPENDENT DEPARTMENT OF JUSTICE

Mr. ERVIN. Mr. President, I introduce for appropriate reference a bill to establish the Department of Justice as an independent establishment of the United States.

Events of the past months have strained many institutions of our country. While the strain has produced cracks in some of our institutions of government, the Government remains sound. The flexibility and strength of our system of government is due to the wisdom of the framers of the Constitution in allocating the powers and duties of government to the three separate branches and establishing a system of checks and balances to preserve the separation of powers. Our Government loses its strength and resiliency when one branch encroaches upon the powers of another and the separation of powers is disturbed. The flexibility which allows severe stresses and strains is, then, one of the strengths of our constitutional government. While flaws are revealed by stress, the inherent strengths of the institutions are also revealed. Now that flaws are apparent, the Congress must act to strengthen our governmental institutions by repairing the flaws.

I strongly disagree with those who despair that Watergate and other events show an inherent weakness in our system of government. The wisdom embodied in our Constitution is most apparent in periods of stress. These events have shown the necessity of a free press, the necessity of an independent judiciary, and the necessity for Congress to maintain its constitutional role as a check on the executive branch.

While many American institutions have been strained in the past months, some institutions such as the press and the judiciary have performed their historic or constitutional roles under these stresses; others have not. The Department of Justice is one of the governmental institutions most severely strained by Watergate and other events of the past months. These events have called into question the function of the Department of Justice, and have brought forth allegations, heard also in previous administrations, that the Department of Justice has been used for political purposes by the White House.

A cornerstone of our system of justice is the faith of the American people in that system and their belief in its fairness. Even the appearance of impropriety or unfairness undermines faith in that system. For this reason, Congress should now thoroughly review the duties and function of the Department of Justice and take action to ensure that it is independent of political influence. The Department of Justice should be insulated from the direct political control of the executive branch of government to preserve the independence essential to the proper administration of justice.

The Subcommittee on Separation of Powers will hold hearings in the next session of Congress on the necessity of an independent Department of Justice.

The bill which I introduce today contains several proposals for improvement of the administration of justice and I hope these provisions will stir discussion and debate within the Congress on this matter .The purpose of the bill is to preserve the independence necessary for the proper administration of justice. The bill would remove the Attorney General from the Cabinet and make the Department of Justice independent of the executive branch. The Attorney General would be appointed by the President for a 6-year term, but Assistant Attorneys General, U.S. attorneys, and the FBI Director, all of whom are now appointed by the President, would be appointed by the Attorney General. They would be answerable to, and removable by, the Attorney General rather than the President. The functions of the present Department of Justice would be transferred to the independent Department of Justice.

The Office of Attorney General was established by the Judiciary Act of 1789, and it was not until 1870 that the Department of Justice was established by act of Congress. While there have been many changes in the Department of Justice and its duties since it was established by Congress in 1870, the time has come for Congress again to seek ways to improve the administration of justice, and to insure its independence and fairness.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2803

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS OF FACT AND DECLARATION OF PURPOSE

SECTION 1. (a) The Congress finds and declares that—

(1) the Department of Justice is responsible for the performance of functions that are both executive and judicial in nature;

(2) the officers and employees of the Department of Justice, including the Attorney General, the Solicitor General, the United States attorneys, and the United States marshals are officers of the courts as well as executive branch officers; and

(3) to preserve the independence essential to the proper administration of justice the Department of Justice should be insulated from the direct political control of the executive branch of Government.

(b) It is the purpose of this Act to establish the Department of Justice as an independent establishment of the United States.

SEC. 2. (a) Sections 501 through 510 of title 28, United States Code, are amended to read as follows:

"§ 501. Independent establishment

"(a) There is established as an independent establishment of the United States Government, the Department of Justice.

"(b) The Department shall be headed by an Attorney General who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of six years. There shall be in the Department—

"(1) a Deputy Attorney General, and

"(2) a Solicitor General

each of whom shall be appointed by the President, by and with the advice and consent of the Senate, for a term of six years. The Deputy Director shall perform such functions as the Attorney General may prescribe and shall be the acting Attorney General during the absence or disability of the Attorney General or in the event of a vacancy in the position of Attorney General. Upon the expiration of his term, the Attorney General shall continue to serve until his successor has been appointed and has qualified, except that the Attorney General may not serve under the authority of this sentence for a period longer than one year after the expiration of that term. The Solicitor General shall perform such functions as the Attorney General may prescribe.

"(c) The officers appointed under this subsection may be removed by the President for neglect of duty or malfeasance in office.

"§ 502. Assistant Attorneys General; other personnel

"(a) The Attorney General may appoint nine Assistant Attorneys General. The Attorney General may also appoint one Assistant Attorney General for Administration.

"(b) The Attorney General may appoint such other personnel as may be necessary to carry out his duties and functions under this chapter. The Attorney General may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5.

"§ 503. Vacancies

"(a) In case of a vacancy in the office of Attorney General, or of his absence or disability, the Deputy Attorney General may exercise all the duties of that office, and for the purpose of section 3345 of title 5, the Deputy Attorney General is the first assistant to the Attorney General.

"(b) When, by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the office of Attorney General, the Solicitor General and the Assistant Attorneys General, in such order of succession as the Attorney General may from time to time prescribe, shall act as Attorney General.

"§ 504. Functions of the Attorney General

"All functions of other officers of the Department of Justice and all functions of agencies and employees of the Department of Justice are vested in the Attorney General except the functions—

"(1) vested by subchapter II of chapter 5 of title 5 in hearing examiners employed by the Department of Justice;

"(2) of the Federal Prison Industries, Inc.;

"(3) of the Board of Directors and officers of the Federal Prison Industries, Inc.; and

"(4) of the Board of Parole.

"§ 505. Administrative provision

"(a) The Attorney General may from time to time make such provisions as he considers appropriate authorizing the performance by any other officer, employee, or agency of the Department of Justice of any function of the Attorney General.

"(b) The Attorney General is authorized—

"(1) to adopt, alter, and use a seal;

"(2) to adopt, amend, and repeal rules and regulations governing the manner of its operations, organization, and personnel, and the performance of the powers and duties granted to or imposed upon it by law;

"(3) to accept on behalf of the United States gifts or donations of services, money, or property, real, personal, or mixed, tangible, or intangible;

"(4) to enter into contracts or other arrangements or modifications thereof, with any agency or department of the United States, or with any State or political subdivision thereof, or with any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

"(5) to make advance, progress, and other payments which the Attorney General deems necessary under this chapter without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529);

"(6) to utilize, with their consent, the services, equipment, personnel, and facilities of any other department or agency of the United States, with or without reimbursement;

"(7) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses including per diem, as authorized by section 5703 of title 5;

"(8) to make other necessary expenditures; and

"(9) to take such other action as may be necessary to carry out his duties and responsibilities prescribed by law.

"(c) Upon request made by the Attorney General each Federal department and agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent consistent with the laws to the Attorney General in the performance of his functions.

(b) Sections 511 through 526 of such title are redesignated as sections 506 through 521, respectively.

(c) The analysis of chapter 31 of such title is amended—

(1) by striking out items 501 through 510 and inserting in lieu thereof the following:

"501. Independent establishment.
"502. Assistant Attorneys General; other personnel.
"503. Vacancies.
"504. Functions of the Attorney General.
"505. Administrative provisions.".

(d) The analysis of chapter 31 of such title is further amended by redesignating items 511 through 526 as items 506 through 521, respectively.

APPOINTMENT OF DIRECTOR OF FEDERAL BUREAU OF INVESTIGATION

SEC. 3. (a) Title VI of the Omnibus Crime Control and Safe Streets Act of 1968 is repealed.

(b) Section 532 of title 28, United States Code, is amended to read as follows:

"§ 532. Director of the Federal Bureau of Investigation

"The Attorney General may appoint a Director of the Federal Bureau of Investigation for a term of four years. The Director of the Federal Bureau of Investigation is the head of the Federal Bureau of Investigation."

APPOINTMENT OF UNITED STATES ATTORNEYS

SEC. 4. (a) Section 541 of title 28, United States Code, is amended to read as follows:

"§ 541. United States attorneys

"(a) The Attorney General shall appoint a United States attorney for each judicial district.

"(b) Each United States attorney is subject to removal by the Attorney General."

(b) Section 546 of such title 28 is amended to read as follows:

"§ 546. Vacancies

"A vacancy in the office of United States attorney shall be filled in the same manner as the original appointment.".

APPOINTMENT OF UNITED STATES MARSHALS

SEC. 5. (a)(1) Section 561(a) of title 28, United States Code, is amended to read as follows:

"(a) The Attorney General shall appoint a United States marshal for each judicial district.".

(2) Section 561(b) of such title is amended by striking out "President" and inserting in lieu thereof "Attorney General".

(b) Section 565 of such title is amended to read as follows:

"§ 565. Vacancies

"A vacancy in the office of United States marshal shall be filled in the same manner as the original appointment.".

REMOVAL OF ATTORNEY GENERAL FROM SUCCESSION TO PRESIDENCY

SEC. 6. Section 19(d)(1) of title 3, United States Code, is amended by striking out Attorney General,".

REMOVAL OF DEPARTMENT OF JUSTICE FROM EXECUTIVE DEPARTMENTS

SEC. 7. (a) Section 101 of title 5, United States Code, is amended by striking out "The Department of Justice.".

(b)(1) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"(13) Attorney General.".

(2) Section 5313 of such title 5 is amended by adding at the end thereof the following new item:

"(22) Deputy Attorney General.".

(3) Section 5314 of such title 5 is amended by adding at the end thereof the following new items:

"(60) Solicitor General of the United States.

"(62) Director of the Federal Bureau of Investigation, Department of Justice.".

(4) Section 5315 of such title 5 is amended by adding at the end thereof the following new items:

"(98) Assistant Attorneys General (9).

"(99) United States Attorney for the District of Columbia.

"(100) United States Attorney for the Southern District of New York.".

(5) Section 5316 of such title 5 is amended by adding at the end thereof the following new items:

"(134) Assistant Attorney General for Administration.

"(135) United States Attorney for the Northern District of Illinois.

"(136) United States Attorney for the Southern District of California.".

(6) the following sections of such title are repealed:

(A) section 5312(4).
(B) section 5313(20).
(C) section 5314 (1), and (44).
(D) sections 5315 (19), (76), and (77).
(E) sections 5316 (26), (115), and (116).

TRANSFERS

SEC. 8. (a)(1) There are hereby transferred to the Department of Justice established under section 501(a) of title 28, United States Code (as amended by section 2 of this Act) (hereinafter in this section referred to as the "Department"), all functions carried out by the Department of Justice, and the Department shall perform such functions.

(2) There are transferred to the Department, and the Department shall perform, all functions of the Attorney General, with respect to, and being administered through the Department of Justice.

(b) All personnel, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under provision of subsection (a), are transferred to the Department.

(c) All personnel transferred by this Act who are in the excepted service shall remain in the excepted service.

SAVINGS PROVISIONS

SEC. 9. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this Act, by (A) any department or agency, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction; and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Attorney General, by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any department or agency, or part thereof, functions of which are transferred by this Act, except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department of Justice established under this Act. Such proceedings to the extent they do not relate to functions so transferred, shall be continued before the department or agency, or part thereof, before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Department of Justice established under this Act by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect; and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, or part thereof, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, or part thereof, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of the Department of Justice established under this Act as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) If before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act—

(A) such department or agency, or any part thereof, is transferred to the Department of Justice established by this Act, or

(B) any function of such department or agency, or part thereof, or officer is transferred to the Department of Justice established under this Act,

then such suit shall be continued by such Department.

(d) With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department or agency, or part thereof, or officer so transferred or functions of which are so transferred shall be deemed to mean the Department of Justice established under this Act or the officer in which such function is vested pursuant to this Act.

(e) This Act shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function transferred under this Act.

(f) Orders and actions of the Department of Justice in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the department or agency, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Department of Justice established under this Act.

(g) In the exercise of the functions transferred under this Act, the Department of Justice established under this Act shall have the same authority as that vested in the department or agency, or part thereof, exercising such functions immediately preceding their transfer, and actions of such Department in exercising such functions shall have the same force and effect as when exercised by such department or agency.

EFFECTIVE DATE; INITIAL APPOINTMENT OF OFFICERS

SEC. 10. (a) This Act, and amendments made by this Act, other than this section, shall take effect 90 days after the enactment of this Act, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) Notwithstanding subsection (a) of this section, any of the officers provided for in section 2 of this Act may be appointed in the manner provided for in section 2 of this Act, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the appropriate rates provided for in this Act or amendments made by this Act. Such compensation and related expenses of such officers shall be paid from funds available for the functions to be transferred to the Department of Justice established under this Act.

By Mr. HUMPHREY (for himself and Mr. HUDDLESTON):

S. 2804. A bill to improve agricultural yields in the production of soybeans through the establishment of a Soybean Research Institute jointly supported by the United States and the People's Republic of China. Referred to the Committee on Foreign Relations.

SINO-AMERICAN SOYBEAN RESEARCH INSTITUTE

Mr. HUMPHREY. Mr. President, it is becoming increasingly evident that there is a critical need to improve the yield per acre of soybeans, one of our most valuable sources of vegetable protein. While a considerable amount of research has been accomplished in recent years on new and continuing uses of soybeans, very little results have been obtained from efforts to improve the yield per acre of the soybean crop. In fact, yields per acre of soybeans have increased by only 1 percent per year since the early 1950's.

The two major producers of soybeans in the world are the United States and the People's Republic of China. The United States is the world's leader in soybean exports and, as such, the major supplier of soybeans to nonproducing countries. However, the United States has reached the limit of acreage that it can devote to soybean production, and a breakthrough is required in order to achieve greater yields per acre, particularly as the world demand for sources of protein increases. Therefore, it is my proposal that the world's two leading producers of soybeans combine their research efforts and technology to achieve the much-needed breakthrough in improved yields.

Accordingly, I am introducing legislation today that is vitally important both to United States agriculture and world food supplies. This legislation calls upon the President to establish, in consultation and cooperation with the People's Republic of China, a Sino-American Soybean Research Institute. The immediate and primary purpose of this legislation is to provide for the establishment of an institute which would devote its initial attention to improved soybean yields.

I anticipate that the institute would be a jointly funded and staffed organization with equal contributions for such expenses made by goth governments. I also anticipate that the scope and terms of reference for the institute would be jointly worked out and agreed upon by the two parties involved, and that decisions on facilities, physical locations and the nature and substance of the actual research would be subject to negotiation by the two countries. Finally, I envision that the institute would coordinate and make considerable use of those research efforts already underway by prominent soybean institutions and authorities already in existence in the United States and China. With regard to the United States, I am referring, in particular, to the work of the Agricultural Research Service and the Agency for International Development contracts at the University of Illinois and the University of Puerto Rico.

Mr. President, while participating in the FAO Conference held in Rome last month, I had the opportunity to discuss this proposal with the Chinese Deputy Minister of Agriculture. He indicated to me that he was very interested in this proposal and that he would discuss the feasibility of such an effort with his government.

By Mr. HUGH SCOTT:

S.J. Res. 179. A joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning April 21, 1974, as "National Volunteer Week." Referred to the Committee on the Judiciary.

Mr. HUGH SCOTT. Mr. President, I am today introducing a joint resolution requesting the President to issue a proclamation designating the week of April 21, 1974, as "National Volunteer Week." Representative Larry Coughlin is offering a counterpart measure in the House.

According to the Health and Welfare Council in Philadelphia, Volunteer Recognition Week, which it sponsored, has been observed for 12 years. Inaugurated in 1960, in a proclamation signed by the mayor, the observance gives recognition to the thousands of people who serve as volunteers in the Delaware Valley. During the first few years, Volunteer Week emphasized volunteer recruitment. However, in 1964, recognition of outstanding volunteers became the main focus and the first "Volunteer of the Year Award" was presented in March of that year.

The council further points out that the idea of recognizing volunteers in a special way is spreading nationwide—500 communties, including 60 in Pennsylvania. In 1967, the Governor of Pennsylvania issued the first annual proclamation of Pennsylvania's Volunteer Recognition Week.

Mr. President, I know that this resolution meets with the approval of the National Center for Voluntary Action, and I urge its prompt approval.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1326

At the request of Mr. Williams, the Senator from Indiana (Mr. Hartke) was added as a cosponsor of S. 1326, the Hemophilia Act of 1973.

S. 1414

At the request of Mr. Chiles, the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of S. 1414, a bill to strengthen congressional control in determining priorities of appropriations and expenditures by requiring the budget to be organized and submitted on the basis of national needs, agency programs, and basic program steps.

S. 2581

At the request of Mr. Randolph, the Senator from Florida (Mr. Gurney) was added as a cosponsor of S. 2581, a bill to amend the Randolph-Sheppard Act for the blind to provide for a strengthening of the program authorized thereunder, and for other purposes.

S. 2642

At the request of Mr. Taft, the Senator from Hawaii (Mr. Fong), the Senator from Florida (Mr. Gurney), the Senator from South Carolina (Mr. Thurmond), and the Senator from Virginia (Mr. William L. Scott) were added as cosponsors of S. 2642, a bill to establish an independent Special Prosecution Office, and for other purposes.

S. 2755

At the request of Mr. Domenici, the Senator from Colorado (Mr. Dominick) and the Senator from New York (Mr. Javits) were added as cosponsors of S. 2755, a bill to require the Administrator of the National Aeronautics and Space Administration to study the feasibility of entering into certain international cooperative programs involving the utilization of space technology and application for the production of solar energy.

S. 2784

At the request of Mr. Hartke, the Senator from Alabama, (Mr. Sparkman), was added as a cosponsor of S. 2784, a bill to amend title 38, United States Code, to increase the vocational rehabilitation subsistence allowance, educational assistance allowances, and the special training allowances paid to eligible veterans and persons under chapters 31, 34, and 35 of such title; to improve and expand the special programs for educationally disadvantaged veterans and servicemen under chapter 34 of such title; to improve and expand the veteran-student services program; to establish a veterans education loan program for veterans eligible for benefits under chapter 34 of such title; to promote the employment of veterans and the wives and widows of certain veterans by improving and expanding the provisions governing the operation of the Veteran's Employment Service and by providing for an action plan for the employment of disabled and Vietnam era veterans; to make improvements in the educational assistance program; to recodify and expand veterans' reemployment rights; to make improvements in the administration of educational benefits; and for other purposes.

SENATE RESOLUTION 215—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON GOVERNMENT OPERATIONS

(Referred to the Committee on Rules and Administration.)

Mr. JACKSON (for Mr. Ervin), from the Committee on Government Operations, reported the following original resolution:

S. Res. 215

Resolved, That Senate Resolution 46, 93rd Congress, agreed to February 26, 1973, is amended as follows:

(1) In section 3 strike out "$1,930,000" and insert in lieu thereof "$1,956,000".

(2) In section 4(a) strike out "$980,000" and insert in lieu thereof "$1,006,000".

LEGAL SERVICES CORPORATION ACT—AMENDMENT

AMENDMENT NO. 885

(Ordered to be printed and to lie on the table.)

Mr. HELMS (for himself and Mr. Brock) submitted an amendment intended to be proposed by them jointly to the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

AMENDMENT NO. 887

Mr. WILLIAM L. SCOTT. Mr. President, I send to the desk an amendment to S. 2686 to transfer to the Attorney General jurisdiction over the District of Columbia penal facilities at Lorton, Va., and for other purposes, and ask that it be printed.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie at the desk.

AMENDMENT NO. 892

(Ordered to be printed and to lie on the table).

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (S. 2686), supra.

PRISONERS OF WAR AND MISSING IN ACTION TAX ACT—AMENDMENT

AMENDMENT NO. 886

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to the bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

FEDERAL ACT TO CONTROL EXPENDITURES AND ESTABLISH NATIONAL PRIORITIES

AMENDMENT NO. 888

(Ordered to be printed and to lie on the table.)

Mr. CHILES submitted an amendment intended to be proposed by him to the bill (S. 1541) to provide for the reform of congressional procedures with respect to the enactment of fiscal measures; to provide ceilings on Federal expenditures and the national debt; to create a budget committee in each House; to create a congressional office of the budget; and for other purposes.

AMENDMENT OF THE EXPORT ADMINISTRATION ACT OF 1969—AMENDMENTS

AMENDMENT NO. 889

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to the bill (H.R. 8547) to amend the Export Administration Act of 1969, to protect the domestic economy from the excessive drain of scarce materials and commodities and to reduce the serious inflationary impact of abnormal foreign demand.

AMENDMENT NO. 890

(Ordered to be printed and to lie on the table.)

Mr. HARTKE. Mr. President, I send to the desk an amendment to H.R. 8547, an act to amend the Export Administration Act of 1969, and ask that it be printed.

Mr. President, the administration has called on the American people to conserve energy by asking millions to suffer inconvenience and economic distress in order to conserve energy sources. Americans understand that the Federal Government demands that our thermostats be turned down, that our cars be driven slower and less frequently, that our schools and factories and farms be operated shorter hours. What they do not understand is the fact that the Federal Government continues to permit the export of vital domestic supplies of fuel oil, gasoline, coal, natural gas, and propane.

The amendment which I am introducing today would correct this error of judgment on the part of our Government. The purpose of this legislation is to stop all unnecessary exports of No. 2 fuel and heating oil, coal, gasoline, propane, and natural gas. I believe that there is no excuse for our Government permitting the export of these scarce energy resources during a time of domestic energy shortage.

EXPORTS OF NO. 2 FUEL AND HEATING OIL

The Cost of Living Council projects that 53.3 million gallons or 1.5 million barrels of heating oil will be exported from the United States during 1973. This represents a 284-percent increase in heating oil exports over those of 1972.

Last month alone, exports of this heating oil increased by a whopping 350 percent over the previous month. Heating oil exports climbed from 200,000 barrels in August to 642,000 barrels in September. The largest shipments during September were to Great Britain, the Netherlands, and Venezuela.

The 642,000 barrels exported in September received a payment of $7.28 per barrel. This represents a 158-percent increase in the average price per barrel over last year's price. If the heating oil had been sold domestically, it would have brought only $6.50 a barrel.

Apparently the lure of bigger profits abroad is persuading the major oil companies to export desperately needed heating oil despite the shortage.

EXPORTS OF COAL

While coal exports this year are just slightly less than in 1972, the significance of these exports now is much greater because we are now reconverting our electrical generating plants from oil to coal. This will mean increased American production of coal which is possible.

The problem is that most of our coal is already tied up in long-term export contracts with the Japanese and Canadian steel industries. The result will be a continued shortage of a commodity of which we have rich and plentiful sources, if we do not pass this export control legislation.

Bituminous coal accounted for 98 percent of total coal exports in 1972. In 1972, Japan and Canada received 64 percent of the total bituminous coal exports, and Canada received about 64 percent of the total anthracite coal exports.

EXPORT OF GASOLINE

It has come to my attention that there is also a great need to provide surveillance and control over gasoline as well as coal, heating oil No. 2 and the other commodities named in my amendment.

In comparing the export figures of gasoline for 1972, with those for the first 9 months of 1973, there has been a drastic increase in the export of gasoline. In the first 9 months of this year, we have already surpassed the amount exported during the entire year of 1972, by over 178,000 barrels. There are 42 gallons in every barrel.

Mr. President, I ask unanimous consent that a chart showing the exports of gasoline for 1972 and the first 9 months of 1973, be inserted in the RECORD at this point.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

Export of gasoline

	Barrels
1972 (Jan.–Dec.):	
Aviation fuel (100 octane or more)	77,533
Aviation fuel (less than 100 octane)	16,319
Total	93,841
Gasoline, total	280,894
1973 (Jan.–Sept.):	
Aviation fuel (100 octane or more)	44,044
Aviation fuel (less than 100 octane)	6,247
Total	40,291
Gasoline, total	459,529

Figures from Bureau of the Census.

EXPORTS OF NATURAL GAS AND PROPANE

In the first 10-month period of 1973, our exports of natural gas have increased almost 20 percent over the same period in 1972. By September 1973, we had already exported 67.2 billion cubic feet compared with 57 billion cubic feet for the same period in 1972.

Natural gas is the cleanest form of energy that the United States is producing. I see no reason for shipping such large amounts abroad without some kind of surveillance which these controls would provide.

Canada, Mexico, and Japan are our major export markets for natural gas. Canada and Mexico received natural gas via pipeline transmission, while Japan, starting in 1969, received liquefied natural gas shipments from Alaska. Japan was our largest export market in 1972, receiving over 50 percent of our total natural gas exports.

The export of propane is also up over the 1972 figures. By September we had exported over 2.5 million barrels of this commodity which is in great demand in our country. Over the same period in 1972, we exported 2.3 million barrels.

The Midwest farmers are absolutely dependent upon this source of energy. If exports increase, we may have crop shortages. The American plywood industry has already begun to shut down many of its plants because it cannot get this precious commodity to dry its wood.

FLEXIBILITY OF THE HARTKE APPROACH

The export controls which I advocate would not disrupt the international market and, therefore, would not invite retaliation. They are designed, however, to protect our own national interests.

I would have the Secretary of Commerce estimate the domestic production of fuel oil, gasoline, coal, propane, and natural gas quarterly, in the case of emergencies or shortages. He would then determine those amounts necessary for domestic consumption in the United States including a reasonable amount for a carry-over to build up U.S. stocks and the remainder would be allocated for export to foreign countries.

The Secretary of Commerce then would allocate such exports among countries on a quota system, based upon past exports and such other criteria as are necessary to produce a fair and equitable quota.

Based upon what is available for export, the Secretary would set up a system for the sale of export licenses through an auction system. Licenses would be sold to the highest responsible bidders with special exceptions for the developing countries. The fees collected would be used to set up a trust fund for the research and development of present and new sources of energy.

The Secretary would be able to lift this licensing system on any of the above energy fuels that he determines is produced in sufficient quantities to meet both U.S. demand and normal world requirements from the United States, without any quota system.

Exception to this quota system is any shipment of these energy fuels for temporary export for processing abroad and reshipment back to the United States. This is necessary because some high sulfur content fuel oil is sent abroad to be mixed with less polluting low sulfur oil and then shipped back to the United States.

In a time of nationwide emergency, we cannot countenance the export of these vital and essential energy resources. Without legislation these exports could increase. Their absolute amounts may not be gigantic, but they are in dire need in this country and should be utilized here in keeping our factories and schools in operation and our homes heated.

Mr. President, I ask unanimous consent that my amendment be printed in the Record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

EXPORT OF DOMESTIC PETROLEUM PRODUCTS

Mr. HARTKE. Mr. President, while the United States is on the verge, if not already enmeshed, in the worst energy crisis in its history, domestic oil and other petroleum products, like gasoline, are being shipped abroad in increasing amounts.

It is my belief that my amendment, which would control exports of gasoline, heating oil No. 2, coal, propane, and natural gas; may act as a stimulus to and support of action taken by the Department of the Interior to investigate the profiteering of the oil companies as it relates to these exports.

Even the Treasury Department seems to be admitting that "a few shipments of distillate" fuels such as heating oil, have been exported this year and that this "may not have been in the national interest."

An article by Muriel Allen in the November 15 Journal of Commerce, alludes to a practice which, after checking with a number of very reliable sources both in the oil industry and Government, I strongly suspect is cheating the American consumer out of thousands of dollars.

Some oil companies ship domestic oil out of the continental United States, transfer the title of that oil and then bring it back into the United States as "imported" oil and sell it at exaggerated prices. Imported oil is not subject to any price controls.

What are the results of such a policy? In New York last week, there was little domestic heating oil—No. 2 home heating oil—available because its price is only 26 cents a gallon. Imported home heating oil seemed almost plentiful selling at 67 cents a gallon. This advantageous price policy provides an incentive to import and a temptation to swindle.

How are these companies importing domestic oil? The first and perhaps the best documented method is the "Brownsville Turnaround or Loop." Trucks loaded with American oil drive from Texas into Mexico and turnaround and bring their oil back to the United States as imports. This operation has been filmed and described by television newsmen.

The second method is much more devious and therefore more difficult to document. Highly placed sources at the Port of Houston have indicated to us that shiploads of American oil are leaving the United States, and while the tankers are underway, ship documents are falsified and the product is transported directly back in as an "import."

The Department of the Interior reports that it is trying to crack down on this practice, but I wonder how successful they will be when so much of our administrative machinery on energy is manned by top oil industry executives.

This article by Muriel Allen is an excellent example of investigative reporting. Ms. Allen has covered the oil crisis with expertise and has interpreted very difficult issues with alacrity and precision.

In the hope that this article will prove edifying to all of my colleagues, I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Journal of Commerce, Nov. 15, 1973]

Illegal Exports? Oil Export Action Planned by United States

(By Muriel Allen)

Washington.—The Nixon Administration is planning to use the mandatory allocation program to end what may be illegal exports of U.S. fuel oil, and it is "looking very critically" at oil exchange agreements with other countries to see if they should be modified or eliminated, top government sources said today.

Meanwhile, Rep. Les Aspin, D-Wis. has proposed amendments to emergency energy legislation which would put some of the burden of the fuel shortage on big oil companies. His proposals include measures to restrict exports, encourage imports and an excess profit tax on oil companies.

The congressman is calling for prohibition of all exports of fuel oil, gasoline and propane, and removal of all existing import taxes and fees on crude oil and refined products.

The Interior Department is preparing to act to stem oil exports because of growing complaints from members of Congress about oil being shipped abroad while the U.S. is on the verge of the worst energy crisis in its history.

Interior Secretary Rogers C. B. Morton will shortly announce a program to eliminate fuel oil exports which have a detrimental effect on the American public by reducing short domestic supplies. The department believes the motives for these exports is "unacceptable" profiteering by some companies, according to one-placed source.

Preliminary data made available to the department by the U.S. Customs Bureau in the Treasury Department indicates that "a few shipments of distillate" fuels, such as heating oil, have been exported this year which may not have been in the national interest, the source said.

However, government officials insist that such shipments represent only two-tenths of one per cent of total U.S. demand for distillates.

Secretary Morton is prepared to soften the impact of any export cutback by issuing a statement saying that "since the U.S. imports far more oil than it exports, it would be inappropriate to impose blanket export restrictions while urging other nations to increase exports to U.S."

He will also point out that some exports of distillate directly benefit the U.S. An example of such a benefit is the shipping of U.S. distillates to Venezuela where they are mixed with crude oil. This refinery process is necessary if the heavy Venezuelan crude is to be transported more easily to the U.S.

U.S. distillates also are shipped to the Caribbean to be blended with high-sulfur, "dirty" fuel oil to enable the final product to meet U.S. air quality standards, officials point out.

An interior spokesman told The Journal of Commerce that "we believe everyone should supply the historical customers (overseas) that they supplied in the previous year. But if somebody supplied oil to new customers and it was not excess oil, the government would tell them that's a no-no."

The government could also impose fines and issue injunctions against companies illegally exporting oil under terms of the Economic Stabilization Act or the mandatory allocation program, one key official said.

Since August the Interior Department has been trying to find out how much oil may be leaving the U.S. illegally, from what ports and at what times. The department suspects that two things may be occurring:

U.S. products may be shipped in a black-market way to Europe's markets where there are no price controls and cargoes can sell for two or three times U.S. prices:

Refined products from U.S. refineries may be shipped only half way across the Atlantic to "Europeanize" cargoes, with ships turning around and bringing the fuel back as imports not subject to price controls.

Interior officials say they are trying to "crack down" on the illegal actions through Customs Bureau monitoring of exports, but as one source noted "the monitoring is after the fact." Another obstacle is that export data sent to the Census Bureau is off limits to other agencies under terms of the 1969 Export Administration Act.

The State Department is concerned about any changes or cutoffs of oil exchange agreements the U.S. has with other nations. State fears that the other countries might retaliate with punitive trade actions if they lose U.S. oil.

Between Jan. 1 and Sept. 30, exports of distillates reached 1.5 billion barrels. Countries buying these exports include Great Britain, Mexico, Netherlands Antilles, Denmark, Netherlands, Venezuela and Japan. In the case of Mexico, the U.S. buys much more crude oil than it exports refined products to that country.

Rep. Aspin's proposals include placing a tax on any oil producing company that does not produce at 100 per cent of its maximum efficient rate. Anytime a company falls 2 per cent below its maximum efficient rate of recovery, 1 per cent of its income would be taxed at 100 per cent.

On a related front, President Nixon today directed his chief energy adviser, John Love, to meet immediately with a special task force and report back Thursday on steps being taken to conserve energy. The actions under consideration are said to include gasoline rationing.

EXHIBIT 1

AMENDMENT NO. 890

At the end of the Act, insert the following new section:

SEC. 2. The Export Administration Act of 1969 is further amended by redesignating sections 10, 11, 12, 13, and 14 as sections 11, 12, 13, 14, and 15, respectively, and by inserting immediately after section 9, the following new section:

"ENERGY PRODUCING COMMODITIES

"SEC. 10. (a) DEFINITIONS.—As used in this section—

"(1) 'Secretary' means the Secretary of Commerce; and

"(2) 'energy producing commodity' means coal, gasoline, fuel oil number 2, propane gas, and methane gas.

"(b) DETERMINATION OF QUALITY.—(1) At least quarterly during any period of nationwide energy emergency, and at least annually during any other period, the Secretary shall determine the quantity of each energy producing commodity, if any, that will be available for export during the succeeding quarter or year, as the case may be, and shall cause such determination to be published in the Federal Register.

"(2) Such determination shall be made by estimating the total quantity of domestic production of each energy producing commodity and subtracting from each such quantity the sum of—

"(A) the quantity of each such commodity the Secretary estimates will be necessary to meet domestic needs; and

"(B) the quantity of each such commodity the Secretary estimates will be necessary for a reasonable carryover, taking into account any current or possible future national and international emergencies and the need to maintain adequate inventories.

The quantity of any such commodity which remains, if any, shall be the quantity available for export.

"(C) LICENSING AND ALLOCATION OF EXPORT AUTHORITY.—(1) No energy producing commodity may be exported to any foreign country unless the exporter has been issued a license by the Secretary for the export of a quantity of such commodity to such country, or unless such export is exempt under the provisions of subsection (f) of subsection (g)(3).

"(2) The quantity of any commodity available for export shall be allocated among foreign countries by the Secretary on the basis of—

"(A) the quantity of such commodity exported to such country during a representative base period; and

"(B) such other factors as the Secretary determines to be fair, equitable, and sufficient to protect the interests of traditional trading partners of the United States.

"(d) ISSUANCE OF LICENSES.—(1) Upon establishing allocations under section 4, the Secretary shall publicly announce such allocations, and shall announce the time, manner, and place for the submission of bids for the purchase of licenses to export specified quantities of such commodities to specified countries.

"(2) Licenses shall be issued under this section to the highest responsible bidder unless the Secretary determines that no bid is sufficiently high or that there has been collusion among the bidders.

"(e) ADMINISTRATIVE ADJUSTMENTS.—The Secretary may make adjustments in quantities determined under subsection (c) and of allocations determined under subsection (d) if he determines on the basis of new information that original determinations were erroneous.

"(f) EXEMPTIONS.—(1) The Secretary may exempt from payment of any license fee an export which he determines involves—

"(A) the export of an energy producing commodity to a developing foreign country with a serious need for such commodity; and

"(B) such action would be in the best interests of the foreign relations of the United States and would not have an adverse effect on the energy needs of the United States and the program provided for under this section.

"(2) The Secretary may exempt from the application of this section or any requirement under this section the export of any energy producing commodity which he determines—

"(A) involves a temporary export for processing purposes to a foreign country and will result in a subsequent import of such commodity to the United States; or

"(B) such export will be offset by a subsequent import of another energy producing commodity or other matter essential to the energy needs of the United States.

"(g) ADMINISTRATION.—The Secretary is authorized to issue such rules and regulations as may be necessary including rules and regulations—

"(1) providing for the reduction, suspension, or termination of the allocation of any commodity made under this section to any foreign country if the Secretary finds that such country is reexporting all or any portion of such allocation under circumstances that tend to disrupt the regulatory program established under this section;

"(2) limiting or prohibiting the sale or transfer after issuance of export licenses issued under this section if the Secretary finds such limitation or prohibition necessary to the orderly administration of the regulatory program established under this section; and

"(3) exempting from application of this section any commodity the domestic production of which the Secretary determines will equal or exceed domestic and foreign demand.

"(h) USE OF FUNDS.—Fees received by the Secretary under subsection (d) shall be deposited in a special account in the Treasury and shall be available without fiscal year limitation for the purpose of conducting research with respect to the more efficient use of existing energy sources and the development of new energy sources.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1974—AMENDMENT

AMENDMENT NO. 891

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. HUMPHREY, Mr. SCHWEIKER, and Mr. PROXMIRE) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 11575) making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

ANNOUNCEMENT OF HEARING ON THE SUBJECT OF FUEL SHORTAGES

Mr. JACKSON. Mr. President, at a time of national crisis, the administration has created dangerous confusion and uncertainty about the nature and extent of fuel shortages unprecedented in our history.

On Monday, stories were leaked from meetings of the Emergency Petroleum Supply Committee that shortages in the first quarter of 1974 might be as low as 2.5 million barrels a day.

This figure was a million barrels a day below the figures issued by the White House on November 25, 1973.

On Tuesday, administration officials assured me that there had been no essential change in the November 25 figures.

Even as these assurances were being given, the Chairman of the Council of Economic Advisers was suggesting to the Joint Economic Committee that the shortage might be smaller than previously thought.

Today's papers carry reports of Mr. Sawhill's testimony that energy conservation measures are saving 1.9 million barrels a day and the balance of the shortfall will be met by allocation measures being announced today.

The administration announcements on shortages come in the midst of rising unemployment, transportation cutbacks, and deepening economic crisis. They come at a time when Congress is being asked to vote broad emergency powers to deal with this problem.

Yet Congress, and the public at large, are confused and uncertain about the facts of the fuel shortages.

The administration cannot have it both ways. Either the shortages are real and critical—requiring the decisive action we have yet to see—or the shortages are under control and more stringent measures are not necessary.

As chairman of the Senate's Permanent Subcommittee on Investigations, I have scheduled a hearing for Friday, December 14, on the subject of fuel shortages. The hearing will begin at 10 a.m., in room 3302 of the Dirksen Senate Office Building. The Federal Energy Administrator and the Chairman of the Council of Economic Advisers, among others, are being asked to appear and give us the facts which Congress must have before taking further action on emergency legislation.

Among other questions, we will want to know:

First, what is the current official administration estimate of the shortages for the first quarter of 1974? How much of the shortage is due to the embargo and how much to other causes?

Second, what evidence is available to support the claim that 1.9 million barrels a day are being saved by the administration's conservation measures?

Third, has 1974 demand been overestimated and, if so, what factors have led to a change in estimates?

Fourth, at what point will the effect of reduced allocations be felt and what savings can be expected from these measures?

Fifth, what is the current rate of stock drawdown for crude oil and petroleum products? What is the projected rate for the first quarter and how long can stocks support these rates?

These are the kinds of questions which must be answered if the administration expects Congress—or the American people—to respond to its calls for action on energy issues. I hope that Friday's hearing will put the facts on the table and end the confusion and uncertainty created by administration statements, both public and private, in recent weeks.

ADDITIONAL STATEMENTS

THE 50TH ANNIVERSARY OF THE SALISBURY, MD., TIMES

Mr. MATHIAS. Mr. President, a few days ago, the Salisbury Times on Maryland's Eastern Shore celebrated its 50th anniversary. As one who has passed the same milestone myself, I can testify that it is of no little significance to have done so. The Times began as a brave experiment in daily journalism for a small town out of the mainstream. One need only note that in its early days, before teletypewriters had been invented, the paper was forced to decode news accounts sent over a Western Union telegraph ticker from Philadelphia. It was still a time when the horses stabled at city hall automatically dashed for the firehouse when the fire alarm sounded, to draw the steam boiler fire engines. This and other recollections of earlier days were printed in the Times in its edition of Sunday, December 2. It is interesting to note that the issue's lead editorial noting the anniversary does not really look backward, but rather concerns itself with the problems and prospects facing Salisbury in the next 50 years. I take this as a sign that the vigor and spirit of the Times is undiminished, and I urge the reading of this editorial as tonic to those who think they have seen all too much of life. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Salisbury (Md.) Times, Dec. 2, 1973]

FIFTIETH ANNIVERSARY

The Daily and Sunday Times marks its 50th anniversary at this time of the year. On Monday, Dec. 3, the front page flag will carry the notation: "Vol. 51, No. 1." Translated into layman's language, this means the first issue of the 51st year.

This newspaper was launched on a wave of great optimism 50 years ago. Events have proved that its organizers and those who have carried on as correct in the view that Salisbury should and would become the largest city on the Eastern Shore. When all of Delmarva is included, it has to be said that Dover, Del., is giving us a good race, though.

We are situated at the crossroads of the peninsula. We are now building a bypass to carry heavy north-south traffic around the city. Our Salisbury Parkway, carrying east-west traffic, appears adequate for the job in the years ahead, though the day must come when a complete beltway will be needed.

Who can say when that will be or what will Salisbury's future be? The good citizens who began publication of a daily newspaper here in 1923 planted one of the seeds that helped to produce the area's growth. We are now a shopping center for a region—for both goods and services and employment. Cultural improvements are coming along with a university branch and a college nearby. We bear little resemblance to Salisbury of 50 years ago.

The men who organized The Times more than half a century ago are now gone. Most of them would agree that the awakening of Salisbury from small country town to regional center has progressed beyond their fondest dreams.

What of the next half century? Who can say? But for those who get a zest out of life—who enjoy innovation and challenge—it's bound to be an exciting 50 years.

THE MILITARY BALANCE 1973–74

Mr. GOLDWATER. Mr. President, inserting lengthy articles in the CONGRESSIONAL RECORD is not particularly a habit of mine, but the Air Force Magazine for December of 1973 has placed the entire military balance in this world in such an understandable and relatively simple form that I think it would be of value for my colleagues to peruse. I ask unanimous consent that this excellent article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MILITARY BALANCE 1973–74

FOREWORD

(By the Editors of Air Force Magazine)

For the third successive year, AIR FORCE Magazine is privileged to present "The Military Balance" as an exclusive feature of its December issue.

"The Military Balance," compiled by The International Institute for Strategic Studies, London, is an annual, quantitative assessment of the military power and defense expenditures of countries throughout the world.

The International Institute for Strategic Studies was founded in 1958 as a center for research and discussion in defense, arms control, disarmament, and related areas. It has earned worldwide recognition as *the* authority in its field.

As in the past, "The Balance" is arranged with national entries grouped geographically, with special reference to the principal defense pacts and alignments. Included in the section on the US and USSR is an assessment of the strategic nuclear balance between the two superpowers. There also is a separate section on the European theater balance between NATO and the Warsaw Pact.

In preparing "The Military Balance 1973/74" for our use, the staff of AIR FORCE Magazine has retained the Institute's system of abbreviating military weapons and units as well as British spelling and usage. A list of the abbreviations used in the text appears immediately after this introduction. Because of space limitations, some tabular material on defense expenditures of NATO countries, their expenditures by functional categories, comparison of divisional establishments, and military assistance agreements negotiated since the last issue of "The Balance" have been excluded, as has an appendix, "The Statistics of Mutual Force Reductions."

"The Military Balance" examines the facts of military power as they existed in July 1973 (before the October Middle East war). No projections of force levels or weapons beyond 1973 have been provided, except where explicitly stated. The result should not be regarded as a comprehensive guide to the balance of military power; in particular, the study does not reflect the facts of geography, vulnerability, or efficiency, except where these are touched on the essays on balances.

Figures for defense expenditures are the latest available. GNP figures given are usually at market prices. In addition to the estimates of current defense expenditure and GNP in the individual county entries, similar information on the principal countries covered, for this year and previous years, is collected in tables beginning on p. 116. Because estimates of defense expenditure and GNP have been amended in the case of certain countries, figures will not in all cases be directly comparable with those in previous editions of "The Military Balance." Where a $ sign appears, it refers, unless otherwise stated, to United States dollars.

In order to make comparison easier, national currency figures were converted by the Institute into United States dollars at the rate prevailing on July 1, 1973, generally as reported to the International Monetary Fund (IMF). An exception is the Soviet Net Material Product, which has been converted to dollars at the rate of 0.72 roubles=$1. (*See p. 67 for more detail on Soviet defense expenditures.*) Further exceptions are certain East European countries that are not members of the IMF and Rumania (which is), for which conversion rates used are taken from US Arms Control and Disarmament Agency publication ACDA/E-207, December 1971. In all cases, the conversion rates used are shown in the country entry, but may not always be applicable to commercial transactions.

The manpower figures given are, unless otherwise stated, those of regular forces. An indication of the size of militia, reserve, and paramilitary forces is also included in the country entry where appropriate. Paramilitary forces are here taken to be forces whose equipment and training goes beyond that required for civil police duties and whose constitution and control suggest that they may be usable in support of, or in lieu of, regular forces.

Equipment figures in the country entries cover total holdings, with the exception of combat aircraft, where frontline squadron strengths are normally shown. Except where the contrary is made clear, naval vessels of less than 100 tons structural displacement have been excluded. The term "combat aircraft" used in the country entries comprises only bomber, fighter-bomber, strike, interceptor, reconnaissance, counterinsurgency, and armed trainer aircraft (*i.e.*, aircraft normally equipped and configured to deliver ordnance).

Where the term "mile" is used when indicating the range or radius of weapon systems, it means a statute mile.

The Institute assumes full responsibility for the facts and judgments contained in the study that follows. The cooperation of the governments involved was sought and, in many cases, received. Not all countries were equally cooperative, and some figures were necessarily estimated.

Photographs and captions have been added by AIR FORCE Magazine, and we assume full responsibility for them.

THE EDITORS.

ABBREVIATIONS

AA—Anti-craft.
AAM—Air-to-Air missile(s).
AB—Airborne.
ABM—Anti-ballistic missile.
Ac—Aircraft.
AD—Air Defense.
AEW—Airborne early warning.
AFV—Armoured fighting vehicle(s).
APC—Armoured personnel carrier(s).
Armd—Armoured.
Arty—Artillery.
ASM—Air-to-surface missile(s).
ASW—Anti-submarine warfare.
ATGW—Anti-tank guided weapons(s).
ATk—Anti-tank.
AWX—All-weather fighter.
Bbr—Bomber.
Bde—Bridgade.
Bn—Battalion.
Bty—Battery.
Cav—Cavalry.
Cdo—Commando.
CENTO—Central Treaty Organization.
COIN—Counter-insurgency.
Comm—Communication.
Coy—Company.
DDG—Destroyer, guided missile.
DEG—Destroyer, escort, guided missile.
Det—Detachment.
Div—Division.
DLG—Destroyer/leader, guided missile.

Engr—Engineer.
Eqpt—Equipment.
Excl—Excluding.
FB—Fighter-bomber.
FGA—Fighter, ground attack.
FPB—Fast patrol boat(s).
GM—Guided missile.
GNP—Gross National Product.
GP—General purpose.
Gp—Group.
GW—Guided weapon.
Hel—Helicopter(s).
How—Howitzer(s).
HQ—Headquarters.
Hy—Heavy.
ICBM—Inter-continental ballistic. missle(s).
ICBM—Inter-continental ballistic missile(s).
Incl—Including.
Indep—Independent.
Inf—Infantry.
IRBM—Intermediate-range ballistic missile(s).
KT—Kiloton (1,000 tons TNT equivalent).
LCT—Landing craft, tank.
Log—Logistic.
LPH—Landing platform, helicopter.
LST—Landing ship, tank.
Lt—Light.
MCM—Mine counter-measures.
Mech—Mechanized.
Med—Medium.
MIRV—Multiple independently-targetable re-entry vehicle(s).
Misc—Miscellaneous.
Mk—Mark.
Mob—Mobile.
Mor—Mortar(s).
Mot—Motorized.
MR—Maritime reconnaissance.
MRBM—Medium-range ballistic missile(s)
MRV—Multiple re-entry vehicle(s).
Msl—Missile.
MT—Megaton (1 million tons TNT equivalent).
MTB—Motor torpedo boat(s).
NATO—North Atlantic Treaty Organization.
Para—Parachute.
Pdr—Pounder.
Recce—Reconnaissance.
Regt—Regiment.
Rkt—Rocket.
RL—Rocket launcher(s).
SACEUR—Supreme Allied Commander, Europe.
SAM—Surface-to-air missile(s).
SAR—Search and rescue.
SEATO—South-East Asia Treaty Organization.
SHAPE—Supreme Headquarters, Allied Power in Europe.
Sig—Signal.
SLBM—Submarine-launched ballistic missile(s).
SP—Self-propelled.
Sqn—Squadron.
SRBM—Short-range ballistic missiles(s).
SSBN—Ballistic missile submarine(s), nuclear.
SSM—Surface-to-surface missile(s).
SSN—Submarine(s), nuclear.
S/VTOL—Short/vertical take-off or landing.
Tk—Tank.
Tp—Troop.
Tpt—Transport.
Trg—Training.

The United States and The Soviet Union

The year after the May 1972 Soviet-American Interim Agreement on the limitation of offensive missiles provided little evidence of super-power restraint in that field. Both governments seemed determined to reach the limits set by their Agreement as soon as possible, while also obtaining the maximum qualitative capability.

The United States has deployed 350 *Minuteman 3* ICBM, each with three MIRV, and is now moving towards completing that programme, involving 550 *Minuteman 3* with up to 1,650 warheads by 1975. Meanwhile, all the 1,000 *Minuteman* silos are being substantially strengthened ("hardened") against nuclear attack and a new Command Data Buffer system is being installed to provide rapid ICBM retargeting. At sea, about 320 *Poseidon* SLBM, each with 10–14 MIRV, have been deployed in some 20 submarines. Conversion of another 11 submarines to *Poseidon* is in train and will be complete by 1975–76, at which time only 10 submarines with *Polaris A3* SLBM will remain in service. Thereafter, the *Trident 1* SLBM, with 4,000-mile range, could become operational in late 1978, either in *Poseidon* submarines or in the new *Trident* boats, probably with 24 missile tubes each, which are being developed to enter service, apparently in the Pacific, in the same year. By using the freedom allowed by the Interim Agreement to replace *Titan* 2 ICBM with *Trident* SLBM, the United States could thus have 1,000 ICBM and 710 SLBM, carrying well over 8,000 warheads, by the end of the 1970's.

The Soviet Union has also shown every sign of reaching the Interim Agreement's limits. On land, where 1,527 Soviet ICBM are already deployed. development has continued of three new ICBM types: the SS–16 (an improved version of the solid-fuel SS–13), the SS–17 (an improved SS–11), and the SS–18 (an improved SS–9). The last two have both been tested with re-entry systems of three MRV, and are reportedly being prepared to carry full MIRV systems at a later stage. The SS–18, tests of which began in 1968, is an obvious candidate for installation in the 25 large silos started in 1970 but still incomplete, thus bringing the Soviet total of "heavy" ICBM to the 313 permitted by the Interim Agreement. The SS–17, which has been fired over a range of some 4,500 miles, may equip the remaining 66 incomplete silos, raising the overall ICBM total to the permitted ceiling of 1,618. At sea, the ceilings of 62 "modern" ballistic-missile submarines and 950 "modern" SLBM are further away. Some 31 Y-class submarines, each with 16 SS–N–6 SLBM (1,500–1,750 mile range), have been launched, as have about 3 of the new D-class boats, each with 12 SS–N–8 SLBM (4,600 mile range). Only these count against the submarine ceiling, although another 30 SLBM in older nuclear-powered submarines bring the current number of missiles relevant to SLBM ceiling to about 560. Even if the Soviet Union decides to exercise her option to replace SS–7 and SS–8 ICBM with new SLBM, it thus seems likely, at expected building rates, to be at least 1977 before she could reach the two ceilings now established. No Soviet SLBM has as yet been tested with MRV.

Soviet and American determination to build ABM systems up to the limits in the ABM Treaty of May 1972 is less certain. The United States is completing her one permitted *Safeguard* site for defence of ICBM silos at Grand Forks Air Force Base, North Dakota, to be operational in late 1974, and has also continued research on what is now known as the *Site Defense* (formerly *Hard Site*) ABM system for the more economical defence of ICBM silos with short-range missiles alone, but she has not yet taken any substantial step towards deploying ABM launchers around Washington, D.C. The Soviet Union has continued to develop a more effective ABM missile to replace the *Galosh* in the defence of the Moscow area, and has also showed signs of expanding that defence from 64 to 100 launchers, but there is no clear evidence that she has yet decided to construct the second permitted site for ICBM defence.

In one of the areas still unconstrained by SALT, strategic bomber aircraft, the emphasis has been largely on development rather than deployment. The American force is actually to be reduced during 1973–74, from 30 squadrons to 28 (24 of B–52s and 4 of FB–111s), while the Soviet force is expected to remain at little more than a quarter of that strength. The United States, however, is pressing ahead with the B–1 programme, which should bring that new supersonic bomber into service from 1978, while the Soviet Union has been actively testing her *Backfire* prototypes which, although not fully "inter-continental", have a range comparable to that of the FB–111. The United States is also greatly increasing the striking power of her existing bombers by equipping them with the Short-Range Attack Missile (SRAM), a nuclear air-to-ground missile with a range of 35–100 miles. SRAM entered operational service in August 1972 and should be fully deployed, with 1,500 missiles in 21 bomber squadrons, by 1974–75. Meanwhile, air defence forces on both sides are also subjects for qualitative improvement. The American F–14 and F–15 fighters are moving towards full operational deployment, possibly to be followed in the early 1980s by a new Improved Manned Interceptor (IMI), while the Soviet Union is already introducing new types, including the MiG–25 *Foxbat* and the variable geometry MiG–23 *Flogger* into her fighter forces. Both countries are also seeking to improve static and mobile radar coverage, with equipment such as the American Over-the-Horizon Backscatter (OTH–B) radar and Airborne Warning and Control System (AWACS) aircraft.

Qualitative improvement is, in fact, the keynote in all non-strategic forces. The United States, in particular, having ended her combat role in Vietnam in 1972, is moving towards all-volunteer armed forces by mid-1975 (when the last conscript will be released) amid doubts about her ability thereafter to maintain more than about 1.8 million men under arms: a prospect which demands qualitative excellence, something which the Soviet Union will, for its own reasons, clearly wish to match. In addition to new aircraft, development programmes for new armoured equipment, tactical missiles, and naval vessels all show signs of acceleration. The Soviet Union has launched her first conventional aircraft carrier of 40,000 tons and is actively deploying new *Kara*-class cruisers, *Krivak*-class GM destroyers, and C-class cruise-missile and V-class attack submarines. The United States has committed funds to her fourth nuclear-powered aircraft carrier, to 37 new DD–963 destroyers, and to the first 28 688–class nuclear-powered hunter/killer submarines. Both are developing a range of new battlefield equipment, including new battle tanks: the Soviet M–1970 and the American XM–1. Further ahead, more exotic technical possibilities appear. Just as precision-guided munitions, such as 'smart' bombs and remotely piloted vehicles (RPV), may change the calculus of tactical air/land warfare in the later 1970s, so, in the 1980s, laser weapons may begin to influence aerial combat. In the first year of strategic arms limitation, it was thus also possible to identify many of the elements which could figure in a continued strategic and tactical arms race if political constraints should prove inadequate.

United States

Population: 210,900,000.

Military service: voluntary (from 1 July 1973).

Total armed forces: 2,252,900.

Estimated GNP 1972; $1,151.8 billion.

Defence budget 1973–74; $85.2 billion (Budget Authority [NOA]; expected outlay is $79.0 billion).

Strategic Nuclear Forces

Offensive:
(A) *Navy:* 656 SLBM in 41 submarines.
20 SSBN each with 16 *Poseidon*.
21 SSBN each with 16 *Polaris A2* or *A3*.
(B) *Strategic Air Command:*
ICBM: 1,054.

140 *Minuteman 1.*

510 *Minuteman 2.*

350 *Minuteman 3.*

54 *Titan* 2.

Aircraft:

Bombers: 516 (Two B–52 and 1 KC–135 sqn-equivalents are rotated for duty in South-East Asia.)

66 FB–111A in 4 sqns; 240 B–52G/H in 16 sqns—some with SRAM.

142 B–52D in 9 sqns (to be reduced to 117 by the disbandment of 2 sqns in late 1973).

15 B–52F in 1 sqn.

Aircraft in active storage or reserve include 8 FB–111A and 45 B–52D/F/G/H.

Tankers: 615 KC–135A in 38 sqns, plus 130 in reserve.

Strategic Reconnaissance: SR–71A; 2 sqns.

Defensive:

North American Air Defense Command (NORAD):

HQ Colorado Springs—is a joint American-Canadian organization. US forces under NORAD are Aerospace Defense Command (ADC) and Army Air Defense Command (ARADCOM), with a combined strength of 80,000.

Aircraft (excluding Canadian):

Interceptors: 585.

(i) Regular: 7 sqns with F–106A.

(ii) Air National Guard: 6 sqns with F–101B; 10 sqns with F–102A; 4 sqns with F–106A.

AEW aircraft: 3 sqns with EC–121.

SAM: 481.

(i) Regular: 21 *Nike-Hercules* batteries.

(ii) Army National Guard: 27 *Nike Hercules* batteries.

Warning Systems:

(i) *Satelite early warning system:* capable of giving virtually immediate warning of launchings from SLBM, ICBM, and Fractional Orbital Bombardment System (FOBS) launch areas.

(ii) *Distant Early Warning* (DEW) *Line:* 31 stations, roughly along the 70° N parallel.

(iii) *Ballistic Missile Early Warning System* (BMEWS); 3 stations in Alaska, Greenland, and England.

(iv) *Pinetree Line:* 23 stations in central Canada.

(v) *Over-the-Horizon, Forward Scatter* (OTH): radar system with 9 sites capable of detecting, but not tracking, ICBM very early in flight.

(vi) 474N: SLBM detection and warning net of 8 stations on the East, Gulf, and West coasts of the United States; long-range radars have been added to the east coast net.

(vii) USAF Spacetrack (7 sites) and USN SPASUR systems; Space Defense Centre (NORAD): satellite tracking, identification, and cataloguing control.

(viii) Back-Up Interceptor Control (BUIC): system for air defense command and control (all stations except one now on semi-active status).

(ix) Semi-Automatic Ground Environment (SAGE) system for co-ordinating all surveillance and tracking of objects in North American airspace; 14 locations; combined with BUIC.

(x) Ground radar stations: some 55 stations manned by Air National Guard; augmented by the Federal Aviation Administration stations.

Army: 801,500 (16,000 women).

3 armoured divisions.

1 experimental (TRICAP) division.

4 mechanized infantry divisions.

3 infantry divisions.

1 airmobile division.

1 airborne division.

3 armoured cavalry regiments.

1 brigade in Berlin.

1 school brigade.

2 special mission brigades in Alaska and Panama.

30 SSM batteries with Honest John, Pershing, and Sergeant SSM (Lance is being introduced to replace Honest John and Sergeant).

M–48, M–60, and M–60A1/A2 (Shillelagh) med tks; M–41, M–551 Sheridan lt tks with Shillelagh ATGW; M–14, M–113 APC; M–107 175mm SP guns; M–108 105mm, M–109 155mm, and M–110 203mm SP how; M–56 90mm SP ATk guns; TOW and Dragon ATGW; Chaparral/Vulcan 20mm AA msl/gun system; Redeye and HAWK SAM.

Army Aviation; about 10,000 hel and 1,000 fixed-wing ac.

Deployment:

Continental United States:

(i) Strategic Reserve: 1 TRICAP div; 1 inf div; 1 airmobile div; 1AB div; 1 inf bde.

(ii) To reinforce 7th Army in Europe: 1 armd div (with equipment stockpiled in West Germany); 1 mech div (less 1 bde) (this division has two dual-based brigades whose heavy equipment is stored in West Germany); 1 mech div (with equipment stockpiled in West Germany); 1 armd cav regt.

Europe:

(i) Germany: 7th Army: 2 corps incl 2 armd divs, 2 mech inf divs, 1 mech inf bde, and 2 armd cav rgts; 190,000; 2,100 medium tanks (this figure includes those stockpiled for the dual-based brigades and Strategic Reserve divisions).

(ii) West Berlin: HQ elements and 1 inf bde of 3,900 men.

(iii) Italy: Task force of HQ elements and 1 SSM bn.

Pacific:

(i) South Korea: 1 inf div; 20,000.

(ii) Hawaii: 1 inf div.

Reserves, Authorized strength 663,600, actual strength 621,900.

(i) Army National Guard: authorized 402,300, actual 386,700; capable some time after mobilization of manning 2 armd, 1 mech, and 5 inf divs and 18 indep bdes plus reinforcements and support units to fill regular formations; 27 SAM btys (ARADCOM).

(ii) Army Reserves: authorized 261,300, actual 235,200; organized in 13 divs and 3 indep bdes; 48,000 a year undergo short active duty tours.

Marine Corps: 196,000.

3 divs (each of 19,000 men), each supported by 1 tk bn.

2 HAWK SAM bns.

M–48 and M–103A2 tks; LVTP–5 and –7 APC; 175mm guns; 105mm SP how; 105 and 155mm how; M–50 SP multiple 106mm recoilless rifles; 36 HAWK SAM.

3 Air Wings; 550 combat aircraft.

12 fighter sqdns with F–4B/J (with Sparrow and Sidewinder AAM).

11 attack sqnds with A–4/F/M and A–6.

2 close-support sqns with 36 AV–8A Harrier.

3 recce sqns with RF–4B/C and EA–6A:

3 observation sqns with OV–10A and AH–1G.

6 heavy hel sqns with CH–53D

9 med assault hel sqns with CH–46A.

3 assault tpt/tanker sqns with 46 KC–130F.

Deployment:

(i) Continental United States: 2 divs/air wings.

(ii) Pacific Area: 1 div/air wing.

Reserves: Authorized strength 45,000, actual strength 39,100.

1 div and 1 air wing; 4 fighter sqns with F–8J; 5 attack sqns with A–4E/L; 1 recce sqn with RF–4; 1 observation sqn with OV–10A and AH–1G; 1 tpt sqn with C–119G; 2 hy, 2 med, 1 lt hel sqn with CH–53, CH–46, UH–1E, and AH–1; 1 HAWK SAM bn.

Navy: 564,400 (9,000 women); 221 major combat surface ships, 84 attack submarines.

Submarines, attack: 60 nuclear, 24 diesel.

Attack carriers:

(i) Attack: 15.

1 nuclear-powered (U.S.S. Enterprise 76,000 tons); a second will be commissioned in 1973–74.

8 Forrestal/Kitty Hawk-class (60,000 tons).

3 Midway class (52,000 tons).

3 Hancock-class (33,000 tons).

The larger carriers have a normal complement of 80–90 aircraft, and the smaller ones between 70–80. These are organized as an air wing of 2 fighter sqns with F–4 (F–8 in the Hancock-class), 2 lt attack all weather attack sqns with A–4 or A–7; RA–5C or RF–8 recce; S–2E, SH–3A/G/H, ASW helicopters; E–1B, E–2A; AEW; EKA–3B tankers.

(ii) Training: 1.

1 Hancock-class.

Other surface ships:

1 SAM cruiser (nuclear).

3 SAM cruisers.

1 gun cruiser.

4 SAM light cruisers.

3 SAM frigates (nuclear).

25 SAM frigates.

29 SAM destroyers.

71 gun/ASW/radar picket destroyers.

6 SAM destroyer escorts.

62 gun/radar picket escorts.

65 amphibious warfare ships.

10 MCM ships (plus numerous small craft).

150 logistics and operations support ships.

Missiles include *Standard, Tartar, Talos, Terrier, Sea Sparrow* SAM, *ASROC* and *SUBROC* ASW.

Aircraft:

70 fighter/attack sqns with F–14A, F–4, F–8, A–4, A–6, A–7.

10 recce sqns with RA–5C, RF–8.

24 maritime patrol sqns with 216 P–3.

20 ASW sqns with S–2E, SH–3A/G/H hel.

5 helicopter sqns with UH–1/2, AH–1J, RH–53D.

34 other sqns with C–1, C–2, 5 C–9B, C–54 and C–130.

Deployment (average strengths of major combat ships; some ships in the Mediterranean and Western Pacific are selectively based overseas, the remainder are rotated from the US):

Second Fleet (Atlantic): 4 carriers, 63 surface combatants, 1 amphibious ready gp.[*]

Third Fleet (Eastern Pacific): 7 carriers, 52 surface combatants, 4 amphibious ready gps.[*]

Sixth Fleet (Mediterranean): 2 carriers, 17 surface combatants, 1 amphibious ready gp.[*]

Seventh Fleet (Western Pacific): 3 carriers, 29 surface combatants, 2 amphibious ready gps.[*]

Middle East Force (Persian Gulf): 1 flagship, 2 surface combatants.

Reserves: Authorized strength 129,000, actual strength 131,800; 3,500 a year undergo short active duty tours. Ships in commission with the Reserve include 30 destroyers, 4 destroyer escorts, and 20 MCM ships.

Aircraft:

2 Reserve Air Wings: 9 fighter/attack sqns with F–8 and A–7; 24 MR sqns with P–2 and P–3A/B; 25 ASW sqns with S–2.

2 ASW groups: 12 patrol sqns with S–2, P–3.

Ships in reserve:

8 submarines.

6 aircraft carriers.

4 battleships.

12 heavy cruisers.

2 SAM light cruisers.

43 destroyers.

2 frigates.

33 destroyer escorts (all classes).

8 rocket ships.

74 amphibious warfare ships.

82 MCM ships craft.

75 logistics support ships.

Air Force: 691,000 (17,000 women); about 5,750 combat aircraft.

72 fighter/attack sqns with F–4, F–105, and F–111; A–7D.

13 tactical recce sqns with RF–4C.

17 tactical airlift sqns with C–130E.

11 special purpose sqns with A–1E, A–37,

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[*] Amphibious ready groups are 3–5 amphibious ships with a Marine battalion embarked. Only those in the Mediterranean and two in the Pacific are actually constituted.

AC–47, AC–119, AC–130, EA–6B, EB–66, EB–57, EC–47, C–7, and C–123.

17 hy tpt sqns, 4 with 72 C–5A, 13 with C–141.

24 medical tpt, weather recce, and SAR sqns.

Deployment:

Continental United States (incl Alaska and Iceland):

(i) Tactical Air Command: 124,000; 2,200 combat aircraft. 9th, 12th, and 19th Air Forces.

(ii) Military Airlift Command (MAC): 90,000.

Europe, US Air Forces Europe (USAFE): 50,000.

3rd Air Force (Britain), 16th Air Force (Spain), 17th Air Force (West Germany), and a logistics group in Turkey.

21 fighter sqns (plus 4 in the US on call) with 420 F–4C/D/E and 72 F–111E.

5 tactical recce sqns with 85 RF–4C.

Pacific, Pacific Air Forces (PACAF): 120,000.

5th Air Force in Japan, Korea, Okinawa.

7th Air Force in Thailand.

13th Air Force in the Philippines, Taiwan, Thailand.

Reserves:

(i) Air National Guard: Authorized strength 87,600, actual 90,000; about 650 combat aircraft. 20 fighter-interceptor sqns (ADC); 30 fighter sqns (21 with F–100C/D, 4 with F–105B/D, 1 with F–104, 1 with F–4C, 2 with A–37B, 1 with B–57); 7 recce sqns (4 with RF–101, 3 with RF–4C); 3 strategic tpt sqns with C–124C; 13 tactical tpt sqns (11 with C–130 (A/B/E), 1 with C–123J, 1 with C–7); 9 tanker gps with K–97L; 1 electronic warfare gp with EC–121 (ADC); 3 special operations gps with C–119/U–10 and 5 tactical air support gps with O–2A.

(ii) Air Force Reserve: Authorized strength 51,300, actual strength 44,600; about 120 combat aircraft. 4 fighter sqns with F–100, 3 with F–105D; 24 tactical tpt sqns (18 with C–130A/B, 4 with C–123K, 2 with C–7); 1 electronic warfare gp with EC–121; 4 special operations gps with A–37B; 5 SAR gps, 2 with HC–130, 3 with HH–34; and 1 medical tpt gp with C–9A.

THE SOVIET UNION

Population: 250,500,000.

Military service: Army and Air Force, 2 years; Navy and Border Guards, 2–3 years.

Total armed forces: 3,425,000.

Estimated NMP 1972: $439 billion. NMP (Net Material Product) is used because of the difficulty of arriving at an estimate for GNP; it has been converted at the rate of 0.72 roubles=$1.

Defence budget 1973: See below.

Strategic Nuclear Forces

Offensive:

(A) *Navy:* 628 SLBM in 66 submarines.

3 SSBN (D-class) each with 12 SS–N–8 missiles.

31 SSBN (Y-class) each with 16 SS–N–6 missiles.

10 SSBN (H-II-class) and 10 diesel (G-II-class) each with 3 SS–N–5 *Serb* missiles.

12 diesel (G-I-class) each with 3 SS–N–4 *Sark* missiles.

(B) *Strategic Rocket Forces (SRF)*: 350,000. (The Strategic Rocket Forces are a separate service with their own manpower.)

ICBM: 1,527.

209 SS–7 *Saddler* and SS–8 *Sasin.*

288 SS–9 *Scarp.*

970 SS–11 (including about 100 with variable-range capability sited within IRBM/MRBM fields).

60 SS–13 *Savage.*

IRBM and MRBM: about 600.

100 SS–5 *Skean* IRBM.

500 SS–4 *Sandal* MRBM.

(The majority are sited near the western border of the USSR, the remainder east of the Urals.)

(C) *Air Force.*

Long Range Air Force (LRAF): 840 combat aircraft. (About 75 per cent is based in the European USSR, with most of the remainder in the Far East; in addition it has staging and dispersal points in the Arctic.)

Long-range bombers: 140.

100 Tu-95 *Bear* and 40 Mya-4 *Bison.*

Tankers: 50 Mya-4 *Bison.*

Medium-range bombers: 700.

500 Tu-16 *Badger* and 200 Tu-22 *Blinder.*

Defensive:

Air Defense Forces (PVO-*Strany*) form a separate command, comprising an early warning and control system, fighter-interceptor squadrons, and SAM units. Air Defence Forces have a total strength of 500,000, manpower being provided by the Army and Air Force.

Aircraft: about 2,900.

Interceptors: include about 950 MiG-17, Mig-19, and Yak-25; 800 Su-9; 1,150 Yak-28P *Firebar,* Tu-28P *Fiddler,* Su-11 *Flagon* A, and MiG-25 *Foxbat.*

AEW aircraft: 10 modified Tu-114 *Moss.*

Anti-Ballistic Missiles (ABM):

64 *Galosh* long-range missile launchers are deployed in four sites around Moscow, each with *Try Add* engagement radars (another radar of this type is under construction). Target acquisition and tracking is by a phased-array *Dog House* radar, and early warning is given by phased-array *Hen House* radar on the Soviet borders. The range of *Galosh* is believed to be over 200 miles, and its warheads are nuclear, presumably in the megaton range. Work has been resumed on previously uncompleted complexes in the Moscow area. A follow-on long-range ABM system is believed to be under development.

SAM: 10,000 launchers at about 1,600 sites.

SA-2 *Guideline:* about 5,000; track-while-scan *Fan Song* radar; high-explosive warhead; slant range (launcher to target) about 25 miles; effective between 1,000 and 80,000 feet.

SA-3 *Goa:* Two-stage, short-range, low-level missile; slant range about 15 miles.

SA-4 *Ganel:* Twin-mounted (on tracked carrier), air-transportable, long-range missile with solid fuel boosters and ram-jet sustainer.

SA-5 *Griffon:* Two-stage, boosted AA missile; slant range about 50 miles, with a capability against ASM.

SA–6 *Gainful:* Triple-mounted (on tracked carrier), low-level missile.

Anti-Aircraft Artillery:

14.5mm, 23mm, 57mm towed guns and ZSU–57–2 57mm twin-barrelled and ZSU–23–4 23mm four-barrelled tracked SP guns; 85mm, 100mm, and 130mm guns.

Army: 2,050,000.

107 motorized rifle divisions.

50 tank divisions.

7 airborne divisions.

SSM: (nuclear capable): about 900 (units are organic to formations), including:

(1) *FROG–1–7,* range 14–45 miles.

(2) *Scud A,* range 50 miles.

(3) *Scud B,* range 185 miles.

(4) *Scaleboard,* range 500 miles.

SAM: SA–2, SA–4, SA–6, and possibly SA–7 *Grail* (man-portable).

Tanks:

JS 2/3 hy; T–62 and T–54/55 med; PT–76 amphibious recce lt (most Soviet tanks are equipped for amphibious crossing by deep wading, and many carry infra-red night-fighting equipment). At full strength, tank divisions have 316 medium tanks and motorized rifle divisions 188. Production has begun on a new medium tank, the M–1970, and a light tank.

AFV: BTR–152, –60, –50P series; BMP APC; BRDM scout car.

Artillery:

100 mm, 122mm, 130mm, 152mm, and 203mm field guns; 12.2mm to 25mm multiple RL; 140mm RL; ASU–57 and ASU–85 SP and 85mm and 100mm ATK guns; *Sagger, Snapper, Swatter* ATGW; AA guns.

Deployment and Strength:

Central and Eastern Europe: 31 divs: 20 divs (10 tank) in East Germany; 2 tank divs in Poland; 4 divs (2 tank) in Hungary; and 5 divs (2 tank) in Czechoslovakia; 7,850 medium tanks. (These are the tanks held in the divisions; there are known to be in addition, some 1,000 T–54/55 tanks in reserve which have been replaced by T–62 but which have not yet been withdrawn.)

European USSR: 60 divs (about 20 tank).

Central USSR (between the Volga and Lake Baikal): 5 divs (2 tank).

Southern USSR (Caucasus and West Turkestan): 23 divs (4 tank).

Sino-Soviet border area: 45 divs, incl 2 in Mongolia (about 8 tank).

Soviet divisions have three degrees of combat readiness; Category 1, between three-quarters and full strength, with complete equipment; Category 2, between half and three-quarters strength, with complete fighting vehicles; Category 3, about one-third strength, possibly with complete fighting vehicles (though some may be obsolescent). The 31 divs in Eastern Europe are Category 1, as are about a third of those in the European USSR and the Far East and a few in the Southern USSR. The remaining divisions in European USSR, Southern USSR, and the Far East are probably evenly divided between Categories 2 and 3. The divisions in Central USSR are likely to be in Category 3.

Outside the Warsaw Pact area:

Instructors and advisers: Algeria 1,000, Cuba 1,000, Egypt 1,000, Iraq 1,500, North Vietnam 1,000, Somali Republic 1,000, Syria 2–3,000, Yemen Arab Republic 500, People's Democratic Republic of South Yemen 200.

Navy: 475,000 (incl Naval Air Force, 75,000, and Naval Infantry, 17,000); 212 major surface combat ships, 285 attack and cruise missile submarines.

Submarines:

Attack: 35 nuclear (C-, V-, N-classes), 195 diesel (B-, F-, R-, Q-, Z-, W-classes).

Long-range cruise missile, 30 nuclear-powered (E-class) and 25 diesel (J-, W-classes) with 2–8, 450–mile range SS-N-3 missiles.

Surface ships:

2 ASW helicopter cruisers, each with 2 twin SAM and about 20 Ka-25 hel.

2 Kara-class cruisers with SSM and SAM.

4 Kresta 1-class cruisers with SSM and SAM.

5 Kresta 11-class cruisers with SSM and SAM.

4 Kynda-class cruisers with SSM and SAM.

11 Sverdlov-class (1 with SAM) adn 4 older cruisers.

4 Krivak-class destroyers wtih SSM and SAM.

5 Kanin-class destroyers with SAM.

3 Krupny-class destroyers with SSM.

4 Kildin-class destroyers with SSM.

18 Kashin-class destroyers with SAM.

6 modified Kotlin-class destroyers with SAM.

37 Kotlin- and Skory-class destroyers.

103 other ocean-going escorts.

250 coastal escorts and submarine chasers.

6 Nanuchka-class coastal escorts wtih SSM and SAM.

117 Osa- and 10 Komar-class FPB with Styx SSM.

200 torpedo boats.

170 fleet minesweepers.

125 coastal minesweepers.

102 amphibious ships.

131 landing craft.

6 air cushion vehicles.

(1 40,000-ton aircraft carrier has been launched, apparently designed to operate V/STOL aircraft and helicopters; a second may be building.)

Some trawlers are used for electronic intelligence. All submarines and the larger surface vessels not fitted with SSM are equipped for minelaying.

A proportion of the destroyers and smaller vessels may not be fully manned.

Coasts are covered by a coast watch radar and visual reporting system. Approaches to naval bases and major ports are protected by SS–N–3 *Shaddock* coast defence missiles and heavy guns under naval command.

Shore-based aircraft: about 670 combat aircraft (most based near the north-west and Black Sea coasts of the USSR).

300 Tu-16 *Badger* with one *Kipper* or two *Kelt* ASM.

60 Tu-22 *Blinder* strike and reconnaissance.

40 II-28 Beagle torpedo-equipped light bombers.

50 Tu-Bear long-range naval reconnaissance.

150 Tu-16 *Badger* reconnaissance and tanker.

80 Be-2 *Mail* ASW amphibians.

40 II-38 *May* ASW aircraft.

240 Mi-4 and Ka-25 ASW helicopters.

200 miscellaneous transports.

Naval Infantry (marines): 17,000.

Organized in brigades and assigned to fleets. Equipped with standard infantry weapons. T-54/55 med tks, PT-76 It tks, and APC.

Deployment (average strengths only):

Northern Fleet: 170 submarines, 45 major surface combat ships.

Baltic Fleet: 43 submarines, 52 major surface combat ships.

Black Sea Fleet: 31 submarines, 63 major surface combat ships.

Pacific Fleet: 107 submarines, 52 major surface combat ships.

Air Force: 550,000; about 8,250 combat aircraft.

(i) Long Range Air Force (see above).

(ii) Tactical Air Force: about 4,500 aircraft, incl medium and light bombers and fighter-bombers, fighters, helicopters, transport, and recce aircraft. Some obsolescent MIG–17, MIG–19, and II–2E are still in service. The most notable high performance aircraft are the MIG–21MF Fishbed J and MIG–23 Flogger fighters, the ground attack Su–7 Fitter, and Yak–28 Brewer light bomber.

(iii) Air Defence Forces (see above).

(iv) Air Transport Force: about 1,700 aircraft, II–14, An–8, An–24, some 800 An–12 and II–18 medium tpts, and 15 An–22 heavy tpts.

1,750 hel (about 800 Mi–6, Mi–8, Mi–10, and Mi–12).

Deployment:

About half the Tactical Air Force is oriented towards Western Europe and a quarter towards China. Some 1,250 aircraft are actually deployed in Eastern Europe.

Reserves: about 3,000,000 (500,000 with recent training earmarked for divisional reinforcements).

Para-Military Forces: 300,000.

125,000 security troops; 175,000 KGB border troops. There are also about 1.5 million members of the part-time military training organization (DOSAAF) who take part in such recreational activities as athletics, shooting, and parachuting, but reservist training and refresher courses seem to be haphazard and irregular. However, DOSAAF assists in pre-military training given in schools, colleges, and workers' centres to those of 15 and over.

SOVIET DEFENCE EXPENDITURE

No single figure of Soviet defence expenditure in dollar terms can be given, as precision is not possible on present knowledge.

Budgetary information is lacking. The Soviet defence budget, which has remained implausibly static at just under 18 billion roubles a year since 1969, excludes a number of items: 'military R&D, stockpiling, civil defence, foreign military aid, as well as space and nuclear energy programs';[1] and also frontier guards and other security troops.[2] The largest of these missing items is military R&D, much of which is thought to be financed out of the growing votes for science. The All-Union science budget has grown at a rate of 9 per cent per year since 1969, equivalent to doubling over eight years, to reach an estimated level of 8.4 billion roubles in 1973. Between 1950 and 1957, a period for which detailed statistics were available, 56–75 per cent of the All-Union science budget was unidentified.[3] Becker assumed all these unidentified items to be defence-related, justifying this on the grounds that even if this were an overstatement it would compensate for other defence-related R&D in the unidentified residuals of the budgets for Higher Education Institutions and Enterprises; he suggests that 25–75 per cent of such residuals might be defense-related. Anderson and Lee estimate that 50–80 per cent of Enterprises 'own funds' and 70–80 per cent of the All-Union science budget are defence-related.[4] Cohn gives a much wider range of 50–100 per cent of the All-Union science budget as being defence-related.[5]

An alternative method, which gives an insight into Soviet expenditure on defence equipment in particular, has been attempted by both Becker and Boretsky.[6] They have each attempted to estimate the proportion of Soviet machine building which is defence-related and then to find a rouble exchange rate which, when applied to the rouble estimate of defence-related machine production, results in a dollar estimate of what it would cost to produce the equivalent machines in the United States. Such an estimate, in conjunction with an allowance for manpower costs, produces an impression of Soviet defence spending. Unfortunately most published data still relates to 1955, and it is difficult to up-date this. In particular Soviet prices are known to have been revised, notably in 1967. A controversy has centered on Boretsky's rouble estimate of defence-related machine production, as well as on his exchange rate for converting the rouble value of machinery into dollars (0.32 roubles=$1).[7]

The overall defence rouble exchange rate, as opposed to that for defence equipment, has ranged from 0.40 to 0.50 roubles to $1. Bornstein suggests 0.40 roubles to $1 in 1955;[8] Benoit and Lubell give 0.42 roubles to $1 in 1962;[9] and Lee presents a set of rising ranges which reaches 0.45–0.50 roubles to $1 by 1965.[10] Lee's implicit growth rate of 1–2 per cent would suggest a range of 0.50–0.55 roubles to $1 by 1973. His rising trend was based on the belief that development costs for the Soviet Union were rising more rapidly than in the United States, but overall inflation in the United States (the wholesale price index has risen at the annual rate of 3 per cent since 1965) may have offset such a trend, if not actually reserved it Lee himself acknowledges two schools of thought on this matter. There exists, therefore, a degree of uncertainty over the correct defence rouble exchange rate.

An example will illustrate the cumulative impact of the several uncertainties. If the Cohn assumption (50–100 per cent of the All-Union science budget) is taken for 1973 and added to the official Soviet defence budget, it produces a range of 22.1–26.3 billion roubles, which gives a + or — variation of 9 per cent around the mid-point. The range is widened still further when a rouble exchange rate range of 0.40 to 0.55 roubles to $1 is taken. This gives a maximum range of $40.2–$65.8 billion, which gives a 24 per cent + or — variation around the mid-point. The defence expenditure figure at once becomes more speculative when converted into dollar terms.

The Institute's own inclination is to base an estimate on a more precise allowance for manpower costs. For FY 1973 United States military manpower-related costs amount to 40 per cent of total Department of Defense outlays[11] and National Guard, Reserves, and Civilians ('others') accounted for an additional 16 per cent. Assuming the same percentages for FY 1974 this would give for the calendar year 1973 a military manpower cost of $30.8 billion and a total for 'others' of $12.3 billion. In mid-1973 there were 2,288,000 servicemen and 1,982,000 others,[12] giving an average cost per serviceman of $13,444 and an average cost per head of other personnel of $6,208. Soviet military manpower in mid-1973 is estimated at 3,425,000. Security and border guards number around 300,000, and, in addition, there are reserves and some civilians. Though the organization and training of reserves in the Soviet Union differs from that in the United States, a figure of 700,000 would cover the number of reserves of comparable preparedness to those in the United States, as well as civilians. Using these figures the equivalent dollar costs of Soviet military manpower are $46.0 billion and of other personnel $6.2 billion.

It has been asserted that 30–35 per cent of the Soviet defence budget is personnel-related.[13] To the remainder may be added 70–80 per cent of the All-Union science budget, assumed to cover defence-related R&D, producing a non-manpower cost range of 17.5–19.2 billion roubles, if this is converted at the rate of 0.5 roubles to $1 it gives $35.0–$38.4 billion. When this is added to the dollar manpower costs arrived at above a total range of $87.2–$90.6 billion results. If 'others' were excluded from the calculation the range would be $81.0–$84.4 billion. This would suggest that the equivalent dollar costs of Soviet resources devoted to defence may well be comparable to American spending and perhaps well above it. It must be borne in mind, however, that this method uses United States price weightings. The relationships could be very different if Soviet prices were used as weights instead.

FOOTNOTES

[1] A. S. Becker, *Soviet Military Outlays Since 1955* (Santa Monica, Calif.: RAND Corporation, July 1964), p. v.

[2] *The Military Balance 1970–71*, p. 11.

[3] Nancy Nimitz, *Soviet Expenditure on Scientific Research* (Santa Monica, Calif.: RAND Corporation, January 1963), p. 45.

[4] S. Anderson and W. Lee, *Probable Trends and Magnitude of Soviet Expenditure for National Security Purposes* (Stanford, Calif.: Stanford Research Institute, February 1969).

[5] Stanley H. Cohn, 'Economic Burden of Soviet Defense Expenditure', in *Economic Performance and the Military Burden in the Soviet Union* (Washington, D.C.: Congress of the United States, 1970), pp. 166–88.

[6] Michael Boretsky, 'The Technological Base of Soviet Military Power' in *Economic Performance and the Military Burden in the Soviet Union*, op. cit., pp. 189–231.

[7] *Survival*. October 1971; July/August 1972.

[8] Morris Bornstein, 'A Comparison of Soviet and United States National Product', in *Sub-Committee on Economic Statistics of the Joint Economic Committee* (Washington, D.C., 1960), pp. 377–95.

[9] Emile Benoit and Harold Lubell, 'The World Burden of National Defense' in Emile Benoit, ed., *Disarmament and World Economic Interdependence* (New York and London: Columbia University Press, 1967).

[10] W. T. Lee, 'Calculating Soviet National Security Expenditures', in *Sub-Committee in Government of the Joint Economic Committee. The Military Budget and National Economic Priorities, Part 3* (Washington, D.C., June 1969), pp. 932–33.

[11] *Military Manpower Requirements Report for FY 1973* (Washington, D.C.: Department of Defense, February 1972), p. 101.

[12] This is the total budgeted for; see *Statement of Secretary of Defense Elliot L. Rich-*

ardson FY 1974 Defense Budget and FY 1974–78 Program (Washington, D.C.: The House Armed Services Committee, March 1973); see country entry for actual total.

[13] *Secretary of Defense Melvin R. Laird's Annual Defense Department Report FY 1973* (Washington, D.C.: The House Armed Services Committee, February 1972).

THE WARSAW PACT

TREATIES

The Warsaw Pact is a multilateral military alliance formed by the 'Treaty of Friendship, Mutual Assistance, and Co-operation' which was signed in Warsaw on 14 May 1955 by the Governments of the Soviet Union, Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, and Rumania; Albania left the Pact in September 1968. The Pact is committed to the defence only of the European territories of the member states.

The Soviet Union is also linked by bilateral treaties of friendship and mutual assistance with Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, and Rumania. Members of the Warsaw Pact have similar bilateral treaties with each other. The essence of East European defence arrangements is not therefore dependent on the Warsaw Treaty as such. The Soviet Union has concluded status-or-forces agreements with Poland, East Germany, Rumania, and Hungary between December 1956 and May 1957 and with Czechoslovakia in October 1968; all these remain in effect except the one with Rumania which lapsed in June 1958 when Soviet troops left Rumania.

ORGANIZATION

The Political Consultative Committee consists, in full session, of the First Secretaries of the Communist Party, Heads of Government, and the Foreign and Defence Ministers of the member countries. The Committee has a joint Secretariat, headed by a Soviet official, consisting of a specially appointed representative from each country, and a Permanent Commission, whose task it is to make recommendations on general questions of foreign policy for Pact members. Both these bodies are located in Moscow. Since the 1969 re-organization of the Pact the non-Soviet Ministers of Defence are no longer directly subordinate to the Commander-in-Chief of the Pact, but form, together with the Soviet Minister, the Council of Defence Ministers, which is the highest military body in the Pact.

The second body, the Joint High Command, is required by the Treaty to strengthen the defensive capability of the Warsaw Pact, to prepare military plans in case of war, and to decide on the deployment of troops. The Command consists of a Commander-in-Chief (C-in-C), and a Military Council. This Council meets under the chairmanship of the C-in-C, and includes the Chief of Staff C of S and permanent military representatives from each of the allied armed forces. It seems to be the main channel through which the Pact's orders are transmitted to its forces in peacetime and through which the East European forces are able to put their point of view to the C-in-C. The Pact also has a Military Staff, which includes non-Soviet senior officers. The posts of C-in-C and C of S of the Joint High Command have however, always been held by Soviet officers and most of the key positions are still in Soviet hands.

In the event of war, the forces of the other Pact members would be operationally subordinate to the Soviet High Command. The command of the air defence system covering the whole Warsaw Pact area is now centralized in Moscow and directed by the C-in-C of the Soviet Air Defence Forces. Among the Soviet military headquarters in the Warsaw act area are the Northern Group of Forces at Legnica in Poland; the Southern Group of Forces at Budapest; the Group of Soviet Forces in Germany at Zossen-Wünsdorf, near Berlin; and the Central Group of Forces at Milovice, north of Prague. Soviet tactical air forces are stationed in Poland, East Germany, Hungary, and Czechoslovakia.

The Soviet Union has deployed short-range surface-to-surface missile (SSM) launchers in Eastern Europe. Most East European countries also have short-range SSM launchers, but there is no evidence that nuclear warheads for these missiles have been supplied to them. Soviet longer-range missiles are all based in the Soviet Union.

BULGARIA

Population: 8,660,000.

Military service: Army and Air Force, 2 years; Navy, 3 years.

Total regular forces: 152,000.

Estimated GNP 1972: $11.1 billion.

Defence budget 1973: 422 million leva ($301 million).

1.4 leva=$1.

Army: 120,000.

(East European Warsaw Pact formations are not all manned at the same level. They can be regarded as being in two categories: Category 1 formations up to three-quarters of establishment strength: Category 2 (shown here and throughout this section as cadre); unlikely to be at more than a quarter of establishment strength.)

8 motorized rifle divisions (3 cadre).

5 tank brigades.

Some hy tks; about 2,000 med tks mainly T–54, with some T–34 and T–55; PT–76 lt tks; BRDM scout cars; BTR–50, BTR–60, and BTR–152 APC; 88mm, 100mm, 122mm, 130mm, and 152mm guns; SU–100 SP guns; FROG and Scud SSM; 57mm and 85mm ATk guns; Sagger and Snapper ATGW; 37mm and 57mm AA guns.

Reserves: 250,000.

Navy: 10,000.

2 W-class submarines.

2 Riga-class escorts.

8 SOI- and Kronstadt-type coastal escorts.

20 MCM ships.

5 Osa-class patrol boats with Styx SSM.

20 coastal patrol boats.

15 motor torpedo boats (8 less than 100 tons).

20 landing craft.

6 Mi-4 helicopters.

Reserves: 10,000.

Air Force: 22,000; 252 combat aircraft.

6 fighter-bomber squadrons with MiG–17.

3 interceptor squadrons with MiG–21.

3 interceptor squadrons with MiG–19.

6 interceptor squadrons with MiG–17.

1 reconnaissance squadron with II–28.

2 recce sqns with MiG–15, MiG–17, and MiG–21.

(12 aircraft in a combat squadron.)

4 Li-2, 6 An-2, and 10 II–14 transports.

About 40 Mi-4 helicopters.

SA–2 SAM.

1 parachute regiment.

Reserves: 20,000.

Para-Military Forces: 17,000, including border guards; security police; a volunteer People's Militia of 150,000.

CZECHOSLOVAKIA

Population: 14,600,000.

Military service: Army 24 months; Air Force 27 months.

Total regular forces: 190,000.

Estimated GNP 1972: $32.9 billion.

Defence budget 1973: 16.7 billion koruny ($1,336 million).

12.5 koruny=$1.

Army: 150,000.

5 tank divisions.

5 motorized rifle divisions (2 cadre).

1 airborne brigade.

Some hy tanks; about 3,400 med tks, mostly T–55 and T–62 with some T–54 and T34; OT–65 scout cars; OT–62 and OT–64 APC; SU–100, SU–122, and JSU–152 SP guns; 122mm how; 82mm and 120mm mor; FROG and Scud SSM; 57mm, 85 mm, and 100mm ATk guns; Sagger, Snapper, and Swatter ATGW; 23mm and 57mm AA guns.

About 200 Mi–1 and Mi–4 hel.

Reserves: 300,000.

Air Force: 40,000; 504 combat aircraft.

12 FGA sqns with Su–7, MiG–15, and MiG–17.

18 interceptor squadrons with MiG–19 and MiG–21.

6 recce sqns with MiG–21, II–28, and L–29.

(14 aircraft in a combat squadron.)

About 50 An–24, II–14, and II–18 transports.

About 90 Mi–1, Mi–4, and Mi–8 helicopters.

SA–2 SAM.

Reserves: 50,000.

Para-Military Forces: Border troops (Pohranicki straz), 35,000 (subordinate to the Ministry of the Interior). A part-time People's Militia of about 120,000 is being increased to 250,000.

GERMAN DEMOCRATIC REPUBLIC

Population: 17,000,000.

Military service: 18 months.

Total regular forces: 132,000.

Estimated GNP 1972: $35.3 billion.

Defense budget 1973: 8,328 million Ostmarks ($2,031 million).

4.1 Ostmarks=$1.

Army: 90,000.

2 tank divisions.

4 motorized rifle divisions.

Some hy tks; about 2,000 med tks, T–54, T–55, and T–62; several hundred T–34 (used for training); about 130 PT–76 lt tks; BRDM scout cars; BTR–50P, BTR–60P, and BTR–152 APC; SU–100 SP guns; 85 mm, 122 mm, 130mm, and 152mm guns; FROG 7 and Scud B SSM; 57mm and 100mm ATk guns; Sagger, Snapper, and Swatter ATGW; 23mm and 57mm SP AA guns and 100mm AA guns.

Reserves: 200,000.

Navy: 17,000.

2 Riga-type escorts.

25 coastal escorts.

12 Osa-class patrol boats with Styx SSM.

26 SOl- and Hai-type submarine chasers.

12 fleet and 45 medium minesweepers.

63 motor torpedo boats (45 less than 100 tons).

18 landing ships and craft.

8 Mi–4 helicopters.

Reserves: 20,000.

Air Force: 25,000; 320 combat aircraft.

2 interceptor squadrons with MiG–17.

18 interceptor squadrons with MiG–21.

(16 aircraft in a combat squadron.)

30 transports, including An–2, II–14, and II–18.

40 Mi–1, Mi–4, and Mi–8 helicopters.

1 AD div of 9,000 (5 regiments), with about 120 57mm and 100mm AA guns and SA–2 SAM.

Reserves: 30,000.

Para-Military Forces: 80,000.

46,000 Border Guards (Grenzschutz-truppen) including a Border Command separate from the regular army. 24,000 security troops plus 400,000 in armed workers' organizations (Kampfgruppen der Arbeiterklasse).

HUNGARY

Population: 10,450,000.

Military service: 2 years.

Total regular forces: 103,000.

Estimated GNP 1972: $15.3 billion.

Defence budget 1973: 16,117 million forints ($695 million).

23.2 forints=$1.

Army: 90,000.

1 tank division.

4 motorized rifle divisions (2 cadre).

Some hy tks; about 1,500 med tks, mainly T–55 and T–54; some T–34 for training; 50 PT–76 lt tks; FUG–M and OT–65 scout cars; FUG–M–1970, OT–64, and BTR–152 APC; 76mm, 85mm, and 122mm guns; 122mm and 152mm how; FROG and Scud SSM; 57mm ATk guns; Sagger, Snapper, and Swatter ATGW; 57mm twin SP AA guns.

Reserves: 150,000.

Navy: 500.

Danube River Guard of small patrol craft.

Air Force: 12,500; 108 combat aircraft.

9 interceptor sqns with 108 MiG–17 and MiG–21.

About 25 An–2, II–4, and Li–2 transport aircraft.

About 15 Mi–1, Mi–4, and Mi–8 helicopters.

2 SAMS battalions with SA–2.

Reserves: 13,000.

Para-Military Forces: 27,000 security and border guard troops; 250,000 workers' militia.

POLAND

Population: 33,725,000.

Military service: Army and Air Force, 2 years; Navy and special services, 3 years; internal security forces, 27 months.

Total regular forces: 280,000.

Estimated GNP 1972: $44.5 billion.

Defence budget 1973: 39.21 billion zloty ($1,799 million).

21.8 zlotys=$1.

Army: 200,000.

5 tank divisions.

8 motorized rifle divisions (2 cadre).

1 airborne division.

1 amphibious assault division.

Some hy tks; 3,400 med tks, T–54, T–55, and some T–62; some T–34 for training; about 250 PT–76 lt tks; FUG and BRDM scout cars; OT–62, OT–64, and BTR–152 APC; ASU–57 and ASU–85 AB assault guns; 122mm guns, 122mm how, and 152mm gun/how; FROG and Scud SSM; 57mm, 85mm, and 100mm ATk guns; Sagger, Snapper, and Swatter ATGW; 23mm and 57mm SP AA guns.

Reserves: 500,000.

Navy: 25,000 (including 1,000 marines).

5 W–class submarines.

4 destroyers (1 Kotlin-class with SA–N–1).

30 coastal escorts/submarine chasers.

24 fleet and 25 inshore minesweepers.

12 Osa-class patrol boats with Styx SSM.

20 torpedo boats.

38 fast patrol boats.

16 landing ships.

55 naval aircraft, mostly MiG–17, with a few II–28 It bomber/recce and some helicopters.

Reserves: 40,000.

Air Force: 55,000; 696 combat aircraft.

4 light bomber squadrons with II–28.

12 fighter-bomber sqns with MiG–17 and Su–7.

36 interceptor squadrons with MiG–15, MiG–17, MiG–19, and MiG–21.

6 recce sqns with MiG–15, MiG–21, and II–28.

(12 aircraft in a combat squadron.)

About 45 An–2, An–12, An–24, II–12, II–14, II–18, and Li–2 transports.

40 helicopters, including Mi–1, Mi–4, and Mi–8.

SA–2 SAM.

Reserves: 60,000.

Para-Military Forces: 73,000 security and border troops, including armoured brigades of the Territorial Defence Force; 20 small patrol boats are operated.

RUMANIA

Population: 20,900,000.

Military service: Army and Air Force, 16 months; Navy, 2 years.

Total regular forces: 170,000.

Estimated GNP 1972: $26.5 billion.

Defence budget 1973: 7.92 billion lei ($528 million).

15.0 leis=$1.

Army: 141,000.

2 tank divisions.

7 motorized rifle divisions.

1 mountain brigade.

1 airborne regiment.

Some hy tks; 1,700 T–34, T–54, T–55, and T–62 med tks; BTR–40, BTR–50P, and BTR–152 APC; SU–100 SP guns; 76mm, 122mm, and 152mm guns; FROG and Scud SSM; 57mm, 85mm, and 100mm ATk guns; Sagger, Snapper, and Swatter ATGW; 37mm, 57mm, and 100mm AA guns.

Reserves: 250,000.

Navy: 8,000.

6 Poti- and Kronstadt-class coastal escorts.

5 Osa-class patrol boats with Styx SSM.

24 MCM ships.

12 motor torpedo boats.

4 Mi-4 helicopters.

Reserves: 10,000.

Air Force: 21,000; 252 combat aircraft.

20 interceptor squadrons with MiG–17, MiG–19, and MiG–21.

1 reconnaissance squadron with II–28.

(12 aircraft in a combat squadron.)

1 transport squadron with II–14 and Li–2.

10 Mi–4 helicopters.

SA–2 SAM.

Reserves: 25,000.

Para-Military Forces: 40,000 including border troops; militia of about 500,000.

The North Atlantic Treaty

TREATIES

The North Atlantic Treaty was signed in 1949 by Belgium, Britain, Canada, Denmark, France, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, and the United States; Greece and Turkey joined in 1952 and West Germany in 1955. The treaty binds Western Europe and North America in a commitment to consult together if the security of any one member is threatened, and to consider an armed attack against one as an attack against all, to be met by such action as each of them deems necessary, 'including the use of armed force, to restore and maintain the security of the North Atlantic area'.

The Paris Agreements of 1954 added a Protocol to the Treaty aimed at strengthening the structure of NATO, and revised the Brussels Treaty of 1948, which now includes Italy and West Germany in addition to its original members (Benelux countries, Britain, and France). The Brussels Treaty signatories are committed to give one another 'all the military and other aid and assistance in their power' if one is the subject of 'armed aggression in Europe'.

Since 1969 members of the Atlantic Alliance can withdraw on one year's notice; the Brussels Treaty was signed for 50 years.

ORGANIZATION

The Organization of the North Atlantic Treaty is known as NATO. The governing body of the alliance, the North Atlantic Council, which has its headquarters in Brussels, consists of the Ministers of the fifteen member-countries, who normally meet twice a year, and of ambassadors representing each government, who are in permanent session.

In 1966, France left the integrated military organization and the 14-nation Defence Planning Committee (DPC), on which France does not sit, was formed. It meets at the same levels as the Council and deals with questions related to NATO's integrated military planning and other matters in which France does not participate. The Secretary-General and an international staff advise on the politico-military, financial, economic, and scientific aspects of defence planning.

Two permament bodies for nuclear planning were established in 1966. The first, the Nuclear Defence Affairs Committee (NDAC), is open to all NATO members (France, Iceland, and Luxembourg do not take part); it normally meets at Defence Minister level once or twice a year, to associate non-nuclear members in the nuclear affairs of the alliance. The Secretary-General is Chairman of the NDAC.

The second, the Nuclear Planning Group (NPG), derived from and subordinate to the NDAC, has seven or eight members, and is intended to go further into the details of topics raised there. The composition consists, in practice, of Britain, Germany, Italy, and the United States, plus three or four other member countries serving in rotation each for a term of 18 months. On 1 July 1973, there were four such members: Canada, Greece, the Netherlands, and Norway. The Secretary-General also chairs the NPG.

The Council's military advisers are the Military Committee, which gives policy direction to the NATO military commands. The Military Committee consists of the Chiefs of Staff of all member countries, except France, which maintains a liaison staff, and Iceland, which is not represented; in permanent session, the Chiefs of Staff are represented by Military Representatives who are located in Brussels together with the Council. The Military Committee has an independent Chairman and is served by an integrated international military staff. The major NATO commanders are responsible to the Military Committee, although they also have direct access to the Council and heads of Governments.

The principal military commands of NATO are Allied Command Europe (ACE), Allied Command Atlantic (ACLANT), and Allied Command Channel (ACCHAN).

The NATO European and Atlantic Commands participate in the Joint Strategic Planning System at Omaha, Nebraska, but there is no Alliance Command specifically covering strategic nuclear forces. As for ballistic-missile submarines, the United States has committed a small number and Britain all hers to the planning control of SACEUR, and the United States a larger number to SACLANT.

The Supreme Allied Commander Europe (SACEUR) and the Supreme Allied Commander Atlantic (SACLANT) have always been American officers; and the Commander-in-Chief Channel (CINCCHAN) and Deputy SACEUR and Deputy SACLANT British. SACEUR is also Commander-in-Chief of the United States Forces in Europe.

(1) Allied Command Europe (ACE) has its headquarters, known as SHAPE (Supreme Headquarters, Allied Powers in Europe), at Casteau, near Mons, in Belgium. It is responsible for the defence of all NATO territory in Europe except Britain, France, Iceland, and Portugal, and for that of all Turkey. It also has general responsibility for the air defence of Britain.

The European Command has some 7,000 tactical nuclear warheads in its area. The number of delivery vehicles (aircraft, missiles, and howitzers) is over 2,000, spread among all countries, excluding Luxembourg. The nuclear explosives themselves, however, are maintained, with the exception of certain British weapons, in American custody. (There are additionally French nuclear weapons in France.) Tactical nuclear bombs and missile warheads are all fission. There is a very wide range in the kiloton spectrum, but the average yield of the bombs stockpiled in Europe for the use of NATO tactical aircraft is about 100 kilotons, and of the missile warheads, 20 kilotons.

About 60 division equivalents are available to SACEUR in peacetime. The Command has some 2,750 tactical aircraft, based on about 150 standard NATO airfields and backed up by a system of jointly financed storage depots, fuel pipelines, and signal communications. The majority of the land and air forces stationed in the Command are assigned to SACEUR, while the naval forces are normally earmarked.

The 2d French Corps of two divisions (which is not integrated in NATO forces) is stationed in Germany under a status agreement reached between the French and German Governments. Co-operation with NATO forces and commands has been agreed between the commanders concerned.

The ACE Mobile Force (AMF) has been formed as a NATO force with particular reference to the northern and southeastern flanks. Formed by eight countries, it comprises eight infantry battalion groups, an armoured reconnaissance squadron, and ground-support fighter squadrons, but has no air transport of its own.

The following Commands are subordinate to Allied Command Europe:

(a) Allied Forces Central Europe (AFCENT) has command of both the land forces and the air forces in the Central European Sector. Its headquarters are at Brunssum in the Netherlands, and its Commander (CINCENT) is a German general.

The forces of the Central European Command include 22 divisions, assigned by Belgium, Britain, Canada, West Germany, the Netherlands, and the United States, and about 1,600 tactical aircraft.

The Command is sub-divided into Northern Army Group (NORTHAG) and Central Army Group (CENTAG). NORTHAG, responsible for the defence of the sector north of Göttingen-Liège axis, includes the Belgian, British, and Dutch divisions and four German divisions and is supported by 2nd Allied Tactical Air Force (ATAF), composed of Belgian, British, Dutch, and German units. The American forces, seven German divisions, and the Canadian battle group are under the Central Army Group, supported by the 4th ATAF, which includes American, German, and Canadian units and an American Army Air Defense Command.

(b) Allied Forces Northern Europe (AFNORTH) has its headquarters at Kolsaas, Norway, and is responsible for the defence of Denmark, Norway, Schleswig-Holstein, and the Baltic Approaches. The commander has always been a British general. Most of the Danish and Norwegian land, sea, and tactical air forces are earmarked for it, and most of their active reserves assigned to it. Germany has assigned one division, two combat air wings, and her Baltic fleet. Apart from exercises and some small units, US naval forces do not normally operate in this area.

(c) Allied Forces Southern Europe (AFSOUTH) has its headquarters at Naples, and its commander (CINCSOUTH) has always been an American admiral. It is responsible for the defence of Italy, Greece, and Turkey, and for safeguarding communications in the Mediterranean and the Turkish territorial waters of the Black Sea. The formations available include 17 divisions from Turkey, 8 from Greece, and 11 from Italy, as well as the tactical air forces of these countries. Other formations from these three countries have been earmarked for AFSOUTH, as have the United States 6th Fleet and naval forces from Greece, Italy, Turkey, and Britain. The ground-defence system is based on two separate commands: Southern, comprising Italy and the approaches to it, under an Italian commander, and Southeastern, comprising Greece and Turkey, under an American commander. There is, however, an overall air command and there is a single naval command (NAVSOUTH), responsible to AFSOUTH with headquarters in Naples.

A special air surveillance unit, Maritime Air Forces Mediterranean (MARAIRMED), is now operating Italian, British, and American patrol aircraft from bases in Greece, Turkey, Sicily, and Italy; French aircraft are participating in these operations. Its commander, an American rear-admiral, is immediately responsible to CINCSOUTH.

The Allied On-Call Naval Force for the Mediterranean (NAVOCFORMED) has consisted of at least three destroyers, contributed by Italy, Britain, and the United States, and three smaller ships provided by other Mediterranean countries, depending upon the area of operation.

(ii) Allied Command Atlantic (ACLANT) has its headquarters at Norfolk, Virginia, and is responsible for the North Atlantic area from the North Pole to the Tropic of Cancer, including Portuguese coastal waters. The commander is an American admiral.

In the event of war, its duties are to participate in the strategic strike and to protect sea communications. There are no forces assigned to the command in peacetime except Standing Naval Force Atlantic (STANAVFORLANT), which normally consists, at any one time, of four destroyer-type ships. However, for training purposes and in the event of war, forces which are predominantly naval are earmarked for assignment by Britain, Canada, Denmark, Netherlands, Portugal, and the United States. There are arrangements for co-operation between French naval forces and those of SACLANT. There are five subordinate commands; Western Atlantic Command, Eastern Atlantic Command, Iberian Atlantic Command, Striking Fleet Atlantic, and Submarine Command. The nucleus of the Striking Fleet Atlantic has been provided by the American 2nd fleet with up to six attack carriers; carrier-based aircraft share the nuclear strike role with missile-firing submarines.

(iii) Allied Command Channel (ACCHAN) has its headquarters at Northwood, near London. The wartime role of Channel Command is to exercise control of the English Channel and the southern North Sea. Many of the smaller warships of Belgium, Britain, and the Netherlands are earmarked for this Command, as are some maritime aircraft. There are arrangements for co-operation with French naval forces. The commander is a British admiral. A Standing Naval Force, Channel (STANAVFORCHAN) was formed on 2 May 1973, to consist of mine countermeasures ships from Belgium, the Netherlands, and Britain; other interested nations might participate on a temporary basis. Its operational command is vested in the Commander-in-Chief, Channel Command.

POLICY

Political guidelines agreed between NATO members in 1967 include the concept of political warning time in a crisis and the possibility of distinguishing between an enemy's military capabilities and his political intentions. The strategic doctrine defined by the DPC in December 1967 envisaged that NATO would meet attacks on its territory with whatever force levels were appropriate, including nuclear weapons.

In June 1968, at the Ministerial Meeting at Reykjavik, the Council called on the countries of the Warsaw Pact to join in discussions of mutual force reductions, reciprocal and balanced in scope and timing. Preliminary talks on negotiating procedures and agendas took place in the first half of 1973 and further negotiations, for which guidelines but no agenda have been agreed, were to begin in Vienna on 30 October 1973. The aim is to secure practical arrangements that will ensure undiminished security for all parties at lower levels of forces in Central Europe.

BELGIUM

Population: 9,800,000.

Military service: 12–15 months. (Conscripts serve 12 months if posted to Germany, 15 months if serving only in Belgium. A reduction to 10 and 12 months respectively is being studied.)

Total armed forces: 89,600.

Estimated GNP 1972: $35.5 billion.

Defence budget 1973: 35,648 million francs ($990 million).

43.8 francs=$1 1 July 1972.

35.99 francs=$1 1 July 1973.

Army: 65,000.

1 armoured brigade.

3 mechanized infantry brigades.

3 reconnaissance battalions.

3 motorized infantry battalions.

1 para-commando regiment.

3 artillery battalions.

3 combat engineer battalions.

2 SSM battalions with 8 Honest John launchers.

2 SAM battalions with 24 HAWK launchers.

4 air sqns with 75 Alouette II hel and 11 Do-27.

334 Leopard and 148 M–47 med tks; 90 M–41 lt tks; 1,000 M–75 and AMX APC (there is a programme for procurement of 700 light armoured vehicles, including Scorpion lt tks); 106 M–108 105mm, M–44 and M–109 155mm, and M–110 203mm SP how; 203mm how; Honest John SSM (being replaced by Lance); HAWK SAM.

Deployment:

Germany: 2 div HQ, 1 armed bde, and 3 mech inf bdes.

Reserves: 8,000 trained: 1 mech inf bde and one inf bde.

Navy: 4,600.

7 ocean minesweepers/minehunters.

9 coastal minesweepers/minehunters.

12 inshore minesweepers.

2 support ships.

2 S–58 and 3 Alouette III helicopters.

Reserves: 7,600 trained.

Air Force: 20,000; 144 combat aircraft.

2 fighter-bomber squadrons with F–104G.

3 fighter-bomber squadrons with Mirage-VBA.

2 AWX squadrons with F–104G.

1 reconnaissance squadron with Mirage-VBR.

(A combat squadron normally has 18 aircraft.)

2 tpt sqns with 12 C–130 Hercules, 4 DC–3, 12 Pembroke, and 4 DC–6.

5 HSS–1 and 6 S–58 hel.

8 SAM squadrons with 16 Nike-Hercules.

Para-Military Forces: 15,000 Gendarmerie.

BRITAIN

Population: 56,250,000.

Military service: voluntary.

Total armed forces: 361,500 (including 9,300 enlisted outside Britain).

Estimated GNP 1972: $151 billion.

Defence budget 1973–74: £3,365 million ($8,673 million).

£0.413=$1 1 July 1972.

£0.388=$1 1 July 1973.

Strategic Forces:

SLM: 4 SSBN each with 16 Polaris A3 missiles. Ballistic Missile Early Warning System (BMEWS) station located at Flyingdales.

Army: 177,000 (incl 7,900 enlisted outside Britain).

13 armoured regiments.

5 armoured reconnaissance regiments.

47 infantry battalions.

3 parachute battalions.

5 Gurkha battalions.

1 special air service (SAS) regiment.

2 regts with Honest John SSM launchers and 203mm SP how.

23 other artillery regiments.

1 SAM regiment with 12 Thunderbird launchers.

14 engineer regiments.

59 of the above units are organized in 5 armd, 10 mech or inf, 1 para, and 1 Gurkha bdes.

900 Chieftain and Centurion med tks; Scorpion lt tks; Saladin armd cars; Ferret scout cars; FV 432, Saracen APC; 105mm Abbot and M–107 175mm SP guns; M–109 SP how; 12 M-110 203mm SP how; Model 56 105mm pack how; Honest John SSM (Lance on order); Carl Gustav, Vigilant, and Swingfire ATGW; L-40/70 AA guns; Thunderbird SAM (Rapier on order); 2 SRN-6, 2 CC-7 hovercraft.

2 Army Aviation wings of 17 sqns and 8 indep flights with 24 Beaver lt ac; 120 Scout, 12 Alouette AH-2, 175 Sioux hel (150 Lynx, 30 Gazelle on order).

Deployment:

United Kingdom: Land element of United Kingdom Mobile Force (UKMF) (1 div, 4 bdes, and 1 para bde); 1 SAS regt, 1 Gurwha inf bn. HQ Northern Ireland with 3 bde HQ, 1 armd recce regt, 3 armd recce sqns, 3 field engr sqns, 17 units, and 4 army aviation sqns.

Germany: British Army of the Rhine (BAOR), of 54,900 includes 1 corps HQ, 3 div HQ, 5 armd bdes, 1 mech bde, 2 arty bdes (incl the Thunderbird SAM regt), and 2 armd recce regts. In Berlin there is one 3,000-strong inf bde. (Some units from BAOR are serving on short tours in Northern Ireland, being away from Germany for up to six months. Numbers involved averaged 3,500.)

Singapore: 1 inf bn group (part of the ANZUK force).

Brunei: 1 Gurkha bn.

Hong Kong: 2 bdes with 2 British and 3 Gurkha inf bns; 1 arty regt.

Cyprus: 1 inf bn and 1 airportable recce sqn with UN force (UNFICYP); 1 inf bn and 1 armd recce sqn in garrison at Sovereign Base Areas.

Gibraltar: 1 inf bn.

British Honduras: 1 bn HQ and 2 inf coys.

Reserves: 300,000 regular reserves, 59,300 volunteer reserves; 9,200 Ulster Defence Regiment.

Navy: 81,000 (including Fleet Air Arm, Royal Marines, and 800 enlisted outside Britain); 78 major surface combat vessels.

Submarines, attack:

6 nuclear (1 more to come into service in 1973, a second in 1974); 22 diesel.

Surface ships:

1 aircraft carrier.

2 commando carriers.

2 assault ships.

2 cruisers with Seacat SAM.

9 destroyers (8 with Seaslug I and Seacat II Sam, 1 with Sea Dart SAM and Ikara ASW msls), each with 1 ASW hel.

35 general purpose frigates (12 with Seacat, 1 with Ikara), each with 1 ASW hel.

20 ASW frigates (9 with Seacat and 1 ASW hel).

3 AA and 4 aircraft direction frigates.

38 coastal minesweepers/minehunters.

6 inshore minesweepers.

5 coastal patrol vessels.

6 patrol/seaward defence boats.

(Included in the above are the following ships in reserve or undergoing refit or conversion; 6 diesel submarines, 1 destroyer, 10 frigates, 2 minesweepers.)

The Fleet Air Arm: 30 combat aircraft.

1 strike squadron with 12 Buccaneer S2 with Martel ASM.

1 air defence squadron with 12F–4K.

1 AEW sqn with 6 Gannet.

8 hel sqns with Wessex.

3 hel sqns with Sea King.

3 hel sqns with Wash and Whirlwind.

(100 Lynx hel on order.)

The Royal Marines; 8,000.

1 commando bde with 3 commandos; SRN 6 Mk. 5 hovercraft.

Deployment:

Malta: 1 commando.

Falkland Islands: 1 detachment.

Gibralter: 1 detachment.

Reserves (naval and marines): 27,500 regular and 7,000 volunteers.

Air Force: 103,500 (incl 600 enlisted outside Britain); about 500 combat aircraft.

6 medium bomber squadrons with Vulcan B2.

3 strike squadrons with Buccaneer.

1 FGA squadron with Hunter (a second forming).

7 strike/attack/recce sqns with F–4M.

4 close support squadrons with Harrier.

8 air defense squadrons with Lightning.

1 air defense squadron with F-4K.

1 recce squadron with 15 Victor SR2.

4 recce squadrons with Canberra.

1 AEW squadron with Shackleton.

6 maritime patrol squadrons with Nimrod. (Combat squadrons have 6–18 aircraft.)

3 tanker squadrons with total of 56 Victor K1/K1A/K2.

4 strategic transport squadrons with 14 VC–10, 10 Belfast, and 15 Britannia.

7 tactical tpt sqns with C–130 Hercules.

2 light communication squadrons with HS 125.

7 hel sqns with 60 Wessex, 75 Whirlwind, and 40 SA–330 Puma.

There are 11 ground defence and air defence squadrons of the Royal Air Force Regiment, some with Bloodhound and Tigercat SAM, and L40/70 AA guns (Rapier SAM on order).

Deployment: The Royal Air Force includes one operational home command—Strike Command—and two smaller overseas commands—RAF Germany (8,600), and Near East Air Force. Squadrons are deployed overseas as follows:

Germany: 4 F-4; 2 Buccaneer; 2 Lighting; 3 Harrier: 1 Wessex; 2 sqns RAF Regt. Gibralter: Hunter detachment.

Near East: (a) Cyprus: 2 Vulcan; 1 Lightning; 1 Hercules; 1 Whirlwind; 2 sqns RAF Regt.

(b) Malta: 1 Nimrod; 1 Canberra. Singapore: detachments Nimrod and Wessex hel (in ANZUK force).

Hong Kong: hel and RAF Regt detachments.

British Honduras: RAF Regt detachment.

Reserves: 31,800 regular; about 200 volunteer.

CANADA

Population: 22,300,000.

Military service; voluntary.

Total armed forces, 83,000.

Estimated GNP 1972: $102.9 billion.

Defence expenditure 1973–74: $Can. 2.13 billion ($US 2,141 million).

$Can. 1 = $US 11 July 1972.

$Can. 0.995 = $US 11 July 1973.

Army (Land): 33,000.

(The Canadian Armed Forces have been unified since February 1968. The strengths shown here for Army, Navy, and Air Force are only approximate.)

In Canada: Mobile Command (about 20,000).

1 airborne regiment.

3 combat groups each comprising:

3 infantry battalions.

1 reconnaissance regiment.

1 reduced light artillery regiment (of 2 batteries).

Support units.

M–113 APC, Ferret armed cars; Model 56 105mm pack how; 106mm recoilless rifles.

One group is intended for operations in Europe; part of it, an air transportable bn gp, for use with the AMF. The other groups contributes to North American ground defence and UN commitments.

In Europe: One mech battle group of 2,800 men, with 32 Centurion med tks, 375 M–113 APC, and 18 M–109 155mm SP how.

In Cyprus (UNFICYP). 580 men.

Reserves: about 19,000.

Navy (Maritime): 14,000.

4 submarines.

10 ASW hel destroyer escorts, 4 with Sea Sparrow SAM (2 hel destroyers under construction).

11 ASW destroyer escorts.

3 support ships with Sea Sparrow SAM and 2 CHSS–2 hel.

The Maritime Air Element consists of:

4 maritime patrol squadrons with Argus.

1 maritime patrol squadron with S–2 Tracker.

ASW squadron with SH–3 Sea King helicopters.

Air Force (Air): 36,000; 162 combat aircraft.

In Canada:

Mobile Command:

2 CF–5 tactical fighter sqns (for use with AMF).

6 helicopter squadrons.

Air Defence Command (Canadian component of NORAD).

3 interceptor squadrons with F–101C.

28 surveillance and control radar squadrons.

1 SAGE control centre.

1 CF–100 electronic warfare training squadron.

Air Transport Command:

2 sqns with C–1309 Hercules.

tankers.

2 sgns with C–1309 Hercules.

4 sqns with CC–115 Buffalo, CC–138 Twin Otter, and CH–113 Labrador SAR hel.

1 sqn with CC–109 Cosmopolitan; Falcon and Dakota.

In Europe:

Germany: 2,300; 3 attack sqns with CF–104.

Reserves: 1,300.

DENMARK

Population: 5,020,000.

Military service: 12 months (to be reduced to 9 months from October 1973).

Total armed forces: 39,800. (Planned defence cuts include a reduction of army manpower to 13,000, of the navy by 5 ships, and of combat aircraft by 1 squadron.)

Estimated GNP 1972: $20.3 billion.

Defence budget 1973–74: 3,196 million kroner ($568 million).

7.0 kr.=$1 1 July 1972.

5.63 kr=$1 1 July 1973.

Army: 24,000.

4 brigades each of 2 mechanized infantry battalions, 1 tank battalion, 1 artillery battalion and support units.

1 battalion group.

1 artillery battalion.

250 Cenurion med tks; M–41 lt tks; M–113 APC. M–109 155mm SP how; 203mm how; Honest John SSM (all three are dual-capable, but there are no clear warheads on Danish soil); 12 Hughes 500M (OH–6A) hel.

Reserves: 80,000, including 2 mech inf bdes and support units to be formed from reservists within 72 hours; local defence units form 15 inf bn gps and 15 arty btys. Volunteer Home Guard 51,500.

Navy: 6300.

6 coastal submarines.

2 destroyers.

4 frigates.

4 coastal escorts (corvettes).

9 seaward defence craft.

12 fast patrol boats.

6 coastal minelayers.

12 minesweepers (4 inshore).

8 Alouette III helicopters.

Reserves: 4,000 Volunteer Home Guard 4,300 with small patrol boats.

Air force: 9,500; 112 combat aircraft.

1 fighter-bomber sqn with 16 F–35XD Draken.

2 fighter-bomber squadrons with 32 F–100D/F.

2 interceptor squadrons with 32 F–104G.

1 interceptor squadron with 16 Hunter.

1 recce sqn with 16 RF–35XD Draken.

1 transport squadron with 8 C–47 and 5 C–54. (3 C–130 on order.)

1 SAR squadron with 8 S–61 helicopters.

4 SAM squadrons with Nike-Hercules launchers.

4 SAM squadrons with HAWK launchers.

Reserves: 7,000. Volunteer Home Guard 11,500.

FRANCE

Population: 52,000,000.

Military service: 12 months.

Total armed forces: 503,600 (conscripts 271,200).

Estimated GNP 1972: $202 billion.

Defence budget 1973: 34,800 million francs ($8,488 million).

5.00 francs=$1 1 July 1972.

4.10 francs=$1 1 July 1973.

Strategic Forces:

SLBM: 2 SSBN each with 16 MSBS M–1 msls (a third scheduled to become operational in 1974; five are due to be built in all).

IRBM: 2 squadrons, each with 9 SSBS S–2 msls.

Aircraft:

9 squadrons with 36 Mirage IVA bombers.

3 squadrons with 12 KC–135F tankers.

20 Mirage IVA bombers are in reserve.

Army: 332,400 (conscripts 216,000) (including Aviation).

5 mechanized divisions.

1 airborne division (2 brigades).

1 airportable motorized brigade.

2 alpine brigades.

9 armoured car regiments.

2 motorized infantry regiments.

1 parachute battalion.

21 infantry battalions.

5 SSM battalions with 20 Honest John launchers. (The nuclear warheads held under double-key arrangements with the United States were withdrawn in 1966. The tactical nuclear SSM Pluton is due to enter service in 1973–74.)

3 SAM regiments with 54 HAWK launchers.

820 AMX–30 med tks; AMX–13 lt tks; Panhard EBR hy and AML lt armd cars; AMX APC; AMX SP 105mm guns and 155mm how; Model 56 105mm pack how; 30mm twin SP AA guns; SS–11/Harpon ATGW; Honest John SSM and HAWK SAM.

Army Aviation (ALAT): 4,500.

70 Bell, 175 Alouette II, 60 Alouette III, and 80 SA–330 Puma hel (30 Puma, 50 Gazelle on order).

150 light fixed-wing aircraft.

Deployment (incl Navy and Air Force):

Strategic Reserve (Force d'Intervention): 2 airborne and 1 airportable motorized brigades.

Manoeuvre Forces (Force de Manoeuvre): First Army: 2 mech divs and 4 SSM bns in Germany; 58,000; 3 mech divs in support in France. About 2,000 men in Berlin.

French Territory of the Afars and Issas: 2 battalions.

Elsewhere in Africa: about 4,000.

Malagasy (until Sept. 1973): 3,000; 2 battalions, 2 minesweepers, 2 FGA squadrons, 6 tpt ac.

Pacific Territories: 2 battalions.

Caribbean: 1 battalion.

The remaining troops are stationed in France for territorial defence (Défense Operationelle du Tarritoire—DOT). Their strength is about 52,000 including two alpine bdes, 21 inf bns, 3 armd cav regts, and one arty regt. Mobilization of reserves would bring the force up to a total of 80 bns.

Reserves: about 450,000.

Navy: 69,000 (conscripts 16,500) (including Naval Air Force); 47 major surface combat vessels.

19 attack submarines (diesel).

2 aircraft carriers.

1 helicopter carrier.

2 cruisers (1 SAM, 1 hel).

17 destroyers (2 with Masurca SAM and Malaton ASW msls. 4 with Tartar SAM, 6 ASW, 4 aircraft direction, 1 command).

25 frigates.

7 fleet minesweepers.

42 coastal minesweepers.

4 inshore minesweepers.

14 patrol vessels.

7 landing ships.

13 landing craft.

Naval Air Force: 12,000: 150 combat aircraft.

2 fighter-bomber sqns with Etendard IV–M.

2 interceptor sqns with F–8F Crusaders.

2 ASW sqns with Alizé.

5 maritime recce sqns with Atlantic and P–2.

1 reconnaissance sqn with Etendard IV–P.

1 ASW helicopter sqn with Super Frelon.

2 helicopter sqns with HSS–1.

Reserves: about 90,000.

Air Force: 102,000; 500 combat aircraft.

Air Defence Command (CAFDA):

3 interceptor sqns with Mirage IIIC.

2 AWX sqns with 30 Vautour IIN.

(Mirage F–1 being delivered.)

3 interceptor sqns with Super Mystère B–2.

(Automatic STRIDA II air defence system.)

Tactical Air Force (FATAC—divided into 1st and 2nd CATAC):

8 fighter-bomber squadrons with Mirage IIIE.

2 fighter-bomber squadrons with Mirage V.

1 fighter-bomber squadron with Mirage IIIB.

4 fighter-bomber squadrons with F–100D.

2 fighter-bomber squadrons with Mystère IVA and Jaguar.

2 light bomber sqns with 30 Vautour IIIB.

3 recce sqns with Mirage IIIR/RD.

Air Transport Command (COTAM):

7 tactical transport sqns; 3 with 40 C–160F Transall and 4 with 130 Nord 2501 Noratlas.

1 heavy transport sqn with 4 DV–6B.

1 heavy transport squadron with 3 DC–8.

1 tpt sqn with 5 DC–6 and 2 Br 763.

4 helicopter tpt sqns with H–34 and Alouette II.

Para-Military Forces: Gendarmerie 70,000; CRS (Compagnies Républicaines de Sécurité) 15,000 (subordinate to the Ministry of the Interior).

FEDERAL REPUBLIC OF GERMANY

Population: 60,100,000 (excluding West Berlin).

Military service: 15 months.

Total armed forces: 475,000 (conscripts 228,000).

Estimated GNP 1972: $259 billion.

Defence budget 1973: DM 26,600 million ($11,083 million).

DM 3.2=$1 1 July 1972.

DM 2.40=$1 1 July 1973.

Army: 334,000 (conscripts 183,500).

13 armoured brigades.

12 armoured infantry brigades.

3 motorized infantry brigades.

2 mountain brigades.

3 airborne brigades.

(The above are organized in 12 divisions.)

2 tank regts (a third being formed).

11 SSM battalions with Honest John launchers.

4 SSM battalions with Sergeant launchers.

Territorial Army: organized into 9 geographical commands for home defence, communications, engineers, police, and service support units; also contains units for expansion on mobilization.

1,050 M–48A2 Patton and 2,200 Leopard med tks; 750 HS–30, 1,300 Marder, 1,800 Hotchkiss and 3,170 M–113 APC; 1,100 tank destroyers; 280 105mm how, 70 155mm, and 75 203 mm how; 580 155mm, 150 175mm SP guns; 200 multiple RL; 500 40mm SP AA guns; ATGW; 86 Honest John, 19 Sergeant SSM (to be replaced by Lance); 200 UH–1D Iroquois, 30 CH–53G, and 235 Alouette II hel, and 18 Do-27 It ac.

Reserves: 510,000 on immediate recall.

Navy: 37,000 (including 9,500 conscripts) (including Naval Air Arms).

8 coastal submarines.

11 destroyers (3 with Tartar SAM).

6 fast frigates.

5 fleet utility vessels.

12 fast combat support ships.

61 minesweepers.

38 fast patrol boats.

2 landing ships.

22 landing craft.

Naval Air Arm: 6,000; 84 combat aircraft.

4 fighter-bomber/recce squadrons with 72 F–104G.

2 MR squadrons with 12 Br–1150 Atlantic.

23 S–58 SAR helicopters (being replaced by 20 SH–3D Sea King MK 41).

20 Do–28 liaison aircraft.

Reserves: 35,000 on immediate recall.

Air Force: 104,000 (conscripts 35,000); 456 combat aircraft.

6 fighter-bomber squadrons with 108 F–104G.

4 fighter-bomber/interceptor sqns with 60 F–104G.

8 It FGA/recce squadrons with 168 G–91.

4 interceptor squadrons with 60 F–104G.

4 heavy reconnaissance squadrons with 60 RF–4E.

4 transport squadrons with Transall C–160.

4 helicopter squadrons with 80 UH–1D, 50 Bell 47, and 54 Alouette II.

2 Pershing SSM wings with 72 launchers.

24 Nike-Hercules SAM batteries with 216 launchers.

36 HAWK SAM batteries with 216 launchers.

Reserves: 80,000 on immediate recall.

Para-Military Forces: 20,000 Border Police with Saladin armoured cars and coastal patrol boats.

GREECE

Population: 8,900,000.

Military service: 24 months.

Total armed forces: 160,000.

Estimated GNP 1972: $12.2 billion.

Defence budget 1973: 17,366 million drachmas ($580 million).

30 drachmas=$1 1 July 1972.

29.94 drachmas=$1 1 July 1973.

Army: 120,000.

1 armoured division.

11 infantry divisions (8 at cadre strength).

10 independent brigades (at cadre strength).

1 commando brigade.

2 SSM battalions with 8 Honest John launchers.

1 SAM battalion with 12 HAWK launchers.

300 M–47, 320 M–48, and 30 AMX–30 med tks (20 more AMX–30 on order); M–24, M–26, and M–41 It tks; M–8 and M–20 armd cars; M–2, M–3, M–59, and M–113 APC; 175mm SP guns; 25-pdr, 105mm, 155mm, and 203mm how; 40mm, 75mm, and 90mm AA guns; Honest John SSM; HAWK SAM; Bell 47G hel.

Reserves: about 160,000.

Navy: 18,000.

7 submarines.

9 destroyers.

4 destroyer escorts.

7 coastal patrol vessels.

2 minelayers.

14 coastal minesweepers.

13 fast torpedo boats (less than 100 tons).

4 fast missile patrol boats with Exocet SSM.

8 tank landing ships.

5 medium landing ships.

1 dock landing ship.

8 landing craft.

Reserves: about 20,000.

Air Force: 22,000; 225 combat aircraft.

5 fighter-bomber squadrons with F–84F.

2 fighter-bomber squadrons with F–104G.

3 interceptor squadrons with F–5A.

1 interceptor squadron with F–102A.

1 recce sqn with RF–84F (40 F–4 on order).

1 maritime recce squadron of 12 Hu–16.

(A combat squadron has up to 18 aircraft.)

3 tpt sqns of 27 C–47 and 30 Noratlas.

1 helicopter squadron with 14 H–19 and 6 AB–205.

1 helicopter squadron with 10 Bell 47G.

1 SAM battalion with Nike-Hercules.

Reserves: about 25,000.

Para-Military Forces: 30,000 Gendarmerie; 69,000 National Guard.

ITALY

Population: 54,400,000.

Military service: Army and Air Force, 15 months; Navy, 24 months.

Total armed forces: 427,500 (excluding Carabinieri).

Estimated GNP 1972: $118.1 billion.

Defense budget 1973: 2,294.5 billion lire ($3,964 million).

582 lire=$1 1 July 1972.

579 lire=$1 1 July 1973.

Army: 306,500.

2 armoured divisions.

5 infantry divisions.

1 independent cavalry brigade.

4 independent infantry brigades.

5 alpine brigades.

1 airborne brigade.

1 amphibious regiment.

1 SSM brigade with 2 bns of Honest John launchers and 2 bns of 203mm SP how.

4 SAM battalions with Hawk launchers.

800 M–47, 200 M–60, and 200 Leopard med tks (600 more Leopard on order); 3,300 M–113, some LVT–4 APC; 155mm guns; M–107

175mm SP guns; Model 56 105mm pack how; 105mm, 155mm how; M–44 155mm, M–109 155 mm, M–55, 203mm SP how; M–42 40mm SP AA guns; Mosquito, Cobra, SS–11 ATGW (TOW on order); 8 Honest John (to be replaced by Lance); 68 HAWK SAM.

Army Aviation: 21 units with 50 Piper L–18, L–19, L–21B, some SM.1019 lt ac (100 SM.1019, 20 AM–3C on order); over 250 hel, incl 125 AB–47G/J, 49 AB–204B, 29 AB–205A, 60 AB–206A/B–1, and 6 CH–47C (20 more CH–47C, 12 Agusta 101G, 30 more AB 206 on order).

Reserves: 450,000.

Navy: 44,500 (incl air arm and marines).

9 submarines.

3 cruisers each with Terrier SAM and 4 ASW hel (1 ship with ASROC ASW msls).

3 destroyers with Tartar SAM and ASW hel.

5 ASW destroyers.

10 frigates.

8 corvettes.

4 ocean minesweepers.

37 coastal and 20 inshore minesweepers.

7 torpedo boats.

5 motor gunboats.

4 amphibious transports.

4 landing ships, tank.

1 marine infantry battalion.

Naval Air Arm:

3 MR sqns, 2 with 20 S–2 Tracker, 1 with 6 Atlantic.

24 SH–3D, AB–204B and A–106 hel.

Reserves: 65,000.

Air Force: 76,500; 330 combat aircraft.

2 fighter-bomber squadrons with F–104G.

2 fighter-bomber squadrons with F–104S.

2 fighter-bomber squadrons with G–91Y.

3 light attack squadrons with G–91R.

1 AWX squadron with 15 F–86K.

5 AWX squadrons with F–104S.

3 recce squadrons with RF–104G.

(A combat squadron has 12–18 aircraft.)

3 tpt sqns with 25 C–119 (to be replaced by 32 of 44 G.222 on order) and 14 C–130E Hercules.

2 tpt sqns with Convair 440 and DC–6.

12 SAM groups with 96 Nike-Hercules launchers.

2 SAR sqns with 12 HU–16 ac and 15 AB–204 hel.

Helicopters include 60 AB–204B, 90 AB–205, 2 AB–206A, and some AB–47G/J.

Reserves: 30,000.

Para-Military Forces: 80,700 Carabinieri.

LUXEMBOURG

Population: 345,000.

Military service: voluntary.

Total armed forces: 550.

Estimated GNP 1972: $1.3 billion.

Defence budget 1973: 529 million francs ($15 million).

43.8 francs=$1 1 July 1972.

35.99 francs=$1 1 July 1973.

Army: 550.

1 light infantry battalion.

1 independent company.

106mm recoilless rifles and mortars.

Para-Military Forces: 350 Gendarmerie.

NETHERLANDS

Population: 13,500,000.

Military service: Army, 16–18 months; Navy and Air Force, 18–21 months.

Total armed forces: 112,200.

Estimated GNP 1972: $44.8 billion.

Defence budget 1973; 5,465 million guilders ($2,102 million).

3.19 guilders=$1 1 July 1972.

2.60 guilders=$1 1 July 1973.

Army: 70,000.

2 armoured brigades.

4 mechanized infantry brigades.

2 SSM battalions with *Honest John.*

400 *Centurion* and 485 *Leopard* med tks; 700 YP–408, M–106, M–113, and M–577 (amphibious) APC; M–107 175mm SP guns; AMX 105mm, M–109 155mm, and M–110 203mm SP how; 8 *Honest John* SSM (*TOW* on order).

Deployment:

Germany: 1 mech bde, 1 recce **bn.**

Reserves: about 300,000, of which 40,000 are on immediate recall. 1 inf div and corps troops, incl 1 indep inf bde, would be completed by call-up of reservists. A number of infantry brigades could be mobilized, if needed for territorial defence.

Navy: 20,000 (including 2,800 marines and 2,000 naval air arm).

6 submarines.

6 frigates with *Seacat* SAM; 1 It ASW hel.

12 destroyers.

6 corvettes.

3 MCM support ships.

5 patrol vessels.

26 coastal minesweepers.

16 inshore minesweepers.

1 fast combat support ship.

2 marine commandos.

Naval Air Arm: 2,000; 44 combat aircraft. 3 MR sqns; 2 with 9 BR–1150 Atlantic and 17 P–2 Neptune and 1 with 18S–2N.

6 Sikorsky H–34J, 7 AB–204B, and 11 Wasp hel (1 Wasp on order).

Deployment:

Surinam: 1 destroyer; 1 marine commando.

Reserves: about 20,000, 9,000 on immediate recall; 6 frigates; one hel sqn.

Air Force: 22,200, 144 combat aircraft.

2 fighter-bomber squadrons with 36 F–104G.

8 fighter-bomber squadrons with 54 NF–5A.

2 interceptor squadrons with 36 F–104G.

1 reconnaissance squadron with 18 RF–104G.

1 transport squadron with 12 F–27.

30 NF–5B trainers.

3 observation and communication squadrons (under Army command) with 70 Alouette III hel; 60 Piper L–21 and 9 DHC–2 Beaver lt ac.

8 SAM squadrons with 32 Nike-Hercules.

11 SAM squadrons with 66 HAWK.

Reserves: about 20,000.

Para-Military Forces: 3,200 Gendarmerie.

NORWAY

Population: 4,000,000.

Military service: Army, 12 months; Navy and Air Force, 15 months.

Total armed forces; 35,400.

Estimated GNP 1972: $15.1 billion.

Defence budget 1973: 3,485 million kroner ($665 million).

6.51 Kroner=$1 1 July 1972.

5.24 Kroner=$1 1 July 1973.

Army: 18,000.

The peacetime establishment includes 1 brigade group in North Norway, independent battalions, and supporting elements and training units.

78 Leopard and 80 M–48 med tks; 45 M–24 lt tks; M–8 armed cars; M–113 and BV–202 APC; M–109 155mm SP how; Bofors L–40/70 AA guns; L–18 and L–19 lt aircraft.

Reserves: mobilization would produce 11 Regimental Combat Teams (brigades) of 5,000 men each, supporting units and territorial forces totalling 135,000.

Navy: 8,000 (incl 1,600 coastal artillery).

15 coastal submarines.

5 frigates.

2 coastal escorts.

10 coastal minesweepers.

5 minelayers.

20 fast patrol boats (with Penguin SSM).

20 torpedo boats (6 with Penguin SSM).

2 support ships.

7 landing craft.

A number of coastal artillery batteries.

Reserves: 12,000.

Air Force: 9,400; 135 combat aircraft.

5 FGA squadrons each with 16 F–5A.

1 AWX fighter squadron with 16 F–104G.

1 interceptor squadron with 13 CF–104G.

1 reconnaissance squadron with 16 RF–5A.

1 MR squadron with 5 P–3B; some HU–16.

1 transport squadron with 6 C–130 and 4 C–47.

2 hel sqns with 32 UH–1B and 10 Sea King.

4 SAM batteries with Nike-Hercules.

Reserves: 10,600, providing 12 airfield defence lt AA bns. Home Guard (all service), 80,000.

PORTUGAL

Population: 9,200,000.

Military service: Army, 24 months; Air Force, 36 months; Navy, 48 months.

Total armed forces: 204,000.

Estimated GNP 1972: $8.3 billion.

Defence budget 1972: 11,468.7 million escudos ($425 million).

27 escudos equal $1 1 July 1972.

22.77 escudos equal $1 1 July 1973.

Army: 170,000.

2 tank regiments.

8 cavalry regiments.

25 infantry regiments.

13 artillery regiments.

1 coastal artillery regiment.

3 AA artillery regiments.

8 engineer battalions.

8 signals battalions.

M–47 and M–7 med tks; M–41 lt tks; Humber Mark IV and EBR–75 armd cars; AML–60 scout cars; FV–1609 and M–16 half-track APC; 105mm and 140mm how; coast and AA arty.

Deployment: Some of the above units form 2 infantry divisions, at or below half-strength, in Portugal. About 25 infantry battalions and supporting units are located in the African provinces. (The numbers of all armed forces in each province, including locally enlisted are:

Angola: 55,000.

Mozambique: 55,000.

Portuguese Guinea: 27,000.

Reserves: 306,000.

Navy: 18,000 (including 3,300 marines).

4 submarines.

8 frigates.

6 corvettes.

25 coastal patrol vessels.

4 ocean and 12 coastal minesweepers.

24 patrol launches (less than 100 tons).

66 landing craft.

Reserves: 12,000.

Air Force: 16,000; 152 combat aircraft.

2 It bbr sqns with 6 B–26 Invader and 10 PV–2.

1 fighter-bomber squadron with 20 F–84G.

2 FGA squadrons with 40 G–91.

2 interceptor squadrons with 40 F–86F.

6 COIN flights with 24 armed T–6K.

1 maritime patrol squadron with 12 P–2V5.

24 Noratlas, 20 C–47, 10 DC–6, and 15 C–45 tpts.

13 T–33, 25 T–37, and 35 T–6 recce/trainers.

Other aircraft include 11 Do–27 and about 100 Alouette II/III and 12 SA–330 Puma helicopters.

1 parachute regiment of 4,000.

Para-Military Forces: 9,700 National Republican Guard.

TURKEY

Population: 37,900,000.

Military service: 20 months.

Total armed forces: 455,000.

Estimated GNP 1972: $15.8 billion.

Defence budget 1973–74: 11,100 million liras ($812 million).

14.17 liras=$1 July 1, 1972.

13.67 liras=$1 July 1, 1973.

Army: 365,000.

1 armoured division.

2 mechanized infantry divisions.

11 infantry divisions.

4 armoured brigades.

3 mechanized infantry brigades.

3 infantry brigades.

1 parachute brigade.

1 armoured cavalry regiment.

2 SSM battalions with Honest John.

1,400 M–47 and M–48 med tks; M–24, M–26, and M–41 lt tks; M–36 tank destroyers; M–8 armd cars; M–59 and M–113 APC; 105mm and 155mm SP guns; 105mm, 155mm, and 203mm how; SS–11 and Cobra ATGW; 40mm, 75mm, and 90mm AA guns; 8 Honest John SSM; Do–27, Do–28D–1 Sky Servant, and U–1

Beaver lt ac; 20 AB-206 and 20 Bell 47G hel. (250 M-48 med tks on order.)
Reserves: 750,000.
Navy: 40,000.
15 submarines.
14 destroyers.
8 coastal escorts.
11 motor torpedo boats (2 less than 100 tons).
14 fast patrol boats.
20 minesweepers.
7 minelayers.
A number of landing craft.
3 AB-205A ASW helicopters.
Reserves: 50,000.
Air Force: 50,000; 288 combat aircraft.
2 fighter-bomber squadrons with F-104G.
5 fighter-bomber squadrons with F-100D.
2 fighter-bomber squadrons with F-5A.
2 interceptor squadrons with F-5A.
2 AWX squadrons with F-102A.
3 recce squadrons with RF-84F and RF-5A. (40 F-4 on order.)
(A combat squadron has an average of 18 aircraft.)
3 tpt sqns with 14 C-47, 10 C-130, and 20 Transall.
10 Bell UH-1D, 10 Sikorsky UH-19D, and some AB-204B hel.
2 SAM battalions (8 batteries) with Nike-Hercules.
Para-Military Forces: 75,000 Gendarmerie (including 3 mobile brigades).

THE THEATER BALANCE BETWEEN NATO AND THE WARSAW PACT

Any assessment of the military balance between NATO and the Warsaw Pact involves comparison of the strengths of both men and equipment, consideration of qualitative characteristics, such as geographical advantages, deployment, training and logistic support, and differences in doctrine and philosophy.

Certain qualitative factors are of special importance. For a variety of reasons the Soviet Union is likely to have within the theater, or nearby, forces which closely reflect her doctrine and strategy; on the other hand NATO, bound as it is by a multi-national political process and by public pressures that do not exist in the Soviet Union, has tended to compromise on its military requirements. Warsaw Pact equipment is, though much of it might not meet NATO qualitative standards, standardized whereas that of NATO is not, imposing limits on interchange and flexibility. There is little depth in the NATO central area and this presents problems in its defence.

The appraisal which follows should be regarded as primarily a quantitative guide since there are difficulties in giving values, in so short a space, to qualitative factors and deciding on their relevance. It is military only and thus one-dimensional. Furthermore the situation is not a static one: any single presentation must have inadequacies. The comparisons necessarily over-simplify what is by its nature a complex problem.

LAND AND AIR FORCES

The three major NATO subordinate commands, Northern, Central, and Southern Europe, at first seem to offer a convenient basis for making a direct comparison with the opposing forces of the Warsaw Pact, but there are problems. The Northern European Command covers not only Norway but also the Baltic area, including Denmark, Schleswig-Holstein, and the Baltic Approaches. It is not possible to make precise calculations as to the Soviet or Warsaw Pact formations that would be committed to the Baltic area rather than towards the NATO Central European Command, since in both land and air forces there is a considerable degree of flexibility to do either. For the Warsaw Pact this sector is a coherent front though a number of Soviet divisions, notably in the Leningrad area and in the Kola Peninsula, would undoubtedly be directed towards Norway. Northern and Central Europe are therefore grouped together in the tables which follow, and Southern Europe is shown separately.

COMPARISON OF GROUND FORMATIONS

A traditional basis of comparison is the number of combat divisions that the two sides have. This is far from an adequate guide by itself, since not only do divisions vary greatly in their organization, size, and equipment, but there are a number of combat units outside divisions as well. As a broad indication of the front-line combat resources available it has some utility, taken in conjunction with the various tables which follow it, but to read too much into this divisional count could be misleading.

Category	Northern and Central Europe			Southern Europe		
	NATO	Warsaw Pact	Of which U.S.S.R.	NATO	Warsaw Pact	Of which U.S.S.R.
Ground forces available to commanders in peacetime (in division equivalents):						
Armored	10	33	21	6	7	3
Infantry, mechanized, and airborne	14	35	20	31	21	4

In this table (and the ones that follow in this section), the portion headed "Northern and Central Europe" includes (on the NATO side) the commands for which AFCENT and AFNORTH commanders have responsibility. France is not included, nor are any allied ground forces in Portugal or Britain. On the Warsaw Pact side it includes the command for which the Pact High Commander has responsibility, but excludes the armed forces of Bulgaria, Hungary, and Rumania. Certain Soviet units normally stationed in western USSR and such troops as might be committed to the Baltic and Norwegian theatre of operations have, however, been included on the Warsaw Pact side.

The entries under the heading "Southern Europe" include, on the NATO side, the Italian, Greek, and Turkish land forces (including those in Asian Turkey) and such American and British units as would be committed to the Mediterranean theatre of operations, and on the Warsaw Pact side, the land forces of Bulgaria, Hungary, and Rumania and such Soviet units normally stationed in Hungary and southern USSR as might be committed to the Mediterranean theatre.

French formations are not in the above figures; if included they would add two mechanized divisions to the NATO totals. These are the two divisions stationed in Germany. There are four more in France, outside the NATO area. Though these divisions are stationed in Germany and there has been some joint planning with NATO military commanders, they are not committed to NATO and there has been no agreement on the military strategy under which they might be employed. On the other hand, all the appropriate forces of the Warsaw Pact countries are included, though the military value of some of them might be suspect of political reasons, dependent on circumstances. Offsetting advantages to NATO are the facts that most of the NATO strength is in West Germany, where it is wanted, while about a third of the Soviet divisions here are some distance away in the western military district of the Soviet Union. The figures show, therefore, from a NATO viewpoint, what is the worst case.

The figures do not include French forces; if those stationed in Germany are counted, the NATO figure for Northern and Central Europe might be increased by perhaps 50,000.

The table conceals a marked imbalance in North Norway. In Norway there are only Norwegian forces in peacetime, a brigade group being located in the north. The Soviet forces facing them, or which could be brought against them from north-western Russia, probably amount to at least four divisions. This wide disparity highlights the problem of the defence of North Norway against surprise attack. To meet this difficulty a system of self-defence, based on a powerful Home Guard and rapid mobilization, has been designed to take maximum advantage of the ruggedness of the country and the poor road and rail communications, but it is clear that defence against attack of any size depends on timely external assistance.

Two further imbalances are worth noting. The first, a legacy from the post-war occupation zones, is a certain maldeployment in the NATO Central European Command, where the well-equipped and strong American formations are stationed in the southern part of the front, an area which geographically lends itself to defence, while in the north German plain, across which the routes to allied capitals run, where there is little depth and few major obstacles, certain of the forces are less powerful. The second is that the whole of the Italian land forces, which are included in the table under Southern Europe, are stationed in Italy and thus are at some distance from the areas of potential confrontation both in the South-East and the Centre.

COMPARISON OF MANPOWER

A comparison of front-line manpower deployed on the ground in normal circumstances, that is, before any reinforcement, fills out the picture further. The figures shown reflect the variations in divisional establishments mentioned above but also include combat troops in formations higher than divisions and those men who directly support them. They take account of undermanning as well—many NATO and Warsaw Pact divisions are kept well below strength in peacetime. Figures calculated on this basis can only be approximate. They give the following comparison (figures are in thousands):

Category	Northern and Central Europe			Southern Europe		
	NATO	Warsaw Pact	Of which U.S.S.R.	NATO	Warsaw Pact	Of which U.S.S.R.
Combat and direct support troops available	600	900	600	530	320	90

The figures do not include French forces; if those stationed in Germany are counted, the NATO figure for Northern and Central Europe might be increased by perhaps 50,000.

The table still reveals an advantage to the Warsaw Pact in Northern and Central Europe (subject to the caveat above about the value to be placed on the forces of the East European Pact countries). It does not, of course, include the men in the American dual-based brigades, because they are not physically present in Europe, but does include on the Warsaw Pact side some 200,000 in divisions in the western Soviet Union, since these formations are clearly designed for operations in Central Europe, though they are at some distance in time and space from the area.

In Southern Europe the figures favour NATO but conceal the fact that the forces are widely separated, with Italian troops deployed at a very considerable distance from those of Greece and Turkey.

THE MOVEMENT OF REINFORCEMENTS

The movement of reinforcements to the theatre and the mobilization of first-line reserves would materially alter the above figures. NATO might get its earliest reinforcements from West Germany and Britain, but these would be designed mainly to increase manning strengths rather than to increase materially the number of formations. The three mechanized divisions in eastern France might also be made available, but NATO would rely principally on the United States for major reinforcement with extra divisions. There are in the United States the two dual-based brigades and a further two divisions specially earmarked for Europe, all with their equipment stockpiled in Germany. The personnel of these formations could be moved very quickly, using the very considerable airlift which exists. There are then a further 4 divisions in the active army and two in the Marines in the Strategic Reserve in the United States but, although they might be available very early, some of their equipment would have to be moved by sea. This would also be the case with the 8 divisions and some 18 independent brigades in the National Guard that could nominally be ready for movement some five weeks after mobilization but might need further training (as might Soviet reinforcements).

Warsaw Pact reinforcement plans follow a rather different pattern. Soviet divisions are kept at three different manning levels and other Warsaw Pact formations at two. Reinforcement depends on filling out these divisions by mobilization and then on moving them forward. As far as can be judged, mobilization by the Soviet Union in particular could be very speedy, since many of the formations likely to be used in Central Europe are kept at the higher manning levels. It has been estimated that the 27 Soviet divisions in Eastern Europe could be increased to perhaps 70 in about a month—if mobilization were unimpeded. (This 70 includes the divisions in the western USSR already counted in the Ground Formation table.) Of course it might not be. If hostilities had already started, movement by rail and road could be interdicted and the build-up be slowed down considerably. Nonetheless, the Soviet Union, a European power operating on interior lines, should be able in the early weeks to move reinforcements with heavy equipment faster overland than the United States could by sea. American ability to bring back the men of the dual-based brigades in days by air has been demonstrated on exercises, and for the two divisions with equipment in Germany the airlift of personnel would be a matter of another week or so. As with Soviet forces, this would depend on movement not being hindered, on a secure air environment and safe airfields to fly into; and quick dispersal from airfields could be difficult once fighting had started. The increase of manpower strengths in combatant units could take place rapidly, both from the United States and from the European NATO countries, but the real problem for a fast build-up lies in the inevitable time lag there would be before the American follow-up formations, dependent for their heavy weapons on sealift, could be ready for operations.

Implicit in Western defence plans is the concept of political warning time, that there will be sufficient warning of a possible attack to enable NATO forces to be brought to a higher state of readiness and for reinforcement and mobilization to take place. This does, of course, assume the willingness—this applies to both sides—to reinforce in a crisis situation at the risk of heightening tension by doing so. Advantage here will generally lie with an attacker, who can start mobilization first, hope to conceal his intentions, and finally achieve some degree of tactical surprise. The point of attack can be chosen and a significant local superiority built up. The defender is likely to start more slowly and will have to remain on guard at all points.

A fair summary of the reinforcement position might be that the Warsaw Pact is intrinsically capable of a faster build-up of formations in the early weeks, particularly if local surprise is achieved; that NATO can only match such an initial build-up if it has, and takes advantage of, sufficient warning time; that the subsequent rate of build-up favours the Warsaw Pact unless the crisis develops slowly enough to permit full reinforcement; in this last case the West could eventually reach an advantageous position.

Alliance countries maintain more men under arms than the Warsaw Pact. For Army/Marines the figures (in thousands) are: NATO 3,025 (including France 3,357); Warsaw Pact 2,859. And the Soviet Union has a large proportion of her forces not available for Europe but on her border with China.

COMPARISON OF EQUIPMENT

In a comparison of equipment one point stands out: the Warsaw Pact is armed almost completely with Soviet or Soviet-designed material and enjoys the flexibility, simplicity of training, and economy that standardization brings. NATO forces have a wide variety of everything from weapons systems to vehicles, with consequent duplication of supply systems and some difficulties of interoperability; they do, however, have many weapons qualitatively superior. As to numbers of weapons, there are some notable differences of which that in tanks is perhaps the most significant. The relative strengths are:

	Northern and Central Europe			Southern Europe		
Category	NATO	Warsaw Pact	Of which U.S.S.R.	NATO	Warsaw Pact	Of which U.S.S.R.
Main battle tanks in operational service: In peacetime	6, 500	17, 000	10, 000	2, 150	6, 200	1, 700

These are tanks with formations, or which are earmarked for the use of dual-based or immediate reinforcing formations (some 750). They do not include those in reserve, or to replace tanks damaged or destroyed. In this latter category NATO has perhaps 1,500 tanks in Europe. The Soviet Union has recently replaced about 1,000 T-54/55 tanks with T-62s in its divisions in East Germany but has not withdrawn the older ones. These extra tanks are not included above. There may perhaps be other tanks in reserve in the Warsaw Pact area, but in general in the Pact reinforcement system the tanks in formations form the reserves.

Again, French forces are not included in the above figures. If the two divisions stationed in Germany are taken into account, 325 should be added to the NATO total; if the three divisions in eastern France are counted, the NATO figures go up by a further 485.

It will be seen that in Northern and Central Europe NATO has little more than a third as many operational tanks as the Warsaw Pact, though NATO tanks are generally superior (even to the T-62, now increasingly coming into service in the Pact forces). This numerical weakness in tanks (and in other armoured fighting vehicles) reflects NATO's essentially defensive role and is offset to some extent by a superiority in anti-tank weapons, a field in which new missiles coming into service may increasingly give more strength to the defence. NATO probably also has more effective airborne anti-tank weapons carried by fighter aircraft and helicopters. In conventional artillery the Warsaw Pact is stronger, though this advantage is partly redressed by the greater lethality of NATO ammunition and its greater logistic capability to sustain higher rates of fire. This capability stems from a significantly higher transport lift, about half as high again in a NATO division as compared with a Warsaw Pact one. NATO has, however, an inflexible logistic system, based almost entirely on national supply lines with little central co-ordination. It cannot now use French territory, and has many lines of communication running north to south near the area of forward deployment. Certain NATO countries are, furthermore, short of supplies for sustained combat, but Warsaw Pact countries may be no better off.

NUMBERS OF AIRCRAFT

If NATO ground formations are to be able to exploit, by day as well as by night, the mobility they possess, they must have a greater degree of air cover over the battlefield than they now have. Such cover is provided by a combination of rapid warning communications systems, surface-to-air weapons, and fighter aircraft. In much of this ground-air environment NATO is well prepared; in numbers of aircraft it is inferior. NATO has, however, a higher proportion of multi-purpose aircraft of good performance over their full mission profiles, especially in range and payload; considerable power can be deployed in the ground attack role in particular. Both sides are modernizing their inventories, and the US forces in Europe in particular can now be assumed to have available the very advanced air-delivered weapons, such as the laser-guided bombs and other precision-guided munitions, of the types used in South-East Asia. The two air forces have rather different roles: long range and payload have lower priority for the Warsaw Pact. NATO, for example, has maintained a long-range deep-strike tactical aircraft capability; the Soviet Union has chosen to build a MRBM force which could, under certain circumstances, perform analogous missions, though not in a conventional phase of any battle.

	Northern and Central Europe			Southern Europe		
Categories	NATO	Warsaw Pact	Of which U.S.S.R.	NATO	Warsaw Pact	Of which U.S.S.R.
Tactical aircraft in operational service:						
Light bombers	140	250	200	6	30	30
Fighter/ground attack	1, 100	1, 400	1, 110	450	125	50
Interceptors	350	2, 100	1, 110	275	950	450
Reconnaissance	300	550	400	125	90	40

In this table, the area covered for "Northern and Central Europe" is slightly wider than for ground troops as described in the earlier tables. Many aircraft have a long-range capability and in any case can be redeployed very quickly. Accordingly, the figures here include the appropriate British and American aircraft in Britain, American aircraft in Spain, and Soviet aircraft in western USSR. They do not, however, include the American dual-based squadrons, which would add about 100 fighter-type aircraft to the NATO totals, nor French squadrons with perhaps another 500 fighters. Carrier-borne aircraft of the US Navy are excluded but so, on the other hand, are the medium bombers in the Soviet Air Force, which could operate in a tactical role.

The Warsaw Pact enjoys the advantage of interior lines of communication, which makes for ease of command and control and logistics. It has a relatively high capability to operate from dispersed natural airfields serviced by mobile systems, far more airfields with more shelters, and the great advantage of standard ground support equipment which stems from having only Soviet-designed aircraft. These factors make for greater flexibility than NATO has, with its wide variety of aircraft and support equipment. NATO undoubtedly has superiority in sophistication of equipment, the capability of its air crews, which have in general higher training standards and fly more hours, and the versatility of its aircraft, which give operational flexibility of a different kind. NATO's real advantage, however, is that it has more reinforcement aircraft. Since squadrons can be moved quickly the NATO numerical inferiority shown above could rapidly be turned into superiority if enough airfields are available. The total American tactical aircraft inventory, for example (excluding training or home air defence), is 5,100; that for the Soviet Union is 4,500.

THEATRE NUCLEAR WEAPONS

NATO has some 7,000 nuclear warheads, deliverable by a variety of vehicles, over 2,000 in all, aircraft, short-range missiles, and artillery of the types listed in Table 1 in the "Tables of Comparable Strengths" section elsewhere in this issue. These nuclear weapons are in general designed for use against targets within the battlefield area or directly connected with the manoeuvre of combatant forces, which could be described as a 'tactical' use. The figure of 7,000 warheads includes, however, a substantial number carried out by, for example, aircraft such as the F-4 or F-104, which could be delivered on targets outside the battlefield area or unconnected with the manoeuvre of combatant forces and thus put to 'strategic' use. There is inevitably some overlap when describing delivery vehicles, aircraft and missiles, capable of delivering conventional or nuclear warheads as 'tactical' or 'strategic'. The total of 7,000 also includes nuclear warheads for certain air-defense missiles. There are also nuclear mines. Yields are variable but are mainly in the low kiloton range. The ground-based missile launchers and guns are in formations down to divisions and are operated both by American and allied troops, but in the latter case warheads are under double key. The figure for Soviet warheads is probably about 3,500, similarly delivered by aircraft and missile systems (again, see Table 1). Soviet warheads are thought to be somewhat larger, on average, than those of NATO. Some of the delivery vehicles, but not the warheads, are in the hands of non-Soviet Warsaw Pact forces.

This comparison of nuclear warheads must not be looked at in quite the same light as the conventional comparisons preceding it, since on the NATO side the strategic doctrine is not, and cannot be, based on the use of such weapons on this sort of scale. These numbers were accumulated to implement an earlier, predominantly nuclear, strategy and an inventory of this size now has the chief merit of affording a wide range of choice of weapons, yield, and delivery system if controlled escalation has to be contemplated. A point that does emerge from the comparison, however, is that the Soviet Union has the ability to launch a battlefield nuclear offensive on a massive scale if she should choose, or to match any NATO escalation with broadly similar options.

CHANGES OVER TIME

The comparisons above are not very different from those of a few years ago, but over a longer period the effect of small and slow changes can be marked, and the balance can alter. In 1962 the American land, sea, and air forces in Europe totalled 434,000; now the figure is around 300,000. There were 26 Soviet divisions in Eastern Europe in 1967; now there are 31. The numerical pattern over the years so far has been a gradual shift in favour of the East; qualitatively NATO has more than held its own. In future the advent of new weapons systems, particularly precision-guided munitions and anti-tank and air defense missiles, may cut into the Warsaw Pact's advantage in tank and aircraft numbers. The extent to which negotiated force reductions may change the balance also remains to be seen.

OTHER EUROPEAN COUNTRIES

ALBANIA

Population: 2,400,000.

Military service: Army 2 years; Air Force, Navy, and special units 3 years.

Total regular forces: 38,000.

Estimated GNP 1971: $1.04 billion.

Defence budget 1973: 589 million leks ($118 million).

5 leks equal $1.

Army: 30,000.

1 tank brigade.

6 infantry brigades.

Some light coastal batteries.

70 T-34, 15 T-54 and T-59 med tks; T-62 lt tks; 20 BA-64, BTR-40, and BTR-152 APC; SU-76 SP guns; 122mm and 152mm gun/how; 45mm, 57mm, 76mm, and 85mm ATk guns; 37mm, 57mm, and 85 mm AA guns.

Navy: 3,000.

4 submarines(ex-Soviet W-class).

4 coastal escorts.

40 MTB and patrol boats.

8 MCM ships (2 ex-Soviet T-43, 6 T-301 class).

Coastal defence SSM deployed around Durazzo and Valona.

Air Force: 5,000; 96 combat aircraft.

2 FB squadrons with 24 MiG-17/F-4 (Chinese).

2 fighter squadrons with 24 MiG-15/F-2 (Chinese).

2 interceptor squadrons with 36 MiG-19 and 12 MiG-21 (Chinese).

1 transport squadron with 3 An-2 and 3 Il-14.

2 squadrons with 20 Mi-1 and Mi-4 helicopters.

SA-2 SAM.

Para-Military Forces: 15,000; internal security force 5,000; frontier force 10,000.

AUSTRIA

Population: 7,500,000.

Military service: 6 months, followed by 60 days' reservist training.

Total armed forces: 12,000 regular, 40,000 conscript (total mobilizable strength 150,000).

Estimated GNP 1972: $20.4 billion.

Defence budget 1973: 5,080 million schilling ($291 million).

23 schilling equal $1 1 July 1972.

17.46 schilling equal $1 1 July 1973.

Army: 10,250 regulars, 38,050 conscripts.

3 armoured brigades.

7 infantry brigades.

16 territorial regiments.

3 independent air defence battalions.

153 M-47, 120 M-60 med tks; 100 Kuerassier tk destroyers; 470 Saurer APC; 108 105mm, 38 M-109 155mm, and 31 SFK M-2 155mm SP how; 18 130 mm Praga V3S multiple RL; 301 80mm med mortars; 107 107mm and 82 120mm heavy mortars; 299 20mm Oerlikon, 44 35mm Super Bat and 60 40mm Bofors AA guns.

Deployment: 1 400-man battalion and 1 field hospital in Syprus (UNICYP).

Reserves: 100,000 Landwehr, Frontier Guard, and area militia.

Air Force: 1,750 regulars, 1,950 conscripts; 38 combat aircraft. (Austrian air units are an integral part of the army, but have been listed separately for purposes of comparison.)

3 fighter-bomber sqns with 38 SAAB 105OE.

1 sqn SAAB 105OE and 1 sqn SAAB Safir trainers.

1 tpt sqn with 19 Cessna L-19, 3 Beaver L-20, 2 Skyvan.

6 hel sqns with 2 AB-204B, 18 AB-206A and H-13, 22 Alouette II/III, and 2 S-65-Oe.

Para-Military Forces: 11,250 Gendarmerie.

EIRE

Population: 3,000,000.

Military service: voluntary.

Total armed forces: 10,570.

Estimated GNP 1972: $5.62 billion.

Defence budget 1973: £34.2 million ($88 million).

£0.413=$1 1 July 1972.

£0.388=$1 1 July 1973.

Army: 9,600.

7 infantry battalions (one coy in UNIFICYP).

1 tank squadron.

1 recce squadron.

6 field artillery batteries.

1 AA battery.

8 Comet, 3 Churchill med tks; 20 Panhard armd cars (incl 4 AML-90); 17 Unimog and 13 Panhard AML APC; 48 25-pdr guns; 447 84mm Carl Gustav and 96 90mm IIIO ATGW; 72 120 mm mortars; 26 40mm Bofors AA guns.

Reserves: 19,800: Regular Reserve 1,500; Territorial Army; 18,300.

Navy: 400.

1 corvette.

3 coastal minesweepers.

Air Force: 570; 7 combat aircraft.

3 Vampire, 4 BAC Provost, 8 Chipmunk, and 8 Cessna F-172; 2 Dove lt tpt; 6 Alouette III hel.

FINLAND

Population: 4,710,000.

Military service: 8-11 months.

Total armed forces: 39,500.

Estimated GNP 1972: $12.6 billion.

Defence budget 1973: 843.2 million markkaa ($231 million).

4.1 markkaa=$1 1 July 1972.

3.65 markkaa=$1 1 July 1973.

Army: 34,000.

1 armoured brigade (at about half strength).

6 infantry brigades (at about 35 per cent strength).

7 independent infantry battalions.

3 field artillery regiments.

4 independent field artillery batteries.

7 coastal artillery battalions.

4 anti-aircraft battalions.

T-54, T-55, and Charioteer med tks; PT-76 lt tks; BTR-50P APC; 105mm, 122mm, and 130mm guns; 122mm and 152mm how; Vigilant and SS-11 ATGW; ZSU-57-2, ZU-23-2, 35mm Oerlikon and 40mm Bofors AA guns.

Navy: 2,500.

3 frigates (one used as training ship).

2 gunboats.

1 patrol boat with SSM (training ship).

15 fast patrol boats (less than 100 tons).

2 coastal minelayers.

5 inshore minesweepers.

Air Force: 3,000; 47 combat aircraft.

3 fighter sqns with MiG-21F, 12 SAAB J-35BS draken, and Fouga Magister.

About 10 DC-3 transports.

60 Magister, 30 Safir, and 4 Mig-15/21 UTI trainers.

3 Mi-4, 1 Alouette II, and 1 AB-204B hel.

Reserves: 685,000.

Para-Military Forces: 4,000 frontier guards.

SPAIN

Population: 34,700,000.

Military service: 18 months.

Total armed forces: 293,000.

Estimated GNP 1972: $46.2 billion.

Defence budget 1973; 65.7 billion pesetas ($1,132 million).

63 pesetas=$1 1 July 1972.

58.06 pesetas=$1 1 July 1973.

Army: 210,000.

1 armoured division.

1 mechanized infantry division.

1 motorized infantry division.

2 mountain divisions.

1 armoured cavalry brigade.

12 independent infantry brigades.

(All above are about 70% strength.)

1 mountain brigade.

1 airportable brigade.

1 parachute brigade.

2 military brigades (1 coast artillery).

1 SAM battalion with HAWK.

20 AMX-30, 350 M-47, and M-48 med tks; 250 M-24 and M-41 lt tks; Greyhound armd cars; AML-60/90 and M-3 scout cars; 50 M-113 APC; 130 105mm, and 175mm SP guns; 200 105mm, 155mm, and 203mm how; 90 mm SP ATk guns; 40mm L/70 and 90mm AA guns; 88mm coastal guns; Cessna O-1E, CASA 127 lt ac; 6 Bell 47G, 12 UH-1B, 16 UH-1H, and 16 AB-206A hel (6 CH-47C tp ts on order); HAWK SAM.

Navy: 44,000 (incl 8,000 marines).

6 submarines (4 Daphne-class on order).

1 helicopter carrier.

1 cruiser.

19 destroyers/fast frigates (5 more on order).

5 frigates.

5 corvettes.

3 ASW launches.

3 torpedo boats.

26 minesweepers.

14 landing ships/craft.

3 ASW hel and 1 lt hel sqns with 6 SH-30, 12 AB-204B, 9 H-19, 5 Hughes 500, 16 Bell 47H-1G, Bell 212, and Sikorsky CH-47.

Air Force: 39,000; 151 combat aircraft.

2 fighter-bomber sqns with 36 F-4C.

2 fighter-bomber sqns with 24 Mirage 111EE.

2 fighter-bomber sqns with 36 F-5A.

2 fighter-bomber sqns with 44 HA-200 Saeta.

1 ASW sqn with 11 SA-16.

Tpt ac include C-47, DC-4, CASA 207 Azor, Caribou; KC-137 tankers.

Trainers include 6 Mirage IIIBE and 6 F-5B.

Hel include A-205 and AB-47.

(15 Mirage F-1, 4 C-130H, up to 20 C-212 Aviorcar, 8 Chinook, and 8 Cobra on order.)

Para-Military Forces: 65,000 Guardia Civil.

Deployment (outside mainland Spain): 41,000.

Balearic Islands: 6,000.

Canary Islands: 8,000.

Ceuta: 8,000, incl 1 regt of Foreign Legion.

Melilla: 9,000, incl 1 regt of Foreign Legion.

Spanish Sahara: 10,000, incl 2 regts of Foreign Legion.

SWEDEN

Population: 8,200,000.

Military service: Army and Navy, 7½–15 months; Air Force, 9–14 months.

Total armed forces: 20,500 regulars, 18,300 reservists, and 54,300 conscripts, plus 99,600 conscripts on annual refresher training. (Total mobilization strength 750,000.)

Estimated GNP 1972: $42.3 billion.

Defence budget 1973–74: 7,550 million kroner (1,883 million).

4.72 kroner=$1 1 July 1972.

4.01 kroner=$1 1 July 1973.

Army: 10,700 regulars, 13,400 reservists, and 40,500 conscripts, plus 83,000 conscripts on 18–40 days' annual refresher training.

6 armoured brigades.

20 infantry brigades.

4 Norrlands winter brigades.

50 independent battalions.

23 Local Defence Districts with 100 independent battalions and 400-500 independent companies.

49 non-operational armoured, infantry, and artillery training units to provide basic arms training for conscripts.

Strv 101, 102 (Centurion), and 103B med tks; Strv 74 It tks (Ikv 91 on order); Pbv 301, 302A, SKPF APC; Ikv 102, Ikv 103 105mm and Bk 1A (L/50) and other 155mm SP guns; 75mm, 105mm, and 155mm how; 75mm SP and 90mm ATk guns; SS-11. Bantam, Carl Gustav, and Miniman ATGW: 20mm, 40mm, and 57mm AA guns; Redeye and HAWK SAM; 20 Sk 61 (Bulldog), 18 Fpl 51 (Piper Super Cub), 4 Fpl 53 (Do.27) It ac; Hkp-3 (AB-204B), 22 Hkp-6 (Jet-Ranger) hel.

Navy: 4,400 regulars, 2,900 reservists, and 7,500 conscripts, plus 12,000 conscripts on annual refresher training.

22 submarines.

8 destroyers, 2 with Rb–08 SSM, 4 with Seacat SAM.

5 fast ASW frigates.

19 heavy torpedo boats.

25 motor torpedo boats (less than 100 tons).

1 fast patrol boat.

2 minelayer/submarine depot ships.

18 coastal minesweepers.

20 inshore minesweepers (8 less than 100 tons).

20 mobile and 45 static coastal artillery batteries with 75mm, 105mm, 120mm, 152mm, and 210mm guns and Rb–08 and Rb–52 (SS–11) SSM.

7 Kkp–2 (Alouette II), 3 Hkp–4B (Vertol 107), 7 Hkp–4C (Kawasaki-Vertol 107/II), and 10 Hkp–6 (JetRanger) hel.

Air Force: 5,400 regulars, 2,000 reservists, and 6,300 conscripts, plus 4,600 conscripts on annual refresher training; 600 combat aircraft.

9 attack sqns with A–32A Lansen (with Rb–04E ASM) and AJ–37 Viggen (replacement of Lansen by Viggen started in 1971).

1 FGA sqn with SAAB S/T–60B.

13 AWX sqns with J–35 Draken F.

6 AWX sqns with J–35 Draken A/D.

2 recce-fighter sqns with S–32C.

3 recce/day fighter sqns with S–35E.

(A combat sqn has up to 18 aircraft.)

2 tpt sqns with 2 C–130E and 7 C–47, Norseman, and BAC Pembroke.

5 comm sqns with 110 SAAB 105 and 78 Sk 61 (Bulldog) (suitable for light ground attack duties).

5 hel groups (up to 3–4 aircraft each) with 1 Hkp–2 (Alouette II), 6 Hkp–3 (AB–204B), and 4 Hkp–4B (Vertol 107).

6 SAM sqns with Bloodhound 2.

There is a fully computerized, fully automatic control and air surveillance system, Stril 60, co-ordinating all air defence components.

Reserves: Voluntary defence organizations, 500,000.

SWITZERLAND

Population: 6,500,000.

Military service: 4 months initial training, followed by refresher training of three weeks a year for 8 years, two weeks for 3 years, and one week for 2 years.

Total armed forces: 3,500 regulars and 30,000 conscripts (total mobilizable strength 600,000; militia can be fully mobilized within 48 hours).

Estimated GNP 1972: $30.6 billion.

Defence budget 1973: 2,309 million francs ($799 million).

3.75 francs=$1 1 July 1972.

2.89 francs=$1 1 July 1973.

Army: 1,500 regular cadre (including Air Defence troops): 27,500 conscripts; 526,500 militia.

1 corps (Alpine defence) of 3 mountain divisions.

3 corps, each of an armoured division and 2 infantry divisions.

17 frontier, fortress or 'redoubt' brigades.

300 Centurion and 260 Pz–61/68 med tks; 200 AMX–13 lt tks; 1,250 M–113 APC; 150 155mm SP how; 900 105mm guns and how.

Air Force: 2,000 regular; 2,500 conscripts; 40,000 militia (maintenance is by civilians); 285 combat aircraft. (Swiss Air Force and Air Defense Troops are an integral part of the army, but are listed separately for purposes of comparison.)

11 FB squadrons with 165 Venom FB 50.

2 interceptor squadrons with 30 Mirage IIIS.

5 FGA squadrons with 75 Hunter F–58 (with Sidewinder AAM). (30 more Hunters on order.)

1 reconnaissance squadron with 15 Mirage IIIRS.

28 transport aircraft.

100 Alouette II/III hel.

2 SAM battalions with Bloodhound 2.

45 AA batteries with Oerlikon twin 35 mm cannon.

Reserves: 566,500.

YUGOSLAVIA

Population: 21,000,000.

Military service: Army and Air Force, 15 months; Navy, 18 months.

Total armed forces: 240,000.

Estimated GNP 1972: $12.83 billion.

Defence budget 1973: 12.8 billion dinars ($826 million).

16.5 dinars=$1 1 July 1972.

15.5 dinars=$1 1 July 1973.

Army: 200,000.

1 tank division.

10 infantry division.

9 armoured brigades.

24 independent infantry brigades.

1 airborne brigade.

Several hundred T–54/55, T–34, and M–47, and about 650 M–4 med tks; some PT–76 lt tks; M–3, BTR–50P, BTR–60P, BTR–152, and M–590 APC; SU–100 SP guns; 105mm and 155mm how; 50mm, 57mm, 75mm, and 76mm ATk guns; ZSU–57–2 SP AA guns; SA–2 SAM.

Navy: 20,000.

5 submarines.

1 destroyer.

19 coastal escorts.

30 MCM ships.

10 Osa-class patrol boats with Styx SSM.

80 patrol torpedo boats (55 less than 100 tons).

30 landing craft.

1 marine infantry brigade.

25 coastal artillery batteries.

Air Force: 20,000; 342 combat aircraft.

12 FGA sqns with F–84, Kraguj, and Jastreb.

8 fighter sqns with 50 F–86D/E and 82 MiG–21.

2 reconnaissance sqns with RT–33.

(A combat squadron has about 15 aircraft.)

25 Li-2, Beaver, and C–47 and 13 Il–14 tpts.

60 Galeb trainers.

15 Whirlwind, 18 Mi-4 and Mi-8, and 5 Alouette III helicopters (130 SA–341 Gazelle on order).

8 SAM batteries with SA–2.

Para-Military Forces: 19,000 Frontier Guards; 1,000,000 Territorial defence force (planned to increase to 3,000,000).

THE MIDDLE EAST AND THE MEDITERRANEAN

BILATERAL AGREEMENTS WITH EXTERNAL POWERS

The Soviet Union has military assistance agreements and a 15-year treaty of friendship and cooperation, signed in May 1971, with Egypt. A similar treaty, though with less comprehensive defence provisions, was concluded with Iraq in April 1972. Important military assistance has also been provided to Algeria, Sudan, Syria, and the People's Democratic Republic of Yemen.

The United States has varying types of security assistance agreements and provides significant military aid on either a grant or credit basis to Greece, Turkey, Portugal, Spain, Morocco, Tunisia, Lebanon, Jordan, Saudi Arabia, and Israel. She provides, in addition, a significant amount of military equipment on a cash sales basis to many countries, notably Spain, Israel, Iran, and Jordan. For grant military aid purposes Turkey is considered a forward defence area, and Spain is considered a base rights country under a basing agreement concluded in August 1970. A naval facilities agreement was signed with Bahrain in late 1971. Communications bases are maintained in Morocco under informal arrangements.

Britain has defence commitments to Cyprus and is responsible for the defence of Gibraltar. A new seven-year agreement with Malta, signed on 26 March 1972, permits Britain to base forces on the island for British and NATO purposes. Britain concluded treaties of friendship with Bahrain, Qatar, and the United Arab Emirates in August 1971 and is also an important arms supplier for Iran, Kuwait, Bahrain, Qatar, United Arab Emirates, Saudi Arabia, Oman, and Jordan.

The People's Republic of China has supplied arms to Albania and the People's Democratic Republic of Yemen.

France has a pilot-training agreement with Morocco and supplies arms to a number of countries, particularly Libya.

MULTILATERAL AGREEMENTS INCLUDING EXTERNAL POWERS

The members of the Central Treaty Organization (CENTO) are Britain, Iran, Pakistan, and Turkey, with the United States as an associate. All sit on the Military, Economic, and Counter-Subversion Committees and on the Permanent Military Deputies Group. The Treaty provides for mutual co-operation for security and defence but has no central command structure nor forces allocated to it. For the local powers, the economic organization of Regional Co-operation for Development (RCD), which has evolved independently out of CENTO, could become more important.

ARRANGEMENTS WITHIN THE REGION

(BETWEEN ARAB STATES)

Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen Arab Republic, and the People's Democratic Republic of Yemen are members of the League of Arab States. Among its subsidiary bodies are the Arab Defence Council, set up in 1950, and the Unified Arab Command, organized in 1964.

Defence agreements were concluded by Egypt with Syria in November 1966 and Jordan in May 1967, to which Iraq later acceded. These arrangements provided for the establishment of a Defence Council and a Joint Command. The loosely associated Eastern Front Command, comprising Iraq, Jordan, the Palestine Liberation Army, and Syria, was reorganized in December 1970 into separate Jordanian and Syrian commands. Iraq and Syria concluded defence pacts in May 1968 and July 1969. The Federation of Arab Republics formed by Libya, Syria, and Egypt in April 1971, provides for a common defence policy and a Federal Defence Council. The proposed union between Egypt and Libya, announced in August 1972 and to be effective in September 1973, could, if it takes place, presumably affect existing defence arrangements.

ALGERIA

Population: 15,700,000.

Military service: voluntary.

Total armed forces: 63,000.

Estimated GNP 1972: $5.5 billion.

Estimated defence expenditure 1972: 450 million dinars ($100 million).

4.5 dinars=$1 1 July 1972.

3.72 dinars=$1 1 July 1973.

Army: 55,000.

1 armoured brigade.

4 motorized infantry brigades.

3 independent tank battalions.

50 independent infantry battalions.

1 parachute battalion.

12 companies of desert troops.

5 independent artillery battalions.

5 AA battalions.

3 engineer battalions.

100 T-34, 300 T-54/55 med tks; 50 AMX-13 lt tks; 350 BTR-152 APC; 85 SU-100 and 15 JSU-152 SP guns; 85mm guns; 122mm and 152mm how; 140mm and 240 mm RL; 57mm, 85mm, and 100mm AA guns.

Reserves: 50,000.

Navy: 3,500.

6 SOI submarine chasers.

2 fleet minesweepers.

1 coastal minesweeper.

6 Komar- and 3 Osa-class FPB with Styx SSM.

12 P-6 torpedo boats.

Reserves: 9,000.

Air Force: 4,500; 206 combat aircraft.

2 lt bomber sqns with 30 Il-28.

2 interceptor sqns with 35 MiG-21.

1 FGA sqn with 20 Su-7.

4 FGA sqns with 70 MiG-17.

2 FGA sqns with 25 MiG-15.

2 COIN sqns with 26 Magister.

1 transport sqn with 8 An-12 and 5 Il-18.

4 hel sqns with 4 Mi-1, 42 Mi-4, 6 Hughes 269a, and 5 SA-330.

1 SAM battalion with SA-2.

Reserves: 3,000.

Para-Military Forces: 10,000 Gendarmerie with 50 AML armoured cars.

EGYPT

Population: 35,700,000.

Military service: 3 years.

Total armed forces: 298,000.

Estimated GNP 1972: $7.5 billion.

Defence budget 1973-74: £E 700 million ($1,737 million).

£E 0.43=$1 1 July 1972.

£E 0.403=$1 1 July 1973.

Army: 260,000.

2 armoured divisions.

3 mechanized infantry divisions.

5 infantry divisions.

2 independent armoured brigades.

2 independent infantry brigades.

1 airborne brigade.

1 parachute brigade.

6 artillery brigades.

26 commando battalions.

30 JS-3 hy tks; 1,650 T54/55, 100 T-62, and 100 T-34 med tks; 75 PT-76 lt tks; 2,000 BTR-40, BTR-50P, BTR-60P, OT-64, and BTR-152 APC; about 150 SU-100 and JSU-152 SP guns; about 750 122mm, 130mm, and 152mm guns and how; 40 203mm how; about 900 57mm, 85mm, and 100mm ATk guns; Snapper ATGW; 24 FROG-3, some FROG-7 and 100 Samlet SSM; ZSU-23-4 and ZSU-57-2 SP AA guns; SA-7 Strela SAM.

Reserves: about 500,000.

Navy: 15,000 (including coastguard).

12 submarines (6 W- and 6 R-class—ex-Soviet).

5 destroyers (including 4 ex-Soviet Skory-class).

4 escorts (ex-British).

1 corvette (ex-Soviet).

12 SOI submarine chasers (ex-Soviet).

10 fleet minesweepers.

2 inshore minesweepers.

12 Osa- and 7 Komar-class patrol boats with Styx SSM.

36 motor torpedo boats (most less than 100 tons).

14 landing craft.

Reserves: about 14,000.

Air Force: 23,000; 620 combat aircraft (including 200 aircraft estimated to be in storage).

25 Tu-16 Badger medium bombers.

5 Il-28 Beagle light bombers.

210 MiG-21 Fishbed interceptors.

80 Su-7 Fitter fighter-bombers.

100 MiG-17 Fresco fighter-bombers.

200 MiG, Yak, and L-29 trainers.

About 50 Il-14 lt and 20 An-12 med tpts.

190 Mi-1, Mi-4, Mi-6, and Mi-8 helicopters.

Air defence is provided by 130 SAM sites, each of 6 SA-2, SA-3, and some SA-6 launchers; 20mm, 23mm, 37mm, 57mm, 85mm, and 100mm AA guns; all integrated, through a warning and command network, with 9 Air Force squadrons of MiG-21MF interceptors.

Reserves: about 20,000.

Para-Military Forces: about 100,000 National Guard, including Frontier Corps, Defence, and Security.

IRAN

Population: 30,805,000.

Military service: 2 years.

Total armed forces: 211,500.

Estimated GNP 1972: $15.09 billion.

Defence budget 1973: 136,340 million rials ($2,010 million).

76.6 rials=$1 July 1, 1972.

67.83 rials=$1 July 1, 1973.

Army: 160,000.

3 armoured divisions.

2 infantry divisions.

4 indep bdes (2 inf, 1 AB, 1 special force).

1 SAM battalion with HAWK.

60 Chieftain, 400 M-47, and 460 M-60A1 med tks; about 2,000 M-113, BTR-50, and BTR-60 APC; 130mm and 155mm guns; 75 mm, 105mm, and 155mm how; 40mm, 57mm, and 85mm AA guns; SS-11, SS-12, TOW ATGW; HAWK SAM (740 Chieftain tks; 155 mm, 175mm SP guns and 203mm now on order).

About 30 lt ac, incl C-45 Li-8, Cessna 185, O-2A.

20 Huskie, 59 AB-206A, and 3 CH-47C hel (46 AB-205A on order).

Reserves: 300,000.

Navy: 11,500.

3 destroyers.

4 frigates with Seakiller SSM and Seacat SAM.

4 corvettes (2 in reserve).

10 patrol boats.

4 coastal minesweepers.

2 inshore minesweepers.

4 landing craft.

8 SRN-6 and 2 BH-7 Wellington hovercraft.

1 sqdn with 4 AB-205A, 6 AB-212, and 6 SH-3D hel.

(6 P-3C Orion MR ac, 202 AH-1J hel, and 4 BH-7 hovercraft on order.)

Air Force: 40,000; 159 combat aircraft.

2 FB sqns with 64 F-4D/E with Sidewinder and Sparrow AAM (70 more F-4E on order).

6 FB sqns with 80 F-5A (141 F-5E on order).

1 recce sqn with 15 RT-33.

1 med tpt sqn with 35 C-130E. (20 C-130H, 4 F.28, and 6 Boeing 707-320C tankers on order.)

2 lt tpt sqdns with 12 FX27 and 6 DHC-2 Beaver.

12 Huskie, 5 AB-206A, 5 AB-212, and 4 CH-47C hel (287 UH-1H/214A Huey Plus on order).

Reserves: 15,000.

Para-Military Forces: 70,000 Gendarmerie with armoured cars, light aircraft, and helicopters; one naval battalion with 40 patrol boats.

IRAQ

Population: 10,142,000.

Military service: 2 years.

Total armed forces: 101,800.

Estimated GNP 1972: $3.5 billion.

Estimated defence expenditure 1972: 102 million dinars ($309 million).

0.33 dinars=$1 July 1, 1972.

0.302 dinars=$1 July 1, 1973.

Army: 90,000.

1 armoured division of 2 armd bdes and 1 mech bde.

2 inf divs, each of 1 mech and 3 inf bdes.

1 Republican Guard mech bde.

2 special forces bdes.

900 T-54/55 and 90 T-34 med tks; 45 PT-76, 30 M-24 lt tks; about 1,300 APC, incl 600 BTR-152; 700 75mm, 85mm, 100mm, 120mm, 130mm, and 152mm guns; 23mm, 37mm, 57mm, 85mm, 100mm AA guns.

Reserves: 250,000.

Navy: 2,000.

3 SOI submarine chasers.

2 minesweepers.

3 Osa-class patrol boats with Styx SSM.

12 P-6 torpedo boats.

10 patrol boats (less than 100 tons).

Air Force: 9,800; 224 combat aircraft.

1 bomber sqn with 8 Tu-16.

3 fighter-bomber sqns with 60 Su-7.

2 FGA sqns with 36 Hunter.

5 interceptor sqns with 90 MiG-21.

3 fighter sqns with 30 MiG-17.

2 tpt sqns with 27 An-2, An-12, An-24, Il-14, Tu-124, and Heron.

35 Mi-4, 29 Mi-8, and 5 Alouette III hel.

SA-2 and SA-3 SAM.

Reserves: 18,000.

Para-Military Forces: 10,000 National Guard, 4,800 security troops, and 4-5,000 others.

ISRAEL

Population: 3,180,000.

Military service: men 36 months, women 20 months (Jews and Druse only; Moslem and Christian may volunteer). Annual training for reservists thereafter to age limits.

Total armed forces: 30,000 regular, 85,000 conscripts (mobilization to about 300,000 in 72 hours).

Estimated GNP 1972: $6.85 billion.

Defence budget 1973-74: 6,180 million Israeli pounds ($1,474 million).

4.25 Israeli pounds=$1 1 July 1972

4.19 Israeli pounds=$1 1 July 1973.

Army: 11,500 regular, 83,000 conscripts (including 12,000 women); 275,000 on mobilization.

10 armoured brigades (2 at full strength; 1 at about 50%; 7 at cadre strength).

9 mechanized brigades (4 at about 50% strength; 5 at cadre strength).

9 infantry brigades (3 at full strength; 6 at cadre strength).

5 parachute brigades (2 at full strength; 3 at cadre strength).

3 artillery brigades.

About 1,700 med tks, incl 400 M-48 (with 105mm guns), 250 Ben Gurion (Centurion with French 105mm gun), 600 Centurion, 200 Isherman (with 105mm gun) and Super Sherman, 100 TI-67 (T-54/55 with 105mm gun), and some 150 M-60 med tks; about 3,000 AFV, incl AML-60, 15 AML-90, and some Staghound armd cars; about 1,000 M-2 and M-3 half-tracks, and 450 M-113 APCs; 350 105mm and 155mm, and some 175mm SP how; 155mm how on Sherman chassis; 900 120mm and 160mm mortars on AMX chassis; 122mm guns and how; 130mm guns; 240mm RL (captured equipment); about 50 90mm SP ATk guns and 106mm jeep-mounted recoilless rifles; Cobra, and weapons-carrier-mounted SS-10/11 ATGW; about 300 20mm, 30mm, and 40mm AA guns.

(The 280-mile range MD-660 Jericho SSM is believed to be in production, but has not yet been reported deployed operationally.)

Reserves: 180,000.

Navy: 3,500 regular, 1,000 conscripts; 5,000 on mobiilzation.

3 submarines (2 in reserve, 3 more on order).

1 destroyer (plus 1 awaiting disposal).

1 Reshef-class FPB (with Gabriel SSM).

12 Saar-class FPB (with Gabriel SSM).

9 motor torpedo boats.

23 small patrol boats (less than 100 tons).

9 landing craft (3 less than 100 tons).

Naval commandos: 300.

Air Force: 15,000 regular, 1,000 conscripts; 20,000 on mobilization; 488 combat aircraft.

12 Vautour light bombers (in storage).

95 F-4E fighter-bomber/interceptors.

35 Mirage IIIB/C fighter-bomber/interceptors (some with R530 AAM).

160 A-4E/H Skyhawk fighter-bombers.

24 Barak fighters.

18 Super Mystere B.2 interceptors.

6 RF-4E reconnaissance aircraft.

23 Mystere IV A fighter bombers (in resereve).

30 Ouragan FB (used mainly for training).

85 Magister trainers (limited FGA capability).

10 Straocruiser transports (incl 2 tankers).

20 Noratlas, 10 C-47, 2 C-130E transports.

12 Super Frelon, 12 CH-53G, 20 AB-205A, 25 UH-1D Iroquois, and 5 Alouette II helicopters.

10 SAM batteries with 60 HAWK.

Para-Military Forces: 4,000 Border Guards and 5,000 Nahal militia.

JORDAN

Population: 2,560,000.

Military service: voluntary.

Total armed forces: 72,850.

Estimated GNP 1972: $686 million.

Defence budget 1972: 42.9 million dinars ($119.2 million).

0.36 dinar=$1 1 July 1972.

0.32 dinar=$1 1 July 1973.

Army: 68,000.

2 armoured divisions.

1 mechanized division.

2 infantry divisions.

1 independent infantry brigade.

1 special forces battalion.

3 artillery regiments.

200 M-47, M-48, and M-60 and 220 Centurion med tks; 130 Saladin armd cars; 140 Ferret scout cars; 280 M-113 and 120 Saracen APC; 110 25-pdr, 50 105mm, and 155mm how; 10 155mm guns; 350 81mm mor; 200 M-42 40mm SP AA guns.

Navy: 250.

8 small patrol craft.

Air Force: 4,600; 52 combat aircraft.

2 FGA squadrons with 32 Hunter.

1 interceptor squadron with 20 F-104A. (36 F-5E on order.)

4 C-47, 2 Dove, 2 Packet, and 1 Falcon tpts.

3 Whirlwind and 6 Alouette III helicopters.

Reserves: 20,000.

Para-Military Forces: 22,000: 7,000 Public Security Force; 15,000 Civil Militia.

LEBANON

Population: 3,009,000.

Military service: voluntary (proposals have been made to introduce compulsory military training).

Total armed forces: 15,250.

Estimated GNP 1972: $1.88 billion.

Estimated defence expenditure 1972:

£L225 million ($75 million).

£L3=$1 1 July 1972.

£L2.38=$1 1 July 1973.

Army: 14,000.

1 infantry brigade with 3 infantry battalions, 1 tank battalion, 1 artillery battalion.

1 tank battalion.

2 reconnaissance battalions.

1 commando battalion.

6 infantry battalions.

2 artillery battalions.

1 AA battalion.

60 Charioteer med tks; 40 AMX-13 and 20 M-41 lt tks; about 100 M-706, M-6, and AEC Mk 3 armd cars; 20 M-113, some M-59 APC; 6 75mm guns; 24 122mm, 20 155mm how; 80 81mm, 25 120mm mor; 15 M-42 40mm SP AA guns.

Navy: 250.

1 patrol vessel.

4 small inshore patrol craft.

1 landing craft.

Air Force: 1,000; 18 combat aircraft.

1 FGA sqn with 8 Hunter.

1 interceptor squadron with 10 Mirage IIID with R-530 AAM.

1 hel sqn with 4 Alouette II and 10 Alouette III.

Some French early warning/ground control radars.

Para-Military Forces: 5,000 Gendarmerie.

LIBYA

Population: 2,160,000.

Military service: voluntary.

Total armed forces: 25,000.

Estimated GNP 1972: $4.59 billion.

Defence budget 1973: 43 million Libyan dinars ($145 million).

0.33 Libyan dinar=$1 1 July 1972.

0.296 Libyan dinar=$1 1 July 1973.

Army: 20,000.

1 armoured brigade.

2 mechanized infantry brigades.

1 National Guard brigade.

1 commando battalion.

3 artillery battalions.

2 anti-aircraft artillery battalions.

6 Centurion Mk 5, 200 T-54/55, and 15 T-34 med tks; 40 Saladin armed cars; Shorland and Ferret scout cars; BTR-60, Saracen and 170 M-113A1 APC; 70 122mm, 75 105mm, and 30 155mm how; 300 Vigilant ATGW; L40/70 Bofors AA guns.

5 AB-206, 7 OH-13, and 3 Alouette III helicopters.

Navy: 2,000.

1 frigate.

1 corvette.

3 FPB each with 8 SS-12 (M) SSM.

2 inshore minesweepers.

8 patrol craft.

1 logistics support ship.

Air Force: 3,000; 44 combat aircraft.

1 interceptor squadron with 9 F-5A.

2 fighter squadrons with 35 Mirage IIIB/E.

8 C-130E and 9 C-47 medium transports.

3 T-33 trainers.

2 AB-206, 3 OH-13, 10 Alouette III, and 9 Super Frelon helicopters.

(About 65 of a total order of 110 Mirage IIIB/E/R and V have been delivered.)

MOROCCO

Population: 16,300,000.

Military service: 18 months.

Total armed forces: 56,000.

Estimated GNP 1972: $4.46 billion.

Defence budget 1972: 568 million dirham ($123.5 million).

4.6 dirham=$1 1 July 1972.

3.9 dirham=$1 1 July 1973.

Army: 50,000.

1 armoured brigade.

3 motorized infantry brigades.

1 light security brigade.

1 parachute brigade.

9 independent infantry battalions.

1 Royal Guards battalion.

5 camel corps battalions.

3 desert cavalry battalions.

5 artillery groups.

2 engineer battalions.

120 T-54 med tks; 120 AMX-13 lt tks; 36 EBR-75, 50 AML-245, and M-8 armd cars; 40 M-3 half-track and 95 Czech APC; 25 SU-100, AMX-105, and 50 M-56 90mm SP guns; 100 76 mm, 85mm, and 105mm guns; 75mm and 105 mm how; 82mm and 120mm mortars; 50 37mm and 100mm AA guns; 3 Alouette III hel.

Deployment: Syria: armed bde elements.

Navy: 2,000 (including 500 marines).

1 frigate.

2 coastal escorts.

1 patrol boat.

12 patrol boats (less than 100 tons).

1 landing craft.

Air Force: 4,000; 48 combat aircraft.

2 interceptor sqns with 20 F-5A and 4 F-5B.

2 FGA sqns with 24 Magister.

2 transport sqns with 10 C-47 and 11 C-119.

35 T-6 and 25 T-28 trainers.

12 AB-205A, 4 HH-43B, and 4 Alouette III hel.

(12 MiG-17 fighter-bombers are in storage.)

Para-Military Forces: 23,000; 8,000 Gendarmerie, including 2 mobile security battalions; 15,000 Auxiliaries.

OMAN

Population: 710,000.

Military service: voluntary.

Total armed forces: 9,600 (including some 600 expatriate personnel of several nationalities serving on contract or on secondment).

Defence budget 1973: 25.5 million rial saidi ($77.5 million).

0.413 rial saidi=$1 1 July 1972.

0.329 rial saidi=$1 1 July 1973.

Army: 9,000.

4 infantry battalions.

1 frontier force battalion.

1 armoured cavalry squadron.

1 artillery regiment.

Saladin armoured cars; 75mm pack how; 25-pdr and 5.5 inch guns.

Navy: 200.

1 fast patrol boat (2 more to be delivered in 1973).

3 armed motorized dhows.

1 patrol vessel (yacht).

Air Force: 400 (including 160 contract personnel); 12 combat aircraft.

1 FGA squadron with 12 BAC-167.

1 air support squadron with 3 Caribou and 10 Skyvan (2 more Skyvan on order).

1 hel sqn with 8 AB-205 and 4 AB-206A (3 more AB-205A on loan from Iran).

1 transport flight with 3 Viscount.

Para-Military Forces: 2,000; about 900 gendarmerie; about 1,000 irregulars.

SAUDI ARABIA

Population: 8,400,000.

Military service: voluntary.

Total armed forces: 42,500.

Estimated GNP 1972: $5.2 billion.

Defence budget 1973-74: saudi riyals 3,990 million ($1,090 million).

4.2 riyals=$1 1 July 1972.

3.66 riyals=$1 1 July 1973.

Army: 36,000.

4 infantry brigades.

1 armoured battalion.

1 reconnaissance battalion.

1 parachute battalion.

1 Royal Guard battalion.

3 artillery battalions.

3 AA battalions.

10 SAM batteries with HAWK.

25 M-47 med tks; 60 M-41 lt tks; 200 AML-60 and AML-90, some Staghound and Greyhound armd cars; Ferret scout cars; field guns; AA guns; HAWK SAM. (30 AMX-30 tks on order.)

Deployment: 4,000 in Jordan.

Navy: 1,000.

2 torpedo boats.

1 motor gunboat.

2 utility craft.

9 patrol boats (coastguard).

8 SRN-6 hovercraft (coastguard).

Air Force: 5,500; 70 combat aircraft.

2 FB sqns with 15 F-86F (140 F-5 and 30 F-4 on order).

2 FGA sqns with 20 BAC-167 (10 more on order).

2 interceptor sqns with 35 F-52/F-53 Lightning.

2 tpt sqns with 10 C-130 and 2 C-140B (4 C-130E on order).

2 hel sqns with 1 Alouette III, 1 AB-204, 8 AB-205, and 20 AB-206.

1 T-33 trainer, 1 Cessna 310K, and 6 172G lt ac.

37 Thunderbird Mk 1 SAM.

Para-Military Forces: 3,500 National Guard (formerly known as the 'White Army'), organized into regular and semi-regular battalions; 6,500 Coastguard and Frontier Force.

SUDAN

Population: 17,000,000.

Military service: voluntary.

Total armed forces: 38,000.

Estimated GNP 1972: $1.9 billion.

Defence budget 1971-72: £ Sudan 50 million ($143 million).

£ Sudan 0.35=$1 1 July 1971.

£ Sudan 0.35=$1 1 July 1972.

Army: 37,000.

1 armoured brigade.

7 infantry brigades.

1 parachute brigade.

3 artillery regiments.

3 air defence artillery regiments.

1 engineer regiment.

20 T-34/85, 60 T-54, 50 T-55, and some T-59 med tks; 16 T-62 lt tks (Chinese); 50 Saladin and 45 Commando armd cars; 60 Ferret scout cars; 50 BTR-50 and 50 BTR-152, 49 Saracen, and 60 OT-64 APC; 55 25-pounder, 40 105mm, and some 122mm guns and how; 30 120mm mortars; some 85mm ATk guns; 80 Bofors 40mm and some Soviet 37mm and 85mm AA guns.

Navy: 600.

6 Coastal patrol boats and 2 landing craft (ex-Yugoslav).

Air Force: 1,000; 50 combat aircraft.

20 MiG-21 interceptors.

17 MiG-17 fighter-bombers (ex-Chinese).

5 BAC-145 Mk 5 and 8 Jet Provost Mk 52 light attack aircraft.

3 Pembroke and 5 An-24 transports.

10 Mi-8 helicopters.

Para-Military Forces: 5,000: 500 National Guard; 4,500 Border Guard.

SYRIA

Population: 6,775,000.

Military service: 30 months.

Total armed forces: 132,000.

Estimated GNP 1972: $1.93 billion.

Defence budget 1973: £Syr 800 million ($216 million).

£ Syrian 4.32=$1 1 July 1972.

£ Syrian 3.71=$1 1 July 1973.

Army: 120,000.

2 armoured divisions.

3 infantry divisions.

1 armoured brigade.

1 mechanized brigade.

1 infantry brigade.

2 commando brigades.

1 reconnaissance battalion.

3 parachute battalions.

7 artillery regiments.

12 SAM batteries wih SA-2 and SA-3.

About 30 JS-3 hy tks; 240 T-34 and 900 T-54/55 med tks; 100 PT-76 lt tks; 75 SU-100 SP guns; 1,000 BTR-50/60, BTR-152 APC; 122mm, 130mm, and 152mm guns; ATGW; 37mm, 57mm, 85mm, and 100mm AA guns; SA-2, SA-3, and SA-7 Strela SAM.

Reserves: 200,000.

Navy: 2,000.

3 minesweepers (ex-Soviet T-43 class).

2 submarine chasers (ex-French CH-class).

2 coastal patrol vessels.

6 Komar- and Osa-class FPB with Styx SSM.

12 motor torpedo boats (less than 100 tons).

(1 destroyer, 2 submarines, and some torpedo and patrol boats to be delivered.)

Reserves: 3,500.

Air Force: 10,000 men; 326 combt aircraft. Some Il-28 lt bombers.

80 MiG-17 day fighter/ground attack aircraft.

30 Su-7 fighter-bombers (some in storage).

200 MiG-21 interceptors (some in storage).

8 Il-14 and 3 C-47 transports.

About 50 hel, including 4 Mi-1, 8 Mi-4, and 22 Mi-8.

Para-Military Forces: 9,500: 8,000 Gendarmerie; 1,500 Desert Guard (Frontier Force).

TUNISIA

Population: 5,500,000.

Military service: 1 year (selective).

Total armed forces: 24,000.

Estimated GNP 1972: $2.08 billion.

Defence budget 1972: 13.8 million dinars. ($28.7 million).

0.48 dinars=$1 1 July 1972.

0.386 dinars=$1 1 July 1973.

Army: 20,000.

1 armoured battalion.

5 infantry battalions.

1 commando battalion.

1 Sahara battalion.

1 artillery battalion.

1 engineer battalion.

About 30 AMX-13 and 20 M-41 lt tks; 20 Saladin and some M-8 armd cars; 10 105mm SP and 10 155mm guns; 60mm and 81mm mortars; 40mm Bofors AA guns.

Navy: 2,000.

1 corvette.

3 coastal escorts.

4 patrol boats with SS-12 (M) SSM.

8 patrol boats (less than 100 ton).

Air Force: 2,000; 12 combat aircraft.

1 fighter sqn with 12 F-86.

3 *Flamant* light transports.

8 MB-326, 12 T-6, and 12 SAAB 91D trainers.

6 *Alouette II* and 8 *Alouette III* hel.

Para-Military Forces: 10,000; 5,000 Gendarmerie organized in 6 battalions; 5,000 National Guard.

YEMEN ARAB REPUBLIC (NORTH)

Population: 7,000,000.

Military service: 3 years.

Total regular forces: 20,900.

Estimated GNP 1970: $460 million.

Estimated defence expenditure 1970: 16.3 million riyals=$1 1 July 1970.

1.25 riyal=$1 1 July 1970.

Army: 20,000.

6 infantry brigades.

1 parachute brigade.

1 commando brigade.

2 armoured battalions.

1 Republican Guard battalion.

2 artillery battalions.

1 AA battalion.

30 T-34 med tks; 70 BTR-40 APC; 50 76 mm guns; 50 SU-100 SP guns; 100 AA guns.

Navy: 300.

5 P-4 class FPB (ex-Soviet).

2 landing craft.

Air Force: 600; 28 combat aircraft.

1 fighter sqn with 12 MiG-17.

1 light bomber sqn with 16 Il-28.

1 tpt sqn with C-47, Il-14.

1 hel sqn with Mi-4.

Para-Military Forces: 20,000 tribal levies.

YEMEN—PEOPLE'S DEMOCRATIC REPUBLIC (SOUTH)

Population: 1,560,000.

Military service: conscription, term unknown.

Total armed forces: 9,500.

Estimated GNP 1970: $140 million.

Estimated defence expenditure 1971: 6.5 million South Yemeni dinar ($15.5 million).

SYD 0.417=$1 1 July 1970.

SYD 0.417=$1 1 July 1971.

Army: 8,800.

6 infantry brigades, each of 3 battalions.

1 armoured battalion.

1 artillery brigade.

1 signals unit.

1 training battalion.

50 T-34, T-54 med tks; some artillery.

Navy: 200 (subordinate to Army).

2 submarine chasers (ex-Soviet *SOI*-class).

2 minesweepers.

3 landing craft (medium).

Air Force: 500; about 20 combat aircraft.

1 fighter-bomber sqn with 15 MiG-17.

1 COIN sqn with 4 BAC-167 and 8 *Jet Provost*.

1 tpt sqn with 4 C-47 and 4 DHC *Beaver*.

1 hel sqn with 6 Bell 47G.

(12 MiG-21 on order.)

ARMED FORCES OF OTHER MIDDLE EAST STATES

County	Estimated population thousands	Estimated GNP millions	Total armed forces	Army		Navy, manpower and equipment	Air Force, manpower and equipment
				Manpower and formations	Equipment		
Bahrain	233	(1)	1,100	1,100; 1 inf bn; 1 armd car sqn	8 Saladin armd cars; 8 Ferret scout cars; 6 Mobat ATk guns; 6 #81 mm mortars.	Some patrol launches (police).	Some hel (police).
Kuwait	957	$3,650	10,000	8,000; 1 armd bde; 2 composite bdes; (armd/inf/-arty); 1,500 para-military	50 Vickers and 50 Centurion med tks; 250 Saladin Saracen and Ferret armd cars; 10 25-pdr guns; 20 155mm how.	200 (Coastguard) 8 patrol boats (under 50 tons); 2 landing craft.	2,000 12 Lightning; 8 Hunter; 10 BAC–167; 4 Jet Provost; 2 med and 3 lt tpts; 5 AB–205 hel.
Qatar	89	280 (1971)	2,200	1,600; 1 Guards inf regt; 1 mobile regt.	30 Saladin, 8 Saracen armd cars; 10 Ferret scout cars; 4 25-pdr guns; 81mm mortars.	4 armed launches	4 Hunter; Tigercat SAM.
United Arab emirates:							
Abu Dhabi	48.4	24.2 (1971)	8,000	7,500; 1 armd regt; 2 inf bns; 1 arty regt.	75 Saladin armd cars; 15 Ferret scout cars; 25-pdr guns; Vigilant ATGW.	150; 9 patrol craft (under 50 tons).	350; 12 Hunter FGA; 6 tpts; 8 hel.
Dubai	59	(1)	1,000	1 armd car sqn; 3 inf sqns	Some Saladin/Ferret armd cars, 81mm mortars.		2 AB–206 hel.
Ras Al Khaimah	24.4	(1)	300	Mobile force	6 Ferret scout cars; 81mm mortars.	4 powered dinghies	
Sharjah	32	(1)	250	Inf coy armd car platoon	6 Land Rovers		
Union Defence Force			1,600	5 squadrons	Land Rovers; 81mm mortars.	2 dhows (6 patrol boats on order).	

[1] Not available.

SUB-SAHARAN AFRICA

MULTILATERAL AGREEMENTS

The Organization of African Unity (OAU), constituted in May 1963, includes all internationally recognized independent African states except South Africa. It has a Defence Commission responsible for defence and security co-operation, and the defence of the sovereignty, territorial integrity, and independence of its members, but this has rarely met.

There is a regional defence pact between France, Congo (Brazzaville), the Central African Republic, and Chad, and a five-party defence agreement between France, Dahomey, Ivory Coast, Niger, and Upper Volta which has set up the *Conseil de défense de l'Afrique équatoriale*.

BILATERAL AGREEMENTS

The United States has varying types of security assistance agreements and provides significant military aid on either a grant or credit basis to Ethiopia and Zaire. For grant military assistance purposes, Ethiopia, where the United States has a large communications centre, is considered a base rights country.

Though the Soviet Union is not known to have defence agreements with countries in the area, Soviet military assistance has been given to Guinea, Mali, Mauritania, Nigeria, and the Somali Republic.

China has a military assistance agreement with Congo (Brazzaville) and may have formal arrangements covering military assistance and training with Tanzania.

Britain maintains defence agreements with Kenya and Mauritius, and an agreement with South Africa covering the use of the Simonstown naval base. France has defence agreements with Cameroon, Gabon, Malagasy Republic, Senegal, and Togo; technical military assistance agreements with Cameroon, the Central African Republic, Chad, Congo (Brazzaville), Dahomey, Gabon, Ivory Coast, Malagasy Republic, Mauritania, Niger, Senegal, Togo, and Upper Volta; and mutual facilities agreements with Dahomey, Gabon, Ivory Coast, Mauritania, and Niger.

Portugal directly assures the defence of Angola, Mozambique, and Portuguese Guinea, and Spain of Spanish Sahara, Ceuta, and Melilla. All of these are administratively regarded as overseas provinces except Ceuta and Melilla, which are treated as integral parts of Spain.

ETHIOPIA

Population: 26,500,000.

Military service: voluntary.

Total armed forces: 44,570.

Estimated GNP 1972: $US 2.07 billion.

Defence budget 1971–72: $E 93 million: ($US 40.5 million).

$E 2.5=$1 1 July 1971.

$E 2.3=$1 1 July 1972.

Army: 40,940.

4 infantry divisions of 8,000 men each (incl Imperial Guard).

1 tank battalion.

1 airborne infantry battalion.

4 armoured car squadrons.

4 artillery battalions.

5 air defence batteries.

2 engineer battalions.

50 M–41 med tks; 20 M–24 lt tks; about 40 APC; 30 M–9, M–20, and 56 AML–245 armd cars; 146 M–30 4.2-inch mortars; 36 75mm pack how; 52 105mm, 12 155mm guns; 6 Bell UH–1H hel.

Navy: 1,380.

1 coastal minesweeper.

1 training ship (ex-seaplane tender).

5 patrol boats.

4 harbour defence craft (less than 100 tons).

4 landing craft (less than 100 tons).

Air Force: 2,250; 37 combat aircraft.

1 bomber squadron with 4 Canberra B–2.

1 fighter-bomber squadron with 12 F–86F.

1 COIN squadron with 6 T–28A.

1 fighter squadron with 15 F–5A.

1 tpt sqn with 6 C–47, 2 C–54, 5 C–119G, and 3 Dove.

3 trg sqns with 20 Safir, 15 T–28A, and 11 T–33A.

5 Alouette II, 2 Mi–6, 2 Mi–8, and 5 AB–204B helicopters.

Para-Military Forces: 20,400. Territorial Army active strength, 9,200; mobile emergency police force 6,800; frontier guards 1,200; commando force 3,200.

GHANA

Population: 9,086,000.

Military service: voluntary.

Total armed forces: 18,900.

Estimated GNP 1972: $2.97 billion.

Defence budget 1971–72: 39.5 million cedi ($30.4 million).

1.02 cedi equal $1 1 July 1971.

1.3 cedi equal $1 1 July 1972.

Army: 16,000.

2 brigades comprising 7 inf bns and support units.

1 mortar regt.

2 reconnaissance squadrons.

Saladin armd cars; Ferett scout cars; 76mm guns; heavy mortars.

Navy: 1,300.

2 corvettes.

1 coastal minesweeper.

2 inshore minesweepers.

2 seaward defence vessels.

3 P–20 class (Soviet-built) patrol boats (less than 100 tons).

(There is a substantial shortage of spares for all naval craft.)

Air Force: 1,600; 6 combat aircraft.

1 fighter sqn with 6 MB–326.

1 transport squadron with 7 Otter.

1 transport squadron with 8 Caribou and 3 Heron.

1 comms and liaison squadron with 11 Beaver.

1 hel sqn with 5 Whirlwind, 2 Wessex, 3 Sikorsky H–19, and 3 Hughes 269A.

9 Chipmunk trainers.

Para-Military Forces: 3,000; 3 Border Guard bns.

NIGERIA

Population: 59,400,000.

Military service: voluntary.

Total armed forces: 157,000.

Estimated GNP 1972: $7.6 billion.

Defense budget 1971–72: £N 87 million: (0242 million).

£N 0.36 equal $1 1 July 1971.

£N 0.33 equal $1 1 July 1972.

Army: 150,000.

3 infantry divisions, including 3 reconnaissance regiments, 3 artillery regiments, and support units.

Saladin and 20 AML–60/90 armd cars; Ferret scout cars; Saracen APC; 25-pdr, 76mm, 105mm, and 122 mm guns.

Reserves: 100,000.

Navy: 3,000.

1 ASW frigate.

2 corvettes.

5 seaward defence boats.

1 landing craft.

Reserves: 2,000.

Air Force: 4,000; 38 combat aircraft.

II–28 medium bombers.

2 MiG–17 fighter-bombers.

10 L–29 Delfin and 10 P–140D armed trainers.

2 MiG–15 UTI trainers (20 Bulldog on order).

6 C–47, 6 Fokker Friendship med tpts; 20 Do–27/28 comms aircraft.

8 Whirlwind and Alouette II hel.

RHODESIA

Population: 5,900,000 (260,000 white population.)

Military service: 12 months (white population).

Total armed forces: 4,700.

Estimated GNP 1972: $US 1.57 billion.

Defense budget 1972–73: $R 25,917,000: ($US 32 million).

$R 0.81=$1 1 July 1972.

$R 0.672=$1 1 July 1973.

Army: 3,500 Regular; 10,000 Territorial Force.

2 infantry battalions (one has Ferret scout cars).

2 Special Air Service squadrons.

1 artillery battery.

1 engineer squadron.

20 Ferret scout cars; 25-pdr gun/how, Model 56 105mm pack how.

There is an establishment for three brigades, two based on regular infantry battalions, which would be brought up to strength by mobilizing the Territorial Force.

Air Force: 1,200; 45 combat aircraft.

1 light bomber sqn with 10 Canberra B-2.

1 FGA sqn with 12 Hunter FGA-9.

1 FGA sqn with 11 Vampire FB-9.

1 recce sqn with 12 T-52 Jet Provost.

1 COIN sqn with 7 AL-60F5 and 7 AM-3C.

1 transport sqn with 4 C-47 and 1 Beech 55 Baron.

3 Canberra T-4 trainers.

1 helicopter sqn with 8 Alouette III.

Reserves: 10,000 Territorial Force.

The white population completing conscript service is assigned for three years' part-time training to territorial units, which include active territorial battalions based on the cities and reserve territorial battalions based on country districts.

Army Reserves: eight infantry battalions, one field artillery regiment, and one engineer squadron.

Ground personnel servicing regular Air Force units are reservists or non-white civilians.

Para-Military Forces: The British South African Police (BSAP) 8,000 active; 35,000 reservists. The white population forms only about a third of the active strength but nearly three-quarters of the Police Reserves.

SOMALI DEMOCRATIC REPUBLIC

Population: 3,000,000.

Military service: voluntary.

Total armed forces: 17,300.

Estimated GNP 1970: $182 million.

Defence budget 1971: 81.3 million shillings: ($11.4 million).

7.14 Somali shillings=$1 1 July 1970.

7.14 Somali shillings=$1 1 July 1971.

Army: 15,000.

4 tank battalions.

9 mechanized infantry battalions.

1 commando battalion.

2 field arty battalions.

5 AA arty battalions.

About 150 T-34 med tks; 60 BTR-40 and 250 BTR-152 APC; 76mm and 100mm guns; 122 mm how; 14.5 mm, 37mm, and 100mm AA guns. (Spares are short and not all equipment is serviceable.)

Navy: 300.

4 P-6 and 6 P-4 MTB (ex-Soviet).

(Spares are short and not all equipment is serviceable.)

Air Force: 2,000; 21 combat aircraft.

Some IL-28 light bombers.

2 MiG-15 and 19 MiG-17 fighters.

Tpts include 1 C-45, 3 C-47, 3 An-2, and 1 An-24, 2 MiG-15/17, 10 Piaggio P-148, and Yak trainers.

(Spares are short and not all equipment is serviceable.)

Para-Military Forces: 3,500; 500 border guards; 3,000 People's Militia.

SOUTH AFRICA

Population: 23,000,000 (4,000,000 white population).

Military service: 9-12 months in Citizen Force.

Total armed forces: 18,000 regular; 92,000 Citizen Force.

Estimated GNP 1972: $21.4 billion.

Defence budget: 1073-74: 481 million rand: ($716 million).

0.81 rand=$1 1 July 1972.

100 Centurion Mark 5, 20 Comet med tks; 800 AML-60 and AMD-90 and 50 M-3 armed

0.672 rand=$1 1 July 1973.

Army: 10,000 regular.

cars; 50 Ferret scout cars; 250 Saracen APC.

3 batteries of Cactus (Crofale) short-range SAM system may now be operational.

Reserves: 80,000 Citizen Force, in 9 territorial commands.

Navy: 2,500 regular.

3 submarines.

2 destroyers with Wasp ASW helicopters.

6 ASW frigates (3 with Wasp ASW helicopters).

1 escort minesweeper.

10 coastal minesweepers.

5 seaward defence boats.

1 fleet replenishment tanker.

Reserves: 9,000 trained reserves in Citizen Force (with 2 frigates and 7 minesweepers).

Air Force: 5,500 regular; 100 combat aircraft.

1 bomber sqn with 6 Canberra B(1) Mk 12, 3 T Mk 4.

1 lt bomber sqn with 13 Buccaneer S Mk 50.

1 fighter skn with 18 CL-13B Sabre Mk 6 (being replaced by Mirage).

1 fighter sqn with 16 Mirage IIIEZ and 4 IIIDZ.

1 fighter/recce sqn with 16 Mirage IIICZ, 4 IIIBZ, and 4 IIIRZ.

2 MR sqns with 7 Shackleton MR3, 9 Piaggio P-166S Albatross (9 more P-166S on order).

4 tpt sqns with 7 C-130B, 9 Transall C-160Z, 23 C-47, 5 C-54, 1 Viscount 781 medium, and 4 HS-125 Mercurius.

4 hel sqns: two with 20 Alouette III each; one with 20 SA-330 Puma; one with 15 SA-321L Super Frelon. One flight of 5 Wasp (naval-assigned).

1 lt ac sqn (army-assigned) with Cessna 185A/D and A185E (AM-3C will replace).

Trainers incl Harvard; MB-326M Impala (some armed in a COIN role; Vampire FB Mk 6, Mk 9, T Mk 55; C-47 and Alouette II/III.

Reserves: 3,000 Active Citizen Force.

7 sqns with 20 Impala, 100 Harvard IIA, III, T-6G (Texan); 20 Cessna 185A/D, A185E.

12 Air Kommando sqns (private aircraft).

Para-Military Forces: 75,000 Kommandos organized and trained as a Home Guard.

TANZANIA

Population: 14,380,000.

Military service: voluntary.

Total armed forces: 11,600.

Estimated GNP 1972: $1.51 billion.

Defence budget 1973: 361 million shillings: ($51.4 million).

7.1 shillings=$1 1 July 1972.

7.02 shillings=$1 1 July 1973.

Army: 10,000.

3 infantry battalions.

20 Chinese T-59 med tks; 14 Chinese T-62 lt tks; some BTR-40 and -152 APC; Chinese mortars; 6 ex-Soviet 76 mm guns; 8 122mm how.

(Spares are short and not all equipment is serviceable.)

Navy: 600.

6 patrol boats (ex-Chinese P-6 and Swatow-class).

Air Force: 1,000; no combat aircraft.

1 An-2, and 12 DHC-4 Caribou transports.

7 Piaggio P-149D trainers.

(1 sqn of 12 MiG-17 to be delivered in 1973.)

Para-Military Forces: A police marine unit.

UGANDA

Population: 10,750,000.

Military service: voluntary.

Total armed forces: 12,600.

Estimated GNP 1972: $1.44 billion.

Estimated defence expenditure 1971-73: 187,255,000 shillings ($26.4 million).

7.1 shillings=$1 1 July 1972.

7.02 shillings=$1 1 July 1973.

Army: 12,000.

2 brigades each of 3 infantry battalions.

1 border guard battalion.

1 mechanized battalion.

2 parachute/commando battalions.

1 artillery regiment.

12 M-4 med tanks; 15 Ferret scout cars; 20 BTR-40, BTR-152, 36 OT-64B APC (perhaps half are operational).

Air Force: 600; 21 combat aircraft.

1 fighter squadron with 7 MiG-15 and MiG-17.

14 Magister armed trainers.

1 Caribou transport: P-149D and 12 L-29 Delfin trainers; 10 Piper light aircraft.

2 AB-206 and 2 Scout helicopters.

ZAIRE REPUBLIC

Population: 24,400,000.

Military service: voluntary.

Total armed forces: 50,000.

Estimated GNP 1972: $2.3 billion.

Estimated defence expenditure 1970: 42 million zaires ($84 million):

0.5 zaires=$1 1 July 1970.

0.5 zaires=$1 1 July 1972.

Army: 49,000.

1 armoured car regiment.

1 mechanized battalion.

14 infantry battalions.

7 parachute battalions.

4 other battalions.

The above, together with support units, form 1 parachute division and 7 brigade groups.

60 AML armed cars; M-3 and 30 Ferret scout cars (less than half operatinal).

Coast, River, and Lake Guard: 200.

1 river boat.

1 patrol boat.

6 patrol craft.

Air Force: 800; 28 combat aircraft.

1 fighter wing with 15 MB-326GB, 8 AT-6G, and 5 T-28 armed trainers.

1 logistics wing with 9 C-47, 4 C-54, 3 C-130, and some Caribou transports.

1 training wing with 8 T-6 and 12 SF-260MC (12 more SF-260MC on order).

1 helicopter sqn with 7 Bell 47-G, 8 Alouette III, and 7 SA-330 Puma (23 Puma being delivered).

Para-Military Forces: 8 National Guard and 6 Genarmerie battalions.

ARMED FORCES OF OTHER AFRICAN STATES[1]

Country	Estimated population (thousands)	Estimated GNP (millions)	Total armed forces	Army: Manpower and formations	Army: Equipment	Navy, manpower and equipment	Air Force, manpower and equipment	Para-military forces
Cameron	6,182	1,357 (1972)	4,450	4,000; 4 inf bns; 1 armd car sqn; 1 para coy engineer and support coys.	8 Ferret scout cars; 57mm, 75mm and 105mm guns; some mortars.	200; 3 patrol boats (less than 100 tons)	250; 3 C-47 med tpts and 4 lt tpts; 2 Alouette II hel	5,000
Chad	3,980	195.3 (1971)	3,700	3,500; 4 inf bns; 1 para coy camel corps.	60mm and 81mm mortars		200; 3 C-47 med tpts and 3 lt tpts; 1 Alouette II hel.	4,000
Congo	1,000	194 (1971)	2,300	2,000; 1 inf bn; a para-cdo bn; 1 recce sqn 1 arty group.	BTR-152 APC; mortars	150 small patrol boats	150; 2 C-47, 2 AN-24 med tpts; 3 lt tpts; 2 hel.	4,800

See footnotes at end of table.

ARMED FORCES OF OTHER AFRICAN STATES [1]—Continued

Country	Estimated population (thousands)	Estimated GNP (millions)	Total armed forces	Army: Manpower and formations	Army: Equipment	Navy, manpower and equipment	Air Force, manpower and equipment	Para-military forces
Dahomey	2,900	218 (1971)	2,250	2,100; 2 inf bns; 1 para-cdo coy; 1 recce sqn; 1 arty bty.	Some armed cars and APC; 60mm and 81mm mortars; 105mm guns.		150; 1 C-47 med tpt and 3 lt tpts; 1 Alouette II hel.	1,200
Guinea	4,188	717 (1971)	6,000	5,000; 1 armd bn; 4 inf bns; 3 engr coys.	20 T-34 med tks; 20 BTR-152 APC; 85mm and 105-mm guns.	200; 6 P-6 MTB; 2 patrol boats; 2 small landing craft.	800; 8 MiG-17; 4 An-14, 2 Il-18 and 4 Il-14 tpts; 7 Yak-18, L-29 MiG-15 trainers.	7,700
Invory Coast	4,635	2,000 (1972)	3,500	3,100; 3 inf bns; 1 armd sqn; 1 para coy; 2 arty btys.	5 AMX-13 lt tks; 10 lt armd cars; scout cars; 105mm guns; 40mm AA guns.	100; 2 motor gunboats; 2 landing craft (all less than 100 tons).	300; 2 C-47 med tpts; 9 lt tpts; 4 Alouette II/III and 1 Puma hel.	3,000
Kenya	12,430	1,880 (1972)	6,730	6,000; 4 inf bns; 1 support bn with para coy.	Saladin armd cars; 20 Ferret; 120mm recoilless rifles; 81mm and 120mm mortars.	250; 4 patrol craft	480; 6 BAC-167; 5 Bulldog armed trainers; 10 Beaver lt tpts; 2 Bell 47G hel.	1,800
Liberia	1,675	436 (1972)	5,150	5,000; 1 recce unit; 5 inf bns; 1 engr bn.	M-3A1 scout cars; some field guns; 60mm and 81mm mortars.	150; 2 motor gunboats; 2 patrol boats; small landing craft.	5 lt tpt ac	1,300
Malagasy Republic	7,400 (1971)	1,134 (1972)	4,250	3,700; 2 inf bns; 1 armd sqn; 1 engr bn; 1 para coy; 1 arty bty.	(2)	250; 3 patrol vessels; 1 marine coy.	300; 3 C-47 med and 8 lt tpts; 1 Alouette III hel.	4,000
Mali	5,361	278 (1971)	3,650	3,500; 3 inf bns; 1 para coy; 1 engr coy.	About 10 T-34 med tks; BTR-40 APC; armd cars; 81mm and 100mm guns; 81mm and 120mm mortars.	50 3 patrol craft	150; 6 MiG-17; 2 C-47 and 2 Il-14 med tpts; 2 Mi-4 hel.	1,500
Niger	4,352	489 (1972)	2,100	2,000; 1 recce sqn; 4 mot inf coys; 1 para coy; 1 camel corps.	About 10 M-8 and M-20 armd cars; 60mm and 81mm mortars; 2 patrol boats.		100; 4 Noratlas, 1 C-47 med tpt; 4 lt tpts.	1,400
Rwanda	4,052	233	2,750	2 inf bns; 1 recce sqn	AML-245 armd cars		2 C-47 med tpts; 1 Alouette II hel.	400
Senegal	4,217	860 (1972)	5,900	5,500; 3 inf bns; 1 recce sqn; 2 para coys; 2 cdo coys; 1 arty bty; 1 engr bn.	AML-245 armd cars; lt arty; 81mm mortars.	200; 3 patrol craft (2 less than 100 tons); 2 landing craft.	200; 4 C-47 med tpts; 4 lt tpts; 2 Bell 47 and 1 Alouette III hel.	1,600
Zambia	4,526	1,100 (1972)	6,000	5,000; 1 inf bde; 1 recce sqn; 2 arty btys; 1 SAM bty; 1 engr sqn; 1 sigs sqn.	Ferret scout cars; 105mm guns; Rapier SAM.		1,000; 2 Galeb, 4 Jastreb, 6 MB-326 FGA; 3 med and 10 lt tpts; 3 AB-205, 2 AB-47 and 1 AB-212 hel.	2,000

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[1] For many of the developing nations, particularly the smaller ones, maintenance facilities and skills pose problems and spare parts may not be readily available. The amount of military equipment shown may not necessarily be that which can be used.

[2] Not available.

CHINA

Chinese defence policy operates at the two extremes of nuclear deterrence and People's War. The former aims to deter strategic attack and the latter, by mass-mobilization of the country's population, to deter or repel any conventional land invasion.

NUCLEAR WEAPONS

The build-up of the Chinese nuclear force continued during the year. One nuclear test, in the MT range, was carried out in June, the first recorded since March 1972 and the 15th since tests started in 1964. The production of fissionable materials was expanded; there may now be sufficient for more than 200 fusion and fission weapons, and the stockpile could grow rapidly in the next few years. A variety of delivery systems, aircraft and missiles, are available. For tactical missions the F-9 fighter would be suitable and for longer ranges there are some 100 Tu-16 medium bombers with a radius of action of about 1,600 miles. MRBM and IRBM have been deployed operationally in at least four locations at soft sites above ground, though some are reported to be in silos or caves. A multi-stage IRBM with a longer range, perhaps 3,500 miles (sufficient to reach Moscow and most parts of Asia) has been produced and may be ready for operational deployment. A small missile force is now thought to be under the control of the Second Artillery, which appears to be the PLA's missile arm. An ICBM capable of reaching most major targets in the United States is also being developed. Its testing at full range would require impact areas in the Indian or Pacific Oceans and an instrumentation ship which could be used for monitoring such a test has been built. China has one G-class diesel-powered submarine with ballistic missile launching tubes, but does not appear to have missiles for it. All the present missiles are liquid-fueled. Work has been going on on the development of solid fuel missiles, but these are unlikely to be available for deployment before 1975.

CONVENTIONAL FORCES

China's 3 million regular forces, the People's Liberation Army (PLA), are generally equipped and trained for the environment of People's War, but increasing effort is being made to arm a proportion of the formations with modern weapons, now becoming available from the growing armament industry. Infantry units account for most of the manpower and 120 of the 150 divisions; there are only 5 armoured divisions. The naval and air elements of the PLA have only about one-seventh of the total manpower compared with only a third for their counterparts in the Soviet Union, but their influence is increasing as more new equipment reaches them. The PLA is essentially a defensive force and lacks the facilities and logistic support for protracted large-scale military operations outside China. It is, however, gradually acquiring greater logistic capacity.

Major weapons systems in series production include the Tu-16 medium bomber, the MiG-19, -21, and F-9 fighters (the latter Chinese designed); type-59 medium, type-62 light, type-60 amphibious tanks and APCs (the last three also being Chinese designed). R-class medium-range diesel submarines in some numbers, together with a new class of submarines, SSM destroyers, and fast patrol boats are being produced for the navy. A nuclear-powered attack submarine (armed with conventional torpedoes) has been under test for two years.

DEPLOYMENT AND COMMAND

The PLA is organized in 11 Military Regions, but is not deployed evenly throughout them. The major concentrations are in the coastal provinces, in the Yangtse and the Yellow River basins, and in the North-East (Peking and Manchuria). Some shift of forces northward toward the Sino-Soviet frontier occurred in 1969–70, following the border incidents, and it is likely that further re-alignment of Chinese forces in the same direction took place in the past year. From 20,000 to 30,000 construction troops and engineers are reported still to be in the northern border regions of Laos and North Vietnam.

Although the PLA continues to have a wide range of administrative and other nonmilitary duties, its active role in provincial government appears to have declined somewhat in the past year. The Public Security System, which came under the PLA during the Cultural Revolution, seems in particular to have re-established some degree of autonomy.

No Defence Minister was officially designated during the year to succeed Lin Piao and the PLA remained without a Chief of Staff or Air Force Commander.

BILATERAL AGREEMENTS

China has a 30-year Treaty of Alliance and Friendship with the Soviet Union, signed in 1950, which contains mutual defence obligations, but this may no longer be in force. There is a mutual defence agreement with North Korea, dating from 1961, and an agreement to provide free military aid. There is probably a well-defined, though unpublicized, defence commitment to North Vietnam, and certainly a long-standing and recently renewed agreement to give military aid. There are non-aggression pacts with Afghanistan, Burma, and Cambodia (though this latter does not apply to the newly-established Khmer Republic; China has given military aid to the forces supporting Prince Sihanouk against the government of Prime Minister Lon Nol). Chinese military equipment and logistic support has been offered to an increasing number of countries, particularly in Africa. Major recipients of arms in recent years have been Albania, Pakistan, and Tanzania.

CHINA

Population: 750–850,000,000.

Military service: Army, 2 years; Air Force, 3 years; Navy, 4 years.

Total regular forces: 2,900,000 (including construction engineer troops).

GNP and defence expenditure—see note on following page.

2.27 yuan equal $1 1 July 1972.
1.88 yuan equal $1 1July 1973.

Strategic Forces

IRBM: 15–20.
MRBM: about 50.
Aircraft: about 100 Tu-16 medium bombers.

Army: 2,500,000 (including construction engr tps).

5 armored divisions.

120 infantry divisions.

3 cavalry divisions.

2 airborne divisions.

About 20 artillery divisions.

These are supported by signals, engineer, railway, and motor transport units.

Heavy equipment consists of Soviet items supplied up to 1960 including JS-2 tks and 152mm and 203mm artillery; Soviet T-34 and T-54, and Chinese T-59 (version of T-54) med tks; T-60 (PT-76 type) amphibious tks; T-62 lt tks and APC; SP arty incl SU-76, SU-100, and JSU-122.

Deployment

China is divided into 11 Military Regions (MR) in turn divided into Military Districts (MD), with usually two or three Districts to a Region.

It is believed that basically one Army is assigned to each MD, with a total of about 30 Armies. An Army generally consists of three infantry divisions, three artillery regiments, and, in some cases three armoured regiments. Of the five armoured divisions in the PLA, two or three are probably kept in the Peking and Shenyang Regions.

The geographical distribution of the divisions (excluding artillery) is believed to be:

North and North-East China (Shenyang * and Peking * MR): 45 divisions.

East and South-East China (Tsinan, Nanking, and Foochow MR): 20 divisions.

South-Central China (Canton, including Hainan Island, and Wuhan MR): 20 divisions.

Mid-West China (Lanchow MR): 15 divisions.

West and South-West China (Sinkiang,* Chengtu,* and Kunming * MR): 30 divisions.

Laos and North Vietnam (northern border regions): Some construction engineer troops and supporting elements, in all 20-30,000 men.

Navy: 180,000 (including Naval Air Force and 28,000 Marines).

1 G-class submarine (with ballistic missile tubes). (China is not known to have any missiles for this boat.)

39 fleet submarines. (Also about 6 older, training vessels.)

3 coastal submarines.

6 SSM destroyers.

9 destroyer escorts.

11 patrol escorts.

20 submarine chasers.

25 Osa- and Komar-type FPB with Styx SAM.

27 minesweepers.

20 landing ships.

45 auxiliary minesweepers.

220 MTB and hydrofoils (less than 100 tons).

320 motor gunboats; 530 landing ship/landing craft—many less than 100 tons.

Deployment

North Sea Fleet: 240 vessels. The main bases are at Tsingtao and Lushun; deployed along the coast from the mouth of the Yalu River in the north to Lienyunkang in the south.

East Sea Fleet: 700 vessels. Bases are at Shanghai and Chou Shan; deployed along the coast from Lienyunkang in the north to Chaoan Wan in the south.

South Sea Fleet: 300 vessels. Bases are at Huangpu and Chanchiang; deployed from Chaoan Wan in the north to the North Vietnam frontier in the south.

Naval Air Force: 25,000, over 500 shore-based combat aircraft, including about 100 Il-28 torpedo-carrying and some Tu-2 light bombers and some 400 fighters including MiG-15, MiG-17, and MiG-19. Though under Navy command, the fighters are fully integrated into the air defence system.

Air Force: 220,000 (including strategic forces and 85,000 air defence personnel); about 3,800 combat aircraft.

About 100 Tu-16 and a few Tu-4 medium bombers.

200 Il-28 and 100 Tu-2 light bombers.

About 1,700 MiG-15 and MiG-17; at least 1,000 MiG-19. 75 MiG-21, and up to 300 F-9 fighters.

About 400 transport aircraft and 300 helicopters, including some An-2, Il-14, and Il-18 transports and Mi-4 helicopters (these could be supplemented by about 350 aircraft of the Civil Air Bureau).

There is an air-defence system, initially developed to defend the eastern seaboard of China, and now greatly expanded, based on early warning/control radar, interceptor aircraft, and several hundred SA-2 SAM deployed in up to 50 sites.

Para-Military Forces

About 300,000 security and border troops, including 19 infantry-type divisions and 30 independent regiments stationed in the frontier areas; the public security force and a civilian militia with an effective element of probably not more than 5 million; production and construction corps in a number of Military Regions including those adjoining the northern frontier.

OTHER ASIAN COUNTRIES AND AUSTRALASIA

BILATERAL AGREEMENTS

The United States has bilateral defence treaties with Japan, the Republic of China (Taiwan), the Republic of Korea, and the Philippines. She has a number of military arrangements with other countries of the region. She provides military aid on either a grant or credit basis to Taiwan, the Khmer Republic (Cambodia), Indonesia, the Republic of Korea, Laos, Malaysia, the Philippines, Thailand, and South Vietnam. She sells military equipment to many countries, notably Australia, Taiwan, and Japan. For grant military assistance purposes, the Khmer Republic, the Republic of Korea, and Taiwan are considered forward defence areas. Laos, the Khmer Republic, Thailand, and South Vietnam receive grant military aid assistance direct from the US Department of Defense budget, the only countries in the world to do so. There are military facilities agreements with Australia, Japan, the Republic of Korea, and the Philippines. There is a major base at Guam. A new communications station is being constructed on Diego Garcia Island in the Chagos Archipelago under exchanges of notes signed with Britain in 1966 and 1972.

The Soviet Union has treaties of friendship, co-operation, and mutual assistance with India, Bangladesh, Mongolia, and the Democratic People's Republic of Korea. Military assistance agreements exist with Sri Lanka (Ceylon) and the People's Democratic Republic of Vietnam. Important Soviet military aid is also given to Nepal and Afghanistan.

Australia has supplied a small amount of reference equipment to Malaysia and Singapore and is giving defence equipment and assistance to Indonesia, including the provision of training facilities.

MULTILATERAL AGREEMENTS

In 1954 the United States, Australia, Britain, France, New Zealand, Pakistan, the Philippines, and Thailand signed the South-East Asia Collective Defence Treaty, which came into force in 1955 and brought SEATO into being. They committed themselves to consult with a view to joint defence in the event of direct or indirect aggression against a member country or against the so-called 'protocol states' of Cambodia, Laos, and South Vietnam. However, since 1955 and 1956 respectively, Cambodia and Laos have not accepted the protection of SEATO. The treaty area is the general area of South-East Asia and the South-West Pacific, below latitude 21°30' North. SEATO has no central command structure and forces remain under national control. In 1969 Britain ceased to declare ground forces to the contingency plans for SEATO. France has no forces declared and has recently announced her intention of withdrawing from all financial commitments by 1974. New Zealand has said that, while she will remain a member, she is phasing down her participation in SEATO activities to a much lower level, particularly on the military side. Australia has recently given indications of taking a similar attitude. Pakistan had already announced her progressive disengagement before the Indo-Pakistan War of December 1971, as a result of which Bangladesh became an independent state, and withdrew from membership in July 1972.

Australia, New Zealand, and the United States are the members of a tripartite treaty known as ANZUS, which was signed in 1951 and is of indefinite duration. Under this treaty each agrees to 'act to meet the common danger' in the event of armed attack on either metropolitan or island territory of any one of them, or on armed forces, public vessels, or aircraft in the Pacific.

Australia, Malaysia, New Zealand, Singapore, and Britain have agreed five-power defence arrangements relating to the defence of Malaysia and Singapore, which came into effect on 1 November 1971. These arrangements, which replaced the Anglo-Malaysian Defence Agreement of 1957, state that, in the event of any armed attack or threat of attack externally organized or supported against Malaysia or Singapore, the five governments would consult together for the purpose of deciding what measures should be taken, jointly or separately. Britain, Australia, and New Zealand maintain land, air, and naval forces in Singapore (the ANZUK force) and Australia air forces in Malaysia (part of the integrated air defence system).

AFGHANISTAN

Population: 18,300,000.

Military service: 2 years.

Total armed forces: 84,000.

Estimated GNP 1970: $1.5 billion.

Estimated defence expenditure 1971: 1,600 million afghanis ($35.5 million). 45 afghanis equal $1.

Army: 78,000.

2 armoured divisions.

4 infantry divisions.

1 infantry brigade group.

200 T-34 and T-54 med tks; PT-76 lt tks; 144 lt and med guns; Snapper ATGW; AA guns.

Reserves: 200,000.

Air Force: 6,000; 112 combat aircraft.

3 light bomber squadrons with 10 Il-28.

2 fighter-bomber squadrons with 24 Su-7.

4 fighter-bomber squadrons with 48 Mig-15/17.

3 interceptor squadrons with 30 Mig-21.

2 transport squadrons with Yak 12, An-2, Il-14.

1 helicopter squadron with Mi-1 and Mi-4.

SA-2 SAM.

Reserves: 12,000.

Para-Military Forces: 21,000 Gendarmerie; 200,000 tribal levies.

AUSTRALIA

Population: 13,000,000.

Military service: voluntary.

Total armed forces: 73,330.

Estimated GNP 1972: $US 43.46 billion.

Defence budget 1972: $A 1,323 million ($US 1,575 million).

$A 0.84=$US 1 1 July 1972.

$A 0.706=$US 1 1 July 1973.

Army: 33,100.

1 infantry division HQ.

1 tank regiment.

3 cavalry regiments.

9 infantry battalions.

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* There are, in addition, two or three divisions of border troops in each of these MR.

2 battalions of the Pacific Islands Regiment (PIR).

1 Special Air Service (SAS) regiment.

1 medium artillery regiment.

3 field artillery regiments.

1 light anti-aircraft regiment.

1 aviation regiment.

6 signals regiments.

3 field engineer regiments.

7 construction and field survey squadrons.

1 logistic support force.

143 Centurion med tks; 265 Ferret scout cars; 758 M–113 APC; 254 105mm how including M–56 105mm pack how; 47 Sioux and Kiowa hel; 25 light aircraft; 57 watercraft.

Deployment: Singapore: 1 bn gp, 1 sig regt, and logistic units; Papua, New Guinea: 2 PIR bns.

Reserves: 24,500. The Citizen Military Force of 24,000 is intended to form 24 infantry battalions with supporting arms and services; Emergency Reserve 500.

Navy: 17,460.

4 Oberon-class submarines.

1 aircraft carrier.

3 ASW destroyers with Tartar SAM and Ikara ASW msls.

4 destroyers (2 training).

6 destroyer escorts with Ikara.

4 coastal minesweepers.

2 minehunters.

20 patrol boats.

1 fast troop transport (ex-aircraft carrier).

1 destroyer tender.

5 landing craft (3 more on order).

Fleet Air Arm

1 fighter-bomber sqn with A–4G Skyhawk.

1 ASW sqn with S–2E Tracker and C–47 Dakota.

2 ASW helicopter sqns with Wessex 31B.

1 helicopter sqn with Iroquois and Scout.

1 training sqn with Aermacchi MB–326H, TA–4G, and A–4G.

(10 Sea King ASW hel on order.)

Reserves: 6,625. Navy Citizen Military Force: 5,525; Emergency Reserve 1,100.

Air Force: 22,770; 210 combat aircraft.

1 bomber squadron with Canberra B–20.

1 fighter squadron with 6 F–111C (18 more to be delivered by end of 1973).

4 interceptor/FGA squadrons with Mirage IIIO.

1 MR squadron with 10 P–3B Orion and 1 MR squadron with 12 SP–2H Neptune.

80 MB–326 and 41 CA–25 Winjeel trainers.

2 tpt sqns with 24 C–130, 1 tpt sqn with 2 BAC–111, 10 HS–748, and 3 Mystere 20 and 2 tpt sqns with 24 Caribou and 23 Dakota.

2 helicopter squadrons with Iroquois.

Deployment: 2 sqns of Mirage IIIO i Malaysia/Singapore.

Reserves: 1,215. Citizen Air Force 570 Emergency Reserve 645.

BANGLADESH

Population: 76,000,000.

Military service: voluntary.

Total regular forces: 17,900.

Estimated GNP 1972: $3.5 billion.

Defence budget 1973: Taka 470 million ($US 65 million).

Taka 7.3=$1 1 July 1972.

Taka 7.24=$1 1 July 1973.

Army: 17,000.

5 inf bdes with 17 inf bns.

1 artillery brigade.

1 engineer group.

1 signals battalion.

Navy: 500.

3 patrol boats.

1 seaward defence boat.

Air Force: 400; 13 combat aircraft.

1 fighter sqn with 8 MiG–21.

5 F–86 Sabre.

1 DHC–4 Caribou, 1 DC–6, and 2 F–27 tpts.

2 MiG–21 Uti trainers.

3 Alouette III.

(2 Wessex hel on order.)

Para-Military Forces: 13,000 Bangladesh milita/Rakhi Bahini.

BURMA

Population: 29,150,000.

Military service: 2 years.

Total armed forces: 149,000.

Defence budget 1971–72: 490 million kyat ($91 million).

5.4 kyat=$1 1 July 1972.

4.7 kyat=$1 1 July 1973.

Army: 135,000.

6 regional commands comprising approximately 70 infantry battalions.

3 infantry divisions.

The forces as a whole consist of 5 armoured, 112 infantry, 5 artillery, and 1 engineer battalions, and are organized chiefly for counterinsurgency and internal security duties.

Comet med tks; Humber armd cars; Ferret scout cars; 25-pdr guns; 75mm, 105mm, 155mm how.

Navy: 7,000 (including 800 marines).

1 frigate.

1 escort minesweeper.

2 coastal escorts.

5 motor torpedo boats (less than 100 tons).

34 river and patrol gunboats.

7 motor gunboats (less than 100 tons).

About 100 river craft.

Air Force: 7,000; 10 combat aircraft.

2 COIN sqns with 18 AT–33 and 1 Vampire.

18 C–47, 8 Otter, 6 Beech–18, and 5 Cessna tpts.

5 Sioux, 9 Huskie, 6 Alouette III, 10 Shawnee, and 3 KV 107–II helicopters.

Para-Military Forces: 25,000 armed village defence and militia.

CHINA, REPUBLIC OF (TAIWAN)

Population: 15,135,000.

Military service: 2 years.

Total armed forces: 503,000.

Estimated GNP 1972: $9.7 billion.

Estimated defence expenditure 1972–73: 28 billion new Taiwan dollars ($700 million).

$NT 40=$1 1 July 1972.

$NT 38=$1 1 July 1973.

Army: 350,000.

2 armoured divisions.

12 infantry divisions.

6 light divisions.

1 armoured cavalry regiment.

2 airborne brigades.

4 special forces groups.

1 SSM battalion with Honest John.

1 SAM battalion with HAWK.

1 SAM bn and 1 SAM bty with Nike-Hercules.

M–47 and M–48 med tks; 500 M–24 and M–41 lt tks; M–18 tk destroyers; LVT–4 and M–113 APC; 105mm and 155mm guns; AA guns; Honest John SSM; HAWK, Nike SAM; 15 UH–1H, 7 H–34, 2 KH–4 hel (59 UH–1H on order).

Deployment: Quemoy: 60,000; Matsu: 20,000.

Reserves: 750,000.

Navy: 38,000.

1 submarine (training).

14 destroyers.

16 destroyer escorts.

6 torpedo boats.

3 patrol vessels.

1 minelayer.

14 coastal minesweepers.

9 minesweeping launches.

21 tank landing ships.

4 medium landing ships.

21 landing craft.

Reserves: 60,000.

Marines: 35,000.

2 divisions.

Reserves: 65,000.

Air Force: 80,000; 210 combat aircraft.

6 fighter-bomber sqns with 90 F–100A/D.

2 fighter sqns with 30 F–5A (40 F–5E on order).

4 interceptor sqns with 63 F–104A/G.

1 recce sqn with 8 RF–104G and 4 RF–101C.

1 SAR sqn with 9 S–2A and 6 HU–16B.

40 C–46, 30 C–47, 50 C–119, and 10 C–123 tpts.

100 trainers.

6 Hughes 500, 7 UH–19, and 10 Bell 47G hel (24 UH–1H on order).

Reserves: 130,000.

Para-Military Forces: 175,000 militia.

INDIA

Population: 578,000,000.

Military service: voluntary.

Total armed forces: 948,000.

Estimated GNP 1972: $61.53 billion.

Defence budget 1973–74: 17,296 million rupees ($2,386 million).

7.75 rupees=$1 1 July 1972.

7.25 rupees=$1 1 July 1973.

Army: 826,000.

1 armoured division (a second is being formed).

5 independent armoured brigades.

14 infantry divisions.

11 mountain divisions.

6 independent infantry brigades.

1 parachute brigade.

About 20 AA artillery units.

200 Centurion MK 5/7, 1,000 T–54 and T–55, and 500 Vijayanta med tks; 150 PT–76 and 140 AMX–13 lt tks; OT–62 and Mk 2/4A APC; about 3,000 guns, mostly towed and SP 25-pounders, but incl Model 56 105mm pack how, Abbott 105mm SP, and about 350 100mm and 350 130mm guns; RL; SS–11 and Entac ATGW; AA guns; 40 Tigercat SAM.

Reserves: 100,000. Territorial Army 45,000; Reserves 55,000.

Navy: 30,000 (including naval air).

1 16,000-ton aircraft carrier.

4 submarines (ex-Soviet F-class).

2 cruisers.

1 destroyer.

8 destroyer escorts (incl 7 ex-Soviet Petya-class).

9 frigates (2 GP with Seacat SAM, 3 AA, 4 ASW).

8 Osa-class patrol boats with Styx SSM.

9 patrol boats (4 less than 100 tons).

8 minesweepers (4 inshore).

1 landing ship.

3 landing craft.

10 seaward defence boats (6 less than 100 tons).

Naval Air Force: 1,500.

35 Sea Hawk attack, 11 Alizé MR ac; 2 Sea King, 18 Alouette III, 2 Alouette II, and 10 Hughes 269 hel. 10 Sea Hawk, 5 Alizé, and 2 Alouette can be carried in the aircraft carrier at any one time. (17 HS 748 MR ac and 3 Sea King are on order.)

Air Force: 92,000; 842 combat aircraft.

4 light bomber squadrons with 80 Canberra.

6 fighter-bomber squadrons with 96 Su–7.

2 fighter-bomber sqns with 50 HF–24 Marut 1A.

7 fighter-bomber squadrons with 150 Hunter F–56.

2 fighter-bomber squadrons with 30 Mystére IV.

8 interceptor squadrons with 220 MiG–21PFM.

8 interceptor squadrons with 200 Gnat F.1.

1 reconnaissance squadron with 8 Canberra PR–57.

1 maritime recce sqn of 8 L–1049 Super Constellation.

13 tpt sqns with 55 C–47, 60 C–119G, 20 Il–14, 34 An–12, 30 Otter, 27 HS–748, and 20 Caribou.

About 12 sqns with Mi–4, Alouette III, 16 Mi–8, SA 315 Cheetah, S–62, and Bell 47 hel.

About 20 SA–2 SAM sites.

Para-Military Forces: About 100,000, in Border Security Force (not on Defence budget).

INDONESIA

Population: 132,400,000.

Military service: selective.

Total armed forces: 322,000.

Estimated GNP 1972: $10.73 billion.

Estimated defence expenditure 1971; 119 billion rupiahs ($286.7 million).

378 rupiahs=$1 1 July 1971.

415 rupiahs=$1 1 July 1972.

Army: 250,000.

15 inf bdes, with over 100 inf bns and some para and armd units.

8 armoured battalions.

1 paracommando regiment (RPKAD).

The Kostrad (strategic Reserve Command) consists of about six bdes and includes paratroops and armour. About one-third of the army is engaged in civil and administrative duties.

Stuart, AMX–13 and PT–76 It tks; Saladin armd cars; Ferret scout cars; Saracen and BTR–40 APC; artillery includes 76mm, 105 mm, and 25-pdr; Soviet 57mm AA guns and associated radar; Alouette lll hel.

Navy: 39,000 (incl naval air and 14,000 Marines). (Only a very small part of the navy is operational.)

10 submarines (ex-Soviet W-class).

1 cruiser (ex-Soviet Sverdlov-class, being sold).

4 destroyers (ex-Soviet Skory-class).

8 frigates (including 4 ex-Soviet Rigaclass).

18 coastal escorts (14 ex-Soviet, 4 ex-USA).

12 Komar-class patrol boats with Styx SSM.

9 patrol boats (8 more being delivered).

21 motor torpedo boats (14 ex-Soviet P–6-class).

6 fleet minesweepers (ex-Soviet T–43-class).

20 coastal minesweepers (6 ex-USA).

18 motor gunboats (ex-Soviet BK-class).

25 seaward defence boats (less than 100 tons).

9 landing ships (8 ex-US LST).

9 landing craft.

2 Marine brigades.

Naval Air Arm:

6 C–47; 3 Alouette Ill hel (4 MR ac on order).

Air Force: 33,000; 89 combat aircraft. (Most of the Soviet-supplied combat aircraft and the SA–2 have not been used for some years. Few of these aircraft can be regarded as operational.)

22 Tu-16 and 10 11-28 bombers.

5 Z–25 Mitchell and 4 B–26 Invader light bombers.

5 F–51D Mustang fighter-bombers.

16 F–86 Sabre (CA–27) fighters.

4 MiG–15, 8 MiG–17, and 15 MiG–21 interceptors (mostly in storage).

60 tpts, incl 10 11–14, 8 C–130B, C–47, and Skyvan.

3 hel sqns with 16 Mi–4, 6 Mi–6, and 4 Bell 47G, 2 AB–204B and 10 Alouette II/III.

At least 3 SA–2 sites (non-operational).

Para-Military Forces: A police Mobile Brigade of about 20,000; about 100,000 Militia.

JAPAN

Population: 107,000,000.

Military service: voluntary.

Total armed forces: 266,000.

Estimated GNP 1972: $316.8 billion.

Defence budget 1973–74: 935.5 billion yen ($3,530 million).

301 yen=$1 1 July 1972.

265 yen=$1 1 July 1973.

Army: 180,000.

1 mechanized division.

12 infantry divisions (7,000-9,000 men each).

1 airborne brigade.

1 artillery brigade.

1 signal and 5 engineer brigades.

1 helicopter brigade.

1 mixed brigade.

6 SAM groups with HAWK (160 launchers).

520 Type 61 med tks; 30 M-24 and 140 M-41 It tks; 440 Type 60 APC; 30 M-52 105mm and 10 M-44 155mm SP how; 203mm how; Type 30 SSM; Type 60 twin 106mm SP recoilless rifles; Type 64 ATGW; 120 L-19, LM1, LR1, T-34 It ac; 230 UH-1B, KV 107, H-19, KH OH-6J, Hughes TA-55J, and H-13KH hel.

Reserves: 39,000.

Navy: 41,400.

13 submarines.

1 SAM destroyer with Tartar.

28 destroyers.

14 destroyer escorts/frigates.

20 submarine chasers.

3 minelayers.

42 coastal minesweepers.

5 motor torpedo boats (2 less than 100 tons).

4 tank landing ships.

1 medium landing ship.

6 landing craft.

42 small landing craft (less than 100 tons).

Naval Air: 110 combat aircraft.

7 MR sqns with P2V-7, P2-J, S2F-1, and PS-1.

60 hel incl S-61A, KV 107A, HSS-1N, and HSS-2.

Reserves: 300.

Air Force: 44,600; 386 combat aircraft.

4 FGA sqns with 120 F–86F (F–4EJ being introduced).

10 interceptor sqns with 150 F–104J, 20 F-4EJ, and 80 F-86F.

1 recce sqn with 16 RF-86F (being replaced by RF-4EJ in 1973; 14 are on order).

(18–25 aircraft in a combat squadron.)

2 transport sqns with 20 C-46 and 10 YS-11.

360 T-1, T-33, T-34, and F-104DJ trainers.

5 SAM bns with Nike-J.

A Base Air Defense Ground Environment with 28 control and warning units.

THE KHMER REPUBLIC (CAMBODIA)

Population: 7,500,000.

Military service: voluntary; conscription authorized, but not yet in force.

Total armed forces: 187,200.

Estimated GNP 1971: $1.5 billion.

Defence budget 1973: 17,800 million riels ($98 million).

55.5 riels=$1 1 July 1971.

182 riels=$1 1 July 1973.

Army: 180,000.

9 static and 3 mobile divs (each of 3 bdes of 4 bns).

300 inf and cdo 'battalions' (companies).

1 tank regiment.

1 armoured car battalion.

3 parachute battalions.

12 field artillery batteries.

20 M–24 and 40 AMX–13 lt tks; 20 M–8 and M–20 armd cars; M–3 scout cars; BTR–40, BTR–152 APC; M–109 105mm SP how and Soviet 76mm and 122mm guns; 40mm, 57mm, 85mm, and 100mm AA guns; Cessna O–1 lt ac.

Navy: 3,400 (including marines).

2 coastal escort vessels.

2 support gunboats.

2 motor torpedo boats (less than 100 tons).

6 patrol boats (less than 100 tons).

3 landing craft.

Air Force: 3,800; 40 combat aircraft.

40 T–28 Trojan ground-attack aircraft.

20 C–47 and 1 C–54 transport aircraft.

2 Alouette II and 30 UH–1 helicopters.

Para-Miliary Forces: 150,000.

KOREA—DEMOCRATIC PEOPLE'S REPUBLIC (NORTH)

Population: 15,000,000.

Military service: Army 3 years, Navy and Air Force 4 years.

Total armed forces: 470,000.

Estimated GNP 1972–73: $3.5 billion.

Defence budget 1973: 1,282 million won ($625 million).

2.05 won=$1.

Army: 408,000.

3 armoured divisions.

21 infantry divisions.

4 independent infantry brigades.

7 independent armoured regiments.

20 SAM battalions with SA–2 (50 sites).

380 T–34, 650 TX54/55 med tks; 150 PT–76 lt tks; 200 BA–64, BTR–40, and BTR–152 APC; 200 SU–76 and SU–100 SP guns; 6,000 guns and mor up to 152mm; 24 FROG–5/7 SSM; 2,000 AA guns, incl ZSU–57; SA–2 SAM.

Reserves: 750,000.

Navy: 17,000.

3 submarines (ex-Soviet W-class).

10 Komar- and 8 Osa-class FPB with Styx, SSM.

80 torpedo boats (some less than 100 tons).

2 fleet minesweepers.

35 patrol vessels (some ex-Soviet SO class).

60 motor gunboats.

Samlet SSM (6 sites).

Reserves: 15,000.

Air Force: 45,000; 598 combat aircraft.

70 II–28 light bombers.

28 Su-7 fighter-bombers.

300 MiG-15 and MiG-17 fighter-bombers.

130 MiG-21 ad 50 MiG-19 interceptors.

20 11-28 and MiG-17 recce aircraft.

About 60 An-2, 15 Li-2, II-12, and 4 II-14 tpts.

20 Mi-4 helicopters.

70 Yak-11, Yak-18, MiG-15, and II-28 trainers.

Reserves: 40,000.

Para-Military Forces: 50,000 security forces and border guards; a civilian militia with a claimed strength of 1,450,000.

KOREA—REPUBLIC OF KOREA (SOUTH)

Population: 32,665,000.

Military service: Army/Marines, 2¾ years; Navy and Air Forces, 3 years.

Total armed forces: 633,500.

Estimated GNP 1972: $9.3 billion.

Defence budget 1973: 184.8 billion won ($476 million).

400 won=$1 1 July 1972.

388 won=$1 1 July 1973.

Army: 560,000.

29 infantry divisions (10 cadre only).

2 armoured brigades.

80 artillery battalions.

1 SSM battalion with Honest John.

2 SAM bns with HAWK and 1 with Nike-Hercules.

750 M–47, M–48, and M–60 med tks; Stuart and M-24 It tks; M-10 and M-36 tk destroyers; M–8 armd cars and M–113 APC; 1,000 guns up to 203mm; Honest John SSM; HAWK and Nike SAM.

Reserves: 1,000,000.

Navy: 18,800.

5 destroyers.

3 destroyer escorts.

4 frigates.

15 coastal escorts.

21 patrol boats.

6 coastal minesweepers.

6 escort transports.

20 landing ships.

Reserves: 30,000.

Marines: 29,600.

Reserves: 60,000.

Air Force: 25,000; 195 combat aircraft.

2 fighter-bomber sqns with 18 F–4D.

5 fighter-bomber sqns with 110 F–86F.

3 fighter-bomber sqns with 37 F–5A (about 40 F–5E on order).

1 AWX sqn with 20 F–86D (with Sidewinder AAM).

1 recce sqn with 10 RF–86F.

35 transports including C–46, C–47, and C–54.

Hel incl 6 H–19, 2 Bell 212, 5 UH–1D, and 2 KH–4.

Reserves: 35,000.

Para-Military Forces: A local defence militia, Homeland Reserve Defence Force, 2,000,000.

LAOS

Population: 3,150,000.

Estimated GNP 1972: $211 million.

500 kip=$1 1 July 1972.

600 kip=$1 1 July 1973.

1. Royal Lao Forces

Military service: conscription, term unknown.

Total strength: 74,200.

Defence budget 1973: 10.29 billion kip ($17 million).

Army: 72,000.

24 mobile infantry battalions.

33 garrison infantry battalions.

1 parachute battalion.

1 artillery regt of 4 bns.

M–24 and PT–76 lt tks; M–8 armd cars; M–3 scout cars; BTR–40 and M–113 APC; 85mm guns and 75mm, 105mm, and 155 mm how.

Navy: about 500.

4 river squadrons consisting of:

22 patrol craft; 26 landing craft/transports (all under 100 tons, most not operational).

Air Force: 1,700; about 73 combat aircraft.

63 T–28A/D light attack aircraft.

10 AC–47 gunships.

20 C–47, 1 Aero Commander transports.

About 18 UH–34D and 6 Alouette II/III hel.

Para-Military Forces and Irregulars: 40,000.

2. Pathet Lao Forces

Total strength about 40,000 men (incl dissident neutralists).

PT–76 lt tks; BTR–40 armd cars; 105mm how.

The Pathet Lao are believed to be integrated with about 60,000 regular North Vietnamese combat and logistics troops and have received arms and ammunition of Soviet and Chinese origin. The Pathet Lao and North Vietnamese control all the eastern half of Laos, and most of the north.

MALAYSIA

Population: 11,500,000.

Military service: voluntary.

Total armed forces: 56,000.

Estimated GNP 1972; $US 4.64 billion.

Defense budget 1973: $M 680.1 million ($US 287 million).

$M 2.78=$US 1 1 July 1972.

$M 2.37=$US 1 1 July 1973.

Army: 46,500.

8 infantry brigades, consisting of:

28 infantry battalions.

3 reconnaissance regiments.

3 artillery regiments.

1 special service unit.

3 signals regiments.

Engineer and administrative units.

Ferret scout cars; 100 Commando APC; 105 mm how; 40mm AA guns.

Reserves: about 50,000.

Navy: 4,800.

1 ASW frigate with Seacat SAM.

1 training frigate.

6 coastal minesweepers.

8 FPB; 4 with SS–11/12 and 4 with Exocet SSM.

24 patrol craft (less than 100 tons).

1 landing ship.

Reserves: 600

Air Force: 4,700; 38 combat aircraft.

2 fighter-bomber sqns with 18 CA–27 Sabre.

2 COIN sqns with 20 CL–41G Tebuan.

4 transport and liaison sqns, incl 12 DHC–4A Caribou, 10 Herald 401, 5 Dove, and 2 Heron.

4 hel sqns with 16 S–61A and 25 Alouette III.

1 training sqn with 16 SA Bulldog.

(16 F–5B and E and 14 DHC–4 on order.)

Para-Military Forces: 54,000; 10 bns field police.

MONGOLIA

Population: 1,300,000.

Military service: 2 years.

Total armed forces: 29,000.

Estimated GNP 1971: $0.84 billion.

Estimated defence expenditure 1971: 170 million tugrik ($42.5 million).

4 tugrik=$1.

Army: 28,000.

2 infantry divisions.

40 T–34 and 100 T–54/55 med tks; 10 SU–100 SP guns; 40 BTR–60 and 50 BTR–152 APC; 100mm and 130mm guns; 152mm gun/how; Snapper ATGW; 37mm and 57mm AA guns.

Reserves: 30,000.

Air Force: 1,000 men; 10 combat aircraft.

1 FGA sqn with 10 MiG–15.

30 An-2, Il–14, and An-24 transports.

Yak-11 and Yak-18 trainers.

10 Mi-1 and Mi-4 helicopters.

1 SAM battalion with SA–2.

Para-Military Forces: about 18,000 frontier guards and security police.

NEW ZEALAND

Population: 2,961,869.

Military service: voluntary, supplemented by Territorial service of 12 weeks for the Army.

Total armed forces: 12,789.

Estimated GNP 1972: $US 8.50 billion.

Defense budget 1973–74: $NZ 132 million ($SUS 175 million).

$NZ 0.84=$US 1 1 July 1972.

$NZ 0.754=$US 1 1 July 1973.

Army: 5,498.

1 infantry battalion.

1 artillery battery.

Regular troops also form the nucleus of a combat brigade group, a logistic group, and a reserve brigade group. These units would be completed by the mobilization of Territorials.

10 M–41 lt tks; 9 Ferret scout cars; 59 M–113 APC; 16 25-pdr guns; 10 5.5-inch med guns; 28 105mm how.

Deployment: Singapore: 1 inf bn (less 1 coy).

Reserves: 6,708 Regular, 3,155 Territorial.

Navy: 2.792.

4 frigates with Seacat SAM (2 with Wasp hel).

8 escort minesweepers.

1 survey ship.

1 research ship.

10 patrol craft (less than 100 tons).

Reserves: 2,191 Regular, 209 Territorial.

Air Force: 4,319; 29 combat aircraft.

1 FB sqn with 10 A–4K and 4 TA–4K Skyhawk.

1 FB sqn with 10 BAC 167.

1 MR sqn with 5 P–3B.

4 med tpt sqns with 5 C–130H, 9 Bristol Freighter, 6 Dakota, and Devon.

13 UH–1D H Iroquois and 11 OH–13H Sioux hel.

Deployment: Singapore: 1 transport squadron (Bristol Freighter tpts and Iroquois hel).

PAKISTAN

Population: 64,800,000.

Military service: 2 years selective.

Total armed forces: 402,000, including some 75,000 military POW (army 55,000).

Estimated GNP 1972: $4.7 million.

Defence budget 1973–74: 4,230 million rupees ($433 million).

11 rupees=$1 1 July 1972.

9.77 rupees=$1 1 July 1973.

Army: 300,000 (including 25,000 Azad Kashmir troops).

2 armoured divisions.

12 infantry divisions.

1 independent armoured brigade.

1 air defence brigade.

3 sqns army aviation.

300 M–47/48; 50 T–55 and 500 T–59 med tks; 140 M–24, 50 M–41, and 20 PT–76 lt tks; 250 M–113 APC; about 900 guns incl 25-pounder, 105mm and 155mm how and 130mm guns; Cobra ATGW; Cessna O–13 lt ac; 12 Mi–8, 15 Sioux, and 8 Alouette III hel.

Reserves: 500,000.

Navy: 10,000.

3 submarines.

1 light cruiser/training ship.

4 destroyers.

2 fast frigates.

7 coastal minesweepers.

7 patrol boats.

2 UH-19 SAR hel (6 Sea King on order).

Reserves: 5,000.

Air Force: 17,000; 248 combat aircraft.

2 light bomber squadrons with 10 B–57B.

2 fighter-bomber squadrons with 20 Mirage IIIEP.

6 fighter-bomber/interceptor sqns with 90 F–86.

7 FGA sqns with 112 MiG–19/F–6.

1 interceptor squadron with 6 F–104A/B.

1 recce squadron with 4 RT–33A, 2 RB–57, and 4 F–104B.

Transports include 4 C–130B, 1 C–46, and 1 F–2".

10 Huskie, Alouette III, and UH–19 hel.

Reserves: 8,000.

PHILIPPINES

Population: 40,200,000.

Military service: selective.

Total armed forces: 42,700.

Estimated GNP 1972: $8.2 billion.

Defence budget 1972–73; 648 million pesos ($95 million).

6.8 pesos=$1 1 July 1972.

6.79 pesos=$1 1 July 1973.

Army: 19,300.

2 light infantry divisions (under strength).

5 independent infantry brigades (under strength).

1 artillery group.

13 engineer construction battalions.

1 HAWK battalion.

M–4 med tks; M–24 and M–41 lt tks; M–113 APC; 105mm and 15mm guns; HAWK SAM.

Navy: 12,200 (incl marines and naval engineers).

1 destroyer escort.

11 patrol vessels.

9 patrol gunboats.

4 hydrofoil patrol vessels.

18 patrol boats (less than 100 tons).

2 coastal minesweepers.

9 landing ships.

1 marine brigade.

2 engineer construction battalions.

Air Force: 11,200; 62 combat aircraft.

1 FGA sqn with 16 F–5A/B.

1 fighter sqn with 24 F–86F..

2 COIN sqns with 12 T–28 and 10 T–33.

2 transport sqns with 27 C–47, 8 F–27, and 4 YS–11.

12 UH–1D, 2 MS–62A, and 2 H–34 hel.

(31 SF–260 MX trainers on order.)

Reserves: 218,500.

Para-Military Forces: 27,180 Philippine Constabulary, organized in 7 bns and 1 bn combat group, deployed to 68 provincial centres; 20,000 in armed civilian self-defence units; 37,000 security forces.

SINGAPORE

Population: 2,200,000.

Military service: 24–36 months.

Total armed forces: 20,600.

Estimated GNP 1972: $US 2.64 billion.

Defence budget 1972–73: $S693 million ($US 249.3 million).

$S 2.78=$1 1 July 1972.

$S 2.36=$1 1 July 1973.

Army: 19,000.

1 armoured brigade (3 armoured regiments).

3 infantry bdes, incl 7 infantry, 3 artillery, 3 engineer, and 1 signals bns.

75 AMX–13 tks; V–200 Commando APC 25-pdr guns; 32 106mm recoilless rifles, 120mm mor.

Reserves: 30,000.

Navy: 1,000.

6 fast patrol boats.

1 seaward defence boat.

1 landing ship.

2 landing craft.

(Gabriel SSM on order.)

Air Force: 600; 48 combat aircraft.

1 FGA/recce squadron with 16 Hunter (a further 12 and 40 A–4 Skyhawk on order).

1 COIN sqn with 16 BAC–167 and 16 SF–260.

1 tpt/liaison sqn with 8 Cessna–170 and 2 Airtourer (6 Skyvan, incl 3 SAR, on order).

1 helicopter SAR sqn with 8 Alouette III.

Trainers include Hunter T–7, Provost, 6 WA–7, 4 Airtourer, and 16 SF–260MS.

28 Bloodhound SAM launchers (Rapier on order).

Para-Military Forces: 2 police companies; 9,000 People's Defence Force.

SRI LANKA (CEYLON)

Population: 13,300,000.

Military service: voluntary.

Total armed forces: 12,500.

Estimated GNP 1972: $2.07 billion.

Defence budget 1970–71: 170 million rupees ($29 million).

5.9 rupees=$1 1 July 1970.

6.4 rupees=$1 1 July 1972.

Army: 8,500.

2 brigades, each of 3 battalions.

6 Saladin armed cars; 12 Ferret scout cars.

Reserves: 12,000.

Navy: 2,300.

1 frigate.

29 small patrol craft.

1 hydrofoil.

Air Force: 1,700; 5 combat aircraft.

1 fighter sqn with 5 MiG–17.

1 trg sqn with 1 MiG–15 and 6 Jet Provost.

4 hel sqns with 7 Bell 206, 6 Bell 47G, and 2 KA–26.

Para-Military Forces: 16,000.

THAILAND

Population: 36,714,000.

Military service: 2 years.

Total armed forces: 180,000.

Estimated GNP 1972: $7.3 billion.

Defence budget 1972–73: 6,158.4 million baht ($293 million).

21.1 baht=$1 1 July 1972.

20.48 baht=$1 1 July 1973.

Army: 125,000.

4 infantry divisions (including 4 tank battalions).

1 regimental combat team.

1 SAM battalion with 40 HAWK.

M–24 and M–41 lt tks; M–8 armd cars; M–3A1 scout cars; M–2, M–16, and about 200 M–113 APC; 200 105mm and 155mm how; HAWK SAM; 16 FH–1100, 3 Jet-Ranger, 14 UH–1H, 2 CH–47, and 6 OH–23F hel.

Reserves: 300,000.

Navy: 20,000 (including 6,500 marines).

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4 coastal minesweepers.

2 coastal minelayers.

11 gunboats (1 less than 100 tons).

15 patrol boats.

8 landing ships.

8 landing craft.

1 MR sqn with 2 HU–16B and 5 S–2.

Air Force: 35,000; 160 combat aircraft.

1 fighter-bomber sqn with 11 F–5A and F–5B.

1 fighter sqn with 20 F–86F.

2 RT–33A reconnaissance aircraft.

6 COIN sqns with 55 T–28D, 40 T–6, and 32 OV–10.

2 tpt sqns with 25 C–47 and 13 C–123B.

2 hel sqns with 35 CH–34 and 23 UH–1H.

4 battalions of airfield defence troops.

(30 A–4, 44 COIN ac, and 25 hel on order.)

Para-Military Forces: 10,000 Volunteer Defence Corps; 8,000 Border Police; Village Militia. The Border Police control 45 hel, incl 11 Bell 205, 10 204B, and 13 FH–1100.

VIETNAM—DEMOCRATIC REPUBLIC (NORTH)

Population: 22,000,000.

Military service: 2 years minimum.

Total armed forces: 578,000.

Estimated defense expenditure 1970; 2,150 million dong ($584 million).

3.68 dong=$1 1 July 1970.

3.6 dong=$1 1 July 1972.

Army: 564,750.

15 infantry divisions plus an additional 2 training divisions. (Infantry divisions normally total about 12,000 men, including 3 infantry regiments and 1 support regiment.)

1 artillery division (of 10 regiments).

3 armoured regiments.

About 20 independent infantry regiments.

46 SAM battalions (each with 6 SA-2 launchers).

12 AA artillery regiments.

T–34 and T–54 med tks; PT–76 Type 60 lt tks; BTR–40 APC; SU–73 and JSU–122 SP guns; 75mm, 105mm, 122mm, 175 130mm and 152 mm guns; 57 mm, 75mm, 82mm, and 107mm recoilless rifles; 82mm, 100mm, 107mm, 120mm, and 160mm mortars; 107mm, 122mm, and 140mm RL; Sagger ATGW; 6,000 12.7mm, 14.5mm, 37mm, 57mm, KS-12 85mm, and KS-19 100mm AA guns and ZSU–57–2 SP AA guns; SA–2, SA–3, and SA–7 Strela SAM, Firecan AA radar.

Deployment: About 145,000 in South Vietnam, 60,000 in Laos and 40,000 in Cambodia.

Navy: 3,250.

3 coastal escorts (ex-Soviet SOI type).

28 ex-Chinese motor gunboats (less than 100 tons).

13 motor torpedo boats (1 Chinese P-6, 12 Soviet P-4).

About 12 small patrol boats (less than 100 tons).

Some landing craft.

10 Mi-4 SAR helicopters.

Air Force: 10,000; 178 combat aircraft.

1 light bomber sqn with 8 Il-28.

4 interceptor sqns with 40 MiG–21F/PF with Atoll AAM.

2 interceptor sqns with 30 MiG-19 (ex-Chinese).

7 fighter-bomber sqns with 100 MiG-15/17.

20 An-2, 4 An-24, 12 Il-14, and 20 Li-2 transports.

12 Mi-4 and 5 Mi-6 helicopters.

About 50 training aircraft.

Para-Military Forces: 20,000 Frontier, Coast Security, and People's Armed Security Forces; about 425,000 Regional Armed Militia.

VIETNAM—REPUBLIC OF VIETNAM (SOUTH)

Population: 20,000,000.

Military service: 2 years minimum.

Total armed forces: 572,000.

Estimated GNP 1972: $2.5 billion.

Defence budget 1973: 189.4 billion piastres ($379 million).

420 piastres=$1 1 July 1972.

500 piastres=$1 1 July 1973.

Army: 460,000.

11 infantry divisions.

1 airborne division (3 brigades).

7 independent armoured cavalry regiments.

3 independent infantry regiments.

27 ranger battalions.

1 special forces group.

35 artillery battalions.

450 M-47 and M-48 med tks; M-24, M-41, and AMX–13 lt tks; Commando and Greyhound armd cars; M3 scout cars; M-59 and M-113 APC; 1,500 105mm and 155mm guns; 155mm SP guns; 175mm how; AA guns; TOW ATGW.

Navy: 45,000.

9 frigates (2 radar picket).

9 patrol vessels.

46 patrol gunboats.

2 coastal minesweepers.

21 landing ships.

19 landing craft, utility.

800 riverine craft; inshore patrol, patrol boats, assault support patrol boats, monitors (105mm how), armoured troop carriers, command and control boats, minesweepers, and support ships.

About 250 diesel junks.

Marines: 17,000.

1 division.

Air Force: 50,000; 309 combat aircraft.

1 FGA sqn with 18 F–5A (plus 90 in storage).

7 FB sqns with 168 A–37B (plus 60 in storage).

3 FB skns with 60 A–1H/J.

1 recce sqn with 10 RC–47 and 7 RF–5A.

1 gunship sqn with 16 AC–47.

2 gunship sqns with 30 AC–119G.

8 tpt sqns with 40 C–47, 43 C–119, 56 C–123, and 32 C–130E.

9 lt tpt sqns with 53 C–7, 10 U–6A, and 80 U–17A/B.

8 lt observation sqns with 248– O–1.

18 hel sqns with 625 Bell UH–1 and 60 CH–47.

250 miscellaneous training aircraft.

Para-Military Forces:

Regional Forces—285,000, forming about 1,700 rifle companies, at the disposal of the provincial governors.

Popular Forces—250,000, a home guard of about 7,500 platoons, with light arms.

People's Self Defense Force—1,400,000; part-time village militia.

Police Field Force—35,000, including special internal security units with armoured vehicles and helicopters.

LATIN AMERICA

CONTINENTAL TREATIES AND AGREEMENTS

In March and April 1945, the Act of Chapultepec was signed by Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, the United States, Uruguay, and Venezuela. This Act declared that any attack upon a member-party would be considered an attack upon all, and provided for the collective use of armed force to prevent or repel such aggression.

In September 1947 all the parties to the Chapultepec Act—except Ecuador and Nicaragua—signed the Inter-American Treaty of Reciprocal Assistance, otherwise known as the Treaty of Rio (Cuba withdrew from the Treaty in March 1960). This Treaty constrained signatories to the peaceful settlement of disputes between themselves, and provided for collective self-defence should any member-party be subject to external attack.

The Charter of the Organization of American States (OAS), drawn up in 1948, embraced declarations based upon the Treaty of Rio. The member-parties—the signatories to the Act of Chapultepec plus Barbados, El Salvador, Jamaica, and Trinidad and Tobago—are bound to peaceful settlement of internal disputes, and to collective action in the event of external attack upon one or more signatory states. (Legally, Cuba is a member of the OAS, but has been excluded—by a decision of OAS Foreign Ministers—since January 1962. Barbados and Trinidad and Tobago signed the Charter in 1967.)

The United States is also a party to two multilateral defence treaties: the Act of Havana, 1940, signed by representatives of all the then 21 American Republics, which provides for the collective trusteeship, by American nations, of European colonies and possessions in the Americas, should any attempt be made to transfer the sovereignty of these colonies from one non-American power to another; and the Havana Convention, which corresponds with the Act of Havana, signed in 1940 by the same states, with the exception of Bolivia, Chile, Cuba, and Uruguay.

A Treaty for the Prohibition of Nuclear Weapons in Latin America (The Tlatelolco Treaty) was signed in February 1967 by 22 Latin American countries; 20 countries have now ratified or acceded to it. An Agency has been set up by the contracting parties to ensure compliance with the treaty.

OTHER AGREEMENTS

In July 1965, El Salvador, Guatemala, Honduras, and Nicaragua agreed to form a military bloc for the co-ordination of all resistance against possible Communist aggression.

The United States has bilateral military assistance agreements with Argentina, Bolivia, Brazil, Chile, Colombia, the Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela. She also has a bilateral agreement with Cuba, for jurisdiction and control over Guantanamo Bay. (This agreement was confirmed in 1934. In 1960 the United States stated that it could be modified or abrogated only by agreement between the parties, and that she had no intention of agreeing to modification or abrogation.)

The Soviet Union has no defence agreements with any of the states in this area, although in recent years she has supplied military equipment to Cuba.

Britain assures the defence of Belize, France, of French Guiana, and the Netherlands of Surinam (Dutch Guiana).

ARGENTINA

Population: 24,300,000.

Military service: Army and Air Force, 1 year; Navy, 14 months.

Total armed forces: 135,000.

Estimated GNP 1971: $46.8 billion.

Defence budget 1973: 4.434 billion pesos ($889 million).

5 pesos=$1 1 July 1972.

4.99 pesos=$1 1 July 1973.

Army: 85,000.

2 armoured brigades.

1 horsed cavalry brigade.

2 mechanized infantry brigades.

1 infantry brigade.

3 mountain brigades.

1 airborne brigade.

10 artillery regiments.

5 anti-aircraft artillery regiments.

120 M–4 Sherman medium tks; 120 AMX–13 lt tks; 250 M–113 APC; 105mm and 155mm guns; 105mm pack how and 24 French Mk F3 and 155mm SP how; recoilless rifles; Cobra ATGW; Tigercat SAM; 3 DHC–6 Twin Otter; 7 Bell UH–7H and 7FH–1100 hel.

Reserves: 250,000; 200,000 National Guard and 50,000 Territorial Guard.

Navy: 33,000 (including the Naval Air Force and Marines).

1 aircraft carrier.

4 submarines (2 more under construction).

3 cruisers.

10 destroyers (2 more under construction).

2 patrol vessels.

6 coastal minesweepers/minehunters.

2 torpedo boats.

2 fast patrol boats.

1 landing ship.

4 LST.

Naval Air Force: 3,000; 35 combat, aircraft.

15 A–4Q *Skyhawk* fighter-bombers.

7 MB–326GB armed trainers.

7 S–2A *Tracker*, 6 P–2V5 *Neptune* MR aircraft.

3 HU–16B *Albatross* SAR aircraft.

6 *Alouette III* and 4 *Sea King* ASW/SAR hel.

7 C–47 and C–54 transport aircraft.

32 T–28 *Fennec* trainers.

Some Beech B–80 (*Queen Air*), C–45; HS–125, PC–6, and DHC–6 general purpose aircraft.

(2 Westland *Sea Lynx* on order.)

Marines: 4,800.

4 marine battalions.

1 field artillery battalion (105mm how).

1 AA battalion.

20 LUT P–7 and 15 LARC 5 APC; 105mm, 155mm how; recoilless rifles; *Bantam* ATGW; *Tigercat* SAM; 30mm AA guns.

Air Force 17,000; 91 combat aircraft.

10 B–62 and 2 T.Mk 64 *Canberra* bombers.

47 A–4P *Skyhawk* fighter-bombers.

42 *Mirage IIIE* and *IIIB* fighters.

20 F–86F Sabre fighters.

10 MS–760 and 60 T–34 trainers.

C–130E, 5 DHC–6 *Twin Otter*, 11 F–27 Mk 400/600, 10 C–47, 6 C–45, and 4 DC–6 med tpts; 20 *Dove*, 16 Dinfia *Guarani II*, 15 *Aero Commander*, *Beaver*, and *Huanquero* lt typts.

14 Hughes 500M; 6 mell UH–1H; 4 UH–1D; 6 UH–19 and 4 Bell 47 hel.

(50 1A–58 *Purcará* COIN ac on order.)

Para-Military Forces: 19,000. Gendarmerie: 11,000 men, 10 hel. under Army command, mainly for frontier duties; the National Maritime Prefecture: 8,000, 1 frigate, 8 hel. 5 *Skyvan*, subordinate to the Navy, performs coastguard duties.

BOLIVIA

Population: 5,340,000.

Military service: 12 months' selective.

Total armed forces: 21,800.

Estimated GNP 1972: $1.32 billion.

Defense expenditure 1972: 307 million pesos ($25.8 million).

11.88 pesos=$1 1 July 1972.

Army: 20,000.

12 infantry regiments.

2 motorized regiments.

3 ranger battalions.

1 paratroop regiment.

3 artillery regiments.

5 engineer battalions.

VM–706 and M–113 APC; light mor and arty.

Navy: Some lake patrol craft.

Air Force: 1,800: 29 combat aircraft.

1 fighter sqn with 10 F–51D *Mustang*.

1 COIN sqn with 13 AT–6D and 6 T–28A armed trainers.

20 tpts, incl C–47, 1 C–54, and 6 CV–440.

6 Cessna 172, 7 PT–19, 8 Fokker T–21, and 7 Cessna 185 communication aircraft.

13 T–33A trainers.

12 Hughes 500M and Hiller OH–23C/D helicopters.

Para-Military Forces: About 5,000 armed police and frontier guards.

BRAZIL

Population: 100,760,000.

Military service: 1 year.

Total armed forces: 208,000.

Estimated GNP 1972: $50.4 billion.

Defence budget 1972: 6.517 billion cruzeiros ($1,105 million).

5.9 cruzeiros=$1 1 July 1972.

6.05 cruzeiros=$1 1 July 1973.

Army: 130,000.

1 armoured division.

4 mechanized divisions.

7 infantry divisions.

(Some of these divisions are being reorganized into "independence" brigades.)

1 airborne division.

150 M–4 Sherman and 40 M–47 Patton med tks; M–3 Stuart and 100 M–41 Walker Bulldog lt tks; 120 Veteli Al Cutia APC/armd car; 40 M–113 and M–59 APC; M–7 105mm SP how; HAWK SAM (4 Roland SAM on order).

Navy: 43,000 (including Naval Air Force, Marines, and Auxiliary Corps).

4 submarines (3 more on order).

1 ASW aircraft carrier.

2 cruisers.

12 destroyers (1 with Seacat SAM).

5 destroyer escorts.

10 corvettes (rescue ships).

4 coastal minesweepers.

6 coastal patrol gunboats.

2 river patrol boats (3 more on order).

2 LST.

(6 frigates on order; 2 with twin Exocet SSM, 4 with Ikara ASW).

Naval Air Force:

3 SH–3D, 4 SH–1–5–58 (Sikorsky S–58), 3 UH–2 (Westland Wasp), 4 UH–4 (Hiller FH–1100), UH–5 (Westland Whirlwind), 10 IH–2A (Hughes 200), and 1 IH–2B (Hughes 300).

Air Force: 35,000; 216 combat aircraft.

1 lt bomber sqn with 15 B–26K Invader.

1 interceptor sqn with 16 Mirage IIIEBR.

6 COIN sqns with 90 AT–6G, 460 AT–37C (112 AF–26 Xavante on order) (operate with Army).

13 Tracker, 12 Neptune, 13 Albatross, 8 PBY–5 Catalina, and 9 RC–130E Hercules MR aircraft.

40 L–42 Regente, O–1 Bird Dog, and L–6 Paulistinha observation/liaison aircraft (with Army).

About 180 transports, incl 56 C–47, DC–6B, 4 C–118, 12 C–119F, 10 C–130E, 5 HS–125, 6 HS–748, 2 BAC–111, 24 DHC–5, and 5 Pilatus Porter. (C–45 and C–47 being replaced by 80 C–95 Bandeirante; 12 Fokker F27/F28 on order.)

70 T–23 Uirapuru, 150 T–25 Universal, 63 Cessna T–37C, 7 Magister, and Fokker S–11/12 trainers.

43 H–13J, 16 UH–1D, and 6 OH–4A/5A hel.

(48 F–5E, 30 Gazelle, and 22 UH–1H on order.)

Para-Military Forces: Various public security forces total about 150,000. There are State militias in addition.

CHILE

Population: 9,200,000.

Military service: 1 year.

Total armed forces: 60,000.

Estimated GNP 1972: $7.07 billion.

Defence budget 1973: 8,000 million escudos ($174 million).

28 escudos= $1 1 July 1972.

46 escudos=$1 1 July 1973.

Army: 32,000.

5 divisions incl:

6 cavalry regiments (2 armoured, 4 horsed).

16 infantry regiments (incl 10 motorized).

5 artillery regiments.

Some anti-aircraft and support detachments.

76 M–4 Sherman med tks: 10 M–3 Stuart lt tks; some APC; Model 56 105mm pack how; AA arty.

Reserves: 200,000.

Navy: 18,000.

2 submarines.

3 cruisers.

4 destroyers.

3 destroyer escorts.

4 motor torpedo boats.

1 patrol vessel.

5 landing ships.

(2 Oberon-class submarines and 2 Leander-class frigates with Seacat SAM are on order.)

1 HU–16C Albatross.

5 C–45 and 5 C–47 tpts; 4 JetRanger helicopters.

Air Force: 10,000; 41 combat aircraft.

1 lt bomber sqn with 12 B–26 Invader.

2 fighter sqns with 18 Hunter F–71 and 11 F–80C.

About 90 transports, including 20 C–45, 8 DHC–6 Twin Otter, 9 Beechcraft 99A, 25 C–47, 4 C–118, 4 DC–6, and 2 C–130E Hercules.

5 Twin Bonanza, 10 Cessna 180, 4 Cessna O–1, and 20 T–6 liaison aircraft.

45 T–34, 10 T–37B, 8 T–33A, and 5 Vampire trainers.

30 helicopters, including 7 Bell OH–13H, 2 Sikorsky UH–19, 16 Hiller OH–23G, and 2 Bell UH–1D.

Para-Military Forces: Carabineros 30,000.

COLOMBIA

Population: 23,200,000.

Military service: 1 year.

Total armed forces: 63,200.

Estimated GNP 1972: $7.59 billion.

Estimated defence expenditure 1973: 2,035 million pesos ($92 million). 22 pesos=$1 1 July 1972. 22 pesos=$1 1 July 1973.

Army: 50,000 (300,000 on full mobilization).

8 infantry brigades.

1 Presidential Guard anti-guerilla battalion.

Motorized infantry, artillery, and engineer units.

M–3A1 Stuart light tanks; M–8 armoured cars; 105mm how; mortars.

Reserves: 250,000.

Navy: 7,200.

2 submarines.

5 destroyers.

4 destroyer/transports.

8 coastal patrol vessels.

5 river gunboats.

14 patrol motor launches (less than 100 tons).

Air Force: 6,000; 18 combat aircraft.

14 Mirage V and 4 Mirage IIIR/D. (F–5 on order.)

About 50 transport aircraft incl 2 C–130 C–47, C–54, DHC–2 Beaver, DHC–3 Otter, Aero Commander, 1 Fokker F–28, and 4 HS–748.

About 50 trainers incl 10 A–37, 30 T–41D, some AT–33, and Beech T–34.

16 Bell 47, 12 Hughes OH–6A, 6 Kaman Huskie, 6 TH–55, 1 Bell UH–1B, and 4 Hiller H–23.

Para-Military Forces: 35,000 National Police Force.

CUBA

Population: 8,850,000.

Military service: 3 years.

Total armed forces: 108,500.

Estimated GNP 1970: $4.5 billion.

Estimated defence expenditure 1971: 290 million peso ($290 million). 1 peso=$1 1 July 1970. 1 peso=$1 1 July 1971.

Army: 90,000.

15 infantry 'divisions' (brigades).

2 armoured brigades.

8 independent 'brigades' (battalion groups).

Over 600 tks including hy tks, T–34 and T–54/55 med tks and PT–76 lt tks; 200 BTR–40, BTR–60, and BTR–152 APC; 100 SU–100 assault guns; 122mm and 152mm guns; 30 FROG–4 and 20 Salish SSM; 57 mm, 76mm, and 85 mm ATk guns; Snapper ATGW.

Reserves: 90,000.

Navy: 6,500.

2 frigates (ex-US).

2 escort patrol vessels (ex-US).

18 submarine chasers (ex-Soviet SOI, Kronstadt).

2 Osa- and 18 Komar-class FPB with Styx SSM.

24 MTB (ex-Soviet P–4 and P–6).

18 Mi–4 hel.

50 Samlet coastal defense SSM.

Air Force: 12,000 (including the Air Defence Forces); 215 combat aircraft.

1 fighter-bomber sqn with 20 MiG–15.

5 interceptor sqns with 80 MiG–21.

2 interceptor sqns with 40 MiG–19.

4 interceptor sqns with 75 MiG–17.

About 70 Il–15, An–24, and An–2 tpt ac.

Trainers include 30 MiG 15 UTI and Zlin-326.

About 24 Mi–4 and 30 Mi–1 helicopters.

24 SAM bns with 144 SA–2.

Para-Military Forces: 10,000 State Security troops; 3,000 border guards; 200,000 People's Militia.

DOMINICAN REPUBLIC

Population: 4,400,000.

Military service: selective.

Total armed forces: 15,800.

Estimated GNP 1972: $1.85 billion.

Estimated defence expenditure 1972: 33 million pesos ($33 million).

1 peso=$1 1 July 1972.

1 peso=$1 1 July 1973.

Army: 9,000.

3 infantry brigades.

1 artillery regiment.

1 anti-aircraft regiment.

Reconnaissance, engineer, and signals units.

30 AMX–13 lt tks; some APCs, armd cars, and light artillery.

Navy: 3,800.

3 frigates.

2 corvettes.

2 fleet minesweepers.

3 patrol vessels.

1 landing ship.

2 landing craft.

Air Force: 3,000; 35 combat aircraft.

3 B–26 Invader light bombers.

1 fiighter-bomber sqn with 10 Vampire Mark 1.

1 fighter-bomber sqn with 20 F–51D Mustang.

2 PBY–5A Catalina maritime patrol aircraft.

1 tpk sqn with 6 C–46, 6 C–47, 3 DHC–2 Beaver, and 3 Cessna 170.

30 trainers, including T–6 Texan, T–11 Kansan, BT–13 Valiant, and PT–17 Kaydet.

2 Bell OH–13, 2 Sikorsky H–19, 2 Hiller UH–12, 7 Hughes OH–6A, and 3 Alouette II/III hel.

Para-Military Forces: 10,000 Gendarmerie.

ECUADOR

Population: 6,600,000.

Military service: selective for 2 years.

Total armed forces: 22,200.

Estimated GNP 1972: $1.83 billion.

Estimated defence budget 1973: 1,221 million sucres ($49 million).

25 sucres—$1 1 July 1972.

24.71 sucres—$1 1 July 1973.

Army: 15,000.

11 infantry battalions.

1 parachute battalion.

3 reconnaissance squadrons.

4 horsed cavalry squadrons.

10 independent inf coys.

3 artillery groups.

1 anti-aircraft battalion.

2 engineer battalions.

15 M–3 Stuart and M–41 Bulldog and 41 AMX–13 It tks; Panhard AML–245 armd cars; some APC incl amphibians.

1 Skyvan, 1 Cessna T–41, and 3 Piper Cub.

Navy: 3,700.

3 destroyer escorts.

2 coastal escorts.

2 motor gunboats.

3 motor torpedo boats.

6 patrol craft.

2 landing ships.

Air Force: 3,500 combat aircraft.

5 Canberra bombers.

8 Meteor FR–9 interceptors.

2 PBY–5 Catalina maritime patrol aircraft.

1 tpt skn with 6 C–45, 8 C–47, 4 DC–6B, 1 Skyvan 3M, and 3 HS–748.

25 trainers including T–28, T–33, and 12 T–41.

3 Bell 47G and 1 FH–1100 hel.

(8 BAC–167 fighters and 6 Aloutte III hel on order.)

Para-Military Forces: 5,800.

MEXICO

Population: 53,450,000.

Military service: voluntary, with part-time conscript militia.

Total armed forces: 71,000 regulars; 250,000 conscripts.

Estimated GNP 1972: $39.45 billion.

Defence budget 1973: 4,409 million pesos ($352 million).

12.5 pesos—$1 1 July 1972.

12.52 pesos—$1 1 July 1973.

Army: 54,000, plus 250,000 part-time conscripts.

1 mechanized brigade group (Presidential Guard).

1 infantry brigade group.

1 parachute brigade.

Zonal Garrisons including:

21 independent cavalry regiments.

50 independent infantry battalions.

2 artillery battalions.

Anti-aircraft, engineer, and support units.

M–3 Stuart It tks; APCs; 100 armd cars; 75 mm and 105mm how.

Navy: 11,000 (including Naval Air Force and Marines).

2 destroyers.

8 frigates.

2 gunboats.

15 escort and fleet minesweepers.

10 patrol boats.

1 troop transport.

Naval Air Force: 336; 5 combat aircraft.

5 PBY–5 Catalina MR; 4 Bell 47G, 1 Bell 47J, and 4 Alouette III hel.

Marines: 1,900 men; organized in 16 companies.

Air Force: 6,000; 27 combat aircraft.

1 fighter-bomber sqn with 12 Vampire.

1 COIN sqn with 15 T-33A.

1 SAR skn with 18 LASA-60 It ac.

130 trainers, including 4 T-6 Texan, 13 AT-11 Kansan, 32 T-28 Trogan, and 10 T-34 Mentor. (The T-6, AT-11, T-28, and T-34 aircraft can be used for ground support.)

About 50 transports, including 6 C-47, 5 C-54, 20 C-45, 2 C-118 Islander, and 1 Jetstar.

About 30 helicopters; 14 Bell 47, 1 Bell 212, 3 Puma, 5 JetRanger, 6 Alouette III, and 1 Hiller UH-12E. 1 parachute battalion.

PARAGUAY

Population: 2,520,000.

Military service: 2 years.

Total armed forces: 14,900.

Estimated GNP 1972: $708 million.

Defence budget 1973: 2,335.9 billion guaranies ($19 million).

130 guaranies=$1 1 July 1972.

125 guaranies=$1 1 July 1973.

Army: 11,000.

1 cavalry brigade.

6 infantry regiments.

5 motorized engineer battalions.

3 artillery batteries.

9 M-4 Sherman med tks; APCs; 75mm and 105 mm how.

Navy: 1,900 (including marines).

1 support ship (LSM) with 2 UH-13 hel.

2 river gunboats.

3 patrol boats.

2 patrol launches.

3 river patrol boats.

Air Force: 2,000; 6 combat aircraft.

About 20 trainers incl 6 T-6 Texan (some fitted for bombs), PT-17 Kaydet, and MS-760.

1 C-47, C-54, and 1 DHC-6 Twin Otter tpts.

20 helicopters, including 4 Bell 47C, 3 Hiller UH-12E, and 12 Bell UH-13.

Para-Military Forces: 8,500 security forces.

PERU

Population: 14,900,000.

Military service: 2 years.

Total armed forces: 54,000.

Estimated GNP 1972: $7.11 billion.

Defence budget 1973: 10,193 million soles ($240 million). (Peru now uses a biennial defence budget system. This estimate represents the 1973 portion of a total 20,125 million soles budget for 1 Jan. 1972–31 Dec. 1974.)

45. soles=$1 1 July 1972.

42.44 soles=$1, 1 July 1973.

Army: 39,000.

1 armoured brigade.

7 infantry brigades.

1 commando brigade.

Mountain, parachute, artillery, and engineer battalions.

60 M-4 Sherman med tks; 100 AMX-13 It tks; 50 M-3A1 White scout cars; some 105mm and 155mm guns. 8 Bell 47G hel.

Navy: 8,000.

4 submarines.

3 light cruisers (1 more being delivered).

4 destroyers.

3 destroyer escorts.

2 submarine chasers.

6 fast patrol craft.

2 coastal minesweepers.

3 patrol boats.

4 landing ships.

2 Bell 47G and 2 Alouette III helicopters.

Air Force: 7,000; 85 combat aircraft.

15 Canberra light bombers.

14 Mirage V fighters (more on order).

10 F–86F and 6 Hunter F–52 fighters.

20 T–33A armed trainers.

(The above aircraft form three combat groups of two or three squadrons each.)

1 photo-recce squadron with 10 C–60.

1 maritime recce squadron with 6 PV–2 Harpoon.

4 HU–16A Albatross maritime patrol aircraft.

Tpt and comms aircraft, incl 9 C–130, 4 C–54, 6 DC–6, 19 C–47, 12 DHC–6 Twin Otter, 21 Beech Queen Air, and 16 DHC–5 Buffalo.

Trainers incl 2 Hunter T–62, 2 Mirage IIIB, 8 T–33, 26 T–37B, and 19 Cessna T–41A.

Helicopters include 4 Bell 47G, 10 Alouette III, 4 Mi–8, 2 Bell 212, 13 UH–1H, 9 UH–1D, and 2 Hiller UH–12B.

Para-Military Forces: 20,000 Guardia Civil.

URUGUAY

Population: 3,000,000.

Military service: voluntary.

Total armed forces: 21,000.

Estimated GNP 1972: $2.36 billion.

Defence budget 1972: 43,964 million pesos ($77 million).

570 pesos=$1 1 July 1972.

895 pesos=$1 1 July 1973.

Army: 16,000.

2 armoured regiments.

5 infantry regiments (of 3 battalions each).

9 cavalry sqns.

4 artillery groups.

5 engineer battalions.

8 M-24 lt tks; 10 M-3A1 scout cars; 18 M-113A1 APC; 105mm how.

Reserves: 100,000.

Navy: 3,000.

2 destroyer escorts.

1 corvette (training).

1 escort vessel.

2 patrol vessels.

1 coastal minesweeper.

3 S-2A Tracker maritime patrol aircraft.

2 Bell 47G and 4 UH-12 helicopters.

Air Force: 2,000; 10 combat aircraft.

About 30 trainers incl 20 T-6 Texan and 6 T-33A (some of which are armed).

Tpt ac incl 14 C-47, 2 Fokker F-27, 1 DHC-2 Beaver, 2 Beech Queen Air, and 2 F-227.

2 Bell UH-1H and 2 Hiller UH-12 hel.

Para-Military Forces: 22,000.

VENEZUELA

Population: 11,500,000.

Military service: 2 years.

Total armed forces: 37,500.

Estimated GNP 1972: $11.97 billion.

Defence budget 1973: 1,396 million bolivares ($325 million).

4.4 bolivares equal $1 1 July 1972.

4.30 bolivares equal $1 1 July 1973.

Army: 24,000.

1 armoured brigade.

1 cavalry regiment.

1 tank battalion group.

13 infantry battalions.

11 ranger battalions.

6 artillery groups.

5 engineer and anti-aircraft battalions.

16 AMX-30 med tks; AMX-13 lt tks; M-18 tank destroyers and some armd cars (161 AMX-30 and 20 AMX-155 SP guns on order).

Navy: 7,500 (including 4,000 marines).

3 submarines.

4 destroyers.

6 destroyer escorts.

10 submarine chasers.

4 landing ships.

(6 FPB with Otomat SSM are on order.)

Air Force: 6,000; 129 combat aircraft.

30 B-2 Canberra bombers.

15 B-25 Mitchell light bombers.

18 CF-5A fighters.

50 F-86F/K fighters.

16 OV-10A COIN aircraft.

47 tpt ac incl 12 C-47, 18 C-123B, and 4 C-130H.

38 trainers incl 2 Mirage 111D, T-34 Mentor, T-52 Jet Provost, and HS-748.

24 hel include Alouette III and UH-1D.

(F-5 and 16 Mirage III fighters on order.)

Para-Military Forces: The National Guard, a volunteer force with a total strength of 10,000, employed chiefly on internal security duties.

ARMED FORCES OF OTHER LATIN AMERICAN COUNTRIES[1]

Country	Estimated population (thousands)	Estimated GNP (millions)	Total armed forces	Army		Navy—manpower and equipment	Air Force—manpower and equipment	Para-military forces
				Manpower and formations	Equipment			
El Salvador	3,920	$1,113	5,630	4,500—1 cav regt; 5 inf bns; 2 arty bns; 1 AA bn; 1 para coy.		130—2 patrol boats	1,000—4 F-4U fighters; 6 F-51D FGA; 4 C-47 tpts; 30 trainers.	3,000
Guatemala	5,690	2,130	11,200	10,000—6 inf bns; 1 para bn; 1 engr bn; 1 arty bty; 1 armd car coy.	10 M-4 med tks; 10 M-3A1 lt tks; some M-113 APC; M-8 armd cars; 105mm how.	200—1 gunboat; 6 patrol craft	1,000—4 B-26 lt bbrs; 6 F-51D FGA; 8 A-37B COIN; 4 RT-33A; 11 tpts (4 C-47); 10 hel.	3,000
Guyana	780	283	2,200	2,200—2 inf bns	4 APC; mortars	3 patrol launches	2 BN-2A lt tpts; 2 Helio 269 lt ac (under Army).	2,250
Haiti	5,200	[2]514	6,550	6,000—1 inf bn; several small combat teams.	9 lt tks; some APC; 37 mm, 75 mm and 105 mm guns; 57 mm ATk guns.	300—4 patrol craft; 1 landing craft.	250—3 C-47, 2 C-45 tpts (6 hel on order).	14,900
Honduras	2,890	781	5,735	4,500—3 inf bns; 20 inf coys; 2 arty btys; engr bn.	Some lt tks; 75 mm how	35—3 patrol craft	1,200—6 F-AU fighters; 3 RT-33A; 4 C-47, 1 C-54 tpts; 3 H-19 hel.	2,500
Nicaragua	2,200	955	7,100	5,400—up to 20 inf coys; mot det; 1 AA bty; 1 engr bn.	Some lt tks; APC; armd cars; lt AA guns; 2 Cessna U-17A; lt ac.	200—(coastguard); 4 patrol vessels.	1,500—4 B-26 lt bbrs; 6 T-33A COIN; 16 tpts (3 C-47); 15 trainers (6 T-28-A); 5 hel.	4,000

[1] Costa Rica and Panama maintain paramilitary forces, numbering 5,000 and 11,000 respectively. Neither has regular armed forces.

[2] 1971.

THE MILITARY BALANCE 1973-74—TABLES OF COMPARATIVE STRENGTHS

NUCLEAR DELIVERY VEHICLES: COMPARATIVE STRENGTHS AND CHARACTERISTICS

(A) UNITED STATES AND SOVIET UNION

(i) MISSILES AND ARTILLERY

Category[1]	United States					Soviet Union				
	Type	Maximum range[2] (statute miles)	Estimated warhead yield[3]	First deployed	Number deployed (July 1973)	Type[4]	Maximum range[2] (statute miles)	Estimated warhead yield[3]	First deployed	Number deployed (July 1973)
Land-based missiles:										
ICBM	LGM-25C Titan 2	7,250	5-10 MT	1962	54	SS-7 Saddler	6,900	5 MT	1961	209
	LGM-30B Minuteman 1	7,500	1 MT	1962	140	SS-8 Sasin	6,900	5 MT	1963	
	LGM-30F Minuteman 2	8,000	1-2 MT	1966	510	SS-9 Scarp	7,500	20-25 MT[5]	1965	[6]288
	LGM-30G Minuteman 3	8,000	3×200 KT	1970	350	SS-11[7]	6,500	1-2 MT[8]	1966	[9]970
						SS-13 Savage[7]	5,000	1 MT	1968	60
IRBM						SS-5 Skean[10]	2,300	1 MT	1961	100
MRBM						SS-4 Sandal[11]	1,200	1 MT	1959	500
SRBM	MGM-29A Sergeant[12][13]	85	KT range	1962	(500)	SS-1b Scud A[12]	50	KT range	1957	(300)
	MGM-31A Pershing	450	do	1962	(250)	SS-1c Scud B[12]	185	do	1965	
						SS-12 Scaleboard	500	do	1969	
Long-range cruise missiles						SS-N-3 Shaddock	450	KT range	1962	(100)
Unguided rockets	MGR-1B Honest John[12][13]	25	KT range	1953	NA	FROG 1-7[12]	10-45	do	1957-65	(600)
Sea-based missile:										
SLBM (nuclear subs)	UGM-27B Polaris A2	1,750	800 KT	1962	336	SS-N-5 Serb	750	MT range	1964	30
	UGM-27C Polaris A3[14]	2,880	1 MT or 3 × 200 KT.	1964		SS-N-6	1,750	do	1969	496
	UGM-73A Poseidon	2,880	10 × 50 KT	1971	320	SS-N-8	4,000	do	1972	36
SLBM (diesel subs)						SS-N-4 Sark	350	do	1961	36
						SS-N-5 Serb	750	do	1964	30
Long-range cruise missiles (subs)						SS-N-3 Shaddock	450	KT range	1962	338
Long-range cruise missiles (surface vessels.						do	450	do	1962	48
Artillery:										
Self-propelled	M-110 203mm (8 in) how[12]	10	KT range	1962	102					
	M-109 155mm how[12]	10	2KT	1964	306					
Towed	M-115 203mm (8 in) how[12]	10	KT range	1950	NA	M-55 203 mm gun/how.[12]	18	KT range	1950	NA

Footnotes at end of table.

(ii) AIRCRAFT [15]

	United States						Soviet Union					
Category [16]	Type	Max. range [17] (statute miles)	Max. speed (Mach no.) [18]	Max. weapons load (pound)	First deployed	Number deployed (July 1973)	Type [19]	Max. range [17] (statute miles)	Max. speed (Mach no.) [18]	Max. weapons load (pound)	First deployed	Number deployed (July 1973)
Long-range bombers	B-52 D-F	11,500	0.95	60,000	1956	[20] 442	Tu-95 Bear	7,800	0.78	40,000	1956	100
	B-52 G/H	12,500	.95	75,000	1959		Mya-4 Bison	6,050	.87	20,000	1956	[21] 40
Medium-range bombers	FB-111A	3,800	2.5	37,500	1969	[20] 74	Tu-16 Badger	4,000	.8	20,000	1955	[22] 800
Strike aircraft (incl short-range bombers): land-based.	F-105D	2,100	2.25	16,500	1960	[23] (1,300)	Il-28 Beagle	2,500	.81	4,850	1950	[23] (1300)
	F-4	2,300	2.4	16,000	1962		Su-7 Fitter	900	1.7	4,500	1959	
	F-111 A/E	3,800	2.2/2.5	25,000	1967		Tu-22 Blinder	1,400	1.5	12,000	1962	
	A-7D	3,400	.9	15,000	1968		Yak-28 Brewer	1,750	1.1	4,400	1962	
							Mig-21 MF Fishbed J	1,150	2.2	2,000	1970	
							Mig-23 Flogger	1,800	2.5	N.A.	1971	
Strike aircraft: carrier-based	A-4	2,055	.9	10,000	1956	[23] (1,300)						
	A-6A	3,225	.9	18,000	1963							
	A-7A/B/E	3,400	.9	15,000	1966							
	F-4	1,997	2.4	1,600	1962							

(III) HISTORICAL CHANGES OF STRENGTHS, 1963-73 (MID-YEARS)

	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973
United States:											
ICBM	424	834	854	904	1,054	1,054	1,054	1,054	1,054	1,054	1,054
SLBM	224	416	496	592	656	656	656	656	656	656	656
Long-range bombers [6]	630	630	630	630	600	545	560	550	505	455	522
U.S.S.R.:											
ICBM	100	200	270	300	460	800	1,050	1,300	[9] 1,510	[9] 1,527	[9] 1,527
SLBM	100	120	120	125	130	130	160	280	440	560	628
Long-range bombers [6]	190	190	190	200	210	150	150	150	140	140	140

[1] ICBM=inter-continental ballistic missile (range 4,000 + miles); IRBM=intermediate-range ballistic missile (range 1,500–4,000 miles); MRBM=medium-range ballistic missile (range 500–1,500 miles); SRBM=short-range ballistic missile (range under 500 miles); SLBM=submarine-launched ballistic missile. Long-range cruise missile=range over 250 miles.

[2] Operation range depends upon the payload carried; use of maximum payload may reduce missile range by up to 25 per cent.

[3] MT=megaton=million tons of TNT equivalent (MT range=1 MT or over); KT=kiloton=thousand tons of TNT equivalent (KT range=less than 1 MT); figures given are estimated maxima.

[4] Numerical designations of Soviet missiles (e.g. SS-7) are of US origin; names (e.g. Saddler) are of NATO origin.

[5] SS-9 missiles have also been tested with (i) three warheads of 4-5 MT each, (ii) a modified payload for use as a depressed trajectory ICBM (DICBM) or fractional orbit bombardment system (FOBS).

[6] There are also 25 large silos under construction, possibly to receive SS-18 missiles, an improved version of the SS-9, fitted with MRV.

[7] There are also 66 smaller silos under construction, which are expected to receive SS-16 missiles, an improved version of the SS-13; or SS-17 missiles, an improved version of the SS-11, with MRV.

[8] SS-11 missiles have also been tested with three smaller warheads.

[9] Including those deployed within IRBM/MRBM fields.

[10] A mobile IRBM (SS-XZ Scrooge) has been displayed and tested but is not known to be deployed operationally.

[11] A mobile missile (SS-14 Scapegoat), apparently with MRBM range, has been displayed and ested but is not known to be deployed operationally.

[12] Dual capable (i.e., capable of delivering conventional explosives or nuclear warheads).

[13] To be replaced by Lance, an SRBM with a maximum range of 70 miles and a warhead in the KT range.

[14] Most Polaris A3 missiles have been modified to carry three warheads.

[15] All aircraft listed are dual-capable and many, especially in the categories of strike aircraft, would be more likely to carry conventional than nuclear weapons.

[16] Long-range bomber=maximum range over 6,000 miles; medium-range bomber=maximum range 3,500–6,000 miles, primarily designed for bombing missions.

[17] Theoretical maximum range, with internal fuel only, at optimum altitude and speed. Ranges for strike aircraft assume no weapons load. Especially in the case of strike aircraft, therefore, range falls sharply for flights at lower altitute, at higher speed or with full weapons load (e.g., the combat radius of A-7 at operational height and speed, with typical weapons load, is approximately 620 miles).

[18] Mach 1 (M=1.0=speed of sound).

[19] Names of Soviet aircraft (e.g., Bear) are of NATO origin.

[20] Including approximately 8 FB-111A and 45 B-52 aircraft in active storage.

[21] Excluding approximately 50 Mya-4 aircraft configured as tankers.

[22] Including approximately 300 Tu-16 aircraft in the Naval Air Force, configured for attacks on shipping, which could, in theory, deliver nuclear weapons.

[23] These aircraft are nuclear-capable but may not necessarily have a nuclear role.

Note: NA—Not available.

(B) OTHER NATO AND WARSAW PACT COUNTRIES

(i) MISSILES AND ARTILLERY

	NATO (excluding United States)						Warsaw Pact (excluding U.S.S.R.)					
Category [1]	Type [2]	Operated by [3]	Maximum range [4] (statute miles)	Estimated warhead yield [5]	First deployed	Number deployed (July 1973)	Type [6]	Operated by [3]	Maximum range [4] (statute miles)	Estimated warhead yield [5]	First deployed	Number deployed (July 1973)
Land-based missiles:												
IRBM	SSBS S-2	FR	1,875	150 KT	1971	18						
SRBM	MGM-29A Sergeant [7]	GE	85	LT range	1962	19	SS-1b Scud A [8]	BU CZ EG PO	50	KT range	1957	NA
	MGM-31A Pershing [7]	GE	450	do	1962	72	SS-1c Scud B [8]		185	do	1965	NA
Unguided rockets	MGR-1B Honest John.	(9)	25	do	1953	(150)	FROG 1-7 [8]	All	10-45	do	1957-65	NA
SLBM	UMG-27C Polaris A3	BR	2,880	3×200 KT	1967	64						
	MSBS M-1	FR	1,380	500 KT	1972	32						
Artillery:												
Self-propelled	M-110 203mm (8 in) how.	(10)	10	KT range	1962	NA						
	M-109 155mm how	(11)	10	2 KT	1964	NA						
Towed	M-115 203mm (8 in) how.	(10)	10	KT range	1950	NA						

[1] IRBM=intermediate-range ballistic missile (range 1,500–4,000 miles); SRBM=short-range ballistic missile (range under 500 miles); SLBM=submarine-launched ballistic missile.

[2] All NATO vehicles are of American origin, with the exception of the SSBS IRBM and the MSBS, SLBM, which are of French origin.

[3] BR=Britain, FR=France, GE=West Germany, BU=Bulgaria, CZ=Czechoslovakia, EG= East Germany, PO=Poland.

[4] Operational range depends upon the payload carried; use of maximum payload may reduce missile range by up to 25 per cent.

[5] KT=kiloton=thousand tons of TNT equivalent (KT range=less than 1 MT); figures given are estimated maxima.

[6] All Warsaw Pact vehicles are of Soviet origin. Numerical designations (e.g., SS-1b) are of American origin; names (e.g., Scud A) are of NATO origin.

[7] These SRBM are operated by West Germany but the nuclear warheads from them are in American custody. Sergeant is dual-capable (i.e., capable of delivering conventional or nuclear weapons).

[8] These dual-capable systems are operated by the countries shown but nuclear warheads for them are in Soviet custody.

[9] Honest John is dual-capable and is operated by Belgium, Britain, Denmark, West Germany, Greece, Italy, the Netherlands and Turkey, but with the nuclear warheads held in American custody. In the case of Denmark, there are no nuclear warheads held on Danish soil. France also operates Honest John but the nuclear warheads for it were withdrawn in 1966 and its nuclear role is to be taken over by the French SRBM Pluton, which will have a French nuclear warhead.

[10] The 203mm how is dual-capable and is operated by Belgium, Britain, Denmark, West Germany, the Netherlands, Italy and Turkey but any nuclear warheads for it are in American custody.

[11] The 155 mm how is primarily a conventional artillery weapon but is dual-capable. It is operated by Belgium, Britain, Canada, Denmark, West Germany, Greece, Italy, the Netherlands, Norway, and Turkey but in very few cases is it likely to have a nuclear role, certainly not in the case of Canada. Any nuclear warheads would be in American custody, none on Danish or Norwegian soil.

(B) OTHER NATO AND WARSAW PACT COUNTRIES—Continued

(ii) AIRCRAFT [1]

	NATO (excluding United States)							Warsaw Pact (excluding USSR)						
Category [2]	Type [3]	Operated by [4]	Maximum [5] range (statute miles)	Maximum speed (Mach no.) [6]	Maximum weapons load (lb)	First deployed	No. deployed (July 1973)	Type [7]	Operated by [4]	Maximum range (statute miles)	Maximum speed (Mach no.) [6]	Maximum weapons load (lb)	First deployed	No. deployed (July 1973)
Medium-range bombers.	Vulcan B2	BR	4,000	0.95	21,000	1960	56							
Strike aircraft (incl short-range bombers).	F-104	(8)	1,300	2.2	4,000	1958	[9] NA	Il-28 Beagle [10]	BU PO RU	2,500	0.81	4,850	1950	[9] NA
	F-4	BR GE	1,600	2.4	16,000	1962	[9] NA	Su-7 Fitter [10]	CZ PO	900	1.7	4,500	1959	[9] NA
	Buccaneer S2	BR	2,000	.95	8,000	1962	[9] NA							
	Mirage IVA	FR	2,000	2.2	8,000	1964	58							

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[1] All aircraft listed are dual-capable and many would be more likely to carry conventional than nuclear weapons.

[2] Medium-range bomber=maximum range 3,500-6,000 miles, primarily designed for bombing missions.

[3] Vulcan and Buccaneer are of British origin; F-104 and F-4 are of American origin; Mirage is of French origin.

[4] BR=Britain, FR=France, GE=West Germany, BU=Bulgaria, CZ=Czechoslovakia, PO=Poland, RU=Rumania.

[5] Theoretical maximum range, with internal fuel only, at optimum altitude and speed. Ranges for strike aircraft assume no weapons load. Especially in the case of strike aircraft, therefore, range falls sharply for flights at lower altitude, at higher speed or with full weapons load (e.g., combat radius of F-104, at operational height and speed, with typical weapons load, is approximately 420 miles).

[6] Mach 1 (M=1.0=speed of sound).

[7] All Warsaw Pact aircraft are of Soviet origin. Names (e.g., Beagle) are of NATO origin.

[8] The dual-capable F-104 is operated by Belgium, Canada, Denmark, West Germany, Greece, Italy, the Netherlands, Norway and Turkey, but the Canadian aircraft no longer have a nuclear role. The warheads of these aircraft are held in American custody.

[9] The absence of figures here reflects the uncertainty as to how many of these nuclear-capable aircraft actually have a nuclear role.

[10] Nuclear warheads for these dual-capable aircraft are held in Soviet custody.

2. DEFENSE EXPENDITURE AND NATIONAL ECONOMIES

		Defense Expenditure or Budget						
					As a percentage of GNP [2]			
Country	GNP,[1] 1970 (billions)	1972 (millions)	1973 (millions)	Per capita, 1972	1969	1970	1971	1972
United States	$976.4	$83,400	$85,165	$399	8.4	7.4	7.5	7.2
Soviet Union [3]	402.6	32,970	33,580	132	8.4	7.9	7.6	7.5
Warsaw pact:								
Bulgaria	9.7	(4)	301	(4)	2.2	2.4	(4)	(4)
Czechoslovakia	30.5	1,274	1,336	87	3.7	3.6	3.8	4.1
Germany, East	33.5	1,854	2,031	116	5.0	5.1	5.2	5.3
Hungary	14.3	419	695	40	2.5	2.7	2.7	2.7
Poland	39.4	1,770	1,799	54	3.9	4.1	4.1	4.0
Romania	22.4	453	528	22	1.8	2.1	2.0	1.7
NATO:								
Belgium	26.1	723	990	74	2.8	2.6	2.1	2.0
Britain	121.5	6,968	8,673	125	5.0	4.9	4.5	4.6
Canada	82.6	1,966	2,141	90	2.4	2.4	2.0	1.9
Denmark	15.4	441	568	88	2.5	2.4	2.4	2.2
France	148.6	6,238	8,488	121	3.5	3.3	3.2	3.1
Germany, West [5]	188.8	7,668	11,083	124	3.5	3.3	2.9	2.9
Greece	9.5	495	580	56	4.9	4.7	3.1	4.1
Italy	92.6	3,251	3,964	60	2.9	2.8	2.6	2.7
Luxembourg	1.0	10	15	29	.9	.8	.9	.8
Netherlands	31.4	1,568	2,102	117	3.8	3.5	3.5	3.5
Norway	11.3	462	665	118	3.8	3.3	3.3	3.2
Portugal	6.4	425	(4)	47	5.9	5.6	5.4	5.1
Turkey	15.5	568	812	15	3.6	3.6	3.7	3.6
Other European Countries:								
Austria	14.4	201	291	27	1.1	1.1	1.0	1.0
Finland	10.3	193	231	39	1.4	1.4	1.4	1.5
Spain	32.3	851	1,132	25	2.0	1.8	1.9	1.8
Sweden	32.7	1,505	1,883	184	3.8	3.4	3.4	3.6
Switzerland	20.6	557	799	87	2.2	2.0	1.9	1.8
Yugoslavia	10.7	654	826	32	6.0	6.2	5.1	5.3
Middle East and the Mediterranean:								
Algeria	4.4	100	(4)	15	4.4	(4)	2.3	2.0
Egypt	6.7	1,493	1,737	43	13.2	18.9	21.4	20.2
Iran	10.6	926	2,010	30	5.4	7.4	8.0	6.2
Iraq	$2.9	$310	(4)	$31	10.4	8.3	(4)	8.8
Israel	5.4	1,262	$1,474	404	18.0	19.9	22.3	18.2
Jordan	.6	119	(4)	49	19.4	18.6	13.6	17.4
Libya	3.1	120	145	59	1.5	(4)	2.3	2.6
Morocco	3.4	124	(4)	8	2.9	2.8	2.6	2.8
Sudan	1.9	(4)	(4)	(4)	5.2	7.6	7.9	(4)
Syria	1.7	251	216	38	12.3	10.4	(4)	11.5
Africa:								
Ethiopia	1.8	(4)	(4)	(4)	2.2	1.9	2.0	(4)
Rhodesia	1.5	32	(4)	5	.8	1.7	(4)	2.0
South Africa	16.5	358	716	21	2.5	2.2	2.4	2.5
Asia and Australasia:								
Australia	32.8	1,575	(4)	121	4.2	3.9	3.9	3.6
China (Taiwan)	5.4	700	(4)	48	9.2	8.8	9.8	7.2
India	52.4	1,813	2,386	3	3.0	3.0	3.4	3.0
Indonesia	8.4	(4)	(4)	(4)	3.1	3.2	3.4	(4)
Japan	197.9	2,728	3,530	26	.8	.8	.9	.9
Korea, South	8.2	428	476	13	4.0	4.0	4.2	4.6
Malaysia	3.8	306	287	28	3.7	6.9	4.7	6.8
New Zealand	6.1	153	175	53	1.9	1.8	1.8	1.8
Pakistan [6]	16.1	405	433	7	3.3	3.6	7.9	8.6
Philippines	6.6	95	(4)	2	1.4	1.7	1.8	1.2
Singapore	[7] 1.8	249	(4)	113	5.6	5.8	7.5	9.4
Thailand	6.5	293	(4)	8	3.3	3.6	3.6	4.0
Vietnam, South	5.6	446	379	23	9.9	20.0	18.6	17.4
Latin America:								
Argentina	23.5	834	889	35	(4)	1.9	1.9	1.8
Brazil	38.0	1,105	(4)	11	(4)	1.5	2.8	2.2
Chile	6.5	324	174	36	2.9	1.8	4.4	4.6
Colombia	6.9	98	92	4	1.3	1.3	(4)	1.3
Mexico	32.7	281	352	5	(4)	.6	(4)	.7
Peru	5.4	208	240	14	3.0	3.2	3.6	3.2
Uruguay	2.4	77	(4)	26	1.9	2.1	3.0	3.3
Venezuela	9.8	284	325	25	2.5	2.8	(4)	2.4

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[1] GNP figures are given for 1970, since this is the latest year in which there is wide coverage of official standardized statistics, permitting comparison of the size of national economies.

[2] Percentages have been calculated in local currency. Where official figures for GNP are not available estimates have been made.

[3] For the Soviet Union net material product (NMP) is used instead of GNP. Defense expenditures have been derived by adding 75 percent of the all-union science budget to the defense budget; they are then expressed as a percentage of NMP. Conversion of NMP and defense expenditure into dollars is at a constant rate of 0.72 roubles equals $1. This method of calculation and conversion is used her e simply to enable a trend to be discerned; for a note on Soviet defense expenditure see box in the US-USSR section elsewhere in this issue.

[4] Not available.

[5] Excluding financial assistance to West Berlin which, included, would make the entry read: 188.8, 4.0; 9,531, 3.8; 13,758, 3.4; 154, 3.6.

[6] Percentages for 1969 and 1970 include the former East Pakistan.

[7] Gross domestic product at factor cost, not GNP.

3. COMPARISONS OF MILITARY MANPOWER 1973[1]

Country	Total Armed Forces (regulars and conscripts)	Para-military forces	Estimated number of trained Reservists	Estimated total men of military age (i.e. 18-45)	Percentage of total Armed Forces to men of military age
Europe:					
Belgium	89,600	15,000	15,600	1,900,000	4.7
Bulgaria	152,000	17,000	280,000	1,800,000	8.4
Britain	361,500	----------	435,000	10,800,000	3.3
Czechoslovakia	190,000	35,000	350,000	3,000,000	6.3
Denmark	39,800	----------	91,000	1,000,000	4.1
France	503,600	85,000	540,000	10,000,000	5.0
Germany, East	132,000	80,000	250,000	3,200,000	4.1
Germany, West	475,000	20,000	625,000	11,900,000	4.0
Greece	160,000	99,000	205,000	1,800,000	8.9
Hungary	103,000	27,000	163,000	2,100,000	4.9
Italy	427,500	80,700	545,000	11,000,000	3.9
Netherlands	112,200	3,200	340,000	2,700,000	4.2
Norway	35,900	----------	179,600	700,000	5.1
Poland	280,000	73,000	600,000	7,100,000	3.9
Portugal	204,000	9,700	318,000	1,800,000	12.1
Romania	170,000	40,000	285,000	4,300,000	4.0
Sweden	93,100	----------	[2] 557,000	1,600,000	5.8
Turkey	455,000	75,000	800,000	7,700,000	5.9
Soviet Union	3,425,000	300,000	3,000,000	50,100,000	6.8
Middle East:					
Egypt	298,000	100,000	534,000	7,000,000	4.3
Iran	211,500	70,000	315,000	5,400,000	3.9
Israel	115,000	9,000	[3] 180,000	600,000	18.3
Asia and Australasia:					
Australia	73,330	----------	32,300	2,600,000	2.8
China	2,900,000	300,000	NA	170,000,000	1.7
India	948,000	100,000	NA	116,500,000	.8
Indonesia	322,000	120,000	NA	20,600,000	1.6
Japan	266,000	----------	39,300	24,900,000	1.1
Africa: South Africa	17,300	75,000	92,000	[4] 800,000	2.2
Latin America:					
Argentina	135,000	19,000	250,000	5,200,000	2.6
Brazil	208,000	150,000	NA	17,200,000	1.2
Mexico	71,000	----------	NA	9,200,000	.8
North America:					
Canada	83,000	----------	23,200	4,500,000	1.8
United States	2,252,900	----------	927,400	38,700,000	5.8

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[1] Figures are not comparable between countries mainly because reserve structures are not the same.

[2] Total mobilizable strength; 750,000.

[3] Total mobilizable strength, 300,000.

[4] White population only.

4. COMPARATIVE DEFENSE EXPENDITURE, GROSS NATIONAL PRODUCT, AND MANPOWER FIGURES, 1952-72—DEFENSE EXPENDITURES[1]

[In millions]

	USA[2]	Japan		West Germany[2]		France[2]		USSR[3]	
Year	Dollars	Yen	Dollars	Marks	Dollars	Dollars	Pounds	Dollars	Rubles
1952 47,598	183	508	----------	----------	12,531	3,580	1,561	4,387	11,330
1953 49,377	126	350	6,195	1,475	13,865	3,961	1,681	4,727	11,270
1954 42,786	135	375	6,287	1,497	11,710	3,346	1,571	4,376	11,250
1955 40,371	135	375	7,383	1,752	11,020	3,149	1,567	4,365	11,320
1956 41,513	143	397	7,211	1,717	14,690	4,197	1,615	4,499	10,470
1957 44,159	144	400	8,962	2,133	15,600	3,184	1,574	4,423	10,520
1958 45,096	149	414	6,853	1,640	16,569	3,381	1,591	4,460	10,670
1959 45,833	156	433	11,087	2,654	17,926	3,658	1,589	4,472	10,900
1960 45,380	160	444	12,115	2,905	18,940	3,865	1,655	4,641	11,060
1961 47,807	184	511	13,175	3,297	19,932	4,068	1,709	4,800	13,610
1962 52,381	214	594	17,233	4,310	21,460	4,380	1,814	5,085	14,860
1963 52,295	248	689	19,924	5,012	22,849	4,663	1,870	5,231	16,500
1964 51,213	281	781	19,553	4,917	24,280	4,955	2,000	5,581	16,280
1965 51,827	305	847	19,915	4,975	25,300	5,163	2,091	5,839	16,000
1966 63,572	345	958	20,254	5,093	26,732	5,456	2,153	6,007	16,780
1967 75,448	387	1,075	21,408	5,353	28,912	5,900	2,276	5,462	18,180
1968 80,732	422	1,172	19,310	4,828	30,200	6,163	2,332	5,560	20,840
1969 81,443	495	1,375	21,577	5,847	31,700	5,703	2,303	5,529	22,110
1970 77,854	590	1,639	22,573	6,617	33,200	6,014	2,444	5,850	22,810
1971 74,862	694	1,928	25,450	7,278	35,000	6,342	2,810	6,799	23,170
1972 79,528	821	2,718	28,987	9,185	36,800	7,357	3,079	7,525	23,740

(In the right half of the table the Japan column is headed "Yens".)

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[1] Expenditure figures are presented in local currency, so as to permit a comparison over time, and then in dollars at the exchange rates ruling in each year (except for U.S.S.R.), to permit a comparison between countries.

[2] NATO definition of defence expenditure. NATO forecasts for 1972.

[3] Soviet expenditure is derived in this table by adding 75 percent of the "All-Union Science" budget to the defence budget and has not been converted to dollars because of the difficulty of establishing a suitable conversion rate. This method of arriving at defence expenditure is adopted here purely for the purpose of showing a trend. For a fuller discussion of the problems of establishing a figure for Soviet defence expenditure and the dollar equivalent see box in U.S.-U.S.S.R. section.

TOTAL ARMED FORCES

[In thousands]

Year	U.S.A.	Japan	West Germany	France	Britain[1]	U.S.S.R.
1952	3,550	[2] 114	—	645	890	4,600
1953	3,480	[3] 119	—	695	902	4,750
1954	3,350	[4] 146	15	600	840	4,750
1955	3,049	178	20	568	800	5,000
1956	2,857	188	66	785	760	4,500
1957	2,800	202	122	836	700	4,200
1958	2,637	214	175	797	615	4,000
1959	2,552	215	249	770	565	3,900
1960	2,514	206	270	781	520	3,623
1961	2,572	209	325	778	455	3,800
1962	2,827	216	389	742	445	3,600
1963	2,737	213	403	632	430	3,300
1964	2,687	216	435	555	425	3,300
1965	2,723	225	441	510	424	3,150
1966	3,123	227	455	500	418	3,165
1967	3,446	231	452	500	417	3,220
1968	3,547	235	440	505	405	3,220
1969	3,454	236	465	503	383	3,300
1970	3,066	259	466	506	373	3,305
1971	2,699	259	467	502	365	3,375
1972	2,253	266	475	503	352	3,425

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[1] Excluding forces enlisted outside Britain.

[2] National police reserve.

[3] Security force.

[4] Self-defence forces.

GROSS NATIONAL PRODUCTS, AT CURRENT MARKET PRICES AND EXCHANGE RATES

[In billions of dollars]

Year	U.S.A.	Japan	West Germany	France	Britain	U.S.S.R.[1]
1952	350	16	32	29	44	113
1953	370	19	35	31	48	119
1954	365	20	37	32	50	128
1955	399	23	43	35	54	136
1956	420	25	47	39	58	145
1957	444	28	51	43	62	156
1958	455	32	56	50	65	178
1959	484	33	60	54	67	189
1960	511	39	71	60	72	201
1961	520	51	81	65	77	213
1962	560	59	89	74	81	229
1963	590	68	94	83	86	235
1964	632	80	103	93	93	251
1965	685	88	115	99	100	269
1966	748	102	123	108	107	288
1967	794	120	124	116	110	314
1968	865	142	135	127	103	339
1969	931	166	151	142	110	364
1970	976	198	189	149	121	403
1971	1,050	221	217	164	135	422
1972	1,152	317	259	202	151	439

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[1] The U.N. accounts definition of net material product (NMP), converted at a constant exchange rate of 0.72 rubles equals $1, has been used. This consists of: individual and collective consumption, net fixed capital formation and net exports of goods and productive services.

STRENGTH OF MILITARY FORMATIONS

Country	Division (in men)			Mechanized brigade (in men)	Squadron (in aircraft)		
	Mechanized	Armoured	Airborne		Bomber/fighter-bomber	Fighter	Transport
United States	[1] 15,400	15,400	15,000	4-5,000	12-18	18-24	16
Soviet Union	10,750	9,000	7,000	[2] 2,000	9-12	12	8-10
China	12-14,000	10,000	6,000	[2] 3,000	9-10	10-12	8-10
Britain	12,500	12,500		4-5,000	8-12	12	9-12
France	17,000		14,000	5,000	4-12	12-15	16
Germany (West)	15,500	14,500	8-9,000	4-5,000	15-21	15-21	12-18
India	17,500	12,000		4,500	12-15	20	12
Israel				3,500	10-12	20-24	12
UAR (Egypt)	11,800	11,200		3,500	10-12	20	8-10
Vietnam (South)	10,000	7,000	7,000	3,000	12-18	18-24	16

[1] Army divisions only; a Marine Corps division has 19,000 men.

[2] Strength of a regiment, which is the equivalent formation in the Soviet and Chinese command structure. (The term "regiment" is however often employed, particularly in West European countries, to describe a battalion-size unit, and it is so used in The Military Balance.)

MONTHLY LIST OF GAO REPORTS

Mr. METCALF. Mr. President, in a report entitled "Usefulness to the Congress of Reports Submitted by the Executive Branch," GAO says that 54 of these reports can be eliminated. A copy of the full report can be obtained from GAO by telephoned request.

A summary of the report is found in the November list of GAO reports, which contains six pages of material from reports published or released in October. The list is provided to the Congress by the Comptroller General, as directed in Public Law 91–510, the Legislative Reorganization Act of 1970. I request that the full list be printed in the RECORD.

There being no objection, the list was ordered to be printed in th RECORD, as follows:

MONTHLY LIST OF GAO REPORTS

(Comptroller General of the United States—Vol. 7, No. 10, November 1973)

"Railroad Reservation, Information and Ticketing Services Being Improved by AMTRAK." National Railroad Passenger Corporation. B–175155 of August 22, released October 1 by the Chairman, Subcommittee on Transportation and Aeronautics, House Committee on Interstate and Foreign Commerce.

Third in a series of GAO reviews focusing on operations of AMTRAK.

At two of AMTRAK's major reservation offices (Chicago and New York), 30 percent of customers' telephone calls during an 8-week period in 1972 were not completed because of insufficient telephone equipment and personnel.

By July 1973 staffs of the major reservation offices had been transferred from the hands of railroads to AMTRAK, which planned to have a systemwide automated reservation service in operation by the end of 1974.

"Railroad Relocation at the R. D. Bailey Project, Justice, West Virginia." Corps of Engineers (Civil Functions), Army. B–177092 of September 12, released October 3 by Congressman Ken Hechler.

GAO reviewed the contract with the Norfolk and Western Railway for relocating its right-of-way at the R. D. Bailey project in Justice, W. Va. The original estimated completion date for the project of 1969 has been revised to June 1976.

The initial cost estimate for the project was $76.6 million, of which $38.1 million was for relocating about 25 miles of railroad right-of-way and some adjacent highways.

As of January 1973 the estimated project cost had increased to $123.4 million. Of this $46.8 million increase, about $11.1 million represented increases in the cost of the railroad relocation.

EDUCATION AND MANPOWER

"Review of Selected Activities of the Equal Employment Opportunity Commission District Office in Memphis." B–175042 of September 28, released October 17 by Representative Dan H. Kuykendall.

GAO examined adequacy of initial investigations, accuracy of caseload data, consolidation of cases against the same employer, and cooperation between the Memphis office and community organizations and employers.

Few cases had been returned to the Memphis office by EEOC headquarters for reinvestigation. Initial investigations in most cases were reasonably adequate. Errors generally were the type that corrected themselves in the next reporting period or involved an improper categorization of the status of charges.

GENERAL GOVERNMENT

"Review of Vending Operations on Federally Controlled Property." B–176886 of September 27, released October 10 by the Chairman, Subcommittee on the Handicapped, Senate Committee on Labor and Public Welfare.

Over the last 20 years blind-vendor stands on Federal and non-Federal property have increased from 1,543 to 3,229, gross sales have risen from $20.6 million to $109.8 million, and average annual net earnings have grown from $2,209 to $6,996 for each stand.

In 1972, 3,583 blind persons were in the program; HEW estimated that 7,000 could be in the program by 1980.

However, before the blind-vendor program in federally controlled buildings can be expanded, priorities among present competing interests—the blind, minority enterprises, employee associations, and cafeteria operators—must be established.

"Usefulness to the Congress of Reports. Submitted by the Executive Branch. B–115398 of October 26, released October 29 by the Chairman, House Committee on Government Operations.

GAO was asked to study and recommend modifications or elimination of the recurring reports submitted to the Congress by executive departments and agencies.

The reports were discussed with 36 congressional committees which identified 54 reports they considered could be eliminated; 30 of these are required by law; 24 are nonstatutory.

Unverified yearly preparation costs provided by the agencies for 39 reports totaled about $222,000; cost information was not provided for 15 reports.

The committees suggested improvements for 25 reports, including changes in frequency of submission of 8, eliminating portions of 5, consolidating 11 reports into 5, and changing the format of 1.

INTERNATIONAL AFFAIRS AND FINANCE

"Selection and Use of SS Manhattan as a Floating Silo during the Bangladesh Food Crisis." Department of State, Agency for International Development. B–177521 of October 17, released October 26 by Senator William Proxmire.

AID chartered the Manhattan to transport about 66,000 tons of wheat and to serve as a floating silo off the Bangladesh coast because it was the only ship offered that was in position to load wheat at gulf coast ports, was offered at the lowest cost per deadweight ton, and was a U.S.-flag ship.

GAO noted indications which might have provided a basis for judging that the charter should have been terminated in mid-September. Charter costs between mid-September and November 12, 1972, AID's specified termination date, were about $925,000.

"U.S. Assistance to the Khmer Republic (Cambodia)." Departments of State and Defense, Agency for International Development. B–169832 of October 10.

Objectives of U.S. economic and military assistance in Cambodia have been related to the military effort in Indochina: $516 million in military and $216 million in economic assistance during FY 1970–73, not including cost of combat air operations.

Problems were found concerning (1) compliance with the congressional restrictions and (2) management deficiencies impairing effectiveness and efficiency of U.S. assistance.

U.S. and Cambodian officials acknowledge that payments were made for as many as 100,000 phantom Cambodian troops. As of June 1973, the problem has not been eliminated and its extent is unknown. Phantom troop pay for January 1973 was estimated the equivalent of nearly $1 million.

"U.S. Embassy Service Contracts in Laos." Department of State. (To the Chairman, Foreign Operations and Government Information Subcommittee, House Committee on Government Operations.) B–178299 of October 30.

Contractual arrangements including the hiring of 1,000 local personnel were entered into because of the limited authority placed on the U.S. Embassy by the Department of State. The Embassy had authority to hire up to 84 local employees.

U.S. Embassy personnel did not comply with State Department regulations because they directly supervised the contractor personnel and retained the right to hire and fire individual employees.

Embassy officials told GAO the services were required and wartime conditions prevailing in Laos made it necessary to obtain the services in this way.

It is clear the contractual arrangements did not constitute arms-length transactions. GAO believes the contracts should be terminated and alternative arrangements made.

NATIONAL DEFENSE

"Financial Status of Selected Major Weapon Systems." Department of Defense. B–163058 of October 2.

This is GAO's first semiannual report on the financial status of the 45 systems on the Selected Acquisition Reports (SAR) at Dec. 31, 1972. Estimated costs for these 45 systems increased $585.7 million between June 30, 1972 and Dec. 31, 1972.

Tracking and analyzing of major weapon systems are extremely important not only to learn from experiences of the past but also to maintain a constant surveillance over current events.

Increases were due to revised estimates, quantity changes, engineering changes schedule revisions, provisions for increased costs due to inflation and related causes.

"Study of Military Temporary Lodging Facilities and the Availability of Commercial Motels." Department of Defense. B–169926 of September 27, released October 16 by the Chairman, Subcommittee on Small Business Problems in Smaller Towns and Uban Areas, House Select Committee on Small Business.

Surveys used to support military requests to build temporary lodging facilities (TLFs) did not explore adequately capabilities of nearby communities to provide suitable commercial facilities through leasing arrangements.

In December 1972 DoD issued a directive on TLFs for the guidance of the military services. The directive provided for information on capabilities of the local communities to meet TLF needs and for close liaison on the subject with those communities.

The services used various types of information to allocate TLF projects. The Army considered the availability of suitable commercial facilities but the Navy and Air Force, initially, did not.

"Mobilization Planning for Ammunition in the Department of Defense." (Unclassified digest of a classified report to the Chairman, House Committee on Appropriations.) B–172707 of October 12.

Because of the billions of dollars required for modernization and the war reserve stockpile, the Army and the Navy should reexamine ammunition needs and the validity of assumptions used in their plans.

The Army and the Navy have long-range programs to modernize ammunition plants at a cost of over $4 billion. Research on new weapons and rounds has a direct impact on the type of ammunition needed in the future.

For proper mobilization planning, the services need to know what weapons they intend to use, how many they need, and what firing rates to expect.

"Improvements Have Been Made But Problems Still Exist in Claims Operations at Army Finance Support Agency." Department of the Army. (To the Secretary of the Army.) B–117604(16) of October 11.

This report evaluates the agency's compliance with GAO's Policy and Procedures Manual for Guidance of Federal Agencies and the Joint Standards issued under the Federal Claims Collection Act of 1966.

Since the law was enacted, GAO periodically has reviewed debt claims procedures and operations at the Agency in Indianapolis.

"Use of Government-Owned Equipment by Certain Large Contractors on Commercial and Defense Work." Department of Defense. B–140389 of June 1, 1972, released October 23 by the Chairman, Subcommittee on Priorities and Economy in Government, Joint Economic Committee.

Industry representatives cited 14 examples in which contracts had been awarded to large defense contractors that used Government-owned industrial plant equipment to perform tooling and production work which the representatives said could have been done more economically by small tool contractors if truly competitive conditions had prevailed.

GAO could not determine whether use of Government-owned equipment gave contractors a competitive advantage because regulations did not require, nor did contractors maintain, machine-use records. Without these records GAO could not determine costs of renting equipment from the Government and thus could not compare costs of renting with costs of private ownership.

GAO believes that a contractor with large amounts of Government-owned equipment often benefits in that it can solicit defense and commercial work without the need for additional capital investment.

"Incremental Programming: A Further Look. B–167034 of April 18. Incremental Programming: A Further Look (Supplemental Data—Fiscal Year 1974 Budget Requests)." B–167034 of May 15, released October 16 by the Chairman, Senate Committee on Armed Services.

The Senate Committee on Armed Services directed DoD to apply, beginning with, the Committee's incremental programming principles in budgeting for and executing its research, development, test, and evaluation (RDT&E) programs.

Incremental programming sets forth the period, generally 12 months, during which work supported by an annual RDT&E appropriation can be performed.

DoD has made progress in implementing the Committee's principles in awarding contracts and issuing work orders to further the 190 major weapon systems GAO reviewed.

However, several suggestions for further consideration are presented here without endorsement by GAO because any benefits that might accrue have not been weighed against the additional effort and expense that might be entailed.

NATURAL RESOURCES AND ENVIRONMENT

"More Usable Dead or Damaged Trees Should Be Salvaged To Help Meet Timber Demand." Departments of Agriculture and Interior. B–125053 of October 5.

Although Forest Service and the Bureau of Land Management policies place high priority on minimizing avoidable waste by harvesting usable dead and damaged timber, both agencies could use salvageable timber on their land more effectively.

The agencies could use timber sale preparation, contracting, and contract administration procedures tailored especially for promptly salvaging scattered timber which otherwise would be left to deteriorate.

According to Forest Service data, about 6 billion board feet of timber suitable for manufacturing lumber and plywood die each year.

BLM estimated about 280 million board feet of timber was killed each year in western Oregon—where about 90 percent of its harvesting activities occur—and that, as of 1969, about 2.2 billion board feet of usable dead timber had accumulated.

"Problems Caused by Coal Mining Near Federal Reservoir Projects." Corps of Engineers (Civil Functions), Army. B–177092 of October 2, released October 21 by the Chairman, Conservation and Natural Resources Subcommittee, House Committee on Government Operations.

GAO reviewed eight Federal water resources projects of the Corps of Engineers in Kentucky and West Virginia to determine problems resulting from coal mining near those projects.

GAO concluded that extensive coal mining within drainage basins of water resource projects adversely affected the projects' purposes and their environments.

Major problems noted were sediment in streams and nearby bodies of water, deterioration of water quality by acid mine drainage, and degradation of the projects' esthetic aspects and surrounding environments.

LETTER REPORTS

To Congressman Les Aspin, comparing two estimates of the cost of the F–15 aircraft program. B–168664 of October 2, released October 15.

To Congressman Les Aspin, concerning violations of the Antideficiency Act by the Army during FY 1970. B–132900 of September 28, released October 8.

To Congressman Bob Price, concerning U.S. participation in the foreign assistance program for Indonesia. B–172450 of June 15, 1972, released October 1.

To Senator Clifford P. Case, on sales of real property at Raritan Arsenal, New Jersey, to private interests. B–165190 of July 11, 1969, released October 17.

To the Chairman, Subcommittee on Conservation and Natural Resources, House Committee on Government Operations, On money held in trust for Indians by the Bureau of Indian Affairs. *B–114868 of October 10, 1968, released October 2.*

To Congressman Edward Mezvinsky, reviewing the Law Enforcement Assistance Administration's audit of the Iowa Crime Commission. *B–171019 of October 16, released October 23.*

To the Chairman, Subcommittee on Foreign Operations, Senate Committee on Appropriations, verifying the correctness of certain military assistance data provided by the Department of Defense. *B–163582 of July 5, 1972, released October 2.*

To the Chairman, Subcommittee on Foreign Operations Senate Committee on Appropriations, concerning interest rates charged by the Inter-American Development Bank. *B–161470 of September 13, 1971, released October 2.*

To the Senator Adlai E. Stevenson III, on the length of time to fill orders from the Government Printing Office. *B–114829 of August 16, released October 29.*

To Senator Mike Gravel, concerning the quality of mail service in Alaska. *B–114874 of October 26, released October 29.*

To the Secretary of the Navy, concerning use of fiscal year 1971 operations and maintenance funds to pay FY 1972 obligations. *B–133170 of October 17.*

To the Secretary of Defense, on possible savings by establishing the Military Traffic Management and Terminal Service (MTMTS) as sole manager of military air export cargo. *B–133025 of October 18.*

To the Board of Directors, Overseas Private Investment Corporation, reviewing financial statements of OPIC for the fiscal year ending June 30, 1973. *B–173240 of September 18.*

OFFICE OF FEDERAL ELECTIONS REPORTS

Five reports concerning apparent violations of the Federal Election Campaign Act were issued as follows:

Oct. 10—failure of eighteen political committees to submit reports of receipts and expenditures, referred to the Attorney General.

Oct. 12—failure of the Committee for the Nomination of Hubert Humphrey to disclose receipts and expenditures, apparent contributions by corporations, and contributions from individuals which might be subject to gift tax, referred to the Attorney General and the Internal Revenue Service.

Oct. 17—recordkeeping and reporting violations by the Massachusetts McGovern for President Committee, referred to the Attorney General.

Oct. 30—corporate contribution to the presidential campaign of George Wallace, referred to the Attorney General.

Oct. 31—political contribution made by a local union with nonvoluntary treasury funds to the United Furniture Workers of America-Committee on Political Education, referred to the Attorney General.

The Office of Federal Elections also released a list of political committees whose audits disclosed no violations of Federal laws warranting referral to the Department of Justice.

LEGISLATIVE RECOMMENDATIONS—FISCAL YEAR 1974

GAO recommends that the Congress consider the following:

Joint funding legislation to permit State employment security agencies to obligate administrative expenses against a single allocation of funds. B–115349 of July 23.

H.R. 982 to prohibit the employment of illegal aliens. B–125051 of July 31.

Whether it is appropriate for the Government to continue funding the cost of transportation procured specifically for armed forces exchange goods. B–169972 of August 6.

Legislation providing for approval by the Congress of long-term leasing of such assets as shops. B–174839 of August 15.

Clarifying the Webb-Pomerene Export Trade Act of 1918 so that it will be more effective in inducing companies to form associations to compete in foreign markets. B–172255 of August 22.

HOW TO OBTAIN GAO AUDIT REPORTS

Copies of these reports are available from the U.S. General Accounting Office, Room

6427, 441 G Street, NW., Washington, D.C. 20548. Phone (202) 386–3784.

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When ordering a GAO report, please use the B-number, date and title to expedite filling the order. Orders should be accompanied by check or money order. Please do not send cash.

INTERNATIONAL ECONOMIC POLICY

Mr. TAFT. Mr. President, I recently received a letter from a constituent of mine, Mr. Roland E. Hauber, who I understand works as a machinist at Procter & Gamble in Cincinnati. This extremely perceptive letter charges that our international economic policy initiatives have all too often been "piecemeal" and "after the fact." Mr. Hauber calls for a new agency to undertake necessary long-term international economic planning.

While I am not convinced that an entirely new agency is the answer to this problem. I agree completely that there is a need to insure better foresight and more timely application regarding our international economic policy. The ramifications of the Russian wheat deal, the recent crosscutting of soybean export contracts which outraged some of our allies, and now the Arab oil embargo, clearly underline our deficiencies in this area.

The Banking, Housing and Urban Affairs Committee now has legislation before it which would require closer surveillance of the export situation for items which may eventually require export controls. I hope that as we review this legislation, we will study the entire economic policymaking apparatus to determine how it can be made more responsive to our long-term needs.

I ask unanimous consent that Mr. Hauber's letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Roland E. Hauber,
Cincinnati, Ohio.

Hon. Robert Taft, Jr.,
Cincinnati, Ohio.

Dear Senator Taft: May I take a few minutes of your time to express concern over our country's long term international economic picture, and suggest possible steps to protect internal economic stability. It seems to me our government has been following a "knee-jerk" response to a succession of crises while what is needed is a careful appraisal of the total situation, and setting up of machinery to meet the problem on a long term basis.

Momentarily our balance of payments is looking better (at the price of severe dollar devaluation), but it would be euphoric to think the improvement is other than temporary, and unthinkable to consider further dollar devaluations as the continuing answer. As the energy crisis is clearly showing us, we are increasingly going to be living in a situation where our imperative imports will be priced at "what the traffic will bear", or will be tied to international political situations. To date we seem to drift along with piecemeal and after-the-fact reactions to problems as they develop, letting other societies or external forces determine the situation while we scramble to cope with it.

A better response would be to establish a continuing, long term basis under which we can continue to exist as a democratic and capitalistic society in a rapidly changing world in which the simpler laws of supply-demand and free competition may not be completely operative. As I see it, we had better draw up a balance sheet of the absolute necessities we need to import (oil, gas, manganese, chromium, etc.), and those items the outside world absolutely needs from us (food, forest products, cotton), and devise a system to make them balance out financially. In this system we should allow outsiders to bid and buy in our markets without completely upsetting our domestic price structure. Probably a new Federal agency will be required, with powers comparable to FAA, ICC, Federal Reserve, etc.

The agency's field would be international trade, their directive to keep balance of payments in reasonable balance, and prevent serious dislocations in domestic markets by foreign governments. (I doubt that foreign, free enterprise buyers would be a serious problem.) In any case, whether governments or individuals are involved, foreign purchases beyond a sizable figure (in dollars or percent of annual production) should require a permit which would become public knowledge, so dealers, traders, growers and manufacturers would be equally aware of the intended purchases, and word being played against each other as apparently occurred in the 1972 Russian grain deal. These foreign purchasing agencies should then be allowed to operate freely in our markets, but the sales would be subject to a variable export duty, tied to our own balance of payments. This duty should not become part of general funds, but should be reserved for adjusting balance of payments. I am not conversant enough in international finance to know just how a duty is used to reduce a negative balance of payments. Some possible mechanisms would be to use it for foreign aid, upkeep of foreign based military, foreign State Department upkeep, and other expenditures outside the U.S.A. that add to our balance of payment problem.

The above is not a complete package, of course, and may not be entirely sound economically, or politically, and I hold no briefs for the specifics. However, I have no doubt that we desperately need a strong, competent, non-political Federal agency that will undertake long term, comprehensive planning for the country's international economic welfare, and have the power and directives to help maintain our international fiscal responsibility.

Thank you for any consideration you think this letter is worth.

Sincerely,

Roland Hauber.

FUEL ALLOCATIONS AND THE GENERAL AVIATION INDUSTRY

Mr. HOLLINGS. Mr. President, last week I joined with Senator Dole in cosponsoring an amendment which would have provided for equity for all segments of American industry with regard to fuel allocation. The amendment was not reported by the conference committee when the daylight saving time bill was acted upon.

The general aviation industry has been severely affected by the reductions in fuel proposed. If the administration's proposals to cut fuel allocations to general aviation aircraft are enacted the general aviation industry could be severely crippled.

The recommended reduction in fuel consumption proposed by the President are probably due to misconceptions as to the scope of the general aviation industry and its effect on our Nation's economy.

To many people, the term general aviation brings to mind the wealthy banker who can afford to fly from New York to the Bahamas for a weekend of golf or the swinging, young jetsetter flying off for a party on the Riviera. General aviation is much more than this. The general aviation industry affects the lives of nearly every American.

The term general aviation refers to all civil aviation activity except that of scheduled airlines. Ninety-eight percent of all the airplanes in the United States are both nonairline and nonmilitary. To a large degree air transportation in this country is dependent upon the general aviation industry.

Seventy percent of all general aviation flying is for business or commercial purposes. In the past few years, the industry in this country has demonstrated a tendency to spread out away from the large metropolitan areas. A recent survey shows that 90 percent of the new plant construction has located outside of the major hub areas which possess half of all scheduled airline flights. Industrial firms in recent years have recognized the usefulness of the airplane as a business tool. Unfair restrictions on air transportation would greatly impair the ability of our business leaders to aid in the development of our rural areas.

According to the President's proposal large commercial airlines are to receive a 16-percent reduction in fuel consumption where as general aviation is to be cut by up to 35 percent. I feel that this action is grossly unfair in light of the fact that 95 percent of our Nation's airports have no scheduled air service. One air passenger out of every three on intercity travel uses general aviation. Out of these fully 60 percent fly from airports not served by airlines. General aviation is an essential part of our Nation's general transportation system. Without it, people in a large number of our communities would not be able to connect to a scheduled airline.

General aviation aids our Nation's farmers. Aerial application of pesticides and fertilizers has helped the farmer to efficiently improve his productivity. If agricultural flying were to be reduced severely it would mean an increase in the fuel consumed—up to 10 times as much fuel per acre—should surface application be used as a substitute. In this day of higher food costs we want the farmer to be able to use the most economical of means to raise his crops. An increase in the cost to farmers will be passed on to the consumer in the form of higher prices.

In times of emergency, general aviation aircraft have been employed to save time and lives. Whether combating forest fires, dropping supplies to the stranded victims of a flood or in traffic patrol, these general aviation aircraft have been flexible enough to respond to the needs of the American citizen in trouble.

In addition to these functions, general aviation provides many small, rural communities with a link to the rest of the country. The postal service's use of general aviation increased more than 25 percent between 1971 and 1972. Also between 1971 and 1972 the amount of cargo carried by general aviation aircraft increased by 46 percent. General aviation helps guarantee that every American has a right to the same kinds of goods and services.

In addition to these very vital services provided by general aviation, we can not overlook the serious economic ramifications which would result from the severe restriction on the use of these aircraft.

Three days after the President presented his energy message, Cessna, the largest producer of private planes announced the layoff of 2,400 employees in Wichita, Kans. The loss of these workers could very well cause the unemployment of 100,000 persons in allied industries.

At the present time general aviation employs 120,000 persons and its projected economic impact by 1980 is estimated at $18 billion per year. A loss of revenues estimated as high as $1.2 billion could result from the proposed fuel reductions.

Nearly $1 billion worth of aircraft has been exported abroad since 1965. 85 percent of the total number of general aviation aircraft in the world were made in the United States.

Mr. President, general aviation is not merely a play thing of the rich and powerful. It is not just a frill or a luxury in the large majority of cases. In today's fast moving and rapidly changing society, general aviation has been proven to be a highly adaptable medium of transportation, one well suited to fit the needs of the average citizen.

The general aviation industry is not asking for preferential treatment in regards to fuel allocation. This industry recognizes that in this time of crisis all Americans and all American industry must sacrifice. What the general aviation industry is asking for is fair and equitable treatment.

It seems incredible to me that this industry which offers so much in terms of job creation, facilitation of business interactions, disaster relief, the fast and efficient shipment of cargo and mail, an industry which aids in the industrial development of our rural areas and which is a consistent contributor to a favorable balance of trade, can be dealt with so sharply while other modes of transportation are only lightly affected in comparison.

Let me point out also that while the general aviation industry provides these many services to our Nation its consumption of fuel is relatively small. The General Aviation Manufacturers Association has reported that general aviation consumes only seven-tenths of 1 percent of all the fuel used in transportation. What then, would a reduction in fuel consumption of the magnitude proposed by the administration achieve?

Certainly we all must tighten our belts, but let us all tighten our belts to the same degree. During the energy crisis reductions in fuel consumption are necessary, but these reductions should be made fairly and equitably. We should make sure that in our haste to deal with this energy shortage we do not cripple our country by severely crippling one of our Nation's most important transportation industries.

MOUNT SINAI—ELMHURST OUTSTANDING CENTERS

Mr. JAVITS. Mr. President, in the Social Security Amendments of 1972, it was agreed that the recent medical miracle procedures—kidney dialysis and kidney transplants—would be translated into patient care as quickly as possible. The most effective geographical distribution of the dialysis and treatment centers necessary for the delivery of such care would be assured through regulations promulgated by the Social Security Administration.

In the State of New York, the Mount Sinai Medical Center and the Elmhurst General Hospital have evolved an excellent program for transplant/dialysis. Indeed, the Mount Sinai-Elmhurst program is the only major one serving the 2 million people of Queens.

I understand this combined program accounts for the third largest number of patients treated by such centers in the Nation and it has the capacity to perform 50 kidney transplants a year. Unfortunately, this has not been possible because of the unavailability of donor kidneys, and because of financial difficulties. Additionally, with the facilities of a Queens satellite clinic, a 24-hour program currently provides dialysis treatments for 230 patients with plans to expand in a year to 350. The program is supported by a large staff, and an intensive training program which has been in progress for over 15 years.

Considerable concern has been expressed whether this excellent program will be phased out, because of the complexity of the standards upon which a decision will be based as to the number and location of such centers and I have communicated to the Secretary of Health, Education, and Welfare my interest in this matter.

I ask unanimous consent to have printed in the Record a copy of an article prepared for publication in the Mount Sinai News, which I have forwarded to the Secretary, outlining the work of these two medical institutions on behalf of patients afflicted with renal disease.

There being no objection, the article was ordered to be printed in the Record, as follows:

Mount Sinai-Elmhurst Outstanding Centers

Jaime Velasquez runs and jumps. He is generally about as active and lively as one might expect a 12-year-old to be, except that he is not permitted to engage in contact sports. He is still small for his age, but making good progress. Back in March of this year he was about the size of a six-year-old; since then he has grown ¾ of an inch. He is also a bit behind in his schoolwork. He is in fifth grade at P.S. 89 in Queens and is being tutored so that he can catch up. For a youngster who was out of school for five years, this indeed is progress.

When he came into the world, Jaime had multiple congenital problems. The most threatening of them, kidney malfunction, progressed to the point of virtually complete failure by the time he was nine years old.

There were only three possibilities open to Jaime: 1. Hemodialysis, through the use of an artificial kidney—an acceptable temporary remedy for children of Jaime's age, but one that is very costly. 2. A kidney transplant, a much more desirable solution, but far more difficult to arrange because donor kidneys are rarely available and hospitals qualified to do transplants are few. 3. Death.

Jaime was fortunate. In 1970, he was brought to the New York City Hospital Center at Elmhurst, an affiliate of Mount Sinai School of Medicine and one of the major kidney dialysis centers in the metropolitan area. Here he was able to get the treatment he so desperately needed.

But, while his life had been spared, it wasn't an easy one. He was doomed to being tied periodically to a machine and being severely restricted in his activity, with serious retardation in his physical development.

Again luck was with Jaime. Early this year, word came to his doctors from the New York Blood Center that the kidneys of an infant, whose tissue type was found to match Jaime's, were available for transplantation. The infant was a microcephalic (the head and the brain were about half normal size), which had died as the result of breathing difficulty.

Jaime and the infant's kidneys were rushed to The Mount Sinai Hospital for transplantation surgery by Dr. Lewis Burrows and Dr. Moishe Haimov. The case presented unusual difficulties. First, the infant's kidneys were so small that the normal procedure of transplanting one kidney would not suffice for Jaime's needs. Therefore, in an unusual surgical procedure, both kidneys were transplanted along with the infant's aorta and vena cava, in order to assure their proper functioning.

Within a few weeks Jaime was back in school and within a few months he was making fine progress in his physical growth. Only a handful of patients receiving infant kidneys have survived and thrived as he has.

Jamie is one of many patients—at all age levels—who have been helped dramatically, who have been restored to happy and useful lives by the dialysis-transplant program conducted jointly by Mount Sinai and Elmhurst. Over the past six years some 80 kidney transplants have been done, as part of this comprehensive, integrated program of treatment for renal diseases.

While it is one of several centers serving Manhattan, the Mount Sinai-Elmhurst program is the only major one serving the 2,000,000 people of Queens. It has the additional capacity to serve Nassau and Suffolk counties, as well.

In order to be able to carry out the full capabilities of the program, Mount Sinai and Elmhurst have applied to the Department of Health, Education and Welfare for designation as a dialysis-transplant center serving Queens, under an amendment to the Social Security Act which became effective in July of this year.

The amendment provides for coverage for treatment of kidney diseases and kidney transplants, for anyone eligible under Social Security, regardless of age. This marks the first time that a chronic illness in persons under 65 has been covered by Social Security.

The Mount Sinai-Elmhurst program is unusually well qualified by structure and experience to function as a center for dialysis, transplantation, and research in kidney diseases.

A joint effort of the departments of Medicine, Surgery, and Urology, the program involves a closely integrated group of 15 physicians, as well as trainees in renal diseases and fellows in transplant surgery.

The combined dialysis program of the two affiliated institutions accounts for the third largest number of patients in the nation. Together with the facilities of a satellite clinic in Queens under the direction of Dr. Eugene Schupak, a former member of the Elmhurst staff, the 24-hours-a-day service currently provides dialysis treatment for 230 patients, with plans to expand within a year to 350. The program also has the capacity for performing 50 kidney transplants per year, but has been unable to achieve this level. Financial problems are one of the major handicaps.

Under the direction of Dr. Marvin Levitt, head of the Division of Renal Diseases in the Department of Medicine, an intensive training program has been in progress for more than 15 years.

The dialysis program, directed by Dr. Sheldon Glabman at Mount Sinai and Dr. Martin Neff and Dr. Robert Slifkin at Elmhurst, also includes an active training program, as does the transplant program under Dr. Burrows and Dr. Haimov.

A research program, with strong clinical and basic science representation, is directed by Dr. Robert Taub, head of the transplantation immunology laboratory, and Dr. Louis Aledort, who works closely with the transplantation service as head of the platelet laboratory. The research teams closely study all transplant patients both before and after surgery.

The present effort to obtain designation as an approved center under the new legislation is based on the very real danger that only such centers will have the financial support needed to assure survival. Without such support, the highly integrated and successful Mount Sinai-Elmhurst program would probably have to be drastically curtailed and could ultimately face the threat of extinction.

GENOCIDE CONVENTION: TIME TO SIGN

Mr. PROXMIRE. Mr. President, this week we are celebrating the 25th anniversary of the United Nations' Declaration on Human Rights. This document of the United Nations set forth the high ideals of the international community. It recognized that peace and human rights were closely interlocked and that progress toward a better world required a recognition that men possess certain inalienable rights.

This document was followed by a series of treaties which sought to spell out these rights and give them the force of international law. One such treaty was the Genocide Convention. This treaty, which was sent to the Senate for ratification by President Truman in 1949, but not yet been acted upon.

I believe it is crucial that we ratify this treaty as soon as possible. The case for ratification was eloquently presented by William Korey, director of B'nai B'rith's United Nations office, in an article which appeared on the New York Time's Op-Ed page on December 8, 1973. I urge my colleagues to read it and join with me in seeking ratification before the end of the current Congress. I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GENOCIDE CONVENTION: TIME TO SIGN

(By William Korey)

The Genocide Convention was adopted unanimously by the General Assembly on Dec. 9, 1948. Opposition to ratification in the United States has since been marked by remarkable irony. Extremist critics of ratification have endowed the convention with enormous powers that would somehow be wielded by the international community at the expense of sovereign states.

The international community and contracting parties to the convention have, in fact, been reluctant to use the U.N. machinery at all, even under the most pressing and tragic of circumstances.

It is not surprising that the International Court of Justice has never grappled with the issue of genocide even though, under Article IX, "disputes" between contracting parties "relating to the interpretation, application or fulfillment" of the treaty could be submitted to the court by a party to the dispute. At least a dozen contracting parties have inserted reservations stating that they would not be bound by Article IX.

No United Nations organ has even taken upon itself the task of investigating a possible case of genocide, despite the fact that Article VIII provides that "any Contracting Party may call upon the competent organs" of the U.N. "to take such actions under the charter . . . as they consider appropriate for the prevention and suppression of acts of genocide."

If genocide increasingly became an item on the "agenda" of the world's conscience in the nineteen-sixties, it was not reflected in the chambers of the United Nations.

Perhaps the classic case of U.N. indifference was offered in the spring of 1971. Tens of thousands of Bengalis in East Pakistan, particularly the educated elite, were summarily shot by Pakistani Government troops. But even as the carnage was a subject of passionate discussion in the mass media everywhere, not a word about the Bengali plight was sounded in the U.N. Commission on Human Rights.

That the holocaust of the Nazi era which had prompted the adoption of the convention was no longer regarded in some quarters as a vital moral concern was manifested in the fall of 1972. President Idi Amin of Uganda sent a telegram to U.N. Secretary General Kurt Waldheim, which justified Hitler's program of burning Jews "alive with gas in the soil of Germany." If the Ugandan chief of state had already displayed a racist view by his announced plan to expel all Asians, the apologia for genocide was nonetheless startling.

During May-July 1972, a massive form of "selective genocide" was conducted by the Burundi Government against Hutu tribesmen leading to the deaths of as many as a quarter-million persons. A recent study published by the Carnegie Endowment for International Peace documents the almost total indifference of governments including those comprising the Organization of African Unity to the tragedy. While Secretary General Waldheim felt moved to dispatch two observer missions to the area and, later, to report the staggering bloodbath statistics in a press conference, no "audible reaction" occurred elsewhere.

To cope with the threat of genocidal acts, an Indian expert on the U.N. Subcommission on Prevention of Discrimination and Protection of Minorities, Arcot Krishnaswami, proposed a few years ago the creation of an international body "which would endeavor to prevent the crime of genocide before it actually occurred on a massive scale. Such a body should be able to investigate and assess allegations of genocide, and to take the steps necessary to halt at its outset the deliberate destruction of a national, racial, religious or ethnic group."

The fact that at least a beginning has been made to consider international methods for dealing with genocidal threats makes it all the more essential that the U.S. Senate—on the occasion of the 25th anniversary of the convention—provide its consent to treaty ratification. At the cost of considerable diplomatic embarrassment, the United States has not been a contracting party to the genocide convention.

CORPORATE GIANTISM AND HIGH FOOD PRICES: A FAMILY FARMER'S VIEW

Mr. McGOVERN. Mr. President, I commend to my colleagues in the Congress a thoughtful statement entitled "Corporate Giantism and High Food Prices: A Family Farmer's View," by Adam Seidel, vice president of the South Dakota Farmers Union. Mr. Seidel, a highly respected South Dakota farmer, testified today before the Select Committee on Small Business, chaired by the Senator from Wisconsin (Mr. NELSON), anl presided over today by my colleague from South Dakota (Mr. ABOUREZK).

Mr. President, I ask unanimous consent that Mr. Seidel's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

CORPORATE GIANTISM AND HIGH FOOD PRICES: A FAMILY FARMER'S VIEW

(By Adam Seidel)

Mr. Chairman, my name is Adam Seidel. I am vice president of the South Dakota Farmers Union, my state's largest farm organization. My wife and I operate a 400-acre diversified family farm in Hutchinson County, South Dakota. My address is Menno, South Dakota.

I appreciate this opportunity to represent the family farmers in my home state and to bring the feelings of the Farmers Union to our nation's capital.

We in the Farmers Union believe this committee and its distinguished chairman should be congratulated for recognizing the importance of the food conglomerate issue. We also appreciate the efforts of our outstanding junior Senator from South Dakota, Senator Jim Abourezk, as well as our friend, Senator George McGovern.

I have farmed all of my adult life, and my wife and I have raised our two children on the farm. We have found it to be a good life—not in terms of financial reward but in terms of the quality of life.

In my testimony here, I want to point out what rising costs and the various shortages are doing to food producers, and I want to point out the effect of a poor transportation system on farmers.

Obviously, all consumers have been hard hit by an inflationary economy that has run wild. Since 1970, farm production costs have increased about 30 per cent, interest has jumped 35 per cent, and taxes have gone up 25 per cent. These are national averages, but I can give you localized figures for my home area.

I think that the sky-rocketing interest rates are particularly important in terms of farmers. I think everybody understands that a farmer is heavily dependent upon borrowed capital.

According to USDA statistics, the farm debt now totals nearly $70 billion. We are paying interest charges of over nine per cent! That has a long-term effect on food producers, and certainly high interest rates put farmers in a difficult position.

Then there's the fact that all consumers, including farmers, must pay concealed interest charges on all the products they buy. Nearly every industry depends on borrowed money, and those interest charges are included in the retail prices all of us pay.

Unfortunately, the farmer has no way to pass on his expenses.

We farmers are caught in a double bind. Our costs keep going up, but our prices fluctuate, and right now our income is dropping steadily.

Parity stood at over 100 per cent a matter of weeks ago. Farmers benefitted from the increase in income, but now the parity ratio is about 89 per cent. Every day we see our costs go up. Parts, machinery, petroleum products, livestock feed—all of our inputs are becoming more expensive, with no relation to our income.

Since August 15 of this year, cattle prices have dropped 23 per cent; hog prices are down 29 per cent, and soybean prices are off 43 per cent.

On October 25, the Cost of Living Council removed controls from fertilizer prices. Within a two-week period following this action (October 25 to November 29) the average retail price of fertilizer jumped. The price of ammonia went up 40 per cent; superphosphate went up 28 per cent; potash went up 15 per cent, and mixed fertilizer went up 23 per cent.

But the end of fertilizer price increases is not even in sight!

Farmers are very dependent upon petroleum to plant and harvest crops and to raise livestock. We are all scared to death about the fuel situation.

We're being asked to plant more acres next spring because of the changes made by USDA, but nobody's telling us we're going to have the fuel to plant this record crop.

And if we get these millions of new acres planted, will we have the fuel for the harvest? Food producers are not even a priority yet.

Propane prices in my area have gone up from 13 cents a gallon a few months ago to about 31 cents a gallon now. Gasoline is edging its way up toward 50 cents a gallon—the pump price went up four cents just last week.

At the same time farmers are seeing their income dwindle and their costs go up, we have had difficulty just getting our crops to market this year.

First, our elevators can't get grain cars from the railroad corporations. Of course, we've learned to expect that boxcar shortages, have been a problem since the late 1800's.

But this year, USDA called up four years of Commodity Credit Corporation grain all at once. We would have been short of boxcars anyway—we always are—but that call-up brought the situation to preposterous proportions!

For example, an elevator that needs 20 or more grain cars a week may be lucky to get two or three a month.

America cannot expect to move her food with that kind of inefficiency.

But our railroad problem is much, much more serious than just a boxcar shortage.

The railroad corporations, which I understand decided long ago to invest their profits in other businesses rather than to upgrade their service, are abandoning rural branch lines as quickly as they can.

South Dakota has lost nearly 600 miles of rail service since 1965. One abandonment is now pending and others are expected within a few months. Nationally, 22,000 miles have been lost since 1950.

The rail lines—even the more heavily used lines—are deteriorating rapidly. In 1960, trains could move along at 40 miles an hour on virtually all of the track in the state.

Today, a major portion of the track is so bad that the trains must creep along at five or 10 miles an hour. Also, the dilapidated track bed is so weak that much of it cannot accommodate the new grain hopper cars that can haul about twice as much as a conventional boxcar and seven times as much as a large truck.

The fact that farmers cannot depend upon good rail transportation is costing money, too. Urban people think farmers are making a killing when they read about higher grain prices, which, incidentally, are dropping rapidly now. But we aren't, and I'll tell you why.

If I hear the market news on radio or television, and the corn price is good, I can't necessarily rush a load into my local elevator. I can't do that because the local elevator is without boxcars, and it can't get enough trucks to move away the grain. And the fuel shortage is holding back the trucks.

So a farmer must nervously wait until his elevator can buy his grain, and by that time, the price is apt to have dropped.

But there's more to the transportation problem than that.

We are being forced to rely on trucks because of the railroad situation. All the big grain terminals are equipped to very efficiently handle grain cars. It's expensive for a terminal to have to unload four trucks instead of one boxcar, or seven trucks instead of one hopper car.

Consequently, the farmer must pay the penalty for inefficient transportation. A wheat farmer gets 25 to 40 cents a bushel more if his wheat is shipped by rail. The spread is about 13 cents a bushel on corn and about 10 cents on oats.

It's a ridiculous situation for farmers, for local elevators, and for the regional terminals. It costs the farmer money, but it's a sad commentary on our food production system.

It doesn't help America much to have abundant food production on her family farms, if we can't move the grain.

In passing, I do want to say that I feel railroads are a prime example of corporate irresponsibility. They have neglected their customers, and they have invested their money in a wild effort to become conglomerates.

It's the same for the private fertilizer producing corporations. They put profit above the needs of our nation. They have slipped thousands of tons of American fertilizer overseas to get a $35-a-ton premium.

Now the Cost of Living Council has given the fertilizer corporations a blank check for more profit. These conglomerates are hiking up their prices in this country, so they can make the windfall profits they were getting from their foreign customers.

That has to be corporate irresponsibility and a disservice to our country.

Add to all of this the fact that corporate conglomerates are taking over the entire food industry. Out-of-state corporations owns about 250,000 acres of good farm land in South Dakota.

Conglomerates and wealthy individuals seeking tax write-offs have their "paper cattle" grazing in rural America.

The South Dakota Farmers Union is now doing extensive research to determine more accurately the role of the big corporations in our state's agriculture.

I know that expert witnesses already have or will be dealing with the conglomerate issue. It concerns family farmers very much, and I hope that this committee will take meaningful action.

The future of our nation's family farm system rests with the Congress and what is done about corporate administered inflation and the increasing corporate involvement in agriculture.

I want to say in closing that family farmers are fortunate to have their cooperatives. Many of us can buy our petroleum from our own co-op, and some of us can sell our grain to our co-ops. Co-ops put our nation's needs first, and they care about people rather than profit.

But the cooperatives are so badly outnumbered by the corporate grain trade (Cargill is bigger than all of the co-op elevators lumped together) and the corporate-dominated energy industry, that we are indeed at the mercy of decisions made in the board rooms of conglomerates bent on making high profits with no concern for people.

I appreciate this opportunity to testify before this outstanding committee, and I pray that this committee can help save family farm agriculture.

RAIL ABANDONMENT AMENDMENTS

Mr. SCHWEIKER. Mr. President, the adoption by the Senate of the amendments to the Rail Services Act, S. 2767, offered by the Senators from Minnesota (Messrs. MONDALE and HUMPHREY) which I am pleased to cosponsor, will incorporate into the legislation essential provisions to deal with the problem of rail abandonment.

The amendments would expand the duties of the Rail Emergency Planning Office to include an evaluation of the Secretary of Transportation's report on essential rail services within the Nation. The office would focus on the problem of abandonment and would provide full opportunity for public comment in the preparation of their report. In addition, local rail service assistance under title VI of the bill would be extended to include abandoned lines in States outside the rail emergency regions with funds provided to the States on a matching basis, subsidies to continue operations along necessary lines otherwise abandoned, and loans and loan guarantees available to States, local or regional transportation authorization to purchase and restore abandoned rail lines.

Further, Mr. President, the amendments halt for a period of 2 years the abandonment of rail lines and rail services where opposition to such abandonments exists outside the region covered by the provisions of the bill.

The Interstate Commerce Commission is required to submit to Congress within 90 days a comprehensive report on the anticipated effect, including the environmental impact, of abandonment in States outside the region.

Mr. President, on November 12, 1973, the Supreme Court affirmed certain rules published by the Interstate Commerce Commission on June 18, 1972. These rules would require the ICC to authorize abandonment of rail lines where the railroad involved alleges that the line transported fewer than 34 carloads of traffic per mile during the 12 months preceding the proposed abandonment, unless those who oppose the abandonment can prove that the public convenience and necessity require the continued operation of the line.

Over a year ago as a result of the ICC order, I introduced a resolution urging the Commission to not authorize the abandonment of any line of railroad prior to June 30, 1973. At that time I stated that the ICC order usurped the prerogatives. Inasmuch as the Congress at the time was considering legislation which would have changed the abandonment application procedure. The intent of Congress at that time was uncertain and I felt the Commission had acted prematurely. The intent of the Congress is now more certain with the adoption of these amendments.

Mr. President, the effect of the ICC order, now affirmed by the Supreme Court will be the wholesale abandonment of lines which in my judgment should not be abandoned. The order deprives shippers and their employees of the opportunity to have their views properly weighed on the scale of public convenience and necessity. The order places shippers at a disadvantage which they will find difficult to overcome, since it modifies the criteria for determining public convenience and necessity.

Mr. President, although railroads contend that abandonment of a portion of their rail lines is absolutely necessary in order to avoid financial difficulty, there has been insufficient intention given to the plight of the farmer and the businessman, large and small. Rural America is being neglected. Small towns and regions struggling to promote industrial development and avoid economic depression are being dealt a near fatal blow.

Many businessmen located outside the urban center rely on the existing branches and spur lines. Many have substantial investments in facilities to handle their shipments. Numerous companies have located new facilities and plants in previously depressed areas because they felt that they could be served by the rail lines in the area. Industrial development authorities feel that the loss of rail lines will cripple their efforts to attract new employers. It is not an overstatement to say that large regions of the country are wholly dependent on the existence of railroads and the freight transport service they provide.

America's agriculture needs railroads. Agribusinessmen, large and small, must have the capacity to receive quantities of grain, feed, and fertilizer ingredients which only railroads can provide. In the process these businessmen are able to serve rural America with fertilizer and feed at competitive prices which in turn benefits the farmer and our agricultural economy—not just the local feed or flour mill or fertilizer plant. For the farmer his only access ultimately to the market is by railroad. Trucks cannot fill the void if rail service was to disappear. A farmer's organization stated:

> While there are several other alternatives in passenger transportation in many communities across rural America, there is no present alternative transport service, at reasonable cost, for the bulky or heavy commodities generally transported on rail cars.

Mr. President, the ICC should be required to consider and evaluate the economic and social impact of eliminating rail service to the communities affected—since abandonment is the final and irrevocable step. Abandonment is not an easy subject to rail users and it should not be made easy for the carrier.

Mr. President, the adoption of these amendments will, hopefully, provide a means to resolve this difficult problem. It is vital to the rural areas of this Nation that we establish a clear national transportation policy concerning maintenance or abandonment of the Nation's railroad lines.

THE LEGAL STATUS OF THE ATTORNEY GENERAL

Mr. PROXMIRE. Mr. President, on Monday President Nixon nominated Senator WILLIAM SAXBE as his next Attorney General. The office of Attorney General has been vacant since October 20, 1973, when Elliot Richardson resigned. Since October 20, Solicitor General Robert Bork has been serving as Acting Attorney General.

Mr. Bork, however, has been serving under a legal cloud. Last week, I went to court to challenge Mr. Bork's authority to continue as Acting Attorney General. And Monday, prior to the submission of Mr. SAXBE's name, I filed a motion for preliminary injunction against Mr. Bork's continuing to serve until a nominee had been submitted.

Mr. President, the United States Code imposes a flat limit of 30 days for temporary appointments to positions which are subject to Senate confirmation. The Attorney General is subject to Senate confirmation. And, Mr. Bork, who has been serving as Acting Attorney General since October 20, has been in that post for more than 50 days.

These are the relevant sections of the United States Code:

Section 3345 of title 5 provides:

> When the head of an Executive department or military department dies, resigns, or is sick or absent, his first assistant . . . shall perform the duties of the office until a successor is appointed. . . .

Section 3348 of title 5 provides:

> A vacancy caused by death or resignation may be filled temporarily under section 3345 . . . for not more than 30 days.

Section 508 of title 28 provides:

> In the case of a vacancy in the office of Attorney General . . . the Deputy Attorney General may exercise all the duties of that office, and for the purpose of section 3345 of title 5 the Deputy Attorney General is the first assistant to the Attorney General.
>
> When, by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the office of Attorney General, the Assistant Attorneys General and the Solicitor General, in such order of succession as the Attorney General may from time to time prescribe, shall act as Attorney General.

The Justice Department suggests that Mr. Bork is entitled to serve more than 30 days as Acting Attorney General because the succession act for the Justice Department was enacted subsequent to the vacancy statutes quoted above. But we have carefully checked the legislative history of all relevant statutes, and we can find nothing which suggests that Congress intended to repeal the 30-day limitation when it passed the Justice Department's Succession Act. And as long as Congress failed to repeal the 30-day limit, it applies in full force to Mr. Bork.

Accordingly, I filed suit last week in U.S. District Court in the District of Columbia seeking two types of relief: first a declaration by the court that actions taken in the name of the Attorney General by Mr. Bork since November 19—the expiration of the 30 days—were without authority and therefore unlawful; and second, an injunction against Mr. Bork's continuing to serve as Acting Attorney General pending the submission of a nominee for that post to the U.S. Senate.

Mr. President, Monday President Nixon satisfied the second of these conditions when he nominated WILLIAM SAXBE to be his Attorney General. I am delighted that he has done so, and hope the Senate will proceed to consider the Saxbe nomination promptly. Accordingly, yesterday I withdrew my request for injunctive relief before the U.S. district court.

I am, however, pursuing the remedy for declaratory relief—that is, the request that the court declare that all acts taken in the name of the Attorney General by Mr. Bork between November 19 and December 10 are without legal authority.

I am pursuing this remedy for two reasons. First, the Attorney General is the Nation's No. 1 law enforcement officer. It is essential that the Nation know where he stands—not only as to future acts, but also as to acts taken in the past. A legal cloud now stands over every action taken by Mr. Bork during the November 19 to December 10 period. Only a declaratory judgment one way or the other by the court can remove that cloud.

Second, this issue has been raised repeatedly in recent months. Mr. L. Patrick Gray was appointed Acting Director of the Federal Bureau of Investigation last year after J. Edgar Hoover died. I wrote to the U.S. Comptroller General seeking an opinion on whether the 30-day rule applied to that office, and the Comptroller General held that it did. But Mr. Gray served more than 8 months in that post.

Subsequently, Mr. William Ruckelshaus was made Acting FBI Director. As his service neared 30 days, without a nominee having been submitted, I wrote to the White House, calling attention to the 30-day rule and the Comptroller General's ruling in the Gray case. But Mr. Ruckelshaus continued to serve, in excess of 30 days.

At the Office of Economic Opportunity, Mr. Howard Phillips served as Acting Director for more than 4 months. The OEO Director is subject to Senate confirmation, and the U.S. district court was asked by Senator HARRISON WILLIAMS to rule that Mr. Phillips could not serve legally beyond 30 days. This past spring the court handed down a ruling that Mr. Phillips was in office illegally, and could not continue to serve. As a result of that ruling, Mr. Phillips was forced to leave office, and the name of Alvin J. Arnett was submitted by the President and confirmed by the Senate.

Mr. President, this is an extremely important issue. For if officers may continue to serve temporarily for an indefinite period despite the requirement of Senate confirmation, the advise and consent process may be completely thwarted. It is essential that we have a definitive ruling from the courts on the legality of temporary appointments, and that is why I am continuing my lawsuit against Mr. Bork.

Mr. President, I ask unanimous consent that a copy of my complaint against Mr. Bork and a memorandum in support of my motion be printed in the RECORD, with the understanding that they will be modified to delete the request for injunctive relief.

There being no objection, the complaint and memorandum were ordered to be printed in the RECORD, as follows:

[U.S. District Court for the District of Columbia, Civil Action No. 2148–73]

SENATOR WILLIAM PROXMIRE, PLAINTIFF, VERSUS ROBERT H. BORK, SOLICITOR GENERAL OF THE UNITED STATES, DEFENDANT

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This is an action which seeks to enjoin the defendant Robert H. Bork, preliminarily and permanently, from continuing to act as Attorney General of the United States and to enjoin him from performing any duties of that Office until a nomination for that Office is submitted to the United States Senate.

2. The value of the matter in controversy exceeds $10,000.

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331.

4. On October 20, 1973, pursuant to the provisions of 28 U.S.C. § 508(b), 5 U.S.C. § 3345, and 28 C.F.R. § 0.132(a), the defendant, who is the Solicitor General of the United States, became the Acting Attorney General of the United States.

5. Section 3348 of Title 5, United States Code, limits the term of any person who temporarily fills a vacancy in the office of the head of an Executive Department, which includes the position of Attorney General, to a period of thirty days.

6. Although the Senate has remained in session for more than thirty days since the defendant began serving as Acting Attorney General, neither his name nor that of any other person has been sent to the Senate for its advice and consent.

7. On November 20, 1973, plaintiff, who is a United States Senator, wrote the President stating that in his opinion the defendant had been unlawfully acting as Attorney General since the thirty days expired on November 19, 1973, and requested the President to take action in accordance with the law.

8. On November 27, 1973, Leonard Garment, counsel to the President, replied by letter to plaintiff's letter of November 20, 1973. That reply denied the applicability of the thirty day period of 5 U.S.C. § 3348 to a person serving as Acting Attorney General.

9. The failure to submit the name of any person to the Senate for its advice and consent has deprived plaintiff of his rights guaranteed by 28 U.S.C. § 503 and Article II, Section 2 of the United States Constitution to advise on, and consent to all appointments to the Office of Attorney General.

10. Unless the defendant is enjoined from continuing to act as Attorney General, he will continue to perform the functions of that Office in contravention of law, and his continuation in his present office will continue to violate the rights of plaintiff. Moreover, the continued performance by defendant of any acts required by law to be taken in the name of the Attorney General may cause grave damage to the interests of the United States if such actions are challenged as unlawful by persons affected by them.

Wherefore plaintiff prays for an order (1) declaring that defendant is, and has been since November 19, 1973, unlawfully performing the functions of the Office of the Attorney General of the United States; (2) preliminarily and permanently enjoining him from performing any of the functions of that Office until a nomination for that Office has been submitted to the United States Senate; (3) awarding plaintiff his costs and disbursements in this action; and (4) granting such other and further relief as may be just and proper.

Dated: Washington, D.C., December 6, 1973.

ALAN B. MORRISON,
Attorney for the Plaintiff.

[U.S. District Court for the District of Columbia, Civil Action No. 2148–73]

SENATOR WILLIAM PROXMIRE, PLAINTIFF, VERSUS ROBERT H. BORK, SOLICITOR GENERAL OF THE UNITED STATES, DEFENDANT

MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION

This is an action which seeks declaratory and injunctive relief against the defendant Robert H. Bork who is the duly confirmed Solicitor General of the United States and who since October 20, 1973, has also been performing the duties of Attorney General of the United States. The basic premise of this action is that the provisions of 5 U.S.C. § 3348 preclude the defendant from continuing to act as Attorney General after 30 days have expired from his accession to the position of Acting Attorney General. Since the 30-day period has expired and no nomination for the position of Attorney General has been sent to the Senate for its advice and consent, the defendant may not lawfully continue to discharge any of the functions required to be performed by the Attorney General.

STATEMENT OF FACTS

The facts in this case, we believe, are not in dispute. They are set forth in the complaint which is incorporated in the affidavit of the plaintiff Senator William Proxmire. On October 20, 1973, after the resignation of the then Attorney General and the then Deputy Attorney General, the defendant Robert H. Bork, who was then and is today the Solicitor General of the United States, acceded by operation of law to the position of Acting Attorney General pursuant to 28 U.S.C. § 508(b), 5 U.S.C. § 3345, and 28 C.F.R. § 0.132(a) (1973). It is now more than 50 days since the defendant began to act as Attorney General and to perform the functions of that Office, but no nomination has been sent to the Senate to fill the vacancy in the Office of Attorney General.

On November 20, 1973, the plaintiff, who is a member of the United States Senate which must consent to the appointment of the Attorney General, wrote the President to advise him that in his opinion the Vacancies Act, 5 U.S.C. §§ 3345 and 3348, precluded the defendant from continuing to serve more than 30 days as Acting Attorney General and to request that the President take appropriate action. (See Exhibit 1 to plaintiff's affidavit). On November 27, 1973, the Counsel to the President, Leonard Garment, replied to plaintiff's letter of November 20th and stated that it was his opinion, as well as the opinion of the Office of the Legal Counsel of the Department of Justice, that the Vacancies Act did not apply because subsequent to the enactment of the Vacancies Act the statute creating the Department of Justice and providing for a successor to the Attorney General was enacted, and that statute superseded the Vacancies Act. A copy of that reply plus the Statement of the Office of Legal Counsel annexed to that reply is attached to plaintiff's affidavit as Exhibit 2. Thus, it is clear that plaintiff and defendant sharply disagree on the effect of the relevant statutes and that defendant will continue to act as Attorney General and perform the functions of that Office unless this Court enjoins him from doing so.

ARGUMENT: I. PLAINTIFF IS LIKELY TO PREVAIL ON THE MERITS OF THE CONTROVERSY

We begin the discussion of the legal issue with Article 2, Section 2, Clause 2 of the Constitution which provides that the President shall appoint with the advice and consent of the Senate officers in the Executive branch unless Congress provides otherwise, which it has not done in this case. See 28 U.S.C. § 503. Very early in our history it was realized that some provision had to be made for the appointment of an interim successor during temporary vacancies in the office of a person whose appointment required Senate confirmation. Thus, in 1792 Congress passed a law which permitted the temporary filling of vacancies in the heads of the departments of State, Treasury, and War. Although other departments were created subsequent to that date, no amendments were made in the vacancies laws until 1863 when Congress passed a comprehensive statute covering all executive departments and permitting the filling of vacancies for periods of up to 6 months.[2]

Five years later the matter came up for congressional consideration again, largely because of alleged abuses of then President Andrew Johnson in the filling of vacancies. The result was a statute which has come to be known as the Vacancies Act, and which applied to all executive departments, and which limited the filling of any vacancy to a period of 10 days.[3] When the Revised Statutes were compiled and published in 1878, the Vacancies Act appeared as sections 177–181. The Revised Statutes also contained a definition of executive departments (the phrase used in the Vacancies Act) and included as item "Fourth," the Department of Justice. These provisions were carried forth substantively unchanged into Title 5, with section 1 again defining "executive departments" to include the Department of Justice and with sections 4–8 containing the provisions of the Vacancies Act. See 5 U.S.C. (1964). When Title 5 was codified in 1966 the definition of executive departments was placed in section 101, where today the fourth listed department is the Department of Justice. As for the Vacancies Act, it was redesignated as sections 3345–3349 of Title 5 in virtually identical language as in the prior version of Title 5 and in the Revised Statutes of 1878.

Section 3345 provides that when the head of an executive department resigns his first assistant shall perform the duties of the office until a successor is appointed, unless the President otherwise directs under section 3347. In the case of the Department of Justice, the first assistant is the Deputy Attorney General pursuant to 28 U.S.C. § 508 (a). In the event of a vacancy in the positions of both the Deputy and the Attorney General, section 508(b) of Title 28 provides for further successions in accordance with a designation by the Attorney General. Since the Attorney General had designated the Solicitor General as the next in line,[4] the defendant succeeded to the position of Acting Attorney General on October 20 by operation of these provisions of law. However, section 3348 specifically provides that a vacancy filled temporarily under section 3345 (as it was in this case) shall not be filled for more than 30 days. It is this provision which operates to preclude the defendant from acting as Attorney General beyond the 30-day period which expired on November 19, 1973.

The reply of the Justice Department to all of this is that a statute which was enacted in 1870,[5] two years after the Vacancies Act, superseded the inclusive provisions of the Vacancies Act and made the 30-day time limit in section 3348 inapplicable. The text of the statute in its original form, and in all of its subsequent enactments, nowhere provides for any repeal of the Vacancies Act, nor is there any language that directly conflicts with the statute enacted two years earlier. Thus, the Justice Department is left with the position that the 1870 statute impliedly repealed the earlier provision in spite of the well-known statutory construction maxim that implied repealers are not favored.[6] Quite apart from any rules of statutory construction, however, there is ample internal evidence in the relevant statutes to refute this contention.

The literal language of all of the relevant

Footnotes at end of article.

statutes leaves no doubt that the Justice Department's interpretation is in error.

The 30-day limitation of section 3348 applies to the filling of vacancies under section 3345, which includes a vacancy where there is a resignation in the "head of an Executive department." Under both section 101 of Title 5 and section 501 of Title 28,[7] the Department of Justice is specifically defined to be an Executive department. And if there was still any question, section 3349, which has been part of the Vacancies Act since 1868, specifies that the temporary filing of an appointment under section 3345 or 3346 "may not be made otherwise than as provided by those sections, except to fill a vacancy occurring during a recess of the Senate." Therefore, there can be no question that the Vacancies Act and its 30-day limitation apply to successions in the Office of Attorney General which are filled under section 3345.

The inclusion of the Justice Department under the Vacancies Act has been the clear pattern since the Revised Statutes of 1878 when the first possibility of a conflict with the 1870 arose. Section 158 of the Revised Statutes included the Department of Justice as an executive department to which the provisions of Title IV, which included the Vacancies Act in sections 177–181, applied. Section 158 became 5 U.S.C. § 1, and the provisions of the Vacancies Act became 5 U.S.C. §§ 4–8 prior to the 1966 codification which did no more than restate and rearrange this provision. Finally, there is nothing in the legislative history of the Vacancies Act or in the 1870 statute relied upon by the Justice Department that in any way suggests that anyone considered, let alone affirmatively decided, that the Department of Justice was to be exempt from the Vacancies Act.[8]

As we understand the Justice Department's position, it is not merely that the 30-day limitation of section 3348 is inapplicable, but that the entire Vacancies Act does not apply because of the 1870 statute. One major difficulty with this approach is that it leaves unexplained the designation of the Deputy Attorney General in the statute relied upon by the government [section 508 (a)] as the first assistant to the Attorney General ". . . for the purposes of section 3345 of title 5 . . . ." That designation is wholly unnecessary unless the Vacancies Act applies to the Justice Department in the first instance. Even more persuasive evidence of the applicability of the Vacancies Act as a whole is contained in section 3347, which provides for the detailing of the head of one executive or military department to fill the vacancy in another such department if the President so chooses. There is contained in that section a specific exclusion so that the section "does not apply to a vacancy in the Office of Attorney General." Obviously, if the Vacancies Act as a whole did not apply to the Office of Attorney General, there would be no need to make a specific exception for section 3347. It is also noteworthy that this same exclusion appeared in the Revised Statutes of 1878 in section 179, albeit by means of a parenthetical clause rather than a separate sentence. Thus, a nearly contemporaneous interpretation of the applicability of the 1870 statute and the Vacancies Act clearly supports the plaintiff's position that the Congressional enactment of 1870 did not eliminate the Justice Department entirely from the coverage of the Vacancies Act.

The logic of the Government's position here would require that every department created after 1868 be automatically excluded from the operation of the Vacancies Act.[9] The Department's statement (Exhibit 2, enclosure p. 2) suggests that the "Departments of Health, Education and Welfare, Treasury, Commerce, Labor, the Navy, and the Air Force also have special provisions which supersede the limitations of the Vacancy Act." The argument is particularly difficult to comprehend as to the Secretaries of Treasury and Navy since both of those departments were in existence prior to 1868. Moreover, virtually all of the other departments listed in section 101 of Title 5 would no longer be subject to the Vacancies Act since the only executive departments which were included in section 158 of the revised statutes and which are still in existence today are Treasury, State and Interior. Thus, the Departments of Transportation, Defense, Labor, Health, Education and Welfare, and Housing and Urban Development all would be excluded from the operation of the Vacancies Act under defendant's theory.

Finally, no rational purpose has been suggested for the exclusion of the Department of Justice or any other executive department from the operation of the Vacancies Act. We simply do not understand why the Office of Attorney General should be permitted to be filled without any time limits whatsoever, given the major role played by the Department of Justice in the United States. The plain meaning of the statutes leaves no room for disputing the applicability of the 30-day limitation to the position of Acting Attorney General, and every purpose of which we are aware supports the applicability of that limitation to the Department of Justice.[10]

The authorities make it clear that the language in the Vacancies Act is not merely precatory, but that it affects legal rights. Two opinions of the Attorney General [11] have concluded that once the period of the Vacancies Act is over, the person filling that vacancy is no longer entitled to perform the acts of the vacant office. In the latter case the advice was given that "you should not take action in any case out of which legal rights might arise which would be subject to review by the courts." *Id.* at 141.[12] Moreover, this Court has recently had occasion to invoke similar statutes to preclude a person from acting as Director of the Office of Economic Opportunity absent the required Senate confirmation. See *Williams v. Phillips*, 360 F. Supp. 1363 (D. D.C.), *stay denied*, 482 F. 2d 669 (D.C. Cir. 1973). While the defendant is and continues to lawfully serve as the Solicitor General, he no longer has the right to exercise the authorities of Attorney General, and hence the proper remedy is to enjoin him from continuing to do so in violation of law.

II. A PRELIMINARY INJUNCTION SHOULD BE PROMPTLY ISSUED

The Court of Appeals for this Circuit established the criteria for the issuance of a preliminary injunction in *Virginia Petroleum Jobbers Ass'n. v. FPC*, 131 U.S. App. D.C. 106, 110, 259 F. 2d 921, 925 (1958). Under that decision, this Court is required to consider the probability of success on the merits, to balance the equities between the parties, and to assess where the public interest lies. Moreover, the Court made it clear that a far lesser showing of irreparable harm to the plaintiff is required as the probability of success increases. *Id.* As we have demonstrated above, there is a very strong likelihood that Mr. Bork is unlawfully performing the functions of the Attorney General and has been since November 19, 1973. Thus, the showing of harm to plaintiff can be met without proof of the kind of irreparable harm present in other situations where a plaintiff's case on the merits is not so strong.

As a United States Senator, plaintiff is entitled under the Constitution and relevant statutes to vote on the confirmation of the person performing the duties of Attorney General, save in those limited instances in which the Vacancies Act provides otherwise. Each day that passes produces a further violation of plaintiff's right to supervise, via the process of advice and consent, the activities of the Justice Department. Plaintiff's rights will continue to be violated, and plaintiff will continue to suffer irreparable harm from those violations until corrective action is taken. Moreover, it is clear that while the statutes and constitutional provisions relied on are of particular applicability to plaintiff as a United States Senator, they were also intended to protect all of the people, and hence their rights are also being violated by this non-compliance with the law.

The public interest will also be served by the granting of a preliminary injunction to preclude the defendant from taking actions which may later be declared to be unlawful as in excess of his authority. Thus, under provisions such as 18 U.S.C. § § 2514 and 6004, the Attorney General must act in order for the grants of immunity to be lawful.[13] Similarly, 42 U.S.C. § 2000(a)–5(a) requires that the Attorney General himself (or an Acting Attorney General) sign the civil rights complaints described in that section. See also 42 U.S.C. § 2000b. Furthermore, the delegated authorities to compromise claims of the United States set out in Subpart Y to 28 C.F.R. in some cases require the specific approval of the Attorney General befor the settlement is binding. See §§ 0.160; 0.164.

It would seem advisable for the Government not to enter any such settlements during this period in view of the uncertainty of the legality of the defendant acting in the capacity of Attorney General, since at a later date those settlements might be overturned by a party who had a change of heart. Since the defendant is no longer lawfully serving as Acting Attorney General, it is our view that any actions taken by him pursuant to those provisions would be unlawful and that he should be enjoined from taking actions in the name of the Attorney General on which the government must rely, in order to insure that at some later date they are not subject to court challenge. These problems of "unscrambling the eggs" at a later date would create enormous difficulties, and the public interest requires that the defendant take no action that would create such problems in the future.

While the relief sought would preclude the defendant from performing acts as Attorney General, it would in no way interfere with the vast majority of actions taken by the Justice Department itself and by the United States Attorneys throughout the country. All of those persons who were lawfully delegated functions either while a duly confirmed Attorney General was in office or while the defendant was properly acting as Attorney General during the 30 days following his accession to the position of Acting Attorney General, could go forward without any legal impediment. Defendant could, of course, continue to serve as Solicitor General, a position for which he was duly confirmed by the Senate. Thus, it is only those matters that require the personal attention of the Attorney General and which may be subject to court review, that should not be undertaken during the period of continuing illegality.

CONCLUSION

Plaintiff has clearly established that defendant is in violation of the Vacancies Act in continuing to perform duties of the Attorney General beyond the 30 days provided in section 3348. Because of the serious possibility of harm to the public should he continue to perform such acts in violation of law, a preliminary injunction should be issued forthwith to arrest this illegality.

Dated: Washington, D.C., December 10, 1973.

Respectfully submitted.

ALAN B. MORRISON,
Attorney for Plaintiff.

FOOTNOTES

[1] 1 Stat. 281, Ch. 37, § 8.

[2] 12 Stat. 656, Ch. 45.

[3] 15 Stat. 168, Ch. 227, changed to 30 days in 1891. 26 Stat. 733, Ch. 113.

[4] 28 C.F.R. § 0.132(a).

[5] 16 Stat. 162, Ch. 150.

[6] See *e.g.*, *United States v. Hess*, 127 F. 2d 233, 237–238 (3rd Cir. 1942), *reversed on other grounds*, 317 U.S. 537 (1943).

[7] Prior to the 1966 codification, this provision appeared as Section 291 of Title 5.

[8] The 1870 statute appears to have been enacted for purposes wholly unrelated to the question before this Court. Its sponsors were concerned about the absence of a central place from which opinions of law could be provided and collected, and about the extraordinary expenses incurred by the Justice Department to pay outside attorneys rather than employing their own attorneys to handle Government cases. See Congressional Globe, April 7, 1870, pp. 3034–3036 (remarks of Rep. Jenckes); p. 3065 (Remarks of Rep. Logan).

[9] There is considerable doubt that the Justice Department was "created" in 1870 as defendant claims. In 1789 Congress provided for the appointment of an attorney general to represent the United States in the Supreme Court and to render opinions on questions of law. E Stat. 92, ch. 21, § 35. Moreover, the sponsor of the 1870 legislation, Representative Jenckes, explained his bill to the House as one which does not propose to create a new department in the Government, but simply to transfer to an existing Department some things properly belonging to it, but which are now scattered through other Departments. Cong. Globe, April 27, 1870, pp. 3034–3035.

[10] Even where the Vacancies Act has been found not literally to apply, it has been construed to reach situations within its purpose. Thus, the Attorney General was called upon to construe the Vacancies Act in 19 Opin. A.G. 500 (1890) to determine whether it applied when a vacancy occurred as a result of a retirement rather than a "death, resignation, absence, or sickness . . ." as the statute specifies. Although finding the words used in the statute not to include retirement if read literally, the Vacancies Act was nonetheless held applicable since the intent of it was to cover similar situations including retirement.

[11] 20 Opin. A.G. 8 (1891) and 32 Opin. A.G. 139 (1920).

[12] That same opinion suggests that the 30-day limitation continues to apply even after the nomination has been sent to the Senate, a view with which we disagree. There is no rational reason to suppose that Congress would have wanted to impose any kind of restriction on the operation of any of the executive departments when the Senate had it within its exclusive control to confirm a nomination which had been properly forwarded to it by the President. For example, the 1972 nomination of Richard G. Kleindienst to be Attorney General was pending before the Senate for three full months during which time Mr. Kleindienst as Deputy Attorney General acted as Attorney General, and in our view that was entirely proper under the Vacancies Act. There is support for this position in the legislative history. Senator Trumbull, the principal sponsor of the bill which became the Vacancies Act, stated that ". . . the President is authorized to detail some other officer for ten days in case of a vacancy, and during those 10 days it will be his duty to *nominate* to the Senate . . . some person for the office." Congressional Globe, February 14, 1968, p. 1164 (emphasis added).

[13] Under 18 U.S.C. § 2516, the Attorney General "or any Assistant Attorney General specially designated by the Attorney General" may authorize a court application for a wiretap order. Our research in 28 C.F.R. discloses no such designation although it is possible that one has been made but not yet included in 28 C.F.R.

THE ENERGY RESEARCH AND DEVELOPMENT POLICY ACT

Mr. HANSEN. Mr. President, last Friday during the debate on S. 1283, I referred to several amendments that had been proposed to that bill, the Energy Research and Development Policy Act of 1973.

The four amendments, copies of which had been furnished to the minority staff of the Interior Committee were new titles to the bill as follows:

Title IV, Federal Petroleum Corporation.

Title V, Intrastate Natural Gas Regulation.

Title VI, Natural Gas Conservation.

Title VII, Excess Profits Tax.

These amendments were, according to the copies I was furnished, intended to be proposed by Mr. JACKSON (for himself and Mr. MAGNUSON.)

I wanted to be perfectly clear that these were not my amendments. I only wanted all Senators to be aware of the nature of the amendments.

It is my understanding that they were drafted and would be introduced and called up for consideration unless the Buckley amendment pertaining to deregulation of new natural gas were withdrawn.

THE PRESIDENT'S TAX RETURNS AND TAX REFORM

Mr. KENNEDY. Mr. President, whatever the immediate outcome of the current Joint Congressional Committee investigation of President Nixon's income tax returns, one of the most significant long-run lessons of the recent disclosures in the President's tax data is that tax reform must move back to center stage as an issue for Congress and the American people.

The picture that emerges from the voluminous disclosures is not a pretty one, because it demonstrates the extraordinary ease with which wealthy individuals maneuver their financial affairs to avoid their fair share of taxes under our loophole-ridden revenue laws.

Someone has to pay for these tax-avoidance schemes. The Nation's revenues have to come from somewhere, and it is the ordinary citizen who foots the bill—the average hard-pressed taxpayer whose taxes are too high because so many others pay too little.

Just as Watergate helped to generate important new legislative momentum in Congress for comprehensive reform of the Nation's election laws, including public financing of elections, so the President's tax disclosures should generate a similar momentum in Congress for comprehensive reform of the Nation's tax laws. Tax reform belongs at the top of our congressional agenda for 1974. The country needed a spark to ignite the fire of tax reform, and these new disclosures have provided it.

Perhaps the most serious result of the disclosures is the drastic impact they may have on the greatest single virtue of our Federal revenue system—the reservoir of trust and confidence that millions of citizens have in the tax laws and their basic fairness. The bedrock of the U.S. income tax is the system of voluntary compliance by which the average taxpayer now abides. Once his trust and confidence is eroded, it will be extremely difficult to recover. America cannot afford to find itself in the deplorable situation of many foreign countries, where tax avoidance and tax evasion are national pastimes and accepted ways of life.

And so our first priority is to work to shore up the Nation's newly shattered confidence in the fairness of the tax laws. And the only effective way to do so is through a pledge by Congress to the American people that tax reform is on the way.

At least three specific areas of the President's tax returns—capital gains, the minimum tax, and the interest deduction—are obvious areas where reform is needed now to insure that wealthy citizens pay their fair share of taxes, and that the tax provisions now used by citizens in low- and middle-income groups work more fairly for their benefit.

And these reforms are only the tip of the iceberg. In countless other areas, the Revenue Code is a landscape dotted with special benefits for those of special wealth. What we need is comprehensive reform, a bill to make all our income tax laws fair again.

I do not underestimate the difficulty of achieving such reform. In the long run, truly comprehensive tax reform may well be tied to election reform and public financing of campaigns for public office. In large measure, the tax benefits of the present laws flow directly to the wealthiest contributors to political campaigns, so that in a real sense, under the present system of financing campaigns, tax reform puts Congress and the administration in the position of biting the hands that feed them.

At the moment, with the Christmas tree bill now on the Senate Calendar, Congress seems to be heading in the wrong direction once again, as it prepares to hand out new special tax benefits to the special interests. But, as a result of the adverse publicity such measures always now receive, and, above all, as a result of the momentum provided by the President's disclosures, we have a good chance to turn the tide, so that 1974 may yet be the year in which Congress at last brings tax justice to the Nation.

S. 1745—THE SUDDEN INFANT DEATH SYNDROME ACT OF 1973

Mr. BEALL. Mr. President, yesterday the Senate passed legislation, S. 1745, dealing with a subject brought to the attention of the Subcommittee on Children and Youth during the last Congress.

Sudden infant death, more commonly called crib death, claims the lives of 10,000 to 15,000 babies each year. This disease, as the name denotes, strikes suddenly and unexpectedly and in light of present medical knowledge there is no known way to prevent it. Research has begun and theories advanced—among the more recently suggested are viruses, closure of windpipe, immature nervous system, erratic heart behavior, and incompetence of the blood to provide natural protection against infection. The last theory is the subject of a project in Baltimore in the office of Maryland's chief medical examiner, Dr. Russell S. Fisher, which indicates in a preliminary study that approximately 88 percent of sudden infant death victims lacked proper antibodies in their blood, which were found present in other infants dying from other causes.

In many instances, no autopsy is performed on the victim, and often the cause of death is listed as "unexplained." Under these circumstances, the parents are burdened with an overwhelming sense of guilt and responsibility.

The guild has developed a unique arrangement with the chief medical examiner of Maryland, Dr. Russell Fisher, whereby upon confirmation of a crib death, a letter is sent from his office to the parents explaining the nature of the child's death and telling them of the existence of the guild. At the same time a copy of the letter is sent to the guild so that contact may be established. This is quite important, first, in educating parents about sudden infant death syndrome, and second, as we noted earlier, among the States there is no standard or accepted description of the problem. In fact, according to a survey conducted by the guild, 16 different phrases are used to identify sudden infant death. Maryland is quite fortunate in this regard, however, many States are not as fortunate and the fact remains that a greater concentration of efforts must be made if we are to discover more about this mysterious killer.

Although an increasing emphasis has been placed on sudden infant death syndrome by the National Institute of Child Health and Human Development, progress has been slowed by the fact that there is no classification for the disease in the international classification of diseases, thereby making the gathering of data an exceedingly difficult task. In addition, there have been few satisfactory applications dealing with sudden infant death that have been submitted to NICHD for consideration.

One of the volunteer agencies which has been set up to counsel and assist families affected by SIDS is the International Guild for Infant Survival. The guild, dedicated to solving the mysteries of sudden infant death, is based in Baltimore, Md., and was started in 1964 by Mr. and Mrs. Saul Goldberg. This organization and its members have been most active and effective in bringing a focus to this disease.

I certainly commend the distinguished chairman of the subcommittee, Senator MONDALE, first, for bringing this matter to the attention of the Senate, and second, for his efforts to enact legislation in this area. During the last Congress, the Senate passed legislation which I cosponsored, Senate Joint Resolution 206, which directed the Secretary of Health, Education, and Welfare to designate SIDS of highest priority in intramural research and in awarding research and training grants. The Secretary was also directed to develop educational programs to inform the public concerning sudden infant death syndrome and to develop statistical procedures as well as designating sudden infant death as a cause of death in the International Classification of Diseases. Unfortunately, no action was taken by the House of Representatives on the proposal.

The Senate once again had before it a measure to deal with this disease. I was pleased to support S. 1745, "The Sudden Infant Death Syndrome Act of 1973," which will provide financial assistance to identify the causes and preventative measures to eliminate sudden infant death syndrome. In addition, the proposal would also provide information and counseling services to families affected by sudden infant death syndrome and to personnel involved with this disease. These programs would be in the form of grants to public and nonprofit private entities through the Secretary of Health, Education, and Welfare for the establishment of regional centers.

CARLOS ANDRES PEREZ ELECTED PRESIDENT OF VENEZUELA

Mr. CHILES. Mr. President, with military regimes being very much in fashion these days in Latin America, it is most heartening to see democracy work as well as it has in Venezuela. Yesterday, Carlos Andres Perez was elected President of Venezuela by a significant margin over the ruling party's candidate in an election where everyone was predicting a close outcome and no one would predict the winner.

I met with Carlos Andres Perez while I was in Venezuela in August on a fact-finding trip to four countries in Latin America and I was most impressed with him and the orientation of his campaign. Unlike many politicians today, "Carlos Andres," as he is known in Venezuela, seemed to have a clear sense of the need to get out to his people and be in touch with them, giving the people the feeling that he is accessible and will hear them. I think this is the great need today. In democratic countries there is a deep yearning by the people for political leadership which is close to the people. Carlos Andres convinced the Venezuelan people of his sincerity by "walking" in cities, small towns and villages throughout the country. Having walked myself, I am very pleased to see again how this does convey the style and thrust a candidate wants to give.

It could well have happened in Venezuela that differences between parties and candidates would blur in the campaign, that the people would feel that their vote did not matter—that there was no choice—and that they would vent their frustration by abstention of voting for an extremist candidate from the right or left. Growing frustration in Latin America with the slow pace of structural change under democratic leadership has led in many countries to the intervention of the military either to cut off and control the growing pressure for change or to pick up where democratic efforts at change left off and carry it further. This is a very worrisome trend.

The inability of democratically elected candidates to generate a significant mandate to enable them to govern effectively and implement a program of reform has weakened the roots of democracy in Latin America to a lamentable extent. Whereas I support the notion that we should treat governments in Latin America evenhandedly and take them as they are, I cannot help but think that the fact that Carlos Andres Perez has won a significant mandate in yesterday's election in Venezuela does give him an important opportunity and a tremendous responsibility to prove to his people that democracy can really function for them and produce the results that they want. This is a great challenge and an awesome political task. To decide on a definite course, to have a purposeful program and to try to implement it while at the same time having democratic opposition and a free press is a task which not many political leaders in Latin America are willing to take upon themselves these days. It is enormously difficult. Many have failed in the effort. I wish Carlos Andres Perez well.

In this era of petroleum scarcity, we should be further heartened by the fact that Mr. Perez is a friend of the United States. Thirty percent of our petroleum imports come from Venezuela. So Venezuela is crucial to us in the energy crisis we face. In his statements yesterday it is clear that Mr. Perez will put the interests of his own nation first as is natural but he has a strong interest in good relations with us. In a press conference yesterday, Mr. Perez said:

> Venezuela will fight to have good relations with all countries of the world, above all with the United States.

He added:

> I will not join in any effort to breed hate against the United States. But I will ask for its respect and better treatment in economic policies.

As I have said many times the era of the nonpolicy, the no profile and "benign neglect" toward Latin America is doing us dirt. This is clearly no time to disappoint and frustrate the kind of leadership that Mr. Perez appears to want to give. I urge my colleagues in the Congress, the President, the Secretary of State and other responsible authorities to take heed and give Venezuela and our other neighbors in Latin America the attention they deserve in light of our own national interest.

For the interest of my colleagues I ask unanimous consent to have printed in the RECORD a telegram I am sending today to Mr. Perez, his letter to me in September after my trip to Latin America and the article in today's Washington Post on the Venezuelan election.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Caracas,
September 1973.

Hon. Senator Lawton Chiles,
Senate of the United States,
Washington, D.C.

Dear Senator Chiles: It was a pleasure having the opportunity to meet you. I am sure that your visit has been interesting as a contribution to the understanding that we should encourage between the two Americas in order to solidify good relations in the future which are so deteriorated today.

I hope to see you again in the future and wish you success in the Senate of the United States where Latin America always needs good and comprehending friends.

(Signed) Carlos Andres Perez.

December 12, 1973.

Carlos Andres Perez,
Edificio Torre Lincoln,
Caracas, Venezuela,

Carlos Anres Perez: Warmest congratulations on your impressive victory yesterday. I am very pleased to see the results of the election for I think they show that the people orientation of your campaign took hold and made the public aware of the difference it would make to elect you President of Venezuela. The margin of your victory is a tribute to the spirit, style and substance of your campaign and express the confidence and hope the people of Venezuela have in you. As we are seeing for ourselves everyday here in the United States, the challenge for you now will be to keep the public trust.

I wish you the very best on your Presidency and hope you let me know when you come to the United States. The walking Senator would be most pleased to meet with the walking President of Venezuela: Saludos,

Lawton Chiles,
U.S. Senate.

[From the Washington Post, Dec. 12, 1973]

Perez, of Opposition, Wins Venezuela Vote

Caracas, Dec. 11.—Carlos Andres Perez of the center-left Democratic Action Party today held a widening lead in returns from Sunday's election and was the unofficial winner of the Venezuelan presidency.

In a press conference, Perez said he would use Venezuelan oil as a weapon to extract economic benefits for his country and for Latin America.

"I will not join in any effort to breed hate against the United States," he said. "But I will ask for its respect and better treatment in economic policies."

Perez, 51, said he would never impose an oil embargo like that of Venezuela's Arab associates in the Organization of Petroleum Exporting Countries.

"Our oil policy will be a great instrument to break down trade barriers—it will be a Latin American weapon against the totalitarian trade policies of the industrialized nations against the developing countries," he said.

"Venezuela will fight to have good relations with all countries in the world, above all with the United States," he added. "Whether we like it or not, the U.S. is the main customer for our oil."

The third largest oil exporter, Venezuela ships 1.5 million barrels daily to the United States.

Perez's main opponent was Lorenzo Fernandez of the ruling Copei, a Christian democratic party. Although the national electoral board was not expected to finish counting votes until Wednesday or Thursday, Perez claimed victory by 450,000 votes on the basis of tabulations by his own party. They showed he had won 2 million of the slightly more than 4 million votes cast, which would give him the greatest victory in the four presidential elections since the overthrow of the dictatorship of Gen. Marcos Perez Jiminez in 1958. Democrat Action was the winner in 1958 and 1964.

The lastest official returns gave Perez 305,465 and Fernandez 238,003.

Perez and Fernandez were given an unprecedented 85 per cent of the votes between them at the expense of both the far left and far right. Two leftists, Jose Vicente Rangel and Jesus A. Paz Galarraga, trailed in third and fourth place.

Perez said his government would speed implementation of a law by which foreign oil concessions would begin to revert to the state in 1983. But he declared that Venezuela would need the help of foreign technologists to explore and exploit new oil fields, particularly the heavy oil in the Orinoco River basin. Deposits there have been estimated at 700 billion barrels, but the means of extracting it are still unknown.

President Nixon's trade policy, he said, "has not been a happy one for Latin American nations and we have reason to be bothered and resentful over this policy."

Perez said he would not oppose a renewal of diplomatic relations with Cuba, "but this is Cuba's problem and not Venezuela's because we were the offended party," he said.

Venezuela broke relations in 1964 accusing Fidel Castro's government of organizing leftwing guerrilla activity here.

FUEL ALLOCATION AND THE CONSTRUCTION INDUSTRY

Mr. GRAVEL. Mr. President, the energy crisis is now being experienced by almost every segment of our population. I do not know of anyone who has not felt the effects of the shortage or at least been inconvenienced by measures taken to conserve fuel.

But the effects of the shortage become more severe when the inconvenience stage is surpassed, and the lack of energy shows up as lower production and higher unemployment. Unfortunately, this stage has already been reached in some industries.

One good example is the construction industry which, according to the president of the Associated General Contractors, Mr. Nello L. Teer, Jr., has already suffered a loss in activity of 20 percent. I ask unanimous consent, Mr. President, to have printed in the Record two newspaper articles, one from the New York Times and the other from the Washington Star-News, regarding this problem.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, Nov. 27, 1973]

Builders Alarmed Over Fuel Quota

Washington.—Federal fuel allocation based on the amount of fuel used last year threatens to have a catastrophic economic effect on the construction industry, a construction association official warned today.

Comments from contracting groups around the nation, contained in a survey by the Associated General Contractors of America, indicate that industry officials anticipate severe problems under the present allocation system.

Citing the survey of the association's members, who perform 80 per cent of all contract construction, the association's president, Nello L. Teer, Jr., said: "Construction activity in this country is already down 20 per cent."

"If present fuel allocation programs are not altered quickly, the economic impact on the construction industry may reach catastrophic proportions before the end of winter," he said. "Our survey indicates that thousands of construction workers are now out of work and the situation is worsening daily."

[From the Washington Star-News, Nov. 27, 1973]

Construction Group Warns of "Standstill"

The nation's construction industry is in danger of coming to a standstill, warns Nello L. Teer, Jr., president of Associated General Contractors of America.

Teer, citing a nationwide survey conducted by the association, said construction activity is "already down 20 percent," and warned that "if present fuel allocation programs are not altered quickly, the economic impact on the construction industry may reach catastrophic proportions . . ."

Teer said the allocating of fuel on the basis of fuel consumed last year has "no validity" for the construction industry because the fuel requirements on different jobs "may be vastly different."

Teer said he had asked White House energy adviser John A. Love to allocate fuel "on a project basis so that each job will be assured adequate fuel before it is advertised for bid."

Mr. GRAVEL. Mr. President, I believe that Mr. Teer's point regarding construction project allocations is a very good one.

Having worked in the construction industry, I can certainly substantiate his statements regarding the cyclical and seasonal nature of activity and its resultant effect on energy demand. All construction firms should be able to get a share of our energy products for construction projects. Basing allocations on a firm's previous consumption for a base period would result in an inequitable situation such that projects could be constructed only by those firms working on projects of sufficient size in the base period.

I strongly urge that this inequity be removed.

ENERGY CONSERVATION AND ACCIDENT RATES

Mr. STEVENSON. Mr. President, on December 3, 1973, the Journal of Commerce printed an article about actions which may be taken by one of the country's largest insurers of private automobiles.

During the recent debate in the Senate on daylight saving time, several points were raised about the effects of energy conservation on the frequency and severity of automobile accidents.

During the recent Thanksgiving holiday period, the rate of fatal accidents was 20 percent below the statistical predictions for that period. This may prove to be the forerunner of more substantial and permanent reductions in serious and fatal accidents on our Nation's highways. It seems quite possible that year-round daylight saving time, reduced gasoline supplies, limitations on Sunday driving, and lowered speed limits, will have some beneficial results. If accidents are reduced, insurance companies will have fewer benefits to pay. If that occurs insurance company savings should no confer windfall profits on those companies, but should be shared with the purchasers of insurance in the form of refunds and lower premiums.

I am pleased to learn through this Journal of Commerce article that Allstate Insurance Co., the country's second largest automobile insurer, has acknowledged this changing picture and anticipated its possible impact on the insurance industry. Allstate says that if energy conservation measures do result in savings, the company will amend existing policies to permit the company to pay dividends to policyholders. In this way, the consumer may reap some economic benefits from the energy crisis.

Allstate does not predict when, or even if, any savings will be realized. What it has done is to voluntarily take a positive step in the interest of the consumer—their own policyholders. I hope the Government will not have to become involved in this effort and that other insurance companies will quickly follow this lead.

Mr. President, I ask unanimous consent that the Journal of Commerce article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REFUNDS IN VIEW: ALLSTATE TO COMPENSATE FOR "GAS" CURB GAINS

(By Robert M. Lewin)

CHICAGO.—Allstate Insurance Co. has said that it would make refunds to automobile insurance policyholders if there are "significant decreases" in accidents and payments as a result of the gasoline shortage.

The company added that, if restrictions on the sale of gasoline and automobile speed reduce the number of accidents under the energy conservation program, policies will be amended to permit dividend payments.

Approval of state insurance departments will be sought where required.

DIFFERENCES CONSIDERED

Archie R. Boe, Allstate chairman, who explained the plan, said that under the company's current rating structure and merit rating system, it takes into account differences in car usage, annual mileage and accident involvement.

"Lower premiums are charged for less exposure to accidents, as well as for less involvement in accidents," he added.

Allstate, which claims to be the nation's second largest automobile insurer, has coverage on more than 9 million cars.

Mr. Boe said that if President Nixon and Congress decide on a stringent gasoline limitation program, the impact would be different from World War Two.

He observed:

Now there are about 100 million passenger automoblies; in 1943, there were 26 million.

Highway speed in the early 1940s was 35 miles an hour; under the proposed gasoline conservation program, it would be 50 miles an hour.

Mr. Boe said that a study of accident data shows that most accidents occur at a speed of less than 50 miles an hour.

SPEED DISPARITY EYED

He also said that the safety effects of allowing trucks and buses to go 55 miles an hour, with cars limited to 50, are unclear, as noted by the National Safety Council.

There now are more young drivers than in the early 1940s, since millions of young men were in service then. Young drivers are more likely to get involved in accidents.

There now is no shortage of new automobiles and tires, as in World War Two. Motorists drove carefully because, they feared, an accident would "leave them without transportation."

A greater percentage of the public used mass transportation in the early 1940s than now.

Mr. Boe said that was due largely to the decline of mass transit facilities and because more industries, businesses and homes now are in suburban areas and can be reached only by automobile.

He added that inflation now is an important factor because it affects hospital, medical and auto repair costs "which are part of the price of auto insurance, with the result that in a number of states present automobile insurance rates are inadequate."

Mr. Boe said that Allstate's offices and employees are cooperating with the move to conserve energy. The company has 3,500 cars, more than 230 of them equipped with air bags for safety. Mr. Boe said that employe car pools are being formed.

OKLAHOMA'S SELMON BROTHERS

Mr. BELLMON. Mr. President, the University of Oklahoma has just completed one of its most successful football seasons, and a key to the team's success is a 5-foot 11-inch, 236-pound middle guard named Lucious Selmon. Two other keys are his brothers, Dewey and LeRoy, who play tackle on either side of him in the Oklahoma line.

The Selmon brothers, described in one national magazine as "18 feet and 737 pounds of Oklahoma defense," are believed by many to be the greatest defensive line ever to come out of one bassinette.

The story is told that an Iowa State quarterback kept the ball on one play and Lucious Selmon lunged at him, but veered off at the last minute while brother LeRoy made the stop. Lucious later explained, "He was my brother's keeper."

Oklahomans are justly proud of the Selmon brothers, and I am especially pleased at their accomplishments, because they come from a small rural community in eastern Oklahoma. On Saturday, December 15, the folks of Eufaula, Okla., will honor their hometown heroes, the Selmon brothers, and their parents. Lucious Selmon will receive special recognition, because he is a senior and this was his last season at Oklahoma, where he was named to the Associated Press All-America team.

Mr. President, seldom has a family contributed more to the great American sport of football than has the Selmons of Eufaula, Okla. In recognition of this I wish to call the attention of Members of the Senate to this outstanding family. I ask unanimous consent that a UPI story from the Oklahoma Journal detailing the Selmons' exploits be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LUCIOUS BIG EIGHT'S DEFENSEMAN OF YEAR

KANSAS CITY, MO.—Twice in five years Lucious Selmon has had the exhilarating experience of playing on a defensive line with his two younger brothers, Dewey and LeRoy.

"It makes you feel good on the field," says Lucious, "to look around and see them. There's more than just athletic ability involved when they're out there."

What Lucious means is there is family pride—and that runs deeper than team pride any day.

Lucious is the middle guard in Oklahoma's ferocious defense. His sophomore brothers play tackles on either side of him.

Lucious, a 5–11, 236-pound senior, was voted Wednesday as the Big Eight's Defensive Player of the Year by UPI's 18-member panel of Midlands sports writers and sportscasters. He won in a landslide vote, polling 16 votes.

Lucious, a two-time All-Big Eight player, didn't always have the pleasure of having Dewey and LeRoy on either side of him. When he was a senior in high school at Eufaula, Okla., he was a defensive end while his two brothers were tackles.

Lucious twice has led Oklahoma tacklers among down linemen and he's done it against outstanding competition. This season, for instance, he earned his ranking as the Big Eight's best middle guard against the likes of Texas' Bill Wyman, Missouri's Scott Anderson and Colorado's William McDonald.

"I really couldn't say which one was best, but I do know those three were good," said Lucious. "I won some battles and they won some. In their minds, they probably think they won the war, but in my mind I won."

Selmon was the key to the Oklahoma defense that led the Sooners to the Big Eight Conference championship despite the loss of 15 starters off last year's team.

"I had no idea we'd be undefeated at this point of the season," he says. "I realized we had great players and wouldn't have a losing season. But the way the season progressed, it's not too surprising."

Because of his lack of height, Selmon's future in pro football is uncertain. Like Nebraska's Rich Glover ahead of him, his size is against him.

But that's not something that particularly bothers Lucious.

"I'd like to give the pros a try," he says. "I'd like to give it a shot if the opportunity is there. But it's not something I'm really relying on. I'm majoring in special education and I'm thinking about going into human relations. So my future is not predicated on a pro football career."

NEW PERSPECTIVE ON RADIO FREE EUROPE

Mr. HUMPHREY. Mr. President, recently I had the occasion to visit the facilities of Radio Free Europe in Munich, Germany. This firsthand exposure strengthened my confidence in the vital role which this operation serves.

For almost 25 years, Radio Free Europe and its sister station, Radio Liberty, have served the citizens of Eastern Europe and the Soviet Union by offering them a forum for the exchange of ideas and uncensored information which these people are denied by their own governments. Far from being a "relic of the cold war" or "propaganda outlet," Radio Free Europe has earned praise and respect for rational and balanced broadcasting throughout the world. According to the Chicago Sun-Times:

> The evidence is substantial the RFE, more than BBC or Voice of America and perhaps more than any other single element of Western policy, is pressing the process of change in East European attitudes.

This respect is echoed in Eastern Europe as well. Recently, W. Bienkowski, a former highly placed Polish Communist official, wrote:

> Communism's monopoly of information makes for a situation, I'm ashamed to admit, in which foreign broadcasting stations, particularly Radio Free Europe, perform the vital role of a domestic opposition press, exercising enormous influence both on the population and even on the communist rulers. Not trusting their own leaders, the masses have no choice but to rely on information provided from abroad.

I find it contradictory that we should be insisting that détente be accompanied by the liberalization of humanitarian rights by Communist governments while at the same time we are cutting back on operations such as Radio Free Europe which represents the only source of free information available to citizens of these countries. As stated in a recent article in the Washington Post:

> Détente, if it means anything, means widening the West's contacts with the East, not helping the East to seal off its people from the West. It means the exchange of people, goods, words and ideas. This is the essential business of Radio Free Europe.

I must also mention the important research function of Radio Free Europe which many of our top Government agencies and universities depend upon for background on the political developments in Eastern Europe. Scholars in East European affairs have often indicated to me the importance of maintaining the research function above all since no other source has the competence or the access to information on the internal developments of Eastern Europe as that of RFE's research staff. The materials and facilities that enable its own experts to evaluate current trends is an unparalled source of documentation and counsel for scholars, journalists, and other concerned with East European affairs.

The studies prepared by RFE's researchers, analysts, and public opinion experts are widely distributed to foreign affairs specialists, academicians, scholars, and libraries, news agencies and journalists as well as to private and governmental organizations in Western Europe, the United States, and to other parts of the world. The constant requests from outside the organization testifies to the widespread recognition RFE has attained in its field.

Currently before the Congress is a request for a supplemental appropriation to cover the cost of the large increase in the exchange rate for the German mark that has occurred since the original budget was submitted and for the large termination costs necessitated by the cutbacks forced by curtailment of operations for fiscal reasons. The radios are asking for an additional $4.9 million. I certainly feel that this request is well substantiated within the reasons that have been stated. My discussions with the leadership of Radio Free Europe indicates that it will be impossible to continue a reasonable level of operation without this supplementary appropriation. Already cuts will seriously hinder the effectiveness of the operation.

Mr. President, after a discussion with the distinguished Senator from Rhode Island (Mr. PASTORE), it is my understanding that Chairman PASTORE would be willing to give serious consideration to a supplemental request once the exact termination costs are determined.

Finally, I would like to point out that the very favorable report by the Presidential Study Commission on International Radio Broadcasting has not received the attention that it should have particularly in providing the perspective upon which an appropriation request for the radios should have been considered. Unless there is any doubt about the important role of the radios I would like to quote a few passages from the report of the Commission:

> If we believe in the development of lasting, genuinely peaceful relations between the United States and the Soviet Union and East Europe, we must depend on an informed public opinion in the countries concerned. We must ensure that their people have access to a broad range of news and information. . .
>
> Radio Free Europe and Radio Liberty, by providing a flow of free and uncensored information to peoples deprived of it, actually contribute to a climate of détente rather than detract from it. . .
>
> The Commission, therefore, is confident that the radios by providing information and interpretation, will continue to be of help in future negotiations and cooperation between the Soviet Union and the United States in such areas as strategic arms limitation, trade, European security, and environmental protection. . .
>
> This contribution can obviate military expenditures many times greater than the broadcasting costs. Contrariwise, elimination of the radios could lead over time to increased military costs.

NICK JOHNSON—WASHINGTON'S LOSS IS IOWA'S GAIN

Mr. McGOVERN. Mr President, Nick Johnson has completed his distinguished term on the Federal Communications Commission and will be leaving us soon to return to his home in Iowa.

For those of us who became his friends during the 10 years of his remarkable public career, his departure is a sad thing. But for the special interest groups he courageously stood up to, the feeling must be one of relief. And that is perhaps his greatest tribute.

Nick Johnson first came to Washington as a law clerk to the late Supreme Court Justice Hugo Black—an honor he earned by his Phi Beta Kappa key and his law review editorship.

President Johnson appointed Nick, then only 29, as administrator of the Maritime Commission where he rapidly gained a reputation for intelligence, integrity and hard work.

But Nick's greatest accomplishments were as an FCC Commissioner. During the time that the White House was attempting to use the FCC as a club against the news media, Nick stood firmly for the public interest.

Commissioner Johnson has consistently been in the forefront of the many consumer issues which have come before the FCC in the last 7 years. His efforts have ranged broadly from lower telephone rates and better service to equal employment opportunities for women and minority groups in broadcast journalism.

Perhaps his best known efforts were in reducing the violence in children's TV programing and prodding the industry to adopt more constructive programs for children.

With the Nixon appointments to the FCC, Nick became a minority voice. But his well reasoned and scholarly dissents will continue to have a strong impact on communications law for years ahead.

So I wish Nick well in his future career. I am grateful for his friendship and hope that he will again have the opportunity for public service.

OVERCOMING OBSTACLES TO SOLAR ENERGY

Mr. GRAVEL. Mr. President, although the AEC Chairman Dixy Lee Ray has recommended $32.5 million for solar energy R. & D. in fiscal 1975, we should not imagine that this represents a serious effort to let the country enjoy solar energy.

When Dr. Ray proposed a 75-percent increase in the Federal energy budget, from $890 million in fiscal 1974 to $1,570 million in fiscal 1975, she could hardly do less for solar energy than to increase its budget by 75 percent, too, from $13.2 million to $22.9 million. The fact that she recommended an additional $9.6 million is not highly significant.

The entire $200 million which she recommended in her 5-year plan for solar energy would barely build one modest demonstration plant for solar electricity or solar fuels. Instead, she plans to build two miniplants, each 10 electrical megawatts or less. One would be a sunlight thermal plant for $35.5 million including all R. & D., and the other would be wind-farm for $31.7 million, including all R. & D.

By contrast, she recommends that taxpayers hand over $4 billion to validate the nuclear option during the next 5 years, with $2.8 billion of the amount going for breeder reactors which are much further from validation and public acceptance than any solar energy techniques. A single 500 megawatt electrical breeder demonstration plant would cost over $700 million. Besides the substantial risk that breeders could be even less reliable power-makers than today's light-water reactors, there is the growing probability that no radioactive technologies will be tolerated by the public, especially after an accident.

Nevertheless, under her heading of urgent tasks, Dr. Ray has listed "expand the production of nuclear energy as rapidly as possible, first to supplement and later to replace fossil energy."

Her proposed nuclear program shows that she knows how to make a serious effort when she wants one. Her treatment for solar energy is all the shabbier by comparison. The combination of a minibudget with two minidemonstrations could become a practically diabolical formula for discarding ideas without giving them a chance, for arbitrary and desperate choices, and for demoralizing among the technical people who would like a chance to give this country some solar power. Dr. Ray's plan simply denies the Sun a fair chance to compete as a major near-term ource of electric power and clean fuels.

How different the outlook would be if voters were to insist on a really serious solar energy program, comparable to Apollo.

Mr. President, I ask unanimous consent that table 2.4 from Dr. Ray's December 1, 1973, report entitled "The Nation's Energy Future," as well as the six-category breakdown of her solar budget, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 2-4.—FEDERAL ENERGY RESEARCH AND DEVELOPMENT OBLIGATIONS BY INDIVIDUAL PROGRAM ELEMENT, FISCAL YEARS 1973–79

[In millions of dollars]

Self-sufficiency task	Fiscal year— Actual 1973	Planned 1974	Recommended 1975	Recommended 1975–79 program
1. Conserve energy and energy resources	52.8	62.3	166.2	1.440.0
Reduced consumption	12.1	22.3	29.9	210.0
Increased efficiency	40.7	40.0	136.3	1,230.0
2. Increase domestic production of oil and gas	20.0	19.5	51.7	460.0
Production	12.8	11.2	31.7	310.0
Resource assessment	7.2	8.3	20.0	150.0
3. Substitute coal for oil and gas on a massive scale	88.8	167.2	405.0	2,175.0
Mining			45.0	325.0
Direct combustion			30.0	200.0
Synthetic fuels			240.0	1,270.0
Common technology			90.0	380.0
4. Validate the nuclear option	395.8	517.3	731.7	4,090.0
Safety enrichment, HTGR, and other	129.7	151.7	216.2	1,245.7
Breeder	266.1	365.6	515.5	2,844.3
5. Exploit renewable energy sources to the maximum extent feasible	82.8	123.0	217.5	1,835.0
Fusion	74.8	98.7	145.0	1,450.0
Solar	4.2	13.2	32.5	200.0
Geothermal	3.8	11.1	40.0	185.0
Total	640.2	889.3	1,572.1	10,000.0
Supporting programs (incremental Federal funding to present programs):				
Environmental effect			105.9	650.0
Basic research			43.0	300.0
Manpower development			5.0	50.0
Total			153.9	1,000.0

[In millions of dollars]

	Fiscal year 1975	Fiscal years 1975–79
Solar	32.5	200.0
1. Heating and cooling of buildings Solar heating and cooling of buildings is entering the pilot-plant stage. Applicability studies, design-criteria development, and component testing will be conducted on a much enlarged scale. Operating pilot systems will be installed in single-family and multifamily dwellings, in agricultural buildings, and in commercial and industrial buildings. This effort could provide the basis for an industry prepared to manufacture solar-energy heating and cooling systems in large quantities. Component development is expected to increase reliability and decrease costs.	12.8	50.00
2. Solar thermal conversion Major emphasis in this subprogram will be placed on the research and development of key subsystems for the optical-transmission central-receiver tower approach. 3 system-design efforts will be conducted in parallel. Design, hardware procurement and integration, and testing of a 10-MW(e) pilot plant will be achieved.	5.0	35.5
3. Wind energy conversion A series of experimental wind generator systems in increasing size and performance capability will be constructed and tested. Multi-unit wind generator systems making up a wind "farm" up to 10 megawatts electrical will be built late in the program period.	6.2	31.7
4. Ocean thermal conversion Emphasis will be placed on design, production, and testing of system components. Key elements that will require significant adaptation of existing technology include the heat exchanger, deep-water pipe, and overall plant structural design.	1.9	26.6
5. Photovoltaic conversion The photovoltaic program will concentrate on the single-crystal silicon approach, with a modest effort on alternative materials and concepts. Major improvements in materials and processes are needed to permit automated production of cells and to accomplish significant cost reductions.	4.2	35.8
6 Bioconversion The construction and operation two small-scale pilot plants involves the conversion of wastes into methane and clean fuels. Later in the program period a 10-ton/day urban waste pilot plant will be constructed. Laboratory-scale studies of methods for converting various organic mater'als. particularly including biomass production, will also be studied.	2.4	20.4

Source: From "The Nation's Energy Future." Dec. 1, 1973.

GOVERNMENT SCHEDULES FOR SOLAR ENERGY

Mr. GRAVEL. Dr. Ray's schedule for solar-energy delay is at least explicit in chapter 7 of her report.

Under near-term objectives, from the present to 1985, she lists "reduce capital costs for solar heating and cooling units." No mention is made of producing solar electricity or solar fuels for industry and transportation, which consume respectively 40 percent and 30 percent of the country's energy.

Under midterm objectives, between 1986 and the year 2000, she lists "demonstration methods to produce significant amounts of electricity from direct solar incidence, from ocean thermal gradients, from wind, and so forth," and "develop photovoltaic, thermoelectric, and bioconversion techniques to a significant level of productivity."

Under long-term objectives, beyond the year 2000, she lists "develop large-scale direct and indirect solar-energy conversion programs," and "develop methods for producing hydrogen in large quantities at low cost."

Since several solar energy technologies undeniably work today, right now, the burden of proof falls on Dr. Ray and her panel of 65 solar advisers to explain to the public why we are supposed to wait for them until after the year 2000.

Unfortunately, the Senate has treated solar energy almost as badly under S. 1283, the National Energy Research and Development Policy Act of 1973, which was passed unanimously December 7, 1973.

In that act, solar electricity and solar fuels have been tucked into the "mid-term research" classification, meaning 1980 to year 2000. Only demonstrations of solar heating and cooling made it into the "near-term" category, between now and 1980.

INSISTING ON SERIOUS SOLAR EFFORTS

Of course, every year we have new opportunities to amend acts and pass additional ones, and I hope that voters will insist on serious solar energy efforts in the 1970's.

By serious, I mean the construction of very large demonstration projects which will contribute to the country's power supply while laying the mass-production-and-marketing foundation for commercial solar energy industries.

Why not, for example, build projects supplying wind-power and hydrogen to the Northeast, Northwest, and Alaska? Another supplying sea-thermal power and hydrogen to the Southeast? Another supplying solar-grown solid fuels and methane in the farming and ranching center of the country? Others supplying electric power from photo-voltaics or solar thermal plants in the Southwest?

BUSINESS OBSTACLES TO NEW TECHNOLOGIES

Several witnesses before the Senate Interior Committee pointed out, without specific reference to solar energy, that just the demonstration of a working plant is not enough to interest industry.

Dr. Chauncey Starr, president, Electric Power Research Institute, from the S. 1283 Hearings, pages 124–5:

> Every time the Federal Government has done this kind of thing, has developed something, letting it sit there for everyone to look at, nothing has happened or nothing very much . . .
>
> If an electric utility doesn't buy the plant, doesn't order it, it isn't going to get on the line . . .
>
> [A utility] isn't going to order it from a manufacturer unless it gets a bid, and the manufacturer isn't going to bid unless it's familiar with the process and has confidence it can supply the equipment . . . [For some technologies] the R&D is a minor part. The major part is the economic, marketing, and institutional restrictions.

Dr. Jerome Wiesner, president of MIT, from the S. 1283 hearings, pages 70–2:

> A study made for me in 1964 and even earlier studies, indicated essentially all of the [energy] opportunities being talked about today . . .
>
> By and large, the efforts of the Federal Government to stimulate and support work which would enhance our civilian economy have been dismal failures . . . I think this is because . . . we have tried to do them in small pieces with project engineers in Washington doling out little contracts and trying to mastermind the integration of groups of people that ought to be done on the spot. If one examines the successful programs like those in NASA, the AEC, or the Defense Dept., you find that they have been successful because they have been carried out by substantial collections of people in national centers or laboratories that had the resources and the energy drive to do the job . . .
>
> Now a thing which is . . . terribly important to me . . . is how to build in the incentives which both stimulate private investment in R&D and particularly the exploitation and development of the ideas that we investigate. And the large-scale employment of these technologies.
>
> I have the impression, for example, that oil shale plants would be competitive today with oil prices from the Middle East, and yet people are not investing in these plants
>
> And I think there are a whole series of non-technological reasons. Some of them may have to do with overseas investment policy. Some might have to do with environmental problems. But it would seem quite foolish to invest hundreds of millions of dollars and billions of dollars in stimulating the development of an industrial plant, which all the other policies might preclude the use of.

Mr. GRAVEL. Both gentlemen seem to be reminding us that the availability of energy supplies and technologies does not guarantee their use. That is obvious with solar energy, as well as coal.

In our hearings before the Energy Subcommittee of the Senate Finance Committee, we intend to discover and provide the incentives to make private enterprise work in the public interest.

THE MATTER OF UNACCEPTABLE NEW TECHNOLOGIES

An important point was presented in the S. 1283 hearings by Dr. James MacKenzie, Joint Scientific Staff, Massachusetts and National Audubon Societies, page 562:

> I know you are interested not only in the development of technology but in implementation. Without implementation, we are clearly not going to get new energy sources . . .
>
> For example, [consider] the oil shale development in the Southwest. If you speak with the people there, they are concerned not only with revegetation, but with the influx of 200,000 people into an area where there are 1,000 now, in a semi-arid area where there are limited water supplies, few schools, and few roads.
>
> The regional impacts of a major development like this have not been assessed adequately. Therefore, an important area that I think should be part of any research program is the systematic funding of environmental impacts by an agency other than the development agency . . .
>
> I think the funding for this type of research should be on the order of 10 percent of development funds.
>
> I think the AEC and Dept. of Interior are both good examples of the problem. If they are to succeed in what they are doing, there has to be somebody else to bring in an adversary point of view, who can continually feed back information into the development process. So that when the development program is completed, they have something which is acceptable.

Mr. President, since I believe that even solar energy could be developed in unacceptable ways, I believe it is urgent that Government fund an independent Office of Early Warning for all the energy technologies under development.

KENYA—INDEPENDENCE DAY

Mr. HARTKE. Mr. President, today Kenya is celebrating 10 years of independence. I understand that Nairobi is full of signs and banners proclaiming "Ten Great Years." It is a slogan we can agree with and applaud.

Under the wise leadership of President Jomo Kenyatta, Kenya has moved ahead confidently in all aspects of national developments. In addition to the prosperity of the country, Kenya has demonstrated to the world that it is possible for peoples of different cultural and religious backgrounds to join together and work toward the common goal of a strong and unified country.

There are over 12 million people in Kenya who have faith in their spirit of Harambee and international interdependence. September 27, 1973, saw Kenya host the first World Bank International Monetary Fund held on the African Continent, where many of America's leaders participated.

In the field of trade, commerce, tourism, and investments Kenya stands ready to assist all potential partners who see in Kenya a way of the future.

For years Kenya has led in the protection of its wildlife and the improvement of her environment, from Lake Rudolph to Mombassa. Now Kenya has become a tourist mecca receiving hundreds of thousands of visitors every year from all parts of the world.

In the field of manpower training, Kenya chose an American institution from Philadelphia, the OIC—Opportunity Industrialization Centers to help develop skills needed for continued growth.

Mr. President, the bonds of friendship between the United States and Kenya have grown strong over the past 10 years. I am confident that they will continue to grow. On this 10th anniversary of Kenya independence I am certain that American people join me in saluting the Republic of Kenya.

NIXON PAPERS TAX DEDUCTION

Mr. WEICKER. Mr. President, I ask unanimous consent that certain materials, which were sent to the Internal Revenue Service on December 10, 1973, be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

COMMITTEE ON AERONAUTICS AND
SPACE SCIENCES,
Washington, D.C., December 10, 1973.

Hon. DONALD C. ALEXANDER,
Commissioner, Internal Revenue Service,
Washington, D.C.

DEAR MR. COMMISSIONER: During the course of my investigations as a Member of the Select Committee on Presidential Campaign Activities, certain facts came to my attention relative to an alleged gift of pre-Presidential papers to the United States by Richard M. Nixon in 1969.

The responsibility for determining the validity of the tax deduction which resulted from that alleged gift is solely within the jurisdiction of the Internal Revenue Service. For that reason, I believe the enclosed memorandum of fact and law should be brought to your attention. The very nature of its content raises questions requiring a response by the appropriate governmental authority.

I have noted that on September 5, 1973, in a Presidential News Conference, the President stated: ". . . the IRS has had a full field review or audit of my income tax returns for 1971 and 1972 . . . ." On December 8, 1973, in his financial disclosure statements, the President stated: "The examination conducted earlier this year by the Internal Revenue Service of President and Mrs. Nixon's returns for the years 1971 and 1972 included a review of the gift."

My investigation has revealed that neither the recipient of the alleged gift, the General Services Administration and the National Archives, nor the appraiser of the alleged gift, Mr. Ralph Newman, have ever been contacted by the Internal Revenue Service with reference to the gift in question. In a gift situation involving a donor, donee, and appraiser, for the IRS not to have contacted two out of three principal parties clearly raises questions about the thoroughness of such a review or audit.

When questions relating to the tax treatment of the President are raised, it is very important to the nation and to public confidence that the matter be resolved in a timely and thorough manner.

As I indicated to you by phone this evening, I will make public both this letter and its accompanying documents. This so as to avoid accusations of "leaks" being attributed to either of our offices.

With kind regards,
Sincerely,
LOWELL WEICKER, Jr.,
U.S. Senator.

MEMORANDUM

To: Commissioner, Internal Revenue Service.
From: Senator Lowell Weicker, Jr.
Re: Income Tax Deduction by Richard M. Nixon.

SUMMARY OF FACTS

1. In both 1968 and 1969, Richard M. Nixon claimed a tax deduction for charitable contributions of his personal papers to the United States. This had become common practice for individuals in his position. The procedure used by Lyndon B. Johnson and Mr. Nixon from 1965 to 1968 was to wait until the end of the year, apparently make an estimate of their tax situation, and then determine how much of a charitable deduction would be appropriate. Prior to 1965, this technique had not been followed by Presidents or ex-Presidents, who instead donated personal papers in lump sums on the occasion of their death or retirement.

2. Mr. Nixon's first donation of papers to the United States, in 1968, followed normal procedures. He executed a Chattel Deed, dated December 30, 1968 (Exhibit 1.). This deed was signed by Mr. Nixon as donor, delivered to the General Services Administration as recipient, and accepted by the signature of a General Services Administration official on December 30, 1968 on the face of the deed.

3. The papers that were the subject of the 1968 deeded gift were delivered to the National Archives, which serves as the repository for valuable papers given to the United States, on March 20, 1969. (See Exhibit 2.)

4. March 26 and 27, 1969 are dates of key significance. First, a large quantity of Mr.

Nixon's papers, apparently the remainder of his pre-Presidential papers, was transferred to the National Archives for storage on those days. Second, there is in existence a Chattel Deed, dated March 27, 1969 and signed by a Deputy Counsel to the President on April 21, 1969, purporting to deed about one-third of those pre-Presidential papers to the United States. (Exhibit 3.)

5. This deed was not delivered to the United States or any representative thereof until April 10, 1970. (Exhibit 4.)

6. Returning to 1969, from April 6th to 8th, Mr. Ralph Newman, a professional appraiser, made a preliminary appraisal of the papers transferred to the Archives on March 26 and 27, 1969. (Exhibit 5.)

7. On May 12, 1969 the White House announced that a Richard M. Nixon Foundation was being formed, to include a museum and library, as a charitable non-profit corporation. (Exhibit 6.)

8. On May 27, 1969, Sherrod East, consultant to the Archives, issued a status report pertaining to the Nixon papers. (Exhibit 7.)

9. On November 3, 17, 18, 19, 20 and December 8, 1969, Mr. Ralph Newman made his appraisal of the Nixon papers. (Exhibit 5.)

10. On March 27, 1970, Mr. Newman mailed to the National Archives a completed description of the papers claimed by Mr. Nixon as a 1969 gift. (Exhibit 8.)

11. A formal appraisal was drawn up by Mr. Newman on April 6, 1970. (Exhibit 5.) This appraisal was attached to Mr. Nixon's tax return for 1969.

12. On April 10, 1970 the Chattel Deed dated March 27, 1969, was delivered to the Office of General Counsel of the General Services Administration, which administers the National Archives.

13. An additional set of significant facts relate to a specific change in the law that resulted from the Tax Reform Act of 1969. On April 21, 1969 the Treasury Department announced its proposals for the Tax Reform Act of 1969. (Exhibit 9) Included in these proposals was a provision that would prohibit the treatment of letters, memorandum, or similar property as capital assets for purposes of charitable contributions. This proposal would, in effect, eliminate the type of gift under discussion here. On May 27, 1969, the House Ways and Means Committee, which has initial responsibility for tax legislation in the Congress, issued a Press Release announcing that the legislation it was drafting would likewise include repeal of that type of gift as a deductible item. (Exhibit 10.) The May 27, 1969 announcement stated that the proposed House bill would recommend repeal effective as of the end of 1969. On July 25, 1969, the House Bill was reported out of the Ways and Means Committee, but the Committee Report contained two conflicting proposed effective dates for the provision in question. (Exhibit 11.) One reference in the Report indicated an effective date of December 31, 1969; another reference in the Report stated an effective date of July 25, 1969. This Committee bill passed the full House on August 2, 1969. (Exhibit 11.)

On November 21, 1969, the Senate Finance Committee reported out the Senate version of the Tax Reform Act of 1969, including repeal of the gift deduction in question, with a recommended effective date retroactive to December 31, 1968. (Exhibit 12.) This was also the first time a retroactive effective date had been proposed. It was not until the House bill and the Senate bill went to Conference, in December, 1969, that the different effective dates were resolved. On December 21, 1969, the compromise was announced. (Exhibit 13.) The compromise effective date that was chosen was July 25, 1969, the date the House Ways and Means Committee had announced its final bill.

14. Richard M. Nixon claimed a deductible contribution of $576,000 on his tax return for tax year 1969, based on a gift of papers in 1969, and began applying the maximum allowable portion of that deduction against his tax liability. In 1969, the law permitted a deduction up to 30 percent of his adjusted gross income, in succeeding years the law permitted a deduction up to 50 percent of adjusted gross income. Deductions have been taken on the basis of those percentages for tax years 1969 to 1972, resulting in substantial tax savings to the taxpayer.

15. In order for the $576,000 deduction to be valid, Mr. Nixon would have to have made a valid gift by deed or valid gift of $576,000 worth of personal papers, to the United States, prior to July 25, 1969.

I. THE CHATTEL DEED DATED MARCH 27, 1969, ABSOLUTELY FAILED TO EXECUTE A VALID CHARITABLE CONTRIBUTION

1. The essential legal requirements for a valid deeded gift are delivery of a deed, execution of the deed by the donor (or a legally authorized agent), acceptance of the deed by the recipient, and a legally sufficient description of the gift. The transaction in question has the additional burden of meeting these legal requirements prior to July 25, 1969. The March 27, 1969, deed fails on all counts.

A. For purposes of the deduction claimed by Mr. Nixon, the deed was not timely delivered. The Tax Reform Act of 1969 eliminated the deduction in question for gifts made after July 25, 1969. This would require delivery of the deed prior to that date, if the deduction were to be claimed on the basis of the deed. The deed was not delivered until April 10, 1970. (Exhibit 4.) This failure is, in and of itself, sufficient grounds to prevent any claim of gift based on the deed.

B. The deed was not signed by the donor. It was signed by Edward L. Morgan, Deputy Counsel to the President. A document attached to the deed states that Mr. Morgan claims he was authorized to sign the deed on behalf of Mr. Nixon. That attached document is unsigned, but is notarized by Frank DeMarco, Jr. (Ex. 3) Mr. Morgan's claim that he was authorized to sign the deed has no legal significance for the purpose of tax laws which would require under Internal Revenue Service Income Tax Regulations section 1.6061–1(a) and 1.6012–1(a)(5) that such authority be signed by Mr. Nixon.

Mr. Nixon's property was being disposed of and only a clearly evidenced delegation of authority by Mr. Nixon himself would be legally sufficient to permit Mr. Morgan to act in Mr. Nixon's behalf. A second document attached to the deed states that all the items "specifically" set forth in Schedule A of the deed were delivered to the Archives on March 27, 1969. This attached document only pertains to the issues of delivery and identity of the gift and in no way evidences Mr. Morgan's authority.

A comparison with the 1968 deed enhances the significance of Mr. Nixon's missing signature. In 1968, Mr. Nixon not only signed the deed personally, but a handwritten notation alongside his signature indicates that his signature was affixed on December 25, 1968. The signature block which appears on the 1969 deed is a duplicate of the 1968 block but contains nothing.

C. The 1969 deed has never been accepted by the recipient. The General Services Administration, which administers the National Archives, would be the appropriate recipient on behalf of the United States. The earlier 1968 deed had a signature block for the General Services Administration and a representative of that Agency signed that deed, with an accompanying handwritten notation of the date on which the signature was affixed, December 30, 1968. Inquiries to the General Services Administration have produced no explanation for the lack of official acceptance, but have confirmed the implication that the Agency does not treat the deed as accepted to this day. (Exhibits 4. and 14.)

It should be noted that the lack of signed acceptance of the deed by the General Services Administration is in direct violation of their own guidelines. The GSA Handbook on Presidential Libraries, promulgated pursuant to title 44, United States Code, sections 2101–2113 and 2301–2308, containing provisions in Chapter 3, paragraph 5 for handling the receipt of personal papers. Those provisions state:

"5. *Documentation of accessions.* The essential documents in the acquisition process are a deed of gift executed between the donor and the library and a log of all accessions kept for internal control purposes.

a. *Deed of gift.*

(1) The major purpose of the deed of gift is to accomplish the legal transfer of the papers or other historical materials to the library.

* * * * *

(5) Deeds of gift should be signed both by the donor and by the Archivist of the United States or his designated representative. Three copies should be signed, the original to be retained by the library, one copy returned to the donor, and one kept by the NL."

D. The deed fails to identify what is being given away. The body of the 1969 deed itself claims only to have given the materials "*listed and described* in Schedule A annexed hereto . . . ." (emphasis added.) An attached document states that there was delivery, for gift purposes, only of "those materials specifically set forth in Schedule A attached hereto." The critical fact is that a specific description or list of materials constituting the alleged gift did not even exist until Mr. Ralph Newman completed his appraisal in late 1969, and could not have been attached as a Schedule A until his description was forwarded to the appropriate parties in 1970. At the time the gift, by law, had to be finalized, the subject property was not sufficiently described so as to identify the actual property that constituted the gift. A deed cannot execute the disposal of something if there is no means of determining what it is that is being disposed of. The deed would fail, in this case, for vagueness. In addition, reference in the body of the deed to a nonexistent list and description would render the deed incomplete as of July 25, 1969.

II. NO VALID GIFT OF PERSONAL PAPERS BY RICHARD M. NIXON TO THE UNITED STATES WAS EXECUTED PRIOR TO JULY 25, 1969

1. The rules of gift law require, in the absence of a deed, actual delivery of the gift property, an express intent by the donor that delivery is for purposes of a gift, and acceptance of the property as a gift by the intended recipient. In addition, it is necessary that the gift exist. The transactions and evidence prior to July 25, 1969, failed to meet these rules of law on all counts.

A. The transfer of papers to the Archives on March 26 and 27, 1969 did not satisfy the necessary legal requirements to constitute a complete delivery of a gift. There is no question that 1217 cubic feet of papers were transferred to the National Archives on March 26 and 27, 1969. The critical fact is that the alleged 1969 gift consisted of some 392 cubic feet of papers, and Richard M. Nixon did not relinquish dominion and control over any specifically identifiable 392 cubic feet of papers at that time or at any time prior to July 25, 1969. Giving up dominion and control is a necessary element of a legal delivery.

At the time of transfer, the papers were received in Room 19E–3 of the National Archives. The papers were in one group. There is no question, then or now, that the entire lot was *not* intended to be relinquished into the dominion and control of the Archives. Officials at the Archives, parties involved in the transaction, and the President himself in his recent financial disclosure message all indicate that 825 cubic feet of those papers still belong to the President. The essential point is that until the 392 cubic feet constituting the alleged gift were somehow either separated from the 825 cubic feet retained by Mr. Nixon or until the 392 cubic feet were capable of being specifically identified there was no way of knowing which pieces of physical property Mr. Nixon had relinquished control of. There would have been no basis for preventing Mr. Nixon from entering the collection and reclaiming or otherwise disposing of any individual item in the collection, including those papers that eventually were separated out as an alleged gift. It is impossible to relinquish physical dominion or control over something if there is no way of physically knowing what that something is.

Mr. Newman, the individual who selected and described the items constituting the alleged gift has stated that this selection process did not begin until November, 1969. Only when that process began were the 392 cubic feet of papers placed in a separate area within the Archives, adjacent to the main body of papers retained by Mr. Nixon. Only when that process was completed could the Archives actually exercise dominion and control of a specific piece of property.

A leading legal text, *Brown on Personal Property*, states:

"The concept of a complete relinquishment of control as a necessary incident of gift is also met with in those situations where, in spite of an expressed intent of gift and a manual tradition of the subject matter, the words or conduct of the parties indicate that it was not expected that the donor should forego entire dominion and control over the thing given, but that the intended donee should hold the same as the agent or bailee of his assumed benefactor." (*Brown* at 90.)

The transaction in question is precisely the situation where prior conduct, unrefuted by any change in conduct in 1969, would indicate that the Archives were a bailee until such time as a deed arrived indicating that a portion of the property held in bail was to be relinquished to the United States.

Brown states further:

"Until the donee reduces the subject matter of the proposed donation to his possession, the gift is inchoate and subject to revocation by the donor at his pleasure, and is ipso facto revoked by his death." (*Brown* at 92.)

The entire subject matter of the March 1969 transfer could not be reduced to possession by the Archives, since it belonged to Mr. Nixon. There was no subject matter capable of being reduced to possession until the separate subject matter of the gift existed. In fact, evidence that all the papers were in an area of the Archives reserved for "courtesy storage" would indicate that they were all in storage, possessed by Mr. Nixon. Only when the 392 cubic feet of papers were taken to a separate area in the Archives in late 1969, an area within the Archives where materials were clearly in the Archives' possession, could it be said that the Archives were exercising possession.

Significantly, there is direct evidence that the President exercised dominion and control over the subject matter of the alleged gift, the specific 392 cubic feet of papers, long after July 25, 1969. The General Services Administration has stated:

"In accordance with paragraph 1 of the Chattel Deed dated March 27, 1969, GSA, bound by the dictates of section 2107 and 2108(c) of Title 44, United States Code, has withheld general public access to the referenced papers." (Letter from Arthur F. Sampson, Administrator of the General Services Administration, to Honorable Lowell Weicker, dated December 7, 1973.) (Exhibit 14.)

The important point is that whereas the mere existence of restrictions on a gift, even if they are placed pursuant to the donor's instructions may not be evidence of continuing dominion and control, it is quite another matter for GSA to take that action on April 10, 1970 at the instructions of Mr. Nixon. The Chattel Deed referred to by GSA did not arrive at GSA until April 10, 1970. If restrictions were placed on the papers in accordance with a provision in that deed, that constitutes evidence that a form of control was exercised over the papers by Mr. Nixon, by virtue of the *placing* of restrictions on the papers according to *his* terms or directions. This has nothing to do with the validity of the deed. Even if the deed were invalid, it still unquestionably operated to instruct GSA to take some act controlling the papers. The fact that Mr. Nixon was able to exercise this control on April 10, 1970 is positive evidence that he had not irrevocably given up all control and dominion prior to July 25, 1969.

B. There is no evidence of intent by the donor to make a gift; and, in fact, there is evidence to the contrary.

The General Services Administration has stated that "there was no express communication or indication by President Nixon personally to GSA or the National Archives between January 1, 1969 and July 25, 1969, indicating that the transfer of papers was explicitly for purposes of a gift." The circumstances of this alleged gift make the requirement of the donor's intent particularly important. The Archives have consistently served as a "warehouse" for Presidents' papers, providing what the Archives refer to as "courtesy storage." The actual experience of the Archives has been that papers so transferred during a President's lifetime have never been intended as a gift at the time of initial transfer. Likewise, mere transfer has never constituted a gift, in and of itself. So long as the Archives serve a dual function, as a warehouse and as a recipient of gifts, some expression of intent would have been necessary to clarify the transaction. Ordinarily a deed would indicate the requisite intent. Absent a deed there was no way of knowing what was intended as a gift and what was for storage.

Words by an agent of the donor, assuming the agent can provide proof of express authority as the tax regulations require, may well have indicated an intent that something within the large mass of papers was to be a gift. Nevertheless, until steps had been taken to identify the physical existence of that something, the intent was merely a promise. A promise is a future interest, and future interests are not tax deductible gifts.

On the contrary, there is evidence indicating an intent that the March 26 and 27, 1969 transfer was not intended as a gift. First, contemporaneous correspondence makes no reference to the fact that all or a part of the transfer was to be an immediate gift. Second, on May 12, 1969 the White House announced that a Richard Nixon Foundation was being formed. This Foundation, to include a library and a museum, was to be a private, charitable, non-profit corporation. That announcement would indicate, if anything, that Mr. Nixon envisioned a private library containing his papers. Thus the announcement of a private library would be evidence that the Archives were serving as a warehouse. Third, a status report on May 27, 1969, by the Archives consultant in charge of the Nixon papers project, clearly indicates the lack of any immediate gift intent. That report states in part:

"Since the papers for the most part are not yet deeded to the United States, no appraisal of the papers for permanent retention or elimination of duplicate or extraneous material has been attempted

"As heretofore indicated, further work should await some further *clarification of White House wishes and intentions....*" (emphasis added.)

The report was written by an individual, Sherrod East, in a position to know the specific intentions and facts of the transaction.

Always in the past, some document such as a letter, will or deed had served to evidence the intent of a President to make a gift of papers to the Archives. The absence of such a communication would be circumstantial evidence that an intent to make a gift did not exist prior to July 25, 1969.

C. The recipient of the alleged gift did not exercise acceptance of the gift prior to July 25, 1969.

For the same reasons as stated in subsection A of this section, it would not have been possible for the National Archives to exercise possession of the alleged gift until late 1969. Prior to that time, there was a large mass of papers from which the alleged gift could eventually be selected. So long as the larger mass of papers remained as one entity, in an area reserved for storage of the Nixon papers, the only constructive acceptance that could be inferred was acceptance for purposes of storage. Acceptance of a valid deed adequately identifying the gift would have constituted acceptance of the gift, even though the physical selection of the papers had not taken place. No deed was received before July 25, 1969, therefore strict acceptance of possession of the actual property became an absolute necessity. Nevertheless, prior to July 25, 1969, it would not have been possible for an official of the National Archives to know or indicate which property the United States owned and which property Mr. Nixon owned.

D. The corpus of the alleged gift did not legally exist prior to July 25, 1969.

An element that runs throughout the issue of whether the gift was made prior to July 25, 1969 is the fact that the gift did not take shape until Mr. Ralph Newman described or selected the papers in November and December 1969.

What existed on March 27, 1969 were raw materials. From those raw materials the corpus of a gift would take shape at a future time. It is therefore important to trace the events that took place in the process of identifying the alleged gift.

According to Mr. Newman's own statement, he had been told that Mr. Nixon would like to take a $500,000 deduction from the large quantity of papers that had arrived on March 26, and 27, 1969. In order to satisfy himself that there was sufficient material in storage to cover such a gift, Mr. Newman made a "ballpark estimate" that the material in storage contained at least $500,000 in value. He made no physical selection of papers. Nothing was separated into a different area. No specific boxes were designated as constituting $500,000 worth of papers. It should be noted that the entire 1217 cubic feet of papers delivered in March, 1969 contained valuable papers and a $500,000 deduction would be covered by only about one-third of the papers. Therefore, a definite choice of papers was a necessary step in being able to identify the papers which would constitute the actual gift.

Only when Mr. Newman returned to the Archives in November 1969, did he begin the process of what he terms "describing" the gift. The method Mr. Newman used was to separate the papers, beginning in chronological order. The chronological method is to have a comprehensive series of papers used because it is preferable for a library covering a continuous period, as opposed to bits and pieces from disconnected time periods with gaps in the record.

The reason the $576,000 evaluation figure was arrived at was simply that Mr. Newman attempts to be conservative in his appraisals. If a taxpayer desires a $500,000 deduction, Mr. Newman will select a gift with slightly higher value to avoid any challenge that the materials were over-appraised. He arrived at the odd number of $576,000 because as a matter of policy he did not want to end his appraisal in the middle of some set of documents which should be logically kept together, such as continuous documents of a trip or other event. It is interesting to note that in spite of Mr. Newman's attempt to be conservative in his appraisal, Mr. Nixon claimed the full $576,000 deduction.

When Mr. Newman had completed his appraisal, the papers he had described as worth $576,000 were placed in a separate area of the Archives. Until this process was complete, there was no way to clearly identify a piece of property as being the subject of a gift. In fact, there was no way of knowing which items were to be irrevocably a gift and which would be retained by Mr. Nixon.

To demonstrate the importance of this point, it is interesting to note that in the President's financial statement of December 8, 1973, he states:

"On April 8 and 9, 1969, Mr. Ralph Newman, a recognized appraiser of documents, visited the Archives and *designated the papers*." (emphasis added)

A letter by Mr. Frank Demarco, Jr. to Coopers and Lybrand on August 22, 1973, states:

"On or about April 6, 7, and 8, 1969, the material constituting the subject matter of the *gift was examined and segregated from other materials* by an appraiser duly appointed by the taxpayer to appraise the market value of the said papers." (emphasis added.)

Neither of these statements is true, according to the version given by the appraiser himself, who is the best witness as to what happened. Clearly the donor and his tax attorney recognize the importance of some designation or segregation prior to July 25, 1969.

It is interesting to note that a document dated March 27, 1969 gave Mr. Newman a right of access to the 1968 papers for purposes of appraisal. If the donor had intended to have his 1969 papers designated, Mr. Newman would have had to have similar access to the 1969 papers. The right of access document was made up the same day the 1969 papers were delivered. Mr. Newman could probably have made a general estimate that there were sufficient materials from which to select an eventual gift of $500,000 without having access to the individual papers. He could hardly designate the actual papers constituting the gift without such access. Nevertheless he was given access only to the 1968 gift of March 27, 1969.

Finally, it should be noted that Mr. Nixon stated on his 1969 tax return, according to the tax regulations for declaring a gift, that the date of the gift was March 27, 1969. There is no theory that would support the contention that the gifts had become identifiable as of March 27, 1969.

ADDITIONAL MATTERS

I. The investigation of the alleged gift of papers in 1969 by Richard M. Nixon has revealed a number of related facts. Since it may well be negligent not to alert appropriate authorities as to these facts, they have been set forth as follows:

A. Mr. Frank DeMarco has stated, through his secretary, that he did not keep notary records during 1969. This would be in violation of state law in California, where Mr. DeMarco is a notary public. The significance of the notary records is that they would be the best evidence as to the *date* that Mr. Morgan affixed his signature to a document attached to the deed, which document contained sworn statements that the deed was prepared on March 27, 1969 and that the delivery of papers on that date was purposes of a gift.

B. Letters between Edward L. Morgan and Dr. Daniel J. Reed, Assistant Archivist for Presidential Libraries, dated March 13, 1969, and March 27, 1969, refer to a number of details related to the transfer of papers on March 26 and 27, 1969. Nevertheless, there is no reference in this correspondence to a deed or to a gift. The 1968 Nixon papers are referred to as a "gift" in that same correspondence. (Exhibits 2 and 18.)

C. A status report by Sherrod East, National Archives consultant for pre-Presidential papers of Richard M. Nixon, stated:

"Although these papers (the 1968 Nixon papers gift) have been separately described from the main body of Nixon papers (the papers delivered on March 26 and 27, 1969) (*not yet deeded*) they will at a future time have to be integrated. . . ." (emphasis added.)

At another point in the report, Mr. East stated, with reference to both the 1968 and 1969 papers:

"Since *the papers for the most part are not yet deeded to the United States,* no appraisal of the papers for permanent retention or elimination of duplicate or extraneous material has been attempted.

"As heretofore indicated, further work should await further clarification of White House wishes and intentions. . . ." (emphasis added.)

Mr. East was in a position to know the facts of the transactions.

D. On March 27, 1969, Edward L. Morgan prepared a document entitled "Limited Right of Access." It was similar to the Chattel Deed, likewise dated March 27, 1969, in the sense that it contained a signature block for Richard M. Nixon, which remained unsigned, and a signature block for Mr. Morgan. Mr. Morgan's statement that he was authorized to sign that document is contained in an attached document. The attached document is notarized by John Joseph Ratchford in Washington, D.C., on March 27, 1969. A similar document attached to the Chattel Deed dated March 27, 1969, was not notarized by Mr. Ratchford, and was not notarized on March 27, 1969. Instead the Chattel Deed was notarized on April 21, 1969, was by Mr. DeMarco, even though that document states that the deed was drawn up and signed by Mr. Morgan on March 27, 1969.

E. To have anticipated a retroactive change in the law some nine months before the change was announced, which would account for the existence of a deed dated March 27, 1969, is an indication of a high degree of care and forethought with respect to anticipated gifts of Mr. Nixon's papers. There is no explanation why lawyers demonstrating such care and forethought neglected the obvious step of delivering the deed.

F. Normal procedure would dictate that a deed drawn up on March 27, 1969, would duplicate a competent deed drawn up by other lawyers some 12 weeks earlier, in late December 1968. There is no explanation or reason for the differences in the 1969 deed, such as the attempt to use an agent, or the absence of a signature block for the General Services Administration.

G. Three significant facts, relating to the method chosen by Mr. Nixon for claiming the deduction in question, indicate that the taxpayer claimed the deduction on the basis of the Chattel Deed dated March 27, 1969.

First, the taxpayer chose $576,000 as the amount of his claimed deduction, not the $500,000 figure which had been mentioned prior to July 25, 1969. That $576,000 figure presents no problem, in and of itself, if a gift by deed is used. So long as the deed and an attached Schedule sufficiently describe the actual property chosen for gift, there is nothing to prevent an eventual dollar and cents evaluation from being incorporated by reference into the original deed. Thus, the failure to have a dollar figure prior to July 25, 1969 would not be fatal. However, if the deed is not relied upon, then the entire transaction has to be completed prior to July 25, 1969, since there is no document or anything else capable of receiving a later addition. The only gift that could have been intended prior to July 25, 1969 was a $500,000 amount. The fact that Mr. Nixon chose $576,000 clearly evidences that he was using the Schedule A forwarded by Mr. Newman in 1970 for attachment to the deed.

Second, Mr. Nixon reported on his tax return that the gift was completed on March 27, 1969. The only type of gift that could possibly have been completed by that date would have to have been by deed. No physical identity of the alleged gift had even been attempted on March 27, 1969.

No claim of any given dollar value was possible at that time. The papers had clearly not been reduced to Archives possession on that date. A deed would avoid all those problems, but to claim a gift by satisfaction of the rules of gift law without a deed would be absurd.

Third, the fact that the deed was presented to the Archives on April 10, 1970, five days before the 1969 tax return was due, and a delivery by the lawyer involved in this aspect of Mr. Nixon's tax return preparation, is circumstantial evidence that the individuals preparing Mr. Nixon's return were relating the deed to the tax return. In addition, the Schedule A from the deed was the document enclosed with Mr. Nixon's tax return as evidence of the value of the alleged gift. Again, this is circumstantial evidence that the deed was intended to be the evidentiary basis for the claimed deduction.

EXHIBIT 1

1968 DEED AND SCHEDULE SIGNED BY PRESIDENT

(Chattel Deed From Richard M. Nixon to the United States of America, Dated December 30, 1968)

The undersigned, Richard M. Nixon, does hereby give, assign, transfer, set over and deliver unto The United States of America all of his right, title and interest in and to the papers, manuscripts and other materials (hereinafter collectively referred to as "the Materials") which are listed and described in Schedule A annexed hereto and hereby made a part hereof, to have and to hold the same to The United States of America forever.

This conveyance is made to The United States of America without any reservation to the undersigned, Richard M. Nixon, of any intervening interest or any right to the actual possession of the said Materials, it being understood that the delivery of this Chattel Deed to the General Services Administrator shall convey to The United States of America the right and power immediately to take possession of the said Materials and to hold, use and dispose of the same, subject only to the following commitments made on behalf of The United States of America by the General Services Administrator:

1. The undersigned shall have the right of access to any and all of the Materials and the right to copy or to have copied any and all of the Materials by any means of his selection, and to take and retain possession of any or all such copies for any purpose whatsoever. During such time as the undersigned shall hold the office of President of the United States, no person or persons shall have the right of access to such Materials except the undersigned and those who may be designated in writing by the undersigned, and in the case of any person or persons so designated, such right of access shall be

limited to those Materials as shall be described in the instrument by which he, she, it or they shall be designated, and for the purposes specified in such instrument; and, if such instrument shall so provide, the person or persons designated therein shall have the further right to copy such of the Materials as shall be described in such instrument and to take and retain possession of such copies for such purposes as shall be specified in said instrument. The undersigned shall have the right and power at any time during his lifetime to modify or remove this restriction as to any or all of the Materials and/or to grant access to any group or groups of persons by notification in writing to the General Services Administration or other appropriate agency of The United States of America.

2. If a Presidential archival depository shall be established for the housing and preservation of the Materials pertaining to the career of the undersigned in public service, then, as soon as practicable after the establishment of such depository, the Materials shall be transferred to and thereafter housed and preserved at such Presidential archival depository. Until the establishment of such a depository, the Materials shall be housed and preserved at a place to be selected by the General Services Administrator or other appropriate agency of The United States of America.

3. None of the foregoing restrictions is intended to prevent the Materials from being used exclusively for public purposes, and in no event shall any of the said restrictions be so construed.

4. Notwithstanding the foregoing restrictions, employees specifically designated by the archivist of the National Archives and Records Service shall, in the course of performance of their necessary archival duties, have such access to the said Materials as shall be necessary for normal archival processing activities.

By the signature of his duly authorized agent below, the General Services Administrator accepts this conveyance for and on behalf of The United States of America, and confirms the commitments made by his office on behalf of The United States of America, as set forth above.

This instrument is executed in duplicate, each of which is an original, but both of which taken together shall be deemed one and the same instrument.

Dated: ———— —, 19—

RICHARD M. NIXON.

SCHEDULED A ANNEXED TO AND PART OF CHATTEL DEED FROM RICHARD M. NIXON TO THE UNITED STATES OF AMERICA DATED DECEMBER 30, 1968

The materials conveyed by the Chattel Deed of which this Schedule is a part are located in packing cases identified by roman numbers I through XXI. The column at the left identifies each packing case by reference to its number, the center column describes the materials contained in such case in general terms and the column to the right shows the approximate number of items contained in such case.

I. Children's Letters; II. Children's Letters; III. Children's Letters—9,000 items.

IV. 82nd Congress—2,500 items.

V. Campaign of 1964—3,000 items.

VI. 1965 Appearances, Trips—3,000 items.

VII. Plaques and Key (5) Whittier Year Book 1966; 8 Tapes—13 items.

VIII. Far East Trip—3,000 items.

IX. 1960 Campaign—3,000 items.

X. 1959 Speech Files (Correspondence and copies)—3,000 items.

XI. 1964 Campaign Tapes in Chronological Order—24 items.

XII. Plaques, Key, Picture—10 items.

XIII. 1960 Campaign Clippings—1,000 items.

XIV. *Six Crises* Manuscript—2,000 items.

XV. 1959 Appearances, Trips—1,250 items.

XVI. 1953 Trip—Far East Letters, Notes—2,000 items.

XVII. 1955 Central American Trip—3,000 items.

XVIII. 1956 Trip—Philippines, Pakistan, etc.—3,000 items.

XIX. 1964 Correspondence Prior to Republican Convention; Young People's Correspondence Book on 1964 Convention—1,250 items.

XX. 1954 Itineraries, Appearances Foreign Dignitaries (met by RMN)—1,250 items.

XXI. 1964 Campaign Notes (plus 2 Books and Framed Plaque)—3 items.

EXHIBIT 2

MARCH 27, 1969.

Mr. EDWARD L. MORGAN,
Deputy Counsel to the President,
The White House,
Washington, D.C.

DEAR MR. MORGAN: This is in reply to your letter of March 13 and to Mr. Stuart's letter of March 14.

The records of President Nixon recently in Room 236 and in the ground floor vault of Federal Office Building No. 7, together with two filing cabinets from Room 12, Executive Office Building, were moved into the National Archives, Stack Area 19E, on Wednesday, March 26. Our staff, assisted by Mrs. Anne Higgins when necessary, will now organize them so that they can be made available for appropriate use.

The papers which the President gave to the Government on December 30, 1968, were moved from the Federal Records Center in New York on March 20. They are now in Stack Area 14W-4. We have examined them and they are ready and available for Mr. Ralph Newman's examination. We so notified his office on March 21.

Please call upon us if we can be of further assistance.

Sincerely,

DANIEL J. REED,
Assistant Archivist for Presidential Libraries.

EXHIBIT 3

1969 DEED SIGNED BY EDWARD L. MORGAN

(Chattel Deed from Richard M. Nixon to The United States of America, Dated March 27, 1969)

The undersigned, Richard M. Nixon, does hereby give, assign, transfer, set over and deliver unto The United States of America all of his right, title and interest in and to the papers, manuscripts and other materials (hereinafter collectively referred to as "the Materials") which are listed and described in Schedule A annexed hereto and hereby made a part hereof, to have and to hold the same to The United States of America forever.

This conveyance is made to The United States of America without any reservation to the undersigned, Richard M. Nixon, of any intervening interest or any right to the actual possession of the said Materials, it being understood that the delivery of this Chattel Deed to the General Services Administrator shall convey to The United States of America the right and power immediately to take possession of the said Materials and to hold, use and dispose of the same, provided, however:

1. The undersigned shall have the right of access to any and all of the Materials and the right to copy or to have copied any and all of the Materials by any means of his selection, and to take and retain possession of any or all such copies for any purpose whatsoever. During such time as the undersigned shall hold the office of President of the United States, no person or persons shall have the right of access to such Materials except the undersigned and those who may be designated in writing by the undersigned, and in the case of any person or persons so designated, such right of access shall be limited to those Materials as shall be described in the instrument by which he, she, it or they shall be designated, and for the purposes specified in such instrument; and, if such instrument shall so provide, the person or persons designated therein shall have the further right to copy such of the Materials as shall be described in such instrument and to take and retain possession of such copies for such purposes as shall be specified in said instrument. The undersigned shall have the right and power at any time during his lifetime to modify or remove this restriction as to any or all of the Materials and/or to grant access to any group or groups of persons by notification in writing to the General Services Administration or other appropriate agency of The United States of America.

2. If a Presidential archival depository shall be established for the housing and preservation of the Materials pertaining to the career of the undersigned in public service, then, as soon as practicable after the establishment of such depository, the Materials shall be transferred to and thereafter be housed and preserved at such Presidential archival depository. Until the establishment of such a depository, the Materials shall be housed and preserved at a place to be selected by the General Services Administrator or other appropriate agency of The United States of America.

3. Notwithstanding the foregoing restrictions, employees specifically designated by the archivist of the National Archives and Records Service shall, in the course of performance of their necessary archival duties, have such access to the said Materials as shall be necessary for normal archival processing activities.

4. None of the foregoing restrictions is intended to prevent the Materials from being used exclusively for public purposes, and in no event shall any of the said restrictions be so construed, nor are they intended to vest in the undersigned any ownership or title thereto.

This instrument may be executed in duplicate, or triplicate, each of which shall be deemed an original.

Dated: March 27, 1969.

RICHARD M. NIXON,
President of the United States of America.

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

On this, the 21st day of April, 1969, before me, the undersigned Notary Public, personally appeared Edward L. Morgan, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he is Deputy Counsel to the President of the United States and that he executed the foregoing instrument on behalf of the President, acting in his capacity as such Deputy Counsel, and that, as such Deputy Counsel, he is authorized to sign such document on behalf of the President of the United States.

In witness whereof, I have hereunto set my hand and official seal the day and year first above written.

FRANK DE MARCO, Jr.,
Notary Public.

AFFIDAVIT—STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

Edward L. Morgan, being duly sworn, deposes and says:

That he is Deputy Counsel to Richard M. Nixon, President of the United States of America; that he was duly appointed and was acting in said capacity as such Deputy Counsel on March 27, 1969; that in said capacity he did, on behalf of, and as Deputy Counsel and agent for the said Richard M. Nixon, deposit at the National Archives Building, in the City of Washington, District of Columbia, pursuant to the express direction of the said Richard M. Nixon, all of those Materials specifically set forth in Schedule A attached hereto, being that Schedule A attached to that certain Chattel Deed from Richard M. Nixon to The United States of America dated March 27, 1969.

In witness whereof I have hereunto affixed my hand this 21st day of April, 1969.

Edward L. Morgan,
Deputy Counsel to the President.

Subscribed and sworn to before me this 21st day of April, 1969.

Frank De Marco, Jr.,
Notary Public.

Exhibit 4

General Services Administration,
Washington, D.C., November 16, 1973.

Hon. Lowell Weicker, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator Weicker: Thank you for your letter of October 31, 1973, regarding the transfer of personal papers by Richard M. Nixon to the National Archives in March 1969.

I am pleased to reply as follows to each of your questions:

On what date was a deed or gift received by GSA or the National Archives?

The deed was received in our Office of General Counsel on or about April 10, 1970.

What was the date of such deed or gift?

The deed is cover-dated March 27, 1969, and notarized April 21, 1969.

Who signed such deed of gift?

Edward L. Morgan, Deputy Counsel to the President.

If not signed by the President, what proof did GSA demand that the signor was empowered to act for the President?

GSA did not demand proof that the signor was empowered to act for the President, because GSA officials had previously known that Mr. Morgan had responsibility for matters related to the President's future library, including the physical control of the President's papers, and had dealt previously with him in such matters. (See Morgan's affidavit, enclosed.)

In the case of gifts of papers by prior Presidents, commencing with Franklin Roosevelt, were deeds of gifts received contemporaneous with the transfer of papers to the Archives?

If not, when were they received?

Were such prior deeds signed by the donor Presidents in all cases?

Presidents Franklin Roosevelt and John Kennedy died unexpectedly without signing such deeds of gift. Their papers and memorabilia were legally given to the Government through other legal means. It is important to note that despite the absence of a deed of gift or other formal instruments, President Roosevelt's gift of his papers to the Government, including papers still retained by him at the time of his death, was upheld in the New York courts as a valid gift inter vivos, as evidenced by Roosevelt's public announcement to the effect that he planned to donate these papers to the United States for deposit in the subsequently completed Roosevelt Library.

President Eisenhower signed a letter in 1960, to the Administrator of General Services, in which the President offered to give his papers to the Government. Title to his papers and other historical materials was formally conveyed in his will.

President Truman did not sign a deed of gift but did instead sign a letter addressed to the Administrator of General Services stating his intention to give his papers and other historical materials to the Government and specifying conditions governing access to and use of the materials. Transfer of title was made in his will.

President Johnson also gave the Administrator of General Services a letter of intent in 1965 and deeded portions of his papers to the Government annually from 1965 through 1968. Title to the balance of his historical materials was conveyed to the Government in his will.

When was the physical transfer of papers to GSA?

The physical transfers of the pre-presidential papers of Richard Nixon to the National Archives occurred on December 30, 1968, and March 27, 1969.

Was there any documentary or other evidence submitted by the donor, Richard M. Nixon, indicating that such transfer was a gift and not for purposes of temporary storage by the Archives?

In both deeds—that for 1968 and that for 1969—President Nixon made a gift of a portion of his personal papers to the Government and indicated his expectation of their eventual preservation in a Nixon Presidential Library. In addition, on May 12, 1969, the President announced the creation of the Richard Nixon Foundation to plan for a future Nixon Library.

On what date did the National Archives become aware of the specific value of the alleged gift?

As a matter of policy, GSA does not become involved in the relationships between donors and appraisers or donors and the Internal Revenue Service. We first became aware of the alleged value of the gift upon reading it in the press in June, 1973.

Has there been official acceptance of the alleged gift by GSA, and if not, why has there been no such acceptance?

There has not been a formal instrument drafted or endorsed by the General Services Administration to represent acceptance of the papers covered by the deed of March 27, 1969. This is because this particular deed was not delivered to GSA until April, 1970, and then was delivered to the GSA Office of General Counsel and not to the Office of the Archivist, where the usual procedure is to countersign the deed. Afterwards, the formality of drafting an instrument of acceptance was deemed unnecessary because of what was considered the implied acceptance of the papers represented by their delivery and processing by the Archives staff, and by the absence of any GSA regulation requiring some manner of formal acceptance of donated papers.

Was official acceptance given for prior Presidential gifts?

GSA acknowledged all letters of intent from former Presidents or countersigned their deeds of gift.

Please detail all communications from June, 1972 to date between GSA and the President and/or his agents relative to the aforesaid gift.

On or about January 13, 1973, GSA employee John Nesbitt, Chief of the Nixon Records Liaison Staff, received from Mr. Pete Kinsey, then Staff Assistant, Office of Counsel to the President, the 1969 deed of gift and forwarded it to Dr. Daniel J. Reed, Assistant Archivist for Presidential Libraries, for filing. (On or about September 13, 1971, at the request of J. Dapray Muir, then Staff Assistant, Office of Counsel to the President, the 1969 deed of gift had been turned over to Mr. Muir for examination.)

In early June, 1973 (I was unable to determine the exact date of this meeting), I met at the White House with J. Fred Buzhardt, Leonard Garment, Professor Charles A. Wright, and Edward Morgan, in an attempt to gain more information as to the circumstances surrounding this gift, including the delivery of the papers, the signing and delivery of the deed, and so forth. Although this meeting did result in some clarification of an unclear factual situation, it was necessary that more information be obtained in order to determine exactly what in fact had occurred. Such additional information was requested by my General Counsel, William E. Casselman II, in a September 27, 1973, memorandum to Leonard Garment, Counsel to the President (copy enclosed). On or about September 27, Mr. Casselman met with Mr. Garment and his assistant, Mr. Parker, to discuss the memorandum. Mr. Parker's reply to this request, dated November 16, 1973 (copy enclosed), clarified the circumstances surrounding the delivery of the deed to GSA.

For your further information, I am enclosing copies of both the 1968 and 1969 deeds of gift. If you have further questions, we would be glad to respond to them.

Sincerely,

Arthur F. Sampson,
Administrator.

Exhibit 5

Richard Milhous Nixon, The White House,
Washington, D.C.

APPRAISAL

State of Illinois, County of Cook, ss:

Ralph G. Newman being first duly sworn, upon oath deposes and states as follows:

1. He is the president and the duly authorized agent in this behalf of Abraham Lincoln Book Shop, Inc., and he makes this affidavit in its behalf and under its lawful authority. He has full personal knowledge of all the matters and things hereinafter set forth.

2. Said Abraham Lincoln Book Shop, Inc., was duly authorized and created and exists under and by virtue of the laws of the State of Illinois and it is duly authorized to and does transact business in the State of Illinois and throughout the United States.

3. Among the purposes and businesses of said Abraham Lincoln Book Shop, Inc., is the buying, selling and dealing in and general appraisals of libraries, collections of rare books, autographs, letters, documents, drawings, prints, paintings, etchings, broadsides, historical objects, mementos and curiosities and other allied printed, pictorial and manuscript materials.

4. Said Abraham Lincoln Book Shop, Inc., its officers, employees and agents, and its predecessor companies have been doing business as appraisers of libraries, collections of rare books, autographs, letters, documents, drawings, printing, paintings, etchings, broadsides, historical objects, mementos and curiosities and other allied printed, pictorial and manuscript materials since the year 1933, in Illinois and in various other states of the United States of America and have been called upon as consultants in such matters by many of the leading private collectors, libraries, museums and public and private institutions of this country.

5. The said Abraham Lincoln Book Shop, Inc., through its employees, agents and officers did, from the sixth to the eighth day of April 1969, and on Nov. 3, Nov. 17 through 20, and December 8, 1969, examine the papers of Richard Milhous Nixon, Part II, being the property of Richard Milhous Nixon, The White House, Washington, D.C. 20500, and found that the reasonable and fair and true market value thereof in money was Five Hundred Seventy-Six Thousand and no/hundredths Dollars ($576,000.00) as appears from the annexed schedule attached hereto and made a part thereof.

This deponent verily believes the said valuation to be the fair and reasonable and true market value.

Ralph G. Newman.

Subscribed and sworn to before me, a Notary Public, this sixth day of April 1970.

Lillian Jacobs,
Notary Public of Cook County, Ill.
My commission expires September 30, 1971.

APPRAISAL

Abraham Lincoln Book Shop, Inc., an Illinois corporation having its principal place of business in Chicago, Illinois, does hereby certify that, through its officers, agents and employees, it is familiar with and has carefully examined and appraised: The papers of Richard Milhous Nixon, Part II.

This material is the property of Richard Milhous Nixon, The White House, Washington, D.C. 20500, and is listed in the schedule herewith following and attached to this statement and expressly made a part thereof. There has been recorded, together with the listing of each item, figures representing the fair and reasonable and true market value thereof, in money, as by it known, estimated and believed as of the twenty-seventh day of March 1969.

In witness whereof Abraham Lincoln Book Shop, Inc., has appended hereto the affidavit of its president, Ralph G. Newman and has caused these presents to be signed in its behalf by its president and attested by its secretary, Margaret H. April and its corporate seal to be hereunto affixed this sixth day of April 1970.

Abraham Lincoln Book Shop, Inc., an Illinois corporation:

RALPH G. NEWMAN,
President.

Attested:

MARGARET H. APRIL,
Secretary.

APPRAISAL: THE PAPERS OF RICHARD MILHOUS NIXON, PART II

Part II of The Papers of Richard Milhous Nixon was delivered to the Office of Presidential Papers of The National Archives and Records Service, Washington, D.C., March 24 to 27, 1969.

These papers were transferred from their original containers to standard archives boxes by the members of the staff of the Office of the staff of the Office of Presidential Papers. In identifying the paper our reference to boxes is to these standards archives boxes.

The papers and documents covered by this document are divided into five (5) general divisions, and are so identified.

THE PAPERS OF RICHARD MILHOUS NIXON, PART II

I. General correspondence

As Vice President, 1953–1961, Aandahl through Zweing, [National Archives Boxes #18 through #845], 828 boxes—414,000 items.

II. Appearance file

1948–1962, [National Archives Boxes #1 through #173], 173 boxes—87,000 items.

III. Correspondence

Re invitations and turn-downs, 1954–1961, [In unnumbered National Archives Boxes], 56 boxes—27,000 items.

IV. Foreign trip files

As Vice President, 1953–1961, [In unnumbered National Archives Boxes] 116 boxes—57,000 items.

V. Visit of Nikita S. Khrushchev

To the United States, 1959, [In unnumbered National Archives Boxes], 3 boxes—15,000 items.

Total number of boxes; Part II, The Richard Milhous Nixon Papers—1,176.

Total number of items; Part II, The Richard Milhous Nixon Papers—600,000.

The appraised fair market value of The Richard Milhous Nixon Papers, Part II, as of the twenty seventh day of March, One Thousand Nine Hundred Sixty Nine, is Five Hundred Seventy Six Thousand and no/hundredths Dollars ($576,000).

RALPH GEOFFREY NEWMAN—QUALIFICATIONS

(See Biographical Sketch From Who's Who in America)

Ralph Geoffrey Newman has been engaged in the buying and selling, appraisal, and authentication of rare books, manuscripts, films, photographs, prints, archives, and historical and literary properties, etc. since 1933.

He has been recognized internationally as an authority in his field and has been honored for his work with degrees from James Millikin University, Lincoln College, Iowa Wesleyan College, Knox College, and Rockford College. He has also been the recipient of many honors from learned societies, universities, and other organizations including the Freedoms Foundation at Valley Forge, the Independence Hall Association, Lincoln Memorial University, Friends of American Writers, the Civil War Round Table, the Royal Society (London), Lincoln Group of Washington, the Manuscript Society, Lincoln College, and others.

He has acted as a consultant in the assembling of some of the major collections in the United States, both private and public. His clients include the Library of Congress, the United States Army Military History Research Collection, the National Archives, the Chicago Historical Society, Notre Dame University, the State Historical Society of Wisconsin, Yale University Library, Cornell University Library, Lincoln National Life Foundation, Oregon Historical Society, David Wolper Productions, Walt Disney Productions, the Bell and Howell Company, and many distinguished individuals, including the Presidents of the United States, members of the Supreme Court, the Senate and House of Representatives of the United States, leading industrialists, collectors, authors, and historians.

He has appraised collections for all of the above and for hundreds of others, including banks, insurance companies, attorneys, and business firms.

He has been president of the Illinois State Historical Society, the Adult Education Council of Greater Chicago, the Civil War Round Table, and is currently president of the Board of Directors of the Chicago Public Library. He is a member of the Library Council of Notre Dame University, a trustee of Lincoln College and of Lincoln Memorial University, and a director of the Abraham Lincoln Association. He served as chairman of the Illinois Commission for the New York World's Fair and as chairman of the Illinois Sesquicentennial Commission. Currently, he is a member of the Illinois Special Events Commission. He was special consultant to the Secretary of the Interior for the opening of Ford's Theatre in Washington and is chairman of the Board of Directors of the Ford's Theatre Society.

He is president of the Abraham Lincoln Book Shop, Inc. and of Ralph Geoffrey Newman, Inc. Both of these firms specialize in the buying, selling, and appraisal of rare books, manuscripts, and materials in the field of communication.

He has served as special consultant for a variety of business firms, including Encyclopaedia Britannica, Broadcast Music, Inc., WGN Continental Broadcasting Company, Automatic Retailers of America, and the Parker Pen Company. In 1969, he supervised the planning and construction of a Lincoln and American History exhibit which he took to Japan and Australia under the auspices of the United States Department of Commerce.

Allan Nevins, America's leading historian and twice winner of the Pulitzer Prize for history, has characterized Newman as "a national resource." The late Carl Sandberg called him a "unique and useful American."

Since 1950 his work has concentrated on the field of appraisals and he has been widely recognized as one of the most qualified persons in the field. He is a member of the American Society of Appraisers and the Appraisers Association of America. His articles on appraisals have appeared in many publications including the "Antiquarian Bookman," "Manuscripts, American Heritage," and the "Association for State and Local History Bulletin."

Newman is the author of several works including "The American Iliad, Eyewitness, the Civil War Digest, Lincoln for the Ages," and "999 Questions and Answers on American History." His articles have appeared in the country's leading publications and he has been the subject of articles in the Saturday Evening Post, Reader's Digest, Holiday, and other nationally known periodicals. He writes a weekly column for the Chicago Tribune, "Do You Remember?" which has been a popular feature for almost ten years.

At a ceremony in Washington a few years ago, when tribute was paid to Newman, Dr. David C. Mearns of the Library of Congress referred to him as "Acknowledged authority . . . preceptor of the past for the enlightenment of the future."

FROM WHO'S WHO IN AMERICA

(Volume 35, 1968–69)

Newman, Ralph Geoffrey, bookseller, pub.; b. Chgo., Nov. 3, 1911; s. Henry and Dora (Glickman) N.; Litt.D., James Milliken U. (Lincoln Coll.), 1950, also Knox College; LL.D., Ia. Wesleyan Coll.; m. Estelle Hoffman, Oct. 13, 1934 (div.), children—Maxine (Mrs. Richard G. Brandenburg), Carol (Mrs. Elwood C. Parry, III). Founder, proprietor Abraham Lincoln Book Shop, Chgo., 1933—; owner Americana House, pubs., 1947—; pres. Lincoln's New Salem Enterprises, Inc., Ralph G. Newman, Inc. Conducts a weekly column Do You Remember, Chicago Tribune, Chmn. Ill. Sesquecentennial Commn.; pres. Adult Education Council Greater Chgo. Bd. directors Chicago Public Library; member bd. of regents Lincoln Academy of Illinois; mem. bd. of trustees Lincoln Meml. U., Lincoln Coll. Served with USNR, 1944–45. Recipient diploma of honor Lincoln Meml. U., 1952; American of Year award, Independence Hall Assn., 1958. Mem. Civil War Round Table Chgo. (founder 1940), Royal Arts Soc. (London), Abraham Lincoln Assn., Ulysses S. Grant Assn. (pres.), Am., Ind., Illinois, Mississippi Valley, Minn., Wis., Tenn., Ia., Kansas, So. Chgo. hist. socs., Am. Legion, Am. Booksellers Assn., Bibliog. Soc. Am., Royal Bibliog. Soc. London, Civil War Centennial Assn. (sec., treas.), Friends of the Pub. Library of Chgo. (dir.), Lincoln Fellowship of So. Cal., Pa., Wis., Inst. of Human Relations (chmn. adv. board), Phi Alpha Theta. Clubs: Filson (Louisville); Lotos, The Players (New York City); The Arts, Caxton, The Press (Chicago). Author: (with Otto Eisenschiml) The American Iliad, 1947; 999 Questions and Answers on American History, 1966. Editor: The Diary of a Public Man, 1945; The Railsplitter, 1950; The Civil War (with Otto Eisenschiml and E. B. Long), 1956; The Abraham Lincoln Story (radio series), 1958–59; Lincoln for the Ages, 1960; Eyewitness (with Otto Eisenschiml), 1960; The Civil War Digest (with E. B. Long; 1960; Pictorial Autobiography of Abraham Lincoln, 1962. Mem. editorial bd. Civil War History 1955—, Lincoln Herald, 1954—. Homes: 1500 N. La Salle Parkwy., Chgo. 60610. Office: 18 E. Chestnut St., Chgo. 60611.

EXHIBIT 6

THE PRESIDENT'S FINANCIAL STATEMENT

ANNOUNCEMENT OF THE PRESIDENT'S REPORT ON HIS PERSONAL FINANCES, MAY 12, 1969

The President and Mrs. Nixon last made public their financial affairs on October 8, 1968. Since then they have sold their apartment and purchased other properties. The President now wishes to update that previous report. The President and Mrs. Nixon have:

(1) Agreed to sell their New York cooperative apartment at 810 Fifth Avenue. Purchasers are Mr. and Mrs. Lewis Lehrman. Gross sales price is $326,000. Escrow closing date is to be May 29, 1969, unless extended by the parties.

(2) Sold their common stock in Fisher's Island, Inc.—185,891 shares were sold to the corporation in April for $2.00 per share, totaling $371,782.

(3) Purchased the two houses at 500 and 516 Bay Lane, Key Biscayne, Fla., for a total price of $252,800. The purchases were financed with conventional mortgages. The President owns an equity of $71,800.

(4) Agreed to purchase a portion of the Cotton property at San Clemente, Calif., including the house, outbuildings and about 350 feet of oceanfront. The balance of the property will be held in trust until a suitable future use can be determined. The President's portion of the property will be purchased for approximately $340,000 (the exact amount to be determined when the total area of the tract is determined by actual survey). He will pay $100,000 down, the balance over 5 years. The President has immediate possession of the property; closing date is July 15, 1969.

The new net worth statement is as follows:

Statement of net worth

ASSETS	
Cash and receivables	$571,000
Life insurance cash value	44,000
Real estate:	
Key Biscayne vacant lots	37,600
500 and 516 Bay Lane, Key Biscayne	252,800
Whittier, California lot	75,000
	980,400
LIABILITIES	
Notes and loans payable to banks and others	126,000
Mortgages or contracts payable:	
Whitter property	54,400
500–516 Bay Lane, Key Biscayne	181,000
Vacant lots, Key Biscayne	22,100
Total mortgage	257,500
Total liability	383,500
Net worth	596,900
Total	980,400

EXHIBIT 7

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., May 27, 1969.

Reply to Attn of: Sherrod East, Consultant, NL.

Subject: Pre-Presidential Papers of Richard M. Nixon.

To: Assistant Archivist, NL.

On March 25, 1969, pursuant to our telephone conversation the preceding week, I reported to your office to advise you concerning appropriate handling of the President's stored records relating to his career before January 20, 1969. After talking with you and members of the staff, I proceeded alone to the Executive Office Building to see Terry Good and Mrs. Anne V. Higgins who were to show me the records then in storage areas in FOB 7. With a Secret Service escort we proceeded there to make a preliminary inspection of the records. Mrs. Higgins and the SS man returned to their respective offices after a short time while Good and I worked into the afternoon making notes and plans on the assumption that we would have to work in the very crowded FOB storage quarters with more than 500 crates, shipping cartons, and some 17 file cabinets.

That same day, however, you and Mr. E. L. Morgan of the White House staff arranged to have the stored records moved to the National Archives Building forthwith. The move was accomplished by GSA on March 26 and 27. The records were received in Room 19E–3 by me, Mr. Percy Berry, and two newly recruited archival trainees. Unpacking and shelving of the papers had to begin immediately in order to make room for all the crates and storage boxes which, nevertheless, had to be stacked 4 and 5 high in no discernible order.

It was apparent that our plan, devised the first day, for identifying series of records as unpacking, reboxing, and shelving proceeded apace was essential to achieving initial intellectual and physical control of the papers, some of which had been in storage for many years. (See the inventory worksheet and accompanying instructions for its execution as enclosure 1.) Having been taught to recognize a record series, the trainees proceeded first to place the papers in NA containers and prepare temporary labels for each recognizable series, with each container within the series being numbered in sequence. Shelving was utilized as fast as it could be erected in our cramped quarters. At this stage it was not possible to predetermine any logical arrangement of series on the shelves. Our problems were further complicated by the indiscriminate mixing of all kinds of office property, memorabilia, books, mementoes, audiovisual materials, etc., with the records of a long and varied public and private career.

A further complicating factor in the overall project was presented when our trainee crew was diverted to perform priority arrangement, boxing and labeling of some 45 cubic feet of RMN papers which had been hurriedly separated from his storage files and deeded to the U.S. Government before December 31, 1968. Although these papers have been separately described from the main body of Nixon papers (not yet deeded) they will at a future time have to be integrated with the respective series or as discrete series in the main body of records.

Work has proceeded rapidly under far from ideal conditions. Improvisation has been a frequent necessity if not the rule. I have been impressed with the ability and industry of all the Presidential Library trainees. A dozen have worked on the project for varying periods, but no one trainee has been on it throughout. The average number available at one time was four. Scheduling of assignments for the trainees is being ably managed by Mrs. Mary Walton Livingston, who has also informed herself about the project so that she can supervise future work on the papers including necessary reference service with possible assistance of trainees or Terry Good from the EOB staff.

Since the entire collection has now, after two months, been processed through the initial stages of boxing, temporary labeling, and preparation of series inventory worksheets, some statistical analysis showing what the problem was and how much we have accomplished is in order.

We received 4 2-drawer, 5 4-drawer, and 13 5-drawer legal size steel file cabinets & more than 500 miscellaneous-sized shipping boxes, single-drawer cardboard storage file cases, and odd-sized crates.

The records, all having been identified on series inventory worksheets, are now housed in the following: 2 4-drawer, 4 2-drawer, 11 5-drawer legal size steel cabinets; 2 locked wooden crates; 2 nailed wooden oversize crates; 1 aluminum suitcase; 910 open-face document boxes; 303 records center boxes; 1,247 NA gray document boxes; and 95 NA oversize gray document boxes.

The collection includes some 465 separate series of papers. (This figure is subject to some future change when possible consolidation of some few "series" may be found appropriate.) It measures in overall some 1,058 linear feet of papers; 27 center boxes of accountable (i.e., listed by title and donor) books; 39 center boxes of unaccountable or unlisted books; 64 document boxes of sound tapes; 47 oversize document boxes of motion picture film and 28 oversize boxes of memorabilia, mementoes, and artifacts.

As of the date of this report ¾ of the final-type labeling has been completed and the entire collection is under control for reference and accessioning purposes. For the present, intellectual and physical locator control of the papers is through two sets of the series inventory worksheets in two looseleaf books each. In Set I, Book 1, the sheets are arranged topically or according to positions held during Mr. Nixon's career up until he became President. Within each such grouping there is a chronological breakdown as appropriate or an arrangement of series from the general to the specific (sometimes from the important to the less important).

Set II, Book 1, is a more or less strict chronological arrangement of another copy of each of the series worksheets with some topical arrangement of sheets in each of several period blocks.

Book 2 in each of the sets contains special grouping of series sheets and special item lists of titles in each category. For example, a series sheet describing "Audiovisual material-Tapes" will be followed by a listing of all tapes by title by year. Another sheet will describe the category "Motion picture film" followed by an item list of film titles, etc.

The arrangement of sheets in these books is experimental and it can be altered in a variety of ways as experience or judgment of future custodians of the papers might dictate. We are talking here of Xerox copies of the original hand-written inventory worksheets prepared by the trainees assigned to the project. The original sheets are arranged according to the names of the persons preparing them.

It is recommended that the worksheets in Set I, Books 1 and 2, be edited for consistency in style and terminology and then typed in the present format so that a copy can be sent to the White House for examination and suggestions as well as to show the present level of control we have established for the records. In due course, consideration can be given to preparation of a formal NA style inventory or such additional special lists or indices as may be required.

The current labeling project should be completed. If and when the papers are removed to another stack location they should be moved and shelved in as logical a sequence of series as can be devised, presumably that established for the inventory. The inventory on the series worksheets will then have to be corrected to show new stack, row, and shelf location.

We emphasize that the work accomplished thus far is simply that preliminary to more sophisticated arrangement and description of an important collection. Since the papers for the most part are not yet deeded to the United States, no appraisal of the papers for permanent retention or elimination of duplicate or extraneous material has been attempted.

As heretofore indicated, further work should await some further clarification of White House wishes and intentions and perhaps a careful study by selected professional staff yet to be designated who will have responsibility for planning and administering the holdings of a future Richard M. Nixon Library.

I have found this assignment both strenuous and challenging. Thank you and the Archivist for the opportunity to work on this as well as the project last fall and winter.

SHERROD E. EAST.

EXHIBIT 8

ABRAHAM LINCOLN BOOK SHOP, INC.,
Chicago, Ill., March 27, 1970.

MRS. MARY LIVINGSTON,
Office of Presidential Libraries, National Archives Building, Washington, D.C.

DEAR MRS. LIVINGSTON: I enclose herewith a general description of the eleven hundred and seventy-six (1176) boxes of manuscript material which were designated as a gift by Richard Milhous Nixon in 1969.

This is being done to be certain that my records correspond with yours and that this material is being kept separated from the balance of the Nixon papers.

I have completed all of my preliminary work on this material, but will be returning soon to gather some detailed information I will be requiring. I shall advise you before coming East so that you can expect me.

Thank you again for your always spendid cooperation.

Sincerely yours,

RALPH G. NEWMAN.

THE WHITE HOUSE,
Washington, D.C.

THE PAPERS OF RICHARD MILHOUS NIXON—PART II

I. General correspondence as Vice President, 1953–1961; Aandahl through Zwieng (boxes 18 through 845)—828 boxes.

II. Appearance file, 1948–1962 (boxes 1 through 173)—173 boxes.

III. Correspondence re. invitations and turn-downs; 1954–1961 (56 boxes)—56 boxes.

IV. Foreign trip files as Vice President, 1953–1961 (116 boxes)—116 boxes.

V. Visit of Khrushchev to the United States, 1959 (3 boxes)—3 boxes.

Total number of boxes—1176.

EXHIBIT 9

COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES,

TAX REFORM PROPOSALS

(Contained in the Message from the President of April 21, 1969 and Presented by Representatives of the Treasury Department to the Committee on Ways and Means at Public Hearings on the subject of Tax Reform on Tuesday, April 22, 1969)

3. GIFTS OF ORDINARY INCOME PROPERTY

A. Present Law

Under present law, when property, which if retained or sold would have produced ordinary income (or short-term capital gain), is given to a charity, there is no tax on the ordinary income earned with respect thereto; in addition, a charitable contribution deduction is allowed for the fair market value of the property.

For example, a married taxpayer filing a joint return with $95,000 of income after allowing for deductions, and personal exemptions, is in the 60 percent marginal tax bracket and would have an after-tax net income of $52,820. If this individual sells an asset valued at $15,000 which would produce $12,000 of income taxable at ordinary income rates, his taxable income would be increased $107,000 and, after payment of his tax, he would be left with $60,480 of after-tax income. On the other hand, by donating the asset to charity he pays no tax on the $12,000 income and also deducts the full $15,000 value of the gift from his other income thereby reducing his taxable income to $80,000. After payment of Federal income tax he would be left with $61,660. Thus, under present law by donating the asset to charity rather than selling the asset, the taxpayer makes $1,180, the amount by which he improved his after-tax position.

B. The proposal

To prevent this unwarranted tax benefit it is recommended that section 170 be amended to provide that the allowable charitable deduction be reduced by the amount of ordinary income or net short term gain that would have resulted if the property had been sold at its fair market value rather than being donated to charity. Under this proposal, the taxpayer in the above example would be entitled to a charitable contribution deduction of $3,000 ($15,000–$12,000).

C. Effective date

The ordinary income proposals would apply to gifts made after April 22, 1969.

4. GIFTS OF THE USE OF PROPERTY

A. Present law

Under existing law a taxpayer, by granting to a charity the right to use property for a specified period, may exclude from income the amounts that would have been included in income had the property been rented to a noncharitable party; in addition, the donor claims a charitable deduction for the fair rental value of the property.

For example, an individual owning a ten story office building which is currently netting $1 million annually may donate use of one floor for a year to a charity. His economic gift is, of course, $100,000, the fair rental value of the space. * * *

EXHIBIT 10

COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES,

PRESS RELEASES ANNOUNCING TENTATIVE DECISIONS ON TAX REFORM SUBJECTS

(As announced by Chairman Wilbur D. Mills on May 27, July 11, and July 25, 1969, together with Summary of Subsequent Principal Decisions)

C. TAX TREATMENT OF CHARITABLE CONTRIBUTIONS

(1) *Increase of Limit on Deduction.*—The Committee tentatively decided to increase the general limit on the charitable contribution deduction for individuals from 30 percent to 50 percent. However, the base to which this percentage would be applied (adjusted gross income) would be reduced by any non-business interest deductions claimed in excess of $5,000.

(2) *Repeal of Unlimited Deduction.*—The Committee tentatively decided to repeal the unlimited charitable contribution deduction. The repeal would become effective as of 1975 but in the interim the deduction would be limited. In 1969, the unlimited deduction could not reduce a taxpayer's income after other itemized deductions to less than 10 percent of his adjusted gross income. This percentage would increase to 20 percent in 1970 and then would increase ratably between 1971 and 1975 to 50 percent.

(3) *Appreciated Property.*—The Committee has not yet fully decided between two alternative approaches with respect to the tax treatment of charitable contributions of appreciated property. One approach would apply to all charitable contributions of appreciated property. Under this approach taxpayers at their option would either reduce the charitable contribution claimed to the amount of their cost or other basis in the property, or, if they wished to claim a deduction based on fair market value of the property, would include in income the untaxed appreciation with respect to the property involved. A transitional rule would be provided with respect to this approach. The second approach would apply the above-described rules to the following types of charitable contributions of appreciated property.

(a) All such charitable contributions to private foundations other than private operating foundations. An exception to this would apply for gifts of appreciated property to a private foundation where it within one year spends the amount for charitable purposes.

(b) All gifts of property without regard to the type of charitable organizations if the property (had it been sold) would have resulted in either ordinary income or short term capital gain.

(c) All gifts of works of art, collections of papers, and other forms of tangible personal property.

(d) In the case of so-called bargain sales—where a taxpayer sells property to a charitable organization for less than its fair market value (usually its cost to him)—the cost of the property is to be allocated between the portion of the property "sold" and the portion of the property "given" to the charity on the basis of the fair market value of each.

(4) *Repeal of Charitable Trust Rule.*—The Committee tentatively decided to repeal the two-year charitable trust rule which allows an individual to exclude from his income the income of a trust established by him to pay the income to a charity for a period of at least two years.

(5) *Limitation on Deduction Allowed Non-Exempt Trusts.*—The Committee tentatively decided to limit the deduction allowed non-exempt trusts for amounts set aside for charity to the present value of the gift to charity.

(6) *Disallowance of Deduction for Right to Use of Property.*—The Committee tentatively decided to disallow charitable deductions for contributions to a charity of the right to use property.

EXHIBIT 11

REPORT OF THE COMMITTEE ON WAYS AND MEANS

In addition, if property is sold to a charity at a price less than its fair market value—a so-called bargain sale—the proceeds of the sale are treated as a return of cost and the seller is allowed a charitable contributions deduction for the appreciation in excess of the sale price. If the sale price is above his cost basis, the taxpayer pays a tax on the difference. However, if the sale price is equal to his cost basis, the entire appreciation is taken as a deduction and no tax is paid on the gain. In either case, the taxpayer is not required to allocate the cost basis between the sale part of the transaction and the gift part of the transaction. If this were done, the taxpayer would be required to pay tax on the portion of the gain attributable to the sale part of the transaction.

The tax saving available in the case of a bargain sale of property to a charity may be illustrated by the example of a taxpayer in the 70 percent tax bracket who makes a sale of inventory with a value of $200 to a charity at its cost of $100. The taxpayer in this case would save $140 in taxes with respect to his $100 charitable gift (70 percent of the $100 gain if sold, or $70, plus 70 percent of the $100 of appreciation taken as a charitable deduction, or $70).

Your committee does not believe the charitable contributions deduction was intended to provide greater—or even nearly as great—tax benefits in the case of gifts of property than would be realized if the property were sold and the proceeds were retained by the taxpayer. In cases where the tax saving is so large, it is not clear how much charitable motivation actually remains. It appears that the Government, in fact, is almost the sole contributor to the charity. Moreover, an unwarranted benefit is allowed these taxpayers, who usually are in the very high income brackets. Your committee, therefore, considers it appropirate to narrow the application of the tax advantages in the case of gifts of certain appreciated property.

Explanation of provisions.—In order to remove some of the present tax advantages of gifts of appreciated property over gifts of cash, the bill provides that taxpayers making contributions of appreciated property are to be required, at their option, either (A) to reduce their charitable contribution deduction to the amount of their cost or other basis in the property or (B) to take a charitable deduction based on the fair market value of the property but to include in their tax base the untaxed appreciation with respect to the property involved. The charitable donee's basis for the property would be the taxpayer's adjusted basis (for purposes of determining gain increased by the amount of gain recognized by the taxpayer in the contribution. The treatment, however, is to apply only to the following types of charitable contributions of appreciated property.

* * * * *

Explanation of provision.—Your committee's bill increases the general limitation on the charitable contributions deduction for individual taxpayers from 30 percent of adjusted gross income to 50 percent of his contribution base. The 20-percent charitable contribution deduction limitation in the case of gifts to certain private foundations is not increased by the bill. Also, contributions of appreciated property (which property, if sold, would be treated as giving rise to capital gain) is to be subject to the 30-percent limitation.

Effective date.—The increase in the limit on the deductibility of contributions from 30 percent to 50 percent of a taxpayer's contribution base (subject to the special limitation for contributions of appreciated property), is to be applicable to taxable years beginning after December 31, 1969.

2. *Repeal of the unlimited deduction (sec. 201(a) of the bill and sec. 170(b)(1)(C) of the code)*

Present law.—Under present law, the charitable contributions deduction for individuals generally is limited to 30 percent of the taxpayer's adjusted gross income. In the case of gifts to certain private foundations not receiving a substantial part of their support from a governmental unit or the general public, the limitation is 20 percent.

An exception to this general limitation allows a taxpayer an unlimited charitable contribution deduction, if in 8 out of the 10 preceding taxable years the total of the taxpayer's charitable contributions plus income taxes (determined without regard to the tax on self-employment income) exceeded 90 percent of his taxable income (computed without regard to the charitable contributions deduction, personal exemptions, an loss carrybacks).

General reasons for change.—Your committee's attention was called to the fact that the unlimited charitable contributions deduction has allowed a small number of high-income persons to pay little or no tax on their income. It has been indicated that the unlimited deduction currently is used by about 100 taxpayers who generally have incomes well in excess of $1 million. Moreover, it appears the charitable contributions deduction is the most important itemized deduction used by high-income taxpayers, who pay little or no tax, to reduce their tax liability.

Your committee does not believe that high-income taxpayers should be allowed to minimize or avoid tax liability by means of the charitable contribution deduction. Accordingly, your committee believes that the unlimited charitable contribution deduction should be repealed. The effect of this, in combination with the increase in the general limitation on the deduction to 50 percent, is that charity can remain an equal partner with respect to an individual's income, but charitable contributions no longer will be allowed to reduce an individual's tax base by more than one-half. In view of the fact that it takes a number of years for a taxpayer to qualify for the unlimited deduction, your committee feels it is appropriate to gradually remove the unlimited deduction over a 5-year period.

Effective dates.—The amendments made by this provision relating to gifts of certain appreciated property are to apply with respect to contributions paid (or treated as paid under section 170(a)(2)) after December 31, 1969. The amendments made by this provision with respect to bargain sales to a charitable organization are to apply to sales made after May 26, 1969.

4. *Repeal of a 2-year charitable trust rule (sec. 201(g) of the bill and sec. 673(b) of the code)*

Present law.—Under present law, an individual may establish a trust to pay the income from his property, which he transfers to the trust, to a charity for a period of at least 2 years, after which the property is to be returned to him. Although the individual does not receive a charitable contributions deduction in such a case, the income from the trust property is not taxed to the individual. This 2-year charitable trust rule is an exception to the general rule that the income of a trust is taxable to a person who establishes the trust where he has a reversionary interest in the trust which will or may be expected to take effect within 10 years.

General reasons for change.—The effect of the special 2-year charitable trust rule is to permit charitable contributions deductions in excess of the generally applicable percentage limitations of such deductions. For example, with a 30-percent limitation, the maximum deductible contribution that could generally be made each year by an individual who had $100,000 of dividend income (but no other income) would be $30,000. However, if the individual transferred 60 percent of his stock to a trust with directions to pay the annual income ($60,000) to charity for 2 years and then return the property to him, the taxpayer excludes the $60,000 from his own income each year. In effect, the individual has received a charitable contribution deduction equal to 60 percent of his income.

Your committee does not believe that taxpayers should be allowed to avoid the limitations on the charitable contribution deduction by means of a 2-year charitable trust.

Explanation of provision.—In order to eliminate the above-described means of avoiding the generally applicable percentage limitations on the charitable contribution deduction, your committee's bill would repeal the 2-year trust provision of section 673(b) of the Code. Accordingly, an individual no longer is to be able to exclude the income from property placed in a trust (to pay the income to a charity for a period of at least 2 years) from his income. As a result, a person who establishes a trust will be taxable on its income, whether or not the income beneficiary is a charity, where the individual has a reversionary interest which will or may be expected to take effect within 10 years from the time the income-producing property is transferred to the trust.

Effective date.—This provision is to apply with respect to transfers in trust made after April 22, 1969.

5. *Charitable contributions by estates and trusts (sec. 201(f) of the bill and sec. 642(c) of the code)*

* * * * *

EXHIBIT NO. 12

TAX REFORM ACT OF 1969: REPORT OF THE COMMITTEE ON FINANCE

Effective date.—This provision is to apply with respect to contributions made in taxable years beginning after December 31, 1969.

3. Charitable Contributions of Appreciated Property (sec. 201(a) of the bill and sec. 170(e) of the code).

Present law.—Under present law, a taxpayer who contributes property which has appreciated in value to charity generally is allowed a charitable contributions deduction for the fair market value of the property and no tax is imposed on the appreciation in value of the property. A special rule (sec. 170(e)) applies, however, to gifts of certain property so that the amount of charitable contribution is reduced by the amount of gain which would have been treated as ordinary income under the recapture rules for certain mining property No. 617), depreciable tangible personal property (sec. 1245) and certain depreciable real property (sec. 1250), if the property contributed had been sold at its fair market value.

If property is sold to a charity at a price below its fair market value—a so-called bargain sale—the proceeds of the sale are considered to be a return of the cost and are not required to be allocated between the cost basis of the "sale" part of the transaction and the "gift" part of the transaction. The seller is allowed a charitable contributions deduction for the difference between the fair market value of the property and the selling price (often at his cost or other basis).

General reasons for change.—The combined effect, in the case of charitable gifts of appreciated property, of allowing a charitable contributions deduction for the fair market value (including the appreciation) and at the same time not taxing the appreciation, is to produce tax benefits significantly greater than those available with respect to cash contributions. The tax saving which results from not taxing the appreciation in the case of gifts of capital assets is the otherwise applicable capital gains tax which would be paid if the asset were sold. In the case of gifts of ordinary income property, however, this tax saving is at the taxpayer's top marginal income tax rate. In either case, this tax saving is combined with the tax saving of the charitable deduction at the taxpayer's top marginal rate.

Thus, in some cases it actually is possible for a taxpayer to realize a greater after-tax profit by making a gift of appreciated property than by selling the property, paying the tax on the gain, and keeping the proceeds. This is true in the case of gifts of appreciated property which would result in ordinary income if sold, when the taxpayer is at the high marginal tax brackets and the cost basis for the ordinary income property is not a substantial percentage of the fair market value. For example, a taxpayer in the 70-percent tax bracket could note a gift of $100 of inventory ($50 cost basis) and save $105 in taxes (70 percent of the $50 gain if sold, or $35, plus 70 percent of the $100 fair market value of the inventory, or $70).

The committee does not believe that the charitable contributions deduction was intended to provide greater—or even nearly as great—tax benefits in the case of gifts of property than would be realized if the property were sold and the proceeds were retained by the taxpayer. In cases where the tax saving is so large, it is not clear how much charitable motivation actually remains. It appears that the Government, in fact, is almost the sole contributor to the charity. Moreover, an unwarranted tax benefit is allowed these taxpayers, who usually are in the very high income brackets. The committee, therefore, considers it appropriate to narrow the application of the tax advantages in the case of gifts of certain appreciated property.

Explanation of provision.—The House bill takes appreciation into account for tax purposes in five types of situations. The committee amendments retain two of these provisions.

Both the House bill and the committee amendments provide that appreciation is to be taken into account for tax purposes in the case of gifts to a private foundation, other than an operating foundation and other than a private foundation which within one year distributes an amount equivalent to the gift to public charitable organizations or private operating foundations. In addition, both the House bill and the committee amendments take appreciation in value into account for tax purposes in the case of property (such as inventory or works of art created by the donor) which would give rise to ordinary income if sold.

In the case where the appreciation is taken into account for tax purposes, the committee amendments provide that the charitable deduction otherwise available is to be reduced by the amount of appreciation in value in the case of assets which if sold would result in ordinary income, or in the case of assets which if sold would result in capital gain, by 50 percent (62½ percent for corporations) of the amount of this appreciation in value. The House bill would have given the taxpayer the option of reducing his charitable deduction to the amount of his cost or other basis for the property, or of including the appreciation in value of the property in his income (as ordinary income or capital gains income as the case may be) at the time of taking the charitable contribution deduction and deducting the full fair market value of the property as a charitable contribution.

Examples of the types of property giving rise to ordinary income where either some, or all, of the appreciation is to be taken into account without regard to the type of charitable recipient are gifts of inventory, "section 306 stock" (stock acquired in a nontaxable transaction which is treated as ordinary income if sold), letters, memorandums, etc., given by the person who prepared them (or by the person for whom they were prepared), and stock held for less than 6 months. Under the committee amendments, the portion of the appreciation taken into account in these cases is the amount which would be treated as ordinary income if the property were sold. This would be all of the appreciation in the case of gifts of inventory but in the case of gifts of depreciable tangible personal property used in the trade or business of the taxpayer, for example, it would be only the portion of the gain subject to recapture (under sec. 1245) since any remaining gain above this amount would still be treated as a capital gain not taken into account by this provision (unless the contribution were to certain private foundations). Under the House provision, it appears that the full appreciation would have been taken into account if any of the gain would (if sold) have been taxed as ordinary income.

* * * * *

Exhibit 13

Tax Reform Act of 1969

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13270) to reform the income tax laws, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) Short Title.—This Act may be cited as the "Tax Reform Act of 1969".

(b) Table of Contents.—

Title I—Tax Exempt Organizations

SUBTITLE A—PRIVATE FOUNDATIONS

Sec. 101. Private foundations.

SUBTITLE B—OTHER TAX EXEMPT ORGANIZATIONS

Sec. 121. Tax on unrelated business income.

Title II—Individual Deductions

SUBTITLE A—CHARITABLE CONTRIBUTIONS

Sec. 201. Charitable contributions.

The conference substitute (sec. 201(a) of the substitute and section 170(b) of the code) follows the Senate amendment except that it provides that in the case of contributions to private nonoperating foundations, the contribution such foundations receive must be distributed to public charities or private operating foundations within 2½ months following the year of receipt if the 50 percent limitation (or the 30 percent limitation as the case may be) is to apply.

2. Repeal of the unlimited charitable deduction (secs. 170(b) (1) (C), (f) (6), and (g) of the code)

The House bill eliminates the unlimited charitable contribution deduction for years beginning after 1974. During the interim period an increasing limitation is placed on the amount by which the deduction may reduce an individual's taxable income. For taxable years beginning in 1970, the total charitable deduction (for those qualifying under this provision) is not to be allowed to reduce the individual's taxable income to less than 20 percent of his adjusted gross income. This percentage is increased by 6 percentage points a year for the years 1971 through 1974. Corresponding downward adjustments are made in the percentage of a taxpayer's income which must be given to charity (or paid in income taxes) in 8 out of the 10 preceding taxable years in order to qualify for the extra charitable deduction during the interim period.

The Senate amendment modifies the House bill to provide that two rules are not to apply in the case of a person qualifying for the extra charitable contribution deduction: (1) the 30-percent limit on gifts of appreciated property and (2) the appreciated property rule which takes the appreciation into account for tax purposes in the case of gifts of property which would give rise to a long-term capital gain is sold.

The conference substitute (sec. 201(a) of the substitute and secs. 170(b) (1) (C), (f) (6), and (g) of the code) follows the Senate amendment.

3. Charitable contributions of appreciated property (sec. 170(e) of the code)

The House bill in the case of charitable contributions of appreciated property takes this appreciation into account for tax purposes in five types of situations. These are as follows:

(1) Appreciation is taken into account in the case of gifts to a private foundation other than an operating foundation and within 1 year distributes an amount equivalent to the total amount of gifts of appreciated property;

(2) Appreciation is taken into account in the case of property (such as inventory or works of art created by the donor) which would give rise to ordinary income if sold;

(3) Appreciation is taken into account in the case of gifts of tangible personal property (such as paintings, art objects, and books not produced by the donor) which would result in capital gain if the property were sold.

(4) Appreciation is taken into account in the case of gifts of future interests in property (such as a remainder interest in trust) which would result in capital gain if the property were sold.

(5) The cost or other basis of property in the case of a so-called bargain sale to charity is allocated between the portion of the property which is "sold" to the charity and the portion which is "given" to the charity on the basis of the fair market value of each portion.

The Senate amendment deleted categories (3), (4), and (5) listed above.

The conference substitute (sec. 201(a) of the substitute and sec. 170(e) of the code) follows the House bill except that in the case of category (3), listed above, it does not take appreciation in value into account in the case of gifts of tangible personal property (which would result in capital gain if the property were sold) where the use of the property is related to the exempt function of the donee. In addition, the conference substitute does not take appreciation into account in the case of category (4) referred to above relating to gifts of future interests in property.

The House bill provides that the amendments relating to charitable contributions generally apply to contributions paid after December 31, 1969.

The Senate amendment modifies this effective date to provide that in the case of a gift of a letter or memorandum or similar property, the charitable contribution amendments are to apply to contributions paid after December 31, 1968.

The conference substitute (sec. 201(g) (1) (B) of the substitute) follows the Senate amendment except that it changes the date to July 25, 1969.

4. Two-year charitable trust (sec. 673(b) of the code)

No substantive change is made by the Senate amendment in the House bill.

5. Gifts of the use of property (sec. 170 (f) (3) of the code)

The House bill provides that a charitable deduction is not to be allowed for contributions to charity of less than the taxpayer's entire interest in property.

The Senate amendment modifies the House bill by providing that:

(1) A deduction is to be allowed for contributions of a remainder interest in real property;

(2) A charitable deduction is to be allowed where an outright gift is made of an undivided interest in property;

(3) The amendments are to apply to gifts made after October 9, 1969, (the House bill applies to gifts made after April 22, 1969).

The conference substitute (sec. 201(a) of the substitute and sec. 170(f) (3) of the code) follows the Senate amendment except that in the case of the first modification referred to above the charitable deduction is allowed only for contributions of remainder interests in real property consisting of personal residences or farms.

The conferees on the part of both Houses instead that is a gift of an open space easement in gross is to be considered a gift of an undivided interest in property where the easement is in perpetuity.

6. Charitable contribution by estates and trusts (sec. 642(c) of the code)

The House bill denies nonexempt trusts a deduction for the amount of their current income set aside for charity. The House bill also denies this deduction to estates.

Exhibit 14

General Services Administration,
Washington, D.C., December 7, 1973.

Hon. Lowell Weicker,
U.S. Senate,
Washington, D.C.

Dear Senator Weicker: Thank you for your letters of November 21 and 28, 1973, regarding additional questions you have concerning the transfer of personal papers of Richard M. Nixon to the National Archives in March 1969.

I am pleased to reply as follows to your questions:

Do the formalities contained in paragraph 5, chapter 3, of the GSA Handbook on Presidential Libraries require an acceptance of the deed by the Archivist?

No. The formalities that you refer to from the GSA Handbook on Presidential Libraries are merely guidelines issued to establish uniformity in the procedures utilized by the several Presidential Libraries in the acceptance of donated papers. Prior to the issuance of these guidelines, each Library had employed varying methods for the acceptance of donated papers, resulting in some confusion as to the status of certain papers, and creating a serious lack of coordination of the operations of a most important segment of the work of the National Archives. These guidelines were issued to end this disparate treatment by the Libraries, and to establish a uniform procedure to be followed at the normal operational level of such activity, the Presidential Library. They were never intended to restrict the methods available to the Archivist in acceptance of gifts, but were meant to apply primarily to the Libraries themselves.

GSA has the authority, under chapter 21 of title 44, United States Code, to issue these guidelines as formal published regulations, having the force and effect of law. However, in the interest of retaining our options for receiving gifts of papers that are invaluable in constructing a documentary history of our nation, we have deliberately chosen not to issue regulations that might restrict or hinder all possible means of donation. As merely internal GSA guidelines they lack both the legal status and the intent to require the Archivist to formally accept a deed of gift.

On what date did these formal procedures go into effect?

These procedures first became effective on December 20, 1968, when the Handbook on Presidential Libraries was first issued. From 1965 to that date, informal attempts to gain uniformity were made in memoranda from the Office of Presidential Libraries at the National Archives to the several Libraries.

Was there any express communication or indication by Richard M. Nixon to GSA or the National Archives between January 1, 1969, and July 25, 1969, indicating that the 1969 transfer of papers was explicitly for purposes of a gift?

There was no express communication or indication by President Nixon personally to GSA or the National Archives between January 1, 1969, and July 25, 1969, indicating that the transfer of papers was explicitly for purposes of a gift. However, the papers were viewed by GSA personnel as having been delivered for gift purposes with a formal deed of gift to follow, and actions by GSA personnel beginning upon delivery were consistent with this view. These actions continued through the remainder of 1969 and included actions to assist Mr. Newman in his appraisal work. It should be borne in mind that it was not until December of 1969 that July 25, 1969, was finally established as the critical date.

On what date did GSA receive a letter from Edward L. Morgan to Dr. Daniel J. Reed, dated March 13, 1969?

March 14, 1969.

To what papers did this letter refer?

Mr. Morgan's letter referred to the papers donated by the deed dated December 30, 1968.

Has the public had access to the pre-Presidential papers transferred to the National Archives on March 26 and 27, 1969?

No. In accordance with paragraph 1 of the Chattel Deed dated March 27, 1969, GSA, bound by the dictates of sections 2107 and 2108(c) of Title 44, United States Code, has withheld general public access to the referenced papers.

Who has had access to these papers since their transfer to the National Archives?

Other than GSA personnel who are permitted access under the Chattel Deed to perform necessary archival work on the papers, actual access has been limited to the appraisers and members of the White House staff.

Has the Internal Revenue Service, between January 1, 1972, and the present time, contacted GSA or the National Archives and collected all the relevant details and evidence with respect to the March 26th and 27th, 1969, transfer of these papers?

No.

As you requested, I have enclosed a copy of the "Limited Right of Access from Richard Nixon to Ralph Newman", dated March 27, 1969.

Sincerely,

ARTHUR F. SAMPSON,
Administrator.

LIMITED RIGHT OF ACCESS FROM RICHARD NIXON TO RALPH NEWMAN

(Pursuant to Chattel Deed from Richard M. Nixon to the United States of America, dated December 30, 1968).

Whereas, the undersigned executed a Chattel Deed to The United States of America dated December 30, 1968, a copy of which is attached hereto as Exhibit I,

Now, therefore, pursuant to the restrictions set forth in Paragraph "1", page 2 thereof, the undersigned hereby grants to Ralph Newman a limited right of access to inspect and examine for the purpose of appraisal, but not to copy or remove, all of those documents set forth in Schedule A which is annexed to and made a part of said Chattel Mortgage, Exhibit I hereof.

This limited right of access shall expire April 16, 1969.

Dated This 27th day of March, 1969.

RICHARD NIXON,
President of the United States of America.
EDWARD L. MORGAN,
Deputy Counsel to the President.

IN THE CITY OF WASHINGTON, DISTRICT OF COLUMBIA, SS

On this, the 27th day of March, 1969, before me, the undersigned Notary Public, personally appeared Edward L. Morgan, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he is Deputy Counsel to the President of the United States and that he executed the foregoing instrument on behalf of the President, acting in his capacity as such Deputy Counsel, and that, as such Counsel, he is authorized to sign such document on behalf of the President of the United States.

In witness whereof, I have hereunto set my hand and official seal the day and year first above written.

JOHN JOSEPH RATCHFORD,
Notary Public.

My commission expires: May 31, 1973.

EXHIBIT 15

INCOME TAXES: PART III—GENERAL RULES FOR DETERMINING CAPITAL GAINS AND LOSSES

§ 1221. Capital asset defined:

For purposes of this subtitle, the term "capital asset" means property held by the taxpayer (whether or not connected with his trade or business), but does not include—

* * * * *

(3) a copyright, a literary, musical, or artistic composition, a letter or memorandum, or similar property, held by—

(A) a taxpayer whose personal efforts created such property,

(B) in the case of a letter, memorandum, or similar property, a taxpayer for whom such property was prepared or produced, or

(C) a taxpayer in whose hands the basis of such property is determined, for purposes of determining gain from a sale or exchange, in whole or part by reference to the basis of such property in the hands of a taxpayer described in subparagraph (A) or (B);

As amended Dec. 30, 1969, Pub. L. 91–172, Title V, § 514(a), 83 Stat. 643.

* * * * *

1969 Amendment. Par. (3). Pub. L. 91–172 added reference to a letter or memorandum, added subpar. (B) dealing with a letter or memorandum, and substantially redesignated former subpar. (B) as subpar. (C).

Effective Date of 1969 Amendment. Section 514(c) of Pub. L. 91–172 provided that: "The amendments made by this section [amending this section and sections 341 and 1231 of this title] shall apply to sales and other dispositions occurring after July 25, 1969."

Legislative History. For legislative history and purpose of Pub. L. 91–172, see 1969 U.S. Code Cong. and Adm. News, pp. 1645, 1800, 1992, 2233, 2432.

Supplementary Index to Notes, Gas 74a, Trademarks 105a.

1. CONSTRUCTION

Crosswhite v. U.S., 369 F.2d 989, main volume, 177 Ct.Cl. 671.

Capital gains provisions are to be read narrowly, Hansche v. C. I. R., C. A. 7, 1972, 457 F.2d 429.

This section defining capital asset for capital gain treatment must be narrowly applied and its exclusions interpreted broadly to effectuate basic congressional purpose. Lewis v. U.S., 1968, 389 F.2d 818, 182 Ct.Cl. 426.

Statutes conferring preferred treatment on taxpayers in case of sale of capital assets or sale of certain natural resources must be strictly construed. Crosby v. U.S., D.C.Miss. 1968, 202 F. Supp. 314, affirmed 414 F. 2d 822.

Provision of this section defining term "capital asset" is a relief provision and must be strictly construed. Malat v. Riddell, D.C. Cal. 1966, 275 F.Supp. 358.

3. PURPOSE

This section excluding from capital assets property held by taxpayer primarily for sale to customers in ordinary course of his trade or business was intended to differentiate between profits and losses arising from everyday operation of business and realization of appreciation in value accrued over substantial period of time. Huxford v. U.S., C.A.Fla. 1971, 411 F.2d 1371.

Concept of capital asset for tax purposes is to be construed narrowly in accordance with purpose of Congress to afford capital-gains treatment only in situations typically involving realization of appreciation in value accrued over substantial period of time. Silverstein v. U.S., D.C.Ill. 1968, 293 F.Supp. 1106, affirmed 419 F.2d 999, certiorari denied 90 S.Ct. 1362, 397 U.S. 1041, 25 L.Ed.2d 652.

4. LAW GOVERNING

Characterization of taxpayer's manner of holding land has underpinnings of question of fact but ultimate issue of whether taxpayer's holding is not primarily for sale in the ordinary course of business is inherently question of law. U.S. v. Winthrop, C.A.Fla. 1969, 417 F.2d 905.

7. CAPITAL TRANSACTIONS

Even though important purpose of taxpayer in acquiring stock of another corporation was to obtain source of raw materials necessary for taxpayer's business, presence of substantial investment purpose in the acquisition precluded taxpayer from having loss resulting from sale of acquired stock treated as loss against ordinary income rather than as a capital loss. Dearborn Co. v. U.S., 1971, 444 F. 2d 1145, 195 Ct. Cl. 219.

Where taxpayer, wholesaler of petroleum products, purchased interest in petroleum refinery at time when taxpayer was experiencing supply problems, and stock in refinery was sold when first order of purchase was received seven years after shortage ended, stock sold by taxpayer was not a "capital asset" and taxpayer was entitled to ordinary loss deduction on the sale. FS Services, Inc. v. U.S., 1969, 413 F.2d 548, 188 Ct.Cl. 874.

Basic requirement for capital gain or loss treatment for income tax purposes is that the transaction giving rise to claimed gain or loss must constitute a sale or exchange of capital asset. Jamison v. U.S., D.C.Cal. 1968, 297 F.Supp. 221, affirmed 445 F.2d 1397.

8. SUBSTANCE OF TRANSACTION

In determining whether sale of capital assets occurred, court must look to substance of and effect rather than just to form of transaction for tax purposes. Silverstein v. U.S., D.C.Ill. 1968, 283 F. Supp. 1106, affirmed

419 F. 2d 999, certiorari denied, 99 S.Ct. 1362, 397 U.S. 1041, 25 L.Ed. 2d 652.

EXHIBIT 16

(1970 "Schedule A" to 1969 deed. This schedule was substituted for an earlier schedule A which is not available.)

SCHEDULE A ANNEXED TO AND PART OF CHATTEL DEED FROM RICHARD MILHOUS NIXON TO THE UNITED STATES OF AMERICA, MARCH 27, 1969

The materials conveyed by the Chattel Deed of which this Schedule A is a part, herewith deposited and housed in the National Archives Building, Washington, D.C., constituting six hundred thousand individual items contained within 1,176 file boxes, are more particularly described as follows:

I. GENERAL CORRESPONDENCE AS VICE PRESIDENT

Boxes "Aandahl through Zwieng", Boxes 18 through 845, inclusive—828 Boxes.

II. APPEARANCE FILE 1948–62

Boxes 1 through 173—173 Boxes.

III. CORRESPONDENCE RE INVITATIONS 1954–61

56 Boxes.

IV. FOREIGN TRIP FILES AS VICE PRESIDENT

116 Boxes.

V. VISIT OF KHRUSHCHEV TO UNITED STATES

3 Boxes.

Total: 1,176 Boxes.

EXHIBIT 17

PRESIDENTIAL LIBRARIES—A GSA HANDBOOK

CHAPTER 1. GENERAL

1. *Purpose.* This handbook sets forth guidelines for the operation of Presidential libraries and provides general guidance on administrative, professional, and technical matters. It is in accord with the provisions of law (44 USC 2101–2113; 2301–2308), the Regulations for the Public Use of Records (41 CFR 105–61), and the provisions of the GSA Policy Manual, ADM P 1000.2A. At the same time it recognizes that in some of their activities the libraries must be guided by local circumstances.

2. *Definitions.* For ease of preparation and reading, the titles and terms listed below are cited in short form throughout this HB:

a. "President" means the President of the United States (or a former President) whose papers are or will be deposited in a Presidential library operated by the General Services Administration.

b. "Director" means the Director of a Presidential library.

c. "Regulations" refer to "Public Use of Records," Donated Historical Materials, and Facilities in the National Archives and Records Service" 41 CFR 105–61, or GSA Order ADM 1800.2A.

d. NA means the Executive Director, NARS.

e. NAP means the Director, Planning and Management Programs Division.

f. NAPB means the Budget and Reports Branch.

g. NAPP means the Manpower Branch.

h. NAT means the Director, Technical Services Division.

i. NATR means the Chief, Document Reproduction and Preservation Branch.

j. NL means the Assistant Archivist to Presidential Libraries.

3. *Applicability.* The provisions of this handbook are applicable to all Presidential libraries; those in operation and those being planned.

4. *Responsibilities.* It is the responsibility of NL, through the library Directors, to see that each library in operation carries out the functions set forth in the GSA Organization Manual, OFA P 5440.1, and the Delegations of Authority Manual, ADM P 5450.39 and NAR 5450.7. Planning for future libraries is primarily the responsibilty of NL, in cooperation with the designated representatives of the Presidential administration involved.

5. *Background and organization.* The first Presidential library was the Franklin D. Roosevelt Library, authorized by special legislation passed in 1939, and completed at Hyde Park, N. Y., in 1940. It grew out of President Roosevelt's concern for the preservation of the many papers and gifts that were accumulating in the White House and for their eventual availability to scholars and museum visitors. The Roosevelt Library was placed under the direct supervision of the Archivist of the United States. After the formation of the General Services Administration, the Presidential Libraries Act of 1955 was passed, authorizing the Administrator to acquire the historical materials of any President if they were offered to the Government, along with related materials obtained elsewhere, and to administer them as a Presidential library. Under that legislation the Harry S. Truman Library was established at Independence, Mo., in 1957; the Dwight D. Eisenhower Library at Abilene, Kans., and the Herbert Hoover Library at West Branch, Iowa, were both established in 1962. The Directors of the first two libraries were under the direct supervision of the Archivist of the United States. The addition of the Eisenhower and Hoover libraries required additional Central Office support, and the Office of Presidential Libraries was established as a coordinating unit in 1964. The added burdens of planning for the John F. Kennedy and the Lyndon B. Johnson libraries led to an increase in the responsibility of NL, and he was designated as the supervisor of the Directors of all the libraries in 1968.

6 thru 8. Withdrawn by CHGE 3.

g. Prospective donors should be told that appraisals for tax deductions are appropriate. Library staff members do not make the appraisals; the Internal Revenue Service prohibits the making of appraisals by recipient institutions because they are not qualified to judge values that would hold on the market for sale of documents. The library may properly, however, give the donor the names of appraisers, preferably more than one.

h. Occasionally gifts of papers, or other historical materials are offered received without solicitation. If they are not pertinent to the library's field of interest and if it can be done without offending a donor, such materials should be transferred to an institution where they would be more useful.

i. In addition to personal papers the libraries may receive from the National Archives the official records of boards, commissions, and committees that were established by and reported to one President, the records of which were not taken over by a successor agency. If the records are likely to be sought by scholars in both places, microfilm copies may be sent to the library. The National Archives may at times transfer to a library records closely related to the Presidential papers.

4. *Shipment and receipt.*

a. Shipment of papers to a library should always be arranged without cost of inconvenience to the donor. For small quantities this may be done by sending several self-addressed franked labels for the donor's use in mailing the papers. In the Washington, D.C., area representatives of NL will pick up papers from donors and ship them to the library. In other parts of the country this service can be performed by representatives of the nearest NARS Regional Director's office. Shipment should be made at the expense of the library, charged to the library's accounting code.

b. Upon receipt of materials at the library the Director will see that proper distribution is made of published items, audiovisual materials, and museum objects that are with the papers and warrant special handling.

5. *Documentation of accessions.* The essential documents in the acquisition process are a deed of gift executed between the donor and the library and a log of all accessions kept for internal control purposes.

a. Deed of gift.

(1) The major purpose of the deed of gift is to accomplish the legal transition of the papers or other historical materials to the library. The deed usually applies both to the materials initially transferred and to any that may be sent to the library later. This makes it possible to open the first installment for research, if the donor is willing, before all his papers have been acquired.

(2) The deed of gift generally used by the libraries follows a pattern approved by the General Counsel of GSA; but minor modifications may be made to suit the donor, and some options are available. The content of this document should be agreed upon with the donor, and he should sign it at the time the papers are transferred to the library or shortly thereafter. Papers should not be allowed to remain in the physical custody of the library, or of a transmitting agency, without a signed deed of gift.

(3) The deed of gift should give the donor assurance that his papers will be kept intact; stipulate any restrictions on access that the donor imposes; allow library staff members on official business to handle the papers; and state whether or not the literary property rights in the papers are transferred.

(4) It is best from the viewpoint of research use to receive papers with no limitations on access. For recent periods in which many of the participants are still living, however, it is frequently necessary to accept restrictions imposed by the donor in order to obtain the papers. The library should accede to the wish of the donor in this matter, after explaining the possibilities to him. Restrictions are best stated in terms of categories of papers, with the provision that library staff members will review them and segregate those that are to be closed at the discretion of the Director and to be opened when circumstances permit. This provision is more satisfactory than the establishment of committees for review. The stipulation of periods of years for which papers are to be closed is unduly rigid, as it does not take into account the fact that circumstances may change.

(5) Deeds of gift should be signed both by the donor and by the Archivist of the United States or his designated representative. Three copies should be signed, the original to be retained by the library, one copy returned to the donor, and one kept by NL.

b. *Accessions log.* Each library should maintain as a basic control a log, or register, of accessions of papers and related historical material. Entries should be made chronologically as materials are received, each unit of entry normally being the papers of an individual donor or organization. Entries are numbered in sequence as materials are received and should include the date of receipt, identification of the materials, their inclusive dates, and the volume. Small accretions to accessions are entered under the same numbers. Descriptions of the materials that are prepared after accessioning are referred to in this manual in chap. 5, Finding Aids.

EXHIBIT 18

THE WHITE HOUSE,
Washington, March 13, 1969.

DR. DANIEL J. REED,
Assistant Archivist for Presidential Libraries, National Archives and Records Service, Washington, D.C.

DEAR DR. REED: This will merely confirm our discussion of the other day in which I requested that someone from your organization double check and be certain that you have now received all of the Vice Presidential papers that were sent to the Archives from the President's former law firm in New York, and secondly that the indexing and cataloging of the Vice Presidential papers that were given as a gift to the Archives will be complete by April 1 in order that Mr. Neuman may complete his appraisal for tax purposes.

Should you have any questions at all in this regard, please feel free to call either me or Bud Krogh in our office.

Thank you very much.

Sincerely,

EDWARD L. MORGAN,
Deputy Counsel to the President.

EXHIBIT 19

OCTOBER 31, 1973.

Mr. ARTHUR F. SAMPSON,
Administrator, General Services Administration, General Services Building, Washington, D.C.

DEAR MR. SAMPSON: With reference to the transfer of personal papers by Richard M. Nixon to the National Archives in March 1969, I would appreciate the following factual information:

On what date was a deed of gift received by GSA or the National Archives?

What was the date of such deed of gift?

Who signed such deed of gift?

If not signed by the President, what proof did GSA demand that the signor was empowered to act for the President?

In the case of gifts by prior Presidents, commencing with Franklin Roosevelt, were deeds of gifts received contemporaneous with the transfer of papers to the Archives?

If not, when were they received?

Were such prior deeds signed by the donor Presidents in all cases?

When was the physical transfer of papers to GSA?

Was there any documentary or other evidence submitted by the donor, Richard M. Nixon, indicating that such transfer was a gift and not for purposes of temporary storage by the Archives?

On what date did the National Archives become aware of the specific value of the alleged gift?

Has there been official acceptance of the alleged gift by GSA, and if not, why has there been no such acceptance?

Was official acceptance given for prior Presidential gifts?

Please detail all communications from June, 1972 to date between GSA and the President and/or his agents relative to the aforesaid gift.

If there are any questions as to these inquiries, please feel free to contact me. My thanks for your time in responding to this request.

With kind regards.

Sincerely,

LOWELL WEICKER Jr.,
U.S. Senator.

MEMORANDUM FOR HON. LEONARD GARMENT, COUNSEL TO THE PRESIDENT

SEPTEMBER, 27, 1973.

The General Services Administration has recently initiated a factual inquiry into the history of certain papers of the President, created prior to January 20, 1969, that were donated to the United States of America and were deposited at the National Archives on March 26 and 27, 1969. Our inquiry has left unanswered several important questions concerning the "Chattel Deed of Gift" that corresponds to these papers. It is our hope that White House records and/or former or present White House personnel may be able to help us fill these gaps.

The information we have been able to gather so far leads us to the following tentative conclusions as to the physical history of the deed of gift: sometime around the beginning of April 1970, an original deed of gift corresponding to these papers was delivered to the GSA Office of General Counsel (probably to Hart T. Mankin, then General Counsel); the instrument was signed, as was an accompanying affidavit, by Edward L. Deputy Counsel to the President, and notarized by Frank DeMarco, Jr., the signatures dated April 21, 1969, although the instrument was cover-dated March 27, 1969; on or about September 13, 1971, the original deed of gift was turned over to Mr. Dapray Muir, an attorney in the Office of Counsel to the President; sometime in April or May 1973, a duplicate original (xeroxed, but with original signatures) was discovered in the files of the Office of Presidential Libraries, National Archives and Records Service and was immediately placed in an appropriate vault in the National Archives Building where it remains today.

Our questions are as follows:

1. Where was the deed in the period between April 1969, and April 1970;

2. Who transmitted the original deed at Mr. Mankin (and how);

3. Were any duplicate originals transmitted at that time;

4. Who transmitted the duplicate original to the Office of Presidential Libraries and where had it been; and

5. Where is the original deed of gift now?

We would be most appreciative of any assistance you can provide, so that our own inquiry can be satisfactorily completed.

WILLIAM E. CASSELMAN II,
General Counsel.

EXHIBIT 20

THE WHITE HOUSE,
Washington, November 16, 1973.

Memorandum for William E. Casselman,
General Counsel.
General Services Administration.
From Douglas M. Parker.
Subject: Deed of Gift.

In response to your memorandum to Leonard Garment, dated September 27, 1973, I can advise you as follows:

The deed of gift was executed with a ribbon copy and a duplicate original (Xerox but with original signatures). Both the ribbon copy and the duplicate original remained in the office of Frank DeMarco until April 1970. In April 1970, Mr. DeMarco mailed the duplicate original to Edward L. Morgan, Deputy Counsel to the President, who, we believe, delivered it to Hart T. Mankin, General Counsel of GSA. The ribbon copy remained in Mr. DeMarco's office until October 10, 1973, when it was transmitted to the Office of the Counsel to the President where it presently remains.

The duplicate original was turned over by GSA to Mr. Dapray Muir, an attorney in the Office of Counsel to the President on or about September 13, 1971. Subsequently, Mr. Roy E. Kinsey of that office turned the deed over to John Nesbitt who is in charge of the National Archives Office located in the Executive Office Building. Mr. Nesbitt in turn returned the deed to the National Archives, Office of Presidential Libraries under a cover memorandum dated January 13, 1973.

EXHIBIT 21

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C. November 21, 1973.

Mr. ARTHUR F. SAMPSON,
Administrator, General Services Administration, General Services Building, Washington, D.C.

DEAR MR. SAMPSON: Thank you for your letter of November 16, 1973, responding to my inquiries as to the transfer of certain papers by Richard M. Nixon to the National Archives.

The information you provided was most helpful and complete. Nevertheless, there are a few additional questions to which I would appreciate your response.

On page 4 of your November 16 reply, you noted that one of the reasons there had been no official acceptance by GSA of the 1969 deed was the "absence of any GSA regulation requiring some manner of formal acceptance of donated paper." My research indicates the following information in Paragraph 5, Chapter 3, of the GSA Handbook on Presidential Libraries:

"5. *Documentation of accessions.* The essential documents in the acquisition process are a deed of gift executed between the donor and the library and the library and a log of all accessions kept for internal control purposes.

a. *Deed of gift.* (1) The major purpose of the deed of gift is to accomplish the legal transfer of the papers or other historical materials to the library.

* * * * *

(5) Deeds of gift should be signed both by the donor and by the Archivist of the United States or his designated representative. Three copies should be signed, the original to be retained by the library, one copy returned to the donor, and one kept by the NL".

My question is whether the above requirements would necessitate an acceptance of the deed by the Archivist, and if not, why not?

I note that on page 2, in response to my inquiry into the procedures followed by prior Presidents, you indicate that either a letter or transfer of title by will were the methods used until 1965. I further note that the requirements referred to above, from the Handbook on Presidential Libraries, are dated December 20, 1968. My question is whether GSA procedures first required a deed of gift as of 1965, or 1968, and if not, when were the procedures referred to above first promulgated?

On page 3, in response to my request for evidence submitted by the donor, Richard M. Nixon, indicating that the transfer of papers was intended to be a gift, when referred to the 1968 and 1969 deeds, and a May 12, 1969 Presidential announcement relative to the Richard Nixon Foundation. To clarify my question, with reference only to the 1969 transfer was there any express communication or indication by Richard M. Nixon to GSA or the National Archives between January 1, 1969 and July 25, 1969 indicating that the 1969 transfer of papers was explicitly for purposes of a gift?

Is GSA in receipt of a letter from Edward L. Morgan to Dr. Daniel J. Reed, dated March 13, 1969, and if so, on what date was that letter actually received by Dr. Reed or the National Archives? Further, can you confirm whether the papers referred to in that letter are the 1968 gift received by GSA on March 20, 1969, or the March 26 and 27, 1969, transfer of papers?

A letter dated March 27, 1969, from Daniel J. Reed to Edward L. Morgan contains a handwritten P.S. which makes reference to "the document: 'Limited Right of Access' from RMN to Ralph Newman, dated March 27, 1969". If you could forward a copy of this document, it would be helpful to our investigation.

Finally, from March 26, 1969 to the present time has the public had access, in limited or unlimited form, to the papers transferred on March 26 and 27, 1969? If access has been limited, who specifically has had access during that period of time?

I would hope your response to these questions would satisfy my inquiries, and again my thanks for your time in this matter.

With kind regards,

Sincerely,

LOWELL WEICKER, Jr.,
U.S. Senator.

EXHIBIT 22

THE PRESIDENT'S NEWS CONFERENCE OF SEPTEMBER 5, 1973

STATEMENT ON LEGISLATIVE GOALS

THE PRESIDENT. Ladies and gentlemen, before going to your questions, I have a brief announcement that I think will be of interest not only to our listeners and to you but also to the Congress.

The Congress is returning today from its August recess, as I am, and as I look over the record of accomplishment this year, I find it is very disappointing in terms of the Administration initiatives, those initiatives that I believe are bipartisan in character and of vital importance to all of the American people.

Consequently, I will be sending what is in effect a new State of the Union message, one which will concentrate on the measures presently before the Congress which have not been acted upon and which I consider urgent to be acted upon before the end of this year.

I am not trying to present to the Congress an impossible task; consequently, I will not cover the whole waterfront, but it is important that in several areas that action be taken, or it will be too late to act for the interests of the people.

In my statement today, I will cover four or five areas that will be included in that message, which will be distributed to you on Sunday night and delivered to the Congress Monday at the time of the opening of business.

THE PRESIDENT'S PROPERTIES AND FINANCES

Q. Mr. President, there have been some conflicting reports about your real estate dealings in California, and I would like to ask about that. Several different versions have been released by the White House, both as to your own personal financial involvement and as to the Government's expenditures in San Clemente and at Key Biscayne, and your auditors, I understand from news reports, say that the entire audit has not been released on your financial dealings out there.

I would like to ask why we have had so many conflicting reports to start with, and second, one of the questions that is raised by the only partial release of the audit is have you paid the taxes on the gain realized in the sale of the land to Rebozo and Abplanalp at San Clemente?

The President. Any other questions you want to go into?

Of course, whatever a President does in the field of his property is public knowledge, and questions of that sort I do not resent at all. I do resent, I might say, the implications, however, first, that whether at Key Biscayne or in San Clemente my private property was enriched because of what the Government did.

As a matter of fact, what the Government did at San Clemente reduced the value of the property. If you see three Secret Service gazebos and if you see some of the other fences that block out the rather beautiful view to the hills and the mountains that I like, you would realize that what I say is quite true; it reduces its value as far as a residential property is concerned.

The second point is this: At rather considerable expense, and a great deal of time on my part, I ordered an audit, an audit by a firm highly respected, Coopers & Lybrand of New York. That audit has been completed. It covered at my request not simply the last year, but it covered the years 1969, 1970, 1971, and 1972.

The audit has been completed, and the audit gave the lie to the reports that were carried usually in eight-column heads in most of the papers of this country—and, incidentally, the retractions ended up back with the corset ads for the most part—but on the other hand, it gave the lie to the charge that there was $1 million worth of campaign funds, that that is how I acquired the property in San Clemente.

It also gave the lie to any other charges that, as far as my acquisitions in Florida are concerned, or in California, that there was any money there except my own.

Now, I would make two or three other points briefly about it that I think all laymen could understand. I borrowed the money to acquire the property, and I still owe it. I own no stocks and no bonds—I think I am the first President in this office since Harry Truman—I don't own a stock or a bond. I sold everything before I came into office.

All that I have are the two pieces of property in Florida which adjoin each other, the piece of property in San Clemente with which you are familiar, and a house on Whittier Boulevard in which my mother once lived. I have no other property, and I owe money on all of them.

Third, as far as the capital gain matter, which is a technical matter that you have mentioned, I should point out—and maybe this is good news for people who wonder if Presidents are exempt from what the IRS does—the IRS has had a full field review or audit of my income tax returns for 1971 and 1972, and included in its audit the transaction which you refer to, in which some argue there was a capital gain and some argue that there was not. It is a matter of difference between accountants.

The IRS, after its audit, did not order any change. If it had, I would have paid the tax. It did not order a change.

Now, with regard to the audit itself is concerned, the results of that audit insofar as the acquisition of the property have been put out. That is all that is going to be put out because I think that is a full disclosure.

I would simply say, finally, that in this particular case I realize that naturally there is a suspicion that a President, because he has the great power of this office and because he has the benefit of Secret Service, GSA, and all the rest to protect him, that he some way or other is going to profit from all of that security that is provided for him.

As I pointed out in my press conference 2 weeks ago, I'd far less rather have the security than have my privacy, but that just can't be done.

Exhibit 23

Telegram

Ralph G. Newman,
President, Abraham Lincoln Book Shop, Inc., Chicago, Ill.

I would appreciate your response to the following inquiries:

Has the IRS ever contacted you with respect to Mr. Nixon's alleged gift of papers to the United States in 1969?

On what date did you complete your description of that alleged gift?

What is your understanding of the papers delivered on March 26 and 27, 1969, that were not included in the gift description?

What was the selection criteria, and were the unincluded papers of the same quality as those in the alleged gift?

Lowell Weicker, Jr.,
U.S. Senator.

Exhibit 24

U.S. Senate,
Committee on Aeronautical
and Space Sciences,
Washington, D.C., November 28, 1973.

Mr. Arthur F. Sampson,
Administrator, General Services Administration, Washington, D.C.

Dear Mr. Sampson: I would appreciate your responding to one additional matter with respect to the transfer of personal papers to the Archives by Richard M. Nixon in 1969.

Has the Internal Revenue Service, between January 1, 1972 and the present time, contacted GSA or the National Archives and collected all the relevant details and evidence wtih respect to the March 26th and 27th, 1969 transfer of these papers?

Thank you again for your time and attention in responding to my inquiries.

With kind regards.

Sincerely,

Lowell Weicker, Jr.,
U.S. Senator.

Exhibit 25

Kalmbach, DeMarco, Knapp
& Chillingworth,
Los Angeles, Calif., August 22, 1973.

Coopers and Lybrand,
New York, N.Y.

Gentlemen: In connection with your engagement to examine and report on the statement of assets and liabilities as of May 31, 1973 of our clients Richard M. Nixon and Patricia R. Nixon, you have requested our opinion respecting the gift of certain pre-Presidential private papers of Richard M. Nixon to the United States of America on March 27, 1969 and the treatment of such contribution as a deductible item for income tax purposes as claimed on the Federal income tax returns filed by the clients for the years 1969 through 1972.

In connection therewith, we have made a factual examination of the circumstances of the transaction, the law applicable thereto and such other and further matters as we have deemed pertinent to the inquiry and to the delivering of this opinion, and based upon such examination and the applicable law, it is our opinion that on March 27, 1969, the client made a valid gift to the United States of America of certain of his personal private papers having at the date of such gift a fair market value of $576,000; that deductions claimed by the said taxpayer on his Federal income tax returns for the calendar year 1969 were in all respects proper and valid; that the facts and circumstances of the gift were fully disclosed in the 1969 return as filed; that subsequent deductions for those allocable portions of the market value of the gift claimed by the taxpayer in subsequent federal income tax returns filed for the calendar years 1970, 1971 and 1972 were and are proper and valid deductions against income.

Our examination of the facts and circumstances of the transaction show that immediately prior to March 27, 1969, the taxpayer declared an intention to make a gift of the subject private papers to the people of the United States and that at his direction, his personal counsel, Edward L. Morgan, directed and supervised the removal of such private papers from the taxpayer's personal dominion and control at the Executive Office Building, Washington, D.C., and caused the same to be delivered to the National Archives in Washington, D.C. on said date where said materials have remained for an uninterrupted period. At all times subsequent to March 27, 1969, the materials constituting the subject matter of the gift were under the exclusive dominion and control of the National Archives. On or about April 6, 7, and 8, 1969, the material constituting the subject matter of the gift was examined and segregated from other materials by an appraiser duly appointed by the taxpayer to appraise the market value of the said papers, and the same thereafter were maintained, cataloged, segregated, sorted and identified by members of the staff of the National Archives in accordance with filing and cataloging procedures established by the National Archives and as to which the taxpayer had no element of control. The materials constituting the gift thereafter were, after a period of time extending from April 6, 1969 through March 27, 1970, individually itemized and appraised by the appraiser, and as a result of said appraisal, the market value ascribed to the gift was certified to by an affidavit executed by said appraiser on April 6, 1970.

While, in our opinion, the law is clear that an instrument of deed is not a necessary requisite to a gift of personal property, the duly appointed and constituted attorney-in-fact and agent of the taxpayer did on April 21, 1969 execute an instrument of gift reciting and declaring the intent of the donor to make such gift; that said gift had in fact been made on March 27, 1969 and the subject matter thereof delivered to the National

Archives. The instrument contained a clause reserving to the donor only a right of access to himself to inspect and copy the materials. In our opinion, the law is clear that the reservation of such right of access for inspection and copying by the donor did not constitute a sufficient retention of ownership in the material to anyway vitiate the gift.

Very truly yours,

FRANK DE MARCO, Jr.

EXHIBIT 26

PRESIDENT'S FINANCIAL DISCLOSURE MESSAGE, DECEMBER 8, 1973

GIFT OF PAPERS

In 1969, President Nixon directed his lawyers to take all necessary steps to make a gift of part of his papers to the United States of America through the National Archives. On March 27, 1969, large crates of his papers were delivered to the Archives. Included were a large volume of paper, books and other memorabilia of his career prior to becoming President, including many of his Vice Presidential papers. On April 8 and 9, 1969, Mr. Ralph Newman, a recognized appraiser of documents, visited the Archives and designated the papers. He also pointed out the items he believed the President should retain. Mr. Newman returned later to the Archives and made a final appraisal of a fair market value of the papers comprising the gift, setting the value at $576,000.

In making the gift, President Nixon was following the tradition of his six predecessors—Hoover, Roosevelt, Truman, Eisenhower, Kennedy and Johnson—all of whom made a gift of their papers to the United States.

A question has arisen in the case of President Nixon, however, because in December, 1969, an amendment was passed retroactive to July 25, 1969, disallowing such deductions and some critics question whether technical requirements relating to the intended gift were sufficiently completed before the expiration date.

President Nixon was and is advised by his attorneys that the gift met the deductibility requirements of the law. Accordingly, in the tax years 1969–1972, he has taken deductions totaling approximately $482,019. As the gift is valued at $576,000, he is still entitled to additional deductions of $93,981.

The examination conducted earlier this year by the Internal Revenue Service of President and Mrs. Nixon's return for the years 1971 and 1972 included a review of the gift. Upon completing this review, the IRS raised no questions about the deductions taken. Nevertheless, because questions have been raised about the procedures followed in making the gift of the papers to the United States, the President is asking the Joint Committee on Internal Revenue Taxation to review those procedures and to pass upon the validity of his tax deductions. The President will abide by the decision of that Committee.

Additional details relating to the gift transaction can be found in the following documents being released today:

Appraisal by Ralph G. Newman, President of Abraham Lincoln Book Shop of Chicago, Illinois, of papers of Richard Milhous Nixon, consisting of 600,000 items, as of March 27, 1969 at a valuation of $576,000, supported by Newman affidavit and statement of his qualifications as an authority in the field of such appraisals.

Letter from Kalmbach, DeMarco, Knapp & Chillingworth to Coopers & Lybrand stating their opinion regarding the deductibility for tax purposes of the President's gift of pre-Presidential papers.

THE NEED FOR A CONSTITUTIONAL INDEPENDENT SPECIAL PROSECUTOR ACT

Mr. FONG. Mr. President, at this time in the history of the United States, I believe there is virtual unanimity throughout the country and in Congress that there is the need for an independent Special Prosecutor to once and for all investigate all the Watergate and Watergate-related charges, clear the innocent of the cloud hanging over their heads, and proceed with the prosecution of all offenders against the United States arising from these Watergate and Watergate-related activities.

It is imperative that the Special Prosecutor not only have the independence and authority needed to do this job properly, but that he also have the appearance and assurance of that independence and authority in the mind and eyes of the public. And, perhaps at this time, it is even more important than it has ever been before, that the public be assured of his independence and authority so that there be full confidence in the results he achieves and the decisions he makes.

In my own view, in practical effect, Mr. Leon Jaworski who was appointed Special Prosecutor on November 5, 1973, under the authority vested in him by Department of Justice Order No. 551–73 establishing the Office of Watergate Special Prosecution Force, and issued November 2, 1973 by Robert H. Bork, as Acting Attorney General, and published in the Federal Register of November 7, 1973, has all the authority and independence necessary to carry out the functions and responsibilities of the Office.

Mr. President, I ask unanimous consent that this order No. 551–73 of the Department of Justice be printed in the RECORD as appendix A at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See appendix A.)

Mr. FONG. Mr. President, despite this fact and because of the nature of the events which led to the requirement that a Special Prosecutor's office be created, and because of the subsequent dismissal of Mr. Archibald Cox as Special Prosecutor and the appointment of Mr. Jaworski to that position, I feel it would be more politic to create the office of Special Prosecutor by statute. Such statute would, in my opinion, give the Nation the additional assurance it needs to accept the reality that the Special Prosecutor is an independent Special Prosecutor.

The question then turns to what is the best method of accomplishing this end—How do we assure maximum independence with the fewest risks of challenge to the legality of the actions of the independent Special Prosecutor?

I have since October 20 studied in depth the legal implications of the various options open to us in Congress. As a member of the Judiciary Committee, I have had the benefit of the testimony of the former and present Special Prosecutor, the former and the Acting Attorneys General, several Senators, many law professors, and other experts. We heard 11 days of testimony from October 29 through November 20.

Two Senate bills S. 2611 and S. 2642 and two reports—92–595 and 93–596—emanated from these hearings.

Based upon all this information and upon my study of the applicable case law and after a great deal of thought on the subject, it is my conclusion that the only way in which it is certain that the Special Prosecutor's office will be properly created so that his actions will not be subject to constitutional challenge is to have us, by statute, establish the office, spell out its jurisdiction and authority, set the term of the office, fix the limited grounds for his removal from office, and provide for his appointment by the Attorney General.

The constitutional basis for the choice of appointment of the Special Prosecutor by the Attorney General is set forth in article II, section 1, clause 1 of the Constitution which provides:

> The executive Power shall be vested in a President of the United States of America.

And, section 2, clause 3 of article II continues:

> . . . he [the President] shall take Care that the Laws be faithfully executed. . . .

From this, it is apparent that the function of carrying out the laws is vested in the executive branch of the Government.

The manner of appointment of officials is provided for in article II, section 2, clause 2, which in pertinent part reads:

> . . . he [the President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

There are, therefore, four ways in which a Special Prosecutor might be appointed:

First, by the President, with the advice and consent of the Senate; second, by the President alone; third, by the courts of law; or fourth, by the heads of departments.

In the latter three cases, the appointee would be deemed an "inferior officer."

What are the advantages and disadvantages of each of these methods and what are the consequences flowing from each method of appointment?

Appointment by President with advice and consent of Senate or alone.

It is conceded by most people that an appointment by the President alone, in all the circumstances, would be the least desirable method of appointing a Special Prosecutor. Hence, I shall not discuss that further.

If we in the Senate wish to require our advice and consent be obtained to a Presidential appointment of a Special Prosecutor, we are faced with the grave possibility, if not probability, that we cannot by statute constitutionally limit the power of the President to remove the Special Prosecutor from office.

In *Myers* v. *U.S.*, 272 U.S. 52 (1926), the Supreme Court held unconstitutional an 1876 law which denied the President the right to remove first class postmasters prior to the expiration of their 4-year term without the advice and consent of the Senate. In a very lengthy opinion, Mr. Chief Justice Taft reviewed the entire question of constitutional directions for removal of officials from office.

Obviously, we do not wish to give the President an unrestricted right to dismiss the Special Prosecutor.

Interestingly, the Court in the Myers case also reviewed the Tenure of Office Act of 1867, which had been repealed in 1887 and found that it was unconstitutional. The Tenure of Office Act required Senate consent for the dismissal of the Secretary of War. It was the dismissal without Senate consent by President Johnson of Secretary of War Edwin Stanton because of his leaking of Cabinet secrets, that was the basis of 10 of the 11 articles of impeachment charged against President Johnson.

It is true that in *Humphrey's Ex'rs.* v. *U.S.* 295 U.S. 6022 (1935), the Supreme Court did hold that the President could not at will remove a member of the Federal Trade Commission since his duties were quasi-legislative and quasi-judicial.

Similarly, in *Wiener* v. *U. S.* 357 U.S. 349 (1958), it was held that a member of the War Claims Commission was not removable by the President as his duties were adjudicatory.

But, on the other hand, the Court of Appeals for the Sixth Circuit in *Morgan* v. *TVA*, 115 F2d 990 (6 Cir. 1940) held that the TVA was predominantly an administrative arm of the executive. Hence one of its directors was subject to removal by the President.

In my opinion, the functions of a Special Prosecutor are not quasi-legislative nor quasi-judicial. The functions of a Special Prosecutor are administrative of an executive function—law enforcement.

Hence, it is my conclusion that if he were to be appointed by the President even with the advice and consent of the Senate, it would be unconstitutional to attempt to restrict by statute the right and power of the President to remove him, for as the Supreme Court pointed out in the Myers case, the power of removal is constitutional and not derived from legislative fiat.

Turning then to the next alternative: The desirability of having the Special Prosecutor appointed by the courts of law.

In *Ex Parte Siebold*, 100 U.S. 371 (1880), we do have the Supreme Court sustaining the constitutionality of a Federal statute vesting the power of appointment of supervisors of elections in the Circuit Court of the United States.

But, in *Hobson* v. *Hansen*, 265 F. Supp. 902 (1967), the District Court for the District of Columbia, while sustaining the apponment of members of the District of Columbia Board of Education by the District Court for the District of Columbia did indicate that, depending on the circumstances of a particular case, there did exist the possibility of a challenge under the due process clause to actions of the appointing judges then sitting as judges to hear the merits of litigation challenging the validity of the performance of the court-appointed member of the board of education.

And, in *U.S.* v. *Marxano*, 149 F. 2d 923 (C.A. 2d, 1945), Judge Learned Hand made it clear:

> Prosecution and judgment are two quite separate functions in the administration of justice; they must not merge.

In *U.S.* v. *Solomon* (216 F. Supp. 835 (S.D. N.Y. 1963)), the Court upheld the validity of a statute (28 U.S.C. 506, now 28 U.S.C. 246) permitting the district court to appoint a U.S. attorney when a vacancy occurs and until the vacancy is filled by the President. But, in that case, it was clearly recognized that "the executive branch is free to choose another U.S. attorney at any time, the judicial appointment notwithstanding." And, of course, the interim U.S. attorney was subject to the control of the executive in the person of the Attorney General in performing his duties and not subject to the control of the Court.

Furthermore, in *U.S.* v. *Cox*, 342 F. 2d 167 (5 Cir. 1965), the Court held the U.S. attorney to be an officer of the executive department who exercises discretion as to whether or not to prosecute. In that case, the Mississippi district court had directed the U.S. attorney to prepare indictments as desired by the grand jury. The Attorney General had directed the U.S. attorney not to comply with the judge's order. The court of appeals held that the district court could not direct the Attorney General or the U.S. attorney to prepare or sign indictments.

With this analysis of the relevant cases, I deem it highly probable that a constitutional challenge to a statute authorizing a court-appointed and therefore court-controlled and court-removable Special Prosecutor might be sustained.

The benefits from this type of appointment are too few to be worth running the risks of having convictions obtained by such court-appointed Special Prosecutor reversed and the guilty go free because of a violation of the due process clause of the fifth amendment.

As Judge Gesell, in *Nader* v. *Bork*, Civil Action No. 1954–73, (D.C., D.C.), stated on November 14, 1973:

> Although these are times of stress, they call for caution as well as decisive action. The suggestion that the Judiciary be given responsibility for the appointment and supervision of a new Watergate Special Prosecutor, for example, is most unfortunate. Congress has it within its own power to enact appropriate and legally enforceable protections against any effort to thwart the Watergate inquiry. The Courts must remain neutral. Their duties are not prosecutorial. If Congress feels that laws should be enacted to prevent Executive interference with the Watergate Special Prosecutor, the solution lies in legislation enhancing and protecting that office as it is now established and not by following a course that places incompatible duties upon this particular Court.

Judge Sirica in a letter to Senator JAMES O. EASTLAND, chairman of the Committee on the Judiciary, dated November 15, 1973, also voiced his approval and that of at least eight other Judges of the District Court for the District of Columbia Judge Gesell's opposition to a court-appointed Special Prosecutor.

Mr. President, I ask unanimous consent that the text of Judge Sirica's letter of November 15, 1973 be printed in the RECORD as appendix B at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See appendix B.)

Mr. FONG. That leaves us with having the independent Special Prosecutor appointed by the Attorney General—with proper safeguards to insure his independence of action and freedom from dismissal except upon ground specified by statute.

This is the only type of appointment I deem capable of withstanding successful constitutional challenge.

This being the case, I am glad to cosponsor S. 2642, the Taft-Hruska bill, with certain modifications if we agree they are desirable after a colloquy.

S. 2642, as reported out by the Judiciary Committee would:

First, authorize the Attorney General to appoint an independent Special Prosecutor;

Second, provide that the jurisdiction of the independent Special Prosecutor would generally parallel the jurisdiction of former Special Prosecutor Cox and that of Special Prosecutor Jaworski; and

Third, provide that the independent Special Prosecutor could only be removed by the Attorney General "for neglect of duty, malfeasance in office, or violation of this act," what I presume to be the equivalent of the "extraordinary improprieties" ground now provided by regulation—Order No. 551–73—as the ground for removal of the Special Prosecutor.

The Attorney General would have to give both Houses of Congress 30 days' notice of such removal stating the reasons for the dismissal, but the consensus of majority and minority leaders and chairmen and ranking minority members of the Judiciary Committees of the Senate and House would not be necessary for such removal, as now required by the Department of Justice regulation.

The district courts in an action by the Special Prosecutor could enjoin his removal.

Fourth, provide for the District Court for the District of Columbia to appoint an interim independent Special Prosecutor if the Attorney General fails to act within 15 days of enactment of the statute or if the independent Special Prosecutor is disabled or there is a vacancy in the office. This in an interim appointment and is subject to direction of the Attorney General.

The provisions of S. 2642 would in my opinion certainly be constitutional.

An executive function—that of enforcement of the law—is subject to being exercised by appointment by an executive head of a department, the Attorney General.

The independent Special Prosecutor would be subject to control by the head of the department, the Attorney General.

The scope of authority vested in the independent Special Prosecutor would be spelled out by law.

The jurisdiction of the independent Special Prosecutor would be set by law.

The administrative functions, term of office, and funds for operation of the office would be set by law.

Grounds for removal of the independent Special Prosecutor would be set by law.

This bill would be constitutional.

Convictions of the guilty obtained by this Attorney General-appointed independent Special Prosecutor would withstand constitutional challenge.

It is clear that Congress can limit and restrict the power of removal it grants a head of a department as it deems for the best public interest. This was establishd in *U.S.* v. *Perkins*, 116 U.S. 483 (1886) when a cadet engineer was held not to be subject to removal by the Secretary of the Navy by any other means than court-martial under a statute requiring removal by court-martial in time of peace.

SUGGESTED CHANGES

I raise the question whether it would not be prudent, at the present time and under all the circumstances, to amend section 11(a) of S. 2642 to make it absolutely clear that the independent Special Prosecutor is removable only for "extraordinary improprieties on his part, which include neglect of duty, malfeasance in office or violation of this act."

I further suggest that in lieu of the 30-day notice of dismissal provided for in section 11(b), that that section be amended to provide that the independent Special Prosecutor will not be dismissed nor his independence limited without first obtained a two-thirds agreement to such dismissal or limitation from the majority and minority leaders and chairmen and ranking minority members of the Judiciary Committees of the Senate and the House of Representatives.

The findings and declaration of purpose set forth in section 2 of S. 2642 in subsection (9) provides;

> (g) the Acting Attorney General has assured the Congress that, under this Act, he will consult with the Senate leaders prior to making any appointment to the Office of Special Prosecutor and will not appoint anyone whom the Senate disapproves by resolution.

Acting Attorney General Bork in a letter dated November 26, 1973 to Senator HRUSKA did state, in relevant part:

> Because I understand the need for public confidence in the Special Prosecutor, let me assure you that if S. 2642 is approved while I am the Acting Attorney General, I will consult with the Senate leaders prior to making any appointment to the office of Special Prosecutor. I also will not appoint anyone whom the Senate disapproves by resolution.

It is to be expected that we will soon have an Attorney General in the person of Senator SAXBE.

There should be no doubt as to the requirement that whoever occupies the position of Attorney General and whenever an appointment is made to fill the position of independent Special Prosecutor that the proposed appointment be first subject to consultation with the Senate Judiciary Committee and that the Attorney General not appoint anyone whom the Senate disapproves by resolution.

Accordingly, I suggest a new subsection be added to section 4 of S. 2642 providing:

> (b) The Attorney General, accompanied by the person he proposes to name to be Special Prosecutor, shall consult with the Senate Committee on the Judiciary and the Attorney General shall make no appointment as provided for in subsection (a), if the Senate within 15 days of submission of the name of a person to be Special Prosecutor disapproves by resolution of such appointment.

With these added safeguards to insure the independence of the independent Special Prosecutor, I feel not only the reality of independence and legality will be assured the Special Prosecutor but the appearance of independence of the Special Prosecutor will be firmly established.

APPENDIX A

TITLE 28—JUDICIAL ADMINISTRATION

CHAPTER I—DEPARTMENT OF JUSTICE

Part O—Organization of the Department of Justice

Order No. 551-73—Establishing the Office of Watergate Special Prosecution Force

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, there is hereby established in the Department of Justice, the Office of Watergate Special Prosecution Force, to be headed by a Director. Accordingly, Part O of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. Section 0.1(a) which lists the organization units of the Department, is amended by adding "Office of Watergate Special Prosecution Force" immediately after "Office of Criminal Justice."

2. A new Subpart G-1 is added immediately after Subpart G, to read as follows:

"Subpart G-1—Office of Watergate Special Prosecution Force

§ 0.37 *General Functions.*

The Office of Watergate Special Prosecution Force shall be under the direction of a Director who shall be the Special Prosecutor appointed by the Attorney General. The duties and responsibilities of the Special Prosecutor are set forth in the attached appendix which is incorporated and made a part thereof.

§ 0.38 *Specific Functions.*

The Special Prosecutor is assigned and delegated the following specific functions with respect to matters specified in this Subpart:

(a) Pursuant to 28 U.S.C. 515(a), to conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings, which United States attorneys are authorized by law to conduct, and to designate attorneys to conduct such legal proceedings.

(b) To approve or disapprove the production or disclosure of information or files relating to matters within his cognizance in response to a subpoena, order, or other demand of a court or other authority. (See Part 16(B) of this chapter.)

(c) To apply for and to exercise the authority vested in the Attorney General under 18 U.S.C. 6005 relating to immunity of witnesses in Congressional proceedings.

The listing of these specific functions is for the purpose of illustrating the authority entrusted to the Special Prosecutor and is not intended to limit in any manner his authority to carry out his functions and responsibilities."

APPENDIX—DUTIES AND RESPONSIBILITIES OF THE SPECIAL PROSECUTOR

The Special Prosecutor.—There is appointed by the Attorney General, within the Department of Justice, a Special Prosecutor to whom the Attorney General shall delegate the authorities and provide the staff and other resources described below.

The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate, all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters which he consents to have assigned to him by the Attorney General.

In particular, the Special Prosecutor shall have full authority with respect to the above matters for:

Conducting proceedings before grand juries and any other investigations he deems necessary;

Reviewing all documentary evidence available from any source, as to which he shall have full access;

Determining whether or not to contest the assertion of "Executive Privilege" or any other testimonial privilege;

Determining whether or not application should be made to any Federal court for a grant of immunity to any witness, consistently with applicable statutory requirements, or for warrants, subpoenas, or other court orders;

Deciding whether or not to prosecute any individual, firm, corporation or group of individuals;

Initiating and conducting prosecutions, framing indictments, filing informations, and handling all aspects of any cases within his jurisdiction (whether initiated before or after his assumption of duties), including any appeals;

Coordinating and directing the activities of all Department of Justice personnel, including United States Attorneys;

Dealing with and appearing before Congressional committees having jurisdiction over any aspect of the above matters and determining what documents, information, and assistance shall be provided to such committees.

In exercising this authority, the Special Prosecutor will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice. The Attorney General will not countermand or interfere with the Special Prosecutor's decisions or actions. The Special Prosecutor will determine whether and to what extent he will inform or consult with the Attorney General about the conduct of his duties and responsibilities. In accordance with assurances given by the President to the Attorney General that the President will not exercise his Consitutional powers to effect the discharge of the Special Prosecutor or to limit the independence that he is hereby given, the Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part and without the President's first consulting the Majority and the Minority Leaders and Chairmen and ranking Minority Members of the Judiciary Committees of the Senate and House of Representatives and ascertaining that their consensus is in accord with his proposed action.

Staff and resource support

1. *Selection of Staff.*—The Special Prosecutor shall have full authority to organize, select, and hire his own staff of attorneys, investigators, and supporting personnel, on a full or part-time basis, in such numbers and with such qualifications as he may reasonably require. He may request the Assistant Attorneys General and other officers of the Department of Justice to assign such personnel and to provide such other assistance as he may reasonably require. All personnel in the Department of Justice, including United States Attorneys, shall cooperate to the fullest extent possible with the Special Prosecutor.

2. *Budget.*—The Special Prosecutor will be provided with such funds and facilities to carry out his responsibilities as he may reasonably require. He shall have the right to submit budget requests for funds, positions,

and other assistance, and such requests shall receive the highest priority.

3. *Designation and Responsibility.*—The personnel acting as the staff and assistants of the Special Prosecutor shall be known as the Watergate Special Prosecutor Force and shall be responsible only to the Special Prosecutor.

Continued Responsibilities of Assistant Attorney General, Criminal Division.—Except for the specific investigative and prosecutorial duties assigned to the Special Prosecutor, the Assistant Attorney General in charge of the Criminal Division will continue to exercise all of the duties currently assigned to him.

Applicable Departmental Policies.—Except as otherwise herein specified or as mutually agreed between the Special Prosecutor and the Attorney General, the Watergate Special Prosecution Force will be subject to the administrative regulations and policies of the Department of Justice.

Public Reports.—The Special Prosecutor may from time to time make public such statements or reports as he deems appropriate and shall upon completion of his assignment submit a final report to the appropriate persons or entities of the Congress.

Duration of Assignment.—The Special Prosecutor will carry out these responsibilities, with the full support of the Department of Justice, until such time as, in his judgment, he has completed them or until a date mutually agreed upon between the Attorney General and himself.

APPENDIX B

U.S. DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA,
November 15, 1973.

Hon. JAMES O. EASTLAND,
U.S. Senate, Committee on the Judiciary,
Washington, D.C.

DEAR SENATOR EASTLAND: I have received your letter dated November 15th concerning a quotation attributed to me in the *Washington Post* newspaper. I have read the *Post* article you referred to and find it substantially accurate insofar as it refers to my statements. Shortly after Judge Gesell of this Court released his opinion in the case of *Nader v. Bork*, I was visited in my chambers by several reporters who asked whether I agreed with the paragraph of that opinion in which Judge Gesell notes his opposition, and the reasons therefor, to a court-appointed special prosecutor. I responded that personally, I am in full agreement with Judge Gesell's statement. I also mentioned that I had been informed that several other active judges, members of this court, were of the same opinion.

I might mention that shortly before receiving your letter this afternoon, I had lunch with eight of our judges, each of whom remarked that he disapproves of a procedure that would require this court to appoint a special prosecutor.

Thank you for your letter and interest in this matter.

With kindest regards,
Sincerely yours,
JOHN J. SIRICA.

THE APPOINTMENT POWER OF THE EXECUTIVE

Mr. GURNEY. Mr. President, the structure of our Government and the history of its nearly two centuries teaches that the critical ingredient of independence of governmental officers is restriction upon their removal. If an officer can be removed arbitrarily, it matters not who appoints him. If he cannot be removed but for good cause, his independence is assured.

We need look little further for proof of this than our Federal judiciary. It has been the unbroken assumption since 1789 that judges will be independent, even though appointed by the President, if they can be removed only by the most laborious procedures and for cause.

The system works. On our Supreme Court there have been numerous examples of Justices deciding cases differently than had been supposed by the President who appointed them, and many a President has agonized over the opinions of his appointees. The same is true of judges of the lower courts.

Not only does the system work, through history we in the Congress have fought to sustain it. Witness the "court-packing" scheme of President Franklin Delano Roosevelt in 1937, when the Congress, joined by the people, turned back an effort to expand the Supreme Court with ideological "yes men," an effort which would have had profound consequences on our constitutional separation of powers had it succeeded.

In considering this Special Prosecutor legislation, it seems to me that some of us are overlooking the central issue of removal—the key to the independence of the Special Prosecutor—by concentrating too heavily on the issue of who shall appoint him.

This is a defect in two of the proposals the Senate is considering, the Hart-Bayh bill and the Percy-Baker bill. The first goes so far overboard in manipulating the appointment process that it may sink in a morass of constitutional doubt; the second utilizes an appointment process which may nullify any restrictions upon removal. Only the Hruska-Taft proposal unquestionably can withstand attack on constitutional grounds, and the elaborate restrictions the bill places upon removal of the Special Prosecutor are adequate to insure independence many times over.

Because both Hruska-Taft and Percy-Baker leave the appointment power in the Executive, in this regard there is little difference between them. Because the Acting Attorney General has assured the Senate that the Senate will have the right to disapprove any candidate for appointment to the office of Special Prosecutor, the difference between the two proposals is the difference between the ordinary confirmation process for Presidential nominees and the process of prior consultation and refusal to appoint if disapproved by the Senate, as outlined by the Acting Attorney General in his letter to Senator HRUSKA dated November 26, 1973. The choice between these differing appointment proposals is made easy when the effect of the appointment process upon removal restrictions is considered.

The fatal flaw in using the Presidential appointment with advice and consent of the Senate approach, the approach of the Percy-Baker bill, is that the removal power cannot be restricted. If the Senate chooses to use Presidential appointment, the Senate cannot restrict Presidential removal. This is the lesson of the Meyers case, in which Chief Justice Taft emphatically stated for the majority:

> The power of removal is an incident of the power to appoint and the power of the Senate to check appointments by advice and censent does not by implication extend the power of the Senate to block Presidential removal of officers.

It is argued that Meyers does not apply to the Percy-Baker bill, or in any event the case has been so modified and qualified by subsequent cases, notably Humphrey's executor and Wiener, that it does not bar the validity of restrictions upon Presidential removal of the Special Prosecutor. I cannot agree with this analysis, since the Special Prosecutor would be given no "quasi-legislative" or "quasi-judicial" powers so as to bring Humphrey or Wiener into play, but regardless, it cannot be denied that at the very least there is substantial doubt as to the validity of the removal provisions of the Percy-Baker bill in view of the Meyers case. The mere existence of this doubt suggests that the Percy-Baker approach should be avoided. Removal restrictions are so critically important to the issue of independence that we should do nothing to jeopardize them.

With the Hart-Bayh approach different problems emerge, although the result—serious constitutional doubt which may jeopardize the validity of the work of the Special Prosecutor—is the same. With Hart-Bayh, the problems relate to the appointment process. The appointment method selected—appointment by a panel of judges—is probably unconstitutional.

The argument for the constitionality of the Hart-Bayh bill rests primarily upon the case of ex parte Siebold, which lays down the test whether the power of a particular appointment can be vested in the judiciary, as being a question whether the judicial appointment is "incongruous" given the nature of the office. No appointment could be more "incongruous," given the fundamental departure from Anglo-American legal principles that would result, than that of a Special Prosecutor.

If the Hart-Bayh bill were adopted, for the cases falling under the Special Prosecutor's jurisdiction we would be making serious inroads into the adversary system which is the touchstone of Anglo-American jurisprudence. Our entire legal system is based on the idea that the ends of justice are best achieved, and the truth is most accurately brought out, when two adverse parties litigate their differences before a neutral tribunal according to rules of evidence and procedure developed through the centuries. This system is in opposition to the accusatorial or inquisitorial system, found on the European continent, in which one person both investigates and judges a case, acting as prosecutor and judge as well. Our system depends on the neutrality of the judge or the magistrate, and it requires strict separation of the judicial function from that of the prosecution.

The Hart-Bayh bill would subvert the adversary system for the cases under the Special Prosecutor's jurisdiction. Under that bill, the ultimate responsibility for both the prosecution and the adjudication of criminal cases would rest with the judiciary, a departure not merely from the constitutional principle of separation of powers but an outright rejection of the very basis of our jurisprudence.

The U.S. Supreme Court has on many occasions affirmed that strict neutrality of judicial officers is required in criminal cases. It is often stated that the major purpose for instituting the system of judicial warrants for arrest and search, a guaranteed right under the fourth amendment to our Constitution, was to substitute "the more detached, neutral scrutiny" (*Terry* v. *Ohio*, 392 U.S. 1, 21 (1968)), "objective mind" (*McDonald* v. *United States*, 335 U.S. 451, 455 (1948)), and "deliberate, impartial judgment of a judicial office" (*Wong Sun* v. *United States*, 371 U.S. 471, 481 (1963)) for the zeal of "a police officer engaged in the often competitive enterprise of ferreting out crime." (*Aguilar* v. *Texas*, 378 U.S. 108 (1964)).

As recently as 1971 the Supreme Court struck down a New Hampshire statute which mingled the prosecutorial and the judicial function. In *Coolidge* v. *New Hampshire* (403 U.S. 443 (1971)) the Supreme Court invalidated a warrant issued in a murder case by a State attorney general, who was then engaged in the investigation of the case and later acted as chief prosecutor at the trial, despite a State statute authorizing issuance of such warrants by the attorney general.

The lesson of Coolidge and the other warrant cases ought to be clear. The prosecutorial and judicial functions are not to be mingled. Responsibility for investigating, preparing, trying and appealing criminal cases ought not to be concomitant with the responsibility to adjudicate those cases.

But that is precisely what the Hart-Bayh bill would do. The responsibility for investigating, preparing, and litigating cases would be placed in the same branch of government as that in which responsibility to adjudicate is placed. Under the Hart-Bayh bill, the judiciary would be responsible for selecting a Special Prosecutor and deciding how well he performs his task. The Special Prosecutor would be subject to dismissal by the judiciary. Those who select him would be empowered to dismiss him without further review. What could be more pernicious to judicial impartiality? What could be more incongruous with the judicial function? If this would not meet the Siebold test of incongruity, nothing could, for nothing could be more incongruous than this.

Under article II, section 2, of the Constitution, Congress is provided certain powers to vest the appointment of "inferior officers" in the courts or the departments of the executive branch of government. Initially this power of Congress to vest the appointment power in the courts or departments was rather narrowly construed. The appointing power in the clause was considered "intended to be exercised by the department of the government to which the official to be appointed most appropriately belonged." (*Matter of Hennen*, 13 Pet. 258).

This construction of the power was explained in Meyers as not intended to define the constitutional power of Congress under article II, section 2, but rather to express the rule of law by which it should be governed. Since Siebold, the test has been whether there exists such an incongruity in the appointment as to excuse the courts from being required to make the appointment. Under Siebold Congress has some discretion as to where to vest the power of a particular appointment. This discretion, however, is not limitless.

There have been but a few cases dealing with vesting the power of appointment of seemingly "nonjudicial" officers in the judiciary. In Siebold itself, Congress empowered the courts to appoint elections supervisors to prevent the stuffing of ballot boxes. In *Hobson* v. *Hansen* (265 F. Supp. 902 (D.D.C. 1967)) a district court determined that Congress permissibly delegated to it the power to appoint members to the District of Columbia School Board. In *United States* v. *Solomon* (216 F. Supp. 836 (S.D.N.Y. 1963)), another district court case, the court held that the statute empowering district courts to appoint temporary U.S. attorneys was constitutional.

In both Siebold and Hobson, against Hansen, however, it should be noted that the subjects involved, the conduct of elections and a District of Columbia agency, are expressly within the legislative power of Congress. In article I, section 4 of the Constitution, the Congress is expressly given the power to alter any State regulations as to the times, places, and manner of holding congressional elections, except as to the places of choosing Senators. Under article I, section 7, clause 17, the Congress is expressly empowered to exercise exclusive and plenary legislative jurisdiction over the District of Columbia. Both Siebold and Hobson against Hansen ought to be read in the light of this congressional legislative power. Although the courts did not clearly articulate it, they were undoubtedly constrained to permit wider latitude in the designation of the appointing power when the subject involved was clearly within the legislative power of the Congress.

This situation should be contrasted with that present in the Solomon case involving temporary appointment of U.S. attorneys. In Solomon the court was very careful to limit the nature of the appointment it was called upon to make. The court stressed the very temporary nature of the appointment and the fact that it could at any time be superseded by a subsequent Presidential appointment. The court stressed that its temporary appointment in no way bound the President or fettered Presidential discretion in the appointment process.

In the case of court appointment of a Special Prosecutor as outlined in the Hart-Bayh bill, these limitations are not present. On the contrary, the court under that bill is given a broad power not merely to appoint but to remove, and the President is given no voice at all in the process. Viewed in this manner, neither Siebold, nor Hobson against Hansen, nor Solomon provide support for the Hart-Bayh bill. Rather, they argue against its constitutionality.

One interesting aspect of the hearings before the Judiciary Committee was the reference to British legal history by Professor Paulsen of the University of Virginia. As Professor Paulsen correctly noted, in Britain, historically and even today, a private citizen may lay the grounds for criminal prosecution before the magistrate who will make the decision whether the prosecution will then go forward. From this the professor concludes that "our legal history does not support the notion that control of prosecution is an 'inherently executive function.'" I disagree.

First it ought to be pointed out that to argue from this bit of history that criminal prosecution can somehow be a judicial function is a classic nonsequitur. The fact that a private rather than governmental person can institute criminal prosecutions in no manner whatsoever supports the conclusion that the institution and conduct of criminal prosecutions is a judicial function. All it indicates is that prosecution need not exclusively be carried out by Government officers. The function of prosecuting people to enforce compliance with the law, however, is in no manner made any the less executive in nature if private persons are able to supplement governmental action. The crown is not made any less responsible for the enforcement of criminal laws.

Second, reference to this portion of our history is quite incomplete, and reference to British practices in this respect should not be taken to refer to the American experience. The British have never developed a consistent and strong practice of separating governmental powers, and certainly there is no history of separation of powers in Britain such as we have here in this country.

The American experience is wholly different from the British. In the United States we have developed a very strict separation of executive and judicial powers in the area of the criminal law. As the example of the magistrates clearly shows, in the United States we insist upon strict neutrality of judicial officers. We do not mingle enforcement with adjudication. It is in this country unconstitutional to do so.

The magistrate example provides a very good indication of how British and American practices have differed because of the American doctrine of separation of powers. The British experience begins with the keepers of the peace in the 12th century, knights charged with general responsibility to preserve the peace and quell disorder. Their main duties were to suppress riots, arrest offenders, and try indicted persons at quarter sessions—hardly an expression of judicial neutrality as we know it today—and gradually the justices of the peace acquired even broader duties. During the Tudor era of the 14th and 15th centuries the justices of the peace even were given such duties as the conscription of seamen and the fixing of various prices and wages. As instruments of comprehensive Tudor economic regulation, the justices had—

> A considerable range of supervisory and regulatory obligations, a little overwhelming in their number and somewhat bewildering in their variety. It was perhaps just as well in the medley of duties thrust upon them that the justices were not bothered with any

> fine distinctions between judicial and administrative duties or criminal and civil jurisdictions. The jumbled legislation lumped them all together. (B. Osborne, Justices of the Peace 1361–1848, 7, 12–15 (1960).

In the 17th century the English magistrate's duties continued to expand. The justices of the peace exercised summary jurisdiction over minor offenses, out of quarter sessions, conducted preliminary examinations of persons accused of indictable offenses, issued arrest warrants, and exercised other judicial functions; they also exercised various governmental powers, particularly in administration of the poor laws. (See F. W. Maitland, "The Constitutional History of England," 232–33 (1931).) Also at this time the justices began to use general search warrants to enforce laws regulating religion, the general form of search power having been in use in England since the first half of the 14th century—the earlier statutes did not grant this power to the justices of the peace. See N. B. Lasson, "The History and Development of the Fourth Amendment to the United States Constitution," 23 (1937).

The demeanor of the Justices at that time, as would be expected of someone wielding combined investigatory and judicial powers with direct responsibility for preservation of order, was not in keeping with their modern American image of neutral arbiter—See P. Devlin, "The Criminal Prosecution in England," 3–7 (1960). In describing the preliminary examination, for example, Maitland notes:

> The object of it is not to hold an impartial inquiry into the guilt or innocence of the prisoner, and to set him free if there is no case against him; the justice of the peace here plays the part rather of a public prosecutor than of a judge. (Maitland, op. cit. supra at 233.) A blending of powers in the administration of the criminal law characterized the performance of the Justices.
>
> In those times the justices of the peace combined in their persons the functions of magistrate, policeman, and prosecutor. . . . 'They raised hue and cry, chased criminals, searched houses, took prisoners. A justice of the peace might issue the warrant for arrest, conduct the search himself, effect the capture, examine the accused, and sans witnesses, extract a confession by cajoling as friend and bullying as magistrate, commit him, and finally give damning evidence at trial." (Lasson, op. cit. supra at 36 n. 86, quoting J. Pollock, "The Popish Plot" (1903).

The justices of the peace—

> Were the key figures in a flexible administrative machine and they carried out both special and general commissions of which the commission of the peace was merely the most regular and the most important. (J. H. Gleason, "The Justices of the Peace in England 1588 to 1640," 96 (1969). The reason why such broad and significant powers developed upon the Justices is that they were an influential elite to whom such powers could be trusted. As a group they were wealthy, well educated, ambitious, and in reasonable accord with national policy both religious and political. (Id. at 96.) The qualified lawyers, the Members of the House of Commons, and J.P.S. in Elizabethan and Stuart England were so closely intertwined that they were essentially different embodiments of a single social entity. (Id. at 122.) The Justices . . . were competent members of the ruling class, and nothing was more natural than that a parliament of landowners . . . should trust them with all manner of duties and governmental powers. (Maitland, op. cit. supra at 494.)

But the trust of Parliament was in their political and religious conformity and acceptability, not in their neutrality and impartiality toward an accused in the administration of the criminal law.

The 17th and 18th centuries saw a burgeoning use of general and unrestricted powers of search, primarily extralegally by agents of the King, occasionally aided by acts of Parliamen+. It was this type of general search power, and the use of general warrants, which led directly to the inclusion in our U.S. Constitution of the fourth amendment with its prohibition against unreasonable searches and its designation of the specific requirements for search warrants.

We rejected the English precedent.

We chose instead a strict separation of judicial and law enforcement functions.

We began a course of criminal justice administration very different from that brought to our shores initially—we formed our own history.

This excursion into legal history has been somewhat lengthy but it has an important purpose. First it shows that "our" legal history—and here I refer to American legal history since adoption of the Constitution—is quite different from that of England with regard to the separation of powers in criminal prosecutions. The British history is one of blending, the mixing of judicial and prosecutorial powers. Ours is directly the opposite. We have constitutionally required a very strict separation of powers, a very strict neutrality of judicial officers, and a very rigid adherence to the formal adversary process in the criminal law.

Second, it underscores the reasoning behind the American requirement that criminal prosecutorial powers are to be kept separate from powers of adjudication, and the constitutional basis for that requirement. The general warrant—the power of unbridled search which was to such a large extent the cause of the American rebellion against British rule—developed directly and naturally out of the British magistrate system in which administrative and judicial powers and responsibilities were so casually blended. When one authority is given the power both to conduct a criminal prosecutorial function—such as a search—and to decide its propriety, the possibility of arbitrary and despotic action is not merely apparent but very real indeed.

Our entire criminal justice system is predicated upon the principle that judging and prosecuting are to be kept strictly apart. Are we to cast away that principle based on a fear of the moment, as a matter of expediency? That is what the Hart-Bayh proposal would do.

The argument has been made that prosecuting attorneys as lawyers are "officers of the court," and therefore they can be made "inferior officers" of the court under article II, section 2, of the Constitution, appointed by the judiciary. This argument misinterprets the meaning of the phrase "officer of the court" as it applies to an attorney. The phrase is intended to refer to an attorney's high obligation to the law itself, and to the adversary system of justice. As the ethical considerations of Canon 7 of the Code of Professional Responsibility of the American Bar Association clearly indicate and express—

> Our legal system provides for the adjudication of disputes governed by the rules of substantive, evidentiary and procedural law. An adversary presentation counters the natural human tendency to judge too swiftly in terms of the familiar that which is not fully known; the advocate, by his zealous preparation and presentation of facts and law, enables the tribunal to come to the hearing with an open and neutral mind and to render impartial judgments.

We ought to abide by that admonition. We ought not to begin to mingle prosecutorial and adjudicatory responsibilities by giving a judge—or a panel of three judges—ultimate, and in some cases very final authority, over both the prosecution and the judging of criminal cases.

Proponents of the Hart-Bayh bill contend that the public needs the reassurance that the Special Prosecutor will be impartially appointed and without restrictions be permitted to pursue his awesome responsibilities. But the public is ill served by using the vehicle of judicial appointment and control of the Special Prosecutor to attempt to reach that public reassurance. It is difficult to believe that the public will readily accept a bill that will place responsibility for investigating, prosecuting, and judging criminal cases all under one authority, all in one branch of government.

This whole concept was rejected by those ancestors of ours who fought a revolution and gave us our Constitution.

They guarded against this concept in the Constitution and the Bill of Rights.

The drafters of the Constitution were right. Let us not seek to subvert their great work by this ill advised legislation.

CONCLUSION OF MORNING BUSINESS

Mr. **MANSFIELD**. Mr. President, is there further morning business?

The **PRESIDING OFFICER**. Is there further morning business? If not, morning business is concluded.

INDEPENDENT SPECIAL PROSECUTOR ACT OF 1973

The **PRESIDING OFFICER**. Under the previous order, the Senate will now proceed to the consideration of S. 2611, which the clerk will report.

The second assistant legislative clerk read as follows:

> Calendar No. 573 (S. 2611) a bill to insure the enforcement of the criminal laws and the due administration of justice; establish an independent Special Prosecutor.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

> SECTION 1. That this Act may be cited as the "Independent Special Prosecutor Act of 1973".
>
> SEC. 2. The Congress finds and declares that—

(a) Serious allegations of illegal acts of high officials of the executive branch of Government cannot under present extraordinary circumstances be fully and properly investigated and prosecuted by the executive branch itself.

(b) Public confidence in the integrity of the Nation's criminal justice system cannot be maintained if the investigation of such allegations and prosecution of illegal acts by high officials of the executive branch of Government are carried out under the authority of the executive branch itself.

(c) The establishment of a Special Prosecutor independent of the executive branch of Government is "necessary and proper" under article I, section 8 of the Constitution of the United States to insure the enforcement of the criminal laws and the due administration of justice through a complete investigation of such allegations and a vigorous and uncompromised prosecution of accused offenders.

(d) A Special Prosecutor independent of the executive branch of Government should properly be appointed by the judicial branch of Government, and article II, section 2 of the Constitution of the United States provides authority for Congress to vest such appointment "in the courts of law".

(e) The establishment of an independent Special Prosecutor is an appropriate exercise of the power under article I, section 8 of the Constitution of the United States to "exercise exclusive legislation in all cases whatsoever" over the District of Columbia, in that many such activities are alleged to have occurred in the District.

APPOINTMENT

Sec. 3. (a)(1) The United States District Court for the District of Columbia is authorized and directed to appoint, in the following manner, a Special Prosecutor who shall have the duties and powers prescribed in this Act. The district court, sitting en banc, shall designate a panel of three of its members (hereinafter referred to as the "panel"). The panel shall promptly appoint a Special Proscutor with the experience, abilities, and reputation necessary to perform the responsibilities of the office.

Vacancies

(2) The panel shall fill promptly any vacancy which may occur thereafter in the position of Special Prosecutor. Any vacancy in the panel, itself, shall be filled in the same manner as the original designation of the panel.

Disqualification

(3) No member of the district court who has supervised any grand jury or presided at any criminal trial pertaining to matters within the jurisdiction of the Special Prosecutor shall be eligible to be a member of the panel. Participation in the designation of the panel shall not disqualify a judge in a proceeding in which the Special Prosecutor or his staff is involved. However, any judge who serves on the panel is disqualified from participating in any proceeding in which the Special Prosecutor or his staff is involved in their official capacity.

(b) The Special Prosecutor is authorized and directed and shall have exclusive jurisdiction, to investigate, as he deems appropriate, and prosecute against and in the name of the United States:

(1) offenses arising out of the unauthorized entry into Democratic National Committee headquarters at the Watergate;

(2) other offenses arising out of the 1972 Presidential election;

(3) offenses alleged to have been committed by the President, Presidential appointees, or members of the White House staff;

(4) all other matters heretofore referred to the former Special Prosecutor pursuant to regulations of the Attorney General (28 C.F.R. 0.37, rescinded October 24, 1973); and

(5) offenses relating to or arising out of any such matters.

Sec. 4. The Special Prosecutor shall have full power and authority with respect to the matters set forth in section 3 of this Act:

(1) to conduct proceedings before grand juries and other investigations he deems unnecessary;

(2) to review all documentary evidence available from any sources;

(3) to determine whether or not to contest the assertion of Executive Privilege or any other testimonial privilege;

(4) to receive appropriate national security clearance and review all evidence sought to be withheld on grounds of national security and if necessary contest in court, including where appropriate through participation in camera proceedings, any claim of privilege or attempt to withhold evidence on grounds of national security;

(5) to make application to any Federal court for a grant of immunity to any witness, consist with applicable statutory requirements, or for warrants, subpenas, or other court orders;

(6) to initiate and conduct prosecutions in any court of competent jurisdiction, frame and sign indictments, file informations, and handle all aspects of any cases over which he has jurisdiction under this Act, in the name of the United States, and

(7) notwithstanding any other provision of law, to exercise all other powers as to the conduct or criminal investigations and prosecutions within his jurisdiction which would otherwise be vested in the Attorney General and the United States attorney under the provisions of chapter 31 and 35 of title 28, United States Code, and the provisions of section 301.6103(a)-1(q) title 26, Code of Federal Regulations, and as the attorney for the Government in such investigations and prosecutions under the Federal Rules of Criminal Procedure.

Sec. 5. (a) All materials, tapes, documents, files, work in process, information, and all other property of whatever kind and description relevant to the duties enumerated in section 3 hereof, tangible, or intangible, collected by, developed by, or in the possession of the former Special Prosecutor or his staff established pursuant to regulation by the Attorney General (28 C.F.R. 0.37, rescinded October 24, 1973), shall be delivered into the possession of the Special Prosecutor appointed under this Act.

(b) All investigations, prosecutions, cases, litigation, and grand jury or other proceedings initiated by the former Special Prosecutor pursuant to regulations of the Attorney General (28 C.F.R. 0.37, rescinded October 24, 1973), shall be continued, as the Special Prosecutor deems appropriate, by him, and he shall become successor counsel for the United States in all such proceedings, notwithstanding any substitution of counsel made after October 20, 1973.

Sec. 6. The Special Prosecutor shall have power to appoint, fix the compensation, and assign the duties of such employees as he deems necessary, including but not limited to investigators, attorneys, and part-time consultants, without regard to the provision of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title. The Special Prosecutor is authorized to request any officer of the Department of Justice, or any other department or agency of the Federal or District of Columbia government, to provide on a reimbursable basis such assistance as he deems necessary, and any such officer shall comply with such request. Assistance by the Department of Justice shall include but not be limited to, affording to the Special Prosecutor full access to any records, files, or other materials relevant to matters within his jurisdiction and use by the Special Prosecutor of the investigative and other services, on a priority basis, of the Federal Bureau of Investigation.

Sec. 7. The Administrator of General Services shall furnish the Special Prosecutor with such offices, equipment, supplies, and services as are authorized to be furnished to any other agency or instrumentality of the United States.

Sec. 8. Notwithstanding any other provisions of law, the Special Prosecutor shall submit to the Congress directly requests for such funds, facilities, and legislation as he shall consider necessary to carry out his responsibilities under this Act, and such requests shall receive priority consideration by the Congress.

Sec. 9. The Special Prosecutor shall carry out his duties under this Act within two years, except as necessary to complete trial or appellate action on indictments then pending.

Sec. 10. The panel has the sole and exclusive power to dismiss the Special Prosecutor. The only grounds for removal are gross impropriety, gross dereliction of duty, or physical or mental disability preventing discharge of his responsibilities under the Act.

Sec. 11. The Special Prosecutor solely shall exercise the powers and perform the duties specified herein. Neither the Chief Judge or the President of the United States, nor any other officer of the United States shall have any authority to direct, countermand, or interfere with any action taken by the Special Prosecutor pursuant to this Act. Neither the President of the United States, nor any other officer of the United States, shall have any authority to remove the Special Prosecutor from office.

Sec. 12. The Special Prosecutor is authorized from time to time to make public such statements or reports as he deems appropriate and is authorized and directed upon completion of his duties to submit a final such statement or report to the Congress and the President.

Sec. 13. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EXPEDITED REVIEW PROCEDURE

Sec. 14. (a)(1) Any objection by a person who is the subject of an indictment or information to the authority of the Special Presecutor under the Constitution to frame and sign indictments or informations and to prosecute offenses in the name of the United States shall be raised by motion to dismiss the indictment or information. Such motion shall be made within twenty days of notice of the indictment or informtaion, or before entry of a plea. The making of such a motion shall not preclude the making of motions on other grounds as permitted by the Federal Rules of Criminal Procedure. Persons who are the subjects of an indictment or information on the date this Act becomes effective shall raise such objection within twenty days of notice that the Act has become effective.

(2) The district court shall immediately certify any motion made under subsection (a)(1) to the United States court of appeals for that circuit, which shall hear the motion sitting en banc.

(3) Notwithstanding any other provision of law or rule, any decision on the motion shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal must be brought within ten days from the ruling on the motion.

(4) It shall be the duty of the court of appeals and of the United States Supreme Court to advance on the docket and to expedite to the greatest possible extent the

disposition of any motion filed pursuant to subsection (a)(1).

(5) Except as provided in this subsection, no court shall have jurisdiction to consider any objection to the validity of an indictment or information or a conviction based on the lack of authority under the Constitution of the Special Prosecutor to frame and to sign indictments and informations and to prosecute offenses in the name of the United States.

(6) The Special Prosecutor and anyone acting on his behalf shall be deemed a person authorized to be present during sessions of a grand jury, notwithstanding any later judicial determination regarding his authority to frame and to sign indictments and informations and to prosecute offenses in the name of the United States.

(b)(1) A person aggrieved by any act of the Special Prosecutor may bring an action or file an appropriate motion challenging his constitutional authority under this Act and for appropriate relief. Such an action or motion shall be filed within twenty days of notice of the act to which objection is had. The district court shall immediately certify all questions of constitutionality of this Act to the United States court of appeals for that circuit, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provision of law or rule any decision on a matter certified under subsection (b)(1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal must be brought within ten days of the court of appeals decision.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any question certified under subsection (b)(1).

(c) In addition to any other civil or criminal relief against interference with the performance of his duties to which the Special Prosecutor appointed under this Act may be entitled, he may bring an action for injunctive relief against any interference, or threatened interference, with the performance of his duties or with his exclusive jurisdiction under this Act, or against failure to cooperate with him as required by this Act, by any officer of the executive department of the United States. Any defense to such action which challenges the authority of the Special Prosecutor under the Constitution, or otherwise calls into question the constitutionality of this Act shall be interposed within twenty days of the filing of the complaint.

(2) An action pursuant to subsection (c)(1) shall be brought in the United States Court of Appeals for the District of Columbia Circuit which shall hear the matter, sitting en banc. Notwithstanding any other provision of law or rule any decision on the matter shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal must be brought within ten days of the decision of the court of appeals.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any action brought pursuant to section (c)(1).

(d) The expedited review procedures of this section shall not apply to any challenge to the constitutionality of the provisions of this Act insofar as any question presented shall have been determined by the Supreme Court of the United States, notwithstanding that the previous determination occurred in litigation involving other parties.

Mr. MANSFIELD. Mr. President, I have sent word to the Senators that I know are most intimately involved, though not all of them. It is my intention to try to answer any questions which are raised between now and the hour of 11:45 this morning, at which time the regular order will go into effect and the unfinished business will be laid before the Senate automatically.

The PRESIDING OFFICER. The time for debate on the pending bill will be limited to 4 hours, to be equally divided and controlled by the Senator from Nebraska (Mr. HRUSKA) and the Senator from Michigan (Mr. HART).

Mr. BAKER. Mr. President, I will be happy to yield to the distinguished Senator from Illinois if he wishes. However, I have only very brief remarks to make.

The PRESIDING OFFICER. How much time does the Senator from Tennessee yield himself?

Mr. BAKER. Mr. President, I am not in a position to yield myself time. I believe that the time is under the control of the Senator from Nebraska.

I wonder if the distinguished majority leader would yield to me such time as I need in which to make these remarks since the Senator from Nebraska is not on the floor.

Mr. MANSFIELD. The Senator from Tennessee may have as much time as he desires.

Mr. BAKER. Mr. President, I rise to state that I fully understand the parliamentary situation. I have discussed the matter since the colloquy on the floor yesterday with the distinguished majority leader and with the distinguished minority leader.

I have joined with the distinguished Senator from Illinois in offering what we believe to be a desirable and constitutional solution to the so-called special prosecutor dilemma. I am aware, however, that the leadership of the Senate, while not institutionalized fully in all of its scope and sweep within the powers, rules, and precedents of the Senate, is an essential and vital part of a coherent and rational functioning of this body. And when the joint leadership, which is not codified into the rules of the Senate at all but which exists as a very important part of the functioning of this body, proposes a particular course of action with respect to procedural matters, I have found in my years of experience that it is extremely difficult to undo this situation.

So, I found myself yesterday in a position of wanting very much to proceed with the consideration of legislation to enact into statute and law the provisions for the appointment and protection of a Special Prosecutor. However, the power, the prestige, and the practical impact of the procedural niceties of the Senate propel me in all candor and reason to understand that we are not likely to succeed in that respect.

In colloquy with the distinguished majority leader, he pointed out that he would at my request withhold his unanimous-consent request of yesterday until today, which request related to the allocation of time for debate for the pendency of this bill which is now pending before the Senate.

We could not solve the whole problem however. And I think that the RECORD should show that I understand the procedure under the rules of the Senate and that the Senate must proceed at the proper time to the consideration of regular business.

I do not relish the prospect of laying aside what I consider to be important legislation. However, I understand the realities of the situation.

I understand that after this colloquy, the majority leader will ask unanimous consent to proceed to lay other legislation before the Senate. It will not be my position to object to that.

I will, however, join with my distinguished colleague, the Senator from Illinois, in asking certain assurances from the joint leadership, in this case from the majority leader and others, respecting the future course of our legislative activities into the matter of cloaking the Special Prosecutor with special protection.

I received yesterday, as I understand it, the assurances of the joint leadership that, if it is necessary, the leadership would join in taking this matter from the calendar at some early, future date.

Mr. MANSFIELD. The Senator is correct.

Mr. BAKER. I understand further that if circumstances require, even after the adjournment of this session of the 93d Congress sine die, the joint leadership, in accordance with the resolution of adjournment, would consider the matter of reconvening the Congress so that we might take up the legislation still on the calendar dealing with the special prosecutor.

There are other assurances that I hope we have. However, the representations, as I understand them, are that this bill and the related amendments will remain on the calendar of the Senate and that, even after adjournment sine die, if the circumstances indicate the necessity and desirability of reconvening and reconsidering our action with respect to the consideration of these measures, the leadership would join in our request that we do so.

Mr. MANSFIELD. The Senator is correct.

Mr. BAKER. In view of those reaffirmations by the distinguished majority leader, and seized with an excess of realism, as I sometimes am not, I am inclined to think that the best course of action today is to clearly state our concern and our disappointment that we are not now going to be able to dispose of this important legislation, and to settle for the assurances of the joint leadership that the matter will remain on the calendar, and that we can proceed as facts and circumstances warrant in the future.

Mr. PERCY. Mr. President, will the distinguished Senator yield?

Mr. MANSFIELD. I yield.

Mr. PERCY. Possibly the distinguished majority leader would want to withhold an answer to the total question with which we are concerned, because I have a few questions. If he will yield for that purpose, I would first like to say that I believe the majority leader is well aware that on both sides of the aisle, there is a desire to cooperate, but that there is also a deep concern as to what, in good conscience, is now our responsibility.

Under the previous order, as I understand the parliamentary situation, the pending business before the Senate is S. 2611, the Special Prosecutor legislation.

After 2 months of debate, hearings, testimony by the leading constitutional scholars in our Nation, an unprecedented drop in the confidence of the people in their Government, and much preparation on the part of the Senate to deal with three pieces of legislation which, combined, have over 60 cosponsors, we are now, at last, considering this legislation. However, as the distinguished majority and minority leaders stated last night, it is their intention to lay this legislation aside and not consider any Special Prosecutor legislation this year.

But since there is a unanimous consent agreement which makes this Special Prosecutor legislation the pending business, I understand that there are only four ways that we could move on to other legislation. One way would be to vote on the bills now, as provided for under the other unanimous consent agreement, and thus dispose of the legislation. A second would be to lay it aside and vacate the previous order through a unanimous consent request which could be objected to. A third way would be to request the leadership to move to lay the legislation aside and have a vote on that motion. The last method would be for a Member of this body to call for regular order, which would put us back on the Rhodesian chrome bill.

Mr. President, the task facing the leadership of the Senate is not an easy one at any time as they attempt to accommodate 100 Senators and still move the business of the Senate along expeditiously. In order to be successful, they need the cooperation of the Senate. In this regard, I would like to try to accommodate the desires of the leadership. However, in good conscience we cannot let this matter drop so easily.

The Senate is still on record as having passed Senate Resolution No. 105, calling upon the President to name a Special Prosecutor of the highest integrity. In principle, this resolution has already been accepted by the President. Mr. Jaworski has been named and through the debate we heard last night on the floor, and, indeed, throughout the hearings on this matter, it is clear that the Senate fully approves of Mr. Jaworski and the job he is doing. However, that is not enough. If we walk away from this now with no more than this bare minimum, too many questions will remain unanswered, too many doubts will remain in the minds of the American public, not only about the integrity of the investigation absent statutory safeguards, but also about the willingness or ability of Congress to act and to act decisively.

The fact that within the last 2 weeks, the country has watched the Senate grind to a halt because of three separate filibusters has not enhanced our image. If we now just throw up our hands and ignore the intent of at least 60 out of 100 Senators, who obviously represent a majority opinion in the country, the people's disillusionment about the Senate will well be justifiable.

If we, indeed, do nothing this year on legislation regarding a Special Prosecutor, we should at the very least make clear where we are on this matter. So I would ask the distinguished majority leader whether he does not feel that the Senate and the Senate Judiciary Committee have had imposed upon them by an anxious country an oversight responsibility for the Special Prosecutor. Is not this what was done with regard to Mr. Cox, and with the nomination of Attorney General-designate Saxbe, now pending before this body, should not we, at the very least, receive from him certain assurances as to Mr. Jaworski's work?

Would the majority leader indicate for the Record, so that the country would at least have this assurance, that the Judiciary Committee does stand ready to exercise that oversight responsibility, and that Mr. Jaworski will not be operating in a vacuum? That there will be a concerned Congress, fully representing the wishes of the American people, sharing in the responsibility of insuring the integrity of this investigation, a responsibility that is so great because the innocent need to be fully vindicated in the minds of the American people when declared innocent by the Special Prosecutor. And when any cases or charges against anyone are dropped, the country should then feel confident that all of the factors have been examined and that there has been oversight by the Judiciary Committee.

Would the majority leader give to the Senator from Illinois and to the country an assurance that this responsibility is an acknowledged responsibility of the Judiciary Committee?

Mr. JAVITS. Mr. President——

Mr. MANSFIELD. In answer, I would say yes, but I would go beyond what the distinguished Senator from Illinois has just said, and state that the master of the Judiciary Committee, the Senate itself collectively, should consider itself as the oversight committee as far as the conduct of the Office of the Special Independent Prosecutor is concerned.

When I say office, I mean not only Mr. Jaworski, but I mean the staff which he inherited from Mr. Cox, which he retained, and which has been performing, I think, with distinction, vigor, and durability. It is not a Judiciary Committee responsibility; it is a Senate responsibility, and the Senate as a whole ought to undertake that as long as these two bills are on the calendar.

That oversight capacity will be in existence, the Senator may be reassured.

Mr. JAVITS. Mr. President, will the Senator yield on that point?

Mr. MANSFIELD. Yes, indeed.

Mr. JAVITS. I would just like to sustain Senator Percy and express my enormous satisfaction with what the majority leader has said. I have not been a major actor in these matters, as have Senators Percy, Baker, Bayh, and Hart, but when the announcement came yesterday I was deeply disquieted. My first instinct was to contest it, because of the fact that we should not go down without a whimper, having made all this noise about this matter.

But overnight, after consulting other Senators and reviewing what the majority leader had said, and with the vigilance being exercised by my colleagues, I decided that I would go along with the leadership.

With all my experience here, I would simply like to add one corollary to the majority leader: If, in order to exercise collective oversight, it is necessary to take action in the Senate either by calling up one of these measures or some other action, is it the position of the majority leader that he intends to fully facilitate that, if any reasonable number of Senators asked for it?

Mr. MANSFIELD. It is.

Mr. JAVITS. I thank my colleague very much.

Mr. PERCY. Mr. President, I wish to thank my distinguished colleague from New York. He minimizes his role in this matter. He has been a constant source with whom many of us have consulted. He is a cosponsor of one of the bills, and has been a great source of strength and reassurance as we have consulted with him on this matter.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. PERCY. I am happy to yield; I do have four or five questions, however.

Mr. BAKER. At that point, though.

Mr. PERCY. I yield.

Mr. BAKER. Before the Senator from Illinois proceeds with his questions for the majority leader, I would simply like to note for the benefit of the Senate that on yesterday I talked with the distinguished senior Senator from New York, who expressed the gravest concern with this matter, and his concern that if we did not proceed, there might be lack of public confidence in the Senate and in our resolution and determination to see that these matters be handled independently and effectively.

I have had the opportunity to discuss this matter with the Senator from New York, and our independent conviction was that this was the right course of action, but I would like to express my great pleasure that he joins with us in these assurances in the apparent oversight authority of the Senate which is the real protection of the country. I simply want to verify the concern that the distinguished Senator from New York has expressed and his perception which, as usual, is so keen in these matters—and I associate myself with them.

Mr. PERCY. I thank my distinguished colleague.

Mr. STENNIS. Mr. President, if the Senator will yield me half a minute, I should like to express myself on one point. I did not sign any of these bills. I recognize the importance of them but I also recognize the huge constitutional question involved and I have been very much concerned in trying to prepare myself. I am not now disposed to support the bill of the Senator from Illinois but I feel that certainly we should not take this up in the atmosphere of a rush, that is, the rush of preadjournment, especially when we have all these other matters.

We know from experience that whatever the distinguished majority leader says he will promise, that is his bond and no one has any more doubt about what he will do, once he makes a promise. I hope that we see fit to settle it on the basis of his promise.

Mr. PERCY. Mr. President, I thank the Senator from Mississippi very much. We value his comments very much, indeed.

My second question to the distinguished majority leader concerns the authority of the Special Prosecutor. This was an integral part of Senate Resolution 105 in that the authority of the Special Prosecutor had to be adequate to carry out his responsibilities. We have seen the grave questions that this can cause.

I would ask the distinguished majority leader whether we need to discuss with Senator SAXBE during the course of his confirmation proceedings, which are going on now, the necessity for nailing down the authority of Mr. Jaworski. All three bills before the Senate this morning concur in this matter. They are almost identical as to the authority. There is no question but that there must be adequate authority. We have seen in the past how ineffective mere Federal regulations can be.

Sixty Senators have agreed on the question of authority by putting their names on the three different bills. This must be embodied in law and the Special Prosecutor has to be operating under statute rather than regulations which can be issued and which can be, as we have seen, withdrawn.

So, should we not at least receive from Senator SAXBE his assurances that he will not weaken or withdraw the regulations under which Mr. Jaworski now operates, and make that a condition precedent to a confirmation vote on Senator SAXBE, an assurance I have no doubt he would give? But, of course, it was that same assurance which the Senate received from Mr. Richardson that was the bond which held us together in good faith, and which in the end prevented Mr. Richardson from carrying out the order of the President to discharge Mr. Cox. That same bond should be established between our colleague, Senator SAXBE, and the Senate.

Mr. MANSFIELD. In response, may I say, it is my understanding—and the distinguished Senator from Indiana (Mr. BAYH) can confirm this, if he will—that that is one of the questions which will be put to Senator SAXBE at his confirmation hearings today.

Is that a correct statement, I ask the Senator from Indiana?

Mr. BAYH. Mr. President, I feel certain that that question will be asked. I am rather low on the totem pole of seniority, but if that question is not asked, at the time the question gets to me, I intend to ask it myself.

Mr. MANSFIELD. So, we have reassurance, which I think is doubly assuring, and everyone would want that question asked of Senator SAXBE. That question should be answered satisfactorily, to the end that Mr. Jaworski will have as great a degree of independence as possible, and to the end that insofar as the Attorney General is concerned, Mr. Jaworski will be protected fully, as Mr. Richardson attempted to protect Mr. Cox.

I think it would be the overwhelming sentiment of the Senate—if not its unanimous opinion—that that protection should be forthcoming.

But, may I point out that if that protection is not forthcoming, if there is another "Saturday night massacre," the Senate has at its disposal a number of bills which can be taken up immediately.

If we had had this item available at the time when Mr. Cox was dismissed, I have no doubt in my own mind that had the resolution been on the Senate calendar then, it would have been adopted overwhelmingly on the next legislative day. I hope that that answers the Senator's question.

Mr. PERCY. I thank the distinguished majority leader very much, indeed.

I would simply ask the Senator from Indiana that should the questioning get to him, and Mr. SAXBE has not been asked, would the Senator also put the question directly to Mr. SAXBE to get assurances that he would consult with the Senate before anything was done that would in any way restrict or limit the Special Prosecutor's authority or tenure? I think that if that refinement of the authority could be obtained, it would nail down securely what we have been seeking and eliminate the experience we have already gone through.

Mr. BAYH. That, too, is a question that will be asked. If it is not asked prior to my opportunity to ask questions, I will ask it myself. That, as well as the other question, is subject to the inadequacy that I intend to address myself to shortly. But I think these are good-faith efforts that can be made, short of the legislative process. If the Senate does not take a legislative step, then, of course, we would have to have a limitation to shore up and protect ourselves in other analyses, short of the element of the legislative process.

Mr. PERCY. I thank the distinguished Senator.

The next area I should like to explore is the question of access which the Special Prosecutor has to files, documents, and memoranda, all of which apply essentially to the responsibility and authority he has been given. This is a subject of great public debate, and it has been the subject of internal dissension and misunderstanding in the administration.

I believe that Members of the Senate, in their direct contact with the President and his chief of staff, General Haig, have reached a certain understanding.

We should have the understanding that the Special Prosecutor will get whatever he wants without having to go to court. We ought to try to nail this down in connection with Senator SAXBE's nomination, to make sure that whatever Mr. Jaworski feels he should have, he will not have to go to the courts; that he is fully empowered, notwithstanding any objection the President may have, to obtain what he needs. I hope that it would not be necessary, but we should have the understanding that it will have been worked out. If a matter is determined, in the sole discretion of the Special Prosecutor, to be necessary and vital to his responsibility, he would merely have to request that information and would then have direct access to it.

In conversation with General Haig, I raised the general question of national security. His reply seemed to indicate that he did not rebut that. But if there were any concern about the security clearance of the Special Prosecutor, then we had better obtain the necessary clearance for the Special Prosecutor.

But even if there are matters involving national security—and every Member of the Senate is cleared for top secret—I should think that a clearance would be readily obtainable for the Special Prosecutor; and in this case I could not imagine that it would be withheld. But I think the cloak of national security cannot be and should not be used to deprive the Special Prosecutor of having access to certain documents.

I once again turn to the majority leader and ask whether it is not reasonable that those assurances be obtained from Senator SAXBE, perhaps as the second in the chain of command here. Certainly, it would be a reassurance to the country and to the Senate that a satisfactory arrangement has been worked out. If he does not have firsthand knowledge from the President as to what this clearcut understanding was, which I understand was given by the President to Senator SCOTT, then it should be obtained by him during the course of these proceedings, so that it is clearly on the record and so that there can be no possibility of misunderstanding or miscalculation on this very crucial point.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. MANSFIELD. May I say that, insofar as I know, Mr. Jaworski has shown no hesitation whatever in making his views known, that, if necessary, he would go to the courts and that he would exempt no person in that process. He has raised questions, too, about the definition of national intelligence or security matters as related to the tapes, pertinent questions, so I do not think he is going to be dissuaded by soft words but only on the basis of hard facts.

It appears to me, also, that the White House has shown a great deal more in the way of cooperation in its relationship with Mr. Jaworski than it did with Mr. Cox. Mr. Jaworski has had to wait a short while on occasion to have some of his requests fulfilled as expeditiously as he would like, but I think that is understandable in view of the condition which exists in the executive branch at the present time, based on the rapid turnover of lawyers or the displacement of lawyers or the coming in of a new crew, with the going out of an old one.

Those are matters which I think are being taken care of as well as they possibly can at the present time.

So far as Senator SAXBE is concerned, those of us who serve in this body have had a chance to get to know him intimately. He is a man who knows where he is going, knows what he is doing. He is, in effect, a sort of swashbuckler among the Senators because of his style. But Senator SAXBE is no fool. I daresay that the questions being raised today have been raised in Senator SAXBE's mind already, that those questions will be asked by the members of the Judiciary Committee, and those questions will be answered to the satisfaction of that committee.

May I say that on the basis of what I have been able to hear as to what the committee is going to ask Senator SAXBE today, it is my belief that they are going to the tough areas relative to the prosecutor, relative to the Kent State shootings, and relative to other matters which are of vital interest to the committee, to the Senate, and to the American people.

I want to see the nomination of Senator SAXBE confirmed before we adjourn sine die, but I do not want to see him accorded any special favors by the Judiciary Committee because he happens to be a Member of the Senate. I think that BILL SAXBE does not expect any favors and would look upon any favors, as such, with disapproval.

The tough questions will be asked, and I think his nomination will be approved by the committee. It is my hope that, barring unforeseen events, we will be able to take up that nomination either later this week or the first part of next week and get it out of the way and send BILL SAXBE, regretfully, out of this Chamber to his new position as the Attorney General of the United States.

Mr. PERCY. I thank the majority leader.

I would only add this comment about the confirmation process. It is now underway. When Senator SAXBE's name was first put forward, I heard that we probably would confirm his nomination within 24 hours. I heard the same thing about JERRY FORD when he was nominated to be Vice President. The Senate and the House have rightly judged the mood of the country and accepted its own responsibility and submitted both nominations, because they are members of their own bodies, to the most careful scrutiny. We moved with deliberate speed in both cases, and I think the deliberate speed was called for. The Senate and the House have leaned over backward to show no favoritism, to make no assumptions, and to leave no stones unturned; and I think that is wise. But I hope the time schedule enunciated by the majority leader will be held to.

One further question I have regards the continuity of the work. This is a matter that I know some of us have discussed directly with the President, and he wants no interruption in the continuity of the work.

The case I have in mind is the possibility that the special prosecutor could be absent from his office through illness or for whatever reason, and that there might be an interruption in the work. We want to get this matter behind us, dealt with thoroughly and completely, but at the earliest possible opportunity, without any unnecessary interruptions.

All three bills that we have before us for consideration on the floor today provide for a Deputy Special Prosecutor. In virtually every department of Government there is a deputy to step in immediately and take the place of the administrator, the secretary, the director, whoever it may be.

Should we not encourage or ask Senator SAXBE today or tomorrow, during the course of his hearings, to ask or encourage Mr. Jaworski to designate a deputy who would be able to take over, if need be, so that at least these sections of the bills that we would have considered, which would have strengthened the Office of Special Prosecutor, would, in effect, be implemented, even though the proposed legislation might not be adopted?

Mr. MANSFIELD. May I say that I assume that, in effect, there is a Deputy Special Prosecutor at the present time who has the responsibilities, if not the title. Certainly, there must be someone in that team to whom Mr. Jaworski delegates responsibility on occasions. I see nothing untoward in the matter of the designation of a Deputy Special Prosecutor. I would hope that Senator SAXBE, upon the confirmation of his nomination, would give that matter his most serious and immediate consideration, and that, as the distinguished Senator from Illinois has indicated, he would discuss the situation with Mr. Jaworski, so that together they might see what they could work out to implement what the distinguished Senator has just suggested, which I think is most meritorious.

Mr. PERCY. I concur with the comments of the distinguished majority leader.

I feel that there must be, there should be, a deputy; but I—like the majority leader—am at a loss to name who it is and what the scope of his responsibility or authority is.

It would seem to the Senator from Illinois that so long as all three bills provide for a deputy, that deputy should be clearly named, that the Special Prosecutor should touch base with the Judiciary Committee—in effect, then, with the Senate—to identify that individual clearly, what his qualifications are, and to assure that the appointment of such an individual would reach a consensus of approval of the Judiciary Committee; and possibly then that the Senate, in some informal way, so that at least we know who it is and so that there would be no question about who would step in and take over in the event of some emergency. I feel we would agree on that and I would hope that would be carried forward. If our distinguished colleague from Indiana, who has been so deeply interested and involved within this important matter, would see that that were done in the hearings today or tomorrow I feel it would be very helpful, indeed.

The subject of dismissal is another matter I would like to address to the distinguished majority leader. I even ask to have placed in the RECORD—perhaps Senator SAXBE should be allowed to do so—the conditions clearly and unmistakably under which the Special Prosecutor could be dismissed, and these should include such definitive standards as malfeasance in office, neglect of duty, as well as some procedure for consulting with Congress before any dismissal occurs, so that there is no misunderstanding about the fallout that would result from our having again to go through what has been referred to by the majority leader and which is popularly called the Saturday massacre.

I would hope we could define that area. The purpose of this legislation was to make that unmistakably clear so that there could be no if's, and's, or but's about it, and no question in the event there was a breach.

If the Senator from Illinois could have assurance on that point, that it would be covered, I would feel better about passing on to other bills we have before us.

Mr. MANSFIELD. If the Senator will yield, that subject has been met in part, or almost in part, because the President has indicated that before any action would be taken seeking to dismiss Mr. Jaworski, consultation would be had with eight Members of Congress—the leadership in both parties, and I think the chairmen and the ranking Republican member in the two Judiciary Committees. I think that is a little too select to give the Senator my reaction. I think it does apply somewhat in connection with the discussion which the Senator has indicated. I do not know how many of the eight it would take either to affirm or deny such a decision, but as far as the Senator from Montana, now speaking, is concerned, who happens to be one of those designated eight, there would never again be a repetition of what happened to Mr. Cox on that Saturday in October.

The Senator has indicated that definitions ought to be spelled out, reasons should be given as to how, if a Special Prosecutor is to be dismissed, it should be reviewed. The only definition I know at the present time, assuming that the same terms apply to Mr. Jaworski as applied to Mr. Cox, he could only be dismissed for "great or gross improprieties." I do not think Mr. Archibald Cox committed any improprieties while he was the independent prosecutor.

Perhaps a definition of what that term means would be all to the good. I would hope, may I say to the distinguished Senator from Illinois, that the questions which he is raising this morning would be relayed—some of them will be relayed through the Senator from Indiana (Mr. BAYH)—but they should be relayed in toto to the chairman of the Committee on the Judiciary, the Senator from Mississippi (Mr. EASTLAND) so that the answers could be forthcoming from that committee as well as from the Senator from Montana.

Mr. CRANSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. PERCY. I am happy to yield to the Senator from California.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Murray Flander and John Flemming of my staff be permitted on the floor during the consideration of this matter.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

Mr. PERCY. I thank the distinguished majority leader for that response. I do believe that as long as there is no precipitous action taken and it is understood clearly that a dismissal would not be effective until such time as there has been this consultation and consensus of the Senate, we would not have any misunderstanding.

My final question relates to the adjournment of Congress. As we discussed yesterday, should any precipitous change in the status of the Special Prosecutor occur while we are adjourned, the majority and minority leaders agree to call Congress immediately back into session. I want to make sure that that is understood. There is one remaining problem that could come up. If a vacancy should occur, there is no continuity provided under the present understanding we have. All three pieces of legislation agree that if there were a vacancy, in accordance with established procedures for filling vacancies in the office of U.S. attorneys, the court could appoint an individual to fill that as interim Special Prosecutor.

What provision would be made for filling a vacancy if it occurred under the present situation?

Mr. BAYH addressed the Chair.

Mr. MANSFIELD. If the Senator will allow me to answer, I believe these two appointments were made by the Attorney General and I would assume that the Attorney General, acting or otherwise, would undertake the same responsibility as Mr. Richardson did in the first place and Mr. Bork did in the second place.

Mr. PERCY. But the majority leader knows there have been many vacancies for weeks, months, and even for years, which were not filled.

In this most unlikely event, it is our job to think of every possible contingency and determine ahead of time what might be done, and the purpose of legislation is to provide for all those contingencies.

I am glad to yield to the Senator from Indiana on this point or any other point with respect to how the vacancy would be filled on any temporary or interim basis by the court.

Mr. BAYH. Mr. President, if the Senator will give me permission to respond, it is important for us to understand that, as is always the case, and I suppose this is just normal in human relations, there is a gulf here between what we might like to have happen and what will or can, indeed, happen under the law. Federal statutes give to Federal district judges the power to fill vacancies which exist—I think the terminology is temporary vacancies, in the Office of U.S. attorney. This is one of the bases for the constitutionality for the measure supported by the Senator from Indiana. There is no statutory requirement that the Attorney General fill a vacancy in the Office of Special Prosecutor, which is not a statutory office. So for us to expect that a Federal judge can use the authority he now has to fill a vacancy existing in the Office of the U.S. District Attorney, to fill a vacancy which might exist on some subsequent date in the Office of Special Prosecutor is expecting, I feel, something which is not only not unlikely to happen but also which is illegal, if any judge should try.

I hope that addresses the question to the Senator from Illinois, but that is just a very weak reed to have to lean on—in fact, it is nonexistent.

Mr. PERCY. It might be helpful to have an understanding as to what would happen if a vacancy should occur.

Mr. BAYH. I think that in the normal course of questions that would be asked more than one time to the Senator from Ohio (Mr. SAXBE), based on his assurance, which I think he has given us, which is as good an assurance as he can give; but the official life expectancy of any Attorney General, of course, is contingent on the desires of one man. I hope to address myself to the uncertainties of that one question, which is one of the real concerns I have.

Mr. PERCY. The majority leader, just yesterday in a colloquy, assured the Senate that because this matter was on the calendar, and would be carried on the calendar even though it were not taken up this year, it could be taken up on an emergency basis in the interim, and it could be taken up at any time next year.

Is it the intention of the majority leader and the joint leadership to see that this matter does come up some time next year and is disposed of, voted up or down, before the adjournment of this Congress, because we would have a gap between this Congress and the next Congress, at which time it would not be on the calendar and we could be somewhat immobilized?

Mr. MANSFIELD. All I can say is that the joint leadership would give that every consideration and it would depend upon circumstances. If there is any possibility of hanky-panky, these bills would be called up.

Mr. PERCY. I would now like to yield to my distinguished colleague from Tennessee (Mr. BAKER). I wish to express my appreciation for his yielding. Although we have not had a chance to consult, I have a feeling this will lead to a final question. I have withheld it. Can our distinguished friend give us his idea of working out some accord which would assure that we would have a bill which could be passed and could be agreed upon? If that is the next burning question, I simply want to associate myself with that question and respectfully request the Senator from Tennessee for his comment.

Mr. BAKER. Mr. President, if the Senator from Montana will yield briefly for that purpose, I must say I am pleased with the presentation of questions and the effort to get assurances from the leadership and others on the matters at hand. I commend the Senator from Illinois for his leadership role in the formulation of proposals that would have been before the Senate. I think we all owe the distinguished Senator from Illinois a deep debt of gratitude for his perseverance and scholarly research in these matters.

I was privileged to join with him in the formulation of an amendment which we would have offered and which would have been the synthesis of his ideas, my ideas, and the ideas of some others in this body. It would still be my hope that we could find a common ground, that all of us could find a basis for synthesizing a piece of proposed legislation which could be placed on the calendar that represented the viewpoints of all of us who feel that the principal requirement is for the independence of a Special Prosecutor protected with the full authority of the Congress of the United States.

I have already expressed to my distinguished colleague from Illinois, to the distinguished Senator from Indiana, to the distinguished Senator from Ohio, and, of course, to the joint leadership, my concern that we keep these matters on the calendar; that we proceed, as it appears now we will proceed, to hold these matters in abeyance as further assurance of the independence and the viability of the Special Prosecutor's staff.

So I have nothing further to add except to say that with the assurances that the leadership has given and with the expression of the further hope that we can still work out an accommodation of the points of view, if the distinguished majority leader asks unanimous consent to proceed in the way he has indicated, it will not be my intention to object.

Mr. MANSFIELD. Mr. President, I appreciate the remarks of the distinguished Senator.

Mr. PERCY. Mr. President, one further question addressed to the majority leader: If it is possible—the Senator does not know whether it is, but if it is possible—between now and Monday for the distinguished Senator from Michigan, the distinguished Senator from Indiana, the distinguished Senator from Ohio, the distinguished Senator from Tennessee, and the Senator from Illinois to come together on a common bill that would embrace essentially the idea of the 60 Senators, who have cosponsored legislation on this matter, would the leadership be able to afford us the opportunity to enact that legislation in a very limited period of time—I should think a limit of 1 hour would be sufficient—if we could come to that piece of legislation by Monday, no later than Monday of this week? Would the distinguished majority leader then give consideration, after having looked at that legislation, to whether or not there could not be 1 hour, or whatever time the majority leader might wish, perhaps not to exceed 2 hours, for such legislation to be offered and considered by the Senate and voted up or down? It would not be our intention to bring it up unless we could come together on legislation that would be overwhelmingly adopted.

Mr. MANSFIELD. That is a most interesting suggestion, but the Senator from Montana now speaking would have to object. He would do so because it would be impossible to get unanimous consent, in his opinion. He would do so because time then does become a factor, and it would be impossible, in my opinion, to get the type of time limitation which the distinguished Senator has indicated.

The time factor has nothing to do with the decision made by the majority leader on yesterday, and what the majority leader announced as his intention, but going into next Monday, it does become a time factor of significance, and I would be less than frank if I did not express my feelings on that subject, even though I feel as strongly, on the part of the Kennedy bill, as the Senator from Illinois feels on his bill, and as do the authors of the aforementioned bill feel.

This is not an easy position for me to be in, because what I am doing is going against my personal feelings, but I am doing it because I think I have certain responsibilities as the majority leader, and while the choice is difficult, the objective is clear and what my duty should be and is and will be likewise is clear.

I think it is in the best interest of the Senate that the proposal made by the Senator from Montana be acceded to with as much dispatch as possible, because, on the basis of the proposal made, what the Senate is doing is, in effect, giving the office of special independent prosecutor, Mr. Jaworski, and the staff which he inherited and kept, a vote of confidence. It is an indication that we are satisfied—and I certainly am—with the way Mr. Jaworski has been conducting his office and with the activities of the staff assigned to him.

I am satisfied he is getting a great deal more in the way of cooperation from the executive branch of the Government than did his predecessor, and I am satisfied that there will be no repetition of what happened to Mr. Cox on a Saturday night in October; and I make that statement and give that assurance on the basis of S. 2611 and S. 2642, both of which are now on the Senate Calendar, will remain on the Senate Calendar, and will be brought up in case an unusual circumstance comes into existence.

So, I would also state that as far as the Judiciary Committee was concerned—and I am repeating what I said yesterday—both of these bills, S. 2611 and S. 2642, came out of the Judiciary Committee without recommendation. Therefore, it becomes in the circumstances a matter for the full Senate to decide. And in so deciding, the leadership, which is usually, if not always, accorded the privilege of scheduling legislation, has in its collective judgment made the decision which was announced to the Senate yesterday and which is being discussed at the present time.

So, I hope that with that statement my feelings on this matter are clear.

Mr. President, I am prepared at this time to yield to the distinguished Senator from Ohio.

Mr. TAFT. Mr. President, I thank the distinguished majority leader for yielding to me.

I have listened with a great deal of interest to the discussion this morning. I think that we all agree that the independence of the Special Prosecutor is vital.

I would like to point out one problem that I see which arises from the closed action of the leadership on both sides. I may say, for reasons I will discuss, that I do not expect to object to that action at this point. However, the action that is being taken with these two bills, S. 2611 and S. 2642, in holding them on the calendar is in effect holding the sword of Damocles poised over the heads of the Special Prosecutor and the Attorney General, because basically, the responsibility for his removal and for his replacement would unfortunately be in the hands of the Attorney General.

When we talk about the Special Prosecutor, we are talking about a Special Prosecutor who would be under the executive branch and also the legislative branch.

However, I am talking about a Special Prosecutor who holds office with these pieces of legislation held over his head. He would be in the unfortunate position of being handicapped if he wanted to do something that the Senate did not want him to do.

I want to discuss later why I will go along at this time. However, I do not think we should ignore the fact that an independent Special Prosecutor could be just as much threatened in his independence by a threat that may exist under the threat of legislative action taken by the legislative branch as by the executive branch.

Mr. MANSFIELD. Mr. President, if the Senator will yield, may I say that my interpretation is exactly the opposite of that of the distinguished Senator from Ohio. This is not a sword of Damocles hanging over the head of the Attorney General, be he acting or otherwise, or the independent Special Prosecutor, either. As a matter of fact, it is an assurance of interest, and it is insurance that his independence will be maintained.

Mr. TAFT. So long as he does what the Senate wants him to do.

Mr. MANSFIELD. No.

Mr. TAFT. The minute that he does something that the Senate does not want, we can call up the legislation and take action on appointing a Special Prosecutor.

Mr. MANSFIELD. Not the Senate, but the executive branch. That is what happened before. The Senate has not interferred.

Mr. TAFT. But the Senate could.

Mr. MANSFIELD. The Senate has not interferred in any way, shape, or form with the Special Prosecutor. And it would not and should not.

Mr. TAFT. Mr. President, the Senate would have the power and the immediate power to appoint a Special Prosecutor. I want to find out because the time may come when the Special Prosecutor may make a decision and act in a manner which the Senate does not like, and the Senate may act on this legislation.

I do not say it is wrong. I think that the Special Prosecutor has conducted himself in an admirable way. However, I do not want to see hanging over his head, during the performance of his job as Special Prosecutor, legislation which would change the entire nature of his office.

Mr. MANSFIELD. The Senator and I disagree, because my interpretation is entirely opposite to that of the distinguished Senator from Ohio.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The PRESIDING OFFICER. The hour of 11:45 a.m. having arrived, the morning hour has ended, and the Chair lays before the Senate the unfinished business which the clerk will report.

The legislative clerk read as follows:

Calendar No. 388 (S. 1868) a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

SPECIAL PROSECUTOR

Mr. MANSFIELD. Mr. President, may I say that I will never be a party to this Senate or any Senate of which I am a Member taking away the independence of an independent Special Prosecutor just because he does certain things. I do not agree with that. If he is going to be independent, he ought to be independent of both the legislative and the executive branch. And as far as I am concerned, he will be, and this will be assurance that he will be.

Mr. TAFT. Mr. President, I wonder if the majority leader would consider asking unanimous consent for additional time in the morning hour so that I could complete my remarks.

Mr. MANSFIELD. Yes, indeed. It was my intention to do so. However, first I would like to make a unanimous-consent request that the pending business be laid aside temporarily and that the Senate turn to the consideration of the supplemental appropriations bill, which the Senate on yesterday agreed could be taken up at an appropriate time.

Whether or not the request is granted, it is my intention to ask for at least an hour, or more if need be, so that this colloquy can be continued.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. So, with that in mind, I ask unanimous consent at this time that the pending business be laid aside temporarily and that the supplemental appropriations bill be laid before the Senate.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

Calendar No. 590 (H.R. 11576) a bill making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

SPECIAL PROSECUTOR

Mr. BAYH. Mr. President, I have been thinking about the independent prosecutor and thus may not have kept pace step by step with the substance of the legislation that is before the Senate in the last couple of minutes.

Would the Chair please explain where we are? When the clock struck 11:45 a.m., the unfinished business, the Rhodesian chrome bill, was made the pending business. Then the distinguished majority leader asked unanimous consent that we proceed to the consideration of the supplemental appropriations bill.

The Senator from Indiana was on the floor trying to deal with that particular request. Where are we now, or where am I now?

The PRESIDING OFFICER. The Senator asked unanimous consent that the Senate proceed to the consideration of the supplemental appropriations bill. And that request is subject to objection at this time.

Mr. BAYH. Then it is parliamentarily appropriate to interpose an objection at this moment?

The PRESIDING OFFICER. It is parliamentarily appropriate.

Mr. BAYH. Mr. President, with all due respect to our majority leader, I do interpose at least a temporary objection.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, it really makes no difference. All I was trying to do was to lay before the Senate a piece of legislation which the Senate had agreed to consider.

As I indicated previously, it was my intention, regardless of the outcome of the request, to ask unanimous consent for an extension of time in the morning hour to continue this colloquy on the matter that we have been discussing during the morning hour.

The PRESIDING OFFICER. Does the Senator make that unanimous-consent request?

Mr. MANSFIELD I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. CRANSTON. Mr. President, I reserve the right to object.

Mr. BAYH. Mr. President, I have no objection to that, I want to say to my distinguished majority leader.

The PRESIDING OFFICER Is there objection to the request of the Senator from Montana?

Mr. CRANSTON. Mr. President, reserving the right to object, I want it understood that if we have not completed that discussion and there are those who want to discuss it further, there will be a further time allowed at the end of the hour.

Mr. MANSFIELD. Ample opportunity will be afforded.

Mr. BAYH. Mr. President, another parliamentary inquiry.

The PRESIDING OFFICER The Senator will state it.

Mr. BAYH. Does the acceptance of this unanimous-consent request preclude any Member of this body from moving that the Senate proceed to the final disposition of the independent prosecutor bill pursuant to the unanimous-consent request?

The PRESIDING OFFICER. The Senator may move to proceed to the consideration of the bill.

Mr. MANSFIELD. Mr. President——

Mr. BAYH. In other words, a motion relative to the disposition of the independent prosecutor matter is appropriate and parliamentarily sound under the pending unanimous-consent request?

The PRESIDING OFFICER. The motion to take up that bill would be in order at any time.

Mr. MANSFIELD. Mr. President, the Senator is perfectly within his rights in raising the question, and the Chair answered the question correctly. But I would point out, in a modest way that the calling up of legislation has been, since time immemorial in the Senate, the prerogative of the leadership, and especially the majority leader.

Mr. BAYH. Mr. President, would——

Mr. MANSFIELD. I yield to the Senator from Ohio.

Mr. TAFT. Mr. President, I thank the Senator for yielding. I would like to yield, for just 1 minute, to the Senator from Illinois, to make a brief comment on this independence question I just raised.

Mr. PERCY. I thank the Senator, because it will be necessary for the Senator from Illinois to go immediately for a markup to the Government Operations Committee, but I would like to comment on the majority leader's reference to an insurance policy.

An insurance policy is one thing if it has been executed, but what we are talking about is an insurance policy that has not been executed. If the house burns down or a person dies, the insurance is not paid out unless it has been executed, and what we are trying to accomplish is not just to have the policy over here in principle but not executed, but to bring us together in such a way that we really agree on the guidelines and rules so that it is unmistakably clear as to what will happen.

I have a feeling that under the conditions now set up by the majority leader, where some of the sponsors of the three bills could not seem to get together before, it may now be possible, rather than see all of this, after our months and months of work, go down the drain. It is possible that all of these forces could be brought together in a relatively short period of time and a piece of legislation brought forward that we could all agree upon.

With that comment, I yield back to and thank my distinguished colleague from Ohio.

Mr. MANSFIELD. Mr. President, if the Senator will allow me to yield on my time, I can only repeat the arguments I have made before, that this is assurance or insurance for Mr. Jaworski and the staff he has working for him as long as it is on the calendar. It is not, I repeat, it is not a sort of denigration. Quite the contrary.

Mr. TAFT. I thank the Senator. Let me just comment with regard to that point. While I certainly am reassured by the distinguished majority leader's point that as long as he is majority leader, there will always be this legislation pending in a way that will assure the independence and not interfere with the independence of the Special Prosecutor, I would point out, however, in the realities of the situation, that while I am sure the majority leader would stand by that assurance that has been made this morning, things can change and conditions can change, just as conditions have changed under existing circumstances, as the majority leader indicated this morning, when he stated that, in taking the steps he was taking, the majority leader was not necessarily following his personal predilections.

I can understand that. I think we have to look at the realities of the situation. I think it is vital that the Independent Prosecutor be truly independent, and we have to look at the question of what can make him independent.

The basic question, I think, is the removal power, and the removal power we have discussed a great deal in connection with these pieces of legislation insofar as the executive branch is concerned. We have not discussed it so far as the legislative branch is concerned.

The pendency of this legislation means there is at least the possibility that the Senate, or the House of Representatives, if it is following the same course, which it appears to be doing, is going to be retaining consideration on a very active basis of something that would give a power of removal.

I can understand the problem of the leadership, and as I say, I shall not object because I can sympathize with it. The reason I shall not object is because I see some dangers in this legislation which made me take the interest in it which I took in preparing the bill the committee has reported out, appearing before the committee, and submitting a lengthy legal brief.

We did have a reaction, and I think a considerable overreaction, to the Saturday night massacre situation. I can understand Congress reacting immediately, and a majority of my colleagues immediately agreed to sponsor a bill which would provide for appointment only by the court and removal only by the court, something I thought was patently unconstitutional, and still do.

I am glad to see that opinions are changing with regard to this. I do not say everyone's opinion is changing, but I think a little consideration and a little time taken to consider what the consequences would be has led to a change of climate with regard to what the Special Prosecutor legislation ought to be, so I am willing to take some more time, and I think it would be a good idea to take a little more time, and perhaps we cannot act as quickly as some would like to act on a compromise measure.

I think it is true that no bill is better than an unconstituitonal bill, so I shall go along with the leadership, but I do not think we have accepted a satisfactory situation in just leaving pending on the calendar the two bills which are there, without any intent, apparently, unless circumstance change and unless there is some indication from the executive branch or from some other cause that this independence is going to be interfered with, of removing the legislation from the calendar. I do not think it will work. I think we ought to get rid of it one way or the other. If we do not feel we ought to pass a Special Prosecutor bill at this time outlining the powers and spelling out what the appointment and removal circumstances are, we ought to get rid of these bills. We ought to send them back to committee and bury them for good.

I, for one, believe we ought to have a legislative framework within which it will work. I think Congress ought to properly do that. But I hope when we do so, we will consider the very serious consequences of acting in a way that could in any way be challenged under the Constitution.

I think S. 2642 is both constitutional and feasible. It was designed that way, studied that way, and proposed for that reason.

The **PRESIDING OFFICER**. The Senate will be in order.

Mr. **TAFT**. Mr. President, I have completed my statement. If the majority leader wishes me to yield, I am delighted to yield at this point.

Mr. **MANSFIELD**. Mr. President, all I can say is that the Senator from Ohio may recall the biblical character, Lazarus, who rose from the dead. This is not dead; Lazarus will rise as the occasion calls for it.

Mr. **TAFT**. The reservation of the distinguished majority leader is what disturbs me: "If the situation calls for it." The very fact that those words are used, and the word "satisfactory" was used earlier in the colloquy, leads me to think there is some requirement of a particular type of performance on the part of the Special Prosecutor which will trigger or not trigger this legislation. I do not think that is the proper way for us to proceed. I think we ought to either act or not act with regard to this matter. As I say, the exigency of the moment in trying to wind up the session of the Senate I can understand.

Mr. **MANSFIELD**. That is not——

Mr. **TAFT**. I do not want to see hasty action by the Senate on this matter, because I think it is too important to take hasty action, but some action up or down ought to be taken on this issue.

Mr. **MANSFIELD**. The proposal of the majority leader is not based on the exigencies of the moment. It is not based on the fact that we are approaching a sine die next week. It is based on the realities of the situation as the majority leader sees it, after talking to many of these colleagues on both sides of the aisle. It is a considered decision which I think is in the best interest of all concerned. It certainly does not bury the legislation. It does not in any way hurt or damage the Office of the Independent Prosecutor but, in effect, serves as an assurance and as insurance that the independence which we want that Office to have will be retained.

I now yield to the Senator from Maryland.

Mr. **MATHIAS**. Mr. President, I shall not detain the Senate very long. The Senator from Ohio just raised the question of the circumstances under which further action would be triggered. I think he said it would depend on the activities of the Special Prosecutor. I thought we might usefully discuss that for a moment.

Let me say a word, however, about the activities of the Senator from Ohio on this whole proceeding. He has, in many conversations with me, exhibited a deep interest and a profound knowledge of the principles that are in play here. It was an interesting illustration on the continuity of our historical traditions that he had to wrestle with some of the principles laid down by his grandfather in the Myers case. I think he has made a major contribution, as has the Senator from Illinois (Mr. PERCY), the Senator from Indiana (Mr. BAYH), and the Senator from Massachusetts (Mr. KENNEDY).

But, Mr. President, it seems to me that what the majority leader is telling us is that there is a trigger. It is important we understand what that trigger really is. There are various aspects of the bills. There is the question of how to appoint a Special Prosecutor. There is the question of how to remove the Special Prosecutor.

So, the real heart of the question is: What the Special Prosecutor will do? What is his authority? What are his responsibilities?

On the question of how to appoint a Special Prosecutor, there is of course a very wide area of disagreement, but I think that area, in large measure, is covered by the public perception; that is, how is the public going to view this man, and how is the public going to see his appointment as affecting his discretion and his independence?

To some extent, the same is true of the way a man is removed. How will the public view the threat of removal affecting his independence?

But the heart of it is, What is his access to evidence?

What is his right to pursue the judicial process?

What is his ability to carry out the functions that we understand he must discharge if the job is to be done?

I think, as I read what the majority leader is saying, it is in this area, that if there is any tampering, if in this area there is any restriction, if in this area there is any prohibition, then there will be no hesitation in the Senate. Is that right?

Mr. **MANSFIELD**. The Senator is correct. May I say, the questions which he raised can all be answered in the affirmative up to this time.

Mr. **TAFT**. Mr. President, I concur completely with what the distinguished Senator has said. Let me point out a few of the other kinds of decisions the Special Prosecutor may well be making on which he may receive criticism from this body, which might trigger legislation hanging over him as we pursue the course that we apparently are going to pursue.

The Cox case, with which the Senator is familiar, of course, completely verified what has long been understood to be the law, and that is on the question of signing indictments or not signing indictments, that the law enforcement officer, the Attorney General, the U.S. district attorneys, and, presumably in this area of activity, therefore the Special Prosecutor, has absolute discretion, not reviewable by anyone, basically, as to whether they decide to sign or not to sign particular indictments.

As to the entire area of the Watergate investigation, too, there is broad discretion, I think automatically to the Special Prosecutor, to decide what particular line of inquiry he will pursue, and will he or will he not be satisfied with a particular disclosure, say in regard to the ITT investigation. I do not think the Senate should tell him or attempt to second-guess the Special Prosecutor on these kinds of decisions.

I concur with the majority leader that we have an outstanding lawyer, that we have an outstanding man in the present position. But I do not necessarily expect to agree with everything he does or every decision that he makes. I do not think that any Senator should. We really should, rather, not expect to agree with every decision, but put him within a framework of independence in which he can move and use such discretion not subject to the pressures from the executive branch, or from Congress in making his decisions.

Mr. **MANSFIELD**. I have yet to hear a Senator on either side of the aisle second-guess either Mr. Cox while he was in office, or Mr. Jaworski, his successor.

Now I yield to the Senator from Massachusetts (Mr. KENNEDY).

Mr. **KENNEDY**. Mr. President, the distinguished majority leader has taken the floor this morning, as he did yesterday afternoon, in response to many questions from a number of Members of this body dealing with the Special Prosecutor legislation. This particular legislation is of vital importance and consequence to many of my colleagues and to the American people.

I know that this has not been an easy decision for the majority leader to make, as I am familiar with his own deep convictions in relation to the legislation introduced to guarantee the independence of the Special Prosecutor. He is a cosponsor of one of the bills scheduled for consideration. He has been called upon to justify, to those who support various pieces of legislation, the leadership decision not to call up that bill, and I know that decision weighs very heavily on him. He has reached his conclusion reluctantly, but in the interests of this body, and he has justified that decision forcefully and eloquently.

Mr. President, I am willing to support that decision, although I am doing so reluctantly. I am reluctant because I have seen, during the course of our hearings in the Judiciary Committee—and in listening to the distinguished Senators from Illinois, Ohio, and Indiana who have spoken with great conviction and, I think, with a considerable amount of commitment, concern, awareness, and knowledge about these particular problems—that we have a situation in which the overwhelming majority of the Members of this body favor an independent Special Prosecutor. The overwhelming majority of the Members of this body want to permit that independent Special Prosecutor to pursue and investigate all the areas that he feels falls within the jurisdiction accorded him in the presently operative charter and in our proposed legislation.

I think the overwhelming consensus in this body is that the Special Prosecutor should be fired only for gross impropriety, a concept initially established in the guidelines set by the Judiciary Committee and reiterated as recently as one-half hour ago by Senator SAXBE in testimony before the Judiciary Committee. There is an overwhelming sense among Members that the Special Prosecutor should have access to all the evidence of any kind he believes of importance to the development of his case.

There is, however, a difference among the Members of this body on how to create the greatest degree of independence for the Special Prosecutor.

I stand as one of the primary sponsors of S. 2611, along with Senators HART and BAYH. I believe that court appointment of the Special Prosecutor is absolutely essential and in a few moments I will detail my reasons for this conviction. But, while I am completely satisfied as to the constitutionality of our approach providing for court-appointment of the Prosecutor, I recognize that there are other approaches suggested by my good friend from Illinois, who believes that the independence can be preserved by appointment by the President, and by the Senator from Ohio, who thinks that the appointment should be made by the Attorney General.

So we have a substantial division of opinion with regard to this question.

There is general concern among the membership that if we move into these areas, there are some constitutional questions which may be forthcoming. Questions have been raised about the constitutionality of S. 2611; also some very serious questions may be raised, even in the mind of Mr. Jaworski, with passage of any legislation that will permit the President or the Attorney General to appoint a new Special Prosecutor. It is understandable to think that perhaps Mr. Jaworski would feel that with enactment of any of these three approaches, his work in this area is being threatened and his continuity in danger of being interrupted. I do not agree with my colleagues on that matter. I do not agree with those who believe that the passage of S. 2611 would be disruptive. I do not believe that the passage of S. 2611 would throw the whole investigation, or any part of it, into turmoil. I think that during the course of our discussion and debate we have responded to and rebutted those kinds of suggestions. But I understand that some Members of this body continue to feel this way and I respect their views, even though I myself do not subscribe to them.

This Senator is not prepared to go ahead and look for compromises about how we can modify S. 2611, how we can shave the bill down and include various elements of either the Taft proposal or the Stevenson proposal or the Percy proposal, or to try to use any period of time over the next few days or few weeks to try to get a composite of all these proposals and come back here with something that is going to make some sense to a majority of the Members of the Senate. I stand for S. 2611, and I stand for it strongly. I believe that our bill is the best, the most effective, and the soundest constitutional way in which this job could be done. I understand that some of my colleagues disagree with that approach. They feel that if we move ahead and begin the discussion and the debate and begin to carve up these various proposals, the work that is being done by Mr. Jaworski—which has impressed me and which the majority leader accurately described yesterday as responsible and thoroughgoing and comprehensive—may be threatened.

So a judgment has to be made by each of us as to the best way to proceed, given the differing view among my colleagues. I believe the majority leader has given a fair judgment to these particular matters and has arrived at a reasonable leadership decision.

I continue to be strongly committed to S. 2611 and would like to see it passed. I have listened to the various arguments in the course of the hearings and worked with many other Members in the development of our report, which I think is one of the most comprehensive reports that have emerged from the Judiciary Committee, in support of S. 2611.

I know this leadership decision was not made easily, but I think it does preserve for those of us who believe strongly in S. 2611 and in court-appointment of the prosecutor our opportunities to obtain consideration for this legislation in the future, for the reasons which have been fully explored in the course of the debate this morning and which have been pinpointed, I think accurately, by the distinguished Senator from Maryland.

I am hopeful that the Special Prosecutor will continue to persevere and pursue his responsibilities with continuing vigor and independence.

I would hope that Mr. SAXBE, who in the last few hours has given the Judiciary Committee assurances concerning the independence of the Special Prosecutor—that the Independent Special Prosecutor will make the sole decision on the questions of evidence, on the questions of executive privilege, and on the questions of jurisdiction—will be prepared to appear before the Judiciary Committee if he is called upon by the White House, as Mr. Richardson was called to the White House, to intervene on jurisdictional matters. Mr. SAXBE has said that he will talk to the Judiciary Committee and explain to the committee when and if these kinds of issues are raised by the White House. He has indicated to the Judiciary Committee that the hiring and firing of staff will be left completely to the Special Prosecutor, and that he will have independence in every way.

It is true that members of the Judiciary Committee have heard that before. And we have been burned, and burned badly, even with those assurances. A strong case can be made, and I have made it and will continue to do so, that the best way of insuring needed independence is S. 2611. I regret that we will not have the opportunity to move to enactment of this measure.

I want to indicate to the distinguished majority leader that I think he has considered the various questions and issues and has made a responsible judgment. It is a judgment which I will support. The leadership has already indicated that, were there to be the interferences with the duties or jurisdiction or independence of Mr. Jaworski, the Senate would have an opportunity to act promptly and to exercise its will on either S. 2611 or the other proposals. I would hope that at any time when the leadership should call up this measure, we would still continue to have the same type of time agreement that was worked out previously, so that we could be assured of expeditious action.

So I thank the leader. I know it has been a difficult challenge and responsibility, in many respects one of the most difficult he has confronted in the leadership capacity. I will support his decision, but, if we are going to consider this issue, I, as one Senator, would argue, and argue strenuously and vigorously, that we move to the consideration and passage of S. 2611.

Let no one misunderstand the Senate's action today, however. We stand ready to take immediate legislative action at any time, should such action be made necessary by any attempted interference with the duties, jurisdiction, or independence of the Special Prosecutor, or by a failure of the Special Prosecutor himself to pursue his investigation with full vigor.

Perhaps other Senators would want to use the coming days to try to discuss some of the possible middle grounds. I am satisfied, however, after a thorough review, that we cannot compromise on the basic elements of S. 2611. I think the leader understands that this is the view of many Senators who are the principal sponsors of this measure and, because of the unfortunate stalemate we are in, he has reluctantly taken this course.

Mr. MANSFIELD. Mr. President, I thank the Senator from Massachusetts. The time limitation still holds, and will continue to hold.

If the distinguished Senator from California will allow me to yield first to the Republican leader, I shall then yield to him.

Mr. HUGH SCOTT. Mr. President, I realize that it is difficult for the distinguished majority leader to feel compelled—and he does so in all fairness—to displace the bill at this time, in view of the clear sentiment to that effect, I think, on both sides of the aisle.

I have myself been in a position of advocacy when I could have contemplated other alternatives with more equanimity. I think the distinguished Senator from Massachusetts (Mr. KENNEDY) has reacted very responsibly, and I understand the depth of his feeling.

But I do honestly believe that no good case can be served by actions which could have the possible effect of removing a good, just, fearless, and independent man who has gained the confidence of Congress and the country as a Special Prosecutor.

There is no likelihood that I can foresee of the removal of this Special Prosecutor, because the consequences would far exceed any imaginable result that could be foreseen. So the proposed legislation is more cunctation.

Cunctation is defined as procrastination, delay, or needless passage of time. We do not think anything else could be served in view of the wide differences of opinion, in view of the long delay which would result from the legislative process, and the possible veto and difficulty of overriding the veto, the ambivalence of the position of the Special Prosecutor during the process of legal tactics to determine whether or not he is to continue or someone else is to continue, or the direction under which he is to continue.

I think we are going to have an Attorney General who will follow most faithfully the writ running to the Special Prosecutor who will be very conscientious of the wishes of Congress as to a complete, thorough, and independent investigation. So I do not think we have any where to go on this except to defer it to another day, and, therefore, it remains as a possible recourse should there be any failure in the present procedures, and I do not expect any such failure. I think we are going to see that the truth is known, that the truth, in a very important sense here, is going to make us all free, it is going to free us from our fears, our frustrations, and our anxieties; it is going to free us in strict accordance with the procedure of the democratic system of our Republic, namely through the processes of the courts, through the investigative processes of the legislature, and particularly through the broad writ which the Special Prosecutor has and, as I said, the great confidence which is vested in him.

The important thing is to get on with the whole debilitating problem and get it behind us, get it off the backs of people who still are charged and rightly are charged with the process of government, and let us go on with the other problems that face us from day to day—the problems of the energy crisis, the problems of legislation for those who are in need or lack in proper health care; for those who need housing; for those who need assurances of jobs; for those who need assurances of security and assurance of continued economic security in spite of increases in the cost of living. All of these are very real problems that affect the people very seriously. We need to get on with them and get off the backs of our people in government, and we do it by letting the truth be known, by searching fearlessly for it, seeking its release if it is imprisoned anywhere.

So I support the position taken by the distingushed majority leader, and I am glad to be associated with him in this decision.

Mr. MANSFIELD. Mr. President, I yield to the Senator from California.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CRANSTON. Mr. President, I, too, support reluctantly the decision of the distinguished majority leader and I concur in the views expressed by most Senators of the wisdom of the decision he has recommended to us. I would like to say this about the situation in which we find ourselves.

The desire of the leadership to suspend the consideration of legislation to create an independent special prosecutor highlights the need for Congress—quite apart from the matter of Leon Jaworski and the cases now under investigation—to consider establishing machinery on a permanent basis to institute independent investigations and prosecutions of allegations of wrongdoing by persons who hold high positions of power and trust in the executive branch.

We have learned from our efforts to create an independent special prosecutor that the matter is very complicated, very controversial, and that it involves deep constitutional issues.

We have seen how efforts to establish an ad hoc independent special prosecutor are particularly difficult when undertaken in the context of the politics and personalities of the moment.

We should not compel our country to improvise each time a crisis like Teapot Dome or Watergate develops.

Some ready and reliable way must be found to overcome the built-in conflicts of interest that appear to exist whenever the powerful are asked to investigate themselves.

Too often there has been an appearance that corruption in high places is being swept under the rug. Because of the very nature of the Department of Justice, with the Attorney General so often in recent years a chief campaign or political aide to a President, certain criminal and civil cases always are subject to question as to whether justice really is being done and whether the public interest is well and fully served.

These are serious questions which plague the administration of justice in all democratic and open societies.

We should come to grips with them, and seek solutions.

One possible solution would be to establish machinery for bringing into existence a Special Prosecutor when allegations or actual instances of high official misconduct come to light.

One way to implement this would be to create a permanent commission, independent, and bipartisan, appointed by the President with the advice and consent of the Senate. When certain types of allegations of official misconduct, abuse of public trust or political offenses come to light at a high level, the commission would designate a special prosecutor to investigate and prosecute offenses against the United States arising out of the events and allegations brought to the Commission's notice.

So that we may consider and study this matter further, I shall offer legislation establishing a study task force to consider this fundamental question:

How should the Nation prosecute offenses involving high levels of the executive branch, particularly when the Justice Department—its top officials appointed by and answerable to the White House—is caused upon to investigate itself and/or the White House.

Among the related questions which the study task force should consider would be:

What categories of possible violations of Federal law and other instances of official misconduct should be subject to the jurisdiction of a permanent prosecution machinery?

What would trigger action by that machinery?

Who would have standing to bring allegations before it?

Should there be a permanent prosecutor who serves for an extended term, such as 15 years? After thinking it over, I question whether we want a special prosecutor on hand all the time—busily looking for some high official to prosecute. That is why I presently favor instead creation of a permanent, independent and bipartisan commission empowered under specified and appropriate circumstances to designate a special prosecutor.

Should Congress confirm the prosecutor?

Under what conditions could the prosecutor be removed from office?

What safeguards would be necessary to protect against mischief or abuses by the permanent prosecutor or the permanent commission for appointment of a special prosecutor?

I have no instant answers to any of these questions. I do believe they, along with similar issues, should be studied by a task force consisting of experienced and able persons in the field of administration of justice.

I invite those Senators who have been particularly interested in the current problem, along with all others, to join me in this longer range effort.

I have confidence that we eventually will overcome the crisis of Watergate. Our system of government is strong enough to do that.

But the record of official misconduct during recent years is not good.

The restoration of public confidence in the administration of justice, and in our institutions responsible for order and justice under law, is vitally important to the future of our Nation. We must seek to establish some independent institution which would guarantee to the public that those in positions of high trust will not abuse that trust.

Mr. MANSFIELD. Mr. President, if the Senator from Indiana will allow me, I would like to yield to the Senator from Alabama and then the Senator from Indiana will have more time to speak in continuity.

Mr. BAYH. Very well.

Mr. ALLEN. I thank the Senator.

Mr. President, the Senator from Alabama is not one of the cosponsors of these Special Prosecutor bills and he probably is one of the few Members of the Senate who is not committed one way or the other with respect to these bills.

He does approve the idea of there being an independent, Special Prosecutor, and he believes that is exactly what we have now.

So the junior Senator from Alabama wants to applaud the request and action of the distinguished majority leader in asking that these bills will not come up for consideration at this time, while at the same time holding them on the calendar under a time limitation that would guarantee quick action by the Senate in the event it is necessary to take action on this bill or on these bills.

Mr. President, the junior Senator from Alabama has not always voted in every instance in similar fashion as the distinguished majority leader, but his admiration and respect for the distinguished majority leader is boundless, and he applauds the action that he has taken.

It is far too seldom, in the opinion of the Senator from Alabama, that we see nonpolitical positions, statesmanlike positions such as the distinguished majority leader has taken in this instance. He has not taken the easy way out. He has taken the hard way out, because I do feel that the people of this country want to be assured that we do have an independent Special Prosecutor. But the distinguished majority leader, in asking that these bills not be considered at this time, has certainly taken a statesmanlike position, and the Senator from Alabama gives him his wholehearted support in that request.

It is hoped that these matters will not be pushed at this time, but that we proceed with the business of the Senate and the business of the Nation.

So, as long as we have an independent Special Prosecutor—and that is what we have now—what more could we want?

As long as that situation exists, why upset the applecart? Why take action that might reflect upon the role and the work of the independent Special Prosecutor that we now have? He is independent, as the Senator from Alabama sees it, and as long as he is exercising that independence, as long as he is acting in the manner in which he is now acting, I see very little reason to complain.

So I applaud and appreciate the action that the majority leader has taken in this instance, and I pledge him my wholehearted support.

Mr. MANSFIELD. I thank the distinguished Senator.

Mr. President, I yield to the distinguished Senator from Indiana (Mr. Bayh) and ask unanimous consent that the time be extended beyond the hour for as long as the distinguished Senator wants to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield me 30 seconds?

Mr. BAYH. Mr. President, I am glad to yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I want to join the Senator from Alabama in expressing complete support for the position taken by the majority leader.

I thank the Senator from Indiana for yielding.

Mr. BAYH. Mr. President, I appreciate the courtesy of our distinguished majority leader in making it possible for the Senator from Indiana to fully express himself on this matter.

I have said to our leader personally, and I would like to say for the record: I have always had and will have the greatest respect for him as the leader and a Member of this body. Beyond our professional responsibilities which throw us together and give us the privilege of serving in the Senate, I consider him a friend whose value judgments I find extremely helpful.

Because of this feeling, because of my desire to follow his leadership, I find myself in a very uncomfortable position, in which I feel obliged, in fulfilling my responsibility to do what I as one Senator thinks is correct, and to oppose the position which he, as the leader, feels is correct for the Senate.

In opposing his position, I in no way suggest that our responsibilities are the same. His is a broader responsibility to try to get the work of the Senate consummated, but I am sure he would be the first to suggest that each of us has his own individual responsibility to do what we think is right.

I feel that the leader is motivated, as he always is, by the best of intentions and the finest of motives; but I must say, in the light of everything that has happened over the past several months or few weeks, with all respect to my friend and my leader, I feel his decision is a mistake.

We have all gone through the trauma of Watergate and are familiar with it. There is no need for the Senator from Indiana to go through the horrible details of past transgressions or go into any lengthy discussion of the impact this has had on the people of this country.

May I say, before proceeding further, I do not know any more than the average citizen about what really happened with what we now call Watergate. I hope it is all going to come out in the wash ultimately. Some people are going to go to jail. Some people are going to be exonerated. What the impact of this whole mess is going to be on certain public officials is unknown to me. But if I am any judge at all of what the people I represent feel, or to a lesser degree what the people of this country feel, I think the most critical long-range damage that Watergate has done is its impact on the people's respect for the governmental process, on politicians and politics irrespective of political labels, on traditional governmental institutions that usually have worked pretty well, but which now enjoy little confidence from the people.

I have seen all sorts of figures on this. One I saw said that people gave the Senate of the United States a 30-percent confidence rating. They gave the President a 19-percent confidence rating. They gave the garbage collectors of the country a 50-percent confidence rating. Without looking at polls, I think most of us who read our mail—and that encompasses all of us—understand that there are a lot of people who say, "A plague on all your houses. We can't trust anybody."

I think that feeling increases our responsibility to take whatever steps we can to extricate ourselves from this quagmire. It is like being in a big pit of quicksand. No one can wave a wand and extricate us from the events of the past few months or years. But I feel that we have the responsibility to do what each of us can, step by step, to get out of the quicksand.

I have felt, and still feel very strongly, that independent prosecutor legislation, establishing believable, fail-safe protections as near as human beings can make them fail-safe establishing an office of independent Special Prosecutor is one small step on solid footing, one forceful bit of evidence to the people of the country that we have decided to move.

I suppose that the Senator from Indiana feels particularly strongly about this because of the privilege given him by the distinguished majority leader some 11 years ago to serve on the Judiciary Committee. That committee, of course, has dealt with a lot of these matters that are now before the Senate.

My memory is still vivid of Richardson hearings. We are all familiar with the sequence of events which led to the resignation of the previous two Attorneys General. So, Elliot Richardson came before our committee. The Senate almost to a man and the Judiciary Committee realized that this was an opportunity for us to take a step out of the quicksand. And so we asked Elliot Richardson the most penetrating examination and the most excruciating questioning.

I must say that I was extremely proud to see the way in which he handled himself before that committee. He went to some pains to work with many Senators on the committee to establish those independent guidelines under which the Office of Special Prosecutor would be conducted. He put them in the Federal Register so that they would have the force and effect of the law of the land. And then he went about his business of enforcing the commitment he had made to the country and to the Senate.

When the time came when he could no longer fulfill that commitment, he had courage enough to resign rather than to knuckle under.

We went through that period, and most of us were assured that we would not have to worry about less than an adequate, full, impartial investigation of Watergate. We put it out of our minds and put it behind us because we had had so many assurances.

We had had the statement of Mr. Elliot Richardson.

Mr. President, I ask unanimous consent to have the entire statement of Mr. Richardson printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT OF ELLIOT RICHARDSON

I have given him absolute authority to make all decisions bearing upon the prosecution of the Watergate case and related matters. I have instructed him that if he should consider it appropriate, he has the authority to name a special supervising prosecutor for matters arising out of the case.

Whatever may appear to have been the case before, whatever improper activities may yet be discovered in connection with this whole sordid affair, I want the American people, I want you to know beyond the shadow of a doubt that during my terms as President, justice will be pursued fairly, fully, and im-

> partially, no matter who is involved. . . . (9 Presidential Documents 434–435.)

Mr. BAYH. Mr. President, in the final analysis when he was asked if it was possible for the President to intervene in the way in which the Office of Special Prosecutor would be handled, he said: "It just will not happen."

We heard the President of the United States say:

> I will give him absolute authority to make all decisions. Justice will be pursued fairly, fully, and impartially no matter who is involved.

We were at a committee hearing and we heard the distinguished minority leader—a very honest, reputable man—come straight from the White House and quote the words of the President in which he said:

> Now, the President this morning made it clear to me that he will in no way intervene in the selection of the prosecutor nor in the conduct of his office, nor in his final report; that the investigation must proceed without fear or favor to the full and complete truth and toward the final fixing of responsibility through the judicial process . . . We start with the assurances that the President of the United States wishes a complete, total, absolute and utter investigation to the end, to the truth, and to the ultimate consequences. (Richardson Hearings at 46–46.)

Here is a man who is honest and reputable. He told the commitee what he had just been told by the President. We believed it. And Mr. Cox and Mr. Richardson proceeded. And we put Watergate further out of our minds until October 20.

On October 20, the foundation of this country was shaken as it has seldom been shaken before. We were confronted with the President not only going back on his word, but coming just to the brink of putting himself above the law in saying, "I am going to refuse to obey a court order."

Even the strongest supporters of the President were quick to say, "Wait just a minute."

One of the best examples I can cite is the fact that we saw an outpouring of public demand the likes of which I have not seen in my 12 years in the Senate. Telegrams and letters poured into Washington. They were most derogatory with respect to the conduct of the President. The people said that the President should be impeached. As a result, the President changed his mind.

As the majority leader had said much earlier, if we had had an independent Special Prosecutor bill before the Senate at that moment, it would have probably passed by a sizable margin.

We have traditionally in the Senate responded to the wishes of the people. We introduced the bills that were before the Senate. We held hearings, extensive hearings. We had constitutional authorities travel from all over the country and stress their support for the vehicle which is preferred by the Senator from Indiana, S. 2611. That measure is supported by the heads of our most prestigious law schools and by the American Bar Association Board of Governors, who are not known for taking hasty action. S. 2611 measure was unanimously supported.

We had 100 Members of the House and some 60 Members of the Senate on one bill or another.

We responded. However, I am concerned that once again we have sort of adopted the philosophy of the squeaking wheel where when the wheel squeaks we respond, and when it stops squeaking we forget about the imperfections.

With all respect to those who do not feel as strongly about this matter as I, that is exactly where we are now. The Senate is not as concerned, not because the basic, underlying imperfections which shook the country have been perfected. There have been some factual changes. However, the same potential for danger is there. Yet, it is not quite so obvious. And because it is not quite so obvious, we are about to take steps which would prohibit us from keeping the same danger, not from just lurking, not from just being apparent, but from being real.

Some facts have changed. We have had the appointment of a good man as independent prosecutor. We have had the nomination, and I think we shortly will have the confirmation, of another good man as Attorney General.

We have had the special prosecutor pursue with vigor and diligence and with his significant legal skills the conduct of the Watergate investigation, maintaining the staff that had already been developed, requesting from the White House evidence and getting some of it, causing consternation in the White House.

So there are those who, because other business is more pressing, suggest that we can afford to postpone until a later date the ultimate action of passing a truly independent prosecutor bill.

Mr. President, I speak only as one voice in the Senate, but I want this record to show that the facts which exist now are almost identical with the facts that existed 2 months ago. Two months is not a very long period of time, unless it is 2 weeks before adjournment.

Two months ago any of us could have stood where the Senator from Indiana is now standing and said, "A good man is serving as independent prosecutor. A good man is pursuing independently the Watergate case. A good man is demanding evidence from the White House. A good man is causing consternation down at the White House. And a good man is serving as Attorney General."

We could have said then, as we say now, "Independent guidelines are governing him. They are in the Federal Register. They have the effect of law."

Yet we found out, less than 2 months ago, that when one man, the President of the United States, decides to eradicate all of these actions and remove all of those public servants who are doing a good job, he can do so.

I am not about to take this opportunity to examine the reasons why the President changed his mind between the unequivocal statement he made to Senator SCOTT and the unequivocal statement he made on television to the American people, and the actions he took on October 20. Suffice it to say he as President thought he should take the action he did, and there was no qualification, no restraint that could be imposed upon him to prohibit him from taking that action.

So we saw a good man, Archibald Cox, go. We saw a good man, Elliot Richardson, go. And we saw a good man, William Ruckelshaus, go.

So we have had some temporary relief again. We have had, I repeat, some temporary relief. What concerns me, Mr. President, is that we are on a sort of roller coaster. We are up one minute and down the next. It seems to me we ought to try to put this roller coaster at a reasonably even level on the track.

We are on a roller coaster, and each dip goes farther down. The President's Saturday night massacre, we were going down. He announces he is going to release the tapes, we are going up. He announces that two of the tapes do not exist, we are going down. He appoints Jaworski, we are going up. We find out Rose Mary Woods had a little problem with the foot pedal, we are going down.

Mr. President, I just wish that we would take the steps necessary to do what we can to slow down the roller coaster. We are told that it cannot happen again. We are told here this morning by well-intentioned colleagues, some of whom are supporting the bill, who have been avid supporters of the bill, real tigers in putting it together, and men of unquestionable good conscience and motives, "Let's ask this question of Mr. SAXBE. Let's ask that question. Senator BAYH are you going to ask this question?"

Mr. President, nobody in this body can conceive of a question that was not asked of Elliot Richardson, and we got the right answers. And not only did we get the right answers when the questions were asked him, when the time came to stand up and be counted, Elliot Richardson resigned.

But that did not keep this country from being thrown into a kind of cataclysmic chaos the like of which we cannot afford in the future. And I am concerned, really concerned, about where we are headed.

We can get all of the same assurances from SAXBE, and I think he will respond, in the event he is forced to do so, as Elliot Richardson did. But I wonder why it is not possible for us to do a little more self-examination here. Maybe I am so immersed in this issue that I get a little extreme in my judgment, but I just get tired of reading those letters from constitutents. They used to be from a few kids on the campuses who wanted to stop the war in Vietnam. Now they are from a lot broader cross-section of my State. They are saying some very derogatory things about governmental institutions that I hold dear. They are saying some very derogatory things about the Congress of the United States. They are saying some very derogatory things about the Senate, which I love.

They talk, and we have talked. How many of us have not made statements on this floor about the danger of too much power moving down to 1600 Pennsylvania Avenue, and that it is time to reassert ourselves in a whole wide variety of areas? Because of the leadership of our distinguished majority leader and some other Members of this body, we started.

We passed war-powers bill. But that is just a first step. We have to set a record that is a consistent record of taking the steps necessary to reassert to powers of the Congress, of taking the steps necessary to solve some of the problems or prevent some of the problems before they happen.

I do not know how many people have written me saying, "Why don't you do something? Why didn't you do something back then? Won't somebody stand up?"

Perhaps this judgment on the part of some who write is too harsh, because I think most of us here are trying to do something, trying to stand up. But I fear that once in a while we give in too easily, and I feel, with all respect to those who disagree, that this is one of those instances where we are giving in too easily. And we are not only giving in too easily, we are giving in in an area where it seems to me the track record is pretty clear that we have a significant problem.

War-making powers, impoundment of appropriations, those are pretty complicated problems. There is no easy solution, no easy definition of what Congress should do to prohibit the executive branch from doing thus and so. But on this one, Mr. President, we know what the problem is. Anyone knows who can remember for 7 weeks—7 weeks ago last Saturday. We know what the problem is, we know the steps to be taken, we know the objectives. And yet, for reasons that are sincere reasons to those who propose them, we are not taking these steps.

Mr. President, I did not know whether to laugh or cry when I read the editorial yesterday morning in the Washington Post—a newspaper which I think is one of the most conscientious journals in this country. I do not lessen that assessment because they come down on the opposite side of this issue from the Senator from Indiana.

But what really pains was not their objection to an Independent Prosecutor as contained in S. 2611 or any Independent Prosecutor but, as I recall that editorial, what pains them were its closing sentences:

> Congress is known for a certain skill at putting off and putting over what it does not wish to bring to a final vote. Finding ways to do just that in this manner should not strain its inventiveness.

Mr. HOLLINGS. Mr. President, will the Senator from Indiana yield?

Mr. BAYH. I yield.

Mr. HOLLINGS. I wonder whether the Senator would consider the idea, that what has really occurred is a change of circumstances in that there now persists general confidence in the Special Prosecutor. At the time of the "Saturday night massacre," everyone was alarmed. We thought, as did the Senator from Indiana, that legislation was necessary to establish confidence.

However, now that the Special Prosecutor, Mr. Jaworski, a former president of the American Bar Association, has been appointed, he does appear to have independence and he does have integrity. This was the thrust of the Senator's bill.

Could it now be that legislation, rather than establishing confidence after the ensuing weeks and the performance of Mr. Jaworski, will shake confidence?

Specifically, how would I react if I were Mr. Jaworski, knowing that I was operating under the law, and knowing that even the judges who testified with respect to this appointment of the prosecutor had raised legal questions about its constitutionality. Would Mr. Jaworski then say, "I was doing all right, making my motions and doing my job. I was acting independently, and I did not have that special congressional caveat to worry about. Then along comes detailed congressional legislation that would restrict me or subject me to questions."

So again, turning back to the public—and the Senator from Indiana and I have our interest in the people of America, they wonder whom to have confidence in up here in Washington.

Now the people seem to have someone who is coming through. They have confidence in Mr. Jaworski. Evidently he is one the White House is responding to, and the Justice Department and the judiciary are responding as well. Only generally have the media been critical, but they are responding. Even Members of Congress, Senate and House Members, say they have confidence in Mr. Jaworski.

Then, all of a sudden, in comes a bill that would shake that confidence in Mr. Jaworski.

Is that not the case we have here? We are not trying to avoid the issue—or whatever that critical remark was—we do have the "courage" to move forward. But courage must be tempered with wisdom and commonsense to recognize the facts as they face us. Many times, yes, legislation will give the people confidence, but other times legislation can shake their confidence. I think we face a situation now where we need future senatorial leadership on this point. If the legislation were necessary later on, let us act then. We are not politically maneuvering now but rather, we are really holding it in abeyance. We are saying that for now it is working well under the present law, without the threat of a judicial contest and the other uncertainties of new legislation.

So why say now that what is really needed is special legislation?

Many who have been following us say, "Congress does not believe in him." So it could be that we would lose the gentleman and, rather than creating confidence, we could be shaking it; and, rather than having a Special Prosecutor that the Senator from Indiana and many of the rest of us does have confidence in, we would have to start all over again with a newcomer.

Mr. BAYH. Mr. President, I think it is possible for reasonable men to look at the situation and come to the conclusion the Senator from South Carolina does. I am sure he does that with the purest of motives and from the depth of his conscience.

The Senator from Indiana, however, looks at this same situation and comes to a different conclusion.

As I have said before my colleague was on the floor, I think we have confidence in Mr. Jaworski right now. But by looking at the polls—if they are any indication—we will find that 80 percent of the people think we should have an independent prosecutor.

I am concerned about what we do here. I am sure the Senator from South Carolina has made more than one statement about judges getting involved in the legislative process. So I think we have a responsibility doing what we think is right.

There is nothing in the bill sponsored by the Senator from Indiana, S. 2611, to keep Mr. Jaworski from continuing to operate as an independent prosecutor. In fact, one of the pending bills—and I think a proposed amendment by the Senator from Illinois—would suggest that we put into statutory law the present office and then have another enclosure, such as S. 2611, in the event he is discharged.

The Senator from Indiana does not feel that providing an independent mandate for a man now doing a good job, keeping the same thing from happening to him that happened to Mr. Cox, can be suggested as less than confidence.

It is like the fellow who gives his wife a house and then comes along and later says, "Here is the deed."

I think that is what we are doing.

Mr. President, let me proceed and not detain the Senate any longer than my conscience really would allow, to give a final description of this matter.

There are a number of reasons given to put this matter off, all of which I accept as being advanced for the most appropriate motives. One is, as the distinguished Senator from South Carolina has said, that to the people this legislation would weaken confidence in Mr. Jaworski.

As I have said, Mr. Jaworski is just as strong now as Mr. Cox was 8 weeks ago—no less, no more.

So I think contrary, to my friend from South Carolina, and others who share his view, that instead of weakening Mr. Jaworski, we are strengthening him. We are saying, and everyone else is saying, "Mr. Jaworski is doing a great job. Let us put on the books, in a statute, a mandate to let him continue to do that great job."

Others say that to try, and to fail, or to be less than unanimous, will strengthen the hopes of the President that he might get involved in various adventures because he sees that we do not have the votes necessary to pass this measure.

Mr. President, I hope there is no one here who believes that the White House cannot count. The White House knows where we are on this right now. So I fear that we already have to face up to the fact that the White House knows we do not have the votes, apparently, to pass this.

There are even some who suggest—I doubt if very many will confess it openly—every time some people say to me, "Birch, just back off this thing. Don't you know that if we go ahead this way the President might do again what he did with Mr. Cox, and that is all we would need to impeach him?"

Mr. President, you know, if we are going to impeach the President, we will impeach him on what he does. I think for any of us to suggest that we should be a part of this business in order to shore up the chinks in our armor to keep the President from yielding to temptation or being less than responsible.

I listened with a great deal of interest to the statements that have been made. I know that the majority leader and others feel very strongly—they are honest and sincere in their beliefs—that by taking this matter off the calendar and putting it on the shelf, with time limits, that this will be an incentive to insure the independence of Mr. Jaworski and cause the President to be thoughtful before he dabbles once again with that independence. Well, Mr. President, I think we all have gone through some rather frustrating moments in the legislative process before a measure could be passed. We do have time limits. Steps can be taken. It has to pass the House, and the President can veto it. Then there are no time limits. Then we require a two-thirds vote. The distinguished Senator from Alabama has proved that it is difficult to get two-thirds of the U.S. Senate to agree to certain things.

In the meantime, more time passes, just as it has since October 20.

One last general thought: I had hoped that the Senate would move on this measure, not because I thought Mr. Jaworski was not doing a good job at this moment or would continue to do a good job; not because I thought the President was conspiring to find ways to remove him, as he did in fact remove Mr. Cox. I do not know if the President has that in mind at this moment. But I looked upon this legislation, and I still look upon it, as an ounce of prevention, as a step necessary to shore up a rather significant hole in our roof or crack in our foundation before the rains or the earthquakes come.

I do not know why our Nation as a whole, from a governmental standpoint, is not able to come to grips with preventive legislation, instead of always rushing out to try to put out the fire, to still the emergency. That, as I see it, is exactly what we are asking for. We have a number of alternatives.

I feel very strongly, of course, about S. 2611. There are others. We had hoped to have a couple of days to see whether we could find some way to meld these together, but apparently this is not possible. With the differences that exist in the bill, I think it is important to recognize that three-fourths of the provisions in those bills—all of them—are identical.

I am concerned not just with the independent prosecutor, not just with justice, not just with the need to go ahead and see that those who are guilty are convicted, which I think is important from the standpoint of shoring up faith. We have to recognize that if the time comes when the President says to Mr. Jaworski, "No more papers; this has gone too far," and certain defendants, such as Mr. Mitchell and Mr. Stans, have asked for papers that cannot be delivered by the prosecutor because of White House inaction, then in most cases the courts are going to throw those cases right out of court. I do not need to go into any vivid description of what that does to the confidence of our people in their system of justice.

I am concerned not only about conviction; I am concerned about the exoneration of those who are innocent. After he had been discharged, Archibald Cox said, "You know, Senator, I investigated this case or that case, and I did not think the things that had been published or printed in the news media were substantial. I did not think there was a good case, I did not think probable cause existed. I thought that person was not guilty." When Archibald Cox makes that decision, nobody is going to question it.

But even with Leon Jaworski doing the best job he can, I think many people out there have become so cynical that they look at the record and say, "Here is a man who was appointed by the President. He can be fired by the President. Who are you kidding? I read the newspaper, I believe that man is guilty, and there must be some sort of shady deal, or he certainly would have been put on the blocks before now."

Last, Mr. President, I am concerned about making our whole system believable. I do not want the people of this country to believe that it is possible for what I just described to happen. The reason we were relying upon an independent prosecutor appointed by a three-judge court is that many of us were more concerned about the believability of the results than we were about the results themselves. We did not want the people of the country to believe that a Prosecutor was operating who could be hired and fired by the President. Just as strongly, we in Congress felt that we did not want that Prosecutor out there responsible to Congress, controlled by the Democrats, hired and fired by the Democrats; because we knew that some people would say, "That is just a vindictive effort to get the Republican President."

That is why we chose the vehicle of the courts. Whether it is that vehicle or another, I think the most important reason we need to proceed to enact statutory legislation now is to make the outcome of the Watergate matter believable, to give that prosecutor the authority, in fact and in appearance, to follow those tracks wherever they lead, no matter to whose door, and to let justice prevail, so that everybody in the country will be able to believe the result.

That is why the Senator from Indiana feels so strongly that we should proceed and regrets deeply that we are not operating under the unanimous-consent agreement which has been set aside.

Mr. HATHAWAY. Mr. President, I wholeheartedly endorse the remarks of the Senator from Indiana (Mr. BAYH). I want to put myself on record as being strongly opposed to the shelving of consideration of the matter of the appointment of the Special Prosecutor. Although I agree with the opinion of the distinguished majority leader that the present Special Prosecutor and the Attorney General-designate are men of impeccable character and high integrity, I do not feel that this justifies deferring action on this subject.

Most of the arguments on this matter have turned on the question of which of the various proposals assures the prosecutor of the highest degree of independence while at the same time falling within the limitations of the Constitution. For a number of reasons, I feel that the bill introduced by Senators HART and BAYH best fits these standards. But there is a more subtle and, I think, more important reason for the passage of some legislation in this area at the present time.

The point is that despite any assurances, despite any agreements, despite any arrangements, we still have an investigator being asked to investigate the man who hired him and who, in every real sense, is still his boss. Thus stated, the situation just does not "feel" right to me, nor, I suspect, to the American people. And our most important task at this time is to restore the faith of these people in their National Government. Mr. Jaworski can do the most aggressive job possible in this matter and a substantial number of people will not believe it because he is the man handpicked by the President after the inexcusable firing of Archibald Cox. We can spin arguments here for days on end, but the present arrangement simply does not make sense to the ordinary citizen.

I would think the President and his supporters would be strong advocates for moving this legislation as expeditiously as possible. If Mr. Jaworski ends up giving the President a clean bill of health, this measure is the best available defense to the inevitable cry of "whitewash". Without this protection, confidence in any result favorable to the President will be limited, at best.

In making decisions on matters such as this, I think it is important to put ourselves in the position of the people who do not know our friend Bill Saxbe and have not had the opportunity to question Leon Jaworski. They can only go on what the situation looks like and how it squares with their everyday experience. It is in this context that I think our failure to act on this measure is so untimely and unfortunate. The confidence of the people in their institutions of government is a fragile thing and yet it is the cement which binds our entire system. This administration has done irreparable damage to this bond between the citizens and their leaders; it behooves us to prevent any further widening of the breach.

Mr. MANSFIELD. Mr. President, first let me say, to wind up this discussion, that I know, personally, how deeply the distinguished Senator from Indiana feels about the resolution which bears his name, with others, S. 2611, and how deeply involved he has been in this whole situation.

I thank him for his consideration. I appreciate his feelings. I am glad he has spoken out. I hope that out of this colloquy today will come the possibility, in the not too distant future, to bring this matter to the floor for consideration.

Mr. McCLELLAN. Mr. President, I had intended to submit my views on the Special Prosecutor bills upon their consideration by the Senate. In view of the action taken today to delay their consideration, I would like to have included in the Record the letter I am sending to the desk in order to make my position clear.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., November 27, 1973.
Mr. and Mrs. Van Weathersby,
Mutual of New York,
Little Rock, Ark.

Dear Mr. and Mrs. Weathersby: This acknowledges your letter of November 21st.

With regard to a Special Prosecutor for the Watergate cases and other alleged violations of law by members of this Administration, I assume that you know the Senate Judiciary Committee has reported without recommendation two separate bills to the Senate. Within 10 days, the Senate will begin considering these measures.

The principal issue and difference between the two proposals is that of a court-appointed Special Prosecutor and one appointed by the Executive Branch of the Government—either by the President with Senate confirmation or by a court without Senate confirmation. A very grave constitutional question has been raised regarding the proposed court-appointed Special Prosecutor. As you may know, within the last 10 days, two Federal District Judges here in Washington, before whom cases are pending, have stated that a court-appointed Special Prosecutor is unconstitutional; that the responsibility for seeing that the laws are faithfully executed is placed specifically in the Executive Branch of the Government (rather than in the Judiciary) by the Constitution. Thus, if the Congress passes and the President signs into law a measure authorizing the courts to make such an appointment, we definitely incur the risk of later having all the work of a Special Prosecutor—including indictments and convictions which he may secure—vitiated by the Supreme Court. This risk, I think, is too great for us to take.

With respect to a Special Prosecutor appointed by the Executive Branch of the Government—either by the President or the Attorney General—there seems to be no risk of unconstitutionality. Such an appointment, however, could involve some risk—might leave some doubt—as to whether such an appointee would be completely independent and free to discharge his duties without any hindrance or restraint by the Attorney General and the President.

In these circumstances, we have to make a choice. I firmly believe that the court-appointed Special Prosecutor would be unconstitutional, and, therefore, I shall be compelled to vote for a Special Prosecutor appointed by the Executive Branch of the Government—either by the President or the Attorney General.

This is an unfortunate situation, but it can be made more tragic if we follow a course that would ultimately result in obstructing rather than promoting the processes of justice.

I appreciate hearing from you, and with kindest regards, I am

Sincerely yours,

John McClellan.

SUPPLEMENTAL APPROPRIATIONS, 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent at this time that the pending business be laid aside temporarily and that, in accordance with the agreement reached in the Senate on yesterday, the Senate proceed to the consideration of Calendar No. 590, H.R. 11576.

The PRESIDING OFFICER (Mr. Biden). Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 11576) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, if the distinguished Senator from Arkansas (Mr. McClellan) will yield briefly, at this time I wish to call up Calendar No. 586, H.R. 3490, which has been cleared all the way around.

Mr. McCLELLAN. I yield.

REMOVAL OF RESTRICTION ON CHANGE OF SALARY OF FULL-TIME REFEREES IN BANKRUPTCY

The bill (H.R. 3490) to amend section 40b of the Bankruptcy Act (11 U.S.C. 68(b)) to remove the restriction on change of salary of full-time referees was considered, ordered to a third reading, read the third time, and passed.

SUPPLEMENTAL APPROPRIATIONS, 1974

The Senate continued with the consideration of the bill (H.R. 11576) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

Mr. McCLELLAN. Mr. President, in the pending measure the committee recommends a grand total of new budget obligational authority amounting to $1,808,925,386, which is an increase of $274,741,500 over the estimate and $375,889,668 over the sum allowed by the House.

The estimates considered by the committee amounted to $1,534,183,886, which sum is $105,393,668 more than the estimates which were considered by the House, totaling $1,428,790,218.

The major increases made by the committee over the budget estimates are found in four chapters of the bill. In chapter III, which covers the appropriations for the Department of the Interior, the committee has increased the budget estimate for the Office of Oil and Gas by $52 million. This addition to the budget request is provided as contingency funding and is subject to the enactment of S. 2589 or similar legislation authorizing State and Federal programs to deal with the energy shortage.

In chapter IV of the bill covering appropriations for the Department of Health, Education, and Welfare the committee has increased the appropriation for social and rehabilitation services by $52,572,000 over the budget estimate, and in the same chapter has provided increases above the estimate for health services delivery amounting to $30,105,000 and for health services planning and development $29,500,000.

In chapter VI of the bill the committee has increased the amount requested for the Corps of Engineers by $23,500,000 for flood control and coastal emergencies and for the Mississippi River and its tributaries.

In chapter VII of the bill, which provides appropriations which are $60,933,000 above the budget estimate in total, the committee has made available for the Economic Development Administration funds totaling $81,500,000 for which no budget estimate had been submitted.

Mr. President, approximately 50 percent of the funds recommended in the bill, totaling $833,648,000 are made available for programs which were not acted upon when the regular appropriation bills were considered because of a lack of legislative authorization. These items include $752,668,000 for social and rehabilitation services of the Department of Health, Education, and Welfare; $49,395,000 for the domestic volunteer programs of ACTION; and $31,585,000 for the traffic and highway safety programs of the Department of Transportation.

Also contained in the pending measure is $40 million to implement title IX of the Older Americans Comprehensive Services amendments of 1973 and $30,105,000 to carry out the provisions of the new maternal and child health legislation.

The sum of $149,673,000 is recommended by the committee for our Federal energy program and the related research and development. Included in this sum is $75,576,000 for the Office of Oil and Gas and $30,200,000 for the Office of Coal Research in the Department of the Interior. For the establishment of the new Federal Energy Office created by Executive Order No. 1174, dated December 4, 1973, the committee recommends an appropriation of $9,360,000, and for the civilian reactor research and development and reactor safety research programs of the Atomic Energy Commission the bill contains an appropriations of $5,800,000.

For the legislative branch, the committee recommends an appropriation of $30,809,085, which includes $20,900,000 for the extension of the New Senate Office Building.

Mr. President, to cover the costs of processing an increasing volume of taxpayers' inquiries and returns, the committee recommends an appropriation of $25 million, and for the U.S. Postal Service, in order to provide for the public service costs for free and reduced-rate mail which will be generated by the increase in postal rates which becomes effective January 5, 1974, the committee recommends an appropriation of $100 million.

For the civil works programs of the Corps of Engineers the committee recommends an appropriation of $132,100,000. This sum includes $17,500,000 to repair completed projects of the Corps of Engineers which were damaged by high water and erosion during recent storms and floods; $100 million to replenish the emergency fund, of which $92 million has been allocated for known emergency requirements in the Mississippi River basin; $1 million for emergency activities at other locations; and $7 million for direct replenishment of the emergency fund.

Mr. President, for the operation, repair, and maintenance of public buildings, the committee recommends in the bill a total of $112,863,000, which sum is $11,283,000 over the House allowance but $8,165,000 below the estimate.

To cover the U.S. share of the cost of the U.N. Mid-East Peace-Keeping Force, the committee recommends an appropriation of $17,337,000. This amount is 29 percent of the first assessment of $60 million which has been levied by the U.N. General Assembly for the estimated costs for 1 year. Also included for international organizations and programs is $900,000 to cover the costs of the U.S. participation in the Middle East Peace Conference, which is scheduled to convene in Geneva on December 18, 1973, and $800,000 for the additional U.S. share of the Continuing Conference on Security and Cooperation in Europe.

For the planning, technical assistance, and research of the Economic Development Administration of the Department of Commerce, the committee recommends an appropriation of $81,500,000, and has also included the following language in the bill for this item:

> To be expended for extension of grants to existing Economic Development Districts and planning organizations, including administrative expenses, and to fund new districts which meet the requirements of 42 U.S.C. 3171, as amended: *Provided*, That no restrictions shall be imposed in the authorization, designation, and funding of such new Economic Development Districts which meet the requirements of 42 U.S.C. 3171 as amended.

Finally, Mr. President, for claims and judgments the committee recommends an appropriation of $57,352,301.

I have endeavored to summarize the main items appearing in the measure that is presently pending. For a detailed explanation of each of the items contained in the bill I would suggest that Senators consult the report which is on each desk.

Mr. President, I yield to the distinguished Senator from North Dakota.

Mr. YOUNG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. YOUNG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YOUNG. Mr. President, over the last several weeks I have worked closely with the distinguished chairman of the Senate Appropriations Committee, the Senator from Arkansas (Mr. McCLELLAN), as we have jointly worked together, not only in the development of this bill, but of the defense appropriations bill as well. These have been gruelling weeks for both of us, throughout which the chairman has maintained his high dedication to the defense of our Nation, and the integrity of the budget. I am sure I speak for all the members of the Committee on Appropriations when I commend our chairman for his outstanding leadership on these two important and critical appropriations bills.

Mr. President, as the chairman has indicated, the committee is recommending appropriations of $1,808,925,386 in the supplemental appropriations bill, which is $274,741,500 more than the budget estimate, and $375,889,668 over the amount passed by the House. I will not duplicate the fine presentation made by our chairman, but I would stress a few points.

First of all, some of the major amounts in this bill are items that could not be appropriated for in the regular appropriations acts, because the authorizing legislation was not completed at the time the regular appropriations bill was before the Senate. An outstanding example of this is the $752,668,000 included in the bill to carry out the Vocational Rehabilitation Act of 1973. The committee has increased the amount for the basic State grants, because of the change in the formula in the new law, and the recent revision of the estimates of the capacity of the States, to provide a higher level of matching funds. I am personally gratified by the committee's action with regard to the Heart of America Human Services Center in Rugby, N. Dak.

The committee has also quickly moved to provide the necessary funds to meet the critical energy situation. In addition to the $55 million that was approved by the House, the committee has provided an additional $52 million for the Office of Oil and Gas to establish an energy emergency contingency fund; and the full amount of the request for the new Federal Energy Administration. In a related action the committee added $38,900,000 to the Economic Development Administration to meet the anticipated displacement of workers due to the energy crisis.

On behalf of the minority, I endorse the supplemental appropriations bill to the Senate as a good bill and recommend its immediate adoption.

Mr. PASTORE. Mr. President, the part of the bill that has to do with funding for the Departments of State, Justice, Commerce, the judiciary, and related agencies comes within the jurisdiction of the subcommittee of which I am the chairman. I wish to make a statement on that part of the bill.

Chapter VII of this supplemental recommends a total of $129,895,000 for the Departments of State, Justice, Commerce, the judiciary and related agencies. This sum is $60,933,000 above the budget estimate and $97,308,000 above the House allowance, of which $92,515,000 were contained in supplemental estimates that the House did not consider.

DEPARTMENT OF STATE

For the Department of State the committee recommends a total of $19,037,000, which was not considered by the House. This amount is $8,520,000 under the budget estimate.

For "Salaries and expenses—General administration," the committee heard a series of some 15 miscellaneous requests for $7 million, of which the committee recommends disapproval due to lack of authorization.

For "Acquisition, operation, and maintenance of buildings abroad" the supplemental estimate was $1,520,000, which the committee recommends disaproval of due to lack of authorization.

Under "Contributions to international organizations," the committee recommends the supplemental estimate of $17,337,000, even though this request was not authorized. This is the U.S. assessment by the U.N. for the Middle East peacekeeping force.

For "International conferences and contingencies" the committee recommends the supplemental estimate of $1,700,000. This consists of two items:

First, $800,000 for this Nation's share of the Continuing Conference on Security and Cooperation in Europe.

Second, $900,000 for the cost of U.S. participation in the Mideast Peace Conference.

DEPARTMENT OF JUSTICE

For the Department of Justice the committee recommends a total of $13,800,000. This sum is $871,000 below the budget estimate and $500,000 above the House allowance.

"Salaries and expenses, general administration." The committee recommends the House allowance of $600,000 to provide funds to enable the Board of Parole 44 additional positions needed for their regionalization plan.

"Salaries and expenses, U.S. attorneys and marshals." The committee recommends $2,100,000 to provide funds necessary to meet a promotion plan approved by the Civil Service Commission and for security equipment for Federal courtrooms.

"Salaries and expenses, community relations service." The committee recommends $500,000, the supplemental estimate, which will provide funds to pay for on-board personnel through June 30, 1974.

"Salaries and expenses, Immigration and Naturalization Service." The committee recommends the supplemental estimate of $3,600,000, which provides for 300 new positions, automotive equipment, and other miscellaneous supportive costs.

"Salaries and expenses, Bureau of Prisons." The committee recommends $7 million, which was the House allowance. This sum will allow the Bureau to accept and operate the health center at Lexington, Ky., effective January 1, 1974.

It further provides for other increased costs due to its inability to obtain surplus commodities and a larger prison population.

DEPARTMENT OF COMMERCE

For the Department of Commerce the committee recommends a total of $96,381,000. This sum is $80,919,000 over the budget estimate. The amount approved is $77,641,000 above the House allowance of which $75,150,000 was not considered by the House.

"EDA—Planning, Technical Assistance and Research"—$81,500,000 was recommended by the committee for public works grants and loans for construction and expansion of public works projects that offer substantial employment potential. The committee feels this additional funding is of particular importance at this time because of the growing unemployment problem attributed to the energy crisis.

"Salaries and Expenses, Domestic and International Business Administration." The committee recommends $2,100,000, which will enable the Department to, first, expand its Commercial Office in Moscow; second, monitor its short supply export control program; and third, allow funds for increased costs overseas.

"Participation in U.S. Expositions (Arctic Winter Games)." The committee recommends $150,000 for the United States' share of administering the Arctic winter games to be held in Anchorage in March 1974.

"Salaries and Expenses, United States Travel Service." The committee recommends the supplemental estimate of $2,344,000, which sum would permit the Travel Service to develop low-cost tour packages with wholesalers abroad.

"National Oceanic and Atmospheric Administration." The committee recommends the House allowance of $10,287,000, which will provide for, first, disaster aid for shellfish resources to five States; and second, replacement of the ITOS satellite which failed on launch.

THE JUDICIARY

For the Judiciary the committee recommends $422,000 for renovating and remodeling the cafeteria located in the Supreme Court Building. The recommendation is the supplemental estimate and the House allowance.

RELATED AGENCIES

For the related agencies funded under this chapter the committee recommends $255,000. This sum is $10,595,000 under the budget estimate and $130,000 over the House allowance.

"Salaries and Expenses, Foreign Claims Settlement Commission." The committee recommends the supplemental estimate of $105,000 to provide additional staff needed to process an unexpectedly large number of Micronesian claims from the Trust Territory.

"Board for International Radio Broadcasting." For the Board the committee recommends the sum of $150,000 to finance operating expenses for the second half of this fiscal year.

"International Radio Broadcasting Activities." The committee recommends disapproval of the supplemental estimate of $4,970,000 at this time. We suggest that the agency first take steps in initiating the consolidation of the two radios involved from available funds before requesting a supplemental appropriation.

"USIA—Special International Exhibitions." The committee recommends the disapproval of this nonauthorized item of $5,600,000 due to the indefiniteness of the opening date and existing energy problems.

I am perfectly willing to answer any question by any Senator on any one of these subjects.

Mr. BIBLE. Mr. President, I serve as chairman of the Subcommittee on Interior and Related Agencies on the appropriation bill which is before us today, namely, the supplemental appropriation bill, which is the pending business.

CHAPTER III—INTERIOR AND RELATED AGENCIES

The Interior and Related Agencies Chapter contains mostly energy supplementals, Mr. President. We are recommending a total of $163,923,000 in new budget authority. That is an increase of $65,045,000 over the budget and $75,792,000 over the House allowance.

CONTINGENCY FUND

Most of this increase—$52 million—is for a contingency fund for the Office of Petroleum Allocation. This is the new agency charged with administering current mandatory and voluntary fuel allocations. Pending legislation could well enlarge its responsibilities, and this fund is to be appropriated contingent upon enactment of that legislation. Further, the committee report requires the Department to obtain House and Senate Appropriations Committee approval before utilizing any of the fund.

Such things as gasoline rationing and State assistance may become necessary in the near future, and this fund would be available for those contingencies.

OTHER INCREASES

If we disregard this contingency fund, the Interior portion is $13,045,000 over the budget and $23,792,000 over the House. And most of the increase over the House is made up of late-arriving budget estimates that were not considered by that body.

The other major increases in the budget are as follows:

Bureau of Land Management—$1 million for range fire rehabilitation; $350,000 for coal leasing; and $500,000 for staff housing in remote areas of Alaska.

Bureau of Indian Affairs—a total $3,457,000 over the budget Indian college scholarships—Montoya, and four needed construction items.

Trust Territory of the Pacific—$1,860,000 for increased cost of bridge construction and purchase of school buses.

Bureau of Mines—$2 million to complete most of the construction now underway on the Beckley Mine Health and Safety Academy.

Office of Coal Research—$2 million to accelerate research on MHD.

Offices of the Secretary and Solicitor—$500,000 for more legal staff to reduce the mounting caseload of appeals from coal mine health and safety penalties.

Forest Service—$1,850,000 mostly for salvage of timber destroyed by the tussock moth and for research on controlling this destructive insect.

BUDGET REDUCTIONS

Somewhat offsetting these increases are recommended reductions amounting to almost $500,000. These are from relatively small savings in several of the agencies that have little effect on their ongoing programs.

LANGUAGE IN THE BILL

We have recommended considerable language in the bill. The main additions relate to a proposed advance from the Alaska Native Fund; a ban on the use of any appropriated funds to close down the Roswell, N. Mex., desalting facility; and retention of language carried in the regular 1974 appropriation that prohibits changes in regional boundaries of the Forest Service and forbids the export of logs cut from Federal timberlands. And, of course, we have the usual contingency language for any programs for which authorizing legislation has not yet been enacted.

If any Senator has a question on chapter 3 at this time, or if a Senator wishes to ask a question later, I shall be glad to remain for the purpose of attempting to answer those questions.

I yield the floor.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that the bill as thus amended be regarded, for the purpose of amendment, as original text, provided that no point of order shall have been considered to have been waived by reason of agreement to this request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 1, in line 3, after the comma, insert "and shall be made available for expenditure except as specifically provided by law,".

On page 2, beginning with line 3, insert:

AGRICULTURAL RESEARCH SERVICE

For an additional amount for the "Agricultural Research Service", $500,000.

On page 2, in line 8, strike out "$1,000,000" and insert in lieu thereof "$1,628,000".

On page 3, beginning with line 1, insert:

VETERANS' ADMINISTRATION

ADMINISTRATIVE PROVISIONS

SEC. 201. No funds appropriated in this or any other Appropriation Act for any fiscal year shall be used to make a settlement of any construction contract by the Veterans Administration in an amount which has not been audited independently as to the reasonableness and appropriateness of expenditures and which has not been provided for specifically in an Appropriations Act.

On page 3, in line 15, strike out "$8,150,000" and insert in lieu thereof "$8,500,000."

On page 3, beginning with line 16, insert:

CONSTRUCTION AND MAINTENANCE

For an additional amount for "Construction and Maintenance", $500,000.

BUREAU OF INDIAN AFFAIRS

EDUCATION AND WELFARE SERVICES

For an additional amount for "Education and Welfare Services", $2,240,000.

RESOURCES MANAGEMENT

For an additional amount for "Resources Management", $197,000.

CONSTRUCTION

For an additional amount for "Construction", $1,020,000, to remain available until expended: *Provided*, That $343,000 shall be available to assist the Pyramid Lake Paiute Tribe of Indians in the construction of a fish hatchery and related facilities for the restoration of the Pyramid Lake fishery pursuant to the Washoe Act (43 U.S.C. 614): *Provided further*, That $320,000 shall be available to assist the Wind River Education Association in the construction of facilities at the Ethete, Wyoming, High School: *Provided further*, That $2,700,000 of the amount appropriated under this heading in the Department of the Interior and Related Agencies Appropriation Act, 1974, shall be available for assistance to the Ramah Navajo School Board, Incorporated, New Mexico, for the construction of school facilities.

Alaska Native Fund

In addition to any advances heretofore authorized to be made from the Alaska Native Fund, an additional $1,000,000 shall be available during the current fiscal year and prior to the first regular distribution pursuant to section 6 of the Alaska Native Claims Settlement Act of December 18, 1971 (Public Law 82–203), for distribution by the Secretary of the Interior among the Regional Corporations established pursuant to section 7 of said Act, which the Secretary shall determine to be necessary for the organization of such Regional Corporation and the Village Corporations within such region, and to identify land for such Corporations pursuant to said Act, and to repay loans and other obligations incurred prior to May 27, 1972, for such purposes: *Provided*, That such advances shall not be subject to the provisions of section 7(j) of said Act but shall be charged to and accounted for by such Regional and Village Corporations in computing the distributions pursuant to section 7(j) required after the first regular receipt of moneys from the Alaska Native Fund under section 6 of said Act: *Provided further*, That no part of the money so advanced shall be used for the organization of a Village Corporation that had less than twenty-five Native residents living within such village according to the 1970 census.

On page 5, in line 21, strike out "$8,410,000" and insert in lieu thereof "$10,110,000".

On page 6, in line 4, strike out "$4,170,000" and insert in lieu thereof "$6,170,000".

On page 6, in line 8, strike out "$26,100,000" and insert "$30,200,000, to remain available until expended".

On page 6, line 14, strike out "$21,145,000" and insert:

$75,576,000: *Provided*, That $52,000,000 of the funds made available in this paragraph shall be set aside as a contingency reserve and shall be available for obligation only upon the enactment into law of S. 2589, Ninety-third Congress, or similar legislation.

On page 6, in line 22, strike out "$500,000" and insert in lieu thereof "$450,000".

On page 6, beginning with line 23, insert:

National Park Service

PLANNING AND CONSTRUCTION

For an additional amount for "Planning and Construction", $12,000, to remain available until expended: *Provided*, That this amount shall not be available for obligation except upon the enactment into law of legislation authorizing the addition of the names of the States of Alaska and Hawaii to the list of States inscribed upon the walls of the Lincoln National Memorial.

Office of Saline Water

SALARIES AND EXPENSES

None of the funds appropriated under this head in the Department of the Interior and Related Agencies Appropriation Act, 1974, shall be used to close or deactivate the Roswell, New Mexico, test facility.

On page 7, in line 15, strike out "$8,595,000" and insert in lieu thereof "$9,445,000".

On page 7, in line 18, strike out "$400,000" and insert in lieu thereof "$543,000".

On page 7, beginning with line 19, insert:

Office of the Solicitor

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $999,000.

On page 8, at the end of line 6, strike out "$8,590,000" and insert:

$8,550,000; and for "Forest research", $240,000: *Provided*, That none of the funds made available in this paragraph shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, and national forest system administration of the Forest Service, Department of Agriculture, without the consent of the Committees on Appropriations of the United States Senate and House of Representatives and the Committee on Agriculture and Forestry of the United States Senate and the Committee on Agriculture of the House of Representatives.

On page 9, beginning with line 1, insert:

HISTORICAL AND MEMORIAL COMMISSIONS

American Revolution Bicentennial Commission

SALARIES AND EXPENSES

For expenses to carry out the provisions of the Act of July 4, 1966 (Public Law 89–491), as amended, $7,100,000.

On page 9, beginning with line 13, insert:

Manpower Administration

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out title IX of the Older Americans Comprehensive Services Amendments of 1973, $40,000,000.

On page 10, in line 7, after the comma, insert "$36,500,000 of which $9,500,000 shall remain available until expended".

On page 10, in line 10, after the comma, strike out "$9,500,000 to remain available until expended." and insert:

And $27,000,000 for carrying out the provisions of Public Law 93–154, of which $7,000,000 shall be derived by transfer from funds previously appropriated for emergency medical services activities.

HEALTH SERVICES DELIVERY

For an additional amount for "Health services delivery", for carrying out section 516 of Public Law 93–53, $30,105,000.

National Institutes of Health

HEALTH MANPOWER

For an additional amount of "Health manpower", $5,000,000 to be available for obligation only upon enactment into law of authorizing legislation.

Office of Education

EMERGENCY SCHOOL ASSISTANCE

For an additional amount for "Emergency school assistance", $12,447,000, of which $6,223,500 shall be used to carry out section 708 and $6,223,500 shall be used to carry out section 709 of the Emergency School Aid Act.

On page 11, at the beginning of line 12, strike out "$707,538,000" and insert in lieu thereof "$752,668,000".

On page 11, at the end of line 12, strike out "$609,000,000" and insert in lieu thereof "$650,000,000".

On page 11, at the beginning of line 14, strike out "$6,870,000 shall be for grants under section 110(b)," and insert "$6,000,000 to remain available until expended shall be for facilities construction as authorized by section 301, and".

On page 11, in line 25, strike out "$46,319,000" and insert in lieu thereof "$49,395,000".

On page 12, beginning in line 1, insert:

Administrative Provisions

IMPOUNDMENT OF APPROPRIATED FUNDS

SEC. 401. Any funds necessary to be appropriated for full obligation of a fiscal year 1973 appropriation determined to have been unlawfully impounded by the executive branch of the United States Government in a civil action filed on or before June 30, 1974, are hereby appropriated out of any money in the Treasury not otherwise appropriated. Such appropriations shall remain available for obligation through the later of the day on which a final judicial determination finding the impoundment legal is made or one year following the day on which the impoundment is found illegal.

CONTINUING APPROPRIATIONS

SEC. 402. For continuing through June 30, 1974, the activities of the Cabinet Committee on Opportunities for Spanish-speaking people and activities under the Manpower Development and Training Act of 1962, as amended, and title I and title IIIB of the Economic Opportunity Act of 1964, as amended, for which provision was made under the joint resolution of July 1, 1972, Public Law 92–334, as amended, and the Supplemental Appropriations Act, 1973, Public Law 92–607, such amounts as may be necessary but at a rate for operations not in excess of the current rate: *Provided*, That the current rate for operations shall be defined as that permitted by such appropriations for fiscal year 1973: *Provided further*, That expenditures made pursuant to this section shall be charged to the applicable appropriation fund, or authorization whenever a bill in which such applicable appropriation fund, or authorization is contained is enacted into law: *Provided further*, That section 103 of Public Law 93–52 shall apply to this appropriation.

On page 13, beginning in line 10, insert:

SENATE

Salaries, Officers and Employees

OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", $36,480: *Provided*, That effective December 1, 1973, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is increased by $62,415: *Provided further*, That effective July 1, 1974, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is decreased by $17,100.

OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For an additional amount for "Office of Sergeant at Arms and Doorkeeper", $46,055: *Provided*, That effective December 1, 1973, the Sergeant at Arms may appoint and fix the compensation of one additional senior programer analyst at not to exceed $22,515 per annum, two additional programer analysts at not to exceed $17,385 per annum each, and two additional mail specialists at not to exceed $10,830 per annum each.

Contingent Expenses of the Senate

MISCELLANEOUS ITEMS

For an additional amount for "Miscellaneous Items", $115,000.

For an additional amount for "Miscellaneous Items", fiscal year 1973, $875,000.

ADMINISTRATIVE PROVISIONS

Section 105(e) of the Legislative Branch Appropriation Act, 1968, as amended and as modified by the order of the President pro tempore of the Senate of October 4, 1973, is amended as follows:

(1) In paragraph (1), strike out "ranging from $18,525 to" and insert in lieu thereof "at not to exceed".

(2) In paragraph (2)(A), strike out "$8,265 to" each place it appears therein and insert in lieu thereof "not to exceed".

(3) In paragraph (2)(B), strike out "$18,240 to", "$14,250 to", and "$8,265 to" and insert in lieu thereof in each place "not to exceed".

On page 16, beginning with line 12, insert:

SENATE OFFICE BUILDINGS

For an additional amount for "Senate Office Buildings", $117,000.

CONSTRUCTION OF AN EXTENSION TO THE NEW SENATE OFFICE BUILDING

For an additional amount for "Construction of an Extension to the New Senate Office Building", including extension of the Senate subway transportation system, construction of additional floor levels on the rear center wing of the Dirksen Office Building, changes to the Dirksen and Russell Office Buildings to provide improved means of circulation to, in, and through those buildings and the extension, and other changes required to properly correlate use of the three buildings, $20,900,000, to remain available until expended.

On page 17, in line 22, strike out "$5,500,000" and insert in lieu thereof "$16,500,000".

On page 18, in line 17, strike out "$7,600,000" and insert in lieu thereof "$14,600,000".

On page 19, beginning in line 2, insert:

Department of State

International Organizations and Conferences

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Contributions to international organizations", to be available without regard to the provision under this heading in the Department of State Appropriation Act, 1973, $17,337,000: *Provided,* That this appropriation shall be available only upon the enactment into law of authorizing legislation.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For an additional amount for "International conferences and contingencies", $1,700,000, of which $800,000 shall remain available until December 31, 1974, and not to exceed $15,000 may be expended for representation allowances as authorized by section 901 of the Act of August 13, 1946, as amended (22 U.S.C. 1131) and for official entertainment.

On page 20, beginning in line 5, insert:

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For an additional amount for "Salaries and Expenses", $500,000.

On page 20, beginning with line 22, insert:

DEVELOPMENT FACILITIES

For additional amount for "Development Facilities", $38,900,000.

On page 21, beginning with line 1, insert:

INDUSTRIAL DEVELOPMENT LOANS AND GUARANTEES

For an additional amount for "Industrial Development Loans and Guarantees", $28,700,000.

On page 20, beginning with line 6, insert: "sistance, and research," $13,900,000, of which $6,500,000, shall be expended for extension of grants to existing Economic Development Districts and planning organizations, including administrative expenses, and to fund new districts which meet the requirements of 42 U.S.C. 3171, as amended: *Provided,* That no restrictions shall be imposed in the authorization, designation, and funding of such new Economic Development Districts which meet the requirements of 42 U.S.C. 3171, as amended."

On page 21, beginning with line 21, insert:

PARTICIPATION IN UNITED STATES EXPOSITIONS

For necessary expenses for Federal participation in the 1974 Arctic Winter Games, as authorized by Public Law 93–144, November 1, 1973, $150,000.

On page 22, beginning with line 1, insert:

United States Travel Service

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,344,000.

On page 22, beginning with line 19, insert:

Equal Employment Opportunity Commission

SALARIES AND EXPENSES

The figure of $1,700,000 contained in the paragraph "Equal Employment Opportunity Commission, Salaries and Expenses", in Public Law 93–162, making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1974, is hereby increased to $3,700,000.

Foreign Claims Settlement Commission

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses," $105,000.

International Radio Broadcasting

On page 23, in line 16, strike out "$30,570,000" and insert "$31,585,000".

On page 23, in line 16, strike out the colon and *"Provided,* That this appropriation shall be available only upon the enactment into law of authorizing legislation by the Ninety-third Congress."

On page 23, in line 24, strike out "$2,000,000" and insert in lieu thereof "$2,525,000".

On page 24, in line 4, strike out "$7,000,000" and insert in lieu thereof "$2,300,000".

On page 24, strike out the comma and "of which not to exceed $100,000 shall be available for payment for rental space in connection with preclearance operations" and insert a colon and *"Provided,* That none of the funds made available under this or any other Act shall be obligated or expended to change the boundaries of the Pembina, North Dakota Customs District (Region IX), without the consent of the Committee on Appropriations of the United States Senate and House of Representatives."

On page 24, in line 15, strike out "$26,800,000" and insert in lieu thereof "$25,000,000".

On page 24, beginning with line 18, insert:

PRESIDENTIAL ELECTION CAMPAIGN FUND

For the Presidential Election Campaign Fund, the amounts designated to such fund by individuals under section 6096 of the Internal Revenue Code of 1954, as of the date of enactment of this Act are hereby appropriated to the Fund.

On page 25, in line 4, strike out "$110,000,000" and insert in lieu thereof "$100,000,000".

On page 25, in line 9, after the word "including" insert "personnel".

On page 25, at the end of line 9, strike out "as authorized by U.S.C. 3109," and insert "without regard to the provisions of law regulating the employment and compensation of persons in the Government service, and not to exceed $1,000 for official entertainment,".

On page 25, at the beginning of line 17, strike out "$1,500,000" and insert:

$1,250,000: *Provided,* That of the amount heretofore and herein appropriated for "Salaries and expenses" for the current fiscal year, the limitation for personal services as authorized by title 5, United States Code, section 3109, at which per diem rates for individuals, as the President may specify, and other personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service is $3,850,000 and the limitation on travel is $100,000: *Provided further,* That the Committees on Appropriations of the Senate and House of Representatives shall be furnished quarterly with a detailed accounting of all expenditures made from this account.

Federal Energy Office

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Office established by Executive Order Numbered 11748, dated December 4, 1973, including hire of passenger motor vehicles, reimbursements to the Emergency Fund of the President for allocations to the Office, and services as authorized by title 5, United States Code, section 3109, but at rates for individuals not to exceed the per diem equivalent of the rate for grade GS–18, $9,360,000.

On page 26, in line 20, strike out "$760,000" and insert in lieu thereof "$500,000".

On page 26, in line 25, strike out "$82,400,000" and insert in lieu thereof "$91,000,000".

On page 27, in line 7, strike out "$19,000,000" and insert:

$21,683,000, to remain available until expended.

CONSTRUCTION, PUBLIC BUILDINGS PROJECTS

An amount of $1,290,000 heretofore appropriated under this heading shall be available until expended for construction, pursuant to the Public Buildings Act of 1959, as amended (40 U.S.C. 601–615), of the Post Office, Courthouse, and Federal Office Building, Elkins, West Virginia, in addition to the amount appropriated in the Treasury, Postal Service, and General Government Appropriation Act, 1972, for this project: *Provided,* That this amount may be increased by not to exceed 10 per centum to the extent that savings are effected in other projects.

On page 27, in line 23, after "$7,000,000" insert a comma and "of which $1,000,000 shall remain available until expended".

On page 28, in line 4, strike out "$3,-

000,000" and insert in lieu thereof "$4,000,000".

On page 28, in line 11, strike out "$1,000,000" and insert "$1,200,000".

On page 28, beginning with line 13, insert:

General Provisions—General Services Administration

Sec. 901. No appropriated funds shall be available for the purpose of defraying any expenses (including expenses for the payment of the salary of any person) incurred in connection with the transfer of title of all (or any portion) of the Sand Point Naval Facility, Seattle, Washington, to any person or entity for aviation use unless and until (A) the Administrator of General Services has transferred to the National Oceanic and Atmospheric Administration title to that portion of such facility as has been requested by the National Oceanic and Atmospheric Administration; and (B) the City of Seattle, Washington, and the County of King in the State of Washington, and the State of Washington have each approved a plan for aviation use of a portion of such facility.

On page 29, at the beginning of line 10, insert "Senate Document Number 93–49 and".

On page 29, at the end of line 11, strike out "$47,011,168" and insert in lieu thereof "$57,352,301".

On page 30, at the end of line 9, after "meridian" insert "in the contiguous forty-eight States".

On page 30, beginning with line 13, insert "*Provided,* That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs."

Mr. McCLELLAN. Mr. President, as a result of certain errors of omission and commission that occurred in the printing of the bill—it was done rather hurriedly overnight—it is necessary that there be certain corrections made in the bill. Therefore, I ask unanimous consent that the following technical amendments to the bill be adopted. I send those amendments to the desk.

The PRESIDING OFFICER. The clerk will report the amendments.

The legislative clerk proceeded to state the amendments.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 6, line 4, after "$6,170,000"," insert the following: ", of which $2,000,000 shall remain available until expended".

On page 9, line 2, strike out "Commission", and insert in lieu thereof "Administration".

On page 9, strike out lines 5 and 6, and in lieu thereof insert the following: "December 11, 1973 (Public Law 93–179), $7,100,000."

On page 10, line 17, strike out Public Law 93–53 and insert "the Social Security Act".

On page 21, line 6, insert, before the figure "$13,900,000" the figure "$6,500,000" in roman line type.

On page 21, line 6, the words "assistance and research", now shown in the bill in italicized type be changed to roman type as these words were part of the House-passed bill.

On page 21, line 19, before the figure "$2,100,000 insert the figure "$1,953,000" in line type.

On page 21, line 19, the figure "$2,100,000" should be in bill type italic.

On page 23, line 10, before the figure "$150,000", insert the figure "$125,000" in line type.

On page 23, line 10, the figure "$150,000" should be in bill type italic.

On page 25, after line 15, insert: "For an additional amount for 'Salaries and expenses' ", $10,000,000."

THE WHITE HOUSE OFFICE

Salaries and Expenses

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Secretary of the Senate in the engrossment of the Senate amendments be authorized to make any technical and clerical corrections.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR-HEW CHAPTER OF FISCAL YEAR 1974 SUPPLEMENTAL APPROPRIATIONS BILL (H.R. 11576)

Mr. MAGNUSON. Mr. President, I would like to take a few minutes to very briefly highlight the labor and health, education, and welfare chapter of H.R. 11576—the first supplemental appropriations bill for fiscal year 1974.

The Senator from Arkansas, the distinguished committee chairman, did an excellent job of summarizing the bill in terms of dollars and cents. That is important. But I would like to go one step further and ask my colleagues here to think of this portion of the bill, not only in terms of dollars, but in terms of the people—the mothers, the infant children, the crippled children, the disabled citizens, and the elderly—who will benefit. This is the section of the bill about which citizens are writing to us. To their credit, they are urging the Congress to pay increased attention—and to give a higher priority to funding for programs that meet pressing human needs—and to up the Federal contribution so that people can better help themselves.

The bill includes $40 million to launch the older Americans community service employment program. Over 5 million American citizens over age 55 are living in poverty. These older Americans continue to be the group hit hardest by inflation, recession, and layoffs. According to the manpower report of the President, this group encounters special difficulties and problems which separate them from the general affluence and well-being of American life. But what has been the administration's response to the need outlined in the President's own manpower report? One statistic provides that answer. In fiscal year 1972, the Department of Labor has reported that of all the new enrollees in all Federal manpower and training programs, only 1.7 percent were persons 55 and older.

The failure of existing Federal manpower programs to respond to the needs of the elderly and the continuing dismal economic condition of the elderly which is further compounded by the administration's latest "first"—a freezing inflationary recession—has prompted Congress to respond with this program to provide useful public service employment for 18,000 low-income persons 55 and older. These jobs include serving hot meals to other elderly citizens, work in day care centers and hospitals—people helping people to meet human needs.

The bill also includes $27 million to implement the provisions of the Emergency Medical Services Systems Act. Only after this authorizing legislation was once vetoed, did the President finally and reluctantly sign this new act. We all know that there are thousands of people who go without medical attention because the doctor cannot or will not come when called. The situation in hospital emergency rooms is a national disgrace. Out-of-hospital emergency services are in such a deplorable state of readiness that two-thirds of the 1,000 people who die every day of heart attacks do so before they reach a hospital.

While we are the richest Nation in the world, we rank 22d in life expectancy for men and 7th for women—and the administration's initial response to this is a veto of the Emergency Medical Services Act that would authorize programs to do something positive in this area. And even though the President signed the authorizing legislation the second time around, we are still waiting for his budget request to implement this program. How long must we wait. People are dying. Our answer is that we can afford to wait no longer—and so the committee has included $27 million to launch this program without waiting for a budget request. Some will try to twist our actions and call us a "spendthrift Congress" because we refuse to wait—and wait—for a budget request from the administration. But I say it is the Congress who is honestly and sincerely working for the improved health of the American people—and refusing to drag its feet in meeting the needs of the living.

The United States ranks 16th in infant mortality. In this country, thousands of premature infants—infants who would otherwise grow to strong and healthy men and women—expire, needlessly, at the outset of life. Or they become crippled because of a lack of specialized care. This, in itself, is a great sadness. But what is doubly sad is that it does not have to be this way. We have the technology—and in some parts of the country, we have in operation the intensive care units that will save the lives of these premature newborn infants. We need more of these units—especially in areas of the country where there is above-average incidence of infant mortality. We also need to do more to prevent unnecessary maternal death, to care for the crippled children and to keep the infants—once we have saved them—strong and healthy.

Health—especially of mothers and children—should be a priority second to none in this country. But our ranking as 16th in infant mortality indicates we are not placing the emphasis on this area that we should. Consequently, the committee has included $30,105,000 in the bill for increased efforts in the area of maternal and child health.

The largest single item in the Labor-HEW section of the bill relates to the programs authorized by the Rehabilitation Act of 1973. Here again we are faced with the late enactment of the authorizing legislation—this time because the President vetoed this legislation—not once, but twice.

The committee has included $752 million to implement the provisions of the Vocational Rehabilitation Act which is the principal mechanism by which the Federal Government participates in the rehabilitation of our disabled citizens. These are our citizens who—having been disabled—are trying their very best to get as well as they possibly can so they can take their places again in family life, in work, and in the community. The correspondence we receive from our constituents tells us of the heroic efforts some have made to come back from disability—and to find their place again. These efforts are matched by the patience, skill, understanding, and courage of those who work in the field of rehabilitation and make it all happen. But they need our help—and Congress is responding—not with vetoes—but rather with compassion and the appropriation of the badly needed funds.

In this part of the bill, we have provided for the basic State matching grants to assist the States in carrying out their rehabilitation programs. We have also provided for the research and training programs so that we can have the vitally needed people to work in the rehabilitation programs—and the new methods and devices so that the rehabilitation programs can bring back to useful lives more and more of our disabled citizens.

In addition, Mr. President, this section of the bill includes additional educational funds and the funds necessary to allow the Action agency to operate.

Also, it was necessary to add language to chapter IV of the bill to extend appropriations at the level provided in the current continuing resolution for manpower training programs and the Cabinet Committee for Spanish-speaking people. We were unable to consider appropriations for these activities because of a lack of authorizing legislation.

The continuing resolution language is intended to provide funding at the fiscal year 1973 appropriation level. In the case of manpower training services, this would be $1,549,416,000, which would include funding for the summer neighborhood youth corps program, as well as the in-school and out-of-school components of NYC.

As soon as the new comprehensive manpower legislation, now in a House-Senate conference, is enacted into law, however, Congress may want to consider a different level of appropriations.

Finally, Mr. President, this bill runs the whole gamut—from health care for new born infants to the needs of the elderly—from the health of mothers and education of children to rehabilitation of the disabled citizen—all are the human needs of the living. The people are counting on us to give them a measure of assistance so that they can become independent and strong. What could be more important to this Nation? What could have a higher priority?

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I have two matters which I wish to raise in connection with this appropriation. I shall raise them in reverse order as I need a document which is not yet before me on the latter question.

The first question relates to page 34 of the committee's report on this supplemental appropriation bill with the heading "Continuing Appropriations."

It deals primarily with the manpower programs. I wish to report to the Senate, as the committee here is very critical and quite correctly, I think, of the delay in respect of a definitive bill on manpower training which becomes uniquely important as we are now really concerned about the employment and economic dislocation attributable to the fuel crisis.

I wish to report to the Senate that the House and Senate conferees are meeting, and they may agree as early as today, if not today, certainly tomorrow.

The anticipation of the final action of the conferees, as I see it, is that it would include action on the overall provision for manpower training of at least $1.5 billion at the appropriation rate of fiscal year 1973. It would include also some form of public service employment, which is especially important now. The money for public employment may be on a such sums basis except for the first year when it is likely there will be a specific sum.

I wish to note that the amount now provided may well not accommodate the programs as they will be agreed to, in which case an effort will be made at the earliest opportunity to get the necessary appropriation for that purpose.

Mr. President, there is one other point which is very important, and that is that the $1.5 billion which is continued contains $237 million for the Neighborhood Youth Corps summer program. That is the same rate for the Neighborhood Youth Corps activity which was carried on in 1973.

In 1974, it is expected, according to the way I read the conference, that their disposition will be to carry on the same size program. And as I say, even the $1.5 billion, which is the rate of current expenditure involving that particular provision, is the minimum amount required for that purpose, and even that, probably is inadequate in terms of rising costs and the situation that may result from the energy crisis.

I would like to tell the Appropriations Committee, if I may ask the indulgence of the chairman, the senior Senator from Arkansas, that we tried to act upon that measure a lot earlier than we have in the past.

Mr. McCLELLAN. Mr. President, I did not hear the Senator from New York.

Mr. JAVITS. Mr. President, we are now acting on the basic Neighborhood Youth Corps summer program a lot earlier than we have in the last few years.

Mr. McCLELLAN. Mr. President, we cannot act until the House acts. I hope the Senator understands that.

Mr. JAVITS. Mr. President, I understand. But the funds necessary to maintain the summer program at at least the 1973 level are in this bill.

Mr. McCLELLAN. That is my understanding.

Mr. JAVITS. Mr. President, I thank the Senator from Arkansas. I make the point—because this is the place in which I can make it—that heretofore the results of that program have been affected because of the resulting inefficiency which comes in when we are uncertain until the last minute whether the resources will be available.

That is a report that I feel the managers of the conference wish to have since they had called rather sharp attention to this matter.

Mr. President, I had in mind raising another matter. However, as there is another Senator on the floor with that amendment, I will desist for the moment.

Mr. President, I yield the floor.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Arkansas yield for a question?

Mr. McCLELLAN. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, I note that there has been an increase proposed for the international organizations in conference to $17,337,000.

Do I correctly understand from the committee report that that $17,337,000 is earmarked for and can be used only for the Mideast peacekeeping operations?

Mr. McCLELLAN. I think that is correct. If the Senator would permit me, I will yield to the Senator from Rhode Island (Mr. PASTORE) who handled that part of the bill so that he might answer the Senator.

Mr. PASTORE. Mr. President, the Senator from Virginia is absolutely correct. This is an assessment made by the United Nations. It is 29 percent of the total figure that will be the cost of maintaining the supervisory forces of the United Nations in the Mideast.

Mr. HARRY F. BYRD, JR. Mr. President, may I ask the Senator from Rhode Island if the U.S. share of the United Nations' assessment was not reduced to 25 percent, rather than 29 percent.

Mr. PASTORE. The Senator from Virginia is correct. It was reduced to 25 percent so far as the maintenance of the United Nations' cost.

I raised that question quite explicitly at the hearings. I understand there was quite a dispute over the matter. And naturally because the United States would be the one country most concerned of all the countries concerned in seeing to it that they had a cease-fire that was enforceable, we were more or less obliged to go to the 29-percent figure.

I was not too happy with that, as I know the Senator from Virginia is not. However, we did go into it quite thoroughly, and that was the end result.

Mr. HARRY F. BYRD, JR. Mr. President, I thank the Senator from Rhode

Island. I understand the $17,337,000 to be earmarked for a specific purpose.

Mr. PASTORE. The Senator is correct. That is for the maintenance of the international peacekeeping force in the Mideast.

Mr. HARRY F. BYRD, JR. I note that the committee recommended a supplemental estimate of $1,700,000 for international conferences and continuances. And from that amount will come $900,000 for the cost of the U.S. participation in the Mideast.

Mr. PASTORE. The Mideast conference will be held at Geneva. The Senator is correct.

Mr. HARRY F. BYRD, JR. Mr. President, it is a very important conference and I am not going to worry about the exact number of dollars. However, I wonder how that conference would cost the United States $900,000.

Mr. PASTORE. Mr. President, as a matter of fact, I had a staff member call the Department and tell them to sharpen their pencils and get down to a minimum figure.

They came up to us with a large number of requests, some of which we had not received an estimate on until the day before we marked up the bill. We disallowed all of them with the exception of two. We allowed the two items that have been mentioned by the Senator from Virginia. And the reason that we allowed them was because we considered them to be of immediate urgency.

In all of the others, we have taken the position written into the report, that we dislike this idea of sending up a request when there is no authorization and not even an estimate.

I am going to take these two items to conference and see how the House might feel about it. I do not know how they will feel. However, we tried to get them to give us a more definitive figure. This figure is a guess. There is no question about that. However, we have no way of disputing it one way or the other.

Mr. HARRY F. BYRD, JR. As I recall the original request for this item—I am taking it from memory, and I may be in error—was $203 million. That is the total for the contributions to international organizations, $203 million. Now we are giving them the 1974 appropriation, which was $200 million, then we add to that this $1.7 million, which gets it to practically $2.2 million, which is just about what they asked for in the first place.

Mr. PASTORE. That is correct. The point, I understand, is that there is a 5-months extension of the conference with reference to a continuing conference on security cooperation in Europe. That is how they justified it; they are going to be there a little longer.

Mr. HARRY F. BYRD, JR. The amount they spent last year for this purpose, according to my memory—and if I am in error the Senator will correct me—was $186 million. So we are providing some $16 million more, leaving out the Mideast peacekeeping. We are leaving that out entirely in my consideration here, but leaving that out we are still providing $16 million more.

Mr. PASTORE. Not in this bill.

Mr. HARRY F. BYRD, JR. More than was spent last year, according to my recollection.

Mr. PASTORE. The Senator means including the regular appropriation bill?

Mr. HARRY F. BYRD, JR. The regular appropriation bill plus the supplemental.

Mr. PASTORE. I am in no position to dispute the Senator, because I do not have the figures here, but if he says so it must be so.

Mr. HARRY F. BYRD, JR. I am taking it from memory, but I believe it is correct.

Mr. PASTORE. I am in no position to dispute the Senator. There are manifold items in the appropriation, as the Senator knows.

Mr. HARRY F. BYRD, JR. Of course there are. I am just hoping next year we can start putting the lid on, and not increasing these amounts each year, but let them tighten their belts some, as I believe everyone else is going to have to tighten his belt.

Mr. PASTORE. The Senator is correct, and let me say that the Senator from Virginia has been very friendly, kindly, and considerate in that respect.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. JAVITS. Mr. President, with reference to the other thought I had in mind, first I would like to thank the Appropriations Committee and its chairman, the Senator from Arkansas (Mr. McCLELLAN) for including an additional provision for the Employment Standards Administration, which reviews minimum wage and other standards. We discussed it on the regular appropriation bill, and I was assured that the Appropriations Committee would look into the matter, and now the committee has provided for $2.8 million as a transfer from the special benefits account, which does allow the filling of key positions to increase enforcement activities and strengthen minimum wage claim processing and for other safeguards which the Fair Labor Standards Act sets up. This is all gratifying, and I thank the committee and its chairman.

The other matter I had in mind to discuss, Mr. President, was to direct the Senate's attention to the item for international organizations, which has just been under discussion in another respect, found at page 51 of the report.

It will be noted there that the appropriation was $200 million. When it was before the House of Representatives, the appropriation requested was $202 million, approximately, of which $2,287,000 was to represent the amount which was needed to complete our dues paying to the International Labor Organization. That item, which is about 30 percent of that budget, was cut out.

The distinguished Senator from Rhode Island has assured me that if it was cut out in the House of Representatives, it would be restored in the Senate. But after consulting with him and the Department, I am convinced—and I am very grateful to him for his usual diligent and skillful attention, which he gives to all these matters—that it is better to have the supplemental estimate in the President's budget, which I am assured by the Department will be there in January, for the $2,287,000, and that thereby the Senate's position would be strengthened, if there is a budget estimate.

The facts are that as of January 1, 1974, the United States will be in arrears for the last quarter of calendar year 1973. In the second supplemental, on July 1, 1973, $8,700,000 was provided. This, with the $6,422,000 contained in the regular fiscal year appropriation, totaled $15,122,000.

The Department feels that the delay of a few months in the payment of the $2,287,000 is preferable, although naturally it is not the optimum, to running the risk of putting it in in the Senate, without having a budget estimate, and facing difficulties with the other body.

For the information of Senators, I hope all will remember that the ILO is a tripartite international organization that has been functioning for 50 years, consisting of labor, management, and government; that it is one of the longest standing, most durable, and most useful international organizations. It deals with the feeling which so many of us have about international competition, and the urgency to raise, not only on humane grounds and development grounds but on competitive grounds, the labor standards in other countries.

Mr. PASTORE. Mr. President, I agree with everything the distinguished Senator from New York has said. It is true that when this matter was discussed on this floor between us on November 14 of this year, I said:

> Mr. President, the House was adamant on this. I do not agree with it. We are pursuing it further and have been assured by the State Department that they are working on a budget estimate to be submitted in the next supplemental. I would hope, at that time, that we can restore the $2,287,000. I think it is an obligation that is owed by the U.S. Government. This is a good project. It promotes international liaison with reference to labor relations. It would be rather unfortunate if we sustained such a drastic cut.
>
> I might say to my colleague from New York that I hope we can remedy that situation the next time.

We did consult with the State Department, and they advised us, as the Senator has already pointed out, that after consultation with OMB, they had decided to include it as a supplemental estimate in the President's budget in January. I think, as the Senator has already stated, that if we have an estimate we are on stronger and more sound ground when we go to conference.

I want to say that it is important for us to live up to our obligations, because for a long time we have been trying to get our allies not to be neglectful in paying their dues. We are not going to be very forceful in asking them to come up with their dues when we are always in arrears. We have to pay it sooner or later, and the sooner the better; our relationship will be that much better off.

I thank the Senator from New York for bringing this matter to our attention.

Mr. JAVITS. Mr. President, in other

respects the Appropriation Committee has been very careful in taking care of many matters which do not involve a lot of money, but which have been left hanging. I would like to call a matter to the attention of the Senate again which I think the Senate should be aware of, and that is the United States Travel Service.

Here we have, I believe, as much as a $2.5 billion gap between the amount spent abroad by all Americans who go abroad and the amount which is spent by foreign tourists here. Yet our appropriation for inducing travel to the United States, which should be the greatest attraction on earth for many reasons, comes to something in the area of $11 or $12 million, and even that is cut and cut and cut, notwithstanding the very favorable cost-benefit ratio.

So it is particularly gratifying, I say to the Senator from Arkansas, that this committee has restored here in the Senate what the House of Representatives denied, a supplemental appropriation of $2.3 million.

I mention it, as I say, because it is not a great deal of money. But we should understand, this kind of situation, where the enormous basic imbalance for us in our balance of payments is almost accounted for entirely in many years by the imbalance in the exchange and travel between ourselves and foreign countries. Yet to sell America in terms of being a travel attraction, we are always so careful about a few million dollars when the cost-to-benefit ratio is 100 to 1.

Finally, I would also like to commend the committee for following the House committee in recommending that the Corps of Engineers use $60,000, from available funds, to initiate the beach erosion portion of the East Rockaway Inlet to Rockaway Inlet and Jamaica Bay, New York project. This is an emergency and needs to proceed as soon as possible so the beaches in that area can be saved from certain destruction.

Mr. PASTORE. Here again, this comes under part of the budget for which I have some responsibility. The amount sought by the administration was $2,234,000 and the House denied it completely. They knocked it all out.

I quite agree that we in the United States spend less in 1 whole year to promote tourism than some small countries spend in 1 month. We have got to admit—and we are not bragging when we say it—that we have the most beautiful and diversified country in the world. There is so much to see here, our shores, our hills, our mountains, our projects—including Las Vegas, Nev.

Mr. BIBLE. Mr. President, will the Senator from Rhode Island yield right there?

Mr. PASTORE. We should attract a lot of foreign money but we cannot do it just by wishful thinking. We have got to promote it and the only way we can promote it is by spending a few dollars. It is an easy task. They are coming along very well in the department and I would hope this will give them an assist.

Now I yield to the Senator from Nevada.

Mr. BIBLE. I wanted to thank the distinguished Senator from Rhode Island for his kind mention of my great and beautiful State. He has visited it often. I am sure that with this little additional plug, we will have half of Rhode Island coming to Nevada. We have almost half of Rhode Island there now. [Laughter.]

Mr. PASTORE. I must say that when I first came to your State, all I saw was desert.

Mr. BIBLE. The Senator missed the best part of it.

Mr. PERCY. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. DOMENICI). The amendment will be stated.

The second assistant legislative clerk read as follows:

At the appropriate place in the bill, insert the following:

MULTIDISCIPLINARY CENTERS OF GERONTOLOGY

For carrying out section 421 of the Older Americans Act of 1965 (as amended Public Law 93-29) $7,500.000.

Mr. PERCY. Mr. President, this amendment appropriates $7.5 million for the remainder of fiscal year 1974 to fund title IV(C) of the Older Americans Act providing for multidisciplinary centers of gerontology.

In establishing a new program of grants to public and private nonprofit agencies, organizations, and institutions for multidisciplinary centers, the Congress recognized the need for a new effort to bring together the many fields of knowledge relevant to aging and the aged into coherent programs of research, training, and community service. This effort is needed not only because of the immediate benefits for the elderly from bringing together all the disciplines concerned wtih their problems, but also because of our Nation's long-term need for more knowledge and more manpower in gerontology.

I think we can all agree that multidisciplinary centers of gerontology are worthy of our support. And I think the very best argument that can be made in favor of these centers is to quote from the authorizing legislation, Public Law 93-29: A multidisciplinary center of gerontology shall

(A) recruit and train personnel at the professional and subprofessional levels,

(B) conduct basic and applied research on work, leisure, and education of older people, living arrangements of older people, social services for older people, the economics of aging, and other related areas,

(C) provide consultation to public and voluntary organizations with respect to the needs of older people and in planning and developing services for them,

(D) serve as a repository of information and knowledge with respect to the areas for which it conducts basic and applied research,

(E) stimulate the incorporation of information on aging into the teaching of biological, behavioral, and social sciences at colleges or universities,

(F) help to develop training programs on aging in schools of social work, public health care administration, education, and in other such schools at colleges and universities, and

(G) create opportunities for innovative, multidisciplinary efforts in teaching, research, and demonstration projects with respect to aging.

The question we must decide today is what priority to attach to this program in the face of conflicting demands for limited resources.

I believe funding for this program deserves a very high priority. I can think of few programs from which a modest investment is likely to yield a higher return. Multidisciplinary centers will produce immediate dividends in terms of providing services to the elderly in the surrounding community as well as in terms of serving as a repository of information and knowledge about the aged. Moreover, multidisciplinary centers will yield future dividends in terms of findings from collaborative research efforts, training of new and badly needed professional and subprofessional personnel, and helping to sensitize new generations of students to the problems of the aged and aging by incorporating this subject into courses in biological, behavioral and social sciences.

Mr. President, I know that the Administration on Aging has already received numerous inquiries about this newly authorized program. I know many educational institutions are prepared to submit applications for project grants. I am sure that Commissioner Flemming and his colleagues in the AOA want to be responsive to these requests. But no funds were requested to implement title IV(C).

I urge the Senate to approve $7.5 million for this program. On the basis of an estimated annual need for $1.5 million for each of 10 multidisciplinary centers—one in each HEW region—$7.5 million should be sufficient to launch the program in the remaining 6 months of the fiscal year.

Mr. President, we have a Special Committee on Aging which has devoted itself to studying the problems of the aged. As a result of service on that committee for the past several years, I have come to the conclusion that the aging and the aged of this country are the most neglected minority this country has.

The distinguished Senator from Utah (Mr. MOSS) and I have held field hearings of the Subcommittee on Long-Term Care. We have conducted hearings about nursing homes for the aged. The Select Committee on Nutrition and Human Needs has certainly studied the nutrition program for the elderly. We are simply aghast at the lack of attention we provide, and at the lack of a central focus to bring to bear all of the knowledge required to make life livable and to make the so-called golden years a little more golden than they are right now.

We put people in "warehouses for the dying," as they are called. We put the elderly on the shelf and, really, do little or nothing for them.

The great neglect we have for training personnel to know how to take care of the aging is, I think, a crying shame.

The Senate and the House, in its wisdom, has seen fit to authorize a modest program in this field that would coordinate the work of our great universities and our communities, that would encourage them to coordinate all their disciplines and skills and focus them on the problems of the aging. It would provide the guidance and the research needed in spending most efficiently and effectively the billions of dollars we are spending on the aged now.

I have a letter from Arthur Flemming to the chancellor of the Chicago Circle campus of the University of Illinois where he commended the University and said:

> I am delighted to know that you are utilizing University resources to establish such a multidisciplinary center to perform research and training in the area of the aging.

He goes on to point out that there simply is not the funding to provide any kind of assistance in this field even when we have great universities the administrations of which are willing now to devote a certain amount of their research and resources, energy, effort, and time to the field. We need this program so that we can find better answers than we now have to the health needs, the recreational needs, the transportation needs of the elderly and in order to put all the disciplines together in this effort. I would say an investment of $7.5 million in multidisciplinary centers for the remainder of the fiscal year is well worth the investment and would be one of the best investments we could make at this time.

The distinguished Senator from New Hampshire and the distinguished Senator from Washington have provided leadership in this area of helping the aged in every way possible. We do have authorizing legislation. I would simply urge my colleagues to consider now whether we can afford to wait, to lose another year, before we provide modest funding where there is adequate authorization and where the need has been clearly demonstrated.

Certainly, the distinguished Senator from Washington knows that at the University of Washington, at Seattle, are outstanding experts in this field, just as we have in Chicago, who are anxious to move ahead, anxious to do something in this field; but they need a little seed money and encouragement and help, and they will back this up with the talent, the time, the energy, and the effort.

I wish it had been possible to discuss this matter in greater detail earlier with my distinguished colleagues. I offer this amendment with the hope that this is not going to be a budget-busting amendment. The Senator from Illinois commits himself to finding $7.5 million in some other area of lower priority, even if it comes out of some funds for Illinois. I cannot imagine that we could ever find a higher priority than of assisting those who want to help the aging but who need a little encouragement now, encouragement which we can provide by approving these modest funds.

I ask unanimous consent that the Senator from Florida (Mr. CHILES) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, the Senator from Illinois proposes an amendment, and I am sure the Senator from New Hampshire will agree on this, in a field where much more must be done. Our problem was that this is a brand new program, and we had little time to take a look at it. The Senator from Illinois submitted a statement to the committee on this item after we were into the markup process. In fact, we did not get a specific money request until yesterday. We knew after the legislation was passed, that this issue would come up. Personally, I do not think $7.5 million is enough to do the kind of job we should be doing throughout the United States, but at least it would be a start. So, if the Senator from New Hampshire, the Senator from Arkansas, and the Senator from North Dakota have no objection, I would be glad to accept the amendment.

I think we ought to say that this is enough to begin the program. We hope to end up with 10 centers that will address themselves to the needs of the elderly in a comprehensive fashion. But we should begin now and I think $7.5 million will be enough to do that. By the time we return, with the regular appropriation or the second or third supplemental, we will see how they are operating.

This field was never neglected by our committee, but we never had specific authorization to do anything. I think we can take the $7.5 million, because if it is spread out over 10 centers over the remaining months in this fiscal year this will provide $750,000 for each region.

If there is no objection from the Senator from Arkansas, the Senator from New Hampshire, and the Senator from North Dakota, we will take it to conference and see how the House feels about it.

Mr. McCLELLAN. Mr. President, I am perfectly willing to defer to the judgment of the distinguished Senator from Washington, the chairman of the subcommittee that handles this matter.

I only want to make this observation: The Committee on Appropriations has a tremendous responsibility, particularly in this time of great demands upon our Treasury and upon the resources of this Nation. It would be helpful to the Committee on Appropriations if Senators who have projects of this nature, or who have in mind appropriations that should be made, get the facts to us, before the committee. Let us have it, and let us have an opportunity to go into it thoroughly before we come to the floor. Let us have the opportunity to weigh the merits of the matter and to measure the request for funds against other demands that are being made upon our Government.

In that way it will be helpful to us. It will be a more orderly procedure and better results will be achieved. I am not saying this directly or primarily to the Senator from Illinois. I am saying it as a matter of policy and with the hope and expectation to get the best and maximum cooperation.

Often with respect to amendments that come to the floor, we have no opportunity to consider them and if we had considered them we probably would bring them here with the appropriation bill. I know that many times Senators are preoccupied and these matters do not come to their attention until the bill is about to be reported. I am appealing to Senators to get their requests before the Committee on Appropriations and give the committee the opportunity to get the information to make a proper evaluation and a correct judgment on the question and then we more often will bring the matter to the floor and not have to be concerned about whether it does or does not have merit and what priority it should have related to other matters.

I have no objection at all to the amendment.

Mr. PERCY. Mr. President, if the Senator will yield for a response, I am very sympathetic with the opinions he just expressed. I would like to point out first that last week the Senator from Illinois did submit written testimony to the committee urging that this appropriation be made in this bill. Unfortunately, I was not able to appear in person, but the testimony was submitted. The priority I attach to it would have suggested that I present it earlier.

Second, insofar as the question of whether $7.5 million would even start adequately the 10 centers that are authorized, I want to note that certain regions are ahead of others, and that it would be imprudent to simply spread funds across the board.

Mr. MAGNUSON. Yes, but our ultimate goal would be to attack this problem across the Nation.

Mr. PERCY. The money would be there to be used in the way it can be best used this fiscal year.

Finally, with respect to the comment by the distinguished chairman of the committee, I have indicated I will try to find $7.5 million somewhere else because I believe we must hold down spending levels. I am a cosponsor of the budget reform bill which is designed to accomplish just that purpose.

Mr. MAGNUSON. When the Senator talks about "some place else," he is talking about other programs that other Senators feel just as keenly about as the Senator from Illinois feels about this one.

In other words, in HEW there is no "some place else." We just have to do the best we can to establish these priorities and we even have to cut some place else to get a bill to the White House we hope he will sign.

But to be honest about this, the House probably will take it and we will urge them to take a position on this to set these pilot things going, and then we will take a look at the ultimate goal, with which I heartily agree.

Mr. PERCY. I thank the Senator. I ask unanimous consent that some further material in support of my amendment, including a letter from Dr. Ethel Shanas, president of the Gerontological Society, be incorporated in the RECORD at this time.

There being no objection, the article is ordered to be printed in the RECORD, as follows:

GERONTOLOGICAL SOCIETY,
Washington, D.C., December 12, 1973.

Hon. CHARLES H. PERCY,
U.S. Senator, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR PERCY: The Gerontological Society is fully behind you in your efforts to win a $7.5 million appropriation for multidisciplinary centers of gerontology.

from this project as sponsor and managing contractor, claiming breach of contract by the Veterans' Administration.

Donovan Construction agreed to take over the contract and complete the work at its own expense, in the expectation that a reasonable settlement of its claim for compensation could be negotiated with the Veterans' Administration. Reportedly, the VA agreed that if the Donovan firm had also left this project, requiring the VA to negotiate a new contract, the final cost would have been for higher than the claim submitted by the Donovan Construction Co.

I know nothing about the Blackhawk firm, but I do know something about the Donovan Construction Co. which has had 80 years of respected and reputable service in the Midwest, with its main offices in the city of St. Paul, Minn.

The Donovan Co. has taken the Veterans' Administration's chestnuts out of the fire and saved them millions of dollars. But the Donovan Co., in the process of saving the Veterans' Administration millions of dollars by completing the project has suffered a substantial loss of its own. It has asked the Veterans' Administration for compensation. There was a good deal of argument back and forth as to the amount and finally an amount was agreed on and the VA is ready to pay the amount.

Now I see language added in the bill reported to the Senate—this was just brought to my attention today—which would deny the VA authority to make these payments, even though the audits have been made—one was made by the VA itself and another certified audit was made by the company.

In the letter that I received from the Donovan Construction Co., it says:

> We invested over $8 million in the completion of the work, and the Veterans Administration has been completely satisfied with our performance. They have also agreed that if we had walked off the job and forced the VA to re-let the work, it would have cost between $5 and $7 million more than it cost Donovan. In effect, we saved the VA this amount. In September, 1972, we submitted a claim for $16,539,000.

That was argued and negotiated and finally a figure was agreed on—I think the figure was about $10,300,000. The Donovan Co. makes note of the fact that it still will lose several million dollars on the project.

The only thing I want to say is that the interest runs at the rate of over $1,700 a day on this claim to the Government. The longer it is prolonged or extended, the greater the cost to the Government will be.

The point I make is that the Government itself does not deny the claim is valid. The audit has been made and the agreement has been arrived at. Now there is language in this bill which would indicate that that agreement will be nullified. I understand the reason for it. I am not saying it should not be done in the future.

It seems to me that if something like this, however, has been agreed on, and no questionable activity, has occurred, but everything is entirely above-board and validated, then final payment should be made by the VA without further delay.

The Donovan Construction Co. did not make any campaign contributions—we checked that out. They are a decent and reputable firm that the Government insists on breaking. This has got to stop.

The Government of the United States is a big and powerful organization. However, I am not going to stand here as a Senator from Minnesota and permit the Government of the United States, by an act of Congress or otherwise, to take a firm which has been in business for over 80 years, which has paid its taxes, and is a respectable firm and has never been in trouble with the law, which has fulfilled dozens of Government contracts and has performed this contract below the bid price, only to have the Government of the United States now tell the Donovan Co. to close its doors, shut up, and go broke. It is not going to happen.

So I should like, first of all, to converse a little bit with the chairman before I take what I consider to be appropriate procedural action.

Mr. McCLELLAN. The chairman will be delighted to converse with the distinguished Senator from Minnesota. However, this matter was handled under the subchairmanship of the Senator from Wisconsin (Mr. PROXMIRE)——

Mr. HUMPHREY. I understand that.

Mr. McCLELLAN. Who submitted the report to the full committee. I have no information about it other than what was contained in the report. Senator PROXMIRE made some brief statement, I believe, in committee, about it. He felt that the audits should be made before the claim was settled. We went along with him without any contention about it because he was the one who held the hearings and made the study.

I understand that the Senator from Wisconsin is on his way over here now. In the meantime, I will chat with the Senator until the Senator from Wisconsin gets here and then let the Senator make his explanation about it. If it is a valid claim of course it should be paid, and the sooner we pay it the more interest we will save. Certainly, any claim arising out of providing the services and facilities necessary to take care of our veterans, I think, has an appeal to all of us and we want to pay it.

Mr. HUMPHREY. Right.

Mr. McCLELLAN. We want to get the facilities going and to keep them operating, to make improvements and expansions if necessary, in order to accommodate our obligations to our veterans. But I am frank to admit that I have no information about this matter and I do not know how to discuss it with the Senator from Minnesota except to say that we relied on the recommendations of the subcommittee, the subcommittee chaired by Senator PROXMIRE. I think he will be here in a moment. So if the Senator will yield for that purpose, I can suggest the absence of a quorum and we can wait for him.

Mr. HUMPHREY. Let me say one other word about it, and we can then wait for the Senator from Wisconsin to come to the Chamber.

I know there was a concern, and it is a legitimate concern; namely, that this amount of money, if taken out of funds already appropriated to the VA, might result in a slowdown of some other project. Without going into personalities, I know another one of our colleagues raised this issue with Senator PROXMIRE, because he was concerned over the building of hospitals in a particular State. I am aware of that. Therefore, I do not have any basic disagreement with the language added to this bill in terms of its being prospective, applied to future policy. In fact, I will support the language as future policy. But when I note here, for example, that there was a certified audit made as to what was involved, prior to final settlement, then I believe the obligations have been fully met and payment by the VA should be finalized.

Mr. McCLELLAN. He says in this language that it has not been audited independently as to the appropriateness of the expenditures which have not been provided for specifically in an appropriation act. This is what the language says.

Mr. HUMPHREY. I think that is true, Senator. It was not provided for specifically in the Appropriation Act. The audit was made by the VA and another one was made outside. There were two audits. One was made by the company that makes the claim and the other was made by the VA that has the responsibility for the reimbursement.

I want to make it clear that I am not talking about the Blackhawk firm. They withdrew from the project. The question was whether the hospital was to be left without completed work, and would have to be started anew, or whether the second partner in the joint venture would continue to do the work, because the Donovan Co. has never failed to fulfill a single contract. I have checked them carefully, and they happen to be a reputable company.

I have seen this happen before, where this big Government takes some company in my part of the country that is not as big as General Motors and moves in on them and breaks their back. I did not come to the Senate of the United States to see the Government of the United States liquidate enterprise in the State of Minnesota. I am going to do all I can to see that justice is done.

Mr. McCLELLAN. I think Senator PROXMIRE should speak to this matter. It is his judgment, and it was incorporated in the report on his motion.

Mr. HUMPHREY. Perhaps we should have a quorum call for the moment.

Mr. MANSFIELD. Mr. President, will the Senator withhold that?

Mr. HUMPHREY. Yes.

UNANIMOUS-CONSENT AGREEMENT ON CLOTURE MOTIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the hour of debate on cloture with respect to S. 1868, the so-called Rhodesian chrome bill, begin at 12 noon tomorrow, and that immediately after the vote on S. 1868, 1 hour be set aside, under the cloture rule, for the legal services-OEO bill, S. 2686.

Mr. McCLELLAN. Does the Senator mean under the cloture rule?

Mr. MANSFIELD. Under the cloture rule.

Mr. McCLELLAN. There would be two cloture votes tomorrow?

Mr. MANSFIELD. Two cloture votes, one following the other, and the rollcall votes will be automatic.

The PRESIDING OFFICER. How is the time to be divided?

Mr. MANSFIELD. Between the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Minnesota (Mr. HUMPHREY), on the chrome bill; and on the legal services bill, between the Senator from Minnesota (Mr. MONDALE), or his designee, and the Senator from North Carolina (Mr. HELMS), or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD subsequently said: Mr. President, I should like to change the unanimous-consent request which the Senate acceded to earlier today and have just 1 hour on both cloture motions; to have the time started at 12 o'clock, the first vote to occur after the quorum call, at about 1:10 p.m. or 1:15 p.m., to be immediately followed by a vote on the legal services bill.

Mr. CURTIS and Mr. BEALL reserved the right to object.

Mr. CURTIS. Mr. President, the Senator referred to the bills dealing with chrome and the legal services?

Mr. MANSFIELD. Yes.

Mr. CURTIS. This one bill will be 1 hour devoted to the discussion?

Mr. MANSFIELD. Both. But if there is any argument, I would just as soon let it go.

Mr. CURTIS. I have no objection.

Mr. MANSFIELD. It is immaterial. I thought it might speed up things.

Mr. CURTIS. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. BEALL. Mr. President, reserving the right to object——

Mr. MANSFIELD. Mr. President, I withhold my request temporarily.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent, on behalf of the majority leader, having cleared the matter with the principals involved in each of the two cloture votes, that on tomorrow, debate on each of the motions to invoke cloture be limited to 30 minutes, and that the 30 minutes on the motion to invoke cloture on the bill (S. 1868) begin running at 12 o'clock noon; that at the hour of 12:30 p.m. the automatic quorum call occur under the rule, and that upon the completion of the vote to invoke cloture on S. 1868, provided that motion does not carry, the one-half hour on the motion to invoke cloture on S. 2686 then begin running, at the conclusion of which half-hour there can be no automatic quorum call, and that the vote on the motion to invoke cloture on S. 2686 occur at that time.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, as to the time reference, at what approximate hour does the Senator from West Virginia anticipate the vote on the legal services measure would occur?

Mr. ROBERT C. BYRD. Mr. President, let me state for the RECORD a little more comprehensive answer than the able Senator is requiring.

The vote to invoke cloture on the Rhodesian chrome bill (S. 1868) would occur immediately following the establishment of a quorum, which vote would be at about 12:45, give or take a little, and the vote on the motion to invoke cloture on the legal services bill would occur, then, at about the hour of 1:30 p.m.

Mr. HELMS. If the Senator will yield further, certainly our side does not intend to delay the Senate. It is interesting, however, that a cloture motion was filed prior to our even having fired our first shot. All the talking had been done by those who now would shut off debate on the measure. They have been filibustering their own bill. But that is all right; we will deal with all that as best we can.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virigina? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, has an order been entered designating the Senators who are to be in control of time on both motions?

The PRESIDING OFFICER. Yes, such an order has been entered.

Mr. ROBERT C. BYRD. I thank the Chair, and I thank the Senator from Wisconsin again.

SUPPLEMENTAL APPROPRIATIONS, 1974

The Senate continued with the consideration of the bill (H.R. 11576) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

SUPPLEMENTAL APPROPRIATIONS, 1974

DEPARTMENT OF LABOR, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES

Mr. CRANSTON. Mr. President, I would like first to congratulate Senator MAGNUSON—the distinguished chairman of the Appropriations Committee Subcommittee on Labor and Health, Education, and Welfare and Related Agencies—on his continued courageous defense of the social needs of the people of this country's uphill fight against drastic budget cutbacks in domestic programs which have consistently been proposed by the present administration. The Nixon administration's fiscal year 1974 supplemental Labor-HEW budget recommendations once again indicate its failure to attach adequate importance and priority to the areas of social concern served by the programs under this chapter.

I submit that the President's budget recommendations are false economy indeed and have a short-fuse potential for tragic effects on Americans. I believe the efforts of Senator MAGNUSON and his colleagues on the subcommittee and the full committee to insure that Labor-HEW supplemental appropriations reflect the "real" priorities and needs of the people is deserving of great praise.

The Labor-HEW programs in the supplemental appropriations bill, H.R. 11576, we are considering today—particularly, community service employment for older Americans, emergency medical services, social and rehabilitation services, social and rehabilitation services, and the Action agency—deal with service that can alleviate many of the severe burdens that are thrust upon individuals by illness, unemployment, disability, the lack of opportunities for full participation in a complex society, and the pervasive debilitation of the poverty environment. Each dollar placed in these programs promises a return, with interest, to the national economy through the resulting increase in the productivity of each individual assisted.

Mr. President, as the Senate committee report (No. 93–614) notes on page 4:

> Approximately 50 percent, $833,648,000, of the funds recommended in the bill are made available for programs which were not acted upon when the regular appropriations bills were considered because of a lack of legislative authorization. Included among the deferred items is $752,668,000 which has been appropriated for the Social and Rehabilitation Services of the Department of Health, Education and Welfare. For the operating expenses of the domestic programs of ACTION, which was deferred in the regular appropriation bill, $49,395,000 is recommended. . . .
>
> The Committee has also provided in this bill $40 million to implement Title IX of the Older Americans Comprehensive Services Amendments of 1973 and $30,105,000 to carry out the provisions of the new maternal and child health legislation.

BUDGET PRIORITIES

Mr. President, the administration defends the cutbacks in individual programs as representing an anti-inflationary effort to control Government spending. I, too, firmly believe that we must control budget expenditures—that we must place a lid on Government spending. But I do not believe in the priorities of this administration about where those budget cuts should be made. I believe that there is room within a responsible budget ceiling for adequate vocational rehabilitation services—so that handicapped persons can be insured every possible opportunity with respect to their lives as well as their livelihood to attain self-sufficiency and independence—long before there is room for funds for another Trident submarine. I believe that there is room within a responsible budget ceiling to fund emergency medical services in all the communities of our Nation—long before there is room for funds for the SAM–D missile. I believe that there is room within a responsible budget ceiling for funds for job creation for low-income older Americans 55 years of age and older—long before there is room for funds for another CVN–70 nuclear-powered aircraft carrier.

OLDER AMERICANS PROGRAMS

The committee report has included funding—$40 million—for the newly enacted older Americans community service employment program authorized under title IX of the Older Americans Comprehensive Service Amendments of 1973 (Public Law 93–29), which I cosponsored. Having made a like recommendation in testimony to the commit-the likelihood of noncompliance, and the difficulty of enforcement are too great to make this measure practicable." 38 FR 30632 (November 6, 1973). Accordingly, the California plan was promulgated containing the second strategy.

The Clean Air Act places the responsibility for developing implementation plans on the State governments in the first instance. If the State of California, or local governments such as cities, come up with measures that would achieve significant VMT reduction, their measures will be accepted and this plan or any future EPA plan will be withdrawn to the extent warranted.

4. In all the hearings EPA has held on transportation control plans, a recurring theme has been that VMT reductions will only be acceptable if mass transit is improved at the same time.

If the present energy crisis leads to drastic restrictions on gasoline supply, the California transportation control plan will actually help alleviate the crisis by providing mass transit funds, express bus lanes, computerized carpool systems and so forth.

Particularly in California, if the transportation control plans are to produce anything like the degree of VMT reduction that Congress contemplated might be necessary, mass transit must be significantly expanded. A phased system of surcharges on automobile use is a uniquely effective regulatory instrument for accomplishing both these goals. The same surcharge that discourages automobile use in a gradual and flexible way by making it more expensive can also raise the revenue to expand mass transit to accommodate the displaced travel demand. Once mass transit has been expanded, a further VMT reduction by increasing the surcharge will be possible, and this in turn will provide revenue to increase mass transit still more. Under the EPA plan, the surcharge revenues could be used for capital expansion, operating subsidies, or any other approvable transit-related purpose.

5. Employers who provide parking spaces for their employees, particularly those who provide free parking spaces, encourage the use of single-passenger automobiles by commuters as against the use of less-polluting forms of transportation. Such employers may therefore be made responsible for the pollution their own actions have induced, and may be regulated as "indirect sources" of air pollution as that term is defined in the General Preamble. Such employers are also the persons best equipped to encourage shifts in the pattern of commuter travel, since for them the data and the administrative machinery necessary to an effective program to regulate such travel are to a considerable extent already in existence. Though additional expense to employers might result, that expense is expected to fall well within the range of expenses that pollution abatement requirements will impose on such industries as, for example, electric power generation and the manufacture of new automobiles.

In the course of this rule making, EPA will wish to have factors which may have been overlooked or undervalued brought to its attention. Detailed public comment is of the greatest importance to the development of revised, workable, and publicly acceptable transportation control measures. Comment is particularly invited on the following points:

1. Is a comprehensive system of surcharges on free and commercial parking an acceptable means of obtaining significant VMT reduction? Is there another preferable system? Specifically, are any of the following preferable: (i) Cutbacks on gasoline supply (ii) surcharges on gasoline sales (iii) directly requiring reductions in the number of parking spaces (iv) far more widespread or more rapid conversion of streets to the exclusive use of busses and carpools?

2. Are the surcharge rates in the regulations as they stand too high? Would they impose intolerable competitive or financial burdens on a significant number of businesses, even though all businesses that maintain their own parking facilities would be equally burdened? Would certain categories of noncommercial activities be intolerably burdened? What degree of VMT reduction would result from implementing the present surcharge schedules? Would this be more than is economically or socially tolerable?

3. Would the revenues generated by implementing the surcharge on the schedule promulgated be more than can usefully be spent on mass transit in the three regions affected? For the first few years, would this be the case? In each of the three regions affected, what are the total, long-term funding requirements for the kind of mass transit system capable of eventually absorbing a 20 percent VMT reduction? Of absorbing a 40 percent VMT reduction?

4. If there is to be a system of parking surcharges, and if it is to be phased in, is the current approach of phasing it into the large cities first the best approach? Specifically, would it be preferable to phase it in (i) throughout the regions in question, but at a reduced level? If so, what levels should be chosen? (ii) in areas "adequately served by mass transit"? In areas "potentially adequately served by mass transit"? If one of these last two approaches were adopted, how would these areas be determined? Given the current inadequacy of mass transit in these regions, what assurance would there be that such a surcharge would have a significant impact on VMT in its first years? If it would not, how could it be phased so as to provide assurance that after a few years it would have a significant impact? (iii) in areas to be designated by the affected localities? If this were done, what guidelines could be established to make sure each of these localities would designate more than a minimum area? Should they, for example, be required to designate a certain minimum percentage of the parking spaces within their boundaries for surcharge?

5. The regulation surcharging free parking spaces on an annual basis was adopted to avoid the potentially severe administrative burdens that could result from compelling all free parking spaces to switch to commercial operation. If such a switch was required, would the administrative burdens in fact be severe? Would they be justified by the increased VMT reduction that could be expected to result from surcharging the motorist directly, rather than only surcharging those who provide the parking spaces? If, even so, the administrative burdens would be too severe, could they be reduced to an acceptable level by exempting certain categories of spaces from surcharge entirely (for example, on-street parking)? If one or more such exemptions were established, what alternate form of regulations of the exempted spaces should be adopted to avoid inequitable treatment of the spaces still subject to surcharge? To ensure that the surcharges remaining would in fact lead to a VMT reduction, and not simply to a switch of parking to unregulated spaces?

6. Based on all the factors outlined above, precisely how should the surcharge provisions be revised? If they are to be abandoned, precisely what form of regulation should be substituted for them?

7. Should a system of surcharges on employee parking be retained? Is it administratively practicable? If it is not, how can it be modified to be made administratively practicable? In general, is the use of fees on employee parking to reduce VMT a good idea? Is the schedule of fees contained in § 52.250 as it now stands too steep? If undue expense might result in some cases, how could that be mitigated? If the surcharge levels are to be relaxed, should the relaxation (a) reduce the maximum surcharge level (b) allow more smaller employers from some or all of the time for its implementation (c) exempt requirements imposed on larger ones?

8. Is a requirement that employee use of mass transit be subsidized administratively practicable? If not, how can it be amended so as to become practicable? Would such a subsidy program be too expensive either (a) in itself, or (b) if financed in part out of revenues from surcharges on employee parking? How does any expense of such a program compare with the expense of maintaining employee parking facilities? With other pollution abatement expenses imposed on industry?

9. What other measures by employers should be suggested or required? Should greater emphasis be placed on measures of the employer's own choosing? If a greater degree of freedom were allowed, what enforceable assurance would there be that employers subject to this regulation would do their part in meeting the requirements of the Clean Air Act?

10. Should all residential parking spaces be exempted from review under § 52.251? Alternatively, should all such spaces be reviewed? If they are to be reviewed, should review be under a different standard?

11. Is the 50-space cut-off for review under § 52.251 too low? If it is, what should the minimum cut-off number be? Whatever minimum cut-off number is established, should lots under that number be reviewed under a less stringent test? If so, what should the test be? Should such smaller lots be reviewed at the option of the Administrator in certain areas or circumstances? If so, how should those areas or circumstances be determined?

SPECIFIC PROPOSED AMENDMENTS

EPA currently intends to modify the California transportation control plan as set forth in the succeeding paragraphs. Public comment on these proposals is invited. The change proposed in paragraphs 2 and 3 of this section may be promulgated at any time after January 10, 1974.

1. "Residential parking spaces" were exempted from surcharge to avoid surcharging the parking spaces where motor vehicles are stored when they are not in use. In conformity with this logic, it is proposed to include in this exemption the spaces where fleet vehicles owned by businesses, governments, car rental agencies, and the like are parked when not in use.

2. The current EPA regulation for review of new parking spaces requires that all lots over 50 spaces receive a permit. EPA proposes to amend this requirement to limit the permit requirement to lots of 250 or more, except to the extent that the Administrator may determine that lots between 50 and 250 spaces in a certain area to be designated by him are having a significant adverse impact on the regional transportation control strategy.

3. Section 52.251 requires review of any "parking facility" which has more than 50 spaces. The most natural reading of this language is that if more than 50 spaces are located in one place, for example, an apartment house parking lot, review is required, while if they are scattered in small groups throughout an area, as they would be in a subdivision, review is not required. To eliminate this inconsistency, EPA currently intends to eliminate all residential parking facilities from review and such an amendment is proposed.

4. Section 52.250 in its present form would require even an employer with many times more employees than parking spaces to pay the mass transit fees of all its employees whenever it maintained more than the minimum number of parking spaces. Since this particular class of employers will, almost by definition, be doing more than most others to discourage single-car commuting, such a result is unjust, and was not intended. One way of avoiding it would be to provide that mass transit subsidies could not exceed the revenues collected from park-

ing surcharges, or could not exceed some multiple of that amount such as 1.5 or 2. Such an amendment is proposed.

SPECIFIC AMENDMENTS TO BE PROMULGATED

The following specific amendments to the regulations covered by this notice will be promulgated shortly:

1. The definition of "employer" in § 52.247 covers any person who employs "50 or more persons." The reference to 50 or more persons has no regulatory significance, since the employer regulation itself, § 52.250, reads exclusively in terms of the number of employee parking spaces maintained. This reference will be eliminated.

2. Read literally, § 52.250 would apply to any employer with more than 700 (or 70) spaces, even if those spaces were in several different locations. Since it is intended that an incentive program is only required to the extent that the individual employment facility itself has more than the minimum number of spaces in one location, this will be clarified.

3. Section 52.250 should have included a provision allowing any individual employer to submit to the Administrator an alternate mass transit incentive plan which the Administrator could approve upon finding that it would have the same VMT reduction potential as the measures prescribed by the regulation itself. Such a provision will be added.

4. The parking review regulation, as required by court order, applies to all parking facilities for which a construction contract had not been signed as of August 15, 1973. In many instances, builders subject to review under this provision will have made substantial commitments in good faith before August 15, even though no contract was signed. For such situations, it is EPA's intent to consider the difficulty to the builder based on actions taken before August 15 of modifying his design, and to weigh such factors against the Air quality or VMT reduction benefits of such modification in determining whether to approve an application. An amendment to make this explicit will be added.

5. It is the Agency's intent that churches be exempted from surcharge since they are used mainly on weekends when oxidant readings are relatively low. This will be clarified.

6. It is the Agency's intent to exempt from surcharge any parking by emergency vehicles. "Emergency vehicles" will be defined as "any ambulance, police car, rescue truck, piece of fire fighting equipment, or any other vehicle customarily used for the emergency protection of life or property."

7. In many areas of California, it would be impossible to determine a "commercial rate" by the method specified by § 52.250 (a)(2) without looking to parking facilities located many miles away from the employer in question. Such cases, when they arise, indicate that most parking in the vicinity of the employer is in fact free, and that there is accordingly no meaningful commercial rate to apply. This section will be amended to clarify that if no "commercial rate" can be determined by looking only to facilities of 100 or more spaces within two miles of the employment facility in question, the employer may consider the "commercial rate" to be zero and collect only the surcharge.

Public hearings will be held on this proposal in each of the five affected Regions early next year at times and places to be announced later. All public comment received up to thirty days after the close of the last such hearing will be considered in developing revised regulations.

This notice of proposed rulemaking is issued under authority of sections 110 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 1857c-5 and 1857g(a).

JOHN QUARLES,
Acting Administrator.

December 6, 1973.

[FR Doc.73-26266 Filed 12-10-73;8:45am]

Mr. President, I urge the Senate conferees to hold fast to my amendment in their conference with the House. I assure my colleagues that the Subcommittee on Air and Water Pollution will consider the implications of parking regulations and surcharges at an early date next year.

Mr. MUSKIE. At this point I yield to the distinguished Senator from Arkansas.

Mr. McCLELLAN. Mr. President, I would like to ask the Senator one question. Does the Environmental Protection Agency contend, and does the Senator agree with it if it does, that it has the power or authority to tax automobiles for parking any place?

Mr. MUSKIE. EPA has, of course, asserted that authority. I think its right to do so is debatable.

Mr. McCLELLAN. Well, I——

Mr. MUSKIE. May I finish?

Mr. McCLELLAN. Yes.

Mr. MUSKIE. It is the intention of my subcommittee to hold hearings on that question, and I would be surprised if the tax-writing committees of Congress did not also conduct hearings on that issue.

My objection to this language is that it is an attempt by means of a floor amendment in the House of Representatives to resolve an issue that the appropriate committees of Congress have not had an opportunity to study. With respect to the surcharge by EPA——

Mr. McCLELLAN. Let me interrupt to say that I agree with the Senator on that issue. The appropriate committees should have the jurisdiction, of course. I do not think that it was ever intended for the Environmental Protection Agency to have this taxing power.

Mr. MUSKIE. May I further state, in answer to the Senator from Arkansas, that there is published in the Federal Register, dated Tuesday, December 11, 1973, an order by EPA delaying the use of the surcharge in Los Angeles, and I read this much of the order:

> This notice of proposed rulemaking announces deferral of all steps in the implementation of the surcharge regulations for a period of 6 months, or until they can be reconsidered and amended in an orderly manner, whichever period is longer. In addition, a deferral of 1 year in the date for imposing any surcharge, however modified, on free and commercial parking spaces will be promulgated.

So, by action of EPA, we are given the time to consider this issue in an orderly way. May I say to the distinguished Senator from Arkansas, I think we ought to take that time to consider it.

Mr. McCLELLAN. I appreciate the Senator's giving us that information. I just wanted to state for the record personally that I do not believe it was ever the intent of Congress to empower this Environmental Protection Agency to impose a tax on the parking of automobiles anywhere. I could be wrong, but I do not believe that was the intent, and since it is suspended, and the efforts they have been making now are suspended by Executive order, it does give Congress time to evaluate this problem and determine whether it wishes to empower the agency to impose such a tax. In the meantime, it will not be done.

Mr. MUSKIE. That is right. May I say, in addition, to the Senator that frankly I did not envision the use of this means to control parking, and to control the use of vehicles through the use of such controls. So I think it is an issue. Since it was not discussed or envisioned at the time, I think we do need to evaluate it in hearings. And let me say I appreciate the understanding of the distinguished Senator from Arkansas and the distinguished Senator from Wyoming on this point.

I understand fully, as all of us do, that changing our style of moving about in the cities is not going to be comfortable. Those changes are now imposed not only by the environmental crisis, but also by the energy crisis, so we are going to have to take a long look at them. But I think we ought to do it as a result of the rational hearings process, and I am deeply grateful for the understanding of both my colleagues.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. McGEE. Mr. President, I have discussed this matter with the ranking minority member of the subcommittee, the Senator from Hawaii (Mr. FONG). We have discussed it together with the chairman of the full committee (Mr. McCLELLAN) and we are prepared to accept the Senator's proposal here on this matter and get on to other matters.

Mr. MUSKIE. I appreciate that cooperation. I am ready to yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine (Mr. MUSKIE).

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, will the Senator from Arkansas yield?

Mr. McCLELLAN. I yield.

Mr. HUMPHREY. I should like to inquire of the distinguished chairman about a provision in the bill, referred to in the committee report, page 11, where I notice language relating to the Veterans' Administration—the middle of the page. It prohibits the Veterans' Administration from making any settlement of any cost overruns in construction contracts.

The reason I make inquiry about this matter is that one of the large construction companies in the State of Minnesota has completed a project for the Veterans' Administration; a project, by the way, which has saved the Veterans' Administration millions of dollars, simply because the prime contractor has withdrawn and told the Veterans' Administra they were sick and tired of its harassment, and the other contractor in this joint venture completed the project and submitted a claim which eliminated any profit.

The background of this matter is that the Donovan Construction Co. of St. Paul, Minn., joined the Blackhawk Plumbing and Heating Co. of Florida in a joint venture in 1966 to build a Veterans' Administration hospital at Hines, Ill.

I will not burden the Senate with details except to say that the Blackhawk Plumbing and Heating firm withdrew

Mr. McCLELLAN. We will get $2 for $1.

Mr. JACKSON. The Senator is correct.

Mr. McCLELLAN. How is that returned?

Mr. JACKSON. Under title 10 of the United States Code, the money will go into the miscellaneous receipts of the Treasury.

Mr. McCLELLAN. Over what period of time?

Mr. JACKSON. One year's production will bring in $127 million.

Mr. McCLELLAN. It will be 1 year before production reaches that level.

Mr. JACKSON. It will be $127 million a year as a result of this investment. There is no other way in which we can handle it other than on that basis.

Mr. McCLELLAN. Mr. President, I would hope that the documentation covering these estimates will be made available to us and that we will have them at the time of the conference, because we have gone far over the budget in this bill. We have put in a number of items that were not budgeted in order to try to meet different situations.

I am pretty sure that when we get into conference something will have to take a cut.

Mr. JACKSON. I agree.

Mr. McCLELLAN. We had better get that fortified, reinforced, nailed down, and everything else.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. JACKSON. Mr. President, we will at least discharge our responsibilities here to see to it that the Senate has done everything in its power to act, even though we have not had a final communication from the executive branch.

I will see if we cannot get the necessary letter from the OMB or from the White House tomorrow, so that when the Senator is in conference he will be in a position to support what is being done here as the official position of the administration. We know that this is also the position of the Defense Department.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. STEVENS. Mr. President, I have visited the Office of Naval Petroleum Reserves also. I am quite interested in the development of Naval Reserve No. 4. Does the Senator envision, as I understand it, plans of the Naval Petroleum Reserve, that the exploration of Naval Petroleum Reserve No. 4 would be contracted out to those people conducting the seismic work and exploration work in the Arctic?

Mr. JACKSON. It is my understanding that it is all let out on contract.

Mr. STEVENS. Mr. President, I want to support the amendment. I want to say that it will take a great deal of money after Elk Hill is brought into production to explore our Naval Reserve No. 4 in Alaska, some 24 million acres.

I think the estimate is conservative. I would have given an estimate of 16 billion barrels of oil from the Naval Petroleum Reserve No. 4. The real thing there is gas. I think it is highly important that we get started as soon as possible to determine the amount of natural gas and petroleum in Naval Reserve No. 4. It will have a great deal to do with the gasoline from Prudhoe Bay. It is our hope that there are two reserves there in the Prudhoe Bay.

I think that the amount given to start up our Naval Reserve No. 4 is conservative. This is the sort of opening gun to determine the reserve up there.

Mr. JACKSON. Yes. The bulk of the funds here, as the Senators knows goes to Petroleum No. 1, Elk Hills.

Mr. STEVENS. There is $12 million left in the Senator's request?

Mr. JACKSON. $7.5 million for Alaska.

Mr. STEVENS. And that is just a starting up.

Mr. JACKSON. That is exploratory work, and the cost in Alaska over a 10-year period—that is, a 10-year exploration program for Petroleum Reserve No. 4—has been estimated at $157 million.

Mr. STEVENS. I think that is conservative, too. However, at least that would give us more of a firm estimate on what is there.

I am hopeful that the administration will come up with a request for the full amount.

I know that we have discussed the amount in the revolving fund. It has not yet been authorized to use the money from Elk Hill.

Mr. JACKSON. The Senator is correct. That revolving fund has been a matter of great controversy in the history of the Naval Petroleum Reserves. Representative Vinson, the daddy of all of this, opposed legislation in the past, when he was in Congress, that would in effect put money for the Naval Reserves in a revolving fund. It has been his position, and that position has been the stand taken by Representative HÉBERT, the chairman of the House Armed Services Committee, that the money should go into miscellaneous receipts in the Treasury of the United States and that Congress should retain control of the appropriations.

There is nothing in this amendment that changes that in any respect.

Mr. STEVENS. Mr. President, as one who drafted the legislation which was stopped by Representative Vinson, I know the history. I wish we had that because the greatest spot on the Earth as far as oil and gas is concerned is the North Slope. We do not yet know the scope or extent of it.

Mr. JACKSON. I agree. I think that one key point should not be overlooked. Although we have legislation pending in my committee to authorize the setting up of a strategic reserve, the United States does not now have any readily available strategic reserve. A strategic reserve, of course, is critical in the decisionmaking process in the energy field.

Had we had a 90-strategic reserve when the shutdown occurred in the Mideast, it would have given us greater flexibility of response than we had otherwise.

By developing and exploring Petroleum Reserve No. 1 at Elk Hill, we will have a reserve that will be immediately available, from which we can get the oil flowing immediately to meet the energy requirements of our Government.

I believe this is a matter of the utmost urgency. I would not have offered this amendment to fund production from Elk Hills except for the general crisis in which we find ourselves.

I must say that the chairman is absolutely correct. I will insist that we get the appropriate documents and letters from the administration to support this appropriation. But I do not want the Congress be accused of not taking advantage of the opportunity to start 160,000 barrels of oil a day flowing in 90 days. That is a fair amount of oil.

All we are saying is that, in light of the problems we face, we should have the capacity to open a spigot and have oil available. Now, we do not even have a spigot.

Mr. PASTORE. The Senator is correct.

Mr. YOUNG. Mr. President, this is an unusually big budget estimate. The crisis is so urgent that we must do something. I think there is great merit in the amendment the Senator is offering. The sooner we get the reserves, the better.

I would be perfectly willing to take the amendment to conference.

Mr. JACKSON. Mr. President, I appreciate the Senator's position. I also appreciate the position of the chairman of the committee. I expect that the administration should provide us, without delay, with the necessary documentation in support of this request.

This appropriation is a must. It is essential to our long range energy picture, and I trust that the Senate will adopt the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. MUSKIE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> On page 2 strike lines 13 through 16.

Mr. MUSKIE. Mr. President, this is an amendment which I discussed——

The PRESIDING OFFICER. The Senate will be in order. The Senator from Maine has the floor.

Mr. MUSKIE. This is an amendment which I have discussed with the distinguished Senator from Wyoming (Mr. McGEE). It has to do with language which is present on page 2 of the bill, lines 13 through 16. I understand that Senator McGEE will be on the floor shortly. The language reads as follows:

> No part of any funds appropriated under this Act may be used by the Environmental Protection Agency to administer any program to tax, limit, or otherwise regulate parking facilities.

Mr. President, I oppose this language for several reasons. First of all, it is legislation on an appropriation bill, which is not reachable on the Senate floor by a point of order, as I understand from the Parliamentarian, because it is language that was put in the bill by the House of Representatives.

Second, as to its merits, this language

raises a number of issues in connection with the Clean Air Act of 1970—some of them controversial—which are going to be tackled in the course of the regular legislative process, and ought not to be resolved by such indirect and peripheral means.

What is involved in this language, Mr. President, is the whole question of how we regulate traffic in our central cities to minimize the air pollution impact upon life in those cities. What this amendment would do would be to take out of the hands of people the effective power needed to control that traffic.

Mr. President, when the Clean Air Act was adopted, language was included in the committee report which indicated our understanding of the degree to which our ability to move around in the cities would be affected by the health objective of the Clean Air Act. Let me read from that report:

> If the Nation is to continue to depend on individual use motor vehicles, such vehicles must meet high standards. The bill recognizes that a generation, or 10 years' production, of motor vehicles will be required to meet the proposed standards. During that time, as much as 75 percent of the traffic may have to be restricted in certain large metropolitan areas if health standards are to be achieved within the time required by this bill.

So, Mr. President, we fully understood in 1970 that if we were to meet the health standards of the act, something would have to be done to lessen traffic.

Some of the means were provided by the Clean Air Act. We established standards for new cars to meet. If those standards had been met, if they could have been met, the controls necessary by other means would have been minimized. But already the Administrator of EPA has granted the extensions which he has the power under the act to grant. There is pressure here in Congress, in both bodies, to further relax those standards on new cars.

If those efforts succeed, then what will be required is even more stringent controls upon the use of automobiles that are already in the hands of consumers.

We simply cannot have it both ways. So the pressure will be on mayors and city councils, as well as EPA, to find other ways to restrict the use of the automobile in central cities.

I do not intend to belabor the issue; I was simply using some time until the distinguished Senator from Wyoming could reach the floor. I ask unanimous consent to have printed in the RECORD, Mr. President, further legislative history to illuminate the point which I have been making.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PARKING RESTRICTIONS AND THE CLEAN AIR ACT

The Committee on Public Works has been reviewing the activities of EPA regarding transportation control plans, parking restrictions, and related activities for quite some time. While these tools for achieving clean air require continual refinement, it would be premature to take action at this time that would totally block the use of these strategies.

To improve air quality and conserve energy, it is necessary to achieve large increases in the use of transit and carpools in cities and corresponding decreases in the use of low occupancy automobiles.

If Congress enacts a prohibition on the use of EPA funds for any charges, limitations, reviews or controls of any kind on parking, the transportation control plans currently projected for metropolitan areas around the country will be largely negated and the achievement of air quality standards will be drastically set back. Experience to date in U.S. cities indicates that when mass transit has the ability to compete with the auto in terms of quality and cost, substantial numbers of travelers switch from the auto to mass transit.

Plans for 23 of the 31 metropolitan areas requiring transportation controls now include parking restrictions of some type. Over half of the plans include parking controls suggested by local authorities, not EPA.

If the parking measures are not implemented, the expected shifts to carpools and mass transit will not materialize. Furthermore, the incentive for the planned transit improvements would be diminished since transit companies would no longer have any assurance of increased ridership which they need to justify new buses and equipment. Planned reductions in gasoline consumption and improvements in air quality therefore would not take place.

As a result, the ability of at least 15 major cities ever to achieve the air quality levels needed to protect public health would be severely impaired.

EPA is showing increased sensitivity to the need to be reasonable in using parking restrictions as a strategy for achieving clean air.

EPA yesterday promulgated regulations delaying for one year the California parking surcharge.

The agency is now considering exempting parking lots under 250 spaces from their review. The present cutoff is 50.

EPA regulations were issued Nov. 12 controlling parking in California. They applied to projects all the way back to Aug. 15. EPA is very close to a decision to rescind this retroactivity.

There are indications that EPA will consider the amount of money spent on a new parking facility in determing whether or not to apply their review for cases that fall into a grey area as to when the project actually began.

(Environmental Protection Agency [40 CFR Part 52])

CALIFORNIA TRANSPORTATION CONTROL PLAN—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

This notice of proposed rulemaking is issued for reconsideration and amendment of five regulations contained in the California transportation control plan promulgated by EPA on November 12, 1973, 38 FR 31232. These regulations, 40 CFR 52.247 through 52.251, would establish a comprehensive program to reduce automobile traffic in the three most heavily polluted California Air Quality Control Regions through the control of practically all existing and future parking spaces. Two of them would apply in all five Regions covered by the plan. The basic means of regulation would be surcharges imposed on all free and commercial parking spaces by the relevant local government, and on non-carpool employee parking by the relevant employer. In addition, a permit would be required to construct any new parking facility over 50 spaces. All surcharges would be collected either by the relevant local government or the relevant employer. All net revenues over and above the cost of collection would be spent on improving mass transit.

This notice of proposed rulemaking announces deferral of all steps in the implementation of the surcharge regulations—40 CFR 52.248, 52.249, and 52.250—for a period of six months or until they can be reconsidered and amended in an orderly manner, whichever period is longer. In addition, a deferral of one year in the date for imposing any surcharge, however modified, on free and commercial parking spaces will be promulgated.

Public reaction to these particular measures since the plan was announced has been intense. The surcharges in particular have been widely criticized as arbitrary, illegal, administratively burdensome, and economically disastrous. A great many petitions for judicial review of the EPA promulgation have been filed.

In the preamble to EPA's November 12 promulgation, the Administrator recognized that "many aspects of the surcharge and employer incentive regulations are new and indeed unprecedented," and promised to revise them if revision were appropriate in the light of comments received. 38 FR 31237. This notice of proposed rulemaking is being issued to assist that public comment process.

This notice is divided into three parts. The first, which is designed to help EPA obtain the necessary information for comprehensive modifications to the regulations, gives background and asks specific questions. The second part contains more specific proposals for comments, based on the regulations as they now stand. The third describes corrective, technical, or clarifying amendments which EPA will make shortly to the regulations. Persons affected may proceed as if these had already been made.

The latter two categories of proposals are designed to focus attention on the problems of detail that must be considered in developing any revised transportation control plan for California. Comprehensive changes made in the regulations as they now stand may well render many of the proposals in these categories moot.

BACKGROUND AND SPECIFIC QUESTIONS

To assist public comment on the regulations covered by this Notice, and to assist EPA in making revisions that may well be substantial, an explanation of the reasons behind their promulgation, and a list of questions concerning them are set out below.

In promulgating these regulations, EPA was guided by the following considerations:

1. The Clean Air Act requires all measures that are "reasonably available" to be put into effect to achieve air quality standards before 1977. "Transportation controls" are specifically mentioned in both the Act and its legislative history. Though a measure that would lead to major economic or social dislocation cannot be considered "reasonably available," the intent of the Clean Air Act is unmistakably to require significant changes in habits and travel patterns as a means of achieving the standards.

2. California has the country's worst automobile-caused air pollution problem. The peak readings of photochemical oxidants in Los Angeles, San Diego, and San Francisco are all higher than have been recorded anywhere else in the country; the reading for Los Angeles is almost twice as high. In addition, the problem in California is caused almost exclusively by automobiles.

3. Studies have repeatedly indicated that shifts away from single-passenger automobiles and towards carpools and mass transit are unlikely to occur without both significant disincentives to the use of the former and significant incentives to the use of the latter.

Particularly in regions of spread-out development the only two methods that appear to be capable of obtaining a significant VMT reduction are (i) comprehensive restrictions on the sale of gasoline and (ii) comprehensive restrictions on parking. The first alternative was proposed for comment in many Regions, including the five California regions, and rejected because the Administrator found that "The possibilities of evasion, This funding is absolutely essential in our judgment because of the low priority assigned to research and training in the field of aging. Moreover, the current expansion of social services for the elderly provides further compelling reason for stepping up our research and training efforts to meet the manpower and information needs essential for the smooth operation of these programs.

Sincerely,

Ethel Shanas, Ph. D.,
President.

January 18, 1973.

Hon. Charles H. Percy,
U.S. Senate,
Washington, D.C.

Dear Senator Percy: Given our mutual interests in the welfare of older people, I'm writing to express my concern over the rumors that training grants to universities for the training of graduate students are likely to be cut in the 1974 Federal budget, and that this will apply equally to training programs in the field of aging.

I realize some of the complications involved in budget decisions, and recognize some of the arguments against so-called "categorical" support programs, yet training-grant support plays a particular strategic role in the training of researchers, teachers, and professionals in aging. For many years it has been apparent that the bottleneck in research, teaching, and professional service to older people has been the shortage of trained manpower; and the NICHD-supported and AOA-supported training programs, small in number as they are, have been of great importance in beginning to alleviate the shortages.

Unlike the situation in other areas where manpower needs can be met through free market exchanges as students gravitate toward fields where jobs are known to exist, the field of aging has long had trouble attracting students. There are a number of reasons for this, not least the negative attitudes toward aging on the part of many young people, and the mistaken perception that gerontology is merely one sub-field of social welfare. Not until financial support became available were first-rate students lured into the social sciences and the biological sciences to pursue the study of aging; and in the professional fields, only schools of social work seem yet to be attracting students in aging.

At the same time, manpower shortages are increasing rather than decreasing. To take a specific example: If the amendments to the Older Americans Act passed by Congress in 1972 had gone into effect, it was estimated that some 2,500 to 3,000 trained people would have been needed at once to staff only the state agencies alone.

I hope it is relevant to say also that the field of aging should not be regarded as a "categorical" field like, say, drug addiction or delinquency or cancer. The problems of aging will never be "solved"; they affect every member of the society, young and old; and increasing numbers of older people in the population affect every social, economic, and political institution. Thus an enlightened public policy means that greater attention must be paid to the field of aging and to the needs for personnel. Now that a small growth in trained manpower is at last beginning to appear, it would be disastrous to cut away its major support.

I hope you will do all you can to maintain training-grant support to universities in the field of aging.

With my thanks for your consideration of this matter,

Sincerely yours,

Bernice Neugarten,
Professor and Chairman, Former President, Gerontological Society.

Gerontological Society,
Washington, D.C., February 7, 1973.

Hon. Caspar Weinberger,
Secretary Designate,
Department of Health, Education, and Welfare, Washington, D.C.

Dear Mr. Weinberger: The Gerontological Society wishes to express its interest in advancing training and research in problems of aging and to express its concern for newspaper accounts of impending budget cuts in training and research. The White House Conference of December 1971 documented impressive needs for trained personnel at all levels—scientific, teaching, professional, and direct services to the elderly performed by para-professional personnel. Surveys have indicated a distinct lack of activity in institutions of higher learning and supporting government agencies creating the trained personnel to meet present and future needs.

If we do not encourage a significant expansion of educational and training activities in the field of aging we will not have the manpower resources to meet identified personnel requirements. Furthermore, we will be embarrassing our prospects for an improvement in the quality of life for our future retired and senior citizens and our capacity to respond to the needs of the elderly if we do not vigorously support training in the field of aging. Because the income of our retired population is low with respect to the rest of the population, it is extremely doubtful that personnel will be able to recover the cost of their education in an equitable manner from their salaries, e.g., to pay off educational loans.

The Gerontological Society specifically wishes to express its concern about voiced cuts in budget for training. The Society is a multi-scientific and professional organization devoted to study in education on problems of aging. The officers and members sincerely trust that you will join with us in our desire to advance in a substantial manner education and training programs in the field of aging.

We would be pleased to meet with you at your convenience to discuss these concerns.

Sincerely yours,

James E. Birren,
Past President.

THE FUTURE OF GERONTOLOGICAL RESEARCH

(An excerpt from a lecture by Leonard Mayflick winner of the Gerontological Society's Kleemeier Award)

The future of basic biological research in gerontology in this country is far from bright. Despite the universality of the phenomenon, it is not a field that has attracted many bright, young investigators. Good professional reputations are not easily obtained. Of even greater importance is the fact that funding for research in this field has been abysmal. It is, however, true that the degree of funding is probably consonant with the degree of scientific interest the field enjoys generally.

Nevertheless interest in gerontological research will not come about unless adequate funding is known to exist. Even if a major new development were to come out of some laboratory that had profound impact on gerontological thought, few talented people could reasonably be expected to enter a field where new funds are virtually unattainable. A recent example of the magnetic qualities of research fund availability are the legions of investigators who, overnight, became cancer biologists when the news that a hundred million new dollars was likely to become available. How many would become gerontologists if the funds were so earmarked?

In the fiscal year 1973, which ended on June 30th, the Adult Development and Aging Branch of the National Institute of Child Health and Human Development, the major sponsor of gerontological research in this country, spent $6,008,048 on 62 grants. Of this amount about one-third was spent in indirect costs, leaving about $4,000,000. And of this amount about two-thirds, or $3,000,000, goes to the support of biological research in aging and the balance to the social and psychiatric aspects. In year 1973, 120 new research grants in aging were received. Of these 58, or 48%, were approved. Of the 58 that were approved, the National Institute of Child Health and Human Development was able to fund only 11, or about 20%.

To be put into some perspective, however, consider this: In fiscal year 1973, the National Institutes of Health spent about $2 per person nationally on cancer research, $1 per person on cardiovascular disease research, and 3¢ per person on all research in gerontology. The picture in fiscal year 1974 is even less encouraging. The amount available to the Adult Development and Aging Branch will drop according to the President's Budget from $6,008,048 to $5,769,000. If we add to this the anticipated annual rate of inflation of about 4%, then the funds available next year will be effectively reduced by about 8% and the likelihood of funding new or competing renewal grants will have virtually ceased.

Thus despite lip service by many of our leaders bent upon impressing the growing population of aged in this country with its interest in gerontology (e.g., the 1971 White House Conference on Aging), actual support for gerontological research has in fact reached a new low and is going even lower. I can only conclude that the current administration regards gerontological research as something between a nuisance and a joke. Efforts to establish a National Institute of Aging, overwhelmingly approved by Congress last year, was as you know ultimately pocket vetoed by the President. A new bill designed to establish this much needed new institute probably will suffer the same fate in the Executive Branch in the next few months. A meaningful level of support in gerontology is really nonexistent, and the field itself, like the subject it studies, is near death. I realize that I am preaching to the converted but gerontologists are playing Nero while Rome burns.

It is now more important for us to concentrate our efforts on increasing the life expectancy of research support for gerontology, rather than the mean lifespan of man. For we can depend upon the fact that without the former, the later will never be improved.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MUSKIE. Mr. President, I ask unanimous consent that during the debate and votes on the supplemental appropriation bill Leon Billings and Karl Braithwaite of my staff may have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be read.

The second assistant legislative clerk proceeded to read the amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendment appear at an appropriate place in the bill and that the subsequent chapter sections be appropriately renumbered in order to conform to the amendment I am offering.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add a new section as follows:

For the exploration, development, and production of the Naval Petroleum Reserves $72,000,000. Provided, that, subject to such authorization of production of Naval Petroleum Reserve Numbered One as may be granted in accordance with Chapter 641, Title 10, United States Code, no less than $13,000,000 shall be available for the operating expenses incurred in producing from that reserve: *Provided further*, That no less than $47,500,000 shall be available to permit the development of the productive capacity of that reserve so as to permit production at such a level as may be authorized by Congress and in a manner which is consistent with sound engineering and economic principles: *Provided further*, That no less than $11,500,000 shall be available for the conduct of programs of exploration for oil and gas on Naval Petroleum Reserves numbered 1 and 4.

Mr. JACKSON. Mr. President, the effect of this amendment would be to add an additional appropriation of $72 million for the production, exploration and development of the naval petroleum reserves.

At the present time the United States is confronted by a nationwide petroleum shortage of 20 to 25 percent of her daily consumption. Particularly affected by this shortage have been the Nation's Armed Forces. Department of Defense fuel consumption represents only 4 percent of U.S. domestic consumption because, until the implementation of the Arab oil embargo, much of its fuel was procured directly from overseas sources. As a result of the Arab production curtailment and embargo, overseas sources of supply are, for the most part, no longer available.

Consequently, at the same time that the Nation is confronted with an unprecedented energy shortage, it is necessary that we draw upon already short civilian supplies to provide the Armed Forces. To do so is necessary in order to maintain our minimum essential national defense. Only by the implementation of rigorous conservation measures has the Department of Defense been able to keep military demand at the required minimum level.

For this reason the Secretary of the Navy has submitted a finding that the defense of the Nation requires the production of oil from the naval petroleum reserve at Elk Hills. The President has concurred in that finding and has requested that the Congress approve production as it must do under the law. That request has been referred to the Armed Services Committees of the House and Senate and I am confident that each will respond in a timely manner to report a bill. I find the argument in favor of producing from the Elk Hills reserve compelling. However, I disagree with the closed-cycle funding mechanism for that production proposed by the administration.

For this reason, I am introducing an amendment to provide for direct appropriation of $72 million, for the production and development of Naval Petroleum Reserve Numbered 1 and the exploration of Naval Petroleum Reserves Numbered 1 and 4. If this program for which these funds are appropriated is carried out as envisioned, it would result in additional payments into the Treasury of the United States of $127 million a year. Moreover, it would add to the proven oil reserves owned by the people of the United States to 500 million barrels in the naval reserve at Elk Hills, Calif., and an undetermined but significant quantity in the immense reserve in Alaska. Most significantly, it would provide the United States with an additional 160,000 barrels a day, which production these funds would make possible.

Mr. President, I urge that the Senate adopt this amendment.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. McCLELLAN. Mr. President, the Defense authorities I think mentioned those facts. I do not believe we took testimony on it, but we have discussed it with them.

Mr. JACKSON. It was discussed in the Defense appropriation hearings in closed session.

Mr. McCLELLAN. Yes. What I am concerned about is this: I think it is well to proceed with the exploration, to establish what we really have and what is available, so that it will be immediately accessible to us in time of critical need.

What I am concerned about is the amount of the appropriation. As I recall, it did not require that much. I could be mistaken. We do not have here a budget request or anything upon which to premise the $72 million. My recollection is that the highest figure mentioned was about $19 million.

Mr. JACKSON. The Senator is correct. What was talked about in the meeting covered only exploratory work, and that for the two petroleum reserves, was $11.1 million. But the figure now is more accurately estimated to be $13 million for that purpose. The rest of the appropriation I propose is for actual production and development work, so that we can get petroleum reserve No. 1 at Elks Hills operational as soon as possible.

Mr. McCLELLAN. Who will furnish the estimates for the extra $60 million?

Mr. JACKSON. All of these figures came directly from a report which the Navy prepared on this subject and delivered to the President in April. We asked for these figures and received them. In the meantime, we will ask for a more recent, updated budget estimate. I suggest, however, that we do not delay consideration of the amendment until receipt of a formal budget justification, since this could be our last chance to get some action.

Mr. McCLELLAN. I am perfectly willing to take some of the amount and at least go to conference with it, because I support the general objective. But in the absence of budget estimates, I am not an optimist about the immediate need for the very large amount that the Senator included in his amendment.

Mr. JACKSON. We will endeavor to get a complete budget estimate here as soon as possible. In fact, we have already asked the administration to provide these figures.

Mr. McCLELLAN. Would the Senator be willing to reduce the amount to what we need for immediate exploration, and hold the remainder until we get a budget request for it? At least, we should get some documentation of the need for the amount required to do the job.

Mr. JACKSON. Here is the situation we face. An oilfield is only a reserve until we can get the oil out of the ground. What is critically needed is exploration-development of our naval reserves to make the oil in those fields readily available.

Mr. McCLELLAN. How much money would be required to do that?

Mr. JACKSON. To develop and pump from Elk Hills, the cost would be $61 million—$48 million for development, to develop the capacity to produce 160,000 barrels a day, plus $13 million for operating expenses.

Mr. McCLELLAN. Over what period of time.

Mr. JACKSON. That is within calendar year 1974. This would permit developing a capability within that period of time to pump first 100,000 barrels a day, then up to 160,000 barrels a day, thus creating an ongoing source of petroleum supply for the armed services. This would save them from preempting the civilian supply in the future as they are forced to do now.

Mr. McCLELLAN. Do I understand that $61 million of this amount would bring into production 600,000 barrels a day?

Mr. JACKSON. 160,000 barrels a day.

Mr. McCLELLAN. How quickly will it be possible to get into production with that amount of expenditure?

Mr. JACKSON. Mr. President, they will be able to get production going within 90 days. And later they will reach a total of 160,000 barrels a day. They are not now capable of getting Elk Hill into production without these funds.

Mr. McCLELLAN. Mr. President, with that being the purpose of it, I want to support it. I want to support whatever is necessary. I would say, however, that if we take the full amount, before we get to conference, we will have some documentation on which we can rely and which will reinforce us in securing the full amount. I do not think the House will be ready to accept it.

I do have a concern over the amount. I do not know whether they can spend that much.

Mr. JACKSON. As a result of the production provided for by these funds, the Navy will return to the U.S. Treasury $127 million a year from the sale of the U.S. share of the oil produced. So we are talking about a net gain to the Treasury of $55 million.

tee, I heartily concur with this recommendation. As noted in their report:

> This amount, which includes $36,000,000 for direct program services and $4,000,000 for administration, would be sufficient to implement this program and provide 18,000 job opportunities for older Americans.

During the June 4 San Francisco and August 14 San Diego hearings, I chaired on alternatives to institutionalization for elderly citizens, great stress was laid on the importance of providing job opportunities for those senior citizens who want and are able to work. It was brought out that senior citizens are particularly qualified to perform public service jobs that aid their own peer group, whose special problems and experiences are often less well understood and appreciated by younger adults. Many of the jobs that would be created under title IX are designed to provide this very opportunity. Furthermore, jobs provide the purchasing power to enable senior citizens to live independent lives—particularly difficult in these times of threatening recession and unemployment—and promote the sense of self-esteem and self-worth that is essential to good health and well-being.

Even the present administration has recognized the obligation of our country to assist older Americans. President Nixon, in his closing statement to the 1971 White House Conference on Aging, said:

> Older Americans have much to give this country. The best thing this country can give to them is the chance to be a part of it, a chance to play a continuing role in the Great American adventure.
>
> We need a new, national attitude toward older people in this country, and that attitude must be one which recognizes that America, whatever it does for its older citizens, fully appreciates what our older citizens can do for America.

And yet, Mr. President, this support appears as little more than lip service. The House did not include any funds to initiate this important program, nor did the budget request any funds.

SOCIAL AND REHABILITATION SERVICES

Mr. President, as acting chairman of the Subcommittee on the Handicapped during consideration of S. 1875, the "Rehabilitation Act of 1973," and as chairman of the House-Senate Conference Committee on this bill, I cannot stress too strongly my support for the committee recommendations to appropriate $752,668,000 to carry out programs authorized by this new act, Public Law 93–112.

Mr. President, the key to the intent of this legislation is the belief that the basic vocational rehabilitation program must not only continue to serve more individuals, but must place more emphasis on rehabilitating individuals with more severe handicaps. It is the bill's intent to be more responsive to the needs of the handicapped individual by providing a better basic program of service as well as an emphasis within special project authority for target populations whose needs are not now being met within the basic program. Additionally, the committee has added provisions designed to focus research and training activities on making employment and participation in society more feasible for handicapped individuals.

I would especially like to thank the committee for its recommendation to provide $650,000,000 for basic grants to States, an increase of $34,130,000 over the House bill and the budget request. This amount—which is the full amount authorized—is the same amount recommended to the committee and which was intended to represent a minimum authorization level rather than—as is often the case in authorizing legislation—the ideal amount if unlimited Federal dollars were available for expeditures to meet all the program needs provided for in the authorizing legislation.

Mr. President, I also heartily support the committee recommendation to provide $15,572,000 for training which represents an additional $2,442,000 over the revised budget request, and am particularly delighted with the strong committee report direction with respect to the use of carryover fiscal year 1973 training funds.

The budget justification states that this amount is to be applied toward the termination of training grants for rehabilitation. It is said that funds are available for this purpose through basic opportunity grants under existing education law. The structure of training grants under the rehabilitation program, however, cannot be fully equated with the usual education grant system. Under the present RSA rehabilitation training program, funds are being used for institutional support as well as for student aid. Such institutional support would be lost if the present rehabilitation training program were phased out. Grantee schools, without direct institutional aid, would not be able to retain the faculty necessary to provide training of the magnitude necessary to improve and expand the provision of rehabilitation services. The reduction in training activities, which would be inevitable under the administration's phase-out proposal, would ultimately reduce the level and effectiveness of the rehabilitation services provided. As we indicated in our committee reports, there is a great shortage of skilled rehabilitation personnel at all operational levels, and in all professional categories. We also stated that:

> The committee disagrees strongly with the administration's announced policy of cutting back and eventually phasing out the training of rehabilitation personnel. The committee finds this a short-sighted policy.

I am, therefore, especially gratified to note the committee's rejection of this budget proposal to phase out categorical support for these activities. As their report notes:

> The funds provided, together with carryover balances, will restore this program to the 1972 level of operations. Should these balances not become available, the committee will consider future supplemental appropriations for this purpose. The committee would expect a report from HEW by January 31, 1974, on the amount of unobligated balances available for rehabilitation training.

Lastly, I would like to congratulate the committee for the recommendation to provide $25,596,000 for research activities, an amount which is $5,600,000 over the revised budget request. I recommended this amount to the committee and fully support its inclusion in the bill under consideration today.

Funds provided under this category for research will support the development of rehabilitation engineering research centers which would seek to apply the most advanced medical technology, scientific achievement, and psychological and social knowledge to rehabilitation problems, including the design, development, and production of suitable equipment and devices. It is a crime, in my judgment, Mr. President, that this country so wealthy in technology and so rich in scientific achievement, has made only the most minimal use of this science and technology for the benefit of handicapped individuals.

It is a sad truth, I think, that many European countries have developed and made available to handicapped individuals far more sophisticated orthotic and prosthetic devices, as well as other mechanisms and devices for handicapped individuals, than are generally available here. Moreover, although there may be isolated instances when certain rather sophisticated mechanisms have been produced and made available to ease the living and increase the employability of handicapped individuals, these advances are generally available only to a few, and there is no central authority charged with responsibility for developing, producing, and disseminating these devices throughout the country.

I believe that our science and technology belong to all Americans. That is one of the reasons I strongly support the space program. I believe that our science and technology should not be withheld from those less fortunate persons, who, because of their handicaps, cannot take full advantage of much of the technology we take for granted. There are millions and millions of handicapped Americans—perhaps 30 million—and I think that simple justice requires that we give them the benefit of a more independent, self-sufficient, and remunerative existence.

REHABILITATION SERVICES ADMINISTRATION

Mr. President, as acting chairman of the Subcommittee on the Handicapped during consideration of S. 1875, the Rehabilitation Act of 1973 and as chairman of the House-Senate conference committee on this bill, I cannot stress too strongly my support for the committee recommendation to appropriate $752,668,000 to carry out programs authorized by this new act, Public Law 92–112.

Mr. President, the key to the intent of this legislation is the belief that the basic vocational rehabilitation program must not only continue to serve more individuals, but must place more emphasis on rehabilitating individuals with more severe handicaps. It is the bill's intent to be more responsive to the needs of the handicapped individual by providing a better basic program of service as well as an emphasis within special project authority for target populations whose needs are not now being met within the basic program. Additionally, the committee has added provisions designed to focus research and training activities on making employment and participation in society more feasible for handicapped individuals.

BASIC STATE GRANTS

I would especially like to thank the committee for its recommendation to provide $650,000,000 for basic grants to States, an increase of $34,130,000 over the House bill and budget request. This amount is the same amount I recommended to the Committee—which is the full amount authorized—reflects the conference report authorization for appropriation amount which was intended to represent a minimum authorization level rather than—as is often the case in authorizing legislation—the ideal amount if unlimited Federal dollars were available for expenditures to meet all the program needs provided for in the authorizing legislation.

TRAINING

Mr. President, I also heartily support the committee recommendation to provide $15,572,000 for training which represents an additional $2,442,000 over the revised budget request, and am particularly delighted with the strong committee report direction with respect to the use of carryover fiscal year 1973 training funds.

EMERGENCY MEDICAL SERVICES

Mr. President, the action of the Appropriations Committee in appropriating funds for the implementation of Public Law 93–154, the Emergency Medical Services Systems Act of 1973, is especially gratifying to me as the Senate author of that new law. This action is one that will be applauded throughout the Nation.

Because of the widespread interest in many, many communities in improving emergency medical services and the general recognition that many communities are severely deficient in their ability to provide these services immediately and comprehensively, the importance of beginning implementation of the act as soon as possible cannot be minimized.

The funds in the Supplemental Appropriations Act and the $7 million of new EMS funds for the Labor-HEW Appropriation Act on the President's desk for signature will give the Nation the wherewithal to begin this task now. Under the bill before us $10 million will be made available for the development of systems, $3.3 million for the support of research and $6.6 million for health professions training support. In addition $7 million of new money included in the regular fiscal year 1974 Appropriations Act for emergency medical services development under section 304 is transferred to implementation of the provisions of Public Law 93–154, in accordance with the provisions of the new law regarding new projects.

I am heartened by Chairman FLOOD's statement during House discussion of House Resolution 11576 that he would look with sympathy on Senate action to include an appropriation for implementation of this act.

If we can sustain the Senate figure in conference, it will mean that the many communities wanting to plan for, to establish, or to expand their systems of providing emergency medical services have a chance of beginning this process this fiscal year.

It also means that research can be supported this fiscal year. This research is needed to learn how to utilize the latest technical knowledge in the development of sophisticated hardware and equipment for monitoring or treating patients as well as to conduct research in the development of systems for providing emergency medical services.

It also means, Mr. President, that training of the personnel who must man an emergency medical services system can begin this fiscal year. Fully trained emergency medical services personnel are an essential element of any comprehensive emergency medical services system. These personnel include the emergency medical technician, the emergency department nurse, the emergency department physician, and the manager of an emergency medical services system, among others.

Since the new law authorizes special appropriations for training these personnel for only this one fiscal year, appropriation of the $6.66 million for this item, in the bill as reported, is especially important.

With this beginning, the tragic toll of lives lost and disabilities incurred each year as a result of our inability to bring medical care to the accident victim or the medical emergency can be reduced.

I am delighted at the committee's action, and am most grateful to my distinguished colleague from Washington (Mr. MAGNUSON), who was a principal cosponsor of the new public law, and to the members of his subcommittee for their very positive action in this regard. I would like to mention the very effective role the distinguished Senator from Missouri (Mr. EAGLETON) played in including this appropriation in the subcommittee's recommendation. He has been a strong supporter of this legislation since it was first introduced and has fought for funding for emergency medical services in the Appropriations Committee since he became a member of that committee in this Congress. His support has been indispensable in assuring Federal funding for this much needed program. And I thank him, as do the countless accident, trauma, coronary, and stroke victims whose lives will be saved and made more productive by the programs to be carried out with these funds.

ACTION AGENCY

Mr. President, as chairman of the authorizing subcommittee for the ACTION Agency's domestic programs, I would like to endorse wholly the committee recommendation to appropriate $49,395,000 to carry out the new Domestic Volunteer Service Act—Public Law 93–113—the amount in the budget request, and $3,076,000 over the House allowance. This is the course that I recommended to the subcommittee in my submission to them. I am gratified that the committee has concurred with my analyses of this item.

Public Law 93–113 provides a 3-year appropriations authorization for the Action Agency beginning in this fiscal year. The Action Agency was created on July 1, 1971, by Reorganization Plan No. 1 of 1971 to consolidate and administer the Nation's federally sponsored volunteer programs—among them the Peace Corps, VISTA, the foster grandparent program, RSVP, and the Score/Ace program, a corps of volunteer small business counselors. The new law supersedes the domestic program and administrative provisions of Reorganization Plan No. 1. It incorporates into positive law the basic existing legislative foundations of the domestic programs which were transferred to the Agency upon its creation 2 years ago, and thus provides the Agency, in one piece of enabling legislation, a unified set of statutory authorities for those programs.

This new law, as the subcommittee noted in its report on H.R. 8877, when it deferred appropriations with regard to part of the Agency's fiscal year 1974 budget request, is particularly important since it provides the authorizing legislation for a large portion of the ACTION Agency's domestic volunteer programs.

Mr. President, in particular, I would like to express my support for the entire recommendation under part C—the special volunteer program authority—which restores the amount—$3.076 million—cut by the House. Although I share the concerns which some have expressed about the viability and effectiveness of some of the new avenues the Agency proposes to explore under Part C, I must confess that I was similarly skeptical of other experimental programs which seem to be demonstrating their value.

I think the fairest course—especially given the very modest nature of the request under Part C—is to give the Agency an opportunity to show what it can do in terms of program innovation, and for both the Appropriations and authorizing committees to monitor closely the program and effectiveness of these new programs.

I hope the conference committee will sustain the full budget requested amount, and that the Agency will carry out effective experimental programs, especially those aimed at resolving poverty and poverty-related problems.

VETERANS' ADMINISTRATION MEDICAL PROGRAMS

Mr. President, I would like to express my complete agreement with and grant appreciation for the statement included in the Senate report in connection with appropriations for the Veterans' Administration medical programs.

The distinguished chairman of the Veterans Affairs Committee (Senator HARTKE) and I had jointly written to the distinguished chairman of the subcommittee on Housing and Urban Development, Space, Science, Veterans (Mr. PROXMIRE) recommending that the subcommittee include in the supplemental, an appropriation of $68.1 million for VA medical care. This amount will in fact be needed to support the costs of providing health care to an average daily patient census of 82,000, which is currently predicted to be the minimum average daily patient census that will be realized for this fiscal year, as well as for the costs of implementing the provisions of Public Law 93–82, the Veterans' Health Care Expansion Act of 1973, which became effective September 1 of this year and which I authorized in the Senate.

Mr. President, I ask unanimous consent to include in the RECORD at this point a table indicating the items making up the total appropriations recommendation which we submitted:

There being no objection, the table was ordered to be printed in the Record, as follows:

[Figures in millions]

To maintain a 1.5 to 1 staff to patient ratio for an ADPC of 82,000	$22.5
To implement Public Law 93–82, outpatient care to obviate the need for hospitalization:	
(Estimated increase in staff visits of 120,000 requiring 240 new staff FTEE positions)	3.9
Provide medical services to dependents of 100 percent service-connected disabled veterans	2.9
Outpatient care for non-service-connected disabilities of 80 percent service-connected veterans	1.3
Direct admission to community nursing homes for service-connected conditions	9.3
Sickle cell screening	1.9
Premium pay and overtime for nurses	22.3
Increased per diem rates for State homes	4.0
Total	68.1

Mr. CRANSTON. Mr. President, although the committee agreed that this request is fully justified, it did not wish to include this amount in the Supplemental Appropriations Act at this time without a budget request from the administration. The committee stated in its report that the Veterans' Administration should allocate existing appropriations to meet its responsibilities under title 38 to provide quality health care to eligible beneficiaries and carry out the new public law and should submit a supplemental budget request to cover any deficiencies which might result thereby. Such a request would be acted upon in the second supplemental early next year.

I am extremely gratified at the committee's action in clearly expressing its recognition of the inadequacy of the current fiscal year 1974 appropriation for the VA medical programs in light of our recommendations, and its promise to consider sympathetically a budget request when it is submitted.

Mr. President, I ask unanimous consent that there be printed in the Record at this point the full statement from the Committee Report (No. 93–614), page 11, regarding this matter, and the construction matter I will discuss next.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Veterans' Administration

The Chairman of the Committee on Veterans' Affairs of the Senate and the Chairman of the Subcommittee on Health and Hospitals of the same Committee requested that the Committee consider making appropriations of $22½ million for medical care in order to insure the maintenance of a 1.5 to one staff-to-patient ratio for an average daily patient census of 82,000, which was 2,000 over the original estimate submitted by the Executive Branch.

The Committee also received a request from the same Chairmen to make appropriations totaling $45.6 million in order to implement P.L. 93–82, which was approved on August 2, 1973.

The Committee unanimously agreed that these requests for funds by the aforesaid Chairmen were justified. Nonetheless, the Committee felt that the Veterans Administration could use available appropriated funds for these purposes, and it directs and urges the agency to do so. In the event a deficiency should be incurred as a result thereof, the Veterans Administration is directed to submit a supplemental budget estimate of the Congress so that it might be considered early in the Second Session of this Congress.

The Committee has included the following language in the bill, which prohibits the Veterans Administration from making any settlements on any cost overruns in construction contracts:

"No funds appropriated in this or any other Appropriation Act for any fiscal year shall be used to make a settlement of any construction contract by the Veterans Administration in an amount which has not been audited independently as to the reasonableness and appropriateness of expenditures and which has not been provided for specifically in an Appropriations Act."

In connection with this amendment, notice of intention to suspend Paragraph 4 of Rule 16 has been filed with the Senate.

Last year this Committee included funding and authorization for the planning, construction, or renovation of nine VA hospitals, which were included in the order of priority which the VA stated were the neediest. Since Construction Costs are increasing at a rate in excess of 15% per year, additional delays will require scaling down and replanning these facilities or the appropriating of additional funds. The Committee does not believe either of these alternatives is desirable. Therefore, it directs the VA to exert all possible efforts to secure the release of these funds from the OMB, in order that this work may proceed in a timely manner.

CLIENT ASSISTANCE SPECIAL PROJECTS

Mr. CRANSTON. Mr. President, I would like to make a statement and then make an inquiry of the distinguished chairman of the Labor-HEW Appropriations Subcommittee, the distinguished Senator from Washington (Mr. Magnuson).

As Senate floor manager and conference committee chairman for Public Law 93–112, the Rehabilitation Act of 1973, and as the author of the provisions in that act—section 112—relating to client assistance projects—I would like to explain what I believe was our intention with respect to expenditures to carry out the client assistance projects with funds appropriated for special projects under section 304 of that act. I wish to note at the outset that I have discussed this matter in detail with the distinguished chairman of the Labor and Public Welfare Committee (Mr. Williams) and the distinguished chairman of the Subcommittee on the Handicapped (Mr. Randolph), as well as with the ranking minority member of that subcommittee, the distinguished Senator from Vermont (Mr. Stafford), and I am authorized to say that they concur completely in the interpretation I am about to explain.

Mr. President, section 112(a) of the new law provides that the Secretary shall set aside to carry out client assistance projects from funds appropriated from fiscal year 1974 not less than $500,000. The law is mandatory as far as that reservation of funds is concerned.

However, because the conferees did not wish to diminish the level of assistance for existing special projects below the level of funds obligated last fiscal year, we provided in section 112(a) that the reservation—or set-aside—of funds would only take effect, in the words of the joint explanatory statement of the conference committee—

> Only if new dollars are added to section 304 funding for special projects and demonstrations above the amount obligated for such projects from appropriations under the vocational rehabilitation act in fiscal year 1973.

Mr. President, I ask unanimous consent that there be set forth in the Record at this point the full statement from the joint explanatory statement with respect to this matter, followed by the full text of section 112 of the Public Law.

There being no objection, the material was ordered to be printed in the Record, as follows:

Report Language From the Joint Explanatory Statement of the Conference Committee on the Rehabilitation Act of 1973

(1) [The amount set aside is to be up to $1.5 million, but not less than $500,000 for FY 1974, and up to $2.5 million, but not less than $1 million for FY 1975, but funds authorized to carry out this program will be made available only if new dollars are added to section 304 funding for special projects and demonstrations above the amount obligated for such projects from appropriations under the Vocational Rehabilitation Act in fiscal year 1973. It is the understanding of the Conferees that no funds will be taken from other sections to pay for client assistance projects and that the level of funding of existing programs under section 304 will not be reduced to provide funding for those projects.]

Rehabilitation Act of 1973

Public Law 93–112

CLIENT ASSISTANCE

Sec. 112. (a) From funds appropriated under section 304 for special projects and demonstrations in excess of an amount equal to the amount obligated for expenditure for carrying out such projects and demonstrations from appropriations under the Vocational Rehabilitation Act in the fiscal year ending June 30, 1973, the Secretary shall set aside up to $1,500,000, but no less than $500,000 for the fiscal year ending June 30, 1974, and up to $2,500,000 but no less than $1,000,000 for the fiscal year ending June 30, 1975, to establish in no less than 7 nor more than 20 geographically dispersed regions client assistance pilot projects (hereinafter in this section referred to as "projects") to provide counselors to inform and advise all clients and client applicants in the project area of all available benefits under this Act and, upon request of such client or client applicant, to assist such clients or applicants in their relationships with projects, programs, and facilities providing services to them under this Act.

(b) The Secretary shall prescribe regulations which shall include the following requirements:

(1) No employees of such projects shall be presently serving as staff or consultants or receiving benefits of any kind directly or indirectly from any rehabilitation project, program, or facility receiving assistance under this Act in the project area.

(2) Each project shall be afforded reasonable access to policymaking and administrative personnel in State and local rehabilitation programs, projects, and facilities.

(3) The project shall submit an annual report, through the State agency designated pursuant to section 101, to the Secretary on the operation of the project during the previous year, including a summary of the work done and a uniform statistical tabulation of all cases handled by such project. A copy of each such report shall be submitted to the

appropriate committees of the Congress by the Secretary, together with a summary of such reports and his evaluation of such projects, including appropriate recommendations.

(4) Each State agency may enter into cooperative arrangements with institutions of higher education to secure the services in such projects of graduate students who are undergoing clinical training activities in related fields. No compensation with funds appropriated under this Act shall be provided to such students.

(5) Reasonable assurance shall be given by the appropriate State agency that all clients or client applicants within the project area shall have the opportunity to receive adequate service under the project and shall not be pressured against or otherwise discouraged from availing themselves of the services available under such project.

(6) The project shall be funded, administered, and operated directly by and with the concurrence of the State agency designated pursuant to section 101.

Mr. CRANSTON. Mr. President, I have been informally advised by representatives of the Department of Health, Education, and Welfare that its interpretation of section 112(a) is that unless the amount appropriated for special projects for this fiscal year exceeds the VRA special projects obligation level for fiscal year 1973 by at least $500,000, the law does not require that any funds be set aside to carry out client assistance projects in accordance with section 112.

Mr. President, that plainly was not the intention of the conferees. I am not aware of any valid legislative history to support that interpretation, and I wish to state here and now that our interpretation is that when it is finally determined—hopefully in the immediate future—exactly what is that level of fiscal year 1973 obligations, the Secretary is then required by the provisions of section 112(a) to set aside all amounts in excess of that dollar amount up to $500,000 for fiscal year 1974—and up to $1 million from amounts appropriated from fiscal year 1975—to establish client assistance projects. In other words, if the surplus of that level is only $50,000 or $250,000 or $450,000, that amount, up to $500,000, is the amount which the Secretary is required by law to set aside to carry out section 112.

In light of this requirement in the authorizing legislation, would not the appropriate course for HEW, as soon as the fiscal year 1973 level of obligations for special projects under the VRA is finally determined, be for the Department to submit to the Appropriations Committees of the Congress a plan for reprograming the moneys within the $14.7 million—the budget request amount—already approved by the House and included in the act as reported from the Senate Appropriations Committee, among the items identified in the budget justification under special projects, including those for developmental disabilities, in order to allocate to client assistance projects, within that $14.7 million, the $500,000, or such lesser amount, as may be required to be allocated for that purpose in accordance with section 112(a) of the authorizing law, as we have just discussed?

Mr. MAGNUSON. This committee certainly does not wish to subvert the intent of the authorizing legislation. When all the facts are known and HEW gets its books straightened out, we would be willing to consider whatever reprograming proposal HEW would send forward in order to meet the requirements of law.

Mr. STAFFORD. Mr. President, I wish to join in the explanation and colloquy which has just taken place and express to the Senator from California, with whom I was pleased to work so closely on the Rehabilitation Act, that I fully agree with all he has said on this matter today. I also want to state to the Department that I trust that they will come up with their final fiscal year 1973 obligation figure as quickly as possible, and will advise all of us exactly what that final figure is.

Mr. DOLE. Mr. President, I wish to indicate my support for the bill and comment briefly on several aspects of the legislation which I believe are important.

ENERGY RESEARCH AND ALLOCATION

The appropriation included in the bill for energy research and fuel allocation programs are vital and timely. Once Congress completes action on the emergency energy legislation and the measures are signed into law, it is important that we be able to implement the newly authorized programs promptly. We are headed into the months of greatest hardship as far as the fuel shortage is concerned, and I feel it is important that we have both the authority and the necessary resources available to adequately deal with the problem. Therefore, I feel it is important that these funds be made available now so that the time consuming legislative appropriation process will not prevent the implementation of a necessary program during the coming winter months.

The funds necessary to establish within the Office of Petroleum Allocation an additional 1,302 positions so that the office can better handle current mandatory and voluntary fuel allocation programs. In Kansas, the regional petroleum allocation office has been swamped with requests and inquiries regarding the program. The calls have been so numerous that the minimal staff has not been able to adequately respond. Although I am hopeful that a large bureaucracy is not needed to administer the program, I do believe that adequate staffing is essential so that proper liaison between Federal officials and the public can be maintained, and I am hopeful that these funds will be utilized for this purpose.

EMERGENCY MEDICAL SERVICES

Provisions of chapter 4 of the bill appropriate $20 million to carry out provisions of the emergency medical services bill recently signed into law. In addition, $7 million from the regular 1974 appropriation bill are to be reprogramed to carry out provisions of the new act. I have strongly supported the emergency medical service legislation and feel the program can provide much needed assistance for communities across the country that wish to develop an emergency medical service system. The program is particularly important to rural communities who often must travel great distances to receive emergency medical care.

During Senate debate on the authorization bill, the Senate accepted three amendments I offered to strengthen provisions of the bill which provided specific consideration for rural areas. These amendments were included in the bill as it was signed into law and provide for a special 20-percent set-aside of funds for rural areas, HEW technical assistance to rural communities to help in the development of the EMS system, and a special research emphasis on the unique problems of emergency medical service delivery in rural areas. I trust these provisions of the law will be given due consideration in the allocation of the funds provided in this appropriation bill.

VOCATIONAL REHABILITATION

Finally, I wish to express strong support for the provision in the bill which provides funds for the vocational rehabilitation programs authorized under the Rehabilitation Act of 1973. The committee bill appropriates $650 million for basic State grants, $29 million for innovation and expansion grants, $8.3 million for training services, nearly $30 million for research activities, and $15.5 million for rehabilitation service manpower training programs.

I must admit some concern over the administrative actions which have been taken with regard to the Rehabilitation Act of 1973. A Commissioner of the Rehabilitation Services Administration has yet to be appointed and program guidelines for the newly authorized programs have not been developed. I am hopeful that prompt action may be taken on both these matters so that the funds made available for vocational rehabilitation under the bill may provide assistance to the millions of Americans across the country who are in need of these services.

REHABILITATION ENGINEERING RESEARCH

I would also briefly like to mention a special interest which I have in funding for the research and training programs authorized under the Rehabilitation Act of 1973. This program provides special emphasis during the next 2 years for rehabilitation engineering research. United Cerebral Palsy of Kansas in conjunction with Wichita State University has a grant application pending to do research in machine aid work modification to develop greater employment opportunities for the severely handicapped. The results of this research effort will be beneficial in terms of employment possibilities for handicapped individuals, who up to this time have not been considered employment potential.

I am hopeful that the funds made available under the legislation will permit funding of this project and others across the country like it in the very near future.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I have discussed this matter with the distinguished Senator from Wisconsin (Mr. PROXMIRE), and we are of the opinion that, since this matter will be in conference and since there is some dispute over the nature of the claim, the fact of the matter being that my protest here related to one of the parties in a joint venture and the concern the Senator from Wisconsin had was in the prime contractor situation, it might be better to take it to conference and within the next 24 hours or so get whatever facts we need. We do not want to do anything to defraud the Government. We do not want any claim allowed improperly. But I think I am fair in saying what the Senator has in mind is that he feels if the company to which he referred, the Donovan Co., has a legitimate case, he would not want legislation that he or others have sponsored deny relief to those who have legitimate claims.

The Senator might wish to comment.

Mr. PROXMIRE. Yes. I am happy to work with the Senator from Minnesota in the way he has described it. This matter was only called to our attention after we had already gone to full committee on this bill, and we were sitting in full committee when it was called to my attention by a member of my staff and a member of the staff of the Senator from California (Mr. CRANSTON) that the VA had acted only within the preceding 24 hours. We got notice at the last minute. The House did not know about it at the time. The General Accounting Office came down with an extraordinarily strong report against proceeding with this payment.

I presented the matter to the committee, and it unanimously agreed with my position that the claim should not be paid without a thorough audit. However, at that time we did not have a breakdown on the degree of involvement of the Donovan Corp., which is another corporation from the company originally handling the contract. On the basis of the information the Senator from Minnesota has shown to me, there was a strong case for payment of the claim. The claim holdup seems to be based on action on another corporation investigated by the General Accounting Office.

Under those circumstances, I think there might be a miscarriage of justice if we just proceeded without the considerations that the Senator from Minnesota has properly brought to our attention. It possibly could be unfair to the Donovan Co. We do not know. We do not have all the facts. We intend to get them before we complete the conference.

At the same time, I think it would be a mistake to resolve this now. As the Senator from Minnesota says, we might have a situation in which the Government would be deprived of funds and a hospital in Los Angeles would be unfairly affected.

Mr. HUMPHREY. Mr. President, I think the point that needs to be made is that one of the main concerns is that if we permit them to be paid under present law, the funds would be taken out of the existing Veterans' Administration appropriation, which could slow down the construction of another hospital somewhere—in this instance the Woodward Hospital, I believe, in California.

Mr. PROXMIRE. Mr. President, in addition to that, if the payment were made, the Government would lose $2,200 a day in interest.

Mr. HUMPHREY. No. If the claim is not paid, the Government would lose $2,200 a day in interest.

Mr. PROXMIRE. In other words, the Government could lose $2,200 a day in interest if the claim is not paid.

Mr. HUMPHREY. The Senator is correct.

Mr. President, I do not want to delay the Senate. I have had a very good conversation about this matter with the prime mover of the amendment. Obviously, the Senator from Wisconsin is thoroughly right in this. I said so before the Senator arrived on the floor to discuss this matter.

I did not want to see action taken in the Senate that would deny a firm that is a good firm and that has a good reputation in its performance in settlements of its claims. If the claim is proper, and I think it is, the Senator will be able to work it out in conference.

I am willing to let it stand at that in conference.

I thank the Senator from Wisconsin.

VA CONTRACT SETTLEMENT NEGATED BY LANGUAGE IN SUPPLEMENTAL BILL

Mr. PROXMIRE. Mr. President, as the Senator from Minnesota has indicated, the supplemental appropriations bill contains language prohibiting the Veterans' Administration from using appropriated funds for a contract settlement in the absence of an independent audit and congressional approval of the settlement.

So that Senators can have some understanding of why this language was included in the bill I will explain the events leading up to my decision to propose such language to my colleagues on the Senate Appropriations Committee.

Before I do so, however, I want to pay tribute to Senator ALAN CRANSTON, who, as chairman of the Subcommittee of Health and Hospitals, has been most directly involved in the monitoring and investigation of the contract I am about to refer to.

On November 1 the Veterans' Administration made a $10.3 million contract settlement with Blackhawk Heating & Plumbing and Donovan Construction Co. arising out of the construction of a 480-bed hospital at Northport, Long Island, N.Y.

The General Accounting Office has been looking into this settlement and has cited the following deficiencies:

One. No audit of the contractor's claim was performed prior to the settlement agreement as required by the Federal procurement regulations;

Two. Many elements of the contractor's claim are on their face dubious;

Three. There was a substantial difference of opinion concerning the settlement within the Veterans' Administration, with knowledgeable individuals supporting settlement figures less than half of that reached; and

Four. In all six appeals under this contract decided by the Veterans' Administration Contract Appeals Board the contractor's claims were denied—including a number of substantial items apparently included in the settlement—and 13 others were dismissed with prejudice. In no case was the contractor upheld.

On the basis of this GAO report I, as chairman of the HUD-Space-Science-Veterans Subcommittee objected in a letter to the VA Administrator Johnson to the reprograming of funds to pay the claim until Congress had considered these in a supplemental budget request. Apparently, Representative BOLAND, my counterpart in the House, did the same.

Despite this request, I was informed yesterday in a letter from VA Adminis- claim would be paid "in the immediate future." He stated that otherwise the Government would be liable for interest payments of $2,200 a day.

However, article 8 of the agreement with the contractor reads as follows:

> Article 8: The government's obligation hereunder is contingent upon the availability of appropriated funds from which payment in full can be made.

The committee added the following language to the supplemental bill, so that the Veterans' Administration will not incur these interest charges:

> No funds appropriated in this or any other Appropriation Act for any fiscal year shall be used to make a settlement of any construction contract by the Veterans Administration in an amount which has not been audited independently as to the reasonableness and appropriateness of expenditures and which has not been provided for specifically in an Appropriations Act.

I ask unanimous consent that correspondence between my office and the Veterans' Administration on this matter as well as certain correspondence involving the offices of Senators HARTKE and CRANSTON together with General Accounting Office comments and the VA's response be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS' ADMINISTRATION,
Washington, D.C., November 15, 1973.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on HUD-Space-Science-Veterans, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is to advise you of the reprogramming of funds related to the increased cost of the 480 bed hospital project at Northport, New York due to the settlement of contractor claims in an amount of $10,300,000. The contractor claims relate to costs incurred by the contractor which are attributed to changes in the building site and drawings specifications. We have determined that it is in the best interest of the government that the claims arising on this construction contract be settled through negotiation.

This settlement action will increase the cost of this project from $20,046,000 to $30,346,000. Funds previously identified for the Wadsworth (Los Angeles), California hospital project will be used to effect this settlement since the Los Angeles construction contract will not be ready for award until FY 1975. The replacement of these funds will be requested in a future appropriation estimate.

Sincerely,

Donald E. Johnson,
Administrator.

Veterans' Administration,
Washington, D.C., November 15, 1973.
Hon. Vance Hartke,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: There is enclosed, for your information, a copy of a letter addressed to William Proxmire, Chairman, Subcommittee on HUD-Space-Science-Veterans, United States Senate, concerning the reprogramming of funds to provide for settlement of contractor claims on the new Veterans Administration Hospital, Northport, New York. Similar letters were sent to Edward P. Boland, Chairman, Subcommittee on HUD-Space-Science-Veterans, House of Representatives; W. J. Bryan Dorn, Chairman, Committee on Veterans' Affairs, House of Representatives; and ranking minority members of the two concerned Subcommittees.

I believe the letter to Chairman Proxmire adequately describes the present situation.

Sincerely,

Donald E. Johnson,
Administrator.

Committee on Veterans' Affairs,
Washington, D.C., November 21, 1973.
Hon. William Proxmire,
Chairman, Subcommittee on Housing and Urban Development, Space, Science, Veterans, Committee on Appropriations, Washington, D.C.

Dear Bill: Pursuant to discussions between our staffs, I am writing with respect to the November 19, 1973, letter to the Administrator of Veterans Affairs from the General Accounting Office regarding its study, being performed pursuant to my August 24, 1973, request, of all alleged VA construction contract irregularities, and regarding in particular the VA's November 1, 1973, settlement of Contract No. V1006C–673 entered into on June 29, 1967, with Blackhawk Heating & Plumbing Company, Inc., and Donovan Construction Company. A copy of this letter is to be supplied directly to you today, at my request, by the G.A.O. I am enclosing a copy of that letter in the event it has not yet reached you.

The G.A.O. has raised some very serious questions about this settlement which I believe must be answered satisfactorily before any reprogramming of funds is allowed to go forward to pay the $10.3 million settlement amount, such as is proposed in the Administrator's November 15 letter to you. At this point, in view of the seriousness of the G.A.O.'s questions, it seems to me that a very complete investigation of, and probably public hearings on, this matter are necessary to develop the full facts and to justify this settlement. I am sure you will agree that it would be desirable for the public to have the opportunity to evaluate the efficacy and appropriateness of the justification for a final settlement of a $16.3 million construction contract for some $14 million in excess of the original contract amount, particularly where completion was delayed more than twice the original prescribed work period, where the VA's Board of Contract Appeals had already denied or dismissed with prejudice 19 claims involving substantial amounts apparently included in the settlement figure, where no pre-settlement audit of the claim was performed as to the reasonableness and necessity of the amounts claimed, and where the contractor's books were never made available to the VA for examination.

Thus, I urge you to advise the Administrator not to proceed with any proposed reprogramming of funds to effect this settlement. As a collateral matter, I want you to know of my serious concern about the proposal in the Administrator's November 15 notification letter to you, to use "funds previously identified for the Wadsworth (Los Angeles), California hospital project . . . to effect this settlement *since the Los Angeles construction contract will not be ready for award until 1975.*" (Emphasis added.) As you know, the construction of this replacement hospital was planned to proceed on an emergency basis after most of the then existing structure was declared seismically insecure in January, 1972. In my opinion, this project has already been held up far too long, and I will be looking into this matter further in the weeks ahead. I hope you will do so as well. In this connection, I wrote the Administrator on September 17, 1973, expressing my concerns about the already substantial delay in this project up to that point, and I am enclosing for your information a copy of that letter and the Administrator's October 26, 1973, response, which I do not find satisfactory.

I have discussed this matter fully with Senator Hartke, Chairman of the full Senate Committee on Veterans' Affairs, who concurs in this letter and is today writing the Administrator urging that he not proceed with the proposed reprogramming of funds.

Thank you for your continuing cooperation with me and the Subcommittee.

With best regards.

Sincerely,

Alan Cranston,
Chairman, Subcommitte on Health and Hospitals

U.S. General Accounting Office,
Washington, D.C., November 27, 1973.
Hon. William Proxmire,
Chairman, Subcommittee on HUD, Space, Science, Veterans, Committee on Appropriations, U.S. Senate.

Dear Mr. Chairman: Enclosed for your information is a letter to the Administrator of Veterans Affairs requesting information concerning a contract settlement in the amount of $10.3 million with the Blackhawk Heating and Plumbing Company, Inc., and the Donovan Construction Company. This letter is being sent to you at the request of the Chairman of the Subcommittee on Health and Hospitals, Senate Committee on Veterans' Affairs, who has asked our Office to make a study of alleged contract irregularities.

We are also forwarding a copy of the enclosed letter to the Chairman of the Senate Committee on Appropriations.

Sincerely yours,

Gregory J. Ahart,
Director.

U.S. General Accounting Office,
Washington, D.C., November 19, 1973.
Hon. Donald E. Johnson,
Administrator of Veterans' Affairs, Veterans' Administration.

Dear Mr. Johnson: As you know, this Office has been asked by the Chairman of the Senate Veterans' Affairs Subcommittee on Health and Hospitals to conduct a study of alleged contract irregularities involving certain Veterans Administration (VA) contractors, including Blackhawk Heating & Plumbing Company, Inc. In this connection, we understand that the VA entered into contract No. V1006C–673 on June 29, 1967, with the Blackhawk Heating & Plumbing Company, Inc. and Donovan Construction Company (hereinafter called "the Contractor") a joint venture for the construction of a 480 bed hospital and for other work, to be performed at the VA Hospital, Northport, Long Island, New York. The original contract completion date, November 16, 1969, was extended from time to time by change orders and time extensions, and the contracted work was accepted by the VA on June 1, 1972.

We further understand that the original contract amount as bid was approximately $16.3 million. Due to change orders during the course of the contract, there was a net increase of about $1.6 million making a total contract amount on October 31, 1973, of approximately $17.9 million.

Numerous claims under this contract were submitted to the VA by the Contractor, and 30 separate appeals under the contract were filed with the VA Contract Appeals Board. As of October 3, 1973, 6 of these appeals had been denied by the Board, 13 were dismissed with prejudice, 2 were dismissed without prejudice, and 9 were pending.

On January 18, 1971, the Contractor submitted a consolidated claim of approximately $15.6 million. After $1.5 million of that amount was granted through a unilateral change order approved on May 21, 1971, the Contractor submitted a revised claim on a total cost basis in the amount of approximately $16.5 million on September 19, 1972.

The revised claim consisted only of an eight-page written summary of problems encountered by the Contractor over the contract period, a balance sheet and statement of the Contractor's income certified by an accounting firm, and six one-page schedules summarizing amounts claimed for overhead, profit and interest for the extended contract period. On October 31, 1972, the Contractor submitted an 11-page breakdown of his claimed costs. Ten months later, on August 31, 1973, the Contractor submitted a further revised claim in the amount of approximately $18.5 million.

On November 1, 1973, a final settlement agreement between the Contractor and the VA was executed for $10.3 million. Among other things, the settlement agreement provides that: (1) the agreement is a settlement of all claims, disputes and appeals arising under the contract; (2) the Contractor agrees to a Government audit of his books and records to verify the claimed contract total costs; and (3) the Contractor can dispute, under the disputes clause of the contract, determinations by the Government that actual costs are less than those claimed. Eight million dollars of the settlement price is to be paid within 40 days after the settlement date, and the remainder, less that determined to be in excess of the Contractor's cost and subject to dispute, is to be paid within 90 days. Finally, the settlement provides that the Government's obligation is contingent upon the availability of appropriated funds from which payment in full can be made.

In the process of reviewing the negotiation procedures leading up to the November 1, 1973, settlement, as well as the settlement itself, our auditors have raised a number of questions that we would like to submit for your consideration. The questions are as follows:

1. To our knowledge, no audit by a Government agency of the Contractor's claim was performed prior to execution of the settlement agreement. Except where audit resources are unavailable, such an audit is required by the Federal Procurement Regulations (FPR), section 1–3.809. The only provision for waiver of this requirement in the FPR pertains to audits conducted prior to negotiation of a contract when the contracting officer finds it clear that information already available is adequate for the proposed procurement. FPR 1–3.809(b)(1)(i). This situation appears to fall outside of the waiver provision, and in any event, we find no evidence that either adequate information was already available or that the contracting ficre executed a waiver and documentation in support thereof.

We understand that the Contractor consistently refused to provide detailed substantiation of his claim, or to allow inspection of his books, until the Government had entered into a settlement agreement. However, on October 11, 1973, the VA Contract Appeals Board ordered the Contractor to permit a general audit of his books and records relating to an appeal (VACAB–998) under this contract. The amount claimed in that appeal was a substantial portion of the settlement amount.

What is the justification for failing to audit the Contractor's claim prior to settlement?

2. We understand that the Contractor used a total cost method of computing his claim, demonstrating only the difference between his costs and the contract amount, and that the Contractor was not required to establish Government liability and reasonable and allowable costs for each element of his claim. The FPR provides for the use of a total cost basis of settlement in cases where a construction contract is terminated for the convenience of the Government, provided that the contracting officer finds it impractical or impossible to determine actual costs, and provided that the total amount payable to the contractor, exclusive of settlement costs, does not exceed the total contract price. FPR 1–8.307–2, 1–8.308, and 1–18.802–3. This method has been approved judicially in equitable adjustments only when it is (j) impossible or highly impractical to determine actual costs with a reasonable degree of accuracy, (2) the claimant's bid was realistic, (3) the actual costs were reasonable, and (4) the Contractor was not responsible for the added expenses. See *WRB Corporation* v. *U.S.*, 183 Ct. Cl. 409, 426, and cases cited therein. We have found no evidence that any of these conditions were met in this case.

What is the justification for use of the total cost method as a basis for the settlement?

3. We understand that not only were the Contractor's costs not substantiated, but that the Contractor had not attempted to show the Government's liability through a legal analysis. Was such an analysis made prior to entering into the $10.3 million settlement?

4. We further understand that there were other circumstances concerning this claim that would indicate a thorough analysis and audit of the claim should have been performed prior to any settlement.

For example:

The Department of Justice is currently investigating allegations that the Contractor violated the False Claims Act, 31 U.S.C. 231–235, in submissions of claims to the VA in connection with this contract, and a prior contract for construction of a VA hospital in Hines, Illinois.

Many elements of the Contractor's claimed costs that were broken out separately are on their face of dubious allowability. These include overhead and profit for delays for strikes, overhead and profit for time after the work was accepted and for which compensation had already been made; interest on Contractor's working capital during time of contract extension; claims by subcontractors that include unpaid portions of the original contract amount; amounts attributable to differences between the Contractor's own figures and those of his auditors; and attorney's fees.

There was a substantial difference of opinion concerning the settlement within the VA, with knowledgeable individuals supporting settlement figures less than half of that reached.

In all six appeals under this contract decided by the VA Contract Appeals Board, the Contractor's claims were denied. In addition, 13 other claims were dismissed with prejudice by the Board. It is our understanding that these claims are now included in the settlement amount.

An analysis of the Contractor's progress reports by the VA showed that 46 out of 60 reports indicated insufficient labor, 41 out of 60 reports indicated poor organization and management, 13 out of 60 reports indicated unsatisfactory equipment status, 15 out of 60 reports indicated unsatisfactory material status, and 39 out of 60 reports indicated unsatisfactory work progress.

Are these facts correct?

We would appreciate a response to this letter within 2 weeks. Should you have any questions, please feel free to contact me.

We are forwarding copies of this letter to the Veterans' Affairs Appropriations Committees of the Senate and the House of Representatives.

Sincerely yours,

Gregory J. Ahart,
Director.

Committee on Veterans' Affairs,
Washington, D.C., November 21, 1973.
Hon. Donald E. Johnson,
Administrator, Veterans' Administration,
Washington, D.C.

Dear Mr. Johnson: Yesterday I received your letter dated November 15th (with an attached copy of your letter to Senator Proxmire, Chairman of the Subcommittee on HUD–Space-Science-Veterans) informing me of your intention to reprogram funds in the amount of $10,300,000 in settlement of contractor claims arising from the hospital project at Northport, New York.

I am also in receipt of a copy of a letter addressed to you from the General Accounting Office dated November 19, 1973 which raises most serious questions concerning the propriety of the contract settlement for which reprogramming funds are intended.

Given the important questions presented by the General Accounting Office, I believe it would be most inappropriate to proceed with any reprogramming until you have personally provided a thorough, complete, and satisfactory response to each of the questions and points raised in that letter.

Pursuant to fulfilling the Committee's general legislative oversight responsibilities as well as the specific request of the Chairman of the Subcommittee on Health and Hospitals, we would appreciate promptly receiving a copy of any response by you to the General Accounting Office as well as being informed in advance of any intended further action by the Veterans' Administration concerning settlement of the contract claims in question.

Sincerely,

Vance Hartke,
Chairman.

November 26, 1973.
Hon. Alan Cranston,
Chairman, Subcommittee on Health and Hospitals, Committee on Veterans' Affairs, Washington, D.C.

Dear Alan: Thanks for your letter on the reprogramming of funds for the satisfaction of a contract settlement reached between the Veterans Administration and the Blackhawk Heating and Plumbing Company, Inc., with regard to the Northport hospital.

I completely concur in your approach to the reprogramming request. I have informed the VA that I will not approve such a reprogramming at this time. In fact, I believe that in any event the money should not be provided unless it has been requested in supplemental or regular appropriations legislation and has received Office of Management and Budget endorsement.

I'm delighted to know that we are of one mind on this matter.

Warmest regards.

Sincerely,

William Proxmire,
U.S. Senator.

November 30, 1973.
Hon. Donald E. Johnson,
Administrator of Veterans Affairs,
Veterans' Administration,
Washington, D.C.

Dear Mr. Johnson: This acknowledges your letter of November 15th wherein you request that $10,300,000 of funds appropriated for the hospital project at Wadsworth (Los Angeles), California be used to settle the contractor's claim in connection with the 480-bed hospital project at Northport, New York.

In view of the inordinate amount of the cost overrun on the Northport Hospital project and, further, in view of the very serious questions raised by the General Accounting Office concerning the propriety of this contract settlement, I cannot in good conscience approve your reprogramming request.

Before any funds are released to satisfy the contractor's claim, I believe the Congress should have the opportunity to have all the facts in connection with the Northport Hospital contract and, in particular, those relating to the huge overrun. Consequently, I urge you to submit a supplemental request for funds through the proper channels in order to satisfy the aforesaid claim.

Sincerely,

William Proxmire,
U.S. Senator, Chairman, Subcommittee on HUD, Space, Science, and Veterans.

Veterans' Administration,
Washington, D.C., December 4, 1973.
Hon. William Proxmire,
Chairman, Subcommittee on HUD-Space-Science-Veterans, Washington, D.C.

Dear Mr. Chairman: There is enclosed for your information a copy of my response to the letter dated November 19, 1973, of the Director, Manpower and Welfare Division of the General Accounting Office, regarding the settlement of the claims arising under our contract of June 29, 1967, with the Blackhawk Plumbing & Heating Company and the Donovan Construction Company, a joint venture, for the construction of a 480-bed hospital at Northport, Long Island, New York.

Sincerely,

Donald E. Johnson,
Administrator.

Veterans' Administration,
Washington, D.C., December 4, 1973.
Hon. Elmer B. Staats,
Comptroller General of the United States,
Washington, D.C.

Dear Mr. Staats: This will respond to the letter of Mr. Gregory J. Ahart, Director of your Manpower and Welfare Division, dated November 19, 1973, concerning our contract with the Blackhawk Heating & Plumbing Company, Inc., and the Donovan Construction Company, a joint venture, for the construction of a 480-bed hospital at Northport, Long Island, New York, let on June 29, 1967.

Mr. Ahart's letter sets forth several questions for my consideration and reaction. As preamble to these questions, he correctly noted that the Contractor's final revised claim was in the amount of $18.5 million, and that the final settlement agreement between the Contractor and the VA was for $10.3 million, which amount is subject to a Government audit of the Contractor's books and records to verify his claimed total costs under the contract, $2.3 million being withheld until such is completed.

On attachments to this response, Mr. Ahart's questions are restated in the order of their appearance in his letter, followed by my answers. I also wish to offer the following general observations concerning his letter.

First, I was somewhat surprised that the questions presented by Mr. Ahart appear to be predicated on conclusions reached after developing very limited views of a highly complex situation. They do not appear to take into account in any way the views of those whose opinion was that this settlement was fair and advantageous to the Government, nor do they reflect the Contractor's point of view.

Second, it is my conviction—supported by my General Counsel—that we are not dealing here with a case of "contract irregularities" (as implied in the opening sentence of Mr. Ahart's letter), rather we are dealing with a case of *contract modifications* requested by the Government, not by the Contractor.

In that connection, an important aspect of the negotiations leading up to the Northport settlement not covered in Mr. Ahart's letter is the fact that in its written claim and in oral presentations, the Contractor has strenuously argued that the performance which was required by the Veterans Administration was not essentially the same work that the parties bargained for and, hence, the changes ordered were not within the scope of the contract. It is our understanding that the Government is not entitled to use or employ the "Changes" clause to change the nature of a contract. If the Government orders changes beyond the scope of the contract, a breach on the part of the Government will be deemed to have been committed. This is sometimes referred to as a "cardinal change." Whether or not a cardinal change would be found by the Court of Claims involves some speculation. However, if the Court did so hold, the Contractor would be in a much better position with respect to damages to which he would be entitled. Among the damages which the Court of Claims has paid for breach of contract by the Government are:

a. Costs of labor, material and overhead;

b. Increased costs of operations;

c. Profit on equitable adjustment to which the Contractor is found to be entitled;

d. Damages for increased costs to subcontractors;

e. Loss of profits; and

f. Interest as a part of compensation for changes.

It is interesting to note, with respect to the Contractor's potential for a breach of contract claim, the recent decision of the United States Circuit Court of Appeals for the 8th Circuit in the case of *Peter Keiwit Sons' and Co.*, v. *Summit Construction Co.*, 422 F. 2d 242. Here the Court held that in determining whether there had been a substantial change in the scope of a Government construction contract, it is proper to consider the original estimate of what the performance would cost and what the work actually did cost. The Court found that an increase of 300% in the cost of backfilling and 50% in the cost of performance of the entire subcontract were sufficient to show that the changes ordered were not within the scope of the contract and that, hence, there had been a breach of the contract.

Under all of these circumstances, we felt that it was imperative to settle if a reasonable settlement could be reached.

Please be assured that should you desire further information or advice concerning this matter, we will cooperate to the fullest extent. In fact, I welcome your investigation because I am confident that you will reach the conclusion as I have that the settlement was to the advantage of the Government and was inherently fair both to the Government and to the Contractor. The potential ligitative value of the claims as they might be worth in the Board of Contract Appeals and the Court of Claims with respect to the damaging evidence of Government deficiencies and hundreds of changes, the effect of the inter-meshing of the claims with each other, and the fact that in order to complete the project the Contractor was required to borrow large sums of money far in excess of the working capital it had raised in the beginning for performance of the original work more than adequately support this conclusion. I sincerely believe that the amount of settlement fairly satisfies the Court of Claims standard as being a corrective measure "utilized to keep a contractor whole when the Government modifies a contract."

Sincerely,

DONALD E. JOHNSON,
Administrator.

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1. Why no audit by a Government agency of the Contractor's claim was performed prior to execution of the settlement agreement?

It is important to note that at the time this contract was let, the procurement regulations did not require any kind of audit or examination of records clause in fixed price construction contracts and none was included in the contract. In fact, the matter of the Government's right to audit has been one of the substantive matters which have been in dispute, and although the Board of Contract Appeals did grant the Government's motion for an audit and for extended discovery, there is no provision in the Board's rules nor is there any other means or precedent for enforcement of the Board's order.

It should be pointed out that FPR 1–3.809 provides that a contract audit is to be used as a pricing aid "to the fullest extent appropriate." Thus, the regulation contemplates that where compelling reasons exist it need not be used as a pricing aid. As a part of its claim, the Contractor submitted an audit which had been conducted and certified by a public accounting firm. The figures shown in this audit were accepted provisionally subject to verification by the Defense Contract Audit Agency pursuant to generally accepted accounting principles. If the contract costs shown in the Contractor's CPA audit are not correct, the Veterans Administration Contracting Officer has the authority to reduce the amount of settlement "by such amount as he deems proper." Under these circumstances, the use of the Contractor's certified audit as a pricing aid and a document from which to negotiate was considered appropriated and within the purview of the regulation.

2. What is the justification for use of the total cost method as a basis for the settlement?

Concerning the use of the total cost method as a basis for settlement, we believe that the circumstances of this case satisfy the three criteria of the *WRB Corporation* case cited in your letter. Even if this were not so, our review of the cases in the Court of Claims indicates that this is not the only test used by the Court. The cases show that the Court of Claims has taken the realistic approach, acknowledging that under certain circumstances it may be justifiable to utilize the total cost method as a "tool" in arriving at a fair and equitable adjustment. The dicta from the *WRB Corporation* case paraphrased in your letter does not indicate that the position taken by the Court in other prior cases where the total cost method had been accepted has been overruled. Moreover, in the *WRB* case the Court rejected the total cost approach to a larger extent because there was difficulty in precisely determining damages due to the Contractor's unjustifiable failure to maintain accurate cost records during performance. Notably lacking in the *WRB* case were the serious design deficiencies and the hundreds of changes which, from the outset, plagued the Northport Contractor and deprived it of the opportunity to plan or schedule its work with any degree of regularity. In support of its decision, the Court of Claims, in the *WRB* case, cited a Veterans Administration case, *J. D. Hedin Construction Co., v. U.S.*, 171 Ct. Cl. 70 (1965), in which the Court accepted and used the total cost method. Referring to other cases wherein the total cost method had been used, the Court said:

"We are aware that we have on a number of occasions expressed our dislike for this method of computing breaches of contract damages, and we do not intend to condone its use as an universal rule. However, we have used this method under proper safeguards where there is no other alternative, since we recognized that the lack of certainty as to the amount of damages should not preclude recovery. Oliver-Finnie Co., v. United States, 279 F. 2d 498, 150 Ct. Cl. 189 (1960): MacDougald Construction Co. v. U.S., 122 Ct. Cl. 210 (1952); Great Lakes Dredge & Dock Co., v. U.S., 96 F. Supp. 923, 119 Ct. Cl. 504 (1951), cert. denied 342 U.S. 953, 72 S. Ct. 624. 96 L. Ed. 708 (1952)."

Thus, the genesis of the total cost method is inseparably connected with the rule that the amount of damages need not be ascertained with mathematical certainty to sustain an award in the Contractor's favor. In *Hedin*, the Court of Claims went on to say:

"Plaintiff on prior occasions had successfully constructed a number of large projects for the Veterans Administration. Plaintiff has established the fact that it performed additional work. Moreover, the responsibility of defendant for these damages is clear. The only possible method by which these damages can be computed is by resort to the total cost method. Under such circumstances, as stated earlier, we think that the Government should not be absolved of liability for damages which it has caused, because the precise amount of added costs cannot be determined."

In our efforts to reach a fair and reasonable settlement figure, consideration was given to the fact that the cumulative, overlapping, and interlocking nature of the changed work and the extra work was such as to make it impossible to assign detailed costs to the specific changes. There is certainly no reason, therefore, why the over-all costs of performance should not have been considered since (1) the Contractor was experienced in the field, (2) the changes and the Government deficiencies did seriously affect over-all performance, time, and cost, and (3) the costs could not be assigned with accuracy to specific causes. Under such circumstances, judgment had to be utilized to an unusual extent, and was utilized in arriving at what we would consider to be a modified or limited actual cost approach. The agreement, itself, reflects that the settlement was based upon the Contractor's actual costs which, as previously stated, we conditionally accepted subject to verification by the Defense Contract Audit Agency.

3. Was a legal analysis made prior to entering into the $10.3 million settlement?

Of course, we did consider all legal aspects of the claims during the course of negotiations. The Northport disputes were being considered under the "Disputes" clause of the contract and they are by the very nature of the disputes procedure limited to questions of fact. The legal right of the Contractor to claim under the "Changes" clause, the "Changed Conditions" clause, and the "Suspension of Work" clause has never been questioned by anyone associated with the Northport claims. The sole issue has been the amount of the equitable adjustment to which the Contractor is entitled. It is well accepted that questions of law are considered in disputes procedure only when they are necessary to a determination of the facts, and even then such questions of law are not considered final in subsequent judicial proceedings concerning the same matters. No such questions of law have been raised by either of the parties to the Northport disputes.

4. a. In response to your question concerning the Justice Department's investigation of the Contractor arising out of alleged violations of the False Claims Act in submission of claims to the Veterans Administration, we are not aware of any investigation regarding claims filed in connection with the Northport contract. However, with regard to a claim presented by the same Contractor in connection with the construction of the Veterans Administration Hospital, Hines, Illi-

nois, information received from the Department of Justice indicates that, some two years ago, the presentation of all pertinent facts and evidence to the Grand Jury in Chicago resulted in a failure on the part of the United States Attorney to obtain a criminal indictment. This same evidence is now being considered in connection with the possibility of a civil proceeding against the Contractor. We informed the Department of Justice of our negotiations with the Contractor concerning the Northport disputes and, following a two-hour conference with the Justice Department's Attorney handling the case, we were advised that the Chief of the Frauds Section of the Civil Division of the Department of Justice had no objection either to our entering into settlement agreement or to payment of the settlement price in full if such an agreement were reached.

b. The interpretation to be placed on your inquiry concerning elements of the claim that you identify as broken out separately and are allegedly "on their face of dubious allowability," is not entirely clear to us. Nevertheless, please be advised that the settlement was not negotiated on the basis of the matters you question. Furthermore, even if such errors or irregularities escaped our attention, they would be revealed during the course of the extensive audit now being conducted by the Defense Contract Audit Agency. Insofar as it has been possible to break down the various elements of the settlement into categories, we have found that there were five general areas: reinforcing steel and concrete; relocation of the building; extra brickwork; extra mechanical work; extra electrical work; and about 10% for various other claims still pending before the Contract Appeals Board or awaiting decision of the Contracting Officer.

c. While there may have been so-called "knowledgeable" individuals within the Veterans Administration supporting settlement figures less than half of that reached, their opinions were predicated upon the belief that the Government would prevail in the Board of Contract Appeals and in the Court of Claims in virtually all of the pending disputes with the Contractor. We realize, of course as you must, that in a matter as complex as this there is room for many different opinions. There were equally knowledgeable individuals who advised me that settlement in the amount of $10.3 million dollars was the best course to follow under the circumstances. It also needs to be kept in mind that the ultimate figure might even be less than $8 million if costs are not verified by the Government auditors.

d. We recognized, as you pointed out, that six appeals were denied by the Board of Contract Appeals and 13 other claims were dismissed with prejudice. However, none of these was considered as a part of the negotiations leading up to settlement or in the settlement itself. Any attempt to evaluate the effect of these claims on the total cost of performance is purely conjectural and an attempt to estimate their dollar value requires an even greater degree of conjecture.

e. The progress reports mentioned in your letter do reflect the evaluations placed upon the status of the work by the resident engineer. It might be sufficient to point out that these reports are unilateral and subjective evaluations written by the resident engineer and that they reflect the state of mind of the writer as much as they indicate the factual situation. It is important to point out the views of the Veterans Administration Board of Contract Appeals regarding the relationship that existed between the Government and the Contractor in VACAB 664 et al, the *Manhattan* case, which involved a contract with the Blackhawk Heating and Plumbing Company, the managing partner of the joint venture during the time when most of the claims arose. The Board said:

"It is apparent from the correspondence between the parties that has been made a part of the record, and from the testimony received at the hearing, that during the progress of the job there developed a certain degree of antagonism between Appellant and some of the Government's representatives at the site . . The record suggests a tendency on Appellant's part to overclaim and a tendency on the part of the Government's first and second Resident Engineers to initially refuse to recognize that a problem brought to their attention by Appellant was created by any error or deficiency in the plans or that its solution would require a contract change. This undoubtedly led to mistrust that precluded the degree of practical cooperation between the parties that would have been necessary to expedite progress on this difficult job. It also aggravated the potential for dispute. . . ." (pg. 16–17)

In the same case, speaking of the probative value of progress reports, the Board observed:

"The Government's Monthly Progress Reports, prepared by the Resident Engineer on a form designed for that purpose, and that state a percentage of completion at the end of each month, are based upon the total of time extensions that had been granted as of the end of each month and upon the value of work in place, computed for partial payment purposes in relation to initial estimated cost schedules and the contract price. *Under the circumstances here, we find that we must regard them as inconclusive, so far as default status or prospective default status at any given time is concerned, and of no substantial value as evidence of the contract time required or available for performance of the remainder of the work.*" (page 7)

"The Contract Progress Report for that time [Ex. A–102] shows the project as 89.9% complete, with work in place valued at $3,648,000; but, as we have previously observed, such evaluations are based on the values of installed work as related to estimated cost breakdowns and *are unrealistic as to actual time or proportions*, except for the general indication." (page 327) (Emphasis supplied)

VETERANS' ADMINISTRATION,
Washington, D.C., December 10, 1973.
Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on HUD, Space, Science, Veterans, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This has reference to your letter of November 30, 1973, wherein you expressed concern as to VA's proposed reprogramming of funds to settle claims in connection with construction of the Northport, New York, hospital.

Part of your concern was based on questions raised about the settlement by the General Accounting Office in its letter of November 19 to me. I feel that I satisfactorily answered those questions in my response of December 4, a copy of which I sent to you.

On the larger issue raised in your letter, I am fully in accord with your thoughts that funds for specific construction projects should not be diverted for claims of this nature and that, where otherwise appropriate, a supplemental request should be submitted for review by the concerned Congressional committees. I assure you that this will be my guideline for all such future claims. Furthermore, I am actively seeking to develop a monitoring system to foreclose the possibility of claims of such magnitude (in relation to the original contract) arising in the future. In this regard, I welcome any assistance or suggestions from your Committee and its staff.

In the Northport case, however, negotiations had been under way for many months by the time of our appropriations hearings, and since then I have received numerous requests from Members of the Congress to bring the matter to an early settlement. By mid-October I earnestly believed that circumstances had progressed to a point where further delay would have jeopardized chances for agreement on a settlement which would be fair both to the Government and to the contractor.

Thus, on November 1, with due consideration of all views expressed within the Agency, the VA entered into an agreement with the principals for settlement of claims amounting to approximately $18.5 million, for a figure not to exceed $10.3 million, with the final amount contingent upon an audit of the contractor's records by the Department of Defense's Contract Audit Agency (DCAA). Of the outside amount, it was agreed VA would pay $8 million by today's date and—if warranted by the audit—to pay the remainder 90 days after November 1, 1973.

On December 7, I was advised by DCAA's Branch Manager assigned to this task that "it is our opinion that payment of $8,000,000 to the joint venture as authorized by Article 7B of the settlement agreement between the parties dated November 1, 1973, can reasonably be made.'

Commencing today, if we do not make this payment, interest charges of nearly $2,200 per day must be paid under the agreement. I, therefore, deem it in the best interest of the Government to proceed in the immediate future with orderly and substantial fulfillment of the terms of the settlement agreement.

I will keep you fully informed as to DCAA's additional audit findings as they are made available to me.

Sincerely,
DONALD E. JOHNSON,
Administrator.

VETERANS' ADMINISTRATION,
Washington, D.C., December 10, 1973.
Hon. VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reference to your letter of November 21, 1973, relative to VA's settlement of claims arising from the hospital project at Northport, New York.

I have previously furnished you a copy of my response to the November 19 letter from the General Accounting Office. I am herewith providing you a copy of my letter of this date to Senator Proxmire.

On December 7, I was advised by DCAA's Branch Manager assigned to this task, that "it is our opinion that payment of $8,000,000 to the joint venture as authorized by Article 7B of the settlement agreement between the parties dated November 1, 1973, can reasonably be made."

Commencing today, if we do not make this payment, interest charges of nearly $2,200 per day must be paid under the agreement. I, therefore, deem it in the best interest of the Government to proceed in the immediate future with orderly and substantial fulfillment of the terms of the settlement agreement.

Sincerely,
DONALD E. JOHNSON,
Administrator

NORTHPORT, N.Y. HOSPITAL CONSTRUCTION CONTRACT SETTLEMENT

Mr. CRANSTON. Mr. President, I would like to draw to the attention of my colleagues what I consider to be a most distressing situation regarding the settlement of a contract dispute by the Veterans' Administration.

As a result of a request that I made, as chairman of the Veterans Affairs Subcommittee on Health and Hospitals, to the General Accounting Office to investigate certain contract irregularities, cost overruns, and procurement procedures, the GAO uncovered certain questions regarding one particular settlement which appeared on its face, to be highly irregular. Due to the nature of the settlement entered into on November 1, 1973, by the VA with the Blackhawk Plumbing and Heating Co., and the Donovan Construction Co., the GAO felt it necessary to raise immediately with the VA certain very serious questions regarding apparently irregular practices or incomplete documentation to justify the $10.3 million settlement which was agreed upon.

Consequently, on November 19, 1973, a letter was sent to the VA Administrator from the GAO asking for clarification of these points that had been raised, and copies of the letter containing those questions—as I had requested—was transmitted to the House and Senate Committees on Veterans' Affairs, as well as the House and Senate Appropriations Committees.

Mr. President, Chairman PROXMIRE earlier today inserted into the RECORD the chronology of correspondence between us and between the General Accounting Office and the Administrator, as well as letters from Senator HARTKE and the Comptroller General and my remarks now are made in reference to this correspondence.

Mr. President, the Administrator was informed by my good friend and colleague, Mr. PROXMIRE, chairman of the Subcommittee on HUD, Space, Science and Veterans of the Appropriations Committee, in a November 30, 1973, letter, following my November 21 letter to Mr. PROXMIRE that Mr. PROXMIRE, due to the inordinate amount of the cost overrun of this project and the very serious questions raised by GAO, could not approve of the reprograming request.

Despite these serious concerns and the concerns expressed by the chairman of the Committee on Veterans' Affairs (Mr. HARTKE) in a letter to the Administrator on November 21, 1973, Mr. PROXMIRE and Mr. HARTKE were informed on December 10 that the VA intended to go forward with payment of the initial $8 million allegedly stipulated by the settlement agreement.

Mr. President, I view this as an extremely unfortunate decision on the part of the Administrator due to what I consider to be his unsatisfactory response to the questions raised by the GAO and by the concerns raised by Mr. PROXMIRE, Mr. HARTKE and myself. Because my concerns over the cost overruns and serious differences in legal opinion—including sharp disagreements within the VA's own General Counsel's Office and Construction Service—regarding the propriety of the settlement, yesterday I conferred with Chairman PROXMIRE regarding this matter. As a result of those consultations, and in consultation with Chairman HARTKE, who shared our very serious concern, amendment No. 882 to H.R. 11576, the "Supplemental Appropriations Bill, 1974," was offered by Mr. PROXMIRE and accepted by the Committee on Appropriations. This amendment prohibits funds appropriated to the VA to be used to make a settlement of any contract by the VA, which has not been audited independently to determine the reasonableness and appropriateness of the settlement amount, and which amount has not specifically been included for that express purpose in an appropriation act.

Mr. President, it should be noted that the VA Administration in his December 10 letter agreed to this general procedure insofar as budget request justification was concerned. He just did not want to apply it in this settlement.

Mr. President, it is my understanding that a final analysis of the Administrator's response to the GAO will be made available in the very near future—hopefully within a matter of days. It is also my understanding that the Civil Division of the Department of Justice has asked that the VA not proceed to disburse funds under the settlement.

Mr. President, I am sure that my colleagues join me in my grave concern over the appropriateness of reprograming funds—in a way expressly disapproved by the Appropriations Committee—especially when these funds were originally obligated by the VA for the construction of a hospital vitally needed to provide modern medical care to thousands of our Nation's disabled veterans, and when the reprograming of those funds will be used to pay a contract claim under serious question, in connection with an entirely different matter, and thus result in a further delay in, and probably an inflated cost for, the construction of that hospital.

I have requested the Comptroller General to expedite his final evaluation of the VA's reply to its very serious initial questions.

Mr. BAYH. Mr. President, I wish to express my thanks to the distinguished chairman of the Labor-HEW Appropriation Subcommittee (Mr. MAGNUSON) and the very able ranking minority member (Mr. COTTON) and commend them for their work on chapter 4—the section relating to the Departments of Labor and Health, Education, and Welfare.

This is the chapter that—as the distinguished Senator from Washington has already so succinctly and compassionately stated—provides for human needs of our citizens. I have been supportive of all of the Senate action on this chapter, which provides increased support for vital domestic needs in the area of health, education, employment, and rehabilitation of the disabled.

Two programs in particular—the part-time job program authorized under title IX of the Older Americans Act and the increased funding for maternal and child health programs—are of especial interest to me because I was one of those who proposed these amendments. As the chairman has indicated, these funds would be used by the States to provide part-time public service jobs to older Americans over age 55. Over 5 million older Americans are in poverty, but only 1.7 percent of existing manpower training funds are going to train and retrain these workers. Because of the failure of existing manpower training programs, Congress has enacted title IX of the Older Americans Act, and chapter 4 of the supplemental provides $40 million to implement this program.

At this point I ask unanimous consent to place in the RECORD a table showing the State-by-State distribution of the $40 million included in chapter 4 to implement provisions of title IX of the Older Americans Act.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TITLE IX, OLDER AMERICANS ACT OF 1965, AS AMENDED—DISTRIBUTION OF FUNDS BY STATE

Alabama	$623,187
Alaska	197,500
America Samoa	98,750
Arizona	302,874
Arkansas	422,882
California	3,433,493
Colorado	348,363
Connecticut	533,500
Delaware	197,520
District of Columbia	197,500
Florida	1,640,189
Georgia	725,756
Guam	98,750
Hawaii	197,500
Idaho	197,500
Illinois	2,070,811
Indiana	915,415
Iowa	$598,008
Kansas	462,559
Kentucky	611,560
Louisiana	591,250
Maine	203,212
Maryland	601,896
Massachusetts	1,140,862
Michigan	1,452,456
Minnesota	717,035
Mississippi	411,255
Missouri	990,878
Montana	197,500
Nebraska	312,538
Nevada	197,500
New Hampshire	197,500
New Jersey	1,346,980
New Mexico	197,500
New York	3,715,917
North Carolina	823,492
North Dakota	197,500
Ohio	1,876,282
Oklahoma	536,097
Oregon	418,013
Pennsylvania	2,409,471
Puerto Rico	343,531
Rhode Island	195,000
South Carolina	387,058
South Dakota	197,500
Tennessee	726,700
Texas	1,885,984
Trust Territories	98,750
Utah	197,500
Vermont	197,500
Virginia	724,775
Virgin Islands	98,750
Washington	606,728
West Virginia	362,859
Wisconsin	848,634
Wyoming	197,500
National Office Administration	500,000
Total	40,020,000

Mr. BAYH. Mr. President, chapter 4 of the bill also includes $30,105,000 for maternal and child health. This includes intensive care units for newborn infants, services for crippled children, and maternal and infant care.

This program is this Nation's major effort to combat infant mortality. Despite our affluence, this Nation ranks 16th among the developed nations in infant mortality. I think this is a national disgrace. Infant children are needlessly dying in this country, and the amendment proposed by the Senate committee will do something to improve this situation.

Mr. President, I ask unanimous consent to place in the RECORD at this point a table showing the State-by-State allocations and distributions of these funds for maternal and child health included in the bill.

There being no objection, the table was

ordered to be printed in the RECORD, as follows:

Maternal and child health 1974 supplemental

State	*1974 supplemental allocation*
Alabama	------
Alaska	44, 900
American Samoa	101, 200
Arizona	-------
Arkansas	354, 500
California	164, 100
Colorado	-------
Connecticut	-------
Delaware	366, 900
District of Columbia	-------
Florida	-------
Georgia	859, 800
Guam	90, 300
Hawaii	-------
Idaho	268, 700
Illinois	----------
Indiana	2, 143, 300
Iowa	1, 442, 300
Kansas	125, 600
Kentucky	1, 629, 100
Louisiana	646, 500
Maine	635, 400
Maryland	----------
Massachusetts	----------
Michigan	----------
Minnesota	148,800
Mississippi	2, 087, 800
Missouri	----------
Montana	109, 000
Nebraska	----------
Nevada	3, 000
New Hampshire	268, 500
New Jersey	1, 496, 100
New Mexico	166, 600
New York	----------
North Carolina	3, 399, 100
North Dakota	463, 200
Ohio	----------
Oklahoma	748, 400
Oregon	413, 000
Pennsylvania	605, 400
Puerto Rico	----------
Rhode Island	17, 500
South Carolina	1, 877, 700
South Dakota	513, 900
Tennessee	1, 913, 500
Texas	----------
Trust Territory	217, 900
Utah	827, 500
Vermont	350, 400
Virgin Islands	----------
Virginia	1, 464, 300
Washington	901, 100
West Virginia	865, 400
Wisconsin	2, 235, 800
Wyoming	138, 000
Total United States	30, 104, 500

Mr. HATFIELD. Mr. President, as a member of this committee, I wish to commend the chairman and the ranking member for the leadership they provided in reporting the bill to the floor. It is a good, balanced proposal, and I hope that positions where we differed with the House will be sustained in conference.

I wish to call attention to a few particular items of interest to me. First, I wish to thank the committee for accepting our proposal to add $1.6 million for the tussock moth. Of this, some $1.36 million will be earmarked for timber salvage and rehabilitation, and $239,000 for forest insect disease research. I have spoken many times on the floor about the tussock moth and the havoc it has caused in the Northwest.

I know the Senators from Washington, Senators MAGNUSON and JACKSON, share this concern as the moth damage spreads into Washington. In fact, Senator MAGNUSON joined as a cosponsor of this amendment. I also want to call attention to report language that indicates our committee will give a sympathetic ear to supplemental budget requests to administer DDT, if EPA finally sees the light and approves its use to combat further devastation.

In addition, I was pleased to see inclusion of language directing the Corps of Engineers to accelerate work on the Siuslaw jetty study at Florence by the Corps of Engineers. There is terrible shoaling occurring now, and I believe the $40,000 earmarked for this should be used as soon as possible by corps personnel.

The committee also adopted the provision lifting the moratorium on upgrading and rehabilitating hopper dredges. In the 16 months of the moratorium on hopper dredge repairs, it has caused further problems in the smaller Oregon ports, where hopper dredges are the only ones that can work. I ask unanimous consent that this section of our committee report appear at this point in the RECORD.

Also, Mr. President, I think it was wise of the committee to add language in the report tightening up the language we inserted in this year's appropriations bill regarding the exports of logs from Federal lands. It has been brought to our attention that some people are taking logs, often large peeler logs, and cutting them a few times lengthwise, binding them up—often so they look like the original log—and exporting them. I hope the Secretaries of the Interior and Agriculture will see that this is stopped.

I repeat that I think this is a good bill, and represents a balanced approach to the many budgetary requests our committee considered.

Mr. KENNEDY. Mr. President, I want to commend the chairman of the committee, and the chairman of the Labor-HEW Subcommittee for their consideration of vital measures affecting the elderly and affecting health service contained within the supplemental appropriations bill.

I testified for the funding of title IX of the Older Americans Comprehensive Services Amendments of 1973 along with William Hutton, executive director of the National Council of Senior Citizens, and John Martin, president of the American Association of Retired Persons.

I am pleased that the committee has acceded to the request I made to include $40 million for title IX as it did in the regular 1974 Labor-HEW appropriations bill.

Unfortunately, the conference committee deleted that provision, because it could not consider all of the manpower appropriations requests at that time. However, it is my understanding that the procedural impediment now has been removed. Appropriations for the manpower programs are made at the level of the current continuing resolution.

Therefore, I would hope that this provision would remain unchanged in the conference. Let me add that in the discussion within the Senate-House conference on the authorizing legislation, we agreed to accept a reduced level of authorization, from $100 to $60 million on the understanding that the administration would accept that level of expenditure for this type of community service employment for older Americans.

It is my understanding that the committee has agreed to a level of approximately $20 million for the Operation Mainstream programs related to the older workers. By accepting the $40 million appropriation level for title IX, we could operate this program at a reasonable level this first year and then hopefully expand it in the upcoming fiscal year.

In that regard, I would note that the current level of unemployment for older workers remains high and the prospect in the near future as a result of the energy crisis is for additional unemployment. We know all too well from past experience that when unemployment rises, as it is expected to as a result of the energy shortage, the first ones to be fired and the last to be rehired are the older workers.

I believe this program is essential and I would urge the conferees to retain it at the $40 million level.

Mr. President, I also urge the Senate to approve the $7,800,000 supplemental appropriation for the National Science Foundation. These funds are urgently needed to enable the Foundation to aid the Nation in meeting the energy crisis. Of the total, $6 million would go directly for energy programs. And the remaining $1.8 million would go for science and technology policy studies and additional staff, much of which would also contribute to the Nation's attack on the energy problem.

The funds would be specifically allocated as follows: $2.5 million for energy research and development policy studies; $1 million for national science and technology policy; $2.2 million for energy conversion; $900,000 for automotive propulsion—with direct impact on the energy problem; $400,000 for international cooperative energy program; and $800,000 for program development and management.

The National Science Foundation has long been a leader in the fields of solar energy, geothermal energy, and many areas of advanced research and technology that can contribute significantly to the solution of the Nation's energy problem. The fiscal year 1974 National Science Foundation Authorization Act, which I was privileged to manage in the Senate specifically authorized $40 million for energy research and technology programs. The act also included a stipulation that not less than $25 million could be spent for such programs, because of the administration's record of impounding energy research funds in prior years, including two-thirds of the amount authorized for solar energy in fiscal year 1973.

I am pleased to note the administration's belated recognition of the importance of these advanced energy research and technology programs, and urge the Senate to approve this urgently needed supplemental appropriation.

SENATOR RANDOLPH SUPPORTS SUPPLEMENTAL APPROPRIATIONS BILL—REHABILITATION PROGRAM IS HELPED

Mr. RANDOLPH. Mr. President, I express appreciation for the rapidity and vigor with which the members of the Committee on Appropriations has undertaken the development of the supplemental appropriations bill, I particularly thank the chairman of the Labor-HEW Subcommittee, the Senator from Washton (Mr. Magnuson).

Included within the pending measure are appropriations for the Federal-State vocational rehabilitation program. This marks the first time that appropriations have been legislated pursuant to the Rehabilitation Act of 1973.

As chairman of the Subcommittee on the Handicapped which developed this important act, I submitted, with Senator Stafford, ranking minority member of the subcommittee, a statement supporting funding of the various programs of the Rehabilitation Act at a level more commensurate with the need than that proposed in the President's amended budget.

I am gratified that the committee agreed with several of the recommendations set forth in the joint statement. In particular, I commend the Members for providing $658 million for basic program services, rather than the $615,870,000 that was requested. I am also encouraged that research funding is recommended at a level of $25,596,000, instead of the lower request figure of $20,596,000. Training funds have been adopted at a level of $15,572,000. The administration had asked for a phaseout budget of $8,130,000. Committee members agreed with Senator Stafford and me that training should continue to be funded.

As chief sponsor in the Senate of the Rehabilitation Act, I have become familiar, as has Senator Stafford, with the needs of handicapped individuals for rehabilitation services. I know what the program funding levels should be. Although the pending supplemental appropriation measure does not meet the need in all respects, it is a helpful beginning, and a reasonably good one. I support the supplemental appropriations act, H.R. 11576, as amended by the Senate committee.

Mr. President, I ask unanimous consent that the joint statement submitted by Senator Stafford and myself on funding under the Rehabilitation Act of 1973 be inserted at this point in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT STATEMENT OF SENATOR JENNINGS RANDOLPH AND SENATOR ROBERT T. STAFFORD

Mr. Chairman and Members of the Committee on Appropriations, you currently have under consideration a measure in which we have a deep and abiding interest and concern. As Chairman and ranking minority, member of the Subcommittee on the Handicapped we, along with the other members of the Committee, were responsible for the development and enactment of the Rehabilitation Act of 1973.

The Rehabilitation Act was signed into law just two months ago, on September 26. Although it is not as ambitious as we would have liked, it is nonetheless good legislation which the President found acceptable.

As representatives of the Committee which developed this authorizing legislation, we urge you to provide funding at the levels specified therein for we consider those levels to be the minimum necessary for effective improvement in the Federal-State rehabilitation program. In this connection, we note that the revised budget request for fiscal year 1974 is disappointingly low in a number of respects. Following is a discussion of each of the program areas for which funds were authorized under P.L. 93-112, the Rehabilitation Act of 1973, including our recommendations and justifications therefor.

TITLE I—GRANTS FOR BASIC VOCATIONAL REHABILITATION SERVICES

The Administration has requested appropriations for $615,870,000 for Basic Vocational Rehabilitation Services for fiscal year 1974, compared to the minimum authorized of $650 million. As we have indicated time and again, dollars for rehabilitation are the best investment of Federal funds that can be made. They return many times the investment in terms of income improvement, tax payments, welfare roll reductions, and most important, productive and independent workers who happen to have handicaps. Studies have varied in their determination of the ratio of benefits to costs of rehabilitation. Some estimates range as high as 75 to 1 for certain groups. The Department of Health, Education, and Welfare accepts a highly conservative ratio of 3 to 1. Even at that low estimate, three dollars will be returned for every dollar of cost to the program. We can hardly afford to scrimp on an investment of that kind. In addition, there is a large population of some 10 million handicapped individuals who are probably rehabilitatable, but who have not as yet been touched by the program. The more such individuals that can be reached, the better for them and for the Nation.

TITLE I—INNOVATION AND EXPANSION GRANTS

The request for this program is $29 million, plus $1 million for a study of the need for comprehensive services for individuals with the most severe handicaps. The authorizing legislation provides for $37 million for innovation and expansion grants, of which $1 million is to be earmarked for the study. This may be compared to an expenditure under section 4(a)(2)(A) of the replaced Vocational Rehabilitation Act of $41.8 million in fiscal year 1972, an initial budget request level of $49.35 million for fiscal 1973, and a revised 1973 request of $35.86 million. The minimum recommended for FY 1974 under the authorizing legislation is thus lower than the 1972 operating level, and comparable to the revised request for 1973. There is no justification for reducing funding levels in this important area, particularly with additional emphases in the new law on services to those with the most severe handicaps and to others, including the poor, with unusual or difficult rehabilitation problems.

TITLE II—RESEARCH

New emphasis on appropriate research, the establishment of Rehabilitation Research and Training Centers, Rehabilitation Engineering Research Centers, spinal cord injury research, endstage renal disease research, and international exchange for rehabilitation research, all demonstrate the importance placed on the research function by Congress under the Rehabilitation Act of 1973. The budget request of $19,996,000 falls short of the absolute minimum of $25 million we believe is necessary to initiate these new activities. Earlier measures, which were adopted by Congress but were vetoed by the President, had far higher authorization levels. As we indicated in the Senate Report on S. 1875, the measure from which P.L. 93-112 evolved,

"There is no question that in order to carry out the research program envisioned by the Committee, a tremendous increase in knowledge, innovative methods, devices and techniques will be needed."

We believe that nothing less than a major effort must be expended in order that technology be fully exploited in aiding handicapped individuals to overcome their disabilities.

TITLE II—TRAINING

The request for training funds before this Committee is $8,130,000. The budget justification states that this amount is to be applied toward the termination of training grants for rehabilitation. It is said that funds are available for this purpose through basic opportunity grants in existing education legislation. Training grants under the rehabilitation program, however, cannot be equated with the usual education grant system. Under rehabilitation, funds are being used in part for institutional support as well as for student aid. Such support would be lost if the rehabilitation training program were phased out. Schools would not be able to retain the faculty necessary to provide training of the magnitude necessary to improve and expand the provision of rehabilitation services. A reduction in training, which would be inevitable under the Administration's phase-out proposal, would ultimately result in the drying up of rehabilitation services. As we indicated in our Committee reports, there is a great shortage of skilled rehabilitation personnel at all operational levels, and in all professional categories. We also stated that—

"The Committee disagrees strongly with the Administration's announced policy of cutting back and eventually phasing out the training of rehabilitation personnel. The Committee finds this a short-sighted policy . . ."

The actual fiscal year 1972 spending level for training was $22.26 million. Both the original budget request and the revised request for FY 1973 put training at a level of $27.7 million. This, then—$27.7 million—is the minimum established through authorization for FY 1974 in the Rehabilitation Act of 1973.

TITLE III—VOCATIONAL TRAINING SERVICES

The provision for training services and maintenance payments to handicapped individuals undergoing rehabilitation was retained in the new Act with very few changes from section 13 of the Vocational Rehabilitation Act. It is a vitally important part of the rehabilitation process. The request for FY 1974 is $8.3 million. Although P.L. 93-112 authorizes the appropriation of such sums as may be necessary, a brief outline of legislative activity leading up to this enactment shows that more than this amount should be appropriated. The amount expended in FY 1972 for training services was $12.85 million. The original budget request for FY 1973 was $12.3 million, while the revised request equalled $10.3 million. The latter figure was the amount authorized under S. 1875 for fiscal year 1974. Again, in sympathy with the Administration's need to bring Federal expenditures under control, the Committee agreed to this minimum figure. To cut appropriations by an additional $2 million is not justified, in our opinion.

TITLE III—SPECIAL PROJECTS

The budget request for special projects appears on superficial examination to total $14.7 million, only $300,000 less than the authorizing Committee believed to be an appropriate minimum level of appropriation. A further reading of the budget justification shows, however, that of the $14.7 million requested, $12.5 million is for grant funds under the Development Disability Services and Facilities Construction Amendments of 1970. It is clearly not the intent of Congress, and was not the intent of the Committee in developing this legislation, that special project funds be used for development disabilities grants. We would not interpose objection to accounting and responsibility for the developmental disabilities program under the aegis of the Rehabilitation Act. But the two programs should not be confused and commingled as the Administration has done in its budget justification for special projects.

Therefore we strongly recommend that this Committee specifically provide $12.5 million for development disability grants, and an *additional* $15 million for special projects. In the rehabilitation legislation which preceded the compromise S. 1875, there were separate authorizing sections for services to older blind individuals, to individuals with spinal cord injuries, to deaf individuals who have not reached their maximum vocational potential, and to individuals suffering from endstage renal disease. All these categories except the last were combined in S. 1875 (and were so retained in P.L. 93–112) under section 304, special projects and demonstrations. What is more, client assistance projects under section 112, and aid to migratory agricultural workers are to be funded from section 304 appropriations. It should be quite apparent that few of these very important projects could be funded out of the $2.2 million which remained after the application of $12.5 million to the developmental disabilities program.

TITLE IV—OFFICE FOR THE HANDICAPPED; STUDIES

Although Administration representatives, in negotiating the compromise Rehabilitation Act agreed to a funding level of $500,000 for each of two years for establishing an Office for the Handicapped or the functions of such an office under section 405 of P.L. 93–112, they have requested only $200,000 for this purpose for FY 1974. We urge the Committee to provide for this important consolidating function at the full $500,000 level.

The Administration is asking for $375,000 for the conduct of the sheltered workshop study under section 406. We believe a funding level of $200,000 should be adequate. It has also requested $125,000 for a state allocation study under section 407. We would recommend a reduction to $50,000. The law provides no specific authorization level for either study. We do recommend that all studies and evaluations carried out under P.L. 93–112 be directed by a *single* office or individual to avoid waste, duplication, and overlap in program, funding, and hiring of consultants.

TITLE V—ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

One provision of the Rehabilitation Act of 1973 which we consider to be of great value and significance is section 502, the Architectural and Transportation Barriers Compliance Board. Yet we authorized a funding level of only $1 million for each of two years. The Administration's proposed FY 1974 appropriation of $300,000 would virtually assure that this potentially effective weapon against barriers to our handicapped population would be without force and ineffective. Many changes must be made in our public buildings, facilities, and transportation if handicapped individuals are ever to enjoy lives of mobility which approach those that most of us take for granted. To cast aside these barriers, a strong and vigorous enforcement arm must be established. Ways to improve laws and regulations must be investigated and brought to the attention of the President and Congress. We urge you to fully fund this urgently needed activity.

In conclusion, Mr. Chairman and Members of the Committee, we appreciate this opportunity to present our views on appropriate levels of funding for the Rehabilitation Act of 1973. The promise engendered by the enactment of that law can be fulfilled only if a commitment to its high purpose is demonstrated through the adoption of adequate appropriations.

Mr. McCLELLAN. Mr. President, if there are no other amendments, I ask for the third reading of the bill.

The PRESIDING OFFICER. If there are no further amendments to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 11576) was read the third time.

Mr. McCLELLAN. Mr. President, before we vote on the bill I want to take a moment of the Senate's time to thank each subcommittee chairman of the Appropriations Committee, who handled the respective chapters of the bill, and my distinguished colleague, the Senator from North Dakota (Mr. Young), the ranking minority member on the Appropriations Committee. I also want to express my gratitude to all members of the committee and members of the staff who worked on this supplemental bill and all of the other bills that we have had before the committee this year. Through their diligent efforts, it has been possible to move the business of the Senate forward efficiently and expeditiously.

The pending measure was received from the House on December 1, less than 2 weeks ago. It was reported to the Senate yesterday and will be ready for a third reading shortly. For this, I want to express my special appreciation and thanks to all those who helped on this bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Louisiana (Mr. Johnston), the Senator from Georgia (Mr. Nunn), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Idaho (Mr. Church) is absent on official business.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

I further announce that, if present and voting, the Senator from Georgia (Mr. Nunn) would vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Arizona (Mr. Goldwater) and the Senator from Michigan (Mr. Griffin) are necessarily absent.

The Senator from South Carolina (Mr. Thurmond) is necessarily absent because of death in his family.

The Senator from Ohio (Mr. Saxbe) is detained on official business.

If present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "yea."

The result was announced—yeas 90, nays 0, as follows:

[No. 575 Leg.]

YEAS—90

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Gravel
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—10

Bentsen
Church
Goldwater
Griffin
Johnston
Nunn
Saxbe
Symington
Talmadge
Thurmond

So the bill (H.R. 11576) was passed.

Mr. McCLELLAN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. McClellan, Mr. Magnuson, Mr. Stennis, Mr. Pastore, Mr. Bible, Mr. Robert C. Byrd, Mr. McGee, Mr. Proxmire, Mr. Montoya, Mr. Hollings, Mr. Young, Mr. Hruska, Mr. Cotton, Mr. Case, Mr. Fong, Mr. Hatfield, Mr. Stevens, Mr. Mathias, and Mr. Bellmon conferees on the part of the Senate.

UNITED NATIONS—COLLECTIONS AND ARREARAGES

Mr. HARRY F. BYRD, JR. Mr. President, with regard to the discussion on the United Nations which has been taking place for several days, I ask unanimous consent to have printed in the Record information showing those nations which are in arrears on their contributions to the United Nations.

The list shows that 68 members are in arrears on the regular budget, 62 members are in arrears on the United Nations Emergency Force Budget, and 54 nations are in arrears on the United Nations Congo Budget. Incidentally, the nation that has the largest sum in arrears is the Soviet Union.

There being no objection, the tabulation was ordered to be printed in the Record, as follows:

SUMMARY AS OF JAN. 1, 1973, COLLECTIONS AND ARREARAGES FOR 1972 AND PRIOR YEARS OF UNITED NATIONS ACCOUNTS FOR THE REGULAR BUDGET, WORKING CAPITAL FUND, EMERGENCY FORCE, AND THE CONGO[1]

BALANCE DUE, 1972 AND PRIOR YEARS, AS OF JAN. 1, 1973

Members (126)[2]	Regular budget	UNEF	UNOC	Total due
Afghanistan	17,808	29,499	37,603	84,910
Albania	79,611	45,299	43,602	168,512
Algeria		8,932		8,932
Argentina				
Australia		63,227		63,227
Austria				
Barbados				
Belgium		144,583		144,583
Bolivia	206,106	41,905	34,833	282,844
Botswana				
Brazil	1,434,359		248,838	1,683,197
Bulgaria	572,573	181,155	190,746	944,474
Burma				
Burundi	103,447	11,278	10,471	125,196
Byelorussian S.S R	863,630	911,964	1,357,881	3,133,475
Cameroon	72,957	1,689		74,646
Canada				
Central African Republic	182,335	2,256	6,589	191,180
Chad	151,825	8,385	9,832	170,042
Chile	353,941	165,903	224,847	744,691
China	481,161			481,161
Colombia	642,013			642,013
Congo	87,437	9,249	9,938	106,624
Costa Rica	72,422			72,422
Cuba	470,667	249,811	260,259	980,737
Cyprus				
Czechoslovakia	1,016,827	1,814,845	2,759,408	5,591,080
Dahomey	120,452	5,530	6,994	132,976
Denmark				
Dominican Republic	206,106	22,898	54,503	283,507
Ecuador	206,107	10,129	4,120	220,356
El Salvador	133,518	7,411	3,349	144,278
Equatorial Guinea	133,518			133,518
Ethiopia				
Finland				
France	4,452,507	765,655	17,031,152	22,249,314
Gabon	52,138			52,138
Gambia	84,421			84,421
Ghana	123,880			123,880
Greece				
Guatemala			38,209	38,209
Guinea	206,106	19,410	9,938	235,454
Guyana	70,624			70,624
Haiti	206,086	25,661	33,916	265,663
Honduras	97,547		5,677	103,224
Hungary	1,157,855	898,298	995,024	3,051,177
Iceland				
India	187,545			187,545
Indonesia				
Iran				
Iraq		100,407	22,362	122,769
Ireland				
Israel	115,845			115,845
Italy	237,235			237,235
Ivory Coast		1,689		1,689
Jamaica				
Japan				
Jordan	70,788	45,299	43,602	159,689
Kenya	70,788			70,788
Khmer Republic	9,456	1,689		11,145
Kuwait				
Laos	70,788			70,788
Lebanon		19,850	12,108	31,958
Lesotho				
Liberia				
Libya		1,689		1,689
Luxembourg				
Madagascar				
Malawi	4,845			4,845
Malaysia				
Maldives				
Mali	144,688	5,469	24,259	174,416
Malta				
Mauritania	100,755		17,215	117,970
Mauritius				
Mexico		679,491	786,193	1,465,684
Mongolia	39,457	12,387	17,215	69,059
Morocco				
Nepal				
Netherlands				
New Zealand				
Nicaragua	185,328		33,915	219,243
Niger	36,852	1,906		38,758
Nigeria				
Norway				
Pakistan	284,072			284,072
Panama	20,788	15,648	33,915	70,351
Paraguay	204,723	31,661	24,229	260,613
Peru	299,649	77,441	89,184	466,274
Philippines		15,632		15,632
Poland	1,428,821	2,528,364	2,466,010	6,423,195
Portugal	398,756		201,673	600,429
Romania	504,402	682,212	641,015	1,827,629
Rwanda		11,278	10,471	21,749
Saudi Arabia		74,890	69,487	144,377
Senegal	110,431	9,814	20,418	140,663
Sierra Leone	100,409	2,469		102,878
Singapore				
Somalia	138	11,191	17,445	28,774
South Africa	461,768	80,862	1,503,337	2,045,967
Spain		1,089,981	985,159	2,075,140
Sri Lanka				
Sudan		89,332	5,860	95,192
Swaziland	70,788			70,788
Sweden				
Syria	189,774	46,654	20,379	256,807
Tanzania	9,780			9,780
Thailand		9,026		9,026
Togo	76,401	16,174	25,324	117,899
Trinidad and Tobago				
Tunisia				
Turkey				
Uganda	77,934	9,589	10,471	97,994
Ukrainian S.S.R	2,385,599	3,476,580	5,185,697	11,047,876
Union of Soviet Socialist Republic	24,726,935	27,665,631	39,223,085	91,615,651
United Arab Republic		351,946	48,387	400,333
United Kingdom		283,300		283,300
United States		[3] 1,188,096		[3] 1,188,096
Upper Volto	90,221	19,936	14,145	124,302
Uruguay	392,603	54,388	97,662	544,653
Venezuela	725,581	32,298		757,879
Yemen (Aden)	70,788			70,788
Yemen (S'ana)	108,483	45,299	43,602	197,384
Yugoslavia		7,598	333,269	340,867
Zaire	1,000			1,000
Zambia				
Total	48,074,198	44,242,138	75,404,822	167,721,158
Members in arrears	68	62	54	87

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[1] Source: Information as of Dec. 31, 1972, supplied by the United Nations.

[2] Does not include the following admitted at the 25th and 26th sessions of the General Assembly: Bahrain, Bhutan, Fiji, Oman, Qatar, and United Arab Emirates.

[3] This amount is the difference between the original apportionment for 1967 and the amount paid by the United States toward its share of the revised estimates of 1967 costs.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The PRESIDING OFFICER. The Chair now lays before the Senate the unfinished business which the clerk will state.

The legislative clerk read as follows:

S. 1868, to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

LEGAL SERVICES CORPORATION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of Calendar No. 471, S. 2686.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

S. 2686, to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services Program from the Office of Economic Opportunity to a legal Services Corporation, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HELMS. Mr. President, I ask unanimous consent that all amendments now printed and submitted for the purpose of being offered to S. 2686, the Economic Opportunity Act of 1964, be considered as having been read in order to comply with the reading requirements of the provisions of rule 22.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, there have been several statements on this floor which have suggested that no hearings were necessary on this bill because it has been thoroughly examined and debated in other Congresses, that plenty of hearings were heard in the past, and no new issues were brought forward.

Frankly, Mr. President, I cannot understand this reasoning. We are in a new Congress. There are several Senators, myself included, who were not Members of this body during earlier discussion. The Senate is not bound by earlier decisions, particularly decisions which never passed into law. I think that all legislation should be thoroughly debated in the context of the present situation, not in the context of 2 or 3 years ago.

We all know that much more information about the operation of the present Legal Services program is available today than last year. The OEO itself, Legal Services included, is in a drastically different position than it was last year. We know that the administration tried very hard to reform the system and root out the abuses that have been present since its inception. In large part the reformers succeeded with regard to OEO, but although the grave deficiencies of the legal services program have been exposed for the first time, it will take statutory reform to bring about lasting changes in the program.

That is why I find it incredible that no hearings were held this year, not even to reassess the value of the present program. Here is a program that was in the newspaper headlines almost daily for several months, but no hearings were held before basic legislation changing the nature of the program was reported to this floor.

Certainly, there was plenty of time to hold hearings. The administration sent down its proposals in May. The House passed its version of the bill in June. Yet, no bill was reported by the Labor and Public Welfare Committee until November 9. The bill that was reported is a brand new bill that differs in many respects from the House bill, from the administration proposal, and from previous bills reported by that committee. I find it marvelous to behold that any committee can write a brand new bill without holding hearings.

It is well known that the Legal Services bill which was passed by the House differs in a most important, basic respect from the bill before us today. The House bill, H.R. 7824, is not an amendment to the Economic Opportunity Act. It is an independent bill. It proposes an act, setting up an independent Legal Services Corporation. When the House passed the bill and sent it over to this body, one would normally expect such a bill to be referred to the Committee on the Judiciary. After all, it contains provisions which will have an important impact upon our legal system. If I understand the proponents of the bill correctly, its main purpose is to have an important impact upon our legal system, the delivery of legal services, and the relationship between the bar and such delivery of legal services.

The Senator from North Carolina is not a lawyer, but it does seem to me that it would have been reasonable to submit such a bill to the Judiciary Committee for review and recommendations. The bill has nothing to do with the Economic Opportunity Act.

It is my understanding that the Parliamentarian was prepared to refer the bill to the Judiciary Committee, until unanimous consent was asked to refer it to the Committee on Labor and Public Welfare. Unanimous consent not being obtained, the House bill was thus allowed to lie on the table, where it has remained to this day.

That is my understanding of the legislative history. If I am wrong, I wish to be corrected. The bill that is before us today is a totally different bill. It has some superficial resemblance to the House bill, but it comes to us disguised as an amendment to the Economic Opportunity Act. The Judiciary Committee has never considered it, despite its impact upon the judicial system of this country.

The distinguished Senator from Tennessee (Mr. BROCK) and I introduced a totally different bill in June, which would also set up an independent Legal Services Corporation. But our approach is fundamentally different from any of the bills which have been considered thus far. It would bring the delivery of legal services to the poor into more intimate contact with the bar associations of each State and with the members of the legal profession. It would place the oversight of the delivery of legal services into the ordinary and proper legislative processes of Congress and the several States. It would be structured along the lines of the revenue sharing concept, allowing the States to design their own programs, according to their needs. The funds would be allocated to each State on the basis of need—that is to say, by the number of people that State has below the poverty line.

This is a proposal that needs much discussion. It is, in my judgment, a viable alternative that eliminates many of the difficulties that have brought controversy to the present proposal.

The Brock-Helms bill, S. 1990, was referred to the Judiciary Committee. No hearings have been held on the Brock-Helms bill, and I cannot fault the Judiciary Committee for that. Legal Services is a very complicated topic. As everyone knows, the Judiciary Committee, under the leadership of its able and distinguished chairman, has done a very commendable job with a whole series of difficult and controversial nominations and proposals. The committee has had an unusually heavy schedule in the past 6 months.

There has hardly been a moment when the Judiciary Committee has not been fully occupied with business that was under very tight and pressing deadlines. I will be the first to admit that there is no such deadline with the Legal Services program. The program can continue the way it is until Congress has time to act, and act properly.

This is all the more reason for us not to act in haste now. The proposed legislation should be properly studied and debated at leisure, with the deliberate processes of the Senate. There is no valid reason whatsoever for the injudicious haste which the proponents of this legislation are attempting to exert. It is totally unnecessary to take up the time of the Senate with this topic when we are already behind on our schedule, and many Senators will miss the opportunity to spend their Christmas holidays at home.

That is why I must emphasize that it is premature to pass this measure when no hearings have been held this year, and when the Judiciary Committee has not had the opportunity to study it and similar proposals together. I remind this body that there are many significant differences among these several proposals. I have prepared a summary that examines the four major proposals and points out these differences.

Mr. President, I ask unanimous consent that the comparison of the four proposals be printed in the RECORD.

There being no objection, the comparison was ordered to be printed in the RECORD, as follows:

COMPARISON AND ANALYSIS OF KEY PROVISIONS

Four proposals for the establishment of a Legal Services Corporation:

Plan A—The Administration Bill (ADMIN)/as announced May 15, 1973.

Plan B—The House Bill (HOUSE)/Passed 276-95 on June 21, 1973, H.R. 7824.

Plan C—The Senate Labor and Public Welfare Committee Bill (LPW)/S. 2686, as reported on November 9, 1973, with Report Language (93-495).

Plan D—The Brock-Helms Substitute (BROCK), S. 1990.

General notation.—In certain instances, prohibitions apply only to "staff attorneys" and do not cover para-professional and non-professional employees, such as community organizers.

PART 1. PREAMBLE

Plan A (Admin)—"To establish a Legal Services Corporation."

Plan B (House)—"To establish a Legal Services Corporation."

Plan C (LPW)—"To amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program" from OEO to "a Legal Services Corporation."

Plan D (Brock)—"Federal Legal Aid Corporation Act of 1973."

Analysis

As an amendment to the E.O.A., the LPW Committee plan would place oversight responsibility for the new Corporation with the Senate Committee on Labor and Public Welfare, giving that Committee exclusive authority to confirm appointees to the Corporation Board. Under the language of the three other proposals, oversight would lie with the Senate Judiciary Committee.

PART 2. DEFINITIONS

Plan A (Admin)—includes as "State," the fifty states, D.C., Puerto Rico, Virgin Islands, Guam, "or any of the territories and possessions of the United States." "Legal assistance" means the "provision of any legal services under this Act."

Plan B (House)—specifically adds as "State" American Samoa and the Trust Territority of the Pacific Islands. "Legal Assistance" means the "provision of any legal services under this Act."

Plan C (LPW)—specifically adds as "State" American Samoa and the Trust Territority of the Pacific Islands. "Legal Assistance" is broadened to intend not merely "legal advice and representation," but also "other appropriate legal services consistent with the purposes and provisions of this title";

Plan D (Brock)—"State" is limited to mean the fifty states, D.C., and Puerto Rico. No specific definition of "legal assistance" is set forth.

Analysis

Unlike the Administration proposal and Brock-Helms, both the House and LPW Committee versions specifically provide for programs in American Samoa and in our United Nations Trusteeship in Micronesia. The effect is to "lock in" the controversial Micronesia Legal Services Program.

PART 3. STATEMENT OF PURPOSE AND "FINDINGS"

Plan A (Admin)—None.

Plan B (House)—None.

Plan C (LPW).—"The Congress finds and declares . . . there is a need . . . to continue the present vital legal services program . . . to preserve the strength of the legal services program it must be insulated from political pressures; and (6) lawyers providing such services must have full freedom . . ."

Plan D (Brock).—Accessibility of the "institutions of government" to all. Court dispensed justice should inherently be available "regardless of race, religion, sex, national origin, or personal wealth."

Analysis

The LPW Committee version seeks, through its "statement of findings and declaration of purpose" to establish a statutory prejudice in favor of all presently-funded activities and to negate restrictions on lawyer activities which may be found elsewhere in the bill.

PART 4. CORPORATION STATUS

Plan A (Admin)—"established in the District of Columbia a private nonmembership non-profit corporation . . ."

Plan B (House)—"established in the District of Columbia a private nonmembership non-profit corporation . . ."

Plan C (LPW)—"established in the District of Columbia a private nonmembership nonprofit corporation . . ."

Plan D (Brock)—"a nonmembership nonprofit corporation chartered by the Congress . . ."

Analysis

Only the Brock-Helms plan provides for a Federal charter. Under a non-Congressional D.C. charter, the Corporation would be subject to changes in the D.C. corporation act. With home rule, the D.C. government, rather than Congress, could have a major impact on the Corporation.

PART 5. BOARD OF DIRECTORS

Plan A (Admin)—"Eleven voting members appointed by the President, by and with the advice and consent of the Senate" for staggered three-year terms.

Plan B (House)—"Eleven voting members appointed by the President, by and with the advice and consent of the Senate" for staggered three-year terms.

Plan C (LPW)—"Eleven voting members appointed by the President, by and with the advice and consent of the Senate" for staggered three-year terms.

Plan D (Brock)—"Seven members who shall be appointed by the President . . . to take office upon confirmation by the United States Senate" for staggered terms of seven years.

Analysis

The object of the Brock-Helms plan is to accord board members insulation and independence like that of the judicial branch by providing that no board member may serve more than seven years, and that the length of a normal term be seven years.

There is the implication in the LPW Committee Report (93–495) that the Administration and the LPW Committee have an understanding on Board appointments. The Report says the Committee will act "on the basis of the following primary criteria:

"(1) a board membership which is adequately representative of the organized bar, legal education, legal services attorneys, the client community, and organizations involved in the development of legal assistance for the poor; (2) the selection of persons who are committed to the Corporation's freedom from political control; and (3) the assurance that the Board members understand and are fully committed to the role of legal assistance attorneys and support the underlying principle of this legislation . . . To assure that these criteria are met, it is expected that the initial nominations for the Board, including the nominee for chairman, will be presented together to the Senate, so that the President will have the opportunity to present and the Senate to consider the full distribution of membership qualifications for the Board."

PART 6. CHAIRMAN OF THE BOARD

Plan A (Admin)—"The President shall select" a member of the Board to be its Chairman, each year, for a term of one year.

Plan B (House)—"The President shall select" a member of the Board to be its Chairman, each year, for a term of one year.

Plan C (LPW)—"The President shall select" a member of the Board to be its Chairman for an initial three-year term. Thereafter, "the Board shall annually elect a chairman" from its own membership.

Plan D (Brock)—A "Chairman to be appointed by the President" from the Board, for a term of one year, each year. "No Chairman may immediately succeed himself. A Chairman may be removed at any time by a vote of a majority of the members of the Board."

Analysis

Annual Presidential appointment of the Chairman encourages political accountability to the President. *The LPW plan trades to the President one three-year appointment, after which the President's appointive power would be eliminated.* Under the Brock-Helms plan, the chairman can be removed by majority vote of the Board. The LPW Committee Report (93–495) says, ". . . the thrust of the Act is to remove the program from political interference . . . It is contemplated that the initial chairman will be selected from among those nominees for the initial board who have the most extensive familiarity with legal assistance programs and a demonstrated concern for the legal needs of the poor."

PART 7. TAX-EXEMPT STATUS

Plan A (Admin)—No provision.

Plan B (House)—The corporation and its grantees "shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954, or as an organization described in section 501(c)(3) . . . which is exempt from taxation under section 501(a) of such Code. If such treatments are conferred . . . (grantees) shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation."

Plan C (LPW)—No provision.

Plan D (Brock)—No provision.

Analysis

None.

PART 8. STATE ADVISORY COUNCILS

Plan A (Admin)—"Within six months" after at least six board members are "appointed," the board shall "request the governor of each state to appoint a nine-member advisory council for his state." The members "shall be subject to annual reappointment." The state councils are to notify the corporation "of any apparent violation."

Plan B (House)—"Within six months" after at least six board members are "appointed," the board shall "request the governor of each state to appoint a nine-member advisory council for his state." The members "shall be subject to annual reappointment." The state councils are to notify the corporation "of any apparent violation." Adds that at least thirty days' reply time be provided for "reply to any allegation contained in the notification."

Plan C (LPW)—"Within six months" after at least six board members are "appointed," the board shall "request the governor of each state to appoint a nine-member advisory council for his state." The members "shall be subject to annual reappointment." The state councils are to notify the corporation "of any apparent violation." Adds that at least thirty days' reply time be provided for "reply to any allegation contained in the notification." Requires that the Governor make his appointments only "after recommendations have been received from the State bar association."

Plan D (Brock)—No provision.

Analysis

The House and *LPW Committee versions tend to preclude summary action* against a grantee which is found by a state advisory council to be in violation. The *LPW Committee plan could prevent establishment of a state advisory council if its bar association delays acting or fails to act.* It also establishes that all council members should be attorneys, thus negating the thrust of the Administration bill to permit a citizen check on program abuses.

The LPW Committee Report (93–495) also says, ". . . it is expected that the governor will appoint attorneys who have experience and knowledge in the delivery of quality legal services to the poor. The sole function of such advisory councils will be to notify the Corporation of any alleged violations of this legislation."

PART 9. NATIONAL ADVISORY COUNCIL

Plan A (Admin.)—No provision.

Plan B (House)—No provision.

Plan C (LPW)—"There shall be a National Advisory Council to consult . . . especially on all rules, regulations, and guidelines . . ." Its fifteen members "appointed by the Board to serve for terms of three years . . . shall be representative of the organized bar, legal education, legal services project attorneys, the population of eligible clients, and the general public." Provisions of "section 7(d) of Public Law 92–463" shall apply.

Plan D (Brock)—No provision.

Analysis

The LPW provision reflects the view that the corporation should operate in a manner responsive not to the public as a whole but to a narrow interest of "client groups," employees, and professional beneficiaries. This would institutionalize special interest group pressures and assure a program "of the club, by the club, and for the club." The practical consequence of this provision, if past experience is any guide, would be to repose both veto and initiatory authority in the advisory council, for all policy issues, with the Presidentially-appointed part-time board becoming little more than a ratifying group for the NAC.

The LPW Report (93–495) says, "It is intended that the membership of the National Advisory Council will be selected after consultation with, and so as to be representative of, such national organizations as the American Bar Association, the National Bar Association, the American Trial Lawyers Association and other national lawyers groups, the Association of American Law Schools, the National Legal Aid and Defender Association, the ABA Standing Committee on Legal Aid and Indigent Defendants, the ABA Section on Individual Rights and Responsibilities, the Project Advisory Group, the Organization of Legal Services Back-up Centers, and the National Clients Council and other client organizations, as well as individual legal assistance attorneys, client representatives, and others with expertise in providing legal assistance to the poor. In this way, the Council would be representative of the three basic elements which give special vitality to the program, as well as the general public.

"The Board and the president of the Corporation should consult in advance with the National Advisory Council on the activities of the Corporation, including proposed policies, rules, regulations, and guidelines."

PART 10. CHIEF EXECUTIVE OFFICER

Plan A (Admin)—Selected by the Board.

Plan B (House)—Selected by the Board.

Plan C (LPW)—Selected by the Board.

Plan D (Brock)—Selected by the Chairman of the Board, subject to majority approval of the Board. Maximum term of four years.

Analysis

A Chief Executive named by a group can avoid accountability or can manipulate the appointing authority. Selection by the Board collectively can unduly enhance the power of "poverty law" professionals in controlling the Chief Executive. Under the Brock-Helms bill, accountability is structured through a single point. This encourages "Board control," rather than "staff control." Under systems of "staff control," special interests have an easier time in manipulating the organization's decisions. With Board Members serving normal terms of seven years, and Executive Directors a maximum of four (under the Brock-Helms bill), Board control would be further enhanced.

The Senate Labor and Public Welfare Committee Report (93–495) says, ". . . the Board should solicit and carefully consider recommendations from those principally involved in or served by legal services programs as to the selection of the initial president of the Corporation and, as to subsequent presidents, should seek the advice of the National Advisory Council, the person selected should be experienced in the legal assistance field and have previously demonstrated a commitment to the provision, in accordance with the highest standards of the legal profession, of quality legal assistance to the poor."

PART 11.—PUBLIC INTEREST LAW GROUPS

Plan A (Admin)—Permits direct funding, grants, or contracts to provide "(i) research, (ii) training and technical assistance, and (iii) to serve as a clearing house for information". But no grants or contracts may be made to "any public interest law firm which expends any resources and time litigating issues either in the broad interests of a majority of the public or in the collective interests of the poor".

Plan B (House)—Permits the Corporation to "undertake directly" but "not by grant or contract" research, training and technical assistance, and information clearinghouse functions. However, allows grants and contracts to public interest law firm, if less than "fifty per centum" of its resources and time is spent "litigating."

Plan C (LPW)—Permits direct funding, grants, or contracts for "research, recruitment, training . . . information clearinghouse . . . and for technical assistance". Also permits grants or contracts of "any public interest law firm" which spends less than fifty percent of its resources and time "litigating issues in the broad interests of a majority of the public".

Plan D (Brock)—Permits "making available information of a technical nature to those rendering legal services" and enables the Corporation "to contract with a private or public group, association or organization for the purpose of doing research into special legal problems encountered by those who qualify as eligible clients." Total funding for this category of activity to be set by Congress, through appropriations process.

Analysis

The Administration bill bans support for Naderesque "public interest" law groups, while permitting training and technical assistance by grant. The House passed bill improves accountability for training, technical assistance, and research priorities, by requiring that they be done "in-house", rather than by grant or contract, but negates the safeguard by *allowing subsidy of "public interest" groups which spend less than half their time not actually litigating—virtually none would be disqualified. The LPW bill is the most permissive* on all scores, *negating the impact of any prohibition*, since in the words of the committee report, it merely disallows aid to those purporting to act in the interest of the majority, rather than such "minorities" as the poor, the radical, the perverse, or what have you. The Brock-Helms plan permits research activities, subsidized by contract, so as to clearly define what is sought.

PART 12. TERMINATION OR SUSPENSION OF GRANTS

Plan A (Admin)—Allows the Corporation "to terminate, after a hearing" aid to a grantee "which fails to comply" with "provisions of this Act and the corporate charter and by-laws." If a grantee employee violates or causes grantee to violate provisions, grantee "shall take appropriate disciplinary action."

Plan B (House)—Allows the Corporation "to terminate, after a hearing" aid to a grantee "which fails to comply" with provisions of this Act and the corporate charter and by-laws. If a grantee employee violates or causes grantee to violate provisions, grantee "shall take appropriate disciplinary action."

Plan C (LPW)—Permits termination only if a grantee "fails substantially to comply" and only "after other appropriate remedial measures have been exhausted". In addition, requires that the "Corporation shall prescribe procedures to insure that—(1) financial assistance . . . shall not be suspended" without "reasonable notice and opportunity to show cause . . ." Also says a grantee's application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than "thirty days" without "reasonable notice and opportunity for a timely, full, and fair hearing."

Plan D (Brock)—Corporation has no power to terminate or suspend a recipient, except for "discrimination on the basis of race, religion, sex, or national origin" or "violation of the Code of Professional Responsibility". But civil penalty, making violation a misdemeanor, is established (up to $50 and six months).

Analysis

The LPW bill makes it more difficult to terminate, suspend, or refuse to refund a grantee. "Procedural" provisions could endlessly tie up in the courts any attempts at remedial action. Brock-Helms involves itself only in violations of basic client rights, on the theory that client choice will impose constraint on free-wheeling activity.

PART 13. LIMITATION ON SIZE OF NATIONAL STAFF

Plan A (Admin)—No limitation.

Plan B (House)—No limitation.

Plan C (LPW)—No limitation.

Plan D (Brock)—"In no event shall the Corporation have more than twenty-five employees."

Analysis

Unlike the others, the Brock-Helms plan would focus virtually all resources on provision of assistance to individual clients. Barring an oversized national staff helps prevent development of a centrally dominated and directed program.

PART 14. GRANT AND CONTRACT POWERS

Plan A (Admin)—To make grants to, and to contract with "individuals, partnerships, firms, organizations, corporations, state and local governments and other appropriate entities . . . for the purpose of providing legal assistance to eligible clients."

Plan B (House)—To make grants to, and to contract with "individuals, partnerships, firms, organizations, corporations, state and local governments and other appropriate entities . . . for the purpose of providing legal assistance to eligible clients."

Plan C (LPW)—". . . to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with: (i) individuals, partnerships, firms and non-profit organizations and corporations, and (ii) State and local governments (only upon application by an appropriate State or local agency or institution) and upon a special determination by the Board that . . . such agency or institution will provide supplemental assistance which cannot be adequately provided through non-governmental arrangements . . . and (B) to make such other grants and contracts as are necessary. . . ."

Plan D (Brock)—"To render financial assistance to the states to enable the provision of legal assistance to qualified individual citizens. . . ." States can qualify by enactment of enabling legislation, either to "Empower a State Instrumentality . . . to disburse such funds to attorneys representing eligible clients . . ." or to "Transmit the funds . . . to the Bar Association with overall jurisdiction in the State, which Bar Association shall have established a method for disbursal of funds to attorneys representing eligible clients . . ." or by "Establishment of a method of direct payment . . . based upon a voucher system. . . ." If a State does not enact enabling legislation "within ninety days," the Bar Association may "submit a plan . . . to the court of highest jurisdiction in the State. . . ." If, within one hundred twenty days (120) there is either no court approved plan or legislatively enacted plan, the Corporation "may assign funds for expenditure within said State in a manner to be determined by the Corporation."

Analysis

Under the LPW plan, revenue sharing with state and local governments is barred except in the most remote circumstances. Under Brock-Helms, if a state fails to take affirmative action for a client-choice approach to legal services, the national Corporation may continue the staff-attorney grantee systems.

The LPW Report (93–495) locks in present staff attorney grantees by stating:

"It is the expectation of the Committee that such grants and contractual arrangements will continue to fund legal services operations in the same general manner as they have been funded under the Economic Opportunity Act, with funds, at no less than the existing overall program level, allocated to staff-attorney programs which devote all their time and attention to the problems of the poor and which have demonstrated their ability to effectively carry out the provisions of legal services to the poor . . . it is intended that there should not be a significant shift of resources away from present types of recipients, and it is not intended that assistance should be provided through governmental arrangements where such assistance can be adequately provided directly through private, non-governmental arrangements."

PART 15. ADMISSION TO PRACTICE

Plan A (Admin)—Requires that "No attorney shall receive any compensation" unless "admitted to practice law in the state where the rendering of such assistance is initiated."

Plan B (House)—Permits compensation of attorneys "authorized" to practice law.

Plan C (LPW)—Permits compensation of attorneys "admitted or otherwise authorized by law, rule, or regulation" to practice law or provide "assistance."

Plan D (Brock)—Allows compensation "subsequent to admission to practice law in the jurisdication where such assistance is rendered."

Analysis

Only a strict limitation of compensation to those "admitted" to practice can assure that qualified, locally-based attorneys will render service. A high proportion of program abuses have stemmed from grantees hiring persons not known or qualified locally. The LPW plan, while purporting to be stringent, is, in effect, merely a semantic deception. Many instances of abuse can be traced to non-admitted lawyers who are authorized under law, rule, *and* regulation to provide assistance.

PART 16. PROHIBITION OF "STREET" ACTIVITIES

Plan A (Admin)—Bars staff employees "from participation in" and "encouragement of others to participate in . . . rioting, civil disturbance, picketing, boycott, or strike . . . activity which is in violation of an outstanding injunction . . ." or "any illegal activity." Termination or summary suspension is a possible remedy for non-compliance.

Plan B (House)—Bars "picketing, boycott, or strike" activity only *"while engaged* in activities carried on by the Corporation or a recipient." Prohibits rioting, civil disturbance, violation of injunction, and illegal activity "at all times." Termination or suspension possible, but *only grantee may take action* against one of its employees.

Plan C (LPW)—Bars "public demonstration or picketing, boycott or strike *"while carrying out* legal assistance . . . *except as permitted* . . ." Bars "rioting or civil disturbance . . . violation of an outstanding injunction . . . or illegal activity" at any time. Provides for "remedial measures" and "hearing" in case of violation.

Plan D (Brock)—Bars use of resources for any "demonstration, boycott . . . rally, march, strike . . ." or compensation of persons who "during their service" advocate "disregard or violation of Federal or state law."

Analysis

The Administration and Brock-Helms bills are most stringent, in terms of scope and remedy. *The LPW version has modifying language which renders meaningless all prohibitions except those on already illegal activity.*

PART 17. CITIZEN SUITS TO ENFORCE THE LAW

Plan a (Admin)—"Any interested person may bring an action in a Federal District Court to enforce compliance with the prohibitions..." Also provides reimbursement of costs and legal fees if "a final judgment is rendered in favor of the plaintiff."

Plan B (House)—No provision.

Plan C (LPW)—No provision.

Plan D (Brock)—No provision.

Analysis

Grants standing to citizens to initiate action mandating compliance with the law if the Corporation fails to act or acts improperly.

PART 18. USE OF CORPORATION FOR LOBBYING OR POLITICS

Plan A (Admin)—No litigation except on behalf of "the corporate entity itself." Lobbying permitted, in the form of testimony, "when formally requested by a legislative body, a committee, or a member." No personnel or resources may be channeled "to any political party, political association, or candidate for elective office," or "for use in advocating or opposing any legislative proposals, ballot measures, initiatives, referendums, executive orders, or similar enactments or promulgations."

Plan B (House)—No litigation except on behalf of "the corporate entity itself. Lobbying permitted in the form of testimony, "when formally requested by a legislative body, a committee, or a member." No personnel or resources may be channeled "to any political party, political association, or candidate for elective office," or "for use in advocating or opposing any legislatve proposals, ballot measures, initiatives, referendums, executive orders, or similar enactments or promulgations."

Plan C (LPW)— Same as Plans A and B with respect to corporate lobbying and political aid but permits use of personnel and resources "for use in advocating or opposing any ballot measures, initiatives, or referendums" whenever deemed "necessary to the provision of legal advice and representation."

Plan D (Brock)—Incorporates all restrictions in Administration bill, adding prohibition of aid to "any group or association advocating or opposing any legislative proposals, ballot measures, initiatives, referendums, executive orders or similar enactments or promulgations."

Analysis

Only the Brock-Helms bill bars aid to advocacy groups which are substantially involved in organizing or lobbying on issues of public policy. *LPW is most permissive, negating prohibitions whenever deemed "necessary" to aid a client.*

PART 19. CLIENT ELIGIBILITY/FEE SCHEDULE

Plan A (Admin)—Establishes "a schedule of fees" requiring client "if able" to pay partial cost of assistance. Establishes ceiling for eligibility at twice OMB poverty level. Precludes aid to one whose "lack of gross income results from his refusal or unwillingness to seek or accept employment."

Plan B (House)—Gives Corporation, not OMB, power to set ceiling for eligibility. Eliminates "schedule of fees" provision. Precludes aid to poor who refuse to seek or accept employment "without good cause."

Plan C (LPW)—Gives Corporation, not OMB, power to set ceiling for eligibility, but gives recipients authority to set eligibility "in accordance with factors *related* to financial inability to afford legal assistance, which may take into account, among other considerations, evidence of a prior determination that a lack of income results from a refusal, without good cause, to seek or accept an employment situation *commensurate with* an individual's health, age, *education, and ability."* (emphasis added). Eliminates "schedule of fees" provision.

Plan D (Brock)—Imposes Medicaid eligibility standard or, if none applicable, OMB standard, while precluding aid to those unwilling to "seek or accept employment" except by reason of physical or mental disability. No "schedule of fees."

Analysis

The "schedule of fees" proposed in the Administration bill would impose a token but useful economic constraint to help approximate the constraints which cause the non-poor to think twice before initiating legal action. The Administration and Brock-Helms plans set forth clearly defined, if liberal, standards for eligibility to prevent diversion of funds into "cause" litigation involving the non-poor.

LPW has no schedule of fees and allows grantees to serve those who are not poor, and those who are poor by choice.

PART 20. ALLOCATION OF FUNDS

Plan A (Admin)—"Insure . . . adequate legal assistance to persons in both urban and rural areas."

Plan B (House)—"Insure . . . adequate legal assistance to persons in both urban and rural areas."

Plan C (LPW)—"Insure . . . the most economical, effective, and comprehensive delivery of legal assistance to persons in both urban and rural areas . . . assure equitable service to the significant segments of the population of eligible clients . . . provide special consideration for utilizing . . . organizations and persons with special experience and expertise in providing legal assistance to eligible clients."

Plan D (Brock)—Assigns funds "in amounts proportionate" to each state's share of the eligible poverty population.

Analysis

Only the Brock-Helms bill establishes a formula for equitable apportionment of available resources, regardless of geographic location, racial, political, or religious considerations. *LPW affords preference to present grantees and other non-federal programs now active in the "poverty law" field.* Thus, the ACLU and Ralph Nader would be preferred recipients under the LPW plan.

PART 21.—OUTSIDE PRACTICE OF LAW

Plan A (Admin)—Totally forbids outside practice of law by staff attorneys.

Plan B (House)—Totally forbids outside practice of law by staff attorneys.

Plan C (LPW)—Prohibits only "compensated" outside practice of law. Uncompensated outside practice would be permitted subject to Corporation guidelines.

Plan D (Brock)—No provision.

Analysis

The ban on outside practice is intended to prevent circumvention of prohibitions on improper activity, by attorneys purporting to act on their own time (e.g., coffee break, lunch hour, comp time, etc.). Brock-Helms does not include such a ban because it relies on attorneys in private practice, rather than staff attorneys. The LPW version would negate the ban on "uncompensated" outside practice by staff attorneys, if the corporation adopted permissive guidelines. Also, without statutory force, it would be easier for grantee employees to bypass with impunity any "guideline" prohibition.

PART 22.—LOBBYING

Plan A (Admin)—". . . no funds . . . at any time, directly or indirectly . . ." except to testify "when formally requested to do so by a legislative body, a committee, or a member thereof."

Plan B (House)—". . . no funds . . . at any time, directly or indirectly . . ." except to testify "or make a statement when formally requested to do so by a governmental agency, or by a legislative body or a committee or a member thereof, or (B) in the course of providing assistance to an eligible client . . ."

Plan C (LPW) ". . . no funds . . . at any time, directly or indirectly . . . " except where "necessary to the provision of legal advice and representation" or where "representations" are requested.

Plan D (Brock)—No use of funds or personnel "to influence the passage or defeat of any legislation" directly or through others.

Analysis

The Administration bill allows testimony upon formal request of any legislator. The House bill allows testimony or statement upon formal request of government agency or legislator or in the course of client representation. *The LPW version allows more than testimony ("representation" can be virtually any form of lobbying), whenever requested (not formally) by a legislator or "in the course" of representing a client (NWRO).* The Brock-Helms bill totally bars lobbying. Inasmuch as groups are eligible clients under all except Brock-Helms, the nuances of definition become very important.

PART 23. POLITICAL ACTIVITY

Plan A (Admin)—Bars "any political activity" "while engaged" except voter transportation and registration in the course of "legal representation", for part-time attorneys. Totally bans such activity by full-time staff attorneys.

Plan B (House)—Substantially the same as Administration bill.

Plan C (LPW)—Permits political activity, voter transportation and registration when not "engaged" or when "necessary to the provision of legal advice and representation". Limits definition of political activity to party and candidate politics; totally permissive on "issue" politics. Cites Hatch Act only with respect to use of "official authority and influence" or to coerce campaign contributions. Omits key Hatch Act provision barring "an active part in political management or in political campaigns."

Plan D (Brock)—All persons receiving principal compensation through the Corporation are covered by Hatch Act. Prohibits use of funds and personnel to "support or oppose, directly or indirectly, any candidate . . . or any political party." Also bars aid to "any group or association participating in such activities". Prohibits "any activity organizing individuals or groups", as well as political activity, voter registration, and voter transportation, from being subsidized with Corporation funds.

Analysis

Administration bill bans normal political activity, in an elective sense. Brock-Helms bans this kind of politics in the program, as well as aid to grass-roots political groups like the American Indian Movement, Black Panthers, Gay Lib, etc. *The Labor-Public Welfare bill, by careful wording, permits virtually all such activity*. For example, in classifying employees of the Corporation as state and local employees under Chapter 15 of Title V of the U.S. Code, the Labor and Public Welfare bill "does not prohibit political activity in connection with—(1) an election and the preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected; or (2) a question which is not specifically identified with a National or State political party. For the purpose of this section, questions relating to Constitutional amendments, referendums, approval of municipal ordinance, and others of a similar character, are deemed not specifically identified with a National or State political party."

PART 24. PROCEDURE FOR APPEALS

Plan A (Admin)—"The Corporation shall establish guidelines for a system for review of appeals to be implemented by each recipient" to prevent "frivolous and duplicative appeals" and "insure the efficient utilization of resources."

Plan B (House)—Is silent on goal of preventing "frivolous and duplicative appeals", but establishes guidelines for consideration of appeals, "except that such guidelines shall in no way interfere with the attorney's responsibilities."

Plan C (LPW)—Places responsibility for appeals review guidelines directly with grantee.

Plan D (Brock)—No provision.

Analysis

The LPW version destroys the intent of the Administration approach, in essence making it local option whether to allow "test cases" through appeals.

PART 25. CRIMINAL REPRESENTATION

Plan A (Admin)—No funds may be used to provide "legal assistance under this Act with respect to a criminal proceeding or incarceration for a crime."

Plan B (House)—No funds "to provide legal assistance with respect to any criminal proceeding or to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act connected with the criminal conviction and is brought against an officer of the court or against a law enforcement official."

Plan C (LPW)—No funds "to provide legal assistance under this title with respect to a criminal proceeding."

Plan D (Brock)—No funds to "provide legal services with respect to any criminal proceeding or, in the case of juveniles, proceedings which would be criminal if involving adults . . ."

Analysis

All are narrowly construed—the LPW version most of all—allowing, for example, aid to accused or convicted criminals on procedural issues, or non-criminal matters which flow from, but are separate from, the "criminal proceeding".

PART 26. JUVENILE REPRESENTATION

Plan A (Admin)—Bars aid to persons under 18 "without formal written consent" of parent or guardian except in special circumstances, which it spells out.

Plan B (House)—Bars aid to persons under 18 without "written request" of parent or guardian, except in special circumstances, which it spells out.

Plan C (LPW)—Permits juvenile representation "where necessary" to prevent loss of "benefits or services" or "in other cases pursuant to criteria which the Board shall prescribe."

Plan D (Brock)—Bars aid to persons under 18 "without formal written consent" of parent or guardian.

Analysis

LPW offers the appearance, but not the reality of a prohibition since qualifying language can be used to prevent loss of legal "services". House bill is strictest, requiring that parent, rather than attorney, initiate request for representation. *Under the LPW bill, a teenager threatened with "loss" of sterilization "services" could get it without parental consent.* Under the other bills, parental consent would be required. The Administration prohibition was included to limit lawyer-initiated "students rights" and "student protest" uses of Corporation personnel and resources.

PART 27. TRAINING IN POLICY ADVOCACY

Plan A (Admin)—Denies use of funds to "support or conduct training programs for the advocacy of . . . particular public policies or which encourage political activities, labor or anti-labor activities, boycotts, picketing, strikes, and demonstrations."

Plan B (House)—Similar to Plan A, "except that this prohibition shall not be construed to prohibit the training of attorneys necessary to prepare them . . ."

Plan C (LPW)—Prohibits only training for "illegal" boycotts, picketing, strikes and demonstrations, permitting all those which are "legal", with the further exception that encouraging political activities, labor or anti-labor activities, or any illegal boycotts, picketing, strikes, or demonstrations is *permitted* insofar as it involves "rendering of legal advice . . ."

Plan D (Brock)—Bars aid to advocacy training, publications, groups, and activities, including demonstrations, boycotts (legal and illegal), rallies, marches, and strikes.

Analysis

All provide some prohibition except *the LPW version,* which *loses its content in loopholes* and is totally without effect. The Administration provision is intended to limit use of official travel and other T&TA program resources for political purposes.

PART 28. ORGANIZATION OF GROUPS

Plan A (Admin)—Bars diversion of funds for organizing or otherwise aiding "any organization, association, coalition, alliance, federation, confederation, or any similar entity except as authorized by the Corporation."

Plan B (House)—Similar to Plan A, but slightly more stringent, excepting only "provision of appropriate legal assistance in accordance with" Corporation guidelines.

Plan C (LPW)—Similar to Plan B.

Plan D (Brock)—Total ban on such use of funds—no exceptions.

Analysis

Past experience suggests that exceptions will be broadly construed and be honored more than the prohibitions. Only Brock-Helms is clear-cut.

PART 29. GOVERNANCE OF GRANTEE GROUPS

Plan A (Admin)—Requires that "any recipient organized solely" to provide legal services be governed by a majority consisting of lawyers who are "members of the bar of the state."

Plan B (House)—Requires "two-thirds" lawyer majority, except when the Board allows a waiver.

Plan C (LPW)—Requires a "majority" of "attorneys who are members of the bar of any state in which such assistance is to be provided" except that all present grantees are excluded from this requirement.

Plan D (Brock)—No provision, since client choice would replace "guild" staff attorneys system.

Analysis

All plans omit mention of process for selecting or replacing local boards, or making them subject to review by bar or elected officials. LPW provision is meaningless anyway, since it excepts all present grantees.

PART 30. THIRTY DAYS NOTICE

Plan A (Admin)—Requires public announcement of grant and contract intentions thirty days in advance of approval.

Plan B (House)—Requires public announcement of grant and contract intentions thirty days in advance of approval.

Plan C (LPW)—Requires public announcement of grant and contract intentions thirty days in advance of approval.

Plan D (Brock)—No provision necessary, since specific decisions are generally accountable to state authority.

Analysis

Replaces Governor's veto authority, which is part of the OEO legal services program.

PART 31. CLIENT CHOICE

Plan A (Admin)—Promotes introduction of client choice and market constraints by requiring that "no less than ten percent" of its funds go to "activities which are non-staff attorney oriented." Also requires the Corporation to "conduct a study of alternative methods . . . including judicare, vouchers, prepaid legal insurance and contracts with law firms" with recommendations to President and Congress by June 30, 1974.

Plan B (House)—Requires the Corporation to "conduct a study," and report by June 30, 1974, as in Plan A, but omits assignment of funds to "non-staff attorney" activities.

Plan C (LPW)—Omits assignments of funds to "non-staff attorney" activities and defers recommendations until "not later than two years after the first meeting of the Board."

Plan D (Brock)—Sets aside up to five percent "of the Corporation's annual appropriation" to be used for special incentive grants which will encourage States "to experiment with alternative delivery systems for legal services to eligible clients." Requires that State enabling legislation "Permit eligible clients to retain the indvidual attorney of their choice."

Analysis

Only the Administration and Brock-Helms plans take actual steps to decrease exclusive reliance on the subsidized poverty lawyer and move toward client choice of private practitioner. Under LPW, even formal consideration of moves toward client choice are deferred until 1976.

PART 32. FINANCING OF THE CORPORATION—COMMINGLING

Plan A (Admin)—Permits three-year appropriations. Bans commingling of "funds not made available by the Corporation" with those derived from appropriations under this Act.

Plan B (House)—"Funds appropriated pursuant to this section shall remain available until expended." Non-federal funds received by Corporation and grantees "shall not be expended by recipients for any purpose prohibited by this Act"—except to permit certain public defender activities.

Plan C (LPW)—Raises authorization to *$100 million* for FY 1976, after $90 million—FY 1975 and $71.5 million for the current fiscal year. "Funds appropriated . . . shall remain available until expended." Retains requirement of separate accounts for non-federal funds, but eliminates House ban on indirect subsidy of prohibited activities.

Plan D (Brock): No provision necessary, because of reliance on private practitioners.

Analysis

All prohibitions in the bill can be negated if it fails to include the *House provision* barring use of funds from other sources for actions prohibited with Federal funds. The LPW version does not include this at all. The Administration plan is limited to requiring separate bookkeeping of potentially improper activity.

PART 33. ACCOUNTABILITY TO CONGRESS

Plan A (Admin)—Right to repeal, alter, and amend.

Plan B (House)—"The Corporation . . . shall be liquidated on June 30, 1978, unless sooner terminated by Act of Congress." Right to repeal, alter, and amend.

Plan C (LPW)—"Except as otherwise specifically provided ... the Corporation shall not be considered a department, agency, or instrumentality of the Federal Government for the purposes of any Federal law or Executive order." "Nothing contained in this title shall be deemed to authorize any department, agency, officer, or employee of the United States or of the District of Columbia to exercise any direction, supervision, or control with respect to the Corporation, any grantee, contractor, or person, or entity receiving financial assistance under this title, or any employee thereof, to the bylaws, rules, regulations, or guidelines of the Corporation, to the attorneys providing legal assistance under this title, or to eligible clients receiving legal assistance under this title." Right to repeal, alter, and amend.

Plan D (Brock)—Right to repeal, alter, and amend.

Analysis

The Labor and Public Welfare bill denies the American people, through their elected officials, virtually all right and opportunity to hold the Corporatiton accountable for its use of public funds. At the same time, special interest groups of providers and consumers of services under the program are assured of prerogatives relating to refunding, political action, issue advocacy, etc. *The House bill sets a time, five years hence, when Congress would be required to specifically approve continuation of the program if it were to remain authorized.*

The LPW Committee Report (93-495) asserts ". . . the reason for the establishment of the Corporation is the removal of legal services programs from political interference and control." It stresses accountability "to the bar and the poor", as an important goal, rather than simple accountability to the public as a whole.

PART 34. REIMBURSEMENT OF COSTS TO LS DEFENDANTS

Plan A (Admin)—No provision.

Plan B (House)—If "a final judgment is rendered in favor of the defendant and against the Corporation's or recipient's plaintiff" the court may award reasonable costs and legal feels to the defendant, to be paid directly by the Corporation.

Plan C (LPW)—No provision.

Plan D (Brock)—No provision.

Analysis

House bill seeks to redress inequity of private parties having to defend themselves at often great personal expense against tax-supported harassment by staff attorneys.

PART 35. PREFERENCE TO LOCAL ATTORNEYS

Plan A (Admin)—No provision.

Plan B (House)—"Insure that recipients solicit the recommendations of the organized bar in the community being served before filling staff attorney positions . . . and give preference to qualified persons who reside in the community to be served."

Plan C (LPW)—No provision.

Plan D (Brock)—No provision necessary.

Analysis

The House bill provision works to prevent "separate system" of law for the poor manned by roving "poverty lawyers". Encourages accountability to the local bar, by hiring attorneys with a stake in the community.

PART 36. FEE-GENERATING CASES/INCITEMENT OF LITIGATION

Plan A (Admin)—No provision.

Plan B (House)—Require attorneys "while engaged" to "refrain from the persistent incitement of litigation . . . and from personal representation for a private fee for a period of two years any cases which are first presented to them" while employed with Corporation funds. Also bars fee-generating cases, except according to guidelines.

Plan C (LPW)—No provision.

Plan D (Brock)—No provision.

Analysis

The House provision is intended to reduce solicitation of clients, despite more liberal provisions of Code of Professional Responsibility and Canons of Ethics which apply to legal services attorneys.

PART 37. BUSING—ABORTION—DESERTION—GRANTEE QUOTAS

Plan A (Admin)—No provision.

Plan B (House)—Bars use of funds to provide legal assistance "relating to the desegregation of any school or school system" as well as to "procure a nontherapeutic abortion or to compel" abortion. Also bans legal assistance involving "desegregation of any institution of higher education," or in matters "arising out of a violation of the Selective Service Act or of desertion from the Armed Forces . . ."

Plan C (LPW)—No provision.

Plan D (Brock)—Bars discrimination "in favor of or against individual attorneys, employees, or clients on grounds of race, religion, sex, or national origin."

ANALYSIS

The anti-discrimination provision of the House bill would preclude resort to quota systems or "reverse discrimination" in hiring and assignment of program funds. It does not, however, ban lawsuits which seek to impose quotas.

PART 38. TRANSFER PROVISIONS

Plan A (Admin)—No special provisions.

Plan B (House)—Places Secretary of HEW in charge of transition.

Plan C (LPW)—Transfers most OEO legal services personnel to Corporation. Existing union agreements remain in force.

Plan D (Brock)—No special provisions.

Analysis

The LPW version perpetuates "club" control of the program by retaining "sensitized" personnel and limiting authority of the Board (management) under the terms of the existing OEO union contract.

PART 39. USE OF GSA AND FTS RESOURCES

Plan A (Admin)—No provision.

Plan B (House)—No provision.

Plan C (LPW)—Permits a President to "direct that particular support functions of the Federal Government, such as the General Services Administration, the Federal telecommunications system and other facilities, be utilized by the Corporation or any grantee contractor or person or entity receiving financial assistance under this title. . . ."

Plan D (Brock)—No provision.

Analysis

The LPW bill presents a mind-boggling blank check through which a President could turn over free long-distance phone service, GSA facilities, vehicles, or other aid to any group being aided or employed by the Corporation, whether the United Farm Workers, Ralph Nader, the American Civil Liberties Union, or Young Americans for Freedom. This makes the Corporation's appropriations open-ended and places it beyond the normal checks of Congressional appropriations review.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, I invite the attention of Senators to an article in today's Washington Star-News, entitled "Lorton Guards Vote To Strike."

I do not condone and do not feel that any Federal employee or District of Columbia employee has a right to strike, and I have no brief at all for the suggestion of a strike by the correctional officers at Lorton.

As Senators know, this penal institution, or the complex, is located in Virginia, in Fairfax County. I represented the area in the House and talked many times with the correctional officers.

They are concerned about conditions at the Lorton penal institutions. This article describes the fact that one of the guards was murdered just a short time ago. It will be remembered from news accounts that this was a 26-year-old man who was stabbed many times and stuffed in a manhole. He had been killed. Since that time one of the inmates has been killed.

The article in today's Star indicates this is the fourth inmate who has been killed this year at the Lorton penal institutions.

We are considering here today a bill with regard to the Legal Services Corporation. I think at the proper time I will offer as an amendment the transfer of the Lorton penal institutions from the District of Columbia government to the Federal Government.

I am told that the people who are in control of the penal institutions for the District of Columbia actually listen to the inmates more than they listen to the grievances of the correctional officers. I submit that if there is anyplace where people learn to live under the rule of law in our society it is in a penal institution. This is not being done at Lorton.

I have personally visited the institutions on several occasions. Last night, I understand, these correctional officers even shouted down the leadership of their union. These men are angry and they are being mistreated in doing their job. We need the expertise that comes from the U.S. Bureau of Prisons. It is time that we listened to these officers and the citizens who live in the area of these penal institutions, because there are escapes from time to time. The operation is conducted very loosely.

Hearings were held in the House on this measure some years ago. As you recall, Mr. President, the Senate rejected an amendment that I proposed to the District of Columbia home rule bill by a very close vote a short time ago. Perhaps with the deaths since then at the Lorton complex we can get the added three or four votes to do something about this situation at Lorton.

I am not going to tear up the newspaper and submit the article in its entirety for the RECORD, but I would ask that Senators look at today's Star and read the account of activities down at the penal institutions and ask themselves whether they would want a penal institution within their State over which they had no control at all. This is the situation with which we in Virginia are faced. It is a District of Columbia institution. Virginia has no control over it, although they do provide vast protection, and when an inmate escapes they attempt to locate him and get him back to the prison.

It is a festering sore within the heart of Virgina. I think it should be removed by placing it under Federal control.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. WILLIAM L. SCOTT. I am glad to yield to my colleague from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I am glad to support the position of my distinguished colleague from Virginia. As the Senator from Virginia pointed out this is a Federal institution for those who have been sentenced in the District of Columbia. It is really an institution that should be located in the District of Columbia, but since it is located in Virginia, Virginia citizens feel very keenly that they deserve protection and they are not getting protection. The way it is being run, the citizens who live in that area have been caused considerable fear.

I think the approach offered by my distinguished colleague from Virginia is a sound one and one I hope the Senate will consider favorably.

Mr. WILLIAM L. SCOTT. I thank the Senator.

Mr. FANNIN. Mr. President, I rise in opposition to the committee bill (S. 2686), the legal services bill.

Mr. President, I am not opposed to legal services for the poor in noncriminal cases. While I am not a lawyer, I have spent a large part of my adult life in public service and have seen legal services at work. Few Americans spend a lifetime without ever having a need to secure the services of an attorney. I believe most members of the legal profession agree with me that the best service an attorney can render to a client is in giving advice. If the client has a meritorious case, the best service the attorney can render is in negotiating with the opposite party in obtaining the best settlement possible for his client. Litigation should be the final step and employed only when settlement upon reasonable terms becomes impossible. The lawyer, before recommending litigation, should advise his client as to his best opinion of the outcome of litigation. He should advise the client of the time involved, the possibility of appeals, and the risks involved. Then the client, not the lawyer, makes the decision as to whether a suit is filed.

Legal fees can be expensive. However, it has been my experience that the good lawyer takes into consideration the client's ability to pay. In that respect the lawyer is similar to his professional counterpart—the doctor. I sincerely doubt that there is either a lawyer or doctor alive who has not at some time rendered his services, spent many hours of valuable time without charge to the client or patient. I suspect that in both cases the lawyer and the doctor make it up by raising their fees to the next client or patient whose ability to pay is without question. In these respects all of us have been to some extent subsidizing the poor. This practice worked fairly well during our earlier years.

With the immense growth of our population, and the proliferation of new laws that we, the States, and local governments have enacted, the "free" lawyer practice has become as out of date as the horse and buggy. However, I know that a lot of free advice is still being given out by highly competent lawyers.

The original Economic Opportunity Act of 1964 did not mention the provision of legal services. Some legal services programs were started, however, as part of the community action program, but without a clear definition of the role of legal services in the "war on poverty." In the Economic Opportunity Amendments of 1966 the legal services programs were mandated to the director of OEO in a one-sentence authorization, which served as the basis for setting up the Office of Legal Services. The program was set up in its present form, with restrictions upon representation in criminal cases, under the amendments of 1967. In 1969, OEO was reorganized with emphasis upon research and development and legal services remained, with a permanent mandate, within OEO.

Mr. President, Congress was at fault in 1966 and 1967 in not providing restrictions and guidelines as to what it wanted legal services to do. We were "sold a bill of goods." Many of us, if not most of us, thought of legal services as meeting the frustrations in the lives of its poor clients—handling divorce cases, evictions, social security problems, welfare, bankruptcies, repossession of merchandise, line fence and property line disputes. We were led astray, because at that time the overwhelming percent of cases handled by legal services fell into such categories.

Mr. President, Congress did not anticipate the radical change that was about to begin in the activities of legal services. We did not foresee the change in philosophy. Legal services entered the field of "law reform," selecting case in the form of class action suits designed to benefit not just a single client, or a small group, but thousands in the affected class. Legal staff attorneys, paid from tax funds, began to sue State, local, and Federal officials in class action suits. Numerous instances of irregularities were publicized as legal services attorneys acted on behalf of the "voluntary poor" hippies, draft evaders, black militants, and even accused criminals. Legal services attorneys became lobbyists before Federal and State legislatures; they took on the job of registering people to vote in the political party which the particular legal service employee advocated. They took up the job of organizing the poor into labor unions.

With the change in philosophy the attorney-client relationship fell by the wayside. The lawyer, not the client, dictated the action to be taken. In many cases the action taken was adverse to the interests of the client and his actual desires.

Mr. President, I want to state as strongly as I can that I am for Government-paid legal services for the poor in noncriminal cases. The poor deserve the legal services—good legal services in handling such things as divorce cases, child support from the runaway father, evictions, eligibility for welfare, repossession of merchandise which some unscrupulous merchant sold them, bankruptcies, line fence disputes, and so forth.

In fact, I welcomed the opportunity in 1973 to remedy the omissions Congress made in the 1960's.

I followed the debate in the House and was in full accord with most of the amendments made on the floor of that Chamber to the House Labor Committee bill. The final product in the House, adopted by a final vote of 276 to 95, contained some 27 amendments. It incorporated the administration's provisions to prevent legal service attorneys from lobbying and engaging in political activity. The House bill prevented legal service attorneys from bringing busing, school desegregation, or abortion suits or providing assistance for minors under 18 except in child abuse cases or other limited instances. An amendment by Representative EDITH GREEN, Democrat of Oregon, knocked out the "backup centers" for research and technical assistance for legal service attorneys set up in law schools around the country. Other amendments prohibited legal service attorneys from lobbying before a legislative or administrative body unless formally requested to do so; prohibited attorneys getting more than 50 percent of their income from legal service activities; prohibited legal service attorneys from taking part in voter registration drives; prohibited funding or allowing Legal Service Corporation personnel to advocate or oppose initiatives, referendums, or other ballot measures. I might point out that in my own State of Arizona we experienced examples of legal service personnel actively engaged in registering Indians as Democrats, and in assisting and advising in the attempt to recall our great Governor apparently because he signed a farm labor bill.

Other House-passed amendments prohibited legal services being offered to the "voluntary" poor; prevented legal service lawyers from filing suits to force hospitals to perform abortions; prohibited them from taking part in suits to compel school desegregation through busing; prohibited them from aiding draft dodgers or deserters; and prohibited all outside practice by full time legal service attorneys.

Mr. President, I fully realize that we are not here debating the House-passed bill. I have referred to many of the House amendments, because every one of them was designed to stop practices of the presently constituted Legal Services Office—practices which I believe are indefensible and should be prohibited.

Mr. President, I am a cosponsor of the Brock-Helms bill, S. 1890, which is pending in the Judiciary Committee. Had there been a motion with respect to whether a Legal Service Corporation should come under the jurisdiction of the Judiciary Committee or the Committee on Labor and Public Welfare, I would have supported its consideration by the Judiciary Committee. The Labor Committee bill, which we are debating, contains all of the provisions which we can expect from a committee which is oriented to law and social reform through creating a Legal Service Corporation as a convenient vehicle to accomplish what it cannot accomplish by legislation.

I commend the Senator from Tennessee (Mr. BROCK) for his statement upon introduction of his bill:

> That no single, rigid scheme imposed out of Washington, is capable of meeting the needs of this Nation. The legal services program that will work best is not one which tries to force all projects into a single restrictive mold. The program that will work best is the one that helps the people in each community meet their own needs in the way they think best.

The distinguished Senator from North Carolina (Mr. HELMS) has been capably explaining the Brock-Helms bill as well as explaining the deficiencies of S. 2686.

I commend the Senator from North Carolina for his comprehensive analysis of the bills under consideration by the Congress at this time.

The Brock-Helms bill would charter a Federal Legal Aid Corporation. The various States would be required to enact enabling legislation creating a system for the provision of legal services in the individual State. The States are limited in their plans to three alternatives:

First. Empower an existing State instrumentality to administer a program for provision of legal assistance in the State;

Second. Empower the State bar association to administer the program; or

Third. Establish a method of direct payment or voucher system, to pay attorneys assisting those eligible for legal services.

After a State has established a plan, the Federal Legal Aid Corporation then disburses funds to the State in an amount proportionate to the State's respective share of the total number of those eligible for receipt of legal services in the United States. These funds would then be used by the State to finance whatever State plan adopted.

The bill prohibits legal services employees' involvement in strikes, demonstrations and protest marches. Program funds may not be used to support or oppose candidates, legislative proposals, ballot measures, or similar enactments or promulgations.

Mr. President, I would vote "yes" today for the Brock-Helms bill if I had an opportunity to so do. If it passed I would hope that the House conferees would insist upon a few more of the prohibitions contained in the House-passed bill.

The Brock-Helms bill solves the abuses in the present legal service program by restructuring, rather than by restrictions and prohibitions. While the House bill corrects known abuses, who can accurately anticipate what further abuses those highly imaginative legal service lawyers might dream up next?

The basic premise of Brock-Helms is to reorient the program from a nationwide, staff attorney system to State operated programs which give the maximum freedom to the client to select the attorney of his choice. Under the present system, the poor person seeking free legal aid is not subsidized directly; he is assigned a salaried attorney. Since the client is not permitted to choose, and is fortunate if his case is accepted at all, the attorney gains dominance in his relationship with the client. He acquires monopoly power, and can choose cases which suit his interests. The lawyer-client relationship as we have known and respected it is completely distorted.

In practical terms, the staff-attorney system has meant the growth of a nationwide law firm, with 2,200 attorneys, a communications network, and 13 research centers working together with a national agenda of reform. In essence it provides a powerful political movement, funded by taxpayer funds, but outside the restraints of representative government. The program of political advocacy through the courts is actually disguised legislative activity, and ought to be subject to the normal give and take of the State and Federal legislative process.

The Brock-Helms bill would guarantee that the States had a voice in the structuring of the program and it would guarantee that poor clients had the same right to choose their attorneys as their more affluent neighbors. By setting up a reasonable eligibility standard—the medicaid formula—it would also provide a uniform basis for assessing need in each State, and guarantee that each State received an equitable share of the funds appropriated for the delivery of legal services to the poor.

According to what I have read and the mail I have been receiving, the committee bill is principally supported by the American Civil Liberties Union, Common Cause, Ralph Nader, and the AFL–CIO. I suggest that each of these organizations have sufficient funds to promote their liberal laws and social reform without saddling the American taxpayer with the expense through legal service lawyers.

Mr. President, I am sometimes labeled as a "fiscal conservative." I am proud to be called such. In every bill which comes before this body, I study it to determine its cost, and whether the taxpayer is obtaining the best for the lowest cost. Since the committee bill, in effect, gives its blessing to the existing legal services program, I have endeavored to find out as much as I can about its operations.

It operates through a national network of 260 projects, with roughly 2,200 lawyers in about 850 locations, linked together by scores of newsletters, subsidized professional associations, as well as project-subsidized travel. The cost to the taxpayers is over $70 million this year and estimates for future years approach $100 million.

Staff programs cost, on average, about $25 per attorney-hour. Judicare programs pay private attorneys between $16 to around $20 per attorney-hour. The private attorney, in effect, contributes the difference in his own time. Poverty lawyers are overwhelmingly young. They come out of law school, spend a couple of years learning how to practice, and then move into private practice. In the first couple of years out of law school, young lawyers know very little. I might insert a personal note that my lawyer sons would have disputed that observation right after their graduation from law school, but now after years of practice I am confident they would agree with me. Young lawyers do not begin to pull their weight until about the third year in practice. This is important, because in addition to the greater cost of a staff attorney-hour—$25—over a judicare hour—$16 to $20—the value of the staff hour is bound to be worthless, because of lower efficiency and productivity than the judicare hour provided by a private attorney. Using these numbers, if a private attorney can get 30 percent more out of an hour than his staff counterpart, the staff approach may be almost twice as expensive as judicare. And all of this assumes that the staff people are working on the problem of his poor client any substantial part of his time. I am confident that given the alternatives of the Brock-Helms bill, the States would consider these financial considerations in formulating their State plans.

Mr. President, the horror examples of legal service actions are legion. We will hear many of them before this debate is concluded. At this time, I conclude by citing a few examples reported by the American Enterprise Institute in its June 7, 1973, study of the Legal Services Corporation bill.

In Dallas, Tex., the Dallas Legal Service project represented an editor-publisher of an underground newspaper who was sued under a State obscenity statute for publishing a photograph of male frontal nudity. The project attorneys argued that the client, the son of a wealthy manufacturer, was "voluntarily poor," because he had been disinherited by his father and was earning less than $100 per week.

In New Orleans, the Legal Assistance Corporation defended 12 members of the black militant National Committee To Combat Fascism when they were arrested after a 2-day shootout with the police.

In Michigan, Upper Peninsula Legal Services turned out to have 25 percent of its caseload in criminal litigation contrary to the OEO statute.

In St. Louis, Gov. William Hearnes vetoed a $390,359 grant for the Legal Aid Society of St. Louis, charging that the project had represented rent strikers in a public housing project, black militants involved in a church confrontation and black students accused of mutilating an American flag. Investigation proved that a number of the clients were clearly ineligible.

In Los Angeles, the Western Center on Law and Poverty filed a suit against the California Youth Authority on behalf of 13 employees who had been suspended or demoted. The national office agreed with critics that the clients' incomes placed them in the middle or upper income brackets. But the Western Center argued that representation was proper, because the clients had been turned down by three private attorneys.

Mr. President, I have received a letter from Governor Tom Meskill, Governor of the State of Connecticut. I would like to read the letter because I think it illustrates just what I am talking about.

The letter reads as follows:

> Dear Senator Fannin: The Senate Labor and Public Welfare Committee has just reported out legislation establishing a legal services corporation. The Committee bill is lacking in adequate safeguards to prevent flagrant abuses that have plagued this program since its inception. It contains only weak provisions on law reform activities, political advocacy and associated political activities.
>
> I am firmly convinced that in order to preserve the necessary function of providing legal services to indigent clients, we must have a bill containing strong and effective bans on lobbying, political activities and law reform.
>
> I urge you to support amendments which would place strong bans on lobbying and political activities as well as law reform efforts. If initial efforts to amend the bill are unsuccessful, I urge you to support the Brock-Helms bill, S. 1990, which I expect may be offered as a substitute for the Committee bill. This bill is a constructive approach to the legal services program consistent with the needs of our citizens. It is a bill that permits flexibility from state to state, assures proper monitoring and control, and provides for public accountability.
>
> I expect that legal services bill to be taken up soon. I hope you will vote for a strong legal services bill. Anything you can do on this issue will be greatly appreciated.
>
> Sincerely,
>
> Tom Meskill, *Governor*.

Mr. President, this is just one example of what is happening throughout the country. I have been in contact with other Senators, and I know from my conversations with the Governor of Arizona how he feels about this matter.

Mr. President, I ask, why the long delay before this bill was brought to the floor, and what is the hurry in attempting to pass major legislation before we have had the opportunity and the time to study the bill and the report?

Mr. HELMS. Mr. President, will the Senator yield?

Mr. FANNIN. I am pleased to yield to the Senator from North Carolina.

Mr. HELMS. I commend the distinguished Senator from Arizona, and thank him for his remarks. He obviously has given great study to this matter, and has demonstrated his awareness of the unfortunate consequences that would follow if we pass the bill before us under these unfortunate circumstances.

Mr. FANNIN. I thank the distinguished Senator from North Carolina. I commend him for the bill that is before the Senate and for his efforts in behalf of other measures for the benefit of his country. In these times we often have certain goals, but many times in seeking to achieve results we lose sight of just what is at fault. The Senator is highly perceptive and imaginative, in, as he has done today, placing in the Record a complete, comprehensive coverage of the legislation involved. I believe the Senator is to be commended for that.

Mr. HELMS. I thank the Senator.

Mr. NELSON. Mr. President, I would not wish the Record to stand silent on the assertion of the distinguished Senator from North Carolina (Mr. Helms) that the opponents have not been given an opportunity to debate. We waited the first night, looked around, but could not find a single Senator in the Chamber, at 6 o'clock, who was prepared to make any comment at all against the bill. In fact, four Members of the Senate were in the Chamber at the time, including the distinguished senior Senator from California (Mr. Cranston) and the distinguished Senator from New York (Mr. Javits), both of whom made it clear to the opponents of the bill, including the distinguished Senator from North Carolina, that we were prepared to remain here for several hours to allow the matter to be debated.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. HELMS. We simply wanted Senators on the other side of the question to have all the time they wished. We listened with great interest, and we are very much satisfied with the situation. I did not say we were prevented from debating; we merely said that Senators who favored the bill had all the time they wanted. Now that we are about to have ours, a cloture motion has been filed. We will abide by it cheerfully.

Mr. NELSON. There has not been much debate on the bill, really. Even before the distinguished Senator from North Carolina arrived in the Senate, we had virtually exhausted everything that could conceivably have been said on the issue of whether legal services should be provided for the poor of this country. By overwhelming votes in 1971 and 1972—I do not have the record of the votes before me but I shall provide them at the close of my remarks—the Senate twice voted to fund a legal services corporation after extensive hearings and after extensive debate in Committee and on the floor of the Senate.

The reason no hearings were held this year is that we have been discussing the administration's suggestion for a legal services corporation since 1969. We had hearings in 1971, and an extensive debate on the floor of the Senate in 1971. The conference with the House in 1971. The conferees agreed, and the conference report was approved by the House and approved by the Senate and was then sent to the President. The President vetoed the bill, stating his objections to it.

We went back to work the following year, 1972, and gave further extensive consideration to the House-passed legal services bill. The Senate then passed a legal services bill, but we could not agree in conference.

The President, in the spring of this year, said again he wanted a legal services bill, that he wanted an independent Legal Services Corporation. The House and the Senate on two previous occasions had voted for an independent Legal Services Corporation, so we were all agreed on the principle that there should be an independent Legal Services Corporation. We were agreed on the principle that the poor should have the opportunity for legal representation, so once again we sat down and entered into negotiations with the administration, negotiations which have gone on for months. I understand why the Senator from North Carolina or anyone else who is not a member of the committee would not necessarily be familiar with all that, because they were not participants in the negotiations. As a result of these negotiations we marked up the bill. It was agreed on unanimously, by a vote of 16 to 0, by all the Republicans and all the Democrats on the Committee on Labor and Public Welfare.

Then, as we prepared to send the bill out here to the floor, Mr. Melvin Laird, Counselor to the President for Domestic Affairs, sent a letter on October 4. I have already read this letter into the Record, but since some people may not have taken a look at the Record since it was printed there—although I know that the Senator from North Carolina has—I will read the letter again:

> Dear Gaylord: We are pleased that the Subcommittee on Employment, Poverty and Migratory Labor has completed action on legislation to create an independent National Legal Services Corporation.
>
> While we differ with some of the specific provisions of the bill as reported, we believe it does include essential principles proposed in the Administration's bill such as independence and accountability of the Corporation, freedom of the attorney to represent his client, and maintenance of a vital program.
>
> Therefore, we urge that final action be taken on the bill in this general form by the full Committee and by the Senate followed by an expeditious reconciliation of issues with the House passed bill so that the best possible measure may result and a National Legal Services Corporation may be implemented at the earliest opportunity.
>
> Sincerely,
>
> Melvin R. Laird,
> *Counselor to the President for Domestic Affairs.*

So we now have a majority of both Houses who have twice endorsed the concept of an independent legal services corporation, through overwhelming final passage and who have on two or three other occasions including votes on recommital and conference reports, supported legal services within the context of the Economic Opportunity Act.

The respective committees of each House have agreed on the need for this legal services corporation. The administration endorses this bill. A substantial majority have voted, as I said, on several occasions to support it, or more liberal versions of it, so I think it is time we act on the measure.

There is no further necessity for any hearings or further debate or further discussion. We have exhausted all of that. If the Senator from Colorado (Mr. DOMINICK) thought inadequate consideration had been given to this proposal, he would have said, "Let us have some hearings." Or Senator TAFT could at any time have said, "Let us have some hearings."

Indeed, Senator TAFT did express some reservations about the legislation in committee, and he offered some compromise language during our negotiations and markup which satisfied his major difficulties, as notes in his fine additional views to the committee report.

Mr. President, I ask unanimous consent to have printed in the RECORD the additional views by the distinguished Senator from Ohio (Mr. TAFT) which appear on page 45 and the first half of page 46 of the committee report.

There being no objection, the additional views were ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF MR. TAFT

Our governmental system is one founded upon law. Equal access to the procedural system that considers an individual's rights and obligations under the law is essential for all citizens. Historically, such access has been provided for principally by private lawyer-client relationships with the financial ability of the client to secure such an arrangement often the determining factor as to the quantity and quality of the relationship. This procedure presents serious obstacles to economically disadvantaged members of our society and is repugnant to the Constitutional requirement of equal justice under law. Attempts to correct this imbalance by the legal community have been advanced through the implementation of numerous legal aid and public defender programs since the early 1900's. These programs developed internally within the legal profession and proved not to be numerous enough or broad enough in scope to provide equal opportunity in meeting the legal needs for the economically disadvantaged. Recognizing this fact, an experimental legal services program to provide free legal assistance for low-income persons was initiated by the Federal government in 1965 in the Office of Economic Opportunity with a budget of $600,000. This concept achieved acceptance in the Congress and the legal community in the following years and is represented by a Federal commitment at the rate of $71.5 million for the current fiscal year.

The Committee bill is a refinement of the experience of the legal services program in the Office of Economic Opportunity and is a major step forward in insuring delivery of legal services to all Americans. The work and input leading to the proposal has come from not only many Members of the Congress and their staffs, but also as a result of initiatives and excellent cooperation from the Administration, various bar organizations and individual advocates of strong legal service programs.

I realize that some of my colleagues may have questions about certain aspects of this legislation, especially in light of the rather controversial history that similar proposals have experienced. I am very much aware of the concerns many of my colleagues may have with regard to the areas of lobbying and political activity, or the suggestion that federal assistance for legal services be incorporated into a revenue sharing type plan.

Quite frankly, I initially approached this subject with similar thoughts and concerns. After extensive staff research, consultations with my colleagues on the Committee, and discussions with the Administration, however, I found my concerns could be resolved by the specific statutory language contained in this proposal.

I believe the safeguards adopted for lobbying and political activity merit positive consideration of the Senate as such safeguards represent a sound and flexible approach without jeopardizing the mandate of the Corporation to provide legal services to the economically disadvantaged.

While a revenue sharing approach is not specifically adopted, states may receive grants for programs under certain circumstances and will have an opportunity through state advisory boards and notice provisions to monitor the legal services provided within their state by the Corporation. Provisions are also included to permit experimentation with alternative types of delivery systems of legal services to the economically disadvantaged.

It is also important to examine the powers and directives that are given to the controlling board of the corporation all of whom are Presidentially appointed, to issue rules and regulations to insure the Corporation is conducting its activities within the statutory guidelines and pursuant to the Congressional mandate.

The constructive balance that has been reached on these points and others under the excellent leadership of Senators Nelson and Javits should be reviewed by all members with the understanding that without compromise, opportunity for passage and approval of this legislation would be greatly jeopardized. Further, assuming this legislation is approved by the Senate, a comprehensive consideration of the proposal can be expected in conference committee deliberations with the House which has approved a much more restrictive approach to this area. I, therefore, will support the proposal as reported without offering major substantive amendments and would urge my colleagues to consider a similar approach to this extremely important legislative proposal.

Mr. NELSON. Any one of the 16 members who sat in and participated in the markup of this bill, if they thought there was any necessity at all, if any purpose would be served by further hearings, could have asked for them. They did not, and they did not because they were absolutely unnecessary this year.

It would have been a waste of the time of Senators and the taxpayers' money because we have already heard from everyone.

I neglected to mention that we also have unequivocal support of the American Bar Association. When we get the administration, the President of the United States, a unanimous report of the Republicans and the Democrats on the Committee on Labor and Public Welfare, and a report from the committee of the House, and bipartisan support of this proposition in the House of Representatives and the Senate, it is a remarkable accomplishment. I do not know how much broader an agreement one could get. In fact I almost find myself in some state of embarrassment to be in such unanimous agreement with the American Bar Association, but I am happy to have that distinguished and conservative organization supporting this concept. They have made a fine contribution in the discussion and in the dialog, and they have been most helpful in the development of this compromise.

Therefore, when we look at those supporting this compromise and see the board spectrum of philosophical points of view of those in agreement on it, one would think there would not be opposition of any kind left, anywhere.

Mr. President, I said before that I would insert the rollcall votes in 1971–72 on the legal services amendments.

I should like the record to show that when the Legal Services Corporation bill was before the Senate and voted on, on September 8, 1971, the vote was 49 yeas, 12 nays, with 39 not voting. On June 29, 1972, when we voted again on an independent Legal Services Corporation, the yeas were 74, the nays were 16, with 10 not voting.

Mr. President, I have nothing more to add to this debate. In fact, I am being repetitious now, so I am prepared to yield the floor.

I had some belief that perhaps the Senator from California (Mr. CRANSTON) wished to speak.

Did the distinguished Senator from Maine (Mr. HATHAWAY) wish me to yield to him, or does the Senator want the floor in his own right?

Mr. HATHAWAY. I would be glad for the Senator to yield to me for a brief 5-minute statement.

Mr. NELSON. The Senator may have the floor in his own right.

Mr. President, I yield the floor.

Mr. HATHAWAY. Mr. President, I would like to make a few remarks in support of the committee bill and the principle underlying the Legal Services program.

"Equal justice under law," the phrase etched above the entrance to the Supreme Court, is one of the two or three basic ideas upon which this country was founded. And yet, like so many of the substantive rights to which our citizens are nominally entitled, the principle of equal justice is not self-enforcing. Until relatively recently, our system of justice was effectively closed to the one quarter of our population unable to afford the hiring of an attorney. The Supreme Court recognized inadequacy of this situation in the criminal field in the Gideon decision and the cases that followed it. The Court held, quite simply, that in a judicial proceeding where a person's life or liberty are at stake, due process is impossible unless both sides have a lawyer. To those of us who have practiced law, the truth of this observation is self-evident.

The Legal Services program is simply a modest effort to give life to the Gideon principle in the civil field—where significant property rights sometimes including the means for survival itself—are at stake every day. What it comes down to then, is whether we really believe in "equal justice under law" or whether we are content to leave it an empty motto, chiseled in a monument of stone.

What always strikes me as ironic about the debate on this subject is that the opponents of the program always seems to be those who are the most patriotic, the staunchest defenders of the virtues of our system. And yet, what they are really saying in opposing the provision of full-time, high-quality legal representation to the poor is that they really do not trust it, that is, unless it remains rigged in favor of those who can afford counsel. To me, the continued existence and support of a vital and aggressive Legal Services program is a measure of our real faith in the system. These lawyers do not decide cases—courts do. These lawyers do not write laws—legislatures do. Why, if we trust the system, should we fear that all sides of a controversy be ably represented?

Of course, it seems peculiar that the Government should, in some cases be paying lawyers to sue itself.

But therein lies the true test of our commitment to the principle of equal justice. By its allowance, we affirm the strength of our institutions and their actions.

Of course, cases are going to be brought which might make life uncomfortable for us or some of our more influential constituents. But if this were not the case, the lawyers in the program would not be doing their job. And the charge that the present program is some kind of nationwide public interest law firm serving the needs of the lawyers rather than those of the poor clients is utter nonsense. In my own State, for example, where the legal services program is reputed to be "law reform" oriented, less than 3 percent of the cases handled could be denominated "law reform" and less than 1 percent of the cases litigated were appealed. I don't think this, by any stretch, could be interpreted as an overemphasis on social change or an ignoring of the needs of the individual client.

Finally, it should be recognized that legal services, because it is based entirely on the principle of resolving grievances through the use of established processes, is a profoundly conservative program.

Ironically, its principal opponents are found on both the right and the extreme left—because, I suspect, neither of these groups really want to see the system work. This bill offers us the opportunity to prove, once again, that it can work and, that, 200 years after our own revolution, we remain committed to working out the ideals upon which our system is based.

Mr. President, we have given and continue to give, over the years food to the poor, through food stamps and surplus commodities; we have given them housing allowances, through our housing programs; we have enabled many of them to find jobs on a part-time or a full-time basis, through our manpower training programs. In short, we have supplied to the disenfranchised, who amount to about 30 million people in this country, many of the material benefits of our society which I believe they deserve. But I think that the best measure of our commitment to the disenfranchised of this country is to provide them with a realistic legal services program. It is only through such a program that we can assure them something that means more to them than food, something that means more to them than shelter, and something that means more to them than simply holding a job. It means assuring them that they will be protected in their legal rights in our society and they will be able to participate, along with all of our other citizens, in the processes of justice which give men dignity and hope.

Mr. President, I ask unanimous consent to have printed in the Record statistics pertaining to the Pine Tree Legal Assistance Program in Maine and editorials from three newspapers, in support of keeping this program alive.

There being no objection, the material was ordered to be printed in the Record, as follows:

Pine Tree Legal Assistance, Inc.

From the inception of the program in June, 1967, through September, 1973: 38,855 individuals were served; 3,239 housing problems were handled; 11,602 family problems were handled; 6,018 cases were litigated.

During the years 1971 and 1972: 14,090 families served were below the poverty line; 5,290 families served were on welfare.

[From the Portland (Maine) Evening Express, March 1, 1973]

Keep Pine Tree Legal Alive

One of the projects authorized by the White House, in its program of turning the clock back to the good old days, is dismantling of the legal assistance system organized by President Nixon's predecessor. This will cut off funds for 2,200 lawyers now employed to aid the poor in securing rights hitherto denied them, so that if the program is continued it will have to be funded by other means.

By a coincidence, although its own federal funds will be cut off before the end of the year, Pine Tree Legal Assistance, Inc., has launched a campaign to raise, hopefully, $100,000 so that it can meet the demands now put upon it. Mr. Marshall Cohen, administrative director of the project, says "we simply can't provide the same level of services", and we are pleased to find the Casco Bank, the Maine Bar Association, and a number of other organizations and individuals rallying to Pine Tree's side.

These attorneys for the poor are handling over 5,000 cases a year, nearly all of which are individual service cases. Poor people, to a larger extent than other elements of the population, have little knowledge of their legal rights. Occasionally Pine Tree Legal Assistance initiates class action suits, and it is this type of litigation that annoys the people around the President.

We hope the fund drive succeeds, all the more so since Pine Tree will run out of federal money this fall, if not sooner. The bar itself now recognizes its duty to help those less fortunately situated, and it finds many young lawyers turning from corporate law to the type of personal assistance to the underprivileged that renders Pine Tree Legal Assistance so valuable here in Maine. Even so, they cannot live without financial help.

[From the Brunswick (Me.) Times Record, Feb. 18, 1973]

Support Lawyers for the Poor

The Office of Economic Opportunity (OEO), the agency set up by the Johnson Administration to spearhead the war on poverty, has run into a lot of snags, and the plan in Washington now is to abolish it as such and transfer the worthwhile functions it does perform to other agencies. It is a decision we have, on the whole, endorsed.

There is one component of OEO, however, that has been generally acclaimed across the nation, and that is its legal branch which provides legal services to the poor.

It has, of course, also been attacked, for government agencies in particular do not appreciate seeing public funds used to launch legal assaults against some of their practices.

But, as we say, in general this particular function of OEO has met with general approval. The Nixon Administration itself has proposed the formation of a separate corporation to run the program so that it will not be so vulnerable to political pressure.

In Maine the OEO's legal branch is represented by Pine Tree Legal Assistance, headquartered in Portland and with branch offices around the state.

It is an agency we probably don't hear about as often as we should but it has accomplished some very significant things in recent years. The cases they have won not only benefit the poor, but all of us.

Some examples:

Elimination of debtor's prison in the state.

Requiring that housing units meet standards of livability.

Right of legal counsel to anyone facing imprisonment, including juveniles.

Right to a fair hearing in cases involving termination of Medicaid benefits.

Right to fair hearing in cases where the state is trying to remove children from their mother's care.

Elimination of indefinite bread and water solitary confinement in state prison.

There are more accomplishments of Pine Tree Legal Assistance in the state, but those listed provide a fair sample of what the agency has been able to accomplish in the short time it has been organized.

The agency's federal funding for the year is $506,000, but this is not enough to meet the almost overwhelming task of meeting the legal needs of the state's poor.

Accordingly, the agency has launched an annual fund drive to supplement this federal funding, and we were pleased to see in the news media that a major bank is one of the first organizations in the state to make a contribution.

We hope more contributions, corporate and private, will be forthcoming, for this is an agency that genuinely deserves our support.

Contributions, which are tax deductible, may be made to Pine Tree Legal Assistance, 565 Congress St., Portland.

[From the Biddleford-Saco (Maine) Journal, Feb. 19, 1973]

In Our Opinion Pine Tree Legal Is Worth Supporting

One worthwhile agency that will be hurt with the dismantling of the Office of Economic Opportunity (OEO) will be Maine's Pine Tree Legal Assistance program.

Since its inception in Maine in 1967 Pine Tree Legal has handled close to 25,000 legal matters for the state's estimated 200,000 poor people.

A few of the cases made dramatic headlines like the breakthrough in getting the State Health and Welfare Department to let foster children visit their parents.

However, Pine Tree's list of accomplishments goes on for pages. Some examples: elimination of debtor's prison, a consumer protection organization, the right to fair hearing if the state tries to remove children from a mother; the right of an attorney for anyone facing imprisonment including juveniles, the requirement that housing units meet standards of livability, and the right to fair hearing in cases involving termination of Medicaid benefits.

Many of its accomplishments involve class actions—making changes that affect a large number of people. But Pine Tree also handles many individual cases too. An example: a woman was fired from her job because she refused to work on Sunday which is a religious holiday to her. Pine Tree got her job back with retroactive pay.

But Pine Tree's federal grant has been frozen at the same level for the past two years, and prospects for additional funding are dim.

So we support Pine Tree's efforts in starting its first fund-raising campaign, including an application for United Fund support and participation in federal revenue sharing.

CLOTURE MOTION

Mr. TAFT. Mr. President, I send a motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII the Chair, without objection, directs the clerks to read the motion.

The legislation clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 2686), a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Robert Taft
Gaylord Nelson
Alan Cranston
Mike Mansfield
Bob Packwood
William D. Hathaway
Birch Bayh
Hugh Scott
Mike Gravel
George McGovern
Vance Hartke
William Proxmire
J. Glenn Beall
Robert T. Stafford
Claiborne Pell
Jacob K. Javits
Thomas J. McIntyre
Hubert H. Humphrey
Walter F. Mondale
Edward M. Kennedy

LEGAL SERVICES CORPORATION ACT

The Senate continued with the consideration of the bill (S. 2686) to amend the Economic Opportunity Act of 1961 to provide for the transfer of the Legal Services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Mr. McCLURE. Mr. President, I rise in opposition.

Congress at times can go galloping off in all directions, or at least two. Recently the 93d Congress passed the war powers bill, in a stated effort to take into its hands and hold more firmly that power delegated to it by the Constitution: the right to declare war. Congress, the press, and the public have joined in rare unanimity to bewail receding congressional authority and to enjoin on themselves and each other the necessity to strengthen the operation of the legislative branch.

That is direction No. 1 Congress is taking, and it is a good one. But, at the same time, the same Congress is considering the Legal Services bill. Legal Services lawyers have busied themselves with cases like Garvin against Rosenau in which Michigan Legal Services provided representation for a group of students opposing U.S. involvement in Asia. Now the war in Asia was certainly a debatable issue. But the proper forum for that debate was the Congress of the United States where it ultimately took place. The fact that the taxpayer's money was supporting an administration backing one policy, and a legislature with the ability to modify or repeal that policy and at the same time supporting Legal Services' attempts to destroy that policy in the courts, indicates that the country cannot decide who should be writing the laws of the land, despite the fact that the Constitution is very clear on that subject. This legislation can strip the legislative branch of its mandate: that of making the country's law.

On an individual basis, I cannot see why any Senator or Congressman would want to pass such a bill. Do they not believe in their own jobs? Do they not like them? Do they feel incapable of representing their constituents? If Senators think I am exaggerating, I suggest that they look at the words of the first Legal Services Director, E. E. Clinton Banburger, who referred to lawyers in Legal Services as the:

> Architects as well as the artisans of social reform, redesigning, reforming and creating not only legal institutions, but social, economic, and political institutions as well.

What is exposed here is the very serious application of the double standard with reference to the word "political." Mr. Banburger tells us that political institutions are a major concern of Legal Services. Yet the report on the legislation presented to us here today specifically states that the reason for setting this service up in the form of a corporation is "to insulate it from political interference and control." We have then two definitions of the word political. One refers to our tripartite, two-party system. That is the political "interference" from which Legal Services is to be shielded.

The other definition, Mr. Banburger's and those others who see Legal Services as a way of changing the system, means "the politics of reform, the politics of recreating social institutions, the politics of redesign of society by the courts." Since all the people who favor such "politics" are on the far left of the political spectrum, the only political interference from which this corporation would be removed would be the "interference" of the center and right of center who have effectively been hog-tied by this legislation.

It is difficult to understand how Senators can accept their positions from the voters of their various States and at the same time persist in undermining the positions of local legislators elected by the same democratic mandate. But they do. Those who have voted for Legal Services in the past and who continue to push for this legislation presumably approve of what the organization does and this includes the attempt to change State laws, not through the legislatures, but precisely by circumventing those bodies. For example, Legal Services agencies are forbidden by law to represent defendants in criminal actions, so they evade this prohibition by filing amicus curiae briefs in cases where doctors are charged with performing criminal abortions. In Jobe against Oklahoma such a brief was filed stating that—

> Oklahoma's criminal abortion law prohibits anyone from giving aid or advice to pregnant women which will trigger a miscarriage unless an abortion is necessary to preserve the woman's life. Amicus argues that this statute is unconstitutionally vague, and, that it infringes on the right to privacy, interferes with women's rights to personal relationships, physicians' rights to practice, and places an unequal burden on the poor who cannot move out of the state. Amicus argues that no overriding state interest permits the state to infringe on these constitutional rights.

Legal Services agencies have also attacked abortion laws in New York and New Jersey. It is obvious to anyone who has studied the abortion debate in this country that the issues and concepts at stake are of such a fundamental and important nature that this issue should be debated in the open by the elected representatives of the people affected by the decision, rather than slipped through the courts without their knowledge or approval.

Earl Johnson, the second director of the Legal Services program said,

> (Serving the needs of the individual client) is not likely to change the system itself, and many observers feel that this is the greatest weakness in the traditional legal aid approach.

What is the system that needs changing? If it is the system of codified laws under which we now operate, is it not the business of the very body to make any needed changes? I suggest that the Senators who approve of this bill tell us what laws they dislike and tell us how to improve them. This is their job. On the other hand if the system that needs changing in our balanced three-branch system, I would like to see this fourth branch of government, the Legal Service branch, properly provided for in the Constitution. Senators who approve of this bill show their approval by resigning their jobs. Kenneth Pye complains—

> Many lawyers will give steadfast support to organizations designed primarily to provide services to individual poor persons with middle class legal problems but are either apathetic or opposed to organizations with substantial commitments to providing representation to groups contemplating civil rights demonstrations, economic boycotts or rent strikes.

Now I suggest that legislation preventing or permitting demonstrations, boycotts or strikes belongs in the various legislatures. Are the Senators reluctant to propose legislation in these areas? What can be done by Legal Service lawyers acting obliquely through the courts that could not be done openly on the floors of the House and Senate? Professor Blumenthal of Yale gives us an honest definition of Legal Services as follows:

> Law Reform may be defined as representation . . . with the primary objective of changing a law or legal interpretation affecting the poor generally.

I ask my fellow Senators who wish to vote for this bill if changing the laws and clarifying their interpretations is not exactly the job they were elected and sent to Washington to do? Either the Senators do or do not want to see sweeping changes in the system. If they do, why do they not propose legislation to effect such changes? Is it because they know such bills would not pass? Then the Senators are telling us that what they are voting for is a way to achieve such changes in the face of the constitutionally appointed body set up to pass on exactly such changes. This is a vote of no confidence in the Senate and House themselves.

Perhaps there is another reason. Perhaps the Senators would like to see such changes but cannot risk the wrath of their constituents when they are faced with the inevitable disruption presented by demonstrations, boycotts and strikes. They are saying to the constituents, "you have to live under these conditions, but do not blame me, it is the Legal Services program," the middle term of which syllogism has neatly been obscured. What happens to the rights of such poor constituents that do not favor demonstrations, strikes, and boycotts as effective means of presenting their arguments. Is there any faint hope that their point of view would be represented under the Legal Services system? What the Senators are now saying is that a minority of the people, the poor, must be served, but what a minority of the poor may think is of no importance at all.

In Idaho we have had a system which has worked very well in the past and the last thing we need is to exchange real help for people with legitimate needs for a bunch of lawyers who are more interested in systems than people. Our public defenders have done an excellent job in the criminal area and our system of volunteered time for people who need assistance in civil cases means that a client gets help from an experienced lawyer, not a would-be one right out of school. The result is that his case is resolved faster and with more likelihood of benefit to him.

Idahoans are far from enthusiastic about another incursion of the Federal bureaucracy into their lives. They have had a recent experience with the nightmare called OSHA. Various polls and surveys have expressed the thought that they have had about as much Government interference as they can take. They want to decide themselves what is good and bad about their lives and they do not need a group of young eastern or California lawyers to help them make those decisions. Idahoans are people who do not see themselves as the mere components of groups but as individuals. They would not care for the statement that Hannon made saying.

> In recent months OEO has exerted great financial pressure on local programs to force them to give priority to the kind of aggressive advocacy which hopefully will benefit the poor as a whole.

Idahoans are smart enough to recognize that this is the government's way of telling them that they cannot figure out, as individuals, what they need in the way of legal help and it's going to be done for them by somebody else whether they like it or not. No matter that someone from New York or Massachusetts has no idea of Idaho life, no matter that he is interested in systems and classes instead of individuals, he is going to get out there and use the very tax money which the working poor must give up in order to do something completely foreign to their interests.

The citizens of Idaho are going to wonder why legislators are unwilling to do the jobs they are paid to do. They are going to wonder why they must pay a whole new group of people to change legislation, when they support with their taxes 535 men and women expressly elected for that purpose. And they are going to wonder why this new body consists of people coming to their State and telling them what they must do about certain needs whether they have such needs or not. I will not be able to explain it to them. The best I will be able to do is to tell them I voted against it.

It will be difficult to explain to our constituents that the help we were once able to give them will be less available. Suppose Mrs. Jones calls my office and says, "I was owed such and such an amount of money as a tax refund and I have not been able to collect. I cannot afford to hire a lawyer and I have been to the local Legal Services people. I have found that they are not waiting for cases, since they are paid on a regular basis regardless of case load. They tell me that they are all too busy trying class suits on the right to engage in boycotts. Can you help me get such a lawyer to help me?" I will have to tell her that I have no control over these people, that they can service the people or not but I would not be able to insist that they do since they are autonomous. I will have failed my constituent.

Real proof of the fact that the Legal Services bill's supporters are not in the least devoted to the interests of the poor is the system they would set up involving the staff attorneys. These people will be paid a salary regardless of what they are doing—and there is always that percentage who will do nothing at all. A voucher system would mean that a poor person who needed help could present his voucher to an attorney giving the lawyer the right to collect from the Government. But he would not be able to collect unless he had taken the case. This system would really benefit the poor since they would be able to choose their lawyers, and would not have to settle for the typical inexperienced legal services youngster. The worst aspect of this individual will not be merely his inexperience. A merely inexperienced lawyer would be a boon compared to some of the people we are going to attract to these jobs. Radical lawyers using the people's tax money to protest a war supported by the people's tax money is strange enough, but I also object to the hypocrisy implicit in this bill.

It is one thing to provide Legal Services for the poor and another to foment dissent. The ability and freedom to dissent are obviously necessities in a democracy but to equip and fund a group of professional dissenters, whose self-expressed purpose is to go and bring down the system that those of us on this hill work day in and day out to perfect, is virtually paranoid. Radical lawyers are neither friend of the system or the individual. In order to illustrate the behavior of one famous radical lawyer in court I would like to read to you parts of a story published in the Charleston, S.C., News and Courier on November 11 of this year.

> In the small hours of August 26, 1970, Karelton Lewis Armstrong, a student opposed to United States participation in the Vietnam war, expressed his views by exploding a bomb in the University of Wisconsin Army Mathematics Research Center. It happened that working there at the time, alone, was a physicist, Robert Fassnacht. The explosion killed him.
>
> He was sentenced to 25 years in prison. With the aid of Attorney William M. Kunstler, defender of many anti-war activists, Armstrong obtained a mitigation of sentence hearing, hoping to have his prison term reduced.
>
> Parading before the Judge came a strange collection of historians, scientists and political activists in Armstrong's behalf. The war in Vietnam, they argued, was "illegal", and therefore all acts of resistance against it were justified—including the killing of Robert Fassnacht.
>
> "You knew and I knew," the Attorney Kunstler told the Judge, "we were cowards. We did not do what Karl Armstrong did because we were middle-aged, perhaps, or because our positions were secure and we didn't want to jeopardize them." Melvin Greenberg, another defense attorney, said that the bombing of the research center was "a small, minute act of violence done to stop that huge, great violence of the Vietnam war."

I am not anxious to see the taxes of the people of Idaho, or any other State, go to lawyers who condone what the left has characterized as "symbolic language." I do not want it spent on lawyers who decide unilaterally what is legal and what is illegal and then condone violence, even murder, as a method of proper expression of political theory. I am not impressed by lawyers who think that people who do not commit arson and murder to underline their points are cowards. A lawyer who is prevented from murder and arson only by middle age or job security is not sane enough to unleash in public much less to force upon the citizens in an advocacy position. We do not need lawyers so illogical as to state that the best remedy for an evil is another dose of the same evil.

Traditional public disrespect for the law on the part of lawyers has been followed by disbarment and other public action warning future clients of their lack of responsibility. Now it seems that both flagrant contempt for the law and ability to circumvent it subtly are prerequisites for poverty lawyers. Aside from this implicit slander of the poor, does this position not put Congressmen and Senators—those who vote for such a system—in a position of accessories?

Another utterly distasteful aspect to this situation is the pretense that there is any care whatsover for the poor. The way this legislation would work the poor would be whoever Legal Services lawyers say they are and their needs would be established by their "betters," these same lawyers. The voluntary poor; that is students subsidized by wealthy families but owning and earning nothing of their own, and the professional welfare users would be treated on the same, or probably a preferential basis as those members of the working poor who have no chic slogans to air and who cannot afford the luxury of litigation for its own sake.

Since a large percentage of legitimate Legal Services work is in divorce cases, the ultimate losers in such situations would be, as they always are, the children. Children of parents whose Legal Services lawyers would be scrambling around engendering demonstrations would find themselves in a sort of domestic limbo with their futures unsettled and perhaps without interim means of adequate support; all of this as a result of the overriding interests in boycotts and strikes.

Litigation for its own sake is of absolutely no importance whatsoever to a mother trying to win support for her family or a father trying to claim just benefits due him for injury. Lowenstein and Waggoner pinned down this absurdity neatly although inadvertently in a Harvard Law Review article in 1967:

> The law reform device which is most closely related to and arises most naturally out of the service function is the test-case. Test-cases, however, are subject to a number of disadvantages which limit their effectiveness. Much of the law which affects poor people is statutory and hence less susceptible than judge-made law to change by the courts except when vulnerable to the charge of unconstitutionality. The test-case is a long process and always involves the risk of an indecisive or adverse result. The small amounts usually involved in cases in which poor people are parties often make it to the other party's advantage to give in on the particular case rather than face the possibility of an adverse decision. Since the lawyer's first responsibility is to his client, he cannot ethically turn down a generous settlement offer simply because he would like to litigate a point of law. This has been a common problem in cases against government agencies, particularly welfare departments . . . When a more comprehensive and coordinated change in the law is sought, the usefulness of the test-case is usually more limited. If law reform is to be more than a hit-or-miss, limited pursuit, the legal services program must attempt to influence statutory and regulatory as well as judge-made law. Accordingly, almost all the large OEO-funded legal services programs except to do some legislative work. (Lowenstein & Waggoner 80 HLR 805)

As is stated above, existing law is the remedy to which most of the poor engaged in litigation wish to appeal. Fraud, breach of contract and discrimination are tragedies of everyday life with which the ordinary citizen is concerned.

If Senators in this body really think that these concerns are less important than boycotts, strikes, and picketing, they will so serve notice of that preference to their constituents by their vote on this bill.

It is also interesting to note that many legislators who give lipservice to local control and responsibility are at the same time voting for measures that will initiate and perpetuate more "big brother," Washington-based control. The Legal Services bill makes a mockery of local responsibility. The bill does not even provide for a Federal charter, which means that when it is incorporated in the District of Columbia it will be, under home rule, controlled by District law. What possible sense can that make? Why should the District of Columbia Corporation Act be the ultimate control over a nationwide public service entity? It would be as logical to incorporate in Boise, Jacksonville, or Augusta.

There is no provision in this bill which would insure that Legal Services practitioners would be members of the State bar, or, for that matter, any bar at all. These lawyers will then have no knowledge of State law, tradition, history, or custom. The Governor's ability to veto the funding of a certain grantee, which was a part of the OEO system, has been abolished. Our constituents will see their tax dollars funding anyone Washington likes. They will be able to do nothing about it.

It is hard to pick out what is worse about this bill, but if a defeat for local control and autonomy is not its nadir, perhaps it is the erosion in family control it would bring about. This bill permits juvenile representation "where necessary" to prevent loss of "benefits or services" or "in other cases pursuant to criteria which the Board shall prescribe."

There are so many qualifiers in this section that it could not be construed as prohibiting the representation of a 6-year-old's right to green lollipops. But what it could mean would be that a 15-year-old girl could act without parental authority, but with Legal Services authority in order to prevent her rights to abortion or sterilization from being peempted. Maybe in Massachusetts or Minnesota parents want to turn their children into wards of the Federal Government. Maybe they have become so tired or so cynical about the importance of the family in American life that they no longer see the family as a unit or feel that they have no responsibilities as parents. In Idaho we do not feel that way. We are still confident. We are still hopeful. We know that children's best hope is in their families and families in their own communities.

Much of this bill is not worth the paper it is written on. I do not say this because I disagree with it, but because it is an exercise in self-cancellation. It is worse than French verbs, where exceptions become the rule. It is theoretically possible to have one paragraph of provision and seven of exception, and while there is more hole than doughnut, there is still some doughnut left. On page 16, line 5 the bill reads:

> (This provision shall) "Insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to undertake to influence the passage or defeat of any legislation by the Congress of the U.S., or by any State or local legislative bodies, . . ."

That sounds like a good hard provision against lobbying, does it not?

But read on: there are two exceptions, one of which says: where representation by an attorney as an attorney for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities.

What this actually means is when a Legal Services lawyer and his client decide that the previous prohibition is inapplicable, it is inapplicable. Why write it into the law at all? The effect is to let them do what they want to do and when they want to do it. It was written into the bill to give the appearance of a prohibition without the necessity of actually imposing a restraint.

There is a fine strong sounding prohibition of political activity beginning on line 21 of page 16.

All attorneys shall refrain from:

> (A) any political activity associated with a political party or association, or the campaign of any candidate for public or party office.
>
> (B) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election, or
>
> (C) any voter registration activity.

But then comes the hooker:

> Except as necessary to the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities;

So then the prohibition shall be in effect until Legal Services lawyers tell their clients that it is a necessary part of the advice they must hear. The client, unless he is a lawyer himself, would not know the difference, and once again everyone is hoodwinked.

Here is another example of a strawman prohibition knocked over by a strong "except" clause:

Legal Services lawyers are prohibited:

> (6) to organize, to assist to organize, or to encourage to organize, or to plan for the creation or formation of or the structuring of any organization, association, coalition, alliance, federation, confederation, or any similar entity, *except* for the rendering of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities.

The exception probably includes every activity short of chartering a corporation in his own name, that the lawyer would have engaged in anyway.

It is clear that the intent of this bill is to hand over as much of our freedom—in the legal area—as possible to an independent, Washington based corporation.

From Idaho, relatively late to join the Union, and relatively far from Washington, we have watched with better than average perspective of the erosion of the rights of our fellow citizens. We do not intend to relinquish any more rights to big brother unless we are forced nor appropriate up to $100 million a year to determine and administer what he perceives to be our rights. We cannot accept this legislation.

Mr. President, if you want to know how bad the Legal Services program is, you have but to ask the man who spent the first half of this year trying to administer it.

Howard Phillips, former OEO Director, has written a factual article on the subject that is absolutely devastating to the whole concept of federally subsidized poverty attorneys. I ask that the article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Human Events, December 1973]

Article by H. Phillips

Before they die, or succumb to tyranny, civilizations reach a point at which they are incapable of discerning wherein lies their self-interest. Rendered insensitive to danger by the unrebuked repetition of calculated outrages by the enemies of society, they are no longer shocked or even stirred to self-defense when told of the enemy's plan.

Such is the case in America today, as countless examples of treachery and subversion, many financed by the government itself, are ignored, or even encouraged, by an establishment perverted to self-destruction, and a hand-maiden "advocacy" press which alternately celebrates and overlooks the words and deeds of those who would destroy their liberty to engage in such suicidal pandering.

In this century, need we remind ourselves that Lenin and Hitler elaborately detailed their plans to dominate others, in books published well in advance of the occasions on which they actually seized power?

If enough Americans will heed the available warnings, our free society may continue to successfully withstand the destructive blows planned for us by the contemporary agents of totalitarianism.

"I do see a problem of Washington's trying to control more when they find out what is really going on. They don't know, and the bureaucracy in legal services has tried to cover up as much as possible. . . ."

Those words were spoken by Alan W. Houseman, a leader of the leftist National Lawyers Guild, who is director of the OEO-funded Michigan Legal Services Assistance Program (MLSAP), a statewide "back-up center" funded through Wayne State University in Detroit.

The cover-up concerning which Houseman was quoted, in a new book, *The People's Lawyers*, published by Holt, Rhinehart & Winston, has not received the kind of congressional and press attention accorded the alleged White House cover-up of Watergate, but it has a far more profound significance for America.

Authored by Marlise James, *The People's Lawyers* is intended to serve as a tribute to "left lawyers who, for various reasons, were virtually unknown to the public." But, set forth as a history of "the People's Law Movement," by a writer who discounts the "original" American Revolution as "an entrenchment of the monied, land-owning, white male middle class in power," the book also serves to trace the clear patterns of Marxist-Leninist influence in the OEO legal services program.

While Miss James credits the pre-World War I founders of the American Civil Liberties Union (ACLU) as the pioneers of the "people's law movement," she cites the formation of the National Lawyers Guild (NLG) in 1937 as the "final input" through which "radical lawyers, generally with a labor orientation," combined their strength with the intellectual dissidents of the ACLU and the black lawyers of the National Bar Association, who had been excluded from membership in the American Bar Association (ABA).

Miss James points out that "in 1939, when the Nazi-Soviet non-aggression pact was signed, the movement began to weaken. . . . When the United States entered World War II, the people's law movement dropped to a low point."

Although many "liberal organizations, the ACLU included, responded to the atmosphere of those times by passing resolutions barring Communists from their memberships," the authoress observes that "Following the war, with Russia as our new-found ally, it appeared that people's lawyers might be able to get on with their business."

However, in the late '40s, as the Cold War intensified, conventionally liberal lawyers of the ACLU variety "fell over each other," says Miss James disparagingly, "in the rush to proclaim their patriotism." Therefore, it fell to the "movement" lawyers of the NLG to defend "the rights of their labor and radical clients. They did their work so strenuously," she continues, "that they were accused, as an organization, of being the Communist party's legal arm in this country."

At roughly the same time, "rights lawyers disillusioned with the ACLU" and "non-Communist liberals who were not afraid of being labeled Communist" came together to form "The National Emergency Civil Liberties Committee (NECLC)."

The turning of the tide in favor of the radical-left gained momentum in 1957 with the Supreme Court overthrow of Smith Act restrictions on Communists, and the organized protest in the spring of 1960 against the House Committee on Un-American Activities. These events gave the people's law movement a new "tone for the '60s, a decade of protest."

Militant youth found a welcome home in the Law Students Civil Rights Research Council (LSCRRC) while older radicals formed the Center for Constitutional Rights (CCR), a group whose leadership today includes such stars of the far left as William Kunstler, Arthur Kinoy, Howard Moore Jr., Dennis Roberts, Jennie Rhine, Linda Huber, Richard Sobol, Michael and Margaret Ratner.

The CCR, which now claims to have more than 70 cases on its docket, has been active on a wide variety of "movement" high-impact public relations cases, including support of the American Indian Movement, the Gainesville 8, Angela Davis, the Berrigans, the Chicago 7, the Attica prison rioters, women's liberation and H. Rap Brown.

In assessing the left's major advances during the '60s, Miss James places great emphasis on the OEO legal services program, out of which, she says, "came a new rights input into the people's law movement as committed young attorneys across the country drew up proposals for legal services programs and received government funding to carry these proposals through."

During the mid-'60s the NLG "actively began to organize law students. It became known as the legal arm of the movement," and "the ACLU and NECLC were infiltrated by activists."

As "movement" ranks swelled, "new forms of organizations had to be found to accommodate" these new recruits. OEO and similar "staff attorney" programs "took on as many people's lawyers as they could, either as staff attorneys, interns, trainees, or cooperating attorneys." The field of "public interest law," aided by federal subsidy and foundation support, grew as a means by which activist attorneys could remain fully involved in politics and social change, while earning a livelihood.

Some of the young politico-lawyers brought changes of style and substance to the practice of law, abandoning procedural niceties as easily as traditional habits of personal grooming. "Attorneys began to hold numerous press conferences in which they would express their view that justice was not being served in the courtroom."

One movement attorney celebrated with full chapter status in The People's Lawyers is Anthony G. Amsterdam, a professor at Stanford University Law School, who has personally been involved in the OEO legal services program.

Amsterdam has been associated with a full spectrum of organizations on the liberal-left, ranging from ACLU and the NAACP Legal Defense Fund to the Lawyers Constitutional Defense Committee (LCDC) and the Southern Christian Leadership Conference (SCLC). He joined with Charles Garry in representing Black Panther Bobby Seale and has been William Kunstler's personal counsel, Amsterdam also led the national campaign to eliminate the death penalty through test case litigation.

One OEO program on whose board of trustees Amsterdam has served is the California Indian Legal Services (CILS) project, a Berkeley-based grantee which was started in 1967 and has been heavily staffed by the Reginald Heber Smith Fellowship Program. With close ties to Sen. John V. Tunney (D.-Calif.), CILS has become an increasingly influential political force among the members of California's diverse Indian population.

In describing his personal political philosophy, Amsterdam says ". . . it can't only be done within the law . . . we do need something that is in the nature of a revolution. . . . There are a lot of people who can get out on the barricades and fire guns. I probably shoot worse than most other people. But the people who have had the kind of training and experience I've had are relatively few, and so I can make a greater contribution now by being a lawyer than by being on the barricades."

"I'm close to revolutionaries," says this overseer of tax-supported legal aid, "in that I agree that major change is necessary in our society and I have at least a doubt that that's possible within our present legal system. I agree with them completely that if it is not possible within the legal system, the legal system is going to have to be changed by any means necessary to change it."

Amsterdam concludes that "[I]f a society is bad enough, you tear it down without anything to replace it. But I'm not yet there at that level. I may change my mind any day, though."

In reviewing the history of OEO legal services, Miss James expresses the view that despite a few "problems," the "programs provided a new golden age for rights lawyers." The first "sour note" came with restrictions on criminal representation "in January 1968, shortly after the summer that saw the battles in Detroit and Newark, at a time when many legal services lawyers were helping the people who were being tried for their part in those battles," she says.

What she calls the "second sour note" came after the formation of CRLA (California Rural Legal Assistance) as an outgrowth of Cesar Chavez' organizing activities on the West Coast. Many early CRLA activists "intended CRLA to play a part in making UFWOC [United Farm Workers Organizing Committee] a stronger organizing vehicle," but felt inhibited by Sargent Shriver's initial acquiescence to concerns of California bar leaders, who, at that time, opposed such a focus for publicly supported legal assistance.

Fewer problems exist today for OEO attorneys, as witness the Nixon Administration's renewed support for the legal services back-up centers. Discussing the work of his Michigan "back-up center," NLG activist Alan Houseman says "[w]e do perform the back-up function, but we also represent state and local welfare rights organizations, except where there are good local legal services attorneys. We serve as lawyers to both the organizations and the people in them. We feel that the only way to buttress organizations is to serve only those people who are members.

"The only way an organization can function is to have ideas and goals and a conception of what has to be done to get to those goals, and the only way we can do anything meaningful is to relate to the organizations that we represent. *We try to stay within the OEO guidelines, but at times we're forced to go into criminal court, and we don't hesitate, although we do try to get the correct clearances* (emphasis added).

"There is a difference between providing lawyers and obtaining justice, and the role of the back-up center is the latter. That can only be accomplished when groups of the poor become politically powerful, so we try to work with groups that are and ones that are beginning to grow in that direction."

Outlining the growth of the "people's law movement," Miss James analyzes "progress" in each several key cities.

One of the more interesting is Detroit, where she tells of Justin "Chuck" Ravitz, who earned his spurs in the OEO legal services program and is a member of "the Motor City Labor League (MCLL), a Marxist-Leninist, white cadre organization."

Ravitz says that, in 1965, he worked in Detroit with another OEO legal services veteran. Sheldon Otis, who headed the San Mateo, Calif., legal services project, and who briefly represented Angela Davis before being personally confronted with charges of having embezzled funds from the "Reggie" program (see last week's Human Events).

According to Ravitz, "[r]evolutionary politics evolved out of continuing struggle and was materially advanced by interrelationships with my law partners and my political comrades. . . ." The current associate of Ravitz is Kenneth Vern Cockrel, a founder of the Black Workers Congress (BWC), "a revolutionary workers organization" with chapters in 22 cities. Cockrel flatly says about BWC: "We're Communists explicitly."

Focal point for Detroit's radical lawyers is the local chapter of the National Lawyers Guild, headed by Hugh M. "Buck" Davis Jr., still another veteran of the OEO Reginald Heber Smith legal services Fellowship program (Reggie).

Also a member of the Communist MCLL, Davis was critical of "the first few years" of the OEO program, when they were "just expanded legal aid offices. The staffs would be well-intentioned but not particularly political . . . . Then legal services started doing test cases . . . then they went into the third stage, representing groups and acting as a service unit to organizational groups . . . the final step now for an attorney is to decide that one group is correctly addressing itself to the problems that exist, and to service that group, which may mean giving up the practice of law if that is what that group decides you should do."

The legal philosophy of the young Detroit Communists is "politicize the case," and treat the courts as "a functional appendage of a larger system of oppression." When cited for contempt by the Michigan Bar Association, Ravitz and Cockrel "faced them again, head-on, attacking their investigation" as "just another example of the system's institutionalized lawlessness and racism." With NLG support, they won. Now, though consciously maintaining a "low profile," the Detroit radicals, trained and supported with OEO funds, expect to be "the vanguard of a Socialist revolution in this country."

One young Los Angeles lawyer idealized by Marlise James is Dan Lund, a native North Dakotan, elected in 1971 as national vice president of the NLG. Lund became involved with the OEO legal services program shortly after doing part-time organizing work for Cesar Chavez. He became a co-author of the funding proposal for CRLA, "inspired to do this from what I understood the history of the '30s to be when young, radical bureaucrats were able to creatively use many of the government agencies."

Lund calls CRLA "the most effective, well-organized" legal services program, but laments that "they've built a base among the liberals and the young creative bureaucrats of Washington" instead "of building a base among the people." Lund himself was active in SDS and "was arrested at the Dow demonstration at UCLA [in 1967]."

Another OEO veteran quoted in the book is Earle Tockman, who became a Reggie after breaking his "unsophisticated hangup about capitalism." Sent by OEO to Compton, Calif., Tockman joined the "Bar Sinister"—a political and legal collective which "wants to be a legal arm within the movement."

Tockman defends the time devoted in the Bar Sinister to self-analysis and radical study by asserting that "In a capitalist country when you're trying to break down individualism and trying to learn to function in a collective way," such is necessary.

Another law commune, the Venice Legal Collective (VLC), in Venice, Calif., was conceived in 1970 by employes of the OEO health law back-up center, located at UCLA.

Numerous other examples of legal services involvement in hard-left activities are cited by Miss James.

Lenin once observed that when the time came for capitalists to be hung on the gallows, they would compete among themselves for the opportunity to supply the rope.

In 1973 advocates of S 2686, the Senate Labor and Public Welfare Committee proposal for a politically free-wheeling Legal Services Corporation are again proving Lenin right, as they allow their well-intentioned goal of legal aid to the poor to become subverted into a $100-million-per-year boondoggle for the radical left.

Mr. JACKSON. Mr. President, I rise to express my wholehearted support for S. 2686, the Legal Services Corporation bill, as reported by the Senate Labor and Public Welfare Committee. Earlier this year, I, along with four other Senators, introduced a Legal Services Corporation bill similar to S. 2686 and to legislation which passed the Senate last year. The purpose of this legislation was to assure that justice is made more available to the people of America on the basis of need rather than solely on the basis of who has the money to buy a good lawyer.

The legal services program is without a doubt one of the most successful Federal programs at delivering a needed service to its intended beneficiaries. In my home State of Washington, the Seattle-King County legal aid program has provided essential legal assistance to over 15,000 low-income individuals and families so far this year. Nationwide, over 2,250 dedicated attorneys in 900 neighborhood law offices are helping people who could not otherwise afford legal assistance with critical legal problems affecting their day-to-day existence. The bulk of the cases handled by legal services attorneys have always been in the crucial areas of family law and landlord tenant law.

The legislation which we are considering today is the product of negotiation and compromise between the Senate and the administration. It is not perfect, but S. 2686 is a good bill which recognizes the need for the Legal Services program to be administered independent from political intervention and interference. It has always been my view that Legal Services attorneys must be free to represent their clients just as a good private attorney would represent a client. That is, the highest ethical standards of the profession should apply and legal services lawyers should be allowed to pursue all avenues of legal representation consistent with the Code of Professional Responsibility and other applicable ethical guidelines. S. 2686, as reported by the committee, conforms to this high standard.

I am proud to say that the Washington State Bar Association, of which I am a member, has formally expressed its support for the concept of an independent legal services corporation to conduct a program in which attorneys are free to provide the full scope of legal representation to meet the pressing needs of poor people without restrictions that are inconsistent with the Code of Professional Responsibility.

At this time, I ask unanimous consent that a resolution adopted by the Washington State Bar Association concerning the Legal Services program be included in the RECORD. I would also like to include in the RECORD a resolution of support for the Legal Services program by the Seattle-King County Bar Association.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTION IN RE NATIONAL LEGAL SERVICES CORPORATION—JULY 1973

It was moved, seconded and carried that the following Resolution be adopted and that copies of the Resolution be forwarded by the President of the Bar Association to appropriate Senators and other Congressional leaders in Washington, D.C.

Whereas, the Washington State Bar Association has consistently supported the efforts of the legal services programs in the State of Washington in their provision of legal services to the poor, and

Whereas, the Washington State Bar Association recognizes the need for adequately funded legal services programs in the State, and

Whereas, legislation is presently pending in the United States Senate which will create a national legal services corporation,

Now therefore, be it resolved, that the Washington State Bar Association urges prompt enactment of legislation by the United States Senate which will enable legal services programs to meet the pressing needs of the poor to the full scope of legal representation without restrictions which are inconsistent with the duties of attorneys under the Code of Professional Responsibility.

SEATTLE-KING COUNTY BAR ASSOCIATION

The Board of Trustees of the Seattle-King County Bar Association confirms its long standing support of programs which provide legal services to those in need who do not have the resources with which to retain counsel. Accordingly we urge enactment of legislation to establish an independent legal services corporation with adequate federal funding to support a continuing legal services program.

Mr. JACKSON. Mr. President, I fully expect S. 2686 to be approved by the Senate. However, as we know, considerable differences exist between S. 2686 and the legislation passed by the House last June. Unfortunately, the House bill contains several restrictive provisions that do limit the scope of legal services that can be provided under the program. I would, therefore, urge my colleagues in the Senate who will be participating in the conference on this legislation to stand firm for a program that will provide maximum flexibility in the range of legal representation that can be provided.

I urge that the conferees take this position because I believe that it is unfair to both client and attorney to limit the legal representation that can be provided under this program. Such treatment discriminates against the poor. Wealthy individuals who can afford private legal counsel are not limited and will get the fullest and most effective representation money can buy. Poor people, on the other hand, will not get the same broad and effective representation. In addition, such restrictions will put legal services attorneys in a position which is inconsistent with their professional obligation to provide the highest quality of representation to each and every client.

Mr. President, I am proud to register my support for S. 2686. I reiterate my view that the Senate should adopt this most worthy legislation.

In this regard, I urge opponents of S. 2686 who have initiated delaying tactics against the bill to permit the Senate to proceed to consideration of the merits of the bill. If there are constructive and responsible suggestions for improving the bill they should be fully debated. However, of the 45 or more amendments that have been proposed, few are more than mere stalling devices. I sincerely hope that the Senate will be able to proceed to a vote on this legislation with all deliberate speed.

Mr. HART. Mr. President, I support the proposed Legal Services Corporation Act as reported by the Committee on Labor and Public Welfare. The committee bill is a product of legislative compromise and agreement among various groups concerned about the continuation of the legal services program. This legislation will create a national corporation independent of political control and providing legal assistance to the indigent.

The committee bill eliminates the provisions of H.R. 7824 which would drastically undermine the legal services program and its components. S. 2686 does not arbitrarily restrict either the particular clients which legal services may represent or the types of remedies which may be sought on behalf of those clients. It assures that legal services programs and attorneys can advise clients of all applicable laws and remedies and preserves the appellate and advocacy responsibilities of legal services attorneys. It also guarantees continuation of the National and State support, specialized litigation, technical assistance, lawyer, and paraprofessional training programs, and representation of the poor before administrative and legislative bodies at all levels of our government. In sum, present staff attorney programs and support projects, which have been effective in providing quality legal representation to the poor should be strengthened by this bill.

The essential characteristics of this bill have received strong support from many knowledgeable groups in Michigan. I ask unanimous consent that the following material be printed in the Record at the conclusion of my remarks: Resolutions endorsing this proposal in principle by the Michigan Bar Association, the Michigan Trial Lawyers Association, and the State Bar Legal Aid Committee; editorials from the Detroit Free Press and Battle Creek Enquirer & News, and bipartisan statements of concern from the Michigan House of Representatives.

By enacting the Legal Services Corporation legislation as provided in the committee bill, this Congress offers hope to thousands of citizens—not only of Michigan but of the entire country—that they will receive equal justice under law.

There being no objection, the material was ordered to be printed in the Record, as follows:

State Bar of Michigan,
Lansing, Mich., September 19, 1973,
Hon. Philip A. Hart,
U.S. Senate, Old Senate Office Building, Washington, D.C.

Dear Senator Hart: At its meeting on September 12, 1973, the Board of Commissioners of the State Bar of Michigan passed the enclosed resolution concerning HR–7824, legislation now pending before the Senate to establish a National Legal Services Non-Profit Corporation.

While the resolution is unusually long, we believe that it warrants your careful attention, for it sets forth in some detail the considerations which we believe to be relevant in order to assure continued access to the administration of justice on the part of those unable to personally afford legal services.

Thank you for your consideration.

Sincerely,

Carl Smith, Jr., *President.*

Resolution

Whereas, there is a continuing need for legal services for the poor.

Whereas, there are twelve federally funded Legal Services Programs to meet this need in Michigan.

Whereas, these programs are facing an expanding demand for legal services and increased operating expenses.

Whereas, the funding for these programs has not increased since 1970 in spite of the increase in demand and operating expenses.

Whereas, the State Bar of Michigan continues to support the need for adequate legal services to the poor and the need for vital and independent programs to provide this representation.

Now, therefore, it is resolved:

1. The United States government should increase the level of funding of Legal Services programs to enable them to provide adequate legal services to eligible clients and to prevent a serious deterioration of the quality and quantity of service because of increased expense and mounting caseloads.

2. Government at all levels and lawyers from both the public and private sectors should take every step necessary to insure that legal services lawyers remain independent from political pressures in the cause of representing clients.

3. The Congress of the United States should create a legal service corporation of a design consistent with the foregoing principles and the need to maintain full and adequate legal services for the poor.

Resolution of the State Bar of Michigan

Whereas, the State Bar of Michigan continues, as a matter of policy, to support the furnishing of legal services to eligible indigents and recognizes the need for viable programs to implement that policy; and,

Whereas, there are a myriad of State, Federal and Michigan State Bar legal services programs for eligible indigents which require central control and uniform guidelines; and,

Whereas, the Congress of the United States has before it, for legislative action, HR–7824, to establish a National Legal Services Nonprofit Corporation;

Therefore, be it resolved:

1. That the Congress of the United States forthrightly address itself to the passage of appropriate legislation establishing a National Legal Services Non-Profit Corporation;

2. That such legislation incorporate the guidelines of the legal profession as embodied in the American Bar Association Code of Professional Responsibility, and the Canons of Ethics, in order to preserve the vital components of existing legal aid programs;

3. That such legislation insure the present format of establishing and funding back-up centers through the vehicle of grants or contracts and that the prohibition against such centers be deleted from HR–7824;

4. That such legislation not interfere with the right of legal services attorneys to participate on their own time in lawful political activities and that the prohibition against such activity be deleted from HR–7824;

5. That the following specific provisions contained in HR–7824 be the subject of extensive Congressional Committee Hearings and Inquiries to determine whether they are inconsistent with the establishment of a true attorney-client relationship, and do, in fact, deprive eligible indigents of full, legally sufficient, vigorous, and viable representations; said provisions being as follows:

A. Court Costs and Counsel Fees, (Sec. 6[e]; p 9, line 23).
B. Legislative and Administrative Advocacy (Sec. 8[a][5]; p 11, line 15).
C. Immunity for Certain Officials, (Sec. 7[b][1]; p 13, line 19).
D. Juvenile Representation, (Sec. 7[b][6]; p 15, line 1).
E. Desegregation Suits, (Sec. 7[b][7] and Sec. 7[b][9]; p 15, lines 6 and 16).
F. Abortion Cases, (Sec. 7[b][8], p 15, line 9);

6. That the Congress of the United States delete from HR–7824 any and all provisions which limit, restrict or in any way interfere with the otherwise lawful advice which an attorney retained through the National Legal Services Non-profit Corporation may render to his clients.

Resolution

Whereas, the tragic result of widespread poverty in the United States has been the deprivation of the legal rights of poor people and has made them innocent victims of our complex economic system, and;

Whereas, a partial alleviation of this condition has been accomplished through the work of the Office of Economic Opportunity's Legal Services Program by extending to the poor people of this nation, their first real measure of justice at a cost of $71,000,000.00, or 30 cents—per capita;

Whereas, Legal Services Offices are currently being threatened with one or more of the following:

1. Loss of or cut back in funding;
2. Being limited to engaging in nothing more than divorce-related activities;

Whereas, said threats, if carried out, would clearly mark the end of effective advocacy of the rights of poor people in this country and would, in fact, be a declaration of this Nation's unwillingness to recognize that poor people even have rights, and thus be against the most basic precepts of our society;

Now, therefore be it resolved that the Michigan Trial Lawyers Assocation go on record as opposing any attempt to either limit the funds of the Office of Economic Opportunity's Legal Services Programs or its activities in any given area of the law, aside from fee generating cases; and that the Federal Government expand legal services to reach the needs of all people who are unable to afford necessary legal counsel.

Further, be it resolved that the Michigan Trial Lawyers Association call upon all other Bar Associations and all other organizations to join in demanding that the President reverse his present plan of curtailing assistance to all the economically deprived people in this, the richest of all countries in the world.

State Bar Legal Aid Committee, Resolution on Legal Services

Whereas, There is a compelling need for legal services for the indigent of Michigan.

Whereas, There are twelve federally funded legal services programs to meet this need in Michigan (including a statewide back-up center providing litigation expertise and specialized assistance in areas relevant to the needs of the indigent).

Whereas, The legal services programs should provide the same representation that the private bar provides its clients in keeping with the Canons of Ethics and the high standards of the legal profession.

Whereas, Legal services programs should have sufficient flexibility in their personnel policies and in the use and application of their funds to permit an innovative approach to the problem of providing legal representation and equal access to justice for the indigent.

Whereas, H.R. 7824, as passed by the House fails to assure the continuation of extant programs and fails to satisfy the foregoing principles.

Whereas, The State Bar of Michigan continues to support the need for legal services to the poor and the need for viable and independent programs to provide this representation.

Now, therefore, it is resolved:

1. That the Congress of the United States assure the passage of legislation establishing a national legal services corporation which meets the goals outlined above and preserves the vital components of the program.

2. That the provisions of H.R. 7824 imposing potentially staggering court and counsel fees upon legal services programs seriously threaten the adequate funding of the Corporation and the legal services programs operating thereunder, be eliminated.

3. That the provisions of H.R. 7824 restricting legislative and administrative advocacy on behalf of eligible clients and inhibiting legal services programs from advising clients of applicable laws and remedies, be modified to preserve the appellate and advocacy responsibilities of legal services attorneys to the same extent that such responsibilities exist within the private bar.

4. That such legislation insure that the present method of establishing and funding back-up centers through grant or contract be continued.

5. That such legislation shall not contain any prohibitions or limitations on the right of legal services attorneys to participate on their own time in the political process.

6. That such legislation shall not arbitrarily restrict either the particular clients which legal services programs may represent or the types of remedies which may be sought on behalf of those clients.

Crippling Legal Aid for the Poor

Imagine what would happen if a legislator introduced a bill requiring that all firms employing more than 100 people:

Hire all local attorneys seeking jobs before talking to any from other parts of the country.

Bar their attorneys from seeking political office and from taking part in any political campaign or registration drive.

Prohibit their attorneys from advising them on picketing, boycotts and strikes.

Prevent their attorneys from drafting legislation and from talking to federal, state and local legislators about the problems that proposed legislation would create for their firms.

Chances are such a legislator couldn't get a serious hearing for his bill. It would justifiably be shouted down as "un-American." But a bill already passed by the U.S. House of Representatives would put the same—and even more serious—restrictions on lawyers who represent the poor.

The quality and amount of legal help follow class lines. The rich buy better service. President Johnson did correct some of the imbalance through the legal services extended through the war on poverty. But now there is an effort to restore the pre-Johnson ordering, to take back the legal assistance that did balance off some of the power held by wealthy individuals and businesses.

Many who would return the level of legal services to the pre-Johnson days argue that those who can pay deserve a greater share of legal representation. That runs counter to the basic American concept that all men are equal before the law. Such equality demands that a lawyer representing a poor person or group of poor people should be allowed to give the same services as one representing a rich person or major corporation.

That's not what the poor will get under the plan for the National Legal Services Corporation under the House-passed bill.

The corporation came close to being an excellent proposal as it was drafted in committee. The problems came when it got to the floor. A series of amendments were passed in an atmosphere that can best be illustrated by one which prevents poverty lawyers from assisting "indigent, abandoned Watergate defendants."

That's a far cry from the mood during the Johnson years when the legal services idea became a key part of the war on poverty. In fact the success of legal services in challenging oppressive legislation and practices is the reason its opponents now want to turn it around. They find it easier to win when they place unreasonable handicaps on their opponents. That may be the American way but it is far from the American ideal.

One reason the poor worked within the system over the past decade is that legal services programs permitted them to do that effectively. To deny them that opportunity now would only feed the argument that the poor must return to the streets.

The senators have a lot to do, but a high priority should go to rewriting the legal services bill. It should pass in the form it was in when it came out of House committee.

Anything less should be rejected outright in favor of continuing the current, though limited, program that is a spin-off from the U.S. Office of Economic Opportunity.

Toward Equal Justice

After months in which it appeared that the federal legal services program might die, and with it the concept of equal justice in America, Congress now seems close to hitting on a formula for maintaining the program under the auspices of an independent Legal Services Corporation.

The proposal for such a corporation, as originally presented in a bill before the House, was clearly unacceptable. It would have placed unreasonable restrictions on the ability of attorneys in the program to provide the best of legal services for the poor. But amendments to the bill have brought it much closer to the ideal of providing the same range of legal remedies for the poor which the affluent enjoy. And we hope the House will give it quick approval.

Speed is of importance because the present program expires at the end of this month. At the very least, Congress should approve an extension of the present program, until the Senate has had an opportunity to act on the new measure and inevitable differences between House and Senate versions have been worked out.

It is essential that the program which finally emerges from the Congress provides for complete legal representation for the poor. This means not only that the great bulk of legal services work for individual clients be carried on, but that legal services attorneys be permitted to represent the poor in so-called "class action" or "law reform" cases. For such cases bring about changes of the greatest benefit to the poor.

It is essential also that political influence be eliminated from the program. For this reason, a better means of supervision must be devised than that of state advisory committees appointed by the nation's governors. And politics should play no part in the appointment and confirmation of the new corporation's board.

Whatever modifications are made in the bill now before Congress, they must be with an eye to insuring that the program is unencumbered in its effort to serve those who would otherwise be denied full protection of the law. Otherwise the program will be unable to continue, in President Nixon's words, "to breathe new life into the cherished concept of equal justice for all."

Telegram

Text of a telegram to be sent to the Michigan members of the U.S. House of Representatives and Congressmen William Steiger and Augustus Hawkins concerning the "Legal Services Corporation Act," H.R. 7824.

The undersigned members of both political parties of the Michigan House of Representatives urge you to oppose any amendments to the "Legal Services Corporation Act," H.R. 7824, which would restrict the ability of legal service attorneys to represent their clients in legislative matters at the state and federal level. The poor have as great an interest in the legislative process as those who can retain private counsel. In our experience as legislators, we have found legal service attorneys to be an invaluable resource in providing technical and background information and in legislative drafting. We would urge the Congress to insure that legal service attorneys are not limited in the forms of service they can provide their clients.

Thomas J. Anderson,
(and 51 others).

Mr. STAFFORD. Mr. President, I rise in support of the Legal Services bill which we are now considering.

This bill is the result of a lot of hard work on the part of the committee to come to grips with the issues that face us on legal services and write a bill which we can put forth as an honest compromise that will maintain the goals of the legal services program.

Mr. President, I would like to include a statement of the Vermont Legal Aid Incorporated on the Legal Services bill in the Record at this point in support of the bill and showing the work done by Vermont Legal Aid as a result of this bill.

I would ask that my colleagues support this measure.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Vermont Legal Aid, Inc., on Legal Services

The Senate will consider this week the Legal Services Corporation Act of 1973. Similar legislation has been pending in Congress since 1971. It has passed the Senate twice before and nearly became law on both occasions. We have no doubt that the Legal Services program has been controversial, especially in some parts of the country. In its controversiality, we cannot overlook the tremendous positive gains that have been made by the program and the basic fact that often its most successful actions have produced the controversy. The Labor and Public Welfare Committee has for three years studied the pros and cons of the programs, including those aspects that have drawn controversy, and produced what we believe is a fair and workable compromise bill. If the nation's commitment to equal justice under law for all Americans has meaning, we believe it is imperative that we act favorably on the bill as reported from the Labor and Public Welfare Committee.

We think it will be helpful to some parts of the debate on this legislation to describe the experience in my own state of Vermont with Vermont Legal Aid, Inc.—the OEO Legal Services program. The program enjoys strong local bar association support. On March 3, 1973, at the midwinter meeting of the Vermont Bar Association the membership passed the following resolution:

Whereas: there is a continuing need for legal services for the poor.

Whereas: there are federally funded Legal Service Programs to meet this need in each of the states.

"Whereas: these programs are facing an expanding demand for legal services and increased operating expenses.

"Whereas: the funding for these programs have not increased since 1970 in spite of the increase in demand and operating expenses.

"Whereas: this Association continues to support the need for adequate legal services to the poor and the need for vital and independent programs to provide this representation.

"Now therefore, it is resolved:

"1. The United States Government should increase the level of funding of Legal Services Programs to enable them to provide adequate legal services to eligible clients and to prevent a serious deterioration of the quality and quantity of service because of increased expense and mounting caseloads.

"2. Government of all levels and lawyers from both the public and private sectors should take every step necessary to insure that legal services lawyers remain independent from political pressures in the cause of representing clients.

"3. The Congress of the United States should enact a Legal Service Corporation of a design consistent with the foregoing principles and the need to maintain full and adequate legal services for the poor."

Further, the governing body of Vermont Legal Aid contains the present President of the Vermont Bar Association as well as last year's President of the Vermont Bar Association. Both are strong supporters of the program and have served as Presidents of Vermont Legal Aid. We emphasize the close working relationship between the Vermont Bar Association and Vermont Legal Aid both to demonstrate the high caliber and responsibility of the leadership of the program and to refute claims that legal services programs operate without bar support and in opposition to the desires of local bar associations.

Vermont Legal Aid is primarily a service organization. In 1973–74, it will handle approximately 6,000 individual cases in addition to those where simple advice is given in an office interview. It has offices around the State of Vermont and attempts to reach all eligible Vermonters. This is no small task. The program has approximately 2% of the lawyers in Vermont but must represent 15% of its citizenry.

Most of the cases handled by Vermont Legal Aid are in traditional service areas: domestic relations (30%), consumer (15%); administrative hearings (20%); landlord and tenant (15%), miscellaneous (10%). This does not mean that Vermont Legal Aid has not taken on cases challenging laws that discriminate against the poor or represent barriers against the elimination of poverty. Indeed, it has but these cases have not detracted from the overall service mission of the program.

Again, we emphasize these facts to demonstrate that, in my experience, legal services programs have not embarked on ideological vendettas, as some suggest, to the detrimental of the clients they serve. Lengthy debate over one or two cases which produced a result with which some persons may disagree does a great disservice to lawyers who have put in long hours at less than comparable salaries to give high quality service in cases like divorce, non-support, eviction, etc.

Nor, is it appropriate to enact restrictions on the advocacy of programs which make the legal services available less complete than that available to the rest of society. We speak particularly to type of case limitations and limitations on particular forums—for example, the Congress and State Legislatures. We see no evidence that it is somehow in the public interest for the poor to be excluded from our courts on particular issues while other segments of society have free access; or that the poor be excluded from legislative bodies while other interest groups freely participate.

Finally, we must avoid needless restrictions of lawyers off-time activities. In Vermont, about one-third of the lawyers turn over every year. It will be difficult to attract qualified and dedicated lawyers if we impose such limits on their own time that they will not be able to draft a will for a relative or become political gimmicks.

All of these issues and arguments were fully considered in the Labor and Public Welfare Committee. The product is a compromise that deserves the support of each member of the Senate. We urge you to do so.

Mr. TUNNEY. Mr. President, in the course of yesterday's debate on S. 2686, a question was raised concerning possible jurisdiction of the Committee on the Judiciary over the legislation. The senior Senator from California (Mr. Cranston) stated, on page S22564, that he had discussed the matter with me, in my capacity as chairman on the Subcommittee of Representation of Citizen Interests, and that I had made it plain that I did not wish the matter to be referred to my subcommittee. Senator Cranston referred further to correspondence which I had with the Senator from North Carolina (Mr. Helms) on this issue.

I feel it important to amplify my position in this regard. S. 2686, in its present form, is the product of months of delicate negotiations. It was reported unanimously by the Committee on Labor and Public Welfare and has the explicit support of the administration. Because the legal services program has traditionally been a part of the Office of Economic Opportunity, the Labor Committee has had jurisdiction over it. This year's bill is drafted as an amendment to the Economic Opportunity Act. Even though the future of OEO seems uncertain, and the Legal Services program contemplated by this legislation is to be directed by a national corporation, and is not a subdivision of OEO, I view it as completely unnecessary for the Committee on the Judiciary to devote further consideration to the substance of S. 2686. In addition to bipartisan Senate support and White House support, S. 2686 is overwhelmingly supported by the American Bar Association, numerous State and local bar associations, the National Legal Aid and Defender Association, and consumers of legal services in every part of the country. There is no reason whatsoever for any further delay in passing this vital legislation.

I ask unanimous consent to insert in the Record at this point, my correspondence with the Senator from North Carolina (Mr. Helms) on this issue.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., June 26, 1973.

Hon. James O. Eastland,
U.S. Senate,
Washington, D.C.

Dear Senator: As one of the main cosponsors of S. 1990, the bill to create a Federal Legal Air Corporation under the revenue sharing concept, I respectfully urge you to bring it speedily to hearings in the Judiciary Committee.

As you are no doubt aware, H.R. 7824, the Administration's Legal Services Corporation bill, was amended beyond all recognition, first in the House Education and Labor Committee, and then on the House Floor. The House action demonstrated the complete lack of concensus on Federal action for legal aid, and ended up as a divisive force.

No hearings were held in the House on H.R. 7824. The bill is now being held at the desk in the Senate. If it should move to the calender without hearings, the result would again be divisive and acrimonious. Since S. 1990 has already been referred to your committee, I submit that it would serve as a convenient vehicle to air important opinions on this topic. The revenue sharing concept initiates important reforms in legal services without getting bogged down in a mass of prohibitions and restrictions which would undoubtedly fail in execution. I hope that the Judiciary Committee can consider it promptly.

Sincerely,

Jesse.

Hon. Jesse Helms,
U.S. Senate, Dirksen Building,
Washington, D.C.

Dear Jesse: On June 26, you wrote to Senator Eastland concerning hearings on S. 1990, a bill which you are co-sponsoring. Senator Eastland has referred that letter to me, since I am Chairman of the new Subcommittee on Representation of Citizen Interests, to which that bill was referred.

As you know, legislation concerning legal services for the poor has been referred traditionally to the Labor and Public Welfare Committee, since that Committee has had jurisdiction over the Economic Opportunities Act. The increasing focus on an independent legal services corporation—in lieu of or in addition to subdivisions of the Office of Economic Opportunity—has confused the parliamentary situation. This year, as you know, there are four legal services bills now pending in the Senate: H.R. 7824 has been held at the desk by unanimous consent; S. 706 and S. 1815 have been referred to the Labor Committee; and S. 1990 is in the Judiciary Committee. It is my understanding that the Poverty Subcommittee of the Labor Committee will hold a mark-up session within the next week or so on legal services legislation before it.

It is my intention that the Subcommittee on Representation of Citizen Interests shall review carefully all existing Federal legal services programs to determine whether or not they are adequately serving the needs of the poor. Further, the Subcommittee will consider whether existing programs need to be modified or new ones created which would respond to the legal needs of low and middle income citizens, a group which comprises approximately 70% of the population. Responsible members of the American Bar Association and other members of the legal profession who have studied this issue have indicated that many of the legal needs of this group of citizens have been ignored by our present system of delivering legal services. Since the Subcommittee is just beginning its work, a precise schedule has not yet been developed. I will be in touch with you again as activities progress.

Best regards.

Sincerely,

JOHN V. TUNNEY.

ORDER FOR RECOGNITION OF SENATORS TOMORROW AND FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished junior Senator from Alaska (Mr. GRAVEL) be recognized for not to exceed 15 minutes; that he be followed by the distinguished senior Senator from Louisiana (Mr. LONG) for not to exceed 15 minutes; that he be followed by the distinguished majority leader for not to exceed 10 minutes; that he be followed by the distinguished minority whip for not to exceed 10 minutes; at the conclusion of which there be a period for the transaction of routine morning business not to extend beyond the hour of 12 o'clock noon, with statements limited therein to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, may I ask the Chair whether the order for the convening of the Senate at 11 a.m. tomorrow has been entered.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). The Chair is advised that it has not. The order is for 10 a.m.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 o'clock a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I have a number of questions which I am anxious to discuss to direct to the proponents of S. 1868. I have been in the Chamber a number of times prepared to ask the questions of the proponents of that legislation. I am here again tonight seeking an opportunity to ask questions and bring out facts.

I do not see any of the chief sponsors of that legislation present in the Chamber. That being the case, I have no objection if the leadership desires to terminate the session of the Senate.

Mr. ROBERT C. BYRD. Mr. President, the leadership is overwhelmed by the multifarious offers of cooperation on the part of Senators on both sides of the aisle, during these last days of the session, to voluntarily surrender their cherished prerogative of rendering eloquent speeches. [Laughter.]

I do not recall having seen such a willingness before during my 15 years in the Senate on the part of Senators on either side of the aisle to allow the leadership to adjourn with contentious questions pending before the Senate.

I also have not seen as much sparring as has been witnessed lately on the floor by Senators on both sides of the aisle on various questions, hoping to incite on the part of Senators on the other side of the various questions a desire to engage in gruelling debate.

Perhaps dueling has gone out of date because of the reticence on the part of individuals today to accept a challenge to do to the death with pistols at short range. It may be a good thing. And speaking on behalf of the leadership, I welcome this additional good thing, that Senators are so willing at the hour of 15 minutes to 6 to yield their rights to expound and to edify, under the rules of the Senate, so as to allow the leadership to adjourn, now that the cover of darkness has fallen out of doors.

ORDER TO CONSIDER DEPARTMENT OF DEFENSE APPROPRIATION BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, if the motion to invoke cloture on the Rhodesian chrome bill does not carry and if the motion to invoke cloture on the Legal Services bill does not carry tomorrow, immediately upon the disposition of the vote on the motion to invoke cloture on the Legal Services bill, the Senate then proceed to the consideration of the defense appropriation bill and that the unfinished business be laid aside temporarily until the close of business or until the disposition of the defense appropriation bill tomorrow, whichever is the earlier.

The PRESIDING OFFICER. Without ojection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at the hour of 11 o'clock a.m. After the two leaders or their designees have been recognized under the standing order, the disinguished Senator from Alaska (Mr. GRAVEL) will be recognized for not to exceed 15 minutes, after which the distinguished Senator from Louisiana (Mr. LONG) will be recognized for not to exceed 15 minutes, after which the distinguished majority leader and the distinguished minority whip will be recognized, respectively, each for not to exceed 10 minutes, at the conclusion of which there will be a period for the transaction of routine morning business not to extend beyond the hour of 12 o'clock noon, with statements limited therein to 3 minutes.

At the hour of 12 o'clock noon, the Senate will begin debate on the motion to invoke cloture on S. 1868, the Rhodesian chrome bill, and, by unanimous consent, that debate will be limited to 30 minutes. At the hour of 12:30 p.m. an automatic quorum call will take place, and upon the establishment of a quorum, the vote, also automatic under the rule, will occur on the motion to invoke cloture at, roughly, 12:45 p.m.

Immediately upon the completion of the vote on the motion to invoke cloture on S. 1868—if cloture is not invoked—debate will begin immediately, and be limited by unanimous consent to 30 minutes, on the motion to invoke cloture on S. 2686, the legal services bill. A yea-and-nay vote will occur immediately upon the conclusion of the 30 minutes for debate, without the automatic live quorum call under the rule, as agreed to by unanimous consent earlier today.

Therefore, the rollcall vote to invoke cloture on the legal services bill will occur at circa 1:30 p.m. If cloture is invoked on the Rhodesian chrome bill, however, a vote to invoke cloture on the legal services bill would not occur, under the rule, until action on the Rhodesian chrome bill is completed. In that case, the Senate would proceed to act on the Rhodesian chrome bill to the exclusion of all other business until the final action occurs on that bill.

If the vote to invoke cloture on the legal services bill does not carry, the Senate will then take up the defense appropriations bill, with yea-and-nay votes to occur on amendments thereto.

If the vote to invoke cloture on the legal services bill does carry, then action would insure on that bill, to the exclusion of all other business, until action has been completed thereon.

A late session can be expected on tomorrow. I repeat, a later session can be expected tomorrow.

If action on the defense appropriations bill is completed before Saturday, Mr. President—and much of history has hinged upon that word "if"; if Hitler had won the war, for instance, how different the world now would be; and much of the future, as well, depends on that word "if"—if action on the defense appropriations bill is completed prior to Saturday, there will be no Saturday session.

A reminder—a yea-and-nay vote will occur at about 12:45 p.m. on the cloture motion with respect to the Rhodesian chrome bill. A vote will occur at about 1:30 p.m. on the cloture motion on the legal services bill, providing the prior motion to invoke cloture on the Rhodesian chrome bill does not carry.

ADJOURNMENT TO 11 A.M.

Mr. NELSON. Mr. President, I move in accordance with the previous order that the Senate stand in adjournment until 11 a.m. tomorrow.

The motion was agreed to; and at 5:45 p.m., the Senate adjourned, until tomorrow, Thursday, December 13, 1973, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate December 12, 1973:

DEPARTMENT OF STATE

Arthur A. Hartman, of New Jersey, a Foreign Service officer of class 1, to be an Assistant Secretary of State.

Robert C. Hill, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Argentina.

IN THE MARINE CORPS

The following-named (Navy enlisted scientific education program) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Spinks, Grafton

The following-named (Naval Reserve Officer Training Corps) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Gallegos, Joey R.
Roten, Richard C.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 12, 1973:

CIVIL AERONAUTICS BOARD

G. Joseph Minetti, of New York, to be a Member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1979.

(The above nomination was approved subject to the nominee's commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE COAST GUARD

Coast Guard nominations beginning Charles J. Robinson, to be lieutenant commander, and ending George R. Speight, Jr., to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on December 5, 1973.

HOUSE OF REPRESENTATIVES—*Wednesday, December 12, 1973*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Thou shalt do that which is right and good in the sight of the Lord; that it may be well with thee.—Deuteronomy 6: 18.

Our Father God, who dost lift the shades of night when purple morning breaketh, revealing the wonder of new day, may there dawn upon our minds the consciousness that we are with Thee. In this faith we face the duties of these days. We pray not for tasks equal to our strength, but for strength equal to our tasks; not to do what we like to do, but to like what we have to do.

Bless Thou our Nation. May she become so good in spirit, so great in loyalty to the truth, and so genuine in sympathetic outreach that she may be a channel through which Thy healing mercy can flow into the heart of our disturbed world.

May the love which came to life at Christmas be cradled anew in all our hearts.

In the spirit of Him, who is the hope of the world, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3180) entitled "An act to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1745. An act to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes; and

S. 2176. An act to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes.

CONFERENCE REPORT ON S. 14, PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 93-714)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment to the text of the bill insert the following:

SHORT TITLE AND TABLE OF CONTENTS

Section 1. This Act, with the following table of contents, may be cited as the "Health Maintenance Organization Act of 1973".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Health maintenance organizations.

"TITLE XIII—HEALTH MAINTENANCE ORGANIZATIONS

"Sec. 1301. Requirements for health maintenance organizations.
"Sec. 1302. Definitions.
"Sec. 1303. Grants and contracts for feasibility surveys.
"Sec. 1304. Grants, contracts, and loan guarantees for planning and for initial development costs.
"Sec. 1305. Loans and loan guarantees for initial operation costs.
"Sec. 1306. Application requirements.
"Sec. 1307. Administration of assistance programs.
"Sec. 1308. General provisions relating to loan guarantees and loans.
"Sec. 1309. Authorizations of appropriations.
"Sec. 1310. Employees' health benefits plans.
"Sec. 1311. Restrictive State laws and practices.
"Sec. 1312. Continued regulation of health maintenance organizations.
"Sec. 1313. Limitation on source of funding for health maintenance organizations.
"Sec. 1314. Program evaluation.
"Sec. 1315. Annual report."
Sec. 3. Quality assurance.
Sec. 4. Health care quality assurance programs study.
Sec. 5. Reports respecting medically underserved areas and population groups and nonmetropolitan areas.
Sec. 6. Health services for Indians and domestic agricultural migratory and seasonal workers.
Sec. 7. Conforming amendments.

HEALTH MAINTENANCE ORGANIZATIONS

SEC. 2. The Public Health Service Act is amended by adding after title XII the following new title:

"TITLE XIII—HEALTH MAINTENANCE ORGANIZATIONS

"REQUIREMENTS FOR HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1301. (a) For purposes of this title, the term 'health maintenance organization' means a legal entity which (1) provides basic and supplemental health services to its members in the manner prescribed by subsection (b), and (2) is organized and operated in the manner prescribed by subsection (c).

"(b) A health maintenance organization shall provide, without limitations as to time or cost other than those prescribed by or under this title, basic and supplemental health services to its members in the following manner:

"(1) Each member is to be provided basic health services for a basic health services payment which (A) is to be paid on a periodic basis without regard to the dates health services (within the basic health services) are provided; (B) is fixed without regard to the frequency, extent, or kind of health service (within the basic health services) actually furnished; (C) is fixed under a community rating system; and (D) may be supplemented by additional nominal payments which may be required for the provision of specific services (within the basic health services), except that such payments may not be required where or in such a manner that they serve (as determined under regulations of the Secretary) as a barrier to the delivery of health services. Such additional nominal payments shall be fixed in accordance with the regulations of the Secretary.

"(2) For such payment or payments (hereinafter in this title referred to as 'supplemental health services payments') as the health maintenance organization may require in addition to the basic health services payment, the organization shall provide to each of its members each health service (A) which is included in supplemental health services (as defined in section 1302(2)), (B) for which the required health manpower are available in the area served by the organization, and (C) for the provision of which the member has contracted with the organization. Supplemental health services payments which are fixed on a prepayment basis shall be fixed under a community rating system.

“(3) The services of health professionals which are provided as basic health services shall be provided through health professionals who are members of the staff of the health maintenance organization or through a medical group (or groups) or individual practice association (or associations), except that this paragraph shall not apply in the case of (A) health professionals' services which the organization determines, in conformity with regulations of the Secretary, are unusual or infrequently used, or (B) any basic health service provided a member of the health maintenance organization other than by such a health professional because it was medically necessary that the service be provided to the member before he could have it provided by such a health professional. For purposes of this paragraph, the term 'health professionals' means physicians, dentists, nurses, podiatrists, optometrists, and such other individuals engaged in the delivery of health services as the Secretary may by regulation designate.

“(4) Basic health services (and supplemental health services in the case of the members who have contracted therefor) shall within the area served by the health maintenance organization be available and accessible to each of its members promptly as appropriate and in a manner which assures continuity, and when medically necessary be available and accessible twenty-four hours a day and seven days a week. A member of a health maintenance organization shall be reimbursed by the organization for his expenses in securing basic or supplemental health services other than through the organization if it was medically necessary that the services be provided before he could secure them through the organization.

“(c) Each health maintenance organization shall—

“(1) have a fiscally sound operation and adequate provision against the risk of insolvency which is satisfactory to the Secretary;

“(2) assume full financial risk on a prospective basis for the provision of basic health services, except that a health maintenance organization may obtain insurance or make other arrangements (A) for the cost of providing to any member basic health services the aggregate value of which exceeds $5,000 in any year, (B) for the cost of basic health services provided to its members other than through the organization because medical necessity required their provision before they could be secured through the organization, and (C) for not more than 90 per centum of the amount by which its costs for any of its fiscal years exceed 115 per centum of its income for such fiscal year;

“(3) enroll persons who are broadly representative of the various age, social, and income groups within the area it serves, except that in the case of a health maintenance organization which has a medically underserved population located (in whole or in part) in the area it serves, not more than 75 per centum of the members of that organization may be enrolled from the medically underserved population unless the area in which such population resides is also a rural area (as designated by the Secretary);

“(4) have an open enrollment period of not less than thirty days at least once during each consecutive twelve-month period during which enrollment period it accepts, up to its capacity, individuals in the order in which they apply for enrollment, except that is the organization demonstrates to the satisfaction of the Secretary that—

“(A) it has enrolled, or will be compelled to enroll, a disproportionate number of individuals who are likely to utilize its services more often than an actuarially determined average (as determined under regulations of the Secretary) and enrollment during an open enrollment period of an additional number of such individuals will jeopardize its economic viability, or

“(B) if it maintained an open enrollment period it would not be able to comply with the requirements of paragraph (3), the Secretary may waive compliance by the organization with the open enrollment requirement of this paragraph for not more than three consecutive twelve-month periods and may provide additional waivers to that organization if it makes the demonstration required by subparagraph (A) or (B);

“(5) not expel or refuse to re-enroll any member because of his health status or his requirements for health services;

“(6) be organized in such a manner that assures that (A) at least one-third of the membership of the policymaking body of the health maintenance organization will be members of the organization, and (B) there will be equitable representation on such body of members from medically underserved populations served by the organization;

“(7) be organized in such a manner that provides meaningful procedures for hearing and resolving grievances between the health maintenance organization (including the medical group or groups and other health delivery entities providing health services for the organization) and the members of the organization;

“(8) have organizational arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for its health services which program (A) stresses health outcomes, and (B) provides review by physicians and other health professionals of the process followed in the provision of health services;

“(9) provide medical social services for its members and encourage and actively provide for its members health education services, education in the appropriate use of health services, and education in the contribution each member can make to the maintenance of his own health;

“(10) provide, or make arrangements for, continuing education for its health professional staff; and

“(11) provide, in accordance with regulations of the Secretary (including safeguards concerning the confidentiality of the doctor-patient relationship), an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, statistics and other information (which the Secretary shall publish and disseminate on an annual basis and which the health maintenance organization shall disclose, in a manner acceptable to the Secretary, to its members and the general public) relating to (A) the cost of its operations, (B) the patterns of utilization of its services, (C) the availability, accessibility, and acceptability of its services, (D) to the extent practical, developments in the health status of its members, and (E) such other matters as the Secretary may require.

“DEFINITIONS

“SEC. 1302. For purposes of this title:

“(1) The term 'basic health services' means—

“(A) physician services (including consultant and referral services by a physician);

“(B) inpatient and outpatient hospital services;

“(C) medically necessary emergency health services;

“(D) short-term (not to exceed twenty visits), outpatient evaluative and crisis intervention mental health services;

“(E) medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs;

“(F) diagnostic laboratory and diagnostic and therapeutic radiologic services;

“(G) home health services; and

“(H) preventive health services (including voluntary family planning services, infertility services, preventive dental care for children, and children's eye examinations conducted to determine the need for vision correction).

If a service of a physician described in the preceding sentence may also be provided under applicable State law by a dentist, optometrist, or podiatrist, a health maintenance organization may provide such service through a dentist, optometrist, or podiatrist (as the case may be) licensed to provide such service. For purposes of this paragraph, the term 'home health services' means health services provided at a member's home by health care personnel, as prescribed or directed by the responsible physician or other authority designated by the health maintenance organization. A health maintenance organization is authorized, in connection with the prescription of drugs, to maintain, review, and evaluate (in accordance with regulations of the Secretary) a drug use profile of its members receiving such service, evaluate patterns of drug utilization to assure optimum drug therapy, and provide for instruction of its members and of health professionals in the use of prescription and non-prescription drugs.

“(2) The term 'supplemental health services' means—

“(A) services of facilities for intermediate and long-term care;

“(B) vision care not included as a basic health service under paragraph (1)(A) or (1)(H);

“(C) dental services not included as a basic health service under paragraph (1)(A) or (1)(H);

“(D) mental health services not included as a basic health service under paragraph (1)(D);

“(E) long-term physical medicine and rehabilitative services (including physical therapy); and

“(F) the provision of prescription drugs prescribed in the course of the provision by the health maintenance organization of a basic health service or a service described in the preceding subparagraphs of this paragraph.

If a service of a physician described in the preceding sentence may also be provided under applicable State law by a dentist, optometrist, or podiatrist, a health maintenance organization may provide such service through an optometrist, dentist, or podiatrist (as the case may be) licensed to provide such service. A health maintenance organization is authorized, in connection with the prescription or provision of prescription drugs, to maintain, review, and evaluate (in accordance with regulations of the Secretary) a drug use profile of its members receiving such services, evaluate patterns of drug utilization to assure optimum drug therapy, and provide for instruction of its members and of health professionals in the use of prescription and non-prescription drugs.

“(3) The term 'member' when used in connection with a health maintenance organization means an individual who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with the organization under which the organization assumes the responsibility for the provision to such individual of basic health services and of such supplemental health services as may be contracted for.

"(4) The term 'medical group' means a partnership, association, or other group—

"(A) which is composed of health professionals licensed to practice medicine or osteopathy and of such other licensed health professionals (including dentists, optometrists, and podiatrists) as are necessary for the provision of health services for which the group is responsible;

"(B) a majority of the members of which are licensed to practice medicine or osteopathy, and

"(C) the members of which (i) as their principal professional activity and as a group responsibility engage in the coordinated practice of their profession for a health maintenance organization; (ii) pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account or other plan; (iii) share medical and other records and substantial portions of major equipment and of professional, technical, and administrative staff; (iv) utilize such additional professional personnel, allied health professions personnel, and other health personnel (as specified in regulations of the Secretary) as are available and appropriate for the effective and efficient delivery of the services of the members of the group; and (v) arrange for and encourage continuing education in the field of clinical medicine and related areas for the members of the group.

"(5) The term 'individual practice association' means a partnership, corporation, association, or other legal entity which has entered into a services arrangement (or arrangements) with persons who are licensed to practice medicine, osteopathy, dentistry, podiatry, optometry, or other health professions in a State and a majority of whom are licensed to practice medicine or osteopathy. Such an arrangement shall provide—

"(A) that such persons shall provide their professional services in accordance with a compensation arrangement established by the entity; and

"(B) to the extent feasible (i) that such persons shall utilize such additional professional personnel, allied health professions personnel, and other health personnel (as specified in regulations of the Secretary) as are available and appropriate for the effective and efficient delivery of the services of the persons who are parties to the arrangement, (ii) for the sharing by such persons of medical and other records, equipment, and professional, technical, and administrative staff, and (iii) for the arrangement and encouragement of the continuing education of such persons in the field of clinical medicine and related areas.

"(6) The term 'section 314(a) State health planning agency' means the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a) (hereinafter in this title referred to as a 'section 314(a) plan'); and the term 'section 314(b) areawide health planning agency' means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) (hereinafter in this title referred to as a 'section 314(b) plan').

"(7) The term 'medically underserved population' means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services. Such a designation may be made by the Secretary only after consideration of the comments (if any) of (A) each section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such urban or rural area or the area in which such population group resides, and (B) each section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) such urban or rural area or the area in which such population group resides.

"(8) The term 'community rating system' means a system of fixing rates of payments for health services. Under such a system rates of payments may be determined on a per-person or per-family basis and may vary with the number of persons in a family, but except as otherwise authorized in the next sentence, such rates must be equivalent for all individuals and for all families of similar composition. The following differentials in rates of payments may be established under such system:

"(A) Nominal differentials in such rates may be established to reflect the different administrative costs of collecting payments from the following categories of members:

"(i) Individual members (including their families).

"(ii) Small groups of members (as determined under regulations of the Secretary).

"(iii) Large groups of members (as determined under regulations of the Secretary).

"(B) Differentials in such rates may be established for members enrolled in a health maintenance organization pursuant to a contract with a governmental authority under section 1079 or 1086 of title 10, United States Code, or under any other governmental program (other than the health benefits program authorized by chapter 89 of title 5, United States Code) or any health benefits program for employees of States, political subdivisions of States, and other public entities.

"(9) The term 'non-metropolitan area' means an area no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget and which does not contain a city whose population exceeds fifty thousand individuals.

"GRANTS AND CONTRACTS FOR FEASIBILITY SURVEYS

"SEC. 1303. (a) The Secretary may make grants to and enter into contracts with public or nonprofit private entities for projects for surveys or other activities to determine the feasibility of developing and operating or expanding the operation of health maintenance organizations.

"(b) An application for a grant or contract under this section shall contain—

"(1) assurances satisfactory to the Secretary that, in conducting surveys or other activities with assistance under a grant or contract under this section, the applicant will (A) cooperate with the section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the area for which the survey or other activity will be conducted, and (B) notify the medical society serving such area of such surveys or other activities; and

"(2) such other information as the Secretary may by regulation prescribe.

"(c) In considering applications for grants and contracts under this section, the Secretary shall give priority to an application which contains or is supported by assurances satisfactory to the Secretary that at the time the health maintenance organization for which such application or proposal is submitted first becomes operational not less than 30 per centum of its members will be members of a medically underserved population.

"(d)(1) Except as provided in paragraph (2), the following limitations apply with respect to grants and contracts made under this section:

"(A) If a project has been assisted with a grant or contract under subsection (a), the Secretary may not make any other grant or enter into any other contract under this section for such project.

"(B) Any project for which a grant is made or contract entered into must be completed within twelve months from the date the grant is made or contract entered into.

"(2) The Secretary may make not more than one additional grant or enter into not more than one additional contract for a project for which a grant has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for completion of the project if he determines that the additional grant or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

"(e) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (a) shall be determined by the Secretary, except that (1) the amount to be paid by the United States under any single grant or contract for any project may not exceed $50,000, and (2) the aggregate of the amounts to be paid by the United States for any project under such subsection under grants or contracts, or both, may not exceed the greater of (A) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (B) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants and contracts for such project should be determined by such greater percentage.

"(f) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"(g) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(h) Payments under grants and contracts under this section shall be made from appropriations made under section 1309(a).

"(i) Of the sums appropriated for any fiscal year under section 1309(a) for grants and contracts under this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (1) to determine the feasibility of developing and operating or expanding the operation of health maintenance organizations which the Secretary determines may reasonably be expected to have after their development or expansion not less than 66 per centum of their membership drawn from residents of nonmetropolitan areas, and (2) the applications for which meet the requirements of this title for approval. Sums set aside in the fiscal year ending June 30, 1974, or June 30, 1975, for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under this section in the succeeding fiscal year for projects other than those described in clause (1) of such sentence.

"GRANTS, CONTRACTS, AND LOAN GUARANTEES FOR PLANNING AND FOR INITIAL DEVELOPMENT COSTS

"SEC. 1304. (a) The Secretary may—

"(1) make grants to and enter into contracts with public or nonprofit private entities for planning projects for the establishment of health maintenance organizations or for the significant expansion of the membership of, or areas served by, health maintenance organizations; and

"(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to private entities (other than nonprofit private entities) for planning projects for the establishment or expansion of health maintenance organizations to serve medically underserved populations.

Planning projects assisted under this subsection shall include development of plans for the marketing of the services of the health maintenance organization.

"(b) (1) The Secretary may—

"(A) make grants to and enter into contracts with public or nonprofit private entities for projects for the initial development of health maintenance organizations; and

"(B) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private entity (other than a nonprofit private entity) for a project for the initial development of a health maintenance organization which will serve a medically underserved population.

"(2) For purposes of this section, the term 'initial development' when used to describe a project for which assistance is authorized by this subsection includes significant expansion of the membership of, or the area served by, a health maintenance organization. Funds under grants and contracts under this subsection and under loans guaranteed under this subsection may only be utilized for such purposes as the Secretary may prescribe in regulations. Such purposes may include (A) the implementation of an enrollment campaign for such an organization, (B) the detailed design of and arrangements for the health services to be provided by such an organization, (C) the development of administrative and internal organizational arrangements, including fiscal control and fund accounting procedures, and the development of a capital financing program, (D) the recruitment of personnel for such an organization and the conduct of training activities for such personnel, and (E) the payment of architects' and engineers' fees.

"(3) A grant or contract under this subsection may only be made or entered into for initial development costs in the one-year period beginning on the first day of the first month in which such grant or contract is made or entered into. The number of grants made for any initial development project under this subsection when added to the number of contracts entered into for such project under this subsection may not exceed three. A loan guarantee under this subsection may only be made for a loan (or loans) for such costs incurred in a period not to exceed three years.

"(c) (1) An application for a grant, contract, or loan guarantee under subsection (a) for a planning project shall contain assurances satisfactory to the Secretary that in carrying out the planning project for which the grant, contract, or loan guarantee is sought, the applicant will (A) cooperate with the section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the area proposed to be served by the health maintenance organization for which the planning project will be conducted, and (B) notify the medical society serving such area of the planning project.

"(2) If the Secretary makes a grant or loan guarantee or enters into a contract under subsection (a) for a planning project for a health maintenance organization, he may, within the period in which the planning project must be completed, make a grant or loan guarantee or enter into a contract under subsection (b) for the initial development of that health maintenance organization; but no grant or loan guarantee may be made or contract entered into under subsection (b) for initial development of a health maintenance organization unless the Secretary determines that (A) sufficient planning for its establishment or expansion (as the case may be) has been conducted by the applicant for the grant, contract, or loan guarantee, and (B) the feasibility of establishing and operating, or of expanding, the health maintenance organization has been established by the applicant.

"(d) In considering applications for grants and contracts under this section, the Secretary shall give priority to an application which contains or is supported by assurances satisfactory to the Secretary that at the time the health maintenance organization for which such application is submitted first becomes operational not less than 30 per centum of its members of a medically underserved population.

"(e) (1) Except as provided in paragraph (2), the following limitations apply with respect to grants, loan guarantees, and contracts made under subsection (a) of this section:

"(A) If a planning project has been assisted with grant, loan guarantee, or contract under subsection (a), the Secretary may not make any other planning grant or loan guarantee or enter into any other planning contract for such project under this section.

"(B) Any project for which a grant or loan guarantee is made or contract entered into must be completed within twelve months from the date the grant or loan guarantee is made or contract entered into.

"(2) The Secretary may not make more than one additional grant or loan guarantee or enter into not more than one additional contract for a planning project for which a grant or loan guarantee has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for completion of the project if he determines that the additional grant, loan guarantee, or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

"(f) (1) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (a) for a planning project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for a planning project which may be guaranteed under such subsection, shall be determined by the Secretary, except that (A) the amount to be paid by the United States under any single grant or contract, and the amount of principal of any single loan guaranteed under such subsection, may not exceed $125,000, and (B) the aggregate of the amounts to be paid for any project by the United States under grants or contracts, or both, under such subsection, and the aggregate amount of principal of loans guaranteed under such subsection for any project, may not exceed the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, contracts, and loan guarantees (or any combinations threof) for such project should be determined by such greater percentage.

"(2) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (b) for an initial development project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for an initial development project which may be guaranteed under such subsection, shall be determined by the Secretary; except that the amounts to be paid by the United States for any initial development project under grants or contracts, or both, under such subsection, and the aggregeate amount of principal of loans guaranteed under such subsection for any project, may not exceed the lesser of—

"(A) $1,000,000, or

"(B) an amount equal to the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, contracts, and loan guarantees (or any combination thereof) for such project should be determined by such greater percentage.

"(3) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

"(g) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"(h) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(i) Payments under grants and contracts under this section shall be made from appropriations under section 1309(a).

"(j) Loan guarantees under subsection (a) (2) for planning projects may be made through the fiscal year ending June 30, 1976; and loan guarantees under subsection (b) (1) (B) for initial development projects may be made through the fiscal year ending June 30, 1977.

"(k) (1) Of the sums appropriated for any fiscal year under section 1309(a) for grants and contracts under subsection (a) of this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (A) to plan the establishment or expansion of health maintenance organizations which the Secretary determines may reasonably be expected to have after their establishment or expansion not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (B) the applications for which meet the requirements of this title for approval. Sums set aside in the fiscal year ending June 30, 1974, or June 30, 1975, for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under subsection (a) of this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under such subsection in the succeeding fiscal year for projects other than those described in clause (A) of such sentence.

"(2) Of the sums appropriated for any fiscal year under section 1309(a) for grants and contracts under subsection (b) of this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (A) for the initial development of health maintenance organizations which the Secretary determines may reasonably be expected to have after their initial development not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (B) the applications for which meet the requirements of this title for approval. Sums set aside in the fiscal year ending June 30, 1974, or in either of the next two fiscal years for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under subsection (b) of this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under such subsection in the succeeding fiscal year for projects other than those described in clause (A) of such sentence.

"LOANS AND LOAN GUARANTEES FOR INITIAL OPERATION COSTS

"SEC. 1305. (a) The Secretary may—

"(1) make loans to public or nonprofit private health maintenance organizations to assist them in meeting the amount by which their operating costs in the period of the first thirty-six months of their operation exceed their revenues in that period;

"(2) make loans to public or nonprofit private health maintenance organizations to assist them in meeting the amount by which their operating costs, which the Secretary determines are attributable to significant expansion in their membership or area served and which are incurred in the period of the first thirty-six months of their operation after such expansion, exceed their revenues in that period which the Secretary determines are attributable to such expansion; and

"(3) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private health maintenance organization (other than a private nonprofit health maintenance organization) for the amounts referred to in paragraph (1) or (2), but only if such health maintenance organization will serve a medically underserved population.

No loan or loan guarantee may be made under this subsection for the operating costs of a health maintenance organization unless the Secretary determines that the organization has made all reasonable attempts to meet such costs.

"(b) (1) Except as provided in paragraph (2), the principal amount of any loan made or guaranteed under subsection (a) in any fiscal year for a health maintenance organization may not exceed $1,000,000 and the aggregate amount of principal of loans made or guaranteed, or both, under this section for a health maintenance organization may not exceed $2,500,000.

"(2) The cumulative total of the principal of the loans outstanding at any time which have been directly made, or with respect to which guarantees have been issued, under subsection (a) may not exceed such limitations as may be specified in appropriation Acts.

"(c) Loans under this section shall be made from the fund established under section 1308(e).

"(d) A loan or loan guarantee may be made under this section through the fiscal year ending June 30, 1978.

"(e) Of the sums used for loans under this section in any fiscal year from the loan fund established under section 1308(e), not less than 20 per centum shall be used for loans for projects (1) for the initial operation of health maintenance organizations which the Secretary determines have not less than 66 per centum of their membership drawn from residents of nonmetropolitan areas, and (2) the applications for which meet the requirements of this title for approval.

"APPLICATION REQUIREMENTS

"SEC. 1306. (a) No grant, contract, loan, or loan guarantee may be made under this title unless an application therefor has been submitted to, and approved by, the Secretary.

"(b) The Secretary may not approve an application for a grant, contract, loan, or loan guarantee under this title unless—

"(1) in the case of an application for assistance under section 1303 or 1304, such application meets the application requirements of such section and in the case of an application for a loan or loan guarantee, such application meets the requirements of section 1308;

"(2) he determines that the applicant making the application would not be able to complete the project or undertaking for which the application is submitted without the assistance applied for;

"(3) the application contains satisfactory specification of the existing or anticipated (A) population group or groups to be served by the proposed or existing health maintenance organization described in the application, (B) membership of such organization, (C) methods, terms, and periods of the enrollment of members of such organization, (D) estimated costs per member of the health and educational services to be provided by such organization and the nature of such costs, (E) sources of professional services for such organization, and organizational arrangements of such organization for providing health and educational services, (F) organizational arrangements of such organization for an ongoing quality assurance program in conformity with the requirements of section 1301(c), (G) sources of prepayment and other forms of payment for the services to be provided by such organization, (H) facilities, and additional capital investments and sources of financing therefor, available to such organization to provide the level and scope of services proposed, (I) administration, managerial, and financial arrangements and capabilities of such organization, (J) role for members in the planning and policymaking for such organization, (K) grievance procedures for members of such organization, and (L) evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or affected thereby;

"(4) contains or is supported by assurances satisfactory to the secretary that the applicant making the application will, in accordance with such criteria as the Secretary shall by regulation prescribe, enroll, and maintain an enrollment of, the maximum number of members that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve;

"(5) the section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted, or if there is no such agency, the section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such area, has, in accordance with regulations of the Secretary under subsection (c) of this section, been provided an opportunity to review the application and to submit to the Secretary for his consideration its recommendations respecting approval of the application or if under applicable State law such an application may not be submitted without the approval of the section 314(b) areawide health planning agency or the section 314(a) State health planning agency, the required approval has been obtained;

"(6) in the case of an application made for a project which previously received a grant, contract, loan, or loan guarantee under this title, such application contains or is supported by assurances satisfactory to the Secretary that the applicant making the application has the financial capability to adequately carry out the purposes of such project and has developed and operated such project in accordance with the requirements of this title and with the plans contained in previous applications for such assistance; and

"(7) the application is submitted in such form and manner, and contains such additional information, as the Secretary shall prescribe in regulations.

An organization making multiple applications for more than one grant, contract, loan, or loan guarantee under this title, simultaneously or over the course of time, shall not be required to submit duplicate or redundant information but shall be required to update the specifications (required by paragraph (3)) respecting the existing or proposed health maintenance organization in such manner and with such frequency as the Secretary may by regulation prescribe.

"(c) The Secretary shall by regulation establish standards and procedures for section 314(b) areawide health planning agencies and section 314(a) State health planning agencies to follow in reviewing and commenting on applications for grants, contracts, loans, and loan guarantees under this title.

"ADMINISTRATION OF ASSISTANCE PROGRAMS

"SEC. 1307. (a) (1) Each recipient of a grant, contract, loan, or loan guarantee under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of the grant, contract, or loan (directly made or guaranteed), the total cost of the undertaking in connection with which such assistance upon given or used, the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of a grant, contract, loan, or loan guarantee under this title which relate to such assistance.

"(b) Upon expiration of the period for which a grant, contract, loan, or loan guarantee was provided an entity under this title, such entity shall make a full and complete report to the Secretary in such manner as he may by regulation prescribe. Each such report shall contain, among such other matters as the Secretary may by regulation require, descriptions of plans, developments, and operations relating to the matters referred to in secton 1306(b) (3).

"(c) If in any fiscal year the funds appropriated under section 1309 are insufficient to fund all applications approved under this title for that fiscal year, the Secretary shall, after applying the applicable priorities under sections 1303 and 1304, give priority to the funding of applications for projects which the Secretary determines are the most likely to be economically viable.

"(d) An entity which provides health services to a defined population on a prepaid basis and which has members who are entitled to insurance benefits under title XVIII of the Social Security Act or to medical assistance under a State plan approved under title XIX of such Act may be considered as a health maintenance organization for purposes of receiving assistance under this title if—

"(1) with respect to its members who are entitled to such insurance benefits or to such medical assistance it (A) provides health services in accordance with section 1301(b), except that (i) it does not furnish to those members the health services (within the basic health services) for which it may not be compensated under such title XVIII or such State plan, and (ii) it does not fix the basic or supplemental health services payment for such members under a community rating system, and (B) is organized and operated in the manner prescribed by section 1301(c), except that it does not assume full financial risk on a prospective basis for the provision to such members of basic or supplemental health services with respect to which it is not required under such title XVIII or such State plan to assume such financial risk; and

"(2) with respect to its other members it provides health services in accordance with section 1301(b) and is organized and operated in the manner prescribed by section 1301(c).

"(e) In any fiscal year no loan guarantee may be made under this title if the making of such guarantee would cause the cumulative total of the principal of the loans guaranteed under this title in such fiscal year to exceed the amount of grant and contract funds obligated under this title in such fiscal year; except that this subsection shall not apply if the amount of grant and contract funds obligated under this title in such fiscal year equals the sums appropriated under section 1309 for grants and contracts for such fiscal year.

"GENERAL PROVISIONS RELATING TO LOAN GUARANTEES AND LOANS

"SEC. 1308. (a) (1) The Secretary may not approve an application for a loan guarantee under this title unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this title.

"(2) (A) The United States shall be entitled to recover from the applicant for a loan guarantee under this title the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this title (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

"(C) Any loan guarantee made by the Secretary under this title shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

"(D) Guarantees of loans under this title shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this title will be achieved.

"(b) (1) The Secretary may not approve an application for a loan under this title unless—

"(A) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

"(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project of undertaking with respect to which such loan is requested.

"(2) Any loan made under this title shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to loans guaranteed under this title, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

"(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reason of the failure of a borrower to make payments of principal of and interest on a loan made under this title, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

"(c) (1) The Secretary may from time to time, but with due regard to the financial interests of the United States, sell loans made by him under this title.

"(2) The Secretary may agree, prior to his sale of any such loan, to guarantee to the purchaser (and any successor in interest of the purchaser) compliance by the borrower with the terms and conditions of such loan. Any such agreement shall contain such terms and conditions as the Secretary considers necessary to protect the financial interests of the United States or as otherwise appropriate. Any such agreement may (A) provide that the Secretary shall act as agent of any such purchaser for the purpose of collecting from the borrower to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by such organization under such loan; and (B) provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this paragraph.

"(3) After any loan under this title to a public health maintenance organization has been sold and guaranteed under this subsection, interest paid on such loan which is received by the purchaser thereof (or his successor in interest) shall be included in the gross income of the purchaser of the loan (or his successor in interest) for the purpose of chapter 1 of the Internal Revenue Code of 1954.

"(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the loan fund established under subsection (e).

"(d) (1) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to discharge his responsibilities under loan guarantees issued by him under this title. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. To the extent authorized in appropriation Acts, there shall also be deposited in the fund amounts received by the Secretary in connection with loan guarantees under this title and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets.

"(2) If at any time the sums in the funds are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this title, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

"(e) There is established in the Treasury a loan fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to make loans under this title. There shall also be deposited in the fund amounts received by the Secretary as interest payments and repayment of principal on loans made under this title and other property or assets derived by him from his operations respecting such loans, from the sale of loans under subsection (c) of this section, or from the sale of assets.

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 1309. (a) For the purpose of making payments under grants and contracts under sections 1303, 1304(a), and 1304(b), there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1974, $55,000,000 for the fiscal year ending June 30, 1975, and $85,000,000 for the fiscal year ending June 30, 1976; and for the purpose of making payments under grants and contracts under section 1304(b) for the fiscal year ending June 30, 1977, there is authorized to be appropriated $85,000,000.

"(b) There is authorized to be appropriated to the loan fund established under section 1308(e) $75,000,000 in the aggregate for the fiscal years ending June 30, 1974, and June 30, 1975.

"EMPLOYEES' HEALTH BENEFITS PLANS

"SEC. 1310. (a) Each employer which is required during any calendar quarter to pay its employees the minimum wage specified by section 6 of the Fair Labor Standards Act of 1938 (or would be required to pay his employees such wage but for section 13(a) of such Act), and which during such calendar quarter employed an average number of employees of not less than twenty-five, shall, in accordance with regulations which the Secretary shall prescribe, include in any health benefits plan offered to its employees in the calendar year beginning after such calendar quarter the option of membership in qualified health maintenance organizations which are engaged in the provision of basic and supplemental health services in the areas in which such employees reside.

"(b) If there is more than one qualified health maintenance organization which is engaged in the provision of basic and supplemental health services in the area in which the employees of an employer subject to subsection (a) reside and if—

"(1) one or more of such organizations provides basic health services through professionals who are members of the staff of the organization or a medical group (or groups), and

"(2) one or more of such organizations provides such services through an individual practice association (or associations),

then of the qualified health maintenance organizations included in a health benefits plan of such employer pursuant to subsection (a) at least one shall be an organization which provides basic health services as described in clause (1) and at least one shall be an organization which provides basic health services as described in clause (2).

"(c) No employer shall be required to pay more for health benefits as a result of the application of this section than would otherwise be required by any prevailing collective bargaining agreement or other legally enforceable contract for the provision of health benefits between the employer and its employees. Failure of any employer to comply with the requirements of subsection (a) shall be considered a willful violation of section 15 of the Fair Labor Standards Act of 1938.

"(d) For purposes of this section, the term "qualified health maintenance organization" means (1) a health maintenance organization which has provided assurances satisfactory to the Secretary that it provides basic and supplemental health services to its members in the manner prescribed by section 1301 (b) and that it is organized and operated in the manner prescribed by section 1301(c), and (2) an entity which proposes to become a health maintenance organization and which the Secretary determines will when it becomes operational provide basic and supplemental health services to its members in the manner prescribed by section 1301(b) and will be organized and operated in the manner prescribed by section 1301(c).

"RESTRICTIVE STATE LAWS AND PRACTICES

"SEC. 1311. (a) In the case of any entity—

"(1) which cannot do business as a health maintenance organization in a State in which it proposes to furnish basic and supplemental health services because that State by law, regulation, or otherwise—

"(A) requires as a condition to doing business in that State that a medical society approve the furnishing of services by the entity,

"(B) requires that physicians constitute all or a percentage of its governing body,

"(C) requires that all physicians or a percentage of physicians in the locale participate or be permitted to participate in the provision of services for the entity, or

"(D) requires that the entity meet requirements for insurers of health care services doing business in that State respecting initial capitalization and establishment of financial reserves against insolvency, and

"(2) for which a grant, contract, loan, or loan guarantee was made under this title or which is a qualified health maintenance organization for purposes of section 1310 (relating to employees' health benefits plans), such requirements shall not apply to that entity so as to prevent it from operating as a health maintenance organization in accordance with section 1301.

"(b) No State may establish or enforce any law which prevents a health maintenance organization for which a grant, contract, loan, or loan guarantee was made under this title or which is a qualified health maintenance organization for purposes of section 1310 (relating to employees' health benefits plans), from soliciting members through advertising its services, charges, or other nonprofessional aspects of its operation. This subsection does not authorize any advertising which identifies, refers to, or makes any qualitative judgment concerning, any health professional who provides services for a health maintenance organization.

"CONTINUED REGULATION OF HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1312. (a) If the Secretary determines that an entity which received a grant, contract, loan, or loan guarantee under this title as a health maintenance organization or which was included in a health benefits plan offered to employees pursuant to section 1310—

"(1) fails to provide basic and supplemental services to its members,

"(2) fails to provide such services in the manner prescribed by section 1301(b), or

"(3) is not organized or operated in the manner prescribed by section 1301(c),

the Secretary may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with any assurances it furnished him respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made under section 1310 or when application was made under this title for a grant, contract, loan, or loan guarantee.

"(b) The Secretary, through the Assistant Secretary for Health, shall administer subsection (a) in the Office of the Assistant Secretary for Health.

"LIMITATION ON SOURCE OF FUNDING FOR HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1313. No funds appropriated under any provision of this Act other than this title may be used—

"(1) for grants or contracts for surveys or other activities to determine the feasibility of developing or expanding health maintenance organizations or other entities which provide, directly or indirectly, health services to a defined population on a prepaid basis;

"(2) for grants or contracts, or for payments under loan guarantees, for planning projects for the establishment or expansion of such organizations or entities;

"(3) for grants or contracts, or for payments under loan guarantees, for projects for the initial development or expansion of such organizations or entities; or

"(4) for loans, or for payments under loan guarantees, to assist in meeting the costs of the initial operation after establishment or expansion of such organizations or entities.

"PROGRAM EVALUATION

"SEC. 1314. (a) The Comptroller General shall evaluate the operations of at least fifty of the health maintenance organizations for which assistance was provided under section 1303, 1304, or 1305. The period of operation of such health maintenance organizations which shall be evaluated under this subsection shall be not less than thirty-six months. The Comptroller General shall report to the Congress the results of the evaluation not later than ninety days after at least fifty of such health maintenance organizations have been in operation for at least thirty-six months. Such report shall contain findings—

"(1) with respect to the ability of the organizations evaluated to operate on a fiscally sound basis without continued Federal financial assistance,

"(2) with respect to the ability of such organizations to meet the requirements of section 1301(c) respecting their organization and operation,

"(3) with respect to the ability of such organizations to provide basic and supplemental health services in the manner prescribed by section 1301(b),

"(4) with respect to the ability of such organizations to include indigent and high-risk individuals in their membership, and

"(5) with respect to the ability of such organizations to provide services to medically underserved populations.

"(b) The Comptroller General shall also conduct a study of the economic effects on employers resulting from their compliance with the requirements of section 1310. The Comptroller General shall report to the Congress the results of such study not later than thirty-six months after the date of the enactment of this title.

"(c) The Comptroller General shall evaluate (1) the operations of distinct categories of health maintenance organizations in comparison with each other, (2) health maintenance organizations as a group in comparison with alternative forms of health care delivery, and (3) the impact that health maintenance organizations, individually, by category, and as a group, have on the health of the public. The Comptroller General shall report to the Congress the results of such evaluation not later than thirty-six months after the date of the enactment of this title.

"ANNUAL REPORT

"SEC. 1315. (a) The Secretary shall periodically review the programs of assistance authorized by this title and make an annual report to the Congress of a summary of the activities under each program. The Secretary shall include in such summary—

"(1) a summary of each grant, contract, loan, or loan guarantee made under this title in the period covered by the report and a list of the health maintenance organizations which during such period became qualified health maintenance organizations for purposes of section 1310;

"(2) the statistics and other information reported in such period to the Secretary in accordance with section 1301(c)(11);

"(3) findings with respect to the ability of the health maintenance organizations assisted under this title—

"(A) to operate on a fiscally sound basis without continued Federal financial assistance.

"(B) to meet the requirements of section 1301(c) respecting their organization and operation,

"(C) to provide basic and supplemental health services in the manner prescribed by section 1301(b),

"(D) to include indigent and high-risk individuals in their membership, and

"(E) to provide services to medically underserved populations; and

"(4) findings with respect to—

"(A) the operation of distinct categories of health maintenance organizations in comparison with each other,

"(B) health maintenance organizations as a group in comparison with alternative forms of health care delivery, and

"(C) the impact that health maintenance organizations, individually, by category, and as a group, have on the health of the public.

"(b) The Office of Management and Budget may review the Secretary's report under subsection (a) before its submission to the Congress, but the Office may not revise the report or delay its submission, and it may submit to the Congress its comments (and those of other departments or agencies of the Government) respecting such report."

QUALITY ASSURANCE

SEC. 3. Title III of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART K—QUALITY ASSURANCE

"QUALITY ASSURANCE

"Sec. 399c. (a) (1) The Secretary, through the Assistant Secretary for Health, shall conduct research and evaluation programs respecting the effectiveness, administration, and enforcement of quality assurance programs. Such research and evaluation programs shall be carried out in cooperation with the entity within the Department which administers the programs of assistance under section 304.

"(2) For the purpose of carrying out paragraph (1), there are authorized to be appropriated $4,000,000 for the fiscal year ending June 30, 1974, $8,000,000 for the fiscal year ending June 30, 1975, $9,000,000 for the fiscal year ending June 30, 1976, $9,000,000 for the fiscal year ending June 30, 1977, and $10,000,000 for the fiscal year ending June 30, 1978.

"(b) The Secretary shall make an annual report to the Congress and the President on (1) the quality of health care in the United States, (2) the operation of quality assurance programs, and (3) advances made through research and evaluation of the effectiveness, administration, and enforcement of quality assurance programs. The first annual report under this subsection shall be made with respect to calendar year 1974 and shall be submitted not later than March 1, 1975. The Office of Management and Budget may review the Secretary's report under this subsection before its submission to the Congress, but the Office may not revise the report or delay its submission to the Congress, and it may submit to the Secretary and the Congress its comments (and those of other departments and agencies of the Government) with respect to such report."

HEALTH CARE QUALITY ASSURANCE PROGRAMS STUDY

SEC. 4. (a) The Secretary of Health, Education, and Welfare shall contract, in accordance with subsection (b), for the conduct of a study to—

(1) analyze past and present mechanisms (both required by law and voluntary) to assure the quality of health care, identify the strengths and weaknesses of current major prototypes of health care quality assurance systems, and identify on a comparable basis the costs of such prototypes;

(2) provide a set of basic principles to be followed by any effective health care quality assurance system, including principles affecting the scope of the system, methods for assessing care, data requirements, specifications for the development of criteria and standards which relate to desired outcomes of care, and means for assessing the responsiveness of such care to the needs and perceptions of the consumers of such care;

(3) provide an assessment of programs for improving the performance of health practitioners and institutions in providing high-quality health care, including a study of the effectiveness of sanctions and educational programs;

(4) define the specific needs for a program of research and evaluation in health care quality assurance methods, including the design of prospective evaluation protocols for health care quality assurance systems; and

(5) provide methods for assessing the quality of health care from the point of view of consumers of such care.

(b) The Secretary shall contract for the conduct of the study required by subsection (a) with a nonprofit private organization which—

(1) has a national reputation for objectivity in the conduct of studies for the Federal Government;

(2) has the capacity to readily marshall the widest possible range of expertise and advice relevant to the conduct of such study;

(3) has a membership and competent staff which have backgrounds in government, the health sciences, and the social sciences;

(4) has a history of interest and activity in health policy issues related to such study; and

(5) has extensive existing contracts with interested public and private agencies and organizations.

The Secretary shall enter into such contract within 90 days of the date of the enactment of the first Act making an appropriation under subsection (d).

(c) An interim report providing a plan for the study required by subsection (a) shall be submitted by the organization conducting the study to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Commerce and Labor and Public Welfare of the Senate by June 30, 1974; and a final report giving the results of the study and providing specifications for an effective quality assurance system shall be submitted by such organization to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate by January 31, 1976.

(d) There is authorized to be appropriated $10,000,000, which shall be available without fiscal year limitation, for the conduct of the study required by subsection (a).

REPORTS RESPECTING MEDICALLY UNDERSERVED AREAS AND POPULATION GROUPS AND NON-METROPOLITAN AREAS

SEC. 5. Within three months of the date of the enactment of this Act, the Secretary of Health, Education, and Welfare shall report to the Congress the criteria used by him in the designation of medically underserved areas and population groups for the purposes of section 1302(7) of the Public Health Service Act. Within one year of such date, the Secretary shall report to the Congress (1) the areas and population groups designated by him under such section 1302 (7) as having a shortage of personal health services, (2) the comments (if any) submitted by State and areawide comprehensive health planning agencies under such section with respect to any such designation, and (3) the areas which meet the definitional standards under section 1302(9) of such Act for non-metropolitan areas. The Office of Management and Budget may review the Secretary's report under this section before its submission to the Congress, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and it may submit to Congress its comments (and those of other departments and agencies of the Government) respecting such report.

HEALTH SERVICES FOR INDIANS AND DOMESTIC AGRICULTURAL MIGRATORY AND SEASONAL WORKERS

SEC. 6. (a) The first section of the Act of August 5 1954 (42 U.S.C. 2001) is amended by inserting "(a)" after "That" and by adding at the end thereof the following new subsection:

"(b) In carrying out his functions, responsibilities, authorities, and duties under this Act, the Secretary is authorized, with the consent of the Indian people served, to contract with private or other non-Federal health agencies or organizations for the provision of health services to such people on a fee-for-service basis or on a prepayment or other similar basis.".

(b) The Secretary of Health, Education, and Welfare, in connection with existing authority (except section 310 of the Public Health Service Act) for the provision of health services to domestic agricultural migratory workers, to persons who perform seasonal agricultural services similar to the services performed by such workers, and to the families of such workers and persons, is authorized to arrange for the provision of health services to such workers and persons and their families through health maintenance organizations. In carrying out this subsection the Secretary may only use sums appropriated after the date of the enactment of this Act.

CONFORMING AMENDMENTS

"SEC. 7. (a) Section 1 of the Public Health Service Act is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Public Health Service Act'."

(b) Title XIII of the Act of July 1, 1944 (58 Stat. 682) (as so designated by section 2(b) of the Emergency Medical Services Systems Act of 1973 (Public Law 93–154)) is repealed.

(c) Section 306(g) of the Federal National Mortgage Association Act (12 U.S.C. 1721 (g)) is amended by inserting ", or which are guaranteed under title XIII of the Public Health Service Act" after "chapter 37 of title 38, United States Code".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID E. SATTERFIELD,
PETER KYROS,
RICHARDSON PREYER,
J. W. SYMINGTON,
WILLIAM R. ROY,
ANCHER NELSEN,
TIM LEE CARTER,
JAMES F. HASTINGS,
H. JOHN HEINZ III,
WILLIAM H. HUDNUT III,
Managers on the Part of the House.
EDWARD M. KENNEDY,
HARRISON A. WILLIAMS, Jr.,
GAYLORD NELSON,
THOMAS F. EAGLETON,
ALAN CRANSTON,
HAROLD E. HUGHES,
CLAIBORNE PELL,
WALTER F. MONDALE,
WILLIAM D. HATHAWAY,
RICHARD S. SCHWEIKER,
J. JAVITS,
PETER H. DOMINICK,
J. GLENN BEALL, Jr.,
BOB TAFT, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House to the text of the bill with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

SHORT TITLE; PURPOSE

Short Title

The Senate bill provided for the following short title: "Health Maintenance Organization and Resources Development Act of 1973".

Under the House amendment, the short title was "Health Maintenance Organization Act of 1973".

The conference substitute conforms to the House amendment. (See section 1 of the Conference report).

Purpose

General Findings and Purpose

The Senate bill contained a provision not in the House amendment. It stated the following general findings:

(1) medical care is too expensive;

(2) the medical care system is oriented toward the provision of acute care;

(3) medical resources are maldistributed;

(4) health maintenance organizations (HMO's) will assist in alleviating the abovementioned problems;

(5) technical and resource assistance is needed to establish and operate HMO's;

(6) the quality of medical care varies excessively.

The Senate bill also stated its purpose as the improvement of the health care delivery system through the support of the creation of HMO's.

The House amendment contained no corresponding provision.

The conference substitute conforms to the House amendment.

Activities Under the Social Security Act

The Senate bill provided that the new provisions of the Public Health Service Act added by the bill were not to be construed to supersede any activity relating to the review of health care services under, or to the determination of eligibility of participants in programs under, the Social Security Act.

The House amendment contained no corresponding provision.

The conference substitute contains a provision which will assure that activities relating to the provision of health care services under the new program do not supersede or conflict with the requirements of the Social Security Act.

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

Both the Senate bill and the House amendment authorized programs of assistance for health maintenance organizations in a new title XII of the Public Health Service Act. Since the passage of the Senate bill and the House amendment, a new title XII of the Public Health Service Act has been enacted. Thus, the programs of assistance authorized by the conference substitute are contained in a new title XIII of such Act. Section references in the following provisions of this joint statement describing the conference substitute are, except as noted, to sections in the new title XIII.

DEFINITIONS

Health maintenance organizations

Services to be offered

With respect to the provision of health services the Senate bill defined an HMO as an entity which—

(1) provides listed health services (referred to as comprehensive health services) to its enrollees in return for a fixed payment, and

(2) provides to its enrollees as an option, for an additional premium extended care facilities services and dental services.

With respect to the provision of health services the House amendment defined an HMO as an entity which—

(1) provides listed health services (more limited in scope than the Senate comprehensive health services and referred to as basic health services) to its enrollees in return for a fixed payment, and

(2) provides to its enrollees for an additional payment such additional health services (referred to as supplemental health services) which it can reasonably make available to its enrollees and for which the enrollees have contracted.

The conference substitute conforms to the House amendment with technical changes. See sections 1301(a), and 1301(b)(1) and (2).

Under the Senate bill, the listed health services (comprehensive health services) which must be provided *each* enrollee of an HMO, without limitation as to time or cost, were defined as follows:

(A) physician services (including consultant and referral services);

(B) inpatient and outpatient hospital services;

(C) home health services;

(D) diagnostic laboratory, and diagnostic and therapeutic radiologic services;

(E) preventive health (including but not limited to voluntary family planning, infertility services, and preventive dental care for children) and early disease detection services;

(F) emergency health services rendered by any provider of health care, the expense of which shall be borne by the enrollee's health maintenance organization;

(G) provision of or payment for prescription drugs (with patterns of patient drug utilization under continuous surveillance, evaluation, and review by a clinical pharmacist whose duties shall include the maintenance of a drug use profile for each enrollee);

(H) medical social services;

(I) vision care (except for eyeglasses which shall be optional) as provided by a physician skilled in the diagnosis and treatment of diseases of the eye, or by an optometrist provided such services are within the scope of his license;

(J) physical medicine and rehabilitative services (including physical therapy);

(K) mental health services utilizing existing community mental health centers on a priority basis;

(L) preventive diagnostic and medical and psychological treatment of the abuse of or addiction to alcohol and drugs; and

(M) such other personal health services as the Secretary may determine are necessary to insure the protection, maintenance, and support of human health.

The Senate bill listed optional services as—

(A) extended care facility services; and

(B) dental services.

The Senate bill provided that the Secretary could grant a waiver to applicants for assistance with respect to the provision of a listed health service if—

(A) the health manpower needed to provide such service is unavailable; and

(B) the applicant has a plan to phase-in the waived service at the earliest possible date, but not longer than three years after receiving assistance.

Under the House amendment, the basic health services which must be provided to each enrollee by the HMO were defined to mean—

(A) physician services (including consultant and referral services by a physician);

(B) in-patient and out-patient hospital services;

(C) diagnostic laboratory and diagnostic and therapeutic radiologic services;

(D) home health services; and

(E) preventive health services (including preventive dental care for children and children's eye examinations conducted to determine the need for vision correction).

The House amendment required the HMO to be able to provide each enrolled member, supplemental health services, if the services could reasonably be made available and if the member had contracted for such services (or service). Supplemental health services were defined to mean—

(A) services of facilities for long-term care (as such facilities are defined by section 645(h) of the Public Health Service Act);

(B) vision care not included under the required basic health services package;

(C) dental services not included under the required basic health services;

(D) mental health services;

(E) physical medicine and rehabilitative services (including physical therapy); and

(F) prescription drugs.

The conference substitute defines the basic health services which must be provided to each enrollee by the HMO as—

(A) physician services (including consultant and referral services by a physician);

(B) inpatient and outpatient hospital services;

(D) short-term (not to exceed twenty visits), outpatient evaluative and crisis intervention mental health services;

(E) medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs;

(F) diagnostic laboratory and diagnostic and therapeutic radiological services;

(G) home health services;

(H) preventive health services (including voluntary family planning services, infertility services, preventive dental care for children, and children's eye examinations conducted to determine the need for vision correction).

(See section 1302(1).) The conferees intend that preventive dental health services for children shall mean at a minimum oral prophylaxis, topical fluoride application, and surface sealant services, as provided by regulations of the Secretary, to children under the age of twelve. Such services may be provided by appropriate auxiliary dental personnel working under the supervision of a dentist.

The conference substitute requires the HMO to be able to provide specific supplemental health services to its members, if the health manpower required to provide the services (or service) is available in the HMO's service area and if the member has contracted for such services (or service). Supplemental health services are defined as—

The managers intend that (1) the nominal co-payments permitted by section 1301(b) are to be payments made by HMO members at the time of receipt of service, (2) such payments may not exceed 50% of the total cost of providing any single service to any given group of members, and (3) the co-payments charged by an HMO shall not, in the aggregate, exceed 20% of the total costs of providing basic health services to any given group of members. The managers, however, intend that the upper limits described in the preceding sentence are to be considered as absolute upper limits and are to be approached only if they do not constitute a barrier to care. Accordingly, the term "nominal co-payments" is intended to convey the conference committee's desire that out-of-pocket payments by HMO members shall in no instance constitute a barrier to care. Such payments are, in the view of the conference committee, solely a device to enable an HMO to market its benefit package at a competitive price.

(ii) Community rating.—

The Senate bill required rates for comprehensive health services to be uniform for all enrollees, subject to rules and regulations regarding family rates.

The House amendment required rates for basic health services to be established under a community rating system, but this requirement could be waived during the HMO's first year of operation if establishing such rates under such system would prevent the HMO from competing effectively for enrollment of new members or retention of current members.

The conference substitute, concerning community rating, requires payments for basic health services to be fixed under a community rating system and payments for supplemental health services which are fixed on a prepaid basis to be fixed under such a system. (See sections 1301(b)(1)(C), and (b)(2).)

Providers of services

(*i*) *In general.*—Under the Senate bill, comprehensive health services were to be provided through HMO staff and supporting resources or through a medical group or groups (which could be organized on an individual practice basis); and "other additional services as may be required" were to be provided through other health delivery entities.

Under the House amendment, basic health services were to be provided through health professionals who are members of the staff of the HMO or through a medical group (or groups) or individual practice association (or associations) unless the services were provided out of the area served by the HMO or, as determined by the HMO in conformity with regulations of the Secretary, were infrequently used. Health professionals were defined to include at least physicians, dentists, nurses, podiatrists, and optometrists.

The conference substitute conforms to the House amendment. (See section 1301(b)(3).) Under the conference substitute, the following services are not required to be provided through the staff of a HMO or through a medical group or IPA: Health professionals' services which the HMO determines, in conformity with the regulations of the Secretary, are unusual or infrequently used and basic health services which because of medical necessity cannot be provided through the HMO.

(*ii*) *Definition of medical group.*—The Senate bill defined a medical group as a partnership or other association or group of health professionals (of whom not less than four and at least a majority must be licensed to practice medicine or osteopathy) and such other licensed health professionals as are necessary to provide comprehensive health services and who are eligible for assistance under the Senate bill. Group members must engage in the coordinated practice of their profession as a group responsibility providing services to HMO enrollees; pool their income from practice as members of the group (if not employees or retainees of an HMO) and distribute it among themselves according to a prearranged salary, or a drawing account or other plan; share substantial portions of records, major equipment, and staff; jointly utilize such additional allied health personnel as necessary to provide comprehensive health services; and arrange for and encourage continuing education for members in the field of clinical medicine and related areas. The bill permitted such groups to be organized on a group or individual practice basis and individual physician members to be paid on a fee-for-service or any other basis, as long as the group itself was reimbursed for its services on the basis of an aggregate fixed sum or on a per capita basis.

The House amendment is substantially similar to the Senate bill with three major differences. The House amendment did not contain the requirements that (1) not less than four and at least a majority of the members must be physicians licensed to practice medicine or osteopathy; (2) the group must engage in the coordinated practice of their profession as a group responsibility providing services to HMO enrollees; and (3) members must pool their income from their practice and distribute it according to a prearranged plan.

The conference substitute defines a medical group as a partnership, association or other group (A) which is composed of health professionals licensed to practice medicine or osteopathy and of such other licensed health professionals (including dentists, podiatrists, and optometrists) as are necessary to provide the health services for which the group is responsible; (B) of which a majority of the members are licensed to practice medicine or osteopathy; and (C) whose members (i) as their principal professional activity and as a group responsibility engage in the coordinated practice of their profession for an HMO; (ii) pool their income from the practice and distribute it according to a prearranged salary or drawing account or other plan; (iii) share medical and other records and substantial portions of major equipment and staff; (iv) utilize additional personnel (as defined by the Secretary's regulations), as are available and appropriate for the effective and efficient delivery of the services of the members of the group; and (v) arrange for and encourage continuing education in the field of clinical medicine and related areas for the members of the group. (See section 1302(4).)

(*iii*) *Definition of independent practice association.*—The House amendment defined the term to mean a partnership, corporation, association, or other legal entity which has entered into an arrangement(s) with persons licensed to practice, in a State, medicine, osteopathy, dentistry, podiatry, optometry, or other health professions. Under the terms of such arrangement, such persons must:

A. provide their professional services in accordance with a compensation arrangement established by the IPA; and

B. to the extent feasible, utilize such additional professionals, allied health professionals, and other health personnel (as specified in regulations) as are available and appropriate to deliver the health services, effectively and efficiently, for which the arrangement was made.

Such persons must also, to the extent feasible, share records, equipment, and staff, and must have continuing education arranged for and encouraged.

The Senate amendment contained no corresponding provision but included individual practice associations in the definition of a medical group.

The conference substitute conforms to the House amendment with the additional requirement (from the definition of a medical group) that a majority of the health professionals with arrangements with such associations be doctors of medicine or osteopathy. (See section 1302(5).)

Other organizational requirements

(*i*) *Availability of services.*—The Senate bill provided that an HMO must demonstrate to the satisfaction of the Secretary ability to assure that appropriate comprehensive health services are available and accessible to all its enrollees promptly and in a manner which assures continuity.

The House amendment provided that an HMO must, within its service area, make basic and supplemental health services available and accessible to each of its members promptly, as appropriate, and in a manner which assures continuity; and such services shall be provided to any member when he is outside such area, or he shall be reimbursed for his expenses in securing such services outside such area, if it is medically necessary that the services be rendered before he can return to such area.

The conference substitute requires basic health services (and supplemental health services in the case of members who have contracted for such services) to be, within the HMO service area, available and accessible to each HMO member in a manner which assures continuity. Basic and supplemental health services must, when medically necessary, be available and accessible twenty-four hours a day and seven days a week. An HMO member must be reimbursed by the HMO for his expenses incurred in securing basic or supplemental health services from providers other than the HMO if it is medically necessary that such services be rendered before they could be provided by the HMO. (See section 1301(b)(4).)

(*ii*) *Financial responsibility.*—Under the Senate bill, an HMO must demonstrate to the satisfaction of the Secretary financial responsibility through proof of adequate provision against the risk of insolvency.

The House amendment provided that, as a condition of assistance, the Secretary must determine that the HMO will have a fiscally sound operation, and insurance which protects its members against the risk of its becoming insolvent and which is approved by the Secretary or such other provision against such risk as the Secretary determines is adequate.

The conference substitute provides in the definition that an HMO must have a fiscally sound operation and adequate provisions (which must be satisfactory to the Secretary) against the risk of insolvency. (See section 1301(c)(1).)

(*iii*) *Consumer participation; grievance procedure.*—Under the Senate bill, an HMO must be organized in such a manner (as prescribed by regulations of the Secretary) that assures its enrollees a substantial role (generally defined as one-third representation in the body establishing or recommending policy) in the making of policy for the health maintenance organization, with equitable representation of enrollees from medically underserved areas, and provides meaningful procedures for hearing and resolving grievances (A) between its enrollees and the health maintenance organization (including the medical group or groups and other health delivery entities providing health services), and (B) between the medical group or groups providing health services and other employees and the health maintenance organization.

The House amendment provision was a condition to assistance and was comparable to the Senate provision, except it contained no definition of "substantial role"; no requirement that members from medically underserved areas have equitable representation on the HMO's policymaking board; and no provision requiring the HMO to provide for grievance procedures between the medical group or groups providing the services and other employees and the HMO.

The conference substitute requires in the definition that the HMO be organized in a manner which assures that at least one-third of the membership of the policymaking body of the HMO will be enrolled in the HMO, and (B) members from medically underserved populations served by the HMO will have equitable representation on such body.

Under the conference substitute an HMO must also be organized in a manner which provides meaningful procedures for hearing and resolving grievances between the HMO (including the medical group or groups providing health services for the HMO) and the members of the organization.

(See sections 1301(c) (6), and (7).)

(*iv*) *Health education.*—The Senate bill provided that an HMO must encourage and actively provide for its enrollees (A) health education services; (B) education in the appropriate use of health services provided; and (C) education in the contribution the patient can make to the maintenance of his own health.

The House amendment provision was a condition to assistance and was the same as the Senate bill, except that there was no provision requiring the HMO to provide education in the contribution the patient could make to his own health maintenance.

The conference substitute requires the HMO to provide medical social services (required as a comprehensive health service by the Senate bill) for its members, and encourage and actively provide for its members health education services, education in the appropriate use of health services, and education in the contribution each member can make to the maintenance of his own health. (See section 1301 (c) (9).)

(*v*) *Quality control.*—Under the Senate bill an HMO was required to have organizational arrangements, established in accordance with regulations of the Commission on Quality Health Care Assurance (established under a new title of the Act) for an ongoing quality assurance program which stresses health outcomes and assures that health services provided meet the requirements of the Commission on Quality Health Care Assurance.

Under the House amendment an HMO was required as a condition to assistance to have an ongoing quality assurance program which provides review, by physicians and other health professionals of the process followed in the delivery of health services; and the quality of the results of such services.

The conference substitute requires in the definition that an HMO have organizational arrangements, established in accordance with the Secretary's regulations, for an ongoing quality assurance program for its health services. The program must stress health outcomes and provide review by physicians and other health professionals of the process followed in the provision of health services. (See section 1301(c) (8).)

(*vi*) *Data.*—Under the Senate bill, an HMO was required to provide, in accordance with regulations of the Secretary (includnig safeguards concerning the confidentiality of the doctor-patient relationship), an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, data (which the Secretary shall publish and disseminate on an annual basis) relating to (A) the cost of its operations, (B) the patterns of utilization of its services, (C) the availability, accessibility, and acceptability of its services, and (D) such other matters as the Secretary may require and disclose at least annually and in a manner acceptable to the Secretary, such data to its enrollees and to the general public.

The House amendment was a condition to assistance and was essentially the same as the Senate bill, except that there is no provision requiring the HMO to safeguard the confidential relationship between physician and patient. HMO also required to develop, compile, evaluate, and report to the Secretary (if practical) data on developments in the health status of its members.

The conference substitute conforms to the Senate bill with technical changes and adds the provision in the House amendment requiring the HMO to develop, compile, evaluate, and report to the Secretary, if practical, information on developments in its members' health status. (See section 1301(c) (11).)

(*vii*) *Reinsurance.*—Under the Senate bill an HMO must, except for (A) out of area emergency care, and (B) care reasonably valued in excess of the first $5,000 per enrollee per year, assume direct financial responsibility, without benefit of insurance, on a prospective basis for the provision of the comprehensive health services required.

The House amendment was a condition to assistance and was the same as the Senate bill, except that out of area care not limited to emergency care. In addition, an HMO was permitted to reinsure or make other arrangements for the cost of up to 90 percent of the amount by which its costs exceed 110 percent of its income for any fiscal year.

The conference substitute requires in the definition that the HMO assume full financial risk, without the benefit of reinsurance, for the provision of basic health services except for (A) the cost of providing basic health services which exceeds, in the aggregate $5,000 per member per year; (B) the cost of providing basic health services to members outside the HMO's service area; and (C) not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such year. (See section 1301(c) (2).)

(*viii*) *Open enrollment and membership.*—The Senate bill provided that:

(1) An HMO must have an open enrollment period, unless a waiver has been granted, of not less than thirty days at least once during each consecutive twelve-month period during which it accepts individuals in the order in which they apply for enrollment up to its capacity, subject to the requirements described in the next paragraph. An annual waiver (for not more than 3 years) was authorized if no premium subsidy grant may be made to the HMO and if the HMO demonstrates it has enrolled a disproportionate number of high risk individuals which jeopardizes the HMO's financial stability and open enrollment would result in a nonrepresentative membership, and

(2) An HMO shall enroll no more than 50 per centum of its enrollees from medically underserved populations, except in rural areas as designated by the Secretary.

The House amendment did not contain an open enrollment provision. It required an HMO as a condition to assistance to enroll persons broadly representative of the various age, social, and income groups in its service area.

The conference substitute in the definition combines the provisions of the Senate bill and House amendment with conforming amendments and with two changes—(1) An HMO having a medically underserved population located in its service area cannot enroll more than 75 percent of its members from the underserved population unless it is located in a rural area (as designated by the Secretary); and (2) the HMO may also be granted a waiver from compliance with the open enrollment requirement if the HMO, under open enrollment, would enroll a population not broadly representative of the various groups in its service area. (See sections 1301(c) (3), (4).)

(*ix*) *Emergency service.*—The Senate bill provided that an HMO must assume responsibility for the provisions of health care services to its enrollees (and on a reimbursable basis for short-term health care services to enrollees of any other health maintenance organization, who are temporarily outside the service area of the health maintenance organization in which they are enrolled) twenty-four hours a day, seven days a week, and for the appropriate availability of such services in emergencies.

The House amendment did not contain a provision specifically related to the provision of emergency health services. Basic health services were to be provided promptly as appropriate.

The House amendment did not contain a provision respecting services for members of other HMOs.

The conference substitute requires basic and supplemental health services (for members who have contracted for such services) to be available and accessible within the HMOs service area to each member promptly and in a manner which assures continuity. When medically necessary, such services must be available and accessible twenty-four hours a day, seven days a week. The HMO is required to reimburse members for expenses incurred in securing basic or supplemental services of providers other than the HMO if such services are required to be provided before they can be provided by the HMO. (See section 1301(b) (4).)

The conference substitute also requires the HMO to provide to each member as a part of the basic health services, medically necessary emergency health services. (See section 1302(1) (c).)

(*x*) *Continuing education.*—The Senate bill stated that an HMO must provide, or make arrangements for, continuing education for its staff.

The House amendment contained no corresponding provision.

The conference substitute conforms to the Senate bill. (See section 1301(c) (10).)

(*xi*) *Physician's assistants.*—The Senate bill stated that an HMO must emphasize the use of nurse practitioners, physician's assistants, dental therapists, and other allied health personnel and to the extent practicable and consistent with good medical practice, train and employ such personnel in the rendering of services.

There was no corresponding provision in the House amendment.

The conference substitute requires a medical group (or an individual practice association to the maximum extent feasible) to utilize such additional professional, allied health professional, and other health personnel (as specified in the Secretary's regulations) as are available and appropriate to the delivery of health services of the group (or association) effectively and efficiently.

(*xii*) *Special services.*—Under the Senate bill, an HMO was permitted to purchase on a fee-for-service basis unusual or infrequently used health care services for its enrollees.

The House amendment permitted an HMO to provide infrequently used health services (determined in accordance with regulations of the Secretary) through health professionals other than those on the HMO staff or in a medical group or individual practice association.

The conference substitute conforms substantially to the House amendment. It allows the HMO to provide unusual or infrequently used health services through other health professions. (See section 1301(b) (3).)

(*xiv*) *Membership.*—The Senate bill provided that an HMO could not refuse enrollment to or expel any person for any reason concerning his health status or his requirements for health srevices.

There was no corresponding provision in the House amendment.

The conference substitute provides that an HMO cannot expel or refuse to re-enroll any member for reasons concerning his health status or requirements for health services. (See section 1301(c) (5).) The conferees noted that this provision did not apply to re-enrollment of individuals who were once members of an HMO but had allowed their membership to lapse. Thus this provision prevents HMO's from expelling members or refusing them continuous re-enrollment.

(*xv*) *Alcoholism and drug abuse services.*—Under the Senate bill, an HMO must provide for the prevention, diagnosis, and medical and psychological treatment of the abuse of or addiction to alcohol and drugs either through its own facilities or existing community facilities.

The House amendment contained no specific provision.

The conference substitute requires that the HMO provide each member as a part of its basic health services, medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs. (See section 1301(1)(E).)

(*xvi*) *General.*—The Senate bill provided that an HMO had to meet such other criteria for its organization and operations as the Secretary by regulation prescribed, consistent with the provisions of this title.

The House amendment contained no corresponding provision.

The conference substitute conforms to the House amendment.

Medically Underserved Area

Under the Senate bill, a medically underserved area is an urban or rural geographic area or population group that has a shortage of personal health services. Medically underserved areas would be designated by the Secretary only after considering the comments of section 314(a) State health planning agencies, 314(b) areawide health planning agencies (if any) and regional medical programs covering such areas.

The House amendment was identical to the Senate bill, except that there was no provision requiring the Secretary to consider the comments of regional medical programs covering such areas.

The conference substitute conforms to the House amendment with technical changes. (See section 1302(7).)

ASSISTANCE PROGRAMS

REGULATIONS

It is the intention of the conferees that the Secretary shall undertake the promulgation of regulations under the new title XIII at such time as will permit the programs of assistance under such title to become operational by March 30, 1974.

Feasibility studies and planning

Type of Assistance

The Senate bill provided grants for public and nonprofit private entities for studying the feasibility of, or planning the, development or expansion of an HMO.

The House amendment provided *grants* for public and nonprofit private entities and *contracts* for public and private entities (including contracts for private profit entities if project for medically underserved area) for surveys or other activities to determine the feasibility of developing or expanding an HMO.

For planning projects for establishment of HMO's the House amendment authorized *grants* for public and nonprofit private entities, *loans* (from revolving loan fund), for public entities and *contracts* for public and private entities (including contracts for private profit entities for projects for medically underserved areas). The House amendment authorized *loan guarantees* for private profit entities for planning projects for establishment of HMO to serve medically underserved areas.

The conference substitute authorizes:

1. grants and contracts for public or nonprofit private entities for surveys or other activities to determine the feasibility of developing and operating or expanding the operation of an HMO;
2. grants and contracts for public or nonprofit private entities for planning projects to establish HMOs or to significantly expand the membership of, or area served by, an HMO; and
3. loan guarantees for private profit-making entities for planning projects to establish or expand HMOs which serve medically underserved populations.

(See sections 1303(a), 1304(a).)

Limit on Amount of Assistance

The Senate bill provided that no feasibility project could receive more than $250,000.

Under the House amendment, no single grant or contract for a feasibility survey could exceed $50,000. No single grant, contract, loan, or loan guarantee for a planning project could exceed $250,000. In addition to initial grant or contract (or initial loan or loan guarantee in case of planning project) a project could receive one additional grant or contract (or loan or loan guarantee in case of planning project) if Secretary determined it necessary for the completion of project. The aggregate amount of assistance for any project could not exceed 90 percent of costs (or 100 percent in medically underserved areas).

The conference substitute provides that no single grant or contract for a feasibility survey may exceed $50,000. No single grant, contract or loan guarantee for a planning project may exceed $125,000. Entities may receive a second grant or contract (or loan guarantee in the case of a planning project) if the Secretary determines it necessary for completion of the project. The aggregate amount of assistance for any project may not exceed 90 percent of the costs (or 100 percent for entities serving medically underserved population). (See section 1303 (d) and (e), and 1304 (e) and (f).)

Period of Assistance

The Senate bill authorized the Secretary to designate the period during which a feasibility grant is to be available for expenditure. That period could not exceed two years.

The House amendment, in general, required that a feasibility project and a planning project must be completed in one year. The Secretary could allow up to one more year if he determined additional time was needed for project completion.

The conference substitute conforms to the House amendment. (See sections 1303(d) and 1304(e).)

Plans To Be Developed in Planning Projects

The House amendment contained a provision not in the Senate bill. It required that planning projects include development of plans for the marketing of services of HMO and such other plans as Secretary might require to determine whether the feasibility of establishing and operating, or expanding, an HMO had been established.

The conference substitute requires planning projects to include the development of plans for the marketing of the services of HMO's. (See section 1304(a).)

Cooperation With Section 314(b) Agencies and Medical Societies

The House amendment contained a provision not in the Senate bill. It required that an application for feasibility or planning assistance contain assurances that in carrying out the project the applicant will cooperate with appropriate 314(b) agency (if any) and consult with appropriate medical society.

The conference substitute requires applications for such assistance to contain assurances that in carrying out the project, the applicant will cooperate with the appropriate 314(b) agency (if any), and notify the appropriate medical society of the applicants plans and intentions with respect to the project. (See sections 1303(b)(1) and 1304 (c)(1).)

Priorities

The Senate bill required the Secretary to give priority to applicants who assure him that at least 30 percent of total enrollment will be from medically underserved areas.

The House amendment required that the Secretary give priority to applicants for projects for HMO's in medically underserved areas.

The conference substitute conforms substantially to the Senate bill. The Secretary is required to give priority to those applicants which assure him that at the time the HMO for which the application is submitted first becomes operational at least 30 percent of its members will be from medically underserved populations. (See sections 1303(c) and 1304(d).)

Initial development

Type of assistance

The Senate bill provided *grants* to public and nonprofit private entities for initial development costs prior to first day of operation; *loan guarantees* (up to 90 percent of principal and interest) to private entities for initial development costs; and *interest subsidies* on guaranteed loans of nonprofit entities for such costs.

The House amendment provided *grants* for initial development projects of public and nonprofit entities; *loans* (from revolving fund) for such projects of public entities; *contracts* for such projects of public and private entities (including contracts for private profit entities for projects for medically underserved areas); and *loan guarantees* for private profit entities for projects in medically underserved areas.

The conference substitute authorizes:

1. grants and contracts with public or nonprofit private entities for projects to initially develop HMOs; and
2. loan guarantees to private profitmaking entities for projects to initially develop HMOs serving medically underserved populations.

(See section 1304(b)(1).)

Scope of projects

The Senate bill authorized initial development assistance to be utilized for such purposes as Secretary may prescribe which may include (1) implementation of enrollment campaign, (2) design of and arrangements for health services, (3) development of administrative and internal organizational arrangements, including development of capital financing, (4) recruitment of personnel and training, and (5) payment of architects' and engineers' fees.

The House amendment contained no corresponding provision, but defined "initial development" to include the significant expansion of the membership of, or the areas served by, an HMO.

The conference substitute combines the provisions of the Senate bill and House amendment. (See section 1304(b)(2).)

Duration of Program

Under the Senate bill, the initial development program was authorized for the three fiscal years 1974, 1975, and 1976.

Under the House amendment, the program was authorized for the four fiscal years 1974, 1975, 1976, and 1977.

The conference substitute conforms to the House amendment. (See section 1310(a)(1) and (a)(4).)

Limit on Amount of Assistance

The Senate bill stated that no initial development project could receive more than $1 million. An amount of a loan guaranteed could not, when combined with other Federal assistance, exceed 90 percent of the project cost.

The House amendment provided that the aggregate amount of assistance for any project could not exceed the lesser of—

(1) $1 million or product of $25 and enrollment of HMO when first operational, whichever is greater; or

(2) 90 percent of project cost (100 percent in case of project for medically undeserved area).

The conference substitute takes parts of each provision and provides that the aggregate amount of assistance for any initial development project can not exceed the lesser of—

(1) $1 million, or

(2) 90 percent of the project cost (100

percent in the case of a project for a medically undeserved population).

(See section 1304(f) (2).)

Period of Assistance

The Senate bill contained a provision not in the House amendment. It stipulated that grant funds for a project could be made available for not more than three years.

The conference substitute provides that an initial development grant or contract can only be made for the costs of one fiscal year and that the total number of grants and contracts for any project may not exceed 3. A loan guarantee for initial development may only be made for a loan for a period of initial development costs which does not exceed three years. (See section 1304(b) (3).)

Requirements respecting planning sufficiency and feasibility

The House amendment provided that no initial development assistance could be provided to any developing HMO unless the Secretary determined that sufficient planning had been completed and the feasibility of the project established.

The Senate bill contained no similar provision.

The conference substitute conforms to the House amendment, except that all references to initial development loans are deleted. (See section 1304(c) (2).

Priorities

The Senate bill required that the Secretary give priority to applicants for grants who assured him that at least 30 percent of total enrollment would be from medically underserved areas.

Under the House amendment, the Secretary was required to give priority to applicants for projects for HMO's in medically underserved areas.

The conference substitute conforms substantially to the Senate bill. The Secretary is required to give priority to applicants who assure him that at the time the HMO for which the application is submitted first becomes operational at least 30 percent of its members will be from medically underserved populations. (See section 1304(d).)

Construction assistance

Grants

The Senate bill contained a provision not in the House amendment. It authorized grants for public or nonprofit private HMO's or public or nonprofit private entities intending to become an HMO for—

(1) construction costs for ambulatory care facilities (or portions of such facilities) that would be used to provide health services to HMO members; and

(2) capital investment costs for necessary transportation equipment that would be used to improve access to health services for members.

The Secretary was to give special consideration to applications for grants to acquire or renovate existing facilities. Grants for any project were not to exceed 75 percent of the costs of construction, except in unusual circumstances, in which case the Secretary could grant up to 90 percent of the costs. No project could receive more than $2.5 million in construction grants. Priority would be given to those applicants who assured the Secretary that at least 30 percent of their total enrollment would come from medically underserved areas. Authorizes:

	Million
Fiscal year 1974	$15
Fiscal year 1975	30
Fiscal year 1976	40

The conference substitute conforms to the House amendment.

Loans

Under the Senate bill, the Secretary could make loans to a public or nonprofit private HMO or public or nonprofit private entity intending tc become an HMO to assist it in meeting the cost of constructing facilities for ambulatory care and transportation services. Such facilities must be used by the HMO to provide health services to its members. Applications for loans to acquire or renovate existing facilities would be given special consideration. A loan for any project under this section could not exceed 90 percent of the costs. Authorizes for loans:

	Million
Fiscal year 1974	$10
Fiscal year 1975	20
Fiscal year 1976	30

Appropriations for such loans, loan repayments, and other receipts in connection with this section would be placed in a revolving fund to be used by the Secretary for loans and other expenditures under this section.

There was no corresponding provision in the House amendment.

The conference substitute conforms to the House amendment.

Loan Guarantees

The Senate bill authorized the Secretary to make loan guarantees (up to 90 percent of principal and interest) for private HMO's to assist them in carrying out construction projects for ambulatory care facilities and transportation and communication services to be used for the provision of health services to members; and authorized for nonprofit private HMO's interest subsidies on loans guaranteed. The amount of loan guaranteed, when combined with the amount of other Federal assistance, could not exceed 90 percent of construction costs. Term of loan guaranteed could not exceed 25 years.

There was no corresponding provision in the House amendment.

The conference substitute conforms to the House amendment.

Initial operating assistance

Type of Assistance

The Senate bill authorized grants to public and nonprofit private HMO's to assist them in meeting operating deficits during the initial three-year period of their operation.

There was no corresponding provision in the House amendment.

The conference substitute conforms to the House amendment.

The Senate bill provided loans (from a revolving fund) for public and nonprofit private HMO's to assist them in meeting for three years a portion of initial operating costs in excess of gross revenues.

The House amendment authorized loans (from a revolving fund) for public and nonprofit private HMO's to assist them in meeting the costs of the first three years of their operation after their establishment.

The conference substitute conforms to the Senate bill (see sec. 1305(a)).

The Senate bill provided for the guarantees of loans (with terms not exceeding 15 years) for private HMO's (and interest subsidy on the guaranteed loan of nonprofit private entity) to meet cost of initial operation (for not more than three years). Up to 90 percent of principal and interest may be guaranteed.

The House amendment authorizes loan guarantees for private profit HMO's for costs referred to above but only if such HMO's will serve residents of medically underserved areas.

The conference substitute combines the House amendment with the Senate bill's requirements for a three year limit (see sec. 1305(a)).

Under the Senate bill, the program is to extend for the three fiscal years 1974, 1975, and 1976.

Under the House amendment, the program is to extend for the five fiscal years 1974, 1975, 1976, 1977, and 1978.

The conference substitute conforms to the House amendment (see sec. 1309).

Limit on Amount of Assistance

The Senate bill provided that a grant could not exceed 100 percent of an HMO's operating deficit in first year, 67 percent of the first year's operating deficit in the second year, and 33 percent of the first year's operating deficit in the third year.

The House amendment did not provide for initial operating grants and thus had no comparable provision.

The conference substitute conforms to the House amendment.

Under the Senate bill, a loan could not exceed 60 percent of excess operating costs in first year, 40 percent of such costs in second year, and 20 percent of such costs in third year.

The House amendment provided that the principal amount of any loan for a single year to an HMO could not exceed $1 million and the aggregate amount of the principal of loans for a single HMO could not exceed $2.5 million.

The conference substitute conforms to the House amendment (see sec. 1305(6)).

Under the Senate bill, the principal amount of a loan guaranteed, when combined with all other Federal assistance, could not exceed 90 percent of initial operating costs.

Under the House amendment, the principal amount of loan guaranteed for a single HMO could not exceed $1 million and the aggregate amount of principal of loans guaranteed for a single HMO could not exceed $2.5 million.

The conference substitute conforms to the House amendment (see sec. 1305(b)).

Conditions to Assistance

Under the Senate bill, a grant could be made only if the Secretary had determined that the applicant had made all reasonable attempts to obtain funds from other sources (including loans and loan guarantees).

The House amendment provided that no application could be approved unless the Secretary determines that the applicant applying for such assistance would be unable to complete the project or undertaking without the aid of such assistance.

The conference substitute provides the language in the Senate bill for loans and loan guarantees (see sec. 1305(a)).

Authorization of appropriations

The Senate bill provided separate authorizations for each program, as follows:

	Million
For feasibility grants:	
Fiscal year 1974	$10
Fiscal year 1975	15
Fiscal year 1976	20
For initial development grants:	
Fiscal year 1974	15
Fiscal year 1975	25
Fiscal year 1976	30
For initial operating grants:	
Fiscal year 1974	5
Fiscal year 1975	30
Fiscal year 1976	50
For initial operating loans (from a loan revolving fund):	
Fiscal year 1974	5
Fiscal year 1975	30
Fiscal year 1976	50

The House amendment provided no separate authorization for feasibility, planning, and initial development programs for fiscal years 1974 through 1976. For grants and contracts for feasibility surveys, planning, and initial development there was authorized to be appropriated:

	Million
Fiscal year 1974	$40
Fiscal year 1975	45
Fiscal year 1976	50

For fiscal year 1977, an additional $55 million was authorized for initial development grants and contracts.

Under the House amendment, for capitalization of the initial development and initial operation loan revolving fund there was authorized to be appropriated:

	Million
Fiscal year 1974	$20
Fiscal year 1975	30

The conference substitute conforms to the basic structure of the House amendment. It provides no separate authorization for grants and contracts for feasibility surveys, planning, and initial development for fiscal years 1974 through 1976. An aggregate appropriation for such programs is authorized in section 1309(a) as follows:

	Million
Fiscal year 1974	$25
Fiscal year 1975	55
Fiscal year 1976	85

For fiscal year 1977, an additional $85 million is authorized for initial development grants and contracts.

The conferees noted that the purpose of this legislation is to stimulate greater provider and consumer interest in and awareness of the HMO concept of health care delivery. This is to be achieved through a combination of financial assistance and improved access to potential markets. The program is designed to assure that all assisted projects will be operational during the last year for which authority is given; the legislative program is for that reason considered to be self-contained and it is intended that its purposes be accomplished within the time and limitations of this authority. The House and Senate committees intend to exercise their oversight responsibility with respect to the programs authorized by the new title XIII.

For capitalization of the initial operating loan revolving fund section 1309(b) authorizes the appropriation of $75 million in the aggregate for fiscal years 1974 and 1975.

Assistance for significant expansion of HMO membership or service area

The Senate bill contained no specific provision.

Under the House amendment, assistance for HMO planning, initial development, and initial operation included assistance for those activities in connection with significant expansion of HMO membership or service areas.

The conference substitute conforms to the House amendment. (See secs. 1304(a), 1304(b)(2) and 1305(a)(2).)

Special rural area grants and loans

The Senate bill provided that the Secretary could make grants and loans for planning and feasibility studies, initial development costs, construction costs, and initial operating costs to HMO's in nonmetropolitan areas (as defined) or entities intending to become HMO's in nonmetropolitan areas. Authorized to be appropriated for such grants and loans were:

	Million
Fiscal year 1974	$20
Fiscal year 1975	30
Fiscal year 1976	50

The House amendment contained no comparable provision.

The conference substitute contains a compromise provision requiring that, in any fiscal year, 20% of the funds (appropriated for making grants or contracts, or available for making loans) must be set aside for projects for HMO's at least 66 per centum of whose members can or could reasonably be expected to be residents of non-metropolitan areas. The set-aside provision applies to funds for feasibility studies (sec. 1303(i)), planning and initial development (sec. 1304(k)), and for initial operations (sec. 1305(e)).

"Non-metropolitan areas" are defined, as they were in the Senate bill, an area no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget and which does not contain a city with a population of over 50,000 (see sec. 1302(9)).

Grant and contract funds for feasibility planning and initial development for any given fiscal year which are not obligated because of the set aside are to remain available for obligation in the subsequent fiscal year without the requirement that they be used for projects serving non-metropolitan areas.

The conference substitute takes account of the serious problem of unequal distribution of medical services throughout the country by earmarking of funds for use in non-metropolitan areas. For this reason, the managers adopted the above modification of the Senate bill which would set aside 20 percent of the funds for such areas. If an insufficient number of qualified applications are received for such set-aside funds in any fiscal year, the unexpended portion of these funds would be carried forward into the next fiscal year for general use and would not then be subject to the setaside. It is the strong intention of the managers that the carryover provision not be used as a device for cutting expenditures under this legislation, but only for the purposes stated.

Capitation grants

The Senate bill contains a provision that would direct the Secretary to make *annual* grants to HMO's (during first three years of operation) that provide health services to individuals who could not afford to pay the entire amount of the HMO's premium (other than additional premiums for high option services). Persons who could not meet the entire expense of an HMO's premium would be expected to contribute a reasonable portion (as determined by the Secretary). In determining the amount an individual could be expected to contribute toward a premium, the Secretary would be required to consider all sources of income available to the person (including public sources). The annual amount of a grant would be equal to the HMO's per capita premium times the number of such individuals enrolled, less the amount of acutal premium collected for such individuals, and could not exceed 25 percent of the HMO's total premium receipts in the year prior to the year for which the grant was made.

Under the Senate bill, to make the grants, the Secretary would be required to allocate, on a pro rata basis, at least 7.5 percent of the total funds appropriated for each fiscal year for grants and loans for feasibility studies and planning, initial development, construction, initial operation, and rural area programs.

The House amendment contained no comparable provision.

The conference substitute conforms to the House amendment.

Premium subsidy

The Senate bill contained a provision that would direct the Secretary to make annual grants to HMO's (during first three years of operation) that propose to increase their premium rates because such HMO's have enrolled a disproportionate number of high-risk enrollees. Such grants could be made only if the Secretary determined that the proposed premium rate increase was a direct result of the HMO's policy of unrestricted open enrollment. The amount of the annual grant would be equal to that portion of the HMO's proposed premium increase caused by the disproportionate number of high risk individuals enrolled. To make the grants, the Secretary would be required to allocate, on a pro rata basis, at least 7.5 percent of the total funds appropriated for each fiscal year for grants and loans for feasibility studies and planning, initial development, construction, initial operation, and rural area programs.

The House amendment contained no comparable provision.

The conference substitute conforms to the House amendment.

Assistance for projects to facilitate health services in nonmetropolitan areas

The Senate bill contained a provision not in the House amendment. It would authorize the Secretary to make grants or enter into contracts with any public or nonprofit private entity (which may be otherwise ineligible for assistance under the terms of the Senate bill) to study, initiate, and evaluate projects to deliver, or facilitate the delivery of, comprehensive health services on a prepaid basis in nonmetropolitan areas. The Senate bill would authorize to be appropriated for such grants and contracts such sums as may be necessary.

The conference substitute conforms to the House amendment and contains no such provision.

Health services for Indians and migrants

The Senate bill authorized the Secretary to contract with HMO's to provide health services to Indians eligible to receive health services from the Indian Health Service and to domestic migratory and seasonal agricultural workers eligible for health services under section 310 of the Public Health Service Act.

The House amendment contained no corresponding provision for migrants. In the House amendment the Secretary, with the consent of the Indian people served, could contract with private or other non-Federal health agencies or organizations to provide health services to Indians on a fee-for-service basis, or on a prepayment or other similar basis.

The conference substitute conforms to the House amendment with respect to Indians.

With respect to migrants and seasonal workers the conference substitute authorizes the Secretary, in connection with existing authority (other than section 310 of the PHS Act) for the provision of health services to domestic agricultural migratory and seasonal workers and their families, to arrange for the provision of health services to such workers and their families through HMO's. (See sec. 6(b) of the conference substitute.)

Quality health care initiative awards

Under the Senate bill, each health care provider that is certified by the Commission on Quality Health Care Assurance as maintaining internal quality control standards could receive an annual payment to defray the administrative expenses associated with maintaining such standards. The payments would be equal to the administrative costs incurred by the provider, as allowed by the Commission, in connection with maintaining such standards. Any health care provider would be eligible to apply to the Commission for certification. For such payments there would be authorized to be appropriated:

	Million
Fiscal year 1974	$25
Fiscal year 1975	50
Fiscal year 1976	75

The House amendment contained no corresponding provision.

The conference substitute conforms to the House amendment. Note that the conference substitute does not contain authority for a Commission or a certification program either.

ASSISTANCE PROGRAMS; GENERAL PROVISIONS

Applications

Special assurances.—Under the Senate bill, the applications would have to include, to such extent and among other matters as might be prescribed, satisfactory specifications of the existing or anticipated—

(1) population groups to be served by the existing or proposed health maintenance organization;

(2) enrollment of the organization;

(3) methods, terms, and periods for enrollment;

(4) nature and estimated costs per enrollee of health and educational services to be provided;

(5) sources of professional services and organizational arrangements for providing health and educational services;

(6) organizational arrangements for ongoing quality assurance programs;

(7) sources of prepayment and other forms of payment for services provided;

(8) facilities available, additional capital investments, and sources of financing required to provide level and scope of services proposed;

(9) administrative, managerial, and financial arrangements and capabilities;

(10) planing and policymaking roles for enrollees;

(11) grievance procedures for enrollees, staff, and employees;

(12) evaluations of the support for and acceptance of the organization of the populations served, the sources of operating support, and the professional groups involved. Organizations applying for multiple assistance (either simultaneously or over a period of time) will not be required to submit duplicate information. However, such organizations will be required to update the information required under this section according to prescribed regulations.

Applications would have to contain assurances that the applicant would enroll the maximum number of persons that it would be able to serve effectively. However, it could not enroll more than 50 percent of its enrollees from medically underserved populations, except in rural areas as designated by the Secretary.

The House amendment contained no corresponding provision.

The conference substitute conforms to the Senate bill. (See sec. 1306(b).)

Sections 314(a) and 314(b) agency review

The Senate bill required the Secretary to establish, by regulation, standards and procedures for section 314(a) and section 314(b) health planning agencies to follow when reviewing and commenting on applications for assistance for HMO's and for other applicants for assistance under the Public Health Service Act.

The House amendment is the same as the Senate bill, except that it is applicable only to applications for HMO assistance.

The conference substitute conforms to the House amendment. (See sec. 1306(b).)

Priorities when insufficiency of funds

Under the Senate bill, in any fiscal year, if there were insufficient funds available to fund all approved applicants for grants for planning and feasibility studies, initial development, or construction, then the Secretary would be required to give priority to those applicants which he determined are most likely to be economically viable. However, the Secretary would still remain subject to the priorities set forth under sections 1202(b), 1203(c), and 1204(d), concerning priorities for projects assuring enrollment of individuals from medically underserved areas.

The House amendment contained no corresponding provision.

The conference substitute conforms to the Senate bill. (See sec. 1307(c).)

Condition for continued assistance

Under the Senate bill, HMO's which receive assistance must submit to the Secretary, as a condition to its continued assistance, satisfactory assurances respecting—

(1) financial responsibility (defined to mean the demonstrated capability to adequately carry out the purposes for which the original assistance was made);

(2) development and operation consistent with terms of title XII and plans contained in application; and

(3) other matters as prescribed by regulation.

The House amendment contained no corresponding provision.

The conference substitute conforms to the Senate bill. (See sec. 1306(b).)

Report by recipient of assistance

The Senate bill provided that a recipient must report to the Secretary respective plans, developments, and operations with respect to the specific assurances required to be contained in applications for assistance under sections 1242(b)(1) and (d) of the Senate bill. An outline of such assurances is shown in the statement of managers discussion of application requirements—special assurances. See discussion of application requirements.

The House amendment contained no corresponding provision.

The conference substitute conforms to the Senate bill. It requires each entity that has received a grant, contract, loan, or loan guarantee under new title XIII to make a full and complete report to the Secretary (in a manner which may be prescribed by him) upon the expiration of the period for which such assistance was made.

Each such report must contain (among other matters which the Secretary may prescribe by regulation) descriptions of plans, developments, and operations relating to the specific assurances referred to in section 1306(b)(3) of the conference substitute. (See section 1307(b).)

Termination of assistance

The Senate bill contained a provision not in the House amendment. It authorized the Secretary to terminate or cancel (after a hearing) any grant, loan, loan guarantee, or interest subsidy to any recipient of assistance under title XII that is in substantial noncompliance with the material provisions of title XII. He could also terminate or cancel such assistance after he received notice from the Commission on Quality Health Care Assurance that such recipient had had its certificate of compliance suspended or revoked.

The conference substitute does not include the Senate provision because its effect is redundant with the House requirement for continued regulation of HMO's which is included in the substitute.

Continued regulation of assured HMO's

The House amendment contained a provision not in the Senate bill. It authorized the Secretary to bring a civil action (or use any other remedy available to him) against any entity which received financial aid under title XII as an HMO or which was included in a health benefits plan offered pursuant to section 1209, if such entity—

(1) failed to provide basic and supplemental health services;

(2) failed to provide such services as specified in section 1201(1); or

(3) was not organized or operated as required under section 1206(b).

It authorizes the Secretary to bring such action in the United States district court (for the district in which the entity is located) to force such entity to comply with any assurances contained in its application for assistance under title XII, or provided to him under section 1209 with respect to the provision of basic and supplemental health services, or its organization or operation.

It required the Secretary to establish an identifiable unit within DHEW to administer this section.

The conference substitute conforms to the House amendment with technical and conforming changes. The conferees noted their desire that the reviews of HMO organization and operation anticipated by this provision be performed on a regular basis. (See section 1312.)

Prohibition on transfer of funds

Under the Senate bill, funds appropriated for any program under title XII could not be transferred to any other program. Only funds appropriated under such title were to be used to carry out the provisions of that title. Only funds appropriated under titles IX and XII of the Public Health Service Act were to be used to initially develop, construct, and initially operate health maintenance organizations and any other entities that provide (either directly or indirectly through arrangements with others) prepaid health care to defined populations.

The House amendment provided that funds appropriated under any provision of Public Health Service Act (other than title XII) could not be used for—

(1) Making grants or contracts for surveys or other activities to determine the feasibility of developing or expanding an HMO or any other entity which provides, directly or indirectly, health care to a defined population on a prepaid basis;

(2) Grants, loans, controls, or payments under loan guarantees for planning projects to establish or expand such organizations or entities;

(3) Grants, loans, contracts, or payments under loan guarantees for projects to initially develop or expand such organizations or entities; and

(4) Loans, or loan guarantee payments to assist in meeting initial operating costs after the establishment or expansion of such organizations or entities.

The conference substitute conforms to the House amendment with technical and conforming changes. (See section 1313.)

Loans

Repayment.—The Senate bill provided that no payment of loan principal would be required until 5 years after such loan is made.

The House amendment contained no corresponding provision.

The conference substitute conforms to the House amendment.

Loan term.—The Senate bill provided that no loan could have a term in excess of 15 years.

The House amendment contained no corresponding provision.

The conference substitute conforms to the House amendment.

Sale of loans.—The House amendment contained a provision not specifically included in the Senate bill. It provided that the Secretary could sell loans made under title XII and could guarantee for the purchaser compliance by the borrower for the terms and conditions of the loan.

The conference substitute conforms to the House amendment. (See section 1308(c).)

Right of recovery.—The Senate bill provided that the Secretary could waive right of recovery, for good cause, if a public organization failed to make payment of principal and interest on a loan.

Under the House amendment the Secretary could waive, for good cause but with due regard to the financial interests of the United States, his right of recovery if a borrower failed to make payments on the principal and interest of loans made under title XII, However, if such a loan was sold and guaranteed such waiver would have no effect on the Secretary's guarantee of timely payment of principal and interest.

The conference substitute conforms to the House amendment with technical and conforming changes. (See section 1308(b)(3).)

Limit on loan guarantees

The Senate bill contained a provision not in the House amendment. It limited the principal amount of loans guaranteed in any fiscal year to the amount of grant funds obligated in that fiscal year unless the amount of grant funds obligated equaled the amount appropriated for that purpose.

The conference substitute conforms substantially to the Senate bill. The principal amount of loans guaranteed in any fiscal year is limited to the amount of grant and contract funds obligated in that fiscal year unless the amount of such funds obligated equals the amount appropriated for that purpose. (See section 1307(e).)

Secretary's report on medically underserved and non-metropolitan areas

The House amendment contained a provision not in the Senate bill. It required the Secretary to report to the Congress, within three months after date of enactment of the Health Maintenance Organization Act of 1973, the criteria he used to designate medically underserved areas for the purposes of title XII of the Public Health Service Act.

The provision would require the Secretary, within one year after such act was enacted, to report to Congress:

(1) The medically underserved areas and population groups designated under section 1201(8) of title XII, and

(2) The comments (if any) submitted by State and areawide health planning agency with respect to medically underserved areas and population groups designated under section 1201(8) of title XII.

The conference substitute requires the Secretary, within three months after the date of enactment of the Health Maintenance Organization Act of 1973, to report to the Congress on the criteria used by him to designate medically underserved areas and population groups for the purpose of section 1302(7) of the Public Health Service Act (concerning the definition of medically underserved populations). Within one year after enactment, the Secretary must report to Congress on (1) the areas and population group designated as having a shortage of personal health services, (2) the comments (if any) of State and areawide health planning agencies with respect to such designations, and (3) the areas which meet the definitional standards under section 1302(9) of such Act for non-metropolitan areas.

The Office of Management and Budget is permitted to review the Secretary's report on medically underserved areas and population groups but cannot revise or delay the submission of such report beyond its due date. OMB may submit its comments (and those of other departments and agencies of the Government) to Congress respecting such report. (See section 5.)

PROGRAM EVALUATION

The House amendment contained a provision not contained in the Senate bill. It would require the Comptroller General to evaluate the operations of at least 50 HMO's that have received assistance under sections 1202, 1203, or 1204. It would require that the HMO's evaluated under this section be in operation for at least three years. The Comptroller General would be required to report to the Congress the results of this evaluation within 90 days after at least 50 of the HMO's receiving assistance under sections 1202, 1203, or 1204 have been operational for three years. Such reports would be required to contain the following findings on the abilities of such HMO's:

(1) To operate on a sound fiscal basis;

(2) To meet the requirements of section 1206(b)(1) with respect to organization and operation;

(3) To provide basis and supplemental health services in the manner prescribed by section 1201(1);

(4) To include indigent and high-risk individuals in their membership; and

(5) To provide services in medically underserved areas.

The provision would require the Comptroller General to study the economic effects on employers resulting from their compliance with the requirements of section 1209. The results of this study would be required to be reported to the Congress not later than thirty-six months after the date of enactment of this title.

The conference substitute conforms substantially to the House amendment. (See section 1314.)

Annual report

The House amendment contained a provision not in the Senate bill. It would require the Secretary to review periodically title XII programs and make an annual report to Congress summarizing the activities of each such program. The Secretary would be required to include the following:

(1) A summary of each grant, contract, loan, or loan guarantee made under title XII in the period covered by the report;

(2) The data reported in such period to the Secretary under section 1206(b)(1)(E); and

(3) Findings with the respect to the ability of the HMO's assisted under this title to:

A. Operate on a fiscally sound basis without continued Federal financial assistance;

B. Meet the requirements of section 1206(b)(1) respecting their organization and operation;

C. Provide basic and supplemental health services as prescribed by section 1201(1);

D. Include indigent and high-risk individuals in their membership; and

E. Provide services in medically underserved areas.

The conference substitute conforms substantially to the House amendment. (See section 1315.)

Restrictive State laws

The Senate bill contained a provision not in the House amendment. It required that HMO's, which have received Quality Health Care Initiative Awards, be allowed to provide health care services in a State regardless of any restrictive provisions in State laws that—

(1) require HMO's to be approved by a medical society;

(2) require physicians to constitute most or all of the HMO's governing body;

(3) require a certain percentage of the physicians in the local medical society to participate in the tendering of services of the HMO;

(4) require the HMO to submit to regulations as an insurer of health care services;

(5) bar incorporated individuals or associations from providing health care services;

(6) prohibit advertising by a professional group in order to recruit enrollees;

(7) impose restrictions on such organizations in a manner that conflicts with title XII, as determined by the Secretary.

HMO's must otherwise conform with State laws for incorporation and for licensing of physicians, osteopaths, and dentists.

The conference substitute permits any HMO for which a grant, contract, loan, or loan guarantee was provided under title XIII or which is a qualified health maintenance organization for purposes of section 1310 (employees' health benefits plans) to operate in a State regardless of certain restrictive provisions in a State's laws. (See section 1311.)

Employee's health benefits plans

The House amendment contained a provision which was not in the Senate bill. It would require, in accordance with regulations prescribed by the Secretary, that each employer who—

(1) is required in any calendar quarter to pay his employees the minimum wage specified by section 6 of the Fair Labor Standards Act of 1938 (or would be required to pay such wages but for section 13(a) of such Act), and

(2) during such quarter employed an average number of employees not less than 25, include in any health benefits plan offered to his employees in the calendar year after such calendar quarter the option of membership in—

(1) at least one HMO providing basic health services through health professionals who are members of the staff of the HMO or a medical group (or groups), and

(2) at least one HMO providing such services through an individual practice association (or associations).

This requirement would apply only if such an HMO (or HMO's):

(1) is serving the area in which such employer's employees reside; and

(2) provides assurances satisfactory to the Secretary that it will provide basic and supplemental health services to its members in the manner specified in section 1201(1) and that it is organized and operated in the manner described in section 1206(b).

The conference substitute conforms substantially to the House amendment. The conferees noted that this language would not require employers to rewrite existing contracts for employee health benefits plans but would require changing the plan to conform to the requirements when a contract was renewed or a new contract offered.

The conferees noted their intention that this provision would apply to the various different types of HMO's including those which are community sponsored and operated.

Access to records

The Senate bill contained a provision that would require each recipient of Federal funds under the Public Health Service Act to keep and provide full access to such records as the Secretary prescribes.

The bill would require such records to fully disclose—

(1) the amount and disposition by the recipient of the proceeds of such funds;

(2) the total cost of the undertaking for which such funds were given or used;

(3) the amount of that portion of the cost of the undertaking supplied by other than Federal sources; and

(4) such other records as will facilitate an effective audit.

The provision would provide that the Secretary, or his authorized representative, have access, for audit and examination purposes, to any books, documents, papers, and records of the recipients of Federal funds under the Public Health Service Act.

The House amendment contained no corresponding provision.

The conference substitute conforms substantially to the Senate bill except that the provision's applicability is narrowed to entities receiving assistance under the HMO program. (See sec. 1307(a).)

Commission on Quality Health Care Assurance

The Senate bill contains a separate Title II, to be known as the "Commission on Quality Health Care Assurance Act of 1973", which amends the Public Health Service Act by creating a new Title XIII, "Commission on Quality Health Care Assurance." This title—

(1) establishes an independent quality commission with duties and functions including, among other things, promulgating standards for health manpower and facilities, requiring and monitoring quality assurance systems for health care providers assisted under the Public Health Service Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act, developing and enforcing criteria and norms for quality assurance systems, and conducting research, development, and experimental programs on quality assurance;

(2) requires public disclosure by any health care plan subject to the new title of its fees and prices, scope, accessibility, and availability of services, and compliance with the quality assurance requirements of this title;

(3) establishes an arbitration program between patients with medical malpractice claims and health care providers who have been certified by the quality commission as maintaining approved internal quality control standards; and

(4) provides for state administration by qualified states of the quality assurance programs required.

The Senate bill authorizes $125 million for fiscal years 1974–76 for these purposes.

The House bill contains no comparable provisions.

The conference substitute adopts a substantial modification (sections 3 and 4 of the conference report) of the Senate provision providing for—

(1) research and evaluation programs respecting the effectiveness, administration, and enforcement of the quality assurance programs referred to above. This research and evaluation is to be carried out in cooperation with the Bureau of Health Services Research and Evaluation or other entity administering the health services research authority in section 304 of the Public Health Service Act. Authorization of appropriations is given for this purpose in the amount of $40 million for fiscal years 1974–78;

(2) an annual report by the Secretary for submission to the Congress and the President on—

A. the quality of health care in the United States,

B. the operation of quality assurance programs, and

C. advances made concerning the effectiveness, administration, and enforcement of quality assurance programs.

(3) an independent study to be contracted for by the Secretary within 90 days after enactment of appropriations for the study and to be completed by January 31, 1976, which:

A. Analyzes past and present mechanisms (both required by law and voluntary) to assure the quality of health care, identifies the strengths and weaknesses of current major prototypes of health care quality assurance systems, and identifies on a comparable basis the cost of such prototypes;

B. Provides a set of basic principles to be followed by any affected health care quality assurance system including principles affected, the scope of the system, methods for assessing care, data requirements and specifications for the development of criteria and standards which relate to desired outcomes of care, and means for assessing the responsiveness of such care to the needs and perceptions of the consumers of such care;

C. Provides an assessment of programs for improving the performance of health practitioners and institutions in providing high quality health care, including a study of effectiveness of educational programs;

D. Defines the specific needs for a program of research and evaluation in health care quality assurance methods, including the design of prospective evaluation protocols for health care quality assurance systems; and

E. Provides methods for assessing the quality of health services from the point of view of consumers of such services.

The study is to be conducted by an appropriate organization with the following characteristics:

(A) A national reputation for objectivity in the conduct of such study;

(B) The capacity to marshall readily the expertise and advise necessary to the conduct of such study;

(C) Members and a competent staff with backgrounds in government, the health sciences, and the social sciences;

(D) History of interest and activities and related policy issues; and

(E) Extensive existing contacts with interested public and private agencies and organizations.

It is the intention of the conferees that the Institute of Medicine of the National Academy of Sciences should be included among the organizations to be given an opportunity to receive a contract to conduct the study.

Harley O. Staggers,
Paul G. Rogers,
David E. Satterfield,
Peter Kyros,
Richardson Preyer,
J. W. Symington,
William R. Roy,
Ancher Nelsen,
Tim Lee Carter,
James F. Hastings,
H. John Heinz III,
William H. Hudnut III,
Managers on the Part of the House.

Edward M. Kennedy,
Harrison A. Williams, Jr.,
Gaylord Nelson,
Thomas F. Eagleton,
Alan Cranston,
Harold E. Hughes,
Claiborne Pell,
Walter F. Mondale,
William D. Hathaway,
Richard S. Schweiker,
J. Javits,
Peter H. Dominick,
J. Glenn Beall, Jr.,
Bob Taft, Jr.,
Managers on the Part of the Senate.

CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 654]

Abdnor
Aspin
Bolling
Brasco
Bray
Burke, Calif.
Clark
Clay
Collins, Tex.
Conyers
Dellums
Diggs
Eckhardt
Erlenborn
Evins, Tenn.
Findley
Fisher
Flood
Forsythe
Fountain
Fraser
Fulton
Giaimo
Goldwater
Gray
Gubser
Hansen, Wash.
Harrington
Harsha
Hébert
Heckler, Mass.
Henderson
Holifield
Horton
Howard
Hunt
Johnson, Calif.
Jones, Ala.
Kuykendall
Kyros
Lent
McSpadden
Macdonald
Mailliard
Matsunaga
Mitchell, Md.
Moakley
Patten
Price, Tex.
Reid
Rhodes
Rooney, N.Y.
Runnels
Ryan
Shoup
Stokes
Sullivan
Symington
Taylor, Mo.
Thompson, N.J.
Veysey
Walsh
Wolff
Wyatt
Wydler
Young, Ga.
Young, S.C.

The SPEAKER. On this rollcall 365 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

END OVERKILL WITH AUTO EMISSIONS REQUIREMENTS

(Mr. WYMAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WYMAN. Mr. Speaker, I yield to no Member in my enthusiasm for or dedication to the responsible concerns of our environment. Where there is substantial air pollution attributable to auto emissions controls should be imposed.

But, Mr. Speaker, such a problem presently exists in a geographical area comprising less than one-sixteenth of the United States. There is enormous waste of gasoline and capital costs in requiring emissions controls on cars owned, operated, and registered to residents of fifteen-sixteenths of the Nation. This waste is on the order to better than 300,000 barrels of oil daily and a economic loss running into billions of dollars yearly.

I shall offer an amendment to the energy bill shortly to come before us, to suspend for the duration of the energy crisis, the requirement for auto emissions controls on vehicles registered to residents of this fifteen-sixteenths. Studies by the Office of Science and Technology show that the traffic of these vehicles in and out of the remaining areas—less than a factor of 3 percent in most instances—would not materially impact on the ambient air in those areas.

In the name of reason and commonsense Congress should act now to end this overkill in the Clean Air Act that is draining our energy and overtaxing our economy without regard to public health and necessity.

PROVIDING FOR CONSIDERATION OF H.R. 11450, ENERGY EMERGENCY ACT

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 744 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 744

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d) (4) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to excede three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order immediately after the enacting clause is read to consider without the intervention of any point of order the text of the bill H.R. 11882 if offered as an amendment in the nature of a substitute for the bill H.R. 11450. It shall also be in order to consider without the intervention of any point of order the text of the bill H.R. 11891 if offered as an amendment to said amendment in the nature of a substitute. At the conclusion of the consideration of H.R. 11450 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 744 provides for an open rule with 3 hours of general debate on H.R. 11450, a bill directing the President to take action to assure that the essential energy needs of the United States are met.

House Resolution 744 provides that points of order against clause 27(D)(4) of rule XI of the Rules of the House of Representatives—the 3-day rule—are waived.

House Resolution 744 provides it shall be in order immediately after the enacting clause is read to consider without the intervention of any point of order the text of the bill H.R. 11882, if offered as an amendment in the nature of a substitute for the bill H.R. 11450. It shall also be in order to consider without the intervention of any point of order the text of the bill H.R. 11891 if offered as an amendment to the amendment in the nature of a substitute.

H.R. 11450 creates a Federal Energy Administration, to be directed by an administrator appointed by the President with the advice and consent of the Senate. The bill also authorizes controls on end-uses of petroleum products, calls for proposals for mandatory energy conservation measures, and provides direct steps to be taken to make more effective use of our Nation's coal resources.

Mr. Speaker, I urge adoption of House Resolution 744 in order that we may discuss and debate H.R. 11450.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Speaker, is it my understanding from listening to the rule that there is a committee substitute which is going to be offered on this bill?

Mr. LONG of Louisiana. Yes, sir. It is a clean committee bill that is going to be offered in the form of a substitute.

Mr. KAZEN. Are there any copies of that bill? Have any been printed?

Mr. LONG of Louisiana. The copies of the bill are on their way to the House floor at this time. The staff of the Committee on Rules informs me, and the staff of the Committee on Interstate and Foreign Commerce, that copies of the clean bill will be here shortly.

Mr. KAZEN. Is it the purpose of the Committee on Rules or possibly the Committee on Interstate and Foreign Commerce to proceed with the debate without our having a printed copy before us?

Mr. LONG of Louisiana. It is not our intention to proceed, except with the adoption of the rule for debate. The chairman of the Committee on Interstate and Foreign Commerce informs me that he would like to proceed in having the bill open for debate and then wait until such time as we have printed copies of the bill.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Texas.

Mr. ECKHARDT. Is it not correct that the present printing of H.R. 11450 with its italicized sections and with its mark-outs constitutes exactly the language of the amendment? All the amendment does, as I understand it, is writes in single form the final bill as shown in the copy that is now available to Members, and if Members will get the copy at the back desk, they will have an exact copy of the amendment, if it is read with the elimination of stricken-out material.

Mr. LONG of Louisiana. The gentleman from Texas is exactly correct.

Mr. ADAMS. Mr. Speaker, will the gentleman yield for a question?

Mr. LONG of Louisiana. I yield to the gentleman from Washington.

Mr. ADAMS. I thank the gentleman for yielding.

Is H.R. 11891 the so-called waiver of conflict-of-interest provision that was testified to by Mr. BROWN?

Mr. LONG of Louisiana. That is correct. It is the waiver of the conflict-of-interest provision as advocated by the gentleman from Ohio (Mr. BROWN).

Mr. ADAMS. I thank the gentleman.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

Does the gentleman mean to say that the bill and the report that were made available about the middle of yesterday afternoon at the Document Room, and which I took home and tried to read last night, is not the bill that we will be considering this morning if the rule is adopted?

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

The bill that the gentleman from Iowa took home, with the interlineations and the strikeouts, is exactly the same material as will be contained in the substitute, so the gentleman's studies have been most fruitful with respect to understanding the bill.

Mr. GROSS. If the gentleman will yield further, the gentleman from Texas (Mr. ECKHARDT) is saying that H.R. 11450 is not the bill the House will consider this morning if the rule is adopted?

Mr. ECKHARDT. Technically, that is correct, but it contains exactly the same matter as the substitute. The only reason for the substitute is that no motion was made in the committee to include all amendments in a single amendment, so in effect the substitute does nothing more than take the exact same language that the gentleman has in his hands and place it in a single substitute.

Mr. GROSS. Except for technical amendments.

Mr. ECKHARDT. There are no technical amendments whatsoever. It is identical.

Mr. GROSS. Does the gentleman not think this is a most irregular procedure?

Mr. ECKHARDT. No, the gentleman does not think so. The gentleman thinks it is an excellent procedure, because otherwise we would have to take up each single amendment—75 of them—separately, but the gentleman has absolute notice of precisely what the committee will urge in the substitute, because it is identical with what the gentleman has read.

Mr. GROSS. If the gentleman will yield further, I think this is probably one of the worst exhibitions of legislative insanity that we have been confronted with in a long time. Here we are tilling a brandnew field and this is sweeping legislation. Confronted with this kind of a situation, this is legislative insanity at its worst.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

Am I correct in reading the rule on page 2 that there are two substitutes in order, H.R. 11882 and H.R. 11891?

Mr. LONG of Louisiana. There is one substitute in order and one amendment in the form of a substitute. There is one clean bill.

Mr. SNYDER. Which substitute is it which we have in the italicized print before us here, in H.R. 11450 which has been marked out. Which bill is that?

Mr. LONG of Louisiana. It is H.R. 11882.

Mr. SNYDER. What is H.R. 11891?

Mr. LONG of Louisiana. That is the Brown amendment. That was subsequently introduced in the form of a bill which deletes the conflict-of-interest provision with respect to employees.

Mr. SNYDER. Then H.R. 11891 is a whole new bill?

Mr. LONG of Louisiana. That is correct.

Mr. SNYDER. I thank the gentleman.

Mr. LONG of Louisiana. Mr. Speaker, I yield 10 minutes to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am in opposition to this rule and I shall vote against this rule and I will tell the Members precisely why this very complicated rule is before the House.

Once it was decided this bill would not have rationing in it, this bill became a Christmas tree type of bill, which is the reason for the enormous number of amendments. Every special interest wanted to have a special allocation given it to be protected from a reduction in supply.

What became even worse and what will happen on the floor today is a series of amendments were offered that were not within the jurisdiction of this committee. They were nongermane. I have often on this floor voted for amendments that were not germane when they explained, when we knew what had happened, and there had been hearings on them, and there was information about them.

The two amendments which I shall oppose today and which this rule is directed toward keeping me from raising a point of order against are amendments—and I cannot believe this House would do it—which are going to exempt the oil companies from the antitrust laws so that they can run this program.

The bill H.R. 11891 which will be offered by the gentleman from Ohio goes even further. It is a nongermane amendment which we removed by a point of order in the committee. It would exempt the oil company executives from the conflict-of-interest laws so that not only will we have them exempt from the antitrust laws but also they will be able to come in and run the program.

I am going to point out the specific bad points in the bill and demonstrate why this rule is drawn the way it is. Our committee does not have expertise in the antitrust laws but we have antitrust exemptions in the bill. If the Members have copies of the bill in front of them, I will indicate the two sections that caused this rule to be drawn so as to keep me from striking them by a point of order. They are sections 114 and 120.

I will turn to the worst one which is section 120. The other section is 114 and it involves allowing the retail stores to get together and make voluntary agreements to say what hours are going to be restricted and this will determine how long some people can stay in business, and so on. But I ask the Members to turn to section 120, which is on page 53 of the print. There Members will notice it says "antitrust provisions." So there is no question in anybody's mind as to what we are doing here is exempting people from the antitrust laws.

There was an attempt, a good faith attempt by the gentleman from California (Mr. Moss), to try to correct this section so it would not be as bad as it was when it was first offered. I do not think the gentleman has gone nearly far enough and I think it is a very bad situation that faces us.

If Members will look at the language that appears in the bill it appears as though the Attorney General and the FTC are going to monitor agreements. That is not going to happen. What is going to happen is that the oil company executives will be authorized to get together and make agreements on distribution of petroleum products. On page 56 of the bill is the language to carry out this scheme.

Mr. YOUNG of Illinois. Will the gentleman from Washington yield?

Mr. ADAMS. I will not yield now. It is going to be a difficult bill and Members of the House have not had a chance to have it explained, so I cannot yield until I have finished my explanation.

It says in the scheme that sets up the antitrust law exemption that the FTC and Attorney General are going to sit in on voluntary meetings and see to it that these people do not do anything too bad to the independent marketers or those who are not in their marketing system, but on page 56 Members will notice the bill gives an exemption in 120(e)(v) so that meetings where they are going to be dealing with a plan of action for marketing or distribution do not have to have a verbatim transcript.

They can just send in a summary that says "Fellows, we sat down and we agreed and here is what we want you to know." So there is an exemption from preparing a transcript.

Then turn to the next subsection, which is (f) at the bottom of page 56 of H.R. 11450 and it says that the Administrator, if he goes to the Attorney General and to the FTC, and believe me, there are going to be hundreds of these plans, and neither the FTC or the Attorney General's Office is set up to police them; all the administrator has to do is go to them and then exempt all these groups from any of the protective language in the bill; so they can get together in these meetings and decide who is going to get what amount of product and they are exempt from the antitrust laws.

What does this exemption give? Turn to section (g) on page 57; and (6) can be said to stand for the guts of this proposal. It says that actions taken in good faith by any person to develop a plan or implement these voluntary agreements shall not be construed to be within the prohibitions of the antitrust laws of the United States. It does not just give them a defense. It does not just give them an opportunity to plan some kind of action. It says they are outside the antitrust laws.

If we couple that with the Rules Committee protection for H.R. 11891, which I assume the gentleman from Ohio (Mr. Brown) will offer, because he offered it in committee and defended it in the Committee on Rules, there will be an exemption of oil company executives from the conflict of interest laws.

If we go back in the print of H.R. 11450 to page 55, we will find these meetings shall be attended by unnamed groups plus representatives of the public and shall be chaired by a regular full-time Federal employee.

If we exempt the oil company executives from the conflict of interest laws under the Brown amendment, they can become a regular full-time Federal employee and we have them sitting in and chairing the meetings, and if they are also granted an exemption under the antitrust laws you can see how the big oil companies will be able to control the situation.

I will tell the Members that in the New England areas and other regions where oil is in short supply this will be a program of big oil, for big oil and by big oil.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman from Washington yield?

Mr. ADAMS. I had promised the gentleman from Illinois (Mr. Young) that I would yield to him first and then I will yield to the gentleman from Illinois.

On page 58 there is supposed to be a saving clause under (h) that says if these do not work right, then somebody can request they be modified and go to the Attorney General or the Federal Trade Commission and complain.

I will tell the Members, during the year of this bill, by the time somebody works their way up through the Attorney General's Office, that is when we get one, and if we get one or goes through the FTC and tries to say, "I have been hurt," he will have been out of business for about 6 months.

These independent marketers are operating on small margins. The consumers are unorganized. These are the ones who will be hurt or put out of business by these voluntary agreements and the ones running the program will not be hurt.

If Members will look at my separate views, they will find who controls the refining capacity of the United States. The refining capacity of the United States is controlled by 20 oil companies. Sixty percent is controlled by less than 12 oil companies.

They will get together with their favorite distributors and the suppliers will say "OK we will serve one another's customers to be sure we are all taken care of, but if we have a bad boy who has been competing with us for years on a basis we do not like, we will not put him in the voluntary agreement or will put him down to a lower level."

As I stated to the Committee on Rules, I have defended oil companies in antitrust cases. I spent 90 days in trial on one case. I have also been a district attorney prosecuting violations, so I know how the system works.

I believe this provision should not have been in the bill. It should not come out of the Committee on Interstate and Foreign Commerce. If you want to have it done right, send it to the Committee on the Judiciary.

I will now yield to the gentleman from Illinois (Mr. Young).

Mr. YOUNG of Illinois. Mr. Speaker, the gentleman from Washington stated that this bill would exempt big oil companies from the antitrust laws. As I was reading the section that the gentleman was referring to, section 114 of this bill, before any voluntary energy conservation plan can be adopted and put into effect, the bill provides that they have to have an open public meeting, that a representative of the FTC has to be present, a representative of the Attorney General's Office has to be present. As I read the section the gentleman is referring to——

Mr. ADAMS. Which section is the gentleman referring to?

Mr. YOUNG of Illinois. Section 114.

Mr. ADAMS. Section 114 is to exempt retail or service establishments and if that is what the gentleman is referring to I want to point out I have concentrated on section 120, because in this limited debate I do not have time to discuss the antitrust exemptions for retail establishments.

Big oil is under section 120.

There is one section to exempt retail or service establishments, that is section 114. The oil section is 120. If the gentleman will look at the oil exemption section that I think he wants to make comparable, it is section 120 under (e).

In that section we give a public meeting with one hand and take the public meeting away with the other hand. I think that is bad legislating.

Mr. YOUNG of Illinois. As I read that further section, I find in section 120, as I read it, the Attorney General and the Federal Trade Commission have to receive a copy of such a plan and they have to report to the Congress and to the President every 6 months about the impact of competition. As I understand the antitrust laws, and the gentleman can correct me——

The SPEAKER. The time of the gentleman from Washington has expired.

Mr. LONG of Louisiana. Mr. Speaker, I yield 1 additional minute to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, I yield to the gentleman from Illinois.

Mr. YOUNG of Illinois. As I understand the antitrust laws, any agreement or any arrangement which would be in restraint of trade, and energy conservation plans would be agreements which would have the effect of perhaps limiting production or dividing markets or doing other actions which would help relieve the energy shortage, those provisions would be agreements in restraint of trade, and if we did not exempt that kind of action, they could not take place and the public could lose the benefit of the energy saving provisions of the bill.

Mr. ADAMS. Mr. Speaker, I can tell the gentleman exactly how it has been solved in the past. In the Defense Production Act, and the Emergency Oil Allocation Act we have had the Government itself say by order to individuals, "You shall do these things," and they carry out those things so that we have the public protected. That is the way we do it. We should not do it by having the oil companies get together.

Mr. LONG of Louisiana. Mr. Speaker, I would like to announce for the benefit of the Members that copies of H.R. 11882, which is the substitute, and H.R. 11891, which is the Brown amendment, are now available for distribution at this time.

Mr. Speaker, at this time I yield to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am really at a loss to know which worm to pull out of this can to discuss first. To pass this legislation as it came out of the committee, one would have to be a real magician to tiptoe through the bureaucratic briar patch it would create without getting caught.

The committee purposefully tried to avoid the word "rationing" in this bill and they used instead some phraseology which I would like to call to the attention of the Members. On page 9 of this bill, the authority is given to the President of the United States to impose rationing. Page 9, line 20, item 6, reads as follows: "For the purposes of this subsection the term 'allocation' shall not be construed to exclude the end use allocation of gasoline to individual consumers." I might add in the committee's haste it failed to amend the bill's title as it includes the world "rationing."

My colleagues, that means rationing, and we cannot escape responsibility for it by passing the buck to the White House. I might say that the committee very clearly has not provided for any rationing program promulgated thereunder to come back to the Congress. They did, however, so provide on matters of energy conservation generally. There is a purpose for the action taken. Congress can blame the President for rationing should he exercise the authority given to him herein. The people do not want it and I do not believe that there is a need for it at this time.

I would like to call the attention of the Members to a news item which appeared on the wire yesterday quoting none other than the President's top economic adviser, Herbert Stein, Chairman of the Council of Economic Advisers, on the matter of shortages: "He told a subcommittee of Congress' Joint Economic Committee that the administration would amend its estimate in a few days."

He said, "The country may be somewhat better off in energy than previously predicted."

"The calculations which we at the Council on Economic Advisers have made about the economic impact of the shortage are based on estimates available last week," Stein said.

How much higher authority do we need than that? But lo and behold, we are about to pass legislation containing glorified language authorizing the President to implement the rationing of gasoline. This would give some bureaucrats an opportunity to exert their will on the American people and give them authority to employ some 10,000 new bureaucrats to administer this program. That is what it is going to take, 10,000 new bureaucrats.

I might say, Mr. Speaker, that my mail has not reflected any interest in rationing by my constituents.

I know the newspapers would like to have rationing, according to some of their editorials, but I wonder if the newspapers know any more about the thinking of the American people than we do. We are the people's representatives.

I might say that it is high time that we take our hats off to the American people. Since the President requested voluntary action on their part to conserve energy, have they complied? Yes, they have, and the results are being shown. Gasoline consumption is down. Reports indicate that we are already saving in excess of 1 million barrels of oil a day under a voluntary program.

Now, I will say to the Members that when news gets back home that the voluntary program was working, the people are not going to look kindly on a Congress which thrusts an involuntary one upon them. They will not take this type treatment sitting down.

I do not think that we ought to pass legislation at this time granting such authority. I say, give the people a chance. They know we have a problem. For this reason I opposed this rule yesterday as it passed out of the Committee on Rules.

Mr. Speaker, I might say something about the rule itself. How many votes do the Members think they had in the Committee on Rules before the proponents finally got a rule on this bill? There were no less than eight. Eight separate votes on different propositions. So there was controversy on the matter in the Committee on Rules.

Let us take a good look at this bill before we rush headlong into its passage, because I will say to the Members that there is not a single Member in this House today who can explain word for word, line for line, what is in it. And it is going to affect the lives of every single American.

This is the most important, all-inclusive bill that we will pass during this decade, believe it or not. This is important legislation, and we should not be passing it before we know what it is going to do for and to the American people.

There should be ample time for discussion. In 3 hours we will never be able to delve into all aspects of this bill.

There were over 175 amendments submitted in the Committee itself. This gives us some indication as to how much division there actually is on the bill.

Let me bring up some of the problems that we are going to face in this legislation. Every group wants to conserve fuel in the other group's backyard, and if we are going to have mandatory controls, everyone wants them on the other fellow.

We have already heard what happened when they announced an unrealistic cutback on the private airplane operations. They were about ready to close down an industry in Kansas to say nothing of its effect on the business community, so they immediately changed their position.

The tourist business in this Nation is tremendously important. The State of Michigan needs tourism. They depend on it; jobs and business depend on it. There are provisions in this bill which will leave the future of the tourist trade to the whims of some bureaucrat.

Mr. Speaker, I represent a district which borders on Lake Erie. People in this area are interested in tourism, boating, and fishing. Many jobs and businesses depend upon these recreational pursuits. The boating industry, for example, is a big industry in this Nation.

Let me just say something about that industry and what is involved.

The recreational boating business today is made up of 19,000 firms directly engaged in making and selling marine products. It provides 350,000 direct, full-time jobs. Retail sales for the industry exceed $4 billion and the industry's sizable and growing exports provide a favorable contribution to the balance of trade.

A recent survey has revealed the following:

There are almost 2,000 manufacturers of marine products—excluding accessories.

There are 16,500 retail dealers, distributors, and so forth, of marine products.

There are 350,000 persons directly employed on a full-time basis by the marine industry.

There are approximately 100,000 part-time workers employed in the marine industry.

The marine industry's annual payroll is approximately $1 billion.

Retail sales of boating equipment and services in 1973 are expected to exceed $4 billion.

The industry's sizable and growing exports provide a favorable contribution to the balance of trade of this Nation. So, Mr. Speaker, we cannot hand the future of this entire industry over to some bureaucrat without adequate safeguards. Unless we do this in this and other instances, we could be sentencing many of these legitimate enterprises to their death when we pass this legislation. We do not know how they will be treated by these people but we can make sure if we take the time to properly amend this bill.

We have heard from the truckers, and certainly the trucking industry has a legitimate gripe about all of the price gouging which has been taking place on diesel fuel. I thought we had price controls on diesel fuel. Still these truckers are being overcharged every day in some areas of the country. I believe it is high time that the Internal Revenue Service did something about it. I saw a survey the other day which found 25 percent of these businesses selling diesel fuel were overcharging. Hopefully, their grievances will be taken care of before we have another traffic tieup. I would say to the truckers that they need public support for their cause and they do great damage to that support when they inconvenience people who just happen to be on the highway when a tieup occurs.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman.

Mr. McKINNEY. I thank the gentleman from Ohio for yielding.

At this point I would like to say I agree with everything he has said.

This is an appalling rule and an appalling bill. What is it about this Congress, that the minute we hear the word crisis and the second we say emergency we decide to throw up our hands and:

First, give the Executive total power over every aspect of American life;

Second, create a bureaucracy that is totally out of the control of the people;

Third, give the President the right to ration gas without the approval of their Representatives;

Fourth, bring out a bill which in its final form no one has seen until 8 p.m. the day before, in fact whose total form was not seen until this morning; and

Fifth, bring out a bill which through special rule violates all the rules of Congress by whim, entering the jurisdiction of some committees and not others.

Mr. Speaker, I am embarrassed that for excuses of recess or expediency we will pass this "pig in a poke." No one knows what is in it, no one knows what it does.

In fact in committee less than 30 seconds was allowed for each amendment. Let us for once, Mr. Speaker, be responsible. Let us know what we are doing to our people. Let us have a policy. We must be responsible.

If we pass this rule; if we act again in ignorance, we most certainly create an act far worse than the "Bay of Tonkin."

Domestic policy is our responsibility. If we do not exercise it, the people have every right to exorcise us.

Mr. BAKER. Mr. Speaker, will the gentleman yield for a question?

Mr. LATTA. I am happy to yield.

Mr. BAKER. I am concerned about the waiver of points of order. I understand all points of order are waived for the purpose of offering an amendment to substitute H.R. 11882 and also to substitute H.R. 11891. Does that mean, if those motions fail, all points of order would be waived on the bill H.R. 11450?

Mr. LATTA. You would have to waive points of order in order for these amendments to be offered. Otherwise they would be ruled out of order. If we do not pass the rule with the waiver of points of order, they will not be in order and those amendments already in the bill will be subjected to points of order.

Mr. BAKER. I ask the further question, if either of these amendments prevails and we consider a substitute bill, would all points of order be waived on that bill?

Mr. LATTA. On the amendment?

Mr. BAKER. On the substitute.

Mr. LATTA. They would be waived.

Mr. BAKER. I thank the gentleman.

Mr. LATTA. Mr. Speaker, speaking about the waiver of points of order, there is a second need for a waiver, as this committee has wandered into the jurisdiction of several other committees. There is a section dealing with excess profits in this bill. I am surprised the honorable Committee on Ways and Means was not before our Committee objecting yesterday to this provision on a jurisdictional basis. It seems to me if we are going to have an excess profits tax—and we are and there is no doubt about it—it should have been properly gone into by the Ways and Means Committee, not inserted into this bill after a minimum amount of debate in the committee. I have read suggestions that the oil industry should be required to use excess profits to explore for more oil and gas. This seems like a pretty good suggestion but I find no provision, no provision whatsoever, in this bill which would head them in this direction. I think there is tremendous need for more exploration if we are to become self-sufficient and perhaps the Congress should be making provisions for it in this bill.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, I thank the gentleman for yielding, and I wish to congratulate the gentleman on the statement he has made, and to indicate to the membership that I thoroughly concur with the gentleman's remarks.

Mr. Speaker, it appears to me that the exercise in which we are engaging today if we pass this bill can be described only as legislative hysteria.

Mr. GUYER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio.

Mr. GUYER. Mr. Speaker, I thank the gentleman for yielding to me, and I want to associate myself with the remarks the gentleman has made.

Mr. Speaker, I would like just to introduce one other thought with regard to rationing that I believe most specifically tells the story, and that is that on this particular weekend, I believe it was in the Cleveland Plain Dealer, the man who was the head of the rationing board in war time in Cuyahoga County made the statement which also supported the one given by the chairman of the rationing board in Allen County, Ohio, that rationing was an absolute, dismal failure even when World War II was going on. I happened to be at a meeting less than a week ago with 175 typical midwestern people in a small village back in Shelby County, Ohio, and I asked for a show of hands on the proposed rationing, and only two people out of the 175 went on record as wanting rationing.

Further, Mr. Speaker, I believe that the first order of business should be that the oil producers should set an example for this country, and to do so voluntarily, and that they should be the ones to first of all prove that they are getting maximum capacity production from their existing sources. I think that the Government also should be in line as looking for all new sources of energy at every level.

Also I think we should be trying to join hands internationally to help resolve this problem. I think part of this is due to some of the so-called do-gooders who, by their actions a few years ago, held back the flow of new resources for 4 or 5 years; and if they had not done so, I do not believe we would be in the plight that we are today, due to some of those obstructionists, sincere as they are.

Also I think we should compliment the people at large, the people who are tightening their belts. There was an article in the New York Times complimenting the American people and saying that perhaps it is a good thing once in a while to rejoin family groups, find places that you do not have to be, and once again appreciate the things close at home, strengthening church and family ties, the very things that have made America great.

I think we ought to meet this crisis with a full and meaningful discussion, and legislate toward an objective, and a time when we will not have to depend upon a few independent countries for our needs. I hope that there will be opportunity, if rationing is going to be part of this vehicle, to vote on it separately, because I do not want to have to go back to my people and tell them that we either have to have rationing or raise their taxes. Both of these things are unnecessary at this time.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, I came over here this morning expecting to vote for this rule. I honestly have not had the time to read the bill. I thought everybody else had had a chance to read it, but I have been tied up on something else.

I would ask if the gentleman from Ohio is requesting us to defeat this rule in order to give the Members more time to study this bill? Is that what the gentleman wants?

Mr. LATTA. Mr. Speaker, if I had my druthers on this right now I would send it back to the committee for additional hearings with instructions to report it back next week.

Mr. GIBBONS. To the Committee on Rules?

Mr. LATTA. No. As the gentleman from Florida knows, the Committee on Rules has no jurisdiction to amend the bill in any way. The only place this can be done is on the floor or in the committee.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for yielding me this time, and I would like to commend the gentleman for the position the gentleman has taken on this bill.

The gentleman, I believe, used the figure of 10,000 bureaucrats who would run the rationing program. Is that a figure the gentleman picked out of the air, or is that what the gentleman heard from downtown?

Mr. LATTA. I might say to the gentleman from Idaho that I do not pick my figures out of the air, and the gentleman will come to know this the longer he is here. Yes, I did get these figures from downtown.

Mr. SYMMS. I would just like to add that with probably 75 million automobiles on the road, and with the kind of system that they are talking about, that 10,000 bureaucrats could not run such an operation; it would be more likely 50,000, despite what the people may say downtown.

Mr. LATTA. I should like to say in defense of Governor Love that he appeared before our committee several weeks ago and he testified that he only had 200 employees in his shop while trying to run that operation. It is no wonder the man did not accomplish everything which is needed in a few months on the job.

Mr. SYMMS. I thank the gentleman for yielding. I did not mean to question his choice of words of "10,000 bureaucrats," although I think it is a very conservative estimate.

It is an enormous undertaking to try to ration fuel, when we have 200 million people who could very well do it in the marketplace, one at a time as they exercise freedom of choice.

If we would just get the Government out of the way, and allow liberty and the market to work.

Mr. LATTA. Before we pass on to rationing, I should like to say that I learned what the penalties would be, if this legislation becomes law, for violating the rationing regulations, meaning if one bought a stamp from his neighbor or if he gave anyone a stamp.

Rationing authority is provided to the President under the provisions of section 103 of the emergency energy bill, HR 11450. which amends section 4 of the Emergency Petroleum Allocation Act of 1973.

Under section 5 of the latter act, the penalties of the Economic Stabilization Act of 1970 apply to a violation of a rationing or other similar regulation. These penalties consist of:

1. A criminal fine of up to $5,000 for each violation.
2. A civil penalty of up to $2,500 for each violation.
3. Injunctive relief—any person may request the AG to bring an action. P.L. 90-151, SS 208, 209.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Florida.

Mr. GIBBONS. I thank the gentleman for yielding.

As we discuss it around here over on this side of the aisle, I constantly hear: "Well, you know, we had to take up the Committee on Ways and Means' trade bill when we did not want to." And I respond to that question by saying, that bill has been here on the floor unamended since October 12, as I recall. Can the gentleman, who is a member of the Committee on Rules, tell me how long this particular bill has been here so we could see it and study it?

Mr. LATTA. As I understand it, we did not have access to the bill yesterday morning. It was available to the Rules Committee yesterday afternoon.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Would the gentleman in just capsule form tell me why he is opposing the rule?

Mr. LATTA. I do not think that the legislation is ready for House action, No. 1. No. 2, I oppose rationing at this time and the gentleman can put them in any order he likes.

I might say in conclusion, Mr. Speaker, I think it is important that we know something about some of the various amendments which are going to be offered to this bill. I have in my hand seven far reaching and important amendments to be offered. They are as follows:

1. Energy conservation plans.

In section 105, language should be added to restore the provision that energy conservation plans would go into effect provided Congress did not disapprove.

Broyhill (N.C.) will offer an amendment to restore language spelling out the Congressional disapproval procedure deleted in old section 104, found in the bill immediately preceding section 105. Otherwise, energy conservation plans submitted by the President would have to be enacted by law which cannot be done in a timely fashion. (See minority views.)

2. Limited anti-trust immunity provisions in the bill are needed to achieve voluntary energy conservation actions which would ordinarily be illegal. The language in the bill is narrowly drawn with ample oversight and supervision of group actions by F.T.C. and the Attorney General. Please vote NO on any amendments to delete the section (120).

3. Windfall profits (section 117).

This section is badly written and is impossible to enforce as written. The proper place to enforce any such provision is through the tax laws. Support deletion and addition of language calling for the submission of a proposal by the President and early Congressional action on the issue.

4. Amendment to the conflict of interest law (Brown of Ohio).

The new Federal Energy Administration needs 250 experts in petroleum marketing and distribution right now to assist in establishing guidelines for the allocation program. They are needed for a short time only and would go back to their employers in no later than a year.

5. Auto emissions.

The bill as reported extends 1975 auto emission standards through the 1976 model year and permits E.P.A. to suspend the scheduled requirements for an addititonal year provided certain conditions are met.

An amendment will be offered to section 203 to extend the emission standards through the 1977 model year. (See additional views—Harvey).

6. Federal Energy Administration.

Section 104 authorizes a Federal Energy Administration and we are not opposed to this authorization. However, we will move to strike certain language in this section.

a. Delete language stating that the Administrator may be removed "for cause." This language could have the effect of preventing removal of an Administrator who is is incompetent or ineffective.

b. Delete from the bill the waiver of requirements of the Federal Reports Act. The Federal Reports Act requires that all agencies must seek O.M.B. approval of all forms, reports, questionnaires, etc. which are submitted to the public, business, and industry seeking information. There is no need to waive this requirement for this new agency.

c. Delete the requirements for simultaneous submission of budget and legislative requests to Congress and O.M.B. As this agency is in the formative stage, this could become an administrative burden. With respect to legislative requests, the action needed to solve our energy problems will have to be taken by several agencies and departments, not just F.E.A. The President, through O.M.B. should have the opportunity to coordinate and consolidate these legislative and budget requests and to set priorities.

7. Amendments may be offered to clarify the Committee language in Section 106—Coal conversion and allocation section.

Amendments may also be offered to clarify conflicts that could occur because of language in Section 201—authority to suspend certain stationary source emissions and fuel requirements, and section 205, authorizing a shift in fuel requirements.

Many other amendments will probably be offered. Please consult with members of the committee on their effect and value. The amendments above are important, and we ask that you support them.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

I might say to my friend, the gentleman from Ohio, that H.R. 11450 was dated November 13, 1973, and that the committee considered this legislation in great detail. It is not the first time we have dealt in this Congress with allocations. We have already passed an allocation bill. The Senate passed legislation on November 20, a far more sweeping piece of legislation. So I would say the membership certainly has been wrestling with this problem in understanding what the national energy problem is. Nobody is straining anything here. There has been an in-depth study and work done by the committee. It is complex, and we expect to have, hopefully, full colloquy and understanding of the amendments that were adopted by the committee, those things that are necessary for us at this time to meet the energy problems of the country.

Mr. CARNEY of Ohio. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio.

Mr. CARNEY of Ohio. I thank the gentleman for yielding.

The gentleman has made a very adequate case for being opposed to rationing. I was reading in the paper that there are two approaches to the problem: Either permitting rationing, or letting the prices increase to an exorbitant rate and putting a tax on it.

Is the gentleman in favor of that?

Mr. LATTA. I am absolutely opposed to higher taxes in lieu of rationing and I have so stated many times. I think such a plan would hurt the person least able to pay—the workingman—the most. I think it is absolutely ridiculous.

I might say to the gentleman, I indicated earlier that the voluntary program the President announced is working. We ought to give the American people an opportunity to let it work. I do not think we need authority for rationing at this time. We do, however, need many other sections of the bill and they should be passed without the gasoline rationing authority.

Mr. SNYDER. Mr. Speaker, if the gentleman will yield, I would like to comment we are not springing anything. The whip sent a notice bearing the number H.R. 11450 and it is dated November 13; it is the original bill that was introduced. I was receiving calls this morning asking about this bill and Members were asking what we were going to take up and they were looking for the sections that were being referred to and did not find them. Those are the italicized sections we are hit with for the first time this morning and I understand the Rules Committee was hit with them for the first time yesterday afternoon. They are hitting us with plenty that is new today.

Mr. LATTA. I have indicated there were over 100 amendments.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 655]

Abdnor
Archer
Ashbrook
Brasco
Burke, Calif.
Clark
Clay
Collier
Corman
Dellums
Diggs
Erlenborn
Esch
Fisher
Fraser
Gubser
Harrington
Harvey
Hébert
Howard
Hunt
Jarman
Johnson, Calif.
Jones, Ala.
Kluczynski
Kyros
Long, Md.
Madden
Mailliard
Mitchell, Md.
Murphy, Ill.
O'Hara
Patten
Pepper
Price, Tex.
Reid
Rhodes
Roberts
Rooney, N.Y.
Rostenkowski
Sikes
Steele
Stokes
Symington
Taylor, Mo.
Thompson, N.J.
Walsh
Wyatt
Yates
Young, S.C.

The SPEAKER. On this rollcall 382 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. LONG of Louisiana. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 11450, ENERGY EMERGENCY ACT

The SPEAKER. The gentleman from Louisiana (Mr. LONG) has 11 minutes remaining, and the gentleman from Ohio (Mr. LATTA) has 7 minutes remaining.

The Chair recognizes the gentleman from Louisiana, Mr. LONG.

Mr. LONG of Louisiana. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I will say to my colleagues of the House that there is absolutely no doubt but that we have a crisis with regard to energy in this country. But those in this House today who are hollering the loudest and the longest about this crisis were the same ones who just a few months ago were saying that this was a concocted crisis, that there was no such thing as a real crisis in energy in this country.

The question for us today is what to do. Do not go too far down the road of government regulation, I warn you.

If you will think about this with me for a moment and if you read the morning Post, as I do, even the divinely inspired Washington Post wrote an editorial just a few days ago saying they were not ready to take a position about what we ought to do with regard to some of these questions, because they did not know.

But this morning they placed themselves in a position to criticize anything that we in the Congress or in the administration might do, by saying that the administration ought to go ahead and make a decision about what it is going to do with regard to rationing.

Now, there is not any single cause for the problem we have, and there is no single answer. And we should not under the conditions which exist today overreact politically, which we are doing, nor should we overreact by overregulating everybody who has some part to play in this question of supplying energy for the people here in the United States. We should not do it, and we should let some of the examples of the past guide us.

Who of you here, when we were overreacting and creating this monster we know as the Environmental Protection Agency, ever dreamed they would do some of the things they have done which have strayed so far from the congressional intent? Who of you here today could help but agree that if we pass along to the bureaucracy all of the authority provided in this bill they are going to overreact and assume to themselves life and death control over the energy situation in America?

Do not be misled about this legislation and who it affects. It affects every man, woman, child, home, and business in the United States of America. All Americans are going to be affected. Some adversely. I cannot imagine a proposal that will do more to destroy the free enterprise system than this.

But what is in this bill? Nobody can explain everything in this bill. For example, windfall profits are in it, and they ought to be restricted but this committee does not have jurisdiction over such matters. And the chairman of this committee cannot even define windfall profits to me. Antitrust provisions are in it. Such matters are under the jurisdiction of the Judiciary Committee. Do you know what the Committee on Rules did? They granted a rule waiving points of order. They have not only done that, but they have made a substitute in order which is not yet even available to us.

What should we do? This House is not scheduled under existing circumstances to be in session Friday. The least we can do is vote down the previous question to allow us to amend the rule, and if we cannot vote it down, we ought to vote down the rule and at least give the Members of the House 48 hours and to come back Friday. After we have had a chance to study this bill which was not even printed until yesterday, a slight delay.

I say that because I know full well eventually we have to do something to help resolve this crisis. But we ought to at least have a chance to read the bill and have time to prepare and offer intelligent amendments to provide for a workable piece of legislation. Surely after all these years 48 hours more delay will not hurt. This we have to do, or else you get ready to face it when the bureaucracy overregulates and the people overreact to what they have done and you have to face them at the polls next year saying I voted for it but I did not know it required this or that.

Mr. LONG of Louisiana. Mr. Speaker, I yield 2 minutes to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, yesterday we moved to come in at 10 o'clock today for the sole purpose of wanting to get this bill into a conference committee as quickly as we possibly could. I do not understand the dilatory actions of the gentlemen on the Republican side of the House who are carrying this rule today.

The President sent four or five special messages on energy to this Congress. The President was on a television program recently and spoke to the people of America on this problem. I believe the gentleman from Illinois (Mr. ARENDS) was at the luncheon with the President and the House leadership when the President said that he would not go home—we would not go home—unless this House and the Congress passed effective energy legislation.

You have an energy bill before you today. It is different from the Senate bill, which is tough, very restrictive and puts the power to implement energy programs under the President. There is no doubt in my mind that the Senate's intent was to encourage the President to implement rationing under this power.

Presidential measures to reduce energy consumption under the rationing and conservation program of the Senate bill would have to include control of private transportation, a restriction on lighting, advertising, and recreational activities, a ban on advertising, to discourage high energy consumption, limitation of operating authorities of businesses and public service. All of the Members of the House have been called about these restrictions that appear in the bill of the other body by business people from their home community and have been told how badly the economy would be affected.

You have a House bill today which establishes an Energy Administrator to implement the mandatory fuel allocation programs and to carry out specific and comprehensive plans to meet the energy crisis. Because so many of you intend to offer amendments, we will work all day on this bill. The main thing is to get this bill, in my opinion, to a conference committee. For that reason, I hope the rule is adopted so we can work diligently on amendments, and I hope we are able to finish the bill today so we can get this matter to a conference committee as quickly as possible.

Mr. ARENDS. Will the gentleman yield?

Mr. O'NEILL. I yield to the distinguished gentleman from Illinois.

Mr. ARENDS. I might say to the majority leader that many of us feel exactly the same as you do. This is such an important matter that voting against the rule is not in the best interests of this House. We should be trying to work out some kind of legislation and get the bill to conference as quickly as possible so that we can end up with some workable piece of legislation.

I certainly shall support the rule.

Mr. O'NEILL. I want to thank the minority whip.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I might say to the gentleman from Massachusetts that I do not believe it is a dilatory tactic to attempt to explain to the American people what is in this energy bill. No one can do this, I believe, in the limited time of 3 hours of general debate, and we have only 1 hour under the rule which can be used for this purpose. So I would hope that the gentleman from Massachusetts, when he revises his remarks, will properly amend them by deleting his poor choice of words.

Mr. Speaker, at this time I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I want to aline myself with the position that has just publicly been taken by the distinguished minority whip, the gentleman from Illinois (Mr. ARENDS) as well as that of the majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Whether we have an energy crisis or whether we do not have an energy crisis, and whether we agree that there is a shortage of petroleum products of 2.8 million barrels a day, or 3.5 million barrels a day, is something we can argue. However, if we defeat the rule, and refuse to indicate our willingness to stay here the rest of today and until midnight tonight, if necessary, and on tomorrow, in order to intelligently debate and discuss and amend this bill, then we are transmitting a signal to the American people that we are not very concerned about the energy crisis. We are telling them to dial down, not drive on Sunday, and all the rest, but this Congress is unwilling to come to grips with the energy crisis.

I do not like this bill in all of its aspects. I think section 117, the windfall proposal, is a terrible section, and I agree it ought to be either stricken out or rewritten. I am not particularly happy with some of the sections dealing with antitrust exemptions, but in all of the clatter here it seems to me that we have lost sight of one very simple, basic fact, and that is that this is an open rule. Any Member of this body can get up to his feet, seek recognition from the Chair, and offer an amendment to strike the section, or to amend it, or to do anything he likes within, of course, the parameters of the rules of the House.

So this objection that by waiving points of order we have somehow or other shackled and put handcuffs on the Members of this body to the point where they cannot work their will is simply not so.

I would repeat that when you try to draw a comprehensive piece of legislation such as the Committee on Interstate and Foreign Commerce has sought to do on an enormously complicated and complex issue such as the energy crisis, that you do end up with everything from gasoline conservation to the suspension or lifting of environmental rules, to questions involving coal conversion, rationing versus conservation. You do get into areas that impose on the jurisdiction of other committees, and that would be the House Committee on the Judiciary with regard to the antitrust laws, and the Committee on Ways and Means on this matter of windfall or excess profits.

But, I repeat, I think this Congress has the duty to act on this legislation before we go home.

I was under the impression that this Congress was going to adjourn sine die in all probability a week from tomorrow or a week from Friday. I do not want to take the responsibility of simply defeating the rule and, thereby, send out a signal to the country that we are not even willing to debate and discuss and amend and perfect this piece of legislation dealing with this enormously important question and to make an effort to contribute to a solution of the energy crisis.

Mr. MYERS. Mr. Speaker, will the gentleman yield?

The SPEAKER. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, may I have an additional minute or two?

Mr. LATTA. Mr. Speaker, I yield an additional 30 seconds to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Speaker, I thank the gentleman for yielding. I think that I for one would certainly agree with everything the gentleman has said. But I wonder, has there been any agreement that there will not be any limitation of time thereby prohibiting Members from having the opportunity to discuss and thoroughly understand the bill and all amendments that will be offered?

Mr. ANDERSON of Illinois. Mr. Speaker, the gentleman from Indiana raises an important question, and I would be glad to yield at this point to the distinguished chairman of the House Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS) to give this House assurances that adequate time will be permitted to debate the bill and all amendments thereto.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman from Illinois for yielding to me. I must say that I cannot speak for all members of my committee, nor can I speak for all of the Members of this House, but I would say I would welcome—and I think there should be—complete and full discussion on all of the issues, and that I would try to proceed toward that end.

The SPEAKER. The time of the gentleman has expired.

Mr. LONG of Louisiana. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. HANNA).

Mr. HANNA. Mr. Speaker, I think we are here again seeing what happens when we are trying to enact legislation without having some explanation, some statement, some background of policy. It is noticeable to me that in the Senate bill the first thing they did was to set up in the administration an Energy Policy Board, also an Energy Conservation Administration. That is what we should start with.

We do not have any energy policy.

What we are dealing with in this situation is a lack of production on the one hand and an overuse of a limited resource on the other hand, and we are like a bunch of blind men trying to put together a jigsaw puzzle in the bottom of a sack in the middle of the night.

The Members may be concerned that the newspapers will be after them because they do not act, but as soon as they do act, they are going to take off on them from the rear and make the back of your pants look like a lace curtain. So just use a little bit of discretion and caution in terms of this bill.

The SPEAKER. The time of the gentleman has expired.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, in the 1 minute I have I cannot really cover what I wanted to, but I do want you to know that I came into this House this morning prepared to vote for this rule, and now that I have had the opportunity of hearing the arguments, I am now going to vote against the rule. What I have heard so far and what I have seen of the bill, which I have just been able to get hold of, reminds me of the old statement: "When in danger, when in doubt, run in circles, scream and shout."

It sounds to me like that is what we are doing here on the floor of the House on this issue, and I think we ought to now act intelligently. I do not care whether we are here until Christmas—I do not want to be here—but if we have got to be here in order to act intelligently on this issue, then we ought to take the time and act on it. But we ought to know what we are talking about and not rush in and vote for these nongermane amendments that are attached to this rule. We must work to find a reasonable solution to this energy crisis.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Indiana.

Mr. DENNIS. I thank the gentleman for yielding.

I should like to express my concurrence with what the gentleman has to say. We have an energy crisis but I do not think it is responsible to have this important and complicated legislation written by a conference committee; we ought to consider it, and we ought to have, and to take, reasonable time to consider it.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Ohio.

Mr. HAYS. I thank the gentleman for yielding.

Mr. Speaker, somebody here said: Is there an energy crisis or isn't there? That is a good question, and the only answer we have is from the oil companies, and the Members can make sure that that is in their self-interest.

I have in my office a copy of the January and the February issues of the "Ohio Farmer," which is the largest circulated rural magazine in Ohio, and all of the power companies in Ohio were taking full-page ads asking people to convert to electric heat. This week they took full-page ads and said there is an energy crisis. Please, Congress, remove the ecology restrictions. Remove the pollution restrictions from us.

Then they have a statement in the paper saying: Go ahead in Ohio and turn on your Christmas lights. We generate from coal. There is no shortage here.

Who does know whether there is an energy crisis or not?

The basic raw materials for plastics are being shipped abroad to the extent of 45 percent of their production abroad, where only 18 percent has been sent heretofore. If there is a crisis, it is a crisis contrived for the profit, the surplus profit, the excess profit, of the big corporations. I intend to vote against the rule.

The SPEAKER. The time of the gentleman has expired.

Mr. LATTA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I have in my hands a UPI story out of Washington:

> The Administration today proposed new fuel allocations regulations that would result in less gasoline and higher prices for the consumer.
>
> The new mandatory program, supplementing incentive program announced last week, would cut back gasoline output by an estimated 15 percent and raise heating oil 8 or 9 cents a gallon and gasoline 6 or 7 cents a gallon.

This is rationing via the price route and I am opposed to it.

Mr. Speaker, I might say that at the proper time I am going to offer an amendment to the rationing section of this bill which would read as follows:

> Provided, however, any plan formulated under this subsection (6) must be first submitted to and approved by the Congress before implementation.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I thank the gentleman for yielding.

How can the gentleman offer an amendment—and we hope he does offer an amendment—if he votes the rule down?

Mr. LATTA. I might just vote for the rule if he would accept my amendment.

Mr. Speaker, I yield 30 seconds to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, the time is inadequate but let me say this. I cannot defend this rule, but I sat in the Rules Committee yesterday and listened to the alternatives. They had 6 or 7 or 8 or 9 of them that were defeated. This is the best thing we can come out with.

We cannot go home and tell our people we did not even want to talk about the fuel shortage. I think we ought to vote for the rule and take up the bill and see whether it is a dog's breakfast or not.

Watergate will not even be a political issue if we fail to come to grips with the energy shortage. If our people cannot get gasoline; cannot keep warm; cannot turn on their lights; cannot keep their jobs; you just better be in a position to say you at least tried to do something about it.

You may try to blame the President, or someone else, but he is not running for anything. Most of you are, and we will be required to answer the people.

Let us try to make the bill the best we can to move in the direction of reasonable solutions.

Mr. LONG of Louisiana. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I rise in opposition to the rule. The question is not whether we have an energy shortage. We do. The question is whether this body will act as it is supposed to act, as a deliberate body. I have been trying to get a copy of the bill which is before us today since last Friday. It was not until late yesterday afternoon that we got the bill. I submit that very few Members have really read, digested, and have really understood the bill.

This bill charts a new and far-reaching course of additional administrative authority and a new course for the country on energy policy. I have read the bill. I think the language is so loose in some cases that it amounts to verbal promiscuity, some parts of the language have the effect of trying to make Lady Chatterley look like Betsy Ross, which she is not.

I think this bill should be put over for 2 days until we can check with our constituents, represent their views and act in a deliberative fashion.

Mr. LONG of Louisiana. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MOSS).

Mr. MOSS. Mr. Speaker, I do not like this bill and I do not know of a single member of the Committee on Interstate and Foreign Commerce or of the Committee on Rules or any Member of this House who likes this bill.

I do not like the alternatives to this bill. I do not like the crisis that confronts us. I do not like the need to share scarcity.

But I am faced with the inevitable and irrefutable fact that I must accept responsibility and only through the adoption of this rule and only through ordering the previous question and only through this further debate can we meet that responsibility which we so eagerly sought and which is now imposed upon us.

We can go back to hearings. Hearing what? Indecision? Hearing facts in controversy? Hearing that there is no clear policy? Hearing that there are innumerable problems? Hearing that the industry cannot agree? Hearing that the Government cannot agree?

And now are we in Congress to say that we find ourselves incapable of acting in response to what clearly is a crisis, even though as the gentleman from Ohio says the advertising has been contradictory? Not too many months ago the industry was urging a greater use of energy and today it is entreating people and urging them to discontinue any expanded uses. But remember that many of those ads were contracted for many months ago.

But also remember that there is a responsible course, and I believe that I am compromising my views and my position to as great an extent as any Member of this body. I tried in committee to fight for more time, but I can say to every Member here that without exception every member of that committee attended those sessions morning, afternoon, and late into the night in an effort to deal with this problem.

We bring the Members our best effort. Admittedly it is not a perfect one, but let us proceed now to adopt the rule and debate the bill on its merits.

The SPEAKER. All time has expired.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. LONG of Louisiana. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 272, noes 129, not voting 31, as follows:

[Roll No. 656]

AYES—272

Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Ashley
Badillo
Bafalis
Barrett
Bell
Bennett
Bergland
Bevill
Biester
Blatnik
Boggs
Bolling
Brademas
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burke, Mass.
Burlison, Mo.
Burton
Byron
Camp
Carey, N.Y.
Carney, Ohio
Carter
Cederberg
Chamberlain
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conte
Cotter
Cronin
Daniels, Dominick V.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dent
Devine
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Ford, William D.
Forsythe
Fountain
Frelinghuysen
Frenzel
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gilman
Ginn
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Griffiths
Grover
Gude
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harsha
Harvey
Hastings
Heckler, Mass.
Heinz
Helstoski
Henderson
Hillis
Hinshaw
Hogan
Holifield
Horton
Hosmer
Hudnut
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kazen
Kuykendall
Kyros
Leggett
Lehman
Litton
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McCormack
McDade
McFall
McKay
Macdonald
Madigan
Mahon
Mailliard
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Metcalfe
Michel
Miller
Mills, Ark.
Minish
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
O'Brien
O'Hara
O'Neill
Owens
Passman
Patten
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Riegle
Rinaldo
Roberts
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Roush
Roy
Sandman
Sarasin
Scherle
Schroeder
Sebelius
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Steele
Stephens
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Thornton
Van Deerlin
Veysey
Vigorito
Waldie
Wampler
Ware
White
Whitehurst
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Wydler
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NOES—129

Abzug
Adams
Anderson, Calif.
Archer
Armstrong
Aspin
Baker
Bauman
Beard
Biaggi
Bingham
Blackburn
Bowen
Breckinridge
Broyhill, Va.
Burke, Fla.
Burleson, Tex.
Butler
Casey, Tex.
Chappell
Chisholm
Conable
Conlan
Conyers
Corman
Coughlin
Crane
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Danielson
Davis, Ga.
Denholm
Dennis
Derwinski
Dickinson
Dulski
Flowers
Flynt
Frey
Gibbons
Goldwater
Green, Pa.
Gross
Gunter
Hanrahan
Hawkins
Hays
Hébert
Hechler, W. Va.
Hicks
Holt
Holtzman
Howard
Huber
Hungate
Jones, Okla.
Jordan
Kastenmeier
Keating
Kemp
Ketchum
King
Koch
Landgrebe
Landrum
Latta
Lent
Lott
McCollister
McEwen
McKinney
McSpadden
Mallary
Mathis, Ga.
Mayne
Mazzoli
Meeds
Melcher
Mezvinsky
Milford
Montgomery
Obey
Parris
Peyser
Powell, Ohio
Price, Tex.
Rangel
Rarick
Reid
Reuss
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rosenthal
Rousselot
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sarbanes
Satterfield
Schneebeli
Seiberling
Shipley
Snyder
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Symms
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Vander Jagt
Vanik
Waggonner
Whalen
Whitten
Widnall
Wilson, Charles, Tex.
Young, Ga.

NOT VOTING—31

Abdnor
Ashbrook
Boland
Brasco
Burke, Calif.
Clay
Collier
Dellums
Erlenborn
Fisher
Foley
Fraser
Gubser
Harrington
Hunt
Johnson, Calif.
Kluczynski
Madden
Mitchell, Md.
Murphy, Ill.
Patman
Rhodes
Rooney, N.Y.
Rostenkowski
Stokes
Symington
Taylor, Mo.
Thompson, N.J.
Walsh
Wyatt
Yates

So the resolution was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Thompson of New Jersey for, with Mr. Dellums against.

Mr. Rooney of New York for, with Mr. Harrington against.

Mr. Rostenkowski for, with Mr. Mitchell of Maryland against.

Mr. Brasco for, with Mr. Stokes against.

Mr. Kluczynski for, with Mr. Clay against.

Until further notice:

Mr. Fisher with Mr. Madden.

Mr. Yates with Mr. Gubser.

Mr. Murphy of Illinois with Mr. Ashbrook.

Mr. Boland with Mr. Abdnor.

Mrs. Burke of California with Mr. Erlenborn.

Mr. Fraser with Mr. Collier.

Mr. Foley with Mr. Taylor of Missouri.

Mr. Symington with Mr. Patman.

Mr. Johnson of California with Mr. Walsh.

Mr. Hunt with Mr. Wyatt.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ENERGY EMERGENCY ACT

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11450 with Mr. Bolling in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. Staggers) will be recognized for 1½ hours and the gentleman from North Carolina (Mr. Broyhill) will be recognized for 1½ hours.

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and Members of the House, I am not going to take very long at the present time, and I hope to come back a little bit later, and will certainly be glad to answer questions.

I know that we will have several speakers who will try to enlighten the House on what is in the bill.

Let me begin by giving a short background on this legislation.

On October 18 the Senator from Washington, Senator Jackson, and I introduced a bill on the same day in both the Senate and the House which proposed to give the President certain emergency powers to deal with the crisis situation which confronts this Nation. The House bill was H.R. 11031. The Senate subsequently had hearings on their bill, and passed it on November 20.

I might add this: that the President called a group of Congressmen from both sides of the aisle to the White House concerning energy, those Members who had it under their jurisdiction, and talked about the importance of the energy crisis at the present time, and that it was a "must" that we do something about it immediately.

At that time, he said that he needed the daylight saving time bill which the House has passed, and which has now come out of conference, and is ready for final passage.

On November 8 the President sent a message to the House on the importance of the energy crisis saying that it was very necessary that this Congress pass an energy bill before we adjourned to go home for the holidays.

The Committee on Interstate and Foreign Commerce commenced hearings on the bill H.R. 11031, and held hearings for 6 days. We had those hearings through groups of panels. For instance, on the first day we had eight representing the administration, headed by the then head of the Energy Policy Office, Mr. Love. And on succeeding days we had other panels who appeared before the committee. After those 6 days of hearings we took 7 days to mark up a bill.

And if ever there has been a bill considered extensively, and I say extensively, again, by the Committee on Interstate and Foreign Commerce, or I would say any committee of the House, this bill is it. And it was considered by what I believe are 42 of the greatest Members in this House—and here I have not included myself.

Gentlemen, I know I do not have to tell you how truly serious this shortage situation is. I believe that this legislation as a supplement to the Emergency Petroleum Allocation Act will give to the executive department important powers to cope with the situation. I respectfully urge the adoption of this legislation in the form in which it has been amended by the Committee on Interstate and Foreign Commerce.

Mr. Chairman, our committee has worked a great many hours on this legislation. In committee over 125 amendments were considered and 75 agreed to. Consistent with the emergency situation which confronts this Nation, the committee met almost continually over the last week in morning, afternoon, and evening sessions. I believe that we have reported a bill which reflects in the committee's amendments the concerns of the American people. Undoubtedly it can be improved upon, but I hope that House consideration of this measure will not be extended in a manner which prevents our getting legislation through the Congress before the Christmas recess.

There is much that remains to be done to deal with the energy crisis. I know that a number of my colleagues have devised their own solutions. Many of these have great merit. However, I would hope that we will not attempt to solve the full problem in this legisation, but that we will confine it to consideration of those measures which must be enacted in the short term to deal with the impending shortfalls of this next year

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Chairman, I, for one, would like to commend the gentleman from West Virginia and his committee for what they have done. I do not think any Member of this House, regardless of how he feels about this bill, meant anything derogatory toward the gentleman's committee because it is a fact, as the gentleman has just stated, that they have worked very hard.

The question that I have at this particular time is that this bill deals with the energy crisis; am I correct?

Mr. STAGGERS. That is right.

Mr. KAZEN. The words "energy crisis" mean to me an energy shortage. Is this correct?

Mr. STAGGERS. That is correct.

Mr. KAZEN. Has the gentleman's committee received an inventory of energy in this country? What is it that we are talking about?

Mr. STAGGERS. We have tried and tried to get from the administration these very facts. We have not been able to do so. The legislative body does not have the wherewithal that the executive department has to get the facts. That is their job. We have not been able to totally get those facts. We have had to work on the information that we have been able to get together as to what the shortage situation is. We do know that right at the present time there are many hardships being created that people are having to put up with across the land. We want to alleviate those hardships.

Mr. KAZEN. This is correct, but I think before we tackle any problem like this, we have got to get the basic facts. Just what is it that we are going to allocate? Just what is it that needs to be rushed? Just what is our production, in other words, our inventory? Everything that we do has to go back to the basic idea of, we have only so much to work with. That, I think, is the biggest failure of this administration and in their entire policy where they did not start with a No. 1 priority, to get an inventory of our resources, because everything else that we do depends upon what that inventory would show.

Mr. STAGGERS. I am in agreement with the gentleman from Texas. I might say to the gentleman that I appreciate his remarks, but those are things in the past. We are dealing with the problem that is now upon us, and it certainly is up to each Member of Congress to do the very best that he can to take care of the situation as he sees it. There are hardships being created and brought to bear on the American people, and that is the reason for this bill being here today.

I hope that during our debate and the debate on all of the amendments that we can do it in a way that will not create too much fury, that we can do it in a way that will be intelligent, and try to accomplish something.

There have been accusations hurled around this morning that I do not think belong in a deliberative legislative body. Let us get together as reasonable men and try to do the very best we can on the situation as it exists today. That is my intent.

I do not claim the bill is perfect. I do not think there is any man on the committee who will claim that. They know it is not. They know there are many things, perhaps, that should not be in there, and others that should be, but we have worked hard and have done the very best that we could, and this is the result of that work that we are bringing to the Members today.

We think it is at least the basis upon which we can offer amendments today and try to perfect it, as Representatives of all of the people. That is the way we do our legislative business in Congress.

I am not dealing with the content of those amendments at the present time. We will do that when they come up. But I would just like to say that the committee did work hard on this.

I would like just briefly to go through and tell the House what the bill does.

In title I, the bill is supposed to give proposals for mandatory conservation plans which will minimize the impact on employment.

It is supposed to give equitable treatment to all segments of the economy while maintaining vital services to the land. It is to provide for end-use allocation, which includes adjustments in refining operations. It means that if one item is short, the refineries can be directed to correct that and to make it more equitable between heating oil or other petroleum products or whatever the problem might be.

The President may require oil production at its maximum efficient rate and may overrule State determinations as to what that rate should be.

Federal lands must try for secondary and tertiary recovery.

The bill creates a Federal Energy Administration. The Administrator is appointed with the consent of the Senate and removed only for cause.

The term ends on May 15, 1975. This is a temporary measure unless renewed, and we hope that it will not have to be renewed. We hope the committee and America will know exactly what is going on in the country and that it will not have to be renewed. We hope things will be corrected so as to make distribution of the fuels more equitable.

The Administrator is to submit energy conservation plans within 30 days. They are to include proposals for transportation controls, carpooling, use of recyclable materials, and so on.

It provides that vital services should be maintained and that the burden on all segments of the economy should be equitable, which it is not today. If there are going to be any undue burdens, as there have been in the past, they must be corrected.

The regulatory bodies will do what they can and they will suggest what authority is needed.

The ICC may also adjust truck gateway restrictions. I will not go into that in detail but it means that right now some trucks might have to start in New York and go to Atlanta instead of going to San Francisco, instead of going by a direct route which would save maybe 1,000 or 2,000 miles.

Enforcement mechanisms include Federal criminal and civil penalties, injunctive and private actions. Included among the prohibited acts is denying fill-ups to trucks on bona fide cargo runs.

States will receive grants to help carry out delegative authority. Dealers will have a day in court on franchise or marketing contract cancellations. I know that practically every Member of this House has had some complaints from dealers who have had to cancel their contracts and go out of business. One businessman was in my office recently and said he had a franchise for 45 gasoline stations; he had to close all but 12 of those because his contracts had been canceled. We hope this will not be done in the future and it will not be done under this bill.

Retail and service establishments may make voluntary agreements to promote conservation. Carpools are to be encouraged by incentives. In the bill $25 million is authorized to foster plans. Government should use smaller cars. The use of limousines is limited in the Government to Cabinet officers. There has been an exception made there for the FBI and for the State Department, when people may transfer materials sometimes in bulletproof limousines. There has been an exception made for them.

Mr. LANDRUM. Mr. Chairman, will the distinguished chairman yield?

Mr. STAGGERS. I yield to the gentleman from Georgia.

Mr. LANDRUM. Is it accurate to say that this bill could be described as a short-range solution, providing a short-range solution to the crisis that confronts us?

Mr. STAGGERS. That is right.

Mr. LANDRUM. There are no provisions in this bill designed to go to the long-range problem?

Mr. STAGGERS. There are some, but yes, this bill is primarily directed at the short-term problem.

Mr. LANDRUM. Is it the opinion of the gentleman today, after his long and careful study of this problem, that we are going to have to provide some means of offering incentive to the capital market to come in and discover new sources of fuel supplies, new natural resources for fuel?

Mr. STAGGERS. Well, I know what the gentleman is talking about, the use of geothermal and other energy sources.

Mr. LANDRUM. Does the gentleman have any idea about how these incentives could be set up?

Mr. STAGGERS. We have talked about them in the committee. We did talk about that should be done; not only that, I fully agree that there are other means of energy that we have not tapped at all.

I think the gentleman might be talking about the incentives for coal and gas production.

Mr. LANDRUM. Is it accurate to say that in order to provide the necessary incentives for research and discovery of these needed resources, that we must alter our tax laws relating to these rules?

Mr. STAGGERS. I would say to the gentleman that belongs to another committee and it would be for their consideration.

Mr. LANDRUM. I am not talking about the gentleman's committee. I would like to know the gentleman's idea.

Mr. STAGGERS. I might say, the bill calls for study on development of all resources and asks for recommendations for providing incentives to increase production. They shall report back to the Congress for appropriate consideration.

Mr. LANDRUM. I note in the bill a provision to prohibit windfall profits or to require the return of so-called windfall profits. Now, what is a windfall profit, Mr. Chairman?

Mr. STAGGERS. The bill sets up a formula in section 117 for determining windfall profits.

Mr. LANDRUM. Will that be determined by the Renegotiation Board, for example?

Mr. STAGGERS. Yes, that is what is in the bill now. I understand there are some amendments which may be offered to take the function out of the Renegotiation Board and give it to the Administrator. That is where I believe it should be, under the Administrator of the Federal Energy Administration.

Mr. LANDRUM. Then there might be some suspicion, at least, that this provision should not be in here?

Mr. STAGGERS. Well, no. I think it should be in here.

Mr. LANDRUM. That it is without jurisdiction?

Mr. STAGGERS. I think it should be in here, but it should be transferred to the Federal Energy Administration to make it completely consistent with what we have done.

Mr. LANDRUM. My final question, is it the opinion of the distinguished chairman or not that this is a short-range solution only; it does not go to the long-range problem confronting us?

Mr. STAGGERS. Except the studies we are having made.

Mr. LANDRUM. Except the studies, that is right.

Mr. STAGGERS. We want them to come up with studies that will tell us and this Nation where we are going. We want to get away from the petroleum use as other nations have done and as Hitler did at the end of World War II. That is 40 years ago. He used coal to run all his machinery. Here we are sitting and not doing it. There is something wrong with Americans if they are not doing it.

Mr. LANDRUM. I might suggest that it is not quite 40 years ago.

Mr. STAGGERS. It was in 1945, almost 30 years ago.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. Yes, but I would like to finish my statement.

Mr. GROSS. We have before us H.R. 11450, consisting of 95 pages, which was made available yesterday afternoon, and we have H.R. 11882, which is 67 pages and was made available to us only an hour or so ago.

To which of these bills do we center our attention during general debate?

Mr. STAGGERS. Mr. Chairman, I would like to say this: We are now in general debate—I am addressing myself to H.R. 11450 as amended, but at the start of the reading of the bill for amendments I am going to ask that H.R. 11882 be considered as an amendment in the nature of a substitute for this bill. It is identical as to every word in the bill as it was amended by our committee.

Mr. GROSS. Maybe, but the page numbers are much different.

Mr. STAGGERS. That is correct.

Mr. GROSS. Mr. Chairman, I would hope that proper efforts would be made to identify page numbers by those who speak on the bill.

One other question: Why the exemption for Cabinet members in the use of limousines, and if—if they have children and are using their limousines to transport them to private schools, why should they be permitted to do so?

Mr. STAGGERS. They should not, unless it is for security reasons.

Mr. GROSS. For security reasons. Is that the reason the committee gives for exempting limousines for Cabinet members?

Mr. STAGGERS. That is not exactly true, but that is one of them, I would say.

Mr. GROSS. How very nice.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. Mr. Chairman, I understand from one of the provisions of the resolution which permitted debate on this bill, immediately after reading the enacting clause, the text of the bill H.R. 11882 will be offered as a substitute?

Mr. STAGGERS. That is correct.

Mr. BROYHILL of North Carolina. And that the text of that bill is identical to the other, and the amendments will then be offered to the substitute?

Mr. STAGGERS. That is correct.

Mr. BROYHILL of North Carolina. We have not had this procedure where the rules of the House require offering the committee amendments again on the floor of the House?

Mr. STAGGERS. That is correct.

Mr. BROYHILL of North Carolina. And had there been amendments offered to committee amendments, it would have been a chaotic parliamentary situation and we would be here until Christmas?

Mr. STAGGERS. That is correct.

Mr. VANIK, Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I appreciate the work of this committee in its effort to solve a very difficult problem. I would like to ask if there is any provision in the legislation, since we are going to move on the conversion of a great many energy plants which now use oil to coal, will there be any effort or is there any provision in this bill to mandate the use of our coal transportation within our country to supply coal to our domestic energy sources rather than the export business, which is demanding a substantial portion of our transportation system?

Mr. STAGGERS. Mr. Chairman, we have covered the exporting of coal and have prohibited it except where consistent with the national interests.

Mr. VANIK. But the language does not direct itself to the transportation problem?

Mr. STAGGERS. It is not in the bill, but all the things that are needed to get the energy are.

Mr. VANIK. Mr. Chairman, just one other question I have: I have a feeling that there are some resources in this country, some oil and gas discoveries, that are made and concealed, capped and closed. At least with respect to Federal lands, is it possible and does this legislation direct itself toward providing some sort of inspection by someone in the Federal Government to certify a well on public lands as nonproductive or economically nonfeasible before it is capped or closed? Is there any provision for that?

Mr. STAGGERS. No, and I must say to the gentleman from Ohio that we are talking about the jurisdiction of another committee. The chairman of that committee did write to our committee and to the ranking minority member saying that the things under consideration in the bill would be all right with him, so we only mention Federal lands in one or two places. We did have in the original bill about opening naval reserves to production, but we took it out because that is under the jurisdiction of the Committee on Armed Services.

Mr. VANIK. Mr. Chairman, I want to thank the gentleman for his response.

Mr. FLYNT. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. Briefly, I will yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Chairman, reference has been made by the distinguished gentleman from West Virginia to H.R. 11882.

Mr. STAGGERS. Yes, sir.

Mr. FLYNT. I see on the desk in front of the gentleman that he has a copy of it.

Mr. STAGGERS. Yes, sir.

Mr. FLYNT. Yes. And several other Members of the House have endeavored to obtain copies of this from the normal places where we ordinarily get copies, and we have been told that they are not available. First of all, I would like to inquire if the Committee on Interstate and Foreign Commerce has adequate copies of this bill so that those of us who propose to offer amendments may do so.

Mr. STAGGERS. Mr. Chairman, I am sure that they will be available. I am sure the additional copies will be available when the time comes. They were supposed to be here at 9 o'clock, and then because of problems at GPO, it was delayed.

Mr. FLYNT. Mr. Chairman, if the gentleman will yield further to me, the gentleman has said that when the time comes, they will be available.

Many of us feel that the time has come when they should be available, and, in fact, that was one of the objections to the rule. The rule was not available to a majority of the Members of the House.

Mr. STAGGERS. Mr. Chairman, let me say to the gentleman that the provisions of H.R. 11450 are identical to those of the other bill.

Mr. FLYNT. They are identical in every respect?

Mr. STAGGERS. The gentleman is correct.

Mr. FLYNT. Mr. Chairman, I thank the gentleman for his response.

Mr. STAGGERS. Mr. Chairman, I will continue with my presentation.

Windfall profits are to be controlled by having the Renegotiations Board determine that money is to be paid back when they have excessive profits and are really gouging the public.

I think that most of the citizens of this Nation would be 1,000 percent for this, although some Members of Congress probably would not be for it. I found that the people I talked to back home say that this is one of the things that is needed above everything else.

So when the time comes to vote for it, if there is a vote for or against it, I am going to ask for a record vote, because I would like to know who is against windfall profits and who is in favor of windfall profits for those who have already, as I said, made the greatest profits in history last year.

The President may approve importation of liquid natural gas on an individual shipment basis.

New electric power sources will be developed or shall be developed.

Voluntary agreements within the petroleum industry will be subject to close Government supervision.

Mr. Chairman, I have tried to take these points by section to give the committee a little bit of an idea of the broad scope of the bill and what it entails.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, today the House of Representatives has the opportunity to take some long overdue steps toward solving our Nation's energy crisis. By itself, H.R. 11450 will not totally solve our energy problems—that will take time. But through its conservation and resource proposals and its establishment of the much needed Federal Energy Administration, it offers a needed structure for a successful assault on our energy problems.

I think it is important that we realize that the energy crisis is here—and it is real. For years, some of us have discussed the oncoming energy crunch. A sound policy of planning and conserving our limited resources, and of striking a proper balance between environment and energy needs has been a national need for years.

It is also important to realize that the energy crunch is not just due to the Mideast oil embargo. We would have, as I have noted all year, a rough winter ahead in any case. But the oil embargo has intensified our difficulties.

America has traditionally had a plentiful supply of inexpensive energy. For 200 years, our cheap and plentiful energy resources have fueled our amazing growth from a small farming nation to the world's most technologically advanced country. These resources and our use of them have made possible the best standard of living in the world.

But today, the Madison Avenue slogan, "A nation that runs on oil cannot afford to run short," has achieved real significance.

America is confronted with a severe energy shortage both right now and in the near future. As a result, we have all witnessed a series of incredibly fast moving events. In 6 months, America has gone from a free market energy system to voluntary allocation program to today's mandatory programs. Speed limits have dropped by 20 to 25 miles per hour. Gasoline stations have shut down. We keep our homes cooler in the winter and warmer in the summer. And the Sunday trip to visit relatives is no longer a sure thing. We do all of this to conserve the fuel necessary to keeping our children in school, our homes warm and our industries open.

As we all know, America depends on its energy resources. Any severe shortage of energy would sharply curtail life as we have known it in the United States. People are now asking—"Why is America facing this shortage?" The central problem is, of course, the energy supply and demand situation.

As we are finding out, the demand for energy resources has simply outpaced the growth in supply.

From 1955 to 1970, demands for energy increased some 40 percent. By 1985, requirements for energy resources will have increased another 60–70 percent over 1970. While this incredible growth rate has been worldwide, it has been particularly heavy in the United States. And America is particularly sensitive to worldwide shifts in energy supplies. With only 6 percent of the world population, we consume over one-third of the world's energy resources.

At the same time that our energy requirements have been greatly increased, America has had significant shifts in the use of specific energy sources. As an example, for years, heavy industry and the electrical companies have used coal as their primary source of energy. Both efficiency and environmental considerations have caused industry to turn more and more to the use of oil. As a result, it is predicted that by 1985, unless we change this trend, 46 percent of all energy resources used to run industry will be oil products.

This shift in the so-called fossil fuel market—from coal to oil and gas—has placed the U.S. economy in a very unfortunate position. America's increased reliance on oil has forced it, because of declining oil reserves, to depend on an increasingly large amount of imported crude oil. Yet the United States has over one-half of the world's known coal resources—nearly 300 years worth of supplies. We need to make use of this great and bountiful resource.

Some have advanced the notion that there is a simple answer to our energy and oil decline. Their answer is to simply increase our reliance on imported oil. We have found, with the oil embargo, that this is no answer. It is just an opening for national suicide. Even if we could rely on foreign oil it would be disastrous financially.

By 1980, if present trends had continued, imported crude oil could contribute over $20 billion a year to our balance-of-payments deficit. Quite frankly, regardless of the shape of the American economy in 1980, that sort of reckless dollar drain is simply prohibitive.

This problem of energy shortages is not just an American phenomenon. The energy crunch has hit the entire industrialized world. Europe, for example, is almost totally reliant on imported oil. Stringent conservation measures including a ban on Sunday driving and reduced speed limits are now in effect in nearly every country on the continent. Japan forces a severe curtailment of its industrial activity unless suppliers of oil and gas loosen up considerably. Even Russia, which has massive energy reserves, has begun to take energy conservation steps. Indeed, even with our energy problems—and I do not minimize them—we are in much better shape than other industrialized nations.

And with a program of national self-sufficiency, it will improve.

The energy picture is not a long-run bleak situation. An exciting future with new technologies is also before this country.

By the 1980's, expanded research and development in the areas of nuclear energy, the fast breeder reactor, shale oil, and coal degasification could open up a new vista of plentiful untapped energy sources.

But to get this effort off the ground and to get us through the immediate problem requires the sound guidance of a well-thought-out national energy policy. That is precisely what we have been lacking for a number of years in the Federal Government.

Take a look at the present arrangement of energy policy making right now.

There are some 64 different Federal agencies that administer programs which have an impact on our energy system. Government—Federal, State, and local—uses 60 percent of all the gasoline consumed in this country. Yet there is no coordinated effort to assure a consistent and far-reaching policy thrust to energy program administration.

We should have learned that a fragmented management system such as this intensifies rather than solves problems. And that is just what we have experienced. We must get started now on the development of a national energy policy that will secure for the United States the energy supply needed to meet our increasing domestic fuel requirements.

There are, in addition, some other areas that Congress can take action on to meet the energy challenge. America needs to embark on a positive program of rapidly developing our own energy resources.

Initial steps have been taken to begin exploration and drilling of the Outer Continental Shelf. About 40 percent of our total undiscovered oil resources are said to be located here. Indeed, there is more oil here than is located in the massive North Sea reserves.

In Alaska, now that Congress has passed the Alaskan pipeline legislation, energy experts predict that the north oil fields will yield 2 billion barrels a day of crude oil.

I would also attach a great deal of importance to a thorough review of our federally funded research and development projects. Particularly in the nuclear energy field, these projects seem to be progressing on schedule with ample but not excessive funding levels.

However, I think that additional research and development funds for coal research could reap us important dividends. Substantial breakthroughs in developing an environmentally safe coal technology would allow America to make use of its impressive coal resources and slow down our increasingly expensive reliance on oil products.

I am supporting H.R. 11450, the National Emergency Energy Act. It is not a panacea. It will not cure all of our ills. We will still have much in the energy field to accomplish over the next few years. But this legislation is the needed first step.

However, I think that we can also make some needed improvements in this legislation today. Section 105 of the final committee bill effectively emasculated certain needed powers to deal with energy conservation.

Originally, the bill allowed the President 30 days after enactment to propose a series of energy conservation plans. Congress then had 15 days in which to decide which plans were off target and which were proper and acceptable. This is the kind of quick action we need. The procedures set forth in the bill at that time were designed to prevent delay and get action.

The amended committee bill, however, removed the congressional veto and substituted a legislative response instead. As the bill now stands Congress must act affirmatively before any plan can be implemented. The executive department is severely limited in its efforts to deal with the fuel crisis. And inaction will hurtle us unnecessarily toward rationing.

There will also be other amendments offered today to improve H.R. 11450. I hope that we will weigh each one of its own merit and with judicious thought. And I trust that we will leave here today with an energy bill that gives our people back home the sort of relief and programs necessary to see them through the winter.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 10 minutes to the gentleman from Nebraska (Mr. McCOLLISTER).

Mr. McCOLLISTER. Mr. Chairman, one of the sections of the bill provides that stationary powerplants may change their use of their primary fuel from gas and oil to coal under certain terms and conditions. In that process, however, they must continue to do all that they can to comply with the provisions of the Clean Air Act, and with that generally I have no objection.

There is, however, a group of powerplants that border on being obsolete where such compliance, such development of plans for complying with the Clean Air Act, would be an uneconomic activity, where the plant may have a remaining useful life of only 6 or 7 years, making it economically unfeasible for that plant to install the scrubbers in the smokestacks and other equipment to make it possible for them to comply with the provisions of the Clean Air Act.

In my own district—and I suspect that other Members have similar situations—a 110-megawatt plant now burning coal would be required to spend between $13 and $17 million to comply with the provisions of the Clean Air Act, and that plant, due to become obsolete and replaced by 1980, would find the public power district spending that kind of money for such a brief period of time. Thus, I shall at the appropriate time propose an amendment, which under certain limitations—into which I will go more at that time—would exempt those plants from complying with the provisions of the Clean Air Act for that period of time. It would make it possible for that plant and others like it to continue to produce power for the benefit of the residents of my district and my State without being required to shut down, the only other alternative being available to it now under the provisions of the Clean Air Act.

As I say, I will introduce that amendment at the appropriate time, and I hope that the chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS) and others will see the good sense of the amendment and would agree to its acceptance.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. McCOLLISTER. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

Under the provisions adopted in the committee, we went to the year 1979 to accomplish the intent of the gentleman's stated purpose. This would, of course, not change the ambient air quality. It was not the intent of the committee to change the ambient air quality, but it was to permit the intermittent or alternate controls for the control of emissions from plants just such as those that the gentleman has referred to, and that language is in the legislation now.

Mr. McCOLLISTER. I think in that case, though—and this is section 106; does not the gentleman agree?

Mr. MURPHY of New York. Yes.

Mr. McCOLLISTER. On page 13 of the bill it says that such plants shall make such use of product technology as may be necessary to enable such plant to come into compliance with the fuel or emission limitation, and so forth.

The development of such a plan and the installation of such equipment to come into compliance would take an economically unfeasible amount of money to do it, and the alternative would be that the plant would simply shut down.

Mr. MURPHY of New York. The gentleman's language would have 1980 as the cutoff time?

Mr. McCOLLISTER. Yes.

Mr. STAGGERS. Mr. Chairman, I yield 8 minutes to the gentleman from Massachusetts (Mr. MACDONALD), a member of the committee and chairman of the Subcommittee on Communications and Power.

Mr. MACDONALD. Mr. Chairman, I rise in support of this bill. It is indeed unfortunate that we of the Congress are faced with the necessity at this 11th hour to enact legislation to correct a situation which should have been foreseen many months ago by the administration and which certainly was foreseen by many Members of this Congress. Last spring, as a concrete example, I introduced legislation which was designed to correct some of the injustices that have been caused by the lack of coherent administration policy in the energy field. Last week that legislation became public law known as the Emergency Petroleum Allocation Act. Its chief purpose was to protect the suppliers of fuel and gasoline to consumers and it is accomplishing that purpose today.

But that particular bill does not cover many interrelated areas of energy supply and consumption that now have reached crisis proportion. The legislation we are considering today goes much further than that bill did. It gives unprecedented power to the President, which is one of the things that disturbs me and I am certain disturbs many people in the Congress. It gives this power through a Federal Energy Administration and its Administrator, Mr. William Simon, but even though that power is unprecedented in peacetime we have attempted very carefully by the provisions of the bill to put certain safeguards around it and in so doing we put in judicial review safeguards. The modifications of the environmental statutes that we put in are precisely drawn, in my judgment, or as precisely drawn as we possibly can, and are limited both in scope and duration.

As my colleagues have already noted, this bill calls for drastic action by the Government, intensified efforts by industry itself, and the utmost cooperation of every citizen. It directs the Administrator of the new Federal energy agency to propose energy conservation plans.

In answer to questions that were raised earlier, I feel that is perhaps one of the most important factors of the bill, for while the Congress may have foreseen the problem before the administration, it acted from a rather piecemeal point of view and acted in a piecemeal way to cover what is a very broad problem indeed.

So the Federal energy agency proposal calls for conversion from scarce fuel to abundant fuel by major industrial users. It protects the normal and very complex marketing and distribution arrangements in the fuel industry as it protects the consumer against runaway pricing. Windfall profits are restricted severely. Authority is granted to the administration to restrict exports during this period of critical shortages and some environmental protection plans are temporarily suspended but appropriate safeguards, as I say, are provided for.

But perhaps most importantly the legislation calls on virtually every department and agency of the Federal Government concerned with any aspect of energy to report on the impact of the current crisis on its special area of jurisdiction. When the studies mandated by this jurisdiction have been submitted to the FEA, there will at long last be correlated data on which energy reports can and must be made.

There will be finally collected in one place under one person the data that has so long been urgently needed and within 120 days, and in many cases less, after the enactment of the legislation, the FEA Administrator will have reliable facts and figures on our export and import investment commitments on fuel economy, on siting energy production facilities, on employment, on environmental impact, and on many other vital areas; so I am greatly encouraged by the appointment of Mr. William Simon to that post of FEA Administrator. I devoutly wish he had been appointed 6 months ago when he appeared before our committee with a plan during July that could have been instituted and implemented at that time, instead of now in December.

I believe the confusion, the hesitation, and the indecision of the administration, both in policies and in personnel, has contributed significantly to the sorry state we find ourselves in today. Nonetheless, if this body approves the bill we are debating today, it will give to Mr. Simon the tools to do the mammoth job he has been given to do. I urge my colleagues to give him those tools.

I actually want to praise very much, indeed, our colleagues on the Government Operations Committee who also worked night and day in forcing through quickly his appointment, in hearing many witnesses and taking testimony and in general doing a good job.

I indicated earlier to Mr. LANDRUM, of Georgia, that I thought he was left with rather a false impression at one point during the earlier debate, in which he inquired as to whether this program was to be a long- or short-range program. It is, of course, to be of short duration as of now; but it is, of course, also to be of long duration.

I hope that the record can be made clear that the need that he seemed to indicate that he felt of further depletion allowance, of further tax breaks for the oil industry, for the 11 major oil companies, to get them to come back here to the United States to invest their money instead of taking the free tax breaks that they now get in dealing in the Middle East, both by way of tax credits, by way of foreign depletion allowance, and by way of no income tax. Under the present law, if they pay taxes to a foreign country they do not have to pay those taxes to the United States. I think when and if this Congress, through the Committee on Ways and Means, does move in this field, it would be a much needed reform. Mr. Simon has indicated that he felt it might be a very good thing to do, indeed. I feel that they will so act. There is nothing wrong with businessmen trying to make more money, but greed must be curbed. If we can channel exploration back to the continental United States, our fuel shortage here at home will be cured and, hopefully, that will be soon.

I yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I want to take this opportunity to compliment my colleague for an excellent statement. I also agree with him in regard to the appointment of Bill Simon. I think this man has a handle on the issues and also is a very decisive man to do a very good job.

The question I wanted to ask in regard to taxes, this just came over the wire:

Bill Simon requests raising heating oil 8 or 9 cents a gallon and gasoline 6 or 7 cents a gallon, which I strongly oppose. Is there anything in this bill which gives him that authority to do that?

Mr. MACDONALD. He has flexibility. He asked before the Government Operations Committee to be given more flexibility. Whether it is in our bill, I would doubt very much inasmuch as we do not touch upon the formation of his office, although the committee under the leadership of Mr. HOLIFIELD does do that.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD. I now yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I think I can respond to that. Under the Federal Energy Administration, the parts of the Cost of Living Council which affect all prices will be moved into the Federal Energy Administration. However, that is not involved in detail in this legislation. That will be subsequent legislation coming from the Committee on Government Operations.

The CHAIRMAN. The time of the gentleman from Massachusetts has again expired.

Mr. STAGGERS. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. BROWN of Ohio. Mr. Chairman, I asked the gentleman to yield so that I could praise the leadership of the gentleman in the well (Mr. MACDONALD) in the whole area concerned with energy. I must say to the gentleman in the well that during debate on the Alaskan pipeline legislation—and I would have to search back for the date of that, although it seems to me it was earlier in the summer—the gentleman proposed an amendment which later in the substantial form, although modified to some extent, became the mandatory fuel allocation legislation.

At that time I opposed the gentleman's amendment because I thought we were acting precipitously. Had we accepted it, we would now be better off, and I would say in retrospect that he was probably correct and I was probably wrong except with regard to some of the details of the amendment.

However, the gentleman has provided leadership in this area, and the mandatory fuel allocation act is a good example. This act is another good example. I think the gentleman's statement is needed for this act. I hope other Members have the same grasp and perception of the matter that the gentleman in the well has.

The CHAIRMAN. The time of the gentleman from Massachusetts has again expired.

Mr. STAGGERS. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mrs. GRIFFITHS. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD. I yield to the gentlewoman from Michigan.

Mrs. GRIFFITHS. Mr. Chairman, I would like to say that section 117, on windfall profits, probably is a sufficient delegation to permit the President to tax. That is, it gives him the power to set the price of petroleum and petroleum products—and to exclude windfall profiits. In my opinion, since Secretary Shultz has been wanting a 40-cents-per-gallon gasoline tax, I think the President could, under this, legitimately set a price of 90 cents to $1 and retain 40 cents as tax per gallon. That is excluding windfall profits. Either that section should be stricken completely or amended.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD. I yield to my colleague from Massachusetts.

Mr. BOLAND. Mr. Chairman, I want to asssociate myself with the remarks of the distinguished gentleman from Massachusetts. I want to compliment him on the leadership he has given on this bill and many other bills affecting this energy crisis which is now perplexing our Nation.

I take pride in the fact that he recognized the problems we do have in New England and commend him for the leadership he has shown on the Alaskan pipeline bill and the mandatory fuel allocation bill, which the administration did not want, but which he led through Congress.

Mr. Chairman, I appreciate this opportunity to make my views known concerning truly crucial legislation.

I rise today in support of H.R. 11450, a bill to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met.

I wish to thank the distinguished chairman and the members of the Committee on Interstate and Foreign Commerce for acting as expeditiously as they have in considering this and other related energy emergency bills.

H.R. 11450 is a congressional directive to the President to take certain vital measures in dealing with our national energy shortages. The Senate has already passed a bill which utilizes this approach. S. 2589, the National Energy Emergency Act of 1973, was introduced by Senator Henry M. Jackson, of Washington, whose leadership in this field has been a light burning brightly amidst the gloom into which the current energy crisis has cast our Nation.

Mr. Chairman, there is a plethora of facts and statistics concerning our energy problem available today to the readers of any newspaper or magazine. All we really need appreciate, however, is that this country produces domestically only 70 percent of the petroleum that it needs. Before the Arab-Israeli conflict and the subsequent Arab oil boycott, we imported fully one-third of all the oil we consumed. Conservative estimates of rising demand put our 1980 import total at something like one-half of our needs.

In eight of the Arab nations' virtual cutoff of oil exports to this country, we are now facing something like a 17 percent shortfall in our energy needs. The President has proposed a series of so-called "new initiatives" for dealing with energy shortages. He has said that measures such as reducing speed limits and shutting off the pumps on Sundays will bring about a 10-percent reduction in energy consumption. Referring to the 7 percent margin which remains between supply and demand, he cryptically adds that "additional actions may be necessary." What this means he does not say. What he should be saying, however, is very clear.

He should be telling the American people exactly what measures are necessary for a realistic allocation of our energy resources now. He ought to outline publicly and without any allusions to pie-in-the-sky predictions, like energy self-sufficiency by 1980, exactly what our energy policy in the future is to be. He ought not to be proposing half measures like a 50 mile per hour national speed limit if sterner measures are needed as well. If it is one thing that all Americans are painfully aware of, it is that the energy crisis is now. The way to treat them is to tell them the worst and get on with energy conservation and allocation measures that will at least spread the burden of energy shortages equally.

But that is exactly what this President has not done. He has fallen back on his favorite political tactic, which can be epitomized as, "promise them anything, omit as much as you dare and tell them to trust you." Perhaps we will soon learn that there is some national security menace that requires a moratorium on plain speaking and dealing in government.

The facts are that—the Arab-Israeli war aside—energy shortages have been predicted ever since the fifties. Presidential commissions, the Federal Power Commission, and private foundations have to one degree or another warned us that our demand for energy was fast exceeding our capacity to supply it. In recent years, when the signs have been plainer and more persistent, we have witnessed a President and his administration not only discount these signs, but insist right up until the Arab embargo that shortages would be minimal and hardly disruptive.

Our national energy policy has been a mishmash of half measures and pipe dreams long before the most recent example of Presidential hopeful thinking. Persistent, unreasoned devotion to import oil quotas over the past 20 years has had the effect of making us dependent on foreign oil because our own reserves have been so heavily depleted during that period. A sudden reversal in policy by attempting to develop other domestic sources of fuel is laudable, but it comes 20 years too late. We should have realized that restricting foreign oil imports when they were cheap and plentifully available would have two significant effects—reducing our own reserves and thereby making us more and more dependent on foreign oil in the future. In the process, we might have forseen, the major oil companies would grow richer and more powerful.

These huge conglomerates now control all aspects of the petroleum industry. Economists call it vertical integration. What it means is that these companies control the drilling, refining, shipping, retailing and pricing of petroleum products. The present monopolistic structure of the industry dates in no small measure back to the imposition of oil import quotas. Quotas helped drive the smaller independent oil retailers and refiners out of business. National security reasons were advanced for import quotas, yet the opposite purpose seems to have been served. Not only did the quotas hasten the demise of competition in the oil industry, it also helped put this country in its present untenable posture of dependence on foreign sources of oil because of diminished and dwindling reserves.

Oil shortages are not the only facet of the current energy crisis. Our known supplies of natural gas are no longer increasing, but decreasing. In other words, things will be getting worse before they get better. 1980—contrary to the President's public statements—will not see an end to oil and gas shortages. Our energy needs, conservation measures notwithstanding, will increase. Our currently estimated shortfall of energy supplies—17 percent—could grow to 20 percent if—as expected—Canadian oil supplies previously sent to this country are rerouted to other parts of Canada to supply areas that have thus far used foreign oil. As matters now stand, we have inadequate storage facilities on hand to accommodate a sufficient emergency reserve, even if we had one. New York City, it is my understanding, has existing storage facilities to generate only 4 to 5 days of heat and power.

U.S. refinery capacity is also inadequate to develop even the limited oil and other energy fuels that we can bring into action immediately. The major oil companies have not enlarged our domestic refining capacity in any significant fashion for years. Their reasons were not so much concerned with environmental restrictions as they were with economic ones, it being cheaper to build refineries in Europe and the Middle East than here at home. Decisions such as these—along with import quotas and the depletion allowance—helped to make the last several years as profitable as any these companies have ever enjoyed.

I am not one to blame the oil companies for all our present woes. Certainly they were insensitive to factors other than their balance sheets. Their institutional advertising certainly helped to set the tone for the runaway energy consumption—or should I call it runaway waste—of petroleum products that has distinguished the postwar years. By no stretch of the imagination were strategic and long-term national energy problems part of their corporate policy. All of that is not their failing, either. National policy is supposed to be articulated by the administration.

Indeed, we cannot place the principal blame for the state of affairs exclusively on any one institution or group. However, we certainly had a right to expect more consistent and positive leadership from the President than we have received since 1968. What we have seen as a lackluster, often contradictory approach, one that has shown every indication of having been dictated from the boardrooms of Exxon or Mobil. Even in the face of impending gasoline shortages during this past summer, it was only late last spring that this President finally dropped import quotas. In as many months we have witnessed the appointment of four separate energy czars, the last no more effective or believable than the first. Only on the fifth go-around have we been presented with a strong, competent administrator. We have heard appeals for compliance with voluntary fuel conservation measures that are designed to apply equally to all, yet in almost the same breath we hear of a double standard for motor vehicles that has already resulted in massive disobedience and failure.

Why could we not have seen a well thought out, comprehensive, thorough program before now that could have dealt with our problems starting now, instead of the daily kibitzing and conflicting reports in the newspapers by various administration figures that we have seen? Why cannot we expect to get sincere, concrete energy proposals instead of denunciations against the Congress and vainglorious puffing about nonexistent Presidential energy packages? Why is it that Speaker Albert has to issue statements setting the record straight about impounded energy research funds, about the actual contributions that coal and the naval reserv can make to our problems now, about hanging on to import quotas to the bitter end or about the antagonistic unrealistic and misleading response that this President calls his energy message to the Nation?

With this state of affairs as a background, Mr. Chairman, I think I need not plead overlong for the particular features of H.R. 11450 which expressly delineate the measures the President must take in the event of a national energy shortfall. I need not add, I think, that exceptional and persuasive congressional leadership is mandated by this set of circumstances. I hope all my colleagues will agree that it is imperative that the Congress provide for measures which in its considered, best judgment, it deems are adequate to deal with any possible energy shortage. Finally, I trust I can assume the support of all here present for the provision contained in H.R. 11450 that all measures, all restrictions apply equally to every part of the country. And this should mean that every region ought to enjoy the same benefits and share the same hardships as all other regions.

Such a provision is particularly important to me, representing as I do a New England district, we are all being asked to cut back on the use of home heating and residual fuels by 15 percent. Yet, New England is unique among other regions of this country in its dependence on imported oil. We literally have no refineries located in the region to serve our needs. It is estimated that actual shortages of residual fuel in New England may reach 50 percent, home heating fuel 30 percent. Both percentages greatly exceed what is being expected of us—or any other region—yet we will be much more seriously affected due to our almost total—70 percent and 75 percent, respectively—dependence on these fuels for power and heat.

To the people of New England, this winter had already looked to be a grim one. With the Arab embargo and the low priority that fuel oil production has received because of price freezes at seasonal lows, we are no longer concerned merely with tightening our belts. Now the question is one of survival—for businesses of all sizes, for what meager share of the national prosperity we now have. Unemployment in my home State of Massachusetts is nearly double the national average now. I receive calls every day chronicling layoffs and shutdowns in industries ranging from plastics to clothing manufacturers.

Mr. Chairman and members of the committee, New England needs relief. We need it now and we need our fair share—of jobs, of fuel oil, of the attention of this Government. I believe that H.R. 11450 fills the needs for measures which must come if we are to survive our energy shortage without economic recession and depression. It does so in a manner that will insure that the Congress has a good deal to say about the matter. It will also mean, I believe, that justice and proper flexibility will work hand in hand to guarantee equality of treatment under the law. I, therefore, urge your favorable consideration.

Thank you.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I should simply like to comment briefly on the question of the gentlewoman from Michigan. As I understand, under present law, the President both under the Economic Stabilization Act and under the Emergency Petroleum Allocation Act, have the authority to set prices. What we do in this act is to provide that, if those prices result in windfall profit, there be a way that these windfall profits can be recouped by those who have been overcharged.

We do not in any way impose a tax.

Mr. MACDONALD. Mr. Chairman, I agree with the gentleman.

Mr. BROWN of Ohio. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. Devine).

Mr. DEVINE. Mr. Chairman, I am just going to speak generally on the overall subject of the so-called energy crisis. I do not expect to get into the technicalities of the bill, because there are many.

It is unfortunate that, as I look across the floor of the House, I see less than 50 Members on the floor, and when I look at the press gallery—although I guess we are not supposed to talk about that—I see there are less than a half dozen members of the press here. And yet this is one of the most crucial issues facing the American people today.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. DEVINE. Mr. Chairman, I will not yield to the gentleman if he intends to ask for a quorum. I will not yield if that is what the gentleman has in mind.

Mr. ROUSSELOT. Mr. Chairman, I do.

Mr. DEVINE. Mr. Chairman, I do not yield for that purpose.

Mr. ROUSSELOT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond.

[Roll No. 657]

Abdnor
Bolling
Breckinridge
Burke, Calif.
Carney, Ohio
Clark
Clay
Collier
Conyers
Culver
Diggs
Drinan
Erlenborn
Evins, Tenn.
Fisher
Foley
Fraser
Frey
Ginn
Gray
Gubser
Hanna
Hansen, Wash.
Hastings
Hawkins
Heckler, Mass.
Horton
Hunt
Jarman
Johnson, Calif.
Leggett
Long, La.
Long, Md.
McKinney
Mathis, Ga.
Melcher
Minish
Mitchell, Md.
Moorhead, Pa.
Obey
Pepper
Powell, Ohio
Quillen
Rees
Rooney, N.Y.
Ryan
Sandman
Sikes
Slack
Smith, Iowa
Stephens
Stokes
Stuckey
Symington
Taylor, Mo.
Udall
Walsh
Widnall
Wiggins
Wilson, Charles H., Calif.
Wright
Wyatt
Young, Ga.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11450, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 369 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the Committee rose, the gentleman from Ohio (Mr. Devine) had 4½ minutes remaining.

Mr. DEVINE. Mr. Chairman, I regret any inconvenience caused to Members of the House in being called by a quorum. My contribution to the debate here will not be of such moment that it will particularly be long remembered. I merely wish to point out that when I mentioned the fact that there were half a dozen or less in the press gallery, and less than 30 on the floor, that the concerns of the people of the Nation were not necessarily reflected by floor attendance here.

And this is probably one of the most critical issues facing our Nation today. We get letters from schoolchildren saying: What caused all this? What is the problem? A great many people are looking for someone to blame rather than seeking solutions.

I would be quick to point out that the President 2 years ago sent a message to this Congress and offered seven programs to be adopted and we in our laborious way have finally adopted one, signed by the President earlier this month, and that was the trans-Alaska pipeline.

What was the cause? Did anybody anticipate these problems? Yes, they did, but we did not do anything about it and we thought perhaps that it would go away.

One of the problems is that although refineries may be putting out as much oil this year as they did last year, the consumer consumption has increased amounts up to something between 7 percent and 12 percent. When we add to that and couple with it the reduction of oil coming in from the Arab States, from the Arab countries, which is 11 to 12 percent, we find that this shortage combined with the increased usage compounds the problem to over 20 percent.

I think the public has been generous in its response by exercising restraint in the use of such things as gasoline, electric lights, heat, and air-conditioning at the request of the President, recognizing that indeed there is a shortage, and although they would deplore rationing they would accept it only if it was a last resort.

Many people have indicated by mail that the last thing they want is an additional tax or an increase in price because that would hurt the poor people more than any other segment of our society.

But these are all problems we know and recognize and we have to try to seek a solution.

I would say in behalf of the Committee on Interstate and Foreign Commerce and our chairman and members that they worked very hard, having morning and afternoon and in some cases evening sessions. We had more than 100 amendments to clean this up and make it more palatable. We deplored the rule which was granted but it was the only type of rule by which we could get this bill up for consideration. Our response today should be to do the best we can with what we have and try to come out with a reasonable solution.

One anomaly is that so many people who deplored this, particularly on this—Democrat—side of the House, base it purely on granting authority to the President and screaming about the Presidential grab for power but they hastened in this bill to throw this power to the President. They do not want the responsibility for rationing. Let him have it. Of course they say we should not transfer power to the President because he is power mad, and he is the same one they want to impeach for exercising bad judgment in the use of his power; so it is hard to understand why in this bill they want to grant him this power, other than possibly having a "patsy" to blame if people do not care for the result.

For some reason in the committee we took out the word "rationing" because rationing is not acceptable to the people. We put in another word or words something like "fuel allocation" or some other substitute there because they do not want to talk about or to think about rationing as such. This bill says the White House shall do this and then they have to report back to the Congress within 30 days except on rationing. They leave rationing to the President, because if it does come they want to say he did it and we did not do it. Let us put the responsibility on him. Let the President be the scapegoat.

It is a peculiar bill, a peculiar instrument with many political ramifications which we recognize. But let me say that Watergate will not even be a political issue this next year if our people do not get fuel to heat their homes or to turn on their lights or to drive their automobiles. If they lose their jobs because of the lack of fuel, they will not talk about Watergate but they will talk about us if we fail to do the right thing in an effort to meet this serious problem head on.

That is the reason we are here today. We are trying to do our best with a rather cumbersome, imperfect bill to create a workable solution.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I commend the gentleman for his statement as it applies to Congress facing up to rationing. I think we in the Congress have to bite the bullet as well as the administration. As I have said I think rationing is inevitable and I think for us to bypass the issue is an obvious political gambit, throwing the whole responsibility over to the White House. Both Congress and the administration should face up to their obligations. Rationing is undesirable but when compared to other systems of distributing gasoline it is the best.

I think it is a little bit as Winston Churchill said about democracy, that democracy is a terrible form of government but it is the best yet that has been devised and tried by man.

Mr. DEVINE. I thank the gentleman from Maryland.

Let me conclude by saying that there are some provisions in this legislation that could be helpful and those that would permit a suspension of some of the EPA regulations are among them.

I do not oppose environmentalists. I think environmentalists have a very important part in our society. We do have to clean up the water, the air, and the countryside. But we have to be realistic. They must moderate their positions. This legislation will authorize the President to suspend some of the emission standards that create problems and cut gas mileage, while we have a shortage of gasoline. These are things we have to consider to come up with the best bill possible.

Mr. HÉBERT. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Louisiana (Mr. HÉBERT).

Mr. HÉBERT. Mr. Chairman, I take this time in order to make an inquiry of the chairman of the committee.

Page 4 of the bill, lines 1 and 2, provide for "equitable treatment of all sectors of the economy." Further on, page 44, lines 9 through 17, provide that actions taken pursuant to the authority of this act:

> Resulting in the allocation of refined petroleum products and electrical energy among users or resulting in restrictions on use of refined petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among users.

Do I understand that the provisions of the bill to which I refer are intended, among other things, to insure that users, as well as members of user classes, of refined petroleum products and electrical energy shall be treated equitably among other users and among other members of their respective user class, and that there shall be no discrimination or favoritism shown for one member of a user class over and above another member of the same user class? That is, a member of a user class, whether that user class be manufacturers, the agricultural industry, the sports industry, or the aviation industry, will be treated equitably along with the other members of its respective user class.

Mr. MOSS. Mr. Chairman, if the gentleman will yield, the answer is that the gentleman's question correctly states the intent of the committee in the adoption of the amendment offered by the gentleman from California (Mr. GOLDWATER). It is intended to prohibit any kind of unreasonable discrimination between classes of users. It is dealt with more extensively on page 27 of the report accompanying the bill.

Mr. HÉBERT. Then as I understand the gentleman's remarks, there will be no discrimination in the sports field, I have particular reference to?

Mr. MOSS. No unreasonable discrimination; the gentleman is correct.

Mr. HÉBERT. Who is going to determine whether it is reasonable or not reasonable?

Mr. MOSS. The Administrator and, of course, in the courts there is a long history of case law in the construing of the term "reasonable."

Mr. HÉBERT. Why was the word "reasonable" used?

Mr. MOSS. The term was used advisedly because of the extensive case history in the construction of the term "reasonable" in the courts.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from California.

Mr. GOLDWATER. If I may respond to the question, there was much discussion on this particular topic at the time the amendment was eventually adopted.

I think it was the intent, as Mr. Moss tried to explain, that we do have a shortage. I think it is reasonable to assume that wherever possible, to the greatest extent possible, we should all try to shoulder the burden equally.

The Administrator does have the priority and the authority to establish priorities; but once a priority is established, a classification and all in that classification would be and should be treated equitably.

Mr. HÉBERT. That is what I ask the question to determine; but the other question which the gentleman from California did raise was the use of the word "reasonable" and that was the further question I asked, who would determine the use of the word "reasonable"?

Mr. MOSS. If the gentleman will yield, I felt it incumbent upon me to explain the meaning of the word "reasonable" and that this has been well construed in many court cases in this country; but the clear intent is that it be equitable.

Mr. HÉBERT. That is the intent?

Mr. MOSS. That is correct.

Mr. HÉBERT. Mr. Chairman, I thank the gentleman.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. NELSEN).

Mr. NELSEN. Mr. Chairman, I want to reemphasize the comment made by the gentleman from Ohio (Mr. DEVINE) a few months ago. I noticed in the colloquy some language to the effect that the President should have done something earlier. About the next paragraph or two further on, we complain about the unprecedented power that we have given him. I commented in the hearing in the committee that I hope we do not proceed on the basis of transferring power and then criticizing the use of it.

I want to say this, that in the committee hearing I found a very bipartisan attitude of trying to go ahead and do a good job. That is what I want to do, and I know the Chairman does. I want to compliment our chairman, HARLEY STAGGERS, for the patient way that he presided over this hearing, and I want to say he did a very great job. I supported the reporting of this bill from the commitee, feeling that we had to meet our responsibility and bring a bill to the floor, not necessarily agreeing with every phase of it, but certainly it is necessary to bring a bill out on the floor.

I want to point out to the staff that we have amendments in this bill, I think one goes in one direction and another goes in another direction, and the poor staff has to sit down and try to figure it out, how to take care of it because, really, we do put them on the spot.

Mr. Chairman, may I say this: That the thing we are faced with today is available power supply, available fuel supply, and we find today the trucks of our country without an adequate fuel supply to bring the products around the country in our distribution system. But maybe we are to blame a little bit. We in our committee handled the clean air act. Maybe we pushed a little too fast and a little too far and as a result, instead of 18 miles to the gallon, we get 8. We then move into the area of some of our limitations that we have provided through EPA where coal lies idle; where nuclear power upon which we have spent billions to develop as a possible source of power lies idle in many cases.

However, I want to say this to the Sierra Club and others interested in conservation: I take my hat off to them, because they recognized that we were going in the wrong direction and they put the brakes on. But, I also want to call attention to JOHN SAYLOR's speech before our committee some months ago—and he is one of the real disciples of conservation—who said in the committee that we had to be tough, but we have reached the point now where there must be some adjustments, and I think that is becoming more and more obvious.

Mr. Chairman, I would like to call attention to the fact that really now, as I pointed out in the hearing, if we are going down the road at 90 miles an hour and make a right angle turn, we are going to roll over. We are in that position, and some of the things that are happening, we had a hand in doing them.

My good friend from New York (Mr. MURPHY) and I joined hands in an amendment that would provide that where the ambient air quality is not disturbed, we can use alternate supplies of fuel. In this case it could be coal, and of course the thing we are interested in is the overall ambient air quality where human beings are not damaged because of the ambient air quality that may prevail.

Now, the individual emissions, stack emissions, might not meet the standard that has been set up, but the overall standard may have been maintained, and we have safeguards in this bill to protect against it. The gentleman from New York (Mr. MURPHY) and I joined in the committee to do exactly that.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I thank the gentleman for yielding.

I would like to point out that the Clean Air Act was written and brought to this floor and passed by this committee, and that the committee has no intention of permitting a relaxation of those safeguards to insure clean air and maintain clean air.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. NELSEN) has expired.

Mr. BROYHILL of North Carolina. Mr. Chairman I yield 2 additional minutes to the gentleman from Minnesota (Mr. NELSEN).

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield further?

Mr. NELSEN. I yield to the gentleman.

Mr. MURPHY of New York. Mr. Chairman, the Committee of the House has no intention of permitting a relaxation that would go back in terms of turning the clock back on some of the air pollution problems we had, particularly in my city and in some of the other cities of the country.

I think the language, as we amended it in the committee, along with one further technical amendment which we will offer on the floor, will protect and insure that the quality of air in the airsheds is maintained, and also that we do meet our responsibility to the problem of the production of energy and the proper use of fuels within our resources, and I am sure that the language will be accepted in the Committee of the Whole.

Mr. NELSEN. Mr. Chairman, I thank the gentleman.

I would like to make one more comment.

I received a letter from John Madgott, of Wisconsin, the manager of one of the fine REA powerplants in the Midwest. I received another letter and a telephone call from Andy Freeman of North Dakota, who runs another powerplant dealing with the REA program.

In North Dakota we have vast coal supplies, and they want to build a powerplant right on top of the coal supply. They want to transmit this power to the Twin City area, where population areas are extensive. This will be done by transmission lines which will not disturb the ambient air quality at all in the wide open spaces, bringing this energy to the Twin City area and distributing it to the needs of the country.

I want to say that this is what we are trying to do. We are not trying to disturb the ambient air quality, but we are trying to follow the mandates of the original Clean Air Act, where in all cases we tried to take into account all of these problems.

I want to say that I hope we can really put this thing together so that we can harness our energy and our fuel supply to produce power and to reduce the demand on petroleum products which we find ourselves in short supply.

Here in my hand I hold an editorial from the St. Paul paper, the Pioneer Press, entitled "Our Attractive Coal":

OUR ATTRACTIVE COAL

The shortages of petroleum and natural gas have turned attention to other fuel sources in the United States—notably coal. Coal is what we have plenty of, we are told.

That fact is not going unnoticed outside this country. Indeed, notes the Wall Street Journal, foreign firms are scrambling to invest in American coal companies, providing funds at rates often cheaper than the mining companies can obtain in the United States, in return for guaranteed supplies.

Thus Dutch, French, Italian and Japanese companies already have made heavy investments in Appalachian mines which produce a high-quality coal used in the making of coke for manufacturing steel. The devalued dollar has made the investments easier.

Here we have a picture of an important energy source being exported from the United States to bolster foreign production which competes with American on the world markets. Officials of the coal companies receiving the foreign funding explain that American steel companies "have been reluctant to make the risk investment to hold coal reserves." What's more, the foreign investors, unlike the American, seems less interested in what the coal will cost them than in having assured sources of supply.

Isn't the script turned around a bit here? Aren't Americans supposed to be the risk-taking capitalists? Aren't we the industrialists interested in assuring ourselves the raw materials we need for domestic manufacturing? And aren't we being a little careless about letting our energy sources (rich as our coal deposits are alleged to be) out of our hands?

American business investment abroad still far outstrips foreign investment here, but it's certainly no one-way street. The Japanese have been investing heavily in Hawaii and the West Coast—in hotels, real estate, factories. West German corporations, bulging with profits, are spending hundreds of millions in American branch factories and other installations. Nothing wrong with that, in itself, but it's a bit disquieting when some of this investment is made a) because American industry to too timid to take the risk, or charges too much for its money, and b) to extract from this country important energy sources at a time when we are all worried about having enough for ourselves.

This editorial points out how the Dutch, the French, the Italians, and the Japanese are picking up coal supplies in the United States at this time and transporting them to other countries and putting them into industry to compete with our industries at home.

Mr. Chairman, it seems to me that we need to wake up and begin to use the resources that we have.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from South Carolina (Mr. YOUNG).

Mr. YOUNG of South Carolina. Mr. Chairman, everyone knows we are experiencing an energy shortage. Everyone knows the long-range solutions—develop and expand additional energy sources such as the sun, oil shale, the atom, and deep seabed reservoirs; improve delivery techniques with deep water ports, and the Alaskan pipeline; and ultimately move to energy uses that are less wasteful.

All of these things can be done. And, I think now they will be done. This is our silver lining. If 2 or 3 tough years will make us take the kind of action we should have been taking over the last 20 years, we may be able to look back and say—as George Washington might have said years after Valley Forge—"Well, it was worth it."

The key missing word in most discussions of short-term goals in the oil crunch is price. And herein lies a fundamental difference between philosophies. I have a general inclination to let the fair market price allocate resources. Others would have a general inclination to trust rationing—and an inevitable bureaucracy—to do the job, apparently assuming that supplies and needs are stable regardless of price.

But supplies and needs do not operate in a vacuum—they fluctuate with the prices. I need food. And I like grits, some may look at me and say too much. But I like grits much more at 20 cents a pound than I would at $1 a pound. At some point in between, I imagine I would transfer my "need" for grits into a need for potatoes. At that point, it becomes more profitable for others to start growing more potatoes to meet my needs. If, on the other hand, I still wanted my grits at $1 a pound, an awful lot of people would be planting an awful lot of corn, thereby bringing the price down.

Well, the Nation needs energy. Today, we prefer oil and gas to its solar and nuclear forms. But would this preference hold forever in the absence of Government price fixing? I do not think so.

What sort of price increase would it take to deter gasoline consumption by 10 percent? Great Society economist Walter Heller, figures a price rise of between 15 and 20 percent, which is in line with the highest guesses of Gov. John Love and Prof. Milton Friedman. If they are correct, gasoline would then level off at about $0.55 a gallon—hardly enough to make rationing necessary. In most countries, gasoline costs at least twice that.

What about those who would deliberately hold petroleum off the market to keep the price up? In the first place, it would speed up the encouragement of others to market solar and nuclear energy. In the second place—since no single oil company controls more than 10 percent of the market—collusion would be required. And I would be the first to call for a vigorous use of the big stick we have in our antitrust laws. No sane corporation would mess with that kind of power.

I find it interesting that those who would prevent the price of gasoline from finding its fair market level have no objection to additional taxes on gasoline. One day, the New York Times says "higher gasoline prices constitute a regressive tax." On another it says, "higher taxes on gasoline can indeed carry part of the burden." A voluntary conservation drive is fine, but it has less impact than a spitball when it conflicts with economic incentives. Coupon rationing gets hopelessly bogged down as bureaucrats try to decide whether to hand out coupons per car, per house, or per person; to sort out essential driving from nonessential driving; to weigh hard-luck stories; and to deal with black markets.

The way to get people to insulate their homes, drive noisy little cars, and stop making office buildings out of glass is to make energy expensive enough to justify the cost of conservation. Allowing energy prices to seek their natural level is the least arbitrary way to discourage energy use. The price system is simply the best rationing device ever invented, and if it were not able to handle a 10- to 20-percent shortage, we would not be eating more meat today than we were during the beef price freeze.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I want to thank the gentleman for yielding time to me.

Mr. Chairman, I asked for this time to point out something which I consider very irregular that is taking place in my district at this time.

When I read the committee report discussing some of the highlights of this bill, I found that it says this very plainly: That industry must convert to coal, and it must continue to use coal if it is using it.

As I say, I asked for this time to point out how inconsistent, absolutely inconsistent, the Department of Defense is.

I have in my congressional district the Mechanicsburg Naval Depot, and I have been told that this is the largest supply depot in the entire United States.

I also have the New Cumberland Army Depot in my district. You have probably guessed that right in these particular facilities they are converting from coal to oil, if you can think of anything more ridiculous or asinine. I and some of my Pennsylvania colleagues have been fighting this for more than a year, but, as usual, the Department of Defense wins.

Geologists tell us that we have a supply of coal that will last 500 years and a sizable amount of it is right in Pennsylvania. In fact, both of these installations that I mentioned are practically sitting on top of coal mines. One has already been completed and was put in operation about a month ago. The other one is in the process of being completed right now.

One of the excuses that the DOD gave me was that they simply cannot meet the emission standards. I told them in no uncertain terms, and probably in terms I will not use here.

> Do not give me that line. If we can place 12 men on the moon and additional men on Sky Lab, do you have the nerve to stand here and tell me we cannot meet emission standards if we make up our minds to do it?

In spite of protests, they did it. What we can do about it now I do not know.

I would like to ask the gentleman chairing the committee at this time, is there anything this Congress can do now under the circumstances to stop this one installation that has not already been completed?

Mr. MOSS. I must admit to the gentleman I have had about four Members here asking me to respond to questions, and I would simply state that if you will restate your question, I will attempt to respond to it.

Mr. GOODLING. I believe you will agree with me that it is a pretty ridiculous thing to be doing at this particular time. Would you not?

Mr. MOSS. I would agree with the gentleman that we are faced with a very difficult situation. We have attempted here on both sides of the aisle to come up with the best solution available at this moment.

Mr. MOSS. Mr. Chairman, I yield to the gentleman from Florida (Mr. ROGERS) for a question.

Mr. ROGERS. I thank the gentleman for yielding.

I draw your attention to sections 103(h)(1) and 105(b) of the bill, which provides for top priority to the maintenance of vital services such as health care and hospitals. As you know, some of the most critical substances today are petrochemicals. For example, petrochemicals are used in the production of solvents essential to the manufacture of penicillin, sulfa drugs, antiseptics, and germicides. Petrochemicals are also used in the production of plastics and rubber substitutes used in medical devices such as syringes, tubing, artificial heart valves, and other vitally needed health care products.

Is it your understanding that this section is intended to include priority for the allocation of petroleum products including propane to the petrochemical industry for these purposes?

Mr. MOSS. That is my understanding, and it is a matter which was discussed at some considerable length during the course of the markup. I think it was made quite clear that it was the intent of the committee that that be done.

Mr. ROGERS. I agree with the gentleman, and I yield back the balance of my time.

Mr. MOSS. Mr. Chairman, I yield to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. My distinguished friend from California, a number of my constituents have voiced serious concern about the effect this legislation would have on the availability of fuel used for agriculture aviation purposes.

Section 103 of this bill states that—

> A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, *agriculture*, and transportation services, which are necessary to the preservation of health, safety, and the public welfare).

Is it correct that petroleum products used in aviation for agriculture purposes such as crop dusting and planting will be entitled to priority as an agricultural use and not treated as a general aviation use?

Mr. MOSS. It is my understanding that it would be dealt with as a matter of priority in the maintenance of agricultural operations as set forth in the report on the Emergency Allocation Act which passed this House earlier. The report number is 93-628. In section 4 thereof the exact language is "maintenance of agricultural operations, including farming, ranching, dairying and fishing activities and services directly related thereto as a part of the mandatory allocation."

Mr. MOSS. The answer, succinctly stated, to the gentleman's question, is that the gentleman is correct; it would be agricultural and not regarded as part of general aviation.

Mr. BROOKS. I thank my distinguished colleague, the gentleman from California (Mr. Moss) for this clarification.

Mr. MOSS. Mr. Chairman, I yield 10 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, the purpose of this act is to make do with what we have got. That is the real purpose and objective of the act. The situation is precisely this: We have approximately 16.7 million barrels of crude oil per day which we must make do in place of 19.7 million barrels of crude oil per day.

Section 103 of the act is the most important section of the act. It creates the machinery by which we can accomplish this objective. To point precisely to the language that permits it, my colleagues should refer to page 4 of H.R. 11882, lines 4 through 8. And if my colleagues have the original bill, the same language is found on page 7, lines 20 through 25, where it is provided that an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product may be established by the Administrator. Incidentally, the language reads "President," but if one looks at page 9 of the bill the authority here granted to the President is transferred to the Administrator.

That is the section that permits allocation. That is the section that permits one user to receive a petroleum product rather than another user at a lesser level of priority, or an area of the country to be treated fairly as against another area of the country.

The other important part is on page 5, lines 8 through 17. If the Members have the other copy of the bill, the one that was passed out originally with the strikeouts and the revisions, it will be found on page 8, line 24, through page 9, line 8.

That section provides, and it uses again the term "President"—for which you should read "Administrator," because of the provisions on page 9—that the Administrator may require adjustments in the processing operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum products produced through such operations.

Well, that is the problem: to get, as I said before, from 16.7 million barrels of crude the same amount of residual fuel oil and distillates, that we would have gotten from 19.7 million barrels.

How can this be done? We presently produce our residual fuel oil and our distillates from approximately 25 percent of the barrel of crude oil. Using the 25-percent figure as against 19.7 million barrels, we get a certain quantity of distillates and fuel oil. What, then, is the percentage needed to get the same amount of distillates and fuel oil from 16.7 million barrels, the reduced amount of barrels of crude? If you will figure that out, you will find you have to move up to 29 percent of the barrel. Now, that is the problem.

Therefore, section 103 is the major answer to the shortage: Go up 4 percent in the percentage of the barrel used for the most necessary purposes, for home heating and for turning the wheels of the economy. We give the President that authority in section 103 without reserve. We do not tell him he has to come back to Congress. He has got it, if this bill is passed. He may have it under present language of legislation we have already passed—the Economic Stabilization Act and the Emergency Petroleum Allocation Act. But to make it absolutely clear, we spelled it out in the language which I read to the Members. What is the cost of producing that amount of distillate and fuel oil? It may be as much as 5 percent less of the barrel used for gasoline. In other words, we might have to drop from 45 percent of the barrel which goes to gasoline to 40 percent. If we do that we are using 40 percent of 16.7 million barrels instead of 45 percent of 19.7 million barrels.

If we go to the trouble to figure that out mathematically, we will come out with 25 percent less gasoline than we would ordinarily use. That is the problem.

The question is primarily one of allocation. However, I must point out that the bill really deals with three subjects in order to meet the crisis: Allocation, as I have described, under section 103; proscribed and monitored use, which is contained in section 105; and means of stretching available resources, which is contained in section 106 and in title II.

What has our House committee done? Our committee has acted discreetly in these three areas. In the area of allocation, we have granted power to the Administrator to act immediately and extensively. We do not delegate such extensive authority with respect to proscribed and monitored use, as, for instance, in closing down stores that remain open until 11 p.m., or with respect to denying electric power to the bowling alley, or telling somebody he cannot use gasoline in his private plane, or providing rules and regulations to command carpooling. With respect to that area, we do not delegate authority. We provide that the Administrator may recommend a plan, and we must independently act upon that plan after hearing the persons who may be injured by such proscription or such monitoring.

I think that is fair. I think that is desirable, and I think if we do not do that, we are going to have many irate people who will tell us that we have done more than we should have done in emergency legislation.

The third thing we do, and that is covered by section 106, in title II, is to devise means of stretching available resources. In those sections we provide for coal conversion, and in those sections we relax EPA provisions with respect to clean air. We do it discreetly, and we limit those provisions. I think, in general, we do it properly. I think there are desirable amendments to those sections, but we are at least shooting in the right direction.

Why is this bill preferable to the approach in the Senate bill? The Senate bill does not make these discreet differences between that which must be done and that which we may think might well be done. The Senate bill simply delegates full authority to the President by plan to deal with allocation, to deal with proscribed and monitored use, and to deal to a large extent with means of stretching available resources.

I submit to my colleagues here, and I particularly urge those sitting to my left, that they should consider how quite conservative our approach is as compared to the Senate approach. In a crisis and in emergency legislation, above all other times, power should be delegated as sparingly as possible.

This is the very time when we should not delegate unnecessary legislative power to the Executive.

What is the necessary power that must be delegated? It is the allocating power. It is the allocating power and not the power to proscribe and to monitor. That power should remain in our hands. That is precisely what we have done in the language of this bill.

Mr. BROYHILL of North Carolina. I yield 9 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I rise at this time to discuss those provisions which are already in the bill, the so-called antitrust amendments, so that I can give to those of my colleagues who are here some background on this particular part of the legislation and perhaps later on I will have an opportunity to discuss one other amendment which the rules makes in order for me to try to include in the legislation.

Experience over many years has shown that many segments of industry are hesitant to cooperate fully and freely with the Government in programs of joint action. The risks associated with later charges of price manipulation or other restraints of trade arising from requested action taken with competitors is too substantial, many companies feel, without some solid assurance of immunity under the antitrust laws.

This is particularly true of the petroleum industry, which has had numerous brushes with the Federal antitrust agencies over the many years since the old Standard Oil case. Oil companies at all levels of the industry, we have found, are extremely reluctant to meet, discuss problems, and take any action together which might in any way be construed as violating the antitrust laws. Unless assurance against later attack by antitrust agencies can be provided, no meaningful joint effort by these companies to assist the Government in dealing with our national energy problems can be successfully mounted. Industry cooperation would only be hesitant, partial, overcautious and necessarily incomplete.

Yet at the same time, provision for antitrust immunity must be carefully and narrowly drawn. The antitrust laws are an integral part of our economic policy of competitive free enterprise. Any exemption from their general applicability must be in response to a clearly defined need.

It must cover only specific conduct requested by the Government to meet an overriding governmental need. And it must apply only to specific groups undertaking that action. I believe that the antitrust provision we have drafted in cooperation with Congressman Moss, the Antitrust Division of Justice, representatives of the industry and the committee counsel, meets these objectives while also providing adequate safeguards to assure against abuses in the exempted conduct.

Section 120—which passed the committee 28–8—provides for the establishment by the Administrator of the Federal Energy Agency of voluntary agreements, as well as plans of action to implement them, which he determined to be necessary to accomplish the objectives of section 4(h) of the previously passed Emergency Petroleum Allocation Act of 1973. He shall also promulgate rules, standards, and procedures under which these programs of joint effort are to be developed and carried out. Eligibility for signatories to voluntary agreements and participants in plans of action, however, is specifically limited under subsection (d) to persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum products

Subsection (g) provides that actions taken in good faith to develop or implement a voluntary agreement or plan of action shall not be construed to be within the prohibitions of the Federal antitrust laws, the Federal Trade Commission Act, or similar State and local statutes. This exemption is strictly limited to actions taken in accordance with this section and the rules to be promulgated hereunder, and given only to participants engaged in those branches of the petroleum industry I have just mentioned. Taken together, these provisions insure that voluntary agreements and accompanying antitrust immunity will be limited. Under another section, 114, of this act retailers are similarly exempted so that they can set voluntary agreements to assist conservation of energy.

Both sections contain a number of safeguards to protect the public and insure open deliberations. Meetings to develop a voluntary agreement or plan of action must be chaired by a regular full-time Federal employee and must be preceded by timely notice, including the agenda, to the Attorney General and the Federal Trade Commission. A full and complete verbatim transcript of such plan developing must be kept, which shall be deposited with the Attorney General and the Federal Trade Commission and made available for public inspection in accordance with the Freedom of Information Act.

Public participation in the planning is also assured in other ways. There must be advance notice of meetings to the affected community, and interested persons must be permitted to attend and present their views. In addition, the groups which are formed to develop agreements and plans are required to include representatives of the public. I would note here, parenthetically, that although section 120 does not specifically so state, we would envision that the Administrator's procedures would require that the industry composition in these groups must include adequate representation to all segments of the branch of the petroleum industry involved, such as labor.

The Attorney General and the Federal Trade Commission are involved at every step of the planning process. The voluntary agreements and plans of action are formed subject to their approval, as are the governing rules, standards and procedures promulgated by the FEA Administrator. I have already noted that each agency receives notice and the opportunity to attend all meetings and receives written records of all meetings. Finally, each agency is to monitor operations under section 120—which under this bill are to last, at the latest, until May 15, 1975—and submit reports every 6 months to the Congress and the President on the impact on competition and small business.

The most important antitrust safeguard, however, is that each voluntary agreement or plan of action must be submitted in writing for approval to the Attorney General and the Federal Trade Commission at least 10 days before being implemented. Either of these parties may modify, amend, disapprove or revoke any such agreement or plan, upon their own motion or upon the request of any interested person. This action may be taken at the time of initial submission or at any time thereafter when operational experience dictates the need for such action. If an agreement or plan should be revoked, this thereby withdraws prospectively the immunity which had previously been conferred.

I would note in conclusion that section 120 also provides for the establishment by the Administrator of advisory committees to assist him in carrying out his duties under the act. Their formation and operations are hedged with similar safeguards to the public. However, they are separate and apart from voluntary agreements and plans of action which alone carry antitrust immunity for participants.

The purpose of section 114—the limited retail antitrust exemption—which passed the committee 23–13—is to provide a temporary and carefully circumscribed exemption from the antitrust laws for retailers to enter into limited kinds of voluntary energy conservation agreements that promote the objectives of the act.

There are two important considerations underlying this provision that should be emphasized. First, the limited exemption conferred by this section is essential if there is to be an immediate response by the hundreds of thousands of retailers to the energy crisis. Second, the exemption is very limited and subject to careful controls against abuse. Let me discuss these considerations in more detail.

The reason why this section is necessary is because as the act is now written, energy conservation measures depend upon Government initiative and there is a limit to what Government can do. Federal and State officials, by necessity, will have to concentrate on broad programs. They will not have time, at least at the outset, to pay attention to the thousands of minor items which individually might accomplish little but which collectively can result in enormous energy savings.

Government will not, for example, be able effectively to legislate the details of fair closing hours for the thousands and thousands of stores in different settings all over the country, whether they be in village centers or large suburban shopping centers. There are just too many thousands of establishments involved. These stores are willing to contribute to the energy conservation effort if their neighbors will do the same. But they cannot make a joint contribution without running the risk of Federal and State antitrust violations. Section 114 would temporarily eliminate this problem. Thus, by encouraging retailers at the local level to cooperate in developing energy saving measures, the provision will enable them to take steps immediately to further the objectives of the act without burdening government with the need to initiate thousands of detailed proposals and without the delays that otherwise exist.

The exemption provided for, however, is as limited and controlled as it is necessary. The section provides that notice will be given of all meetings between retailers, that the public can participate, and that summaries of the meetings must be kept and must be submitted both to the Federal Trade Commission and the Attorney General. Discussions between retailers will thus be carefully monitored. There is no exemption, of course, for talks or agreements that stray from the objectives of this Emergency Energy Act.

Most importantly, voluntary agreements under this provision must promote the objectives of the act. They must be submitted to the Attorney General 10 days before they can be acted upon, and they can be modified or terminated by the competent authorities at any time. They may not, in any event, remain in effect beyond May 15, 1975. Finally, protection against abuse of the exemption will be guaranteed by the participation of the Department of Justice and the Federal Trade Commission in the development of the basic standards and procedures governing meetings and agreements.

The proposed amendment does preempt the operation of State antitrust laws with respect to conduct taken pursuant to the provision as well as exempting that conduct from the Federal antitrust laws. This preemption is essential, since State antitrust laws are similar to the Federal antitrust laws and could, absent a preemption provision, prohibit the agreements called for in the proposed amendment.

There is, in sum, more than ample justification for this limited exemption and more than ample insurance against abuse.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. HUDNUT).

Mr. HUDNUT. Mr. Chairman, I thank the gentleman from North Carolina for yielding to me.

Mr. Chairman, the Environmental Protection Agency is in the process of promulgating transportation control plans for some 38 American cities, of which Indianapolis is one, consequently I would draw the committee's attention to section 202 of the Energy Emergency Act (H.R. 11450) which contains a very significant modification of the power of the Environmental Protection Agency. It prohibits EPA from ordering parking fees in the future and declares all parking surcharge regulations previously promulgated by the Administrator of the EPA as null and void upon the date of enactment of this legislation. The Administrator is instructed to conduct a study of the necessity of parking surcharges and report back within 180 days. This section also gives to the States the right to develop such transportation control plans regarding parking as they may deem wisest in their effort to achieve high-quality clean air.

I feel very strongly about the importance of this subsection because the district I represent, which forms part of the community that is Indianapolis, Ind., had a very unpleasant experience when representatives of the Environmental Protection Agency conducted a public hearing in Indianapolis on November 28, 1973. The entire civic and business community as well as the mayor of Indianapolis and his administration were antagonized by the high-handed arrogance of these four bureaucrats who came into town as though they had just stepped off Mount Olympus, gratuitously delivered their statements of intent about promulgating a transportation control plan for Indianapolis, treated the testimony of leading citizens of Indianapolis with apparent disdain, and left town with the threat that their regulations would be promulgated by December 15 and implementation would follow in 3 or 4 months—or else. The whole episode was a sorry example of the tyranny of the bureaucracy and I cannot sit idly by and watch the business and commercial interests in my district crucified on the altar of air purity by arrogant bureaucrats who make no effort to work with the local community. This is not to imply that we should relax our commitment to achieving clean air in our country, combating pollution, and improving the quality of our environment; it is simply to suggest that we should move toward these goals with patience and reasonableness, working with each other in a spirit of mutual respect and cooperation instead of assuming the position of hostile adversaries.

The most comprehensive report I received of the Indianapolis hearings came from the chairman of the board of one of our banks, and I take the liberty of inserting his letter to me in my remarks at this point:

DECEMBER 5, 1973.

Hon. WILLIAM H. HUDNUT III,
U.S. House of Representatives,
Longworth Building,
Washington, D.C.

DEAR CONGRESSMAN: The purpose of this letter is to bring you up to date on a situation involving the EPA that happened in Indianapolis during the month of November, 1973. I am writing you this letter so that you may be fully informed of this situation so as to reflect on something that could be very dangerous and that possibly is happening elsewhere in the country.

The EPA gave the community of Indianapolis seventeen business days' notice (Nov. 6, 1973) that they will conduct a hearing concerning seven regulations that they will promulgate becoming effective December 15, 1973. They mentioned that the hearings will take place on November 28 and 29. Needless to say, the short notice and the drastic impact of their seven regulations not only caught this city by surprise but caused all the leading citizens so much concern that they did not believe what they were hearing.

The following is a summation of the seven points:

1. The establishment of an annual inspection and maintenance program using an idle mode test; this will cover vehicles registered within Marion County.

2. A requirement that all pre-1968 and/or pre-control automobiles or trucks be retrofitted with non-catalytic emission reduction devices.

3. A parking surcharge applicable to all off-street parking within the city limits of Indianapolis. This surcharge would be at a graduated rate from 15¢ to 25¢ per hour, with a three hour grace period. It is our understanding that this surcharge would be applicable to all off-street parking, be it at a plant site, a shopping center, or a parking garage. The only area that would be exempt would be an individual's private driveway.

4. The creation of exclusive bus/carpool planes.

5. Restrictions on the total availability of on-street parking within the city of Indianapolis.

6. A requirement that all service stations in Marion County purchase, install and employ appropriate vapor recovery control devices for all gasoline tank filling operations.

7. A regulation they call Complex Source, which stated in effect that there will be no new construction of any sort that would add one parking space to the city of Indianapolis. This would include shopping centers, apartment complexes, industrial buildings and commercial buildings. The only category exempt were single family residences.

Regulations regarding these 7 points would be promulgated December 15, 1973.

The above seven points were based on air quality data gathered over a 90-day period during the third quarter of 1971 in two locations using a measuring device that was out of order for approximately 45 days out of the 90-day period. The air quality data gathered was highly challenged by the local community as being far from accurate. Also the standards that they were measuring this data against (Clean Air Act of 1970) are to be challenged. however, the EPA indicated that those standards, that were set by virtue of the Act, are law and must be obeyed and adhered to.

I personally attended the first day of the hearing and was there for approximately 9 and ½ hours. What I witnessed was the most frightening situation that I have yet experienced. There were four hearing Judges, those being Messers. John H. Chicca, Dale S. Bryson, William Y. Luneburg and Dr. Robert Zeller. The presiding officer at the hearing (Mr. Bryson) had an opening statement indicating that they were here to pick up public comment and opinion given the proposed regulations to be promulgated. The people testifying were the following:

GOVERNMENT

Honorable Richard G. Lugar, Mayor of Indianapolis.

State of Indiana—Mr. Pickard, Ind, Air Poll, Cntrl. Bd.

Richard Wetzel, UNIGOV Director, Transportation.

Michael Carroll, UNIGOV Director, Metropolitan Dev.

Roger Pate, UNIGOV Director, Public Works.

Gary Landau, City Legal Corporation.

Mr. Henderson, ICFAR (Indianapolis Center for Advanced Research).

BUSINESS, INDUSTRIAL, PROFESSIONAL, ORGANIZED LABOR, EDUCATION TESTIFIES

American Fletcher National Bank—Frank E. McKinney, Jr.

Indianapolis Chamber of Commerce—Donald R. Loftus.

Eli Lilly and Company—Patrick Butler.

Indiana National Bank—John Benbow.

L. S. Ayres & Company—Dan Evans.

UAW—Buford Holt.

P. R. Mallory—Dr. Donald Wilson.

Indiana Bell Telephone Company—Max G. Lewis.

Stokely-Van Camp, Inc.—Fred Laird.

Indianapolis Parking Association—James Seidensticker.

Indiana Petroleum Council—David R. Davis.

Rock Island Refining Co.—L. E. Kincannon.

Mobil Oil Company—Robert Maynard.

Insurance Institute of Indiana—Charles Van Arsdel.

Indiana University/Purdue University Indianapolis—Vice Chancellor Ryder, Don Franklin.

Merchants Association—Vince Haggerty, Sears, Roebuck.

Indiana Paint and Coatings Association—William Wright.

E. J. DeBartolo Corp.—Cy McBride.

Indiana Farm Bureau.

Indiana Motor Truck Assn.—Mr. Cline.

This list represents a great portion of the leading citizens of Indianapolis. All of these people were violently opposed to the EPA regulation, and the manner in which EPA came to our city to force these regulations upon this city and its citizens.

The "hearing" turned out to be the most frightening experience that those in attendance had ever viewed. Those that were testifying were cross-examined, belittled and tolerated. The four hearing Judges treated them with contempt, disdain and refuted any point they made at will using as a justification their own (EPA) opinions and conclusion. The EPA people called for a "hearing" but instead they tried to tyrannize and belittle those testifying. The EPA people were judge, jury and dictator. To summarize some quotes picked up in the audience, they were arrogant, dictatorial, had preconceived opinions, closed minded, cute, lordly and as one party said, now he knows what a Russian Commissar is like when he has a public hearing. They haughtily were enforcing the standards set by the Clean Air Act of 1970 giving no consideration for what effect it would have on the community or its people. As one person said after walking out of the

> meeting, for about eight hours that day he did not know he was in the United States. Considering the age-old principle that this country was founded on, that being government of the people, by the people and for the people, this group was practicing government to the people dictating in an unrelenting, closed minded, manner their regulations that they created to be promulgated on Indianapolis.
>
> It is one thing to criticize regulations and I think we are comletely justified in criticizing these regulations but even more important the manner in which they were presented. I would like to offer some of the recommendations that the citizens and leaders of this city were trying to tell these four EPA people.
>
> Concerning regulation No. 1 as stated above, there was general agreement providing that the pollution level is a level arrived at by a coordinated EPA/industry/local and state government decision.
>
> Concerning regulation No. 2 there was disagreement with this unless the auto in question did not pass the annual inspection as stated in 1 above.
>
> Concerning regulation No. 3 there was a unanimous opinion against this regulation. This, if implemented, would simply close the city of Indianapolis and there was strong testimony to this effect.
>
> Concerning regulation No. 4 the Transportation Department of the city of Indianapolis is presently working on solving our mass transportation problem. We do not have any mass transportation except for buses and our Transportation Department is working on a master plan to serve this city.
>
> Concerning regulation No. 5, again there was unanimous opposition to this regulation because without the automobile in Indianapolis, Indianapolis will stagnate and die.
>
> Concerning regulation No. 6 there was testimony given that these devices simply do not exist. The EPA's curt answer to that was, in essence, "that is your problem, they must be in by March 15 of '74."
>
> Concerning regulation No. 7 I think you can see how absurd this is. What they are saying is that they, the EPA, will dictate if any new construction can occur in Indianapolis, Indiana.
>
> As mentioned before, all of the seven regulations were based on a very faulty air quality data base. The city of Indianapolis, the state of Indiana and the private sector has a different opinion as to the quality of air in Indianapolis and would be willing to prove it, however, the EPA hearing judges indicated that there is no time for that, we had our chance and now we have to pay the penalty. The four people seemed completely unwilling to work with those three groups in any way, shape or form.
>
> One person asked the question to the four Judges, had any of them ever been to Indianapolis? The answer was "no, that was not necessary, we have our statistics to tell us what this city is all about"; however, one Judge expressed complete surprise when told that we do not have a mass transit system thought that we had a system similar to Chicago.
>
> All of us want clean air but we also want jobs, purchasing power and conveniences that our dynamic society can provide, given the opportunity for the free enterprise system to function. We all know that we can solve the many faceted air pollution problems by employing American industrial ingenuity and coordinated governmental effort. We are all quite skeptical that the pollution problems can be solved by employing overnight, expedient, temporary solutions generated by government dictates which have as their real result the harming of the consumer, who is our society.
>
> We strongly encourage the EPA to work with the talents that exist in this country, be they from private enterprise or university campuses or other government agencies to effect over a reasonable period of time a total pollution control program which can be implemented and economically absorbed by an existing economic society. For example, I feel quite confident, and providing that the air quality standards were judged to be proper and correct, that had the EPA gone to the major auto companies and said let's work together to have clean air in five to seven years and had given the auto companies certain incentives, that the pollutants caused by the automobile could have been corrected through advanced engine research and development.
>
> Instead, the auto companies were forced to add anti-pollution devices to the engines which raised the cost of the automobile to the consumer and resulted in a drastic decrease in engine efficiency (miles per pallon). This is a prime example of the EPA implementing haphazardly designed programs in the most expedient manner.
>
> With this very vivid and most recent display of an EPA hearing, we are wondering in how many other cities across this country is this taking place? Something has to be done or else this great economy of ours will grind to a halt under the weight of illogical and unintelligible bureaucratic policy and dictates. The thing that is missing is the consideration for the people of this country, as well as the economic system that has made this the great nation that it is.
>
> Sincerely,
>
> —— ——.

That was not the only reaction I received. The chamber of commerce stated:

> The Chamber stands in strong opposition to all of the radical strategies now being proposed by the Administrator of EPA in the form of transportation controls for our region . . . . It is our judgment that the proposed rules in this plan (for extraordinary parking surcharges on off-street parking facilities within the metropolitan-Indianapolis area) are unrealistic and uneconomical.

One irate businessman wrote me and appealed to the House of Representatives "to protect us from this newest obnoxious form of tyranny." Another, in more temperate language wrote:

> The proposals for Indianapolis appear to be using a shotgun to kill a fly.

Another wrote:

> We folks in Indianapolis have built a pretty good place in which to live and work. We like Indianapolis just as it is. We do not want or need Federal interference in our businesses and lives. . . . The EPA wants to not just curtail our growth, but jeopardize millions of dollars and thousands of man hours spent in creating a workable, efficient and attractive central business district. What next? I genuinely believe we, the people, would be far better off without agencies such as EPA . . . . It would be nice to live in a society where all things are perfect—environment, social conduct, growing economy, etc., but let's face reality and adopt a philosophy of "all things in moderation."

Another businessman, vice president of one of the largest corporations in Indianapolis, wrote about the four EPA hearing officers in very strong language:

> To me their action is nothing more than pig-headed, two-bit bureaucrats, shot in the posterior wtih a little bit of authority, refusing to admit they are wrong and trying to enforce their will upon the general population. If anything in the history of our country ever smacked of the Nazis and of Germany prior to World War II, this is it. As you by now probably are fully aware, the EPA took air samplings in Indianapolis in 1971 in two locations. One of these was located within one mile of the leeward side of the Rock Island Refinery on the north side of the city and generally away from populated or highly-developed areas. Based on these air samples (they refused to recognize samples taken later in different locations) this group of despots in the Chicago Regional Office of the EPA are trying to impose a set of . . . . restraints on the lives of people of Indianapolis and the development of this community to a degree that borders on dictatorship. Their data is not valid, their conclusions unrealistic and their action precipitous. In true bureaucratic form, they waited until the last minute to come up with their solution so that the people affected do not have time to develop counter proposals on a sound basis, and then they insist that their extremist ideas be implemented so that they can "comply with the laws passed by Congress."

Editorials appeared in both Indianapolis newspapers. On Sunday, December 2, the Indianapolis Star editorialized as follows:

Perilous Protection

> Hearings conducted here by the United States Environmental Protection Agency on its plan for reducing air pollution in Indianapolis have made it clear that the community faces a formidable adversary in EPA.
>
> And "adversary" is definitely the correct term. The agency is determined that the air in Indianapolis shall be what EPA thinks it ought to be, and it cares not at all what the costs may be or on whom they fall.
>
> The hearings were informative for the community but we doubt that they did much good as far as the attitude of EPA is concerned. It is obvious that the agency had already made its decision and that it was presenting a final plan, not a proposal for discussion or negotiation.
>
> Even the possibility of correcting the gross inadequacy of what EPA calls "the data base" seems inconclusive. It is ordering drastic measures to curtail automobile travel in Marion County, and the action is based on data about the present condition of the air gathered in a short period of sampling more than two years ago at only two locations in the county.
>
> At one point EPA's chief spokesman at the hearings said further testing of the air quality will be made to ascertain whether all of the plan is necessary. At another point he said it was up to protesting city and state bodies to gather and present "acceptable" new data.
>
> The agency's cavalier attitude toward the adequacy of research in this instance causes us to wonder very seriously about the research that went into the original setting of the "standard" of air quality EPA is now engaged in enforcing. The standard is a maximum number of micrograms of "photochemical oxidants" in a given quantity of air.
>
> Supposedly the standard was determined on the basis of careful research to find the level at which oxidants become harmful to health. But if that research was as casual as EPA's research in Indianapolis the standard really is a number pulled out of a hat. Is that the case?
>
> That standard is the basis for the havoc EPA has already wrought in automobile production by requiring the addition of costly, gasoline-consuming gadgets to engines. And now that it has gone about as far as it can go in the fantastic reduction of chemical exhaust emissions it is requiring carmakers to achieve, EPA says that's not enough and so it is setting about to force motorists to make less use of their cars.
>
> One way EPA proposes to do this is to con-

trol future building of any kind of public, commercial or industrial facilities, including highways, that "tend to generate motor vehicle traffic."

The building of any such facility would require a permit issued on condition of a showing that the traffic it would generate would not interfere with maintaining "national air quality standards." Under such restrictions EPA would have power to bring future development to a screeching halt.

Another example of EPA's style of operation is its promulgation of rules that have forced and continue to force conversion to coal-burning electric generating plants to convert to oil or gas. The agency continues unperturbed on this course despite the fuel crisis that now results in new shortages of electric power from the converted plants.

It is high time to seek relief from EPA's mounting arrogance, before damage to the economy becomes disastrous. Congress should call a halt to the agency's operations while a searching examination is made of the basis for its activities, and of their results.

The Indianapolis News on Monday, December 3, wrote a lead editorial which went like this:

The EPA Plan

"Absurd" would be a charitable description of the U.S. Environmental Protection Agency's plans to turn downtown Indianapolis into a national forest.

In two days of hearings at the World War Memorial, representatives of the EPA informed a hostile community of its proposed regulations which include a harassment tax on downtown parking, an emissions test for autos—the passing of which would be a prerequisite for obtaining license plates—restriction of on-street parking, and equipping of pre-1968 vehicles with gas-gobbling emissions controls. Beyond the downtown area, the EPA plans drastically to curtail the construction of shopping centers and other facilities the agency feels might contribute to air pollution.

What is particularly galling about this move by EPA is that it is not taken on the basis of data indicating it will reduce air pollution by any specified amount. EPA has proposed these rules because it does not accept data gathered by the state in 1972 which showed Indianapolis to be within pollution limits established by law. The state insists that no violation exists but EPA, having presented its side of the case to itself, has ruled in its own favor and appears determined to promulgate the rules over near-universal local opposition.

EPA's claim that it is issuing the regulations under the gun of a court order cannot be accepted at face value. Whether the court (a Washington, D.C., appeals court) would require action where no pollution problem exists is questionable—and the existence of a problem is a matter still to be resolved.

Mayor Lugar is quite correct in observing the EPA must soon recognize "what cities are all about." Area residents rely on the city to provide jobs and income. They do not come here to camp in a pristine wilderness. Lugar noted that the city of Indianapolis showed an increase in retail sales downtown for calendar 1972, the first such increase in a decade. This occurred, he added, at a time when most cities around the nation are decaying at their centers.

This improvement has come after substantial investment by public and private agencies in new construction, new offices, new facilities of every kind. The mayor's words are apt: "Too much planning and sacrifice is represented here to plow it under by distant decree and sheer ignorance of the dynamics of cities."

It was only this past summer that EPA proposed to ban all backyard burning of trash in a seven-county area to cut air pollution. The result would have been inconvenience and expense to every resident. EPA now reports the ban would not have reduced pollution on "the order of magnitude originally believed," which is its self-serving way of admitting it had gone off half-cocked in the first place.

Every indication is that EPA is repeating its performance of last summer and the mayor is to be encouraged in his determination to fight the agency in court and in the Congress.

Mr. Chairman, it seems to me that the point is obvious. If the bureaucracy of the Federal Government is allowed to proceed unchecked, the free enterprise system will soon be destroyed beyond repair in our country, individual initiative will be forever lost, and socialism will have arrived to stay forever and ever; pure and simple. The long arm of the Government must not be allowed to grow any longer. The regulatory agencies must be reminded that they are the servants of the people, not the masters. Government must be decentralized and local initiative must be encouraged. Government must see itself as a partner with private enterprise rather than an adversary. The Federal Government must join hands with State and local government, not hamstring them. Of course, we want and need clear air. Of course, we want to preserve the health of our people. But not at the price of individual liberty being killed by social planners. Not at the price of private business, commercial and industrial interests being high-handedly treated by brash bureaucrats who have never worked for a profitmaking institution and seem to be unaware of the severe economic dislocation their plans will entail. And not at the price of Government control of all sectors of life, both public and private.

Mr. Chairman, I hope this section 202 stays in the bill and encourage my colleagues in the House to support it. It represents a very responsible way of repairing damage already done, and it will assure communities such as Indianapolis that they are given the opportunity to participate in the decisionmaking process regarding transportation control systems which will affect the lives and incomes of millions of citizens throughout the country.

Let me say that I support also the amendment which I understand will be offered by the distinguished gentleman from California (Mr. Leggett) to require the EPA Administrator to make a survey and report back to the Congress on the necessity of preferential bus-carpool lane regulations. The city of Indianapolis has an excellent road network which is capable of a high-volume traffic flow. The proposed creation of exclusive express bus and carpool lanes there would lead to traffic control problems, enforcement problems, and traffic stalls which waste gasoline and create more pollution. Needless to say, I am hopeful that proposed regulation will be eliminated.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. McKinney).

Mr. McKINNEY. Mr. Chairman, it is my sincere opinion that we face one of the most serious crises in our Nation's history. We as a nation are going to experience an inexorable change in our entire way of life. No one is more aware of this than a Congressman from New England.

A change in domestic policy—the regulation of the basic force in American life—energy is now past due.

I for one thank the Arab nations for bringing us to our senses early, for had they not, I am sure we would have been over the barrel in 5 to 8 years.

We could not continue a great power dependent on our life blood from abroad.

We could not afford the dollar drain much longer. So in fact we have been luckily brought to our senses.

But how are we the constitutional settlers of domestic policy acting? We appear more interested in the Christmas recess than in energy.

But most definitely we seem most desirous of pulling a "Gulf of Tonkin" and getting the monkey off our back.

Here is where we sit today:

First. We have no facts of what the depth of the problem is or where it is—and yet we give the executive branch ultimate power when they cannot even give us facts.

Second. We allow the executive power over every aspect of American life. I suppose—if they do not like basketball, they could turn it off at night in favor of football.

Third. This bill invades the jurisdiction of many other committees without comprehensive legislation in any.

Fourth. What is a windfall profit?

Fifth. What is the shortage?

Sixth. What is the Executive going to do? They will not tell us.

Seventh. What do we do with emission standards?

In other words we legislate in complete ignorance.

We give power without limit, not knowing who will suffer or whether the administration will be evenhanded.

Do we want to impose gas rationing at the whim of the administration, or are they going to price us home.

We do not know.

Mr. Chairman—a "Gulf of Tonkin"—no, no more!

T.R. was talking to a friend who said he liked young men "because they get things done." T.R. answered that is not important—what they do is important. In fact, we do not know what we are doing.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 7 minutes to the gentleman from Illinois (Mr. Young).

Mr. YOUNG of Illinois. Mr. Chairman, first of all I would like to commend my colleagues who serve on the Committee on Interstate and Foreign Commerce for the diligent work that they have performed with respect to the preparation of this bill. I particularly would like to commend the chairman (Mr. Staggers), for his patience in working with all the Members, with the blizzard of amendments that were offered on the bill. I would also like to commend particularly the gentleman from Florida (Mr.

ROGERS) for the work he did on the automobile emission section. I would also like to commend especially the gentleman from North Carolina (Mr. BROYHILL) for the particular attention he has paid to certain sections of this act, including an amendment he is going to be offering which I intend to speak about.

We need this bill. This is a difficult and a complex bill. It cuts across many disciplines. It is an emergency bill. It is for an emergency purpose.

I do also agree with the purposes of this bill that the changes which are made and provided for in this bill must be effected in such a manner as to minimize the effect on the economy and to minimize the effect on the environment.

Now, during the course of markup we amended the bill as originally introduced to provide that with respect to energy conservation plans, which is probably the most important section of this bill with respect to developing energy savings in this country, we amended the bill to eliminate the provision that the Energy Administrator could adopt such plans, and they would go into effect unless Congress vetoed those plans.

An amendment was adopted, which I supported at the time, which provided that the plans would not go into effect unless and until Congress took appropriate action.

Upon reflection and upon further study, I now support an amendment which will be offered by the gentleman from North Carolina (Mr. BROYHILL) on this subject. It appears to me that because of the complexity of that energy problem, Congress will not have the time and it will not have the staff, and it will not be able to conduct the many, many hearings that are going to have to be held throughout this country, and it will not be able to do the job that can better be done by the executive branch of Government.

Mr. Chairman, I also think that since this is an emergency bill, the provisions and the plans which the Administrator will put into effect are emergency types of plans, and he should not be delayed in the institution and implementation of such plans, and, therefore, I think it is appropriate that the Administrator have the right to proceed with the adoption of plans, unless Congress vetoes them.

Now, with respect to the antitrust laws, I would like to commend the gentleman from Ohio on his very excellent dissertation about the protections from abuses that are in this bill.

First, this bill is not for the oil companies, as far as these conservation plans are concerned. These conservation plans are for the public. Further, it is not the oil companies' conservation plans that are going to be adopted under this bill; it is the Administrator's plans that are going to be adopted under this bill.

The exemption is not a broad exemption. It is a very narrow exemption to our antitrust laws.

As far as the importance of the antitrust laws is concerned, there may be an amendment offered here today that I would like to address myself to, because it came up in committee and it contained a provision that we would exempt the energy conservation plans from only section 1 of the Sherman Act. That would be highly wrong and highly fallacious, and I will explain why.

Section 1 of the Sherman Act states that any act which is in restraint of trade, any agreement which is in restraint of trade, would be unlawful unless, of course, it is a reasonable restraint.

Now, it is admitted by many of those who agree with the proposed amendment that was offered in the Commerce Committee that such an exemption from section 1 would be a reasonable and a proper type of exemption to be put into this particular bill. They objected nevertheless to including as an exemption from the antitrust law provisions, section 2 of the Sherman Act. That to me would be a very big mistake, if this Congress were to only limit this antitrust exemption to section 1 and to not also include section 2.

Why? The reason is this: Section 2 provides that it is unlawful to attempt to monopolize. Now, to attempt to monopolize involves two distinct elements of law.

It involves both a wicked act and a wicked mind. I think the Latin terms are mensus rea and actus rea, "actus rea" meaning a wicked act, and "mensus rea" meaning a wicked mind.

Now, in order to prove that one has a wicked mind, since intent is the main element which has to be proven under section 2, prosecutors use the acts which take place which would be circumscribed by section 1 of the Sherman Act. In other words, agreements to fix prices, agreements to allocate customers, and agreements to allocate markets are all evidence of intent to monopolize.

It might very well be an energy-saving provision to have a energy conservation plan which would allocate markets.

I also want to point out that the oil companies which are involved in connection with section 120 of the bill are an oligopoly, according to many economists. Therefore, any act they take which would be in restraint of trade under section 1, if we leave out section 2 from the antitrust exemption, and would be in violation of section 2. So it would be meaningless to give oil companies only an exemption from section 1.

I would like to address the provisions of this bill pertaining to windfall profits. It has recently been stated that the solution to the Middle East war lies within a riddle within a sphinx within a salami sandwich, which reminds me of the definition of windfall profits. I never heard of a satisfactory definition of windfall profits. It is just like a fair tax. A windfall profit is a profit somebody else makes and which you do not. That is what a fair tax is, a tax somebody else pays and a tax that you do not. Windfall profits are defined in terms of saying that they are any thing other than a normal profit, but a normal profit is, of course, a very difficult thing to define. In this particular act it takes average profits in a certain period of time, from 1967 to 1971, as the measure. In my opinion, if we are going to deal with it, it should not be done in this act. If you want to have an excess profits tax, then put it in the Internal Revenue Code and let the Committee on Ways and Means handle it.

Mr. Chairman, I would like to close by acknowledging the excellent work done by the Subcommittee on Health and Environment on the automobile emissions section.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, everyone in America today agrees that the biggest domestic challenge is energy. Two days ago I overheard four TV commentators who were all perplexed at the sudden arrival of the energy shortage problems. They could not understand how this energy shortage developed.

There are two basic causes of energy shortage in this country. This energy bill does very little to correct either one of them.

Apparently, these commentators do not drive an automobile or they could have understood part of the problem. If you went 100 miles in your 1969 automobile, you would need to buy 6 gallons of gasoline to fill up the tank of your car. If you go 100 miles in your 1974 automobile, you need to buy 11 gallons to fill up your car. This is known as environmental control.

Down home, our environmentalists realize this impact and the need for moderation in environmental controls. So issue No. 1 is to roll back environmental controls for 5 years so that America can move forward for 20 years.

The other big issue requires price control solutions. They are only drilling one-half as many oil wells as they were 10 years ago. Congress cut the incentive depletion allowance and drilling has dropped tremendously. Today it costs $94,708 to drill an oil well while 10 years ago it would have cost $54,518 to drill a well. Yet we try to put price control on new gas discoveries. Oil companies today are making profits on the oil they discovered back in 1950 and 1940 and gradually our oil and gas reserves are being exhausted.

One expeditious way to solve the energy shortage would be to repeal the Price Control Act. The second step forward would be to suspend with a moratorium for 5 years the Pollution Control Acts.

I realize that this might create air which is not as pure as it should be. But I am concerned with this energy shortage impact and what it is going to mean on men and women losing their jobs. When a man loses his job it may cause a heart attack. His wife, in turn, may develop an ulcer. And when there is not income for the family, there will be starving children around the home. We need to think of the overall good health of America. We cannot solve pollution in this 1 year. But we can sure get this country into a depression and lose jobs everywhere from coast to coast with this energy shortage. What we need are two additional bills; one bill to repeal price control and let natural economics adjust itself in the marketplace, the second bill to place a moratorium for 5 years on pollution controls. Let us enjoy better health in America through full employment and a prosperous Nation.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I appreciate the gentleman from Texas (Mr. COLLINS) yielding to me. I want to congratulate him on the fine statement which he has just made.

I think one of the first actions that we should take, as the gentleman has mentioned in the well, is to repeal the Economic Stabilization Act through which mandatory price controls are established. I have introduced legislation, as I think probably the gentleman from Texas has also, to repeal this Act. As the preferred alternative we should allow the marketplace to allocate our scarce resources, and get to the heart of the problem—which is not rationing shortages—but rather the need for increasing production of supplies. Only through the incentives of the marketplace can we provide the increased production so necessary to meeting the shortages we now experience.

WE MUST INCREASE PRODUCTION

Mr. Chairman, seemingly lost amidst the hue and cry for such drastic energy-demand-meeting measures as rationing, end-use allocation, taxes, surtaxes, and controls is the call for increased production of fuel supplies with which to meet current and projected demands.

We have removed price controls from the cement and fertilizer industries for one overriding purpose—to increase production, so why not do the same for the energy-producing industries?

Where amidst all the debate over the most effective means of allocating our available supplies is the most important and most appropriate call of all—a call for increased production of supplies? Increased production is the answer, not trying to live with inadequate supplies—inadequate because there is insufficient production. Government, and the legislation arising from its legislative branch, is wandering over alternative after alternative, trying to make inadequate resources more adequate through Government regulation. Regulation cannot make an inadequate resource more adequate. Just like regulation of wages and prices failed to control the inflation for which it was intended, but rather produced such grievous misallocations in the economy as to create severe shortages in foodstuffs and other commodities, regulation of fuel resources will not, similarly, solve the problem. If we are to resolve this crisis, why not increase production; why not make supplies more available? And, this can be done.

Increased production is the single best answer to this problem. It is the answer most compatible with the preservation of economic freedom without which there can be no political freedom. It is the answer most compatible with the principles of a market economy which has produced the greatest standard of living yet known to man. It is the answer which will produce the greatest number of jobs and workers' wages and promotion of the Nation's economic well-being. And, it is also the answer which will result in the greatest increase in available supplies, for Government regulation historically, no matter how well intentioned or how well conceived, has never produced commodities at rates commensurate with production spurred by the private enterprise system.

PRODUCTION HAS BEEN FETTERED BY GOVERNMENT REGULATION

It might, then, be asked: Why has there not been an increase in production? Principally, because the market principles which would have permitted virtually unlimited increases in production have been fettered by Government policies, programs, regulations, and disincentives to production which arise therefrom. Speculation? No. Fact.

This interference with the marketplace has come in a variety of ways. It has come through the imposition of unrealistic commodity price ceilings, depriving the industries of the available, even minimal, profits from which to make necessary additional capital reinvestments for increased production. It has come through excessive tax rates and tax schemes which have resulted in the misallocation of needed capital. It has come through artificial shipping rate schedules created by agencies of Government—for example, shipping rates for virgin fuels established at lower rates for used oils capable of recycling, thereby discouraging their reuse. It has come as a result of those particular environmental controls which were excessive to real needs when weighed against the need for economic enhancement.

Increased production can be best accomplished through the removal of disincentives to production. We ought to encourage, rather than discourage, the capital formation requisite to additional exploration and development, capital formation from the little man who has carefully saved earnings from the sweat of his brow to the corporations whose business it is to produce fuels, thereby creating jobs and markets. We can increase production by more properly balancing environmental and economic interests, for some statutes and regulations ought to now be relaxed in an effort to enhance production; we need not abandon our national commitment to a cleaner environment by allowing for such short-term remedial measures. We can increase production by removing the strangling regulations under the Economic Stabilization Act of 1971, as amended, the wage and price control statute, for the policies of the Cost of Living Council have added greatly to the creation of this crisis.

PRICE CONTROLS HAVE PRODUCED MISALLOCATIONS

An example—a very real one—of the effects of price controls on production can be seen by looking at the regulation of home heating oil. With the original imposition of controls on the economy in August of 1971, prices on home heating oil were frozen and subsequently maintained at artificially low prices. This encouraged over consumption.

The Cost of Living Council has had the good sense to remove—by exemption—the cement and fertilizer industries from the coverage of the economic stabilization—one should say, "economic dis-stabilization"—program. Why? They cited one reason in both instances: To increase production.

Why, then, can they not exempt the producers of energy sources? It would allow prices to rise to their natural levels within the free market system, an important byproduct of which is an increase in production with which to meet demands.

The distinguished Senator from Oklahoma (Mr. BARTLETT) has brought to our attention the incapability of the oil companies to substantially increase drilling in search of new untapped supplies. Why? Because drilling equipment—made from steel—is not adequately available. Why? Because the Cost of Living Council by holding down, unrealistically, the price of steel for such equipment has discouraged greatly the production of such equipment. The steel producers have not been making the equipment because they would not make any profit or even would run losses. The Senator has indicated that drilling activity, despite the crisis, has been able to expand by only 13 to 14 percent over the past year, when a full 100 percent expansion is needed to alleviate adequately the present energy crunch. And, unfortunately, even if the Cost of Living Council should seek now to rectify its errors, delivery schedules for oil well casings, tubing, drill pipes, drill collars, valves, and blowout prevention devices would mean an 18-months delay before such equipment gets to the fields.

WILL INCREASED REVENUES TO OIL COMPANIES BE REINVESTED RATHER THAN TAKEN OUT AS WINDFALL PROFITS?

It is not inappropriate to inquire: What assurances do we have that if the industry is deregulated as to prices that the increase in revenues will be diverted to capital improvements and not solely to profits? Again, Senator BARTLETT's inquiries have produced the most concrete factual answers:

> Most people agree that a free market will increase our supplies more rapidly than a controlled market—even a controlled market which provides for price increases for natural gas and crude oil.
>
> But many wonder if the petroleum industry would invest the increased cash flow resulting from decontrol of prices into areas that will help to solve our domestic energy shortage.
>
> Even though I have no doubts that the great majority of increased profits will be used to increase the supplies of domestic energy, I thought that the question deserved a response to clear the doubts raised by some individuals. The people and the Government have a right to be informed and need to be assured that the price of decontrol is worth it—and today I will summarize the replies of those petroleum companies and independent producers of petroleum in America to show that it will be worth it.
>
> I asked over 400 integrated and independent companies engaged in the production of domestic oil and gas to answer the question I read earlier.
>
> My office has received replies from 115 integrated and independent companies. Not one of those replies gave any indication that a large portion of the additional cash flow resulting from the removal of existing price controls would not be used to increase domestic energy capabilities.

On the contrary, 93 of the companies responded by saying that "virtually all or 100 percent of their increased cash flow would be so utilized." The remaining few companies, although they did not say that they would reinvest virtually all the additional cash flow, did imply that they would reinvest significant amounts such as "90 percent, a minimum of 90 percent, or a minimum of 75 percent."

It makes sense that these companies, as they have indicated to me, would continue to invest in that industry which they know best, especially when the opportunity for a reasonable rate of return is improved by price decontrol.

Mr. President, it was interesting to note that all of the 8 largest major oil companies replied to the question and 16 of the top 20 producing companies responded.

Mr. President, I ask unanimous consent to have printed in the Record a chart showing a breakdown of the 115 companies based on 1972 oil production.

The Presiding Officer (Mr. Harry F. Byrd, Jr.). Without objection it is so ordered.

The material, ordered to be printed in the Record, is as follows:

THE FOLLOWING IS A BREAKDOWN OF THE 115 COMPANIES BASED ON 1972 OIL PRODUCTION

1972 daily average oil production (barrels per day)	Number of companies responding	Total production (barrels per day)	Total gas production (million cubic feet per day)
1,000 or less	22	9,430	86,452
1,000 to 10,000	47	161,071	1,380,121
10,000 to 55,000	12	352,944	2,281,592
55,000 and up	16	6,556,535	28,751,662
Letters without production figures	18		
Total	115	7,079,980	32,499,827

Mr. Bartlett. Mr. President, the replies received represents 7,079,980 barrels per day of crude oil and natural gas liquids and 32,499,827 million cubic feet of natural gas per day. That is 60 percent of 1972's daily average crude oil and natural gas liquids production and over 50 percent of the daily average gas production.

The small fellow—the independent producer—almost without exception said unequivocally that he would invest all additional profits back into the petroleum industry.

Common phrases used by the small producers were—

"I would expect to invest every additional dollar of cash flow generated in new domestic oil and gas exploration."

And—

"Any additional monies received because of decontrol of above products would likewise be invested in exploration for new energy reserves."

And—

"Any increase in our cash flow resulting from higher crude oil and gas prices would be immediately reinvested in a search for, and development of, more reserves."

It is most unfortunate, in light of these facts, that the Congress is considering—instead of a return to the ageless and time-proved principles of the marketplace—the imposition of new laws, embodying new policies, the imposition of authority for new regulations, sustained with vast bureaucracies and power-brokers.

RATIONING CANNOT BE A PREFERENCE

I am opposed to rationing—or, as it is referred to in this bill, "end-use allocation"—and I have here today and on repeated occasions heretofore expressed my preference for the use of the principles of the market economy. But, if we should ever come to the point where rationing is unavoidable, a possibility if we do not increase production, I sincerely hope that the scheme which is deployed will preserve the market economy by allowing the market system, as opposed to some faraway bureaucracy, to establish the price of fuels. It is not impossible to devise a scheme, if essential to the preservation of the national economy, which allows for a basic rationing system for those whose lives and well-being rest upon the use of fuels with the market economy being retained for all other users. It would be difficult, but it is possible, and it is certainly preferable to the loss of freedom which could result from mandatory allocation or rationing systems imposed on all the people.

The soundest solution is probably the one that comes the nearest to being relatively enforceable and equitable. It should leave enough individual freedom of choice to command public confidence and minimize damage to the economy. Whatever tax revenues would be generated therefrom should be then channeled directly into financing alternative transportation systems and the search for new energy sources.

THE CONSUMERS OPPOSE RATIONING OR TAXES AS THEIR PREFERENCES TOO

We have heard it said today that the reason we must go with a mandatory rationing system is the support it enjoys with the consumers—from the big guys to the little guys—as their preferences over paying higher prices. I think this sells the American public short, for its understanding of the nature of this crisis—in all its political, economic, and moral ramifications—appears, to me, to be well perceived by the consumers.

Let me read from a letter which I received from a constituent from western New York:

Williamsville, N.Y., *December 4, 1973.*
Congressman Jack Kemp,
Washington, D.C.

Sir: This letter is intended to convey my strong disapproval of gasoline rationing and/or higher taxes on gasoline and also my disapproval of governmental controls on the price of energy.

Gas rationing would have exactly the opposite effect from that which is desired in the long run. Rationing would force demand to be low and therefore maintain artificially low prices and reduce incentive for oil companies to increase their supply. Let the price of energy increase and the energy companies will find more supply and in a hurry. That is an economic fact of life.

Those in favor of rationing say that high gasoline prices will hurt the poor the most. First, I do not entirely agree with this. The poor generally live in cities and do not need to travel far to reach their destinations, and they have better access to public transportation. Also, they tend not to have automobiles as much as the wealthier. Second, what is different about gasoline than any other commodity. By definition the poor can not afford as much as the rich. If anything else becomes in short supply, the poor can't afford as much as the rich either. What do people expect, that rich and poor can afford the same things? It is not that gasoline is one of the necessities of life. Anyone who owns a car could afford the few extra dollars it would cost to drive to work and other driving should be put in the non-essential category.

The other point brought up by those in favor of rationing is that the oil companies are going to reap huge profits. That is precisely what is *required* so that they will get on with the business of finding and refining more oil. Their explorations and manufacturing capabilities have not kept pace with demand because they did not feel they would make enough profit on these ventures. What the Government must do is ensure that the oil companies remain competitive and not act to fix prices or production. That is where the Government's efforts should lie, not in setting prices or in fixing demand through rationing

An additional strong deterent to rationing is the impossibility of devising a system which everyone would consider to be equitable and the huge amount of red tape that would be required to administer such a system.

I also would like to protest government controls on the price of natural gas. Gas is a convenience fuel. It is clean burning, easy to control, and requires little maintenance. Therefore, its price should be that of a convenience fuel, i.e. higher than competing fuels on the basis of energy content. Government controls have forced the price of gas to be less than other fuels. As a consequence, large users such as industries and electric power plants are using natural gas as their energy source. And natural gas is in the shortest supply of any energy source. Let the price of natural gas reach its own level and I am sure that individual homeowners will bid up the price to the point where large users will switch to other fuels, again tending to solve a portion of the energy crisis.

The above categorization of natural gas as a convenience fuel also applies, perhaps to a lesser extent, to petroleum products. These are our second most critical energy source. Let the convenience factor drive up the price and the really big users, industry and power plants, which are highly influenced by price not convenience, will switch or at least stay with coal and nuclear power which is exactly the direction they should be going from the standpoint of the benefit of the whole country.

In conclusion, I feel the solution of the energy crisis lies not in rationing but in allowing prices to increase especially in the convenience fuels, natural gas and petroleum products.

Sincerely,

Donald E. Adams.

THE NATURE OF THE CRISIS

Mr. Chairman, only one thing is for certain in the debate surrounding the ever-intensifying energy crunch—that the Earth is not running out of potential sources of energy. It is, rather, simply running out of energy supplies readily available.

We can best understand—and deal with—the energy problem when we separate it into time frames within which we have to devise solutions and implement them. We have some aspects of the energy problem which must be dealt with immediately, such as getting through this winter; these are the short-term considerations. We have other aspects of the crisis which must be dealt with over the period of the next 2 to 7 years—the intermediate period. And, we have those other aspects which must be dealt with over the more extended time frame—over a long-range period. All are coextensive during these first few years.

Over the short-term period, we must reduce gasoline consumption through the use of lighter, more efficient automobiles, car pools, better vehicle operation and maintenance, and those particular auto emission devices and controls which will add to mileage, not take from it. We must improve rail and bus systems for short to moderate length interurban transportation—to provide a better balance between auto and air, and auto and rail traffic. We must, during this period of intense domestic fuel shortages, stop the exportation of any crude or refined oil which could be used domestically. We must speed the pace of nuclear power plant construction, for it takes 7 to 10 years to get such a plant "on the line." We must implement programs to advance the commercial development of oil shale. We must resolve conflicts between environmental goals and energy resource development. We must use coal more directly for the production of heat and energy.

Over the intermediate period, we must use coal indirectly as a source of synthetic oil and gas. We must institute residential and commercial building standards to save energy used for heating, air conditioning, and lighting, and we must build accordingly. We must develop new ways in which to generate power more efficiently, controlling air pollution and energy consumption at the same time.

WE SHOULD USE MORE COAL

On the important subject of coal, as perhaps the single most important and readily available alternative to present quantities of gas and oil, I wish to include in the Record, for the benefit of all my colleagues, an excellent article from the Buffalo Courier-Express of November 4, by Peter C. Andrews of their Washington Bureau:

Coal Seen Energy Solution

(By Peter C. Andrews)

Washington.—It is no surprise that the United States is facing an energy shortage now. It is just poor planning.

There is really no need for it, because the U.S. happens to be sitting on half the known coal reserves in the entire world.

Even at present consumption rates or more, the known supplies will last at least 300 years, plenty of time for alternative sources to be developed.

As for the relative importance of coal to oil or gas in the United States, reliable figures show that 83 per cent of the energy content in available reserves is in coal, while only 2 per cent is in petroleum, 3 per cent in natural gas, 5 per cent in shale oil and 2 per cent in uranium oxide.

While most people don't realize it, coal is a remarkable substance that has, on the average, about 80 per cent—the heating value, by weight, of oil.

It has some drawbacks, to be sure, but it also has some interesting advantages, including the fly ash which, when added to cement, not only extends it by about one third, but also makes much better cement. The nation could conceivably pave a good portion of its roads with the byproduct of heating its homes and operating its factories.

CLOSE TO SURFACE

A good portion of the nation's coal lies relatively close to the ground surface in readily accessible seams. Some of these coal seams in the west, particularly, are as much as 300 feet thick—pure, high grade, low sulfur coal.

The most practical and efficient way to get this coal in marketable form is by strip mining it—a dirty word to conservationists, but there are methods of strip mining now that should please all but the purists.

The biggest cost in coal is transportation, which roughly is a factor of four to six times the mine head cost of the coal, depending on how far it must be carried to its point of utilization. Already some coal corporations are utilizing a unique way of solving several problems at once.

SOLID WASTE

Coal is strip mined, leaving a large hole in the surrounding territory. It is carried by unit freight trains to its destination. The trains, rather than returning empty to the strip mine, pick up solid waste and sewage sludge for the return trip. The waste is dumped into where the coal was removed.

The sewage is used to revitalize the subsoil which was removed to get at the coal and then the topsoil is replaced, replanted and in a few years, the landscape can look, if desired, almost as it did before the mining.

Perhaps that is an idealized situation, but it can be done. And the prices make a lot of economic sense. Oil prices in the past year have practically doubled, and yet the prices for coal have stayed relatively even. The switch to coal becomes more attractive with every rise in the price of coal.

The problem of pollution, technically, can be solved and the only reason why many of the known methods have not already been put into use is governmental and industry inertia, as well as the added cost factor. The cost, however, is not that large, considering the total dollar involved.

Even with a massive national effort, however, it will take at the minimum five years to make an appreciable conversion of the U.S. from oil oriented economy to a coal society. But it can be done.

Engineering students in World War II were warned of the energy crisis coming in the 1970's. It is here and we must do something about it. Coal is probably our only answer.

BASIC PREMISES MUST BE UNDERSTOOD

Over the long-range period, it is important to understand certain basic premises. There is little necessity of diminishing the total consumption of energy among developed societies, or of retarding the growth rates of developing societies, if energy sources can be developed and harnessed which are, essentially, both unlimited in supply and not productive of environmentally detrimental byproducts. All supplies of oil—when recovered, refined, and consumed—will run out at some future point in time. And, with widely varying points at which they too will run out, so too will natural gas, and coal, and all other fossil fuels. Yet, there is no limit to solar power, as long as the sun gives forth light; the power of falling or flowing water, as long as rivers flow and tides run; the power of wind, as long as air currents move; and, geothermal steam, as long as the earth's inner crust remains molten. Our only limitations, at present, are in developing adequate technologies and devices with which to harness such unlimited power sources. And, the ecological consequences of their uses are much less potentially adverse than those of existing fuels and substances. By reliance on unlimited power sources, the development of a society, which depends on continued or expanded energy uses, could go forward unfettered. No developed society would be compelled to reduce, over the long run, its standard of living, and no developing society would be compelled to abandon a course of action designed to enhance that standard. Instead of acquiescing to a notion that we must reduce our standard of living by reducing our percentage of the world's energy consumption, we would be better advised to expand the levels of energy available to all the world. To do this, we must begin now to increase production.

THIS BILL INVITES AN ECONOMIC DICTATORSHIP

There is another dimension to our debate on this bill and on the Energy Research and Development Administration and high seas oil port bills to be considered later this week. That dimension is the extent to which the Congress—as the maker of laws under our constitutional system—seems ready, willing, and able to surrender that law-making authority to the executive branch.

One of my colleagues has even dubbed his National Emergency Energy Act as a "Gulf of Tonkin Resolution II"—referring to a potential repeat of the speed in which Congress is willing to relinquish its authority to the Executive. His point is well made:

The deal is this: With the Nation in crisis, the legislative branch of government agrees to turn over its power to the executive branch and in return, the executive branch allows the legislative branch to wring its collective hands in exasperation after enactment.

With no specific definitions and skimpy limitations, it (the Congress) asks the President to control transportation, restrict recreation, limit the functions of commercial establishments and public services, implement rationing systems, lift the environmental provisions, increase the power of federal agencies and designate which sections of the country are economically deprived.

However muddied the precepts may have become after 196 years of storms, the balancing principle separating powers still exists and the Congress shall "make all laws" and the executive shall "take care" that they "be faithfully executed."

Clearly, the National Emergency Energy Act gives to the executive branch the power to make law and in the area of environment to eliminate law.

In a salient editorial comment appearing in the Washington Post of Tuesday, November 27, George F. Will, amplified on this point with a clarity that few commentators have exhibited:

Creature Comforts or Liberty?

(By George F. Will)

It has been many years since an acute and sympathetic foreign observer noted that the United States had become more respected abroad for her plumbing than for her liberty. (Not long ago it was a source of foreign wonder and awe that Americans traditionally considered it more important to have a car than a bathroom, which is relevant to our current dilemma, but never mind.)

Much gasoline has flowed through the republic's carburetors since then, and it now seems depressingly possible that Americans themselves have a higher regard for their creature comforts than for their liberty. Indeed, they may equate the greatness of America with the creature comforts Americans enjoy.

In a recent column The Washington Post's David Broder provided this gem of a quotation from a daughter of liberty who called her congressman to bemoan the republic's vanished greatness:

"I grew up thinking the United States was the greatest country on earth. Now it seems we're short of oil, short of beef, short of everything. We don't seem to be better off than anyone else."

It is hard to decide at which level that statement is most depressing

No, as a matter of fact we are not short of beef. Yes, the government did manage to contrive a beef shortage last fall, using just the kind of economic controls that, I'll bet, the woman is demanding that the government now impose on fuels.

We are not better off than anyone else? The woman doubtless thinks the United States has lost its greatness because gasoline might soon cost almost as much as it costs in, say the United Kingdom where per capita disposable income is much less than it is here.

To prevent such a price rise, and the effect it would have on consumption habits, many Americans are prepared to accept—indeed, to demand—gasoline rationing, with all that must mean by way of expanded government power. Such an expansion would not just mean what all such expansion means—new excisions from the sphere of individual freedom of choice. It also would mean that the expansion would come in the form of the most pernicious form of government power, executive discretion.

For more than 27 months—since August 15, 1971—we have been in a position to learn a lesson about wage and price controls, a lesson that is relevant to chosing an energy policy.

No institution with 535 members—each of whom is understaffed, each staff devoting approximately 80 per cent of its time to answering mail and tracing lost Social Security checks—can exercise detailed control over economic measures through specific, precise laws like wage and price controls. So if we are going to have such controls, Congress must continue its slow-motion hari-kari by expanding the already vast area of executive discretion.

Anyway, even if Congress had the ability, it would still lack the kidney to make the hard decisions about economic controls; such decisions invariably offend some interest or other. That is why the legislation authorizing all Mr. Nixon's tinkerings and "phases" is incredibly lean; only about 20 of its approximately 400 words matter, and they authorize the President to do whatever he wants in order to try to make all good economic things happen.

Congress is about to respond in the same way to the energy problem.

Congress cannot exercise close control over the rationing it seems to favor because it is well nigh impossible to capture in the web of legislation all the nuances and exceptions that rationing must involve if it is to be even barely tolerable. Laws state general rules. Inevitably, economic controls are a quality of ameliorating exceptions to capricious decrees.

Anyway, Congress does not have the gumption even to set the basic contours of energy policy, which is probably just as well because Congress seems to favor the most hamhanded approach—rationing. So Congress will leave it to Mr. Nixon to decide whether rationing, taxes, price rises, or a mixture of these will be used to allocate energy resources.

There is an iron law governing the governing of modern societies: Whenever government power supplants market forces in shaping private choices, the supplementing involves the eclipse of the legislature and the expansion of executive discretion.

The rise in beef prices and the decline in oil supplies is irrelevant to U.S. greatness. What is not irrelevant is the willingness of Americans to equate our greatness with material abundance and to pay for cheap gasoline in the coin of expanded government power and diminished liberty.

This bill, if it becomes law, would usher in a virtual economic dictatorship, giving to the Executive an unparalleled peacetime control over the arteries of our economy, and I, Mr. Chairman, want no part of such an abrogation of economic and political freedom. The shrill cries which we hear in this Chamber today are not dissimilar to those cries we heard for the imposition of wage and price controls—a plan which has turned out to be one of the most dismal records of failure by Government in modern times. The Congress ought never to be stampeded into a giving to the Executive of control over our very lives through regulation of our resources.

We ought to send this legislation back to committee and instruct it to come to the floor with a bill which preserves the liberty of our people and the authority of this body to make laws. If need be, we should be prepared to stay in session throughout the coming holidays, for the people's well-being is paramount to our desires to end this session.

It is hard, Mr. Chairman, to argue with that presentation of the constitutional question posed by the bill before us. No matter how well the Executive does, or does not do, the task given to it and no matter how equipped the agencies are to issue guidelines, it is the Congress which must bite the proverbial bullet here. We surrendered great authority in haste once before in the swift and almost unquestioning passage of the Gulf of Tonkin Resolution. We owe it to ourselves and to our posterity to consider carefully the provisions of the bill before us, for we may not only be setting into motion an impossible scheme, but we may be surrendering the powers of this body to act in the people's behalf.

A CONTEXT FOR THE ENERGY DEBATE

Mr. Chairman, millions of words have been printed and aired on the energy crisis. Many have tried to establish the framework within which the Nation—and the Congress—ought to address the energy crisis and means of resolving it.

An article, entitled "The Energy Crisis in Perspective," by W. Philip Gramm, professor of economics at Texas A. & M. University and a consultant to the Canadian Ministry of Natural Resources, appeared in the Wall Street Journal of Friday, November 30. It is so strikingly appropriate for the energy debate within this Chamber that I ask for its inclusion at this point in our proceedings:

The Energy Crisis in Perspective

(By W. Philip Gramm)

Much of the prevailing rhetoric on the "energy crisis" expresses this kind of logic: Since there is just so much oil, coal, natural gas and other energy sources, sooner or later we are going to run out. We must, therefore, begin to ration these resources not only to meet the current crisis but to conserve energy in our time and move the day of reckoning further into the future. Americans have been "energy pigs," according to Stewart Udall, and have been operating on the misguided assumption that there is no limit to the quantity of energy. Since we are at the end of the era of cheap fuel and dealing with a problem without precedent, strong and previously unacceptable policies are called for: government regulation of the production and distribution of energy.

Ignored is the fact that mankind has frequently experienced instances of increasing scarcity, and by ingenuity and free action has solved all of them. In fact, we are currently experiencing the second major energy crisis in American history.

From the colonization period until the Civil War the major source of artificial lighting in the U.S. and Europe was whale and sperm oil. Since there were no good substitutes for these oils as sources of light, the world's supply of artificial light depended almost exclusively on the whaling industry. People did not need computers to project that the supply of whales could not keep pace with the rapid expansion in demand.

Sperm oil rose from 43 cents per gallon in 1823 to $2.55 a gallon in 1866. Whale oil rose from a low of 23 cents in 1832 to $1.45 a gallon in 1865. As prices rose, gas distilled from coal became an economically feasible substitute causing whale oil demand to fall off sharply in Europe.

In 1859 sperm oil was over $1.36 a gallon. But that same year, an event which in nine years would end the whale oil crisis forever occurred: petroleum was discovered in Pennsylvania. In the meantime, the demand of the Civil War boomed whale oil prices. Not only was there increased demand, the war disrupted production. Conscription of whaling vessels as freight ships and the capture or destruction of ships by Southern privateers caused a decline of more than 50% in the number of U.S. ships in whaling and a 60% decline in tonnage. By 1866, sperm oil had reached a high of $2.55 a gallon.

The high prices for whale and sperm oil between 1849 and 1867, provided a growing profit incentive to develop an efficient refining process for crude petroleum and induced the investment required for the production of kerosene. Beginning in 1867, kerosene broke the sperm and whale oil market and prices tumbled. By 1896, sperm oil was cheaper than it had been in any recorded period—40 cents a gallon—but whale oil lamps were no more than relics for succeeding generations.

TWO VITAL FUNCTIONS

Aside from providing an incentive for the development of petroleum products rising whale and sperm oil prices performed two other vital functions. Rising prices caused consumers to act out of their own self interest to economize the use of oil. Rising prices gave an inducement for producers to increase output of whale and sperm oil through increases in investment, improvements in technology, and increased labor input. The rise in prices from 1820–1847 induced a rise in the tonnage of whaling vessels of almost 600% and produced numerous technological improvements in the whaling industry. It appears that rising prices caused output to increase perhaps by 1,000% or more. Had government possessed the power and volition to ration whale and sperm oil to hold its price down or to levy a tax on oil to reap the gains from the price rise, the shortage would have been catastrophic and the advent of kerosene and other petroleum products might have been delayed for decades.

The whale oil crisis is a case study of how the free-market system solves a scarcity problem. The end product of this process of discovery and innovation is the Petroleum Age in which we live. We owe the benefits and comforts of the present era to free enterprise and the scarcity of whales.

The history of our first "energy crisis" demonstrates that there is no reason to believe that we face long-term doom. If technology were suddenly frozen, some of the dire projections being made now might be realized in several hundred years or less, depending on which "expert of the week" one believes. But technology is *not* frozen.

It is instead progressing at a rate unprecedented in history. The Petroleum Age will pass as did the Stone Age (and the Whale Oil Era). The real danger is that we may foolishly restrict the exploitation of current energy sources and allow them to become valueless. Only if we eliminate the market incentives for innovation and investment will we face a real, long-term "energy crisis."

Though there is no long-term "energy crisis" there is a short-term problem. Economic science teaches that shortages cannot exist in free markets. In free markets prices rise in order to eliminate shortages. "Crisis" as opposed to simple scarcity, results from market disruptions; and the *only* sector of society which possesses the power to disrupt a large market is the government. Government price ceilings on natural gas at the well-head have been one of the most disruptive public policies. By setting the price of natural gas artificially low, the government has stifled the incentive of producers to increase supplies, which the artificially low price has stimulated demand. Furthermore, since profits are low at these artificially low ceiling prices, investment and exploration have fallen off sharply.

Price controls have also had a detrimental impact on the supply of petroleum products and the construction of refinery capacity, essential to increasing domestic energy supplies. Due to the pressure to keep prices below what the free market would specify, shortages of petroleum products have occurred at both the retail and wholesale levels. Had prices been allowed to rise, the quantity supplied would have expanded to meet the quantity demanded; and each consumer would have had direct incentive to economize on usage. We are only now beginning to realize the distorting impact on the production of inputs essential for fuel production (drilling equipment, tubular steel, etc.) which four phases of price controls have produced.

Environmental legislation and court action also have had a significant impact on the supply and demand for energy. Injunctions against atomic and conventional power plants have prevented the supply of electricity from keeping up with the demand. The injunction against the Alaskan pipeline has impeded the growth of oil supplies. Pollution control devices on automobiles have increased fuel consumption and, thereby, increased the demand for gasoline. Mass conversion from high sulphur to low sulphur fuels in order to comply with EPA regulations to abate pollution has caused a change in the composition of energy demand from plentiful, cheap sources of energy to scarcer more expensive ones.

The energy crisis has made it clear that pollution abatement has a definite cost to society. Only by understanding the costs involved in various forms of pollution abatement can we choose how much environmental protection is optimal.

The bureaucratic method of looking at the supply and demand for energy products differs substantially from the market-directed approach. The bureaucrat presumes first of all that the supply of the product is absolutely fixed. Price does not matter. A price rise, he argues, will not put more oil in the pipelines—at least not before the next election. People "need a certain amount" of the product, and they will always buy the same quantity regardless of price unless they are too poor to afford it at all. These views are, of course, economic nonsense. In weighing the various courses of action which might be followed in minimizing the cost of dealing with the current energy problem it is useful to make a ball park estimate of the price level that the free market would yield in the shortage period.

ESTIMATING OUTPUT AND DEMAND

Estimates of how much the demand for energy sources would decline in a period less than a year, if prices rose by 1%, range from roughly 0.2% to 1.2%. Estimates of how much the quantity supplied would rise in the same period, if prices rose by 1%, vary from roughly 0.6% to 2%. A reasonably conservative estimate is that a price rise of 1% will provoke a decline in the quantity demanded of 0.5% and a rise in the quantity supplied of 1%.

The practical importance of these estimates is that a 10% shortage in the supply of fuel at current prices would yield a free market rise in price of less than 7%. If we are more pessimistic about the shortage and assume that demand exceeds supply by 20% at the current price, we might expect a price rise of less than 14%.

The above estimates, though conservative, do not take account of the disruption produced by the crisis atmosphere that surrounds this issue. Since the magnitude of the crisis has been blown out of all reasonable proportions and people fear shortages and rationing, hoarding by both the supplier and demanders is a genuine possibility. In the very short run (up to three months) we might expect prices to rise above the long-term market price. After roughly one to three months we should expect the crisis mania to pass and a general dishoarding to occur so that prices would fall to a level below the above estimates. The estimates are of course based on the assumption of unhampered market adjustments. Government attempts to interfere with this market process would tend to shift the estimates upwards.

The first step in solving the energy shortage is to allow the free market system to work. *All price ceilings and government controls should be eliminated.* Such action would greatly stimulate the supply of energy sources and eliminate shortages. Prices would rise but the expansion of output would hold prices to the minimum which current conditions dictate. Furthermore, the free market will insure that energy will be allocated to the highest priority users. Price increases are not pleasant, but they are better than low prices and no energy. If these higher prices work hardships on the less fortunate among us, special provisions, which would be preferable to the distortions and waste of rationing, could be provided for this small minority.

There is an additional advantage of allowing domestic prices to rise. As prices rise in the U.S., the cost to the Arabs of maintaining the restriction on sales to the U.S. will get higher. If we simply allow the market to work, the agreement to restrict sales to the U.S. will break and with it Arab unity will break. The Arabs are playing a dangerous game. If we allow prices to rise we can expect the development of new domestic sources such as oil shale and domestically produced substitutes for petroleum.

COSTS AND CLEAN AIR

Another step in solving the energy problem is to inform society of the cost of environmental and ecological programs and allow the people to choose. If people want the end products of such programs, they will have to pay the cost in higher energy prices. Without adequate information, society will not be able to decide which programs are worth the cost and which are not. If people prefer cleaner air to lower fuel cost they can choose to convert from coal to oil. If they choose lower fuel cost they can burn cheaper and dirtier fuels. Such a system seems preferable to allowing a bureaucrat to decide for them.

To increase supplies we should open the continental shelf for drilling but make firms liable for oil spills and other forms of ecological disturbances. Most oil spills are not from drillings but from tankers. By employing the Naval oil reserves, the continental shelf and areas which will become economically feasible at higher prices, output could be greatly expanded.

We should institute peak-load pricing for electricity in shortage areas. Brownouts and blackouts occur because in peak use periods overloads occur. By charging more for power in peak use periods, nonessential use would occur in nonpeak load periods when power is cheaper. Under the current system there is no incentive to spread out power use. Peak load pricing could minimize overloads in the current system and allow time for supply sources to catch up to peak load demand.

In a free market, when the price of a good starts to rise, three simultaneous forces are produced. First, people start to use the good more judiciously, second, producers and consumers who use the product begin to search for cheaper substitutes, and third, producers of the product attempt to expand output by using and developing technology to meet the demand. It is this process which has always forestalled doom. We will run out of energy only if we prevent the free market from working. Herein lies the real danger of the "energy crisis."

Mr. Chairman, the task before us is great. We must not shrink from the meeting of that task.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from New Hampshire (Mr. Wyman).

Mr. WYMAN. Mr. Chairman, without belaboring ad infinitum the seriousness of the energy crunch that we are in, I would like to take this time in the general debate to address a hard look toward an answer to the question of where we can save gasoline, and hence oil, without hurting anybody.

One such area is in the field of automobile emission controls. In 90 percent of this country there is no need for automobile emissions controls from the viewpoint of either public health or environment.

I have brought this large map of the United States into the Chamber to illustrate the rather startling fact, that in at least fifteen-sixteenths of the geographical United States there is no significant air pollution related to automobile emissions. We can take the controls off in their entirety from all cars registered in the white areas on this map before us, take them off all cars that are owned, operated, and registered to residents of these areas, without hurting anyone's health or causing them to get emphysema or suffer other adversity.

What would this accomplish? This would save upward of 300,000 barrels of oil a day. Present emissions controls impair gas mileage on the order of 17 to 20 percent. The rest is simple mathematics.

I want to explain the amendment that I shall offer at the appropriate time to this bill to do just this. The amendment will suspend automobile emission controls on autos registered in those parts of the United States indicated in white. It will provide that this suspension continues until January 1, 1977, or until the President shall declare that the petroleum shortages that exist in this country are no longer critical, whichever is later.

The amendment would permit an automobile owner who resides in these areas to take off his emission controls and thus increase his gasoline mileage on the order of 17 to 20 percent. If this is done, it is obvious that the amount of gasoline that will be saved is truly substantial. Additionally billions in costs in operation maintenance and original vehicle cost will be saved. Furthermore, the operation of these vehicles on an in-and-out basis into the areas in this country that are shown in red will not significantly adversely impact on the ambient air quality of these areas because the transient factor varies only from 1.5 to 5 percent of vehicular travel.

Now, one says, immediately, "Well, what happens if I have a car that is registered to me in, let us say, Nevada, and I want to drive into Los Angeles where there is a problem?'

The answer to that, as I have stated, is Office of Science and Technology studies showing that the movement in and the movement out of automobiles not owned by residents of the areas in red goes somewhere on the order of 1.5 to 5 percent and concludes that this would not materially, significantly, adversely impact on the ambient air quality of those areas.

If we want to do something to really help meet this gasoline shortage and this oil shortage in this country, we should end the overkill in the current Clean Air Act requirements by ending at least during this petroleum shortage emissions controls that defy both commonsense and responsibility in this country.

I yield to no one in this House as an enthusiast for environmental protection. I would not for one moment advocate suspending emissions controls solely on the basis of energy shortages. But the hard fact of the matter, Mr. Chairman, is that we overdid it a few years back. and the overdoing of it is now beginning to show and is costing this country dearly.

I want to discuss for just a moment a second amendment I will offer at the appropriate time. The amendment I will offer will amend the Clean Air Act to take the ultimately required 96-percent, pollution-free emission standards down to 90 percent. Even in Los Angeles, Calif., with its air inversion problem, emissions controls are not required at the 90-percent level. If we amend the act and effect this overkill we will eliminate the need for the catalytic converter.

I am aware of the fact that General Motors Corp. already is said to have some $700 million invested in the process and development of a catalytic converter. However, taking an estimate of the run of automobiles in the 1975–76 time frame at approximately what it is today; namely, 10 million cars, the cost of a catalytic converter on these cars will be about $250 a car. It may be a good deal more than that. That is $2½ billion to be spent in this country by the owners of automobiles on something that is unnecessary to the public health or actual needs of the Nation.

Chrysler Corp. witnesses testified before Commerce Committee that—

> The lead-free fuel required for catalysts will eventually cause a loss of crude oil at the nation's refineries of one million barrels of oil a day.
>
> The so-called improved fuel economy which has been claimed for catalyst equipped cars is largely illusory. The claim for a sales weighted average improvement is little more than a statement that small cars use less gas than big cars, and a larger percentage of small cars will be produced in 1975. The average gain per vehicle is actually on the order of 3 percent. This is easily offset by the crude oil loss of 5 to 7 percent in refining lead-free gasoline.

And Ford witnesses said:

> The 1975 fuel economy with catalysts, however, is only 3 percent better than our 1974 models. Unleaded gasoline reduces the yield per barrel of crude oil. If so, we would have to conclude that the effects on our petroleum supplies from carrying over 1974 standards and meeting 1975 standards with catalysts would be equivalent.

The Dupont study of the fuel penalty due to emissions controls, completed this year, is even more devastating. This study reported that:

> A 1973 car uses 9.4 percent more gas than a 1970 car, after allowances for weight differences.
>
> 1973 cars burn 17 percent more gas than uncontrolled pre-1968 cars, after allowance for weight differences.
>
> The 1975 (now 1976) auto emissions standards are expected to produce a fuel penalty of 24 percent, as compared to pre-1968 (no controls) cars.
>
> The 1976 (now 1977) NOX standards are estimated to increase the fuel penalty to 42 percent, compared to pre-1968 cars.

Mr. Chairman, these figures are dismaying in this period of petroleum shortage. They are shocking against a record of nonnecessity.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield to the gentleman from New Hampshire 2 additional minutes.

Mr. WYMAN. I thank the gentleman.

Indicative of the lack of genuine need for these gas-consuming devices in a September 1973 report from the Yale University Medical School resulting from a study of automobile emissions. This report made three major points:

> 1. The nation should distinguish between those pollutants which are dangerous to health and those which only affect "quality of life".
>
> 2. While certain particulates can be a threat to health to the general population, it is already known that the three controlled automotive emissions are not in this category.
>
> 3. The costs of controlling automotive emissions to the degree required by the law as now written far outweigh any expected benefits.

The final report of the Committee on the Cumulative Regulatory Effects on the costs of automotive transportation made to the Office of Science and Technology in 1972 showed conclusively that the cost in the emissions area exceeds the benefits over a decade by better than $60 billion. It indicated that defects in the Clean Air Act will cost American consumers an unnecessary penalty of $50 billion in the same time frame.

Mr. Chairman, this is wrong. It is harmful. It more than justifies the adoption of my second amendment. There is no sense in requiring the same emissions controls for cars everywhere in a land 90 percent of the area of which has no significant auto emissions related pollution. The fact is that the Clean Air Act standards as presently written represent a crude overkill and a bludgeon-type approach that demands the application of commonsense amendment.

It was claimed by some witnesses before the Committee on Interstate and Foreign Commerce that the catalytic converter would improve gasoline mileage by 13 percent. I want to call the attention of my colleagues to the fact that that 13 percent is 13 percent of an already overburdened 17- to 20-percent reduction in mileage caused by application of the 1974 standards now on cars. If this is to be translated into 0.13 times 0.17 to 0.20, the actual reduction of possibly 2 percent from catalytic converters still leaves at the least a 15-percent reduction in gasoline mileage for all of the cars registered and operated by all of the people in the white area on this map, all of the people in better than 90 percent of this Nation that has no requirement in terms of need. This is foolish. It is hugely wasteful.

It is indeed a bludgeon approach in the Clean Air Act to require everybody in this country who has a car to have expensive gadgets installed on them that reduce their mileage and increase the consumption of gasoline, when in 15 or 16 of the United States there is no need for this whatsoever.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. WYMAN. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

I know of the gentleman's concern. Of course, all of us are concerned in this energy crisis. However, I would suggest to the gentleman that he ought to look at the possibility of not trying to do away with the Clean Air Act where we are at least making some effort to clean up the air of this Nation. Rather I would hope the gentleman would look at the weight factor of automobiles which accounts—and we have the figures here since 1962—for half of the fuel economy lost. Why does he not look at the air-conditioning? Why does he not suggest we turn off our air-conditioners? That accounts for a loss of 9 to 20 percent. Automatic transmissions, 2- to 15-percent loss. That is very simple to do, and yet he only attacks the Clean Air Act, which is to clean up the air of this Nation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 1 additional minute to the gentleman from New Hampshire.

Mr. WYMAN. I thank the gentleman.

I would point out to the gentleman from Florida that the automotive industry and all of us are trying to get smaller engines, lower weight in cars, and economy of efficiency. I am not trying to destroy the Clean Air Act; I am just trying to stop proponents of continuing the present extreme standards in the Clean Air Act from being such fools in causing such expense and waste in this country. If the gentleman will take the time to look at this map he will see at once that his own State of Florida has no auto emissions related air pollution problem. I cannot believe he wants to continue to impose on all of the residents of his district and State unnecessary emissions controls that reduce their gas mileage by at least a fifth and cost them hundreds of dollars more for their cars and their operation. I cannot believe this.

At the immediate present we will save 17 to 20 percent of the millions of gallons of gasoline our cars consume if we reduce and eliminate these air pollution requirements on emission controls on all but the restricted areas in the United States indicated on this map in red.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. WYMAN. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I support the gentleman in the well. I congratulate him. He is absolutely correct in what he has said.

One very important fact is being overlooked. We are facing a gasoline shortage of about 25 percent. Therefore, we will also have an automatic reduction in auto emissions by 25 percent.

The complete removal of all auto air pollution devices will not cause an increase in present levels of pollution. However, by removing these devices, we will be able to do more driving on the available fuel.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 6 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, during the amendment process, I shall introduce the so-called conflict-of-interest amendment which the rule makes in order on this bill. It is an effort to make possible bringing into Government the people of experience needed to administer this legislation and the mandatory fuel allocation bill already passed.

The utilization of industry personnel, "dollar a year men", is not a novel idea. Oil industry expertise was called on during World War II, during the Korean war, and during the earlier conflicts in the Mideast. The industry people in each instance performed outstandingly in the national interest and there has never been a breath of scandal in connection with that service.

Two important, basic facts merit attention: First, it is not the industry which is seeking to interpose itself into Government; it is the Government following a tradition going back as far as that old curmudgeon, Harold Ikes, which is calling upon the industry's specialized knowledge to assist Government in meeting an emergency situation; second, the Government will not relinquish its policymaking role of determining the order of priority for petroleum use; the Government, in the person of EEA Administrator Simon or the President, will determine priorities, then those men who are intimately familiar with the complex logistics of petroleum distribution—the industry people who know which refiners are best equipped and located to serve particular areas, who know pipeline routes and capacities, who daily participate in terminal and tanker operations—the industry supply and distribution experts will be called on to help the Government make certain the allocations are fulfilled with efficiency and dispatch. It is probably fair to state that there is no person in the entire Government service who could determine the quickest way to get fuel supplies to a darkened, unheated hospital in northern Michigan. Only those who have expert knowledge of the supply and distribution system can make that kind of emergency determination.

That is the limited role the "dollar a year men" are being asked to play. They cannot perform that role effectively without using their specialized knowledge of their own company supply and transportation facilities. They should not be expected to subject themselves to the severe penalties of conflict of interest in filling that role.

Our system of industry-Government cooperation has served our Nation well many times over the years. Is the Congress of the United States, faced with critical fuel shortages, prepared to sacrifice the benefits of that type of Government-industry cooperation on the dangerous and false presumption that Government bureaucrats are all-knowing and American businessmen are all knaves.

Mr. Chairman, the amendment I am offering to this bill is essential if we are to have the necessary expertise and experience in the Federal energy program. The Government does not now have sufficient knowledgeable people on board to maintain a successful energy allocation and conservation program. If it is to obtain such people they must come from the petroleum industry and they will only be willing to come if certain legal stumbling blocks are removed.

Accordingly, I am proposing a provision for limited exceptions to the existing conflicts of interest laws. I stress that these are limited exceptions. They would not permit petroleum people to hold the top jobs in the energy program unless they terminate their relationship with the industry and become regular Government employees. They would not permit exemption from the conflict of interest laws for more than 1 year. They would not permit people presently employed by Government to obtain exemption. Nor would they permit people who come from the industry to assist in these energy programs to take advantage of their inside knowledge after they leave the Government. The existing restrictions on former Government employees in 18 U.S.C. 207 would continue to apply in full.

Let me outline briefly what the proposed amendment does. It permits the hiring of experts from outside Government to assist in the energy program if, and only if, the President or his designee certifies that the appointment is necessary, the duties of the position require expertise, that expertise is not available on a regular appointment basis, and the person under consideration has all the necessary qualifications. When these conditions are met, a person may be appointed to serve in the energy program, without Government compensation, while continuing to be paid by his regular employer.

Such a person may be exempted from certain of the conflict-of-interest provisions for a 1-year period. The exemption would remove such restrictions as the prohibition on outside compensation in connection with any action involving his original employer and the Government—(18 U.S.C. 203—the prohibition on representing others in claims against the Government—18 U.S.C. 205—the prohibition on acting in any area that will conceivably result in his or his family's personal financial gain—18 U.S.C. 208—and the prohibition on receipt of nongovernmental compensation while in Government services—18 U.S.C. 209. These are not total exemptions however. My proposal contains more limited restrictions on persons hired under these circumstances but they are restrictions which, in my view, are adequate to protect the public interest.

Persons exempted from the regular conflict of interest laws would still be barred from negotiating Government contracts with their private employer or with any business in which they have a financial stake or their family has a financial stake. Similarly, they would be prohibited from making any recommendation or taking any action on an application for relief or Government assistance from any business in which they or their family have a financial stake or from their private employer. They would not be able to handle any claims against the Government on matters they worked on as a Government employee and they would still be barred from outside compensation from anyone but the employer they worked for at the time they came into Government service. These restrictions will adequately protect the public interest while at the same time making it possible for us to get the people we need to assist in meeting the energy crisis.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Does subsection (4) (J), found on page 55 of the report, include under the term "household moves" the situation where a soldier moves his family's personal possessions from one base to another in a trailer which may be rented or borrowed or belong to him?

Mr. STAGGERS. That is included in the bill and taken care of in the provisions of movement of persons.

Mr. ANNUNZIO. They would be supplied with gasoline; would your answer be yes?

Mr. STAGGERS. Yes; my answer would be yes.

Mr. ANNUNZIO. I thank the gentleman.

Mr. STAGGERS. Mr. Chairman, I yield 9 minutes to the gentleman from Washington, a Member of the committee (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, I intend during the course of the amending process to offer two amendments to strike the antitrust exemptions of this bill, which I will hand to the Clerk now and which I have delivered to both the minority and majority council tables. They are entitled "Amendment by Mr. ADAMS to strike section 114" and "Amendment by Mr. ADAMS to strike section 120."

I shall also oppose the amendment that was made in order by the Committee on Rules, at the request of Mr. BROWN of Ohio, and it is made in order as H.R. 11891. The bill was referred to the Committee on Post Office and Civil Service, but it has been made in order in this bill and its effect would be to exempt the oil companies from the conflict of interests provisions of the Federal law.

Prior to my remarks on that, however, I would like to address a question to the chairman of the committee with regard to the particular provisions in the bill in sections 108 and 109 that provide for local boards of balanced composition and ask him as this was debated in the committee in executive session, and I want to be quite sure that as part of that legislative history, it is now recorded, so that we are certain the intent of the House is cleared.

It is stated that the local boards shall be of balanced composition, which is in the bill in sections 108 and 109, mean reflecting the makeup of the community as a whole, mean inclusion of labor and consumer representatives on those local boards?

Mr. STAGGERS. Yes, it would, and that was the intention of the committee.

Mr. ADAMS. I thank the chairman for his comments. That was certainly my understanding and I wanted it to be part of the legislative history.

Mr. Chairman, I want to speak particularly to what has happened in this bill. I do compliment the chairman and other members of the committee for attempting to deal with a situation that certainly was not created by the Congress and which at the present time I assume most Members on this floor and those who will be voting on this bill and who are not here now, will vote in favor of so that they can say, "Yes, we tried to do something about the energy crisis."

But, I have pointed out in my separate views in the report on page 89 that the Defense Products Act has been in existence since 1950, and under that the administration could both allocate products and could control profits; that as of April 30th of this year, there was an amendment placed in the Economic Stabilization Act which provided the power in the President to allocate fuel and control prices.

There appeared before our committee Mr. Simon—who is now going to run this program—during the summer of this year. I asked him specifically the question, because at that time all the independent marketers were being cut off from petroleum supplies, and I wanted to know if they were going to obtain supplies; whether or not the administration was going to allocate products to them, and he said he did not know whether the administration would or whether they would not, so we had to wait to see whether they would do it under the powers that they had.

Finally, they did not do it, and the chairman said, "We have got to hold hearings," and we did and reported out a bill requiring allocation. Then this Congress passed the Emergency Oil Allocation Act which was not signed until the end of last month because the administration opposed it. And, do the Members know what that bill did? It was to require the administration to allocate products so that they would not put the independents out of business, but I think we were probably too late, because they opposed it and held off signing it long enough so that if one goes around looking for an independent distributor, he is not going to find many.

In that bill, it also required that there be equitable prices established on any cost of crude oil, but has there been a setting of prices? No.

We have had Mr. Shultz and Mr. Simon going on to the radio and television and saying that prices are going to go up. I think that is in violation of the equitable price provisions of the Emergency Allocation Act, which was signed 2 weeks ago.

The regulation was enacted, and I want to know why it has not been used or why prices have not been controlled.

That brings us to this bill. This bill has to be passed, because the administration still is not moving. Some earlier speakers in the well said, "Well, you know the President wants to put out energy plans, but does not want to have anything to do with rationing." If the Members will read my separate views closely, I have pointed out that the only way they are going to fairly allocate products in the United States and put a fair price on them is to ration at the gas pump and allocate among distributors who deliver other petroleum products fairly on a base year, or years, and that is the only way we are going to be able to meet the problem the gentleman from Texas (Mr. ECKHARDT) mentioned.

If we have so many million barrels of oil available and so many million being demanded, then the only way we are going to get between the two on a fair basis is to say, "All right, everybody gets their share and at this price," but what has the administration required us to do in this bill?

This is where we are. It has said, "We are not going to ration. We are not going to control prices. What we are going to do is have a voluntary system," and the voluntary system has consisted of cutting off various parts of the economy. Once this bill rejected rationing, and that was done on the first day in the committee, we started on an allocation system and the bill became a Christmas tree. It had to become a Christmas tree because every special interest that had a representative in Washington, D.C.—and some of them had to ship them in from out in the country—had to come in and say, "Protect us some by putting them others by taking them out."

That is why the bill is cluttered with over 75 amendments. Everybody is trying to protect himself in the so-called voluntary system, so we did one thing in the bill that I think tries to protect all groups, and they run from general aviation to the plastic firms to the leather business, the ski resorts, the gasoline carts and every other kind of thing; a bill that would have taken care of a ration.

By introducing a rationing system, we will say to the public, "Here is your 10 gallons. Put it in your motorboat, your pleasure boat; drive to the mountains; car pool; do whatever you wish to do with it, you have freedom of choice to use the limited supply however you wish."

But he does not get freedom of choice under these other plans.

If we do not do that, then, in order to get an allocation, the consumer has to fight it out at the pumps for his supply. Consumers will find stations shut down on Sundays, and this puts the recreation people out of business, or consumers are going to find that the lights are turned off at the stores and shopping centers by agreement of the big stores. We will find that the little camera shops are out of business, as well as all the other shops and small businesses. We will find that the pleasure boats are out of business because if you do not allocate gas, the marinas are going to be shut down.

As far as general aviation is concerned, they will say, "You fellows are going to go down to 50 percent."

This is what I refer to. Now, when you have a man who is too fat and he is consuming too much energy, you put him on a diet. Then you say, "You have 1 year to behave yourself," and then at the end of 1 year you just take him off the ration and let him go; or if not, then you put him back on a diet again.

The other alternative is to cut off a leg or cut off an arm or cut off a foot and hope that is going to help.

In the bill is what the committee put in with the Eckhardt amendment that the gentleman from North Carolina (Mr. BROYHILL) now intends to take out. We said in that amendment, "OK, Mr. President, you cannot come up with any more plans that may amount to cutting off an arm, a leg, of this economy or anything else unless you come back to Congress for approval."

Mr. Chairman, I hope we will have what is in the bill, and that the amendment that will be offered by the gentleman from North Carolina (Mr. BROYHILL) will be defeated.

If we go into a petroleum allocation system and put in antitrust exemptions and conflict of interest exemptions we are right in there with the administration and the oil companies who got us into this crisis and this amendment proposes they will be running the program to get us out.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, let me just ask one quick question.

Does the gentlemen plan to increase supply, and increase production?

Mr. ADAMS. Absolutely.

First, we will cut off oil exports.

The second thing we will do is that we will have to make a complete study of oil imports; the third thing is that we will have to study both the electrification of railroads and the utilities; and the fourth thing we will do in that area is to put on an excess profits tax which I hope will come out of the Congress and will force these companies to take their profits and put them back into exploration for oil resources.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN of North Carolina. Mr. Chairman, I have a modest proposal. In the midst of a seriously difficult legislative effort to conserve energy and equitably distribute scarce fuel supplies, all Members of the House have been barraged with respects and demands of special consumer interests ranging from "A"—for antique aeroplane enthusiasts—to "Z"—for Zoological Gardens—with even a curious "L"—for large American gas guzzlers. All such entreaties have been pitched as representing a need for priority allocation. There is no way this chaotic situation can be fairly administered even were a modern Solomon to come forth to make judgments.

If we rely on price or taxation alone, the sudden jump in costs will unfairly price lower income consumers out of the market. On the other hand, to rely solely upon a rationing mechanism with market prices frozen will result in both a bureaucratic monstrosity and black market profiteering. This would be especially so if the guiding policy was to provide special treatment in response to the assorted pleas for favored priority.

For the immediate future, the only thing to do with the shortage is to share it.

Instead of trying to set up special categories for extra rationing stamps, instead of "freezing out" the poor—the best approach would be a combination system, which would provide a basic ration to each consumer—with special treatment only for police, firemen, and medical needs—and with an option for others to purchase at a premium, perhaps paying an additional tax surcharge for any available excess over the aggregate basic ration. In this way, everyone would get an essential share with a simple nondiscriminatory administrative framework. Extra shares for special needs or wants would be available only at a higher net price. Each consumer would then be able to exercise personal judgments to decide whether the higher net price for the extra share would be justified.

The salesman, the hobbyist, the sportsman, the tourist, the large car owner, the employee residing a long distance from work—each would have to determine whether to pay the higher price or to ride the bus, join a car pool, use a telephone, or otherwise reduce consumption as an alternative to going above the basic ration.

Such a system would be nondiscriminatory. It would be equitable. It would share the shortage. And it would let economic considerations comparable to the free market determine special allocations.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. Mr. Chairman, I would like to take this time to ask a question of the Chairman of the Whole Committee, the gentleman from West Virginia (Mr. STAGGERS).

As the gentleman knows, the two of us have had a number of discussions about the importance of using coal in firing electric generating plants.

In my State we do have this. We have a surplus of electricity, and we are trying to get our people to shift over and use some electricity, for heating in both industries and households, rather than to use oil which is in extremely short supply.

As I understand it, the committee's study of this question disclosed that this was indeed in the Nation's interest, where abundant coal was being used for generation, did it not? As I understand it the committee also felt that no excess usage tax should be levied on such coal-generated electricity.

Mr. STAGGERS. Mr. Chairman, in answer to the gentleman's question, we found it would be helpful, and I believe in most areas where there is an abundance of electricity, that is true.

Mr. ANDREWS of North Dakota. In other words, then, what our North Dakota energy people are doing is in the best interest. Any direction in this bill to the Federal energy regulators is to emphasize the use of electricity as a substitute for oil and for natural gas in heating where the electricity is abundant and generated from coal. And that is in the Nation's best interest; is that not true?

Mr. STAGGERS. The terminology is "shall" in the bill. The gentleman has stated the intentions of the committee.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. KUYKENDALL).

Mr. KUYKENDALL. Mr. Chairman, it has been quite interesting to hear several members of this committee so piously say, "It is not our fault." Whose fault was it that we sat on the legislation that did nothing but widen the right of way for the Alaskan pipeline for well over a year without passing it? Whose fault is it that we delayed any development of offshore drilling for month after month after month and finally had to wait until we had the Middle East crisis arise before they got back onto this very important matter? Whose fault is it that we sat and let lie either in court or in committee through actions too numerous to think of important legislation like strip mining or the gasification of coal or the development of the shale deposits in the Western part of this country? Whose fault is it that we went for years with every single site for a dam for hydroelectric power being blocked by the environmentalists until we quit even seeking those sites any more? Whose fault is it that just in these last few days a nuclear powerplant site was turned down by a major city on the West Coast? I wish they could get as cold as Boston this winter; I do not think they would turn it down then.

Mr. Chairman, in this situation we are all at fault—the administration, the courts and this Congress—and believe me there is enough fault to go around.

However, Mr. Chairman, I deeply resent the idea that we who are a major part of the cause sit up here and offer such pious cures. It is just like a person who smokes too much, does not take care of himself, gets emphysema and then suddenly blames the doctor for his disease.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, I appreciate the time.

I am chairman of the committee which has been holding hearings each year for the last 3 or 4 years on some of these actions that we unthinkingly and hurriedly passed through the Congress largely under the sponsorship of my good friend from West Virginia (Mr. STAGGERS) and the gentleman from Florida (Mr. ROGERS).

I am glad to see my friend from West Virginia (Mr. STAGGERS), and my friend from Florida (Mr. ROGERS), now trying to undo some of the things that have occurred in some hasty actions they have taken in the first instance. I can understand their desire to be in on this hasty action here.

Mr. Chairman, I subscribe to the remarks made by my colleague from Ohio (Mr. LATTA) who spoke on the rule, and with my friend from New Hampshire (Mr. WYMAN). The bill before us is much less than an objective, informed, well-prepared effort to meet a very serious problem. It could well make matters worse. It needs to go back to the committee for further study, for additional information before we go off "half-cocked" again.

Mr. Chairman, the Congress has passed air laws, water laws, solid waste laws, noise laws, and almost all kinds of laws restricting the American people, without knowledge of their effect or probable effect. I am sorry to see some of the ill effects of such laws come home to roost. I am glad to see the gentleman from West Virginia (Mr. STAGGERS) and the gentleman from Florida (Mr. ROGERS), under whose sponsorship many of these acts were passed, realize that the American people have had all they can stand in some respects—for a number of those laws call for specific actions, by a given date, many times calling for new inventions or discoveries if they are to be met. Some American industry has been brought to a standstill, food costs have been increased and dangerous substitutes have been forced into use because the safe products have been prohibited. Air pollution has increased, gasoline use per mile is greater, and expensive safety devices are dangerous. Mr. Chairman, for several years now, I have presided over the Appropriations Subcommittee hearings for the Environmental Protection Agency and its operations. It is quite evident from the testimony that the Congress went overboard under the leadership of my friends. Now their efforts here, commendable as they may be, will set up another dictator, another czar, with more power than a good man would want or a bad man should have. How can any business or any small investor in any company invest in productive plants to meet the needs of the consumer, when his plant may be closed down at any time? How can a food processor put up his money, when he may have his production taken and destroyed? How can we maintain our economy, our standard of life, our health, with all these people having so much power?

Mr. Chairman, I read excerpts from our report this year, the terms of which we carried out in the law, providing funds for Agriculture, the Environmental and Consumer Protection and other agencies:

I read:

RESEARCH STUDIES

The Committeee recommends $715,000 for research studies, the full amount of the budget request. This year, as was the case last year, the Council on Environmental Quality was unable other than in very general terms to tell the Committee how they planned to use the requested research funds. Therefore, as part of their fiscal year 1974 research studies program, the Committee directs the Council on Environmental Quality to perform the following studies:

The impact of exports of basic raw materials (such as timber, coal, ores or metals and scrap iron) on domestic prices and the competitive position of American industry.

The economic impact on American consumers of actions taken by the government to restrict or ban certain chemicals.

The cost/benefit implications of automobile emission control standards.

The impact of environmental standards and regulations on domestic energy consumption, including increased dependence on foreign sources.

The extent to which American industry is moving to foreign countries because of environmental considerations, and the extent to which American agriculture and food processing are moving to Mexico and other foreign countries.

The hearing record this year shows strong evidence that actions by the Environmental Protection Agency in carrying out these laws have contributed to the energy crisis, have increased the damage from floods because of the delay of flood and soil conservation projects, have increased the cost of production of food thereby contributing to higher consumer prices, and have greatly increased the danger to human health by banning DDT, which according to testimony has never injured a human being. In addition, actions by the Agency have placed American industry and American agriculture at a competitive disadvantage both at home and abroad.

ENERGY CRISIS

The Committee is convinced that the Environmental Protection Agency has played a major role in the current energy crisis. The approval by the Agency of overly restrictive State plans, which call for the meeting of primary and secondary ambient air standards at the same time, has resulted in the need for industry to convert from coal to low sulfur fuels. This increased requirement for oil and gas has been a major contributor to our current fuel problems.

In addition, the automobile emission control standards imposed by the Agency have greatly increased the requirements for gasoline, which is also in short supply and will probably require rationing.

The energy crisis has major implications with regard to our country's national security, foreign policy and balance of trade. These implications were not considered by the Agency in setting the standards and approving the plans that led to the problem. The potential impact on the economic and social well-being of this Nation of actions by the Agency is so great that it is absolutely essential that the Agency be required to consider the impact of their actions.

AUTOMOBILE PERFORMANCE

Emission control standards issued by the Agency, at the direction of the Congress have created serious problems for the American consumer. By setting deadlines that called for the development of new technology, the automobile companies, according to testimony before the Committee, were forced to proceed with the development of the costly catalytic exhaust converters.

Had sufficient time been allotted to meet the standards, then the automobile companies could have devoted their research funds to alternative types of clean burning engines. Instead, deadlines were set that did not provide sufficient time for development of alternative types of engines and the American consumer has ended up with an automobile that costs significantly more to buy, significantly more to maintain, will provide poor fuel economy, with a reduction in performance.

The Committee recommends an increase of $2,000,000 for research on alternative types of clean burning engines so that the Agency can accelerate this important program.

UNSUPPORTABLE PRIORITIES

A decision that a chemical must be banned because it "may" or "could," or stating it another way, "may not" or "could not" be a threat to wildlife and replacing it with a chemical that "is" dangerous to humans would seem to represent a clearly unsupportable set of priorities.

The Committee calls for a complete and thorough review based on scientific evidence of the decision banning DDT, taking into consideration all the costs and benefits and the importance of protecting the Nation's supply of food and fiber. The need for this review is amplified by a recent statement by the President of the National Academy of Sciences concerning the testimony at the DDT hearing:

Two-thirds of what I read I can only call trash; it was not science.

The Committee recommends adding $5 million to the bill for the testing of substitute chemicals. By providing this money the Committee will expect the Agency to avoid taking actions based on insufficient knowledge like they have done in the past.

ARBITRARY DEADLINES

The Committee is extremely concerned about the proliferation of legislation being passed by the Congress which places arbitrary deadlines on the Environmental Protection Agency. Some of these deadlines have even gone so far as to require an invention or the development of new technology by a given date.

Testimony before the Committee indicates that the Water Pollution Control Act Amendments of 1972 impose over 40 deadlines on the Agency. The Federal Environmental Pesticide Control Act of 1972 impose additional deadlines, as does the Noise Control Act. In addition, the Solid Waste Disposal Act and the Clean Air Act also contain numerous deadlines.

In many cases, these legislative deadlines have been imposed upon the Agency after passage of the annual appropriation bill. Since the deadlines are mandated in the law, the Agency must often use resources from other high-priority programs to comply with the law. This was the case recently when the Agency proposed to transfer $6 million from the Solid Waste Program and $3.5 million from the Great Lakes Program to comply with deadlines imposed by the Federal Water Pollution Control Act and the Noise Control Act. The Committee directed the Agency not to transfer funds from these high-priority programs and recommended instead a supplemental appropriation to meet these new legislative mandates.

The Committee is convinced that many of these arbitrary deadlines are forcing the Agency to frequently make unsound decisions or to take ill-conceived actions. The use of deadlines in statutes or regulations may help to encourage a development, but the use of deadlines to attempt to force new inventions or new discoveries would appear to be impractical. The Committee is convinced that the excessive use of deadlines results in the classical situation of "haste makes waste."

Therefore, the Committee has recommended language in the bill providing that funds may not be transferred to meet deadlines. During fiscal year 1974 if legislation is passed calling for additional deadlines, then the Agency will be required to seek a supplemental appropriation. This technique will preclude the transfer of funds and people from high-priority programs merely to meet a deadline with no consideration of the priority of the action called for by the deadline.

STUDY OF ENVIRONMENTAL PROGRAMS

Because of all the problems discussed above, the Committee recommends an appropriation of $5,000,000 for a complete and thorough review of the programs of the Environmental Protection Agency. The studies shall be conducted under contract with the National Academy of Sciences which has a reputation for technical competence and complete objectivity, and shall include, but not be limited to:

(1) The estimated cost of pollution abatement activities over the next decade and the benefits to be derived versus the cost. (If we are to spend $287 billion over the next decade, as estimated by EPA, how can we get the maximum pollution control for our money?);

(2) The degree to which environmental regulations have contributed or will contribute to the current and the long-term energy crisis;

(3) The effect of emission control standards on the cost and performance of automobiles, including the cost/benefit implications of present standards;

(4) The benefits and hazards to humans of agricultural and home use chemicals, such as pesticides, herbicides, rodenticides and fertilizers; and the effect on food and fiber production and the protection of human health of the inability to use those chemicals now banned or restricted; and

(5) The utilization of scientific and technical personnel and the identification of policy level positions that should be staffed with scientific or technical personnel.

Mr. Chairman, I believe I have as fine a record on protecting and developing our environment as any one. In the book I wrote, published in 1966 "That We May Live," I called for the protection of the environment, pointing out that to do the cleaning up job on pollution, we must call on industry, the Federal, State, and city government. We need financing and regulations. In the meantime we must maintain a sense of balance so that we do not tear up more than we correct. We must keep our industry going.

Mr. Chairman, the bill before us would add one more dictator where we have one too many now. We need this committee to go back and reconsider and protect the rights of the citizens far beyond leaving them to the whims of an unknown subordinate of a well known administrator, who could not handle the job whoever he may be or how hard he tried.

Mr. BROYHILL of North Carolina. Mr.

Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. PARRIS).

Mr. PARRIS. Mr. Chairman, although I am, as a member of the Energy Subcommittee, reasonably informed and genuinely concerned about the need to conserve and allocate our available petroleum supplies during this period of shortage for the benefit of all parts of our Nation and our economy, I cannot, in good conscience, support the adoption of the Emergency Energy Act, H.R. 11450. The enactment of this bill would be a prime example of the cure being worse than the illness.

The legislation is objectionable for a number of reasons, some of the principal considerations being as follows: It would give the President of the United States virtually dictatorial powers over the economy of the Nation; it constitutes the delegation of the authority and responsibility of the Congress of the United States to the executive branch in a period when the influence of the Congress in the solution of the pressing issues of the day is at a new low, and there are frequent cries by Members to regain the prerogatives and proper congressional authority envisioned by the framers of the Constitution; finally, this legislation will simply not provide acceptable solutions to the so-called energy crisis. Even if it would, it would be unacceptable because of its excesses.

Although the final version of the bill will undoubtedly contain a number of amendments, as originally introduced and as originally considered, this bill would, to paraphrase a recent editorial from a newspaper in my district, direct the President to establish a national program to conserve resources "through mandatory and voluntary rationing." Within 2 weeks of the bill's enactment, the President shall "promulgate requirements for emergency energy conservation and contingency programs to be developed by each State and major metropolitan government."

The President is granted life and death powers over the fuels used by businesses, public services, and individuals. He is directed to fix priorities on fuel consumption. He is given authority over "transport control." He can force oil fields and refineries to produce at a quantity desired by the administration. He can regulate commercial use of fuel, and even direct companies to use only certain kinds of energy.

The President can implement measures which shall include, but are not limited to restrictions on the use of "fuel or energy for nonessential uses." The phrase "nonessential uses" is so loosely defined that the President can apply it to almost anything.

The President can ban "all advertising encouraging increased energy consumption"; for example, a ban on advertising tourism, toasters, electric dishwashers, television sets, garbage disposal units and so on. He can, as well, place "limitations on energy consumption of commercial establishments and public services such as schools."

In addition, the bill calls for "prompt action by the executive branch" to deal with "severe economic dislocations, hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting and curtailment of vital public services, including the transportation of food and other essential goods."

Couple all those powers with those already held by the President to fix prices and wages and it is obvious that, with the stroke of a pen, the Chief Executive and his agents can drastically alter the personal and business life of every American. In fact, the administration will have far more economic—and, hence, political—power than Hitler held over Nazi Germany.

At the time of final adoption, the House version of this legislation will most probably provide that these awesome powers can and will be delegated to an appointed "administrator" for purposes of implementation. Transfer of this power to a bureaucracy would be even worse than that originally proposed.

It is inconceivable to me that a majority of this House would, in an overreaction to the hysteria of the moment, fail to see or remove the ominous features of this bill if it is to be adopted, or better still, would not reject this legislation altogether and exert its responsibilities in various and specific programs in dealing with petroleum and other fuel shortages and the energy gap generally.

To adopt this legislation in its present form would permit, by executive action, the virtual elimination of the individual rights of Americans to live and function as free citizens under the free enterprise system which has made this Nation unparalleled in the history of the world.

I cannot, in good conscience, support such an action, and will vote against this legislation. It is my fervent hope that a majority of my colleagues will do likewise.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. J. WILLIAM STANTON).

Mr. J. WILLIAM STANTON. Mr. Chairman, I appreciate the gentleman yielding me this time.

Mr. Chairman, I take this time to ask the chairman of the full committee a question. As the chairman knows, petroleum coke is all that remains after the crude oil has been completely refined. The product is a waste product subsequent to the refinery process. My question is: I want to be sure that the definition on page 4, line 16 of H.R. 11450, that under that definition, petroleum coke would not be included?

Mr. STAGGERS. If the gentleman will yield, that is true, that it is not included in this definition. This is a waste product of the refining process as I understand it.

Mr. J. WILLIAM STANTON. That is right.

Mr. STAGGERS. And it is not defined to be a refined petroleum product, as that term is used in this act.

Mr. J. WILLIAM STANTON. That is correct.

Mr. STAGGERS. It is not included.

Mr. J. WILLIAM STANTON. I thank the gentleman very much for his response.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Chairman, if I may have the attention of the chairman, the gentleman from West Virginia (Mr. STAGGERS) I would like to propound a question to the gentleman.

Mr. Chairman, may I have the attention of the gentleman from West Virginia, the chairman of the committee. I should like to propound a question to him.

I am interested in the alternative to gasoline rationing and the limitation of fuel consumption now in use in the state of Israel. Under this plan, each motor vehicle may be used only 6 days a week. The single day each week of nonuse is selected by the owner of the vehicle and identified by an appropriate and distinctive windshield sticker.

We are assured that the data processing equipment of all States in this Nation would make the appropriate recordkeeping of such a system in our country very simple. I would like the chairman's assurance that the proposed legislation is sufficiently flexible to permit regulations imposing this alternative to rationing, if the administrator be so advised.

Mr. STAGGERS. That would be my interpretation.

Mr. BUTLER. Another question, if I may: If such a plan were recommended by the Administrator, would it have to come back to the Congress for approval under this proposed legislation?

Mr. STAGGERS. No, it would not. This would come under section 103.

Mr. BUTLER. I thank the gentleman.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. SARASIN).

Mr. SARASIN. I thank the gentleman for yielding.

I should like to compliment the committee on the fact that under section 123 the Administrator has the authority, under the act, by rule to restrict the export of various products, including petrochemical feed stocks. I have been very much involved in this part of the shortage that we are seeing with the energy shortage, and in my district alone it directly affects some 11,000 jobs, and throughout the Nation approximately 1.8 million jobs will be lost with simply a 15 percent reduction in petrochemical production.

I would point out, though, that I do not believe that this bill as it now stands goes far enough. I think that some of the language that is employed in title V of the bill as it came from the Senate should have been enacted in this bill, and I am referring to section 501(a) of the Senate bill. That section allows the President to grant to the States the necessary funds to keep unemployment compensation benefits going for those people who need them, who have exhausted their own benefits or, who for other reasons are not eligible for unemployment benefits and yet have lost their jobs as a direct result of the energy shortage and the conditions that are imposed under this act.

I think it is absolutely essential, first of all, to require that the States utilize their own resources, but then to face up to the fact that the Federal Government has an obligation here, and that the Federal Government should respond to that obligation by allowing some Federal assistance to the States to allow them to continue on with unemployment compensation benefits to those people who are going to be directly affected by the loss of jobs as a result of energy shortages, and directly affected by many of the conditions contained in this bill itself.

Mr. Chairman, I yield back the balance of my time.

Mr. BROYHILL of North Carolina. Mr. Chairman, I do not have any other requests for time. Those who had requested time are not on the floor right now. I reserve the balance of the time.

Mr. STAGGERS. Mr. Chairman, I have had requests for time, but the gentlemen requesting time are not here, so I have no further requests for time.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Minnesota.

Mr. NELSEN. I thank the gentleman for yielding.

For purposes of clarification, I notice the date in the Staggers amendment in the bill dealing with coal is of 1980 as the outside date that the relaxation of use of alternate fuels is permitted. The thing that concerns me is that, for example, my good friend Andy Freeman builds his powerplant on the coal fields of North Dakota. Is it the intention that in the year 1980, if the ambient air quality is still good and not damaged, he will then be permitted to continue the use of coal after the year 1980?

Mr. STAGGERS. I would say yes, but he would have to meet the requirements.

Mr. NELSEN. That is perfectly all right. I thank the gentleman for yielding.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Chairman, along the same line, is industry likely to make a huge investment for a coal generating station if it will last such a short time? It will be 2 or 3 years for the constructing of it and then possibly it will get operating only in 4 years. Is that going to make it possible to increase the generation of electricity with the standards reaching only to 1980? Would it not be more useful to go maybe another 10 years to let the investors have a reasonable assurance they will be able to recapture their investment?

Mr. STAGGERS. We are talking about those plants which are already available to enable them to convert right away.

Mr. MYERS. If we do it, it would include any new industry coming on the line.

Mr. STAGGERS. It says that wherever possible they shall be able to build their plants so that they can use coal too.

Mr. MYERS. Mr. Chairman, if the gentleman will yield further, is there any place in this bill to accommodate the coal burning electric generating stations that might be built in the event we give them some assurances of recapturing their investments? I do not think we are going to be able to generate the electricity which is needed today unless we do encourage coal burning generators.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, I might say to the gentleman that on line mine mouth plants are visible, they are those that were built right on the coal mine. What the standards do say is that they must meet certain standards. There are types of plants that can meet the present standards. What we are saying is that they can go ahead and build this type plant until 1979 and as long as the ambient air quality in the area is met, perhaps some type of alternate or intermittent control would be all right, but after that time some continuous-type control would have to be on that plant, and the people in the industry know that at the present time, and they have the understanding if they enter into a plant such as this. The continuous control type of technology will last 40 or 50 years, right along with the life of the plant.

Mr. MYERS. Mr. Chairman, if the gentleman will yield for one further observation, then is it the opinion of this committee that industry has the assurance from this committee?

The CHAIRMAN. Has the gentleman yielded? I would like to know who has control of the time.

Mr. STAGGERS. I did not yield to anybody but the gentleman from Minnesota who was seeking recognition, but now I have a gentleman here who would like to speak, so I cannot yield any further time.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. NELSEN).

Mr. MYERS. Mr. Chairman, will the gentleman from Minnesota yield?

Mr. NELSEN. I yield to the gentleman from Indiana.

Mr. MYERS. Mr. Chairman, it is not clear in my mind and I hate to belabor this point but the committee does feel that the electric companies of this country will build coal-fired generating stations that will be needed now and in the very near future under existing and proposed law. Is that correct?

Mr. STAGGERS. That is correct. The gentleman asked about it and they can get it on their charging for electricity. This will be allowed, I believe.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Texas.

Mr. ECKHARDT. As I understand it the right to continue to buy coal until 1980 as long as up-to-date equipment is used is contained in section 106, which as I understand it deals only with those plants which are ordered by the Administrator under the present act to convert to coal because they have the ready ability to do so. Does the gentleman understand the matter in another way?

Mr. NELSEN. It is my understanding that under the terms of the bill the EPA may permit alternate sources of fuel supply to generate electricity. This could be gasified coal or flotation process or cleaning of coal, providing however that the total ambient air quality must remain at a level that will be established.

The thing that bothers me some is this, that if a plant is going to be built on a coal bed, it will take several years to build it. Assuming that the plant has been built on the coal beds of North Dakota and the plant is then in operation in the year 1980 and the ambient air qualities are met, I do not believe it is the intention of the committee to say that in 1980 we have to use petroleum products, providing they meet the ambient air quality.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Chairman, I rise in support of H.R. 11450 the bill that the distinguished gentleman from West Virginia has brought to the floor. He has worked on this bill night and day. While he said himself that it is not a perfect bill, it is a good bill in relation to the intent and the purpose that we have at this time of fighting this energy crisis and winning, and thereby making ourselves independent of Middle East oil.

Now, as it happens in the closing days of Congress and as it has happened in other days of Congress, sometimes there are overlapping jurisdictions.

About 2 weeks ago the Speaker and our now Vice President, the gentleman from Michigan (Mr. FORD), the gentleman from New York (Mr. HORTON), myself, and the gentleman from California (Mr. HOSMER), and the gentleman from North Carolina (Mr. BROYHILL), were called down to the Administration for a conference. We were asked if we would take over the task of setting up the Federal Energy Administration. The administration had ready some charts and information which they made available to us and they asked the Committee on Government Operations to take on this task, as a reorganization was needed.

Now, during the discussion of the bill which we have before us, an amendment was offered by the gentleman from California (Mr. MOSS), in harmony with the draft that was presented that morning to set up a Federal Energy Administration and the amendment was agreed to, which would set up a Federal Energy Administration and an Administrator. Now, that is just about as far as the amendment went. The Moss amendment did not provide the full treatment for the entity which his amendment created.

In the meantime, the House Committee on Government Operations began holding hearings on the basic reorganization and the basic organization of the Federal Energy Administration. We continued to hold hearings in the Committee on Government Operations.

I brought this to the attention of the gentleman from West Virginia. We agreed that the joint action of our two Committees did not present an insoluble problem.

In the report which we have before us on page 27 there occurs this language; this is in the report, page 27, of the Committee on Interstate and Foreign Commerce speaking:

> In addition to the powers under the Emergency Petroleum Allocation Act of 1973 and as may be authorized under this Act,

> the President has proposed to transfer other functions of the Executive Department to the Federal Energy Administration so as to consolidate energy related activities. This the Committee has not attempted to do. It is understood that some of these proposed transfers, such as the transfer from the Department of Interior of its Office of Oil and Gas and the Outer Continental Shelf authority, require legislative approval. An appropriate bill has been submitted to the Congress and will be considered by the Government Operations Committees of the House and Senate. The Committee does not believe that the action which it has taken under this Act in any way impairs studied consideration of these proposals by the Government Operations Committee. Indeed, charts of organization of the Federal Energy Administration confirm that the Committee's proposal to act now to place the mandatory allocation program and the authority granted under this Act in an independent Federal Energy Administration is entirely consistent with the President's Executive Order and the proposed legislation now under consideration by the Government Operation's Committee.

Now, I can say that our Committee on Government Operations has been working sometimes until 10 o'clock at night. We have reported out of the subcommittee to the full committee a bill which will put meat on what is a skeleton arrangement or a very sparse arrangement in section 104 of H.R. 11450. The language of the Moss amendment setting up a Federal Energy Administration and a Federal Administrator, I understand was the basis of section 104.

Now, we have given a great deal of time to the problem of establishing by detailed legislation the Federal Energy Administration with its officers, structural organization, its powers, duties and responsibilities. We believe that H.R. 11793 accomplishes that objective.

The bill, H.R. 11793, will be passed out of the full Government Operations Committee, in my opinion, on Friday morning. Now, H.R. 11793 is a complement to H.R. 11450 that is before us today. As to whether the Speaker will schedule it for action now or in January is unknown to me at this time.

Let me emphasize again that I am in support of H.R. 11450 the Staggers bill. It is an operational bill, a bill of broad authority, but it needs an agency, a centralized agency. That agency has been created by Executive order and Mr. Simons and Mr. Sawhill have been put at the head of it until a statutory basis is established. H.R. 11793 will be the statutory authority for a complete organizational structure of the proposed Federal Energy Administration, when and if it becomes law.

The **CHAIRMAN**. The time of the gentleman from California has expired.

Mr **STAGGERS**. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. **HOLIFIELD**. Therefore, Mr. Chairman, section 104 of H.R. 11450 will be complemented by the full study contained in H.R. 11793, on the organizational structure which is really necessary, and which the chairman agrees is necessary to carry out the overall direction of the energy problem, which is contained in the Staggers bill.

Therefore, I support this bill and I will await the action of the Congress on H.R. 11793, the Federal Energy Administration, the bill which the administration has also requested this Congress to pass before we adjourn, if possible.

Mr. **BROYHILL** of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. MARAZITI).

Mr. **MARAZITI**. Mr. Chairman, one of the important sections of this bill is section 121, which calls upon the Secretary of the Interior and Secretary of Commerce to provide a study and report on exports of petroleum products and other energy resources of the United States. It calls for a report within 90 days and a recommendation on legislation.

I would have hoped that the time period would have been limited to a shorter period, but I hope that the report is made quickly and that Congress acts at once.

We have exported gasoline and natural gas in large quantities from the United States. We have exported heating oil to the tune of 1,500,000 barrels in 1973 up to now. That is 3 times the amount that was exported in 1972. The total value of the products is over $400 million.

Mr. Chairman, today we have before us a bill of the utmost importance to the Nation. The Energy Emergency Act gives our President a framework within which he can work to meet the Nation's fuel needs in the face of growing shortages.

I like the fact that this bill addresses itself to our existing environmental commitments, and the impact of energy shortages on employment. I also like the fact that section 121 of the bill directs the Secretary of the Interior and the Secretary of Commerce to prepare a comprehensive report of U.S. exports of petroleum products and other energy shortages.

It is my feeling that when compiled, this report will prove that we need legislation to stop the export of domestically produced crude oil and oil products until our own energy needs have been satisfied. I have introduced legislation which would do this, and encourage my colleagues to consider a similar move.

From the information I was able to gather on this subject, we have exported $317,460,319 worth of petroleum and petroleum products from January through August of this year. This information came from the U.S. Census Bureau.

In just the major classes of products alone for such things as aviation fuel, gasoline, propane, heating oil, lube greases, and similar products we exported 18,288,119 barrels of these refined products during this same period.

Mr. Chairman, we use about 17 million barrels of oil per day at current levels here in the United States. As you know available energy is the basis of our ability to grow and, therefore, our economy. A shortage of energy will undoubtedly mean curtailed production, and a loss of jobs for many Americans.

I feel it is preposterous to permit the export of domestic oil products to foreign nations when we face such serious energy shortages here at home. A 17-percent shortfall is predicted for this winter alone.

For the increased profit of a selfish few companies by allowing domestic oil and oil products exports to continue we are causing increased hardships for American labor, to businesses and industry, and the consumer in general.

Our past track record is not too good. We exported lumber to Japan, and it drove up the price of lumber here at home. We sold wheat to Russia and it inflated the cost of food for the American housewife. Now we are faced with a serious energy shortage, a possible recession, higher inflation levels, and we still are exporting domestically produced crude oil and oil products abroad.

Mr. Chairman, the report specified in section 121 is due to be presented to the Congress 90 days after the enactment of this legislation. I trust that speedy action by the Congress will be forthcoming to halt U.S. oil exports once this information has been made available to the appropriate committees.

Mr. **BROYHILL** of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Nevada (Mr. TOWELL).

Mr. **TOWELL** of Nevada. Mr. Chairman, this piece of legislation, perhaps the most important debated in this Chamber this session, is so lacking in direction and content that I—and I hope many of my colleagues—am giving serious consideration to voting against it.

While I am fully cognizant of the emergency status of this bill, it is difficult to understand why such a major bill should be disseminated to the Members just this morning for study and consideration.

Once again we find ourselves faced with legislation that simply hands over to the administration the authority to do whatever it believes is necessary. There is no opportunity for input from Congress other than to vote "no" if we do not like the administration's plans or, most likely, just complain about it when we find the administration's action unpalatable.

One of the few things this legislation actually does is authorize the establishment of a Federal Energy Administration. Here, finally, we have authorization for much-needed long-term research into such essential energy sources as solar power, oil shale, and geothermal steam—something I advocated several months ago.

I am concerned, however, that this bill does not do enough to immediately combat the shortage of energy itself.

Just yesterday the Federal Energy Office announced that the voluntary programs already implemented, as well as those controls the President already has available, have resulted in a reduction of nearly 50 percent of the anticipated daily shortage of petroleum. And today, the same office announced further proposals to eliminate the rest of the anticipated shortage—including a gasoline output cutback of 15 percent at the refinery level. With this kind of action downtown, one quietly wonders just what it is that we are all doing here today.

Nevertheless, I hasten to point out to my colleagues that in my State, fully two-thirds of the work force is directly involved in tourism. Yet this legislation makes absolutely no direct provision for consideration of the economic impact these cutbacks place on States such as Nevada.

One of the most serious provisions missing from the final draft that we are considering here today—and I am told it will not fit into this bill because we are not actually doing anything in the way of conserving energy—is that by which State governments can actively participate in energy conservation planning and implementation. This bill gives no consideration to essential industries that weigh heavily on the economy of certain areas best known at the State level.

Those of us from States that anticipate extreme economic hardship from such anticipated proposals as Sunday closing, rationing, the 50-mile-per-hour speed limit, have no recourse other than to take our case down Pennsylvania Avenue and hope for the best.

Responsible legislation which provides individual areas to accomplish their own energy conservation within wide guidelines is essential.

Unless this legislation is suitably amended, I urge my colleagues to join with me in sending this bill back to committee and ordering out some responsive, effective proposals.

Mr. BROYHILL of North Carolina. Mr. Chairman, I have no further requests for time.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I rise to ask the chairman of the full committee a question with respect to section 106, having to do with coal conservation and allocation.

As I understand it, Mr. Chairman, this extension of time during which the user of coal, if he uses the most modern equipment, is guaranteed a time until 1980, is limited, as I understand it, to those plants which are under the authority of that section commanded by the administrator to alter from other fuels to coal.

Mr. STAGGERS. Mr. Chairman, that is true.

Mr. ECKHARDT. Mr. Chairman, I understand, too, that if a plant is using coal and has not converted under an order, it would be required to operate on the same basis as a plant running on fuel oil or any other fuel?

Mr. STAGGERS. That is as I understand it. The gentleman is correct.

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman.

Mr. STAGGERS. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I thank the gentleman very much for yielding me this time, recognizing the shortness of time available.

I do wish to compliment the chairman of the committee and the members of the committee for bringing to us this emergency energy bill, which I am sure will be extremely important to the solution of some of the problems that face us. I want to make just two points in the brief time which I have.

First of all, I think it is unwise for the Members of this House to feel that what we have is a temporary emergency. Many of us have been exposed to briefings with regard to the long-run nature of the energy crisis which faces this country. It would have been a critical situation in the very near future without regard to the question of the availability of oil from the Middle East.

Perhaps we ought to be grateful for the fact that we are now being forced to take certain actions which in a very short time we would have had to take anyway, and perhaps with worse results than those that will follow when we take them now.

There is no question but what in the long run this country is going to have to do a number of things involving the reduction of the use of energy and the development of new and nonpolluting sources of energy which we have not done before or have not done with sufficient rapidity.

Mr. Chairman, I hope, while we are considering this bill which is labeled as an emergency short-time bill, that we will not forget that we are truly up against a long-run situation which we will have to face in the very near future and on which there will be other legislation which I hope will be before this House soon so that we may deal with it.

There are a number of points with regard to this current bill on which I have some objections.

They are in some cases substantial and in others not so substantial.

I will have some amendments which I will offer when we reach that stage when we consider the bill during the amendment process.

I do wish to point out that this so-called emergency short-range bill has been used as a vehicle for making changes in the automobile emissions standards and in the ambient pollution standards in the years 1975, 1976, 1977, and 1978, which cannot by their very nature have any impact upon the immediate problem which is supposedly the basis for this bill.

I am going to raise some questions as to why we need to act hastily in connection with these various substantial changes in the air pollution control standards.

I understand and I appreciate the fact that the members of this committee are as concerned as I am about clean air in this country, and I am sure that there is a reasonable and rational way in which necessary changes in these standards can be made over a period of time.

Mr. Chairman, I am questioning the desirability of moving to put them into this bill, which by its language expires in a little over a year, instead of doing it on a more considered basis.

The CHAIRMAN. The gentleman from West Virginia (Mr. STAGGERS) has 4 minutes remaining.

Mr. STAGGERS. Mr. Chairman, I yield myself 1 minute.

Mr. YOUNG of Texas. Mr. Chairman, will the gentleman yield for a question?

Mr. STAGGERS. I yield for a question to the gentleman from Texas.

Mr. YOUNG of Texas. Mr. Chairman, I would like to ask the gentleman from West Virginia what the situation would be or what he expects as to this situation:

Down in the Southwestern part of the United States we have many utility companies, power companies, that are located near vast gas reserves, with several of them setting right over them. Of course, that gas is committed by contract to many places back in the East and to other places. As a result, these utilities have never used anything but gas; they have never used coal or anything of that nature.

Now, with the contracts being such as they are, it may very well be that soon some of these utilities will find it necessary to switch to oil, to burn oil instead of gas.

Is there anything in this bill that would prevent them from making that conversion, if necessary?

Mr. STAGGERS. No, sir.

Mr. YOUNG of Texas. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The gentleman from West Virginia (Mr. STAGGERS) has 3 minutes remaining, and the gentleman from North Carolina (Mr. BROYHILL) has 3 minutes remaining.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, when the House passed the mandatory allocation measure a certain priority was given to farmers to receive diesel fuel so that they could bring in their crops. Indeed, that and the independent gasoline people were the very purposes for which the bill was enacted. They had this priority. And yet farmers all over America do not have the diesel fuel to put in their tractors to work the fields. We have made legislative history on the floor saying that they should be given that diesel fuel and that they would not be limited strictly to the fact that the allotment would be based on 1972 as the base period. The Office of Oil and Gas Allocations have issued orders and rules and regulations indicating that they should be given that fuel and have even put this into the orders saying that there will be no prosecution of these companies if they should give them the fuel.

Yet the major companies do not yet give the diesel fuel up in the amounts that they should. They have the fuel on hand. There are lawyers for the major oil companies that state "Unless you can show me in writing that you can use anything except the 1972 base period, you cannot get the diesel fuel, and you cannot sell it to the farmers." This is a narrow-minded approach to attempt to get around what we said should be done.

Either the large oil companies are making a selective distribution of that fuel, or they are holding it for their own resale outlets or purposes or they are hoarding it for speculation when they can get a higher price for the commodity. That may or may not be the case, but I intend to introduce a resolution to say that if the administrator down the street does not see that the fuel goes to the farmers as we have said it should, then he will be guilty of penalties. I know these penalties are already in the law, but we are not getting any action on them.

I want to state this again by this amendment, that we will enforce these penalties if the administrator or suppliers do not comply, because it is our intent that it should be done.

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from New York for a question.

Mr. BINGHAM. Mr. Chairman, I would like to ask a question about section 106.

In New York City, of course, they are very concerned about the burning of coal by the electric utilities. As I read that section, if a plant is approved under subsection (d), under certain conditions plants could continue to use coal until January 1, 1980. That section provides for a deadline with plans to be approved before May 15, 1974.

My question is, If the plant is disapproved as submitted, would it mean that the utility would not be permitted to use coal?

Mr. STAGGERS. Unless it would qualify for a suspension under the Clean Air Act. That would be under the regular procedure we have under the Clean Air Act as amended by this bill in title II.

Mr. BINGHAM. But under this act the provisions of 106 permitting use of coal would not apply if the plant were not approved. Is that correct?

Mr. STAGGERS. That is correct.

I now yield 1 minute to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Chairman, I have an amendment that I plan to offer at the appropriate time which would be a logical extension of the section in the bill which focuses on "windfall profits."

Very simply, this amendment would bring automobile insurance rates under the provisions of this section.

As you know, the one "silver-lining"—the one benefit—of the energy crisis is the result the energy conservation measures will have on automobile traffic accidents and fatalities. In effect, we will most probably witness a reduction in death and disaster on the highways.

Obviously, if we see a 30-percent reduction in vehicle miles traveled, we should see—theoretically, at least—a 30-percent reduction in automobile accidents.

In addition, the lowering of speed limits will result in a reduction of both the frequency and severity of accidents on the highway.

Thus, with the resulting reduction in claims against automobile insurance companies, we should witness a lowering of insurance rates to coincide with these changes.

But to insure that the insurance industry does not reap windfall profits as a result of the energy crisis and the conservation measures mandated by the Government, I believe that the bill should be amended to include insurance companies, as well as oil companies.

Mr. Chairman, the American consumer is being asked to make tremendous sacrifices to conserve energy. The one area where he may be in a position to see some good coming out of this crisis is in the automobile insurance rates.

We need the confidence and the cooperation of the American people to make the energy conservation program work.

Let us give him that confidence by insuring equity in the rates he pays for auto insurance.

I hope that you will join me in this effort to make sure that the consumer reaps some benefit out of the crisis in which we presently find ourselves.

Mr. DON H. CLAUSEN. Mr. Chairman, we have before us the Energy Emergency Act which is extremely complicated and which has long-range ramifications that cannot readily be foreseen by the Congress or the American public.

In a way it is a test of our resolve to meet a problem head on and solve it in a positive way as we have always done. I have reservations about certain portions of this measure as I am sure we all do, but I am pleased that the Congress is now actively seeking constructive solutions to our energy needs.

Two years ago I reported to my constituents in California's First District that we were nearing the end of cheap energy in this country. I followed up that report with six more comprehensive reports on specific aspects of the problem.

Today, I would like to comment on several specific sections of the Energy Emergency Act and the implementation of its provisions.

First, the allocation of petroleum supplies is authorized until May 1975 under section 103 of the bill. It lists certain priority categories such as housing, education, health care, hospitals, public safety, energy production, agriculture, and transportation services.

It is important that these priorities be respected and that allocation decisions be made only on the basis of a full understanding of all the facts and that these decisions be continually reviewed to insure they are consistent with energy conservation goals.

Housing, for example, is basic to our economic and social welfare. We must make certain that construction can go forward but we must also assure a ready and available supply of the raw materials for constructing these houses. Timber resources must be available, and the transportation capability to get them to the mill and then to the market must be given a very high priority.

It goes without saying that education is a necessity. In fact, it is the student of today who will provide the advanced technology to meet our energy needs of tomorrow.

Local school administrators in my district have pointed out that if their transportation system is cut back, gasoline use will actually increase since students will have to get to school individually, in automobiles, rather than in groups by schoolbus.

If we unnecessarily restrict our economy in seeking to achieve energy conservation, we will be acting in a counterproductive way since we will need our economic strength and stability to meet the energy demands we face.

We have seen an abortive example of this recently when an announcement was made cutting general aviation fuel supplies by about half. This decision was obviously arbitrary and based upon a complete lack of understanding on the role of general aviation.

I was pleased we were able to get this order modified and I hope the language in section 105(c) of H.R. 11450 will prevent this from happening again.

The provisions of section 107 permit the Civil Aeronautics Board to "take any action" determined to be necessary to meet fuel conservation requirements in airline service. It is my strong view that "any action" should not consist of depriving a community of its airline service. While I have no objection to modifying the frequency of service or the means by which that service is provided, I would strongly oppose any complete elimination.

The nature of my district is such that I am well aware of the dependence isolated rural areas have on the airplane for transportation needs. This dependence is real and must be considered by the CAB.

Finally, the committee has included a provision in the bill which prevents the Environmental Protection Agency from imposing taxes as a means to control pollution. Taxation is a subject that must remain within the jurisdiction of the Congress and, in particular, the Ways and Means Committee of the House. I fully support the prohibition contained in the bill.

Mr. BROYHILL of Virginia. Mr. Chairman, all of us in America have been in the habit of using energy in great abundance. It has been, in fact, the lifeblood of our country's social, economic, and diplomatic welfare; of our standard of living, of our very way of life.

In June of this year, I reported to the citizens of northern Virginia of the strong possibilities of the crisis in energy that is now upon us and the need for the Congress to take positive action on a number of measures before it to lessen the impact facing the Nation. I also urged the people of the 10th District of Virginia at that time to carefully and wisely use the fuels they needed in the hopes that we could get through this period of tight supplies that was obviously coming with only minor inconveniences. Today the real dimensions of the energy emergency are clear to all.

Suddenly our people have found themselves turning down their thermostats and wearing a sweater in the house, giving up their long Sunday drives, reducing their driving speeds, sweating out their jobs if they sell or make large cars or happen to be in the plastic or synthetic industry, and among many other things facing rising inflationary conditions because oil companies are being forced to pay more for a barrel of crude oil that today is a scarce raw material.

Obviously every reasonable solution must be taken by the Congress, the several States and municipalities and the people themselves to solve this unprecedented energy problem.

The bill before us today, H.R. 11450, the Energy Emergency Act, grants the President specific temporary emergency powers to cope with the energy shortages so as to meet essential needs of our people in a manner which is consistent with the protection of our environment. Moreover, these authorities provide for the maintenance of vital services necessary to health, safety and public welfare and still minimize the adverse impact on employment by providing for equitable treatment of all sectors of the economy.

While there are some provisions of the

bill that I oppose, and I will support amendments to clear up those provisions, I support the bill in concept as necessary legislation required to increase the supply of domestic oil production and to make more effective use of our vast coal resources. Additionally, I am pleased to see that the committee, acting in its wisdom, included a provision in the bill to restrict the power of the Environmental Protection Agency to approve a parking surcharge regulation which has not been adopted and submitted by a State as part of an implementation plan of that State.

I am opposed to section 103 of the bill as it leaves the executive branch with little else than to impose rationing of available supplies of fuel. Section 105 of the bill as originaly introduced was a far more flexibe approach to the problem and required rapid reaction on the part of the executive branch, within 30 days after enactment, to come to the Congress with its specific fuel conservation plans. Congress would have 15 days to eliminate those elements of the plan they disagreed with.

As this measure is now set forth in the bill, it removes the congressional veto and provides for Congress to act affirmatively before any plan can be implemented. This time consuming legislative action required in the bill defeats the use of the phrase Energy Emergency Act and forces the executive branch in effect to impose rationing to prevent chaos in our economy and hardships against our people.

With correction of this and other minor deficiencies in the bill, the Congress will have taken a major step to assist the Nation to cope with the energy crisis.

Mr. JONES of Alabama. Mr. Chairman, I am in support of title II of H.R. 11450, the Energy Emergency Act, and particularly of the amendment offered by the gentleman from New York (Mr. Murphy) during the committee's consideration of this significant legislation.

In sponsoring the amendment to provide relief for electric power consumers from unnecessary expenditures, John Murphy showed a knowledgeable understanding of the problems of the Senate-approved proposal. His energetic and skillful activities in the committee should earn him the gratitude of users of electricity throughout the Nation.

While there have been news reports to the contrary, it should be made clear exactly what is involved in the differences between this title and the similar legislation approved by the other body.

Although offered as a temporary suspension of the standards called for by the Clean Air Act of 1970, the sum of the provisions of the other body are nothing more than an attempt to make a major change in the Clean Air Act without adequate hearings and examinations such an alteration should involve.

In so doing, the language of the other body would commit the people of this Nation to a course which is environmentally disastrous, unnecessarily expensive and needlessly wasteful of already short supplies of fuel and energy.

The proposal adopted by the other body introduces for the first time for existing sources—and thus alters the individual state implementation plans—a requirement for "continuous emission reduction measures."

The practical effect of the use of this term would require every producer of electric power to make a present commitment to install scrubbers or burn very low sulfur coal. This ignores alternative technologies which may in certain instances meet the primary and secondary ambient air quality standards at one-tenth the cost.

The citizens who use electric power in their homes, businesses, or factories will be put to unnecessary expense. As you know, in this regulated industry, the costs of production are passed on to the customers.

Section 110 of the Clean Air Act provides that States shall adopt State implementation plans—SIPS—for attaining and maintaining the national ambient air quality standards. The only words in the selection which could be said to limit the measures which a State could adopt to achieve this goal are the following:

> (The implementation plan shall include) emission limitations . . . and such other measures as may be necessary to insure attainment and maintenance of such primary and secondary standards . . .

It is very clear these words mean that a State can use any reliable and enforceable method or methods it wishes in order to achieve the ambient standards. But, if "emission limitations" must be included in each SIP, they do not have to apply to all sources. In any event, the term "emissions limitations" does not mean only continuous and fixed emission limitations, but also includes variable emission limitations which may change as the conditions affecting plume dispersion change.

Studies by the Tennessee Valley Authority, which has been exploring methods of dealing with problems of clean air long before national legislation was enacted, indicate the requirement for installation of scrubbers on existing generating facilities will add at least one-third to the cost of producing electric power. Investigations by other producers of electric power indicate the scrubber requirement may double the cost of producing electricity—and this is exclusive of already frightful trends on the other costs of producing thermal electric power.

The Committee on Interstate and Foreign Commerce has wisely required the Environmental Protection Agency to report on the impact of the scrubber requirement on the Nation's environment and energy supplies.

The members of the committee are to be commended for their informed approach to this problem.

Most of us have been firm and stated repeatedly throughout the years that the greatest threat to our Nation's efforts to clean up our water and air comes from the ill-advised actions of strenuous advocates who, through unnecessary requirements, lose the support and endorsement of the great majority of the public.

Mr. EVINS of Tennessee. Mr. Chairman, the Associated Press has just completed a survey of 20 of the largest oil companies.

The results of this study indicate that the trend of concentration and monopoly in the oil industry continues and accelerates with the Nation's 20 largest oil companies controlling 95 percent of the industry's known oil reserves and dominating new energy sources.

Just 2 years ago this week, the House Small Business Committee which I am honored to serve as chairman, released a similar report based on hearings held by the Subcommittee on Special Small Business Problems, chaired by my distinguished colleague, the Honorable Neal Smith of Iowa.

This report pointed up the growing trend of big oil acquisition of a large percentage of coal reserves, uranium reserves and milling, in addition to refining capacity and natural gas production.

The report warned:

> If such a trend . . . is not reversed . . . a very dangerous monopolistic fuel supply could eventuate.

Mr. Chairman, according to this latest of the Associated Press, this trend has not been reversed, but continues as the Nation and the world face growing energy problems.

Because of the interest of my colleagues and the American people in the energy crisis, I place in the Record herewith the AP report published in the Washington Post on Tuesday, December 11, 1973.

The report follows:

Twenty Firms Control Most Fuels in United States

(By Jean Heller)

The nation's 20 largest oil companies control almost 95 per cent of the country's known oil reserves and dominate shares of all known alternative fuels, an Associated Press study shows.

A special Senate subcommittee is investigating allegations of diminishing competition among the oil giants with an eye to defining oil company holdings in other fuels.

The AP study showed that the large oil companies also own:

More than 70 per cent of the U.S. natural gas supply.

Between 30 and 60 per cent of the nation's coal.

More than 50 per cent of the uranium supply used in nuclear power generation.

Virtually all of the oil shale lands currently under private ownership.

While the large oil companies have never made a secret of their diversification into other fuel areas, precise ownership data has been difficult to compile because the oil companies won't disclose the information to anyone, including some of the federal agencies responsible for regulating the industry.

The California legislature recently issued contempt citations against several large companies—including Standard Oil of California, Exxon, Union, Mobil and Texaco—after they refused to comply with subpoenas demanding data on their California operations.

What information is available through government documents and industry reports shows that among the top 20 oil companies as ranked by 1972 sales, all had oil and gas holdings. Eighteen of the top 20 had interests in oil shale lands, 14 had uranium interests and at least 11 had coal holdings.

Critics of the consolidation of ownership of fuel resources charge that the trend is monopolistic. Oil company executives have insisted their industry was highly competitive and that concentration of fuel resources provides for their most economical exploitation.

At least nine of the top 20 companies had fuel resource interests in all five fuel categories: oil, gas, coal, uranium and oil shale.

They were Exxon, the largest oil company in the nation; Texaco, ranked number three, Gulf, number four; Shell, number seven; Continental, number eight; Atlantic Richfield, number nine; Sun, number 14; Standard Oil of Ohio, number 17, and Marathon, number 20.

Only one of the top 20 had interests in fewer than three fuel categories.

Mr. DONOHUE. Mr. Chairman, I earnestly urge and hope that the House will overwhelmingly and promptly approve, with appropriate strengthening amendments, the substance of this bill, H.R. 11450, the Energy Emergency Act of 1973.

Although our Nation is currently and unfortunately afflicted with an unprecedented number and variety of tremendous challenges it is commonly accepted that the most immediately important problem affecting the well being of the American people is the suddenly erupted energy shortage crisis.

On this score, Mr. Chairman, as I have stated before, whoever may be blamefully involved in this crisis and whatever may be the background complexity of its causes our most imperative congressional duty now is to legislatively move as swiftly and as effectively as is humanly possible to equitably alleviate the hardships accompanying this sudden shortage and provide for the most prudent use of our petroleum products supply at hand.

Mr. Chairman, in summary, the bill before us is designed to move toward the speedy accomplishment of this overall national objective by granting, along with many other provisions, specific temporary emergency powers to be exercised by the Chief Executive with congressional concurrence, creating a special agency of combined resources with decisionmaking responsibility to carry out approved conservation programs, authorizing controls on end-uses of petroleum products, placing rigid restrictions on windfall profits, directing efforts to minimize the impact of energy shortages upon employment and to revise unemployment insurance programs to meet the needs of all adversely affected workers, instituting mandatory conservation measures, encouraging action to increase the supply of domestic oil production, requiring that certain steps be taken to promote the more effective use of our Nation's coal deposits and restricting exports of coal, petroleum products and petrochemical feedstocks.

Of course, Mr. Chairman, the measure of our success in trying to overcome the unhappy effects of the energy shortage will be mostly in proportion to the manner in which the necessary regulations and restrictions are applied.

And, in this vein, Mr. Chairman, may I say I am vigorously opposed to any special Federal tax on gasoline and any allowance of exhorbitant price increases on gasoline, oil, and other petroleum products that would permit the extraordinarily high oil company profits to be additionally and unreasonably swelled at the hardship expense of the faultless general public.

I would emphasize, Mr. Chairman, that our predominant legislative duty here today is to make as certain as we can that the energy shortage sacrifices that must be nationally endured will be shared equally among all segments of our economy and all our citizens whatever their status. Any other course, Mr. Chairman, can only result in unconscionable discrimination, with accompanying demoralization, being imposed upon the poor and the fixed, low and middle income people of this country and thereby doom the best intended measure to utter failure. I sincerely trust that the executive department of the Government will fully cooperate to prevent any such tragic failure.

Beyond our prompt determination of this particular bill, Mr. Chairman, we must speedily proceed to the consideration and adoption of a further appropriate bill to initiate and complement long-range plans and programs to make and keep this country forever free and independent of the political pressure whims and threats of our oil supplying sources in the Mideast.

The history of this mighty Nation, Mr. Chairman, repeatedly shows that whenever a particular emergency arises and our people are assured that accompanying necessary burdens and hardships are equally imposed they can and they will exercise the full spirit and dedication, courage and perseverance that is required to meet and solve the challenges of the moment.

Therefore, Mr. Chairman, I indeed hope that our final action on this bill will reflect an exemplary exercise of legislative fairness that will serve to rally and unite our people within the traditional virtues of patriotic good will and cooperation to once again resoundingly triumph over this tremendous but temporary national adversity.

Mr. BURKE of Florida. Mr. Chairman, I voted in opposition to the rule for consideration of H.R. 11450, the National Emergency Energy Act. In all probability I will vote against the bill on final passage.

In my opinion, the bill is a hasty effort to meet a crisis but no matter how well intended by the committee that voted it out it is not a good bill nor well thought-out. Some have stated that "we cannot go home for Christmas" unless we pass an energy bill that we can take to conference as a compromise to the Senate bill. This makes no sense to me at all. Passing bad legislation will only deepen the present crisis. It is the responsibility of the Congress to look out for the welfare and health of the citizens of the United States, and there is no question in my mind that if, our energy situation is as acute as many say, then the people, if drastic measures must be taken, should have good legislation—not expedient legislation.

H.R. 11450 was reported out of committee just 2 days ago and few of us have had sufficient time to familiarize ourselves with the contents of the bill or to digest the testimony or the committee report, particularly since we have been going into session early and have been staying late every night in connection with other important legislation.

If there is an energy shortage, and I feel that many of "so-called" facts are speculative rather than real. I feel that there has been a great deal of crisis comment which has not been accompanied by full proof. I sincerely feel that the crisis is perhaps real but much of the shortage of oil, as it is a ploy by the oil companies to insure the oil companies' profits by suspicious shortages.

Personally I feel we would be serving better if we were to stay in session through the holidays if necessary, and pass a good bill than to vote for this bill which is bad enough but which can only become by compromise and creaking a huge bureaucracy to handle a problem which so affects our people. In fact what we do today may will make or destroy our Nation.

The energy crisis is a surprising shock to all Americans, and unfortunately, the communications with respect to gasoline and other fuel shortages, based upon solid information was not communicated to most of us, myself included. Why also didn't the press and the auto manufacturers know? The automobile manufacturers and the leaders in our industries in the main could not have been accurately forewarned, or they would have spoken out more loudly by the gadget craze. I personally have seen no positive proof other than the cutbacks, and a few statements of the top leaders and advisers.

Too often the Congress has acted in haste to pass legislation to meet crisis situations. An example was the Gulf of Tonkin resolution. The evidence which the Congress was given at that time indicated a threat to U.S. forces and indicated the need for immediate action by the President. Since that time, the Congress discovered that many of the statements that were made then were erroneous. Subsequently the Gulf of Tonkin resolution was repealed but what has the Congress learned?

Gentleman, no wonder our citizens are disillusioned. When we as leaders act hastily on important legislation just to satisfy those that cry wolf, or even worse, for a holiday then we are heading for trouble.

Mr. Chairman, I honestly feel that the House of Representatives is capable of enacting good legislation to meet the energy crisis but not by passing H.R. 11450, amended or otherwise. How gentlemen can we preserve our country if we are to weaken our antitrust laws instead of strengthening them. I favor the right to make a profit—the oil companies should; but it should be remembered that the majority of oil companies are multinational. My loyalty is to the people of my country.

Mr. ASHLEY. Mr. Chairman, in spite of the need to take further steps to conserve and expand our energy supplies, I must rise to express serious reservations about the bill, H.R. 11882, now before us—one procedural and the others substantive.

The grant of authority to the executive to allocate or ration fuels to individual consumers as provided in the bill is far too broad. The power to ration fuels in a society which is as energy intensive as ours can be the power to prescribe economic life or death. Such a power should be closely circumscribed with a provision for congressional oversight and veto. The bill as amended does not provide this. Under the bill before us, to stop a rationing program that is considered excessively injurious to a particular region or economic sector, Congress would be forced to enact new legislation rejecting such a rationing program. Such legislation would, of course, require support of two-thirds of each body since it would be subject to Presidential veto.

Among the substantive shortcomings of H.R. 11450 is the absence of a requirement that fuels be allocated on the basis of their impact on jobs. There are no criteria which require allocation of fuels to assure, to the extent practicable, that unemployment resulting from shortages would be evenly distributed. For example, if a particular industry can absorb a substantial reduction in fuel while maintaining full or near full employment, its allocation should be appropriately reduced. If employment in another industry would be markedly reduced as the result of only a modest reduction in its fuel supply, legislation without this approach is simply unacceptable.

Further, the bill would allow the Administrator of the new Federal Energy Administration to prevent the burning of natural gas or petroleum by any major fuel-burning institution without first making any attempt to share clean fuels on the basis of environmental need. The President has stated that he intends to exercise such an authority, and the results will be that many plants will be required to convert to the burning of coal, a shift that may well result in emissions beyond safe levels. The widespread conversion of plants from oil to coal prior to an attempt to allocate clean fuels to critical areas may well result in the needless fouling of our cities' air.

Unfortunately, Mr. Chairman, the committee reported bill also adopts a general end use allocation formula which invited numerous groups to pursue their special interests by pressing for amendments to protect themselves either by obtaining a priority status or by specifying that the administration cannot discriminate against them. Thus, the bill has become a Christmas tree with dozens of ornaments in the form of special interest amendments, including provisions for programs that are highly controversial and only marginally related to fuel conservation, and of which many will fall under the jurisdiction of other committees of the House.

Finally, I have reservations about the effectiveness of this bill to maintain stable gasoline and petroleum price levels, including fuel oil. My feeling is that the giant oil industry will reap even greater windfall profits at the expense of the consumer, as they have done for much of the last year, and that it would simply be impossible to return these profits through price reductions or reimbursements.

In closing, I must say that the administration has been totally unresponsive to an energy shortage which many of us have been predicting for more than a year. Unresponsive, that is, to the American public, but not unresponsive to the major oil interests who contributed so generously—and often illegally—in support of the President's campaign last fall.

It is a matter of record that the administration has had ample powers for months to control the energy crisis. In April of 1973 amendments to the Economic Stabilization Act provided the power to allocate fuel. However, it was not until October 3, 1973 that Governor Love issued regulations for the allocation of propane and not until October 16, 1973 that middle distillates were allocated. After awaiting a mandatory allocation program for all fuels for months, Congress finally had to pass the Emergency Petroleum Allocation Act of 1973 and even this legislation faced administration opposition. Because of the administration's misuse of existing authority this legislation must be passed. We must force the administration, no matter how reluctant, toward an equitable program of fuel conservation and rationing.

Mr. BINGHAM. Mr. Chairman, the National Energy Emergency Act, H.R. 11450, we are considering today is crisis legislation, drafted to respond to the fuel shortages which threaten to cripple this Nation. It proposes to authorize and direct the President to take a variety of emergency actions to conserve fuel, and to submit plans to Congress within 30 days for further actions. It is an incomplete package of proposals, plans, studies, and specific short-term authorizations which avoids some of the hardest and most important questions about how this Nation should deal with the impeding shortages of petroleum products this winter. Nonetheless it is important and vital legislation and I intend to support the bill.

I think few of us are not by now convinced that we are facing acute shortages of oil, gas, and petroleum products in the coming months. Prior to the outbreak of the Mideast war, the Department of the Interior predicted that we would suffer from regional shortages of petroleum products during the coming winter, and these predictions have become worse and worse following the embargo of Mideast oil. Estimates of the shortage now run between 15 and 25 percent of demand. There are lingering, persistent questions about the real causes of these shortages and the relative roles of the Government, the oil and gas industries, and a voracious public appetite for more and more energy in creating them. These questions must be answered, but the crisis is a real one and we cannot put off dealing with it any longer.

On November 15, I introduced a bill, H.R. 11509, which would have declared a national energy emergency and directed the President to undertake a variety of actions to conserve fuel during the coming year. Many of the provisions of this bill are contained in the legislation before us today.

H.R. 11450 establishes a Federal Energy Administration to administer the emergency powers granted by the bill. The Administrator of this new agency is directed to draw up a variety of plans for conserving energy and to submit them to the Congress in the immediate future. He is authorized to direct powerplants to shift to the use of coal, to help stores and shopping centers to limit operating hours, and required to study energy conservation measures and report to Congress within 6 months. Other sections of the bill—direct the Department of Transportation to help set up car pools across the country—authorize the Environmental Protection Agency—EPA—to ease air pollution standards for powerplants so they can shift to more available fuels—authorize EPA to suspend for 1 year automobile emission requirements—authorize EPA to review State air quality plans in light of the energy crisis—authorize EPA to designate those sections of the Nation, such as New York, which need clean fuels most to protect air quality—authorize EPA to study the feasibility of establishing a fuel economy improvement standard of 20 percent for 1980 model cars—exempt most energy emergency actions from normal administrative and judicial review and from the antitrust laws.

Most of these authorizations expire on May 15, 1974, but some could continue for years. Several of these provisions disturb me a great deal. For example, the bill leaves the President to institute a gasoline rationing program and rationing is seen as such a hot potato that the word "rationing" is not even mentioned in the bill. The legislation which I introduced would have directed the President to draw up a gasoline rationing plan immediately. Some form of rationing, distasteful as it may be to all of us, seems inevitable at this point.

Congress should bite the bullet and insist that, at a minimum, a rationing plan for gasoline sales at the retail level be drawn up immediately and submitted to the Congress for approval. I am disappointed that the legislation before us today dodges this issue.

Another omission in this bill is a provision for responding to the inevitable economic dislocations and hardships the fuel crisis is going to cause. Factories and businesses may be forced to close, and the layoffs and job losses which have already begun will continue. The present system of unemployment compensation could be bankrupted by the thousands of new claims these disruptions will produce, and a supplemental system must be established. The Government has a responsibility to provide for the welfare of workers and their families who, through no fault of their own or of the companies for which they work, lose their jobs because there is not enough fuel to go around.

An equally glaring oversight in this legislation is the desperate need for increased public support for mass transit transportation systems on the basis of energy efficiency. The greater fuel efficiency of subways, buses, and trains in moving large numbers of people and the precarious financial status of most mass transit operations underscores the need for immediate support from the Federal Government for mass transit. Expanding mass transit systems and making them cleaner, quieter, more comfortable and less expensive would greatly reduce our national addiction to gas guzzling automobiles and conserve potentially tremendous amounts of fuel. Rather than direct the Federal Energy Administrator to study methods of assisting mass transit and report back in 6 months, as this bill does, the Congress should direct the President and the Administrator to recommend legislation with Federal incentives for the use of mass transit to the Congress for immediate action. At a minimum, Congress must complete action on the $800 million mass transit subsidy legislation which has already passed the House, and I urge the President to sign that legislation into law as soon as he receives it.

The need to conserve energy and the need to clean up our air meet head on in this bill, and in every such clash the bill recommends that the air get dirtier. Clearly some sacrifice in environmental quality are going to have to be made in the coming months. When low sulfur, cleaner oil is in short supply, some powerplants will have to burn high sulfur oil or coal, and the Federal Energy Administrator and the Environmental Protection Agency Administrator will both have roles in deciding which powerplants should make the shift to the dirtier fuels. I am concerned about the amount of authority this bill delegates to make these kinds of decisions. Clean air goals may be amended or postponed without substantiated and convincing evidence of the need for such sacrifices. If the administration's exercise of the discretionary powers this bill grants are biased too heavily against environmental considerations, Congress will have to use the review and approval powers reserved to it to reverse those decisions.

The antitrust provisions in the bill before us are dangerous. I will support amendments to tighten them up or eliminate them.

This emergency legislation should at least start this Nation on a new course of conserving rather than wasting energy. There are many more problems ahead of us and much, much more to be done. We still do not have a comprehensive energy policy or a coordinated approach in either the Congress or the executive branch to energy problems. Governmental reorganization, massive research and development programs to tap alternative energy sources, wide-ranging and specific energy conservation programs, new energy information gathering systems, measures to prevent any slowdown or holdback in the oil and gas industries—all these measures and more are needed and must receive speedy Congressional attention. This bill is only the beginning.

Mr. PRICE of Illinois. Mr. Chairman, I support H.R. 11450, the Energy Emergency Act that the House Interstate and Foreign Commerce Committee has brought to the House for consideration. Under the most difficult circumstances, the committee has done a good job in reporting a bill that seeks to minimize as equitably as possible the potentially severe economic disruptions of the energy crisis.

There are a number of important provisions in the legislation that concern every American. First, I think it is important to note that the Congress has not delegated unrestricted authority to the President for dealing with the energy crisis. Rather, and rightfully so, the Congress, under the terms of this legislation, has required the submission of specific energy conservation plans that are subject to legislative review. This is an important step in reaffirming Congress role in policymaking.

Because of the expected hardships facing the American people with the energy crisis, that the bill contains a provision dealing with windfall profits. I feel that no one should be in a position to take undue advantage of the situation while others are called upon to sacrifice.

Important, also, to the American people is the provision requiring the President to develop programs and plans for protecting the American worker from job loss because of energy shortages. The prospects for a 6 percent or higher unemployment rate at a time corporate profits are reaching alltime highs cannot be condoned. We must not allow economic hardship to hit the worker who makes those profits possible in the first place. The energy crisis should not be used as an excuse for furthering the economic imbalance that already exists in this country.

I am glad to note that the bill also contains language restricting the exports of fuels and energy sources. It seems self-evident that if the American people are called upon to use less fuel, this Government should take every possible step to protect our domestic supplies.

The last provision I want to mention is that concerning the increased use of our coal resources. Coal, one of our most abundant resources, has not been utilized as effectively as it can. It has been estimated that within 1 year, an additional 75 mililon barrels of oil per year saving can be realized by reconverting units to coal use. Moreover, with all conversions completed, the annual savings in residual oil for electricity generation would be approximately 180 million barrels per year or almost 500,000 barrels per day. I think we must move ahead with our coal conversion efforts.

Mr. ROGERS. Mr. Chairman, I congratulate the distinguished chairman of the Committee on Interstate and Foreign Commerce for his leadership and perseverance in shepherding this complicated piece of legislation through his committee. I am pleased that this bill contains provisions of H.R. 11409, developed by the Subcommittee on Public Health and Environment, with respect to stationary fuel sources. I am also particularly pleased that three amendments with respect to the Clean Air Act, on which the subcommittee held extensive hearings, and which the majority of the subcommittee members recommended to the full committee, were ratified by the full committee and are contained in this bill. Let me describe these provisions to my colleagues.

First, the committee adopted a subcommittee amendment which is found in section 202(b) of the bill, beginning on page 77. That amendment places an absolute moratorium on parking surcharge regulations advanced by the Environmental Protection Agency as one of the transportation control methods in order for air quality regions to meet the primary ambient air quality standards. States and localities will still be allowed to impose surcharges on parking, but could not be forced to do so by the Environmental Protection Agency. It is the subcommittee's view that the imposition of parking surcharges by the Federal Government is an extremely unwise and discriminatory method of attaining the standard and that every consideration should be given to methods other than parking surcharges. It is an extremely dangerous practice for an agency to, in effect, impose a tax without specific congressional approval. For this reason, the amendment mandates submission of a report to the committee that would include an assessment of the economic impact of such regulations, reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with transportation. The Subcommittee on Public Health and Environment will review the report carefully. I reiterate that the effect of the section is that such surcharges may not be imposed by the EPA until the Congress authorizes use of this method to attain the primary standard.

Second, Mr. Chairman, the subcommittee reported—and the full committee adopted—what is now section 203 which begins on page 79. That section does the following:

It freezes the automobile emission standards for carbon monoxide and hydrocarbons at the Federal interim 1975 level for 1976. It authorizes an additional waiver—for the 1977 model year—of the statutory standard that otherwise would have gone into effect, upon a determination by the Administrator of the Environmental Protection Agency that application of such standard would result in a significant increase in fuel consumption. With respect to oxides of nitrogen, the bill establishes the 1976 level at 3.1 grams per vehicle mile and the 1977 level at 2.0 grams. The standard would revert to 0.4 grams per mile in 1978 unless the EPA authorizes a suspension. Again, the basis for the suspension would be a finding of a significant increase in fuel consumption. One year suspensions are authorized on a year-by-year basis until model year 1983.

Finally, Mr. Chairman, section 209 of this bill, beginning on page 93, would require the Administrator of the Environmental Protection Agency to report to the committee within 120 days of enactment of this legislation on the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. The EPA already has gained great expertise in fuel economy as a result of engaging in a study leading to labeling of automobiles with respect to the miles per gallon they achieve. Upon receipt of this study, the subcommittee will give active consideration to legislative proposals designed to increase fuel economy.

Mr. Chairman, I am grateful to the members of the Subcommittee on Public Health and Environment for their diligence in working out these three amendments. Our hearings continued well into the evening hours, and I believe that this diligence resulted in adoption of amendments which recognize that some adjustment must be made because of the energy crisis, and yet to no violence to the fundamental scheme of the Clean Air Act that mandates a reduction of automobile pollutants and the achievement of primary standards designed to protect the health of man. I particularly recommend these three sections to the Members of the House as products of considerable attention by members of the subcommittee that initiated the Clean Air Act.

Now, Mr. Chairman, permit me to comment on section 105(c) of the bill which mandates that energy conservation plans shall provide for equitable treatment of all classes of fuel use.

This section is deliberately designed to insure equitable distribution of the burdens of a reduction of fuel consumption among all segments of commerce.

I wish to call my colleagues' attention to page 27 and 28 of the committee report, which addresses itself to the issue of equitable distribution. I particularly call their attention to the following statements on page 27:

> . . . there must be a realization by those in authority that the public good is not served by denying allocations of fuel for certain uses which have the appearance of being nonessential (such as *recreational activities* or *various aspects of general aviation*) if to do so would result in significant unemployment. There are, of course, many areas in this nation where recreation and tourism provide the base of the local economy. (emphasis added).

Mr. Chairman, in my view, this equitable distribution would serve to restrain the Administrator of the allocation program from cutting aviation fuels by 42.5 percent as was recommended in the President's November 25 fact sheet on aviation cutbacks. Such a severe cutback on aviation fuels would paralyze the general aviation industry and would cost over 100,000 jobs and over $2 billion loss of revenue to the economy, according to some experts.

Also, Mr. Chairman, I believe that it is abundantly clear that section 105(c) serves to prohibit the Administrator from adopting a proposal which would cause unemployment in the recreational industry. For example, the fiberglass and boat manufacturing industries will be forced to shut down unless they receive an equitable allocation of fuel as proposed by the committee bill. Furthermore, most pleasure boating, long distance automobile travel and many other recreational activities would be severely curtailed without adequate assurances of equitable fuel allocation. I believe it is the committee's intent, as expressed on page 27 of the report, that allocations not be denied to these industries so as to cause unemployment.

It is clear that it is the committee's intent to treat all facets of commerce on an equitable basis. This is essential to the survival of a strong economy in such States as Florida, which has substantial economic interest in recreation and tourism.

I believe that if our Nation is going to overcome this energy crisis, we must take measures which will maintain a strong economy and which are premised upon an equitable distribution of the burdens of fuel economy throughout all sectors of users. We cannot totally sacrifice some sectors at the expense of others. Section 105(c) assures just this.

Finally, Mr. Speaker, I believe we must recognize that it will take much more than implementation of this bill to overcome the energy crisis. It is necessary for our Nation to utilize and develop other potential sources of petroleum if we are to achieve our goal of providing sufficient energy to the Nation. We must establish programs for continued development of alternate oil reserves in our own Nation; for an increase of imports from other nations, particularly from our South American neighbors; and for an extensive research and development program directed toward finding alternate sources of energy other than petroleum.

With respect to alternate reserves, there are extensive untapped petroleum reserves in shale oil in the continental United States which must be developed if we are to provide an adequate supply of energy for the Nation in the future.

Occidental Petroleum Corp. estimates a total potential reserve of shale oil equal to 47 times the total petroleum reserves in the United States and two and a half times the total world reserves. Particularly in view of the fact that an estimated 80 percent of shale oil reserves are on Federal lands, it is imperative for the Federal Government to develop to the fullest extent practicable this alternative.

Second, imports can be increased. I understand that Ecuador has total reserves of approximately 4-billion barrels of oil and that it could gear up its oil production to a level of 400,000 barrels of oil per day by the middle of 1974, provided that its negotiation for the expansion of the existing trans-Andean pipeline are successful.

The proposed new extension of this pipeline would connect with the existing one in Colombia and could convey up to 200,000 barrels per day. A recent study by a U.S. consulting firm, Terramar Consultants of Dallas, Tex., indicates that Ecuador's reserves are substantial, but are undeveloped and untapped.

In addition, Colombia is estimated to have a total reserve of approximately 1½-billion barrels. Colombia now produces only 49,000 barrels per day but has an estimated potential for 1974 of producing 192,000 barrels per day, provided this potential is developed. Presently, the Colombian pipeline extension of the trans-Andean pipeline can convey up to 200,000 barrels per day—which is sufficient to accommodate most of their country's total potential capacity. However, Colombia needs more pumping stations and a new loop to bring in oil from the Putumayo Basin. The United States must provide incentives to these and other South American countries which have untapped oil reserves in order to meet our immediate needs through importation of petroleum.

Lastly, it is necessary for our Nation to implement the use of alternative sources of energy, such as solid waste, solar energy, geothermal energy, energy created by ocean thermal change or by ocean currents, and other nondeveloped sources. We must also expand our efforts to improve existing knowledge and technology with respect to coal gasification and liquefaction. Extensive research and development programs must be initiated in order to realize the potential of these sources.

Mr. Chairman, I urge adoption of the bill.

Mr. MIZELL. Mr. Chairman, in recent weeks, ever since President Nixon asked the American people to join in a national effort to conserve energy, the people have responded in a most admirable and most effective way.

This morning's Washington Post tells us that the energy conservation measures already in effect have been responsible for saving nearly 1.9 million barrels of oil a day, even without the stringent new controls being debated here today.

And the energy officials attribute these savings in large measure to a significant decrease in demand by the public, signifying a real effort by most Americans to do their share to alleviate this energy emergency.

Mr. Chairman, in view of these facts, and in view of the great attitude with which most Americans are approaching this emergency, I believe we should take a long pause before imposing overly restrictive measures on the people that may be unnecessary to the task of reducing energy consumption to acceptable levels.

Gasoline rationing and exorbitant taxes on gasoline are the options currently being bandied about as means to drastically cut fuel consumption.

But I believe that before we start imposing these kinds of programs, which would either be bureaucratic nightmares or woefully inequitable, we should give the people a chance to prove that they can reduce their own levels of energy consumption to a point consistent with the requirements of the present situation.

I believe we should first tell the people what levels of consumption we could tolerate, and then see if they can meet those levels voluntarily before going to programs that no one looks forward to either administering or following.

But if controls are put on consumption, we must make quite sure that those controls are applied as equitably as possible, with no segment of our society being asked to sacrifice more than another. As long as we are all in this situation together, I believe the people will continue to respond as they have responded. But if we create a system that metes out favoritism to some and punishment to others, we will have created a monster that can scarcely be controlled.

I am pleased to note that there is a section of this bill before us today that would prohibit discrimination against any sector of the economy, including the aviation industry, tourism and the traveling salesman.

Above all, we must make sure that the effects of this emergency on the Nation's economy are as negligible as possible. Accordingly, we must establish priorities that will insure that people can do their jobs and run their businesses with as little interference and interruption as possible.

Working toward these goals, I believe we can be successful in reducing our energy demands while we endeavor to increase our energy supplies to avoid similar emergencies and crises in the future. This is my confident hope and our common duty.

Mr. VIGORITO. Mr. Chairman, on December 13, 1973, I will be offering three amendments to H.R. 11450 as substituted by H.R. 11882:

AN AMENDMENT OFFERED BY MR. VIGORITO TO H.R. 11450

Page 29, delete line 4 through 12 inclusive.

This deletes section 115, Prohibitions on Unreasonable Allocation Regulations.

AN AMENDMENT OFFERED BY MR. VIGORITO TO H.R. 11450

Page 29, delete lines 13 through line 8 on page 32 inclusive.

This deletes section 116, Use of Carpools.

AN AMENDMENT OFFERED BY MR. VIGORITO TO H.R. 11450 AS SUBSTITUTED BY H.R. 11882

At the end of the bill, add a new title as follows:

TITLE III—NONRETURNABLE BEVERAGE CONTAINER PROHIBITION ACT

SEC. 301—To reduce energy waste which is caused by the production of non-returnable containers used for the packaging of soft drinks and beer, and to assure energy conservation, so that the essential needs of the United States are met, by banning such containers when they are sold in interstate commerce on a no-deposit, no-return basis.

SEC. 302—Finding and Purposes:

(a) The Congress finds that the utilization of returnable beverage containers would result in substantial energy savings.

(b) It is the purpose of this Act to assist in the solving of this energy situation by preventing the use and circulation of the offending types of non-returnable containers by banning their shipment and sale in interstate commerce.

SEC. 303—Definitions:

(1) Returnable beverage container means a beverage container which

(a) has a refund value

(b) is not a metal container with a detachable opening in the container

(2) "beverage" means any variety of liquid intended for human consumption

(3) "container" means a bottle, jar, can or carton of glass, plastic or metal or any combination thereof, for use in packaging a beverage.

SEC. 304—(a) No person shall manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce any non-returnable container with respect to which no refundable money deposit is required from the consumer.

(b) Whoever violates subsection (a) of this section shall be fined not more than $1,000 or imprisoned for not more than six months or both.

(c) The President or Chairman of the Interstate Commerce Commission shall establish such regulations as are necessary for the purpose of this Act.

Mr. DULSKI. Mr. Chairman, as we debate here today the provisions of the National Emergency Energy Act, I believe it is essential that we not lose sight of the overall aspects of the Nation's fuel and energy problem.

The Congress is and has been acting to provide the legislative authority needed for governmental action by the executive branch. We are giving the executive branch tremendous power—more power than any previous executive has had in our Nation's history.

In acting to deal with the apparent critical shortage of petroleum, our Government is imposing restrictions and requiring allocations that are having an impact on every segment of our economy.

Already, hundreds of thousands of jobs are in jeopardy; workers are being furloughed, some temporarily, others indefinitely. Businesses are closing down left and right, the smaller and less diversified are affected first, but others also are tottering.

The ramifications of the current energy crisis are staggering. It is essential that the side-effects of emergency steps are considered carefully before the steps are taken. And we should not stop there: we must maintain a never-ending vigilance to deal with unexpected side-effects that develop.

In these days of wonder drugs, it is sometimes said that the medicine can be worse than the disease. I hope the people responsible for new energy policies will leave their blinders at the racetrack and consider every prescription they recommend from the broadest possible view.

When the President outlined his proposed energy-saving measures only 3 weeks ago, my reaction then and now is that implementation of these proposals will cause unemployment and could lead to a recession.

Some 20 years ago when the construction of the long-debated St. Lawrence Seaway was being considered by Congress, a prominent labor leader from my home town, who opposed the seaway, warned that if built Buffalonians would be able to stand at the Port of Buffalo and wave to the ships as they pass by. His warning went unheeded. Our area's economy was shaken to the core. I would like to hope that our country will not be critically hurt economically by the steps we take to ease the current energy shortage.

Mr. Chairman, the current pinch is being blamed on the cutoff of oil supplies from the Mideast.

I was informed today that U.S. companies have an investment of $2.5 billion in Mideast oil. This represents 45 percent of the total foreign investment. Yet, the United States is importing only 3 percent of oil leaving the Mideast. Why?

The United Kingdom has an investment of $1 billion, but is importing 15 percent. France has an investment of $600 million and imports 10 percent. Netherlands has a $400 million investment and imports 10 percent. Japan has a $500 million investment and imports 31 percent. Italy's investment is $300 million and imports are 16 percent. Germany and Spain have no investments but import 12 and 5 percent respectively.

These figures are disturbing. The whole picture is not only disturbing, but really frightening. We are being asked to act here without complete understanding of what is at stake. The need for diligent oversight and close vigilance was never greater.

Mr. HARRINGTON. Mr. Chairman, I rise in support of H.R. 11450, the National Emergency Energy Act of 1973.

This legislation provides the executive branch broad powers to promulgate mandatory conservation measures for whole sectors of our society, allocate petroleum products among the Nation's consumers, and require wherever possible the use of coal rather than petroleum or natural gas for any major fuel-burning installation.

To permit the coordination of these actions without national antipollution standards, the bill permits the suspension of any fuel or emission limitation imposed on a stationary fuel-burning installation by the requirements of the Clean Air Act, if it is determined that the installations cannot obtain adequate amounts of low-polluting fuels.

Mr. Chairman, these features of H.R. 11450 leave many Members of Congress, including myself, feeling rather ambivalent for two reasons. First, while it is satisfying to me that Congress has acted quickly to respond to the energy crisis by designing ambitious programs, the vesting of enormous discretionary power in the hands of the Chief Executive, especially this Chief Executive, creates a clear possibility for abuse. Second, I take exception to Congress' decision, as reflected in this bill, to ask much less sacrifice of the major oil companies than of the consuming public.

On balance, the legislation represents an acceptable contribution to meeting the current energy shortage, and safeguards against abuses of the bill's powers do exist. For example, if the President employs his discretionary power to allocate end uses of petroleum products—which approaches rationing—he must also establish procedures whereby users can petition for review, reclassification, and modification of priorities and allocations granted.

Similarly, the Administrator of the Federal Energy Administration, the new executive branch agency created by this legislation pursuant to the President's request, is required to publish any proposed rule or order in the Federal Register, offering adequate opportunity for public comment and responsible revision. In cases where a rule or order is likely to have a substantial impact on the Nation's economy, the Administrator must also create an opportunity for the presentation of oral views, data, and arguments. Moreover, Congress must consider and approve any of the mandatory national conservation programs permitted by the bill.

The existence of these safeguards reduces the chances that this bill will be the "Bay of Tonkin Resolution" of the energy crisis, awarding almost dictatorial power without safeguards. However, these appeals provisions must be used to their fullest potential, to insure against the abuses of these emergency powers. And, despite the minimal standards which these procedures satisfy, the possibilities for abusing the powers granted by this bill are still quite real. Congress and the public will need to continuously monitor implementation of the sweeping programs authorized here this afternoon.

This brings me to the second area on which I would like to comment—Congress failure in this bill to discipline the oil companies as much as the public. The President is given the discretion to require the production of oil at the maximum efficient rate of production, and to order refineries to adjust their mix of products in order to yield relatively more heating oil.

However, this bill addresses a purported national emergency without addressing the problem of rising consumer prices and resulting windfall corporate profits. It addresses the emergency without requiring the oil companies to volunteer the information on reserves and costs in the absence of which it is impossible to verify whether a company is operating at its "maximum efficient rate of production." And it addresses the emergency by preserving the "production incentives" for the major oil companies under phase IV. At the same time, it omits any provision of funds to aid companies threatened with closing because of their energy needs, funds to create public service employment programs or to increase unemployment compensation aid, or funds to help economically marginal families who cannot afford to pay the increased price of fuel.

Instead, this legislation addresses the emergency by providing an exemption to the antitrust laws for oil company executives who participate in implementing the allocation programs. The exemption is qualified and hedged by reporting requirements, but in turn, these safeguards are themselves qualified and do not apply to every exchange to which the executives might be parties.

Quite obviously, Mr. Chairman, I view H.R. 11450 as only a first step toward solving the energy crisis, even in the short term.

The problems of adequate information from the oil companies, adequate protection against antitrust abuses, and effective programs to hold down prices and preserve jobs will continue unmet after we pass this bill. It seems to me that some of the most critical aspects of our current emergency lie in precisely these areas. This is the beginning—but only the beginning. I sincerely hope that none of my colleagues believe passing this legislation fulfills our obligation to address the energy and economic crises we face.

Mr. MEZVINSKY. Mr. Chairman, in the past few weeks there have been plenty of recriminations about who is to blame for our being backed up to the wall by the energy crunch. The President opened the attack with his November energy message charging that Congress had neglected his warnings and advice. Members of both Houses shot back with the charge that the opposite was actually the case.

If hot air could heat our homes and run our cars and tractors and businesses and industries, we would not need energy legislation now.

The fact is that bickering between the branches is not going to solve the problems we face. However, I certainly agree that we have a duty to take a hard look at the causes which have brought us to this dangerous energy practice.

There are serious questions and charges pending concerning the role of giant oil companies in the events which resulted in the energy problem we face today.

I was out in the First District of Iowa this past weekend and held open town meetings to talk with the people about the energy problem. Time and again, at these meetings and in the mail I have been receiving in the past weeks, the people of Iowa have voiced their concern that the oil companies wield too much power and may be at the very root of the fuel shortage. Gas station owners and operators have told me they believe the "big boys" are trying to squeeze them out of business and consumers have contended—citing oil companies' rising profits as evidence—that this energy emergency might be a tactic for the oil companies to make a buck.

For these reasons, the relaxation of antitrust regulations proposed in the bill before us seems absurd. Right now, when the FTC has antitrust suits pending against several oil companies, this bill would provide broad immunity from the laws which the companies are suspected of violating.

It seems to me that this provision—proposed as a means to solicit the aid of the oil companies in solving a crisis they may have created—is like inviting the suspected fox to dream up a security plan for the chicken coop.

I believe we must strengthen the antitrust provisions in this bill and for this reason I strongly support the amendment which will be offered by Chairman Staggers on behalf of Chairman Rodino which will accomplish this goal by eliminating the possibility of secret collusion by the oil companies.

When I was in Iowa last weekend, we were talking about what fuel shortages mean to the people, and industries, and business and farms.

One point that came through loud and clear at those meetings is that the people of the First District recognize the seriousness of the problem. They are willing to do their share to meet the energy crisis. They are willing to sacrifice, as long as any sacrifices are necessary and equitably spread around.

But there is an undercurrent of anxiety that the sacrifices and other remedies called for by the Government may not be fair—that some might profit while the majority sacrifice and shiver through this winter. Of course, this is in no way shocking considering the battering that public confidence in Governmet has take in recent months.

The people I talked with want the energy crisis handled in a way that eliminates as many problems and as much damage as possible. And, they are looking to Congress to do that job for them.

Mr. HAMMERSCHMIDT. Mr. Chairman, although I am deeply concerned over our Nation's energy situation I could not cast an affirmative vote for the passage of the National Emergency Energy Act, H.R. 11450.

Foremost among my reasons is the speed with which Members of the House were expected to consider this complex and comprehensive package which may yield far-reaching Federal authority which could penetrate into the private lives of American citizens. I have full appreciation for the serious hard work of the Interstate and Foreign Commerce Committee and their intensive study and many days of hearings in which they received testimony from Government officials, representatives of the private sector, and concerned citizens. However, as of last night a copy of the legislation as approved by the Committee was not available for perusal or scrutiny by Members of Congress not serving on that distinguished committee, and we were not afforded the opportunity for even a preliminary study of the committee's report. The 3-day rule for consideration of a legislative measure after the report is filed was waived, presenting most difficult circumstances for an individual Representative to make an intelligent decision on the merits of the proposal.

Although I voted for the rule bringing the bill to the floor, it is my great fear that we are legislating imprudently. I recognize the pressing need for affirmative action by Congress in coming to grips with specific actions to meet the Nation's need for fuel and to set guidelines for conservation measures. However, I am apprehensive about such rapid full House action, even in view of the depth of the committee study.

I have full faith in the willingness and ability of the American people to commit, as they have so many times in the past, to take meaningful immediate steps voluntarily to meet a crisis. I do not argue against the need for authority in establishing priorities and to relieve hardships brought forward by market dislocations. The legislation we are considering would take us very deep into the realm of Federal authority which I am afraid, like economic stabilization measures, once we get into it it is almost impossible to work our way out. We would be creating a new independent regulatory agency; we would be authorizing the compilation of plans to restrict public and private consumption of fuel; we would be directing the evaluation of the utility industry on a plant by plant basis. The ICC, the CAB and the Federal Maritime Commission would gain authority and the FTC could get involved into areas of private enterprise such as store operating hours. At a time when our cities' mass transportation systems are losing money due to lack of sufficient ridership, we would establish an Office of Car Pool Promotion and give them $25 million to develop carpooling programs. H.R. 11450 has provisions concerning antitrust statutes and would amend certain environmental standards and would institute several new civil penalties and criminal violations. And all of this is set forth in a bill of which the final version was filed at midnight on December 10, brought to Rules Committee on December 11, and scheduled for floor action on December 12. In my judgment, this is not responsible legislative procedure.

In summary, H.R. 11450 grants sweeping powers to the President, it addreses areas of private enterprise where literally millions of Americans' jobs are involved and it would amend many major laws to take us further and further away from the free market situation on which the Nation was built.

Certainly I am no expert in this complex matter. To be one would take more knowledge and time in evaluating available statistics than I or my staff possesses. Even sorting our various conflicting statements on what the real energy condition is would be a formidable task.

However, my general feeling is that much of the end product of this bill, no matter what form it takes, will be counterproductive—toward the best interest of people affected and toward the best solution in producing more fuel for them.

In my judgment, two constructive steps for immediate action toward relieving the energy situation would be a removal of price controls from fuel and a careful watch on oil company profits. These basic actions would tend to move us in the direction of a free market situation. I am convinced that restoring incentives into our system of enterprise will realize the benefits of our great American ingenuity which has made this Nation the greatest.

Mr. HANLEY. Mr. Chairman, when the dust clears and this debate is finished, I will probably vote for this bill, the so-called Energy Emergency Act. It appears to me to be a domestic Tonkin Gulf resolution.

Congress failed to determine the true facts of that fateful incident back in 1964, thus paving the way for one of the most tragic chapters in American history.

The House is called upon to consider a terribly important measure with hardly any opportunity to study it. I want to go on record as much as anyone as being interested in solving the energy crisis, but I do not like present procedure at all.

As a first step, the House should adopt a resolution thanking the American people for the voluntary actions they are taking to reduce energy consumption. For myself, I am very proud of what the people are doing, and am appalled at the lack of recognition they are receiving.

The second step should be to lay before the people the true facts of the present situation. Since they are making voluntary sacrifices now, and we are asked to empower some bureaucrat with authority to impose God knows what on them, they deserve an explanation.

Why do we now have an energy crisis or, if you will, a shortage of refined petroleum products? Does the shortage really exist? If it does, how serious is it?

It is personally embarrassing to me to tell constituents that the only information available to the U.S. Government on the oil shortage is the information provided voluntarily by the oil industry. Whatever information is needed to determine the extent of the shortage should be required by law. In view of the geat sacrifices Congress is being asked to impose on the American people, the least we can do is to assure the people and ourselves that this situation is real.

The third step should contain a variety of actions which the Government can take if it is found that the oil industry has not lived up to pledges it has been making through a multimillion dollar advertising campaign. Strict regulation of the industry should be considered, as should possible alternatives to stimulate more competition within the industry.

The possibility of nationalizing oil and gas should be openly and fearlessly discussed, as should be the possibility of a Government-owned corporation competing directly with private oil and gas firms. Instead of turning over resources owned by the people to the industry, why not have the Government develop the resources in behalf of the people?

It is not my intent to blame the industry unfairly for the mess we now face. But I do want to be assured that there is nothing contrived here, that there is nothing left undone by the industry which could be done to ease the shortage.

Before I support additional grants of dictatorial authority to the administration, I would like to know in plain words what this country's policy is and what our present and future plans are to deal with the energy shortage. Congress has a right to know, and certainly the people do. They are bearing the burdens.

I am appalled at the lack of information made available, and the confusion among the five or six Federal agencies which are supposed to be managing the shortage. We have been treated to the spectacle of Federal agency heads almost openly fighting each other for the top spot in energy management.

I believe that Congress has already given the President sufficient authority to allocate existing supplies of petroleum products. However, his claim is in essence that this ability to deal with the energy crisis will be enhanced by the provisions of this legislation and I do not want to deny any opportunity to satisfactorily and quickly resolve the crisis. Thus I am voting for the bill and anxiously await his crisis-corrective action.

The CHAIRMAN. The gentleman from North Carolina (Mr. BROYHILL) has 1 minute remaining.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment in the nature of a substitute for the entire text of H.R. 11450, the text of H.R. 11882.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. STAGGERS: Strike out all after the enacting clause and insert:

That this Act, including the following table of contents, may be cited as the "Energy Emergency Act".

TABLE OF CONTENTS

TITLE I—ENERGY EMERGENCY AUTHORITIES

Sec. 101. Purpose.
Sec. 102. Definitions.
Sec. 103. Amendments to the Emergency Petroleum Allocation Act of 1973.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. BROYHILL of North Carolina. Mr. Chairman, I object to that.

The CHAIRMAN. Objection is heard.

The Clerk will read.

Mr. BROYHILL of North Carolina. Mr. Chairman, I have an amendment to section 103.

The CHAIRMAN. The Chair feels that the Chair should explain to the Committee that under the rule the whole of the text of H.R. 11882 will be read before any amendment is in order. It will not be read by sections.

PARLIAMENTARY INQUIRIES

Mr. BROYHILL of North Carolina. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BROYHILL of North Carolina. Mr. Chairman, my parliamentary inquiry is this: Does that mean that after the entire text of the bill has been read that amendments referring to any place in the bill would be in order?

The CHAIRMAN. The Chair will state that that is correct.

Mr. BROYHILL of North Carolina. Mr. Chairman, a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his further parliamentary inquiry.

Mr. BROYHILL of North Carolina. Mr. Chairman, does that mean that amendments to sections as they are read may not be offered at that time?

The CHAIRMAN. The Chair will state that the whole of the text of the amendment in the nature of a substitute will be read before any amendments are in order. It is one amendment. When that is done, when the entire amendment in the nature of a substitute has been read, that is, the entire text of H.R. 11882 has been read, then amendments will be in order to all of the text.

The Chair will further state that the Chair will attempt to deal with the problem of amendments when that time arrives, and will attempt to do so in an orderly fashion.

Mr. BROYHILL of North Carolina. Mr. Chairman, a further parliamentary inquiry, or perhaps this is not a parliamentary inquiry, but I would ask the Chairman if there is any way in which we can have an orderly procedure for the offering of amendments, starting at the first part of the amendment in the nature of a substitute, and going through the bill, rather than jumping all over the whole bill for amendment purposes?

The CHAIRMAN. The Chair will state that the Chair, with the cooperation of the Members, will attempt to achieve that purpose. The Chair will say that if permitted by the Membership to do so, that the Chair proposes to bring order into the situation by following the usual custom of recognizing the members of the committee alternately, from one side to the other, more or less in their order on the committee.

Mr. BROYHILL of North Carolina. I thank the Chairman.

The CHAIRMAN. Does the gentleman from West Virginia renew his unanimous-consent request?

Mr. STAGGERS. I do, Mr. Chairman. I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. BROYHILL of North Carolina. Mr. Chairman, further reserving the right to object, I will yield to the gentleman from Iowa for an inquiry.

Mr. GROSS. I would ask the Chairman whether there could be some understanding that those who offer amendments will be recognized as we go along, rather than to recognize members of the committee exclusively? So that we can go through this bill in some kind of an orderly fashion, instead of going to section 103, and then to the Lord knows what the last section of the bill may be? Could there be some understanding that they could be recognized in that fashion?

Mr. STAGGERS. Of course, it is within the power of the Chairman who is presiding, but I would ask unanimous consent that we amend the bill section by section as we go along, saying that each section is open for amendment at any point.

The CHAIRMAN. The Chair would have to state that he is afraid that that is not a proper request at this time. The rule that was adopted by the House provides for a procedure, and while most Members feel that any unanimous consent request will do anything, the Chair has a charge from the House, simply by being the Chair, to protect the Rules of the House. The Chair has stated the way in which he will try to provide for an orderly procedure, but the rule provides for a procedure, and bringing order out of that procedure will have to be within the rule.

Mr. BROYHILL of North Carolina. Mr. Chairman, reserving the right to object, would it be in order to read the first title and then open the first title to amendment and complete that before going on?

The CHAIRMAN. Not under the rule adopted by the House under which the Committee is now operating. The rule adopted by the House is clear. The text of the amendment in the nature of a substitute, that being the bill H.R. 11882, has to be read in full.

PARLIAMENTARY INQUIRY

Mr. BINGHAM. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman from New York will state it.

Mr. BINGHAM. Mr. Chairman, would it be in order for the Chairman to recognize Members offering amendments in the order in which those amendments appear in the amendment in the nature of a substitute. If he is advised, for example, that an amendment is to be offered to section 3 by the gentleman from North Carolina, will he give priority to that gentleman, and to the extent that the Chair is advised as to which sections amendments apply, will he follow the order of the sections in recognizing Members? Would that be in order?

The CHAIRMAN. The Chairman can say that there is a solution that might achieve that result. A great many of the amendments already at the desk are from those who would be recognized first—members of the committee. If the members of the committee will proceed by self-discipline in that fashion, the situation will then work out. The only solution that the Chair can see is for the members of the committee who have amendments to the first part of the first title to rise first, and the rest not rise, and proceed in that fashion.

The Chair recognizes the situation.

Mr. BINGHAM. Mr. Chairman, I have a further parliamentary inquiry. If the Chair is advised that nonmembers of the committee have amendments to early sections, would he be free to recognize nonmembers of the committee before recognizing other members of the committee for amendments to a later section?

The CHAIRMAN. The custom of the House, and the almost unfailing custom of the House, is to recognize members of the committee, alternating sides from the majority to the minority. The Chair does not propose to discuss the philosophy of that custom, but that is the custom.

Is there objection to the request of the gentleman from West Virginia?

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, I should like to inquire, if the request of the gentleman is accepted and there is no objection to it, when it would be timely for the amendment made in order by the rule to the text of the substitute to be offered, that amendment being H.R. 11891, which would be the amendment, as the rule prescribes, to H.R. 11882?

The CHAIRMAN. The Chair would repeat what the Chair has already said. The Chair would recognize Members to offer amendments as they are reached in the customary procedure of the House.

There is no particular priority, there is no special priority given to that amendment but the gentleman is a member of the committee and he ranks on the committee and the Chair would seek to reach him in an orderly fashion.

Mr. BROWN of Ohio. Mr. Chairman, I withdraw my reservation of objection.

Mr. MYERS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MYERS. Mr. Chairman, under the rule we are operating on now, later tonight when there is consideration of the amendment to the later sections of the bill, would it still be in order to recognize somebody for amendment of an earlier section which had been already passed over?

The CHAIRMAN. We could not amend text that had been amended but an unamended portion would still be open to amendment.

Mr. BROYHILL of North Carolina. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROYHILL of North Carolina. Mr. Chairman, would that mean another amendment to another part of that section would not be in order?

The CHAIRMAN. The gentleman is getting the Chair into a position where he cannot answer a theoretical question because there are so many different variations. If under the rules of the House a particular section would still be in an amendable condition, the Chair would have to recognize a Member to offer a proper amendment. It might be a situation where the amendment would have been amended and it would not be in order to further amend it. The Chair cannot project all the different variations and possibilities and must meet them as they arise.

Mr. BROYHILL of North Carolina. Mr. Chairman, another parliamentary inquiry and then I will be through. Would it not be possible to ask unanimous consent that the substitute be considered as read and then have a unanimous-consent agreement that we would then go back and read the substitute section by section without having to call up each section one at a time?

The CHAIRMAN. The Chair would not feel that under the present customs of the House, the House having adopted a rule, that he could entertain such a motion to modify the rule.

Mr. HAYS. Mr. Chairman, reserving the right to object, I make this reservation merely to observe the truth of what somebody said earlier, that almost nobody knows what is in this bill and that probably by 6 o'clock this evening the House would be sufficiently confused that a motion for the Committee to rise and strike the enacting clause would be one that the majority of the Members could vote for.

I just make that observation and withdraw my reservation of objection.

The CHAIRMAN. Could the Chair make a brief statement. This is not an unusual amendment situation. The Chair would point out to the Members that this is often the situation in which the Committee finds itself.

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, I want to be sure I understand the gentleman correctly. Will only one amendment per section now be in order if we accept this procedure the gentleman proposes?

The CHAIRMAN. There is no special treatment involved here. The general rules provide for certain procedures. For example, one rule is that if a section is amended by a complete substitute, it is not subject to further amendment. But we are operating under the rules of the House and if there is a section that is amendable it will continue to be amendable until the final process is over, but there are certain circumstances under which a section having been amended is no longer amendable. That would be the general limitation, but we are going to operate under the general rules of the House in as orderly a fashion as the Chairman and the Members of the House are capable of producing.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of objection.

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, I also wish to see if I understand the situation clearly.

The Chair is saying that under the rule there is no way that he could have the whole substitute read on a section-by-section basis because it is approved or it falls as a substitute and then as a substitute is open at any point to amendment, and the House procedures on amending the substitute would apply. Is that correct?

The CHAIRMAN. That is correct, and the reason for that, the Chair will add, is that the House adopted that procedure before it went into the Committee of the Whole.

Mr. BROWN of Ohio. The members of the Committee on Interstate and Foreign Commerce will be recognized with priority and, alternately, between the two sides of the aisle and that then if a member of the committee should yield to another Member, it would be possible for amendments to be lodged against any part of the bill, providing those amendments were not precluded by previous action on the substituted by amendment procedure.

The CHAIRMAN. The gentleman has described the orderly and usual procedure and that is the procedure that the Chair will attempt to follow as much as possible.

Mr. BROWN of Ohio. Mr. Chairman, I withdraw my reservation of objection.

Mr. LEGGETT. Mr. Chairman, reserving the right to object, I would just like to observe that under the procedure that the Chairman has prescribed as regular that if a substitute is accepted, then we will be limited to some 24 sections in title I and 9 sections in title II, for a total of 33 sections, which would indicate then that we would have a limitation of some 33 amendments or amendments thereto, which would be in order, since we can only amend a section at one time. Is that the understanding of the Chair?

The CHAIRMAN. No. There are many other ways in which amendments could be offered besides that described by the gentleman from California. The normal procedure will be followed. There are a variety of ways in which an amendment could be offered.

Mr. LEGGETT. But if the Chairman says a section is touched by an amendment, that section is wiped out by further amendment?

The CHAIRMAN. The Chair has never said that. The Chair has said when an amendment to a section is adopted and is in a form which precludes further amendment to that section, that that section would not be further amendable.

The Chair did not say that happened any time an amendment to a section was adopted.

Mr. LEGGETT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, reserving the right to object, maybe this will not be helpful, but as I listened to the description it seems to me there is a way out and that would be for the Clerk to furnish the Chair the amendments in the order in which they appear in the new bill and then the Chair could tentatively recognize the man who had the next amendment up and say that if there are no Members of the committee who want to be recognized at this point, the gentleman will be recognized.

I cannot imagine the members of this Committee wanting to throw the House into turmoil.

Therefore, I would assume that members of the committee would not insist on being heard out of line, and if they did, it would allow calamity in one or two cases. This would permit us to proceed line by line through the bill.

The CHAIRMAN. I am grateful for the suggestion of the gentleman from Florida. With the cooperation of the members, this situation could be resolved in a manner similar to that suggested.

Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The remainder of the amendment in the nature of a substitute is as follows:

Sec. 104. Federal Energy Administration.
Sec. 105. Energy conservation.
Sec. 106. Coal conversion and allocation.
Sec. 107. Regulated carriers.
Sec. 108. Delegation of authority.
Sec. 109. Administration.
Sec. 110. Prohibited acts.
Sec. 111. Enforcement.
Sec. 112. Grants to States.
Sec. 113. Fair marketing of petroleum products.
Sec. 114. Voluntary energy conservation agreements.
Sec. 115. Prohibitions on unreasonable allocation regulations.
Sec. 116. Use of carpools.
Sec. 117. Restrictions on windfall profits.
Sec. 118. Importation of liquified natural gas.
Sec. 119. Development of additional electric power resources.
Sec. 120. Antitrust provisions.
Sec. 121. Comprehensive review of export and foreign investment policies.
Sec. 122. Employment impact and worker assistance.
Sec. 123. Exports.
Sec. 124. Report and termination date.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

Sec. 201. Suspension authority.
Sec. 202. Implementation plan revisions.
Sec. 203. Motor vehicle emissions.
Sec. 204. Conforming amendments.
Sec. 205. Protection of public health and environment.
Sec. 206. Energy conservation study.
Sec. 207. Reports.
Sec. 208. Recommendations for siting of energy facilities.
Sec. 209. Fuel economy study.

TITLE I—ENERGY EMERGENCY AUTHORITIES

SEC. 101. PURPOSE.

The purpose of this Act is to call for proposals for energy emergency conservation measures and to authorize specific temporary emergency actions to be exercised to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable, (1) is consistent with existing national commitments to protect and improve the environment, (2) minimize any adverse impact on employment, (3) provides for equitable treatment of all sectors of the economy, and (4) maintains vital services necessary to health, safety, and public welfare.

SEC. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Administration.

SEC. 103. AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsections:

"(h) (1) If the President finds that, without such action, the objectives of subsection (b) cannot be attained, he may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled. A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare).

"(2) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product in such manner and in such amounts to permit such users to obtain any such oil or product based upon such entitlements.

"(3) The President shall provide for procedures by which any user of such oil or product for which priorities and entitlements are established under paragraphs (1) and (2) of this subsection may petition for review and reclassification or modification of any determination made under such paragraphs with respect to his priority or entitlement. Such procedures may include procedures with respect to local boards as may be established pursuant to section 109(c) of the Energy Emergency Act.

"(4) The President may, by order or rule (which rule shall be deemed a part of the regulation under subsection (a)) require adjustments in the processing operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum products produced through such operations if he finds that such adjustments are necessary to assure the production of residual fuel oil or any refined petroleum product in such proportions necessary to attain the objectives of subsection (b) of this section.

"(5) The President shall consult with the

Department of Labor, an if there is an increase in the level of unemployment from the level of unemployment in 1973 based upon the average 1973 figures and such increase reasonably results from energy shortages, then the President is urged to take such actions consistent with the provisions of this Act, as he is authorized to take under this Act and any other Acts to encourage full production by the domestic energy industry at levels of investment return which make possible the expansion of facilities required to assure against a protraction in any such increased levels of unemployment.

"(6) For purposes of this subsection, the term 'allocation' shall not be construed to exclude the end-use allocation of gasoline to individual consumers.

"(i)(1) The President may, by order, require the production of crude oil at the producer level at the maximum efficient rate of production.

"(2) The President shall consult with the Department of the Interior and with appropriate State governments in order to determine which producers should be reasonably required to produce crude oil at the rates specified in paragraph (1) of this subsection.

"(3) For purposes of this subsection, maximum efficient rate with respect to any oilfield other than oilfields on Federal lands shall be such rate as is determined by the State in which such oilfield is located, and with respect to any oilfield on Federal land shall be such rate as is determined by the Department of the Interior, except that the President may establish after consultation with such State (or with the Department of the Interior, in the case of any oilfield on Federal lands) a maximum efficient rate higher than the rate established by the State or by the Department of the Interior if he determines that such higher maximum efficient rate will not unreasonably impair the ultimate recovery of crude oil or natural gas from any such oilfield under sound engineering and economic principles.

"(4) The President shall direct the appropriate Federal agency to require that all existing and future development plans for oilfields involving Federal leases, permits or other arrangements for production of crude oil on Federal lands shall include or be amended to include effective provisions for the secondary recovery of crude oil, and, to the greatest extent technologically possible consistent with sound engineering and economic principles, for the tertiary recovery of crude oil, before the well is abandoned.

"(j) Notwithstanding any other provision of this act, or any provision of State or local law with respect to the allocation of gasoline or diesel fuel, there shall be provision for adequate supplies of gasoline, diesel fuel related products for essential and purposeful mobility of persons in the armed services of the United States on military orders, for household moves related to employment or displacement due to unemployment, and for moves due to health, educational opportunities, or other good and sufficient reasons.".

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(1) fuels, and

"(2) minerals essential to the requirements of the United States,

and for required transportation related thereto;".

(c) Section 4(c)(3) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "or" immediately before "(B)" and by inserting immediately before the period at the end thereof the following: ", or (C) to take into account lessened use of crude oil, residual fuel oil, and refined petroleum products prior to the date of enactment of this Act as a result of unusual regional climatic variations within the United States".

(d) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

Sec. 104. Federal Energy Administration.

(a) There is hereby established a Federal Energy Administration, to be headed by a Federal Energy Administrator, who shall be appointed by the President by and with the advice and consent of the Senate. The Administrator may be removed by the President for cause. The Adminstrator shall serve for a term ending on May 15, 1975. Vacancies in the office of Administrator shall be filled for the remainder of the term of the original Administrator, in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions, powers, and duties of the President under section 4, 5, 6, and 9 of the Emergency Petroleum Allocation Act of 1973 (as amended by sections 103, 117, and 118 of this Act), and of any officer, department, agency, or State (or officer thereof) under such sections (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

(d) Section 27(k) of the Consumer Product Safety Act shall apply to the Administrator. The Federal Energy Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44 United States Code.

Sec. 105. Energy Conservation Plans.

(a) Within 30 days of the date of enactment of this Act and from time to time thereafter, the Administrator shall propose one or more energy conservation plans which shall be designed to supplement and be coordinated with actions taken and proposed to be taken under other authority of this or other Acts to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section the term "energy conservation plan" means proposed plans for transportation controls (including highway speed limits, and plans for maximizing car pooling arrangements in all communities and business where applicable), priority allocation plans for energy conserving recyclable raw materials for use within the United States, or such other restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption. The Administrator shall submit such plans to the Congress for appropriate action.

(b) Energy conservation plans shall provide for the maintenance of vital services (including new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare).

(c) Plans submitted by the Administrator pursuant to subsection (a) of this section shall provide that, to the maximum extent practicable, proposed restrictions on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restrictions on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof.

Sec. 106. Coal Conversion and Allocation.

(a) Prohibition of Use of Natural Gas and Petroleum Products by Certain Users.—The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in subsection (b) of this section until January 1, 1980. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact.

A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator may require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would be unreasonable or would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether a conversion requirement under this subsection is unreasonable, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the availability of compensation or tax relief for any capital loss incurred through such conversion requirement.

(b) Use of Coal.—

(1) Except as provided in paragraph (2), any electric powerplant (A) which is prohibited from using petroleum products or natural gas by reason of an order issued under subsection (a), and (B) which converts to the use of coal, shall not, until January 1, 1980, be prohibited from burning coal which is available to such source by any fuel or emission limitation, if the Administrator of the Environmental Protection Agency approves, after notice to interested persons and opportunity for presentation of views (including oral presentation), a plan submitted by the person who operates such plant. A plan submitted under the preceding sentence shall be approved only if it provides (A) that such plant shall make such use of control technology as may be necessary to enable such plant to come into compliance with the fuel or emission limitation to which the suspension applied, as expeditiously as practicable; (B) for a schedule described in section 119(a)(2)(A)(iii) of the Clean Air Act

(excluding section 119(a)(2)(B)(i)); and (C) that such plan will, during the period beginning on the effective date of the approval of the plan and ending at the time such plant complies with such stationary source of fuel or emission limitation, comply with interim requirements which the Administrator of the Environmental Protection Agency shall prescribe to assure that such source will not materially contribute to a significant risk to public health. Such Administrator shall approve any such plan before May 15, 1974, or if later 60 days after such plan is submitted.

(2) Nothing in paragraph (1) shall prohibit the Administrator of the Environmental Protection Agency or a State or local agency, to the extent practicable after notice to interested persons and opportunity for presentation of views (including oral presentations), (A) from prohibiting the use of coal by such a source to which paragraph (1) applies if such Administrator or any such agency determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; or (B) from requiring such source to use a particular grade of coal of any particular type, grade, or pollution characteristic, if such coal is available to such source.

(3) For purposes of this subsection, the term "fuel or emission limitation" means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation (including the Clean Air Act) and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels).

(c) Coal Allocation Authority.—The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in section 4(b) of the Emergency Petroleum Allocation Act of 1973 and of section 205 of this Act. Any rule prescribed under this subsection shall be deemed to be part of the regulation.

(d) Expiration.—The authority under this section (other than subsection (b)) shall expire on May 15, 1975.

Sec. 107. Regulated Carriers.

(a) Agency Authority.—The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier or property which require excessive travel between points with respect to which such motor common carrier is authorized by the Commission to provide service. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) Reports.—Within sixty days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975, while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

Sec. 108. Delegation of Authority.

The Administrator may delegate all or any of his functions under this Act or the Emergency Petroleum Allocation Act of 1973 to any officer or employee of the Federal Energy Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation of regulations and energy conservation plans under this Act or the Emergency Petroleum Allocation Act of 1973 to officers of a State, or to State or local boards of balanced composition reflecting the makeup of the community as a whole. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed, effective on the effective date of transfer of functions under such Act to the Administrator.

Sec. 109. Administration.

(a) Administrative Procedure.—

(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order (including a rule or order issued by a State or officer thereof) under this title except with respect to any rule or order pursuant to section 107 of this Act, section 205 (a), (b), (c), and (d) of this Act, or section 4(h) or 4(i) of the Emergency Petroleum Allocation Act of 1973, or under the authority of any energy conservation plan.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) Judicial Review.—Any interested person (including a State or political subdivision thereof) may obtain judicial review of any rule or order described in subsection (a)(1) of this section in accordance with chapter 7 of title 5, United States Code. Review of a rule may be obtained in the Temporary Emergency Court of Appeals. Review of a rule or order shall be pursuant to the procedures of section 211 of the Economic Stabilization Act of 1970.

(c) Local Boards.—

(1) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

Sec. 110. Prohibited Acts.

It shall be unlawful—

(1) for any person, who is engaged in the business of marketing or distributing diesel fuel to trucks on bona fide cargo runs, to deny to such trucks full fill-ups of fuel, unless—

(A) there is in effect under this Act, the Emergency Petroleum Allocation Act of 1973, or any other Act an end-use allocation regulation which restricts such full fill-ups by such person to such trucks, or

(B) such person has no such fuel available for sale;

(2) to violate any order under section 106;

(3) to violate any rule under the first sentence of section 123; or

(4) to violate any order of the Renegotiation Board issued pursuant to its authority under section 117 of this Act.

Sec. 111. Enforcement.

(a) Criminal Penalty.—Whoever willfully violates any provision of section 110 shall be fined not more than $5,000 for each violation.

(b) Civil Penalty.—Whoever violates any provision of section 110 shall be subject to a civil penalty of not more than $2,500 for each violation.

(c) Injunctive and Other Relief.—Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of any provision of section 110, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with such provision of section 110.

(d) PRIVATE RELIEF.—Any person suffering legal wrong because of any act or practice arising out of any violation of section 110 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

SEC. 112. GRANTS TO STATES.

There are authorized to be appropriated such sums as may be necessary for the purpose of making grants to States to which the Federal Energy Administrator has delegated authority under section 109 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe.

SEC. 113. FAIR MARKETING PERTOLEUM PRODUCTS.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

SEC. 113. FAIR MARKETING OF PETROLEUM PRODUCTS

"SEC. 8. (a) As used in this section:

"(1) The term 'commerce' means commerce between a State and a point outside such State.

"(2) The term 'marketing agreement' means that portion of an agreement or contract between a refiner and a branded independent marketer (A) which authorizes such marketer to market or distribute refined petroleum products using a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner, or (B) which authorizes such marketer to occupy premises owned, leased, or in any way controlled by a refiner, for the purposes of marketing or distributing refined petroleum products, or (C) which authorizes both.

"(3) The term 'person' means an individual or a corporation, partnership, joint-stock company, business trust, association, or any organized group of individuals whether or not incorporated.

"(4) The term 'refiner' includes any person (other than a branded independent marketer) who controls, is controlled by, or under common control with, a refiner. For purposes of the preceding sentence, the term 'control' does not include control solely by means of a supply contract.

"(5) The term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any organized territory or possession of the United States.

"(6) The term 'to terminate' includes to cancel or to fail to renew.

"(b) The following conduct is prohibited:

"(1) A refiner shall not terminate a marketing agreement unless he furnishes prior notification pursuant to this paragraph to each branded independent marketer to which such termination applies. Such notification shall be in writing and shall be accomplished by certified mail to each such marketer; shall be furnished not less than ninety days prior to the date on which such agreement will be terminated; and shall contain a statement of intention to terminate together with the reasons therefor, the date on which such termination shall take effect, and a statement of any remedy or remedies available to such marketer under this section, together with a summary of the provisions of this section.

"(2) A refiner shall not terminate a marketing agreement unless the branded independent marketer to which such termination applies failed to comply substantially with one or more essential and reasonable requirements of such marketing agreement or failed to act in good faith in carrying out the terms of such agreement; except that such refiner may terminate such agreement if he does not, during the 3-year period which begins on the date of such termination, engage in the sale of any refined petroleum product in commerce for sale other than for resale in any relevant market within such branded independent marketer operated.

"(c)(1) A branded independent marketer may maintain a suit under this section against a refiner who engages in conduct prohibited by subsection (b), whose actions affect commerce, and whose products he sells or has sold, directly or indirectly, under a marketing agreement.

"(2) The court may award to any branded independent marketer actual damages resulting from the termination of a marketing agreement together with such equitable relief (including interim equitable relief and punitive damages) as may be appropriate, including declaratory judgments and mandatory or prohibitive injunctive relief. The court may, unless such suit is frivolous, direct that costs, including a reasonable attorney's fee, be paid by the defendant.

"(d) A suit under this section may be brought in the district court of the United States for any district in which the plaintiff resides, is found, or is doing business, without regard to the amount in controversy. No suit shall be maintained under this section unless commenced within four years after the date of the termination of such marketing agreement.".

SEC. 114. VOLUNTARY ENERGY CONSERVATION AGREEMENTS.

(a) Within fifteen days of the date of enactment of this Act, the Administrator, in consultation with the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which retail or service establishments may develop and implement voluntary agreements to promote energy conservation by limiting the operating hours of such retail or service establishments, adjusting retail store delivery schedules, and by taking such other actions as the Administrator, after consultation with the Attorney General and the Federal Trade Commission, by rule determines to be necessary and appropriate to accomplish the objectives of this Act.

(b) The standards and procedures under subsection (a) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(i) A written copy of any agreement under this section shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection;

(ii) Meetings held to develop and implement an agreement under this section shall permit attendance by interested persons and shall be preceded by timely notice to the Attorney General, the Federal Trade Commission, and to the public in the affected community;

(iii) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings; and

(iv) A written summary of the proceedings of any such meeting together with copies of any written data, views, and arguments presented by interested persons shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection.

(c) Actions taken in good faith, in accordance with this section and rules promulgated hereunder, to develop and implement a voluntary energy conservation agreement shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act, or similar State statutes.

(d) Any voluntary agreement entered into pursuant to this section shall be submitted in writing to the Attorney General 10 days before being implemented. The Attorney General, at any time, on his motion or upon the request of any interested person, may disapprove any such voluntary agreement and thereby withdraw prospectively the immunity conferred by subsection (c).

(e) As used in this section—

(i) The term "voluntary agreement" shall not pertain to, or govern the conduct of, activities relating to the marketing and distribution of any petroleum product.

(ii) The term "retail or service establishment" shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or both) is not for resale and is recognized as retail sales or services in the particular industry, as determined by the Attorney General.

(f) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President at least once every six months a report on the impact on competition and on small business of the voluntary agreements authorized by this section.

(g) The authority granted by this section (including any immunity under subsection (c)) shall terminate on May 15, 1975.

SEC. 115. PROHIBITIONS ON UNREASONABLE ALLOCATION REGULATIONS.

Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of refined petroleum products and electrical energy among users or resulting in restrictions on use of refined petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among users.

SEC. 116. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial startup and operation of a

given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of $25,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

(h) (1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

Sec. 117. Restrictions on Windfall Profits.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 103 of this Act) is further amended by adding at the end thereof the following new subsection:

"(k) (1) The President shall exercise his authority under this Act and under the Economic Stabilization Act of 1970 so as to specify prices for sales of crude oil, refined petroleum products, residual fuel oil, and coal, produced in or imported into the United States, which avoid windfall profits by sellers.

"(2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, refined petroleum products, residual fuel oil, or coal, permits a seller thereof any windfall profits, may petition the Renegotiation Board (created by section 107(a) of the Renegotiation Act of 1951 and hereinafter in this subsection referred to as the 'Board') for a determination under subparagraph (A) or (B) or paragraph (3).

"(3) (A) Upon petition of any interested person, the Board may by rule determine, after opportunity for oral presentation of views, data, and arguments, whether the price (specified under any of the authorities referred to in paragraph (1)) of crude oil, any refined petroleum product, residual fuel oil, or coal, permits sellers thereof to receive windfall profits. Upon a final determination of the Board that such price permits windfall profits to be so received, it shall specify a price for the sales of such item which will not permit such profits to be received by such sellers. After such a final determination, no higher price may be specified for sales of such item (under any of the authorities specified in paragraph (1)) except with the approval of the Board.

"(B) Upon petition of any interested person and notwithstanding any proceeding or determination under subparagraph (A), the Board may determine whether the price charged by a particular seller of crude oil, any refined petroleum product, residual fuel oil, or coal, permitted such seller to receive windfall profits. If, on the basis of such petition, the Board has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate to assure that sufficient funds will be available for the refund of windfall profits in the event there is a final determination by the Board under this subparagraph that such seller has received windfall profits. Prior to a final determination under this subparagraph, such seller shall be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon a final determination of the Board that such price permitted such seller to receive windfall profits, the Board shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller the items the price of which resulted in such windfall profits. If such persons are not reasonably ascertainable, the Board shall order, for the purpose of refunding such profits, the seller to reduce the price for future sales of the item the price of which resulted in windfall profits, to create a fund against which previous purchases of such item may file a claim under rules which shall be prescribed by the Board, or to take such other action as the Board may deem appropriate.

"(C) Notwithstanding section 108 of the Renegotiation Act of 1951 and section 211 of the Economic Stabilization Act of 1970, any final determination under subparagraph (A) or (B) shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

"(4) (A) The Board may provide, in its discretion under regulations prescribed by the Board, for such consolidation as may be necessary or appropriate to carry out the purposes of this subsection.

"(B) The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out its functions under this subsection.

"(5) The determination and approval authority of the Board under this paragraph may not be delegated or redelegated pursuant to section 107(d) of the Renegotiation Act of 1951 to any agency of the Government other than an agency established by the Board.

"(6) For the purposes of subparagraph (B) of paragraph (3), the term 'windfall profits' means that profit (during an appropriate accounting period as determined by the Board) derived from the sale of crude oil, any refined petroleum product, residual fuel oil, or coal, determined by the Board to be in excess of the lesser of—

"(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

"(i) the reasonableness of its costs and profits with particular regard to volume of production;

"(ii) the net worth, with particular regard to the amount and source of capital employed;

"(iii) the extent of risk assumed;

"(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

"(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

"(B) the greater of—

"(i) the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971; or

"(ii) the average profit obtained by the particular seller for the particular item during such calendar years.

"(7) Except as provided in paragraph (4), for the purposes of this subsection, the term 'windfall profits' means profit in excess of the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971.

"(8) For the purposes of this subsection, the term 'interested person' includes the United States, any State, and the District of Columbia."

(b) Notwithstanding any other provision of law, administrative proceedings before the Board under section ( ) of the Emergency Petroleum Allocation Act of 1973 shall be governed by subchapter II of chapter 5 of title 5, United States Code, and such proceeding shall be reviewed in accordance with chapter 7 of such title.

Sec. 118. Importation of Liquefied Natural Gas.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"Sec. 9. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country: *Provided, however,* That the authority to act under this section shall not permit the importation of liquefied natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date."

Sec. 119. Development of Additional Electric Power Resources.

Not later than ninety days after the date of enactment for this Act, the President shall prepare and submit to Congress a plan for the development of the hydroelectric power, solar energy, and geothermal resources of the United States by Federal and non-Federal interests. Such a plan shall provide for the expeditious completion of projects already authorized by Congress and for the planning of other projects designed to utilize available hydroelectric power, solar energy, and geothermal resources, including tidal power and pumped storage.

Sec. 120. Antitrust Provisions.

(a) Except as specifically provided in this section, no provision of this Act shall be deemed to confer any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust" laws includes—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.);

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 14, 1914 (15 U.S.C. 12 et seq.);

(3) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(4) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. app. 1), shall in all cases be chaired by a regular full-time Federal employee, and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings and shall be taken and deposited with the Attorney General and the Federal

Trade Commission. Such transcript shall be available for public inspection in accordance with the provisions of section 552 of title 5 of the United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing any petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(i) Such voluntary agreements and plans of action shall be developed by committees, councils, or other groups which include representatives of the public, and shall in all cases be chaired by a regular full-time Federal employee;

(ii) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, and to the public in the affected community;

(iii) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings;

(iv) Except as provided in (v) below, a full and complete verbatim transcript shall be kept of any meeting held to develop a voluntary agreement or a plan of action under this subsection and shall be taken and deposited with the Attorney General and the Federal Trade Commission. Such transcript shall be available for public inspection in accordance with the provisions of section 552 of title 5 of the United States Code; and

(v) In the case of meetings held for the sole purpose of developing a voluntary agreement or a plan of action which governs the retail marketing or distribution of refined petroleum products, a written summary of the proceedings of any such meeting together with copies of any written data, views and arguments presented by interested persons shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection in accordance with the provisions of section 552 of title 5 of the United States Code.

(f) The Administrator, upon approval of the Attorney General and the Federal Trade Commission, may exempt types or classes of meetings, conferences, or communications from the requirements of subsection (e) where such types or classes of meetings, conferences, or communications are determined to be necessary to implement any such agreement or plan of action. Such meeting, conference, or communication may take place and be recorded in accordance with such requirements as the Administrator may prescribe by rule, subject to the approval of the Attorney General and the Federal Trade Commission, as consistent with the purposes of this section.

(g) Actions taken in good faith, by persons engaged in the business of producing, refining, marketing, or distributing any petroleum product, in accordance with this section and rules promulgated hereunder, to develop and implement a voluntary agreement or a plan of action to carry out a voluntary agreement shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act, or similar State and local statutes.

(h) Any voluntary agreement or plan of action entered into pursuant to subsection (d) and (e) of this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 10 days before being implemented. Such agreement or plan of action shall be available for public inspection in accordance with the provisions of section 552 of title 5, United States Code. The Attorney General or the Federal Trade Commission, at any time, on motion or upon the request of any interested person, may modify, amend, disapprove or revoke any such voluntary agreement or plan of action and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (g) of this section.

(i) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President at least once every six months a report of the impact of competition and on small business of actions authorized by this section.

(j) The authority granted by this section (including any immunity under subsection (g)) shall terminate on May 15, 1975.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973 and all actions taken and any authority or immunity granted under such sections 6(c) shall be hereafter taken or granted as the case may be pursuant to this section.

(l) Section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action taken to implement the authority contained in this Act or the Emergency Petroleum Allocation Act of 1973.

SEC. 121. COMPREHENSIVE REVIEW OF EXPORT AND FOREIGN INVESTMENT POLICIES.

The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation and shall be submitted to Congress within ninety days after the date of enactment of this Act."

SEC. 122. EMPLOYMENT IMPACT AND WORKER ASSISTANCE.

(a) Carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

SEC. 123. EXPORTS.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict, exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate. In the administration of such restrictions, the Administrator may use existing statutory authorities and regulations including, but not limited to, the Export Administration Act of 1969. Rules under this section shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

SEC. 124. REPORT AND TERMINATION DATE.

(a) No later than September 1, 1974, the President shall submit to Congress an interim report on the implementation of this Act, together with such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

(b) Notwithstanding any other provisions of title I of this Act or of the Emergency Petroleum Allocation Act of 1973, any authorities granted in title I of this Act or by the Emergency Petroleum Allocation Act of 1973 which, but for this section would expire on December 31, 1974, one year after the date of enactment of this Act, or on February 28, 1975, shall expire on May 15, 1975.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

SEC. 201. SUSPENSION AUTHORITY.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

"TEMPORARY AUTHORITY TO SUSPEND CERTAIN STATIONARY SOURCE EMISSION AND FUEL LIMITATIONS

"SEC. 119. (a) (1) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before May 15, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under subsection (b) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2) (B) and (2) (C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a) (2) of this Act.

"(2) (A) After public notice and public hearing, the Administrator may, for any period beginning after May 15, 1974, and ending not later than June 30, 1979, temporarily suspend any stationary source fuel or emission limitation as it applies to any person if the Administrator finds—

"(i) that such person will be unable to comply with such limitation solely because of the unavailability of types and amounts of fuels,

"(ii) that such suspension (in conjunction with interim requirements under subsection (b)) will not, after the applicable implementation plan deadline, result in or contribute to a level of air pollutants which is greater than that specified in a national primary ambient air quality standard, and

"(iii) that such person has been placed on a schedule which provides for the use of methods which the Administrator determines will assure continuing compliance with the stationary source fuel or emission limitation as soon as practicable (but no later than June 30, 1979), which schedule shall include increments of progress toward compliance with such limitation by such date.

"(B) (i) Any schedule under subparagraph (A) (iii) shall include a date by which a contractual obligation shall be entered into for an emission reduction system which has been determined by the Administrator to be adequately demonstrated (except that in the case of a person wishing to construct and install such system himself as soon as practicable, but not later than June 30, 1979, the Administrator may approve detailed plans and specifications and increments of progress for construction and installation of such a system). Before the earliest date on which a person is required to take any action under the preceding sentence (but not later than May 15, 1977) any source may elect to have the preceding sentence not apply to it; but if such election is made, no suspension under this section may apply to such source after May 15, 1977.

"(ii) For purposes of subparagraph (A) (ii) and of subsection (b), the term 'applicable implementation plan deadline' means the date on which (as of the date of enactment of the Energy Emergency Act) a national primary ambient air quality standard is required by an applicable implementation plan to be attained in an air quality control region.

"(C) Any person may obtain judicial review of a grant or denial of a suspension under this paragraph and of any interim requirement on which such suspension is conditioned under subsection (b) by filing a petition with the United States district court for any judicial district in which is located any stationary source to which the action of the Administrator applies. The second and third sentences of clause (ii), and clauses (iii) and (iv) of section 206(b) (2)(B) of this Act shall apply to judicial review under this paragraph. No proceeding under section 304(a)(2) may be commenced with respect to any action or failure to act under this paragraph.

"(3) In issuing any suspension under this subsection, the Administrator is authorized to act on his own motion without application by any source or State.

"(b) Any suspension under subsection (a) shall be conditioned upon compliance with such interim requirements as the Administrator determines necessary for minimizing the threat to public health which may exist prior to the applicable implementation plan deadline and for assuring maintenance of the national primary ambient air quality standards during any portion of such suspension which may be authorized after the applicable implementation plan deadline. Such interim requirements and section 110 shall not be construed to preclude use of alternative or intermittent control measures which the Administrator determines are reliable and enforceable and which he determines will permit attainment and maintenance of the national primary ambient air quality standards during the period of the suspension. Such interim requirements shall include, but not be limited to, (A) a requirement that the source receiving the suspension comply with such monitoring and reporting requirements as the Administrator determines may be necessary to determine the effect on health or air quality of such suspension, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels or emission reduction systems which would enable compliance with the suspended fuel or emission limitations are in fact available to that person (as determined by the Administrator). Such fuel shall not be required to be used if the Administrator determines that the costs of changes necessary to use such fuel during such period are unreasonable.

"(c) The Administrator may by rule establish priorities under which manufacturers of emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution.

"(d) The Administrator shall study, and report to Congress not later than March 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of scrubber technology (including projections respecting the time, cost, and number of units available) and the effects that scrubbers would have on the total environment and on supplies of fuel and electricity;

"(3) number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of scrubber technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities, analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

requirement on which such suspension is

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of scrubber technology for nonsolid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring variance-receiving sources to monitor impact of variances on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (b) or a compliance schedule under subsection (a)(2)(A)(iii), including any requirement under subsection (a)(2)(B)(i)). No State or political subdivision may require any person to use an emission reduction system for which priorities have been established under subsection (c) except in accordance with such priorities.

"(f)(1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a) to violate any requirement on which the suspension is conditioned pursuant to subsection (b).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for any person to fail to comply with a schedule of compliance under subsection (a)(2)(A)(iii), including any requirement under subsection (a)(2)(B)(i).

"(g) For purposes of this section:

"(1) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on or specification of the use of any fuel of any type or grade or pollution characteristic.

"(2) The term 'stationary source' has the same meaning as such term has under section 111(a)(3).

"(h) Beginning 60 days after the enactment of this section, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) Up-to-date findings on the emission reduction systems determined to be adequately demonstrated for the purposes of subsection (a)(2)(B).

"(2) A concise summary of progress reports which are required to be filed by any person operating under a suspension pursuant to subsection (a)(2). Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator as a condition for receiving the suspension.

"(3) Up-to-date findings on the impact of the suspensions granted upon—

"(A) applicable implementation plans, and

"(B) ambient air quality in areas where any person has received a suspension under subsection (a)(2) of this section."

SEC. 202. IMPLEMENTATION PLAN REVISIONS

(a) REVISIONS TO REFLECT SUSPENSIONS.—Section 110(a) of the Clean Air Act is amended—

(1) in paragraph (2)(B) by inserting before the semicolon at the end thereof ", and provision for energy conservation measures"; and

(2) in paragraph (3), by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) The Administrator shall review each applicable implementation plan and no later than May 1, 1974, determine for each State whether its plan must be revised in order to achieve the national primary or secondary standard which the plan implements within the deadlines established under paragraph (2)(A) of this subsection. In making such determination the Administrator shall consider any current or anticipated suspensions under section 119, any action under section 106(b), and any projected shortages of fuels or emission reduction systems. Plan revisions for any State for which the Administrator determines its plan is inadequate shall be submitted not later than July 1, 1974, and shall be approved or disapproved by the Administrator, after public notice and opportunity for hearing, but not later than September 1, 1974. If a plan revision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a hearing, promulgate a revised plan (or portion thereof) not later than November 1, 1974.".

(b) LIMITATION ON PARKING SURCHARGES.—Subsection (c) of section 110 of the Clean Air Act, as amended (42 U.S.C. 1857 C–5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2)(A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate within 6 months after the enactment of this paragraph on the necessity of parking surcharge regulations in order to achieve national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

"(B) No parking surcharge regulation may be promulgated by the Administrator under paragraph (1) of this subsection as a part of an implementation plan. All parking surcharge regulations previously promulgated by the Administrator shall be null and void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an implementation plan. The Administrator may not condition approval of any implementation plan submitted by a State on such plan's including a parking surcharge regulation.

"(C) For purposes of this paragraph, the terms 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles."

SEC. 203. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b) (1) (A) of the Clean Air Act is amended by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5) (A) of this subsection for light-duty vehicles and engines manufactured during model year 1975.".

(b) Section 202(b) (1) (A) of such Act is amended by striking out "1975" and inserting in lieu thereof "1977".

(c) Section 202(b) (1) (B) of such Act is amended by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1976 shall contain standards which provide that emissions of such vehicles and engines may not exceed 3.1 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(d) Section 202(b) (1) (B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978".

(e) Section 202(b) (5) (A) and (B) of such Act are amended to read as follows:

"(5) (A) At any time after September 15, 1974, and before January 15, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1) (A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed, by paragraph (1) (A)) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977.

"(B) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year of the effective date of any emission standard required by paragraph (1) (B) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1978. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1) (B)) to emissions of oxides of nitrogen from such vehicles and engines manufactured during the model year for which such suspension is granted. Any manufacturer may request additional 1 year suspensions until model year 1983, beyond which no suspension may be granted. Each additional request for suspension shall be treated as a separate suspension decision."

(f) Paragraph (b) (5) (D) of section 202 of the Clean Air Act is amended by adding the following new sentence: 'Notwithstanding the requirements of paragraphs (i) through (iv) of this paragraph, the Administrator shall grant any suspension requested pursuant to paragraph (5) (A) or (5) (B) of this paragraph if he determines that application of such standard would result in significant increase in fuel consumption for such vehicles and engines.".

(g) Section 202(b) (5) (E) of the Clean Air Act is repealed.

SEC. 204. CONFORMING AMENDMENTS.

(a) (1) Section 113(a) (3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions)" the following: ", or 119(f) (relating to certain requirements during suspensions and priorities)."

(2) Section 113(b) (3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c) (1) (C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112(c), or section 119(f)".

(4) Section 113 of such Act is amended by inserting at the end thereof the following new subsection:

"(d) For the purpose of this section, the violation of any provision of an approved plan under section 106(b) of the Energy Emergency Act shall be deemed a violation of a 'requirement of an applicable implementation plan during any period of federally assumed enforcement'."

(5) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(f)" before "209".

SEC. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title I of this Act or in the Emergency Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) (1) For the period beginning May 15, 1974, the Administrator of the Environmental Protection Agency may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and consultation with the Federal Energy Administrator, issue exchange orders to any person or persons requiring the exchange of any fuel subject to any allocation program under title I of this Act or such Act of 1973. The purpose of such exchange orders shall be to avoid or minimize the adverse impact of any such allocation program on public health in those areas of the country designated by the Administrator of the Environmental Protection Agency under subsection (a). Such Administrator may issue an order under this subsection only if he finds that (A) substantial emission reductions will be afforded for one or more emission sources in areas designated under subsection (a), and (B) the costs and fuel availability impact of such order will not be excessive.

(2) Violation of any exchange order issued under paragraph (1) of this subsection shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of an energy conservation and rationing program under title I of this Act.

(c) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 106, the Department of Health, Education, and Welfare shall, in cooperation with the Environmental Protection Agency, conduct a study of acute and chronic effects among exposed populations. The sum of $2,000,000 is authorized to be appropriated for such a study.

(d) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2) (C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a 6-month period (other than action taken pursuant to subsection (e) of this section), or any action to extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(e) Notwithstanding subsection (d) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York, and for any other facilities for the transmission of electric energy between a foreign country and the United States which the Federal Power Commission finds will be subject to adequate environmental review conducted by a State agency pursuant to State law.

SEC. 206. ENERGY CONSERVATION STUDY.

The Administrator of the Federal Energy Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derives from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

SEC. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

SEC. 208. RECOMMENDATIONS FOR SITING OF ENERGY FACILITIES.

The President shall, within 90 days after the date of entactment of this Act, recommend to the Congress actions to be taken by the executive branch and the Congress regarding the problem of the siting of all types of energy producing facilities.

SEC. 209. FUEL ECONOMY STUDY.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

"SEC. 213. (a)(1) The Administrator shall conduct a study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator shall consult with the Secretary of Transportation, the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined by the Administrator for each manufacturer. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means.".

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia, Mr. STAGGERS.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 47, line 18, delete the words "the stationary source fuel or emission limitation" and substitute the words "a national primary ambient air quality standard", on line 21, delete the word "limitation" and substitute the word "standard", and on line 23, insert the words ", if necessary to meet a national primary ambient air quality standard," after the word "include".

On page 13, lines 20 and 21, delete the words "the fuel or emission limitation", and insert the following: "national ambient air quality standards".

Mr. MURPHY of New York. Mr. Chairman, the committee of which I am a member has spent a week which was both harrowing and rewarding in drafting emergency legislation to deal with the fuel shortage now facing the country. We were presented with a multitude of proposals and suggestions, many worthwhile; others lacking the thought and study needed to produce sound solutions to our problems.

This activity clearly demonstrates two principles we must adhere to in considering the legislation now before us. First, the Nation urgently needs the tools provided by this legislation to deal with the emergency that is at hand. Second, that in dealing with this emergency we must be careful not to make permanent legal changes which will hinder rather than help us deal with our long range problems.

Guided by these principles I introduced an amendment in the committee to section 201 of H.R. 11450 which was accepted unanimously which reads:

> Such interim requirements and section 110 shall not be construed to preclude use of alternative or intermittent control measures which the Administrator determines are reliable and enforceable and which he determines will permit attainment and maintenance of the national primary ambient air quality standards during the period of the suspension.

The intent of this section is to preserve the availability of a variety of approaches to attainment of national ambient air quality standards. Nothing in section 110 of the Clean Air Act mandates the use of any particular method of achieving air quality, such as scrubbers or low sulfur fuel. Now, when we are acting under the pressure of a crisis, is not the time to enact such a mandate.

Other sections of the bill requiring the Administrator to report to Congress by March 31 of 1974 on the total effects, including environmental impacts, of scrubber technology, show the clear desire of the committee to obtain the full facts necessary to decide if we should amend section 110.

Lest there be misunderstanding, I should point out that my amendment requires that any alternative of intermittent control measure used must be determined to permit attainment and maintenance of national primary ambient air quality standards. In other words the Administrator of EPA must assure that utilization of these measures will not threaten public health.

This is the same burden Congress has placed upon him in the Clean Air Act. The pending bill does not alter this burden. Under the Clean Air Act he is now required to set primary ambient air quality standards which, with an adequate margin of safety, are requisite to protect the public health.

All that the amendment I quoted earlier does is make it clear that he is not forced, in protecting the public health, to choose means which will unnecessarily deplete our national resources, narrow the selection of fuels, or worsen the energy crisis.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, as I understand the gentleman's amendment, it would simply apply during this emergency period. It would not allow any of the interim measures of satisfactory compliance after June 30, 1979?

Mr. MURPHY of New York. That is correct.

Mr. ROGERS. And it would require the maintenance of the primary clean air standards?

Mr. MURPHY of New York. Yes, it does, precisely.

Mr. ROGERS. Mr. Chairman, I thank the gentleman.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I would be happy to yield to my colleague, the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, there is some question in my mind about this matter.

Does it change the ability of the Administrator to put each source on a compliance schedule?

In other words, as the bill now reads without this amendment, there are certain procedures by the Administrator which require effective review, based upon particular compliance schedules.

Now, if the gentleman is substituting a national ambient air quality standard, is he not really exempting sources from or taking away from the Administrator the right to review the compliance schedule requirement for particular sources?

Mr. MURPHY of New York. Mr. Chairman, we extend the compliance schedule. What we do is we say that with regard to the State plans, if they are not revised, the Administrator, in his efforts to allocate fuels throughout the country to satisfy national ambient standards in certain parts of the country where, for instance, there are people who represent an area with many stacks in the area, may say that is where the clean fuel should go.

This amendment permits the Administrator to advise the other Administrator to move these fuels to that area.

The CHAIRMAN. The time of the gentleman from New York (Mr. Murphy) has expired.

(On request of Ms. Abzug and by unanimous consent, Mr. Murphy of New York was allowed to proceed for 2 additional minutes.)

Mr. MURPHY of New York. Mr. Chairman, this is a trigger to assist the Administrator in allocating cleaner fuels to the areas where there are stack concentrations and where we would have problems with the maintenance of national ambient air qualities.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, if there are these national ambient air quality standards, a particular source—let us take Astoria-Queens—would that not have to fit in with what is presently in the act as a particular compliance schedule? Is that not correct?

Mr. MURPHY of New York. No, it is not correct.

If we are referring to Astoria-Queens, we would have to fit it in with any other source of emissions so that their airshed, along with 26 other counties which are in the common New York-New Jersey airshed, would meet ambient air quality standards.

Ms. ABZUG. Yes. But under the particular compliance schedules, they have to reach a certain standard. This is a substitute for that in effect. This provides a very general air standard eliminating the compliance schedules from review by the Administrator on a source-by-source basis.

Mr. MURPHY of New York. It would only be true if the State plan was amended to permit that particular source to do that.

If the gentlewoman is talking about Ravenswood, for instance——

Ms. ABZUG. Mr. Chairman, I just used Astoria-Queens as an illustration.

My major concern—and I wish the gentleman would address himself to this—is that I believe by putting this general statement in for ambient air quality standards, we are effectively removing from review particular sources which will then not be subject to any kind of administrative procedure, such as we have provided for here.

Mr. MURPHY of New York. No, the Administrator must pass on these, and I am certain in our area that will be true.

I would say to my colleague that in 1964 to 1966, I was responsible for bringing up the first air pollution convention under the Clean Air Act, to New York. This was undertaken with a view in mind to preventing polluting sources to the New York-New Jersey airshed. This gentleman believes that we have taken a strong position against polluting the air and we will not permit a relaxation or rollback of these accomplishments, if that is what the gentlewoman is referring to.

The CHAIRMAN. The time of the gentleman from New York (Mr. Murphy) has expired.

(On request of Mr. Rogers and by unanimous consent, Mr. Murphy of New York was allowed to proceed for 1 additional minute.)

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Florida.

Mr. ROGERS. Then, Mr. Chairman, as I understand it, the gentleman is saying that the EPA would have the necessary ability to go into an individual plant, if it is violating or contributing to the violation of national air ambient standards, and take action against such individual plant?

Mr. MURPHY of New York. Yes, he would.

Mr. ROGERS. Mr. Chairman, I thank the gentleman.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Minnesota.

Mr. NELSEN. Mr. Chairman, I wish to thank the gentleman for offering this amendment.

I might add that in the committee the gentleman and I worked together on the alternate and intermittent part of this amendment. I think that it is a good amendment, and I hope the House adopts the amendment.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I rise only to observe that it did not take long after the unanimous-consent, gentleman's agreement, if it may be called that, to evaporate into thin air. This first amendment to the bill amends section 119 of the bill, which is one of the last, if not the last, section in the bill.

Moreover, it amends H.R. 11450, for which H.R. 11882 has been substituted.

I wonder if in pursuing this matter this afternoon we may have more orderly legislative procedure.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Murphy) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. NELSEN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. NELSEN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Nelsen to the amendment in the nature of a substitute offered by Mr. Staggers: Page 7, line 21, strike out the first period and the quotation marks.

Page 7, insert after line 21, following:

"(k) Effective on the date of enactment of the Energy Emergency Act, any provision of the regulation under subsection (a) which prior to such date of enactment provided that any allocation of residual fuel oil, or refined petroleum products was to be based on use of such a product or amounts of such product supplied during calendar year 1972 or any portion thereof, shall be amended to provide that such allocation for each calendar month shall be based on use or amounts supplied during the corresponding month of the preceding year."

Mr. NELSEN. Mr. Chairman, the purpose of this amendment is as follows: Here is a hypothetical example sent to me relating to a school district example. They completed construction in 1972 of a new school building. Throughout the year 1973 it was supplied by a local fuel distributor. If the 1972 base period is to be applied, the supplier of fuel for this school will not be entitled to an allocation of fuel for the school during the month of January and through the months of each year that the allocation program is in effect.

In other words, instead of going back to 1972 for an allocation level, you would use the same month in the previous calendar year to determine the allocation. It seems to me it is really what we intend doing, and I hope the committee adopts my amendment.

Mr. LATTA. Will the gentleman yield?

Mr. NELSEN. I am happy to yield to the gentleman.

Mr. LATTA. I want to thank the gentleman for yielding.

I asked him to yield for the purpose of inquiring. Let us take another hypothetical situation where a farmer last year had a very wet harvest season and did not use very much fuel. That was in 1972. Then in 1973 he had a dry season during those same months while he was harvesting his crops. Would that farmer be entitled to sufficient fuel to harvest his crops this year under those circumstances?

Mr. NELSEN. I have not delved into that. I was using merely the example that I cited. But it seems to me that the claim is an analogous one under the circumstances. I would like to have the staff examine it more carefully, however. This situation came to my attention this morning from my district, where a business would be denied, under the criteria we have, the right of getting any fuel at all. I used this example presented to me as a case in point.

Mr. LATTA. If the gentleman will yield further, as I understood your amendment, you were tying it to 1972.

Mr. NELSEN. No; we are tying it to

the previous calendar year, the same month, rather than the year 1972 only.

Mr. FREY. Will the gentleman yield for a question?

Mr. NELSEN. I will be happy to yield.

Mr. FREY. The Emergency Allocation Act provides for certain adjustments that can be made as set forth under various circumstances. I am worried on a month-to-month basis if it would not unduly complicate an already complicated procedure.

Mr. NELSEN. Under the provisions of the process now, it is on a 1972 basis, which is totally unfair because of the fact that in some cases some businesses have come into being in the following year and therefore they would have no background on which to fall so that they could get any allocation of fuel. But if there is any other way to reach this end, I have no objection to it at all. However, I do feel something ought to be done in this direction.

I would like to have a little colloquy with the chairman and the staff on the other side if they would examine my amendment. It has been over there for quite some time.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, do I understand the amendment offered by the gentleman from Minnesota, (Mr. Nelsen) is to provide allocation on a history which is related to months? In other words, November 1973, to November 1972, or December 1973, to December 1972?

Mr. NELSEN. That is correct?

Mr. WAGGONNER. And 1972 is to be the base year?

Mr. NELSEN. 1972 under the present allocation process is a basis on which fuel is allocated. But in this case we had this school building that came into being and on the basis of 1972 they had no allocation to this particular project. So what I am trying to do is to use the previous calendar year, the same month, and then allocate on that basis.

Mr. WAGGONNER. Mr. Chairman, if the gentleman will yield further, experience teaches us with the allocation program we have had to this point in time that we cannot relate a specific month of the preceding year to the specific month or the corresponding month of this year, because circumstances change too much.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Nelsen was allowed to proceed for 1 additional minute.)

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield further?

Mr. NELSEN. I would be happy to yield further to the gentleman.

Mr. WAGGONNER. In Louisiana, for example, for the months of October, November, and December last year, calendar year 1972, they were extremely wet months, and the farmers did nothing. And if they got fuel for calendar year 1973 for the corresponding months in 1972 they would get nothing this year, because they have not had that same similar weather. Now, we cannot get into that situation.

Mr. NELSEN. They would be in the same position as in the year 1972.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I would like to have a word with the gentleman from Minnesota. In view of the colloquy that we have had, I would wish the gentleman from Minnesota would withdraw his amendment because there is a misunderstanding here, and I am in doubt about some provisions in the gentleman's amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NELSEN. Mr. Chairman, I will be happy to withhold the offering of my amendment at this time, since it may be possible we can work this out.

Therefore, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Eckhardt to the amendment in the nature of a substitute offered by Mr. Staggers: Amend the amendment in the Nature of a Substitute on page 42, line 11, by striking the period and adding the following language: "except that, for the purposes of this exemption—

"(i) No action which is not necessary to effectuate allocation plans reasonably contemplated to implement the purposes of this Act shall be deemed exempted from application of the antitrust laws of the United States by this paragraph.

"(ii) The second section of the Sherman Antitrust Act as amended (15 U.S.C. 2) and Section 7 of the Clayton Act, as amended (15 U.S.C. 18) are not included in the term "antitrust laws of the United States," as used in this paragraph, and any violation of their provisions is not in anywise made lawful by the exemption granted herein.

"(iii) The term "actions" as used in this paragraph does not include any action the effect of which extends beyond the date, December 31, 1974."

Mr. ECKHARDT. Mr. Chairman, this is an amendment to the so-called Brown antitrust amendment. Under the Brown amendment it is provided that where there are meetings between industry people and the administrator's people with respect to plans of allocation, as long as such meetings are recorded and done in the manner provided in that section, they are excepted from all antitrust laws.

What this amendment does is make some exceptions which narrow the antitrust exemption.

First, it provides that no action which is not necessary to effectuate the allocation plans, reasonably contemplated to implement the purposes of this act, shall be deemed exempted. This does the same thing as the Silver case of the United States Supreme Court did with respect to antitrust exemptions under the Securities Act. Under the Securities Act there can be certain agreements, for instance, by the New York Stock Exchange, which are necessary to implement that act and which are, therefore, removed from coverage of the Antitrust Act.

We are saying the same thing here, that if the agreement is a necessary implementation of this act, it is exempted. No. 2, it says the second section of the Sherman Antitrust Act as amended, and section 7 of the Clayton Act are not included in the term "antitrust act."

The first section of the Sherman Antitrust Act prohibits agreements in restraint of trade. That is all that ought to be exempted under the Sherman Act.

As the distinguished gentleman, Mr. Young, said a little while ago, the second section implies bad faith: a bad intent and a bad result. That is the section that makes it illegal to monopolize.

Section 1 of the Sherman Act deals with agreements in restraint of trade; section 2 with monopolizing. Certainly we do not want to authorize that as an exemption under this act.

Section 7 of the Clayton Act is the one that condemns mergers, and we particularly do not want to exempt mergers, because during this protected period, for instance, certain pipelines and certain elements in the distribution of petroleum products could merge under the protection of the Brown amendment, which mergers could extend beyond the effective date of this act and would be protected by the Brown amendment, because the agreement to merge occurred in the protected period.

Section 3 says the term "actions" as used in this paragraph does not include any action, the effect of which extends beyond the date December 31, 1974, and that is to prevent the protection during this short period from permitting a pattern of action that could freeze out little people for a long period after the emergency ceases.

Those who know something about the petroleum industry know that the people at the beginning of the pipeline, so to speak—and I am using that figuratively—are frequently little people: little producers in competition with major producers. In Texas they constitute about 3,300 independent producers and about 11 majors. The 3,300 could be completely destroyed by agreements in restraint of trade by majors in some line in this conduit of allocation, if agreements could be made at that time which would have effect beyond the date December 31, 1974.

At the other end of the pipeline; that is, the distributors' end, exactly the same thing occurs. The distributors are little people, but in competition with majors. In both instances the majors could destroy both the producers at the beginning and/or the distributors at the tail end if they, the majors, are exempted from antitrust laws.

So all this third section says is it cannot have effect after the emergency date.

The CHAIRMAN. The time of the gentleman has expired.

PARLIAMENTARY INQUIRY

Mr. ADAMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ADAMS. Mr. Chairman, as I understand it this is a perfecting amendment to section 120. I have previously indicated, and have filed it with the Clerk, that I will offer a motion to strike section 120, the so-called antitrust section. My question is this: If a vote occurs upon the amendment offered by the gentleman from Texas and the section is perfected or not perfected by his amendment, am I precluded from moving to strike section 120 at a later time in the proceedings?

The CHAIRMAN. Regardless of the outcome on the amendment now pending, the gentleman will not be precluded from making a motion to strike at another time because this is a perfecting amendment that does not deal with the whole of the section.

Mr. ADAMS. I thank the Chairman.

PARLIAMENTARY INQUIRY

Mr. SEIBERLING. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SEIBERLING. Mr. Chairman, if the amendment offered by the gentleman from Washington should not succeed and someone else should offer another amendment to section 120, will that amendment be precluded by this perfecting amendment?

The CHAIRMAN. Not necessarily. The Chair will answer the gentleman by saying that section 120 is a long section. Other amendments to the section might still be offered. But in the event the amendment offered by the gentleman from Texas is adopted a further amendment to that particular portion of the language might be precluded. But other parts of the language in that particular section would still be open to amendment.

Mr. SEIBERLING. Mr. Chairman, suppose the amendment were a complete substitute for section 120.

The CHAIRMAN. It would still be in order.

Mr. SEIBERLING. I thank the Chairman.

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas.

Mr. Chairman, this I am sure is the first of several efforts to take the antitrust exemptions out of this legislation and I sympathize with the motivations of the gentleman from Texas to the extent that he does not want the opportunity for the petroleum industry to get together illegally and I certainly sympathize with the objectives of (i) in his amendment. As a matter of fact I sympathize with him so much that it is already in the language of the amendment.

We have prohibited the abrogation of the antitrust procedures except in pursuit of dealing with the energy crisis under the provisions of the Petroleum Allocation Act and the language of this particular bill.

As to item (ii), the second section of the Sherman Antitrust Act and section 7 of the Clayton Act are of course the basic aspect of what we are trying to make possible for the industry to do, to discuss and develop a plan to deal with the problem of shortages.

If they cannot get together and they cannot under the present Antitrust Act, then we have some difficulty in getting a plan that the industry would be able to come to any agreement on. We also have difficulty even if a plan should be promulgated by the administration without industry getting together to help plan it, and we would have difficulty with the industry coming together to implement that plan.

The problem is that we are likely to get parts of the country where there is an emergency need for fuel and there will be a need at that time for either distributors or perhaps refiners or perhaps even people who have crude oil to be able to be in touch with one another and say, "We have a ship that is due in Norfolk that is loaded with oil but we have an emergency because of a cold snap in New England and we would like to move that ship to New England and will you please make arrangements to get that up there?"

In the case of local distributors, if the Gulf distributor in a small community in a farm area has a customer who is out of oil in the north part of the county and that night it is going to go down to zero, he has to be free to call the Exxon distributor and say, "Hey, it's my customer, but it's your oil and take care of it for a few days."

Situations such as this will be taken care of under strict guidelines drawn up in the presence of the Attorney General, in the presence of representatives of the FTC and the Attorney General, with full transcripts of the meetings and with prior notice of the meetings and the possibility for public participation.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, I would like to say that the gentleman from Ohio entered into negotiations with me during the mark up of this legislation in the committee. He entered into those negotiations at a time when it was quite evident that he had by far the largest majority in the committee supporting the position of his original amendment. Nevertheless, in good faith negotiations, the gentleman effected substantial modifications of the original amendment.

I stated in committee when this amendment now before us was offered that I felt that we had struck a balance where the public interest was adequately protected, where there was an assured representation under appropriate Federal oversight, where actions could be modified by the Attorney General or the Federal Trade Commission.

I want to make it very clear that I support the position now being stated to this committee by the gentleman from Ohio. He has dealt with me in a constructive and a thoroughly honorable manner. I intend to support him in like spirit.

(At the request of Mr. Moss and by unanimous consent, Mr. BROWN of Ohio was allowed to proceed for an additional 5 minutes.)

Mr. BROWN of Ohio. Mr. Chairman, I appreciate the statement of the gentleman from California. He is quite right. We did try to work out the most effective method of temporarily, and I say temporarily, abrogating the antitrust provisions, so that we could deal with this emergency problem.

The gentleman from California, I think, is not known in this body as a defender of monopolies or an opponent of small business or anything that might be suggested by an effort temporarily to provide an exemption from antitrust laws.

I will yield to the gentleman from Arizona in a moment, if I may; but I would like to call the attention of the committee to one other factor of saving language in the bill, that is subsection (h)—in the legislation, which says that all the voluntary agreements which are entered into can be abrogated immediately by the Federal Trade Commission or the Department of Justice on the complaint either of themselves or of some private citizen; so that if they discover or if it is determined that for any reason they are operating in restraint of trade or they are not accomplishing the purpose of this legislation, that is taken care of.

I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I ask the gentleman to verify the statement of what the gentleman from Texas said about the scope of the text of subparagraph (g) on page 42. It was my understanding that the gentleman from Texas felt that under the wording in the bill it would be possible by waiving all the antitrust laws to have a voluntary agreement, including merger.

Now, it strikes me that by the very definition of the term voluntary agreement, as set forth elsewhere in the bill, that there is no way that the voluntary agreement can possibly be so broad as to contemplate a merger of two companies.

As I understand it, the agreement merely is an arrangement whereby the companies would agree to work together to conserve energy.

Mr. BROWN of Ohio. The amendment is not designed to encourage the merger of existing oil companies. It is designed to make it possible for oil companies to work together and deal with distributors in the full light of the Federal Trade Commission, the Attorney General, the public and everybody else. After agreements are entered into and when they are in progress at the distributor level and even perhaps at the service station level, at that point if there is anything occurring in restraint of trade or which does not square with the purposes of this legislation the Federal Trade Commission or the Attorney General, upon the complaint of a citizen or their own offices, can terminate that agreement forthwith and from then on anything that is done in connection with that exemption would be under the antitrust provisions as usual.

Mr. RHODES. Mr. Chairman, I thank the gentleman for his explanation. I certainly did not want the legislative history of this bill to indicate that anybody felt that a voluntary agreement could encompass a merger. It is my understanding that this is not the situation.

Mr. BROWN of Ohio. First, the agreement is voluntary and the Attorney General approves the agreement. In a merger of major oil companies we would find the Attorney General being criticized severely in this Congress and some action taken to recall him.

Mr. Chairman, I feel the amendment of the gentleman from Texas (Mr. Eckhardt) should be defeated. I think we have an acceptable arrangement for dealing with this antitrust problem temporarily so that we can go ahead and deal with the energy problem. I would like to remain with it, if we go through this committee and we can make the process work so that we can resolve the energy problems we have in our society.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, let me point out that I understand the gentleman's clause containing section (h), which says that effective on the date of enactment of this act, this section shall apply—the gentleman has authority granted in this section in (j), shall terminate on May 15, 1975.

Mr. BROWN of Ohio. In accordance, I might say, with the termination date of the rest of the legislation.

Mr. ADAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this shows the great danger of trying to deal with the antitrust laws in a bill and with a committee that is not working in the antitrust law field. I have great respect for the gentleman from California (Mr. Moss). He is a very close friend of mine; the statement the gentleman made about him, that he certainly is not one who favors doing away with small business or injuring them, is correct.

The problem that we are into today with this amendment and the problem we are into with what was done by making the amendments of the gentleman from Ohio germane is that we are trying to write into this bill, without any legislative history and without any hearings on what is going to be the effect of exemptions from the antitrust laws by varying types of language. This is exceedingly dangerous. It is the reason why later I shall offer an amendment to strike the antitrust provisions of this, and if somebody has a question about what can happen or how you can have a merger under this, this applies to voluntary agreements and plans as well as voluntary agreements. So that we have a situation here where we can literally force the merger of two small independent companies because they cannot get a product because there has been a voluntary agreement that the product will be divided among the companies who are presently in the field.

I have a memorandum from the Federal Trade Commission staff, and I have tried to research this in the short period of time we have had, and it is literally impossible for them to try and push this out when this kind of provision is in the bill that says that this shall be an exemption, not a defense.

They are not required to supply any information as to what went on in these meetings, nor are they required to supply information as to what has gone on in the implementation of the plan, whereas in the Senate bill, as bad as it may be, at least it says that "If you want to get an exemption, Mr. Oil Company, you have got to prove it in a defense, and you have to supply the information that will support your defense."

And under this bill they are not required to supply any of the information, and it is not a defense; it is a complete exemption.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I am terribly nervous any time we start tampering with the Antitrust Act and the exemptions to it.

I was not a civilian during the Second World War, but I know that we did have gas rationing at that time in our history.

I asked my office to contact the Library of Congress to find out what laws, if any, were passed in the years 1940, 1941, 1942 to handle this very problem we are talking about now, since in 1941 and throughout the war oil companies and officials were counted upon to assist the Government in allocating a short commodity, fuel.

My office has discovered from the Library of Congress that no legislation whatsoever that they could find was passed to give protection to oil companies or their officials when they were called together by the Government to assist in allocating the fuel, with the shortage that we had.

Now, my question to the gentleman in the well is this—or I will ask the question of any Member here who may be on the committee or any Member who remembers that particular time:

What, if anything, has happened since the Second World War in terms of national legislation that would require these exemptions today when all throughout the Second World War we required no such exemptions?

Mr. ADAMS. Mr. Chairman, I would say that what has happened is that a lot of oil companies are nervous because they have had a series of antitrust actions brought against them during the 1950's and during the 1960's.

The second thing is that they were a great deal more integrated than they are now, and, therefore, any of their actions can put independent marketers out of business.

That is why they want an exemption from that, plus the fact that the administration wants to bring in the oil company people and have them run this program, under the amendment that will be offered later by the gentleman from Ohio, and made in order under the rule. That would exempt the conflict of interest provisions, so then you are going to have the very people who have control of the refined supplies of the United States running it and running these voluntary agreements, and they are very nervous about it.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield further?

Mr. ADAMS. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. The gentleman has addressed himself to the economic changes since the Second World War.

I would ask the gentleman to address himself to the question whether or not there have been significant legislative changes since the Second World War that would make these exemptions necessary at this time.

The CHAIRMAN. The time of the gentleman from Washington (Mr. Adams) has expired.

(On request of Mr. Evans of Colorado and by unanimous consent, Mr. Adams was allowed to proceed for 1 additional minute.)

Mr. ADAMS. Mr. Chairman, in answer to the gentleman's question, there is a provision in section 708 of the Defense Production Act of 1950 that declares that under an emergency they can do many of the things they did in World War II and be protected from the Antitrust Act.

I think that is a dangerous provision that is in the Defense Production Act.

I like the fact that it is taken out by this bill, and we are discussing now whether maybe we should take that out here also.

The main point I wish to make, in answer to the gentleman on legislation, is that if the gentleman wants to exempt companies from the antitrust law, we should let them go to the Committee on the Judiciary and let them bring up a bill and we can be sure it is done right, or they can go to the Committee on Post Office and Civil Service and get an exemption of conflict-of-interest law.

But let us not do it in the name of fuel conservation. Let us not pass a great series of things that are going to do a great deal of harm to the business communities of the United States and to the people of the United States.

So, Mr. Chairman, I hope we will strike the antitrust provisions entirely, although I am willing, if they wish to knock out the antitrust provisions in the Defense Production Act, to knock those out too. I just think we should not tamper with it.

Mr. FREY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I was interested in the remarks of my good friend, the gentleman from Washington (Mr. Adams), because this bill does, indeed, I think, encroach on the jurisdiction of a great many committees.

It is interesting to see the reaction to the various sections. For instance, section 117, the restriction on windfalls, is within the jurisdiction of the Committee on Ways and Means or the Committee on Banking and Currency.

However, this section was ruled germane to the bill as, of course, was the antitrust provision. I think if we could have had a clean bill solely within our jurisdiction, there would have been a lot of us who would have been a lot happier, especially me.

However, you cannot have it both ways. The argument of the gentleman from Washington is as applicable to the antitrust section as it is to 5117—the tax provision. We spent a great deal of time on this bill in the committee. The gentleman from Ohio has a good amendment, which if outside our jurisdiction, is no more outside our jurisdiction than a lot of this bill.

I now yield to Mr. BROWN.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I would like to say first, Mr. Chairman, I think the gentleman from Washington, who is a meticulous member of the committee and for whom I have the greatest respect, misspoke himself when he said that there was no requirement for information about the meetings to provide plans and so forth and so on.

The legislation which we have before us provides that such meetings to prepare a plan would be chaired by a regular Federal employee, but also it would be open to the public and a transcript would be kept of the proceedings and filed as a public record. In addition to that, it would have representatives of the Attorney General sitting in on the preparation of the plans. That was the protection that was put into it.

I might say to the gentleman that the Defense Production Act, to which he made reference, section 708, provides for the encouragement of the making by people covered by this act, with the approval of the President, voluntary agreements and programs to further the objectives of the act. Further on it provides for the Attorney General to review such voluntary agreements.

Our legislation which we have before us, is more restrictive than the Defense Production Act. It is particularly written to be more restrictive.

I do not defend monopoly any more than anybody else on this floor does. And certainly I do not want to kill off small business. All I am trying to do is to deal with the emergency problem which we have and to deal with it in this amendment in the best way that we possibly can. I think that way is not to prohibit the oil companies as a matter of law either from participating in the plans or initiating them.

Mr. ADAMS. Will the gentleman yield?

Mr. FREY. I am glad to yield to the gentleman.

Mr. ADAMS. I do not think I misspoke myself, because if you look at page 41, you have exempted under 5 keeping any of the records of those meetings. They have only to produce a summary. If you look at section (f) on page 41, line 16, the Administrator, with the approval of the Attorney General and the Federal Trade Commission, can exempt all of the meetings from being chaired by anybody or attended by anybody or in any way falling under the provisions of this act. That is what I meant when I said that you give with one hand, but you taketh away with the other.

Mr. BROWN of Ohio. Will the gentleman yield?

Mr. FREY. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. The distinction is between the promulgation or the preparation of a plan and the implementation of a plan. The implementation of a plan is where the Gulf dealer calls the Exxon dealer and says "I have a customer out in the county who is out of oil tonight. Under the agreement reached in Washington, we have to provide him with a certain amount of fuel." It is not necessary to have a Federal official sit in on that call or have notes taken on it. But for the development of the plan which calls for that kind of cooperation it is necessary to have a Federal administrator sit in on it and have the Attorney General participate in it and so forth and so on.

Mr. ADAMS. Will the gentleman yield further?

Mr. FREY. I yield to the gentleman.

Mr. ADAMS. The whole plan you have set up here is that in the original planning stage you will set up a rule or regulation under section (c) which will simply say people can get together and meet and decide what they want to do about the distribution of products. That is the key part of the plan.

Mr. FREY. This moderator yields back the balance of his time.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by my good friend, the gentleman from Texas (Mr. ECKHARDT).

I personally would not prefer to have any amendment relating to the antitrust laws in the legislation at all. I do not believe that that is a matter that should be addressed here at this time by this committee. It is a matter that properly should fall within the hands of the Committee on the Judiciary. But if we legislate language relating to the antitrust laws we must see to it that this is done with exquisite care.

It is unfortunate, I must say, that we find ourselves in a parliamentary straitjacket where reforming language of such a technical amendment is done under such impossible conditions.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my friend, the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I take this time merely to point out that if the Eckhardt amendment is adopted it would not prohibit those who choose to strike the section to do so. It would also not prohibit those who choose later on to substitute another approach to the problem. But I would like to say this: That at the very least this qualification should be put on section G.

The gentleman from Ohio has indicated here that he really intends to terminate this action on the date stated in the act at section J. But that section says that the authority granted by this section shall terminate on May 15, 1975. The effect, though, of agreements made during that period of time would not necessarily terminate.

I would think the gentleman, if his intentions are good, and I feel sure they are, would have no objection to qualifying to say the term "actions" used in this paragraph do not include any action the effect of which extends beyond the date December 31, 1974.

Furthermore, I can see no reason why the gentleman would object, if the intentions of the oil companies are good, to providing that no action would be protected unless that action was necessary to effectuate the allocation plans. The gentleman says this is in his bill. Then why not put it here specifically? And certainly I can see no way to defend an exception to the Antitrust Act to permit mergers during this period or to permit monopolies.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my friend, the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, it seems to me that if we are going to establish these kinds of volunteer agreements that it is appropriate that consideration be given to saying or implying that there should not be a violation of the antitrust laws in connection with them.

I understand that the gentleman from New Jersey, the chairman of the House Committee on the Judiciary, proposes to offer an amendment at some stage which would provide in connection with this section G on page 42 that the good faith provision would be available as a defense, and would not be an interpretation solely made by the persons entering into or engaging in a business as a complete protection against the violation of the antitrust laws, but I do not think the gentleman is quite ready with his amendment at the present time.

I realize that this has not come before our committee, but I realize that these are essential provisions if we are going to secure the necessary voluntary action on the part of these companies that is necessary to carry out a nationwide program.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my friend, the gentleman from Ohio (Mr. BROWN) with whom I disagree on the amendment.

Mr. BROWN of Ohio. Mr. Chairman, I am happy to have my friend, the gentleman from Michigan (Mr. DINGELL) with whom I disagree, yield to me.

I would say to the gentleman from Texas, who raised the question about the termination date in the section of the bill of May 15, 1975, that it is designed to conform to the termination date of all the other termination dates which are included in the legislation.

I think, in accordance with the same position impressively made by the gentleman from Texas, the authority which is given in this section is in fact given to May 15, 1975.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McKINNEY. Mr. Chairman, I

move to strike the necessary number of words.

Mr. Chairman, one of the things that bothers me about this bill—and I would be interested in colloquy from the gentleman from Ohio or anyone else on the committee—is that I happen to come from New England where the name of the game on the part of the big oil companies is, let us get rid of the independents. For some reason or other, I cannot see just exactly how this love affair in Washington between and among big oil is going to take care of the independent oil producers.

We thought we had a love affair going in New England until we found out the Texas Co. could say, "We have got full tanks, and play ball with Tom Siever," but when we turned around to the independent, who supplies 60 percent of the oil in New England, we found out he was 33 percent down or he was 66 percent down. He cannot take on new customers, but Texaco, and all the rest would love to take on new customers.

I just do not see in this bill how we as a Congress can turn around and ask, nor how the administration can even contemplate, these big oil companies running the show when they are the ones that have totally put us into this position. It is absolutely incomprehensible to me how we can turn around and violate and destroy and remove antitrust regulations and give these companies free rein.

In my district alone, after one distributor was cut off back as far ago as last July, my office requested that big oil supply him. Not one major company would offer him one drop of gasoline. We had to go to the Office of Emergency Preparedness, where they got a barge out of Baltimore Harbor which gave that supplier 1 more month of operation before he again ran out.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

Who has supplied this independent distributor with his petroleum product prior to his being cut off? Was it a major oil company?

Mr. McKINNEY. In most cases, no. The oil supplied to the independents is bought through metropolitan distributors, through New England distributors, and through the European market. Of course, they are not getting it from the European market, because the European market does not have any. The gentleman does not think that big oil or anyone else is going to sit around and say, "Well, we are going to give our competition oil." They have not done so in the past. They have been unwilling to now.

Anything we can do to keep the antitrust provisions, I am for.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding. I should like to commend the gentleman on his statement.

I should like to address a question to the gentleman from Ohio (Mr. BROWN). In response to a question which was earlier posed, he said that the provisions as drawn would not encourage mergers, but he did not deny that they would permit mergers. As I understand the amendment of the gentleman from Texas, it would permit mergers, and I should like to have a clarification by the gentleman from Ohio. Would the section as drawn by the gentleman from Ohio permit mergers?

Mr. BROWN of Ohio. I think not. I must say to the gentleman I am neither a lawyer nor the world's greatest authority on the antitrust procedures, but I would say to the gentleman that it would require the Attorney General, the Federal Trade Commission, and a voluntary agreement on the part of the companies to have a merger.

I would also say I would assume that absent any provisions of this law that if there were to be a merger of companies that it would require the Attorney General and the Federal Trade Commission and others to make an assessment that it is not going to restrain trade.

Mr. McKINNEY. I would like to ask the gentleman from Ohio a question. Is there anything in this that would prohibit the majors buying up the independent local distributors at rockbottom cost, because their business is going to be at rockbottom value at that time?

Mr. BROWN of Ohio. The Attorney General and the Federal Trade Commission would have that as their charge, and if that did not serve the purposes of this act and I assume it would not, they would certainly not permit that kind of practice.

Mr. McKINNEY. But does the gentleman think the Attorney General and the Federal Trade Commission will look at the activities of hundreds of thousands of small business people across the country? I assure the gentleman they will not. They cannot. I have not been impressed by their past performance.

Mr. BROWN of Ohio. I would assume they will do their job.

Mr. YOUNG of Illinois. Mr. Chairman, I move to strike the last word. I would like to discuss the antitrust laws for just a minute. The antitrust laws are not complicated. There is not anyone in this House who cannot understand them. The purpose of this amendment reminds me of a contract, as Members will recall, where the gentleman looked at the contract and read it and said, "My, I have read the big words and that gives it to me," and then he looks at the small words at the bottom of the contract and he says, "This takes it away from me." That is the type amendment we have before us today.

There are three parts to the amendment. The first part of the amendment is superfluous and does not add anything and does not detract anything. It says:

> No action which is not necessary to effectuate allocation plans reasonably contemplated to implement the purposes of this Act shall be deemed exempted from application of the antitrust laws of the United States by this paragraph.

That does not add anything and it does not hurt anything and is not really necessary.

The second part of the amendment has to do with excluding from the exemption provision of the antitrust laws section 2 of the Sherman Antitrust Act. This is the bad part.

The third part has to do with mergers. It is my opinion that by no stretch of the imagination I can think of would it be proper for the Attorney General or the FTC to permit a merger by virtue of any exemption provided in the language of this bill.

I would also reply to the question of the gentleman from Connecticut (Mr. McKINNEY) with respect to whether or not this would permit the big oil companies from gobbling up small companies. I would say absolutely not, because the only type exemption we have provided in this bill is the exemption which applies to an energy plan adopted by the Administrator. That is a plan adopted by the Administrator, and not by oil companies, and the actions to effectuate and to implement that plan.

Let me tell the Members why section 2 of the Sherman Act should not be excluded from the antitrust exemption provisions of this bill. The reason is section 2 and section 1 are interrelated. Section 2 relates to attempts to monopolize. It makes it unlawful to monopolize. The big oil companies according to economists are known as oligopolies. That means any action which they take which is in restraint of trade but which is taken under an energy conservation plan, could also be deemed to make them guilty of violating section 2.

How do we prove there is an attempt to monopolize under section 2? We do it by proving that the oil companies take actions that are restraints of trade which are illegal under section 1 of the Sherman Act. Section 1 of the Sherman Act says restraints of trade are unlawful.

If the Administrator decides after he has adopted an energy conservation plan that it would be desirable to have oil which is being brought in by barge from the Caribbean to go to the refinery of Company X when the oil is owned by Company Y and we have some other oil coming from another direction that is owned by Company X, then it would be possible that we could conserve energy by allocating the oil to the closest refinery plant, and that would save energy.

Now, that could be deemed to be an allocation of supplies between two competitors and unlawful. In order to effectuate the emergency energy conservation provisions of this plan, some of these provisions or arrangements that would be made would be acts which would also under other conditions, amount to restraints of trade, or would be considered agreements to divide markets or supplies which would be in violation of section 1, if it were not for the exemption provisions of this bill.

So if we are going to exempt actions under conservation plans from section 1 of the Sherman Act, and if we do not exempt such acts also from section 2, we would in effect permit acts under section 1 that would put persons so acting in violation of section 2 of the Sherman Act. That is the problem we have. That is why this amendment should be defeated. That is the reason our commitee defeated it.

There were some statements made that antitrust laws are not understood by the gentleman on the Committee for Interstate and Foreign Commerce. I do not think that is right. There are some very able lawyers on that committee; Mr. Dingell, Judge Preyer, Mr. Eckhardt, Mr. Adams, and others, that are quite aware of the antitrust laws.

(At the request of Mr. Evans of Colorado and by unanimous consent, Mr. Young of Illinois was allowed to proceed for 1 additional minute.)

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Illinois. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I will ask the gentleman the same question that I asked the gentleman from Washington, because I am concerned any time we start suspending portions of the Sherman and Clayton Acts. During World War II, when we as a nation faced a great energy crisis, we got through that period of time with rationing, bureaucracy, and what have you, with the great help of the oil companies, but without amending any of these acts.

This bill proposes we suspend some provisions of the Clayton and Sherman Acts.

My question is, what if anything has changed in the law since World War II that would require suspending the acts now, when in 4 years of war we did not have to suspend any of the provisions of the act?

Mr. YOUNG of Illinois. I will reply that it is necessary under this act, because we want to have energy conservation plans that are voluntary. We want, in effect, the oil companies to tell the Administrator, give their advice, as to how they can best help solve this energy crisis.

Under this act, it is necessary for these oil companies to take action under plans adopted by the Administrator. Remember, the FTC and the Department of Justice will be called in on this. There will be many meetings and the meetings will all be open to the public. If the Administrator adopts a plan that requires, in effect, cooperation of the oil companies which cooperation in turn saves energy, it is necessary that the companies have an exemption from the antitrust laws to enter into arrangements and agreements, which would otherwise be unlawful.

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield further, this was done during World War II without the benefit of any special laws suspending portions of these acts.

Mr. YOUNG of Illinois. First of all, I have to take the gentleman's word for it, that there were no such provisions then. It was a wartime situation. I am not familiar with it. I can only suggest to the gentleman why it is necessary under this act.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Illinois. I yield to the gentleman from Texas.

Mr. MILFORD. The answer to the gentleman's question is that during World War II this was not then exempted.

Mr. STAGGERS. Mr. Chairman, I want to see if we can arrive at a time limit for this amendment. We have debated it pretty thoroughly and most of the debate is sort of repetitious now.

Mr. Chairman, I ask unanimous consent that all debate on the amendment to the amendment in the nature of a substitute close in 10 minutes. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. Mezvinsky).

Mr. MEZVINSKY. Mr. Chairman, I would like to say that I oppose this amendment at this particular time, because there will be an amendment offered by the gentleman from New Jersey, the chairman of the Committee on the Judiciary, and the chairman of the Antitrust Subcommittee, which I think will perfect and handle the matter in a much better way.

For that reason, I would hope we would not have to vote on this amendment, and will object and vote against this particular amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. McClory).

(Mr. McCLORY asked and was given permission to revise and extend his remarks.)

Mr. McCLORY. Mr. Chairman, I feel that this section is essential. I do not think that it is necessary that we adopt this amendment which has been offered by the gentleman from Texas (Mr. Eckhardt). I do understand, as the gentleman from Iowa indicated, that there will be a clarifying amendment offered at a later time by the chairman of our committee, the gentleman from New Jersey (Mr. Rodino).

I have been made aware of this proposed amendment. I do not know exactly the language of it, but it is my understanding that it will be clarifying and protective as far as the public interests are concerned, and yet will enable the import of this entire section to be carried out.

Mr. ECKHART. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, is the gentleman saying that the Committee on the Judiciary has worked out an amendment that will take care of this particular proposition?

Mr. McCLORY. Mr. Chairman, I am not saying it is just the same one as the amendment offered by the gentleman from Texas, but I say it does clarify the situation so that there is no question of any danger arising from this legislation insofar as violations of the antitrust laws are concerned—unrelated to the subject of plans approved under this bill.

Mr. ECKHART. Mr. Chairman, I ask unanimous consent to withdraw this amendment at this time in order to permit the Rodino amendment to be considered.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. DERWINSKI. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Texas (Mr. Pickle).

Mr. PICKLE. Mr. Chairman, it looks as though this amendment may be a moot one at this point by our committee, yet this legislation directs the companies to get together in helping to form a marketing program or distribution program.

The Members can understand our concern that they be given some protection. Various proposals were submitted by various interests on this antitrust provision. It is my understanding that the two gentlemen who have sponsored this amendment had gone to the Justice Department and asked for their consideration and help in drafting the amendment. The amendment before us is a result of this request, and received approval of the Justice Department. Therefore, I think the public interest is protected in it. I do not think anyone would want to vote for it if the public interest was not protected. We would not want to eliminate the normal requirements of the antitrust act.

However, the public interest is protected, and I would certainly think that the amendment that is in the bill is proper and should be voted on favorably.

Mr. ECKHARDT. Mr. Chairman, I ask unanimous consent to withdraw the amendment at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. FROEHLICH. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Illinois (Mr. Derwinski).

Mr. DERWINSKI. Mr. Chairman, I merely want to make this observation:

Here we are in the consideration of the first major amendment to this bill. We have an amendment to an amendment to that offered, and now we have had an attempt to withdraw that amendment because our constitutional lawyers on the Committee of the Judiciary are going to lift a new amendment out of the clear blue sky.

We have already, on the first major amendment, moved to cut off debate. Presumably we have hundreds of amendments pending.

God only knows how contradictory a piece of legislation or what a legislative fiasco we will have produced before the end of this day.

It is essential that we develop as soon as possible a long-range plan through which we would provide for the energy needs of American homes and industry and of the personal use of our citizens.

The House Democrat leadership is evidently willing to run the risk of treating this very complex bill on this absolutely vital issue in the classic technique of railroading legislation through a legislative body. Poor legislative procedures generally produce a poor law. The American public will properly question this legislation as much as any measure subject to consideration in the Congress. I hope against hope that the pattern exhibited at this early stage of consideration will not continue and that somehow we will produce a workable National Energy Act.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Seiberling).

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I would like to ask my colleagues to vote against this amendment, since I have not been permitted to withdraw it, because I do want the Rodino amendment to be before the body, and I shall offer it as soon as I have an opportunity so to do and yield to the gentleman from New Jersey the distinguished chairman of the Committee on the Judiciary.

Mr. SEIBERLING. Mr. Chairman, I wish to commend the gentleman from Texas (Mr. Eckhardt) not only for his magnanimous gesture but especially for his initiative in trying to clean up this simply terrible antitrust exemption in this bill. I practiced antitrust law for 21 years before I came to this House, and I happen to know what the implications of this bill would be without a proper amendment.

I want to say that the amendment to be offered by the gentleman from New Jersey has been approved by the Federal Trade Commission and by the Justice Department. The gentleman from New Jersey is not only the distinguished chairman of the Judiciary Committee, but he is also the chairman of the Subcommittee on Antitrust. I am a member of his subcommittee, and I think the Members can rest assured that the amendment addresses itself to the problem in a comprehensive way.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Chairman, I concur with the gentleman from Texas (Mr. Eckhardt).

I also hope that this amendment will be voted down.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. Staggers).

Mr. STAGGERS. Mr. Chairman, I yield back my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN. For what purpose does the gentleman from Texas (Mr. Eckhardt) rise?

Mr. ECKHARDT. Mr. Chairman, I wish to yield to the gentleman from New Jersey (Mr. Rodino).

The CHAIRMAN. The Chair cannot recognize the gentleman for that purpose.

The Chair recognizes the gentleman from North Carolina (Mr. Broyhill).

AMENDMENT OFFERED BY MR. BROYHILL OF NORTH CAROLINA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. BROYHILL of North Carolina. Mr. Chairman, I offer an amendment to section 105 to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Broyhill of North Carolina to the amendment in the nature of a substitute offered by Mr. Staggers; section 105, H.R. 11882 is amended as follows: Delete subsection (a) and insert in lieu thereof the following:

"(a)(1) Within 30 days of enactment of this Act and from time to time thereafter, the Administrator shall propose one or more energy conservation plans which shall be designed to supplement and be coordinated with actions taken and proposed to be taken under other authority of this or other Acts to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section the term 'energy conservation plan' means provisions for transportation controls (including highway speed limits) or such other restrictions on the public or private use of energy (including limitations on operating hours of business) which are necessary to reduce energy consumption.

"(2) An energy conservation plan which takes effect as provided in subsection (c) shall have the force and effect of law and shall apply according to its terms in each State except as otherwise provided in a State or local exemption order which has been proposed under subsection (b) and has taken effect under subsection (c).

"(3) An energy conservation plan may not deal with more than one logically consistent subject matter. An energy conservation plan or State or local exemption order under subsection (a) may be amended or repealed only in accordance with subsection (c) except that technical or clerical amendments may be made in accordance with section 553 of title 5, United States Code.

"(4) No provision of an energy conservation plan may remain in effect after December 31, 1974.

"(b) State or Local Exemption Orders.—The Administrator may at any time after an energy conservation plan takes effect propose a State or local exemption order which provides that such plan does not apply in a State or political subdivision which has submitted a plan which the Administrator finds accomplishes the objectives of subsection (a) and is otherwise in the public interest. Such exemption order shall take effect only as provided in subsection (c).

"(c) Disapproval by Congress.—

"(1) For purposes of this subsection, the term "energy action" means an energy conservation plan proposed under subsection (a), an exemption order proposed under subsection (b), or an amendment (other than a technical or clerical amendment) or repeal of such an energy conservation plan or exemption order.

"(2) The Administrator shall transmit any energy action (hearing an identification number) to the Congress. The Administrator shall have such action delivered to both Houses on the same day and to each House while it is in session.

"(3) Except as otherwise provided in paragraph (4) of this subsection, an energy action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that that House does not favor the energy action.

"(4) For the purpose of subsection (a) of this section—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-day period.

"(5) Under provisions contained in an energy action, a provision of the plan may be effective at a time later than the date on which the action otherwise is effective (subject to subsection (a)(3)).

"(6) An energy action which is effective shall be printed in the Federal Register.

"(d) Disapproval Procedure.—

"(1) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2) For the purpose of this subsection, "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the   does not favor the energy action numbered   transmitted to Congress by the Administrator on   , 19   .", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

"(3) A resolution with respect to an energy action shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives as the case may be.

"(4)(A) If the committee to which a resolution with respect to a reorganization plan has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the reorganization plan which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy action, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to an energy action, and motions to proceed to the consideration of other business, shall be decided without debate.

"'(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy action shall be decided without debate."

Redesignate subsections (b) and (c) as (e) and (f) respectively.

Mr. BROYHILL of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. DINGELL. Mr. Chairman, reserving the right to object—I am not sure I will object—I would like to know why the gentleman is proposing to have the reading suspended.

Mr. BROYHILL of North Carolina. Mr. Chairman, this is the language stricken from H.R. 11450 in the committee concerning the disapproval procedure of energy conservation plans.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BROYHILL of North Carolina. Mr. Chairman, as I stated, the purpose of this amendment is to restore language that was stricken from H.R. 11450 which provided for a disapproval by congressional procedure for energy conservation plans that were submitted by the Administrator. If you have a copy of H.R. 11450, as many of you do, the bill which has the language stricken out, all you have to do is refer to that stricken out language and the page immediately preceding section 105 printed in that bill.

Section 103 of the bill which we are considering gives authority to the executive branch, to the President, to ration gasoline, to ration available supplies of petroleum products, if that becomes necessary. I think in the view of many people this is the ultimate weapon that most people do not want to see used unless it has to be. It is an unpleasant weapon, and we hope it can be avoided in some way.

But if it is going to be avoided or if undue emphasis is not going to be placed on the rationing section, then we have to have available other programs in order to conserve fuels and to conserve energy.

Now, what does section 105 do? Section 105 in the bill as introduced was aimed at trying to avoid rationing by trying all of these other possibilities. There are many programs or combinations of programs which we could try which when used, maybe in conjunction with allocation, could mean less emphasis just on allocation. Lowering speed limits is one, and we have already responded to that; the kinds of travel which could be temporarily restricted or uses of fuel or electric energy are other examples. However, these things need to be done now and not wait until next spring or next fall or next winter.

The way it was intended to work was that the President would recommend a series of energy conservation plans within a certain number of days and then Congress would have 15 days to single out those they liked and those could go into effect. They could then look at those they do not like and pass a disapproval resolution and they would not go into effect. At any rate, the procedure outlined there was designed to prevent delay and to get some action.

In the course of marking up this bill an amendment was agreed to which emasculated this approach because it removed this congressional disapproval procedure. What it provided for was that each one of these plans would have to be submitted to the Congress and would have to be acted on as a bill or as a piece of legislation before it could be implemented.

So in effect we have really not changed the present law. The executive branch can suggest legislation at this time. Individual Members could come up with legislation calling for some type of energy conservation plan.

But what has happened here is that the Executive is limited in its efforts to try to beat this fuel crisis in developing and submitting legislative recommendations which could take months to pass.

Ordinarily, of course, any proposed action of any kind granting authority to be exercised over the people or the economy should come to the Congress, should come here for some deliberate consideration, and some positive action before we let these plans go into effect. But this is a definite exception to that general policy.

I want it to be clear that the amendment that I have offered, is the language which is in the original bill——

The CHAIRMAN pro tempore (Mr. HOLIFIELD). The time of the gentleman has expired.

(By unanimous consent, Mr. BROYHILL of North Carolina was allowed to proceed for 2 additional minutes.)

Mr. BROYHILL of North Carolina. As I say, this amendment makes it clear that this authority would expire on December 31, 1974. This is not an unlimited grant of authority from now on; there is a time limit to it. But in the case of the present energy crisis it is essential that action be taken on these energy conservation plans as rapidly as possible so that the full impact of fuel shortages can be prevented, and of course to prevent the consequent damage to our economy and to our entire society.

So, Mr. Chairman, I would urge that this amendment be adopted. This is the language in the original bill that was stricken, and I think that it should be restored. And that is the purpose of this amendment.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this portion was voted on in the committee. It was debated for some length of time. I do not remember what the vote was, but it was enough to knock out this portion. This would just restore what was knocked out, and which was discussed thoroughly in the committee.

That is my main reason for opposing it.

We have heard currently throughout the country statements that we are wrongfully delegating authority to the administration, and that we are not accepting our responsibilities here. Mr. BROYHILL's amendment would let the Administrator legislate for America unless we override his proposed conservation plans. If we are in a time of pressing business and do not have enough time to take it up, why, then it would become law.

So I say that that is the wrong way for us to legislate. We would be abrogating our rights as legislators.

I say that no person or group of persons outside of this Chamber can legislate for America. I do not think we should permit this. It is just as simple as that.

I do not see how any Member can go back home to his or her district and report that he has delegated his legislative responsibility to an agency. And where the only way that we can kill the actions of such an agency is in a negative way, we are doing just that.

The committee's amendment, on the other hand, calls upon the Administrator to submit a legislative proposal.

Then, if we wish we can change it, we can amend it, we can do as we please. I think this is the way it should be done in an affirmative way by an affirmative vote, and not a negative way.

We have been delegating our responsibilities to the executive branch for a long time, and the time is now here to stop. We, the Members of the Congress, should have enough courage to stand up and decide whether this should be the law of the land and not let somebody else do so. When we have lost that courage, then we have lost the right to govern in America. This is an essential part of that. We should not stop now and say we will give up our rights to somebody else.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman yielding to me.

I would ask the gentleman from West Virginia do the concepts the gentleman is now describing apply to rationing also?

Mr. STAGGERS. Rationing.

Mr. ROUSSELOT. Are we delegating the authority of rationing to the President in this bill?

Mr. STAGGERS. Actually it is, and it is the wrong way for it to be done.

Mr. ROUSSELOT. So the gentleman is then saying that we should apply the same concepts to rationing or what you call end-use allocation?

Mr. STAGGERS. Let me only say—and I want to make this very clear—I am not in favor of rationing. And every member of the committee well knows that wherever the word "rationing" appeared in the bill I had it stricken out, because I do not believe in it.

Mr. FREY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, Gertrude Stein once wrote: "A rose is a rose is a rose."

Whether we call it rationing or end-use allocation, it is rationing, and I do not think we can kid anybody about it. That is exactly what we have in the bill, rationing. In fact the word was used in the original bill in section 103.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. FREY. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

In other words, what the gentleman is telling the House is that even though the bill does not say "rationing" but calls it another name, we should know what that name is. What do we call it in this bill?

Mr. FREY. End-use allocation.

Mr. ROUSSELOT. "End-use allocation" is just another name for "rationing." I thank the gentleman for calling that fact to our attention.

Mr. FREY. I think we get paid more if we use three words instead of one.

Mr. HEINZ. Mr. Chairman, will the gentleman yield?

Mr. FREY. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. I thank the gentleman for yielding.

I am sure the gentleman recalls a vote in committee where we amended section 103 of the bill, and we put the words into this bill on page 6, line 4, that notwithstanding any other definition, the words "end-use allocation" shall not be deemed to exclude the end-use allocation to individual consumers.

I do not know how the gentleman construes that. I call it rationing.

Mr. FREY. This matter hits right at the great inconsistency we have in this bill. We are talking out of both sides of our mouth. We have section 103 in which we say, delegate to the President, and administrator the question of rationing, because we do not have the courage to face this issue. We do not want to touch it. It is a hot political football, so shove it downtown and let them do it, and then we can complain about it.

The only justification for this is we do not want to face the issue and that is wrong.

In section 105 of the bill that the gentleman from North Carolina is trying to straighten out we say, no, no, we do not want to delegate any authority, we are going to handle everything ourselves. We will let the Administrator act, and then bring it back in front of us, and after due delay—and let me tell the Members if this bill is any example of how we are going to rush into this thing, the energy crisis will be over before we solve the problem—after due delay, we will come back here and vote on each proposal by the President, individually.

We cannot be inconsistent. We must treat the problems in the same manner—even if it is tough politically.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. FREY. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding.

Will the gentleman support an amendment that would make gas rationing something that would have to be approved by the Congress?

Mr. FREY. Certainly. This would make the legislation consistent and force Congress to act.

Mr. McKINNEY. Would the gentleman support an amendment that this action be taken by privileged motion on the floor of the House? Will that solve the problem?

Mr. HEINZ. Mr. Chairman, will the gentleman yield?

Mr. FREY. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. I thank the gentleman for yielding. I should like to state to the gentleman that I have at the desk such an amendment to section 103, the rationing authority section, and I intend to offer it at a later time.

Mr. McCOLLISTER. Mr. Chairman, will the gentleman yield?

Mr. FREY. I yield to the gentleman from Nebraska.

Mr. McCOLLISTER. I thank the gentleman for yielding.

The way the substitute bill is presented, is it not more difficult for us to adopt the other forms of energy conservation in the energy conservation plans than it is under rationing or end-use allocation that we are talking about?

Mr. FREY. I should think so.

Mr. McCOLLISTER. Is not rationing a lot easier for the President to accomplish since he does not have the need to do anything more here?

I am certainly opposed to rationing and object to that provision in the bill. For that reason I am supporting the amendment of the gentleman from North Carolina.

Mr. FREY. I am, also. I think that is a good point.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. FREY. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

Just for the information of the Members, if we get through all of the amendments the members of the committee will have and get down to the other Members of the body, I have an amendment which will strike the end-use allocation term and insert "rationing" so we could clear up the semantics. After all what is wrong with calling a spade a spade—I think it would be better if the Members know what they are voting on. It is my intention to vote against this bill.

Mr. FREY. I thank the gentleman.

Mr. MOSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, that was a very interesting discussion a few moments ago, but it was quite erroneous. We are dealing in an effort to restore section 104 of the bill originally considered by the committee. H.R. 11450, printed in strike-out type language, provides "within 30 days of enactment of this act, and from time to time thereafter, the President shall propose one or more energy conservation plans which shall be designed to supplement and be coordinated with actions taken and proposed to be taken under authority of this or other acts to result in a reduction of energy consumption."

This is not a section that deals with end use allocation. That occurs in section 103 and remains in the act. That is where we find the language touching upon end use allocation.

The question here really is whether in this restricted area of energy conservation plans we are going to delegate to the President or the Administrator the authority to promulgate energy conservation plans which will become law unless Congress, within 20 days in one or the other of the two Houses, disapproves.

I do not like that method of legislating. It is repugnant to me. It does not vest in the Congress the legislative responsibility. On the contrary it delegates and it says unless we act in 20 days, regardless of the comprehensiveness of the scope of the plan, to disapprove it, it becomes the law of the land.

The language was stricken by an amendment offered by the gentleman from Texas (Mr. ECKHARDT). He said go ahead and promulgate these plans and file them with the Congress and then the Congress, using the normal legislative procedures available to it, following in orderly and more meaningful pattern, can adopt them if after appropriate hearings, if after careful study, it feels they are worthy of being adopted.

It may also under the conditions of the bill as it is now written exercise its responsibility to modify the plan, to amend it, to act like a full grown, full fledged legislative body.

I think the American people have a right to expect that this Congress undertake its role as a legislative body. I do not know who will finally exercise this authority. Today it is Mr. Simon. A week ago it was Governor Love. Before that it was someone else. I have heard that former Admiral Reich had control over allocation. I understand there was a disagreement and the admiral is no longer on the scene. And so only the fates or Almighty God know who would exercise the power under the conditions of the amendment proposed by my very good and distinguished friend, the gentleman from North Carolina (Mr. BROYHILL).

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Ohio.

Mr. HAYS. Did I understand the gentleman to say that in the language of the bill as it is now in the substitute that they could not promulgate rationing downtown unless the Congress then approved?

Mr. MOSS. No. The gentleman did not understand me to say that.

Mr. HAYS. Well, that is the way it ought to be.

Mr. MOSS. Because that is not dealt with in section 104. Now it is dealt with in section 103 and I agree with the gentleman that if we want rationing, and I feel that there is no way we can avoid rationing, I would prefer to see the Congress do it and I am willing to take the heat in doing that. But this is not the section of the bill that deals with it directly or indirectly.

Mr. HEINZ. Mr. Chairman, I rise in support of the amendment.

At the outset I would like to address one question to the gentleman from California (Mr. Moss) if I may.

Mr. MOSS. Yes.

Mr. HEINZ. A moment ago the gentleman stated he would be willing to see the Congress take a position on rationing and, therefore be willing to make modifications to section 103 of the bill. In a few minutes I will offer, if recognized, an amendment to section 103. The gentleman is familiar with it. It will give the gentleman and the other Members a chance to do exactly that.

I would like to ask the gentleman, will he support that amendment or will he not support it?

Mr. MOSS. If the gentleman from California and the gentleman from Pennsylvania will yield.

Mr. HEINZ. I yield to the gentleman.

Mr. MOSS. As I said the other day, after 25 years of legislating I have learned that until I have a text before me, I do not give an unequivocal answer; but I will tell the gentleman from Pennsylvania that I will support mandatory rationing under specific language dictated by this Congress. If his amendment does that, then I will support it.

Mr. HEINZ. I thank the gentleman.

I would like to speak a moment, if I may, on a couple of points that are rather important.

The gentleman from California has indicated that the method of disapproval in Mr. Broyhill's amendment is repugnant to him. We have on the books two laws that use this same procedure of disapproval.

I wonder whether the gentleman from California voted for or against the war powers bill when it came to the floor of the House. I wonder how he voted on the executive reorganization procedures.

I am not particularly interested so much in how he voted as the fact that both those bills provide for congressional disapproval as it is found in the gentleman's amendment which I support.

I would urge my colleagues to support the Broyhill amendment as a very effective amendment, to make sure that we make some progress in conserving our vital material resources. If the gentleman really wants to vote for conservation and against shortages, the gentleman will vote for Mr. Broyhill's amendment.

Mr. MOSS. Mr. Chairman, will the gentleman from Pennsylvania yield further?

Mr. HEINZ. I yield to the gentleman.

Mr. MOSS. I would be most pleased to respond to his inquiry as to how I voted.

Mr. HEINZ. I was not asking how he voted, but I would be pleased to yield to the gentleman.

Mr. MOSS. My answer is that in both instances, consistent with that sense of repugnancy, I voted against both measures.

Mr. HEINZ. I thank the gentleman for clarifying that point.

Mr. DINGELL. Mr. Chairman, I rise in regretful opposition to the amendment offered by my good friend from North Carolina (Mr. Broyhill).

I think that the issue before us should be made clear. The question is whether the Congress will exercise its traditional responsibility and prerogative in laying down broad national policy and in deciding great national policy questions.

The question which would be addressed by section 104 of the original bill as now it is placed before us is whether the executive branch as provided in the amendment before us, will decide how the energy resources of this Nation will be conserved and utilized. A reading of the original language of section 104 of H.R. 11450, as originally considered and rejected, by the committee thus vests in the executive branch power to wholly decide upon the utilization, allocation, and conservation of energy in this country.

I think from a reading of that language Members will understand that industries, that communities, that jobs, may literally be destroyed at the whim of one man. It may well be said that the amendment gives the Congress 15 days in which we might act to vote yes or to vote no, upon his proposals. The amendment now before us, does not permit any amendment whatsoever of the President's actions. If Members are concerned about the energy supplies of their constituents, if Members are concerned about how the action of the President might affect them, let them remember that if they vote yes on this amendment, the only question that will be before them when they act on the President's conservation plans will be a yes-or-no vote.

If the Members are concerned with an energy conservation plan which will shut down a major industry in their district, remember that in the amendment now before us they will only be able to vote yes or no. If a Member is concerned with the possibility that industries in his area may not be able to function at certain hours or that his constituents will be denied right to drive their autos on Sunday, then he must necessarily vote no or else he will forfeit for all intents and purposes, for all the period of the pendency of the legislation before us, the opportunity to amend or to change Presidential action.

If Members want to have the questions presented to us for a debate, discussion, and decision and if they want to have an opportunity to represent their constituents, to make judgments as to how these energy supplies of this Nation may be conserved or protected then they must vote no on the amendment.

If my colleagues are concerned that the President might fix the hours of work, the routes of truck lines, school terms, and vacations, then they should vote no. There are many other questions which would be decided by these energy conservation plans on which my colleagues will only be able to vote yes or no if the amendment prevails.

The question here really is a very simple one. Do the Members want to have a say in how these energy conservation plans will be decided on? Do they want to have them decided for us by the executive under conditions when the Congress will have only the opportunity to vote yes or no?

I intend to vote no on the amendment. What we must do is to reserve to the Congress the decisions—on a question as important as those which will be handled in energy conservation plans. If this amendment is not rejected we will have no opportunity to amend or modify or change that executive action which can destroy whole industries and whole communities.

If the Members do not so vote, and do not vote down this amendment, then they will forfeit in the future any opportunity to have any impact on important energy decisions which may decide the whole viability of major interests and of the citizens of their districts and of industries within their districts.

For this reason, I urge a no vote upon the amendment offered by my good friend from North Carolina, and a vote for the bill as drawn, by rejection of the amendment offered by my good friend and colleague.

Mr. BEARD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not rise to either support or oppose this amendment. The Members are looking at a freshman Congressman who has been up here only since January; who has tried to ride with and tried to understand legislative procedure, to understand the laws which are legislated in this great Congress of ours.

Mr. Chairman, I was able to rationalize and compromise in my own mind the agriculture bill and some of the problems experienced there, but I must say today that I find it very hard to rationalize or accept what I see going on. I find it very hard to understand, when my colleague from California (Mr. Moss) states that it is repugnant to him to have to feel as though we have to make a decision within 20 days as this particular amendment requires. Well, I find it extremely offensive to me that I have to make a decision that is going to affect the very future of the economy of this country, the future of this country, the people who are going to be employed next month or the month after, and yet I have to make that decision, as my colleagues do, in 8 hours or 5 hours from whenever I received the bill.

I find it repugnant to me. My colleague from California states that in 25 years of legislating, in the experience he has had, he would never make a decision without reading all the facts and figures because it would go against his professional grain. Well, I feel the same way, and yet I have to go back and face the people of my district and say, "We have done what is best for you."

I voted against the 10-day recess. We had no more business going on a 10-day recess when we should have been sitting here trying to work things out and having this bill out so that the people like myself, freshmen who do not know what is going on in Congress, can sit back and study and listen and ask questions.

But when I go out and I ask questions of members of the committee who are putting out this stuff and they say, "I do not know," then I find this repugnant and I cannot be responsible for it.

In many cases I really feel that the only way I can be legitimately responsible to the people in my district is to vote "present" on a lot of this stuff. Mr. Chairman, I just felt overwhelmed, and I just had to offer my opposition to the way this whole thing is messed up.

I could care less about the Christmas holidays, and I could care less about what the American people are going to think about our lack of activity or our lack of action. We are dealing here with a big ball game, one that is going to affect the future of this country. If we put politics ahead of this, as the people think we do and as we have done so often before, and do the things which have gotten us into this situation before, I say we are in trouble, and God help us.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let us consider what the amendment is that is before us. Let us get down to that point and get down to it calmly.

This amendment has nothing whatsoever to do with rationing; it has nothing whatsoever to do with section 103.

Now, section 103, as was said in general debate, gives general authority to the Administrator with respect to allocation. That includes allocation to various groups. That includes provisions with respect to refining so that more crude oil is used for fuel oil production, and so forth.

This amendment has nothing to do with that. At present the statute gives that authority to the Administrator. If we do not like that authority, we can amend section 103 to make it impossible and illegal for the Administrator to ration. But this amendment does not do that.

What this does is this: It would give additional authority to the Administrator. What this would do is, in addition to permitting allocation, it would permit the Administrator authority to do a legislative act. It would permit him to determine the times, for instance, that grocery stores would stay open at night and determine when they must close.

It would permit mandatory requirement of the use of the highways at certain times and certain lanes by persons in carpools. It would even permit, if the President or the Administrator decided to do so, a general curfew, that everybody has to turn off the lights at 11 o'clock.

It would permit, if it were required by the Administrator, the absolute prevention of the use of any airplane gasoline for private airplanes.

Now, all these things may be good. Maybe the Members want them. But do the Members want to give that authority to the executive department without giving the persons affected by it the opportunity to come before this Congress to present their views on a bill?

I say no. Besides, that is not necessary.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. Surely, I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, I was intrigued by what the gentleman said about making people turn off the lights, because, as I understand it, the basic problem is that we have too many people using up our resources too fast, and if we make them turn off the lights at 10 o'clock or 11 o'clock, we are going to exacerbate that problem in the long run.

Mr. ECKHARDT. Mr. Chariman, let me say that the gentleman's point is well taken. It is certainly deserving of consideration at the very least.

Let me suggest to the Members that what we would be doing is simply delegating our legislative authority to the administrative branch.

I was searching for a statute that would justify this. I can go further back than bills like the War Powers Act, which, incidentally, I voted against.

In the Statute of York of Edward II, 1322, it was provided that—

> Matters which are to be determined with regard to the estate of our lord, the king, and his heirs, or with regard to the estate of the kingdom and the people shall be considered, granted and established in parliament by our lord, the king and with the consent of, the prelates, earls and barrons and of the community of the kingdom, as has been accustomed in time past.

We do not legislate that way. We do not permit the king to make the laws and then come to us and say that if we do not negate them within 15 days they go into effect. If you want to insist that Congress only shall ration, why, just strike it out of the bill and then make the king come to us and ask for legislation.

However, what is sought to be done here is to provide that a rule made by the Executive Department which results in an ability to put a man in jail for violating it becomes the law if we do not speak up in 15 days. That is the most extensive executive authority that has ever been granted in peacetime or otherwise.

Mr. DENNIS. Will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Indiana.

Mr. DENNIS. I agree with the gentleman from Texas. I do not see why my colleagues here want to take this position personally, but I also do not see why this honorable committee is not consistent. If you are such a great one for consistency, why do you not do the same thing on rationing instead of giving that authority to the President?

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. Let me say on this point I think I agree foursquare with the gentleman from Indiana (Mr. DENNIS), and I think I have agreed with him throughout on this proposition.

The point I am making is that if you want to call for authority to be exercised in the Congress, either under the rationing section, 103, or under 105, you do not accomplish that objective simply by permitting the Executive to come in and promulgate a plan which becomes the law unless it is vetoed, because that plan provides for no hearing, it provides for no such debate as we are having here at the present time, it provides for no amendment; it must either be voted down or, if nothing happens, it becomes the law after 15 days.

Mr. DENNIS. You would like the bullet both ways.

Mr. ECKHARDT. I do bite the bullet both ways. I denounce that type of a procedure. I think it is grossly in conflict with the constitutional plan and probably unconstitutional. I know some of my friends will say we have done it in the Reorganization Act.

Mr. STAGGERS. Mr. Chairman, let me see if we cannot reach some agreement on debate on this amendment. I think most everyone here knows what it is, and it has been discussed pretty well. I wonder if 10 minutes will be time enough to finish debate on this amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. FREY. Mr. Chairman, I object.

Mr. STAGGERS. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. KAZEN. Mr. Chairman, reserving the right to object, and I shall not object except that I take this time to ask the chairman a question. Is it the intention of the chairman to finish this bill tonight?

Mr. STAGGERS. I think if we can get through with three important amendments, the rest will go very quickly.

Mr. KAZEN. Is it the intention of the gentleman to stay tonight until we finish this bill?

Mr. STAGGERS. I would hope that we can finish by 9 o'clock.

Mr. KAZEN. Is it the intention of the gentleman to finish this bill or go to 9 o'clock if the bill is not finished and rise at that time?

Mr. STAGGERS. No. I would say within half an hour or three-quarters of an hour after an assessment we will see where we are and if things are not progressing, to adjourn until tomorrow. But I would hope that we could proceed because there are other important matters facing the Congress.

Mr. KAZEN. I do not know that there is anything more important than this.

Mr. STAGGERS. That is true. That is the reason why I hope we can proceed.

Mr. KAZEN. Mr. Chairman, I withdraw my reservation.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. HAYS. Further reserving the right to object, did I understand the gentleman to say that he hoped to be through by 9 o'clock tonight?

Mr. STAGGERS. That is correct.

Mr. HAYS. Well, I am not above a little wager. I wil talk to the gentleman privately.

Mr. Chairman, I withdraw my reservation.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia that all debate on this amendment to the amendment in the nature of a substitute close in 15 minutes?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. YOUNG).

Mr. YOUNG of Illinois. Mr. Chairman, I just want to say that the amendment offered by the gentleman from North Carolina (Mr. BROYHILL) is a very important provision in order to make this bill workable. I originally voted in favor of the bill as it was passed, and as it was presented to the Members today, which would provide in effect that before these energy conservation plans could go into effect they would have to come to the Congress for approval. But the more I studied the matter the more I realized that the fact there will not be one, but probably 50 or 60 different energy conservation plans involving very technical subjects such as atomic energy, hydroelectric power, and would involve environmental concerns, and many, many different hghly technical types of energy conservation plans that will have to be adopted and implemented. These plans are going to require a great deal of cooperation from a large number of the population. So I do believe that under the circumstances if the Administrator has to come back to the Congress with all of those energy conservation plans for congressional action, before they can be implemented, we are going to seriously delay the benefits of these plans.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. ROY).

Mr. ROY. Mr. Chairman, I would submit to my colleagues that an aye vote for the Broyhill amendment is saying to your constituents that you no longer have confidence in the Congress to legislate, and that you are willing to pass the legislative duties to the executive branch.

I am very surprised that there are members of our committee who are willing to do that.

I would also submit to the Members that it should take as long to make a proper consideration of whether to veto a proposal as it would take to enact that proposal into law by affirmative action.

I also wish to state that in addition to what the gentleman from Texas (Mr. ECKHARDT) said, that I talked to legislative counsel and there is no definition of an energy conservation proposal. An energy conservation proposal might include an increase of 40 cents a gallon taxes on gasoline. Do we want to give the President, any President, the power to do that, subject only to the power to veto such a proposal by congressional action.

I say to the Members that if you vote "yea" on the Broyhill amendment, and if you extend the Economic Stabilization Act, then we might as well all go home and come back some nice, Indian summer week in October, and affirm that which the President has done, just as the Supreme Soviet does in Soviet Russia.

So, Mr. Chairman, I urge very strongly a "no" vote on the Broyhill amendment. I think this is the most important part of the bill.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. ROY. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I would suggest the gentleman from Kansas uses rather strong language. The amendment the gentleman from North Carolina has offered is the exact language the chairman of the committee, Mr. STAGGERS, introduced in the original bill. There is nothing foreign about the language of the original language.

The CHAIRMAN. The Chair recognizes the gentleman from Nebraska (Mr. MCCOLLISTER).

Mr. McCOLLISTER. Mr. Chairman, this bill in section 103 deals with the supply of available petroleum products, and in section 105 it deals with the demand. In section 103 the supply side of it may be dealt with, may be allocated, may be limited in any kind of a plan that the President proposes, without any further action by this Congress. If we are interested in balancing supply and demand, then we ought to pay some equal attention to the limitation on demand which is dealt with in section 105, and under the terms of the Broyhill amendment the demand side of the equation is put on the same basis as section 103 relates to the supply.

It would seem that, unless we want to tip the scales in favor of only the allocation and the distribution of the available supply, what we ought to do is to make it just as readily possible to deal with the reduction in demand under the energy conservation plans in order that they can be dealt with to reduce the demand to the point equal to the supply, so that we will not have to depend on rationing. If we do not have the Broyhill amendment, then what we are doing is making rationing under section 103 about the only possible way in which to resolve the balance. I oppose rationing and believe we should give more attention to energy conservation plans as proposed by the gentleman from North Carolina. I support his amendment.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Ohio (Mr. HAYS).

Mr. HAYS. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. HEINZ).

(By unanimous consent, Mr. HEINZ yielded his time to Mr. BROYHILL of North Carolina.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. KAZEN).

(By unanimous consent, Mr. KAZEN yielded his time to Mr. ECKHARDT.)

Mr. ECKHARDT. Mr. Chairman, I shall not take it, but I thank the gentleman.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. FREY).

Mr. FREY. Mr. Chairman, there are just several things that I think I should like to point out. To begin with, I do not think under any stretch of the imagination the Broyhill amendment is a complete giveaway by the Congress of its responsibility. The Broyhill amendment requires that the Congress can act in disapproval within 15 days.

Second, I think the need for consistency in this legislation is extremely important. The same principle should apply to section 103 or to section 105.

Third, in the original version of his bill the Chairman introduced, the Broyhill language was the original language. This is where we started. I thought it was a good idea then. I agree with the gentleman from West Virginia then. Apparently we are in disagreement now, but I think we should end up with what the Chairman originally desired.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, I can state to the Members precisely why it is that there is a different system used in section 105 under the energy conservation plan, and every member of that committee knows why. It is because the President put out a series of plans during the period of time from October 16—and I hold the proposed rules here in my hand—and they just simply scared the pants off of everybody in the United States. Somebody said, for example, as one little thing, your priority use is limited to: "public passenger service transportation, but excluding tour, recreation, or excursion services."

That happens to put out of business ski resorts, pleasure-boat people, and a lot of general aviation people.

They came out with another regulation saying part of our plans are for: "industrial manufacturing uses, other than for space heating purposes; cargo, freight, and mail transportation, but excluding air freight."

The airlines laid off 25 percent of their people.

Mr. Chairman, we want Congress to control the plans he comes up with, because these plans decimate individual parts of the economy, and we have to protect them.

The reason we could not pass the rationing plan is because the President came down and said: "I do not want to ration." He had the votes in that committee, particularly on this side of the aisle—and some of the Members on this side of the aisle said: "We do not want to have anything to do with it."

I agree with the gentleman that if there is a rationing plan put in and it comes to the Congress, just like any other plan, we would have to vote on it one way or the other, but that is the reason why we had to have two different systems.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. Broyhill).

Mr. BROYHILL of North Carolina. Mr. Chairman, the gentlemen on the other side here are most inconsistent. In section 103, the allocation section, they are granting to the President wide powers to impose rationing. We may call it end use allocation in the bill but it is rationing, allocating scarce resources among all users. There is no requirement in that section of the bill that the provisions of the rationing plan or the regulations that are drawn pursuant to that authority are sent back to the Congress. At least in the provision that we are considering here, the alternative I have presented, we are going to have a look at the plan submitted by the Administrator.

I agree with the gentleman from Nebraska. I liked his description. Allocation, which is what it says, dividing the scarce resources, is one side of the equation. It is the supply side. But what are we going to do about the other side of the equation, the demand side?

We know from today's paper, and the Members saw the article, that the voluntary programs on energy conservation are working. It is estimated we are saving 9 million barrels a day as a result of these voluntary energy conservation plans that are in effect.

What assurance do we have that we are going to have expeditious action on any energy conservation plans that are brought up here? I do not know if they are going to be filed in a file cabinet or acted upon expeditiously.

Allocation, as the gentleman from Washington said a few moments ago, those regulations under the allocation authority enacted prior to today, those are the ones that are hurting, not the conservation plans we are operating under now on a voluntary basis. In an emergency situation, we need emergency action. This amendment gives us assurance that action will be taken to conserve energy, reduce the demand, and preserves the legislative's right to have a say in what is contained in those regulations. I urge you to vote for the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. Staggers) to close the debate.

Mr. STAGGERS. Mr. Chairman, I yield back my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. Broyhill) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROYHILL of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 152, noes 256, not voting 24, as follows:

[Roll No. 658]

AYES—152

Anderson, Ill.
Andrews, N. Dak.
Arends
Bafalis
Baker
Beard
Bevill
Bray
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Butler
Camp
Carter
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Cleveland
Cohen
Conable
Coughlin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Devine
Dickinson
Dorn
Downing
Duncan
du Pont
Edwards, Ala.
Esch
Eshleman
Evins, Tenn.
Findley
Fish
Flynt
Forsythe
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gettys
Gilman
Ginn
Goldwater
Goodling
Grover
Gude
Guyer
Hammerschmidt
Hanrahan
Hansen, Idaho
Harsha
Harvey
Hastings
Heinz
Henderson
Hillis
Hinshaw
Hogan
Hosmer
Jarman
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Keating
Ketchum
King
Kuykendall
Landrum
Lent
Lujan
McClory
McCollister
McEwen
Madigan
Mailliard
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathis, Ga.
Mayne
Milford
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Mosher
Nelsen
Nichols
Parris
Peyser
Pickle
Powell, Ohio
Price, Tex.
Pritchard
Quillen
Regula
Rhodes
Robinson, Va.
Robison, N.Y.
Roncallo, N.Y.
Rousselot
Ruppe
Ruth
Satterfield
Schneebeli
Sebelius
Shriver
Shuster
Sikes
Skubitz
Smith, N.Y.
Spence
Stanton, J. William
Steiger, Ariz.
Stephens
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Treen
Van Deerlin
Vander Jagt
Veysey
Waggonner
Wampler
Ware
Whitehurst
Widnall
Williams
Wilson, Bob
Winn
Wydler
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion
Zwach

NOES—256

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Barrett
Bauman
Bell
Bennett
Bergland
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bowen
Brademas
Brasco
Breckinridge
Brooks
Brotzman
Brown, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Carney, Ohio
Casey, Tex.
Chappell
Chisholm
Clark
Clawson, Del
Clay
Cochran
Collins, Ill.
Collins, Tex.
Conlan
Conte
Conyers
Corman
Cotter
Crane
Culver
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Diggs
Dingell
Donohue
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Fascell
Flood
Flowers
Foley
Ford, William D.
Fountain
Fraser
Fulton
Gaydos
Giaimo
Gibbons
Gonzalez
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gross
Gunter
Haley
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holifield
Holt
Holtzman
Horton
Howard
Huber
Hudnut
Hungate
Hutchinson
Ichord
Johnson, Colo.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Kluczynski
Koch
Kyros
Landgrebe
Latta
Leggett
Lehman
Litton
Long, Md.
Lott
McCloskey
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Mahon
Maraziti
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Minish
Mink
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Perkins
Pettis
Pike
Poage
Podell
Preyer
Price, Ill.
Quie
Railsback
Randall
Rangel
Rarick
Rees
Reid
Reuss
Riegle
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ryan
St Germain
Sarasin
Sarbanes
Scherle
Schroeder
Seiberling
Shipley
Shoup
Sisk
Slack
Smith, Iowa
Snyder
Staggers
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Wis.
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symms
Thompson, N.J.
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Vanik
Vigorito
Waldie
Whalen
White
Whitten
Wiggins
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wylie
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki

NOT VOTING—24

Abdnor
Bolling
Burke, Calif.
Carey, N.Y.
Collier
Cronin
Erlenborn
Fisher
Gray
Gubser
Hunt
Johnson, Calif.
Jones, Ala.
Long, La.
Mills, Ark.
Mitchell, Md.
Rooney, N.Y.
Sandman
Stokes
Symington
Talcott
Taylor, Mo.
Walsh
Wyatt

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. STAGGERS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by Mr. Staggers.

The Clerk read as follows:

Amendment offered by Mr. Staggers to the amendment in the nature of a substitute offered by Mr. Staggers:

On page 3, line 3, after the word "welfare.", add the words ", and (5) insures against anticompetitive practices and effects, and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources."

On page 38, line 6, strike all of section 120 through and including the word "1973.", on page 43, line 17, and insert in lieu thereof the following:

"Sec. 120. Antitrust Provisions.—(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

"(b) As used in this section, the term 'antitrust laws' means—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

"(3) the Federal Trade Commission Act (15 U.S.C 41 et seq.), as amended;

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular fulltime Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

"(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

"(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552(b) (1) and (b) (3) of Title 5, United States Code.

"(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

"(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of Title 5, United States Code. They shall provide, among other things, that—

"(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular fulltime Federal employee.

"(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

"(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

"(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b) (1) and (b) (3) of Title 5, United States Code.

"(f) The Federal Trade Commission may exempt types or classes of meetings, conferences or communications from the requirements of subsection (c) (3) and (e) (4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carryout out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

"(g) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

"(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

"(h) (1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

"(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

"(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

"(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to 'the purposes of this Act' or like terms, the reference shall be understood to be this Act.

"(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, or any refined petroleum product that—

"(1) Such action was

"(A) authorized and approved pursuant to this section, and

"(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

"(2) Such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

"(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

"(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

"(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Peroleum Allocation Act of 1973.

"(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

"(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on December 31, 1974.

"(o) The exercise of the authority provided in section 107 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act."

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD, and I will call on members of the committee to explain it.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. McKINNEY. Mr. Chairman, I object.

Mr. BROWN of Ohio. Mr. Chairman, I reserve a point of order on the amendment.

Mr. STAGGERS [during the reading]. Mr. Chairman, I renew my unanimous consent request that the further reading of the amendment be dispensed with, and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. Does the gentleman from Ohio (Mr. Brown) insist upon his point of order?

Mr. BROWN of Ohio. Mr. Chairman, I withdraw my point of order.

Mr. STAGGERS. Mr. Chairman, I have offered this amendment as a courtesy to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. Rodino). I now yield to that gentleman for an explanation of the amendment.

Mr. RODINO. Mr. Chairman, I would not have taken the time of the Committee to intrude upon the matter before it except for the fact that I believe that what we have under consideration at this moment is of such gravity that unless this were called to the attention of the Committee I am afraid that we would be doing a great disservice to our constituents, and in fact to the Nation.

Mr. Chairman, I believe that while we have an emergency situation before us, and all of us recognize that we must act with some haste, nonetheless I believe that this legislation before us provides for a broad exemption to the oil industry in a matter that is of such vital concern to every consumer that we could hardly pass this by without showing that we are protective of the interests of the consumers.

I offered this amendment through the chairman of the committee, the gentleman from West Virginia (Mr. Staggers), after having conferred with many including the Department of Justice, the Deputy Assistant Attorney General in charge of the Antitrust Division, and the Director of the Bureau of Competition of the Federal Trade Commission, who have stated that these amendments are necessary to limit the exemptions that are provided within this bill in order to insure against anticompetitive practices and to enact competitive safeguards along the lines of the Senate-passed bill that are now absent.

The antitrust immunity provision of H.R. 11882 accepts the need for some protection from prosecution for antitrust violations. However, immunity from antitrust laws should never be granted except in language that limits and narrows the extraordinary exempting language.

Section 120(g) is shocking in its overbreadth. Moreover, the present statutory language would create a unique prosecutorial burden of showing that challenged behavior is outside the scope of immunity. Normally this burden is on the party best able to produce appropriate evidence. Obviously this burden should be on the oil industry and not on the Government.

The "good faith" standard sought to be enacted is particularly objectionable. The antitrust laws already provide a rule of reason as a judicial standard. The provision is therefore unnecessary. The proposed standard is also dangerous. Clearly, if relevant, evidence of "good faith" is in the possession of the oil industry. The Government would be charged not only with obtaining that evidence but also with negating it. In most areas of the law where there is a "good faith" defense available it is an affirmative defense and not, therefore, a part of the prosecution's affirmative burden. I hasten to add that a "good faith" defense is itself a rare statutory loophole. This fact alone signals caution.

Section 120(g), moreover, provides an incentive to the oil industry to avoid documentation of their actions. It does not seem to me that the growing problem of destruction of evidence is well served by new legislation that encourages the absence of documentation altogether. Moreover, the subsection runs counter to provisions of more recent legislation that requires documentation that also mandates availability to public scrutiny in large measure.

Finally, empowering the Administrator to approve agreements that are "necessary to accomplish" the objectives of the Energy Emergency Act creates a subjective standard that is not subject to any legislative standards or guidelines. In effect, the provision also could make moot the legislation's required approval of the Attorney General and the Federal Trade Commission.

Section (h) permits the participation of the Attorney General and the Federal Trade Commission in the formulation of the voluntary agreements. This is a significant improvement over their merely reviewing the agreements after they have been formulated. It also gives the two agencies additional procedural powers in executing their responsibilities under this section in order to insure their ability to act quickly and effectively.

The U.S. Department of Justice as well as the bureau of competition of the Federal Trade Commission support these amendments to provide competitive safeguards along the lines of the Senate-passed bill that are now absent in H.R. 11882. This is what we do here. What we do, very simply, is, No. 1, insure that the Department of Justice, through its Attorney General and the Federal Trade Commission, have an initial input before any plan which is presented is actually formulated and foisted upon the public so that Department actions afterward would be actually an action against a fait accompli. I believe this is certainly something that we could handily go along with.

If we have to be protective of the interests of the consuming public at this time, then we surely must realize the role of the Federal enforcing agencies, the Department of Justice in its Antitrust Division, and the Federal Trade Commission. I believe that it becomes absolutely necessary that we have them play a role initially in the formulation and development of these plans. We do not do any more than that.

Second, what we do is assure that the Attorney General and the Federal Trade Commission act as a watchdog by insuring that they have an input in the rules and regulations that are being implemented in these plans, again, not impeding, but insuring that there is a protective device to insure that there are no anticompetitive practices in implementation.

Third, what we do is provide that there is some sort of defense, that there is available a defense to any civil or criminal action brought under the antitrust laws, providing certain conditions are met. The conditions are reasonable conditions. I think we are not asking too much. What we would be doing if we placed our stamp of approval on this bill as written would be to provide a broad exemption from all antitrust violations. I think if we were to do that, we would be violating our trust and we would surely be contravening the very purposes of the laws that have been written to insure against anticompetitive practices.

Mr. Chairman, this amendment in essence substantially strengthens the antitrust provisions contained in section 120 of the bill. Present section 120 contains an unfettered immunity provision for the petroleum industry. The effort at including safeguards in present section 120 is noble. Unfortunately, given the realities of how the allocation program will work, they are virtually meaningless.

This amendment to section 120 adopts the framework of the tough Senate antitrust provision and improves upon that based upon additional knowledge and information brought forth since Senate adoption of that provision.

The amendment contains no general immunity from antitrust laws. A limited defense only is created under section 120(i). Additionally, procedural and monitoring mechanisms are adopted to protect the public interest. The antitrust provisions adopted by both the Senate and the House of the Emergency Petroleum Allocation Act of 1973 are tailored to provide more flexibility and greater safeguards agains abuse. And, the section 120 provisions supersede and apply to that act notwithstanding any inconsistent provisions in section 6(c) of that act. Competitive values are made a watchword in section 101(5) for guidance in carrying out the act's purposes.

To carry out the act's purposes, certain authority is conferred upon the Administrator in subsection 120(d), subject to approval by FTC. But, authority respecting antitrust and competitive matters and advice is vested exclusively with the Department of Justice and the Federal Trade Commission.

Because of the elaborate mechanism to protect the public interest incorporated in section 120, subsection (1) is designed to assure that the section's important safeguards and procedures incorporated as a condition for the granting of a limited antitrust defense and to protect the public interest are not bypassed. Thus, subsection 708 of the Defense Production Act cannot be invoked with respect to any activity which is authorized to be taken under this act or the Emergency Petroleum Allocation Act of 1973, whether or not such activity is also authorized or implemented under the Defense Production Act.

It is recognized that during the emergency, plans of action, voluntary agreements and the establishment of advisory and interagency committees may be necessary to effectuate the purposes of the act. Although these activities in and of themselves may not necessarily amount to violations of the antitrust laws, they present circumstances which increase the possibility of abuse. Thus, the Administrator may set these activities in motion under subsection (d) if necessary to achieve the purposes of the act and the immunity provisions do not attach unless the condition of (i) are satisfied. Even then the Attorney General and Federal Trade Commission must approve it. Subsection (e) requires participation by the public and other interested persons.

To protect against abuse and to insure compliance with the purposes of fostering competition and preventing anticompetitive effects, advisory committees are made subject to the Federal Advisory Committee Act of 1972 and may not be chaired by a person who is not in the ordinary course a full-time regular employee of the Federal Government. With respect to any advisory committee meeting, the Attorney General and the Federal Trade Commission must have advance notice and may have an official representative attend and participate. Also, a full and complete verbatim transcript of advisory committee meetings must be kept, together with any resulting agreement, which shall be deposited with the Attorney General and the Federal Trade Commission where it shall be made available for public inspection. National security and certain other information may be excised therefrom by the Federal Trade Commission and the Attorney General before making it available to the public. In sum, it is intended that such meetings be held in a fish bowl atmosphere.

Subsection (f) provides a degree of flexibility so that the "fish bowl" atmosphere will not become unnecessarily burdensome. The Federal Trade Commission is authorized to exempt certain meetings from the mandatory transcript requirements of (c) (3) and (e) (4) when they are ministerial in nature and are solely for the purpose of carrying out and implementing a plan or agreement which has already been approved. However, the promulgation of regulations are required to assure adequate records in the form of logs or memoranda, so that the monitoring function can be performed. This provision is not intended to limit the more general authority given to the Attorney General and the Federal Trade Commission in subsection (h).

Subsection (o) provides that the purposes of the act in the regulated sector of common carriers will be effectuated with as little loss to competition as possible. To this end the two authorities charged with responsibility for the enforcement of the antitrust laws are required to assess the competitive impact of any actions taken in this sector before exercise of the authority provided in section 107. The scope of their participation should be viewed in its broadest sense in keeping with the intent of these provisions. It is expected that, if necessary, the Department of Justice and Federal Trade Commission will propose alternative actions that would effectuate the purposes of this act with as little loss to competitive values as possible.

Subsections (g) and (h) specifically and affirmatively involve both the Attorney General and the Federal Trade Commission as continuing guardians of competition within the framework of this act.

The thrust not only is constant vigilance by the Attorney General and the Federal Trade Commission, but also mandates their active participation and input from the very beginning into any plans of action or voluntary agreements. They are required to propose alternatives to avoid or overcome to the greatest extent practical any anticompetitive effects.

Additionally, at any time the Attorney General or the Federal Trade Commission may amend, modify, or disapprove any plan of action or voluntary agreement.

Similarly, they may review, amend, modify, disapprove, or prospectively revoke any plan of action or voluntary agreement that has already been implemented. Revocation will terminate the limited immunity conferred.

In addition to the protection of the public interest in the foregoing manner, specific requirements, procedures, and monitoring are included as conditions to obtaining the limited immunity conferred. Section 120(b) defines antitrust laws and section 120(a) provides for such limited immunity in accordance with the provisions of subsection (i).

Subsection (i) limits the possible immunity conferred to designated persons engaged in certain aspects of the petroleum business provided the enumerated activity was conducted solely for the purposes of achieving the objectives of this act and the persons are in compliance with the procedural and other safeguards and requirements of this section.

Subsection (i) confers the limited antitrust defense provided:

> (1) Such action was
>
> (A) authorized and approved pursuant to this section, and
>
> (B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and
>
> (2) Such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

Subsection (k), (m), and (n) are adopted from the present section 120.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I request the attention of the gentleman from New Jersey, the respected chairman of the Committee on the Judiciary (Mr. RODINO) to ask him just a couple of questions about the language of his amendment. If I understand the amendment—and it necessarily takes a little time for a newspaperman to read seven pages of this amendment and understand the legal implications of it—I would like to ask, since I am not a lawyer, if he would explain the language of (g) (1). It says:

> The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation, and carrying out of voluntary agreements and plans of action authorized under this section.

I used the example earlier of the necessity of one dealer in home heating oil in, say, a rural community where there might be two or three dealers who would have no product available to distribute and would have a customer in the north end of the county on a night that it is going to go down to zero degrees could he call some other dealer and ask him to deliver his product to the first dealer's customer?

In other words, if the Gulf man could call the Exxon man and say, "You take your tank truck and go up and deliver heating oil to my customer up in the north end of the county"—if I understand the language of (g) (1) correctly—and I may not—it says:

> The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation, and carrying out of voluntary agreements . . .

Does that mean that the first call would have to be made either to the Attorney General or to the Federal Trade Commission and they would have to get on a conference line to monitor the discussion between the Gulf dealer and the Exxon dealer to deal with this problem?

Mr. RODINO. I think the gentleman well understands all we are seeking to do with this provision is to insure that there is a minimum of any possible anticompetitive practices that may develop.

Mr. BROWN of Ohio. I assure the gentleman that is my objective too, but that is not really I think responsive to my question. Is it necessary, in view of that language, that the Antitrust Division of the Department of Justice or the Attorney General or somebody from the Federal Trade Commission sit in on that telephone conversation or that personal conversation to get the material delivered?

Mr. RODINO. I do not believe that it is necessary at all and I believe that would not be necessary even if strictly construed.

Mr. BROWN of Ohio. That language is repeated again in (h) (1) where it says:

> The Attorney General and the Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anti-competitive practices and effects.

Once again, does that mean the Federal Trade Commission and the Attorney General would have to sit in on this effort to provide service to people who might be in an emergency situation and out of heating oil?

Mr. RODINO. I do not believe that is

the intention. I believe the intention is spelled out rather clearly and I am sure the gentleman is aware of the fact that there could be options. As a result it becomes necessary, in order to insure that we do not just provide the opportunity to develop plans, and then after the plans have been developed, to say then to the Attorney General, "We developed these plans and now you take them willy-nilly," to choose the procompetitive alternatives.

Mr. BROWN of Ohio. Let me ask the gentleman about page 6, (i)(1)(B) which says that anyone who participates in these plans:

> There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect to actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, or any refined petroleum product that—

And they have to say that:

> (1) Such action was—

As a defense against antitrust action—

> (B) Undertaken and carried out solely to achieve the purposes of this section, and the rules promulgated hereunder—

We took "solely" out of ours because we understood if this dealer in Podunkville had antitrust action brought against him, he would have to prove, before a court, in a prosecution by the Justice Department that the action he took was solely to carry out this legislation or the thrust of this legislation.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, it was solely to carry out this legislation or the thrust of this legislation and there was no possibility that they would be anticompetitive in any way. In other words, the individual little dealer would have to prove that against the Justice Department which would be prosecuting him for antitrust procedure. Is that correct?

Mr. RODINO. No. I believe all we do in this section is merely sustain the same kind of requirement as to proof and not a shifting of the burden as the gentleman has in the bill which is presented. I think these are reasonable requests. These are reasonable requirements.

Mr. BROWN of Ohio. The burden of proof under this amendment would then be on the Justice Department to prove that this dealer was in anticompetitive practices?

Mr. RODINO. The burden would not be on the Department.

Mr. BROWN of Ohio. Then the burden of proof would be on this little dealer to prove that the action he took was just to carry out the provision of this act.

Mr. RODINO. The gentleman is talking about the little dealer. We are talking about matters that are of moment. When we talk about antitrust we are talking about not the little single islands or little single incidents that are taking place but we know what we are dealing with.

Mr. BROWN of Ohio. If I may change the example, let us say there is an oil company that wants to get one of its tankers to go to Boston to take care of an emergency in the New England area, instead of stopping at Norfolk, because another company does not have the oil.

Let us make that understanding.

Let us take those two big companies. If they make that understanding, if the Attorney General is there, does he have to sit in?

Mr. RODINO. The Attorney General has to sit in on the development and the formulation of plans.

Mr. BROWN of Ohio. To move a tanker from one place to another and the burden of proof is on the company; is that correct?

Mr. RODINO. It is an affirmative defense that the company would have to sustain.

Mr. ADAMS. Mr. Chairman, I rise in support of the amendment of Mr. RODINO. I think the members of the Committee on the Judiciary have done a service to the House in producing this type of amendment. It is certainly far better than what was placed in the bill originally. It goes to the very system used by the Department of Justice and the Antitrust Division to control anticompetitive practices.

We always hear about the little dealer in various places. The little dealer is never the one that has a problem with the Antitrust Division or the Federal Trade Commission, coming in and saying he has improperly delivered a tank of gas to a customer.

It is the situation discussed right at the end of the discussion between the gentleman from Ohio and the gentleman from New Jersey, where the major oil company says it will not supply the whole region and transfers it to one of its other major oil competitors with whom it has a pattern of agreement that we are talking about.

This is the thing we are trying to prevent. The key parts we are trying to correct in the bill are on page 6 of the amendment. They cannot and should not be able to violate the antitrust laws and carry out an agreement and have a defense, unless it is solely because of the energy crisis. If they do this, it should not be an exemption as in the original bill, but should be a defense, because then the parties that are carrying out the program and have the information available are required to carry that affirmative defense. If they are going to set up a plan and are going to implement the agreement, then it is as I said in the well when I was opposing what the gentleman from Ohio suggested, we want the Government and in this case the Antitrust Division saying, "This is what you can do and this is what you cannot do"; not having an industry group go off in a room under an exemption, holding a meeting, putting together an anticomeptitive system then putting their competitors out of business before the Federal Trade Commission or anyone else can even find out it is happening, let alone do anything about it.

Finally, there are provisions here, particularly provision (l) and provision (k) which limit the exemptions that are set forth under other acts and say that if it is for energy then it is only under a limited set of circumstances. This follows what is done in the Senate bill. It does not destroy the antitrust laws and the Federal Trade regulations, as the bill provisions would do.

I think the members offering this amendment have done a service to the House in offering this amendment. I am very pleased it has been offered and I shall support it and if it is carried, I will not make a motion to strike section 120.

I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I associate myself with the remarks of the gentleman from Washington. I feel the amendment is adequate to protect the interests of the Antitrust Act.

I compliment the gentleman from New Jersey and the distinguished chairman of the committee for offering this very worthwhile amendment.

Mr. YOUNG of Illinois. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Gentlemen, I think we should understand the import of what the proposed amendment offered by the gentleman from New Jersey means to this bill. Essentially what is happening, by the words of this amendment, is that the amendment gives the Federal Trade Commission and the Department of Justice some of the prerogatives, some of the responsibilties, that would ordinarily and should be given to the Energy Administrator.

The Attorney General is an adviser. The Federal Trade Commission, particularly in the field of antitrust laws, is an adviser. This particular amendment gives the Federal Trade Commission and the Attorney General certain administrative powers and duties and responsibilities under this act which the act presently gives to the Energy Administrator.

The Energy Administrator, under the bill as passed out by the committee, has the right, and as a matter of fact has the responsibility to keep the Federal Trade Commission and the Attorney General advised, and gives them an opportunity to be heard at every step of the way, which in effect is also in the provisions of the amendments offered by the gentleman from New Jersey. However, in his amendments he makes them mandatory by statute that they perform certain functions. For example, he provides that any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented. This, despite the fact that in the committee bill and also in the earlier sections of the same amendment they have the right to be heard every step of the way, to be present at all of the hearings, which are all public hearings, where there is a public written record kept and where they have the right to advise the Energy Administrator.

The amendment also goes on to say that the Federal Trade Commission shall monitor the development and implementation of the carrying out of plans of action. Section 2 says that: "The Attorney General and Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act."

They are not going to be advising the Energy Administrator; they are going to be telling the Energy Administrator; they are going to be telling the Energy Administrator and the public what should be done. Further, there are some other significant changes with respect to this amendment. For example, an important change has to do with the transcript and record, which shall be kept available for public inspection and copying, which is set forth under section 552 of the Administrative Procedure Act.

Under the committee bill, we have provided that the record available for public inspection not apply to certain matters which were set forth in nine different subsections of section 552. The amendment narrows those exceptions down to two particular exceptions, so it makes a significant change there.

Now, the amendment with respect to the provisions which are set forth on page 6, in my opinion, which in effect apply to when the defense of exemption from the antitrust laws is available, is merely declaratory of what the committee bill now provides.

It is not necessary to set this out in detail. I would state that the proposed amendment makes the FTC and the Attorney General's office, in effect, administrators along with the Energy Administrator, and we are giving powers to those two agencies which we have denied the Congress under the bill and the Broyhill amendment. So, I believe that the amendment is not desirable. I believe that we have all of the same safeguards which are necessary in the committee bill.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, many of our friends who bring this bill here have, in the past, taken hasty action, overlooking to some degree the necessity that we must live, that industry must continue; that our economy must remain strong if we are to do the maximum toward protecting our environment. Earlier in the debate I quoted excerpts from the report of our Appropriations Committee on Agriculture, Environmental and Consumer Protection.

Mr. Chairman, much of what the bill before us tries to reach, but which I believe impossible to administer, ignores the sound advice I gave in my book, "That We May Live," published by D. Van Nostrand in 1966 and translated into Spanish and German. I think it well to quote from pages 176–81 here for we need to take heed to the statements made. I quote:

> POLLUTION
>
> That is not to say that pollution of air and water does not exist; for, of course, it does. Pollution is part and parcel of man's unplanned and unthinking change of his environment; and particularly is it a part of the subject under discussion in *Silent Spring* and here. Public opinion here seems to be on the move toward action. This public temper can be good if held in balance. It can do more harm than good if not kept on an even keel.
>
> Pollution comes from many sources and becomes greater as our population increases; unless we take corrective action, it will become worse as we become more and more industrial. We do have pollution of the air and water and apparently are going to do something about it. These facts lead me to point to some of the factors with which we must deal as we attempt to meet this problem.
>
> "The fact that air is essential to life is as old as knowledge. The fact that polluted air can cause discomfort is probably just as old. As soon as primitive man moved his fire into his cave, he certainly became aware of air pollution in the form of smoke. He also probably soon learned to reduce the smoke in his cave by careful placement and stoking. He then decided to accept some smoke in return for the warmth and convenience of the fire nearby.
>
> "We have been weighing pollution against convenience ever since. Now we are beginning to realize that more than convenience is involved and that the air around us is not a limitless sea into which we can continue to pour waste without serious consequences.
>
> "Our health and our well-being are threatened."
>
> Thus did the *Agriculture Yearbook of 1963: A Place To Live*, describe one of the serious problems of our day, air pollution.
>
> Pollution degrades the physical, chemical, biological, and esthetic qualities of the water. The degree depends upon the kind and amount of pollution in relation to the extent and nature of reuse. Pollution can be just as effective as a drought, or excessive withdrawals, in reducing or eliminating water resources.
>
> Over 2600 new or enlarged sewage treatment works are needed to serve 27.8 million persons living in communities presently discharging untreated or inadequately treated sewage. Another 2598 new sewage collection systems and treatment works are required to serve a population of 5 million living in urban areas where individual disposal systems have failed to function properly. (Funds for this have been frozen.)
>
> By the year 2000, thirty-four years from now, we will be around 330 million Americans as against today's 194 million. We will have nearly doubled the quantity of sewage going into our streams and protecting the public health will really be a problem.
>
> Today's 194 million Americans are abusing our resources so far as our use and handling of water is concerned. Our lakes and rivers have become catch basins for the residues of our factories, automobiles, household and agricultural chemicals, for human wastes from thousands of villages, towns, and cities. How well we clean up this situation and learn to handle it without restricting man's means of providing our high standard of living may well determine the future of our nation.
>
> As we approach this problem we must keep in mind that the power to control is not only the power to make or break business but is a power over the life of the nation itself.
>
> * * * * *
>
> If we closed all our manufacturing plants, that would greatly improve the purity of the water in our streams; if we stopped driving automobiles, just think what that would do to improve the atmosphere—and a single departmental head could have done that under several bills; if we could return to the 800,000 population level of this country at the time it was discovered by Columbus, nature would be able to largely eliminate the pollution problem. But with 194 million people we could never live in the simplified way of that day. Neither can we ask nor could we force the residents of New York City to quit eating, quit living, and quit breathing while we clean up the Hudson. The same is true for Washington and the Potomac, as well as the people of thousands of towns and villages. The power to set standards is the power to control, yet some Members of Congress have urged that such power be granted to a single government department.
>
> Agriculture's claims and responsibilities for the use of water are second to none, for agriculture provides our food, clothing, and shelter, the basic necessities for life. In addition, agriculture has a great responsibility in the use of water, for land is the great gathering place and reservoir for storage of water. Just a few years from now we will need three times the water we use today, all of which points up the need to protect and manage the quality and quantity of our water supply.
>
> In our work with the Appropriations Subcommittee for Agriculture, we find the close cooperation and coordination of efforts by both the Corps of Engineers and the Soil Conservation Service are necessary in watershed and flood control programs, both of which are highly essential to water protection. We would not expect a skilled surgeon to use only one instrument for all operations, nor a mechanic to fix our car with a sledge hammer. Thus it is with pollution; we must use the tools required for the job; and most importantly, we must keep the factory running in the process and not turn the surgeon's scalpel over to the mechanic or vice versa.
>
> To do the cleaning up job on pollution, we must call on industry, on the federal, state, and city governments, and on individuals. We need financing and regulations; in the meantime, we must maintain a sense of balance, so that we do not tear up more than we correct. We are not merely limited to the practical but to the possible.

Mr. Chairman, it is a shame that the Congress has not always followed that advice given in 1966. Today, we pay the penalty not only in energy shortages but in many other areas.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to inform the House that a decision has been reached that when we arrive at the end of this amendment, the committee will rise until tomorrow morning.

Mr. Chairman, I wish to inform the Members that I will ask at that time for unanimous consent that all Members may revise and extend their remarks in the RECORD.

Mr. BROYHILL of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is a seven-page amendment, and we have not really had a chance yet to study it. I think the amendment offered by the gentleman from Ohio (Mr. BROWN) has been very carefully worked out by not only the Members but in consultation with the staff, as well as judicial experts. Mr. Chairman, I would hope that we could maintain the language that is in the bill.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BROYMILL of North Carolina. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I appreciate the gentleman from North Carolina yielding to me.

I would like to ask the gentleman from New Jersey (Mr. RODINO) who is the chairman of the Committee on the Judiciary, if his amendment includes any provision for exemption from State and local antitrust legislation, or would the companies and the dealers, and so forth, who participate in the implementation of plans be subject to local and State antitrust laws, even if they could get a Federal exemption to go ahead and deal with the energy problem.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, this does not direct itself to State and local antitrust legislation.

Mr. BROWN of Ohio. So, if the gentleman will yield further, they would not be exempt from State and local antitrust laws? Is that the answer?

Mr. RODINO. Whether or not they would be is not material, I think, to this question.

Mr. BROWN of Ohio. In effect, they would not, because they are not affected by them in any way?

Mr. RODINO. They are not exempt under this, no.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman.

Mr. Chairman, if the gentleman will yield further, I would just like to advise the committee that I have been advised by the administration that while Mr. Clearwater has apparently referred the chairman of the Committee on the Judiciary to a letter from Governor Love—do the Members remember him?—saying that the language of the Senate bill was appropriate, and, therefore, the language which the gentleman from New Jersey has proposed would be appropriate.

That letter was dated November 23, or at least late in November, and we are now into the month of December.

Mr. Clearwater sat down with us and wrote the language which is in our amendment. He is apparently somewhat embarrassed by the fact that he has offered his approval to both amendments, both the gentleman's amendment and my language.

However, I am advised that the administration and the Office of Management and Budget have also sat in on the drafting of language in the bill as it now stands, and the White House and the Antitrust Division of the Department of Justice all find our language perfectly acceptable, and they agree that it will accomplish the thrust of what we are trying to accomplish here.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, I would like to state that Mr. Clearwater's position was stated to us only today, and he recognizes the fact that there was a need for this limiting exemption.

I think when we consider that we have both the Federal Trade Commission and the Department of Justice agreeing that this measure is, indeed, necessary in the interests of competitive safeguards then I cannot see how the gentleman can dispute the fact that we have a very good amendment here, one which provides a limited exemption and yet protects the consumer at a time when he needs protection most.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman.

Mr. BROWN of Ohio. Mr. Chairman, I will say to the gentleman that Mr. Clearwater and I were on the phone. I guess we might as well say it was largely a one-way conversation.

But when I offered him the opportunity to respond, he advised me that he did, in fact, sit in on the discussions and helped create the agreement that was reached among the Antitrust Division of the Department of Justice, the Office of Management an Budget, the industry, the staff of the counsel of the committee, the gentleman from California (Mr. Moss), and myself, just 6 nights ago.

He told me just a few moments ago, in fact, that he found the language perfectly acceptable and also told you your language fell within the purview of the letter or the framework of the letter Mr. Love wrote apparently to the House on November 23.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word. I will try not to take 5 minutes.

Mr. Chairman, I spent a good deal of my life advising corporate officials how to live with the antitrust laws. I have pulled my clients out of advisory committee meetings because the particular Government official presiding did not lay down the very kind of careful procedures that this amendment requires.

One of the things about the antitrust laws, as business lawyers know, is to save businessmen from themselves, because if there is one thing separating us from a serious drive toward socialism in this country, it is the antitrust laws.

The one big thing we have to justify our system—and I believe in our system—is the fact that it does work in the public's interest, so long as it remains a competitive system. The thing that keeps it working as a competitive system is the antitrust laws.

If the gentlemen from the oil industry want to end up being nationalized, all they have to do is just proceed in the way that the committee's section 120 sets it up. I guarantee you you will see the darndest drive to nationalize the oil industry you have ever seen.

The amendment before us is very carefully drawn. Someone a little earlier in the debate said that the antitrust laws are simple. After many years of practice in this field I will say that if there is one thing they are not, it is simple. You can see why that is so when you consider that they apply to just about every facet of the economy of the United States.

Mr. McCLORY. Will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Illinois.

Mr. McCLORY. As I understand the amendment offered by the gentleman from New Jersey, it is intended to exempt from the antitrust laws those arrangements and voluntary agreements which the producers or the refiners enter into pursuant to the direction of the Administrator and which are approved by the Attorney General and the Federal Trade Commission. Is that correct?

Mr. SEIBERLING. That is my understanding.

Mr. McCLORY. And that is all. So if they do engage in any anticompetitive practices in violation of those antitrust laws, then, except as allowed under this amendment, they are subject to the antitrust laws just as they are at the present time.

Mr. SEIBERLING. Yes. Let me say further there is nothing in this amendment preventing any group of businessmen, whether small or large, from making an exchange agreement to meet emergency shortages or anything else if it is lawful under the antitrust laws. But if they want to get together and make a comprehensive plan for allocation of oil, they had better follow the procedure we propose in this amendment.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman.

Mr. HECHLER of West Virginia. I think we ought to also consider the attitude of the man who is in line to administer this law, Mr. William E. Simon, how he feels toward the antitrust laws. On the 17th of July the Federal Trade Commission filed an antitrust complaint against eight major oil companies. Mr. Simon, as Deputy Secretary of the Treasury and head of the Oil Policy Committee, tried to get the Federal Trade Commission to back down on it. It seems to me we have here a perfect example of where we have to strengthen the language in order to protect the antitrust laws. Mr. Simon even went so far as to warn that the FTC antitrust case against the eight major oil companies might worsen the energy crisis.

On the front of the Archives Building is written "What is past is prologue," which means "you ain't seen nothing yet." With an administrator like Mr. Simon, it is essential this amendment be adopted in order to make sure the antitrust laws are protected and the power of the Federal Trade Commission is protected.

Mr. DINGELL. Will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman.

Mr. DINGELL. I would simply note a recent study by the Federal Trade Commission found all manner of anticompetitive actions going on in the oil industry. Guess who it was who rushed downtown to denounce it. Nobody but the Department of the Treasury of which Mr. Simon was a top-ranking official.

They said the oil industry is one of the most competitive in the country, and does not need any additional supervision since it engages in no anticompetitive actions.

Mr. SEIBERLING. It was not just the Treasury that said it, it was Mr. Simon himself.

If you really want to keep the fox from taking charge of the chicken coop you need this amendment, and you need it to protect the oil industry from itself as well as the country from the oil industry.

Mr. MEZVINSKY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to say that

I strongly support the amendment which has been offered on behalf of the gentleman from New Jersey (Mr. RODINO). I think it strengthens the antitrust provisions but, as important, what it does do is to give the public access. I think it will help the public to find out better what is happening. I think it provides a monitoring plan whereby we can understand what is going on. But, above all, it really places the burden upon the oil companies to show good faith. I think the oil companies are going to win no matter what happens with this legislation, but I think this does provide the public with access, and that it is in the public interest.

For that reason, Mr. Chairman, I support the amendment offered by the gentleman from West Virginia (Mr. STAGGERS) on behalf of the gentleman from New Jersey (Mr. RODINO).

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MEZVINSKY. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, has the gentleman looked at the amendment and at the language in the bill to see that there is a requirement of public notice for planning meetings in the bill at present; that the public is supposed to participate under the language of the bill at present, and that there is also participation by the Department of Justice and the Federal Trade Commission?

I trust that the gentleman from Iowa is not suggesting that the language now in the bill does not provide for public notice either prior to a meeting or after the meeting on what the plan is.

Mr. MEZVINSKY. Mr. Chairman, I will state to the gentleman from Ohio that I am aware of that. I might also point out that the Federal Trade Commission made it very clear when they presented their arguments against the language in the bill, as reported, that access was of vital interest to the Federal Trade Commission, the Justice Department, as well as the public. Their participation will be enhanced by the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. STAGGERS) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HAYS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 286, noes 112, answered "present" 1, not voting 33, as follows:

[Roll No. 659]

AYES—286

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Ashley
Aspin
Badillo
Bafalis
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Boggs
Boland
Bowen
Brademas
Brasco
Bray
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Byron
Carney, Ohio
Casey, Tex.
Chappell
Chisholm
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Daniel, Dan
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Diggs
Dingell
Donohue
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frenzel
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harrington
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hogan
Holifield
Holtzman
Horton
Howard
Huber
Hungate
Hutchinson
Ichord
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Landrum
Latta
Leggett
Lehman
Litton
Long, Md.
McClory
McCloskey
McCormack
McDade
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mallary
Mann
Maraziti
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Miller
Minish
Mink
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
Owens
Patman
Patten
Pepper
Perkins
Pettis
Pickle
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quie
Randall
Rangel
Rees
Reid
Reuss
Riegle
Rinaldo
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Scherle
Schroeder
Seiberling
Shipley
Shriver
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Udall
Van Deerlin
Vanik
Vigorito
Waldie
Wampler
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wydler
Wyman
Yates
Yatron
Young, Ga.
Zablocki
Zion
Zwach

NOES—112

Archer
Armstrong
Ashbrook
Baker
Bauman
Bell
Breaux
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burleson, Tex.
Camp
Carter
Cederberg
Clancy
Cochran
Collins, Tex.
Conable
Conlan
Crane
Daniel, Robert W., Jr.
Davis, Wis.
Devine
Dickinson
Dorn
Duncan
Esch
Frelinghuysen
Frey
Goldwater
Goodling
Hammerschmidt
Hansen, Idaho
Harsha
Harvey
Hastings
Hinshaw
Holt
Hudnut
Jarman
Keating
Kemp
Ketchum
King
Kuykendall
Landgrebe
Lent
Lott
Lujan
McCollister
McEwen
McSpadden
Mahon
Mailliard
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Milford
Mizell
Montgomery
Moorhead, Calif.
Moss
Myers
Nelsen
O'Brien
Parris
Passman
Poage
Powell, Ohio
Price, Tex.
Quillen
Rarick
Regula
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rousselot
Runnels
Ruppe
Ruth
Sandman
Schneebeli
Sebelius
Shoup
Shuster
Snyder
Spence
Stanton, J. William
Steiger, Ariz.
Symms
Talcott
Teague, Calif.
Teague, Tex.
Towell, Nev.
Treen
Vander Jagt
Veysey
Waggonner
Ware
Williams
Wilson, Bob
Wylie
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.

PRESENT—1

Beard

NOT VOTING—33

Abdnor
Blatnik
Bolling
Burke, Calif.
Carey, N.Y.
Chamberlain
Collier
Cronin
Erlenborn
Fisher
Gubser
Hébert
Hillis
Hosmer
Hunt
Johnson, Calif.
Johnson, Pa.
Long, La.
Michel
Mills, Ark.
Minshall, Ohio
Mitchell, Md.
O'Neill
Peyser
Railsback
Rooney, N.Y.
Sikes
Stokes
Symington
Taylor, Mo.
Ullman
Walsh
Wyatt

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

Mr. STAGGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill which has been under consideration today, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

HOUR OF MEETING ON THURSDAY, DECEMBER 13, 1973

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 a.m., tomorrow, Thursday, December 13, 1973.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

THE INEQUITY OF GAS RATIONING

(Mr. CRANE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CRANE. Mr. Speaker, with characteristic incisiveness, Prof. Milton Friedman, in his article appearing in Newsweek December 10, 1973, explodes the foolish notion that rationing provides an "equitable" solution to fuel shortages. Since superstition on the subject of rationing abounds in many quarters, I commend to the attention of this enlightened body the illuminating remarks of Professor Friedman:

THE INEQUITY OF GAS RATIONING

(By Milton Friedman)

There is wide agreement that the most efficient solution for the energy-and-oil crisis is to let the free market reign—to let prices rise to whatever level is necessary to equate the amount people want to buy with the amount available. Higher prices would give each of us a private incentive to conserve energy, would give producers an incentive to add to the supply, and would assure that energy was used for purposes valued most highly by purchasers.

The one argument against this traditional free-market solution is that it is "inequitable." Any solution requires that we use less energy than we would like to use at present prices—that is precisely why we have a crisis. Any solution will therefore "hurt" all of us. But it is maintained that the free market imposes the burden disproportionately on the poor, that government rationing would avoid this "inequity" and hence should be adopted, despite all its defects—waste, bureaucracy, black markets and corruption.

The argument has a strong emotional appeal. But it has no rational basis.

THE ARITHMETIC OF RATIONING

Consider one scheme for rationing gasoline that has been proposed: give each family coupons entitling it to purchase a specified number of gallons a week at present prices, but then permit it to purchase additional gasoline at free-market prices. Since my concern is with equity, let me waive all questions about the feasibility of assuring that coupons would be honored and about the effects on production incentive. Suppose the allotment per family is 15 gallons per week, that every family uses its allotment, that the fixed price is 45 cents a gallon and that the free-market price, in the absence of rationing, would be 75 cents a gallon *for the same total amount of gasoline* (I shall discuss below the reason for this condition). The scheme is then precisely equivalent to sending each family in the United States a check for $4.50 a week (30 cents times 15 gallons), financing the payment by a tax on the oil industry, and letting the free market distribute the gasoline.

Is there anyone who would favor such a national dividend, distributed regardless of need? If there be such a person, would even he favor having its size determined solely by the price of gasoline? If the scheme is bad when stated in its naked form, how can concealing it in ration coupons make it good?

Or consider another variant: distribute coupons covering all gasoline that will be available (say 20 gallons per week), fix the price at 45 cents a gallon, but permit the coupons to be sold in a "white" market. Assuming the same facts as in the preceding paragraph, the price of the coupons would be 30 cents a gallon. The scheme would be precisely equivalent to imposing a tax of 30 cents per gallon on gasoline and using the proceeds to send each family in the United States a check for $6 a week (30 cents times 20 gallons). Again, stated nakedly in that way, does the scheme really have any appeal?

Note that I have considered the least inequitable schemes. Alternatives that would prohibit the sale of coupons or that would allocate coupons on the basis of number of cars or "normal" mileage driven rather than equally to all families are equivalent to sending *larger* checks to high-income than low-income families.

THE ECONOMICS OF THE MARKET

Because of my emphasis on "equity," I have omitted a major defect of these rationing schemes—the deficit that required me to assume *the same amount of gasoline*. Both schemes would reduce the incentive of producers to add to the supply and would therefore mean *less* gasoline than under the free market.

The effect on production is important both in the current emergency and in the longer run. Suppose that shortages in any commodity or service are always met by taxes designed to absorb the increase in price. What incentive would that give private enterprise to provide excess capacity to meet such a possibility? As it is, the prospect of occasional bonanzas makes it profitable for enterprises to maintain greater productive capacity and larger inventories than are required under normal circumstances. With that prospect eliminated, the government would itself have to provide such reserves—a task it has hardly demonstrated the competence to perform.

The free-market solution is not only more efficient, it is also more equitable. True "equity" calls for making provision for special hardship cases. It does not call for raining government checks on all and sundry.

URBAN MASS TRANSIT OPERATING SUBSIDIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 1 minute.

Mr. CRANE. Mr. Speaker, the New York Times recently carried a very disturbing report concerning the attitude of the administration toward operating subsidies for mass transit systems. As my colleagues are aware, I have consistently opposed this form of assistance in our Mass Transit Subcommittee, in the full Banking and Currency Committee and here on the floor of the House.

Until this report of December 1, I assumed that the administration was also persevering in its opposition to operating subsidies. The implications of the article concerned me and, as a result, I wrote Secretary Brinegar to receive a clarification of his views.

While I am awaiting a response to that inquiry, I must say that my mind has been greatly relieved by a reply to an earlier inquiry which I have just received from the Honorable Roy Ash, Director of the Office of Management and Budget.

I particularly call my colleagues' attention to the fact that this letter from Mr. Ash was dated December 5, 1973, after allegations of a change of position on the part of the administration.

Mr. Ash makes the particular point that in speaking both for his office and for the Secretary of Transportation:

> The Administration continues to oppose operating subsidies and if legislation comes to the White House we intend to recommend to the President that he veto the legislation.

On the eve of the meeting of the conference committee on this legislation, I believe that this letter is particularly timely and, therefore, I ask unanimous consent that it be printed in its entirety at this point in the RECORD.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., Dec. 5, 1973.
Hon. PHILIP M. CRANE,
House of Representatives,
Washington, D.C.

DEAR PHIL: Federal operating subsidies for mass transit are of great concern to the Administration, particularly as we look at an array of similar problems during this busy budget season. I read with great interest your letter of October 30 and your remarks on the House floor on October 3. Not only do I greatly appreciate your strong opposition to a Federal role in subsidizing mass transit deficits, but I also believe that your grasp of the problems and the eloquence with which you have represented your position should serve as a forceful rallying point to strengthen opposition to the operating subsidy legislation continually before the Congress.

It is unfortunate that subsidy supporters are currently suggesting that environmental concerns and the energy crisis are reasons for instituting such subsidies. Analysis does not support that rationale. We intend to make the case that, quite to the contrary now is precisely the time that local offiials and transit property managers could be working to get mass transit back on the road toward self-sufficiency.

We need to redouble our efforts to inform your fellow legislators of the pitfalls and pernicious nature of these subsidies. Your points are particularly well taken about the never-ending nature of operating subsidies, the fact that they would become part of the budget "uncontrollables," and that they represent an attempt by a few local and State officials to unburden themselves by shipping their local problems and artificially low fares to Washington and thence on to smaller cities and rural America.

Secretary Brinegar and I will continue to look to you as one of the most well-informed opponents of Federal transit operating subsidies. Needless to say, the Administration continues to oppose operating subsidies and if legislation comes to the White House, we intend to recommend to the President that he veto the legislation.

Sincerely,

ROY L. ASH,
Director.

AMENDMENT OF TARIFF ACT OF 1930

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, as a means of facilitating transportation for pilots and boaters in Alaska, I have introduced a bill to amend the Tariff Act of 1930 so as to exempt certain private aircraft entering or departing from the United States and Canada at night or on Sunday or a holiday from provisions requiring payment to the United States for overtime services of customs officers and employees.

Taking into consideration Alaska's geographic proximity to Canada and the absolute necessity of air and boat travel, the present Customs regulations impose a definite hardship on pilots and boaters and an unnecessary hindrance which my bill would remedy.

I call your attention to similar legislation introduced by Senator BURDICK of North Dakota and Congressman SHOUP of Montana. This discriminatory situation exists in those border States as well.

H.R. 11923

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) is amended—

(1) by striking out "of a highway vehicle" in the proviso to the fourth sentence and inserting in lieu thereof "of a private aircraft arriving or departing on a flight between the United States and Canada, or of a highway vehicle";

(2) by striking out "by motor vehicle" in the proviso to the fourth sentence and inserting in lieu thereof "by private aircraft on a flight between the United States and Canada, or by motor vehicle";

(3) by striking out "by motor vehicle" in the fifth sentence and inserting in lieu thereof "by private aircraft on a flight between the United States and Canada, or by motor vehicle";

(4) by striking out "such highway vehicle" in the sixth sentence and inserting in lieu thereof "such private aircraft, highway vehicle"; and

(5) by adding at the end of such section the following new sentence: "As used in this section, the term 'private aircraft' means any aircraft licensed by the United States other than an aircraft which is engaged in the transportation of merchandise, baggage, or persons for hire."

(b) The amendments made by subsection (a) shall take effect at 12 o'clock noon of the first Monday following the thirtieth day after the date of the enactment of this Act.

NATIONAL EMERGENCY ENERGY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, our country is now nearly 20 percent short of its current energy needs. While voluntary efforts have been extremely helpful, it is clear that the United States will be plagued by serious shortages for years to come. Only by passage of such legislation as H.R. 11450 can we hope to alleviate some of the most adverse effects of present shortages.

Briefly stated, the National Emergency Energy Act responds to many of the requests presented in the President's energy messages. It authorizes him to establish priorities among petroleum users. H.R. 11450 sets up a Federal Energy Administration. The bill provides for coal conversion. It restricts windfall profits, allows importation of liquefied natural gas, reviews export and foreign investment policies, and, on a case-by-case basis, the Environmental Protection Agency may suspend air pollution standards. In addition, the legislation calls for a fuel economy study, an EPA report, and a September 1 report by the President on the implementation of the act. In sum, the National Emergency Energy Act is one of the most comprehensive and most important bills designed to combat the energy crisis, and I urge its immediate passage.

I might note that I was particularly encouraged by the fact that there are research provisions in this legislation. It is my hope that attention will be given to future alternatives to present energy sources. For example, I am particularly interested in full consideration of solar and fusion energy. In this respect, I have detailed to my constituents what steps we must take for a comprehensive energy program. These steps are as follows:

WHAT EACH OF US CAN DO

1. Urge your elected officials to work for a program that should include the following as priorities:

Development of fusion energy
Development of breeder reactors
Development of fuel capacities (synthetic)
Development of new oil fields—both on shore and offshore;

Such efforts should lead to domestic independence in this important area.

2. Encourage the establishment of a national energy center which would be charged with the responsibilities of researching energy procurement and deployment (including research on electrical needs in the future);

3. Encourage the creation of a center which would examine the economic, environmental, social, military, and political consequences of any decisions in the field of energy;

4. Support the development of talks between countries of the world. Such talks could provide the forum for exchanging what knowledge is thus far available on the subject of energy. Legislation to authorize the President to set up a conference to accomplish this goal has been introduced in the House of Representatives, and is before the Foreign Affairs Committee for action. I intend to speak and vote for such legislation.

Mr. Speaker, early in the 92d Congress many of us—particularly those from the Midwest—warned of an energy crisis. It is clear that crisis is now upon us, and we must act now before the energy crisis leads to other crises—none the least of which is an economy crisis.

ENERGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WILLIAMS) is recognized for 5 minutes.

Mr. WILLIAMS. Mr. Speaker, President Nixon has created a Federal Energy Administration, and has asked Congress and all Americans to consider ways of conserving fuel. While some ways will be voluntary, some will ultimately be enacted into law. Congress quickly passed a bill to reinstate daylight savings time until 1975. The bill grants sunrise-to-sundown radio stations a waiver to operate 1 hour before sunrise. Energy experts calculate the extra hour of daylight will save up to 450,000 barrels of crude oil a day.

As this letter is being written, the House moves to consider the National Emergency Energy Act. This legislation will authorize ways in which this country will combat the energy crisis and conserve fuel. I am hopeful that ways other than gas rationing can be found to help us in this situation.

Current pending measures would utilize other sources of energy: Solar, coal, and nuclear. Pennsylvania and other States are rich in coal desposits. Coal is inexpensive to process, a ready substitute for gas or oil, and easily available. The USS *Johnston,* DD–821, used oil made from coal for a recent cruise. The voyage proved most satisfactory and the commander reported fewer odor problems with oil made from coal than from regular fuel oil. The Environmental Protection Agency should be conducting research to learn how to remove impurities from coal smoke and coal as it is being converted into other forms of fuel, such as oil and gas.

The United States must move into energy independence. This huge country, with a GNP of almost a trillion dollars, should not be dependent upon foreign oil. The Alaskan Pipeline bill, a first step toward energy independence, had my complete support. Since then, I have introduced H.R. 11654, to strike section A of the Clean Air Act for the duration of the energy crisis, which prohibits installation of future emission control devices on automobiles. Emission control devices are responsible for greatly increased gasoline consumption and now when gas rationing appears possible, these inefficient devices are unnecessary. My bill is a companion measure to H.R. 10664, which I introduced to prohibit the installation of the expensive and complicated interlock seat belt-ignition system.

Season's greetings. I would like to wish all of my constituents a very joyful holiday, and a most Happy and Prosperous New Year. Christmas 1973 is particularly meaningful to us all this year. For the first time in decades, U.S. soldiers are not fighting anywhere in the world. I hope that we will maintain this record of peace.

CONFIRMATION OF GERALD R. FORD

It was a privilege to join with 387 Members of the House of Representatives to confirm Hon. GERALD R. FORD as 40th Vice President of the United States. Selection of Congressman FORD was met by acclaim by all. Mr. FORD served ably and with distinction for 25 years in the House of Representatives, winning the esteem and respect of both parties. He takes with him to the Office of the Vice Presidency our good will and warmest wishes for many more successful years.

SOCIAL SECURITY

It was a pleasure on November 15, 1973 to support H.R. 11333, the social security benefits increase legislation. This bill is of great importance to the Nation's elderly, providing an 11 percent increase in benefits by mid-1974, 7 percent in March and 4 percent in June. Hopefully, it will be sent to the White House soon.

I have consistently worked in behalf of our senior citizens, and this year introduced measures which would include prescription drugs, flu shots and eyeglasses in medicare. I have also sponsored bills to grant a combined earnings benefit to married couples, raise the social security death benefit to $750, and provide elderly with half-price air fare on a space-available basis.

DISTRICT OFFICE—NEW ADDRESS

The population of the 7th Congressional District was 423,000 persons in the 1970 Census. The congressional redistricting which was accomplished by the Pennsylvania General Assembly increased the population of the 7th District to approximately 473,000. Almost 3 years later, that has increased by

15,000, and I now represent some 488,000 people. For this reason, I have had to seek larger quarters for my Springfield District Office. After the first of the year, the new address will be: 616 Baltimore Pike, Springfield, Pa.

I am happy to help you with your problems, and have found that the best way to achieve results is by having you write letters to me, giving all details of your problems. Having all the facts in writing enables me to deal more effectively with the Federal Government, and solve your problems. If you have a problem, or want advice, please do not hesitate to write to me. I am available almost every weekend in the District for those who deem it necessary to see me personally. Please call my district office, KI 3–2082 to arrange an appointment.

RAILROAD REORGANIZATION ACT

On November 8, 1973, the House passed H.R. 9142, the Regional Rail Reorganization Act with my support. This much-needed legislation creates a Federal National Railway Corporation and provides $1.4 billion in grants and guaranteed loans to reorganize the six bankrupt railroads in the Northeast into one profitable enterprise. Improved rail service in the Northeast is vital to meeting our Nation's commerce and defense needs, and thousands of people would be out of work if our railways were permitted to go bankrupt. Congress has provided Federal subsidies for other modes of transportation but has sorely neglected our railroads.

This act also authorizes $250 million for labor protection costs. The Interstate Committee redefined the term "protected employee" which now means any employee of an acquiring railroad adversely affected by a transaction, and any employee of a railroad in reorganization. Such employees must be offered employment by the new Corporation, and for those whose jobs are at lower salaries than before, a monthly displacement allowance may be paid.

SMALL BUSINESS COMMITTEE INVESTIGATION

An investigation I called for in October has uncovered that a Government agency has poured millions of taxpayers' dollars into questionable, if not fraudulent, loans. The Small Business Subcommittee probe into the Small Business Administration has already found evidence of irregular loan activities in 20 SBA offices. In addition, testimony this month appears to indicate that some Hurricane Agnes victims were shortchanged as part of a coverup for fraudulent loans made by the Richmond, Va. SBA office, which comes under Philadelphia's region III jurisdiction.

My interrogation of SBA officials from the central office raised the issue of why that office assigned a "B" rating to the Agnes disaster—the worst ever covered by the SBA loan program. An "A" rating would have allowed the national office and other regional offices to directly assist flood victims. Instead, the Philadelphia office handled the Agnes loan relief effort for months, successfully diverting the regional director's attention from what are obviously questionable loan practices in the Richmond district office. If top SBA officials played politics at the expense of Pennsylvania's flood victims, I will do everything possible to see that they are removed. And if there is evidence of criminal activity, I will press for a Justice Department investigation.

FIRST SESSION SUMMARY

The House of Representatives has devoted considerable time this year to floor activity, and has approved 635 pieces of legislation. Among those are the following items: Urban mass transportation, trans-Alaskan pipeline, Comprehensive Manpower Act, emergency medical services systems, export administration, trade reform, Amtrak financial aid, emergency employment, Public Health Service programs, law enforcement assistance and national flood insurance. As this letter is written, my voting record is 96.9 percent and I look forward to another busy and productive year.

RATIONING MUST BE EQUITABLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MARTIN) is recognized for 5 minutes.

Mr. MARTIN of North Carolina. Mr. Speaker, I submit for the information of the House of Representatives an amendment which I expect to offer to H.R. 11882, the Energy Emergency Act, while that bill is under consideration by the House. The purpose of this amendment is to provide that in the event the President or Federal Energy Administrator finds it necessary to propose end-use allocation—or rationing—of gasoline, that proposed system will be equitable and will not provide a framework conducive to blackmarket profiteering. It provides that in addition to a basic nondiscriminatory allocation—ration—for personal automobiles or recreational vehicles, consumers will have an option to purchase extra ration stamps or otherwise qualify for an extra share by paying higher net price.

An elaboration of my views and arguments are contained in remarks made from the well of the House during general debate today.

The text of my proposed amendment follows: Amendment to H.R. 11882, as reported, by Mr. MARTIN of North Carolina.

On page 6, line 6, strike the period, and add: ": *Provided, however,* that any proposal by the President for the rationing of fuel for personal automobiles and recreational vehicles should, in addition to the basic nondiscriminatory ration, include provisions under which the individual consumer may qualify for additional allocations of fuel upon payment of a fee or user charge on a per unit basis to the Federal Energy Administration."

FARMERS HOME ADMINISTRATION: THE TAIL WAGS THE DOG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, one of the greatest domestic needs facing our Nation today is the revitalization of our countryside communities and towns. Since I came to the House of Representatives in 1969, I have been working for the establishment of programs which would help the Federal, State, and local governments and private groups and individuals operating in partnership to achieve this goal.

In 1970 Congress established a national balanced growth policy in the Housing and Urban Development Act and in the Agriculture Act. Almost 16 months ago the Rural Development Act became law. This legislation is designed to give momentum to the revitalization of the countryside. Achievement of this objective is vital to solving our problems of metropolitan area congestion.

It is imperative that the Federal agencies charged with the responsibility for administering these programs be equipped with the tools and sufficient qualified personnel to carry out the intent of Congress in an efficient and effective manner. Comprehensive community and regional development includes a wide array of activities such as: Communication systems, comprehensive planning, environmental protection, education, job development, housing, health care delivery, recreation facilities, transportation networks and water and sewer systems.

One of the Federal agencies carrying the heaviest burden in administering rural development programs is the Farmers Home Administration. FmHA began basically as an administration intended to give assistance in farm ownership and operation. In the late 1930's the first elements of a rural water system program were added. About 25 years ago the agency's responsibilities were expanded to include rural housing. Then, in 1965 FmHA was authorized to operate waste disposal programs to assist countryside areas. And with the passage last year of the Rural Development Act FmHA was given a major new role in comprehensive community development in the countryside.

As I noted a moment ago, housing is an integral part of comprehensive development. FmHA administers the rural housing programs. Generally these programs are making a significant and valuable contribution to the quality of life in rural areas.

Today the House Committee on Government Operations has released a report on the manner in which FmHA has administered the rural housing programs. This report, prepared by the Subcommittee on Intergovernmental Relations as part of an ongoing study of the programs which was begun more than a year ago, cites a number of serious deficiencies. These deficiencies are impairing the effectiveness of the housing program.

The subcommittee's investigation was begun at my request. I began working in this area in 1969 after receiving repeated complaints about the rural housing programs from constituents in the First Congressional District.

Due to the lack of sufficient and competent personnel in the FmHA, citizens of the countryside are beginning to join the increasing number of Americans who have lost faith in Government solutions to national problems. If these serious deficiencies we have found in the Farmers Home Administration are not properly and promptly corrected, it could lead to an abandonment of the balanced national growth policy.

I bring this report to the attention of my colleagues because I would urge your consideration of the problem areas which have been identified by the subcommittee's investigation and report and of recommendations made in the report. The problem areas are:

A lack of sufficient, qualified personnel to handle the program which has been expanding rapidly for the past decade;

Failure of responsible officials to demonstrate an acceptable degree of administrative initiative and competence;

Serious and widespread deficiencies in sewer and water systems in rural subdivisions, creating health hazards for FmHA borrowers;

Substandard construction quality in many FmHA-financed homes, both manufactured and of conventional construction;

Many instances in which required FmHA construction inspections have been inadequate or not made at all;

Approval of rural housing loans to borrowers who are ineligible or clearly lack resources to repay;

Excessive appraisals of property securing rural housing loans;

FmHA reports on default losses which are confusing, contradictory and unreliable; and,

Inadequate precautions against use of false and misleading information to obtain loans.

The subcommittee expects to make further findings in a future report, particularly with respect to irregularities which have been alleged in Arkansas and Mississippi.

Actions which were recommended in the report are:

That the Office of the Inspector General in the Department of Agriculture conduct a comprehensive review of FmHA rural housing operations. The review, the report said, should give particular attention to the adequacy of corrective action taken concerning the deficiencies cited by the subcommittee's report and the 1971 OIG comprehensive review of FmHA rural housing operations;

That FmHA review its policies with respect to the use of packaging to determine whether the benefits of continued use of this procedure is likely to outweigh the disadvantages. Packaging is a procedure by which home builders recruit homebuyers and assist them with making applications for FmHA financing. In the report we said that if FmHA continues to use packaging it should take steps to insure that the interests of the borrower and the public are adequately protected;

That FmHA should immediately establish an effective system for prompt and accurate reporting of actual and potential housing loans losses; and,

That FmHA provide the committee a status report as soon as possible concerning the corrective action taken or planned on the problems cited in the report.

As an example of the depth of the problems we found during the subcommittee's investigation thus far, let us consider the question of FmHA personnel qualified as housing specialists. To put this into perspective it should be kept in mind that while the funding for FmHA rural housing programs increased 700 percent between 1960 and 1971, the number of FmHA employees rose only 74 percent.

During the subcommittee hearings in June, FmHA presented data showing that there were only 382 housing specialists working at the county, district, and State levels. At the same time there were 3,225 agricultural specialists at the district and county level.

In December 1972, FmHA had reported having 222 construction inspectors. By July 31, 1973, this number had been reduced to 105. The FmHA personnel in the county and district offices are the employees most directly responsible for overseeing the housing programs. By 1972 housing funds made up 58 percent of the FmHA budget.

For instance, in Arkansas there were only 24 housing specialists at the county level and six at the State level. Yet FmHA in Arkansas made 5,289 housing loans worth $59,313,000 in 1971 and 4,889 loans worth $61,838,000 in 1972. And, FmHA estimated, during the June hearings, that 2,952 loans worth $40,325,000 would be made in 1973 in Arkansas.

While the Federal expenditures for rural housing total almost 60 percent of the FmHA budget, housing specialists represent only 10 percent of the professional personnel. It thus appears that the tail is wagging the dog.

Again, I would urge my colleagues to review the findings and data contained in this report with two major objectives in mind: What can and should be done to correct the problems it identifies and what can and must be done to insure that FmHA, and similar agencies with responsibilities in community development for nonmetropolitan areas, have the tools and resources they must have to carry through in an effective and efficient manner.

CONGRESSMAN DRINAN REVIEWS PROGRESS ON BEHALF OF THE FREEDOM OF SOVIET JEWS AND THE SECURITY OF THE STATE OF ISRAEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 20 minutes.

Mr. DRINAN. Mr. Speaker, on December 11, 1973, the House passed legislation which will assist in the advancement of freedom for Soviet Jews and enacted a grant of $2.2 billion for the State of Israel which will guarantee to that small country the security and stability which it needs in order to negotiate effectively with its Arab neighbors.

I was pleased to see these two separate developments come together on the same day by a happy coincidence. I was also pleased to see the final enactment of the Jackson-Vanik amendment by which the United States may give the most-favored-nation status to Russia as well as a guarantee of credits and credit guarantees only if Russia establishes and implements a policy by which any Russian citizen may, if he so desires, emigrate to another nation.

I have supported the Jackson-Vanik amendment enthusiastically from the beginning and have advocated its enactment on every appropriate occasion. For months we have seen the inherent moral logic of the Jackson-Vanik amendment accepted by more and more Members of Congress of all political and ideological backgrounds. It is indeed gratifying to note that on December 11 the House of Representatives cast the overwhelming vote of 319 to 80 on behalf of the freedom of immigration of Soviet Jews.

It is indeed heartening to recognize that the U.S. Congress has by its vote insisted on the full implementation of the mandates of the Universal Declaration of Human Rights to which both the U.S.S.R. and the United States subscribed in 1948.

For many months, Mr. Speaker, some individuals have been alleging that the Jackson-Vanik amendment would diminish détente and impair our relations with the Soviet Union. As much as all of us want détente, it is overwhelmingly clear that the vast majority of the Members of Congress want that détente only on the condition that the Soviet Union make available to its citizens that most basic of all rights—the right to emigrate and go to the nation of one's choice.

I am happy to say also at this time, Mr. Speaker, that the Soviet Union within the past few days has assured me that I will be able to obtain a visa to visit Russia when such a visit may be arranged. This is a reversal of a position of the Soviet Government which on two previous occasions had denied to me the right to travel to Russia as a representative of the National Interreligious Consultation on Soviet Jewry.

I look forward therefore to visit the Soviet Union and, in particular, to bring the greetings of the Congress and the people of the United States to the Jewish communities in Kiev, Moscow, Leningrad and elsewhere.

THE HOUSE GRANTS $2.2 BILLION TO ISRAEL

On December 10, the House of Representatives not merely enacted the trade reform legislation which contained the Jackson-Vanik amendment, but it also authorized and appropriated $2.2 billion for military assistance to Israel. In an overwhelming vote of 364 to 52 the House recognized that this grant recommended by the administration was necessary to restore the balance of power in the Middle East.

Speaking on behalf of this bill I stated on the floor of Congress on December 11 that "this bill has two objectives: it will allow Israel to negotiate from strength and stability and, second, it will be a signal to Russia and to the world that the United States will abide by its commitments to protect Israel from its enemies." I went on to note that it is "overwhelmingly significant that in the years 1946 to 1972, according to the AID, the United States gave $55 billion to all the nations of the Earth, and not a single dollar of that went to Israel."

I concluded my defense of H.R. 11088 by stating that the bill was "intended to make the Day of Atonement War in 1973 the war that will end war forever in the Middle East."

I also voted against a motion to include language in the Emergency Security Assistance Act of 1973 which would state that the bill is "intended to support the implementation of United Nations Security Council Resolution 242—1967—and United Nations Security Council Resolution 338—1973. This particular amendment was well intentioned but it was rejected by the House because it was felt that the proper place to decide upon the precise meaning of Resolution 242 was at the peace conference which convenes on December 18, 1973, in Geneva.

Hopefully, Mr. Speaker, the grant for $2.2 billion for Israel can be enacted by the Senate and signed by the President prior to or shortly after the beginning of the Geneva Conference so that Egypt, Syria, and U.S.S.R. will know that Israel will once again in the immediate future be militarily invulnerable.

Mr. Speaker, tomorrow I shall testify before the U.S. Senate Foreign Relations Committee on behalf of the $2.2-billion grant for Israel. I attach herewith the testimony which I shall give before the Senate committee of which Senator FULBRIGHT is the chairman. That testimony follows:

Testimony of Congressman Robert F. Drinan on S. 2692

The grant to Israel proposed in S. 2692 is but a continuation of that commitment and that agreement of friendship which has always characterized the United States' relationship with Israel. From the very day of the estabilshment of Israel as a nation in 1948 by what I call "international eminent domain," the Congress of the United States has consistently offered and authorized assistance to that small nation.

That policy was set forth in the Mutual Defense Assistance Act of 1949. The same policy was updated and enacted in Section 651 of the Foreign Assistance Act of 1967. The same commitment can be seen in Section 501 of the 1970 Armed Forces Appropriation Authorization Act. The authority for military sales provided by previous acts of Congress was further extended in the recent past to December 31, 1975.

When President Nixon on October 19, 1973 urged the Congress to appropriate 2.2 billion dollars for Israel he moved well beyond anything that the United States had ever done at any time for Israel. The recommendation of the President was made because Israel in the three week war conducted on two fronts in October, 1973 had received much more damage from her enemies than Israel had sustained in the wars of 1956 and 1967. Indeed, President Nixon's recommendation was based upon the very clear fact that Israel, by its own estimate, needed more than 3 billion dollars to replace the military equipment which had been destroyed by the Russian-supplied tanks and aircraft of Egypt and Syria.

In all previous years Israel had been able to purchase the military equipment which was indispensable for its defense against neighbors who, although not hostile themselves to Israelis, were incited and inflamed to become so by the intervention of the USSR and by the massive injection of sophisticated military hardware by the Soviet Union.

I am sure that the decision to request this grant from the United States was painful to Israeli officials. The leaders of this proud nation had never before been required to ask for any such assistance to make their borders militarily defensible. The people of Israel have taxed themselves to an incredible extent to protect their citizens from sniping along the exposed borders of Israel and to protect the entire nation from a devastating attack by their surrounding enemies.

The granting of 2.2 billion dollars to Israel does not mean that the United States or the United Nations should cease in any way to offer their good offices to bring about peace in the Middle East. We can hope that the emerging detente with Russia will give an opportunity to the United States and to the entire family of nations to induce and persuade Russia to withdraw from the Middle East and no longer to furnish the weapons of war to the Arab nations. We can hope also that the deepening of a sense of solidarity among all the countries that belong to the United Nations will bring about a collective resolution of the agonizing problems of the Palestinian refugees.

However desirable these solutions should be, however, there is no denying that Israel simply must protect itself from the hostile nations which surround it and which even at this very moment are receiving massive re-supplies of military equipment from the Soviet Union.

The war against Israel that Egypt and Syria began on the Day of Atonement in October 1973 appears to have caused an erosion of support in the world community for Israel. Hopefully that support may be restored. But until that time the United States, which has never wavered in its friendship towards Israel, should make that nation capable of rising above the disastrous military losses which Israel has recently suffered.

With the overwhelming vote in favor of the grant of 2.2 billion in the House of Representatives on December 11, 1973, it would appear that Israel can go to the peace conference scheduled for Geneva on December 18 with the expectation that the entire world will know that Israel is in the process of making itself once again militarily invincible. With that assurance Israel is in a position to negotiate from a position of strength with Egypt and Syria—nations which have never questioned the commitment which the Soviet Union has to supply and resupply them with arms.

No one pretends that the United States or any nation finds it attractive to furnish the weapons of war. At the same time, the options for the United States in the Middle East really offer no alternative. The fact is that in the short run and in the long run the strength and stability which this grant from the United States will bring to Israel offers the only hope of peace.

U.S. BANKRUPTCY LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, under the provisions of the U.S. Bankruptcy law, after payment of secured debts and the expenses of administration of bankruptcy, wage earners and commission salesmen are given priority in payments for past due wages and commissions of no more than $600 per claimant. I am happy to see that the Federal Government has provided protection by law for the wages of those, who through no fault of their own, are employed by a firm that becomes bankrupt.

I rise today to ask that section 104(a) 2 of title 11 of the United States Code be amended to give employees a $3,000 priority for life insurance premiums, health insurance premiums, wages and commissions, pension fund payments accrued to the employee within 1 year of the filing of bankruptcy, employee income tax deductions, and social security payments. These changes are needed to bring the Bankruptcy Act up to date and to insure that an employee and his family will be protected by life and health insurance if the firm he works for goes bankrupt.

The case for change in this statute was brought home to me when the Shepard & Gladdings department stores in my State went bankrupt 2 months ago. Many local employees who worked for the firm when it went bankrupt have recently learned that the company failed to pay their life and health insurance premiums for some months before it filed for bankruptcy. Additionally, those who had not been paid when due, but who had loyally stayed with the company in an attempt to help it through its time of financial crisis learned that they could only expect to receive a priority on $600 in wages.

That $600 figure was set in 1926. We all know that a dollar in 1926 was worth many times what a dollar is today.

For this reason I suggest that the $600 priority be raised to $3,000. Hopefully, when the suggestions which I make today become law, there will never be another Shepard-Gladdings with employees who learn too late that their health insurance and life insurance premiums are unpaid and that the maximum that they can look forward to receiving from their company in back wages is a paltry $600.

ENERGY AND MONEY SAVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, today I am introducing a measure which will save the consumer both energy and money. I am asking all owners of gas cooking ranges with automatic pilot lights to take the appropriate steps to convert those cooking stoves to manual top burner ignition.

By requesting the local utility company to shut off the top burner pilot lights, millions of American families can save valuable natural resources as well as cut down on their monthly gas bills. Energy experts estimate that pilot lights on the family cooking stove use between one-third and one-half of all gas consumed by the stove. Since there are approximately 41 million gas cooking ranges currently in use in the United States, consuming an estimated 1 trillion cubic feet of natural gas, almost 400 billion cubic feet of gas can be saved if this simple, yet safe measure of turning off burner pilot lights is implemented. In 1970, residential consumption of natural gas was listed as 4 trillion cubic feet. Since that time, the amount of gas consumed by the American public has increased while available supplies of natural gas are dwindling.

Millions of gas cooking stoves without automatic pilot lights are in use throughout Europe, Asia, and Great Britain without any evidence of serious danger. I know that American consumers see the value of conserving this important natural resource. Natural gas customers would willingly request their utility companies to turn off the automatic pilot lights for the top burners on their gas stoves. In these times of increased prices and general inflation, the consumer will have a unique opportunity to reap substantial savings on monthly gas bills.

It is with these reasons in mind that I am introducing a sense of the Congress resolution enlisting the cooperation of those citizens with automatic pilot lights on their gas ranges to request that the local utility company shut off their burner pilot lights for the course of the energy emergency.

The following is a text of the measure:

> CONCURRENT RESOLUTION EXPRESSING THE SENSE OF THE CONGRESS WITH RESPECT TO THE USE OF NATURAL GAS FOR COOKING STOVE PILOT LIGHTS
>
> Whereas, there are in use in the United States approximately 41,000,000 cooking stoves which consume nearly 1 trillion cubic feet of natural gas per year; and
>
> Whereas, pilot lights consume thirty to fifty percent of the amount of natural gas used by each such cooking stove; and
>
> Whereas, the amount of pilot lights per cooking stove could be reduced to zero through the use of manually-lit and burners on each such stove: Now, therefore, be it
>
> *Resolved by the House of Representatives (the Senate concurring)*, That it is the sense of the Congress that during the current energy emergency, each citizen of the United States who utilizes a cooking stove which consumes natural gas should take the appropriate measures to convert such stove from the use of a pilot light to the use of manually-lit burners.

PANAMA CANAL TREATY NEGOTIATIONS: NO SURRENDER OF U.S. CANAL ZONE SOVEREIGNTY WILL BE TOLERATED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 15 minutes.

Mr. FLOOD. Mr. Speaker, as a participant in a colloquy in the CONGRESSIONAL RECORD of September 26, 1973, on the "Overthrow of Chilean Marxist Regime Dramatizes Necessity for Firm Stand by United States Against Any Surrender at Panama," I addressed this body emphasizing the grim realities of the present situation at this focal danger spot in the Caribbean.

Since then the frustrated 9-year treaty negotiations with Panama, at that time dormant, have been reopened, with Ambassador Ellsworth Bunker arriving on the isthmus on November 26 as the new U.S. chief negotiator. Heralded in advance by massive propaganda in the Spanish-language press of Panama that aimed to create the illusion of Panamanian "solidarity" in support of the drive to win sovereign control over the Canal Zone, he was greeted by published threats attributed to Omar Torrijos, the present "Jefe Maximo" of Panama.

Among the threats laid to Torrijos—El Panama America, November 26, 1973—were these choice morsels:

> If negotiations fail, we have no other recourse but to fight. I am not making a threat but acknowledging a reality.
>
> This is the last opportunity. This will be the last peaceful negotiations.
>
> There have been 70 years of colonialism, 10 years of negotiations, 5 years of national revolution and the result is zero. If we fail this time, we are not responsible for the consequences.
>
> The people are losing their patience and the arrival of Bunker is their last hope. It depends on him whether or not the time bomb that is the Canal Zone explodes.

Mr. Speaker, could there be anything more provocative? Ambassador Bunker is certainly walking through a "minefield" and exposed to all its dangers. I trust that authorities in both Panama and the Canal Zone will take steps to protect him from harm for Panama has admitted many leftists from Chile going into exile who have been cooperating with Castro agents. These infiltrators do not wish solutions of problems but violence. Their goal is to have the United States expelled from the Canal Zone as this would open the way for a Soviet control of the Panama Canal and for completion of the transformation of Panama into another Cuba.

As I have stated on other occasions, Panama is not a strong power capable of protecting itself, but a small, weak, and unstable country located at one of the major crossroads of the world. The American Isthmus has always been a target for predatory attack and the geographical position of Panama means that it always will require the presence of the United States if it is to remain free. These are the stark truths that our Government must face in the formulation of its Isthmian canal policies.

Basic to these policies are two major principles: First, security of transit, and second, Panamanian independence and well-being. In regard to the latter, Panama, as a direct result of the presence of the canal, has been its greatest single beneficiary and has attained the highest per capita income of all Central America. No amount of demagoguery or sophistry in either Panama or Washington can change these facts.

In viewing the Isthmian situation, it must not be singled out as an isolated affair, but as part of a global struggle for control of strategic areas and water routes. In the Near East, U.S.S.R. nuclear warheads were sent to Egypt almost a month before the outbreak of the October 1973 Arab-Israeli war—American Security Council Washington Report, December 1973. In Cuba, its Communist government has mounted heavy artillery in the Sierra Madre Mountain ranges in hastily constructed revetments overlooking our naval station at Guantanamo. In addition, Cuban patrol boats are being fitted to carry Soviet Styx surface to surface antiship missiles, with a combined artillery-styx attack against the U.S. naval base and warships in the bay as a distinct possibility. In Southeast Asia, a large scale North Vietnamese Vietcong strike, supported by Mig fighter aircraft operating from reconstructed former U.S. airbases in Communist-occupied sections of South Vietnam, seems to be in the making. In the eastern Mediterranean, modern Soviet vessels with powerful capabilities stand ready to attack the 6th Fleet. In addition, U.S.S.R. presence in strength at Malta places that middle sea choke point under Soviet control.

Because the Panama crisis is a part of the global situation, I am keeping in close touch with the current treaty discussions for the prime purpose of exposing and blocking any trickery, chicanery, or other skulduggery. Though this language is harsh, I have learned from long observation that the Panama Canal is not a subject for illusions in dealing with military strongmen of Panama or its demagogic politicians. Above all we should understand the real character of Omar Torrijos, his close ties with the Moscow puppet Castro, and his secret machinations with other Red stooges, among them Libya's bombastic dictator, Col. Muammar el Qaddafi. These are not mere happenstances, but the consequences of Communist infiltrators in the Panama Government who have counted on the complicity of Torrijos. Otherwise there could be no valid explanation of the truculence that has been exhibited by present Panamanian leaders over a period of years.

Mr. Speaker, I would repeat that I am acutely aware of the negotiations now in progress, and have no intention of allowing the administration, the State Department, or any negotiator to get away with anything. Other Members of the Congress and myself are determined that there should be no diminution of U.S. sovereignty over either the Canal Zone or Panama Canal. Based upon an extensive correspondence from various parts of the Nation and numerous conversations with leaders in both major parties, Senate as well as the House, I believe that the view just expressed reflects those of the people of our great country and well-informed leaders in the Congress.

Again, Mr. Speaker, the machinery of our Government as regards important Isthmian Canal policy matters has been on dead center entirely too long. The time has come for action to authorize the major increase of capacity of the existing Panama Canal and its operational improvement, as provided in pending legislation in both House and Senate.

Panama provides much of the work force for U.S. Government agencies in the Canal Zone. Because what is good for the canal in the way of construction is inevitably good for Panama, the major modernization of the canal will revitalize the isthmus in many ways. More over, in addition to the large benefits that would accrue to Panama, the work would probably lead to other U.S. benefactions. One that I have proposed would be to help Panama plan, relocate and construct a new and larger free zone in Panamanian territory east of the Canal Zone where there is indefinite room for future expansion, and connecting it with the Cristobal docks by a railroad or road. Another that I have proposed would be the construction of a major bridge across the Atlantic sea level section of the canal comparable to the Thatcher Ferry Bridge across the Pacific end. The latter proposal, by the way, was recently recommended by the Panamanian National Assembly of Community Representatives—Critica, November 20, 1973.

When such constructive projects are undertaken, the covertly and overtly inspired agitations that have plagued United States-Panamanian relations during recent years should vanish like a morning fog in the tropical sun.

As partial documentation for my remarks attention is invited to my address in the CONGRESSIONAL RECORD of November 15, 1973, on "Panama Canal Pilots Association Urges Major Modernization as the Solution for the Canal Problems," and the following translations from two Spanish-language newspapers:

TITOIST COMMUNISM CREEPS OVER PANAMA

The ones who have gotten the most out of each one of the phases of the cold war, have been Tito and Yugoslavian communism. The alienation from Moscow and the rapprochement with Washington were exploited to the hilt by the old chief of warriors who dared face up to Stalin.

Because of rendering the service of a wedge placed within the communist world, Tito has received millions of dollars. Huge sums of money were wasted, inasmuch as Titoist communism is as inept as the Soviet-type and much more sly than all those in existence, including the one recently liquidated in Chile.

The regime of self-management" was invented in 1949, by Kardelj Djilas—still a non-resident—and Kidric, the three most outstanding ideologists of Titoism. After "self-management" there came the system of social property", which has only served to waste capital, energy and labor on minuscule enterprises that have been victims of the assurance of technocrats and bureaucrats!

The sad chronicle of Titoism's communist formulas, applied in Yugoslavia was written by Milovan Djilas, after his most famous work "The New Class", in his book "The Imperfect Society". There, and above all in reality, is evidenced the magnitude of the failure of Titoist communism and of each one of its applications in the economy of the country which at the present time is the victim of one of the most devouring inflations, after that of Chile.

Marshall Tito has just unleashed a large-scale offensive against corruption and inefficiency and has made, during the course of his campaign, sensational revelations concerning Yugoslavia's economic disaster.

According to the Yugoslavian constitution "only work can be a source of incomes", which is a real dead letter, since it has been proven that in Tito's country there are hundreds of multi-millionaires, who move substantial capital in and out of Yugoslavia.

Alongside this prosperity of the high communist leaders is evidenced the existence of around half a million unemployed within the country, alongside a massive emigration that supports some two million workers, doing unskilled jobs in the European capitalist countries, Austria, Switzerland, Italy and above all, West Germany, employ those millions of workers who cannot find a job under the communist regime of their country.

Tito's communism has been able to face the crisis that scourges all the communist countries of the world, thanks to the prodigal cooperation it has been getting from the United States during the icy periods of the Cold War.

Tito performed, for a good while, the service of promotor and organizer of the organization of Unaligned Countries, for the purpose of preventing these from shifting toward the Soviet orbit. Titoism has played a role of prime importance in the bosom of the third world movement, both to infiltrate its own form of communism and to interfere in both the Soviet and Chinese penetration.

The end of the Cold War has signified a severe blow for Tito and for Titoism, inasmuch as his previous services have lost value and, at the present time, lack the importance they had before.

At the present stage, Titoism is being transformed into an instrument of the large transnational enterprises. Through the infiltration of the economic regime of "autosuggestion" and the "social property" system, it deadens resistance to communism in people and scatters and dilutes the economic powers of a country. In this way it prevents developing nations from creating the power necessary to go out on the open market to fight it out in open competition with the multinational enterprises.

With the object of lending this service to the big partnerships—Americans above all—Titoism has been oriented with tenacity and steadfastness toward the nations of Latin America.

To this time, it has absolutely controlled the whole economic and political process of the Peruvian revolution; it is making extraordinary efforts to infiltrate, not Titoist communism directly and frontily, but rather the so-called "Peruvianist tendency [or trend]" in the armed forces of Argentina, Uruguay, Chile, Ecuador, Honduras, El Salvador: and it unleashes a great activity of economic more than ideological type, in order to assure itself of positions in diverse Latin American nations and in the heart of the Christian-Democrat parties.

In this advance, which never ceases to be vigorously pushed from Belgrade, Titoist communism has set eyes on Panama, where it has encountered the opportunity of an available government. General Omar Torrijos heads a police dictatorship, a movement without ideology and without principles, that lacks orientation, a program, a way, a system, and goals.

With the object of deploying and organizing a penetration similar to that developed in Peru since 1970, the government in Belgrade has urged General Torrijos to visit Yugoslavia, accompanied by a select retinue of officials all duly treated from the brainwashing point of view. Essential changes in the military dictatorship's policy are going to depend on this visit.

THE TRUTH ABOUT PANAMA

CASTROITES ALREADY CONTROL TORRIJOS

The efforts of the communist international to take over Latin America have been doubled in recent weeks and the digging-in task and the destruction of the institutions and government seems to have attained a victory for them in Panama, where they practically have control of the nation.

After the defeat suffered in Chile, it centered its efforts on different countries and especially in Mexico and Panama.

IN PANAMA

In Mexico the communists are on a war footing. In Panama, on the other hand, they are counting on the complicity of dictator Torrijos and the activities of control and direction are dominated by a few Panamanian military men and special agents sent by Cuba's tyrant, Fidel Castro.

In short, it can be assured that Torrijos and other members of the supposed government have delegated their functions to the communists, while they devote themselves to getting rich.

THE COMMUNIST COMMAND

According to the news we have captured in this respect, the responsibilities for the government in Panama have been taken over by well-known members of the Communist Party with the leadership of Licentiate Juan Materno Vázquez, central figure of the screen organization known as the People's Party, who manages the civil affairs. The military men are under the control of colonels Rubén Dario Paredes, Manuel Antonio Noriega and Rodrigo García, heads, respectively, of the G-1, the National Guard, the Intelligence Service, and the armed body itself. The rector of the civil command is in charge of the Ministry of Justice and Government.

In accordance with the scheme worked out, Omar Torrijos, at this time, is a figurehead, having surrendered, for convenience—according to what is assured—all his commands.

THE GREAT EARNINGS

After the supposed dictator favored a tragic cadre such as the one just announced, colonel Rodrigo García Ramírez devoted himself to getting rich and preparing his future, aware of what will happen if the implementation of a communist regime prospers. To this end—according to the comments gathered—the above-mentioned military man began to make large investments in the United States, especially in Key Marathon and Miami, where he owns several condominiums.

CHECK ON POSITIONS

Recently, *Patria* also reported the communist activities in Panama and the direction of the same from Havana, pointing out the disembarcation at Malek airport in Chiriquí, of high-ranking Cuban communist miltary men, among them comandantes Filiberto Rivero Moya, Demetrio Monseni, known as "Comandante Villa" and Armando Acosta, this latter being the former head of the Army in Oriente Province.

The Cuban military men have occupied positions in the zones of Las Tablas, province of Los Santos, and Chitré, province of Herrera, where the Chilean and Bolivian extremists who came to the country after the fall of Salvador Allende's regime are located.

Satrap Fidel Castro designated comandante Armando Acosta Cordero as head of communications, guerilla contacts and reception and supply of weapons and ordnance depots.

Furthermore, we have succeeded in learning that planes have landed at Malek airport with supplies sent by the regime in Havana to the communist clan which has assumed power in Panama.

THE COMMUNIST MILITARY MEN

Following we offer the identity of the officers from Cuba's red tyranny who are in Panama, in the sinster activities of communizing the country.

Armando Acosta Cordero, was chief of Culture and Che Guevara's assistant at La Cabaña Fortress. He presided over the United States expulsion event organized in Holguín on July 10, 1960. Afterwards, they named him member of the Communist Party Central Committee and later military head of Oriente.

Comandante Demetrio Monseni presided over the appeals court of those sentenced to death, rejecting the same in almost their totality and ordering firing squad executions of various patriots, among them Manuel Beatón. He was in charge of the leadership of Industrialization of the INRA and made numerous trips to communist countries.

URBAN REFORM IN PANAMA

The communist clan in Panama recently decided on the so-called Housing Law, which consists of a freezing of rents in order to initiate the disposition of the proprietors. Cuba sent, as technicians, many of those who acted in that plan and brought about the total theft of the properties.

Foreseeing what was being prepared, the Chamber of Commerce of Panama organized a strike; but the government headed it off and designated the day set to begin it as a holiday, termed the measure "sedition", and brought about the arrest of numerous persons, among them the leader Ramón Mejdoub.

FLIGHT OF CAPITAL

The communist infiltration into the government to the point of obtaining control brought about a large popular unrest and a certain reaction in the press. A reporter published the notice that this had been worsened by a statement by Torrijos, who said:

"We should send opponents of the government to Miami so they can join the worst Latin elements settled there."

Hours later, because of the fear instilled by the government, as soon as the banks opened, numerous entities and persons withdrew the money from their bank accounts, and sent it outside the country. Over thirty-five million has left recently and almost all of it went to the United States.

NATIONAL SECURITY AND INTERNATIONAL POLICIES ON CHEMICAL WARFARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. Owens) is recognized for 10 minutes.

Mr. OWENS. Mr. Speaker, I would like to take just a few moments to advise my fellow representatives of some recent indications of public interest in pursuing the actions which I have proposed in House Resolution 713. These actions concern the need for a comprehensive review of this Nation's national security and international policies on chemical warfare.

I was very pleased to note in Wednesday's Washington Post, December 12, 1973, an editorial which discusses basic issues I have asked to be reviewed. Perhaps it is because the editorial expresses the same views I have about this issue that I feel an even greater sense of urgency about the resolution of this matter. I want to insert this editorial in the Record in order that you all may have a chance to read it.

I feel rather strongly about the closing paragraph in this editorial. This is a good time to review the whole question of chemical warfare. We are in a time of test in our economy and we are finding it necessary to scrutinize all of our expenditures. We can no longer afford the luxury of weapons systems of questionable effectiveness—in addition to the fact that the possession of chemical weapons seems to place us in an untenable political situation in the eyes of many of our friends and allies in the world community.

As may be noted in both the Washington Post editorial, and the article published in the New York Times on December 10, the urgency for this examination is heightened for one additional reason.

As noted in other statements I have presented to the Members, the U.S. Army is very near to a decision which might result in the destruction of our current stockpiles of nerve agent and the production and inclusion in stocks of a new binary chemical weapons system. The cost of this conversion has been variously estimated. The estimates indicate that as much as $200 million—Science magazine has estimated $750 million—may be required to prepare the weapons destruction system and destroy the existing stockpiles, and at least as much to produce binary munitions. These production costs would not provide for all of the variety of binary munitions which the military would probably desire to have in our arsenal.

I cannot see how we can continue on this course of restructuring our chemical weapons inventory without assuring ourselves that these actions are really necessary to the national defense. I have heard oversimplified explanations by armed services representatives. The position I have heard officially is that the issue has been carefully evaluated and a determination of definite need established. In other conferences, less formal, I have had my uneasiness about this determination of need confirmed—still I doubt very much that there is as near a unanimity of opinion among representatives of the armed services, the State Department, the Arms Control and Disarmament Agency, and the National Security Council as has been indicated in the brief discussions thus far. I think that we are obligated by our responsibilities to our constituents to examine in the public forum all of the ramifications of our chemical warfare policies and the proposed introduction of these new binary chemical weapons before we proceed any further on this course of action.

I plan to reintroduce the resolution in the near future and I welcome the support of any other Members having an interest in this issue.

If there is no objection, I would like to have both of these articles included in the Record:

[From the Washington Post, Dec. 12, 1973]

Chemical Warfare

A major opportunity exists to move toward a more responsible policy on chemical warfare but the opportunity may be overwhelmed by Army singlemindedness unless others pay heed. The opportunity was created by a wave of public concern over the storage, testing and transport of nerve gas. Plainly, this was the moment to question whether the United States needed to be in the chemical warfare business at all. The Army, however, plans to solve the problem—which it defines as a public relations problem involving storage and transport—by producing a new brand of nerve gas. To produce the new and destroy the old will cost something like half a billion dollars. As any close student of government ought to know, once a new investment of that scale has been made, the Army's institutional interest in protecting it will be very large.

In fact, what is the reason for this country to remain ready to engage in chemical warfare? The Army's reason is to deter the Soviet Union from using chemical agents. This is like saying that in order to deter the Russians from trampling us with elephant herds, we must raise our own elephant herds. It is, in a word, ridiculous. No canon of war requires the United States to respond with the same weapon used by a foe. We would still retain a broad range of other choices if we relinquished nerve gas and like chemical agents. By relinquishing chemicals, however, the United States would be making a modest but real contribution to a more civilized international society. For the truth is, chemical warfare conveys an image of horror out of proportion to its military potential. Mere possession of chemical agents has come to be a political debit. Whatever the military effectiveness of the chemical agents used by the United States in Vietnam—certain tear gases and herbicides—few detached observers would contend that they outweighed the political opprobrium attached to their use.

In his first term, of course, President Nixon did renounce "the first use of lethal chemical weapons" and of "incapacitating chemicals" as well. He has not, however, moved on to sign the international treaty, known as the Geneva Protocol, which outlaws first use in war of chemical (and biological) agents. Mr. Nixon submitted the Protocol to the Senate in 1970. But because he explicitly excluded control of "riot control agents and chemical herbicides"—not "lethal" or "incapacitating," he claimed—the Foreign Relations Committee referred the treaty back to him. The committee's entirely reasonable view was that it would lower rather than raise the barrier against chemical warfare to ban all forms except the ones which the United States actually was equipped to use.

This is a good time to review the whole question of chemical warfare. The pending need for a half billion dollars for changing models of nerve gas makes the issue acutely topical. The end of American combat in Vietnam makes it possible to consider the Geneva Protocol in an atmosphere free of the turbulent currents of the war. One of the moral highlights of President Nixon's first term was his courageous renunciation of biological warfare—the production of biological agents, their possession and their use. He could well match that achievement with a step forward on chemical warfare now.

[From the New York Times, Dec. 10, 1973]

Army Will Spend $200-Million for Safer Type of Nerve Gas

(By John W. Finney)

Washington, December 9.—The Army plans to spend at least $200-million producing a new type of nerve gas for its larger artillery shells. At the same time, it will cost the Army about as much to destroy the munitions that the new nerve gas will replace.

Behind this decision, which ultimately will cost more than $500 million, lies a conviction within the Army that the new type of nerve gas represents a "significant improvement in modernizing" its chemical-warfare capability.

The principal advance, however, will not be in the lethality of the new nerve gas; in fact, there are indications it will be less lethal than the present family of nerve gases. Rather, the major advantage is that the new nerve gas will be far safer to handle, transport and store and this, the Army hopes, will alleviate some of the public concern that has followed the storage and transportation of the present nerve gases.

The new type of nerve gas is known as binary gas. It consists of two chemical agents, one of them closely resembling insecticides used in the home. Kept separately, the two agents are relatively harmless, but when combined they produce a lethal nerve gas.

In an artillery shell, for example, the agents would be kept in separate compartments. When the projectile was fired a diaphragm would be ruptured, permitting the two agents to combine into a nerve gas.

The fact that the Army was moving toward production of binary nerve gases has gradually become known in recent months, largely because of the critical questions raised by two junior members of Congress—Representatives Les Aspin, Democrat of Wisconsin, and Wayne Owens, Democrat of Utah. Under the Congressional pressure, the Army finally admitted in September that it planned to construct a plant at its Pine Bluff Arsenal in Arkansas to produce one of the components of the binary gas. The other component is a commercial chemical similar to alcohol, that can be obtained from industry.

UNDER 1969 STATEMENT

Production of nerve gases is permissible under the chemical warfare policies laid down by President Nixon in November, 1969. At that time, the President renounced the use of biological warfare weapons and ordered their destruction. As for other chemical warfare weapons, such as nerve gases, the President repeated the previous policy that the United States would not be the first to use them in war but permitted their continued development and production.

The Army contends that it needs a stockpile of nerve gases to deter the Soviet Union from engaging in chemical warfare. Like the United States, the Soviet Union is believed to have nerve gases, but it is not known whether it is moving toward the binary family of gases.

Defense and Army officials in the chemical-warfare field acknowledge that the present stockpile of nerve gases provides the desired deterrent. When asked why it is necessary then to proceed with the production of the binary gases, officials cited the problems of storing and transporting the present gases.

INITIAL REFUSAL

In keeping with the secrecy that has traditionally surrounded its chemical-warfare program, the Army at first refused to discuss the cost of producing the binary nerve gases. The explanation was that this was classified information whose disclosure would permit the Soviet Union to obtain some idea of the size of the Army's stockpile of nerve gas.

It was only when the question was raised of how the stockpile would provide a deterrent unless the Soviet Union had some idea as to its dimensions that an Army spokesman reluctantly provided a general estimate: the cost of producing the binary gases would amount to "a few hundred million dollars."

That estimate, however, covers only the cost of producing nerve gas shells for the Army's 8-inch and 155-millimeter artillery pieces. Both shells are now in an advanced state of development and nearing production.

Beyond the artillery shells, the Army foresees other weapons, such as land mines, that will require nerve gases. In addition the Air Force, which feels that some of its nerve gas weapons could no longer be used on its high-performance aircraft, has established a requirement for some new air-delivered weapons carrying the binary gases.

DESTRUCTION PLAN

The Army plan is to destroy the existing nerve gases as they are replaced by the binary gases. The destruction of the toxic gases presents a costly technical problem for the Army, which was blocked by a public and scientific outcry in 1969 from further dumping of its surplus chemical weapons in the oceans.

As a result, the Army will be forced to dispose of most of its surplus chemical weapons at their storage locations. According to Congressional sources, Army estimates of the cost of "detoxifying" the present nerve gases range around $200 million.

Another problem confronting the Army is whether to conduct some open-air tests of the new binary gases before they are certified ready for military use. Such open-air testing has been a particularly sensitive issue ever since testing of nerve gases at the Dugway Proving Grounds in Utah got out of control in 1968, killing more than 6,000 sheep. As a result of that incident, Congress imposed legal and environmental restrictions on future open-air testing of nerve gases.

OPEN-AIR TESTING

Following the traditional military approach of "test before you use," the Army makes no secret of its belief that some open-air testing of the new binary gases will be necessary.

In contrast, some Defense Department officials believe it should be possible to prove out the new weapons in simulated tests in the laboratory.

The sensitivity of this issue was underscored by a recent Defense Department rebuttal of Army Secretary Howard H. Callaway's statement that the Army planned to test the new nerve gases in the open air "because it seemed to be far more reliable to have an open-air test than a test you might have in some closed environment."

SENATOR RIBICOFF KEEPS NEW ENGLAND ELECTRIC POWER ON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, I want to take this moment to praise the distinguished senior Senator from Connecticut, ABRAHAM A. RIBICOFF, who has played a key role in averting major electric power shortages in New England this winter.

Senator RIBICOFF's close and personal working relationship with the Federal Energy Director William Simon has resulted in new regulations, issued today, which assure New England electric utilities sufficient fuel to prevent economic disaster.

Massive electric power shortages were predicted for New England this winter because about 70 percent of the region's generators are oil-fired versus 15 percent nationally. Thus the drastic curtailment in residual oil supplies caused by the Arab boycott could have idled up to 35 percent of the six-State area's generators.

More than any other member of the New England congressional delegation, Senator RIBICOFF is to be commended for convincing Secretary Simon of the area's plight and suggesting policies to alleviate the problem. We are not out of the woods, but thanks to Senator RIBICOFF New England will be no worse off this winter than the rest of the Nation.

ENERGY CRISIS—A BLESSING?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. LITTON) is recognized for 10 minutes

Mr. LITTON. Mr. Speaker, the energy crisis facing our country is very bewildering and frustrating to all Americans. It has brought a concern for the personal, economic, and national security of America. It threatens to inconvenience and possibly change the lifestyle of every American citizen. And yet the energy problem is not limited to the United States. Industrialized Europe and Japan are great consumers of energy and are much more reliant on imported energy than are we. The world problem viewed by comparing the needs and objectives of the consuming countries—primarily the United States, Europe and Japan—and the producing countries—principally in the Middle East and Africa, which have an estimated 73 percent of the world's proved oil reserves—presents some very alarming and dangerous possibilities, both politically and economically. The world is almost totally reliant on fossil fuels to sustain lifestyles, generate economies, and provide military protection. Because of this world problem, we have entered upon an era which will pose potential threats to existing treaties, friendships, and alliances between and among nations of the world. Until the energy problem is resolved, both in the United States and throughout the world, peace and stability in the world will hang in balance

The United States must first achieve an immediate and positive solution of its own energy crisis. This can and must be done. But it will not be accomplished without positive and creative forethought and guidance by elected officials, and without the cooperation of American citizens.

First, let me say that the energy crisis could very well be a blessing in disguise. In recent years the United States has relied more and more on imports to meet our energy needs. Our reliance on the unstable Middle East for oil has been increasing at a rapid rate. Had the Arab nations waited another 5 years before turning off their spigots to the United States, we might have reached the point of no return. Figures now becoming available show how rapidly this Nation was becoming dependent on the Middle East for oil. That percentage of our oil consumption in the United States that originated in the Middle East was increasing month by month at an alarming rate.

In my opinion the Arab nations have made a colossal mistake. They have told all Americans in a dramatic way what we should have realized, but in a land of plenty were unwilling to accept. If the Arabs had not tipped their hand at this time, would the United States have continued on a collision course destined to lead the country into a time when the Arabs could have controlled the economic and political vitality of America? Would Arab oil have pulled the major powers of the world into a third world war with oil going to the victor?

I cannot help but believe that the Federal Government was fully aware of the potential threat of blackmail as our dependence on Arab oil continued to increase. But for reasons which have not yet been fully disclosed and explained, nothing was done to curb our dependence on the Arab countries.

There is another factor we must keep in mind—we were headed for an energy crisis this winter even before the most recent Mideast conflict and the resulting Arab oil boycott. This should tell us something about the magnitude of the shortages facing us.

One of the most heated issues in my campaign for Congress in 1972 was the Pattonsburg Dam. Throughout the campaign whenever this subject was discussed—which was often—I pointed out that we were short of fossil fuels with which to produce electricity, and that a dependable source of energy was important to the growth and development of North Missouri. I stressed the importance of peaking power—production of power at times during the day when there is need for excess electrical power—which is the kind of power which would be produced at the Pattonsburg Dam.

Time and again I stated in the campaign that I did not want this country to become dependent on the Soviet Union for natural gas or the unstable countries of the Middle East for oil. We have since signed a long-term agreement to buy natural gas from Russia and we now see the error in relying on the Middle East for oil. But just saying I told you so is not enough. Now we have to understand how it happened, how to cope with the problem, how to solve it, and how to see that it does not happen again.

Last month a constituent of mine asked why we ran out of gasoline all of a sudden. I answered by saying that if you put 20 gallons of gasoline in your car and drive it all morning, afternoon, and evening, you will run out, and when you do it will happen—all of a sudden. That is how this country ran out of gas. While it seems we ran out all of a sudden, it really has been happening over a period of time.

Some wonder why we ran out of all petroleum products at the same time. Again there is a logical explanation. When there is a shortage of beef, people shift to pork, and all of a sudden we find there is a shortage of pork. When soybean prices set record highs—because of a soybean shortage—we saw linseed oil and cottonseed oil prices go sky high as people shifted from soybeans to linseed or cottonseed for protein. This shift eventually caused shortages in linseed and cottonseed.

And so it was with the energy crisis. As we developed shortages in one product people shifted to another alternative source of energy. One of the reasons we have a shortage in natural gas is because we regulated its price at the wellhead at a price so low that it discouraged exploration of new natural gas reserves. At the same time, artifically low wellhead prices encouraged the use of natural gas, often in inefficient and wasteful manners. Propane is made from natural gas, as is most of our nitrogen fertilizers. It does not help much to shift from natural gas to propane. A shortage in natural gas or propane would cause a shift to heating oil.

A shortage in heating oil—used mostly for essential uses—causes the government to urge refineries to shift production from gasoline to heating oil, creating shortages in gasoline. Many refineries in the United States have shifted production—at the request of the Government—from gasoline to heating oil at the very time they are usually building up reserves for spring and summer driving. This gives you some idea as to what the gasoline situation is going to be starting next spring.

As you can see, with the domino theory at work a shortage in one area eventually produces a shortage in another. We will be made painfully aware of how the domino theory works in another area next year. I am speaking of how even slight shortages will be translated into higher unemployment and in a leveling off and probable reduction in the economic growth pattern of this country.

I do not mean to be an alarmist and I do want to point out that I have the utmost confidence in both the American people and in our system in overcoming this problem. But, I think the first step we must take in overcoming the problem is in admitting that it exists and being truthful about it. Had we faced up to this problem with more honesty sooner it would not have moved into crisis proportions.

Let us assume that we are successful with programs of allocations, whether it be in the form of rationing, taxes, or some other device. If successful these programs would see to it that shortages are equitably spread around and that essential uses will receive priority over nonessential uses.

Even with this success we must anticipate problems. For example, gasoline stations which are not open on Sunday will obviously employ fewer people. If there is less gasoline for pleasure driving there will be less miles driven. This means fewer tires sold at gasoline stations or other tire outlets. This means the tire companies will need to lay off some people. The companies who sell fishing tackle to the employees no longer working at the tire company will have to lay off some people because the ex-tire company employee can no longer afford the fishing tackle.

Companies that make the nonessential products that are bought by the people who are no longer employed by the company making fishing tackle will be forced to lay off some people. Again, this is the domino theory at work. Even though the previous illustration is simplified, it points out the impact which an energy crisis will have on unemployment. I am convinced that we will see our unemployment figures climb from the present 4.7 percent to over 6 percent in the next 6 to 8 months.

If we knew we would face an energy shortage this winter why did not the Government move quicker? This is a fair question. In offering a possible answer to this question let me say that this has been an unusual and difficult year for the American Government. Confidence in it is low. We have had more than one President keep the truth from us with regard to the Vietnam conflict. We have been lied to with regard to the Vietnam conflict. We have been lied to with regard to the bombing of Cambodia. We have heard our Vice President label as lies those charges made against him, only to have him resign and plead what amounted to an admission of guilt. We have heard many high-ranking officials in important positions near the power of leadership in our Government lie with regard to Watergate. We know they have lied because there have been conflicting statements. We don't yet know who is telling the truth.

When this same Government goes to the American people and says there is a fuel shortage, is there any wonder why the American people refused to believe it? The fact that the average-aged American has not lived through a depression or a world war didn't make it any easier for Americans to believe we really had a shortage. Even with gasoline stations out of gas, most Americans still did not believe the shortage was real.

This situation was fully recognized by those within the administration who had the power to take steps—which they later took—when the situation became critical. But both the administration and the Congress realized that there were problems with rationing during World War II when the America people were united. They knew it would require the support of Americans to work during peacetime. They knew also that faith in governmental leaders is low and growing lower with each new Watergate revelation.

Did a weakened American Government, anxious of regaining the support of the American people, go to food price freezes even when they knew that to do so would discourage food production at the very time it should be encouraged in order to prevent food shortages and even higher food prices? Because of this confidence gap between the people and the Government did we see the food shortage become a food crisis?

Did we not create shortages in other items—paper, fertilizer, and so forth—with the same approach? Did the desire to come up with short-term solutions in order to regain popularity with the people cause some of the economic problems of 1973?

Did the Soviet Union—in spite of supposed improved relations with the United States—act with more boldness in the Mideast situation because of the weakened position of our Government? Did our Government react with more boldness than it would have under more normal conditions at home? Did our home situation cause the Mideast conflict to become a Mideast crisis as the two major world powers moved closer to war?

And more to the point—did the lack of confidence by the American people in their Government cause us to eat up valuable lead time before we took positive measures to conserve our energy? I was suggesting in early May that we would see speed limits reduced. And yet we went 7 more months, including the heavy-use summer months, before we took action. How much fuel did we use for nonessential uses in those months that will not be available to us for essential uses this winter and next spring?

While I am convinced the weakened position of the American Government in 1973 was partially responsible for its inability to act more quickly in building fuel reserves for essential uses, I recognize that we started running short on oil long before Watergate.

Perhaps this shortage points to another side benefit from the energy crisis. With both the executive and legislative branches of our Government mostly interested in popular short-term solutions, who is supposed to be looking out for us in the future? Americans are asking why our Government did not tell us we were running out of oil.

Politicians like myself are saying, "I told you, but you did not listen." The President is saying he warned the people and the Congress. The Congress is saying the President would not support energy legislation when it was offered. Perhaps because of the energy crisis, our Government will establish some system whereby long-term problems can be forecast so that solutions can be found to counteract those problems before they become crisis in nature and cost billions of dollars to solve in expensive crash programs. I would be willing to suggest that we set up an agency for just that purpose—an agency where information having to do with long-term needs of this Nation might be funneled. At least with such an agency we would have an answer to the question—"Why was not someone on top of this?"

Let us turn to the basic causes of the energy crisis in America. Some of the more significant ones are:

First. The very dramatic increase in the demand for energy, brought about in part by the booming U.S. economy;

Second. Federal and State environmental and ecology restraints placed on the production of energy;

Third. Environmental standards which have increased the consumption of fossil fuels in shortest supply—low sulfur oil and coal;

Fourth. Wasteful and inefficient use of fossil fuels;

Fifth. The shortage of and actual decline in domestic refining capacity compared to the increasing demands for refined petroleum;

Sixth. Concerns for the operating and public safety of nuclear reactors;

Seventh. Heretofore low-key efforts given toward the development and utilization of nonfossil and alternative energy sources such as hydroelectric power—Pattonsburg Dam project—solar and geothermal energy, coal gasification and liquefaction, and nuclear fusion;

Eighth. The absence of any deep water ports capable of handling imports shipped via new supertankers;

Ninth. The recent embargo of Arab oil destined for the United States;

Tenth. Regulation of the price of natural gas at the wellhead, an action which has discouraged production and encouraged its most wasteful and inefficient uses;

Eleventh. An unwillingness to believe that in this land of plenty we would be short of anything, especially something as essential as energy.

The reasons behind the contributions each of these have made to the current energy problem would fill many volumes. I will attempt to summarize some of the more important of these reasons in order to give you a clear perspective of the problem.

The majority of America's energy supplies is commonly viewed in terms of fossil fuels, primarily oil, natural gas, and coal. Petroleum and natural gas products combined account for 78 percent of our total consumption of energy, with coal accounting for about 17 percent. The remainder consists of hydroelectric, nuclear, and a small amount of geothermal energy. The demand for energy has been projected to rise by an annual rate of from 4 to 5 percent, with the demand for various fossil fuels rising at an even faster rate of from 5 to 7 percent. Because of environmental and economic factors, our demand for fossil fuels is outstripping our ability to produce them, thus the balance between domestic production and consumption is being met through increased imports of petroleum products. These imports are coming in increased percentages and quantities from oil-producing countries in the Eastern Hemisphere, chiefly the Middle East. The ability to produce and refine crude oil within the United States appears to have peaked out at about 11 million barrels per day. This means that the United States must not only rely on increased imports of crude oil, but must also continue to increase imports of refined petroleum products to meet our increasing demand.

Many look to the trans-Alaska pipeline as being able to solve our energy crisis. It will be 1977 or 1978 before the Alaskan pipeline is completed. At first it will handle 600,000 barrels a day. At capacity it will handle 2 million barrels a day. At the present we are using 1 to 1½ million more barrels of oil per day each year than we used the previous year. At this rate we would be using from 4 to 6 million more barrels of oil per day in the United States by the time the Alaskan pipeline is completed than we now use, and the pipeline will give us only 2 million barrels per day.

Of course we are now bluntly aware of what many petroleum experts have feared for many years—that our increasing dependence on imported petroleum would add emphasis for its use as a tool to influence America's foreign policies. Even though our Western Hemisphere import supplies are from stable and reliable sources—Canada, Venezuela and the Caribbean—a very significant and alarming percentage of the world's oil reserves, 73 percent, lie in the Middle East and in Africa, areas which are politically volatile and susceptible to reacting in a manner unfavorable to American interests. By contrast, the United States contains only about 6.5 percent of the world's proved reserves, with South America having less than 5 percent and all of Europe—excluding Russia—containing less than 2 percent. The Soviet Union contains about 11 percent.

The Arab embargo presents an unusual and thorny problem for the United States in that any methods of retaliation would likely be ineffective and very risky. American agricultural and manufactured products could easily be replaced by the Arabs in order to fulfill the needs of their relatively small population and economies. Military hardware could be purchased from France or the Soviet Union. American technology is a higly sought after item by the Arabs, but could very easily become an inessential item. American military intervention would carry the very real threat of confrontation from the Soviet Union. It appears there is nothing we have that the Arab nations couldn't obtain through other sources. On the positive side of the issue, the Arabs have a great fear of possible domination if they become too dependent or alined with the Soviet Union. In addition, the Arabs look upon the United States as the only country which could be effective in trying to negotiate an acceptable settlement between the two Middle East factions. It appears that the United States must resort to some hard bargaining with the Arabs in order to reestablish our imports. Even if a breakthrough comes, however, it is unlikely tht the Arabs can be counted on for an increase in their exports to the United States—and it is equally possible that previous levels will be reduced as world petroleum prices increase, and foreign dollars continue to flow into Arab pockets. A break in the embargo would mean a leadtime of at least 30 days before tankers would again arrive at U.S. ports. The Middle East does not have an infinite supply of oil reserves and has recently expressed a fear that they could be allowing too much production at too fast a rate. Being principally a one-economy region of the world, they have only one resource to sell or trade.

Another factor to consider is that even if we could buy the oil we project we will need, would our economy stand it? During the last 2 years—1971 and 1972—our great productive America bought more goods than it sold for the first time since 1893. Our balance-of-trade deficit was over $2 billion in 1971 and nearly $7 billion in 1972. Trade is exactly what the world implies. It involves products moving both ways. A country cannot continue to buy more goods than it sells for too long any more than a person can continue to take more money out of his bank account than he puts in. Even if we can find foreign sources for oil and even if we did decide to rely on oil from the Middle East to keep this country running, we would have to find something to sell so that we would have the dollars to buy the oil. Unfortunately, much that our Government has done in the past year has worked to discourage rather than encourage production of anything. I might add that the direction the American people have been moving in recent years toward the establishment of individual priorities and values has not helped the situation in this area much either.

Our increasing demand for energy, chiefly fossil fuels, has led to environmental and ecological problems within our country. In efforts to resolve these and future problems, the Congress placed very stringent environmental requirements and standards within the framework of our historic usages of energy. Most of these restraints have led to a significant decrease in the efficiency with which energy is consumed, and an overall decrease in the supplies of environmentally acceptable fossil fuels. Many of these environmental standards have placed severe limitations on the construction or expansion of petroleum and natural gas refineries. These standards, along with the decreasing proved reserves of domestic crude oil, and the increasing reliance on what has been heretofore more cheaply imported petroleum, have led to a leveling off of domestic refinery capacity. There is now occurring a slight reduction in the percentage of America's crude oil needs which can be refined in America.

In 1953, our consumption of petroleum and natural gas liquids averaged 8.1 million barrels per day—bpd—with 12.7 percent of that figure being imported. By 1963 our consumption had only increased to 10.8 million bpd. but imports accounted for 19.4 percent of the total. Consumption of these products in 1973 will average 17.5 million bpd, 34.6 percent of which will be imported.

Before the Arab embargo and recent conservation announcements, consumption was expected to rise to approximately 19 and 21 million barrels per day in 1974 and 1975, respectively. These increases could only come from corresponding increases in petroleum imports. Imports have risen from 2.5 million bpd in 1965 to approximately 6 million bpd in 1973, and can be expected to exceed 10 million bpd in 1975, assuming the oil embargo is of short duration.

I believe that all of these figures—and they are only a few among hundreds of alarming figures and comparisons—point out very easily that America must immediately embark on a highly organized and dynamic program to greatly expand and develop our proved and potential reserves of fossil fuels, at the same time emphasizing efficient utilization of existing supplies and new production. The same effort must be given toward development of nonfossil and alternative sources of energy. We have consumed nearly 100 billion barrels of crude oil since petroleum began to be a vital part of American economics and society in the late 1850's. Our present proved crude oil reserves of approximately 36 billion barrels will only last about 9 years, assuming no further reserves are developed. Domestic reserves of natural gas are roughly 275 trillion cubic feet, and will last about 11 years, again assuming no further exploration is undertaken.

The United States is not short of known and unproved crude oil and natural gas reservoirs, however. In addition to the 36 billion of proved oil reserves—economically recoverable with present methods and price structures—an additional 280–300 billion barrels are known to exist; this does not include a projection of 600 billion barrels which exist in the form of oil shale deposits in Wyoming, Colorado and Utah. A report by the Colorado School of Mines indicates that potential reserves of 1.1 quadrillion cubic feet of natural gas exist. Production of natural gas in 1973 will reach around 23.5 trillion cubic feet. You can see from the projected reserves of both oil and gas that the United States does have sufficient quantities of those fossil fuels to supply our needs for a long time. Problems which must be resolved in recovering these resources include: First, environmental restrictions on drilling, refining and transporting, second, domestic import policies—which are being partially changed by rising world prices, thus making domestic exploration and production more advisable both from an economic and political viewpoint—and third, the ability of the oil industry to gear up for a massive push toward domestic production by building and expanding refineries and pipelines, purchasing drilling equipment, et cetera.

The oil industry claims that they must be given further tax advantages and economic incentives in order to drill deeper for known reservoirs. I do not favor either because it would appear the already rapidly increasing profits of the industry—as represented by the profit statements of the major oil companies—would indicate that the incentives are already there. I do not favor "opening the price gate" by letting the industry reap large windfall profits from consumers simply to let high prices regulate consumption and create "financial incentives." The industry must prove beyond any doubt that "incentives" in any form will be used for the advancement of petroleum supplies at reasonable and competitive prices.

The President recently announced plans to initiate a Federal Energy Administration which will be designed to assume guidance, direction and policy-making regarding Federal energy efforts and problems. I support the theory and intent behind the President's proposal because I have always felt that too many Federal agencies, over 60, claim partial jurisdiction over energy matters, and that no single agency was capable of "taking the bull by the horns" in coping with this mounting problem.

The Arab embargo did not bring on the energy problems in our country—it only added to them. We have become very wasteful and inefficient consumers of energy in every form. All in all, we waste about 50 percent of our energy consumption, a percentage which is expected to increase in the future unless strong countermeasures are taken. Our wastefulness has been created quite innocently and inadvertently through the tremendous economic growth which America has undergone in the past two decades, growth which has filtered throughout the economy reaching virtually every home and improving the lifestyles of millions of Americans. This is a matter which cannot be argued negatively, as our free enterprise system has brought about this needed and desirable growth. As part of the greatest economic power in the world, we have had the opportunity to heat our homes, fuel our automobiles, businesses and industries, and enjoy recreational and leisure activities, as cheaply and abundantly as possible.

In looking back over the many hundreds of reasons why we now face a critical and potentially damaging energy crisis, we must realize and take into account that a continuation of our past habits concerning energy consumption will lead us further toward potential economic and political turmoil. This is a time to recognize the energy problem as a very critical and immediate matter, the total scope of which I believe escapes most Americans.

I became aware of the energy situation sooner than many people because of the area I represent. Of those States hit the hardest by fuel shortages this summer and fall, my State and those which border my northwest Missouri district, Kansas, Iowa, and Nebraska, made up four of the five States that led in reported shortages to the Office of Oil and Gas.

The two main causes for my district's being in the heart of the shortage were: First, location in relation to supplies and second, weather. Under the Federal allocation program, dealers were allocated fuel on the basis of the amount sold during the same period the previous year. Bad weather greatly reduced gasoline usage in my district in the fall of 1972. Farmers were unable to do their fall plowing and most had delayed harvests. Thus, getting the same amount of gas in 1973 as they used in 1972 presented a difficult situation. These inequities were vividly presented to an official of the Office of Oil and Gas at an energy hearing I held on July 28, 1973, in Liberty, Mo. As a result of this hearing, we were able to get some concessions which brought relief to some hard-hit areas in my district.

I might add that when it became obvious that the voluntary allocation program was not working, I was one of many Congressmen who asked for a mandatory allocation program. We were promised action along these lines for several months. It was not until just 1 day after the Rules Committee of the House of Representatives voted out an allocation program that the administration finally announced what we had been promised for months.

I have personally introduced a bill which would suspend until 1981 the requirements for emission control devices on cars and would make it possible for individuals to have such devices removed from their present cars.

I have also introduced a bill which would encourage automakers to manufacture cars which get better mileage.

I think most Americans feel automakers can manufacture cars which get better gasoline mileage. My bill would establish higher Federal excise taxes on those new car models which were not able to meet minimum gasoline standards, with the funds collected from the tax going into a trust to be administered by the new Federal Energy Administration, and to be used for research designed to find additional sources of energy.

This bill would encourage the manufacture of cars capable of achieving good mileage by placing future inefficient models at a competitive disadvantage. By discouraging the purchase of "gas burners" we will be providing an incentive to greatly improve gasoline efficiency. Legislation suspending emission control devices until 1981 would make it easier for carmakers to manufacture cars which get better mileage.

Through my bill, those people who decide to buy cars which did not get good mileage, and those who do not mind using more than their share of gasoline by buying such cars, would be the ones to contribute to the trust fund designed to find sources of energy to replace those being heavily consumed by such cars. Thus, this bill penalizes automakers who manufacture cars which get poor mileage, and at the same time penalizes those who buy such cars. The additional Federal excise tax would apply only to those new cars purchased after the enactment of the bill which did not meet minimum gasoline mileage standards.

The bill would call for a separate Federal agency to set a gasoline mileage standard for each year through 1980 in determining a level of efficiency designed to decrease the consumption of gasoline by automobiles. The joint action of my two bills will allow an immediate increase in fuel efficiency, and will call for an intermediate range method by which more emphasis will be placed on improving engine efficiency at the very point of manufacture of an automobile. In addition, further engineering time will be allowed for the development and future imposition of emission control devices which will not penalize fuel efficiency.

Minimum standards would be established for each year, beginning with the 1975 models, and would be increased with each succeeding year. The Federal excise tax charge would be $25 for each mile per gallon under the initial standard for 1975. The tax would be raised to $50 for the 1976 models, and to $100 for the 1977 and succeeding models. Litton said the graduated increase in the standard and tax was designed to give automakers more time to meet the standards.

My bill sees to it that people have the right to buy the car of their choice, but if that choice involves the wasteful use of a valuable energy resource which belongs to all Americans, the buyer would be expected to pay for research which would replenish this important resource.

At this point I think it would be well to touch briefly on the subject of pollution, the environment and ecology. Everyone will admit that the desire to clean up the air and the overall environment is a good one. Unfortunately, the timing behind this effort was not too good. We decided to clean up the air at almost the same time we ran out of gas. The cost would have been less had we started sooner. But, this does not mean we must abandon all efforts along these lines.

Environmentalists who pushed for emission control devices, who delayed the trans-Alaska pipeline, who brought about the shifting away from our use of plentiful supplies of high sulfur coal and oil to limited supplies of low sulfur coal and oil, and so forth, have gotten the image of being impractical, idealistic, unrealistic and could well be made the goats of the energy crisis. If those who are cold or without jobs or gas this winter blame the environmentalists, the environmental cause they seek to support could be set back 20 years.

This energy crisis could be an important time for environmentalists. By being flexible and by admitting we have a crisis on our hands and by working with those who are seeking to find solutions to the present problem, they could elude the image which has hurt their cause and lessen the likelihood of their taking the brunt of the criticism this winter when people might be out of heat and work. If they take this approach, they stand to have the allies they need when this present energy crisis is in hand which they will need to continue their worthy cause. Theirs is a problem just like the energy crisis which can be solved only with support of a large majority of the American people. A 51 percent vote may win an election, but it will take more than that to solve the problems of either energy or the environment.

The United States is blessed with many ways of effectively meeting the energy shortage. Unfortunately most of the alternatives available call for increased technology and development before they can become viable means of attaining self-sufficiency. Following are several examples of alternative energy sources which I feel should be researched and developed to the point of domestic availability in as quick and orderly a time frame as possible:

First. Coal gasification.—This is a process whereby coal is converted into methane gas. There are many technological problems involved in this process, but they are being rapidly overcome, and it is hoped that commercial gasification plants can be ready by the mid-1980's. Some efficiency is lost in the conversion process, but the overall environmental acceptance of gas versus coal, and the abundant resources of coal in the United States make gasification a very promising energy source in the near future. Based on projected increased needs, we have enough coal to last America 500 years or 3,500 years at our present usage rate.

Second, Coal Liquefaction.—Liquefying coal will be a means of providing petroleum liquids in the future when natural petroleum reserves are being greatly depleted. The liquefaction process has received too little support thus far, and is therefore far less advanced than gasification of coal. Nonetheless, this process holds great potential in view of the reserves of coal available.

Third, Nuclear Energy.—The present light-water reactors have met with growing public concern for the operating and public safety surrounding their contribution to the generation of electricity. These fears will have to be satisfactorily answered before nuclear fission will be fully acceptable to the public. Nuclear energy carries a great potential for meeting the energy needs in the future, and I am hopeful that the President's proposal to segregate the Atomic Energy Commission's regulatory and research functions will prove to provide this factual assurance. Nuclear fusion is being researched as a future energy source. Fusion will be a process whereby clean and safe energy can be utilized to generate electricity. The anticipated fuel for fusion reactors—either deuterium or tritium—will be abundantly available.

Fourth. Hydroelectric Power.—Only 29 percent of our hydroelectric power resources have been developed to date. Hydropower supplies approximately 4 percent of our total energy and about 15 percent of our generation of electricity. I believe that potential hydroelectric power sites should be closely examined with a goal of developing those which can provide significant sources of electrical power. This energy source is environmentally safe, renewable and reliable. The President has already expressed his interest in this area.

Fifth. Solar Energy.—This potential resource probably has as much potential for solving America's problem as any alternative presently known. The technology for developing it is undergoing continued study in order to provide an efficient and reliable means of capturing the natural energy of the sun, storing it and transmitting it into electrical energy. It has the potential for supplying hundreds of times our present requirements. A number of methods are under study to convert solar energy into electricity. Among these possibilities are allowing solar radiation to act as a heat source; using photocells which produce an electric current when exposed to light; and constructing a flat collection device which, together with a thermal receptor, will convert visible sunlight into electricity. Government funding of this program has not previously been very large; however, there is a strong effort being exerted in Congress to speed up our research and development of this potential source.

Sixth. Geothermal Energy.—California has geothermal wells which are providing much less than 1 percent of our present electric power capacity. Italy has been producing electricity by geothermal means since the early 1900's. The Earth's naturally hot interior contains many pockets which carry a great potential for conversion into electrical energy. The problems with developing geothermal energy have been locating suitable sites; the low rate of efficiency with which the Earth's heat is transformed into energy; and the great amount of thermal and noise pollution which is created by the low efficiency and by the entire process.

Seventh. Oil Shale.—This resource consists of deposits of shale oil embedded in shale rock. Through a process requiring large amounts of water and much stripping of rock layers, the oil can be extracted and converted into a form of synthetic oil. Estimates are that 600 billion barrels of oil are capable of being extracted from shale rock formations in Wyoming, Colorado, and Utah. Problems are in the economical methods of producing shale oil, and in the large amount of strip mining which must accomplish this process. The Department of the Interior recently announced an intent to make leases available for increased production of shale oil.

Following are some views which I hold concerning several of the proposals being reviewed to resolve the immediate shortage, as well as my thoughts regarding other energy issues:

First. I do not believe that the energy crisis has been contrived by the oil industry. Factors I have previously discussed account for much of the overall problem. However, I do believe that the major oil companies have been the direct financial beneficiaries of the shortage and that they have not done all they could to better equalize the existing shortage of petroleum. It has been alleged that oil companies are manipulating available supplies in order to gain higher profits. It is also alleged that multinational oil companies are selling oil from their overseas drilling and refining operations directly to European countries because of higher world prices of petroleum. Both of these allegations need careful review by the Federal Government and by Congress.

Second. I believe that an increase in the Federal tax on gasoline would discriminate against those on low and middle incomes, and would not lead to the desired reduction in fuel consumption which must be achieved. The American economy and lifestyle is so highly generated and motivated by previous habits and customs that a large increase in the price, whether by tax or wholesale price increases, would not present a significant or fair way to reduce consumption. The retail petroleum marketer cannot be blamed for the shortage, and I feel should not be jeopardized by placing arbitrarily low controls on his markup. He must be given a reasonable profit in order to survive in business.

Third. I believe that rationing is becoming more of a certainty with each passing day. It would appear from my mail that the Sixth District is divided over this issue. Of the alternatives available, a fair and equitable form of rationing would have merit at a time when consumption must be reduced. I emphasize the words fair and equitable because America does not operate under the same characteristics which paralleled rationing during World War II. Our economy and lifestyle is very diversified and complex; we have more people, automobiles, industries, businesses, and private requirements; the free enterprise system, although controlled through Government sanctions on prices and wages, is much more sophisticated and dynamic.

Any form of rationing must be flexible and must allow for the necessary amount of mobility which the economy must have in order to avoid a potential or serious recession. If rationing is indeed being seriously viewed, I would hope that the President will quickly present a proposed plan of rationing for review by the public and by Congress. We have seen in our voluntary and mandatory allocation programs that implementing a program without sorting out the views and potential hardships of consumers only leads to inefficient and ineffective programs.

Fourth. A bill to return to daylight saving time successfully passed the House of Representatives on November 27, by a vote of 311 to 88. The President has indicated that if the National Emergency Energy Act is adopted, he will create a return to daylight saving time in order to conserve an estimated 2 percent of our energy.

Fifth. Auto emission control devices are significant contributors to increased gasoline consumption. Estimates of the penalty involved range from 7 to 19 percent, with the loss in terms of gasoline being estimated at between 140,000 and 185,000 barrels per day. I favor suspending until 1981 the legislation requiring emission control devices on automobiles with the hope that by then we will have developed such devices which will help clean up the air without hurting gas mileage.

Sixth. I believe a reduction in speed limits is necessary to conserve fuel. Informed sources tell me that reducing the speed of an automobile from 70 to 60 miles per hour will decrease gas consumption by an average of 10 percent, and that reducing speeds from 70 to 50 miles per hour will save an estimated 22 percent of gasoline. I have some reservations about lowering the speed of automobiles below that set for trucks, especially on noninterstate highways, because of safety consequences which could result. I have had my share of experience at truck driving and I suspect trucks will get better mileage at 55 or 60 than 50. I do think it is time we get answers to some of these questions.

Seventh. I believe that for the Federal Government to encourage the public to conserve energy, it must first set an example. Administration and congressional officials cannot continue to take unnecessary trips by airplane and ride to work in gas-eating limousines, and rightfully expect the American people to offer the only sacrifices. I have greatly reduced my number of speaking engagements, we have turned the thermostats down to 68 degrees in our home, and my family and I are driving as few miles and using as few electrical appliances as possible.

Eighth. Many reports have been presented and debated concerning the export of petroleum from the United States. In an effort to gather facts and data concerning this timely issue, I contacted the Departments of State, Commerce, Interior, and Transportation as well as the Library of Congress to put together what I feel is a necessary account of our exports of petroleum.

The largest figure I received was 82.5 million barrels for 1973; this came from the Department of the Interior's Bureau of Mines and accounts for 1.3 percent of our total annual consumption for 1973 of about 6.3 billion barrels of petroleum and natural gas liquids. The figures I received for the export of distillate fuels—heating oil, diesel, jet fuel, kerosene—range from 2,958,600 barrels by the Department of Commerce to 2,712,800 barrels by the Department of the Interior. An average of these approximate figures would represent about 0.1 percent of our consumption of distillates.

Our exports of distillate fuel for 1973 will be 274 percent above the total for 1972; however, it is important to keep in mind that the 1973 figure will be 68, 88, 66 percent of 1969, 1970, and 1971 exports, respectively. About one-half of our exports go to territories and possessions of the United States in the Western Pacific. Other exports go to Mexico and Canada as trade-offs. This is petroleum we have exported to areas of Canada and Mexico not easily reached by their transportation systems; in turn they repay us with similar amounts of their petroleum. Still other exports are shipped to refineries in the Netherlands and other European countries, refined and returned to the United States. This occurs principally because of inadequate refinery capacity in our country.

Ninth. Many people have expressed a concern that our manned space program is consuming large amounts of fuel. I have contacted NASA and have learned that fuel used in manned and unmanned flights is chiefly pure liquid hydrogen and oxygen, fuels which are not used for domestic consumption. They do, however, consume an average of 130,500 gallons—about 3,100 barrels—per year of rocket propellant—kerosene.

Tenth. Many people have written to express concerns for many other wasteful means by which we needlessly consume petroleum. I feel that each nonessential use of petroleum must be reduced as much as possible in order to preserve supplies for more essential usages, and that if we are given mandatory rationing and conservation programs, nonessential and wasteful consumption of energy will be the primary targets of these programs.

POINTS TO CONSIDER ON SPEED LIMIT VARIANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DULSKI) is recognized for 5 minutes.

Mr. DULSKI. Mr. Speaker, one of my constituents has presented some thoughtful comments on proposals to permit higher speed limits for trucks and buses.

There is a good deal of merit in what he has to say, and I am inserting his letter for consideration by my colleagues:

ADVERTISING AGENCY, INC.,
Buffalo, N.Y., December 10, 1973.

Hon. THADDEUS J. DULSKI,
Rayburn House Office Building,
Washington, D.C.

MY DEAR MR. DULSKI: I am greatly concerned over the possibility that trucks might be permitted to exceed the speed limit of passenger cars.

If a higher speed limit were set for trucks, it would place drivers and passengers in an extremely dangerous position, and would result in needless deaths, personal injury, and property damage.

I would appreciate it if you would do everything possible to see to it that regardless of *possible* fuel savings, trucks and buses are *not* permitted to exceed speed limits set for automobile traffic *under any circumstances.*

No savings in fuel are worth the risk to drivers and passengers.

I make this statement, not only as a member of the community, and as a parent, . . . but also as one who has been active in automobile safety, as a member of the Board of Safety of the City of Buffalo, and as Chairman of the Traffic Coordinating Board of the City.

Further, I believe that such selected permissiveness may well be discriminatory in nature, violating the constitutional rights of drivers of passenger vehicles and their passengers.

I am extremely concerned, and would appreciate your interest and efforts.

Sincerely yours,

ROBERT S. RISMAN.

RSR ADVERTISING AGENCY, INC.,
Buffalo, N.Y., December 7, 1973.

The following are some of the reasons why I am personally so concerned about the possible effects of a 55 mile speed limit for trucks as opposed to a 50 mile speed limit for passenger vehicles . . . or any form of legislation which permits the heavier trucks, buses and similar vehicles to go faster than passenger car traffic, which makes up most of the traffic on the roads today:

1. Safety must be paramount, according to New York State Transportation Commissioner Raymond T. Schuler, and I agree. According to Schuler, "The stopping capability of heavy vehicles is considerably less than for private cars . . ."

With the emphasis going to even smaller private cars, and with the trucking industry pushing for tractor/trailer "trains", with tandems and sometimes three trailers, this becomes even more dangerous than ever before.

2. Anyone who has ever been in front of or next to, or anywhere near an "aggressive" driver of a passenger car is in a bad position. An equally "aggressive" driver of a truck presents an even greater danger. At least, with a higher speed limit (such as some states now have), or an equal speed limit, the driver of a passenger car has an opportunity to "hold his own" under such circumstances.

In a circumstance where a driver would be forced to go five miles under the speed of truck traffic, the passenger car would be at the mercy of a constant line of trucks, all presumably driving at higher speeds.

3. On more than one occasion, members of my family have literally been forced off the road by aggressive truck drivers, or drivers who were "barreling along" in inclement weather. Such a terrifying experience happened to my wife on the Grand Island (New York) Bridge, and she was forced against a curb, damaging her vehicle, and scaring her completely.

There was no need for such an incident, and the truck driver merely kept on going, not even bothering to stop.

4. It is, to the best of my knowledge, a fact that you are safer when you drive at the same rate of speed as the rest of the traffic on a particular road. Encouraging the heavier vehicles to drive at faster rates of speed will produce a reverse "dual" speed situation, which will result in damage, injury and needless danger to the occupants of the slower moving (smaller) vehicles. Check this one out with your local law enforcement agency, incidentally.

5. Statistically, we are told that defensive driving produces safer results than the more detrimental aggressive driving commonly associated with some of our passenger car operators and some of the professional drivers who drive trucks and buses.

Remember that trucks and buses are on schedules, and as such, they are often inclined and/or required to "push". When they push, it is advisable to stay out of the way. Giving them legal license to push five miles an hour will not prevent them from pushing for an extra five. (Check the roads next time you look.)

6. In foul weather, rain or windy (windblown snow) or snowy conditions, it is extremely difficult to pass a truck. In times of bad weather, when visibility is at a minimum, very often this is made worse by having your windshield splattered with a combination of moisture, road dirt, salt, etc.

The driver now has the option of avoiding this, when passenger traffic is legally permitted to move at the same or greater rates of speed than buses and trucks.

However, if the speed limits are set higher for trucks, this means that the operator of a passenger car will have no choice in the matter.

Trucks will continually be passing, putting the driver in continuous jeopardy.

He will have no choice as to when and whether to pass, but will be passed by a continuing line of heavier vehicles . . . some of them many, many times longer than his own vehicle.

If it's a windy day, with poor visibility, and he is in a light car . . . the driver faces an added problem of holding the car on the road.

7. Though damage to property certainly should not be a major concern, we all have encountered overloaded gravel trucks inadvertently dropping debris on the road. When you pass such a truck, you almost always take a chance on having your car damaged, particularly the paint, and in some cases, the windshield. This is not an infrequent occurrence.

Once again, when a passenger car passes such a truck, as things now stand, the driver does so at his own risk.

There can be no control over such a situation if the driver is held to a speed slower than that of the truck.

I doubt that most of the drivers realize that their load is "spraying" the fenders, hoods, and windshields of other traffic.

But whether or not they realize it, the damage goes on.

8. I am enclosing a Xerox copy of several newspaper pages, referring to the actions of truck drivers in blocking roads. [Not printed in the RECORD.]

Can you imagine these same drivers, with the very same "temperaments" as they drive along our country's highways.

Surely, men who take the law into their own hands in order to gain special treatment have shown by their very actions that they do not deserve this special treatment.

If any single action points out the fact that these men should not be afforded higher speed limits, and preferential treatment at the expense of the safety of the other users of the road, surely it is their recent actions.

These wanton violations of the law, and indiscriminate, forceful blocking of the rights and privileges of the rest of the population . . . and the total disregard for the safety and welfare of the others who must use our highways certainly prove that these aggressive individuals should not be thus permitted to intimidate our lawmakers into putting them in a position to further jeopardize the safety of the overwhelming number of Americans who ride in or operate passenger vehicles.

The overwhelming number of truckers and the members of the American Trucking Association are solid citizens, I am sure. And I am equally certain that those who make their living by driving trucks and buses are going to have some problems due to the current energy crisis.

But . . . in one way or another, just about everyone in this country can expect to be affected financially, not to mention their personal inconvenience.

In this respect, the truck drivers are no exception.

Please make every effort to stop any two-tier speed limit that favors trucks and buses at the expense of the safety of passenger cars.

Sincerely,

ROBERT S. RISMAN.

A CURE FOR AMERICA

(Mrs. MINK asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, I know there is a continuing concern by my constituents over the deepening crisis caused by the Watergate spectacle. Superficial analysts would have you believe that those who seek strong corrective measures are bent on further destruction of the remaining faith of the public in their Government. The truth is that if we fail to move effectively to punish all the wrongdoers, to put an end to secrecy in Government, to aggressively pursue all the facts which underlie the pervasive corruption which is evident in our political system, and to enact measures to strictly limit campaign activities, and instead succumb to the demands that we put all these revelations behind us, shove it under the rug, get on with the pressing business of our country, then I think we shall indeed be participating in the destruction of the vital signs of our great democracy.

The following is an interview with Gunnar Myrdal which reflects my views on the significance of our present political crisis. He expresses the optimism I feel for our system and I hope my colleagues share these views.

The interview follows:

A CURE FOR AMERICA

Through his window you can see the green Swedish countryside stretching away from Stockholm, but the office has a decidedly American air. Above his desk, thumbtacked to the wall, is a copy of the Declaration of Independence, and next to it is a quotation from Lincoln: "To sin by silence when they should protest makes cowards of men."

For more than 40 years, Sweden's Gunnar Myrdal, Ph.D., one of the world's most renowned social scientists, has been speaking his mind about America—often in exasperation, sometimes in anger, but always with a deep emotional concern for the country that he knows and loves nearly as well as his own. "I think like an American, react like an American," he says. Nodding toward the Declaration of Independence, he adds: "I have the same value system as Thomas Jefferson."

Ever since the publication of his book *An American Dilemma: The Negro Problem* (1944) Myrdal has kept closely involved with American life, visiting the country as often as six times a year and avidly studying American publications. When the Watergate scandal erupted, *Today's Health* sought out Dr. Myrdal because he is uniquely qualified to analyze and comment on this phenomenon that has astonished and sent shudders of revulsion throughout American society. Myrdal stands far enough away to speak with objectivity.

Now 74, Myrdal is still enthusiastic and has a quick incisive mind. Throughout one long afternoon in late spring, he discussed how Watergate happened, how it is affecting the American public, and what therapy must be applied to prevent a similar tragedy from occurring.

Q. Dr. Myrdal, has Watergate disillusioned you about the chances for getting and keeping honest and good government in Washington?

A. Let me say first that Watergate is a much worse scandal than, say, that of Teapot Dome under (President Warren G.) Harding, which was only a case of some officials trying to get rich. This time the White House was after power, and it was willing to turn the American system upside down to get it.

But having said that, am I disillusioned? No. Not a bit. In fact, the reaction to Watergate underlines my conception of what American democracy is all about.

Given the nature of the American system, the incident at the Watergate was bound to be uncovered. These people simply did not know the society they were operating in. Their acts not only were illegal but also ignorant and stupid. In America, truth will out. America is an open society. When the system discovered Watergate, it did something about it—a lot, in fact.

The press had a big role here, of course, but then the press is a vital part of the American system, a vehicle for the expression of what the people want.

Now then, if some of the news of Watergate had leaked out and then there had been a cover-up, if the system had failed to react, I would have been very disillusioned. But it was all brought out in the open, which is the characteristic American way of handling messes like this.

You'll note that some of the leading members of the Republican party helped to drag Watergate out into the light of day. They had been deeply offended by the high-handed way the administration had dealt with them, for one thing. But they were also reaffirming to themselves and the voters that they were men of integrity, that they honored the American creed that said this is a government of law, not of men. Nixon's men felt responsibility to the office and the man, and that's absolutely against American thinking. Their true responsibility was to the nation.

Q. How do you evaluate the American reaction to Watergate?

A. It's a conversion, really, and conversions are very much a part of American history. You can go very, very wrong for a while, but then you can change overnight. It's part of your Puritan legacy—when you change, you change fast. I don't know of any country that is more prepared to switch policies than America.

Q. Can you cite another example of such a conversion?

A. One of the best examples was the overnight repudiation of McCarthyism, which was very similar to what has been happening in the Watergate affair.

I vividly remember touring America during the McCarthy era and hearing my friends say that the country was doomed, that democracy was on the way out. I didn't believe it, because McCarthy was acting so much against American tradition. But it certainly was a frightening time. Very few of the intellectual, moral, and political leaders of the United States stood up against McCarthy at first.

Then publicity finished McCarthy, just as it rooted out the Watergate. They put the McCatrhy hearings on TV and suddenly every American could get a good look at the man and how he operated, and people said, "What the hell is going on here?"

The people turned against McCarthy. That's the important thing. Then Congress took action. But it was the people who started it and destroyed this powerful demagogue.

In the same way, I think that the Watergate scandal will make it impossible for a President and his aides to act this way ever again.

Q. Dr. Myrdal, what factors were responsible for Watergate? How did it happen?

A. The background factor, I think is the long history of a spoils system in American politics. Some countries in Western Europe have been able to develop a stronger tradition of independent civil service than that of the United States. But that's not enough to explain away Watergate. I'm afraid that you have to blame President Nixon himself and the men he picked to surround him.

Q. In other words, there was no special sickness or weakness in American society itself that produced Watergate?

A. That's correct. Watergate clearly was an aberration. The American society wasn't sick. The White House was sick. Several men appear to have put themselves above the law, which was terribly wrong. America is meant to be governed by law, not men.

And Congress, incidentally, must take some of the blame for what happened. Congress stood back and let the President seize power. The war in Vietnam is the best example, but it was more than that. Congress took one slap in the face after another. It should have stepped in earlier and more firmly.

Q. Specifically, what steps must be taken to prevent another Watergate?

A. First, the President must not be allowed to isolate himself from the American people. He has to live an open life that agrees with American ideals. He's not a king. He has to be accessible. The people have to feel that he is concerned about their problems and is listening to them.

For that matter, I don't believe that a man will be able to even run for the Presidency again in the same isolated way that Nixon did last time.

Second, there has to be a diffusion of power in Washington. The White House cannot have it all. Cabinet officers must have real strength, and they must have access to the President. They also must be men of stature and independence who will not automatically do anything they are told to do.

Third, the obsessive secrecy of the White House has to be abolished. The whole system of classifying documents has to be liberalized. The press and the people have to get a better—and quicker—idea of what is going on. We can have much more access to important papers without compromising any government action that really must not be revealed for a while. All my experience as a scholar, and occasionally as a politician in Sweden, has taught me that when a government claims something is secret, it most often is a secret kept from its own people.

Fourth, there must be better control of campaign contributions. Perhaps some limit should be set on expenditures, and certainly the sources of the funds should be fully disclosed. The present laws would solve a lot of these problems if they were enforced, but they're not. Whether old laws are kept or new ones created, they have to be enforced. And I think they will be.

Fifth, and this is the most difficult task: Participation of the American people in politics, at least in voting in elections, must be increased. Even with all the hullabaloo about a presidential election, little more than half of the voters take part, and in municipal elections the percentage is often much less. In Sweden, almost 90 per cent of the electorate votes regularly.

The excuse you often hear is that America is a "new" country still developing traditions, but that's not true. You established the first modern democracy in the world. The problem, I think, is that you are still not a very well integrated nation as, say, Sweden is. You have so many racial and ethnic divisions that it is hard for an individual to feel responsible for his society, which is the key thing.

America will have to move towards a more integrated society in the years ahead, which means struggling with all the problems that have been piling up—integration, poverty, the decaying cities, and all the rest. It's a tall order, but taking the long view over the decades, as I can, I think that America is moving in the right direction.

Q. What would you tell the young people of America in light of Watergate? Aren't they likely to become cynical about American politics?

A. When I talk to young people I always make the point that in a short time they will have all the power—they will be running the government, the factories, the courts, everything. With that point in mind, it would be a tragedy, and a senseless one, if young Americans did become cynical over Watergate.

As I said, Watergate is a cancer in the White House, not in American society. And, as with a patient with cancer, some treatment is needed in order to prevent the cancer from spreading to other organs of the body. The general public revulsion, the uninhibited hearings in congressional committees, and the regular functioning of the courts represent this treatment. I believe it will be effective.

It would be criminal and cynically reactionary for young people to turn away from the American system. It would also be unnatural, because a fundamental optimism is built right into them just because they are Americans. It comes right out of their bodies. Fatalism should be completely foreign to them and to America.

Young people should study the facts and get down to work to bring about the changes that are needed. They shouldn't just throw slogans around. The young sometimes argue that the "system" is too big to be changed, but that's not true. I tell them that the "system" is a horribly complex thing made up of a great many factors, and it is up to them to find out how it works and to get it to work their way. And to do that, they need the basic optimism that they have, that they grew up with, because they are Americans.

Q. How does Watergate leave you feeling about America?

A. I'm still optimistic about America, just as I always have been. That's the American side of my nature. Watergate has given America a chance to make a new beginning, to make changes, to get back to fundamental principles and to do it quickly, and that's a very American characteristic.

I don't believe that America will ever turn cynical or veer away from democracy. The people have too much of a sense of their own history for that. All the great figures of the past are, in a sense, still living today—their influence is everywhere and they're quoted all the time. Men like Franklin, Jefferson, Lincoln, and both the Roosevelts.

Sure, America very often breaks its own rules. The country is like a human being, somewhat, because there's always a struggle going on in its own soul between different standards, different valuations. Behavior always is a compromise. For America, the high ideals may not always dominate, but they are always there, and Watergate has brought them out.

American society is still a wideopen society, thank God, and it will be even more so after this. I still believe that this deep sense of moral behavior is the essence of America—that it is the glory of the nation, its youthful strength, and, in the end, perhaps the salvation of mankind.

ARTHUR STEED DIES

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on the third day of October died one of my longtime and most treasured friends, Mike Steed, of Orlando, Fla. He was an able lawyer and for 10 years he served with outstanding distinction as State attorney in the ninth judicial circuit of his area in the course of which he rendered splendid public service. He was a man of the utmost of integrity, of deep devotion to the public interest, fair in the discharge of his official duties, and indefatigable in labor in the service of the public interest. He loved America and nobly served it in war and in peace. He was a charming gentleman, a friend whose friendship was treasured by anyone fortunate enough to have it. He lived a life of rectitude and honor and he is not only mourned by a lovely and loving wife but by a host of friends in whose memories he will always vividly live with tender affection. To my own words, Mr. Speaker, I would like to add the tribute of Charlie Wadsworth to Mike and the obituary which appeared in the Florida Sentinel Star on October 4, and insert these two articles in the Record immediately following these remarks:

ARTHUR STEED

(By Charlie Wadsworth)

Mike Steed once took a long, searching look at the question of life and backed by all of his native born wisdom opined:

"There has to be an end to everything and everybody. That's the law of living."

For Arthur L. "Mike" Steed the end came Wednesday morning, swiftly, which is consoling to the man's family and many, many friends.

But even that fact could not remove the sadness from the half dozen or so who sat with him at lunch just last Monday.

Mike had suffered a couple of physical setbacks during the past year, but on Monday he looked great, and he was ready to go.

"I'd paw the ground if there was any around. That is what the knowledge that the hunting season is just around the corner will do for a man," he grinned.

If he could have arranged it, I think Mike would have spent every daylight hour of his life in a hunting field somewhere.

But that was impossible, an impossible dream, you might say, so Mike Steed became a public servant. Part of his physical shortcomings stemmed from the years when he was the state attorney in the Ninth Judicial Circuit from 1959 to 1968, when the circuit covered eight counties and Mike Steed covered those counties like dew.

It was from this duty that he came on to become a powerful and highly respected figure throughout the state.

He never looked back on those years of almost devout dedication and of exhaustingly long work schedules.

When it was over I remember his saying once that, "Maybe I helped pay some of my debt I owed this world for allowing me to be a part of it."

A down to earth guy who was a brilliant attorney, Mike Steed walked a straight line for every one of his 64 years. He stayed on the right track. This moved a friend to comment:

"If Mike had a fault it was that he was just too nice."

Time flies and fame and reputation are fleeting, but when the hunting season opens in November a lot of Mike's old buddies are going to pause and remember him. He was the kind of man you would pause and remember.

ARTHUR STEED, 64, DIES; FORMER STATE ATTORNEY

Arthur L. "Mike" Steed of Orlando, state attorney of the old 9th Judicial Circuit for nine years, died Wednesday morning at his 1705 Pepperidge Drive home. He was 64.

He was appointed state attorney of the eight-county Central Florida circuit by Gov. LeRoy Collins in 1959, succeeding Murray Overstreet of Kissimmee, who had been named to a newly created circuit judgeship.

Mr. Steed, a Democrat, was reelected unopposed in 1960 and 1964. He withdrew from the 1968 race to run for circuit court judge, but was defeated by Bernard Muszynski.

He was born in DeLand, spent his boyhood in Kissimmee and received his degree in law from the University of Florida in 1934.

He began practicing law with the U.S. Treasury Department in 1938, becoming an expert in income tax procedures.

Before he resigned from the Treasury post in 1948, he took time out to serve with the U.S. Army during World War II as an agent in its criminal investigation section.

Mr. Steed served as assistant U.S. attorney in Tampa from January 1948 through August 1951. He then returned to Orlando to practice law with his late brother, W. J. "Funie" Steed and later with James A. Urban.

He was one of six private citizens selected by Collins to advise him on state problems.

After his defeat in the 1968 race, he returned to private practice in Orlando. At the time of his death, he was a member of the Steed and Collins law firm.

He was a member of the Orange County, Florida and American bar associations, past president of the University Club of Orlando and member of the Orlando Kiwanis Club and Solomon Lodge No. 20, F. & A.M.

Dr. I. Howard Chadwick will conduct funeral services at 10 a.m. Friday at the First Presbyterian Church.

Interment will be in Rose Hill Cemetery in Kissimmee.

Survivors include his widow, Mrs. Dorothy H. Steed; sister, Mrs. Josephine Cuttle, Lake Wales; 10 nieces and nephews and 19 grandnieces and nephews.

Carey Hand Chapel is in charge of arrangements.

EMERGENCY CHLORINE ALLOCATION ACT OF 1973

(Mr. ROGERS asked and was given permission to extend his remarks at this point in the Record.)

Mr. ROGERS. Mr. Speaker, in recent months many of the Nation's municipalities have been facing a major problem in obtaining adequate amounts of chlorine for treatment of drinking water and waste water effluent. The chlorine shortage has required cities to pump nontreated sewage into the Nation's lakes, rivers, streams, and coastal waters. New York City was forced to cease chlorination at 4 of its 12 sewage treatment plants and many other major cities have been down to a few day's supply. Producers and Government agencies predict that the impact of the chlorine shortage will be felt by the Nation particularly next summer when demand for chlorine again peaks.

Unless prompt action is taken in 1974, communities across the country will be forced to terminate chlorination of their drinking water and waste water plants. Since the chlorination of drinking water and waste water treatment is necessary to kill certain bacteria which are the source of typhoid, cholera, and dysentery, a substantial threat to the public health is imminent unless we take immediate preventative measures.

Today 95 percent of all chlorine processed in the United States is being distributed to industrial markets due to increasing industrial demands. Much of the remaining 5 percent, which has been sold to utilities in the past, has been diverted to industry thereby shortchanging our cities.

To alleviate the problems resulting from the chlorine shortage crisis, I introduced yesterday the Emergency Chlorine Allocation Act of 1973. Nine of my colleagues on the Subcommittee on Public Health and Environment and five other Members of the House—Mr. Kyros, Mr. Preyer, Mr. Symington, Mr. Roy, Mr. Nelsen, Mr. Carter, Mr. Hastings, Mr. Heinz, Mr. Hudnut, Mr. Gibbons, Mr. Gunter, Mr. Robison of New York, Ms. Schroeder, and Mr. Wolff—have joined me in cosponsoring this bill.

The bill requires the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Commerce, to promulgate regulations establishing a mandatory allocation system for the sale and distribution of chlorine for drinking water and waste water treatment purposes. In addition, if the Administrator finds that a shortage exists in the supply of other chemicals and substances, such as activated carbon, lime, ammonia or soda ash, he may also promulgate regulations for mandatory allocation of these substances for drinking water and waste water treatment purposes.

The allocations prescribed by EPA would enable all publicly, cooperatively, and investor owned utilities, as well as private companies and unincorporated cities, to indicate their chlorine and other water and waste treatment substances needs and receives priority in filling their orders over industrial users. EPA regulations will require each company to equitably allocate a portion of their processed inventory to these users. If the user still cannot obtain chlorine in the open market, it can notify EPA or the Department of Commerce of its needs and they will assist in locating other sources, or investigate any violations of the allocation regulations and seek compliance. If voluntary compliance of violations of the regulations cannot be obtained, the Administrator of EPA is authorized to issue orders to the violator and obtain injunctive relief in the courts through the Department of Justice, if necessary. Violators can be subject to criminal fines up to $5,000 for each offense if they violate a rule or order "knowingly" or civil fines up to $2,500 for each offense for "malum prohibitum" violations where knowledge of the violation cannot be proved in court.

Due to the short-term nature of the chlorine emergency the bill provides that the legal authority of the proposed allocation system shall terminate on June 30, 1975. It is my earnest belief that the chlorine industry can gear up its production levels to meet the needs of the Nation's drinking and waste water treatment needs by that date and that a further extension of the law will not be necessary.

Mr. Speaker, I believe that the shortage of chlorine for treatment of drinking water and waste water is an emergency situation presenting a substantial public health danger which warrants immediate legislative action by the Congress. The legislation that I introduced yesterday with several of my distinguished colleagues is necessary to prevent potential health disasters in our Nation's communities and to assure them an adequate supply of chlorine in the future. I strongly urge my colleagues to join in support of this legislation.

NEW DIALOGS ON WESTERN HEMISPHERE COOPERATION

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, Secretary of State Henry Kissinger has taken several steps indicative of his desire to renew the spirit of cooperation which once characterized inter-American relations.

Most important, at a luncheon he hosted in New York October 5 for hemisphere delegates to the U.N. General Assembly, Secretary Kissinger invited the suggestions of Latin American and Caribbean governments in the shaping of a new U.S. policy for the Western Hemisphere.

In response to Dr. Kissinger's invitation the Foreign Minister of Colombia, Alfredo Vazquez Carrizosa, invited diplomats from Latin America and the Caribbean to a special Conference on Hemisphere Cooperation which was held in Bogota from November 14 to 16. At that conference representatives from our fellow American nations agreed upon a specific set of "bases for a new dialog between Latin America and the United States." The Colombian Foreign Minister presented the text of the "bases for a new dialog to Secretary Kissinger in Washington at the end of November with the understanding that the document would serve as a starting point for a meeting to be held between Dr. Kissinger and other hemisphere foreign ministers in Mexico early next year.

Because of the potential importance of these developments for the future course of inter-American relations I want to take this opportunity as chairman of the Inter-American Affairs Subcommittee to call to the attention of the House the full text of Secretary Kissinger's October 5 statement and the response of the Latin American and Caribbean foreign ministers:

A WESTERN HEMISPHERE RELATIONSHIP OF COOPERATION

(Toast by Secretary Kissinger at a luncheon honoring Western Hemisphere delegations to the United Nations General Assembly, October 5, 1973)

President Benites [Leopoldo Benites, of Ecuador, President of the 28th U.N. General Assembly], Excellencies, ladies and gentlemen: There is a story of an Englishman who visited Sweden, and when he was going through passport control, he was confronted with two lines. One was marked for Swedes; the other one was marked for foreigners. After a while an official came by and found him sitting between these two lines. And the official said, "Sir, will you please go into one line or the other?" And he said, "That's just my problem. I am not a Swede, and I am obviously not a foreigner." [Laughter.]

I think that story is symbolic of our meeting today. We obviously do not belong all to one country, but we obviously are also not foreigners in this room.

I am grateful that you came and for this opportunity to tell you that we are serious about starting a new dialogue with our friends in the Americas.

As we look back at the history of the relationships of the United States to its neighbors to the south, it has been characterized by alternating periods of what some of you have considered intervention with periods of neglect.

We are proposing to you a friendship based on equality and on respect for mutual dignity.

And such a relationship is needed for all of us, and I believe it is needed also for the rest of the world.

In the United States in the last decade, we have experienced many dramatic changes. Throughout most of our history we could overpower most of our foreign policy problems, and we could also substitute resources for thought. Today, without understanding, we can do very little.

Throughout much of our history, indeed throughout much of this administration, we used to believe with respect to agriculture, for example, that our primary problem was how to get rid of seemingly inexhaustible surpluses. We have now learned that we share the world's problem: how to allocate scarce food resources in relation to world needs.

When I came to Washington, the discussions with respect to energy concerned means of restricting production and allocating it among various allies. Today the problem is to find energy sources around the world that can meet world needs.

So we in this country are going through a revolution of sorts, and the whole world is undergoing a revolution in its patterns. And the basic problem we face is whether we will choose the road of nationalism or the road of cooperation, whether we will approach it from the perspective of each party trying to get the maximum benefit for itself, or whether we can take a common view based on our common needs. And this is why our relations in this hemisphere are so crucial for all of us in this room and for all the rest of the world as well. We in this room, with all the ups and downs in our relationships, share a common history and similar values and many similar experiences. The value of human dignity is nowhere better understood than in the countries of our friends to the south of us.

So if the technically advanced nations can ever cooperate with the developing nations, if people with similar aspirations can ever achieve common goals, then it must start here in the Western Hemisphere.

We in the United States will approach this dialogue with an open mind. We do not believe that any institution or any treaty arrangement is beyond examination. We want to see whether free peoples, emphasizing and respecting their diversity but united by similar aspirations and values, can achieve great goals on the basis of equality.

So we are starting an urgent examination of our Western Hemisphere policy within our government. But such a policy makes no sense if it is a U.S. prescription handed over to Latin Americans for your acceptance or rejection. It shouldn't be a policy designed in Washington for Latin America. It should be a policy designed by all of Latin America for the Americas.

And so as we examine our own policy, we must also ask for your help. We know that there isn't one Latin America, but many different countries. We know also that there are certain subregional groupings. But it isn't for us to say with whom to conduct the dialogue. That has to come from our guests here in this room.

And so as we form our policy, I would like to invite your suggestions, whatever form you think appropriate, as groups or subgroups or individual nations.

And when our final policy emerges, we will all have a sense that we all had a share in its making, and we will all have a stake in maintaining it.

So, President Benites and Excellencies, I would like to propose a toast to what can be an adventure of free peoples working together to establish a new relationship that can be an example to many other nations. I would like to propose a toast to Western Hemisphere relationships, to our distinguished guest of honor, President Benites.

LETTER FROM THE FOREIGN MINISTER OF COLOMBIA TO THE SECRETARY OF STATE, NOVEMBER 28, 1973

BOGOTÁ, *November 28, 1973.*

His Excellency HENRY A. KISSINGER,
Secretary of State of the United States of America, Washington, D.C.

YOUR EXCELLENCY: As Chairman of the Latin American Foreign Ministers Conference for Hemispheric Cooperation held at Bogotá on November 14–16 last on the initiative of the Government of Colombia, I have the honor to inform you that, pursuant to your statements, the Conference approved the "Bases for a New Dialogue between Latin America and the United States" which I am happy to enclose.

During my meeting with Your Excellency on November 30 I shall also be happy to reiterate to you, on behalf of the Foreign Ministers who attended the Bogotá Conference, our very sincere desire to establish a "New Dialogue" between the Latin American countries and the United States for the purpose of discussing matters of interest to the Western Hemisphere.

Please accept, Mr. Secretary, the assurance of my highest and most distinguished consideration.

ALFREDO VÁZQUEZ CARRIZOSA,
Minister of Foreign Affairs.

REPUBLIC OF COLOMBIA, MINISTRY OF FOREIGN AFFAIRS

The Latin American Foreign Ministers Conference for Hemispheric Cooperation, held at Bogota, approved the following document on November 16, 1973:

BASES FOR A NEW DIALOGUE BETWEEN LATIN AMERICA AND THE UNITED STATES

On October 5, 1973, at the invitation of Dr. Henry A. Kissinger, Secretary of State of the United States of America, representatives of Latin American countries attending the Twenty-Eighth Session of the United Nations General Assembly met with Dr. Kissinger.

On that occasion the Secretary of State, in proposing to Latin America "a friendship based on equality and respect for the dignity of all," offered to open a "new dialogue" with the Latin American countries for the purpose of discussing matters of interest to the Hemisphere.

In view of that initiative, the Government of Colombia extended an invitation to Secretary of State Kissinger, who indicated that he expects "to be able to participate actively and personally in such a dialogue at the opportune moment." The Government of Colombia then called a Conference of Foreign Ministers for the purpose of exchanging opinions on how best to establish the bases for a new dialogue.

The Conference was held at Bogotá on November 14–16, 1973 and was attended by the Ministers of Foreign Affairs of Barbados, Chile, Peru, Venezuela, Ecuador, Honduras, El Salvador, Costa Rica, Nicaragua, Guatemala, Panama, Mexico, Dominican Republic, Trinidad-Tobago, Guyana, and Colombia and the Special Representatives of the Ministers of Foreign Affairs of Jamaica, Bolivia, Haiti, Brazil, Uruguay, Paraguay, and Argentina.[1]

The Conference reiterated the validity of the principles and concepts which the countries of Latin America have committed to various public documents, such as the Consensus of Viña del Mar of 1969 and other documents which have been approved subsequently, as well as the need to take the necessary steps to implement such principles and concepts.

Bearing in mind that in that "new dialogue" which is to be conducted in the near future with the Secretary of State it will not be possible to examine exhaustively each and every one of the current problems of interest to Latin America, the Conference concluded that it would be advantageous to initiate an exchange of opinions on the following subjects and positions:

DEVELOPMENT COOPERATION

Inter-American development cooperation should contribute effectively to comprehensive development and should therefore be applied in all fields of activity, including the economic, trade, financial, social, technological, scientific, educational, and cultural fields. The cooperation carried out through the multilateral mechanisms of the Inter-American System should be a comprehensive cooperation and should not be subject to unilateral conditions imposed by the country lending assistance or be discriminatory in its nature.

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[1] Note: Order of precedence established by lot.

A system of collective economic security should be established for the purpose of protecting the conditions that are necessary for the comprehensive development of countries.

Urgent measures should be adopted to permit free access of Latin American products to the United States market, where they are now subject to unjustified restrictions of various natures, such as tariff, nontariff, health, quota and other such restrictions.

Strengthening and, above all, effective use of the mechanism of consultation and negotiation (CECON) in order that it may be able to achieve the objectives for which it was established cannot be postponed any longer.

ECONOMIC COERCION MEASURES

An effective mechanism should be established to protect against the purpose, adoption, and implementation of such measures.

RESTRUCTURING OF THE INTER-AMERICAN SYSTEM

It is necessary to intensify the work of restructuring the Inter-American System for the purpose of adapting it to the new political, economic, technological, social, and cultural conditions of the American States and to Hemispheric and world circumstances, and it is necessary for the United States to share Latin American aspirations and to join in Latin American efforts to achieve the radical changes which the System demands.

SETTLEMENT OF THE PANAMA CANAL QUESTION

In view of the news that the bilateral negotiations begun in 1964 between the Republic of Panama and the United States of America concerning the Panama Canal question will soon be resumed, the other Latin American countries, reaffirming their solidarity with the Republic of Panama, state that settlement of that question is a matter of common interest and high priorly for Latin America and express the hope that the already delayed negotiating process may reach a settlement which will satisfy the just aspirations of the Republic of Panama.

STRUCTURE OF INTERNATIONAL TRADE AND THE INTERNATIONAL MONETARY SYSTEM

The Latin American countries are decided to help correct existing economic distortions and to protect their rights to prosperity and peace. To that end, they must participate fully and effectively in multilateral trade negotiations and in the reform of the international monetary system in order that their development efforts will not be prejudiced by decisions in which they have not participated. Likewise, the principle that the obligations of each country should be proportional to its economic capacity and, consequently, that developing countries should receive differential treatment, must be observed, especially in trade negotiations.

The United States should urgently implement its general scheme of preferences and apply it without reciprocity or discrimination. Preferences now in effect should not be impaired during the multilateral trade negotions; they should be expanded. Preferences granted within the general system should be regarded as international legal obligations.

During the international trade negotiations, or independently from them, it will be necessary to reactivate agreements and mechanisms or to create new ones relating to basic commodities of interest to the region, so as to bring about fair market prices for such commodities and to maintain the stability of such prices on a long-term basis.

TRANSNATIONAL ENTERPRISES

There is serious concern in Latin America regarding the attitude of transnational enterprises that meddle in the internal affairs of the countries where they operate and attempt to remain outside the law and the jurisdiction of competent national courts.

Transnational enterprises constitute a suitable means of Latin American development provided they respect the sovereignty of the countries in which they operate and abide by those countries' development plans and programs.

Latin America considers United States cooperation necessary for the purpose of surmounting the difficulties or frictions arising from the conduct of transnational enterprises that violate the principles stated above and of preventing such difficulties and frictions.

TRANSFER OF TECHNOLOGY

The comprehensive development of the Latin American countries requires adequate technology. In order to meet that requirement it is essential to supplement national efforts by transferring technology from the various world sources, among which the United States is recognized as specially important. In this area, Latin America hopes to obtain the greatest possible cooperation from that country.

The transfer of technology should contribute to raising the economic, social, and cultural levels in such fields as education, health, housing, nutrition, agriculture, and industry. Such transfer should be adapted to the needs, possibilities, and characteristics of the Latin American countries and should take their development plans and programs into account.

GENERAL OUTLOOK OF THE RELATIONS BETWEEN LATIN AMERICA AND THE UNITED STATES

Consideration of political problems of Hemispheric interest in the light of the present world and regional situations.

The foregoing subjects have been selected on a priority basis; consequently, the fact that they have been selected does not mean that other problems may not be dealt with on another occasion.

The Conference also wishes to express the willingness of the participating countries to discuss any other subjects the United States may wish to propose.

Lastly, it is considered desirable that the date of the proposed meeting, to be held in Mexico, be set as soon as possible by common agreement.

AMENDMENTS TO H.R. 11510, ENERGY RESEARCH

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the energy crisis has been building for years and it will continue for many years to come. Decisions we make will affect our own lives and the lives of future generations. While speed is essential in dealing with the immediate emergency, caution should characterize our efforts to create a new structure for solving our long-range problems.

Legislation to create a new organization to handle energy research and development is long overdue and offers a hopeful solution to our long-term energy problems. We cannot afford to continue to handle these problems in a piecemeal fashion, fragmenting our efforts as we face one crisis after another.

However, the committee bill to establish the Energy Research and Development Administration (H.R. 11510) has several major weaknesses which may seriously hinder, rather than help, our efforts to meet our country's energy needs.

The bill does not specify what the funding will be for ERDA, nor does it specify how priorities will be set. Instead, the Administrator will be given broad and vaguely defined powers with which to administer massive grants for energy research and development. The bill sets no standards for the qualifications of the Administrator, and his deputy and assistants, to insure that the persons selected are experienced and competent in the broad range of energy research and development. Nor does the bill require them to divest themselves of any financial interests they may have in industries or corporations who might profit from the new Administration.

Furthermore, there are no standards in the bill to protect the public interest, to insure that the research and development of energy resources provide adequate, reliable, economical and environmentally acceptable energy systems that support the essential needs of society. Although the bill does provide for advisory committees, the make up of these committees is not defined and could potentially be controlled by special interest groups.

I intend to offer amendments which attempt to solve some of these problems, by setting standards by which the Administrator and his deputy and assistants are selected and by assuring that the public interest is protected and that special interest groups do not, in fact, dominate this new organization which will have such impact on the future energy needs of our country.

Amendment No. 1 requires the Administrator and his deputy and assistants to divest themselves of financial interests in any enterprise which engages in the production or development of, or research in, any energy source subject to the act.

Amendment No. 2 states that the Administrator shall consider the public interest in exercising his responsibilities and lists some of the areas of public interest that should be considered.

Amendment No. 3 limits membership on advisory committees so that no more than one-third of the total will be composed of representatives of industries which engage in the production or development of, or research in, any energy sources subject to the act.

The text of the three amendments I intend to offer is as follows:

AMENDMENT NO. 1 TO H.R. 11510, AS REPORTED, OFFERED BY MR. SEIBERLING

SECTION 102

Page 31, after line 5, insert the following and renumber succeeding sections accordingly:

"(d) The Administrator, the Deputy Administrator, and the Assistant Administrators shall be appointed with due regard to their fitness to perform the duties vested in each such office by this Act. Each such person shall be a citizen of the United States. No such person shall hold office in, have any pecuniary interest in, or own any stock in or bonds of any enterprise which engages in the production or development of, or research in any energy source which is subject to the provisions of this Act, nor shall any such person engage in any other business, vocation, or employment."

Amendment No. 2 to H.R. 11510, as Reported, Offered by Mr. Seiberling

Page 32, lines 20 through 21, strike out "The responsibilities of the Administrator shall include, but not be limited to—" and insert in lieu thereof "(a) The Administrator shall consider the public interest whenever he exercises his functions and responsibilities under this Act, including, but not limited to—"

Page 34, between lines 10 and 11, insert the following:

"(b) In the exercise and performance of his powers and duties under this section, the Administrator shall consider the following, among other things, as being in the public interest:

(1) The development of a plan for energy research and development that defines the essential energy needs of present and future generations and the probable alternatives for meeting such needs;

(2) The research and development of energy resources to provide adequate, reliable, economical and environmentally acceptable energy systems that support the essential needs of society with minimum loss of scarce resources;

(3) The development of the technology and information base necessary to encourage a wide range of options for future energy policy decisions;

(4) The development of methods for the conservation of energy resources which maximize the efficiency of energy development, transportation, production, conversion and use;

(5) Prevention of adverse environmental, health and safety effects associated with the discovery, production, conversion, transportation and use of energy sources;

(6) Investigation of the capability for energy self-sufficiency for the United States through the development of socially and environmentally acceptable methods of utilizing domestic energy sources;

(7) Priorities for research and development of conventional and unconventional energy systems in which adverse social, economical and environmental impacts are minimized;

(8) Promotion of competition among corporations engaged in the exploration, development and production of energy resources."

Amendment No. 3 to H.R. 11510, as Reported, Offered by Mr. Seiberling

SECTION 108

Page 42, line 2, immediately after "matters." insert "No more than one-third of the total membership of each such advisory board shall be composed of representatives of any industries which engage in the production or development of, or research in, energy sources which are subject to the provisions of this Act. For the purposes of this section, any person who has been retained as a consultant or employed by any such industry during the two-year period preceding his appointment to such a board, shall be deemed to be a representative of such industry."

POSTSECONDARY EDUCATION CONSUMER PROTECTION ACT OF 1973

(Mr. PETTIS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PETTIS. Mr. Speaker, a recent article concerning abuses of the federally insured student loan program quotes a young victim of an unethical, yet legal, trade school. She was confident of the school's reliability because, as she said, "if they are approved for Federal aid, they must be good." She is just one of a growing number of Americans who are deeply in debt to the Federal Government because of loans acquired to attend worthless classes. Another recent example of abuse involves Riverside University, a small private California school which went bankrupt, was put into receivership at the direction of the California State attorney general, and is now under investigation by the U.S. attorney in Los Angeles. Closure of the school left many students with no transferable credits but with a continuing obligation to repay their student loans. Attempts to settle with the Claims Collection Branch of the U.S. Office of Education have met with little success.

Mr. Speaker, a fine industry which is fulfilling an ever increasing need for good postsecondary education is being discredited by con men, hustlers and run of the mill incompetents. Consumers are being victimized. And taxpayers are footing the bill.

Together with my California colleague (Mr. Bell) I am today introducing legislation that will permit the Congress, the executive branch, and the various organizations and citizens concerned about this growing problem to take a comprehensive look at procedures by which postsecondary educational institutions secure eligibility for participation in federally assisted student aid programs. Our bill specifically does not prohibit the continued eligibility of legitimate postsecondary educational institutions, nor does it alter the well-established and, until recently, generally successful cooperation between Federal agencies and the various private and State accrediting and approving entities.

What the bill does require is a comprehensive study by the Secretary of Health, Education, and Welfare of all existing statutes, regulations, procedures and criteria utilized by the Federal Government concerning institutional eligibility. Upon completion of this analysis, the Secretary shall, if necessary to achieve the purposes of the bill, promulgate new or strengthened criteria governing the reliance of Federal agencies on non-Federal approving bodies and/or request additional statutory authority in this area. The Secretary will be required to monitor these non-Federal entities and discontinue Federal reliance on any that he finds are failing to meet the criteria promulgated pursuant to the legislation. The bill provides a grace period for affected individual educational institutions and permits temporary accreditation procedures established by the Secretary.

The bill further provides for forgiveness of the loan obligation in the event a student is denied the primary educational benefits for which he contracted where the quality of a school is such that it should not have been approved for participation in the federally insured loan program. Hopefully, this provision will be needed only for a short time if the purposes of our bill are fully met.

Congressman Bell and I are very hopeful that this legislation will provide a useful vehicle for comprehensive hearings. We seek and will enthusiastically welcome the suggestions of those with expertise in this area, and look forward to a cooperative effort to eliminate the kind of substandard of fraudulent practices that are costing our Nation, human, educational, and financial resources it can ill afford to lose.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Johnson of California (at the request of Mr. O'Neill) for today, on account of illness.

Mr. Thompson of New Jersey, for December 13, 1973, on account of death in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Young of South Carolina) and to revise and extend their remarks and include extraneous matter:)

Mr. Wyman, for 5 minutes, today.
Mr. Crane, for 5 minutes, today.
Mr. Crane, for 5 minutes, on December 13, 1973.
Mr. Young of Alaska, for 5 minutes, today.
Mr. Railsback, for 5 minutes, today.
Mr. Williams, for 5 minutes, today.
Mr. Martin of North Carolina, for 5 minutes, today.

(The following Members (at the request of Mr. Studds) to revise and extend their remarks and include extraneous matter:)

Mr. Alexander, for 30 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Drinan, for 20 minutes, today.
Mr. Brademas, for 5 minutes, today.
Mr. Tiernan, for 5 minutes, today.
Mr. Wolff, for 5 minutes, today.
Mr. Dingell, for 10 minutes, today.
Mr. Flood, for 15 minutes, today.
Mr. Owens, for 10 minutes, today.
Mr. Cotter, for 5 minutes, today.
Mr. Litton, for 10 minutes, today.
Mr. Dulski, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Young of South Carolina) and to include extraneous material:)

Mr. Wyman.
Mr. Veysey.
Mr. Treen.
Mr. Martin of North Carolina.
Mr. Shoup in two instances.
Mr. Esch.
Mr. Derwinski in two instances.
Mr. Madigan.
Mr. Wydler.
Mr. Ashbrook in four instances.
Mr. Williams.
Mr. McKinney.
Mr. Hansen of Idaho.

Mr. MICHEL.

Mr. SYMMS.

Mr. JOHNSON of Pennsylvania in two instances.

Mr. YOUNG of Alaska.

Mr. SARASIN.

Mr. MARTIN of Nebraska.

Mr. CARTER.

Mr. SNYDER in two instances.

Mr. VANDER JAGT.

Mr. ANDERSON of Illinois.

(The following Members (at the request of Mr. STUDDS) and to include extraneous matter):

Mr. DIGGS.

Mr. ROONEY of New York in two instances.

Mr. VANIK in two instances.

Mr. DRINAN in three instances.

Mr. HARRINGTON in three instances.

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. FUQUA in five instances.

Mr. SYMINGTON.

Mr. REES in two instances.

Mr. YATRON.

Mr. JONES of Tennessee in six instances.

Mr. FLOOD.

Mr. HAMILTON.

Mr. MINISH.

Mr. WOLFF.

Mr. STOKES.

Mr. STUCKEY.

Mrs. CHISHOLM.

Mr. JAMES V. STANTON.

Mr. WALDIE.

Mr. EVINS of Tennessee.

Mr. DULSKI in five instances.

Mr. RODINO.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1745. An act to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes; to the Committee on Interstate and Foreign Commerce.

ADJOURNMENT

Mr. STUDDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 30 minutes p.m.), under its previous order, the House adjourned until Thursday, December 13, 1973, at 11 o'clock a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee of conference. Conference report on S. 14 (Rept. No. 93–714). Ordered to be printed.

Mr. POAGE: Committee on Agriculture. S. 1945. An act to amend the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, so as to authorize certain grapefruit marketing orders which provide for an assessment against handlers for the purpose of financing a marketing promotion program to also provide for a credit against such assessment in the case of handlers who expend directly for marketing promotion (Rept. No. 93–715). Referred to the Committee of the Whole House on the State of the Union.

Mr. POAGE: Committee on Agriculture. H.R. 11273. A bill to provide for the regulation of the movement in foreign commerce of noxious weeds and potential carriers thereof; with amendment (Rept. No. 93–716). Referred to the Committee of the Whole House on the State of the Union.

Mr. NEDZI: Committee on Armed Services. S. 2714. An act to amend section 291(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, relating to cost-of-living increases, and to increase the pay and allowances of certain officers of the Armed Forces whose pay and allowances are not subject to adjustment to reflect changes in the Consumer Price Index (Rept. No. 93–717). Referred to the Committee of the Whole House on the State of the Union.

Mr. FISHER: Committee on Armed Services. H.R. 3418. A bill to amend section 505 of title 10, United States Code, to establish uniform original enlistment qualifications for male and female persons (Rept. No. 93–718). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE of Illinois: Committee on Armed Services. H.R. 5621. A bill to provide for the presentation of a flag of the United States for deceased members of the National Guard and Selected Reserve; with amendment (Rept. No. 93–719). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. S. 2166. An act to authorize the disposal of opium from the national stockpile; with amendment (Rept. 93–720). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. S. 2316. An act to authorize the disposal of copper from the national stockpile and the supplemental stockpile; with amendment (Rept. No. 93–721). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. S. 2413. An act to authorize the disposal of aluminum from the national stockpile and for other purposes (Rept. No. 93–722). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. S. 2493. An act to authorize the disposal of silicon carbide from the national stockpile and the supplemental stockpile (Rept. No. 93–723). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. S. 2498. An act to authorize the disposal of zinc from the national stockpile and the supplemental stockpile (Rept. No. 93–724). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. S. 2551. An act to authorize the disposal of molybdenum from the national stockpile, and for other purposes (Rept. No. 93–725). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. S. 1773. An act to amend section 7305 of title 10, United States Code, relating to the sale of vessels stricken from the Naval Vessel Register; with amendment (Rept. No. 73–726). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Texas: Committee on Rules, House Resolution 745. Resolution providing for the consideration of H.R. 11510. A bill to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions (Rept. No. 93–727). Referred to the House Calendar.

Mr. MADDEN: Committee on Rules. House Resolution 746. A resolution authorizing the Speaker to entertain motions to suspend the rules (Rept. No. 93–728). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia:

H.R. 11907. A bill to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DON H. CLAUSEN:

H.R. 11908. A bill to authorize the Secretary of Agriculture to permit the use of DDT to control and protect against insect infestation on forest and other agricultural lands; to the Committee on Agriculture.

H.R. 11909. A bill to amend chapter 2 of title 16 of the United States Code (respecting national forests) to provide a share of timber receipts to States for schools and roads; to the Committee on Agriculture.

H.R. 11910. A bill to establish a contiguous fishery zone (to the outer limits of the Continental Shelf) beyond the territorial sea of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. COHEN (for himself, Mr. BURKE of Massachusetts, Mrs. HECHLER of Massachusetts, and Mr. STOKES):

H.R. 11911. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the handicapped and elderly; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. SEIBERLING, Mr. RIEGLE, Mr. REUSS, and Mr. ROE):

H.R. 11912. A bill to amend the Social Security Act to direct the Secretary of Health, Education, and Welfare to develop standards relating to the rights of patients in certain medical facilities; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. RIEGLE, and Mr. SEIBERLING):

H.R. 11913. A bill to establish in the Department of Housing and Urban Development a direct low-interest loan program to assist homeowners and other owners of residential structures in purchasing and installing more effective insulation and heating equipment; to the Committee on Banking and Currency.

By Mr. COHEN (for himself, Mr. WOLFF, Mr. SEIBERLING, and Mr. RIEGLE):

H.R. 11914. A bill to amend the Internal Revenue Code of 1954 to encourage greater conservation of energy in home heating and cooling by providing an income tax deduction for expenditures made for more effective insulation and heating equipment in residential structures; to the Committee on Ways and Means.

By Mr. DORN:

H.R. 11915. A bill to amend chapter 36 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to continue making educational assistance and subsistence allowance payments to eligible veterans and eligible persons during periods that the educational institutions in which they are enrolled are temporarily closed pursuant to a policy proclaimed by the President or because of emergency conditions; to the Committee on Veterans' Affairs.

By Mr. MADIGAN:

H.R. 11916. A bill to require oil producers, refiners, and distributors to provide certain information as requested by the Federal Energy Administration, to authorize auditing of such information by the General Accounting Office, and to provide for enforcement; to the Committee on Interstate and Foreign Commerce.

By Mr. MINSHALL of Ohio (for himself, Mr. Kemp, Mr. Helstoski, Mr. Forsythe, Mr. Duncan, Mr. Miller, Mr. Ichord, Mr. Conte, Mrs. Collins of Illinois, Mr. Yates, Mr. Pepper, Mr. Lehman, Mr. Gude, and Ms. Abzug):

H.R. 11917. A bill to encourage increased use of public transit systems by amending the Internal Revenue Code of 1954 to allow a credit against individual income taxes for funds expended by a taxpayer for payment of public transit fares from his or her residence to his or her place of employment and from his or her place of employment to his or her residence; to the Committee on Ways and Means.

By Mr. PARRIS:

H.R. 11918. A bill to amend the Clean Air Act to prohibit the Environmental Protection Agency from imposing parking surcharges; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSE:

H.R. 11919. A bill to amend title 38 of the United States Code to remove the time limitation within which programs of education for veterans must be completed; to the Committee on Veterans' Affairs.

By Mr. ROSENTHAL (for himself, Mr. Addabbo, Mr. Brasco, Mr. Brown of California, Mr. Delaney, Mr. Drinan, Mr. Harrington, Mr. Guyer, Mr. Hawkins, Mr. Lehman, Mr. Stark, Mr. Waldie, and Mr. Yatron):

H.R. 11920. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the labels on all foods to disclose each of their ingredients; to the Committee on Interstate and Foreign Commerce.

By Mr. TALCOTT:

H.R. 11921 A bill to amend certain provisions of the Land and Water Conservation Fund Act of 1965 relating to the collection of fees in connection with the use of Federal areas for outdoor recreation purposes; to the Committee on Interior and Insular Affairs.

By Mr. VEYSEY:

H.R. 11922. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to dietary supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG of Alaska:

H.R. 11923. A bill to amend the Tariff Act of 1930 so as to exempt certain private aircraft entering or departing from the United States and Canada at night or on Sunday or a holiday from provisions requiring payment to the United States for overtime services of customs officers and employees; to the Committee on Ways and Means.

By Mr. YOUNG of Illinois (for himself, Mr. Hanrahan, and Mr. Crane):

H.R. 11924. A bill to encourage increased use of public transit systems by amending the Internal Revenue Code of 1954 to allow, for income tax purposes, a deduction for funds expended by an individual for payment of public transit fares from his or her residence to his or her place of employment and from his or her place of employment to his or her residence; to the Committee on Ways and Means.

By Mr. ASPIN:

H.R. 11925. A bill; temporary tax on energy corporations; incentive investment deduction for increased net capital outlays; to the Committee on Ways and Means.

By Mr. ASPIN (for himself, Mr. Rangel, and Mr. St Germain):

H.R. 11926. A bill to direct the President to halt all exports of gasoline, distillate fuel oil, propane gas, and residual fuel until he determines that no shortage of such fuel exists in the United States; to the Committee on Banking and Currency.

By Mr. BELL (for himself and Mr. Pettis):

H.R. 11927. A bill to establish criteria to be observed by approving entities for federally assisted post-secondary education programs in order to protect students in such programs; to the Committee on Education and Labor.

By Mr. BLATNIK (for himself, Mr. Jones of Alabama, Mr. Harsha, Mr. Wright, Mr. Grover, Mr. Johnson of California, Mr. Don H. Clausen, Mr. Roberts, and Mr. Howard):

H.R. 11928. A bill to amend the Federal Water Pollution Control Act to establish the ratio for allocation of treatment works construction grant funds, to insure that grants may be given for other than operable units, and to clarify the requirements for development of priorities; to the Committee on Public Works.

By Mr. JONES of Alabama (for himself, Mr. Bevill, Mr. Flowers, Mr. Evins of Tennessee, Mr. Fulton, Mr. Kuykendall, Mr. Baker, Mr. Quillen, Mr. Duncan, Mr. Beard, Mr. Jones of Tennessee, Mr. Stubblefield, Mr. Carter, Mr. Whitten, Mr. Bowen, Mr. Davis of Georgia, Mr. Landrum, and Mr. Wampler):

H.R. 11929. A bill to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments; to the Committee on Public Works.

By Mr. LITTON (for himself, Mr. Bray, Mr. Milford, Mr. Stubblefield, Mr. Collins of Texas, Mr. Dan Daniel, Mr. Lott, and Mr. Camp):

H.R. 11930. A bill to amend the National Emissions Standards Act in order to conserve fuel; to the Committee on Interstate and Foreign Commerce.

By Mrs. MINK (for herself and Mr. Hawkins):

H.R. 11931. A bill to provide for the regulation of financing with respect to campaigns for election to certain elective offices; to the Committee on House Administration.

By Mr. SNYDER:

H.R. 11932. A bill to amend the Public Works and Economic Development Act of 1965, as amended; to the Committee on Interior and Insular Affairs.

By Mr. VANIK:

H.R. 11933. A bill to amend the Internal Revenue Code of 1954 to provide for the amortization of facilities used for the manufacture of solar heating and cooling equipment; to the Committee on Ways and Means.

By Mr. COUGHLIN:

H.J. Res. 856. Joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning April 21, 1974, as "National Volunteer Week"; to the Committee on the Judiciary.

By Mrs. MINK:

H.J. Res. 857. Joint resolution proposing an amendment to the Constitution of the United States to provide for an election for the Office of President and the Office of Vice President in the case of a vacancy both in the Office of President and the Office of Vice President, or in the case of a vacancy in the Office of President if the person serving as Vice President was chosen as provided by the 25th article of amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. PICKLE (for himself, Mr. O'Neill, Mr. McFall, Mr. Rhodes, Mr. Anderson of Illinois, Mr. Arends, Mr. Blatnik, Mr. Gray, Mr. Wright, Mr. Roberts, Mr. Milford, Mr. Patman, Mr. Mahon, Mr. Poage, Mr. Fisher, Mr. Teague of Texas, Mr. Burleson of Texas, Mr. Brooks, Mr. Young of Texas, Mr. Casey of Texas, Mr. Gonzalez, Mr. de la Garza, Mr. Eckhardt, Mr. Kazen, and Mr. Price of Texas):

H.J. Res. 858. Joint resolution to provide for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac; to the Committee on Public Works.

By Mr. VEYSEY:

H.J. Res. 859. Joint resolution to designate the third week of September of each year as "National Self Pronouncing Alphabet (SPA) Week"; to the Committee on the Judiciary.

By Mr. CEDERBERG:

H. Con. Res. 398. Concurrent resolution expressing the sense of Congress with respect to the missing in action in Southeast Asia; to the Committee on Foreign Affairs.

By Mr. WOLFF:

H. Con. Res. 399. Concurrent resolution to conserve gas; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LEGGETT:

H.R. 11934. A bill for the relief of Manuel Bonton; to the Committee on the Judiciary.

By Mr. SNYDER (by request):

H.R. 11935. A bill for the relief of Robert Simmons Construction Co., Inc., Louisville, Ky.; to the Committee on the Judiciary.

By Mr. TALCOTT:

H.R. 11936. A bill for the relief of Maria Gilda Jiminez-Alcala; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

373. The SPEAKER presented a petition of Clinton Pettiford, Jr., Randallstown, Md., relative to redress of grievances; to the Committee on Post Office and Civil Service.

EXTENSIONS OF REMARKS

EDITORIAL BY IRVIN HUTCHISON

HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. SHOUP. Mr. Speaker, the following editorial appeared in the Liberty County Times, a weekly newspaper published in the town of Chester, Mont. Although the parallel described may not correspond perfectly, the editorial, written by Publisher Irvin Hutchison, does contain some very valid points which too often are overlooked in the heat of emotional argument:

EDITORIAL BY IRVIN HUTCHISON

Now let's make one thing perfectly clear—I wasn't there, so I am writing a second hand account of what happened.

According to the story as told to me, the language used in the play "All the King's Men" presented by the Repertory Theatre and sponsored by the Liberty County Arts Council was profane, to say the least. It must have been pretty vulgar because over half, perhaps two-thirds of the audience got up and walked out. At the end of the first act Liberty County Arts Council president Bob Mattson expressed his regrets over the language, saying that the Arts Council had no advance knowledge of the profanity in the script. He asked all children who were unaccompanied by their parents to leave, and he told others that he wouldn't blame them if they also left.

Since then there have been wide and numerous opinions expressed. Some think Mattson made a mistake, that he could have been more tactful. Others think he displayed great courage and is to be commended for taking his stand. Another group is critical of him for allowing such a play to come to Chester, while still others say he should have made his announcement much sooner. Such are the perils of leadership. I would like to come to his defense.

Whenever a man takes a moral stand, he is going to come in for some adverse criticism. It's a lot easier to keep silent. Too many Americans have remained silent too long while a minority have led the country into the depths of moral decay.

It has been argued that language such as this, accompanied by obscene pictures appear regularly in R and X rated movies. That is true, and many people object to the showing of these movies, but there is a vast difference. People who go to an X rated movie know what they expect to see and hear.

In the past, and I hope in the future, programs of the Liberty County Arts Council have been presented as family entertainment. Family memberships are sold. Those parents who feel they have an obligation to protect their children from profane and obscene material have felt they could let their children go to anything sponsored by the Liberty County Arts Council. Aside from his own personal convictions on the matter, Mattson had the reputation of the Arts Council to defend. The Arts Council can ill afford to lose the patronage of these families.

From a Christian view point we see clearly here the problems involved in carrying out Christ's command to live in the world without being of the world. Don't let anybody ever tell you it is going to be easy. Bob has some good strong Christian convictions, and I commend him for taking a moral stand that was neither easy nor without opposition.

Most folks will probably think I am way off base now, but I would like to compare this with President Nixon and Watergate.

Look at these similarities.

It was the people in the Nixon administration who committed the Watergate crimes. The program Thursday was sponsored by the Liberty County Arts Council. President Nixon did not know about or condone the Watergate affair. The Liberty County Arts Council did not know about or condone the profanity in the play presented here. Because the perpetrators of the Watergate crimes were in the Nixon Administration, he must share the responsibility for what was done. Because the Arts Council sponsored the show, the Arts Council is responsible for the presentation.

But the President has a right to be judged innocent until proven guilty, and the Arts Council has a right to the same judgment. There are those who simply cannot believe President Nixon didn't know about the Watergate affair, and they say that even if he didn't know about it, he should have known. There are also those who say the Liberty County Arts Council must have known the script of that play, and if they didn't know, they should have.

I don't agree with either position, because although it is his responsibility, President Nixon is far too busy to know exactly what every member of his administration is doing. When it comes to selecting a program, the Arts Council is in much the same position.

To further illustrate the point, I am publisher of a newspaper. As a publisher, I am responsible for every word that is printed in this paper. But try as I may to control the whole paper, every once in awhile something slips into print which I do not condone. This does not relieve me of the responsibility, but it does put me in a better position to understand the failings of others who are also in positions of responsibility.

I do not believe President Nixon is a crook and I do not believe the Liberty County Arts Council is an instrument of dissemination of smut.

Therefore, I do not believe the President should be impeached because of Watergate, and I do not believe this community should in any way withhold future enthusiastic support of the Liberty County Arts Council because of this incident.

"MURDER BY HANDGUN: THE CASE FOR GUN CONTROL"—NO. 56

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. HARRINGTON. Mr. Speaker, today, from the November 29th Washington Post, come two articles on handguns. One is the story of an accident; the other a robbery. One was fatal; the other was not.

Francis Catchedi was accidentally shot in the face while examining a revolver with a friend. An 18-year-old in southeast Washington was murdered after being robbed of an undetermined amount of money.

Lindberg Brewer's death must be added to the large number of futile deaths caused by handguns. How many more innocent people like him must die before adequate handgun legislation is enacted?

The two articles follows:

SILVER SPRING YOUTH SHOT IN PISTOL MISHAP

A 15-year-old Silver Spring boy was wounded in the face yesterday when a 38-caliber revolver being shown him by a friend accidentally discharged, Montgomery County police reported.

The gunshot victim, identified as Francis A. Catchedi, 407 Irwin St., was reported in good condition last night at Holy Cross Hospital where he was receiving treatment for a flesh wound in the left cheek.

Police said the incident occurred in a home in the 800 block of Whittington Terrace about 4:30 p.m. while the youth was visiting a 16-year-old friend.

According to investigators, the older youth was exhibiting the pistol which police said belonged to his father to the Catchedi boy when the weapon went off:

Police said the revolver was taken into their custody and no charges were filed in the case.

SE YOUTH SHOT IN ROBBERY DIES

An 18-year-old Southeast youth died of a gunshot wound suffered yesterday when he was robbed on South Capitol Street, Washington police said.

He died at 8:06 p.m., nearly three hours after the robbery, on a Cafritz Memorial Hospital operating table, a hospital spokesman said.

The youth, identified by police as Lindberg Brewer Jr., lived with his father at 621 Elmira St. SE, a hospital spokesman said.

Brewer was walking in the 3600 block of South Capitol Street, police said, when a gunman approached him, robbed him of an undetermined amount of money and then shot him once in the abdomen.

SAVING FUEL: A PROPOSAL

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. MARTIN of North Carolina. Mr. Speaker, in connection with our deliberations over the Emergency Energy Act bill, H.R. 11450, I have made earlier remarks arguing that any system of rationing must be nondiscriminatory and evenhanded. In order to treat all consumers fairly and avoid weighing cases for special allocations, I have proposed that each person be rationed a basic share of fuel, with an option to buy an extra share at a higher net price or tax.

Such a system would not be unfair to the poor, would not encourage black-market profiteering, would not establish a chaotic administrative apparatus and would permit economic considerations to determine who would pay extra for the extra share. Such a combination would preserve a healthy measure of the free market if we must resort to rationing short supplies.

In support of this proposal I am pleased to insert into the RECORD the following editorial from the Charlotte, N.C., News of December 6, 1973:

SAVING FUEL: A PROPOSAL—COMBINATION OF TAX AND RATIONING IS BEST

Like the rest of the energy crisis, the gasoline shortage is not going to have any pleasant and immediate solutions. But of the various approaches to it being discussed, one seems most likely to be reasonably equitable, effective now and compatible with the long-range solutions that must follow it.

This proposal is a combination of gasoline rationing and higher gasoline taxes. It could take any one of a number of forms, but the central idea is the same in all of them. For basic needs, each person (or driver or family or automobile) would be allocated a set amount of fuel, say 10 gallons a week; this could be purchased for roughly today's prices. All gasoline above that would be heavily taxed, selling perhaps for $1 a gallon. The allocations—perhaps represented by stamps—would be transferable and sellable. People who wanted more gasoline could buy it—by paying higher prices or by buying coupons from their neighbors entitling them to additional lower-priced gas.

It would not be a perfect system, or a perfectly fair system. But it does have some considerable advantages over the alternative plans:

UNREGULATED PRICES?

Reducing demand by letting the price of gasoline rise naturally would be disastrous, though that's what's happening now pending a decision on what else to do. It would give windfall profits to the oil companies who are heavily at fault in the current crunch (though are not really to blame for the larger, long-term energy crisis). In doing that, it would give great economic incentive to the production of gasoline, when refinery capacity should be shifted, to the extent possible, to the production of home heating oil and the fuels essential to the economy. Also it would allow the rich to pay and the poor to walk.

A HIGHER TAX?

Simply imposing a higher tax alone could solve some of the defects in the floating-price solution, but not all of them. The money would not go to the oil companies but to the government, which could return it in the form of mass transit grants and subsidies. But unless the tax were very steep, it might not reduce usage sufficiently. And it would not solve the problem of discrimination against the poor. In addition, economists say, it might take too much money out of an economy already heading for recession.

RATIONING ALONE?

Rationing alone would permit the government to effectively limit the sale of gasoline, thus removing that disincentive to fuel oil production. It would allow everyone a share of the available supplies. But it very likely could not be set up as quickly as the combination tax-rationing program, could encourage black-market diversion of gasoline, and would not be as flexible in the countless cases of individual hardship any rationing system will create. It would be better than the simple tax and free-market plans, but not as good as the combination.

For the short run, then, the combination tax-rationing proposal has quite a few advantages. It could be set up fairly qnickly, need not lead to black markets, would not confront the poor and middle income workers with sudden new financial burdens, and would have much of the flexibility of an open-market system. It would not be painless: it is a system for sharply reducing gasoline consumption; but it would be preferable to other available systems, which would endeavor to accomplish the same end through means that could be much harsher, and more unjust in individual cases.

For the long run, the tax-rationing proposal is compatible with the direction energy policy must take. It would move toward energy prices more in line with the real cost of energy, prices more in line with the need to conserve fuels in the years ahead. It would not force people to sell their gas-guzzling cars today—which they couldn't afford to do—but would encourage them to buy more efficient cars for the future. It would not force them to abandon suburbia—which they couldn't afford to do—but would encourage a reversal of the sprawling development patterns that make mass transit uneconomical and force workers to drive unnecessarily long distances.

TODAY AND TOMORROW

What the tax-rationing combination proposals would do is impose direct controls now—when they are needed—while setting the stage for eventual control by market force, which are the only controls that can be expected to work for the long-term. There are obvious details to be worked out. Who would get the allocation of gas? How large would it be? How high would the tax be set? Should additional production and price controls be imposed on the oil industry? But essentially these same questions of usage, price and mechanism would have to be answered for any system. The combination tax-rationing plan seems to be the most attractive, at least for now.

HATE MAKES WASTE

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. CARTER. Mr. Speaker, times of trouble are certainly not the times when dissension and hard feelings serve any constructive purpose. Indeed, all of us know that there can never be any positive results from ill feelings toward our fellow human beings.

Our Nation faces difficult times. It is essential that we set aside feelings of hate among ourselves and move to build greater efforts for improvement. I call to the attention of my colleagues the following statement on this subject:

HATE MAKES WASTE

Hate drains time and energy, and gets no one anywhere.

If all the time Americans now spend hating each other was spent instead on working to improve whatever it is they dislike, there soon wouldn't be much of anything left to hate.

Since hatred hasn't resulted in anything except destruction, hurting everyone, might this constructive method be worth trying, for a change?

CONGRESS SHOULD ACT ON BLOOD BANKING

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. VEYSEY. Mr. Speaker, next Monday, December 17, the American Medical Asociation, the Department of Health, Education, and Welfare and the Nation's blood collection and distribution industry leaders will consider further a voluntary agreement on how best to clean up the unconscionable scandal of the spread of disease through the blood industry in this country today.

Those three entities, along with numerous groups who share in the lately awakening national concern over the problems which beset the business of buying and selling blood, will meet in Chicago on that day with absolutely no official voice or expression of concern from the U.S. Congress.

Mr. Speaker, I submit that if there was ever a case for Congress to take the lead in righting a wrong, this is that case.

The blood business is nationwide. Blood purchased in the ghettos or skid row areas of Los Angeles, Chicago, Dallas, Miami or a hundred other cities can show up the next week in the blood stream of an open heart surgery patient on the other side of the country. Blood is sent to where it is needed, and it should be.

Mr. Speaker, the three entities which will meet next Monday in Chicago are trying desperately, though belatedly, to seek some kind of common ground where they can cooperate comfortably and also clean up the hepatitis-infested blood supply. Most of the individuals involved are conscientious, well intentioned, and dedicated to ending this hepatitis blight.

At the same time, each entity within the blood business, including the American Red Cross, the American Association of Blood Banks, the Council of Community Blood Centers, and the American Blood Resources Association have their own vested interests to protect. Each wants the voluntary agreement to reflect its individual wants. The same is true of the AMA and to some extent, HEW.

The Department of Health, Education, and Welfare, which prompted this convergence with the announcement of a newly conceived national blood policy, is now anxious to do the job, but is relatively powerless to undertake more than weak administrative action.

The American Medical Association, meanwhile, has announced its own national blood plan which would set the AMA up as the monitoring station at all checkpoints, from community level to nationwide.

On Monday, all of these interests will be represented at the Chicago meeting, because they genuinely want to work out any shred of agreement that may be possible. But there is no doubt in my mind that any partial solution which might evolve will place the priorities of each special interest group, including HEW, ahead of the needs of each individual citizen in this country.

Mr. Speaker, in my opinion the Congress should be squarely in the middle of this debate. The issues should be brought to the surface in public hearings before the appropriate congressional committees, and the solutions should be hammered out in discussion, drafted into statute, and become the law of the land. The solution should be comprehensive, as fair as possible to all special interests, and attentive to protecting a very particular special interest—the life and health of every American.

Mr. Speaker, the National Blood Bank Act of 1973 now has more than 100 sponsors in the House of Representatives. Meanwhile, Senator PERCY has taken the initiative in the other body and is developing comparable, comprehensive legislation.

This problem is not a partisan one, nor is the proposed solution a partisan one. Further, the details of the proposal are open ended. We are not bound to any concept other than eliminating the unacceptable level of hepatitis and other diseases which result from the blood business we have today.

Mr. Speaker, I urge immediate congressional attention to this problem. It is not only the responsibility of the Congress to assume the role of arbitrator in developing a solution, it is imperative that we take the lead in shaping that solution. Unless we do, the legitimate interests of each segment of the blood industry are in danger.

The well-being of every American must come before the protection of any special interest.

Congressional attention can assure that such is the case.

KING COAL RETURNS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. GAYDOS. Mr. Speaker, King Coal is back.

For years he was alone and unwanted by his people. But the energy crisis has changed all that. He has been draped anew in robes of royal purple and there are indications he once again will assume his throne as reigning monarch of this Nation's natural energy fuels. He has found favor among the leaders of this government as well as the sovereign heads of foreign financial kingdoms.

The December 3 edition of the Wall Street Journal headlined an article heralding King Coal's popularity abroad. It cited a number of reasons responsible for his resurgence to power.

The worldwide scramble by many nations to acquire new energy sources is, of course, a major one. But, there are others, too. The double dip of the dollar has made any investment in the United States cheaper, and therefore more attractive, to the foreign buyer. Also, our coal operators here have long been in a depressed state. They may find the offers dangled before them by foreign solicitors, whose briefcases bulge with dollars and whose checkbooks are open and blank, irresistible.

There is another reason, however, which particularly interested me. I quote from the Journal:

> Unlike the situation in various other countries, the U.S. hasn't any—I would like to emphasize the word "any"—regulations that limit foreign ownership in this basic industry. Thus far, only a tiny fraction of the U.S. coal business is foreign-owned. But—and I would like to emphasize this also—analysts say the share could become significant if the present trend were to continue for long.

Mr. Speaker, the Foreign Investment Limitations Act of 1973, of which I am a cosponsor, would prevent the trend from continuing for too long. It would allow foreigners a share of our industry but prohibit them from shackling it.

The Journal says the United States now has no regulations to limit foreign coownership in the coal industry. I say if limiting legislation is not passed, the United States will not have a coal industry to regulate.

UNFAIR TRADE PRACTICES

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. LONG of Maryland. Mr. Speaker, four countries control over 80 percent of the world's copper exports, two countries control over 60 percent of tin exports, and four countries control more than half of the world's bauxite supply. The United States is now primarily dependent on imports for 6 of the 13 basic industrial raw materials—from aluminum to zinc—and projections show we will depend on 12 of these 13 materials by the year 2000. The United States is currently the target of an oil embargo by Arab States. Should we not be preparing for the possibility that other politically unstable countries will imitate the Arabs' use of scarce resources as economic and political weapons? Yet the Trade Reform Act, H.R. 10710, is silent on this point.

I am informed by various counsel that unjustifiable restrictions on exports, such as the discriminatory quotas and embargoes imposed by Arab oil producers, are not clearly defined as unfair trade practices under title III of the Trade Reform Act. In such far-reaching legislation as this, which allows the President broad discretionary powers, the purpose of Congress must be as clear as possible.

I bring to the attention of my colleagues a table which describes U.S. dependence on imports for principal industrial raw materials:

U.S. DEPENDENCE ON IMPORTS OF PRINCIPAL INDUSTRIAL RAW MATERIALS WITH PROJECTIONS TO 2000

[Percent imported]

Raw material	1950	1970	1985	2000
Aluminum	64	85	96	98
Chromium	(1)	100	100	100
Copper	31	0	34	56
Iron	8	30	55	67
Lead	39	31	62	67
Manganese	88	95	100	100
Nickel	94	90	88	89
Phosphorus	8	0	0	2
Potassium	14	42	47	61
Sulfur	2	0	28	52
Tin	77	(1)	100	100
Tungsten	(1)	50	87	97
Zinc	38	59	72	84

(1) Not available.

Source: Data are derived from U.S. Department of the Interior publications. "World Without Borders," by Lester R. Brown [c.1972 by Random House].

THE AFL-CIO CASE FOR IMPEACHMENT—I

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Ms. ABZUG. Mr. Speaker, recently the AFL-CIO launched a forceful campaign for the impeachment of the President. For the consideration of my colleagues, I am inserting the first in a series of articles in the CONGRESSIONAL RECORD:

FIRST IN A SERIES: THE CASE FOR IMPEACHMENT OF RICHARD M. NIXON—NOW

Richard M. Nixon has committed an impeachable offense by instituting in the name of national security a plan which violated civil liberties through domestic political surveillance, espionage, wiretapping, burglary, eavesdropping, opening of mail, and military spying on civilians.

On June 5, 1970, the President summoned the directors of the FBI, the CIA, the Defense Intelligence Agency and the National Security Agency to the White House and directly instructed them to devise a new scheme for expanding domestic intelligence operations beyond the confines of and the restraints on the existing intelligence network, and without regard to the constitutional rights of the American citizenry.

This command resulted in a 43-page document proposing and supporting a wide-ranging series of "improvements" in domestic intelligence gathering. The document specifically recognized, and stated, that the proposals were "clearly illegal" and of such nature that "serious risks are involved." The recommendations were:

1. Lifting of the ban on "surreptitious entry;" the document noted that "this amounts to burglary."

2. Increased wiretapping of domestic security suspects and foreign diplomats.

3. Relaxation of restrictions on covert mail coverage—another term for the opening and reading of people's mail.

4. Increasing FBI informers on university campuses.

5. Spying on American citizens using international communications facilities.

6. Arrangements for hiring additional manpower and providing for the increased intelligence costs.

7. Increased CIA spying on students and others abroad.

8. The establishment of a new supra-agency intelligence group to include representatives from the White House, the FBI, the CIA, the DIA, the NSA and the three military counterintelligence agencies. This group was ordered to carry out the objectives specified in the report and to *"perform such other duties as the President from time to time shall assign."*

This was a plan to establish direct, day-to-day White House control of the nation's intelligence apparatus.

This was a plan to give the President a secret police force, ready and able to respond to his command, stripped of the traditional and legal restraints and safeguards against abuse which had carefully been built around the FBI, the CIA, and the government's other intelligence gathering operations.

This was a plan which Sen. Sam Ervin, chairman of the special Senate Watergate Committee, described as showing "a Gestapo mentality."

This was the plan the President of the United States, after "careful study," approved and put into operation.

This was the plan which the President intended to keep secret from the Congress and the American people.

The President does not deny that he approved this plan. On May 22, 1973, he said: "On June 25, (1970), the (intelligence) committee submitted a report *which included specific options for expanded intelligence operations* and on July 23 the agencies were notified by memorandum *of the options approved*. The options initially approved had included resumption of certain intelligence operations which had been suspended in 1966. These in turn had included authorizations for surreptitious entry—breaking and entering, in effect—on specific categories of targets in specific situations *related to national security*."

"National security" is the umbrella phrase the President has repeatedly used to deny the Congress, the courts, and the public information as to what was going on and who was responsible with respect to Watergate.

After five days, this plan was rescinded, so the President claimed on May 22, 1973. It was rescinded:

Not because the plan was illegal.

Not because it was a bad plan.

Not because establishing a super-secret intelligence network—with expanded, presidentially-approved powers to break the law, to pry into the private affairs and lives of American citizens at home and abroad on the most massive scale ever attempted by an American government in peace or war—was repugnant to the entire democratic history and traditions of the Republic.

But because FBI Director J. Edgar Hoover objected to the plan.

And because Hoover objected, the plan could not work.

"After reconsideration," the President said on May 22, *"prompted by the opposition of Director Hoover*, the agencies were notified . . . that the plan had been rescinded."

Or so the President said.

But on July 9, 1973, Tom Charles Huston, the former White House aide who drafted the secret police plan, told the House Armed Service Intelligence Subcommittee, under oath, that the plan was never formally cancelled, as Nixon said in his May 22 statement to the public.

What is an impeachable offense?

According to Cannon's Precedents of the House of Representatives (Vol. VI, Section 545), which governs the procedures of the House:

"Impeachable offenses are not confined to acts interdicted by the Constitution or the federal statutes, but include also acts not commonly defined as criminal or subject to indictment.

"Impeachment may be based on offenses of a political character, on gross betrayal of public interests, inexcusable neglect of duty, tyrannical abuse of power and offenses of conduct tending to bring the office into disrepute."

Richard M. Nixon has committed an impeachable offense by initiating and establishing a secret police, authorized by him in contravention of the Constitution and unchartered by Congress, to violate the legal rights of the American people.

Therefore, Richard M. Nixon, President of the United States, should be impeached—now.

(Emphasis added.)

LYNDON B. JOHNSON MEMORIAL GROVE

HON. W. R. POAGE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1973

Mr. POAGE. Mr. Speaker, while I recognize that it is entirely unnecessary to add to comments made in behalf of the establishment of the Lyndon B. Johnson Memorial Grove, I want to raise my voice in behalf of such a worthy objective. I think that this is an especially appropriate tribute to one of the great Presidents of the United States; one of the great Members of the U.S. Congress; one of our most distinguished former Members of this House and a dear personal friend.

I am happy that Congressman PICKLE, who has long represented the Austin, Tex. district, has sponsored this measure. I know that it has the approval of Lady Bird, the former President's wife and helpmate. Both the President and Mrs. Johnson have long sought to improve the beauty of our environment. Indeed a part of the very area in which this grove is to be located has already been designated as the Lady Bird Johnson Park and is already a thing of beauty and enjoyment to our people, especially in the early spring when its thousands of flowers are in bloom.

When the former President was a boy in the hill country of central Texas practically no one recognized the beauty of that area. Over the years Lyndon and Lady Bird have done so much to focus attention on the outstanding natural beauty and to add to that beauty by so many improvements that today most of the world knows the hill country as a land of great attraction.

This grove of trees along the Potomac River is in itself but a small item, but it will add to the beauty of the most beautiful city in the world and it will give deserved recognition to Lyndon Johnson's efforts to make this whole country a more attractive place.

I trust that this bill will become law without undue delay.

GEORGE F. KENNAN ADVISES "NO" TO ARAB OIL

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. JAMES V. STANTON. Mr. Speaker, in an article published recently in the Washington Post, George F. Kennan, noted diplomat and historian, expressed his view on what our policy toward the Arab oil embargo should be. Kennan analyzes our position vis-a-vis the Middle Eastern states in a thoughtful and perceptive manner and concludes that our interests would best be served by refusing, for the time being, any offer to resume oil shipments.

I commend this article to the attention of my colleagues.

THANK YOU, NO!

(By George F. Kennan)

On Nov. 17, 1973, The New York Times carried a story, from a Washington correspondent, based largely on statements of the President, concerning speculation that the Arab oil embargo on shipments to this country might soon end—that the Arab governments, or at least certain of them, might soon "relent" and resume the shipment of oil to this country.

The story contained no hint that in such a case the United States would not gratefully accept the renewed shipments; it seems, on the contrary, to have reflected an assumption on the part of various highly placed people that the United States would do just that.

This assumption causes me, as one who was once moderately involved in the planning of national policy, no small measure of amazement. I would have thought that if the events of recent weeks had taught us anything at all, it would have been the danger of allowing ourselves to remain unduly dependent upon foreign suppliers for raw materials vital to the continued prosperity of our society, especially when it is a case of suppliers who are obviously not inclined to acknowledge the responsibility they assume when they permit great industrial nations to become dependent upon them in this manner, and who feel they have no reason to respect our interests.

Particularly is this a lesson to be pondered when it relates to the Saudi Arabians. It is obvious that the Government of that country already has far more foreign currency than it needs or could even use to any particularly good effect. This has two connotations that should concern us:

First, we should reflect whether we wish, on principle, to place more money in the hands of people who are unlikely to use it to any good purpose.

Second, it means that the money with which we would be paying for further shipments of Saudi Arabian oil would be essentially valueless in their eyes. They could see these shipments, in the circumstances, only as a form of charity on their part, or as a means of assuring future arms shipments.

Either alternative is undesirable: the charity, because it represents a poor peg on which to hange the security of the supply of a commodity vital to the stability of a country's economic life; the assuring of arms shipments, because if the government we have to do with here does not hesitate to bring to us the sort of injury implicit in this abrupt withholding of oil shipments, what assurance can we have that arms placed in its hands would always be used for purposes any more compatible with our interests.

Today, of course, a further price is being asked of us: a political price; and the nature of it is such that we ought fervently to wish that we might not again be placed in a position where we are vulnerable to this sort of demand. In addition to its being a price that can be paid only at the expense of a third party—a situation undesirable on principle, regardless of the rights and wrongs of the matter, it is one that promises no secure return, for the payment of it would leave us no less helpless and vulnerable tomorrow than we are today. If it should be demonstrated that we could be successfully whipsawed by one such demand, we would be naive to suppose that we would not soon be faced with others.

The relatively minor adjustment we would be obliged to make in order to get along without Arab oil, or at least without the oil of those who have cut us off at the present juncture, should be seen only as a beginning of a much wider process of self-emancipation from dependence on foreign-controlled sources of energy which we ought anyway to be putting in hand, with vigor and determination, at this stage in our national life.

We can be grateful that we were kicked into such a beginning. If we quail at this minor inconvenience, it will be a bad omen for our prospects for coping with the larger problem, for it will mean that our addiction to the wastage of energy, particularly through the medium of the automobile, is so abject that we prefer to face the loss of a considerable portion of our independence of policy rather than make even a minor effort to overcome the addiction. This would represent a humiliation which earlier American statesmen would never have accepted, and for which future generations of Americans would be unlikely to forgive us.

These observations flow from no hostility toward the Arabs, nor are they meant as a commentary on the rights and wrongs of their conflict with the Israelis. One can understand that certain of them have their own problems and feel themselves the victims of an historical injustice, for the remedy of which all means are fair. But justice is not an invariable feature of international life, nor is it always easy to determine to every one's satisfaction. And a relationship of onesided dependence, which one of the parties has shown itself quite ready to exploit for ulterior political purposes, provides a poor foundation on which to build for the future.

There are times in international life, no less than in personal affairs, when it becomes possible to live satisfactorily with people only when one has demonstrated the capacity to live without them; and this would seem to be one of those times.

The day may well come—let us hope that it will—when we have been able to create, in one way or another, sufficient bargaining power to deal with our Arab friends once again on even terms and against a background of mutual respect. But this day, obviously, will not be soon in coming. Until it comes, let us treat them with courtesy and with no ill feeling; but if faced with offers to resume the sort of shipments of which we are now being so usefully (for us) deprived, let us thank them very much and tell them frankly that we have ways of assuring the continued functioning of our national economy that are less costly in terms of our international position, of the independence of our national policy, and of our own self-respect.

IN DEFENSE OF THE FAIR CAMPAIGN PRACTICES COMMITTEE

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. REES. Mr. Speaker, I was very disturbed recently to read that the Internal Revenue Service has revoked the tax exempt status of the Fair Campaign Practices Committee. The seriousness of this move is compounded by the continued revelation of scandals which seem to surround some political campaigns.

I wonder if there could be any possibility that the revocation of the tax exempt status of the Fair Campaign Practices Committee was in retaliation for the activities of the committee. I am planning to take this matter up with the Internal Revenue Service and will report my findings back to the Congress.

A recent article dealing with the revocation follows:

FAIR CAMPAIGN UNIT PERILED BY LOSS OF TAX EXEMPTION

(By William Claiborne)

The Internal Revenue Service has revoked the tax exempt status of the Fair Campaign Practices Committee retroactive to 1966, a move that jeopardizes the existence of the 19-year-old non-profit, non-partisan watchdog organization.

Charles P. Taft, chairman of the committee and son of the 27th President, suggested last week that the Nixon administration's ruling on the committee's tax status might be retribution for the embarrassing disclosure in 1971 that Republicans had financed a series of newspaper ads in the closing days of the 1970 campaign denouncing eight Democratic senatorial candidates as extremists and "radicals." The advertisements were so harshly worded that they were repudiated even by the opponents of the Democratic candidates.

Responsibility for the advertisements was laid by the campaign practices group to Carl L. Shipley, a prominent Washington lawyer and a member of the Republican National Committee. Shipley vehemently denied it at the time, and sources outside the committee said the ads were prepared by a secret unit operating under the aegis of the White House.

The Fair Campaign Practices Committee was critical of the newspaper ads, and more recently has been critical of President Nixon's public statements about the Watergate scandals.

Last May, Taft, former mayor of Cincinnati and now a Republican city councilman, declared in a report that the tactics used in the Nixon re-election campaign were the "dirtiest" encountered in the nearly 20 years of the committee's existence.

In July, the committee publicly rejected what it termed Mr. Nixon's implication that Watergate was the "result of inadequacies in the law itself."

In an interview Taft, 76, said he had no evidence to prove that the IRS decision to revoke the committee's tax exempt status was a direct result of his statements on Watergate.

"But the first noises from the IRS came not too long after the Shipley affair. It makes you wonder whether someone made a telephone call to the right place," Taft said.

The committee, which monitors campaign practices and investigates complaints of unfair tactics, was notified by the IRS four months ago that it was losing its tax exempt status, Taft said.

In an undated memorandum sent to Samuel J. Archibald, the committee's executive director, the IRS ruled that the committee's release of information about a candidate's unfair campaign practices was, in effect, a statement in behalf of the candidate's opponent.

Therefore, the IRS reasoned, "such activity brings you within the definition of an 'action' organization," resulting in loss of tax-free status.

Taft said that the committee routinely monitors congressional, gubernatorial and presidential elections and, when a complaint is made by one candidate against another, attempts to verify the charges. Taft said that his group then notifies the accused candidate of the charges and sends notices to the news media that the files are available for examination.

In recommending the lifting of tax-free status, IRS agent O. C. Francisco wrote, "On the basis that your files are public records, you have continued to make them available to individuals coming to your office. There was no indication that they were made available only for non-partisan analysis, study or research purposes."

The Fair Campaign Practices Committee, whose members include three former national committee chairmen from each major party, last year investigated 80 complaints, of which only six stemmed from the presidential election.

In 1965, for example, the panel supported charges by former Republican Sen. Kenneth B. Keating that his Democratic challenger in New York, Robert F. Kennedy, unfairly distorted some of Keating's remarks. In 1964, the panel attacked the Citizens for Goldwater Committee for publishing "hate books" attacking President Johnson.

Taft said that if the committee loses an appeal of the IRS ruling, it is doubtful that the organization can survive financially.

AMENDMENT TO H.R. 11882

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. SARASIN. Mr. Speaker, under rule XXIII, clause 5, I am offering my amendment to section 122 of H.R. 11882 for publication in the CONGRESSIONAL RECORD:

AMENDMENT TO H.R. 11882, AS REPORTED OFFERED BY MR. SARASIN

Page 44, after line 12, insert the following:

(b) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Page 44, line 13, strike out "(b)" and insert "(d)".

THE AFL–CIO CASE FOR IMPEACHMENT—II

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Ms. ABZUG. Mr. Speaker, recently the AFL–CIO launched a forceful campaign for the impeachment of the President. For the consideration of my colleagues, I am inserting the second of a series of articles in the CONGRESSIONAL RECORD:

SECOND IN A SERIES—THE CASE FOR IMPEACHMENT OF RICHARD M. NIXON—NOW

Richard M. Nixon has committed an impeachable offense by creating a special and personal secret police, answerable only to the White House and operating totally outside the constraints of law.

In mid-1971, President Nixon, by direct and secret order, created within the White House a special investigations unit known as the "plumbers."

Not only was its creation secret, but its existence and functions were secret. E. Howard Hunt, one of the "plumbers" and a convicted member of the Watergate burglary team, once described it as "above the FBI and CIA."

On May 22, 1973, President Nixon acknowledged his creation of the unit:

"This was a small group whose principal purpose was to stop security leaks and to investigate sensitive security matters. . . . The unit operated under extremely tight security rules. Its existence and functions were known only to a very few persons in the White House."

This was the group which plotted and carried out the burglary of the office of the psychiatrist of Daniel Ellsberg. The "plumbers" committed this crime with the clear knowledge that it was a crime. They committed this crime under the clear impression that they were ordered to do so by the President of the United States.

Why did the "plumbers" think they were operating under the orders of the President of the United States?

President Nixon admitted, in his May 22 statement, that he personally told Egil Krogh, head of the "plumbers" unit, to "find out all it could about Mr. Ellsberg's associates and his motives" for making the Pentagon Papers public. The President added: "I did impress upon Mr. Krogh the vital importance to the national security of his assignment."

So certain was Mr. Krogh that he was under presidential orders that he sent a memo to Presidential Assistant John Ehrlichman stating: "We would recommend that a covert operation be undertaken to examine all the medical files still held by Ellsberg's psychiatrist."

So certain of presidential approval was Mr. Ehrlichman that he sent the memo back marked: "approved—if done under your assurance that it is not traceable."

John Dean, counsel to the President, testified that Mr. Krogh twice told him that the orders for burglary came "from the Oval Office" of the President. Mr. Krogh, now under indictment for lying under oath about his role in the Ellsberg case burglary, has pleaded not guilty, claiming that he was ordered to lie in order to preserve the secrecy of the "plumbers" and its operations.

Mr. Ehrlichman later told the Senate Watergate Committee that the President had told him in March of 1973 that the Ellsberg case burglary "was an important, vital national security inquiry well within the constitutional function of the President."

Not only did Mr. Nixon order that the existence and operations of the "plumbers" be kept secret, but he personally took extraordinary steps to keep it hidden.

He obstructed justice by personally ordering that evidence of the "plumbers" involvement in the Ellsberg case be kept from the judge presiding over the Ellsberg trial.

On April 18, 1973, Assistant Attorney General Henry E. Petersen went to Mr. Nixon to tell him that if details of the Ellsberg case burglary were not disclosed to the judge, the Department of Justice would be party to a conspiracy to obstruct justice.

Mr. Petersen testified that as soon as he raised the matter of the burglary with Mr. Nixon, the President told him: "I know about that. This is a national security matter. You stay out of that."

The President did finally release the information—but only after Mr. Petersen and then Attorney General Richard Kleindienst threatened to resign.

Mr. Nixon has gone to other extraordinary lengths to keep the existence and the operations of the "plumbers" secret.

He directly ordered that the investigation of the Watergate break-in be limited to keep the "plumbers" activities hidden. On May 22, he stated that he had "instructed Mr. Haldeman and Mr. Ehrlichman to ensure that the investigation of the break-in not expose . . . the activities of the White House investigations unit," and that this effort be "personally coordinated" with top officials of the FBI and the CIA.

He has insisted that the "intelligence" activities of the "plumbers" had no connection with the Watergate break-in—despite the fact that both G. Gordon Liddy and E. Howard Hunt were members of the "plumbers" unit and now are convicted principals in the Watergate break-in.

He has sought to preclude further revelations of the "plumbers" activities by classifying these as "national security" matters. In revealing the creation of the unit, he added that he "also assigned the unit a number of other investigatory matters . . . Additional assignments included tracing down other security leaks."

At this time no one knows what these assignments were, or, for that matter, whether they too were illegal.

Richard M. Nixon has committed an impeachable offense by creating a special and personal secret police, by hiding its illegal activities behind "national security," and by obstructing justice in the name of "national security."

Therefore, Richard M. Nixon, President of the United States, should be impeached—now.

PLASTICS AND PETROCHEMICALS: IMPENDING DISASTER

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. McKINNEY. Mr. Speaker, this Nation faces a scarcity of raw materials which, if not remedied today, could bring economic catastrophe for industry throughout the United States. The petrochemical industry, in general, and the plastic industry, in particular, are in jeopardy. I am prepared to offer statistics today which not only highlight the problem but also call for immediate action.

Figures from the Department of Commerce show that in the first 10 months of this year, this country exported 1.228 billion pounds of major petrochemical feedstocks. This represents a 27.4 percent increase over the same 10-month period last year. In the first 10 months of this year, this country exported 164 million pounds of polystyrene—PS—a product used in the plastic moulding industry. This represents a 45.1-percent increase in exports over last year. These figures are shocking.

With these statistics in mind, Mr. Speaker, let us look at the typical plastics company in the United States. Marcon Products, Inc., is located in Stamford, Conn. It is now operating at 25 percent of capacity. It has laid off 60 percent of its work force. Marcon is not unlike a hundred other firms in Connecticut. Five months ago, Marcon was running at peak capacity.

It was purchasing its needed raw material, polystyrene—PS—for 17 cents a pound. In November, its major suppliers, the top petrochemical companies in the United States, notified Marcon that they could no longer supply them with PS. Since the 17 cents a pound figure is frozen under phase IV guidelines, it is obvious from the Department of Commerce figures where all the raw material is going. It is going overseas at 35 cents a pound and it is driving American industries out of business. At the same time, Mr. Speaker, Marcon has been offered PS at 71 cents a pound on the black market. That Marcon cannot sustain this cost is obvious. It also highlights the intolerable position we now face in this country.

Mr. Speaker, today, I have taken the following steps. I have written the President and asked that he immediately place an embargo on all exports of petrochemicals. Under the Export Administration Act of 1969, the President is empowered to "protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal foreign demand (50 U.S.C. App. 2401)." I called for the President to enforce this authority.

I have also urged the Cost of Living Council to take necessary action immediately to see that the cost of petrochemicals may float to a natural level so as to wipe out the black market and restore the all important flow of raw materials to American companies.

These actions are necessary now.

I am enclosing the statistics from the Department of Commerce for my colleagues' attention:

MAJOR PLASTIC MATERIALS TRENDS IN PRODUCTION AND EXPORTS

[Quantities, millions of pounds]

Plastic material	Production (January to September)			Exports (January to September)			
				1972		1973	
	1972 quantity	1973 quantity	Change (percent) 1973 vs. 1972	Quantity	Percent of production	Quantity	Percent of production
Polyvinyl chloride (PVC)	3,071.8	3,345.9	+8.9	121.6	4.0	113.9	3.4
Polystyrene (PS)	2,742.4	3,050.5	+11.2	103.4	3.8	134.8	4.4
Low density polyethylene (LDPE)	3,863.8	4,280.5	+10.8	289.7	7.5	361.8	8.5
High density polyethylene (HDPE)	1,697.5	1,956.0	+15.2	204.6	12.1	213.2	10.9
Polypropylene (PP)	1,246.9	1,584.5	+27.1	115.2	9.2	224.7	14.2
Phenolic	1,092.2	1,445.2	+32.3	16.0	1.5	21.0	1.5
Total	13,714.6	15,662,6	+14.2	850.5		1,069.4	

MAJOR PLASTIC MATERIALS CHANGES IN EXPORT SHIPMENTS JANUARY–OCTOBER 1973 VERSUS 1972

Plastic material	Exports (million pounds)		
	January–October		Change percent 1973 versus 1972
	1972	1973	
Polyvinyl chloride (PVC)	135.7	129.5	−4.6
Polystyrene (PS)	113.0	164.0	+45.1
Low density polyethylene (LDPE)	330.3	411.9	+24.7
High density polyethylene (HDPE)	233.0	237.4	+1.9
Polypropylene (PP)	133.8	262.1	+95.9
Phenolic	18.4	23.1	+25.5
Total	964.2	1,228.0	+27.4

ABSURD TO KEEP SWEDEN AT ARM'S LENGTH

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. FRASER. Mr. Speaker, the Thursday, November 29 editorial page of the Jamestown, N.Y. Post-Journal devoted considerable space to an international problem that is easily solved. The problem: Lack of normal United States-Swedish diplomatic relations. The solution: Exchange of ambassadors.

The Post-Journal's editorial on the subject is optimistic and I hope with good reason.

A statement of our colleague from Wisconsin (Mr. REUSS), who earlier this session joined me in sponsoring House Resolution 521 which urges the administration to restore normal relations with Sweden, is quoted in the editorial. Mr. REUSS said:

> Mr. Nixon has just decided to send an American ambassador to Cairo. This is a wise move. But why not also send an ambassador to Sweden?

This, too, would be a wise move.

One of the Post-Journal's readers also

expressed himself on this subject. At the close of these remarks, his letter follows the editorial "United States, Sweden May Repair Breach":

UNITED STATES, SWEDEN MAY REPAIR BREACH

Within the last few days there have been indications from Washington that the United States and Sweden may be moving to improve relationships that have been strained for more than a year.

Late last week Secretary of State Henry Kissinger met with Wilhelm Wachmeister of the Swedish Foreign Ministry's political department, and State Department officials said the subject was "upgrading of the diplomatic establishment between the two countries."

Many Americans, particularly Swedish-Americans in the Jamestown area, have found appalling the rupture in relations that included recall of the American ambassador to Sweden and Washington's refusal to approve the incoming Swedish ambassador to the United States.

Earlier this month, Rep. Henry S. Reuss of Wisconsin told the House of Representatives, "Mr. Nixon has just decided to send an American ambassador to Cairo. This is a wise move. But why not also send an ambassador to Sweden?"

Mr. Reuss' reasoning was to the point. "In the last 10 years," he said, "the Egyptians have publicly insulted the United States on many occasions. Their head of state, for example, publicly advised the United States to 'go drink from the sea.' Sweden, while steadfast in its criticism of the U.S. presence in Southeast Asia, has remained a friend of this country."

Olof Palme, Sweden's prime minister, brought matters to a head when he compared U.S. bombing in North Vietnam with Nazi massacres of World War II.

Observers at the time interpreted Washington's diplomatic response as reaction as much to what was seen as a violation of Sweden's professed neutrality as to Prime Minister Palme's speech itself.

If many Americans found the United States' reaction overbearing and regrettable, there no doubt were many others who derived satisfaction that the United States had in some way finally lashed back at its critics.

But in the intervening year, the United States has found areas of agreement and accord with several of its long established and militant enemies around the world. With this in view, there has grown increasing dissatisfaction with our posture toward Sweden.

After all, many have pointed out, the United States has remained at least diplomatically tied to France even though that country has on various occasions openly disrupted our commerce, nearly wrecked the dollar abroad, tried to assert itself as a European power at our expense and treated far more openly and directly with our enemies than most countries in western Europe.

In the year that has seen changing friendships, there has also been change in Sweden that makes resumption of full diplomatic relations between the two countries more likely. Prime Minister Palme, although still in power, seems to be less solid in office than before September's election gave his opposition greater voice in the Swedish parliament. That vote is seen by some as an indication that Swedes are unhappy with the diplomatic situation just as many Americans are.

If, as some observers predict, the latest round of maneuvering will result in the resumption of full diplomatic relations between the two countries by the end of this year, it will be a step long overdue. The differences between countries, particularly with such a tradition of friendship as exists between Sweden and the United States, must be minimized in this day and age. There are more than enough problems around the world without looking for new ones.

THE FAILURE OF THE PUBLIC HEALTH SERVICE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. CRANE. Mr. Speaker, while many in Congress seek to continue the system of Public Health Service hospitals which the administration seeks to limit, the facts with regard to the efficiency of such hospitals tell a story far different than the one their proponents set forth.

The Hoover Commission, for example, first studied the problem in 1949, and in 1955 recommended that the PHS hospitals and clinics be closed. In 1965, the House Committee on Government Operations held 3 days of hearings into the problem spurred by the Johnson administration's proposal to close the hospitals.

In an important article in the October 27, 1973, issue of Human Events, Marvin Edwards, the former editor of Private Practice, the journal of the Congress of County Medical Societies, and author of the book, "Hazardous To Your Health," comes to similar conclusions concerning the failure of the hospitals run by the Public Health Service.

Mr. Edwards notes that—

> The inefficiency of the PHS system is detailed. . . . The 1965 committee hearings received testimony that in the previous year the average stay in general medical and surgical hospitals operated by the Public Health Service was 18.6 days, far longer than the average stay for similar illnesses in private hospitals.

Also cited in Mr. Edwards' article is testimony submitted in 1970 by the American Association of Councils of Medical Staffs to the Senate Finance Committee. Citing official reports in Hospitals magazine, the association reported that the average length of stay in all private hospitals in the city of New Orleans was 8.11 days while the average stay in PHS hospitals was nearly 18 days. While the average cost per stay in the private hospitals was $527, the average cost in the PHS hospitals, where taxpayers paid the bill, was $922.

Mr. Edwards concludes that—

> With the health of thousands of PHS patients at stake, it would be a tragic error to continue the flow of funds into a system that has proved not only costly but inefficient in providing health care. In altogether too many instances those persons who have placed their reliance on government-operated health plans have been rewarded by receiving worse care than their neighbors who continue to use the private health care system.

I wish to share Mr. Edwards' important article with my colleagues, and insert it into the RECORD at this time:

PUBLIC HEALTH SERVICES PROGRAM IS A MONUMENTAL FAILURE

(By Marvin Henry Edwards)

The Nixon Administration has lost the first round in its attempt to finally close the nation's Public Health Services hospitals, a target of government health experts for the past 25 years.

Even before Congress created the Medicare and Medicaid programs in 1965, the Public Health Service had demonstrated the problems which have since led both of those projects into massive cost overruns and snarls of red tape, reducing the quality of care received by millions of aged and indigent patients.

Since 1949 the PHS facilities have survived investigation into the inefficiency and high cost which have plagued government health programs, but the future of the hospitals took on a new look of uncertainty recently when the House of Representatives, by a narrow five-vote margin, sustained the President's veto of the Emergency Medical Services Act.

In his veto message, the President had specifically cited his objection to the bill's inclusion of a rider which would have committed the federal government to continued funding of the hospitals. The President told Congress that in-patient facilities at the hospitals have outlived their usefulness, that the number of individuals they serve is declining and that many of the hospitals are old and outmoded.

In an attempt to provide better care to those patients now treated in the Public Health Service facilities, the Administration has launched a program of contracting with community hospitals to care for PHS patients. The President claimed the patients would thus receive better care in more modern, better-equipped hospitals.

Although the presidential veto was sustained primarily on the basis of the Administration's proposal to phase out the PHS facilities, congressional advocates of the program succeeded in winning at least a temporary reprieve with a bill introduced by Sen. Warren G. Magnuson (D.-Wash.), to keep the hospitals operating at current levels unless Congress specifically authorizes their closing or a reduction in care levels.

The legislation, worded to play on the recent mood of Congress to defend legislative prerogatives, sailed through the Senate by a vote of 52 to 19 and was accepted without change by a House-Senate conference committee.

Although the vote to sustain or override the President's veto became, to a large extent, a mid-Watergate test of strength between the harassed Administration and congressional Democrats, there was nothing partisan in the President's attempt to improve the care received by Public Health Service patients. Both President Kennedy and President Johnson favored a change in the system and it was Anthony Celebreeze, secretary of health, education and welfare under the Kennedy and Johnson Administrations, who led the fight for a very similar phaseout program as long ago as 1965, on essentially the same grounds.

The government has been attempting for nearly 25 years to do away with the hospitals maintained by the Public Health Service and to provide its patients with a better level of care.

The Hoover Commission first studied the problem in 1949, and in 1955 recommended that the PHS hospitals and clinics be closed. In 1962, President Kennedy, in his health message to Congress, urged that something be done about the hospitals to improve the facilities and make the services more accessible. In 1965 the House Committee on Government Operations held three days of hearings in to the problem, spurred by the Johnson Administration's proposal to close the hospitals.

There was no debate in committee this year. The rider to continue funding the PHS facilities was tacked onto the bill on the Senate floor and never made its way through the committee process where members would have had a chance to take testimony and discuss the issue themselves. Nonetheless, the 1965 hearings remain instructive.

The Department of Health, Education and Welfare testified in 1965 that closing most of the Public Health Service hospitals, with major expansion and modernization of the remainder, would permit more comprehensive care, make the care more convenient, and save the government $1 million a year in operating costs. In addition, it was estimated that the government would save another $1 million in construction costs (for maintenance of the outdated facilities).

HEW's statement in connection with its proposal to close the facilities put the issue in concise form:

"The over-all proposal for the future of the Public Health Service hospitals and the care of persons eligible for treatment in these facilities has several noteworthy aspects. It permits more efficient and economical utilization of federal health care programs and facilities. It provides for a significant improvement in the quality of care for the bulk of patients now receiving [PHS] hospital services."

Although the 1965 Congress failed to adopt the HEW recommendation, which was strongly supported by the Johnson Administration's Bureau of the Budget, the failure was not so much due to support for the PHS programs as it was a result of a fear that transfer patients to other government hospitals—primarily the Veterans Administration hospitals, which have been widely criticized for their own inadequacy—would provide worse, not better, care for the PHS patients.

Significantly, the current Administration proposal does not call for a reliance on other federal facilities, which may be as bad or worse, but on contracts with community hospitals, entitling federal health care beneficiaries to the same level of care enjoyed by other citizens.

Although the Magnuson bill has again forestalled attempts to place PHS patients in higher-quality private hospitals, the drive will likely continue and Congress may some day be forced to debate the issue on its merits When it does, these are some of the factors that will have to be taken into account:

For the past 100 years the Public Health Service has been responsible for health care provided by the government to American Indians. The result has been an angry cry from tribunal leaders and Indian militants who protest that the care they receive is inefficient and of low quality.

The inefficiency of the PHS system is detailed in other ways as well. The 1965 committee hearings received testimony that in the previous year the average stay in general medical and surgical hospitals operated by the Public Health Service was 18.6 days, far longer than the average stay for similar illnesses in private hospitals.

The American Association of Councils of Medical Staffs, in 1970 testimony to the Senate Finance Committee, presented similar figures: Citing current official reports in *Hospitals* magazine, the association reported that the average length of stay in all private hospitals in the city of New Orleans was 8.11 days; the average stay in the U.S. Public Health Service hospital in that city was nearly 18 days. While the average cost per stay in the private hospitals was $527, the average cost in the Public Health Service hospitals—where the tab was picked up by taxpayers—was $922, which was $274 more than the most expensive private hospital and $395 more than the private hospital average.

Government health care facilities are coming under increased criticism, as evidenced by a powerful attack on Veterans Administration hospitals in a 1971 *Reader's Digest* article which stated that the system "is beset by critical malfunctions that result in misspent funds and misdirected treatment."

With the health of thousands of PHS patients at stake, it would be a tragic error to continue the flow of funds into a system that has proved not only costly but inefficient in providing health care. In altogether too many instances those persons who have placed their reliance on government-operated health plans have been rewarded by receiving worse care than their neighbors who continue to use the private health care system.

The record of federal failures in providing health care is becoming increasingly well known and should become a major factor in any congressional deliberations on proposals to keep pumping taxpayer funds into existing programs or to create new ones.

THE ENERGY CRISIS: A FEW ANSWERS AND MANY QUESTIONS

HON. W. S. (BILL) STUCKEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. STUCKEY. Mr. Speaker, today we are considering a bill to reduce the consumption of petroleum products in order to insure that the essential energy needs of the United States are met during this shortage. It also allocates supplies among all users without discrimination, except where users are designated as priority. This is an emergency measure, and although it may solve the shortrun problems, Congress has yet to adopt legislation to deal with the long-range planning so essential for insuring adequate energy supplies in the future.

Before we can competently draft legislation to provide for the future energy needs of this country, we must understand the reasons for the current shortage. There have been many rumors, an equal number of accusations, some thorough analyses, and a few lawsuits. It is up to us, as policymakers, to find out exactly who and what conditions were responsible for the shortage, and then we must take those steps, no matter how drastic, to insure that our future energy needs cannot be once again disrupted. I commend the following article by Mr. Art Larssen entitled "The Energy Crisis: A Few Answers and Many Questions" from the preview issue of Motorboat, copyright 1973. It sets forth in highly readable, layman's language some of these rumors, accusations, facts, and lawsuits and provides a framework from which to continue our examination of why we ended up in this emergency situation:

THE ENERGY CRISIS: A FEW ANSWERS AND MANY QUESTIONS

(By Art Larssen)

John D. Rockefeller, 1908: "I ascribe the success of the Standard Oil Company to its consistent policy of making the business large through the merit and cheapness of its products. It has spared no expense in utilizing the best and most efficient methods of manufacture ... It has not only sought markets for its principal products, but for all possible by-products, sparing no expense in introducing them to every nook and corner of the world."

Those were the days! Oil for the lamps of China, Black Gold, Boomtown—all the blithe promise of an industry that was both business and bonanza. In fact, it seems like only yesterday that Johnny Cash was telling us to expect more from Standard (or Amoco), Chevy was telling us to see the U.S.A., and there was a tiger roaring resolutely in our tanks.

Johnny's singing a different tune these days, telling us we should only go 50 on the highway (and probably get climbed upon by a semi doing 70); Datsun is sticking it in GM's ear with its economy ads; and the Exxon (nee Esso) Tiger has become an endangered species.

Where does this leave you, with your 42' twin-screw cruiser?

A pessimist will tell you that you aren't going to be able to run it down the Intracoastal to Lauderdale this winter. He might even tell you that you won't have enough gas to get your Caddy to the dock. An optimist will tell you that the oil companies have made their point, and from now on you'll have no worries.

For the boat owner, and the consumer in general, it doesn't matter whether the Energy Crisis is real or concocted. If it isn't real, it might as well be. It's possible that there are supplies squirreled away in tank farms—but maybe there aren't.

Whatever the explanations, the stuff isn't reaching the pumps in sufficient quantity. So, before we get into the charges and countercharges, we'd best look at the immediate past and future impact of the Energy Crisis (recently described by an oil company executive as the "Energy Intensive") on recreational boating.

The sport survived the summer with only "spot shortages," according to just about everyone. A "spot shortage," of course, is one that occurs somewhere else. If it was you that had to bribe the dock boy five bucks to get three bucks worth of gas, calm yourself, Chicken Little. You can relax in the knowledge that the heavens fell on only a small minority, and that the rest of the boating brotherhood had hardly any problems.

Many marinas were held to the same amount of gas they bought last year. In some parts of the Midwest, where the weather was bad in the summer of '72, this meant rationing in the balmier summer of '73. In New England, some yacht clubs were selling only to their members. On Lake Austin, in Texas, there was only one marina open to serve 4500 boats on a hot summer Sunday. The *Boston Globe* made points with boat owners by carrying weekend fuel forecasts on Fridays. Some resourceful marina owners were obtaining surreptitious supplies of gas from other than their regular suppliers. Trailer boat owners filled up the tanks on their boats at the same time they filled up their cars.

Boating, in short, survived Year One of the Energy Crisis in relatively fine shape. We'll never know, of course, how many long boating vacations and weekend trips were scuttled because of the uncertainty of a fuel supply along the way.

Next season, things may be different, and some say worse. The oil men tell us we ain't seen nothin' yet. The next three to four years, they say, will be critical, and we'll almost certainly face some kind of rationing.

John Ross, executive vice president of Sohio, commented recently that Americans are unwilling to make voluntary sacrifices in their lifestyle, and that rationing will be absolutely necessary. "If that happens, I can assure you that boating will be very low on our priority list," he added. He didn't say "Just ahead of motorized pogo sticks," but the implication was clearly there.

Gulf Oil probably feels, reluctantly, the same way. In past years they've made a strong play for marine business, what with their maps, Racing Hall of Fame, and so on. This year they dropped their support of the Gulf Marine Racing Classic series after running only one of a scheduled 14 races. Reasons: "The promotion was just too effective and has boosted our marine sales beyond our ability to supply the product," in the words of a Gulf spokesman.

From an oil man's point of view, this new attitude makes good sense. If you're selling gas, you immediately notice that the corner gas station is open all year around. If that station, and all the others in your marketing area (not to mention the increasing number of factory-owned outlets) are selling your entire quota to motorists, why disrupt things by sending a tank truck down to that hard-to-get-to marina that's only open four months of a year anyway? If necessary, you can even justify your action on moral grounds: "We're short. If we give it to those powerboats, our fire trucks and police cars may run short, too."

The oil industry is hitting the lecture circuit hard this year with topnotch speakers. Their message: We're only about seven years away from running out of domestic oil and natural gas. Our consumption rate continues to climb, thanks largely to energy-gobbling consumers. Whacko environmentalists ("misguided" is probably more accurate) and the always-bumbling government only complicate the matter. There's just no incentive to look for more, what with "bargain basement" prices for fuel oil, etc. "Our refineries," say the speakers—if they happen to work for one of the major firms, which they probably do—"are working at capacity, and nearly a third of what we're refining is coming from foreign countries."

Then comes the snapper: The conjured vision of robed sheiks and emirs in every corporate boardroom in America—a nation in chains, controlled not from the Kremlin, but from Ridyah, Kuwait, and Teheran. This vision may not be as conjured as it sounds, but more about that later.

The oil industry says the Energy Crisis didn't take them by surprise; they've been telling us about it for years. We just haven't been listening. We've been too busy buying cars (about 12 million sold last year) and outboard motors (half a million sold), not to mention power mowers, air conditioners, and snowmobiles.

The federal government must also share a big hunk of the blame, according to oil apologists. The new pollution controls on cars sucked up much more gas than any oil company could have predicted. Environmental restrictions on offshore drilling and refinery building, plus ordinances—federal and local—forcing abandonment of coal as an energy source, have all played a role.

In fact, just about everyone is to blame except the oil industry.

As proof, they cite statistics—Boy, do they ever!

Our nation, with six percent of the world's population, consumes nearly a third of the world's energy and this energy consumption will double in the next decade, according to oil spokesmen. Coal represents 77 percent of our fossil fuel reserves, but it accounts for only 18 percent of our current energy production. Oil and gas supply 78 percent of our energy, but they comprise only 12 percent of our proven fossil fuel reserves. Oil exploration is down—only half as many wildcat wells were drilled last year as were drilled in 1956. With the exception of the Prudhoe Bay discovery in 1968, our consumption is outpacing new finds. Even now that the way has been cleared for construction of the Alaska pipeline, we're three to four years away from getting that precious North Slope nectar into our gas tanks.

To keep pace with the demand for oil and natural gas, says the oil industry, we've got to find and develop the equivalent of a Prudhoe Bay each year. We need to find as much domestic oil in the next 18 years as we have produced in the last 115 years. And this won't come cheap. All the big, easy-to-find oil fields in this country have been found. The remaining big discoveries aren't going to be made in places like the backyard of the Oklahoma State Capitol building; they're going to be made in places like the Outer Continental Shelf or Alaska. Just getting the stuff back to us, warns the oil industry, is going to cost a lot more than we've become accustomed to paying.

Meantime, we must plug the gap with imports, build new refineries, and construct deepwater ports to handle the new supertankers, some of which go 500,000 deadweight tons (with bigger ones on the drawing boards). Then, too, according to the oil-industry scenario, we must relax our pollution controls to permit more burning of coal; we must intensify research and development in nuclear power, geothermal power, liquefaction and gasification of coal, solar power, and other potential long-term solutions. Again, they add, it's going to cost plenty.

The oil industry has a few other items on its list of "musts." Like getting the recently-cut depletion allowance back up to a point that actually provides an incentive to that risky exploration. Like getting favorable leases on the federally-owned oil shale lands in Colorado, Utah and Wyoming. And like tossing out environmental controls on construction of new refineries.

When an oil man presents a shopping list like this, he does it solemnly—like a campus militant of a few years ago presenting a list of "non-negotiable demands." The oil man does, however, give us an alternative—those robed shieks and emirs. Here the oil industry can be most convincing: Given the current trend in oil imports, our trade deficit could soar to $30 billion a year in just a few years. Most of this would get salted away in air-conditioned palaces in the deserts of the Near East. The Arabs would control the world's liquid assets in more ways than one. In fact, we're already risking Arab control over some corporations with the dough we've been forking over. Once you've got the essentials, like a full harem and a fleet of Rolls-Royces, you need to do something creative with your money, like playing the U.S. stock market.

Reinforcing this vision for the oil industry is the recent agreement between Ashland Oil and the government of Iran: Ashland gets a guaranteed supply of crude, and Iran gets half of Ashland.

Sohio's Ross summed it up, when asked to speculate on what the price of gasoline might be, five years hence: "It's going to cost just exactly what the Arabs decide they want to charge us for it."

Thus speaks the oil industry. But not everybody is listening.

There are unbelievers, and they run the gamut from crusading journalists to bureaucrats, and from politicians to naive geology students.

The unbelievers begin with the *"cui bono?"* argument. Who benefits from the current Energy Crisis? The oil industry, of course. They can sell everything they're producing, drive the price-cutting independents out of business, cut their advertising budgets, get bigger depletion allowances, and, in general, loot the Treasury and the pockets of the citizens. They'll also get cheap leases on oil shale lands and offshore sites, crash their tankers and foul our beaches, and even make us choke on coal smoke (because a bunch of them already own coal companies). They're underestimating the size of their reserves, and their arguments sound exactly the same as the ones they put forth in the 1947, 1935 and 1923 Energy Crises. With their awesome power they keep a host of politicians beholden to them. And that stuff about the sheiks and our national security is a lot of bunk, because that stuff from the Middle East is coming straight from wells owned mostly by the big oil companies themselves.

Too, the unbelievers have a rough time swallowing the suddenness of it all. They wonder if it's possible for the nation's largest industry to be caught napping, what with their banks of computers and armies of prognosticators. The unbeliever doesn't even believe the "We've been telling you this all along" line, especially when he looks at the sudden, simultaneous switch in selling tactics. (Advertising may not be literally true, but like an article in *Pravda*, you can draw lots of inferences.) Suddenly, ad budgets were slashed by the major refiners, and there was a remarkable similarity in the message that remained—"Let's all pull together to conserve fuel." To the unbeliever, this constitutes a remarkable coincidence.

The Federal Trade Commission doesn't dispute the long-range problem, but it thinks the current crisis is a plot by major companies in the oil industry to drive the independents out. James Halverson, director of FTC's Bureau of Competition, last summer told two Senate committee hearings that, since 1950, the eight biggest refiners have built no new refineries in the East and Gulf Coast states, where half the gasoline is consumed, despite a doubled demand. Independent refineries depend on the major oil companies for their crude supplies, and they're in no position to ante up the $250 million it now takes to build a new and efficient refinery. The major companies would rather sell to their own dealers and keep the price of crude high to outsiders (because the depletion allowance means that a dollar of crude oil profit gets taxed at a lower rate than a dollar of refinery profit). With the large companies supplying all their crude to their own refineries, the independent refiner can't supply the independent retail marketer, and the major companies can't, or won't, Halverson charges.

The major companies reply that, one, it's the environmentalists who've stymied refinery construction, and, two, that it's unfair to supply the independents at the expense of their own dealers. They can also show that, historically, small refiners have supplied the independents—but, then, that was when the large companies had enough crude to spare.

Halverson also told the senators that natural gas reserves are consistently understated by the producers in reports furnished by the American Gas Association. Subpoenaed records from the producers themselves showed reserves up to 1,000 percent greater than what was reported through AGA.

Are petroleum reserves similarly understated?

Sen. Adlai E. Stevenson III (D., Ill.) thinks so. He says gasoline production is at record levels, but that the supply is being withheld from the market. "There is no doubt, however, that the independent segment of the market is short of supply and is paying a premium price for what they do get," he said. He condemned the Administration for not taking action against the major oil companies and for failing to use the new mandatory allocation powers equitably.

A team of *Philadelphia Inquirer* reporters thinks so. After a long investigation, they've noted that the oil industry won't even bid on low-profit municipal fuel contracts. They note that two Detroit police precincts recently ran out of gas because the independents didn't have the supply to bid on the contracts, and the larger companies didn't have the inclination. The same reporters note that research by the U.S. Geological Survey and estimates from independent consultants place recoverable petroleum reserves considerably higher than the oil industry does. They cite a Senate Interior Committee report placing estimated reserves at anywhere from 575 to 2400 billion barrels—a helluva lot of latitude, but a helluva lot of oil, either way. That's excluding the estimated 1.8 trillion barrels of shale oil reserves (the thrifty Scots have been extracting petroleum from shale economically for decades, they point out).

The oil industry's answer to the question of what's actually left in the ground generally runs along the lines of "We're the only ones in a position to know," or, as one oil-company executive recently put it: "If he (a petroleum expert) doesn't work for an oil company, he's either unemployed, or he's a fool." Good point. Even if he's a private consultant, who might his clients be?

The State of Florida has joined the ranks of the unbelievers. It has sued 15 major oil producers, charging them with conspiracy to contrive the current shortage and asking that the firms divest themselves of all crude oil exploration and development if they remain in the retail gasoline business. The suit is modestly billed by Florida officials as the greatest trust-busting effort since the break-up of Standard Oil in the early 1900s.

Environmentalists—the definitive unbelievers—suddenly find themselves on the defensive again. Thanks to the Santa Barbara oil spill and other disasters, they were able to push through restrictions on offshore drilling and ports for supertankers. They also got what they wanted in the way of laws regulating strip-mining and coal burning. They delayed the Alaska pipeline for better than three years. The oil industry's massive counterattack is aimed directly at these environmentalists and points out to mass-America that they pose a barrier to its cherished lifestyle. The environmentalists charge that the whole thing's a hoax—especially the Alaska pipeline. The reason for running the pipeline across the world's most earthquake-prone area, they say, is not to convey the oil to the "Lower 48," but to facilitate its export to Japan.

Even the proverbial Man on the Street questions the oil industry's sincerity now and then—when he reads items about Sohio cutting its octane ratings to conserve the supply without bothering to tell the customers; or when he learns that Atlantic-Richfield beat last summer's price freeze by raising the rent on its stations (no rent controls under Phase III) instead of raising the price of gasoline a penny a gallon. When he reads the financial pages, he wonders about the record profits being turned in by the oil industry this year, especially by the large firms doing the most hand-wringing.

The oil industry answers this latter charge with the admonition: "This profit situation may be temporary, and, to be on the safe side when the crunch comes (they're talking about the "real" one, not the current one), most oil companies are diversifying."

If the Man on the Street knows an oil company truck driver well enough, he might even hear the driver say something like "I've never seen as much gas as they've got stashed away down there at the refinery."

And a real cynic will ask why last summer's shortage hit hardest in Colorado. Denver isn't particularly off the beaten track, oil-wise. Could it be, the cynic asks, that the oil industry is striking hard at what it considers a hotbed of environmentalism? Probably not, but Colorado voters did gain something of an environmental reputation when they struck down the Winter Olympics. A more plausible explanation is the fact that independent oil companies enjoy a relatively large share of Denver's fuel market, compared with their share of the market in every other large U.S. city.

There are other facets to the problem, but each generates more questions than answers. The oil companies may well be vindicated in the years ahead. Or some latter-day Ida Tarbell may uncork tapes of the secret meeting in the Petroleum Club in Houston (where, presumably, the whole thing was plotted, if it was).

As a boat owner, you have no choice but to assume that it's real. And because boating has little leverage (it's a sideline with anybody who supplies the stuff either to build boats or to make them run), you'll just have to run with the tide—and hope that the new mandatory allocations do what they say they'll do guarantee a fuel supply to all users. Whether they will or not is just one more question.

WORLD PEACE AND BROTHERHOOD

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Ms. CHISHOLM. Mr. Speaker, since the first day I entered Congress, I vowed to use my office as an instrument to fight for this Nation's adoption of the principles of world peace and brotherhood. I abhor war and shall always work to persuade our Nation to resist the temptations of war and aggression.

When our Nation was suffering daily through the agony of an insane war in Southeast Asia, I voted consistently against any and all military appropriations for its support and continuation. However, when considering the conflict in the Middle East and voting for emergency assistance to Israel, I have not broken with my vow to oppose war, but I have searched my conscience and heart in an effort to fight for and do that which would best insure a lasting peace that will benefit all parties.

There often seems to exist a gulf or mutual incomprehension between Arabs and Israelis as to the nature of each other's fears and the nature of a settlement by which the two peoples could peacefully coexist in the Middle East. Thoughtful Americans are appalled at the resulting carnage wrought by three wars there in the past 25 years, and they are deeply saddened that, during that period, they seem to have lost the good will and trust of the Arab people and gained simultaneously only the suspicions and doubts of the Israelis.

What is so tragic about this development is that Americans have genuine historical and spiritual ties with the peoples of the Middle East, Arabs and Jews. As schoolchildren, we learned about the birth of great religions and the growth of great civilizations. We marveled at the accomplishments and contributions which the cultures of the Mesopotamia and the Nile Valley made to the development of Western civilization. Jerusalem, with its incredibly rich and diverse history, retains a special place in our hearts and minds as a great international city.

Today, Arabs and Jews live in the United States, enrichening our society and contributing to its cherished diversity. An increasing number of Americans, young and old, want to travel to these lands to see their architectural wonders, to meet their peoples, and to learn about their customs.

All of us, Arabs, Israelis, Americans—everyone—lose by the political confrontation in the Middle East. Choices have been forced for too long, passions have been inflamed, and foreign powers with alien and hostile ideologies have sought to gain strategic advantage in the region. A new approach to solving this dilemma is crucial if we are to get off the treadmill of fruitless talks and new outbreaks of violence.

As the elected Representative in Congress of a district in which a number of concerned American Jews reside, I am compelled to provide them with the input in the policymaking process to which they are entitled.

If peace is to be obtained in the Middle East, military balance must be essential. When entering the first and fragile stages of peace negotiations, it is not fair that any one side be strapped into a disadvantaged posture. For the United States to maintain a long hoped for neutral policy in the Middle East, the Soviet Union must do likewise. For there to be balance in the Middle East, both super powers must subscribe to a commitment of disarmament and not have one engage in unilateral arms support.

Instead of talking around each other or not even talking to each other, let us hope for a lasting settlement in Geneva and stop to realize that Arabs and Jews groan at their arms burden, the continuing brutal loss of life, and the hatred. I favor the following steps in an effort to move to what should be recognized as the heart of the Middle East conflict:

First, a United Nations guarantee, supported by the United States and the Soviet Union, to guarantee the stability and territorial integrity of all states in the Middle East;

Second, a limitation on all arms shipments to the area by both sides;

Third, resumption of diplomatic relations with all Middle East governments;

Fourth, increased economic aid to the less developed nations of the region;

Fifth, full representation for the Palestinian refugees in all negotiations concerning the return or compensation for Palestinian Arab property; and immediate consideration of the problem of the lack of status of the several hundred thousand people who left Israeli held territory in 1948 and 1967; and

Sixth, firm, joint agreement by both the United States and Russia to support and defend agreed territorial boundaries of Israel and its sovereignty forever.

If we stop to remember the human element in international affairs, rather than relying on deceit and threats and cheating, so much a part of great power politics, we will be attacking the Middle East problem at its root—Palestine. It is a tragedy for the suffering peoples of that area, as it now is for the poor of our own society, that the present American and Soviet Governments have become so enamoured of their game plans, and their great schemes that they have completely ignored the desperate problems of human beings. Unresolved they keep our world in turmoil.

THE AFL–CIO CASE FOR IMPEACHMENT—III

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Ms. ABZUG. Mr. Speaker, recently the AFL–CIO launched a forceful campaign for the impeachment of the President. For the consideration of my colleagues, I am inserting the third in a series of articles in the Congressional Record:

THIRD IN A SERIES—THE CASE FOR IMPEACHMENT: THE PRESIDENT AND THE TRUTH

Richard M. Nixon has committed an impeachable offense by consistently deceiving the American people.

The President said on April 30, 1973:

"On March 21, I personally assumed the responsibility for coordinating intensive new inquiries into the (Watergate) matter, and I personally ordered those conducting them to report directly to me."

But, on August 7, former Assistant Attorney General Richard Kleindienst and Assistant Attorney General Henry Petersen denied before the Senate Watergate Committee receiving such orders.

The President said on April 30, 1973:

"I have given him (Attorney General-designate Elliot Richardson) absolute authority to make all decisions bearing upon the prosecution of the Watergate case and related matters."

He also said on May 22, 1973:

"With the selection of Archibald Cox . . . as special supervisory prosecutor for matters related to the case, Attorney General-designate Richardson has demonstrated his own determination to see that the truth is brought out. In this effort he has my full support."

But Cox was fired by President Nixon on October 20 for rejecting a "compromise" on the tapes which included an order that Cox *"make no further attempt by the judicial process to obtain tapes, notes or memoranda of presidential conversations."* Richardson refused to fire Cox and resigned.

The President said on May 22, 1973:

When he first learned on March 21 of the break-in at the office of Mr. Ellsberg's psychiatrist, "I specifically authorized the furnishing of this information to Judge Byrne," presiding over the Ellsberg trial.

But Petersen testified on August 7 that he raised the Ellsberg case burglary in mid-April with President Nixon who said, "I know about that. This is a national security matter. You stay out of that." Petersen and Kleindienst testified that President Nixon released the information only after both threatened to resign.

Then the President, on August 15, 1973, admitted:

He had first told Petersen to stay out of the Ellsberg burglary matter and said: "On April 25 Attorney General Kleindienst, came to me and urged that the fact of the break-in should be disclosed to the (Ellsberg) court, despite the fact that since no evidence had been obtained, the law did not clearly require it. I concurred."

But on May 11, 1973, Judge Byrne dismissed all charges of espionage, theft and conspiracy in the Pentagon papers trial against Daniel Ellsberg *because of government misconduct—evidence of the burglary* and of other surveillance of Ellsberg.

The President said on May 22, 1973:

"Because approval (of a plan to establish a secret police force) was withdrawn before it had been implemented, the net result was that the plan for expanded intelligence activities never went into effect."

But on June 25, 1973, former White House Counsel John Dean told the Senate Watergate committee that two months after the secret plan for expanding domestic intelligence activities was approved, he was asked to get it started, and that he never saw any document showing a revocation of the plan.

And on July 9, 1973, Tom Charles Huston, the former White House aide who drafted the secret police plan, told the House Armed Services Committee, under oath, that the plan was never formally cancelled.

The President said late in April, 1973:

(According to testimony by Petersen before the Senate Watergate committee) that he (the President) had a crucial April 15 conversation with Dean "on tape."

But on October 31, the White House announced that the April 15 tape was missing. Then the White House said the tape never existed. Then the White House said there was a Dictabelt of the President's recollections of that conversation. Then the White House said that the Dictabelt did not exist.

The President said on November 17, 1973:

"I, of course, waived (executive) privilege with regard to turning over the tapes (to the courts), and so forth. Let me point out it was voluntary on my part . . ."

But the President turned over the tapes to the court 21 weeks after Federal District Judge John Sirica had ordered him to do so and after the U.S. Court of Appeals upheld the Sirica ruling and ordered the President to comply. And on November 26 he claimed executive privilege on three of the subpoenaed tapes.

The President said on November 17, 1973:

"Neither party was without fault. . . . They raised $36 million (in the 1972 presidential campaign) and some of that, like some of ours, came from corporate sources and was illegal because the law had been changed, and apparently people didn't know it."

But, the Washington Post said on November 23: "Now the fact is that no corporations have admitted or have been charged with making illegal gifts to the McGovern campaign, while six have so far been convicted of making large unlawful donations to Mr. Nixon's reelection drive. Furthermore, the law barring such corporate gifts is hardly new; it was enacted in 1907."

The President said on November 17, 1973:

"I paid $79,000 in income tax in 1969. In the next two years I paid nominal amounts. (The reported amounts of $792 in 1970 and $878 in 1971 on an annual salary of $200,000 have never been denied by the White House.) Whether those amounts are correct or not, I do not know . . . Now, why did I pay this amount? It was not because of the deductions for, shall we say, a cattle ranch or interest or all of these gimmicks . . . I turned them (his vice presidential papers) over (to the tax people). They appraised them at $500,000 . . . So the tax people who prepared . . . the returns took that as a deduction."

But figures the White House has made public on the President's acquisitions of his Key Biscayne and San Clemente homes indicate he paid substantial sums in interest in 1970 and 1971. If he did not use "interest or all those gimmicks" as deductions and relied only on the deduction for his papers, his tax liability for the two-year period would have totaled some $84,000 instead of the $1,671 he reportedly paid. The amount he paid was the same tax imposed on a worker with a wife and two children earning about $9,000 a year.

Further, an exhaustive study by Tax Analysts and Advocates, a long-established, reputable, nonprofit organization that analyzes complex legal issues, has concluded the President is not entitled to the deduction because he did not complete his gift of the papers before July 25, 1969, the cutoff date set by the Tax Reform Act of 1969. There is no deed signed by the President. There is no document showing acceptance of the gift by the government.

The President said on November 17, 1973:

"Lyndon Johnson came in to see me shortly after I became President, and he told me that he had given his presidential papers, or at least most of them, to the government, and he told me that under the law, up until 1969, presidential or vice presidential papers given to the government . . . could be taken as a deduction from the tax. And he said: 'You, Mr. President, ought to do the same thing . . . You have got your vice presidential papers.' . . . I can only say we did what we were told was the right thing to do and, of course, what President Johnson had done before . . ."

But in 1969, former President Johnson made a careful decision not to take a deduction on his papers because in that year Congress was debating the cutoff law. He decided it would be unseemly for a former President to attempt to make such a gift to beat a congressional deadline. The President, however, did just that.

The President said on November 17, 1973:

". . . I have referred to what I call the Jefferson rule (defending executive privilege as an answer to a subpoena) . . . Jefferson . . . had correspondence which it was felt might bear upon the guilt or innocence of Aaron Burr (in his treason trial). Chief Justice Marshall, sitting as a trial judge, said that Jefferson, as President, had to turn over the correspondence. Jefferson refused. What he did was to turn over a summary of the correspondence, all that he considered was proper to be turned over for the purposes of the trial. Then Marshall, sitting as Chief Justice, ruled for the President."

But, Jefferson sent the subpoenaed documents to the U.S. attorney in Richmond, who authorized the court to use those portions relating to the case. Marshall did not rule as Chief Justice on the case in which he had been the trial judge. It never went to the Supreme Court.

The President said on August 22, 1973:

"I met at great length with Mr. Ehrlichman, Mr. Haldeman, Mr. Dean, Mr. Mitchell on (March) 22d. I discussed the whole matter with them. I kept pressing for the view that I had had throughout, that we must get this story out, get the truth out, whatever and whoever it's going to hurt . . ."

But, on July 11, 1973, Mitchell testified before the Senate Watergate Committee that *the President never asked him about Watergate at any time.*

The President said (according to Republican congressmen) on November 13 and 14, 1973:

That Richardson had fully agreed to the compromise plan in the tapes dispute which would have ordered Cox to take no further judicial actions to get evidence from the White House.

But, on November 6, in testimony under oath before the Senate Judiciary Committee, Richardson said he never approved limitations on Cox.

The President said (according to Republican congressmen) on November 13 and 14, 1973:

That Richardson "did not tell the truth" to the Senate Judiciary Committee and that Richardson had a "faulty recall."

But, on November 27 in an interview, Richardson revealed additional documents supporting his sworn testimony and quoted Presidential Assistant Alexander Haig, a former general, in a phone call after the meeting with Republican congressmen, as saying: *"I don't disagree with anything you said in your testimony."*

The President told Republican governors on November 20:

"If there are any more bombs, I'm not aware of them."

But, on November 21, White House lawyers told Judge Sirica that there was an 18-minute "gap" in one tape, and that President Nixon personally had known that since October 1. Governor Dan Evans of Washington said: *"He just didn't square with us, level with us."*

According to Cannon's Precedents of the House of Representatives, which governs House procedure:

"Impeachment may be based on offenses of a political character, on gross betrayal of public interests, inexcusable neglect of duty, tyrannical abuse of power and offenses of conduct tending to bring the office into disrepute."

Richard M. Nixon has committed an impeachable offense by consistently lying to the American people, by suppressing the facts of the Watergate case, by refusing the cooperation and participation he has repeatedly pledged and, by these actions, obstructing justice.

Therefore, Richard M. Nixon, President of the United States, should be impeached—now.

CAN WE BELIEVE NIXON?

It's a sad, sad day when Americans cannot believe their President. Not agree with him, but just *believe* him.

We have disagreed with Presidents in the past—and we have said so whenever we felt their policies were not in the interests of working people, or of the nation as a whole.

We have certainly disagreed with the policies of the Nixon Administration. Everybody knows what these disagreements are.

But these differences, serious as they are, have nothing to do with the central issue confronting the American people today.

The issue now is not presidential policy but presidential credibility.

This is the inescapable issue raised by the literally incredible events of recent weeks and months, which are summarized on this page.

The President cannot meet this issue convincingly by launching "Operation Candor" or any other public relations gimmick. He can meet it only by telling the truth—the whole truth and nothing but the truth—now. Right now.

In the unreal setting of Disney World, on November 17—the 45th anniversary of Mickey Mouse—the President told the AP editors:

"People have got to know whether or not their President is a crook."

They also have a right to know whether their President is a liar.

Mr. Nixon's relentless resistance to full disclosure has left the people with only one avenue to the truth—the avenue urged on this page: impeachment.

GEORGE MEANY.

HUD SUSPENDS 25 FOR VIOLATION OF POLICY RULED ILLEGAL BY FEDERAL COURT

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, this week the Department of Housing and Urban Development officially reprimanded 55 of its employees, suspending 25, for violating an internal policy which a Federal court already has ruled illegal.

HUD's ax fell on employees who, the Department claims, processed applications for housing after the Department issued a moratorium of all Federal assistance for housing on January 5, 1973.

The fact that the moratorium has been ruled illegal, by the Federal District Court for the District of Columbia, seems not to have deterred HUD from penalizing employees who, in the Department's eyes, tried to supply housing when the President, violating laws this House passed, insisted that no housing be built.

Three dedicated public officials, the Director and two of his assistants, who run the HUD Pittsburgh area office, were among those suspended.

The Pittsburgh office has one of the finest records of any HUD area office in the country, in terms of most mortgage applications processed and fewest mortgage foreclosures.

This fine record was not produced by men given to "gross misjudgment, tantamount to insubordination," to quote the HUD press release.

I am concerned that these 55 HUD employees are being pilloried as an example to other HUD staff that internal political decisions should guide their actions, not Congress and its laws.

I have written to Secretary Lynn, asking for all of his substantiation of claims of wrongdoing against the three Pittsburgh area employees.

The current administration, in the past, has not been above making allegations, after claiming to have done a first-rate investigative job, only to have it shown afterward that a proper investigation never took place.

Thus I want to see their evidence.

For the information of my colleagues, I want to include in the RECORD at this time, a copy of the HUD press release and my letter to Secretary Lynn:

STATEMENT—PROBE ACTION

The U.S. Department of Housing and Urban Development announced completion of an investigation ordered by HUD Secretary James T. Lynn into violations of the moratorium invoked January 5, 1973, on FHA-insured loan commitments.

Following Lynn's orders to "take appropriate action where evidence of wrongdoing is uncovered," HUD's Inspector General reviewed 400 cases in area and insuring offices, whose records reflected an unusually high rate of applications marked by a high incidence of error, filed shortly before the January 5 moratorium deadline.

Regional Directors have taken administrative action ranging from "unofficial admonishment" to dismissal against 55 HUD employees in 27 area and insuring offices in eight of HUD's 10 Regions.

Twenty-two employees received "unofficial admonishment," written chastisement for bad judgment. The action does not go into their personnel files.

Seven employees were officially reprimanded for more serious bad judgment. The action will be reflected in their personnel files.

Sixteen HUD employees were suspended for five working days without pay; four were suspended for 10 working days without pay; five were suspended for 30 working days without pay. Their infractions ranged from serious to gross misjudgment tantamount to insubordination.

One acting director of an insuring office was dismissed.

Names are being withheld pending notification of action to those affected by their Regional Directors.

CONGRESS OF THE UNITED STATES,
Washington, D.C., December 12, 1973.

Hon. JAMES T. LYNN,
Secretary, Department of Housing and Urban Development, Washington, D.C.

DEAR MR. SECRETARY: I am very much disturbed by the punitive action taken by the Department of Housing and Urban Development against Charles Lieberth, Robert Anderson, and William Costello, senior officials of the HUD Area Office in Pittsburgh.

All three have been notified that they will be suspended without pay, for a period of 30 days in the case of Mr. Lieberth, and five days for Messrs. Anderson and Costello.

As you know they have been charged with violations of the January 5, moratorium, instituted by your predecessor, Mr. Romney, at the direction of the President.

I need not remind you that the very policy these men have been accused of violating has itself been ruled illegal by one federal court. This fact alone casts questionable legality on the actions taken by HUD.

I am equally concerned with claims that these men exhibited, in the words of HUD, "gross misjudgment, tantamount to insubordination".

Charlie Lieberth administers an office which, as of March, 1973, is insuring 48,594 single-family mortgages and 13,470 units of multi-family housing.

Through quality processing and applications procedures, only 200 (less than .5%) single-family mortgages, approved by Lieberth's office, have resulted in foreclosure.

An equally impressive figure exists for multi-family foreclosures. There has been only one foreclosure (200 units) of the 13,470 units of housing approved by Lieberth's staff.

This hardly seems like the type of work put out by employees who are insubordinate and employ gross misjudgement.

Mr. Secretary, I know Charlie Lieberth to be a fine, dedicated public official, whose competence and integrity are acknowledged by all those engaged in housing and community development activity.

I am bothered by the possibility that Mr. Lieberth is being punished—not for a violation of law—but for running afoul of a decision of political expediency. And that his censure, and that of the others involved, is being used as a warning to other HUD employees who might believe that not all O.M.B. policy decisions are in the best interests of the nation.

For these reasons, I would like to be supplied with a copy of the investigation and report completed by your Inspector General. In addition, I would like a complete list of all charges against Messrs. Lieberth, Anderson, and Costello, and a copy of the evidence you have uncovered to substantiate Department claims of gross misjudgment, tantamount to insubordination" against these men.

If your intention was to get a message to the employees of your Department I believe that the HUD press release of December 10 accomplished that purpose. Maybe at Christmastide we should remember that "the quality of mercy is not strained."

I believe this matter merits your personal review and reconsidertaion.

Sincerely,

WILLIAM S. MOORHEAD.

OIL COMPANIES EXPLOIT NATIONAL CRISIS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. WALDIE. Mr. Speaker, the energy crisis and what to do about it has unearthed a host of suggestions on how to conserve energy and fuel, and how to increase our energy supplies and resources. We have been bombarded daily with various reasons why we are now in the middle of a crisis as well as with a plethora of solutions—some of which are diametrically opposed to each other—on how to solve our energy problems.

But there are two areas in which there is little dispute and which have until recently not been subject to much public attention.

The first is the fact that the Congress and the American people have not been able to get enough hard, factual information about our energy supplies and needs. I am, therefore, introducing today legislation—the Energy Information Act—designed to help us obtain a much clearer picture of our energy situation. It would establish a system for collecting, organizing, and disseminating accurate, complete, and timely statistical information on energy matters. In my view, the bill is an important first step toward closing what is now a massive information gap.

The second area involves the role the major oil companies have played in the energy crisis. I think it is reasonable to say that the oil companies helped to precipitate the energy crisis and, incredibly, they now stand to gain the greatest benefits from the crisis.

The relationship between the situation the major oil companies now find themselves in, and the information gap is simply that almost all information we now have is provided by the oil industry. There are no mandated requirements concerning the data that must be supplied, and what is given is not verified by the Government. In spite of this, the unverified data is the basis for a number of steps taken by the Government, which have redounded to the benefit of the oil companies.

Incredibly, these unverified statistics have played a major role in the following:

Relaxing of hard-won environmental protection standards;

Increases in fuel prices; for example, the wholesale cost of gas and other petroleum products increased 341 percent in November 1973 alone;

Passage of the Alaskan pipeline bill; and

Apparent permission to drill for oil in the Santa Barbara Channel;

But the actions of the major oil companies do not stop there. The record is clear that they have perpetrated a series of acts that almost defy belief:

First. In 1972, they cut their output even as they warned of impending shortages. Refineries were operated at 84 percent of capacity during the first 4 months of 1972—almost 10 percent below the maximum sustainable level—and well below rates for comparable months in 1970 and 1971.

Second. Until 1973, they opposed the importing of oil, thus contributing to dangerous lessening of needed reserves.

Third. They deliberately reduced heating fuel production levels, because the price level, instituted in August 1971, was unattractive.

Fourth. They have increased their 1973 profit margins far beyond reasonable levels, even considering their allegation that 1972 was a depressed year:

Profits were 47 percent greater in the first 9 months of 1973 than in a comparable time in 1972;

Profits of 15 major companies increased an average of 62 percent;

In the third quarter of 1973 oil industry profits increased 63 percent from 1972 third quarter levels;

In the first 9 months of 1973, oil corporate profits were more than twice what the Federal Government spent in the field of energy research in the past 5 years; and

Phase IV rules allow all phases of the industry to pass through increased costs to consumers, but not to pass through increased profit margins.

Fifth. Within the past year, the oil industry has cut off supplies to, and the forced closing of 2,000 small independent service station owners.

Sixth. Since the acute crisis developed, fuel oil and gasoline exports have increased—500 percent in October and November alone. While the total exports is small in comparison to the total U.S. use of oil and gasoline, they have increased since the crisis began and the Cost of Living Council predicts doubling of heating oil exports in 1973.

Perhaps the most damning evidence of all is the recent Cost of Living Council's decision to increase the price of heating oil 2 cents a gallon. The oil companies have insisted on at least this minimum increase or they would not divert their resources to the meet the needs of the country.

I find that almost beyond belief. In effect, the oil industry has thumbed its nose at the American people. Not only is the industry refusing to experience inconveniences as individual Americans and a number of businesses have had to do, but it has taken the tact that it refuses to help solve the crisis unless it can make more money from its efforts. It may be that it is time to seriously consider putting the major oil companies under total Federal control—in effect, nationalizing the industry—for the duration of the crisis if their past is prolog to the future.

Mr. Speaker, the oil industry has effectively kidnaped America. It is now holding it for ransom.

MOBILE HOMES ARE NOT FIRE HAZARDS

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. FUQUA. Mr. Speaker, in recent weeks I have been particularly concerned and interested in legislation and proposals to strengthen programs to eliminate the toll which fires take in lives and property in these United States.

In this connection, I am interested in both residential and business properties. In the former, I have been studying data concerning conventional housing and mobile homes.

It is my impression that there are misleading statements being made about the latter and their potential danger. I think a fair statement is that both have certain fire dangers and that builders, manufacturers, and those in sales in both types of housing are interested in reducing the potential for danger.

That reduction is not going to happen unless we take a long and hard look at realistic statistics and factual data. The mobile home industry has been the victim of many misleading statements, in my opinion, in far too many instances.

In that connection I would like to offer a short column written by Brownie Hardison and Jim Kennedy in the November issue of Mobile-Modular Housing Dealer.

I think it is food for thought by all who are genuinely interested in the solution of a national problem—the danger which fires so often pose for all walks of American life.

Their article read:

MOBILE HOMES ARE NOT FIRE HAZARDS

One of the major—and generally unfounded—complaints expressed about mobile home living is the claim that they are potential fire traps for the occupants. Several outspoken critics of the industry have often cited the so-called fire danger that a mobile home presents, supposedly far more than site-built housing.

There is no better way to refute this argument than to review the results of a study made by the National Fire Protection Association at the annual convention of the Fireman's Association of the State of New York in Rochester, New York, late in August.

The speaker was George H. Tryon, administrative secretary of the association that is nationally recognized for its fire preventive studies and programs. In his closing comments, Mr. Tryon said: "I have one more overall observation to make about the mobile home fire-danger picture as viewed against all forms of residential fire dangers.

"We figure that the number of mobile homes in use today is in the neighborhood of 3,000,000 units and we are saying that, nationwide, probably there are a total of about 25,000 fires of one kind or another in these mobile homes in a year.

"We also estimate from figures available from the National Bureau of Census that there are (in total) some 63,450,000 ordinary residences in the country and the National Fire Protection Association estimates that there are 669,000 fires in these properties a year.

"The number of fires per unit for mobile homes in thus one in 120; the number of fires per unit for all other residences is one in 94.8. This means that the number of fires per unit is .0083 for mobile homes and .0105 for all residences."

Mr. Tryon further added that "we know that our homes—be they mobile or 'stick-built'—are where more Americans die from accidental fires than in any other occupancy," and that standards for mobile homes are being introduced to prevent these tragedies.

We commend the association for its efforts in this area, as well as their observation that mobile homes are less dangerous housing than other types of residences.

THE ENERGY CRISIS: WHAT'S IN STORE FOR POOR FOLKS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. RANGEL. Mr. Speaker, the energy crisis, while threatening to adversely affect all Americans, threatens the poor to a greater extent than anyone else in our society. Both in short and long range effects, the energy crisis may result in a devastating setback for those who have struggled long and hard to reach the bottom rung of our economic ladder.

We in New York City are particularly concerned with the effect that this winter's heating oil shortage will have upon the older housing available to the poor and upon the city's housing projects.

We hear of no planning that is taking into account the special problems of the inner city urban poor, which include old buildings with inefficient heating plants, thin or broken windows, unscrupulous landlords, and an inability to pay the higher rents which landlords will be forced to charge because of their escalating fuel costs.

The Reverend H. Carl McCall, president of radio station WLIB recently editorialized this concern. I place this editorial in the Congressional Record for the information of my colleagues and in the hope that it will increase our sensitivity to the special needs of the urban inner city poor.

The Energy Crisis: What's in Store for Poor Folks?

(By H. Carl McCall)

Businesses will be allotted sufficient fuel this winter, but will poor people get enough?

We've already witnessed the past actions of some unscrupulous landlords who don't provide sufficient heat for their tenants. Will these landlords now use the energy crisis as an excuse for not providing heat?

We need to see to it that the fuel allotted to the city's housing projects and tenements is enough to heat these apartments, and that an effective monitoring system is implemented to make sure that some landlords are not shortchanging their tenants.

We can't wait until winter to see how fuel shortages will affect poor people. Let's all put the heat on the city, now, to make sure there's enough for us.

THE PRESIDENT

HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. SHOUP. Mr. Speaker, I would like to submit the following article taken from one of my local papers, the Daily Interlake of Kalispell, Mont. It is one journalist's view of some of the biased reports given on the President. I am sure this will be of interest to many of my colleagues:

Enough Is Enough

Our world is turning topsy-turvy. Our nation is flying apart in all directions.

Whoa!

Let us keep our perspective. How quick are the wolves who have been nipping at the heels to leap for the throat!

The nation isn't coming apart at the seams—it's just that some would have us think so. Their motives vary from naive to subversive.

Seldom is a public official—much less a President of these United States—treated to as much abuse as the man presently occupying the White House, Richard M. Nixon.

Now, wait a minute. Be you a Nixon supporter, indifferent or a real Nixon hater, there are limits and rules and fair fighting. Some say nothing needs to be fair in politics. That should be a lot of rubbish . . . enough is enough.

National labor leader George Meany said the President appears to suffer from "dangerous emotional instability" and repeated he should resign or be impeached. He has a right to call for impeachment if he so feels, but his statement on emotional instability is a hysterical observation based on pure conjecture. It is irresponsible, in that Meany's words are given a lot of publicity which many people will take for gospel.

Mr. Nixon is not our hero, but we consider him to be a capable, energetic leader who has been both right and wrong, who is human, who has been at times a most outstanding President. We are aware of his failures and shortcomings as a public figure, just as we are aware of his successes and triumphs. We are not naive. It is our hope not to be blind either to the left nor the right.

Never within our memory has anyone been attacked for so long a time and so relentlessly as has Mr. Nixon by his enemies and detractors. They are found in the national press, in Congress and among ordinary citizens as well as king-makers. Whether you like him or hate him, it should be obvious much of this attack is politically motivated. Criticism is to be expected of all public figures, but carefully maneuvered attacks are more than that.

He must be deeply troubled, for he is greatly maligned. Like him or not, he has been plagued by a most amazing chain of luckless circumstances. True, he has brought some of it on himself. But the relentless tactics of his enemies are those of people bent on totally destroying this nation's President.

Mr. Nixon is our country's duly elected, number one citizen. Like the lowest among us he is innocent until proven guilty.

IMPACT OF OIL EMBARGO IS "DISTORTED"

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. EILBERG. Mr. Speaker, after Watergate the energy crisis is probably the most talked about subject in America today.

Unfortunately, like Watergate, the truth about this crisis is a very elusive thing. However, a copyrighted article was published in the Philadelphia Inquirer on Sunday, December 9, 1973, on this subject. This outstanding piece was written by Donald L. Barlett and James B. Steele and it dispells many of the myths about the energy crisis.

It also raises some very disturbing questions. The article points out that the Nixon administration has been issuing conflicting statistics and statements constantly about this problem and that needs and interests of the major multinational oil companies are in conflict with the needs of the American people.

My subcommittee will shortly be looking into one aspect of this problem, the Interior Department's administration of the oil reserves located under the Outer Continental Shelf. There are indications again, that the needs of the oil companies are not the same as those of the people of the United States.

At this time I enter into the Record the first half of this report published in the Philadelphia Inquirer. Tomorrow I will insert the remaining portion.

U.S. Oil Firms Exaggerate Embargo's Effects

(By Donald L. Barlett and James B. Steele)

Key officials in the Nixon Administration—aided by the major oil companies—are exaggerating American dependence on Arab oil and the effects of the Middle East oil embargo.

The exaggerations have tended to obscure the fact the United States would be experiencing an energy crisis even without the Arab oil boycott.

Contrary to a barrage of publicity from federal officials, the United States receives only a small percentage of its petroleum supplies from Arab nations.

In fact, the very same fuel oil shortages that exist today would have existed even if Arab oil was flowing without any restrictions. The same is true of the gasoline shortages that will follow next year.

Just how little this country depends on Arab oil is reflected in a variety of statistics compiled by The Inquirer from data prepared by the United States Bureau of Mines and the British Petroleum Co., Ltd.

During 1972, for example, the United States received an average of 562,000 barrels a day of crude oil and refined petroleum products directly from Arab countries—or 3 percent of the nation's daily demand of 16,354,000 barrels. A barrel contains 42 gallons.

Additional Arab oil was refined in other countries and the products ultimately shipped into the United States. This was especially true of the Caribbean area and such countries in Europe as Italy and Belgium.

There are no precise figures on the amount of Arab oil used in these products, but a reasonable and liberal estimate, based on available refinery data, would place the total at about 368,000 barrels a day.

That would bring the overall volume of imports of Arab crude oil, as well as petroleum products made from Arab crude oil, to 930,000 barrels a day—or 6 percent of the nation's daily demand.

Even though Arab oil imports rose steeply during the first six months of this year, that increase, projected for the year, still would leave Arab oil accounting for only 7 percent of the nation's petroleum needs.

When viewing the statistics from the Arab standpoint, there is an even sharper focus on the distribution of Middle East oil.

Last year, the Arab countries produced about 12,325,000 barrels a day, of which 930,000 barrels—or less than 8 percent—came into the United States.

The remaining 92 percent of Arab oil went largely into Europe and Asia, and that is why countries like the Netherlands and Japan are especially hard hit by the Arab production cutbacks.

These figures contrast sharply with those being tossed out by key federal oil policy officials in Washington and even President Nixon himself.

In a nationwide television address on Nov. 25, when he announced implementation of a mandatory fuel-oil-allocation program, President Nixon said shortages "could run as high as 17 percent." That would be about 3,000,000 barrels a day.

Speaking of the effects of the Arab oil embargo, the President declared:

"When I spoke to you earlier (in November), I indicated that the sudden cutoff of oil from the Middle East had turned the serious energy shortages we expected this winter into a major energy crisis."

But such is not the case, according to findings documented by The Inquirer during a continuing investigation into the underlying reasons for the oil shortage and the way both the federal government and the industry are handling the problem.

As The Inquirer disclosed last summer in a three-part, 12,000-word series on "Oil—The Created Crisis," the present petroleum product shortages in this country can be traced to a hefty lack in refinery capacity.

The failure to build new refineries—the shortage in refinery capacity now is running upward of 4,000,000 barrels a day—was accompanied by a general decline in the domestic oil industry.

In recent years, the difference between the country's demand and available refinery capacity has been made up largely of imports of finished petroleum products from Canada and the Caribbean area.

The industry's present inability to meet the country's needs stems directly from policy decisions made by the federal government and the major oil companies, which have been concentrating their producing and refining and marketing operations in foreign countries over the last two decades.

CONFLICT OF INTEREST

Why, then, all the emphasis on the Arab oil shutoff by the Nixon administration and the oil industry when the United States receives only about 7 percent of its petroleum supplies from the Arab countries?

One possible explanation is that there exists a potentially serious conflict of interest between the petroleum needs of the United States and the financial security of at least several large American oil companies.

The reason is this: The five largest multinational oil companies have invested billions of dollars in their oil operations in Arab countries. These companies are Exxon Corp., Mobil Oil Corp., Texaco Inc., Gulf Oil Corp. and Standard Oil Co. of California.

In addition to their direct investments in the Arab countries, these same five companies have spent more billions building refining and marketing systems throughout Europe and Asia to sell products made from Arab crude oil.

Thus, while the United States is not dependent on Arab oil, European and Asian countries are. And so are the multinational American oil companies that rely on Arab oil to supply their markets in those countries.

That is why several of the large American oil companies, beginning last summer, urged the United States government to bring pressure on Israel to reach a Middle East peace agreement and keep the Arab oil flowing.

Consider just a few of the statistics:

Gulf Oil Corp., the nation's fourth largest oil company, has about 79 percent of its worldwide crude oil reserves located in the tiny (pop. 830,000) Arab state of Kuwait on the Persian Gulf. The company produced 1,569,100 barrels of oil daily last year in Kuwait, 786,600 barrels in both North and South America.

Exxon Corp. has investments of $4.8 billion in the eastern hemisphere, much of it in property, plants and equipment either in Arab states or in countries dependent on Arab crude oil. Of the 5,701,000 barrels of petroleum products sold daily last year by the world's largest oil company, 2,950,000 or 52 percent, were sold in Europe, Asia and Africa.

Texaco Inc. has crude oil reserves totaling about 30 billion barrels in the Middle East, or 80 percent of its worldwide reserves. The third largest oil company processed 1,314,000 barrels of crude oil a day—the bulk of it from Arab countries—in refineries across Europe and Asia. In the United States, the company refined 1,012,000 barrels a day.

Standard Oil of California produced 2,555,306 barrels of crude oil a day last year in the eastern hemisphere, again much of it in Arab countries. The figure represents 81 percent of the company's total daily crude oil production of 3,159,530 barrels. The company, the fifth largest in the country, has an interest in more than three dozen refineries in the eastern hemisphere which rely heavily on Arab oil.

Mobil Oil Corp., the country's second largest oil company, produced 1,911,000 barrels of crude oil daily last year. Of that amount, 791,000 barrels, or 41 percent, were produced in Arab countries. The company sold 1,291,000 barrels of petroleum products daily across Europe, Asia and Africa, or 54 percent of the company's total worldwide daily sales of 2,409,000 barrels.

It should be emphasized that it has been a long-standing policy of the international oil companies to sell most crude oil produced in the Arab states, as well as elsewhere in the eastern hemisphere, in Europe, Asia and Africa—not the United States.

That means that most Arab oil was never intended for the United States—embargo or not.

That policy was spelled out way back in September 1947, when then Standard Oil Company of New Jersey (now Exxon) entered into a secret agreement with the Anglo-Iranian Oil Co. (now British Petroleum Co. Ltd.)

The agreement, one of several signed during the late 1940s by the major international oil companies, effectively carved up the markets and staked out territorial rights in the eastern hemisphere for these companies.

The Standard Oil Company of New Jersey (Exxon) contract carried a clause that stated:

"It is, however, buyer's (Standard) intention in entering into this agreement to use oil receivable by buyer here under in supplying buyer's business in Europe (including the British Isles), North Africa (including the whole of Egypt), and West Africa."

During negotiations with the British oil company, a Jersey Standard official stated:

"I told Basil (B. R. Jackson of Anglo-Iranian) that so far as crude oil deliverable by pipeline was concerned, it was for the purpose of helping to supply the requirements of our total business in the European and North African countries."

More than two decades later, on May 22, 1969, this policy of foreign oil for foreign markets was affirmed by another Standard Oil Co. of New Jersey official, M. A. Wright, now chairman and chief executive officer of Exxon Co., U.S.A.

In an appearance before the Senate Antitrust and Monopoly Subcommittee, Wright declared:

"I think the important thing to you gentlemen is that, in a company like Jersey, the foreign production that is developed is primarily for the purposes of supplying foreign markets.

"We do not develop crude on the outside of the United States primarily to supply markets inside the United States. Now, this I think is something that many people do not quite understand."

There are several interesting footnotes to the multibillion dollar investments by the international oil companies, not only in Arab countries but throughout Europe, Asia and Africa.

U.S. PAID OFF SHEIKS

The American taxpayer over the years has subsidized the foreign operations of the oil companies through a variety of tax allowances and benefits. For example, the oil industry deducts from its United States taxable income the same 22 percent depletion allowance for oil produced in Arab countries that it deducts for oil produced in the United States—even though the Arab oil is intended for sale abroad.

Even more beneficial was a private ruling issued by the Internal Revenue Service (IRS) in the early 1950s which had the practical effect of enabling the oil companies to convert royalty payments to Arab rulers into foreign taxes, allowing a foreign tax writeoff, dollar for dollar, against income taxes they owed in this country.

During 1970, the latest year for which complete figures are available, the depletion allowance—for oil produced in this country and abroad—provided deductions totaling $2.9 billion for the oil industry, the foreign tax credit allowed writeoffs of $1.3 billion. With spiraling prices on Arab and other oil, as a result of increased taxes and royalties, these writeoffs will climb sharply next year.

Even with all these tax benefits and a private IRS ruling not available to other businesses and industries operating abroad, several of the international oil companies, The Inquirer has established, substantially under-reported the federal income taxes they owed during the 1960s.

An intensive IRS audit, which was to become known as the Persian Gulf audit within IRS and the Treasury Department, resulted in what has been described as the largest deficiency assessment ever levied by IRS.

The audit, as is the case with all IRS audits, was carried out in secrecy. And after lengthy and secret negotiations during the late 1960s, a settlement was reached in which the oil companies agreed to pay a percentage of the back taxes that the IRS said were owed.

FIRST AND LAST AUDIT

Because of the secrecy surrounding the audit, the exact figures are unknown. But a former Treasury Department official told The Inquirer the IRS assessment was for about a half-billion dollars and the oil companies finally paid approximately $300 million.

One of the irregularities the audit turned up, the former Treasury Department official said, was an oil industry practice of using an inflated figure as the cost for producing a barrel of crude oil, thus increasing the value of the depletion allowance, which is calculated on that per barrel cost.

Curiously, the Persian Gulf audit was the first and last audit of its kind ever made involving the business practices of American oil companies operating abroad.

One reason for this, put forth by the former Treasury Department official, is that the oil industry is so complex, and the overall rate at which oil companies pay taxes so low, that the additional taxes collected are not worth the manpower needed to make an exhaustive audit that may take several years to complete.

In any case, one of the problems encountered by the IRS auditors, according to a government official familiar with the case, was a lack of basic data relating to oil industry costs. There is similar lack of information concerning other phases of the oil industry.

As The Inquirer has disclosed previously, there is no government agency authorized to collect and verify data concerning the operations of oil companies—a condition which has aggravated the nation's energy problems and precluded the formation of any meaningful national energy policy.

As has been the case since the first oil well was drilled, all government oil policies—including the current mandatory fuel-oil-allocation programs—are based solely on unverified data furnished by the oil companies.

To further compound the problem, an assortment of government agencies with no particular expertise in oil matters—from the Treasury Department to the State Department—are churning out their own sets of statistics in response to the energy crisis.

That explains in some measure the conflicting figures federal oil policy officials toss out concerning not only the extent of the oil shortage but the effects of the Arab oil embargo.

Speaking on United States dependence on Arab oil, Duke R. Ligon, director of the Office of Oil and Gas in the Interior Department, told a United States House subcommittee on the merchant marine last Oct. 10:

"There will be an increasing reliance on Middle East oil. In 1970 we imported only 185,000 barrels a day from that source or only 1 percent of our consumption. We project that by 1975 we will be importing over 2,000,000 barrels a day from the Middle East."

HOW FIGURE VARIES

Less than two weeks later, on Oct. 22, figures released by Stephen A. Wakefield, another Interior Department official, showed that the United States had just about reached the 2,000,000 barrel a day of imports projected for 1975.

Wakefield, assistant secretary for energy and minerals in the Interior Department, told the annual meeting of the Independent Petroleum Association of America in Houston:

"When you include our purchases of refined products made from crudes originating in these areas (Middle East and North Africa) we are now importing 1,750,000 barrels a day of oil from this region."

A little more than two weeks later, a third goverment agency, the new Energy Policy Office, reported imports of 1,200,000 barrels a day—a decline of 550,000 barrels from the figures released Oct. 22.

In an environment-impact statement published Nov. 7, the Energy Policy Office—created specially by the White House to solve the energy crisis—reported:

"Last year America imported about 400,000 barrels of Middle Eastern oil a day. Data from the Bureau of Mines reports indicate that this figure has jumped 200 percent this year to 1,200,000 barrels a day."

But two weeks later, on Nov. 14, another government official, Julius L. Katz, was again putting Arab oil imports at 1,700,000 barrels.

Katz, deputy assistant secretary of state for international resources and food policy, told a House Committee on Interstate and Foreign Commerce:

"Prior to the imposition of the Arab boycott, the United States was importing about 6,300,000 barrels per day, of which the Arab producers furnished 1,700,000 in direct shipments of crude oil and products refined from Arab oil in third countries."

By Nov. 29, the loss of crude oil imports as a result of the Arab boycott, had soared to between 2,500,000 and 3,000,000 barrels a day, at least according to the calculations of George M. Bennsky, another State Department official.

Testifying before a House Foreign Affairs subcommittee, Bennsky, director of the Office of Fuels and Energy in the State Department, reported:

"Taken altogether the Arab oil boycott will deprive the United States of between 2,500,000 and 3,000,000 barrels a day of oil this winter or up to 17 percent of our estimated winter demand of 18,500,000 barrels a day."

What with all the apparent confusion among those federal officials responsible for resolving the energy shortage, it is little wonder the problem has spawned a wave of near-hysteria stories on television and radio and in the newspapers and newsmagazines ranging from how much oil can be saved by turning out Christmas tree lights to a war against the Arabs.

PREMATURE WORRIES

In Philadelphia, a radio talk show host invited his listeners to voice their opinions as to whether the United States should mount an invasion against the Arabs if they persisted in maintaining the boycott.

Even Time Magazine, in its Dec. 3 issue, raised the question of military intervention, stating:

"Unhappily, the one countermeasure that would be effective would be invasion and occupation of the Arab oil fields. The United States could easily defeat the Arab armies, and though the Arabs would probably blow up the wells, the technology of oil production in the desert is so simple that the United States could get some oil flowing again."

And Newsweek magazine, in its issue on the same date, observed:

"Secretary of State Henry Kissinger spoke openly but vaguely of possible retaliation against the boycotting Arab states. Most people thought he meant economic countermeasures, but some people spoke wildly of military action."

Shortly after the Arab boycott was announced in mid-October, Time magazine forecast the possibility of dire consequences for the United States, Europe and Japan. Time wrote:

"That oil squeeze could easily lead to cold homes, hospitals and schools, shuttered factories, slower travel, brownouts, consumer rationing, aggravated inflation and even worsened air pollution."

While all of this may come about in Europe and Japan—which rely heavily on imports from Arab states—the boycott itself never would have brought on all those calamities in this country.

At least not this year or even early next year. If continued for a prolonged period, say a year or two, and if there were no efforts whatsoever to curb the growth in demand, then the American consumer and industry certainly would feel this pinch.

THE AFL-CIO CASE FOR IMPEACHMENT—IV

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Ms. ABZUG. Mr. Speaker, recently the AFL-CIO launched a forceful campaign for the impeachment of the President. For the consideration of my colleagues, I am inserting the fourth in a series of articles in the CONGRESSIONAL RECORD:

FOURTH IN A SERIES—THE CASE FOR IMPEACHMENT: THE OBSTRUCTION OF JUSTICE

Richard M. Nixon has committed an impeachable offense by obstructing justice in the Watergate affair.

He has repeatedly refused to reveal the facts about the Watergate break-in and coverup to the public, the courts, the Congress and the Special Prosecutor despite his frequent public promises to make a full revelation.

The President said on August 29, 1972:

". . . these investigations—the investigations by the General Accounting office, by the FBI, by the Justice Department—have, at my direction, had the total cooperation not only of the White House but also of all agencies of government.

"In addition to that, within our own staff, under my direction, counsel to the President, Mr. Dean, has conducted a complete investigation of all leads which might involve present members of the White Housee staff or anybody in the government. I can say categorically that no one in this Administration, presently employed, was involved."

But John Dean testified under oath before the Senate Watergate Committee that he had never conducted any such investigation for the President.

The President also said, on August 29, 1972:

"I will say in that respect that anyone on the campaign committee, Mr. MacGregor has assured me, who does not cooperate with the investigation or anyone against whom charges are leveled where there is a prima facie case where those charges might indicate involvement, will be discharged immediately. That is also true of anybody in the government. I think that under these circumstances we are doing everything we can to take this incident and investigate it and not cover it up."

But at that very time officials of the White House and of the Committee to Re-Elect the President, aided by the President's personal attorney, Herbert Kalmbach, were secretly collecting and disbursing funds to the men indicted for the break-in.

And the President said on October 5, 1972:

"Now when we talk about a clean breast, let's look at what has happened. The FBI has assigned 133 agents to this investigation. It has followed out 1,800 leads. It conducted 1,500 interviews. . . . I agree with the amount of effort that was put into it. I wanted every lead carried out to the end because I wanted to be sure that no member of the White House staff, and no man or woman in a position of major responsibility in the Committee for Re-election had anything to do with this kind of reprehensible activity."

But at this very time, White House aides were deeply involved in the coverup of the Watergate break-in. They were operating under instructions of the President, who admitted on May 22, 1973, that he has ordered his aides "to ensure that the investigation of the break-in not expose . . . the activities of the White House (special) investigations unit." This secret unit, known as the "plumbers," included two of the men later convicted in the Watergate break-in, E. Howard Hunt and G. Gordon Liddy.

The President said, on March 2, 1973:

"It (the Watergate break-in) is now under investigation by a congressional committee, and that committee should go forward, conduct its investigation in an even-handed way, going into charges made against both candidates, both political parties, and if it does, as Sen. Ervin has indicated it will, we will, of course, cooperate with the committee just as we cooperated with the grand jury."

But, at that very time, the President and his close aides were mounting a counteroffensive to becloud the Senate Watergate Committee hearings. This included, in the words of a Haldeman memo on February 10, 1973, putting out "the story on the foreign or communist money that was used in support of demonstrations against the President in 1972. We should tie all 1972 demonstrations to McGovern . . . This is a good counteroffensive. . . ."

And the President, also on March 2, 1973, sought to block the appearance of White House aides before the Senate committee by declaring that "members of the White House staff, at least in that position, cannot be brought before a congressional committee in a formal hearing for testimony."

And on March 15, 1973, he said: ". . . if the Senate feels that they want a court test, we would welcome it."

The President, on April 17, 1973, reversed his previous stand, saying:

"All members of the White House staff will appear voluntarily when requested by the committee."

The President on April 30, 1973, said:

". . . on March 21, I personally assumed the responsibility for coordinating intensive new inquiries into the matter and I personally ordered those conducting the investigation to get all the facts and report them directly to me, right here in this office."

But, on August 7, former Attorney General Richard Kleindienst and Assistant Attorney General Henry Petersen denied that they ever received such orders from the President.

The President said on May 22, 1973:

"I have specifically stated that executive privilege will not be invoked as to any testimony concerning possible criminal conduct or discussions of possible criminal conduct, in the matters under investigation. I want the public to learn the truth about Watergate."

But, the President said in a July 6, 1973, letter to Sen. Ervin, in response to the committee's request that the President testify before them and turn over certain presidential papers:

"In this letter, I shall state the reasons why I shall not testify before the committee or permit access to presidential papers.

"I want to strongly emphasize that my decision, in both cases, is based on my constitutional obligation to preserve intact the powers and prerogatives of the presidency . . .

"I have agreed to permit the unrestricted testimony of present and former White House staff members before your committee."

Then on July 16, 1973, Alexander P. Butterfield, former White House aide, revealed under oath that all telephone calls and personal conversations in the President's Oval Office, his hideaway office in the Executive Office Building and in his personal quarters at Camp David were taped. Butterfield described the taping equipment as sophisticated, voice-activated and impossible to circumvent. He said it was installed, maintained and checked regularly by the Secret Service. The committee immediately subpoenaed the Secret Service agents.

And the President, on July 16, 1973, sent the following order to Treasury Secretary George Shultz:

"I hereby direct that no officer or agent of the Secret Service shall give testimony to congressional committees concerning matters observed or learned while performing protective functions for the President or in their duties at the White House."

And the President, on July 23, 1973, in response to a request from the Senate Watergate Committee for the tapes of crucial presidential conversations, said:

"I have concluded that the principles stated in my letter to you of July 6th preclude me from complying with that request, and I shall not do so. . . . Before their existence became publicly known, I personally listened to a number of them. The tapes are entirely consistent with what I know to be the truth and what I have stated to be the truth."

And the President, on July 25, 1973, said in reply to subpoenas from the Watergate Committee of the White House tapes and other presidential material:

"I cannot and will not consent to giving any investigatory body private presidential papers."

But he also denied the facts to the courts as well. A brief for the President filed before Judge John Sirica considering a subpoena requested by the Special Prosecutor on August 7, 1973, said:

". . . in the exercise of his discretion to claim executive privilege, the President is answerable to the nation but not to the courts."

The President on August 15, 1973, said:

"I pledge to you tonight that I will do all that I can to ensure that one of the results of Watergate is a new level of political decency and integrity in America . . . My consistent position from the beginning has been to get out the facts about Watergate, not cover them up."

But he also said on August 15:

"The principle of confidentiality of presidential conversations is at stake in the questions of the tapes. I must and shall oppose any efforts to destroy this principle which is so vital to the conduct of the Presidency."

And the White House said on August 29, 1973, in response to Judge Sirica's ruling that the President turn over the tapes, that the President would not comply because inspection by a judge would be "inconsistent with the President's position relating to the separation of powers as provided by the Constitution, and the necessity of private presidential conversations. . . ." On August 30, the White House appealed the Sirica ruling.

And on September 10, 1973, a White House brief filed with the Appeals Court said:

"It is . . . with a strong desire that the truth about Watergate be brought out that the President has not asserted executive privilege with regard to testimony about possible criminal conduct or discussions of possible criminal conduct. But testimony can be confined to the relevant portions of the conversations and can be limited to matters that do not endanger national security. Recordings cannot be so confined and limited, and thus the President has concluded that to produce recordings would do serious damage to presidential privacy."

And on September 30, 1973, President Nixon's attorney, Charles Wright, notified the Appeals Court that the White House and Special Prosecutor Cox had failed to reach a compromise on the tapes as suggested by the Court on September 13.

On October 12, 1973, the Appeals Court in a 5-2 ruling upheld Judge Sirica's ruling that the tapes be turned over to him.

And on October 19, 1973, the President fired Archibald Cox as Special Prosecutor.

And on October 23, 1973, Special White House Counsel Charles Wright told Judge Sirica:

"I am authorized to say that the President of the United States would comply in all respects" with the Appeals Court ruling on the tapes.

The President said, on October 26, 1973:

"We worked out what we thought was an acceptable compromise (on the tapes). Under the circumstances, when he (Cox) rejected it. . . . I had no choice but to fire him."

And the President said:

"The Acting Attorney General, Mr. Bork, will appoint a new special prosecutor for what is called the Watergate matter. The special prosecutor will have independence. He will have total cooperation from the executive branch, and he will have primary responsibility to bring this matter which has so long concerned the American people, bring it to an expeditious conclusion."

But, he also said on October 26:

"We will not provide presidential documents to a special prosecutor."

Then, on October 31, 1973, the White House notified Judge Sirica that two of the nine subpoenaed tapes were missing; then that they never existed; then that there was a Dictabelt of the President's recollections of that conversation; then that the Dictabelt did not exist.

The President said on November 17, 1973:

"I want the facts out, because the facts will prove that the President is telling the truth . . . I will do everything I can to cooperate where there is a need for presidential participation."

But, on November 21, 1973, White House lawyers revealed there was an unexplained gap of some 18 minutes in one of the key tapes. President Nixon had known that since October 1.

The 18-minute gap covered the entire conversation between the President and Haldeman about the Watergate break-in that had taken place three days earlier.

And on November 26, 1973, when the White House turned over the tapes to Judge Sirica—21 weeks after he had ordered him to do so—the President claimed executive privilege on three tapes.

And on November 28, 1973, the President's counsel told Judge Sirica that there were other gaps on other subpoenaed tapes.

Richard M. Nixon has obstructed justice by denying to the American people, the courts, the Congress, and the Special Prosecutor the full facts about Watergate.

Therefore, Richard M. Nixon, President of the United States, should be impeached—now.

COMMUNITY COLLEGE OF THE AIR FORCE: A NEW CONCEPT IN EDUCATION

HON. ORVAL HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. HANSEN of Idaho. Mr. Speaker, one of the most innovative and promising developments on the education scene in recent years is the Community College of the Air Force. Although it is only a year and a half old the college has experienced rapid growth because of its ability to meet a great variety of educational needs. The student body, scattered throughout the world, numbers 570,000. It offers 3,750 courses, taught by 9,500 instructors.

Much of the credit for the remarkable success of the college belongs to Col. John L. Phipps who has served as its president since the beginning. Colonel Phipps is not only an outstanding Air Force officer, but also combines the talents of a gifted educator and skilled administrator.

The Community College of the Air Force offers new concepts in education and a model that could be used elsewhere in both military and civilian education programs. In order to give my colleagues more detailed information and a better understanding of the achievements and potential of the college, I include as a part of my remarks an article entitled, "The Credit is Yours," by Tom Anderson, which appeared in the November issue of Airman magazine.

The article follows:

THE CREDIT IS YOURS

(By Tam Anderson)

Your Community College of the Air Force transcript is meaningful to schools and employers.

Richard Kopenski credits the Community College of the Air Force (CCAF) for his early graduation from New York's State University College at Brockport. Presently a management analyst for the Marine Midland Services Corp. of Buffalo, N.Y., he left the Air Force as a staff sergeant in May 1972.

Kopenski had attended Brockport for three years prior to his military service. The one year he needed for his B.A. in mathematics was shortened by the credits he got for his Air Force training.

"I earned 12 additional semester hours: nine in computer science and three in physics. I could have been granted eight additional hours in physics but I had already earned those hours during my initial enrollment," Kopenski explained. "All I had to do was present my CCAF transcript."

The services offered by the College also proved profitable for TSgt. Stephen Acuff, instructor at Goodfellow AFB, Tex.

"This is the best thing that's happened to me!" Acuff emphasized. "The CCAF is the main factor for my going back to college. I probably wouldn't have returned without it. But since I was given these credits for technical training, I decided to go back and get a degree." Sergeant Acuff had 33 credits transferred to Angelo State University, losing only one credit in the process. Presently, he is well into his junior year and hopes to get his masters in physical education in two or three years.

Although only a year and a half old, the Community College of the Air Force has made it possible for these airmen and others to get credit for their Air Force technical training. Headquartered at Randolph AFB, Tex., the CCAF has many other facilities at the disposal of its 570,000 students. It offers over 3,750 courses taught by 9,500 instructors. To keep up with the paperwork, the Community College uses computers that not only can handle the progression of all the students, but can also update 2,000 transcripts weekly.

The college's curriculum includes 79 different major fields of study. Upon completion of the requirements for any major, a student will be awarded a Career Education Certificate (CEC) signifying his "graduation".

The Community College of the Air Force is just what its title suggests—a college that coordinates the education and training Air Force members have completed both within and outside the service and presents a transcript in a form acceptable to civilian schools and employers. These transcripts have been issued upon request since November 1972.

Every airman, whether he is aware of it or not, is admitted to the Community College upon completion of basic training. If he completes further Air Force accredited instruction, his transcript is placed on file at CCAF. And even if he doesn't realize it, each airman has earned a minimum of four credits. Chances are though, he has earned even more.

SMSgt. William Rushing, for instance, discovered that he had accumulated enough credits to give him the distinction of being the first CCAF graduate. With 22 years of Air Force service, Sergeant Rushing had little difficulty in meeting the required 65 semester hours of credit designed to be completed in a normal four-year enlistment.

Sergeant Rushing, presently assigned to the Student Resources Directorate at the Military Personnel Center, Randolph AFB, was aware of the Community College long before he considered "attending" it. "In my business here we ran the Bootstrap Commissioning Program and the Airman Commissioning Program, and as the NCOIC of this section, the CCAF information came under my jurisdiction. I worked with the CCAF earlier last year when they were developing transcripts, and I've been in touch with them regularly throughout its entire development," he explained.

The value a certificate from the College would have in attaining future educational or vocational goals is what prompted him to consider it for himself. Sergeant Rushing said, "I realized how much these degrees or certificates can mean to your education."

A big factor in the origin of the Community College was the *Utah Project*, a unique program jointly conducted in 1967 by the Air Force Association's Aerospace Education Foundation and the U.S. Office of Education. Three Air Force courses of instruction were conducted in Utah high schools, vocational schools, and one college. The material was presented exactly as it was in Air Training Command classes and the Utah students loved it. In fact, it proved to be more effective and popular than the previously used materials. This prompted the question: If Air Force courses meet the standards of U.S. colleges, then why not arrange for direct college credit when these courses are taken in the Air Force?

Why not, indeed! Since 1967, the answer to that question has evolved into the Community College. Progress was made in leaps and bounds but CCAF didn't come easy. Major problems included getting all the Air Force schools accredited by civilian institutions, converting course identification data into terms recognizable to college registrars, and publishing a general catalogue listing all the majors and their requirements.

One of the first services the College offered was the issuance of transcripts, all entries of which meet the recommended standards of the American Association of College Registrars and Admission Officers. This may allow you to transfer credits from your Air Force training courses to a civilian school. As present and former members of the Air Force are finding out, this feature can be extremely helpful. Each civilian school makes its own decision on whether it will accept credit on the basis of CCAF transcripts.

A1C Randall Bodie, Charleston AFB, hopes to receive his B.A. in computer science from the University of South Carolina by spring, 1976. Although only 15 of 36 possible credits transferred, Bodie is pleased with the CCAF.

"They should have had it a long time ago," he noted. "Some of the retirees could really use the credits in continuing their education, rather than starting from scratch."

The CCAF transcript has other uses besides converting credits to the appropriate college terminology. It comes in handy for job applications. In addition to Air Force courses, the transcript may list courses taken from civilian institutions and on-the-job training. Transcripts are available without charge to any member or former member of the Air Force upon request.

The heart of the Community College effort, however, is the Career Education Certificate. This certificate is awarded to an active duty airman or NCO when he completes the requirements in one of the major areas. The CEC parallels, as closely as possible, the two-year programs of community and junior college across the Nation. It is, in fact, a symbol of achievement.

Col. John L. Phipps, the College's first and present president, elaborated on this point. "The importance of degrees, licenses, certificates and other symbols of qualification in today's society cannot be overemphasized. The world of work is a world in which doors open only to those who have the 'papers' attesting to their achievements. Perhaps that is too Orwellian a view, but few would argue that 'diplomas' often sharply separate the socio-economic status of some members of our society from others who are equally deserving, but lack formal recognition of their qualification."

With his CEC, Sergeant Rushing can enroll with advanced standing in a civilian institution of higher learning. Or he can use it for employment purposes when he leaves the Air Force.

"I don't really know yet what I'm going to do with the certificate," Rushing admits. "Certainly it's going to help me get my baccalaureate degree in business administration, because most of the work is accepted by civilian institutions. I'm counting very heavily on its help in that respect."

The certificate is unique in that it combines Air Force technical training with voluntary civilian courses.

Sergeant Rushing's CEC, for instance, includes courses taken from a variety of sources. "I've attended classes at three colleges," he says, "primarily Texas Lutheran College at Seguin, San Antonio College, and the University of Maryland. I've also had extensive correspondence work through the USAFI program in Madison, Wis. The remainder was credit given for my military service and tech schools I've attended."

Rather than inhibiting the attendance at civilian schools by military men, as some people initially feared, the CCAF will instead act as a catalyst because CEC requirements make outside education mandatory. To qualify for a certificate, a minimum of 64 semester hours must be completed in three different areas: technical, related education, management, and military science. The specific requirements vary for each major. The related education segment can be fulfilled only by attending a civilian school. But with a network of more than 600 civilian institutions which conduct classes on or near bases through the Air Force Education Services Program, an airman won't have to go too far to take these courses.

Most airmen or NCOs may pursue a CCAF career education program from one of 79 different majors categorized under eight general areas for which their Air Force Specialty Code qualifies them. However, Sergeant Rushing was one of approximately 14,000 airmen for whom a curriculum does not relate directly to their technical specialty.

To take care of these people, CCAF has a Work Center Management program, designed specifically for cross-trainees, bypass specialists, and those who completed technical schools prior to January 1, 1968. The requirements for this curriculum are 65 semester hours. The Work Center Management program is the only one in which credit (maximum—semester hours) is awarded for work.

Sergeant Rushing received his CEC with a business emphasis in the Work Management program. He used this major as he had completed his training prior to 1968. "Being an old timer, most of my schooling was way back when, so I did not get credit for it."

The first step in qualifying for the Career Education Certificate is to complete basic military training. This admits you into the Community College and gives you four semester hours of credit.

Any airman who completed an accredited Air Force technical course after January 1968 is automatically admitted to the CCAF. And, although complete records of courses were not collected on computer tapes until 1968, it is possible to receive credit for Air Force courses taken after 1963. The course must be evaluated to determine first, whether it is relevant to the airman's particular study program, and second, whether there is enough information to describe it in terms of subjects and semester hours. Another method of transcribing credits to the Community College is by an official transcript from a civilian educational institution, describing a course completed there.

To register for the Career Education Certificate, an airman must announce his intention of doing so by asking his Education Services Officer to help fill out the appropriate form and forward it to the College.

Education Services Officers will help by sending this information to CCAF and counseling the student while he is working towards his certificate.

The guidance that the education services officers can give each student is most necessary. Although Sergeant Rushing's credits fell into the right categories, he admits this isn't always the case. "Most of my work was already accomplished," he commented. "It just happened that the work I had completed fitted into the various categories correctly—right where it's supposed to be.

"Often, in an academic curriculum, however, you have a bunch of credit hours, but they don't fit into the particular categories that are necessary for a certificate or degree. You can have excess hours in one group and not enough in other groups. As the CCAF certificate works, you have to have various numbers of hours in various categories. Mine just happened to work out right, I guess."

When the student completes the required number of hours, his Base Education services officer and the CCAF Policy Council reviews his complete program of study. Upon approval, a Career Education Certificate is awarded.

Besides being the first to qualify for the CEC, Sergeant Rushing may someday be the first to qualify for the Instructor in Technology Certificate offered by the Community College. After all, with his CEC he does have a head start on everyone else. To get the Instructor in Technology Certificate, you must have taught in your CEC specialty for at least two years, completed 11 semester hours of Air Force technical subjects, and have a minimum of 15 additional semester hours in related areas. This program is designed to prepare airmen to be vocational or technical instructors.

Both the CEC and Instructor Certificates are valuable because of the recognition the Community College won in getting the seven Air Force schools accredited. The Southern Association of Colleges and Schools voted unanimously December 13, 1972, to accredit for a five-year period the Schools of Applied Aerospace Sciences at Keesler AFB, Miss., Lackland AFB, Tex., and Sheppard AFB, Tex., the School of Health Care Sciences at Sheppard; and the USAF School of Applied Cryptological Sciences at Goodfellow AFB, Tex. The remaining USAF Schools of Applied Aerospace Sciences at Chanute AFB, Ill., and Lowry AFB, Colo., were accredited March 28, 1973 for a five-year period by the North Central Association of Colleges and Secondary Schools.

This accreditation assures other institutions of higher learning that an independent educational accrediting association has conducted a thorough investigation of Air Force technical training and found it to meet comprehensive standards.

The Community College of the Air Force is just getting off the ground. Its first anniversary was observed last April 1, and all of its potentialities have not yet been realized. But with the groundwork that has already been laid, the CCAF has a solid base.

One of the greatest incentives for young people to enter the Air Force is the opportunity for vocational training, especially since 92 percent of the skills taught in ATC courses can be used in civilian jobs. By 1980, it is estimated that 80 percent of the new jobs created will require post secondary training, while less than 20 percent will require baccalaureate degrees. Now, with the accreditation of Air Force schools, the more than 100,000 veterans that leave the Air Force every year will represent a skilled manpower resource that can be more readily assimilated into the civilian job market. At the same time, by stimulating outside education enrollment, the Community College will help develop the future corps of NCOs for a high technology Air Force.

The facilities offered by the CCAF can be used without charge by any of the approximately 570,000 enlisted personnel of the Air Force. Most, however, are probably unaware that they have already started accumulating credits toward a Career Education Certificate. A first term airman, for instance, will have earned from 4 to 24 credits after two years.

Over 60,000 copies of the CCAF's General Catalogue, which lists the majors and requirements, have been distributed to high schools, colleges and base information officers, libraries, directors of personnel and education services officers. So there are several copies of it on every base.

As SMSgt. William Rushing concluded from his experience with CCAF, "It doesn't matter whether it's young first term airman type, or an old guy like me who's been around for 22 years, the opportunity to get something out of the Community College of the Air Force is there if you'll just take advantage of it. You have everything to gain and absolutely nothing to lose."

THE SCHOOL COMES TO YOU

Airmen stationed at Lackland AFB, Tex., are eligible to participate in a first time venture for that installation—an on base program in which servicemen can complete a college degree.

Southwest Texas State University at San Marcos and the Community College of the Air Force pooled their resources to provide this opportunity starting with the fall semester, 1973.

This program will enable active military personnel to earn bachelor degrees in occupational education, with majors in Air Force technical fields and concentrations in business, law enforcement, human relations, and teacher certification. They never have to leave the base to do it.

Like the Career Education Certificate, credits will be awarded for Air Force training. John S. Bell, chief of education services at Lackland, commented, "Being designed especially for military personnel, allowances will be made for credit for military training and experience.

"This will be the first opportunity for Air Force personnel to complete requirements for a bachelor degree on base here at Lackland."

What is especially helpful about the Southwest Texas State University program is the inversion of the order of study. By getting credit for their experience and technical training on the job, airmen will have completed, or nearly completed, what is traditionally taught in the last two years of college. Special courses will be offered which are customarily taken in the first two years.

Potential students can acquire credits by several different routes. A maximum of 48 semester hours can be awarded for an airman's technical specialty, depending on the amount of experience. Upon recommendation of the Community College or the American Council on Education, credit may also be granted for courses completed in military service schools.

In addition an airman may receive up to 18 semester hours of credit for obtaining a designated score on the General Examination of the College Level Examination Program (CLEP). Finally, any amount of credit may be transferred from other accredited colleges for courses completed there. This includes college level correspondence courses and group study courses administered through USAFI.

To receive a baccalaureate degree, a student must complete at least 30 semester hours with Southwest Texas State University. Twenty-four of these credits are required to be done "in residence."

Under this program the residency requirements are simplified by conducting courses at Lackland AFB. A variety of three-hour classes, usually meeting two evenings a week for eight-week terms, will be offered on base.

Although priority for enrollment will be given to active duty military personnel—dependents, retirees, and federal employees, may enroll on a space available basis.

Assistance is available in meeting the tuition costs. Airmen may apply for the In-Service GI Bill or the Tuition Assistance program, which, if granted, will cover 75 percent of the cost.

The baccalaureate degree completion program at Lackland parallels one of the main objectives of the Community College of the Air Force. Both are designed to have an individual's Air Force technical training and experience officially recognized by civilian institutions.

MARGARET WRATHALL JOHNSON SERVES WITH PEACE CORPS IN ETHIOPIA

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. DANIELSON. Mr. Speaker, as we sit in the comfort of our homes this Christmas and enjoy the abundant life that America has given us, Margaret Johnson, a Peace Corps volunteer, will be spending her Christmas in Ethiopia with her husband and their two children. Mrs. Johnson, daughter of Mr. and Mrs. Robert Wrathall of Monterey Park, Calif., has been the dietician at the Birla Pediatric Clinic in Addis Ababa, Ethiopia, for the past year. Her husband, Dr. Charles Johnson, is the medical director and one of two staff physicians at the clinic.

The Birla Pediatric Clinic is 1 of 2 pediatric facilities in a nation of 26 million people where only 5 or 6 babies out of every 10 will live to the age of 5. Epidemics, malnutrition, inadequate sanitation and hygiene, and poor health care all contribute to this high infant mortality rate. As the hospital dietician, Mrs. Johnson supervises the preparation of menus and formulas for the children in the clinic, many of whom are suffering from malnutrition. She also works with the mothers of clinic patients to teach them how to plan and cook nutritious meals for their children.

The work Mrs. Johnson does in Ethiopia is difficult and demanding, and sometimes depressing. But it is not without its rewards. I think that at Christmastime the deeds of people like Mrs. Johnson and her husband, who live Christmas year-round, deserve our praise and thankfulness.

AMENDMENTS TO THE ENERGY EMERGENCY ACT

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. ANDERSON of Illinois. Mr. Speaker, when this body considers H.R. 11882, the Energy Emergency Act, under the 5-minute rule, I intend to offer at least three amendments. At this point in the RECORD, Mr. Speaker, I include the texts of those three amendments so that my colleagues may have the benefit of reviewing them before they are offered. The amendments follow:

AN AMENDMENT TO H.R. 11882 OFFERED BY MR. ANDERSON OF ILLINOIS

On page 31, after line 8, add the following new subsection, and redesignate succeeding subsections accordingly:

"(e) The Secretary of Transportation shall conduct a study of the impact of existing automobile insurance plans on the goal of promoting increased utilization of carpools, including an analysis of so-called "no-fault automobile insurance" as a possible incentive for the promotion of such goal, and shall submit to the Congress no later than 90 days after the enactment of this Act a report which shall include the findings and recommendations based on such study."

AN AMENDMENT TO H.R. 11882 OFFERED BY MR. ANDERSON OF ILLINOIS

On page 32, after line 8, insert the following new section and redesignate succeeding sections accordingly:

"SEC. 117. EMERGENCY MASS TRANSPORTATION ASSISTANCE PLAN

"(a) Within 30 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

"(b) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a)(2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, including reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems."

AN AMENDMENT TO H.R. 11882 OFFERED BY MR. ANDERSON OF ILLINOIS

On page 37, at line 25, strike all after the period through line 5 on page 38, and insert in lieu thereof the following:

"Such a plan shall provide for the expeditious completion of those projects offering significant power potential already authorized by Congress and which meet the current standards of the Water Resources Council and for the planning of other projects designed to utilize available hydroelectric power, solar energy, and geothermal resources, including tidal power and pumped storage."

POLICE AND PRISON SYSTEM OF SOUTH VIETNAM

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. ROYBAL. Mr. Speaker, almost 15 years ago the United States began supplying aid to the National Police of South Vietnam. This aid program, known as the public safety program, took the form of weapons, supplies, training and advisory support. Throughout our long stay in Vietnam, officials of AID told Congress that continued aid to the police was necessary to maintain law and order in urban and pacified rural areas, and to combat smaller Vietcong elements in areas of nominal government control.

Congress responded by appropriating $155 million for the South Vietnamese police and prison system between 1967 and 1972. As a result of this aid the police force grew from a civilian agency of 19,000 in 1963 to a huge paramilitary machine of 120,000 in 1973.

During the long struggle in South Vietnam this unit, like other Vietnamese institutions, became a political instrument to quell dissent and the expression of grievances. The Theiu regime was able to seize and rework every existing cultural and governmental element in society to insure its ironclad hold on the country. Under this structure, the police and prison system soon became a tool to repress South Vietnamese who held political views in disagreement with the Theiu regime. The police have arrested religious leaders who advocated peace and war veterans who sought better housing and veteran services.

These petitioners were incarcerated under brutal conditions. Some were thrown into the infamous tiger cages, others were subjected to torture and mutilation. The U.S. Government admits that there are still 20,000 political prisoners in South Vietnam jails, other observers have placed the number at a much higher figure. But whatever the final figure, U.S. aid should no longer be utilized to support the police and prison system in South Vietnam.

Article 5 of the peace treaty agreement signed by the United States provides:

> Within sixty days of the signing of this Agreement, there will be a total withdrawal from South Vietnam of troops, military advisers, and military personnel, including technical military personnel and military personnel associated with the pacification program, armaments, munitions and war material of the United States and those of the other foreign countries mentioned in Article 3 (a). Advisers from the above-mentioned countries to all paramilitary organizations and the police force will also be withdrawn within the same period of time.

In accordance with the terms of that treaty, AID declared that its Public Safety Division in Saigon would be abolished. But unfortunately this public declaration has turned out to be nothing more than a subterfuge. Now the police and prison system are receiving grants for telecommunications, technical assistance and public administration. This money is being funnelled into the country to carry out the same programs and purposes as the public safety program once did.

There are four different funds that are being utilized to circumvent the provisions of the peace agreement and surreptitiously provide aid to the police and prison system in South Vietnam. The first is the Indochina postwar reconstruction assistance program. Congress has established a $2.63 billion fund to aid overall redevelopment in South Vietnam. AID which manages the fund has given many grants to the police and prison system.

Second, AID has $3.79 million in an unliquidated obligations account. Their funds have been used to grant contracts to aid and support public communications, national police, and corrections centers.

The police and prison system also receives funds from the Department of Defense and the American AID chapter of the South Vietnamese budget.

The United States should not fund a police and prison system which stifles public dissent and the voicing of grievances. We must stop funding programs in violation of our commitments in the peace treaty.

For these reasons, I introduced an amendment to delete those funds from the foreign aid appropriation bill:

> No part of any amount appropriated under this Act and no part of any local currency generated under any program carried out under this Act may be used in any manner by or for the police or prison system of South Vietnam.

The Foreign Operations Subcommittee accepted a compromise version of my amendment:

> No assistance shall be furnished under this section to South Vietnam unless the President receives assurances satisfactory to him that no assistance furnished under this part, and no local currencies generated as a result of assistance furnished under this part, will be used for support of police, or prison construction and administration, within South Vietnam.

It is my belief that this amendment will adequately insure that the police and prison system do not receive any funds generated directly or indirectly by the passage of this bill.

The amendment refers to assurances satisfactory to the President. This means that the appropriate officials of the Saigon government must provide written assurance to the President that the prohibition in the bill will not be violated. I will ask that the GAO monitor the expenditure of funds to see that these written assurances are complied with. By adopting this approach, the amendment can serve as an effective vehicle to prohibit U.S. support of South Vietnam's police and prison system.

HON. HAMILTON FISH, SR., CELEBRATES 85TH BIRTHDAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. GILMAN. Mr. Speaker, the Honorable Hamilton Fish, Sr., a former Member of this august body who served faithfully in the House representing most of my district for over 25 years, recently celebrated his 85th birthday. On that occasion, the Times Herald Record, a daily newspaper in my congressional district, printed the following article. I include the article in this portion of the RECORD so that my colleagues may have the benefit of reading some of the recent remarks from the venerable, former Congressman from New York:

FISH AT 85: DON'T SELL AMERICA SHORT

(By Peter Schoenberg)

NEW YORK.—Former Congressman Hamilton Fish Sr., who turned 85 Friday, indicates none of the disillusionment sometimes expressed by men his age.

"Despite present difficulties, we're better off than any nation in the world," Fish said in a telephone interview Saturday from his Park Avenue apartment.

"I've seen a great deal and many administrations and I can tell you this: Any American that sells America short is not only doing a disservice to themselves, but a disservice to the country."

"You know," he said, "half the world would try to get into the United States if we relaxed our immigration requirements."

A Republican, Fish was first elected to the House of Representatives in 1920. He represented the 26th District which included Orange, Dutchess and Putnam Counties until 1944.

Fish said about 100 guests helped him celebrate his birthday Friday. Among them were his son, Rep. Hamilton Fish Jr. of Millbrook, R-25, and one of two grandsons, Hamilton Fish III. Also attending was retired Army Gen. James Van Fleet.

Several Orange County residents, including Mr. and Mrs. William E. Doulin of Newburgh, were guests. Doulin is Orange County Republican Party chairman.

Fish said he received a congratulatory letter from President Nixon. Fish says that despite Watergate, he still thinks highly of the President. And he thinks history will justify his faith in the troubled chief executive.

"I don't believe there's any chance whatsoever of Nixon resigning or being impeached." Fish said, "I think he will finish his term and be regarded as one of the better presidents."

Fish recalled that former President Harry S. Truman's popularity plummeted to 23 percent "and now he's regarded as one of our better presidents."

The feisty former Congressman proudly recalled other birthday greetings received from such luminaries as Gov. Rockefeller, Senators Jacob Javits and James Buckley, and Rep. Benjamin A. Gilman of Middletown, R-26.

Fish said he felt good and cited moderation and enthusiasm as reasons.

"As far as growing old is concerned, it's simply a matter of moderation," Fish said. "I'm simply not doing things in excess."

He said he believes in moderate exercise and recommends that "older people should always keep active in something they're interested in. Otherwise you fold up in atrophy."

Proud of his family, he looks to his grandson, Hamilton Fish III to become the fifth generation of the family elected to Congress.

The younger Fish, a Harvard senior, gets mostly A's, according to his grandfather and may end up with a Rhodes scholarship.

"I think that he's not only intelligent, but a good looking young fellow with a good personality. I think they ought to send him to Congress in 1990."

As to what might be called the Fish dynasty in Congress, he refers to it as "my legacy."

A TRIBUTE TO MR. YOUNG OF FLORIDA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. YOUNG of Alaska. Mr. Speaker, I wish to bring to the attention of the House a rather unusual personal tribute that was recently accorded our distinguished colleague from Florida (Mr. Young).

In the Sixth District which Mr. Young so ably represents, the voter registration between Republicans and Democrats is almost even. The fact that Congressman Young has been elected and reelected many times, first as a Florida State senator and then in 1970 to the Congress, indicates strong GOP support but it is rather obvious that it takes large numbers of Democrats to reelect Congressman Young year after year by a 3-to-1 margin and last year by over 106,000 votes.

It is, I feel, a rather personal tribute to Congressman Young's sincere dedication to his country and the people of his district that the Democratic Executive Committee of Pinellas County and the Greater Seminole Democratic Club, Inc., also in Pinellas County, have adopted official resolutions in support of Congressman Young's efforts to sidetrack action on congressional salary increases.

I am sure many of my colleagues would welcome the same kinds of bipartisan support that is in evidence for Congressman Young, both at the ballot box and in party positions. The text of both resolutions follows:

Resolution

Whereas, the current wage guidelines proposed by President Nixon on all Americans call for salary increases of not more than 5.5 per cent per annum and

Whereas, both House and Senate Post Office and Civil Service Committees have now approved legislation calling for Congressional salary increases amounting to 29 per cent per annum; now therefore be it

Resolved that the Pinellas County Democratic Executive Committee supports Congressman Bill Young's House Resolution 971 which directs the House and Senate Post Office and Civil Service Committees to recommend no salary increases for Congressional Members this year, be it further

Resolved that this resolution be entered into the minutes of this meeting and a copy delivered to Congressman Young.

James M. Stegall,
Chairman.

Attest: Carolyn Gaylor, Secretary.

Resolution

Whereas, the current wage guidelines proposed by President Nixon on all Americans call for salary increases of not more than 5.5 per cent per annum; and

Whereas, both House and Senate Post Office and Civil Service Committees have now approved legislation calling for Congressional salary increases amounting to 29 per cent per annum, now, therefore, be it

Resolved that the Greater Seminole Democratic Club, Inc., supports Congressman Bill Young's House Resolution 971 which directs the House and Senate Post Office and Civil Service Committees to recommend no salary increases for Congressional Members this year, be it further

Resolved that this resolution be spread upon the minutes of this meeting and a copy delivered to Congressman Young.

Passed and adopted this 14th day of September, 1973.

Arthur McCabe,
President.
Jerome F. Barry,
Recording Secretary pro tem.

IMPEACHMENT: AN INSTRUMENT OF REGENERATION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. STOKES. Mr. Speaker, the distinguished Professor Raoul Berger has written an article on impeachment which will appear in the January, 1974, issue of Harper's magazine.

It is an excellent description of the impeachment process by the acknowledged master scholar on the subject. It describes what the Founding Fathers intended to accomplish by inserting impeachment provisions in the Constitution. And it clearly indicates that, even the probability of criminal guilt aside, President Nixon has without any doubt, by his own admission, committed noncriminal acts which are eminently impeachable.

The only question that remains, therefore, is not whether the President has really done anything for which he can be impeached. He has, many times. The question is: Will the American people and the Congress now, with dispatch, impeach him?

I strongly urge my colleagues in the House to take Professor Berger's words to heart:

Impeachment: An Instrument of Regeneration

(By Raoul Berger)

How it works and why it must be used—now.

Impeachment, to most Americans today, seems to represent a dread mystery, an almost parricidal act, to be contemplated, if at all, with awe and alarm. It was not always so. Impeachment, said the House of Commons in 1679, was "the chief institution for the preservation of the government"; and chief among the impeachable offenses was "subversion of the Constitution." In 1641, the House of Commons charged that the Earl of Strafford had subverted the fundamental law and introduced an arbitrary and tyrannical government. By his trial, which merged into a bill of attainder and resulted in his execution, and by a series of other seventeenth-century impeachments, Parliament made the ministers accountable to it rather than to the King stemmed a tide of absolutism that swept the rest of Europe. Thereafter, impeachment fell into relative disuse during the eighteenth century because a ministry could now be toppled by the House of Commons on a vote of no confidence.

Our impeachment, modeled on that of England, proceeds as follows: a committee of the House of Representatives may be instructed to investigate rumors of charges of executive misconduct. If the committee reports that it found impeachable offenses, it is directed by the House to prepare articles of impeachment, which are the analogue of the accusations contained in the several counts of an indictment by a grand jury. Strictly speaking, it is the articles that constitute the impeachment. The articles, if approved by a majority of the House, are then filed with the Senate.

At that point, the articles are served by the Senate on the accused, who is given time within which to file an answer to the charges. At an appointed time, the Senate convenes as a court. If it is the President who is being tried, the Chief Justice of the Supreme Court acts as the presiding officer. Evidence is subject to the exclusionary rules applied by a court, and the accused is permitted by his counsel to cross-examine witnesses and to make arguments for acquittal. A vote of two-thirds of the Senators present is required for conviction.

When the Framers came to draft our Constitution, they might well have regarded impeachment as an outworn, clumsy institution, not particularly well-suited to a tripartite scheme of government protected by the separation of powers. Why, then, did they adopt it?

The reason lies in the fact that the Founders vividly remembered the seventeenth-century experience of the mother country. They remembered the absolutist pretensions of the Stuarts; they were haunted by the greedy expansiveness of power; they dreaded usurpation and tyranny. And so they adopted impeachment as a means of displacing a usurper—a President who exceeded the bounds of the executive's authority.

The colonists, after all, regarded the executive, in the words of Thomas Corwin, as "the natural enemy, the legislative assembly the natural friend of liberty." Throughout the colonial period, they had elected their own assemblies and trusted them as their own representatives. The governors, on the other hand, were often upper-class Englishmen with little understanding of American aspirations, who had been foisted on the colonists by the Crown. Hence, Congress was given the power to remove the President. This power, it must be emphasized, constitutes a deliberate breach in the doctrine of separation of powers, so that no arguments drawn from that doctrine (such as executive privilege) may apply to the preliminary inquiry by the House or the subsequent trial by the Senate.

The Constitution adopts the old English formula: impeachment for and conviction of "treason, bribery, or other high crimes and misdemeanors." Because "crimes" and "misdemeanors" are familiar terms of criminal law, it is tempting to conclude that "high crimes and misdemeanors" is simply a grandiloquent version of ordinary "crimes and misdemeanors." Not so. As the terms "treason" and "bribery" suggest, these were offenses against the state, political crimes as distinguished from crimes against the person, such as murder. The association of "treason, bribery" with "other high crimes and misdemeanors" indicates that the latter also refer to offenses of a "political" nature. They were punishable by Parliament, whereas courts punished "misdemeanors," that is, lesser *private* wrongs. In short, "high crimes and misdemeanors" appears to be a phrase confined to impeachments, without roots in the ordinary English criminal law and which, so far as I could discover, had no relation to whether a criminal indictment would lie in the particular circumstances.[1] Certain political crimes—treason and bribery, for example—were also indictable crimes, but English impeachments did not require an indictable crime. Nonetheless, the English impeachment was criminal because conviction was punishable by death or imprisonment.

In fact, under English practice there were a number of impeachable offenses that might not even be crimes under American criminal law. First and foremost was subversion of the Constitution: for example, the usurpation of power to which Parliament laid claim. Other impeachable offenses were abuse of power, neglect of duty, corrupt practices that fell short of crimes, even the giving of "bad advice" to the King by his ministers. Broadly speaking, these categories outlined the boundaries of "high crimes and misdemeanors" at the time the Constitution was adopted.

Let us now turn to Philadelphia in 1787. Article II, Section 4 of the Constitution provides that "the President, Vice-President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors."

There is good reason to conclude that the Framers consciously divorced impeachment from the necessity of proving an indictable criminal offense. This is because Article I, Section 3(7) provides that "judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office . . . but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law." Thus the Framers sharply separated removal from office from criminal punishment by indictment and conviction, in contrast to the English practice, which joined criminal punishment and removal in one proceeding. From the text of the Constitution there emerges a leading purpose: partisan passions should not sweep an officer to the gallows.

The starting point, therefore, to borrow from Justice Story, is that impeachment "is not so much designed to punish as to secure the state against gross official misdemeanors." It is prophylactic, designed to remove an unfit officer from office, rather than punitive. Two important considerations persuade us to understand American impeachment in noncriminal terms, though it may, of course, include offenses such as bribery and obstruction of justice, which are indictable "political" crimes. First, since Article I contemplates both indictment and impeachment, the issue of double jeopardy would be raised if impeachment were deemed criminal in nature. The Fifth Amendment, which embodies a centuries-old guarantee, provides that no person "shall be subject for the same offense to be twice put in jeopardy." This means that if a person were indicted and convicted he could not be impeached, or if he were impeached he could not be indicted. By providing that impeachment would not bar indictment, the Framers plainly indicated that impeachment was not criminal in nature. Therefore, criminal punishment may precede *or* follow impeachment.

A second consideration is the Sixth Amendment provision that "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury." If impeachment be deemed a "criminal prosecution," it is difficult to escape the requirement of trial by jury. Earlier, Article III, Section 2(3) had expressly exempted impeachment from the jury "trial of all crimes"; and with that exemption before them, the draftsmen of the Sixth Amendment extended trial by jury to "all criminal prosecutions" without exception, thereby exhibiting an intention to withdraw the former exemption. We must conclude either that the Founders felt no need to exempt impeachment from the Sixth Amendment because they did not consider it a "criminal prosecution," or that a jury trial is required if impeachment is in fact a "criminal proceeding."

Elsewhere[2] I have discussed the problems that arise from the Framers' employment of criminal terminology. I would only reiterate that if impeachment is indeed criminal in nature, it must comprehend the offenses considered grounds for impeachment at the adoption of the Constitution. On this score, the Senate, which tries impeachments, has on a number of occasions found officers guilty of nonindictable offenses, and to the Senate, at least initially, is left the construction of "high crimes and misdemeanors."

It does not follow that Rep. Gerald Ford was correct when he declared that an impeachable offense is whatever the House and Senate jointly "consider [it] to be." Still less can it be, as Mr. Nixon's then Attorney General Richard Kleindienst told the Senate, that "you don't need facts, you don't need evidence" to impeach the President, "all you need is votes." That would flout all requirements of due process, which must protect the President no less than the lowliest felon. The records of the Convention make quite plain that the Framers, far from proposing to confer illimitable power to impeach, intended only to confer a limited power.

When an early version of impeachment for "treason, bribery" came up for discussion, George Mason moved to add "maladministration," explaining that "treason as defined in the Constitution will not reach many great and dangerous offenses . . . Attempts to subvert the Constitution may not be Treason as above defined." Mark that Mason was bent on reaching "attempts to subvert the Constitution." But Madison demurred because "so vague a term [as maladministration] will be equivalent to a tenure during the pleasure of the Senate." In brief, Madison refused to leave the President at the mercy of the Senate. Thereupon, Mason suggested "high crimes and misdemeanors," which was adopted without objection.

Shortly before, the Convention had rejected "high misdemeanors" in another context because it "had a technical meaning too limited," so that adoption of "high crimes and misdemeanors" exhibits an intent to embrace the "limited," "technical meaning" of the words for purposes of impeachment. If "high crimes and misdemeanors" had an ascertainable content at the time the Constitution was adopted, that content marks the boundaries of the power. It is no more open to Congress to ignore these boundaries than it is to include "robbery" under the "bribery" offense, for "robbery" had a quite different common-law connotation.

Recent events are of surpassing interest, and it behooves us to weigh them in traditional common-law terms. It will be recalled that the first and foremost impeachable offense was subversion of the Constitution, of the fundamental law. Had Mr. Nixon persisted in his position that he could not be compelled by the courts to furnish the tapes of his conversations, that would have been a subversion of the Constitution. That issue may not yet be dead. In the wake of Mr. Nixon's dismissal of Special Prosecutor Archibald Cox, and the resignations of Attorney General Elliot Richardson and Deputy Attorney General William Ruckelshaus, the "fire storm," as a White House aide called it, that blew up across the country impelled President Nixon, by White House counsel, to advise Judge John Sirica, "This President does not defy the law. . . . he will comply in full with the orders of the court." Let the sober appraisal by *The Wall Street Journal* sum up the inferences we must draw from this event:

"In obeying the appeals court order requiring that the tapes be submitted to Judge Sirica, the President has indeed ceded, without a final Supreme Court test, some of the privilege to withhold information that he previously claimed for the Chief Executive. A precedent is being established whereby judges can demand White House evidence . . . The President tried to protect a presidential claim and lost. The claim may not have been entirely valid, but the loss is for real."

Nevertheless, during his press conference on the evening of October 26, 1973. Mr. Nixon stated, "We will not provide Presidential documents to a special prosecutor . . . if it is a document involving a conversation with the President. I would have to stand on the principle of confidentiality." Thus he renews the claim, lost before the Court of Appeals, to which he apparently yielded when he advised Judge Sirica that he would comply with the court's order. "Confidentiality," in short, still remains at issue. Were an independent prosecutor set up by Congressional enactment, and were he to insist on production of White House tapes and documents, a confrontation between the President and the courts would be replayed.

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[1] The phrase "high crimes and misdemeanors" is first met, not in an ordinary criminal proceeding, but in the impeachment of the Earl of Suffolk in 1386. At that time there was no such crime as a misdemeanor. Lesser crimes were prosecuted as "trespasses" well into the sixteenth century, and only then were trespasses supplanted by "misdemeanors." As "trespass" itself suggests, "misdemeanors" derived from private wrongs, what lawyers call torts. Fitzjames Stephen stated that "prosecutions for misdemeanors are to the Crown what actions for wrongs are to private persons."

Although "misdemeanors" entered into ordinary criminal law, they did not become the criterion of the parliamentary "high" misdemeanors. Nor did "high misdemeanors" find their way into the general criminal law. As late as 1757, Blackstone could say that the "first and principal [high misdemeanor] is the *mal-administration* of such high officers, as are in the public trust and employment."

[2] *Impeachment: The Constitutional Problems* (Harvard University Press, 1973).

If Mr. Nixon were again to refuse to comply with a court order to produce tapes or documents, that would constitute subversion of the Constitution. Ours is a government of enumerated and limited powers, designed, in the words of the Founders, to "fence" the Congress and the executive about. To police these limits the courts were given the power of judicial review. On more than one occasion they have declared Acts of Congress, though signed by the President, unconstitutional. Although the House of Representatives was made the sole judge of the qualifications of its members, the Supreme Court held that in excluding Adam Clayton Powell for misappropriation of government funds, the House had exceeded its power, the sole qualifications for membership being age, residence, and citizenship. In short, it is the function of the courts finally to interpret the Constitution and to determine the scope of the powers conferred on either President or Congress. By what reasoning the President claims to be exempted from this judicial authority passes my comprehension. In disobeying a court order, the President would undermine a central pillar of the Constitution, and take a long step toward assertion of dictatorial power. Benign or otherwise, dictatorial power is utterly incompatible with our democratic system. Disobedience of a court order, I submit, would be subversion of the Constitution, the cardinal impeachable offense.

A second article of impeachment based on subversion of the Constitution could rest on the President's impoundment of appropriated funds. The Constitution gives Congress the sole power to provide for the general welfare; in so doing, it is entitled to select priorities. Nowhere in the Constitution is power given to the President to substitute his own priorities. Some twenty courts have held his impoundments to be unconstitutional, that is, in excess of his powers and an encroachment on the prerogatives of Congress.

The secret bombing of Cambodia in 1969–70 may also be viewed as a subversion of the Constitution. It is widely agreed among eminent historians that so far as the "original intention" of the Founders is concerned, the power to make war was exclusively vested by the Constitution in Congress. They intended, in the words of James Wilson, second only to Madison as an architect of the Constitution, to put it beyond the power of a "single man" to "hurry" us into war. The argument for a President powerful enough single-handedly to embroil the nation in war rests on comparatively recent Presidential assertions of power.

No President, or succession of Presidents, can by their own unilateral fiat rewrite the Constitution and reallocate to themselves powers purposely withheld from them and conferred on the Congress alone. On this reasoning, the Cambodian bombing, being a usurpation of Congressional power, constitutes a subversion of the Constitution, and is a clearly impeachable offense.

Although some twenty courts have gone against the President on the issue of impoundment, the Supreme Court has yet to speak. So too, although Presidential usurpation in the secret Cambodian bombing seems quite clear to me, the President has yet to have his day in court. Little as I attach to Presidential assertions of power plainly withheld from him by the Constitution, I am reluctant to have the Senate decide an issue of constitutional law, disputed by the President, in its own favor. That issue, the trial of Andrew Johnson teaches, is better left to the courts, removed from any suspicion of partisan bias, unclouded by conflict with the tradition that one should not sit in judgment on his own case.

There may well be other grounds of impeachment which the House Judiciary Committee will in due course consider. For example, thus far the implications of the Watergate coverup have been considered in terms of criminal complicity; but a statement by James Madison in the First Congress indicates that it may be viewed in wider perspective. Recall that Madison was the chief architect of the Constitution, and had a hand in the introduction of "high crimes and misdemeanors" in the impeachment provisions. Who would better know what scope the Founders intended to give those terms? Arguing for an exclusive Presidential power to remove his subordinates, Madison stated that this "will make him in a peculiar manner responsible for their conduct, and subject him to impeachment himself, if he . . . neglects to superintend their conduct, so as to check their excesses."

On March 22, 1973, Mr. Nixon stated, "It is clear that unethical as well as illegal activities took place in the course of [the reelection] campaign . . . to the extent that I failed to prevent them, I should have been more vigilant." This is little short of a confession of neglect; and that neglect is no less clear with respect to the ensuing cover-up launched by his subordinates, an obstruction of justice. Mr. Nixon stated, "I must and do assume responsibility for such [reelection] actions." Responsibility carries with it accountability, not, it is true, criminal responsibility, for no principal is responsible for the crimes of his agent. But he is civilly responsible for the wrongs he enabled them to commit; and impeachment, you will recall, is prophylactic, not criminal. President Nixon can be impeached, in Madison's words, for "neglect to superintend [his subordinates'] conduct, so as to check their excesses."

The Founders feared an excess of power in executive hands; they had just thrown off the shackles of one tyrant, George III, and were not minded to submit to another. Hence, they provided impeachment as an essential restraint against arbitrary one-man rule. The wisdom of the Founders has been abundantly confirmed by recent events. The time has come to regard impeachment, not as a clumsy, outworn apparatus, but rather as an instrument of regeneration for protection of our liberties and our constitutional system.

REPORTS AID CRIME REDUCTION

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. ESCH. Mr. Speaker, for the information of the Members I would like to point out that the National Advisory Commission on Criminal Justice Standards and Goals recently completed its sixth and final report as part of a 2-year study financed by the Law Enforcement Assistance Administration.

These very excellent reports provide a wealth of information useful in the formulation of national criminal justice standards and goals for crime reduction and prevention at the State and local levels.

In its final report based on the work of a task force headed by Jack Michie, director of the Michigan Division of Vocational Education, the Commission issued a warning about the effect of corruption of public officials. It cautioned that:

> The existence of corruption breeds further crime by providing for the citizen a model of official lawlessness that undermines any acceptable rule of law.

The Commission also called for a citizen crusade against Government corruption and said the system of criminal justice will break down unless citizens come forward as complainants, as witnesses and as jury members to participate actively in the prosecution of official corruption.

Mr. Speaker, I hope the public and Members of Congress will take the time to study this very valuable report and the earlier volumes including another report prepared by a task force headed by a Michiganite, Col. John R. Plants, director of the Michigan State Police. In that report, the Commission raised a timely warning about the risk of unwarranted encroachment on individual privacy by the unchecked use of computers to compile crime records.

I believe the warning was clearly aimed at the efficiency-minded system's developer who might attempt to create a single "dossier" by linking welfare, tax, health, criminal justice, and other files. In other words, eagerness for more data about people and efforts to reduce the cost of maintaining separate systems could endanger the individual's right to privacy.

In this regard, I was encouraged by the comments of FBI Director Clarence M. Kelley, in a recent interview with Susanna McBee of the Washington Post. I include the interview to be printed at this point in the RECORD and to be followed by an editorial from the Detroit News entitled, "A Computerized Overkill?"

The articles follow:

FBI CHIEF SEEKS TIGHTER CURBS ON CRIME FILES

(By Susanna McBee)

WASHINGTON.—FBI Director Clarence M. Kelley says he will seek legislation to place tight controls on criminal information systems in order to protect individual privacy.

Kelley, who has been the bureau's leader since July, said in an interview that federal and state legislation to restrict the use of such systems would be "most acceptable."

He added, "I do not believe that we should have a carelessly administered system whereby there are possible leaks and possible inroads into what we have established as a secure system."

The issue has become important in police and civil liberties circles as more and more police departments are computerizing information about arrests, prosecutions, and sentences for crimes.

The FBI operates the National Crime Information Center (NCIC) here. It contains computerized information on persons wanted for crimes, stolen vehicles, and criminal history files on individuals.

Civil libertarians contend that the criminal history segment, which now accounts for only 8 percent of all NCIC data, has inherent dangers because dispositions of cases are not always included and because unauthorized persons can gain access to the files. So far only six states have joined the national criminal history system.

Kelley conceded that there "could be a situation where the disposition of not guilty is not shown" on a person's criminal history file. He insisted the FBI is trying to correct the problem.

He said the FBI wants to build a system "so that dispositions come through immediately." He also agreed with a recent study of the National Advisory Commission on Criminal Standards and Goals, which says credit rating services and the media should not have access to criminal history data.

An FBI spokesman said later, however, that Kelley favors the practice of bank officials checking FBI fingerprint files on prospective employes and that of state licensing agencies checking arrest records through local police departments.

But the spokesman said Kelley does not approve of such information going to other private firms.

A 1971 decision in Federal Court here said the FBI had no statutory authority to hand out fingerprint files and arrest records to private employers. But since then, Congress has passed riders to Justice Department appropriation bills giving the bureau some authority to continue the practice.

Kelley also discussed a Justice Department study of basic issues concerning the FBI—whether its intelligence gathering functions should be separated from its ordinary criminal investigations, how long the director should serve, whether additional guidelines for wiretapping should be established, and whether its investigative techniques should be revised.

The study was initiated by former Atty. Gen. Elliot L. Richardson and former Deputy Atty. Gen. William D. Ruckelshaus.

Kelley said the bureau has provided answers to about half the questions raised in the study, which has been slowed but not stopped by the departure of Richardson and Ruckelshaus.

The FBI director said he does not feel the bureau's intelligence gathering functions should be separated from its regular law enforcement work because, he said "informants in a criminal field can and do turn up information valuable in a security investigation."

He said legislation dealing with intelligence-gathering or surveillance would create "difficult" problems. But he disclosed the bureau is considering changes in its investigative techniques.

Kelley said a task force is studying investigative operations in the buerau's New York office and hopes to apply its findings to other field offices.

He said he is not thinking of changing the FBI's use of informants but he stressed that they should not become "provocateurs" or "violators of civil rights."

As for charges that the FBI has engaged in burglaries in past surveillance activities, Kelley said, "I can assure you it's not going on now."

A Computerized Overkill?

New York City has decided to strike the scofflaw motorist where it hurts him the most—right in the credit rating. It is now possible that a New Yorker could be denied a mortgage or a bank loan because he hadn't paid a parking ticket.

It is an interesting new twist to the old problem of chasing the parking violator who—as the term implies—"scoffs at the law." New York officials say with evident pride they are the first city in the nation to take the court-judgment route in the war to collect $75 million in overdue fines from 250,000 people.

They claim attacking a motorist's credit rating will accomplish more than their present technique of cutting off his car registration.

Judgments obtained in the New York State Supreme Court are to be "docketed," and the information thus becomes available to the "big brother" organizations that collect bad debt data and stuff it into computers for member businessmen to see.

Thus, if a scofflaw apples for a bank or department store credit card, he may be denied because he hasn't paid a ticket.

This is a case where the bureaucratic mind turns to these unfeeling computers for salvation. Yet another layer of personal information will be stored, and in those records more unfortunate mistakes are sure to occur. Some innocent people are going to get hurt.

Imagine—being denied a mortgage for a home because one had failed to pay a $10 parking ticket in New York City. The price is rather high when one considers that a parking violation isn't exactly murder in the streets.

OBSERVATIONS ON NIXON

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. HARRINGTON. Mr. Speaker, the December 15 issue of the National Observer carried an editorial presenting a rather perceptive review of the situation in which President Nixon finds himself. The editorial was noteworthy, no doubt, for the fact that it appeared in the National Observer, but in addition, the perception of the President as a man who prospered by creating an image, and who is now being hung by an image deserves the attention of each of my colleagues. For that reason, I would like to insert the editorial in the Record at this time:

He Who Lives by His Image

The American people finally have reached their tipping point on Richard Nixon; they won't tolerate him any more. The thousands of telegrams protesting Archibald Cox's firing, the diminishing Nixon support among GOP stalwarts on Capitol Hill, even the change of heart by The National Observer's most outspoken conservative, Ed Roberts—all this confirms that the populace has had enough of the lemon grower's son from Yorba Linda, Calif. (Yes, Nixon's father once grew lemons; he didn't spend all his life in a grocery store.)

Odd, this matter of a tipping point. Until a few weeks ago the conventional wisdom held that the people were sick of Watergate and related odorous scandals coming out of Washington. They didn't want to talk about it. They were disgusted by the mess, but dismissed it as "politics" and thought Nixon no worse than other politicians. They were willing to put up with three more years of Nixon, though precious few really liked him.

The people, in sum, had become inured to the stench from Nixon's Washington.

Then, with astonishing quickness, many of them changed. They became outraged. Cox's firing, the resignations of the Justice Department's top two, and Nixon's squirming on the tape issue combined to tip many people into the anti-Nixon camp. Why?

Social scientists and historians eventually may provide us with learned answers, but two possible reasons suggest themselves now. One is the widespread perception of Archibald Cox, Elliot Richardson, and William Ruckelshaus as honest men surrounded by unscrupulous connivers. In this context it doesn't matter if the three were in fact honest; they were perceived to be such by the nation's TV viewers and newspaper readers, and that's what counted. Nixon, the cad, had forced three honest public servants out of his Administration.

The other reason: tape recordings and people's knowledge of them. Everyone either knows what tricks are possible with tapes, or thinks he does. Lots of people own tape recorders or tape decks and know something about erasing and dubbing. And who hasn't seen TV or movie spies rearranging tapes so skillfully that no tape mission seems impossible?

So when the President's lawyer tries to tell the people that recording equipment in the President's office malfunctioned, nobody believes him. When the lawyer says there's an 18-minute blank space in a taped conversation between Nixon and his then top assistant H. R. Haldeman—a conversation held just three days after the Watergate burglary—who will accept that as innocent happenstance? And Rose Mary Woods' wild story of acrobatics while at the tape recorder surpasseth all credibility. Again, it doesn't matter if these preposterous explanations are true or false; they were perceived to be false by the people, and that's what counted.

The President's recent frenetic efforts to refurbish his public image will surely fail. His feeble explanation of paying "nominal" income taxes and his protestation that he's not a crook won't significantly change the public's new attitude toward him.

Well, it's only right. For a man who has lived by his image, who won in 1968 with the indispensable help of TV coaches and makeup men, who has always seemed more concerned about the kind of person people thought him to be than the kind he really is—for such a man, it's indeed fitting to die politically because of the public's perception of him, whatever the accuracy of that perception.

James G. Driscoll.

U.S. RELATIONS WITH PAKISTAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. HAMILTON. Mr. Speaker, the President of Pakistan, Zulfiqar Ali Bhutto, visited the United States in September 1973 at a time when certain new emphasis in U.S. policy in south Asia were becoming apparent. I refer to the administration's desire to maintain good relations with Pakistan while removing several irritants in United States-Indian relations, to restrict severely the sale of arms to any state in the region, and to channel limited and reduced aid funds, mostly developmental loans, into specific areas. These policies reflect our limited interests in the Indian subcontinent and certainly a decision that our aid programs will not again reach the massive proportions they did in the 1950's and 1960's.

These new trends in our policies in the subcontinent raise certain questions about longstanding bilateral and multilateral relationships we have had with Pakistan. Some of the questions were discussed in recent exchanges of letters I had with the Department of State. I enclose in the Record for the interest of my colleagues my correspondence with the Department of State:

COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C., October 1, 1973.
Hon. HENRY A. KISSINGER,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: During his visit to the United States, Zulfiqar Ali Bhutto, Prime Minister of Pakistan, made several references to 1954 and 1959 agreements which he felt defined his country's special relationship with the United States and under which he felt his nation was entitled to gain access to certain military equipment by mutual agreement.

I am aware of the texts of these agreement; but I want to inquire concerning their validity today. Are they both still in force? Does the 1959 accord define our total commitment to Pakistan under the CENTO agreement? Is the 1954 accord made obsolete by decisions on military supply to South Asia taken unilaterally by the United States since 1965? Do these accords today define our military relationship and supply policy toward Pakistan? What value does the United States attach to these agreements?

I appreciate your consideration of this matter.

With best regards.

Sincerely yours,
LEE H. HAMILTON,
Chairman, Subcommittee on the Near East and South Asia.

DEPARTMENT OF STATE,
Washington, D.C., November 1, 1973.
Hon. LEE H. HAMILTON,
Chairman, Subcommittee on the Near East and South Asia, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of October 1 in which you raised several thoughtful questions regarding our treaty relationships with Pakistan.

I should like to answer individually the questions which you have posed.

Are both agreements still in force? Yes, both are still in force. Neither the United States nor Pakistan has undertaken action for their termination under Article VII of the 1954 agreement or Article VI of the 1959 agreement.

Does the 1959 accord define our total commitment to Pakistan under the CENTO Agreement? The United States is not a signatory to the CENTO Agreement and thus has no direct commitments to Pakistan or any other country under that Agreement. However, we are linked to the CENTO countries by bilateral accords; in the case of Pakistan this is the 1959 agreement. This agreement is restrictive. Article I of the agreement, by its reference to the Joint Resolution to Promote Peace and Security in the Middle East, limits our use of armed forces under that agreement to instances of "armed aggression from any country controlled by international communism." It should also be noted that our commitment under the 1959 agreement is to take such action "as may be mutually agreed upon".

Is the 1954 accord made obsolete by decisions on military supply to South Asia taken unilaterally by the United States since 1965? No. Article I of the 1954 agreement provides that it is within the purview of the United States to determine which classes of items or services shall be supplied to Pakistan. The article states that the United States will provide such assistance as it "may authorize" in accordance with "terms and conditions" agreed to by the two countries.

Do these accords today define our military relationship and supply policy toward Pakistan? It would be inaccurate to state flatly that these documents define our military relationship or supply policy toward Pakistan, although they provide the basis for both. In addition to the agreements you have noted, the United States and Pakistan are parties to the Mutual Security Defense Support Assistance Agreement of January 11, 1955, and several other agreements amending or implementing that agreement and the 1954 agreement. These documents provide for the furnishing of such commodities and services to Pakistan "as may be . . . authorized by the Government of the United States" (1955 Agreement, Art. I).

The 1959 agreement provides the basis for the ongoing military relationship with Pakistan. Similarly, the 1954 accord established the basis for our original supply relationship with Pakistan, but the manner in which we are prepared to exercise our discretion under Article I of the 1954 and 1955 agreements is controlled by policy determination, currently reflected in the supply policy guidelines announced on March 14, 1973.

What value does the United States attach to these agreements? The United States continues to assign importance to these agreements. Not only do their practical consequences have significance for us but, equally importantly, they symbolize our close and effective relationship with Pakistan, a relationship which was clearly underscored during Prime Minister Bhutto's recent visit to this country.

I hope, Mr. Chairman, that these answers are sufficient to provide you with adequate background on our assessment and evaluation of the agreements in question. Please feel free to call upon me whenever I can be of assistance.

Sincerely yours,
MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

COMMITTEE ON FOREIGN AFFAIRS,
November 8, 1973.
Hon. HENRY A. KISSINGER,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: My inquiry of October 1 concerning the 1954 and 1959 agreements between Pakistan and the United States was answered by Marshall Wright in a letter dated November 1. I appreciate that response.

The Department gave me fairly precise answers to the few questions I raised in my initial letter but several other, more general lines of inquiry still remain concerning Pakistan's and our conceptions of the legal nature and intent and substance of our close ties. President Bhutto made it very clear in his visit with Members of the Committee on Foreign Affairs that he considered his government to be entitled, through these agreements, to access to certain, mutually agreed upon, military materiel and that if such access was not forthcoming, his government would consider our relationship with Pakistan to have changed and his government might have to reevaluate some of its foreign policy orientations.

The Pakistani Government's conception of the restrictive nature of these agreements may be similar to yours, but the Pakistanis seem to believe that if these documents are still in force, they imply a certain relationship and access to military equipment, specifically, more substance and less diplomatic reaffirmation. This raises questions concerning the substance we intend to give to our relations with Pakistan, whether our conception of the intent and purpose and force of the 1954, 1955 and 1959 agreements has changed over the years and how Pakistan's view and our view of the meaning of these documents coincide and differ today.

I look forward to continuing a discussion on this matter with the Department.

Sincerely yours,
LEE H. HAMILTON,
Chairman, Subcommittee on the Near East and South Asia.

DEPARTMENT OF STATE,
Washington, D.C., December 7, 1973.
Hon. LEE H. HAMILTON,
Chairman, Subcommittee on the Near East and South Asia, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of November 8 inquiring further into the nature of our treaty relationship with Pakistan.

I think there is no question as to the substance we assign to our relationship with Pakistan. As the President said when welcoming Prime Minister Bhutto to Washington on September 18, "the independence and integrity of Pakistan is a cornerstone of American foreign policy". The 1954, 1955 and 1959 agreements exemplify this view. As an indication of our commitment to Pakistan, the United States has provided economic assistance in all forms totalling nearly $350 million during the difficult period since the end of the Indo-Pakistan war in December 1971. It is the Department's view that this substantial assistance has made an important contribution, not only to Pakistan's development, but also in enabling it to be a force for regional peace and stability.

Turning to your query suggesting that "the intent and purpose and force" of the agreements may have changed over the years, the bilateral relationship which the three agreements evidence has not changed. However, the international context in which the U.S.-Pakistan bilateral relationship exists has altered over the years since 1959. These changes in turn have influenced the United States Government's view of the appropriate way in which our bilateral agreements with Pakistan should be implemented. We believe these views have been consistent with the language of these agreements and we intend that our actions should continue to further the underlying purposes of our mutual security interests.

I have set forth in this letter, and that of November 1, the view of the United States in regard to the three agreements. I do not think that it would be appropriate for me to attempt to set forth Pakistan's view. However, I can suggest that the fact that neither Pakistan nor the United States has given notice of intention to abrogate the agreements indicates quite clearly that both countries find the agreements in their mutual interest.

I hope, Mr. Chairman, that these answers will assist you in your assessment and evaluation of the agreements in question. Please feel free to call upon me whenever I can be of assistance.

Sincerely yours,
MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

ENERGY AND ENVIRONMENTAL EFFECTS OF RAIL TRANSPORT

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. HARRINGTON. Mr. Speaker, in addressing the Northeast rail crisis thus far, Congress has been primarily concerned with the economic considerations and ramifications of the possible termination of rail services in the 17 Northeastern States. It is a virtually unchallenged premise that a financial collapse of the railroad must be avoided to prevent great damage to the regional economy and consequential disruption of the national economy. The economic considerations of the Northeast rail crisis have been addressed in great detail, but we have failed to give adequate attention to the consequential impact of rail reorganization upon the environment, energy conservation, and questions of land use.

Especially when considering the issue of abandonment, it seems to me that Congress should thoroughly examine the environmental and energy conservation impact of large-scale transfers of freight from rail transport to truck transport, as would be required by abandonments on the order of magnitude as is desired by the Department of Transportation and by the Penn Central trustees. Massive abandonments would seriously aggravate air pollution, worsen shortages of petroleum products, and virtually require more highway construction at a time when automobile and truck transportation are increasingly undesirable, and when there is a clear need for comprehensive land use planning.

The distinguished environmentalist, Prof. Barry Commoner of Washington University in St. Louis, has written a perceptive article on the advantages of rail transportation. The author of the widely acclaimed book, "The Closing Circle," Professor Commoner argues convincingly that railroads should be a critical component of our future transportation system.

Professor Commoner's article in the December 2, 1973, Washington Post follows for the information of my colleagues:

TRAINS VERSUS TRUCKS: A BALANCE SHEET

(By Barry Commoner)

Commoner is professor of plant physiology at Washington University in St. Louis and author of "The Closing Circle." This article is excerpted from Harper's Magazine.

For more than a hundred years the nation's railroads have been operated on the sound American principle of exacting as much profit as possible from whatever the traffic will bear. The recent failure of that principle has been so obvious and so enormous that it no longer remains plausible if trains cannot run at a profit. Then presumably we have no choice but to nationalize the railroads, and by an unintended coincidence the legal means to do just that lie readily at hand in the National Environmental Policy Act. A single paragraph of that act, a paragraph written with an entirely different objective in view, provides the basis for what otherwise might be considered a radical argument.

The argument requires a certain amount of preliminary reasoning that follows from the bankruptcy engulfing the Penn Central Railroad.

The Department of Transportation, the Interstate Commerce Commission and the Congress all have proposed plans to avoid a catastrophic shutdown of the railroad. The plan proposed by the Nixon administration would relinquish half the trackage of the Penn Central and of five other bankrupt railroads in the Northeast.

Probably the biggest obstacle in the way of the plan is paragraph 102(2)(C) of the National Environmental Policy Act of 1970. Because of that paragraph, the Department of Transportation (DOT) was required to attach to the administration's bill an environmental impact statement, which is supposed to detail the impact of the proposed action on the environment, delineate its long-term effects on natural resources, and, most portentously, discuss "alternatives to the proposed action."

The saga of the Penn Central Railroad is remarkable in the history of U.S. private enterprise. A company with $4.6 billion in assets loses over $500 million in two years; the merger that creates the Penn Central—which supposedly combines the talents of two experienced railroad managements—bogs down in childish bickering. The end came in June, 1970, when the Penn Central disaster became the largest bankruptcy in U.S. history.

GAGING THE IMPACT

Before environmentalism, the arguments about what to do with a bankrupt railroad would have been based solely on economic considerations: stockholders' equity, labor costs, rate structures and taxation. Now, however, under the NEPA requirement for an informative environmental impact statement, the discussion takes on the air of a class in ecology.

The impact statement filed by the DOT is a masterpiece of nondisclosure. It claims that communities deprived of rail service by the proposed reorganization could readily shift their freight business to trucks; that such shifts would have an "overall beneficial effect"; that the network of rail corridors—irreplaceable once abandoned—would be retained by a provision allowing other railroads to purchase them (not a likely event since the abandoned lines are guaranteed to be unprofitable).

The requirements of paragraph 102 are clear, however, and the DOT statement and others like it are certain to be judged inadequate by the courts. To bring such a statement into line with these requirements, the courts will need to consider just how the proposed reorganization would influence the quality of the environment, and then take up the merits of other ways to resolve the Northeast railroad crisis.

The task, then, is to determine the environmental impact of shifting a given amount of freight from the Penn Central Railroad to trucks. How much environmental degradation takes place when a ton of steel is shipped, let us say, from Bethlehem, Pa., to New York City by rail, as compared to the environmental cost of shipping it by truck?

To begin with, some basic facts about rail and truck freight: In 1970 U.S. railroads carried about twice as much freight as intercity trucks (808 billion ton miles compared to 419 billion ton-miles); at the same time, freight trains traveled far less to deliver their freight than trucks (448 million miles compared to 34.9 billion miles).

Thus, compared to freight trains, trucks make more numerous, faster trips, carrying considerably less weight per trip. This reflects the chief economic advantage of truck freight: It will arrive sooner and in smaller, often more convenient, units than railroad freight.

FUEL AND POLLUTION

There are big differences between the effects of trains and trucks on the environment. Here are some relevant figures: Per ton-mile of freight carried, trucks use four to six times as much fuel as the railroads, and produce about that much more air pollution. Although the levels of noise generated by trains and trucks are about the same, since trucks travel much more than trains to carry about equal loads of freight, trucks are probably responsible for about 10 times more noise, overall, than freight trains for equal movement of freight.

Next, the environment effects of maintaining and constructing the rail lines and highways need to be compared. Although railroads could handle two to three times their present freight traffic without clogging up, most truck-bearing highways operate close to capacity. This means that the proposed shift of freight in the Northeast from trains to trucks would require some new highway construction, with considerable impact on the environment.

For example, highways capable of carrying trucks take up about 51,000 square miles. About 28 per cent of highway construction is needed to accommodate trucks; truck freight involves about 14,000 square miles of land use, or about 34 square miles per billion ton-miles of annual truck freight. (In comparison, freight-carrying rail lines occupy about 3,800 square miles, or about 4.7 square miles per billion ton-miles of annual freight.) Similarly, because cement-making uses a great deal of heat, the energy needed to construct a highway is large—about four times that needed for the same length of railroad track.

The DOT plan calls for abandonment of about one-half the rail lines, which now carry about 20 per cent of the Penn Central freight. This means a shift of about 14 billion ton-miles of freight, annually, from railroads to trucks—which now haul about 46 billion ton-miles in the Northeast region. This amounts to a 25 per cent increase in regional truck freight. Accordingly, any environmental measurement depending on ton-miles of truck freight (such as air pollution) would increase proportionally. The proposed shift of freight haulage would result in the consumption of 420 million extra gallons of fuel annually. This would increase the total amount of fuel consumed in hauling freight in the U.S. by 3.5 per cent and add about 80,000 tons of pollutants to the air.

Consider a factory located at the edge of a small city, adjacent to a branch rail line that DOT proposed to abandon. Rail freight moving to and from the factory has little impact on city streets. But if the branch rail line were abandoned, the factory would ship its goods by truck on the nearest highway—probably some distance from the factory. Abandonment of the railroad is likely to send a stream of trucks through city streets in and near populated areas, intensifying local air pollution, noise, the risk of pedestrian and vehicular accidents, damage to streets, and disruption of neighborhoods and community life.

WHOSE PROFIT?

At the present rate of consumption, petroleum resources available to the U.S. are likely to be depleted in the next 25 to 30 years, but coal supplies are expected to hold out for about 400 years. This means, first, that the efficiency with which fuel is used, especially in transportation (which accounts for about 24 percent of our fuel consumption) will have to be improved. Secondly, it means that modes of transportation dependent on petroleum products will need to be displaced by those that can use coal.

The NEPA's mandate has a direct bearing on the Northeast railroad reorganization plan. There is clearly an unresolved conflict between the DOT plan to dismember the Penn Central and the five other bankrupt railroads, and President Nixon's admonition to the heads of federal agencies, in June, 1973, to "review the demands on our energy resources and determine how demand can be reduced." There is a marvlous irony in Mr. Nixon's urging that the country achieve a reduction in fuel consumption while DOT urges a plan for the Northeast railroads that would increase fuel used for transportation.

Thus, the logic of ecology, together with some simple financial statistics, establishes two fundamental facts about the railroads: The railroads are so much more efficient than their competitors in moving freight and people at minimum cost to the environment and to the dwindling supplies of fuel that we shall have to rely heavily upon them to find our way out of the growing environmental and energy crisis. At the same time it is equally true that no railroad, anywhere in the world, has been able to provide all of these services to society at a cost sufficiently competitive to support profitable operation.

If we give up the demand for profitable operation, which means that the railroads become publicly owned, then they can be rebuilt to provide the country with environmentally clean, energetically thrifty transportation. The choice is between social and private profit.

So, step by step, the way signposted by statistics on fuel consumption, air pollution, freight and passenger traffic, profit and loss, the journey that begins in the flowery innocence of ecology ends up before the most frightening specter in the demonology of private enterprise: nationalization.

PANAMA THREATENS FIGHT IF TALKS FAIL

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. FLOOD. Mr. Speaker, Ambassador Ellsworth Bunker arrived on the isthmus on November 26, 1973, in connection with the reopened negotiations for a new canal treaty that was ill-advisedly resumed by the executive branch of our Government without authorization by the Congress.

A newsstory from Panama published in a recent issue of the Miami Herald provides some interesting reading. One of my ablest correspondents on Panama Canal matters, who has had extensive experience in Latin America, Arthur L. Denchfield, Jr., wrote the editor criticizing the malicious editorializing in news columns, which have continually misguided the people of our country.

Because of the pertinence and timeliness of Mr. Denchfield's letter, I quote it and the newsstory to which it refers as parts of my remarks:

ARTHUR LEIGHTON DENCHFIELD, JR.,
Coral Gables, Fla., November 28, 1973.

DEAR EDITOR: Headlining the November 28th "Around The Americas" section of your excellent paper we read with awe and dismay that "Panama Threatens Fight If Talks Fail". This is a "Special To The Herald" report and bears the by-line of no columnist or reporter; neither is your source mentioned as the "UP" or "AP". Consequently, your readers may well be led to believe, without realizing it, an editorialized report containing a scattering of facts but containing a glaring, dangerous, and irresponsible misstatement which demands immediate correction.

We quote: "In the ten years of negotiations there has been general agreement that jurisdiction over the canal zone should revert to Panama and American control of the waterway and the Canal Zone should have a fixed term".

Nothing could be farther from the truth and we point out: (1) that there has NOT been general agreement that the jurisdiction over OUR Canal Zone should revert to Panama; your source can very easily verify that the sense of both the US Senate and House are to the effect that the US should continue to maintain absolute control over this US strategic property; (2) the use of the verb "revert" implies that the Canal Zone should be returned to a former owner whereas the former owner was not Panama but Colombia (When Panama was a province of same) to whom substantial compensation was paid; the Panama Canal Zone is as much US property as is Alaska, Hawaii, or Louisiana!

In this same connection we wish to also make perfectly clear the matter of the annuities we pay to Panama. Many misinformed Americans, as well as Panamanians, mistakenly believe that the US rents, leases, or has acquired the Canal Zone with some sort of option to purchase; the fact is that these annuities voluntarily paid Panama represent our freely-given compensation to Panama in lieu of our taking over the assets of the then revenue-producing Panama Railroad at the time of the Treaty of 1903.

In the interest of truth, a principle your paper has always defended, we ask that you kindly publish these comments.

Cordially yours,

ARTHUR L. DENCHFIELD, Jr.

PANAMA THREATENS FIGHT IF TALKS FAIL

PANAMA.—"This will be the last peaceful negotiation," was Panamanian strongman Brig. Gen. Omar Torrijos' welcome for Ellsworth Bunker, U.S. special ambassador and chief ANAL Treaty negotiator.

Even as Bunker was jetting toward Panama, the government-controlled evening paper was disseminating Torrijos' words under an eight-column headline reading: "If the negotiation fails, we will be left with no other recourse but the battle."

Bunker is in Panama for week-long talks with Torrijos and Panamanian Foreign Minister Juan Antonio Tack preliminary to renewed negotiations for a new treaty to replace the 1903 treaty under which the United States administers the Canal Zone.

In a brief airport statement, the veteran U.S. diplomat adopted a markedly different tone than that of Torrijos:

"Such an arrangement (the treaty) will require accommodations on both sides. The complexity of the issues will require flexibility and skill on the part of the negotiators and understanding on the part of the public," Bunker said.

The evening daily El Panama America quoted Torrijos as saying:

"It is the last opportunity. This will be the last peaceful negotiation. If the negotiation fails, we will be left with no other recourse but the battle. I am not tossing a threat but recognizing reality," Torrijos said.

Bunker, 79, met with Torrijos Tuesday, following calls on President Demetrio B. Lakas and Vice President Arturo Sucre.

Most of his week-long stay will be devoted to talks with Tack, with whom Bunker said he hoped to "initiate a dialogue that will result in the promptest possible negotiation of a new and modern treaty arrangement."

Accompanying Bunker is deputy negotiator Morey Bell who, shown a copy of the evening paper, remarked jokingly. "Is this our Bible?"

Bunker was met at the airport by Panamanian negotiators Carlos Lopez Guevara and Diogenes de la Rosa and Nicolas Gonzalez-Revilla, Panama's ambassador to Washington.

"If the challenge is great, so are the possibilities for statecraft to achieve a lasting settlement which serves the national interests of both countries and meets their responsibilities to the world concerning a major avenue of international commerce," Bunker said.

In 10 years of negotiations, there has been general agreement that jurisdiction over the canal zone should revert to Panama, and American control of the waterway and the Canal Zone should have a fixed term. The treaty now calls for American control in perpetuity. But there has been little headway on how to put the principles into effect.

Bunker was U.S. ambassador to the Organization of American States when Panama broke relations with the United States in 1964 after a bloody battle between Panamanian civilians and U.S. Army troops along the Canal Zone boundary. Bunker signed the agreement that led to the resumption of relations and the canal treaty negotiations.

His first diplomatic assignment was ambassador to Argentina in 1951, and President Lyndon B. Johnson sent him to the Dominican Republic during the 1965 crisis there.

He later served as U.S. ambassador to South Vietnam before returning to hemisphere diplomacy and the Panama assignment.

MASS TRANSIT SUBSIDIES

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. MINISH. Mr. Speaker, as the House prepares for a conference with the Senate on legislation to establish a program of Federal mass transit operating aid, I am pleased to receive word from the National Legislative Conference of their strong support for this vital program.

In view of the country's present energy situation, it is now more important than ever that our Government demonstrate a firm commitment to urban mass transit by supporting Federal operating subsidies.

At this point in the RECORD, I insert a resolution adopted last week by the Intergovernmental Relations Committee of the National Legislative Conference:

MASS TRANSIT SUBSIDIES

The operation of adequate, modern systems of urban mass transit is essential to the continued life of the urban areas within our States. Fare boxes no longer pay the operating costs of mass transit systems. In many cases fare hikes have resulted in reduced riderships. The day of the private mass transportation company is over. State and local government are heavily subsidizing the operating costs of public transportation in many cities. The Federal Government has limited its help to capital subsidies. This is not enough. The public is not well served if a transit is able to purchase a new, modern bus but cannot afford to pay the driver or buy the gasoline to run the bus. Better mass transit will save energy and make our cities less polluted and congested. Both the Senate and the House have passed mass transit subsidies bills. House-Senate conferees are in the process of resolving their differences. They will send to the President a bill which contains $800 million over two fiscal years for operating subsidies for urban mass transit. The administration has indicated its disapproval of both the House and Senate bills.

The Intergovernmental Relations Committee of the National Legislative Conference supports federal operating subsidies for urban mass transit and strongly urges the Congress to expeditiously pass the bill for operating subsidies for mass transit. Further, the Committee strongly urges the President to sign such a bill which will enable the cities to maintain the lowest possible fares to encourage use of mass transit. Increased public use of mass transit will save energy and make our cities both cleaner and a more pleasant place to live.

LAMENT OF A REPUBLICAN BUSINESSMAN

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. ASHBROOK. Mr. Speaker, I recently received a very moving letter from one of my constituents in Ohio. I want to share this letter with my colleagues, because I think it summarizes the problems faced by many American businessmen today. I have deleted the name and address of this writer in order to preserve his privacy. The text of the letter follows:

DEAR JOHN: The headlines in the newspapers don't make it comfortable being a Republican today. However, it is nothing compared to being a Republican businessman. I feel certain you are aware of what is going on but I still feel better having you hear it from me.

FRUSTRATION NO. 1

Last year Columbia Gas informed us they would probably go on allocation and they advised us to install a standby propane system so that our manufacturing facilities would not be cut off entirely. We spent $100,000, now have a beautiful propane standby system but we can't get the propane.

FRUSTRATION NO. 2

This week we were advised by our supplier of phenolic resin that this is not available—that end of his business is finished and now we can't make cores for a lot of our foundry products.

FRUSTRATION NO. 3

We were advised last week that we are on allocation of fuel oil and kerosene which are used for heating our pouring ladles in the foundry.

All of the above, of course, are created by the shortages of oil and gas.

FRUSTRATION NO. 4

Today we were informed that scrap iron, the biggest single product used in our foundry, is increasing in price by $18.00 a ton which brings the price of scrap iron up to $92.00.

This, they tell us, is caused by the foreign market demands and the price they can get for this product overseas. I might add, this is the highest price scrap iron has ever been and is quickly approaching the price of finished steel.

FRUSTRATION NO. 5

In the last year and a half, our company has spent over a million and a half dollars for equipment and dies for plastic pipe fittings. This, also, is on very strict allocation due to the petroleum problems. However, one basic ingredient such as monomer which has a controlled price in this country of $.12 a pound is being diverted to Europe where it is being sold by domestic sources at $.40 a pound.

If the above isn't enough to drive you crazy, we can't get wood for making pallets, corrugated container prices are sky high and even the stationery this letter is on is getting in short supply as well. Frankly, I dread coming to work every day as another crisis must be met.

I remember not to long ago when a congressman used to envy a businessman. Any time you want to change jobs, I am open for negotiations. Seriously, John, this is a very deplorable state of condition quickly leading to chaos. We here in Ashland are very concerned as I am sure you are. I wish I had answers for the problems but since I don't, that is why I am turning to you.

Kindest regards,

——— ———.

A SERMON PREACHED ON AMNESTY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. FRASER. Mr. Speaker, a former Minneapolitan, the Reverend John G. Simmons, now resident in California, recently sent me a copy of "A Sermon Preached on Amnesty." This sermon, delivered October 21, 1973 in St. Matthew Lutheran Church, North Hollywood, Calif. by the Reverend Richard S. Lippert, is a very personal statement. But no matter how the reader feels about the issue of amnesty, she or he will sense the agony and self-examination that went into its preparation and delivery.

Mr. Speaker, we are fortunate that the product of Reverend Lippert's introspection has been preserved and is available to us. If it had not been preserved we would have been denied one of the most important statements on amnesty resulting from the Vietnam war.

The sermon follows:

A SERMON PREACHED ON AMNESTY

I have agonized this past week trying to decide whether or not I should talk to you about this subject. I must admit that at this very moment I am feeling nervous, as I have been all week. I agonize because this is a touchy, emotionally charged issue that has only now begun to be talked about. And I agonize because this, as well as any subject that is controversial, always has the possibility of dividing rather than bringing together. I realize that and I understand that. It has never been easy for any religious community to come to grips with controversy. One needs only to look back into our own Judeac-Christian heritage, back to the days in early Israel in the time of the prophets when they had their running controversies with the Kings; back to Judaism in Jesus' days and their running feud and controversy with the Roman Government; and back into the entire history of our own Christian Church. In all of these instances, one finds that the time was pregnant with controversies which Judaism and the Church were, on many occasions, unable to handle.

So I must tell you that I agonize and at this moment—at this very moment I have a pit in my stomach—and I am nervous—and my hands are literally shaking. And I must tell you too, that anytime I talk about this or any related subject, I am flooded with memories and I still hurt terribly inside. So before I embark on what I have to say, there are two things which constitute a preamble to my remarks and my feelings.

The first is this: I will own my feelings, I will own what I say, I will own my words, I will own my thoughts. I cannot and I will not demand that you accept what I have to say, or for that matter, reject what I have to say. I am telling you what I feel, what I believe, what I must deal with from the very depths of my own soul and experience. And as I understand the will of God and my subsequent responsibility as a Christian, I speak to you this morning. I sincerely believe that as I understand the will of God and as I believe that His spirit works in me, I am moved to say what I have to say. If you can relate to that, okay. And if you don't relate to what I have to say, that's okay, too. All I can give you is the depth of my feelings and my understanding. I do not lay that on you for you will have to come to your own understandings, your own conclusions and deal with your own feelings.

Secondly, I want to give you some of my background so that you can get a better picture of me and, hopefully, garner more credibility about my remarks. Perhaps most of you by now know that I came to this Parish from the Military. I was a Navy Chaplain for three and one-half years and during that time I spent three years with the United States Marine Corps.

Now first, in 1968, at the very height of our involvement in Southeast Asia, I went to Vietnam and served for a year. Upon arriving there, I served about two weeks with the First Reconnaissance Battalion, a highly trained and very skilled counter-insurgent force. But I didn't stay there long. I was transferred to the field with a regular infantry battalion because their Chaplain had been badly injured. So I remained for eight months with the Second Battalion of the Fifth Marine Regiment, First Marine Division. During that particular time of eight months, my battalion suffered among the highest casualties of killed and wounded of any battalion in the I Corps area of operation. I Corps ran from the DMZ South to Quang Nai City.

Second, I spent a whole year away from my family. For those of you who, either in the service, or for some other reason have had to spend long periods of time away from your family will understand what I am talking about. I spent a whole year away from my wife, away from my child, during the most formative year of my life. And because of that, I missed out on an awfully large chunk of his life. I can never have that time back.

Third, I contracted illnesses the likes of which I hope I never have to go through again. I had falciprum malaria which has a much higher fatality rate than the normal vivax type of World War II. I had shigella dysentery so bad I was withered up like a prune. I had practically every kind of internal and external parasite—hookworm, roundworm and ringworm so bad that my skin broke open and began to pus. I was in so many fire fights and in so many shellings that it's like one big, bad nightmare. And I still pick small pieces of shrapnel out of the back of my neck and the back of my head. I have my medals, nine of them in all, to show where I've been. I say all of this not because I boast or am proud. On the contrary! I tell you this only to hopefully make my remarks more creditable. Also to talk or to think about any of this only brings on anxiety and sadness and a strong desire to withdraw. However, I have committed myself to this task and I choose to carry on. I must tell you also that I do so hesitantly, especially against the background of convulsion which is now going on in Washington, because I am sensitive to that also.

The issue or question simply put is this. What is to become of the thousands upon thousands of young men languishing in our jails right now; and what is to become of the thousands upon thousands of our young men across the world who have had to flee this country because of something they believed in, because they refused to participate in something which they felt was immoral and wrong? The war is now over between North Vietnam and us but it is not over for the majority of our sons who refused to fight, who refused to be caught up in something which they believed was wrong, and immoral, and indecent. So I ask—when will *this* war end?

Some people have suggested that what

we need to do is to apply what the law says. They should be tried, convicted and put into prison. Others have advocated that these young people should be pardoned by the President. That is, what they have done should be recognized as a crime because they broke a law and it should be so recorded; but that the offenders should be relieved of any consequence of the offenses for which they have been convicted. Now others have suggested that what they need is amnesty. Now amnesty comes from a Greek word which means literally to not remember or to overlook, or to not recognize. The proposition is that the whole matter of desertion, the refusal to fight, or the refusal to be drafted should be forgotten, that there would be no recognition of a crime having been committed and therefore no reason for pardon.

Now, I gave you all of that background on myself, on my feelings, on where I had been and what I have done because I wanted you to know exactly what I felt and what I went through. And I want you especially to know that during that year in Vietnam I died a hundred times, believe me! I suffered! I suffered terribly and because I suffered I say this to you this morning that I am completely and totally for *complete* and *total* amnesty! I say that as a human being and as one who recognized the basic tenets of my faith as being reconciliation, and peace, and love. Because I recognize these things I must, and I am moved, to ask our government to remove the penalties immediately from those who have suffered long enough in prisons, or have gone underground, or who are now in exile. I take very seriously my responsibility as a citizen of the United States and I take very seriously my responsibility as a Christian, and I am well aware of the arguments that might be raised against my position.

First, that I am neglecting my Christian responsibility to the state as set forth in the Thirteenth Chapter of Romans which states: "Let every person be subject to the governing authorities, for there is no authority except from God and those that exist have been instituted by God." Now I accept that and I believe that, but I also must balance that with a statement in St. Matthew where Jesus in the Sixth chapter said you cannot serve two masters. Now I understand that to mean, within the context of Church and State, that if the demands of the State and if the demands of your faith have come into conflict you must choose between the two. I have that conflict and I have chosen between the two! I choose the demands of my conscience and my understanding of my faith as opposed to the demands made on me by the State. I cannot and I will not give complete, absolute, unconditional and unquestioned allegiance to the State. Nazi Germany is not that far behind for me to forget the ovens at Dachau and Auschwitz.

Another comment that people are making in regard to amnesty is that if we do give amnesty it is going to be destructive for our country and for those who served. Now I ask this question: who is to say who did the most for their country, whether it was he who answered his call to duty and went overseas, or whether it was he who answered his call to duty and refused to go? I'm not trying to say that all of those who refused to fight, who refused to be drafted and who refused to go to Vietnam were doing so for moral reasons because I know that isn't true. There are thieves and interlopers and hustlers and con-artists and murderers who at this very moment are in jail, who are across the sea, who deserted and refused to go to Southeast Asia. But their number is small. That same line of reasoning could be applied also to those who served in the Armed Forces because I know that there are thieves and interlopers and hustlers and con-artists and murderers who went to Vietnam and came back and answered their "call to duty" to serve in the armed forces. There are bad people in both places who did their thing for bad reasons, just as there are good and honest men in both places who did their thing for what they believed were good reasons. Who therefore is to say who did the most for freedom and conscience? To me it really is amazing that most Americans continue to believe that these young men who refused to fight or be drafted still must be punished when over 70% of the American people now believe that the war was wrong from its inception to its conclusion. Doesn't it seem rather ironic then that even though we feel the war was wrong and in many quarters immoral, we still demand our pound of flesh from our sons?

Third, it is argued that amnesty will contribute to a general breakdown of law and order. This is inaccurate. For the past one hundred and ninety-seven years of our country, we have had thirty-five instances of amnesty or pardon beginning with the whiskey rebellion in 1785 in the State of Pennsylvania. And mind you, these people in 1785 fought against their *own* and not a foreign government and received amnesty from President Washington. In all of these instances when amnesty or pardon was given, the general breakdown of law and order never occurred! Either to know or to hope that you will be forgiven, or that your act will be forgotten after a war, did not make it any easier to go to jail or flee your country during the war. Further, to speak of law and order, that one must obey the letter of the law or be punished, is rather hard to take when hypocrisy, double-talk, lying, deceit, and the breakdown of law and order emanates from the very highest positions in our land. What kind of a country is this when those who govern feel they can break laws with impunity while imposing laws and rules and judgments and regulations of their own liking on others? What kind of hypocrisy is that? President Nixon talks a lot about law and order, and though he gets pardon and amnesty mixed up, I think the following quote by Mr. Nixon valuable in terms of what I've been talking about. "Now amnesty means forgiveness. We cannot provide forgiveness for them. Those who served paid their price; those who deserted must pay their price and the price is not a junket in the Peace Corps or something like that as some have suggested. The price is criminal penalty for disobeying the laws of the United States. If they want to return to the United States, they must pay the penalty." In light of what is going on right now in Washington, I can only shake my head in disbelief.

Fourth, some argue that to grant amnesty is unfair to those who died and suffered in Southeast Asia because it robs them of their sacrificial meaning. I came back with my life, but I want you to know that I suffered there and that this line of reasoning, that it robs those who suffered and died of their sacrificial meaning, is absurd, illogical and irrational. Is putting these young men in prison and keeping them there because they believed in the rightness of their cause going to bring back the lives of any of those young men who were killed in Southeast Asia? Is putting into prison those who have fled the country because they refused to be drafted and participate in a war that they thought was immoral going to bring back or change any of the suffering that went on with the thousands and thousands of young men who served there? Is it going to change anything? What will the pound of flesh bring? What will our retribution bring? If we throw them in prison and keep them there, is that really going to make the death and suffering of so many Americans any more meaningful?

Today I speak to you as a veteran of the Southeast Asia War, as a Christian and as an American who tries and fails far short, but who tries to understand myself and my world in terms of forgiveness, restoration, reconciliation and healing. We teach our children from the time they are able to walk that they should forgive, learn to live with people, to seek peace and not to demand our pound of flesh. Now if this is so, how can I as a Christian and an American refuse to be reconciled to our exiled and imprisoned sons—how can I do that? We have taught them to honor their conscience, to listen to the voice of God in them, to forgive, to heal and to reconcile. What gross hypocrisy if we honor that inside the Church but not in the market place of the world. Is it no wonder then that so many of our youth regard the Church and our country with contempt and cynicism? Lest some of you accuse me of lack of allegiance to my country and an appreciation of what and who we are, I want to go on record right here that I very dearly love my country—and because I do, I say these words this morning. Just because I disagree with some of its policies does not mean I love her any less. And contrary to the intentionality of a well known bumper sticker, I do love my country and I will not leave!

In closing, I am going to quote a short, but eloquent thought that can best sum up exactly what I feel about amnesty. It was uttered during what I believe to be the most critical period of American history: "With malice toward none, with charity for all, let us strive to bind up the nation's wounds. To do all which may achieve and cherish a just and lasting peace among ourselves and with all nations." The man who said that did so on a bloodsoaked battlefield one hundred ten years ago and his name was Abraham Lincoln.

Finally then, I urge from my perspective and my feelings and experience as a Christian and an American: not malice, but forgiveness; not revenge, but charity; not more brokenness, but unity; not peace only in Viet Nam but here with our sons as well.

If what I have said here today has any relevancy, then I am forced to ask this question: Is the King God; or is God the King?

RICHARD S. LIPPERT.

FOOD LABELING

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. ROSENTHAL. Mr. Speaker, Michael Gryzbinski, of Dedham, Mass., is not with us today. On April 17, 1973, at the age of 10, he died. The cause of death was anaphylactic shock caused by eating ice cream. It was ordinary ice cream, the kind we all eat. Michael was allergic to peanuts, and from the age of 3 he knew to check the labels of everything he ate. He was particularly careful about cakes, cookies, and candies, all of which he loved.

On April 17, after playing ball, he was invited to a friend's house for something to eat. Michael checked the ice cream carton and found nothing listed on it. So he ate some.

Tragically, the ice cream had been whipped with peanut butter. Within a few minutes, Michael went into anaphylactic shock and died. As parents, we can only sympathize with his mother and father over the needless, heartbreaking loss. As legislators, we can and must do more.

That is why, with over 70 of my colleagues, I have introduced the Truth in Food Labeling Act to require all food labels to contain a full disclosure of their ingredients.

Until such time as the Congress enacts this legislation or the food industry on its own begins telling consumers what they are putting in the foods we eat, I am today asking the Food and Drug Administration to order all food labels that do not contain a full ingredient disclosure, to bear the following caution:

> Warning: Unlabeled ingredients contained in this product.

This warning will not accomplish the ultimate goal of informing the consumer of all the ingredients in his food, but it will put him on notice that despite the impression he gets from the package label, there are additional ingredients inside that the manufacturer does not want to tell him about.

It can be compared to the warning required on cigarettes, but there is an even greater potential health hazard here, because it involves every citizen and there are so many food ingredients, especially chemical additives, about which so little is known.

The FDA has publicly stated it would like full ingredient disclosure, but it lacks the necessary authority to make it mandatory at this time. H.R. 1650, the Truth in Food Labeling Act, would give it that authority. But there is no need to wait—the warning label is one step that the FDA can legally take now.

I find it incredible that one product which usually lists all its ingredients on the label is pet food. Not only does the label reveal all ingredients, it also bears the nutrient percentages.

Every American consumer has the right, indeed the necessity, to know what is in the food he eats.

Joining me as petitioners are 36 Members of Congress and nine consumer groups.

The Members of Congress are:

Joe Addabbo, Herman Badillo, Alphonzo Bell, Frank Brasco, George Brown, Cardiss Collins, John Conyers, James Delaney, Robert Drinan, Thaddeus Dulski, Dante Fascell, Don Fraser, Ella Grasso, William Green, Tennyson Guyer, Michael Harrington, and Augustus Hawkins.

Jim Howard, Bob Kastenmeier, Ed Koch, William Lehman, Parren Mitchell, William Moorhead, Claude Pepper, Jerry Pettis, Bertram Podell, Joel Pritchard, Peter Rodino, Robert Roe, Leo J. Ryan, John Seiberling, Pete Stark, Louis Stokes, Gerry Studds, Jerry Waldie, and Gus Yatron.

The consumer groups are:

Consumers Union of United States, Inc.

LABEL, Inc.

Consumer Action for Improved Food and Drugs.

Action on Safety and Health.

The Federation of Homemakers.

Concern, Inc.

The Center for Science in the Public Interest.

Environmental Lobby, Inc.

The National Consumers League.

I am inserting in the RECORD at this point statements by two principal copetitioners, LABEL, Inc., and Consumers Union:

STATEMENT OF ARTHUR D. KOCH, CHAIRMAN, LABEL, INC., DECEMBER 12, 1973

According to present Food and Drug Administration regulations, many of the major food manufacturers are exempted from telling the consumer what ingredients they add to the foods they sell. Other manufacturers are required to list only some of the ingredients. Accordingly, even when there is a list of ingredients on the label, such a list may be only a partial disclosure. The inconsistent, incomplete, and industry-oriented ingredient labeling regulations are misleading and not in the interest of consumers. For far too long, unsuspecting consumers have been eating foods which are potentially harmful to them because the package label does not reveal all the contents.

Knowing what is in the foods we eat is important to all of us, but it is especially vital to millions of Americans with allergies, high cholesterol levels, dietary problems, and certain religious beliefs.

On February 25th, 1971, LABEL, Inc. (the Law students Association for Buyers' Education and Labeling) filed a petition with the Food and Drug Administration requesting that a new regulation be promulgated stating that "for the purposes of promoting honesty and fair dealing in the interest of the consumer, all food manufacturers and distributors must list on the label, in the order of their predominance, all ingredients which are contained in their product."

Although agreeing with the basic principle that the consumer is entitled to more complete ingredient information, the FDA rejected the LABEL petition on the grounds that the agency lacked the legal authority to require such a disclosure. This decision was upheld by the U.S. Court of Appeals for the District of Columbia Circuit and the Supreme Court denied LABEL's petition to review the issue.

The only mechanism now open to require complete ingredient disclosure is an Act of Congress. Until such legislation is passed, the Food and Drug Administration must act to protect the innocent, unsuspecting consumers who logically believe that an ingredient listing on a food label is a complete disclosure of the package content. To accomplish this goal, LABEL, Inc., Congressman Benjamin Rosenthal, Consumers Union and a coalition of seven other Washington based consumer groups concerned with the quality of our food supply are today petitioning the Food and Drug Administration to require that the statement: "Warning: Unlabeled Ingredients Contained in this Product," be placed on the label of every food product not containing a complete disclosure of the ingredients. In addition to serving its intended purpose of making consumers aware of the fact that an ingredient listing is only partial, the threat of such a negative label declaration could prove to be the incentive that industry needs to voluntarily list all of the ingredients.

To protect the numerous, unsuspecting consumers who are purchasing and eating food ingredients which they are consciously attempting to avoid, we challenge the Food and Drug Administration to issue the proposed regulation without delay.

STATEMENT OF MARSHA N. COHEN, ATTORNEY, WASHINGTON OFFICE, DECEMBER 12, 1973

Consumers Union called for full ingredient labeling of all food products 35 years ago, and has continued to seek such disclosure to the present day. The most elemental factor in consumer protection is the dissemination of information so consumers can make choices and protect themselves. In the area of food, the information as to the ingredients contained in a product is simple and cheap to provide, and of the greatest importance. By any calculation, there are multiple millions of consumers in this country who must be careful about the contents of their diets. People with food allergies and those on low-sodium, low-cholesterol or ulcer diets are among those who *must* know the full contents of all foods. What is one person's meat is, in a real sense, another's poison. In addition, there are other millions of people who desire to avoid certain constituent elements of foods—either for religious reasons or because of their concern about certain food or chemical components. This necessity on the part of many millions of consumers and the desire on the part of untold numbers of others demands immediate action by FDA. There can be no legitimate argument made that consumers are not entitled to the basic consideration of being provided with a simple list of what's in their food. After all, if you are what you eat, you are certainly entitled to know the ingredients.

WASHINGTON REPORT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include my Washington Report of December 12, 1973.

WASHINGTON REPORT

CHOOSING VICE PRESIDENTS

The nation can take assurance from the first experience this week with the 25th Amendment, which deals with vacancies in the office of the Vice-President, such as that which existed for 13 months after Vice-President Johnson became President. This week the Congress approved Representative Gerald Ford as Vice-President, and my impression is that the selection process under the amendment worked well. The Congress judged the nomination with the care appropriate to a possible future President, and subjected Mr. Ford to a more systematic scrutiny than any Vice-Presidential nominee ever chosen in convention.

The same favorable assessment cannot be made of the usual selection procedure for Vice-Presidential candidates at the party conventions.

In 1906 Finley Peter Dunne, the political humorist who created Mr. Dooley, wrote: "It's strange about the Vice-President. The Presidency is the highest office in the gift of the people. The Vice-Presidency is the next highest and the next lowest. It isn't a crime exactly. You can't be sent to jail for it, but it's a bit of a disgrace."

It may have been that kind of thinking that got us into bad habits in the way we choose Vice-Presidents. At any rate, the American people have good reason to think that the way we pick our Vice-President could stand some improvement. Vice-President Agnew resigned in disgrace, convicted of a felony, and Senator Thomas Eagleton, the Vice-Presidential nominee for the Democrats in 1972, embarrassed the Democrats and had to be replaced.

The problem, of course, is that we pick the Vice-Presidential candidate at the political convention, overnight, in a frantic, disorganized and mostly closed series of meetings with an exhausted, exuberant and distracted Presidential nominee having the final word.

With two of the last five Presidents coming to office via the Vice-Presidency, with 16 different Vice-Presidential vacancies extending for a total of 37 years, and with the last two choices going awry, the importance of the Vice-Presidential selection process and the necessity for improving it are apparent.

A number of proposals to improve the selection of Vice-Presidents are being discussed, including:

SEPARATE ELECTIONS

Vice Presidential candidates could be chosen in much the same way as Presidential nominees but in separate or simultaneous primaries. A variation of this proposal is to award the Vice-Presidential nomination to the runner-up in the Presidential race.

TEAM CANDIDATES

A Presidential candidate could announce his running mate at the beginning of his own candidacy on a team-ticket basis in state primaries and conventions.

REFORM CONVENTION SELECTION PROCEDURE

Vice-Presidential nominees could be chosen solely in an open convention or selected from a list drawn up by a Presidential hopeful either before the convention begins or after being nominated by the convention. Alternately, Vice-Presidential choices could be limited to the Presidential nominees, or the Presidential candidate with the second highest number of votes could automatically become the party nominee, or he could be selected by a special committee chaired by the Presidential nominee. Convention schedules could also be rearranged to allow more time for Vice-Presidential selection.

POST-CONVENTION SELECTION

Vice-Presidential candidates could be chosen after a party convention in a national primary, by the party's national committee, or by the Presidential candidate who would submit his choice to party leaders for certification.

The selection of the Vice-Presidential candidate should meet several standards in my judgment: 1) The Presidential nominee should have a significant role in his selection. 2) Sufficient time should be provided to guard against hasty decisions. 3) A process of consultation should be provided, with maximum public input. 4) The party convention should maintain the power of ultimate approval.

I come down on the side of the fairly modest proposals to retain the convention system, but to slow the process down and make it more deliberative. The 12-hour interval between nomination of a Presidential candidate and selection of a running mate candidate is the principal mistake, and it should be extended to at least 36 hours, if not to the post-convention period.

EVASIVE TAX ANSWERS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. CLAY. Mr. Speaker, much discussion is now going on regarding President Nixon's financial disclosures. A recent editorial carried by the St. Louis Post-Dispatch on December 7 raises some significant aspects of this problem.

The President has evaded many questions and is now appearing to cloak his innocence through overwhelming generosity. With regard to his having taken a $500,000 tax deduction for his Vice-Presidential papers that he donated to the National Archives, he now offers to take them back because the papers are worth much more according to him. In spite of his generosity, we must not overlook the fact as the Post-Dispatch points up that "there is now reason to doubt that the IRS ever checked out and approved the deduction for the gift."

In addition, Nixon is attempting to stifle criticism surrounding his San Clemente home by offering to donate it to the Government after he and his wife die. I concur with the view expressed by the Post-Dispatch "whether the Government would want a gift that might serve as a monument to a President whose tenure was marked by the greatest scandal in American history."

Many questions still remain to be answered. The President cannot continue to dodge them by appearing to be generous. Americans do not want Nixon's generosity now—what they want is some sound answers.

I want to share the editorial entitled "Evasive Tax Answers" with my colleagues. The editorial follows:

EVASIVE TAX ANSWERS

In answering accusations of tax evasion and improper use of Government funds, President Nixon's strategy in part seems to be to imply his innocence by showing how generous he is. When he was questioned at a Nov. 17 meeting with editors about his extraordinarily low income tax payments in 1970 and 1971, Mr. Nixon's response was that in 1969, on advice of President Johnson, he had benefited from a law then in force which allowed him to deduct $500,000 for the value of his vice presidential papers that had been donated to the National Archives. But he added that, if this deduction should be questioned by the Internal Revenue Service, he would be glad to pay the tax and take the papers back, because they would be worth more than they were appraised at.

The implication was that, by generously giving the papers to the National Archives, he passed up an opportunity to realize a much greater gain. This belated claim of virtue does not, however, answer, much less disprove, the still standing charge that Mr. Nixon did not follow the requirements of law in making the gift.

What's more, there is now reason to doubt that the IRS ever checked out and approved the deduction for the gift, as two of Mr. Nixon's lawyers claimed it did. Two key figures who would have had to be consulted in such an audit—Arthur Sampson, director of the General Services Administration, parent agency of the National Archives, and Ralph Newman, the appraiser who evaluated the Nixon papers—both say they have not been approached by the IRS.

As a response to allegations of improper Government expenditures on the President's San Clemente estate and a failure to pay capital gains taxes on the sale of part of the estate, the White House is now letting it be known that Mr. and Mrs. Nixon are planning to donate San Clemente to the Government after their deaths. The implication is that the Government will benefit from this gesture of Nixon generosity and that this gift should erase any nagging questions as to improper expenditures and tax avoidance.

The point ignored by the White House, however, is that Mr. Nixon could realize substantial tax benefits by making a gift of San Clemente, especially since the value of the property has been enhanced by more than $6,000,000 in federal outlays. Also overlooked is the question of whether the Government would want a gift that might serve as a monument to a President whose tenure was marked by the greatest scandals in American history.

LOCAL REPUBLICANS SUPPORT PARTISAN ELECTIONS FOR DISTRICT OF COLUMBIA

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. DIGGS. Mr. Speaker, there is overwhelming support for electing the new Mayor and City Council for Washington, D.C., in partisan elections.

Local Republicans, who are in a minority in terms of voter registration in the city, nevertheless prefer partisan to nonpartisan city elections.

I am attaching letters I have received from Edmund E. Pendleton, chairman, and Melvin M. Burton, Jr., vice chairman of the District of Columbia Republican Committee, and Richard R. Clark, cochairman of the Self-Determination Committee of the District of Columbia Republican Party. All three of these officials of the party testified at the hearings we held last spring on self-determination for the District of Columbia.

The conference report on S. 1435 provides for partisan elections, just as did the original H.R. 8692 which passed out of committee on a vote of 20 to 4 last July 31.

I trust the House will give its approval to the conference report including this feature.

The letters follow:

D.C. REPUBLICAN COMMITTEE,
Washington, D.C., December 7, 1973.

DEAR MR. CONGRESSMAN: In testimony before the Subcommittee on Government Operations, U.S. House of Representatives, District of Columbia Committee, and before the Committee on the District of Columbia, U.S. Senate, the Self-Determination Committee for the D.C. Republican Party testified in favor of partisan elections with minority political representation for Mayor and City Council elections in the District of Columbia.

Therefore, the District of Columbia Republican Party is in accord with the Conference report and its provisions relating to partisan elections in the District of Columbia with minority political representation.

Respectfully,

EDMUND E. PENDLETON,
State Chairman.

D.C. REPUBLICAN COMMITTEE,
Washington, D.C., December 10, 1973.

CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia, Washington, D.C.

DEAR HONORABLE CONGRESSMAN DIGGS: In my testimony before the Subcommittee on Government Operations, United States House of Representatives, District of Columbia Committee and before the Committee on The District of Columbia of The United States Senate, I testified on behalf of The District of Columbia Republican Committee in favor of partisan elections with minority, political representation for Mayor and Councilmanic elections for The District of Columbia.

This testimony was also in accordance with my views and the views of numerous other Republican with whom I had the opportunity to discuss this matter. Therefore I favor the Conference report and its provisions relating to partisan elections in the District of Columbia with minority political representation.

Respectfully,
MELVIN M. BURTON, Jr.,
Attorney-at-Law,
Vice Chairman.

D.C. REPUBLICAN PARTY,
December 10, 1973.

Hon. CHARLES DIGGS,
Chairman, House District Committee, Washington, D.C.

DEAR CONGRESSMAN DIGGS: You are advised that most Washingtonians I have spoken with favor a *partisan* election for an elected Mayor and City Council in the District of Columbia Government.

As a native and member of many organizations, I, too, favor a partisan form of election guaranteeing minority representation.

Any assistance along this direction is appreciated.

Yours very truly,
RICHARD R. CLARK,
Cochairman,
Self-Determination Committee.

JOSEPH P. LORDI IS HONORED

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. RODINO. Mr. Speaker, on Wednesday, November 28, the New Jersey Committee of the National Jewish Hospital and Research Center at Denver, paid tribute to the Honorable Joseph P. Lordi at their annual award dinner. Approximately 300 New Jersey citizens participated in this most special occasion, emphasizing their strong support for the activities of the National Jewish Hospital, particularly in the fields of asthma and immunology research, while honoring Mr. Lordi for high standards of ethical conduct he has established as prosecutor for Essex County.

As I look back over the years, I see Joe Lordi in his dual roles—public servant and private citizen—seeking to improve the quality of our lives.

Whether in his effort to assure the basic elements of a decent environment—by helping to create a climate free from crime and the awful fear it fosters, or by joining in the battle against disease so that one day man may be free of its scourge; or by engaging in youth work to provide opportunities for our young people to make a life for themselves—keeping alive their hope for a piece of the American dream.

All of these things he has done with dedication—and for the well-being of his fellow man. And we are all a little better off for his having done so.

I can remember—back a number of years ago now—when Joe was part of a police effort in the east ward where cases against juveniles were handled on a local community committee basis, a plan that allowed a young person to receive direction so that he could start life without a police record.

And his development of programs for young drug users was a notable achievement in his work with the East Ward Boys' Club several years ago.

In his present position as county prosecutor, Joe Lordi instituted a reorganization that has assured efficiency and effectiveness in the administration of criminal justice. A decline in organized crime has vividly demonstrated vigorous vigilance and prosecution. An innovative complaint and indictment section screens complaints to provide for handling at the local level if possible—a procedure that has provided for greater efficiency, assuring that the right to a speedy trial is a real possibility.

His commitment to his fellow man's well-being has been amply evidenced by his role in the work of the National Jewish Hospital. His singular efforts in the creation of the Essex County Committee for the National Jewish Hospital have brought about meaningful results by attracting others in the community to lend their assistance.

Joe understands what people need. He understands what the community needs.

In his role as a public servant, Joe Lordi has been guided by a sense of justice and of fairness—a determination to assure strict compliance with our laws, tempered by the compassion of a sensitive man.

Integrity, too, is a quality that characterizes the actions of Joe Lordi.

And in his approach to justice, Joe has demonstrated his faithful adherence to one of the basic principles of democracy—that all men are equal under the law. In his kind of faith in that precept, we are assured that our society will be made of laws and not of men.

I think that with the qualities he brings to the tasks he undertakes, Joe Lordi will live up to the most sacred goals on which our Nation and its system of justice were founded.

The roots of that system go deep into the history of Western civilization to incorporate teaching of the great Roman lawmaker, Justinian:

> To live honorably, to injure no other man,
> To render everyman his due.

And it can be said, I believe, that in his fairness, his compassion, and his integrity, Joe Lordi is a living embodiment of that code.

The code is a working tool urging us to be fair, without fear; to favor equality under the law: to render every man his due—not favored treatment for a favored few.

By living the code, Joe Lordi has made life a little better for each of us who has a stake in Newark. But his kind of influence goes far beyond the neighbors he has assisted, far beyond the county lines of Essex County. The personal qualities Joe Lordi brings to the jobs he does influence the character of Government and politics with a far wider impact.

For at this time in our history, the integrity of our highest Government officials is in doubt and we face a crisis of confidence in our political processes.

The American people demand Government officials who are honest and just.

Men of integrity can restore the people's confidence in their democratic system of government.

Joe Lordi is that kind of man.

He is a man who has seen a challenge and accepted it.

He is a man whose work will not only improve the daily lives of individual citizens, but will assure for them the basic human right of equality. His work will contribute to the preservation and defense of the very constitutional foundations of our Nation.

I am grateful to be able to join tonight with the National Jewish Hospital to pay tribute to a friend—a friend of the people and a friend of justice—Joseph Lordi.

One of the primary purposes of the National Jewish Hospital's effort is to find new ways to treat asthma. This crippling disease strikes hardest at our children. The hospital is working hard to find better ways to control and cure asthma. The institution's scientists are investigating drug treatment and looking into how cells work to find the basic answers to the disease process. Its research is already having a profound influence on the kind of care all of us receive from our own doctors for asthma and allergies. The hospital's mission will also result in the stepped-up training of doctors who will return to New Jersey and other States to share their knowledge and skills. There is a critical shortage of specialists in respiratory diseases and NJH is seeing to it that more doctors are given training in this important field.

The Department of Health, Education, and Welfare has been a long time supporter and advocate of the research, treatment, and education programs in chronic respiratory diseases that are being carried out at National Jewish Hospital at Denver—NJH. The hospital has become a leader in the fight against respiratory ills through the backing of the National Institutes of Health and many distinguished and loyal citizens throughout the country.

Secretary Weinberger expressed his deep regard for the contributions made by the New Jersey community to this vital work in the following statement:

> It is my pleasure to commend the New Jersey volunteers whose efforts in support of the National Jewish Hospital and Research Center have helped make it respected throughout the world as a center of biomedical research, an example of responsible and responsive medical care, and a source of professional education.
>
> We in the Department of Health, Education, and Welfare are especially interested in research progress at this distinguished hospital. The National Institutes of Health currently supports more than 20 projects at the Hospital in areas such as immunology, bacteriology, mycology, allergy, and biochemistry.
>
> One NIH component—the National Institute of Allergy and Infectious Diseases—is particularly involved in this support and, in 1971, established one of its first Asthma and Allergic Disease Centers at the Hospital. Now, there are fourteen such Centers, all located at institutions where recent advances in immunology and other basic sciences are being applied to the care of allergic patients.
>
> The work of National Jewish Hospital and Research Center scientists is bringing hope to

many patients with chronic respiratory diseases.

At the same time, the concern of individuals such as Mr. Lordi—whom you are honoring tonight—and all volunteers of the Hospital, is proof that the world is not yet too rushed to accommodate selflessness and consideration for those less able to help themselves.

ENERGY CRISIS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. SYMMS. Mr. Speaker, all we hear as proposed solutions to the energy crisis is more and more Government control. Apparently, very few people stop to think why and how we got in this mess in the first place. In my opinion the energy crisis is another example of big Government trying to solve a problem that Government itself created in the first place.

State Senator Jack Steinhilber of Wisconsin recently made a report to his constituents in which he states in a direct manner the real reasons we face cold homes with no Christmas lights this year. His remarks are as follows:

STATE SENATOR JACK STEINHILBER OF WISCONSIN REPORTS TO HIS CONSTITUENTS

FOR THE RECORD

"No Man's Life, Liberty or Property are Safe while the Legislature is in Session . . ." 1 Tucker 248 (N.Y. Surr. 1866).

This quotation from an old New York judicial opinion contains a great deal of wisdom—and I have it framed and hanging in my Capitol office.

The truth of this quotation becomes evident to anyone who scans the list of over 2,000 bills and resolutions still pending in the Legislature. The Governor's personal "shopping list" included 46 separate measures, most of which are highly controversial, and would either drastically change the law or greatly regulate and control large segments of our society.

Fortunately, few of these bills have received final action yet.

Nevertheless, the Fall Session of the Legislature has been much maligned by the Governor and by some segments of the press. They said we didn't pass enough legislation—or the Governor's pet bills.

I am pleased by the fact that the Legislature did not inflict some of these laws on the people! Why? Because they would regulate, control and stifle the creative energies of the people of this state.

From "land use controls" to a mandatory seat belt law, from licensing service stations to state control of health care services, and many more,—these bills concentrate power in Madison.

How many of them will pass in the next floor period remains to be seen.

But it was not a "do-nothing" session—as the following statistics establish:

1. "During the October session, the Republican controlled state Senate passed 95 bills and joint resolutions; the Democrat controlled Assembly passed 56 proposals.

2. "Governor Lucey, as of this date, has yet to act on 41 measures which gained Legislative approval in October. These include 15 Senate and 26 Assembly bills."

AND NOW THE "ENERGY CRISIS"!

From the Watergate revelations to the Agnew resignation . . . from the Middle East War to presidential firings . . . from the meat shortage to the energy crisis, the American people are absorbing a media bombardment of one "crisis" after another.

A crisis is usually defined as "a decisive moment" or "a crucial turning point."

The current "crisis" is one that may be with us for some time—as our politicians and bureaucrats seem to be bent on insuring a prolonged period of agony.

The "solutions" they have suggested for the fuel shortage, range from higher gas taxes to rationing! A gasoline tax of possibly 10¢ a gallon for the state (helpfully suggested by Governor Lucey), and 40¢ a gallon for a federal tax!

All of these "solutions" will merely aggravate the problem—and already we are hearing the suggestions of the "final solution": a government takeover of public utilities and the fuel industry.

Of course, this would insure a permanent shortage—and perpetual "allocation" (or rationing) by our "energy czars".

And by the way, isn't it remarkable how these men are transformed when dubbed by the executive with a title, and the perquisites of office? They immediately assume wisdom far beyond the capacity of normal men to acquire in a lifetime! Whether in Washington or Madison, these remarkable administrators are able to make an infinite number of critical decisions: who among the hundreds of thousands or the millions of us is to be assigned what quantities of energy.

Actually, they must rely on formulas—a percentage based upon usage for the prior year seems to be in vogue. But woe be unto the growing business—(which is presumably growing because it is satisfying public demand)! It won't be able to get any more fuel than a similar declining business (who isn't satisfying the customer in the marketplace.) Thus we retard excellence and success.

What utter nonsense!

We've seen politicians and professors and experts and businessmen and even bankers on T.V.—night after night—and they have lots of scapegoats—the Arabs, the oil companies, the American people. I listened to the President explain the energy crisis, and when he was finished, I could only reflect on what he might have said—about who and what really caused the energy crisis—and what we could do about it.

If only the President had taken the opportunity to explain how government itself created and maintains this energy shortage by the following acts:

1. As to Natural Gas:

A. Putting a ceiling price on natural gas. This discourages exploration and increases use.

B. Keeping prices down even in the face of inflation—This amplifies the effect and guarantees a shortage.

2. As to Coal:

A. Banning the use of coal with sulphur content; restricting strip mining; imposing drastic safety rules; and freezing prices. This sharply restricts supplies by reducing output—and discourages investment because higher costs can't be offset with higher prices.

3. As to Atomic Power:

A. Delaying construction for years by confusing and uncertain licensing requirements; delaying operation at full power—even after construction; and delaying construction of new plants by environmental lawsuits.

4. With Natural gas, coal and nuclear power severely restricted—that left petroleum for the most intensive treatment of all:

A. Increasing gasoline consumption by requiring gas-guzzling emission control devices on all new cars.

B. Banning the use of oil containing sulphur, thereby reducing refining capacity.

C. Increasing the cost of constructing refineries, confusing the legal requirements to construct them—and eliminating nearly all new refinery sites by environmental legal tactics, thereby virtually stopping refinery construction or expansion.

D. Blocking the use of Alaskan oil with arguments about cosmetic effects in uninhabited regions, and constant legal tangles.

E. Stopping or slowing offshore oil drilling.

F. For good measure, holding the price of gasoline lower than the market demands to insure greater use, thereby insuring market dislocations.

If we merely blame the oil companies and utilities or the Arabs for causing the energy shortage, and clamp a system of permanent bureaucratic controls on the energy producers, we will assure a permanent energy shortage—and our country of formerly free enterprise will be guided into a different economic system.

That's what the Galbraiths, the Luceys and the Nelsons are advocating for you.

Already, the hue and cry is heard that Americans are using more than their "fair share" of energy. You are being conditioned to accept a different way of life. The social engineers say you must forget that motorboat, snowmobile or even that Sunday ride to the country. Even Christmas should be banned, according to one professor, who called it a "Roman orgy". Shades of Ebenezer Scrooge!

The planners won't help produce a gallon of oil or a kilowatt of energy—but they'll see to it that we all get our "fair share" of the shortage!

The fact is that there are plenty of fuel and energy resources to be developed—if only government would get out of the way!

Our system of plenty—our standard of living—exists only for one reason: Free men working in free enterprise! As government has intruded itself into the market place, dislocations have developed.

Price freezes, allocations, new taxes—all of these will further discourage new investors in the energy business.

The answer is emphatically not more government intrusion. The answer is to free our system from the restraints which have created the problems.

Get the bureaucrats out of the way, and the free market will allocate resources, determine real prices, and act as a natural conservator and developer of the most energy at the lowest prices possible.

Let's not misplace our confidence in the economic "witch-doctors" and ecological "mystics" who got us into this mess, and seemingly prefer caves and ox-carts to warm homes and personal automobiles.

In spite of all the problems of our times, we do have a lot for which to be thankful. We still have a great country with a proud heritage.

Let's do our best to keep it by remembering the spirit of our forefathers, and in the Spirit of Thanksgiving, count our many blessings.

EASING EMISSION CONTROLS

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. MILLER. Mr. Speaker, in this time of a great energy crisis and fuel emergency in our country, it is vital that we extend the deadline for the automobile industry to meet emission control standards. By taking this step our diminishing gasoline supplies can be conserved. Present emission controls already create a

17 percent greater gas consumption level per car than that on pre-1968 automobiles. Allowing the 1976 emission standards of the Clean Air Act of 1970 to go into effect will create a gasoline consumption rate over 40 percent higher per car than on pre-1968 models. Present standards are tough enough to establish 70 percent pollution-free emissions. Applying the 1976 standards we will achieve only a slight gain in pollution-free emissions while greatly increasing the amount of gas needed by each automobile. The cost of such an insignificant pollution reduction in terms of gasoline usage is far greater than our energy-short Nation can afford. This drain on our gasoline supplies can be alleviated by postponing the deadlines for automotive emission standards, by lowering the pollution-free emission percentage required by the Clean Air Act of 1970, and by suspending the Clean Air Act in areas where significant air pollution is not a problem.

LEGISLATION TO CORRECT REPORTING OF OIL SUPPLY INFORMATION

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. MADIGAN. Mr. Speaker, I have introduced a bill to require oil producers and refiners to report to the Federal Energy Administration information which may be required by that agency to understand the nature and scope of the oil shortage.

Currently, such information is available only as published by the American Petroleum Institute. When my staff contacted the institute to find out how much refinery capacity was inoperative due to environmental controls, they reported that such information was unavailable.

Recently, we have all observed, first, the industry, and now the Chairman of the Council of Economic Advisers, retract earlier estimates of the severity of the shortage because of new data indicating that more supplies are on hand than we previously had estimated.

Further, as everyone knows, Congress is being asked to make a number of changes in existing laws and to authorize a number of new efforts which, in aggregate, would substantially and immediately affect the life style of the average American. Under these circumstances, it seems reasonable to require verified, reliable reports of our energy supplies.

Finally, unless the people who must make decisions about how best to manage this shortage can know accurately where oil supplies are, it is going to be extremely difficult to avoid very serious local shortages.

For these reasons, I have introduced a simple piece of necessary legislation so that this extension of Government authority into the economy can be managed more effectively.

SOME ECONOMIC ASPECTS OF THE PETROLEUM PROBLEM

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. MICHEL. Mr. Speaker, my good friend, Mr. William Blackie, chairman of the board of Caterpillar Tractor Co., has written to me expressing an idea which is being overlooked in the current thinking about how to progress through the transitional period of the petroleum problem.

Mr. Blackie's idea is embodied in an article he has entitled "Some Economic Aspects of the Petroleum Problem." They are very timely and particularly appropriate for this occasion when the House debates the so-called emergency energy legislation. I include, Mr. Speaker, these thoughts and ideas of Mr. Blackie to be reprinted in their entirety at this point in the RECORD:

ON SOME ECONOMIC ASPECTS OF THE PETROLEUM PROBLEM

(By William Blackie)

Shakespeare said it: "Sweet are the uses of adversity"—and adversity is what we now have. In the past, it has served us well, but only because we made use of it. The process is not an automatic flow from cause to effect; it is, rather, intelligent and sometimes courageous response to the challenge presented by changing conditions. That is what we need now—and how sweet it could be.

Our most immediate source of economic adversity lies in the so-called energy crisis; and the term is reasonably acceptable not only in the sense of a short-term exigency but even more as the turning point in a sequence of events, as in a play or story, at which hostile elements are most tensely opposed to each other. The direction of the turn determines the course of future events—for better or worse.

The most basic change in current conditions is that which has been brought about by the Arab embargo of crude oil deliveries to the United States. To be sure, there are within these whole earthly bounds ample resources for the production of fossil fuel energy for many years to come, but their geographical distribution is such that there are only imbalances between supply and demand throughout almost all of the individual politically-bounded nation states. In the more ordinary course, these boundaries are being overcome through international trade and investment and a growing recognition of international interdependence. But, even in these times, war is still a departure from the ordinary course, and the oil-exporting Arab nations have declared economic war upon those it considers unfriendly to its "cause" against Israel. The weapon is oil, and the Arabs have become the "firstest with the mostest." They accordingly seek to press that advantage at a time when the U.S. consumption of energy has been growing faster than the development of its own internal resources.

Beyond the conventional sources of oil and natural gas, the petroleum industry has been—for its very survival as an energy producer—obliged to expedite its research into the conversion of coal, oil shale and tar sands into merchantable fuels. And major members of the industry have also chosen to interest themselves in the alternatives offered by solar, laser or nuclear power. The costs will be high—much higher than all past costs ever incurred for exploration and development. Bonuses for new leases will reach record heights as the already intensified competition for scarce supplies is compounded under the higher price levels. Production processes will change from drilling and pumping to mining and "in situ" extraction; and existing refineries will have to be drastically modified or replaced in order to produce new synthetic fuels. The patterns of gathering and distribution will be altered as pipelines, ocean tankers and tank cars carry the crude or the refined products from where they are found to where they are made to where they are consumed.

The capital requirements for this transmigration of a huge industry at the peak of its historical growth will be increased far beyond the industry's capability to have them financed from internally-generated sources. Of necessity, there will have to be substantial resort to the conventional money markets for debt or equity capital. In order to attract the additional capital, there will, however, have to be a justification founded on something more than faith that the industry will be able to overcome the penalties and difficulties of conversion and transition into the new scheme of things. What is nedeed now is a demonstration that the industry is and is likely to remain a progressively viable one—able to produce earnings at a rate of return sufficient to attract more borrowed funds or more investment capital.

Superficially, the opportunity for a demonstration of some such earning power might appear—fortuitously—to be occurring now at this time when selling prices are rising earlier and faster than lagging production costs. Because of the rise in selling price levels, existing reserves of oil and gas are said to have suddenly become more "valuable," and, inasmuch as these reserves were discovered and built up under lower production cost levels, the difference between the two levels is claimed to give rise to a realized "windfall" of "unconscionable" or "excess profits" to which the industry is not entitled.

This concatenation of political and economic events brings into focus a timely need for a re-examination of postulates.

The objective and end product of our chosen economic system is more and better goods and services for the advancement of human welfare and the enhancement of living. In essence, the process is one of creation. True profit can surely be derived only from a bringing together of disparate elements in such a manner and combination as to create a good that would not otherwise have been brought into existence. It is a synergistic process in which more is created from less. The difference is an accretion to national wealth and capital—called profit.

The accountants attempt to measure this business income through the use of some generally accepted conventions which are dignified as "principles." And within the scope of generally accepted practice they produce figures which purport to be adequate for the purposes of both investment appraisal and business decision-making. In doing so, however, the accountants use a unit of currency as their standard of measurement—and they ignore the fact that unlike the physical standards for the meter, liter or kilogram, no unit of currency does or can provide a constant standard of measurement—for anything. Its purchasing power or worth in the marketplace is always changing.

Except for a grudging acceptance of a system of inventory accounting which would charge costs against revenues on the basis of last-in, first-out, the accountants have, on the whole, continued to revere not only original cost but also the use of it in a chronological sequence. They are concerned with pieces of inventory and units of property—not with the real capital which must be preserved and enhanced if the business is to be continued as a "going concern"—the very basis upon which accounting principles are alleged to be founded. As a result, in time of "inflationary" increases in prices—which is nearly always—conventional accounting accepts and condones the illusion that when prices rise faster than costs, the lag in closing the gap gives rise to an accretion of profit.

This writing, however, is not so much concerned with financial accounting, as such, as it is with a current mode of thinking which begins with a faulty premise and proceeds logically from that to an erroneous conclusion. It is to be found in some economic aspects of the present energy crisis and the search for a least-evil course of traditional action. In several respects, the elements of the problem are common to many forms of business; but for the present purpose, oil and gas provide the most immediate and the most dramatic basis for a case study while it is still in progress.

Perhaps the most basic postulate of the economics of free private capital enterprise is or at least was one to the effect that, given the opportunity for reasonably natural interplay, the various elements of business activity constitute a self-energized system, first, to promote economic progress and then, as necessary, to produce among the governing elements—prices, wages, interest, rent, etc.—such adjustments as would tend to ameliorate recession and bring about recovery. Like an inertially-guided missile, the system was to have within its own mechanism the means not only to maintain the desired flight pattern, but also to modify the course should any deviation occur. It relied on a feed-back which would tend to automate the necessary corrections.

In the political economics of earlier times, the system had plausible theory to give it credence and reality did not destroy the theory, as such. But its heavy reliance on the operation of the free forces of the marketplace exposed it as a system which, while effective in the good times of an economic upswing, was too slow to produce correction in the harsh times of a downswing. People and their gainful employment appeared to be more the victims than the beneficiaries of the system, and the Great Depression therefore fostered the idea that economics should be made not just a measuring and interpretation of past events but also an instrument for the better control of future events.

The only organized institution available for such broad control over a total national economy is government and, as has been demonstrated, its efforts to exercise controls have generally met with a mixture of limited success and unlimited failure. But this need not necessarily condemn the whole idea that economics could not be made more constructively useful. It may be only a demonstration that there is still much to be learned about the practice of economics and particularly about how and when the seeming logic of its processes must be modified politically to meet the attitudes and aspirations of a society which has become affluent enough to merge economic man with social man.

In the meantime, and certainly until such time as greater wisdom is generated, it behooves us not to abandon those elements of the free enterprise system which, when allowed to operate, have proved to be effective in stimulating desired results. The greatest of these is the opportunity offered by the marketplace to earn a profit-reward for satisfying the wants of people for more or better goods and services. Illustrations of success would hardly seem to be necessary. They are all around us. And yet, at this time of urgent need for speed in meeting the emergencies of the petroleum shortage, there is considerable indisposition and substantial opposition to the utilization of the economic forces of the open marketplace to induce, promote, incite and even excite the constructive enterprise of free private capital. In essence, we seem to be falling into a presumption that, while our economic system will work well enough in easier times when it is not really necessary, it should not be allowed to operate in similar manner when its creative advantages are most desperately required.

The point emerges most clearly in the topical debate about how the oil that is available, or the oil that is not available, i.e., the shortage, should be allocated among the would-be users. In classical economics, the price of oil would rise and the demand for it would accordingly fall toward levels whereby supply and demand were brought into rough equilibrium. As with all things in normal, everyday trade, and in full conformity with the generally accepted principles of democratic capitalist economics, those with the greatest financial ability to meet the price would be the most able to obtain their requirements. Others with possibly greater need for the oil, but no alternatives, would be obliged to meet the price; those having lesser need or available alternatives would be governed by whatever personal decisions dictate how they spend.

Then, under the umbrella of the higher prices, industry would aggressively seek to defend and expand its profit-earning opportunity by developing more or better products. In some instances, this might eventually operate to reduce prices or to limit their increase; but in the current case of petroleum, this is hardly likely. Instead, it is much more expectable that production costs will rise toward the level of higher selling prices. This will be attributable to a number of factors in addition to those which have been steadily operating to increase all costs under more ordinary conditions. Among these, the foremost is the greater responsibility imposed upon the oil industry to develop resources which, under lower price levels, were commercially uneconomical and, therefore, beyond business prudence.

Thus, existing wells in which primary production has been exhausted may now be profitably subjected to secondary or tertiary recovery. Exploration can be justified in geographical and geological areas which were heretofore inaccessible or unduly risky. Offshore drilling can move out toward and eventually beyond one hundred fathoms and the added costs of working in all kinds of inhospitable environments can be warranted when they can be recovered through the higher prices.

Now, if financial accounting were only a matter of historical scorekeeping, its deficiencies might be of rather limited consequence. But when the erosion of capital as a result of inflation is completely ignored in the determination of reported profit, the consequence can be serious. Thus, while the alleged "profit" from inflation is an arithmetical paper abstraction—neither realized nor realizable by a going concern—the taxes on the reported income are paid in hard cash. So also are dividends which are sometimes increased under the heady influence of higher "profits." And distributions under profit-sharing or management bonus plans are hardly likely to be exempt from the gratifying illusion of greater earnings. After these disbursements, the real capital left in the business has suffered all the depletion of the erosion.

And real capital is not a figure. It is what is there—a resource—usable. So also is real profit; and no accounting measure of it can change it.

Brazil, with its considerable experience with drastic inflation acted several years ago to have much of the effects eliminated from taxable business income. The Philippines is now following suit. The major Dutch multinational corporations have long been aware of the need and danger in the situation. And the British Parliament has recently established a Royal Commission to examine and report upon the matter. But American accounting, hand-in-hand with American business, continues to fail to face up to the issue. In the 1940s and 1950s, it was argued that the rate of inflation was not sufficient to call for change. The cumulative effect was ignored. Thereafter the rate became serious enough to warrant on two occasions the institution of wage and price controls; and the introduction of so-called cost-of-living escalator provisions has become commonplace in labor union contracts. The U.S. dollar which had a 1939 value of 100 cents has now sunk to somewhere in the area of 30 cents, and there seems to be a fairly general expectation that, for the foreseeable future, the average annual rate of inflation will run at a rate not less than 3%. Certainly some such factor is already being recognized and accepted in long-term interest rates.

Now if there ever was an argument to support non-action because U.S. inflation was only of a creeping variety, this is surely removed insofar as the oil industry is presently concerned. The recent change in price levels has been drastically dramatic and it has not yet reached a terminal height. Accordingly, if the application of generally accepted accounting principles would make of this a windfall or excess profits, should there not be industry pressure for still higher price levels or more embargoes or more Arab intervention. On the face of it, the answer is obvious. There can be no pecuniary gain and only harm from what is occurring! The idea that bad can be good is a delusion and it is unfortunately operating to distort the thinking of some in position to influence the whole course of future events.

Thus, we are apparently being confronted today with, first, a fairly general assumption that some form of rationing of gasoline is necessary and, then, a question as to whether this should be accomplished by means of (a) quantitative allocation, as by gallonage coupons, or (b) higher prices which would operate to reduce demand, restrict usage and conserve supplies for those most willing to pay the higher price.

Quantitative allocation has the superficial appeal of a sort of equality which runs entirely contrary to our basic concept of a marketplace economy as free as possible from intervention by the "force majeure" of sovereign government. It is a purely political palliative which contravenes our free enterprise economics and lapses into Marxist dogma calling for "to each according to his needs." If adopted and then administered through the expectable bureaucratic channels, its most saving grace will be that, sooner or later, it will come to self-cleansing failure through inability to process the claims for relief, the inevitable inequities of subjective determinations, black-market violations and the unwillingness of an exasperated citizenry to continue with it.

Allocation by price would conform to our traditional economic concepts and would serve the purpose of curtailing usage by those unable or unwilling to pay the higher price. But here there is being introduced a new idea to the effect that, instead of inuring to the risk-taking selling enterprise, all or a substantial part of the obtainable increase in price should be diverted to the federal tax collector. The rationale is obscure and tends to confirm opinion that our taxation system is little more than an unprincipled process of extraction based only on get-it-where-you-can. In the absence of definitive clarification, it must be presumed to rest on an acceptance of the notion that, as a result of rising price levels, and for the period of the lag between these and rising cost levels, there really is a "windfall" giving "excess profits" to the oil industry.

In terms of economic capitalism, the presumption is absurd, but it is difficult to sustain this claim when businessmen and their accountants report earnings in such a way as to support it. In the oil industry, the reality of the situation is that there is no additional or extraordinary gain arising from the hardship created by the Arab embargo or by shortages which, in any event, were about to become a pressing matter of more serious longer-term concern.

This turns the discussion toward another of those conventions regarded as generally accepted accounting principles; viz, that, insofar as may be reasonably possible, costs should be matched against revenues—and vice-versa. Thus, costs incurred prior to the derivation of revenue from their incurrence are not infrequently treated as referred charge "assets" to be applied against the appropriate future revenues when these become realized. Per contra, would it not seem at least as reasonable—and possibly more prudent—to defer as earned income those revenues derived, in a sense, from costs yet to be incurred.

The accounting technique for doing so is available in a variety of ways, and it is of little consequence whether (a) the income to be deferred is carried forward as such as on the balance sheet or (b) charges are made against current operations to provide a reserve for the higher and additional costs to be incurred later as cost and price levels become drawn into closer equilibrium. The essential requirement is that reported profit not be overstated and then dissipated in income taxes, higher dividends or other dispositions which would impair the ability of the enterprise to progress beyond mere survival.

In the realm of U.S. income taxation, there already is well established precedent. When an individual's home is sold for a price higher than the original cost, the excess is not taxed as gain if the owner purchases another home at a cost no less than the price realized from the sale. Thus, it is recognized that there is no taxable profit from an increase in price levels when the asset is replaced in order to preserve homeowning as a "going concern." But this concept, accepted for nonbusiness, is denied for corporate business seeking to continue in operation through the replacement of its assets. A cynic might be tempted to observe that homeowners vote while corporations do not. But that, of course, would imply that legislators are not always guided by principle.

So—back to adversity and the sweetness of its uses. In a time like this, things taken for granted show up in a clarifying light and permit of this kind of re-examination which can induce both understanding and revitalization. Now is no time to abandon or distort the pragmatic virtues of our economic system. Instead, it is a time when they should be brought into full exploitation. Oil should be sold on the free market and price controls should be eased off toward extinction—for political reasons at a gradual rate which would help to make more palatable the adjustment which is, in any case, inevitable.

At best, controls can only retard movement toward that higher level which would be produced by the operation of free market forces. When those controls now in vogue were imposed, U.S. oil prices were already low in relation to world markets and probably too low to permit of adequate capital generation. An analogy is to be found in the consequences of policies pursued by the Office of Price Administration during World War II. By administrative decision or sheer delay (which may or may not have been either bureaucratic or tactical) prices were not allowed to rise in small graduated steps toward expectable free market levels. Then, when the controls were removed, there was an immediate and rapid wage-price spiral which, for about four years, led to a rash of labor-management disputes and generated substantial consumer hostility toward business. The cause of the trouble—the deceased OPA—was forgotten.

The additional revenue temporarily derived from the increase in price levels should be reserved and then used by the oil industry for accelerated exploration and research and for the development of all economically available means, first, of meeting the present shortage and then of overcoming the longer-term problems arising from the depletion of conventional fossil fuel resources. And both businessmen and accountants should realize from the dramatic illustration being offered by the current case study in petroleum that there is and can be no profit from either "ordinary" inflation or from that extraordinary kind which could be produced by the action of any major vendor having a share of the market substantial enough to influence price by administrative decision—whether accompanied or not by a curtailment of supply. For that we hardly need Arabs; and after their boycott ends or is overcome, the higher price levels will almost certainly continue to prevail.

Given the opportunity, first, to earn in free accordance with its ability and then to retain a reasonable portion of its earnings for re-employment in the business, the oil industry should need no special incentives to pursue its chosen course of enterprise. The investment credit granted to all industry for capital additions might possibly be extended to exploration; and, in that event, depletion allowances might well be discontinued. Restrictive import quotas are already a thing of the past—washed out in the reversal of the relationship between foreign and domestic price levels.

Surely the test of an economic system lies not so much in its success during normal times as it does in its capacity to overcome troubles and difficulties when the ordinary course of events is disturbed or distorted by departures from the more general pattern. Not the least of our gains from the current exercise should be a strong reaffirmation of the efficacy of the system which has already served us well—provided it is given the chance. In the light of this new experience in living economics we are being offered fresh insight into some of the causes, effects and perils of inflation. Hopefully from this we will also derive an enhanced understanding of the nature and function of profit. If so, the lesson of the present adversity will not have been in vain and our sweet gains could be a happy combination of greater self-reliance, stronger national security, accelerated technological progress and greater intellectual maturity.

The surest way to overcome the present artificially created shortage in the shortest time is to encourage the production of additional supplies and alternatives. In the ordinary course, the pursuit of our economic policies would do this, and the need now is mainly to have the process greatly accelerated. This means that instead of being held back by any political considerations, the creative elements in our system should be given full rein. Only by doing so will the period of emergency and the dangers of a weakened national security be reduced to a minimum.

The primary objective of our national policy in the Middle East is not a restoration of oil shipments; it is peace or at least peaceful coexistence between the Arabs and the Israelis for as long as may be possible. Oil is a secondary, passing consideration and the desire for it should not be allowed to subvert our economic empiricism, retard our pursuit of more dramatic sources of energy or reduce us into a submission which could only be the precedent-setting forerunner of more economic coercion.

TRIBUTE TO SHERRILL CORWIN

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. REES. Mr. Speaker, as a tribute to the accomplishments he has achieved throughout his career in the entertainment industry, Sherrill Corwin recently was awarded the prestigious Walt Disney Humanitarian Award by the National Association of Theater Owners.

This honor was bestowed upon Sherrill as an acknowledgment of his work with numerous charity organizations and culminated his tenure as president of Variety International. In addition to this award, Sherrill Corwin also received a Certificate of Honor from the San Francisco County Board of Supervisors.

I would like to take this opportunity to insert into the RECORD an article which further details the honors Sherrill Corwin received and why he is so deserving of them:

SHERRILL CORWIN RECEIVES NATO DISNEY HUMANITARIAN AWARD

At a banquet studded with movie stars, directors, writers, studio heads, and more than 1,000 NATO exhibitors, Sherrill Corwan, immediate past president of Variety International, was honored by the nation's theatre owners with the Walt Disney Humanitarian Award for outstanding service during his years in the industry.

In making the award NATO's president, Roy B. White, extolled Corwin's many years of philanthropic leadership, and particularly his activities devoted during the past two years as Variety president and chief executive officer of its world-wide charity network for children. He cited numerous other charities in which Corwin has been involved, including serving as entertainment chairman for the Los Angeles United Jewish Appeal, and for several years as a member of the board of governors of Los Angeles Cedars-Sinai Medical Center. Corwin is also on the board of the New York based Motion Picture Pioneers, and of Will Rogers Research Center, entertainment industry maintained respiratory disease hospital at Saranac Lake, New York.

John Rowley, also a past president of Variety International, serving as Toastmaster for the formally attired audience, said, "It is no easy task to select a man whose life and achievements and human qualities merit this award. He must be a doer of great things, like Walt Disney. He must have lived his own great dreams and striven for his own achievement.

Such a man is your leader and friend, Sherrill Corwin: owner of his own successful theatre circuit; bank director; showman; advisor; statesman; star of NATO; director of the Motion Picture Pioneers; and the Sinai Center. One wonders where this man found time, among all these activities, to have traveled the world over 100,000 miles as the president of Variety International. Sherrill Corwin is, truly, a man of great human qualities."

Accepting the handsome cut crystal trophy, Corwin replied, "I know one thing—I'm delighted that sitting there on the dais, and out there, are the leaders of Variety Clubs

International that has raised over $230 million since its inception. I want to say the last two years have been the most thrilling of my life and I pledge my complete support to my successor. I thank all the men who came here tonight from all over the world. To share this award with former recipients is an awesome experience for a kid from Sioux City, Iowa. I am overwhelmed to take this award away tonight with that magic name, Walt Disney, inscribed upon it. I thank you all."

In a separate earlier presentation, past president Corwin received another certificate of honor. San Francisco's County Board of Supervisors, represented by board member Robert Mendelsohn, presented the plaque.

Corwin remains on Variety International's executive board, and is chairman of the global charities committee, responsible for administering gift funds of Patron Life Members, which now number 373. A report on the latest disbursements for needy children appears on page two of this issue.

WORDS FROM THE FLAG

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. LONG of Louisiana. Mr. Speaker, in this time of crisis and loss of confidence in our Government, it is gratifying to read sincere expressions of love of country.

Mr. Thom Heston of VFW Post 1736 in Alexandria, La., has captured the deepest feelings of many Americans in his moving poem "Words From the Flag." First printed in the Louisiana VFW's program for their 1973 midwinter conference, his words have since been read and applauded at many local civic gatherings.

I recommend Mr. Heston's thoughts to my colleagues, and insert his poem in the RECORD:

WORDS FROM THE FLAG

(By Tom Heston, Post 1736)

We've been to some glorious places, lads,
No need to tell you where.
I remember every one of your faces, lads,
The men who carried me there.
I remember the ones who snatched me up,
When the man with the staff was hit;
From Gettysburg to Tansonnhut,
I haven't forgotten a bit.

I couldn't begin to name the names.
Of the millions who fought for my pride,
Who battled the weather, the shells, and the flames,
Who fought 'till they won—or died.
There've been so many, over the years,
Who manfully answered the call.
Oh, I've been watching, with pride and with tears;
I've seen so many fall.
I saw them fall at New Orleans,
When my heart was torn in two.
And I saw them unite and fight again,
When freedom was threatened anew.
I saw them fall at San Juan Hill,
At Ypres, Bastogne, and Verdun;
And I watched them lying, very still,
In the South Pacific sun.

I saw them fall at Normandy.
Remember the sixth of June?
Now I look down, at Liberty's light,
From the mountains of the moon.
For many long years we've carried the fight,
Veterans of Foreign Wars,
Wherever man's freedom was threatened by might
On strange and far-off shores.

But the job is far from over, lads;
Freedom's price is dear.
That's why I'm proud you answered my call;
That's why I'm proud you are here.
I'm asking you one more favor, lads.
I ask you to keep me flying.
I know that means money, and men, and strength.
And for some—it even means dying.

When expert hands, with tender care,
Lift me and fold me with love,
And place me in a widow's arms—
There isn't a star above
That shines so bright as my fifty do;
And no flag can feel so proud
As to rest on the casket of one of my sons,
A grateful and loving shroud.

And remember the guys in the hospital beds,
The fellows who gave almost all—
Who came home with their lives shattered to shreds—
How long since you paid them a call?

We've been to some glorious places, lads.
But I hope that you always will see
The most glorious place that I ever could fly
Is over a land that is free.

OVERSIGHT SUBCOMMITTEES

HON. DAVE MARTIN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. MARTIN of Nebraska. Mr. Speaker, before the working draft of the Select Committee on Committees was released last week, I informed Members that the report contained an oversight portion, and urged them to review it. I believe that it essential for the House of Representatives to establish an effective oversight capability, and hope my colleagues will give this important responsibility adequate consideration before the select committee holds markup on its proposals. In addition, oversight activity must be made to include a "foresight" capability to allow committees to forecast issues and needs within their jurisdiction.

Over a 6-month period the Select Committee on Committees held more than 35 days of hearings. Testimony was heard from Members of Congress, the private sector, and panels of experts. One of the most consistently mentioned points was the inadequacy of legislative oversight being conducted by the House. Member after Member admitted that proper oversight was not being conducted by their respective committees, and the panels of experts were uniform in pointing out the deficiency in meaningful oversight activity.

To me, oversight is one of the appalling weaknesses of Congress at the present time. We are not following up on programs enacted into law, and do not know whether the programs are being implemented and administered within the intent of Congress. During these difficult days, it is critical that Congress fully discharges its responsibility to see that money is being spent as it should be, and that programs operate effectively and efficiently. What good is it to establish a budget committee for setting spending levels if we do not conduct proper oversight. Inefficient programs should be discontinued, and funds allocated to those programs which have priority and meet the needs of the country.

One of the panelists at the hearing on oversight pinpointed part of the problem as I see it. We have not required committees to really get into the oversight business, as they should be. The panelist said:

> Perhaps the most obvious step taken by a few standing committees to enhance their oversight efforts has been to create specific oversight subcommittees. To my knowledge, no one has systematically or intensively looked at whether having such subcommittees makes any appreciable difference in the conduct of oversight. Here is a structural solution which one could suspect has not had any great impact. But nobody knows for sure. The topic does deserve attention.

I believe it is essential that each authorizing committee of the House be required to establish and adequately staff a subcommittee to conduct oversight activities. Oversight subcommittees would provide a mechanism within the committee structure for a systematic review, by agencies, of individual programs. It would also allow committees to avoid crises by forecasting emergency needs.

This same recommendation was made in 1965 by Representative Melvin Laird. In a prepared statement before the Joint Committee on the Organization of the Congress of the United States, Representative Laird said, in part:

> Many witnesses before this committee have urged the necessity of finding improved methods and systems for discharging the responsibility of the Congress for legislative oversight, for proper supervision of Federal activities.
>
> It is my own conviction that although some committees attempt to exercise this function in a commendable manner, the basic problem which all substantive committees face in this area is the lack of any defined, specific, and continuing mechanism through which it can be carried out effectively.
>
> I am confident that every member of a substantive committee of the Congress would cite example after example of Executive abuse of the intent of Congress in carrying out and administering the programs enacted by Congress.
>
> To remedy this situation, by fixing a specific responsibility for its execution, it is strongly suggested that each standing substantive committee of the Congress establish, as a permanent part of its subcommittee structure, a Subcommittee on Legislative Oversight.
>
> It is further suggested that the subcommittee on oversight have no other functions than those directly related to this responsibility. The subcommittee should be composed of an equal number of majority and minority members (possibly three on each side regardless of the party distribution in the Congress as a whole). We are talking, after all, of a congressional, not purely partisan, responsibility.

Authorizing committees have developed a recognized expertise concerning executive departments and specific program areas under their jurisdiction. Oversight by members with this kind of expertise, with a direct relationship to the authorization of programs, provides for more meaningful legislative review. Moreover, committee members who participate in the authorization of programs at all levels, including conferences with the other body, are uniquely qualified to review the administration of the programs in light of the intent of Congress. They should have prime responsibility for this task. In addition, overlapping membership between the oversight and authorizing subcommittees of the various committees would promote coordination between the authorization and oversight functions for specific program areas. Creation of specific oversight committees will serve to strengthen oversight and promote more meaningful review work. Currently, committees often evade their responsibility under the Legislative Reorganization Act of 1970 by leaving legislative review to some other body. Fixing responsibility within designated subcommittees is consistent with the intent of Congress in mandating adequate oversight activities in 1970.

In addition to legislative oversight, I feel its necessary for our committees to develop a foresight, or forecasting can only be accomplished by individual subcommittees within the various authorizing committees.

I hope my colleagues will recognize the importance of the oversight and forecasting activities. Any reform of the committee structure of the House which does not provide adequately for these functions is not complete.

ONE CAUSE OF THE ENERGY CRISIS: THE GOVERNMENT

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. ASHBROOK. Mr. Speaker, governmental regulations have helped lead to our present energy shortages. While discussing these various laws and regulations will not produce one drop of oil, such discussion may give us a better understanding of governmental involvement in various areas of our lives.

One device that has adversely affected gasoline consumption is the pollution control devices found on all American-made automobiles since the late 1960's. Automobile fuel economy has decreased from 5 to 15 percent as a result of these devices. The auto industry does not know whether anti-pollution technology will be far enough advanced to meet 1975 and 1976 standards of the Environmental Protection Agency. Cleaner air is a goal that few can disagree with, but we must recognize the costs in terms of greater energy consumption and more governmental control that are involved.

Domestic supplies of natural gas have diminished. The Government has long regulated the prices of natural gas at the wellhead. This discouraged exploration while encouraging consumption. A further result was to increase industrial conversions from the use of coal to natural gas. In this area governmental action has distorted the actual market and, at the same time, discouraged attempts to increase supplies and to use other more plentiful fuels.

The use of coal also has been seriously reduced through arbitrary restrictions of the Clean Air Act of 1970. This act and other regulations based on it have decreased industrial use of the one resource that the United States has a 200–400 year supply—coal. Strip mining has been discouraged instead of encouraging the use of the already developed land reclamation technology.

Utilities, historically large users of coal, are hesitant to reconvert to coal until they have some assurances that they will be allowed to use that fuel for a number of years. Conversions are expensive and present Government regulations make utilities question their effectiveness.

The Federal Government and State governments have greatly restricted the building of refineries. Obviously, some types of restrictions on refinery construction are necessary but this should not go as far as to make their construction almost impossible.

While discussing refineries, it is useful to note that requirements for lead-free gasoline result in the use of more petroleum. This is because the refining of lead-free gasoline necessitates the use of more petroleum than the refining of regular gasoline does. Once again, governmental regulation has helped increase demand for petroleum products.

On a number of other occasions I have discussed the impact of wage and price controls on our present energy problems. Also, I have discussed the great delays that have been experienced in obtaining governmental consent in building the Alaskan pipeline. These two items also have helped make our situation worse.

We should not confuse governmental actions nor regulations with solutions to our problems. Sometimes governmental intervention does solve problems, but often it only makes them worse. Our long-term goal must be to make the United States self-sufficient in energy.

THE ENERGY CRISIS

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. YOUNG of Georgia. Mr. Speaker, with reference to the energy crisis, I submit the following items for the RECORD:

First, a letter which is typical of the many I have received from constituents. Mr. Charles E. Balthis writes that an increase in gasoline taxes would be an unfair burden on average working people; he also opposes any substantial increase in oil profits.

Second, a letter from Jacques-Yves Cousteau, the distinguished explorer-oceanographer, together with a copy of a telegram he has sent to the President. Mr. Cousteau calls for a massive effort "to harness radically new sources of energy," and he pleads for us not to abandon the gains made in environmental protection.

Third, a fact sheet entitled "Oil Monopoly and the Energy 'Crisis'," distributed by the organization New Populist Action.

The items follow:

ATLANTA, GA., *December 5, 1973.*

Hon. ANDREW YOUNG,
House of Representatives
Washington, D.C.

DEAR MR. YOUNG: The purpose of this letter is to ask that you use your influence and vote to oppose any increased tax on gasoline, and to oppose any substantial increase in oil profits by the industry.

The rich can afford the tax so there will be no reduction in consumption of gasoline by them. The rest of us who have to drive a car to and from work will be paying a tax that we can ill afford. A reasonable profit by the oil industry might be justified if needed to locate and produce more oil.

Thank you for your interest in our concern.

Sincerely,

CHARLES E. BALTHIS, Jr.

NOVEMBER 14, 1973.

DEAR CONGRESSMAN YOUNG: Mankind's energy problems concern all the citizens of this world; the shortages are not going to be solved whenever the Mid-East crisis is ended and the oil from Arabian countries flows again to the western world. Once again it will be the role of the United States of America to display the imaginative creativity and to implement the gigantic effort both necessary to harness radically new sources of energy and assure our independence. Solutions for the use of solar energy, and, more practically, of energy from the sea have already been outlined by U.S. agencies and only need immediate support to be developed. These breakthroughs are even more important for the future than the necessary improvements in the use of fossil or nuclear fuels.

In another area, the world has been looking with admiration and envy to the United States for its pioneering legislation in the field of environmental protection. Millions of people are now in fear that these victories of reason might be in danger.

Last Friday I sent a telegram to the President of the United States and I have the honor to enclose a copy with this letter.

May I quote D. H. Lawrence: "Unless we set the little life in the circle of the greater life, all is disaster."

Most sincerely yours,

JACQUES-YVES COUSTEAU.

TELEGRAM

NOV. 9, 1973.

THE PRESIDENT OF THE UNITED STATES,
The White House, Washington, D.C.

The energy shortages that western nations and specifically the United States are facing now are not new problems and have been preoccupying scientists, economists and philosophers for years. The Mid-East crisis has merely brought to attention a developing situation that is moderately aggravated, maybe only momentarily.

The tactical measures proposed to reduce our energy requirements are obviously indispensable. Indispensable also is a strategy of intensive and imaginative research not only to make a better short-term use of fossil and nuclear fuels, but to mobilize all the western creative minds and tap the immense clean energies offered by the sun and by the sea. Such policies should in no instance jeopardise any of the hard-won, wise measures recently taken under public pressure to protect our environment.

Mister President, we have no right to compromise the health and the lifetime joys of our children just to safeguard the conveniences and the economics of the day.

JACQUES Y. COUSTEAU.

OIL MONOPOLY AND THE ENERGY "CRISIS"

Energy for consumers is harder to get, even at higher prices, than ever before. Although wars, boycotts, cold winters, and declining sources in certain areas contribute to the shortage, the chief cause for the energy problem is monopoly of energy sources. The result of monopoly is higher profits for a few giant corporations and higher prices and hardship for consumers.

1. Energy is controlled by a monopoly of the major petroleum corporations cooperating with each other.

Item. In 1970 four companies—Exxon, Mobil, Texaco, and Gulf—accounted for 55.4% of all U.S. petroleum sales (experts state that monopolistic market practices are likely to characterize any industry where 8 or fewer firms control 50% or more of sales).[1]

Item. In 1970 Exxon, formerly Standard Oil of New Jersey, formerly of the Standard Oil Trust, held 20% of sales itself.[2]

Item. Petroleum/natural gas fuels account for over 70% of all U.S. energy consumption.[3]

2. Dominance by the major oil companies of the petroleum industry has led to the absence of competition and excessive market control by those firms.

Item. A confidential Federal Trade Commission report in 1972 disclosed that monopolistic tendencies in the industry result in "overcharging" purchasers of petroleum products by 1.2 billion annually.[4]

Item. The spring 1973 gasoline "crisis" resulted in 1,200 independent gasoline stations being forced out of business by May 31, 1973 (The Dept. of Interior stopped counting the number of stations closing after that date).[5]

3. Actions of the major oil companies during recent fuel crises confirm that the industry acts like a traditional monopoly.

Item. In the first 20 weeks of 1973, U.S. refiners operated at less than 90% of capacity and produced an average 43.7 million barrels of gasoline per week. Only after wholesale prices went up in the spring of 1973 (25.1% between March and June) did refinery production increase to 94.3% of capacity.[6]

Item. In August 1972, the major oil companies informed the Texas Railroad Commission they wished to cut their "desired" stocks of fuel oil by 10.1 million barrels. This cut came at a time when fuel oil demand was expected to increase by 7%. There was a major fuel oil shortage during the winter of 1972–73, affecting thousands of homes, schools, farms, and factories, especially in the Midwest.[7]

Item. Each major oil company said they would have adequate fuel oil supplies for the 1972 winter when asked by the President's Office of Emergency Preparedness. There was, of course, a major shortage that winter. The OEP said that had the industry continued to produce fuel oil at the rate it was in January, there would have been a modest surplus of 4 million barrels instead of the disastrous deficit of 26 million barrels which did result.[8]

4. A few companies came to be giants in the industry in several ways. One major one was through *merger*.

Item. Since 1949, there have been at least 80 successful merger actions between oil companies.[9]

Item. Since 1960, 8 of the largest companies have disappeared through either merger with a larger company or through outright sale; there have been over 50 major acquisitions in the same period.[10]

5. Oil Companies are horizontally related indirectly through *interlocking directorates* with the banks which finance them.

Item. Continental National Bank has directors on boards of 8 oil companies; Morgan Guaranty Trust has members on boards of 7 oil firms; First National City Bank has directors with 6 firms.[11]

Item. Thirteen other banks each have directors on boards or more than one supposedly competing oil firm each.[12]

6. Oil companies cooperate directly with each other, also. They commonly share *drilling leases* and *exploration* ventures in oil production, rather than bidding competitively and independently.

Item. In Louisiana, for instance, a major oil/gas producer, 14 of the largest 18 producers share 5 or more joint ventures with the other top producers.[13]

Item. Continental Oil, for example, shares 27 ventures with Cities Service, 28 with Atlantic, 27 with Getty, 16 with Mobil, 13 with Exxon, and 11 each with Sun and Amoco.[14]

Item. In addition to connections with other major producers, Continental also shares 430 leases with 23 other smaller companies.[15]

Item. Of 38 medium-to-large producers besides the major ones in Louisiana, all share joint leases with the large majors.[16]

7. Joint leases for *offshore exploration* on Federal territory constitute another major area of oil cooperation.

Item. 12 of the 16 largest producers share offshore production leases with other producers.[17]

Item. 10 of the 16 major producers own 80% of their leases in common with other producers.[18]

Item. Thus, Mobil owns 6 leases independently, shares 19 with Continental, 8 each with Getty and Cities Service, 7 with Gulf, 5 with Chevron, and 4 each with Amoco and Exxon.[19]

8. Monopoly and cooperation among the major firms characterize the pipeline transportation of oil as well (¾ all crude, ¼ all refined petroleum products move through U.S. pipeline networks.) [20]

Item. Combines including from 3 to 9 major firms either dominate or wholly own each of the 12 major pipeline networks in the country.[21]

Item. Colonial Pipeline Company, with assets greater than those of the other 11 pipelines combined, is wholly and jointly owned by 10 of the 20 largest oil companies.[22]

Item. Independent refiners are at the mercy of the pipeline companies who decide when and how oil shipments are made. Access by independents is controlled by requiring minimum size shipments, irregular shipping dates, limiting storage at petroleum terminals, and unreasonable product standards.[23]

9. The petroleum *refining* process is also dominated by the major firms.

Item. The major oil companies own 84% of U.S. refining capacity.[24]

10. The above stages, in which the major firms each share in the processing of the product at every level of the industry—exploration, production, transportation, refining, and marketing—are collectively called *vertical integration*. Vertical integration restrains trade and forces out independent competition. By cooperation the major producers may freeze out independent traders who lack the resources to compete at every level and must depend on the majors for supply.

Item. The industry has influenced the federal government to favor and encourage vertical integration through the device of the *oil depletion allowance* that permits a company a 22% tax write-off on half of its gross income earned at the production stage. This provision makes profits at the exploration/production stage much higher than those at any other stage and thus encourages refiners and others to expand their operations vertically to include a production phase in order to take advantage of the rich profits.[25]

11. The top oil producers are also the top natural gas producers.

Item. In 1970 the top 14 natural gas producers were also among the top 15 oil producers and the top 17 oil refiners.[26]

Item. These 14 largest natural gas producers also were among the top 17 gas retailers and the top 17 natural gas marketers to interstate pipelines.[27]

12. As in the oil industry, a handful of major corporations dominate the *natural gas* field.

Item. In recent years the top 4 producers in the primary production areas have accounted for 50% or more of the natural gas sold to interstate pipelines.[28]

Item. The leading 8 producers have accounted for at least 60% and usually closer to 80% of the gas exchanged in these transactions.[29]

13. Concentration of control in natural gas is an *increasing* trend.

Item. No new, fully integrated major has entered the field in the past decade.[30]

Item. In the same period, over 50 mergers have occurred in the field; several were mergers between fully integrated majors.[31]

14. Concentration of power in the oil and natural gas industries promises to increase in the future through the distribution of leases for *oil/gas reserves* on Federal lands.

Item. 4 major producers hold leases for 51% of the available reserves.[32]

Item. 8 top producers control 73.9% of reserves (Federal Power Commission reports these 8 to be cooperative rather than competitive firms).[33]

15. The American oil cartel also largely comprises the *international oil cartel*, either directly or through controlled affiliates.

Item. 16 fully integrated American oil firms hold major shares in 18 major foreign companies for which figures were obtainable, producing a combined total of 4,913 million barrels of oil annually.[34]

Item. American oil companies or affiliates hold 70 to 100% control in 13 of these same firms, and 50 to 100% in all 15 for which figures are available.[35]

Item. Texaco, Exxon, Chevron, and Mobil share 100% control of the Arabian American Oil Company, the largest international oil combine (1.5 billion barrels yearly). The same combine also controls the Iraq Petroleum Company.[36]

16. The power of the oil cartel has long enabled it to dominate government oil policies.

Example 1: *Oil Embargo:*

Item. In 1959 the cartel persuaded President Eisenhower to drastically limit foreign oil imports by executive order at a time when foreign oil was about 40% cheaper than domestic. This allowed the cartel to maintain high prices for its domestic oil by excluding cheaper foreign oil and simultaneously reap *windfall profits* by importing its own and buying other stocks of cheap oil abroad to sell here at the high U.S. price.

Footnotes at end of article.

The ostensible reason for the quotas was to encourage domestic oil exploration in order to make the U.S. *self-sufficient in times of* crisis and emergency such as the present. However, in the decade after institution of embargo, from 1959 to 1969, the industry increased exploration expenses abroad by *six times* over domestic exploration expenses.[37]

The quota system remained in effect until last May, when the price of foreign oil has finally surpassed that of domestic after 14 years. A 1970 study indicated this policy alone in its first 11 years cost the public 7.2 billion, or 5 cents on every gallon of gasoline and 4 cents on every gallon of fuel oil.[38]

Example 2: *Oil Depletion Allowance:*

Item. The oil depletion allowance enables oil companies to deduct 22% of their gross income from production to determine their *taxable income.* The effect of the depletion allowance is that oil companies can deduct up to *16 times* the original cost of an oil well. Other businesses can deduct costs of new assets only once.

Item. A study for the U.S. Treasury in 1968 found the depletion allowance provided the oil and gas industry with a *1.5 billion dollar subsidy* via the tax system, yet the industry only invested $150 million in new exploration annually.[39]

17. The oil oligopoly is extending its influence to the *coal industry.*

Item. 11 of the top 25 oil producers are now in coal.[40]

Item. Oil producers now own 20% of U.S. coal productions.[41]

Item. Continental Oil owns Consolidated Coal, No. 2 coal producer; Occidental Petroleum owns Island Creek Coal, No. 3; Standard Oil (Ohio) owns Old Ben Coal Corp., No. 10; Gulf Oil owns Pittsburg and Midway Coal, No. 13.[42]

18. As in the oil industry, control of coal by the big oil firms will grow through ownership of *reserves.*

Item. Outside interests—oil, railroads, steel, metals—comprise 16 of the 17 top holders of coal reserves.[43]

Item. Atlantic Richfield Oil is No. 2 holder of coal reserves.[44]

Item. Oil companies own leases for 30% of all proven coal reserves on public lands (144,974 acres out of 479,534).[45]

19. In addition to oil, foreign and domestic; natural gas; and coal, the oil cartel seeks expansion into other potential *energy sources.*

Item. 18 of the largest 25 oil producers have shale oil holdings.[46]

Item. 18 of the top 25 are in uranium.[47]

Item. Oil firms own over 50% of uranium reserves; 25% of milling capacity.[48]

Item. 7 of the top 25 have holdings in tar sands.[49]

20. The above developments in the energy industry have resulted in *horizontal integration* of the industry. A horizontally integrated company may limit production and research in areas promising lower profits and raise prices and spur production when profits are higher. If development of new energy sources endanger profits from existing sources, horizontally integrated firms are likely to de-emphasize ongoing research in other fields.

21. Executives of a few American oil companies control all the energy for the U.S. and a large part of it for the rest of the world. The concentration has not been used to benefit the public with lower prices, but to benefit the corporations with higher profits.

Item. The first quarter, 1973, saw every oil company, without exception, improve its profit margin over 1972; the average increase was 25–30%.[50]

Item. For second quarter, 1973, the 10 Continental, 24%; Occidental, 56%. (The FTC has brought suit against the first 8 of the above firms for monopolistic practices and restraint of trade).[51]

FOOTNOTES

[1] *Fortune*, May 1970.

[2] Ibid.

[3] Prof. A. W. Reitze, Jr. "Fuels and Energy", manuscript, p. i to be published in Reitze, *Environment II*, North American Int. Publishers, Jan. 1974.

[4] Rep. Les Aspin, "Solution to the Energy Crisis: A Case for Increased Competition", manuscript, Nov. 1973, Part III, p. 2.

[5] Ibid.

[6] Ibid.

[7] Ibid.

[8] Ibid.

[9] John W. Wilson (Chief, Div. of Economic Studies, F.P.C.), Testimony, Senate Subcommittee on Antitrust and Monopoly, June 27, 1973, Table 6, pp. 23–26.

[10] Ibid., p. 20.

[11] Ibid., Table 10, pp. 39–42.

[12] Ibid.

largest oil firms registered the following profit increases over 2nd quarter, 1972: Exxon, 54%; Mobil, 41%; Texaco, 44% Gulf, 82%; Standard (Cal.), 42% Standard (Ind.), 37%; Shell, 54%; Atlantic Richfield, 50%;

[13] Wilson, Report of Proceedings, Senate Subcommittee on Antitrust and Monopoly, June 27, 1973, p. 385.

[14] Ibid.

[15] Ibid.

[16] Ibid.

[17] Ibid., p. 383–4.

[18] Ibid.

[19] Ibid.

[20] Ibid., pp. 383

[21] Wilson, Testimony, Table II, pp. 44–46

[22] Ibid.

[23] Aspin, op. cit., Part III, p. 2

[24] Reitze, op. cit., p. 7

[25] Aspin, op. cit., Part I, p. 4

[26] Wilson, Proceedings, p. 371

[27] Ibid.

[28] Ibid., p. 372–3

[29] Ibid.

[30] Ibid., p. 378

[31] Ibid.

[32] Wilson, Testimony, Table 4, pp. 17–18

[33] Ibid.

[34] Ibid., Table 15, pp. 70–74

[35] Ibid.

[36] Ibid.

[37] Dr. William Barrett, cited in Morton Mintz "Oil Study has Public as Victim", Washington *Post*, Jan. 9, 1972, p. A5

[38] Dr. John H. Blair, cited in Mintz, Ibid.

[39] "Economic Factors Affecting the Level of Domestic Petroleum Reserves", Part IV, *Tax Reform Study Proposals*, by the CONSAD Research Corp., Released by Dept. of Treasury, December 27, 1968

[40] Matt Witt, "The New Energy Barons", *United Mine Workers Journal*, July 15–31, 1973, pp. 4–6

[41] Ibid.

[42] Ibid.

[43] Reitze, op. cit., p. 7

[44] Ibid.

[45] Ibid.

[46] Ibid.

[47] Ibid.

[48] Ibid.

[49] Ibid.

[50] Wilson, Proceeding, p. 372

[51] *Business Week*, Aug. 11, 1973, p. 79

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ENERGY EMERGENCY ACT

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. VANDER JAGT. Mr. Speaker, I have a great interest in the encouragement of recycling. For a number of years I sponsored legislation to intensify the recycling of abandoned automobiles, an objective which I continue to pursue. Further indicating my interest, I have filed an amicus brief in the U.S. District Court for the District of Columbia in Civil Action 971–72, asserting that the Interstate Commerce Commission has failed to fulfill the requirements of the National Environmental Policy Act by inadequately recognizing the environmental implications of its freight rate decisions.

Repeated approval of percentage increases in national rail transportation rates for recyclables has only magnified the discrimination in rates on scrap metals, waste paper, and other secondary materials in comparison to virgin materials.

I believe that it is important that in

enacting Energy Emergency Act, Congress instruct the transportation regulatory agencies and particularly the Interstate Commerce Commission to address these rate discriminations which contribute to wastes of energy. According to the Environmental Protection Agency, the use of scrap instead of iron ore in the making of 1,000 tons of steel results in an energy savings of 74 percent, together with a water savings of 51 percent, a reduction in air pollution of 86 percent, and a reduction in mining wastes of 97 percent. When we are about to relax safeguards which we have regarded as fundamental to the protection of the natural environment, we would be well advised to direct Government agencies to initiate those actions which will enhance environmental protection while conserving energy.

Last night the Senate adopted some very relevant provisions as part of the Northeast railroad legislation, prohibiting transportation regulatory commissions from approving, authorizing, or allowing to go into effect any rate or charge increase for the transportation of recyclable materials which is unreasonable or unjustly discriminatory. I urge the Committee on Interstate and Foreign Commerce and the House of Representatives to adopt the fundamental objectives of this provision.

Section 107 of the Energy Emergency Act seeks to have the Interstate Commerce Commission, Civil Aeronautics Board, and Federal Maritime Commission act within their respective authorities to achieve energy savings. The consideration of gross inequities in the freight rates for recyclables as compared to raw materials is a path that will lead the Nation to conservation of critically short natural resources, to the reuse of mountains of solid waste materials and to vitally significant savings in energy consumption.

Mr. Speaker, I am also pleased that the committee has included language in this legislation to require the Administrator of the Environmental Protection Agency to conduct a study of the feasibility of establishing a fuel economy improvement standard for automobile engines of 20 percent for the 1980 model year. However, the committee has been somewhat timid in its objective. I believe that 50-percent improvement in auto engine efficiency should not only be our goal, but that it is already realistically possible of achievement.

The fact of the matter is that the Department of the Army in cooperation with the Ford Motor Co., has already developed an engine for lightweight military vehicles, jeeps, and light trucks, that will provide 50 percent better gas mileage than can be achieved by current engines. The engine is frequently discussed in engineering circles, prototypes are already on the road, and the Army is ready to proceed with contracts for the limited production of the engine, at a pace which could be rapidly accelerated. The engine is called a fuel injected stratified charge engine which in language I understand simply means that gasoline is injected uniformly into the cylinders of an engine, rather than passing through a carburetor before being drawn into the cylinders. This fuel injection system is simple enough for reliability for the Army, and relatively little retooling is required for assembly line conversion to production of the engine.

While I am enthusiastic about the fuel economy possible with this engine, my enthusiasm is compounded by the fact that the engine also will meet the 1976 air pollution control requirements for emissions. It does so because it burns fuel more completely than other engines.

Mr. Speaker, in his testimony before the Muskie subcommittee Ford President Iacocca stated that Ford Motor Co. could produce 500,000 new type engines in the 1977 model year which would meet air pollution control standards. While Mr. Iacocca, for obvious competitive reasons would not describe the engine in detail, there is good reason to believe he was talking about the stratified charge engine. It is my understanding that Chrysler has a stratified charge engine under consideration and a December 7, 1973, article in Oil Daily quoting Robert Stemple, special assistant to Edward Cole, president of General Motors, stated:

> General Motors is developing its own inhouse stratified charge engine.

Mr. Speaker, today is not a day for timidity. While Congress must adopt objectives that are realistic of achievement, I urge the House to establish goals in this study that accurately reflect the present-day capabilities of American technology.

SHORTAGE OF CHLORINE

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. ROGERS. Mr. Speaker, I have just recently introduced legislation which is designed to assure that all municipal governments have a proper supply of chlorine for treating their drinking water and sewage.

A shortage has been evident for several months now and experts and city governments across the Nation have forecast a national problem in the spring and summer months if something is not done.

While chlorine is still universally used here in the United States, other nations have developed alternative means of cleaning their drinking water. The main alternative has been the use of ozone.

My colleague from Maryland, GILBERT GUDE, spoke at the International Ozone Institute's First International Symposium and Exposition and I have found his remarks to be very enlightening.

As he points out, this Nation should be looking to alternative types of processing, especially in this time of shortage of chlorine. He does not advocate that the ozone process should be immediately accepted, only that it be considered fairly. And I agree with this.

I hope that the Environmental Protection Agency and other agencies within the Government will give this some serious thought. For on its face, the ozone process appears to hold benefits absent in chlorine.

I would like to include in the RECORD the remarks of Congressman GUDE and hope that my colleagues will give it consideration. We have provided for funds in our safe drinking water bill for development of new programs and I think the potential of ozone will mark it as a likely candidate for such investigation.

The remarks follow:

REMARKS BY HON. GILBERT GUDE

"Internationally, probably 99 percent of disinfection involves the use of chlorine"—that is what an official of the EPA's water supply office told my office recently. It certainly seems indelicate to cite this statistic to this symposium of the International Ozone Institute. But that fact—that the use of ozone for purifying water is virtually nil—is the critical fact for this conference.

The technology of ozonation exists. It is proved, and currently used, mainly in Europe. But outside of this conference, you would be hard-put to find many water supply experts who, when asked about disinfection, would not immediately assume you were talking about chlorination.

This does not mean that ozonation cannot be improved. Doubtless there are many improvements possible—and this meeting will contribute to those improvements by bringing together many of the world's experts on ozone. Two of the subjects listed for discussion at Wednesday's summary session involve the desire to improve the technology. First, a review of the current state of knowledge and, second, an analysis of information and research and development needs.

But the third subject up for discussion on Wednesday—factors affecting the future development of ozone technology—points toward the critical issue: Is ozonation to remain a very minor alternative to chlorination, used only in rare instances, or is it a mature technology that justly should and will become a viable, practical alternative?

That two people associated with Congress have been invited to speak at this meeting is, I think, an interesting and instructive point. Personally, I am very honored to be here. I represent a district in which water supply problems are very pressing, and these are problems ozonation may help solve. My presence points up the fact that now the pivotal issue about ozonation is application. The future development of this technology has very little dependence on technical innovations but on a reconsideration of the whole thrust of how water disinfection is now accomplished.

Ozonation is an effective way of disinfecting water. Why isn't it more widely used? Two reasons are usually advanced: Ozone does not have the residual properties of chlorine and ozone is more expensive than chlorine. These are the textbook replies. *Water Supply and Sewage*, by Ernest W. Steel notes that ozonation "is much used for water treatment in Germany and France," but rarely used in the U.S. except for a couple of places where certain chemical contaminants are present. Steel concludes, ozonation "cannot compete in cost with chlorine."

The text *Water Supply and Pollution Control*, by Clark, Viessman, and Hammer says, however, that "improvements in taste and odor resulting from ozone purification reportedly offset the slight difference in cost." The text concludes that the lack of a residual when using ozone is "the major justification for use of chlorine rather than ozone for disinfection of water supplies in the U.S."

These two reasons are really red herrings. I submit that the fundamental reason ozone is so seldom used is that chlorination totally dominates disinfection technology. Ozone is not competing on economic and technical trade-offs with another largely undeveloped technology also seeking to prove its efficacy. Ozone is competing with a proved technology that is being very widely used with a high degree of satisfaction. Chlorination is institutionalized. Chlorination is in the saddle. Ozonation must not be just as good to replace chlorination; it must prove to be better.

Why is chlorination the technique of choice? The answer lies in the decisions of some 50 years ago. At that time, experts hit upon chlorination as a workable technique, developed it and applied it. The consideration they gave to alternatives and the rationality of their decisions are moot points now. The question for us is should ozonation be applied as the disinfectant of choice for the future?

Let me illustrate the situation by analogy to the automobile industry. In 1900 it was uncertain whether the nascent automobile would be powered by the electric battery, the steam engine, or the internal combustion engine. No one of these systems had an overriding technical advantage. The internal combustion engine won out by a series of accidents, what appeared to be marginal advantages, and entrepreneurial guesses and decisions. But today, when millions of these engines have been run to exhaustion, when millions of people are familiar with them, when supply and repair facilites are established, an alternative power system faces the problem of not being as good as the existing internal combustion engine, but of having to be better.

Ozone is in much the same situation. Ozonation today not only has to prove its efficacy, but it has to displace an existing technology. It would be much easier if ozonation and chlorination were both competing to fill an unmet need. In fact, that is the key to the future of ozonation—institutionalized chlorine will be difficult to displace from existing plans using the same raw water now available. But in the future, raw water supplies are going to change, and new treatment facilities must be made available. These new circumstances may so change the technical and economic trade-offs that institutional changes will have to occur.

What about the factors affecting the application of ozonation? How may they be affected by future developments? Let us consider three categories; technical, economic, and institutional.

As to the first factor, there are two major differences between chlorination and ozonation. First, chlorination provides a residual effect which most American public health officials believe necessary to combat any contamination which might occur in the distribution system. If a water sample has that fine chlorine bouquet, it is assured a good vintage label.

Ozonation does not have a comparable residual presence. But the issue is not clear-cut. P. L. Giradot, the well known French engineer, suggests that residual chlorine may be relatively ineffectual in killing bacteria. He reminds us that the key question is the lack of pathogens in the water when it reaches the consumer, not the presence of the disinfectant per se. Obviously, public health officials where ozonation is used either have found methods of adding a residual or have decided it is not essential. The important point is that the lack of a residual is not an absolute bar to ozonation.

If indeed it can be established that to assure potability disinfection must continue in the water system after the water leaves the treatment plant, then chlorine can be added as a last disinfecting step. And ozone does have significant technical advantages. It acts more quickly and thoroughly than chlorine, especially in destroying viruses and certain organic chemicals such as phenols. It controls taste, odor, and clarity problems more effectively. You know the technical trade offs better than I. But I want to emphasize two points: One, there are trade offs; chlorine is not absolutely superior; and two, the superior action of ozone in disinfecting virus and chemical contaminated water will surely become increasingly important as recycling and tapping polluted supplies increases.

It has been generally assumed that using ozone to disinfect drinking water is more expensive than using chlorine. An EPA staff paper of October 1973 quotes estimates that capital and operating costs for ozone treatment were 10 to 15 times higher than costs for chlorine treatment in 1971, though the gap may be narrowing. Some other estimates give only "slight" differences.

First of all, let's be sure that we are not comparing apples and oranges. If ozone costs are based on data from laboratory tests while chlorine data is derived from municipal water plant operations then the conclusions could well be invalid. Also, the general assumption that chlorine is cheaper is often apparently based on data from processes using elemental chlorine while more expensive hypochlorite is not only used in some municipal plants but, because of regulations, in some cases it is the only viable alternative. The citizen is unaware of this technicality and assumes he is getting the best price when he pays his water bill.

Economic statements can also be misleading on another count. Ozone and chlorine, as we noted, are not equivalent disinfectants and so the cost differential is not valid, unless one also considers the differences in results.

For example, Clark, Viessman and Hammer said the differences in cost were compensated for by improvements in taste and odor. But if chlorine cannot deal with viruses in certain instances, while ozone or some other disinfection system can, then cost cannot be a factor at all. It cannot be too strongly emphasized that we canont justify such economic trade-offs when public health is at stake. Another economic point should be mentioned. The EPA staff paper on alternatives to chlorine notes that ozone treatment is "electric energy intensive."

At a time of "energy crisis," this might seem a serious disadvantage. However, we should remember that chlorine is industrially produced by electrolysis of salt, to produce chlorine and caustic soda.

The two products, therefore, split on the electrical energy cost. Dependence on chlorine has certain disadvantages. Production of chlorine expands by the construction of large units. Total demand is sensitive to the nation's economic health. The water supply industry is a small buyer of chlorine, about three percent of national production, and this purchasing is divided among many municipalities, often required by law to contract for short periods of time. These factors mean that the chlorine supply industry tends to be cyclic, with periods of overcapacity followed by periods of tight supply, and that water supply users are often unable to compete with bigger buyers. As a result, the water supply industry may at times find itself being squeezed off the market, as is now threatened. Ozonation would provide virtual independence from these pressures.

These technical and economic issues I have reviewed involve trade offs, particularly those involving residual effects, costs, and various degrees of benefits. Neither technical nor economic considerations, except where public health factors are involved, provide at this time an unqualified basis for choosing one technology over the other. Certainly we very much need more hard and precise data as to economics. But it is, I am sure, the institutionalization of chlorination that finally and decisively weights the balance toward chlorination.

When I began, I observed that chlorination is the disinfectant in virtually all water treatment facilities. I said that this put chlorination in the saddle. This means that there now exists a vast array of institutional predilections, and regulations that operate to tilt the balance and thus to maintain chlorination as the disinfectant of choice.

First, the virtually exclusive use of chlorine for over half a century in this country means that the teachers and schools educating and training engineers and technicians presume this approach. This is evident in the texts, some of which I quoted earlier.

This presumption also permeates governmental bodies dealing with supply. The federal *Manual for Evaluating Public Drinking Water Supplies* discusses the use of chlorine in some detail. It includes ozone as one of a list of alternatives. The manual does not preclude use of alternatives, but several state regulations do, either explicitly or implictily. At least one state, Missouri, explictly requires the use of chlorine as disinfectant. Many more states implicitly specify chlorine. West Virginia regulations state: "Disinfection shall be required of all public water supplies. Unless otherwise approved in writing by the Division of Sanitary Engineering, chlorine shall be the only type of disinfectant permitted for use in public supplies." Such a regulation certainly operates as a deterrent—chlorination is accepted—alternatives must be justified.

And so, in the U.S., water supply treatment technology is virtually 100 percent based on chlorination. The industry commands a sizable investment in equipment, maintenance resources, manpower, and supplies. Textbooks and colleges generally presume chlorination is the disinfectant system that will be used. Ordinances, laws, and regulations concerning public water supplies tend implicitly or explicitly to require the use of chlorine. And most important, it has the confidence of the consumer as well as public health officials who are familiar with the process and trust it.

Is there, then, any hope for the future of ozonation? I believe the answer is yes. If water supplies and demand were to remain constant, then there would be little reason to change; but supply and demand will not remain static. Increased consumption, waste treatment, and water mining, are changing the availability and quality of water supplies.

It is inevitable that the increased recycling and reuse of water will force the reconsideration of the technical and economic trade offs on which disinfection systems have historically been evaluated.

The D. C. water supply situation, for example, suggests the problems. In summer, the flow of water in the Potomac drops quite low—already the record daily flow is less than the largest daily consumption on record. There are several ways supplies can be guaranteed. One would be to tap the Potomac estuary, which is a huge reservoir of fresh water located where it is needed.

But the estuary is polluted and contains already used water. The established position is that you do not turn to used water if other sources are available—an attitude that means we should dig deeper wells, go to more remote sources, or build bigger dams. The institutional position on D. C. water supply is to build upstream dams—dams 200 miles away to store water, when the estuarine water is right here. The officials say they cannot guarantee the safety of estuarine water and that chlorination may not kill viruses. This avoids, for one thing, the fact that viruses are also present in the supply coming down stream.

The institutional bias for chlorine has delayed, until this year, any efforts to consider new technological approaches to this water supply problem. While it is not certain that ozonation would solve the problem, there has been considerable obvious reluctance to consider it as a viable alternative. Habits die hard. To break the chlorination habit will be a difficult task, but studies of the innovation process suggest certain steps that probably will have to be taken.

It is useful to think of innovation as a two-step process: Inventing a new technology, and then selling it. Ozonation has been invented. Now it must be sold in a market which is dominated by an existing, working technology.

Studies of innovation show that typically a new invention must be successfully tried out in some small segment of the market before it achieves acceptance. While ozonation is proved in Europe and Canada, it is not operationally accepted in the U.S. Therefore, the first step in unlocking the future of ozonation in the U.S. must be the selling of pilot water treatment plants to prove the technology.

Studies of technological transfer also show that new inventions do not usually develop within the industry to be penetrated. In the case of ozonation, this means that the seller and provider of the new technology will either be European, or possibly, the federal government. Safe drinking water legislation, being actively considered in Congress, includes a provision for demonstration grants. Such grants could be the basis for constructing and providing ozonation as well as other disinfecting techniques in the U.S. But once again we come up against institutional conservatism.

At the 1973 hearings on the safe drinking water act, held by the House Interstate and Foreign Commerce Committee, Robert Fri, Deputy Administrator, EPA, was asked by Congressman Rogers, "Don't you think we ought to have a program for demonstration . . . ? And Mr. Fri replied: ". . . . It seems to us the water treatment technology is basically sound at the present time for the kind of raw water we are using. The next real demonstration in treatment technology is likely to come when we begin to do closer to 100 percent recycling." Thus the Administration, while it is being given the statutory authority to regulate drinking water, is not only committed to the existing technology based on chlorination, but is evidently actively discouraging demonstration projects, at least at the present time. This is despite the fact, that the reuse of water is already occurring, and will increase in the future.

Therefore, in conclusion, reliance on the federal government for ozonation's entry into the water treatment industry is dangerous indeed. The alternative is to consciously and actively sell ozonation in the marketplace. This will obviously be difficult. The cards are stacked in favor of chlorination. I have dwelt at length on the institutional biases. You must know your handicaps if you are to achieve success.

Once entry in the industry is achieved, once some pilot plants are on line so the benefits of the different technologies can be compared on the basis of actual experience, only then can we hope to shake up the rigidified institutions. Patience will be required. Studies of innovation prove that it is a slow process, and that even when one technology is clearly superior to another cultural conservatism may greatly retard progress. Several years is certainly the shortest time in which a significant impact can be made.

Change is coming. The changing characteristics of water supplies—the increased use of recycled water—is right now rebalancing the technical and economic trade offs on chlorination vis-a-vis ozonation for many cities. Technical systems, such as ozonation, which can improve our way of life must not be denied access because of institutional barriers of our culture. This means that you, as engineers and scientists, must go beyond your comfortable, familiar specialties and insure that the practice of our technology is not a hide bound feudal system but an enlightened open one which can make for a better America.

ROCKWELL INTERNATIONAL CONTRIBUTES TOOLS TO PAN AMERICAN DEVELOPMENT FOUNDATION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, in the current debate on U.S. aid to foreign countries, it would be well to note that sources of nongovernmental, or private aid flow to some of these nations also.

Rockwell International, headquartered in Pittsburgh, recently made a contribution of air sanders and necessary spare parts to the Pan American Development Foundation.

This gift, valued at $78,000, was distributed to vocational training schools in four South American countries for the use of youngsters.

I want to salute the officers of the Rockwell corporation for their good will and interest in good foreign relations.

I would like to include in the RECORD at this time a letter to me from T. Graydon Upton, president of the Pan American Development Foundation, informing me of the Rockwell tool gift:

PAN AMERICAN
DEVELOPMENT FOUNDATION,
Washington, D.C. November 30, 1973.

Representative WILLIAM S. MOORHEAD,
U.S. House of Representatives, Rayburn Office Building, Washington, D.C.

DEAR REPRESENTATIVE MOORHEAD: We would like to bring to your attention a recent contribution to the Pan American Development Foundation from Rockwell International in Pittsburgh, Pennsylvania of air sanders and related parts. This contribution, valued at $78,000 was in turn sent to vocational training schools in Colombia, Peru, the Dominican Republic and Honduras. This equipment is being utilized in the training of many young students to assist them in preparing for future employment and a role as a contributing participant in their country's development.

Tools for Freedom through which this contribution was channeled is a non-profit program of the PADF, which encourages such contributions of tools and machinery for Latin American vocational schools.

We hope that you might assist us in extending to Rockwell International the special recognition it deserves.

Thank you.

Cordially,
T. GRAYDON UPTON, *President.*

THE PLANETARY CRISIS AND THE CHALLENGE TO SCIENTISTS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. DINGELL. Mr. Speaker, I have been sent a recent address by Dr. Margaret Mead to the New York Academy of Sciences, and I think that it is important that others be given an opportunity to consider her remarks.

Dr. Mead makes a strong point that the recent "energy crisis" represents a challenge as much as it does a threat—that it is a powerful warning to all men that we cannot continue to grow as we have in the past. There are in fact limits to growth, and the shortages of energy that we see today are evidence of this fact.

President Nixon has publicly stated his belief that we can be independent of other countries for energy supplies by 1980 without severe adjustments within our own society. I am not aware that he has any support, even within his own administration—an institution not known for its independence—for this extraordinary statement. Our own society is going to have to make some extraordinary choices as to its priorities and its values, on the order of balancing the need for excessive fuel for Executive jets and limousines against the need for keeping schools and colleges open. We can and must start to make those choices today.

We are heavily committed to the energy industry, and it is clear that this industry is not about to let go its control except under protest. This in no way diminishes the importance of the task, or its urgency. The truckers who require fuel to keep going, the fuel operators and distributors, airline pilots, those who suffer physically from polluted air, those who live in areas of the country which can be devastated by a needless attack upon the mineral resources which are found there—all are hostages to our finding an acceptable solution to a highly complicated problem.

We can treat this problem as a temporary one, or we can treat it as a long-term problem. If we take the former course, we are doing no more than deluding ourselves, however much we may be assured to the contrary by Mr. Nixon. Dr. Mead makes the point that this crisis—and crisis it undeniably is—should rather be treated as an incentive to examine the needs of society in a new way, and of developing solutions to problems which have been vexing us for years but which a preoccupation with the status quo has prevented us from attacking frontally.

The situation represents potential disaster, and it represents what Dr. Mead calls a "priceless opportunity". I believe we must treat it as the latter to avoid its full potential as the former. I include her address at this point in the RECORD:

THE PLANETARY CRISIS AND THE CHALLENGE TO SCIENTISTS

(Address of Dr. Margaret Mead, Curator Emeritus of Ethnology, of The American Museum of Natural History, to the Annual Meeting of the New York Academy of Science, December 6, 1973)

(NOTE—Dr. Margaret Mead, Curator Emeritus of Ethnology, The American Museum of Natural History, is currently a Fogarty Scholar-in-Residence at the Fogarty International Center, National Institutes of Health. On November 13, 1973, she gave the Jawaharlal Nehru Memorial Fund Lecture in New Delhi, as a sequel to the Kalinga Award, received in 1972, for outstanding contribution to the popular understanding of science.)

This is a meeting of members of all the different disciplines included in the New York Academy of Sciences. The members of each discipline are laymen and laywomen to each other. So we meet as scientists, as concerned lay people, and as concerned citizen members of our national and our world communities. But we are gathered together tonight because of our membership in the scientific community. I speak to you as a long-time member of the Academy, and also as a representative of the scientists' information movement represented in The Scientists' Institute for Public Information (SIPI), which was fostered by the New York Academy of Sciences. I am assigning the award money from the Lehman Award which you have given me tonight, to SIPI, to symbolize my adherence to the belief which the scientists' information movement stands for—that it is the duty of the citizen to make major political decisions, but that it is the duty of the scientist to clarify for the public the complex issues which the development of science continually presents today. I speak to you also as an anthropologist who has been honored by the presence of many of my colleagues and by the site of this meeting, The American Museum of Natural History, where I have been a member of the Department of Anthropology since 1926.

The energy crunch, which is being felt around the world—in Japan, in Europe, in the United States—has dramatized for us a world-wide situation and a world-wide opportunity to take stock of how the reckless despoiling of the earth's resources—here in America and all over the world—has brought the whole world to the brink of disaster. It also provides the United States, its citizens, its government, its scientists, and its leaders of business and labor with a magnificent opportunity to initiate a transformation in our present way of life. Our present way of life was conceived in a spirit of progress, in an attempt to improve the standard of living of all Americans through the increasing capability of technological development to bring previously undreamed of amenities within reach of the common man.

But this search for a better life has—especially since World War II—taken a form which is untenable, and which this planet cannot support. The over-development of motor transport, with its spiral of more cars, more cement highways, more pollution, more suburbs, more commuting, has contributed to the near-destruction of our great cities, the disintegration of the family, the isolation of the old, the young, and the poor, and the pollution not only of local air, but also of the earth's atmosphere. Our terribly wasteful use of electricity and of non-renewable resources are likewise endangering our rivers, our oceans, and the atmosphere which protects the planet.

The realization that a drastic transformation is needed has steadily increased. But the problem has been how to turn around? How to alter our dependence on motor transport? How to persuade the individual citizen enmeshed in a system in which he and his wife and children are imprisoned without one car, two cars, three cars, that change is possible? How to stop building enormous, uneconomical buildings which waste electricity night and day, all year round? How to break the deadlock between environmentalists, bent upon enacting immediate measures to protect an endangered environment, and industry, itself caught in the toils of a relentless compulsion to expand? How to alter our own course and not injure the young economies of the developing countries, desperate to obtain the barest necessities of food and water and light for their hungry millions, clamoring for one per cent of our gross national pollution! Even though the present rate of development of energy use and resource use is only some twenty-five years old, it has been so much taken for granted in the industrialized countries that it has seemed almost impossible to turn around short of some major catastrophe . . . some catastrophe which would destroy millions of lives.

The catastrophe has now arrived, not in the form of the death of millions in an inversion over a large city, but in the energy crunch. The causes may be debated, will be debated: how much blame to assign to government mismanagement, how much to the recent war in the Middle East, how much to the action of the oil-producing countries for whom oil represents their only bargaining resource, how much to manipulation by companies that control oil, natural gas, coal, and the processing steps between producer and consumer, how much to the intention of producers to defeat environmental measures, how much to the maneuvers of exporting countries to strengthen their currencies. But in a more basic sense, these triggering events do not matter and focusing on them can in fact divert our attention from a much more important issue—how we are to take advantage of the crisis to move toward a way of life which will not destroy the environment and use up irreplaceable resources, not destroy large sections of the country by ripping off the surface of land in strip mining and by killing rivers, lakes, and the smaller seas like the Baltic and the Barents Seas. We can easily be diverted into acrimonious accusations instead of concentrating on what measures must be taken.

The crisis is here and some kind of crisis activities will be undertaken. Some meaures have been taken. More are underway. But we have the opportunity to use the crisis to transform our own economy, to take the lead in a transformation which is needed right around the world, to aim not for a shallow independence but for a genuine responsibility. We must not be content with half-measures, with small, mean palliatives, following the Administration's assurance that all that is needed is fewer Sunday drives to visit mother-in-law and lowered lights on Christmas trees—to be followed very soon by a return to normal waste and pollution. We must not return to complacency over a situation in which our major nutritional disease is over-nutrition, while millions of Americans are on the verge of starvaton and while we are only six per cent of the world's population, we are using thirty per cent of available energy resources. The crisis can and must be used constructively.

During the inevitable disorganization of everyday life, business, industry, and education, we will be taking stands, making decisions, learning new habits and new ways of looking at things, and initiating new research into alternative technologies in transportation, agriculture, architecture, and town planning. It is vital that these activities move us forward into a new era, in which the entire nation is involved in a search for a new standard of living, a new quality of life, based on conservation not waste, on protection not destruction, on human values rather than built-in obsolescence and waste.

As scientists who know the importance of accurate information, we can press immediately for the establishment of an enquiry with subpoena power to ascertain from the energy industries the exact state of supplies and reserves in this country. As scientists, concerned with direction of research and the application of scientific knowledge to a technology devoted to human ends, we press for a massive project on alternative and environmentally safe forms of energy—solar energy, fusion, other forms. Such a project should be as ambitious as the Manhattan Project or NASA, but there would be no need for secrecy. It would be aimed not at destroying or outdistancing other countries, but at ways of conserving our resources in new technologies which would themselves provide new activities for those industries whose present prosperity is based on oil and motor transport and energy-wasting, expensive synthetic materials.

Those of us who are social scientists have a special responsibility for the relationship between measures that are to be taken and the way in which the American people and American institutions will respond. For example, we have abundant information on the responses of Americans to rationing during World War II. If there is to be gasoline rationing, we have to consider the importance of built-in flexibility and choice. In the United States, a rationing system will only be experienced as fair and just if it discriminates among the needs of different users; recognizes that workers have to get to work, that many people work on Sundays, that different regions of the country will need different measures. Without rationing, we will set one set of users against another, one part of the country against another, encouraging such narrowly partisan measures as severance taxes through which oil-rich states will benefit at the expense of the residents of oil-less states. Rationing is a way of making the situation genuinely national, involving each American in the fate of all Americans.

But while some form of rationing or allotment—or the same procedure by some other name—will be necessary, it will be important to consider that the American people have experienced rationing only as a temporary measure in wartime or as an abhorrent practice of totalitarian countries. There will be danger that rationing may simply accentuate the desire to get back to normal again, with "normal" defined as where we were when the shortage hit us. What we need to do is to define all measures taken not as temporary but as transitional to a saner, safer, more human life style. How can we make the present period into a period of tooling up for smaller cars, rapid research, and preparation for entirely new forms of transportation, of utilities, of energy generators? Such mechanisms can be found. In the past, war, revolution, and depressions have provided the dire circumstances within which society's technologies and social institutions have been transformed.

Our present situation is unlike war, revolution, or depression. It is also unlike the great natural catastrophes of the past—famine, earthquake, and plague. Wars are won or lost, revolutions succeed or fail, depressions grind to an end, famine and plagues are over after millions have died. A country rebuilds, too often in the same spot, after an earthquake. The situation we are in is profoundly different. An interdependent, planetary, manmade system of resource exploitation and energy use has brought us to a state where long range planning is crucial. What we need is not a return to our present parlous state, which endangers the future of our country, our children and our earth, but a movement forward to a new norm—so that the developed and the developing countries will be able to help each other. The developing countries have less obsolescence, fewer entrenched 19th century industrial forms to overcome; the developed countries have the scientists and the technologists to work rapidly and effectively on planetary problems.

This country has been reeling under the continuing exposures of loss of moral integrity and the revelation that ubiquitous law-breaking, in which unenforceable laws involve every citizen, has now reached into the highest places in the land. There is a strong demand for moral reinvigoration and for some commitment that is vast enough and yet personal enough to enlist the loyalty of all. In the past it has been only in a war in defense of their own country and their own ideals that any people have been able to invoke total commitment—and then it has always been on behalf of one group against another.

This is the first time in history that the American people have been asked to defend themselves and everything that we hold dear in cooperation with all the other inhabitants of this planet, who share with us the same endangered air and the same endangered oceans. This time there is no enemy. There is only a common need to reassess our present course, to change that course and to devise new methods through which the whole world can survive. This is a priceless opportunity.

To grasp it, we need a widespread understanding of the nature of the crisis confronting us—and the world—a crisis that is no passing inconvenience, no byproduct of the ambitions of the oil-producing countries, no figment of environmentalists' fears, no byproduct of any present system of government—whether free enterprise, socialist or communist or any mixture thereof. What we face is the outcome of the inventions of the last four hundred years. What we need is a transformed life style which will be as different from our present wasteful, shortsighted, reckless use of the earth's treasures as the present 20th century world is from the agrarian world of the past. This new life can flow directly from the efforts of science and the capabilities of technology, but its acceptance depends on an overriding citizen commitment to a higher quality of life for the world's children and future generations on our planet.

RISING TRADE WITH EASTERN EUROPE

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. HELSTOSKI. Mr. Speaker, the web of international commerce is becoming more tightly woven each day. Countries throughout the world have become increasingly dependent upon one another for imports and exports.

As the Arab oil boycott has illustrated, the marketplace of worldwide trade can become ensnared in a bitter maze of political blackmail. However, on the other hand, through our expanded trade with Eastern Europe, for example, we have seen how trade relations can help bridge ideological gaps.

Mr. Speaker, within this context I would like to call our attention to an editorial which apeared November 30 in the Baltimore Sun. Entitled "Rising Trade with Eastern Europe," the article describes how the United States and Poland have mutually benefitted from expanded trade relations. I would like to take this opportunity to share the editorial with my colleagues, because I believe it illustrates some of the benefits that can emerge from improved trade between two countries. The article follows:

RISING TRADE WITH EASTERN EUROPE

A shipload of coal from Poland is due to arrive in New England next month to supply fuel for a power plant complex in Fall River, Mass. This is a "first" made possible by a combination of circumstances—rising coal prices that overcome trans-Atlantic shipping costs, an acute energy shortage threatening brownouts in New England and a "fantastic improvement" (as both U.S. and Polish officials describe it) in bi-lateral economic relations.

This year total trade between the United States and Poland is projected at $445 million to $495 million—close to a 100 per cent increase over the $251 million figure for 1972. The rapid upward jump has largely been a one-way affair with American manufactured goods, chemicals, fertilizers and machinery pouring into Poland on the strength of Export-Import Bank credits that for the first time were made generally available a year ago.

Confronted with a 2 to 1 negative trade balance ratio, Polish authorities have naturally been scrambling to boost their exports to the United States. In the first ten months of this year they were able to ship more than they did in all of 1972, but obviously more will have to be done if a staggering debt is to be avoided. Coal will not be the only answer, but it is an important one in Polish calculations. From its rich lodes in Upper Silesia, Poland already is mining 170 million tons a year, of which more than 30 million tons are sold mainly to France, Sweden and West Germany to obtain needed hard currencies. Within three years, the Poles hope to reach a yearly output of 200 million tons. And eventually, once the area around Lublin is exploited, production could go to 500 million tons annually.

With such a growth outlook, growth markets must be sought, and the U.S. is one of them. Whether the Fall River shipment will be but the initial portion of coal exports that may reach 9 million tons a year (a figure mentioned in Warsaw) remains to be seen. But it is a beginning, and a promising one in a world suddenly aware that oil is a diminishing fossil fuel resource. With demand what it is, American coal producers probably have no need to fear Polish competition.

The spectacular rise in U.S.-Polish trade is one of the little noticed dividends in President Nixon's effort to improve relations with Soviet-bloc nations. During the first nine months of this year, U.S. trade not only with Poland but with Bulgaria, Czechoslovakia, Hungary and Romania was uniformly in excess of full-year commerce for all of 1972. Mr. Nixon deserves good marks for making the credit available to spur this growth in trade. Not only does it make the political atmosphere more friendly but it enables East European countries to diminish their dependence on nations that have not always wished them well.

OREGON PACIFIC ASSESSES THE TIMBER SITUATION

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. ASHBROOK. Mr. Speaker, there has been talk that our Nation is heading toward a serious timber shortage. In a recent newsletter, however, Oregon Pacific Industries contends that we can have all the wood we need if industry, Government and environmentalists will work together. Without endorsing or criticizing the views expressed by Oregon Pacific, I want to bring these views to the attention of my colleagues. The text of the newsletter follows:

OREGON PACIFIC INDUSTRIES NEWSLETTER, DECEMBER 1973

TREES ARE THE WORLD'S ONLY REPLACEABLE BUILDING MATERIAL

We can't grow water, iron ore, oil, manganese, sulphur, bauxite. When we run out of them, and that day will probably come, we'll either have to (1) synthesize replacements, (2) use substitute materials, or (3) do without.

But not with wood. We grow trees. The "rotation cycle"—time it takes from seedling to harvestable tree—has dropped in the west alone from the 100-plus-years of 1900 to 60 years today, and now Georgia-Pacific thinks it has a 40-year cycle at hand.

Trees have to be cut, weeded, thinned, like plants. There's a misconception that "virgin" timber is good. Wrong. Recently G-P felled a 400-year-old tree and a 6-year-old tree. Both had grown 37" in diameter, and the centuries-old "virgin" was 90% rot.

If we were allowed enough "thinning harvests"—cutting away small trees to give the big ones a chance—foresters say we could increase production 30–40%. Better over-all management could give us 50% more timber annually.

We know good management works: 60 years ago southern forests were considered extinct. Today they're completely restored. Between 1953 and 1968 southern timber inventory increased 42%, and 20% in the north.

Today, nationally, we have 34,000 certified tree farms, in 48 states, comprising 75 million acres. We're growing more than 100 million nursery trees a year for reforestation, in just our Douglas Fir region. And nature grows several hundred million more.

BUT WE HAVE GOT TO TAKE BETTER CARE OF OUR "TREE CROP"

Let us fight the tree-eaters: environmentalists stopped us from using DDT against the tussock moth in eastern Oregon and Washington. So 200 million b.f. have been killed on just the North Umatilla National Forest. And the moth keeps on chewing. Insects and disease kill 6 billion b.f. of timber a year on our National Forests. If only half could be salvaged annually, it would be enough to build 300,000 homes! We've got to stop this waste.

Let us fight fire with fire: Northwest Indians were doing it in 1830, burning slash as it accumulated; burning when they needed to burn. But even our Forest Service today is hampered by when it can burn, what, and where, under federal environmental legislation. The most tragic recent result was the firestorm of last summer, which put 10,000 men on-line, fighting blazes which scourged about 250,000 acres—hundred of millions of board feet—of timber in 7 western states . . . because a 5-year accumulation of tinder-dry slash was neatly piled like matchwood, waiting for lightning, or a cigarette butt, or a campfire ember to ignite it. If we could burn selectively we could beat fire at its own game.

Let all of America re-forest: Industry has been doing a better job than the government of reforestation; planting many more trees than we cut. Because of a miserly Congressional attitude, neither the Forest Service, nor Bureau of Land Management, nor Bureau of Indian Affairs has been able to get enough money to plant trees rapidly enough on federal timberland. Oregon's Rep. Wendell Wyatt has tried for 8 years to pass a bill which would put a sizeable chunk of federal timber sales proceeds into reforesting . . . but failed.

Even the small private land-owner (who, in the aggregate owns 300 million acres of forest; 60% of the U.S. timberland base) is beginning to reforest better. Pres. Nixon just signed the "Forestry Incentives Program", which will let government share the costs of re-stocking trees. We need the same concentration on reforesting all lands.

We know it works. Oregon's O&C lands (2.1 million acres) get back about $23 million a year from federal timber sales and spend most of it to build access roads and plant more trees. The same should be done for all USFS, BLM, and BIA lands.

Let us follow the "Rx for harvesting"; Silviculturists (foresters) are like doctors. Different treatments are good for different patients. Take clear-cutting. You hear a lot of talk that it's an evil practice, but different spcies need different techniques. Clear-cutting is a must to grow Douglas Fir . . . the tree needs churned soil, light, water. But hemlock and white spruce are shelterwoods . . . they can use a tight canopy of adjoining trees to protect themselves. Let's let our industry follow the "prescription for harvesting", depending on species.

We have 25 million good fir-growing acres in the northwest, and 15 million of them have been harvested since 1872 . . . mostly by clear-cutting. But on many of these acres we now have 100-year-old second-growth trees, not virgin timber. And we've got millions of acres of third-growth trees; plots harvested only 40 years ago and now bristling with reforested timber. Clear-cutting is a sound silvicultural tool.

WE ARE UTILIZING TREES ALMOST DOWN TO THE LAST SPLINTER

As late as 1900, loggers left 16"–20"-diameter trees on the ground, as "culls". They burned tons of slab, edging, trim, dust, and bark.

Today, we're using 75–85% of each harvested tree:

1. Particleboard's the growing utilizer of chips and dust;
2. Pulpmills get 75% of their needed chips from lumber and plywood;
3. Bark is being made into glues, even shoe polish; left-overs;
4. What little waste then left is being burned, together with garbage (pyrolysis), to generate electricity to use in manufacturing more lumber.

Thinner saws are "in", and Forest Service consultants say we can increase our lumber yield from today's harvest levels by 10% (which would add 2.4 billion b.f. a year, from the same supply of logs). In just the south, thinner sawing will save enough wood yearly to build 28,000 new homes . . . equal to a 45-year growth on 13,000 acres.

WHERE IS THE NATION'S TIMBER?

Mostly on federal land; 60% of it on the National Forests. Hence small loggers and mills must rely almost completely on the wood our U.S. Forest Service and Bureau of Land Management will sell. Only the large, integrated companies—Weyerhaeuser, G-P, Louisiana-Pacific, etc. own and manage substantial private stands.

The U.S. has 500 million acres of land available and capable of growing trees; 107 million are owned by the federal government, 6% by the states, 13% by industrial owners, and the balance by small landowners—who have not been practicing reforestation adequately and not managing their small stands adequately.

THE PROBLEMS IN BUYING FEDERAL TIMBER

Q. How much will they sell?

A. Not even the full "allowable cut". "Allowable cut" is the amount of timber which can be felled annually to assure a sustained harvest yield for generations to come, as governed by present logging and management regulations. (Commercial forestry feels that a harvestable tree can grow to maturity in 60 years, but the federal government stays on a "rotation cycle" of 100-to-110 years!)

Today, the total allowable cut is 13.8 billion b.f., but the actual annual amount put up for sale last fiscal year was only 10 billion. For example, in western Washington's four National Forests there are 564 million b.f. of unoffered and unsold "allowable cut".

Q. Why can't they sell more?

A. Because the federal agencies haven't got manpower to prepare enough sales; Congress hasn't funded them adequately. In the current 1973–1974 fiscal year, when the Cost of Living Council ordered a 1.1 billion-b.f. increase in timber sales, the Forest Service had to drop 113 employees and cut its access-roadbuilding program by $19 million!

Q. Why don't they sell more "salvage"—dead, dying, rotting timber?

A. Why not, indeed. They can. Take the 1962 "Columbus Day Storm". That miniature hurricane blew down 17 billion b.f. of trees out here, but within 4 years most of the 17 billion was salvaged and converted into wood products. Congress just won't press the federal agencies. And the agencies are hidebound, used to selling only "green" (healthy standing timber). Salvage means more work, more funding. And we're getting neither.

Look at what we could harvest on the National Forests alone, without touching a living tree: 6 billion b.f. of trees dying each year, most of them lying rotting. The 1973 tussock moth kill, in a few months of infestation, created 150/250-million b.f. of salvageable timber, on just the north half of the Umatilla National Forest. Where are plans to sell all this wasted timber?

ARE ENVIRONMENTALISTS HELPING OR HURTING?

Hurting—

A true "environmentalist" or "conservationist" would accept the "multiple-use" concept of managing our forests—cut some timber, open areas to fishermen and hunters, to allow some mining, etc. That system's been in existence since the late 19th century.

But no. "Preservationists" are trying to lock-up the woods.

Specifically, they're . . .

1. Trying to push most U.S.-owned forest in the "wilderness" category—open only to hikers. They want 90% of Yellowstone as wilderness; 92% of the Olympic National Park, etc.
2. Fighting any attempt to increase allowable cut or sales. In August they sued the Administration to stop us from getting even that extra 1.1 billion feet the Cost of Living Council ordered sold from National Forests.
3. Stopping the use of needed insecticides and herbicides. The tussock moth has infested 800,000 acres of trees on just 2 n.e. Oregon National Forests. But preservationists stopped up from using DDT to kill the insect. And now they want to ban 2,4,5–T, a major weapon against the brush which is choking to death the very trees they want to preserve.
4. Not protesting loudly enough against log exports, not encouraging greater salvage selling.

JUST HOW MUCH DO LOG EXPORTS AFFECT DOMESTIC LUMBER SUPPLY?

Plenty—

Japan's the main reason. Half as many people as the U.S., but the same housing goals; Japan wants 2 million starts a year for the next half-decade, for her 100 million citizens.

In 1972, we shipped 3 billion feet of logs to Japan . . . enough to build 300,000 1-family homes. In first-half 1973 we exported 1,460 billion b.f. to Japan, 28% more than for comparable 1972!

Japan even takes our waste—pulpwood chips; 1½ million cords (imagine just 1 cord of firewood in your garage). One Japanese vessel, the "Thames Maru", loads enough U.S. logs to build 2200 homes.

Balance of payments . . . that's supposed to be the reason we sell so many logs to Japan. But then the dollar is devalued and the yen buys even more logs.

The whole rationale for allowing en masse timber exports has to be re-analyzed. By keeping that wood at home, there'd be no current materials shortage. Ours has been the only softwood-producing country in the world without export controls on forest raw materials.

There is some good news: In its 1973 appropriations bill, Congress adopted an amendment forbidding the Forest Service and the BLM from using any federal money in preparing timber sales destined for export. So we will have finally prohibited, totally, log exports from federal lands. But . . . our industry feels log exports to Japan won't drop one whit. They'll come from state lands (Washington state has no law prohibiting exports, though Oregon does), and from private lands.

And that's what Congress should look at now—because every foot exported is another foot we can't use at home. And if private timber owners are being paid fancy prices for their stumpage by Japan, you can bet that'll affect U.S. lumber prices just as much as Japanese bids for federal timber have.

BUT WOOD WILL RETAIN ITS LEADERSHIP AS THE MOST-WANTED BUILDING MATERIAL

Wood's the best buy. And price will keep it attractive. Lumber's price rose 1.7% annually in the 100 years from 1872 to 1972. It probably will rise 1.5% a year, and plywood the same, between now and the year 2000.

Wood's less polluting. It takes 10 times less energy to produce lumber than aluminum or steel, and lumber manufacture produces about that much less air and water pollution.

Wood works better. Recently, ALCOA put up an aluminum frame house in Vancouver, Washington. Carpenters didn't like sawing aluminum. Wood homes also save 30% on cooling and heating, in this era of "energy conservation".

Wood will be there—when it's needed. As it always has. Since 1945, the U.S. has built 40 million homes . . . 80% of them of wood. We built more homes since 1945 than in the previous three centuries . . . and there's still more than enough wood to meet all our nation's needs.

CAN WE MEET FUTURE DEMANDS?

Yes—

Housing starts have levelled-out: our national goal under Pres. Johnson was to hit and hold at an annual starts rate of 2½ million. We did it, but probably can't stay at that plateau through the 70s—which was the goal of the 1968 National Housing Act. High interest and labor costs have depressed the 2½ million to 2 million, and it could level off between 1½-2 million between now and 1978 if deflationary economic policy keeps home-building "dampened".

Our population level is growing more static; the U.S. reached an all-time birthrate high in 1960 . . . 4,257,850 Americans born that year. Then the decline began . . . 3.760 in 1965, 3.5 in 1968, 3.5 in 1971, 3.25 in 1972, to probably 3.086 million for 1973.

Family formations are dropping: the marriage rate was down to 10.7% (per 1000 population) in 1970 from 1940's 12.1%. The divorce rate was up: 2% in 1940 to 3.5% in 1970.

Business-industrial construction is slow: good or bad, the rate of capital investment in plant and equipment hasn't kept pace with the growth of our Gross National Product which has held a running average of 4% annually since 1966. Mainly, ecological restraints on expansion have kept builders gun-shy, and there's no sign that environmentalist pressures will ease. Even the GNP has been sluggish; below the annual 7% growth rate John Kennedy envisioned as viable. Low profit incentives are behind that static trend, and a series of "freezes" plus the oft-voiced opinions from Washington that price controls are "here to stay" haven't spurred business too much.

But we can meet demand even if things get "bullish" overnight: the U.S. forest products industry could harvest 17 billion b.f. a year by 1975 if the federal machinery to sell more timber could be made operative. Today we're supposed to be able to cut 13½ billion b.f., but Congress only funded sales of 10.8 billion. Finally, the administration asked for an extra 1.1 billion when supply hit bottom last spring. But that's still only 11.9 billion if we get it all . . . vs. 13½ we're supposed to get.

The myth that our mills are "at capacity": There was talk in early 1973 that western mills couldn't meet demand, even working at full capacity. That's wrong. The Natl. Assn. of Homebuilders surveyed our mills in March and found they could increase production 148 million b.f. a month . . . if they had the logs. NAHB talked to 102 sawmills and 30 plywood plants, who said they could boost lumber output annually by 40% (1.7 billion b.f.), and produce 15% more plywood, by adding shifts and working longer days.

AND IF WE'RE GIVEN ENOUGH TIMBER, HELP US GET IT TO MARKET

Transportation availability and cost are as vital as raw timber supply to nation-wide consumers of western lumber and plywood.

Stop government discrimination: there's been a continuous trend to charge western shippers too much. West-east freight rates have got to stay at par with east-west rates. Wood has to receive the same preferential treatment grain's been getting, for example. Yet the ICC wanted to let railroads charge us 5% more across-the-board in late 1973, while eastern shippers would pay only 3% more.

Give us the equipment: during spring, 1973 our mills got only 1/5th of the cars they needed at certain times; in January, 1973, our industry was short 8000 cars a day. During first-half 1973, grain shippers got 40% more cars than during comparable 1972, while our industry got 2.2% fewer cars.

WE CANNOT DO IT WITHOUT YOUR HELP

That's why we suggest that you save this Special Newsletter. Perhaps send photocopies to industry or environmentalist friends. Use data from it in letters to your state and federal legislators. Perhaps it would make a good basis for a civic club speech.

But how ever you use it, let's work together to—

Urge Congress to properly fund the Forest Service, so it can increase allowable cut, increase timber sales, and increase reforestation. The Forest Service almost pays its way as things are. In fiscal 1972 it took in $350 million from timber sales and had a budget of $527 million. The investment of a relatively few tax dollars would pay off handsomely.

Urge Congress to either dramatically reduce or eliminate log exports from all lands—public and private.

Urge Congress to allow the use of proper and needed weapons to destroy the insects and diseases which are, in turn, destroying our forests,

Urge Congress to re-forest federal lands as intensively as private forest owners,

Urge environmentalists to "live and let live," to abide by the multiple-use concept which our industry accepts. We have 11 million acres of wilderness today, but environmentalists want another 5.8 million. If they had their way, in Oregon and Washington alone, we would lose 720 million b.f. of harvestable timber . . . 16% of current Oregon-Washington annual allowable cut.

Together, we can be sure there will never be a timber "famine."

JOHN CAPPELLETTI

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. JOHNSON of Pennsylvania. Mr. Speaker, last week, two outstanding newspapers in my district carried the story of Penn State's John Cappelletti winning the coveted Heisman Trophy for 1973. It is the first time that a Penn State football player has won the Heisman. I am especially proud of his accomplishment and the great coach, Joe Paterno, whom I know personally. For the record, and for the benefit of my colleagues in the House who are interested in great athletes, I would insert the following articles:

WINS HEISMAN—FROM BIG 33 OBSCURITY TO NO. 1 FOOTBALL STAR

(By Ron Bracken)

The shirtsleeve crowd which filed into Hershey Stadium that sultry August evening was buzzing with anticipation.

Within a few minutes several of the most storied scholastic football players in Pennsylvania's history would be squaring off in the 1970 Big 33 game. The prospect of seeing so much talent, some of it already legendary, congregated in the same 100-yard area, was mind boggling.

Everyone was anxious to see the tall kid from Haverford who had thrown 62 touchdown passes during his high school career. Steve Joachim didn't start the game that night, perhaps an omen of what was to come when he matriculated at Penn State.

And more than a few fans were eager to get a look at the diminutive speedburner from Carlisle. Jimmy Scott hauled in a bomb from Joachim early in the second half of the game for the final points scored by the victorious East squad. He would continue to burn defenders during his stay with the Nittany Lions.

Mount Carmel's contribution that night was a whippet-like halfback who had broken the state scoring record. Gary Diminick has had limited success during his career at Notre Dame.

And amid all the glitter and the press clippings, a tough kid from Monsignor Bonner High in Upper Darby earned a starting berth as an outside linebacker. He intercepted one pass that steamy summer night and left Hershey much the same way he arrived—unheralded.

Maybe it was because of his yellow helmet with the green and white stripes that he attracted a longtime Green Bay Packer fan. Or perhaps it was the smooth, agile manner in which he came up on the sweeps and went back on the passes which drew at least one pair of eyes toward him frequently during the course of the game. Clearly Penn State had landed an outstanding athlete in this player as far as one press box observer was concerned.

A month later he joined several Big 33 teammates—Tom Donchez, Randy Crowder, Mike Orsini, Ed O'Neill, and Tom Williams—for fall practice with the Nittany Lions.

One of several running backs on the frosh team that year, he experienced some success but not enough to threaten Lydell Mitchell's hold on the starting tailback spot when the Lions opened fall drills he following year.

Remembering how well the youngster had played as a linebacker in the Big 33 classic, Lion Coach Joe Paterno made another of his patented position switches. Came the Air Force game on a rainy October afternoon and the player was a defensive back. At 6–2, 205, he teamed up with the 6–3, 224-pound O'Neill and Gregg Ducatte, a 6–1, 204-pound safety, to give the Lions one of the biggest secondaries in the country. He also ran back punts for State that fall—when he held onto them. He made some typical sophomore mistakes in deciding whether to fair catch the ball or run with it. And some of those miscues caused many a caustic comment.

Then it was another sultry night—this one in September of 1972—and now no longer a kid, the Bonner grad would get his first taste of running out of the tailback spot. The Tennessee Volunteers harshly introduced him to the occupational hazards he would face in games to come.

But as the 1972 season progressed, the maturing tailback progressed with it. Against West Virginia he carried the ball a record 34 times, giving the Lions the ball control game they needed to shut down an explosive Mountaineer team. By the time that season ended he would have turned in the second best single season rushing record in Penn State's history, 1,117 yards. Only Mitchell, the man he succeeded, had surpassed that figure.

The 1973 preseason dawned and, suddenly, the sophomore defensive back was now a senior regarded as one of the best running backs in college football.

And the postgame questions had changed. Now it was "How many icebags did you need after this one?" and "How much do you weigh?" instead of "What happened on that punt?" He finished the year with 1,522 yards and second behind Mitchell in the career rushing statistics. And he was at his best in the clutch.

As the season drew near its conclusion Paterno would say that this young man was the best football player he's ever been around.

Today John Cappelletti won the Heisman Trophy.

Heisman Won by "Cappy"

Penn State's John Cappelletti, one of the favorites in the race for the coveted Heisman Trophy, was named recipient of the 1973 award at ceremonies in New York early this afternoon.

He's the first Penn State football player to win the trophy and the first Eastern collegian to win it since Roger Staubach of Navy in 1963.

Cappelletti and Joe Paterno, his coach, will be honored in New York before a galaxy of football stars, both past and present, later this month.

Cappelletti, a 6-foot-1, 215-pound senior from Upper Darby, Pa., received 1,057 points, including 229 first-place votes, from the nationwide panel of 819 sports writers and broadcasters who participated in the balloting, conducted by the Downtown Athletic Club of New York.

Offensive tackle John Hicks of Ohio State was second with 524 points, including 114 firstplace votes. Third was running back Roosevelt Leaks of Texas, with 482 points, followed by quarterback David Jaynes of Kansas, with 394, and running back Archie Griffin of Ohio State, with 326.

Joe Paterno of Penn State, who has coached such stars as Franco Harris, Lenny Moore, Lydell Mitchell, Jack Ham, Mike Reid, Ted Kwalick and John Hufnagel, calls Cappelletti "the greatest player I've ever been around."

Cappelletti, who played defensive back as a sophomore, carried 286 times for 1,522 yards this season and scored 17 touchdowns, leading sixth-ranked Penn State to an 11–0 record and a berth in the Orange Bowl against Louisiana State.

Cappy, who is in New York for the Bob Hope Show (The Associated Press announced its 1973 All-America team last night and the players are taping a show with the famous comedian), was named Player of the Year by Football News yesterday. Last week he was named Player of the Year by the ECAC (Division I) and Walter Camp. Cappy also gained Kodak, Walter Camp and Football News All-America selections over the last few days.

Cappy—If You Stick With Something . . .

(By Glenn Sheeley)

New York.—Ironically, the same day John Cappelletti was named 1973's Heisman Trophy winner, he revealed he once considered leaving the football field for good.

Cappelletti, the first Penn State player to win the Heisman, said by telephone Tuesday night he pondered quitting the team after the Iowa game last year.

"I did at the time, but I didn't let anyone know about it," said Cappy after an overwhelming victory in the Heisman Trophy race Tuesday. "I guess there's no harm talking about it now, but I considered telling coach Paterno I was quitting."

Cappelletti, who rushed for a career total of 2,639 yards, second only to Lydell Mitchell, was still learning the tailback position in early 1972 after the switch from defensive back following his sophomore season. He fumbled at times, and admittedly felt awkward at the position. Cappy had 96 yards in Penn State's 14–10 win over Iowa that day, but the 6–1, 215-pounder was nonetheless discouraged.

"I was really confused, and I felt I just didn't have it anymore," he said. "I felt maybe tailback wasn't my position. It was the low point of my college career. I just thought I should be playing better."

But it was a more confident John Cappelletti that spoke in the locker room after he and his mates downed Illinois 35–17 the following week. The entire Lion offense seemed rejuvenated as Cappy ground out 124 yards. He would top the 100-yard mark 13 more times during his splendid career.

"It was all downhill after that game," he said. "I learned there that if you stick with something longer than you think you can, things will work out for you."

Things worked out so well for John Cappelletti that en route to winning the Heisman Trophy he swept the East, South and Far West to nearly double those votes garnered by Ohio State lineman John Hicks, the runner-up in the balloting (by 819 sports writers and broadcasters) conducted by the Downtown Athletic Club of New York and announced Tuesday. Cappy's vote was 1,057.

"I'm pretty excited about it," Cappelletti said. "I was surprised at the margin I won by. I've been with the guys on the AP All-America team all week, and they're all really good athletes. Anyone of them could have won it.

"Last night when I saw John Hicks," he said. "I thought someone that size might be big enough to scare some people into voting for him."

Most guesses were that Cappy had the edge in the voting but that no one would win the award easily. Cappelletti, despite the numerous stories predicting victory, tried to keep his head.

"I got to the point where everybody was talking about it so much that I didn't think about it," Cappy said.

While taping the Bob Hope television special with other members of the AP All-America team Tuesday morning. Cappy admitted his nerves were getting to him a bit.

"I was a little nervous this morning as it got closer to 12 o'clock," he said. "But because we were taping I didn't have a whole lot of time to think about it.

"We were all sitting around there waiting and a guy called me out," Cappy recalled. "Everybody knew what it was. Then all the guys began congratulating me. I was a little nervous, though. There must have been 1,000 cameras in there."

It is no secret that college football's most prestigious award makes a high professional draft almost inevitable for Cappelletti. But, a team man all throughout his years at Penn State, he hopes others reap rewards from his Heisman day.

"It's good for many people besides myself," Cappy said. "There are a lot of people who have done a lot for me—the team and all my family and friends at home and at school."

At school, Cappy's Phi Gamma Delta fraternity brothers wheeled a car draped with Heisman banners past students registering for winter term. And Cappy knows there is a happy family in his hometown of Upper Darby.

"I just called my mother a while ago," he said. "Everybody has been telephoning her all day. She's really overwhelmed by it. She said my brothers are going crazy making signs and buttons for the Orange Bowl. Right now, I think they realize more than I do what the Heisman Trophy means."

Finishing behind Hicks, who grabbed 524 votes to finish higher than any offensive linesman ever, was Texas fullback Roosevelt Leaks (482), Kansas quarterback David Jaynes (394) and sophomore running back Archie Griffin of Ohio State (326). Cappy got 229 first-place votes, way ahead of Hicks (114), Leaks (74), Jaynes (65), Ohio State linebacker Randy Gradishar (47) and Griffin (45). Pitt freshman Tony Dorsett apparently was hurt by his first-year status and lost most of the eastern votes to Cappelletti. The Panther tailback wound up a distant 11th with 15 first-place votes and 115 points.

Cappelletti had several fellow Penn Staters with him in New York. Co-captain Mark Markovich was attending the National Football Foundation banquet to accept a scholar-athlete award. Former PSU coach Rip Engle and ex-All-American "Lighthorse" Harry Wilson were at the same affair Tuesday night for induction into the foundation's Hall of Fame. Cappy's coach, Joe Paterno, who helped the Heisman campaign by calling Cappy "the best player I've ever been around," was there to reiterate his feelings.

"He's a great athlete who worked hard all season," Paterno said. "He has great poise, an innate confidence and the ability to get people to do things with him. The Heisman Trophy is a just reward for a very worthy young man."

Penn State President John W. Oswald also was present, and expressed his feelings about Cappelletti and the other PSU athletic greats being honored.

"We are extremely proud of John Cappelletti and the great honor he has won as a fine representative of the Pennsylvania State University," Oswald said. "Being in New York to honor three Penn Staters at the National Football Foundation Hall of Fame banquet makes this a great day in the history of our athletic department and its outstanding football program. Cappelleti's performance and its recognition here today makes this a truly auspicious occasion."

Cappelletti will appear on the NBC-TV "Today" show this morning from 8 to 8:30. He will accept the Heisman Trophy at the Downtown Athletic Club's formal presentation dinner in New York Dec. 13.

He's Never Played Football Just for the Glory

(By Glenn Sheeley)

The night before John Cappelletti won the Heisman Trophy Cappy's father, an Upper Darby carpenter who never played sports in his life, was a thankful parent.

"We're just glad that every week John got up after every play," said the soft-spoken father of a daughter and three sons, one of which is college football's outstanding player of 1973.

The elder John Cappelletti, who watched his famous son at every Penn State game this year except Stanford and Air Force, recalled a few of the somber times while awaiting the good news Monday night. All of which made him say, "I'd be the happiest person in the world if he won the award."

As a sophomore Cappy found himself as a defensive back with Lydell Mitchell in the starting tailback spot. Mitchell graduated with All-American honors, also, then Cappelletti had his glory years becoming the first Penn State running back to rush for 1,000 yards in two straight seasons. And the first Nittany Lion Heisman Trophy winner ever.

Cappy, who surely inherited that quiet manner from his father, didn't bring his troubles home then or later when he was being tagged as a "fumbler" in his infant days as Joe Paterno's tailback.

"We were just talking about that the other day when John was home for term break. said his father. 'We were saying it wasn't too long ago that they were booing you up there at Penn State.

"He's quiet, all right," his father said. "He never complained about anything. And that means more to us than that he's a good football player. He handles himself so well and he's no a 'hot dog' like the kids say. He's never played football just for the glory. He gets along with everybody."

No grumbling came from his son even when a 24-hour virus kept Cappy out of Penn State's Sugar Bowl game with Oklahoma last year which his mates lost 14–0 as their ground game floundered. Mr. Cappelletti attests to John's courage during that ordeal since he and his wife, Anne, were in New Orleans, too.

"We saw all the other players leave the hotel for the game," said the father of Cappy, who listened to the game on radio while bedridden with a 102-degree fever. "We knew how bad he felt. We were sorry he couldn't play because it seemed to affect the team's play."

One of Cappy's more well-known off-the-field endeavors is the neighborhood stand he has manned the past two summers for selling snow cones and pretzels to youngsters. Cappy has been called the "Upper Darby Ice Man" because of the unique summer job. And when possibilities of his winning college football's most coveted award were in the wind, someone suggesed "The Italian Ice Man for Heisman" as an appropriate campaign phrase.

"This past summer was the second year he had the stand," Mr. Cappelletti said of his son, a law enforcement major. "Two years ago, he said, "I'm not working for anybody next year. I want to have my own business."

Athletics have played a big role in the Cappelletti family. Marty, 23, played high school football; Mike, John's near look-alike, was a linebacker on the Lions' freshman team this past season; sister Jean, 16, is active in basketball and volley ball; and 11-year-old Joey plays Little League baseball. Joey, was named the Upper Darby Little League's Most Courageous Player last year.

It is a close family with a father that said the night before how thrilled all the Cappellettis would be if John won the Heisman. However, he couldn't help but say he'd be surprised, too.

"I'd be surprised because he goes to Penn State," Mr. Cappelletti said. "Penn State doesn't always get the credit it deserves."

Tuesday, though, he expressed the joy of the moment for the entire family.

"We're very, very proud of John," he said "He puts a lot of effort into it."

WOMEN, UNIONS, AND THE WOMEN'S MOVEMENT

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Ms. ABZUG. Mr. Speaker, today's New York Times op-ed page includes an article by Margie Albert about the growing identification of working women with the feminist movement in America.

Ms. Albert has been a secretary for the last 25 years and is now a steward for the Distributive Workers of America. I have known Ms. Albert through her fine work in the women's movement, her commitment to the goal of developing every human being to their fullest potential and the improvement, through unions, of the lives of working women and men.

I commend the following article to the attention of my colleagues:

SOMETHING NEWS IN THE WOMEN'S MOVEMENT

(By Margie Albert)

The women's liberation movement appears to be on the threshold of a second phase—when feminist consciousness reaches beyond white, middle-class women. Some examples of what's happening: union women are holding meetings across the country, black feminists have formed a national organization, Puerto Rican women and Chicanos are getting together—all assessing where we're at as women, where we want to go, and how to get there. These are strong indications that we are moving past the "affluent suburban housewife" image with which the women's movement has, rightly or wrongly, been labeled.

A clear sign of the new awareness felt by the so-called typical woman is the way office workers are asserting themselves. For there's nothing quite so typical as a woman who is a secretary, typist, clerk or key-punch operator. Clerical work is the single largest occupation of women with some eleven million of us doing it.

The beginning of the new spirit in the offices came a few years ago when employers imposed dress codes that decreed we couldn't wear pants to work. Women rebelled. They petitioned, sent delegations to management, or simply agreed that on a particular day they'd all wear pants. We relearned the old truism: "In unity there is strength." Office women should unite instead of competing with each other. It has resulted in women's caucuses in many large corporations, countless class action legal complaints of sex discrimination, and a rising interest in unions.

Employers who thought their "girls" were immune to the subversive ideas of "feminism" find those women suddenly making demands—to be treated with respect, to earn more money, to define their duties, to advance, and to get fringe benefits other workers enjoy.

Women office workers, on the average, earn only 64 per cent of what male office workers earn. We know men move up the office hierarchical ladder at a rapid pace compared to us. We know something has to be done to protect against dismissal as we show our uppitiness. We sorely lack a grievance machinery to deal with sexism, racism, favoritism and all the other unfair practices that plague us at work.

We are finally asking, "Why"? Some believe the answer lies in the fact that women traditionally have been a source of both reserve and cheap labor. To break out of this tradition, it will take more than token members of us climbing the corporate ladder to the top. There simply aren't enough of those jobs to go around. For everyone who makes it, there will be countless "who won't" unless we start doing what other workers have done—joining or forming unions and bargaining collectively for what we want and must have.

The labor movement has for years predicted that the next large group of workers to organize will be office workers. But the potential has barely been tapped, because of employe and employer resistance and because the unions haven't carried on a concerted, effective effort to communicate with office workers. Now, in various spots around the country, we see the beginning of a potentially powerful alliance between the labor movement and the women's movement. Those unions with the vision to understand what's happening among women have started to address themselves to women's issues, to upgrade women in staff positions, and to win union elections among office workers.

INSTABILITY—A ONE-WORD PICTURE OF PANAMA

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. SNYDER. Mr. Speaker, discussions continue regarding a new treaty between the United States and the Republic of Panama involving the Canal Zone and the Panama Canal. My consistent position has been that we must not give up our sovereignty over the zone and the Canal's operation because of their vital strategic importance to our country's economy and defense. We cannot afford to have the canal pass into potentially unfriendly hands.

The old saying that one picture is worth a thousand words is still true. Well, here is a word picture—just names and dates—that totally supports my position. The picture is titled, "Instability." As you look at this picture, keep in mind that the constitutional term of office of the president of Panama has always been 4 years. You can practically ignore the names; just see the turnover.

PRESIDENTS OF PANAMA, 1904 TO DATE

1904–07	Manuel Amador Guerrero
1907–07	José Domingo de Obaldía
1907–08	Manuel Amador Guerrero
1908–10	José Domingo de Obaldía
1910–10	Carlos Antonio Mendoza
1910–10	Federico Boyd
1910–12	Pablo Arosemena
1912–12	Rodolfo Chiari (interino)
1912–12	Pablo Arosemena
1912–16	Belisario Porras
1916–18	Ramón Maximilano Valdés
1918–18	Ciro Luis Urriola
1918–18	Pedro Antonio Díaz
1918–20	Belisario Porras
1920–20	Ernesto Tisdel Lefevre
1920–23	Belisario Porras
1923–23	Rodolfo Chiari
1923–24	Belisario Porras
1924–28	Rodolfo Chiari
1928–28	Tomás Gabriel Duque (transitorio)
1928–28	Rodolfo Chiari

1928–31	Florencio Harmodio Arosemena
1931–31	Harmodio Arias Madrid
1931–32	Ricardo Joaquin Alfaro
1932–33	Harmodio Arias Madrid
1933–33	Domingo Díaz Arosemena
1933–36	Harmodio Arias Madrid
1936–39	Juan Demóstenes Arosemena
1939–39	Ezequiel Fernández Jaén
1939–40	Augusto Samuel Boyd
1940–41	Arnulfo Aria Madrid
1941–41	José Pezet
1941–41	Ernesto Jaén Guardia
1941–45	Ricardo Adolfo de la Guardia
1945–48	Enrique Adolfo Jiménez
1948–49	Domingo Díaz Arosemena
1949–49	Daniel Chanis Jr.
1949–49	Roberto Francisco Chiari
1949–49	Daniel Chanis Jr.
1949–51	Arnulfo Arias Madrid
1951–52	Alcibiades Arosemena
1952–53	José Antonio Remón Cantera
1953–53	José Ramón Guizado
1954–54	Ricardo Manuel Arias Espinosa
1954–55	José Antonio Remón Cantera
1955–55	Ricardo Manuel Arias Espinosa
1956–60	Ernesto de la Guardia Jr.
1960–61	Roberto Francisco Chiari
1961–61	Sergio Gonzalez Ruiz
1961–61	Roberto Francisco Chiari
1961–62	Sergio Gonzalez Ruiz
1962–63	José Dominador Bazán
1962–63	Roberto Francisco Chiari
1963–63	Bernardino González Ruiz
1963–64	Roberto Francisco Chiari
1964–68	Marcos Aurelio Robles
1968–68	Arnulfo Arias Madrid
1968–69	Col. José Maria Pinilla
1966–	Dometrio Basilio Lakas Bahas

You really have been looking at a moving picture. Only four presidents of Panama have completed a full term in office. In 70 years come February, there have been 59 changes of government. I stand on my position.